

## TREE REMOVAL PERMIT DENIAL

**FILE NO.** **TR09-024**

**LOCATION OF PROPERTY** **South side of Forest View Drive,  
approximately 290 feet easterly of Raintree  
Drive  
(5132 Forest View Drive)**

**ZONING DISTRICT** **R-1-8 Single-Family Residence**

**ENVIRONMENTAL STATUS** **Exempt**

**OWNER/ADDRESS** **Phyllis and Joseph Eliason  
5132 Forest View Drive  
San Jose, CA 95129**

### FACTS

1. On February 2, 2009 the subject Tree Removal Permit was filed to request the removal of one Magnolia tree approximately 64 inches in circumference.
2. A Tree Removal Permit is required in order to remove any tree located on private property in the City of San Jose that is greater than 56 inches in circumference, measured at 24 inches above grade.
3. The proposed project is considered exempt from environmental review pursuant to Section 15301 of the California Environmental Quality Act.
4. The purpose of the Tree Removal Permit process is “to promote the health, safety, and welfare of the City by controlling the removal of trees in the city, for wanton destruction of trees detracts from the scenic beauty of the city, causes erosion of topsoil, creates flood hazard and risk of landslides, reduces property values, increases cost of construction and maintenance of draining systems through the increased flow and diversion of surface waters, and eliminates one of the prime oxygen producers and prime air purification systems in this area.” [Municipal Code, Section 13.32.010]
5. The applicant filed the subject application stating that the Magnolia tree needed to be removed because of the following:
  - a. The tree is too large for the area in which it is planted.
  - b. The branches of the tree are growing over the house and over the neighbor’s property.
  - c. There is a concern that the roots are growing into the foundation of the house.
6. The City Arborist reviewed the tree and determined that the planting area is of sufficient size for the species of tree, overhanging branches can be trimmed, and the roots can be trimmed and a root barrier installed to prevent any roots from growing into the foundation.

## **FINDINGS**

After investigation and hearing held pursuant to Chapter 13.32 of the San José Municipal Code, the Director of City Planning finds:

1. **The affected tree is of a size, type and condition, and in such a location and in such surroundings that removal would significantly frustrate the purposes of the Chapter as set forth in Section 13.32.010 of the San Jose Municipal Code.**
2. **The location of the tree does not unreasonably restrict the economic development of the parcel.**
3. **The condition of the tree with respect to disease, danger of falling, proximity to existing or proposed structures, and/or interference with utility services, is such that public health or safety does not require its removal.**

Based upon the above-stated finding, the Director of Planning **denies** the subject **Tree Removal Permit to remove one 64-inch magnolia from the front yard of a single-family residence.**

The Director's decision may be appealed to the Planning Commission by submitting a completed Notice of Appeal on the form available in the Department of City Planning and Building and a \$2,232.00 fee. The appeal must be delivered in person and received on or before **5:00 p.m., March 22, 2010.**

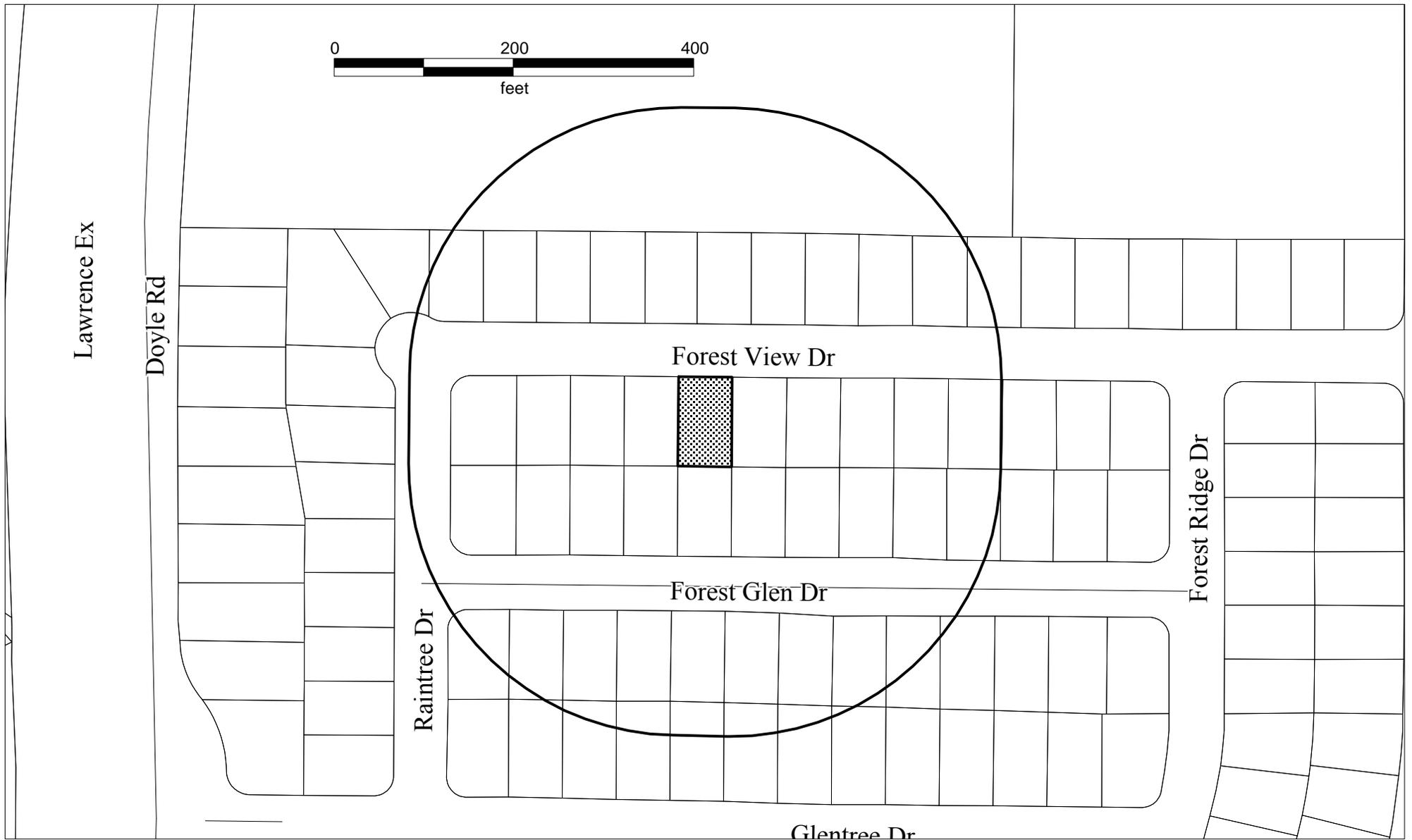
**DENIED** by the Director of Planning on this day, **March 12, 2010.**

JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

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Deputy

cc:



Location Map with Noticing

File Number: TR09-024

District: 1

Quad: 97



Map Created On:  
2/3/2009

Prepared by the Department of Planning, Building, and Code Enforcement  
City of San Jose, California

Joseph Horwedel, Director

Noticing Radius: 300 Ft

