

PC RESOLUTION NO. 21-030

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING MAJOR OAK TREE PERMIT (MAJOTP 14388-2020) FOR THE REMOVAL OF TWO OAK TREES WITH DIAMETERS GREATER THAN EIGHT INCHES AS MEASURED FROM 4.5 FEET ABOVE THE MEAN NATURAL GRADE ON A PROPERTY LOCATED AT 1137-1149 W. PHILLIPS BOULEVARD (APN NOS. 8343-012-015, 8343-012-016).

WHEREAS, the applicant, Jackson Huang, has submitted an application for a Major Oak Tree Permit (MAJOTP 14388-2020) for the removal of six oak trees with diameters greater than eight inches as measured from 4.5 feet above the mean natural grade on a property located at 1137-1149 W. Phillips Blvd (APN Nos. 8343-012-015, 8343-012-016);

WHEREAS, the applicant has concurrently submitted an application for a Conditional Use Permit (CUP 14390-2020) and Tentative Tract Map (TRACT MAP 14391-2020)

WHEREAS, the City Council adopted the Oak Tree Preservation Program on March 5, 2007 under Ordinance 4076;

WHEREAS, a Major Oak Tree Permit is required for removal or relocation of an Oak tree on private property in the City of Pomona;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on October 27, 2021, concerning the requested Major Oak Tree Permit (MAJOTP 14388-2020); and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Pomona, California:

SECTION 1. The Planning Commission, exercising their independent judgment, has determined that the proposed project meets the criteria for a Class 32 Categorical Exemption (In-Fill Development) pursuant to Section 15332 of the Guidelines for Implementation of the Environmental Quality Act (CEQA). The proposed project is consistent with the City's General Plan and Zoning Ordinance; the proposed project site is less than five (5) acres; the project site has no value as habitat for endangered, rare or threatened species; the proposed project will not have any significant effects upon the environment; and the site can adequately be served by all required utilities and public services. An environmental review was conducted to support this finding.

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or

invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable

SECTION 3. In accordance with Section .580(B) of the Zoning Ordinance, the Planning Commission must make the findings listed below in order to approve Major Oak Tree Permit (MAJOTP 14388-2020). Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds as follows:

1. *The proposed relocation or removal of the Oak tree(s) will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated;*

The removal of the Oak trees will accommodate for the development of a residential project which includes 12 residential units. The entire site will be regraded and designed to comply with storm water runoff standards and new landscaping will be installed to prevent soil erosion. As such, the proposed removal of the Oak trees will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated.

2. *The proposed relocation or removal of the Oak tree(s) is necessary as continued existence at the present location impedes the planned improvement or proposed use of the subject property to such an extent that:*
 - a. *Alternative development plans cannot achieve the same permitted density or the cost of such alternative would be prohibitive, or*
 - b. *Placement of the Oak tree(s) precludes the reasonable and efficient use of such property for a use otherwise authorized;*

The proposed removal of the Oak trees is necessary as the continued existence at the present location impedes the planned improvement or proposed use of the subject property to such an extent that alternative development plans cannot achieve the same permitted density or the cost of such alternative would be prohibitive and placement of the Oak trees precludes the reasonable and efficient use of such property for a use otherwise authorized. If the Oak trees were to remain in place, the proposed development would need to reduce the total number units by two units and due to the maximum building height of two –stories in the R-2 Zone and 2.5 floors in the General Plan, would prevent them from building additional units on a third floor.

3. *The proposed trimming, cutting and pruning will be limited to the minimum necessary to promote the health of the tree and protect the public safety, and whenever possible trees should remain in place or be moved only the minimum distance necessary to preserve the health of the tree and protect the public safety.*

The relocation of the Oak tree #4 on the northeast corner of the lot is too large to replant in the front yard area and replanting in the rear yard cannot be achieved, as 75% of the yard area must be unobstructed for hammerhead turnaround for Fire Department access. Additionally, an Arborist Report was prepared did specify that tree #4 was not a candidate for relocation due to potential tree failure, and decreased chance of successful reestablishment because of infection disease the tree can get during the replanting stage. While the physical relocation of these trees is possible, it may not be a practical endeavor based on the associated risks and given that, the arborist recommended planting new trees.

4. *The Oak tree proposed for removal interferes with utility services or streets and highways, either within or outside of the subject property, and no reasonable alternative to such interference exists other than the relocation or removal of the Oak tree(s);*

The location of the existing Oak trees does not interfere with utility services or streets; however, it would obstruct the construction of two residential units and no reasonable alternative to such interference exists other than the removal of the Oak trees due to the fact that it is too large to plan in the front yard and the rear yard is limited do to the hammerhead turnaround.

5. *The condition of the Oak tree proposed for removal with reference to seriously debilitating disease or danger of falling is such that it cannot be remedied through reasonable preservation procedures and practices.*

The City Arborist recommended removal of Oak tree #6 for removal due to its location on the property line and poor structure, particularly including the fact it has grown up through the chain link fence due likely becoming hazardous as it continues to grow.

6. *The proposed relocation or removal of the Oak tree(s) will not be contrary to or in substantial conflict with the purpose and intent of the Oak Tree Permit process.*

The removal of the two Oak trees is not contrary to or in conflict with the purpose and intent of the Oak Tree Permit process, as the Oak trees will be replaced in accordance with recommendations by the City Arborist.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Tentative Tract Map (TRACT MAP 14391-2021) subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the conditional use permit or any portion thereof:

PLANNING DIVISION

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning Commission on October 27, 2021, and as illustrated in the stamped approved plans dated October 27, 2021. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Manager.
2. This approval shall lapse and become void if the privilege authorized is not utilized within 30 days from the date of this approval, as regulated by Sec. 5809-23 of the Pomona Zoning Ordinance. The Planning Manager may extend this period without fee for an additional 30 days.
3. The project is subject to a twenty day appeal period. Written appeals may be filed with the City Clerk within twenty days by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's property. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission.
4. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project,

whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

5. As a replacement and mitigation, two 36-inch box California Coast Live Oak (*Quercus Agrifolia*) shall be planted in the location identified on the approved site plan for the associated Conditional Use Permit (CUP 14390-2020), which is generally located within the front-yard setback at either end of the property. If the replacement Oak trees planted on the subject site die within one year of replanting, they shall be replaced with two additional 36-inch box California Coast Live Oak (*Quercus Agrifolia*) trees on the premises. If the additional replacement tree dies within one (1) year of planting, it shall be replaced until a tree establishes itself and lives for a minimum of one year.
6. For the two Oak trees replaced on the premises, the permittee shall contact the Planning Division to request a final inspection within seventy-two (72) hours of the completion of planting.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

PASSED AND APPROVED THIS 27TH DAY OF OCTOBER, 2021

ALFREDO CAMACHO
PLANNING COMMISSION CHAIRPERSON

ATTEST:

PC Resolution No. 21-030
Major Oak Tree Permit (MAJOTP 14388-2020)
1137-1149 W. Phillips Blvd.
Page 6 of 6

ANITA D. GUTIERREZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO A. MARTINEZ
DEPUTY CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES:
NOES:
ABSTAIN:
ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.