



**City of Brisbane**  
50 Park Place  
Brisbane, CA 94005-1310  
415-508-2100  
415-467-4989 Fax

**NOTICE OF APPROVAL OF  
TREE REMOVAL PERMIT**

APPLICATION NO.: **Tree Removal TR-3-20**

APPLICANT: **Richard Cutler**

OWNER(S): **Richard Cutler and Dawn Timan Cutler**

ASSESSOR'S PARCEL NOS.: **007-281-110**

ZONING: **R-1 Residential District**

LOCATION: **332 Monterey Street**

REQUEST: **Removal of one (1) California Bay Tree from the rear yard.**

ENVIRONMENTAL STATUS: **Categorical exemption for replacement landscaping, per State CEQA Guidelines Sections 15304(b)--this proposal falls within a class of projects which the State has determined not to have a significant effect on the environment. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.**

The Community Development Director has granted this administrative permit and it shall be effective on August 28, 2020, unless a notice of appeal form and fee of \$390 is filed with the City Clerk, Ingrida Padilla, no later than close of business on Friday, August 28, 2020, per Brisbane Municipal Code §12.12.060. To contact the City Clerk, email [ipadilla@brisbaneca.org](mailto:ipadilla@brisbaneca.org) or call (415) 508-2113. A copy of the tree removal application and Director's approval letter containing findings and conditions of approval may be viewed on the City's website at <https://www.brisbaneca.org/cd/page/log-7-day-notices-and-tree-removal-permits>

DATED: August 21, 2020

  
\_\_\_\_\_  
John A. Swiecki, AICP  
Community Development Director



CITY OF BRISBANE  
Community Development Department  
50 Park Place, Brisbane, CA 94005  
(415) 508-2120

## Tree Removal Permit

August 21, 2020

Richard Cutler  
332 Monterey Street  
Brisbane, CA 94005

Subject: 332 Monterey Street

Dear Mr. Cutler:

Thank you for submitting a tree removal permit application to remove one Yucca and one California Bay tree from your property at 332 Monterey Street.

This letter serves as the permit to remove the two trees. Removal of the California Bay is subject to a 7-day appeal period, during which time you or anyone else may appeal this approval to the City Manager, per Brisbane Municipal Code Section 12.12.060. If no appeal is received, the permit effective date is August 29, 2020 and upon returning a signed copy of this letter, acknowledging agreement with the conditions of approval.

This permit is granted based on the finding, as stated in your application and supported by the report from your Arborist, Ellyn Shae, dated August 13, 2020, that the California Bay is diseased and poses a danger of falling or dropping limbs. Note that while the Yucca tree is included in your application, it is not a protected species, or otherwise protected under the ordinance. Findings and conditions of approval for removal of both trees are attached.

Please sign and return a copy of this letter to Senior Planner Ken Johnson and keep a copy on site during the tree removal in case you are asked to demonstrate compliance with Chapter 12.12 of the Brisbane Municipal Code. If you have any questions regarding this matter, including preparation of a replacement tree plan, please contact Mr. Johnson at (415) 508-2120, or email at [kjohnson@brisbaneca.org](mailto:kjohnson@brisbaneca.org).

Sincerely,

John Swiecki  
Community Development Director

Signed and Accepted: \_\_\_\_\_ Date: \_\_\_\_\_  
Richard Cutler

## FINDINGS

- A. The Yucca is defined as a “non-protected mature tree”, per BMC 12.12.040.G and this approval to remove is not subject to public notice or appeal. The application serves as the 7-day notice to the City for removal, as allowed under BMC 12.12.050.A. (Note that conditions 2 through 7 apply to its removal.)
- B. The California Bay is defined as a “protected tree” and the following finding is made approving its removal, per BMC Section 12.12.050.B.2.a, the tree is diseased such that it poses an imminent danger of falling or dropping limbs. (Note that conditions 1 through 7 apply to its removal)

