MARIN COUNTY PLANNING DIVISION
ADMINISTRATIVE DECISION
Eliana Brooke Trust Tree Removal Permit

Decision: Approved
Date: August 31, 2022

Project ID No: P3615
Applicant(s): Polsky Perlstein Architects
Owner(s): Eliana Brooke Trust
Assessor’s Parcel No(s): 074-013-01
Property Address: 22 Cedar Ave., Kentfield
Project Planner: Joshua Bertain
(415) 473-3171
jbertain@marincounty.org

Signature: Joshua Bertain

Countywide Plan Designation: SF6 (Low Density Residential)
Community Plan Area: Kentfield/Greenbrae
Zoning District: R1-B1 (Residential Single Family)
Environmental Determination: CEQA Guidelines section 15304, Class 4

PROJECT SUMMARY

The applicant requests Tree Removal Permit approval to remove one native, mature tree from a developed property in Kentfield. The tree proposed for removal is in good health and is of a heritage size as determined by the measurement of the tree’s Diameter at Breast Height (DBH). The tree proposed for removal is listed in the table below.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
<th>Health</th>
<th>Observed DBH (in.)</th>
<th>Protected (P) Size DBH (in.)</th>
<th>Heritage (H) Size DBH (in.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coast live oak</td>
<td>Quercus agrifolia</td>
<td>Good</td>
<td>20 in. (H)</td>
<td>6 in.</td>
<td>18 in.</td>
</tr>
</tbody>
</table>

Tree Removal Permit approval is required pursuant to Chapter 22.62 of the Marin County Code because the project entails the removal of one tree that is of heritage size.

COUNTYWIDE PLAN CONSISTENCY

The proposed project is consistent with the Marin Countywide Plan (CWP) for the following reasons:
A. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees. The tree to be removed would be replaced onsite at a two to one ratio.

B. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals.

C. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands.

D. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas or Wetland Conservation Areas.

E. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.

F. The project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during review of the Building Permit application and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.

G. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during review of the Building Permit application.

H. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.

I. The project is consistent with CWP residential design policies and programs (DES-3.b and DES-4c) because it would fit within the context of the neighborhood, minimize the perception of mass and bulk, and comply with the Single-family Residential Design Guidelines.

COMMUNITY PLAN CONSISTENCY

The proposed project is consistent with the Kentfield/Greenbrae Community Plan policies related to subarea I for the following reasons:

A. The project would be adequately landscaped in conformance with Community Appearance and Amenities standards.

DEVELOPMENT CODE CONSISTENCY

Mandatory Findings for Tree Removal Permit (Marin County Code Section 22.62.050)
In considering a Tree Removal Permit application, the Director may only grant approval or conditional approval based on a finding that removal of the tree(s) is necessary for the reasonable use and enjoyment of land under current zoning regulations and Countywide Plan and Community Plan (if applicable) policies and programs, taking into consideration the following criteria:

A. **Whether the preservation of the tree would unreasonably interfere with the development of land.**

   The subject tree is located near the center of the property on the eastern side of the existing residence which the property owner intends to demolish and rebuild. To accommodate development, the subject tree is proposed for removal.

B. **The number, species, size and location of trees remaining in the immediate area of the subject property.**

   The neighborhood surrounding the subject property is developed with single-family residences that are landscaped with both native and non-native plants and trees that vary in height and size. Three Coast Live Oak trees that are of a protected size would remain along the perimeter of the property.

C. **The number of healthy trees that the subject property can support.**

   The subject property is 7,337 square feet in area and would retain three mature Coast Live Oak trees. As conditioned, the property would be adequately landscaped because the applicant will replant the site with native replacement trees at a 2:1 ratio.

D. **The topography of the surrounding land and the effects of tree removal on soil stability, erosion, and increased runoff.**

   The land surrounding the property and the subject tree is relatively flat with minimal slope, and the removal of this tree will not affect soil stability, create erosion issues, or contribute to an increase in runoff.

E. **The value of the tree to the surrounding area with respect to visual resources, maintenance of privacy between adjoining properties, and wind screening.**

   The site would retain three native Coast Live Oak trees in three prominent locations along the property line, near the public right of way for Cedar Avenue and Locust Avenue. Screening of the property will be maintained with the removal of the subject tree.

