



STAFF REPORT

To: Beautification Commission

Date: September 3, 2020

From: Margaret Glomstad, Parks and Recreation Director

Subject: Appeal of the Denied Removal of One Redwood Tree at 1268 Cortez Avenue, Burlingame, CA

RECOMMENDATION

Staff recommends one of two options to the Commission.

1. Deny the appeal based on the original decision of the City Arborist that the tree appears to be structurally sound and healthy.
2. Uphold the appeal based on the new information provided by an independent arborist.

When making the motion include the grounds for the decision as stated in the ordinance (Exhibit A).

BACKGROUND

The Parks Division received a Protected Tree Removal Permit application (Exhibit B) on June 29, 2020, for the removal of a Redwood tree at 1268 Cortez Avenue. The permits stated tree was a danger to children and neighbors. Attached to the permit were letters from neighbors supporting the removal. There are no structures near the tree that are being damaged by roots. The tree has a single leader and has good vigor and shoot growth. The applicant submitted work records that the tree has been maintained by Bay Area Tree Specialist (Exhibit B).

The City Arborist inspected the tree and denied removal because the tree had good structure and appeared healthy, stating that sporadic limb can occur and can be controlled by routine pruning (Exhibit C). The City Arborist only performs Level 1 Visual Assessments when inspecting Private Tree Removal Permits.

The denial was appealed by the applicant and the City Arborist asked that documentation supporting the appeal be obtained by an independent arborist (Exhibit D). On August 14, 2020, the applicant obtained the services of Kielty Arborist Services to provide a report on the health and structure of the tree. An independent arborist performs a Level 2 Basic assessment which includes a visual inspection of the tree and surrounding site and collects a combination of other information.

DISCUSSION

The City Arborist routinely performs Level 1 inspection focusing on health and structure. When he inspected this tree, this single leader redwood appeared to be healthy, and have good vigor and structure. The City Arborist denied the application and asked for an independent arborist report to reveal issues that a Level 1 assessment did not take into account.

In the report, the independent arborist noted the Redwood tree has caused significant damage to the property and there were several close calls with children playing in the yard. He also noted that the tree has been regularly trimmed and this has alleviated some of the end weight that often causes limb loss. The independent arborist recommended removal as the only method that will eliminate all hazards and liabilities since trimming the tree with ANSI standards or Best Management Practices has not improved the trees form or lessen the chances of failure.

Limb failure is typically caused by included bark, decay, poor branch union or excessive end weight. The independent arborist did not indicate that this tree had included bark, decay, or poor branch union. Excessive end weight is the likely cause for limb failure. Trimming beyond ANSI Standards and Best Management Practices may reduce the likelihood or chance of limb failure.

Below are the 2011 ISA Glossary of Arboricultural Terms mentioned above.

ANSI-

Acronym for American National Standard Institute.

Best Management Practices-

Best available, industry recognized courses of action, in consideration of the benefits and limitations based on scientific research and current knowledge.

Branch Union-

Point where a branch originates from the trunk or other branch.

Decay-

An areas of wood that is undergoing decomposition.

Included Bark-

Bark that becomes embedded in a union between branch and trunk or between codominant stems. Causes a weak structure.

Leader -

Primary trunk of a tree. Large, usually upright stem. A stem that dominates a portion of the crown by suppressing lateral branches.

Level 1 Visual Inspection-

Visual inspection of an individual tree conducted from a specified perspective in order to identify obvious defects or specified conditions; typically focuses on identifying trees with imminent and/or probable likelihood of failure.

Level 2 Basic Inspection-

Visual inspection of a tree and surrounding site, inspecting the buttress roots, trunk, branches, and crown using tools, if necessary, to acquire more information about the tree or any potential defects

Target -

People, property, or activities that could be injured, damaged, or disrupted by tree failure.

Vitality -

Overall health. The ability of a plant to deal effectively with stress.

EXHIBITS

Exhibit A - Tree Ordinance

Exhibit B - Private Protected Tree Removal Permit and Packet

Exhibit C - City Arborist Denial Letter

Exhibit D - Appellants Appeal Packet

11.06.010

Chapter 11.06

URBAN REFORESTATION AND TREE PROTECTION

Sections:

11.06.010	Purpose and intent.
11.06.020	Definitions.
11.06.030	Nomination and listing of protected trees.
11.06.040	Emergencies.
11.06.050	Prohibitions and protections.
11.06.060	Notices and permits required for removal or work significantly affecting protected trees.
11.06.070	Decision by director.
11.06.080	Appeal.
11.06.090	Tree requirements and reforestation.
11.06.100	Penalty.

11.06.010 Purpose and intent.

The city of Burlingame is endowed and forested with a variety of healthy and valuable trees which must be protected and preserved. The preservation of these trees is essential to the health, welfare and quality of life of the citizens of the city because these trees preserve the scenic beauty of the city, maintain ecological balance, prevent erosion of top soil, counteract air pollution and oxygenate the air, absorb noise, maintain climatic and microclimatic balance, help block wind, and provide shade and color. For these same reasons, the requirement of at least one tree, exclusive of city-owned trees, on every residential lot in the city should be part of the permit process for any construction or remodeling.

It is the intent of this chapter to establish conditions and regulations for the removal and replacement of existing trees and the installation of new trees in new construction and development consistent with these purposes and the reasonable economic enjoyment of private property. (Ord. 1057 § 1 (part), (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1 (part), (1998))

11.06.020 Definitions.

Terms used in this chapter shall be defined as follows:

- (a) "Commission" means the Beautification Commission of the city of Burlingame.
- (b) "Department" means the parks and recreation department of the city of Burlingame.
- (c) "Development or redevelopment" means any work upon any property in the city of Burlingame which requires a subdivision, variance, use permit, building permit

or other approval or which involves excavation, landscaping, or construction in the vicinity of a protected tree.

(d) "Director" means the director of parks and recreation of the city of Burlingame.

(e) "Landscape tree" means a generally recognized ornamental tree and shall exclude fruit, citrus, or nut-bearing trees.

(f) "Protected tree" means:

(1) Any tree with a circumference of forty-eight (48) inches or more when measured fifty-four (54) inches above natural grade; or

(2) A tree or stand of trees so designated by the city council based upon findings that it is unique and of importance to the public due to its unusual appearance, location, historical significance or other factor; or

(3) A stand of trees in which the director has determined each tree is dependent upon the others for survival.

(g) "Pruning" means the removal of more than one third of the crown or existing foliage of the tree or more than one third of the root system. Pruning done without a permit or which does not conform to the provisions of a permit shall be deemed a removal.

(h) "Removal" means cutting to the ground, extraction, killing by spraying, girdling, or any other means. (Ord. 1057 § 1 (part), (1975); Ord. 1470 § 1, (1992); Ord. 1492 § 1, (1993); Ord. 1598 § 1 (part), (1998))

11.06.030 Nomination and listing of protected trees.

Nomination for protected tree status under Section 11.06.020(f)(2) may be made by any citizen. The commission shall review such nominations and present its recommendations to the city council for designation.

A listing of trees so designated, including the specific locations thereof, shall be kept by the department and shall be available for distribution to interested citizens.