## CONDITIONS OF APPROVAL

- 1. A replacement tree shall be required to be planted on the subject property at the property owner's expense for the California Bay in compliance with the following:
  - i. Replacement trees shall be on at least a 1:1 basis.
  - ii. Replacement size shall be of a standard fifteen (15) gallon nursery container, or larger.
  - iii. The replacement species and location shall be approved by the Planning Director prior to planting.
  - iv. Replacement trees are to be planted within ninety (90) days of removal.
- 2. The tree stumps are to be removed to near the ground level.
- 3. All tree removal activities shall be subject to the Noise Ordinance, BMC §8.28.060. Tree removal shall only be allowed between the hours of seven (7:00) a.m. and seven (7:00) p.m. on weekdays and nine (9:00) a.m. to seven (7:00) p.m. on weekends and holidays. Tree removal activities must meet at least one of the following noise limitations:
  - i. No individual piece of equipment shall produce a noise level exceeding eighty-three (83) dBA at a distance of twenty-five (25) feet from the source thereof.
  - ii. The noise level at any point outside of the property plane shall not exceed eighty-six (86) dBA.
- 4. Tree cutting and any chipping of tree materials shall not generate dust that would travel off-site and create a nuisance to neighboring properties, as defined in BMC §8.36.010.G.
- 5. This letter does not provide authorization for tree removal from other properties or entry to other neighboring properties where limbs may hang over. If the tree removal activities require entry onto an adjacent yard, you will need to contact the owner of that property to arrange a private agreement.
- 6. All removal activities shall comply with applicable federal and state provisions protecting nesting or migratory birds as provided in the federal Migratory Bird Treaty Act and the California Fish and Wildlife Code, Section 3503.
- 7. This tree removal permit shall expire six (6) months following the effective date of the permit.



## REPORT TO COMMUNITY DEVELOPMENT DIRECTOR

**Date:** August 21, 2020

**From:** Ken Johnson, Senior Planner

**Subject:** TR-3-20 Tree Removal Application for One California Bay and One Yucca Tree from 332 Monterey Street

### Request

Consideration of the application for a tree removal permit for one California Bay and one Yucca tree from the site of the single family home at 332 Monterey Street.

### Applicant

Richard Cutler, owner.

### Applicable Code Sections

The California Bay tree is defined as a “protected tree” per Brisbane Municipal Code (BMC) Section 12.12.040.H.1. Application and findings, decision and standard conditions for removal of a protected tree are provided in BMC Section 12.12.050.B.

The Yucca is defined as a “non-protected mature tree”, per BMC 12.12.040.G. A 7-day notice to the City is required for removal, per BMC 12.12.050.A.

### Discussion

The Yucca tree is located in the front yard and the application serves as the 7-day notice to remove. Since it’s a non-protected tree, its removal is not subject to further noticing or permitting requirements. Standard conditions of approval 2 through 7 on the attachment address operational conditions, pertaining to its removal.

The California Bay (aka: Bay Laurel or by its scientific name *Umbellularia californica*) is approximately 90 inches in circumference at 2 feet above ground and is approximately 35-40 feet high, with a canopy spread of approximately 25 feet. It is located in the rear yard of the single family home at 332 Monterey Street. The following provides further discussion regarding its proposed removal.

As one of three protected species, BMC Section 12.12.050.B.2 requires that one or more out of five findings be made by the Planning Director (i.e. Community Development Director) for approval of an application for a protected tree removal. In this case, the following finding can be made to approve the proposed tree removal:

- A. The tree is diseased such that it poses an imminent danger of falling or dropping limbs.

Staff Report for Tree Removal Permit  
332 Monterey Street  
August 21, 2020

As requested by the City, the applicant provided a report from an arborist, Ellyn Shae, dated August 13, 2020, which documented that the tree is diseased with a recommendation for removal due to the danger that it poses. Ms. Shae indicated that it was “unhealthy and structurally unsound and in danger of falling on one or more of 4 properties.” Additionally she stated, “The species is a vector for Sudden Oak Death and can infect other susceptible species.” Further details and photos of the tree are provided in the arborist’s report (Attachment 2).

