

**REPORT TO PLANNING COMMISSION****Hearing Date:** July 11, 2011**File Number:** 2011-7340

SUBJECT: **2011-7340:** Appeal of a Decision by the Director of Community Development denying a Tree Removal Permit for three of six trees. The property is located at **1402 Kelowna Court** in an R-1 (Low Density Residential Development) Zoning District (APNs: 320-23-015)

REPORT IN BRIEF:

Existing Site Conditions Single Family Home

Surrounding Land Uses

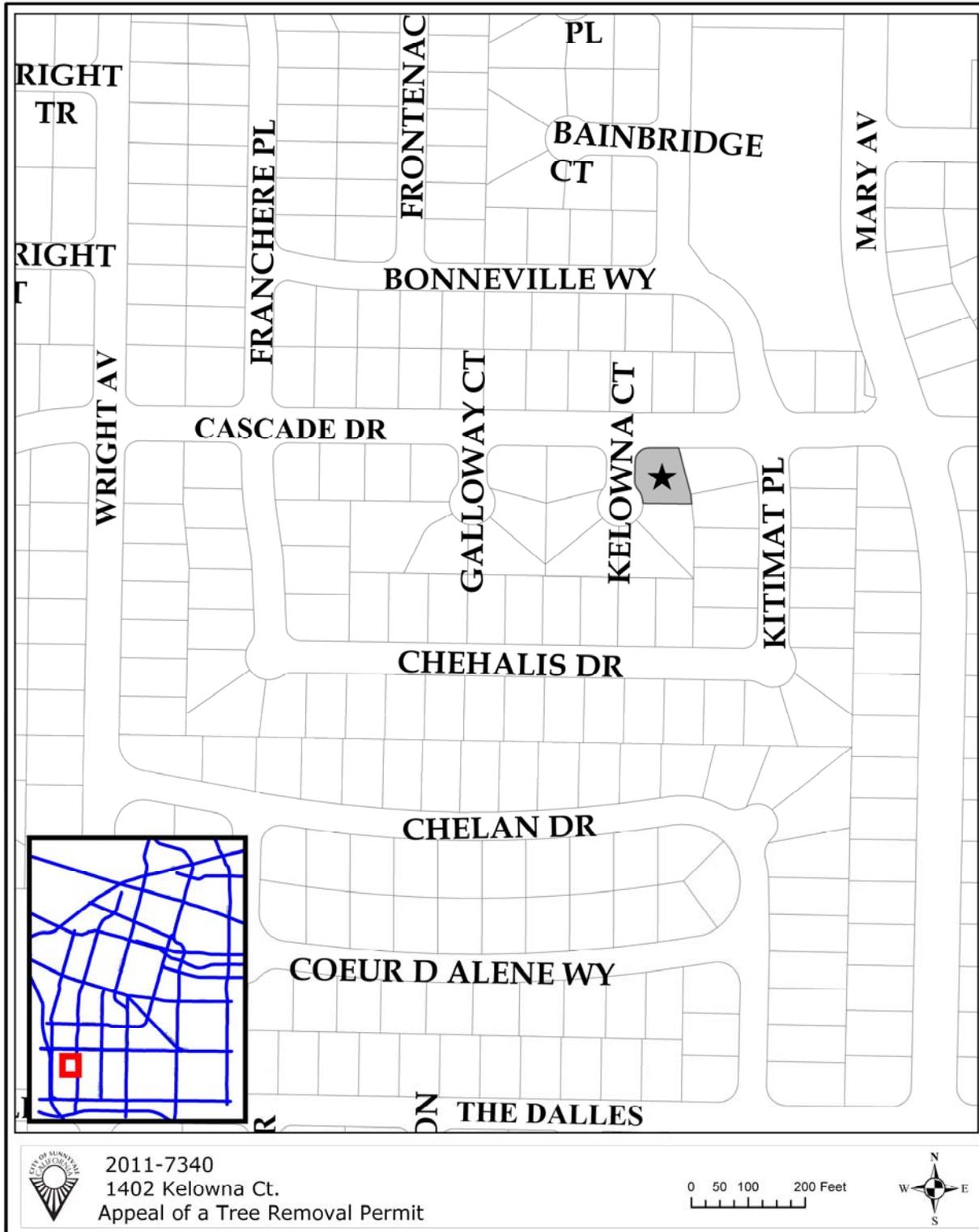
North	Single Family Home
South	Single Family Home
East	Single Family Home
West	Single Family Home

Issues Tree Condition

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 Community Development Director to deny three of the six trees proposed for removal.

