

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

DATE: December 7, 2022

FILE NO.: 22-034 TREE

PROJECT NAME: St. Michael Catholic Church Tree Removal

APPLICANT: Father Gregg Bronsema

OWNER: St. Michael the Archangel Catholic Church

LEGAL DESCRIPTION: T2S R5E Section 18CC Tax Lots 300 and 302

PROPOSAL: Remove 11-13 trees

EXHIBITS:

Applicant's and Property Owner's Submittals

- A. Land Use Application
- B. Arborist Report dated November 23, 2022
- C. Email from applicant dated November 23, 2022

Additional Documents Included by Staff

- D. Pictures of trees removed without a permit

FINDINGS OF FACT:

1. 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 as a tree permit application to determine compliance with Section 17.102, Urban Forestry. The proposal is considered a Type I permit because fewer than 50 trees are proposed to be removed and the minimum tree retention requirement is met.
2. 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"; however, "Tree removal to prevent an imminent threat to public health or safety, or prevent imminent threat to public or private property, or prevent an imminent threat of serious environmental degradation" is exempt provided a Type I tree removal permit is applied for within seven (7) days following the date of tree removal. 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. **Future tree removal from the subject properties 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.

3. On May 26, 2022, staff observed multiple trees being removed without a permit from St. Michael Catholic Church at 18090 Langensand Road. Code Enforcement inspected the site to document the tree removal (Exhibit D) and informed the tree removal service company that a permit was needed. The tree removal service company was told they needed to submit an application for a retroactive tree removal permit within seven days; however, they didn't respond or submit the required application. Staff reached out directly to the property owner who submitted a retroactive tree removal application on August 4, 2022. The application was deemed incomplete on August 25, 2022, since it did not include the required tree inventory or arborist report. In addition, the applicant indicated they may want to remove additional trees, thus, staff recommended they identify and include all requested tree removal in one application. On November 23, 2022, the applicant submitted a tree inventory and arborist report addressing the previously removed trees as well as identifying additional trees proposed for removal. The application was deemed complete on December 1, 2022, and is being processed as a Type I tree removal permit because fewer than 50 trees are proposed to be removed in total and the site meets the minimum tree retention standards.
4. The applicant submitted a tree inventory and arborist report prepared by Christine Johnson (ISA Certified Arborist PN-8730A, ISA Qualified Tree Risk Assessor) of Todd Prager & Associates LLC dated November 23, 2022 (Exhibit B). The inventory included 126 trees 8-inches DBH or greater on the subject property. The report notes that the applicant previously removed seven (7) trees from the parking lot without a permit. Several months later, a red alder located in the northeast portion of the site partially failed and landed on a neighboring property, causing minor property damage. Thus, the arborist conducted an additional tree risk assessment on 47 trees located in the natural area in the northeast corner of the property. All 47 trees that were assessed for risk resulted in a low-risk rating. However, the arborist recommends three (3) trees (Trees # 83, 84, and 86) be removed to mitigate for the low risk. All three trees are red alders in poor or very poor condition. The arborist also identified two (2) additional alders in poor condition (Trees # 87 and 88) located near a walking path in the natural area in the northeast portion of the site that may be appropriate to remove if the walking path becomes used more heavily, but notes that if the goal is to manage the natural area as a forest, there is low risk to retaining the two alders and restricting access during high wind events. Thus, this tree removal application request is for removal of 11 trees, with the possibility of an additional two (2) trees for a maximum of 13 trees removed.
5. 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 contiguously owned properties total approximately 5.79 acres and, therefore, require retention of 17 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. The submitted tree inventory (Exhibit B) identifies approximately 78 trees 11-inches DBH or greater, non-nuisance species, and in good condition. With removal of the 11-13 trees, the site will continue to retain at least three (3) trees per acre.

6. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal be replanted. The arborist report (Exhibit B) notes that the area where the seven (7) trees were removed from the parking lot has been mulched and replanted with eucalyptus trees and that no patches of bare soil remain. **The applicant or property owner shall maintain the eucalyptus 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.** In relation to the three (3) alders recommended for removal (Trees # 83, 84, and 85), the arborist report states that the trees can either be completely removed or reduced in height so that they wouldn't cause damage to a neighboring property if they failed. If the trees are reduced in height and left as snags, there would be no exposed soils resulting from removing the stump. In addition, leaving the trees as snags provides wildlife habitat. In an email submitted by the applicant dated November 23, 2022 (Exhibit C), the applicant indicates that they will leave the removed alder trees (including the alder tree that already partially failed) as snags to provide habitat for wildlife. **The applicant shall reduce the height of the alder trees proposed for removal (Trees # 83, 84, and 85, and the alder tree that already partially failed) to a height that will not cause damage to a neighboring property if they fail. The applicant shall clarify if Trees # 87 and 88 will also be removed as part of this application. If Trees # 87 and 88 are proposed to be removed, the applicant shall also reduce the height of Trees # 87 and 88 to a height that will not cause damage to a neighboring property if they fail.**
7. The arborist report (Exhibit B) contains additional recommendations that should be applied to prevent mechanical damage and reduce stress. **The applicant shall complete the following as recommended by the arborist:**
 - a. **Establish mulch rings around trees or groves of trees to prevent mechanical damage to lower trunks.** Some landscape trees showed signs of mechanical damage to the lower trunk, buttress roots, or surface roots. This damage was likely caused by lawn mowers, weed eaters, or other landscaping equipment. Mulch rings will prevent such damage from happening. **If mulch rings would alter the preferred aesthetic of the landscape, then instruct volunteers managing the landscape to remove weeds by hand near trees and not to use weed eaters.**
 - b. **Establish a designated landscape compost pile away from trees.** The arborist observed a deep pile of landscape debris (grass clippings) within the dripline and against the trunks of trees 93 through 95. The arborist recommends removing this debris to a level where you can see the trunk flare meet the ground and designating a separate area away from mature trees to pile landscape debris. Rocks, gravel, or other materials stored on top of soil within the dripline of trees should also be moved. Piling of debris and materials on top of soil impacts the exchange of air and water with roots, thereby impacting tree health.
 - c. **Remove invasive species in the natural area.** Several invasive species were observed in the natural area and eradicating or managing these plants is recommended for the health of the stand. The level of establishment is not a concern

at this point in time; however, invasive species are often fast-growing plants that can become well established in a few growing seasons. The invasive species observed include: English holly (*Ilex aquifolium*), cherry laurel (*Prunus laurocerasus*), and Himalayan blackberry (*Rubus armeniacus*). **Any removal of these plants should be done by hand and without the use of herbicides.**

8. **If any trees are removed during prime nesting season (February 1 - July 31), the applicant or property owner shall check for nests prior to tree removal. If nests are discovered, the applicant or property owner 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 applicant is **approved** to remove 11-13 trees including the seven (7) trees previously removed, the one (1) alder tree that previously partially failed, and the three to five (3-5) additional alder trees in poor or very poor condition (Trees # 83, 84, 85, 87, and 88) per the **conditions of approval.**

CONDITIONS OF APPROVAL:

1. The trees removed shall be limited to the 11-13 trees including the seven (7) trees previously removed, the one (1) alder tree that previously partially failed, and the three to five (3-5) additional alder trees in poor or very poor condition (Trees # 83, 84, 85, 87, and 88). The applicant shall clarify if Trees # 87 and 88 will also be removed as part of this application.
2. The applicant shall reduce the height of the alder trees proposed for removal (Trees # 83, 84, and 85, and the alder tree that already partially failed) to a height that will not cause damage to a neighboring property if they fail. If Trees # 87 and 88 are proposed to be removed, the applicant shall also reduce the height of Trees # 87 and 88 to a height that will not cause damage to a neighboring property if they fail.
3. The applicant or property owner shall maintain the eucalyptus 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.
4. The applicant shall complete the following as recommended by the arborist:
 - a. Establish mulch rings around trees or groves of trees to prevent mechanical damage to lower trunks. Some landscape trees showed signs of mechanical damage to the lower trunk, buttress roots, or surface roots. This damage was likely caused by lawn mowers, weed eaters, or other landscaping equipment. Mulch rings will prevent such damage from happening. If mulch rings would alter the preferred aesthetic of the landscape, then

instruct volunteers managing the landscape to remove weeds by hand near trees and not to use weed eaters.

- b. Establish a designated landscape compost pile away from trees. The arborist observed a deep pile of landscape debris (grass clippings) within the dripline and against the trunks of trees 93 through 95. The arborist recommends removing this debris to a level where you can see the trunk flare meet the ground and designating a separate area away from mature trees to pile landscape debris. Rocks, gravel, or other materials stored on top of soil within the dripline of trees should also be moved. Piling of debris and materials on top of soil impacts the exchange of air and water with roots, thereby impacting tree health.
 - c. Remove invasive species in the natural area. Several invasive species were observed in the natural area and eradicating or managing these plants is recommended for the health of the stand. The level of establishment is not a concern at this point in time; however, invasive species are often fast-growing plants that can become well established in a few growing seasons. The invasive species observed include: English holly (*Ilex aquifolium*), cherry laurel (*Prunus laurocerasus*), and Himalayan blackberry (*Rubus armeniacus*). Any removal of these plants should be done by hand and without the use of herbicides.
5. If any 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.
 6. Future tree removal from the subject properties 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.
 7. Successors-in-interest of the applicant or property owner 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 at least the following:

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 Section 17.28.50;
5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed;
6. The name and mailing address of the person or entity appealing the decision; and
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal.