

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

DATE: February 2, 2023

FILE NO.: 22-044 TREE

PROJECT NAME: “The Pad” Tree Removal

APPLICANT/OWNER: Miles Rusth

ADDRESS: 17650 Meinig Road

EXHIBITS:

Applicant’s Submittals

- A. Land Use Application
- B. Planting Plan
- C. Arborist Assessment
- D. Tree Preservation Plan
- E. Comparison of Original and Revised Tree Preservation and Planting Plans

Additional Documents

- F. 21-046 DR/VAR/ADJ The Pad Townhomes Final Order (dated November 24, 2021)

FINDINGS OF FACT:

1. These findings of fact are based on a review of the applicant’s submittals received on October 17, 2022, and November 30, 2022, as well as the conditions found in the final order for land use File No. 21-046. The application was deemed complete on December 12, 2022.
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. Exhibit F is the final order for a proposed residential development on the subject site. This final order allowed 17 trees to be removed and determined that two (2) trees on the site would be required retention trees:
 - a. Tree #2823: 61-inch DBH western redcedar
 - b. Tree #2898: 12-inch DBH lodgepole pine

4. Finding 97 in Exhibit F conditions that if these retention trees are impacted by construction in such a way that their removal is necessary, the applicant shall plant mitigation trees at a ratio of four (4) mitigation trees for each retention tree removed.
5. The applicant has requested removal of trees 2823 and 2898 in order to accommodate an updated building design and additional parking. Therefore, the mitigation condition found in Exhibit F is applicable.
6. The applicant submitted an arborist review of trees 2823 and 2898 (Exhibit C). The arborist stated: "The proposed 18- to 24-inch depth of excavation for a retaining wall is 8.8 feet and 11.17 feet from tree 2823 and 2.33 feet from tree 2898. The proposed excavation for both trees is less than the 3x minimum setback distance recommended in published research. Also, the percent impacts to the critical root zone are 43.4 percent for tree 2823 and 39.5 percent for tree 2898. This exceeds the City of Sandy typical critical root zone impact limit of 25 percent for both trees." Based on an analysis of the impact on the trees' fine and structural root systems as a result of construction, the arborist recommends removal of these trees.
7. Based on the four (4) to one (1) mitigation tree ratio, the applicant is required to plant eight (8) trees to mitigate the removal of the two (2) retention trees.
8. The applicant submitted updated tree planting and tree preservation plans (Exhibits B and D) as required in order to show the location of the eight (8) required trees. The original tree plan submitted with land use File No. 21-046 shows a total of 26 trees to be either retained or planted on the site with development. This number includes trees 2823 and 2898. Therefore, in order to meet the required mitigation ratio, at least 32 trees would need to be shown on the updated tree plans. The updated plans show 33 trees.
9. **If the applicant is not able to meet the mitigation ratio requirement for any reason, they shall pay a fee of \$500 per required mitigation tree up to a total of \$4,000 for eight (8) trees.**
10. **Per the recommendations in the arborist assessment (Exhibit C), the trees being removed shall be directionally felled away from on and offsite trees to be retained so they do not contact or damage adjacent trees' crowns or trunks. Additionally, their stumps shall be ground out rather than pulled with a machine so that root disturbance of adjacent retained trees is minimized.**
11. **The applicant shall install tree protection fencing located one (1) foot beyond the tree for every one (1) inch trunk diameter to protect trees on the adjacent City properties. The tree fencing shall be installed prior to any development activity on the site, including clearing, tree removal, and erosion control measures, in order to protect the trees and the soil around the trees from disturbance. Sediment fencing shall be located outside the tree protection zones. If erosion control is required inside the tree protection zones, use straw wattles to minimize root zone disturbance of the trees to be retained. The applicant shall not relocate or remove the fencing prior to certificates of occupancy. The tree protection fencing shall be 6-foot-tall chain link or no-jump horse**

fencing supported with metal posts placed no farther than 10 feet apart installed flush with the initial undisturbed grade. The applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches, placed every 75 feet or less) to the tree protection fencing with the following information: **TREE PROTECTION ZONE, DO NOT REMOVE OR ADJUST THE APPROVED LOCATION OF THIS TREE PROTECTION FENCING.** Please contact the project arborist if alterations to the approved location of the tree protection fencing are necessary. No construction activity shall occur within the tree protection zone, including, but not limited to, grading, clearing, excavation, access, stockpiling, dumping, or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The applicant shall request an inspection of tree protection measures with City staff and the project arborist prior to any tree removal, grading, or other construction activity on the site. The applicant shall retain an arborist on site to monitor any construction activity within the tree protection area of the trees on adjacent properties that have a dripline that would be impacted by development activity on the subject property.

12. All other tree preservation conditions found in the final order for land use File No. 21-046 shall be met by the applicant.
13. 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 two (2) trees on the subject property at 17650 Meinig Road is hereby approved with conditions.

CONDITIONS OF APPROVAL:

1. If the applicant is not able to meet the mitigation ratio requirement for any reason, they shall pay a fee of \$500 per required mitigation tree up to a total of \$4,000 for eight (8) trees.
2. The trees being removed shall be directionally felled away from on and offsite trees to be retained so they do not contact or damage adjacent trees' crowns or trunks. Additionally, their stumps shall be ground out rather than pulled with a machine so that root disturbance of adjacent retained trees is minimized.
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6. 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.



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 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.