

TO: JAMES L. APP, CITY MANAGER

FROM: RON WHISENAND, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: OTR 11-001 - REQUEST TO REMOVE ONE OAK TREE AT 204 16th STREET (KULLGREN/BAILEY)

DATE: FEBRUARY 15, 2011

Needs: For the City Council to consider a request by Phyllis Bailey along with her Mother Barbara Kullgren to remove one oak tree at their property located at 204 16th Street.

Facts:

1. The subject oak tree is a 38-inch Live Oak located in the back yard of the residential property. See the attached vicinity map that indicates the location of the tree (Attachment 1).
2. As indicated in the attached letters from Phyllis Bailey (Attachment 2), she believes that the debris from the oak tree is a significant contributor to her son's on-going health problems, and eliminating the tree would help his situation. Ms. Bailey includes with her request various letters and reports from medical professionals who are familiar with her son's health problems and state that environmental allergies contribute to his condition.
3. An Arborist Report was submitted by Chuck Scovell of Scovell Tree Surgery. The report indicates that the tree is a "large, mature tree in good condition". Mr. Scovell indicates in his report that the Live Oak is an evergreen tree that has characteristics of constant drop of debris including leaves, flowers, acorns and all of which carry pollen spores or some kind of irritant.
4. Ms. Bailey indicated that she and her son have lived in the house for 6 years. She explained that the amount of debris from the oak tree on the ground in the back yard directly affects her son's asthma symptoms. Ms. Bailey recognizes that there are other trees in the neighborhood that could contribute to the problem, but states that eliminating the debris, by removing the tree, would greatly improve the situation.
5. Planning Staff did go out to the site, and since the tree shows signs of growth, the Director could not make the determination that the tree is "clearly dead or diseased beyond correction." 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, Oak Tree Preservation Ordinance, there are several factors that the City Council needs to review when considering the removal of 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;*

In this case Ms. Bailey is suggesting that the tree is a public nuisance, and more specifically a health hazard to her family.

- 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 construction associated with the tree 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 the trees would not result in negative effects on soil retention, water retention or surface water flows for the neighborhood.

- 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 other oak trees (and non-oaks) in this neighborhood; however removal of this healthy oak will reduce the amount of oak canopy in the neighborhood, which generally contributes to neighborhood character and aesthetics.

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

As described above, there are other oak trees located in this neighborhood.

The primary reason for the request to remove the oak tree is to eliminate the debris that falls on Ms. Bailey's property in an effort to improve her son's health. Ms. Bailey plans on removing other non-oak trees and shrubs in the yard in addition to the subject oak tree.

It will be up to the City Council to determine if the applicant's request to remove the tree is warranted based on factor No. 1 above "*status as a public nuisance*". If approved it should be made clear to Ms. Bailey that numerous other oak trees remain in the neighborhood and allergic reactions may still be present.

If the City Council allows for the removal of the tree, the applicant is requesting that the Council only require one replacement tree and rather than plant the tree on site, Ms. Bailey would like to donate \$200 to the City's oak tree replacement fund.

Policy

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

Fiscal

Impact: None.

Options: 1. **Choose one of the three options:**

- A.** Adopt Resolution No. 11-xx approving OTR 11-001, allowing the removal of one Live Oak tree based on the tree having characteristics that allow for the dropping of significant amount of debris that contributes to the health problems of the property owner's family, which is considered a public nuisance, and require one (1) replacement oak trees to be planted at the direction of the Arborist, or payments made to the City's oak tree replacement fund (\$200 per tree).
- B.** Adopt Resolution No. 11-xx approving OTR 11-001, allowing the removal of one Live Oak tree based on the tree having characteristics that allow for the dropping of significant amount of debris that contributes to the health problems of the property owner's family, which is considered a public nuisance, and require six (6) 1.5-inch diameter replacement oak trees to be planted at the direction of the Arborist, or payments made to the City's oak tree replacement fund for six replacement trees.(\$200 per tree)

C. Adopt Resolution No. 11-xx denying OTR 11-001, based on the City Council not being able to make the necessary findings for removal as outlined in the City's Oak Tree Preservation Ordinance.

