

“Q”

Applicant Response to Public Comments
After April 20, 2016

Part 5



A Tradition of Stewardship
A Commitment to Service


Department of Public Works

1195 Third Street, Suite 101
Napa, CA 94559-3092
www.countyofnapa.org/publicworks

Main: (707) 253-4351
Fax: (707) 253-4627

Steven Lederer
Director

June 22, 2016

John Williams
Frog's Leap Winery
8815 Conn Creek Road
P.O. Box 189
Rutherford, CA 94573

Subject: Frog's Leap Winery
P14-00054

Dear John,

Thank you for your letter of June 6, 2016 regarding the requirement for left-turn lane improvements on State Route 128 Conn Creek Road at your project's main access driveway. The project, as proposed, warrants the installation of a left-turn pocket at this location. Your request for an exception to this requirement is acceptable, as follows:

1. Your engineer has demonstrated a thorough exploration of alternative strategies for complying with the left-turn lane requirement, having produced drawings depicting both widening the road to the west and to the east.

2. Sight-distance limitations, involving obstructions on other properties, constrain the ability to construct the improvement by widening to the west; several significant (24-60" diameter) oak trees would be impacted by widening to the east.

a. You have demonstrated a good-faith effort to address the sight-distance limitation associated with widening to the west, by contacting the neighboring property owner and offering compensation for the impact to their property, which they declined.

b. You have provided information from a Registered Consulting Arborist, with specific recommendations for protecting the trees in the immediate vicinity of the proposed alternative improvement (#3 below).

3. You have proposed to provide improvement on SR 128 Conn Creek Road in the form of a six-foot wide shoulder along the east side of the road, a total length of 280 feet, centered on (and across from) the project entry driveway. This amount of widening can be added without significant impact to the oak trees mentioned in #2, with implementation of the arborist's recommendations, as noted above. This widening will provide an area where northbound traffic on Conn Creek Road could carefully bypass a waiting left-turning vehicle, if necessary.

4. You have proposed specific operational characteristics designed to limit the number of trips turning left into the sight, including directing daily and marketing event visitors to arrive from Silverado Trail, and directing employees to use only the secondary driveway (on SR 128 Rutherford Road) to the site. While these actions do not reduce the project below the warrant for a left-turn lane, they represent a significant improvement in the management of site access traffic.

John Williams
June 22, 2016
Page 2 of 2

I will convey this recommendation to the Department of Planning, Building and Environmental Services, related to your application P14-00054. My decision on this request is tentative at this point, as it needs to rely on the environmental determination for the project overall. Once the decision on the project is finalized (including action on the environmental determination), my decision on this request will become final, assuming no changes have occurred to the project or the evaluation criteria discussed above.

I will also convey this information to Caltrans for their consideration in evaluating the encroachment permit for the safety widening described in #4 above.

Please email me at Rick.Marshall@countyofnapa.org or call (707) 259-8381 if you have questions or need additional information.

Regards,



Rick Marshall
Deputy Director of Public Works
Road Commissioner & County Surveyor

C: PBES staff
Caltrans District 4

Case Study:

Dale Mabry Highway, Tampa, Florida

Before the installation of sidewalks, Dale Mabry Highway (SR580) in Tampa, Florida was not a place anyone would feel comfortable walking. Dale Mabry is a commercial corridor with six lanes of traffic, a five foot shoulder, and transit service stopping along the route. Many vehicles using this corridor are traveling faster than the 45 mph posted speed limit and pedestrian crashes were all too common. Even before construction was completed, pedestrians were using the sidewalks. Pedestrians can now walk in a safe location off the roadway/shoulders on separated accessible sidewalks.

Before/During Construction



Photo Credit: Brian Lamb

After Construction



Photo Credit: Jimmie Barber

Guidance Statement / Application

FHWA's *Guidance Memorandum on Consideration and Implementation of Proven Safety Countermeasures* offers the following guidance for the application of sidewalks and shoulders:

Accessible sidewalks or pathways should be provided and maintained along both sides of streets and highways in urban areas, particularly near school zones and transit locations, and where there is frequent pedestrian activity.

Sidewalks should be considered the preferred treatment for accommodating pedestrians in urban areas and where frequent pedestrian use is expected. For less developed areas with occasional pedestrian traffic expected, the Guidance Memorandum provides the following:

Walkable shoulders (minimum of 4 feet stabilized or paved surface) should be provided along both sides of rural highways...⁹⁹

For more information, visit <http://safety.fhwa.dot.gov/policy/memo071008/>

Sources

¹ NHTSA, *Traffic Safety Facts 2008 Pedestrians*. NHTSA, Washington, D.C., 2009.

² FHWA, *Pedestrian and Bicycle Crashes of the Early 1990's*. Publication No. FHWA-RD-95-163, FHWA, 1995.

