

Please Contact Site Manager David Peccarelli
949-295-0078

TOWN OF ATHERTON
PLANNING COMMISSION APPLICATION



	TYPE OF APPLICATION	FEE
	Appeal	\$750.00
	Conditional Use Permit/ Special Structure Permit	\$2,684.24
	Environmental Impact Report	Actual cost
	Final Parcel Map	\$2,684.24
	General Plan Amendment	\$5,162.00
	Heritage Tree Removal Permit	\$2,064.80
	Initial Review/Negative Declaration	\$2,064.80
	Lot Line Adjustment	\$1,548.60
	Lot Line Redesignation	\$2,684.24
	School Master Plan	\$774.30
	Tentative Parcel Map	\$2,684.24
	Variance	\$2,684.24
	Zoning Ordinance Amendment	\$5,162.00

SITE ADDRESS: 228 ATHERTON AVE. APN 070-040-410

Provide a brief description of the proposed project: REMOVAL OF DANGEROUS
NON-NATIVE HERITAGE TREE

PROPERTY OWNER:

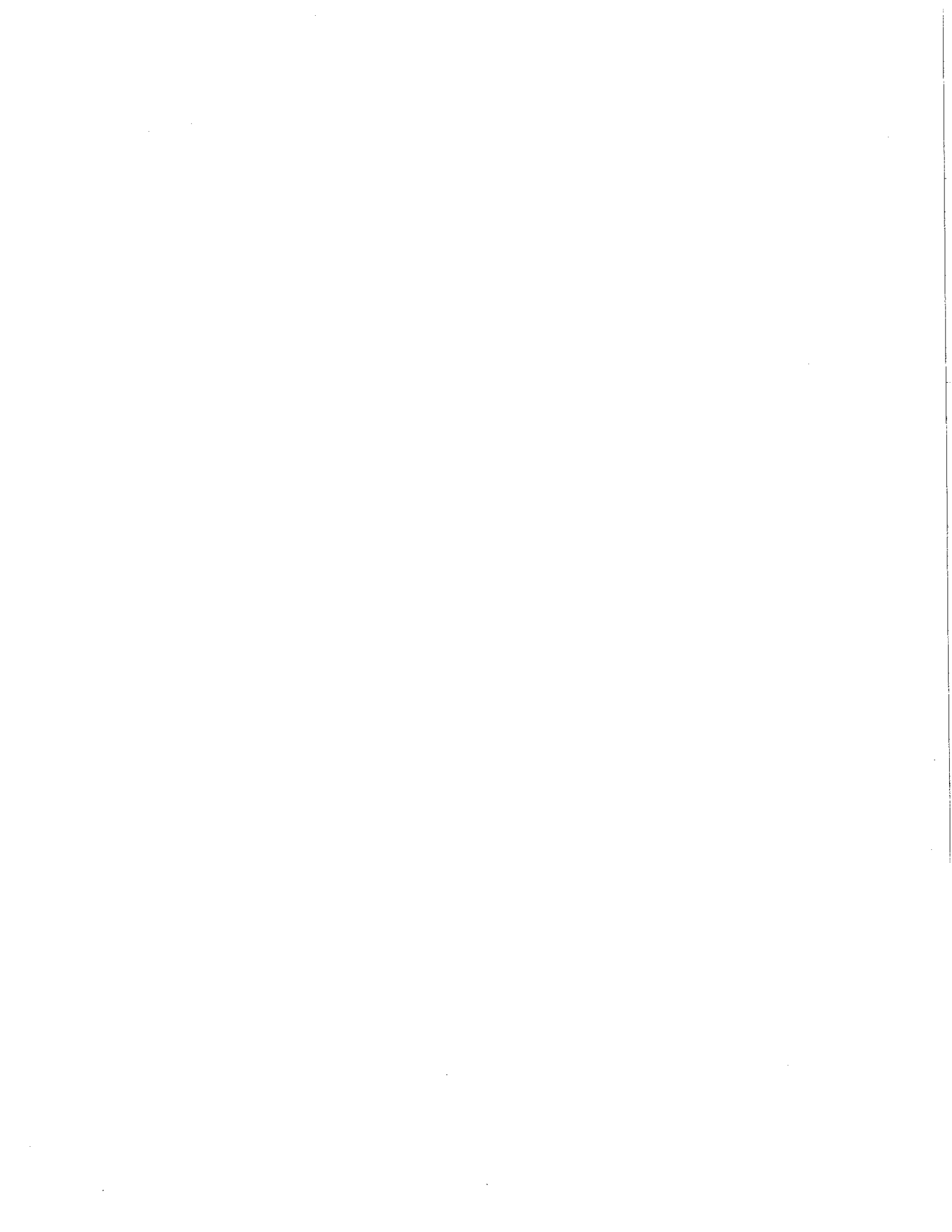
Name: THREADNEEDLES LLC - ROBERT NEWSON
Mailing Address: 321 BROADWAY AVE., SARATOGA SPRINGS, NY, 12866
Phone: 518-586-4216
Email: RNEWSON@AYCO.COM
Signature: _____

