



**CITY OF SUNNYVALE
REPORT
Planning Commission**

January 11, 2010

SUBJECT: **2009-0761** - Appeal of a Decision by the Director of Community Development denying a Tree Removal Permit for a fruitless pear tree in the front yard. The property is located at **1053 Pilinut Court** in an R-0 (Low-Density Residential) Zoning District.

REPORT IN BRIEF

Existing Site Conditions Single Family Residential (tree located in front yard at property line shared with 1050 Pilinut Court)

Surrounding Land Uses

North Single Family Residential

South Single Family Residential

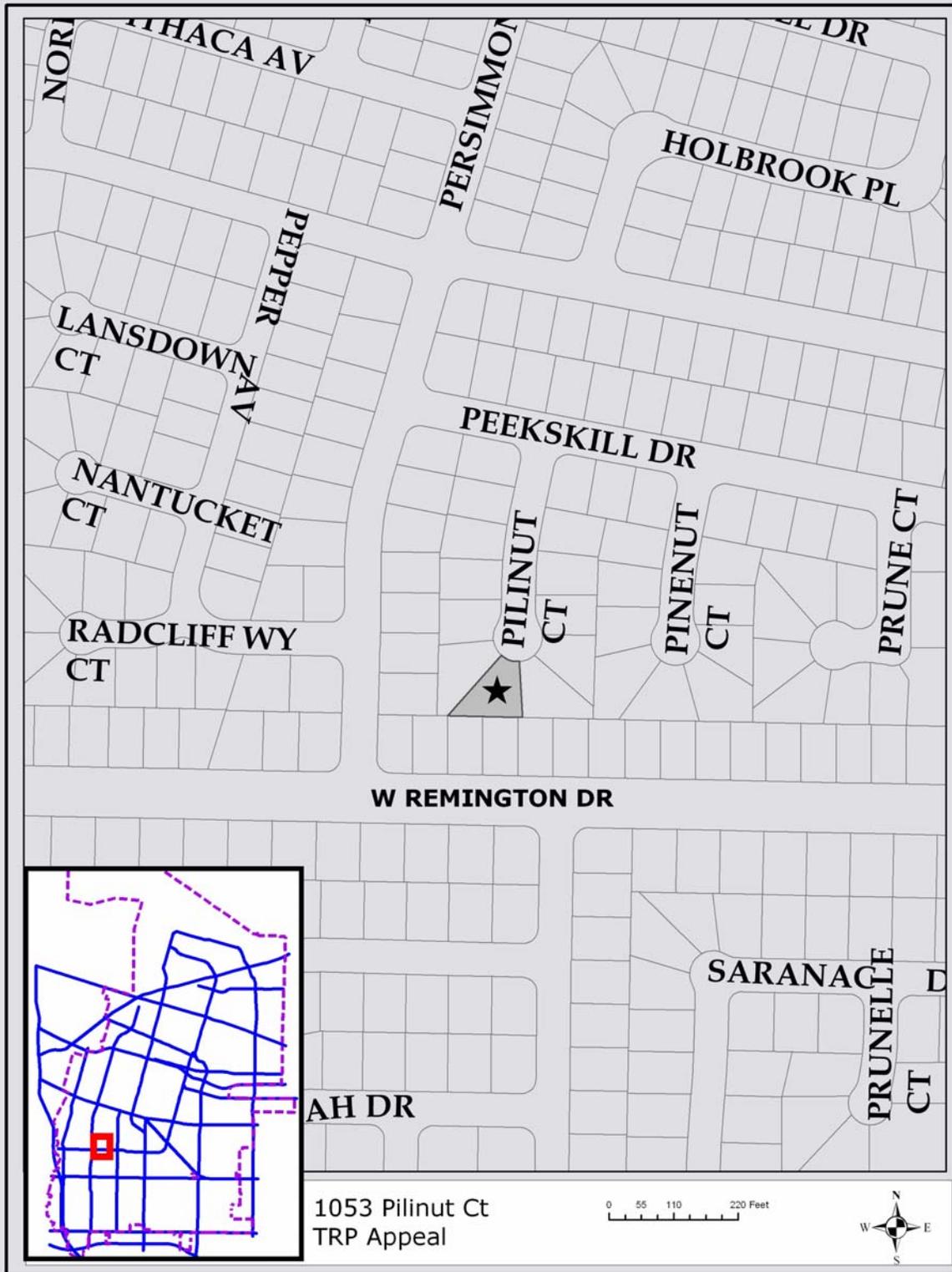
East Single Family Residential

West Single Family Residential

Issues Tree Removal Permit - Appeal

Environmental Status A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny the appeal and uphold the decision of the Director of Community Development to deny the Tree Removal Permit.



