



**CITY OF SUNNYVALE
REPORT
Planning Commission**

August 11, 2008

SUBJECT: **2008-0105** - Appeal of a Decision by the Director of Community Development denying a Tree Removal Permit for a Redwood tree in the front yard. The property is located at **1633 Edmonton Avenue** in an R-1/S (Low-Density Residential/Single Story) Zoning District.

REPORT IN BRIEF

Existing Site Conditions Single Family Residence. Redwood tree located in the front yard.

Surrounding Land Uses

North Single Family Residential

South Single Family Residential (across Edmonton Ave.)

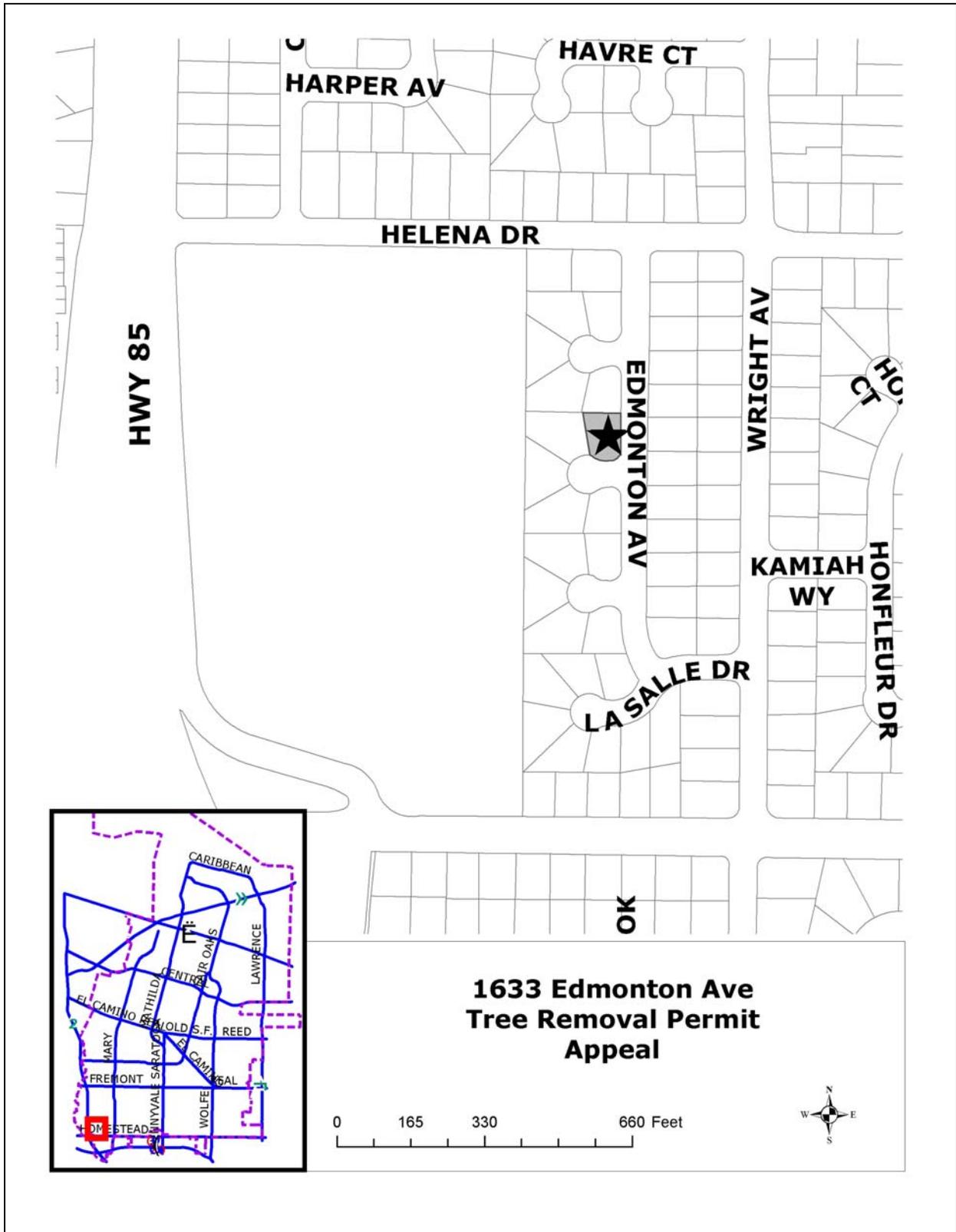
East Single Family Residential (across Edmonton Ave.)

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-1/S	Same	R-1/S
Lot Size (s.f.)	7,931	Same	6,000 min.

ANALYSIS**Description of Proposed Project**

A Tree Removal Permit was requested by the property owner on February 4, 2008 to remove a Redwood tree with a height estimated at 80-100 feet located in the front yard (see Attachment C – Photographs). On February 8, 2008, 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 26, 2008 (see Attachment D – Permit Letter). The applicant is appealing the decision to deny the Tree Removal Permit. She believes there is sufficient information and evidence to support her claim that the tree poses a significant hazard (see Attachment E – Appeal Letter).

