

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

**DATE:** January 27, 2023

**FILE NO.:** 23-004 TREE

**PROJECT NAME:** 15302 Salmonberry Avenue Tree Removal

**APPLICANT/OWNER:** Angela Barrett

**ADDRESS:** 15302 Salmonberry Avenue

**LEGAL DESCRIPTION:** Lot 8 of the Sandy Woods subdivision

**PROPOSAL:** Remove two trees in compliance with the requirements of Chapter 17.102, Urban Forestry and restrictive covenant relating to tree protection for the Sandy Woods subdivision.

**EXHIBITS:**

**Applicant's Submittals**

A. Land Use Application

B. Tree Health Assessment Report dated January 11, 2023 (Sibyl Weise, NW SavATree, ISA, TRAQ)

**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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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). The subject property is less than one acre; however, the two trees proposed for removal are required retention trees per a restrictive covenant relating to tree protection (Clackamas County Document No. 2019-028214). The requirement for retention of the trees occurred during the platting of the Sandy Woods subdivision in 2019 (Land Use File No. 18-002 SUB/VAR and Plat No. 4575). Therefore, the proposal must be processed as a land use application to determine compliance with provisions for removal of the required retention trees.

4. The recorded tree protection covenant (Clackamas County Document No. 2019-028214) identifies two protected retention trees on Lot 8 of the Sandy Woods subdivision. The trees are numbered as #447 and #448. Tree #447 was identified as a 31-inch DBH Douglas fir and tree #448 was identified as a 23-inch DBH Douglas fir. Both trees were defined as viable for retention.
5. The applicant proposes to remove both trees, which can only be removed “upon a determination by a qualified professional that the Tree is diseased, dead, dying, or otherwise hazardous to persons or property in a way that can only be remediated by complete removal of the Tree” as outlined in the recorded tree protection covenant.
6. The applicant submitted a tree health assessment report (Exhibit B) from Sibyl Weise with SavATree Consulting Group. Ms. Weise is an ISA certified arborist with a TRAQ certification. The tree health assessment was very thorough and made the following observations and conclusions:
  - a. Observation: “There are two large Douglas-firs (*Pseudotsuga menziesii*) located in the northwest corner of the property in the backyard of 15302 Salmonberry Ave, Sandy. Their diameter at breast height are 34” and 24” with a height of approximately 65-80 feet. Their canopies are sparse with a lot of dead branches, and they have dropped a large number of branches. I noticed that there were Doug fir beetle exit holes on the main stem and aphids on the foliage. The client mentioned that during the summers the trees dropped a lot of sap which is likely honeydew from the aphid population. The client mentioned that they had their trees pruned in the past year and a half. The next-door neighbors, 15296 Salmonberry Ave, had three Douglas-firs removed in the past 3-4 year and have one 24” Douglas-fir. The trees removed and the one still standing are in the same small grove as our client’s two Douglas-firs. The trees removed were consistently failing and hitting the neighbor’s house.”
  - b. Conclusion: “Tree risk can be eliminated by removing the trees or the targets. My recommendation for risk mitigation is to remove both of the Douglas-firs and replant with native species though the homeowner has planted multiple native species on the property. Both trees have drastically dropped their branches which is most likely due to new exposure to wind loads from the neighboring tree removals. In addition, both trees have Doug-fir beetle and aphids which increases the likelihood of failures in the future and negatively impacts the health of the trees. There is too much irreversible damage that even with a plant health care program the trees would likely not improve. The removal recommendation will eliminate the risk factor. I am also working with the next-door neighbor to assess the damage/risk of the trees on their property. Trees can be managed but they cannot be controlled. Not all risk associated with standing trees can be eliminated. Even intact trees can be expected to fail all or in part under extreme weather conditions. The trees owners are responsible for selecting and implementing mitigation, scheduling of repeat assessments, and scheduling future monitoring and maintenance.”

7. Per Section 17.102.50, removal of protected trees requires replanting at a minimum 2 to 1 ratio. Thus, the removal of two (2) required retention trees requires planting a minimum of four (4) mitigation trees. Both trees are large native evergreen species and thus need to be mitigated by planting large native evergreen species. Rather than require the applicant to plant and maintain four mitigation trees that will grow to be large trees in their backyard, staff would prefer 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 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. **The applicant shall do one of the following:**
  - **Plant four (4) mitigation trees on the property. If trees are planted on Lot 8, the cost of planting, watering, and maintaining the trees is the burden of the property owner, the tree species and size at planting shall be approved by Planning Division staff, and the property owner shall allow City staff to check on the health of the trees at one, two, and three years after planting.**
  - **Or, pay a mitigation tree fee-in-lieu of \$500 per tree to relocate the four mitigation trees off-site (\$2,000 total).**
8. The recorded tree protection covenant (Clackamas County Document No. 2019-028214) details two required retention trees on Lot 8. After removal of the two retention trees, **the applicant shall record an update to the tree protection covenant for Lot 8 detailing removal of Trees #447 and #448. If the applicant chooses to plant the four mitigation trees on the subject property, the applicant shall also update the recorded tree protection covenant to detail the species and location of the four mitigation trees.**
9. If the applicant chooses to plant mitigation trees, the trees will need to be kept alive and healthy. To help maximize the health and survival of the mitigation trees in the future, **the applicant shall aerate and amend the soil prior to planting the mitigation. The applicant shall not anchor anything to the mitigation trees, compact the soil under the dripline, or otherwise harm or damage the mitigation trees. The mitigation trees shall be planted per the City of Sandy standard planting detail. All ties and burlap shall be removed from the root ball prior to planting. If the burlap cannot be completely removed from the root ball without compromising the integrity of the root ball, the burlap shall be removed from at least the top one third of the side of the root ball. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stake. The mitigation trees shall be adequately watered for at least the first three dry seasons (summers).**

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. **If the stumps will be ground, the applicant shall cover all exposed soil resulting from removal of the two trees.**
11. 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 it does not negatively impact other retention trees, any adjacent property, or the right-of-way. If removal of the two trees damages a 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 trees proposed for removal. **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 application for removal of two (2) hazard trees from 15302 Salmonberry Avenue (Lot 8 of the Sandy Woods subdivision) is hereby **approved** as modified by the conditions listed below.

### **CONDITIONS OF APPROVAL:**

- A. Tree removal is limited to Trees #447 and #448 as identified in the recorded tree protection covenant (Clackamas County Document No. 2019-028214).**
- 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 1.5-inch caliper if conifers or at least 6 feet in height if evergreen 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. 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 hazardous tree removal:**

1. If the stumps will be ground, the applicant shall cover all exposed soil resulting from removal of the two trees.
2. The applicant shall have the trees felled such that it does not negatively impact adjacent trees. If removal of the two trees 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. Activity within the right-of-way (e.g., staging, etc.) requires a separate right-of-way permit through the Public Works Department.
4. 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.

**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.



---

Kelly O'Neill Jr.  
Development Services Director

## **RIGHT OF APPEAL**

A decision on a land use proposal or permit may be appealed to the City Council by an affected party by filing an appeal with the Director within twelve (12) calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, “*Notice of Appeal*”, and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an 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.