



Council Agenda Report

From: Darren Nash, Associate Planner

Subject: Oak Tree Removal Permit 17-007 (Experimental Station Road – Blue Oak Apartments) - Council consideration of OTR 17-007 request to remove of one 11-inch diameter Blue Oak Tree (Tree No. 76) in conjunction with the development of a 142-unit apartment project.

Date: April 18, 2017

Facts

1. The Blue Oak Apartment project (formerly the Arjun Apartments) is located at 801 Experimental Station Road; see Vicinity Map, Attachment 1.
2. In June of 2013, the City Council approved Planned Development (PD) 12-005 approving the 142-unit apartment complex on the 12.5-acre site.
3. Concurrent with PD 12-005 the applicants requested that the City Council allow for the removal of three (3) of the 22 oak trees located on the site. The City Council approved Resolution 13-089 allowing for the removal of three trees based on the trees being in poor condition as determined by the Arborist at the time, Michael Bova of Davey Resource Group.
4. In addition to the three trees originally approved for removal, on March 7, 2017 the City Council approved the removal of Tree No. 74 (a 50-inch Blue Oak) based on the tree being in poor condition.
5. Tree No. 76 was originally evaluated by Davey Resource Group as part of the Arborist Report for the entitlement process of the project. The Arborist indicated in the report that the tree was in fair condition (rated 63%), and that there would be slight CRZ encroachment with the house foundation, and the proposed deck would encroach into the CRZ.
6. The project is currently under construction and the project Arborist who is now Chip Tamagni of A&T Arborists, is involved with the monitoring and protection requirements of the remaining oaks. Mr. Tamagni has evaluated Tree No. 76 (an 11-inch Blue Oak) more closely, and recognized that the proposed single family home would have a significant impact on Tree No. 11. Mr. Tamagni indicates that while the original Arborist evaluation indicated that there would only be slight impact on the tree, however when taking in consideration that over excavation requirements to construct the house foundation, there would be significant impacts to the tree which would necessitate complete removal. See Site Plan, Attachment 2 and Arborist Letter, Attachment 3.
7. Planning Staff inspected the site to review the trees. Since the tree was shown to be saved on an approved development plan and the tree shows signs of growth, 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.



Tree No. 76 – looking northeast



Tree No. 76 – looking south

Options

1. Approve Draft Resolution A, denying OTR 17-007, based on Council not being able to make the necessary findings outlined in Section 10.01.050.D, and require that the single family residence be redesigned in a manner to not encroach into oak tree critical root zones.
2. Approve Draft Resolution B, approving OTR 17-007, based on the Council finding there are no reasonable alternatives to the proposed design and use of the property and that every reasonable effort has been made to avoid impacting oak trees.
3. Refer back to staff for additional analysis.

Analysis and Conclusions

According to Section 10.01.050.D, 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;

