

## FINDINGS OF FACT and FINAL ORDER TYPE I DECISION

---

|                      |  |
|----------------------|--|
| <b>DATE:</b>         | October 19, 2023                           |
| <b>FILE NO.:</b>     | 23-039 FSH                                 |
| <b>PROJECT NAME:</b> | Tickle Creek Restoration Project           |
| <b>APPLICANT:</b>    | Eric Butler, Clackamas River Basin Council |
| <b>OWNER:</b>        | City of Sandy                              |
| <b>LOCATION:</b>     | Tickle Creek Greenspace                    |

---

### **BACKGROUND**

The intent of the Tickle Creek Restoration Project is to improve riparian health and protect water quality along a section of the Tickle Creek Stream Corridor between 362nd Ave to a location near Hwy 211 in Sandy. This section of Tickle Creek is about two miles upstream from Sandy's Wastewater Treatment Plant. The 1.8-mile Tickle Creek Trail travels along parts of this corridor and was built in 2010. The stream corridor is largely surrounded by residential development (see Exhibit D: map of management area).

This project is a Supplemental Environmental Project as part of the terms of United States, et al. v. City of Sandy, Oregon (case 90-5-1-1-12501).

The project has three goals: reduce non-native plants in the riparian corridor; increase native plants, particularly shade providing conifers, hardwoods, and shrubs; and mitigate erosion and soil compaction from off-trail disturbance. Work is expected to occur between October 2023 and October 2026.

All elements of the project outlined above by the Clackamas River Basin Council are permitted uses and can be evaluated using the Type I Administrative Review per Sandy Municipal Code Section 17.60.40, as detailed below. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the conditions of approval.

### **EXHIBITS**

#### **Applicant's Submittals:**

- A. Land Use Application
- B. Project Description
- C. Tickle Creek Map and Site Conditions
- D. Tree and Shrub Species List

### **FINDINGS OF FACT**

#### **General**

1. These findings are based on the applicant's submittal received on October 5, 2023.

2. The project is almost entirely within the Flood and Slope Hazard (FSH) Overlay and is directed at the future health of Tickle Creek.
3. The project consists of the following Type I Procedure uses in Section 17.60.40 (A): 1) planting of native plant species, and 3) removal of non-native/invasive vegetation. Some temporary erosion control using biodegradable landscape materials may be implemented on certain vulnerable stream banks to stabilize the ground until planted native vegetation establishes. Mitigation of off-trail activity will consist of strategic placement of plants and woody debris to prevent or deter access to impacted areas and to facilitate natural soil recovery.
4. No earth movement or construction are planned for this project.

### **17.60 – Flood and Slope Hazard (FSH) Overlay District**

The purpose of FSH Overlay reviews is to minimize public and private adverse impacts from flooding, erosion, landslides, or degradation of water quality consistent with Statewide Planning Goals 6 (Air, Land and Water Resources Quality) and 7 (Areas Subject to Natural Disasters and Hazards) and the Sandy Comprehensive Plan (SCP). It is also intended to minimize public and private losses due to flooding in flood hazard areas.

5. **Per Section 17.60.40 Review Procedures**, the Director may approve Type I permits over the counter or following a field check.
6. **Per Section 17.60.60.B**. All development permits for areas partially or fully within the Area of Special Flood Hazard shall be reviewed by the Director to determine that:
  - a. The permit requirements of Chapter 17.60 have been satisfied;
  - b. All other required state and federal permits have been obtained; and,
  - c. The site is reasonably safe from flooding.
7. No state or federal agencies require notification or approval.
8. Woody material removed during noxious weed management will be broken up and/or chipped and dispersed into off-trail activity areas as necessary.
9. Clackamas River Basin Council, and its contractors and volunteers, will target noxious weeds using a combination of mechanical and chemical treatments to minimize the need for herbicide while maintaining a reasonable timeline for project completion.
10. Clackamas River Basin Council plans to install up to 18,500 bare-root native trees, shrubs, and herbaceous perennials, supplemented with native herbaceous plant seed, wherever necessary to re-establish native vegetation following noxious weed removal.
11. The applicant submitted a plant and species list showing the vegetation they intend to install/plant (Exhibit E).

