

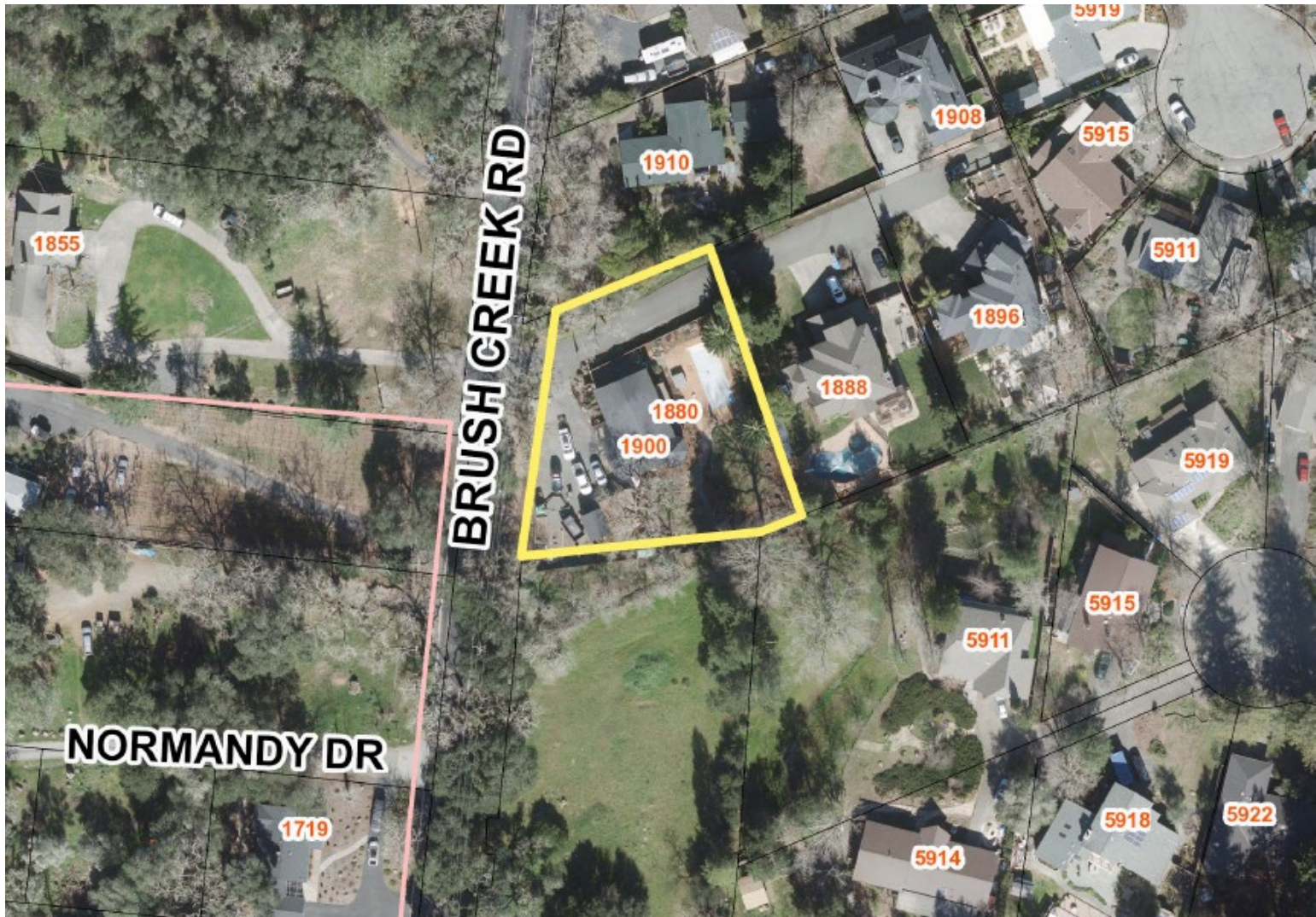
1900 Brush Creek Appeal

1900 Brush Creek Road

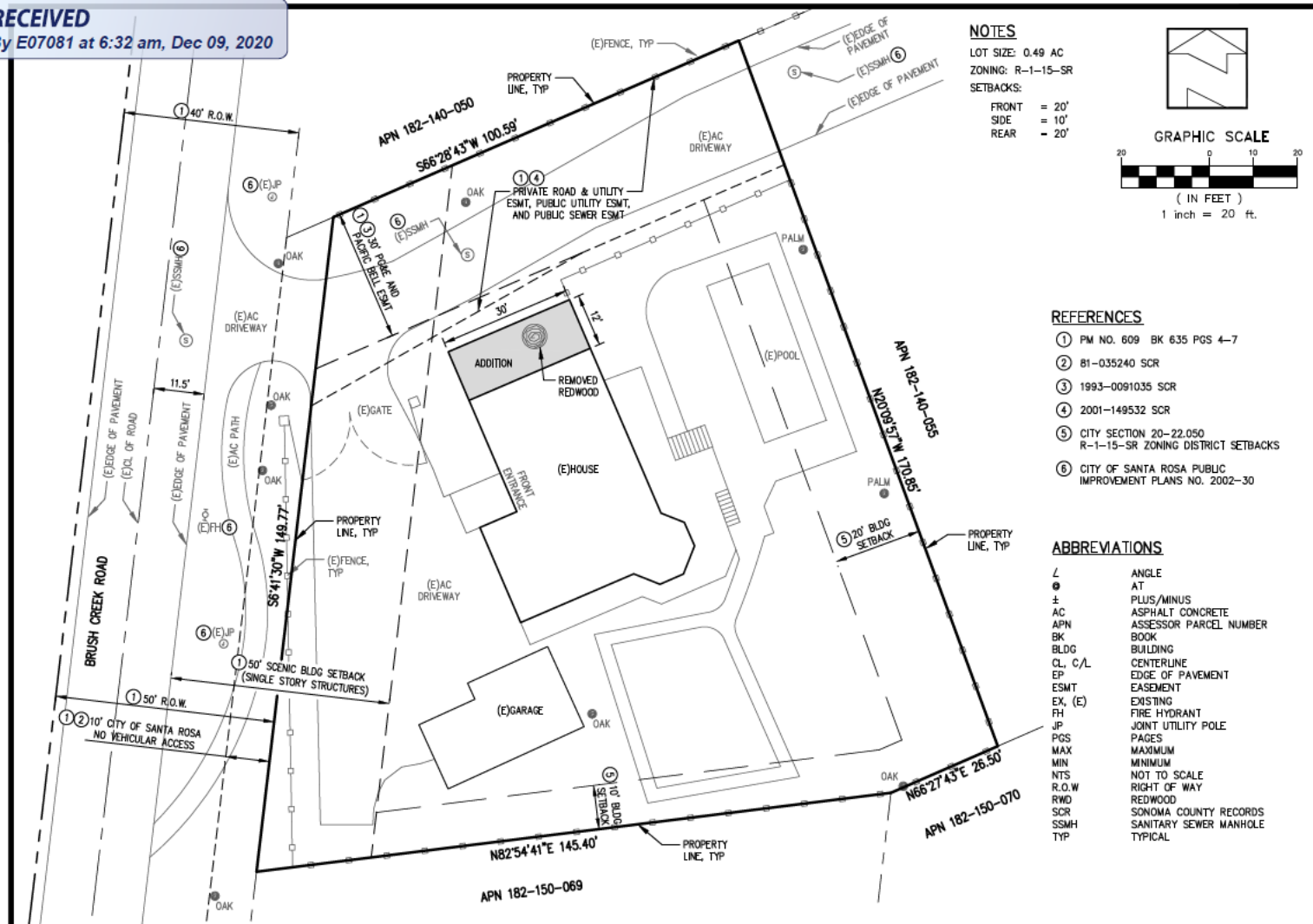
July 13, 2021

Andrew Trippel
Acting Supervising Planner – Current Planning
Planning and Economic Development

