

RESOLUTION NO. RES-2024-082

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA DENYING AN APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DENIAL OF A TREE PERMIT TO REMOVE AN APPROXIMATELY 125-FOOT TALL ARAUCARIA BIDWILLII (BUNYA BUNYA TREE) LOCATED AT 1080 2ND STREET, ASSESSOR'S PARCEL NO. 009-082-003; PROJECT FILE NO. TR22-062

WHEREAS, on March 11, 1999, the Community Development Director (Director) approved the removal of the Bunya Bunya tree (Tree) (File No. TR99-014), located at 1080 2nd Street, Assessor's Parcel No. 009-082-003, and the Director's action was subsequently appealed to the Planning Commission by a member of the public; and

WHEREAS, on April 29, 1999, the Planning Commission adopted Resolution No. 9507, denying the Appeal and upholding the Director's approval to remove the Tree, which decision was subsequently appealed to the City Council by a member of the public; and

WHEREAS, on June 8, 1999, the City Council adopted Resolution No. 23993, granting an Appeal of the Planning Commission's decision to approve the removal of the Tree, and denying the Tree Permit to remove the tree after making the following findings:

1. The Bunya Bunya tree is of significant size and maturity and provides great aesthetic benefit to all persons living in the vicinity.
2. The Bunya Bunya tree is one of a few existing mature specimens in Santa Rosa and that careless treatment and arbitrary removal of the tree would detract from the quality and attractiveness of the neighborhood.
3. Retaining the mature Bunya Bunya tree would be consistent with the City's Tree Ordinance in that protection of certain trees is essential to the maintenance of Santa Rosa's aesthetic value and heritage.

WHEREAS, on October 31, 2006, a second Tree Permit application was submitted requesting to remove the Tree; the application was denied, and no appeal was submitted; and

WHEREAS, on May 24, 2019, a third Tree Permit application was submitted requesting removal of the Tree, which application was denied on November 19, 2019; and

WHEREAS, a timely Appeal application was submitted on the third Tree Permit application with only a partial fee; the appeal deadline was extended until December 18, 2019, to allow additional time to pay the remaining balance, but it was never remitted; and

WHEREAS, on September 1, 2022, the applicant submitted the fourth Tree Permit application, the subject of this Appeal, requesting to remove the same Tree; and

WHEREAS, on March 3, 2023, the Planning and Economic Development Director denied the subject permit application after making the following findings:

1. The necessity to remove the tree because it is a hazard was not successfully demonstrated; both arborists [Sandborn Tree Service, Inc. (hired by the appellant) and Vintage Tree Care, under contract with the City for tree care], agreed that cabling the three codominant leaders at the top of the Tree, coupled with regular maintenance [to remove cones, thin foliage, and remove fallen debris] would reduce the level of hazard; and
2. Staff has received several public comments via telephone, email, and letter, in opposition of removing the subject tree, [voicing that] the Tree is loved by the community because its historic value and its beauty; and

WHEREAS, on March 13, 2023, an Appeal form was submitted to Planning and Economic Development, appealing the Director's decision to deny the Tree Removal Permit to remove the Tree; and

WHEREAS, an Arborist Report, prepared for the applicant/appellant by Sandborn Tree Services, Inc., dated March 30, 2022, after conducting a ground level inspection, concluded that the Tree located at 1080 2nd Street was an imminent hazard; and

WHEREAS, following the City's receipt of the Sandborn Report, City staff had a telephone conversation with Chip Sandborn, owner of Sandborn Tree Service, Inc., during which Mr. Sandborn agreed that by implementing maintenance measures, including but not limited to, cabling and possibly thinning the codominant stems at the top of the Tree, removing cones before they are fully developed, thinning and lightening branches, and removing ground debris would reduce the threat of injury or destruction; and

WHEREAS, an Arborist Report, prepared for the City by Fred Frey, Vintage Tree Care (a firm under contract with the City of Santa for tree services), dated February 5, 2023, after climbing the Tree and conducting a full assessment, concluded that, based on the current condition of the Tree and processing it through the Tree Risk Assessment Qualifications (TRAQ) matrices (an industry standard), the Tree's overall risk rating is low, as it relates to likelihood for failure in addition to the likelihood for impact and consequences of failure to its target(s); and

