



CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600 - www.kirklandwa.gov

ADVISORY REPORT
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

To: Kirkland Hearing Examiner
From: Kaelene Nobis; Assistant Planner
Date: June 7, 2017
File: **APPEAL CITY'S DENIAL** OF TREE REMOVAL PERMIT TRE16-07641
Hearing Date and Place: Thursday, June 15th, 2017, 9:00 a.m.
City Hall Council Chamber
123 Fifth Avenue, Kirkland

I. INTRODUCTION

1. Appellant: Michael Mohaghegh, permit applicant and owner of the property at 4535 Lake Washington Blvd NE and the vacant parcel to the south.
2. Actions Being Appealed: **The Planning Official's decision to deny the removal of a 50-inch + DBH (Diameter Breast height) poplar tree in the shoreline setback of a vacant shoreline property.** The appellant removed the tree without permits in May 2016 and was cited under COM16-00288. He applied for a tree removal permit after removal and it was denied. Appeal of this action is allowed under Kirkland Zoning Code (KZC) section 95.23.4(b), using the applicable appeal provisions of Chapter 145.
3. Summary of Issues Under Appeal: The appellant **disputes the Planning Official's decision** that the tree was not a hazard or nuisance under KZC 95.10.7 and 95.10.10.

II. RULES FOR THE APPEAL HEARING AND DECISION

Conduct the appeal hearing on June 15th 2017. Take oral comments from parties entitled to participate in the appeal as defined in KZC section 145.60 and 145.70. Decide to:

- Affirm the decision being appealed;
- Reverse the decision being appealed; or,
- Modify the decision being appealed.

The decision by the Hearing Examiner is the final decision of the City.

III. HEARING SCOPE AND CONSIDERATIONS

KZC 145.95 states that the appellant has the burden of proving that the City made an incorrect decision.

IV. BACKGROUND AND SITE DESCRIPTION

1. Site Location: Vacant parcel south of 4535 Lake Washington Blvd NE (see Attachment 1).

2. Zoning and Land Use: The subject property is zoned WDIII, Medium Density Residential, and is currently undeveloped. The property is adjacent to Lake Washington and the poplar tree was located in the shoreline setback. Pursuant to KZC 83.400, for trees 24 inches or greater in diameter within the shoreline setback, tree removal is only allowed if the tree meets the hazard or nuisance definition.

95.10.7: Hazard Tree – A tree that meets all the following criteria:

- a. A tree with a combination of structural defects and/or disease which makes it subject to a high probability of failure;
- b. Is in proximity to moderate to high frequency targets (persons or property that can be damaged by tree failure); and
- c. The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed.

95.10.10: Nuisance Tree- A tree that meets either of the following criteria:

- a. Is causing obvious physical damage to private or public structures, including but not limited to: sidewalk, curb, road, driveway, parking lot, building foundation, or roof; or
- b. Has sustained damage from past maintenance practices.

The problems associated with the tree must be such that they cannot be corrected by reasonable practices including but not limited to: pruning of the crown or roots of the tree, bracing, and/or cabling to reconstruct a healthy crown.

2. Original Proposal:

- The applicant removed two trees (a cedar and a poplar) without a permit and was cited under code enforcement case COM16-00288 on 6/30/2016 (see Attachment 2). The applicant was given a compliance date to submit a tree permit and restoration plan to the Planning Department by 8/31/2016.
- A Tree Removal Permit application was submitted on 8/30/2016 (see Attachment 3). Photos were provided by the applicant. These photos demonstrated that the cedar had a column of rot, but no clear evidence was submitted showing any defects for the poplar. The applicant was instructed that an arborist report would be required to substantiate the removal of the poplar.
- Craig Salzman left employment with the City of Kirkland and his case load was picked up by Cindy Keirse. When following up on open cases she communicated to Mr. Mohaghegh that the property still was in open code enforcement. An arborist report had not yet been submitted.
- A Tree Risk Assessment form was prepared by a qualified professional was provided by email on 2/22/2017 (Attachment 4).
- The City Contract Arborist Tom Early requested additional information and an email requesting that was sent to Mr. Mohaghegh on 2/24/2017 (Attachment 5).
- The applicant forwarded a previously received email from tenant Tyler Wilson and photo of the roof on 2/27/2017. The only new documentation provided was two additional photos from Chris Selle on 3/1/2017. The City did not receive any additional supporting documentation that demonstrated the condition of the poplar *prior* to removal. City staff and the Contract Arborist reviewed the material provided (Attachment 6a-6d).