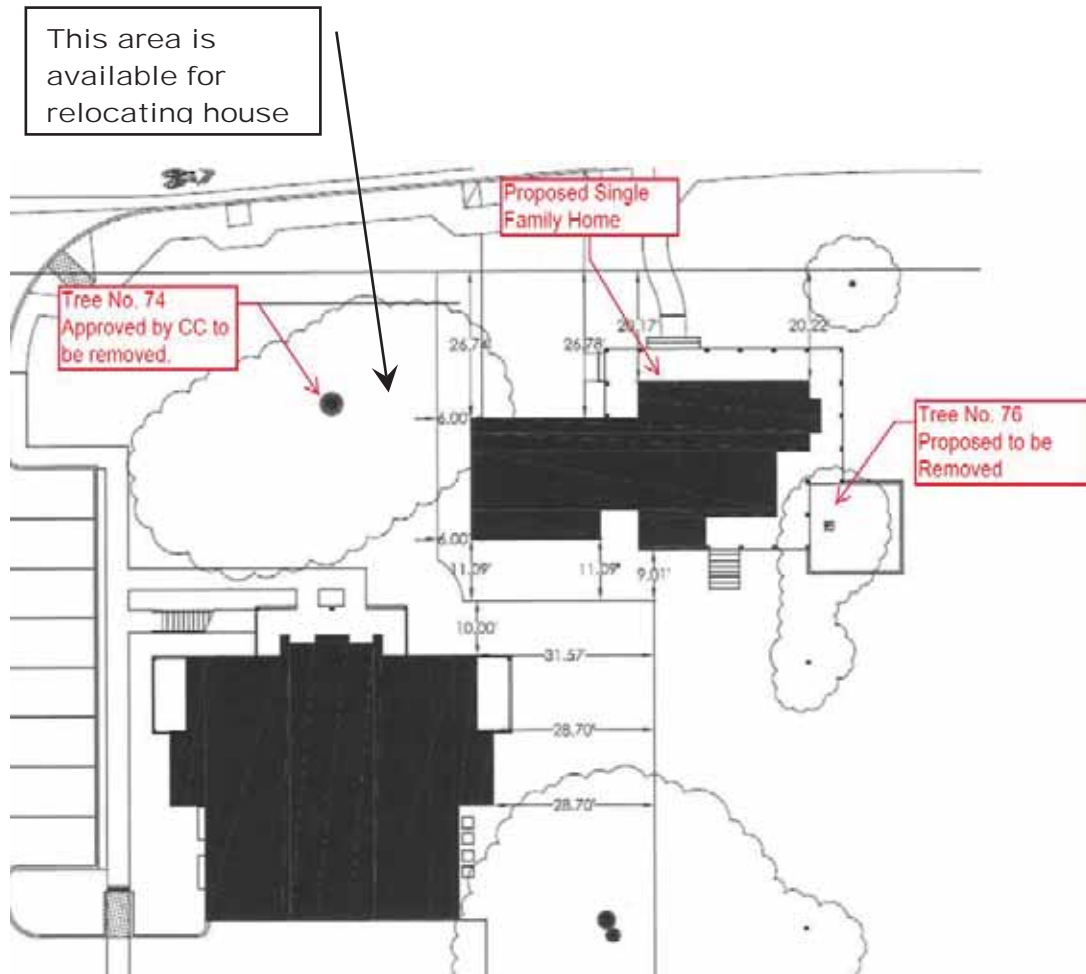
The tree is healthy, has good aesthetic value, and is currently not a public nuisance or in danger of falling.

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;

Section 10.01.050.2 of the Oak Tree Preservation Ordinance indicates:

"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."

When taking in consideration the Council's action on March 7, 2017, to allow the removal of Tree No. 74, the 50-inch Blue Oak, there appears to be adequate room to accommodate a plan that could save the tree (see Site Plan below). Staff has requested alternative designs for the house that accommodated tree, however the applicant has not provided additional design alternatives that would demonstrate that there are no other reasonable alternatives to the proposed design.



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;

Tree No. 76 is located on a slope, and removal of the tree could potentially effect soil retention and surface water flow.

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;

If the tree were allowed to be removed, 17 other trees would remain on the site.

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

Blue Oak trees are harder to reestablish. Removing a young healthy blue oak tree does not seem warranted in this situation.

Option 1:

Deny tree removal. The project was originally approved with the preservation of Tree No. 76. It is necessary to redesign the site plan for the buildings in the vicinity of the tree to lessen the impacts to the critical root zone. Blue Oak trees are harder to reestablish than other species. Removing a young, healthy blue oak tree, does not seem warranted in this situation.

Option 2:

Approve tree removal. Approval of OTR 17-007 will require the Council to make finding there are **no reasonable alternatives** to the proposed design and use of the property and that every reasonable effort has been made to avoid impacting oak trees. It does not appear that the record of information provided by the applicant would support this finding.

Option 3:

Council may wish to refer the item back to staff for additional analysis.

Fiscal Impact

There is not a fiscal impact to the City related to this oak tree removal request. Oak trees can provide value to a property, and be an aesthetic value to the City as a whole.

Recommendation

Option 1. Approve Draft Resolution A, denying OTR 17-005, requiring redesign of the single family home in a manner that would not require encroachment into oak tree critical root zones, based on the lack of supporting information to make the necessary findings outlined in the Oak Tree Preservation Ordinance.

Attachments

1. Vicinity Map
2. Site Plan
3. Draft Resolution A - Denying the removal of the tree
 - a. A&T Arborist Report
4. Draft Resolution B - Approval the removal of the tree



Council Agenda Report

From: Darren Nash, Associate Planner

Subject: Oak Tree Removal Permit 17-007 (Experimental Station Road – Blue Oak Apartments) - Council consideration of OTR 17-007 request to remove of one 11-inch diameter Blue Oak Tree (Tree No. 76) in conjunction with the development of a 142-unit apartment project.

Date: April 18, 2017

Facts

1. The Blue Oak Apartment project (formerly the Arjun Apartments) is located at 801 Experimental Station Road; see Vicinity Map, Attachment 1.
2. In June of 2013, the City Council approved Planned Development (PD) 12-005 approving the 142-unit apartment complex on the 12.5-acre site.
3. Concurrent with PD 12-005 the applicants requested that the City Council allow for the removal of three (3) of the 22 oak trees located on the site. The City Council approved Resolution 13-089 allowing for the removal of three trees based on the trees being in poor condition as determined by the Arborist at the time, Michael Bova of Davey Resource Group.
4. In addition to the three trees originally approved for removal, on March 7, 2017 the City Council approved the removal of Tree No. 74 (a 50-inch Blue Oak) based on the tree being in poor condition.
5. Tree No. 76 was originally evaluated by Davey Resource Group as part of the Arborist Report for the entitlement process of the project. The Arborist indicated in the report that the tree was in fair condition (rated 63%), and that there would be slight CRZ encroachment with the house foundation, and the proposed deck would encroach into the CRZ.
6. The project is currently under construction and the project Arborist who is now Chip Tamagni of A&T Arborists, is involved with the monitoring and protection requirements of the remaining oaks. Mr. Tamagni has evaluated Tree No. 76 (a 11-inch Blue Oak) more closely, and recognized that the proposed single family home would have a significant impact on Tree No. 11. Mr. Tamagni indicates that while the original Arborist evaluation indicated that there would only be slight impact on the tree, however when taking in consideration that over excavation requirements to construct the house foundation, there would be significant impacts to the tree which would necessitate complete removal. See Site Plan, Attachment 2 and Arborist Letter, Attachment 3.
7. Planning Staff inspected the site to review the trees. Since the tree was shown to be saved on an approved development plan and the tree shows signs of growth, 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.



Tree No. 76 – looking northeast



Tree No. 76 – looking south

Options

1. Approve Draft Resolution A, denying OTR 17-007, based on Council not being able to make the necessary findings outlined in Section 10.01.050.D, and require that the single family residence be redesigned in a manner to not encroach into oak tree critical root zones.
2. Approve Draft Resolution B, approving OTR 17-007, based on the Council finding there are no reasonable alternatives to the proposed design and use of the property and that every reasonable effort has been made to avoid impacting oak trees.
3. Refer back to staff for additional analysis.

Analysis and Conclusions

According to Section 10.01.050.D, 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;

