

FINDINGS OF FACT and FINAL ORDER TYPE I REVIEW

DATE:	March 3, 2025
FILE NO.:	25-006 TREE
PROJECT NAME:	37035 Olson Street Tree Removal
APPLICANT/OWNER:	Adam and Trisha Baldovinos
ADDRESS:	37035 Olson Street
TAX MAP AND LOT:	24E11BD01100
LEGAL DESCRIPTION:	Lot 11 of the Sandy Woods subdivision
ZONING:	Single Family Residential (SFR)
STAFF CONTACT:	Patrick Depa, Senior Planner

PROPOSAL

Remove one tree, 55-inch Bigleaf Maple Tag#302, in compliance with the requirements of Chapter 17.102, Urban Forestry, and the restrictive covenant relating to tree protection for the Sandy Woods subdivision.

EXHIBITS

Applicant's Submittals

- A. Land Use Application
- B. Tree Report and Level 2 Risk Assessment dated February 8, 2025 (Alfredo Llamas, ISA Certified Arborist #PN-9749A)

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policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.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 Low Density Residential, and a Zoning Map designation of SFR, Single Family Residential.
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 less than one acre; however, the one tree proposed for removal is a required retention tree per a restrictive covenant relating to tree protection (Clackamas County Document No. 2019-028214). The requirement for retention of the tree occurred during the platting of the Sandy Woods subdivision in 2019 (Land Use File No. 18-002 SUB/VAR and Plat No. 4575). Therefore, the proposal must be processed as a land use application to determine compliance with provisions for removal of the required retention tree.

4. The recorded tree protection covenant (Clackamas County Document No. 2019-028214) identifies two protected retention trees on Lot 11 of the Sandy Woods subdivision (Tree# 488 and Tree #302). Tree #488 was removed in 2023 and the applicant opted to mitigate by planting two Western red cedar trees and record an amendment to the restrictive covenant Document No. 2023-011302.
5. This application pertains to the removal of Tree #302. Tree #302 is identified as a 55-inch DBH Bigleaf Maple, *Acer Macrophyllum*.
6. Tree #302 is a retention tree and may only be removed “upon a determination by a qualified professional that the Tree is diseased, dead, dying, or otherwise hazardous to persons or property in a way that can only be remediated by complete removal of the Tree” as outlined in the recorded tree protection covenant.
7. Alfredo Llamas, ISA Certified Arborist #PN-9749A, used the ISA Basic Tree Assessment Form to survey the tree’s health and was very thorough in his observations and conclusions. The applicant submitted a Tree Risk Assessment Report Level 2 with a summary of his findings (Exhibit B). The assessment included the following:
 - a. The tree has a recently broken top due to high winds, weak branch attachments on top of the canopy, and a cavity, located approximately 40 feet up the trunk, appearing to accumulate water. The accumulation of water could result in the tree developing rot that will lead to decease and slow decay further weakening the tree.
 - b. The arborist also observed that multiple assets could be struck in the event of tree failure, and the consequences of the resulting impact being severe (critical damage to home, potential injury, potential to strike neighboring home). The removal of a Douglas fir tree in 2023 exposed the Bigleaf Maple to higher wind levels, contributing to the increased risk of branch failure. The observation in the ISA Basic Tree Risk Assessment Form summarized in the report resulted in a risk rating of MODERATE to High. The assessing arborist recommends removal of the tree to prevent damage to surrounding structures and mitigate the potential for injury.
8. Per Section 17.102.50, removal of protected trees requires replanting at a minimum 2 to 1 ratio. **Thus, the removal of one (1) required retention tree requires planting a minimum of two (2) mitigation trees. Or the applicant may pay a mitigation tree fee-in-lieu of \$500 per tree to relocate the two mitigation trees off-site (\$1,000 total).**
9. **If trees are planted on Lot 11, the cost of planting, watering, and maintaining the trees is the burden of the property owner, the tree species and size at planting shall be approved by Planning Division staff.**

10. The recorded tree protection covenants (Clackamas County Document No. 2019-028214 and 2023-011302) details two required retention trees on Lot 11. **Within 180 days of the date of this final order and after removal of the second retention tree, the applicant shall record a second amendment to the original tree protection covenant for Lot 11 detailing removal of Tree #302. If the applicant chooses to plant the two mitigation trees on the subject property, the applicant shall also update the recorded tree protection covenant to detail the species and location of the two mitigation trees.**
11. If the applicant chooses to plant mitigation trees, the trees will need to be kept alive and healthy. To help maximize the health and survival of the mitigation trees in the future, **the applicant shall aerate and amend the soil prior to planting the mitigation trees. The applicant shall not anchor anything to the mitigation trees, compact the soil under the dripline, or otherwise harm or damage the mitigation trees. The mitigation trees shall be planted per the City of Sandy standard planting detail. All ties and burlap shall be removed from the root ball prior to planting. If the burlap cannot be completely removed from the root ball without compromising the integrity of the root ball, the burlap shall be removed from at least the top one third of the side of the root ball. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stakes. The mitigation trees shall be adequately watered for at least the first three dry seasons (summers).**
12. 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 will be ground, the applicant shall cover all exposed soil resulting from removal of the tree.**
13. The applicant did not provide specific information regarding how the tree proposed for removal with this application would be felled. **The applicant shall have the tree felled such that it does not negatively impact other retention trees, any adjacent property, or the right-of-way. If removal of the tree 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 four to one (4:1).**
14. The applicant did not indicate if there are nests in the tree proposed for removal. **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 (1) hazard tree from 37035 Olson Street (Lot 11 of the Sandy Woods subdivision) is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

A. Tree removal is limited to Tree #302 as identified in the recorded tree protection covenant (Clackamas County Document No. 2019-028214).

B. There are two options with approval of this tree permit application. Within 90 days of the date of this final order, the applicant shall do one of the following:

1. Provide the City with plans to plant two (2) mitigation trees on the property. The mitigation trees shall be 1.5-inch caliper if conifers or at least 6 feet in height if evergreen 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. The cost of planting, watering, and maintaining the trees is the burden of the property owner.

-OR-

2. Pay a mitigation tree fee-in-lieu of \$500 per tree to relocate the two mitigation trees off-site (\$1,000 total).

C. The following conditions shall apply to the hazardous tree removal:

1. If the stump will be ground, the applicant shall cover all exposed soil resulting from removal of the two trees.
2. The applicant shall have the tree felled such that it does not negatively impact adjacent trees. If removal of the damaged tree damages another 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 four to one (4:1).
3. 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.

D. General Conditions of Approval

1. Within 180 days of the date of this final order and after removal of the second retention tree, the applicant shall record a second amendment to the original tree protection covenant for Lot 11 detailing removal of Tree #302. If the applicant chooses to plant the two mitigation trees on the subject property, the applicant shall also update the recorded tree protection covenant to detail the species and location of the two mitigation trees.

2. The applicant shall aerate and amend the soil prior to planting the mitigation trees, if applicable. The applicant shall not anchor anything to the mitigation trees, compact the soil under the dripline, or otherwise harm or damage the mitigation trees. The mitigation trees shall be planted per the City of Sandy standard planting detail. All ties and burlap shall be removed from the root ball prior to planting. If the burlap cannot be completely removed from the root ball without compromising the integrity of the root ball, the burlap shall be removed from at least the top one third of the side of the root ball. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stakes. The mitigation trees shall be adequately watered for at least the first three dry seasons (summers).
3. 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.
4. 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 condition 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.