



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Laurie B. Jester, Senior Planner

DATE: June 20, 2006

SUBJECT: Consideration of Planning Commission Approval of an Appeal of a Tree Permit Which Would Allow the Removal and Replacement of a Pine Tree, Located at 1213 North Meadows Avenue

RECOMMENDATION:

Staff recommends that the City Council **RECEIVE AND FILE** the decision of the Planning Commission to approve the removal and replacement of a Pine Tree in the front yard.

FISCAL IMPLICATION:

There are no direct fiscal implications associated with the recommended action.

BACKGROUND:

On March 14, 2006 the City received a tree permit application requesting removal of the 23 inch diameter Aleppo Pine Tree in the front yard. The application was received prior to the approval of the revised Tree Ordinance, which was adopted by the City Council on March 21, 2006 and became effective April 20th. The new regulations require that pruning conform to ANSI standards, while the Ordinance in effect at the time of the application had no pruning regulations. The letter submitted with the application states generally that the tree has caused considerable damage to the hardscape in the front yard. There was no mention of the pruning damage and no photos of the tree itself were submitted.

On March 30th Planning staff inspected the tree and found that it had been recently severely topped, but was still green, healthy, and pest-free. The tree currently stands only about 15 feet tall as approximately the top half of the tree was cut off. There were very minor cracks in the perimeter retaining wall, walkway, sidewalk, curb and gutter. Public Works staff also observed that there was insignificant damage from the tree to the public right-of-way. Staff contacted the property owner who stated that the tree had been pruned in the middle of February 2006 by a landscaper who they had a misunderstanding with. The property owner was at home when the pruning began, but they left and when they returned the job was completed.

On April 3rd Planning staff sent a letter to the property owners stating that their tree removal request did not meet the City's criteria for removal. Staff felt that it would not be appropriate to approve the application at the administrative level. On April 7th the City arborist visited the site. His comments indicate that prior to the pruning the tree was probably in decent condition. However, the extremely severe topping of the tree will inevitably lead to decay in the top of the trunk where the large cut was made, and the smaller lower remaining limbs of the tree are not large enough to become major limbs, and therefore the tree is not worth keeping.

On April 13th the Shabestaris submitted an appeal of the Directors decision. The appeal included a letter from a certified arborist at Travers Tree Service stating that the tree was cut in half and should be removed as the tree will die due to starvation, shock, insects, disease, and weak limbs. On May 9th a courtesy notice of the Planning Commission meeting on the appeal was mailed to all property owners within a 500 foot radius of the property, as well as members of the City Council appointed Tree Committee.

DISCUSSION:

The Planning Commission felt that based on the two arborists reports that the tree would not survive due to the severe pruning and therefore should be removed and replaced. The pruning took place prior to the new Tree Permit regulations, and the Commission felt that there was a miscommunication between the property owners and the tree trimmer. This type of pruning would be in clear violation of the new Tree Permit regulations. The Commission stated that since the applicant was cooperative and very willing to replace the tree that they would like staff to work with the applicant to determine the appropriate replacement trees.

The Planning Commission voted 5:0 to approve the appeal, thereby allowing the removal and replacement with two or three trees, minimum 36 inch box in size, one or possibly two on private property and one in the public right of way. The Commission felt that it was important to maintain the tree canopy for the future. One representative from the Tree Committee spoke in support of removal and replacement with three trees, two on private property and one in the public right of way. The importance of hiring a tree trimmer licensed by the State was emphasized as well as using this situation as an educational opportunity for the community.

Attachment: A. Planning Commission minutes, staff report and attachments dated May 24, 2006

cc: Tony and Donna Shabestari

D R A F T CITY OF MANHATTAN BEACH D R A F T
EXCERPTS MINUTES OF THE REGULAR MEETING OF THE PLANNING COMMISSION
MAY 24, 2006

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on
2 Wednesday, May 24, 2006, at 6:30 p.m. in the City Council Chambers, City Hall, 1400 Highland
3 Avenue.

4
5 **ROLL CALL**

6
7 Chairman Simon called the meeting to order.

8
9 Members Present: Bohner, Lesser, Savikas, Schlager, Chairman Simon
10 Members Absent: None
11 Staff: Richard Thompson, Director of Community Development
12 Rosemary Lackow, Senior Planner
13 Laurie Jester, Senior Planner
14 Sarah Boeschen, Recording Secretary
15

16 **BUSINESS ITEMS**

17
18 **A. Consideration of an Appeal of an Administrative Decision to Deny a Tree Permit for**
19 **Removal of an Aleppo Pine Tree at 1213 North Meadows Avenue**

20
21 Senior Planner Jester summarized the staff report. She indicated that the application was
22 submitted in March of 2006 before the new Tree Ordinance was enacted and the Code at that
23 time included no pruning guidelines. She indicated the application expressed concern that the
24 tree roots were causing damage to the applicant's sewer system, retaining wall, and walkway.
25 She indicated that the tree permit application did not mention the damage caused by the pruning,
26 and in later conversations the applicants stated that the pruning damage occurred after they had
27 planned to remove the tree. The applicant stated there was a miscommunication with the
28 landscaper that pruned the tree. She stated that staff did visit the site and observed that the tree
29 has been severely pruned. She said that staff did not see any damage to the public right-of-way,
30 and only minor damage on private property. She said that staff felt they could not approve the
31 application to remove the tree on an administrative level and denied the application. She
32 commented that the City Arborist looked at the tree and concluded that it will eventually die
33 because of the severe pruning which leaves it exposed to insects and disease. She indicated that
34 staff is requesting the Commission review the application and provide direction. She said that
35 the Code does provide a minimum requirement of one 36 inch box tree as a replacement if the
36 existing tree is removed. She commented that the Commissioners may want to consider
37 requiring a street tree to be placed in the public right of way as well as the requirement for
38 replacement on private property.
39

40 In response to a question from Commissioner Bohner, Senior Planner Jester indicated that two
41 arborist reports indicate that the tree will eventually die and is not able to be saved.

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1

2 In response to a question from Commissioner Savikas, Senior Planner Jester said that the Code
3 specifies that the size, species, number and location of replacement trees is subject to approval
4 by the Community Development Director, and the Commission also has such discretion on
5 appeal of the issue. She indicated that in making a determination, staff considers the size of the
6 existing tree and wants to see larger trees that are removed replaced with larger trees. She
7 commented that some properties may have a number of additional trees and may not require
8 replacement of a removed tree if there is not sufficient space.

9

10 In response to a question from Commissioner Schlager, Senior Planner Jester indicated that no
11 replacement tree would be close to the size of the existing tree, which has a 23 inch trunk
12 diameter and 30 foot height prior to pruning.

13

14 In response to a question from Commissioner Bohner, Senior Planner Jester indicated that the
15 subject tree is the only tree currently located in the front of the property.

16

17 **Donna Shabestari**, the applicant, stated that they decided in February of 2006 to have the tree in
18 their front yard topped off, and they hired a landscaper to reduce the size of the tree and round
19 off the top. She stated that when she and her husband returned home after the job was
20 completed, the landscaper had taken the entire top off of the tree. She said that the poor job was
21 a result of a complete miscommunication, and they were shocked when they saw the tree. She
22 said that they then felt an urgency to have the tree removed and followed the necessary
23 procedures of obtaining signatures and filing the tree removal permit. She commented that on
24 their application stated legitimate extensive root damage rather than the elaborating on the
25 obvious damage from the pruning, as they were not certain the pruning was a legitimate enough
26 reason to have the tree removed. She said that they were informed after the tree permit was
27 rejected that their only option for removal of the tree was to pay \$465.00 for an appeal of the
28 decision to the Commission. She indicated that they hired an arborist who provided a report, and
29 they are requesting removal of the tree based on that report. She commented that the arborist
30 informed her that removing the top damaged the tree beyond repair because it is a pine with a
31 conical shape.

32

33 In response to a question from Commissioner Savikas, **Ms. Shabestari** said that she would need
34 to educate herself much more about the root system of trees and the type of tree that are
35 appropriate for the area before a replacement is selected. She said that they love trees and are
36 very willing to replace the existing tree with several trees.

37

38 **Kaye Sherbak**, stated that it is agreed that the tree is dying and needs to be removed, and she
39 would support replacing the existing tree with two trees. She said that their arborist stated that a
40 24 or 36 inch box can grow faster and may not sustain as much trauma in moving as a larger box
41 size. She indicated that the existing tree is not replaceable, and the applicant will never have the

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1 same canopy. She pointed out that a landscaper is not licensed by the state to do tree trimming,
2 and there is a tree trimming license in California which is different than a landscaping license.
3 She commented that she would like for the Commission to address the issue of such poor
4 business practices in the community. She indicated that the appeal fee seems expensive to incur
5 on the applicant, and she feels the money would be better spent in replacing the tree.

6
7 Commissioner Savikas suggested that staff prepare a card with guidelines regarding the
8 maintenance of trees that could be handed out over the counter. She commented that such
9 situations also highlights the benefits of having a Tree Committee to provide education regarding
10 trees and their maintenance. She indicated that the consensus appears to be that the tree will die
11 and that it needs to be removed, and there is no other choice than to remove the tree. She stated
12 that research should be done as to the type of tree that is chosen as a replacement, and the front
13 of the property may not be able to support three trees. She said that she would be inclined to
14 require two trees as a replacement in the yard, as well as a smaller street tree in the public right-
15 of-way.

16
17 Commissioner Schlager stated that there is no question that the tree needs to be removed and the
18 issue is the requirement for a replacement. He said that with the applicant being in favor of
19 replacement, he would support a minimum 36 inch box tree in the public area and a minimum of
20 two 36 inch box trees for the front yard. He said that he would be comfortable leaving the
21 decision regarding the species of trees and their positioning to staff and the applicant.

22
23 Commissioner Lesser said that he was originally concerned regarding whether the tree was cut
24 intentionally prior to the applicants filing the application. He said that the City does not want
25 property owners attempting to abuse the system, and the goal of the City is to encourage further
26 growth of the tree canopy. He stated that based on the applicant's representation, he is satisfied
27 that the pruning was a terrible misunderstanding with the landscaper. He said that he is in favor
28 of approving the removal of the tree. He asked whether staff would welcome a directive from
29 the Commission to work with the applicant to arrive at an appropriate replacement.

30
31 Director Thompson said that staff would be comfortable with keeping discretion regarding the
32 number and type of replacement trees, particularly with an applicant who is willing to work with
33 staff. He said that staff feels it would be appropriate to add a street tree and at least one tree on
34 the private property as a minimum.

35
36 Commissioner Bohner indicated that he would not support the appeal if there were any way to
37 preserve the tree; however it is fairly evident that the tree cannot be saved. He indicated that he
38 did not feel the damage that the roots caused to the property justified uprooting the tree and are
39 to be expected from anyone who has trees on their property. He said that he also believes the
40 applicant has been sincere in their regret regarding the trimming and that it was not their
41 intention. He said that he would support replacement of the existing tree with two minimum 36

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1 inch box trees in the yard and also requiring one 36 inch box tree within the public right-of-way.

2
3 Chairman Simon commented that the direction is to evaluate the loss of the tree and replace it;
4 however, it is not reasonable to require the applicant to spend \$40,000.00 for a crane to put in a
5 tree of similar size. He indicated that the replacement must be a tree that can eventually replace
6 the tree canopy. He stated that he would be comfortable with leaving the replacement to the
7 discretion of staff and would hope that the applicant could appeal again without charge to the
8 Commission if they were unable to reach an agreement. He indicated that he suspects that
9 homeowners have to accept the fact that part of home ownership is having to eventually replace
10 driveways and sidewalks that are damaged by roots of existing trees in favor of preserving the
11 tree. He said that a distinction might be made at some point between trees causing damage to a
12 main structure versus much more minor damage to walkways and driveways.

13
14 Commissioner Schlager pointed out that Section G of the Code under Tree Permit with Building
15 Permit states that a required replacement tree shall be a minimum 36 inch box for each protected
16 tree removed on an appropriate species and must be planted prior to final inspection and that the
17 actual size, species, location and quantities of replacement trees are subject to the Community
18 Development Director approval. He commented that he is satisfied with leaving the replacement
19 to the discretion of the director.

20
21 Commissioner Bohner commented that he would agree to allow the replacement to the discretion
22 of the Community Development Director with the condition that the replacement over time will
23 be of comparable canopy and size to the existing tree. He said that he would also like for a tree
24 to be placed within the public right-of-way.

25
26 Commissioner Savikas said that the shape of the home is conducive to a single tree in the front
27 with a single tree on the public right of way.

28
29 Director Thompson said that staff understands the direction is to approve replacements that
30 eventually will be of comparable canopy and size to the existing tree.

31
32 Commissioner Lesser said that he would also support the comment of Commissioner Bohner that
33 he is comfortable with the discretion being left to staff subject to the replacement over time
34 being of comparable canopy and size to the existing tree. He commented that he would want the
35 applicant to concede that the requirements of the newly enacted Tree Ordinance would apply in
36 this situation although the application was filed under the old Ordinance.

37
38 A motion was MADE and SECONDED (Savikas/Lesser) to direct staff to **APPROVE** an appeal
39 of an administrative decision to Deny a Tree Permit for Removal of an Aleppo Pine Tree at 1213
40 North Meadows Avenue subject to replacing the existing tree with a minimum of two trees on
41 public and private property. The size and type of replacement trees shall be determined by the

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1 Director of Community Development.

2

3 AYES: Bohner, Lesser, Savikas, Schlager, Chairman Simon

4 NOES: None

5 ABSENT: None

6 ABSTAIN: None

7

8 Director Thompson explained the 15-day appeal period and stated that the item will be placed on
9 the City Council’s Consent Calendar for their review on June 20, 2006.

10

11 Director Thompson commented that staff appreciates the efforts of the Tree Committee
12 regarding the issue, and this application is a good example of their use as a resource in the
13 community. He said that staff with the applicant, the Tree Committee, and the City’s arborist
14 can work together to reach a good solution for a replacement.

15

16 **ADJOURNMENT**

17

18 The meeting of the Planning Commission was **ADJOURNED** at 8:45 p.m. in the City Council
19 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, June 14, 2006, at 6:30 p.m. in the
20 same chambers.

21

22

23 _____
24 RICHARD THOMPSON
Secretary to the Planning Commission

SARAH BOESCHEN
Recording Secretary

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development

FROM: Laurie B. Jester, Senior Planner

DATE: May 24, 2006

SUBJECT: Consideration of an Appeal of an Administrative Decision to Deny a Tree Permit for Removal of an Aleppo Pine Tree at 1213 N. Meadows Avenue (Shabestari).

RECOMMENDATION

Staff recommends that the Planning Commission review the application and provide direction to staff.

APPELLANT

Tony and Donna Shabestari
1213 N Meadows Avenue
Manhattan Beach, CA 90266

BACKGROUND

Tree Permit Application

On March 14, 2006 the City received a tree permit application from the property owners requesting removal of the 23" diameter Aleppo Pine Tree in the front yard. (Exhibits A and B) The application was received prior to the approval of the revised Tree Ordinance, which was adopted by the City Council on March 21, 2006 and became effective April 20th. The new regulations require that pruning conform to ANSI standards, while the Ordinance in effect at the time of the application had no pruning regulations. The letter submitted with the application states that the tree and root system have caused considerable damage to the sidewalk, street, retaining walls, plumbing, and foundation of the home, and that the driveway had to be replaced due to root damage. They also stated that the front lawn was destroyed due to the acidic nature of the pine needles. Photos were submitted with the application that showed one crack in the perimeter retaining wall and the curb, a displaced walkway adjacent to the garage, the lawn with pine needles and the trunk of the tree. No photos of the tree itself were submitted. (Exhibit C)

On March 30th Planning staff inspected the tree and found that although it had been severely topped, apparently fairly recently, the tree appeared healthy and vigorous with new green growth. The tree stands about 15' tall and approximately the top half of the tree was cut off. There were no dead pine needles on the lawn, and the lawn was green

with a few brown spots. Very minor cracks were observed in the perimeter retaining wall, sidewalk, curb and gutter. Staff contacted the property owner who stated that the tree had been pruned in the middle of February 2006 by a landscaper whom they had a misunderstanding with. They had asked for the tree to be “topped off” to reduce the size and round off the top. The owner stated that they were not at home when the work was done and when they returned the job was finished. They stated that they were already planning to request removal of the tree prior to the pruning so their application stated their original concern about the tree and did not elaborate on the pruning.

On April 3rd Planning staff sent a letter to the property owners that their request did not meet our criteria for removal, and that removal would be inconsistent with the purpose of the Tree Ordinance, and the direction provided to staff by the City Council. Staff indicated that although the tree has recently been very severely pruned, the tree appeared to be healthy at this time. Also no significant damage to the sidewalk, street, retaining walls, lawn or foundation of the home, as mentioned in their application letter, was observed. (Exhibit D) Public Works staff also observed that there was insignificant damage from the tree to the public right-of-way.

On April 7th the City arborists from West Coast Arborist visited the site and prepared brief comments. His comments indicate that prior to the pruning the tree was probably in decent condition. However, the extremely severe topping of the tree will inevitably lead to decay in the top of the trunk where the large cut was made, and the smaller lower remaining limbs of the tree are not large enough to become major limbs, and therefore the tree is not worth keeping. (Exhibit E)

On April 13th the Shabestaris submitted an appeal of the Directors decision and included an arborist’s letter as well as an estimate for the removal and replacement of the tree with a 36” box tree. (Exhibit F) The letter from Travers Tree Service states that the tree was cut in half and should be removed as the tree will die due to starvation, shock, insects, disease, and weak limbs. The appeal letter references the arborists’ information as the basis for the appeal.

On May 9th a courtesy notice of the Planning Commission meeting on the appeal was mailed to all property owners within a 500 foot radius of the property as well as the Tree Committee members. Responses to the notice are attached. (Exhibit G)

Tree Preservation Ordinance

The City’s Tree Preservation Ordinance was originally adopted in 1993 and at that time, the Ordinance applied only to the Tree Section. The Ordinance protects most trees with a 12” or greater trunk diameter located in the front yard, and the newest regulations also protect trees in streetside yards. Trees that are removed are required to be replaced with a minimum of one 36” box tree; the original 1993 Ordinance required replacement with a 24” box tree. The number, size, species, and location of replacement trees are subject to review and approval by the Director of Community Development. At that time the

Ordinance was implemented more as a “removal and replacement” regulation than a “preservation” regulation.

In 2003, the Ordinance was expanded to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance. With the expansion of the Tree Ordinance, based on City Council direction planning staff began implementing the regulation as a “preservation” regulation, not a “removal and replacement” regulation as previously implemented.

In July 2005, the City Council adopted the 2005-2007 Work Plan which included revisions to the Tree Ordinance as one of the top Work Plan priority items for the Department. In August 2005 the Planning Commission adopted a Resolution recommending revisions which was presented to the City Council in September. The City Council supported the majority of the Planning Commissions recommendations and sent the item back to the Commission for further revisions. In October and December 2005, the Planning Commission reviewed and adopted further revisions to the Tree Ordinance. In February and March 2006 the City Council reviewed the Commissions recommendations and on March 21st Ordinance No. 2082 was adopted, revising the Tree Ordinance regulations. (Exhibit H)

DISCUSSION

Applications for a permit typically include notification signatures from neighbors and/or an arborist’s written recommendation that the tree should be removed. Tree permits for dead or unhealthy trees typically require little review or concern. Proposed tree removals related to construction projects involve more review, and staff encourages retention of protected trees in the design process. If no alternatives are available then Staff typically approves an application. Remaining trees are required to be protected by chain link fencing during the construction process. Staff works with architects, developers and contractors during the design of a home and throughout the construction to ensure that new construction considers and preserves existing trees that are protected under the Ordinance.

The Purpose Section of the Tree Preservation regulations, 10.52.120 of the MBMC states that “Tree preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to provide cooling shade and beauty, increase property values, minimize spread of disease to healthy trees, conserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area. These regulations strive to preserve and enhance the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property. No person shall directly or indirectly neglect, abuse, damage, mutilate, injure or harm any protected tree as herein defined, from residentially zoned properties within Area Districts I and II.”

After reviewing the subject application, it was determined that based on all the information available to Staff at that time that granting a tree permit would not be consistent with the intent of Section 10.52.120 of the Manhattan Beach Municipal Code. Staff denied the application as it was inconsistent with the City Council direction to preserve trees and staff felt that it would not be appropriate to approve the application at the administrative level.

CONCLUSION

Staff requests that the Commission review the application and provide direction to staff.

ALTERNATIVES

1. Approve the Tree Permit appeal, allowing the tree to be removed and require replacement with 2-36" box trees.
2. Approve the Tree Permit appeal, allowing the tree to be removed and require replacement with 2-48" to 60" box trees, and 1-36" box street tree.
3. Deny the Tree Permit appeal, thereby requiring that the tree be retained.

Attachments:

- Exhibit A - Vicinity map
- Exhibit B - Photographs of existing tree
- Exhibit C - Tree Permit Application and photographs
- Exhibit D - Letter of Denial for Tree Permit #TR06-0014
- Exhibit E - Analysis from West Coast Arborists Inc.
- Exhibit F - Appeal Application (Includes Appellant Correspondence and Correspondence from Travers Tree Service)
- Exhibit G - Response from neighbors
- Exhibit H - Tree Ordinance-Section 10.52.120

cc: Tony and Donna Shabestari





1213

1213







Permit No.: TR06-0014

TREE PERMIT – Private Property

COMMUNITY DEVELOPMENT DEPARTMENT




City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 802-5500 FAX (310) 802-5501 TDD (310) 546-3501

Address: 1213 N. Meadows Permit Fee: (4500): 57.50
(No fee if removal required by Public Works)
Homeowner's Name: Tony and Donna Shabestari Phone No. (310) 545-1958 - home
Fax No. () E-mail tony.shabestari@zerox.com 722-8630-cell
Tenant's Name: Tony and Donna Shabestari Phone No. (310) 545-1958
tonyshabestari@zerox.com Tony 714-3923 cell

This application is for tree removal/ replacement or protection in the front yard, which is the first 20 feet behind the front property line. A Tree Permit is required for the removal or replacement of a protected tree(s) in the residential zones of Area Districts I & II. Trees may not be removed until after a tree permit has been approved, with the exception of emergency situations. (Section 10.52.120 MBMC)

Reason for Tree removal and/or replacement refer to attachment

The following materials are generally needed in order to obtain a Tree Permit. Where there is no associated construction proposed, less detail may be provided.

1. Provide a Tree Plot Plan (scaled 1/8 inch = 1 foot, minimally) showing the following. A survey will be required for demolition or development projects (see Survey Requirements handout.):
 - (a) Property line, sidewalk, curb, parkway, and street locations.
 - (b) Footprint (farthest extent of the exterior walls of the building) of all existing and proposed buildings and/or additions to buildings on the property. Indicate if plans for a new building or addition are in plan check with the Building Division.
 - (c) Location and height of all existing and proposed fences, walls, structures, septic tanks, or improvements in the front yard.
 - (d) Location of all tree(s) within the front yard. Symbol Example: 
 - (e) Size (trunk diameter 4 1/2 feet off the ground, and height) and species of each tree.
 - (f) Location of drip line for each tree, which is the farthest extent of the canopy of the leaves of the tree.
 - (g) Designation of tree(s) to be removed, saved, and/or replaced. Symbol Example: 
 - (h) Proposed location, size, and type of replacement tree(s) Symbol Example: 

(Minimum size 24" box and 1 new tree for each tree removed.)

2. Provide photos of all tree(s) in front yard.

PAID
01-0205312
MAR 14 2006
CASHIER: A



3. An arborist's letter stating the survival possibilities for the tree(s), or Public Works requirement for removal. If pruning, thinning, deep watering, feeding, removal alternatives, or other recommendations are provided by an arborist, include this information.
4. Provide a Tree Protection Plan for trees to remain. Show the type and location of the portable temporary fencing surrounding the protected tree(s) and any trees in the adjacent public right-of-way, extending as close to the drip line(s) as feasible. Provide signage on the temporary fencing indicated that the tree(s) is/are protected and no storage or other disturbance is allowed within the fenced area.
5. Provide information on any proposed thinning or pruning of protected tree(s).
6. Acknowledgement Form signed by neighbors, for at least 200 feet on each side of the subject property on both sides of the street, acknowledging that they are aware of the proposed removal of the tree(s). An Acknowledgement form is not required if the tree(s) is required to be removed by Public Works. The City may send notices to neighbors if signatures are not received.

Applicant's Signature: *Ron Shabestari* Date: 3-14-06

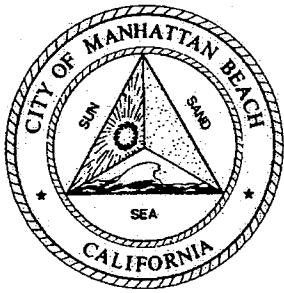
Note: Violations of the requirements of Section 10.52.120 of the MBMC are punishable as a misdemeanor or infraction and a stop work order may be issued on construction work that violates these Code requirements.

Planning Division: 3/30/06 ~~APPROVED BY~~ LB. [Signature] Date: 3/30/06

Planning Secretary to distribute copies to:
 Director of Community Development
 Code Enforcement Officer
 Building Official
 Public Works Street Maintenance Superintendent
 Building Safety Permit Technician
 Microfilm- Address file

3/28/06 - Tree inspected -

Although apparently recently very heavily pruned - (Top 1/2 of tree was cut off) cuts that were visible from the ground looked fresh.) Tree appears to be vigorous, healthy new green growth. No dead matter on ground. Very minor cracks in walk, sidewalk, curb, gutter street. Left km for P.O. to determine when tree was pruned. Per ~~P.O.~~ P.O. pruned ~~2/14/06~~ 2/14/06; P.O. asked them to "top" but it was pruned way more than they anticipated - (very disappointed w/ pruning); possible communication issue w/ landscaper.



TREE PERMIT NEIGHBOR ACKNOWLEDGEMENT FORM

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
(310) 802-5504

I hereby acknowledge that I am aware that Tony and Donna Shabestari
(insert property owners names)
at 1213 N. Meadows Avenue is proposing to remove the
(insert address where trees are proposed to be removed)
1 Pine tree in the front yard. By signing this acknowledgement
(insert number and type of tree or trees)
it does not imply that I agree with the removal, only that I am aware of the proposal.

<u>Print Name</u>	<u>Address</u>	<u>Signature</u>
STEVES SAKAHARA	1205 N. MEADOWS	<i>[Signature]</i>
Maura Tremblay	1209 N. MEADOWS	<i>[Signature]</i>
Toni Schottenhammer	1212 Chestnut Ave.	<i>[Signature]</i>
Shannon Cole	1217 N. Meadows Ave.	<i>[Signature]</i>
Julia Herbst	1405 Meadows Ave.	<i>[Signature]</i>
Melanie West	1505 Meadows Ave	<i>[Signature]</i>
Cora Cuy	1509 N Meadows Ave	<i>[Signature]</i>
Bob Sherrin	1605 N. Meadows Ave	<i>[Signature]</i>
Pauline Fisher	1601 N. Meadows Ave	<i>[Signature]</i>

Tree Preservation Guidelines

Trees in the urban environment are one of the greatest resources a community can possess. Trees provide beauty, shade, wildlife habitat, reduce air pollutants, and protect the ground from soil erosion and flood hazards. Well-maintained trees also increase property values and add to a community's charm.

In 1993 City Council passed an ordinance to protect trees in the residential "tree section" of Manhattan Beach. In 2003 the ordinance was expanded to all of Area Districts I & II, which includes all "inland" properties with 20 foot deep front yards. If you want to remove a tree or do construction work near a tree in the *front* yard of these areas, you need a Tree Permit.

The Tree Permit requires a tree plan which needs to show details of all of the existing and proposed tree(s) in the front yard, and the adjacent public right-of-way, and the existing and proposed buildings, structures, septic tanks, walls and grading.

New construction needs to be designed to accommodate and protect existing trees to the extent feasible. During construction, trees to remain must be protected appropriately to ensure their health during the construction process. Generally, construction, including structures, walls, and grading, is discouraged within the dripline of the trees, which is the farthest extent of the canopy of the leaves. Additionally, temporary protective fencing, as identified on the tree plan, must be provided as close to the dripline as feasible. Construction material and trash may not be stored within the protected area. Trees proposed to be removed will require a letter from an arborist stating why they need to be removed and neighbors must acknowledge in writing that they are aware of any proposed removal. Replacement trees are required for any trees that are removed.

The tree preservation ordinance applies to trees with trunks a minimum 12-inch in diameter as measured 4-½ feet above ground level. The tree preservation ordinance does *not* apply to removal of deciduous fruit-bearing trees, or California or Mexican fan palms. There are provisions for emergency situations, trees extending across property lines and utility company safety requirements.

If you have more questions about our tree protection ordinance, call one of our planners at (310) 802-5504, visit the City's website at www.citymb.info, or see Section 10.52.120 of the MBMC.

Mr. and Mrs. Tony Shabestari

1213 N. Meadows Ave.
Manhattan Beach, Ca 90266

Tuesday, March 14, 2006

To Whom It May Concern:

The following is a detail of our reasons for needing to remove the tree which is positioned at the front of our property.

The tree and its root system has caused considerable damage to the sidewalk, street, retaining walls, plumbing, and foundation of our home. To date we have replaced the driveway at considerable costs due to the trees root system. These roots have also caused damage to the existing sewage and drainage systems of the residence causing back ups of the drains requiring on going plumbing issues and repairs.

The front lawn of the home has been destroyed due to the acidic nature of the pine needles. We have spent considerable amounts of money and time attempting to cultivate the soil and plant grass with no success.

This tree is NOT indigenous to this region and provides no aesthetic value to the street or community.

We are respectfully requesting removal of this tree from our property.

Sincerely,

Tony and Donna Shabestari

Tony Shabestari
Donna Shabestari

cc: Joseph E. Ferens , Esquire



















City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 802-5000 FAX (310) 802-5001 TDD (310) 546-3501

April 3, 2006

Tony and Donna Shabestari
1213 N Meadows Avenue
Manhattan Beach, CA
90266

Subject: Tree Permit Application- 1213 N Meadows Avenue

Dear Mr. and Mrs. Shabestari,

We have received your Tree Permit Application requesting removal of your Pine tree the front yard at 1213 N Meadows Avenue. As Laurie Jester, Senior Planner discussed with both of you on the phone recently the purpose of the Tree Preservation Ordinance, Section 10.52.120, is to retain and preserve trees within the front yard wherever possible.

Planning staff inspected your tree on March 28, 2006 and found that it does not meet our criteria for removal, and that removal would be inconsistent with the purpose of the Tree Ordinance, and the direction provided to staff by the City Council. Although the tree has recently been very severely pruned, the tree appears to be healthy at this time. No significant damage to the sidewalk, street, retaining walls, lawn or foundation of your home, as mentioned in your letter, was observed.

As you are aware you may appeal this decision to the Planning Commission; the appeal must be received by Thursday, April 13, 2006. The necessary appeal forms and procedures will be provided upon request. The appeal fee is \$465.00.

If you have further questions please contact Laurie Jester, Senior Planner at (310)-802-5510.

Sincerely,

Richard Thompson, Director of Community Development

Cc: Laurie Jester, Senior Planner

H:\Trees\Tree Permit 1213 N Meadows 3-06.doc

WCAREP~1.TXT

From: Anthony Uno [auno@arboraccess.com]
Sent: Wednesday, April 12, 2006 1:45 PM
To: ljester@citymb.info
Cc: Anthony Uno
Subject: MB20060412_1213 N Meadows Avene- Aleppo Pine

Date of Visit: April 7, 2006
Address: 1213 N. Meadows Avenue
Objective: Determine chance of survival and possible restoration of shape Subject
Tree: Aleppo Pine
Size: 15' topped H x 23" DBH
Health: Fair
Condition: Severely topped, but solid trunk flares suggest it was probably in decent condition prior to this event.

Comments:

Subject tree is growing in raised lawn area in front of property. It has 4 remaining lower main scaffold limbs with live growth. This topping was extremely severe, and although it may continue to grow for another year or even longer (though it is indeed possible that it may become infested with bark beetle and die by summer as was suggested by the arborist with Travers Tree Service), in my opinion it is clearly no longer a tree worth keeping. The remaining scaffolds are too small to assume responsibility of become major lateral scaffold limbs, and it seems inevitable for decay to form in the top area where the large cut was made.

Please feel free to contact me with any questions.

Tony Uno
Consulting Arborist
West Coast Arborists, Inc.
www.wcainc.com

<<MB_20060407 001.jpg>> <<MB_20060407 002.jpg>> <<MB_20060407 003.jpg>> <<ALC
2006 Full.pdf>>



MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

Office Use Only
Date Submitted: 4/13/06
Received By: Laurie
F&G Check Submitted: _____

1213 N. Meadows Avenue
Project Address

Legal Description

General Plan Designation

Zoning Designation

Area District

For projects requiring a Coastal Development Permit, select one of the following determinations¹:

Project located in Appeal Jurisdiction

Project not located in Appeal Jurisdiction

Major Development (Public Hearing required)

Public Hearing Required (due to UP, Var., etc.)

Minor Development (Public Hearing, if requested)

No Public Hearing Required

Submitted Application (check all that apply)

- TREE Appeal to PC/PWC/BBA/CC _____ () Subdivision (Lot Line Adjustment) _____
- () Coastal Development Permit _____ () Use Permit (Residential) _____
- () Environmental Assessment _____ () Use Permit (Commercial) _____
- () Minor Exception _____ () Use Permit Amendment _____
- () Subdivision (Map Deposit)4300 _____ () Variance _____
- () Subdivision (Tentative Map) _____ () Public Notification Fee _____
- () Subdivision (Final) _____ () Park/Rec Quimby Fee 4425 _____
- () Other _____

Fee Summary: Account No. 4225 (calculate fees on reverse)

Pre-Application Conference: Yes _____ No _____ Date: _____ Fee: _____

Amount Due: \$ 465⁰⁰ (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: _____ Date Paid: _____ Cashier: _____

Applicant(s)/Appellant(s) Information

Tony and Donna Shabestari
Name

1213 N. Meadows Avenue Manhattan Beach, Ca.
Mailing Address

Owners
Applicant(s)/Appellant(s) Relationship to Property

Tony Shabestari
Contact Person (include relation to applicant/appellant)

310-714-3923
Address, and Phone Number

[Signature]
Applicant(s)/Appellant(s) Signature

Fax Number and e-mail address

Complete Project Description- including any demolition (attach additional pages if necessary)

CASHIER:M
9002
APR 13 2006
101-2020181
PAID

An Application for a Coastal Development Permit shall be made prior to application for any other permit or approvals required for the project by Beach Municipal Code. (Continued on reverse)



OWNER'S AFFIDAVIT

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I/We _____ being duly sworn,
depose and say that I am/we are the owner(s) of the property involved in this application and
that the foregoing statements and answers herein contained and the information herewith
submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

Signature of Property Owner(s) – (Not Owner in Escrow or Lessee)

Print Name

1213 N. Meadows Ave

Mailing Address

310) 545-1458

Telephone

Subscribed and sworn to before me,
this _____ day of _____, 20____

in and for the County of _____

State of _____

Notary Public

Fee Schedule Summary

Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply – refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment in January of each year.

