

**FINDINGS OF FACT and FINAL ORDER
TYPE I REVIEW**

DATE: February 3, 2020

FILE NO.: 20-004 TREE

PROJECT NAME: Idleman Park Lot 6 Tree Removal

APPLICANT: Chris Ketcham

OWNER: Vanport Manufacturing

ADDRESS: 39255 Hood Street

PROPOSAL: Remove one (1) dead Douglas fir retention tree in compliance with requirements of Section 17.102, Urban Forestry and restrictive covenant relating to tree protection for the Idleman Park subdivision.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application
- B. Site Plan
- C. Professional Forester Report (Chris Ketcham)

Submitted by the City of Sandy

- D. Restrictive covenant relating to tree protection in the Idleman Park Subdivision (Clackamas County Document No. 2016-027619)
- E. Picture of Dead Tree

FINDINGS OF FACT:

1. The goals and policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.
2. The site has a Plan Map designation of High Density Residential, and a Zoning Map designation of R-3, High Density Residential.
3. Section 17.102, Urban Forestry, applies to properties within the Sandy Urban Growth Boundary that are greater than one acre in area (including contiguous parcels under the same ownership).

4. The subject property is less than one acre (approximately 0.18 acres); however, the tree proposed for removal is a required retention tree per a restrictive covenant relating to tree protection for the Idleman Park Subdivision (Exhibit D). The requirement for retention of the tree occurred during the platting of the Idleman Park Subdivision in 2015 (File No. 15-002 SUB/VAR). Therefore, the proposal must be processed as a land use application to determine compliance with provisions for removal of the required retention tree.
5. The applicant proposes to remove one (1) Douglas fir tree located towards the middle of the lot on the west side.
6. The Douglas fir proposed for removal is identified as a required retention tree (Tree # 113 or 114 – it's difficult to trace the label on the map) in the recorded tree covenant. The restrictive covenant relating to tree protection (Exhibit D) states: "Removal of tree(s) shown on Exhibit A is not permitted without first receiving approval from the City of Sandy. A request to remove these trees shall be accompanied by a report from a certified arborist and shall only be permitted due to health of the tree and or similar conditions." The applicant submitted a Professional Forester Report by Chris Ketcham, a forester with Vanport Manufacturing (Exhibit C) that identifies the tree as a dead Douglas fir snag approximately 20-inches DBH and 100 feet tall. The report states, "The tree has been dead for two years. One year ago, the top of the tree blew off, narrowly missing the neighbor's house to the east. The tree appears to have died from having dirt piled on top of the roots from previous excavation work. The snag continues to pose a risk to the neighbor's property which lies approximately 50 feet from the snag. The snag also has a slight lean toward the neighbor's property. As such I would recommend reducing the height of the snag to 20-30 feet." Staff visited the site and confirmed the tree is dead and the top has already been broken off (Exhibit E).
7. Per Section 17.102.60, removal of protected trees requires replanting at a 2 to 1 ratio. Thus, the removal of one (1) required retention tree requires planting of two (2) mitigation trees. **The applicant shall replace the removed Douglas fir tree at a ratio of 2 mitigation trees for every 1 tree removed.** The subject site is approximately 0.18 acres and is zoned for high density residential. The Site Plan (Exhibit B) details the proposed location of two (2) mitigation Douglas firs that will be planted. The mitigation Douglas firs are proposed to be planted in the southwest quadrant of the lot. However, it appears that the proposed location could interfere with future buildings on the site. **The applicant shall update the site plan detailing the mitigation trees at the rear of the property, at least 15 feet away from the allowed building footprint. Alternatively, the applicant may choose to pay a mitigation tree fee-in-lieu of \$500 per tree to relocate the trees off-site.** The fee-in-lieu of mitigation trees will be used by the City to plant native trees on City-owned property, within a conservation easement, or on a similar tract of land within the same watershed that will remain as protected natural area. This fee also includes a three-year establishment period, including watering weekly during the summer months for the first three years and any needed structural pruning, disease control, or replacement of the trees. **The applicant shall plant the required mitigation trees or submit the fee-in-lieu of planting by March 15, 2020.**
8. The applicant previously applied for additional tree removal from the subject subdivision (File No. 16-016 TREE) after the original subdivision application (File No. 15-002

