



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: September 17, 2019

TO: Christine Daniel, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: **Ordinance Of The City Council Of The City Of Emeryville Adopting An Amendment To The Sherwin Williams Planned Unit Development/ Preliminary Development Plan (PUD/PDP) To Allow The Removal Of Street Trees On The West Side Of Horton Street (CEQA Determination: Environmental Impact Report for Sherwin Williams Project PUD Certified By City Council on September 6, 2016)**

RECOMMENDATION

Staff recommends that the City Council adopt the attached Ordinance amending the Sherwin Williams Planned Unit Development/Preliminary Development Plan (PUD/PDP) to replace the Landscape Plan on Page 18 that calls for the retention of 11 existing street trees on the west side of Horton Street between Sherwin Avenue and new 46th Street, with a revised Landscape Plan that calls for removal of four trees in this location. This will accommodate the new 46th Street and joint trenching needed to underground overhead utilities on Horton Street between Park Avenue and new 46th Street.

BACKGROUND

Sherwin Williams Project History Related to Street Trees and Utility Undergrounding on Horton Street

On November 1, 2016, the City Council unanimously approved the second reading of the ordinance for the Sherwin Williams Planned Unit Development (PUD), and the ordinance went into effect on December 1, 2016 (Ordinance No 16-006). The project will redevelop the former Sherwin Williams paint factory site and an adjacent City-owned parcel, including reuse of an existing 74,000 square foot significant structure for office use; construction of four new buildings that will accommodate 500 dwelling units and 2,000 to 8,000 square feet of ground floor commercial/retail space; a new street; and development of approximately three acres of public open space including a new City park.

During development of the PUD proposal in 2015-2016, several study sessions were held by the Planning Commission and City Council. One of the questions posed to the Commission and Council at these study sessions was whether the existing street trees along the Horton Street frontage of the project site should be retained, as proposed by the applicant, or removed and replaced, as recommended by the City Arborist (see

Attachment 3a, City Arborist Report, dated December 14, 2014). The Council's response to this question was that the trees should be retained, as proposed by the applicant. There is no condition of approval in the PUD requiring the preservation of these trees. However, the conditions reference the approved plans, including the Landscape Plan on page 18, which indicates that 11 existing trees along Horton Street are to be retained. (See Attachment 1.) Therefore, any proposal to now remove any of these trees requires an amendment to the PUD by replacing the Landscape Plan on page 18 of the approved plans with a new Landscape Plan that shows the trees to be removed.

The approved PUD also includes a list of community benefits that the applicant, Lennar, is required to provide in order to earn the development bonus points that are necessary for the project. These include retrofitting the existing building ("Building 1-31") for a pass-through between Horton Street and the new park; a public art gallery/community meeting room; a shuttle to the West Oakland BART station; and a prioritized list of nine public improvements, of which it is assumed that there should be sufficient funding for the first six. The second priority in this list of public improvements is the undergrounding of overhead utilities along Horton Street between Park Avenue and new 46th Street. These community benefits were negotiated by staff, the applicant, and the Park Avenue Residents' Committee (PARC) during the PUD approval process. (Please see Attachment 2 for a list and graphic showing Community Benefits for Development Bonus Points). In planning the undergrounding of the utility wires on Horton Street, as required by the conditions of approval, it was determined that it would be necessary to remove some or all of the existing street trees, as further discussed below. This required an amendment to the PUD/PDP.

Section 9-7.214(b) of the Planning Regulations stipulates that modifications to approved plans or conditions of approval that are not deemed minor require the approval of the original decision-makers, following the same procedure as required for the initial approval. In this case, an amendment to a PUD/PDP to allow removal of street trees along Horton Street requires the approval of the City Council upon a recommendation from the Planning Commission, with findings as prescribed in Section 9-7.1004(a).

On March 15, 2018, the Planning Commission held a public hearing on the proposed PUD/PDP amendment and then voted unanimously to recommend that the City Council approve the amendment to the Sherwin Williams PUD/PDP, and approved a Tree Removal Permit for 11 trees on the west side of Horton Street contingent upon City Council approval of the PUD/PDP amendment.

On April 17, 2018, the City Council held a public hearing on the first reading of the ordinance for the proposed PUD/PDP amendment. The Council continued the item to a future meeting to allow staff time to provide additional design-related information on the joint trenching and placement of utility vaults needed to achieve undergrounding of utilities on Horton Street with the goal of minimizing tree removal.

Other Planning Entitlements and Construction Permits for the Sherwin Williams Project

Subsequent to the City Council's approval of the PUD, Lennar has obtained approvals from the Planning Commission for two Final Development Plans (FDPs) for this project. The first FDP was approved on December 14, 2017 for Park and Open Space areas (FDP17-002) and the second one was approved for four new buildings on February 22, 2018 (FDP17-001). In addition, the Commission approved a Tentative Subdivision Map (SUBDIV17-001) on May 25, 2017. The first phase final map was approved by staff on April 19, 2018 and was recorded as Tract Map 8357 on May 15, 2018; and the second phase final map was approved by staff on July 2, 2019 and recorded as Tract Map 8455 on July 18, 2019.

Building permit applications for the four new buildings and grading permit applications for the open space and roadway improvements have been received and are being processed by the Building Division. Construction permits are expected to be issued soon, and construction is anticipated to begin in October.

It was originally anticipated that an FDP application for reuse of Building 1-31 for office use would be submitted in the summer of 2018, and that construction activity to modify this building, including the "pass-through" between Horton Street and the new park, would be completed prior to construction of the new buildings. However, negotiations between Lennar and the prospective purchaser of the building broke down and the FDP application has not yet been submitted. At this point, it is possible that Lennar may undertake the improvements to the existing building themselves before selling it. At any rate, the previous urgency to deal with the utility undergrounding along Horton Street has now subsided in light of the delays in developing the existing building.

DISCUSSION

Fundamentals of Utility Undergrounding

Putting overhead utilities underground involves burying both the wires and all associated equipment such as transformers, relays, switches, etc. that is currently mounted overhead on utility poles. The wires are run through conduits placed in a long linear excavation called a "joint trench" because it jointly accommodates all overhead utilities such as electrical, telephone, cable television, internet, etc. (A joint trench may also accommodate natural gas lines, although this is not proposed on Horton Street.) The joint trench can either go under the roadway, if there is room between other existing utilities such as gas, water, sewer, and storm drains, or under the sidewalk if there is not room in the roadway. Transformers and other equipment are put into underground vaults, which can be quite large depending on the size of the equipment. These vaults are usually put under the sidewalk because there is typically not enough room for them in the roadway between existing utility lines, and because PG&E generally will not allow them to be put in the roadway.

The conduits, and the cables that run through them, are often large and not physically capable of making sharp turns. Therefore, when a change in direction is required, such as from a joint trench under the roadway to a large vault under the sidewalk, a gradual curve in alignment is required, commonly called a “sweep”. Routing these sweeps to avoid other utilities and tree roots can be challenging. (Smaller cables, such as telephone and internet service, can be run perpendicularly from the joint trench to the vault.)

Another complication is that the precise locations of existing utilities under the roadway and sidewalk are often unknown. These utilities were installed over many years by many different entities, including the City, PG&E, the East Bay Municipal Utility District, and others. Each entity typically keeps records of the locations of their own facilities, but not of those belonging to other entities. There is no single comprehensive database of the locations of all underground utilities. Therefore, one of the first steps in designing an undergrounding project is to locate, as precisely as possible, all existing underground utilities, which can be complicated and time consuming. Even with the best research, undergrounding projects often encounter underground utilities and other features that were not previously known. Also, PG&E approval of the final design is required, which may result in modifications. PG&E will not participate in the preliminary design phase of an undergrounding project, and will not begin design work without an engineering deposit from the Applicant, so PG&E has not been involved in the Horton Street undergrounding project to date.

Arborist Reports

Three arborist reports have been prepared for the trees along Horton Street in conjunction with the Sherwin Williams project. The first, dated December 29, 2014, was prepared prior to approval of the PUD to review the condition of the street trees bordering the site on Horton Street and Sherwin Avenue and to provide commentary and recommendations regarding the feasibility of retaining the trees. The second, dated March 5, 2018, was prepared prior to the City Council’s consideration of the PUD amendment on April 17, 2018, and provided values for trees located on both sides of Horton Street adjacent to the project site. The third report, dated November 15, 2018, was prepared following the Council’s consideration of the PUD amendment, and reviewed the trees on the west side of Horton Street, between Sherwin Avenue and the Rifkin parking lot, to provide an update on their condition. All three reports are attached for reference (see Attachments 3a, 3b, and 3c, respectively).

Evolution of Undergrounding Plans for Horton Street

The original proposal for undergrounding the utilities on Horton Street involved placing the joint trench under the sidewalk, because it was assumed that there were too many existing utilities under the roadway to allow the joint trench to be put there. These existing utilities include a 4” gas line, a 6” water line, a 10” water line, a 12” recycled water line, an 8” sanitary sewer line, and a 15” storm drain. Each of these lines has a required

separation distance from other utilities lines, which adds to the challenge of locating new utilities under the roadway. Consequently, two alternatives were proposed, one putting the joint trench and vaults under the sidewalk on the east side of the street, and one putting them under the sidewalk on the west side of the street.

The trenching work would have jeopardized and compromised the health of the existing trees, and it was likely that all or most of them would have needed to be replaced as part of the work. Because the sidewalk on the west side will be reconstructed as part of the Sherwin Williams PUD project, whereas a portion of the sidewalk along the east side is relatively new, Public Works staff recommended that the joint trench work for utility undergrounding occur on the west side, removing all the existing trees and replacing them with new trees in better soil conditions as part of the sidewalk reconstruction. This would have allowed the existing conditions on the east side to remain unchanged. Therefore, the proposal before the City Council at that time was to modify the PUD to allow the existing street trees on the west side of Horton Street to be removed.

At the April 17, 2018 public hearing, the City Council directed that staff work with the developer's engineering team to better determine where the existing utilities are located under the roadway and to develop a plan for undergrounding of Horton Street that minimizes tree removal. During the ensuing months, further research was conducted by Lennar and their engineers to more precisely locate the existing utilities under the roadway. (As noted above, Lennar's negotiations with the potential buyer of Building 1-31, which fronts on this block of Horton Street, had fallen through, which allowed additional time to explore options for undergrounding.) This research revealed that, contrary to prior assumptions, there is barely enough room in the roadway to squeeze in a joint trench between the 12" recycled water line and the 4" gas line.

As a result of this new information, the team developed two alternatives, both of which would locate the joint trench in the street: Alternative A locates the vaults under the east sidewalk and Alternative B locates the vaults under the west sidewalk. (See Attachment 4: Conceptual Horton Street Utility Undergrounding.)

Both alternatives would result in the removal of two trees on the west side of Horton Street at the north end of the project site, identified as #16 and #17 in the November 15, 2018 arborist report (Attachment 3c). These trees need to be removed because they are in the intersection of the new 46th Street, not because of the undergrounding. Both alternatives also identify tree #14 on the west side of Horton Street for removal because it is dead; however, this tree has already been removed by the City after these alternative drawings were prepared. It should be noted that none of these three trees was shown as an "existing tree" on the Landscape Plan included in the approved PUD/PDP, so it was already assumed that they would be removed. (Trees #3 and #5 were previously removed by the City; the November 15, 2018 arborist report notes that there is "no tree" in these locations.)

Alternative A would result in the removal of five additional trees on the east side of Horton Street, identified as #12, #13, #14, #15, and #29 in the March 5, 2018 arborist report Attachment 3b). That arborist report provides the following information about these five trees:

Tree Number	Botanical Name	Common Name	Diameter	Value
12	<i>Sophora japonica</i>	Japanese Pagoda	8.5"	\$1,554
13	<i>Sophora japonica</i>	Japanese Pagoda	6.5"	\$1,529
14	<i>Sophora japonica</i>	Japanese Pagoda	7"	\$1,852
15	<i>Sophora japonica</i>	Japanese Pagoda	11"	\$3,586
29	<i>Schinus terebinthifolius</i>	Brazilian Pepper	20.5"	\$11,977
Total Value				\$20,498

Alternative B would result in the removal of one additional tree on the west side of Horton Street, identified as #6 in the March 5, 2018 arborist report. This is an 8" diameter *Sophora japonica* (Japanese Pagoda) valued at \$2,018.

Alternative B has been selected as the option to pursue because it results in the least number of trees to be removed, and has no impact on the relatively new sidewalk on the east side of Horton Street.

The 11 existing trees to remain on the west side of Horton Street include those identified as #1, #2, #4, #7, #8, #9, #10, #11, #12, #13, and #15 in the November 15, 2018 arborist report. It should be noted that the conditions of approval for the Sherwin Williams Public Park and Open Space Final Development Plan (FDP17-002), approved by the Planning Commission on December 14, 2017, include the following condition concerning these trees:

IV.A.1.d [The Applicant shall be responsible for...] "Preparing and implementing a tree protection plan for all trees to remain within the Property, particularly street trees along Horton Street. The applicant shall post bond deposit in the amount equal to replacement value of all trees to be protected and shall be responsible for replacing any tree that dies during construction of the complete Sherwin Williams PUD/PDP project."

If any additional trees should need to be removed as a result of unforeseen circumstances or the PG&E approval process, as discussed above, this condition will address that situation. If drastic changes in the design result because of unforeseen circumstances or the PG&E approval process, such as a need to remove all or most of the existing trees on Horton Street, the item will be brought back to the Council for further consideration.

FINDINGS

In adopting Ordinance No. 16-006 to approve the PUD/PDP, pursuant to Section 9-7.1004(a) of the Planning Regulations, the City Council had to make several findings. (See Attachment 5). Staff believes that the proposed amendment to allow the removal of street trees on the west side of Horton Street does not alter the findings originally made for approval of the PUD/PDP because the trees to be removed do not impact the overall design of the project and site. Findings that are specifically relevant to the proposed amendment to remove the existing street trees on Horton Street are included in the attached draft ordinance.

ENVIRONMENTAL REVIEW

The City Council certified the Final Environmental Impact Report (EIR) for the Sherwin Williams Project PUD as adequate under the California Environmental Quality Act (CEQA) on September 6, 2016 (Resolution No. 16-122), and applied the EIR to the Sherwin Williams Project, made findings as required by CEQA, and adopted mitigation measures for the Project on October 18, 2016 (Resolution No. 16-147).

CEQA Section 21166 and its corresponding CEQA Guideline Section 15162 provide that once an EIR has been prepared, no subsequent or supplemental EIR shall be required by the lead agency unless: (1) substantial changes are proposed in the project which will require major revisions to the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or (3) new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guideline Section 15164(e) provides that a brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record.

Since certification of the EIR, there have been no substantial changes in the proposed Project, no substantial changes to the circumstances under which the project will be undertaken, and no new information of substantial importance, which would require preparation of a subsequent EIR under CEQA Section 21166 and corresponding State CEQA Guidelines Section 15162. The Project streetscape reflects an urban setting and will be enhanced with broad sidewalks, trees, flowering plants, street furniture, and lighting. The Project also proposes a new City park and other open areas thereby providing substantial open space amenities for all development in the vicinity. The removal of four street trees does not alter this, and in addition, the amendment to the PUD enhances the environmental quality of the site by providing new street trees and improved soil conditions for existing street trees along Horton Street.

FISCAL IMPACT

None.

STAFF COMMUNICATION WITH THE PUBLIC

A written notification of this public hearing item was sent to both owners and tenants of buildings within 300 feet of the project site. A notice was also published in the Oakland Tribune.

CONFLICT OF INTEREST

Councilmember Bauters will need to recuse himself, as his residence is within 500 feet of the project site.

CONCLUSION

Staff recommends approval of the amendment to the Sherwin Williams PUD/PDP to allow removal of existing street trees on the west side of Horton Street between Sherwin Avenue and new 46th Street.

PREPARED BY: Miroo Desai, Senior Planner

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Christine Daniel, City Manager

ATTACHMENTS

1. Sherwin Williams Approved PUD Plans, Page 18: Landscape Plan
2. Sherwin Williams Project: Community Benefits for Development Bonus Points
3.
 - a. City Arborist Report dated December 29, 2014
 - b. City Arborist Report dated March 5, 2018
 - c. City Arborist Report dated November 15, 2018
4. Conceptual Horton Street Utility Undergrounding
5. Ordinance No. 16-006 (without Exhibits)
6. Proposed Ordinance, including Exhibit A, Conditions of Approval, and Exhibit B, Revised Page 18: Landscape Plan



LANDSCAPE PLAN

PARK TREES	
BOTANICAL, COMMON	TREE TYPE
ACER RUBRUM, RED MAPLE	DECIDUOUS
GINGKO BILOBA, GINGKO	DECIDUOUS
LAGERSTROEMIA INDICA, CRAPE MYRTLE	DECIDUOUS
QUERCUS ROBUR 'FASTIGIATA', SKY ROCKET OAK	DECIDUOUS
QUERCUS SUBER, CORK OAK	DECIDUOUS
QUERCUS VIRGINIANA, SOUTHERN LIVE OAK	EVERGREEN
ULMUS PARVIFOLIA, CHINESE ELM	SEMI-EVERGREEN

STREET AND GREENWAY TREES	
BOTANICAL, COMMON	TREE TYPE
ARBUTUS 'MARINA', STRAWBERRY TREE	EVERGREEN
ELAEOCARPUS DECIPIENS, JAPANESE BLUEBERRY	EVERGREEN
SOPHORA JAPONICA, JAPANESE PAGODA TREE	DECIDUOUS
PLATANUS 'ROBERTS', LONDON PLANETREE	DECIDUOUS
QUERCUS SHUMARDII, SHUMARD OAK	DECIDUOUS
PINUS ELDARICA, AFGHAN PINE	EVERGREEN
ZELKOVA SERRATA, JAPANESE ZELKOVA	DECIDUOUS
(E) TREE	

- NOTES:
- 1) ALL EXISTING TREES TO REMAIN, UNLESS OTHERWISE DETERMINED AFTER EVALUATION BY CITY ARBORIST.
 - 2) TREE PLANTING WILL BE DONE IN ACCORDANCE WITH PUBLIC WORKS DEPARTMENT'S STANDARD OF SPECIFICATIONS FOR STREET TREE PLANTING
 - 3) SHRUBS AND GROUND COVER SELECTIONS WILL BE IN CONFORMANCE WITH BAY FRIENDLY LANDSCAPE GUIDELINES
 - 4) THE LANDSCAPE PLAN ILLUSTRATES THE PROPOSED SPECIES AND CONCEPTUAL TREE LOCATIONS AND DENSITIES WITHIN THE PROJECT AREA; HOWEVER, MODIFICATIONS TO THESE WILL BE ALLOWED DURING THE FINAL DEVELOPMENT PLAN (FDP) PROCESS TO ACCOMMODATE REFINEMENTS TO THE DEVELOPMENT PROGRAM.
 - 5) ALL TREES COULD BE POTENTIAL STORM WATER INTERCEPTOR TREES

Sherwin Williams Project
Community Benefits for Development Bonus Points
Priorities and Estimated Costs

	Estimate	Running Total	Remaining
Estimated Value of Community Benefits*:	\$7,000,000		\$7,000,000

FLEXIBLE COMMUNITY BENEFIT:

1	<i>Retrofit Building 1-31 for Pass Through</i>	<i>\$1,000,000</i>	<i>\$1,000,000</i>	<i>6,000,000</i>
2	<i>Public Art Gallery/Community Meeting Room</i>	<i>\$600,000</i>	<i>\$1,600,000</i>	<i>5,400,000</i>
3	<i>West Oakland BART Shuttle (5 years)</i>	<i>\$900,000</i>	<i>\$2,500,000</i>	<i>4,500,000</i>

PUBLIC IMPROVEMENTS:

Priority	Street	Side	From	To	Item			
1	<i>Hubbard Street</i>	<i>East</i>	<i>Sherwin</i>	<i>Park</i>	<i>Sidewalk** and Utility Undergrounding***</i>	<i>\$700,000</i>	<i>\$3,350,000</i>	<i>3,650,000</i>
2	<i>Horton Street</i>	<i>East</i>	<i>Park</i>	<i>46th</i>	<i>Utility Undergrounding</i>	<i>\$1,800,000</i>	<i>\$5,150,000</i>	<i>1,850,000</i>
3	<i>Sherwin Avenue</i>	<i>South</i>	<i>Horton</i>	<i>Hubbard</i>	<i>Sidewalk</i>	<i>\$150,000</i>	<i>\$2,650,000</i>	<i>4,350,000</i>
4	Hubbard Street	Both	Park	40th	Sidewalk and Utility Undergrounding	\$680,000	<i>\$5,830,000</i>	<i>1,170,000</i>
5	Halleck	West	Sherwin	Pelco Bldg	Sidewalk	\$90,000	<i>\$5,920,000</i>	<i>1,080,000</i>
6	Horton Street	West	Sherwin	Park	Sidewalk	\$200,000	<i>\$6,120,000</i>	<i>880,000</i>
7	45th Street	Both	Horton	Hollis	Utility Undergrounding	\$1,440,000	<i>\$7,560,000</i>	<i>-560,000</i>
8	Horton Street	East	46th	53rd	Utility Undergrounding	\$1,050,000	<i>\$8,610,000</i>	<i>-1,610,000</i>
9	Halleck Street	West	Park	Beach	Utility Undergrounding	\$750,000	<i>\$9,360,000</i>	<i>-2,360,000</i>

Items in bold italics are part of PARC/Lennar agreement. Other items added by staff.

* Assumes some additional work not included in applicant's estimate plus ENR escalator of 3.5% for FY2017-2108

** Sidewalks are to be consistent with Park Avenue District Plan and existing side streets in the district, as follows:

12' total width from face of curb to edge of right-of-way consisting of:

6" wide curb

4' wide tree well/planter strip/stormwater treatment area/concrete between curb and pedestrian pathway (trees, luminaires, street signs, and any other street furniture go in this zone)

7.5' concrete clear pedestrian walkway

4' x 6' tree wells

Ginkgo biloba street trees at an average distance of 22' on center

Lumec Candela Single Pedestrian Luminaires spaced at 80' average on center per side, staggered (40' average on center both sides)

*** Utility undergrounding assumes payment of all necessary service connections (estimated at \$12,000 each), and installation of luminaires if not in conjunction with new sidewalk.

Sherwin Williams Project Map of Community Benefits Public Improvements For Development Bonus Points



KEY:

- Existing sidewalk to be upgraded as part of project
- New sidewalk to be installed as part of project
- New sidewalk – community benefit
- Utility undergrounding – community benefit

①

Community Benefit Priority

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Date: December 29, 2014

To: Miroo Desai, Senior Planner
City of Emeryville, Planning Division
1333 Park Avenue
Emeryville, CA 94608

Location: Sherwin Williams Site on Horton St.

Subject: Tree condition and viability for retention.

Assignment: Arborist was asked to review the condition of the street trees bordering the old Sherwin Williams facility on Horton St. and Sherwin Ave. and to provide commentary and recommendations regarding the feasibility of retaining the trees.

Introduction

The tree inspection was undertaken in conjunction with the renovation of the Sherwin Williams Paint facility on Horton Street. Arborists reviewed eleven Japanese Pagoda Trees (*Sophora japonica*) trees on Horton Street, two European Hackberry (*Celtis australis*) located on Sherwin Ave, and one Flaxleaf Paperbark (*Melaleuca linariifolia*) located behind the sidewalk on Sherwin Ave.

Summary

Visual inspection of the *Sophora* and Hackberry trees on Holden found a significant amount of root related displacement of sidewalk and curb, as well as street uplift. If the original surface grades are restored, it is likely that most of the trees will require removal.

If there is a strong desire to retain as many of the trees as possible, a full assessment of each tree after the pavement has been removed will make the final determination. The assessment will determine if the trees can remain safe and healthy after the sidewalk and street repairs have been made. If retained, the soil below the sidewalk will require special mitigation treatments.

The *Melaleuca* tree growing behind the sidewalk is likely a private tree. This tree is doing well.

We feel that this is an excellent opportunity to remove problematic trees and provide a tree root environment for replacement trees which will carry them long into the future without continual costly pavement repairs.

Table of Trees

Table below provides information on the 14 trees reviewed. Tree #1 is located at the north end of the row on Horton. Trees #12, 13 and 14 are located on Sherwin Avenue. The table provides information and comments pertaining to the 14 trees. The species, size, condition and level of hardscape displacement are listed as well as pertinent notes.

	Species	Common Name	DBH ¹	Health	Structure	Hardscape Displacement	Notes
1	<i>Sophora japonica</i>	Japanese Pagoda Tree	8.5"	Fair	Fair	Moderate	Poor pruning, sidewalk uplift
2	<i>Sophora japonica</i>	Japanese Pagoda Tree	11"	Fair-Poor	Fair	Moderate	Sidewalk uplift
3	<i>Sophora japonica</i>	Japanese Pagoda Tree	5"	Poor	Poor	Minor	Not viable
4	<i>Sophora japonica</i>	Japanese Pagoda Tree	7.5"	Fair-Good	Fair	Moderate	Curb/drainage problems
5	<i>Sophora japonica</i>	Japanese Pagoda Tree	8"	n/a	Fair	Major	Sidewalk, curb and street
6	<i>Sophora japonica</i>	Japanese Pagoda Tree	6.5"	Good	Fair	Minor	Sidewalk cracks
7	<i>Sophora japonica</i>	Japanese Pagoda Tree	9"	Fair	Fair	None	
8	<i>Sophora japonica</i>	Japanese Pagoda Tree	7"	Fair	Fair	Major	Sidewalk, curb and street uplift
9	<i>Sophora japonica</i>	Japanese Pagoda Tree	10"	Fair-Good	Fair	Minor	Drainage issues, curb and gutter
10	<i>Sophora japonica</i>	Japanese Pagoda Tree	7.5"	Good	Fair	Major	Oak Root Fungus?, Drainage issues, street uplift
11	<i>Sophora japonica</i>	Japanese Pagoda Tree	11.5"	Good	Fair	Major	Drainage issues, street uplift
12	<i>Melaleuca linariafolia</i>	Paper Bark Melaleuca	14"	Good	Poor	None	No problems
13	<i>Celtis australis</i>	European Hackberry	11"	Good	Poor	Major	Codominant-Included Bark, sidewalk uplift
14	<i>Celtis australis</i>	European Hackberry	7"	Fair	Fair	Moderate	Small, likely root restrictions. Minor sidewalk uplift.

¹ DBH is tree diameter measured at 54 inches above soil grade.



Discussion

Sophora Trees – Though the *Sophora* trees do provide a significant amenity to the streetscape, there are concerns for the future tree health and the potential for ongoing sidewalk uplift. If they are subjected to excessive root pruning, the trees are likely to decline and die. Though most have reached a fair size, their future value is expected to decline due to the root zone limitations.

