

CITY OF COTATI  
MINUTES for the Regular Meeting of the Planning Commission

DATE OF MEETING: September 15, 2008  
TIME OF MEETING: 7:00 p.m.  
PLACE OF MEETING: Cotati City Hall, City Council Chambers  
201 West Sierra Avenue, Cotati, CA 94931

I. CALL TO ORDER

Chair Rock called the meeting to order at 7:00 p.m.

II. ROLL CALL

Commissioners Present: Kurvers, Pagnusat, Rock, and Coleman-Senghor  
Commissioners Absent: Hardy  
Staff Present: Kavanaugh-Lynch, Harris, Pajon

III. APPROVAL OF MINUTES

A. For the Regular Meeting on July 21, 2008

It was moved by Commissioner Kurvers to approve the minutes of July 21, 2008, seconded by Commissioner Pagnusat.

Yes: 4          Noes: 0          Abstain: 0          Absent: 1 (Hardy)

IV. CHANGES TO THE AGENDA

None

V. ORAL AND WRITTEN COMMUNICATIONS

There were no oral or written communications.

The PUBLIC HEARING was opened for comment at 7:02 p.m.

The PUBLIC HEARING was closed without comment.

VI. MATTERS AT HAND

- A. Request for Preliminary Design Review for a facade modification in conjunction with a Use Permit for an animal hospital at 331 East Cotati Avenue. This application is categorically exempt from CEQA in accordance with section 15301, Existing Facilities.

PA# 12/08  
APNs 144-281-027, -028

Applicant: Hinkle/Animal Hospital of Cotati

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Assistant Planner Harris presented the staff report for a request for a Design Review approval for a façade modification in conjunction with a Use Permit for an animal hospital at 331 East Cotati Avenue.

She explained the details of the project along with Conditions of Approval, two of which were recommended by the Design Review Committee. She stated a correction on Condition #7, which should actually read 4,815 square feet. She stated that potential impacts from this project have been mitigated through Conditions of Approval or through project design and staff recommends approval of the project with Conditions of Approval through Resolution PC 08-17.

In response to Commissioner Coleman-Senghor's question about property ownership and the non-conforming facade, Assistant Planner Harris explained that the property was currently in escrow and she cited Section 17.82.020(c) to define expansion of the non-conforming structure.

Commissioner Coleman-Senghor asked about the sidewalk in the front of the building and why there was no mention of the two trees that may be removed, yet protection of the existing roots was mentioned. He recommended installing trees that would not lift up the sidewalk.

Assistant Planner Harris said that it was staff's recommendation to install root barriers to prevent the roots from pushing up the new sidewalk.

In response to Commissioner Coleman-Senghor's question about the responsibility to maintain the streets if the roots were to cause damage, Assistant Planner Harris stated that maintenance is the City's responsibility.

Chair Rock requested clarification on the noise complaint Condition of Approval contained in the staff report.

Acting Community Development Director Kavanaugh-Lynch explained the intent of this item was to provide an option for how to deal with the legitimate noise complaints, if received.

Chair Rock asked about the width requirements were for the sidewalks around the building.

Acting Community Development Director Kavanaugh-Lynch explained the two types of sidewalks (path of travel vs. non path of travel) and ADA requirements. She stated that anything used as ingress or egress has a predetermined width, which she believes in 42", in compliance with ADA requirements.

Chair Rock said that he didn't feel that 42" was wide enough for a wheelchair and a person to walk by on the ramp and he wanted to make sure that this was addressed.

Acting Community Development Director Kavanaugh-Lynch stated that she would confirm this information with the Chief Building Official. She also advised the Planning Commission that they have the ability to increase the size if a wider ramp was warranted as long as it meets the minimum standards required by Title 24 of the California Building Code.

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In response to Chair Rock's inquiry about the new trash enclosure, Assistant Planner Harris stated that the location has not yet been identified.

Discussion ensued between Chair Rock and staff about the Crape Myrtle trees that were identified to replace the two trees to be removed.

Chair Rock explained that the existing trees provide more shade whereas the Crape Myrtles don't get very big. He suggested a Flowering Pear tree, which is a similar size without the potential root damage. He expressed the importance to shade the parking lot and didn't feel that the Crape Myrtles would be able to do that. He also asked about the hedge along the driveway, which was in poor shape.