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Low Density Residential	Same	---
Zoning District	R-0	Same	R-0
Lot Size (s.f.)	8,103	Same	6,000 min.

ANALYSIS**Description of Proposed Project**

A Tree Removal Permit was requested by the property owner on September 29, 2009 to remove a significant sized fruitless pear tree in the front yard (see Attachment C – Photographs). The circumference of the subject tree is 54 inches.

On October 30, 2009, the City Arborist inspected the tree and recommended denial for the Tree Removal Permit, as he was not able to make the required findings to allow removal. Following this recommendation, Planning Division staff visited the site and concurred with the City Arborist's recommendation. The Tree Removal Permit was denied on November 4, 2009 (see Attachment D – Permit Letter). The applicant is appealing the decision to deny the Tree Removal Permit. The appellant believes the tree has caused significant damage to two properties and there is a considerable amount of work and cost that is required to contain the roots and prevent the tree from causing additional damage. (See Attachment E – Appeal Letter).

Background

Previous Actions on the Site: There are no previous planning applications related to the subject site.

Environmental Review

A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 4 Categorical Exemptions includes minor alterations to land.

Applicant's Appeal

The applicant states that the tree has already caused damage to two properties including each driveway and walkway in front of the homes. It is further noted

that the tree is located in close proximity to the homes and that the roots may pose a threat to the foundations of both buildings. It is stated that the tree has caused several thousand dollars in damage to nearby hardscape and contributed to plumbing obstructions at one of the residences. The letter is located in Attachment E.

Staff Discussion

The City Arborist and Planning staff has each visited the site. The City Arborist indicates that the subject tree is not diseased, damaged, and does not pose a hazard. It was further noted that root pruning and root barriers could address concerns regarding the lifting of hardscape and prevent damage to the foundation, although staff has not been presented any evidence that this has occurred. Staff concurred with this recommendation of the City Arborist and denied the application to remove the tree.

Expected Impact on the Surroundings: The subject tree within the front yard is clearly visible and dominates the streetscape within the cul-de-sac. Photos of the tree are located in Attachment C. Staff finds that the removal of this tree would have a detrimental effect on the overall streetscape for the neighborhood.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> Published in the <i>Sun</i> newspaper 13 notices mailed to property owners and residents adjacent to the project site 	<ul style="list-style-type: none"> Posted on the City of Sunnyvale's Web site Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> Posted on the City's official notice bulletin board Posted on the City of Sunnyvale's Web site

Conclusion

Findings and General Plan Goals: Staff is recommending denial of the appeal because the Findings for tree removal (Attachment A) were not made.

Conditions of Approval: If the Planning Commission is able to make the required findings to approve the Tree Removal Permit, staff is recommending the Conditions of Approval listed in Attachment B.

Alternatives

1. Deny the appeal and uphold the denial of the Tree Removal Permit.
2. Grant the appeal and approve the Tree Removal Permit subject to the conditions in Attachment B.
3. Grant the appeal and approve the Tree Removal Permit with modified conditions.

Recommendation

Alternative 1

Prepared by:

Ryan M. Kuchenig
Project Planner

Reviewed by:

Steve Lynch
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Photographs of Subject Tree
- D. Letter Denying the Tree Removal Permit, Dated 11/4/2009
- E. Appeal Letter Submitted by the Applicant

Recommended Findings – Tree Removal Permit

In order to grant a Tree Removal Permit, one or more of the following findings must be met. Staff was unable to make these required findings.

1. The tree is diseased or badly damaged.

The subject tree is not diseased or damaged. It has been found to be in good health by the City Arborist.

2. The tree represents a potential hazard to people, structures or other trees.

The subject tree has not been found to be posing a hazard. Upon inspections by the City Arborist and Planning staff, it was noted that the roots of the fruitless pear tree have lifted portions of the driveway and walkways of the site and neighboring property. Although, it has been noted that roots may pose a threat to the foundation of the buildings, staff has not found that this has occurred and proper root pruning and barriers can prevent this from occurring.

