



Council Agenda Report

From: Darren Nash, Associate Planner

Subject: Oak Tree Removal Permit 17-009 (188 Via Magnolia – Michael Harrod) - Council consideration of OTR 17-009 request to remove of one oak tree (Tree No. 6) and amendment of development plan building envelope in conjunction with the construction of a single family home. (APN 025-523-082)

Date: June 20, 2017

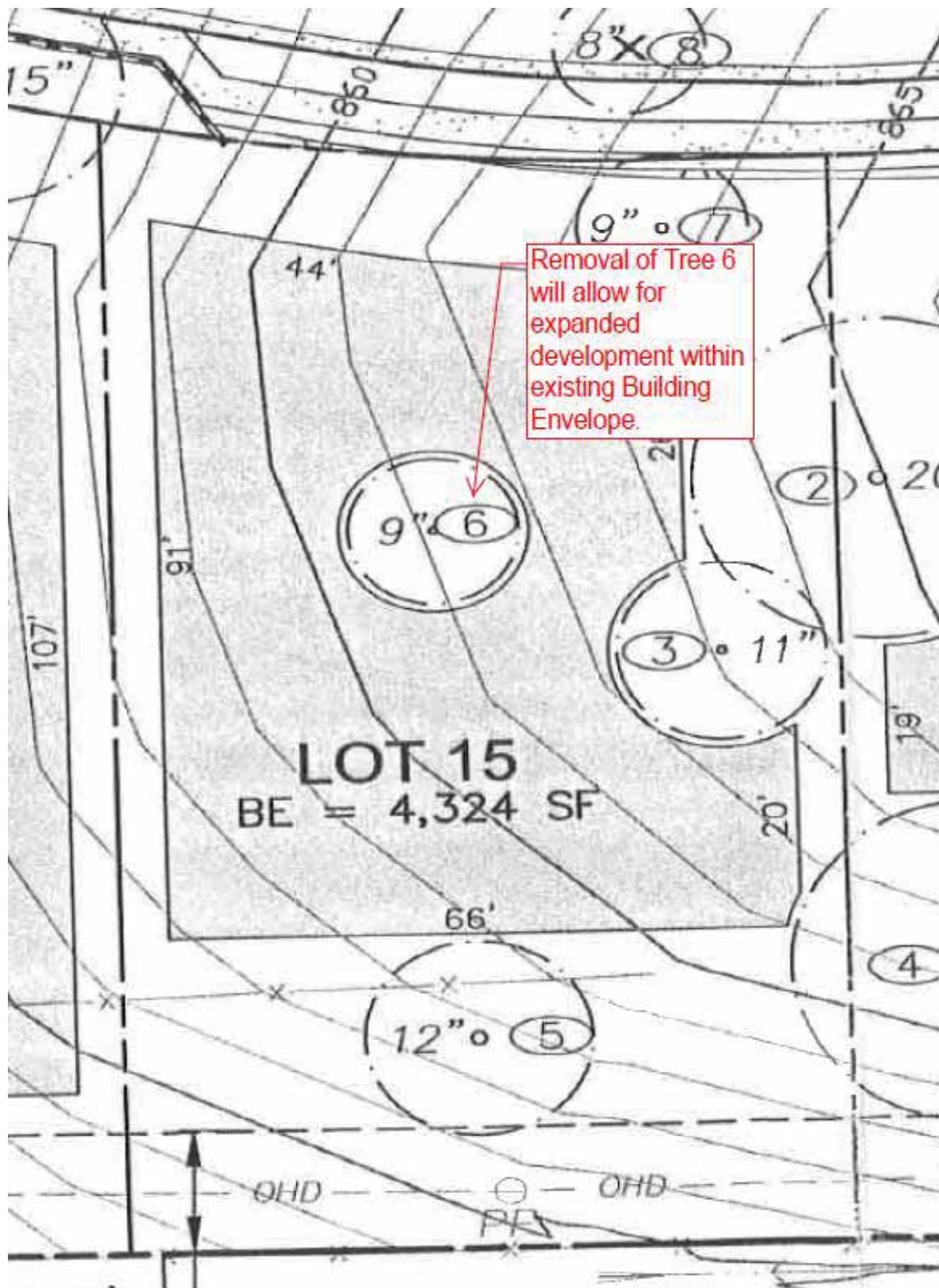
Facts

1. Lot 15 of Tract 2620 is a vacant lot located at 188 Via Magnolia; see Vicinity Map, Attachment 1.
2. Michael Harrod is in the process of developing plans to build a home on the lot. The lot has four other oak trees and will remain and be protected with the lot development.
3. With the approval of Tract 2620, the Planning Commission also approved PD 04-016 which approved a Development Plan for the Tract that included building envelopes on each lot, See Attachment 2. The building envelopes are areas outside of oak tree Critical Root Zones (CRZ) where homes would be built. As part of this oak removal request the applicant is also requesting to modify the building envelope/development plan for Lot 15.
4. Tree No. 6 is a 10.5-inch Blue Oak, that was originally planned to be preserved. Robert Schreiber, Certified Arborist, has evaluated Tree No. 6 and indicates that approximately one-half to two-thirds of the branches are dead, that the only green foliage is “sucker-growth”, there are signs of past branch failures, and there is damage to the bark of the tree at the base of the tree. See Arborist Report, Attachment 5.
5. 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. 6 – Lot 15 Tract 2620



Development Plan/Building Envelope - Lot 15



Options

1. Approve Draft Resolution A, approving OTR 17-009, authorizing the removal of Tree No. 6 (10.5-inch Blue Oak) based on the tree being in poor health, as indicated in the Arborist Report and require two (2) 1.5-inch diameter Blue Oak replacement trees (or one 1.75-inch diameter replacement tree) be planted on site at the direction of the Arborist., and approve Draft Resolution B approving a modified Development Plan for Lot 7.
2. Denial OTR 17-009 with findings and require the oak trees to remain and be protected.
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;*

Based on the Arborist indicating that the tree is in poor condition and has low aesthetic value, the tree appears to be good candidate for removal.

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;*

It is possible for the project to be constructed in a manner that could retain the trees. The Arborist concludes that the trees are in poor condition. Given that the tree is currently in poor condition, and furthermore, it is anticipated that there could be further impacts to the trees as a result of construction of the project, removal would seem to be the best option.

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;*

If the tree is allowed to be removed, there are many other trees that 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.*
The removal of the trees will require replacement trees to be planted on site, unless Council decides to waive the requirement. Additionally; the remaining oak trees on site will be protected.

Option 1:

Approve the tree removal and amend the building envelope for Lot 15. After taking in consideration recommendation by the project Arborist to remove the trees, and consideration of the factors listed in Section 10.01.050.D (listed above) authorize the removal of the Tree No. 1683. Based on the tree removal being part of a new development, require replacement trees to be planted as mitigation to the tree removal.

Option 2:

Deny tree removals. The project was originally approved with the preservation of Tree No. 6.

Option 3:

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

Fiscal Impact

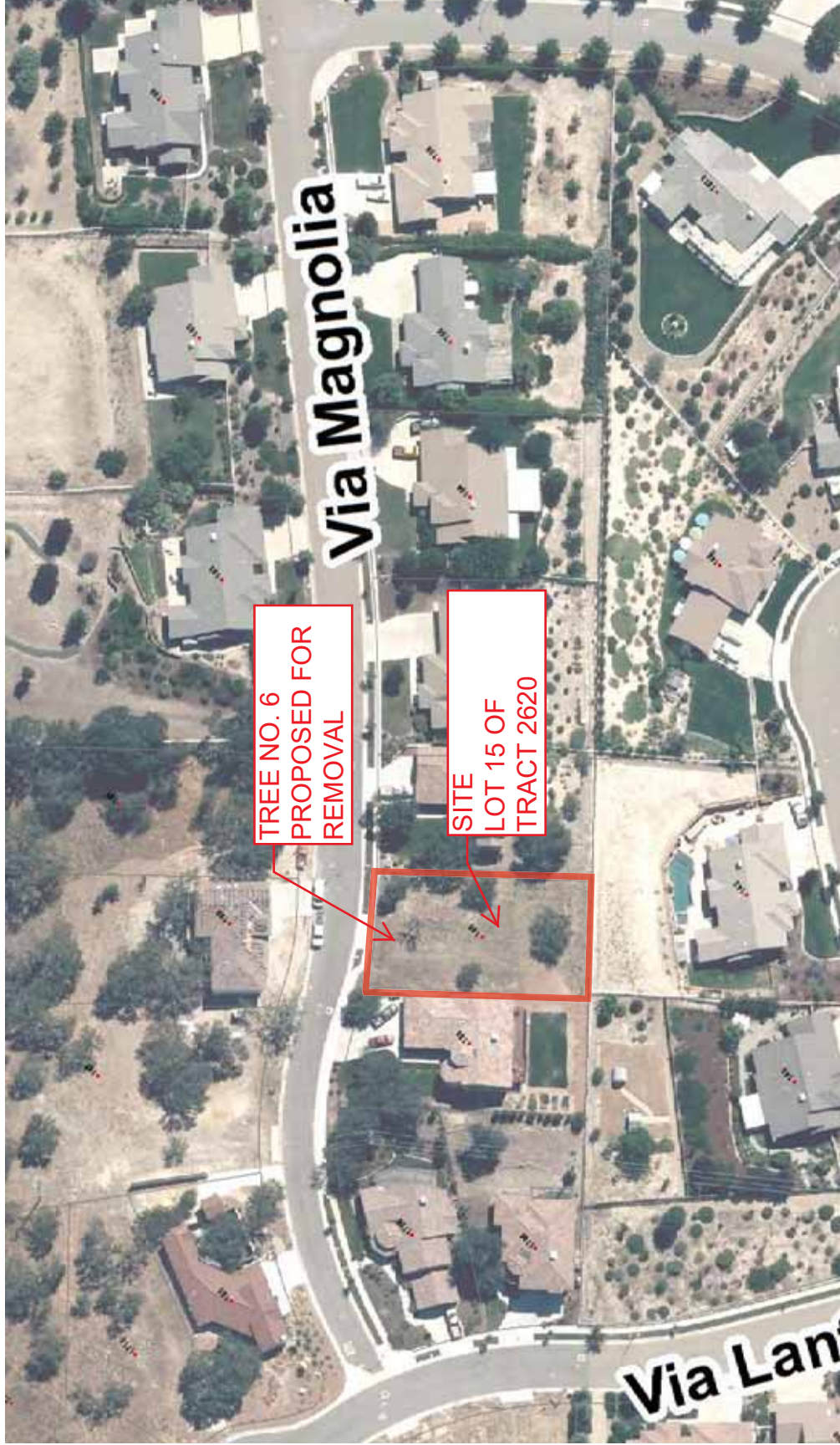
There is not a fiscal impact to the City related to this oak tree removal request. Oak trees can provide value to a property, and be an aesthetic value to the City as a whole.