³ FHWA, *An Analysis of Factors Contributing to "Walking Along Roadway" Crashes: Research Study and Guidelines for Sidewalks and Walkways*. Report No. FHWA-RD-01-101, FHWA, Washington D.C., 2001.

⁴ FHWA *Investigation of Exposure-Based Pedestrian Accident Areas: Crosswalks, Sidewalks, Local Streets, and Major Arterials*. Publication No. FHWA/RD87-038, FHWA, Washington, D.C., 1987.

⁵ NCHRP Report 616, *Multimodal Level of Service Analysis for Urban Streets*. TRB, Washington D.C., 2008.

⁶ Florida Department of Transportation, *Conserve by Bicycle and Pedestrian Study Phase II*. FDOT, Tallahassee, FL, 2009.

⁷ Center for Disease Control, *A Report of the Surgeon General, Physical Activity and Health, At-A-Glance*. CDC, Atlanta, GA, 1996.

⁸ Florida Department of Transportation, *Update of Florida Crash Reduction Factors and Countermeasures to Improve the Development of District Safety Improvement Projects*. FDOT, Tallahassee, FL, 2005.

⁹ Lindley, J., *Guidance Memorandum on Consideration and Implementation of Proven Safety Countermeasures* FHWA, Washington D.C., July 2008.

For More Information:

For more information, visit http://safety.fhwa.dot.gov/ped_bike

FHWA, Office of Safety

Tamara Redmon
tamara.redmon@dot.gov
202-366-4077

FHWA-SA-10-021

Safety Benefits of Walkways, Sidewalks, and Paved Shoulders



FHWA Safety Program



U.S. Department of Transportation
Federal Highway Administration



<http://safety.fhwa.dot.gov>

In a suburban community a six lane road is built. It serves schools, businesses, and transit routes. Along the length of the highway pedestrian paths are beat into the grass. For pedestrians it isn't comfortable, it isn't accessible, and it isn't safe. It needs a sidewalk.



Photo Credit: Michael Rookin

Walkways

Annually, around 4,500 pedestrians are killed in traffic crashes with motor vehicles in the United States.¹ Pedestrians killed while "walking along the roadway" account for almost 8 percent of these deaths.² Many of these tragedies are preventable. Providing walkways separated from the travel lanes could help to prevent up to 88 percent of these "walking along roadway crashes."³

Walkways can be created either by providing stabilized or paved surfaces separated from the roadway, or by widening paved shoulders. These treatments can not only improve the safety of pedestrians, but also make pedestrian trips more viable.

Benefits of Sidewalks

Sidewalks separated from the roadway are the preferred accommodation for pedestrians. Sidewalks provide many benefits including safety, mobility, and healthier communities.

In addition to reducing walking along roadway crashes, sidewalks reduce other pedestrian crashes. Roadways without sidewalks are more than twice as likely to have pedestrian crashes as sites with sidewalks on both sides of the street.⁴



Photo Credit: www.pedbikeimages.org/Dan Burden

Providing walkways for pedestrians dramatically increases how well pedestrians perceive their needs are being met along roadways.⁵ The wider the separation between the pedestrian and the roadway is, the more comfortable the pedestrian facility.

By providing facilities that are more comfortable, we can increase the number of trips made by walking, particularly in areas with mixed land uses.⁶ Providing sidewalks, widened paved shoulders, or stabilized shoulders — particularly when providing access to public transit — can increase the

transportation options for individuals who may not be able to drive a car. Additionally, by moving pedestrians off the travel lanes, motorist operations are improved and capacity increased.

Research indicates that people will walk for recreational purposes if a facility is provided.⁶ Recreational walking is one of the easiest ways for people to get the recommended allotment of physical exercise each day. Moderate exercise, such as walking, contributes to both physical and mental well being.⁷

Benefits of Paved Shoulders

Paved shoulders provide numerous safety benefits for motorists and pedestrians. Installing or widening paved shoulders has the following benefits:

- Provides a stable surface off of the roadway for pedestrians to use when sidewalks cannot be provided.
- Reduces numerous crash types including the following:
 - Head on crashes (15%-75% reported reduction)⁸
 - Sideswipe crashes (15%-41%)⁸
 - Fixed object crashes (29%-49%)⁸
 - Pedestrian (walking along roadway) crashes (71%)⁸
- Improves roadway drainage
- Increases effective turning radii at intersections
- Reduces shoulder maintenance requirements
- Provides emergency stopping space for broken down vehicles
- Provides space for maintenance operations and snow storage
- Provides space for variable message signs
- Provides an increased level of comfort for bicyclists⁵

