



Agenda

Special Meeting of the Oakland Parks and Recreation Advisory Commission (PRAC) Wednesday, January 13, 2021 - 4:30 PM

You are invited to a Zoom webinar.

When: January 13, 2021 04:00 PM Pacific Time (US and Canada) Topic:
Parks and Recreation Advisory Commission (PRAC) Special Meeting for January 13, 2021

Please click the link below to join the webinar: <https://zoom.us/j/99397197538>

Or iPhone one-tap : US: +14086380968,,99397197538# or +16699006833,,99397197538#

Or Telephone: Dial(for higher quality, dial a number based on your current location):US:

+1 408 638 0968 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or

+1 646 876 9923 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 993 9719 7538

International numbers available: <https://zoom.us/j/99397197538>

How To Submit Public Comments:

1. To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Open Forum comments are being taken or on an eligible agenda item after it has been presented. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Instructions on how to “Raise Your Hand” is available at: <https://support.zoom.us/hc/en-us/articles/205566129> - Raise-Hand-In-Webinar.

2. To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing “*9” to speak when Open Forum is taken or after an eligible agenda item has been presented. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Please unmute yourself by pressing *6.

3. To submit comments to the PRAC prior to the meeting, send an email to: publiccomments2prac@oaklandca.gov by 10:00 a.m. the day before. List the following information on the “subject” line of your email:

Public Comments: PRAC item #____, dd/mm/yy (date of the scheduled meeting)

>>>Replies will not be sent from this email address<<<

If you have questions, email Diane Boyd, Executive Assistant to the Director of Oakland Parks, Recreation and Youth Development dboyd@oaklandca.gov .Thank you.



Special Meeting of the Oakland Parks and Recreation Advisory Commission
(PRAC)

Agenda
Wednesday, January 13, 2021, 4:30 P.M.
Zoom Teleconference

1. CALL TO ORDER:
2. ROLL CALL:
ALLEN, COLE, DUHE, HA, HOWZE, KOS-READ, MOORE, REILLY, SMITH, TORRES
3. DISPOSITION OF MINUTES:
 - **December 9, 2020 Meeting Minutes**
4. OPEN FORUM
5. MODIFICATIONS TO THE AGENDA:
6. CONSENT NEW BUSINESS:
7. NEW BUSINESS
 - A. TREE PERMIT APPEAL FOR 0 CARROLL STREET, PARCEL 22-305-16 "VERSION 3.0"
 - B. ELECTION OF THE COMMISSION'S CHAIR AND VICE CHAIR
8. MEASURE Q: OVERSIGHT/UPDATES/REPORTS
9. DIRECTOR'S REPORT/COMMITTEE AND/OR ADVISORY COUNCIL UPDATES:
10. ANNOUNCEMENTS AND COMMUNICATIONS:
11. CONTINUATION OF OPEN FORUM:
12. ADJOURNMENT:

Next Meeting:

Wednesday, February 10, 2021

TeleConference



***Special Meeting of the Oakland Parks and Recreation Advisory Commission**

Minutes Wednesday, December 9, 2020, 4:30 P.M. Zoom Teleconference

1. CALL TO ORDER:
2. ROLL CALL: 4:35 P.M.
IKENS, COLE, DUHE, HA, HOWZE, KOS-READ, MOORE, REILLY, SMITH, TORRES

Present – 9: Commissioners Aikens, Cole, Duhe, Ha, Howze, Kos-Read, Reilly Smith and Torres. **Excused -1:** Commissioner Moore.

3. DISPOSITON OF MINUTES:

October 14, 2020 Meeting Minutes

Motion: Commissioner Cole entertained a motion to recommend PRAC approve the October 14, 2020 meeting minutes. **Moved by:** Commissioner Smith. **Second by:** Commissioner Kos-Read. **Vote 9:** Yes (7): Aikens, Cole, Duhe, Howze, Kos-Read, Smith, and Torres. **Abstained** (2): Commissioners Ha and Reilly. **Motion:** Passed.

- **November 18, 2020 Meeting Minutes**

Motion: Commissioner Cole entertained a motion to recommend PRAC approve the November 18, 2020 meeting minutes. **Moved by:** Commissioner Reilly. **Second by:** Commissioner Aikens. **Vote 9:** Yes (8): Aikens, Duhe, Ha, Howze, Kos-Read, Reilly, Smith, and Torres. **Abstained** (1): Commissioner Cole. **Motion:** Passed.

Note: At the commencement of Item 5 – Open Forum, staff discovered the Zoom meeting had not been opened to include the public. The meeting was subsequently launched and restarted.

4. OPEN FORUM
5. MODIFICATIONS TO THE AGENDA:

6. CONSENT NEW BUSINESS:

7. NEW BUSINESS

A. Request For The Parks And Recreation Advisory Commission To Approve The Friends Of Sausal Creek Coordination With Eagle Scouts To Install Fencing Between Sinawik Trail And Palos Colorado Trail.

The Parks and Recreation Advisory Commission reviewed the staff report for Item 7A presented by Karis Griffin, Recreation Supervisor with Oakland Parks, Recreation and Youth Development.

An unauthorized trail has developed in the project area of the Sinawik and Palos Colorado Trails. This trail is causing erosion and debris deposits into the Palo Seco Creek. The Friends of Sausal Creek and the Scouts of America will support the Eagle Scout organizer's efforts to build a 100-foot fence to prevent continued erosion and added protection for the watershed. The organizer will use specs from the previous structure in the proposed rebuild. If approved, OPW's Adopt-a-Spot and OPRYD teams will coordinate the project as it moves forward.

PRAC was informed that family and friends of the Eagle Scout will help fundraise for the project. The amount needed for completion will depend on the final cost estimates. Funds will also be used to provide water and Personal Protective Equipment (PPE) to project volunteers. PPE will be distributed in conjunction with directions from the organizer and other team members. The PPE distribution will be followed in adherence to COVID-19 social distancing recommendations.

The organizers noted that upon completion of the build, a sign will be installed in the area to memorialize the organizations work. The Commission requested that Oakland Parks, Recreation and Youth Development and PRAC be acknowledged on potential signage.

Oakland Public Works staff acknowledged approved of the proposed project and will provide supervision.

The Chair extended appreciation to the organization for selecting the Sinawik and Palos Colorado Trails for their project.

Motion: Commissioner Cole entertained a motion for PRAC to recommend approval to allow the Friends of Sausal Creek and Eagle Scouts to install fencing at Palos Colorado Trail and Sinawik Trail when allowable to do so as related to the public health order to shelter in place due to the COVID-19 virus. **Moved by:** Commissioner Reilly. **Second by:** Commissioner Duhe. **Vote 9:** Yes (9): Aikens, Cole, Duhe, Ha, Howze, Kos-Read, Reilly, Smith, and Torres.

B. Supplemental Report For Tree Permit Appeal For 1125 Hollywood Avenue

The Parks and Recreation Advisory Commission reviewed the Supplemental Report to the November 18, 2020 Tree Permit Appeal for 1125 Hollywood Avenue. Item 7B was presented by Tod Lawson, Arboricultural Inspector, Oakland Public Works Tree Division.

On April 3, 2020, Tree Services Division approved tree removal permit ND20- 032 for 1125 Hollywood Avenue. After the property inspection, Tree Services staff approved the applicant's request for the removal of a 42" diameter Canary Island Pine tree from the property.

Staff reminded the Commission that after review of the report on November 18, 2020, the motion on the item was held and the Tree Services staff were tasked with obtaining and circulating a 3rd party arborist report not made available to them or the Commission at the time of the meeting. The 3rd party report was prepared by a consultant hired by appellants Steve and Laura Wolff and was included in the agenda as requested. Staff added that the report countered the City's position on why the Canary Island Pine should not be removed.

The Commission recalled that the Tree Division must consider removal of the tree based on its structural soundness and potential targets below.

Appellant:

The appellant reminded the Commission that former Mayor Quan initiated a Big Tree Registry to halt the removal of trees of this size and maintain old growth. He further asserted that he invested approximately \$50,000.00 in establishing his garden and was concerned that removal of the Canary Island tree would kill it.

Applicant:

The applicant cited concern that the tree will crack the property's foundation and poses a hazard. She shared plans for planting more trees in both front and back yards with species that will not break the foundation. Staff added that the Tree Ordinance requires replacement of trees when the one being removed is native to California, such as the Redwood. The Canary Island Pine is not native to California therefore does not obligate the applicant to remove it. the applicant it.

The applicant asserted her gardens have more trees than both neighbors and that removal of the Canary Island would be done following nesting timelines as directed by professionals.

Commission and Staff:

The Tree Committee reminded the body that a meeting and tour of the property was conducted with City arborist Lawson. The Commission reflected on the challenges of the appeal and the appellant arborist's opposite position and the necessity to look at how their report conforms with the Tree Ordinance regarding impact to life and property. The Commission asked if there were concerns regarding falling limbs or fire hazard.

Staff informed the Commission that they must make recommendations based on what is listed on the application along with the structural health of the tree and the likelihood of something happening to what rests below the tree.

Staff reported their findings included the tree had been topped which left a considerable sized wound in its single stem. It was determined that the stem will not grow back and that the limb structure is growing backward showing poor taper moving away from its natural appearance of a Christmas tree.

Tree Committee member Ha reported that while on tour of the property, members observed that the tree was very large and had large limbs on top. Pine cones from the tree were seen in the yard and hypnotized they could possibly be harmful if falling from on high. The yard appeared to be very dense. The Committee also observed that if the tree fell, it would impact three (3) properties.

The Commission asked the Committee to offer a recommendation.

Commissioner Ha offered that prior to the November 18th meeting, PRAC's three member committee, including Commissioners Ha, Moore and Wolfson (retired), met. Commissioner Ha offered the Tree Committee including, Commissioners Ha, Moore and Wolfson (retired) had a discussion prior to the November 18th PRAC meeting to discuss obligations and determined upon reviewing the Tree Ordinance they would follow its guidance and were leaning toward to denying the appeal because it did not conform with Ordinance.

Commissioner Ha noted that the Tree Committee's decision was not easy and that there is more work for Oakland Public Works to do regarding urban forestry.

Chair Cole shared concerns and called for more integration of urban forestry in the Tree Ordinance.

Motion: Commissioner Cole entertained a motion for PRAC to deny the appeal by John Kenny and Robin Mogavero of 1131 Hollywood Avenue and Laura and Steve Wolff of 1111 Hollywood Avenue. **Moved by:** Commissioner Ha. **Second by:** Commissioner Aikens. **Vote 9:** Yes (9): Aikens, Cole, Duhe, Ha, Howze, Kos-Read, Reilly, Smith, and Torres.

8. PLANNING AND CONDITIONAL USE PERMITS:

A. Request For The Parks And Recreation Advisory Commission To Review The Design, Conditional Use, Tree Removal/Protection And Creek Protection Permit For The Caldecott Trailhead Project, Adjacent To The North Oakland Sports Field

The Parks and Recreation Advisory Commission reviewed the report to for Item 8A presented by Ali Schwarz, Project Manager, Oakland Public Works, Project and Grants Management Division.

The Caldecott Trailhead project is in City Council District 1 and is adjacent to the North Oakland Sports Fields most commonly used by regional soccer leagues. This is phase I of a future hiking trail that will focus on the development of a trailhead on City property, improvements include new ADA parking and pathways, a play structure, new seating and signage. Storm water runoff will also be address in the project. Funding for the project will be provided through Measures WW, HH and KK. Work is scheduled to begin in the spring of 2021.

Staff were unable to specify current path for funding the maintenance crew required nor the allocation of Measure Q funding. More substantive conversation is required staff will report back.

The Commission learned that Phase II was not included in this presentation as a public access easement must be acquired from the property owner.

Motion: Commissioner Cole entertained a motion to recommend PRAC endorse the Caldecott Trailhead Project and recommend approval to the Bureau of Planning, Zoning Manager for the Design Review, Conditional Use. Tree Permit and Creek Protection permit applications. The proposed project will result in park improvements that enhance the recreational uses of the Caldecott Trailhead and will make these improvements accessible for all users. **Moved by:** Commissioner Reilly. **Second by:** Commissioner Duhe. **Vote:** Yes (9): Aikens, Cole, Duhe, Ha, Howze, Kos-Read, Reilly, Smith, and Torres.

9. MEASURE Q: OVERSIGHT/UPDATES/REPORTS

10. DIRECTOR'S REPORT/COMMITTEE AND/OR ADVISORY COUNCIL UPDATES:

Director Williams:

- Due to the COVID-19 pandemic, Oakland Parks and Recreation in-person services were temporarily suspended. Frontline staff have provided services to since the initial shelter in place order issued in March. Operations continued throughout the summer without no outbreaks. The department plans to reopen in January.
- The City is facing a projected 62-million-dollar budget shortfall. Discussion with the Unions have begun. An update will be provided.

Committees:

Commissioner Reilly

- Reported he will be terming out soon and noted Lake Merritt will need representation.
- Friends of Rotary Nature will be planning an Event Brite roundtable and wish to be on the agenda.

Commissioner Kos-Read

- Reported he has received positive feedback from the Lake Merritt Pilot Program participants. There are no plans for a winter schedule. Recommend discussion with the City Administrator, youth and adult vendors.
- Requested information regarding soft hand off to new commissioners.

The Chair asked who would be seated as replacement Commissioners. Staff informed the Chair that replacements are completed by City Council Resolution online and that OPRYD is informed by the Mayor's office when selections are made. Commissioners who are terming out are notified by OPRYD staff via email.

11. ANNOUNCEMENTS AND COMMUNICATIONS:

12. CONTINUATION OF OPEN FORUM:

13. ADJOURNMENT: 6:53 P.M.

Respectfully submitted,

/s/ J. Nicholas Williams

J. Nicholas Williams
Secretary

/s/ Diane L. Boyd

Diane L. Boyd
Recording Secretary

Next Meeting:

Wednesday, January 13, 2021

TeleConference



CITY OF OAKLAND

INFORMATIONAL REPORT

TO: Amy Cole, Acting Chair, Parks and Recreation Advisory Commission
FROM: David Ferguson, Interim Director, Public Works Agency
DATE: January 13, 2020
SUBJECT: Tree Permit Appeal for 0 Carroll Street, Parcel 22-305-16 “Version 3.0”

The following report is prepared for the Parks and Recreation Advisory Commissions (PRAC) consideration.

SUMMARY

On September 15, 2020, Tree Services made a decision for tree removal permit ND20-078 (**Attachment A**) for 0 Carroll Street, Parcel 22-305-16. The Applicant (Barry Cohn) applied to remove 3 American elm trees and 4 black acacia trees. Tree posted #1 is a 17” diameter at breast height (DBH) American elm, tree posted #2 is a 11” DBH American elm, tree posted #3 is a 12” DBH American elm, tree posted #4 is a 42” DBH black acacia, tree posted #5 is a 23” DBH black acacia, tree posted #6 is a 23” DBH black acacia, and tree posted #7 is a 28” DBH black acacia. After inspection, Tree Services approved the removal of the 7 trees.

The Appellant (Mark Baradat) appealed the tree permit decision on August 10, 2020 (**Attachments B**). On the appeal claim forms the appellants have made 8 claims and with 3 appendixes why the trees should not be removed. The PRAC is the hearing body for non-development tree removal permit appeals, per Chapter 12.36.110 of the Oakland Municipal Code (OMC), the Protected Trees Ordinance (PTO).

BACKGROUND

On June 29, 2020 Tree Services received a non-development tree removal application ND20-078 for 0 Carroll Street. (**Attachment C**). The applicant and property owner is Berry Cohn. He requested the removal of the 7 black acacia trees on the grounds of: (a) The tree in the front of the lot is growing in unstable ground and is leaning towards the public right of way. (b) The trees in the rear of the lot are threatening the foundations of the adjacent buildings. On September 15, 2020 Tree Services approved non-development tree removal permit ND20-078. Trees posted #1, #2, and #3 were approved on the basis that they are 6’ from the apartment building, have poor structure from being topped, and have been severely cut back on one side, causing unbalanced canopies. Tree posted #4 has a large cavity with decay, at the base of the trunk. Tree Posted #5 has poor limb development from over-thinning commonly referred to as “lions tailing”. This tree is dependent on the adjacent trees as buffers to protect from wind. Tree posted #6 has an old

PRAC January 13, 2021
Item 7a

To: Amy Cole, Acting Chair

Subject: Tree Permit Appeal – 0 Carrol St, Parcel 22-305-16

Date: January 13, 2020

Page 2

pruning wound that did not heal properly at the base, that has signs of decay. There is a structural defect of a codominant stem that has a narrow angle of attachment and include bark. Tree posted #7 has a 20-degree trunk lean over the street and a 15” vertical shear crack on the trunk. Section 12.36050(A) of the Protected Trees Ordinance states a tree can be removed to insure the public health and safety as it relates to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, or interference with utilities or sewers.

Tree permit ND20-078 was appealed on August 10, 2020 by Mark Baradat, owner of 2208 Carroll Street and 2215 Carrol Street. Mr. Baradat has made two additional revisions of the appeal, the most recent one (version “3.0) was submitted on December 28, 2020, and includes the following seven arguments as grounds of appeal:

1. The permit applicant intends to develop the lot, and using a non-development permit is an abuse of process.
2. Multiple violations on the City of Oakland Protected Trees Ordinance have occurred by both the applicant and The City of Oakland Tree Services.
3. On one violation, of OMC 12.36.080H, the City remains in contempt of the Ordinance.
4. There are serious issues with the tree inspection process for the trees on the lot, contradicting the results of an earlier tree inspection.
5. The public health benefits of the trees in the lot, and the value they provide to the local residents, have been completely ignored in reaching this decision. Local residents have been disenfranchised from the process.
6. Issues of Tree Equity have not been considered by the City of Oakland in reaching its decision.
7. Oakland’s Equitable Climate Action Plan has not been considered in the context of this permit. It places considerable value on the protection and extension of Oakland’s tree canopy.

The appellant also includes nine appendixes in the appeal:

Appendix A - Letter from Oakland Public Works Promising Investigation of Permit Applicant Intentions on the Lot

Appendix B - Tenant Communication Establishing Zachary Heineman on the Lot/ screenshot from LinkedIn website

Appendix C - Map of the Carroll St Lot supplied by Permit Applicant

Appendix D - Work Order for Tree Inspector Isaac Harvey, at Carroll St Lot – 2nd August 2019.

Appendix E - Letter to the Mayor's Office detailing Violations of the Protected Trees Ordinance, with Detailed Evidence

Appendix F Rebuttal to the letter from Oakland Public Works supporting Tree Services Actions

Appendix G – Letter from Appellant during the public consult period

Appendix H – Letter from American Forests

Appendix I – Email detailing Urban Heat Island Effects as Tree Canopy is Removed on Carroll St Lot

DISCUSSION

Tree Services approved the tree removal permit application ND20-032 on September 15, 2020. City staff determined that the trees have poor structure, trunk leans, decay and cavities, which are valid criteria to approve them for removal. See detailed account listed below of staff findings:

Tree (#1) a 17” DBH American elm, (#2) a 11” DBH American elm, and (#3) a 12” DBH American elms are all 6’ from an adjacent building. (Attachments D, E, F) The trees have been severely cut back and topped, causing unbalanced canopies and poor structure. The trees are approved for removal.

Tree (#4) is a 42” DBH black acacia. (Attachment G) At the soil line, the tree has a 21” high x 8” wide opening in the trunk. The cavity goes in 18” and extended down 24”, creating a hollow. There is decay in this area. The tree is approved for removal.

Tree (#5) is a 23” DBH black acacia. (Attachment H) The tree has been overly thinned, and “lion tailed”. This type of pruning leads to poor limb development and reoccurring limb failure. This is due to the removal of all the interior limbs, causing poor limb taper and leaving the end of the limb too heavy to support itself. This tree is dependent on the adjacent trees as a buffer for wind loading. The tree is approved for removal.

Tree (#6) is a 23” DBH black acacia. (Attachment I) The tree has a 13” diameter stem removal wound, at the soil line, that has decay. A 12” long probe was inserted in the decaying wound area. The trunk separates into codominant stems at 20’ from the ground. The codominant stems have a narrow angle of attachment with included bark. The larger stem has a poorly attached 8” diameter limb with included bark and a narrow angle of attachment. The tree is approved for removal.

Tree (#7) is a 28” DBH black acacia. (Attachment J) The tree has a 30” long shear crack on the trunk, at the soil line. A probe was inserted 12” into the crack. The trunk has a 28 degree lean over

the street. The canopy is unbalanced and weighted in the direction of the trunk lean. The tree is approved for removal.

Tree Services has responded to each of the seven arguments made by the appellant:

1) “The permit applicant intends to develop the lot, and using a non-development permit is an abuse of process.”

Appellant: “There is compelling evidence that the removal of trees is in preparation for development on the lot.”

Tree Services Response: The City of Oakland has not received an application or plans for the development of the lot at 0 Carroll Street. Therefore, there is no indication of the lot being proposed for development.

Appellant: “The first claim [that several trees threaten adjacent building foundations] is fraudulent with respect to the 2208 Carroll St building. It is disputable with 2232 Ivy Drive, given the lack structural evidence to support this assertion.”

Tree Services Response: Tree (#1) a 17” DBH American elm, (#2) a 11” DBH American elm, and (#3) a 12” DBH American elms are all 6’ from an adjacent building. Tree Services lists trees that are 10’ and less away from structures because section 12.36.050(A), of The Protected Trees Ordinance, states that proximity of a tree to existing or proposed structures is a reason to be considered for removal.

Appellant: “As to the second claim [that street facing trees are in unstable ground leaning over the right of way]: no supporting evidence was included in the application to back this up, requiring the removal of the trees. In fact, the trees were heavily pruned 18 months ago to remove weight (passed by a tree inspector), and mature deep-rooted trees create slope stability.”

Tree Services Response: Tree (#7) is a 28” DBH black acacia. (Attachment J) The tree has a 30” long shear crack on the trunk, at the soil line. A probe was inserted 12” into the crack. The trunk has a 28 degree lean over the street. The canopy is unbalanced and weighted in the direction of the trunk lean. The tree is approved for removal.

2+3) “Multiple violations on the City of Oakland Protected Trees Ordinance have occurred by both the applicant and The City of Oakland Tree Services. On one violation, of OMC 12.36.080H, the City remains in contempt of the Ordinance.”

Appellant: “OMC 12.36.080 H states that property owners and tenant-occupants of all buildings adjacent to the lot the must be notified in writing and told of the closing date for public comments. Adjacent property owners were notified, but letters have never been sent to tenant occupants, and this has continued through multiple public consultation periods on this Permit.”

Tree Services Response: Tree Services mailed notice letters to the adjacent building occupants, care of the building management, on November 18, 2020. The applicant posted all trees in question with a red tag indicating each tree was proposed for removal, pending a permit decision. The applicant also posted an 8½” by 11” red summary notice on the fence out front of the lot.

Appellant: “Tree Services twice failed to force a restart of a public consultation period, when they were made aware of the fact that the applicant had not affixed a public notice and tags to the trees.”

Tree Services Response: Upon confirming that the applicant had not affixed a public notice and tree tags to trees in question, the permit application was stopped and extended to provide for proper noticing and public comment period. No permits have been issued for the removal of these trees.

Appellant: “Rather than denying them [public commenters] a voice - as is their right - their concerns should be honored by City of Oakland. It is so important that local community voices be heard right now, while citizens remain at home during the pandemic, and rely on the trees for all the benefits they bring.

Tree Services Response: There were 40 comments made and documented during the public comment period. The public comments are acknowledged. Tree Services bases permit decisions on the criteria laid out in the Protected Trees Ordinance section 12.36.050.

4) “There are serious issues with the tree inspection process for the trees on the lot, contradicting the results of an earlier tree inspection.”

Appellant: “Pruning in the lot that was passed as fit for purpose by a City of Oakland Tree Inspector eighteen months ago, was cited in the permit as a reason to remove the same trees, due to damage, by the City of Oakland Tree Inspector adjudicating the permit.... To have pruning approved by one inspector that is later deemed excessive by another members of the same team, and cited as a reason to remove trees, is a perversion of the permit process.”

Tree Services Response: Tree Services staff was contacted to investigate an illegal tree removal complaint on August 2, 2019 at 0 Carroll Street. Tree Services Staff found that there were no trees being removed, though several trees in the lot were being pruned. It is not a violation of the Protected Trees Ordinance to prune trees on private property. At the time, Tree Services Staff did not perform further evaluation or risk assessment regarding the condition or structure of the trees because the trees are on private property and there was no tree removal permit application that would require a tree inspection from Tree Services staff. Poor pruning is not illegal but poor pruning can lead to creating conditions that would qualify a tree for removal per Oakland’s Protected Tree Ordinance. The Protected Tree Ordinance does not provide tree pruning specifications at this level of detail.

Appellant: “It also calls into question the integrity of the tree inspection processes at The City of Oakland.”

Tree Services Response: Tree Services evaluates each tree that is proposed for removal and makes judgements of the condition of each tree. Tree permit decisions are based on Protected Tree Ordinance Section 12.36.050.

5) “The public health benefits of the trees in the lot, and the value they provide to the local residents, have been completely ignored in reaching this decision. Local residents have been disenfranchised from the process.”

Appellant: “As was expressed in letters to the City by many residents, these trees bring many benefits to the local neighborhood: beauty, privacy, urban heat island effects, noise pollution, air pollution”

Tree Services Response: The Protected Trees Ordinance does not have a section pertaining to beauty, privacy, urban heat island effects, noise pollution, or air pollution as criteria to consider when making a tree removal permit decision. Therefore, Tree Services cannot consider these topics as criteria for making a tree removal permit decision.

6) “Issues of Tree Equity have not been considered by the City of Oakland in reaching its decision.”

Appellant: “Cutting down mature, protected trees in Oakland's Urban Forest - in areas where there is poor tree canopy and high pollution levels - is likely to have serious public health implications. These are traditionally poor, historically redlined neighborhoods, predominantly communities of color. The implication is that these neighborhoods are more at risk of Covid-19.”

Tree Services Response: The Protected Trees Ordinance does not have a section pertaining to air pollution, air quality, tree canopy coverage, or COVID-19 as criteria to consider when making a tree removal permit decision. Therefore, Tree Services cannot consider these topics as criteria for making a tree removal permit decision.

Appellant: “The Carroll St lot is in a neighborhood that meets the criteria for investment from Cap and Trade Funds: disadvantaged communities that are vulnerable to the impacts of climate change. The lot is in an AB 1550 Low-income Communities within a ½ mile of a SB 535 Disadvantaged Community. On this basis, the trees in the lot should be preserved.”

Tree Services Response: The Protected Trees Ordinance does not have a section pertaining to socioeconomics as criteria to consider when making a tree removal permit decision. Therefore, Tree Services cannot consider socioeconomics as criteria for making a tree removal permit decision.

Appellant: “In a lower socio economic area, rather working with the local community to overcome Oakland’s lack of tree canopy, OPW is seeking to further reduce their canopy by supporting a non-development tree removal application that at best has no merit, at worst is a subverted process. It speaks to how comfortable Oakland Public Works (OPW) & Tree Services are with institutional prejudice that is systemic, and arguably racist. The Carroll St and Ivy Drive residents deserve to keep the tree canopy, and its benefits, that the lot provides.”

Tree Services Response: The Protected Trees Ordinance does not have a section pertaining to socioeconomics as criteria to consider when making a tree removal permit decision. Therefore, Tree Services cannot consider socioeconomics as criteria for making a tree removal permit decision.

Appellant: No tenants of the apartment buildings that face the lot can appeal this permit application. We estimate 60-80 people directly impacted by the loss of these trees are shut out of the appeal process.

Tree Services Response: The Protected Trees Ordinance only gives appeal rights to adjacent property owners. Tree Services did mail notice letters to the adjacent building occupants, care of the building management, on November 18,2020. The applicant posted all trees in question with a red tag indicating each tree was proposed for removal, pending a permit decision. The applicant also posted an 8½” by 11” red summary notice on the fence out front of the lot.

Appellant: This is systemic. One tenant has lived at 2208 Carroll St since 2004. She has seen the removal of the mature trees in the lot and around the 2208 Carroll St building. In all instances, the tenants were given no opportunity to protest the removal of these trees. The lot owner displayed a disregard for the benefit of the trees to local residents on each occasion, shutting the community out of the process when these trees were removed.

Tree Services Response – Tree Services has no records of past tree removal applications or permits for this location.

Appellant: The lot and its trees support a local ecosystem. It is inhabited by an abundance of wildlife, including squirrels, raccoons, pigeons, doves, crows, blue jays, and hummingbirds. Red tailed hawks have been seen, and even a small wild boar. California and Federal Migratory Bird Regulations protect hummingbirds and their nests.

Tree Services Response: The Protected Trees Ordinance does not have a section pertaining to birds or wildlife. Tree Services cannot consider birds or wildlife as a reason to approve or preserve a tree for removal. The City of Oakland, Tree Services, is not responsible for enforcing The Migratory Bird Act.

Appellant: California has lost 150 million trees in the last 10 years due to drought, infestation, and wildfires. Normal tree loss is 1 million a year. This decision should be revoked in the spirit of preserving California’s trees.

Tree Services Response: The Protected Trees Ordinance does not have a section pertaining to drought, infestations, wildfire, or forest health conditions outside of Oakland. Tree Services can only consider the biological and/or structural condition of a tree and its immediate environment as a reason to remove or preserve a tree. Tree services cannot consider if one of these events were to happen when making a tree removal permit decision.

Appellant: I am given to understand that OPW and Tree Services' failure to take the Protected Trees Ordinance seriously, as it is doing in the case, cost the City of Oakland hundreds of thousands of dollars in lost grant dollars annually.

Tree Services Response: The Protected Trees Ordinance does not have a section pertaining to grant dollars. Tree Services cannot consider grant dollars as a criteria for making a tree removal permit decision.

7) Oakland's Equitable Climate Action Plan has not been considered in the context of this permit. It places considerable value on the protection and extension of Oakland's tree canopy.

Appellant: This decision runs in opposition to Oakland's new Equitable Climate Action Plan, in which ink is barely dry.

Tree Services Response – The Protected Trees Ordinance does not have a section pertaining to Equitable Climate Action Plan. Tree Services cannot consider the Equitable Climate Action Plan as a criteria for making a tree removal permit decision.

Chapter 12.36.110(C) of the OMC states, "In considering the appeal, the Park and Recreation Advisory Commission shall determine whether the proposed tree removal conforms to the applicable criteria. It may sustain the decision of the Public Works Agency or require such changes or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria."

RECOMMENDATION

The Public Works Agency recommends that the Park and Recreation Advisory Commission:

- Deny the appeal by Mark Baradat, property owner of 2208 Carroll Street

Respectfully submitted,



Prepared by:
Tod Lawsen
Arboricultural Inspector

___/s/ David Moore (for David Ferguson)

Approved by:
David Ferguson
Interim Director

For questions, please contact David Moore, Acting Parks Manager, at 510-615-5852

ATTACHMENTS

- A – Tree Removal Permit decision, ND20-078
- B – Tree Appeal Claim Form dated December 28, 2020 From Mark Baradat
- C – Tree Removal Application dated June 29, 2020 From Barry Cohn
- D – Photos of elm trees #1, #2, & #3
- E – Photos of elm trees #1, #2, & #3
- F – Photos of elm trees #1, #2, & #3
- G – Photos of black acacia tree #4
- H – Photo of black acacia tree #5
- I – Photos of black acacia tree #6
- J – Photos of black acacia tree #7

TREE PERMIT DECISION

City of Oakland, Public Works Agency

Tree Services Division, 7101 Edgewater Drive, Oakland, CA 94621, (510) 615-5934
 Chapter 12.36, Oakland Municipal Code, Protected Trees Ordinance

Permit # ND20-078

Address: 0 Carroll St.

Parcel: 22-305-16

Expires: One year from date of issuance

Decision: 9/15/20

Applicant: Barry Cohn

Permit Type: Non Development

Removal Approved		Preservation Required		Replacement Tree Required	In Lieu Fee- \$619 per tree
Tree Quantity	Identified As	Tree Quantity	Identified As		
3	American Elm (1) 17" DBH (2) 11" DBH (3) 12" DBH				
4	Black Acacia (4) 42" DBH (5) 23" DBH (6) 23" DBH (7) 28" DBH				

SITE INSPECTION / FINDINGS

There are 7 trees growing on the property at 0 Carroll St. The trees are Posted as (#1) a 17" DBH American elm, (#2) is an 11" DBH American elm, (#3) is an 12" DBH American elm, (#4) is a 42" DBH black acacia, (#5) is a 23" DBH black acacia, (#6) is a 23" DBH black acacia, and (#7) a 28" DBH black acacia.

Tree (#1) a 17" DBH American elm, (#2) a 11" DBH American elm, and (#3) a 12" DBH American elm are all 6' from an adjacent building. The trees have been severely cut back and topped causing unbalanced canopy's and poor structure. The trees are approved for removal.