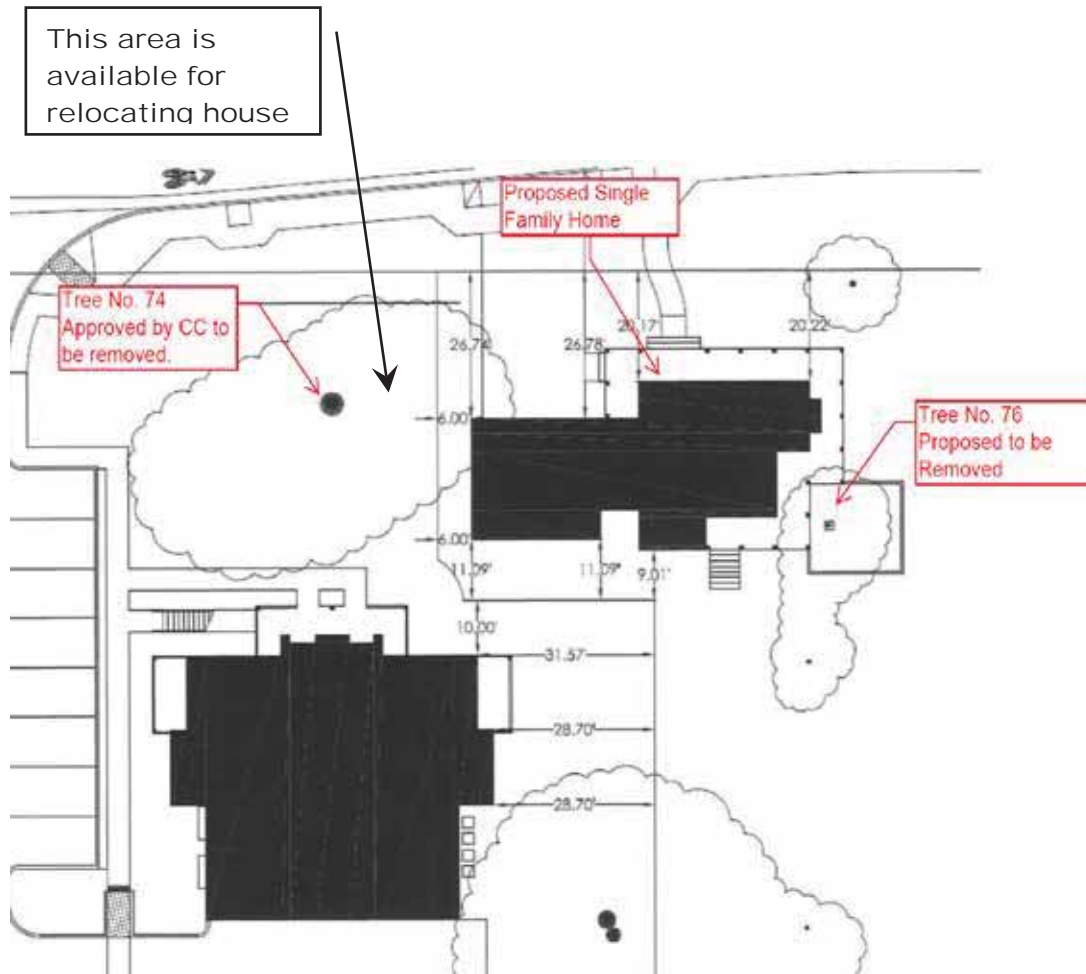
The tree is healthy, has good aesthetic value, and is currently not a public nuisance or in danger of falling.

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;

Section 10.01.050.2 of the Oak Tree Preservation Ordinance indicates:

“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.”

When taking in consideration the Council’s action on March 7, 2017, to allow the removal of Tree No. 74, the 50-inch Blue Oak, there appears to be adequate room to accommodate a plan that could save the tree (see Site Plan below). Staff has requested alternative designs for the house that accommodated tree, however the applicant has not provided additional design alternatives that would demonstrate that there are no other reasonable alternatives to the proposed design.



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;

Tree No. 76 is located on a slope, and removal of the tree could potentially effect soil retention and surface water flow.

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;

If the tree is allowed to be removed, 17 other trees would remain on the site.

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

Blue Oak trees are harder to reestablish. Removing a young healthy blue oak tree does not seem warranted in this situation.

Option 1:

Deny tree removal. The project was originally approved with the preservation of Tree No. 76. It is necessary to redesign the site plan for the buildings in the vicinity of the tree to lessen the impacts to the critical root zone. Blue Oak trees are harder to reestablish than other species. Removing a young, healthy blue oak tree, does not seem warranted in this situation.

Option 2:

Approve tree removal. Approval of OTR 17-007 will require the Council to make finding there are **no reasonable alternatives** to the proposed design and use of the property and that every reasonable effort has been made to avoid impacting oak trees. It does not appear that the record of information provided by the applicant would support this finding.