The city council may remove a designated tree from the list upon its own motion or upon request. Requests for such action may originate in the same manner as nominations for protected tree status. (Ord. 1057 § 1 (part), (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1 (part), (1998))

11.06.040 Emergencies.

In the event that an emergency condition arises whereby immediate action is necessary because of disease, or danger to life or property, a protected tree may be removed or altered by order of the director or, if the director is unavailable, a responsible member of the police, fire, parks and recreation, or public works department. In such event, a report shall be made to the commission describing the conditions and necessity of such an order. (Ord. 1057 §

1 (part), (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1 (part), (1998))

11.06.050 Prohibitions and protections.

(a) No protected tree shall be removed from any parcel without a permit except as provided in Section 11.06.040.

(b) The following conditions shall be observed during construction or development of property:

(1) Protected trees are to be protected by a fence which is to be maintained at all times;

(2) Protected trees that have been damaged or destroyed by construction shall be replaced or the city shall be reimbursed, as provided in Section 11.06.090;

(3) Chemicals or other construction materials shall not be stored within the drip line of protected trees;

(4) Drains shall be provided as required by the director whenever soil fill is placed around protected trees; and

(5) Signs, wires or similar devices shall not be attached to protected trees. (Ord. 1057 § 1 (part), (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1 (part), (1998))

11.06.060 Notices and permits required for removal or work significantly affecting protected trees.

(a) Removal or Pruning. Owners, or their authorized representative, of protected trees on public or private property shall obtain a permit to remove or prune a protected tree. The application shall be on a form furnished by the department and shall state, among other things, the number and location of the tree(s) to be removed or pruned by type(s) and the reason for removal or pruning of each. The application shall also include a photograph with correct botanical identification of the subject tree or tree(s). An authorized representative of the department shall make an inspection of the tree(s) and shall file a written report and his or her recommendations to the director.

(b) Educational Conference before Work Commences. After receipt of an application, the director may require an educational conference to inform the owner of potential alternatives to the proposed removal or pruning.

(c) Removal or Pruning of Protected Trees on Undeveloped or Redeveloped Property. When an application for development or redevelopment of a property containing one or more protected trees is filed in any office or department of the city, the person making such an application shall file a site plan showing the location of buildings or structures or of proposed site disturbances, and the location of all trees. The director shall determine if all protected trees are shown. An authorized representative of the department shall make an inspection and shall file a report of his or her findings and recommendations to the director.

Subject to the replacement provisions of Section 11.06.090, the director shall approve the removal of protected trees within the footprint of approved construction in the R-1 zone, which construction does not require a variance, conditional use permit, or special permit under Title 25 of this code. The notice and appeal provisions of Sections 11.06.070 and 11.06.080 shall not apply to such approvals.

(d) Review. In reviewing applications, the director shall give priority to those based on hazard or danger of disease. The director may refer any application to another department, committee, board or commission of the city for a report and recommendation, and may require the applicant to provide an arborist's report. In reviewing each application, the director shall determine:

(1) The condition of the tree(s) with respect to disease; danger of falling; proximity to existing or proposed structures, yards, driveways and other trees; and interference with public utility services;

(2) The necessity to remove the tree(s) in order to construct any proposed improvements to allow economic enjoyment of the property;

(3) The topography of the land and the effect of the removal of the tree(s) on erosion; soil retention; and diversion or increased flow of surface waters;

(4) The number of trees existing in the neighborhood on improved property and the effect the removal would have on the established standard of the area and property value. Neighborhood is defined as the area within a 300-foot radius of the property containing the tree(s) in question;

(5) The number of trees the particular parcel can adequately support according to good arboricultural practices;

(6) The effect tree removal would have on wind protection, noise and privacy; and

(7) The economic consequences and obligations of requiring a tree to remain. (Ord. 1057 § 1 (part), (1975); Ord. 1470 § 1, (1992); Ord. 1492 § 2, (1993); Ord. 1598 § 1 (part), (1998); Ord. 1603 § 9, (1998))

11.06.070 Decision by director.

A decision shall be rendered by the director for each application. If an application is approved, it shall include replacement conditions in accordance with Section 11.06.090. The director shall give written notification of the decision to the applicant and all property owners within one hundred (100) feet of the property containing the tree(s) in question, and include a copy of the city Urban Reforestation and Tree Protection Ordinance (Chapter 11.06). (Ord. 1057 § 1 (part), (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1 (part), (1998))

11.06.080 Appeal.

Any person may appeal the decision of the director to the commission by filing an appeal in writing with the director no later than 5:00 p.m. of the tenth calendar day after the decision. The director shall set the matter for review by the commission at its next regular meeting and provide notice by mail of the commission hearing to the appellant and applicant at least five (5) days prior thereto.

The determination of the commission shall become final and conclusive in ten (10) days if no appeal is filed. Destruction, removal or other work on a protected tree shall not commence until after the ten (10)-day period has passed, or, if any appeal is filed, until the decision of the city council. During the period between the action of the commission and the end of the ten (10)-day appeal period, any person may appeal such action to the city council. Such appeal shall be in writing and shall be filed with the city clerk. During the same period the city council, on its own motion, may suspend the order of the commission for the purpose of reviewing the action of the commission. A permit shall be valid for six (6) months after the date it is issued. Under exceptional circumstances, the director may issue one six (6)-month extension. (Ord. 1470 § 1, (1992); Ord. 1598 § 1 (part), (1998))

11.06.090 Tree requirements and reforestation.

(a) Whenever the development or redevelopment of a single family home, duplex, apartment house or condominium results in any increase in lot coverage or habitable space (as defined by Chapter 25 of this code), the property shall be required to meet the following requirements:

(1) One landscape tree for every One thousand (1,000) square feet of lot coverage or habitable space for single family homes or duplexes;

(2) One landscape tree for every two thousand (2,000) square feet of lot coverage for apartment houses or condominiums.

Lot coverage and habitable space shall include both existing and new construction. The director shall determine the number of existing trees which are of an acceptable size, species and location to be counted toward this requirement. Any additional trees which are required shall meet the standards for replacement trees set forth in subsection (b) below.

(b) Permits for removal of protected tree(s) shall include replanting conditions with the following guidelines:

(1) Replacement shall be three (3) fifteen (15)-gallon size, one twenty-four (24)-inch box size, or one thirty-six (36)-inch box size landscape tree(s) for each tree removed as determined below.

(2) Any tree removed without a valid permit shall be replaced by two (2) 24-inch box size, or two (2) 36-inch

box size landscape trees for each tree so removed as determined below.

(3) Replacement of a tree be waived by the director if a sufficient number of trees exists on the property to meet all other requirements of the Urban Reforestation and Tree Protection ordinance.

(4) Size and number of the replacement tree(s) shall be determined by the director and shall be based on the species, location and value of the tree(s) removed.

