

**COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT**

**DATE:** May 27, 2015

**TO:** Planning Commission

**FROM:** Planning Staff

**SUBJECT:** EXECUTIVE SUMMARY: Consideration of an appeal of a decision by the Community Development Director to approve a Tree Removal Permit, to remove two redwood trees, located at 462 Sixth Avenue, in the unincorporated North Fair Oaks area of San Mateo County.

**PROPOSAL**

The appellant, Stephen Wood, is appealing the approval of a permit to remove two significant size redwood trees. The applicant, Gerver Hernandez, applied to remove the trees at the request of his adjacent neighbors, Fernando and Pilar Barrales, at 456 Sixth Avenue. The removal of the trees is a term of a settlement of a civil court claim filed against Mr. Hernandez by Mr. Barrales. Mr. Barrales claimed that the trees' roots were breaking his concrete driveway and patio, and causing damage to his house's foundation. The Planning Department approved the request and found that the trees could cause substantial damage to public or private property and that the trees would be replaced by plantings approved by the Community Development Director, unless special conditions indicate otherwise.

**RECOMMENDATION**

Deny the appeal and uphold the decision of the Community Development Director to approve the Tree Removal Permit for the two redwood trees, County File Number PLN 2014-00464, by making the findings for the approval and imposing the conditions of approval included in Attachment A.

Should the Planning Commission uphold the appeal, the required finding for denial of the tree removal permit is provided in Attachment B.

**SUMMARY**

On December 5, 2014, the applicant applied for a permit to remove one redwood tree, 37.6 inches in diameter, from the side yard of 462 Sixth Avenue. The application was later amended to include a second, larger tree, 40 inches in diameter, immediately adjacent to the first. It was amended because it was impossible to tell which of the trunks were connected to the roots breaking the driveway and sinking the house

foundation or whether the tree's stump and root system could be removed without affecting the adjacent tree's health or stability. The application and subsequent communications included reports from a certified arborist and a foundation contractor attesting to the damage to the adjacent house already caused by the trees and the need to remove the trees to prevent further damage. On March 11, 2015, after consideration of the public comment and application materials, the Community Development Director approved the application to remove the redwood trees, finding that the trees could cause substantial damage to public or private property.

An appeal was filed on March 24, 2015. The appeal claims the following: that the trees are too valuable to be removed; that the evidence submitted with the application was not correct; that groundwater reserves are depleted; that the redwood roots do not grow in the manner described in the arborist's report; that the damage is caused by things other than the trees; that further investigation is needed; and that removing the trees sends a bad message to the public.

Staff recommends that the appeal be denied and that the decision of the Community Development Director be upheld, because the information submitted by qualified and licensed professionals provides evidence that the trees are damaging the existing structure, and their removal therefore complies with the requirements of the Significant Tree Ordinance.

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**COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT**

**DATE:** May 27, 2015

**TO:** Planning Commission

**FROM:** Planning Staff

**SUBJECT:** Consideration of an appeal of a decision by the Community Development Director to approve a Tree Removal Permit, pursuant to Section 12,000 of the San Mateo County Ordinance Code, to remove two redwood trees, located at 462 Sixth Avenue, in the unincorporated North Fair Oaks area of San Mateo County.

County File Number: PLN 2014-00464 (Hernandez)

**PROPOSAL**

The appellant, Stephen Wood, is appealing the approval of a permit to remove two significant size redwood trees. The applicant, Gerver Hernandez, applied to remove the trees at the request of his neighbors, Fernando and Pilar Barrales, at 456 Sixth Avenue. The removal of the trees is a term of a settlement of a civil court claim filed against Mr. Hernandez by Mr. Barrales (San Mateo Superior Court, Case #CIV529718, Barrales vs. Hernandez). Mr. Barrales claimed that the trees' roots were breaking his concrete driveway and patio, and causing the subsidence that damaged his house's foundation. The application included an estimate from a foundation contractor and a report from a certified arborist. The Planning Department approved the request and found that the trees could cause substantial damage to public or private property and that the trees would be replaced by plantings approved by the Community Development Director, unless special conditions indicate otherwise.

