

PLANNING DEPARTMENT TRANSMITTAL TO THE CITY CLERK'S OFFICE

CITY PLANNING CASE:	ENVIRONMENTAL DOCUMENT:	COUNCIL DISTRICTS:
CPC-2016-4520-CA	ENV-2016-4521-CE	All
PROJECT ADDRESS:		
Citywide		
APPLICANT	TELEPHONE NUMBER:	EMAIL ADDRESS:
<input type="checkbox"/> New/Changed City of Los Angeles		
APPLICANT'S REPRESENTATIVE	TELEPHONE NUMBER:	EMAIL ADDRESS:
N/A		
APPELLANT	TELEPHONE NUMBER:	EMAIL ADDRESS:
N/A		
APPELLANT'S REPRESENTATIVE	TELEPHONE NUMBER:	EMAIL ADDRESS:
N/A		
PLANNER CONTACT INFORMATION:	TELEPHONE NUMBER:	EMAIL ADDRESS:
Patrick Whalen Phyllis Nathanson	(213) 978-1370 (213) 978-1474	patrick.whalen@lacity.org phyllis.nathanson@lacity.org
ENTITLEMENTS FOR CITY COUNCIL CONSIDERATION		
Proposed Ordinance		

FINAL ENTITLEMENTS NOT ADVANCING:

N/A

ITEMS APPEALED:

N/A

ATTACHMENTS:**REVISED:****ENVIRONMENTAL CLEARANCE:****REVISED:**

- Letter of Determination
- Findings of Fact
- Staff Recommendation Report
- Conditions of Approval
- Ordinance
- Zone Change Map
- GPA Resolution
- Land Use Map
- Exhibit A - Site Plan
- Mailing List
- Land Use
- Other _____

-
-
-
-
-
-
-
-
-
-
-
-

- Categorical Exemption
- Negative Declaration
- Mitigated Negative Declaration
- Environmental Impact Report
- Mitigation Monitoring Program
- Other _____

-
-
-
-
-
-

NOTES / INSTRUCTION(S):**FISCAL IMPACT STATEMENT:** Yes No

*If determination states administrative costs are recovered through fees, indicate "Yes".

PLANNING COMMISSION:

- City Planning Commission (CPC)
- Cultural Heritage Commission (CHC)
- Central Area Planning Commission
- East LA Area Planning Commission
- Harbor Area Planning Commission

- North Valley Area Planning Commission
- South LA Area Planning Commission
- South Valley Area Planning Commission
- West LA Area Planning Commission

PLANNING COMMISSION HEARING DATE:**COMMISSION VOTE:**

March 22, 2018	7 - 0
LAST DAY TO APPEAL:	APPEALED:
N/A	No
TRANSMITTED BY:	TRANSMITTAL DATE:
James K. Williams	May 4, 2018



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300

www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: MAY 04 2018

Case No. **CPC-2016-4520-CA**

CEQA: ENV-2016-4521-CE

Plan Areas: All

Council Districts: All

Project Site: Citywide

Applicant: City of Los Angeles
Representative: Patrick Whalen, City Planning Assistant

At its meeting of **April 12, 2018**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following:

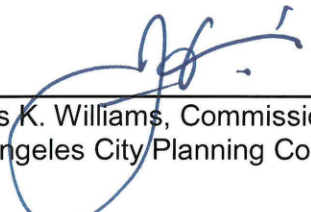
A Code amendment to modify provisions pertaining to "Protected Trees" to include the Mexican Elderberry (*Sambucus Mexicana*) and Toyon (*Heteromeles arbutifolia*) as Protected Trees or Shrubs and update regulations.

1. **Determined**, based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Section, 15308 (Class 8), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Approved and recommended** that the City Council **adopt** the proposed ordinance as modified by the Commission;
3. **Adopted** the staff report as the Commission report on the subject; and
4. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: Dake Wilson
Second: Padilla-Campos
Ayes: Ambroz, Choe, Khorsand, Millman, Mitchell
Absent: Perlman

Vote: 7 - 0



James K. Williams, Commission Executive Assistant II
Los Angeles City Planning Commission

Effective Date/Appeals: *The decision of the Los Angeles City Planning Commission is final and not appealable.*

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Ordinance, Findings

c: Phyllis Nathanson, Senior City Planner
Patrick Whalen, City Planning Assistant