(5) If replacement trees, as designated in subsection (b)(1) or (2) above, as applicable, cannot be planted on the property, payment of equal value shall be made to the city. Such payments shall be deposited in the tree planting fund to be drawn upon for public tree planting. (Ord. 1470 § 1, (1992); Ord. 1492 § 3, (1993); Ord. 1598 § 1 (part), (1998))

11.06.100 Penalty.

In addition to any other penalties allowed by law, any person removing or pruning a tree in violation of this ordinance is liable to treble damages as set forth in Section 733 of the Code of Civil Procedure of the State of California. Damages for this purpose shall be replacement value of the tree as determined by the International Society of Arboriculture Standards. (Ord. 1470 § 1, (1992); Ord. 1598 § 1 (part), (1998))



PROTECTED TREE REMOVAL PERMIT APPLICATION

Permit Denied
6/29/20

Exhibit B



Parks & Recreation Department
850 Burlingame Avenue, Burlingame, CA 94010
(650) 558-7330

Date: June 1st 2020

The undersigned owner of the property at:

Address: 1268 Cortez Ave, Burlingame CA 94010

hereby applies for a permit to remove or prune more than 1/3 of the canopy of the following protected tree(s):

Species: Redwood Circumference: 214 inches

Location on Property Back right corner

Work to be Performed: Removal ☒ Trim More Than 1/3 of the Crown ☐

Reason Work is Necessary: Danger to children & neighbors

Is this Tree Removal Request Part of a Building Project? YES ☐ NO ☒

Note: A photograph of the tree(s) and a schematic drawing of the location of the tree(s) on the property must be submitted along with \$75.00 to: City of Burlingame. Additional documentation maybe required to support removal. Attach any documentation you may have. (Example: Report from an Independent Arborist, pictures of damaged structures, letters of concern from neighbors, etc.).

Owner (Print) Deva and Gabe Dalporto Phone 310-463-3703

Address 1268 Cortez Ave Email devanicole@yahoo.com
(if different than above)

PERMIT - FOR OFFICE USE ONLY

Payment Rec. 6/4/20 Payment Method check #1229 \$75.00

This permit allows the applicant to remove or prune the above listed tree(s) in accordance with the provisions of the Urban Reforestation and Tree Protection Ordinance (Municipal Code Chapter 11.06). By signing this permit, the applicant acknowledges receipt of a copy of Chapter 11.06, and agrees to comply with its provisions and all conditions listed below; and that all appeals have expired or been resolved.

OWNER SIGNATURE _____

CITY ARBORIST _____

CONDITIONS: 24 - inch box size single stem landscape tree(s) (no fruit or nut trees) will be required and may be planted anywhere on the property. If conditions are not met within the allotted time as specified in Chapter 11.06.090.(b)(5), payment of \$1200.00 for each tree into the tree replacement fund will be required.

NO replacement(s) required. Contact the Parks Division at (650) 558-7330 when removal(s) are completed.

BUILDING PROJECT: Permit ineffective until after Planning Commission review.

DATE PERMIT EFFECTIVE _____ PERMIT EXPIRES _____

DATE _____ COMPLETED _____

This work should be done by qualified tree professionals and a copy of this permit must be available at the job site at all times when work is being performed. 07/2018 revised

Dear Ms. Borba,

Our home at 1268 Cortez Avenue sits on a beautiful, well-forested double lot surrounded by dozens of large and mature trees, including a redwood in the back-right corner of the property. We have come to realize that while beautiful, the redwood presents a very serious hazard to the safety of our family and our neighbors' families.

Despite the fact that we have cared for the tree, spending \$3200 to have it fully pruned by a licensed arborist, the tree randomly drops massively large limbs. In fact, shortly after trimming, we were dismayed when the tree dropped a limb. To date the dropped limbs have damaged property, but have not harmed anyone.

A few days ago, however, a large branch fell into our neighbor's yard while their two small children were out playing and nearly killed the children. They were saved only by a thin cable line. We have attached photos and a letter sent by our neighbor.

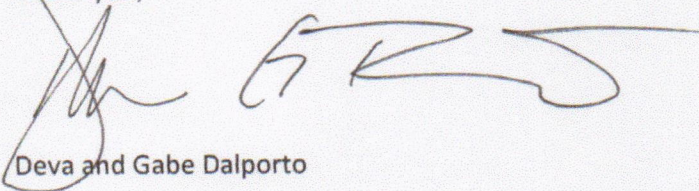
We have feared for our own children as well, since there's no telling when the tree will drop a large limb, there's no safe time to play in the yard.

The tree also leans noticeably towards our back-diagonal neighbor, and we fear that it could fall on their home.

We are further concerned about liability for anyone who comes onto our property or the property of our neighbors.

Given the above, we are asking to remove the tree and replace it with a tree on our property that does not pose a mortal danger to ourselves and our neighbors.

Thank you,

A handwritten signature in dark ink, appearing to be 'Deva and Gabe Dalporto', written in a cursive, flowing style. The signature is positioned above the printed name.

Deva and Gabe Dalporto

June 9, 2020

To whom it may concern,

Over the 7 years we have owned our home, the redwood tree on our neighbor's property at 1268 Cortez Avenue has lost several large branches each year, dropping 10-foot or longer limbs into backyards and the easement, damaging property in the process. Children often play in these backyards and the easement and it's only a matter of time before someone is seriously injured or worse.

Just this last Friday, May 29, 2020, a large limb measuring approximately 19 feet snapped off the redwood tree. I was across the easement talking to my wife when I heard this loud, thunderous crash. I immediately thought of my own kids who were playing in our backyard. The branch bounced off the cable line, hit the back fence, and landed next to the utility pole in the easement. My neighbor's kids were literally saved by the cable line since they were playing directly in harm's way from the falling limb.

While I love nature and all that it offers, it can not be acceptable to unnecessarily place people in harm's way. I implore you to have the tree removed so that we don't have to worry in fear the next time the wind blows.

Thank you in advance for your swift action in this matter.

Best Regards,
Chase & Kate Rowbotham

1261 Balboa Avenue
Burlingame, CA 94010
650.450.6321

6/17

Tree is very large, healthy w/ no apparent structural issues. It is not damaging structure

Require independent arborist report on health & structure and why pruning will not and routine maintenance will not keep the tree safe.

Pruning done 2 yrs ago by BATS appears to be minor

May 30, 2020

To whom it may concern,

Over the 9 years we have owned our home, the redwood tree on our neighbor's property at 1268 Cortez Avenue has lost several large branches each year, dropping 10-foot or longer limbs into our yard, crushing shrubs, creating enormous holes in our grass, and damaging our fence in the process. Though these incidents have been frustrating and costly, we have been fortunate that until now, the damage has been solely to our physical property.

However, on Friday, May 29, 2020, a large limb measuring approximately 19 feet snapped off the redwood tree. Our two young children were playing in the backyard at the time and the branch nearly landed on them. Fortunately, the cable line directly above their heads caught the branch before it could hit them. The branch bounced off the cable line, hit the back fence, and landed next to the utility pole in the easement.

Had it not been for that single cable line, the 19' redwood branch would have struck one or both of our children and caused serious bodily injury, or worse.

While we love the large heritage trees that make Burlingame so beautiful, we implore you to approve the immediate removal of this redwood tree. It is a tremendous hazard to the health and safety of our family, as well as that of our friends, neighbors, and anyone else who spends time in our backyard.

Thank you in advance for your swift action in this matter.

Regards,

 
Lindsay Bierbrauer and Nick Stipinovich

1266 Cortez Avenue
Burlingame, CA 94010







10/1/20



redwoods

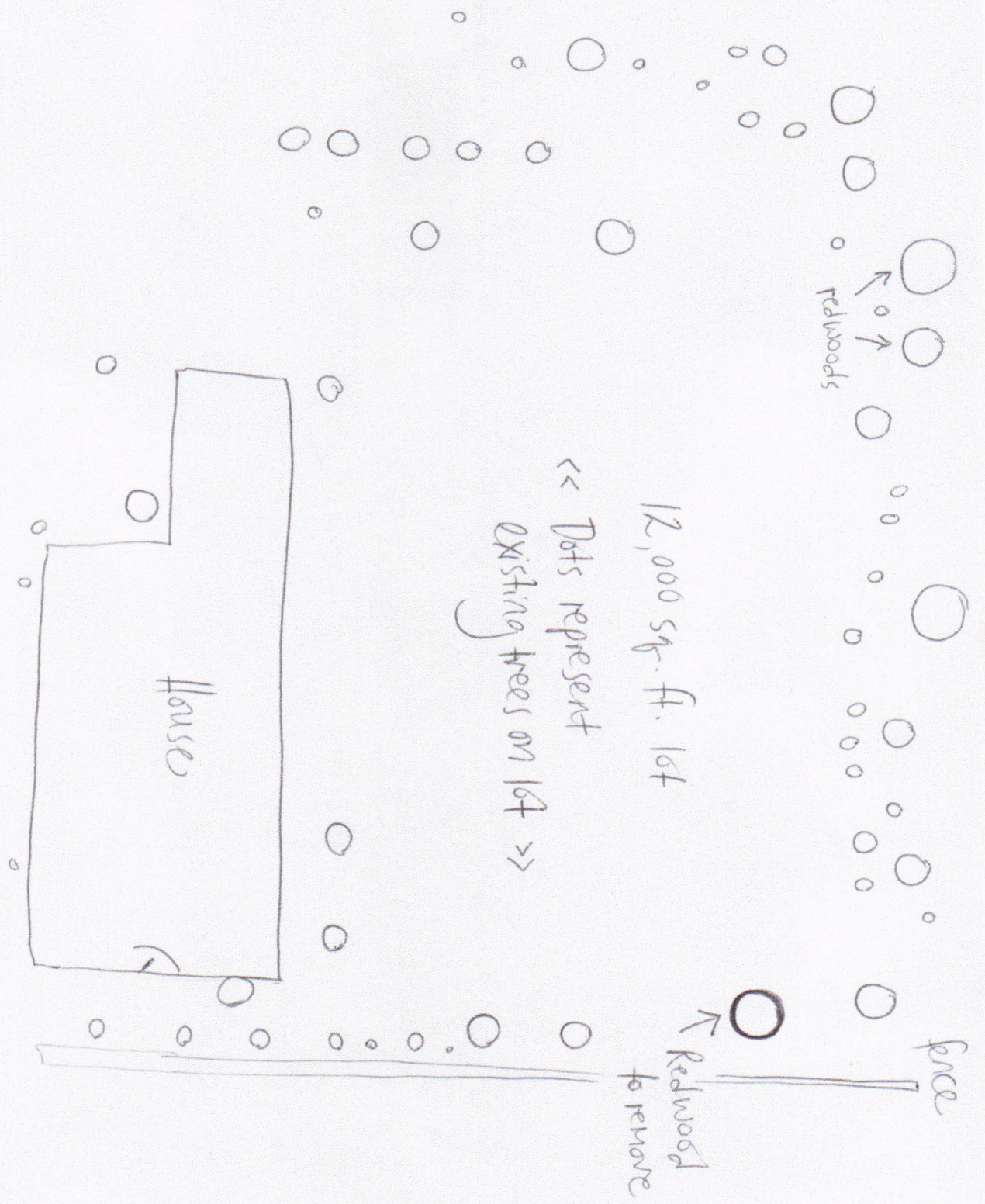
face

Redwood
to remove

12,000 sq. ft. lot
<< Dots represent
existing trees on lot >>

House

1268 Carter Ave



Bay Area Tree Specialists
541 West Capital Expwy PMB 287
San Jose, CA 95136 US
408-836-9147
michelle@bayareatreespecialists.com

Invoice



BILL TO

Gabriel Dalporto
1268 Cortez Ave
Burlingame, CA 94010

INVOICE #	DATE	TOTAL DUE	TERMS	ENCLOSED
63695	12/12/2018	\$0.00	Upon receipt	

DATE	ACTIVITY	QTY	RATE	AMOUNT
12/12/2018	Prune (Item #1) Prune	1		3,200.00
Caltorto 20181210598				3,200.00
PAYMENT				3,200.00
BALANCE DUE				\$0.00

PAID



PROPOSAL

Please sign and
return to the office.

Bay Area Tree Specialists

541 W. Capitol Expwy PMB 287 San Jose, CA 95136

Caltorto 20181210598

Monday, December 10, 2018

Gabriel Dalporto
1268 Cortez Ave
Burlingame, CA 94010

Mobile: 310-463-3703

Salesperson: Porter Manny
4083932136

Worksite: 1268 Cortez Ave
Burlingame, CA 94010

#	Item	Description	Qty	Cost
1		Prune All pruning shall be done in accordance with ANSI A300 Pruning Standards. B/Y 1. Coast redwood, thin canopy and deadwood , remove hazardous branches . 'Haul away debris .	1	\$3,200.00

Signature

Date

Subtotal: \$3,200.00

Tax: \$0.00

Total: \$3,200.00



Richard Smith Certification ISA Certified Arborist WE-8745A
Certified Tree Care Safety Professional #589
Certified Tree Risk Assessor

Larry Van Groningen ISA Certified Arborist WE-9151A
Qualified Applicator License 117443



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City of Burlingame

Parks & Recreation Department



850 Burlingame Ave., Burlingame, CA 94010
 phone: (650) 558-7330 • fax: (650) 696-7216
gborba@burlingame.org



June 29, 2020

Deva and Gabe Dalporto
 1268 Cortez Avenue
 Burlingame, CA 94010

RE: PERMIT DENIED TO REMOVE ONE REDWOOD TREE AT 1268 CORTEZ AVENUE – BURLINGAME, CA

Dear Deva and Gabe,

This Redwood tree appears healthy and structurally stable. It is not damaging any adjacent structures and does not meet any of the criteria for removal in the Urban Reforestation & Tree Protection Ordinance.

Sporadic limb failure can occur with Redwood trees and are often controlled by routine pruning. A maintenance program written by a qualified independent arborist can prevent future limb failure.

Therefore, I am denying the permit for the removal of one (1) Redwood tree at 1268 Cortez Avenue. The tree is subject to the provisions of the Burlingame Municipal Code Chapter 11.06.060.

Adjacent property owner(s) at the address(s) listed below are also receiving notification of this decision. Appeals to this decision or any of its conditions or findings, must be filed in writing via email to our office by **July 15, 2020** as provided in Section 11.06.080 of the *Urban Reforestation and Tree Protection Ordinance (Burlingame Municipal Code Chapter 11.06)*.