Background

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

File Number	Brief Description	Hearing/Decision	Date
2006-0565	Tree Removal Permit for Redwood tree	Appeal to the Planning Commission/ Denial Upheld	08/28/06
2005-0279	Tree Removal Permit for Redwood tree	Appeal to the Planning Commission/ Denial Upheld	10/10/05

The property owner has requested two previous Tree Removal Permits for the same Redwood tree in 2005 and 2006. Both requests were denied and were appealed to the Planning Commission as indicated above. In each case, the Planning Commission denied the appeal and upheld the decision to deny the

Tree Removal Permit because the findings could not be made. The Planning Commission noted that there was a lack of evidence to support the applicant's claims regarding structural damage and other hazards, and also that there appeared to be reasonable alternatives to preserve the tree. The minutes of the previous Planning Commission hearings are provided in Attachments F and G.

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.

Tree Preservation Ordinance (SMC 19.94)

On December 12, 1991, the City's Tree Preservation Ordinance was established in order to preserve mature trees of significant size. Chapter 19.94 of the Sunnyvale Municipal Code defines a 'protected tree' as a tree with circumference equal to or greater than 38 inches when measured at a height of four feet six inches above the ground. A Tree Removal Permit must be obtained prior to removal of a protected tree from private property in any zoning district. A permit to remove a protected tree may be issued only if:

1. The tree is diseased or badly damaged;
2. The tree represents a potential hazard to people, structures or other trees;
3. The tree is in sound condition, but restricts the owner's or the neighbor's ability to enjoy reasonable use or economic potential of the property.

On May 9, 2006, the City Council adopted additional regulations related to tree preservation. Two new criteria for tree removal were established as listed in Attachment A, (1) A property has sufficient landscaping or is over landscaped (2) Allow removal of overgrown, but healthy, trees.

Applicant's Appeal

The applicant did not submit a detailed appeal letter, but expressed her concerns verbally to staff. The applicant states the following:

- The tree roots have invaded sewer lines and disrupt sewer service to her property and the neighboring property at 1637 Edmonton Avenue. The applicant does not wish to replace the sewer line using trenchless methods as recommended by the City because this would require digging into the neighbor's paving.
- Tree roots are threatening the foundation of the home, and large roots (2-3 inches in diameter) have been found in the home's atrium;

- The tree is unstable and could fall in a storm, therefore it represents a potential hazard to the subject property and adjacent properties.
- Heavy branches may fall from the tree, which represents a potential hazard to the subject property and adjacent properties.
- The tree is dying and the lower branches are becoming discolored and brown.
- The tree restricts reasonable use of the property because landscaping will not grow near the tree due to interference of roots.

These concerns are similar to those presented by the applicant in her previous appeals. The only additional information presented by the applicant with the current appeal were photos of branches that fell from the tree and a news article about an incident in San Francisco involving the death of a pedestrian due to a falling Redwood branch (see Attachment E). Staff advised the applicant to provide additional expert opinions to support her claims regarding the tree's health and/or stability. However, the applicant has declined to provide any additional evidence.

Staff Discussion

Note that much of the following discussion was also included in the staff report for the previous appeal (#2006-0565), as the applicant's concerns are the same and the site conditions have not changed significantly since 2006.

The City Arborist and Planning staff have each visited the site on two occasions (including the previous tree removal request in 2005 and 2006). During both visits, the City Arborist determined that the tree is healthy, appears to be structurally sound, and has at least 40-50 years of remaining life. Staff observed the following site conditions:

- The Redwood tree is located above the existing sewer line and approximately 10 feet away from the house (not an ideal location);
- The larger size of the subject tree (as compared to the other Redwood tree located on the east side of the driveway which was planted around the same time) is indicative of root intrusion in sewer lines.
- The applicant has provided service records as evidence of root intrusion in the lateral of the sewer line, which has required frequent clean-outs;
- Smaller fibrous roots were observed in the atrium's landscaped area.

Staff has the following comments regarding the concerns expressed by the applicant.

Roots in lateral/sewer line: The City Arborist has stated that the tree root intrusion in the sewer line lateral on each property may be addressed by replacing the existing sewer line using a trenchless method such as pipe-bursting method. According to the Arborist, tree roots will only invade a pipe which is already broken and leaking. A new, properly installed pipe will have no leaks and therefore will not attract tree roots. Once a pipe is severely damaged (as on the subject property), it must be replaced regardless of whether or not the tree is removed. Staff's recommendation is to use a trenchless method to accomplish this replacement. This would resolve the root intrusion problem while still saving the tree.

The trenchless method of installing underground pipelines is somewhat new and has only been used in a few cases in the immediate area, but the advantages of this method merit serious consideration in this situation as well as in similar situations in Sunnyvale. The following is a brief description and cost analysis of this method.

Trenchless Method (Pipe-Bursting): This is an emerging technology in the United States (it has been used for over 20 years in Europe) used in the rehabilitation of underground infrastructure. In general, this method entails advancing a cone-shaped bursting head that shears/bursts the existing pipe and installs a new pipe simultaneously. This method is especially advantageous in upsizing, structural replacement of large pipeline infrastructures, and situations where minimal excavations are desired.

Since this method does not entail trenching or removing trees or structures, it is also very cost efficient. Staff notes that trenchless lateral and sewerline installation is now offered by a majority of the plumbing services (commonly advertised in the yellow pages) in this area. A comparative cost analysis of the two methods at the subject site was provided in 2006 in the previous appeal and is included below:

Cost Analysis (2006)

	Trenchless	With Trenching
Replace lateral (includes City permits & fees)	\$2, 575	\$2,125 (not including cost of tree removal)
Cost of Tree Removal	--	\$6,000
Total Cost of Project	\$2,575	\$8, 125 (including cost of tree removal)

Source: Plumbing Estimate – Mike Counsil Plumbing; Tree Removal Estimate (2005) – Biota Tech

The above estimate indicates that the trenchless method is approximately 20% more expensive than the traditional trenching method considering the sewer

replacement alone. However, considering the entire cost of the project, including tree removal, the trenchless method is nearly four times less expensive than the traditional trenching method.

Staff notes the need for replacement of laterals is primarily due to the use of older/poor materials and the age of pipes. This condition leads to leaks, which draw roots toward the pipe and lead to root intrusion. This is a common problem for older homes in Sunnyvale. New laterals are either made of PVC or VCP (4 inch diameter), materials which are less susceptible to root intrusion. Staff believes that since the trenchless method is cost effective and will save the tree, other landscaping, and the majority of structures, it should be used in this situation.

Staff also notes that the Tree Preservation Ordinance (19.94.060 (b)) does not specify damage to infrastructure such as underground utilities as one of the findings for tree removal. Infrastructure such as underground utilities could be considered as part of the structure and therefore subject to finding #2 (that the tree represents potential hazard). However, if reasonable alternatives exist to repair the damage without removing the tree, staff does not believe tree removal is warranted. In this case reasonable alternatives do exist.

Roots threatening the foundation of the house: The City Arborist notes that Redwood trees have prolific roots that often spread a significant distance. The small fibrous roots observed in the atrium are not indicative of a serious potential hazard to the house foundation. Any large roots (such as those reported by the applicant) in the atrium could be indicative of root growth that could potentially damage the foundation. The applicant pointed out visible vertical cracks in the structure and stated that cracks may also be spreading through the floor. The vertical cracks may or may not be a symptom of foundation damage. Due to carpeting on the floor, no other cracks are visible.

At this time, there is no evidence to clearly determine whether foundation damage is occurring. If it is found to be occurring, there may be methods such as root barriers that could be used to resolve the problem without removing the tree. However, it is possible root barriers may not be appropriate in this situation if roots have already spread below the foundation of the atrium. In order to conclusively determine whether root intrusion under the foundation is occurring, whether it is causing damage, and whether there are methods available to stop the intrusion, a root excavation along the edge of the structure would have to be performed by a Certified Arborist. The City Arborist and the Planning Division have recommended that the applicant hire a Certified Arborist to conduct a root excavation and provide the results to the City. This recommendation was made during the previous appeals and again during the current process. However, to the best of staff's knowledge, no excavation or other additional investigation has been performed to conclusively establish whether the tree is threatening the home's foundation.

Potential hazard due to instability/falling branches: The City Arborist has inspected the tree on multiple occasions and has not found any evidence of instability. The tree appears to be healthy and structurally sound. Staff has informed the applicant that she has the option of submitting opinions and evaluations from other Certified Arborists if she is in disagreement with the City Arborist's findings. However, no additional evidence has been submitted. The applicant has submitted photos of some branches that fell from the tree, as well as an article about an incident involving a death due to falling Redwood branches. Staff and the City Arborist note that some shedding of branches is a normal part of tree growth. Shedding can be reduced by having a qualified professional perform routine maintenance pruning to remove dead and weakly-attached branches. But in heavy winds, it is possible for other branches, even large branches, to fall. This is true of all trees. The applicant has not provided any evidence to suggest the subject tree poses a greater-than-average risk of falling branches or other hazardous conditions. Given the available evidence including the City Arborist's findings, staff does not believe the tree currently poses a hazard.

The tree is dying: The City Arborist has examined the tree on multiple occasions and finds it to be in excellent health. Browning and shedding of lower branches is a normal part of tree growth and is not indicative of poor health in this case. To avoid having branches fall, regular maintenance pruning should be performed to remove any brown or weakly-attached branches.

Roots threaten landscaping: Large trees such as the subject Redwood can have extensive surface root systems. Some root protrusion from the ground is a normal part of tree growth. Large trees also take up water and nutrients from the soil and provide shade, which can inhibit the growth of smaller plants. However, the City of Sunnyvale places a high value on large mature trees. Large trees contribute to the scenic beauty and economic prosperity of the city and are considered more valuable than other landscaping. Alternatives to address the problem of nourishment for landscaping include fertilizing the soil and planting shade-loving species under large trees. However, even with these measures, it may not be possible to grow significant landscaping under a large tree such as this one.

Expected Impact on the Surroundings: The subject Redwood tree, estimated to be 80-100 feet high, is clearly visible from the street within the front yard. Staff finds that the removal of this tree would have a detrimental effect on the overall streetscape.