**12. Any future development within the FSH overlay district as described in Chapter 17.60 of the Sandy Municipal Code shall require separate permit review.**

**DECISION**

For the reasons described above, the request by the Clackamas River Basin Council for a Type I FSH review for soil movement and native vegetation planting is hereby **approved** with the conditions listed below.

**CONDITIONS OF APPROVAL**

- A. The Planning Division reserves the right to conduct inspections during this project and request additional plantings in areas with exposed soils or additional noxious weed management where necessary.
- B. **Any future development within the FSH overlay district as described in Chapter 17.60 of the Sandy Municipal Code shall require separate permit review.**
- C. Comply with all other conditions or regulations imposed by Clackamas County Fire, or state and federal agencies. Compliance is made a part of this approval and any violations of these conditions and/or regulations may result in the review of this approval and/or revocation of approval.



---

Patrick Depa  
Senior Planner

## **RIGHT OF APPEAL**

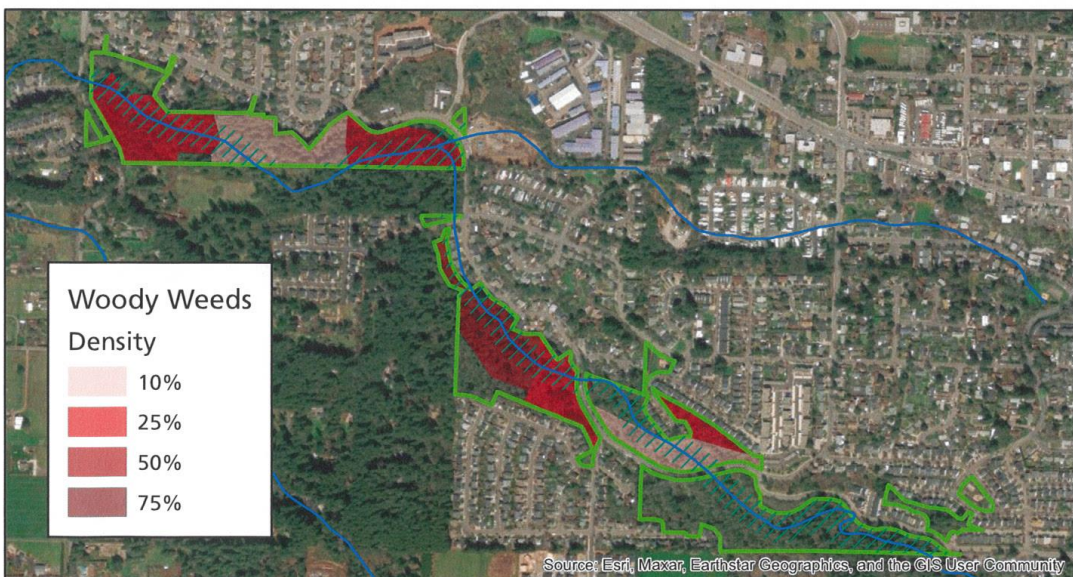
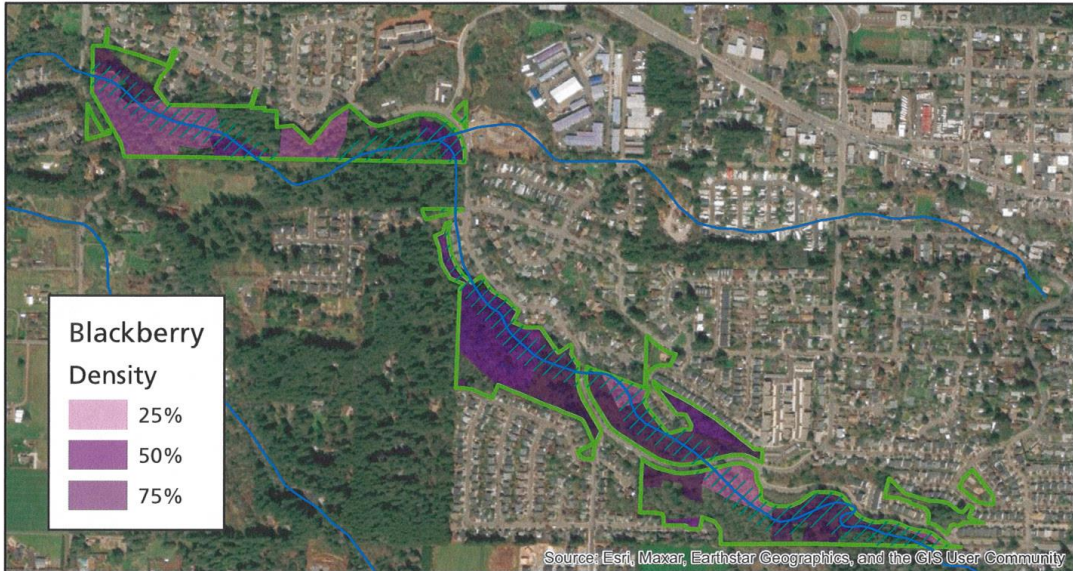
A decision on a land use proposal or permit may be appealed to the City Council by an affected party by filing an appeal with the Director within twelve (12) calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, “*Notice of Appeal*”,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