**RECOMMENDATION**

Deny the appeal and uphold the decision of the Community Development Director to approve the tree removal permit for the two redwood trees, County File Number PLN 2014-00464, by making the findings for the approval and imposing the conditions of approval included in Attachment A.

Should the Planning Commission uphold the appeal, the required finding for denial of the tree removal permit is provided in Attachment B.

**BACKGROUND**

Report Prepared By: Steven Rosen, Project Planner, Telephone 650/363-1814

Applicant/Owner: Gerver Hernandez

Appellant: Stephen Wood

Location: 462 Sixth Avenue, North Fair Oaks

APN: 060-073-340

Parcel Size: Approximately 9,000 sq. ft.

Existing Zoning: R-1/S-73 (Single-Family Residential/5,000 sq. ft. minimum)

General Plan Designation: Single-Family Residential (15-24 dwelling units/acre)

Existing Land Use: Single-Family Dwelling

Flood Zone: Zone "X" (Area of Minimal Flooding); Panel printed 06081CO302E, dated October 2012.

Environmental Evaluation: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304 (Minor Alterations to Land). This class exempts minor public or private alterations in the condition of land, water, and/or vegetation, such as the removal of a tree.

Setting: The site is in a single-family (R-1 zoned) neighborhood. The parcel is flat and rectangular in shape with single-family houses to the right, left, rear, and across the street. The neighboring houses are a mix of one- and two-story buildings. The Hernandez property is improved with a one-story single-family residence, a legal second dwelling unit, and an accessory building. The adjacent Barrales property is improved with a single-family dwelling.

Chronology:

<u>Date</u>	<u>Action</u>
November, 2013	- Mr. and Mrs. Barrales discover that the trees' roots are causing damage to their patio and driveway.
December, 2013	- Mr. and Mrs. Barrales contacted the Peninsula Conflict Resolution Center (PCRC) to attempt to mediate this matter with Mr. Hernandez. PCRC eventually closed the file on this matter as Mr. Hernandez was unresponsive.

- January, 2014 - Mr. and Mrs. Barrales contacted their own insurance company, which provides them with homeowner's insurance for Mr. and Mrs. Barrales' home, but the claim was denied because the trees are located on Mr. Hernandez's property.
- May, 2014 - An attorney representing Mr. and Mrs. Barrales wrote to Mr. Hernandez requesting that the trees be removed and provided estimates for the repair of the damage to Mr. and Mrs. Barrales' home and for the cost of removal of the trees. No response to this request was ever received by Mr. and Mrs. Barrales.
- July 28, 2014 - Mr. and Mrs. Barrales filed a complaint in the San Mateo County Superior Court (Case #CIV 529718). Causes of action in this complaint included trespass, nuisance and declaratory and injunctive relief. Following the filing of the civil complaint, Mr. Hernandez contacted his insurance company and negotiations between counsel to resolve this matter commenced. The parties reached a conditional settlement and resolution in the case. One of the terms of the settlement is the removal of the trees at issue in this matter. Once the trees in question have been removed from Mr. Hernandez's property, the matter will be dismissed and will be considered to be resolved. The Barrales' attorney stated that, in the event that Mr. Hernandez is unable to comply with the required condition that the trees be removed, Mr. and Mrs. Barrales will have no alternative but to continue with litigation to compel the removal of the trees.
- December 5, 2014 - The Planning Department received an application to remove one of the subject trees to prevent damage to the neighbor's driveway and house.
- December 11, 2014 - The Planning Department received a phone call from a neighbor, Albert Finn, stating that they understood if the tree is damaging property, but would like it to remain if possible.
- December 12, 2014 - Site inspection revealed that the noticing poster was not present and that there are two redwood trees immediately adjacent to the damaged area of the driveway and each other. It was impossible to tell which of the trunks were connected to the roots breaking the driveway and sinking the house foundation, or whether the trunks were separate trees. The applicant replaced the poster, and the Planning Department mailed updated application notices.