WHEREAS, a Risk Assessment, prepared by James MacNair, MacNair & Associates, provided to the applicant/appellant, dated August 24, 2023, acknowledged both the Sandborn and Frey reports, stating that dangerous cones and the three secondary truck structure in the upper crown "can likely be mitigated with a cable installation and pruning"; and, in a subsequent memo dated September 1, 2023, Mr. MacNair agreed that removal of the cones early in their development as part of regular maintenance would reduce the risk factor; and

WHEREAS, the Vintage tree Care Report acknowledged that, while a rating of "low" is the lowest achievable through this industry accepted risk evaluation system, there are still options available to manage the current risk, including but not limited to:

1. Additional risk management tools include cabling and thinning the crown in the portion(s) above the stems' point of attachment.

2. Continually monitor this tree for any changes from its current state, as well as manage the tree's weight distribution as appropriate; and

WHEREAS, pursuant to the Tree Ordinance, City Code Chapter 17-24.040(B), prior to the Director's decision to deny the Tree Permit, the following items were considered:

1. The overall condition of the tree, including any diseases and pests that may be attacking it, the tree's age with respect to its projected lifespan, the area the tree would hit if it, or any substantial part of it, were to fall, its symmetry and aesthetics, its proximity to existing structures, and any interference it has caused with underground or overhead utility lines. The overall condition of the Tree is healthy with a low risk of failure to surrounding structures; it is a relatively young tree of approximately 100 years, with an anticipated life span of 500-700 years; there's been no claim that it's interfering with utilities above or below ground; and is loved by the surrounding community for its historic value and beauty; and
2. The topography of land and the effect the tree alteration, removal, or relocation may have on possible erosion or soil retention problems or on increasing the flow or the diversion of surface waters. Whether the Tree remains or is removed, there is no anticipated impact to erosion or soil retention problems, or the flow/diversion of surface waters; and
3. The number, species, size, and location of other existing trees in the area and the effect the requested action will have on shade areas, air pollution, historic values, scenic beauty, and the general welfare of the City. Removal of the Tree would negatively impact the general welfare of the City in terms of aesthetics, historic value, removal of shaded areas; and overall love and appreciation of the Tree; and
4. Whether the request is supported by good urban forestry practices and standards such as, but not limited to, the number of healthy trees that a given parcel of land will support. The Tree is not crowded by other trees or structures, and is not overburdening the property in which it is located; and

WHEREAS, on September 14, 2023, the Planning Commission held a duly noticed public hearing to consider the appeal of the Director's decision to deny the Tree Removal permit, and after considering the staff reports, oral and written, the public testimony, written comments, and other materials presented at the public hearing, the Commission, by Resolution No. PC-2023-021, denied the Appeal after making the following findings:

1. The findings made by the Council on June 8, 1999, Resolution No. 23993, as stated below, are still applicable:
 - i. The Bunya Bunya tree is of significant size and maturity and provides great aesthetic benefit to all persons living in the vicinity as demonstrated by public.
 - ii. The Bunya Bunya tree is one of a few existing mature specimens in Santa Rosa and that careless treatment and arbitrary removal of the tree would detract from the quality and attractiveness of the neighborhood.

- iii. Retaining the mature Bunya Bunya tree would be consistent with the City's Tree Ordinance in that protection of certain trees is essential to the maintenance of Santa Rosa's aesthetic value and heritage; and
2. The necessity to remove the tree because it is a hazard was not successfully demonstrated. Both arborists agree that protective measures, including, but not limited to, cabling the three co-dominant leaders at the top of the tree, regular maintenance to remove cones and thinning branches, and the removal of fallen debris will reduce the level of hazard.
3. Staff has received several public comments via telephone, email and letter, in opposition of removing the subject tree. The tree is loved by the community because of its historic value and its beauty. Removal of the tree would have a negative impact on the welfare of the greater community.
4. The tree is not over-crowded in its location; contrary, it stands solo where it can be viewed and appreciated by nearby Santa Rosa residents, visitors, and business operators.
5. The project has been reviewed in compliance with the California Environmental Quality Act (CEQA). Pursuant to CEQA Guidelines Section 15061(b)(3), the project is exempt from CEQA because it can be seen with certainty that there is no possibility that the Planning Commission's action to deny the Tree Permit to remove the Bunya Bunya tree and preserve the status quo will have a significant effect on the environment; and

