



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-9-20**

APPLICANT/OWNER: **W. Clarke Conway**

ASSESSOR'S PARCEL NOS.: **007-424-080**

ZONING: **R-1 Residential District**

LOCATION: **261 Kings Road**

REQUEST: **Removal of one (1) California Bay Tree (aka: Bay Laurel) from the northwest side 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 November 25, 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 Tuesday November 24, 2020, per Brisbane Municipal Code §12.12.060. Appeals are subject to public hearing with the City Manager. To contact the City Clerk, email 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: November 17, 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

November 17, 2020

W. Clarke Conway
261 Kings Road
Brisbane, CA 94005

Subject: 261 Kings Road

Dear Mr. Conway:

Thank you for submitting a tree removal permit application to remove one California Bay tree from your property at 261 Kings Road.

This letter serves as the permit to remove the tree. This permit 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 November 24, 2020 and upon returning a signed copy of this letter, acknowledging agreement with the conditions of approval.

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.

Sincerely,

John Swiecki
John Swiecki
Community Development Director

Signed and Accepted: _____ Date: _____
W. Clarke Conway

FINDINGS

- A. 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.b: the tree is located in close proximity to the home at 261 Kings Road such that it poses a likelihood of damage to the structure.

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.

Alternatively, per BMC Section 12.12.050.B.6, an in lieu fee may be paid to the City or in lieu off-site planting may be provided elsewhere in the City, following written request by the applicant and approval by the Planning Director.

2. 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.
3. 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.
4. 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.
5. 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.
6. This tree removal permit shall expire six (6) months following the effective date of the permit.



REPORT TO COMMUNITY DEVELOPMENT DIRECTOR

Date: November 16, 2020

From: Ken Johnson, Senior Planner

Subject: TR-9-20 Tree Removal Application for One California Bay Tree from 261 Kings Road

Request

Consideration of the application for a tree removal permit for one California Bay tree from the northwest side yard of the single family home site at 261 Kings Road.

Applicant/Owner

W. Clarke Conway.

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.

Discussion

The California Bay (aka: Bay Laurel, or by its scientific name *Umbellularia californica*) is approximately 40 inches in circumference at 2 feet above ground. It is located in the side yard of the single family home at 261 Kings Road. 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 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:

“The tree is in close proximity to a structure, or would be in close proximity following city-approved construction, such as a building, retaining wall, utilities, etc., such that it would pose a likelihood of damage to such structures.”

The tree is on a site with a dense tree canopy and grew up from under the edge of the deck. The owner/applicant has reported that due to this close proximity to the structure, “with high winds the tree bangs into the house causing potential unsafe condition”. Also, in reference to replanting, the owner noted that, “numerous trees surround the property” and the “tree canopy would not allow proper growth on the property”. Therefore, he has requested that a replacement tree not be required.

The unsafe condition that poses a likelihood of damage to the house due to the close proximity to the house and the presence of a thick tree canopy are evidenced in the photograph provided by the owner and the aerial photo of the site (see attachments 2 and 3). In brief, staff concurs that an unsafe condition is posed by the tree and that there is a heavy tree canopy condition at this site from numerous other trees.

Since the tree is a protected species, as defined in BMC Section 12.12.040.H.1, in connection with the granting of a tree removal permit, the standard conditions of approval are to be applied. One of these conditions includes replacement tree(s) on at least a 1:1 basis with a fifteen gallon nursery container size or larger, with a species and location to be approved by the planning director, per 12.12.050.B.4. Also, generally the replacement tree is to be planted within 90 days of removal of the subject tree. BMC Section 12.12.050.B.6 allows exceptions, upon written request, subject to the planning director's approval. These include in-lieu payment to fund planting of a tree and maintaining it for one year elsewhere in the city, or in lieu planting elsewhere in the City. Given the applicant's request and the dense tree canopy at the site, these potential alternatives are noted in the draft conditions of approval.

Recommendation

That tree removal permit TR-9-20 be approved, based on the draft finding and conditions of approval provided in Attachment 1.

Attachments

1. Draft Findings and Conditions of Approval
2. Tree location map/aerial
3. Tree Removal Application



Ken Johnson, Senior Planner

**-DRAFT-
FINDINGS**

- A. 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.b: the tree is located in close proximity to the home at 261 Kings Road such that it poses a likelihood of damage to the structure.

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.

Alternatively, per BMC Section 12.12.050.B.6, an in lieu fee may be paid to the City or in lieu off-site planting may be provided elsewhere in the City, following written request by the applicant and approval by the Planning Director.

2. 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.
3. 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.
4. 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.
5. 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.
6. This tree removal permit shall expire six (6) months following the effective date of the permit.

Google Maps 261 Kings Rd



0, Map data ©2020 20 ft

261 Kings Rd

Brisbane, CA 94005
Building



Directions



Save



Nearby



Send to your
phone



Share

Attachment 3



City of Brisbane
 Community Development Dept.
 50 Park Place
 Brisbane, CA 94005
 (415) 508-2120

Application for Protected Tree Removal

City Hall Hours: M-T-Th 8-5, W 8-8, F 8-1

Applicability: Brisbane Municipal Code Section 12.12.050.B allows that a protected tree may be removed following the granting of a permit by the Community Development Director. This application form, an application fee and the supplemental materials identified herein are required to process a tree removal application. A Non-protected Mature Tree may be removed, subject to certain requirements, following the filing of a 7-Day Notice by Owner to the City. See further notes on pages 4 and 5 of this form and the separate 7-Day Notice form, if applicable.

This form may **not** be used to request removal of trees located in the public right-of-way. For trees within the public right-of-way, contact the Department of Public Works. This form may **not** be used for trees on property owned by others who are not listed on this form and who have not given authorization for the request by signing this form.

Processing Time: The City will notify you, the applicant, of the decision to approve or deny this application or if the application is incomplete within three weeks following submittal of this application. During the review period, the Community Development Department (CDD) **will require access to the property** to view the tree(s) proposed for removal to verify the information provided herein.

Appeals: The Community Development Director's decision to approve or deny the application is subject to a seven-day appeal period (see page 5 for further information on appeals).

Address of Tree(s) Proposed for Removal 261 Kings Rd

This application is for removal of a Protected Tree (see definitions on page 3 of this form)? Yes No

If "Yes", continue with this form. If you answered "No" to the above, please STOP and complete a 7-Day Notice to City by Owner for removal of a non-protected mature tree instead, or contact the Community Development Department for more information.

Photo ID #	Species (Scientific and Common Name)	Tree circumference at 2 Ft. above Grade	Description of Tree Location
	Bay Laurel	40"	Underneath Structure

Attach a photo of each tree, keyed to a site plan or aerial photo, indicating the location of each tree to be removed for field verification. Check that the following are included in the application:

- Site plan or aerial photo showing tree locations(s)/ID and A photo of each tree, keyed to the plan/aerial

A written report by an independent and qualified arborist may be required, documenting the health of the tree. If not included at the time of initial submittal, it may be required prior to permit approval. Is an arborist's report attached?

- Yes, arborist's report is attached or No, a report is not included at this time.

Indicate one or more applicable reasons for removal. For multiple trees, please note the applicable reasons for each tree.

- The tree is dead.
- The tree is diseased such that it poses an imminent danger of falling or dropping limbs.
- The tree is in close proximity to a structure, or would be in close proximity following city-approved construction, such as a building, retaining wall, utilities, etc., such that it would pose a likelihood of damage to such structures.
- That removal of the tree is necessary for good forestry practices, due to such factors as crowding with other trees or the spread of pests or pathogens.
- The tree poses a risk to the property due to unusual site conditions or fire hazard.
- The tree unreasonably interferes with the economic or other enjoyment of the property.

Provide further description as may be needed, or attach a description further explaining reasons for removal:

Sent pictures, tree is growing under structure and with high winds the tree bangs into house causing potential unsafe condition

Tree replacements are required for protected trees on at least a one-to-one basis are required:

- Tree planting plan is attached (check if attached)

If a tree planting plan is not attached, please explain:

Numerous trees surround the property, tree canopy would not allow proper growth on property

Owner's Information:

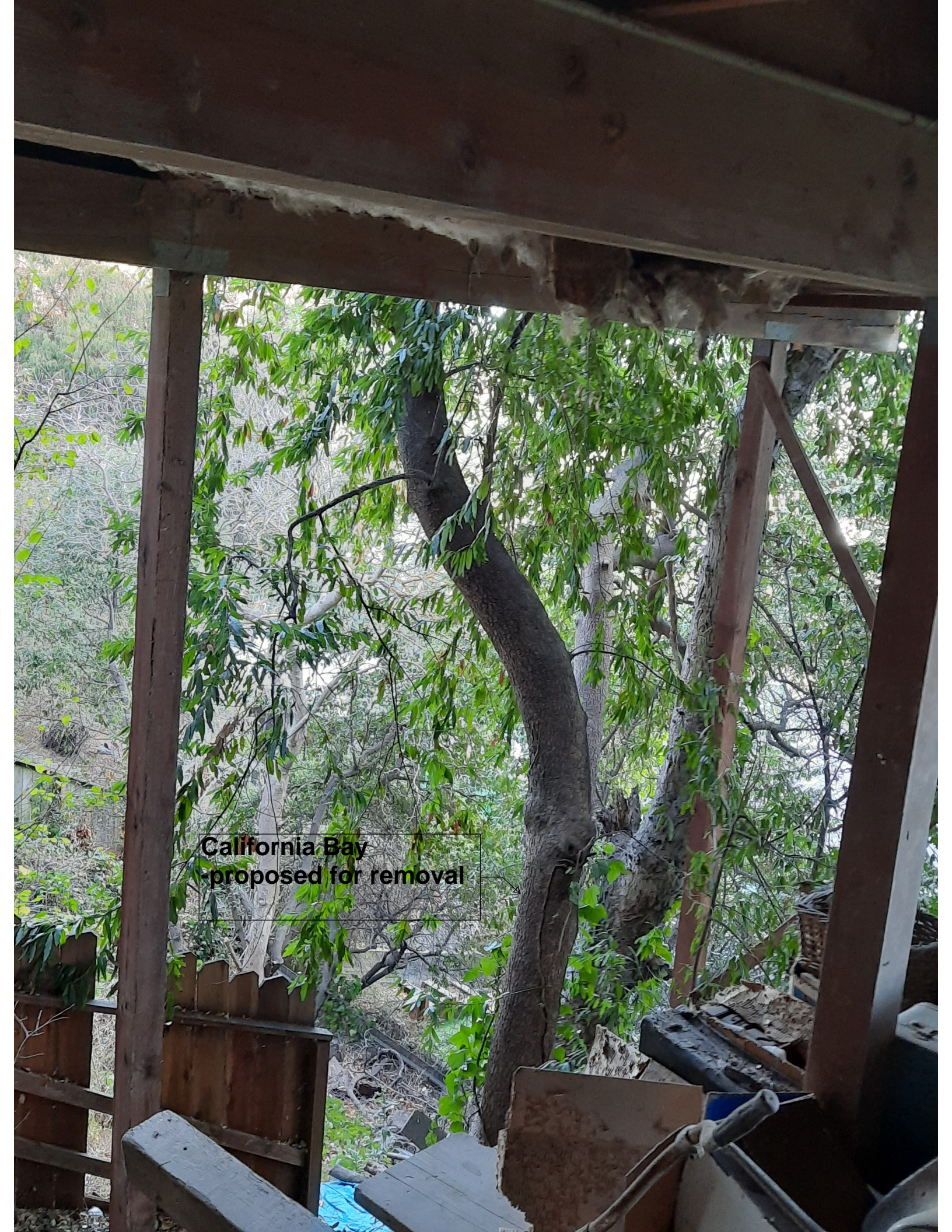
Owner First Name Last Name

 Mailing Street # Mailing Street Mailing City Mailing State Mailing Zip
 Email Phone

OWNER ACKNOWLEDGMENT

The information submitted herein is true and correct and I am the owner of the property for which this Application for Tree Removal is requested.

Property Owner's Signature (required) Date 4/9/20



California Bay
-proposed for removal