Project Location



RECEIVED
By E07081 at 6:32 am, Dec 09, 2020



- **Summary**
- Building Permit B20-6871 requires Planning Review
- Planning Director determined that:
 - The proposed project complies with the subject parcel's Final Map and required building setbacks.
 - Tree removal is approved, subject to mitigation as required by the City's Tree Ordinance.

| | | | |
|---|--------------------------------|--|-------------------------------------|
| ✓ | Application Submittal- 0.0h | ASSIGNED STARTED 12/14/2020 By Lisa Sevilla | ACCEPTED DUE 12/11/2020 |
| ✓ | Plans Distribution- 0.0h | ASSIGNED STARTED 12/14/2020 By Lisa Sevilla | ROUTED FOR REVIEW DUE 12/14/2020 |
| ∨ | In Progress | | |
| ✍ | Planning Review- 0.0h | ASSIGNED Conor McKay STARTED By | IN PROGRESS DUE 12/28/2020 |
| ✍ | Building Review- 0.0h | ASSIGNED Robert Cubley STARTED By | IN PROGRESS DUE 12/28/2020 |

- **Title 17 – Environmental Protection**
 - Chapter 17-24 Trees
 - § 17-24.050 Permit Category II –Tree alteration, removal, or relocation on property proposed for development
- **Title 20 – Zoning Code**
 - § 20-22.050 Residential General Development Standards
 - § 20-28.050 Scenic Road (-SR) Combining District
- **Parcel Map No. 609 dated May 30, 2001**

02/2020 – Code Enforcement Case opened

08 thru 09 2020 – Notice of Violation and building permit requirement issued

12/7 2020 – Planning provides preliminary determination to CBO

12/11 2020 – Building Permit B20-6871 is opened

12/14 2020 – Appeal Application submitted

12/16 2020 – Amended Appeal Application submitted

03/25/2021 – Planning Commission review

01|JAN 2020

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02|FEB 2020

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03|MAR 2020

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04|APR 2020

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05|MAY 2020

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06|JUNE 2020

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07|JULY 2020

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08|AUG 2020

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09|SEPT 2020

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10|OCT 2020

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11|NOV 2020

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12|DEC 2020

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| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | 31 | |

- **Appeal Application dated April 5, 2021**

Six (6) grounds for appeal

1. The Planning Director's determination and the Planning Commission's decision to uphold that determination resulted in prejudicial abuse of discretion
2. The appeal of the Planning Director's determination submitted on 12/9/20 was unreasonably and improperly withheld by staff resulting in an abuse of process.
3. The City further evidenced an abuse of process through denial and unreasonable delay in production of public records and unjustifiably redacting and withholding other public records.
4. The City also abused its discretion in January 2021 by approving an in-lieu fee petition as mitigation to the illegal heritage tree removal permit.

- **Appeal Application dated April 5, 2021**

Six (6) grounds for appeal

5. The City failed to validate assertions made in Applicant's explanation of the light complaint, which was a requirement to enable "legalization" of build.
6. There was an abuse of process in that the staff member that served as the Director for purposes of rendering a decision of conformance and approval of heritage tree removal is the same staff member who prepared and delivered the staff report to the Planning Commission. As a practical matter, the staff member is incentivized to defend his own work and affirm the determinations already rendered.

