

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

DATE: April 9, 2021

FILE NO.: 21-013 TREE

PROJECT NAME: Knollwood Estates Spaces 8, 9, 31, and 32 Tree Removal

APPLICANT/OWNER: Allison Hanson on behalf of Sandra Watts

ADDRESS: 37600 Sunset Street, Spaces 8, 9, 31, and 32

PROPOSAL: Remove four trees in compliance with requirements of Section 17.102, Urban Forestry.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application
- B. Tree Plan
- C. Additional Information and Photos

Additional Documents Submitted by Staff

- D. Tree Inventory (Rob Crouch, PN-0366A)

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 HDR, 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). The site contains greater than one acre, therefore, the proposal must be processed to determine compliance with Section 17.102, Urban Forestry.
4. 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. **Tree removal or**

native vegetation removal without permit authorization may result in a fine as specified in Section 17.06.80.

5. The applicant proposes to remove one (1) tree located between Mobile Home Spaces 8 and 9 and three (3) trees located between Mobile Home Spaces 31 and 32 as detailed on the Tree Plan (Exhibit B). The three (3) trees proposed for removal located between Spaces 31 and 32 include two cherries and one hazelnut. None of the three trees were included in the arborist's Tree Plan and Inventory (Exhibits B and D) and their size and condition is unknown; however, the additional information and photos submitted by the applicant (Exhibit C) indicates the hazelnut is "broken." The Land Use Application (Exhibit A) states that the tree proposed for removal located between Spaces 8 and 9 is a maple and is Tree #42 on the arborist's Tree Inventory (Exhibit D); however, the Tree Inventory identifies Tree #42 as a 39-inch DBH ash cultivar in good condition. Staff reached out to the applicant for clarification and the applicant confirmed that Tree #42 is the tree proposed for removal, that it is a maple, and that it was likely misidentified in the inventory.
6. 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. The applicant was previously granted permission to remove 44 trees on the subject property in the following land use files:
 - 14 trees in 2011 (File Nos. 11-007 TREE and 11-024 TREE)
 - One tree in 2012 (File No. 12-018 TREE)
 - Three trees in 2013 (File No. 13-036 TREE)
 - Nine trees in 2014 (File No. 14-006 TREE)
 - Four trees in 2015 (File No. 15-047 TREE)
 - Four trees in 2016 (File No. 16-037 TREE)
 - Five trees in 2018 (File Nos. 18-007 TREE and 18-012 TREE)
 - Four trees in 2019 (File No. 19-003 TREE)

With this application (File No. 21-013), the applicant is requesting to remove an additional four (4) trees, which means 48 trees will have been removed from the subject property since 2011. **The applicant shall be required to submit a Type II Tree Removal Permit if two (2) or more trees are requested to be removed in the future.**

7. The applicant submitted a tree removal application (Exhibit A) in compliance with Section 17.102.30(B).
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 subject property is approximately 9.17 acres and, therefore, requires retention of 28 trees that are 11-inches or greater diameter at breast height (DBH), healthy, likely to grow to maturity, and located to minimize the potential for blow-down following the harvest. With removal of the four (4) trees, the site will continue to retain at least three (3) trees per acre. A condition of approval with File No. 14-006 TREE was to submit a tree inventory from a certified arborist prior to applying for future tree permits. The applicant submitted a tree inventory from Rob Crouch Community Tree LLC in

October of 2014, which staff has included in the file (Exhibit D). The tree inventory included all trees 9-inches DBH or greater and concluded the site had 166 trees. Removal of 13 trees in 2015 through 2018 reduced the number of trees on the site to 154 (Note: one tree proposed for removal was not identified in the inventory so only 3 trees from the October 2014 inventory were removed). Removal of four (4) additional trees in 2019 further reduced the number of trees on the site to 153 (Note: only one tree proposed for removal in 2019 (Tree #28) was included in the 2014 tree inventory completed by Rob Crouch Community Tree LLC). Removal of four (4) additional trees with this application (File No. 21-013 TREE) will reduce the number of trees on the site to 152 (Note: only one of the trees proposed for removal with this application (Tree #42) was included in the 2014 tree inventory). However, not all 152 trees meet the City's tree retention size and condition criteria. The 9.17-acre site requires that at least 28 healthy trees 11-inches DBH or greater are retained. Based on the species, size, and condition of the trees identified in the tree inventory and the removal of 21 trees since the inventory report, the site will have 109 trees remaining that are in good condition, are not nuisance species, and are 11-inches or greater DBH, which meets the retention requirement of Section 17.102.50(A). Staff notes that the Tree Plan and Inventory (Exhibits B and D) are now seven years old and outdated. **The applicant shall be required to submit a current, updated Tree Plan and Tree Inventory with any future tree removal applications for the subject site.**

9. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal be replanted. The land use application did not indicate if the stumps will be removed or left in place; however, the additional information submitted by the applicant (Exhibit C) indicates that the stumps will be cut low. **Per Section 17.102.60(1), all areas of exposed soils resulting from tree removal shall be replanted with a groundcover of native species within 30 days of harvest during the active growing season, or by June 1st of the following year.**
10. 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 proposal to remove three (3) trees located between Mobile Home Spaces 31 and 32 and one (1) tree located between Mobile Home Spaces 8 and 9 from the Knollwood Estates as depicted on the submitted Tree Plan is determined to comply with the standards of Section 17.102, Urban Forestry and is hereby **approved with conditions.**

CONDITIONS OF APPROVAL:

1. The trees removed shall be limited to the four (4) trees as indicated on the submitted Tree Plan (Exhibit B), including three (3) trees located between Spaces 31 and 32 and one (1) tree located between Spaces 8 and 9 (Tree #42 on the tree inventory).
2. Per Section 17.102.60(1), all areas of exposed soils resulting from tree removal shall be replanted with a groundcover of native species within 30 days of harvest during the active growing season, or by June 1 of the following year.
3. The applicant shall be required to submit a current, updated Tree Plan and Tree Inventory with any future tree removal applications.
4. With these four trees removed the overall site will have had 48 trees removed since 2011. Removal shall not exceed 50 trees without first obtaining a Type II Tree Permit.
5. Future tree removal in Knollwood Estates shall require additional permit approvals. Tree removal without permit authorization may result in a fine as specified in Section 17.06.80.
6. 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.
7. 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.
8. 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

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.