

**FINDINGS OF FACT and FINAL ORDER  
TYPE II DECISION**

**DATE:** April 6, 2021

**FILE NO.:** 20-053 TREE/VAR

**PROJECT NAME:** 16600 362nd Drive Tree Removal and Variance

**OWNER/APPLICANT:** Michael Maiden

**LEGAL DESCRIPTION:** T2S R4E Section 14, Tax Lot 1116

This request was processed as a Type II Variance and Type I Tree Removal. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the conditions of approval.

**EXHIBITS:**

**Applicant's Submittals**

- A. Land Use Application
- B. Narrative
- C. Arborist Report (December 2, 2020)
- D. Tree Inventory
- E. Tree Plan and Cluster Detail (February 1, 2021)

**Supplemental Documents Provided By Staff**

- F. Plat 2329
- G. Site Photos

**FINDINGS OF FACT**

**General**

1. These findings are based on the applicant's submittal received on December 31, 2020 and additional information received on February 2, 2021 and February 10, 2021. The application was deemed complete on February 16, 2021 and the 120-day deadline is June 16, 2021.
2. The subject property is approximately 3.99 acres. The site is located south of Highway 26, east of 362nd Avenue, and north of Industrial Way.
3. The parcel has a Comprehensive Plan Map designation of Industrial and a Zoning Map designation of I-2, Light Industrial.

4. Michael Maiden submitted an application to remove nine (9) evergreen trees from 16600 362nd Drive. Three (3) of the trees are less than 11-inches diameter at breast height (DBH) and were removed prior to applying for this tree removal permit. The remaining six (6) trees are all 11-inches DBH or greater; 1 tree is in poor/fair condition, 4 trees are in fair condition, and 1 tree is in good condition. All of the trees are located in a tree preservation buffer and landscape management corridor along Highway 26. The tree preservation buffer is a 30 foot wide buffer strip for preservation, maintenance, and planting evergreen shrubs and other trees located on the north and west sides of the subject property as detailed in Plat 2329; the landscape management corridor is defined as “the required yards abutting Highway 26 within the C-2, I-I and I-2 zoning districts where the Development Code requires native conifer and deciduous landscaping, creating the appearance of a forested corridor; openings or breaks in the landscape corridor are minimized, allowing for transportation access and framed views into development sites.” Removal of trees from the protected tree preservation buffer/landscape management corridor requires a variance to Section 17.90.00(D.1), which lists “excessive tree removal and/or grading that may harm existing vegetation within a designated landscape conservation area” as an element incompatible with the Sandy Style.
5. Notification of the proposal was mailed to property owners within 300 feet of the subject property on February 17, 2021. No public comments were received.
6. The applicant previously applied to change the zoning designation for the subject property from Light Industrial (I-2) to Industrial Park (I-1) in 2014 (File No. 14-028 ZC). On August 5, 2020, the City Council issued a letter extending the deadline for the Eagle Park improvements required for the zone change to become effective per File No. 14-028 ZC to July 29, 2025.
7. The applicant’s narrative (Exhibit B) indicates they are proposing to restore the underground electric power line to the billboard along Highway 26. Modifications to the existing billboard would need to be processed through a separate sign permit application and the applicant would need to provide additional details to determine whether the existing billboard is non-conforming or not. **The applicant shall submit additional information regarding any proposed changes to the billboard sign, including lighting photometrics and lighting cut sheets. The applicant shall obtain a separate permit for modifications to the billboard sign.**

#### 17.50 – Light Industrial (I-2)

8. Section 17.50.30(C) requires all buildings that are visible from an arterial street or highway to be screened from view by a vegetative buffer. The property has an existing 30-foot-deep tree preservation buffer along the entirety of the Highway 26 and 362nd Drive frontages of the site (see plat, Exhibit F). Section 17.50.30(C) requires existing trees within the buffer to be preserved to the greatest extent practicable and new evergreen trees to be planted at a density that will create a visual screen within five years.

## 17.66 – Adjustments and Variances

9. The applicant is requesting a Type II Variance to Section 17.90.00(D.1) to remove the following five (5) healthy evergreen trees and one (1) evergreen tree in fair/poor condition from the 30-foot tree preservation buffer along the north side of the subject property:
  - Tree #39, a 15-inch western redcedar in fair/poor condition due to crown dieback from drought stress
  - Tree #40, an 11-inch DBH western redcedar in fair condition
  - Tree #41, a 12-inch DBH western redcedar in fair condition
  - Tree #42, a 22-inch DBH western redcedar in fair condition
  - Tree #43, a 22-inch DBH Douglas fir in good condition
  - Tree #48, a 12-inch DBH western redcedar in fair condition
10. Section 17.66.70 contains Type II and Type III Variance criteria.

Criteria A states, “The circumstances necessitating the variance are not of the applicant’s making.” The Arborist Report (Exhibit C), narrative (Exhibit B), and land use application (Exhibit A) indicate the applicant wants to grade the northeast corner of the lot. The Arborist Report elaborates that the applicant wants to grade the slope just north of the existing pavement in order to extend pavement out to the limit of the buildable footprint and that significant soil would need to be removed in a step cut back into the existing slope, which would reach into the established 30-foot tree preservation buffer and impact a total of nine (9) trees. The 30-foot tree preservation buffer is required by plat and is not allowed to be developed. Rather than excavating in the required 30-foot tree preservation buffer, the applicant could build a retaining wall at the 30-foot buffer line, similar to the adjacent property to the east (i.e., Bull Run Electric site). Thus, tree removal due to grading impacts within the 30-foot buffer would be of the applicant’s making and, therefore, cannot be approved through a Type II Variance process. **The applicant shall not grade or excavate within the 30-foot tree preservation buffer. The applicant shall update the Tree Plan to detail the tree protection fencing along the 30-foot tree preservation buffer line. If the applicant proceeds with the pavement extension project, the applicant shall submit updated details on the project including details on a retaining wall, if proposed.**

The Tree Inventory (Exhibit D) and Tree Plan Cluster Detail (Exhibit E) detail the 30-foot tree preservation buffer as well as the species, size (DBH), condition, and location of the existing trees, including the five healthy trees and one tree in fair/poor condition proposed for removal from the 30-foot-wide tree preservation buffer. The table below summarizes the following information for each of the six trees: Tree #, species, DBH, critical root zone (CRZ; at 1 foot per 1-inch DBH), minimum root protection zone (MRPZ; at 0.5 feet per 1-inch DBH), and approximate distance of tree from the 30-foot tree preservation buffer line per the submitted Tree Plan (Note: the Tree Plan specifically labeled the distance between Tree #43 and the 30-foot tree preservation buffer line as 12 feet; staff was able to calibrate the Tree Plan in Bluebeam software using the 12 foot measurement and measure the remaining distances.)

Tree #	Species	DBH (inches)	CRZ (feet)	MRPZ (feet)	Distance of Tree from 30-foot Buffer Line (feet)
39	Western redcedar	15	15	7.5	10
40	Western redcedar	11	11	5.5	9.5
41	Western redcedar	12	12	6	10.5
42	Western redcedar	22	22	11	9.75
43	Douglas fir	22	22	11	12
48	Western redcedar	12	12	6	12.75

