

FINDINGS OF FACT and FINAL ORDER TYPE I REVIEW

DATE:	July 2, 2024
FILE NO.:	24-037 TREE
PROJECT NAME:	Tickle Creek Village Tree Removal
APPLICANT/OWNER:	Gerry Engler/Dubarko Development Corp.
ADDRESS:	37101 Dubarko Road
MAP/TAXLOT:	24E14 03100
STAFF CONTACT:	Patrick Depa, Senior Planner
ZONING:	R-3 (High Density Residential)/Flood Slope Hazard (FSH)

PROPOSAL:

Remove four (4) retention trees in compliance with requirements of Section 17.102, Urban Forestry. One Douglas Fir, one Big Leaf Maple, one Western redcedar, and one red alder. Two of the trees were downed during the January 2024 winter ice and windstorm.

Exhibit A is the narrative. Exhibit B is a site map with the highlighted tree locations and the complete tree inventory for the site. DBH refers to the diameter of a tree at breast height.

The four retention trees correspond to the site map and tree inventory of tree 13.1, a 14-inch DBH red alder, tree 15, a 28-inch DBH Douglas-fir, tree 10.1, a 15-inch DBH bigleaf maple, and tree 194, a 12-inch DBH Western redcedar at the Tickle Creek Development.

Three of the four retention trees will be replaced by the required six (6) mitigation trees. The red alder, tree no. (13.1) will be swapped with a sweet cherry, tree no. (13). The sweet cherry meets the requirements to be a retention tree by having a 14-inch DBH.

Section 17.102.30(A) details the procedures and application requirements for Type I tree removal permits. The proposal is considered a Type I permit because fewer than 50 trees will be removed.

EXHIBITS:

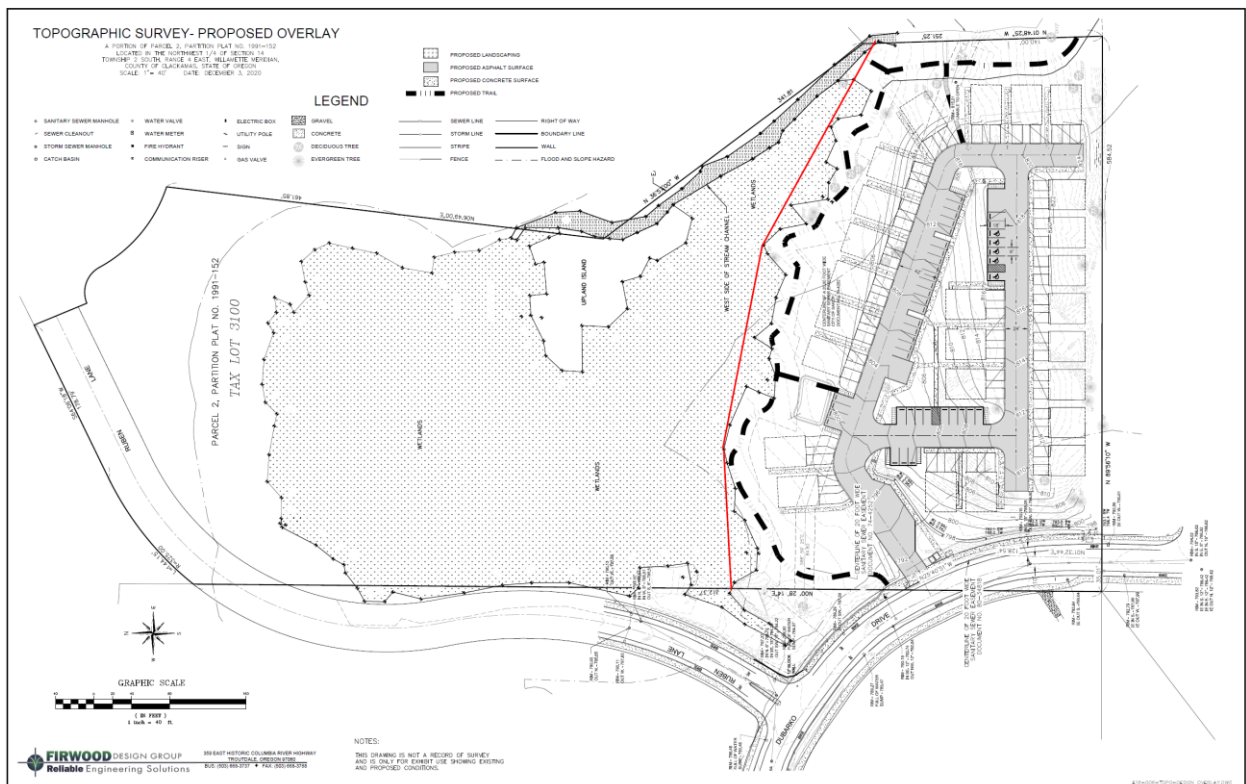
Applicant's Submittals

- A. Narrative
- B. Teragan & Associates "Tree Demo Plan" and "Tree Inventory".

FINDINGS OF FACT:

1. All four (4) trees to be removed are on property owned by one entity.

2. The entire site is approximately ten and a half (10.5) acres in size and is zoned R-3 (High Density Residential)/Flood Slope Hazard (FSH).
3. The site has a Plan Map designation of HDR, High Density Residential, and a Zoning Map designation of R-3 (High Density Residential).
4. 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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.
5. The developed part of the site under File No. 19-038 DR/FSH/VAR/TREE Tickle Creek Village is four (4) acres of the ten and a half (10.5) total acres. The remainder of the site is currently designated as open space (see Figure 1).

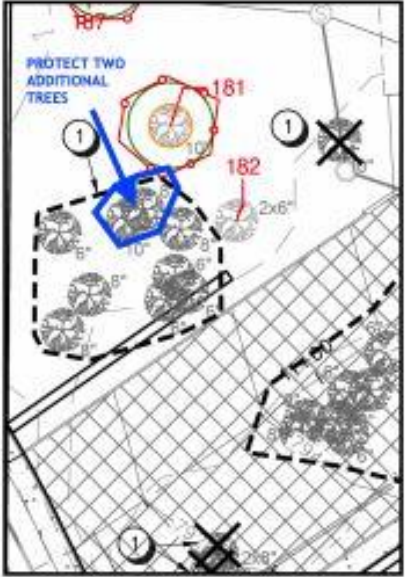


(Figure 1)

6. All four (4) trees are retention trees approved to be retained by File No. 19-038 DR/FSH/VAR/TREE Tickle Creek Village Order.
7. All four retention trees are outside the FSH Overlay designation.
8. Two of the four retention trees were downed during the 2024 winter ice and windstorm.
9. Only three of the four retention trees to be removed will require mitigation.

- 10. 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 site contains greater than one acre, therefore, the proposal must be processed to determine compliance with Section 17.102, Urban Forestry.
- 11. Section 17.102.20(A) states: “No person shall cut, harvest or remove trees 11 inches DBH or greater without first obtaining a permit and demonstrating compliance with this chapter.” Section 17.102.80 specifies that violations of this section are subject to enforcement procedures contained in Chapter 17.06, specifically Section 17.06.80.
- 12. There are not enough 11-inch DBH trees left on the developed portion of the site that can meet or replace the 11-inch DBH required retention tree size, so the four mitigation trees are only 6-8 DBH.
- 13. Tree 10.1 is requested to be removed due to significant decay on the lower area of the tree. To mitigate for the removal of this tree, the applicant proposes retaining two additional trees as shown on the sketch below (see Figure 2). Both of the proposed mitigation trees have been determined to be in good condition and warrant retention (see Tree Demo Plan).

Proposed Mitigation for Tree #10.1 (Retain two additional trees)



(Figure 2)

- 14. Tree 13.1 was previously incorrectly surveyed and was recently found to be only four feet from the lot 20 house foundation. This tree is recommended for removal due to root conflicts with foundation excavation. It will be replaced with adjacent tree 13, a 14-inch DBH sweet cherry (*Prunus avium*) which is in good health condition and will serve as a new retention tree.
- 15. Trees 15 and 194, as noted in the Arborist Report, were both retention trees that were destroyed during the January 2024 ice and windstorm. To compensate for the loss of these

trees, the applicant proposes retaining four additional (two trees for each tree that was lost) trees as shown below (see Figure 3).



(Figure 3)

16. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal be replanted. The land use application did not indicate if the stumps will be removed or left in place. **Per Section 17.102.60(1), all areas of exposed soils resulting from tree removal shall be replanted with a groundcover of native species within 30 days of harvest during the active growing season, or by the 1st of June of the following year.**

17. 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.

DECISION:

The proposal to remove and mitigate for one tree required to be retained (Tree #10.1), remove a second retention tree (Tree #13.1) and replace it with a new retention tree (Tree #13), and provide mitigation for the loss of two retention trees (Tree #15 and #194) destroyed during the January 2024 ice and windstorm is determined to comply with the standards of Section 17.102, Urban Forestry and is hereby **approved with conditions**.

CONDITIONS OF APPROVAL:

1. The trees removed shall be limited to the four (4) trees indicated in the submitted narrative. A new tree retention covenant must be updated and recorded as required.
2. Per Section 17.102.60(1), all areas of exposed soils resulting from tree removal shall be replanted with a groundcover of native species within 30 days of harvest during the active growing season, or by the 1st of June of the following year.
3. Future tree removal in Tickle Creek Village shall require additional permit approvals. Tree removal without permit authorization may result in a fine as specified in Section 17.06.80.
4. 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.
5. 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 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.



Patrick Depa
Senior Planner

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), 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.