



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Members of the Parking and Public Improvements Commission

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

DATE: January 25, 2007

SUBJECT: Appeal of Existing Policy Prohibiting Removal of Streetscape Trees for View Enhancement

RECOMMENDATION:

Staff recommends that the Parking and Public Improvements Commission deny the appeal of staff's decision to have carrot wood trees removed from the intersection of 8th Street and Manhattan Avenue.

FISCAL IMPLICATION:

None at this time.

BACKGROUND:

On August 31, 2006, the City received a "Request for Action Form" (attached) along with a petition from several 8th Street residents requesting that trees in the Downtown Streetscape area located at the intersection of 8th Street and Manhattan Avenue, be removed. Staff responded to this request with a letter dated September 22, 2006 (copy attached) informing the residents that these trees were planted and maintained as part of the Downtown Streetscape District which is paid for by assessments from the property owners of the District. The letter further informed the residents that trees in the District are trimmed on a maintenance cycle for the benefit of the overall landscape health and not for view preservation.

DISCUSSION:

The Parking and Public Improvements Commission (PPIC) and the City Council have previously been asked (2000) to grant a request to remove a Streetscape tree for the purpose of enhancing view from properties located east of the tree location. That request was denied by both the PPIC (July 27, 2000) and at the subsequent City Council meeting (August 15, 2000). (Reports and minutes for these meetings are attached.)

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 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 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 Code describes many situations which constitute a nuisance. View obstruction is not one of those.

CONCLUSION

Because of the prior decision by both the PPIC and the City Council not to allow the removal of a Streetscape tree for the purposes of view improvement, staff's position is that policy has been established and that there are no grounds for the appeal of this policy.

- Attachments:
- A. Copy of original "Request for Action Form" and petition dated 8/31/06
 - B. Copy of the City's response letter dated September 22, 2006
 - C. Copy of "Request to Appeal" letter dated October 6, 2006
 - D. Copy of staff Memo to PPIC re: Request to remove Tree from Streetscape District dated July 27, 2000
 - E. Copy of Minutes of the PPIC meeting of July 27, 2006
 - F. Copy of Staff Report to the City Council Requesting to Uphold PPIC Decision to Deny Request to remove tree dated August 15, 2006
 - G. Copy of page 9.of the Minutes from the City Council meeting of August 15, 2000
 - H. Section 7.32.070 Public Nuisance of the Manhattan Beach Municipal Code
 - I. Several photos of the subject trees after recent tree trimming.
 - J. GIS Map Showing subject trees



ATTACHMENT A


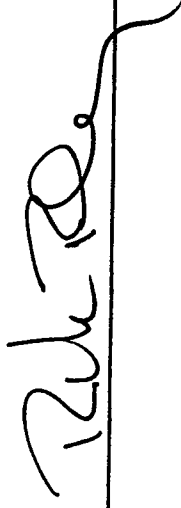
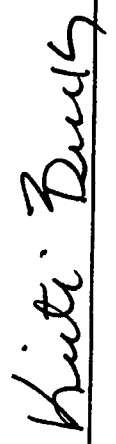
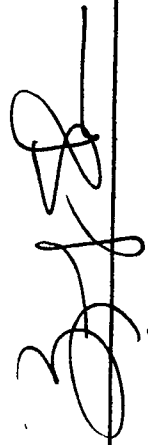



