

STAFF REPORT
PLANNING COMMISSION

FILE NO.: TR11-023

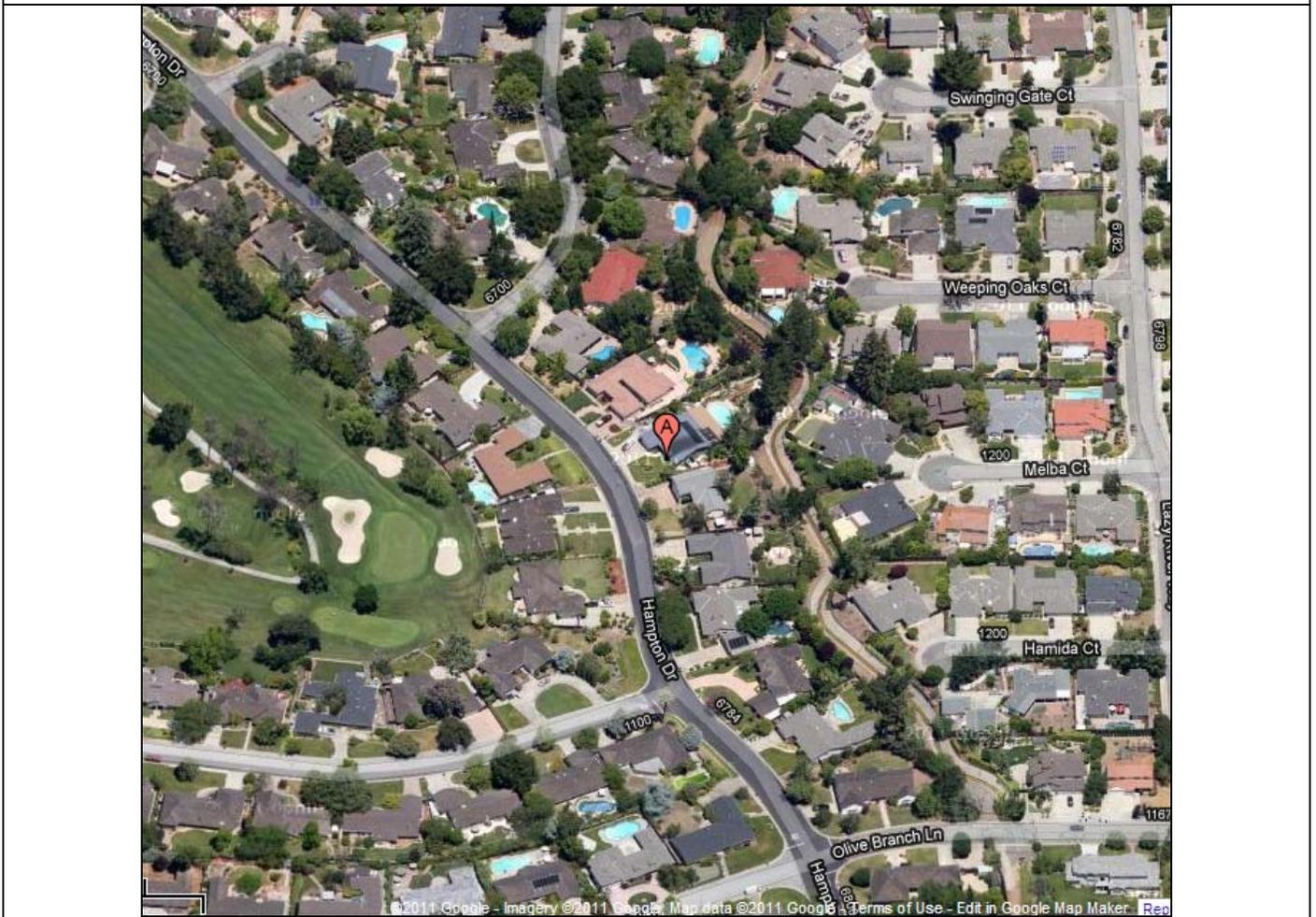
Submitted: 01/27/11

PROJECT DESCRIPTION: Appeal of the Planning Director's decision to approve a Tree Removal Permit to allow the removal of five (5) Monterey Pine trees measuring 110, 85, 96, 96, and 86-inches in circumference, located in the rear yard of a single family residence in the R-1-8 Single-Family Residence Zoning District.

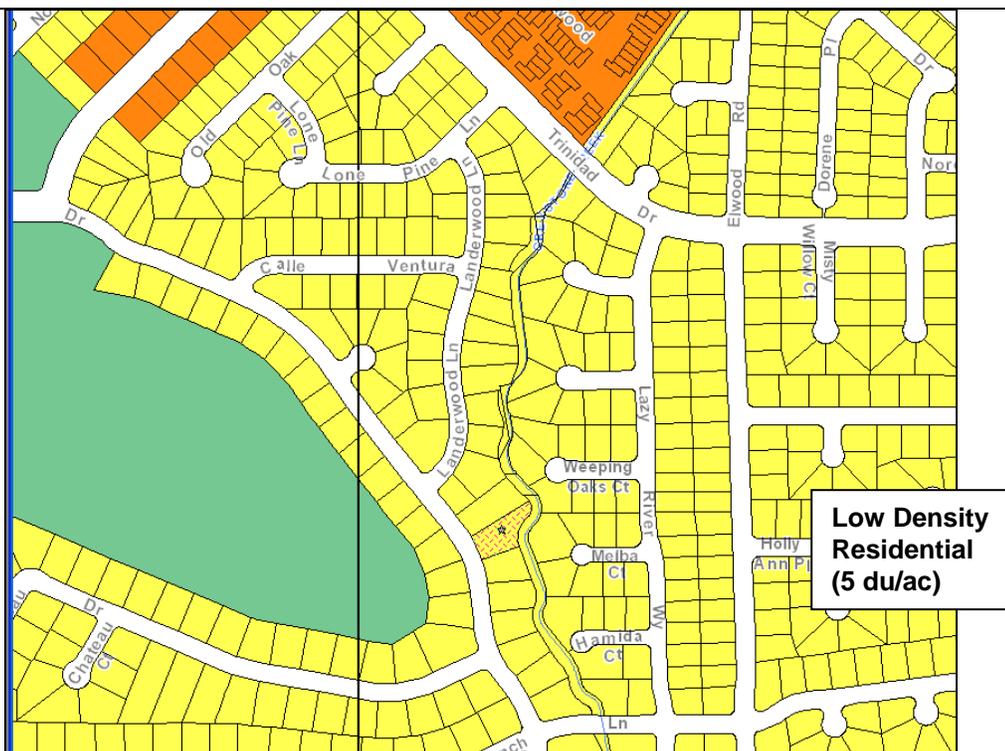
LOCATION: East side of Hampton Drive, 290 feet southerly of Landerwood Lane (6766 Hampton Drive).

Existing Zoning	R-1-8 Single-Family Residence Zoning District
General Plan	Low Density Residential (5 units/acre)
Council District	10
Annexation Date	November 17, 1955
SNI	No
Historic Resource	No
Redevelopment Area	No
Specific Plan	No
NBD	No

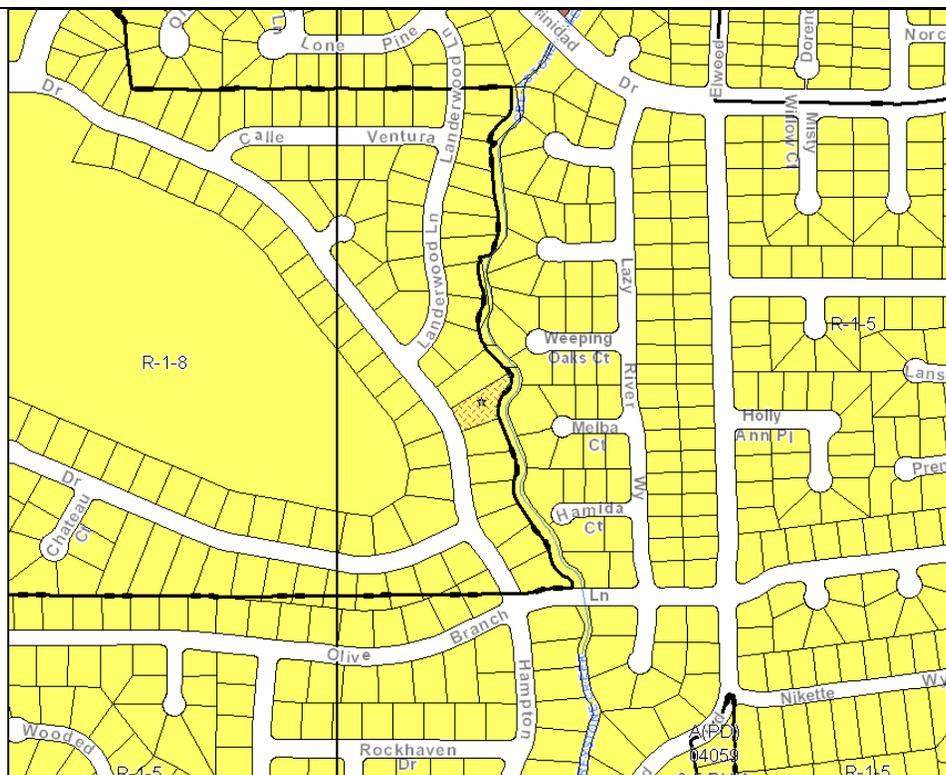
AERIAL MAP



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission uphold the Director's decision to approve a Tree Removal Permit to allow the removal of five (5) Monterey Pine trees measuring 110, 85, 96, 96, and 86-inches in circumference, located in the rear yard of a single-family residence at 6766 Hampton Drive for the following reasons:

1. The project meets the requirements of Title 13 of the Municipal Code (13.32.100) in that the following findings can be made:
 - a. That the affected trees are of a size, type and condition, and are in such a location in such surroundings, that their removal would not significantly frustrate the purposes of Chapter 13.32 as set forth in Section 13.32.010, and
 - b. That the condition of the trees with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires their removal;
2. The project conforms to the San José 2020 General Plan; and
3. The proposed project will not result in any adverse impacts to the environment.

BACKGROUND

On January 27, 2011, the property owners requested a Tree Removal Permit to allow the removal of five (5) Monterey Pine trees measuring 110, 85, 96, 96, and 86-inches in circumference, located in the rear yard of their single-family residence at 6766 Hampton Drive (see attached location map and site plan). The application explained that the trees are infested with pine bark beetles and pitch canker. The trees also suffered damage from pruning to avoid overhead utility lines. Based on the information contained in the application, Planning staff recommended the removal of all five trees. One condition of the draft Permit was to plant five 15-gallon replacement trees on the subject property within 30 days of the trees removal. The requirement could also be satisfied by planting at least three 15-gallon trees, and donating \$300 for each remaining replacement tree.

On May 25, 2011, the Tree Removal Permit was approved at the Director Hearing. On June 2, 2011, the Permit was appealed.



ANALYSIS

The primary issues analyzed for the review of the appeal are: 1) Appellant's reasons for appeal; 2) Municipal Code requirements for tree removals (Chapter 13.32); 2) Conformance with the San José 2020 General Plan; and 3) Conformance with the California Environmental Quality Act.

1) Appellant's Reasons for Appeal

The appellant identified several reasons for the appeal (see attachment), including:

- Concerns with the removal of other trees on the property without permit;
- The arborist report provided at the May 25th hearing was prepared by ArborWorks, a tree services and removal company;
- The Hearing Officer at the May 25th Director's Hearing did not carefully review the documentation and letters provided minutes before the start of the hearing; and
- Concern that the action on this Tree Removal Permit would set a precedent for the removal of Monterey and Bishop Pine trees throughout San Jose.

Each issue is discussed below.

Concerns with the removal of other trees on the property without permit.

The property owners acknowledge that they had other trees on the property that they removed. Prior to removal, they submitted a Tree Removal Permit. The application was subsequently withdrawn when they learned that Tree Removal Permits are required for the removal of trees measuring 56 inches or more in circumference at a height of 24 inches above natural grade slope. The subject trees were smaller than this criterion.

In response to neighbor complaints in March when those trees were being removed, a Code Enforcement Inspector visited the site and determined that the trees were being removed properly. The Code case was closed when it was determined that those trees did not require a permit from the City.

The arborist report provided at the May 25th hearing was prepared by ArborWorks, a tree services and removal company.

Pursuant to the Municipal Code, the property owners contracted with a Certified Arborist to evaluate the trees (see attached ArborWorks report). The Municipal Code defines a Certified Arborist as one who has certification with the International Society of Arboriculture. Mr. McIntyre, who prepared the report, has such a certification and is therefore qualified to assess the status of the trees. This report is valid and meets the requirements of the Municipal Code.

Mr. McIntyre identifies that all five trees have pitch canker disease, and that three of the trees have early stages of pine bark beetle infestation. He recommends that all five trees be removed and replaced with "healthy trees." Since the appeal was filed, the property owners have submitted reports from other scientific experts, as discussed under the "Municipal Code" section below.

The Hearing Officer at the May 25th Director's Hearing did not carefully review the documentation and letters provided minutes before the start of the hearing.

The documentation provided by the neighbors at the May 25th meeting included a description of trees in the Almaden Valley and San Jose, a "professional assessment of pine trees," a description of pitch

canker in California, procedural issues with the subject Tree Permit application, photos, and letters from neighbors. These same materials are contained in the appeal attached to this report. In the review of the materials, the “professional assessment of pine trees” outlines the type of information that may be included in an arborist’s report, rather than containing a report from a Certified Arborist.

Staff appreciates the interest of the appellant and neighbors to retain the City’s urban forest. This purpose is explicit in Chapter 13.32 of the Municipal Code, requiring Tree Removal Permits for trees of a certain size. This goal is also embodied in the City’s General Plan (see General Plan Conformance discussion below), the Green Vision, and its partnership with Our City Forest.

When considering Tree Removal Permits, the Hearing Officer must consider all of the evidence presented, including the neighbors’ information and the ArborWorks report as well as the original application materials. All of this information was considered in the Hearing Officer’s action to approve the Tree Removal Permit at the May 25th hearing.

Concern that the action on this Tree Removal Permit would set a precedent for the removal of Monterey and Bishop Pine trees throughout San Jose.

As set forth in the Municipal Code, each Tree Removal Permit application is reviewed and considered on its own merits. The required finding(s) in the Municipal Code do not provide the ability to consider prior actions on trees located on other properties. All Tree Removal Permit files are available for public review at the City of San Jose and through the Planning Division’s website.

2) Municipal Code Requirements

Chapter 13.32 of the Municipal Code governs the removal of trees in San Jose. Section 13.32.010 sets forth the purpose for these regulations:

To promote the health, safety, and welfare of the city by controlling the removal of trees in the city, as trees enhance the scenic beauty of the city, significantly reduce the erosion of topsoil, contribute to increased storm water quality, reduce flood hazards and risks of landslides, increase property values, reduce the cost of construction and maintenance of draining systems through the reduction of flow and the need to divert surface waters, contribute to energy efficiency and the reduction of urban temperatures, serve as windbreaks and are prime oxygen producers and air purification systems.

Since the appeal was filed, the property owners have submitted three additional reports that assess the five trees, each discussed below and attached.

- HT Harvey & Associates Report (see attached): This report was prepared by Laurel Kelly, verified Certified Arborist with the International Society of Arboriculture. In addition, HT Harvey is an ecological consultant firm with scientific expertise in ecology, restoration biology, and related disciplines. This report evaluates each tree in terms of tree health and structural integrity, and concludes that past maintenance activities were a major cause of damage to the health and structural integrity of each subject tree, creating portals for infection. The report recommends the removal of all five trees because:

Trees with even severe pitch canker infestation do not necessarily need to be removed—not all infected trees become severely diseased and some even recover. However, trees with trunk cankers (such as those observed in this survey) are likely to die from the disease. As they begin to fail and die, major limbs or an entire tree can become hazardous. In addition, infested trees may also contribute to the buildup of destructive beetles, which can attack other trees. In the event that there are other causes for the decline in the health of these trees, their proximity to the utility easement to the west and the drainage channel easement to the east will require continued and significant pruning to maintain these areas free of tree branches. Each new pruning wound has the potential for introducing disease and contributing to the further decline in the health and structural integrity of the trees. (page 5)

- Addendum to HT Harvey & Associates Report (see attached): This report was also prepared by Laurel Kelly and it discusses the efficacy of chemical treatment for pine pitch canker and bark beetles. The report concludes that there are no known effective chemical treatments for pine pitch canker. While there are chemical treatments that are effective in protecting trees uninfested with bark beetles, there are no known effective treatments for trees already infested with bark beetles.
- Oracle Oak, LLC Letter from Dr. Costello(see attached): Dr. L. R. Costello is an Environmental Horticulture Advisor, Emeritus at the University of California Cooperative Extension with a specialty in urban forestry and landscape horticulture. He worked for 30 years in the Extension Program and obtained his doctorate degree in Plant Physiology from UC Berkeley. His letter contains an assessment of the Monterey pine trees on the subject property. Specifically, he identifies an additional pest (Sequoia Pitch Moth) found on the trees which further indicates that the trees are “likely under some level of stress.” The report outlines severe structural conditions with the trees which increase their “failure potential.” For these reasons, Dr. Costello recommends replacement of the trees.

Based on the application materials and the reports described above and attached, there are the necessary facts in the record to support the required finding(s) for the issuance of the Tree Removal Permit. Title 13 requires that at least one of the following findings must be made in order for the City to issue a permit for the removal of any tree on any private parcel of land in San Jose:

1. That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of this chapter as set forth in Section 13.32.010; or
2. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or
3. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

Therefore, based on the information contained in this report, Planning staff concludes that two of the findings can be made:

- That the trees affected are of a size, type and condition, and are in such a location in such

surroundings, that their removal would not significantly frustrate the purposes of Chapter 13.32 as set forth in Section 13.32.010, and

- That the condition of the trees with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires their removal.

3) General Plan Conformance

The subject property is developed in accordance with the General Plan Land Use/Transportation Diagram designation of Low Density Residential (5 DU/AC). The City, through its General Plan's Urban Forest Goals and Policies encourages the maintenance of mature trees on public and private property as an integral part of the urban forest. The intent of the Urban Forest goals and policies as noted in the General Plan is to preserve, protect and increase plantings of urban trees within the City. Prior to allowing the removal of any mature tree, all reasonable measures, which can effectively preserve the tree, should be pursued.

The subject Monterey Pine trees, which from evidence gathered, have pitch canker and bark beetles and are not healthy trees. As documented in the Arborist's Report and Addendum, chemical treatments and other management techniques are not effective. As a result, if the Planning Commission upholds the Director's decision, the trees should be removed so as not to pose a danger to property or the public. Replacement trees are required to be planted to restore this portion of the City's urban forest, consistent with the General Plan.

4) Environmental Review

The Director of Planning found the proposed project to be exempt from environmental review under Section 15304 of the California Environmental Quality Act (CEQA) Guidelines, which exempts minor alterations to land including the alteration of vegetation. As stated under "Analysis," if this Tree Removal Permit approval is upheld by the Planning Commission, then the property owners would be required to plant replacement trees.

Conclusion

Based on the above analysis, staff concludes that the five trees should be removed and replaced in conformance with the Municipal Code and the General Plan.

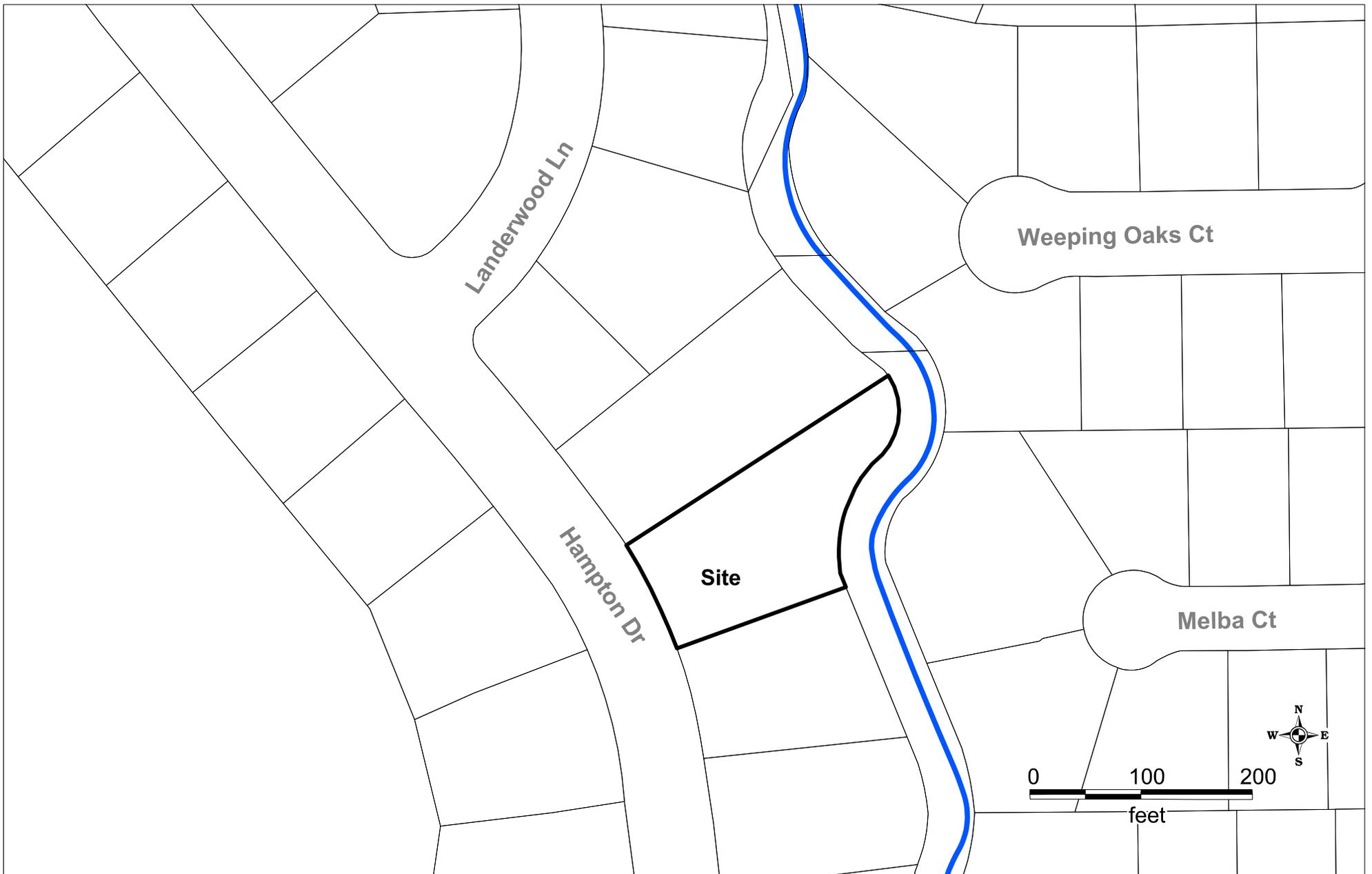
PUBLIC OUTREACH

A sign was posted on-site to notify the public of the proposed tree removal, and notices of the public hearing for this project were sent to all property owners and occupants of property contiguous to the parcel upon which the trees proposed to be removed are located or directly across a public street which abuts

such parcel. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report, and staff has been available to discuss the project with members of the public.

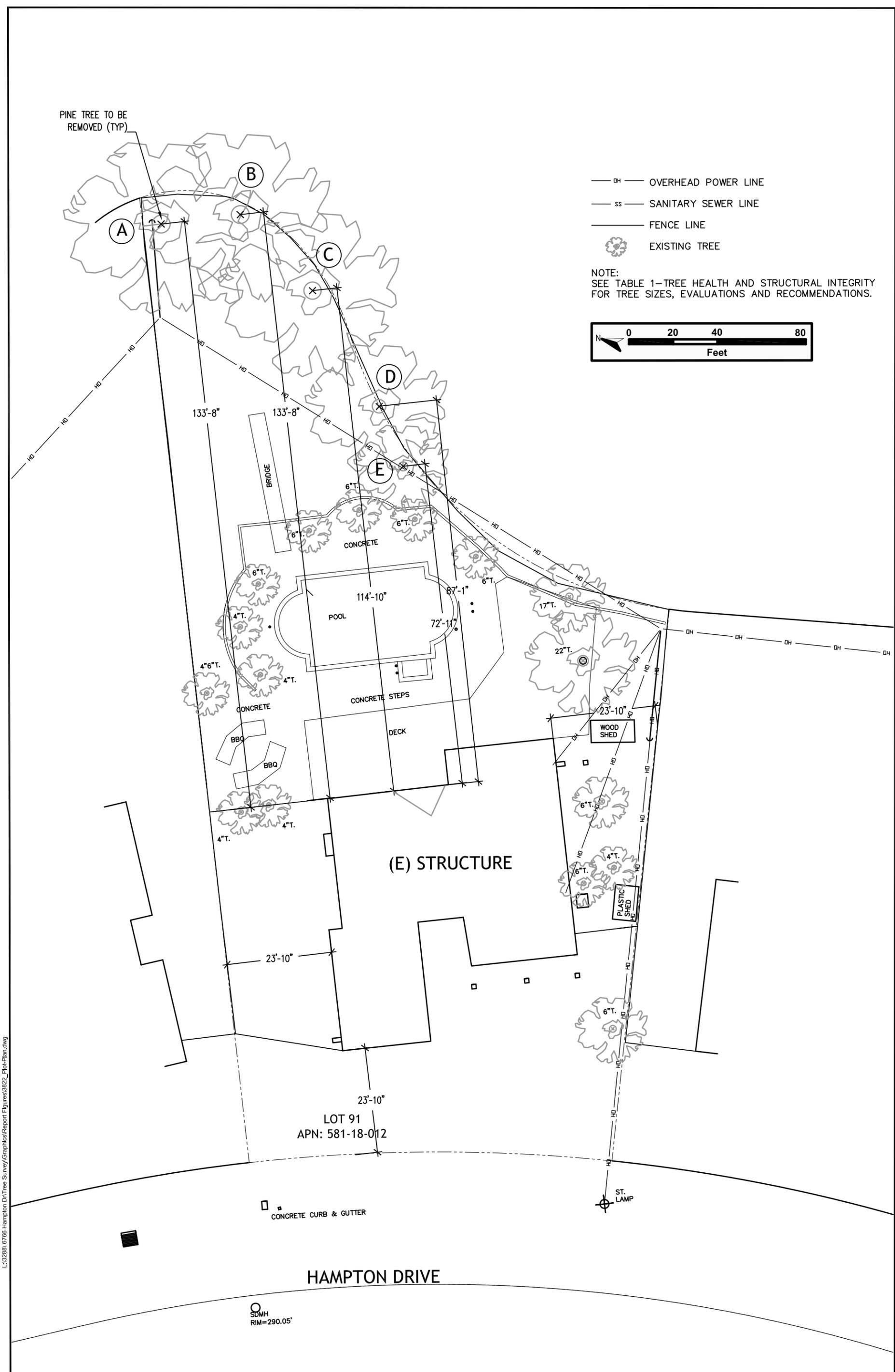
Project Manager: Laurel Prevetti **Approved by:** Laurel Prevetti **Date:** 07/22/11

Appellant	Owner/Applicant:	Attachments:
Oscar Segurado-Coll 6762 Hampton Drive San Jose, CA 95120	David and Karen Matsumoto 6766 Hampton Drive San Jose, CA 95120	<ul style="list-style-type: none"> ○ Location Map ○ Site Plan ○ Notice of Appeal ○ First Arborist's Report (ArborWorks) ○ Second Arborist's Report (HT Harvey & Associates) ○ Addendum to HT Harvey Report ○ Letter from Oracle Oak, LLC ○ Correspondence ○ Draft Resolution



File No: TR11-023
District: 10

Location



L:\3288\6766 Hampton Dr\Tree Survey\Graphics\Report Figures\3822_PlotPlan.dwg

NOTICE OF PERMIT APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER TR11-023	RECEIPT # 623797
PROJECT LOCATION 6766 HAMPTON DR.	AMOUNT 100-
	DATE 6/2/11
	BY _____

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO PERMIT APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE. THIS FORM MUST BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE PROPERTY WHICH IS LOCATED AT:

6766 HAMPTON DR, SAN JOSE, CA 95120

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):

CITY OFFICIAL ALLOWED TREE REMOVALS WITHOUT PERMIT, PROJECT LACKS DATA, DOCUMENTATION AND LETTERS PROVIDED AT PUBLIC HEARING NOT CONSIDERED, ARBORIST REPORT NOT INDEPENDENT, PREPARED BY OWNER OF TREE SERVICES AND REMOVAL COMPANY (ADDITIONAL COMMENTS ATTACHED)

PERSON FILING APPEAL

NAME OSCAR SEGURADO-COLL	DAYTIME TELEPHONE (408) 705-6521
ADDRESS 6762 HAMPTON DR	CITY SAN JOSE STATE CA ZIP CODE 95120
SIGNATURE 	DATE JUNE 2, 2011
RELATIONSHIP TO SUBJECT SITE: (e.g., adjacent property owner, property owner within one thousand (1,000) feet)	ADJACENT PROPERTY OWNER

**CONTACT PERSON
(IF DIFFERENT FROM PERSON FILING APPEAL)**

NAME See Above	ADDRESS	CITY	STATE	ZIP CODE
DAYTIME TELEPHONE ()	FAX NUMBER ()	E-MAIL ADDRESS		

PROPERTY OWNER

NAME DAVID K. AND KAREN M. MATSUMOTO	DATE
ADDRESS	CITY STATE ZIP CODE

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.

TR11-023 – NOTICE OF PERMIT APPEAL
REASONS FOR APPEAL: ADDITIONAL COMMENTS

June 2, 2011

1- City Official Jean Hamilton allowed the removal of five (5) ordinance-size Monterey Pine trees without permit, subsequently oversaw the TR11-023 project and recommended its approval despite missing data, finally as Director's Deputy at the Public Hearing she approved this project. We request that Jean Hamilton does not review this appeal for the reasons above and these facts: a) The attempted removal of these trees with verbal approval from Jean Hamilton but without a permit on March 29th was stopped by Code Enforcement Inspector James Young; b) The TR11-023 project did not include an arborist report, photographs of each entire tree and excluded the fact these trees are <300 sqf from a waterway and at least one has active nesting; c) The approval document prepared by Jean Hamilton on May 25th states that a \$2,232.00 fee is required. This may be misleading to avoid appeals by non-applicants, which just require a \$100 fee (Planning application fee schedule, 08-16-2010).

2- The arborist report presented on May 25th at the Public Hearing was prepared by Don McIntyre, owner of Arborworks, a tree services and removal company, and did not assess the trees individually. We request that either the City Arborist or an INDEPENDENT arborist provides a report that assesses the health and potential lifespan with proper maintenance of EACH of these five (5) Monterey Pine trees. We agree that tree E has been improperly pruned by PG&E and should be removed, however all other trees may have a reasonable lifespan ahead that should be assessed individually. The viability of each tree depends on its resistance to pitch canker or other infestations (as human beings resist bacteria and viruses) and can be enhanced by proper maintenance and pruning:
http://frap.cdf.ca.gov/pitch_canker/prevention_management/pruning_guidelines.htm

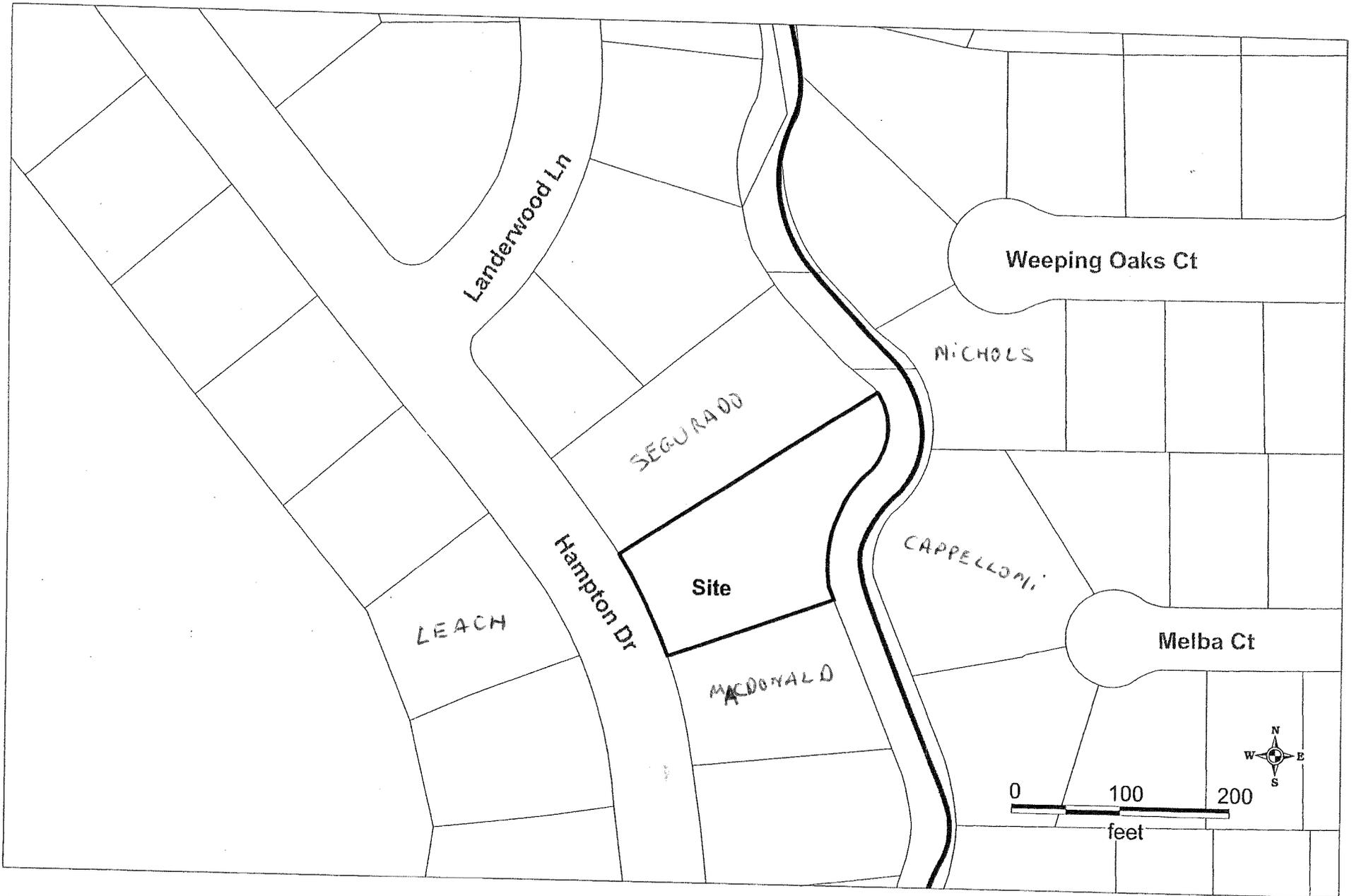
3- The Director's Deputy Jean Hamilton initiated the Public Hearing on May 25th without reviewing carefully the documentation and letters provided minutes earlier showing that the removal of these trees would significantly frustrate Section 13.32.010. We request that the City Officials take into consideration this documentation and letters supporting that the majority of the Monterey and Bishop Pines in the Coastal counties in California are viable despite being infested at varying degrees by Pitch Canker and its vector, the bark beetle:
http://frap.cdf.ca.gov/pitch_canker/prevention_management/map.html

MILLIONS of Monterey and Bishop Pine trees in California, THOUSANDS in San Jose and HUNDREDS in Almaden Valley will be at risk if the findings of TR11-023 and the procedure to assess permits in San Jose are the grounds for removing Pine trees.

Is the City of San Jose willing to remove 20 Monterey Pines along the East sidewalk of Winfield Blvd, or many more at the Swim and Racket Club, Country Club and the hills of Quicksilver County Park, near our homes?

As proud residents of San Jose we hope our City Officials will follow the spirit of ENVISION SAN JOSÉ 2040 -GENERAL PLAN UPDATE that states as a policy: 'Prior to allowing the removal of any mature tree, all reasonable measures, to preserve the tree, should be pursued.'

Please watch this video showing that these Pine trees have vigorous leaves and hundreds of green and mature cones: <http://www.youtube.com/watch?v=00xIBg9P95w>

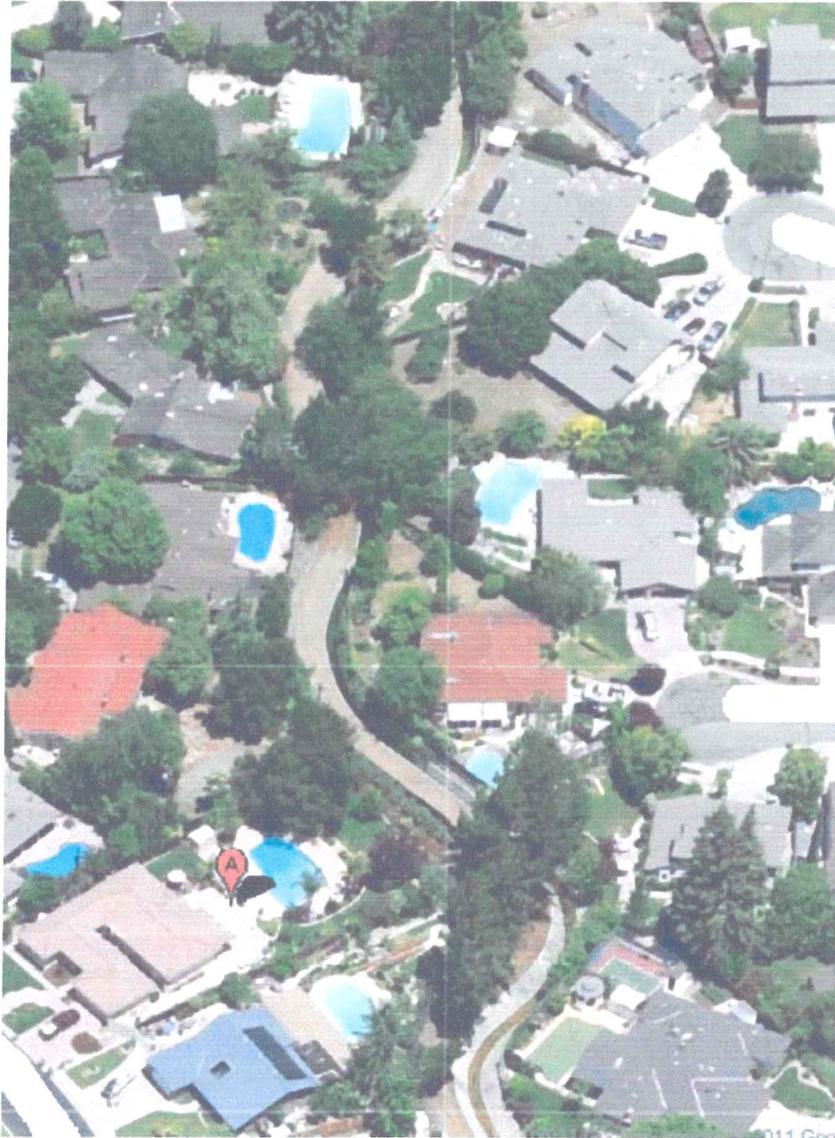


File No: TR11-023
District: 10

Location

**TR11-023
May 25 2011 Public Hearing**

Removal of five (5) ordinance size Pine trees (110, 96, 96, 86 and 85 inches circumference at 2 ft above grade level) in 6766 Hampton Dr, San Jose



**Prepared by Chris and Oscar Segurado, 6762 Hampton Dr, San Jose
with letters from owners of contiguous properties**

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SUMMARY

Chris and Oscar Segurado, (6762 Hampton Dr owners), Malinda and Paul Macdonald, (Hampton Dr 6772 owners), Nick & Florence Cappelloni (1223 Melba Ct owners), and John Leach (6763 Hampton Dr owner) are AGAINST the removal of 5 Pine trees at 6766 Hampton Dr based on the following facts:

1. The removal of five (5) Pine trees would significantly frustrate the purposes of Section 13.32.010. We are providing letters signed by the owners of all contiguous properties highlighting the irreversible impact that this removal would have to their property values, privacy, environment (these trees contribute to energy efficiency by reducing temperature in shadowed areas, serve as windbreaks, prime oxygen producers and air purification systems, supporting wild life), scenic beauty and potentially to the structural integrity of a waterway less than 300 ft away of the trees.
2. The removal of five (5) Pine trees in the rear end of the approx 0.5 acre lot does not restrict the current construction of a planned 4,700 sqf residence (excl 3-car garage).
3. The health and viability of each tree has not been assessed by a certified arborist, despite a written offer to cover the costs (with copy to the Planning Director).
4. Upon review of the Project Information online we noticed that one essential item is not listed: Near a Waterway (<300 ft), which should say Yes.

The live tree removal application does not meet the following requirements on the instructions:

A; To provide photographs showing the entire trees. The partial photos in the application are blatantly underexposed due to backlight, misleading any visual evaluation.

B. No evidence is provided explaining why the trees should be removed. The stated infestation with Pine Bark Beetle and Pitch Canker of the five Pine trees has not been assessed by a Certified Arborist.

C. The condition of each individual tree is not provided. The stated improper pruning and irregular growth pattern only affects one of the Pine trees, (labeled E, 86 inches)

A video can be viewed at:

<http://www.youtube.com/watch?v=0OxIBg9P95w>

THE TREES OF ALMADEN VALLEY AND SAN JOSE

Hampton Dive is located in the Almaden Hills of Almaden Valley, within walking distance from the Quicksilver County Park to the West and with Santa Teresa Hills to the East. This is a natural habitat for Oaks, Pines, vegetation and wildlife. Scenic beauty and SJ Unified schools have attracted many Silicon Valley professionals that could have elected for similar communities outside San Jose.

With over 1 million trees in the City of San Jose, the maintenance of one of the greenest areas in SJ, this special habitat is especially mentioned in:

ENVISION SAN JOSÉ 2040 - GENERAL PLAN UPDATE BIOLOGICAL RESOURCES EXISTING CONDITIONS REPORT – Executive summary page iii:

'The South Almaden Valley Urban Reserve area, which supports a combination of rural residential areas and agricultural fields, does not have major physical barriers to wildlife movement, but it is more developed overall, especially at its northern end.

The south end of the Santa Teresa Hills is characterized by extensive private open space providing ready movement into protected areas of the Santa Cruz Mountains. The Almaden Valley and Santa Teresa Hills thus provide avenues for wildlife movement within and between sections of the Santa Cruz Mountains and its foothills.'

http://www.sanjoseca.gov/planning/gp_update/documents/Existing_Biology032009.pdf

Page 45:

Urban Forest Goals:

1. Preserve, protect, renew, and increase plantings of urban trees within the City to create a diverse, climate-appropriate, thriving, sustainable urban forest, and effectively manage the urban forest to maximize social, economic, and environmental benefits; improve quality of life; and foster a sense of community.
2. Identify and establish comprehensive and sustainable funding strategies and mechanisms to support citywide urban forestry efforts.
3. Plant 100,000 new trees within the City by the year 2023.

Policies:

3. The City encourages the preservation and maintenance of mature trees on public and private property. Prior to allowing the removal of any mature tree, all reasonable measures, to preserve the tree, should be pursued. When the preservation is not feasible, appropriate tree replacement should be required to conserve and renew the urban forest.

PROFESSIONAL ASSESSMENT OF PINE TREES

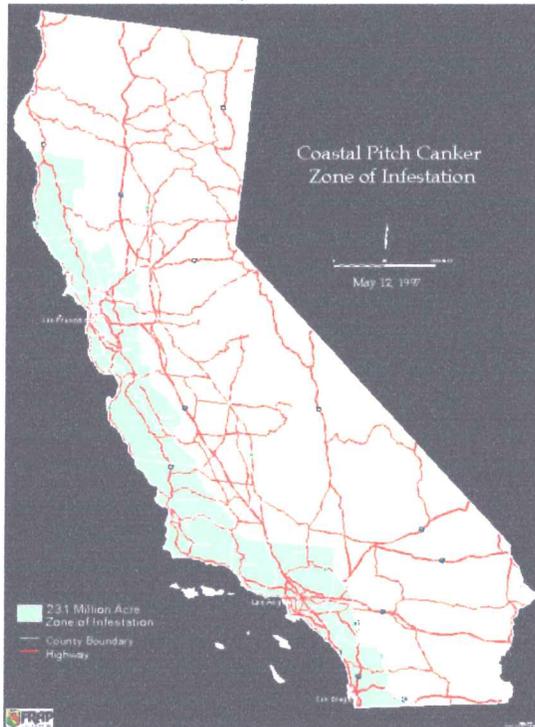
In order to assess the health and viability of the trees an ISA certified arborist would include the following information in an Aricultural Review:

- The typical longevity of the tree
- Estimated age and potential lifespan of the tree
- Size of tree relative to the property
- Tree locations, species, diameter and condition
- Review of pests, pathogens and structural concerns
- In case of infestation, if the condition can be corrected
- Observations
- Recommendations

Once an assessment is conducted, just those trees affected should be removed. However, an arborist will also consider that trees may share roots, with the strongest trees support others, like a family.

PITCH CANKER INFESTATION IN CALIFORNIA

Pitch Canker, commonly found in Monterey and Bishop Pines, was reported in 1997 to affect 23.1 million acres in 21 counties on or near the coast of California, including Santa Clara:



http://frap.cdf.ca.gov/pitch_canker/prevention_management/map.html.

If all trees showing signs of infestation (including infestations found in other types of trees) were to be removed, millions of trees would disappear from California.

Bark Beetle are potential vectors of the *Fusarium Circinatum* fungus but not always present when Pitch Canker is diagnosed.

The key to the health and viability of Pine trees, even those damaged by Pitch Canker resides in correct maintenance.