3. Planning Official Decision: The official determination was emailed to the applicant on 3/28/2017 that the cedar was approved for removal as a hazard, but the poplar was denied for removal as a hazard tree (see Attachment 8). The applicant will need to provide a replanting plan in accordance with KZC 95.33 based on the Diameter Breast Height (DBH) of the tree removed. The replanting standards and timeframe will be established as part of COM16-00288.
4. Appeal Submitted: On 4/11/17, the Planning and Building Department received a timely appeal of the Planning Official decision (Attachment 9).

II. STAFF ANALYSIS

Following is Staff Analysis of the Zoning Code requirements related to tree removals and the issues raised in the appeal.

1. The Tree has Structural Defects:

Staff Response: There was no documentation provided prior to tree removal that substantiated the removal of the tree as a hazard or a nuisance. An ISA hazard risk form was provided by Chris Selle and the date of assessment was 2/23/2017. The tree had already been felled in May 2016.

2. Large branches were falling creating damage:

Staff Response: Staff asked for documentation regarding this and it was not provided.

3. Local tree removal companies could not cut the tree because it was not safe to climb:

Staff Response: There was no documentation provided by any arborist who had visited the site prior to the removal of the tree regarding this statement.

4. The Woodworks LLC from Snohomish County specializes in taking down difficult trees. They stated it was coming apart and was dangerous:

Staff Response: An email was received from Brian at Woodworks LLC on 8/31/2016 stating that the poplar was separating. The email also stated he was not a certified arborist and that it was his opinion. Staff asked for a report from a certified professional as required in the code to provide evidence for removal.

5. The tree was examined by an arborist with Eastside Tree Works LLC who stated that the tree was dangerous and should have been taken down.

Staff Response: **The City's contract arborist reviewed the report provided by Chris Selle (see Attachments 4 and 5). He stated that the report was complete but that more documentation was needed to back up the claims in the report. The applicant was asked to provide additional documentation on 2/24/2017 that substantiated the following claims made in the report:**

"What I'd like is the owner or agent to provide the documentation required. Another option for the owner is to ask for shoreline images from DOE, they maintain photo records of the shoreline. I'm not sure how to access this data but, again, this is up to the owner/agent to provide:

Items Unanswered per report:

1. Roof damage claim to be supported with pictures and an estimate from a roofing contractor,
2. "Obvious decay in trunk and root crown" substantiated with photos, and
3. "70% live crown ratio with 30% dead" claim to be substantiated with photos"

Additional photos were provided on 3/12/2017. The additional photos showed fungal decay after the tree was felled and did not address the concerns the Contact Arborist

wanted substantiated. The Contract Arborist had a photo taken from a site visit on 8/21/2016 where he did not notice any decay at the time and there were additional photos taken earlier by the applicant that did not show the same fungal growth. It appeared that the fungal growth occurred after the tree had been felled and sat through the winter (see Attachment 10).

III. STAFF RECOMMENDATION

Per KZC section 145.60 and 145.70, the person filing the appeal has the responsibility of convincing the Hearing Examiner that the Planning Official made an incorrect decision. The **Planning Official decision was based on staff's analysis for whether the tree** met the hazard or nuisance definitions in KZC Chapter 95. *Staff believes that the evidence provided does not demonstrate a tree that fits either the hazard or nuisance criteria. As such, staff recommends that the Hearing Examiner uphold the Planning Official decision for tree permit TRE16-07641.*

IV. ATTACHMENTS

1. Vicinity Map
2. Original Notice of Tree Fines- Craig Salzman
3. Original Application Materials
4. ISA Risk Form _ Chris Selle
5. Email from City Contract Arborist
6. Information Received in response to request
 1. Email from Tyler Wilson
 2. Roof Damage Photo
 3. Arborist Photo #1
 4. Arborist Photo #2
7. Email from Brian with Custom Woodworks
8. Planning Official Determination_TRE16-07641
9. Appeal Letter
10. Photo from Tom Early taken 8/31/2017



Legend

- Address
 - Other Address
 - Current Address
 - Current ADU
 - ◆ Pending Address
- - - City Limits
- Grid
- QQ Grid
- Cross Kirkland Corridor
- Regional Rail Corridor
- Streets
- Parcels
- Buildings
- Lakes
- Schools
- Olympic Pipeline Corridor

1:2,524



Notes

0.1 0 0.04 0.1 Miles



NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

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CITY OF KIRKLAND

Planning and Building Department
Code Enforcement
123 5th Avenue, Kirkland, WA 98033
(425)587-3225 – Fax: (425)587-3232
www.kirklandwa.gov

**NOTICE OF TREE FINES
AND RESTORATION DUE**

(Kirkland Municipal Code 1.12.100)

Date: June 30, 2016 Person(s) Responsible For: Name: Michael Mohaghegh Address: 9717 Juanita Dr. NE City, State, Zip: Kirkland, WA 98034	Case Number: COM16-00288 Violation Information Site Address: Vacant Lake Washington Blvd City, State, Zip: Kirkland, WA 98033 Parcel #: 4104500105
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Code Provision(s) Violated:	MMC 1.12.50 and KZC 83.400 and 95.21
Description of Violation:	Cutting two large trees on a vacant lot in the Shoreline setback
Inspection Dates:	May 18, 2016
Date(s) of Violation:	Prior to May 18, 2016
Property Owner Name & Address:	Michael Mohaghegh 9717 Juanita Dr. NE Kirkland, WA 98034
Corrective Action Compliance Date: (see below for corrective action)	Pay a fine of \$2000.00 no later than July 15, 2016. Submit a restoration plan complying with Shoreline setbacks, KZC83.400 no later than August 31, 2016. Install all required plantings by November 30, 2016.

CORRECTIVE ACTION:

Fines per KMC 1.12.100: \$1000.00 times twotrees = \$2000.00

Restoration according to KMC 1.12.100. (d): Submit a restoration plan to restore the unlawfully damaged areas to be approved by the applicable department director. Contact the Planning Department for information on the restoration plan which may include the necessity of hiring a GeoTech Engineer.

NOTE:

If the Corrective Action is not completed and verified by the department, a Notice of Civil Violation may be issued that sets a Hearing Examiner hearing date and monetary penalties per KMC 1.12.040.

ISSUED BY: C. Salzman, CCEO
Phone: (425)587-3289 - Email: csalzman@kirklandwa.gov

METHOD OF SERVICE:

Hand Delivered Postal Mail



CITY OF KIRKLAND
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
123 FIFTH AVENUE, KIRKLAND, WA 98033
425.587.3225 - www.kirklandwa.gov

TREE REMOVAL PERMIT APPLICATION

Permit No. TRE16-07641

Before filling out this form please review the TREE REMOVAL INFORMATION GUIDE or contact the Planning Department at 425.587.3225.

Contact & Property Information (please write legibly)

Property Owner: <u>Michael Mohaghegh</u>	Phone: <u>425-266-7776</u>	Email: <u>michael.mohaghegh@boeing.com</u>
Site Address: <u>Vacant lot south of 4535 Lake Washington Blvd NE Kirkland, WA 98033</u>		
Mailing Address (if different) <u>917 Juanita Dr NE A202, Kirkland, WA 98034</u>		
Contact Name: <u>Home owner</u>	Phone:	Email:

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the information answered on this form is true and complete to the best of my knowledge. I understand that the City of Kirkland is relying on this information to make its decision. Trees removed illegally may result in the City pursuing monetary penalties and/or restoration under KZC 95.55.

Owner Signature
 (acknowledging and supporting request)

ARBORIST REPORT: Attach an arborist report from an individual with relevant education and training in arboriculture or urban forestry, having **two** or more of the following credentials:

- International Society of Arboriculture (ISA) Certified Arborist
- Tree Risk Assessor Certification (TRACE) as established by the Pacific Northwest Chapter of ISA
- American Society of Consulting Arborists (ASCA) registered Consulting Arborist
- Society of American Foresters (SAF) Certified Forester for Forest Management Plans

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the information answered above is true and complete to the best of my knowledge. I understand that the City of Kirkland is relying on this information to make its decision. Trees removed illegally may result in the City pursuing monetary penalties and/or restoration under KZC 95.55.

Arborist Signature _____ Arborist Credentials #1 ID & Exp Date _____ Arborist Credentials #2 ID & Exp Date _____