**EXHIBIT D: Management Area**

# Tickle Creek Corridor Noxious Weed Management



0 625 1,250 2,500 Feet

/// 100' riparian buffer



## **EXHIBIT E: Plant List**

### **Trees:**

- o Bigleaf maple (*Acer macrophyllum*)
- o Red alder (*Alnus rubra*)
- o Cascara (*Frangula purshiana*)
- o Bitter cherry (*Prunus emarginata*)
- o Douglas fir (*Pseudotsuga menziesii*)
- o Pacific willow (*Salix lasiandra*)
- o Western hemlock (*Tsuga heterophylla*)

### **Shrubs:**

- o Cine maple (*Acer circinatum*)
- o Tall Oregon-grape (*Berberis aquifolium*)
- o Longleaf Oregon-grape (*Berberis nervosa*)
- o Red-osier dogwood (*Cornus sericea*)
- o Beaked hazel (*Corylus cornuta*)
- o Western wahoo (*Euonymus occidentalis*)
- o Salal (*Gaultheria shallon*)
- o Oceanspray (*Holodiscus discolor*)
- o Osoberry (*Oemleria cerasiformis*)
- o Pacific ninebark (*Physocarpus capitatus*)
- o Stink currant (*Ribes bracteosum*)
- o Black gooseberry (*Ribes lacustre*)
- o Nootka rose (*Rosa nutkana*)
- o Thimbleberry (*Rubus parviflorus*)
- o Salmonberry (*Rubus spectabilis*)
- o Douglas spirea (*Spiraea douglasii*)
- o Snowberry (*Symphoricarpos albus*)
- o Red huckleberry (*Vaccinium parviflorum*)

### **Herbaceous species:**

- o Wild ginger (*Asarum caudatum*)
- o Lady fern (*Athyrium filix-femina*)
- o Slough sedge (*Carex obnupta*)
- o Enchanter's-nightshade (*Circaea elata*)
- o Pacific waterleaf (*Hydrophyllum tenuipes*)
- o Woodrush (*Luzula multiflora*)
- o False Solomon's seal (*Maianthemum racemosum*)
- o Wood sorrel (*Oxalis* spp.)
- o Sword fern (*Polystichum munitum*)
- o Fringecup (*Tellima grandiflora*)
- o Western meadowrue (*Thalictrum occidentale*)
- o Piggyback plant (*Tolmiea menziesii*)
- o Western trillium (*Trillium ovatum*)
- o Inside-out flower (*Vancouveria hexandra*)
- o Yellow wood violet (*Viola glabella*)