VICINITY MAP



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Low Density Residential	Same	Low Density Residential
Zoning District	R-1	Same	R-1
Lot Size (s.f.)	8,778	Same	8,000

BACKGROUND:

A Tree Removal Permit (2011-7340) application was filed by the property owner on May 20, 2011 to remove approximately six trees (one Mulberry and five Redwood trees) on the property. The one Mulberry tree is located towards the back left corner of the home while the five Redwoods are at the opposite corner of the property in the middle of the front yard. The property is a corner lot.

On May 26, 2011, the City Arborist inspected the trees and recommended approval of the one Mulberry and two Redwood trees. (Attachment C – Site Map). Planning Division staff concurred with the City Arborist’s recommendation and notified the applicant of the decision on June 7, 2011 (Attachment D – Permit Letter). The applicant appealed the Tree Removal Permit (Attachment E – Appeal Letter) on June 17, 2011.

Previous Actions on the Site

The following table summarizes previous planning applications related to the project site.

File Number	Brief Description	Hearing/Decision	Date
2005-0798	Removal for five Redwood trees	Withdrawn	8/17/2005
1997-0683	Removal for one Monterrey Pine Tree	Staff / Approved	1/6/1998

A Tree Removal Permit for the same five Redwoods included in the subject application was requested in 2005. The applicant withdrew the application when advised by staff that the request should be considered in conjunction with a planned residential addition to be submitted. The applicant has not submitted an application for expansion of the home in the area near the Redwood trees; however, a Building Permit has been approved at a location towards the rear of the home.

DISCUSSION:

Applicant's Appeal

The applicant has submitted a letter (Attachment E) stating several reasons for the request to remove the trees. These reasons include plans to build an addition at the same location of the redwood trees, damage to the property, significant amount of water needed for upkeep, the planned installation of solar panels, effects from allergies, hazard due to their size, and the visual impact to the home.

The applicant further notes plans to replace the trees with more manageable sized trees. Trees would be selected that are more conducive to water conservation, and health impacts caused by pollen, as well as limiting root systems that could cause property damage in the future.

Staff Discussion

Planning Staff and the City Arborist have each visited the site. The City Arborist notes the removal of the two Redwoods on the ends would accommodate the issues of damage to the sewer and driveway on the property. The three remaining trees are considered healthy and have approximately 40-80 years remaining expectancy. A Building permit has been approved for a small addition to the left side of the house (closest to the Mulberry tree) and other interior modifications. The location of this work does not impact the Redwood trees, which are in front of the house, towards the street corner. Although the applicant has noted future plans to build an addition, no formal plans have been submitted. As part of this appeal, the applicant has submitted a layout of the planned addition (included on Page 3 of Attachment E). Since this plan is preliminary, and no formal proposal has been submitted, staff cannot consider it as a justification for the permit at this time.

Staff has not received a Building Permit application for solar panels and would consider whether the removal of the trees is necessary based on the necessary placement of such an equipment installation. Staff acknowledges the health issue with respect to allergies. Staff has considered such a removal request if information is provided that indicates that the specific species of tree exacerbates the allergy condition of the resident. As stated by the arborist, the tree does not pose an immediate threat and is in healthy condition. Staff finds that the issue of aesthetics to be subjective and the trees may be considered a visual benefit to the property and surrounding neighborhood.

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 of land.

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• Posted on the site• 12 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

Staff has not received any written feedback regarding the proposal.

CONCLUSION

Discussion: Staff is recommending denial of the appeal because the Findings for tree removal (Attachment A) cannot be made.

Findings and General Plan Goals: Staff was not able to make the required Findings for the Tree Removal Permit. Recommended Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Recommended Conditions of Approval are located in Attachment B.

ALTERNATIVES

1. Deny the appeal and uphold the decision of the Director of Community Development to deny a portion 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. Deny the appeal and uphold the decision of the Director of Community Development.

Prepared By:

Ryan M. Kuchenig
Project Planner
Reviewed by: Steve Lynch, Senior Planner

Approved by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site Map
- D. Letter Denying the Tree Removal Permit (6/7/11)
- E. Letter of Appeal from the Applicant
- F. Photos of Redwoods

RECOMMENDED FINDINGS

Tree Removal Permit

In order to grant a Tree Removal Permit, one or more of the following findings must be met. Based on the additional information, staff was able to make one of the three required findings.

1. The tree is diseased or badly damaged. *(Finding Not Met)*
The subject trees are considered to be in healthy condition and have approximately 40-80 years remaining life expectancy.

2. The tree represents a potential hazard to people, structures or other trees. *(Finding Not Met)*
Staff found that three of these trees (1 Mulberry & 2 Redwoods) met this condition while the remaining three (Redwoods) do not pose a hazard to people, structures, or other trees. The trees have been well maintained and certain pruning measures can prevent future problems

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 *(Finding Not Met)*:
 - 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 trees are not restricting reasonable use or economic potential of the property or adjoining property. City staff has visited the site and has determined that those trees approved for denial are in good health. The

trees provide a visual screening and buffer to the street and are visual benefit to the neighborhood.