December 17, 2014 - Stephen Wood submitted an e-mail stating, "With reference to the above-noted application, I am Mr. Gerver's neighbor at 453 Seventh Avenue. The removal of the two subject redwoods would dramatically alter the existing landscape for the worse. I am completely opposed to the granting of permission to proceed on personal, aesthetic and historical grounds. Thank you."

December 23, 2014 - Stephen Wood submitted an e-mail stating, "The removal of the subject trees is unthinkable. My wife and I have enjoyed the view of those two majestic trees since 1984. That Mr. Hernandez's neighbor is having an issue with these trees is hardly a surprise. The neighbor's driveway is a massive concrete pour extending from the residence face to the fence line without interruption. Calling the neighbor's slab a driveway is generous. In appearance, it looks more like a commercial loading dock. Its purpose may have once been to serve as a driveway, but nowadays it appears to be more of a storage area than a functioning driveway.

"The driveway has cracked, but the curious thing about the crack is that it runs from the fence line to the residence, and the concrete surface has subsided. Normally when roots interfere with an existing paved surface the tendency is for the existing pavement to be thrust upwards, and for the crack itself to run perpendicular to the intruding root. What has happened in Mr. Hernandez's neighbor's driveway looks to be more related to the failure of the driveway's subgrade than anything to do with tree root incursion.

"I would again suggest that consideration be given to the replacement of the "damaged" driveway with interlocking, cast concrete, modular paving stones. The driveway will support vehicular traffic, will permit a degree of flexibility in the surfaced area not available when using poured concrete, and shall allow drainage of surface water into the subgrade. Thank you for the consideration which you have shown this matter."

December 24, 2014 - Susan Brown submitted an e-mail stating, "I object to the proposal to remove two redwood trees at 462 Sixth Avenue. These are two healthy beautiful redwood trees that provide shade and aesthetic value to the neighborhood. I have lived adjacent to these trees for almost 20 years and can see no good reason for their removal. Their loss would be like the loss of a family member to me. I second the proposals made

by Stephen Wood to mitigate any perceived driveway issues. You may contact me for any further comments.

“Question: isn’t Mr. Hernandez required to post a sign visible from the street about this proposal? If so, he certainly has not done it. I checked just a few hours ago.

“Please send me a copy of your decision. Thanks for attending to this matter.”

- March 11, 2015 - The Planning Department approved the removal of the redwood trees.
- March 24, 2015 - Stephen Wood appealed the Planning Department’s decision to the Planning Commission.
- May 27, 2015 - Planning Commission public hearing.

## **DISCUSSION**

### **A. KEY ISSUES OF THE APPEAL**

A copy of Mr. Wood’s appeal is included as Attachment E of this report. He requests that the decision to grant the tree removal permit be reversed. Excerpts from the appeal statement and staff responses follow below:

1. *The subject Coast Redwoods are an irreplaceable asset which contribute to the overall aesthetics of the North Fair Oaks area. Aside from their sheer majesty, these trees are a visual respite for the surrounding neighborhood, a means of naturally cooling the subject property, and a source of added value to the neighborhood as a whole.*

**Staff’s Response:** The Board of Supervisors recognized the enhancement of the living environment provided by trees when it adopted the Significant Tree Ordinance, and charged the Planning Department with the task of controlling and supervising in a reasonable manner the cutting of significant trees within the unincorporated area of the County. The Ordinance was enacted to promote the public health, safety, general welfare and prosperity of the County, while respecting and recognizing property owners’ rights to develop, maintain and enjoy private property to the fullest possible extent, consistent with the public interest, convenience and necessity. The Community Development Director may grant permission to remove a tree upon finding that the tree could damage an existing structure, aided by documentation provided by a licensed tree surgeon or arborist.

