



City of Tualatin

www.tualatinoregon.gov

August 21, 2019

TREE REMOVAL PERMIT

AR 19-0006

**** APPROVAL WITH CONDITIONS ****

Case #:	AR 19-0006
Project:	Todd Village Tree Removal Permit
Location:	8325 SW Mohawk Street; Tax lots: 2S1 24CC 0200 & 0300
Applicant:	Kirsten Van Loo, Van Loo ² Associates, LLC: 503-956-4180
Owner:	Todd Village – 285 LLC

TABLE OF CONTENTS

I.	INTRODUCTION	2
A.	Applicable Criteria	2
B.	Project and Site Description	2
C.	Previous Land Use Actions.....	2
D.	Surrounding Uses.....	2
E.	Exhibit List.....	3
F.	Public and Agency Comments	3
II.	CONDITIONS OF APPROVAL	4
III.	PLANNING FINDINGS.....	5
	Chapter 32: Procedures	5
	Chapter 33: Applications and Approval Criteria	12
	Chapter 73B: Landscaping Standards	14
	Chapter 74: Public Improvement Requirements	15
IV.	APPEAL	16

Arrangements can be made to provide these materials in alternative formats such as large type or audio recording. Please contact the Planning Division at 503.691.3026 and allow as much lead time as possible.

I. INTRODUCTION

A. Applicable Criteria

The following Chapters of the Tualatin Development Code (TDC) are applicable to the subject proposal:

- TDC 32: Procedures
- TDC 33.110: Tree Removal Permit/Review
- TDC 73B: Landscaping Standards
- TDC 74: Public Improvement Requirements

B. Project and Site Description

The site at 8325 SW Mohawk Street is a 16 acre lot which is zoned High Density Residential (RH). The property is developed with an apartment community comprised of 37 apartment buildings, two swimming pools, two play grounds, a basketball court, and clubhouse. The site takes access from SW Mohawk Street.

The applicant, CTL Management Inc., represented by Van Loo² Associates, LLC, is requesting approval of the removal of 50 mature trees on-site that are either dying or damaging nearby infrastructure. The application also includes 51 replacement trees. No additional architectural or site improvements are proposed as part of this application.

C. Previous Land Use Actions

- Todd Village Apartments (AR 77-28)

D. Surrounding Uses

Surrounding uses include residential and commercial. Adjacent land uses include:

North: Central Commercial (CC)

- Precision Countertops warehouse
- Elks Club
- Warm Springs Crossing medical offices

South: Medium-Low Density Residential (RML)

