

**SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
SFMTA HEARING SECTION**

PUBLIC HEARING

**RE THE PROPOSED REMOVAL OF VARIOUS TREES ALONG FOLSOM ST. IN
CONJUNCTION WITH THE FOLSOM-HOWARD STREETScape PROJECT**

STATEMENT OF DECISION

This office held a public hearing on January 13, 2022, at 10:00 am via video conference to consider the SFMTA’s proposal to remove a number of various trees located on public property along Folsom St. between the 600 block (2d St.) and the 1400 block (11th St). Certain proposed transportation safety improvements to the existing bicycle lane on the south side of Folsom, as well as intended improvements to various crosswalks along Folsom, apparently require the removal of some existing, healthy trees, or the replacement of some trees that are not currently healthy.

This hearing was conducted following posted notices and media-listed public communication of the date and time of the hearing, in compliance with the applicable provisions and required timelines found in the Public Works Code relied upon by the city’s Department of Public Works (hereafter the “DPW”). Local parties who have long-standing general concerns about proposed tree removals in San Francisco were informed in advance of the hearing by electronic mail, and online public participation and comment was made available during the hearing, and comments from the public were received during and afterwards, via email and by telephone. Because certain objections to the proposed removals were received in a timely manner from members of the public, this public hearing became necessary.

I. PROPOSAL

The Folsom-Howard Streetscape Project intends to make the South of Market neighborhood safer and more inviting for those who walk, bike, shop and take transit to and from this part of the city. Folsom and Howard streets are part of the city’s “high-injury network,” and this particular streetscape project intends to continue the upgrading of this corridor that has been undergoing street-related improvements for the past three years. Public outreach started as early as 2016 on this Project, and the construction is slated to commence starting in 2023.

At the hearing, the SFMTA’s tree removal proposal was presented by Alan Lui, the program manager for the SFMTA’s Folsom-Howard Streetscape Project. Mr. Lui’s presentation was supported by Brian Ong, an arborist who works out of the Department of Public Works (DPW) and the Bureau of Urban Forestry. Also assisting Mr. Lui in this hearing were Carol Huang and Edward Chin (both from DPW) and Thalia Leng (SFMTA). The Folsom-Howard Streetscape Project team has determined that nine (9) trees outlined in the public notice interfere with ongoing construction work along Folsom St., or interfere with

proposed street lighting, or interfere with sightlines for bicyclists who will be riding in both directions on the south side of Folsom St. in the dedicated bike lane there. As an integral part of the Streetscape project, the SFMTA has indicated that 34 new trees are intended to be planted within this area of Folsom St.

II. GENERAL PUBLIC COMMENT

In response to the SFMTA's tree removal proposals for this project, our office received a number of comments from members of the public, including the San Francisco Tree Campaign, which were in writing as well as taken during the public hearing on January 13th by people calling in.

Chief among the individuals who voiced objections to the proposed tree removals on this project was attorney Joshua Klipp, who attended the hearing via MS Teams, and who described the contents of a 15-page Powerpoint presentation that he had prepared. Mr. Klipp's presentation discussed the general lack of tree canopy in the SOMA portion of San Francisco, arguing that this corridor of the city is one of our worst in terms of canopy coverage, and that public respondents to various city surveys have typically called for more onstreet tree plantings, not fewer.

The comments received from local residents and from groups concerned about our local environment have tended to emphasize that the tree canopy in this area of the city continues to be minimal, and that local air quality in general needs to be supported by all of our existing large and healthy trees. Replacement of larger existing growth by smaller stature trees creates an immediate loss in carbon dioxide mitigation, and renders the replacement trees subject to vandalism. Those commenting upon the SFMTA's proposal have also been concerned about the loss of shading, and most want the ambiance of having mature trees along Folsom.

A petition apparently signed by eleven residents of the Folsom corridor was received by this office, and it may have already been sent to the Streetscape Program team. The petition involved specific objections to the removal of the Chinese Elm at 1161 Folsom St. That particular tree, number 5 in the Project's list, was later taken off the list of trees slated for removal.

In addition, some complaints about this proposal included questions concerning whether the city would follow up with sufficient flora maintenance so as to assure the survival of the trees that were going to be planted in conjunction with this project. References were made to previous tree planting projects in the city which resulted in trees that were not adequately maintained, and not prevented from dying for lack of maintenance, or damaged due to vandalism, and then not replaced.

III. FINDINGS

1. Under the San Francisco Charter, the SFMTA has exclusive authority over certain transportation-related functions, including provisions related to tree removal proposals as they relate to transportation planning. [See generally, SF Charter, §§ 8A.101(d), 8A.102(b).] In following the substantive tree removal provisions of Article 16 of the Public Works Code, the SFMTA is responsible for conducting hearings that involve objections filed against the SFMTA's tree removal proposals that pertain to its transportation planning and associated projects.

2. Generally, this office understands its role in the proposed tree removal public hearing process to be one of treating tree removal proposals conservatively – meaning that mature and healthy trees that have existed for decades in this city may well be understood to enjoy a certain rights, apart from the intrinsic benefits they may confer to the environment and for our protection from the elements; rights that may even entitle those trees to co-exist as living beings.¹

3. On that basis, the SFMTA’s proposals to remove certain trees generally need to be governed by rational, common-sense standards that can be illustrated, and/or sufficiently explained and justified by Project managers and a Project’s arborist. It may not be adequate to simply state that a given tree needs to be removed in order, for example, to avoid a conflict with a streetlight, or to accommodate a pedestrian push button device on a pole at an intersection.

4. Taking each removal proposal seriatim, the first tree listed in the SFMTA’s format is a Chinese Elm at 1435 Folsom. According to the Streetscape proposal, this elm’s position appears to be in conflict with new street lighting in that vicinity. This specimen is very under-developed, and appears to the undersigned to be barely holding on. Accordingly, this “tree” may be removed by the city.