On August 19<sup>th</sup>, staff observed the tree in person and confirmed the conditions documented in the arborist’s report. This included observation of a large number of dead leaves in the canopy, missing bark and dead wood at its base and running up the trunk.

### **Recommendation**

That tree removal permit TR-3-20 be approved, based on the draft finding and conditions of approval provided in Attachment 1.

### **Attachments**

1. Draft Findings and Conditions of Approval
2. Arborist’s Report
3. Tree Removal Application



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Ken Johnson, Senior Planner

**-DRAFT-  
FINDINGS**

- A. The Yucca is defined as a “non-protected mature tree”, per BMC 12.12.040.G and this approval to remove is not subject to public notice or appeal. The application serves as the 7-day notice to the City for removal, as allowed under BMC 12.12.050.A. (Note that conditions 2 through 7 apply to its removal.)
- B. The California Bay is defined as a “protected tree” and the following finding is made approving its removal, per BMC Section 12.12.050.B.2.a, the tree is diseased such that it poses an imminent danger of falling or dropping limbs. (Note that conditions 1 through 7 apply to its removal)

**CONDITIONS OF APPROVAL**

- 1. A replacement tree shall be required to be planted on the subject property at the property owner's expense for the California Bay in compliance with the following:
  - i. Replacement trees shall be on at least a 1:1 basis.
  - ii. Replacement size shall be of a standard fifteen (15) gallon nursery container, or larger.
  - iii. The replacement species and location shall be approved by the Planning Director prior to planting.
  - iv. Replacement trees are to be planted within ninety (90) days of removal.
- 2. The tree stumps are to be removed to near the ground level.
- 3. All tree removal activities shall be subject to the Noise Ordinance, BMC §8.28.060. Tree removal shall only be allowed between the hours of seven (7:00) a.m. and seven (7:00) p.m. on weekdays and nine (9:00) a.m. to seven (7:00) p.m. on weekends and holidays. Tree removal activities must meet at least one of the following noise limitations:
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- 6. All removal activities shall comply with applicable federal and state provisions protecting nesting or migratory birds as provided in the federal Migratory Bird Treaty Act and the California Fish and Wildlife Code, Section 3503.
- 7. This tree removal permit shall expire six (6) months following the effective date of the permit.

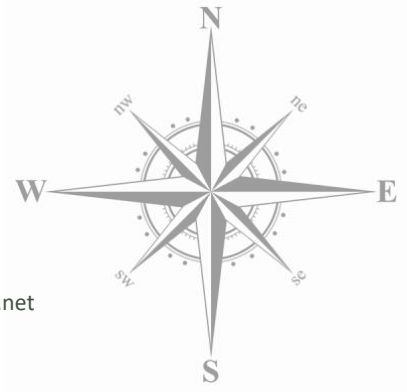
# Ellyn Shea, Consulting Arborist

## dba Garden Guidance LLC

ISA Certified Arborist # WE-5476A - ISA Qualified Tree Risk Assessor

ASCA Registered Consulting Arborist #516

2085 Hayes Street, Suite 10 • San Francisco, CA 94117 • Phone: 415/846-0190 • E-Mail: [ellyn.shea@sbcglobal.net](mailto:ellyn.shea@sbcglobal.net)



**August 13, 2020**

**Dawn Timan  
332 Monterey Street  
Brisbane, CA 94005**

### Assignment

- Assess a Bay Laurel tree (*Umbellularia californica*) in the backyard at 332 Monterey Street for health and hazard potential.
- Provide a written report with findings and recommendations as required by the City of Brisbane.