F. **The potential for removal of a protected or heritage tree to cause a significant adverse effect on wildlife species listed as threatened or endangered by State or Federal resource agencies in compliance with the California Environmental Quality Act (CEQA).**

   The removal of a single heritage tree will not create an adverse impact on special status species because there are no special status species identified on the site as verified by the National Diversity Data Base maps on file in the Marin County Community Development Agency.
G. Whether there are alternatives that would allow for the preservation of the tree(s), such as relocating proposed improvements, use of retaining walls, use of pier and grade beam foundations, paving with a permeable substance, the use of tree care practices, etc.

As discussed, there are three mature Coast Live Oak trees that will remain on the property and mature landscaping would remain throughout the surrounding neighborhood. The subject site is considered a corner lot and the development setbacks established by the governing R1-B1 zoning district direct development toward the center of the property and in close proximity to the subject tree. The removal of one heritage tree is reasonable to construct a residence that conforms to the development standards of the R1-B1 zoning district.

ACTION

The project described in condition of approval 1 below is authorized by the Marin County Planning Division and is subject to the conditions of project approval.

This planning permit is an entitlement to apply for construction permits, not a guarantee that they can be obtained, and it does not establish any vested rights. This decision certifies the proposed project’s conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

CONDITIONS OF PROJECT APPROVAL

CDA-Planning Division

1. This Tree Removal Permit approval authorizes the removal of one heritage tree, a Coast Live Oak tree (*Quercus agrifolia*) measuring 20 inches in diameter, located on a developed lot in Kentfield.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled “Brooke Residence,” consisting of 2 sheets prepared by Polsky Perlstein Architects, received in final form on July 14, 2022, and on file with the Marin County Community Development Agency, except as modified herein.

   a. Before removing the heritage tree, the applicant shall plant two replacement trees on the property. The required replacement trees shall be a minimum 5-gallon size and shall be Coast Live Oak (*Quercus agrifolia*) trees. The location of the trees to be planted shall be shown on the project site plan.

3. Tree removal shall not occur until the mandatory appeal period has passed, no appeal has been filed, and the approval is final.

4. The project shall conform to the Planning Division’s “Uniformly Applied Conditions 2022” with respect to all of the standard conditions of approval and the following special conditions: special condition number 6 and 15.
VESTING

Unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within three years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has and has substantially completed the tree removal in compliance with the conditions of approval.

RIGHT TO APPEAL

This decision is final unless appealed to the Planning Commission. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than eight business days from the date of this decision (September 12, 2022).

cc: {Via email to County departments and Design Review Board}
CDA – Assistant Director
CDA – Planning Manager
DPW – Land Development
Kentfield Fire Protection District

Attachments:

1. Marin County Uniformly Applied Conditions 2022
MARIN COUNTY UNIFORMLY APPLIED CONDITIONS
FOR PROJECTS SUBJECT TO DISCRETIONARY PLANNING PERMITS

2022

STANDARD CONDITIONS

1. The applicant/owner shall pay any deferred Planning Division fees as well as any fees required for mitigation monitoring or condition compliance review before vesting or final inspection of the approved project, as determined by the Director.

2. The applicant/owner shall defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations. The County of Marin shall promptly notify the applicant/owner of any claim, action, or proceeding that is served upon the County of Marin, and shall cooperate fully in the defense.

3. Exterior lighting for the approved development shall be located and shielded to avoid casting glare into the night sky or onto nearby properties, unless such lighting is necessary for safety purposes.

4. Building Permit applications shall substantially conform to the project that was approved by the planning permit. All Building Permit submittals shall be accompanied by an itemized list of any changes from the project approved by the planning permit. The list shall detail the changes and indicate where the changes are shown in the plan set. Construction involving modifications that do not substantially conform to the approved project, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications is obtained by the applicant.

SPECIAL CONDITIONS

1. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance prepared by a certified or licensed landscape design professional indicating that the landscape plan complies with the State of California’s Model Water Efficient Landscape Ordinance and that a copy of the Landscape Documentation Package has been filed with the Community Development Agency.

