



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Planning and Building



**Date:** September 14, 2016  
**Board Meeting Date:** September 20, 2016  
**Special Notice / Hearing:** 10 days, Within 30 feet  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Steve Monowitz, Community Development Director

**Subject:** EXECUTIVE SUMMARY: Consideration of an appeal of the Planning Commission's decision on a Heritage Tree Removal Permit for removal of a 49-inch d.b.h. (diameter at breast height) Valley Oak tree located in the rear yard of 671 Menlo Oaks Drive, in the unincorporated Menlo Oaks area of San Mateo County.

**RECOMMENDATION:**

Recommending that the Board of Supervisors uphold the current appeal by the property owner and make the findings based on criteria in the County Ordinance for removal of the heritage tree as found in Attachment A. However, if the Board of Supervisors is not able to make these findings, alternate findings for denial of the appeal and permit have been included in the staff report in Attachment B.

**BACKGROUND:**

In April 2015, Jeff Chase of Pacific Excel 2, LLC, submitted an application to remove a 49-inch d.b.h. Valley Oak tree based on the health of the tree, at the construction site of a new home at 671 Menlo Oaks Drive. The application was accompanied with an arborist report from Kielty Arborist Services, LLC, that states that the tree had good vigor, but had form flaws which made it an immediate hazard.

The permit was approved by the Community Development Director (Director) of the Planning and Building Department based on the applicant's statement, two reports from the arborist (original and updated), and a site visit by staff. The Director made findings that criteria for removal was met; that the general health of the tree was poor (Section 11,052(a)), and that the removal of the tree was required to allow economic enjoyment of the property (Section 11,052(e)).

The tree removal permit was subsequently appealed by Judy Horst on behalf of several Menlo Oaks neighbors. The appellant questioned the arborist's evaluation of the health

of the tree, the County's review process, and the tree replanting requirement which had been imposed as a condition of approval.

A second arborist report recommending removal of the tree was submitted by the applicant in advance of the Planning Commission hearing. On January 13, 2016, the Planning Commission upheld the appeal based on public testimony and inconclusive evidence of the timing of a limb failure referenced by the applicant.

In summer 2016, Victoria Lindsley purchased the new residence and filed an appeal of the Planning Commission's determination. Ms. Lindsley submitted a third arborist report with her appeal which states that "There are no reasonable measures, pruning or otherwise, to appropriately address the progressive and continuing hazardous threat the tree presents to targets below, and the only prudent course of action is removal."

Based on new and existing arborists' evaluations, staff is supporting the request for removal and recommending the owner's appeal is upheld.

#### **DISCUSSION:**

Heritage trees are subject to the removal criteria found in Section 11,052 of the San Mateo County Ordinance. Two criteria have been determined by the Director of the Planning and Building Department to be applicable for this permit for removal; that the general health of the tree was poor (Section 11,052(a)), and that the removal of the tree was required to allow economic enjoyment of the property (Section 11,052(e)).

With the application, Mr. Chase submitted the Kielty Services arborist report. A second arborist report, which recommends removal of the tree for safety concerns by McClenahan Consulting, LLC, was provided by the applicant prior to the appeal hearing. Judy Horst and several Menlo Oaks neighbors, questioned the arborists' evaluation of the health of the tree and expressed a desire to obtain a new arborist report during the Planning Commission appeal hearing.

The Planning Commission (Commission) heard the appeal and in a 3-2 vote, upheld the appeal, and denied the removal of a 49-inch d.b.h. Valley Oak tree. The Planning Commission stated that since the timing of the limb failure could not be identified, and a portion of the Kielty arborist report indicated there was "good vigor" in the subject tree, they did not find that the application met the tree health criteria.

The new owner of the property, Victoria Lindsley, has appealed the Planning Commission's decision and seeks removal of the subject tree located in the rear yard of the subject property. Ms. Lindsley obtained a new arborist report from Arbor Resources which states that the tree presents a hazard to the residential development on the property. Ms. Lindsley, the appellant, states that with three arborist's reports, which indicate the tree is unsafe and a hazard, that applicable criteria for removal of heritage tree have been met, that the tree's health is failing, and that the tree prevents reasonable enjoyment of the property.

A consultant arborist, Michael P. Young of Urban Tree Management, Inc., was retained by the County to conduct a site visit and independent assessment of the health and structure of the 49-inch d.b.h. Valley Oak tree, and to peer review the three previously submitted arborist reports. A report summarizing Mr. Young's findings was submitted to the Planning and Building Department on September 6, 2016. The report concurs with the findings of the three arborists and Mr. Young concurs that the tree "should be removed in this location due to the high hazard level that it represents and that the tree's health is failing."

Mr. Young stated, "My inspection of the tree resulted in a fair health rating," but he added, "This tree has a poor structural rating" and states the tree structure and proximity to the house are the main reason this tree needs to be removed. Mr. Young relied in part on the results of the investigation by Kielty drill test observations which revealed considerable trunk decay at 8 feet above grade. The test revealed a high probability for entire tree failure due to decay. All arborists agreed the tree will continue to drop large branches

Staff supports the appellant's request for removal, based on the two criteria found in Sections 11,052.a. and 11,052.e of the County Ordinance for heritage tree removal. The three arborist reports and the consultant peer review provide substantial and credible evidence that the health of the tree is in decline and poses a safety hazard. In addition, no arborist who has examined the tree has been able to provide a trimming plan which would avoid exacerbating the uneven weight distribution of the branches and increase the likelihood that the tree would fall.

Requirement for tree replacement is at the discretion of the Community Development Director. The original condition of approval for this application required planting of two 15-gallon oak replacement trees. Mr. Young's report recommends the planting of one 48-60 inch box Valley oak. The condition for tree replacement requirement has been modified to be two, 48-inch box oak, which is size consistent County practices. One replacement tree will be planted at the location of the tree to be removed, and the other at the right rear of the property, consistent with Mr. Young's recommendation. County Counsel has reviewed the report as to form.

Approval of this project is not incidental to the Shared Vision 2025 of a Livable Community.

**FISCAL IMPACT:**

No fiscal impact.