

DRAFT PC RESOLUTION NO. 26-011

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING A RETROACTIVE MAJOR OAK TREE PERMIT (MAJOTP-000565-2025) FOR THE REMOVAL OF ONE (1) MATURE HEALTHY OAK TREE WITHIN ON-SITE LANDSCAPING OF A RESIDENTIAL PROPERTY LOCATED AT 2047 PANDORA WAY (APN: 8331-021-012) WITHIN THE RESIDENTIAL NEIGHBORHOOD DISTRICT 1 (RND1) ZONE

WHEREAS, the Applicant, Jose L. Guerra, has submitted an application for a Major Oak Tree Permit for the retroactive approval for the removal of one (1) mature and healthy Oak Tree within on-site landscaping on a property located at 2047 Pandora Way (APN: 8331-021-012);

WHEREAS, the subject property is currently located within the Residential Neighborhood District 1 (RND1) Zone;

WHEREAS, the subject property has a General Plan Place Type designation of Residential Neighborhood;

WHEREAS, the subject property has a General Plan Transect Zone designation of “T3” allowing up to 20 dwelling units per acre and developments up to a maximum of 2.5 floors;

WHEREAS, in accordance with Section 1300.J (Oak Tree Preservation) of the Pomona Zoning & Development Code, the approval of a Major Oak Tree Permit by the Planning Commission is required for the removal of one or more mature Oak Trees;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on August 12, 2026, concerning the requested Major Oak Tree Permit (MAJOTP-000565-2025); and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearings of August 12, 2026.

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

SECTION 1. The Planning Commission exercising independent judgment finds that the proposed project will not have a significant effect on the environment. The City of Pomona, as lead agency, has conducted an environmental review on the proposed project per the California Environmental Quality Act (CEQA). Pursuant to the provisions of CEQA (Public Resources Code, Section 21084 et. seq.), the guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment, and which shall, therefore, be exempt from the provisions of CEQA. The Planning Commission hereby adopts a Categorical Exemption in compliance with Article 19, Section 15304, Class 4 (Minor Alterations to Land) in that the proposed project consists of the alteration of existing landscaping.

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 1300.J.4.f of the Pomona Zoning and Development Code, a Major Oak Tree Permit for removal may only be approved by the Planning Commission based on the following findings. 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 tree along the Pandora Way frontage of the subject site will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated. The tree was located within the existing front yard that is generally flat in topography on firm soil and is not located within a hillside area or area prone to landslides.

- 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:*
 - i) *Alternative development plans cannot achieve the same permitted density, or the cost of such alternative would be prohibitive; or*
 - ii) *Placement of the Oak tree(s) precludes the reasonable and efficient use of such property for a use otherwise authorized.*

Based on information provided by the applicant, the tree's root system had begun impacting the existing sewer infrastructure serving the residence, creating a condition that impaired the property's utility and required corrective action. Further growth of the Oak Tree's root system would have led to increased damage to the existing sewer line running under the property, inherently creating less safe conditions for the property owner. The tree is proposed to be replaced with Oak species in appropriate locations or with an in-lieu fee payment.

- 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 subject Oak Tree was removed prior to the issuance of the required Major Oak Tree Permit; therefore, staff cannot verify that the trimming, cutting, or removal was limited to

the minimum extent necessary to preserve the health of the tree or protect public safety, nor whether relocation was feasible. According to the applicant, the tree's root system was impacting the existing sewer lines, prompting its removal. To mitigate the unauthorized removal, staff is conditioning replacement of the tree in accordance with the Pomona Tree Preservation Guideline, requiring replacement at a 4:1 ratio or payment of an in-lieu fee if on-site planting is infeasible.

- 4) *The Oak tree(s) proposed for relocation or 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 subject Oak Tree that was removed did not interfere with utility services, streets, or highways. However, per the applicant, the tree's root system was causing significant damage to the property's sewer lines. As the tree was removed without permits, the replacement ratio is 4:1 for new trees or payment of an in-lieu fee.

- 5) *The condition of the Oak tree(s) 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 subject Oak Trees have been removed and, in such, cannot be remedied through reasonable preservation procedures and practices.

