




Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Members of the Parking and Public Improvements Commission

FROM: Neil Miller, Director of Public Works
Juan Price, Maintenance Superintendent 

DATE: January 25, 2007

SUBJECT: Appeal of Existing Policy Prohibiting Removal of a Nuisance Tree

RECOMMENDATION:

Staff recommends that the Parking and Public Improvements Commission deny the appeal of staff's decision to have an American Sweetgum tree removed located at 592 31st Street.

FISCAL IMPLICATION:

None at this time.

BACKGROUND:

During the summer of 2006, the City received notice of an American Sweetgum tree located at 592 31st Street. During the first visit, the home was under construction. The initial report was that the tree was damaging the street, sidewalk and other paved surfaces immediately adjacent too it. The property owner to the west of 592 31st St. also claimed damage to a block wall set upon private property, presumably from the subject tree. Staff initially responded by meeting with the property owners of 592 31st Street and informed them that in the City's experience, the tree was not suitable for the area. Staff recommended that they view mature specimens in the vicinity of Redondo Ave. and 19th Street to witness first hand the damage these trees could cause. The issue again came to light several months later, upon the completion of construction. File notes indicated that the tree had not been removed, which was preventing the owners and developer from obtaining a Certificate of Occupancy. Telephone conversations with the owner ensued, and the City granted the Certificate of Occupancy, with the understanding that the City was still pursuing removal of the tree as a nuisance tree. The owners were informed of their right to appeal the City's decision.

A letter dated December 11, 2006 was mailed to the property owners informing them that the City has identified the subject tree as a nuisance tree and required removal. The letter further informed the property owners that the existing tree has damaged surrounding hardscape both on private and public property. Additionally, a Notice of Public Hearing was mailed to all residents within 500' of the tree and a copy of a City obtained arborists report was faxed to the property owner.

DISCUSSION:

Pursuant to the City's request, West Coast Arborists, Inc. (WCA) examined one American Sweet Gum tree located at 592 31st Street and evaluated the condition surrounding the site. WCA found that as this type of tree becomes larger in size, the roots can cause significant hardscape and underground utility damage. This species is better suited for growing in open spaces such as parks, wide arterial medians or in wide parkways some distance from property foundations. WCA also found that the roots of the existing tree is likely causing or contributing to both the apron damage as well as damage to the street surface. Any roots cut in order to make surface repairs will put this tree at a greater risk of falling over. It has been determined that the street tree has damaged surrounding hardscape on both private and public property.

In addition, staff has researched the City's codes regarding circumstances where trees located on public right of way can be removed. The Code does allow for the removal of nuisance trees on public right of way under certain circumstances. However, in all such circumstances the tree must be replaced with another tree of a species approved by the City. The circumstances whereby trees can be removed are described in Section 7.32.070 Public Nuisance (attached). In general, a tree can be removed which "...is apt to cause injury or damage to persons or a property, or constitutes a then present menace or threat to life or property, or constitutes and is a nuisance, and shall be subject to abatement..." The tree at this location has caused damaged to surrounding hardscape on both private and public property.

CONCLUSION:

Because of codified policies allowing the removal of nuisance street trees, staff's position is that policy has been long established and that there are no grounds for the appeal of this policy.

- Attachments:
- A. Copy of the City's response letter dated December 11, 2006
 - B. Copy of the City's notice to residents of Public Hearing
 - C. Copy of West Coast Arborists, Inc. letter dated December 29, 2006
 - D. Several photos of the subject trees
 - E. Copy of Section 7.32.070 Public Nuisance of the Manhattan Beach Municipal Code



City of Manhattan Beach

Public Works Department

Phone: (310) 802-5300

FAX: (310) 802-5301

TDD: (310) 546-3501

Notice to Residents Of Public Hearing

Re: Appeal Of City Decision To Remove Nuisance Street Tree

Dear Resident/Property Owner:

This is your notice of a Public Hearing before the City's Parking and Public Improvements Commission to be held:

Thursday, January 25th, 2007, 6:30 PM
City Council Chambers
1400 Highland Avenue
Manhattan Beach, California, 90266

The subject of the Public Hearing will be the appeal by several residents of the City's decision to remove an American Sweetgum (*Liquidambar styraciflua*) located at 592 31st Street. The existing tree has damaged surrounding hardscape on both private and public property.

If you have an opinion on this issue you are encouraged to attend the meeting and speak when this item is heard.

The decision of the Parking and Public Improvements Commission will be forwarded to the City Council for ratification.



December 29, 2006

City of Manhattan Beach
ATTN: Mr. Juan Price
3621 Bell Avenue
Manhattan Beach, CA 90266

RE: 592 31st Street – American Sweet Gum

Dear Mr. Price,

Pursuant to your request, I examined one American Sweet Gum (*Liquidambar styraciflua*) located at 592 31st Street in the City of Manhattan Beach. The purpose was to evaluate its site situation. I visited the site on December 15, 2006, and all comments that follow are based on ground-level observations made while on site.

Observations: The Sweet Gum is growing in a 3' x 5' dirt planter between two driveways on the backside of the property and actually on 30th Street (see Figure 1.1). It has a trunk diameter of 15" (DBH), and it is about 35' tall. It appears to be in decent health and condition, and it is showing its usual attractive fall color. However, it is growing in a tight site with little capacity for receiving surface irrigation (since its dripline is surrounded by hardscape), and it appears that the curb just in front of it and the driveway apron have been replaced and that a new property wall was installed just behind it, and there is evidence of a damaged root (see Figures 1.2 & 1.3). Also, the neighboring driveway apron also appears to be a replacement and it is cracked and is slightly deflecting, and the street surface just beyond the gutter is deflecting as well (see Figure 1.4). The tree is leaning slightly to the east.

Comments: American Sweet Gum is a tall growing deciduous tree species native to the eastern United States, and it is a water-loving species that tends to produce an aggressive and formidable surface root network, especially when growing in sites with dry compacted soil. While it has been and continues to be planted as a street tree for its spectacular fall color, as the tree becomes larger this formidable root network can cause significant hardscape and underground utility damage (and it is often implicated for damaging underground water pipes), especially in narrow parkways or small tree wells, and as a rule it is a species that is better suited for growing in open spaces such as parks, wide arterial medians, or in wide parkways (at least 8' wide) some distance from the property foundation. Those mature specimens that are growing in street parkways often end up having their large buttress flare roots cut in order to facilitate sidewalk, driveway, or curb repair, and damage to such important roots often results in these trees developing root decay, which can then adversely impact long-term health as well as greatly reduce structural stability, since one function of the root network is to provide stability as the tree becomes taller (specimens can exceed 80' in height). Therefore, although this specimen seems attractive now, its roots are likely at this time causing or



contributing to both the apron damage as well as damage to the street surface, and any roots cut in order to make those repairs will put this tree at a greater risk of falling over, since the roots that would have to be cut are those that are providing vital structural support. It must also be noted that it is unclear if any large roots were cut when replacing the driveway apron or when installing the wall, and if indeed roots were cut then any more large roots that need to be cut will have then subject this specimen to having roots cut on possibly as much as 75% of its circumference and far too close to its trunk. Finally, one other issue worth mentioning is that this species will drop its spiny fruit balls nearly year-round and shed leaves every year in the late fall months, and so I would also consider this tree too messy for a site dominated by residential driveways.

Recommendation: Thus, I will recommend that you strongly consider the costs of maintaining a specimen ill-suited to its site and then consider the long-term benefits of removing this tree. The existing site conditions stack the odds against this tree being able to thrive over the long-term - limited growing space, limited opportunities for sufficient irrigation, and more root damage required for keeping the hardscape in satisfactory condition.