Option 3:

Council may wish to refer the item back to staff for additional analysis.

Fiscal Impact

There is not a fiscal impact to the City related to this oak tree removal request. Oak trees can provide value to a property, and be an aesthetic value to the City as a whole.

Recommendation

Option 1. Approve Draft Resolution A, denying OTR 17-005, requiring redesign of the single family home in a manner that would not require encroachment into oak tree critical root zones, based on the lack of supporting information to make the necessary findings outlined in the Oak Tree Preservation Ordinance.

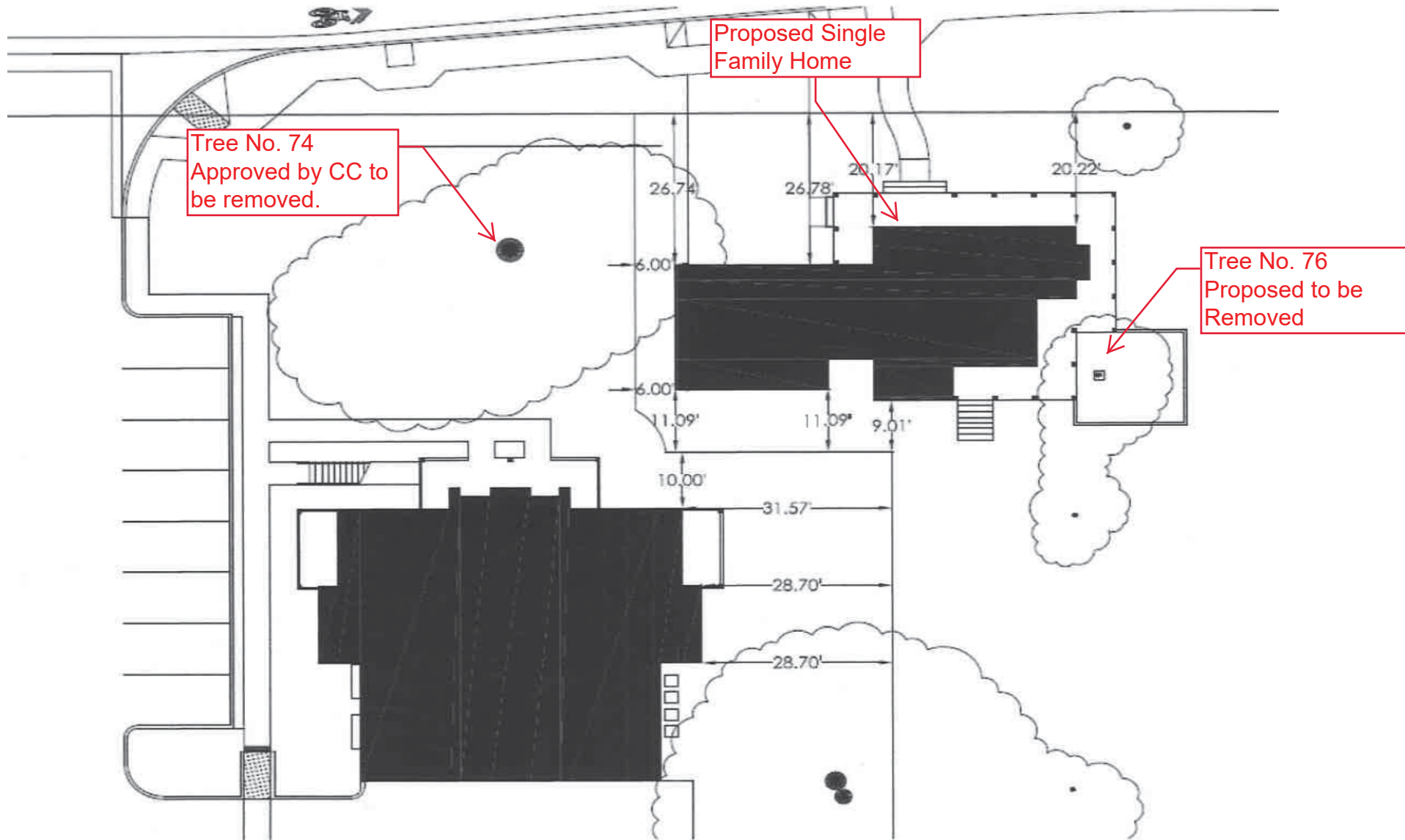
Attachments

1. Vicinity Map
2. Site Plan
3. Draft Resolution A - Denying the removal of the tree
 - a. A&T Arborist Report
4. Draft Resolution B - Approval the removal of the tree