The California Department of Forestry and Fire Protection offers advice on treatment of pitch canker, focusing on pruning infected branches at:

http://frap.cdf.ca.gov/pitch_canker/prevention_management/prunning_guidelines.htm

In San Jose several Tree Management companies offer treatment and maintenance options, including pruning of infected limbs, such as:

evanspestmanagement.com

arborwell.com

TR11-023 PROCEDURAL ISSUES

Mid March 2011- We receive Public Hearing Notice for April 6 regarding a Tree Removal Permit to remove one (1) ordinance size Cedar tree, approx 56 inches in circumference, located in the rear yard of 6766 Hampton Dr

March 28, 2011 – Oak tree is removed without public hearing. Upon questioning the Planning Division, Lori Moniz writes in an email: 'The tree removal request is being withdrawn since no ordinance size trees are proposed to be removed at this time. The Cedar tree, located in the rear yard, is less 56-inches circumference when measured 2 feet above grade. It is my understanding, however, that the property owner may submit a request to submit a request to remove an ordinance size Pine tree at the rear of the property. If that happens, you will receive a new public hearing notice.'

Upon questioning the tree removal company manager, Dave, indicates on phone conversation that Jane Hamilton had agreed to the removal of the all 5 Pine trees and a permit was not needed.

March 29, 2011- Tree removal contractors initiate **illegal removal (13.32.030 and 045)** of five (5) ordinance size Pine trees early in the morning. We call Code Enforcement and Inspector James Young comes to the site and requests to stop tree removal confirming that permit is required for all five (5) Pine trees.

Mid May 2011- Public Hearing Notice for May 25 is received by adjacent neighbors

May 20, 2011- Upon review of the Project Information online we noticed that one essential item is **not listed: Near a Waterway (<300 ft), which should say Yes.** As a reference this item is present in TR11-022.

The live tree removal application does not meet the following requirements on the instructions (13.32.70):

A; To provide **photographs showing the entire trees.** The partial photos in the application are blatantly underexposed due to backlight, misleading any visual evaluation.

B. No evidence is provided explaining why the trees should be removed. The stated infestation with Pine Bark Beetle and Pitch Canker of the subject five Pine trees has not been assessed by a Certified Arborist

C. The condition of **each individual tree** is not provided (13.32.110). The stated improper pruning and irregular growth pattern only affects one of the Pine trees, (labeled E, 86 inches)

May 21, 2011 – We send an email to the property owners with copy to the Planning Division Director requesting **permission to have an ISA Certified Arborist (13.32.050)** assess the health and viability of the trees. By May 25 we have received no response .

Relevant sections mentioned above:

13.32.030 Removal of live tree.

It shall be unlawful for any person to remove, or cause to be removed, any live tree, as defined in Section 13.32.020, from any private parcel of land in the city unless one of the following conditions exists...D. A tree removal permit that allows the removal of that tree has been issued and accepted pursuant to the provisions of this chapter.

13.32.045 Presentation of permit on request.

It shall be unlawful for any person to remove or cause to be removed a live tree or dead tree, as defined in Section 13.32.020, from any private parcel of land in the city unless the permit or a copy of the permit is maintained on the site where the tree to be removed is located.

13.32.050 Certified arborist report.

In addition to the requirement for a certified arborist report pursuant to the provisions of Section 13.32.040, the director may require the applicant to submit a report prepared and executed by a certified arborist whenever the removal of any tree is proposed and the director determines that he or she needs additional information documenting that any or all of the criteria for a tree removal permit clearly exist.

13.32.070 Permit application.

A. Any person, unless required to do so by the provisions of Chapter 13.28, desiring to remove any live tree from any private parcel of land in the city, as set forth in Section 13.32.030, shall file a written application on a form provided by the director, setting forth therein, among other things, the number, type, size and location of each tree and the reason for removal of **each** tree.

13.32.110 Action on a permit.

A. In taking action on a tree removal permit application, the director or the planning commission on appeal may deny the application or issue a tree removal permit for one or more trees and concurrently deny removal for one or more trees.

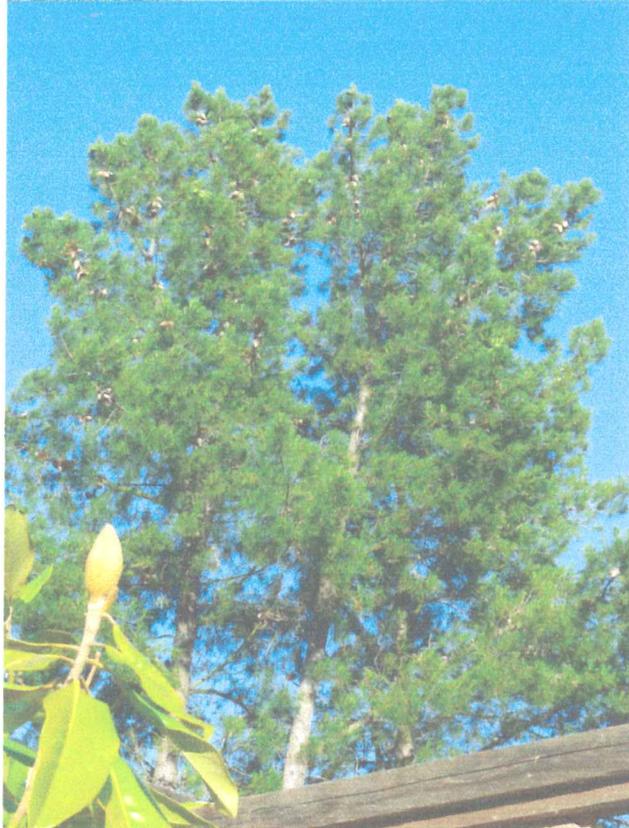
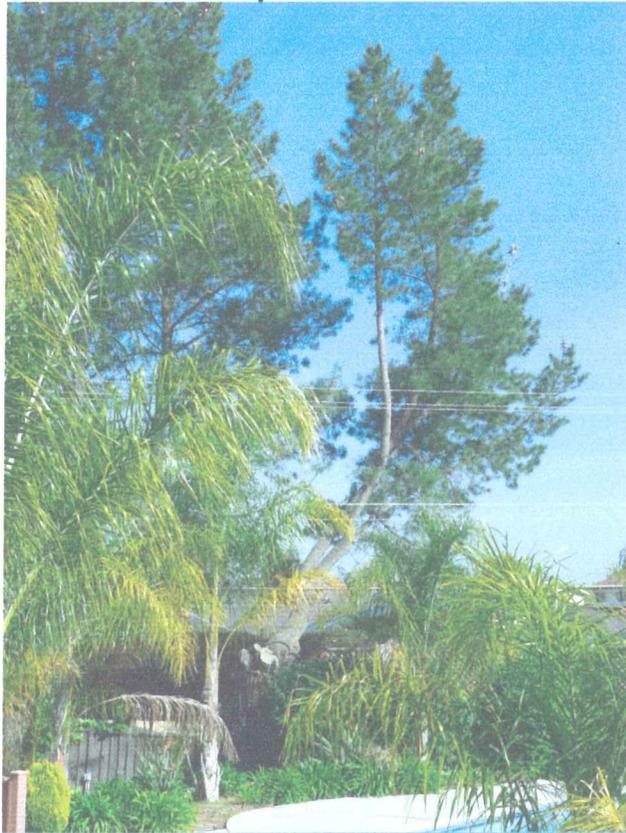
PHOTOS
View from Hampton Dr



View from 6762 Hampton Dr (Segurado's Home)



Entire trees and partial views





LETTERS FROM NEIGHBORS

Some excerpts:

'Since we have been here for over 30 years, we hope that the City of San Jose will take our concerns seriously and deny the request to remove these trees since we believe it will be detrimental to the community and property values.' Cappelloni

'we hope that some consideration will be given to keeping the trees as they provide privacy between the neighbors and they are beautiful addition to the neighborhood' Macdonald

May 21, 2011

To Whom It May Concern:

We live next door to the house that is requesting a permit to cut down the pine trees. Throughout the neighborhood, there are several large, beautiful, established trees. One of the reasons we purchased our house twelve years was because we enjoyed the beauty of all of the trees. We feel it is a real shame if these trees are removed since they provide a lot of beauty to the neighborhood. In addition, they also provide homes for all of the surrounding wild life.

One point we would like to bring up is whether the trees are actually on their property or are they owned by the city since they are very close to the water spill way at the back of the yard.

Regardless of whether the trees are on their property or not, we hope that some consideration will be given to keeping the trees as they provide privacy between the neighbors and they are a beautiful addition to the neighborhood.

Sincerely,

Paul Macdonald

Malinda Macdonald

Paul & Malinda Macdonald

6772 Hampton Dr.

San Jose, CA 95120

May 20, 2011

TO WHOM IT MAY CONCERN:

We are very upset about the proposed cutting down of the trees at 6766 Hampton Drive, San Jose, CA. Our home is directly behind this property at 1223 Melba Court, San Jose, CA 95120. This has been our home for over 30 years. These trees are home to humming birds, squirrels and other wild life.

We bought this property because of the view and privacy. We understand that they are also planning to build a 4200 sq. ft. two-story home at 6766 Hampton Drive. By cutting down these trees it not only displaces the wild life but also devalues our property and destroys our privacy.

Since we have been here for over 30 years, we hope that the City of San Jose will take our concerns seriously and deny the request to remove these trees since we believe it will be detrimental to the community and our property values.

Sincerely,

Nick Cappelloni
Florence Cappelloni
Nick & Florence Cappelloni

May 31, 2011

To whom it may concern:

The request for removing the 5 pine trees at 6766 Hampton Dr., San Jose, CA 95120 should be denied for many reasons.

We have lived here for over 31 years enjoying the many positive reasons why we purchased our home at 1232 Weeping Oaks Ct, San Jose, CA 95120. Our home is located directly behind 6766 Hampton Drive. The pine trees have been a great source of privacy and shade to our property. The trees have been a great shelter for wild life, such as squirrels, owls and many different kinds of birds nesting in the trees. Without the 5 pine trees, it would diminish the value of our property. The view would be looking into their yard and also seeing the telephone post and wires. Not a pleasant sight. It would be a shame to destroy perfectly healthy trees of this stature. They have given us a very pleasant view from our side of the fence.

Please hear our plea to save our trees that makes our property a desired lot because of the privacy we have enjoyed. The request to build ^{almost} a 5,000sq. Ft. home and removal of the 5 pine trees behind our property would be very devastating to us. We feel it would be completely unfair to the residence in the neighborhood to grant such a request. Please consider the feelings of many neighboring owners who have lived here for many years.

Respectfully,



Ron & Mary Nichols

MY NAME IS JOHN LEACH

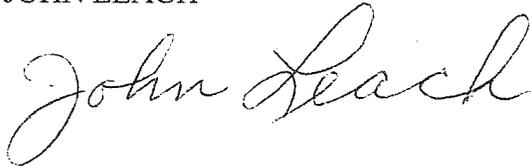
5-17-2011

I LIVE AT 6763 HAMPTON DRIVE IN SAN JOSE CA

I LIVE ACROSS THE STREET FROM 6766 HAMPTON DRIVE SAN JOSE
MY WIFE AND I HAVE LIVED HERE FOR ABOUT 35 YEARS
WE WERE FRIENDS WITH THE GONZALES FAMILY THAT LIVED
HERE ONE YEAR MORE THAN WE DID. WE ATTENDED MANY
FUNCTIONS AT THAT RESIDENCE AND THEY DID HAVE A
BEAUTIFUL BACK YARD INCLUDING THE TREES AT THE REAR
OF THE PROPERTY.

I DO NOT BELIEVE IT WOULD BE IN THE BEST INTEREST OF ANYONE
TO REMOVE THOSE TREES THAT HAVE BEEN THERE FOR SO LONG.

SINCERELY
JOHN LEACH

A handwritten signature in cursive script that reads "John Leach". The signature is written in black ink and is positioned below the typed name "JOHN LEACH".

May 24, 2011

My name is Alessandro and since I am a citizen, I really want to be heard. I am just a kid but I know what I am talking about. I think these five trees are pretty cool. I can't imagine what the place would look like without them. Whenever I play basketball with my brother, I look at the trees and think "How cool!"

Please keep the trees where they belong!!!

Thank you!!!!

-Alessandro Segurado (12)

DO NOT

Let my trees go!

Preserve

my fellow brothers
and sisters, they have
all been here since the any
human ever has, we take also
view for man to maintain its
breath of life for its survival,

We also bear fruits to be eaten
as our own sacrifice for thy
Kingdom, please stop turning us into
sheets of paper for useless writings
for the spoken word is more relevant
this day in your society, and most

importantly
recognize
the
downside
of giving
homework
to the
children.

Oliver (15)

Save us!

May 23, 2011

To whom it may concern:

I am Gabrielle Sillas. I previously lived with my family on Hampton Dr. 6766. I would like to speak on behalf of nature's environment. There are five 70+feet high stable, strong and massive pine trees in the backyard of Hampton Dr. 6766 that house animals like squirrels, crows, blue jays, humming birds and so much more.

It was a joy to be protected from the sun and listen to nature's songs in these trees. The privacy that they allow takes you into your own world when needed. When I visit my friends, the previous neighbors, I still get to be surrounded by those majestic trees.

PLEASE, hear our PLEA. Another citizen's CONCERN, and DO NOT CUT DOWN these trees that are habitat to animals and are of such beauty for all of us to see.

Thank you!



Gabrielle Sillas

Now resides: 1208 Valley Quail Circle
San Jose, CA 95120
408-997-7691

May 22, 2011

To whom it may concern:

We just found out that those gorgeous five pine trees on the property of 6766 Hampton Dr. might be cut down soon. We live a couple of houses up on Hampton Dr. as well. When we recently bought our home it was partly because of the abundance and beauty of mature trees in this area of Almaden. The existence of those trees sets this part of Almaden apart from other newer neighborhoods and lends a very special charm to those streets.

We enjoy living surrounded by nature. Please do not sacrifice those trees!!!

Sincerely,



Vaji Dharmasena
6812 Hampton Drive
San Jose, CA 95120



CA Contractor 879506

December 11, 2010

David and Karen Matsumoto
6766 Hampton Drive
San Jose, CA 95120-5531

ARBORIST REPORT

To Whom It May Concern:

On December 11, 2010, I inspected five *Pinus radiata* (Monterey Pine) trees at the property referenced below.

Owner – David and Karen Matsumoto

Property Type – Single family residence

Location – 6766 Hampton Drive
San Jose, CA 95120-5531

Subject trees – Five *Pinus radiata* (Monterey Pine) trees

Location – Back yard

Circumference At Base – Approximately 110, 85, 96, 96 and 86 inches

Height – Approximately 65, 50, 55, 55 and 50 feet

Canopy Spread – Approximately 60, 50, 55, 50 and 45 feet

Health – Poor

Structural Defects – These trees have been severely topped and side trimmed by PG&E. The trees canopies are imbalanced and there have been large branch failures in recent months.

Potential Targets – Utility lines, swimming pool, play structure, fence and right-of-way easement.

Site Conditions – These trees are in a residential setting near a swimming pool and play structure.

The five Monterey Pine trees have pitch canker disease. Pitch Canker disease is a virulent fungal disease that is caused by *Fusarium Circinafum*. There is at present no known treatment or cure for pitch canker infection. Additionally, three of the trees have early stages of pine bark beetle infestation. It is my recommendation that these five trees be removed and replaced with healthy trees.

If you have any questions or require any additional information, please do not hesitate to contact me. You may contact me on my cell phone at 925-260-6740 or by email at dmcintyre@arborworksinc.com.

Regards,

Don A. McIntyre
Certified Arborist WE-7183A
ArborWorks, Inc.



15 June 2011

Mr. David Matsumoto
823 Romani Court
San José, CA 95125
Email: mr.matz@gmail.com

Subject: Survey and Evaluation of Five Pine Trees at 6766 Hampton Drive, San José, California (HTH #3288-01)

Dear Mr. Matsumoto:

H. T. Harvey & Associates has completed the tree survey and evaluation of five (5) Monterey pine trees located on your property at 6766 Hampton Drive in San José. For your improvement project, the City has required that your *Live Tree Removal Application* include an inventory of trees to be removed, an evaluation of their condition, and recommendations by a certified arborist. I meet the required qualifications by being a landscape architect, an ISA-certified arborist, and a member of the American Society of Consulting Arborists.

On June 13, 2011, I conducted a visual tree assessment from the ground of five (5) mature Monterey pine trees located at 6766 Hampton Drive, as shown in the attached site map (*Figure 1: Pine Tree Survey*) and the photograph below (*Figure 2*). I documented tree health and structural integrity, measured trunk circumferences, and photographed the trees. Tree health and structural integrity are detailed in Table 1 and summarized below. Trunks were measured at 48 inches above finished grade and heights were estimated within a five-foot range.



Figure 2



All of the surveyed trees were located in a planting area at the eastern edge of the property. The planting area was bordered by low-hanging overhead utility lines to the west and a wooden fence (within 4 to 16 inches of the tree trunks) demarcating the eastern property boundary. A concrete drainage channel was located just to the east of the fence and I observed many pruning cuts on branches that overhang the channel. Maintenance history (prior to September 2010) was not available; however, all trees showed evidence of multiple and improper pruning events, which left major unhealed wounds. According to your note on June 10, the trees currently receive no regular irrigation and have not been recently pruned or treated with pesticides. Although you also mentioned that you had no information regarding the date of planting, I observed that all the trees had reached a trunk diameter and height typical of mature members of this species, which have an expected lifespan of no more than 80 years. These trees were not included on the current City of San José Heritage Tree List. An evaluation of each tree follows.

Tree Evaluation

Pine Tree A (Figure 3)

Monterey Pine (*Pinus radiata*)

Circumference: 109 inches

Health: Tree A appeared to have the healthiest canopy but on closer inspection, many of its major branches had been improperly pruned either close to the trunk or near branch ends, leaving multiple portals for infection. Oozing and streaming pitch was observed up to at least 30 feet high along the trunk and was located at pruning wounds near the trunk as well as in many cracks in the bark. Tip dieback was observed at the top of the canopy.



Figure 4:
Pine Tree B



Figure 3: Pine Tree A

Structure: The base of the trunk leaned to the east and the upper 20 feet of trunk twisted to the north and east. A major branch hung over a storage shed on the adjacent property to the north. There were also branches within the utility easement and overhanging the channel.

Pine Tree B (Figure 4)

Monterey Pine (*Pinus radiata*)

Circumference: 83 inches

Health: Tree B had no major untrimmed branches below the fork in its trunk (about 20 feet above grade). Most of these pruning cuts had not healed properly. Oozing and streaming pitch was observed up to at least 30 feet high along the trunk. The canopy was heavily shaded by Trees A and C.

Structure: Major structural faults, such as included bark at the junction of the codominant leaders, were not observed.

Pine Tree C (Figure 5)

Monterey Pine (*Pinus radiata*)

Circumference: 97 inches

Health: The overall health was rated as poor, since this tree had signs of infestation by twig beetles (which have been identified as carriers of pine pitch canker), oozing and streaming pitch along its trunk (up to 30 feet above grade), pruning cuts that produced dog-legged branches, major branches with cracks, and dead and dying small branches (particularly on the west side of the canopy).

Structure: The trunk leaned to the east at about 20 feet above grade.



Figure 5: Pine Tree C



Figure 6: Pine Tree D

Pine Tree D (Figure 6)

Monterey Pine (*Pinus radiata*)

Circumference: 88 inches

Health: Overall health was rated as poor, since this tree had signs of twig beetle infestation and oozing and streaming pitch along its trunk. Most of the west side of the canopy had been removed with new growth continuing to encroach into the overhead utility easement. The bark on several major branches was discolored and tip die-back was also observed.

Structure: Signs of sapwood rot were observed on a major branch.

Pine Tree E (Figures 7 and 8)

Monterey Pine (*Pinus radiata*)

Circumference: 85 inches

Health: This tree showed signs of red turpentine beetle infestation at the base of the trunk and oozing and streaming pitch along the trunk. The bark on the remaining major branch was discolored.



Figure 8:
Trunk of Pine Tree E

Structure: The overall condition was rated as very poor. Most of the tree's canopy, which had been directly under the utility lines, was removed along with the major leader. The remaining major branch leaned to the east out and over the channel.



Figure 7: Pine Tree E

General Observations

Although other causes for the oozing and streaming pitch observed on the tree trunks (Figure 9) cannot be definitively ruled out without further laboratory testing, these trees displayed symptoms characteristic of pine pitch canker infestation and, in the case of Trees C and D, showed signs of potential insect carriers of this disease. Each pitch canker (or lesion) is a separate and distinct infection and each Monterey pine tree that was evaluated was observed to have dozens of cankers, many at the locations of old pruning wounds at their trunks.

It appeared that prior maintenance activities were a major cause of damage to the health and structural integrity of each of these trees. In addition to multiple instances of improper pruning, landscape lights had been nailed into each tree trunk. Any fastening devices that had penetrated into heartwood would also provide potential portals of infection.



Figure 9:
Oozing Pitch at Tree A

Recommendations

My recommendation is to remove all five (5) Monterey pine trees for the following reasons. Trees with even severe pitch canker infestation do not necessarily need to be removed—not all infected trees become severely diseased and some even recover. However, trees with trunk cankers (such as those observed in this survey) are likely to die from the disease. As they begin to fail and die, major limbs or an entire tree can become hazardous. In addition, infested trees may also contribute to the buildup of destructive beetles, which can attack other trees. In the event that there are other causes for the decline in the health of these trees, their proximity to the utility easement to the west and the drainage channel easement to the east will require continued and significant pruning to maintain these areas free of tree branches. Each new pruning wound has the potential for introducing disease and contributing to the further decline in the health and structural integrity of the trees.

Because the pathogen that causes pitch canker can survive in wood cut from infected trees, felled trees should be disposed of properly, according to the guidelines developed by the California Department of Forestry's Pine Pitch Canker Task Force (http://frap.cdf.ca.gov/pitch_canker/), the Santa Clara County Agricultural Commissioner, and local regulations. The pathogen also persists in soil and in seed, so these materials should not be moved into areas where the disease does not already occur.

Replacement trees, which are required for your project, should meet all of the following criteria:

- Resistant or non-susceptible to pine pitch canker (resistant pines are listed on *UC IPM Online*, the website of the Statewide Integrated Pest Management Program, <http://www.ipm.ucdavis.edu/PMG/PESTNOTES/pn74107.html>).
- Trees with a mature height less than 25 feet (trees recommended by PG&E in the *Low Zone for Overhead Utilities* category can be found at the Urban Forest Ecosystems Institute's *SelectTree* website, <http://selecttree.calpoly.edu>).
- Non-invasive species (refer to the California Invasive Plant Council's *2006 Inventory and 2007 Update*, available for download at <http://www.cal-ipc.org/ip/inventory/index.php>).

In order to prevent the further spread of pine pitch canker disease, Monterey pine trees are not recommended as replacement trees in areas where they are not native (such as Santa Clara County).

