

**SAUSALITO PLANNING COMMISSION  
RESOLUTION NO. 2021-06**

**ADVISORY DECISION FOR THE RESTORATION  
OF VIEWS FROM 543 EASTERBY STREET  
VIEW CLAIM # 2021-00006**

**WHEREAS**, on January 12, 2021 a View Claim application was filed by claimant Karina Hughes, property owner of 543 Easterby Street (APN 064-193-22), requesting a fact-finding meeting for the purpose of making an Advisory Decision for the restoration of views from her property, which she claims are being obstructed by four trees located at 535/537 Easterby Street (APN 064-193-17); and

**WHEREAS**, the Planning Commission conducted duly-noticed public hearings on March 17, 2021 at which time all interested persons were given an opportunity to be heard; and


**WHEREAS**, the Planning Commission has reviewed and considered the information contained in the staff reports dated March 17, 2021 for the View Claim.

**NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:**

1. To make an advisory decision three Monterey cypress and one coast live oak be reduced in height using heading cuts as recommended in the Arborist Report.
2. To make an advisory decision that the cost of obtaining required tree removal permits and perform the necessary tree work will be allocated with a cost sharing agreement similar to the 2017 civil agreement.
3. This decision is based upon the Standards provided in Attachment 1 and subject to the conditions of advisory decision provided in Attachment 2.

**RESOLUTION PASSED AND ADOPTED**, at the special meeting of the Sausalito Planning Commission on the 17<sup>th</sup> day of March 2021, by the following vote:

AYES:	Commissioner: Pierce, Luxenberg, Saad, Graef, Chair Feller
NOES:	Commissioner: None
ABSENT:	Commissioner: None
ABSTAIN:	Commissioner: None

  
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Lilly Whalen, Secretary to the Planning Commission

**ATTACHMENTS**

1. Standards 2. Conditions

**PLANNING COMMISSION RESOLUTION NO. 2021-06**  
**MARCH 17, 2021**  
**VIEW CLAIM 2021-00006**  
**543 EASTERBY STREET / 535/537 EASTERBY STREET**

**ATTACHMENT 1: STANDARDS**

**VIEW CLAIM STANDARDS**

In accordance with Municipal Code Section 11.12.040.B.4, the Planning Commission makes the following statements on the standards with respect to the 543 Easterby View Claim:

**Section 11.12.040.C.3 of the Sausalito Municipal Code**

**a) The character of the view:**

- i. The vantage point from which the view is sought.
- ii. The extent to which the view might be diminished by factors other than growth involved in the claim.
- iii. The extent of the view that existed at the time claimant purchased the property (is the party attempting to create, enhance or restore a view?).

*The vantage points from primary living areas at 543 Easterby Street as documented in the Claimant's Arborist Report include the Living Room. The Living Room, which is defined as a "primary view" space in the SMC<sup>1</sup>, offers views the Sausalito waterfront, Richardson Bay, and the Tiburon Peninsula.*

*The arborist report finds the view has not been diminished by factors other than growth of the subject trees since the property was purchased in 2013.*

*The views at the time the claimant purchased the property in 2013 and the current view obstruction are documented and included in the Arborist Report, Supplement Sheet and included in the Staff Report*

**b) The character of the view obstruction:**

- i. The extent of the alleged view obstruction as a percentage of the total view (estimate).
- ii. The impact on the beneficial use, economic value and enjoyment of the claimant's property caused by the growth.

*The Arborist estimate that the obstruction now obstructs 80% of the view from the Living Room at 543 Easterby Street.*

*The Claimant describes in her March 9, 2021 Supplement Sheet for the View Claim application (Attachment 7) "My splendid view of Richardson Bay has greatly diminished and with it so has the joy that I once derived from my home. I would like to restore the view so that I may once again enjoy my home to its fullest" The Arborist also states "Loss in this view has reduced both the economic value and relative enjoyment of the property. The subject trees do*

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<sup>1</sup> SMC 10.88: "View, primary" means any view distance from primary viewing areas of a dwelling such as the living room, dining room, kitchen, master bedroom, and deck or patio spaces serving such living areas. A secondary view shall be any view from bathrooms, accessory bedrooms, passageways and utility areas.

*not provide visual, auditory, and wind screening and privacy to their owner or neighbors.”*

**c) The extent of benefits and/or burdens derived from the growth in question:**

- i. The visual quality, including but not limited to species, size, growth, form and vigor.
- ii. Location with respect to overall appearance, design and/or use of the tree owner’s property.
- iii. Visual, auditory, wind screening and privacy provided by the growth to the owner and the neighbors.
- iv. Effects on neighboring vegetation provided by the growth.
- v. The impact of the beneficial use, economic value and enjoyment of the tree owner’s property caused by the growth.

*The three Monterey cypress trees are partially topped by PG&E to prevent being tangled with wires every couple year while leaving the remainder of the trees untouched which contributes to the unbalanced appearance. The Claimant is requesting the trees be trimmed for restoration of view to minimize burdens placed on the tree owner.*

*The Arborist Report states, “The subject trees do not provide visual, auditory, and wind screening and privacy to their owner or neighbors.”*

*The Arborist Report does not speak to the effect on neighboring vegetation.*

*The Arborist certifies that the subject trees will not experience diminished health or stability as a result of this work.*

**d) Restorative actions shall be limited to the following:**

- i. No action
- ii. Thinning to reduce density e.g., open windows
- iii. Shaping to reduce height or spread, using thinning cuts only (drop crotch)
- iv. Heading or topping
- v. Tree removal with necessary replacement planting

*The Arborist recommends the subject trees be reduced in height using heading cuts to the level indicated the Arborist Report.*

**e) Each type of restorative action shall be evaluated based on the Findings and with consideration given the following factors:**

- i. The effectiveness of the restorative action in restoring the view.
- ii. Any adverse impact of the restorative action on the benefits derived from the growth in question.
- iii. The cost of the restorative action as obtained from the view claim. The tree committee may determine that additional estimates are required.
- iv. The effects upon the privacy of the tree owner. Values or quiet and privacy should receive equal consideration with values of view and sunlight.