Request for Action Form

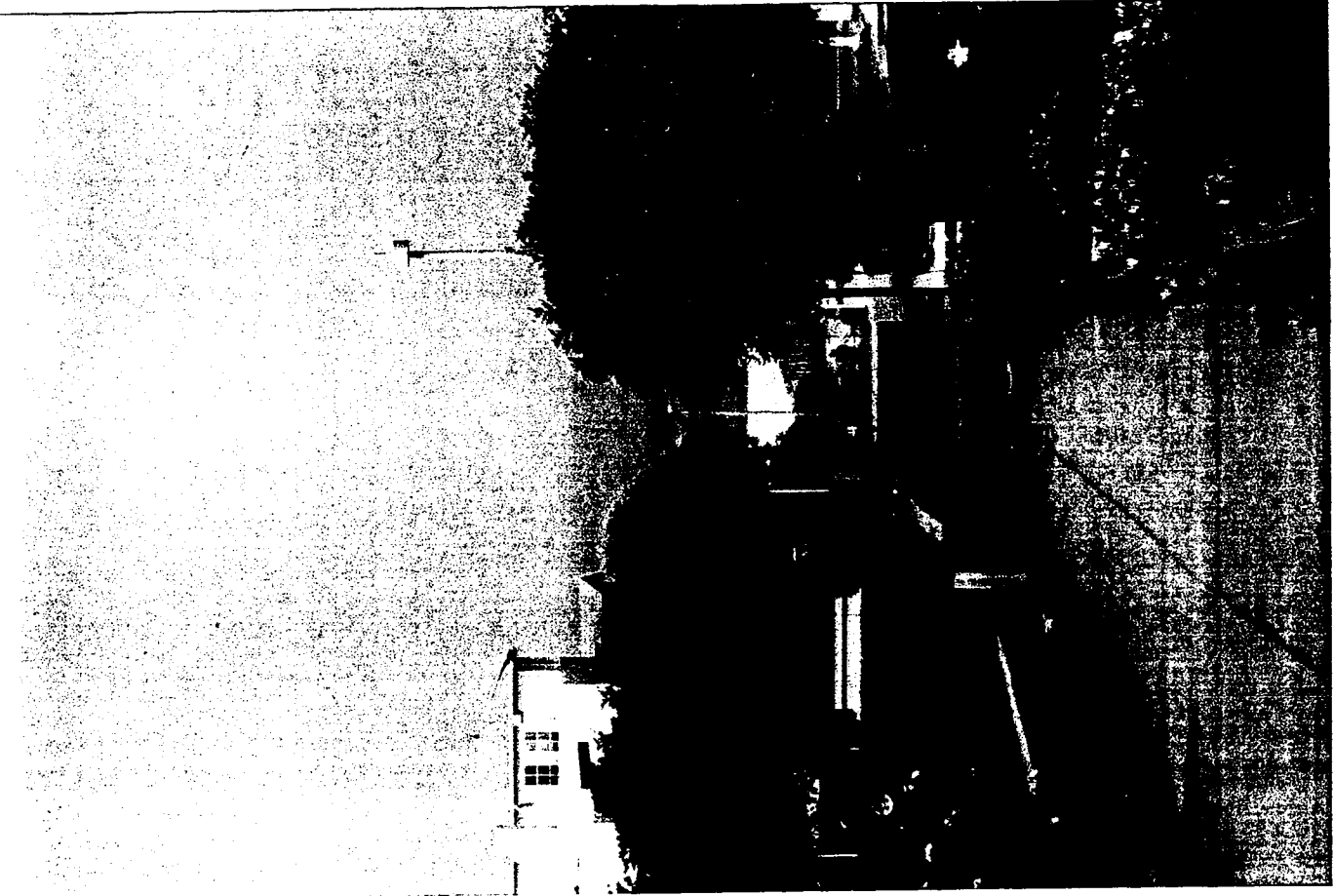
1. Date: 8/31/06
2. Citizen Requesting Service: Residents of 8th Street bet. Manhattan + Highways
3. Citizen's Address: 200 Block of 8th St.
4. Citizen's Phone Number: Chris Griffin - 310-502-7240
5. Nature of Request:
Trees planted during the downtown beautification project are blocking our views and do not comply with city ordinance regarding walk street landscaping. Please see attached signatures and pictures with our request that the trees be removed.
6. Signature of Request Taker: C Griffin
7. Department Report:

8. By: _____
9. Date: _____
10. Citizen Contacted By: _____
11. Date: _____
12. Additional Action Required:

NAME	SIGNATURE	ADDRESS
Helen Griffin	<i>Helen Griffin</i>	235 8th Street, MB
Darrin Freeman	<i>[Signature]</i>	224 8th St MB
ALPAD PATAI	<i>[Signature]</i>	218 B + 5th St MB
Joan Fallai	<i>[Signature]</i>	218 8th St. M.B.
PATRICIA CITTA	<i>[Signature]</i>	229 8th St M.B.
Aane c. Kennedy	<i>[Signature]</i>	217 8th St. M.B.
John Roberts	<i>[Signature]</i>	721 Bayview Dr. M.B.
JULIE E. COCHOTT	<i>[Signature]</i>	800 MANHATTAN AVE #107B

The residents of the 200 block of 8th street do hereby petition the city to remove trees installed during the downtown beautification project so as to be in compliance with city ordinance regarding walk street landscaping.

NAME	SIGNATURE	ADDRESS
Lisa Ristani		233 8 th Street
Rick Buckley		228 8 th Street
Kristi Buckley		228 8 th Street
Beverly Shane		232 8 th Street
CINDY FREEMAN		224 8 th STREET
John Shane		232 8 th Street
Chris Griffin		225 8 th Street



8th Street – trees



7th Street – no trees...

ATTACHMENT B



City of Manhattan Beach

Public Works Department

Phone: (310) 802-5300

FAX: (310) 802-5301

TDD: (310) 546-3501

September 22, 2006

Dear Resident,

This letter is in response to a letter and attached petition dated August 31, 2006. The letter requests that the City remove the trees located at the intersection of 8th Street & Manhattan Ave. due to a view obstruction.

As I am sure you are aware, these trees are part of the downtown Streetscape District. The entire Streetscape District was rehabilitated during fiscal year 1987-88. One goal of the project was to develop a uniform look and present a hometown feel. The landscape plan as implemented during the last 20 years has remained virtually unchanged and helps set the Downtown Streetscape apart as a unique part of Manhattan Beach.

The City currently trims the carrotwood trees on an annual basis, usually in October or early November. These trees have been heavily trimmed and manicured to maintain their scale. Because these trees are part of an approved landscape plan and one of the design elements that make the Downtown Streetscape unique, we cannot remove the trees as you have requested. Additionally, the City does not trim trees on public ROW to maintain or enhance views.

Past requests to have Streetscape trees removed have been denied by the City Council, which is consistent with current tree policies. As such, Public Works cannot honor this request. Please contact me directly if you have any other questions regarding this or any other maintenance issue.

Respectfully,

Juan Price
Maintenance Superintendent

ATTACHMENT C

October 6, 2006

Attention: Neil Miller
City of Manhattan Beach

802-5302

Re: Citizens of 8th street request for appeal on public trees in the walk street corridor

Dear Neil,

We submitted the attached petition and pictures originally to Laurie Jester on 8/31/06. On Sept. 22 we received a letter from Juan Price declining action. (See attached letter).

At this time we would like to appeal this decision.

We understand the next PPIC meeting is set for the 1st week of December; it would be fine if we were on the agenda.

Regards,
Citizens of 8th Street

Griffin3@adelphia.net
darrinf@earthlink.net
rbuckley2@aol.com
jshane18@mac.com

Patty Citta
Anne Kennedy
John Roberts
Jules Cochott
Arpad Pallai
Lisa Ristani

ATTACHMENT D

CITY OF MANHATTAN BEACH MEMORANDUM

TO: Parking and Public Improvements Commission

FROM: Neil Miller, Director of Public Works

DATE: July 27, 2000

SUBJECT: Request for removal of a City-owned Palm Tree located at 800 Manhattan Avenue

Introduction

Attached to this report is a letter of request to remove a queen palm tree from public right of way located adjacent to 800 Manhattan Avenue. This request is being made after many attempts by the City to trim the tree to the satisfaction of the residents.

The applicant makes several points in favor of removing the City-owned tree. Also, the applicant requests complete removal with no replacement tree.

Discussion

The City's Code regarding care and maintenance of trees located in public right of way and adjacent to private property is quite specific. Copies of the City's tree codes are attached to this report for reference. The code does allow for the removal of 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 discussed in Section 7.32.070, Public Nuisance. In general, a tree can be removed which "...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..."

The Code section goes on to describe many situations which constitute a nuisance. View obstruction is not one of the circumstances which constitutes a public nuisance as described in the Code. In all circumstances covered in the Code, the cost of the removal is born by the adjacent property owner. If the tree is ordered removed by the City, the City will pay for the replacement tree.