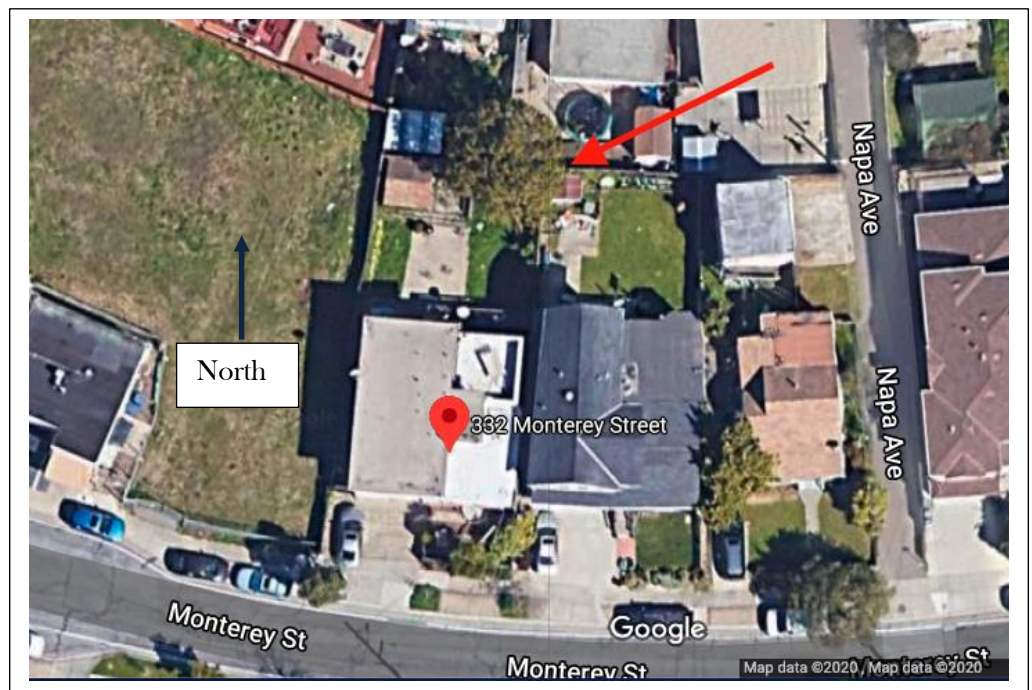
### Background

The owner of 332 Monterey Street has lived in this house for over 20 years. This year the Bay Laurel tree showed unusual signs of browning leaves. Other arborists noted dead wood at the base. I was called to document the tree's condition to see if it met the City's criteria for removal. I looked at the tree on August 11, 2020.

### Observations

The tree is a native Bay Laurel (*Umbellularia californica*) with a trunk diameter (measured at 54 inches from the ground) of 26.5 inches, and a trunk circumference of 90 inches, measured at 2 feet from the ground. The tree is about 35-40 feet high, with a canopy spread of about 25 feet.

The tree is about 25-30 feet away from the house at 332 Monterey, and the canopy overhangs 3 other properties in addition to the subject property.



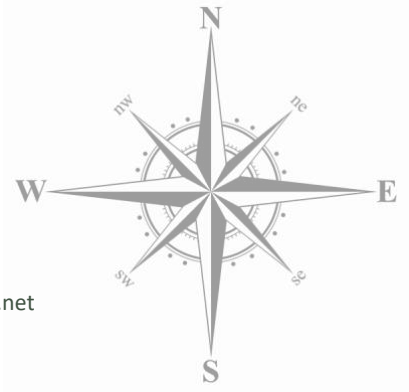
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Brown foliage is scattered around the canopy, which prompted the owner's concern.



Soil had been covering the flare at the base of the trunk. A partial excavation of the base reveals two significant patches of dead wood with missing bark at the base. On the east side, the area of missing bark is about 2 feet long and 1 foot high. On the west side the area of missing bark is about 33 inches long and 36 inches high. The amount of dead wood is likely to extend beyond the areas of missing bark, because it was easy to remove other pieces of bark at the edges of these areas.



