



**Parks and Recreation Commission  
November 1, 2007**

**AGENDA ITEM 5**

DEPARTMENT OF  
PARKS AND RECREATION  
Urban Forest Services

**CITY OF SACRAMENTO  
CALIFORNIA**

5730 24<sup>th</sup> Street  
Building 12A  
SACRAMENTO, CA  
95822

October 21, 2007

PH: 916-808-6345

Parks and Recreation Commission  
Sacramento, California

Honorable Members in Session:

**SUBJECT: Appeal of a Decision of the Director to Deny a Heritage Tree Removal Request**

**LOCATION AND COUNCIL DISTRICT:** 3119 Belden Street  
Council District 2

**RECOMMENDATION:** Staff recommends that the Parks and Recreation Commission hear this item de novo.

**CONTACT PERSON:** Joe Benassini, Urban Forest Services Manager (916) 808-6258  
Duane Goosen, City Arborist (916) 808-4996

**FOR COMMISSION MEETING:** November 1, 2007

**SUMMARY:**

On July 8, 2007, Mr. Sam Bousfield, representing the owner of the property at 3119 Belden Street, submitted an application for a permit to remove one valley oak tree (*Quercus lobata*) at that same property. The tree has a trunk diameter of 12 inches and is in good condition. Based on the Sacramento City Code – Heritage Trees (Attachment A), the tree is considered to be a heritage tree. The basis for the request is to allow development of the property to accommodate four single family residences (Attachment B). A public hearing was held on September 2, 2007 to allow opportunity for the applicant to be heard regarding the request. One neighbor spoke against issuance of a permit based on loss of privacy. The applicant was absent from the hearing. On September 19, 2007, findings and a decision was rendered that denied Mr. Bousfield's application based on the premise that the applicant failed to establish adequate criteria to allow removal of the tree (Attachment C). Mr. Bousfield has appealed the decision to the Parks and Recreation Commission.



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**BACKGROUND INFORMATION:**

Sacramento City Code, Title 12.64.050 (Maintenance responsibility—Permits for activities affecting heritage trees) requires that the Director or their designee hold a public hearing and notify certain property owners prior to acting on a request to remove a heritage tree. The permit must be issued if the director finds (a) that the heritage tree must be removed in order for the applicant to use the property for any use permitted as of right or by special permit under the city zoning ordinance for the zoning district in which the property is located and that such use could not be made of the property unless the tree is removed; or (b) that the condition of the tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety or welfare require its removal; or (c) that the tree or tree roots are causing, or threatening to cause, damage to any main structure on the owner's property; or (d) that the tree no longer meets the criteria for a heritage tree.

SCC 12.64.060 (Maintenance responsibility—Appeal of decision) allows that any person dissatisfied with the decision of the director may appeal such decision to the Parks and Recreation Commission, to be heard at the next regular meeting that is no less than 15 days from the date of the appeal. Mr. Bousfield appealed the decision of the Director on October 1, 2007.

**FINANCIAL CONSIDERATIONS:**

Urban Forest Services bears the administrative cost associated with all tree appeals.

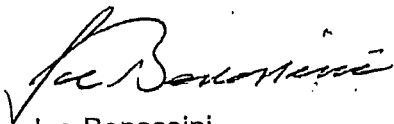
**ENVIRONMENTAL CONSIDERATIONS:**

This report concerns administrative activities that will not have a significant effect on the environment, and does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) [CEQA Guidelines Sections 15061(b) (3); 15378(b) (2)].

**ESBD CONSIDERATIONS:**

No goods or services are being purchased in association with this report.

Respectfully submitted,



Joe Benassini  
Urban Forest Services Manager

Attachment A – Sacramento City Code Title 12.64 (Heritage Trees)

Attachment B – Proposed Site Plan

Attachment C – Decision Denying the Application for Permit to Remove Heritage trees at  
3119 Belden Street

## Attachment A

### Chapter 12.64 HERITAGE TREES

#### 12.64.010 Intent and purpose.

It is the intent and purpose of this chapter to promote the health, safety, and welfare of present and future residents of the city by providing for the protection of significant specimen trees existing in the city. The protection of heritage trees will promote scenic beauty, enhance property values, reduce soil erosion, improve air quality, abate noise and provide shade to reduce energy consumption. (Prior code § 45.04.210)

#### 12.64.020 Definitions.

"Circumference" means circumference measured four and one-half feet above ground level.

"Director" means the director of the department of neighborhood services or the director's authorized representative.

"Drip line area" means the area measured from the trunk of the tree outward to a point at the perimeter of the outermost branch structure of the tree.

"Heritage tree" means:

1. Any tree of any species with a trunk circumference of one hundred (100) inches or more, which is of good quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape and location for its species.
2. Any native *Quercus* species, *Aesculus California* or *Platanus Racemosa*, having a circumference of thirty-six (36) inches or greater when a single trunk, or a cumulative circumference of thirty-six (36) inches or greater when a multi-trunk.
3. Any tree thirty-six (36) inches in circumference or greater in a riparian zone. The riparian zone is measured from the center line of the water course to thirty (30) feet beyond the high water line.
4. Any tree, grove of trees or woodland trees designated by resolution of the city council to be of special historical or environmental value or of significant community benefit. (Prior code § 45.04.211)

#### 12.64.030 Identification and inventory of heritage trees.

The director is authorized to identify and prepare an inventory of heritage trees within the city. (Prior code § 45.04.212)

#### 12.64.040 Protection of heritage trees during construction activity.

During construction activity on any property upon which is located a heritage tree, the following rules shall apply. Unless the express written permission of the director is first obtained, no person shall:

- A. Change the amount of irrigation provided to any heritage tree from that which was provided prior to the commencement of construction activity;
- B. Trench, grade or pave into the drip line area of a heritage tree;
- C. Change, by more than two feet, grade elevations within thirty (30) feet of the drip line area of a heritage tree;
- D. Park or operate any motor vehicle within the drip line area of any heritage tree;

- E. Place or store any equipment or construction materials within the drip line area of any heritage tree;
- F. Attach any signs, ropes, cables or any other items to any heritage tree;
- G. Cut or trim any branch of a heritage tree for temporary construction purposes;
- H. Place or allow to flow into or over the drip line area of any heritage tree any oil, fuel, concrete mix or other deleterious substance.

Where written permission of the director is sought under this section, the director may grant such permission with such reasonable conditions as may be necessary to effectuate the intent and purpose of this chapter. (Prior code § 45.04.216)

**12.64.050 Maintenance responsibility—Permits for activities affecting heritage trees.**

- A. A property owner shall be responsible for maintaining all heritage trees on the property owner's property.
- B. None of the following activities shall be performed by any person unless a permit therefor is first applied for by the property owner and granted by the director, subject to appeal provisions in Section 12.64.060 of this chapter.
  - 1. The removal of any heritage tree;
  - 2. Pruning of any heritage tree segment greater than twelve (12) inches in circumference or the placement of any chemical or other deleterious substance by spray or otherwise on any heritage tree;
  - 3. Disturbing the soil or placing any chemical or other deleterious substance or material on the soil within the drip line area of any heritage tree.
- C. The permit shall be granted by the director if he or she finds:
  - 1. In the case of removal, (a) that the heritage tree must be removed in order for the applicant to use the property for any use permitted as of right or by special permit under the city zoning ordinance for the zoning district in which the property is located and that such use could not be made of the property unless the tree is removed; or (b) that the condition of the tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety or welfare require its removal; or (c) that the tree or tree roots are causing, or threatening to cause, damage to any main structure on the owner's property; or (d) that the tree no longer meets the criteria for a heritage tree set forth in Section 12.64.020 of this chapter;
  - 2. In the case of any other activity for which a permit is required, that such activity is necessary either to preserve the heritage tree or to engage in construction activity on the property.
- D. In the case of removal of any heritage tree under subsection (C)(1) of this section, the director shall not act on such an application until a hearing is held thereon. Notice of the time and place of the hearing shall be posted in a conspicuous place on the real property upon which the heritage tree is located and shall be mailed to the applicant and to all owners of real property located within a five hundred (500) foot radius of the real property upon which the heritage tree is located. Notices shall be posted and mailed at least ten (10) days in advance of the hearing. As used herein, "owner" means the person to whom the property was assessed in the latest equalized assessment roll of the county of Sacramento unless the director has knowledge of a person other than such assessee claiming record ownership of the property.
- E. The director shall not act on any permit application unless the director has first given the permit applicant an opportunity to be heard thereon. Notice of the time and place at which the applicant may be heard shall be given to the applicant by mail, postage prepaid, at the address shown for the purpose in the application at least ten (10) days in advance thereof.

F. The decision of the director may be to grant, grant with conditions or deny any permit applied for and shall be rendered within fifteen (15) days after the application is filed. It shall be in writing and shall state the reasons therefor. Therefore it shall be mailed postage prepaid to the property owner. (Ord. 2004-006 § 4; prior code § 45.04.217)

#### **12.64.060 Maintenance responsibility—Appeal of decision.**

Any person dissatisfied with the decision of the director taken under this chapter may appeal such decision to the parks and recreation commission. Such appeal shall be in writing, stating the reasons therefore, and shall be filed with the secretary of the commission not later than ten (10) days after the date of the director's decision. The secretary shall set the appeal for hearing at the next regular commission meeting that is no less than fifteen (15) days after the appeal is filed. Notice of time and place of the hearing shall be given to the appellant at least ten (10) days in advance thereof by mail, postage prepaid. The decision of the commission shall be final.

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. (Ord. 2004-040 § 4; prior code § 45.04.218)

#### **12.64.070 Violation—Penalty.**

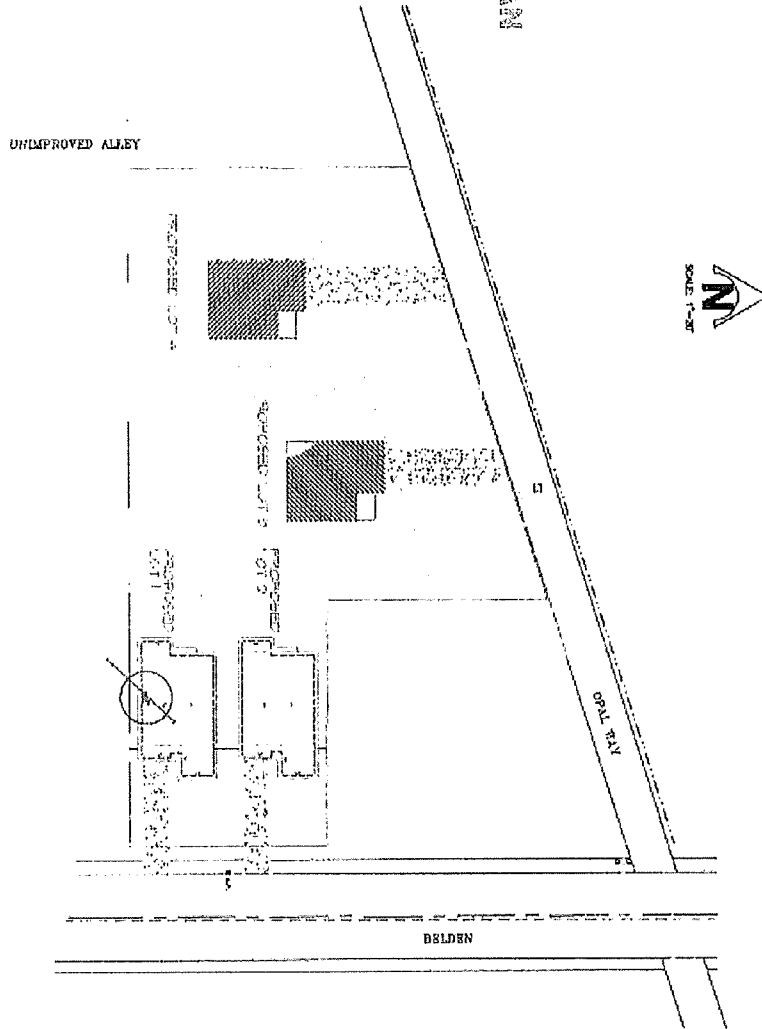
A. Any person who violates any provision of this chapter including, but not limited to, the property owner, a tenant, a licensed or unlicensed provider of tree services retained by the property owner or tenant, or a licensed or unlicensed provider of tree services acting without the consent of the property owner or tenant, is guilty of a misdemeanor which shall be punished by a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) or imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. For purposes of this chapter, "person" includes individuals, partnerships, corporations and other private and public entities.