Trees #39-43 all have critical root zones that extend beyond the boundary of the 30-foot-wide tree preservation buffer; however, the 30-foot tree preservation buffer is wide enough to protect Trees #39, 40, 41, 43, and 48 since all of their minimum root protection zones are within the 30-foot buffer and, therefore, would not be impacted by development outside of the buffer. Tree #42 is the only tree whose minimum root protection zone extends beyond the 30-foot tree preservation buffer. Under normal circumstances, it would be difficult to retain Tree #42 in healthy condition while still allowing for development of the site outside of the 30-foot tree preservation buffer. However, staff visited the site on March 9, 2021 and determined that there is an existing slope cut (Exhibit G). Staff did not locate a property pin so is unsure exactly where the property line and 30-foot buffer line are located. Based on the submitted Tree Plan (Exhibit E), which included specific measurements that staff was able to measure in the field, the 30-foot buffer line is located at the base of the cut slope. However, based on the location of the retaining wall on the adjacent property to the east, which was recently approved as part of a design review application, the 30-foot buffer line is located at the top of the cut slope. Staff also observed the remnants of metal fence posts located at the top of the cut slope on the subject property. Both of these observations indicate that the 30-foot buffer is actually located at the top of the cut slope, which is closer to the trees. However, the slope has already been cut back and drops off severely; thus, the cut slope is an existing condition and the root systems of the nearby trees have already been impacted. The arborist report did not indicate that any of the existing trees are hazards due to the existing cut slope and previously exposed roots, rather, the report evaluated the trees to be in good or fair condition (with the exception of Tree #39, which is in fair/poor condition, but was not evaluated as being a hazard tree). **If the applicant proceeds with the pavement extension project, the applicant shall survey the site in order to accurately locate the 30-foot buffer line and shall submit an updated arborist report that assesses the impact, if any, on the trees within the 30-foot buffer with tree protection fencing installed at the 30-foot buffer line.** At this point, staff believes the 30-foot buffer line is likely located at the top of the existing cut slope and has no evidence to the contrary. Any activity within the critical root zones of the six (6) trees where the critical root zones extend beyond the 30-foot buffer will need to be done under supervision of the project arborist. **The applicant shall retain a qualified arborist on-site to supervise any activity within the critical root zones of the protected trees in the 30-foot tree preservation buffer, including, but not limited to, Trees #39, 40, 41, 42, 43, and 48.**

Criteria B states, “The hardship does not arise from a violation of this Code, and approval will not allow otherwise prohibited uses in the district in which the property is located.” The hardship does not arise from a violation of the Code and approval will not allow otherwise prohibited uses in the district. The applicant is required to maintain the 30-foot tree preservation buffer and will be planting additional native evergreens to enhance the screening for any trees that have been or are approved to be removed.

Criteria C states, “Granting of the variance will not adversely affect implementation of the Comprehensive Plan.” Goal 5, Policy 8 states “Wherever possible, native growth protection areas shall be established along Highway 26 at both the east and west entries to the City. These areas are intended to provide a pleasant entry to the City, screen industrial uses from the highway, and provide a buffer between the highway and other land uses. These native growth areas shall be planted with native tree species in locations where such trees do not exist.” The subject property is at the west end of the City and has an existing 30-foot wide tree preservation buffer intended to screen the industrial-zoned property from Highway 26 in compliance with Comprehensive Plan Goal 5, Policy 8. The applicant is required to maintain the 30-foot tree preservation buffer and will be planting additional native evergreens to enhance the screening for any trees that have been or are approved to be removed.

Criteria D states, “The variance authorized will not be materially detrimental to the public welfare or materially injurious to other property in the vicinity.” Granting of the variance will not be materially detrimental to the public welfare or injurious to other property. Removal of one or more trees will not affect other property.

Criteria E states, “The development will be the same as development permitted under this code and City standards to the greatest extent that is reasonably possible while permitting some economic use of the land.” The development will be the same as development permitted under City code. The 30-foot tree preservation buffer as detailed in Plat 2329 (Exhibit F) is required to be maintained regardless of the type of development.

Criteria F states, “Special circumstances or conditions apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape (legally existing prior to the effective date of this Code), topography, or other circumstances over which the applicant has no control.” The property has a 30-foot tree preservation buffer, which is required to be maintained.

Staff determines that removal of trees from within the 30-foot buffer does not meet the intent of the municipal code or comprehensive plan. Staff further determines that the trees in the 30-foot buffer have already been impacted by the existing cut slope and the arborist report did not determine that any of the trees pose a hazard. **The applicant’s request for a variance to remove six (6) trees from the 30-foot tree preservation buffer is denied. The 30-foot-wide tree preservation buffer shall not be impacted and Trees #39, 40, 41, 42, 43, and 48 shall be retained.**

