

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

DATE: June 21, 2021

FILE NO.: 21-036 TREE

PROJECT NAME: 37625 SE Kelso Road Tree Removal

APPLICANT/OWNER: Bill Leslie

ADDRESS: 37625 SE Kelso Road

LEGAL DESCRIPTION: 24E 02DD 02800

DECISION: Approved subject to conditions of approval.

This request was processed as a 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 Form
- B. Arborist Report
- C. Site Plan

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 R-1, Low Density Residential.
3. The applicant requests approval to remove six trees in order to accommodate for the construction and siting of a pole barn, which has been previously approved in File No. 21-005 VAR. The trees proposed for removal are as follows (See also Exhibits B and C):
 - Tree X1 is a Douglas Fir in poor health. According to the arborist, the trunk has broken at least twice, creating a fork in the main trunk approximately 35 feet up. This tree has dropped portions of the trunk 10 inches diameter and 15 ft to 35 ft long onto the driveway. DBH is 28 inches. This tree represents a hazard.
 - Tree X2 is a Douglas Fir in good health. DBH is 37 inches.

- Tree X3 is a Douglas Fir in good health. DBH is 32 inches.
 - Tree X4 is a Douglas Fir in good health. DBH is 30 inches.
 - Tree X5 is a Douglas Fir in good health. DBH is 37 inches.
 - Tree X6 is a Limber Pine in good health. DBH is 14 inches.
4. 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 applicant owns three contiguous parcels (Tax Lots 2800, 2900, and 2901) totaling approximately 2.92 acres. The site contains greater than one acre, therefore, the proposal is reviewed to determine compliance with Chapter 17.102.
 5. 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 \$500.00.
 6. 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 2.91-acre site must therefore retain a minimum of nine trees at 11 inches or greater DBH. Per Section 17.102.50(A.3), trees proposed for retention shall be healthy and likely to grow to maturity, and be located to minimize the potential for blow-down following the harvest. If possible, at least two of the required trees per acre must be of conifer species.
 7. The submitted arborist report (Exhibit B) by Steve Greenberg of Steve Greenberg Tree Service verified tree locations, size, and conditions on June 4, 2021. The Arborist Report identifies approximately 80 trees 11-inches DBH or greater on the three contiguous properties.
 - 29 pines
 - 27 Douglas Fir
 - 8 Western Red Cedar
 - 3 White Alder
 - 13 assorted ornamental maples, linden, spruce, apple, ash, pear, and cherry trees
 8. The arborist report details nine trees required for retention. However, staff notes that these retention trees are not in an ideal location because the trees’ critical root zones are underneath a driveway and will be impacted by regular driveway travel as well as the machinery used to remove the six trees. Critical roots are the roots necessary for a tree’s survival. Additionally, Section 17.102.50 (B) requires that trees identified for retention shall be protected by protective barrier fencing placed no less than ten horizontal feet from the outside edge of the trunk. Given that this fencing would restrict driveway use significantly, **the applicant shall work with the arborist to identify nine retention trees around which protective fencing can be placed according to the requirements found in Section**

17.102.50 (B) or far enough away from the trees proposed for removal that they will not be impacted by removal of the trees, heavy machinery, or other development activity.

Staff recommends these trees be located away from the driveway, other structures, property line, and the trees proposed to be removed so as to minimize potential negative impacts to the retained trees.

9. Section 17.102.60 details replanting requirements. **All areas with exposed soils resulting from tree removal shall be replanted with a ground cover of native species within 30 days of harvest during the active growing season, or by June 1 of the following spring.** According to Exhibit B, trees X1 – X6 will be replaced with the following native plants:

- Sword Fern
- Rhododendron
- Lady Fern
- Western Maidenhair Fern

DECISION:

The application is **approved** because the proposal complies with the standards of Chapter 17.102, Urban Forestry, subject to conditions of approval.

CONDITIONS OF APPROVAL:

1. The applicant is only permitted to remove Trees X1 – X6.
2. Prior to any tree removal on the property, the applicant shall work with the arborist to identify nine retention trees around which protective fencing can be placed according to the requirements found in Section 17.102.50 (B) **or** far enough away from the trees proposed for removal that they will not be impacted by removal of the trees, heavy machinery, or other development activity. The nine trees shall meet the retention criteria of Section 17.102.50(A). The applicant shall submit the updated tree retention plan for staff review and approval.
3. 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.
4. 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.
5. Future tree removal or native vegetation removal on the subject property requires additional permit approvals. 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.
7. Activity within the right-of-way (e.g., staging, etc.) requires a separate right-of-way permit through the Public Works Department.



Shelley Denison
Associate 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.