

TO: JAMES L. APP, CITY MANAGER

FROM: RON WHISENAND, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: OTR 09-003 - REQUEST TO REMOVE ONE OAK TREE AT 803 HOGAN PLACE (GRANT NIELSON – RICHARD GRACIE)

DATE: JANUARY 19, 2010

Needs: For the City Council to consider a request by Grant Nielson and Richard Gracie to remove one oak tree on the property located at 803 Hogan Place (See Vicinity Map, Attachment 1).

- Facts:**
1. The subject oak tree is an 18-inch Valley Oak (*Quercus Lobata*).
 2. The Valley oak tree, which is located on Mr. Nielson's property was planted as a landscape tree at the time the home was built in the mid 80's. The tree appears to be in good health; however the tree's root system is damaging the existing driveway and private sidewalks located on Mr. Gracie's property next door at 801 Hogan Place.
 3. Steven Alvarez of A&T Arborists has provided a report that verifies that the trees sub-soil structure (root system) will continue to damage the existing driveways, sidewalks, and utilities. Mr. Alvarez notes that the focus of this removal request is a result of the damage the tree is causing to existing improvements, not the health of the tree.
 4. Along with the request for removal of the tree, the applicants are requesting that the City Council waive the \$600 application fee and the requirement to plant replacement oak trees since this tree was planted as a landscape tree and not planted naturally.
 5. The Oak Tree Ordinance does give the Council authorization to waive fees and the requirement to plant replacement trees when it can be determined that the decline or death of a tree is not the fault of the property owner. The Ordinance does not address fee and replacement tree waivers for trees that need to be removed for other reasons besides health.
 6. The Ordinance does not treat oak trees planted as landscape trees differently than trees that have grown naturally. Since a Valley Oak is considered a native species of oak tree, whether it is planted as a landscape tree or not, if it is over 6-inches in diameter it is subject to the standard oak tree removal process, including replacement trees.

7. Planning Staff went out to the site to inspect the tree. Since the tree appears healthy, the Community Development Director could not make the determination that the tree is “clearly dead or diseased beyond correction,” and therefore, Section 10.01.050.C of the Oak Tree Ordinance would consider the tree “healthy” and require that the City Council make the determination of whether the tree should be removed or not, after consideration of the factors listed in Section 10.01.050.D.

**Analysis
And**

Conclusion: According to Section 10.01.050.D, there are several factors that the City Council needs to consider when considering when deciding whether to remove a “healthy” oak tree. These factors along with Staff’s analysis of each factor are listed below:

D. If a request is being made to remove one or more healthy oak trees for which a permit to remove is required, the director shall prepare a report to the City Council, outlining the proposal and his recommendation, considering the following factors in preparation of his recommendation.

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

It is evident that this tree is healthy, however the tree is a nuisance to the property owner and neighbor, since it is damaging existing improvements.

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

There is no development proposed with this removal request.

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

The removal of this tree would not effect the grading or drainage related to the two properties.

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

There are no other oak trees on this property, or in the vicinity of the existing tree.

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

See comments above.

Based on the factors listed above, the tree would seem to be a good candidate for removal and necessary to prevent further damage to existing improvements.

The City Council will need to determine if the applicant's request to waive the application fees and the requirement to plant replacement trees is warranted (See Fiscal Impacts below). The intent of the fee waiver in the Oak Tree Ordinance is to give Council the ability to allow for the waiver of fees when the death or decline of the tree is of natural causes and is not the fault of the property owner. In this case, the applicant is basing his request for waiver of fees and replacement trees on the fact that the subject tree was planted as a landscape tree by the developer and is not his fault.

The Oak Tree Ordinance does not address oak trees planted as landscape trees differently than naturally planted trees, so the waiver of fees does not seem to be warranted. However given this situation, since the removal of the tree is not related to new development it does seem reasonable to reduce the amount of replacement trees to one tree. Since there are not street trees planted on the 801 Hogan parcel, it may makes since to plant a street tree (non-oak) on this corner lot.

Policy

Reference: Paso Robles Municipal Code Section 10.01.010 (Oak Tree Ordinance)

Fiscal

Impact: The \$600 application deposit covers the staff time and materials it takes to process this item for City Council review. The Council has the policy for fiscal neutrality, whereby those requesting planning services should pay. If Council waives the fee, the general tax payers through the General Fund will pay for these expenses.