3. The tree is in basically sound condition, but restricts the owner's ability to enjoy the reasonable use or economic potential of the property, or unreasonably restricts an adjoining property's use or economic potential of the adjoining property. In the event this is the sole basis for the application, the following criteria shall be used to evaluate the application under this subsection:

- a. The necessity of the requested removal to allow construction of improvements such as additions to existing buildings or incidental site amenities or to otherwise allow economic or reasonable enjoyment of property;
- b. The topography of the land and the effect of the requested action on water retention and diversion or increased flow of surface water;
- c. The approximate age of the tree relative to its average life span;
- d. The potential effect of removal on soil erosion and stability where the tree is located;
- e. Current and future visual screening potential
- f. A property has sufficient landscaping or is over landscaped
- g. Allow removal of overgrown, but healthy, trees.
- h. Any other information the Director of Community Development finds pertinent to the application.

The subject tree is not restricting reasonable use or economic potential of the property or adjoining property. City staff has visited the site and has

determined that the tree is in good health and has a remaining life expectancy of at least 20 to 30 years and therefore merits preservation.

Recommended Conditions of Approval – Tree Removal Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. One replacement tree, a minimum of 15-gallon size, shall be planted anywhere on the property within 90 days of removal of the subject tree. If a replacement tree is not planted, an in-lieu fee of \$230.00 shall be paid to the City within 90 days of removal of the subject tree to allow a tree to be planted on City property.



ATTACHMENT C
Page 1 of 3







November 4, 2009

Sent Via E-mail to: [redacted]

Robert Bebb
1053 Pilinut
Sunnyvale, CA 94087

Subject: Tree Removal Permit – 1053 Pilinut, Sunnyvale, CA 94087
File No.: 2009-0761

Dear Applicant:

The Department of Community Development has reviewed your application for a Tree Removal Permit for an **Ornamental Pear tree** located in the front yard at the above address and has **denied** your request. In order to grant a Tree Removal Permit, at least one of the following findings is necessary: (1) the tree is not healthy, (2) it represents a potential hazard, or (3) it unreasonably restricts the use of your property or your neighbor's use of their property. Based on an examination of the subject tree, none of these findings can be made.

The Sunnyvale Tree Preservation Ordinance was adopted to protect the diversity of trees in Sunnyvale. Trees are a valuable asset to the community in terms of aesthetics, protection of habitat, and enhancement of economic value of property and may be removed only under the circumstances noted above. The City Arborist indicates that the subject tree is not diseased, damaged, and does not pose a hazard. Root pruning and root barriers may address your concerns regarding lifting of adjacent hardscape. Please refer to the ISA Pruning Guidelines at <http://www.treesaregood.com> for information on safe pruning techniques to avoid damaging the tree. We strongly recommend consulting a Certified Arborist for pruning assistance.

You may appeal this decision to the Planning Commission by filing a written appeal within fifteen calendar days of the date of this notice. There is a \$123.00 filing fee for the appeal.

If you have questions on tree maintenance, you may consult with the City Arborist, Steve Sukke, at (408) 730-7590. If you have any questions regarding this permit, please contact me at (408) 730-7429. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Shaunn Mendrin".

Shaunn Mendrin
Project Planner

November 17, 2009

Robert Bebb
1053 Pilinut Ct.
&
Brad Newton
1050 Pilinut Ct.
Sunnyvale, CA 94087

Subject: Tree Removal Permit – 1053 Pilinut Court, Sunnyvale, CA 94087
File No.: 2009-0761 .

To Department of Community Development

This letter of appeal is written by the owners of the adjacent properties located at 1053 and 1050 Pilinut Court. We would like to request an appeal of the denial of permit #2009-0761 at your earliest convenience. We wish to present additional information regarding the findings that led to the denial of the permit request.

To summarize our concerns, the tree in question was planted in an elevated fashion that is causing its roots to overgrow the small space it was planted in. It has already caused damage to the driveways and walkways of both residences. As a result of this damage, one driveway will require expensive repairs. The tree is also located in close proximity to both residences. Therefore, the roots may pose a threat to the foundations of the buildings. At present, the tree has caused several thousand dollars in damage to the nearby hardcover and has contributed to plumbing obstructions at one of the residences.

In order to insure that the ongoing root damage is mitigated, a significant amount of work and additional cost will be required to try to contain the elevated roots. Furthermore, the damage being caused by the roots of this tree are far offsetting any economic value presented to the owners of the property.

The residents of both properties are sensitive to any aesthetic and environmental impact resulting from the removal of this tree. We have many trees on our respective properties, and they are all well cared for. We wish to replace this tree with an equally attractive tree that correctly fits within the available space and does not cause additional future root damage.

We welcome the opportunity to present the information we have regarding this matter and hope it will be given further consideration.

Sincerely,



Robert Bebb & Brad Newton