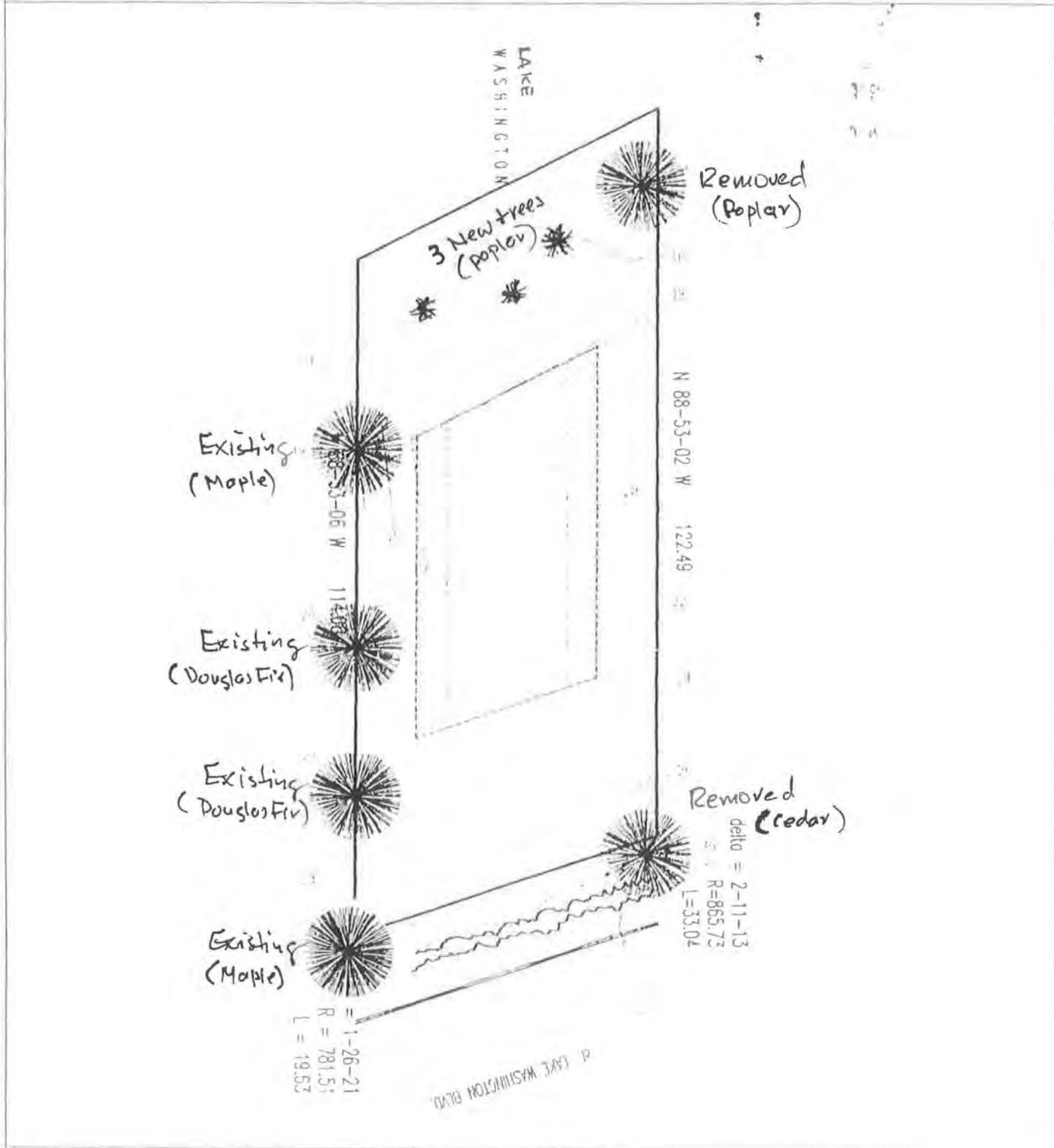
FEE: A check to the City of Kirkland for the required application fee

Attach Site Plan (use Page 3 or attach a screen shot, survey, drawing, etc.)
NOTE: The site plan must identify the approximate location of all significant trees on the property. Include location and species of trees to be removed, retained, and replaced. This form will not be processed without a completed site plan.

Submitted w/o Reprt. Need Reprt if photos not clear

Site Plan

Number of significant trees remaining on property after proposed removals: 7







Removed
Poplar Tree





Basic Tree Risk Assessment Form

ATTACHMENT 4
TRE16-07641

Client _____ Date _____ Time _____
Address/Tree location _____ Tree no. _____ Sheet _____ of _____
Tree species _____ dbh _____ Height _____ Crown spread dia. _____
Assessor(s) _____ Time frame _____ Tools used _____

Target Assessment

Target number	Target description	Target zone			Occupancy rate 1 – rare 2 – occasional 3 – frequent 4 – constant	Practical to move target?	Restriction practical?
		Target within drip line	Target within 1 x Ht.	Target within 1.5 x Ht.			
1							
2							
3							
4							

Site Factors

History of failures _____ Topography Flat Slope _____ % Aspect _____
Site changes None Grade change Site clearing Changed soil hydrology Root cuts Describe _____
Soil conditions Limited volume Saturated Shallow Compacted Pavement over roots _____ % Describe _____
Prevailing wind direction _____ Common weather Strong winds Ice Snow Heavy rain Describe _____

Tree Health and Species Profile

Vigor Low Normal High Foliage None (seasonal) None (dead) Normal _____ % Chlorotic _____ % Necrotic _____ %
Pests _____ Abiotic _____
Species failure profile Branches Trunk Roots Describe _____

Load Factors

Wind exposure Protected Partial Full Wind funneling _____ Relative crown size Small Medium Large
Crown density Sparse Normal Dense Interior branches Few Normal Dense Vines/Mistletoe/Moss _____
Recent or planned change in load factors _____

Tree Defects and Conditions Affecting the Likelihood of Failure

— Crown and Branches —

Unbalanced crown LCR _____ % Cracks _____ Lightning damage
Dead twigs/branches _____ % overall Max. dia. _____ Codominant _____ Included bark
Broken/Hangers Number _____ Max. dia. _____ Weak attachments _____ Cavity/Nest hole _____ % circ.
Over-extended branches Previous branch failures _____ Similar branches present
Pruning history
Crown cleaned Thinned Raised Dead/Missing bark Cankers/Galls/Burls Sapwood damage/decay
Reduced Topped Lion-tailed Conks Heartwood decay _____
Flush cuts Other _____ Response growth _____
Main concern(s) _____

Load on defect N/A Minor Moderate Significant _____
Likelihood of failure Improbable Possible Probable Imminent _____

— Trunk —

Dead/Missing bark Abnormal bark texture/color
Codominant stems Included bark Cracks
Sapwood damage/decay Cankers/Galls/Burls Sap ooze
Lightning damage Heartwood decay Conks/Mushrooms
Cavity/Nest hole _____ % circ. Depth _____ Poor taper
Lean _____ ° Corrected? _____
Response growth _____
Main concern(s) _____

Load on defect N/A Minor Moderate Significant
Likelihood of failure Improbable Possible Probable Imminent

— Roots and Root Collar —

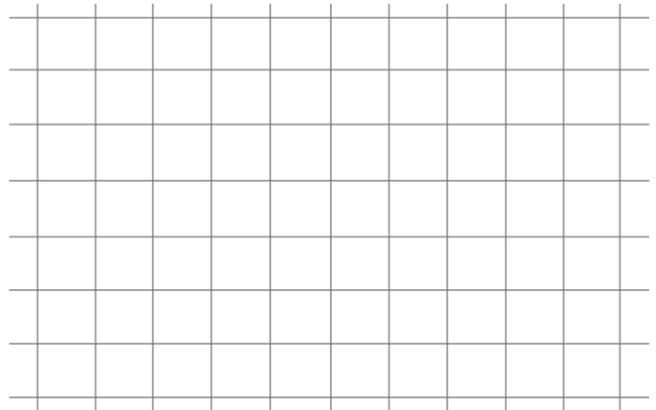
Collar buried/Not visible Depth _____ Stem girdling
Dead Decay Conks/Mushrooms
Ooze Cavity _____ % circ.
Cracks Cut/Damaged roots Distance from trunk _____
Root plate lifting Soil weakness
Response growth _____
Main concern(s) _____

Load on defect N/A Minor Moderate Significant
Likelihood of failure Improbable Possible Probable Imminent

Risk Categorization																							
Condition number	Tree part	Conditions of concern	Part size	Fall distance	Target number	Target protection	Likelihood												Consequences				Risk rating of part (from Matrix 2)
							Failure				Impact				Failure & Impact (from Matrix 1)				Negligible	Minor	Significant	Severe	
							Improbable	Possible	Probable	Imminent	Very low	Low	Medium	High	Unlikely	Somewhat	Likely	Very likely					
1																							
2																							
3																							
4																							

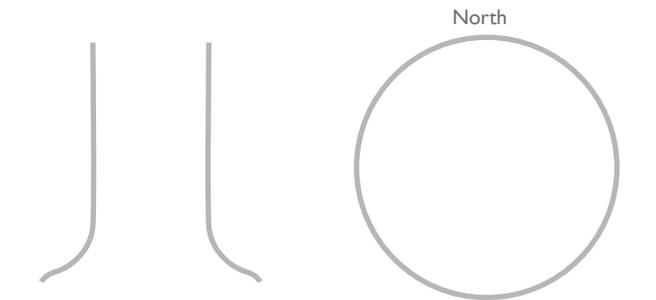
Matrix 1. Likelihood matrix.

Likelihood of Failure	Likelihood of Impacting Target			
	Very low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely



Matrix 2. Risk rating matrix.