### 17.90 – Design Standards

11. The applicant proposes site improvements on the subject property. As such the application is subject to the provisions of Chapter 17.90, Design Standards.
12. Section 17.90.00 contains the intent of the design standards. In implementing these standards, the reviewing body shall refer to the listed objectives in evaluating Design Review requests.
13. Section 17.90.00(C) lists guiding principles of the Sandy Style. This includes protecting and enhancing Sandy's tree canopy, particularly along the Highway 26 Landscape Management Corridor, which is defined in Chapter 17.10 as "the required yards abutting Highway 26 within the C-2, I-1, and I-2 zoning districts where the Development Code requires native conifer and deciduous landscaping, creating the appearance of a forested corridor." In addition, Plat 2329 (Exhibit F) details a 30-foot-wide buffer strip for the preservation, maintenance, and planting of evergreen shrubs and other trees along the entirety of the north and west edges of the subject property.
14. Section 17.90.00(D) lists elements incompatible with the Sandy Style. The reviewing body may deny, or require modifications to, a project with any of the items contained in Section 17.90.00(D). Excessive tree removal and/or grading that may harm existing vegetation within a designated landscape conservation area is considered an element incompatible with Sandy Style. Plat 2329 (Exhibit F) details a 30-foot-wide buffer strip for preservation, maintenance and planting of evergreen shrubs and other trees along the entirety of the north and west edges of the subject property. The applicant previously removed three (3) small evergreen trees less than 11-inches DBH from within the 30-foot tree preservation buffer prior to submitting for a tree removal permit. The applicant is requesting to remove an additional six (6) evergreen trees from the tree preservation buffer for a total of nine (9) trees requested to be removed from the required 30-foot tree preservation buffer. The three trees removed prior to submitting this application were a 4-inch DBH Douglas fir in unknown condition, a 6-inch DBH Douglas fir in unknown condition, and a 10-inch DBH western redcedar in poor condition. The six (6) additional trees the applicant is requesting to remove include five (5) evergreen trees 11-inches DBH or greater in fair or good condition (i.e., healthy) and one (1) evergreen tree (a 15-inch DBH western redcedar) in fair/poor condition. The arborist report did not indicate that the tree in fair/poor condition is a hazard tree; therefore, removal of the five trees in good or fair condition and the one tree in fair/poor condition from the required 30-foot tree preservation buffer and landscape management corridor is processed as a Variance to Section 17.90.00(D.1) and is discussed in Chapter 17.66 of this document. Removal of the three (3) trees removed prior to submittal of this application is discussed in Chapter 17.92 of this document.

### 17.92 - Landscaping and Screening.

15. Section 17.92.10(C) requires significant plant and tree specimens to be preserved to the greatest extent practicable and integrated into the design of a development. The applicant previously removed three (3) evergreen trees less than 11-inches DBH from within the 30-foot tree preservation buffer and is requesting to remove an additional six (6) trees 11-

inches DBH or greater from the 30-foot tree preservation buffer, including one (1) tree in good condition, four (4) trees in fair condition, and one (1) tree in fair/poor condition. Tree removal is also addressed in Chapters 17.66 and 17.102 of this document.

16. Per Section 17.92.20(L) **all landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.**
17. Per Section 17.92.20, the I-2 zoning district is required to have a minimum of 15 percent of the site landscaped. The applicant is not proposing any changes to the sizes of the existing landscaped areas.
18. Section 17.92.40 requires landscaping to be irrigated. The applicant did not indicate how the proposed mitigation trees would be irrigated. **The applicant shall submit details on the proposed irrigation system for the mitigation trees prior to any approved tree removal or other activity on the site.**
19. Section 17.92.50 contains standards for types and sizes of plant materials. Per the Arborist Report (Exhibit C), the applicant is proposing 6-7 foot tall incense cedars for the required mitigation trees.
20. Section 17.92.60 requires revegetation of areas where natural vegetation has been removed or damaged in areas that are not proposed to be occupied by structures or other improvements. The applicant removed three small evergreen trees prior to submittal of this application. Previously removed Tree #3 in the arborist report is identified as a 10-inch DBH western redcedar, which qualifies as a significant tree per Section 17.92.10(C). The remaining two trees previously removed were less than 8-inches DBH so do not qualify as significant trees; however, they will need to be mitigated with evergreen species since they were removed from the required 30-foot buffer strip for preservation, maintenance, and planting evergreen shrubs and other trees. **The applicant shall plant two (2) mitigation trees to mitigate for the previously removed Tree #3 and two (2) additional mitigation trees to mitigate for the previously removed Trees #1 and 2, for a total of four (4) mitigation trees. The four (4) mitigation trees are required to be planted regardless of whether or not the applicant proceeds with a grading proposal. The mitigation trees shall be large, native, evergreen trees of quality nursery stock at least 6 feet in height or greater at the time of planting and shall be planted in the 30-foot tree preservation buffer on the north side of the subject property. 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). The applicant shall submit details on the proposed irrigation system for the mitigation trees prior to any approved tree removal or other activity on the site. The applicant shall revegetate all areas where natural vegetation has been removed or damaged in areas that are not proposed to be occupied by structures or other improvements, including within the 30-foot tree preservation buffer. The applicant shall maintain all landscaping, including mitigation trees, 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. The applicant shall replace any dead or dying mitigation trees.**