Six (6) actions requested of Council

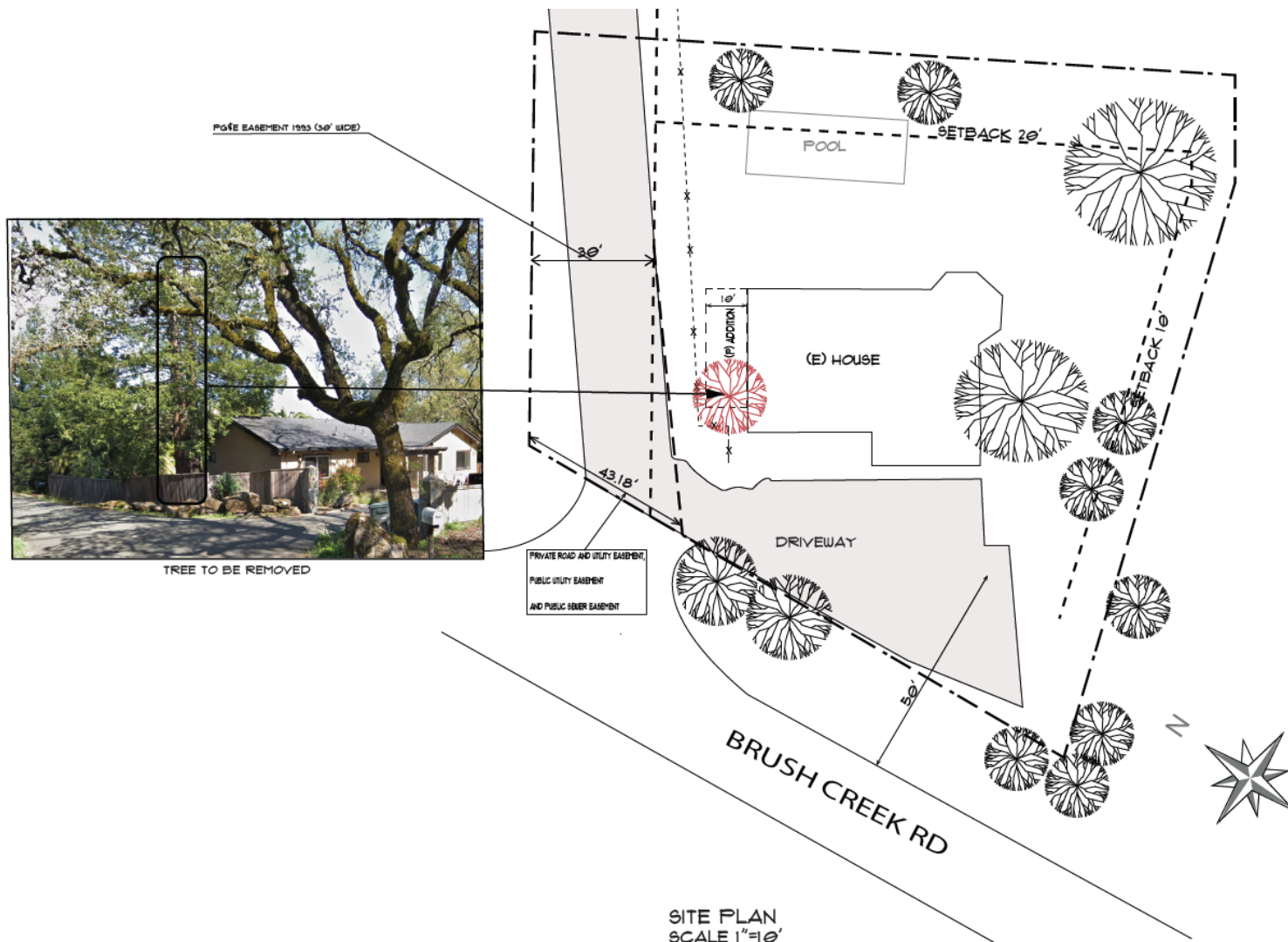
Summary of Grounds for Appeal

(Staff Report pp. 8-11)

- **Summary**
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- Planning Director determined that:
 - Tree removal is approved, subject to mitigation as required by the City's Tree Ordinance.

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Tree Removal Analysis



§ 17-24.020

**Heritage Tree
classification**

§ 17-24.050(C)(1)

**Removal mitigation
requirement**

§ 17-24.050(C)(3)

**Tree replanting
mitigation
alternative**

§ 20-28.050(F)

-SR combing district



- The City's issuance of a Building Permit involves only the use of fixed standards or objective measurements and is therefore a ministerial action that is not subject to the California Environmental Quality Act (CEQA).

It is recommended by the Planning and Economic Development Department that the City Council, by resolution, deny appeal of Planning Director determinations made during Planning review of Building Permit B20-6871, thus affirming the Planning Director determinations and allowing processing of the building permit application to resume.

Andrew Trippel
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