Submitted Application (circle applicable fees, apply total to Fee Summary on application)

Coastal Development Permit

Filing Fee (public hearing – no other discretionary approval required): \$ 1,824
Filing Fee (public hearing – other discretionary approvals required): \$ 124
Filing Fee (no public hearing required): \$ 124

Use Permit (Master)

Residential Filing Fee: \$ 2,420
Commercial Filing Fee: \$ 3,005
Amendment Filing Fee: \$ 1,209

Variance

Filing Fee: \$ 3,005

Minor Exception

Filing Fee: \$ 966

Subdivision

Tentative Parcel/Tract Map Filing Fee: \$ 585
Final Parcel Map/Tract Map Filing Fee: \$ 585
Mapping Deposit: \$ 473
Quimby Parks and Recreation Fee (new lot/unit): \$ 1,817
Certificate of Compliance Filing Fee: \$ 564.50

Environmental Review (contact Planning Division for applicable fee)

Environmental Assessment: \$ 124
Environmental Assessment (if Initial Study is prepared): \$ 1,557
Fish and Game County Clerk Fee²: \$ 25

Public Notification Fee applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable. \$ 65

² Make \$25 check payable to LA County Clerk, (do not put date on check).

Tony and Donna Shabestari
1213 N. Meadows Ave.
Manhattan Beach, Ca. 90266

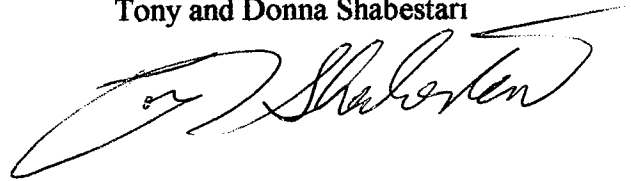
To whom it may concern,

This letter is in response to our recent notification that our tree removal permit was denied. We are filing an appeal based on the enclosed arborist report. The tree was severely pruned and needs to be removed.

Thank you for your consideration in this matter.

Sincerely,

Tony and Donna Shabestari

A handwritten signature in black ink, appearing to read 'Tony and Donna Shabestari', written in a cursive style. The signature is positioned below the typed name.

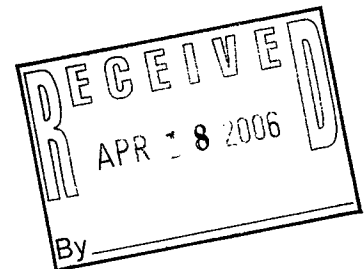
Tony and Donna Shabestari
1213 N. Meadows Ave.
Manhattan Beach, Ca. 90266

To whom it may concern,

This letter is in response to our recent notification of our tree permit denial. We are a family of five who purchased a modest two bedroom home in the year 2000. Although it was a small house, we felt it was the best investment at the time for schools, community, etc. We like trees, but it had already destroyed the driveway which we replaced in 2002. Several months ago we decided to have the tree "topped off" or pruned as it had grown too large. It was a Saturday, my wife was at work and I hired a landscaper requesting that they reduce the size of the tree and round off the top. I went to my daughters C.I.F. game and when I returned they had finished the job. The results were unbelievable. They literally took the top off of the tree. It was a total misunderstanding. When my wife returned from work and saw the tree, she was shocked and became highly emotional. She is an avid gardener, loves plants and trees and was completely horrified. We then felt an urgency to have the tree removed and followed the necessary procedures, getting signatures and filing the permit. At the time the permit was filed we stated the original reasons rather than elaborating on the pruning, feeling this would never qualify as a legitimate reason. We truly wish to enhance the look of the neighborhood and we are asking you to reconsider its immediate removal.

Thank You,

Tony Shabestari





TRAVERS TREE SERVICE

EXPERT TREE CARE: •TRIMMING •REMOVAL •FEEDING •TOPPING •CABLE WORK •TRANSPLANTING
•EMERGENCY WORK •HORTICULTURAL SPRAYING •SPECIALIZING IN LARGE TREES •COMMERCIAL •RESIDENTIAL

CONSULTING ARBORIST/CERTIFIED ARBORIST No. 636
CALIFORNIA AGRICULTURAL LICENSE No. 30170
FULLY INSURED STATE CONTRACTORS LICENSE No. 438273

PMB 7000-416, PALOS VERDES PENINSULA, CA 90274
310/545-5816 310/530-3920 (FAX 310/534-3020)



April 6, 2006

Tony & Donna Shabestari
1213 North Meadows Avenue
Manhattan Beach, CA. 90266

Assignment or Problem:

Front lawn Aleppo Pine tree *Pinus Halepensis* size trunk diameter 24" 15 feet high

The Aleppo Pine tree was cut in half, or topped

This tree should be removed, you cannot top Pine trees like this. Why ?

1. Starvation of the tree
2. Shock
3. Insects and disease will come
4. Weak limbs, if new limbs that sprout after a larger limb is truncated are more weakly attached than a limb that develops more normally.

If rot exists or develops, the weight of the sprout makes a bad situation even worse.

The Aleppo Pine tree will die.

Remove this Aleppo Pine tree and replace with 1 36 inch boxed tree

Should you have any questions, please feel free to contact Mike Tahash (310) 5303920.

Respectfully Submitted,

Mike Tahash
Certified Arborist WE-6297-A
TRAVERS TREE SERVICE INC.



TRAVERS TREE SERVICE

EXPERT TREE CARE: •TRIMMING •REMOVAL •FEEDING •TOPPING •CABLE WORK •TRANSPLANTING
•EMERGENCY WORK •HORTICULTURAL SPRAYING •SPECIALIZING IN LARGE TREES •COMMERCIAL •RESIDENTIAL

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PMB 7000-416, PALOS VERDES PENINSULA, CA 90274
310/545-5816 310/530-3920 (FAX 310/534-3020)



MT

April 6, 2006

PROPOSAL

Job Address

Billing Address

Shabestari 545 1958
1213 North Meadows Avenue
Manhattan Beach

TREE SERVICES: Travers Tree Service proposes the following tree trimming / removal services at the above referenced job location. All tree trimming to conform to standards as established by the International Society of Arboriculture.

FRONT

1. Remove to ground level Aleppo Pine tree		\$480.00
2. Stump grind and remove surface roots		\$225.00
3. Replanting of 1- 36 inch boxed tree	\$875.00	?
		TOTAL \$705.00

• **PLEASE ALLOW APPROX 2 WEEKS TO SCHEDULE**

TERMS: NET 10 DAYS DUE UPON COMPLETION OF WORK _____ (initials)

NOTE: We remove any and all debris generated from our work. However, we are not responsible for damage due to hidden conditions not specifically mentioned, especially under ground installations. A service fee of 1.5 percent per month shall be charged on all 30 days past due accounts. In the event this account becomes delinquent and it is necessary to institute legal proceedings, purchaser agrees to pay reasonable attorney's fees and court costs.

ACCEPTED: Please read this proposal carefully, all services are described explicitly, and this is exactly what we intend to perform. The above prices, specifications, and conditions are satisfactory and are hereby accepted. Payment for the above services is Net 10 days, unless otherwise arranged and agreed to in writing, prior to the start of the work. You are authorized to do the work as specified.

DATE: _____

SIGNATURE: _____

"NOTICE TO OWNER"

(Section 7018,7019 - Contractors License Law)

Under the Mechanics' Lien Law, any contractor, subcontractor, laborer, materialman or other person who helps to improve your property and is not paid for his labor, services or material, has a right to enforce his claim against your property. This means that, after a court hearing, your property could be sold by court officer and the proceeds of the sale used to satisfy the indebtedness. This can happen even if you have paid your own contractor in full, if the subcontractor, laborer, or supplier remains unpaid. Under the law you may protect yourself against such claims by filing, before commencing such work of improvement, an original contract for the work of improvement or a modification thereof, in the office of the county recorder of the county where the property is situated and requiring that a contractor's payment bond be recorded in such office. Said bond shall be in an amount not less than fifty percent (50%) of the contract price and shall, in addition to any conditions for the performance of the contract, be conditioned for the payment in full of the claims of all persons furnishing labor, service, equipment or materials for the work described in said contract.

E-mail from Mike Moeller re 1213 N. Meadows Avenue.txt
From: Mike Moeller [mikemoeller@yahoo.com]
Sent: Friday, May 12, 2006 1:41 PM
To: ljester@citymb.info
Subject: 1213 N. Meadows Avenue

To: Community Development Department
Richard Thompson
Director of Community Development

As a neighbor and home owner on the corner of 12th and Meadows, I look at this tree everyday. Please have it removed. It has always been an eye sore - it blocks my view of the mountains. Now that it has been cut down to pieces it no longer blocks the view, but is a terrible eye sore.

I can not be present on May 24th - please have the minutes from that meeting relating to this project emailed over to me.

Lastly, please inform the Shabestari family that other families in the neighborhood support their efforts.

Thank you.

Mike John Moeller
1300 12th Street
Manhattan Beach, CA 90266

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

From: Ohmstede, Tina [Tina.Ohmstede@pepperdine.edu]
Sent: Wednesday, May 17, 2006 1:11 PM
To: 'ljester@citymb.info'
Subject: Shabesteri Family Pine Tree at 1213 N. Meadows Ave
Community Development Department
Richard Thompson
Director, Community Development

Dear Mr. Thompson:

I am not able to attend the May 24th meeting in which the Shabesteri family will appeal the City's decision regarding their tree, and I wanted to officially register my opinion.

I live at 1304-B 12th Street, on the corner of N. Meadows and 12th Street, a few doors down from the Shabestari family's home. I walk my dog past their home at least twice each day. I noticed the mishap with their tree immediately after it happened. It looks ridiculous, the family is embarrassed, and it is an eyesore in the neighborhood.

The family has already spent a significant amount of money researching how the tree could look better, to no avail. During this time they discovered that the tree's roots will soon be growing into the foundation of their home, causing damage.

I don't get it. Why is a sad-looking tree more important than the integrity of the neighborhood, and this family's home? They are willing to plant new trees that will look much better, and they even have to incur the expense of removing the eyesore themselves. The City of Manhattan Beach should let them do what they need to do.

Let them remove the tree, save their home, and plant other trees on their property that will beautify the neighborhood!

Thank you,
Tina Ohmstede
310-545-4455

Chapter 10.52

SITE REGULATIONS--RESIDENTIAL DISTRICTS

Sections:

- 10.52.010** Specific purposes and applicability.
- 10.52.020** Exterior materials in R districts.
- 10.52.030** Nonconforming front yards in R districts.
- 10.52.040** Religious assembly yard requirements.
- 10.52.050** Accessory structures.
- 10.52.060** Accessory dwelling units.
- 10.52.070** Home occupation in R districts.
- 10.52.080** Repealed.
- 10.52.090** Affordable housing incentive program.
- 10.52.100** Manufactured homes.
- 10.52.110** Residential condominium standards.
- 10.52.120** Tree preservation and restoration in residential zones, Area District II west of Sepulveda Boulevard.

10.52.120 Tree Preservation and Restoration in Residential Zones Area Districts I and II

“A. **Purpose.** Tree preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to provide cooling shade and beauty, increase property values, minimize spread of disease to healthy trees, conserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area. These regulations strive to preserve and enhance the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

B. General Requirements.

1. Except as provided in subsection G (Exemptions), no person shall directly or indirectly remove or cause to be removed, or relocate any protected tree as herein defined, from residentially zoned properties within Area Districts I and II, without first obtaining a permit to do so in accordance with the procedures set forth in this section.

2. No person shall directly or indirectly neglect, abuse, damage, mutilate, injure or harm any protected tree as herein defined, from residentially zoned properties within Area Districts I and II.

C. Definitions.

1. "Protected tree" shall include: any species of tree, (excluding deciduous fruit-bearing trees and Washingtonia species palms) the trunk of which is located at least partially within the required front yard or streetside yard (on corner lots) of a site, with a trunk diameter of twelve inches (12") or greater or multiple trunks totaling twelve inches (12") in diameter or greater at a height of four and one-half feet (4.5') from existing grade; and any replacement tree required pursuant to this section.

2. A "tree permit" is a permit required for the removal, relocation or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 1/8 inch = 1 foot, minimally) with all

Manhattan Beach Municipal Code

trees on the subject property identified by location, size and species, including:

- a. footprint of all existing and proposed buildings and/or additions to buildings on the property
- b. location of all trees within the front and streetside yards, in the adjacent public right-of-way and on adjacent properties within 10 feet of the subject property adjacent to the front and streetside yards
- c. size (diameter and height) and species of each tree
- d. location of drip line for each tree
- e. designation of tree(s) to be removed, saved, relocated and/or replaced
- f. proposed location, size and type of replacement tree(s)
- g. photos of all trees in front and streetside yards.

D. **Preservation of Trees During Grading and Construction Operations.**

1. All protected trees, as defined above, shall be preserved and protected, and may be only be removed or relocated with prior approval of a tree permit provided they are replaced or relocated in accordance with the provisions of this Section.

2. Trees required to be retained shall be protected during demolition, grading, and construction operations by methods subject to the approval of the Community Development Director.

3. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. Advisory sign(s) that identify the tree protection requirements shall be clearly posted on the site. All construction shall preserve and protect the health of trees:

- a. Remaining in place
- b. Being relocated
- c. Planted to replace those removed
- d. Adjacent to the subject property.

5. Any tree which is adjacent to the subject property and may be potentially impacted by construction activity on the subject property shall be protected pursuant to the provisions of this chapter.

6. No grading or construction, including structures, paving, and walls, that disrupts the root system on private as well as public property, shall be permitted without prior approval by the Community Development Director. As a guideline, no cutting of roots over 2 inches in diameter should occur within the drip line of the tree as measured at ground level. Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

7. Residential buildings shall take priority over tree preservation, however alternative designs and materials, shall be considered and implemented, as feasible, with the proposed overall design of the project.

8. Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented, as feasible.

9. Relocation of protected trees shall only be allowed if the Community Development Director determines that the relocation will not be detrimental to the health of the tree or to other protected trees.

10. No fill material shall be placed within the drip line of any tree.

11. The Community Development Department may impose special measures determined necessary to preserve and protect the health of trees to remain on site.

E. **Tree Permit Applications - without Building Permit.**

1. Any person desiring to remove or relocate one or more protected trees shall obtain a Tree Permit from the Community Development Department. A fee, as specified in the City's Fee Resolution, shall be required for a Tree Permit.

2. Tree Permit applications shall include a Tree Plan, and written proof of neighbor notification pursuant to applicable permit instructions and may also include an arborist's report.

3. A bond, cash deposit or other financial security, may be required to ensure required

Manhattan Beach Municipal Code

replacement trees are planted and/or that existing protected trees are properly protected, as determined to be appropriate by the Community Development Director.

4. The Community Development Director, when approving tree permits, shall determine the adequacy and appropriateness of the submitted plan, neighbor input, and other related information.

F. **Tree Permit - with Building Permit.**

1. Application for a Building Permit shall require a Tree Permit/Acknowledgement and Plan as defined above, if protected trees are located on the property.

2. A Tree Permit shall be required if the proposed project may impact existing trees in the front or streetside yard of the subject property even though removal is not planned.

3. A fee, as specified in the City's Fee Resolution, shall be required for a Tree Permit.

4. A bond, cash deposit or other financial security, may be required to ensure required replacement trees are planted and/or that existing protected trees are properly protected, as determined to be appropriate by the Community Development Director.

5. Any new residential construction project in Area Districts I and II which exceeds fifty-percent (50%) valuation (total estimated cost of reconstructing the entire structure as defined by Section 10.68.030 of the Manhattan Beach Municipal Code) shall be required to plant a minimum of one new thirty-six inch (36") box tree, unless the Director of Community Development determines that it is inappropriate to require additional tree(s) on the property.

G. **Replacement Trees.** Required replacement trees shall be minimum thirty-six inch (36") box trees for each protected tree removed of an appropriate species and must be planted prior to final inspection. Actual sizes, species, location, and quantities of replacement trees are subject to Community Development Director approval. The City street tree list may be used as a guideline by the Director in determining appropriate replacement tree(s). A combination of protected and replacement tree quantities shall not result in less than one protected tree per lot or thirty feet (30') of site frontage. If the Director of Community Development determines that there is not adequate room on the property for replacement tree(s) due to the number of existing trees to remain, then the requirement for replacement trees may be modified or waived.

H. **Exemptions.** Tree removals and alterations exempt from the requirements of this section are as follows:

1. Removal in case of imminent emergency caused by the hazardous or dangerous condition of a tree, requiring immediate action for the safety of life or property (e.g., a tree about to topple onto a dwelling due to heavy wind velocities) with the prior approval of the Director of Community Development or his or her designee if a subsequent application for a Tree Permit is filed within five (5) working days.

2. Removal of any tree that is determined to be a public nuisance in accordance with Section 7.32.070, with prior approval of the Directors of Community Development and Public Works or his or her designee if a subsequent application for a Tree Permit is filed within five (5) working days.

2. Removal of deciduous, fruit-bearing trees, *Washingtonia robusta*, or *Washingtonia filifera*.

3. Public Utility actions, under the jurisdiction of the Public Utilities Commission of the State of California, as may be necessary to comply with their safety regulations, or to maintain the safe operation of the facilities.

4. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the American National Standards Institute (ANSI A300) standards and does not damage or potentially damage the health and structure of the tree(s).

5. Cutting of tree branches and roots to the extent that the pruning complies with the American National Standards Institute (ANSI A300) requirements and does not damage or potentially damage the health and structure of the tree(s).

Manhattan Beach Municipal Code

I. **Non-liability of City.** Nothing in this Ordinance shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of any private property shall have a duty to keep the trees upon the property and under his control in a safe and healthy condition.

J. **Violation/Penalties.** Violation of this chapter shall be punishable as a misdemeanor or an infraction subject to the discretion of the City Prosecutor with the following additional penalties:

1. **Suspension, Revocation, and Restoration:** In addition to any other penalties allowed by this Code, the Director of Community Development may suspend any Tree Permit. The Planning Commission or City Council may suspend the Tree Permit for a Discretionary Project upon a finding at a public hearing that a violation of conditions of approval has occurred.

2. **Stop Work Orders:** Whenever any construction or work is being performed contrary to the provisions of this section or condition of approval of the applicable discretionary project the Director of Community Development may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation and the risk to the trees. No work shall be allowed until the violation has been rectified and approved by the Director of Community Development.

3. **After-the-Fact Permit Fees:** The standard permit fee shall be doubled for tree removals or other work requiring a tree permit pursuant to this section when commenced prior to issuance of said permit.”

K. **Administrative Fines.** The Director of Community Development may impose a fine against any person who is in violation of any provision of this section. Such fine shall be a range as specified in the City fee Resolution. The proceeds of all administrative fines imposed under this section shall be placed in a “Tree Canopy Restoration Fund” to be used solely for the replacement and maintenance of trees in the public right of way or on public property within the City.

1. Any person upon whom a fine is considered to be imposed pursuant to this section shall be entitled to a written notice of the pending decision of the imposition of the fine within ten (10) calendar days of the decision of the imposition of the fine. The notice shall state the amount of the fine, the reason for the proposed imposition of the fine and the authority for imposing the fine. The notice shall also state that the person upon whom the fine is proposed to be imposed has a right to request a hearing to protest the proposed decision of imposition of the fine and the time and method by which a hearing may be requested.

2. Any person upon whom a fine authorized by this section is proposed to be imposed may request, in writing, a hearing to protest the proposed fine. The request must be filed with the City Clerk within ten (10) calendar days from the mailing date of the notice of the proposed fine. The failure to timely file a written request for a hearing shall constitute a waiver of the right to a hearing.

3. Upon timely receipt of a request for a hearing the City shall, within ten (10) calendar days of receipt of such a request hold a hearing to be presided over by the Director of Community Development or his or her designee. This presiding officer shall determine the procedure and rules for the conduct of the hearing. The ruling of the presiding officer, notwithstanding any other provision of this code shall be final.

4. If the Director determines that a fine is due, and the fine imposed by this section is not paid within fifteen (15) calendar days of its becoming due and payable the City may file a lien in the amount of the fine plus interest at the legal rate, which may be recorded on any property owned by the individual subject to the fine which is located in the City of Manhattan Beach.

5. In the event that a civil action is filed regarding any provision of this subsection “K” the City shall be entitled to attorney fees if it prevails.

(Ord. No. 1884, Enacted, 08/19/93, Ord. No. 2045, eff. 5/6/03, Ord. No. 2082 eff. 4/20/06))