

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

**DATE:** March 7, 2022

**FILE NO.:** 22-005 TREE

**PROJECT NAME:** 38941 Creekside Loop Tree Removal

**APPLICANT/OWNER:** Trimble Renters, LLC

**ADDRESS:** 38941 Creekside Loop

**PROPOSAL:** Remove two hazard trees in compliance with the requirements of Chapter 17.102, Urban Forestry.

**EXHIBITS:**

**Applicant's Submittals**

- A. Land Use Application
- B. Arborist Report dated January 18, 2022 (Andrew Craig, Springwater Arboriculture, ISA, TRAQ)
- C. Photos
- D. 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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 site has a Plan Map designation of 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 applicant owns about 1.3 acres of contiguous property, which includes the subject property.
4. The applicant proposes to remove two hazard trees from the northeast corner of the site as shown on the site plan (Exhibit D). A hazard tree can only be removed upon a determination that the condition or location of the tree presents a hazard or danger to persons or property and that such hazard or danger cannot reasonably be alleviated by treatment or pruning.

5. The applicant submitted an Arborist Report from Andrew Craig of Springwater Arboriculture dated January 18, 2022 (Exhibit B) as well as photos of the trees (Exhibit C).
  6. Tree one (T1) is a Douglas Fir, 24” dbh in good condition. Tree two (T2) is a Big Leaf Maple, 16” dbh in fair condition.
  7. According to the Arborist Report, “the two subject trees were impacted during construction of the dwelling. Earth work around these trees was done two plus years ago. The earth work consisted of cutting and filling the adjacent slope as well as installation of retaining features. A significant portion of this work took place within what should have been a protected root zone and without supervision from a qualified arborist. It is probable that more than 40% of the root zone was significantly impacted.... Root cutting and excessive fill can be extremely injurious to both T1 and T2 and in this case cannot be reasonably mitigated.... The impacts from construction to these two trees is significant, and these two trees loom over a fixed high value target and the consequences would be severe if these trees failed. It is recommended that T1 and T2 be removed.”
  8. **The applicant shall be allowed to remove the two (2) hazard trees in compliance with the conditions of approval outlined in this final order.**
  9. Per Section 17.102.60, removal of a hazard tree requires replanting at a minimum 2 to 1 ratio. Thus, the removal of two (2) hazard trees requires planting a minimum of four (4) mitigation trees. **The applicant shall do one of the following:**
    - A. **Provide the City with plans to plant four (4) mitigation trees on the property. The mitigation trees shall be chosen from the City’s list of approved trees and shall be chosen based on their potential for growing to maturity. The City requires like-for-like for mitigation trees. Therefore, the Douglas Fir shall be replaced with two (2) large native evergreen trees and the Big Leaf Maple shall be replaced with two (2) large native deciduous trees. Please note that the City is not currently approving Maple or Ash trees. The mitigation trees shall be 1.5 inch caliper and planted per the City of Sandy standard planting detail. 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 cost of planting, watering, and maintaining the trees is the burden of the property owner.**
- OR-
- B. **Pay a mitigation tree fee-in-lieu of \$500 per tree to relocate the four mitigation trees off-site (\$2,000 total).** If there is insufficient space to plant four mitigation trees on the subject property, staff will accept a fee-in-lieu of mitigation trees to be paid at \$500 per tree. The fee-in-lieu of mitigation trees will be used by the City to plant two native trees on City-owned property, within a conservation easement, or on a similar tract of land

within the same watershed that will remain as protected natural area. This fee also includes a three-year establishment period, including watering weekly during the summer months for the first three years and any needed structural pruning, disease control, or replacement of the trees.

10. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal shall be replanted. The applicant did not submit a replanting plan or information regarding whether the stumps will be left in place or ground. **The applicant shall provide replanting and stump grinding plans to the City.**
11. The applicant did not provide specific information regarding how the tree proposed for removal with this application would be felled. **The applicant shall have the tree felled such that it does not negatively impact adjacent trees. If removal of the damaged tree damages another healthy tree, the applicant shall be subject to a fine, and if the damaged tree becomes a hazard and needs to be removed in the future, the mitigation ratio shall be four to one (4:1).**
12. The applicant did not indicate if there are nests in the tree proposed for removal. **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.**

### **DECISION:**

The application for removal of two (2) hazard tree from 38941 Creekside Loop is hereby **approved** as modified by the conditions listed below.

### **CONDITIONS OF APPROVAL:**

- A. Tree removal is limited to the one (1) hazardous Douglas Fir and the one (1) hazardous Big Leaf Maple, as identified on the submitted site plan (Exhibit D).**
- B. There are two options with approval of this tree permit application. Within 90 days of the date of this final order, the applicant shall do one of the following:**
  1. Provide the City with plans to plant four (4) mitigation trees on the property. The mitigation trees shall be chosen from the City's list of approved trees and shall be chosen based on their potential for growing to maturity. Please note that the City is not currently approving Maple or Ash trees. The mitigation trees shall be 1.5 inch caliper and planted per the City of Sandy standard planting detail. 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 cost of planting, watering, and maintaining the trees is the burden of the property owner.

-OR-

2. Pay a mitigation tree fee-in-lieu of \$500 per tree to relocate the four mitigation trees off-site (\$2,000 total).

**C. The following conditions shall apply to the hazard tree removal:**

1. The applicant shall provide replanting and stump grinding plans to the City.
2. The applicant shall have the tree felled such that it does not negatively impact adjacent trees. If removal of the damaged tree damages another healthy tree, the applicant shall be subject to a fine, and if the damaged tree becomes a hazard and needs to be removed in the future, the mitigation ratio shall be four to one (4:1).
3. 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.

**D. 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. Activity within the right-of-way (e.g., staging, etc.) requires a separate right-of-way permit through the Public Works Department.

*Shelley Denison*

3/7/2022

\_\_\_\_\_  
Shelley Denison  
Associate Planner

\_\_\_\_\_  
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.