B. Administrative Penalties. In addition to criminal sanctions and other remedies available to the city, administrative penalties may be imposed pursuant to Chapter 1.28 of this code against any person who violates the provisions of this chapter including, but not limited to, the property owner, a tenant, a licensed or unlicensed provider of tree services retained by the property owner or tenant, or a licensed or unlicensed provider of tree services acting without the consent of the property owner or tenant. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 1.28 of this code. (Ord. 2004-006 § 5; prior code § 45.04.219)

12" DBH VALLEY OAK TO BE REMOVED

PRELIMINARY  
LANDSCAPE PLAN


LEGEND



DR3

LANDSCAPE PLAN  
BULDEN 4-WAY

3119 BULDEN STREET, SACRAMENTO, CA

	3 AM BOUSTFIELD 	
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# Attachment C

## DECISION DENYING THE APPLICATION FOR A PERMIT TO REMOVE ONE HERITAGE TREE FROM 3119 BELDEN STREET, SACRAMENTO, CALIFORNIA

### FINDINGS AND DECISION

WHEREAS, Sam Bousfield, the authorized agent of the owner of the property located at 3119 Belden Street, Sacramento, California ("Property"), submitted an application for a permit pursuant to Sacramento City Code section 12.64.050 to remove one Valley Oak ("Tree") located on the Property.

WHEREAS, the Tree is a Valley Oak (*Quercus lobata*) with a trunk diameter of 12 inches; the Tree is in good condition.

WHEREAS, the property owner wishes to develop the property into four single family residences.

WHEREAS, pursuant to Sacramento City Code section 12.64.050(D), the authorized representative of the City of Sacramento's Director of the Department of Parks and Recreation ("Hearing Officer") held a hearing on the permit application on September 7, 2007; and

WHEREAS, the matter was submitted to the Director of the Hearing Officer for a decision.

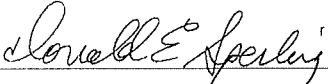
### FINDINGS

NOW, THEREFORE, based upon the testimony, evidence and other matters presented at the hearing, the Hearing Officer finds and decides as follows:

1. The Tree is a "Heritage tree," as defined in Sacramento City Code section 12.64.020 (2).
2. The property owner has not established any of the following: (a) that the Tree must be removed in order for the applicant to use the Property for any use permitted as of right or by special permit under the city zoning ordinance for the zoning district in which the Property is located and that such use could not be made of the Property unless the Tree is removed; or (b) that the condition of the Tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety or welfare require its removal; or (c) that the Tree or tree roots are causing, or threatening to cause, damage to any main structure on the owner's property; or (d) that the Tree no longer meets the criteria for a heritage tree set forth in Section 12.64.020.

### DECISION

For the above stated reasons, the application of Sam Bousfield, authorized agent of the owner of the Property, for a permit to remove the Tree from the Property is denied.

  
\_\_\_\_\_  
Donald E. Sperling, Parks and Recreation, Hearing Officer

Date: 9/19/07