

FINDINGS OF FACT and FINAL ORDER TYPE I REVIEW

DATE:	April 29, 2025
FILE NO.:	25-025 TREE
PROJECT NAME:	Jewelberry Avenue Tree Removal
APPLICANT:	Russ Bartels
OWNER:	4J Land Company LLC
ADDRESS:	No situs address
LEGAL LOT:	Parcel 3 of PP2019-060 (File No. 18-013 MP)
TAX MAP AND LOT:	24E11AC, Tax Lot 903
ZONING:	Single Family Residential (SFR)
STAFF CONTACT:	Kelly O'Neill Jr., Development Services Director

PROPOSAL

Remove six trees on private property for the installation of sidewalk along Jewelberry Avenue as conditioned with the final order for the Jewelberry Ridge Major Partition, File No. 18-013 MP.

EXHIBITS

Applicant's Submittals

- A. Land Use Application
- B. Tree Inventory
- C. Tree Removal Plan

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 Comprehensive Plan Map designation of Low Density Residential and a Zoning Map designation of Single Family Residential (SFR).
3. 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 approximately 2.30 acres. Condition of approval E. 3. from File No. 18-013 MP stated: "No trees shall be removed from the subject property prior to obtaining a Tree Removal permit from the City of Sandy." Parcel 3 of Partition Plat 2019-060 was never reviewed for tree retention compliance. Therefore, the proposal must be processed as a land use application to determine compliance with provisions for removal of the required retention tree.

4. Condition of approval A. 13. from File No. 18-013 MP stated: “Construct quarter street improvements or provide a financial guarantee to ensure completion per Section 17.100.330 Sandy Municipal Code (SMC) on the Jewelberry Avenue frontage of proposed Parcel 3. Any right-of-way, fill slopes, slope easements, or retaining walls necessary to accommodate the required street section shall be included in any estimate used to guarantee completion. The applicant shall conduct a geotechnical analysis and wetland delineation prior to construction of the quarter street improvements along Jewelberry Avenue adjacent to Parcel 3.” This tree removal application is related to fulfillment of the Jewelberry Avenue quarter street improvements.
5. This application pertains to the removal of trees tagged as nos. 254, 256, 279, 280, 281, and 282 in the arborist report from Ryan Neumann with Portland Tree Consulting. The six trees were identified in 2018 as follows:
 - Tree no. 254: 31-inch DBH western red cedar, viable
 - Tree no. 256: 18-inch DBH bigleaf maple, viable
 - Tree no. 279: 11-inch DBH red alder, terminal decline
 - Tree no. 280: 36-inch DBH western red cedar, sparse crown
 - Tree no. 281: 34-inch DBH western hemlock, codominant top
 - Tree no. 282: 48-inch DBH western red cedar, multiple tops
6. In 2018, Ryan Neumann with Portland Tree Consulting inventoried 282 trees at 8-inches DBH or greater. Of the 282 trees that were inventoried, 161 trees were associated with Parcel 3 of Partition Plat 2019-060 which is the subject parcel with this land use application. Of the 161 trees associated with Parcel 3, 12 of the trees were marked as being off-site and 14 of the trees were measured below 11-inches DBH. This means that in 2018, 135 trees were at least 11-inches DBH and located on Parcel 3. Of the 135 trees that qualified as potential retention trees on Parcel 3, 80 of the trees did not have any major defects, such as basal decay, trunk decay, red ring rot, large cavities, codominant leaders, low live crown ratio, or terminal decline. The subject property is approximately 2.30 acres which would necessitate the retention of at least 7 healthy trees at 11-inches DBH or greater. Even with the removal of the six trees, two of which are healthy and viable, the site will continue to retain more trees than is currently required in Chapter 17.102 of the Sandy Development Code. Therefore, removal of the six trees on Parcel 3 will not require the planting of mitigation trees.
7. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal shall be replanted. The applicant did not submit a replanting plan or information regarding whether the stump will be left in place or ground. **If the stump is ground, the applicant shall cover all exposed soil resulting from removal of the tree.**
8. If the trees are removed during prime nesting season (February 1- July 31), **the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant 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.

9. The applicant did not provide specific information regarding how the trees proposed for removal with this application would be removed. **If removal of any of the six trees damages a healthy tree, the applicant shall be subject to a fine and if the damaged tree becomes a hazard and needs to be removed in the future, the mitigation ratio shall be two to one (2:1).**

DECISION:

The application for removal of six (6) trees from Parcel 3 of Partition Plat 2019-060 for the construction of sidewalk along Jewelberry Avenue is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

A. Tree removal is limited to trees tagged as nos. 254, 256, 279, 280, 281, and 282 in the 2018 arborist report from Ryan Neumann with Portland Tree Consulting.

B. The following conditions shall apply to the tree removal:

1. If the stump is ground, the applicant shall cover all exposed soil resulting from removal of the two trees.
2. The applicant shall check for nests prior to tree removal. If nests are discovered, the applicant 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.
3. If removal of any of the six trees damages a healthy tree, the applicant shall be subject to a fine and if the damaged tree becomes a hazard and needs to be removed in the future, the mitigation ratio shall be two to one (2:1).

C. 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 the requirements of this final order. In the event the applicant sells or leases the property upon which the conditions 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 Planning Commission by a party with appeal standings 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) or 500 feet of the subject property for appeal of a Type II or Type III decision. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal. Note that a Type IV decision may be appealed to the Land Use Board of Appeals (LUBA) or to other tribunals in accordance with Oregon law.