- Tualatin Village Condominiums

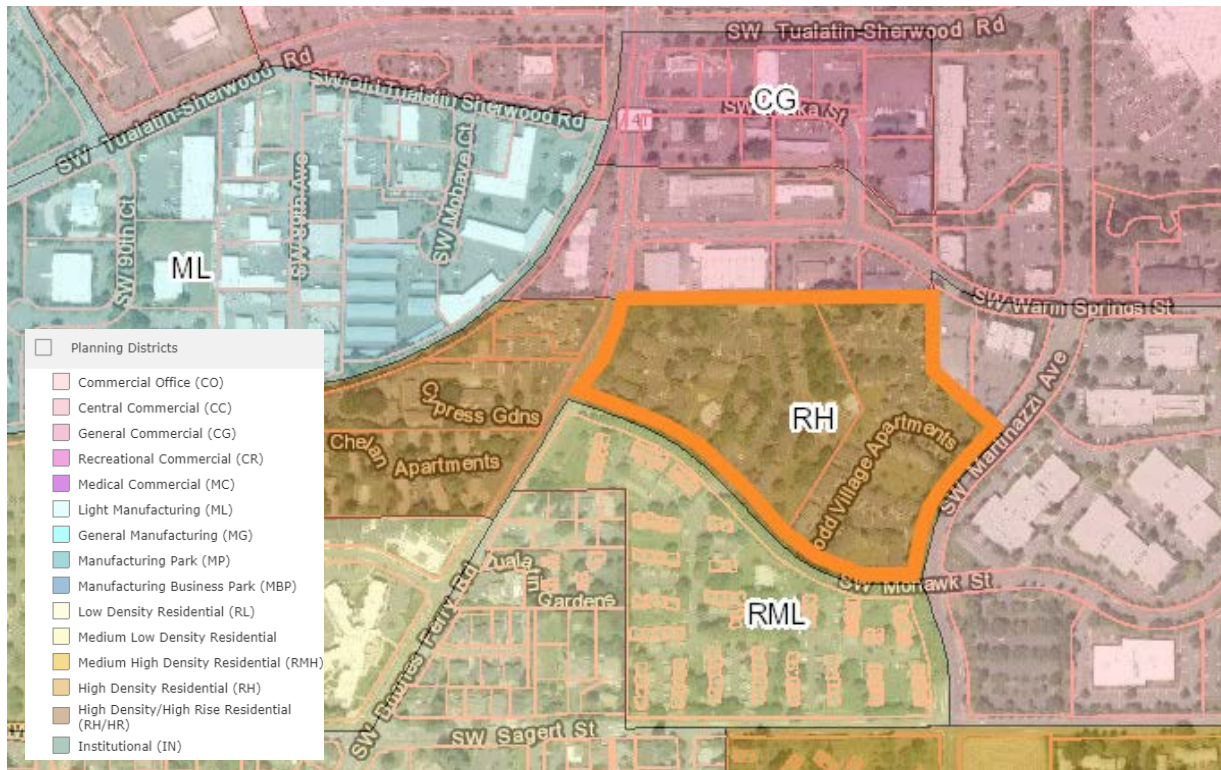
West: High-Density Residential (RH)

- Chelan Apartments
- Cypress Gardens Apartments

East: Office Commercial (CO)

- One Warm Springs office building
- Mohawk office complex

Figure 1: Aerial view of subject site (highlighted)



E. Exhibit List

A: Application Materials

A1. Applicant's Narrative

A2. Plan Set

A3. Arborist Report

A4. Supporting Documents

B: Notice of Application Comments

B1. Clean Water Services Memo— August 14, 2019

B2. Cassie Cohen & Rodolfo Valentin Comment – August 12, 2019

C: Noticing Materials

D: Storm and Sewer Utility As-Built

F. Public and Agency Comments

Comments were received from CWS (Exhibit B1) and from a Todd Village resident (Exhibit B2) during the public comment period and is included as Exhibit B2.

II. CONDITIONS OF APPROVAL

Based on the Findings and Conclusions presented, staff **approves** AR 19-0006 subject to the following conditions (A):

GENERAL:

- A1. The Tree Removal Permit approval shall expire after one year from the date of issuance, under the terms of TDC 33.110(8).
- A2. All trees identified on the Tree Preservation Plan, L2, and the Landscape Plan, L3, are required to be retained and must be protected in accordance with the terms of TDC 73B.
- A3. The following trees identified for removal must be limited to stump grinding at six inches below grade: 83, 87, 98, and 174 pursuant to Tualatin Municipal Code Chapter 3-02-160. Tree root excavation within easement areas is prohibited without proper City coordination and Public Works Permit approval, in accordance with Tualatin Municipal Code Chapter 2-03. Tree root barriers are required for any replacement tree planted within 10 feet of easements identified on Landscape Plan, L3 and Exhibit D.
- A4. All landscaping approved through the AR process must be continually maintained, including necessary watering, weeding, pruning and replacement, in a manner substantially similar to that originally approved by the AR decision, except as permitted under TDC 33.020(7) *Modifications to Previously Approved Final Architectural Review Decisions* or under TDC 33.110 *Tree Removal Permit*.

PRIOR TO COMMENCEMENT OF TREE REMOVAL ACTIVITIES:

- A5. Tree protection fencing, in the form of mesh barrier fencing or similar, must be installed consistent with the Tree Preservation Plan, L2 and TDC 73B. A site inspection by the Planning Division staff is required to verify satisfaction of all requirements. Please contact the Planning Division and provide at least 48 hours' notice.

WITHIN 180 DAYS OF TREE REMOVAL:

- A6. Replacement trees shown on the Landscape Plan, L3, including tree root barriers for replacement trees within 10 feet of easements, must be installed. The use of native trees is encouraged. A site inspection by the Planning Division staff is required to verify satisfaction of all requirements. Please contact the Planning Division and provide at least 48 hours' notice.

III. PLANNING FINDINGS

Chapter 32: Procedures

[...]

Section 32.010 – Purpose and Applicability.

[...]

(2) Applicability of Review Procedures. All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City’s land use and development applications and corresponding review procedure(s).

[...]

(b) Type II Procedure (Administrative/Staff Review with Notice). A Type II procedure is used when the standards and criteria require limited discretion, interpretation, or policy or legal judgment. Type II decisions are made by the City Manager and require public notice and an opportunity for appeal to the Planning Commission, Architectural Review Board, or City Council as shown in Table 32-1. Those Type II decisions which are “limited land use decisions” as defined in ORS 197.015 are so noted in Table 32-1.

[...]

(3) Determination of Review Type. Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

Table 32-1 – Applications Types and Review Procedures

Application / Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/Developer Mtg Required	Applicable Code Chapter
Tree Removal Permit	II	CM	CC	Yes	Yes	TDC 33.110
[...]						
* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).						

Finding:

The requested application is classified as Type II Procedure according to Table 32-1. It has been processed according to the applicable code for Type II procedures. This standard is met.

[...]

Section 32.030 – Time to Process Applications.

(1) Time Limit - 120-day Rule. The City must take final action on all Type II, Type III, and Type IV-A land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under TDC 32.160, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-B (Legislative Land Use) decisions.)

[...]

Finding:

The application was deemed complete on July 29, 2019. The 120th day will be November 26, 2019. The final action will take place within the 120 days unless the applicant requests an extension in compliance with ORS 227.178. This standard is met.

Section 32.110 – Pre-Application Conference.

(1) Purpose of Pre-Application Conferences. Pre-application conferences are intended to familiarize applicants with the requirements of the TDC; to provide applicants with an opportunity discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

(2) When Mandatory. Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 32-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.

(3) Timing of Pre-Application Conference. A pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood/Developer meeting.

(4) Application Requirements for Pre-Application Conference.

(a) Application Form. Pre-application conference requests must be made on forms provided by the City Manager.

(b) Submittal Requirements. Pre-application conference requests must include:

(i) A completed application form;

(ii) Payment of the application fee;

(iii) The information required, if any, for the specific pre-application conference sought; and

(iv) Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.

(5) Scheduling of Pre-Application Conference. Upon receipt of a complete application, the City Manager will schedule the pre-application conference. The City Manager will coordinate the involvement of city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

(6) Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences. A follow-up conference is required for those mandatory pre-application conferences that have previously been held when:

(a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within six (6) months of the pre-application conference;

(b) The proposed use, layout, and/or design of the proposal have significantly changed; or

(c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.

Finding:

A pre-application meeting is mandatory. The applicant participated in a pre-application meeting on June 25, 2018. The project was revisited with staff on December 11, 2018, five months prior to submittal. These standards are met.

Section 32.120 – Neighborhood/Developer Meetings.

(1) Purpose. The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

(2) When Mandatory. Neighborhood/developer meetings are mandatory for all land use actions identified in Table 32-1 as requiring a neighborhood/developer meeting. An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.

(3) Timing. A neighborhood/developer meeting must be held after a pre-application meeting with City staff, but before submittal of an application.

(4) Time and Location. Required neighborhood/developer meetings must be held within the city limits of the City of Tualatin at the following times:

(a) If scheduled on a weekday, the meeting must begin no earlier than 6:00 p.m.

(b) If scheduled on a weekend, the meeting must begin between 10:00 a.m. and 6:00 p.m.

(5) Notice Requirements.

(a) The applicant must provide notice of the meeting at least 14 calendar days and no more than 28 calendar days before the meeting. The notice must be by first class mail providing the date, time, and location of the meeting, as well as a brief description of the proposal and its location. The applicant must keep a copy of the notice to be submitted with their land use application.

(b) The applicant must mail notice of a neighborhood/developer meeting to the following persons:

(i) All property owners within 1,000 feet measured from the boundaries of the subject property;

(ii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases; and

(iii) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9.

(c) The City will provide the applicant with labels for mailing for a fee.

(d) Failure of a property owner to receive notice does not invalidate the neighborhood/developer meeting proceedings.

(6) Neighborhood/Developer Sign Posting Requirements. The applicant must provide and post on the subject property, at least 14 calendar days before the meeting. The sign must conform to the design and placement standards established by the City for signs notifying the public of land use actions in TDC 32.150.

(7) Neighborhood/Developer Meeting Requirements. The applicant must have a sign-in sheet for all attendees to provide their name, address, telephone number, and email address and keep a copy of the sign-in sheet to provide with their land use application. The applicant must prepare meeting notes identifying the persons attending, those commenting and the substance of the comments expressed, and the major points that were discussed. The applicant must keep a copy of the meeting notes for submittal with their land use application.

Finding:

The applicant has provided evidence that they held a Neighborhood/Developer meeting on October 10, 2018, including documentation of sign posting and notification. These standards are met.

Section 32.130 – Initiation of Applications.

(1) Type I, Type II, Type III, and Type IV-A Applications. Type I, Type II, Type III, and Type IV-A applications may be submitted by one or more of the following persons:

- (a) The owner of the subject property;
- (b) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;
- (c) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or
- (d) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by paragraphs (a), (b) or (c) of this subsection, and accompanied by proof of the agent's authority.

[...]

Finding:

The applicant has provided a deed within Exhibit A showing Todd Village – 285 LLC to be the current owner of the subject site. The application has been signed by an agent representing Todd Village. This standard is met.

Section 32.140 – Application Submittal.

(1) Submittal Requirements. Land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under TDC 32.160:

- (a) A completed application form. The application form must contain, at a minimum, the following information:
 - (i) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
 - (ii) The address or location of the subject property and its assessor's map and tax lot number;
 - (iii) The size of the subject property;
 - (iv) The comprehensive plan designation and zoning of the subject property;
 - (v) The type of application(s);
 - (vi) A brief description of the proposal; and
 - (vii) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).
- (b) A written statement addressing each applicable approval criterion and standard;
- (c) Any additional information required under the TDC for the specific land use action sought;
- (d) Payment of the applicable application fee(s) pursuant to the most recently adopted fee schedule;
- (e) Recorded deed/land sales contract with legal description.
- (f) A preliminary title report or other proof of ownership.
- (g) For those applications requiring a neighborhood/developer meeting:
 - (i) The mailing list for the notice;
 - (ii) A copy of the notice;
 - (iii) An affidavit of the mailing and posting;
 - (iv) The original sign-in sheet of participants; and
 - (v) The meeting notes described in TDC 32.120(7).
- (h) A statement as to whether any City-recognized Citizen Involvement Organizations (CIOs) whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary must include the date

when contact was made, the form of the contact and who it was with (e.g. phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;

(i) Any additional information, as determined by the City Manager, that may be required by another provision, or for any other permit elsewhere, in the TDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;

(2) **Application Intake.** Each application, when received, must be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.

(3) **Administrative Standards for Applications.** The City Manager is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

Finding:

The applicant submitted an application for Tree Removal Permit under AR 19-0006 on May 1, 2019. These application was deemed complete on July 29, 2019. The general land use submittal requirements were included with this application. These standards are met.

Section 32.150 - Sign Posting.

(1) **When Signs Posted.** Signs in conformance with these standards must be posted as follows:

(a) Signs providing notice of an upcoming neighborhood/developer meeting must be posted prior to a required neighborhood/developer meeting in accordance with Section 32.120(6); and

(b) Signs providing notice of a pending land use application must be posted after land use application has been submitted for Type II, III and IV-A applications.

(2) **Sign Design Requirements.** The applicant must provide and post a sign(s) that conforms to the following standards:

(a) Waterproof sign materials;

(b) Sign face must be no less than eighteen (18) inches by twenty-four (24) inches (18" x 24"); and

(c) Sign text must be at least two (2) inch font.

