

ATTACHMENT B

RESOLUTION NO. 2022- ~~68~~

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DENYING THE APPLICANTS' APPEAL OF THE PARKS, BEACHES AND RECREATION COMMISSION'S DECISION TO PROHIBIT THE REMOVAL OF A CITY MAGNOLIA TREE AT 938 SANDCASTLE DRIVE

WHEREAS, Mario Marovic ("Applicant") requested the removal of a City Magnolia tree (*Magnolia grandiflora*) located at 938 Sandcastle Drive ("Magnolia Tree"), based on his assertion that the tree is damaging and lifting the public infrastructure, which he claims presents undue cost to the City and danger to pedestrians;

WHEREAS, the Applicant has offered to pay for one 36-inch box Western Redbud tree as a replacement tree;

WHEREAS, City Council Policy G-1 (Retention, Removal, and Maintenance of City Trees) classifies the Magnolia Tree as a standard City tree;

WHEREAS, on June 27, 2022, City staff denied Applicant's request for removal of the Magnolia Tree in finding that Magnolia Tree is healthy and stable, and any damage to infrastructure has been minor in nature and can be addressed at a reasonable cost;

WHEREAS, at its August 2, 2022 meeting, the Parks, Beaches and Recreation Commission ("Commission") held a public hearing to consider Applicant's appeal of City staff's decision;

WHEREAS, after considering the evidence, including the Harbor View Hills South Board's approval of the removal request, the Commission denied the appeal and upheld City staff's decision;

WHEREAS, Councilmember Joy Brenner called up the item for review by the City Council; and

WHEREAS, the City Council held a public hearing on September 27, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Council Policy G-1. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council has considered Applicant's appeal and makes the following findings:

a. City staff conducted a field inspection of the Magnolia Tree and found that it is in good condition and does not meet the criteria for removal under Council Policy G-1. The results of City staff's inspection and determination are presented in the Tree Inspection Report dated June 27, 2022, which is attached hereto as Exhibit "A," and incorporated herein by this reference.

b. The City has previously addressed damage and uplifts in the surrounding infrastructure with grinding, patching and panel replacement. Any similar damage to the sidewalk can be addressed with similar mitigation measures at a reasonable cost that will allow for the retention of the Magnolia Tree.

c. The Magnolia Tree is worth \$2,070.

Section 2: The City Council hereby denies the appeal and upholds the decision of City staff and the Commission denying Applicant's request for removal and replacement of the Magnolia Tree.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: The City Council hereby finds this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 6: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 27th day of September 2022.

Kevin Muldoon
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit A - Tree Inspection Report dated June 27, 2022



Public Works Department/Municipal Operations Division

TREE INSPECTION REPORT

Name: Mario Marovic

Location(s) of tree(s): 938 Sandcastle Drive / Front - 1

Request: The applicant, Mario Marovic, contacted the City Arborist to request the removal of a City Magnolia (*Magnolia grandiflora*) tree located at 938 Sandcastle Drive due to root damage to public and private walkways on the property.

Botanical/Common Names: *Magnolia grandiflora* / Magnolia

Estimated Tree Value: \$2,070.00

Replacement Street Tree: Western Redbud (*Cercis occidentalis*)

Damage: N/A

Parkway: Concrete Brick Turf (X) Other

Comments: A field inspection determined the Magnolia tree is in good condition and does not meet the criteria for removal referenced in the G-1 Policy.

The applicant, Mario Marovic, residing at 938 Sandcastle Drive, contacted the City Arborist to request the removal of a Magnolia (*Magnolia grandiflora*) tree located at 938 Sandcastle Drive due to claims of root damage to public and private walkways on the property. There were three curb patches in 2017 and one curb patch in 2015. There is no other history of sidewalk work, including removals or replacements at 938 Sandcastle Drive in the last 10 years.

Mr. Marovic is willing to pay for the tree removal and a Western Redbud (*Cercis occidentalis*) 36-inch box replacement tree.

Inspected by: Brian George

Date: June 27, 2022

Brian George, Acting City Arborist

Recommendation: Staff is denying the removal request of the Magnolia tree and has advised Mr. Marovic of the appeal process.