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 • Eleven 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:

Laura Gurney
Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Photographs of Subject Tree
- D. Letter Denying the Tree Removal Permit, Dated 3/26/2008
- E. Appeal Information Submitted by the Applicant
- F. Decision Letter, Appeal Letter, and Planning Commission Appeal Minutes Relating to Previous Application to Remove the Subject Tree in 2006
- G. Appeal Letter, and Planning Commission Appeal Minutes Relating to Previous Application to Remove the Subject Tree in 2005

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 and has 40 to 50 years of remaining life.

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 Redwood tree have intruded in the sewer lateral. This can be addressed through trenchless sewer replacement methods. Roots in the atrium area and cracks in the structure were reported by the applicant. However, no conclusive evidence was presented to establish that foundation damage is occurring. Cracks along the wall joints could be the result settling of the ground (a common occurrence), and small roots observed in the atrium may not be posing any risk. No further investigation has been conducted by the applicant to conclusively determine whether any foundation damage has occurred or is likely due to the subject tree's roots. The tree has been found to be structurally sound by the City Arborist, and no additional evidence has been presented by the applicant to contradict these findings. The falling branches reported by the applicant are a normal part of tree growth and may be reduced with routine maintenance pruning.

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 Redwood 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 has a remaining life expectancy of at least 40-50 years. Staff notes that the tree is not in an ideal location on the property and could be better located, but the tree's size precludes any relocation. Although damage to the sewer lines of both properties is apparent, alternatives exist to replace the sewer lines and save the tree. The subject tree is in good health and has a significant remaining lifespan that 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.



View of the subject Redwood tree located in the front yard



View of the base of tree near front of house



**View of the tree, located approximately six feet away from
the house**



View of small fibrous roots in the atrium

Attachment D

**Letter Denying the Tree Removal Permit,
Dated 3/26/2008**



March 26, 2008

Margaret T. Klugherz
1633 Edmonton Avenue
Sunnyvale, CA 94087

Subject: Tree Removal Permit - 1633 Edmonton Avenue, Sunnyvale, CA 94087
File No.: 2008-0105

Dear Margaret T. Klugherz:

The Department of Community Development has reviewed your application for a Tree Removal Permit for a **Redwood 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, or posing a hazard, and has 40 to 60 years of remaining life. The City Arborist notes that trenchless sewer replacement using a method such as pipe-bursting may be used to address your concern regarding roots in the sewer lines. Older sewer pipes often leak, which attracts tree roots. A new sewer pipe without leaks should not be invaded by the tree. As a result, this method would provide a long-term resolution to the problem without a need to remove the tree.

You may appeal this decision to the Planning Commission by filing a written appeal within fifteen calendar days of the receipt of this notice. There is a \$117.00 filing fee for the appeal. Per your request, I have attached the required appeal form. A letter stating the grounds for your appeal is also required.

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) 730-7659. Thank you for your cooperation.

Sincerely,

Mariya Hodge
Project Planner

Enclosures:

1. Information on Pipe-Bursting Technique for Sewer Line Replacement
2. Appeal Form

ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707
TDD (408) 730-7501

Attachment E

Appeal Information Submitted by Applicant



2011-01-01

0-11-11

5-10-2011

1 AUG 2008

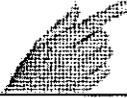
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ATTACHMENT E
Page 4 of 5



More personal attention.



HOME EXAMINERS NEWS POLITICS ENTERTAINMENT SPORTS BUSINESS HEALTH

CLASSIFIEDS AUTOS JOBS REAL

ESTATE

> SCIENTISTS CHEER GORILLA FIND, BUT WARN OF THREATS

SAN FRANCISCO HOME > NEWS

Tree limb snaps, kills woman

APR 15, 2008 3:00 AM (112 DAYS AGO) BY DAVID SMITH, THE EXAMINER

Article History
There are updates to this article.



Not ranked

Filed under: SAN FRANCISCO , David Smith , Stern Grove

COMMENT ON THIS ARTICLE



(Cindy Chew/The Examiner)
The top portion of a redwood tree broke off and landed on a woman parked below.

SAN FRANCISCO (Map, News) - Marilyn Rodriguez says she thought it was a gunshot she heard Monday morning as she walked her dog Benson in Stern Grove, but she quickly realized it was the cracking and collapsing of a branch.

In a freak accident, a woman was killed Monday when a 50-foot redwood tree branch fell upon her as she stood in the Sloat Boulevard parking lot of the heavily wooded park.

"A car alarm went off, and then I realized what I heard was a branch," said Rodriguez, a Sunnyside resident.

The partial tree with protruding branches damaged the rear of the car, a Subaru Outback, and lay across the woman's body.

The victim was transported to San Francisco General Hospital, but doctors pronounced her dead at 12:14 p.m., San Francisco police Sgt. Wilfred Williams said.

The broken piece of tree appeared to be "a portion of the top of the tree and had branches coming off of it," San Francisco Fire Department spokeswoman Lt. Mindy Talmadge said, estimating it fell 30 feet.

"This big section of the tree broke, came down and hit — crushed her car," Talmadge said.

The official cause of the break was unknown, but she said it "was very windy out."

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The woman's three dogs — two labradors and a Chihuahua-corgi mix — were uninjured and cared for by Animal Care and Control before a family member retrieved them Monday, Capt. Vicky Guddbeck of Animal Care and Control said.

This was not the first incident in Stern Grove. Recreation and Park Department spokeswoman Rose Dennis said a city employee conducting tree work there died during a storm in 1981.

"Trees here shed branches from time to time," said John Rossi, who has lived near Stern Grove his entire life and was walking in the park Monday afternoon.

Rossi was surprised at the news of a fellow hiker's death, but doesn't feel unsafe walking in the grove.

"That's too bad — like being struck by lightning," he said. "It's just really unlucky."

Vehicle access to the park will be denied until Thursday or until the department has "assured people and ourselves that it was a fluke," Dennis said. "There's nothing wrong with Stern Grove, but we need to make sure we've done our due diligence," she said.

dsmith@examiner.com

Examiner Staff Writer Beth Winegarner contributed to this report.

Not ranked

EMAIL ME THIS STORY

PRINTER FRIENDLY VERSION

How many current Concord law students already have a graduate degree?




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ARTICLE HISTORY

- 94 days ago - Stern Grove Festival announces 71st season
- 97 days ago - Killer tree was flagged as danger
- 112 days ago - Tree limb snaps, kills woman *Currently Viewed*

COMMENT ON THIS ARTICLE

Attachment F

**Decision Letter, Appeal Letter, and
Planning Commission Appeal Minutes
Relating to Previous Application to
Remove Subject Tree in 2006**



June 16, 2006

Charles and Margaret Klugherz
1633 Edmonton Avenue
Sunnyvale, CA 94087

Subject: Tree Removal Permit - 1633 Edmonton Ave., Sunnyvale, CA 94087
File No.: 2006-0565

Dear Mr. and Mrs. Klugherz:

The Department of Community Development has reviewed your application for a Tree Removal Permit for a **Redwood 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. We recommend trenchless sewer replacement to address your concern regarding roots in the sewer lines on your and your neighbor's property (a number of plumbing contractors provide this service). This method would resolve the problem and at the same time save the tree.

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 has 40-60 years of remaining life expectancy.

You may appeal this decision to the Planning Commission by filing a written appeal within fifteen calendar days of the receipt of this notice. There is a \$113.00 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) 730-7423. Thank you for your cooperation.

Sincerely,

Mariya Hodge
Project Planner

21 August 2006

Ryan Kuchenic
Project Planner
Community Development Department
Sunnyvale, CA 94088

Reference: Appeal of Project no. 2006-0565

Dear Ryan Kuchenic:

After having Ian Geddes Tree Care service out to check for redwood tree roots at the foundation of the house, Steve Sukke, City Arborist came by to inspect the excavation. He suggested that we file for the removal of the redwood tree on the basis of the tree roots getting into not only our sewer line but into the sewer line of our neighbor, Mrs. B. Fernandes at 1637 Edmonton Ave. The base of the tree is less than 4 feet from the property line. I measured 36 inches to what I believe is the property line. Mrs. Fernandes' house is on a cul-de-sac lot that has a minimum amount of street frontage which puts her sewer line closer to our property line than would normally be expected. Mrs. Fernandes is quite unhappy with having to have the redwood tree roots cleaned out of her sewer line, which is quite understandable. In the interest of neighborhood peace, we believe that a permit should be granted for the removal of the redwood tree.

Sincerely,

Margaret Klugherz

Margaret Klugherz
1633 Edmonton Ave.
Sunnyvale, CA 94087-5202
(408) 739-4895

PLANNING COMMISSION MINUTES OF AUGUST 28, 2006

2006-0565 - Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for a Redwood tree in the front yard of a property located at **1633 Edmonton Avenue** – RK

Ryan Kuchenig, Associate Planner, presented the staff report. He said that staff finds the tree in good health, that it has a significant remaining life span that merits preservation and that removal of the tree would have a detrimental affect on the overall streetscape. He said staff cannot make the required findings for the tree removal permit and recommends the denial of the permit be upheld. He added that **Leonard Dunn**, the City's Urban Landscape Supervisor, is available to answer questions.

Comm. Babcock said that the report indicates there is new information included that the applicant feels supports removal of the tree. She said the only new information she found was that lateral roots from the tree were in the neighbor's sewer. Staff confirmed that this is the only new information and is the basis for this appeal. She said she recalled from the prior review of this tree removal request that the Planning Commission had recommended exploration to determine if tree roots were in the atrium of the home. Mr. Kuchenig said staff did not receive any additional information regarding tree roots in the atrium.

Comm. Ghaffary asked staff about the recommended trenchless, or pipe bursting method of replacing existing sewer lines and whether this has been tried in neighboring cities. Mr. Dunn said that the City has not tried this method for public sewer lines and does not have information on private lines. He said it is a relatively new technology involving pulling a continuous pipe through the existing sewer line from the public sewer line area up to the home and the method has been very successful.

Comm. Sulser asked staff to comment on how the radiant heating system in the floor of Eichler homes works. **Trudi Ryan**, Planning Officer, said most of the Eichler homes in Sunnyvale were built with copper tubing that is wound within the slab of the house a short distance below the top of the slab, and hot water is piped through the tubing that heats the floor and the rest of the house. She said the tubing is mostly continuous and interconnected unless shut off at a valve.

Chair Klein opened the public hearing.