My scope of work did not include the following services. Should you wish to confirm and/or supplement any of the findings of this report, I recommend that you engage the services of an ISA-Certified Arborist or Registered Consulting Arborist who has received training in and is qualified to perform tree risk assessments in addition to the following services:

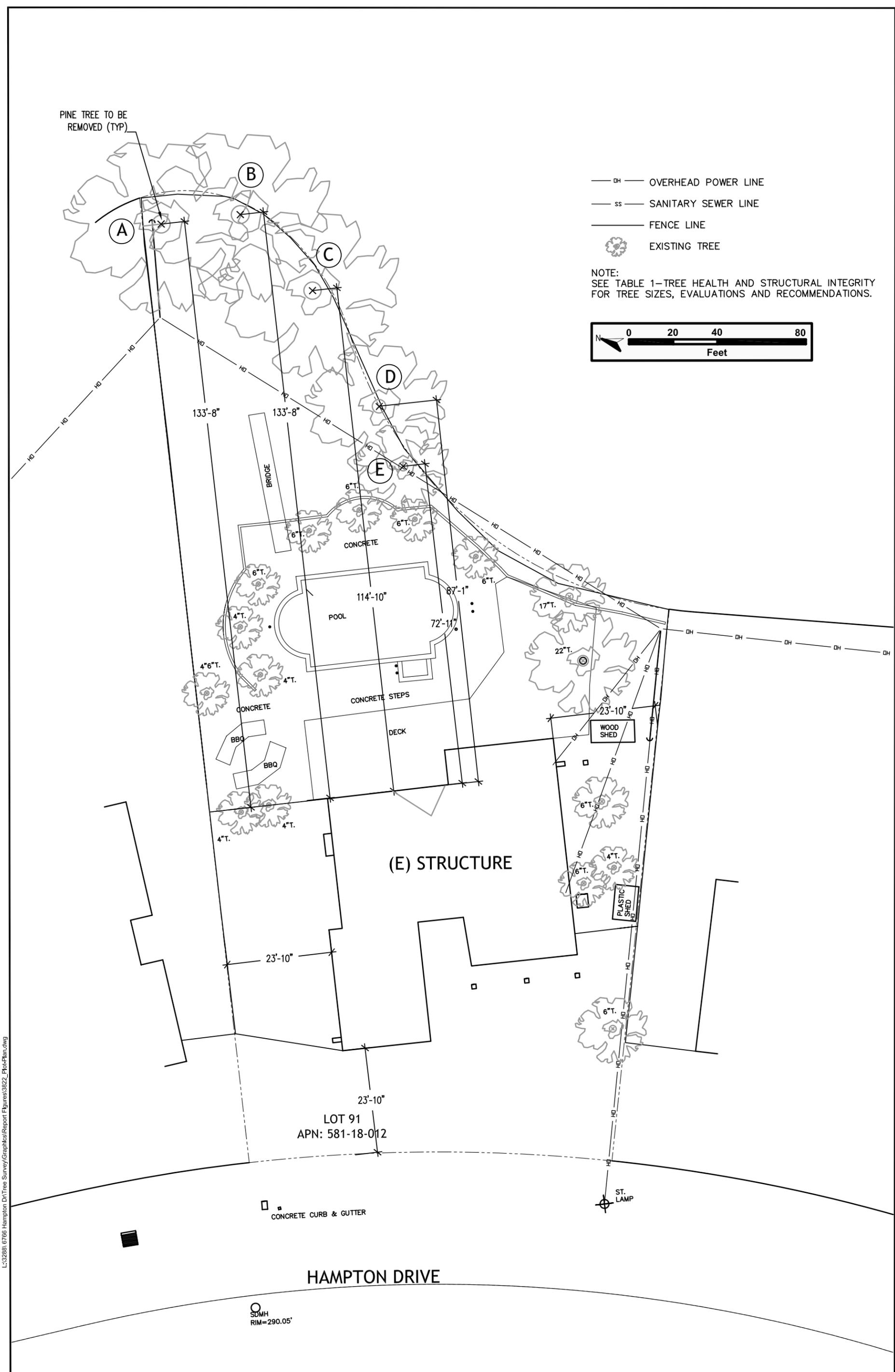
- Laboratory testing of tree tissues to confirm the presence of pine pitch canker disease;
- Soil testing in the planting area to investigate any deficiencies that may be contributing to the decline of your trees or that may affect replacement trees;
- Root zone excavation to determine the structural integrity of root plates and buttress roots; and
- Boring and/or drilling of tree trunks or roots to investigate the possibility of decay in either of these critical structural elements.

I certify that all the statements of fact in this evaluation are true, complete, and correct to the best of my knowledge and belief, and that they are made in good faith. If you have any questions concerning this report, please do not hesitate to contact me at 408-458-3251 or lkelly@harveyecology.com. Thank you very much for contacting H. T. Harvey & Associates regarding this project.

Sincerely,

A handwritten signature in cursive script that reads "Laurel Kelly".

Laurel Kelly, ASLA, ASCA
Landscape Architect CA # 4304
ISA Certified Arborist WE-8661A



PINE TREE TO BE REMOVED (TYP)

- OH — OVERHEAD POWER LINE
- SS — SANITARY SEWER LINE
- FENCE LINE
-  EXISTING TREE

NOTE:
SEE TABLE 1—TREE HEALTH AND STRUCTURAL INTEGRITY
FOR TREE SIZES, EVALUATIONS AND RECOMMENDATIONS.



L:\3288\6766 Hampton Dr\Tree Survey\Graphics\Report Figures\3822_PlotPlan.dwg



**TABLE 1
 TREE HEALTH AND STRUCTURAL INTEGRITY**

Tree ID			Tree Size		Tree Health							Structural Integrity												Recommendation			
Tree No.	Genus / Species	Common Name	Circumference (in)	Height (ft)	Live Crown Ratio	Vigor	Density	Vitality	Opacity	Quality	Pests	Root Plate	Buttress Root	Lack of Flare	Buttress Root Decay	Butt Rot	Co-Dominant Leaders	Multiple Cankers	Crack	Lean	Heart Rot	Sapwood Rot	Trunk Scaffold Attachment		Small Branch Defects	Crown Irregularities	
A	<i>Pinus radiata</i>	Monterey Pine	109	45-50	4	3	3	4	2	2	1*	-	-	Slight	-	-	-	*	-	yes	-	-	-	-	tip dieback	irregular upper trunk development	Remove
B	<i>Pinus radiata</i>	Monterey Pine	83	45-50	2	3	2	3	3	1	1*	-	-	None	-	-	at 20 ft	*	-	no	-	-	-	-	tip dieback	sparse foliage, heavily shaded by trees A & C	Remove
C	<i>Pinus radiata</i>	Monterey Pine	97	40	4	3	2	3	3	1	1**	-	-	Slight	-	-	no	*	scaffold branch	yes	-	-	-	-	dead branches	-	Remove
D	<i>Pinus radiata</i>	Monterey Pine	88	45-50	3	3	2	2	3	1	1**, †	-	-	None	-	-	at 25 ft	*	-	no	-	yes †	-	-	tip dieback, hangers	40% of canopy removed	Remove
E	<i>Pinus radiata</i>	Monterey Pine	85	40	2	2	1	2	3	1	1 ‡	-	-	None	-	-	at 8 ft	*	-	no	-	-	-	-	multiple hangers	75% of canopy removed	Remove

* Oozing and streaming pitch on trunk
 ** Signs of twig beetle infestation and pitch on trunk
 † Fungal fruiting body on limb and pitch on trunk
 ‡ Signs of red turpentine beetle infestation and pitch on trunk

Tree Health Quantification	
	1 = 0-25%; 2 = 25-50%; 3 = 50-75%; 4 = 75-100%
Ratio	Height:crown base
Vigor	Avg. annual branch extension (1 = 0-2"; 2 = 2-4"; 3 = 4-8"; 4 = > 8")
Density	Crown outline filled
Vitality	No branch dieback
Opacity	Live material blocks light
Quality	No abnormal conditions in crown



11 July 2011

Mr. David Matsumoto
823 Romani Court
San José, CA 95125
Email: mr.matz@gmail.com

Subject: Addendum to 2011 June 16 Survey and Evaluation of Five Pine Trees at 6766 Hampton Drive, San José, California (HTH #3288-01)

Dear Mr. Matsumoto:

I have prepared this addendum, at your request, to address the question of the efficacy of chemical treatment for the pathogen *Fusarium circinatum*, which causes pine pitch canker disease in Monterey pines, and bark beetle infestation. In particular, you requested that I comment on the use of the phosphonate fungicides *Agri-Fos* and *Pentra-Bark* to treat pine pitch canker disease and the insecticide permethrin (*Astro*) to control bark beetles.

Chemical treatment for pine pitch canker

There are no known effective chemical treatments at this time for Monterey pines infected with pine pitch canker disease. On 9 July 2011, Dr. Thomas Gordon, professor and chair of the Department of Plant Pathology at UC Davis and co-chair of the Pine Pitch Canker Task Force, reported to me (in a personal communication) "I am not aware of any evidence supporting the efficacy of curative chemical treatments for pitch canker." Bill Vaughn, of the Del Monte Forest Foundation (another member organization of the Pine Pitch Canker Task Force), confirmed (in a personal communication also on 9 July 2011) that his organization does not recommend using fungicides to treat infected Monterey pines because they have not been shown to be effective. Finally, *Agri-Fos* and *Pentra-Bark* have only been approved for use on some hosts (coast live oak, tanbark, and several other species) of the pathogen that causes Sudden Oak Death, primarily as a preventive treatment. Monterey pines are not known hosts of the pathogen that causes Sudden Oak Death.

Chemical treatment for bark beetle infestation

The persistent, registered insecticide *Astro* has been shown to be effective solely in protecting uninfested host trees from bark beetle infestation. There is no known chemical treatment at this time that has been shown to benefit Monterey pines already infested with bark beetles. According to the University of California Integrated Pest Management Program, "Chemically treating trees that have been previously attacked will provide no benefit and could kill beneficial insects. Seriously infested trees, or trees that are dead or dying due to previous beetle attacks, cannot be saved with insecticide treatments and should be removed." [Seybold, S.J., T.D. Paine, and S.H. Dreistadt. 2008. *Pest Notes: Bark beetles*. Oakland: University of California Natural Resources Publication 7421]



Oracle Oak LLC
146 Jordan Ave.
San Francisco, CA 94118

July 20, 2011

Mr. and Mrs. David Matsumoto
6766 Hampton Dr.
San Jose, CA 95125

Dear Mr. and Mrs. Matsumoto,

This letter serves as a follow-up to our meeting on July 13, 2011, to inspect and assess the condition of Monterey pine (*Pinus radiata*) trees located on your property at 6766 Hampton Dr., San Jose, CA (Fig 1). After conducting an inspection from the ground, the following are my observations and assessments regarding the health and structural condition of the trees. All photos are from trees on the property.



Fig. 1. Monterey pine trees (arrow) located at 6766 Hampton Dr.

1. HEALTH. Symptoms and signs of 3 pests were found on the trees:
a. **Pine Pitch Canker** (*Fusarium circinatum*) – this is a significant disease of Monterey pine that has caused the decline and death of many pines in the San Francisco Bay Area. Infections were found in the upper crown of two trees (Fig. 2). It is difficult to determine whether these will develop into fatal infections, but a significant level of injury is possible. Although infected branches can be removed by pruning, this will not prevent the spread of the pathogen. There is no chemical treatment for pitch canker control.