SUB/VAR). The applicant was required to revise the original tree protection covenant specifying protection of retained trees and limiting removal without submittal of an Arborist's Report and City approval to reflect the removal of the 22 trees requested to be removed as part of File No. 16-016 TREE. The revised document was required to include a sketch identifying the location of the 53 protected trees and was required to be recorded as an addendum to the original tree protection covenant prior to acceptance of a building permit on Lots 4-6. With this application (File No. 20-004 TREE), the tree protection covenant will need to be further revised to reflect removal of one (1) additional tree. **The applicant shall record an update to the tree protection covenant specifying protection of retained trees and limiting removal without submittal of an Arborist's Report and City approval. The revised document shall include a sketch identifying the location of the 52 remaining protected trees and shall be recorded as an addendum to the original tree protection covenant prior to acceptance of a building permit on Lots 4-6. Future tree removal on the subject properties (Idleman Park) requires additional permit approvals.** Prior to obtaining City approval for tree removal from the subject property in the future, **the applicant shall also be required to pay a third-party arborist review fee for any trees proposed for removal from the property in the future.**

9. To help maximize the health and survival of the mitigation trees in the future, **the applicant shall not anchor anything to the mitigation trees, compact the soil under the dripline, or otherwise harm or damage the mitigation trees. The mitigation trees shall be planted per the City of Sandy standard planting detail. All ties and burlap shall be removed from the root ball prior to planting. If the burlap cannot be completely removed from the root ball without compromising the integrity of the root ball, the burlap shall be removed from at least the top one third of the side of the root ball. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stake and the twine shall be removed after the first growing season but no later than one year from being planted. The mitigation trees shall be adequately watered during the first three dry seasons (summers).**
10. Section 17.102.60 also specifies that all areas with exposed soils resulting from tree removal be replanted. The subject property is currently vacant. Per the submitted forester report (Exhibit C), the applicant will be leaving a 20-30 foot snag; thus, there should not be any exposed soil resulting from the removal of the tree. **The applicant shall reduce the snag in a way that does not harm or damage adjacent trees.**
11. If the tree is removed during prime nesting season (February 1- July 31), **the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant shall delay tree removal until after the nesting season or shall hire a professional to relocate the nests to an appropriate nearby location, provided the species using the nest is not invasive.**

DECISION:

The application for removal of one (1) required Douglas fir retention tree is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

- A. The tree removed shall be limited to the one (1) Douglas fir tree identified as Tree #113 or 114 on the Idleman Park Subdivision tree protection covenant (Clackamas County document # 2016-027619).**
- B. The applicant shall record an update to the tree protection covenant specifying protection of retained trees and limiting removal without submittal of an Arborist's Report and City approval. The revised document shall include a sketch identifying the location of the 52 remaining protected trees and shall be recorded as an addendum to the original tree protection covenant prior to acceptance of a building permit on Lots 4-6.**
- C. The applicant shall replace the removed Douglas fir tree at a ratio of 2 mitigation trees for every 1 tree removed. The applicant shall update the site plan detailing the mitigation trees at the rear of the property, at least 15 feet away from the allowed building footprint. Alternatively, the applicant may choose to pay a mitigation tree fee-in-lieu of \$500 per tree to relocate the trees off-site. The applicant shall plant the required mitigation trees or submit the fee-in-lieu of planting by March 15, 2020.**

D. General Conditions of Approval

1. The applicant shall reduce the snag in a way that does not harm or damage adjacent trees.
2. The applicant shall not anchor anything to the mitigation trees, compact the soil under the dripline, or otherwise harm or damage the mitigation trees. The mitigation trees shall be planted per the City of Sandy standard planting detail. All ties and burlap shall be removed from the root ball prior to planting. If the burlap cannot be completely removed from the root ball without compromising the integrity of the root ball, the burlap shall be removed from at least the top one third of the side of the root ball. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stake and the twine shall be removed after the first growing season but no later than one year from being planted. The mitigation trees shall be adequately watered during the first three dry seasons (summers).
3. If the tree is removed during prime nesting season (February 1- July 31), the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant shall delay tree removal until after the nesting season or shall hire a professional to relocate the nests to an appropriate nearby location, provided the species using the nest is not invasive.
4. Future tree removal from the subject property shall require additional permit approvals and if a permit is not obtained prior to removal of a tree, this violation may be subject to a fine per occurrence as specified in Section 17.06.80. Prior to obtaining City approval for tree removal from the subject property in the future, the applicant shall also be required to

pay a third-party arborist review fee for any trees proposed for removal from the property in the future.

5. Successors-in-interest of the applicant shall comply with requirements of this final order. In the event the applicant should sell or lease the property upon which the condition contained in this document apply, the sale or lease will be subject to the restrictions and conditions described herein. The conditions shall run with the land and are binding on applicant's heirs, personal representatives, successors and assigns.
6. Activity within the right-of-way (e.g. staging, etc.) requires a separate right-of-way permit through the Public Works Department.

Emily Meharg
Senior Planner

Date

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within twelve (12) days of notice of the decision. The notice of appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and
5. Payment of required filing fees.