Removal and replacement of the trees at the time the hardscape repairs are made will allow for the preparation of planting sites that will allow the trees to thrive with minimal if any hardscape displacement in the future.

Hackberry Trees – The two European Hackberry trees vary significantly in size. The reason for the difference is likely limitations in rooting environment, however unknown. Like the *Sophora* trees, the hackberry roots appear to be on the surface. One or both of the trees could be retained if excessive root loss does not occur when the sidewalk is repaired.

Timing – With the need to make the extensive repairs to the street and sidewalk, it appears that this may be a good time to consider the future. Allowing the existing trees to remain will likely be more expensive in the long term. Tree replacement will allow for the preparation of a suitable planting site that will allow for the replacement trees to thrive and provide amenities to the street for many years.

Recommendations

Remove and replace all *Sophora* and smaller Hackberry. The larger Hackberry is a nice tree and maybe worthy of retention. However, without extensive soil and root mitigation, the hardscape displacement problems are expected to return. It is recommended that a suitable soil environment be provided for the replacement trees at or exceeding City guidelines for soil volumes and the use of structural soil.

Any trees to be retained will require a water jet procedure as well as the use of clean crushed rock below the sidewalk pavement after the necessary root pruning. Specifications for the necessary mitigation treatments can be provided if needed.

End Report



Photo Supplement

Photo 1. Photo to the right shows the aesthetic contribution to the streetscape offered by the trees. Tree # 5 is causing sidewalk pavement uplift and uplift to the gutter sufficient to affect drainage.



Photo 2. Photo to the left shows the sidewalk area having the most significant uplift. Because of the tree lean to the street, cutting the offending root may compromise the tree stability.

Photo 3. Photo to the right shows the Sophora tree closest to the corner of Sherwin St. Along with the sidewalk, the curb and street have been uplifted by the tree roots. Root pruning needed to accomplish the necessary repairs will likely compromise the future health and stability of this, the largest of the Sophora trees..

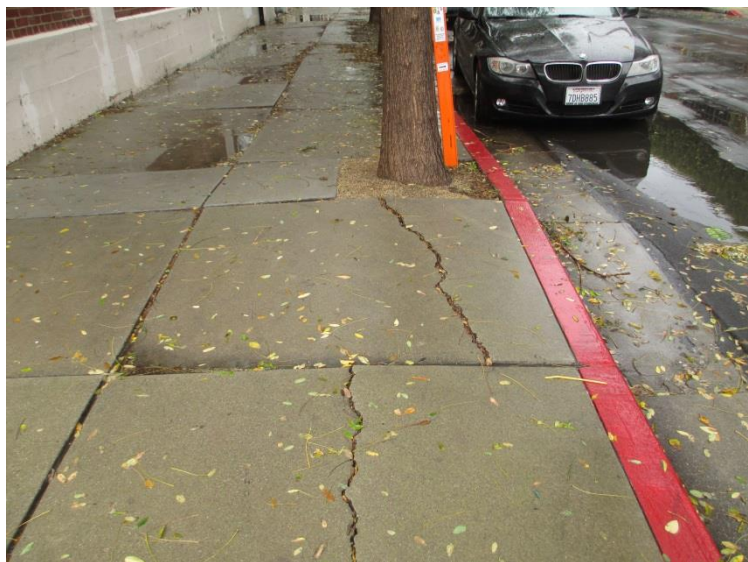




Photo 4. Photo to the left shows the bases of the two hackberry trees looking west with the larger tree in the foreground. The pavement uplift does indicate that the tree roots have developed near the surface, likely due to soil compaction.

Photo 5. Photo shows the hackberry trees looking east with the smaller tree in the foreground. This tree has not thrived, likely due to a restrictive soil environment. There is also sidewalk uplift.

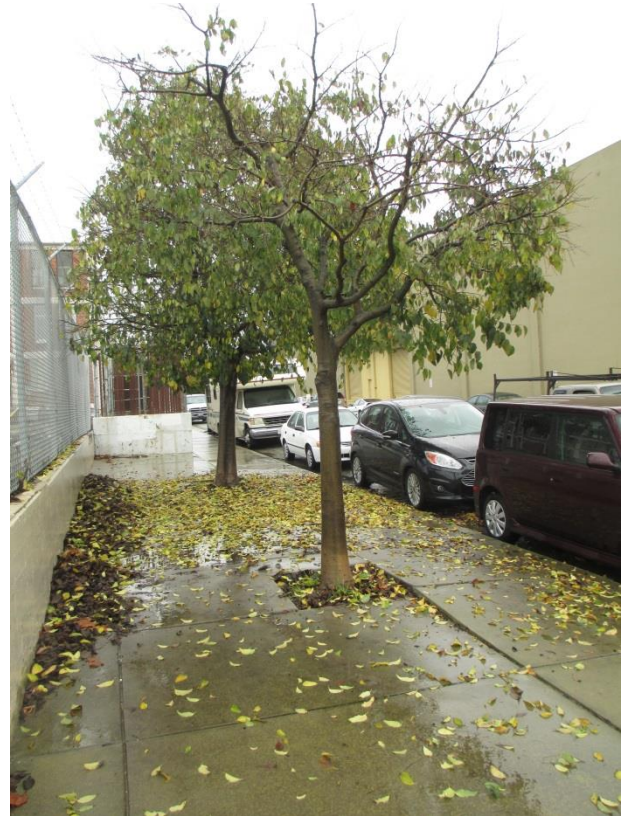


Photo 6. Last photo to the left shows the Melaleuca tree that appears to be growing out of the City R.O.W.

End Photo Supplement



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Molly Batchelder, Consulting Arborist

WC ISA Certified Arborist #9613A

ISA Tree Risk Assessment Qualified

E-mail: molly@sbcatree.com

Date: Amended March 5, 2018

To: Michael Roberts, PE
City of Emeryville

Subject: Valuation of 41 trees on Horton Street

Assignment: Arborist was asked to provide values for trees located on Horton Street.

Project: Sherwin Williams

Source: Tree Valuation was conducted in accordance with the WC-ISA publication "Council of Tree & Landscape Appraisers: Guide for Plant Appraisal, 9th edition.

Summary

A total of 41 trees were surveyed and valued on Horton Street, from the south end of Park Avenue to two blocks to the north.

- West side – Eleven (11) trees were surveyed on the west side of Horton Street, with a total value of \$32,200. The average value for an individual tree was found to be \$2,927.
- East side – Thirty (30) trees are located on the east side of Horton Street, with a total value of \$82,100. The average tree value on Horton was determined to be \$2,736.

Tree species and numbers identified include the following:

<i>Arbutus 'Marina'</i>	Marina Strawberry Tree	1
<i>Ginkgo biloba</i>	Ginkgo	11
<i>Olea europaea</i>	Olive	6
<i>Pittosporum tenuifolium</i>	Kohuhu	1
<i>Schinus terebenthifolius</i>	Brazilian Pepper	2
<i>Sophora japonica</i>	Japanese Pagoda	20

Tree Valuation, Source and Methodology

This tree valuation report was prepared according to the standards for tree valuation presented in GUIDE FOR PLANT APPRAISAL, published by the International Society of Arboriculture, 2000, Ninth Edition.

Information regarding tree species is from the publication: SPECIES CLASSIFICATION AND GROUP ASSIGNMENTS, published by the International Society of Arboriculture.

**Attachment 3b to
September 17, 2019 Staff Report**

Tree valuation is determined by using the *Trunk Formula* method as the tree is larger than the standard 24" box size utilized in tree valuation.

Trunk Formula Method of Determining Tree Value

The current price for a 24-inch box tree, installed in the landscape, is \$516 (Council of Tree & Landscape Appraisers). Value is affected by tree species, tree condition and the location in which the tree is growing. The terms below are used in the valuation Table 2.

- **Species** – Tree species is identified by the arborist providing the valuation. The tree species provided both Class and Group assignments for different tree species. The species Class and Group ratings are discussed below:
 - **Species Class** – The class reflects how well the tree species is suited to the area and the specific site conditions.
 - **Species Group** – The group rating reflects the rate of growth for the tree species. The group rating determines the *basic price per square inch* of the trunk area for the different species.
- **DBH** - Diameter at Breast Height, measured at 4.5 feet above the average soil grade. Tree valuation is based upon DBH measurements. Multi-stemmed trees based on the sum of the cross sectional area of all stems measured at 4.5 feet.
- **Trunk Area** – The surface area of the cross sectional area of the tree trunk measured at 4.5 feet above the soil grade (DBH).
- **Species Price per Square Inch.** – Determined from Species Group rating.
- **Base Value** – This is the Trunk Area multiplied by the price per square inch.
- **Condition** – This reflects the health and structural condition of the trees assigned by arborist.
- **Location** – The location factor is assigned to the tree based upon the average of three conditions. The factors are the "Site", the "Contribution" and the "Placement". All trees were given a 100% for placement due to City or Landscape Architect planting.
- **Tree Value** – Determined by first adding the installed price of a 24" box size tree (\$516) to the Basic Value and then factor by Species Class, tree condition and location. The tree value is rounded to the nearest \$100.