Should you have any questions or require additional information, please feel free to contact me at (714) 991-1900.

Sincerely,

Tony Uno
Consulting Arborist
West Coast Arborists, Inc.

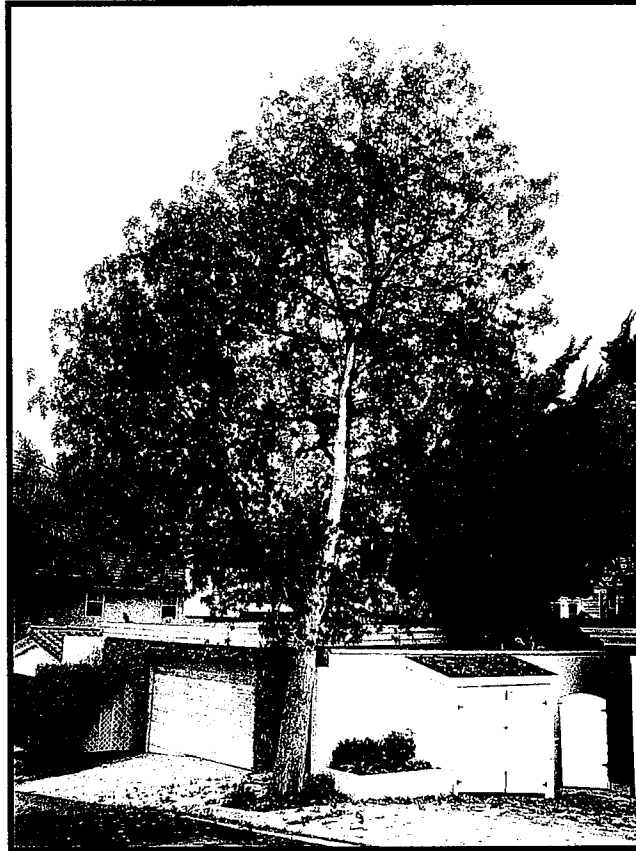


Figure 1.1 (above), note the slight lean and the tight growing space; Figure 1.2 (below), the curb is new, as is the driveway apron and the planter behind it.





Figure 1.3 (above), note the damaged root and the crack in the driveway apron; it is likely that roots were cut prior to installing the wall footing; Figure 1.4 (below), note the damage to the street surface; any large roots cut on this side will likely reduce structural stability since this tree is already leaning.



is first obtained from the Public Works Director for such access.

B. It shall be the duty of all owners and persons having possession or control of real property within the City promptly to notify the Public Works Director of any tree or shrub in a public area immediately adjacent to his property which is in such condition as to be a menace to public safety or dangerous to life or property.

7.32.060 Abuse or mutilation of trees.

It shall be unlawful for any person to:

- A. Damage, cut, carve, etch, hew or engrave or injure the bark of any street tree;
- B. Allow any gaseous, liquid or solid substance harmful to trees to come in contact with any part of any street tree;
- C. Deposit, place, store or maintain upon any public area any stone, brick, concrete, or other materials which may impede the free passage of air, water and fertilizer to the roots of any tree or shrub growing therein, except by written permit of the Public Works Director;
- D. Except as may be authorized by the provisions of Section 7.32.040, damage, tear up or destroy any plantings, grass, flowers, shrubs, or trees planted upon or in any public place or area in the City; and
- E. Paint, tack, paste, post or otherwise attach or place any advertisement, notice, card or announcement or any printed or written matter or any wire, board, platform or injurious material of any kind upon any tree or shrub situated in any public place or area in the City.

7.32.070 Public nuisance.

The Council, pursuant to the power and authority vested in it to do so under the provisions of Sections 38771 and 38773 of the Government Code of the State, does hereby find and declare that any of the following is apt to cause injury or damage to persons or property, or constitutes a then present menace or threat to life or property, or constitutes and is a nuisance, and shall be subject to abatement as such by civil action or summarily as provided by law:

- A. Any dead, diseased, infested, leaning or dying trees on private property so near to any street as to constitute a danger to street trees, or streets, sidewalks, or portions thereof, or the life, health or safety of the public.
- B. Any tree, shrub or plant on any private property or in a parkway of a type of species apt to destroy, impair or otherwise interfere with any street improvement, sidewalk, curb, approved street tree, gutter, sewer or other public improvements including water utilities or services.
- C. Any tree or shrub or parts thereof growing upon private property but overhanging or interfering with the use of any street, parkway, sidewalk or public place of the City such that in the opinion of the Public Works Director endangers the life, health, safety or property of the public.
- D. The existence of any branches or foliage on private or public property which interferes with visibility on, or free use of, or access to any portion of any street improved for vehicular or pedestrian travel.
- E. Trees on public property which constitute a public nuisance shall be removed, replaced or trimmed at the expense of the adjoining property owner as ordered by the Director of Public Works. If a tree on public property is ordered replaced under this section, the City shall pay the cost of the replacement tree, as established by the Council under separate resolution.
- F. It shall be the duty of all owners and persons having possession and control of real property within the City to abate any public nuisances referred to in this section that occur on their real properties.
- G. The procedures for notice, service of notice, hearing, abatement and removal by the City, and collection of the cost of the work by tax lien as provided in Section 9.64.030 through 9.64.130 of this Code shall be utilized. Said sections are incorporated herein by reference and made a part of this chapter.
(as amended by § 1, Ord. 1247, eff. August 5, 1971; § 1, Ord. 1290, eff. August 4, 1972; § 27, Ord. 1458, eff. June 17, 1976)

7.32.080 General provisions.

- A. Species or varieties of street trees:



City of Manhattan Beach

Public Works Department

Phone: (310) 802-5300
FAX: (310) 802-5301
TDD: (310) 546-3501

December 11, 2006

Mr. Andrew Caine
592 31st Street
Manhattan Beach, CA 90266

Dear Mr. Caine,

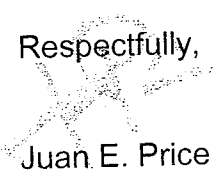
I am writing you to inform you that the City of Manhattan Beach is requiring the removal of the *Liquidambar* tree at the rear of your property located at 592 31st Street. Field inspections have noted damage to adjacent private property and the City's experience with this species of tree has been poor. *Liquidambar* trees are an excellent choice when planted in a sufficiently spacious location free of utilities and street improvements. Unfortunately, *Liquidambar*'s often exhibit invasive root systems, and are known to damage sewers, storm drains, walls and hardscaped areas. For the reasons noted, they are not included in the approved street tree list and are not consistent with City established planting guidelines.

After meeting with you and contractor Bill Tilley on site during the summer to discuss the various reasons the City was requesting the tree's removal, my understanding is you decided to pursue saving the tree if possible. During the final inspection process, we again spoke and discussed the tree issue; it was your wish to pursue appealing the City's decision to remove the tree to the Parking and Public Improvement Committee (PPIC).

In an effort to bring this matter to a close, the City requests that you appear before the PPIC no later than January 25, 2007. The City will delay any action on this tree until a decision is rendered. If you choose to forego the appeal process, the City will schedule removal of the tree to avert future damage to utilities and improvements in this area, and replace the *Liquidambar* with an appropriate species from the City approved tree listing.

If you would like to discuss any issues which may be related to this matter or City approved plantings in general, please contact me at (310) 802-5310.

Respectfully,


Juan E. Price
Maintenance Superintendent
enclosures

City Yard Address: 3621 Bell Avenue, Manhattan Beach, CA 90266
Visit the City of Manhattan Beach web site at <http://www.citymb.info>

592 31st Street



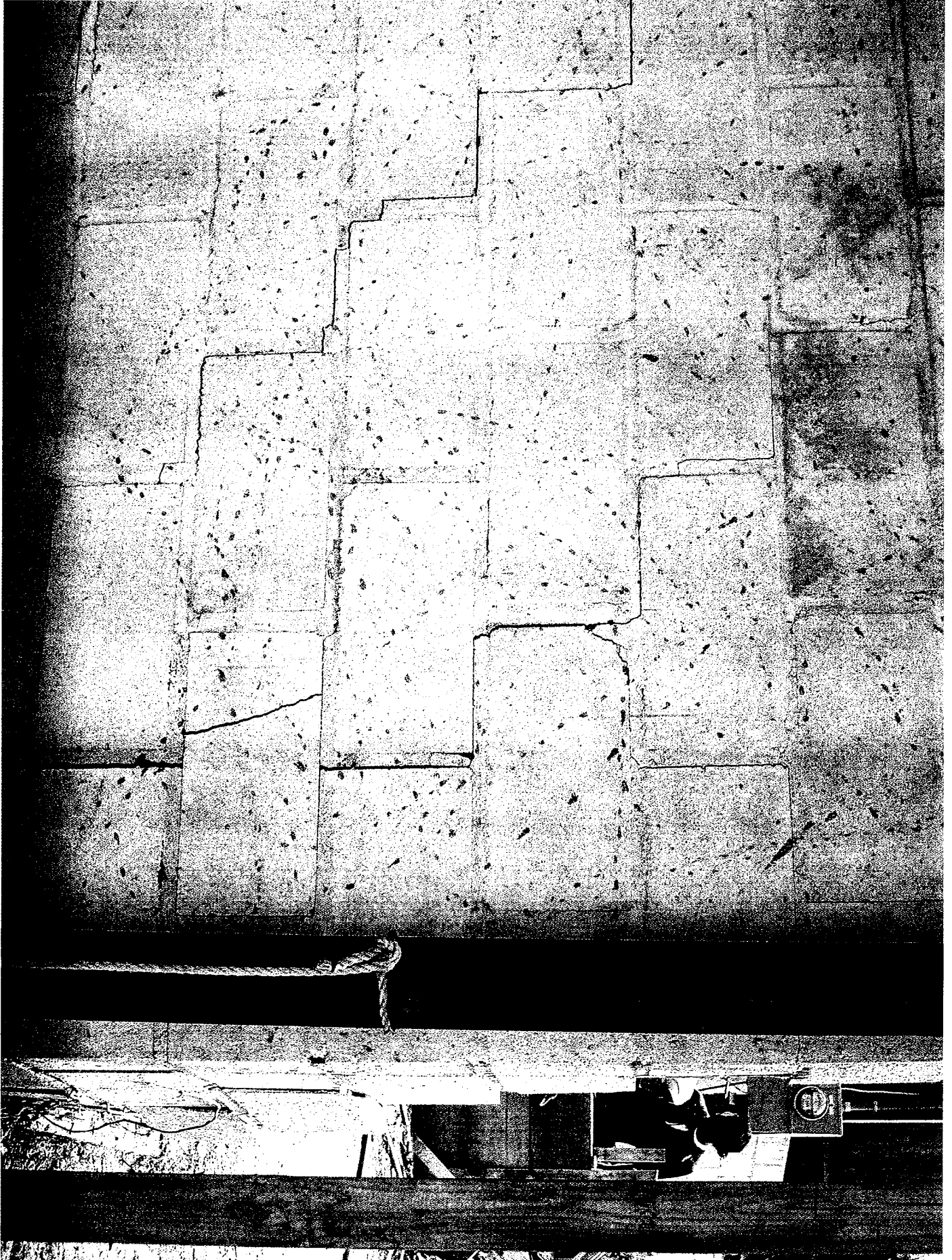
Liquidambar-American Sweetgum

592 31st Street



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Liquidambar-American Sweetgum