2. *It is contended by Mr. Hernandez and his neighbor that the trees have caused damage to the neighbor's property, and they have presented "expert" testimony to support this believe. A Foundation Contractor has proposed his belief that the residence is "threatened" by soil subsidence, and a Certified Arborist has expressed his view that Redwoods, not unlike other trees, are "capable" of causing localized soil subsidence through the absorption of groundwater. It is worth noting at this juncture that Coast Redwoods absorb much of their water through the leaves which form the tree's canopy.*

Staff's Response: The applicant submitted a letter prepared by Mr. Kevin Kielty, an ISA Board Certified Arborist. Mr. Kielty found that roots of the redwood trees were responsible for cracking the driveway and are suspected of causing the subsidence that resulted in the damage to the foundation of the house. He stated that, as the trees grow, such damage will increase. He recommends that the trees be removed and replaced because root cutting could compromise the structural integrity of the trees.

The applicant submitted an estimate for the foundation repair from Steve Mack of Foundation Repair of California. In addition to describing the extent of damage and the type of repairs proposed, it described the cause of the damage as subsidence caused by the trees drawing water and nutrients from the soil.

Volume 1 of the United States Forest Service's Silvics Manual states, "The major effect of fog is to decrease water loss from evaporation and transpiration. An additional effect of condensation and fog drip from tree crowns is an increased soil moisture supply during the dry summers." Redwoods draw very little water directly from fog through their needles even when they are within their natural, fog-laden range. These trees are plantings outside of their natural range, the coastal fog belt. They rely on groundwater.

3. *Also noteworthy is that there has been no discussion of the acknowledged near depletion of the State's groundwater reserves, and the fact that the State is in the fourth year of an extreme drought. Additionally, if the purported conditions are so dire, why was Mr. Hernandez allowed to build an 800 sq. ft. abode on his property not more than 10'0" from these same trees.*

Staff's Response: These statements do not pertain to the evidence submitted in the application or to the findings of the approval of this tree removal permit. The trees are much older than the present drought and have been drawing water for decades. Mr. Hernandez's second dwelling unit, built legally and issued a certificate of occupancy in 2008, is not the structure that is being damaged, nor was its proximity to the subject trees a development issue when that unit was reviewed, approved, and constructed.

4. *Redwoods have a descending root habit. The primary anchor roots descent anywhere from 10'0" to 12'0" at a 30-45 degree angle to the base of the tree with only the feeder roots running near the surface. It is most unlikely that the roots of the Redwoods have created the situation on the property which adjoins Mr. Hernandez's property.*

Staff's Response: The Planning Department is relying on the judgment of Mr. Kevin Kielty, an ISA Board Certified Arborist. The broken concrete driveway was immediately adjacent to the trees where large roots are present and visible. It has since been removed to allow removal of the roots and replacement with new concrete. The damage to the house is reportedly caused by soil subsidence caused by the trees drawing water and nutrients from the soil through their roots, not by large roots breaking the foundation.

5. *The damage which may be evidenced on the neighbor's property is, in my opinion, the result of natural causes (e.g., the persistent drought conditions), code violations (the neighbor has grossly exceeded permitted lot coverage thereby severely restricting the ability of water to percolate into the subsoil), poor preparation of the subgrade prior to the placement of the existing concrete surface, and the failure of the owner to specify the use of reinforcement steel in the construction of his "driveway."*

Staff's Response: The Zoning Ordinance's lot coverage limit only pertains to structures 18 inches or greater in height. It may be that the soil would not have subsided had the Barrales' driveway not been there, but no permits are required for patios or driveways in this area. The need to remove trees is not limited to the damage they have caused to the driveway. It is also necessary to prevent damage to the residence, as evidenced by the foundation contractor's report and an observation of a crack in the concrete immediately adjacent to the house observed near roots.

6. *Further, the supporting evidence provided by Mr. Hernandez and his neighbor, while not unreasonable, is not absolute. An experienced contractor cannot provide a definitive answer about what may happen until he has begun to excavate the work. Definitive answers about what may happen as a result of the soil conditions should be sought from a professional soils engineer.*

Staff's Response: Conditioning tree removal permits on this type of exploratory work is not typically within the Planning Department's process or procedure. The reports submitted with the application and during the subsequent analysis indicate that the trees are a hazard to buildings and that pruning the roots would cause the trees to be unstable.

