

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA DENYING AN APPEAL AND UPHOLDING PLANNING AND ECONOMIC DEVELOPMENT DIRECTOR DETERMINATIONS MADE DURING PLANNING REVIEW OF BUILDING PERMIT APPLICATION B20-6871 FOR MODIFICATIONS TO THE PROPERTY LOCATED AT 1900 BRUSH CREEK ROAD; ASSESSOR'S PARCEL NUMBER 182-140-056; FILE NUMBER ST20-003

WHEREAS, on February 19, 2020, Code Enforcement Case (CE20-0139) was opened in response to a complaint received about trash, debris, and unpermitted construction at 1900 Brush Creek Road (subject parcel); and

WHEREAS, on August 4, 2020, Code Enforcement received a complaint regarding unpermitted addition extending through property line setbacks on subject parcel; and

WHEREAS, on August 10, 2020, Code Enforcement received a complaint regarding possible safety issues with Water, fire, and extensive excavation work throughout the subject parcel from the complainant; and

WHEREAS, on October 21, 2020, Code Enforcement received a complaint requesting that the City investigate certain contractors, include the property owner of the subject parcel; and

WHEREAS, on November 2, 2020, Code Enforcement received a complaint regarding an illegally built addition to the home on the subject parcel, removal of Redwood tree to make room for the addition on the subject parcel, concerns about re-planting of Redwood trees on the subject parcel, light bleed onto complainant's property, including light bleed going in through windows, and possible damage to root system of a heritage oak tree on the subject parcel; and

WHEREAS, Code Enforcement Division has made a thorough investigation of all complaints received, issued violations, and informed the Property Owner of the subject parcel that resolution of all outstanding Code Enforcement violations may be accomplished through the Building Permit process; and

WHEREAS, on December 11, 2020, Building Permit application B20-6871 to legalize unpermitted construction, including tree removal, at 1900 Brush Creek Road, was accepted by Building Division; and

WHEREAS, during Planning review of the Building Permit application, the Planning Director determined that modifications to the property described in the Building Permit application comply with all applicable City Codes, including the City's Tree Ordinance and Zoning Code, and with Parcel Map No. 609, which is the Final Map for the subject parcel; and

WHEREAS, on December 14, 2020, Planning Division received an Appeal Application submitted by Kathy Parnell (Appellant); and

WHEREAS, on December 17, 2020, Planning Division received an amended Appeal Application submitted by Appellant; and

WHEREAS, the Appeal and amended Appeal Applications assert that Planning Director determinations made as part of the Planning Department's review of Building Permit B20-6871 are not consistent with the subject parcel's Final Map, nor in compliance with the City's Tree Ordinance; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the appeal at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, the Planning Commission has considered the appeal, the staff reports, oral and written, the General Plan and zoning applicable to the project, the testimony, written comments, and other materials presented at the public hearing; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Santa Rosa finds and determines that:

1. Planning Director determinations made during Planning review of Building Permit B20-6871 comply with all applicable City Codes, including the City's Tree Ordinance and Zoning Code, and with Parcel Map No. 609, which is the Final Map for the subject parcel, in that (1) the proposed building addition to the existing primary dwelling unit complies with all required setbacks and other development standards, and (2) the tree removal included in the Building Permit scope of work is consistent with Section 17-24.050 Permit category II – Tree alteration, removal or relocation on property proposed for development-Requirements, and is subject to mitigation. The Property Owner has requested that alternative mitigation in the form of a \$2,600 payment to the City's Tree Mitigation Fund be accepted. Planning has reviewed and approves this request. Therefore, required tree removal mitigation consists of a \$2,600 payment to the Tree Mitigation Fund.
2. This action is not subject to the California Environmental Quality Act (CEQA) in that the City's issuance of a Building Permit involves only the use of fixed standards or objective measurements and is therefore a ministerial action.

Ministerial projects are statutorily exempt from the requirements of CEQA (CEQA Guidelines, § 15268). "A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out." (CEQA Guidelines, § 15369). The California Supreme Court has explained further that "[a] 'ministerial' decision is one that involves little or no judgment or discretion by the approving official about the wisdom or manner of carrying out the project..." (Stockton Citizens for Sensible Planning v. City of Stockton (2010) 48 Cal.4th 481, 512, citing CEQA Guidelines §§ 15357, 15369; see also Sierra Club v. Napa County Bd. of Supervisors (2012) 205 Cal.App.4th 162, 179 ["CEQA does not apply to an agency decision simply because the agency may exercise some discretion in approving the project or undertaking.

Instead to trigger CEQA compliance, the discretion must be of a certain kind; it must provide the agency with the ability and authority to ‘mitigate...environmental damage’ to some degree”]).

The City’s issuance of the Building Permit for this project is a ministerial decision and is therefore exempt from CEQA.

BE IT FURTHER RESOLVED, that the Planning Commission of the City of Santa Rosa does hereby deny all appeals and upholds the Director of Planning and Economic Development’s Planning review determinations made during review of Building Permit B20-6871.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 25th day of March, 2021, by the following vote:

AYES: ()

NOES: ()

ABSTAIN: ()

ABSENT: ()

APPROVED: _____
Karen Weeks, Chair

ATTEST: _____
Bill Rose, Executive Secretary