

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

DATE: October 29, 2021

FILE NO.: 21-054 TREE

PROJECT NAME: 39480 Kimberly Drive Tree Removal

APPLICANT/OWNER: David Womack

ADDRESS: 39480 Kimberly Drive

EXHIBITS:

Applicant's Submittals

- A. Land Use Application
- B. Arborist Letter from Alder Creek (dated October 28, 2021)
- C. Second Arborist Letter from Alder Creek (dated October 28, 2021)
- D. Email from applicant (dated October 28, 2021)
- E. Photos

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 Low Density Residential, and a Zoning Map designation of SFR, Single Family 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).
4. The subject property is less than one acre; however, the trees proposed for removal are located on a steep slope hillside. Therefore, the proposal must be processed as a land use application to determine compliance with provisions for removal of the trees on a steep slope.
5. The second arborist letter (Exhibit C) states that the applicant proposes to remove two (2) trees: a 30-inch DBH Douglas fir tree and a 16-inch DBH western redcedar. (Note: the land use application (Exhibit A) identifies the Doug fir as a noble fir.) The second arborist letter

states both trees are dead and are hazardous. In addition, the applicant is proposing to remove the dead top of a maple tree. The applicant submitted photos (Exhibit E) showing the dead trees and dead treetop.

6. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal shall be replanted. The second arborist letter (Exhibit C) states that no stump removal will be done. The applicant also submitted an email (Exhibit D) that states the following:
 - For the maple: “Just the dead top will be removed.”
 - For the Douglas fir: “Entire tree will be removed from the top down but the stump will remain so there will be no noticeable impact to soil conditions or slope.”
 - For the western redcedar: “Tree grew out of another stump from when this property was logged decades ago. In the last year, it has started leaning and the existing older stump has lost its integrity and split down the sides allowing the cedar to lean toward a neighboring house. Limbs are starting to die as well. The stump will not be removed so there will be no noticeable impact to soil conditions or slope.”

With the stumps left in place, there should be no areas with exposed soils. **The applicant shall leave the stumps in place in order to minimize impacts to slope stability.**

7. The applicant did not provide specific information regarding how the trees proposed for removal with this application would be felled. **The applicant shall have the trees felled such that they don't negatively impact any adjacent trees, adjacent property, or the public right-of-way.**
8. The applicant did not indicate if there are nests in the tree proposed for removal. **If the trees are removed or cut 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. The applicant did not indicate where the arborist crew would stage their equipment for removing the tree. **Activity within the public right-of-way (e.g., staging, etc.) requires a separate right-of-way permit through the Public Works Department.**

DECISION:

The application for removal of two (2) trees located on a hillside is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

- A. Tree removal shall be limited to the two trees identified in the application submittal (a 30-inch DBH Douglas fir and a 16-inch DBH western redcedar). Dead top removal shall be limited to the one maple identified in the application submittal.**
- B. The trees shall be felled such that they don't negatively impact any adjacent trees, adjacent property, or the public right-of-way.**
- C. The applicant shall leave the stumps in place in order to minimize impacts to slope stability.**
- D. Activity within the public right-of-way (e.g., staging, etc.) requires a separate right-of-way permit through the Public Works Department.**
- E. General Conditions of Approval**
 - 1. Future tree removal from 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.
 - 2. 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 the applicant's heirs, personal representatives, successors, and assigns.
 - 3. If the trees are removed or cut 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



Emily Meharg
Senior Planner

10/29/2021

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) 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.