

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

DATE: August 11, 2023

FILE NO.: 23-007 TREE

PROJECT NAME: Hood Street Tree Removal

APPLICANT: Rich's Tree Service

OWNER: Vanport International (Ryan Hatch)

LEGAL DESCRIPTION: Lots 4 – 6 of Idleman Park Subdivision

PROPOSAL: Remove one hazard tree in compliance with the requirements of Chapter 17.102, Urban Forestry and the land use decision for Idleman Park subdivision.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application
- B. Arborist Explanation from Tillis Tree Care

Evidence Entered into the Record by Staff

- C. Email from Kelly O'Neill Jr. to Rich's Tree Service
- D. Tree Covenant for Idleman Park (2016-027619)

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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. 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 hazard tree was contained in a recorded covenant (Exhibit D). Therefore, the proposal must be processed as a land use application to determine compliance with provisions for removal of the trees and subsequent tree mitigation.
3. The application was submitted on February 9, 2023. On February 13, 2023, the City sent incompleteness letter listing the following deficiencies:

- a. A scaled site plan detailing the location of the hazard tree that was removed, the species, size, and the tree tag number per the recorded tree protection plan from the Idleman Park Subdivision. Recording No. 2016-027619. Vanport International, Inc. will need to modify the existing tree covenant and record a new covenant.
 - b. Date the hazard tree was removed and the method for which it was removed.
 - c. A scaled re-planting plan indicating ground cover type, species of trees to be planted, and general location of re-planting.
4. On April 24, 2023, the applicant submitted a document (Exhibit B) from Tillis Tree Care, dated April 17, 2023, containing a very brief summary of the work performed by Rich's Tree Service. The document from Tillis Tree Care was titled as an arborist report but was not an arborist report in accordance with industry standards. Also, the document did not include a scaled site plan and tree inventory which is needed to revise the existing tree covenant.
 5. Exhibit B states that most of the trees on the site are either dead or dying. The document states that Rich's Tree Service removed one large damaged Doug fir and that a second tree also failed and snapped, landing in the street. Staff completed a site visit in July 2023 and noticed additional trees that are still standing but appear dead.
 6. A majority of the retention trees in the existing tree covenant from 2016 (Exhibit D) have fallen, have been removed, or are in poor health. The applicant has failed to submit sufficient documentation on what trees remain and how the trees in Exhibit D that are gone will be mitigated for. **Therefore, prior to any construction on Lots 4 – 6 of the Idleman Park subdivision, the applicant shall submit a comprehensive arborist report and revised tree covenant for those three lots, including mitigation tree plans. The City shall review the arborist report and the revised tree covenant prior to recording. Violation of this provision will result in a fine.**
 7. Since the applicant never submitted all of the missing materials, nor stated that no additional materials would be submitted and to process the application, the 180-day rule per ORS 227.178 passed on August 9, 2023. Typically, the land use application would be declared void, but the hazard tree has already been removed. Therefore, staff has to issue this decision with the information submitted.

DECISION:

The application for removal of a hazard tree from Lots 4 – 6 of the Idleman Park subdivision is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

A. Prior to construction on Lots 4 – 6:

1. Prior to any construction on Lots 4 – 6 of the Idleman Park subdivision, the applicant shall submit a comprehensive arborist report and revised tree covenant for those three lots, including mitigation tree plans. The City shall review the arborist report and the revised tree covenant prior to recording. Violation of this provision will result in a fine.

B. 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.