TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT

MEETING DATE: 11/12/2026

ITEM NO: 2

DATE: November 6, 2026

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider an Appeal of a Community Development Director Decision to Approve a Large Protected Tree Removal on Property Zoned R-1:10. **Located at 16401 Kennedy Road**. APN 532-15-036. Tree Removal Permit T25-148. Categorically Exempt Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15303: New Construction, and Section 15304: Minor Alterations to Land. Property Owners: Mazen Louis. Applicant: West Valley Arborists, Inc. Appellant: Amr Abdelrazik. Project Planner: Ryan Safty.

RECOMMENDATION:

Deny the appeal of a Community Development Director decision to approve a large protected tree removal on property zoned R-1:10, located at 16401 Kennedy Road.

PROJECT DATA:

General Plan Designation:	Low Density Residential
Zoning Designation:	R-1:10 (Single Family Residential, 10,000-square foot minimum)
Applicable Plans & Standards:	General Plan, Zoning Regulations
Parcel Size:	10,607 square feet

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:10
South	Residential	Hillside Residential	HR-1
East	Residential	Low Density Residential	R-1:10
West	Residential	Low Density Residential	R-1:10

PREPARED BY: Ryan Safty
Associate Planner

Reviewed by: Planning, Manager, Community Development Director, and Town Attorney

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction, and 15304: Minor Alterations to Land.

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction, and Section 15304: Minor Alterations to Land.
- The required findings for removal of a large protected tree can be made, pursuant to Town Code Section 29.10.0992.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the north side of Kennedy Road approximately 250 feet east of Olde Drive (Exhibit 1). On October 14, 2024, an Architecture and Site application was submitted for the construction of a new single-family residence and accessory dwelling unit (ADU) on the subject, vacant property. As a part of the standard Architecture and Site application process, an arborist report was created by the Town's Consulting Arborist (Exhibit 4). According to the report, several trees on the property would be highly impacted by the proposed new residence construction. One of these trees, Tree 668, is a coast live oak adjacent to the front corner of the proposed attached garage that is considered a large protected tree pursuant to Town Code.

Following three rounds of review, the property owner decided to withdraw the Architecture and Site application and instead proceed with a Senate Bill (SB) 9 Two-Unit Housing Development permit (TUD). TUD25-003 was approved on May 22, 2025. SB 9 permits are not required to provide an arborist report and instead are required to note on the plans that the building permit will comply with all relevant Tree Protection Ordinance requirements. However, since one was previously provided for the Architecture and Site application and since the proposed footprint did not change when converting to a TUD application, the owner was able to use the report in Exhibit 4 for their building permit submittal. Although findings for removal could have been made to remove Tree 668 at time of building permit issuance, it was the owner's intention to save this tree, so instead they opted to use hand-excavation in the area around the tree.

Building permits have since been issued, and the property is currently under construction. On September 29, 2026, the owner applied to amend the previous tree removal permit (T25-0148) to include Tree 668 (Exhibit 5). Included with the request to amend the previous permit was an updated arborist report from West Valley Arborists Inc., dated September 19, 2026 (Exhibit 6). The report notes, in addition to the "high" expected impact noted in the previous report, that the majority of this tree's critical root structure has been significantly compromised, and will continue to be compromised with the rest of the proposed work. The roots now have limited anchorage, which poses a significant failure and safety risk, and the sudden loss of nutrients and moisture uptake will essentially starve the tree. Additionally, the report notes that the tree has a significant lean and a multi-trunk structure, further leading to a high likelihood of failure.

On October 1, 2026, the Town Arborist reviewed the application materials, visited the site, and found that Finding 4 from Town Code Section 29.10.0992 could be made for the removal of this large protected tree. Finding 4 states the following: The retention of the tree restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly situated properties, and the applicant has demonstrated to the satisfaction of the Director or deciding body that there are no reasonable alternatives to preserve this tree.

On October 8, 2026, Notice of Pending Issuance of Large Protected Tree Removal Permit letters were mailed out to surrounding neighbors (Exhibit 7). Pursuant to Town Code Section 29.10.0994 (4), the notice described the requested tree removal and provided neighbors with 10 days to contact the Town with any concerns or problems.

On October 13, 2026, two neighbors emailed Town staff regarding concerns over the proposed tree removal permit (Exhibit 8). Pursuant to Town Code Section 29.10.0994 (6), since an objection was filed and a mutually acceptable resolution could not be agreed upon, the neighbors were provided an additional five days to file a formal appeal.

On October 19, 2026, the decision was appealed to the Planning Commission by a neighbor, Amr Abdelrazik, who resides east of the subject property at 130 Clover Way (Exhibit 9). In their appeal, the neighbor sites concerns related to privacy and aesthetic benefits of the tree.

Pursuant to Town Code Section 29.20.265, the hearing for the appeal must be set for the first regular meeting of the Planning Commission more than five days after the date of filing the appeal. The hearing date of November 12, 2026, meets these requirements. The Planning Commission may hear the matter anew and render a new decision on the matter.

DISCUSSION:

A. Appeal Analysis

The neighbor at 130 Clover Way has appealed the Director's approval for the removal of a large protected tree associated with permit T25-148 at 16401 Kennedy Road. The appeal

materials in Exhibit 9 notes that this tree provides privacy coverage both between their two properties and from Kennedy Road; the appellants enjoy the canopy; and that multiple large oak trees have already been removed from the property. The appeal materials include pictures taken from the appellant's property, showing the tree in question.

Following the appeal, the property owner of 16401 Kennedy Road provided a response letter, outlining their reasons for the request and responses to the appellant's points (Exhibit 10). The letter notes that the Town's Consulting Arborist previously recommended removal due to the proposed work; that they chose to try and keep it; that West Valley Arborists have reviewed the health of the tree again and determined it should be removed; and that the proposed Indian Laurel replacement trees would do more to provide privacy with the neighbor than the existing tree due to the height of canopy above grade. Condition of Approval 3 in Exhibit 3 mandates the species and location of these trees along the shared property line with 130 Clover Way.

Staff will note that unlike with a standard discretionary application, no comments can be made on the proposed design or location of the SB 9 Two-Unit Housing Development that was previously approved and is currently under construction. Instead, the review of the appeal should be based solely on whether the required findings for removal from Town Code Section 29.10.0992 can be made based on the existing condition of Tree 668:

1. The tree is dead, severely diseased, decayed, or disfigured to such an extent that the tree is unable to recover or return to a healthy and structurally sound condition.
2. The tree has a tree risk rating of Extreme or High on the ISA Tree Risk Rating Matrix as set forth in the ISA Tree Risk Assessment Best Management Practices, or successor publication.
3. The tree is crowding other protected trees to the extent that removal or severe pruning is necessary to ensure the long-term viability of adjacent and more significant trees.
4. The retention of the tree restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly situated properties, and the applicant has demonstrated to the satisfaction of the Director or deciding body that there are no reasonable alternatives to preserve the tree.
5. The tree has, or will imminently, interfere with utility services where such interference cannot be controlled or remedied through reasonable modification, relocation, or repair of the utility service or the pruning of the root or branch structure of the tree; or where removal or pruning is required by a public utility to comply with California Public Utility Commission (CPUC) or Federal Energy Regulatory Commission (FERC) rules or regulations.
6. The tree has caused or may imminently cause significant damage to an existing structure that cannot be controlled or remedied through reasonable modification of the root or branch structure of the tree.

7. Except for properties within the hillsides, the retention of the protected tree would result in reduction of the otherwise-permissible building envelope by more than twenty-five (25) percent.
8. The removal of the tree is unavoidable due to restricted access to the property.
9. The removal of the tree is necessary to repair a geologic hazard.
10. The removal of the tree and replacement with a more appropriate tree species will enhance the Town's urban forest.
11. The removal of the tree is necessary to conform with the implementation and maintenance of Defensible Space per Chapter 9 - Fire Prevention and Protection per direction by the Fire Chief or his/her designee.

The Town Arborist used Finding 4 for the removal of this tree. It appears that Finding 1 would also be applicable if the Commission chooses.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 300 feet of the subject property. At the time of this report's preparation, the Town has not received any public comment beyond what was received in Exhibit 8, prior to receiving the appeal.

ENVIRONMENTAL REVIEW:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction, and Section 15304: Minor Alterations to Land. The permit is for the removal of a large protected tree associated with the construction of a new residential dwelling unit.

CONCLUSION:

A. Summary

A neighbor has appealed the Town's decision to approve a large protected tree at 16401 Kennedy Road due to concerns related to privacy and screening (Exhibit 9).

B. Recommendation

For the reasons stated in this report, it is recommended that the Planning Commission deny the appeal of the Director's decision approving removal of a large protected tree at 16401 Kennedy Road, by taking the following actions:

1. Make the finding that the proposed project is Categorically Exempt, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction, and Section 15304: Minor Alterations to Land (Exhibit 2);

2. Make one of the findings as required by Section 29.10.0992 of the Town Code for approval of a tree removal permit; and
3. Approve removal of Tree 668, amending Tree Removal Permit T25-0148 with the conditions contained in Exhibit 3.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Grant the appeal and deny the Tree Removal Permit application for Tree 668; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Location Map
2. Required Findings
3. Recommended Conditions of Approval
4. Consulting Arborist Report, dated December 3, 2024
5. Amended Tree Removal Permit T25-148
6. West Valley Arborist Report, dated September 19, 2026
7. Notice of Pending Approval, dated October 8, 2026
8. Neighbor Comments, received October 13, 2026
9. Appeal of the Director of Community Development, received October 16, 2026
10. Owner Response to Appeal, dated October 22, 2026