

**FINDINGS OF FACT and FINAL ORDER  
TYPE I TREE REMOVAL DECISION**

**DATE:** July 7, 2020

**FILE NO.:** 20-14 TREE

**PROJECT NAME:** OTSD Industrial Way Tree Removal

**OWNER:** Oregon Trail School District #46

**APPLICANT:** Ruthardt Properties (Kyle Ruthardt)

**LEGAL DESCRIPTION:** T2S R4E Section 14, Tax Lot 1121

**DECISION:** Approved subject to conditions of approval.

This request was processed as a Type I Tree Removal. The following Findings of Fact are adopted supporting approval of the plan in accordance with Chapter 17 of the Sandy Municipal Code.

**EXHIBITS:**

**Applicant's Submittals**

- A. Land Use Application
- B. Arborist Report (May 27, 2020)
- C. Replanting Plan

**Supplemental Documents Provided By Staff**

- D. Final Order from File No. 19-036 DR/VAR/TREE Bull Run Electric

**FINDINGS OF FACT**

**General**

1. These findings are based on the applicant's submittal received on April 30, 2020 and additional information received on May 28, 2020. The application was deemed complete on June 18, 2020 and the 120-day deadline is October 16, 2020.
2. The parcel has a Comprehensive Plan Map designation of Industrial and a Zoning Map designation of I-2, Light Industrial.

3. Ruthardt Properties previously submitted an application to construct a new industrial building at 36409 Industrial Way (File No. 19-036 DR/VAR/TREE), which was approved with conditions on February 5, 2020.
4. Following approval of File No. 19-036 DR/VAR/TREE, the applicant submitted the current application requesting removal of additional trees from the adjacent property to the east of 36409 Industrial Way (the subject property in this application) in order to accommodate the proposed building and associated site improvements. The subject property (tax lot 1121) is owned by the Oregon Trail School District #46 (OTSD), who co-signed the land use application (Exhibit A).
5. 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.
6. OTSD owns two contiguous parcels (tax lots 1121 and 1122), which total approximately 2 acres; therefore, the proposal must be processed to determine compliance with Section 17.102, Urban Forestry.
7. Section 17.102.20 (A) states: “no person shall cut, harvest or remove trees 11 inches DBH or greater without first obtaining a permit and demonstrating compliance with this chapter.” Section 17.102.80 specifies that violations of this section are subject to enforcement procedures contained in Chapter 17.06, specifically Section 17.06.80. This section specifies that each violation of the code is considered a separate offense punishable by a fine.
8. The applicant proposes to remove two (2) trees from the OTSD property (tax lot 1121) to accommodate paving on the Ruthardt Properties parcel (tax lot 1120). The two trees proposed for removal are a 21-inch DBH Douglas fir in good condition and fair structure (Tree #10479) and an 11-inch DBH pacific madrone in good condition and good structure (Tree #10498). Both trees are located in close proximity to the property line between the subject property (tax lot 1121) and the Ruthardt Properties parcel to the west (tax lot 1120). Neither tree is located in the 30-foot tree preservation buffer at the north end of the property along Highway 26. The arborist report states that the trunk of Tree #10479 is “less than three feet from the property line. Construction of the proposed pavement cross section will cause significant damage to the tree’s structural roots. This tree should be removed due to impacts to its health and structural stability for the required construction.” The arborist report states that Tree #10498 is “also less than three feet from the property line and the grading for the pavement construction will impact its root system. Madrone root systems are highly sensitive to construction impacts and often decline and/or die following impacts. This tree should be removed due to health impacts from construction.”
9. Section 17.102.30 (A) details the procedures and application requirements for Type I tree removal permits. The proposal is considered a Type I permit because fewer than 50 trees

will be removed and the site will meet the minimum retention standards. The applicant submitted a tree removal application in compliance with Section 17.102.30 (B).

10. Section 17.102.50 (A) details tree retention and protection requirements. Section 17.102.50 (A.1.) states: “At least three trees 11 inches DBH or greater are to be retained for every one-acre of contiguous ownership.” Section 17.102.50 (A.3.) states: “Trees proposed for retention shall be healthy and likely to grow to maturity.” Section 17.102.50 (A.4.) states: “If possible, at least two of the required trees per acre must be of conifer species.” The applicant submitted an arborist report by Todd Prager of Teragan & Associates (Exhibit B) detailing the location, species, size, and condition of trees 11-inches DBH or greater along the shared property line. The contiguous OTSD properties total approximately 2 acres and thus require retention of at least six (6) healthy trees 11-inches or greater DBH. With removal of the two trees, the site will continue to retain at least three trees per acre that are 11-inches DBH or greater and in good health. The arborist report identified the following six (6) retention trees:

- Tree #10480: a 22-inch DBH Douglas fir in good condition
- Tree #10481: a 19-inch DBH Douglas fir in good condition
- Tree #10486: a 13-inch DBH Douglas fir in good condition
- Tree #10489: a 13-inch DBH bigleaf maple in good condition
- Tree #10492: an 18-inch DBH bigleaf maple in good condition
- Tree #10503: a 19-inch DBH Douglas fir in good condition