7. *Lastly, I would wish to suggest that the removal of such iconic trees from the urban landscape during a time of drought sends the wrong message to the*

*public. The inference that the structures made by the hand of man, in this case a concrete driveway, have a greater import than a gift of nature. A driveway can be rebuilt within a brief period of time. Those Redwoods, well, none of us will live long enough to see them replaced. Thank you for the consideration you have shown this matter.*

Staff Response: As previously noted, the County's tree regulations recognize the value that trees provide to our communities. However, when they cause damage to structures, they are allowed to be removed. The required replacement trees are intended to mitigate for the loss of these trees.

**B. CONFORMANCE WITH THE SIGNIFICANT TREE ORDINANCE**

Section 12,023 (Criteria for Permit Approval) states that the Planning Director or any other person or body charged with determining whether to grant, conditionally grant or deny a Tree Cutting or Trimming Permit may approve a permit for several reasons, one of which is that the tree could cause substantial damage to public or private property. As discussed previously, the applicant's foundation contractor has stated that the roots of the trees are already starting to impact the foundation of the house. If the trees are not removed, they will continue to cause damage to the structure. The trees would be replaced by new, indigenous, drought-tolerant saplings at least 15 gallons in size in a more appropriate location.

**ATTACHMENTS**

- A. Findings and Conditions for Approval
- B. Finding for Denial
- C. General Location/Vicinity Map
- D. Labeled Aerial Photograph
- E. Site Photographs
- F. Tree Removal Permit Letter
- G. Appeal Application

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County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN 2014-00464

Hearing Date: May 27, 2015

Prepared By: Steven Rosen  
Project Planner

For Adoption By: Planning Commission

**RECOMMENDED FINDINGS FOR APPROVAL**

Regarding the Environmental Review, Find:

1. That the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304 (Minor Alterations to Land). This class exempts minor public or private alterations in the condition of land, water, and/or vegetation, such as the removal of two trees.

Regarding the Tree Removal Permit, Find:

2. That the trees could cause substantial damage to the existing structure, as evidenced by the damage to the foundation that has already been caused by the root system.

**RECOMMENDED CONDITIONS OF APPROVAL**

1. The trees indicated on the application form dated December 3, 2014, may be removed after the end of the appeal period in the event that no appeal is filed. A separate tree removal permit shall be required for the removal of any additional trees.
2. This tree removal permit approval shall be on the site and available for inspection by any person at all times during the tree removal operation. The issued permit shall be posted in a conspicuous place at eye level at a point nearest the street.
3. The applicant shall plant two trees on the site using at least 15-gallon size stock to replace the trees to be removed. The species of the trees shall be indigenous to inland San Mateo County, drought-resistant, and appropriately sized and located so that they will not be a hazard to any structures or improvements. A site plan showing the type and location of the replacement trees shall be submitted for the review and approval of the Community Development Director, or his or her

designee, prior to planting. Replacement planting shall occur within one year of the tree removal permit approval date per Section 12,024 of the San Mateo County Ordinance Code.

4. The applicant shall submit photo verification to the Planning Department of the planted replacement trees required in Condition of Approval No. 3. Photos shall either be submitted in person to the Planning Department, or via email to [plngbldg@smcgov.org](mailto:plngbldg@smcgov.org) with reference to the Planning Application PLN Number (PLN 2014-00464).
5. If work authorized by an approved permit is not commenced within the period of one year from the date of approval, the permit shall be considered void.
6. During the tree removal phase, the applicant shall, pursuant to Chapter 4.100 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site by:
  - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30.
  - b. Removing spoils promptly and avoiding stockpiling of fill materials when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
  - c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
  - d. Using filtration or other measures to remove sediment from dewatering effluent.
  - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
  - f. Limiting and timing application of pesticides and fertilizers to avoid polluting runoff.
7. Prior to the removal of any trees located within the public right-of-way, the applicant shall obtain an encroachment permit from the Department of Public Works. Additionally, prior to planting any trees within the public right-of-way, the applicant shall obtain a landscaping/encroachment permit from the Department of Public Works.
8. The applicant shall clear all debris from the public right-of-way.

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County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDING FOR DENIAL**

Permit or Project File Number: PLN 2014-00464

Hearing Date: May 27, 2015

Prepared By: Steven Rosen  
Project Planner

For Adoption By: Planning Commission

**RECOMMENDED FINDING FOR DENIAL**

Regarding the Tree Removal Permit, Find:

1. That the removal of the redwood trees cannot qualify for any of the findings listed in the Significant Tree Ordinance. The justification for the proposal, damage to the structure, is not adequately supported by the evidence submitted with the application.

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**San Mateo County Planning Commission Meeting**

Owner/Applicant: Hernandez

Attachment: C

File Numbers: PLN2014-00464





***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_



# 6th Avenue - South of Site



## ***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_



## 6th Avenue - North of Site



### ***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_





***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_





Bases of Subject Trees

***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_





Concrete Damage Adjacent to Trees

***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_





Extent of Concrete Damage

***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_



Root in Center of Former Driveway



***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_





Additional Roots Near House

***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_





Root Near House

***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_





Concrete Immediately Adjacent to House

***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_

**COUNTY OF SAN MATEO  
PLANNING AND BUILDING**

**County Government Center**  
455 County Center, 2nd Floor  
Redwood City, CA 94063  
650-363-4161 T  
650-363-4849 F  
www.planning.smcgov.org

March 11, 2015

Gerver Hernandez  
462 - 6th Avenue  
Menlo Park, CA 94025

Dear Mr. Hernandez:

**SUBJECT:** Bayside Tree Removal Permit  
462 - 6th Avenue, Menlo Park  
APN 060-073-340; County File No. PLN 2014-00464

Your application for a Tree Removal Permit, to remove two coast redwoods, 9'-10" in diameter and 10'-5" in diameter, on the subject property, is hereby **approved**, pursuant to Section 12.000 of the San Mateo County Ordinance Code. Public notification was sent out on December 17, 2014. The posting period began on December 17, 2014 and ended on December 29, 2014. The site was visited during the required 10-day posting period. Comments in support of and objecting to the proposal were received.

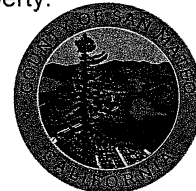
The two redwood trees are adjacent to the side property line. The applicant proposed removal of the two redwood trees because his adjacent neighbor claimed that they are damaging the concrete driveway on his property, which is adjacent to the trees. The applicant's neighbor submitted further information explaining how the trees are not only damaging the driveway (confirmed by a major crack in, and lifting of, the driveway found on a site inspection), but also the house foundation. The applicant's neighbor submitted a report by a foundation contractor stating that the house is threatened by soil subsidence on the side nearest to the trees. The applicant's certified arborist confirmed that redwood trees are capable of absorbing enough groundwater to cause localized subsidence. Because the only side of the house that is sinking is the side nearest the trees, and the evidence presented supports the conclusion and is composed of the judgment of professionals, it supports the conclusion that the trees are damaging the foundation of the house. If the trees continue to cause subsidence, the foundation of the house may continue to subside, causing costly damage.

Based on the foregoing, your application is hereby approved subject to the following findings and conditions of approval:

**FINDINGS**

Staff found that:

1. The trees could cause substantial damage to public or private property.



***San Mateo County Planning Commission Meeting***

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_



- 2. The trees will be replaced by plantings approved by the Community Development Director or Design Review Officer, unless special conditions indicate otherwise.

