

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JANUARY 28, 2009**

The Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 28th day of January, 2009 at the hour of 6:35 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

A. ROLL CALL

Present: Fasola, Paralusz, Powell, Seville-Jones and Chair Lesser
Absent: None
Staff Present: Richard Thompson, Community Development Director
Laurie Jester, Planning Manager
Recording Secretary: Sarah Boeschen

B. APPROVAL OF MINUTES – January 14, 2008

Commissioner Paralusz requested that line 8 of paragraph 4 on page 2 of the January 14 minutes be revised to read: “He commented that the only change to the establishment would be that they would operate under the different type of alcohol license.”

Chairman Lesser requested that the last paragraph of page 2 of the minutes be revised to read: “Chairman Lesser said he agreed the project met each of the necessary legal findings, ~~that~~ the applicant is a good member of the community, and he has no objections to the project.”

A motion was MADE and SECONDED (Powell/Fasola) to **APPROVE** the minutes of January 14, 2009, as amended.

AYES: Fasola, Paralusz, Powell, Seville-Jones and Chair Lesser
NOES: None.
ABSENT: None.
ABSTAIN: None.

C. AUDIENCE PARTICIPATION

None.

D. PUBLIC HEARINGS

01/28/09-1 City Council 2008-2009 Work Plan Item: Zoning Code Amendment to the Tree Preservation Regulations (Section 10.52.120 of the Zoning Code) and Related Code Sections, to Revise the Tree Preservation Regulations, to Provide More Flexibility and to Require a Tree Trimmers Permit

Planning Manager Jester summarized the staff report. She commented that the City's original Tree Ordinance was adopted in 1993. She commented that the Ordinance originally applied only to the Tree Section and was expanded in 2003 to apply to all residential areas in Area Districts I and II. She stated that in 2006 the Ordinance was revised to protect street side trees on corner lots; to require new trees on lots with no existing trees; to increase the size required for replacement trees; to require that tree pruning standards be met; and to increase fees and fines. She indicated that the Council shortly thereafter formed a Tree Committee of residents to provide public education on the benefit of trees, and the Council then provided direction to the Tree Committee which included initiation a Tree Trimmers Permit. She commented that the Council directed staff to proceed with drafting Code amendments to provide flexibility in the regulations and to develop a Tree Trimmers Permit. She commented that there were concerns expressed from the residents and the City Council that the original 1993 Ordinance was too lax and then became too restrictive when it was revised. She said that the goal is to protect the neighborhood character and the existing tree canopy; however, there are situations where it is in the best interest to have flexibility to remove and replace trees that are inappropriate for a certain location.

Planning Manager Jester indicated that a City Council Subcommittee considered revisions to allow for more flexibility in permitting removal and replacement of trees that are in marginal health; trees that will be impacted by development; and trees that significantly damage private property creating a liability and safety concern. She commented that there are State regulations with provisions for trees to be trimmed or removed if they are shading solar panels. She indicated that the Subcommittee also considered developing tree canopy management guidelines in the future.

Planning Manager Jester stated that staff has worked with the Finance Department, Tree Committee and City Attorney in preparing an application for a tree trimmers license. She commented that the license would be issued along with a business license. She said that homeowners would not need a permit but would be required to hire licensed tree trimmers. She indicated that licensed tree trimmers would need to comply with the ANSI A300 standards in pruning protected trees. She said that some of the requirements that are included in the standards include not removing over 25 percent of the living foliage annually and not topping trees. She indicated that the permit would be valid for a year. She indicated that a notice would be posted to indicate that a tree is being pruned and would include contact information. She commented that a list of licensed tree trimmers would be available at City Hall or on the City's website, and that a fee would not be charged for the permit.