Reviewed by: Kevin Pekar

Date: June 27, 2022

Kevin Pekar, Landscape Manager



Public Works Department/Municipal Operations Division

June 27, 2022

TO: Landscape Manager
FROM: City Arborist
SUBJECT: *Tree Removal Review*

PROPERTY OWNER(S) / REQUESTER INFORMATION:

Name: Mario Marovic

Tree Location: 938 Sandcastle Drive / Front - 1

The applicant, Mario Marovic, residing at 938 Sandcastle Drive, contacted the City Arborist to request the removal of a Magnolia (*Magnolia grandiflora*) tree located at 938 Sandcastle Drive. Mr. Marovic is requesting the tree replaced due to claims of root damage to public or private walkways on the property.

A field inspection determined the Magnolia (*Magnolia grandiflora*) tree is in good condition and does not meet the criteria for removal referenced in the G-1 Policy. There were three curb patches in 2017 and 1 curb patch in 2015. There is no other history of sidewalk work, including removals or replacements at 938 Sandcastle Drive in the last 10 years.

Staff is denying the removal request of the Magnolia (*Magnolia grandiflora*) tree and has advised Mr. Marovic of the appeal process. Mr. Marovic is willing to pay for the tree removal and a Western Redbud (*Cercis occidentalis*) 36-inch box replacement tree.

REPLACEMENT TREE(S): ☒ YES ☐ NO

REPLACEMENT TREE(S): Western Redbud (*Cercis occidentalis*)

LANDSCAPE MANAGER – COMMENTS / RECOMMENDATIONS:

Signature: _____

Date: _____

7/21/22

Detail Notes Images Documents Observations

Inventory Detail

| | | | | |
|------------------|--|-----------|----------------------|-------------------------------------|
| Tree ID | 737043 | Old Tag # | <input type="text"/> | <input type="button" value="Save"/> |
| District | 8 | | | |
| Area | 8 | | | |
| Address | 938 SANDCASTLE DR | | | |
| Side/Site | Front - 1 | | | |
| Alt Address | | | | |
| Tree Species | <u>Magnolia grandiflora</u> / Magnolia | | | |
| Common Name | Southern Magnolia | | | |
| Size | 0-6 | | | |
| Height | 01-15 | | | |
| DBH | | | | |
| Condition | FAIR | | | |
| Grow Space | | | | |
| Space Size | | | | |
| Overhead Utility | | | | |
| Sidewalk Damage | | | | |
| Note: | | | | |
| Irrigation Flag | Yes | No | | |
| Monitor Flag | Yes | No | | |
| Service Type | Grid Pruning | | | |
| Season | JAN/APR | | | |
| Estimated Value | \$2,070.00 | | | |
| Next Date | 04/22 | | | |



Latitude: 33.598881642 Longitude: -117.86275167 ([edit](#))

| Service History | | | | | | | New |
|-----------------|----------|--|------|--------------|--------------|--------------|-------|
| Scope | WO Ref # | Description | Who | Service Date | Invoice Date | Service | Price |
| Completed | 135378 | 2022 - GRID 8 (Harbor View Hills South) - Broadleaves | GSTS | 4/06/22 | | Grid Pruning | 56.58 |
| Invoiced | 40415 | 2020 - GRID 8 (Harbor View Hills South) - Broadleaves (April Progress) | GSTS | 4/20/20 | 4/30/20 | Grid Pruning | 53.85 |
| Invoiced | 32856 | 2018 - Grid 8 (Harbor View Hills South) - Broadleaves | GSTS | 4/12/18 | 4/30/18 | Grid Pruning | 51.33 |
| Invoiced | 24734 | 2016 - Grid 8 (Harbor View Hills South) | GSTS | 4/28/16 | 4/28/16 | Grid Pruning | 49.43 |
| Invoiced | 19771 | 2014 - Grid 8 (Harbor View Hills South) | GSTS | 11/03/14 | 12/05/14 | Grid Pruning | 48.00 |
| Work History | | | WCA | | 8/05/13 | Other | 0.00 |
| Work History | | | WCA | | 4/29/13 | Other | 0.00 |
| Work History | | | WCA | | 4/21/11 | Other | 0.00 |
| Work History | | | WCA | | 4/07/08 | Other | 0.00 |
| Work History | | | WCA | | 7/05/06 | Other | 0.00 |
| Work History | | | WCA | | 4/05/05 | Other | 0.00 |
| Work History | | | WCA | | 1/12/04 | Other | 0.00 |
| Work History | | | WCA | | 9/02/02 | Other | 0.00 |
| Work History | | | WCA | | 3/16/99 | Other | 0.00 |
| Work History | | | WCA | | 8/27/98 | Other | 0.00 |





