

RESOLUTION NO. 4362

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DENYING AN APPEAL AND UPHOLDING THE SEPTEMBER 4, 2020 NOTICE OF DECISION FOR TREE PERMIT APPLICATION NO. T2019-0033

Whereas, on August 27, 2020, the Town of San Anselmo Public Works Director held a duly noticed public hearing regarding Tree Permit Application T2019-0033 for the proposed removal of a 48 inch diameter Southern Magnolia located at 28 Laurel Avenue in San Anselmo; and

Whereas, following the public hearing, on September 4, 2020, the Town Public Works Director issued a Notice of Decision denying the permit to remove the tree;

Whereas, on September 14, 2020, the applicant filed an appeal to the Notice of Decision ("Appeal"); and

Whereas, on November 10, 2020, the Town Council of the Town of San Anselmo conducted a duly noticed public hearing on the Appeal; and

Whereas, pursuant to San Anselmo Municipal Code sections 4-13.07 and 10-1.06, at the hearing, the appellants and applicants were given the opportunity to present testimony and evidence for the Town Council's consideration; and

Whereas, following the public hearing, the Town Council deliberated and reached a decision based on the evidence in the record.

Now, therefore, be it resolved as follows:

A. **Environmental Review.** The Town Council of the Town of San Anselmo finds that adoption of this resolution is not a project as defined by 14 California Code of Regulations 15378 and therefore the California Environmental Quality Act is not applicable.

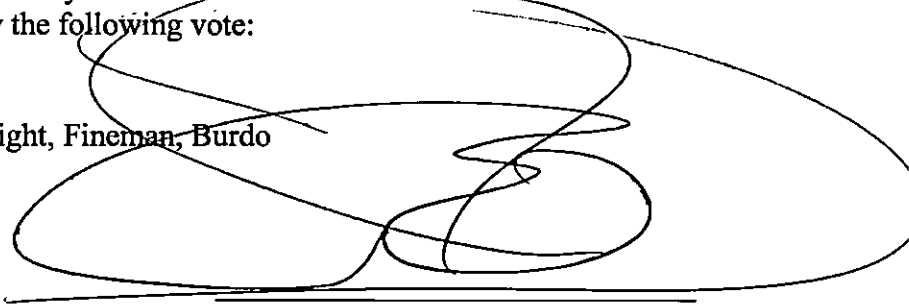
B. **Decision on Appeal.** The Town Council hereby denies the appeal and upholds the September 4, 2020, Notice of Decision denying the application for removal of a Southern Magnolia at 28 Laurel Avenue. The September 4, 2020, Notice of Decision is attached hereto and incorporated herein by reference (Exhibit 1).

C. **Findings.** The Town Council denies the appeal and affirms the September 4, 2020, Notice of Decision based on all of the findings included in the Notice of Decision

and on the evidence in the record, including the staff report and attachments, presentations from staff and both parties, and witness testimony at the November 10, 2020 public hearing on the Appeal.

The foregoing Resolution was adopted by the Town Council of the Town of San Anselmo on November 10, 2020 by the following vote:

AYES: Greene, Colbert, Wright, Fineman, Burdo
NOES: None
ABSENT: None

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above a horizontal line.

Mayor

ATTEST: Carla Kaemar
Town Clerk

Exhibit 1 – September 4, 2020, Notice of Decision

ATTACHMENT A to Resolution No. 4362

September 4, 2020, Notice of Decision for Tree Permit Application No. T2019-0033

Ford Greene
Mayor

Brian Colbert
Vice Mayor



TOWN OF
SAN ANSELMO
EST. 1907

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TREE PERMIT APPLICATION – T2019-0033

NOTICE OF DECISION
September 4, 2020

Steve Burdo
Council Member

Alexis Fineman
Council Member

John Wright
Council Member

Applicant: William Dorran
Project Address: 28 Laurel Avenue

Due to claimed foundation damage and proximity to the home a Tree Permit Application to remove a mature Southern Magnolia Tree (photo below) measuring approximately 48 inches in diameter was submitted on August 2, 2019. The subject tree is behind the home within one foot.

The application from Mr. Dorran includes an arborist report dated July 31, 2019 from Urban Forestry Associates, Inc. The report notes that tree has good health, structure and form. In addition, the report notes that there may be some movement of doors, windows, and floors from the roots. An engineer's report was also submitted, dated March 4, 2020, from Design Everest Consulting Engineers. The report notes that the proximity of the tree to the foundation appears to be causing displacement and cracks to the foundation. However, the report also notes that there is settlement throughout the home which is typical of homes in the area.

Because the report does not state there was an imminent threat or that the tree was dead, dying, or dangerous, a 10 day notice was sent out to all properties within a 300 foot radius. However, there was a delay partly due to the fact that the tree borders two properties and both owners needed to submit an application for its removal. Several emails have been received explaining their objection or concern about the trees potential removal given its health, stature and environmental impact in the neighborhood. Therefore, an administrative tree hearing was scheduled for August 27, 2020 to receive testimony and evidence from both the applicant and the neighbors who objected to the tree removal.

At the hearing, formal rules of evidence and discovery did not apply. All parties were given the opportunity to present evidence in support of their position and to cross-examine witnesses.

Following a presentation from the applicant and statements and emails from neighbors, Town staff determined that there was enough information to make a determination regarding the permit application.

Discussion and Findings

The Municipal Code Chapter 13 describes the five considerations to be considered in reviewing tree permit applications.

Considerations:

1. *The condition of the trees or heritage trees with respect to disease, danger of falling, proximity to existing structures, and interference with utility services.*

The tree is healthy, has good form and structure so there is no potential or imminent threat to the home or the neighboring properties.

2. *The necessity of the contemplated work to allow the economic enjoyment of the property.*

The Southern Magnolia tree is causing foundation damage to the home. The tree has also outgrown the location it was planted in and is encroaching on the home as documented in the reports. However, the tree appears to be causing minor cracking to the foundation at this time and no alternatives were given to try and remedy this such as bridging the roots. In addition, much of the cracking in the foundation appears to be from settlement which is typical for a house of this vintage. Therefore, while the tree may be reducing the owner's economic enjoyment of and use of their property it appears to be minimal.

3. *The topography of the land and the effect of the contemplated work on erosion, soil retention and the diversion of increased flows of surface water.*

The removal of the tree may cause an increase in surface water flow from the property to others.

4. *The general effect of the contemplated work on property values in the area.*

Information was not presented on the impact of the tree on property values in the area. However, the removal of such a large and prominent tree in the neighborhood will most likely have a negative effect on the property values in the area..


5. *Good forestry practices. A permit shall be issued unless the Parks Department Arborist finds, after an inspection on the securing of such expert advice deemed necessary, and making the foregoing determinations, that the trees affected are of a size, type, condition and location and in such surroundings that the contemplated work would significantly frustrate the purposes of this chapter.*

In staff's opinion the removal of this significant tree, goes against the intent of the this chapter in the municipal code.

Decision

1. Staff hereby denies the Tree Permit application to remove the Southern Magnolia tree. The denial of the tree removal shall be final 10 calendar days following the date of the decision by the Director of Public Works.
2. The applicant may appeal staff's decision within 10 days of this notice to Town Council.

Prepared By:


Sean Condry, P.E.
Public Works Director

Attachments:

See link for Municipal Code Section 4, Chapter 13,

https://library.municode.com/ca/san_anselmo/codes/code_of_ordinances?nodeId=TIT4PUWE_MOCO_CH13PRTR or under Town of San Anselmo website/Government/Town Municipal Code/ Title 4, Chapter 13