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
JULY 11, 2011**

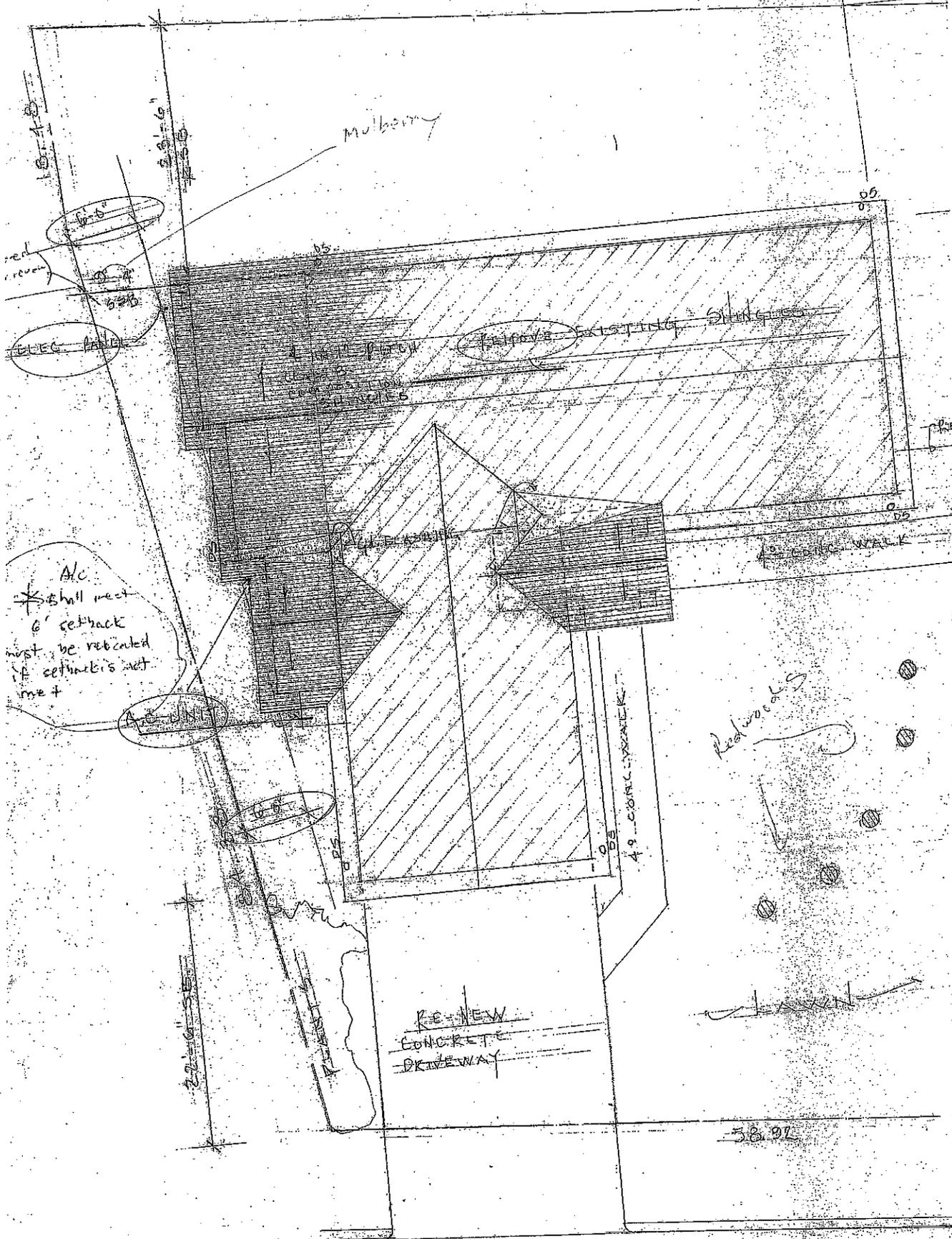
Planning Application **2011-7340, 1402 Kelowna Court**
Tree Removal Permit to allow the removal for six trees (1 Mulberry
& 5 Redwoods) located on the property.

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. Six replacement trees, 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 \$247.00 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.

84.15





June 7, 2011

Sent Via E-mail to: sonyahwlee@yahoo.com

Mike and Sonya Lee
1402 Kelowna Court
Sunnyvale, CA 94087

Subject: Tree Removal Permit – 1402 Kelowna Court
File No.: 2011-7340

Dear Mike and Sonya Lee:

The Department of Community Development has reviewed your application for a Tree Removal Permit for **Five (5) Redwood trees and one (1) Mulberry tree** located at the above referenced addresses.