Planning Manager Jester said that the proposed revisions to the Tree Ordinance include adding language in the purpose section regarding protecting healthy trees, providing flexibility in removing trees that are causing damage, and balancing the tree preservation with the enjoyment of private property. She commented that language is also proposed to be added on page 4 of the draft Resolution to allow for retaining a third party arborist in situations where there is a disagreement regarding removal of a tree. She indicated that the City can hire a third party arborist as a mediator at staff's discretion if the City's arborist and an arborist hired by an applicant disagree. She indicated that the cost of providing for a third party arborist would be shared by the applicant and the City. She said that language is also proposed to be added to reference the appeal code section which specifies that the decision of the Community Development Director is appealable to the Planning Commission and the decision of the Commission is appealable to the City Council. She indicated that the criteria section is proposed to include language that a tree can be removed and replaced if it has died; if it creates a health or safety concern; if it is structurally unstable; if it is in dying or marginal condition which results in no reasonable alternatives for preservation; if construction causes it to have significant unavoidable damage; and if it is causing significant damage to public or private property creating a liability, health, or safety concern. She pointed out that it is proposed that underground structures being damaged would not meet the criteria for removal of a tree, which the Council felt was important to include. She also pointed out that the State regulations require compliance with the Solar Shade Control Act; however, a tree would need to be removed in order to comply with the regulations only in rare instances.

In response to a question from Chairman Lesser, Planning Manager Jester commented that staff receives many requests from property owners to remove trees because they are damaging sewer lines. She indicated that tree roots do cause damage to the City's original old clay sewer pipes. She said that because of the large number of requests, the City Council did not feel it was appropriate to allow everyone who has roots intruding into their sewer lines to have their tree removed.

In response to a question from Chairman Lesser, Planning Manager Jester indicated that the Tree Committee felt it was important to post a notice to inform neighbors that a tree is being trimmed and for the tree trimmer's information trimmer to be easily accessible.

In response to a question by Chairman Lesser, Planning Manager Jester stated that any disagreements would be attempted to be mediated at the staff level and brought before the Commission and City Council as appropriate.

In response to a question from Commissioner Paralusz, Planning Manager Jester commented that property owners would be permitted to prune their own trees but would still be responsible for complying with the ANSI A300 standards, which is included in the language of section 5(J) of the draft Resolution. She indicated that any tree trimmer that is hired by a resident must be licensed. She said that the language of the second sentence of Section 5(J) could be clarified to

state that residents must hire someone who is licensed when they do not prune their own trees. She said that there is a link on the City's website to a website with the ANSI A300 standards. She said that the standards are included in a book that can be purchased.

In response to a question from Commissioner Paralusz, Planning Manager Jester said that the City Council did not wish to pursue the possibility of establishing a credit system to allow for consideration of removing trees in a front yard when there are several trees in the back yard.

In response to a question from Commissioner Powell, Planning Manager Jester indicated that the main focus of the Tree Committee is to provide education to residents regarding trees. She commented that the Committee has organized seminars and tree pruning demonstrations. She indicated that the Business License Department has given preliminary information on the proposed revisions to 300 gardeners and landscapers who currently have business licenses in the City, and further information will be sent when the new standards are adopted.

In response to a question from Commissioner Powell, Planning Manager Jester indicated that one 36-inch box tree is required as a minimum size for replacement of any protected tree that is removed. She commented that the size required for replacement depends on the situation.

Commissioner Powell suggested that the City's website be placed at the bottom of the notice that is posted for trees that are being pruned in order to allow anyone who wants further information regarding the ANSI A300 standards.

In response to a question from Commissioner Seville-Jones, Planning Manager Jester indicated that staff felt the tree trimmer's license should be valid for a year and be renewed at the same time as a business license.

In response to a question from Commissioner Seville-Jones, Planning Manager Jester said that the Tree Committee considered including a requirement that any tree trimmer who is licensed in the City must have a certified arborist on staff. She commented that the initial proposal was to only permit certified arborists to prune trees. She indicated that the Tree Committee received input from the community and removed the requirement because they felt that the main concern was simply that trees are pruned properly. She commented that the Committee recommended and agreed to the requirements as proposed.

