

## FINDINGS OF FACT and FINAL ORDER TYPE I REVIEW

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<b>DATE:</b>	February 12, 2025
<b>FILE NO.:</b>	25-004 TREE
<b>PROJECT NAME:</b>	Meinig Tree Removal
<b>PROPOSAL:</b>	Remove one hazardous tree
<b>APPLICANT/OWNER:</b>	Dennis Meinig
<b>ADDRESS:</b>	Vacant lot on Bluff Road
<b>APPLICABLE CRITERIA:</b>	Chapter 17.92 Landscaping and Screening General Standards and Chapter 17.102, Urban Forestry
<b>MAP/TAX LOTS:</b>	24E11AD00700 (west side of Bluff Road)
<b>ZONING:</b>	Single Family Residential (SFR)/FSH Overlay
<b>STAFF CONTACT:</b>	Patrick Depa, Senior Planner

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### **PROPOSAL:**

The applicant is proposing to remove one hazardous tree in compliance with the requirements of Chapter 17.102, Urban Forestry. The tree is acting as a street tree as it is directly adjacent to Bluff Road, but Planning Division staff believe the tree is on private property, so the removal of the tree has to be processed through a land use review. Chapter 17.92 Landscaping and Screening General Standards sets forth the requirements to remove and replace street trees.

### **BACKGROUND:**

The hazardous tree is located on the northwest corner of Agnes Street and Bluff Road. The applicant's home is on the property directly north (15235 SE Bluff Road). Both properties were created from a minor land partition on 5-28-87 (PS 21825). Originally, the property was Lot 4 of Barker Heights before it was partitioned into Parcel 1 and Parcel 2. The applicant owns both Parcel 1 where the house exists and Parcel 2 where the tree is located.

Parcel 1 extends across Bluff Road and is duly zoned Single Family Residential (SFR) and Flood and Slope Hazard (FSH) overlay. This property owner has applied and received approval for multiple tree removal permits on Parcel 1 in the past. Parcel 1 has recorded retention trees based on previous tree removal permits in the past. Parcel 2 is solely on the west side of Bluff Road, is zoned Single Family Residential (SFR), and has no tree retention covenants attached to it. The hazardous tree is located on Parcel 2.

### **EXHIBITS:**

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

- A. Tree Removal Permit Application Form
- B. Site Plan
- C. Pictures

## **FINDINGS OF FACT:**

1. The subject property is a vacant corner lot on Bluff Road.
2. The subject lot has a Plan Map designation of LDR, Low Density Residential, and a Zoning Map designation of Single Family Residential (SFR).
3. 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). The applicant owns three contiguous parcels (Tax Lots 700, 702 and 1200) totaling approximately 1.75 acres. The site contains greater than one acre, therefore, the proposal is reviewed to determine compliance with Chapter 17.102.
4. Per Section 17.102.50. Tree retention and protection requirements:
  - A. The landowner is responsible for retention and protection of trees required to be retained as specified below:
    1. At least three trees 11 inches DBH or greater are to be retained for every one acre of contiguous ownership. **The City has a completed tree survey on file that the applicant submitted for past tree removal requests. That survey shows that there are enough trees remaining on the site to meet this requirement.**
5. Because the tree to be removed is entirely on Parcel 2 which is completely out of the FSH Overlay, Section 17.92.70. Landscaping in the public right of way will apply. The planter strip in the public right-of-way shall include street trees spaced in accordance with Section 17.92.30, in accordance with the adopted street tree list, and at sizes in accordance with Section 17.92.50. **The replacement tree will be one to one ratio.**
6. The tree has a co-dominant trunk which is oftentimes problematic. The tree also appears to have a cavity/hollow so there is likely a fungi or insect issue. The subject tree is described to be hazardous due to its proximity to Bluff Road.
7. 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 stump 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.**
8. If the tree is 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 application for removal of one hazard tree from Parcel 2 of PS 21825 or Tax Lot 24E11AD00700 is hereby approved as modified by the conditions listed below.

**CONDITIONS OF APPROVAL:**

1. Tree removal shall be limited to a maximum of one tree as detailed on the submitted site plan.
2. The planter strip in the public right-of-way shall include street trees spaced in accordance with Section 17.92.30, in accordance with the adopted street tree list, and at sizes in accordance with Section 17.92.50. The replacement tree will be one to one ratio.
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 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.
5. If the tree is 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.
6. Successors-in-interest of the applicant shall comply with requirements of this final order. The conditions shall run with the land and are binding on the applicant's heirs, personal representatives, successors, and assigns.



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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.