Approval is granted for the removal of **(2) Redwood trees located within the front yard. One of trees is located closest to the driveway while the other tree is at the opposite end of the five, closest to the sewer lateral. Approval** is also granted for the **one (1) Mulberry tree located in the rear yard.** The Department of Community Development has **denied** your request for removal of the **three (3) remaining Redwood trees located in between the approved Redwood trees in the front yard.** 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. 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.

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 trees not approved for removal are considered healthy and estimated to have 40 to 80 years remaining in life expectancy. The trees are also not considered a hazard to people, structures or other trees.

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 \$125.00 filing fee for the appeal.

According to the Sunnyvale Municipal Code, Section 19.94.080, any tree removed is required to be replaced. You may refer to the City's website Trees.inSunnyvale.com for information regarding appropriate trees for the site. Please **complete and mail the**

June 7, 2011
Sonya Lee
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enclosed Tree Replacement Postcard to let us know when the replacement trees have been planted.

This Tree Removal Permit is valid for a year from the date of issuance. **The permit must be displayed in a location visible from the public right-of-way during tree removal.** If you need assistance with replacement tree selection, you may consult with the City Arborist, Steve Sukke, at (408) 730-7505. If you have any questions regarding this permit, please contact me at (408) 730-7431. Thank you for your cooperation.

Sincerely,



Ryan M. Kuchenig
Project Planner

June 14, 2011

City of Sunnyvale - Planning Commission
Sunnyvale, California

To Whom It May Concern -

I am the property owner at 1402 Kelowna Ct, Sunnyvale, CA 94087, and I am submitting a request for appeal to the decision made by the Department of Community Development to deny our full request for the removal of three trees on my property.

I was granted a tree removal permit (permit #: 2011-7340), which grants me permission to remove a lone Mulberry and two Redwood trees on my property, but it denies the removal of three additional Redwood trees which are adjacent to the two Redwoods that are being allowed to be removed.

I am appealing for the following reasons:

1) I originally applied for a removal permit several years ago, for the purposes of a home remodel that my wife and I were planning. We were told that we would be granted a removal permit once we had architectural plans for the remodel. We were finally able to afford a remodel, but were forced to scale it down significantly, due to the current economic climate. Our original plans call for new construction directly on top of the current location of the trees in question (see attached diagram).

Due to the significant cost associated with the remodel, we are only completing half of our remodel now, but we fully intend to complete the portion that impedes on the current location when our finances will allow. The issue is, the trees continue to grow, which increases the cost of removal. Since we first applied for the original removal permit, the cost to remove the trees has more than doubled (from ~\$1,000 when we first planned on having them removed, to more than \$2,100 now). The longer we wait, the more expensive the cost of removal.

2) The two Redwoods that we were granted permission to remove were done so because those trees have directly resulted in damage to our sewage system and driveway. The root system of the remaining trees continue to impact the property, including damage to the sprinkler system and lawn. This damage will continue to result in an additional financial burden as we are forced to make continuous repairs.

3) The size of these trees (more than 40-feet in height) requires a significant amount of water to keep them in a healthy state. When we cut back on watering, the roots surface and significantly add to the damage called out in item 2 above.

4) We are considering the installation of solar panels on the roof of our garage. The trees

are tall enough that they cast shadows on the portion of the roof that would serve as the most optimal location for these solar panels. We are concerned that the trees would impact our ability to most efficiently generate solar power.

5) My wife and I suffer from allergies in the spring time, and the removal of these trees will directly affect our quality of life.

6) The size of the trees concern me. Should they topple, or have a large branch break off, there is a high probability that it will damage our home, or worse a bystander.

7) Finally, these trees take away from the overall aesthetics of our property. They create a wall that blocks the front of our home, creating a barrier from our home and the rest of the neighborhood. As we work to improve the value of our home and the neighborhood, these trees work to oppose that.

Please recognize that we are looking to replace these trees with more manageable sized trees. We hope to replace these trees with species that are more conducive to water conservation, limited pollens and having root systems that are unlikely to cause any property damage. Please note that the three trees in question were planted by the previous home owner and are not native to the area.

Thank you for allowing my wife and I to present our case. I hope you will consider our request and allow us to remove the trees in question. Should you have any additional questions, I would be more than happy to answer them at your earliest convenience.

Regards,



Michael Lee
1402 Kelowna Ct
Sunnyvale, CA 940087

Attachment: Tree Removal Permit (#: 2011-7340) (Attachment D)

Attachment: Proposed Floor Plan (phase 2)