In response to a question from Commissioner Seville-Jones, Planning Manager Jester pointed out that the language regarding the State requirement that a State contractors licence is required to perform any work over \$500.00 is separate from being certified as to the ANSI A300 standards.

Commissioner Seville-Jones asked how the determination is made whether tree trimmers are knowledgeable in trimming trees if there is no requirement for the City that they have received a State license. She also commented that a noticing period of 24 hours prior to trimming a tree

seems very short.

Planning Manager Jester commented that scheduling jobs makes it difficult for tree trimmers to always know well in advance before trimming a tree.

In response to a question from Commissioner Seville-Jones, Planning Manager Jester indicated that it was decided not to allow notice signs to be posted directly on trees in order to prevent any possible harm to the tree.

In response to a question from Commissioner Seville-Jones, Planning Manager Jester indicated that notice is not required to be posted before a tree is removed, and such notice is not currently required by the Code.

In response to a question from Commissioner Seville-Jones, Planning Manager Jester stated that part of the residential property report that is prepared when a property is purchased includes a statement identifying existing protected trees on the site.

In response to a question from Commissioner Fasola, Planning Manager Jester commented that an opinion from a third party arborist would allow for an additional professional opinion to be considered in resolving a dispute regarding removal of a tree. She pointed out that trees are complicated living organisms, and different people have different experience and expertise regarding different types of trees.

In response to a question from Commissioner Fasola, Planning Manager Jester indicated that the first Tree Ordinance for the City was enacted in 1993. She commented that street trees within the City are covered by a different Code section and are regulated by Public Works. She said that there is a list of street trees that are specified as appropriate according to the width of the parkway and the location in town.

Commissioner Fasola commented that a long term goal of the City is to increase the tree canopy, which appears inconsistent with the separate goal of increasing building area. He said that he imagines the Tree Ordinance was originally developed in 1993 as a result of the impact from the construction of the first large three story homes in the City in the middle and late 1980s. He asked about the practicality of preserving trees while allowing for the construction of larger homes, and the focus should possibly be in addressing street trees.

Planning Manger Jester commented that staff's intent by indicating that new construction shall take precedence to preserving trees is that property owners can build within the allowable building envelope and not require that a structure be pushed back beyond the required setbacks in order to save an existing tree. She said, however, that it is not the intent of the Tree Ordinance that a property owner can build as large of a structure as they wish and trees are secondary to the construction. She pointed out that the Mansionization regulations have addressed concerns regarding the size of homes.

Audience Participation

Marsha Hopwood said that she is not clear if the intent of the Ordinance is to maintain the existing canopy of mature trees or to provide for a larger number of younger trees that will become mature and add to the tree canopy in the future. She pointed out that preserving trees is not the same as preserving historic buildings, as they are subject to aging and are in an urban environment. She indicated that she would like for consideration to be given to providing for trees that are more appropriate to the environment. She commented that she would like for people to be encouraged to plant new trees. She said that she has two liquidamber trees which have very extensive root systems that extend through her entire back yard. She stated that she does not feel that a fee should be charged to remove a dead tree.

Gary Osterhout indicated that the ANSI A300 standards are not a voluminous document, and the portion relating to pruning is only a 13 page document. He commented that “Best Management Practices Tree Pruning” is an additional book put out by the International Society of Arboriculture which interprets the ANSI A300 standards, although it is directed more toward professionals in the industry rather than residents. He stated that the important aspects of regulating tree trimming are to prevent the topping trees as well as preventing the removal of over 25 percent of a tree’s living foliage. He indicated that the City’s website is included on the tree trimmers permit and could also be placed on the notice. He commented that it is important that the process of approving the Ordinance not be delayed. He indicated that Manhattan Beach was one of many cities that enacted Tree Ordinances at about the same time in 1993.

