



**CITY OF SUNNYVALE  
REPORT  
Planning Commission**

**May 10, 2010**

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**SUBJECT:**           **2010-7074::** Application for a project located at **305 N. Bayview Avenue** in an R-1 (Low Density Residential) Zoning District (APN: 204-41-019)

Motion               Appeal of a decision by the Director of the Community Development Department denying a tree removal permit to remove one Western Cedar tree in the rear yard.

**REPORT IN BRIEF**

**Existing Site Conditions**           Single Family Home (tree located in the rear yard)

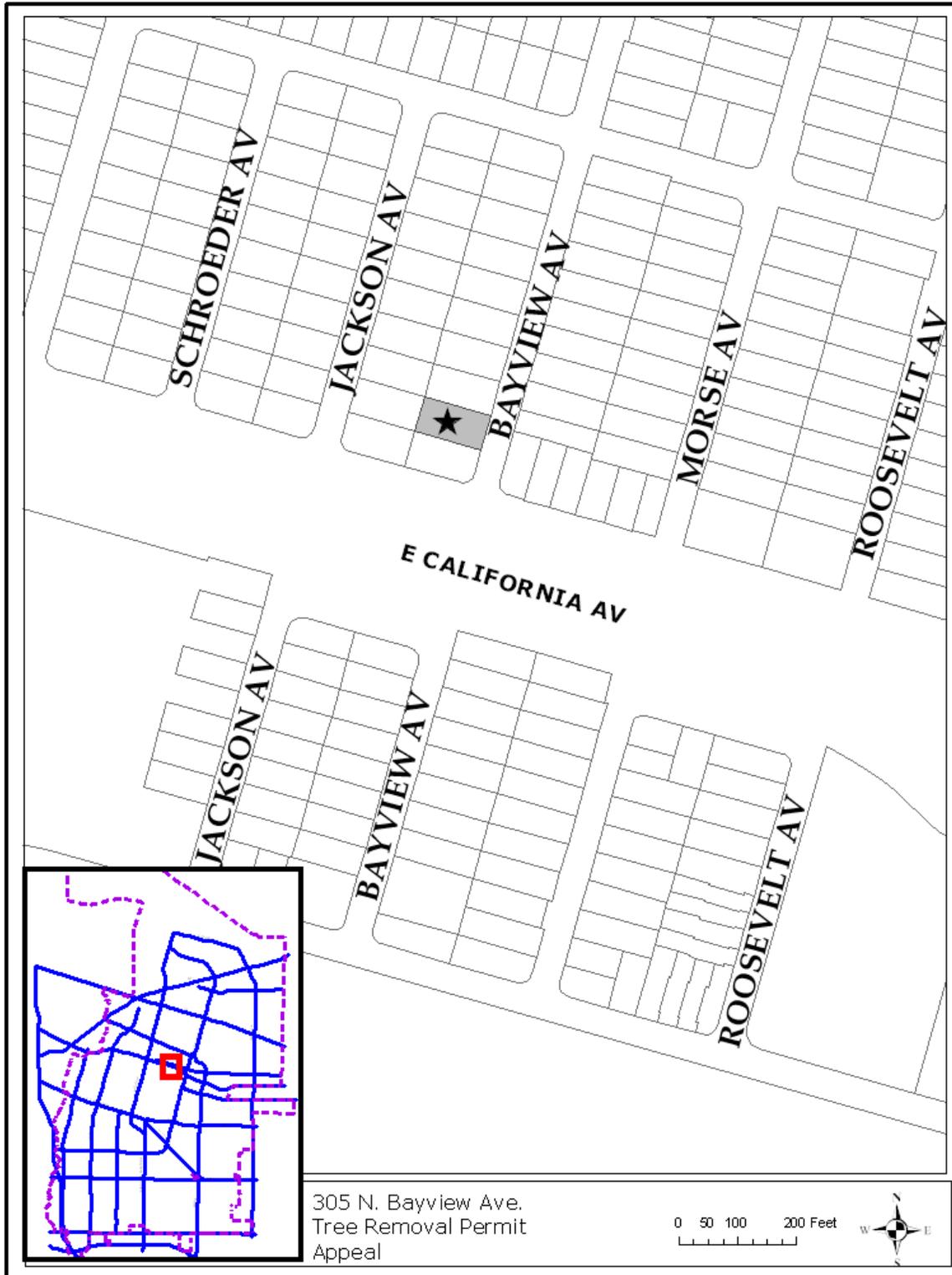
**Surrounding Land Uses**

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

**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**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Low Density Residential	Same	---
<b>Zoning District</b>	R-0	Same	R-0
<b>Lot Size (s.f.)</b>	6,785	Same	6,000 min.



Starred items indicate deviations from Sunnyvale Municipal Code requirements.

**ANALYSIS****Description of Proposed Project**

A Tree Removal Permit was requested by the property owner on February 9, 2010 to remove a significant sized camphor pear tree in the rear yard (see Attachment C – Photographs).

On February 16, 2010, 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 March 10, 2010 (see Attachment D – Permit Letter). The applicant is appealing the decision to deny the Tree Removal Permit. The appellant noted that the tree has caused uplifting of the patio and getting close to foundation of the home. The applicant notes that continual replacing and resetting of the bricks cause a financial hardship and burden (See Attachment E – Appeal Letter).