Assistant Planner Harris said that there was no proposal at this time to install a fence or modify it in anyway. The applicant did indicate that he was going to perform some needed landscaping.

Chair Rock asked about the pump house at the site location and asked what the City standard was on the property having a well.

Assistant Planner Harris explained that the site was currently connected to the City and the well provides irrigation for the landscaping. She said there was nothing in the code that required the applicant to abandon it.

Chair Rock asked if the City had the right to tell the applicant what to plant if they provide their own water for landscaping.

Acting Community Development Director Kavanaugh-Lynch said that the City could tell them what to plant as part of the Development and Land Use Code. She explained that staff has a fair amount of authority on what acceptable landscaping is within the City of Cotati and historically staff emphasizes drought tolerant and native species.

Open Public Comment 7:21 p.m.

Applicant Carlton Hinkle, co-owner of the Animal Hospital of Cotati, gave an overview of the project with specific details. He stated that they have tried to meet the limitations of the intent and the interpretation of the building design review. He expressed concern for the trees in the front as well, explaining that with 14 trees on the property they would like to take a couple out and not replace them to allow visibility to the building. He stated the Design Review Committee suggested looking for another type of Sonoma County native tree that would meet those requirements.

Chair Rock asked about the rail for the ramp and stated that the picture didn't indicate there was a railing.

Mr. Hinkle said that there was a railing for the ramp. He also explained that they were looking at making a change with the design, which was a suggestion from the Design Review Committee. He explained the change for the ramp which would allow easier access.

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In response to Chair Rock's question about sustainable building, Assistant Planner Harris stated that the applicant has to comply with the remodeling checklist and that there was no minimum point range.

Mr. Hinkle said that they have started working with their green consultant and he has given suggestions which they will be incorporating into the project. He also responded to Chair Rock's inquiry about the hedges, stating that they intend to clean up all of the landscaping to make it appealing.

Chair Rock asked about the fence along one side and if it would be an area that they would be keeping some of the dogs.

Mr. Hinkle stated that there would be no dogs kept outside the facility and that they would be replacing the fences.

Commissioner Coleman-Senghor suggested pushing the dog section out toward the street and the cat section out toward the back, which he thought would help make a sound barrier.

Mr. Hinkle stated that they have designed the layout of the building with the dog boarding at the front of the building and don't expect any noise issues.

In response to Chair Rock's question about the lot merger, Applicant Hinkle explained that one of the buildings is located on one lot and the other building has the entire lot around it, and they are connected by a roof. They are trying to complete the building under the roof in both the front and the back due to the facade requirements.

Public Comment Closed 7:31

Commissioner Coleman-Senghor recommended removing the noise condition.

Commissioner Kurvers agreed and said that he felt it was an unreasonable condition.

Chair Rock asked about the rules and procedures for a noise complaint.

Acting Community Development Director Kavanaugh-Lynch explained the two types of noises, sudden and sustained, in the municipal code. She said that Use Permits can be revisited if there were a code enforcement issue.

Commissioner Coleman-Senghor recommended looking at the sidewalk area and agreed that the type of tree should be reviewed. He would like to see the removal of the trees that are causing the problems. He stated that the owner shouldn't have to replace the trees because this was not a request that the owner was making.

Commissioner Kurvers agreed that the noise condition should be deleted and that it was not an appropriate condition.

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Commissioner Kurvers recommended that language be added into the burglary alarm condition which would include the system be approved by the Chief of Police. In response to Commissioner Coleman-Senghor, he explained that with the current budget situation he wasn't sure that the City could expend the money at this time to install trees.

Commissioner Coleman-Senghor clarified his comment and said that the applicant would replace the sidewalk, remove the trees and replace them at his expense.

Commissioner Kurvers said that he doesn't think that it is fair for the applicant to have to pay since we want the trees removed.

Public Comment open at 7:38 p.m.

Applicant Hinkle explained that the two trees in the center have the most significant issues, one of which has the entire sidewalk pushed up and is a liability concern. He suggested a compromise where two of the trees could be completely taken out that have root issues, which could be replaced with a couple of other trees that are not substantial. He said that there is a pretty good chance that one of the trees will be killed when pulling the sidewalk out. He said that the arborist explained that they would try to save them but it would be difficult and suggested a compromise to remove the two trees in the middle, which would give the business some visibility from the street and also fix a major issue where the tree is growing under the street currently.