Margaret Klugherz, appellant, said that the tree is less than four feet from the property line with their adjoining neighbor. She said the neighbor intended to be present at tonight's meeting to support the request for the removal of the tree, but was unable to attend. Ms. Klugherz said the neighbor has complained about the

roots in the sewer and objects to having to pay to clean out or replace sewer lines because of someone else's tree. Ms. Klugherz said Mariya Hodge, Assistant Planner, came for a site visit and the neighbor was very vocal with Ms. Hodge about her objections and the impact of the tree. Ms. Klugherz referred to Attachment A and said that staff feels that alternatives exist to replace the sewer lines and save the tree. Ms. Klugherz said that staff finds the removal of the tree to be detrimental to the neighborhood, but she said most of her neighbors feel the tree is too big and think the removal would improve the neighborhood. She said if the appeal were approved, she would be happy to comply with the Conditions of Approval and replace the tree.

Comm. Rowe commented to Ms. Klugherz that on her site visit she noticed there is a clean-out close to the tree. Ms. Klugherz said yes that the tree has pushed the entire front yard up quite a bit and the builder had put in a circular cement structure to protect the sewer and allow for easier clean out. The clean-out is just a few feet from the appellant's house.

Arthur Schwartz, a resident of Sunnyvale, said he read through the report and commented that if citizens are to use this new method of replacing the sewer lines that has not been tested in Sunnyvale that he does not feel they should have to pay for the replacement. He said the City should either pay for the work or guarantee the work because there is no guarantee the method proposed is going to work. He said the applicant has spent a lot of money over the years cleaning out the sewer line. He said a redwood tree needs space for its roots and as this tree gets larger that the house will affect the tree and the tree could fall. He said he agrees that this tree is out of proportion for the neighborhood and thinks the applicant should be allowed to cut the tree down and solve both the applicant's and the neighbor's problems with costs.

Ms. Klugherz commented that this past winter in Palo Alto a piece of a redwood tree came down in a storm and damaged a house and said if this tree fell it could take out their house, their neighbor's house, or other neighboring property.

Comm. Babcock asked Ms. Klugherz if she has been able to dig in the atrium area of their home and see if there are tree roots in the atrium. Ms. Klugherz said that they had an excavation done along the foundation of the home, but no large roots were found. She said Steve Sukke came to inspect the excavation and recommended they reapply based on the tree roots getting into their sewer lines and the neighbor's sewer lines. Comm. Babcock asked Ms. Klugherz if they have checked into having the tree pruned. Ms. Klugherz said no.

Chair Klein closed the public hearing.

Comm. Rowe referred to page six of the report and asked staff for clarification on the tree preservation ordinance and whether staff feels that "infrastructure (such as underground utilities) can be considered..." as something that a tree

could potentially damage. Ms. Ryan said infrastructure is not specifically mentioned, but there is a catchall finding that if any other pertinent information to the application justifies the removal that that can be used as part of the finding. Ms. Ryan confirmed that the tree roots intrusion into the sewer may be significant and could be considered relevant for a tree removal application.

Vice Chair Sulser referred to the cost-share analysis on page eight and asked what the difference in cost of trenching versus non-trenching would be for the neighbor. Mr. Kuchenig said the analysis was for the subject property and was done in 2005, but that the costs would probably be similar for the neighbor. Ms. Ryan added that these would be average costs and it would depend on the neighbor's sewer line being similar to the applicant's sewer line. She commented that the sewer lines might not have to be replaced and that even if the sewer lines are replaced that the roots could continue to thrive.

Comm. Hungerford asked Mr. Dunn if the trenchless sewer line replacement were accomplished, how the tree might be impacted. Mr. Dunn said that has not been measured, but the sewer line is only about four inches in diameter and there is soil all the way around the tree, so the nutrients that the tree may be receiving from the one sewer line should not cause the tree to decline.

Comm. Rowe asked staff if the Planning Commission approved the removal and required the 15-gallon size replacement tree, could they choose any tree type, or could the Commission require it be a tree that would add more to the air quality. Mr. Kuchenig said that there is no specific requirement that a replacement tree is a particular species, but the Commission could include a particular species in the motion. Ms. Ryan added that typically, staff does not say where a replacement tree should be placed, but the Commission could indicate in the motion where it should be planted. Ms. Ryan said if the Commission's concern is the air quality then a larger tree might be recommended. Comm. Rowe commented that her concern would be about air quality.

Comm. Babcock moved for Alternative 1 to deny the appeal and uphold the denial of the Tree Removal Permit. Vice Chair Sulser seconded.

Comm. Babcock said that she is unable to make the findings and that there are still other alternatives that she feels should be checked out including the pruning of tree.

Comm. Rowe said she would not be supporting the motion as she feels this tree is out of proportion to the size of house. She said that she has a concern about citizens having to pay for the damage of trees and with the expenses being mandated by the City. She said that when homeowners water their lawns that a redwood tree develops shallow roots. She said she is also concerned about the Eichler home floor system and the cost of repairing the foundation and pipe system underneath the cement pad.

Chair Klein said he would be supporting the motion, as he could not make the findings. He said when the issue previously came to the Planning Commission that part of the concerns were whether there was possible damage to the foundation of the home and that seems to be ruled out. He said the small roots do not currently directly affect the foundation of the house. He said he commiserates with the applicant as he also has trees that affect the sewer at his home, but the Planning Commission has to base their decision on the findings and he could not make the findings to approve the tree removal.