APPENDIX 1 – Tree Valuation for individual trees.

Valuation submitted by:



Steve Batchelder, Consulting Arborist
ISA Certified Arborist WE 228A
CaUFC Certified Urban Forester #138
Calif. Contractor Lic. (C-27) 533675



Tree No.	Location	Species	DBH	Multi-Stemmed	Trunk Area (TA)	Trunk Area of Replacement Tree (TAR)	Species Price per square inch.	Installed Cost of 24 " box size	Species Class	Base Value	Condition	Location	Tree Value
WEST SIDE OF HORTON - BEGINNING AT SOUTH END													
1	West	<i>Sophora japonica</i>	13		132.665	2.24	77.04	516	0.7	\$7,549.56	0.8	1	\$ 6,040
2	West	<i>Sophora japonica</i>	8.5		56.71625	2.24	77.04	516	0.7	\$3,453.80	0.7	1	\$ 2,418
3	West	<i>Sophora japonica</i>	11		94.985	2.24	77.04	516	0.7	\$5,517.55	0.6	1	\$ 3,311
4	West	<i>Sophora japonica</i>	8		50.24	2.24	77.04	516	0.7	\$3,104.54	0.5	1	\$ 1,552
5	West	<i>Sophora japonica</i>	9		63.585	2.24	77.04	516	0.7	\$3,824.21	0.7	1	\$ 2,677
6	West	<i>Sophora japonica</i>	8		50.24	2.24	77.04	516	0.7	\$3,104.54	0.65	1	\$ 2,018
7	West	<i>Sophora japonica</i>	8.5		56.71625	2.24	77.04	516	0.7	\$3,453.80	0.75	1	\$ 2,590
8	West	<i>Sophora japonica</i>	12		113.04	2.24	77.04	516	0.7	\$6,491.22	0.8	1	\$ 5,193
9	West	<i>Sophora japonica</i>	10		78.5	2.24	77.04	516	0.7	\$4,628.55	0.85	1	\$ 3,934
10	West	<i>Sophora japonica</i>	8		50.24	2.24	77.04	516	0.7	\$3,104.54	0	1	\$ -
11	West	<i>Sophora japonica</i>	7.5		44.15625	2.24	77.04	516	0.7	\$2,776.46	0.9	1	\$ 2,499
												Total:	\$ 32,231
EAST SIDE OF HORTON - BEGINNING AT NORTH END													
12	East	<i>Sophora japonica</i>	8.5		56.71625	2.24	77.04	516	0.7	\$3,453.80	0.45	1	\$ 1,554
13	East	<i>Sophora japonica</i>	6.5		33.16625	2.24	77.04	516	0.7	\$2,183.79	0.7	1	\$ 1,529
14	East	<i>Sophora japonica</i>	7		38.465	2.24	77.04	516	0.7	\$2,469.54	0.75	1	\$ 1,852

Tree No.	Location	Species	DBH	Multi-Stemmed	Trunk Area (TA)	Trunk Area of Replacement Tree (TAR)	Species Price per square inch.	Installed Cost of 24 " box size	Species Class	Base Value	Condition	Location	Tree Value
15	East	<i>Sophora japonica</i>	11		94.985	2.24	77.04	516	0.7	\$5,517.55	0.65	1	\$ 3,586
16	East	<i>Sophora japonica</i>	10.5		86.54625	2.24	77.04	516	0.7	\$5,062.47	0.9	1	\$ 4,556
17	East	<i>Sophora japonica</i>	13		132.665	2.24	77.04	516	0.7	\$7,549.56	0.8	1	\$ 6,040
18	East	<i>Pittosporum tenuifolius</i>	12	7,5,4,4,2,4	113.04	2.24	77.04	516	0.5	\$4,784.02	0.1	1	\$ 478
19	East	<i>Arbutus 'Marina'</i>	12.5	10, 7	122.65625	2.24	77.04	516	0.9	\$8,865.18	0.75	1	\$ 6,649
20	East	<i>Olea europaea</i>	7		38.465	3.8	45.46	516	0.7	\$1,619.11	0.75	1	\$ 1,214
21	East	<i>Olea europaea</i>	7		38.465	3.8	45.46	516	0.7	\$1,619.11	0.9	1	\$ 1,457
22	East	<i>Olea europaea</i>	10		78.5	3.8	45.46	516	0.7	\$2,893.10	0.9	1	\$ 2,604
23	East	<i>Olea europaea</i>	9		63.585	3.8	45.46	516	0.7	\$2,418.48	0.85	1	\$ 2,056
24	East	<i>Olea europaea</i>	6		28.26	3.8	45.46	516	0.7	\$1,294.37	0.7	1	\$ 906
25	East	<i>Sophora japonica</i>	10.5		86.54625	2.24	77.04	516	0.7	\$5,062.47	0.8	1	\$ 4,050
26	East	<i>Sophora japonica</i>	11		94.985	2.24	77.04	516	0.7	\$5,517.55	0.8	1	\$ 4,414
27	East	<i>Olea europaea</i>	4	2.5,3	12.56	3.8	45.46	516	0.7	\$794.76	0.7	1	\$ 556
28	East	<i>Sophora japonica</i>	10.5		86.54625	2.24	77.04	516	0.7	\$5,062.47	0.8	1	\$ 4,050
29	East	<i>Schinus terebinthifolius</i>	20.5		329.89625	2.09	82.82	516	0.5	\$14,090.46	0.85	1	\$ 11,977
30	East	<i>Schinus terebinthifolius</i>	20		314	2.09	82.82	516	0.5	\$13,432.19	0.85	1	\$ 11,417
31	East	<i>Ginkgo biloba</i>	3		7.065	2.24	77.04	516	0.9	\$850.55	0.85	1	\$ 723
32	East	<i>Ginkgo biloba</i>	5		19.625	2.24	77.04	516	0.9	\$1,721.41	0.9	1	\$ 1,549
33	East	<i>Ginkgo biloba</i>	4.5		15.89625	2.24	77.04	516	0.9	\$1,462.87	0.85	1	\$ 1,243
34	East	<i>Ginkgo biloba</i>	5		19.625	2.24	77.04	516	0.9	\$1,721.41	0.8	1	\$ 1,377
35	East	<i>Ginkgo biloba</i>	4		12.56	2.24	77.04	516	0.9	\$1,231.55	0.85	1	\$ 1,047
36	East	<i>Ginkgo biloba</i>	3.5		9.61625	2.24	77.04	516	0.9	\$1,027.44	0.85	1	\$ 873

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Molly Batchelder, Consulting Arborist

WC ISA Certified Arborist #9613A

ISA Tree Risk Assessment Qualified

E-mail: molly@sbcatree.com

Date: November 15, 2018

To: Miroo Desai, Senior Planner
City of Emeryville, Planning Division
1333 Park Avenue
Emeryville, CA 94608

Location: Sherwin Williams Site on Horton St.

Subject: Tree condition and viability for retention.

Assignment: Arborist was directed to review 15 Japanese Pagoda Trees (Sophora japonica) on Horton Street, between Sherwin Avenue and Rifkin parking lot, and to provide an update on condition.

Background: Arborist submitted three reports regarding the trees:

- Sherwin Williams- Horton St, submitted December 29, 2014
- Arborist Comments- Sherwin Williams, submitted August 26, 2016
- Valuation of 41 trees- Sherwin Williams, submitted March 5, 2018

Trees #1-11 were evaluated in prior reports and have been assigned the same numbers. Trees #12-17 were not evaluated previously. **Trees #s 3 and 5 are no longer present. Tree #14 is dead.**

Photos of the trees and root related hardscape uplift can be found at:

https://www.dropbox.com/sh/ge1p67euj2r2hkt/AADA7jp_Qzlimnk32NvwEdqta?dl=0

Summary

All 15 Sophora trees are not viable for retention due to significant root related hardscape displacement or poor health condition. Uplift of the sidewalk, curb, and/or gutter adjacent to trees reviewed in 2014 has increased in severity. Two trees have since been removed.

If trees are retained, #s 1, 2, 4, 6-13 will be subjected to excessive root pruning and will likely decline and die as a result; Trees #14-17 are in poor or dead health condition and are not suitable for preservation.

SBCA Tree Consulting maintains the professional opinion offered in previous reports that the future streetscape would be better served by removal and replacement of all Sophora trees on the west side of Horton.

**Attachment 3c to
September 17, 2019 Staff Report**

Table of Trees

Table below provides information on the 15 trees reviewed. See Map at end of report for tree locations.