Commissioner Coleman-Senghor stated that he wasn't suggesting all the trees be removed; he would like to see a bridging effect as the new trees grow.

Applicant Hinkle stated that he shared Commissioner Coleman-Senghor's concern with replacing the sidewalk, putting the root barrier down and then 3 years later having the sidewalk come up again.

Closed to Public at 7:41 p.m.

Commissioner Kurvers agrees with a compromise and said that it would not only make it more visible for the applicant's business but it would also create greater visibility for the Police Department. The facility has drugs on site and greater visibility would create better public safety.

Commissioner Coleman-Senghor suggested having an arborist make a decision as to what is tenable or not and, on that basis, have a discussion with the owner and staff to look at the trees that can be taken out and a strategy for replacement.

Commissioner Kurvers asked Commissioner Coleman-Senghor his thoughts about exempting the applicant from tree replacement since pulling the trees out in the front area is aiding the City.

Commissioner Coleman-Senghor said that this was what he was proposing. He discussed removing the trees where there was the greatest amount of damage based on an arborist recommendation.

Chair Rock asked Acting Community Development Director Kavanaugh-Lynch if a condition could be added that would recommend having the Design Review Committee work with the applicant and

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recommend a solution for the two trees out front. He agreed that one or two of the trees should be removed, but wants to make sure that it is done in the most efficient manner. He explained that the trees give a lot of shade in the summer and lose their leaves in the winter to allow the sun to come in. He is concerned and doesn't want to lose something that is already there. He said that they are a valuable asset and if only one tree is removed he wants to make sure that something is replanted there, somewhere else on the property, or in lieu monies deposited.

Acting Community Development Director Kavanaugh-Lynch stated that staff did not notice a tree removal permit as part of this discussion. Replacement of the trees on site is a possibility but the site is already very heavily planted. If replacement of the trees is not recommended, the City could take in lieu fees. Staff could complete the tree removal permit process with the understanding that staff will work with the arborist and the City Engineer to make sure everyone is following the Planning Commissions wishes on street tree removal and replacement.

Commissioner Kurvers stated that as far as he is concerned the two trees in the back can be removed because he feels that it would benefit everyone, but he would like to make sure the area is covered accordingly.

Commissioner Coleman-Senghor stated his concern about the applicants cost to modify the facade and now possibly removing the trees. He questioned why the applicant would pay an in lieu fee when the removal is in the general good.

Acting Community Development Director Kavanaugh-Lynch explained that staff has no authority to waive the collection of fees for the City of Cotati, which requires approval by Council. She said that she would be glad to prepare a fee waiver if a motion were to be made. She stated that staff has promised the citizens of Cotati through the Land Use Code that they would be notified of certain items before they occur, one of which is a notification process for the removal of trees, therefore notification would still need to occur.

Commissioner Coleman-Senghor would like to move to have staff request to City Council that the fees be waived.

Acting Community Development Director Kavanaugh-Lynch advised Commissioner Coleman-Senghor that the Planning Commission is the body of decision for a Use Permit; therefore the fee waiver would be a separate action.

In response to Commissioner Kurver's question about the fees, Assistant Planner Harris explained the applicable fees for tree removal permits.

Commissioner Coleman-Senghor stated that he did not intend to stop a project, but that the City should help businesses as it encourages businesses to locate here.

Commission Pagnusat stated that it wasn't that he didn't support the concept but the City has ordinances in place that state the rules. The Planning Commission is not a governing body and all that can be done is a recommendation to Council.

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Commissioner Coleman-Senghor stated that his understanding, which is why he is asking the Planning Commission to recommend the fee waiver in this spirit to City Council.

Open Public Hearing at 7:50 a.m.

Applicant Hinkle expressed his concern over the possibility that trees in the back of the property would have to be replaced if they were removed. He explained that they were removing them to allow entry and handicap access.

Acting Community Development Director Kavanaugh-Lynch confirmed that there were enough trees in the back area and they could put the monies into an in lieu fee account.