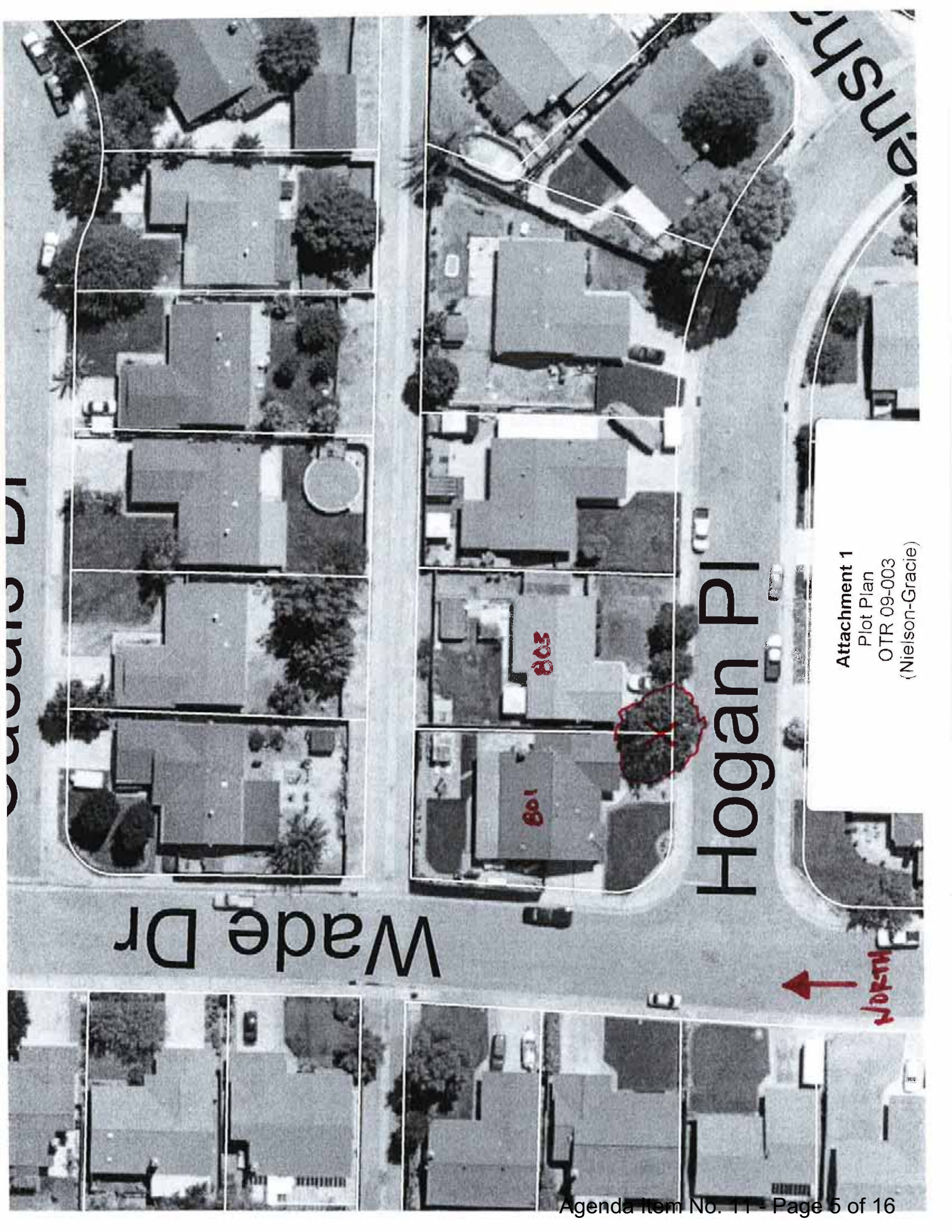
- Options:**
- A. Adopt Resolution No. 10-xx approving OTR 09-003, allowing the removal of the 18-inch Valley oak tree, based on the tree causing damage to private property, and require the standard \$600 application deposit to process the removal request and plant one (1) replacement oak tree at the direction of the Arborist.
 - B. Amend, modify or reject the above options.

Report prepared by: Darren Nash, Associate Planner

Attachments:

1. Plot Plan
2. Applicant's Submittal Letter
3. Arborist Report, with photos
4. Resolution to approve the removal of the tree.

H:\Darren\oaktreeremoval\Nielson



Wade Dr

Wade Dr

Hogan Pl

ensh

801

803



Wade Dr

Attachment 1
Plot Plan
OTR 09-003
(Nielson-Gracie)

Paso Robles Community Development Department
Paso Robles, Ca. 93446

12/8/2009

Subject: Waive Oak Tree Removal. Deposit, and replacement requirement.
Damage Location: 801 Hogan Pl. Paso Robles, CA.
Damaged Property Owner: Richard Gracie
Tree Owner: Grant Nielson, 803 Hogan Pl. Paso Robles, CA.