*The Claimant has provided historical photographs from the time of purchase in 2013, the degree to which the growth of the subject trees over the past 8 years has obstructed views from the Claimant’s property is documented in the Arborist Report and Supplement Sheet. Maintenance pruning will be required annually to sustain this condition.*

*No adverse impacts were identified in the Arborist Report. Moreover, the arborist certifies that the subject trees will not experience diminished health or stability as a result of this work.*

*The Claimant and tree owner obtained bids for the restorative action in 2017 and a cost sharing agreement was discussed with the 543/545 Easterby HOA paying \$1,000 for their share of the work. No cost estimate has been provided for the requested restorative action.*

*The subject trees are located along the sidewalk on Easterby Street and easement driveway at the south and southwest side of the property. The proposed trimming would occur well above an elevation that could affect the privacy the tree provide at 535 Easterby.*

**f) All restorative actions shall be undertaken with consideration to the following factors:**

- i. All restorative actions must be consistent with “d” and “e”.
- ii. Restorative actions shall be limited to shaping, thinning and/or heading of branches where possible.
- iii. When shaping and/or thinning of branches is not a feasible solution, heading or topping shall be preferable to tree removal if it is determined that the impact of topping does not destroy the visual proportions of the tree, adversely affect the tree’s growth pattern or health, or otherwise constitute a detriment to the tree in question (arborist’s advice required).
- iv. Tree removal shall only be considered when all other restorative actions are judged to be ineffective. Replacement planting can be required on the property of the parties.
- v. An arborist’s report is required in determining the nature and cost of replacement plant materials, installation of such plant materials, and time required for such plant materials to become well established.
- vi. In those cases where tree removal eliminates or significantly reduces the tree owner’s benefits of visual screening, windscreening or privacy, replacement screen planting shall, at the tree owner’s option, be established prior to tree removal; notwithstanding the provisions of “e” above, the tree owner may elect tree removal with replacement planting as an alternative to shaping, thinning, heading or topping.
- vii. All shaping, thinning, heading, topping and tree removal required under this Chapter must be performed under the daily supervision of an Arborist.

*Claimant proposes a reduced the height using heading cuts to the level indicated the Arborist Report.*

*The Arborist recommend that the subject trees be reduced in height using heading cuts to the level indicated in the Arborist Report.*

*Tree removal is not the requested restorative action.*

*The daily supervision of an Arborist for tree work is a standard condition of approval attached to Tree Removal/Alteration Permits.*

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**ATTACHMENT 2: CONDITIONS OF APPROVAL**

**CONDITIONS OF ADVISORY DECISION**

1. This decision does not authorize a Tree Alteration/Removal Permit. Tree Alteration/Removal Permits shall be obtained pursuant to Sausalito Municipal Code Section 11.12.030 prior to any applicable tree work.
2. The three Monterey Cypress, and one Coast live oak identified in the Arborist Report shall be reduced in height using heading cuts to the level indicated in the Arborist Report
3. Within 60 days of the advisory decision, the tree owner will obtain multiple bids for the prescribed work from arborists and shall present all bids to claimant, unless the parties agree on an arborist in advance. Within 15 days after presentation of the bids, the claimant shall deposit with the tree owner an amount equal to half the lowest bid. The tree owner shall, at his or her sole discretion, choose the company by which he or she wishes the work done and shall order the work done within 15 days after receiving the claimant's deposit. The tree owner shall pay the difference between the deposit amount and the bid amount of the company he has chosen. The authorized work of correction shall be done by an arborist under the sole direction and control of the tree owner.
4. The cost of maintaining the subject trees at the level indicated in the Arborist Report shall be evenly split between the Claimant and the Tree Owner.
5. All work shall be performed under the daily supervision of a Certified Arborist.

**Advisory Notes**

Advisory notes are provided to inform affected parties of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

1. Pursuant to Municipal Code Section 11.12.040.B, in the event litigation is required to enforce the decision of the Planning Commission the party bringing any private civil action must promptly notify the City of Sausalito's Community Development Department in writing of such action.
2. An encroachment permit shall be obtained from the Department of Public Works prior to use of the public right-of-way for non-public purposes (e.g., materials storage, debris box storage) including any and all tree removal activities.
3. Pursuant to Municipal Code Section 12.16.140, the operation of construction, demolition, excavation, alteration, or repair devices and equipment within all residential zones and areas within a 500 foot radius of residential zones shall only take place during the following hours:

Weekdays – Between 8:00 a.m. and 6:00 p.m.

Saturdays – Between 9:00 a.m. and 5:00 p.m.

Sundays – Prohibited

City holidays (not including Sundays) – Prohibited

Homeowners currently residing on the property and other legal residents may operate the equipment themselves on Sundays and City holidays between 9:00 a.m. and 6:00 p.m.