Patrick McBride commented that his understanding is that the proposed revisions to the Ordinance are intended to provide some flexibility into the current regulations. He asked regarding the method of appraising trees, which would appear to be very subjective. He commented that a fair Ordinance should establish a minimum standard that would be equal for all property owners. He indicated that the Ordinance currently places the largest burden on the property owners that are contributing the most to the community. He said that the Ordinance is devoted to the front view rather than the health of the planet and community which should be the priority. He said that the idea is to teach people to incorporate trees that are appropriate for the location and will not create a problem in the future.

Carol Wahlberg said that the members of the Tree Committee feel the proposed recommendations are a substantial improvement to the existing Ordinance. She commented that she feels it is unfortunate that requirements for larger setback requirements were not included as part of the Mansionization Ordinance in order to push for more open space and greenery. She indicated, however, that the proposed revisions do help to put some controls in place. She commented that the members of the Committee felt it was very important for a plan to be in place for public as well as private property in the City.

Gerry O'Connor stated that the proposed revisions are an additional incremental small step in a bigger view of better managing trees in the community. He said that the intention of the Tree Committee was to ensure that appropriate trees are placed at the appropriate location. He commented that he hopes the City will continue to work on an ongoing basis to improve the language of the Ordinance to arrive at a better tree management plan for the City. He pointed out that topping a tree creates more of a safety hazard, as it results in new growth on the tree that is not structurally sound and has a higher risk of falling and causing damage. He said that once a tree is topped, it then which must be trimmed more often.

Chairman Lesser closed the public hearing.

Discussion

In response to a question from Commissioner Powell, Director Thompson said that the amendments would be formally reviewed by staff one year after they are approved and a report provided to the Commissioners.

Commissioner Powell stated that the existing Ordinance is unreasonable and inflexible, and the proposed revisions help to provide more flexibility for trees to be removed. He indicated that the new standards would also provide that any homeowner who prunes their own trees is responsible for complying with the ANSI A300 standards or that they must hire a licensed tree trimmer.

In response to a question from Commissioner Powell, Director Thompson pointed out that waiving the \$100.00 fee for removal of a tree that has died is the responsibility of the City Council. He stated that the City Council recently lowered the fee to \$100.00.

Commissioner Powell commented that he would support requiring notice when a tree is to be removed for at least 72 hours or a week to allow anyone an opportunity to contact the City with any concerns. He commented that trees do have a life cycle, and there should be a balance of younger trees and mature trees. He commented that many people were upset that the previous Ordinance was inflexible and unreasonable, and he would be in favor of adopting the proposed Resolution.

Commissioner Fasola said that he generally is not in favor of ordinances that regulate what can be done on private property. He indicated that does not like the idea of being required to pay a fee to remove a tree. He commented that the City is attempting to increase density which is in conflict with preserving existing trees. He said that a typical lot with a 20 foot front yard and 15 foot back yard does not allow much area to accommodate large trees. He commented that he does not like that a property owner with an existing home would be need approval to remove a tree while another property owner who is rebuilding their home is able to remove a perfectly healthy tree. He commented that a property owner who plants a number of large trees has a greater risk because it may become more difficult for them to maintain their yard as they wish.

He stated, however, that he is in favor of the proposed revisions relaxing the requirements from the existing Ordinance. He stated that he would like for the City to develop a character on streets by planting additional street trees. He indicated that he feels the only opportunity for providing larger trees is in the public parkways.

Commissioner Paralusz commended the City Council and staff in responding to the concerns expressed by the residents that the current Ordinance is too restrictive. She said that the proposal is a good first step, and she would like for it to provide additional flexibility. She commented that there are certain types of trees that are not appropriate for a particular area, and she would like for additional consideration to be given in the future as to which trees are protected. She stated that she does like having the third party arborist incorporated into the appeal procedure. She suggested adding language under Section 4 G(3) of the draft Resolution to state: “The tree is structurally unstable but does not present a present health or safety hazard.” She said that she also would support requiring that notice be posted when a tree is to be removed since noticing would be required to be posted when a tree is pruned.