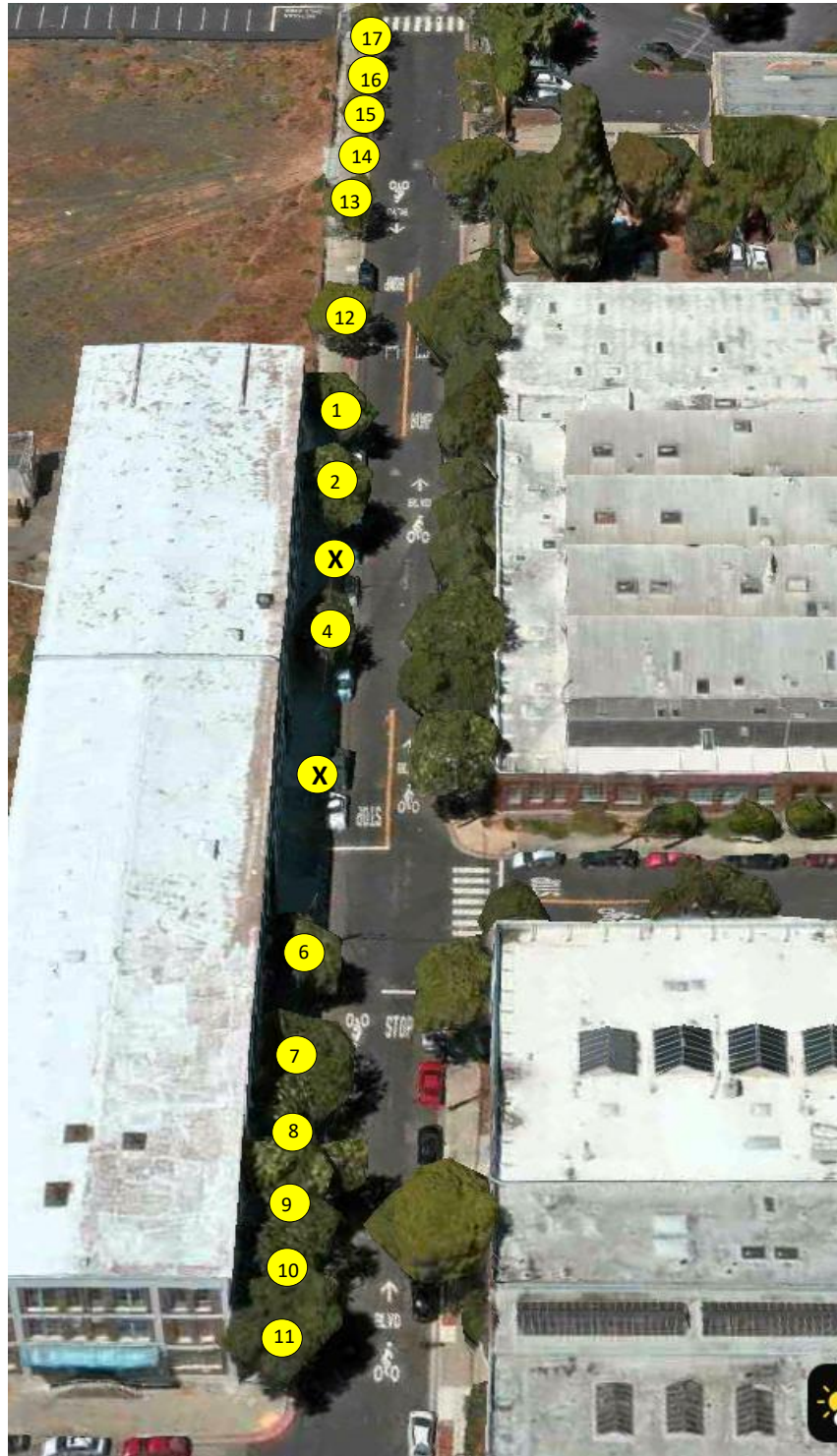
Corresponds to tree location map	Species	Condition	Current Hardscape Displacement (inches of uplift)	Hardscape Displacement 2014	Notes	Recommendation
1	<i>Sophora japonica</i>	Fair	Major 2" sidewalk 3+" curb and gutter	Moderate	Poor pruning; Retention not viable	Remove and Replace
2	<i>Sophora japonica</i>	Good	Major 4" Sidewalk uplift 1" curb 1" gutter	Moderate	Retention not viable	Remove and Replace
3	<i>Sophora japonica</i>	No tree	-	Minor	-	Replace
4	<i>Sophora japonica</i>	Good	Moderate 2" sidewalk 1" curb	Moderate	Heavy end weight; Retention not viable	Remove and Replace
5	<i>Sophora japonica</i>	No tree	-	Major	-	Replace
6	<i>Sophora japonica</i>	Fair	Moderate 1" sidewalk 1" curb	Minor	Retention not viable	Remove and Replace
7	<i>Sophora japonica</i>	Fair-Poor	None	None	Tree is not healthy displaying sparse foliage and tip dieback.	Remove and Replace
8	<i>Sophora japonica</i>	Poor	Major 3" sidewalk Curb and gutter displacement	Major	Large wound at base; Retention not viable	Remove and Replace
9	<i>Sophora japonica</i>	Fair	Major 2" uplift sidewalk 2" uplift curb Cracks in road, gutter	Minor	Retention not viable	Remove and Replace
10	<i>Sophora japonica</i>	Fair	Major 3" sidewalk 3+" curb Cracks in road	Major	Retention not viable	Remove and Replace
11	<i>Sophora japonica</i>	Good	Major 3" sidewalk 2+" curb	Major	Retention not viable	Remove and Replace



Corresponds to tree location map	Species	Condition	Current Hardscape Displacement (inches of uplift)	Hardscape Displacement 2014	Notes	Recommendation
12	<i>Sophora japonica</i>	Poor-Hazardous	Moderate 1" uplift sidewalk 1" uplift curb Cracks in gutter	n/a	Split at branch crotch; Retention not viable	Remove and Replace
13	<i>Sophora japonica</i>	Fair	Moderate 2" sidewalk	n/a	Retention not viable	Remove and Replace
14	<i>Sophora japonica</i>	Dead	None	n/a	Dead	Remove and Replace
15	<i>Sophora japonica</i>	Poor	Minor 1/2" sidewalk	n/a	Poor health, significant dead wood, tip dieback	Remove and Replace
16	<i>Sophora japonica</i>	Poor	None	n/a	Poor health, significant dead wood, tip dieback	Remove and Replace
17	<i>Sophora japonica</i>	Poor	Moderate 1 1/2" sidewalk	n/a	Poor health, significant dead wood, tip dieback, 2" diameter dead branch	Remove and Replace



Tree Location Map



End Report



ORDINANCE NO. 16-006

Ordinance Of The City Council Of The City Of Emeryville Adopting A Planned Unit Development Zoning Designation And Approving A Preliminary Development Plan On The 10.05-Acre Sherwin Williams Project Site Bounded By Sherwin Avenue To The South, The Union Pacific Railroad Tracks To The West, Horton Street To The East, And Temescal Creek To The North (APNs: 49-1041-26-15 And -16), And Adopting An Amendment To The Planning Regulations To Add The Sherwin Williams Mixed Use Project To The List Of Planned Unit Developments In Section 9-3.310

WHEREAS, LMC Emeryville I Investor LLC ("Applicant") proposes to construct a mixed use project comprised of up to 500 multi-family residential units, a minimum of 2,000 square feet and a maximum of 8,000 square feet of ground floor retail/restaurant/office space, 74,000 square feet of office space, parking garages, open, space, infrastructure and landscaping on the former Sherwin Williams paint factory parcel and adjacent City-owner parcel bounded by Sherwin Avenue to the south, the Union Pacific Railroad tracks to the west, Horton Street to the east, and Temescal Creek to the north ("Project; and

WHEREAS, the Project requires an amendment to the General Plan to modify the Land Use Diagram (Figure 2-2) to reflect the proposed relocation of Park/Open Space and Mixed Use with Residential on the Project site and to modify the Maximum Residential Densities map (Figure 2-6) to be consistent with the Land Use Diagram; and

WHEREAS, on September 6, 2016, the Emeryville City Council certified the Final Environmental Impact Report for the Project, including the proposed General Plan amendment, as adequate under California Environmental Quality Act (Resolution No. 16-122); and

WHEREAS, on September 22, 2016, at a duly and properly noticed public hearing, the Planning Commission adopted Resolution No. EIR 16-03, reviewing and applying the Final EIR to the Project; recommending that the City Council adopt the Mitigation Measures and making findings as required by the California Environmental Quality Act; and

WHEREAS, on September 22, 2016, at a duly and properly noticed public hearing, the Planning Commission recommended that the City Council approve the proposed amendment to the General Plan, and recommended adoption of a Planned Unit Development (PUD) zoning designation and approval of a Preliminary Development Plan (PDP) (Resolution No. PUD 13-001); and

WHEREAS, on October 18, 2016, the City Council held a duly and properly noticed public hearing and took testimony about the Project, including the proposed amendment to the General Plan; and

WHEREAS, on October 18, 2016, following the public hearing, the City Council adopted Resolution No. 16-147, applying the Final EIR to the Project, and making certain findings of fact regarding impacts, adopting the Mitigation Monitoring and Reporting Program, and making certain findings related to alternatives and a statement of overriding considerations; and

WHEREAS, on October 18, 2016, following the public hearing, the City Council adopted Resolution No. 16-148, adopting the proposed amendment to the General Plan to modify the Land Use Diagram (Figure 2-2) to reflect the proposed relocation of Park/Open Space and Mixed Use with Residential on the Project site and to modify the Maximum Residential Densities map (Figure 2-6) to be consistent with the Land Use Diagram; and

WHEREAS, the City Council has reviewed and considered the staff report and attachments thereto, the plans, all public comments, and the proposed Sherwin Williams Mixed Use Project, subject to the conditions and requirements set forth in Exhibit B attached to this Resolution and the applicable standards of the Emeryville Planning Regulations ("the Record");

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND INTENT

The purpose and intent of this Ordinance is to adopt a Planned Unit Development zoning designation and to approve a Preliminary Development Plan on the 10.05-acre Sherwin Williams project site bounded by Sherwin Avenue to the south, the Union Pacific railroad tracks to the west, Horton Street to the east, and Temescal Creek to the north (APNs: 49-1041-26-15 and -16), and to adopt an amendment to the Planning Regulations to add the Sherwin Williams Mixed Use Project to the list of Planned Unit Developments in Section 9-3.310.