WHEREAS, on September 25, 2023, an Appeal form was submitted to the City Clerk, appealing the Planning Commission's decision; and

WHEREAS, on June 4, 2024, the Council of the City of Santa Rosa held a duly noticed public hearing and considered the Appeal of the Planning Commission's action to deny the Appeal and uphold the Director's denial of the Tree Permit.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Santa Rosa, after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Chapter 17-24, finds and determines that:

- A. The findings made by the Council on June 8, 1999, Resolution No. 23993, as stated below, are still applicable:
 - a. The Tree is of significant size and maturity and provides great aesthetic benefit to all persons living in the vicinity as demonstrated by public.
 - b. The Tree is one of a few existing mature specimens in Santa Rosa and that careless treatment and arbitrary removal of the tree would detract from the quality and attractiveness of the neighborhood.
 - c. Retaining the mature Tree would be consistent with the City's Tree Ordinance in that protection of certain trees is essential to the maintenance of Santa Rosa's aesthetic value and heritage.

- B. The applicant/appellant has not demonstrated that the Tree is hazardous or that such hazard can only be eliminated by Tree removal. Three qualified arborists, Chip Sandborn, Sanborn Tree Service, Inc., Fred Frey, Vintage Tree Care, Inc., and James MacNair, MacNair & Associates, agree that protective measures, including, but not limited to, cabling the three co-dominant stems at the top of the tree, regular maintenance to remove cones and thin branches, and the removal of fallen debris will reduce the level of hazard to “low”.
- a. An Arborist Report, prepared by Sandborn Tree Services, Inc., dated March 30, 2022, after conducting a ground level inspection, concluded that the Tree located at 1080 2nd Street was an imminent hazard. In a subsequent conversation between City staff and Mr. Sandborn, he agreed that by implementing maintenance measures, including but not limited to, cabling and possibly thinning the codominant stems at the top of the Tree, removing cones before they are fully developed, thinning and lightening branches, and removing ground debris would reduce the threat of injury or destruction; and
 - b. An Arborist Report dated February 5, 2023, prepared by Fred Frey, Vintage Tree Care after climbing the Tree and conducting a full tree assessment, concluded that, based on the current condition of the Tree and processing it through the Tree Risk Assessment Qualifications (TRAQ) matrices (an industry standard), the Tree’s overall risk rating is low, as it relates to likelihood for failure in addition to the likelihood for impact and consequences of failure to its target(s); and
 - c. A Risk Assessment, prepared by James MacNair, MacNair & Associates, dated August 24, 2023, acknowledged both the Sandborn and Frey reports, stating that dangerous cones and the three secondary trunk structure in the upper crown “can likely be mitigated with a cable installation and pruning.”
- C. Staff has received several public comments via telephone, email and letter, in opposition of removing the subject Tree. The Tree is loved by the community because of its historic value and its beauty, and is believed to have been planted by Luther Burbank. Removal of the Tree would have a negative impact on the welfare of the greater community.
- D. The Tree is not over-crowded in its location; rather, it stands solo where it is viewed and appreciated by nearby Santa Rosa residents, visitors, and business operators.
- E. The project has been reviewed in compliance with the California Environmental Quality Act (CEQA). Pursuant to CEQA Guidelines Section 15061(b)(3), the

project is exempt from CEQA because it can be seen with certainty that there is no possibility that the City Council's action to deny the permit to remove the Tree and preserve the status quo will have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Council denies the Appeal and upholds the Planning Commission's denial of the request for a Tree Permit to remove the Bunya Bunya tree at 1080 2nd Street, Santa Rosa, Assessor's Parcel No. 009-082-003.

IN COUNCIL DULY PASSED this 4th day of June 2024.

AYES: (5) Mayor N. Rogers, Vice Mayor Stapp, Council Members Alvarez, Fleming, Okrepkie

NOES: (0)

ABSENT: (1) Council Member C. Rogers

ABSTAIN/RECUSE: (1) Council Member MacDonald

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney