

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

This proposal was reviewed as a Type I Tree Removal. The following exhibits, findings of fact, and conditions explain the proposal and the conditions of approval.

**DATE:** June 21, 2023

**FILE NO.:** 23-005 TREE

**PROJECT NAME:** 38920 Junker Street Tree Removal

**OWNER/APPLICANT:** Barlow Properties, LLC

**SITUS ADDRESS:** 38920 Junker Street

**LEGAL DESCRIPTION:** Parcel 1 of Partition Plat 2022-77 (Tax Lot 5400)

Lot 1 and the 10 west feet of Lot 2 of Block 4 of Junkers 2nd Addition to Sandy (Tax Lot 7100)

Lot 5 of Block 5 of Junkers 2nd Addition to Sandy (Tax Lot 7200)

Lot 1 and the 10 west feet of Lot 2 of Block 9 of Junkers 3rd Addition to Sandy (Tax Lot 8200)

Lots 3 and 4 of Block 8 of Junkers 3rd Addition to Sandy (Tax Lot 8100)

Lots 5 of Block 8 of Junkers 3rd Addition to Sandy (Tax Lot 8200)

Vacated right-of-way in both Junkers 2nd Addition to Sandy and Junkers 3rd Addition to Sandy

**TAX ASSESSOR LOTS:** T2S R4E Section 31CA, Tax Lots 5400, 7100, 7200, 8100, and 8200

**PROPOSAL:** Remove 28 trees

**EXHIBITS:**

**Applicant's and Property Owner's Submittals**

A. Land Use Application

B. Tree Inventory from Todd Prager and Associates for Tax Lots 7100, 7200, and 8200

C. Tree Inventory from Todd Prager and Associates for Tax Lot 8100

D. Email identifying trees to be removed (received June 20, 2023)

**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 contiguous parcels under the same ownership contain greater than one acre, therefore, the proposal must be processed to determine compliance with Chapter 17.102, Urban Forestry. 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.” The proposal is considered a Type I permit because fewer than 50 trees are proposed to be removed and the overall site meets the minimum retention requirements.

2. The application was submitted on January 23, 2023. Staff deemed the application incomplete on February 16, 2023. The applicant submitted additional materials on May 31, 2023, and June 20, 2023.
3. While Parcel 1 of Partition Plat 2022-77 (Tax Lot 5400) to the north of Junker Street is part of the contiguously owned property, there are no trees on that site and therefore this application is separate from File No. 22-041 DR/ADJ which is for a veterinary clinic on Parcel 1 of Partition Plat 2022-77.
4. The gross acreage for the contiguous property is 1.37 acres. Based on this amount of acreage, the overall contiguously owned property is required to retain 4 trees (1.37 x 3) with at least three of the required trees per acre being of conifer species, if possible. All the tree retention will be located on the property south of Junker Street as there are no trees existing on the property north of Junker Street.
5. The two submitted tree inventories (Exhibits B and C) identify 72 total trees (numbered 1 through 73) to the south of Junker Street. Tree #57 is absent from the inventories. Of the 72 identified trees, four of the trees (Tree #'s 56, 71, 72, and 73) are not located on the subject property. So, in total there are 68 trees on the subject property with 28 of the trees below 11-inches DBH. Only eight trees are 11-inches DBH or greater and in good condition (Tree #'s 37, 48, 52, 54, 61, 65, 67, and 68). There are an additional 18 trees that are 11-inches DBH or greater and in fair condition.
6. The applicant proposes to remove 28 trees (Tree #'s 7, 11, 12, 13, 14, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 40, 41, 42, 43, 44, 45, 46, 47, 49, 50, and 51). None of the trees proposed to be removed are 11-inches DBH or greater and in good condition as identified in Exhibits B and C. Only 10 of the 28 trees being proposed for removal are 11 inches DBH or greater. All of the trees proposed for removal are in fair, poor, or very poor condition, with three of the trees being identified as dead.
7. Some of the trees (specifically Tree #'s 7, 11, 12, 13, 14, 26, 27, 28, and 33) are on steeper slopes. The applicant should be careful so as not to cause unstable slopes. **If the applicant has questions about the slope stability with tree removal, staff recommends they contact a Certified Engineering Geologist.**
8. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal be replanted. **All areas with exposed soils resulting from tree removal shall be replanted with a ground cover of native species within 30 days of harvest during the active growing season, or by June 1 of the following spring. All areas with exposed soils resulting from tree removal occurring between October 1 and March 31 shall also be covered with straw to minimize erosion.**

9. If the 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 28 trees (Tree #'s 7, 11, 12, 13, 14, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 40, 41, 42, 43, 44, 45, 46, 47, 49, 50, and 51) at 38920 Junker Street.

### **CONDITIONS OF APPROVAL:**

#### **A. Prior to tree removal:**

1. 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.

#### **B. General Conditions of Approval:**

1. All areas with exposed soils resulting from tree removal shall be replanted with a ground cover of native species within 30 days of harvest during the active growing season, or by June 1 of the following spring. All areas with exposed soils resulting from tree removal occurring between October 1 and March 31 shall also be covered with straw to minimize erosion.
2. If the applicant has questions about the slope stability with tree removal, staff recommends they contact a Certified Engineering Geologist.
3. 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.
4. Successors-in-interest of the applicant or property owner shall comply with requirements of this final order. In the event the property owner 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 property owner's heirs, personal representatives, successors, and assigns.
5. Activity within the right-of-way (e.g., staging, etc.) requires a separate right-of-way permit through the Public Works Department.



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.