Director Thompson suggested combining the language of Section 4 G(2) and (3).

Commissioner Paralusz commented that she would like further input as to the reasoning for not allowing trees that interfere with sewer lines to be removed.

Director Thompson stated that staff has a long history with residents complaining regarding trees interfering with sewer lines. He indicated that tree roots clogging sewer lines is a complaint that is heard so often that it was felt it cannot be the sole justification for removing a tree. He pointed out that there are provisions in the draft Resolution to address the issue of tree roots causing surface damage.

Chairman Lesser commented that he had 17 ficus trees in the front yard of a property that he previously owned that were planted before they moved in which were ill suited for their location and were beginning to lift up the driveway and the foundation and approaching the sewer lines. He indicated that he also had an investment property where a eucalyptus tree that uplifted the pipes and the tree eventually had to be removed. He commented that he would support removing the express exemption of the second sentence of Section 4 (G)(6) which states: “Trees causing damage to sewers, water pipes, or other similar private underground utilities or structures, generally shall not be considered to meet the criteria for removal and replacement.” He stated that he understands the concerns of staff that many property owners would seek to use tree roots invading into underground water pipes as justification for removing a tree. He commented, however, that he is sympathetic to property owners who are suffering significant damage from tree roots and are told that they are not permitted to remove the trees. He indicated that the punitive nature of the current Ordinance actually discourages people from planting trees if they know that later they may be prohibited from removing it.

Commissioner Paralusz indicated that trees damaging sewer lines can result in a significant

expense to homeowners, and the trees would most likely ultimately need to be removed in any event. She commented that she also would be in favor of removing the language as suggested by Chairman Lesser.

Director Thompson commented that he would support leaving in the exemption in Section 4 (G)(6). He said that staff felt it was important to highlight the exemption in the language because staff wanted to provide clarification that damage to sewer lines cannot be the sole justification for removal of a tree.

Commissioner Seville-Jones pointed out that the tree ordinances of many other cities include similar provisions. She said that it could be argued that almost any tree is likely to cause damage to a water line and should be replaced if such an exemption is not clarified.

Chairman Lesser said that a resident should be permitted to remove a tree if they are able to present a report from a structural engineer or provide other proof that is satisfactory to the Director that there has been damage. He said that the concern that people have raised regarding the existing Ordinance is that it does not allow them to address a tree that is ill suited for a particular location.

Director Thompson commented that staff's main concern is regarding people requesting to remove a tree because of damage to sewer lines.

Director Thompson suggested that item 6 language be revised to read: "Trees causing damage to sewers, water pipes, or other similar private underground utilities ~~or structures~~ generally in itself shall not be considered to meet the criteria for removal and replacement."

The Commissioners agreed to change the language of item 6 to state: "The tree is causing or ~~is likely to~~ will cause in the near future, significant damage to public or private property, which creates a liability, health or safety concern, and cannot reasonably be repaired, maintained or corrected. Trees causing minor damage to sewers, water pipes or other similar private underground utilities ~~or structures~~, generally shall not be considered to meet the criteria for removal and replacement."

Commissioner Fasola commented that he would support removing the second sentence and allowing the homeowners to argue their case as to whether the damage from the sewer lines is justification for removing a tree. He indicated, however, that he would be willing to support the language as suggested.

Director Thompson pointed out that it is often very difficult to determine which tree is actually damaging the sewer lines. He also pointed out that replacing a tree that has caused damage to sewer lines does not guarantee that the problem will not occur again in the future.

Commissioner Seville-Jones said that she would like for notice to be placed on a large colored

sign for a week prior to a tree being trimmed. She commented that she is troubled that the Ordinance does not require a tree trimmer be trained with respect to the ANSI A300 standards. She said that she would support the revisions as proposed but would suggest the possibility of requiring a licensed arborist to be on the staff of the tree trimming entity. She also suggested that the limit for requiring a licensed tree trimmer not be limited to jobs over \$500.00, as any tree needs to be protected regardless of the extent of the pruning. She suggested that the requirements be included in the Ordinance that trees are not to be topped and that not over 25 percent of the live foliage may be removed. She commented that she would support requiring that notice be posted on a large colored sign for least a week before a tree is to be removed.

Planning Manager Jester pointed out that the adjacent neighbors are provided notice of an application for a tree to be removed, as their signatures are required as part of the permit application in order to demonstrate that they have been informed.

Commissioner Seville-Jones commented that in many cases neighbors may wish to attempt to persuade a property owner against removal of a tree that adds to the character of a neighborhood. She indicated that she would support requiring that notice be placed on a tree that it is scheduled to be removed.

Director Thompson indicated that staff feels sufficient notice is currently given to the neighbors when a tree is proposed to be removed.

Commissioner Powell pointed out that posting a notice of removal also would allow neighbors to be aware and take precautions such as moving their car if there is a concern regarding branches falling. He said that he feels posting a notice regarding a tree being removed should be required.

Commissioner Seville-Jones commented that on public property there is more of a reason for posting a notice and informing the public of a tree being removed.

Director Thompson indicated that such notice is provided currently when a tree is removed on public property.

Commissioner Seville-Jones suggested that Section 4 (G)(5) be revised to state: “Construction will cause significant unavoidable damage to the tree that will compromise the health ~~and/or safety~~ of the tree, such that it will die or become a health or safety hazard . . .”

Commissioner Fasola suggested that the language be revised instead to state: “Construction will cause significant unavoidable damage to the tree that will compromise the health ~~and/or safety~~ of the tree . . .”

Commissioner Seville-Jones indicated that she has a concern that Section 5(J)(3)(a) does not specify the time periods required for posting of the notice, and she is not sure of the mechanism

of enforcement if a tree trimmer does not comply with the noticing requirement specified in the permit.

Director Thompson suggested that language be added to Section 5(J)(3)(a) to read: “A notice provided by the City shall be posted on the site as specified in the application.”

Commissioner Seville-Jones commented that she would like for further discussion in the future regarding adding flexibility in the building setback requirements in order to allow people to attempt to build around existing trees.

Commissioner Fasola indicated that changing the setbacks in order to allow a property owner to enjoy a tree would not be fair to the neighboring property owners who would then have a structure encroaching closer towards their property.

Chairman Lesser said that the proposed revisions help to provide a balance in providing additional flexibility rather than a strict prohibition of removing trees. He commented that residents have felt the existing Ordinance was too punitive and discourages people from planting trees, which is contrary to the intent of the Ordinance. He indicated that the proposed revisions are a balance of the property rights of individuals against the best interests of the community, and the community has made a choice to seek to encourage the preservation of trees. He indicated that his main concerns have been addressed by the proposal to change the language regarding tree roots damaging underground utilities.

In response to a question from Commissioner Seville-Jones, Chairman Lesser commented that many but not all tree trimming operations have a licensed arborist on staff. He said that he would have a concern with overregulating the companies that can trim trees in the City provided they meet the required ANSI A300 standards. He pointed out that in many companies the arborist is not the person who trims the trees and may only be a consultant or manager.

Commissioner Fasola suggested that possibly the number of companies that are permitted to trim trees can be limited to those that can demonstrate that they have a state license; however, he is not certain about a requirement that they have a licensed arborist on staff.

Planning Manager Jester pointed out that there is an International Society of Arboriculture (ISA) certification as a certified tree worker which does provide a qualification in the ANSI A300 standards.

Director Thompson pointed out that a requirement that a certified arborist be on the staff of a tree trimming operation was originally suggested, but the Tree Committee later recommended changing the requirement. He indicated that he is not sure of the implications of requiring that trees be trimmed only by companies with a certified arborist or tree worker on staff, and staff can look into the issue further if there is consensus by the Commission.

Commissioner Seville-Jones commented that she would not want to overly restrict the number of operators who can trim trees; however, she would want to be certain that the intent of having qualified people trim trees is accomplished. She stated that if unlicensed general contractors are on the City's list of tree trimmers she would suggest that the website indicate that they are not necessarily trained in the ANSI A300 standards or are an arborist.

Chairman Lesser commented that the more important role of the amendments is to ensure that the ANSI A300 standards are met.

At 9:10 p.m., a five-minute recess was held.

Director Thompson indicated that he had a concern that members of the Commission and City Council did not feel they had authority in the Culligan application to approve removal of an existing tree in order to accommodate the applicants' new home. He said that providing flexibility in the Ordinance would allow for the Commission and City Council to have discretion to approve such applications on appeal if they felt it were appropriate. He suggested adding wording under section 4(G) to add a criteria to receive a permit for removal and replacement of a tree if the tree will cause a significant change to the design of a home.

Commissioner Fasola commented that he would like for language to indicate that the Commission may use its discretion in such cases.

Planning Director Thompson stated that the argument of the applicant in the Culligan case was that the tree was causing them to redesign their project to such a great extent that the design became inferior. He said that he forwarded the Culligan application to the Commission because he did not feel that he had the discretion to approve the request, as the language in the Ordinance indicated that existing trees take precedence over the design of homes.

In response to a question from Chairman Lesser, Director Thompson said that the subcommittee regarding the revised Ordinance has not had an opportunity to consider such language.

Commissioner Seville-Jones asked whether the issue raised by Director Thompson should be addressed with the wording of 10.52.120 (d)(7) of the current Code which states: "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." She indicated that the question in the case of the Culligans' application was whether it was feasible to redesign their home in order to accommodate the tree.

Chairman Lesser commented that he did not feel that the Culligans had presented alternatives in order to demonstrate whether other designs could be feasible.

Planning Manager Jester commented that her understanding is that the Culligans did not feel

that alternative designs were acceptable, and therefore they were not feasible.

Director Thompson commented that the language would clarify that staff and the Commission has the discretion to allow removal and replacement of a tree in such circumstances.

Commissioner Powell indicated that he is in favor of allowing flexibility for property owners but would be concerned that such language as suggested by Director Thompson would allow any developer to argue that a tree should be removed because it would interfere with their design which could result in the City's tree canopy being severely impacted.

Chairman Lesser stated that he is concerned that the language proposed by Director Thompson is a broad exemption to the Ordinance, and he would welcome more public comment. He said that some residents may be upset by a last minute addition of such an exemption without further public notice.

Commissioner Powell said that she agrees with the comments of Chairman Lesser and would support continuing the item to allow additional consideration by staff and public input.

Chairman Lesser reopened the public hearing.

Action

A motion was MADE and SECONDED (Powell/Paralusz) to **REOPEN** the public hearing and **CONTINUE** Zoning Code Amendment to the Tree Preservation Regulations (Section 10.52.120 of the Zoning Code) and Related Code Sections, to Revise the Tree Preservation Regulations, to Provide More Flexibility and to Require a Tree Trimmers Permit, to the meeting of February 11, 2009.

AYES: Fasola, Paralusz, Powell, Seville-Jones and Chair Lesser
NOES: None.
ABSENT: None.
ABSTAIN: None.

E. BUSINESS ITEMS

None.

F. DIRECTORS ITEMS

None.

G. PLANNING COMMISSION ITEMS

Commissioner Paralusz invited any interested members of the public to attend the Housing Element Workshop at the Police and Fire Facility on January 29, 2009 at 6:30 p.m.

H. TENTATIVE AGENDA January 29, 2009 Housing Element Workshop

I. ADJOURNMENT

The meeting was adjourned at 9:30 p.m. to Wednesday, January 29, 2009, at the Police Fire Facility, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

ATTEST:

RICHARD THOMPSON
Community Development Director