Tree (#4) is a 42" DBH black acacia. At the soil line, the tree has a 21" high x 8" wide opening in the trunk. The cavity increases in size inside the trunk creating a hollow. There is decay in this area. The tree is approved for removal.

Tree (#5) is a 23" DBH black acacia. The tree has been overly thinned, loin-tailed. This type of pruning leads to poor limb development and reoccurring limb failure. This is due to the removal of all the interior limbs causing poor limb taper and leaving the end of the limb weighted. This tree is dependent on the adjacent trees as a buffer for wind loading. The tree is approved for removal

Tree (#6) is a 23” DBH black acacia. The tree has a 13” diameter stem removal wound, at the soil line, that has decay. The trunk separates into codominant stems at 20’ from the ground. The codominant stems have a narrow angle of attachment with included bark. The tree is approved for removal.

Tree (#7) is a 28” DBH black acacia. The tree has a 15” shear crack on the trunk, at the soil line. The trunk has a 20 degree lean with a target of the street. The canopy is unbalanced and weighted in the direction of the trunk lean. The tree is approved for removal.

PERMIT REVIEW – FINDINGS 12.36.050(A)

The applicant’s request accomplished the following objective(s):

- 1. Insured the public health and safety as it related to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, or interference with utilities or sewers.
- 2. Avoided an unconstitutional regulatory taking of property.
- 3. Took reasonable advantage of views, including such measures mandated by the resolution of a view claim in accordance with the view preservation ordinance (Chapter 15.52 of the Oakland Municipal Code).
- 4. Pursued accepted, professional practices of forestry or landscape design. Submission of a landscape plan acceptable to the Director of Public Works shall constitute compliance with this criterion.
- 5. Implemented the vegetation management prescriptions in the S-11 site development review zone.
- None of the objectives above were accomplished by the proposed removal(s).*

PERMIT REVIEW – FINDINGS 12.36.050(B)

Any one of the following situations was grounds for permit denial, regardless of the findings in section (A) above:

- 1a. Removal could be avoided by reasonable redesign of the site plan, prior to construction.
- 1b. Removal could be avoided by trimming, thinning, tree surgery or other reasonable treatment.
- 2. Adequate provisions for drainage, erosion control, land stability or windscreen were not made.
- 3. The tree(s) were a member of a group of trees in which each tree was dependent upon the others for survival.
- There were no grounds to deny the permit based on criteria listed in OMC 12.36.050(B)*

OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL

The following conditions were imposed. Conditions #11 - #13 were imposed if they were check marked:

- 1. Defense, Indemnification and Hold Harmless.** To the maximum extent permitted by law, the applicant and its contractor shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Public Works Agency and its respective agents, officers, employees and volunteers (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City for or on account of any damage to property or bodily injury, including death, or damage sustained or arising out of, related to or caused by in any way from the performance of work in this tree permit matter. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

- 2. Defense, Indemnification and Hold Harmless.** To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Public Works Agency and its respective agents, officers, employees and volunteers (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (a) an approval by the City relating to this tree permit matter, City's CEQA approvals and determination, and/or notices in the tree permit matter; or (b) implementation of such. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- 3. Letter of Agreement.** Within ten (10) calendar days of the filing of any Action as specified in conditions 1 or 2 above, the applicant and/or its contractor shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of Agreement does not relieve the applicant of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City.
- 4. Debris.** All debris created as a result of any tree removal work shall be removed from the property by the applicant within two weeks of debris creation, and such debris shall be properly disposed of by the applicant in accordance with all applicable laws, ordinances, and regulations.
- 5. Hazards.** The removal of extremely hazardous, diseased, and/or dead trees shall be required where such trees have been identified by the City Arborist.
- 6. Insurance.** Workers compensation, public liability, and property damage insurance shall be provided by any person(s) performing tree removal work authorized by a tree removal permit.
- 7. Nesting Birds.** To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of raptors shall not occur during the breeding season of March 15 and August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to start of work from March 15 through May 31, and within 30 days prior to the start of work from June 1 through August 15. The pre-removal surveys shall be submitted to the Planning and Zoning Division and the Tree Services Division of the Public Works Agency. If the survey indicates the potential presences of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the CDFG, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.
- 8. Permit.** Tree removal, as defined in the Protected Trees Ordinance, Section 12.36.020 of the Oakland Municipal Code, may not start unless and until the applicant has received this permit from Tree Services.
- 9. Posting.** The applicant shall post a copy of the tree removal permit in plain view on site while tree removal work is underway.
- 10. Tree Damage.** If any damage to a protected tree should occur during or as a result of work on the site, the applicant shall immediately notify the Tree Services Division of such damage. If, in the professional opinion of the City Arborist, such tree cannot be preserved in a healthy state, the Arborist shall require

replacement of any tree removed with another tree or trees on the same site deemed adequate by the Arborist to compensate for the loss of the tree that is removed.

- **11. In Lieu Fee.** If replacement trees are required, but cannot be planted due to site constraints, an in lieu fee as determined by the City’s master fee schedule may be substituted for required replacement plantings. The permit is valid and issued only after payment is received by Tree Services.
- **12. Replacement Trees.** The property owner shall plant ____ replacement trees on the property. The replacement trees shall be excellent quality nursery stock and maintained by the applicant until established. Any replacement planting which fails to become established within one year of installation shall be replanted at the applicant’s expense. Plantings shall be installed within 30 days of tree removal. A photograph of the replacement trees, installed in the landscape of the property, shall be mailed or emailed to Tree Services within one week of the replacement trees being installed.
 - a. The minimum size replacement tree shall be a twenty-four (24) inch box, except that three, fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate, if approved by the City Arborist.
 - b. Replacement tree species shall consist of *Sequoia sempervirens* (coast redwood), *Quercus agrifolia* (coast live oak), *Arbutus menziesii* (madrone, *Arbutus ‘Marina’* can be substituted), *Aesculus californica* (California buckeye) or *Umbellularia californica* (California bay laurel).
- **13. Sidewalks.** The damaged sidewalk shall be repaired in compliance with the rules and regulations of the City of Oakland. A sidewalk repair permit is required if more than 25 square feet of sidewalk will be repaired. Contact the Sidewalk Division at 238-3499 for more information.

Tod Lawsen
 Arbicultural Inspector
 Certified Arborist ® WE-6321A
 ISA Tree Risk Assessment Qualified

Date

David Moore
 Senior Forester
 Certified Arborist ® NY-5626A
 ISA Tree Risk Assessment Qualified

Date

This decision of the Public Works Agency, Tree Services Section, may be appealed by the applicant, or the owner of any “adjoining” or “confronting” property, to the Parks and Recreation Advisory Commission within five (5) working days after the date of this decision and by 3:30 p.m., otherwise the permit is effective. The term “adjoining” means immediately next to, and the term “confronting” means in front of or in back of. An appeal shall be on a form prescribed by and filed with Tree Services, at 7101 Edgewater Drive, Building #4. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City or wherein such decision is not supported by the evidence in the record. There is a \$618.90 fee to file an appeal. Failure to timely appeal this decision and raise any and all issues in your appeal may preclude you from challenging this determination in court. **If the appeal is not finally disposed of by the Park and Recreation Advisory Commission within thirty (30) working days of the date of the decision by the Tree Services Section, the decision shall be deemed affirmed, and the permit appeal denied.*

Appeal Report for the Non-Development Tree Removal Permit ND20-078

Submitted to: The City of Oakland Tree Services and the
City of Oakland Parks And Recreation Advisory Commission.

From: Mark Baradat, Appellant
Greg Clark, Agent for Appellant

Date: 28 December 2020

Version: 3.0

Table of Contents

1. Introduction	3
2. Hidden Intentions and Actions by the Permit Applicant	4
2.1 <i>Development Plans for the Carroll St Lot</i>	4
2.2 <i>Fraudulent Claims in the Permit Application & Lack of Supporting Evidence</i> ..	5
3. Violations of the Protected Trees Ordinance (PTO) by the City of Oakland Tree Services	7
3.1 <i>Failing to Notify Tenant-Occupants of the Permit Application (OMC 12.36.80H)</i>	7
3.2 <i>Refusing to Restart the Permit Application when the Applicant failed to Post Sign and Tree Tags (OMC 12.36.080 F)</i>	8
3.3 <i>Refusing to Read Public Submissions on Permit ND20-078 before Approving the Permit (12.36.080 J)</i>	8
4. Issues with the Tree Inspection Process	10
5. Public Health Benefits of the Carroll St Trees and Tree Equity	12
5.1 <i>The Public Health Benefits of the Carroll St Trees</i>	12
5.2 <i>Public Health Implications: COVID-19 Mortality</i>	13
5.3 <i>Priority Community for California Climate Investments</i>	13
5.4 <i>Tree Equity: Demographic & Institutional Prejudice</i>	13
6. Local Residents have been Disenfranchised in the Permit Process	15
7. Wildlife & Habitat Considerations	16
8. Lost Investments & Oakland’s Equitable Climate Action Plan	17

1. Introduction

This report presents the arguments for rejecting the approval of the tree permit application ND20-078 for the seven trees on the Carroll Street lot in the City of Oakland.

The argument is made on the following points:

1. The permit applicant intends to develop the lot, and using a non-development permit is an abuse of process.
2. Multiple violations on the City of Oakland Protected Trees Ordinance have occurred by both the applicant and The City of Oakland Tree Services.
3. On one violation, of OMC 12.36.080H, the City remains in contempt of the ordinance.
4. There are serious issues with the tree inspection process for the trees on the lot, contradicting the results of an earlier tree inspection.
5. The public health benefits of the trees in the lot, and the value they provide to the local residents, have been completely ignored in reaching this decision. Local residents have been disenfranchised from the process.
6. Issues of Tree Equity have not been considered by the City of Oakland in reaching its decision.
7. Oakland's Equitable Climate Action Plan has not been considered in the context of this permit. It places considerable value on the protection and extension of Oakland's tree canopy.

Points 1. and 3. alone are sufficient to reject the permit, and refer it back to the City of Oakland.

2. Hidden Intentions and Actions by the Permit Applicant

2.1 Development Plans for the Carroll St Lot

There is compelling evidence that the removal of trees is in preparation for development on the lot. There is a separate, more stringent, permit process for tree removal for a development. Using a non-development permit to bypass this in order to quickly clear-cut the trees is a gross abuse of process by the permit applicant.

In a meeting held on October 29th 2020 between concerned local residents, City of Oakland Tree Services, and Oakland Public Works, the Director of Oakland Public Works promised to investigate the development intentions for the lot and the appropriateness of the permit. See Appendix A for email from the Director of Oakland Public Works promising followup.

To date there has been silence from the City on this promise, despite multiple requests for information by local residents.

The evidence listed below should give the Commissioners pause for concern. The Parks and Recreational Advisory Commission (PRAC) should not adjudicate this permit, but refer it back to the City. The basis of the permit application is false.

Evidence of development:

1. Every single protected tree on the lot has been cited for removal, under one pretext or another in a single permit application, when for the preceding 15 years only two other trees on the lot have been removed. Even those two trees were removed illegally by the owner – a public records request for their permits returns no information.
2. Land surveys of the lot were carried out in the weeks before the tree removal permit was applied for. These occurred in May & June 2020, observed by the tenants of 2208 Carroll St and 2232 Ivy Drive.

The most recent survey was carried out by Zachary Heineman, agent for the permit applicant. Several Carroll St tenants spoke with Mr. Heineman during the survey, as discussed in communications between tenants in Appendix B.

3. As part of the survey, Mr. Heineman captured 3D VR images of the adjacent garage at 2208 Carroll St, for the purposes of assessing whether there would be structural issues with a property development in the lot.

-
4. Mr. Heineman is a Yale educated architect, and listed himself as developer for the lot on LinkedIn ([Appendix B](#)), through his agency Borax Partners, for an 8-unit apartment building.
 5. Mr. Heineman shared with Mr. Mark Baradat (the appellant and property owner of 2208 Carroll St) that he was planning to flip the lot for development.
 6. When Mr Heinman heard Mark Baradat was appealing the tree removal permit, Mr Heineman rang Mr. Baradat in an attempt to shut down the appeal. Mr. Heineman threatened Mr. Baradat with lack of access to the lot for any property work needed on the 2208 Carroll St building, if he didn't comply.

Mr. Heineman made further attempts to contact Mr. Baradat to shut down the appeal. The appellant refused to take his calls.

These steps taken by Zachary Heineman are extraordinary when considered in the context of a non-development permit to remove seven trees, which are allegedly in danger of damaging buildings or falling on to a right of way.

But his actions are understandable in the context of someone trying to either get a building project underway, or preparing it for sale to a developer, and who needs the trees removed to accomplish this.

Mr. Heineman has been seen on the lot affixing the tags and the public notice required for the tree removal permit.

See [Appendix B](#) for supporting evidence of Mr Heineman's intentions – communication between Carroll St Tenants, and Mr. Heineman's LinkedIn profile listing the property development.

2.2 Fraudulent Claims in the Permit Application & Lack of Supporting Evidence

There are two claims listed in the permit application for removing the trees:

8. that several trees threaten adjacent building foundations
9. that street facing trees are in unstable ground leaning over right of way

The first claim is fraudulent with respect to the 2208 Carroll St building. It is disputable with 2232 Ivy Drive, given the lack structural evidence to support this assertion.

As to the second claim: no supporting evidence was included in the application to back this up, requiring the removal of the trees. In fact, the trees were heavily

pruned 18 months ago to remove weight (passed by a tree inspector), and mature deep-rooted trees create slope stability.

No photographic evidence of damage, no structural engineering report, no geotechnical report were submitted with the application in support of both claims.

The plan of the lot submitted (see Appendix C) also has a major omission: the retaining wall and deep concrete path running down the side of the Ivy Drive building are excluded from the plan.

To the assertion that the trees were damaging the foundations of the two adjacent buildings –

- This had no merit for the 2208 Carroll St property. It was a fraudulent claim made without the consent of Mark Baradat, by Zachary Heineman (or his associates). The building was inspected when purchased in 2018, and is structurally sound. So the claim that any tree close to this right adjacent building is damaging it is false.
- There is no evidence provided to prove that the trees are affecting the foundations of 2232 Ivy Drive building, nor does the building show signs of structural damage. The 3 elms and acacia adjacent to the building are separated from it by the retaining wall and path mentioned previously.

To the assertion of the trees leaning to the right of way –

10. There is only one tree (not multiple trees) on the slope leaning towards the street.

With regards to trees and slope stability, the opposite of the assertion is true. Large deep-rooted trees create slope stability.

See published article: <https://onlinelibrary.wiley.com/doi/10.1002/esp.4597>

11. Contractors for the lot owner cut back both street-facing trees on 2 August 2019 specifically to ensure their stability on the slope. Mr Isaac Harvey, a City of Oakland Tree Services inspector was called out by Carroll St residents who were concerned about damage to the trees. He passed the heavy pruning as needed to reduce the weight of this tree. The work order confirming Mr. Harvey's attendance to the site is attached in Appendix D.

3. Violations of the Protected Trees Ordinance (PTO) by the City of Oakland Tree Services

Since the permit was initiated, there have been three violations of the Protected Trees Ordinance by Tree Services. Collectively they have acted to suppress the rights, needs, and voices of the local residents, but have served the interests of the lot owner / developer.

There were violations against OMC 12.36.080 H, OMC 12.36.080 F, and the paragraph following OMC 12.36.080 J.

The fact that two of the violations took place during the first public consultation period is irrelevant – the actions speak to the lack of integrity with the process.

On one violation, OMC 12.36.080 H, Tree Services remains in contempt of the ordinance.

These were all raised with the Mayor's Office, with detailed evidence ([Appendix E](#)).

3.1 Failing to Notify Tenant-Occupants of the Permit Application (OMC 12.36.80H)

OMC 12.36.080 H states that property owners and tenant-occupants of all buildings adjacent to the lot the must be notified in writing and told of the closing date for public comments.

Adjacent property owners were notified, but letters have never been sent to tenant-occupants, and this has continued through multiple public consultation periods on this permit.

The occupants of 2208 Carroll St (13 unit apt building) and 2232 Ivy Drive (28 unit apt building) were not notified, and we estimate 60 people in both buildings are affected by this lack of notification.

The owner of 2232 Ivy Drive has withheld all notification letters from their tenants, depriving their right and opportunity to speak.

This has continued even after the meeting October 29th 2020 between local residents and Oakland Public Works / Tree Services. Tree Services never properly followed through, and residents of 2232 Ivy Drive are still unaware of the permit application.

Tree Services remains in contempt of OMC 12.36.080 H.

