



**MEMORANDUM**

Community Services Department

**DATE:** November 3, 2021

**TO:** Urban Forestry Board

**FROM:** Jakob Trconic, Forestry and Roadway Manager  
John R. Marchant, Community Services Director

**SUBJECT:** Heritage Tree Appeal – 1610 Yale Drive

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**RECOMMENDATION**

Adopt a Resolution of the Urban Forestry Board of the City of Mountain View to Deny the Appeal, Uphold Staff's Decision, and Allow Removal of One Heritage Tree at 1610 Yale Drive, to be read in title only, further reading waived (Attachment 1 to the UFB memorandum).

**BACKGROUND**

Article II, Protection of the Urban Forest, Sections 32.22 through 32.39, of the Mountain View City Code (MVCC or Code) was established to preserve large trees (Heritage trees) within the City of Mountain View. The preservation program contributes to the welfare and aesthetics of the community and retains the great historical and environmental value of these trees. The Code requires a permit to be obtained prior to removal of a Heritage tree, and City staff, under the authority granted in the Code to the Community Services Director, has been designated to review and approve, conditionally approve, or deny removal permit applications. Under the Code, there are specific criteria for the removal of a Heritage tree. The determination on each application is based upon a minimum of one of the conditions set forth in the Code.



MVCC Section 32.31 allows any person aggrieved or affected by a decision on a requested removal to appeal the decision by written notice within 10 calendar days after the notice of the decision is posted or mailed.

### **Previous Heritage Tree Request and Appeal**

An application to remove a *Pseudotsuga menziesii* tree, commonly known as and herein referred to as, Douglas fir, was submitted by the homeowner Austin Brizgys on October 20, 2020 (Attachment 2). The homeowner checked the box relating to the condition of the tree as the reason for removal and noted “severe limb failure 2’ x 1’ diameter branches broke, missed house by 1’, smashed seating area. Hazard to kids and family.”

Douglas fir is an evergreen conifer species in the pine family. It is native to western North America with a maximum height of 40’ to 70’ and life expectancy of 80 to 120 years. Staff estimates the subject tree to be around 60’ tall and 60 years old.

A decision to deny the Heritage tree removal was posted on November 3, 2020, citing the required findings for removal could not be met, including the tree is in good health and a pattern of branch failure had not been met (Attachment 3).

An appeal was filed by the homeowner on November 10, 2020 and included photos (Attachment 4).

On January 13, 2021, the appeal was presented to the Urban Forestry Board (“Board”) for consideration. The appellants (homeowners) described a recent limb failure involving two branches that broke and fell in their front yard. The branches landed on a patio table and chairs in close proximity to the housing structure. They expressed concern for the safety of their home and children. Staff provided a report and presentation outlining the reasons for denying removal of the tree, including the tree’s overall good health and that a pattern of branch failure—despite the two recent failures—had not been established. Staff explained that all trees can lose branches and only a pattern or frequent failures would meet the criteria for removal. The Board upheld staff’s decision and denied the appeal request to remove the tree.

### **Current Heritage Tree Removal Request**

On April 7, 2021, the homeowner submitted a new application for removal of the same Heritage tree, stating it was required for a 600 square foot addition to the front of their home (Attachment 5). City Code Section 32.31 allows for review of a new removal application for the same Heritage tree within two years of a denial if the Community Services Director or Community Development Director finds that there has been a material change in circumstances.

Forestry staff conferred with Community Development staff and reached the conclusion that the application for removal did constitute a material change in circumstance. After thorough examination and discussions, a decision to approve the removal of the Heritage tree based on staff's assessment of removal criteria was posted on May 25, 2021 (Attachment 6).

An appeal was filed on June 4, 2021 by two residents expressing concern for the loss of a Heritage tree due to the proposed construction and addition (Attachment 7).




### **STAFF'S EVALUATION**

The home on 1610 Yale Drive was built in 1954. It is an approximately 1,240 square foot home on a 6,269 square foot lot. The homeowners state that they do not have enough bedrooms for their family's needs and would like to construct a two-bedroom addition to the front of the home. Backyards are relatively small in this neighborhood. An addition to the back of the home would reduce the amount of private outdoor space. An addition to the front of the home would minimize the amount of interior wall changes that would need to occur.

The analysis and decision to remove a Heritage tree for the construction of improvements must be based on whether the proposed improvements are a reasonable and conforming use of the property when compared to other similarly situated properties as referenced in City Code Section 32.35.

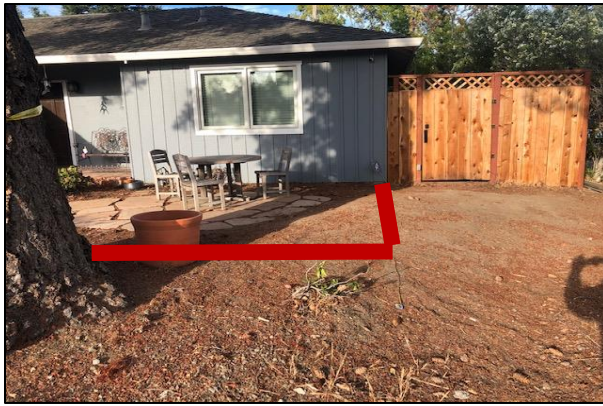
The homeowners are not interested in adding a second story to the home and state that it would be cost-prohibitive. Of the 49 houses in the one-block radius, only five homes have a second story and 14 homes have similar size and configured additions as the homeowners are proposing.



-  First-floor front yard addition or similar configuration (14 out of 49)
-  First-floor front yard addition or similar configuration and two stories
-  Two-story home (5 out of 49)

The red line in the photo below depicts the approximate location of the wall once the addition is constructed. The eave and gutter would hang out past this line another 18” to 20”. Given the proximity of the wall to the tree after construction, and the need for eaves and a gutter, it does not appear that alternative construction (such as post and beam construction) would be a viable option. For those reasons, staff considers the proposed improvements reasonable and conforming use of the property when compared to other similarly situated properties.

Because removal of the tree is needed for the proposed addition, staff suggested that the homeowners wait to submit a building permit for the proposed addition pending the outcome of the Heritage tree removal application and subsequent appeal.



## CONCLUSION

Staff recommends allowing removal of the tree based on conforming use to allow the homeowners to construct an addition to the home. Staff does not believe alternative construction techniques are viable given the proximity of the tree to the new proposed structure and that removal of the tree is recommended in the context of reasonable and conforming use. Staff's recommendation includes a condition that the tree will not be authorized for removal until a building permit has been issued. If the Board upholds staff's decision, it requests that along with the aforementioned condition, the agreement that staff and the homeowners have made to mitigate the tree with the installation of two 24" box trees to be located 5' back from the edge of the sidewalk at the homeowner's expense. The trees would be selected from the medium- or large-scale street tree lists with an emphasis on native species with moderate water needs and locations approved by Forestry staff. The homeowners will own the street trees and be responsible for watering, feeding, and providing general care.

The Board must consider the Heritage tree appeal and must support its decision with written findings. Staff has provided a draft resolution with findings upholding staff's decision to allow removal of the Heritage tree. If the Board overturns staff's decision

and denies removal of the Heritage tree, staff recommends the Board make their findings orally and staff will include the findings and decision in this meeting's written minutes.

JT-JRM/AF/8/CSD

224-11-03-21M

- Attachments:
1. Resolution
  2. HT Application for Removal 2020
  3. HT Appeal 2020
  4. HT Posting 2020
  5. HT Application for Removal 2021
  6. HT Appeal 2021
  7. HT Posting 2021

cc: F/c