ACTION: Comm. Babcock made a motion on 2006-0565 to deny the appeal and uphold the denial of the Tree Removal Permit. Vice Chair Sulser seconded. Motion carried 5-1, Comm. Rowe dissenting and Comm. Simons absent.

APPEAL OPTIONS: This decision is final and is not appealable.

Attachment G

**Appeal Letter, and Planning Commission
Appeal Minutes Relating to Previous
Application to Remove the Subject Tree
in 2005**

Shetal Divatia
Associate Planner
Planning Department
Sunnyvale, CA

RE: Appeal of Denial to Remove Redwood Tree

The trunk of the redwood tree is approximately 9 feet from the house and has grown such that the sewer line is under the east side of the tree. Roots clog the sewer line such that we have to call Roto Rooter or other service provider (frequently on a holiday) a couple of times a year to have the roots removed from the sewer line.

The house is an atrium model Eichler with a concrete slab floor with the radiant heating system embedded in the concrete slab.

Each spring when digging in the dirt in the atrium, in order to put in summer plants, buckets of fibrous roots have to be removed in order to prepare a bed for plants. Two or three years ago a one inch diameter root was removed from one of the beds.

Because of the vertical crack that has developed in the corners of each of 2 bedrooms nearest the tree, we are highly concerned with the potential of the tree roots to cause a problem with the radiant heating system in the floor. The crack nearest the tree was brought to our attention by a guest. Further inspection revealed the other crack.

Steve Sukke, city arborist, gave our name to Chris Derr of 1436 Lewiston Drive who gave us the following cost information relative to removing a redwood tree of similar size to ours (his application for removal was denied). Steve Sukke had given Mr. Derr the names of several companies to contact. Below is information provided to us by Mr. Derr.

Bruce Bowden from Biota Tech (408-248-3266) gave Mr. Derr an estimate of approximately \$6,000 (5K + 500 grinding + 500 hauling wood) as the cost to remove the tree.

Ian Geddes Tree Care (408-374-8233) does air blasting to remove dirt to expose the roots of trees. His charge would have been \$150/hr plus \$80 for the compressor rental and he thought two or three hours would be needed to drill enough to expose the roots and analyze the problem. (3 hours = \$530) Mr. Derr did not have this done.

It would probably cost as much, or more, to install a furnace and insulated ductwork on the roof of the house as it would to remove the tree. I suspect that the neighbors would not be happy about the appearance of the house with ductwork all over the roof. Anchoring the ductwork to the roof could also be a problem (and a potential cause of leaks) with the flat, foam insulated, tar and gravel roof. Removal of the tree appears to be the best option to prevent future problems.

Charles R. and Margaret T. Klugherz

30 June 2005

Shetal Divatia, AICP
 Dept. of Community Development
 P. O. Box 3707
 Sunnyvale, CA 94088-3707

RECEIVED
 JUL 05 2005
 PLANNING DIVISION

Dear Shetal Divatia:

Attached are receipts that I had stashed in a file. My husband puts all paid bills into the trash. I traveled a lot on my job and was out of town when some of the services were done. I went through my husband's Quicken files and came up with the following payments.

Date	Ck. No.	Payee	Purpose	Amount
3/30/94		Roto Rooter #	Main drain	\$ 76.50
7/3/01	2654	Roto Rooter	Plumbing	695.28
12/26/01	2769	Drain Doctor	Main drain	95.00
7/13/02	2890	Drain Doctor	Shower	85.00
6/28/03	3160	Roto Rooter *	Plumbing - main	111.60
12/23/03	3260	Roto Rooter *	Plumbing - main	136.00
11/6/04	316	Roto Rooter *	Plumbing - main	154.80
1/20/05	369	Roto Rooter	Plumbing	125.10

Receipt from prior to Quicken account therefore no check number

* Receipt attached

Sorry to have taken so long to get this to you. My daughter was in the hospital so I was spending most of my time there.

Sincerely,

Margaret Klugherz

Margaret Klugherz

PLANNING COMMISSION MINUTES OF OCTOBER 10, 2005

2005-0279 - Appeal of a decision by the Director of the Planning Division to deny a tree removal permit for a redwood tree in the front yard at **1633 Edmonton Avenue** in an R-1 (Low Density Residential) SD (APN 320-05-008) (Brought to PC for clarification/application of the TRP Ordinance, redwood tree growing on top of sewer line and causing damage.)

Gerri Caruso, Principal Planner, provided a correction to the title of the appeal. She said the title should read, "Appeal of a Decision by the Director of Community Development..." not the Planning Division and that the correction is noted in the report. Ms. Caruso presented the staff report. She said that staff believes there are several options for saving this tree, noting that this tree is not in an optimal location, and is recommending denial of the appeal.

Chair Hungerford opened the public hearing.