Improving Access and Safety for Pedestrians & Bicyclists on State Highways

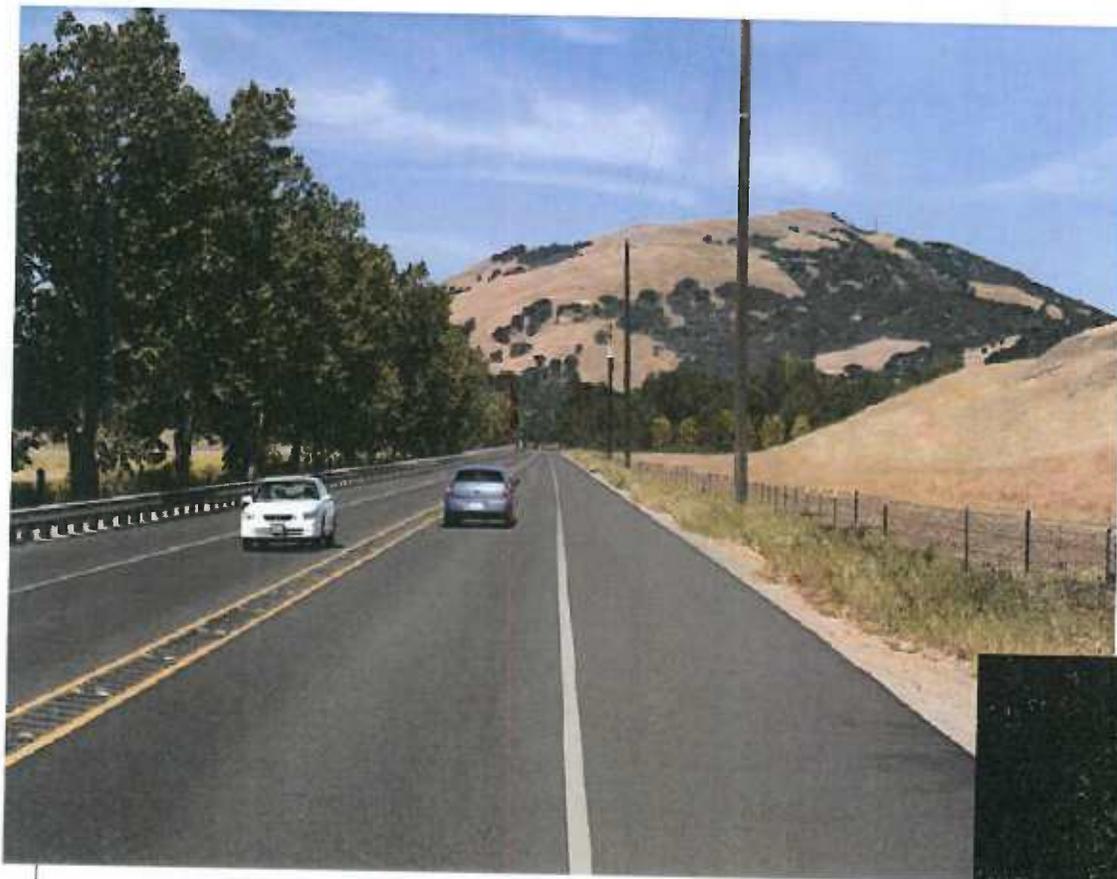


Beth Thomas
Pedestrian & Bicycle Coordinator
Caltrans District 4

Bicycle & Pedestrian Coordinators - What Do They Actually Do?

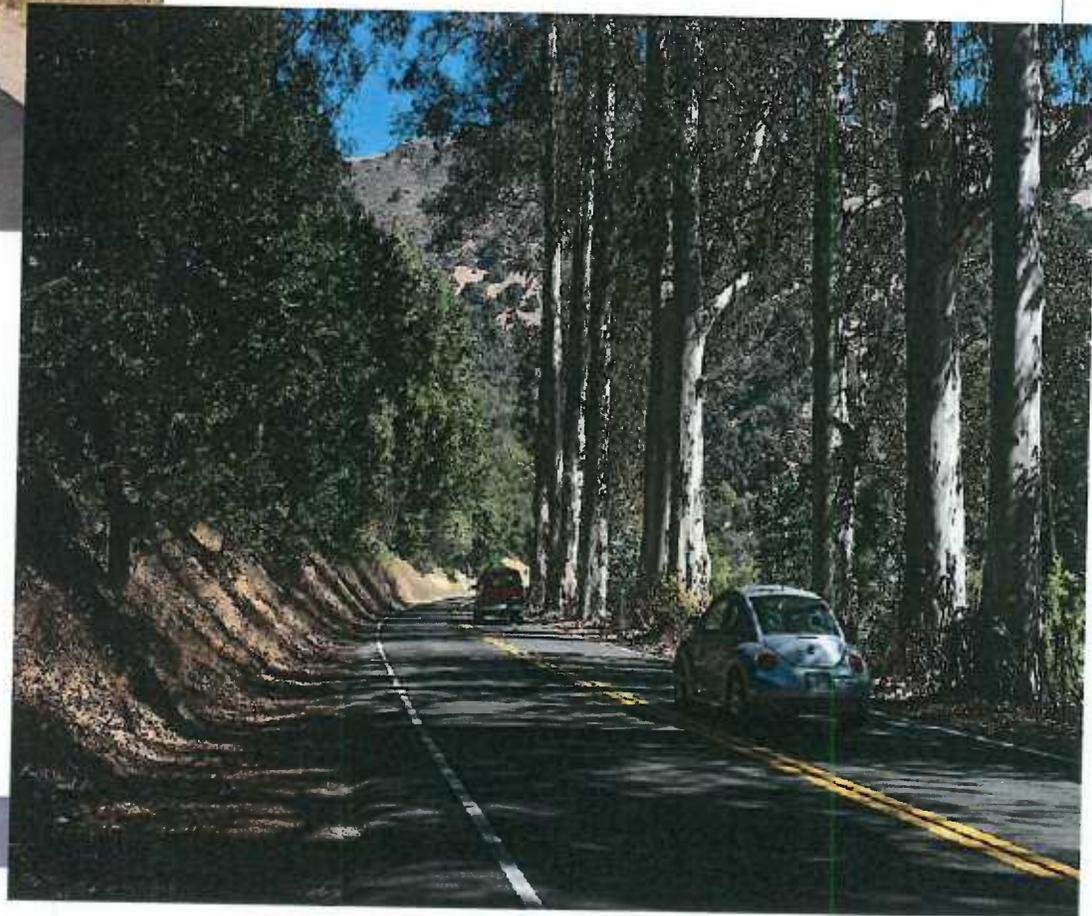
- Review and comment on various internal project planning and design documents for impacts on pedestrian and bicycle access and safety and compliance with DD-64-R1
- Review and comment on projects done by others on State highways, i.e. local development projects and encroachment permits

Rural Context: Shoulder Widening Benefits Bicyclists



Photos by: Caltrans

Before and After:
(although not
exactly the same
location)



5/25/2016

Jeff Dodd
Dickenson Peatman & Fogarty
1455 First Street, Suite 301
Napa, CA 94559

RE: Frog's Leap Winery

You asked me to discuss the following questions:

1. Will the Valley Oak tree directly across from the Frog's Leap Winery's driveway remain viable after the addition of a 6 foot shoulder, adjacent to the eastern edge of Conn Creek Road across from Frog's Leap Winery?
2. If the tree cannot remain viable, what measures can be taken during construction to maintain the tree?

BACKGROUND

Frog's Leap Winery is applying for a winery use permit modification from the County of Napa. Napa County's Road and Street Standards require the installation of a left-turn lane at the Winery's driveway unless the party applies for an exception. One exception is whether there is an environmental constraint, such as the removal of an oak tree.

The construction of the left hand turn lane would require Frog's Leap to remove 4 oak trees – all of which are in the public right-of-way – as shown on the attached plans prepared by Applied Civil Engineering (the "Road Improvement Exhibits). Frog's Leap applied for and Napa County Department of Public Works granted an exception to the County's Road and Street Standards. The County granted the exception with a condition that Frog's Leap install a 6' wide shoulder on the eastern edge for Conn Creek Road for approximately 280 feet.

Last month, the County received a letter from another arborist, Bill Pramuk, which concluded that the road widening would put one of the 4 trees, the Valley Oak directly across from the main driveway "at risk of severe direct damage" and would create an "unsafe condition for the tree." As a result, Frog's Leap seeks to identify the validity of Mr. Pramuk's conclusions and whether it can maintain the viability of the during the widening process.

ASSUMPTIONS AND LIMITATIONS

My conclusions and recommendations are based on my examination of the tree and the Road Improvement Exhibits.



DENICE BRITTON
Consulting Arborist

1039 Darms Lane
Napa, CA 94558
denice@arborbritton.com
www.arborbritton.com

PH (530) 624-8403
FX (707) 252-7825

ISA Certified Arborist #WE-
0108A
ASCA Registered Consulting
Arborist #296

That show the proposed widening. I examined the tree from the ground for visual signs of its condition, including the root flare. I assessed the health of the tree based upon foliage color, density and twig growth.

This report reflects the condition of the tree at the time of examination. Trees are biological organisms subject to environmental forces beyond our control. I cannot predict with absolute certainty the safety or structural integrity of any tree, nor can we guarantee it. I provide in this report a summary of my assessment, performed to the best of my ability and knowledge.

Not all trees on the site were included in this assessment. I cannot, therefore, make any statements as to the structure or safety of trees I did not inspect and are not included in this report.

OBSERVATIONS AND RECOMMENDATIONS

I examined the tree on May 16, with Mike Muelrath of Applied Civil Engineering, Inc. The tree is a Valley oak (*Quercus lobata*) measured as 52" in diameter at the Standard measurement height of 4.5'. The tree shows good vigor, with a full canopy of dark green leaves. There are a few accumulated dead branches in the tree, but it generally shows good structure. The branches growing over the road are long and somewhat heavy, especially at the ends. One limb on the southwest side has sap oozing from it (fluxing), which indicates an internal crack.



The edge of the tree's root collar (red arrow in photo to left) is 7.5' away from the outside edge of the white line on the existing pavement.

The root collar is at grade, and has several anchoring roots exposed. These roots all have old injuries at the edge of the soil line, indicating that the tree was routinely disced around in the past.

DISCUSSION

Installing pavement near trees does not always cause irreparably harm to the tree. If the pavement is placed with minimum compaction and root cutting for the installation of base material, then valley oak trees can often tolerate such paving, especially when it is restricted to one side of the tree.

The main impacts are not the pavement per se, but the cut that would be required to install base rock underneath the pavement.

Generally, it is undesirable to remove anchoring roots any closer than a distance equal to twice the diameter of the tree, in feet. This is generally considered a minimum for a cut on one side of the tree. That means that no cuts should be made any closer than 10' from the tree, and these should be as shallow as possible in order not to damage the tree's anchoring roots. However, the fact that the tree was previously disced makes it more likely that the current anchoring roots are deeper than normal. (See photo below, with arrows pointing to old disc injuries.)



CONCLUSIONS

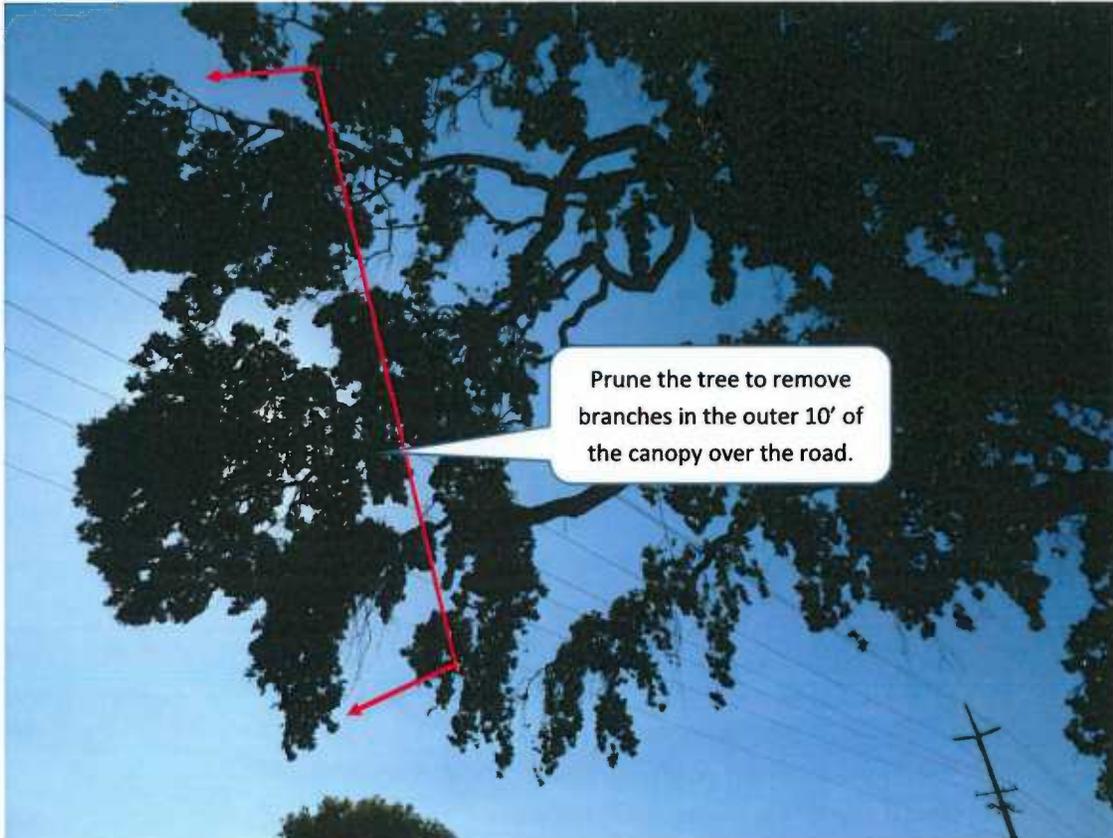
If 6' of new pavement is placed along the entire eastern edge of the road, it could damage the tree. However, from my experience with Valley oaks, one could maintain the viability of the oak by limiting root cutting and compaction under the tree, especially if the soil is undisturbed within 10' of the trunk.

If the widening could avoid the area 10' south and north of the tree, there would be even less impact if the pavement underneath the canopy of the tree could be changed to concrete, with a smaller layer of base rock underneath it. This would eliminate the need for using an air spade within 10' of the trunk, and would therefore leave the soil next to the tree undisturbed.

A further way to reduce damage would be to use a geo-textile fabric underneath the base rock, to stabilize the soil, out to the edge of the tree's canopy. Again, the edge of this excavation should be accomplished using an air spade to reduce the chances of injuring any main anchoring roots.

Another way to reduce impacts to the tree would be to save any roots larger than 4" (inches) diameter that are discovered below the grade of the pavement, by placing geotextile fabric over them and the final grade, and then filling in with base rock around the roots to the height needed for the cement layer.

Reflectors may be helpful on the south side of the tree to alert drivers to the presence of the trunk.



RECOMMENDATIONS

1. Do not install a left hand turn lane, since it would require removal of 4 trees, rather than impacting only one tree. Instead, install a 6' shoulder, and preferably leave the area next to the tree undisturbed for a distance of 10' from the center of the trunk in all directions.
2. Retain an Arborist to work with the engineer to be certain that the tree's protection is fully considered in the planning stage. Protection measures should be spelled out on the site plan for the contractor to see them clearly, and take them into account when bidding the project.
3. Have a reputable tree service contractor who is a Certified Arborist prune the tree limbs over the road to elevate the foliage and reduce weight in the outer 10' of the limbs over the road, or to the left of red line in the above photo.
4. Clearly identify a Root Protection Zone RPZ on the west, south and north sides of the tree to keep construction equipment and workers away from the main roots.

5. Have an arborist on site during the initial excavation of the tree, to help insure that care is taken to leave roots intact. Under the canopy of the tree, either hand dig or use an air spade to retain as many roots as possible, especially near the trunk.
6. If roots larger than 2"-4" (inches) diameter are discovered below the grade of the pavement, then preserve these roots by placing a geotextile fabric over them and filling in with base rock around them.
7. Develop an inspection schedule so that an arborist can ascertain if any irrigation or other treatments are needed during construction, or during the next 12 months.
8. Monitor the tree annually to be certain it does not get too heavy, and to look for any health or structural concerns.

Please feel to call should you have any questions, or wish to discuss these matters further.



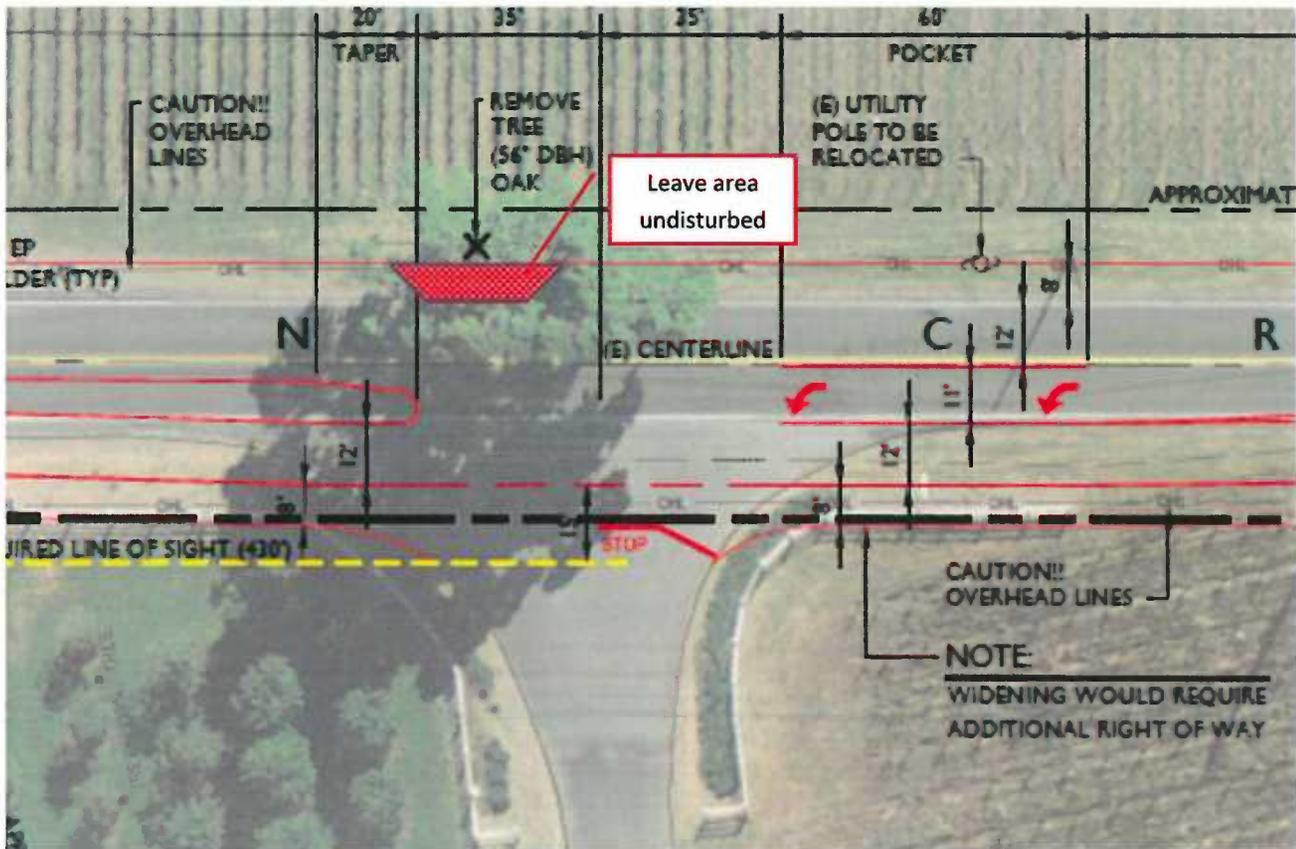
Denice Britton
ASCA Registered Consulting Arborist #296



cc: Mike Muelrath, Applied Civil Engineering

Attachments: Road Improvement Exhibits, with illustration of proposed construction changes

ROAD IMPROVEMENT EXHIBITS



This drawing shows Option 1, to widen the road for the left turn lane by moving the road to the west in front of the Frog's Leap Winery. The existing road and center line are shown. The narrow red line shows where an 8' shoulder would extend to. If instead of putting in the left turn lane, the road is widened by a 6' shoulder, then in my opinion the tree could be preserved. The edge of the tree's trunk is 7.5' east of the current edge of the pavement.

If at all possible, leave the area around the tree undisturbed for a distance of 10' on either side of the trunk. This would allow a car to go around a vehicle stopped to turn left and come back into the main lane well before encountering the tree. The hatched area shown above is 20' along the original pavement, or 10' on either side of the trunk.



DENICE BRITTON
Consulting Arborist

EDUCATION AND QUALIFICATIONS

1979 -Bachelor of Science, Biology of Natural Resources, with emphasis in Plant Pathology, University of California, Berkeley. *Summa cum Laude.*

1981 -Master of Science, Wildland Resource Sciences, with emphasis in Urban Forestry, University of California, Berkeley. *Magna cum Laude.*

- 1984-2017 -Certified Arborist, WE-0108A, by the International Society of Arboriculture (ISA).
 1984 -California Community Colleges Instructor Credential for Ornamental Horticulture, Credential No. 15 2 Fro 001 (#304717).
 1989-2015 -Registered Consulting Arborist #296, American Society of Consulting Arborists.
 1995 Graduate, ASCA Arboricultural Consulting Academy.
 1992-2006 -California State Contractors License, Qualifying Individual, Limited Specialty Tree Service, C61/D49 #693647
 2006 -Certified as an Urban Forester by the California Urban Forests Council (CaUFC)
 2013-2017 -ISA Qualified Tree Risk Assessor #1842

PROFESSIONAL EXPERIENCE

- 1981-84 -**UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION, Berkeley. Urban Forestry Specialist.**
 Develop an Urban Forestry outreach program to assist municipal foresters and arborists in setting up tree management programs. Provide technical expertise to University and Extension personnel regarding tree problems.
- 1984-2006 -**BRITTON TREE SERVICES, INC. ST. HELENA, CA. Consulting Arborist.** Evaluate trees on client estates, and for public agencies, to develop maintenance programs. Consultation regarding the care of trees in the landscape, hazard evaluation, mitigating construction damage and improving cultural conditions around trees. 1985-2001: Co-owner and General Manager.
- June, 2006-
 June 2013 **CITY OF CHICO, CA. Urban Forest Manager.**
 Manage street and park trees for the continuation of Chico's urban forest, including species selection, planting, pruning and removal. Oversee contract(s) for maintenance of public landscapes. Assist in planning review of new development projects. Review plans for tree preservation and landscape designs.
- July, 2013-
 Present **CONSULTING ARBORIST, Self Employed**
 Provide consultation in management planning, tree appraisal risk assessment, and expert witness regarding trees.