ORDINANCE NO. _____

An ordinance amending provisions of Sections 12.21, 17.02, 17.05, 17.06, 46.01, and 46.02 of the Los Angeles Municipal Code (LAMC) to modify provisions pertaining to “Protected Tree” to include the Mexican Elderberry (*Sambucus mexicana*) and Toyon (*Heteromeles arbutifolia*) and update regulations.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subdivision 12 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read as follows:

12. Protected Tree and Shrub Relocation and Replacement. All existing protected trees and shrubs and relocation and replacement trees and shrubs specified by the Advisory Agency in accordance with Sections 17.02, 17.05, 17.06, 17.51 and 17.52 of this Code shall be indicated on a plot plan attached to the building permit issued pursuant to this Code. In addition, the trees or shrubs shall be identified and described by map and documentation as required by the Advisory Agency. A Certificate of Occupancy may be issued by the Department of Building and Safety, provided the owner of the property or authorized person representing the owner of the property (licensed contractor) obtains from the Advisory Agency in consultation with the City’s Chief Forester, prior to the final inspection for the construction, a written or electronic document certifying that all the conditions set forth by the Advisory Agency relative to protected trees have been met.

Sec. 2. The definition of Protected Tree in Section 17.02 of the Los Angeles Municipal Code is amended to read as follows:

Protected Tree or Shrub – Any of the following Southern California indigenous tree species, which measure four inches or more in cumulative diameter, four and one-half feet above the ground level at the base of the tree, or any of the following Southern California indigenous shrub species which contains at least one stem that measures four inches or more in diameter, four and one-half feet above the ground level at the base of the shrub:

Protected Trees:

- (a) Oak tree including Valley Oak (*Quercus lobata*) and California Live Oak (*Quercus agrifolia*), or any other tree of the oak genus indigenous to Southern California but excluding the Scrub Oak (*Quercus berberidifolia*).
- (b) Southern California Black Walnut (*Juglans californica*)

(c) Western Sycamore (*Platanus racemosa*)

(d) California Bay (*Umeellularia californica*)

Protected Shrubs:

(a) Mexican Elderberry (*Sambucus mexicana*)

(b) Toyon (*Heteromeles arbutifolia*)

The definition shall not include any tree or shrub grown or held for sale by a licensed nursery, or trees planted or grown as part of a tree planting program.

Sec. 3. The definition of Tree Expert in 17.02 of the Los Angeles Municipal Code is amended to read as follows:

Tree Expert – A person with at least four years of experience in the business of transplanting, moving, caring for and maintaining trees who is either (a) a certified arborist with the International Society of Arboriculture and who holds a valid California license as an agricultural pest control advisor, or (b) a certified arborist with the International Society of Arboriculture and who is a licensed landscape architect, or (c) a registered consulting arborist with the American Society of Consulting Arborists.

Sec. 4. Subdivision 7 of Subsection H of Section 17.05 of the Los Angeles Municipal Code is amended to read as follows:

7. Where the Advisory Agency finds the project is consistent with the dwelling unit density permitted by the General Plan, and that the public health, safety or welfare and good subdivision design will be promoted by the preservation of protected trees and shrubs, the Advisory Agency may permit the required area of one or more of the lots in a subdivision in an "RA," "RE," "RS" or "R1" Zone to be reduced by an amount sufficient to provide for protected tree and shrub preservation in accordance with Section 17.05 R. of this Code. Provided, however, that in no event shall the reduction exceed 50 percent of the required lot area; no "RA" or "RE" lot shall be reduced below 50 feet in width; no "RS" or "R1" lot shall be reduced below 40 feet in width; and no lot in a designated "K" Horsekeeping District shall be reduced below 17,500 square feet.

Sec. 5. Subsection R of Section 17.05 of the Los Angeles Municipal Code is amended to read as follows:

R. Protected Tree or Shrub Regulations. No protected tree or shrub may be relocated or removed except as provided in this article or Article 6 of Chapter IV of this Code. The term "removed" or "removal" shall include any act that will cause a protected tree or shrub to die, including but not limited to acts that inflict damage upon the root system or other parts of the tree or shrub by fire, application of toxic substances, operation

of equipment or machinery, or by changing the natural grade of land by excavation or filling the drip line area around the trunk.