East side



West side



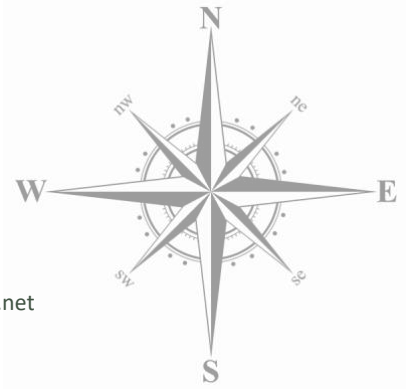
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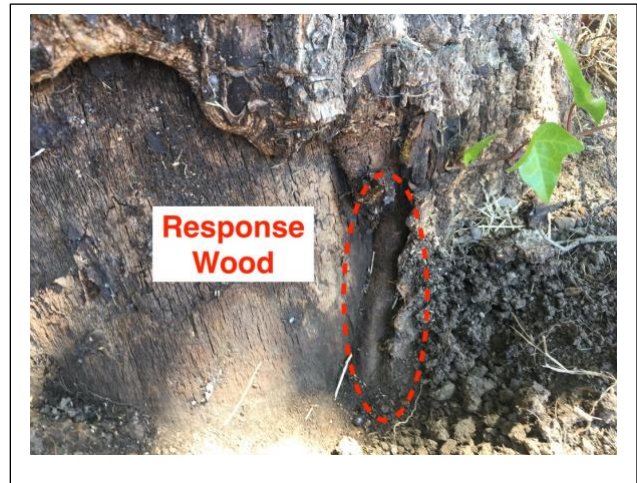
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There is a small amount of response growth on the edges of these areas, but not consistently around the edges. This indicates that the tree has been trying to grow over the bare wood but cannot grow as fast as the wood

With a circumference of 90 inches at 2 feet, and two patches of dead wood totally 57 inches long, about 2/3 of the base of the trunk is dead. It is highly likely that more than one or more of the structural roots are dead as well. The tree is structurally compromised as a result.



There is also a vertical cavity in the tree which begins about 3 feet from the ground and extends up the trunk for about 5 feet. A probe can be inserted into the cavity 5-6 inches. Striking the trunk with a mallet on the east and west sides yields a hollow sound. The cavity is very narrow with rounded edges, indicating that the wound happened many years ago and the tree has been growing for a while to try and close over the wound. The wound may have been caused by a branch being ripped off the tree long ago.



### Discussion

This species is susceptible to a number of wood decay organisms including Oak Root Fungus (*Armillaria mellea*) and Artist's Conk (*Ganoderma applanatum*). Since no fungal fruiting bodies (mushrooms) were visible at the time of my visit, I was not able to identify the specific wood decay organism.

Identification could be made by sending a sample to a lab. The organism likely entered the wood through the vertical wound, which may have been caused by a branch being ripped off long ago. Since some wood decay fungi also live in soil and can enter through roots, identifying the decay organism through lab testing would be recommended if a replacement tree is to be planted in the backyard, in order to select a replacement tree that is resistant to this particular fungus.

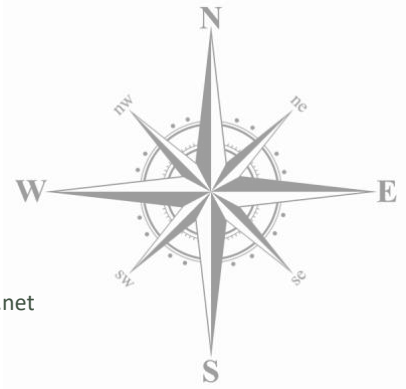
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Bay Laurels also are susceptible to Sudden Oak Death (SOD) (*Phytophthora ramorum*), but this does not generally kill the wood of the Bay Laurel or cause decay. In addition, SOD symptoms on Bay Laurel include partial leaf browning and yellowing. In this case, entire leaves are turning brown. Typically, Bay Laurels carry SOD and spread it to other susceptible species without succumbing to the disease. Lab testing is the only way to confirm SOD.

### Conclusions

- The tree is unhealthy and structurally unsound and is in danger of falling and causing damage on one or more of 4 properties.
- In addition, the species is a vector for Sudden Oak Death and can infect other susceptible species.
- The tree meets the City of Brisbane criteria for removal due to: disease, danger of falling, proximity to existing structures.

### Recommendations

- Remove the tree immediately.
- If a replacement tree is to be planted in the backyard, do the following to identify the wood decay fungi:
  - During the removal process, take a sample of wood, using the specific process outlined by the UC Berkeley Forest Pathology lab: [https://nature.berkeley.edu/matteolab/?page\\_id=740](https://nature.berkeley.edu/matteolab/?page_id=740)
  - Note: sample must contain both live and dead tissue, so tree removal is the best opportunity to collect a sample for the lab. Long-dead wood will not have the organism in it anymore.
  - Ship the sample overnight to the UC lab as specified: [https://nature.berkeley.edu/matteolab/?page\\_id=740](https://nature.berkeley.edu/matteolab/?page_id=740)
  - Include this submission form with the sample: <https://nature.berkeley.edu/garbelotto/downloads/WDDsubmit.pdf>
  - Include a suggested donation of \$150-\$300 and this form with the sample and the submission form: <https://nature.berkeley.edu/matteolab/wp-content/uploads/2018/05/WDD-UCB-foundation-donation-v6.pdf>
- When the diagnosis is received, choose a replacement tree that is resistant to this particular organism.
- Plant the replacement tree with the flare at the base of the trunk above soil grade, not buried. Provide proper irrigation.

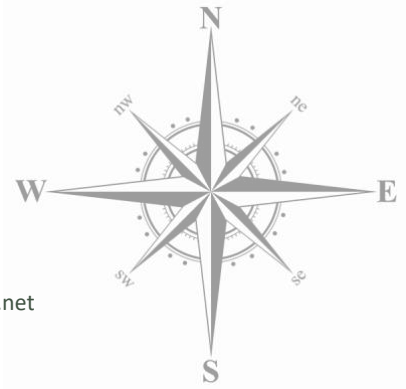
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### Assumptions and Limiting Conditions

1. Any legal description provided to the consultant is assumed to be correct. Title and ownership of all property considered are assumed to be good and marketable. No responsibility is assumed for matters legal in character. Any and all property is appraised or evaluated as though free and clear, under responsible ownership and competent management.
2. It is assumed that any property is not in violation of any applicable codes, ordinances, statutes or other governmental regulations.
3. Care has been taken to obtain all information from reliable sources. All data has been verified insofar as possible. The consultant can neither guarantee nor be responsible for the accuracy of information provided by others.
4. Various diagrams, sketches and photographs in this report are intended as visual aids and are not to scale, unless specifically stated as such on the drawing. These communication tools in no way substitute for nor should be construed as surveys, architectural or engineering drawings.
5. Loss or alteration of any part of this report invalidates the entire report.
6. Possession of this report or a copy thereof does not imply right of publication or use for any purpose by any other than the person to whom it is addressed, without the prior written or verbal consent of the consultant.
7. This report is confidential and to be distributed only to the individual or entity to whom it is addressed. Any or all of the contents of this report may be conveyed to another party only with the express prior written or verbal consent of the consultant. Such limitations apply to the original report, a copy, facsimile, scanned image or digital version thereof.
8. This report represents the opinion of the consultant. In no way is the consultant's fee contingent upon a stipulated result, the occurrence of a subsequent event, nor upon any finding to be reported.
9. The consultant shall not be required to give testimony or to attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services as described in the fee schedule, an agreement or a contract.
10. Information contained in this report reflects observations made only to those items described and only reflects the condition of those items at the time of the site visit. Furthermore, the inspection is limited to visual examination of items and elements at the site, unless expressly stated otherwise. There is no expressed or implied warranty or guarantee that problems or deficiencies of the plants or property inspected may not arise in the future.

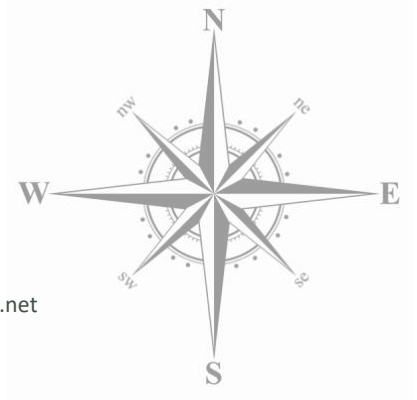
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## Disclosure Statement

Arborists are tree specialists who use their education, knowledge, training, and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or to seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like any medicine, cannot be guaranteed.