Attachment - 1
Vicinity Map



SITE PLAN



Attachment 3

Draft Resolution A

RESOLUTION 17-xxx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
DENYING THE REMOVAL OF ONE 11-INCH DIAMETER BLUE OAK TREE
AT 801 EXPERIMENTAL STATION ROAD (OTR 17-007)
(MBK HOMES – BLUE OAK APARTMENTS)**

WHEREAS, in June of 2013, the City Council approved Planned Development (PD) 12-005 approving the 142-unit apartment complex on the 12.5-acre site; and

WHEREAS, concurrent with PD 12-005 the applicants requested that the City Council allow for the removal of three (3) of the 22 oak trees located on the site and the City Council approved Resolution 13-089 allowing for the removal of three trees based on the trees being in poor condition as determined by the Arborist at the time, Michael Bova of Davey Resource Group; and

WHEREAS, in addition to the three trees originally approved for removal, on March 7, 2017 the City Council approved the removal of Tree No. 74 (a 50-inch Blue Oak) based on the tree being in poor condition; and

WHEREAS, tree No. 76 was originally evaluated by Davey Resource Group as part of the Arborist Report for the entitlement process of the project and the Arborist indicated in the report that the tree was in fair condition (rated 63%), and that there would be slight CRZ encroachment with the house foundation, and the proposed deck would encroach into the CRZ; and

WHEREAS, Chip Tamagni, on behalf of MBK Homes has submitted a request to remove one oak tree, on the Blue Oak Apartments site 801 Experimental Station Road; and

WHEREAS, the trees proposed to be removed is one 11-inch diameter Blue Oak (Tree No. 76); and

WHEREAS, the site is currently under construction of the 142 unit Blue Oaks Apartment complex; and

WHEREAS, the 11-inch diameter Blue Oak tree has a full canopy with health leaf growth, a high aesthetic quality; and

WHEREAS, Chip Tamagni, Arborist has provided information indicating that the request for the tree removal is to accommodate the single family residence and that only option besides removal is to redesign the house; and

WHEREAS, the applicant has not provided additional design alternatives that would demonstrate that there are no other reasonable alternatives to the proposed design; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council of the City of El Paso de Robles does hereby deny the request to remove the 11-inch Blue Oak tree (Tree No. 76) located at 801 Experimental Station Road, based on the following findings:

1. The condition of the oak tree in is good general health, and not a public nuisance, or danger of falling, or proximity to existing or proposed structures, or interference with utility services because the tree is healthy and has good aesthetic value.
2. There are reasonable alternatives to the proposed design and use of the property. Every reasonable effort has not been made to avoid impacting oak trees, because there is room on the site that would allow for the construction of a single family residence without the need to remove Tree No. 76, the applicant has not provided additional design alternatives that would demonstrate that there are no other reasonable alternatives to the proposed design.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 18th day of April 2017 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

Attachment 4

Draft Resolution B

RESOLUTION 17-xxx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING THE REMOVAL OF ONE 11-INCH DIAMETER BLUE OAK TREE
AT 801 EXPERIMENTAL STATION ROAD (OTR 17-007)
(MBK HOMES – BLUE OAK APARTMENTS)**

WHEREAS, in June of 2013, the City Council approved Planned Development (PD) 12-005 approving the 142-unit apartment complex on the 12.5-acre site; and

WHEREAS, concurrent with PD 12-005 the applicants requested that the City Council allow for the removal of three (3) of the 22 oak trees located on the site and the City Council approved Resolution 13-089 allowing for the removal of three trees based on the trees being in poor condition as determined by the Arborist at the time, Michael Bova of Davey Resource Group; and