**CONDITIONS OF APPROVAL**

- 1. The trees indicated on the application form dated December 3, 2014, may be removed after the end of the appeal period, assuming no appeal is filed as stipulated in this letter. A separate Tree Removal Permit shall be required for the removal of any additional trees.
- 2. This Tree Removal Permit approval shall be on the site and available at all times during the tree removal operation and shall be available to any person for inspection. The issued permit shall be posted in a conspicuous place at eye level at a point nearest the street.
- 3. The applicant shall plant on-site a total of two (2) trees using at least 5-gallon size stock, for the trees removed. Replacement planting shall occur within one year of the Tree Removal Permit approval date (Section 12,024 of the San Mateo County Ordinance Code).
- 4. The applicant shall submit photo verification to the Planning Department of the planted replacement trees required in Condition of Approval No. 3. Photos shall either be submitted in person to the Planning Department, or via email to [plngbldg@smcgov.org](mailto:plngbldg@smcgov.org) with reference to the Planning Application PLN Number, as identified in the subject line of this letter.
- 5. If work authorized by an approved permit is not commenced within the period of one year from the date of approval, the permit shall be considered void.
- 6. During the tree removal phase, the applicant shall, pursuant to Chapter 4.100 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site by:
  - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30.
  - b. Removing spoils promptly and avoiding stockpiling of fill materials when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
  - c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
  - d. Using filtration or other measures to remove sediment from dewatering effluent.
  - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

***San Mateo County Planning Commission Meeting***

Owner/Applicant:

Attachment:

File Numbers:

- f. Limiting and timing application of pesticides and fertilizers to avoid polluting runoff.
- 7. Prior to the removal of any trees located within the public right-of-way, the applicant shall obtain an encroachment permit from the Department of Public Works. Additionally, prior to planting any trees within the public right-of-way, the applicant shall obtain a landscaping/encroachment permit from the Department of Public Works.
- 8. The applicant shall clear all debris from the public right-of-way.

To ensure compliance with the above conditions, a "Parcel Tag" will be placed on this parcel which shall restrict future development until these conditions are met, particularly with regard to the planting and photo verification of the replacement trees. Upon fulfillment of these conditions, as determined by the Community Development Director, the subsequent parcel tag shall be lifted.

The approval of this Tree Removal Permit and any conditions of the approval may be appealed within ten (10) working days of the date of this letter. An appeal form accompanied by the applicable filing fee must be submitted by **5:00 p.m., March 25, 2015**. If at the end of that period no appeal has been filed, the subject trees may be removed (Section 12,028 of the San Mateo County Ordinance Code).

You will be notified if an appeal is made.

If you have any questions, please call the project planner, Steven Rosen, at 650/363-1814 or by email at [srosen@smcgov.org](mailto:srosen@smcgov.org).

To provide feedback, please visit the Department's Customer Survey at the following link: <http://planning.smcgov.org/survey>.

FOR STEVE MONOWITZ  
ACTING COMMUNITY DEVELOPMENT DIRECTOR, By:




---

Dave Holbrook, Senior Planner

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- cc: Albert Finn
- Stephen Wood
- Susan Brown
- Mr. Barrales
- Derek Chantler

**San Mateo County Planning Commission Meeting**

Owner/Applicant:

Attachment:

File Numbers:

Application for Appeal RECEIVED Planning and Building Department

- To the Planning Commission
- To the Board of Supervisors

MAR 24 2015

County Government Center • 455 County Center, 2nd Floor  
Redwood City • CA • 94063 • Mail Drop PLN 122  
Phone: 650 • 363 • 4161 Fax: 650 • 363 • 4849

San Mateo County  
Planning Division

1. Appellant Information

Name: Stephen Wood

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Phone, W: \_\_\_\_\_ H: 6503687716

Address: 453 Seventh Avenue

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Menlo Park

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Zip: 94025

2. Appeal Information

Permit Numbers involved:  
PLN 2014-00464

I have read and understood the attached information regarding appeal process and alternatives.

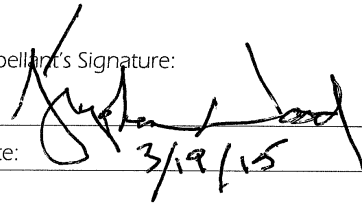
- yes
- no

I hereby appeal the decision of the:

- Staff or Planning Director
- Zoning Hearing Officer
- Design Review Committee
- Planning Commission

Appellant's Signature:

Date:



3/19/15

made on 3/11 2015, to approve/deny the above-listed permit applications.