Likelihood of Failure & Impact	Consequences of Failure			
	Negligible	Minor	Significant	Severe
Very likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low



Notes, explanations, descriptions _____

Mitigation options _____ Residual risk _____
 _____ Residual risk _____
 _____ Residual risk _____
 _____ Residual risk _____

Overall tree risk rating Low Moderate High Extreme Work priority 1 2 3 4
 Overall residual risk Low Moderate High Extreme Recommended inspection interval _____
 Data Final Preliminary **Advanced assessment needed** No Yes-Type/Reason _____
 Inspection limitations None Visibility Access Vines Root collar buried Describe _____

Kaelene Nobis

From: Tom Early
Sent: Thursday, March 23, 2017 2:53 PM
To: Kaelene Nobis
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

Hi Kaelene,

Correct, I suggest a denial of hazard tree removal and denial of nuisance tree removal prior to removal. As of now we have no documentation of roof damage, only unsubstantiated reference in the arborist report. A nuisance tree claim appears to be the "nearest" avenue of alleviating their code citation. - Tom

Tom Early

Kirkland On-Call Arborist
Landscape Architect | ISA Certified Arborist | ISA Tree Risk Assessment Qualified | LEED AP
425.250.5346

From: Kaelene Nobis
Sent: Thursday, March 23, 2017 8:51 AM
To: Tom Early
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

Whenever you get the chance to share your thoughts on this. I would like to issue a determination soon. I am assuming they haven't shown enough evidence that the tree was a hazard prior to removal.

Kaelene

From: Kaelene Nobis
Sent: Monday, March 20, 2017 3:56 PM
To: Tom Early <TEarly@kirklandwa.gov>
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

So in your opinion... Have they provided substantial evidence documenting the tree was a nuisance or hazard prior to its removal?

Kaelene Nobis | Assistant Planner
Planning and Building Department
City of Kirkland
p: 425.587.3228

*Planning Counter hours: 8:00 am – 5:00 pm Monday-Friday; 10:30 am – 5:00 pm Wednesdays only.
Located in City Hall at 123 Fifth Avenue, Kirkland, WA 98033.*

"Kirkland Maps" makes property information searches fast and easy.
GIS mapping system now available to public at <http://maps.kirklandwa.gov>.

From: Tom Early
Sent: Monday, March 20, 2017 3:20 PM

To: Kaelene Nobis <KNobis@kirklandwa.gov>
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

Hi Kaelene,
I'm not seeing any fungal growth which could be indicative of decay prior to the tree being felled, only fungal growth after the tree was felled. The image attached, IMG_2482, is from my site visit on 8/31/2016. I didn't notice decay at that time and I was hoping that the applicant or arborist had some documentation of decay prior to the trees felling.

Tom Early
Kirkland On-Call Arborist
Landscape Architect | ISA Certified Arborist | ISA Tree Risk Assessment Qualified | LEED AP
425.250.5346

From: Kaelene Nobis
Sent: Friday, March 17, 2017 12:00 PM
To: Tom Early
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

Any thoughts on this when you get a moment. 😊

From: Kaelene Nobis
Sent: Monday, March 13, 2017 8:47 AM
To: Tom Early <TEarly@kirklandwa.gov>
Subject: FW: Tree hazard report for 4535 Lk Wa blvd NE

Tom,

Here are the photos I obtained regarding the popular tree on the vacant lot.

Kaelene Nobis | Assistant Planner
Planning and Building Department
City of Kirkland
p: 425.587.3228

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Located in City Hall at 123 Fifth Avenue, Kirkland, WA 98033.*

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GIS mapping system now available to public at <http://maps.kirklandwa.gov>.

From: Mohaghegh, Michael [<mailto:michael.mohaghegh@boeing.com>]
Sent: Sunday, March 12, 2017 6:13 PM
To: Kaelene Nobis <KNobis@kirklandwa.gov>
Cc: Cindy Keirse <CKeirse@kirklandwa.gov>
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

Kaelene,

Sorry for the delay but the arborist was very busy. Attached are the pictures you requested provided by the arborist. I have removed my SUV from the property.

Thanks.
Mike

From: Mohaghegh, Michael
Sent: Monday, February 27, 2017 9:26 AM
To: 'Kaelene Nobis' <KNobis@kirklandwa.gov>
Cc: Cindy Keirse <CKeirsey@kirklandwa.gov>
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

Kaelene,

I will ask the arborist to go back to the site and take some pictures of the root rot/decay and send them to us. The live crown ratio, I understand is based on how much dead Ivy was present.

I have attached a picture that shows the roof and the damaged lines holding the chimneys. You need to zoom in to see the broken and bent straps. There was damage to the deck also but I don't have any pictures. I was much more concerned about safety of the tenants than the house structure. I have attached the tenant's letter for your arborist's attention in case it is not in the file. The tenant also mentions the large branches falling on various parts of the house and his concern for his safety.

Regarding the blue SUV on the property, I am at Berkeley this week and will take out the car early next week.

Thank you.
Mike

From: Kaelene Nobis [<mailto:KNobis@kirklandwa.gov>]
Sent: Friday, February 24, 2017 9:29 AM
To: Mohaghegh, Michael <michael.mohaghegh@boeing.com>
Cc: Cindy Keirse <CKeirsey@kirklandwa.gov>
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

Mike,

The arborist would like some more information from your arborist and you. I remember you sending me the email you sent to the insurance agency but not their response for the damage. You also provided two photos of the tree but these other items need to be substantiated per the Arborists forms.

