

RESOLUTION NO. 2023-001

A RESOLUTION OF THE PARKS, BEACHES AND RECREATION COMMISSION OF THE CITY OF PACIFICA UPHOLDING THE DIRECTOR OF PUBLIC WORKS' APPROVAL OF A TREE REMOVAL PERMIT (HT-015-23) GRANTING THE REMOVAL OF ONE MONTEREY CYPRESS TREE WITH A 60 INCH DIAMETER AT BREAST HEIGHT LOCATED IN THE SOUTHEAST CORNER OF THE REAR YARD AT 1164 ROSITA ROAD (APN 023-252-140), AND FINDING THE REMOVAL EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

WHEREAS, on March 27, 2023, an application ("Application") for a tree removal permit to remove one (1) Monterey cypress tree with 60-inch diameter at breast height (dbh) located in the southeast corner of the rear yard at 1164 Rosita Road (APN 023-252-140) ("Property") was filed by Janice Hanlon; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304 (b) of title 14, California Code of Regulations, §§ 15000 et seq. (the "CEQA Guidelines"); and

WHEREAS, the designee of the Director of Public Works reviewed the tree removal permit based on the criteria under Section 4-12.04(c) of the Pacifica Municipal Code and recommended approval of the application with conditions on March 29, 2023; and

WHEREAS, the notice of decision was provided as required by PMC Section 4-12.07(a), informing recipients of the applicable appeal period; and

WHEREAS, the City Clerk of the City of Pacifica received an appeal of the Director of Public Works' approval of the tree removal permit submitted by John Beckmeyer ("Appellant") on April 11, 2023 ("Appeal"); and

WHEREAS, the Parks, Beaches and Recreation Commission of the City of Pacifica did hold a duly noticed public hearing on May 24, 2023, at which time the Commission continued the item to a date certain on June 28, 2023 to receive additional information on the permit; and

WHEREAS, the Parks, Beaches and Recreation Commission of the City of Pacifica did hold a duly noticed public hearing on June 28, 2023, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

NOW, THEREFORE BE IT RESOLVED by the Parks, Beaches and Recreation Commission of the City of Pacifica as follows:

- A. The above recitals are true and correct and material to this Resolution.
- B. In making its findings, the Parks, Beaches and Recreation Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

BE IT FURTHER RESOLVED that Parks, Beaches and Recreation Commission of the City of Pacifica denies the Appeal for the following reasons:

The condition of the tree, the potential risk of the tree falling, and proximity of the tree to existing structures has deemed the tree a hazard and removal is recommended to avoid potential damage. The Arborist report prepared by Kevin Pineda, ISA Certified Arborist, indicated several reasons for tree removal which included that the tree is over mature and overgrown for the small site, the canopy is imbalanced, and tree protection zone is violated which compromises the structural root plate and anchoring capacity. The tree removal request and Arborist report was reviewed by the City's consulting arborist a licensed Landscape Architect, who agrees with the findings to remove the tree as evaluated in the arborist report based on the criteria for removal in PMC Section 4-12.04(c). Additionally, the City's consulting arborist reviewed and concurs with the Tree Condition Assessment prepared by Donald W. Cox, ISA Certified Master Arborist, evaluating the structural/root zones. A peer review prepared by the City's consulting arborist and subconsultant evaluated the trees structural integrity and indicated that the tree is compromised for the above-mentioned reasons and is deemed a hazard for the site. Therefore, the Parks, Beaches, and Recreation Commission recommends removal of the tree as removal is consistent with PMC Section 4-12.04(c) as detailed below.

BE IT FURTHER RESOLVED that the Parks, Beaches and Recreation Commission of the City of Pacifica does hereby make the finding that the Project qualifies for a Class 4 exemption under CEQA. Guidelines Section 15304, as described below, applies to the Project:

Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. An example includes, but is not limited to:

* * * * *

(b) New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire-resistant landscaping.

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The subject proposal is to remove one tree that has the potential for structural failure and may be a hazard for existing structures on-site. The proposal also includes replacement planting to mitigate potential adverse effects of removing a tree on this property. Therefore, the proposal includes new landscaping. For the foregoing reasons, there is substantial evidence in the record to support a finding that the Project is categorically exempt from CEQA pursuant to Section 15304 of the CEQA Guidelines.

BE IT FURTHER RESOLVED that Parks, Beaches and Recreation Commission of the City of Pacifica does find the project to be consistent with five criteria to grant a tree removal permit established by PMC Section 4-12.04(c):

- 1) *The condition of the tree, presence of disease, pest infestation, damage, public nuisance, risk, proximity to existing or proposed structures, and/or interference with utility services;*

The City's consulting arborist concurs with the arborist report prepared by Kevin

Pineda in that the structural integrity of the tree is compromised because the tree only has foliage on one side with codominant stems which make it prone to failure. Accordingly, it will not be possible to re-establish canopy growth and the tree is a hazard. The City's consulting arborist also concurs with the Tree Condition Assessment in that the encroachment of the Structural Root Zone has compromised the structural stability of tree. Therefore, removal is necessary to avoid risk to existing structures.