2. Amend, modify or reject the above options.

Attachments:

1. Vicinity Map
2. Ms. Bailey's Letter dated January 20, 2011
3. Ms. Bailey's Letter dated December 20, 2010 with Attachments
4. Arborist Report
5. Resolution to approve the removal of the tree with one replacement tree.
6. Resolution to approve the removal of the tree with six replacement trees.
7. Resolution to deny the request to remove the tree.



Attachment 1
Vicinity Map
204 16th Street
(Bailey)

Darren Nash

1-20-11

RECEIVED

JAN 20 2011

This is a follow up letter.

I forgot to mention a few things. After I have raked up the oak leaves I need to shower and change clothes before my son Brandon gets anywhere near me, if he does he has a terrible asthma attack just like he does if he goes outside when there are leaves on the ground. I also have to keep the windows closed all the time. He also has been on allergy medication daily since birth.

From around March - June, July it's much worse. He suffers more from itching - eyes, throat and he gets a lot of mucus that he chokes on until he gags and spits it up. He also has a lot more congestion, wheezing, coughing, runny nose during those few months. He gets worse at night and early morning. Keeping the leaves raked up makes a huge difference with all of his symptoms. I would relocate, but my mother owns the house and it is in a trust for me, and there is no possible way I could afford to pay rent somewhere else. Thank-you Phyllis Bailey

Attachment 2
Letter dated 1-20-11
204 16th Street
(Bailey)

Attn: Darren Nash

RECEIVED

DEC 20 2010

Engineering Division

To Whom it may concern,

This letter goes with the other information I brought in last week.

This has to do with the oak tree on 16th St. I just wanted to give you some other information.

My son was born with VATER Syndrome. He has had over 40 surgeries. His main problem was tracheobronchomalacia severe. He spent the 1st 5 yrs of his life in the hospital. His biggest problem was with his trachea, it started completely collapsing. He died three times before they could figure out what to do. They could not do a tracheostomy because he was collapsing too low. It took them 2 weeks to figure out the only option was to put stints in his trachea, they had never done this before in a child and didn't know how they would remove them, but there was no other option. It was successful and the removal of them also. He is the 1st one to survive severe tracheobronchomalacia, and to survive the removal of them. ^(the stints) He has always had severe breathing problems because of all his breathing problems, from the surgery, his allergies, he uses an inhaler once a day in the winter and in the summer. I need to

Attachment 3
Letter dated 12-20-10 with Attachments
204 16th Street
(Bailey)

get up early about every 2-3 days to rake up the oak leaves, acorns, etc. If I don't he can't breathe when he goes into the backyard and needs 3-4 breathing treatments a day. I have a big back yard and the tree covers the whole backyard in leaves, etc.

He has complete collapsing of his left lung when he breathes. It's a struggle for him to breathe even in the best conditions.

He is growing very slowly mainly for his struggle to breathe. Removing the Oak tree would be extremely helpful in improving his breathing, health, and would help him to grow better because he wouldn't have to struggle so much to breathe. He has severe breathing problems, just not a regular allergy.

He is also extremely allergic to mold which is always in the leaves.

Please for the health of my child let me remove the tree. He has been through more than his fair share and this really would improve his quality of life. His life has been very hard and this would help so much.

Thank-you
Phyllis Becky

RECEIVED
FEB 29 2010
Engineering Division



**Esophageal Atresia
Specialty Clinic
UCSF Children's Hospital**

Pediatric Surgeons
Diana L. Farmer MD
Hanmin Lee MD
Doug Miniati MD
Shinjiro Hirose MD
Tippi Mackenzie

Developmental Specialists
Robert Piccuch MD
Suzanne Golden NP

Neonatologist
Roberta Keller MD

Nutritionists
Maria Hetherton RD, CSP
Carrie MacFarland RD, CSP

Nurse Specialists
Barbara Bratton MSN, PNP
Nurse Coordinator
Robyn Huey MSN, PNP

Social Services
Caroline Casey, MSW

Administrative Staff
Olga Martin,
Brian Forman

Address:
400 Parnassus Avenue
2nd Floor
Surgical Specialties
San Francisco, CA 94143-0570
Phone:
415.476.2538 (24 hour service)
415.476.9717 (Barb Bratton)
Fax:
415.476.2929
Email:
brattonb@surgery.ucsf.edu
pedsurg@surgery.ucsf.edu
Web:
www.bayareapediatricsurgeons.org

11/12/2010

Re: Brandon Bailey
DOB: 1/29/2009

To whom it may concern,

Brandon Bailey is a patient in our practice who has a complex medical history including breathing problems and multiple allergies to food, plants and animals.