APPLICANT: - SAME AS OWNER

Name: _____
Mailing Address: _____
Phone: _____
Email: _____
Signature: _____

.....
FOR CITY COMPLETION:

Amount Paid: _____ Received by: _____ Date Submitted: _____
Project #: _____





DATE: FOR THE PLANNING COMMISSION MEETING OF MARCH 26, 2014

TO: THE PLANNING COMMISSION

FROM: ANDREA MARDESICH, ASSOCIATE PLANNER

SUBJECT: HERITAGE TREE REMOVAL PERMIT FOR THE REMOVAL OF ONE HERITAGE TREE AT 228 ATHERTON AVENUE (APN 070-040-410)

RECOMMENDATION

Staff recommends that the Planning Commission conduct the public hearing, make the following finding and deny the Heritage Tree Removal Permit for the removal of one heritage tree at 228 Atherton Avenue in Atherton for the reasons outlined in this Report.

1. The removal of the tree would be contrary to the purpose and intent of the Atherton General Plan.

Basis for finding: The Town of Atherton General Plan states "Trees shall be preserved to the maximum extent feasible while allowing for construction within established parameters for setbacks and lot coverage in accordance with the Municipal Code chapter regulating removal of and damage to heritage trees" (1.335 D, Land Use Element).

The tree has been protected through demolition of buildings on-site and the applicants will be able to build the main residence and additional structures on-site without significantly impacting the tree. The tree is unique to the Town of Atherton and the Town Arborist concludes there are methods available to preserve the tree.

INTRODUCTION

The subject site is a flag lot accessed from Atherton Avenue located between Stern Lane and Monte Vista Avenue. The property is zoned R-1-A and is approximately 61,254 square feet in area (1.5 acres). The applicant is currently constructing a new main residence with a basement, a detached guest house, detached gym, a pool and landscape

improvements. The property is located in a residential area and is surrounded by single-family residences. The applicant applied for and received a Special Structures Permit in 2013 for a basement that is greater than 100% of the first floor square footage. The owner is requesting a Heritage Tree Removal Permit to allow the removal of one Bald Cypress (Swamp Cypress) tree. The tree is listed as #11 on the site plan dated January 25, 2013 and is located along the left side of the property near the rear of the lot. The tree is located outside of the main building area, and therefore requires a Heritage Tree Removal Permit. The Town Arborist, Kevin Kielty determined that the tree could not be approved for removal at Staff level and the item has been referred to the Planning Commission for review. Trees #3 and #13 were previously approved at staff level for removal and have since been removed.

The applicant is requesting removal of the trees due to the condition and structure of the tree. The applicant notes that the tree has structural faults that make it prone to failure and presents a hazard to the property. In addition, the tree is a non-native species which the applicant argues is out of character for the Town.

ANALYSIS

The property owner is requesting Planning Commission consideration for the removal of one Swamp Cypress tree. The applicant's arborist, Michael Young, prepared a report dated January 15, 2013 which addresses the condition of all trees onsite and a supplementary report dated February 12, 2014, which addresses the condition of the Swamp Cypress specifically.

Mr. Young notes there are several structural faults which make the tree prone to failure. He adds that one limb has already torn and that another limb will fall on a neighbor's driveway. Specifically, there are two locations on the tree where there are major co-dominant limbs. The first is 10' above grade and the second is approximately 2/3 the way up the tree. Mr. Young indicates that failure of these limbs could cause damage to either the subject property or the neighbor's property, depending on which limb fails. Finally, there is a co-dominant limb that has partially failed. The limb is cracked open and per the applicant's arborist is ready to fall.

Kevin Kielty, Town Arborist, has prepared a memo based on his review, the arborist report and a site inspection. Mr. Kielty is not supportive of the removal of this tree. He notes that the Cypress has an estimated diameter at breast height of 40 inches. The estimated height of the tree is 60 feet with a total crown spread of 50 feet. Mr. Kielty adds that the vigor of the cypress is good with normal shoot growth for the species and that the form of the tree is fair to poor due to multiple leaders with narrow crotch formations. Mr. Kielty notes that the tree has been well maintained in the past and indicates that potential hazards can be reduced with the use of normal trimming practices and the installation of cables to support the narrow crotches.

The Town of Atherton General Plan states that " Trees shall be preserved to the maximum extent feasible while allowing for construction within established parameters

for setbacks and lot coverage in accordance with the Municipal Code chapter regulating removal of and damage to heritage trees” (1.335 D, Land Use Element). Due to the favorable condition of the tree and the fact that the applicant will be able to construct various buildings onsite if the tree were to remain, Staff finds that removal of the heritage tree would not meet the intent of the General Plan.

The applicant has proposed a replanting plan which includes over 180 trees, 119 of which are size 48” box or greater. None of the proposed replanting trees are oak trees, but they do include a variety of trees including Redwoods, fruit trees, Olive trees, Maples, Dogwoods, Beech trees and Pine Trees.

If the Planning Commission approves the Heritage Tree Removal Permit, Staff recommends replacement with two, 24” box trees, or one 36” box tree.

As of the preparation of this report, no public comments have been received.

CONCLUSION

It is Planning Staff’s professional opinion that the removal of one Swamp Cypress would be contrary to the purpose and intent of the General Plan and the Zoning Ordinance, because it is the Town’s policy to preserve heritage trees while still allowing for building to occur on site. A new residence and associated accessory buildings will be able to be constructed on site, without the removal of the heritage tree.

Staff has prepared a draft Heritage Tree Removal Certificate (Attachment 1) should the Planning Commission choose to approve the permit.

ALTERNATIVES

The Commission could approve removal of the tree as requested by the applicant, could deny the request or request modification of the proposal.

FISCAL IMPACT

All costs covering the processing of this application are paid for by the applicants.

ENVIRONMENTAL IMPACT

The removal of five or fewer trees is exempt from CEQA review pursuant to Atherton Municipal Code section 15.32.100(B).

FORMAL MOTION:

I move that the Planning Commission find that the proposed removal of one heritage Swam Cypress tree at 228 Atherton Avenue would be contrary to the purpose and intent of the General Plan, for the reasons outlined in the Staff Report, and that the Commission deny the removal.

If the Commission wishes to grant the Heritage Tree Removal Permit, it would need to make the finding in the affirmative and subject to the conditions listed in the draft

Heritage Tree Removal Permit.

/s/Andrea Mardesich

Andrea Mardesich, Associate Planner

Attachments:

1. Draft Heritage Tree Removal Certificate
2. Letter of Request dated February 28, 2014
3. Arborist Report dated February 12, 2014
4. Arborist Report dated January 15, 2013
5. Plans (Site Plan, Tree Planting Plan and Conceptual Landscape Plan)



Town of Atherton

Town Administrative Offices

91 Ashfield Road

Atherton, California 94027

650-752-0500

Fax 650-688-6528

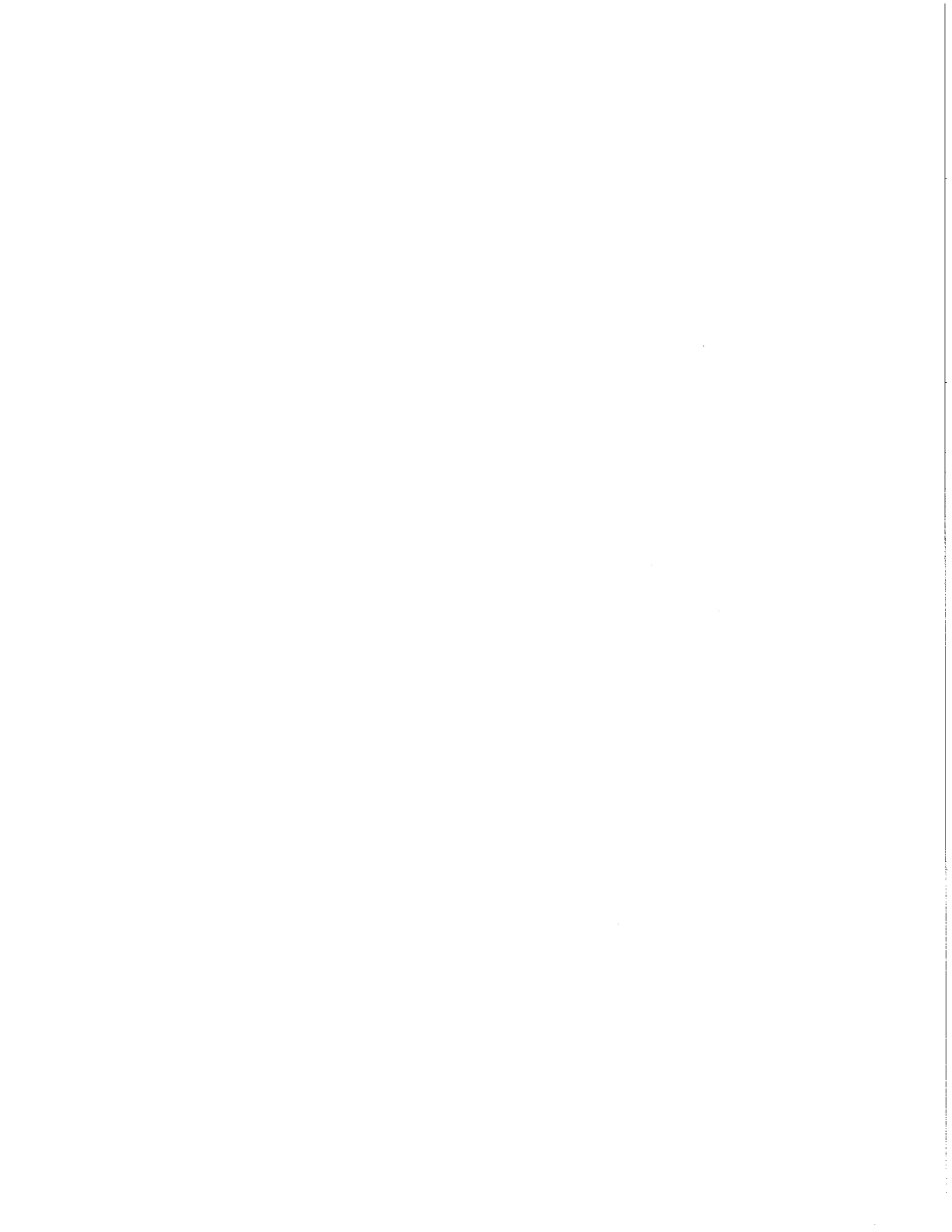
**TOWN OF ATHERTON
PLANNING COMMISSION
Draft HERITAGE TREE REMOVAL PERMIT**

THIS IS TO CERTIFY THAT the Atherton Planning Commission at a regular meeting thereof, held on Wednesday, March 26, 2014 did grant a Heritage Tree Removal Permit to Threadneedles, LLC. pursuant to Atherton Municipal Code Section 8.10 to allow the removal of one heritage tree at 228 Atherton Avenue (Assessor's Parcel Number 070-040-410). The Permit was approved subject to the following conditions:

1. Heritage tree removal shall be limited to one Bald Cypress (Swamp Cypress), indicated as tree #11 on the site plan dated January 25, 2013 and reviewed by the Planning Commission at its March 26, 2014 meeting. Any substantive changes to the plans shall be reviewed by the Planning Commission.
2. The replacement planting shall include two, 24"-box size trees or one 36"-box size tree, to the satisfaction of the Town Arborist.
3. The owner shall follow all Tree Protection measures as outlined in the Arborist Report prepared by Michael Young, dated January, 15, 2013. These techniques shall be implemented to the satisfaction of the Town Arborist.
4. This Heritage Tree Removal approval shall be valid for one year from the effective date. The applicant is required to obtain the permit card from the Building Department prior to removal of the tree. If no permit is issued within one year, the proposal may need to return to the Planning Commission, per the discretion of the Town Planner.

Lisa Costa Sanders,
Deputy Town Planner

Effective Date: _____
Atherton, CA



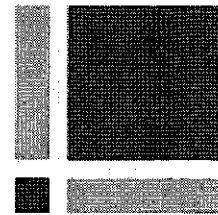
LETTER OF REQUEST

TO: **Town of Atherton Planning Commission**

FROM: Kevin Doyle, *Project Manager*

DATE: February 28th, 2014

RE: **Heritage Tree Removal – 228 Atherton Ave**



LANDRY
DESIGN
GROUP

To Whom It May Concern,

On behalf of our client, Threadneedles LLC, and regarding the property at 228 Atherton Ave., we are applying for a permit to remove a single heritage tree at the mentioned property.

1. *The tree has structural faults that make it prone to failure, has co-dominant limbs, and presents a hazard to the subject property and those around it.*
2. *The tree is a non-native species, which is highly out of character with the town, and especially for this site.*
3. *As part of the previously approved Landscape plan for this property, we will be adding dozens of trees to the property, all of which are appropriate for the site, and town of Atherton, and removal of this tree will only enhance the character of the site and surroundings.*

Please find attached our application for Planning Commission Action, along with a copy of the site plan showing the tree to be removed, and noting the existing remaining heritage trees. Also included is an arborists report recommending the removal of the tree, including photographs of the tree in question. The tree to be removed is referenced on the site plan and in the arborist report as #11.

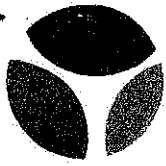
We Request a place on the Planning commission Schedule at the earliest possible date. Please contact our office with any questions or concerns regarding this request.

Regards,

Kevin Doyle
Project Manager, Landry Design Group

11333 IOWA AVENUE
LOS ANGELES, CA 90025

Attachment 2



2/12/14

Threadneedles, LLC
228 Atherton Ave.
Atherton, CA 94027

Re: Hazard Tree Removal of Non Native Tree

To Whom It May Concern:

Assignment

I was my assignment to review the Swamp Cypress (*Taxodium distichum* # 11) for structural stability.

Summary

This tree has a few main structural faults that render it highly prone to future limb failures. One of the limbs has torn already, and this is an indicator of what should be expected in the future. There is a large limb to the South that, when it fails, will fall on the neighbor's driveway, and hit cars or people in that driveway. I recommend removal & replacement of tree #11.

Discussion

Swamp Cypress is a tree native to the Southeast swamp regions of the United States (see image above right). This tree is out of character in Atherton, California, and especially for this site.

Trees with Co-dominant limbs are highly prone to limb failures. This tree has two locations with major co-dominant limbs. The first location is approximately 10' above grade where a very large limb splits off with a narrow angle of attachment (see image to right). When this limb fails it will fall on this property and cause damage to the new structures and/or its inhabitants.



The second location for co-dominant stems is 2/3 the way up the tree (see image to right). At this location there are three main limbs coming out of the same location and a fourth limb coming out just below it. This area is highly prone to limb failures and when one of these limbs fails it will land on the new structure or its inhabitants. If the opposite limb fails it will land on the neighbor's driveway, their cars, or anyone in the driveway.



This tree currently has a co-dominant limb that has partially failed. The limb is still attached, but already cracked open and ready to fall (see image to right). This limb is indicative of how the other co-dominant limbs will fail in this tree.

Because of the hazard level represented by this tree I recommend its removal.

The clients have already developed an extensive replanting plan and have agreed to plant some rather large native trees (see the landscape plan).

The removal and replacement of this non-native tree is what I recommend.

Respectfully,

Handwritten signature of Michael P. Young.

Michael P. Young





ASSUMPTIONS AND LIMITING CONDITIONS

1. Any legal description provided to this arborist is assumed to be correct. No responsibility is assumed for matters legal in character nor is any opinion rendered as to the quality of any title.
2. This arborist can neither guarantee nor be responsible for accuracy of information provided by others.
3. This arborist shall not be required to give testimony or to attend court by reason of the information provided by this arborist unless subsequent written arrangements are made, including payment of an additional fee for services.
4. Loss or removal of any part of this report invalidates the entire report.
5. Possession of this report or a copy thereof does not imply right of publication or use for any purpose by any other than the person(s) to whom it is addressed without written consent of this arborist.
6. This report and the values expressed herein represent the opinion of this arborist, and this arborist's fee is in no way contingent upon the reporting of a specified value nor upon any finding to be reported.
7. Sketches, diagrams, graphs, photos, etc., in this report, being intended as visual aids, are not necessarily to scale and should not be construed as engineering reports or surveys.
8. This report has been made in conformity with acceptable appraisal/evaluation/diagnostic reporting techniques and procedures, as recommended by the International Society of Arboriculture.
9. When applying any pesticide, fungicide, or herbicide, always follow label instructions.
10. No tree described in this report was climbed, unless otherwise stated. This arborist cannot take responsibility for any defects which could only have been discovered by climbing. A full root collar inspection, consisting of excavating the soil around the tree to uncover the root collar and major buttress roots, was not performed, unless otherwise stated. This arborist cannot take responsibility for any root defects which could only have been discovered by such an inspection.

ARBORIST DISCLOSURE STATEMENT

Arborists are tree specialists who use their education, knowledge, training and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or to seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like any medicine, cannot be guaranteed.

Treatment, pruning and removal of trees may involve considerations beyond the scope of the arborist's services such as property boundaries, property ownership, site lines, disputes between neighbors, and other issues. Arborists cannot take such considerations into account unless complete and accurate information is disclosed to the arborist. An arborist should then be expected to reasonably rely upon the completeness and accuracy of the information provided.

Trees can be managed, but they cannot be controlled. To live near trees is to accept some degree of risk. The only way to eliminate all risk associated with trees is to eliminate all trees.



1/15/13

Threadneedles, LLC
228 Atherton Ave.
Atherton, CA 94027

Re: Tree Survey

To Whom It May Concern:

Assignment

It was my assignment to review the proposed development plans, survey the Significant Trees on site and write up a Tree Survey.

Summary

I surveyed eighteen Significant Trees on site. Six of these trees are on neighbor's properties, but are close enough to our site to be included in this survey.

The plan referenced for this evaluation is a Site Survey prepared by L. Wade Hammond, Surveyor and a Site Plan from Landry Design Group, prepared 12/21/12.

Summary

A total of eighteen trees are included in this inventory. Metallic labels have been affixed to the trees on this property for field identification.

All of the trees are identified by species, briefly described (trunk diameter, height, spread, health, structural integrity). Each tree is rated on a scale of Good, Fair or Poor.

Several trees are described in greater detail on the Spreadsheet to include disease, structural weakness, or site conditions, which may affect their potential for survival.

A Tree Protection Plan is provided in order to preserve the existing trees in their present condition.

Methods

The trunks of the trees are measured using a standard measuring tape at 4 ½ feet above soil grade (referred to as DBH or Diameter at Breast Height), except those specimens whose form

does not allow for a representative measurement at this height. The measurement for multi-stem specimens is taken below the lowest fork on the trunk when possible in accordance with the International Society of Arboriculture standards. The canopy height and spread are estimated using visual references only.

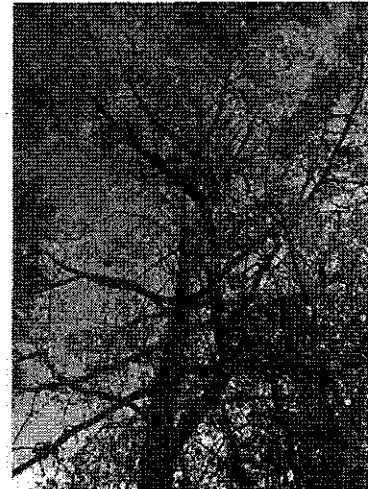
Observations

There are eighteen trees included in this tree survey. The attached map & spreadsheet shows the locations of all eighteen trees and their approximate canopy dimensions. Metallic labels have been affixed to all of the trees surveyed on this property.

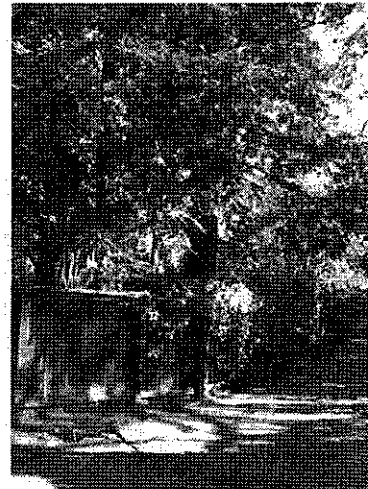
The Site has had an old residence on it and has been reasonably maintained in the past. There are no spectacular trees on this site.

Comments about Specific Trees

Tree #3 is a large Monterey Pine (see image to right) that is on the neighbor's property but close to the entry driveway of 228 Atherton Ave. This tree is dead and I recommend it be removed.



Trees #18 are three fairly large Redwoods on the neighbor's property (see image to right, below). These trees have roots in the existing driveway. The demolition of the existing driveway surface should be one of the final elements of the construction so it can be used as a construction access route that protects the roots.



The portions of the existing driveway that are located within the tree protection zone of these trees should be broken into pieces using a jackhammer and then collected in a skid steer bucket. The skid steer should remain on the existing driveway surface at all times. This should help reduce damage to the roots of these trees and reduce soil compaction. I recommend salvaging the existing base material for use below the new driveway surface. Adding additional base material to the existing layer of base is acceptable. A certified arborist should supervise the demolition of the driveway surface within the tree protection zone of these trees.

The following are my recommendations to reduce any impacts from the installation of the new driveway surface to a less than significant level:

1. I recommend re-using the existing base to minimize the need for excavation into the root zone of these trees. If excavation is required it should not exceed 4-6 inches into the root zone of these trees. If further excavation is necessary than an air-spade should be used to expose these trees roots to determine the impact that this excavation work would have on these trees.
2. Any roots exposed during these construction activities that are larger than 2 inches in diameter should not be cut or damaged until the project arborist has an opportunity to assess the impact that removing these roots could have on the trees.
3. A certified arborist should supervise any excavation activities within the tree protection zone of these trees.
4. Biaxial Geo-grid can be used to successful minimize the thickness of the base material and compaction that is required for typical driveway construction.
5. Interlocking permeable pavers or permeable concrete should be used to allow water to reach the roots below the driveway surface.

Utility Installation:

All new utilities should be routed along the edge of the driveway that is farthest from trees. Any roots exposed during these construction activities that are larger than 2 inches in diameter should be cleanly cut at the edge of the excavation trench and covered with burlap and kept moist until the roots can be covered again with soil. Typically wetting the burlap in the morning and the end of the workday is sufficient.

Tree #13 is a Magnolia tree (*Magnolia grandiflora* – see image to right) that is in Fair condition, but has an old post in its trunk. This tree is within the Building Envelope and will be removed.



Tree #11 is a Bald Cypress (*Taxodium distichum* – see image to right). This is a somewhat usual tree for this area. This tree is difficult to work with from an aesthetic perspective. This tree is not common in Atherton landscapes and it is an aesthetic that is difficult to match. This tree should be pruned and shaped this winter.



The same driveway removal and surface replacement recommendations apply for this tree as with trees eighteen (see above). The home will be demolished and rebuilt in approximately the same location as the current garage. The demolition and excavation of this area must be supervised by a Certified Arborist. Currently the distance from the trunk to the proposed construction is within Industry Standards, but supervision will insure Tree Protection.

Trees # 6-9 have a trash enclosure proposed for under their canopies. The wall will be built on piers and the grade surface of the trash enclosure will require minimal excavation. These improvements can be made without compromising the health of the trees, but all excavation work in this area should be supervised by a Certified Arborist.

Risks to Trees by Proposed Construction

The trees at this site could be at risk of damage by construction or construction procedures that are common to most construction sites. These procedures may include the dumping or the stockpiling of materials over root systems, may include the trenching across the root zones for utilities or for landscape irrigation, or may include construction traffic across the root system resulting in soil compaction and root die back.

It is therefore mandatory that Tree Protection Fencing be used as per the Architects drawings.

If any underground utilities would be constructed, it will be essential that the location of trenches be done outside the drip lines of trees except where already noted above.

General Tree Protection Plan

It is mandatory that protective fencing be provided during the construction period to protect those trees that are planned to be preserved. This fencing must protect a sufficient portion of the root zone to be effective. In most cases, it would be essential to locate the fencing a minimum radius distance of 6 times the trunk diameter in all directions from the trunk. There are areas where we will amend this distance based upon proposed construction. In my experience, the protective fencing must:

- a. Consist of chain link fencing and having a minimum height of 6 feet.
- b. Be mounted on steel posts driven approximately 2 feet into the soil.
- c. Fencing posts must be located a maximum of 10 feet on center.
- d. Protective fencing must be installed prior to the arrival of materials, vehicles, or equipment.
- e. Protective fencing must not be moved, even temporarily, and must remain in place until all construction is completed, unless approved by a certified arborist.

There must be no grading, trenching, or surface scraping inside the driplines of protected trees, unless specifically approved by a certified arborist.

Trenches for any underground utilities (gas, electricity, water, phone, TV cable, etc.) must be located outside the driplines of protected trees, unless approved by a certified arborist. Alternative methods of installation may be suggested.

Mulch should cover all bare soils with the tree protection fencing. This material must be 6-8 inches in depth after spreading, which must be done by hand. I prefer coarse wood chips because it is organic, and degrades naturally over time.

Loose soil and mulch must not be allowed to slide down slope to cover the root zones or the root collars of protected trees.

Materials must not be stored, stockpiled, dumped, or buried inside the driplines of protected trees.

Excavated soil must not be piled or dumped, even temporarily, inside the driplines of protected trees.

Any pruning must be done by a Company with an arborist certified by the ISA (International Society of Arboriculture) and according to ISA, Western Chapter Standards, 1998.

Landscape irrigation trenches must be a minimum distance of 10 times the trunk diameter from the trunks of protected trees unless otherwise noted and approved by the Arborist.

The sprinkler irrigation must not be designed to strike the trunks of trees, especially oak trees.

Landscape materials (cobblestones, decorative bark, stones, fencing, etc.) must not be installed directly in contact with the bark of trees because of the risk of serious disease infection.

The plants that are planted inside the driplines of oak trees must be of species that are compatible with the environmental and cultural requirements of oak trees. A publication

about plants compatible with California native oaks can be obtained from the California Oak Foundation, 1212 Broadway, Suite 810, Oakland, CA 94612.

Respectfully,

A handwritten signature in black ink, appearing to read "mike P. Young". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Michael P. Young