5. The second tree on the removal list is a New Zealand Christmas tree at 1379 Folsom St. The reason listed for its removal includes a conflict with the intersection signal light, and may affect vehicular visibility. This tree leans significantly to the east and may be removed, although it is difficult for an observer to understand how vehicular visibility has ever been or will ever be affected by the presence of this tree.

6. Tree number 6 is the Ficus Microcarpa located at 1035 Folsom. This tree appears to be quite healthy and is situated between other ficus trees of similar stature in mid-block along Folsom. The removal proposal lists a conflict with a street light that will be installed, but there is no indication from the Project team where such light is to be situated, and no explanation as to why a street light in this location could not be sited between two of the ficus trees in order to eliminate the need to remove tree number 6. Mr. Klipp’s presentation indicated that the city’s Better Streets Plan indicates that “Lighting should be spaced to optimize light distribution and not interfere with other streetscape elements, particularly street trees.” On the basis of insufficient information here, this ficus may not be removed.

7. Tree number 7 is a Water Gum located at 855 Folsom St. Its removal is deemed necessary because of conflict with “eastbound bike and [intended] crosswalk.” A crosswalk at this location is evident by current street markings, and on that basis the removal of this specimen seems justified.

8. Tree number 8 in the SFMTA’s format is a Glossy Privet located at 832 Folsom St. This tree appears to be quite healthy and should be trimmed, instead of being removed, in order to not block lighting from the existing street light in that location. The SFMTA’s reason for proposing the removal of this tree does not explain why removal is required now, after so many years of this tree’s apparently peaceful co-existence with the same street lights. Additionally, there was no required posting attached to this tree when the undersigned evaluated the location in late January, and no indication or evidence that it had been posted prior to the public hearing.

¹ This notion reflects a “rights of nature” stance by the undersigned, one that takes issue with traditional notions that nature is an inert resource that may be used and abused by us at will. See Christopher Stone, *“Should Trees Have Standing? Toward Legal Rights for Natural Objects,”* Oxford Univ. Press, 3d Ed., 2010.

9. Tree number 10 is a Southern Magnolia located at 795 Folsom St. The SFMTA has determined that this tree should be removed due to a conflict with the signal light east of the tree, and due to a related issue of vehicular visibility. The SFMTA has also determined that the tree represents a conflict with “eastbound bike, westbound crosswalk, northbound and eastbound right turning vehicles, and accessible pedestrian push button on a pole that needs to conform to ADA guidelines. However, there is absolutely no indication from the observations of the undersigned that, given the present location of this tree, there could be any possibility in the near term of any of the conflicts mentioned by the Project notes. This healthy magnolia is far enough off the street and the existing bike lane and the crosswalk so as to present no obstruction from any direction for traffic, bicycles or pedestrians. It may be trimmed, but not removed. In addition, there was no evidence of posting on this tree when observed in late January.

10. Tree number 11 is a small Brazillian Pepper tree located at 749 Folsom St. It has been slated for removal by the SFMTA for reasons of conflict with contraflow westbound bicycle lane, eastside crosswalk and northbound vehicles. (It is difficult to understand how “northbound vehicles” could ever be affected by this tree, as it sits *mid-block* on the south side of Folsom.) However, in view of the apparent construction of a crosswalk at this location, and placement of a pedestrian push button device on a pole nearby, this tree may be removed.

11. Tree number 12 is a Southern Magnolia located at 655 Folsom St. It appears to be in conflict with the bike lane and with the adjacent crosswalk, as well as with a pedestrian accessible push button on a nearby pole. On that basis this tree may be removed.

12. Tree number 14 is a Ficus Microcarpa located at 608 Folsom St. This tree has been allowed to become quite overgrown and is very healthy, but may certainly conflict with a new intended street light as indicated by the SFMTA. If it cannot be reasonably trimmed so as to accommodate new street lighting in its location, it may be removed. As noted in Mr. Klipp’s presentation, lighting should not be sited so as to interfere with street trees.

IV. DECISION AND ORDER

After a thorough consideration of the SFMTA’s presentation of this Streetscape proposal, the review of all of the exhibits, and after reviewing the comments received from the public, all of which I have accepted into evidence, I approve of the SFMTA’s proposal to remove those trees as specifically identified in the Findings above, and those removals are so Ordered.

In conjunction with the proposed removal Project, I also Order that the trees slated to be preserved in this Decision by means of trimming, should be regularly trimmed, so as to make sure that bike and vehicular sight lines are not impacted.

This Decision pertaining to the trees proposed and agreed to be removed on Folsom St. is conditioned upon the SFMTA’s plans to implement this Folsom-Howard Streetscape Project with over 30 new trees added along this corridor. If this Streetscape plan is to succeed, the undersigned assumes that the maintenance and watering of the newly added trees (as well as those already situated on Folsom) will be regularly conducted so that they all thrive into and beyond maturity, and all of these trees should be maintained for a minimum of three years.

Finally, in terms of presenting similar proposals to this office in the future, adequate bases for each of the proposed removals should be provided so that the hearing officer can understand the nature and significance and necessity of each of the proposals, and any photos of trees proposed for removal should depict the public postings on the trunks of such trees. Adequate bases for proposed removals may require the production of as-built schematics, and/or down-the-line views of how existing trees may be expected to interfere with visibility for vehicles, bicyclists and/or pedestrians.

It is so Ordered.

Dated this 8th day of February,



James Doyle, Hearing Officer and Acting Manager
SFMTA Hearing Section

APPEAL

This Order may be appealed by contacting Kate Toran, Director of Taxi and Accessible Services at the SFMTA, within 15 days from the date of this Order.