#### 17.102 – Urban Forestry

21. Section 17.102.10 contains urban forestry related definitions. For the purposes of Chapter 17.102, the definition of a tree is any living, standing, woody plant having a trunk of 11 inches DBH or greater.
22. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. The subject property is approximately 3.99 acres and contains protected trees within the 30-foot tree preservation buffer; therefore, compliance with this chapter is required.
23. The applicant removed three trees less than 11-inches DBH prior to submitting this application. Because the trees were all less than 11-inches DBH, they are not subject to Chapter 17.102 and are discussed in Chapter 17.92 of this document. With this application, the applicant is proposing to remove six (6) trees 11-inches DBH or greater from the 30-foot tree preservation buffer. One (1) of the trees is in good condition, four (4) are in fair condition, and one (1) is in fair/poor condition. The trees located in the 30-foot tree preservation buffer are protected trees and can only be removed if they pose a hazard to persons or property, or if it is determined that the 30-foot buffer is inadequate to protect the tree(s) through no fault of the applicant. The Arborist Report did not indicate that any of the trees were hazard trees. Although Tree #39 is in fair/poor condition, to be considered a hazard tree, the applicant would need to submit an arborist report indicating that the condition or location of the tree presents a hazard or danger to persons or property and that such a hazard or danger cannot reasonably be alleviated by treatment or pruning. Also, removal of this tree could have a negative impact on other trees in the tree preservation buffer.
24. Section 17.102.50 contains tree retention and protection requirements. The subject property is approximately 3.99 acres, which requires a minimum of 12 retention trees that are 11-inches or greater DBH and in good health. In addition, the property has a 30-foot wide tree preservation buffer along the Highway 26 and 362nd Drive frontages of the site. Trees within the 30-foot wide buffer are required to be preserved to the greatest extent practicable. The Arborist Report and Tree Inventory by Andrew Craig of Springwater Arboriculture (Exhibits C and D) inventoried 73 total trees, 53 of which are 11-inches or greater DBH. Based on the submitted Tree Plan (Exhibit E), eight (8) of the trees inventoried are in the right-of-way located adjacent to the site, and 52 are located in the 30-foot tree preservation buffer on the north and west edges of the property. The



Arborist Report (Exhibit C) specifically identifies 12 trees at 11-inches or greater DBH and in good condition that meet the minimum retention tree requirements (Trees #9-20). Of those 12, one tree (Tree #18, a 13-inch DBH Douglas fir in good condition) is located in the right-of-way and not on the subject property. However, there are multiple additional trees on the subject property and located in the 30-foot tree preservation buffer that meet the retention criteria and will be retained, for example, Tree #21, which is a 15-inch DBH Douglas fir in good condition. The minimum retention requirement of 12 healthy trees 11-inches or greater DBH is met.