**Background**

**Previous Actions on the Site:** The following table summarizes previous planning applications related to the subject site.

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
2009-0575	Design Review for an 828 s.f. addition	Staff / Approved	8/10/2009

The above listed addition to the rear of the home and garage is under construction. The affected area of the addition is not located near the subject tree.

**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 caused damage to the back patio area of the home and is getting close to the foundation of the home. The tree is also leaning towards the neighboring property. The applicant also notes that the tree causes severe allergy problems to the family. Since the property was re-landscaped within the last five years, the tree has quickly grown due to extra watering that the tree now receives. The appellant's letter is located in Attachment E. The neighbor located at 301 N. Bayview Avenue, south of the subject property, has submitted a letter of support of the appeal in Attachment F.

**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 is further noted that the tree has a natural lean and no heaving of the soil is apparent in the line of the lean. Pruning and crown reduction can reduce the appearance of leaning towards the neighboring property. The tree also does not restrict the owner's ability to enjoy reasonable use or economic potential of the property. The approved construction at the rear of the home is not located near the tree and does not affect its condition or future growth if properly pruned. The subject site currently does not contain many trees and is the only "protected" size tree on the property. This particular tree has approximately 20-30 years remaining of expected life span. Staff concurred with the recommendation of the City Arborist and denied the application to remove the tree.

**Expected Impact on the Surroundings:** The subject tree is within the rear yard but is visible from the street on the left side facing the property. Photos of the tree are located in Attachment C. Staff finds that the removal of this tree would eliminate the only significant sized tree on the property and have a negative visual impact to the surrounding neighborhood.

**Fiscal Impact**

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

## Public Contact

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Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 10 notices mailed to property owners and residents adjacent to the project site</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Web site</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• Posted on the City of Sunnyvale's Web site</li> </ul>

## Conclusion

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**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

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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**

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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. Site Photos
- D. Letter Denying the Tree Removal Permit, Dated 3/10/2010
- E. Letter from the Applicant
- F. Letter from the Neighbor at 301 N. Bayview Ave.

**Recommended Findings – Tree Removal Permit**

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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 tree have lifted patio bricks and could cause a safety hazard. Proper pruning and crown reduction would allow resetting of the bricks to reduce further hazard and damage.*

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**

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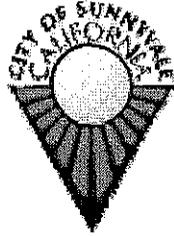
In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

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.







March 10, 2010

Sent Via E-mail to: corcat57@hotmail.com  
Thomas J. and Brenda J. Corral  
305 N. Bayview Avenue  
Sunnyvale, CA 94085

Subject: Tree Removal Permit – 305 N. Bayview Avenue, Sunnyvale, CA  
File No.: 2010-7074

Dear Applicant:

The Department of Community Development has reviewed your application for a Tree Removal Permit for a **Western Cedar** in the backyard of the property 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, or posing a hazard and is in good health. The brick pavers can be reset and leveled to address lifting caused by the tree roots. Crown reduction pruning can reduce the appearance of the lean. The City Arborist notes that the tree has a natural lean and no heaving of the soil is occurring. 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) 730-7505. If you have any questions regarding this permit, please contact me at (408) 730-7431. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan M. Kuchenig".

Ryan M. Kuchenig  
Project Planner

March 24, 2010

Department of Community Development  
456 W. Olive Ave.  
PO Box 3707  
Sunnyvale, CA 94088-3707

To: Planning Commission

From: Thomas & Brenda Corral  
305 N. Bayview Ave.  
Sunnyvale, CA 94085

Subject: Western Cedar removal in rear yard of said property

We would like this tree removed because it creates a hazard to small children and older adults due to its raised roots. It is located in the area of our backyard where we barbeque and entertain family and friends.

We landscaped the backyard five and a half years ago, leveled the ground, and laid loose brick around the tree. We also had the tree topped and thinned by an arborist at that time. We feel the tree has really grown since then due to the extra watering it gets from the surrounding lawn.

It was suggested by your planning department to reset the bricks and level the ground to address the root problem. This would be a financial hardship on us and it will have to be repeated every few years, resulting in a burden on the family.

We are also experiencing severe allergies due to the heavy pollen that drops throughout the year. This results in many trips to the doctor and prescription medications.

We thank you for your time and consideration of our request.

Regards,  
Thomas & Brenda Corral

To: Whom it may concern

From: Fred M. Kameda  
301 North Bayview Avenue  
Sunnyvale, CA 94085

February 16, 2010

Subject: The redwood cedar tree located at 305 N. Bayview Avenue  
(next to the fence adjoining our home)

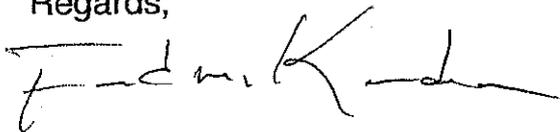
The subject tree is leaning towards our house a lot. Over the years it appears that the leaning has become more severe. I have strong concerns that it may eventually fall and cause a lot of damage to our house and possibly injure a member of our family. (the line of fall would bring it down directly on our bedrooms where we sleep)

In addition to the potential damage above; I get spring fever every year and believe the tree is a big part of my problem.

These items are a strong concern to my family and we would gain much peace of mind if the tree was removed.

I am available to testify to the above in person if needed.

Regards,



Fred M. Kameda