Conclusion

In view of the specific Code sections regarding circumstance when trees located on public right of way can be removed we do not find a section which allows the removal of a tree for view enhancement reasons. Therefore, staff recommends the Commission deny the request to remove the queen palm tree located at 800 Manhattan Avenue.

ATTACHMENT E

CITY OF MANHATTAN BEACH PARKING AND PUBLIC IMPROVEMENT COMMISSION MINUTES OF THE REGULAR MEETING

A. A regular meeting of the Parking and Public Improvements Commission of the City of Manhattan Beach was held on Thursday, July 27, 2000, at 6:35 p.m. in the City Council Chambers of City Hall, 1400 Highland Avenue.

B. ROLL CALL

Members Present: Chairperson Berks, Liggett, Saunders
Members Absent: Davy, Miller
Staff: Richard Garland, Traffic Engineer
Neil Miller, Director of Public Works
Rob Osborne, Management Analyst
Debbie Freeman, Recording Secretary

C. AGENDA CHANGES

Management Analyst Osborne reported that there was one change on the agenda regarding a traffic study at Valley and Ardmore due to the fact that the study would not be accurate during the non-school season.

D. APPROVAL OF MINUTES - July 6, 2000

Postponed until the next regular meeting due to the absences of Commissioners Davy and Miller.

E. CITY COUNCIL AGENDA

Two items relating to Commission:

- Encroachment appeal for 400 and 404 20th Street, applicant decided to try something to make the situation work. The item has been removed.
- Proposed patio for former H2O site recommended for approval, they would like to see more landscaping. Postponed until August 1, 2000 meeting.

F. AUDIENCE PARTICIPATION

None.

G. GENERAL

3. Request for Removal of a City-Owned Palm Tree located at 800 Manhattan Avenue

Director of Public Works Miller read the staff report recommending that the request to remove a queen palm tree with no replacement should be denied. Miller stated that the City has tried trimming, however the tree continues to grow. He commented that there were no sections in the Code which allow removal of trees located in public right of way due to view enhancement reasons.

Audience Participation

Jules Cochoit, 800 Manhattan Avenue, stated that when he was purchasing the units there was no tree, and two days before the close of sale the City had put in the queen palm. He stated that as the tree grew it became more obtrusive to the view, and in addition, the tree is dirty and messy when it sheds in the driveway, which he can not use because of that shedding. He commented that he knew of many palm trees in the city were being pulled out, and if this one were to be pulled out he feels it would not spoil the landscaping of the block because this particular tree is at the end of the block.

Chairperson Berks asked if the tree were to grow would it be out of the view, and **Mr. Kushwal** responded that the trunk would still be in the way.

Ron Wiggins, 800 Manhattan Avenue, Unit 2, stated that 100% of the view down the walkstreet is blocked due to the positioning of this tree. He is in favor of removing the tree, and asked that the Commission grant their request. In response to a question by Commissioner Saunders, **Mr. Wiggins** said that the Carrotwood tree next to the palm does not block their view.

Discussion

Commissioner Saunders questioned the fact on whether there would be any justification for the tree being a nuisance, although the legal definition may not apply, due to the fact that **Mr. Cochoit** cannot use his driveway because of the shedding.

Director of Public Works Miller, in response to a question by Chairperson Berks, said that the tree was trimmed by the City.

Chairperson Berks questioned if trimming the tree back severely would help the situation, although it doesn't appear to be impeding on their balconies. He stated that they are reluctant to put the tree on a regular trimming schedule.

Action

A motion was MADE and SECONDED (Saunders/Liggett) to uphold policy and not remove the palm tree at 800 Manhattan Avenue. Commission suggests trying to find some compromise, and possibly putting the tree on a special trimming schedule.

AYES: Chairperson Berks, Liggett, Saunders
NOES: None
ABSENT: Davy, Miller
ABSTAIN: None

4. Request by Greg Lutz to Move an Edison-Owned Utility Pole Related to a Condominium Development Located at 216 First Street

Director of Public Works Miller presented the staff report, which recommends upholding the City Council's policy regarding utility pole relocation. He stated that requests by developers for utility pole relocation are not allowed for view or aesthetic reasons, but only if sufficient engineering or access reasons, and must be presented to the Parking and Public Improvement Commission.