PROFESSIONAL AFFILIATIONS

- 1981-2015 - **International Society of Arboriculture**
Certification Examination Committee, 1988-92
- 2002 **Honorary Life Membership** – In recognition of material and substantial contribution to the progress of arboriculture and having given unselfishly to support arboriculture.
- 1981-2015 **Western Chapter ISA, President, 1990-1991**
Board of Directors, 1986-90
Chairman, Regional Meetings Committee, 1981-88
Chairman, Certification Committee, 1982-87
Member, Certification Committee, 1987-92
- 1985 **Award of Merit.** In recognition of outstanding meritorious service in advancing the principles, ideals and practices of arboriculture.
- 1983-2013 -Member of **California Arborists Association**
Secretary-Treasurer, Napa Valley Chapter, 1986-87, 1992-93
- 1989-2015 - **American Society of Consulting Arborists**
President, 1998
President-Elect, 1997
Vice President, 1996
Secretary-Treasurer, 1995
Board of Directors, two year term, 1992-94
- 1985-2006 -Member, **National Arborists Association, Now Tree Care Industry**
- 1986-93 -**Trustee, St. Helena Beautification Foundation**
- 1991 -Member, **California Urban Forest Advisory Council** to the California Department of Forestry regarding expenditure of funds allocated by the **America The Beautiful** program to the US Forest Service.
- 1981-2013 Member, **California Urban Forests Council**
Elected to Board of Directors, 2003
Treasurer, 2004-2006

PUBLICATIONS AND LECTURES

Ms. Britton has authored several publications on the care, appraisal and maintenance of trees. Her work has been published by the University of California Cooperative Extension Service, and in the *Journal of Arboriculture*, *Journal of Urban Ecology* and in the trade magazines *Arbor Age* and *California Oaks*. She wrote and published a quarterly newsletter, *Out on a Limb*, for clients and associates of Britton Tree Services, Inc., from 1991 to 2005.

Denice Britton has lectured at numerous professional association meetings on the successful care and maintenance of trees. Since 1995, she has taught a semi-annual course on tree pruning for the University of California Extension at UC Davis.

A detailed Curriculum Vitae can be provided upon request.

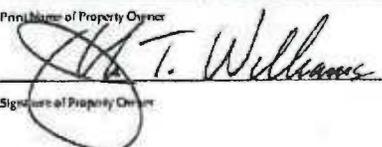
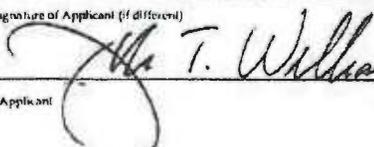
Certification and Indemnification

Applicant certifies that all the information contained in this application, including all information required in the Checklist of Required Application Materials and any supplemental submitted information including, but not limited to, the information sheet, water supply/waste disposal information sheet, site plan, floor plan, building elevations, water supply/waste disposal system site plan and toxic materials list, is complete and accurate to the best of his/her knowledge. Applicant and property owner hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.

Pursuant to Chapter 1.30 of the Napa County Code, as part of the application for a discretionary land use project approval for the project identified below, Applicant agrees to defend, indemnify, release and hold harmless Napa County, its agents, officers, attorneys, employees, departments, boards and commissions (hereafter collectively "County") from any claim, action or proceeding (hereafter collectively "proceeding") brought against County, the purpose of which is to attack, set aside, void or annul the discretionary project approval of the County, or an action relating to this project required by any such proceeding to be taken to comply with the California Environmental Quality Act by County, or both. This indemnification shall include, but not be limited to damages awarded against the County, if any, and cost of suit, attorneys' fees, and other liabilities and expenses incurred in connection with such proceeding that relate to this discretionary approval or an action related to this project taken to comply with CEQA whether incurred by the Applicant, the County, and/or the parties initiating or bringing such proceeding. Applicant further agrees to indemnify the County for all of County's costs, attorneys' fees, and damages, which the County incurs in enforcing this indemnification agreement.

Applicant further agrees, as a condition of project approval, to defend, indemnify and hold harmless the County for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if the Applicant desires to pursue securing approvals which are conditioned on the approval of such documents.

In the event any such proceeding is brought, County shall promptly notify the Applicant of the proceeding, and County shall cooperate fully in the defense. If County fails to promptly notify the Applicant of the proceeding, or if County fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County. The County shall retain the right to participate in the defense of the proceeding if it bears its own attorneys' fees and costs, and defends the action in good faith. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.

| | |
|--|--|
| <u>John T. Williams</u> Print Name of Property Owner | <u>John T. Williams</u> Print Name: Signature of Applicant (if different) |
|  Signature of Property Owner |  Signature of Applicant |
| 1.27.14 Date | 1.27.14 Date |