25. Section 17.102.50(B) contains tree protection requirements. Section 17.102.50(B.1) requires tree protection fencing be placed no less than 10 horizontal feet from the outside edge of the trunk of retention trees. Section 17.92.10(C) states that retained trees shall be protected from damage during construction by a construction fence located 5 feet outside the dripline. Per the Pacific Northwest International Society of Arboriculture (ISA), the ISA defines the critical root zone (CRZ) as “an area equal to a 1-foot radius from the base of the tree’s trunk for each 1 inch of the tree’s diameter at 4.5 feet above grade (referred to as diameter at breast height).” Often the dripline is used to estimate a tree’s CRZ; however, it should be noted that a tree’s roots typically extend well beyond its dripline. Section 17.92.10(C) requires tree protection fencing located 5 feet beyond the dripline of a tree, taking into account that there are many roots beyond the dripline and that trees continue to grow. Thus, a proactive approach to tree protection would take into consideration the fact that the tree and its root zone will continue to grow. The typical minimum root protection zone is 0.5 feet per 1 inch DBH, which is the minimum setback to be protected from the trunk of a tree in feet when impacted on one side of the root system. The recorded plat (Exhibit P) details the 30-foot-wide tree preservation buffer in compliance with Section 17.50.30(C). **The applicant shall install tree protection fencing along the 30-foot tree preservation buffer prior to any grading on the site. The tree protection fencing shall be 6 foot tall metal fencing (e.g., chain link or no-jump horse 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. Up to 25 percent of the critical root zone (1-foot per 1-inch DBH) may be impacted by development provided the work occurs under supervision of the project arborist or another qualified arborist; however, no construction activity shall occur within the minimum root protection zone (0.5 feet per 1-inch DBH), including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. Once the fence has been installed, the applicant shall call for an inspection and receive City approval of tree protection measures prior to any tree removal, grading, or other construction activity on the site; the tree protection fencing shall be removed only after completion of all construction activity. The applicant shall retain the project arborist onsite for any construction activity within the 30-foot tree preservation buffer. The applicant shall submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist to verify that none of the trees in the 30-foot tree preservation buffer were damaged during construction and that the**

**mitigation trees are healthy. If any of the trees in the 30-foot tree preservation buffer were damaged or compromised and need to be removed in the future, the applicant shall apply for a tree removal variance and shall replant mitigation trees at a higher mitigation ratio based on the size of the tree removed. The applicant shall also be required to pay a third-party arborist review fee. If any of the mitigation trees were damaged or are unhealthy, the applicant shall plant new mitigation trees.**

**26. The applicant shall follow all other conditions outlined in the Arborist Report (Exhibit C) including the following:**

- Root protection zones shall be entered only for tasks like surveying, measuring, and sampling without supervision by a qualified arborist. The fence shall be closed upon completion of such tasks. All other construction activities shall be approved by the project arborist first.
- No machinery repair or cleaning shall be performed within 10 feet of the root protection zone of any trees identified for protection.
- The Tree Plan and RPZ plan must be on site and in possession of anyone performing construction activities.
- A qualified arborist shall be required on-site during all excavation around the retention trees. It may be necessary to perform hand digging along with machine digging near these trees.
- All root pruning shall be performed by a qualified arborist.
- A pre-construction meeting shall take place that includes the owners, construction personnel, the project arborist, and City staff.
- The organic layer with topsoil shall be scraped off and stockpiled prior to step cutting slope. This stockpiled soil can then be re-applied after grading and prior to planting mitigation trees.

## **DECISION**

For the reasons described above, the request by Michael Maiden for a Type II Variance to Section 17.90.00(D.1) to allow removal of non-hazardous evergreen trees from a protected tree preservation buffer is hereby **denied**. The applicant's retroactive request to remove three (3) small evergreen trees from within the 30-foot tree preservation buffer is **approved with conditions**.

## **CONDITIONS OF APPROVAL**

**A. Within 60 days from the date this final order is issued, or within 30 days of completion of construction activity if the applicant proceeds with a grading proposal, the applicant shall complete the following:**

1. Plant 4 mitigation trees in the 30-foot tree preservation buffer on the north side of the subject property; the mitigation trees shall be large, native, evergreens of quality nursery stock at least 6 feet in height or greater at the time of planting. 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).

**B. Prior to the grading and erosion control permit moving forward, the applicant shall submit the following:**

1. Updated Tree Plan that details the tree protection fencing along the 30-foot tree preservation buffer line. The applicant shall not grade or excavate within the 30-foot tree preservation buffer.
2. Updated details on the project including details on a retaining wall, if proposed, and additional information regarding the proposed changes to the billboard sign, including lighting photometrics and lighting cut sheets, if proposed.
3. Updated arborist report that assesses the impact, if any, on the trees within the 30-foot buffer with tree protection fencing installed at the 30-foot buffer line.
4. A survey that accurately locates the 30-foot buffer line.

**C. Prior to earthwork, grading, or excavation the applicant shall complete the following and receive necessary approvals as described:**

1. Receive approval for a grading and erosion control permit in conformance with City standards detailed in Section 15.44 of the Municipal Code.
2. If applicable, submit proof of receipt of a Department of Environmental Quality 1200C permit.
3. Request an inspection and receive approval of erosion control measures.
4. Install tree protection fencing along the 30-foot tree preservation buffer, or as otherwise determined to be sufficient to protect all trees within the tree preservation buffer by the project arborist and City staff during a site visit. The tree protection fencing shall be 6 feet tall no-jump horse 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. Up to 25 percent of the critical root zone (1-foot per 1-inch DBH) may be impacted by development provided the work occurs under supervision of the project arborist or another qualified arborist; however, no construction activity shall

occur within the minimum root protection zone (0.5 feet per 1-inch DBH), including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The tree protection fencing shall be removed only after completion of all construction activity. The applicant shall retain the project arborist onsite for any construction activity within the 30-foot tree preservation buffer or within the critical root zones of the protected trees in the 30-foot tree preservation buffer, including, but not limited to, Trees #39, 40, 41, 42, 43, and 48.

5. Request inspection and receive City approval of tree protection fencing prior to any grading activity on the site.
6. Submit details on the proposed irrigation system for the mitigation trees prior to any approved tree removal or other activity on the site.

**D. Within 90 days of completion of construction activity, the applicant shall submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist to verify that none of the trees in the 30-foot tree preservation buffer were damaged during construction and that the mitigation trees are healthy. If any of the trees in the 30-foot tree preservation buffer were damaged or compromised and need to be removed in the future, the applicant shall apply for a tree removal variance and shall replant mitigation trees at a higher mitigation ratio based on the size of the tree removed. The applicant shall also be required to pay a third-party arborist review fee. If any of the mitigation trees were damaged or are unhealthy, the applicant shall plant a new mitigation tree(s).**

#### **E. General Conditions**

1. The 30-foot-wide tree preservation buffer shall not be impacted and Trees #39, 40, 41, 42, 43, and 48 shall be retained.
2. All landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.
3. Revegetate all areas where natural vegetation has been removed or damaged in areas that are not proposed to be occupied by structures or other improvements, including within the 30-foot tree preservation buffer.
4. Maintain all mitigation trees 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. The applicant shall replace any dead or dying mitigation trees.
5. Follow all other conditions outlined in the Arborist Report (Exhibit C) including the following:
  - Root protection zones shall be entered only for tasks like surveying, measuring, and sampling without supervision by a qualified arborist. The fence shall be closed upon

completion of such tasks. All other construction activities shall be approved by the project arborist first.

- No machinery repair or cleaning shall be performed within 10 feet of the root protection zone of any trees identified for protection.
  - The Tree Plan and RPZ plan must be on site and in possession of anyone performing construction activities.
  - A qualified arborist shall be required on-site during all excavation around the retention trees. It may be necessary to perform hand digging along with machine digging near these trees.
  - All root pruning shall be performed by a qualified arborist.
  - A pre-construction meeting shall take place that includes the owners, construction personnel, the project arborist, and City staff.
  - The organic layer with topsoil shall be scraped off and stockpiled prior to step cutting slope. This stockpiled soil can then be re-applied after grading and prior to planting mitigation trees.
6. Should it be determined that the site requires installation of an irrigation system it is the responsibility of the property owner to ensure appropriate approval is obtained from the City of Sandy.
  7. The applicant shall obtain a separate permit for modifications to the billboard sign.
  8. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.



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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) 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.