His mother reports that he is reactive to the oak tree on her property and that is consistent with environmental allergies that have been documented by our pulmonary specialists.

Removal of the oak tree on his family's property may improve his respiratory health and quality of life

Sincerely,

Diana Farmer MD
Chief of Pediatric Surgery
Benioff Children's Hospital

Patient Name: BAILEY, BRANDON A
MRN: 3571442-1
DOB: 01/29/1999

Printed on 11-12-10 at 04:50 pm
Z2904

DOCUMENT # 717026 Signed
VISIT # 8865500

PEDIATRIC PULMONARY AND CYSTIC FIBROSIS CENTER
521 Parnassus Avenue
Room C-344, Box 0632
San Francisco, California 94143-0632
Phone: (415) 476-2072 Fax: (415) 476-9278

June 25, 2004
Diana Farmer, M.D.
Pediatric Surgery
UCSF Campus Mail
Karen Henderson, M.D.
475 Bruce Street, Suite 700
Yreka, CA 96097
RE:BAILEY, BRANDON
U#: 35714421

DATE OF SERVICE: 05/15/04

DATE OF BIRTH: 01/29/1999

Dear Colleagues:

We had the pleasure of seeing this patient in the Pediatric Pulmonary Clinic at UCSF on May 15, 2004 for evaluation of cough, worsening work of breathing and continued poor growth. This visit was scheduled outside of the usual clinic hours in response to a request for an urgent visit by the patient's primary care provider.

As you know, the patient is now an almost 5-1/2-year-old boy with history of VATER syndrome with a repaired tracheoesophageal fistula and severe tracheobronchomalacia, who underwent stenting at UCSF with two large tracheal stents, and who underwent flexible bronchoscopy by our division in conjunction with pediatric surgery bronchoscopy in December 2003. At that time, we saw some narrowing of his trachea at the site of the stent, as well as continued tracheo- and bronchomalacia by flexible bronchoscopy with granulation tissue having invaded the stent. Please see separate report by the Pediatric Surgery Department for details.

Today his parents are both present from the visit,

They report that the patient has had some increased coughing, which they associate with allergies and the allergy season. Apparently the cough is worse at night, but happens throughout the day and there has been some posttussive emesis as well. They have placed the bed on an incline.

His current medications include over-the-counter Claritin, which has seemed to help runny and itchy eyes, but does not decrease his cough. They do give occasional Xopenex treatments, which seem to help somewhat with his cough, and they did use it during a recent upper respiratory infection approximately three weeks ago, at which time the father had similar symptoms. With Xopenex there seemed to be slightly less cough. They have noticed allergic symptoms when exposed to certain

environmental or food allergens including shifting red spots, which sound like an urticarial rash when exposed to milk or substance containing milk, trees, and eggs. They are concerned that at his day care provider, which is on a ranch, that he is exposed to cut hay and that this seems to trigger more cough as well. They are particularly concerned about allergies, as the older brother apparently has been diagnosed with allergies to milk, pine trees, and horses, and has had some asthma symptoms.

Other concerns include continuing oral aversion. The patient continues only on pureed foods. They are mostly feeding him Gerber-type baby foods and some homemade foods. They have been unable to push higher caloric foods and they are concerned about his growth, although they expressed frustration at difficulty in managing growth in the past, including problems with gastrostomy feeds and supplemental foods. Apparently they have been involved in the past more extensively with a nutritionist, although they have not been following with a nutritionist recently.

Their third concern was with regards to his decreased overall energy level and activity versus his peers, and progressively increasing fatigue. They think that he is still alert and active and playful, but just not physically active.

Finally, they had many concerns regarding the medium-to-long-term plan with regards to his airway stents.

On physical examination, his heart rate was 170, respiratory rate approximately 30. He did not cooperate with SAO2 nor with spirometry. His blood pressure was 114/75, and his height was approximately 95.5 cm. His weight was 12.9 kg, which is significant below the fifth percentile weight for age.

On physical examination in general, he is a quite small and cachectic boy with minimal subcutaneous tissue, who was cooperative, somewhat fearful with the examination, but was consolable by his parents. He did have clear conjunctivae with exotropia (he has been followed by pediatric ophthalmologist in the past). His nares were clear. There is no significant rhinorrhea. There was no oropharyngeal lesions. His chest examination showed biphasic inspiratory and expiratory adventitious sounds with significant subcostal, suprasternal and intracostal retractions at rest and worse with agitation. He had coarse expiratory rhonchi consistent with poorly handled airway secretions. There was some monophonic wheeze as well. His cardiovascular examination showed a regular rate and rhythm, with no significant murmur and he was warm and well perfused. His abdomen showed several healed surgical scars, given his past history of gastrostomy. It was nontender, and his liver edge was approximately 1.0 cm below his right costal margin. His fingers showed a hint of clubbing, although no frank clubbing was present. He had no rashes.

Given the parents' concerns about allergies, IgE RAST panel and other tests were performed during this admission. Results are as follows: Specific IgE RAST to *Aspergillus fumigatus* showed none detected. Specific IgE RAST to *Aspergillus tenuis* showed none detected. House dust RAST showed a very high response with percent response 18.6%, interpreted as very high positive. There was no IgE specific antibody to Timothy grass. There was a low positive test to rye; there was none detected to orchard grass; there was none detected to Bermuda grass. There was a low positive to soy beans. There was no IgE RAST to peanuts. There was a high positive response to milk allergen. There was a high positive response to egg yolk allergen. There was a high positive response to egg white allergen. There was a very low positive

response to horse dander. There was a very high positive response to dog dander. There was a moderate response, or low positive interpretation to cow dander. There was a moderate positive response to chicken feathers. There was no detectable response to cockroach allergen. There was a very high positive response to cat dander. There was no detected response to mouse epithelia. There was no detected response to rat epithelia. The total IgE level was 329, with the normal range being less than 100 iu/ml. This is consistent with allergic inflammatory response.

Complete blood count analysis was also performed showing a white blood cell count of 14.8, hemoglobin of 13.4, hematocrit of 40.3, MCV of 97, total platelets of 317,000, neutrophils of 8.9 thousand, lymphocytes of 3.2 with some variant lymphocytes present, monocytes of 2.36, eosinophils of 0.27, and basophils of 0.02. His electrolytes showed a sodium of 135, potassium 4.1, chloride 100, carbon dioxide total 26 (that is also bicarbonate), blood urea nitrogen of 5.0, creatinine of 0.3, and AST 47, ALT 20, bilirubin total 0.8, albumin of 3.7.

ASSESSMENT: Our impression is that the patient continues to show significant airway obstruction resulting from tracheomalacia and possibly some functional tracheal stenosis secondary to airway stenting. In addition, his laboratory results are consistent with several environmental allergies consistent with the parents' observation. Of concern also is also significant poor growth, which may in part be due to increased caloric needs due to respiratory work. It may also represent problems with GI absorption due to sequelae of his allergies. We recommended the following interventions with the family during this visit. First, we recommended optimizing therapy for gastroesophageal reflux disease using a proton pump inhibitor in lieu of his current regimen of occasional H2 blockers. We recommended lansoprazole 15 mg p.o. per day using the Prevacid sprinkles. A prescription was provided for this and the family reports that they have used this medication in the past and did have a home supply as well. Secondly, given the difficulties the family has had delivering inhaled medications, due to the patient's reluctance to cooperate with this therapy, we converted his Pulmicort regimen to QVAR inhaled therapy using metered dose inhaler, and also wrote him a prescription for albuterol metered dose inhaler to use with spacer as well, as needed. We also reviewed signs of worsening respiratory distress with the family and instructed them to seek advice from the primary care physician or via the Pediatric Pulmonary Clinic or their local emergency room, should he have acute worsening. We also recommended consideration of an EpiPen Junior, given his history of airway compromise and numerous allergies. At the time of the examination, we did not have the IgE RAST results, and while his peanut allergy is negative, given his numerous environmental allergies, his compromised airway, and the family's report of some facial swelling with allergic reactions, it would be advisable to have an EpiPen Junior in the family's possession and one as back-up as well. We called the primary care provider, Karen Henderson, and spoke to her covering colleague to discuss these recommendations. Finally, we spoke with Barbara Bratton in the pediatric surgery office to facilitate a follow-up appointment with the Pediatric Surgery Department for June 16, 2004, at which time the family could discuss the medium and long-term plan for management of the patient's tracheomalacia and airway stent. We would also recommend a follow-up evaluation by the Pediatric GI service for evaluation of food allergies and poor growth in general.