Margaret Klugherz, applicant, said that the tree is not an immediate hazard at this time, but that the tree is only five feet from the property line of the adjoining neighbor and is becoming a root intrusion problem in future, to her and her husband's home and to the home of the neighbor, Mrs. Fernandez. She said that the roots may be causing damage to the foundation of the house. She said they have a home with an atrium and she has pulled roots from the atrium area as large as one inch around. She said they believe the concrete used for their house foundation built in 1959, may be pervious and subject to root intrusion. They have noted cracks in two of their bedrooms that could be caused by root intrusion or earthquakes, but that the cost of an arborist and civil engineer to verify this is expensive. They would like to repair the sewer line and remove the tree. She referred to Attachment A, item 3 saying that they believe the tree would effect their ability to sell the home and therefore "restricts the owner's ability to enjoy the reasonable use or economic potential of the property." If they choose to sell the home they would need to disclose the tree issues which could pose a potential devaluation of the property. She said there would be no adverse effect to the neighbors if the tree were removed. She said they would be happy to replace the tree or pay an in-lieu fee if the tree removal is approved.

Bambi Fernandez, the adjoining neighbor, spoke in support of the tree removal. She pointed out that this is not an historic tree. She said this area was an apricot orchard originally and that the tree was planted by the homeowner without having a concept of how out-of-scale the size of the tree would become. She said Mrs. Klugherz' concern about the concrete slab is valid, that the roots have affected the sewer and water lines and that the tree does negatively affect the value of the home. She said she would like to see the tree removed.

Chair Hungerford closed the public hearing.

Ms. Caruso pointed out that **Steve Sukke**, Public Works Senior Leader (City Arborist) was present at this meeting and available for questions.

Chair Hungerford reopened the public hearing.

Comm. Simons asked Mr. Sukke if he felt that this house design, one with an atrium, would be different than a ranch style in regards to root intrusion due to the watering of plants in the atrium possibly drawing the roots under the home's foundation. Mr. Sukke said it is not typical to see roots grow under the foundation, but that possibly the atrium with watering could attract roots. He said he has to look at the permit requests on a case-by-case basis, considering how large certain trees will grow, life expectancy and maintenance. Comm. Simons said with consideration of roots, would it be possible to trench and add root barriers. Mr. Sukke said that trenching can be done and helps reveal what the root situation is, but that most likely the roots that Mrs. Klugherz has found in her atrium are feeder roots.

Comm. Klein asked if the tree's distance from house makes a difference when it comes to trenching and barriers. Mr. Sukke said exposing the roots is like an x-ray of what is under the ground and reveals which roots are feeder roots and which are structural roots. He said the tree can survive the loss of some of the feeder roots. He said this tree has been well fed through the sewer line.

Chair Hungerford asked if fixing the sewer line could affect the health of the tree. Mr. Sukke said it is possible that the tree could begin declining if there was and absence of the supplemental watering.

Ms. Klugherz said that since the tree roots gravitate toward the sewer line there is the constant expense of sewer maintenance, but there would be no guarantee that a new sewer line would not have the same problem.

Comm. Simons commented that he understands the replacement pipe is one piece. Ms. Klugherz said from the explanation from the sewer pipe replacement people that it did not sound like it could be put in as one piece.

Chair Hungerford closed the public hearing.

Vice Chair Fussell made a motion to grant the appeal and approve the Tree Removal Permit subject to the recommended Conditions of Approval. Chair Hungerford seconded the motion.

Vice Chair Fussell said that he had difficulty with this appeal. He said the tree has a long life expectancy and whether the tree restricts the owner's ability to enjoy the reasonable use or economic potential of the property is questionable. He did find though that the tree could represent a potential hazard to people, structures, or other trees. He said the report indicates roots have already

proliferated under the atrium area, seem to be causing damage to the structure and will continue to do so.

Chair Hungerford said he agrees with the motion. He said this is a unique situation with an atrium in the home and no slab in that area and that the water in the atrium and the sewer situation has drawn the roots. He thinks that Finding 2 exists and that this tree is a hazard to the structure.

Comm. Simons said he will not be supporting the motion as he thinks there is an additional alternative not discussed, to trench and install a root barrier. He said the trenching could reveal if the tree needs to be removed and the City Arborist could determine that.

Comm. Sulser said he would not be supporting motion. He said this was a hard decision and he acknowledges that the roots could cause damage, but he said the burden is on the applicant to provide the evidence and that the case has not been made.

Comm. Klein said he would not be supporting the motion. He said he has a similar problem. He said there is definitely some damage to the home, but the cause could be the tree roots, or earthquakes. He said he thinks that having someone come out and trench to take a better look would be a good option and he cannot support the motion at this time.

Vice Chair Fussell added that the staff report indicates that the tree has prolific roots that are expanding under the atrium.

The motion failed 2-4, with Comm. Klein, Comm. Babcock, Comm. Simons and Comm. Sulser dissenting.

Comm. Sulser made a motion to deny the appeal and uphold the denial of the Tree Removal Permit. Comm. Klein seconded the motion.

The motion carried 4-2 with Chair Hungerford and Vice Chair Fussell dissenting.

Ms. Ryan said that the Planning Commission action is final.

Final Action:

Comm. Sulser made a motion to deny the appeal and uphold the denial of the Tree Removal Permit. Comm. Klein seconded.

Motion carried 4-2, Chair Hungerford and Vice Chair Fussell dissenting, Comm. Moylan absent.

This decision is final and is not appealable.