SECTION TWO. REQUIRED FINDINGS FOR ADOPTING ORDINANCE

Planned Unit Development. The City Council makes the following findings to create a PUD zone and adopt a preliminary development plan, pursuant to Section 9-7.1004(a) of the Emeryville Municipal Code:

- (1) The proposed planned unit development conforms to the adopted General Plan and any other applicable plans.

General Plan goals (G) and policies (P) that are particularly germane, and with which the project is consistent, include:

- LU-G-2** *A mix of housing types – A diversity of housing types to accommodate a variety of household sizes and incomes.*
- LU-G-9** *Appropriately scaled buildings – heights and massing that do not appear monolithic.*
- LU-P-1** *Land uses will be consistent with the Land Use Classifications in section 2.4 and the Land Use Diagram, Figure 2-2.*
- LU-P-5** *Retail uses will be concentrated in areas with Neighborhood or Regional Retail overlays, near neighborhood centers, and in the Emeryville Marketplace.*
- LU-P-18** *The reuse of the Sherwin Williams site shall include a mix of residential and nonresidential uses with ample open space, centered on an extension of the Emeryville Greenway connecting Horton Landing Park and the Park Avenue District.*
- PP-P-6** *The north-south Emeryville Greenway will be expanded, enhancing its role as an open space corridor and connector across the City, and a source of inspiration and community pride. The City will support the expansion of a park at the Sherwin Williams site, in coordination with the development of Horton Landing Park and the Greenway.*

The project will provide a standalone affordable housing building in addition to market rate units in three other buildings. In addition, live-work units are also contemplated in the project. The building footprint along street frontages maintain a setback and the building heights are also stepped back so as to maintain the scale of the surrounding buildings.

General Plan goals policies (P) that are related to Urban Design, and with which the project is consistent, include:

- UD-P-46** *Street trees shall be provided on City streets where feasible. Street trees shall be planted in a row along the curb, between the vehicle roadway and sidewalk, unless this is physically impossible due to constraints such as underground water or sewer lines.*
- UD-P-47** *Streetscape landscaping shall follow Bay-Friendly Landscaping guidelines and serve the dual purpose of treating stormwater runoff and providing shade and beauty to the urban realm.*

New street trees have been provided along the new Hubbard Street extension and 46th Street and are proposed in a row along the curb between the road and sidewalk. In addition, conditions of approval require the project to follow Bay-Friendly Landscaping guidelines and the plans allow the use of the trees to treat stormwater where possible.

General Plan goals (G) and policies (P) that are related to Transportation, and with which the project is consistent, include:

- T-G-4** *A walkable city – provide an accessible, safe, pleasant, convenient, and integrated pedestrian system that provides links within the city and to surrounding communities, and reduces vehicular conflicts.*
- T-P-1** *The City's circulation plan shall be as set forth in Figures 3-1 through 3-8 and based on typologies described in the Transportation Chapter of the General Plan.*
- T-P-2** *The design, construction, operation, and maintenance of city streets shall be based on a "complete streets" concept that enables safe, comfortable, and attractive access and travel for pedestrians, bicyclists, motorists, and transit users of all ages and abilities.*
- T-P-4** *Transportation planning shall be coordinated with emergency service providers to ensure continued emergency service operation and service levels.*
- T-P-10** *The pedestrian circulation system shall be as set forth in Figure 3-4 and based on the typologies described in the General Plan Transportation Chapter.*

T-P-12 The City will plan, upgrade, and maintain pedestrian crossings at intersections and mid-block locations by providing safe, well-marked crosswalks with audio/visual warnings, bulb-outs, and median refuges that reduce crossing widths.

The design of two new streets, Hubbard Street extension and 46th Street is based on the “complete” streets concept that allows for on-street parking, wide sidewalks that provide street trees between the curb and pedestrian path, and adequate lighting via light poles. In addition, the project provides ample pedestrian connections within and to the project site by creating an east-west “pass through” pedestrian and bicycle alley in the existing Building 1-31 that will align with 45th Street on the east and terminate at the new public park on the west. In addition, walkability is further increased by extension of the Greenway along the western property edge.

General Plan policies (P) related to Conservation, Safety, Noise, and Sustainability that are particularly germane, and with which the project is consistent, include:

CSN-P-10 New development is required to incorporate source control, site design, and storm water treatment to reduce pollutants in stormwater runoff.

CSN-P-11 Exterior uses of water for landscaping and other purposes shall be reduced to minimize or eliminate runoff and water waste.

CSN-P-33 In order to reduce light pollution and use less energy, lighting (including on streets, recreational facilities, and in parking areas) should be designed to prevent artificial lighting from illuminating natural resources or adjacent residential neighborhoods.

CSN-P-44 The City will continue to require development projects to implement on-site stormwater management measures through the City’s development permit process.

ST-P-5 The City shall encourage, promote, practice, and where feasible, require Bay-Friendly landscaping practices as defined in the Bay-Friendly Landscape Guidelines, Sustainable Practices for Landscape Professionals.

The Citywide design guidelines that apply and are particularly germane, and with which the project is consistent via design and/or Conditions of Approval, include:

Site Planning:

- C-1 Consider the three-dimensionality of buildings: how they are perceived from the ground level, public streets, and side streets; and how they can contribute to, or detract from, the views, neighborhood or district character, and overall quality of life.***
- C-2 Site buildings and locate plazas, building entrances, seating, and visually interesting architectural features to encourage interaction among occupants and passersby.***
- C-4 Consider edge conditions and transition areas during site design to ensure compatibility between existing and new development.***
- C-6 Conceal all mechanical, electrical, and other building equipment from the public right-of way and from other existing buildings, where feasible. Use screening materials and other buffers to minimize noise and visual impacts. Mechanical equipment should not be located along the ground floor street frontage.***

Building heights are stepped back such that the tallest edge of the buildings are not within line of sight as seen from the street. In this way, the project heights are in proportion and compatible to the surrounding buildings as seen from the public streets outside the project i.e. Sherwin Avenue and Horton Street. Conditions of Approval ensure that all mechanical and other equipment will be adequately screened from the public right-of-way. In addition, the new public park as well as two public plazas allow opportunities for designing building entrances that encourage interaction among occupants and passersby.

Building Massing:

- D-1 In areas where building heights transition, step back upper levels of buildings to transition to adjacent lower building heights.***



- D-2 Encourage variation and articulation through changes in height and massing.***
- D-3 Create buildings openings that permit midblock pedestrian connections, thereby breaking up “super blocks” and expanding the pedestrian network.***
- D-7 Design of new buildings should consider shadow impacts on surrounding areas. 3D modeling is recommended to test the effect of building heights and massing on sidewalks and streets, in terms of shadows.***

Sidewalks and Green Streets (Policies A-1 to A-3 and I-23)

Generally, the Design Guidelines call for a minimum of 11.5 foot wide sidewalk, including 7.5 feet for a pedestrian pathway and 4 feet for a landscaped area between the pedestrian pathway and curb. Additionally, Sherwin Avenue, Hubbard Street extension, and Horton Street between Sherwin Avenue and 45th Street are designated “Green Streets” that calls for a 15-foot minimum sidewalk corridor, including 8 feet for a pedestrian pathway, 5 feet for a landscaped area next to the curb, and 2 feet for a landscaped area next to the adjacent property (Figure 3-6 of Emeryville Design Guidelines). Where the Greenway is separate from a street, the Design Guidelines call for a 20 foot minimum corridor including a 10 foot paved pedestrian/bicycle pathway and a 6 foot unpaved path separated by 4 feet of landscaping (Figure 3-5 of Emeryville Design Guidelines).

The Hubbard Street extension is designed as a 66-foot right of way with a 36- foot roadway, 5-foot planter strip between the curb and pedestrian pathway, 8-foot pedestrian pathway, and 2-foot landscaped area adjacent to the property line, thereby providing a minimum sidewalk width of 15 feet on both sides of the street. Thus, Hubbard Street extension is in compliance with the “Green Street” requirement.

The Sherwin Avenue street section shows compliance with the Green Street sidewalk width with an 8-foot clear pedestrian path, a 5-foot landscape area next to the curb; and a 2-foot landscape corridor between the sidewalk and the building wall.

