

From: [Trippel, Andrew](#)
To: [Manis, Dina](#); [Williams, Stephanie](#)
Cc: [Chris Skelton](#)
Subject: FW: [EXTERNAL] RE: 7/13 Additional Document Uploaded
Date: Tuesday, July 13, 2021 9:37:27 PM
Attachments: [image002.png](#)
[7.13.21 Council Talking Notes.pdf](#)
[image007.png](#)

Good evening,

Please see Mr. Skelton's request to have speaking notes included in the administrative record.

Thanks,

Andrew

Andrew Trippel, AICP | Acting Supervising Planner – Current Planning

Planning & Economic Development | 100 Santa Rosa Ave Rm 3 | Santa Rosa, CA 95404
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From: Chris Skelton <chris@landlawllp.com>
Sent: Tuesday, July 13, 2021 7:37 PM
To: Trippel, Andrew <atrippel@srcity.org>
Subject: [EXTERNAL] RE: 7/13 Additional Document Uploaded

Thank you.

In case time is limited this evening, please find attached my speaking notes for inclusion in the administrative record.

Thanks you.

Chris

Chris A. Skelton
Attorney

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From: Trippel, Andrew <atrippel@srcity.org>
Sent: Tuesday, July 13, 2021 12:27 PM
To: Chris Skelton <chris@landlawllp.com>
Subject: FW: 7/13 Additional Document Uploaded
Importance: High

FYI.

Andrew Trippel, AICP | Acting Supervising Planner – Current Planning

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From: Manis, Dina <dmanis@srcity.org>
Sent: Tuesday, July 13, 2021 9:23 AM
To: Manis, Dina <dmanis@srcity.org>

Additional documents have been added to the 7/13 Regular Meeting Agenda. Please see below for detail and link(s).

- Item 3.1 – [REVISED Presentation \(Uploaded 7-13-2021\)](#)
[Late Correspondence \(Uploaded 7-13-2021\)](#)
- Item 12.4 - [Late Correspondence \(Uploaded 7-13-2021\)](#)
- Item 13 - [Late Correspondence \(Uploaded 7-13-2021\)](#)
- Item 15.1 - [Appellant Presentation \(Uploaded 7-13-2021\)](#)
[Late Correspondence \(Uploaded 7-13-2021\)](#)
- Item 15.2 - [REVISED Appellant Presentation \(Uploaded 7-13-2021\)](#)
[Late Correspondence \(Uploaded 7-13-2021\)](#)

Dina

Dina Manis, CMC | Deputy City Clerk

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7.13.21 Council Meeting Talking Points

In December 2020, this Council described the appeal of a project called “The Flats” as a “Watershed moment”. In that hearing, the Council declared that its decision would send a message about supporting the policies outlined by the City’s land use and development tools. The Flats project was unanimously supported by this Council, in part, because of the way it honored a process with years of advance planning with staff and community stakeholders.

The project at 1900 Brush Creek could not be a further juxtaposition from the Flats. In fact, there was almost zero advance planning, and the process can be fairly characterized as an “ask for forgiveness instead of permission” strategy. However, this appeal also presents a watershed moment for the Council’s enforcement of heritage tree protection policies as well as enforcement of subdivision map conditions of approval, which exist throughout the City. These map conditions contribute to the look and feel of the local built environment.

The staff report compels the Council to only consider this appeal in terms of the illegal tree removal and disregard the merits of the illegal construction under the guise that the illegal construction is not an appealable action from the Commission. In all of the staff communications, the violation of the tree ordinance has been folded into, and inextricably intertwined with, the illegal construction. This is explicitly confirmed on page 8 of the staff report where it is stated that the appeal could not have been processed on December 9 since there was no decision to appeal as of that date – the building permit that was the tool for legalizing the tree removal was not filed until December 11.

It is impossible to reconcile staff’s desperate attempt to insulate the illegal construction from further review by the Council. Further, it is disingenuous and patently unreasonable to suddenly bifurcate these two issues at this late stage. Accordingly, I respectfully request that the Council take up both issues as detailed in the appeal and presented this evening. Please also note that despite the prompt filing of the appeal from the Planning Commission, this issue of non-appealability was only first identified upon release of the staff report this past week.

The decision to retroactively permit the illegal heritage redwood tree removal is fundamentally flawed and amounts to an abuse of discretion.

