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File #: 22-0891, Version: 1

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### **REPORT TO PLANNING COMMISSION**

#### **SUBJECT**

**Proposed Project:** Appeal of a decision by the Director of Community Development denying a Tree Removal Permit to consider removal of a protected tree (Deodar Cedar) in the front yard with an arborist report.

**Location:** 1571 Heron Avenue (APN: 309-33-020)

**File #:** 2022-7258

**Zoning:** R-0

**Applicant / Owner:** Monster Tree Service of West Valley / Sunil and Shilpa Mannikar

**Environmental Review:** A Class 4 Categorical Exemption relieves this project from California Quality Act provisions and City Guidelines.

**Project Planner:** Drew Taplin, (408) 730-7407, dtaplin@sunnyvale.ca.gov

#### **REPORT IN BRIEF**

**General Plan:** Residential Low-Density

**Existing Site Conditions:** Single-Family Home

#### **Surrounding Land Uses**

**North:** Single-Family Home

**South:** Single-Family Home

**East:** Single-Family Home

**West:** Single-Family Home

**Issues:** Tree location and personal health

**Staff Recommendation:** Deny the appeal and uphold the decision of the Director of Community Development to deny the Tree Removal Permit for the front yard Deodar Cedar tree.

#### **BACKGROUND**

##### **Description of Proposed Project**

A Tree Removal Permit (TRP) application (2022-7258) was filed by Monster Tree Service of West Valley on April 26, 2022 on behalf of the property owners. The application requested permission to remove two protected trees in the front yard of the property; one 20-inch diameter Mexican Fan Palm and one 29-inch diameter Deodar Cedar. On May 10, 2022 the Planning Division approved the removal of the Mexican Fan Palm only. Removal of the Deodar Cedar was denied. The applicants appealed the decision on May 24, 2022 and are requesting that the Planning Commission grant the appeal and approve the removal of the Deodar Cedar as well.

See Attachment 1 for a map of the vicinity and mailing area for notices and Attachment 5 for photos of the site and tree.

### **Previous Actions on the Site**

The TRP application was filed separately after a Design Review application (2022-7160) for an addition of floor area to the front of the residence at the subject site was approved on April 21, 2022. The Design Review plans did not propose the removal of the Deodar Cedar tree in conjunction with the addition and included a tree protection plan. The addition does not impact the viability of the Cedar tree if appropriate protection measures are implemented during construction. The approved site plan with tree protection is shown in Attachment 7.

### **EXISTING POLICY**

**General Plan Goals and Policies:** The following are key goals and policies from the Land Use and Transportation Chapter of the General Plan which pertain to the proposed project:

Policy LT-2.3 Recognize the value of protected trees and heritage landmark trees (as defined in City ordinances) to the legacy, character, and livability of the community by expanding the designation and protection of large signature and native trees on private property and in City parks.

### **ENVIRONMENTAL REVIEW**

A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 4 Categorical Exemptions include alterations in the condition of land and/or vegetation, such as removal of trees.

### **DISCUSSION**

#### **Present Site Conditions**

The existing site is developed as a single-family home, with the protected Deodar Cedar tree in the front yard along with a smaller citrus tree and shrubs. Protected trees are trees that have a circumference of 38 inches (12 inches in diameter) or greater, as measured 4.5 feet from the ground. The Deodar Cedar tree is 29 inches in diameter.

#### **Applicant's Appeal**

The applicants submitted a TRP application on April 26, 2022, including an arborist's report which states that the Deodar Cedar tree is in overall good condition but has exposed root flares and that roots have begun to lift surrounding concrete. The stated purpose of the tree removal was to better use available space in the front yard. Approval was granted to remove the Mexican Fan Palm. The Deodar Cedar was required to be preserved as required findings justifying the removal could not be made. The palm tree has since been removed.

On May 24, 2022, the applicants submitted a request for appeal relying on two primary reasons. First, the applicant claims that the roots of the Deodar Cedar have damaged walkways and will conflict with future plans for a wheelchair ramp. Second, tree pollen will get inside the added living area and the owners claim that they have developed an allergy.

#### **Staff Discussion**

Sunnyvale Municipal Code Chapter 19.94.060 requires that at least one of the following findings be made to remove a protected tree:

1. The tree is diseased or damaged.
2. The tree represents a potential hazard to people, structures, or other trees.

3. The tree is in sound condition but restricts the owner's or adjoining owner's ability to enjoy the reasonable use or economic potential of the property.

Planning staff and the City Arborist have each visited the property and are not able to make any of the findings for the Deodar Cedar tree:

1. The tree is healthy and stable.
2. The tree is over 11 feet away from the approved addition and the rest of the home. Any potential risk to the front yard ramp can be mitigated with root barriers.
3. The tree does not conflict with the owner's ability to enjoy the property. Instead, the tree is an asset to the property and the neighborhood.

Therefore, staff recommends that the Planning Commission uphold the decision to deny removal of the Deodar Cedar tree.

### **FISCAL IMPACT**

No fiscal impacts other than normal fees and taxes are expected.

### **PUBLIC CONTACT**

Notice of Public Hearing

- 63 notices mailed to property owners and residents within 300 feet of the project site.

Staff Report

- Posted on the City's website.

Agenda

- Posted on the City's official notice bulletin board.
- Posted on the City's website.

Public Contact: Staff has not received any correspondence or phone calls from neighbors at the time of writing of this report.

### **ALTERNATIVES**

1. Deny the appeal and uphold the decision of the Director of Community Development to deny the Tree Removal Permit for the Cedar tree.
2. Grant the appeal and approve the Tree Removal Permit for the Cedar tree, subject to the Conditions in Attachment 3.
3. Grant the appeal and approve the Tree Removal Permit for the Cedar tree, with modified Conditions.

### **STAFF RECOMMENDATION**

Alternative 1: Deny the appeal and uphold the decision of the Director of Community Development to deny the Tree Removal Permit for the Cedar tree.

Prepared by: Drew Taplin, Associate Planner  
Approved by: Noren Caliva-Lepe, Principal Planner

**ATTACHMENTS**

1. Site, Vicinity, and Public Notice Mailing Map
2. Recommended Findings
3. Recommended Conditions of Approval (if appeal is granted)
4. Appeal Letter
5. Photos of the Tree (July 6, 2022)
6. Arborist Report submitted by the Applicant
7. Approved Site Plan with Addition