Treatment, pruning, and removal of trees may involve considerations beyond the scope of the arborist's services such as property boundaries, property ownership, site lines, disputes between neighbors, and other issues. An arborist cannot take such considerations into account unless complete and accurate information is disclosed to the arborist. An arborist should then be expected to reasonably rely upon the completeness and accuracy of the information provided.

Trees can be managed, but they cannot be controlled. To live near trees is to accept some degree of risk. The only way to eliminate all risk associated with trees is to eliminate the trees.

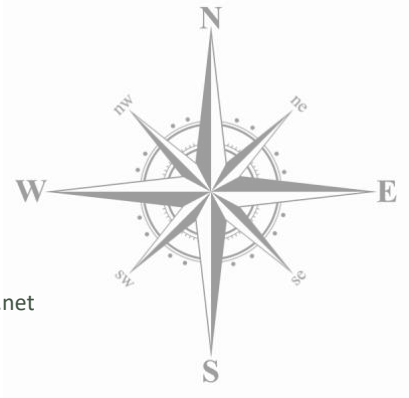
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### Certification of Performance

I, Ellyn Shea, Certify:

- That I have personally inspected the trees and/ or property evaluated in this report. I have stated my findings accurately, insofar as the limitations of my Assignment and within the extent and context identified by this report;
- That I have no current or prospective interest in the vegetation or any real estate that is the subject of this report, and have no personal interest or bias with respect to the parties involved;
- That the analysis, opinions and conclusions stated herein are my own and are based on current scientific procedures and facts and according to commonly accepted arboricultural practices;
- That no significant professional assistance was provided, except as indicated by the inclusion of another professional report within this report;
- That my compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party.
- I am a member in good standing, Certified Arborist (#WE-5476A), and a Qualified Tree Risk Assessor with the International Society of Arboriculture, and a Registered Consulting Arborist (#516) with the American Society of Consulting Arborists.

I have attained professional training in all areas of knowledge asserted through this report by completing relevant college courses, routinely attending pertinent professional conferences and by reading current research from professional journals, books and other media.

I have rendered professional services in a full-time capacity in the field of horticulture and arboriculture for more than 20 years.

Signature:

Date: 8/13/20



# APPLICATION for TREE REMOVAL PERMIT

Applicant's Name: Richard Cutter  
 Applicant's Address: 332 Monterey St. Brisbane CA  
 Applicant's Phone Number: [REDACTED]

Address of Tree(s) Proposed for Removal: \_\_\_\_\_

Number of Trees to be Removed	Type/Species	Tree(s) circumference at 2 Ft. above Grade	Location of Tree(s)
1	BAY	7 ft, 5 inches	BACK YARD
1	YUCCA	7 ft, 9 inches	Front YARD

- Reason(s) for Removal:  Disease. - BAY  
 Imminent danger of falling.  
 Proximity to existing or proposed structures. - YUCCA  
 Interference with utility services.  
 Necessary for economic or other enjoyment of the property.  
 Other—see following explanation:

BAY is diseased, had 3 independent assessments  
YUCCA is expanding into fence & concrete

New trees to replace trees to be removed? MAYBE

Existing trees to remain on property: No

- Required attachments (e-files accepted):  Site plan or aerial photo showing tree location(s)  
 Site plan or aerial showing proposed replacement(s)  
 Photo of tree

Applicant's Signature: [REDACTED] Date: 9 July 2020

Property Owner's Signature: [REDACTED] Date: 9 July 2020

Print Owner's Name: Richard Earl Cutter Jr.

Submit to: City of Brisbane  
 Attn: Ken Johnson, Senior Planner  
 50 Park Place, Brisbane, CA 94005  
 Phone 415-508-2120/Fax 415-467-5547

Attach any additional information necessary to support the proposed request, such as a map, diagram or description showing the location of the tree(s) to be removed, photographs, etc. An arborist's report and replacement tree planting plan may be needed for applications to remove a Protected Tree.



