

PLANNING COMMISSION MINUTES OF JANUARY 11, 2010

2009-0761: Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for a Fruitless Pear in the front yard of a site located at **1053 Pilinut Court**. (APN: 201-02-014) RK

Shaunn Mendrin, Senior Planner, presented the staff report. He said staff recommends that the Commission uphold the decision of the Director of Community Development to deny the tree removal request.

Comm. Rowe asked staff how old the tree is with staff saying that the appellant can probably provide that information.

Chair Chang opened the public hearing.

Bob Bebb, co-appellant, said the tree is between his home and the co-appellant's home and their basic objective is to replace the tree to reduce further damage and economic impacts. He said the tree was planted in 1992. **Brad Newton**, co-appellant, said that the tree is on the border of his property and Mr. Bebb's property and has been damaging the driveways by elevating the cement. He said the majority of the damage is occurring to his property and the concern both appellant's have is the potential damage the tree may cause to the foundations of the houses. He said he and Mr. Bebb would like to replace the tree with a tree that would not damage the properties. He said that most of the damage has occurred in the past two years.

Comm. Rowe further discussed with Mr. Newton the types of damage that has occurred to the plates of the driveway. Mr. Newton said the plate closest to the house is cracked and elevated. He said one of the options provided to them by the City as a solution was to put in root barriers, with Mr. Newton explaining that the general rule is to put the root barriers in at 50% of the drip line which would be impossible without removing part of the driveway. He said in the existing space, which is narrow, there is not adequate room to put in root barriers without damaging the tree. The appellant submitted several photographs of the cement damage to the Commission.

Arthur Schwartz, a Sunnyvale resident, said as far as he can remember there have been problems with trees and arborist decisions, discussing the affects of tree roots on cement. He said he agrees with the appellant that it would be practically impossible to put root barriers where he is supposed to and urged the Commission to allow the tree to be removed and replaced with a suitable alternative.

Mr. Bebb said he appreciates the public comment and said he and Mr. Newton are available to answer questions. Mr. Bebb reiterated that the tree was planted in 1992 and when the City arborist came out he said that the tree still had a lot of life remaining.

Comm. McKenna asked the appellants about the pictures provided on the dais and confirmed with Mr. Newton that there is some lifting in the garage also. Mr. Newton said currently the cement is raised about one inch and the elevation was not present two years ago. Mr. Newton said that the roots of the tree also have been interfering with the sewer line requiring annual clearing, commenting that he hopes the gas lines are not impacted.

Chair Chang closed the public hearing.

Comm. Rowe asked staff if the City suggested an option, does the City also provide instruction on how to complete that option as this seems like a small place to put root barriers in. Ms. Ryan said if the Commission thinks the tree is unsuited to the location then there is a finding that can be made that the tree has outgrown its environment.

Comm. Hungerford moved for Alternative 2 to grant the appeal and approve the Tree Removal Permit subject to the conditions in Attachment B. Comm. McKenna seconded the motion.

Comm. Hungerford said he usually does not vote for tree removals, however he thinks this is a good case and said he is able to make Finding 3.g to “allow removal of overgrown, but healthy, trees.” He said he thinks this tree has overgrown the site and feels the root barriers would not work because of the small space the tree is in.

Comm. McKenna said when she went on the site visit and turned on to Pilinut Court she saw this beautiful tree and then as she got closer, she saw the damage. She said in the past she has tried to contain a tree with root barriers. She said she agrees with Comm. Hungerford’s finding comments. Comm. McKenna said she is a tree hugger.

Comm. Rowe said she agrees with the staff report that the tree is clearly visible and dominates the streetscape, and that removing the tree will have a detrimental affect on the overall streetscape. She said that looking closer at the site, the roots are very large and that the damage the tree is causing will continue. She said she hopes the appellants will work with City in selecting an appropriate tree for this space. She said this is a sad decision to allow removal of this tree, however a necessary decision.

ACTION: Comm. Hungerford made a motion on 2009-0761 to grant the appeal and approve the Tree Removal Permit subject to the conditions in Attachment B. Comm. McKenna seconded. Motion carried, 7-0.

APPEAL OPTIONS: This action is final.