Fig. 2. Branch dieback in upper crown caused by pine pitch canker.

b. **Red Turpentine Beetle** (*Dendroctonus valens*) – this is an insect pest that commonly occurs in stressed trees. Signs of this infestation include pitch tubes on the lower trunk and granular pitch and frass on the ground at the base of the tree (Fig. 3). Beetles feed beneath the bark in phloem and cambial tissue and their activity can lead to the decline and death of trees, particularly those in poor condition. Although further infestations of this pest can be minimized with bark applications of an insecticide, existing infestations are very difficult to control.

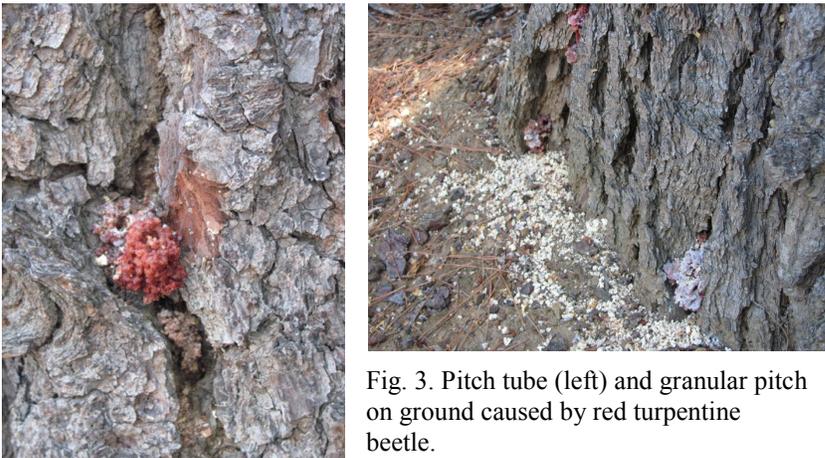


Fig. 3. Pitch tube (left) and granular pitch on ground caused by red turpentine beetle.

c. **Sequoia Pitch Moth** (*Synanthedon sequoiae*) – this insect is a common pest of Monterey pine in northern California. Larvae of the pitch moth bore into the bark and cause extensive exudation of pitch on the trunk, typically with pitch masses developing on the bark (Fig. 4). They may have been attracted to these trees as a result of pruning wounds. Although this insect is not considered to be a significant pest of Monterey pine, the infestation indicates that the trees are likely under some level of stress.



Fig. 4. Pitch mass on trunk caused by Sequoia pitch moth.

2. **STRUCTURAL CONDITION.** Although I did not conduct a full risk assessment of the trees, I did observe structural conditions on some trees that are of concern, including lean, severe pruning, splitting of a scaffold limb, and long lateral limbs.

a. **Lean** – one large Monterey pine next to the adjacent property is not in a vertical position and may be leaning (Fig. 5). Monitoring of the tree position over time would provide an assessment of whether the tree is stable or not. If there is some movement, then the tree should be removed immediately as it would indicate that the root system is failing.



Fig. 5. Monterey pine in a nonvertical position, indicating a potential lean.

b. **Severe Pruning** – one tree has become severely deformed as the result of extensive pruning, possibly for power line clearance (Fig. 6). Since the pruning wounds will lead to wood decay, the failure potential of this tree will increase substantially over time.



Fig. 6. Severe pruning of this tree will lead to wood decay.

c. **Splitting of Scaffold Limb** – a longitudinal crack (split) occurred in a large scaffold limb causing structural failure (Fig. 7). The limb was subsequently removed. This is a strong indicator that a heavy end weight developed on the branch exceeding the strength of the wood. Other limbs may fail in a similar fashion.



Fig. 7. Longitudinal split and failure of scaffold branch.

d. **Long Lateral Limbs** – at least two of the trees have long and heavy lateral limbs that have a relatively high potential for structural failure (Fig. 8). From the California Tree Failure Database, this is the most common type of failure for Monterey pine. It is difficult to predict whether these limbs will fail, but it is a condition that should not be ignored.



Fig. 8. The failure of long lateral limbs is common in Monterey pine.

Recommendation

Considering the expected longevity of these trees in San Jose, and based on my assessment of their health and structural condition, I recommend that all Monterey pines be replaced with a more suitable species.

It is generally recognized that Monterey pine has a relatively short lifespan (50-60 years) when planted inland from the coast. In areas along the coast (e.g., Monterey Peninsula and San Francisco), Monterey pine can live to be over 100 years. In warmer areas, such as San Jose, the expected longevity decreases substantially. Since these trees are estimated to be at least 35 years old (and probably older), they have likely completed much of their life cycle and are entering a decline phase.

Although the infections of pine pitch canker and Sequoia pitch moth and the infestation of red turpentine beetle are not extensive at this point, these pests are present and can develop into more severe problems. Typically, they do become more severe in aging or senescent trees. Considering the age of these trees and their expected longevity at the location, there is an increasing probability that these pests will become more severe --- leading to their progressive decline.

In addition to health and longevity issues, the structural condition of these trees is of significant concern. The defects noted (lean, heavy lateral limbs, scaffold limb split, and severe pruning) increase their failure potential. Since these are large trees in a residential setting, it is imperative to minimize the potential for personal injury and/or property damage. Some measures can be taken to mitigate some of these defects (e.g., pruning of heavy lateral limbs), but, to achieve a meaningful level of failure potential reduction, it is likely the trees will become severely deformed, thus substantially compromising their aesthetic and environmental benefits. Furthermore, it is very important to recognize that such measures will not eliminate failure potential. For example, wood decay will continue to develop where wounds have occurred and failure potential will increase. Most likely, mitigation measures for these trees will only reduce failure potential for a very limited period of time.

Again, I recommend that the trees be removed and replaced with a more suitable species.

If you have any questions regarding my assessment of your trees, please call me at 415-225-5567. Thank you.

Sincerely,

L. R. Costello, PhD
Oracle Oak LLC

Prevetti, Laurel

From: Seigitado@aol.com
Sent: Saturday, July 02, 2011 2:21 PM
To: Prevetti, Laurel
Subject: File TR11-023

Ref: File # TR11-023

Dear Ms. Prevetti,

I received a notice of public hearing on the referenced file.

I live across the street from the 6766 Hampton Dr....my address being 6771 Hampton Dr.

I am in support of the removal of the trees for the following reasons.

1. The Matsumotos are building a beautiful 2 story 5000 sq. ft. house
2. The removal of the trees will open up the views to the hills which would enhance the property value.
3. In the event that they wish to install a solar panel, the removal of the trees, will provide greater exposure to the sun to provide the household with greater energy.

In the event you have more questions on this matter, please email me at

seigitado@aol.com

My cell phone is 408 391 0384

Thank you!

Sincerely,

Seigi Tadokoro

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JOSE UPHOLDING THE DIRECTOR'S DECISION TO APPROVE A TREE REMOVAL PERMIT TO ALLOW THE REMOVAL OF FIVE MONTEREY PINE TREES MEASURING 110, 85, 96, 96, AND 86-INCHES IN CIRCUMFERENCE, LOCATED AT 6766 HAMPTON DRIVE IN THE R-1-8 SINGLE-FAMILY RESIDENCE ZONING DISTRICT.

FILE NO. TR11-023

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE:

WHEREAS, pursuant to the provisions of Chapter 13.32 of Title 13 and Chapter 20.100 of Title 20 of the San Jose Municipal Code, on January 27, 2011, an application (File No. TR11-023) was filed for a Tree Removal Permit for the purpose of removal of five (5) Monterey Pine trees measuring 110, 85, 96, 96, and 86-inches in circumference, located in the rear yard of a single family residence, on that certain real property (hereinafter referred to as "subject property"), situate in the R-1-8 Single Family Residence Zoning District, located at 6766 Hampton Drive, San Jose, and

WHEREAS, those certain five (5) Monterey Pine trees measure 110, 85, 96, 96, and 86-inches in circumference at 2 feet above grade and are located at 6766 Hampton Drive and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San Jose Municipal Code, the Director of Planning, Building and Code Enforcement conducted a hearing on said application; and

WHEREAS, on, May 25, 2011 the Director of Planning, Building and Code Enforcement approved the application, from which decision the adjacent neighbor has appealed to this Planning Commission; and

WHEREAS, pursuant to and in accordance with Chapter 13.32 of Title 13 and Chapter 20.100 of Title 20 of the San Jose Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement, including attachments thereto; and

WHEREAS, said hearing was conducted in all respects as required by the San Jose Municipal Code and the rules of this Planning Commission;

NOW, THEREFORE:

After considering evidence presented at the Public Hearing, the Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Low Density Residential (5 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The subject property and surrounding properties are located in the R-1-8 Residence Zoning District.
3. The application proposes the removal of five (5) Monterey Pine trees measure 110, 85, 96, 96, and 86-inches in circumference, located on the subject property.
4. A Tree Removal Permit is required in order to remove any tree located on private property in the City of San José that is greater than 56 inches in circumference, measured at 24 inches above grade.
5. 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 the 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].
6. The applicant filed the subject application stating that the five trees needed to be removed because of pitch canker disease, pine bark beetles, and poor pruning to avoid utility lines.
7. The applicant submitted a report from ArborWorks, prepared by a Certified Arborist as defined by Chapter 13.32 of the Municipal Code, which stated that: (a) all five trees have pitch canker disease, (b) three of the trees have early stages of pine bark beetle infestation, and (c) all five trees should be removed and replaced with healthy trees.
8. The applicant submitted a report from HT Harvey & Associates, prepared by a Certified Arborist as defined by Chapter 13.32 of the Municipal Code, which stated that: (a) Trees with trunk cankers (such as those observed on the subject property)

are likely to die from pitch canker disease; (b) As the trees begin to fail and die, major limbs or an entire tree can become hazardous; (c) Infested trees may also contribute to the buildup of destructive beetles, which can attack other trees; (d) The trees' proximity to the utility easement to the west and the drainage channel easement to the east will require continued and significant pruning to maintain these areas free of tree branches; (e) Each new pruning wound has the potential for introducing disease and contributing to the further decline in the health and structural integrity of the trees; and (f) All five trees should be removed and replaced with more suitable species.

9. The applicant submitted an addendum to the report from HT Harvey & Associates, prepared by a Certified Arborist as defined by Chapter 13.32 of the Municipal Code, which stated that: (a) there are no known effective chemical treatments for pine pitch canker, and (b) while there are chemical treatments that are effective in protecting trees uninfested with bark beetles, there are no known effective treatments for trees already infested with bark beetles.
10. The applicant submitted a report from Oracle Oak LLC, prepared by an Environmental Horticulture Advisor, Emeritus at the University of California Cooperative Extension with a doctorate in Plant Physiology, which (a) Identifies an additional pest (Sequoia Pitch Moth) found on the trees which further indicates that the trees are likely under some level of stress; (b) Outlines severe structural conditions with the trees which increase their failure potential; and (c) Recommends replacement of the trees
11. The applicant is required to plant five 15-gallon replacement trees on the subject property within 30 days of the trees removal. The requirement could also be satisfied by planting at least three 15-gallon trees, and donating \$300 for each remaining replacement tree.
12. The project is exempt from environmental review under the California Environmental Quality Act, Section 15304, pertaining to minor alteration of vegetation.

The Planning Commission concludes and finds based on the facts and findings above that:

1. The five (5) Monterey Pine trees are of a size, type, and condition, and in such a location in such surroundings, that their removal would not significantly frustrate the purposes of Section 13.32.010 of the Municipal Code.
2. The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures, and/or interference with utility services, are such that public health or safety requires their removal.
3. The proposed project is in conformance with the San Jose 2020 General Plan.

4. The proposed project is considered exempt from environmental review pursuant to Section 15304 of the California Environmental Quality Act.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

APPROVED this 27th day of July 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

Chairperson

ATTEST:

Joseph Horwedel, Secretary

Deputy

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.