1. The City applied the incorrect standard for review since at the time of the tree removal in October 2019, there was no develop designed or in process. Therefore, the appropriate provision would have been 17-24.040. There are specific findings required under that appropriate provision that have been consistently ignored and unresolved throughout this process.
2. Despite early and often requests, no arborist report has ever been produced to support the illegal tree removal. In the absence of such documentation, which is commonly produced under

any development application process, it is impossible to make an informed decision on the merits of this retroactive permit.

3. Similar to the developer's inability to produce the arborist report from a qualified professional, the justifications for removing the heritage redwood tree have spread across the full spectrum, including: root intrusion in the home's foundation; damage to roof; fire risk, and risk to health and safety of children playing in the backyard. The incoherent messaging begs a question about the veracity of application materials.

The staff report identifies at the bottom of page 9 that "City response to unpermitted tree removal is directed by the Enforcement language in the Code." On September 17, 2020, the City issued a notice of violation and provided a copy of the relevant Code Section to the developer. The staff report further shares near the bottom of page 9 that Planning, Building, Code Enforcement, and the City Attorney staff reviewed Section 17-24.140 ("Violation") of the Code. Despite the clear and mandatory language in that Code section that requires a two-year moratorium on issuance of any permits, each of these different departments somehow elected to ignore the express language of the Code and instead devised a "pathway" that would resolve the code enforcement case for the illegal work. This is revealed in the communication on September 1 to the Appellant.

Despite months to investigate and opportunity to analyze the case, an inter-office email from November 16 confirms that staff elected to rubber stamp the entire scope of illegal work as well as to disregard and not to enforce the express language of the Code related to the 2-year mandatory moratorium. Andrew Trippel confirmed that even in the absence of the arborist report that was previously requested on numerous occasions, Planning would approve the tree removal as part of a building permit application. Hence, staff predetermined the answer to an application almost three weeks in advance of any formal application being submitted.

The next four slides are the original communications that reveal the developer's internal inconsistency in attempting to justify the tree removal. I will skip over to preserve time since they were also included in your packet of information.

Will this council enforce the policies of the heritage tree protection and preservation ordinance that mandate a two year moratorium on any permits? Or, will it send a message to future developers or disgruntled homeowners that any tree can be easily removed so long as you budget an additional \$2,500 to do so. No arborist report is necessary, which should afford additional opportunities for cost savings if others elect to follow a similar strategy.

Moving on to the illegal construction, there are three distinct components. All three apply, but any one would be sufficient to deny the approvability of the project as submitted.

Parcel Map condition of approval 8(c) requires a 10-foot separation between the edge of pavement and the existing house at 1900 Brush Creek Road. Since there was only one home on the property at the

time of subdividing, we know what structure it applies to and where it applies. Similarly, condition of approval 11 requires 46-foot setback to the northern property line. Sheet 4 of the parcel map clearly reveals the 46-foot setback on all three parcels.

Since the illegal work was performed, Appellant commissioned a survey, which was prepared by Ray Carlson. His survey work demonstrates that the new addition is only 3.45 feet from the edge of pavement rather than the 10-feet required by the condition of approval.

Two qualified professional, Mike Buti and Ray Carlson, have both submitted letters in support of the appeal and contesting the City's disregard for both the application of all sheets to the parcel map as well as ignoring the conditions of approval. City Staff has consistently asserted that the conditions depicted on the supplemental sheet for the map are not enforced or enforceable but rather represent a snapshot during a moment of time. Both staff and the developer have attempted to leverage the statutory language under the subdivision map act and the local subdivision ordinance that describes the supplemental information sheet for information purposes only and is not intended to affect recording interest. There is not claim that the developer is divested of his title interest in the subject property.

Staff's reliance on this provision is misplaced and contrary to the Code. Specifically, 19.28.200(D) requires notes and all additional survey and map information, including building setback lines and building envelopes, to be contained on the informational sheet of the map.

Further, 19.08.020 defines "building envelope" as the area of a lot or parcel of real property within which structures must be confined...and which is delineated on the information sheet of the parcel map and so designated." Based on this more wholistic review of the Code, there is no other more appropriate place to identify the building envelope and setback lines than on the additional information sheet.

However, even if this Council cannot understand this logical reasoning within the Code, let me show you a pattern of historical application of this Code provision and how it has manifested into the development projects that followed those separate maps.

