

PLANNING COMMISSION MINUTES OF AUGUST 11, 2008

2008-0105 - Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for an approximately 80-foot tall Redwood tree in the front yard. The property is located at **1633 Edmonton Avenue**. (APN: 320-15-008) MH

Gerri Caruso, Principal Planner, presented the staff report. She said staff recommends the Planning Commission deny the appeal and uphold the denial of the Tree Removal Permit.

Vice Chair Chang asked staff what the average cost is for a root excavation and for the inspection of the condition of the foundation of the home. Ms. Caruso said she does not have that information and the cost analysis in the report does not include that information.

Comm. Sulser asked staff if a tree removal permit is denied whether there are any limitations on reapplying. Ms. Caruso said the code allows an applicant to apply once a year.

Chair Rowe opened the public hearing.

Margaret Klugherz, applicant and appellant said that they had an excavation completed along the foundation of their house last year after they had appealed the denial of a previous tree removal permit. She said the excavation showed at that time that there were no large roots going underneath the foundation of their home. She said she thought that information had been provided to staff as Steve Sukke of the City's Trees and Landscape Division came out and inspected the excavation before it was filled back in. Ms. Klugherz said she feels the tree is a safety hazard as several years ago the City replaced parts of the sidewalk and the new sidewalk is starting to lift again. She added that in April this year two branches fell that were large enough to have hurt someone, and heavy enough that they had to be cut up before they could be moved. She said she thought a picture of the fallen branches had been provided to staff. She said her husband is concerned about a possible fire from lightening as the tree is tall. She said her neighbor had to hire a gardener and crew to remove the fibrous roots along the house and in the flowerbed including a 10 inch root from the redwood which could weaken the understructure of tree. Ms. Klugherz said she used to have flowers, but the roots have killed everything, and said she is concerned about the affect of the tree on the resale value of her home. She said the aggressive roots of the redwood unreasonably restrict their use of the property. She said she had

an arborist come out on August 1st this year and he gave her an estimate to remove tree. She said the arborist offered to write a letter of support as he felt the conditions of the situation merit removal.

Vice Chair Chang asked if the excavation revealed any damage to the home from the tree. Ms. Klugherz said the excavation did not reveal damage and added there is a crack in the wall further down from the excavation site.

Comm. Sulser asked staff about the appellant's testimony and whether a City arborist was present this evening. Staff said the City Arborist is not present. Comm. Sulser asked if staff was aware of the limbs that fell and if it is typical for branches to fall from a healthy tree. Ms. Caruso said some shedding of branches is normal and she does not think the City arborist inspected the tree limb that fell.

Lou Wirtz, a resident of Sunnyvale and neighbor, said he considers himself lucky that he does not live closer to the tree. He said the tree is out of scale for the neighborhood and prevents the applicant from being able to enjoy more normal landscaping in the yard. He said this is an Eichler neighborhood and the tree is taller than everything else. He said if he lived adjacent the Klugherz' home, he would be worried about the tree falling in a storm or the roots damaging the foundation of the house. He said it is obvious this tree is living off the sewer line versus a similar tree in the yard that is much smaller. Mr. Wirtz said he does not understand why a person cannot remove a tree that brings so much additional cost and concern, commenting that the removal would not disrupt the character of the neighborhood.

Bambi Fernandez, a resident of Sunnyvale and next door neighbor, said she hired a gardener and his crew to alleviate her property of fibrous roots that had traveled from the redwood and invaded the entire length of her outer wall of her bedroom. She said it took many hours to remove the roots. She said she is concerned of the possibility of the tree falling during a storm and that the tree is out of scale with the neighborhood. Ms. Fernandez said that her primary concern is for her neighbor, as it is a strain living with this tree. She said the neighbor is willing to pay for the removal and replacement of the tree. She said she cannot believe that the City passes things with the desire to negatively impact the citizens. Ms. Fernandez said she believes the presence of this tree affects the resale value of both her and her neighbor's homes and that it is in the best interest of the neighborhood to remove the tree providing her neighbors with more peace of mind and fewer expenses.

John Snyder, a resident of Sunnyvale and neighbor, spoke in support of approving the appeal and tree removal. He said he feels the redwood trees are not appropriate for their neighborhood as the trees are overwhelming. He said he would rather have other trees planted that are better suited to the neighborhood.

Art Schwartz, a resident of Sunnyvale, urged the Commission to allow the tree to be removed, stating that he does not think the redwood belongs in the urban environment. He said the redwood trees have a spread root system and if the roots are disturbed the tree would eventually fall over and that it is a risk to let the tree remain.

Ms. Klugherz commented that she appreciates the neighbors and Mr. Schwartz for speaking on her and her husband's behalf. She said the tree should not have been planted in this location as the tree is too large. She said she would appreciate it if the Commission would approve her request to remove the tree.

Chair Rowe closed the public hearing.

Comm. Klein asked staff about the issues with the sidewalk and what steps are required to have the sidewalk repaired. Ms. Caruso said the Public Works Department should be notified, an inspection would occur and Public Works would put it on a list based on that Department's priority process for repair, if needed.

Comm. Klein moved for Alternative 1, to deny the appeal and uphold the denial of the Tree Removal Permit. Vice Chair Chang seconded the motion.

Comm. Klein said the Planning Commission makes their decisions based on the rules of the City. He said several years ago the City put in place rules to protect trees of a certain size. He said trees become a community resource and as long as a tree is in good health the tree is seen as a member of the community. He said the Commission has to be able to make certain findings to approve a tree removal permit and these are the same findings that staff would have to be able to make. He said he understands the concerns related to the tree. He said from the City standpoint he has to consider the rules and that it is hard for him to make the findings to approve the removal of this tree.

Vice Chair Chang said if there was other damage listed in the staff report that maybe the decision on this tree removal would be different. He said the report shows no actual damage or major issues and said he would be supporting the motion.

Chair Rowe said that she would not be supporting the motion. She said she would have liked the applicant to have worked with the City more than they did. She said she feels this application meets the finding that the redwood tree “restricts the owner’s ability to enjoy the reasonable use or economic potential of the property...” She said there is no lawn on the tree side of the lot due to this tree, and the tree has caused two or three other trees to grow in disfigured fashion because the redwood has cramped the other trees. Chair Rowe said that also in the findings she believes the homeowner seems to have sufficient landscaping in their yard *to support the removal of the tree and that the area where the tree grows prohibits the growth of other landscaping.*

Comm. Sulser said he would be supporting the motion, though he feels conflicted about this application. He said the Commission ruled on this tree removal request in the past and this new application does not seem to have any new information. He said that plays a role in his decision. He said he does see an argument to be made regarding healthy trees on properties that are over landscaped, though he cannot make that finding.

ACTION: Comm. Klein made a motion on 2008-0105 to deny the appeal and uphold the denial of the Tree Removal Permit. Vice Chair Chang seconded. Motion carried, 4-1-2, Chair Rowe dissenting, and Comm. Hungerford and Comm. McKenna absent.

APPEAL OPTIONS: This action is final.