Audience Participation

Elizabeth Srouer, attending the meeting in representation of Greg and Anne Lutz, owners of the property in question, as they were unable to attend. **Ms. Srouer** stated that they wish to have the pole moved to the northwest corner approximately five to five and a half feet out of line with a deck that is on the northwest corner of the structure. She stated that moving the pole would enhance access to the corner on Bayview, and also would help the flow of traffic as it exits Bayview, east on First Street.

In response to a question by Chairperson Berks, **Ms. Srouer** stated that the pole would be raised five to ten feet and moved to the corner of the property, and the wires would be moved or extended to go over the alley.

Chairperson Berks questioned the fact that this wasn't taken care of before the building was constructed and included it in the plans before the latter stages of construction. **Ms. Srouer** said she could not respond to that, but stated that Mr. Lutz had consultants discussing that.

When asked by Commissioner Liggett, **Ms. Srouer** stated that the final judgment of what Edison wanted to do doesn't have anything to do with moving the pole.

Brian Wilcox, 224 First Street, stated that he is against moving the utility pole because if moved it would obstruct his view, whereas it does not where it is now. He stated that he

TO: Mayor Lilligren and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Neil Miller, Director of Public Works

DATE: August 15, 2000

SUBJECT: Uphold Decision of Parking and Public Improvement
Commission to Deny Request to Remove a Palm Tree Located at
800 Manhattan Avenue

RECOMMENDATION:

It is recommended that the City Council uphold the decision of the Parking and Public Improvement Commission to deny the removal of a palm tree located at 800 Manhattan Avenue.

DISCUSSION:

Attached is a staff report to the PPIC which contains the background of the request to remove the palm tree. Upon hearing testimony from the applicant and the public the PPIC decided to deny the request.

Attachment: Staff report to the PPIC date July 27, 2000

MOTION: Councilmember Napolitano moved to uphold the Parking and Public Improvements Commission's recommendation to deny a request for installation of a protected-permissive left-turn phase on Rosecrans Avenue at Pacific Avenue and direct staff to analyze the possibility of increasing the length of the left-turn phase for westbound Rosecrans at Pacific. The motion was seconded by Councilmember Wilson and passed by a unanimous roll call vote as follows:

Ayes: Wilson, Dougher, Fahey, Napolitano and Mayor Lilligren.
Noes: None.
Absent: None.
Abstain: None.

00/0815.20 Uphold the Parking and Public Improvements Commission Recommendation to Deny a Request to Remove a Palm Tree Located at 800 Manhattan Avenue

A member of the audience pulled this item from the Consent Calendar for Council discussion.

The following individuals spoke on this item:

- **Jules Cochoit, 800 Manhattan Avenue, #1**
- **Ron Wiggins, 800 Manhattan Avenue, #2**

Council held discussion with Public Works Director Neil Miller relative to Mr. Cochoit and Mr. Wiggins' appeal to Council to reconsider their request to remove a palm tree located at 800 Manhattan Avenue.

Mayor Pro Tem Dougher and Councilmember Fahey voiced their support of the removal of the tree and replacing it with a smaller, more suitable one. Mayor Lilligren and Councilmembers Napolitano and Wilson communicated their opposition citing that the removal will set a bad precedent for others wishing to improve their view by the removal/relocation of trees, light poles, etc.

MOTION: Councilmember Wilson moved to uphold the Parking and Public Improvements Commission recommendation to deny a request to remove a palm tree located at 800 Manhattan Avenue. The motion was seconded by Councilmember Napolitano and passed by the following vote:

Ayes: Wilson, Napolitano and Mayor Lilligren.
Noes: Dougher, Fahey.
Absent: None.