[Review examples from maps]

If, as staff claims, that the conditions depicted on supplemental sheet to the Parcel Map is not enforced and only represent a snapshot in time, then we must extend that same logic in evaluating the illegal construction's compliance with the current development standards. Specifically, we must reconsider

how the front of lot is defined for 1900 Brush Creek and measurement of front setback as defined relative to the access easement. See slides for detailed breakdown.

From: [Kathleen Parnell](#)
To: [City Clerk](#); [CityCouncilListPublic](#)
Subject: [EXTERNAL] 1900 Brush Creek Road - Additional Documents for Public Record
Date: Tuesday, July 13, 2021 8:11:24 PM
Attachments: [City Council - Kathy Parnell 7-13-21.pdf](#)
[Kathy Parnell - Doc 2 7-13-21.pdf](#)

Please include these documents into the public record for the 1900 Brush Creek matter.

Thank you,
Kathy Parnell

Date: July 12, 2021

To: Honorable Mayor Chris Rogers and Santa Rosa City Council Members

From: Kathy Parnell 

RE: 1900 Brush Creek Road Appeal – Additional Information to Support Upholding Appeal

This appeal involves multiple, intertwined decisions and actions by the City of Santa Rosa relating to an unpermitted heritage tree removal and unpermitted build at 1900 Brush Creek Road, the actions of its owners and their agents and the City of Santa Rosa's handling of this matter.

In July 2019, Dan and Amber Lichau purchased 1900 Brush Creek Road. In mid-October 2019, the Lichaus and their consultants/agents (Ivan Rezvoy and Tom Lynch) contacted the City about the property's "building envelope" shown on the Supplemental Sheet (sheet 4) of the Final Map. The Lichau's agent, Rezvoy, stated (incorrectly) that the distance from the northern property line to the north side setback was not defined on the Map, and he further concluded (incorrectly) that "*the Final Subdivision Report of June 21, 2000 [Minutes of the Lands of Dehnert] does not mention this boundary at all.*" He then asked the City if they could proceed with their planned improvements shown on their draft Site Plan (which would effectively violate the existing house's envelope shown on the Supplemental Map at the northern side), or if they needed to apply for a modification of the property's building envelope.

In October 2019, City Planner Monet Shekhali responded to the Lichaus and their agents, "**No need to apply the setbacks being shown on the Supplemental Sheet**" [to the Final Map] and "*it has been determined that the new addition needs to comply with required setbacks for R-1-15-SR per Section 20-22.050*" (i.e. current Residential District Development Standards).

In October 2019, with no permits, the Lichaus cut down an approximate 70 foot, seemingly healthy, split-trunk redwood heritage tree, adjacent to the northern edge of their existing house and within public view on a designated scenic road (-SR). This tree is notable, not only because it provided privacy to the neighboring homes and added scenic charm to the area, but also because it was specifically discussed in the *Minutes of the Lands of Dehnert* describing the driveway and the trees that would remain as markers and line the driveway.

In May 2020, again with no permits, the Lichaus built a 12'x30' addition (bump-out) to their existing house, violating the northern edge of their existing envelope by approximately 9'x30' (or 10'x30' including eaves). The house is now situated just a couple feet from the water line leading to my home.

Planning's 2019 determination overlooked the ***Conditions of Approval*** provided in the *Minutes of the Lands of Dehnert (MIN99-006)*. When 1900 Brush Creek Road was sub-divided in 2000, it had an existing house on the property. The box labeled "*Building Setback Lines for Existing Building*" was checked on the application for the Subdivision Tentative Map. The sub-division created two additional lots for building development, as well as a shared, private road (driveway), which is described in detail in the Minutes. **It is clearly stated in the *Conditions of Approval #8(c)* with regard to the shared driveway that "a 10-foot separation shall be maintained between the edge of the pavement and existing house."** Further, the same redwood tree, which was cut down without permits by the Lichaus, is described in the Minutes in

the area adjacent to the existing home, which was to be preserved, also validating that it was not intended for the existing house to be built outside of its existing envelope.

If Planning staff wished to modify the Conditions for Approval of the Final Map, it did not follow procedures for a **Map amendment**. Proper approvals were not obtained to modify the envelope of the existing house and there was no public notice.