WHEREAS, in addition to the three trees originally approved for removal, on March 7, 2017 the City Council approved the removal of Tree No. 74 (a 50-inch Blue Oak) based on the tree being in poor condition; and

WHEREAS, tree No. 76 was originally evaluated by Davey Resource Group as part of the Arborist Report for the entitlement process of the project and the Arborist indicated in the report that the tree was in fair condition (rated 63%), and that there would be slight CRZ encroachment with the house foundation, and the proposed deck would encroach into the CRZ; and

WHEREAS, Chip Tamagni of A&T Arborists on behalf of MBK Homes has submitted a request to remove one oak tree on the Blue Oak Apartment site, located at 801 Experimental Station Road; and

WHEREAS, the trees proposed to be removed is one 11-inch diameter Blue Oak; and

WHEREAS, Chip Tamagni, Arborist has provided information indicating that the grading and construction necessary to construct the house will severely impact the tree, and recommends that the tree be removed to accommodate the proposed house; and

WHEREAS, if the tree is approved to be removed, there are eighteen other oak trees on the site that would be preserved; 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, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council of the City of El Paso de Robles does hereby approve the request to remove the 11-inch Blue Oak tree (Tree No. 76) located at 801 Experimental Station Road, based on the following findings:

1. Having considered the factors outlined in Section 10.01.050.D, and the information provided by the Arborist, authorize the removal of the 11-inch Blue Oak tree, based on it being necessary to remove the tree to allow construction of proposed home, which is a reasonable use of the property, and consistent with the approved development plan (PD 12-005) for the Blue Oak Apartment project, as indicated in Exhibit A.
2. Require eight (8) 1.5-inch diameter blue oak tree replacement trees to be planted on site at the direction of the Arborist to mitigate the visual impact of the tree's removal.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 18th day of April 2017 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

Exhibits

- A. A&T Arborist Report

RECEIVED

MAR 23 2017

City of Paso Robles
Community Development Dept.



3-21-2017

To: City of Paso Robles Planning Department

From: Chip Tamagni, A & T Arborists
MBK Builders

Re: Oak Tree Removal, Blue Oaks Apartments Experimental Station, Paso Robles

This tree removal report is in regard to tree #76 located towards the eastern side of the Blue Oaks Apartment Project that is currently under construction. A & T Arborists was hired to perform arborist consulting duties approximately four months ago. Since that time, we have discovered some issues with the original tree protection plan that was developed by others. The first issue we noticed was tree #74 was in significant decline. This tree was approved for removal at a recent city council meeting as it is hazardous due to cavities and it would threaten a building in the future.

The second issue involves tree #76. The tree was listed as “fair” with a 63% health rating in the original arborist report prepared by Mike Bova of Davey Resource Group through Althouse and Meade. Mike Bova is a city council approved certified arborist. The tree’s location would eventually be growing through a deck attached to the new home. In addition, the over-excavation for the support column for the home would necessitate completely removing the tree. There is also a storm drain planned within the critical root zone. Per the original arborist report completed by Davey, it states, “proposed foundation is partially within CRZ” which was basically incorrect. The fact is the over-excavation for the foundation completely eliminates the tree. Staff also told me they did not notice or missed seeing the tree in the plans. Our initial plan was to remove the hazard tree (#74) and slide the home 10 feet west to allow for the column over-excavation and saving the tree (#76). This included making lot line adjustments to two properties which the owner was prepared to do. The other problem was the deck construction. The tree was planned to grow through the deck which in itself is not a problem. However, future pruning and training the tree to grow next to a three story building could have proved challenging although it can be done. The foundation of the



Photo 23. Tree 76, young tree east of mature tree 75, 2004 condition.



Photo 24. Tree 77, young tree east of mature tree 75, 2004 condition.



Photo 25. Tree 76, 2012 condition.



Photo 26. Tree 77, 2012 condition.

Tree 76 is also shown behind tree 77 in photo 26.