- 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 one (1) Oak Tree is not contrary to or in conflict with the purpose and intent of the Oak Tree Permit process, as the Oak Tree will be adequately replaced to maintain or increase tree canopy. The replacement 4:1 ratio is in accordance with recommendations by the City Arborist and the objective methodology established by the Pomona Tree Preservation Guidelines.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Major Oak Tree Permit (MAJOTP-000565-2025) 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

General Conditions:

1. **Approved Plans and Modifications.** 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 August 12, 2026, and as illustrated in the stamped approved plans. 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 Director of Development Services.

2. Approval Period and time Extensions. This approval shall lapse and become void if the privilege authorized is not utilized within one year from the date of this approval (August 12, 2027), in accordance with Section 1110.F (Time Limits and Extensions) of the Pomona Zoning and Development Code. The Planning Commission may extend this period for one year, not to exceed a total of two, one-year time extensions, upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.
3. Indemnification. 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.
4. Violation of Conditions. In case of a violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein Major Oak Tree Permit.
5. Appeals. The project is subject to a twenty (20) calendar day appeal period. Written appeals

may be filed with the City Clerk within twenty (20) calendar days by one or more City Council members or the applicant. The appeal shall be filed with the City Clerk within twenty (20) calendar days from the date of action by the Planning Commission.

6. Noise During Construction Activity. During demolition, grading, site development, and/or construction, all requirements of the Pomona Zoning Ordinance and Municipal Code, including the noise provisions, shall be adhered to. All activities including truck deliveries associated with construction and grading will be limited to Monday through Saturday, between 7:00 AM and 8:00 PM, and provided the noise level created by such activities do not exceed the noise standard of 65 dB(A) plus the limits specified in section 18-311(b) as measured on residential property and any vibration created does not endanger the public health, welfare, and safety.
7. Noise, and Vibration, General. There shall be no activity conducted on the subject site that exceeds the noise and vibration parameters of Pomona City Code Section 18-301, *et seq.*, and City Council Ordinance No. 3939 at any time, or such other ordinance enacted related to noise and vibration.
8. Maintenance During Construction. The construction area shall be kept clean at all times prior to, during, and after construction.
9. Removal of Graffiti. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti shall substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner shall paint additional portions of the building to minimize the disparity, subject to the approval of the Development Services Director.
10. Landscape Plan Check. Prior to the installation of any required landscaping, a *Landscape Plan Check* in substantial conformance to the conceptual landscaping plan submitted as part of the Major Oak Tree Permit process. Plan should further conform to the State Model Water Efficient Landscape Ordinance, and applicable portions of Section 1300 (Landscape) of the Pomona Zoning and Development Code.
11. Landscape Maintenance Bond. A landscaping maintenance bond shall be required and held for a period of one year to ensure the project's compliance with the approved landscape plans, at an amount to be determined by the Development Services Director or their designee.
12. Maintenance of Landscaping. All landscaping shall be maintained in a neat and clean manner, and in conformance with the approval of Major Oak Tree Permit or any previously approved Conditional Use Permit or Development Agreement. Prior to removing or replacing any landscaped areas, check with the Planning Division. Substantial changes may require approval by the Development Services Director.

13. Replacement Ratio. Each of the removed Oak Trees shall be replaced at a four-to-one (4:1) ratio, as determined through the objective methodology established in the Pomona Tree Preservation Guidelines, for a total of **four (4)** replacement trees.
14. Replacement Species and Locations. Four (4) replacement Oak Trees must be planted on the property where the existing Oak Tree was removed. However, if an appropriate replanting on-site location does not exist, the replacement trees may be donated to the City or an in-lieu fee be paid for the City's use to plant the replacements in the surrounding neighborhood, either within public rights-of-way or City parks, within the same City Council District. If planting replacements on-site, the species of Oak must be approved by the City Arborist or Development Services Director. If the applicant pays the in-lieu fee, the replacement tree species will be determined by the City Arborist depending on the location of where the trees will be planted (i.e. public right-of-way or park).

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

APPROVED AND ADOPTED THIS 12th DAY OF AUGUST, 2026.

DELANA MARTIN-MARSHALL
PLANNING COMMISSION CHAIRPERSON

ATTEST:

GEOFFREY STARNES,
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO MARTINEZ
ASSISTANT 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.