Further, in correspondence from Oakland Public Works, they state that it has been protocol for the last 20 years to only notify property owners, and not the occupants. **So the City has never notified tenant-occupants, for any permit, as is legally required in the ordinance.**

3.2 Refusing to Restart the Permit Application when the Applicant failed to Post Sign and Tree Tags (OMC 12.36.080 F)

Tree Services twice failed to force a restart of a public consultation period, when they were made aware of the fact that the applicant had not affixed a public notice and tags to the trees.

These are violations of ordinance OMC 12.36.080 F, which mandates a restart of the public consult process on this basis.

The letter to the Oakland Mayor in Appendix E provides specific details of the violation.

3.3 Refusing to Read Public Submissions on Permit ND20-078 before Approving the Permit (12.36.080 J).

The decision to approve the permit by Tree Services, following the first public consult period, deliberately disregarded more than 30 letters submitted by local residents in support of the trees. The letters were not attached to the permit when the decision was made.

This is a violation of the PTO as stated in the paragraph following OMC 12.36.080 Subsection J.

Tree Services lied to the appellant and his agent to hide this fact.

There were 37 submissions from the local residents when the first consult period ended on July 27th 2020.

Documents that show directly after the period concluded, the permit was approved by the Tree Inspector Tod Lawson and Head of Tree Services David Moore - on July 27th 2020.

Comments from the public were not attached to the permit until July 28th by Ms. Ceci Garcia, and the department maintained the fiction that the permit decision had been taken on August 4th 2020 for several weeks.

The letter to Mayor Schaaf in Appendix E presents all of this information.

When challenged on their action, the response by Oakland Public Works was to send a letter denying any responsibility – in fact much of the letter was factually incorrect (Appendix F lists the letter from OPW, with its rebuttal).

They have argued that as the permit was eventually voided, this shouldn't matter.

But it does matter. This action reflects contempt towards concerned residents. It tells them that their concerns and perspectives are irrelevant when it comes to the department's practices on tree management - even if their practices break the law.

For the benefit of the PRAC Commissioners, the letter from the appellant Mark Baradat and one of the letters written in to the City has been included (Appendix G). And all the letters submitted by local residents can be read at the following link, in Folder 2.: <https://bit.ly/2FGaCm0>.

Please read these. All in are in favor of the trees; several write about how important the trees, and the ecosystem they support, are to their mental and emotional health. Several are written by residents with emotional disorders, for example Post Traumatic Stress Disorder, and this grove is vital to their health.

Rather than denying them a voice - as is their right - their concerns should be honored by City of Oakland. It is so important that local community voices be heard right now, while citizens remain at home during the pandemic, and rely on the trees for all the benefits they bring.

4. Issues with the Tree Inspection Process

Pruning in the lot that was passed as fit for purpose by a City of Oakland Tree Inspector eighteen months ago, was cited in the permit as a reason to remove the same trees, due to damage, by the City of Oakland Tree Inspector adjudicating the permit.

On the 2nd August 2019, the lot owner severely pruned back the 7 trees in the lot, using a contractor, Duran Tree Service. This was documented by tenants of 2208 Carroll St, with photos and videos of their actions viewable at this link:

<https://bit.ly/2X1xUbV>

Concerned that the trees were illegally being damaged, or even topped, they called in a City of Oakland Tree Services Inspector. Mr. Isaac Harvey was sent and he assessed that the pruning was aggressive, but not damaging, to the trees in the lot. He assessed that the trees had not been topped. The work order for his visit is available at [Appendix D](#).

And yet the Tree Inspector who assessed this permit approved 4 trees for removal based on damage due to this pruning: the 3 elms and one acacia.

To have pruning approved by one inspector that is later deemed excessive by another members of the same team, and cited as a reason to remove trees, is a perversion of the permit process.

It also calls into question the integrity of the tree inspection processes at The City of Oakland.

I am also given to understand that this is not the only instance where the competency of the Tree Service Inspection process has been called in to question – that it may fit a documented systemic pattern. References are available on request.

Further more, issues with the trees that were assessed as overly thinned or topped aren't a valid reason to remove the trees. The arboreal practice of Crown Restoration recovers a tree's canopy. This is a service offered by Tree Shapers, a San Francisco arborist: <https://treeshapers.com/tree-care/>.

Note: The responses in this section are based on the tree inspector reports released at the end of the first and second public consultation periods. The appellant has not been provided with the permit decision for the period ending 18th December 2020, which is their right and should be part of the basis for the appeal. We reserve the right to submit further information before the hearing, when we receive this document through a public records request.

5. Public Health Benefits of the Carroll St Trees and Tree Equity

The Zip code demographics for the local neighborhood around Carroll St (94606) describe a poor community that is predominantly Asian, Black, and Latino (70%). Median income is about \$38,000 (half the Oakland average) and almost a quarter of the residents live below the poverty line (citydata.com).

The lot is situated in a neighborhood with a poor tree canopy - about 12% cover, according to USDA tree canopy maps.

American Forests, a national non-profit who works with cities to improve their urban forest, were concerned by the public health implications of this this permit application. Given the neighborhood demographics and the local pollution load, they wrote to the Parks and Recreation Advisory Commission expressing this (see [Appendix H](#)).

5.1 The Public Health Benefits of the Carroll St Trees

As was expressed in letters to the City by many residents, these trees bring many benefits to the local neighborhood:

12. Beauty: Their natural beauty adds character to our buildings and street. They are a landmark in the neighborhood.
13. Privacy: they create privacy between the lot facing apartments of the 2208 Carroll St and the Ivy Drive apt buildings.
14. Urban Heat Island effects: they bring morning and afternoon shade for the lot facing apartments of both buildings. Temperatures in the apartments have already increased in the last 12 years as trees have been removed. It would be suffocating without them. See [Appendix I](#) for a long term resident's letter describing her experiences.
15. Noise Pollution: The tree canopy of the lot cuts down the noise from the 580 freeway and Oakland High School. It's already difficult to sleep at night with the heavy motorway traffic – with the trees gone it would be unbearable.
16. Air Pollution: The CalEPA CalEnviroScreen pollution monitor shows the Ivy Hill neighborhood (where the lot is located) has a medium to high burden of pollution. It's why Carroll St falls within the Bay Area initiative to protect urban green spaces: Priority Conservation Areas (PCA) for Urban Greening.

The mature trees in the lot clean the air of carbon dioxide, sulphur dioxide, nitrous oxides and other hazardous pollutants – for example, removing the traffic fumes from the 580 freeway.

Each mature tree removes an estimated 120-240lbs of air pollutants per year, reducing conditions that cause respiratory problems in the local community.

Their beauty aside, these are working trees, with verifiable public health benefits.

5.2 Public Health Implications: COVID-19 Mortality

In a joint research study published 11 Sept 2020 between the SUNY College of Environmental Science and Forestry (ESF) and ProPublica, counties with the highest Hazardous Air Pollutants (HAP) are experiencing, on average, twice the Covid-19 mortality rate than counties with the lowest HAP levels.

Further details are available at the following links:

<https://www.esf.edu/communications/view2.asp?newsID=8781>

<https://iopscience.iop.org/article/10.1088/1748-9326/abaf86>

Cutting down mature, protected trees in Oakland's Urban Forest - in areas where there is poor tree canopy and high pollution levels - is likely to have serious public health implications. These are traditionally poor, historically redlined neighborhoods, predominantly communities of color. The implication is that these neighborhoods are more at risk of Covid-19.

5.3 Priority Community for California Climate Investments

The Carroll St lot is in a neighborhood that meets the criteria for investment from Cap and Trade Funds: disadvantaged communities that are vulnerable to the impacts of climate change. The lot is in an AB 1550 Low-income Communities within a ½ mile of a SB 535 Disadvantaged Community.

<https://ww3.arb.ca.gov/cc/capandtrade/auctionproceeds/communityinvestments.htm>

On this basis, the trees in the lot should be preserved.

5.4 Tree Equity: Demographic & Institutional Prejudice

Trees are vital to the health, wealth and climate resiliency of all Oakland residents. But a map of the tree cover in the city is a map of income and race: the tree canopy is

poorer in Oakland's low-income neighborhoods, which are predominantly neighborhoods of color.

Tree Equity (or lack of) refers to the right to have a healthy tree canopy in every part of the city, and the public health benefits this provides. Removing this canopy has a measureable impact on local resident's health.

The surrounding streets are tree poor, i.e. with a poor tree canopy or poorly nourished trees. The data from the USDA's Tree Canopy Map of California confirms this, and it is easily seen when driving down Park Ave from Oakland High School, along 5th St, International Blvd, or the back streets of Ivy Hill.

On Park Avenue, trees have been cut away from vacant lots, and are eyesores with weeds. Noise pollution funnels down the avenue from the 580 freeway & High School; as the trees have been cut, the noise pollution gets worse.

On the other hand, the Zip code demographics for the Oakland Hills (94611) describe a predominantly White (65%) neighborhood. Median Household Income is around \$125,000 (\$150,000 - \$200,000 in Montclair), while only 6% of residents live below the poverty line.

The tree lined streets of the Oakland Hills & Montclair are beautifully canopied and well maintained: walking Oakland Avenue or driving through the forest of Montclair on Highway 13 attest to this. Their residents nurture the habitats and canopy, with support from Oakland Public Works (OPW) and the Tree Service Division.

Two zip codes, two different realities.

In a lower socio economic area, rather working with the local community to overcome Oakland's lack of tree canopy, OPW is seeking to further reduce their canopy by supporting a non-development tree removal application that at best has no merit, at worst is a subverted process.

It speaks to how comfortable Oakland Public Works (OPW) & Tree Services are with institutional prejudice that is systemic, and arguably racist.

The Carroll St and Ivy Drive residents deserve to keep the tree canopy, and its benefits, that the lot provides.

Demographic stats: city-data.com

6. Local Residents have been Disenfranchised in the Permit Process

As described in Section 2.1, only the adjacent apartment building owners were informed of the opportunity to comment on the permit application, depriving an estimated 60-80 tenants the opportunity to comment or speak up on behalf of the trees. This is their right as per city ordinance OMC 12.36.80H.

Mark Baradat (the appellant) is the only person who can appeal the permit decision. No tenants of the apartment buildings that sit adjacent to the lot can appeal this permit decision. We estimate 60-80 people directly impacted by the loss of these trees are shut out of the appeal process.

This is systemic. One tenant has lived at 2208 Carroll St since 2004. She has seen the removal of the mature trees in the lot and around the 2208 Carroll St building. In all instances, the tenants were given no opportunity to protest the removal of these trees. The lot owner displayed a disregard for the benefit of the trees to local residents on each occasion, shutting the community out of the process when these trees were removed.

The City ordinances for its protected trees are designed – and enforced - to favor property owners at the expense of tenants.

The non developmental tree removal permit decision process is tainted, a demonstration of Oakland Public Works & Tree Services systematic lack of public transparency, and not being open to public input with regard to the Protected Tree Ordinance (PTO).

7. Wildlife & Habitat Considerations

The lot and its trees support a local ecosystem. It is inhabited by an abundance of wildlife, including squirrels, raccoons, pigeons, doves, crows, blue jays, and hummingbirds. Red tailed hawks have been seen, and even a small wild boar.

California and Federal Migratory Bird Regulations protect hummingbirds and their nests.

Photographs and Videos of the lot showing

17. the beauty of its trees
18. the character it adds to the neighborhood
19. the hummingbirds in its trees

can be seen here: <https://bit.ly/2DecgdK>

California has lost 150 million trees in the last 10 years due to drought, infestations, and wildfires – normal tree loss is 1 million a year. This decision should be revoked the spirit of preserving California's trees.

8. Lost Investments & Oakland's Equitable Climate Action Plan

We are given to understand that OPW and Tree Service's failure to take the Protected Tree Ordinance seriously, as it is doing in this case, costs the City of Oakland hundred's of thousands of dollars in lost grant dollars annually.

The California Department of Forestry and Fire Protection (CALFIRE) has been made aware of the issues with Oakland's Tree Removal Permit process, from multiple sources. As the administrator of the state's urban forestry funds from the Cap and Trade Climate Investment program, this puts at risk millions of dollars of future funding for City programs.

This decision, and the process behind it, runs counter to Oakland's new Equitable Climate Action Plan, on which the ink is barely dry.



Appendix A - Letter from Oakland Public Works Promising
Investigation of Permit Applicant Intentions on the Lot

Az Clark <gregazclark@gmail.com>

Carroll St Trees: Community contact information & Tree Report

Ferguson, David <DFerguson@oaklandca.gov>

Wed, Nov 4, 2020 at 9:46 AM

To: Greg Az Clark <gregazclark@gmail.com>

Cc: Jon Heim <jshinslaw@gmail.com>, Oakland's Urban Forest <oaklandsurbanforest@gmail.com>, "Carthan, Brian" <BCarthan@oaklandca.gov>

Greg – thanks for confirming your main contacts. You will soon receive an update on our research regarding development vs. non-development , and postponement of the PRAC hearing.

From: Greg Az Clark <gregazclark@gmail.com>

Sent: Tuesday, November 3, 2020 8:09 AM

To: Ferguson, David <DFerguson@oaklandca.gov>

Cc: Jon Heim <jshinslaw@gmail.com>; Oakland's Urban Forest <oaklandsurbanforest@gmail.com>

Subject: Carroll St Trees: Community contact information & Tree Report

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

[Quoted text hidden]

Appendix B - Tenant Communication Establishing Zachary Heineman on the Lot



Greg Az Clark [REDACTED]

Zachary, the tree permit guy.

4 messages

Greg Clark [REDACTED]

Sun, Jul 19, 2020 at 8:15 PM

To: Maura Pellettieri [REDACTED]

Maura, I think I know who Zachary is. Is this the person you spoke to?

<https://www.facebook.com/zachary.heineman>

When we spoke to him while he was surveying the lot, my wife gave him some cards of her art. By a complete fluke, it turned out that his wife had actually been to our apt several years ago to buy an item from us on Craigslist. She recognised my wife's art.

I'm not going to contact him, but will reference him in the letter I send to the City - he didn't act in integrity with us, and I want to note that.

Cheers
Greg

Maura Pellettieri [REDACTED]

Tue, Jul 21, 2020 at 11:25 AM

To: Greg Clark [REDACTED]

Hi Greg,

I don't have facebook any longer, so I can't see if the link you gave is the same person I saw, but I can describe him as a thin guy with wavy light brown hair. He was surveying all around the lot (some days in the street and some days in the lot). If you want me to ID him to make sure that we're talking about the same person, you could take a screenshot of a facebook photo and send it to me by text. Funny that your wife had met his wife.

I agree with you in terms of not contacting him, and also noting to the city the lack of transparency and integrity in his words.

I'm running a little behind in a few tasks, but intend to draft and send out the letter form for the group stat--hopefully this afternoon and latest tomorrow.

My best,
Maura

[Quoted text hidden]

--

Maura Pellettieri, Poet and Art Writer
Editor in Chief, *Dzibboe!Gmf*

www.maurapellettieri.com

Greg Clark [REDACTED]

Tue, Jul 21, 2020 at 11:36 AM

To: Maura Pellettieri [REDACTED]



Zachary Russell Heineman

[Quoted text hidden]

--
Treasure Chamber: An Etsy store for Fine Art, Antiques, Rare Treasures & Other Curiosities
Uriél Dana Fine Artist: www.urieldana.com

Maura Pellettieri [REDACTED]

To: Greg Clark [REDACTED]

Wed, Jul 22, 2020 at 11:49 AM

Yes, that's him.
[Quoted text hidden]

Appendix B - Zachary Heineman - Development of Carroll St Lot listed in LinkedIn

From his LinkedIn profile, as at 08 August 2020. Development highlighted in red.



Zachary Heineman
Product designer for the physical, the digital, and everything in between. Trained architect (registration pending).

Experience

-  **Managing Member**
Team Projects
Oct 2018 – Present · 1 yr 11 mos
Oakland, California, United States
Consultancy/incubator. Currently building music electronics to be released at NAMM 2021.
-  **Developer**
Borax Partners
May 2020 – Present · 4 mos
Oakland, California, United States
Currently entitling an 8-unit residential project in Oakland.
-  **Owner**
Deadstick Aviation
Sep 2012 – Present · 8 yrs
Commercial/Instrument Pilot and Certificated Flight Instructor, currently in Phase 3 of Part 135 application
-  **Frontend Developer (Lead), Web**

Try monday.com today - Gantt, dashboards, project tracking, workload mgmt - Start your free trial



Zachary Heineman · 3rd 

Product designer for the physical, the digital, and everything in between. Trained architect (registration pending).

San Francisco, California · 500+ connections · [Contact info](#)

Message

More...



Team Projects



Yale University - School of Architecture



Borax Partners

Construction · 1 follower

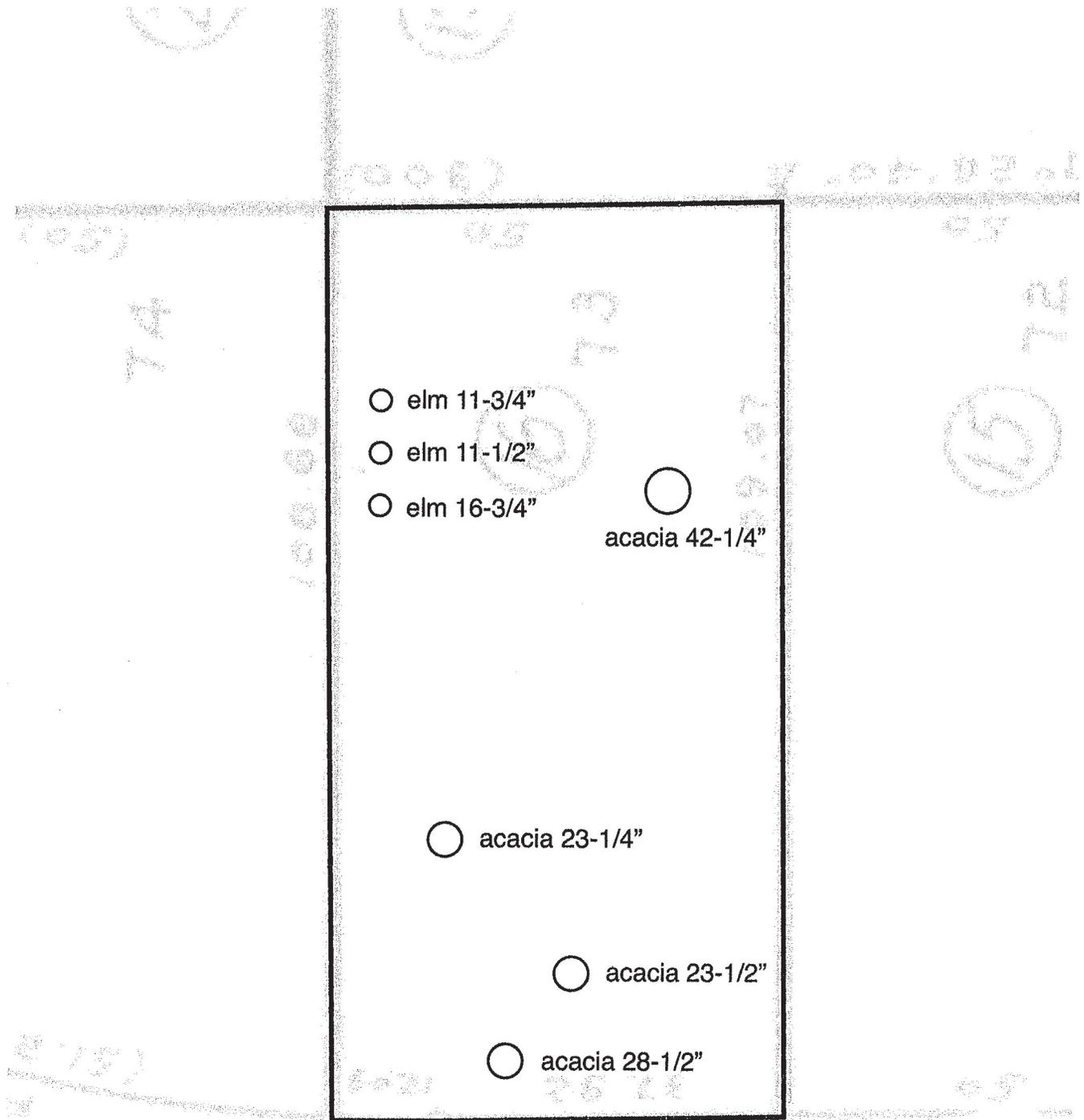
+ Follow

- Home
- About
- Jobs
- People
- Insights PREMIUM

Overview	
Industry	Construction
Company size	2-10 employees 1 on LinkedIn ⓘ
Type	Privately Held

Appendix C - Map of the Carroll St Lot supplied by Permit Applicant

APN 22-305-16, between 2208 Carroll St and 2232 Ivy Dr



Appendix D - Work order for Tree Inspector Isaac Harvey, at Carroll St Lot - 2nd August 2019

Work Order 1043298

Work Order ID #	1043298
Work Order Category	TREES
Work Order Description	Trees - Tree Inspection
Work Order Address	2208 CARROLL ST
Submit To	HARVEY, ISAAC
By HARVEY, ISAAC : 8/15/2019 11:07:46 AM	
From Request 930743: Code: TREE_ILLEGAL_REMOVAL Description: Tree - Illegal Tree Removal Details: Comments: CITIZEN REPORTING AN ILLEGAL TREE REMOVAL OF SIX TREES, AT AN EMPTY LOT, NEXT TO 2208 CARROLL ST. Caller: [REDACTED] Q: Please describe the precise location of the tree. A: ON AN EMPTY LOT, NEXT TO 2208 CARROLL ST. Q: Is it a eucalyptus or Monterey pine tree being removed? A: NOCALL CENTER REPORTED TO I.HARVEY.	
By HARVEY, ISAAC : 8/15/2019 11:09:17 AM Site was inspected and found that trees were only being pruned not removed. Spoke with citizen who submitted request and explained situation. No further action at this time.	
Priority	3 - Medium
Supervisor	MOORE, DAVID
Cityworks Project Name	
Initiated By	HARVEY, ISAAC
Initiated Date	8/15/2019 11:07:46 AM
Actual Start Date	8/15/2019 12:00:00 PM
Actual Finish Date	8/15/2019 12:00:00 PM
Police Beat	17Y
Service Delivery District	3
City Council District	CCD2
Total Entities (GIS Assets) on Work Order	1
Units Accomplished	1
Units Accomplished Description	Units (Trees)
Total Work Order Cost	\$84.25
Total Of Work Order Labor Costs	\$74.30
Total Of Work Order Material Costs	\$0.00
Total Of Work Order Equipment Costs	\$9.95

Labor

Labor Cost	Labor Name	Hours	Start Date	Finish Date
\$74.30	HARVEY, ISAAC	1.00	8/15/2019 11:09:24 AM	8/15/2019 11:09:24 AM

Equipment

Equipment Cost	Description	Equip ID	Hours	Start Date	Finish Date	Equip Unit Cost	Equipment Rate Type
\$9.95	4862-F-150 XL PICKUP CREW CAB 4X2	4862	0.50	8/15/2019 11:09:24 AM	8/15/2019 11:09:24 AM	\$9.95	Hourly

Material

Material Cost	Description	Material UID	Mat Unit Cost	Units Required
---------------	-------------	--------------	---------------	----------------

Entities

Entity UID	Entity Type
022 030501600	AC_PARCELS_ASSESSOR

Custom Fields

Custom Field Names	Custom Field Value
PRUNING REASONS	
PRUNING TYPES	
TREE DESIGNATION	
PERMIT TYPE	
PERMIT NUMBER	
CUSTOM PRIORITY	
PRIVATE PROPERTY?	
BIRDS NESTING AT TIME OF WORK?	No
STREET SWEEPING DAY OF WEEK	

Associated Service Request

Request ID	Request Description	Request Priority	Incident Address	Date & Time Initiated	Submit To	Category	Status
930743	Tree - Illegal Tree Removal	4 - Low	2208 CARROLL ST	8/2/2019 9:41:58 AM	HARVEY, ISAAC	TREES	Closed

Calls on Service Request

First Name	Last Name	Customer Email	Cell Phone	Home Phone	Work Phone	Other Phone	Date & Time Of Call
[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]			8/2/2019 9:37:41 AM

Appendix E - Letter to the Mayor's Office detailing Violations of the Protected Trees Ordinance, with Detailed Evidence

Mr Greg Clark
2208 Carroll St, Apt 202
Oakland, CA 94912

The Honorable Libby Schaaf
Mayor of the City of Oakland
1 Frank H. Ogawa Plaza
Oakland, CA 94612

10 September 2020

Illegal actions on Oakland's Protected Trees Ordinance (OMC 12.36)

Dear Mayor Schaaf,

I am writing to alert you to several recent instances when the Protected Trees Ordinance (PTO) has not been enforced by the City of Oakland's Tree Services Dept. These illegal actions relate to a specific non-development tree removal permit, ND20-078.

I am asking for your assistance in making sure that the ordinance is properly administered and that the interests of your voting constituents are fairly included in this process. These actions are illegal in the context of the PTO, incompatible with Oakland's Equitable Climate Action Plan (ECAP) and will contribute to increasing the urban heat-island effect and worsening air quality, noise pollution, and public health impacts.

The specific instances I refer to are:

- 1. Tree Services did not follow or enforce the ordinance when they failed to verify that the summary notice and tags had been posted by the applicant. They twice failed to force a restart of the public consultation period, when they were made aware that the applicant had not posted the tags and notice for the full input period.**

Permit applicants must attach tree tags and post a summary notice within 2 days of the permit application (OMC 12.36.080 F), which must be visible for 20 working days of public input. This must be verified by the City of Oakland before the public input period (OMC 12.36.080 H). The initial public input period for our permit ran from June 29 2020 to July 27 2020.

- a. Tree Services did not verify the site posting before the public input period. The applicant only posted the tags and notice 5 calendar days before the end of the public input period, around July 23rd.

- b. Tree Services did not take immediate action to restart the public input period (OMC 12.36.080 F) when they first became aware that the applicant had not followed the ordinance.

There was a City of Oakland employee measuring trees in the lot 3 weeks in to the public consult period - around July 22nd - when no tags or notice had been posted. About a day later, the applicant's agent appeared on the lot to apply the tags and notice.

So while the City employee ensured the tags and notice were eventually posted, the ordinance was not enforced to restart the public consultation period.

- c. Tree Services did not take action a second time to restart the public input period when a local resident emailed an administrative staff member to say that the tags and notice had not been posted correctly.

See Appendix A for the email.

- d. Tree Services only restarted the public consultation period - after they approved the permit - on August 12th 2020. It was only when I became aware the ordinance had not been followed, and forced the issue with an email (containing photographic evidence) sent to the managers in several City of Oakland departments, the Mayor's Office, the City Administrator, and several lawyers.

2. Tree Services did not follow the ordinance when they verifiably ignored all public comments when approving the permit.

The permit was approved on Monday July 27th 2020, before the second public consultation period was forced. Public comments must be considered when reaching a decision on a non-development tree removal permit, as stated in the paragraph following OMC 12.36.080 Subsection J.

- a. Both the assigned Tree Inspector and the Head of Tree Services approved the permit 27th July, before any public comments had been attached to the permit.

As the attached permit and correspondence show, all public comments on the permit were included on Tuesday July 28th, after the permit had already been approved. Correspondence from Tree Services staff also insisted that the decision was made on August 4th, which was false.

See Appendix B for evidence: the approved permit, & conflicting email correspondence. The permit is marked as void only because a 2nd public consultation period was forced, as described in point 1.

3. Tree Services did not follow the ordinance when the occupants of both apartment buildings adjacent to the lot received no written notification of the tree removal permit application.

Property owners and occupants of adjacent buildings must be notified in writing of the permit application, and the closing date for public comments (OMC 12.36.080 H).

Adjacent property owners were notified.

The occupants of 2208 Carroll St (13 unit apt building) and 2232 Ivy Drive (28 unit apt building) were not notified, and we estimate 60 people in both buildings were affected by this lack of notification.

The property owner of 2208 Carroll St passed this information on to his tenants. The owner of 2232 Ivy Drive withheld it, depriving their tenants the right and opportunity to speak.

The overriding impression from these actions is that there is little interest in notifying and engaging with the local community in this process. This greatly devalues Oakland's trees, and by extension, its residents. It is particularly disheartening that the deliberate action to ignore the voices of local residents when reaching the original permit decision (point 2.) was taken in the same week that the City of Oakland's ECAP was signed into City law.

As an Oakland resident, I am asking for your intervention to make sure the PTO ordinance is properly and fairly administered. Your assistance in protecting the valuable benefits this tree canopy provides the generally low-income, minority residents of this neighborhood – a Priority Conservation Area - would also be much appreciated.

Thank you for your consideration. I can be contacted at the email and phone numbers listed. I look forward to your response.

Respectfully

Greg Clark



CC:

The Honorable Nikki Fortunato Bas, District 2 Councilmember

The Honorable Rebecca Kaplan, Councilmember-At-Large

Garcia, Cecilia

From: [REDACTED]
Sent: Sunday, July 26, 2020 5:42 PM
To: Garcia, Cecilia
Subject: Re: Permit ND20-078

Hi Cecilia,

Please note that the red tree tags were only put on the trees last week. This is in violation of the requirement they should have been added to the trees 2 days after the permit was filed.

The application should be denied taking into account this violation.

Thank you,

De : Garcia, Cecilia <CGarcia@oaklandca.gov>
Envoyé : 16 juillet 2020 11:00
À : [REDACTED]
Objet : RE: Permit ND20-078

Good morning,

Thank you for this email. I will file it with the permit for the inspectors review.

Thank you,

Cecilia Loana Garcia
Administrative Assistant, Parks & Tree Services Division
Bureau of Environment
City of Oakland | Public Works Department | APWA Accredited Agency
7101 Edgewater Dr., Bldg. 4 | Oakland, CA 94621
(510) 615-5934 | (510) 615-5845 Fax
CGarcia@oaklandca.gov

Report A Problem | Call OAK 311 | From outside Oakland: (510) 615-5566
311.oaklandca.gov | OAK311@oaklandca.gov | Mobile app: Apple or Android

Mission Statement:

Oakland Public Works is dedicated to you! We strive to maintain, improve and preserve Oakland's infrastructure and environment for the residents, businesses, visitors and future generations of every neighborhood in our diverse city.

TREE PERMIT DECISION

City of Oakland, Public Works Agency

Tree Services Division, 7101 Edgewater Drive, Oakland, CA 94621, (510) 615-5934
 Chapter 12.36, Oakland Municipal Code, Protected Trees Ordinance

Permit # ND20-078

Address: 0 Carroll St.

Parcel: 22-305-16

Expires: One year from date of issuance

Decision: 7/27/20

Applicant: Barry Cohn

Permit Type: Non Development

Text

Removal Approved		Preservation Required		Replacement Tree Required	In Lieu Fee- \$619 per tree
Tree Quantity	Identified As	Tree Quantity	Identified As		
3	American Elm (1) 17" DBH (2) 11" DBH (3) 12" DBH				
4	Black Acacia (4) 42" DBH (5) 23" DBH (6) 23" DBH (7) 28" DBH				

VOID

SITE INSPECTION / FINDINGS

There are 7 trees growing on the property at 0 Carroll St. The trees are Posted as (#1) a 17" DBH American elm, (#2) is an 11" DBH American elm, (#3) is an 12" DBH American elm, (#4) is a 42" DBH black acacia, (#5) is a 23" DBH black acacia, (#6) is a 23" DBH black acacia, and (#7) a 28" DBH black acacia.

Tree (#1) a 17" DBH American elm, (#2) a 11" DBH American elm, and (#3) an 12" DBH American elm are all 6' from an adjacent building. The trees have been severely cut back and topped causing unbalanced canopy's and poor structure. The trees are approved for removal.

Tree (#4) is a 42" DBH black acacia. At the soil line, the tree has a 21" high x 8" wide opening in the trunk. The cavity increases in size inside the trunk creating a hollow. There is decay in this area. The tree is approved for removal.

Tree (#5) is a 23" DBH black acacia. The tree has been overly thinned, loin-tailed. This type of pruning leads to poor limb development and reoccurring limb failure. This is due to the removal of all the interior limbs causing poor limb taper and leaving the end of the limb weighted. This tree is dependent on the adjacent trees as a buffer for wind loading. The tree is approved for removal

Tree (#6) is a 23" DBH black acacia. The tree has a 13" diameter stem removal wound, at the soil line, that has decay. The trunk separates into codominant stems at 20' from the ground. The codominant stems have a narrow angle of attachment with included bark. The tree is approved for removal.

Tree (#7) is a 28" DBH black acacia. The tree has a 15" shear crack on the trunk, at the soil line. The trunk has a 20 degree lean with a target of the street. The canopy is unbalanced and weighted in the direction of the trunk lean. The tree is approved for removal.

PERMIT REVIEW – FINDINGS 12.36.050(A)

The applicant's request accomplished the following objective(s):

- 1. Insured the public health and safety as it related to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, or interference with utilities or sewers.
- 2. Avoided an unconstitutional regulatory taking of property.
- 3. Took reasonable advantage of views, including such measures mandated by the resolution of a view claim in accordance with the view preservation ordinance (Chapter 15.52 of the Oakland Municipal Code).
- 4. Pursued accepted, professional practices of forestry or landscape design. Submission of a landscape plan acceptable to the Director of Public Works shall constitute compliance with this criterion.
- 5. Implemented the vegetation management prescriptions in the S-11 site development review zone.
- None of the objectives above were accomplished by the proposed removal(s).*

PERMIT REVIEW – FINDINGS 12.36.050(B)

Any one of the following situations would ground a permit denial, regardless of the findings in section (A) above:

- 1a. Removal could be avoided by reasonable redesign of the site plan, prior to construction.
- 1b. Removal could be avoided by trimming, thinning, tree surgery or other reasonable treatment.
- 2. Adequate provisions for drainage, erosion control, land stability or wind were not made.
- 3. The tree(s) were a member of a group of trees in which each tree was dependent upon the others for survival.

There were no grounds to deny the permit based on criteria listed in OMC 12.36.050(B)

OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL

The following conditions were imposed. Conditions #11 - #13 were imposed if they were check marked:

1. **Defense, Indemnification and Hold Harmless.** To the maximum extent permitted by law, the applicant and its contractor shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Public Works Agency and its respective agents, officers, employees and volunteers (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City for or on account of any damage to property or bodily injury, including death, or damage sustained or arising out of, related to or caused by in any way from the performance of work in this tree permit matter. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
2. **Defense, Indemnification and Hold Harmless.** To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Public Works Agency and its respective agents, officers, employees and volunteers (hereafter collectively called City) from any liability, damages,

claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (a) an approval by the City relating to this tree permit matter, City's CEQA approvals and determination, and/or notices in the tree permit matter; or (b) implementation of such. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

- 3. **Letter of Agreement.** Within ten (10) calendar days of the filing of any Action as specified in conditions 1 or 2 above, the applicant and/or its contractor shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of Agreement does not relieve the applicant of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City.
- 4. **Debris.** All debris created as a result of any tree removal work shall be removed from the property by the applicant within two weeks of debris creation, and such debris shall be properly disposed of by the applicant in accordance with all applicable laws, ordinances, and regulations.
- 5. **Hazards.** The removal of extremely hazardous, diseased, and/or dead trees shall be required where such trees have been identified by the City Arborist.
- 6. **Insurance.** Workers compensation, public liability, and property damage insurance shall be provided by any person(s) performing the removal authorized by a tree removal permit.
- 7. **Nesting Birds.** To the extent feasible, removal of any tree and other vegetation suitable for nesting of raptors shall not occur during the breeding season of March 1 and August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to start of work from March 15 through May 15, and within 30 days prior to the start of work from June 1 through August 15. The pre-removal surveys shall be submitted to the Planning and Zoning Division and the Tree Services Division of the Public Works Agency. If the survey indicates the potential presences of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the CDFG, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.
- 8. **Permit.** Tree removal, as defined in the Protected Trees Ordinance, Section 12.36.020 of the Oakland Municipal Code, may not start unless and until the applicant has received this permit from Tree Services.
- 9. **Posting.** The applicant shall post a copy of the tree removal permit in plain view on site while tree removal work is underway.
- 10. **Tree Damage.** If any damage to a protected tree should occur during or as a result of work on the site, the applicant shall immediately notify the Tree Services Division of such damage. If, in the professional opinion of the City Arborist, such tree cannot be preserved in a healthy state, the Arborist shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Arborist to compensate for the loss of the tree that is removed.
- 11. **In Lieu Fee.** If replacement trees are required, but cannot be planted due to site constraints, an in lieu fee as determined by the City's master fee schedule may be substituted for required replacement plantings. The permit is valid and issued only after payment is received by Tree Services.

VOID

- 12. Replacement Trees.** The property owner shall plant ____ replacement trees on the property. The replacement trees shall be excellent quality nursery stock and maintained by the applicant until established. Any replacement planting which fails to become established within one year of installation shall be replanted at the applicant’s expense. Plantings shall be installed within 30 days of tree removal. A photograph of the replacement trees, installed in the landscape of the property, shall be mailed or emailed to Tree Services within one week of the replacement trees being installed.
 - a. The minimum size replacement tree shall be a twenty-four (24) inch box, except that three, fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate, if approved by the City Arborist.
 - b. Replacement tree species shall consist of *Sequoia sempervirens* (coast redwood), *Quercus agrifolia* (coast live oak), *Arbutus menziesii* (madrone, *Arbutus* ‘Marina’ can be substituted), *Aesculus californica* (California buckeye) or *Umbellularia californica* (California bay laurel).
- 13. Sidewalks.** The damaged sidewalk shall be repaired in compliance with the rules and regulations of the City of Oakland. A sidewalk repair permit is required if more than 25 square feet of sidewalk will be repaired. Contact the Sidewalk Division at 238-3499 for more information.

[Signature] 7/27/20

 Tod Lawsen Date
 Arboricultural Inspector
 Certified Arborist ® WE-6321A
 ISA Tree Risk Assessment Qualified

[Signature] 7-27-20

 David Moore Date
 Senior Forester
 Certified Arborist ® NY-5626A
 ISA Tree Risk Assessment Qualified

VOID

**This decision of the Public Works Agency, Tree Services Section, may be appealed by the applicant, or the owner of any "adjoining" or "confronting" property, to the Parks and Recreation Advisory Commission within five (5) working days after the date of this decision and by 3:30 p.m., otherwise the permit is effective. The term "adjoining" means immediately next to, and the term "confronting" means in front of or in back of. An appeal shall be on a form prescribed and filed with Tree Services at 7101 Edgewater Drive, Oakland, CA 94644. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City or wherein such decision is not supported by the evidence in the record. There is a \$618.90 fee to file an appeal. Failure to timely appeal this decision and raise any and all issues in your appeal may preclude you from challenging this determination in court. If the appeal is not finally disposed of by the Park and Recreation Advisory Commission within thirty (30) working days of the date of the decision by the Tree Services Section, the decision shall be deemed affirmed, and the permit appeal denied.*



Az Clark <gregazclark@gmail.com>

Permit ND20-078 - Property Owner Mark Baradat - Supplemental Letter

Garcia, Cecilia <CGarcia@oaklandca.gov>
To: Greg Az Clark [REDACTED]@gmail.com>
Cc: Mark [REDACTED]@comcast.net>

Mon, Jul 27, 2020 at 8:19 AM

Good morning Greg,

I have received the email. I will be going into the office tomorrow to print all emails for the permit file.

This was the day after the permit was signed off

Thank you,

Cecilia Loana Garcia

Administrative Assistant, Parks & Tree Services Division

Bureau of Environment

City of Oakland | Public Works Department | APWA Accredited Agency

7101 Edgewater Dr., Bldg. 4 | Oakland, CA 94621

(510) 615-5934 | (510) 615-5845 Fax

CGarcia@oaklandca.gov

Report A Problem | Call OAK 311 | From outside Oakland: (510) 615-5566

311.oaklandca.gov | OAK311@oaklandca.gov | Mobile app: [Apple](#) or [Android](#)

Mission Statement:

Oakland Public Works is dedicated to you! We strive to maintain, improve and preserve Oakland's infrastructure and environment for the residents, businesses, visitors and future generations of every neighborhood in our diverse city.

From: Greg Az Clark [REDACTED]@gmail.com>
Sent: Saturday, July 25, 2020 11:53 AM



Az Clark <gregazclark@gmail.com>

Permit ND20-078 - Decision on the trees in Carroll St lot?

Garcia, Cecilia <CGarcia@oaklandca.gov>

Tue, Jul 28, 2020 at 2:32 PM

To: Greg Az Clark <gregazclark@gmail.com>

Cc:

"ma

"jor

Good afternoon,

I have not received the permit decision. There will be a full 5 day appeal though.

Yes, please email me everyday to check the status. Just as an FYI I have printed and recorded all the comments received for this permit.

Thank you,

Cecilia Loana Garcia

Administrative Assistant, Parks & Tree Services Division

Bureau of Environment

City of Oakland | Public Works Department | APWA Accredited Agency

7101 Edgewater Dr., Bldg. 4 | Oakland, CA 94621

(510) 615-5934 | (510) 615-5845 Fax

CGarcia@oaklandca.gov

Report A Problem | Call OAK 311 | From outside Oakland: (510) 615-5566

311.oaklandca.gov | OAK311@oaklandca.gov | Mobile app: [Apple](#) or [Android](#)

Mission Statement:

Oakland Public Works is dedicated to you! We strive to maintain, improve and preserve Oakland's infrastructure and environment for the residents, businesses, visitors and future generations of every neighborhood in our diverse city.

From: Greg Az Clark <gregazclark@gmail.com>

Sent: Tuesday, July 28, 2020 12:11 PM

To: Garcia, Cecilia <CGarcia@oaklandca.gov>

Cc:

joro

Subject: Permit ND20-078 - Decision on the trees in Carroll St lot?

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms Garcia,

Are you able to tell me when we can expect a decision on this permit?

The letter to Mark Baradat concerning it states that it is our responsibility to contact the Tree Division for information on this decision after July 27th. Failure to do so could jeopardize the right to file an appeal.

Does this mean that you should be contacted every day to check on its status?

Copying in Mark Baradat, and others with an interest in this permit application.

Thank you for your assistance,

Greg



Az Clark <gregazclark@gmail.com>

Permit ND20-078 - Decision on the trees in Carroll St lot?

Garcia, Cecilia <CGarcia@oaklandca.gov>

Wed, Jul 29, 2020 at 1:28 PM

To: Greg Az Clark <gregazclark@gmail.com>

Cc:

"ma

<uri

Good afternoon,

Thank you for the reminder, I wanted to email you earlier today. The inspector assigned to this permit is on vacation and should be back on Monday. I should know the decision on Monday (please send a reminder email), I will cut and paste from the permit the decision along with the inspectors findings and let you know the appeal period.

I did speak to the head of our division and informed him that any adjacent property owners who wish to appeal will get the full 5 day window.

Thank you,

Ceci

Get [Outlook for iOS](#)

From: Greg Az Clark <gregazclark@gmail.com>**Sent:** Wednesday, July 29, 2020 1:23:22 PM**To:** Garcia, Cecilia <CGarcia@oaklandca.gov>**Cc:**

ma

<sa

Subject: Re: Permit ND20-078 - Decision on the trees in Carroll St lot?

[Quoted text hidden]

**City of Oakland Tree Removal Permit ND20-078 - Carroll Street**

Garcia, Cecilia <CGarcia@oaklandca.gov>
To: Mark <Mbaradat@comcast.net>
Cc: Greg Az Clark <gregazclark@gmail.com>

Tue, Aug 4, 2020 at 9:05 AM

Good morning,

This is a *COURTESY EMAIL* to notify you that the permit #ND20-078 has been approved for the removal of 4 Black Acacia and 3 American Elm Trees. Below are the site inspection/findings from the Arboricultural Inspector Tod Lawsen. I have also attached an appeal form for your convenience. If you would like to appeal this decision, please complete and mail the form with the \$618.90 application fee to my address below on my signature line. This must be received no later than 3:00pm on August 11, 2020.

Please confirm receipt of this email.

SITE INSPECTION / FINDINGS

There are 7 trees growing on the property at 0 Carroll St. The trees are listed as (#1) is a 23" diameter at breast height (DBH) black acacia, (#2) is a 23" DBH black acacia, (#3) is a 28" DBH black acacia, (#4) is a 42" DBH black acacia, (#5) is an 11" DBH American elm, (#6) is an 12" DBH American elm, and (#7) a 17" DBH American elm.

Tree listed as (#1) is a 23" DBH black acacia. The tree has a 13" diameter stem removal wound, at the soil line, that has decay. The trunk separates into codominant stems at 20' from the ground. The codominant stems have a narrow angle of attachment with included bark. The tree is approved for removal.

Tree listed as (#2) is a 23" DBH black acacia. The tree has been overly thinned, loin-tailed. This type of pruning leads to poor limb development and reoccurring limb failure. This is due to the removal of all the interior limbs causing poor limb taper and leaving the end of the limb weighted. This tree is dependent on the adjacent trees as a buffer for wind loading. The tree is approved for removal.

Tree (#3) is a 28" DBH black acacia. The tree has a 15" shear crack on the trunk, at the soil line. The trunk has a 20 degree lean with a target of the street. The canopy is unbalanced and weighted in the direction of the trunk lean. The tree is approved for removal.

Tree (#4) is a 42" DBH black acacia. At the soil line, the tree has a 21" high x 8" wide opening in the trunk. The cavity increases in size inside the trunk creating a hollow. There is decay in this area. The tree is approved for removal.

Tree (#5) is an 11" DBH American elm, (#6) a 12" DBH American elm, and (#7) a 17" DBH American elm are all 6' from an adjacent building. The trees have been severely cut back and topped causing unbalanced canopy's and poor structure. The trees are approved for removal.

Thank you,

Cecilia Loana Garcia

Administrative Assistant, Parks & Tree Services Division

Bureau of Environment

City of Oakland | Public Works Department | APWA Accredited Agency

7101 Edgewater Dr., Bldg. 4 | Oakland, CA 94621



Az Clark <gregazclark@gmail.com>

Approval Date? Permit ND20-078 - Carroll Street

Garcia, Cecilia <CGarcia@oaklandca.gov>
To: Greg Az Clark <gregazclark@gmail.com>
Cc: [REDACTED]

Wed, Aug 12, 2020 at 10:26 AM

Good morning,

The permit was approved on August 4th.

This was untrue - the decision was made
and the permit signed off on 27th July 2020

Thank you,

Cecilia Loana Garcia

Administrative Assistant, Parks & Tree Services Division

Bureau of Environment

City of Oakland | Public Works Department | APWA Accredited Agency

7101 Edgewater Dr., Bldg. 4 | Oakland, CA 94621

(510) 615-5934 | (510) 615-5845 Fax

CGarcia@oaklandca.gov

Report A Problem | Call OAK 311 | From outside Oakland: (510) 615-5566

311.oaklandca.gov | OAK311@oaklandca.gov | Mobile app: [Apple](#) or [Android](#)

Mission Statement:

Oakland Public Works is dedicated to you! We strive to maintain, improve and preserve Oakland's infrastructure and environment for the residents, businesses, visitors and future generations of every neighborhood in our diverse city.

From: Greg Az Clark <gregazclark@gmail.com>
Sent: Wednesday, August 12, 2020 8:16 AM
To: Garcia, Cecilia <CGarcia@oaklandca.gov>
Cc: [REDACTED]
Subject: Re: Approval Date? Permit ND20-078 - Carroll Street

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Copying in Mark Baradat, and his attorney Jon Heim.

They've asked to be included in all correspondence.

Greg

On Wed, Aug 12, 2020 at 8:05 AM Greg Az Clark <gregazclark@gmail.com> wrote:

Dear Ms Garcia,

Could you confirm the exact date the permit was approved?

I only ask because it wasn't mentioned in the email you sent last Tuesday 4th August.

Thank you

Greg Clark



Appendix F - Rebuttal to the letter from Oakland Public Works supporting Tree Services Actions

Az Clark <gregazclark@gmail.com>

Follow-up: Tree Services still disregarding the Mayor, in violation of OMC 12.36.080 H

Greg Az Clark <gregazclark@gmail.com>

Fri, Sep 25, 2020 at 12:46 PM

To: "Ferguson, David" <DFerguson@oaklandca.gov>, "Nosakhare, Shereda" <SNosakhare@oaklandca.gov>
 Cc: "Mitchell, Jason" <JWMitchell@oaklandca.gov>, Sara Silva <sarajsilva@gmail.com>, Paul Schaffert <paul.schaffert@gmail.com>, Uriel Danā <urieldana@gmail.com>, Office of the Mayor <OfficeoftheMayor@oaklandnet.com>, "Riley, Dana" <DRiley@oaklandca.gov>, "Smith, Caleb" <CSmith3@oaklandca.gov>, "Flynn, Darlene" <DFlynn2@oaklandca.gov>, "Carthan, Brian" <BCarthan@oaklandca.gov>, "Fortunato Bas, Nikki" <NFortunatoBas@oaklandca.gov>, "Salaverry, Lia, Azul" <LSalaverry@oaklandca.gov>, Mark <Mbaradat@comcast.net>, Jon Heim <jshinslaw@gmail.com>, Renée Paradis <paradis.renee@gmail.com>, Mobile Climate Science Labs <jamesc@climatechangeeducation.org>, Derek Schubert <treesforoaklandderek@gmail.com>, Christopher Buckley <cbuckleyaicp@att.net>, "Chen, Miya Saika" <MChen@oaklandca.gov>, cityadministratoroffice@oaklandca.gov, Liv Veazey <liv.veazey@gmail.com>, Kathleen O'Donnell <kathleenodonnell207@gmail.com>, James Yelen <jamesyelen@gmail.com>, "duane@usefulmove.com" <duane@usefulmove.com>, blaine abate <abate1@yahoo.com>, Christina Boyd <christinaboyd01@gmail.com>, Jose Orona <jorona@brooklynbrewery.com>, Sarah Lowe <sarahannelowe@gmail.com>, "therealdeankervin@gmail.com" <therealdeankervin@gmail.com>, Nene Kalu <nene.kalu@gmail.com>, Maura Pellettieri <maurapellettieri1@gmail.com>, "Moore, David" <DMoore@oaklandca.gov>, "Williams, Nicholas" <JNWilliams@oaklandca.gov>

Dear David,

Your responses to Sara are conflating actions across both public consultation periods for the ND tree removal permit.

There are also points that are incorrect.

To provide clarity, I have listed actions in the lot for the last couple of months during the public consult periods, with supporting documents attached to illustrate my points.

I have then responded in blue under each of your responses to Sara, referencing my points below.

1. First, to be crystal clear, and speaking to your last response to Sara (point 8.), the City of Oakland **remains in violation of the Protected Trees Ordinance (PTO)**, OMC 12.38.80 Subsection H (attached).
2. By refusing to notify in writing all Occupants/Tenants of the buildings adjacent to the lot, of both the permit application and the opportunity to comment during a 20 working day public consult period, **their legal rights have been violated**. This is irrespective of any protocol or policy. It can be also argued it is systemically racist action, as this is a neighbourhood where 70% of residents are people of color, and a median income of about \$38,000, half the Oakland average income.
3. There have been two consult periods on this permit, with violations on the PTO, either through action or inaction, occurring during and following the 1st period. The public consultation periods were:
 - the first period from June 29th – July 27th 2020
 - the second period from Aug 14th – Sept 15th 2020
4. The ordinance requires verification that red tags and public notice are posted before the 20 working day public consult starts, as per OMC 12.38.80 Subsection H (attached).
5. So although staff informed the applicant by email, verification was still required. That didn't happen, as the tags/notice didn't go up till July 23rd, 4 calendar days before the end of the consult period, and a day after a City of Oakland employee was in the lot. (see next point).
6. Tree Services Dept. knew the tags and notice had not been posted on July 22nd: there was a City of Oakland employee in the lot measuring trees. Although tags/notice were posted the following day, no action was taken by Tree Services to restart the 20 working day clock, as required per paragraph following OMC 12.38.80 Subsection F (attached). It was allowed to slide. **This is a violation of the PTO**.

7. On July 26th, a local resident emailed Ms Cecilia Garcia to notify that the tags/notice had not been posted (attached). Again, no action was taken by Tree Services to restart the clock, it was allowed to slide. **This is a violation of the PTO.**

8. The second consult period was only initiated when I flagged the applicant PTO violation in two emails on August 11th and 12th (emails from C. Garcia and G. Clark attached). This was 3 weeks after it should have been actioned.

9. The permit was issued on July 27th (despite a claim to the contrary below), and there were contractors in the lot on August 12th preparing to cut down the trees on August 17th, based on the approved permit. See the attached permit document, with email audit trail attached.

10. The permit was only voided on August 12th – two weeks after it was issued - when the 2nd public consult was forced, (see point 8. above).

11. Furthermore, there was an effort to hide the date the permit was first issued (on July 27th). This is likely because Tree Services verifiably approved the permit before any resident's letters or emails had been attached to it; these were never read or considered. A fiction was maintained that the permit had approved on August 4th, to cover this up.

This is a violation of the PTO, as specified in the paragraph OMC 12.38.80 Subsection J (attached). The attached permit document, with email audit trail shows this.

Additional notes on each point below.

Ms Nosakhare, when will the Mayor take action to ensure their interests and legal rights of our local residents are served?

Sincerely
Greg Clark

Sara hello - Thank you for your email regarding tree removal permit #ND20-78. Staff has reviewed the information you provided responses to each item. Your statements are in bold and our response in italics.

- Tree Services did not follow or enforce the ordinance when they failed to verify that the summary notice and tags had been posted by the applicant. They twice failed to force a restart of the public consultation period, when they were made aware that the applicant had not posted the tags and notice for the full input period.**

City staff informed the applicant via email to post the notification tags. Approximately one week later, we received public comments stating the tags were not posted in a timely manner. Therefore, Tree Services restarted the timeline and re-sent the tags to the applicant.

This is incorrect. No verification of the tags/notice was carried out by Tree Services for the first consult period.

The timeline was only restarted on the 2nd warning of the PTO violation of tags on August 12th.

This was 3 weeks after they first became aware of it, and 2 weeks after the permit was approved. See my points above.

2. Tree Services did not verify the site posting before the public input period.

After learning the trees were not posted according to appropriate timelines, Tree Services held onto the permit and did not issue it. Tree Services then restarted the posting and public comment period beginning August 14, ending September 15.

This is incorrect. Tree Services issued the permit on July 27th (see attached permit).

The posting and public comment period was only restarted on the 2nd public warning of the PTO violation on August 12th, two weeks later.

See point 9. above.

3. Tree Services did not take immediate action to restart the public input period (OMC 12.36.080 F) when they first became aware that the applicant had not followed the ordinance.

When Tree Services received comments from the public regarding inadequate posting times, Tree services realized the timeline problem and had the applicant repost the trees. The public comment period restarted August 14, and ended September 15.

This ignores the fact that Tree Services became aware of the applicant violation on July 22nd, were made aware on July 26th by a resident, but still issued the permit on July 27th, i.e. failed to restart the clock being made aware twice.

They only forced the restart and reposting of tags on August 12th, following a further warning from me.

4. Tree Services did not take action a second time to restart the public input period when a local resident emailed an administrative staff member to say that the tags and notice had not been posted correctly.

Please see response in above.

Please see my response to your response above.

5. Tree Services only restarted the public consultation period – after they approved the permit - on August 12th 2020.

The permit was never issued and the permit application was voided due to the fact that the posting timelines were not followed. The permit has still not been issued, as the new public comment period ended September 15 and the appeal period ends September 20. An appeal has already been officially filed and therefore the permit will not be issued until an appeal hearing takes place and an appeal determination has been made by the Parks and Recreation Advisory Committee.

Verifiably incorrect - the permit was issued on July 27th (attached), there were contractors in the lot based on this issuance on August 12th. See point 9 above.

6. Tree Services did not follow the ordinance when they verifiably ignored all public comments when approving the permit.

The permit was never issued, the public comment period for the permit ended September 15. To clarify, the arboricultural inspector's observations and judgment are what determine the outcome of a permit decision. Public opinion or comments cannot overturn that. If the public formally files an appeal (which they did in this situation), there is an appeal process by which the Parks and Recreation Advisory Committee make the final decision.

Verifiably incorrect - The permit was issued before comments were attached. see points 9,10,11 above. While the tree inspector's judgement determines the decision, public comments must be considered as per PTO.

7. Both the assigned Tree Inspector and the Head of Tree Services approved the permit 27th July, before any public comments had been attached to the permit.

The original permit application was voided and that permit was never issued, the public comment period for the new permit application ended September 15.

Verifiably incorrect. The permit was issued July 27th, actions were taken on it by the permit applicant, before being voided on August 12th.

8. Tree Services did not follow the ordinance when the occupants of both apartment buildings adjacent to the lot received no written notification of the tree removal permit application

An admission that OMC 12.36.080H was never followed for the last 20 years

The owners of both building were notified, but the occupants of the 41 units within those buildings were not notified. We obtain contact information from the Alameda County Assessor's office which provides owner's name and owner's mailing address but does not contain unit names or numbers for occupants. It is our protocol for the past 20 years to only notify the property owner.

See my points 1. and 2. above for my response.

The City is in the process of developing a 50 year Urban Forest Master Plan. During this time we will also be updating the Protected Tree Ordinance to reflect the current needs of environment to further enhance the urban forest.

The serious concerns we have raised have nothing to do with future changes to the PTO, but enforcing the PTO as it currently stands.

If you have any further questions, please feel free to contact me.

Regards

||

--

Treasure Chamber: An Etsy store for Fine Art, Antiques, Rare Treasures & Other Curiosities

6 attachments

F. Site Posting. The applicant shall place one of the tree tags issued by the city on each protected tree, and shall post the necessary notices as required herein within two days after making an application for a tree removal permit. The tags and notices shall not be removed until such time as a tree removal permit is issued or denied by the city for the tree(s) in question.

Failure of the applicant to properly post any tree tag or necessary notice shall result in the extension of all time limits established for a permit application until such time as the applicant has provided proper tree and/or site posting.

2. OMC 12.38.80 Subsection F - Clock restart required on failure to post tags and notice .png
57K

H. Public Notice and Input. The Office of Parks and Recreation shall, within ten working days of permit application, notify occupants and property owners of all parcels located adjacent to the site of proposed tree removal(s) in writing of the fact that a tree removal permit application has been made, the name of the applicant, and the closing date for public input. Notice to occupants shall be addressed to "Occupant." The Office of Parks and Recreation shall accept public comment regarding a tree removal permit application for a period of not less than twenty (20) working days following verification of proper site posting.

1. OMC 12.38.80 Subsection H - Site Posting Verification and Notice for Occupants.png
59K

J. Permit Determinations. The Tree Reviewer of the Office of Parks and Recreation shall review all tree removal permit applications and shall be responsible for making all necessary findings for approval or denial of such permit applications, including attaching all necessary conditions of approval.

Any telephone calls or written comments received regarding the tree removal permit application shall be considered in the preparation of findings, and written reports of such calls and/or comments shall be entered into the permanent permit file.

6. Paragraph following OMC 12.38.80 Subsection J.png
53K

 **3. Email - Missing red tags July 26 2020.pdf**
96K

 **4. C. Garcia and G. Clark emails on Permit reset - Aug 12th 2020.pdf**
244K

 **5. Permit issued July 27 and conflicting email correspondence.pdf**
1764K

Mr Mark Baradat
Baradat Family Partnership



Ms Ceci Garcia
Tree Section
7101 Edgewater Drive,
Tree Division,
Oakland, CA 94621

21 July 2020

Property Owner Requesting the Denial of Non Developmental Tree Removal Permit Application ND20-078, for the 7 trees in the Carroll St Lot

Dear Ms Garcia,

I am the property owner of the **2208 Carroll St apartment building**, one of the two properties directly referenced in the application's "*Reasons for Removal Of Trees*" section. It is the building right adjacent to the lot.

I am also the property owner of the **2215 Carroll St apartment building**, which faces the lot (and trees) in question.

I request that **this permit application be denied**, for the following reasons:

- 1. Quality of Life for My Tenants.** Many of my tenants in both apartment buildings have repeatedly expressed to me how much they value and appreciate the trees in the lot. The trees are sacred to them. They provide shade and privacy for their apartments; they add beauty to their surroundings and enhance the views from their apartments. My tenants have told me how much they enjoy the birds & wildlife the trees support. These qualities have been particularly heightened by the Covid-19 pandemic, as many of my tenants are now working from home. Several were very distressed when I informed them of the tree removal application.
- 2. Property Values.** The trees add character and an aesthetic quality to Carroll Street. This directly affects the property values of my buildings, and impacts my ability to attract and retain tenants in my apartments.

I also resent that my building has been used as a reason to remove the trees. The person preparing the permit did not consult me, and I can categorically state that these trees do not threaten the foundations of the 2208 Carroll St apartment building.

In fact, I highly doubt that they threaten the foundations of The Ivy Building (2232 Ivy Drive). The map of the lot submitted with this application omits an approx. 2.5 ft wide solid concrete path and retaining wall that runs down the side of the Ivy building - separating it from the lot.

This path acts as a barrier between the building and the 3 elms and an acacia situated near it. The path shows no indication that these trees are broaching that building. I can also see clearly from my apartment building that the side of the Ivy building facing the lot shows no damage due to foundation movement.

Furthermore, several of my tenants have informed me that the three elms and several of the acacias were heavily pruned last year by the lot owner. This was to protect the adjacent buildings (mine included), and their contractors removed enough weight from the street facing acacias to keep them trimmed and stable. This was done on 2nd August 2019, and was documented by these tenants with photos and video.

Another reason I object to the removal of the street facing acacias is that they provide stability for the steep slope at the front of the lot.

Finally, I can understand an application to remove the trees, but only in the context of a property development on the lot. If a developer wants to remove them, then let them apply for removal through the Developer permit process. This is a non development application, and if granted the trees would be removed, the lot would sit scarred and empty, and the character of the street would be killed. No one I've spoken to wants this.

I support the efforts my tenants are taking to protect these trees. Let's keep them.
Please do not approve this permit.

Yours Sincerely,

Mark Baradat



Appendix G - Selected letter from local resident during the public consult period

Garcia, Cecilia

From: [REDACTED]
Sent: Wednesday, July 22, 2020 11:11 AM
To: Garcia, Cecilia
Subject: Opposition to Tree Removal ND20-078 in Carroll St. Lot

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Garcia,

I hope this message finds you well during these hard times. I'm writing to voice my strong opposition to the proposed tree removal (Permit ND20-078) from the lot on Carroll St, 94606 (Parcel #22-305-16). I was deeply saddened and distressed to hear that the trees might be cut down. It is especially troubling that there are no development plans for the lot, and that no legitimate reasons for the trees to be removed have been provided.

I am sure that the Counsel is already aware of the many ways in which trees benefit our neighborhoods, but I thought I would share my personal experience with these trees. I have now lived in [REDACTED] for almost two years. I am someone who struggles with severe anxiety and depression, and in my time living near these trees, it has again become clear to me that the psychological benefits of living near trees and wildlife is enormous, even for those who don't face the same struggle I do. As the Oakland Code of Ordinances (12.36.010) recognizes, it has been demonstrated scientifically that even just being around trees provides a sense of calm and well-being. This becomes especially valuable for those living with mental illness and can be crucially important in, for instance, the moment of a panic attack or depressive episode. Particularly during crises like coronavirus, when it is harder than ever for people to access mental health care and many people are confined to their apartments, seeing, hearing, and smelling trees nearby is immensely supportive and healing. The same was true during our most recent California wildfire season, when heavy smoke covered Oakland for weeks and many people were staying home as much as possible. Living near trees provided me with a connection to hope and life even in a difficult time. In light of the shelter-in-place, this seems a highly inappropriate time to needlessly remove these trees when they add so much to the quality of life of everyone who lives nearby.

I believe that my experience is a common one in our neighborhood, as I have spoken with at least a dozen neighbors who voiced similar sadness and outrage at the proposed removal. There are so many other reasons to preserve these trees. The trees provide habitat for doves, squirrels, pigeons, hummingbirds, butterflies, and many more creatures. When we can avoid it, we should not harm this ecosystem in general, and especially not so that an empty lot can just sit there. As we face a climate crisis in which our wilderness spaces are dying, burning, or being cut down for development at a rate that exorbitantly exceeds a healthy timeline, it is crucial that we take every opportunity to keep trees alive and in the ground.

The trees in this lot provide greater physical comfort for our neighborhood. The trees simultaneously dampen noise pollution coming into the neighborhood from downtown, the highway, and Park Boulevard, and also provide the habitat that allows birdsong to fill the streets. Along with dampening the sounds of cars and construction, they provide shade for all the nearby windows during the hot summer months and block the wind, which can be very strong. They provide comfort as well simply by creating greater privacy for the residents living in the adjoining buildings.

Finally, although I have mentioned this a couple times already, I want to reiterate that in my view there has been no legitimate reason given for cutting down these trees. I am aware that the proposal cites threats to the adjacent building's foundation and to a tree leaning into the street. The acacias near the front of the lot have been trimmed back in the past, and this can easily be done again to protect the street and sidewalk. Regarding the supposed threat to foundations of adjacent buildings, I feel very strongly that a neutral third party, or at the very least the owners, must assess this claim independently to verify.

There is no proposal of accessible housing or infrastructure that would benefit the people of Oakland and in particular the people of our neighborhood. Further, in the current housing climate, it is unlikely that banks or investors would choose to fund a development that would be a greater benefit to our neighborhood than simply keeping the trees. Instead, the proposal will eradicate a sanctuary space that is central to the well-being of our community.

Thank you so much for providing a means through which community members can oppose this proposal and have our voices heard. I hope and trust that the Counsel will hold the interests of the community as their top priority.

Sincerely,





AMERICAN FORESTS

September 14, 2020

Ms. Dana Riley Hayes
Assistant Director
Oakland Parks and Recreation Department
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Dear Ms. Hayes and Members of the Parks and Recreation Advisory Commission:

I am writing to express concern about the impact and implications the non-development tree removal permit ND20-078 would have to the City of Oakland if granted.

A very large body of peer-reviewed, published research supports the fact that trees provide many important social, physical and mental health benefits. For example, trees filter airborne pollutants and reduce conditions that cause respiratory problems. As smoke and ash from the unprecedented wildfires in California leave Oakland residents facing extraordinary challenges with their air quality, decisions on whether to remove or keep a grove of trees will have a direct impact on peoples' health.

Trees also help improve cardiovascular health and mental well-being; they reduce heat-island impacts, and help improve academic performance and attention spans among school children. Trees in proximity to public housing units were shown to reduce incidents of violence.

Equity should also be a consideration. Unfortunately, in most cities today, a map of tree cover is also a map of income and race, with consistent tree deficits in lower-income neighborhoods and communities of color, where public health risk factors are also higher. Demographic and income data for the 94606 zip code in which the trees in question are located, indicates that 79% of the residents are from communities of color and the median income level, at \$38,363, is only half of the \$76,469 for the rest of Oakland. Removing the trees identified in the permit will almost certainly increase direct financial costs to the City of Oakland and diminish, in measurable ways, the health and well-being of the people who live in this neighborhood.

I encourage the City of Oakland to consider alternative solutions that satisfy all of the concerned parties, in view of the significant direct and indirect benefits these trees are providing. I am aware of other municipalities that have traded property with the owner and used easements or a conservancy to protect the trees and preserve the property as an asset in the city. Other alternatives almost certainly exist.

American Forests is hopeful that the City of Oakland, whose name and heritage derive from its distinctive tree canopy, can find a way to preserve these trees on Carroll street that clearly have so much value to many neighborhood residents.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Candela". The signature is written in a cursive style with a large initial "E".

Eric Candela
Senior Manager, Community ReLeaf

CC: Shereda Nosakhare, Chief of Staff Office of the Mayor
Jason Mitchell, Director of Public Works
Darlene Flynn, Director of Race and Equity

Appendix I - Email detailing Urban Heat Island Effects as Tree Canopy is Removed on Carroll St Lot



Az Clark <gregazclark@gmail.com>

Tree Services still disregarding the Mayor, in violation of OMC 12.36.080 H

Uriél Danā <[REDACTED]>

Mon, Sep 21, 2020 at 8:00 AM

Dear Ms Nosakhare,

I would like to address the violation of OMC 12.36.080 Subsection H with respect to the non-development tree permit ND20-078.

Residents (occupants) of 2208 Carroll Street, and the other properties that create a horseshoe around the lot in question, were not notified by the City of Oakland Tree Services Department of the owner's intention to remove the enclosed trees, as is legally required.

As the tenant living at 2208 Carroll St the longest (in two separate apartments facing the trees), I have noted a nearly two-decade pattern of the current lot owner (and former owner of 2208 Carroll St) systematically removing trees without notification, trees that clearly meet protected status. When they have hired contractors to prune trees, they lack the necessary skills and fatally damage them.

In 2005 I moved into an apartment framed by a beautiful 60-foot tree at the front of this building, and stunning views of the elm and acacia trees in the next-door lot from the windows of my kitchen, bathroom and both bedrooms. The front tree blocked the brutal, late afternoon western light. The trees in the lot (owned by the same family at the time) also created shade, privacy, and noise protection from the freeway.

One day I came home to a notice posted in the lobby telling us the tree in front was being removed the next day and for no one to park there.

There had been no written notice to any of us, no red tag on the tree, no public notice posted. We were all devastated. I quickly put together a petition signed by all tenants for presentation to the owner and the management firm. As we had received no notice from Tree Services, we had no idea who to contact at the City of Oakland. We were ignored and the tree came down.

The management firm said the tree would have destroyed the sidewalk (it had not even lifted the sidewalk since being planted in 1929). The truth was they could charge more for an apartment with a view than for one without.

We lost the birdsong but most of all it has transformed all the front apartments on Carroll Street into blistering sweat boxes for two thirds of the year. The old windows and their lack of insulation give no protection, and I have had to coat my windows with translucent UV protection panels, and sun blocking inner drapes covered by regular drapes to my front windows. Despite this, the heat is still intolerable in spring and summer.

I could write pages of my experiences watching these trees being violently butchered in the owner's attempt to kill them, making their removal the only option; or what it felt like when I returned home from a holiday (in my first apartment in the building), to discover my privacy and noise protection had been removed when protected trees had come down in the lot.

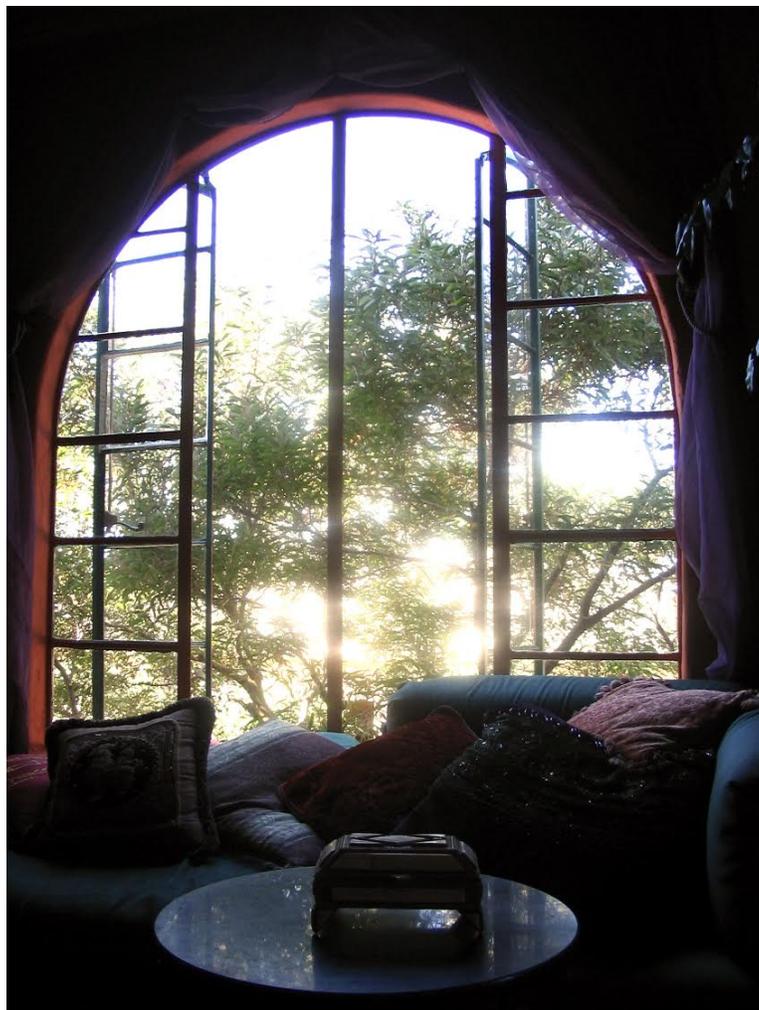
Instead I offer my last Yelp Review on the tree removal people hired over and over by the owner of this lot. (Review with details from 2019 by Uriel D. (me) <https://www.yelp.com/biz/durans-tree-service-antioch?hrid=KMtEdhcjflcanjHRM8tL4A>).

Many people (at least 100 residents) and a lot of wildlife are directly impacted by these trees. The overcutting and illegal removal of trees in the lot has already changed the climate (literally) of our homes, raised the noise and pollution levels, and destroyed the habitat of nearly every bird that once sang to us.

As an advocate for all of us, it was, and remains, the legal right of all occupants of the apartment buildings directly adjacent to the lot to be notified by the City of Oakland's Tree Services Dept. when an application is submitted to remove a protected tree. They have a legal right to be given the opportunity to comment on their removal during a public consult period.

For the permit ND20-078 I request that Ordinance OMC 12.36.080 Subsection H be enforced to ensure those rights.

Sincerely,
Uriél Danā

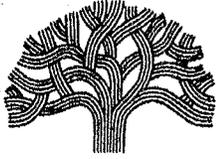


[Quoted text hidden]

--

" Your life is your story. Write well. Edit often."

- Susan Statham



CITY OF OAKLAND
TREE DIVISION – BLDG 4
7101 EDGEWATER DRIVE
OAKLAND, CA 94621

Permit # NO20-078

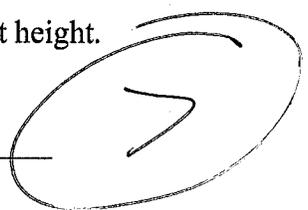
PLEASE CALL (510) 615-5934 FOR AN APPOINTMENT
BUSINESS HOURS Monday – Friday 8:00am – 3:30pm

**TREE REMOVAL PERMIT APPLICATION
NON-DEVELOPMENT RELATED**

114371

Application is hereby made pursuant to the Tree Preservation Ordinance,
Chapter 12.36, of the Oakland Municipal Code

- ❖ One or more trees 9 inches or greater in diameter at breast height.
- ❖ One or more Coast Live Oak trees, 4 inches or greater in diameter at breast height.
- ❖ Eucalyptus and Monterey Pine trees are exempt.



NAME OF APPLICANT Barry W. Cohn, trustee of the Janet A. Martin Trust

LOCATION OF PROPERTY APN 22-305-16, between 2208 Carroll St and 2232 Ivy Dr

DESCRIPTION OF TREE(S) PROPOSED FOR REMOVAL (quantity, species and diameter)

4 black acacia (23-1/4", 23-1/2", 28-1/2", 42-1/4"), 3 common elm (11-1/2", 11-3/4", 16-3/4")

REASON FOR REMOVAL OF TREE(S)

Trees in front of lot in unstable ground leaning toward right of way; trees in rear threatening foundations of adjacent buildings.

ATTACHMENTS One of the following three choices are required showing the number and location of tree(s) described on the application.

1. Hand Drawn Sketch

2. Site or Landscape Plan

3. Photographs

BY SIGNING BELOW I CONFIRM THE INFORMATION SUBMITTED FOR APPLICATION AND I UNDERSTAND THE NON-REFUNDABLE APPLICATION FEE IS \$434.20.

I further certify under penalty of perjury that all the information provided on this tree removal permit application is true and correct and that no zoning, land use, grading, demolition, building or other City permits have been applied for as a result of this tree(s) removal being accomplished.

DATE June 16, 2020

SIGNATURE Barry W. Cohn

ADDRESS 555 12th St, Suite 1400

CITY, STATE, ZIP Oakland, CA 94607

TELEPHONE (510) 267-6003

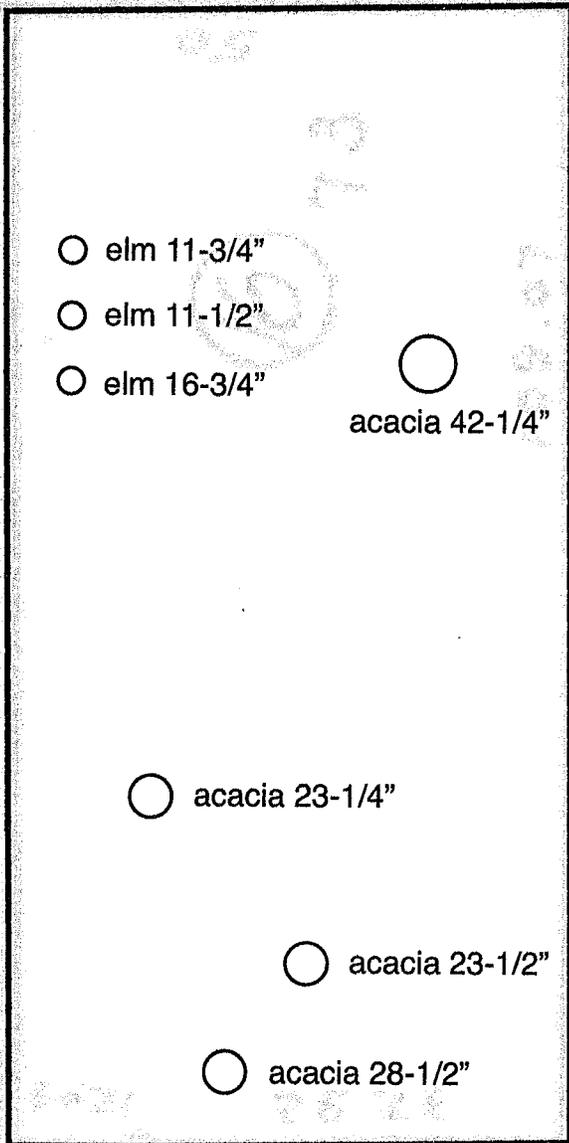
2nd PHONE (510) 813-7199

EMAIL barry.cohn@cushwake.com

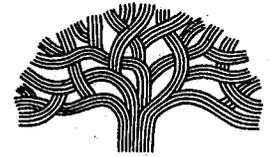
<input checked="" type="checkbox"/>	Property Owner
<input type="checkbox"/>	Agent for Owner*

*Please submit a letter from the property owner if acting as their agent.

APN 22-305-16, between 2208 Carroll St and 2232 Ivy Dr



CITY OF OAKLAND
PUBLIC WORKS AGENCY • TREE DIVISION



7101 EDGEWATER DRIVE • BUILDING #4 • OAKLAND CALIFORNIA 94621 • (510) 615-5934 • FAX (510) 615-5845

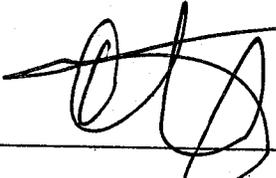
RECEIPT

On 6-29-20 the City of Oakland received 26347914742 in the amount of
(DATE) (CASH/CHECK NO.)
\$434.20 from Barry Cohn Money Order
(AMOUNT) (NAME)

For: Tree Permit Application Tree Permit Appeal In Lieu Fee

Between 2208 Carroll St & 2232 Ivy Dr.
(LOCATION)

ND20-078
PERMIT NO.

Received by: 

Ceci Garcia: 510-615-5934 / cgarcia@oaklandnet.com

ATTACHMENT D Trees #1, #2, & #3

The tops and one side of the trees has been cut



Heading cuts



ATTACHMENT E Trees #1, #2 & #3

elm trees
#1
#2
#3



ATTACHMENT F Trees #1, #2, & #3



ATTACHMENT G TREE #4



Cavity goes down 24"

Cavity goes in 18"



ATTACHMENT H Tree #5

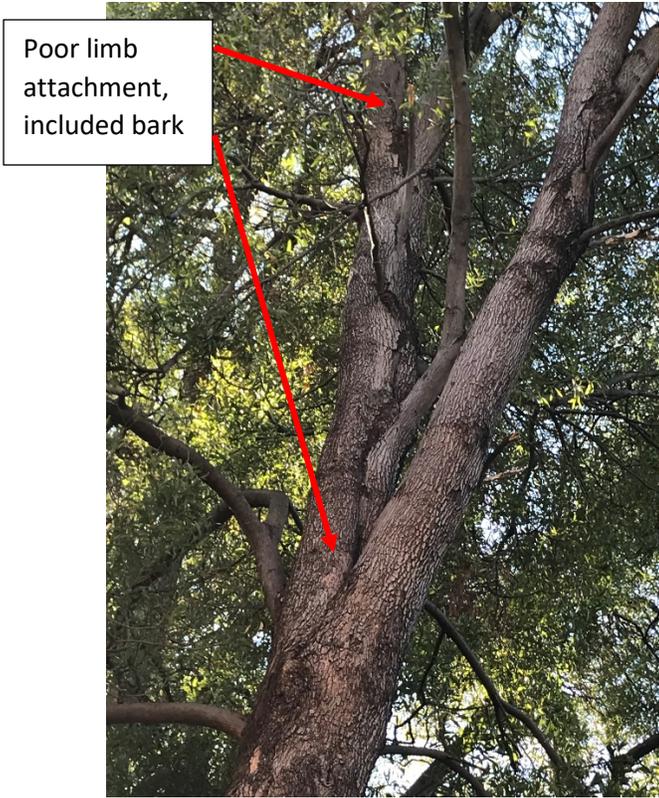


Poor limb taper,
interior limbs
stripped out

A properly pruned tree you
should not see through the
canopy

CoolBox
PORTABLE
STORAGE
1-800-834-6268
getacoolbox.com

ATTACHMENT I TREE #6



ATTACHMENT (J) TREE #7



Measuring tap next to 30" shear crack

12" Probe inserted in shear crack