Furthermore, the City's consulting arborist and sub consultant performed a visual examination of the subject tree to determine its health, structural condition, and roots. The Monterey cypress tree is asymmetrical with the entire distribution of live foliage on the south-facing side of the tree and visual signs of minor to moderate decay were observed in the canopy, where evidence of past limb failure occurred. The subject tree was sheltered and matured alongside a Redwood tree that was removed approximately three years ago. The removal of the Redwood tree left the canopy of the Monterey cypress tree exposed to wind and this increases the likelihood of significant limb failure which will damage adjacent fences and could hit other targets as well. In summary, the tree is considered at risk of partial failure due to the heavy, asymmetrical canopy and its exposure to the wind. The City's consulting arborist and sub consultant recommend removal of the tree before any damage occurs.

- 2) *Whether the requested action is necessary for the economically viable use of the property;*

The proposed removal is not directly necessary for the economically viable use of the property because the site is already developed with an economic use (single-family residence).

- 3) *The topography of the land and effect of the requested action on it;*

The subject tree is located on a sloped hill of the southeastern corner in the rear yard of 1164 Rosita Road. The hill slopes downward toward the existing single-family residence and the subject tree is located at the top left corner of the hill. The City's consulting arborist concurred with the arborist reports determination that the trees structural integrity was compromised because the tree only has foliage on one side with codominant stems that make it more prone to failure. Therefore, the City's consulting arborist found the removal to be adequate for the site. Additionally, the project has been conditioned to ensure that tree removal is performed by a licensed tree removal specialist to ensure best practices are achieved. The licensed tree removal specialist is required as improper removal could present a hazard to life and property, which is similar to why tree removal is recommended. Furthermore, the site conditions for the tree were found to be small for the mature tree as stated in the arborist report, thus, proper removal by a licensed tree removal specialist would ensure best practices are achieved.

- 4) *The number, species, size, and location of existing trees in the area and the effect of the requested action upon shade, noise buffers, protection from wind damage, air pollution, historic value, scenic beauty and upon the health, safety, and general welfare of the area and the City as a whole; and*

The existing Monterey Cypress tree is currently screening adjacent properties to the rear and contributes to reduced air pollution; however, the tree's current condition may impact the health, safety, and general welfare of the area. The tree's condition was assessed in the Arborist Report prepared by Kevin Pineda and the Tree Condition Assessment prepared by Don Cox. The City's Consulting Arborist concurs with the reports and that found the tree was not suitable for the site due to the issues with the structural integrity, as discussed in further detail above. Additionally, the peer review prepared by the City's consultants stated that the tree is at risk to partial or full failure due to the heavy and asymmetrical canopy, root damage to the roots stabilizing the opposite lean of the tree, and that the tree is now exposed to winds when it was once sheltered by a redwood tree. Therefore, the tree is recommended for removal to improve the site and reduce potential impacts of the tree failing due to the current structure.

5) *The number of healthy trees the parcel is able to support.*

The parcel appears to have sufficient space to support trees in the rear and front yard of the property. However, the existing Monterey Cypress tree was determined to be overgrown for the site and recommended for removal. Two replacement trees are recommended to mitigate potential adverse impacts of removing the tree and to provide healthy trees in place of the Monterey Cypress that is structurally failing.

BE IT FURTHER RESOLVES that the Parks, Beaches and Recreation Commission of the City of Pacifica hereby approves Tree Removal Permit HT-015-23 subject to the conditions of approval in Exhibit A to this Resolution.

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Appeal of Tree Removal Permit HT-015-23
1164 Rosita Road (APN 023-252-140)
June 28, 2023

PASSED AND ADOPTED at a regular meeting of the Parks, Beaches and Recreation Commission of the City of Pacifica, California, held on the 28th day of June, 2023, by the following vote:

AYES, Commissioner: Abbott, Benton-Shoemaker, Heywood, Nicolari and Phillips

NOES, Commissioner: None


ABSENT, Commissioner: Rodriguez and Torres

ABSTAIN, Commissioner: None



Cindy Abbott, Chair

ATTEST:



Bob Palacio
Parks, Beaches and Recreation Director

APPROVED AS TO FORM:



Michelle Kenyon
City Attorney

Exhibit A

Conditions of Approval: Tree Removal Permit HT-015-23, to remove one Monterey Cypress with a 60-inch Diameter at Breast Height located in the southeast corner of the rear yard at 1164 Rosita Road (023-252-140)

Parks, Beaches and Recreation Commission Meeting of June 28, 2023

1. Applicant shall maintain its site in a fashion that does not constitute a public nuisance and that does not violate any provision of the Pacifica Municipal Code.
2. The applicant/property owner shall provide replacement planting of a minimum of two (2) 15-gallon trees that are of the same species or species of similar mature stature to be planted in a similar location as the subject tree to be removed to the satisfaction of the Director of Public Works or their designee to be consistent with PMC Section 4-12.04(e).

In the event replacement trees are not feasible, the Director of Public Works or their designee may request that the applicant pay the replacement value of the mature protected tree minus the cost of the replacement trees or trees in lieu thereof if on-site replacement is not feasible. No applicant shall be required to spend more on the replacement trees than the appraised value of the trees for which a permit is required. The Director shall determine the replacement value of the trees utilizing the most recent edition of the Guide for Plant Appraisal by the Council of the Tree and Landscape Appraisers.

3. All tree removal activities shall be performed by a licensed tree removal specialist to ensure best practices are achieved.
4. The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.

END