



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
January 20, 2009

Honorable Members of the  
Law and Legislation Committee

**Title:** Change the Appeal Hearing Body for Decisions on Tree Removal and Maintenance Permits (M08-042)

**Location/Council District:** Citywide

**Recommendation:** Review an **Ordinance** amending Titles 2 and 12 of the City Code relating to appeals of decisions on tree removal and maintenance permits, and forward a recommendation of approval to the City Council.

**Contact:** Sandra Yope, Senior Planner, (916) 808-7158; Joy Patterson, Principal Planner, (916) 808-5607; Joe Benassini, Urban Forest Manager, 808-6258

**Presenter:** Sandra Yope, Senior Planner, (916) 808-7158

**Departments:** Development Services and Transportation

**Divisions:** Current Planning and Urban Forestry

**Organization No:** 21001010

## **Description/Analysis:**

**Issue:** In January 2008, the Division of Urban Forestry was moved from the Department of Parks and Recreation to the Department of Transportation. The current process to remove either a street tree or a heritage tree requires a permit issued by the designated representative of the Director of the Department of Transportation. Any party who objects to the director's decision may appeal the decision to the Parks and Recreation Commission. When the Division of Urban Forestry was previously a part of the Parks and Recreation Department, the appeal to that commission was a logical progression. Now the tree removal permit process does not include any interaction with the Department of Parks and Recreation; therefore, the hearing body for the appeals should be changed to an appropriate body for the Department of Transportation. The Department of Transportation works closely with the Department of Development Services in many development related issues and projects. The common hearing commission for both related to development is the Planning Commission. Therefore, staff proposes to change the code to have appeals of the Director's

tree removal decisions be heard by the Planning Commission and follow the appropriate noticing and call up provisions of Title 17, the Zoning Code, relating to Planning Commission hearings and call up procedures.

Additionally, certain members of the Parks and Recreation Commission have expressed a need to review and revise the applicable City Code sections in order to streamline permitting processes, rectify inconsistencies and gaps, add clarity, and ensure that they meet the current needs of the City's various communities. Chief among concerns is that under the current provisions, appeals of the decision of the Director in regards to tree impacts related to development projects are appealed to the Parks and Recreation Commission, which does not actively participate in approval of development projects. As a result, decisions regarding development projects are separated from decisions regarding those project's impacts to heritage or street trees.

Staff has prepared an ordinance that proposes amendments to Title 12, Streets, Sidewalks and Public Places to change the hearing body for appeals of tree removal permit decisions made by the Director of Transportation. The hearing body will be changed from the Parks and Recreation Commission to the Planning Commission. The decision of the Planning Commission, like that of the Parks and Recreation Commission, will be final but subject to call up by the mayor or the council member of the district that the tree is located in.

**Policy Considerations:** The proposed ordinance is consistent with the City's Strategic Plan goal, to achieve sustainability and livability and foster economic development in the City of Sacramento.

**Committee/Commission Action:** The proposed code amendments were presented to the Urban Forestry Advisory Committee on December 8, 2008 and to the Parks and Recreation Commission (PRC) on January 8, 2009. The Commission voted 5 ayes, 4 noes, and one abstention to forward the proposed code language change to the Law and Legislation Committee. The Commission wanted the appeal hearing body of tree removals from any park to be retained by the PRC. The Commission also asked to clarify the number of days to file an appeal by adding the word "calendar". Staff did not make the change because it will be inconsistent with the remaining sections of Title 17 regarding appeals and the code already defines days to mean calendar days.

**Environmental Considerations:** The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15061(b) (3).

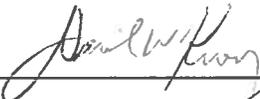
**Sustainability Considerations:** There are no sustainability considerations applicable to the change of hearing bodies for appeals of the tree removal permit decisions.

**Rationale for Recommendation:** The proposed code amendments will align the hearing body for appeals of tree removal permits to the appropriate commission

for the Department of Transportation and place the decision with the hearing  
body also reviewing the associated development project.

**Financial Considerations:** None.

**Emerging Small Business Development (ESBD):** No goods or services are being  
purchased under this report.

Respectfully Submitted by:   
David Kwong  
Planning Manager

Approved by:   
William Thomas  
Director of Development Services

Approved by:   
Jerry Way  
Director of Transportation

Recommendation Approved:

  
RAY KERRIDGE  
City Manager

**Table of Contents:**

Report	Pg	1
<b>Attachments:</b>		
1 Urban Forestry Advisory Committee Staff Summary	Pg	4
2 Title 12, Streets, Sidewalks and Public Places Ordinance, relating to Appeals of Decisions on Tree Removal and Maintenance Permits Redlined	Pg	6
3 Title 12, Streets, Sidewalks and Public Places Ordinance, relating to Appeals of Decisions on Tree Removal and Maintenance Permits	Pg	10

**URBAN FORESTRY ADVISORY COMMITTEE  
Staff Summary**

**MEETING DATE** December 8, 2008  
**SUBJECT:** Proposed Ordinance Change for Appeals of Director's  
**Decision**

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**ISSUE**

Sacramento City Code 12.56.120 (Trees Generally – Appeals) and 12.64.060 (Heritage Trees – Appeals) require that any appeal to a decision of the Director regarding protected trees be heard by the Parks and Recreation Commission. In many cases, appeals regarding decisions are related to development projects which are approved by a separate body, most often the Planning Commission. This separation of authority results in an uncoordinated development review and approval process and can potentially put the Planning Commission and the Parks and Recreation Commission's decisions in conflict. Development Services Department staff and Urban Forestry Division staff propose to amend SCC 12.56.120 and 12.64.060 to assign appeals of decisions of the Director to the Planning Commission in an effort to streamline the tree permit decision process.

**BACKGROUND INFORMATION:**

Urban Forestry Services, the Development Services Department, and certain members of the Parks and Recreation Commission have expressed a need to review and revise Sacramento City Code 12.56 – Trees Generally, and 12.64 – Heritage Trees, in order to streamline permitting processes, rectify inconsistencies and gaps, add clarity, and ensure that they meet the current needs of the City's various communities. Chief among concerns is that under the current provisions, appeals of the decision of the Director in regards to tree impacts related to development projects are appealed to the Parks and Recreation Commission, which does not actively participate in approval of development projects. As a result, decisions regarding development projects are separated from decisions regarding those project's impacts to heritage or street trees.

This process results in a poorly coordinated development review and approval effort and confusion over the final authority in regards to development that impacts protected trees. In an effort to rectify these inconsistencies while the balance of the ordinances are revised, the Development Services Department has proposed that SCC 12.56.120 – (Trees Generally – Appeals) and SCC 12.64.060 – (Heritage Trees – Appeals), be amended to shift responsibility for those appeals to the City of Sacramento Planning Commission.

Staff Summary  
Urban Forestry Services Committee  
December 8, 2008

Urban Forestry Services originally included an intention to propose this shift where trees are impacted by development projects as a part of the complete ordinance review. Based on earlier stated concerns by the Parks and Recreation Chair and others, staff supports a separate ordinance amendment to do so under the premise that the approving body should consider all project impacts, including impacts to protected trees. Under the proposed language, however, all appeals, including those that are related to owner-occupant permit applications, would be transferred. The committee may wish to consider whether it wishes to retain the responsibility to hear appeals related to park trees as well as those brought by owner-occupants outside the development review process.

A copy of the ordinance changes are attached for your review, including a clean and marked version. Staff requests that the Parks and Recreation Commission's Urban Forestry Committee review the proposed language and provide comments on this issue.

**Redlined  
ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AMENDING SECTIONS 2.62.030, 12.56.120 AND 12.64.060 OF THE  
SACRAMENTO CITY CODE RELATING TO APPEALS  
OF DECISIONS ON TREE REMOVAL AND  
MAINTENANCE PERMITS**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.** Section 2.62.030 of the Sacramento City Code is amended as follows:

A. Subsection (E) of section 2.62.030 is amended to read as follows:

E. To hear appeals from decisions of the director of ~~parcs and recreation~~transportation relating to heritage trees located in city parks ~~maintenance and removal~~ pursuant to Sections ~~12.56.120 and~~ 12.64.060 of this code.

B. Except as specifically amended as set forth in subsection A., above, section 2.62.030 shall remain unchanged and in full force and effect.

**SECTION 2.** Section 12.56.120 of the Sacramento City Code is amended to read as follows;

12.56.120 Appeals.

A. Appeal to City Planning Commission.

Any person who is denied a permit to remove or maintain a city street tree pursuant to Section 12.56.070 or who objects to the removal of a street tree pursuant to Section 12.56.040 ~~or Section 12.56.070 of this chapter~~ shall be entitled to meet personally with the director to review the permit application or proposed work and. ~~Any person aggrieved by the director's decision~~ may appeal the director's such decision to the city planning parks and recreation commission by filing a written notice of appeal with the city planning commission secretary/city clerk within ten (10) days of the date of the director's final decision. The notice shall clearly specify the action or determination appealed from, and the reasons for which a hearing is requested. The filing of the notice

of appeal shall be accompanied by the fee specified in the city fee and charge report for an appeal to the city planning commission.