11. The arborist report states that a total of 19 trees along the OTSD property line can be retained and protected with tree protection fencing along the property line as shown in the Replanting Plan (Exhibit C); this includes the six (6) retention trees identified above. **The applicant shall install tree protection fencing at the shared property line between tax lots 1120 and 1121 per the Replanting Plan (Exhibit C). The tree protection fencing shall be 6 feet tall no-jump horse fencing or chain link fencing supported with metal posts placed no farther than ten feet apart installed flush with the initial undisturbed grade. The applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches) to the protection fencing indicating that the area behind the fence is a tree protection area and that the fence shall not be removed or relocated.**

12. Per the arborist report (Exhibit B), **the applicant shall retain an arborist on site to oversee the construction of the pavement cross section adjacent to Tree #10486 to minimize root impacts and/or oversee the proper pruning of roots that are over 2-inches in diameter.**

13. **The applicant shall record a tree protection covenant that details the location of the tree preservation buffer as well as identifies the location, species, and condition of the six (6) trees identified for retention in the arborist report (Exhibit B). The covenant shall state that no tree shall be removed without first obtaining approval from the City of Sandy pursuant to Sandy Development Code Chapter 17.102, or any Successor chapters or ordinances thereto, and a determination by a qualified**

**professional that the tree is diseased, dead, dying, or otherwise hazardous to persons or property in a way that can only be remediated by complete removal of the tree.**

14. The applicant's submittal does not specify a tree protection plan for other nearby trees that will not be removed. **The applicant shall have the removed trees felled such that they do not negatively impact adjacent trees. If a felled tree damages an adjacent tree, the applicant may be subject to a fine.**
15. Section 17.102.60(A) requires that all areas with exposed soils resulting from tree removal shall be replanted with a native groundcover within 30 days. The applicant submitted an arborist report (Exhibit B) and Replanting Plan (Exhibit C) that state that Trees #10479 and 10498 will be replaced with two (2) native 5-6-foot tall Douglas firs. In addition, the arborist report states that disturbed soil areas may be required to be replanted and recommends the Sunmark Woodlands Mix, which is a native groundcover seed mix. **The applicant shall plant the two (2) Douglas fir replacement trees in the approximate locations shown in the Replanting Plan (Exhibit C) and shall replant any disturbed soil areas with a native seed mix such as Sunmark Woodlands Seed Mix.**
16. **The applicant shall maintain all replacement vegetation in good condition. Per Sections 17.92.10(L) and 17.92.60(B), maintenance shall include necessary watering, weeding, and pruning at intervals sufficient to assure survival and growth.**
17. If the trees are 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 is **approved** because the proposal complies with standards of Section 17.102, Urban Forestry.

## **CONDITIONS OF APPROVAL**

1. The trees removed shall be limited to the two (2) trees as indicated in the arborist report (Exhibit B) and tree replanting plan (Exhibit C): Trees #10479 and #10498.
2. The applicant shall have the removed trees felled such that they do not negatively impact adjacent trees. If a felled tree damages an adjacent tree, the applicant may be subject to a fine.
3. The applicant shall install tree protection fencing at the shared property line between tax lots 1120 and 1121 per the Replanting Plan (Exhibit C). The tree protection fencing shall be 6 feet tall no-jump horse fencing or chain link fencing supported with metal posts placed no

farther than ten feet apart installed flush with the initial undisturbed grade. The applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches) to the protection fencing indicating that the area behind the fence is a tree protection area and that the fence shall not be removed or relocated.

4. The applicant shall retain an arborist on site to oversee the construction of the pavement cross section adjacent to Tree #10486 to minimize root impacts and/or oversee the proper pruning of roots that are over 2-inches in diameter.
5. The applicant shall record a tree protection covenant that details the location of the tree preservation buffer as well as identifies the location, species, and condition of the six (6) trees identified for retention in the arborist report (Exhibit B). The covenant shall state that no tree shall be removed without first obtaining approval from the City of Sandy pursuant to Sandy Development Code Chapter 17.102, or any Successor chapters or ordinances thereto, and a determination by a qualified professional that the tree is diseased, dead, dying, or otherwise hazardous to persons or property in a way that can only be remediated by complete removal of the tree.
6. The applicant shall plant the two (2) Douglas fir replacement trees in the approximate locations shown in the Replanting Plan (Exhibit C) and shall replant any disturbed soil areas with a native seed mix such as Sunmark Woodlands Seed Mix
7. The applicant shall maintain all replacement vegetation in good condition. Per Sections 17.92.10(L) and 17.92.60(B), maintenance shall include necessary watering, weeding, and pruning at intervals sufficient to assure survival and growth.
8. If the trees are 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.
9. Future tree removal on 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.



07/07/2020

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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) calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, "Notice of Appeal", and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an 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.