Planning's determination, which was sent to the Lichaus and their agents in 2019, was incorrect, and rather than owning a mistake, it has been a deliberate cover-up by the City and attempt to deny my due process through delay/denial of public records, providing mis-information to thwart and delay my appeal to the Planning Commission and more. Preferential treatment and bias favoring a Deputy Sheriff, who built without permits, has also caused me significant stress and frustration.

The conditions for a variance would likely not have been met. Because the build has already occurred and the Lichaus relied on information provided by the City from 2019, the City has acted outside the interest of its larger constituency and in its own self-interest and the self-interest of those who have erred in this case.

Dan Lichau wrote that the *"determination made by city staff, 6 months before the construction was started"* provided evidence of his intent to abide by setbacks, *"excluding the envelope only documented on the supplemental sheet."* The email from Sheikhalı was interpreted as a formal determination and green light to build through the existing house's envelope on the northern side.

The City's Chief Building Official told me in early December 2020 that Planning Staff's determination had related to **Tubbs Fire Rebuilds** because City Planning could approve homes in Fountaingrove to be rebuilt to the City's current zoning codes, instead of within the existing building envelopes shown on Supplemental Maps. I immediately objected and requested a copy of Planning's staff's analysis, because 1900 Brush Creek Road is not a fire rebuild, and even Planning's amended Resilient City measure, which broadened the scope, had just recently been presented and passed, but was not yet in effect.

After several weeks and multiple requests for Planning's analysis, I was then provided an email on December 23, 2020 from Planner Andrew Trippel with analysis for Planning's determination, which stated (1) "The Final Map does not show any required setback lines" (2) "Planning has determined that any information listed on the supplement sheet...is not intended to create enforceable development standards," and "This sheet is for informational purposes only" (3) Condition 3 of the Minutes stating "Building setbacks shall be shown on the local agency sheet of the final map" is met by the Scenic building set-back for a Scenic Road and *"No other setbacks are required by the Final Subdivision Committee Report."*

Planning's reasoning is flawed and misleading because Final Maps do show required setbacks and building envelopes, and they are shown on their Supplemental Sheets, which is informational (i.e. they do not affect title). Supplemental sheets are not "informational only" as Planning asserts. They provide supplemental information and create an enforceable development standard for a given project when approved. They do not affect title, but do affect development standards. Furthermore, the Minutes of the Lands of Dehnert, describe a minimum 10-foot distance between the existing house and pavement of the driveway. The existing house was not intended to be built to within 2-3 feet of the shared driveway, while the new construction would be held to a stricter building envelope.

The Supplemental Sheet of the Final Map clearly shows a building setback, 46 feet, from the northern property line on Lot 2. This is applicable to all three lots, as denoted with the "TYP" or "typical" reference by the original project surveyor, Mike Buti. Mr. Buti has provided the attached letter dated March 23, 2021 describing the setback and the intent of the map (See attached).

A 30' wide public utilities easement runs parallel to the northern property line. Distance from the easement to the existing building's envelope at the northeast corner is 16 feet, as measured by Ray Carlson & Associates in August 2021, which confirms the 46' measurement depicted by the TYP reference on the Supplemental Sheet.

City Code section 19-32.150 Additional Information, Parcel Map Procedures states that "*Typical representations may also be utilized if, in the opinion of the City Engineer, they adequately communicate the desired information.*" The Map was signed by Anthony Cabrera, who was then City Engineer. Mr. Cabrera has since been retained as a paid consultant for the Lichaus.

When City Planner, Andrew Trippel, requested information about the arborist, who cut down the tree and for the arborist report, the City was provided false information by the Lichaus and accepted grossly inadequate documentation. No review on the impact to the Scenic Road was conducted and City Planning Director, Bill Rose, refused to enforce a two-year moratorium on future building permits on the property, as described in City Code.

This was done with assistance from professional contractors and builders during the State and County stay-at-home orders, when allowed construction was limited to fire rebuilds. Dan Lichau stated that he did not seek permits prior to his build in May 2020 because many contractor friends told him that the City was not open, perhaps working remotely, and getting a permit was "impossible"; yet, no contact with the City was made in May, June or July by the Lichaus. The City has an online permitting system, accepts permit applications by email and appears to have received and issued permits during this same time, according to the online data.

The 2019 email with Planning's determination is baseless, negligent and wreckless, in what appears to be an arbitrary determination without proper vetting, review or notice. Planning made a gross error in its 2019 determination, and rather than owning a mistake, it was covered up. The 2019 emails were deliberately withheld from me for 6 months. I was told no determination had been made and it was an ongoing investigation. Yet a decision had, in fact, been made in 2019. I was stonewalled for months, denied/delayed access to public records, deliberately and intentionally frustrated, and denied due process. I was mis-directed where to file my Planning Commission appeal and then it was deliberately held by Planning without any acknowledgment of receipt, while the City quickly legalized the Lichau's build for permitting. Numerous individuals at the City in senior positions emailed one another and forwarded my appeal, demonstrating they had received it but did not process it. The City altered date stamps for the Lichau's Building Permit Application, which was originally submitted in August 2020. Even in December 2020, I was told that no Building Permit Application had been received and that I could not file an appeal until a Building Permit Application had been filed. The Building Permit Application was even accepted without the box being checked as a Code Enforcement Case.

Ms. Sheikhal did not advise the Lichaus what the set-back measurement should be (in feet), nor where it should be measured from, but simply stated that setbacks shown on the Supplemental Sheet of their approved Final Map did not apply to them, and that the City's current zoning standards applied instead.

Even if we apply current zoning standards this is a Corner Lot, not an interior lot as defined in the City's Code. It would be a CORNER LOT based on definitions in the City Code, and the setback should be measured 15 feet to the private road easement.

Lot, or Parcel. A recorded lot or parcel of real property under single ownership, lawfully created as required by applicable Subdivision Map Act and City ordinance requirements, including this Zoning Code. Types of lots include the following. See Figure 7-1 (Lot Types).

1. **Corner lot.** A lot located at the intersection of two or more streets, where they intersect at an interior angle of not more than 205 degrees. If the intersection angle is more than 205 degrees, the lot is considered an interior lot.

A Corner Lot is defined in Municipal Code as "a lot located at the intersection of two or more streets..." A Street is defined as "a public thoroughfare ...and, any other thoroughfare except an alley, as defined by this Subsection." An Alley is defined in the Subsection as a public or private roadway that provides vehicular access to the rear or side of parcels having other public street frontage that is not intended for general traffic circulation. Here, the Private Road/Shared Driveway is not an Alley. The Private Road provides vehicular access to the front of three parcels having no other public street frontage, in addition to providing vehicular access to 1900 Brush Creek Rd.

It has caused me significant stress, frustration and expense. I request that the City review this matter in detail, including the bias provided to the owners at 1900 Brush Creek Road and actions of City Staff.

July 13, 2021

Mayor Rogers & City Council Members,

My name is Kathy Parnell, and I filed the Appeal for 1900 Brush Creek Road. I live next door its owners, Dan & Amber Lichau, on a shared, private road.

I'm asking the City Council to preserve the integrity of our laws, neighborhoods and scenic roads. It's my hope that the City Council will review ALL the details and materials of this Appeal, even if it necessitates taking this under submission, and act in the best interest of the citizens of Santa Rosa by enforcing its City Codes and Approved Maps.

I believe there has been a bias by the City favoring the Lichaus, who knowingly disregarded the City's Tree Ordinance and did not seek a permit before cutting down a healthy 70' redwood heritage tree, and then... **6 to 7 months later**, also did not seek any permits prior to their illegal build, a 12x30 foot home addition, which violates a building envelope and was built out to a shared, private road easement.

Planning Staff made a gross error in fall of 2019, 6-7 months before the unpermitted build even began, when a Counter Planner told the Lichaus that they didn't need to abide by the setbacks or building envelope shown on their Supplemental Map, or as detailed in the Map Approval minutes, the Lands of Dehnert, which specifically required a 10' separation between the Existing House at 1900 Brush Creek to the Edge of the Shared Driveway. Instead, the Lichaus were told only the City's current zoning setbacks applied. This was not a formal review after a permit application was submitted, but a cursory conclusion from the Counter Planner about the envelope. Even in late fall 2020, Mr. Trippel emailed this same Planner and asked her how she came to this determination.

