

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

DATE: September 11, 2020

FILE NO.: 20-035 TREE

PROJECT NAME: 16320 Bluff Road Tree Removal

APPLICANT/OWNER: Mark and Laura Stager

ADDRESS: 16320 Bluff Road

LEGAL DESCRIPTION: T2S R4E Section 11DD, Tax Lot 2501

PROPOSAL: Remove nine (9) trees from the subject property outside of the FSH overlay.

DECISION: The applicant is authorized to remove nine (9) trees from tax lot 2501 as detailed in the submitted tree removal plan.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application Form
- B. Tree Removal Plan
- C. Arborist Report and Tree Inventory from File 19-039 FSH/TREE (Springwater Arboriculture LLC, Andrew Craig, ISA PN5927, TRAQ)
- D. Recorded Tree Covenant

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 subject lot has a Plan Map designation of LDR, Low Density Residential, and a Zoning Map designation of SFR, Single Family Residential.
3. The applicant previously requested approval to remove two trees within the Flood and Slope Hazard (FSH) Overlay District on the subject property (File No. 19-039 FSH/TREE); the request was approved with conditions. The trees approved for removal were a 25-inch diameter at breast height (DBH) Douglas fir (*Pseudotsuga menziesii*) in good condition (Doug fir #2 in the arborist report (Exhibit B)) and a 17-inch DBH western hemlock (*Tsuga heterophylla*) in good condition (western hemlock J in the arborist report (Exhibit B)). As a

condition of approval, the applicant planted four (4) mitigation trees in the FSH portion of the property and recorded a tree protection covenant that identified six (6) retention trees as well as the four (4) mitigation trees (Exhibit D).

4. With this application, the applicant is requesting to remove an additional nine (9) trees from the subject property in association with the demolition and replacement of an existing single family residence.
5. Chapter 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). The subject property is approximately 1.88 acres. The site contains greater than one acre, therefore, the proposal is also reviewed to determine compliance with Chapter 17.102.
6. 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 up to \$1,000.00.
7. The applicant is proposing to remove nine (9) trees from the subject property. The applicant submitted an updated tree removal plan (Exhibit B) detailing the species, size, and location of the proposed trees for removal. The following nine (9) trees are proposed for removal. All of the trees proposed for removal are located outside of the FSH overlay.
 - 25-inch DBH Douglas fir
 - 16-inch DBH Atlas cedar
 - 16-inch DBH western hemlock
 - 24-inch DBH grand fir
 - 9-inch DBH blue spruce
 - 10-inch DBH blue spruce
 - 14-inch DBH blue spruce
 - 11-inch DBH blue spruce
 - 15-inch DBH blue spruce
8. 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.” The 1.88-acre site must therefore retain a minimum of 6 trees at 11 inches or greater DBH.
9. The applicant submitted an arborist report (Exhibit C) for the subject property with File No. 19-039 FSH/TREE. The arborist report inventoried 84 trees on the subject property, including 28 western redcedars, 23 Douglas firs, 15 blue spruces, 12 bigleaf maples, 2 atlas cedars, 2 western hemlocks, 1 birch, and 1 grand fir. The arborist report states that all inventoried trees are in good condition. Two (2) trees were removed in association with File No. 19-039 FSH/TREE. The applicant submitted an updated tree removal plan (Exhibit B)

with this application reflecting the removal of the two (2) trees from the previous land use file and identifying the additional nine (9) trees proposed for removal with this application.

10. The arborist report identified the following six (6) trees for retention: 20-inch DBH Doug fir (Tree P), 24-inch DBH Doug fir (Tree R), 28-inch DBH bigleaf maple (Tree C), 13-inch DBH bigleaf maple (Tree 3), 20-inch bigleaf maple (Tree 4), and 17-inch DBH bigleaf maple (Tree 5). All retention trees are located within the FSH overlay. As a condition of approval for File No. 19-039 FSH/TREE, the applicant was required to record a tree protection covenant specifying protection of the four (4) mitigation trees and six (6) retention trees. The applicant recorded the tree protection covenant on August 13, 2020 (Exhibit D).
11. The applicant did not provide specific information regarding how the nine (9) trees proposed for removal with this application would be felled. **The applicant shall have the nine (9) trees felled such that they do not negatively impact the adjacent trees that are to be preserved. If a felled tree damages a healthy tree, the applicant may be subject to a fine.**
12. 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 did not indicate if stumps would be removed. **The applicant shall replace any disturbed understory or groundcover with native understory or groundcover species within 30 days.**
13. 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:

This tree removal application to remove nine (9) trees outside the FSH Overlay is hereby **approved** because the proposal complies with standards of Chapter 17.102, Urban Forestry, subject to conditions of approval.

CONDITIONS OF APPROVAL:

1. Tree removal shall be limited to a maximum of nine (9) trees as detailed on the submitted tree removal plan (Exhibit B).
2. The applicant shall have the nine (9) 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. 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.

4. The applicant shall replace any disturbed understory or groundcover with native understory or groundcover species within 30 days.
5. Future tree removal or native vegetation removal on the subject property requires additional permit approvals. The applicant shall apply for a separate Tree Removal Permit for any proposed tree removal in the future. The applicant shall apply for a separate FSH review permit for all additional/future vegetation removal requests within the FSH overlay. The applicant shall not remove any native vegetation within the FSH overlay district, with the exception of removal of up to two trees 6 inches DBH or greater per calendar year where approved by permit. A violation of the provisions set forth in Chapter 17.102, Urban Forestry, or Chapter 17.60, FSH, (e.g. tree removal or native vegetation removal without permit authorization) may result in a fine as specified in Section 17.06.80.
6. No land disturbing activity shall be conducted so as to cause slides of mud, soil, rock, vegetative material, or any other material to be pushed onto, deposited upon, or gravitated to the property of another, either public or private, as specified in Ordinance 2002-12.



Emily Meharg
Senior Planner

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.