Sincerely,

Bob Disco
 Park Superintendent/City Arborist
 Certified Arborist WE-6891A
 ISA Qualified Tree Risk Assessor
 bd/gb

CC:

Property Owner	Property Owner	Property Owner	Property Owner	Property Owner
1257 Balboa Avenue	1261 Balboa Avenue	1265 Balboa Avenue	1273 Balboa Avenue	1256 Cortez Avenue
Burlingame, CA 94010	Burlingame, CA 94010	Burlingame, CA 94010	Burlingame, CA 94010	Burlingame, CA 94010

Property Owner	Property Owner	Property Owner	Property Owner	Property Owner
1261 Cortez Avenue	1265 Cortez Avenue	1266 Cortez Avenue	1269 Cortez Avenue	1274 Cortez Avenue
Burlingame, CA 94010	Burlingame, CA 94010	Burlingame, CA 94010	Burlingame, CA 94010	Burlingame, CA 94010

Property Owner
 1285 Cortez Avenue
 Burlingame, CA 94010

PARKS/REC-Gina Borba

From: Deva Dalporto <devadalporto@gmail.com>
Sent: Thursday, August 20, 2020 8:15 AM
To: PARKS/REC-Gina Borba
Attachments: DalportoTreeRemovalAppeal-8-20.docx; 1268 Cortez Burl 8 14 20.doc; ErikaPianimLetter-TreeRemoval.docx; Tree removal1256Cortez.docx; 1268CortezSupportLetter1274Cortez.docx; Rowbotham_Letter 2.docx; Tree Removal Appeal_LBNS_07092020 (1).pdf

Dear Ms. Borba -

Attached please find our appeal documents for the removal of a dangerous redwood at 1268 Cortez Avenue. Attached you will find:

1. A report from Kevin Kielty - Certified arborist #WE0476A detailing why the tree needs to be removed.
2. Our appeal letter
3. An appeal letter from our neighbors Lindsay Bierbrauer and Nick Stipinovich who are appealing the city's decision alongside us.
4. A letter of support from our neighbors Dawnell and Chris Hester at 1256 Cortez Ave
5. A letter of support from our neighbor Erika Pianim at 1269 Cortez Ave
6. A letter of support from our neighbors Tad Armstrong and Anh Truong at 1274 Cortez Ave
7. A letter of support from our neighbor at Chase & Kate Rowbotham at 1261 Balboa Ave

In two other emails (due to file size) I will be sending:

1. Photographs of fallen branches. Including the recent branch that nearly hurt the children next door and one from a 16-foot branch that dropped in March 2019, 3 months after the tree was trimmed.
2. The original appeal packet which includes:
 - o Our application to remove the tree
 - o A letter detailing why we need to remove it
 - o A map of most of the trees on our well-forested property
 - o A receipt from when we had the tree trimmed by a licensed arborist
 - o A letter from our neighbor requesting removal (a large branch nearly fell on her children)
 - o Photographs of the incident from the neighbor
 - o Photograph of the tree to remove

Thank you. Please let me know if you need anything else.

Best,
Deva

Kielty Arborist Services LLC

Certified Arborist WE#0476A

P.O. Box 6187

San Mateo, CA 94403

650-515-9783

August 14, 2020

Ms. Deva Dalporto
1268 Cortez
Burlingame, CA 94010

Site: 1268 Cortez, Burlingame, CA

Dear Ms. Dalporto,

As requested on Thursday, July 30, 2020, I visited the above site to inspect and comment on a large redwood tree in the rear of the property. The tree has a history of large limb failure including a recent failure in the children's play area. Your concern as to the future health and safety of the tree has prompted this visit.

Method:

All inspections were made from the ground; the tree was not climbed for this inspection. The trees in question were located on a hand drawn map provided by me. The tree was then measured for diameter at 54 inches above ground level (DBH or diameter at breast height). A condition rating (CON) is provided using 50 percent vitality and 50 percent form, using the following scale.

1	-	29	Very Poor
30	-	49	Poor
50	-	69	Fair
70	-	89	Good
90	-	100	Excellent

The height of the tree was measured using a Nikon Forestry 550 Hypsometer. The spread was paced off (HT/SP). Comments and recommendations for future maintenance are provided.



Large redwood in the rear of 1268 Cortez.



Observations:

The tree in question is a coast redwood (*Sequoia sempervirens*) with a diameter at breast height of 67.6 inches. The tree is located in the rear of the property near the southeastern property line. The estimated height of the redwood is 90 feet with a total crown spread of 40 feet. The vigor of the redwood is fair with normal shoot growth for the species. The form of the tree is fair with recent tree trimming being carried out. The recent loss of a limb has caused significant damage to the property and was a close call with children playing in the yard being the target. The tree receives a condition rating of 55 on a 1-100 scale (fair).

Large trunked redwood in the southeast corner of the property.

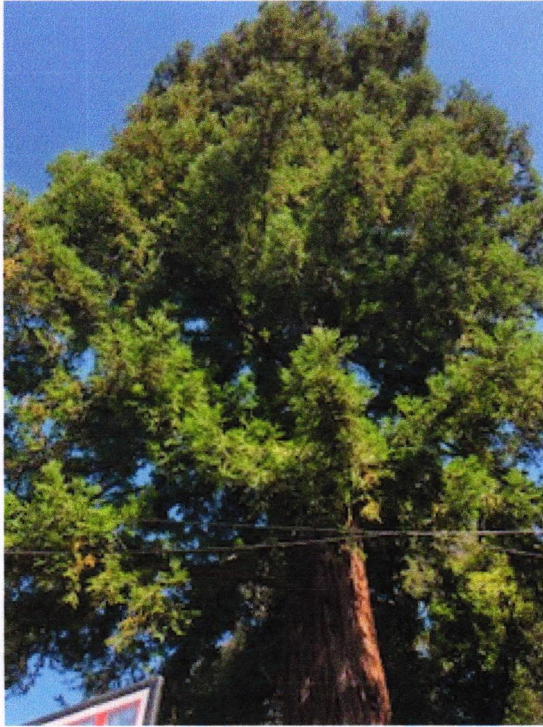


Recent Limb Failure:

The recent limb failure resulted in a 19 foot long limb failing. The failed limb was caught by the communication cables from the power pole to the house. Children on the neighboring property to the southeast were playing below the cables. The 4.8 inch diameter limb lodged in the cables protecting the children.

The history of limb failure may be due to a past topping or poor trimming of the tree causing a longer than normal limb length.

4.8 inch diameter and 19 feet long failed limb. The limb was caught by the communication cables preventing possible injury to children in the rear of the neighbor's property.



Past Tree Trimming:

The large redwood had been well trimmed with the limbs on the southeast side (neighbor's) being end weight reduced. The trimming left the tree with a shortened look as looking from the neighbor's. The trimming was carried out prior to the recent limb failure.

Redwood as seen from the neighboring property. The wires in the lower photo are still wrapped from the limb failure. The cables caught the limb preventing possible injury to the children. This side of the tree had been recently end weight reduced.

Summary:

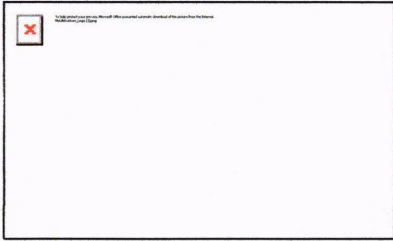
The large redwood continues to loose limbs on a regular basis. The trimming of the tree was well carried out alleviating some of the end-weight often associated with limb loss. The failed limb was 4.8 inches in diameter and being 19 feet long. Both properties have young children that often use the property. The installation of exclusion zones on the two properties is impossible as they would require fencing approximately 40 percent of the rear yards. In the age of social distancing has elevated the need for children's private play spaces.

Remove and replace the tree as trimming the tree within ANSI standards or Best management practices will not improve the trees poor form or lessen the chances of failure making the tree an immediate hazard. Replace the tree with a Chinese pistache, red oak or red maple.

Removal of the tree is the only method that eliminates all hazards and liabilities associated with the tree. The information included in this report is believed to be true and based on sound arboricultural principles and practices.

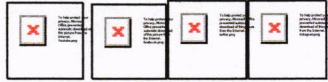
Sincerely,

Kevin R. Kielty
Certified Arborist WE#0476A



Deva Dalporto
Founder

deva@mylifesuckers.com
www.mylifesuckers.com



July 8, 2020
Revised: August 19, 2020

To Whom It May Concern,

We are writing to appeal the decision made on June 29, 2020, regarding the removal of one redwood tree from our property at 1268 Cortez Avenue.

As stated in our previous letter, we live on a well-forested double lot with dozens of mature trees, including another redwood. Our entire lot is surrounded by trees. We love the privacy this affords us and delight in our shady backyard. We have requested removal of this *one* tree (out of dozens) on the property because it is an imminent threat to the safety of our neighbors, guests and family.

The tree is unsuitable for its location given its magnitude and size and the fact that its canopy spans above four backyards, three with young children, and is therefore in a highly-trafficked area. The tree is at a high risk to cause significant damage to person and/or property because it unpredictably and regularly has limb failure. A problem that unfortunately cannot be solved by "routine pruning" as requested in the denial letter.

To this point, in March of 2019, a mere 3 months after pruning by a licensed arborist, the tree dropped a large 16-foot limb into our neighbor's yard. This indicates that even recent pruning cannot guarantee the tree will not drop large limbs that are a threat to the health and safety of anyone who comes near it.

The tree has limb failure several times a year, dropping large limbs up to 20-feet. Most recently in May 2020, as stated in our emergency removal request, the tree dropped a 19-foot limb that nearly struck our neighbor's two young children as they were playing in their yard. Their lives were spared only by a cable line that luckily caught the tree limb just above their heads.

We had an arborist from Bay Area Tree Specialists come to the site after the May 2020 incident. He informed us that even with a rigorous maintenance plan, the tree will continue to have limb failure. Its location on a creek combined with hot weather makes it particularly susceptible to limb failure. As stated in the city's denial letter "sporadic limb failure" happens with redwood trees. We cannot afford to have large limbs sporadically dropping into our backyards where children are playing. The magnitude of this tree is unsuited to a populated area.

Most recently the tree was inspected by Kevin R. Kielty, Certified Arborist WE#0476A, who recommends that we "Remove and replace the tree as trimming the tree within ANSI standards or Best management practices will not improve the trees poor form or lessen the chances of failure making the tree an immediate hazard." See his full report attached in my email.

According to the City of Burlingame Tree Removal Process section of the website, the city can approve the removal of a protected tree "if the tree is dead or risk to person or property is imminent." The redwood in question is a risk to both person and property. It has destroyed property in the past (our neighbor's smaller trees, our fence and the neighbor's sodded yard have all been damaged by falling limbs). We fear it is just a matter of time before it causes bodily harm to a child playing beneath it.

We ask that you reverse the City Arborist's decision and grant us permission to take immediate action to remove the hazardous tree. We commit to replacing the tree with two 24" box trees; trees that will help maintain Burlingame's urban forest, yet are not a threat to the health and safety of the citizens of our city.

Prioritizing a tree above the safety of human beings is not reasonable. Should you deny this permit upon appeal, we will hold the City of Burlingame and this Commission liable should anyone be injured or property damaged as a result of further tree limbs falling from this tree onto our property.

Sincerely,
Deva and Gabriel Dalporto

July 9, 2020

To whom it may concern,

On June 29, 2020, we were notified that the application to remove a redwood tree from the neighboring property at 1268 Cortez Avenue was denied and we are writing to you today to appeal this decision.

We do not take the removal of any tree lightly. The trees of Burlingame are an integral part of its beauty and charm and it is not our intention to change that. However, when a tree threatens the safety of the community it must be removed, regardless of the tree's health. The Burlingame Parks & Recreation mission statement speaks to "creating a better community in which to live and play," but the risk of significant bodily harm posed by our neighbor's redwood tree is prohibiting just that.

The redwood tree stands only 2 feet from our property line and extends well over our backyard, such that branches regularly fall onto our property at 1266 Cortez Avenue, creating an imminent threat to anyone on the premises.

- In May 2020 a 19-foot branch fell where our young children were playing, only missing them because the branch was caught by the thin utility lines. In addition to the risk from the limb itself, had the utility wires or adjacent power lines fallen, our children could have been struck, electrocuted, or our property subject to a catastrophic fire
- The redwood tree regularly drops limbs approximately 20 feet from the property line, which has turned one-third of our backyard into a hazardous area
- The tree drops limbs without warning throughout the year, heaving branches 16' and longer onto our property, several of which have been photographed
- The weight and velocity of falling branches nearly harmed two children, have broken multiple trees, and bore a large hole in our lawn
- Pruning by a professional arborist has not prevented branches from dropping. Indeed, and contrary to the statement of the City Arborist in the denial letter, branches have continued to drop on multiple occasions *after* our neighbor spent \$3200 in December 2018 for maintenance performed by a well-qualified arborist. Even the City Arborist admits that such care only *may* "often" control limb failure in a redwood, not that it *will* prevent such limb failure from occurring - and which *are* occurring to this tree
- Future professional maintenance may incrementally reduce the frequency, or size, of falling branches, but it will not prevent branch failure from occurring, as frighteningly demonstrated just two months ago

The aforementioned should sufficiently demonstrate the hazard created by the redwood tree. Even so, we were informed on July 8, 2020 that the City Arborist needed more information to determine why removal is necessary "other than it is dangerous." This statement shows a

flagrant disregard for public safety and clear misapplication of the city ordinance which explicitly states in the Tree Removal Process section of the city website that a City Arborist can approve the removal "if the tree is dead or risk to person or property is imminent." Furthermore,

"In the event that an emergency condition arises whereby immediate action is necessary because of disease, or danger to life or property, a protected tree may be removed or altered by order of the director or, if the director is unavailable, a responsible member of the police, fire, parks and recreation, or public works department. In such event, a report shall be made to the commission describing the conditions and necessity of such an order. (Ord. 1057 § 1, (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1, (1998))

We ask that you reverse the City Arborist's decision and grant the homeowners at 1268 Cortez Avenue permission to take immediate action to remove the hazardous tree and allow them to replace it with one or more trees that are in keeping with the neighborhood and most importantly, the health and safety of residents. To that end, we also commit to planting two or more 24" box trees on our property to do our part in maintaining Burlingame's urban forest.

Prioritizing a protected tree above human safety, including the safety of children, is not an acceptable solution. Should you deny this permit upon appeal, we will hold the City of Burlingame and this Commission liable should anyone be injured or property damaged as a result of further tree limbs falling onto our property at 1266 Cortez Avenue.

Sincerely,

Lindsay Bierbrauer and Nick Stipinovich
1266 Cortez Avenue, Burlingame

8/18/2020

This letter is regarding the permit request submitted by the Dalporto's at 1268 Cortez Avenue for the removal of one redwood tree from their property. We live at 1256 Cortez and support the tree removal. The dropping of large branches is extremely dangerous to the surrounding neighbors.

Thank you,

Dawnell and Chris Hester

To City of Burlingame,

I am writing regarding a redwood tree at 1268 Cortez Ave, property of the Dalporto's. The safety of my neighbors is my biggest concern. I am an ardent supporter of protecting as many trees as possible, but when they are unstable and threaten safety they need to be removed. It's my understanding that after a large branch dangerously fell from this tree that the Dalporto's had an arborist come to inspect. It was determined that the tree should be removed for safety. I believe this determination should be supported.

Thank you,

Erika Pianim

1269 Cortez Ave

Tad Armstrong and Anh Truong
1274 Cortez Ave
Burlingame, CA 94010
08/11/2020

Bob Disco
Park Superintendent/City Arborist
City of Burlingame
Park & Recreation Dept
850 Burlingame Ave
Burlingame, CA 94010

Re: Permit to Remove Redwood Tree at 1268 Cortez Ave Burlingame CA

Dear Mr. Disco:

This letter is in regards to the permit request submitted by the Dalporto's at 1268 Cortez for the removal of one redwood tree from their property. We are next door neighbors to the Dalporto's and support their request to remove the redwood tree. This particular redwood tree continually drops branches and small limbs and poses a hazard to both adults and children in its proximity, particularly on windy days.

Please take into account our concerns and those of the neighborhood and grant approval for the removal of this particular redwood tree.

Sincerely,

Tad Armstrong and Anh Truong

June 9, 2020

To whom it may concern,

Over the 7 years we have owned our home, the redwood tree on our neighbor's property at 1268 Cortez Avenue has lost several large branches each year, dropping 10-foot or longer limbs into backyards and the easement, damaging property in the process. Children often play in these backyards and the easement and it's only a matter of time before someone is seriously injured or worse.

Just this last Friday, May 29, 2020, a large limb measuring approximately 19 feet snapped off the redwood tree. I was across the easement talking to my wife when I heard this loud, thunderous crash. I immediately thought of my own kids who were playing in our backyard. The branch bounced off the cable line, hit the back fence, and landed next to the utility pole in the easement. My neighbor's kids were literally saved by the cable line since they were playing directly in harm's way from the falling limb.

While I love nature and all that it offers, it can not be acceptable to unnecessarily place people in harm's way. I implore you to have the tree removed so that we don't have to worry in fear the next time the wind blows.

Thank you in advance for your swift action in this matter.

Best Regards,
Chase & Kate Rowbotham

1261 Balboa Avenue
Burlingame, CA 94010
650.450.6321

PARKS/REC-Gina Borba

From: Deva Dalporto <devadalporto@gmail.com>
Sent: Thursday, August 20, 2020 8:09 AM
To: PARKS/REC-Gina Borba; Lindsay Bierbrauer
Subject: 1268 Cortez Ave - Original App to Remove Tree
Attachments: 1268CortezAveTreeRemovalApp.pdf

Ms. Borba -

In this email please find the original tree removal request packet which includes:

- Our application to remove the tree
- A letter detailing why we need to remove it
- A map of most of the trees on our well-forested property
- A receipt from when we had the tree trimmed by a licensed arborist
- A letter from our neighbor requesting removal (a large branch nearly fell on her children)
- Photographs of the incident from the neighbor
- Photograph of the tree to remove

Thanks!
Deva



Deva Dalporto
Founder

deva@mylifesuckers.com
www.mylifesuckers.com



This work should be done by qualified tree professionals and a copy of this permit must be available at the job site at all times when work is being performed. 07/2018 revised

Dear Ms. Borba,

Our home at 1268 Cortez Avenue sits on a beautiful, well-forested double lot surrounded by dozens of large and mature trees, including a redwood in the back-right corner of the property. We have come to realize that while beautiful, the redwood presents a very serious hazard to the safety of our family and our neighbors' families.

Despite the fact that we have cared for the tree, spending \$3200 to have it fully pruned by a licensed arborist, the tree randomly drops massively large limbs. In fact, shortly after trimming, we were dismayed when the tree dropped a limb. To date the dropped limbs have damaged property, but have not harmed anyone.

A few days ago, however, a large branch fell into our neighbor's yard while their two small children were out playing and nearly killed the children. They were saved only by a thin cable line. We have attached photos and a letter sent by our neighbor.

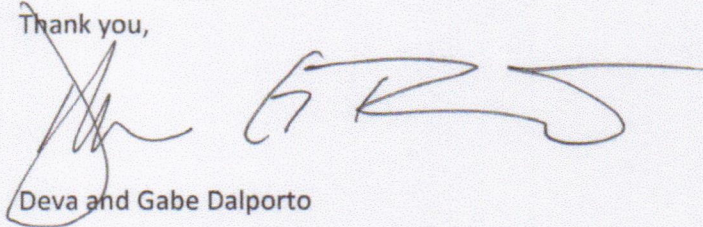
We have feared for our own children as well, since there's no telling when the tree will drop a large limb, there's no safe time to play in the yard.

The tree also leans noticeably towards our back-diagonal neighbor, and we fear that it could fall on their home.

We are further concerned about liability for anyone who comes onto our property or the property of our neighbors.

Given the above, we are asking to remove the tree and replace it with a tree on our property that does not pose a mortal danger to ourselves and our neighbors.

Thank you,

A handwritten signature in dark ink, appearing to be 'Deva and Gabe Dalporto', written in a cursive, flowing style.

Deva and Gabe Dalporto

redwoods

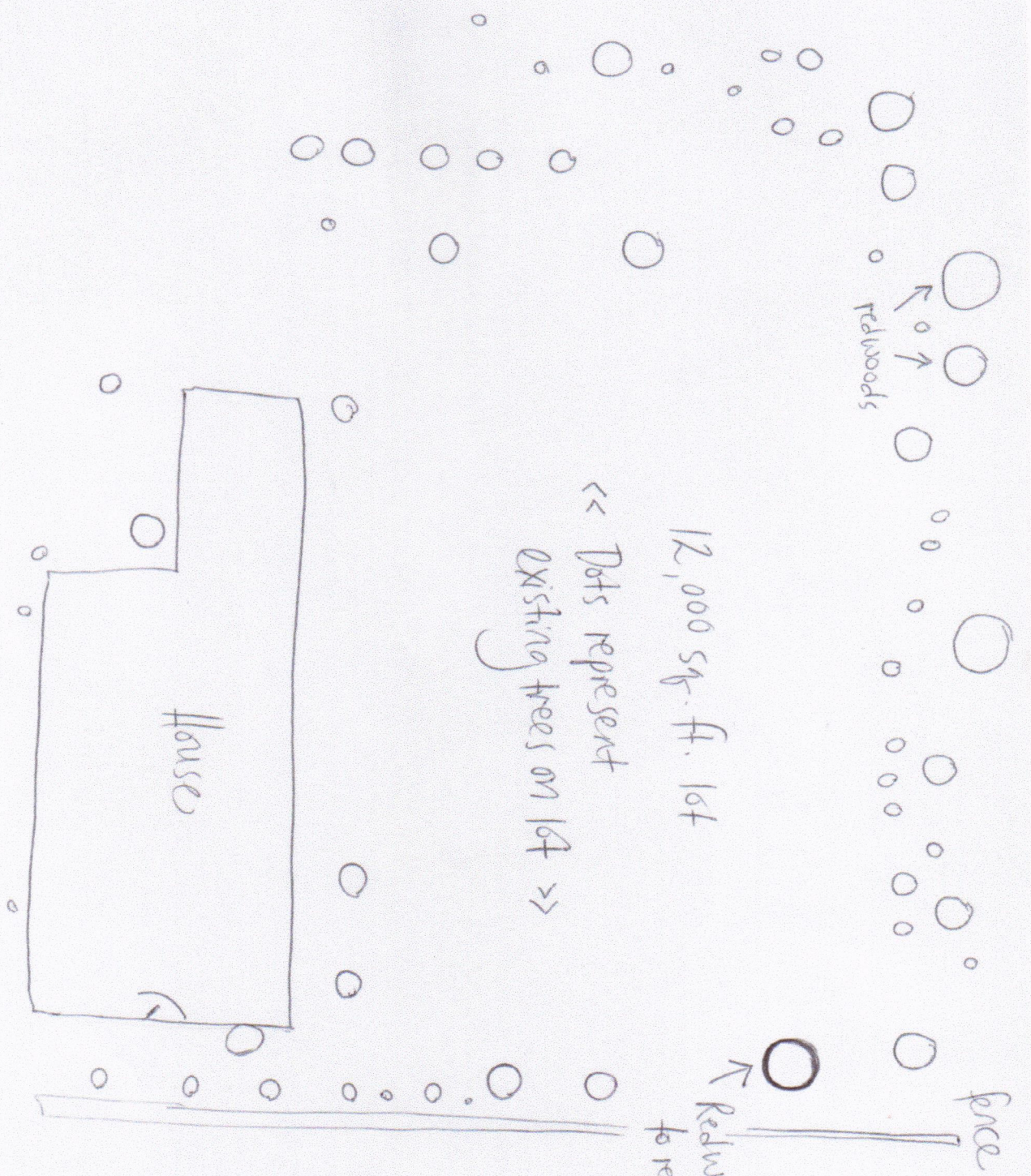
fence

Redwood
to remove

12,000 sq. ft. lot
<< Dots represent
existing trees on lot >>

House

1268 Carter Ave



Bay Area Tree Specialists
541 West Capital Expwy PMB 287
San Jose, CA 95136 US
408-836-9147
michelle@bayareatreespecialists.com

Invoice



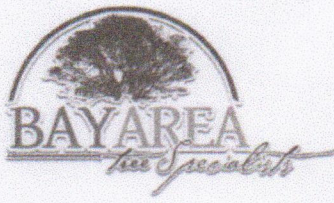
BILL TO

Gabriel Dalporto
1268 Cortez Ave
Burlingame, CA 94010

INVOICE #	DATE	TOTAL DUE	TERMS	ENCLOSED
63695	12/12/2018	\$0.00	Upon receipt	

DATE	ACTIVITY	QTY	RATE	AMOUNT
12/12/2018	Prune (Item #1) Prune	1		3,200.00
Caltorto 20181210598				
PAYMENT				3,200.00
BALANCE DUE				\$0.00

PAID



PROPOSAL

Please sign and
return to the office.

Bay Area Tree Specialists

541 W. Capitol Expwy PMB 287 San Jose, CA 95136

Caltorto 20181210598

Monday, December 10, 2018

Gabriel Dalporto
1268 Cortez Ave
Burlingame, CA 94010

Mobile: 310-463-3703

Salesperson: Porter Manny
4083932136

Worksite: 1268 Cortez Ave
Burlingame, CA 94010

#	Item	Description	Qty	Cost
1		Prune All pruning shall be done in accordance with ANSI A300 Pruning Standards. B/Y 1. Coast redwood, thin canopy and deadwood , remove hazardous branches . 'Haul away debris .	1	\$3,200.00

Signature

Date

Subtotal: \$3,200.00

Tax: \$0.00

Total: \$3,200.00



Richard Smith Certification ISA Certified Arborist WE-8745A
Certified Tree Care Safety Professional #589
Certified Tree Risk Assessor

Larry Van Groningen ISA Certified Arborist WE-9151A
Qualified Applicator License 117443



Like us on

Facebook

May 30, 2020

To whom it may concern,

Over the 9 years we have owned our home, the redwood tree on our neighbor's property at 1268 Cortez Avenue has lost several large branches each year, dropping 10-foot or longer limbs into our yard, crushing shrubs, creating enormous holes in our grass, and damaging our fence in the process. Though these incidents have been frustrating and costly, we have been fortunate that until now, the damage has been solely to our physical property.

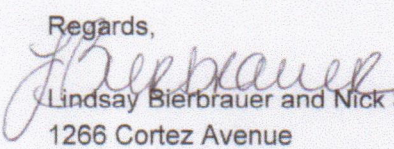
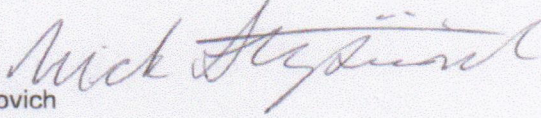
However, on Friday, May 29, 2020, a large limb measuring approximately 19 feet snapped off the redwood tree. Our two young children were playing in the backyard at the time and the branch nearly landed on them. Fortunately, the cable line directly above their heads caught the branch before it could hit them. The branch bounced off the cable line, hit the back fence, and landed next to the utility pole in the easement.

Had it not been for that single cable line, the 19' redwood branch would have struck one or both of our children and caused serious bodily injury, or worse.

While we love the large heritage trees that make Burlingame so beautiful, we implore you to approve the immediate removal of this redwood tree. It is a tremendous hazard to the health and safety of our family, as well as that of our friends, neighbors, and anyone else who spends time in our backyard.

Thank you in advance for your swift action in this matter.

Regards,

 
Lindsay Bierbrauer and Nick Stipinovich

1266 Cortez Avenue
Burlingame, CA 94010



This 16-foot branch fell 18 feet from the fence line into her backyard on March 14th, 2019. So three months after we had the tree trimmed. This is the scary thing. We never know when it will happen and even shortly after trimming it drops limbs.