City Council Meeting Minutes of August 15, 2009

shrubs, lawns and ground covers now or hereafter planted or set out within any of the streets, avenues, highways and parkways adjacent to their real properties. This paragraph when applied to those certain residents and property owners designated in Manhattan Beach City Ordinance No. 916 shall not be construed to preclude access of vehicles for the planting, cutting, pruning, or removal of such trees, shrubs, lawns and ground covers provided that permission 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:

1. The Public Works Director shall prepare a list of street trees which may be planted in each of the parkway areas of the City, which list shall be available to the public to aid in the choice of trees to be planted. This list may be modified as experience indicates the desirability of such modification. The original list and any modifications thereto shall be approved by the Public Works Director.

B. Planting of street trees:

1. All planting should be in good horticultural practice as determined by the Public Works Director.
2. All planting on unpaved streets without curb must have the special permission of the Public Works Director who shall determine the tree's exact location so that it will not be injured or destroyed when the street is improved;
3. Spacing of trees shall be determined by the Public Works Director according to local conditions and species to be used, their mature height, spread and form; and
4. The recommended size shall normally be that designated as fifteen (15) gallon size (accepted trade sizing); the minimum size acceptable shall be a five (5) gallon size.

C. Trimming and removal:

1. The property owner shall normally assume responsibility for trimming, topping or dehorning, pruning, and removing trees growing on any public place or area.
2. Except as may be provided for in subdivision (E) of Section 7.32.070, the City will not remove a tree in the parkway adjoining any property unless such tree is a hazard to the street maintenance or other services of the City. Responsibility and expense of all other tree removals shall be borne by the requesting property owner, person, firm, association, corporation or franchisee.

D. Spraying:

1. Suitable precaution shall be taken to protect and warn the public that spraying is being done.

7.32.090 Street tree planting guide.

Those street trees now existing may remain until by old age or other reasons they are removed. When any new street tree is planted it shall conform to the street tree planting guide referred to in subdivision (A)(1) of Section 7.32.080.

7.32.100 Protection of trees.

During the erection, repair, alteration or removal of any building, house, structure or street in the City, any person, firm, association, corporation or franchisee in charge of such work shall protect any tree, shrub or plant in any street, park, boulevard, or public place in the vicinity of such building or structure with sufficient guards or protectors as shall prevent injury to said tree, shrub or plant arising out of or by reason of said erection, repair, alteration or removal, and shall be held responsible if the Public Works Director determines that this protection has not been provided.

(§ 3, Ord. 1202, eff. February 19, 1970)

8th Street at Manhattan Ave

ATTACHMENT I



Streetscape Tree Removal Request

8th Street at Manhattan Ave



Streetscape Tree Removal Request

8th Street at Manhattan Ave



Streetscape Tree Removal Request

8th Street at Manhattan Ave



Streetscape Tree Removal Request

8th Street at Manhattan Ave



Streetscape Tree Removal Request

8th Street at Manhattan Ave



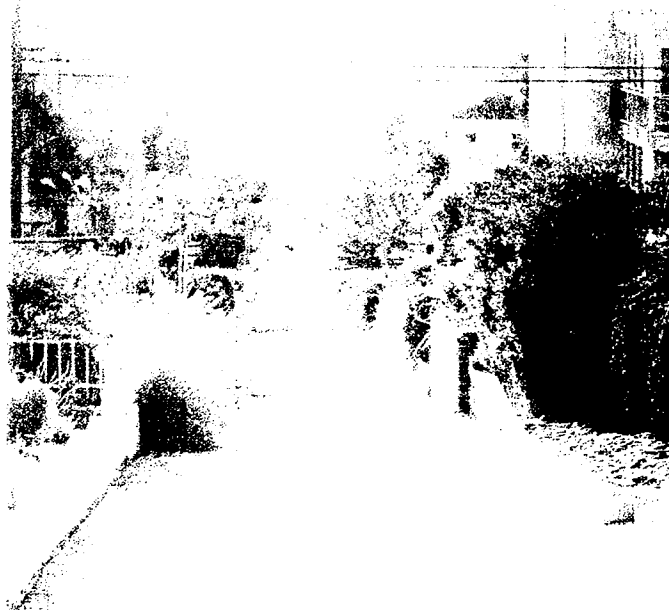
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Streetscape Tree Removal Request