3. Basis for Appeal

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

It is requested that the decision rendered by Staff be reversed. The subject Coast Redwoods are an irreplaceable asset which contribute to the overall aesthetics of the North Fair Oaks. Aside from their sheer majesty these trees are a visual respite for the surrounding neighborhood, a means of naturally cooling the subject property, and a source of added value to the neighborhood as a whole. It is contended by Mr. Hernandez and his neighbor that the trees have caused damage to the neighbor's property, and they have presented "expert" testimony to support this belief. A Foundation Contractor has proposed his belief that the residence is "threatened" by soil subsidence, and a Certified Arborist has expressed his view that Redwoods, not unlike other trees, are "capable" of causing localized soil subsidence through the absorption of groundwater. It is worth noting at this juncture that Coast Redwoods absorb much of their water through the leaves which form the tree's canopy. Also noteworthy is that there has been no discussion of the acknowledged near depletion of the State's groundwater reserves, and the fact that the State is in the fourth year of an extreme drought. Additionally, if the purported conditions are so dire, why was Mr. Hernandez allowed to build an 800sq.ft. abode on his property not more than 10'0" from these same

San Mateo County Planning Commission Meeting

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_

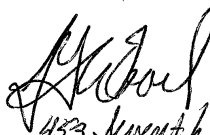
EW LANDSCAPE, INC.  
C27 - 835173

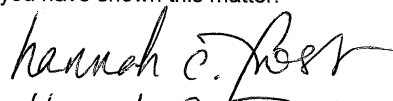
453 Seventh Avenue  
Menlo Park, CA 94025  
[swood@ewlandscapeinc.com](mailto:swood@ewlandscapeinc.com)  
(650) 368 - 7716  
(650) 471 - 3896

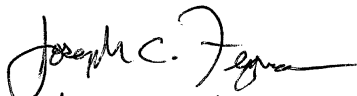
APPLICATION FOR APPEAL  
( CONT'D. )

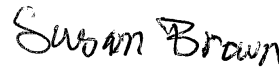
trees. Redwoods have a descending root habit. The primary anchor roots descend anywhere from 10'0" to 12'0" at a 30 - 45 degree angle to the base of the tree with only the feeder roots running near the surface. It is most unlikely that the roots of the Redwoods have created the situation on the property which adjoins Mr. Hernandez's property. The damage which may be evidenced on the neighbor's property is, in my opinion, the result of natural causes ( e.g. the persistent drought conditions ), code violations ( the neighbor has grossly exceeded permitted lot coverage thereby severely restricting the ability of water to percolate into the subsoil ), poor preparation of the subgrade prior to the placement of the existing concrete surface, and the failure of the owner to specify the use of reinforcement steel in the construction of his "driveway." Further, the supporting evidence provided by Mr. Hernandez and his neighbor while not unreasonable is not absolute. An experienced contractor cannot provide a definitive answer about what may happen until he has begun to excavate the work. Definitive answers about what may happen as a result of the soil conditions should be sought from a professional soils engineer.

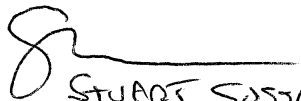
Lastly, I would wish to suggest that the removal of such iconic trees from the urban landscape during a time of drought sends the wrong message to the public. The inference is that structures made by the hand of man, in this case a concrete driveway, have greater import than a gift of nature. A driveway can be rebuilt within a brief period of time. Those Redwoods; well, suffice it to say that none of us will live long enough to see them replaced. Thank you for the consideration you have shown this matter.


  
453 Seventh Ave.  
MP. 94025

  
Hannah C. Frost  
452 7th Avenue  
Menlo Park, CA 94025

  
461 7th AVE.  
Menlo Park, CA 94025

  
457 7th Ave  
Menlo Park, CA 94025

  
STUART SUSSMAN  
452 7th Ave  
MP CA 94025

  
454 SEVENTH AV.  
MENLO PARK  
CA 94025

**San Mateo County Planning Commission Meeting**

Owner/Applicant:

Attachment:

File Numbers: