

**ITEM 6.1: TREE PERMIT, ADMINISTRATIVE VARIANCE – 450 DIAMOND OAKS ROAD – INFILL
PCL 7 - 450 DIAMOND OAKS TREE PERMIT — FILE # PL19-0341**

REQUEST

The project includes a Tree Permit to remove two (2) Blue oak (*Quercus douglasii*) trees, with a total aggregate diameter of 61 inches. The trees are proposed to be removed in order to construct a single-family home on an undeveloped lot. A third Blue oak tree is proposed to be preserved on the lot with fifteen percent encroachment into the protected zone radius. An Administrative Variance is requested to allow a 6.5 foot (32.5 percent) reduction in the required rear yard setback in order to preserve the tree at the front of the property.

Applicant – Mary Dorofeyev, Tangent Design and Engineering
Property Owner – Oleg Makovey

SUMMARY RECOMMENDATION

The Planning Division recommends that the Planning Commission take the following actions:

- A. Adopt the two (2) findings of fact and approve the Tree Permit subject to twenty (20) conditions of approval.
- B. Adopt the three (3) findings of fact and approve the Administrative Variance subject to two (2) conditions of approval.

SUMMARY OF OUTSTANDING ISSUES

There are no outstanding issues on this item. The applicant is in agreement with the findings and conditions of approval.

BACKGROUND

The project site is located at 450 Diamond Oaks Road, near the southwestern corner of Diamond Oaks Road and Martha Way (Figure 1). The subject property is .19 acres and is located on Parcel 7 of the City's Infill Planning Area. The parcel has a zoning designation of Single-Family Residential (R1) and a land use designation of Low-Density Residential at 3.1 units/acre (LDR-3.1).

The subject property is currently undeveloped. The property is part of the Country Estates subdivision, which was created in September, 1992. There is one other undeveloped lot remaining in the 32-lot subdivision.

The applicant is currently requesting a Tree Permit in order to remove two of the native oak trees on the site and encroach fifteen percent into the protected zone radius of a third tree for development of a single-family residence. An Administrative Variance is also requested in order to reduce the required rear yard setback by 6.5 feet (32.5 percent).

Figure 1: Project Location



SITE INFORMATION

Topography and Setting: There is a steep change in grade on the east side of the lot from the front property line to roughly twenty feet into the property. The rest of the lot rises gradually from roughly the north west corner to the south east corner. The proposed finish floor is approximately ten feet above the grade of the adjacent street. The project site is at an elevation of approximately 109 feet above mean sea level while Diamond Oaks Road is approximately 100 feet above mean sea level. Surrounding land uses include Diamond Oaks Park to the west, low-density residential dwellings to the south and east, and a landscape easement containing a power line corridor across Diamond Oaks Road to the north.

EVALUATION: TREE PERMIT

Pursuant to Zoning Ordinance Section 19.66.030, a Tree Permit is required for any removal of native oak trees or for more than 20% encroachment into the dripline of a native oak tree. The required findings to approve a Tree Permit are listed below.

- 1. Approval of the Tree Permit will not be detrimental to the public health, safety or welfare, and approval of the Tree Permit is consistent with the provisions of Chapter 19.66.***
- 2. Measures have been incorporated into the project or permit to mitigate impacts to remaining trees or to provide replacement for trees removed.***

An arborist report was prepared for the site by Kurt Stegen Consulting Arborist, dated September 11, 2019 (Exhibit A), which identified three (3) protected native oak trees (Table 1) that would be impacted by the project. The report states that one of the trees is in poor condition. The other two trees are in fair condition with some defects noted. Removal of tree #3, which is in poor condition, will not be detrimental to the public health, safety, or welfare because it could be considered hazardous to any future residents of the property or neighboring properties if it were retained.



Figure 2: Tree Locations

Tree #2 is located roughly in the center of the property toward the back of the lot. Preserving this tree would be infeasible given its location in the center of the lot. The tree's location effectively reduces the usable size of the lot and creates a lot which is not suitable for development.

Chapter 19.66 of the municipal code contains the City's Tree Preservation standards. Section 19.66.040.C contains application evaluation criteria that must be used to support the above listed findings to allow removal of native oak trees. Removal of trees 2 and 3 is consistent with these criteria based on their health and placement on the lot and that there are no viable alternatives to removal. Tree 1 is proposed to be retained because there are design alternatives that allow for the preservation of the tree. These alternatives include reducing the required rear yard setback in order to shift the proposed footprint of the home to the rear of the lot and keep the home out of the protected zone radius of Tree 1. This design requires approval of an Administrative Variance to reduce the required rear yard setback. The slope of the driveway was also increased in order to change its course and minimize the encroachment of the driveway into the protected zoned radius of Tree 1.

Table 1: Tree Summary

Tree Number	Common Name	Health	Total DBH (inches)	Removal
1	Blue Oak	Fair	29	No
2	Blue Oak	Fair	29	Yes
3	Blue Oak	Poor	32	Yes
Total Mitigation Inches			61	

The applicant has proposed to comply with the compensation requirements of the City's Tree Preservation Ordinance. Mitigation will be completed with payment into the City's in-lieu fee program. Sixty-one inches will be mitigated through payment of in-lieu fees. These funds are used for the replanting and preservation of trees throughout the City. Mitigation fees are calculated at \$118 per inch of tree removed when measured at the tree's diameter at breast height (DBH). The tree mitigation fees

for the project equate to \$7,198 and are required to be paid prior to the issuance of any permits or construction on-site.

The Tree Permit contains conditions of approval that include protective measures for one tree to remain on site. Any deviation from the approved permit would require a Tree Permit Modification, which would require approval by the City.

EVALUATION: ADMINISTRATIVE VARIANCE

Section 19.78.060.G of the City’s Zoning Ordinance provides the procedure for approval of an Administrative Variance. The applicable criteria are listed below in **bold italics** and are followed by an evaluation. Typically, any variance less than 35 percent from a zoning ordinance development standard would be processed administratively and approved by the Planning Manager. However, the submittal of this variance concurrent with a tree permit brings it before the Planning Commission for approval.

- 1. There are special circumstances applicable to the property, including size, shape, topography, location or surroundings, such that the strict application of the provisions of this Zoning Ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical land use district classification.***
- 2. The granting of the variance will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located.***
- 3. The granting of the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel and will not constitute a grant of special privilege inconsistent with the limitations upon other property in the vicinity and under identical zoning classification.***

Due to the topography on the site and the location of the tree, a variance to the required rear setback standard is required to preserve Tree #1 on the site. The variance will not be detrimental to public health, safety, or welfare because it enables preservation of the native oak tree on the site. The City’s tree preservation ordinance was adopted in order to promote public health, safety and general welfare of the City of Roseville and allowing a variance from this standard promotes that goal.

Granting the variance does not allow a use or activity which is not otherwise authorized. The use of the property will be a single-family residence as provided for in the zoning and land use designation of the property. All other applicable development standards for this zone will be met as shown in Table 2. Only a portion of the home, approximately 25% of its width, will require a variance from the 20 foot rear setback requirement. The majority of the rear of the home will meet the required 20 foot setback. The applicant requests a 32 percent variance from the required setback to allow a rear setback of 13.5 feet.

Table 2: Applicable R1 Development Standards

Criteria	R1 Zoning District Standard	Proposed Residence
Front Yard Setback	20’; 20’ minimum driveway depth	±30’
West Side Setback	5’	±5’
East Side Setback	5’	±5’
Rear Setback	20’	±13.5’
Lot Coverage	35%	34.7%

PUBLIC OUTREACH

The proposed project was distributed to all internal and external agencies and departments who have requested such notice, and all comments or recommended conditions of approval have been incorporated into the project, as appropriate. A notice of the public hearing was published on January 30, 2020 and a notice of hearing was also distributed to all property owners within 300 feet of the site, and to all interested persons who had requested such notices. The notice was also distributed to the Roseville Coalition of Neighborhood Associations. To date, no comments have been received.

ENVIRONMENTAL DETERMINATION

This project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303(a), "New Construction of one single-family residence". The project involves the construction of a single-family residence and is therefore exempt per the CEQA guidelines listed above.

RECOMMENDATION

The Planning Division recommends the Planning Commission take the following actions:

- A. Adopt the two (2) findings of fact as stated in the staff report and approve the **TREE PERMIT – 450 DIAMOND OAKS ROAD – INFILL PCL 7 – 450 DIAMOND OAKS TREE PERMIT – FILE #PL19-0341** subject to twenty (20) conditions of approval; and
- B. Adopt the three (3) findings of fact as stated in the staff report and approve the **ADMINISTRATIVE VARIANCE – 450 DIAMOND OAKS ROAD – INFILL PCL 7 – 450 DIAMOND OAKS TREE PERMIT – FILE #PL19-0341** subject to two (2) conditions of approval.

CONDITIONS OF APPROVAL FOR THE TREE PERMIT (FILE #PL19-0341)

PRIOR TO ISSUANCE OF ANY PERMITS OR ANY CONSTRUCTION ON-SITE:

1. All recommendations contained in the Arborist Report (**Exhibit A**) are incorporated by reference into these conditions, except as modified herein. (Planning)
2. The approval of this Tree Permit shall expire on the same date as the Administrative Variance, on **February 13, 2022**. (Planning)
3. Trees #2 and 3 (or as listed in **Exhibit A**) are approved for removal with this tree permit. All other native oak trees shall remain in place. Trees to be removed shall be clearly marked in the field and inspected by Planning Staff prior to removal. Removal of the trees shall be performed by or under the supervision of a certified arborist. (Planning)
4. The developer shall be responsible for the replacement of the total number of inches proposed for removal prior to any tree removal. The total number of inches for this project is 61. Mitigation must be provided in the form of an in-lieu payment in the amount of **\$7,198**, unless otherwise approved in the tree replacement plan or in these conditions. (Planning)
5. No activity shall be permitted within the protected zone of any native oak tree beyond those identified by this report. Encroachment into the protected zone of Tree 1 as listed in **Exhibit A** and described in the staff report is permitted. (Planning)
6. A \$10,000 cash deposit or bond (or other means of security provided to the satisfaction of the Planning Division) shall be posted to ensure the preservation of all remaining trees during construction. The cash

deposit or bond shall be posted in a form approved by the City Attorney. Each occurrence of a violation on any condition regarding tree preservation shall result in forfeiture of all or a portion of the cash deposit or bond. (Planning)

7. A violation of any of the conditions of this Tree Permit is a violation of the Roseville Municipal Code, the Zoning Ordinance (Chapter 19.74) and the Tree Preservation Ordinance (Chapter 19.66). Penalties for violation of any of the conditions of approval may include forfeiture of the bond, suspension or revocation of the permit, payment of restitution, and criminal penalties. (Planning)
8. A fencing plan shall be shown on the approved site plan and/or improvement plans demonstrating the Protected Zone for the affected trees. A maximum of three feet beyond the edge of the walls, driveways, or walkways will be allowed for construction activity and shall be shown on the fencing plan. The fencing plan shall be reviewed and approved by the Planning Division prior to the placement of the protective fencing. (Planning)
9. The applicant shall install a minimum of a five-foot high chain link fence (or acceptable alternative) at the outermost edge of the Protected Zone of the oak tree. Where encroachment is permitted pursuant to Condition 4, above, the fencing for encroachments shall be installed at the limit of construction activity. The applicant shall install signs at two equidistant locations on the temporary fence that are clearly visible from the front of the lot and where construction activity will occur. The size of each sign shall be a minimum of two feet (2') by two feet (2') and must contain the following language: "WARNING THIS FENCE SHALL NOT BE REMOVED OR RELOCATED WITHOUT WRITTEN AUTHORIZATION FROM THE PLANNING DIVISION". (Planning)
10. Once the fencing is installed, the applicant shall schedule an appointment with the Planning Division to inspect and approve the temporary fencing before beginning any construction. (Planning)
11. The applicant shall arrange with the arborist to perform, and certify in writing, the completion of deadwooding, fertilization, and all other work recommended for completion prior to the approval of improvement plans. Pruning shall be done by an Arborist or under the direct supervision of a Certified Arborist, in conformance with International Society of Arboriculture (I.S.A.) standards. Any watering and deep root fertilization which the arborist deems necessary to protect the health of the trees as noted in the arborist report or as otherwise required by the arborist shall be completed by the applicant. (Planning)
12. A utility trenching pathway plan shall be submitted depicting all of the following systems: storm drains, sewers, water mains, and underground utilities. The trenching pathway plan shall show the proposed locations of all lateral lines. (Planning)
13. A Site Planning Meeting shall be held with the applicant, the applicant's primary contractor, the Planning Division and the Engineering Division to review this permit, the approved grading or improvement plans, and the tree fencing prior to any grading on-site. The Developer shall call the Planning Division and Engineering Division two weeks prior to the start of grading work to schedule the meeting and fencing inspection. (Planning)

DURING CONSTRUCTION:

14. The following information must be located on-site during construction activities: Arborist Report, approved site plan/improvement plans including fencing plan, and conditions of approval for the Tree Permit. All construction must follow the approved plans for this tree permit without exception. (Planning)

15. All preservation devices (aeration systems, oak tree wells, drains, special paving, etc.) shall be designed and installed as required by these conditions and the arborist's recommendations, and shall be shown on the improvement plans or grading plans. (Planning)
16. If any native ground surface fabric within the Protected Zone must be removed for any reason, it shall be replaced within forty-eight (48) hours. (Planning)
17. Storage or parking of materials, equipment, or vehicles is not permitted within the Protected Zone of any oak tree. Vehicles and other heavy equipment shall not be operated within the Protected Zone of any oak tree. (Planning)
18. Where recommended by the arborist, portions of the foundation shall be hand dug under the direct supervision of the project arborist. The certified arborist shall immediately treat any severed or damaged roots. Minor roots less than one (1) inch in diameter may be cut, but damaged roots shall be traced back and cleanly cut behind any split, cracked or damaged area. Major roots over one (1) inch in diameter may not be cut without approval of an arborist and any arborist recommendations shall be implemented. (Planning)
19. The temporary fencing shall remain in place throughout the entire construction period and shall not be removed without obtaining written authorization from the Planning Division. In no event shall the fencing be removed before the written authorization is received from the Planning Division. (Planning)

PRIOR TO ISSUANCE OF FINAL:

20. Within 5 days of the completion of construction, a Certification Letter from a certified arborist shall be submitted to and approved by the Planning Division. The certification letter shall attest to all of the work (regulated activity) that was conducted in the protected zone of the tree, either being in conformance with this permit or of the required mitigation still needing to be performed. (Planning)

CONDITIONS OF APPROVAL FOR THE ADMINISTRATIVE VARIANCE (FILE #PL19-0341)

1. The project is approved as shown in **Exhibit B** and as conditioned or modified below. (Planning)
2. The Administrative Variance shall be valid for a period of two (2) years from this date and if not effectuated shall expire on **February 13, 2022**. Prior to said expiration date, the applicant may apply for an extension of time, provided this approval shall not be extended beyond **February 13, 2023**. (Planning)

EXHIBITS

- A. Arborist Report
- B. Plans

Note to Applicant and/or Developer: Please contact Planning Division staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Manager at, or prior to, the public hearing.