In the interest of preserving existing mature trees along the Horton Street frontage, it is not possible to comply with the Green Street

sidewalk width; however, there is a clear pedestrian pathway of 8 feet.

The Greenway along the railway tracks provides a 20 foot multi-use trail with a 15-foot concrete pathway and a 5 foot decomposed granite path, in conformance with the Design Guidelines.

Sherwin Avenue between Hubbard Street and Halleck Street is designated as a Class II/III bikeway in the General Plan, and as a Class III Bicycle Route in the Pedestrian and Bicycle Plan, meaning that the roadway should be designed to be shared with bicycles. Condition of Approval Number II.E.4 requires bicycle signage on Sherwin Avenue.

The Park Avenue District Plan guidelines that apply and are particularly germane, and with which the project is consistent via design and/or Conditions of Approval, include:

- Work with surrounding property owners and businesses to time-share parking.
 - Residential projects should include units with multiple bedrooms that could accommodate families.
 - Development of large sites (1 acre or greater) should include residential or live/work units.
 - Encourage new development north of Sherwin Avenue and west of Horton Street (i.e. on the Sherwin Williams site) to include a public park or parks with ample green space.
 - Provide active uses on the street frontage of buildings.
 - Create a cultural arts center or a permanent home for Emeryville Art Exhibition.
- (2) The proposed planned unit development will provide for a cohesive, integrated, well-planned development which will contribute to the general well-being of the surrounding neighborhood or community.

The Project will create a new neighborhood that is fine-grained, providing bicycle and pedestrian connections via the Greenway, a new Green Street (Hubbard Street extension) to other neighborhoods and a “pass through” alley in an existing building that will result in

extension of the 45th Street corridor through the site terminating at a new public park. Building massing has been appropriately designed such that building heights are stepped back from the street frontages. In addition, ground floor spaces have been assigned for active uses such as retail, restaurant, residential amenities and other similar uses to create an integrated, well-planned development that provides well-lit tree-lined streets with ample sidewalks.

- (3) The project site is suitable for the uses permitted in the planned unit development in terms of access, size of parcel and relationship to similar or related uses.

The site is large and accessible enough to accommodate the proposed primarily residential use with 74,000 square feet of office and approximately 2,000-8,000 square feet of other commercial uses. The project will primarily redevelop existing vacant space of the former paint factory site and provide for a balanced in-fill development in a neighborhood that is a mix of commercial and residential development including the adjacent Artists Cooperative housing.

The site is currently zoned Mixed Use (M-U) and Park/Open (PO); the proposed uses are consistent with the types of uses permitted in a Mixed Use district and the project provides the required amount of Park/Open Space.

- (4) The location, size, coverage, density, design and operating characteristics of the proposed planned unit development will be compatible with, and will not adversely affect, the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting.

The project design incorporates building setbacks; building heights and a creation of a more grid-like street pattern to ensure that the urban grid pattern of Emeryville is reflected and that building scale and massing are consistent with surrounding and adjacent land uses that primarily consist of residential and commercial development that are two to three stories high.

- (5) The subject property will be developed with due regard for aesthetic quality and landscaping so as to reduce, to the extent feasible, significant negative impacts on the environmental quality, value, or stability of the site or the environmental quality or value of improved or unimproved property in the area.

The streetscape reflects an urban setting and will be enhanced with broad sidewalks, trees, flowering plants, street furniture, and lighting. The project also proposes a new City park and other open areas thereby providing substantial open space amenities for all development in the vicinity. At the time of approval of Final Development Plans for each building, the design of buildings will be required to comply with applicable design guidelines, and will therefore include design features that incorporate well-articulated architecture with variations in building planes, colors and materials, balconies and trellises.

- (6) The proposed planned unit development will be developed to allow originality which does not have significant adverse impacts on the environmental quality or value of improved or unimproved property or prevent appropriate development and use of such areas.

The proposed planned unit development reconfigures the required open space by providing a new public park, extension of the Greenway and two other public plazas. The adverse environmental impacts that are identified in the Final EIR have been mitigated to a less than significant level or have been deemed acceptable because of overriding considerations as set forth in City Council Resolution No. 16-147.

- (7) The proposed planned unit development has been designed to include open space, parking areas; pedestrian walks, signs, illumination and landscaping (including irrigation) to enhance the environmental quality of the site.

The project consolidates a City parcel adjacent to the railroad to build a new public park, the Greenway extension and two public plazas. In addition, the development pattern is designed to provide maximum pedestrian circulation via a "pass through" alley within an existing building for cyclists and pedestrians and landscaping throughout the site. Other features such as car –share, bike share station, bike lockers and a new shuttle running to West Oakland are proposed to encourage non-vehicular modes of travel.

Significant Structures. The City Council makes the following finding for preservation and reuse of a significant structure pursuant to Emeryville Municipal Code Section 9.5.1206(a)(1):

- (1) That the proposed project will retain and enhance all or most of the features of the structure that make it significant, as described and indicated in Table 9-5.1210.

The project proposed preserve and reuse the existing Building 1-31 which is identified as Significant Structure Number 37 in Table 9-5.1210 with the following significant features: contrasting concrete and brick, three stories, window pattern, windows recessed with concrete sills, north end symmetric concrete and windows around entrance. The proposal involves installing a 24-foot wide “pass through” alley for pedestrians and cyclists that will involve removal of a roll up door which is not considered a significant feature. All the significant features of Building 1-31 will be retained and enhanced with the general upgrade and retrofit of the building.

Affordable Housing. The City Council makes the following finding to allow the project's affordable units to be contained within a single building rather than dispersed throughout the project, pursuant to Emeryville Municipal Code Section 9.5.408(c):

The provision of affordable units in a single building is compelling for the following reasons: a stand-alone building allows for a provision of deeper levels of affordability, it allows for partnering with a affordable housing developer with experience to provide on-site social services on a continuing basis; and as conditioned, its impact on the land uses for other proposed and existing affordable housing projects within the City will be mitigated by not competing for the funding that supports those land uses.

SECTION THREE: ADOPTION OF PLANNED UNIT DEVELOPMENT ZONING DESIGNATION AND APPROVAL OF PRELIMINARY DEVELOPMENT PLAN

Based on the findings set forth in this Ordinance, and the evidence in the record as a whole, the City Council hereby establishes a Planned Unit Development (PUD) zoning designation for the Sherwin Williams Project site by amending the Zoning Map as depicted in Exhibit A, and approves the Sherwin Williams Preliminary Development Plan (PDP) dated September 13, 2016 for the 10.05 acre site bounded by Sherwin Avenue to the south, the Union Pacific Railroad tracks to the west, Horton Street to the east, and Temescal Creek to the north. (APNs 49-1041-26-15 and 49-1041-26-16), attached hereto as Exhibit C, subject to the Conditions of Approval as set forth in Exhibit B. By approving the Sherwin Williams PDP, the uses, building intensity, building height, setbacks, landscaping, screening, off-street parking and loading, signage, illumination and basic guidelines for development shall be governed by the Sherwin Williams PDP.

SECTION FOUR: AMENDING PLANNING REGULATIONS

The City Council hereby amends the Planning Regulations in Title 9 of the Emeryville Municipal Code as follows:

Figure 9-3.103(a), Zoning Map, is amended as depicted in Exhibit A.

Section 9-3.310 is amended to add subsection (a)(7) to read as follows:

- (7) Sherwin Williams Mixed Use Project. Created by Ordinance No. 16-__ passed on November 1, 2016.

SECTION FIVE: CEQA DETERMINATION

On September 6, 2016, the City Council certified the Final Environmental Impact Report for the Project as adequate under California Environmental Quality Act (Resolution No. 16-122). On October 18, 2016, by Resolution No. 16-147, the City Council has applied the Sherwin Williams Environmental Impact Report to the Sherwin Williams Development Project; and made findings as required by the California Environmental Quality Act (CEQA); and adopted mitigation measures for the Project. Pursuant to State CEQA Guidelines Section 15094, the City Council hereby directs staff to file a Notice of Determination with the Alameda County Clerk.

SECTION SIX. SEVERABILITY

The City Council hereby declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

SECTION SEVEN. CODIFICATION.

Section Four of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Two, Three, Five, Six, Seven, and Eight shall not be codified.

SECTION EIGHT. EFFECTIVE DATE AND POSTING.

This Ordinance shall take effect 30 days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by California Government Code Section 33693.

This Ordinance was introduced and first read by the City Council of the City of Emeryville at a regular meeting held on Tuesday, October 18, 2016, and passed and adopted by the City Council at a regular meeting held on Tuesday, November 1, 2016 by the following vote:

AYES:	<u>5</u>	Mayor Martinez, Vice Mayor Donahue and Council Members Asher, Atkin and Davis
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

Dianne Martinez

MAYOR

ATTEST:

APPROVED AS TO FORM:

[Signature]
DEPUTY CITY CLERK

Michael Quinn
CITY ATTORNEY

Attachments:

- Exhibit A – Zoning Map showing designation of the new PUD classification
- Exhibit B – Conditions of Approval
- Exhibit C – Preliminary Development Plan dated September 13, 2016