Here is the arborists comments below:

What I'd like is the owner or agent to provide the documentation required. Another option for the owner is to ask for shoreline images from DOE, they maintain photo records of the shoreline. I'm not sure how to access this data but, again, this is up to the owner/agent to provide:

Items Unanswered per report:

- 1. roof damage claim to be supported with pictures and an estimate from a roofing contractor,*
- 2. "Obvious decay in trunk and root crown" substantiated with photos, and*
- 3. "70% live crown ratio with 30% dead" claim to be substantiated with photos*

Kaelene Nobis

From: Mohaghegh, Michael [<mailto:michael.mohaghegh@boeing.com>]
Sent: Wednesday, February 22, 2017 10:38 AM
To: Kaelene Nobis <KNobis@kirklandwa.gov>
Cc: Cindy Keirse <CKeirse@kirklandwa.gov>
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

OK. Thanks.

From: Kaelene Nobis [<mailto:KNobis@kirklandwa.gov>]
Sent: Wednesday, February 22, 2017 10:34 AM
To: Mohaghegh, Michael <michael.mohaghegh@boeing.com>
Cc: Cindy Keirse <CKeirse@kirklandwa.gov>
Subject: RE: Tree hazard report for 4535 Lk Wa blvd NE

Mike,

This needs to be reviewed by our Cities Arborist. I will forward this to him to review.

Kaelene Nobis

From: Mohaghegh, Michael [<mailto:michael.mohaghegh@boeing.com>]
Sent: Wednesday, February 22, 2017 10:32 AM
To: Kaelene Nobis <KNobis@kirklandwa.gov>
Cc: Cindy Keirse <CKeirse@kirklandwa.gov>
Subject: FW: Tree hazard report for 4535 Lk Wa blvd NE

Kaelene,
Attached is the arborist report for the poplar tree to complete the application for the tree removal.
Thank you.
Mike

From: Chris Selle [<mailto:chriss@eastsidetreeworks.com>]
Sent: Wednesday, February 22, 2017 5:48 AM
To: Mohaghegh, Michael <michael.mohaghegh@boeing.com>
Subject: Tree hazard report for 4535 Lk Wa blvd NE

Mike,

Here you go. Feel free to call or email me if you have any questions.

Thanks,

Chris Selle

Kaelene Nobis

From: Tyler Wilson <tywilsonuw@hotmail.com>
Sent: Tuesday, August 30, 2016 7:25 PM
To: Kaelene Nobis
Cc: Mohaghegh, Michael
Subject: Re: Trees

Kaelene,

My landlord Michael is correct. The large poplar that was removed was dangerous to both the house and surrounding area and public pathway where people have access to walk. Large branches were breaking off whenever there was wind. It broke railings on the deck, pavers, and support on the chimney. I made Michael aware of this and asked that he address the issue for our safety and anyone that might be around when a branch came off. If you would like any other details please let me know.

Best,

Tyler
206.755.8313

Sent from [Outlook](#)

From: Mohaghegh, Michael <michael.mohaghegh@boeing.com>
Sent: Tuesday, August 30, 2016 5:02 PM
To: Tyler Wilson
Cc: Kaelene Nobis
Subject: Trees

Hi Tyler,

Can you please send a note to Kaelene Nobis of City of Kirkland about your experience with large tree pieces falling next to you when you were working in the yard and your concern for your safety.

Thanks very much Tyler.

Mike







Kaelene Nobis

From: Mohaghegh, Michael <michael.mohaghegh@boeing.com>
Sent: Wednesday, August 31, 2016 4:09 PM
To: Kaelene Nobis
Subject: FW: Arborist Report

Dear Kaelene,

Brian from Custom Woodworks is concerned about liability and would only send me the statement below. It is consistent with my statements and the pictures in the permit request. You received the statement from Tyler Wilson earlier today. I am now looking for the insurance claim papers.

Thanks.

Mike

From: B B [mailto:xcustomwoodworksx@gmail.com]
Sent: Wednesday, August 31, 2016 3:41 PM
To: Mohaghegh, Michael <michael.mohaghegh@boeing.com>
Subject: Re: Arborist Report

The cedar tree had core rot and could reach the house and the poplar was separating making both of the trees hazard to everything around it. I am not a certified arborist that is just my opinion.

On May 23, 2016 9:30 PM, "Mohaghegh, Michael" <michael.mohaghegh@boeing.com> wrote:

Hi Brian,

I need this report for the two trees that you cut down. Can you do it and what would be the cost?

Thanks.

Mike



March 28, 2017

Mike Mohaghegh
4535 Lake Washington Blvd NE
Kirkland, WA 98033

Subject: Tree Removal Permit: TRE16-07641, Partial Approval

A Tree Removal Permit was submitted to the City of Kirkland Planning Department on 8/30/2016 requesting removal of 2 trees, pursuant to Kirkland Zoning Code (KZC) 95.23 and 70.15. An extension was granted to the applicant in order to provide a complete arborist report with evidence that the poplar removed met the Cities definition of nuisance or hazard. After receipt of that report on 2/22/2017, and additional items provided on 3/12/2017, a peer review of the removal request and arborist report was completed by the City's consulting Urban Forester for compliance with applicable City regulations. The arborist report submitted looked at only the Lombardy Poplar. After this review, the City has determined that the Cedar tree is approved for removal as a Hazard and the Poplar tree has been denied. The Poplar tree as indicated in the arborist report has been denied for removal, as the City has found no evidence that the tree met the nuisance or hazard criteria listed in KZC 95.10.10 and 95.10.7. As the property is vacant, the Cedar will need to be replanted 1 for 1, and the Poplar will need to be replanted to the Code Enforcement standard cited in 1.12.100. The applicant will need to supply the Planning department with a replanting plan for the 50+ inch DBH tree according to Chapter 95.33. Replanting to be done with code enforcement case COM16-00288.

An applicant may appeal an adverse determination to the Hearing Examiner. A written notice of appeal shall be filed with the City within 14 calendar days following the date of distribution of a City's decision. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 17 calendar days prior to the hearing. The applicant shall have the burden of proving that the City made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, the Hearing Examiner may affirm, reverse or modify the decision being appealed. The appeal fee shall be submitted with the written request.

Please contact me with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Kaelene Nobis".

Kaelene Nobis
Assistant Planner- Planning and Building Department
425.587.3228
knobis@kirklandwa.gov



City of Kirkland Hearing Examiner

RE: TRE16-07641_Determination

I would like to respectfully appeal the planning department decision to deny my permit to take down a large poplar tree on my property line between the 4535 lake Washington Blvd and the adjacent lot on the south. The tree was close to the sewer line, close to the building at 4535 lake Washington Blvd and the public access path south of the vacant property.

These are the reasons for taking down the tree for your evaluation:

- The tree had structural defects like large cracks that make it likely to fall or break. Poplar trees are also susceptible to borers, cytospora canker, and bacterial wet wood defects as they age.
- Large branches from the tree were falling on the house roof and deck causing damage to the house. Poplar trees are known for their columnar form and unusual large branching structure. Their branches are large and start close to the ground.
- A large branch fell next to Tyler Wilson the tenant while he was working in the yard. He notified me that he was concerned about his safety and asked for the tree to be removed. The safety of the tenants was the most serious consideration.
- Local tree removal companies could not cut the tree down because it was not safe to climb the tree.
- The Woodworks LLC from Snohomish County that specialize in taking down difficult trees was hired to take down the tree. This company also stated that this poplar tree was coming apart and was a dangerous tree.
- Arborist from Eastside Tree Works LLC examined the tree and stated in his report that the tree was a dangerous tree and should have been taken down.

Also, the roots of poplars are invasive and damage drainage systems and foundations. Since it was planted close to the existing city sewer line and future foundation needed for developments of the vacant property. This danger could not be mitigated by cutting parts of the tree branches. Following a standard assessment flow chart, the tree needed to be removed. Supporting documents will be provided at the hearing.

Michael Mohaghegh

9717 Juanita Dr NE Unit 202

Kirkland WA 98034

Tel: 425-260-7776

RECEIVED
APR 11 2017
BY: KMN
@ 9:45 AM

Monday, April 10, 2017

City of Kirkland

Attn: Hearing Examiner regarding TRE16-07641 Determination

With regards to the tree removed adjacent to 4535 Lake Washington Blvd NE, we requested that our landlord, Michael Mohaghegh, address the situation with the sick poplar tree. The tree was visibly unhealthy and grew over portions of the house including the main living and bedroom area. On numerous occasions, large, potentially deadly branches fell from the tree landing in the yard. This was more profound during wind, however limbs were dying and falling off at random times including once while I was working in the yard. Limbs snapped the metal railing on the deck, and broke a support arm for the chimney on the house which is directly above a bedroom. The tree needed to be dealt with for the safety of us, Michael Mohaghegh's tenants, and anyone else in proximity.

Sincerely,



Tyler Wilson

4535 Lake Washington Blvd NE

Kirkland, WA 98033

206.755.8313