Paso Robles

DEC 08 2009

Planning Division

I am requesting that the Oak Tree Removal fee and Replacement Tree Requirement be waived.

This tree was inappropriately planted by a landscaping company without considering future growth and resultant property damage. It has damaged and will continue to damage my property and near by utility vaults until it is removed. This is documented in the attached Arborist report and can be seen at my residence 801 Hogan Pl. Paso Robles.

Ordinance No.835 NS does not address a situation of this nature and any associated fees and requirements. I am requesting a waiver by the Council or appropriate departments of any fees and requirements.

Your expeditious action on this matter is requested in order to prevent further property damage.

Thank You:



Richard Gracie
801 Hogan Pl
Paso Robles, CA.

CELL # 805-610-2931



Grant Nielson
803 Hogan Pl.
Paso Robles, CA. 93446

Attachment 2
Applicant's Submittal Letter
OTR 09-003
(Nielson-Gracie)

A & T ARBORISTS

P.O. BOX 1311 TEMPLETON, CA 93465 (805) 434-0131



Paso Robles

November 4, 2009

DEC 08 2009

Planning Division

Background Information:

On October 26, 2009 we were contacted by Mr. Rick Gracie resident of 801 Hogan Place Paso Robles, CA 93446. Mr. Gracie requested us to perform an examination on the valley oak (*Quercus lobata*) tree located between the driveways of his residence and his neighbors residence located at 803 Hogan Place.

Assignment:

1. Perform an on-site investigation to assess the root impacts and lasting integrity of the tree subject valley oak tree.
2. Prepare a written report discussing our observations, conclusions and recommendations about our investigation.

Limitations of the assignment: I believe the thoroughness of the on-site examination is adequate for making reliable conclusions, professional recommendations, and completing this assignment. However, the following limitations should be documented.

1. The report is limited to documenting the condition of the trees on the dates given.
2. No aerial observations were made.

Observations:

Investigative Procedures:

Observations, measurements and documentation were performed from the ground with the use of a camera, tape measure, binoculars.

Data collected was documented on a form called hazard evaluation form pages 1 & 2.


When conducting the on-site examination, observations of site, soil root collar, trunk, branch attachments, lateral branches, shoot tips, and leaves were documented.

Site Observations:

The site is landscaped with rock the subject tree's drip-line is covered with cement and foundation 90%.

Tree Characteristics:

The subject tree is growing between two driveways 801 & 803 Hogan Place.

Tree is approximately 40' tall and has a 45' spread the trunk diameter is ~~30~~ 18" 

The trees form is generally symmetric, the live crown ratio is 85% and the age class is young. The tree has had several pruning events. The crown class is observed as dominant and we have categorized the Special Value as being indigenous and protected by government

Attachment 3
Arborist Report
OTR 09-003
(Nielson-Gracie)

Tree Health:

The foliage color was documented as average. Epicormic growth was observed. Foliage density was documented as average. Growth obstruction observed was documented as driveway cement and resident foundations. The vigor class was documented as average.

Site Conditions:

The site character is residence. The tree has no irrigation water supply. The wind exposure is single tree at the windward canopy edge and the prevailing wind direction is from the west. The Occurrence of snow and ice storms is identified as seldom (10-15) years.

Target:

The potential target could impact pedestrian traffic, parked autos. The targets cannot be moved or restricted.

The target occupancy is documented as constant use do to the walk/road ways within the drip-line areas.

Tree Defects:

Tree defects have been documented as having excessive "V" crotches, such crotches are very structurally weak and a prone to failure when allowed to grow.

Testing and Analysis:

No testing was done during our examination and only visual inspection was done.

Discussion:

The tree part most likely to fail is not the question for the subject tree, what needs to be focused on is the subsoil structure of the tree as the tree has been planted as a landscape tree between two driveways and within growing distance of the nearby resident foundations, the trees roots are currently impacting the driveways, foundations, sidewalks and utility vaults.

Conclusions:

The subject tree's roots will most certainly ruin the nearby driveways, foundations, sidewalks and utility vaults.

Recommendations:

After examination and review of the subject tree we recommend that the tree be removed.

Steven G. Alvarez
Certified Arborist #WE 0511-A





TREE HAZARD EVALUATION FORM 2nd Edition

Site/Address: 801 Hogan Place Paso Robles CA
 Map/Location: S33-J1
 Owner: public _____ private unknown _____ other _____
 Date: 11-4-09 Inspector: STEVEN G. ALVAREZ WB-0511A
 Date of last inspection: unknown

HAZARD RATING:

_____	+	_____	+	_____	=	_____
Failure Potential		Size of part		Target Rating		Hazard Rating
_____ Immediate action needed						
_____ Needs further inspection						
_____ Dead tree						

TREE CHARACTERISTICS

Tree #: 1 Species: Quercus lobata "Valley oak"
 DBH: 18" # of trunks: 1 Height: 40' Spread: 45'
 Form: generally symmetric minor asymmetry major asymmetry stump sprout stag-headed
 Crown class: dominant co-dominant intermediate suppressed
 Live crown ratio: 80 % Age class: young semi-mature mature over-mature/senescent
 Pruning history: crown cleaned excessively thinned topped crown raised pollarded crown reduced flush cuts cabled/braced
 none multiple pruning events Approx. dates: unknown
 Special Value: specimen heritage/historic wildlife unusual street tree screen shade indigenous protected by gov. agency

TREE HEALTH

Foliage color: normal chlorotic necrotic Epicormics? Y N
 Foliage density: normal sparse Leaf size: normal small
 Annual shoot growth: excellent average poor Twig Dieback? Y N
 Woundwood development: excellent average poor none
 Vigor class: excellent average fair poor
 Major pests/diseases: None observed
 Growth obstructions: stakes wire/ties signs cables
 curb/pavement guards
 other Driveway cement/foundations

SITE CONDITIONS

Site Character: residence commercial industrial park open space natural woodland/forest
 Landscape type: parkway raised bed container mound lawn shrub border wind break between d-ways
 Irrigation: none adequate inadequate excessive trunk wetted
 Recent site disturbance? Y N construction soil disturbance grade change line clearing site clearing
 % dripline paved: 0% 10-25% 25-50% 50-75% 75-100% Pavement lifted? Y N
 % dripline w/ fill soil: 0% 10-25% 25-50% 50-75% 75-100%
 % dripline grade lowered: 0% 10-25% 25-50% 50-75% 75-100%
 Soil problems: drainage shallow compacted droughty saline alkaline acidic small volume disease center history of fail
 clay expansive slope 1 * aspect: _____
 Obstructions: lights signage line-of-sight view overhead lines underground utilities traffic adjacent veg. Foundations
 Exposure to wind: single tree below canopy above canopy recently exposed windward, canopy edge area prone to windthrow
 Prevailing wind direction: West Occurrence of snow/ice storms: never seldom regularly

TARGET

Use Under Tree: building parking traffic pedestrian recreation landscape hardscape small features utility lines
 Can target be moved? Y N Can use be restricted? Y N
 Occupancy: occasional use intermittent use frequent use constant use

The International Society of Arboriculture assumes no responsibility for conclusions or recommendations derived from use of this form.

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Photo 1



Shows: over all HT & width, 80% L.C.R. and site character residence between drive ways.

Photo #2

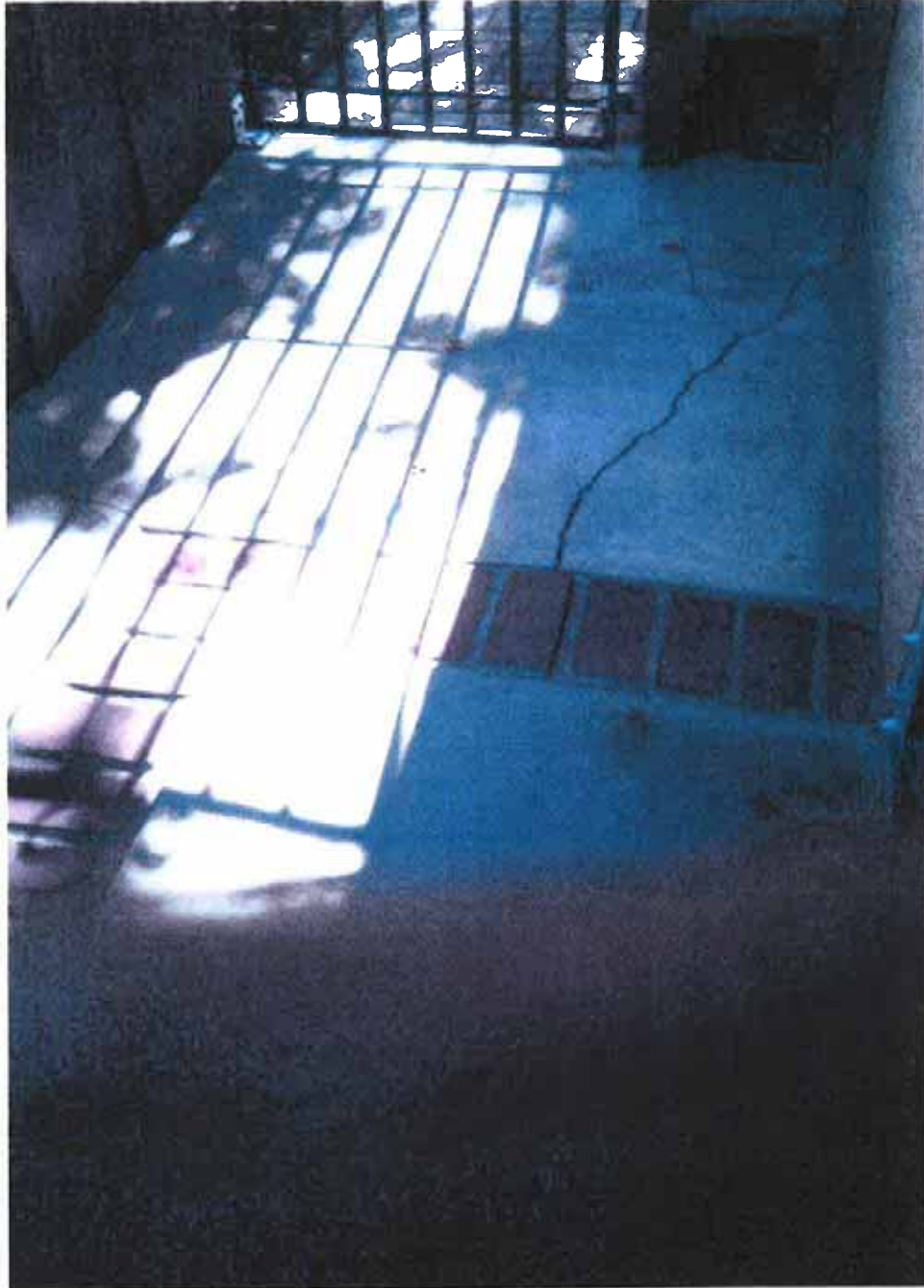


Photo #3



Shows "V" crotch - these are structurally weak - virtually all major scaffold branches are growing like this. This will create a most Hazard situation if allowed to grow larger

photo # 4



Notes: cracked walk way w/o tree.

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING THE REMOVAL OF ONE OAK TREE AT 803 HOGAN PLACE
(NIELSON)

WHEREAS, Grant Nielson along with Richard Gracie have submitted a request to remove a 18-inch Valley Oak Tree on the property located at 803 Hogan Place; and

WHEREAS, the tree is located on Mr. Nielson's property and is causing damage to improvements on Mr. Gracie's property located at 801 Hogan Place; and

WHEREAS, the tree was planted as a landscape tree at the time the house was built in the mid 1980's; and

WHEREAS, the tree is causing damage to on-site improvements including sidewalks, driveways and the house foundation and the request to remove the tree is in order to eliminate further damage to the house; and

WHEREAS, the Director could not make the determination that the tree is "clearly dead or diseased beyond correction," and therefore, Section 10.01.050.C of the Oak Tree Ordinance would consider the tree "healthy" and require that the City Council make the determination of whether the tree should be removed or not, after consideration of the factors listed in Section 10.01.050.D; and

WHEREAS, Steve Alvarez of A & T Arborists submitted an Arborist Report indicating that the tree is in good condition, but recommends that the tree be removed to prevent further damage to the house; and

WHEREAS, as a result of the decline of the tree not being the fault of the current property owner and the fact that the property is developed and not being considered for development, the applicant is requesting that the City Council waive the requirement for application fees and the requirement to install replacement trees; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles does hereby:

1. Authorize the removal of one (1) 18-inch Valley Oak tree based on the trees root system causing damage to private property;
2. And require the necessary application fees to be paid prior to the issuance of the Oak Tree Removal Permit, and require one (1) replacement Street Tree, to be planted on the

801 Hogan parcel.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 19th day of January 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Duane Picanco, Mayor

ATTEST:

Lonnie Dolan, Deputy City Clerk