

FINDINGS OF FACT and FINAL ORDER TYPE II REVIEW

DATE:	April 25, 2024
FILE NO.:	24-022 TREE/FSH
PROJECT NAME:	Tickle Creek 2024 Storm Mediation (Hazard Tree Removal)
APPLICANT:	City of Sandy Parks and Recreation Department
CONTACT:	Tiana Rundell, Parks and Facility Manager
LOCATION:	Various City Property Along Tickle Creek
TAX LOT(S):	24E14BC08500 and 24E14DB08000
ZONING:	Parks & Open Space (POS)/Flood Slope Hazard (FSH)
PROPOSAL:	Removal of eighteen (18) hazard trees within the FSH Overlay Districts in compliance with the requirements of Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, and Chapter 17.102, Urban Forestry.
STAFF CONTACT:	Patrick Depa, Senior Planner

BACKGROUND:

The Parks and Recreation Department has identified eighteen (18) trees with the help of Oregon Tree Care that need immediate removal along the Tickle Creek trail corridor due to damage from the January 2024 ice and windstorms. The trees are at risk of falling and damaging property. The arborist identified nine (9) Western Cedars, five (5) Douglas Firs, three (3) Alders, and one (1) Hemlock tree that the Parks and Recreation Department state need to be removed due to their potential hazard they present to the public.

General Location: Trees tagged 1-5 are in the section of the trail just east of Knollwood Park between the small culvert bridge and approximately where the paved part of the trail begins. Trees tagged 6-8 are along the paved part of the path to the south of Knollwood Park. Trees numbered 1-8 are behind Dubarko Road between Reich Court and Sandy Heights Street. Tree tagged 9 is just east of Bridge 3 along Dubarko Road between Ruben Lane and Eldridge Drive. Trees tagged 10-15 are spread along the trail from west of Bridge 3 to Bridge 1 to the south of Dubarko Road from Double Creek Drive to 362nd Drive. Three additional trees were identified and tagged as hazardous behind 39576 Trillium Avenue that abuts to Tickle Creek Trail.

Removal of the hazardous trees began concurrently with review of this land use application. Findings from the evaluation from the arborist, Oregon Tree Care, are on file.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application (Tiana Rundell)
- B. Inventory and Price Proposal
- C. Maps and Photos

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal. The Parks and Recreation Department submitted their application to the Planning Division on March 19, 2024, in preparation of tree removal.
2. The site has a Comprehensive 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. The FSH Overlay encumbers almost all of the subject removal areas. Because the subject area is over the one acre minimum, Chapter 17.102 applies.
4. 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).
5. This application was mailed to all property owners within 300 feet of the subject properties with proposed hazard tree removal in accordance with Section 17.22.10. The City received one letter from the public supporting the removal to be done sooner than later.

Section 17.60.40 – Review Procedures

6. Review of development requests within the FSH Overlay District shall occur subject to the procedures in Section 17.60.40. Due to the large number of trees being removed and the unique circumstances, the Director chose to review the request as a Type II review under Section 17.60.40.B.8.:

Development requests that are similar in scope and impact, as determined by the Director, except that no other residential uses shall be considered beyond the provisions of Subsection B.3. The Director shall include the justification for the classification decision in the required notice to affected property owners.

The Director justifies the classification decision to use the Type II review procedure and notification requirements due to the large quantity of tree removal, the approximate vicinity to housing, and the noise committed by the saws, vehicles, and other machinery.

The Director deemed this tree removal request exempt from the need for a special report due to the experience and expertise of the Parks and Recreation Department and the Oregon Tree Care company working in tandem in tree removal and replacement.

Section 17.102 – Urban Forestry

7. 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, (B) includes the following exemption: “Tree removal as required by the City or public utility for the installation or maintenance or repair of public roads, public utilities, public structures, or other public infrastructures; or tree removal from City-owned parks and natural areas as required by the City for the installation or maintenance of trails identified in the 2022 Parks and Trails Master Plan, for maintenance or improved safety of public parks, or for view maintenance. In these circumstances, the replanting requirements of Section 17.102.60 shall still apply.” Due to this code exemption, the Parks and Recreation Department is not required to inventory all contiguous property to determine if the parkland meets the tree retention requirements.
8. Per Section 17.102.60, removal of a hazard tree requires replanting at a minimum 2 to 1 ratio. Thus, the removal of the eighteen (18) hazard trees requires planting a minimum of thirty-six (36) mitigation trees. **The applicant shall submit a mitigation tree plan detailing the proposed location of the thirty-six (36) required native mitigation trees for staff review and approval.** The Parks and Recreation Department has stated that they will far exceed the mitigation trees required which will be dispersed along the Tickle Creek Trail from Bridge 1 to just east of Knollwood Park. The plan is to intersperse a variety of younger trees that will disturb less surrounding native vegetation. Twenty (20) Doug Fir seedlings have already been planted at the east end of the trail between Melissa Avenue and Bridge 5.
9. Section 17.102.60 specifies that all areas with exposed soil 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 Tickle Creek 2024 Storm Mediation hazard tree removal permit application for removal of nine (9) western red cedars, five (5) Douglas firs, three (3) alders, and one (1) hemlock trees is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

- A. The applicant shall plant thirty-six (36) native mitigation trees with the following conditions:**
 1. Submit information on the proposed species, size, and location of the thirty-six (36) mitigation trees for staff review and approval.

2. The mitigation trees shall be planted within one (1) year of the removal of the hazardous trees, between the months of October and March.
3. 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.
4. No heavy machinery shall be driven into the FSH Overlay area nor within critical root zones of existing trees that will remain.



Patrick Depa
Senior Planner

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.