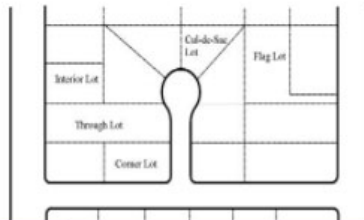
When I was apprised of the City's decision in early December 2020, I asked how a build could be approved if it violates a building envelope. Chief Building Official, Jesse Oswald, told me that it was because of the Tubbs Fire. Planning to could approve fire rebuilds, such as those in Fountaingrove, because of Resilient City and homes could be re-built outside of their original envelopes on the Maps. But

Brush Creek Road isn't Fountaingrove and this isn't a Resilient City Re-build. Now, we are told building envelopes are not enforceable because they are on the Supplemental Page of the Final Map. Why? To create a path to legalize this for the Lichaus. Is the City now going to arbitrarily negate building envelopes on Supplemental Sheets of Approved Final Maps without a Map Amendment or public notice?

The Lichaus didn't contact the City for permits prior to their build and assumed that risk. They erroneously applied a 10' interior side setback from their north property line, and this setback then falls within the private road, itself...rather than apply a setback from the private road easement. City Planning has stated that the Lichaus correctly applied their setbacks. I disagree. The set-back in question should be measured from the edge of the shared driveway pavement closest to their house, as described in the Map Approval Minutes, which subdivided this property. But even if the Minutes are totally disregarded by the City and all other arguments disregarded, as well, it should be viewed as corner side setback, given that the side in question is bound by a private road easement. A private road easement is specifically addressed in the Corner Side Setback only. **20-30.110**

Lot, or Parcel. A recorded lot or parcel of real property under single ownership, lawfully created as required by applicable Subdivision Map Act and City ordinance requirements, including this Zoning Code. Types of lots include the following. See Figure 7-1 (Lot Types).

1. **Corner lot.** A lot located at the intersection of two or more streets, where they intersect at an interior angle of not more than 205 degrees. If the intersection angle is more than 205 degrees, the lot is considered an interior lot.
2. **Flag lot.** A lot having access from the building site to a public street by means of private right-of-way strip.
3. **Interior lot.** A lot abutting only one street.
4. **Key lot.** An interior lot, the front of which adjoins the side property line of a **corner** lot.
5. **Reverse corner lot.** A **corner** lot, the rear of which abuts a key lot.
6. **Through lot.** A lot with frontage on two generally parallel streets.



A Corner Lot is defined in Municipal Code as "a lot located at the intersection of two or more streets..." A Street is defined as "a public thoroughfare ...and, any other thoroughfare except an alley, as defined by this Subsection." An Alley is defined in the Subsection as a public or private roadway that provides vehicular access to the rear or side of parcels having other public street frontage that is not intended for general traffic circulation. Here, the Private Road/Shared Driveway is not an Alley. The Private Road provides vehicular access to the front of three parcels having no other public street frontage, in addition to providing vehicular access to 1900 Brush Creek Rd.

I'm simply asking for fair and equitable treatment, proper review and enforcement of the Maps and Minutes that were approved 20 years ago, and honesty to call this for what it is.... A cover up.

The City should not reward developers or homeowners, who violate City Code consciously and deliberately, especially when it affects others adversely. If permitted, the message here is "Build First." Then, if you are caught, Just Seek Forgiveness. "We're sorry" or "We didn't know." Or "We were going to get permits later." These were all excuses used by the Lichaus to garner sympathy from City Staff and justify their conduct. But they knew better. Dan Lichau is a Deputy Sheriff and apparently has started a construction company, and worked on this unpermitted addition with experienced consultants and builders during the stay at home order.

City staff's Timeline in the presentation is misleading. A Code Enforcement Case was opened in February 2020, but no action was taken. It was ignored until a separate Code Enforcement Case was filed in August 2020. The Lichaus submitted their "After the Fact" Building Permit Application in August 2020 after being advised to do so in August by Code Enforcement. The Building Permit application does not even identify this as a Code Enforcement Case. Why?

I purchased my home 8 years ago because of the scenic road and privacy to my house on the driveway. The privacy screen is now gone, and a bedroom and bathroom are now a couple feet from our shared driveway. I am truly not opposed to anyone improving their property or home; we are all entitled to do that. But even if the City Council feels there is a 1% chance that there could be something wrong here, I ask you to investigate this.

I ask the Council to enforce the Tree Ordinance and enforce the two year moratorium on any new permits as a result of the unpermitted tree violation. and and building envelope that was previously approved, require the illegal build to be built to the correct set-back.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathy Parnell', written in a cursive style.

Kathy Parnell