2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call out the approved building setbacks on the Building Permit plans indicating the minimum distance of the building from the nearest property line or access easement at the closest point and any of the following features applicable to the project site: required tree protection zones, Wetland Conservation Areas, or Stream Conservation Areas.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off-site shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts to the night sky or on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless related to losses experienced due to geologic and hydrologic conditions and other natural hazards.

5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit written confirmation that the property owner has recorded the “Disclosure Statement Concerning Agricultural Activities,” as required by Section 23.03.050 of the Marin County Code.

6. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in the project approval, the applicant shall install 3-foot high temporary construction fencing demarcating established tree protection zones for all protected trees that are not being removed in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. Acceptable limits of the tree protection zones shall be the dripline of the branches or a radius surrounding the tree of one foot for each one inch diameter at breast height (4.5 feet above grade) of the tree trunk. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. If encroachment into the tree protection zone is necessary for development purposes, additional tree protection measures shall be identified by a licensed arborist, forester, or botanist, and the tree specialist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a tree protection zone occurs.

7. BEFORE FINAL INSPECTION, if encroachments into a tree protection zone have been approved, then the tree specialist shall submit a letter to the Planning Division verifying that the additional tree protection measures were properly implemented during construction activities.

8. BEFORE ISSUANCE OF A BUILDING PERMIT, temporary construction fencing shall be installed on the subject property at edge of the Wetland Conservation Area and/or Stream Conservation Area, as applicable to the site. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. The construction fencing shall remain until all construction activity is complete. No parking of vehicles, grading, materials/equipment storage, soil stockpiling, or other construction activity is allowed within the protected area. If encroachment into the protected area is necessary for development purposes, additional protection measures shall be identified by a qualified biologist and the biologist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A
report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a protected area occurs.

9. BEFORE FINAL INSPECTION, if encroachments into a protected area have been approved, then the biologist shall submit a letter to the Planning Division verifying that the additional protection measures were properly implemented during construction activities.

10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must provide written evidence that all appropriate permits and authorizations have been secured for this project from the Bay Conservation and Development Commission, the California Department of Fish and Game, the Regional Water Quality Control Board, the California Coastal Commission, the California State Lands Commission, the Bay Area Air Quality Management District, and/or the United States Army Corps of Engineers.

11. BEFORE CLOSE-IN INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification prepare and submit written (stamped) Floor Elevation Certification to the Planning Division confirming that the building’s finished floor elevation conforms to the floor elevation that is shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.

12. BEFORE FINAL INSPECTION, the project shall substantially conform to the requirements for exterior materials and colors, as approved herein. Approved materials and colors shall substantially conform to the materials and colors samples shown in “Exhibit A” unless modified by the conditions of approval. The exterior materials or colors shall conform to any modifications required by the conditions of approval. All flashing, metalwork, and trim shall be treated or painted an appropriately subdued, non-reflective color.

13. BEFORE FINAL INSPECTION, the applicant shall install all approved landscaping that is required for the following purposes: (1) screening the project from the surrounding area; (2) replacing trees or other vegetation removed for the project; (3) implementing best management practices for drainage control; and, (4) enhancing the natural landscape or mitigating environmental impacts. If irrigation is necessary for landscaping, then an automatic drip irrigation system shall be installed. The species and size of those trees and plants installed for the project shall be clearly labeled in the field for inspection.

14. BEFORE FINAL INSPECTION, the applicant shall submit a Certificate of Completion prepared by a certified or licensed landscape design professional confirming that the installed landscaping complies with the State of California’s Model Water Efficient Landscape Ordinance and the Landscape Documentation Package on file with the Community Development Agency.

15. BEFORE FINAL INSPECTION, the applicant shall submit written verification from a landscape design professional that all the approved and required landscaping has been completed and that any necessary irrigation has been installed.

16. BEFORE FINAL INSPECTION, utilities to serve the approved development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development.

17. BEFORE FINAL INSPECTION, the applicant shall call for a Community Development Agency staff inspection of approved landscaping, building materials and colors, lighting and
compliance with conditions of project approval at least five business days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent reinspections.

CODE ENFORCEMENT CONDITIONS

1. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the development. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant’s control.

2. Within 60 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant’s control.

3. Within 120 days of this decision, the applicant must complete the approved construction and receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant’s control.