



CITY OF MEDINA

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STAFF ANALYSIS AND RECOMMENDATION BURNSTEAD NON-ADMINISTRATIVE TREE ACTIVITY PERMIT

Prepared by Andy Crossett, Medina Tree Consultant

Date: January 2, 2024

Part 1 – General Information:

CASE NUMBER: TREE-23-043

LOCATION: 116 OVERLAKE DR E, Medina 98039

TAX PARCEL NUMBER: 938970-0015

PROPERTY OWNER: Steve Burnstead

APPLICANT: Thomas Burnstead

LEGAL DESCRIPTION: WIGHTS M F REPLAT POR KENWOOD PK & POR VAC ST

PROPOSAL: Non-administrative Tree Activity Permit to authorize the removal of one “Landmark” 50.2-inch DSH Coast Redwood (*Sequoia sempervirens*).

COMPREHENSIVE PLAN DESIGNATION: Single Family Residential.

ZONING DESIGNATION: R-20

CRITICAL AREAS: Approximately half of the site is within the Shoreline Jurisdiction and Fish and Wildlife Habitat Conservation Area (Lake Washington); the tree that has been requested to be removed is not within this critical area.

ENVIRONMENTAL REVIEW (SEPA): Exempt pursuant to WAC 197-11-800(6).

EXHIBITS:

1. Staff Report
2. Application, received August 24, 2023
3. Site Plan, received August 24, 2023
4. Tree Replacement Plan, received August 24, 2023
5. Affidavits declaration of mailing and posting and proof of publishing
6. Public Comments
7. Photographic documentation of the Subject tree
8. City of Medina – List of Significant Trees
9. WAC 197-11-800
10. Photographs from Ms. Tong
11. TREE-19-046 Approved Permit

12. International Society of Arboriculture’s Tree Risk Assessment form for the subject redwood.
13. TREE-23-018 Application.
14. Tree permit history summary.
15. Applicants report for hearing examiner
16. Applicant additional report for TREE-23-043
17. Professional survey of the subject property

Part 2 – Site Characteristics:

EXISTING CONDITIONS: No existing structures on the property. The subject tree sits along the north property border amongst a small grove of trees. It is currently in good condition with no visible defects or disease.

SURROUNDING ZONING:

Direction	Zoning	Present Use
North	R-20 District	Residential
South	R-20 District	Residential
East	N/A	Lake Washington
West	R-16 District	Residential

ACCESS: Ingress and egress are from Overlake Drive East

Part 3 – Comprehensive Plan:

The Medina Comprehensive Plan identifies the setting and character of Medina as enriched with valued natural features that enhance the quality of life for the community. One of the primary goals is: “To maintain Medina’s high-quality residential setting and character” (Goal LU-G1).

Chapter 3: Community Design Element

Trees and vegetation help reduce the impact of development, by providing significant aesthetic and environmental benefits. Trees and other forms of landscaping improve air quality, water quality, and soil stability. They provide limited wildlife habitat and reduce stress associated with urban life by providing visual and noise barriers between the City’s streets and private property and between neighboring properties. They also have great aesthetic value and significant landscaping, including mature trees, is always associated with well-designed communities.

It is important that citizens be sensitive to the impact that altering or placing trees may have on neighboring properties. Trees can disrupt existing and potential views and access to sun. Residents are urged to consult with the City and with their neighbors on both removal and replacement of trees and tree groupings. This will help to protect views and to prevent potential problems (e.g., removal of an important tree or planting a living fence). Clear cutting should not be permitted on a property prior to development.

Policy CD-P5: Residents are urged to consult with the City and with their neighbors on both removal and replacement of trees and tree groupings to help protect views and to prevent potential problems (e.g., removal of an important tree or planting a living fence).

Policy CD-P6: Clear cutting should not be permitted on property prior to development.

Part 4 – Agency Review/ Public Comment:

NOTICES: (See Exhibit 3.)

Application Received: August 24, 2023
Determination of Completeness: November 27, 2023
Notice of Application and Hearing: December 7, 2023

The application was received on August 24, 2023. The application was determined to be completed on November 27, 2023. A combined Notice of Application and Hearing was issued on December 7, 2023. A 15-day public comment period was utilized, consistent with MMC 16.80.120. The notice was mailed to property owners pursuant to MMC 16.80.140(B)(2), published in *The Seattle Times* newspaper, and posted on the site and other public notices locations (City Hall, Medina Post Office, Medina Park Posting Board, and City of Medina website).

GENERAL PUBLIC COMMENTS:

Betty Tong
122 Overlake Dr. East, Medina

Ms. Tong has requested the removal of a tree due to its ongoing damage to their garage door for the past two years and its impact on a newly planted evergreen hedge. She's also worried about potential damage the tree's roots could cause to their recently constructed driveway. Additionally, Ms. Tong is concerned about the potential risks to the safety of her friends and family posed by the tree or its debris.

AGENCY COMMENTS: Not applicable.

Part 5 – Staff Analysis/ Findings of Fact:

GENERAL:

1. The applicant applied for a non-administrative tree activity permit for the removal of one landmark sized tree located on 116 OVERLAKE DR E.
2. MMC 2.78.070 authorizes the hearing examiner to conduct public hearings and make decisions or recommendations when authorized to do so under the Medina Municipal Code. MMC 16.72.090 establishes non-administrative tree activity permits as a Type 3 decision processed pursuant to the review procedures set forth in Chapter 16.80 MMC. Table 16.80.060(C) establishes the procedures for Type 3 decisions and authorizes the hearing examiner as the decision authority for non-administrative tree activity permit.

ANALYSIS OF THE NON-ADMINISTRATIVE TREE ACTIVITY PERMIT:

3. MMC 16.52.160(E) requires a non-administrative tree activity permit for removing a significant tree, excluding hazard trees, that is 50 inches or larger diameter breast height, located on private property, and located outside of the footprint of a building containing the principal use of the property. The Burnstead's proposal to remove the subject landmark tree meets these criteria.
4. MMC 16.52.080 (B) requires Legacy and Landmark trees to be preserved and retained unless replacement trees are planted in accordance with either the Legacy or Landmark requirements. For Landmark Trees, the quantity of replacement inches is calculated by multiplying the diameter breast height of each subject landmark tree by 100 percent to establish the minimum number of replacement inches, with all fractions being rounded up to the next whole number (MMC 16.52.080(B)(2)).
5. In lieu of planting the replacement trees, the Director or Designee may authorize an applicant to satisfy the tree replacement requirements by paying a fee-in-lieu of supplemental plantings provided: 1) There is insufficient area on the lot or adjacent right-of-way to meet the number of replacement inches prescribed by MMC 16.52.090; or 2) Tree replacement provided within public right-of-way or a city park in the vicinity will be of greater benefit to the community 3) Fees shall be provided in lieu of on-site tree replacement based upon the following: a. The expected tree replacement cost including labor, materials, and maintenance for each replacement tree; and b. The most current council of tree and landscape appraisers guide for plant appraisal. 4. The applicant executes a written agreement with the city demonstrating compliance with this section.
6. Public outreach began with the notice of application on December 7, 2023. As of December 24, 2023, the city received one comment from a concerned resident.

STATE ENVIRONMENTAL POLICY ACT:

7. The Responsible Official concluded that the proposal is exempt from environmental (SEPA) review and threshold determination pursuant to WAC 197-11-800(6).

Part 6 - Conclusions:

- A. Pursuant to MMC 2.78.070 and MMC 16.80.050(C), the hearing examiner has the authority to hold a hearing and decide non-administrative tree activity permits. Adequate public notice for the public hearing has been provided. Notice was posted at nineteen locations around the City including the City website, mailed to affected property owners, and published in the *Seattle Times* newspaper, at least 15 days prior to the date of the hearing.
- B. Pursuant to MMC 16.72.090(E), the Hearing Examiner may approve a Non-administrative Tree Activity Permit only if the following criteria are satisfied:
 1. ***The proposal is compatible with Chapter 3, Community Design Element, of the comprehensive plan;***

STAFF CONCLUSION: Chapter 3. Community Design Element of the Comprehensive Plan (2015) states the following: "Trees and vegetation help reduce the impact of development, by providing significant aesthetic and environmental benefits. Trees and other forms of landscaping improve air quality, water quality, and soil stability. They provide limited wildlife habitat and reduce stress associated with urban life by providing

visual and noise barriers between the City's streets and private property and between neighboring properties. They also have great aesthetic value and significant landscaping, including mature trees, is always associated with well-designed communities.

It is important that citizens be sensitive to the impact that altering or placing trees may have on neighboring properties. Trees can disrupt existing and potential views and access to sun. Residents are urged to consult with the city and with their neighbors on both removal and replacement of trees and tree groupings. This will help to protect views and to prevent potential problems (e.g., removal of an important tree or planting a living fence). Clear cutting should not be permitted on a property prior to development.”

In 2019 twenty-four (24) out of thirty-nine (39) significant trees at 116 Overlake Dr E were permitted for removal under TREE-19-046. According to the permit application, this left fifteen (15) significant trees on the property. In August 2023 an administrative tree activity permit application was submitted indicating there were nineteen (19) significant trees on the property. The application proposed the removal of fourteen (14) significant trees, including the subject coast redwood. This would Leave five (5) significant trees on the property and a required tree unit deficit of 4.25 TU. I believe this proposal is antithetic to the Comp Plan as the lot has essentially been clear cut and the comprehensive plan states that “Clear cutting should not be permitted on a property prior to development.” Additionally, the subject tree is aesthetically pleasing and offers some level of a “visual” barrier between properties. It will take many years for the proposed replacement trees to offer a similar benefit. Therefore, I do not believe the proposal meets this requirement.

2. *The proposal is consistent with the public interest in maintaining an attractive and safe environment;*

STAFF CONCLUSION: The subject coastal redwood is healthy with a good structural condition. It is still relatively young with an estimated age in the 65 – 80-year range, however, this is a species that can live well over 2,000 years. It would be considered an excellent example of species and positively “contributes to the residential character of the city”. Therefore, the removal of this tree is not in the public interest in maintaining an attractive environment.

In terms of ensuring the safety of the local community, there are no apparent significant defects that could contribute to catastrophic tree or tree part failure under normal weather conditions and based on the risk assessment methodology outlined by the International Society of Arboriculture (ISA), would fall within the "low" risk category. The low-risk category applies when consequences are negligible, and likelihood is unlikely; or consequences are minor, and likelihood is somewhat likely. It is important to remember that it is impossible to maintain trees completely free of risk – some level of risk must be accepted to experience the benefits that trees provide. Additionally, removal of this tree may have detrimental effects on surrounding trees, as it is dominant in the landscape, and likely provides significant dampening of wind forces to nearby trees. If it were to be removed, trees that were formally protected would now be fully exposed to wind forces they are not adapted to. Which in turn would increase risk to surrounding properties. As a result, removal of this tree is not in the public interest in maintaining a safe environment.

3. The tree trimming, pruning or removal will have no materially detrimental effects on nearby properties;

STAFF CONCLUSION: The proposed landmark tree removal will likely not be materially detrimental to nearby properties. It may be materially beneficial to 8847 Overlake Dr E, as it could potentially open up a view to the lake.

4. The tree has not been granted special protection pursuant to MMC 16.52.080:

STAFF CONCLUSION: 16.52.080. – Legacy and Landmark tree protection measures (B)(2) does allow removal of Landmark trees, provided that replacement trees are planted. “B. Legacy and landmark trees shall be preserved and retained unless replacement trees are planted in accordance with the following: 2. Landmark tree: a. The quantity of replacement inches is calculated by multiplying the diameter breast height of each subject landmark tree by 100 percent to establish the minimum number of replacement inches; and b. All fractions of this section shall be rounded up to the next whole number.” 16.52.080 (C) also states the following: “In lieu of planting the replacement trees prescribed in subsection (B) of this section, an applicant may satisfy the tree replacement requirements by meeting the criteria set forth in MMC 16.52.180. – Fee-in-lieu of supplemental plantings.”

5. All requirements set forth in Chapter 16.52 MMC are satisfied;

STAFF CONCLUSION: The removed tree is proposed to be mitigated with a replacement tree selected from list 5 of the Suitable Tree Species Lists. The tree removal mitigation will also include a contribution to the Medina Tree Fund for lost public benefit between the larger tree being removed and smaller trees being planted. The proposal meets this requirement.

6. All other ordinances, regulations, and policies applicable to tree removal are followed.

STAFF CONCLUSION: The subject landmark tree removal meets the requirements set forth in MMC 16.52 but is antithesis to its purpose and intent. Examples include the following:

(A) **The purpose of the tree management code is to preserve the existing sylvan appearance through long-term preservation** and planting of trees that contribute to the community's distinct features including proximity to the lakeshore, views, heavily landscaped streetscapes, and large tracts of public and private open spaces. The city recognizes that trees: 1. Contribute to the residential character of the city; 2. Provide a public health benefit; 3. Provide wind protection, ecological benefits to wetlands and watercourses, and aid in the stabilization of geologically hazardous areas; 4. Improve surface water quality and control and benefit Lake Washington; and 5. Reduce noise and air pollution.

(B) The intent of this chapter is to establish regulations and standards that: **1. Protect and preserve the existing tree canopy;** 2. Provide homeowners flexible standards that encourage the preservation of trees while recognizing the importance of having access to sunlight and views; 3. Recognize through the standards in this chapter that certain factors may require the removal or pruning of certain trees due to circumstances such as disease,

danger of falling, proximity to structures and improvements, interference with utility services, protection of view and sunlight, and the reasonable enjoyment of property; 4. Encourage best practices for the planting and managing of trees appropriately to minimize hazards, nuisances, and maintenance costs while allowing access to sunlight and views; **5. Prevent the indiscriminate removal or destruction of trees except as provided for in accordance with this chapter;** 6. Promote building and site planning practices consistent with the purpose and intent of this chapter; 7. Ensure prompt development, restoration, replanting and effective erosion control of property after tree removal with landscape plans and other reasonable controls; and 8. Foster public education on the local urban forestry program and encourage good tree management consistent with this chapter.

7. All other requirements set forth in MMC 16.52.200 are satisfied;

STAFF CONCLUSION: MMC 16.52.200. – City tree removals is not applicable as this tree is located on a private property and the city right-of-way will not be utilized for removal.

Pursuant to MMC 16.72.080(F), the Hearing Examiner may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.

Part 7 – Staff Recommendation:

While removal of this tree may be antithetical to the purpose and intent of MMC 16.52, the code itself does allow removal of landmark trees if remediation is provided. Therefore, staff recommends approval of the administrative tree activity permit for the removal of one Landmark” 50.2-inch DSH Coast Redwood (*Sequoia sempervirens*), subject to the following conditions:

1. The applicant shall plant at least twelve (12) replacement trees selected from list 5 of the City of Medina Lists of Suitable Trees within 18-months of permit issuance under this non-administrative tree activity permit. The replacement trees shall meet all of the standards set forth in MMC 16.52.200(E)(2). The applicant shall coordinate selection and the planting location of the replacement trees with the City Tree Consultant.
2. A contribution of \$10,800 shall be made to the Medina Tree Fund prior to removal of the Giant Sequoia tree. If additional trees are proposed, the contribution will be reduced consistent with MMC 16.52.200(F)(4). If additional trees are removed, contributions to the Medina Tree Fund consistent with MMC 16.52.200(E)(3) shall be made prior to completing the work authorized under this non-administrative tree activity permit.
3. The applicant shall be responsible for all costs associated with the planting and maintenance of replacement trees for five years. The applicant shall take necessary measures to ensure that supplemental trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any supplemental trees that do not remain healthy and viable for the five years after inspection by the city.

Report prepared by:



Andy Crossett
Medina Tree Consultant

January 2, 2024

Date