Applicant Hinkle said that they could cut down several of the trees where the ramp is located in the back and not replace them.

Chair Rock expressed the importance of having coverage in the parking lot. He explained that when trees are eliminated you could be creating some other problems. It is important to have trees in the parking lot because of the vehicle emissions.

Closed Public Hearing at 7:53 p.m.

Chair Rock stated that removal of the trees in the front will benefit the applicant because of the signage and that it wasn't his fault that the trees were planted. Unless the arborist report says something differently, if you cut the roots the tree will die. If the roots go out and affect the street, then it will be the responsibility of the City. He stated that all the applicant is being asked to do is replace the sidewalk, which is typical. He stated his concerns about supporting tree removal just to help the applicant.

Commissioner Coleman-Senghor said that it wasn't just about two trees; he was concerned about the whole row of trees and what they do to the sidewalk. He spoke about SSU and the replacement of trees because the students were tripping and it became a risk management issue. He explained that he is a tree advocate but knows that those trees are not the right trees for that street, and he would like to meet the applicant half way and help him out.

Chair Rock didn't think that it was in the best interest of the community to remove the trees and thought that if the sidewalk gets replaced and is level again, then there is no risk of liability.

Commissioner Coleman-Senghor stated that he will withdraw this request as long as Chair Rock would guarantee him and the Planning Commission that in another three years the sidewalk wouldn't be worse off than it is now.

Chair Rock suggested having the arborist and the landscape architect look at this issue and if they felt that the trees needed to come out then he would support it.

In response to Commissioner Pagnusat's question on the responsibility of the sidewalk, Assistant Planner Harris explained that it was a public right away and that the property owner that is immediately adjacent to the sidewalk is responsible for it.

Acting Community Development Director Kavanaugh-Lynch responded to Commissioner Pagnusat's question of liability by stating that she believed that the City as well as the property owner could be liable. She asked the Planning Commission for clarification on the condition discussed and said that she has heard different options and would like clarification for this Condition of Approval.

Chair Rock stated that they are still trying to work this condition out.

Commissioner Kurvers said that everyone seemed to be in agreement to remove Condition #13 regarding noise complaints and modifying Condition #16, adding language that the burglary alarm would need to be an approved system by the Chief of Police.

Commissioner Pagnusat said that he is uncomfortable with making a decision on the trees and would like to leave it up to an arborist.

Acting Community Development Director Kavanaugh-Lynch stated that the applicant would provide an arborist report that specifies what trees would not survive if their main trunk roots are cut.

Commissioner Coleman-Senghor said that there was language that was being left out. He explained that it wasn't only the question of the survival of the trees but the issue of the condition of the sidewalk in another 10 years. The applicant must deal with the risk issue and would like to remove the liability factor from the City as well as the applicant. He would like to put it forward that the arborist will take a look at it and advise whether or not the trees will survive and whether or not the trees will continue to represent a hazard with respect to pushing up the sidewalk. Another thing that needs to be considered is the cost of repair to the applicant. He stated that he would like to see this addressed.

Chair Rock asked about the root barriers and wanted confirmation that this was used to stop the roots from going in the sidewalk.

Acting Community Development Director Kavanaugh-Lynch stated that although root barriers were a standard practice they were not fool proof and she would feel more comfortable relying on experts for this information.

Chair Rock asked about the different types of root barriers available.

Acting Community Development Director Kavanaugh-Lynch responded to Chair Rock's and said that there were different types of root barriers or growth inhibitors that could be used, but explained that this was beyond her expertise. Stopping roots from growing is a common problem and Plane trees are a very common street tree having a root issue. She stated that Plane trees line E. Cotati Avenue and suggested the Commission needs to look at the possibly setting a precedent.

Chair Rock stated that he is happy with the root barrier and with the arborist analyzing whether or not the trees will live.

Commissioner Pagnusat asked the Planning Commission what question they would pose to the arborist.

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Chair Rock suggested asking the arborist if removing the roots to install the sidewalk would kill the trees. If the arborists determine that it would kill the trees, then he would support removal.

Commissioner Pagnusat said that if they took the trees out they would have the question of replacement or in lieu fees, which is already a part of the process and would not require the Planning Commission.

Commissioner Coleman-Senghor reiterated his concern about the existing trees possibly damaging the new sidewalk. He would like to see the arborist answer the question of whether the trees can be saved and whether or not the root barrier will keep them from coming up through the sidewalk. This would benefit the applicant as well as the City.

Commissioner Kurvers asked what would happen if the arborist said that the roots would push up the sidewalk again.

The Planning Commission discussed the potential impacts further.

Commissioner Coleman-Senghor stated that the Planning Commission knows his position on this issue.

Commissioner Kurvers moved to adopt PC Resolution 08-17 with the two indicated changes to the Conditions of Approval, #13 and #16.

Acting Community Development Director Kavanaugh-Lynch requested clarification from Chair Rock about the Condition of Approval for the arborist report.

Chair Rock stated that the applicants will advise if the trees can be saved.

Commissioner Kurvers confirmed that the trees in the planter strip would be evaluated.

Acting Community Development Director Kavanaugh-Lynch confirmed that the criteria for the arborist report would be the survival of the trees.

Chair Rock agreed that the arborists report would evaluate survival of the trees.

Commissioner Coleman-Senghor asked if tree survival was the only criteria.

Chair Rock said yes.

Commissioner Coleman-Senghor said that he has two issues: the survival of the trees and whether or not these roots are going to continue to push up the sidewalk. He would like the arborist to look at those issues, bring back the finding and have it reviewed by Design Review Committee, bypass the Planning Commission, and then send it to the City Council for its recommendation. Then the applicant would not be charged and the project could go forward.

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Acting Community Development Director Kavanaugh-Lynch clarified that tree removal permits and Use Permits do not go to the City Council. She said that the entitlement could be granted tonight as the Planning Commission has the motion before them on the floor. She explained the waiver of fees, stating that staff would have to charge the applicant the tree removal fees and if the City Council decides to waive the fees, the City would refund the monies. She stated that the applicant had informed her that the escrow depends on a decision in the immediate future and she didn't want to delay the project.

Commissioner Pagnusat seconded the motion made by Commissioner Kurvers.

Commissioner Coleman-Senghor asked if the motion on the floor was dealing with the two items of the arborist's report and removal of the noise condition.

Acting Community Development Director Kavanaugh-Lynch included the change in the building's square footage that was noted earlier in the meeting.

Commissioner Coleman-Senghor requested that the issues of the arborist's report, the alarm system, and the noise complaints be separated.

Commissioner Kurvers stated that those issues are all included in one motion.

Acting Community Development Director Kavanaugh-Lynch confirmed that there was a motion on the floor and a second.

Chair Rock told Commissioner Coleman-Senghor that when the vote occurs, he could say that he is for or against each issue.

Discussion ensued on whether the motion should include the three issues.

Commissioner Coleman-Senghor said that he would like the motions to be separate so that he could vote on each one as he would like to support two of the three.

Commissioner Kurvers stated that he is not willing to change his motion.

Discussion ensued on handling a motion and a substitute motion.

Chair Rock asked if there was a second for the substitute motion.

No second was made on the substitute motion, so the vote returned to the original motion.

Acting Community Development Director Kavanaugh-Lynch stated that it was moved and seconded.

Motion: Commissioner Kurvers moved to adopt PC Resolution 08-17 with the two indicated changes to the Conditions to Approval, #13 and #16, and square footage correction, seconded by Commissioner Pagnusat.

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Yes: 3      Noes: 1 (Coleman-Senghor)      Absent: 1 (Hardy)      Abstain: 0

**REPORTS BY STAFF**

None

**REPORTS BY COMMISSION**

Commissioner Coleman-Senghor requested for the record that he would have extended the courtesy to the other Commissioners to have separated the issues. He wanted to show his support for the project, but because the issues were together he had to vote no and be on record as voting against the project. He wants to meet the applicants half way, especially when there is a risk factor involved.

Chair Rock explained that if there are issues on trees that are in the public right of way and the public wants the issue addressed, then the rules possibly need to be reviewed.

Commissioner Coleman-Senghor said that it seems that the flexibility of the tree ordinance is open to interpretation. He explained that the Planning Commissioners role was to come to an interpretation individually and find a middle ground that speaks to this issue. He said that there is a problem on that street and that the problem is that the City is experiencing trees which were approved in the past and now they carry the burden for removing those trees. He stated that it is unfair and a failure by our staff, our Planning Commission and our City governments to place an object in the way whether it is today or tomorrow and turn around and say to the people who want to use that land, you correct it. He wants to come halfway and he thought that if they were looking at a policy and if someone wants to come in and put in a big building and it's convenient for them, make them put in four trees when they want to remove one, but when this is a consequence of City decision making, he wants to meet those applicants half way, especially when there is a risk liability involved. He stated that he has tripped on that sidewalk. He doesn't want that burden to be passed on and said that this won't be the first applicant to come to the Planning Commission under those kinds of circumstances.

Chair Rock asked about the redwood tree in front of the coffee shop downtown, which is being removed by the City for very similar reasons. He suggested that maybe the City look at all of the sidewalks and report on that.

Commissioner Pagnusat asked about the provision in the Land Use Code that was used for the removal of that particular tree.

Acting Community Development Director Kavanaugh-Lynch stated that the redwood tree in front of Cotati Coffee was being removed for a number of reasons, including the sidewalk, the driveway, and the public walk area. She said that someone with any visual impairment could easily trip because it not ADA compliant.

Commissioner Coleman-Senghor explained that this was the point that he was trying to make and that he didn't want elderly people using the lifted sidewalk.

Commissioner Pagnusat said that the City Council made that decision with no guiding documents.

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Acting Community Development Director Kavanaugh-Lynch stated that removing the redwood was not a City Council decision. She explained that the City Engineer advised the Community Development Department stating that it was a high risk situation for Cotati with a trip and fall issue where someone could actually fall into the driveway.

Commissioner Pagnusat asked how the Planning Commission was supposed to make decisions like that based on the Land Use Code.

Acting Community Development Director Kavanaugh-Lynch responded to Commissioner Pagnusat's question by explaining that if the Planning Commission were to ask the City Council what types of street trees were to be planted in the future, a recommended tree could one that has a root system that is known to go down instead of out. Also, root locations have to do with soil conditions and watering of the trees. These are proactive suggestions that would address concerns when trees along the right of way are discussed. If the Planning Commission were looking retroactively and looking at the City to remove the trees that are buckling the sidewalk, that would be a different issue. She advised that the Planning Commission is well within their right to bring up any policy to the City Council.

Commissioner Pagnusat explained that although budget issues and cost to the applicants are always in their minds, the Planning Commission is not guided by them.

Commissioner Coleman-Senghor said that he didn't mind the applicant having to take down the trees but thought that the City should do its share.

Commissioner Coleman-Senghor added that he thought the Commission should look at the trees lifting the sidewalk on East Cotati Avenue. He stated he thought the Planning Commission or the City needs to review past placement of trees and was concerned of who bares the burden. He wanted to look at it in an orderly way.

Commissioner Pagnusat said that we can look forward and learn from our mistakes, but asked how you would go back.

Commissioner Coleman-Senghor stated that going back and removing all those trees is not an option, but designs and any burdens that result from design should be looked at.

In response to Commissioner Pagnusat's statement that staff was not able to go down every sidewalk to look at which sidewalks are buckling, Commissioner Coleman-Senghor stated that it could be done if there was sufficient money, but there is not. He suggested that as applicants come forward in the future, whoever is using the land shall be responsible. He said that he has fought against tenants making improvements with Use Permits. He suggests the Planning Commission make a recommendation to ask staff to develop a policy which will ultimately protect the City. He requested that staff should contact Lea Johnson, owner of Cotati Coffee, with an update on tree removal and stated that the City initiated the tree removal, not the business owner.

Acting Community Development Director Kavanaugh-Lynch explained to the Planning Commission that the tree was posted on 5 different occasions as an action by the City of Cotati, and all inquiries had been responded to by staff.

Commissioner Coleman-Senghor asked that we move forward with the removal of the tree. He also recommended doing an article in the Community Voice to communicate the schedule for the removal of the tree.

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Acting Community Development Director Kavanaugh-Lynch said that she would bring this forward to the City Manager.

Meeting Adjourned at 9:25 p.m.

End

*Submitted By:*

*Keri L. Pajon*

*Secretary*