1. **Required Determinations.** Subject to historical preservation requirements set forth in Subdivision 3. of this subsection, when a protected tree or shrub exists within a proposed subdivision, the tree or shrub may be relocated or removed if the Advisory Agency, in consultation with the City's Chief Forester, determines the existence of either (a) or (b) below:

(a) There has been prior applicable government action in which:

(i) The removal of the tree or shrub had been approved by the Advisory Agency; or

(ii) The property upon which the protected tree or shrub is located has been the subject of a determination by the City Planning Commission, the City Council, a Zoning Administrator, or an Area Planning Commission, the appeal period established by this Code with respect to the determination has expired, the determination is still in effect, and pursuant to the determination, the protected tree or shrub's removal would be permissible; or

(iii) A building permit has been issued for the property upon which the protected tree or shrub is located, the permit is still in effect, and the removal or relocation is not prohibited by the permit.

(b) The removal of the protected tree or shrub would not result in an undesirable, irreversible soil erosion through diversion or increased flow of surface waters that cannot be mitigated to the satisfaction of the City's Chief Forester, and the physical condition or location of the tree or shrub is such that:

(i) Its continued presence in its existing location prevents the reasonable development of the property; or

(ii) According to a report required pursuant to Section 17.06 C., acceptable to the Advisory Agency and prepared by a tree expert, there is a substantial decline from a condition of normal health and vigor of the tree or shrub, and its restoration through appropriate and economically reasonable preservation procedures and practices is not advisable; or

(iii) It is in danger of falling due to an existing and irreversible condition.

(iv) Its continued presence at its existing location interferes with proposed utility services or roadways within or without the subject property, and the only reasonable alternative to the interference is the removal of the tree or shrub; or

(v) It has no apparent aesthetic value, which will contribute to the appearance and design of the proposed subdivision; or it is not located with

reference to other trees, shrubs or monuments in such a way as to acquire a distinctive significance at the location.

2. **Supplemental Authority.** In the event the Advisory Agency, in consultation with the City's Chief Forester, determines pursuant to Subdivision 1.(b) above, that a protected tree or shrub may be removed or relocated, the Advisory Agency may:

(a) Require relocation elsewhere on the same property where a protected tree or shrub has been approved for removal, and where the relocation is economically reasonable and favorable to the survival of the tree or shrub. Relocation to a site other than upon the same property may be permitted where there is no available or appropriate location on the property and the owner of the proposed off-site relocation site consents to the placement of a tree or shrub. In the event of relocation, the Advisory Agency may designate measures to be taken to mitigate adverse effects on the tree or shrub.

(b) Permit protected trees or shrubs of a lesser size, or trees or shrubs of a different protected species, to be planted as replacement trees or shrubs for protected trees or shrubs permitted by this Code to be removed or relocated, if replacement trees or shrubs required pursuant to this Code are not available. In that event, the Advisory Agency may require a greater number of replacement trees or shrubs.

3. **Historical Monuments.** The Advisory Agency, except as to Subdivision 1.(b)(iii) above, shall require retention of a protected tree or shrub at its existing location, if the tree or shrub is officially designated as an Historical Monument or as part of an Historic Preservation Overlay Zone.

4. **Requirements.** In the event the Advisory Agency, in consultation with the City's Chief Forester, determines pursuant to Subdivision 1. (b) above that a protected tree or shrub may be removed or relocated, the Advisory Agency shall require that:

(a) The protected tree or shrub be replaced within the property by at least four specimens of a protected variety included within the definition set forth in Section 17.02 of this article, except where the protected species is relocated pursuant to Subdivision 2(a) above. A protected tree shall only be replaced by other protected tree varieties and shall not be replaced by shrubs. A protected shrub shall only be replaced by other protected shrub varieties and shall not be replaced by trees. The size of each replacement tree shall be a 15-gallon, or larger, specimen, measuring one inch or more in diameter at a point one foot above the base, and not less than seven feet in height, measured from the base. The size and number of replacement trees shall approximate the value of the tree to be replaced.

(b) The subdivider record those covenants and agreements approved by the Advisory Agency necessary to assure compliance with conditions imposed by the Advisory Agency and to assure protected tree and shrub preservation.

(c) The subdivider provide protected tree and shrub maintenance information to purchasers of lots within the proposed subdivision.

(d) The subdivider post a bond or other assurance acceptable to the City Engineer to guarantee the survival of trees and shrubs required to be replaced or permitted or required to be relocated, in a manner to assure the existence of continuously living trees and shrubs at the approved replacement or relocation site for three years from the date that the trees or shrubs are replaced or relocated. The City Engineer shall use the provisions of Section 17.08 G. as its procedural guide in satisfaction of the bond requirements and processing. Any bond required shall be in a sum estimated by the City Engineer to be equal to the dollar value of the replacement tree or shrub or of the tree or shrub that is to be relocated. In determining value for these purposes, the City Engineer shall consult with the Advisory Agency, the City's Chief Forester, the evaluation of trees guidelines approved and adopted for professional plantmen by the International Society of Arboriculture, the American Society of Consulting Arborists, the National Arborists Association and the American Association of Nurserymen, and other available, local information or guidelines.

5. **Grading.** The Advisory Agency is authorized to prohibit grading or other construction activity within the drip line of a protected tree or shrub.

Sec. 6. Subdivision 13 of Subsection B of Section 17.06 of the Los Angeles Municipal Code is amended to read as follows:

13. The approximate location and general description of any large or historically significant trees and of any protected trees or shrubs and an indication as to the proposed retention or destruction of the trees or shrubs.

Sec. 7. Subsection C of Section 17.06 of the Los Angeles Municipal Code is amended to read as follows:

C. Protected Tree and Shrub Reports for Tentative Tract Maps No application for a tentative tract map approval for a subdivision where a protected tree or shrub is located shall be considered complete unless it includes a report, in a form acceptable to the Advisory Agency and the City's Chief Forester, which pertains to preserving the tree or shrub and evaluates the subdivider's proposals for the preservation, removal, replacement or relocation of the tree or shrub. The report shall be prepared by a tree expert and shall include all protected trees and shrubs identified pursuant to Section 17.06 B.13. of this Code. In the event the subdivider proposes any grading, land movement, or other activity within the drip line of a protected tree or shrub referred to in the report, or proposes to relocate or remove any protected tree or shrub, the report shall also evaluate any mitigation measures proposed by the subdivider and their anticipated effectiveness in preserving the tree or shrub.

Sec. 8. Subsection D of Section 17.51 of the Los Angeles Municipal Code is amended to read as follows:

D. Protected Tree or Shrub Reports for Parcel Maps. No application for a preliminary parcel map approval for a parcel where a protected tree or shrub is located

shall be considered complete unless it includes a report pertaining to preserving the tree or shrub. The report shall be prepared by a tree expert and shall evaluate the subdivider's proposals for protected tree or shrub preservation, removal, replacement and/or relocation. In the event the subdivider proposes any grading, land movement, or other activity within the drip line of any protected tree or shrub referred to in the report, or proposes to relocate or remove any tree or shrub, the report shall also evaluate any mitigation measures proposed by the subdivider and the anticipated effectiveness in preserving the tree or shrub.

Sec. 9. Section 46.01 of the Los Angeles Municipal Code is amended to read as follows:

Sec. 46.01. DEFINITION.

“PROTECTED TREE or Shrub” means any of the following Southern California indigenous tree species, which measures four inches or more in cumulative diameter, four and one-half feet above the ground level at the base of the tree, or any of the following Southern California indigenous shrub species, which contains at least one stem that measures four inches in diameter, four and one-half feet above the ground level at the base of the shrub:

Protected Trees:

- (a) Oak tree including Valley Oak (*Quercus lobata*) and California Live Oak (*Quercus agrifolia*), or any other tree of the oak genus indigenous to California but excluding the Scrub Oak (*Quercus berberidifolia*).
- (b) Southern California Black Walnut (*Juglans californica*)
- (c) Western Sycamore (*Platanus racemosa*)
- (d) California Bay (*Umeellularia californica*)

Protected Shrubs:

- (a) Mexican Elderberry (*Sambucus mexicana*)
- (b) Toyon (*Heteromeles arbutifolia*)

This definition shall not include any tree or shrub grown or held for sale by a licensed nursery, or trees or shrubs planted or grown as a part of a planting program.

Sec. 10. Paragraph (c) of Section 46.02 of the Los Angeles Municipal Code is amended to read as follows:

(c) **Additional Authority.** The Board of Public Works or its authorized officer or employee may:

1. Require as a condition of a grant of permit for the relocation or removal of a protected tree or shrub, that the permittee replace the tree or shrub within the same property boundaries by at least four specimens of a protected variety included within the definition set forth in Section 46.01 of this Code, in a manner acceptable to the Board. A protected tree shall only be replaced by other protected tree varieties and shall not be replaced by shrubs. A protected shrub shall only be replaced by other protected shrub varieties and shall not be replaced by trees. In size, each replacement tree shall be at least 15-gallon, or larger, measuring one inch or more in diameter one foot above the base, and be not less than seven feet in height measured from the base. The size and number of replacement trees shall approximate the value of the tree to be replaced.

