

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

DATE: May 5, 2023

FILE NO.: 23-013 FSH/TREE

PROJECT NAME: Tree Removal in City Park by Hamilton Ridge Drive

APPLICANT: City of Sandy Parks and Recreation Department

OWNER: City of Sandy

ADDRESS: NE of 37744 Hamilton Ridge Drive

TAX IDENTIFICATION: Tax Map 24E14DD, Tax Lot 07900

PROPOSAL: Remove one (1) hazard tree within the Flood and Slope Hazard Overlay in compliance with the requirements of Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, and Chapter 17.102, Urban Forestry.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application
- B. Email from Northwest Turf and Tree
- C. Photos and evaluation from Northwest Turf and Tree

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 Parks and Open Space, and a Zoning Map designation of POS, Parks and Open Space, with the Flood and Slope Hazard (FSH) Overlay.
3. Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, applies to development within the mapped FSH Overlay and Chapter 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 proposed tree removal is within the mapped FSH overlay adjacent to Tickle Creek. The contiguously owned properties total over one acre. Therefore, Chapters 17.60 and 17.102 apply.

17.60 – Flood and Slope Hazard (FSH) Overlay District

4. The one (1) hazard tree proposed for removal as part of this application is located within the Flood and Slope Hazard (FSH) Overlay District; therefore, a FSH review is required. Removal of up to two (2) trees 6-inches or greater DBH in a calendar year can be reviewed under the Type I FSH procedure. In addition, removal of dead vegetation that is hazardous to the public can also be reviewed under the Type I FSH procedure.
5. Section 17.60.00 specifies the intent of the Flood and Slope Hazard (FSH) Overlay District, which is to promote the public health, safety, and general welfare by minimizing public and private adverse impacts from flooding, erosion, landslides, or degradation of water quality consistent with Statewide Planning Goal 6 (Air, Land, and Water Resources Quality) and Goal 7 (Areas Subject to Natural Disasters and Hazards) and the Sandy Comprehensive Plan (SCP).
6. Section 17.60.20 contains permitted uses in the FSH overlay district and Section 17.60.40 contains the FSH review procedures. As previously discussed, removal of up to two (2) trees and removal of dead vegetation from the FSH overlay area are both processed under a Type I FSH procedure. **Future vegetation removal shall require separate permit review and compliance with Chapter 17.60.**
7. Section 17.60.50 contains requirements for special reports, including a hydrology and soils report, a grading plan, and a native vegetation report. The Director determined that no reports are needed with this application.
8. Section 17.60.60 contains approval standards and conditions for development in the restricted development areas of the FSH overlay district. This permit is just for the removal of one tree, and does not include development in the FSH, so no evaluation of the approval standards in Section 17.60.60 (A) is warranted.

17.102 – Urban Forestry

9. Section 17.102.20 contains information on the applicability of Urban Forestry regulations Per Section 17.102.20(A), “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 days following the date of tree removal. The applicant did not submit a retroactive tree removal permit but did state in the application that the tree removal is scheduled for May 18, 2023. **Future tree removal from the subject property shall require additional permit approvals.**
10. The Parks and Recreation Department had the subject tree inspected by Northwest Turf and Tree and on February 9, 2023, received the following evaluation: “Removal of this tree is highly recommended due to numerous issues going on with this tree, we have numerous areas of visual decay in 2 of the 3 stems, which that decay has set into all 3 stems of this tri-dorm [sic] maple. We are seeing signs of fruiting bodies aka mushrooms along the trunks of

these trees. The left leader is showing numerous areas of fruiting bodies under the lean of the tree, which is a sign we have trunk and or root rot visibly present in the tree. This wouldn't be much of an issue if this tree didn't have multiple targets, we have a pathway next to this tree as well as a home, this area looks to be in frequent use to high foot traffic when the weather permits. Ideally, it would be great to leave a habitat tree for insects, birds and other animals, but low enough that the tree wouldn't fail in or onto a target, this would definitely help with erosion as well."

11. Per Section 17.102.60, removal of a hazard tree requires replanting at a minimum 2 to 1 ratio. Thus, the removal of the one (1) hazard tree requires planting a minimum of two (2) mitigation trees. **The applicant shall submit a mitigation tree plan detailing the proposed location of the two (2) required mitigation trees for staff review and approval.**
12. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal shall be replanted. **No heavy machinery shall be driven into the FSH Overlay area nor within critical root zones of existing trees that will remain.**

DECISION:

This hazard tree removal permit application for removal of one (1) hazard tree on the City park by Hamilton Ridge Drive is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

- A. Tree removal is limited to the one (1) hazardous bigleaf maple tree as identified in Exhibit C.**
- B. The applicant shall plant two (2) mitigation trees with the following conditions:**
 1. Submit information on the proposed species, size, and location of the two (2) mitigation trees for staff review and approval.
 2. Aerate any soils that have been compacted prior to planting.
 3. The mitigation trees shall be planted within one (1) year of the removal of the hazardous bigleaf maple.
 4. The mitigation trees shall be a minimum of 5 feet in height at time of planting or at least 1.5 inches caliper measured at six inches above the ground 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 and the twine shall be removed after one year from being planted.
- C. General Conditions of Approval**
 1. No heavy machinery shall be driven into the FSH Overlay area nor within critical root zones of existing trees that will remain.

2. Future tree removal from the subject property and/or vegetation removal or other development activity within the FSH overlay shall require additional permit approvals.
3. Staff recommends that the applicant leave a snag if determined to be safe by an ISA-certified arborist with the Tree Risk Assessment Qualification (TRAQ).



Kelly O'Neill Jr.
Development Services Director

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.