B. Appeal Hearing and Decision.

Except as expressly provided otherwise in this section, the appeal hearing before, and the decision of, the city planning commission on an appeal under this chapter shall be governed in all respects by Chapter 17.200 of this code.

C. Notice of Appeal Hearing.

Notice of the appeal hearing shall be given by posting and by mail pursuant to subsection (C)(2)(d) of Section 17.200.010, except that the notice by mail required by subsection (C)(2)(d)(ii)(C) of Section 17.200.010 shall be given to the owners of real property located within five hundred (500) feet of the subject real property.

D. Decision.

The decision of the city planning commission shall be final and shall not be subject to appeal, but shall be reported to and shall be subject to call-up for consideration by the city council as provided in Section 17.200.040.

~~The decision of the commission shall be final.~~

~~\_\_\_\_\_ The secretary of the commission shall be forthwith make a report of its decision to the city council. The decision may be called up for city council review by any member of the city council. To initiate a call-up of a decision, the member shall file a written request with the secretary of the commission within ten (10) calendar days of the date of the secretary's report to the city council. Upon the filing of a request by the member, the city council shall notice and set the matter for hearing before it. Notice of the hearing shall be given in the same manner as notice was given for the hearing before the commission. The hearing before the city council shall be de no~~

**SECTION 3.** Section 12.64.060 of the Sacramento City Code is amended to read as follows:

12.64.060 Maintenance responsibility—Appeal of decision of director.

A. Appeal to City Planning Commission.

Except as provided in subsection B., below, Any person dissatisfied with the decision of the director taken under this chapter may appeal such decision to the ~~parks and recreation~~ city planning commission. Such appeal shall be in writing, shall stateing the reasons ~~for the appeal therefor~~, and shall be filed with the secretary of the city planning commission not later than ten (10) ~~calendar~~ days after the date of the director's decision. The filing of the notice of appeal shall be accompanied by the fee specified in the city fee and charge report for an appeal to the city planning commission. ~~The secretary shall set the appeal for hearing at the next regular commission meeting that is no less than fifteen (15) business days after the appeal is filed.~~

B. Appeal to Parks and Recreation Commission.

Any person dissatisfied with the decision of the director taken under this chapter relating to a heritage tree located in a city park, as defined in section 12.72.010 of this title, may appeal such decision to the parks and recreation commission. Such appeal shall be in writing, shall state the reasons for the appeal, and shall be filed with the secretary of the parks and recreation commission not later than ten (10) days after the date of the director's decision. The filing of the notice of appeal shall be accompanied by the fee specified in the city fee and charge report.

C. Appeal Hearing and Decision.

Except as expressly provided otherwise in this section, the appeal hearing before, and the decision of, the city planning commission or the parks and recreation commission on an appeal under this chapter shall be governed in all respects by Chapter 17.200 of this code.

D. Notice of Appeal Hearing.

1. Notice of an appeal hearing on a decision of the director for a tree removal permit under section 12.64.050(C)(1) shall be given by posting and by mail pursuant to subsection (C)(2)(d) of Section 17.200.010, except that the notice by mail required by subsection (C)(2)(d)(ii)(C) of Section 17.200.010 shall be given to the owners of real property located within five hundred (500) feet of the subject real property.

2. Notice of an appeal hearing on a decision of the director not subject to subsection (C)(1), above, shall be given by mail pursuant to subsection (C)(2)(d)(ii) of Section 17.200.010, except that notice shall be given only to the appellant, the owner of the property affected where the owner is not the appellant, those persons who appeared and identified themselves for the record before the person before which the original hearing was held, and those persons who request in writing to be notified of any further proceedings on the matter or who otherwise have requested notice in writing of the hearing. Notice of time and place of the hearing shall be given to the appellant at least ten (10) calendar days in advance thereof by mail, postage prepaid.

E. Decision.

The decision of the city planning commission or the parks and recreation commission shall be final and shall not be subject to appeal, but shall be reported to and shall be subject to call-up for consideration by the city council as provided in Section 17.200.040.

The secretary of the commission shall forthwith make a report of its decision to the city council. The decision may be called up for city council review by any member of

~~the city council. To initiate a call-up of a decision, the member shall file a written request with the secretary of the commission within ten (10) calendar days of the date of the secretary's report to the city council. Upon the filing of a request by the member, the city council shall notice and set the matter for hearing before it. Notice of the hearing shall be given in the same manner as notice was given for the hearing before the commission. The hearing before the city council shall be de novo.~~

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AMENDING SECTIONS 2.62.030, 12.56.120 AND 12.64.060 OF THE  
SACRAMENTO CITY CODE RELATING TO APPEALS  
OF DECISIONS ON TREE REMOVAL AND  
MAINTENANCE PERMITS**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.** Section 2.62.030 of the Sacramento City Code is amended as follows:

A. Subsection (E) of section 2.62.030 is amended to read as follows:

E. To hear appeals from decisions of the director of transportation relating to heritage trees located in city parks pursuant to Section 12.64.060 of this code.

B. Except as specifically amended as set forth in subsection A., above, section 2.62.030 shall remain unchanged and in full force and effect.

**SECTION 2.** Section 12.56.120 of the Sacramento City Code is amended to read as follows;

**12.56.120 Appeals.**

A. Appeal to City Planning Commission.

Any person who is denied a permit to remove or maintain a city street tree pursuant to Section 12.56.070 or who objects to the removal of a street tree pursuant to Section 12.56.040 shall be entitled to meet personally with the director to review the permit application or proposed work and may appeal the director's decision to the city planning commission by filing a written notice of appeal with the city planning commission secretary within ten (10) days of the date of the director's final decision. The notice shall clearly specify the action or determination appealed from, and the reasons for which a hearing is requested. The filing of the notice of appeal shall be accompanied by the fee specified in the city fee and charge report for an appeal to the city planning commission.

B. Appeal Hearing and Decision.

Except as expressly provided otherwise in this section, the appeal hearing before, and the decision of, the city planning commission on an appeal under this chapter shall be governed in all respects by Chapter 17.200 of this code.

D. Notice of Appeal Hearing.

Notice of the appeal hearing shall be given by posting and by mail pursuant to subsection (C)(2)(d) of Section 17.200.010, except that the notice by mail required by subsection (C)(2)(d)(ii)(C) of Section 17.200.010 shall be given to the owners of real property located within five hundred (500) feet of the subject real property.

E. Decision.

The decision of the city planning commission shall be final and shall not be subject to appeal, but shall be reported to and shall be subject to call-up for consideration by the city council as provided in Section 17.200.040.

**SECTION 3.** Section 12.64.060 of the Sacramento City Code is amended to read as follows:

12.64.060 Appeal of decision of director.

A. Appeal to City Planning Commission.

Except as provided in subsection B., below, any person dissatisfied with the decision of the director taken under this chapter may appeal such decision to the city planning commission. Such appeal shall be in writing, shall state the reasons for the appeal, and shall be filed with the secretary of the city planning commission not later than ten (10) days after the date of the director's decision. The filing of the notice of appeal shall be accompanied by the fee specified in the city fee and charge report for an appeal to the city planning commission.

B. Appeal to Parks and Recreation Commission.

Any person dissatisfied with the decision of the director taken under this chapter relating to a heritage tree located in a city park, as defined in section 12.72.010 of this title, may appeal such decision to the parks and recreation commission. Such appeal shall be in writing, shall state the reasons for the appeal, and shall be filed with the secretary of the parks and recreation commission not later than ten (10) days after the date of the director's decision. The filing of the notice of appeal shall be accompanied by the fee specified in the city fee and charge report.

C. Appeal Hearing and Decision.

Except as expressly provided otherwise in this section, the appeal hearing before, and the decision of, the city planning commission or the parks and recreation commission on an appeal under this chapter shall be governed in all respects by Chapter 17.200 of this code.

D. Notice of Appeal Hearing.

1. Notice of an appeal hearing on a decision of the director for a tree removal permit under section 12.64.050(C)(1) shall be given by posting and by mail pursuant to subsection (C)(2)(d) of Section 17.200.010, except that the notice by mail required by subsection (C)(2)(d)(ii)(C) of Section 17.200.010 shall be given to the owners of real property located within five hundred (500) feet of the subject real property.

2. Notice of an appeal hearing on a decision of the director not subject to subsection (C)(1), above, shall be given by mail pursuant to subsection (C)(2)(d)(ii) of Section 17.200.010, except that notice shall be given only to the appellant, the owner of the property affected where the owner is not the appellant, those persons who appeared and identified themselves for the record before the person before which the original hearing was held, and those persons who request in writing to be notified of any further proceedings on the matter or who otherwise have requested notice in writing of the hearing.

E. Decision.

The decision of the city planning commission or the parks and recreation commission shall be final and shall not be subject to appeal, but shall be reported to and shall be subject to call-up for consideration by the city council as provided in Section 17.200.040.