2. Permit protected trees or shrubs of a lesser size or trees or shrubs of a different species to be planted as replacement trees or shrubs, if replacement trees or shrubs of the size and species otherwise required pursuant to this Code are not available. In that event, a greater number of replacement trees or shrubs may be required.

3. Permit a protected tree or shrub to be moved to another location on the property, provided that the environmental conditions of the new location are favorable to the survival of the tree or shrub, and there is a reasonable probability that the tree or shrub will survive.

Sec. 11. The City Clerk shall certify that...

LAND USE FINDINGS

In accordance with Charter Section 556, the proposed ordinance (Appendix A) is in substantial conformance with the purposes, intent, and provisions of the General Plan in that it supports Section 12 of the General Plan Conservation Element, which discusses habitat conservation. This section concludes that “the City has an important role in preserving, protecting, enhancing, creating, and monitoring habitats to ensure the maintenance of the rich local bio-diversity.” The proposed ordinance also supports the objective of this section of the Conservation Element of the General Plan, which is to “preserve, protect, restore, and enhance natural plant and wildlife diversity, habitats, corridors, and linkages so as to enable the healthy propagation and survival of native species, especially those species that are endangered, sensitive, threatened, or species of special concern”, as well as Policy 4 from this section, which is to “continue to support legislation that encourages and facilitates protection of local native plant and animal habitats.” This ordinance substantially advances a legitimate public interest in that it extends protection to two additional native plant species and updates regulations, which helps to ensure the maintenance of local bio-diversity by preserving and protecting native plants.

In accordance with the Charter Section 558 (b)(2), the proposed ordinance will be in conformance with public necessity, convenience, general welfare, and good zoning practice because this ordinance modifies regulations in the Zoning Code by protecting two additional species of native plants and updates regulations. Given that these regulations are necessary to preserve and improve the health and bio-diversity of local ecosystems and preserve Los Angeles’ urban forest, which has an effect on the health and aesthetics of neighborhoods around the City, this Code amendment provides for the general welfare of the community, and implements good zoning practice.

ENVIRONMENTAL FINDINGS

In accordance with the California Environmental Quality Act (CEQA), this proposed project is exempt pursuant to General Exemption Article 19, Section:

Article 19, Section 15308, Class 8 of the State’s Guidelines applies when a project consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The proposed project is a Code amendment that will extend the same protection that is applied to a list of four Southern California indigenous trees currently protected, Oak, including Valley Oak (*Quercus lobota*) and California Live Oak (*Quercus agrifolia*), Southern California Black Walnut (*Juglans californica*), Western Sycamore (*Platanus racemosa*), and California Bay (*Umbellularia californica*), to two Southern California indigenous shrubs, the Mexican Elderberry (*Sambucus Mexicana*) and Toyon (*Heteromeles arbutifolia*). The proposed Code amendment establishes qualifying criteria for the protected shrubs, however qualifying criteria for protected trees will remain unchanged. In addition to extending protection to two additional plant species, the proposed project will also increase the number of specimens required for replacement when any species on the list is removed, from two replacements for every one removed to four replacements for every one removed to ensure restoration of the environment. Finally, the proposed project refines the qualifying criteria for tree experts, who prepare required reports when trees or shrubs are proposed to be removed, by requiring that experts individually meet the criteria, and that any landscape architect

also be a certified arborist. The refinement of tree expert criteria will ensure higher quality, more comprehensive tree reports.

The indigenous tree species have been granted protected status due to their importance in sustaining local ecosystems, including providing habitat for native animal species and providing shade through their tree canopies. While the Mexican Elderberry and Toyon are not trees, they serve equally important roles in sustaining local ecosystems by providing habitat for native animal species such as pheasants and small mammals.

Protecting a greater number of plant species, and increasing the replacement requirements for protected trees, is not anticipated to have a significant impact on water usage, as both the Toyon and Mexican Elderberry shrubs are drought tolerant and require little water, and increasing the replacement requirements for protected trees simply serves to codify current Department of Public Works practice. For the reasons stated, the proposed project will provide for the maintenance, restoration, and protection of the environment, and is, therefore, categorically exempt under Class 8.