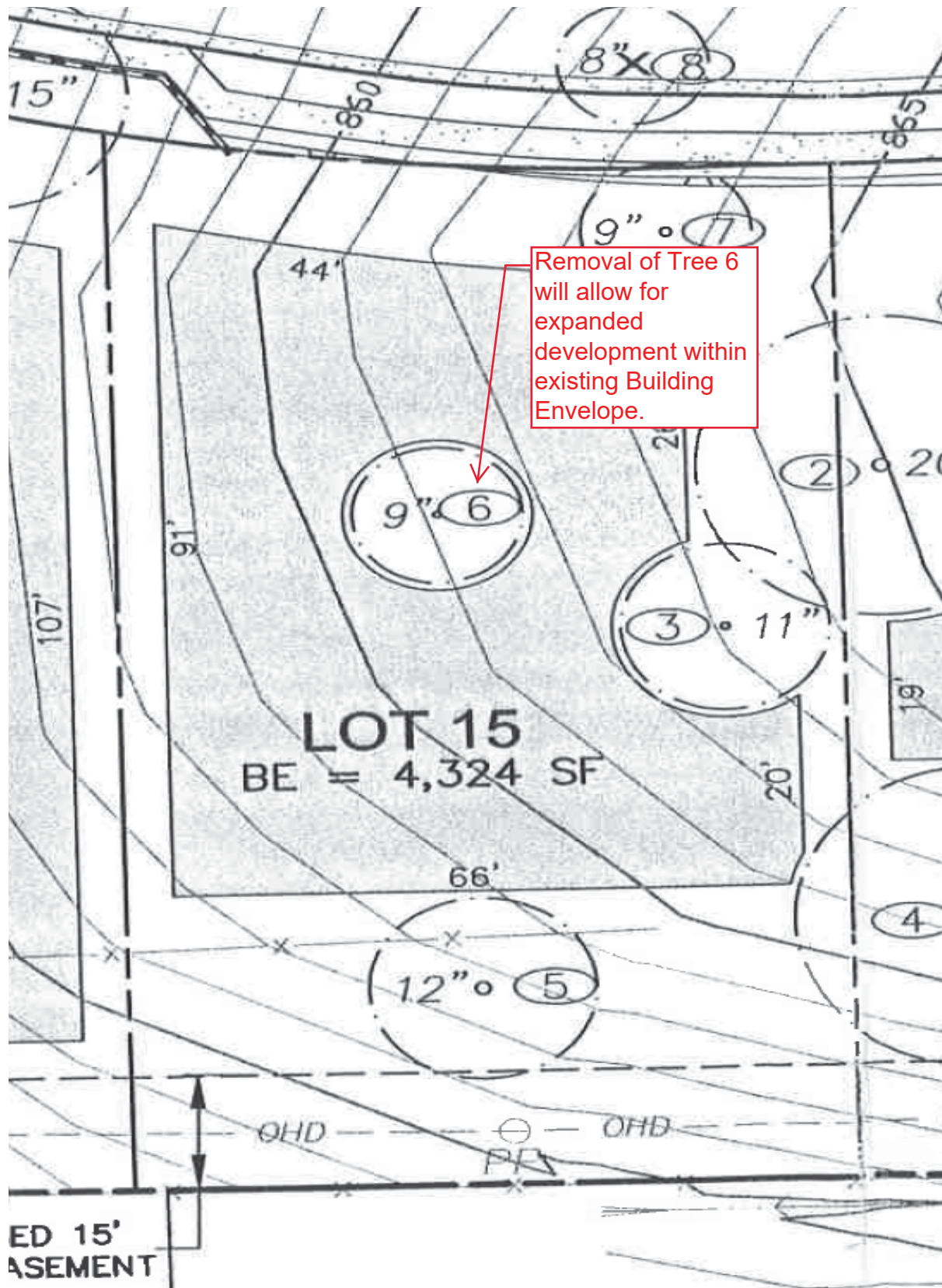
Recommendation

1. Approve Draft Resolution A, approving OTR 17-009, authorizing the removal of Tree No. 6 (10.5-inch Blue Oak) based on the tree being in poor health, as indicated in the Arborist Report and require one 1.75-inch diameter Blue Oak replacement trees (or a reduced number of larger diameter replacement trees adding up to 1.75-inches) be planted on site at the direction of the Arborist.
2. Approve Draft Resolution B, approving a modified building envelope/development plan for Lot 15.

Attachments

1. Vicinity Map
2. Lot Dev. Plan
3. Draft Resolution A - Approval the removal of the tree
 - a. Arbor First - Arborist Report
4. Draft Resolution B – Approval of a modified development plan for Lot 7.





Attachment 3

Draft Resolution A

RESOLUTION 17-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING THE REMOVAL OF ONE 10.5-INCH DIAMETER BLUE OAK TREE
AT 188 Via Magnolia – LOT 15 TRACT 2620 (OTR 17-009)
(MICHAEL HARROD)

WHEREAS, Michael Harrod has submitted a request to remove one oak tree on Lot 15 of Tract 2620, located at 188 Kleck Road; and

WHEREAS, the tree proposed to be removed is one 10.5-inch diameter Blue Oak; and

WHEREAS, Robert Schreiber, Certified Arborist, has evaluated Tree No. 6 and indicates that approximately one-half to two-thirds of the branches are dead, that the only green foliage is “sucker-growth”, there are signs of past branch failures, and there is damage to the bark of the tree at the base of the tree, as described in the Arborist Report, Attachment 5; and

WHEREAS, if the tree is approved to be removed, there are four other oak trees on the site that would be preserved; and

WHEREAS, since the tree was shown to be saved on an approved Development Plan and the tree shows signs of growth, 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. Findings. The City Council finds the factors outlined in Section 10.01.050.D, and the information provided by the Arborist, justify the removal of the 10.5-inch Blue Oak tree, based on the tree being in poor health and in danger of falling, as indicated in Exhibit A.

Section 3. Mitigation. One (1) 1.75-inch diameter blue oak tree replacement tree shall be planted on site at the direction of the Arborist to mitigate the visual impact of the tree’s removal.

APPROVED this 20th day of June, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

Exhibits

A. Robert Schreiber Arborist Report



Robert Schreiber

Tree & Environmental Specialist
ISA Certified Arborist #FL-0314A
ASCA Academy Graduate
170 Terra St., Morro Bay, CA 93442
805-441-3715

May 19, 2017

Mr. Michael J. Harrod
Harrod Home Construction
2530 Beechwood Drive
Paso Robles, CA 93446

via e-mail
mhhomeconstruction@gmail.com

SUBJECT: OAK TREE EVALUATIONS
188 VIA MAGNOLIA
PASO ROBLES, CA

This report includes an analysis of one (1) Blue Oak tree (*Quercus douglasii*) located on an empty lot in Paso Robles, CA. The report is intended for use by the property owner/agents and the city of Paso Robles.

TREE CHARACTERISTICS:

Initial Examination: May 18, 2017

Tree #1 – BLUE OAK [see figures 1, 2 & 3]

DSH (diameter at standard height): 10.6”

Height: +/- 12 feet

Spread: +/- 15 feet

Age: Mature

Health: POOR

OBSERVATIONS:

The Blue Oak tree (*Quercus douglasii*) #1 is located on an empty lot in a residential subdivision. There is approximately one-half to two-thirds dead branches. Excessive sucker growth is the only green foliate growth. Sign of prior branch breakage are evident. Bark near the root ball has evidence of prior injury with no evidence of healing.

ANALYSIS:

Tree #1 (described above) is clearly in severe declining health. The foliage evident is merely succor growth and will not sustain the tree for long. Comparing the health of the subject tree to others on the lot clearly indicate that the tree will not survive another summer with no precipitation. As the tree continues to decay, there is a potential for total failure in a short period of time.

RECOMMENDATIONS:

Based on the overall health of the tree, it is recommended that it be removed and replaced elsewhere on the lot by another native tree with a stronger potential for survival.

CONCLUSION:

The health of the tree will not be improved by any measures. The potential for additional limb failure and/or total tree failure is extremely high. This tree should be removed and replaced with a compatible native species.

A handwritten signature in cursive script that reads "Robert Schreiber".

.Robert Schreiber
ISA Certified Arborist
#FL0314A

Figure 1



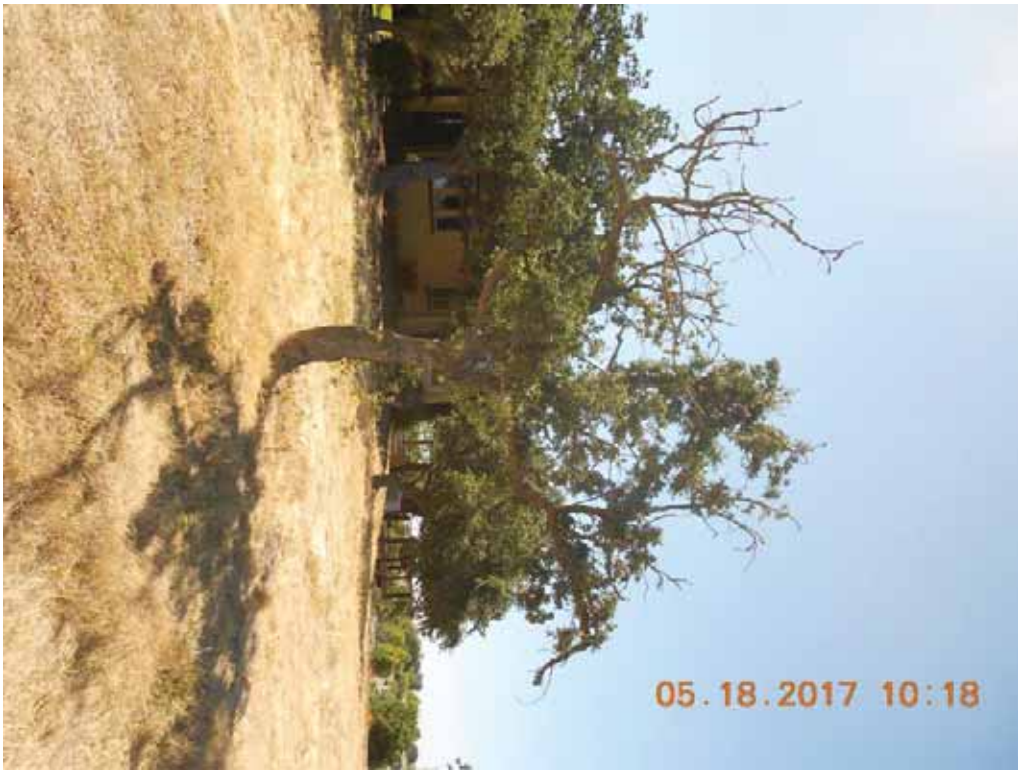
Figure 2



Figure 3



Figure 4



TERMS OF ASSIGNMENT

The following terms and conditions apply to all oral and written reports and correspondence pertaining to the consultations inspections and activities of Arbor First:

1. All property lines and ownership of property, trees, and landscape plants and fixtures are assumed to be accurate and reliable as presented and described to the consultant, either verbally or in writing. The consultant assumes no responsibility for verification of ownership or locations of property lines, or for results of any actions or recommendations based on inaccurate information.
2. It is assumed that any property referred to in any report or in conjunction with any services performed by Arbor First, is not in violation of any applicable codes, ordinances, statutes, or other governmental regulations, and that any titles and ownership to any property are assumed to be good and marketable. Any existing liens and encumbrances have been disregarded, and any and all property is appraised and/or assessed as though free and clear, under responsible ownership and competent management.
3. All reports and other correspondence are confidential and are the property of Arbor First and its named clients and their assigns or agents. Possession of this report or a copy thereof does not imply any right of publication or use for any purpose, without the express permission of the consultant and the client to whom the report was issued. Loss, removal or alteration of any part of a report invalidates the entire appraisal/evaluation.
4. The scope of any report or other correspondence is limited to the trees and conditions specifically mentioned in those reports and correspondence. Arbor First and the consultant assume no liability for the failure of trees or parts of trees, either inspected or otherwise. The consultant assumes no responsibility to report on the condition of any tree or landscape feature not specifically requested by the named client.
5. All inspections are limited to visual examination of accessible parts, without dissection, excavation, probing, boring or other invasive procedures, unless otherwise noted in the report, and reflect the condition of those items and features at the time of inspection. No warrantee or guarantee is made, expressed or implied, that problems or deficiencies of the plants or the property will not occur in the future, from any cause. The consultant shall not be responsible for damages caused by any tree defects, and assumes no responsibility for the correction of defects or tree related problems.
6. The consultant shall not be required to provide further documentation, give testimony, be deposed, or to attend court by reason of this appraisal/report unless subsequent contractual arrangements are made, including payment of additional fees for such services as described by the consultant or in the fee schedules or contract.
7. Arbor First makes no warrantee, either expressed or implied, as to the suitability of the information contained in any reports or correspondence, either written or verbal, for any particular purpose. It remains the responsibility of the client to determine applicability to his/her particular case.
8. Any report and the values, observations, and recommendations expressed therein represent the professional opinion of the consultant and the fee for services is in no manner contingent upon the reporting of a specified value nor upon any particular finding to be reported.
9. Any photographs, diagrams, graphs, sketches, or other graphic material included in any report, being intended solely as visual aids, are not necessarily to scale and should not be construed as engineering reports or surveys, unless otherwise noted in the report. Any reproductions of graphic material or the work product of any other persons is intended solely for the purpose of clarification and ease of reference. Inclusion of said information does not constitute a representation by Arbor First or the consultant as to the sufficiency or accuracy of that information.
10. Payment terms are net payable upon receipt of invoice. All balances due beyond 30 days of invoice date will be charged a service fee of 1.5 percent per month (18 % APR). All checks returned for insufficient funds or any other reason will be subject to a \$30.00 service fee. Advance payment of fees may be required in some cases.

Attachment 4

Draft Resolution B

RESOLUTION 17-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROVING A MINOR MODIFICATION TO THE DEVELOPMENT PLAN BUILDING
ENVELOPE FOR LOT 15 OF TRACT 2620
AT 188 VIA MAGNOLIA – (OTR 17-009)
(MICHAEL HARROD – APN 025-523-082)

WHEREAS, Tract 2620 was approved by the Planning Commission along with PD 04-016 in March 2005, via Resolutions 05-028, 05-029 & 05-030; and

WHEREAS, Tract 2620 is located on Via Magnolia and Via Lantan; and

WHEREAS, in order to insure that there was a sufficient building envelope on each lot that protected the oak trees, an Oak Tree Location and Lot Development Plan was prepared; and

WHEREAS, on June 20, 2017, the City Council approved the removal of Tree No. 6 on Lot 15, based on the tree being in poor condition; and

WHEREAS, with the removal of the tree, the applicant is requesting that the City Council approved a modified Lot Development Plan for the lot 15 as shown in Exhibit A; and

WHEREAS, as a result of the City Council approving the removal of Tree No. 6, the building envelope for the lot can be expanded consistent with the intent of the original project approval; and

WHEREAS, since the building envelope expansion will not result in additional impacts to the remaining oak trees on the lot, a public hearing is not required; 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 Findings. Based upon the facts and analysis presented in the staff report, public testimony received and subject to the conditions listed below, the City Council makes the following findings as required by Government Code Sections 66474 and 65457:

1. Modifying the building envelope for Lot 15 to correspond with the removal of Tree No. 6, would allow for additional area on the lot to build a home in a manner that would preserve the remaining oak trees on the Lot 15.

Section 3. Approval. The City Council does hereby approve a modified Lot Development Plan of Lot 15 of Tract 2620 /PD 04-016, subject to the following conditions of approval:

1. The building envelope of Lot 15 of Tract 2620 can be modified as shown on Exhibit A of this resolution.

APPROVED this 20th day of June, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

Exhibits

A. Lot 15 Amendment Building Envelope

