

FINDINGS OF FACT and FINAL ORDER TYPE I REVIEW

DATE:	December 17, 2024
FILE NO.:	24-063 TREE
PROJECT NAME:	Dick Hannah Tree Removal
APPLICANT/OWNER:	Glen Archer, Safety Director/ Dick Hannah
ADDRESS:	Undeveloped lot (Sandy Industrial Park Plat Lot 6)
MAP/TAX LOT:	24E14 01112
APPLICABLE CRITERIA:	Section 17.102, Urban Forestry
ZONING:	Light Industrial (I-2)
STAFF:	Patrick Depa, Senior Planner

BACKGROUND:

In September of 2024, Dick Hannah contracted Teragan & Associates, Inc. to perform a Tree Survey and Level II, Basic Tree Assessment. Site visits were conducted by a certified arborist and qualified tree risk assessor, on October 14 and 15, 2024, to complete a tree inventory of all trees growing throughout the property which possessed a DBH¹ of eleven inches or greater. The subject site is approximately 100 feet by 1,282 feet with a steep bank consisting of a twenty-five (25) foot elevation drop from the north property line to the south.

While conducting the tree inventory, Level II, Basic Tree Risk Assessments were performed on trees which possessed defects and were within striking/falling distance of a target of concern. Targets of concern were defined as the houses, neighboring buildings, drive lanes, and parking areas. The risk assessment observed a total of thirteen (13) trees which possess a condition of concern and were located within striking/falling distance of houses located on Yocum Loop. A total of 255 trees were cataloged during the tree inventory including the thirteen (13) individual trees that were assessed for risk of falling and each tree was assigned a risk rating using the methods outlined in the Level II, Basic Tree Risk Assessment Process.

PROPOSAL:

The recommended risk mitigation actions include the removal of ten (10) trees, the pruning of three (3) trees and the continued monitoring of the remaining 242 trees.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application
- B. Teragan & Associates Tree Inventory/Report
- C. Replanting Plan/location
- D. Sandy Industrial Park Plat – Tree Removal Plan

¹ DBH: Diameter of trees at 54 inches above ground.

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 Industrial and a Zoning Map designation of I-2, Light Industrial.
3. 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.
4. The site is vacant and is heavily wooded (see Figure 1).



Figure 1

5. 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 site contains approximately three acres with the contiguously owned land being much greater, therefore, the proposal must be processed to determine compliance with Section 17.102, Urban Forestry.
6. 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. **Tree removal or native vegetation removal without permit authorization may result in a fine as specified in Section 17.06.80.**

7. Section 17.102.50(A) details tree retention and protection requirements. Section 17.102.50(A.1.) states: “at least three trees 11 inches DBH or greater are to be retained for every one-acre of contiguous ownership.” The subject property is approximately three (3) acres and, therefore, requires retention of nine (9) trees that are 11-inches or greater diameter at breast height (DBH), healthy, likely to grow to maturity, and located to minimize the potential for blow-down following the harvest. When the remaining contiguous properties under the same ownership are combined, the total is 24.75 acres. The total amount of healthy retention trees required for the combined properties is seventy-four (74). The tree inventory does indicate that the surveyed property exhibits a total of 245 healthy trees above an eleven (11) inch DBH. This requirement is met.

The applicant submitted a tree inventory from Teragan and Associates in 2023, which staff has included in the file (Exhibit B). The tree inventory included all trees 11-inches DBH or greater and concluded the site has over 250 trees that meet this requirement. With removal of the ten (10) requested hazardous trees, the site will continue to retain far above three (3) trees per acre.

The applicant does not have to mitigate or replace the trees per Section 17.102.60 Tree Replanting Requirements because they provided a tree inventory that show they exceed the minimum number of trees required as retention trees for a property over one acre.

However, the applicant has specified that they plan on replanting the ten (10) trees the risk assessment review has indicated for removal. Tree replacement can occur on any contiguous property under the same ownership. **The replacement trees shall be planted on an adjacent property under the same ownership (see Figure 2).**

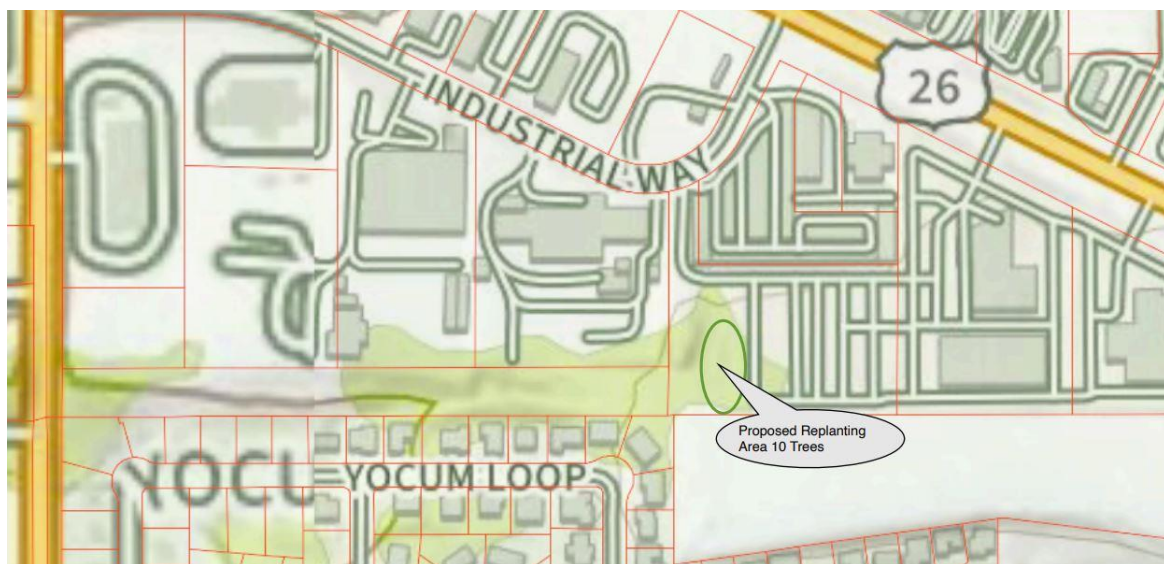


Figure 2

8. 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.**

9. 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 ten (10) hazardous trees from map/tax lot 24E14 01112 (Lot 6 of Sandy Industrial Park) was 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 ten (10) hazardous trees as indicated on the submitted Tree Removal Plan.
2. The replacement trees shall be located on the proposed contiguous property shown in Figure 2.
3. 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.
4. Future tree removal on this parcel shall require additional permit approvals. Tree removal without permit authorization may result in a fine as specified in Section 17.06.80.
5. 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.
6. 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) 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.