



MEMORANDUM

Community Services Department

DATE: November 13, 2019

TO: Urban Forestry Board

FROM: Jakob Trconic, Forestry and Roadway Manager

SUBJECT: Heritage Tree Appeal – 1859 Elsie Avenue

RECOMMENDATION

Deny the appeal and allow removal of the *Platanus acerifolia* (London plane tree).

BACKGROUND

Article II, Protection of the Urban Forest, Sections 32.22 through 32.38 of the Mountain View City Code, was established to preserve large trees (Heritage trees) within the City of Mountain View, which are growing on private or public lands. The preservation program contributes to the welfare and aesthetics of the community and retains the great historical and environmental value of these trees. The Parks and Open Space Manager, under the authority granted in the Code to the Community Services Director, has been designated as the enforcement agent in this matter. Under the Code, there are specific criteria for removal of a Heritage tree. The determination on each application is based upon a minimum of one of the following conditions.

1. The condition of the tree (with respect to age of the tree relative to the life span of that particular species), disease, infestation, general health, damage, public nuisance, danger of falling, proximity to existing or proposed structures, and interference with utility services.
2. The necessity of the removal of the Heritage tree in order to construct improvements and/or allow reasonable and conforming use of the property when compared to other similarly situated properties.
3. The nature and qualities of the tree as a Heritage tree, including its maturity, its aesthetic qualities such as its canopy, its shape and structure, its majestic stature, and its visual impact on the neighborhood.

4. Good forestry practices, including, but not limited to, the number of healthy trees a given parcel of land will support, the planned removal of any tree nearing the end of its life cycle, and the replacement of young trees to enhance the overall health of the urban forest.
5. Balancing criteria: In addition to the criteria referenced above which may support removal, the decision-maker shall also balance the request for removal against the following which may support or mitigate against removal:
 - a. The topography of land and effect of the requested removal on erosion, soil retention, water retention, and diversion or increased flow of surface waters.
 - b. The effect of the requested removal on the remaining number, species, size, and location of existing trees on the site and in the area.
 - c. The effect of the requested removal with regard to shade, noise buffers, protection from wind damage and air pollution, and the effect upon the historic value, scenic beauty, health, safety, prosperity, and general welfare of the area and the City as a whole.

The decision-maker shall consider additional criteria, if applicable, in weighing the decision to remove a Heritage tree, with the emphasis on the intent to preserve Heritage trees.

Also within the Code, Section 32.31, an appeals process has been included that states:

“Any person aggrieved or affected by a decision on a requested removal...may appeal the decision by filing a written notice of appeal with the city clerk stating the grounds for the appeal, and paying the requisite appeal fee, as established by council resolution, within ten (10) calendar days after the notice of the decision is posted or mailed.”

HERITAGE TREE REMOVAL REQUEST

An application submitted by Sam Szteinbaum to remove a Heritage-sized *Platanus acerifolia* (London plane tree) was received on April 8, 2019. The criteria for removal listed in the comment section was house remodeling, and new parking would be impacted by the location. “The tree does not allow proper access to garage. We have a camper and need straight backing access.” A decision to approve the removal of the tree based on conforming use was posted on May 17, 2019.

An appeal was filed by Hazel Cheilik with signatures from six additional neighbors. The appeal letter states, in part: “Mountain View is distinguished by its beautiful tree-lined avenues, which makes it a healthy and enjoyable place to live. Mountain View wisely adopted a heritage tree ordinance to preserve this precious communal resource. Our neighbor at 1859 Elsie Avenue complains that the tree prevents him from parking his mobile home in the driveway. He can easily place his driveway on the other side of his property where the tree would not prevent his parking arrangements for his mobile home. The idea that he could be permitted to cut down this magnificent tree in order to more conveniently park his trailer makes a mockery of our heritage tree ordinance. It is precisely in order to prevent such wanton acts of destruction that the ordinance was created. Cutting down any of the trees would reduce ambience and our sense of community as well as property values for all residents on the street. We urge you to help preserve the wonderful ambience of this neighborhood by denying his thoughtless request to cut down this tree.”

ANALYSIS

When evaluating Heritage Tree Removal Applications, staff looks to see if the reason(s) for removal on the application match what is observed in the field. The application stated a desire to use the conforming use section to allow the owner to have a straight driveway for ease of backing in a trailer into the garage space. When the owner submitted his application, he had plans for a new home that was going to utilize the existing garage slab. The original plan set showed an angled approach for the first section of driveway as it currently exists and showing the tree remaining on the plan set submitted and approved. The owner then submitted a Heritage tree removal application to see if it would be possible to remove the tree and straighten his driveway. After reviewing the plan and observing the tree in the field, staff asked about redesigning the layout to place the garage on the opposite side of the house to allow the tree to remain. The owner stated that was going to take a substantial additional investment that the owner had not budgeted and would have added substantially to the project cost.

The tree in question is a *Platanus acerifolia* (London plane tree). It is believed to have resulted from a cross between the Oriental plane tree and the American sycamore. While the exact details of the tree’s origin have been lost over time, it was discovered that this hybrid could tolerate the smoke and grime of London. As a result, it has been widely distributed to cities throughout the moderate climate regions of the world for nearly 400 years. The *Platanus acerifolia* (London plane tree) grows fast to be 40’ to 80’ tall with a 30’ to 40’ spread and tolerates many soil types. Trees in urban settings would be expected to live 100 to 150 years. Staff estimates this tree to be around 45’ tall and approximately 70 years old. The tree has good structure and branch spacing with no major defects. The canopy is full and healthy.

Staff had a conversation with the homeowner in the field to discuss the tree and its value to the neighborhood. The homeowner was adamant about wanting to have a straight driveway so he could back his camper into the garage. He stated that he was willing to put in a new tree on the opposite side of the driveway. Staff tried to convey the magnitude of the requested removal and that Mountain View residents valued their neighborhood trees. A replacement tree would not replace the value of the lost tree. Staff mentioned that if we used conforming use as the reason for the removal, it would likely generate an appeal and the decision would very likely be overturned. Staff has the authority to tell the homeowner he must allow the tree to remain, but knowing the circumstances behind the request, staff felt it would be good for the homeowner to hear it from the neighbors since he felt not allowing the removal was unreasonable.

Upon receipt of the appeal, staff called the homeowner to review the conversation about the likely appeal and the likely outcome and to mention that several neighbors had signed it. Staff offered that he may want to withdraw his application now that he was more aware of the neighbors' opinions on retaining the tree. After the conversation, the owner stated he wished to proceed so his case could be heard.

SUMMARY

Staff is of the opinion that the tree is a healthy tree with good structure. Staff was hoping the owner would change the design based on the original conversation about the tree and circumstances. Knowing the implication of the angled driveway approach, the long-term relationship the owner may have with the tree, and the owner's desire and opinion of the circumstances of the location of the tree, staff felt the Heritage tree appeal process would allow the owner to be heard and have a decision made on the tree.

JT/6/CSD
221-11-13-19M

Attachment: 1. Appeal Packet

cc: F/c