Thank you very much for allowing us to participate in the care of this

complex patient and his family. We would be happy to discuss his case with you through the Pediatric Pulmonary Clinic office at (415) 476-2072.

Sincerely,

DENNIS W. NIELSON, M.D., PH.D.
PROFESSOR OF CLINICAL PEDIATRICS
CHIEF, DIVISION OF PEDIATRIC PULMONOLOGY
DIRECTOR, CYSTIC FIBROSIS CENTER AND
PEDIATRIC PULMONARY FUNCTION LABORATORY

EXTRA COPIES:

CARBON COPIES:

DICTATED BY:

DAVID L ROBINOWITZ, MD 38791

Electronically Signed by

Dennis W Nielson, MD 06/28/2004 12:29

ATTENDING PHYSICIAN:

Dennis W Nielson, MD 42154

D: 06/25/2004 9:23 A

T: 06/26/2004 9:20 A wsl CS#: 717026



Scovell Tree Surgery

Arborist Report

Ms. Phyllis Bailey
204 16th Street
Paso Robles, CA 93446

Prepared for:

Ms. Phyllis Bailey
Home Owner
204 16th Street
Paso Robles, CA 93446

Prepared by:

Scovell Tree Surgery
8830 Rocky Canyon Rd.
Atascadero, CA 93422
Chuck Scovell
Certified Arborist #346

January 17, 2011

Paso Robles

JAN 17 2011

Planning Division

Attachment 4
Arborist Report
204 16th Street

(Bailey)

**Arborist Report
Ms. Phyllis Bailey
204 16th Street
Paso Robles, CA
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Introduction and Overview

Ms. Bailey has concern regarding the debris this tree drops on a continual basis and the health and welfare of her son. Scovell Tree was requested to provide a tree report for this site for review by the City of Paso Robles, CA.

This report contains the following information:

1. A survey of the tree within the homeowner's property.
2. Evaluation and recommendation of action to be taken.

Survey Methods

This tree was surveyed in November 30, 2010. The survey procedure consisted of the following steps.

1. Identifying the tree as to species.
2. Measuring of the trunk diameter at 48" above grade.
3. Evaluate health and structural condition.
4. Rating the suitability for preservation as "good", "fair", or "poor". Suitability for preservation considers the health, age and structural condition of the tree, and its potential to remain an asset to the site for years to come.

Good:	Trees with good health and structural stability that have the potential for longevity at the site.
Fair:	Trees with somewhat declining health and/or structural defects than can be fixed with treatment. The tree will require more intense management and monitoring, and may have shorter life span than those in 'good' category.
Poor:	Tree in poor health or with significant structural defects that cannot be treated. Tree is expected to continue to decline, regardless of treatment.

Description of Trees

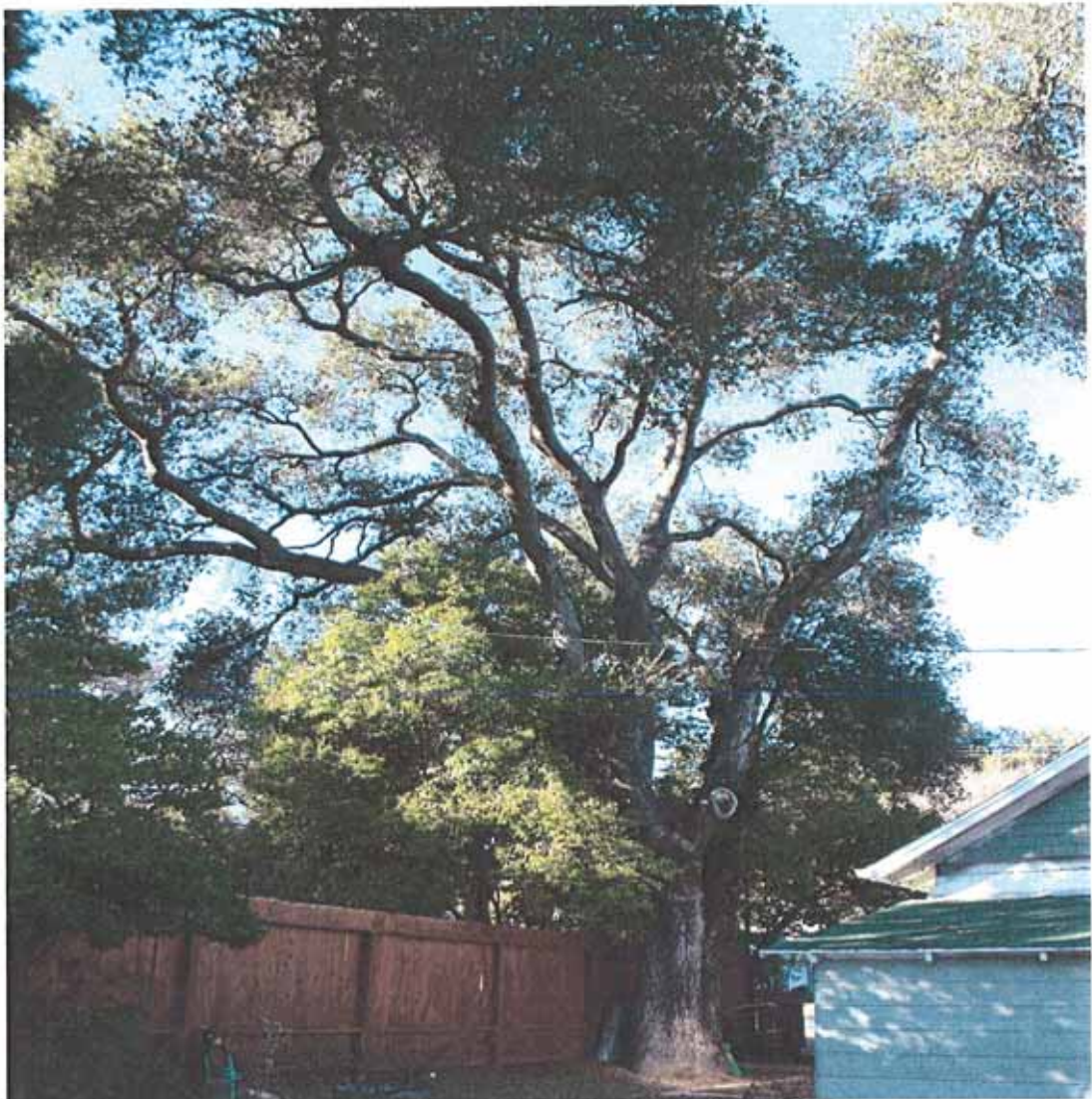
The site contains one native oak tree described below. Tree location, diameter size and distance from the structure are plotted on the Tree Survey Map.

#1 Live Oak

Trunk diameter 38"

Location: West side of the property.

Description: Large, mature tree in good condition. Improper pruning has removed all lower scaffolding branches leaving a thick top heavy crown. (See picture)



Other trees in location

#2 18" Sycamore – Save- City planter

#3 6" Privot- northeast corner of house

#4 14" Cedar-northeast mid side of house

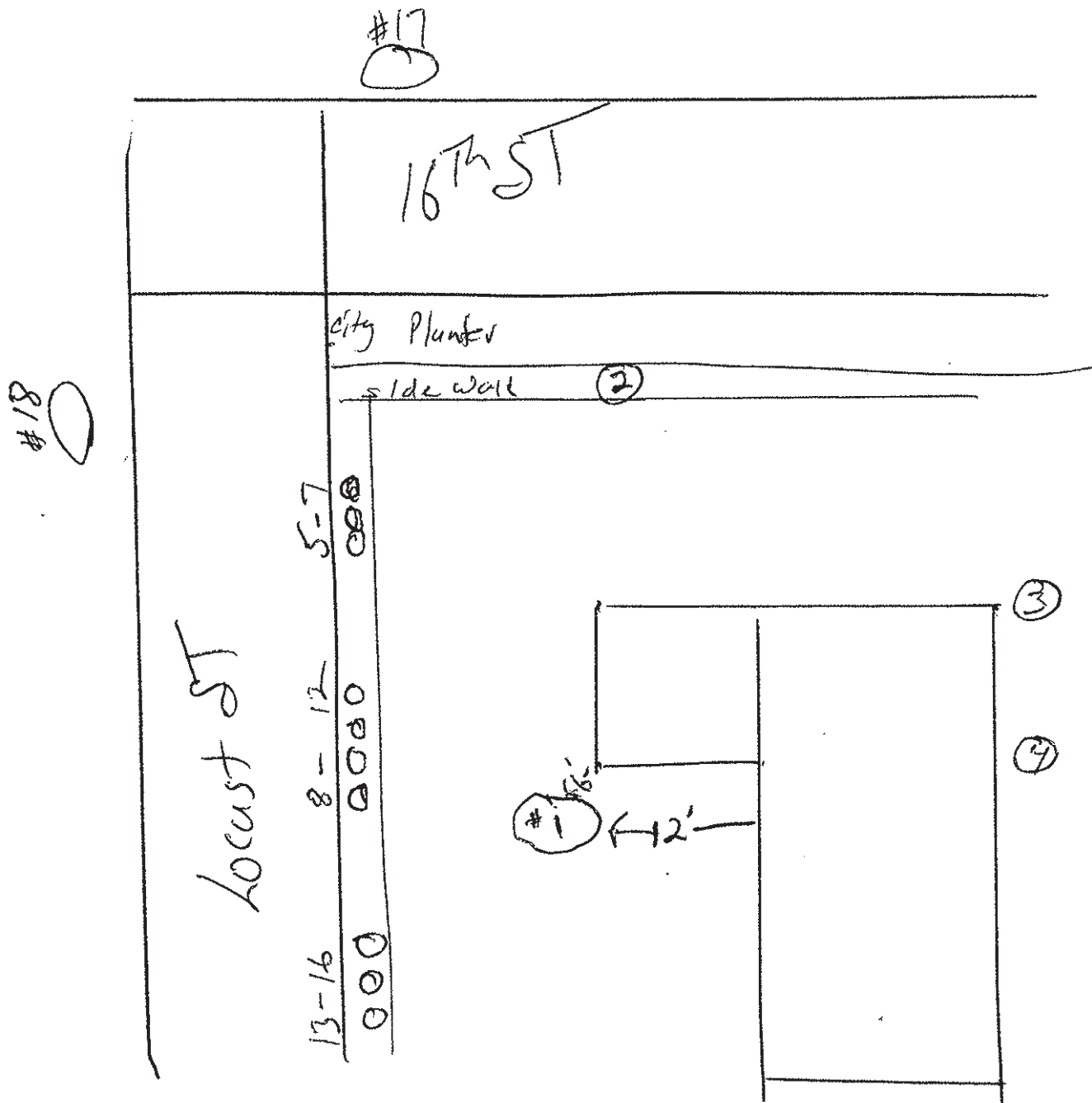
#5-7 4" Privots-west side of lot

#8-12 4"-6" Privots- west side mid lot

#13-15 12"-14" Cedars- southwest side of lot

#17 & 18 Blue Oaks across both streets

Bailey Residence Plot Plan 204 16th ST Paso Robles Calif



- #1 Live Oak. Proposed to be Removed
- #2 Sycamore - street Tree
- #3 Pivot Tree
- #4 Cedar Tree
- #5-7 - Pivot Tree
- #8-12 Pivot Tree
- #13-16 Cedar Trees
- #17 - Blue Oak
- #18 - Blue Oak

Evaluation and Recommendations

On November 30, 2010. While inspecting the Live Oak (*Quercus Agrifolia*) on the west side of the house, located on the corner of 16th St. and Locust St. I find the tree approximately 12' from the side of the house, 38" in diameter, in good condition. Ms. Bailey complains of leaf drop which causes severe allergy problems for her child. This species has constant trash drop whether leaves, flowers, or acorns, all carry pollen spores or some kind of irritant. There is no way to eliminate all the litter without total tree removal. However if we prune the tree properly with 25% crown reduction, leaving good laterals to grow back, we could reduce the trash drop at least 50% per year. The alternative would be total tree removal and replacement as per City Specs.

Conclusion

After discussing the Tree Report with Ms. Bailey it has been decided that total tree removal is required to stop the constant trash and debris dropping from this tree. It is obvious that the litter generated from this tree is causing her son severe health issues. She would have to spend about 7 hours a week to keep up with the constant dropping of litter caused by this tree. The rest of the trees surrounding the lot do not have the ability to generate the leaves or debris like the Live Oak variety. On December 30, 2010 Ms. Bailey had the whole area raked and clean, then on January 13, 2011 there was at least 2" of litter around the base of the tree. Given the recent moisture quite a bit of mold could be seen. Of course the time line of mold, pollen and trash drop is worse as spring arrives, then it is increased tenfold. The peak period of allergy generation such as pollen and mold spores is spring. So we have 2 options, total tree removal or the need for relocation for this family.

Scovell Tree Surgery



Chuck Scovell
Certified Arborist #346

RESOLUTION NO. 11-xxx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING THE REMOVAL OF ONE OAK TREE AT 204 16TH STREET
(KULLGREN-BAILEY)**

WHEREAS, Phyllis Bailey along with her mother Barbara Kullgren have submitted an application to remove a 38-inch Live Oak tree located in the back yard of the residential property located at 204 16th Street; and

WHEREAS, Ms. Bailey believes that the debris from the oak tree is a significant contributor to her son's on-going health problems, and eliminating the tree would help his health conditions; and

WHEREAS, Ms. Bailey has provided various letters and reports from medical professionals who are familiar with her son's health condition and they indicate that environmental allergies contribute to his health problems; and

WHEREAS, an Arborist Report was submitted by Scovell Tree Surgery which indicates that the tree is a "large, mature tree in good condition", additional he indicated that the Live Oak is an evergreen tree that has characteristics of constant drop of debris including leaves, flowers, acorns and all of which carry pollen spores or some kind of irritant; and

WHEREAS, 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; 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) Live Oak tree based on the tree producing debris that is causing health issues for the family living in the home, which is considered a public nuisance;
2. Require one (1) 1.5-inch diameter Live Oak replacement tree to be planted at the direction of the Arborist, payment for one tree into the City oak tree replacement fund.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 15th day of February 2011 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Duane Picanco, Mayor

Caryn Jackson, Deputy City Clerk

RESOLUTION NO. 11-xxx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING THE REMOVAL OF ONE OAK TREE AT 204 16TH STREET
(KULLGREN-BAILEY)**

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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) Live Oak tree based on the tree producing debris that is causing health issues for the family living in the home, which is considered a public nuisance;
2. Require six (6) 1.5-inch diameter Live Oak replacement trees to be planted at the direction of the Arborist, or payment for six trees into the City oak tree replacement fund.

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AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Duane Picanco, Mayor

Caryn Jackson, Deputy City Clerk

RESOLUTION NO. 11-xxx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
DENYING THE REMOVAL OF ONE OAK TREE AT 204 16TH STREET
(KULLGREN-BAILEY)**

WHEREAS, Phyllis Bailey along with her mother Barbara Kullgren have submitted an application to remove a 38-inch Live Oak tree located in the back yard of the residential property located at 204 16th Street; and

WHEREAS, Ms. Bailey believes that the debris from the oak tree is a significant contributor to her son's on-going health problems, and eliminating the tree would help his health conditions; and

WHEREAS, Ms. Bailey has provided various letters and reports from medical professionals who are familiar with her son's health condition and they indicate that environmental allergies contribute to his health problems; and

WHEREAS, an Arborist Report was submitted by Scovell Tree Surgery which indicates that the tree is a "large, mature tree in good condition", additional he indicated that the Live Oak is an evergreen tree that has characteristics of constant drop of debris including leaves, flowers, acorns and all of which carry pollen spores or some kind of irritant; and

WHEREAS, 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; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles does hereby deny the applicant's request to remove the healthy 38-inch Live Oak tree, based on the City Council not being able to make the necessary findings as outlined the Oak Tree Preservation Ordinance (Section 10.01.050.D) to allow for removal of an oak tree;

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 15th day of February 2011 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Duane Picanco, Mayor

Caryn Jackson, Deputy City Clerk