(3) **On-site Placement.** The applicant must place one sign on their property along each public street frontage of the subject property. (Example: If a property adjoins four public streets, the applicant must place a sign at each of those public street frontages for a total of four signs). The applicant cannot place the sign within public right of way.

(4) **Removal.** If a sign providing notice of a pending land use application disappears prior to the final decision date of the subject land use application, the applicant must replace the sign within forty-eight (48) hours of discovery of the disappearance or of receipt of notice from the City of its disappearance, whichever occurs first. The applicant must remove the sign no later than fourteen (14) days after:

(a) The meeting date, in the case of signs providing notice of an upcoming neighborhood/developer meeting; or

(b) The City makes a final decision on the subject land use application, in the case of signs providing notice of a pending land use application.

Finding:

The applicant provided certification (Exhibit C) that signs in conformance with this section were placed on site in accordance with this section. This standard is met.

Section 32.160 – Completeness Review.

- (1) Duration.** Except as otherwise provided under ORS 227.178, the City Manager must review an application for completeness within 30 days of its receipt.
 - (2) Considerations.** Determination of completeness will be based upon receipt of the information required under TDC 32.140 and will not be based on opinions as to quality or accuracy. Applications that do not respond to relevant code requirements or standards can be deemed incomplete. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.
 - (3) Complete Applications.** If an application is determined to be complete, review of the application will commence.
 - (4) Incomplete Applications.** If an application is determined to be incomplete, the City Manager must provide written notice to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete must be deemed complete for purposes of this section upon receipt of:
 - (a)** All of the missing information;
 - (b)** Some of the missing information and written notice from the applicant that no other information will be provided; or
 - (c)** Written notice from the applicant that none of the missing information will be provided.
 - (5) Vesting.** If an application was complete at the time it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application must be based upon the standards and criteria that were in effect at the time the application was first submitted.
 - (6) Void Applications.** An application is void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (4) of this section.
- [...]

Finding:

The applicant submitted an application for AR 19-0006 on May 1, 2019. Revisions were submitted July 11, 2019. The application was deemed complete July 29, 2019. These standards are met.

Section 32.220 – Type II Procedure (Administrative Review with Notice).

Type II decisions are made by the City Manager with public notice and an opportunity for review and comment. The local appeal body for each application type is specified in Table 32-1. Type II decisions include limited land use decisions under ORS 197.195.

- (1) Submittal Requirements.** Type II applications must include the submittal information required by TDC 32.140(1).
- (2) Determination of Completeness.** After receiving an application for filing, the City Manager will review the application for completeness in accordance with TDC 32.160.
- (3) Written Notice of Application and Opportunity to Comment.** Once the application has been deemed complete, the City must mail notice of a pending Type II decision to the following individuals and agencies no fewer than 14 days before making the Type II decision to allow interested people and agencies the opportunity to submit written comments on the application before the City issues the decision.
 - (a) Recipients:**
 - (i)** The applicant and the owners of the subject property;
 - (ii)** All property owners within 1,000 feet measured from the boundaries of the subject property;

(iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;

(iv) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;

(v) Any person who submits a written request to receive a notice;

(vi) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation; where the project site would access a County road or otherwise be subject to review by the County, then the County; Clean Water Services; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

(vii) Utility companies (as applicable).

(b) The mailed notice of pending Type II Decision, at a minimum, must contain all of the following information:

(i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;

(ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;

(iii) The proposed site plan;

(iv) Statement noting if a railroad-highway grade crossing provides or will provide the only access to the subject property;

(v) The type of application and a concise description of the nature of the land use action;

(vi) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;

(vii) Brief summary of the local decision making process for the land use decision being made;

(viii) The date, place and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;

(ix) A statement indicating that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;

(x) Statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else is otherwise legally entitled to notice;

(xi) A statement that comments received after the close of the public comment period will not be considered;

(xii) The name of a City representative to contact and the telephone number where additional information may be obtained; and

(xiii) Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.

(c) Failure of a person or agency identified in TDC 32.220(3)(a) to receive the notice required in TDC 32.220(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.

(4) Decision. At the conclusion of the comment period, the City Manager must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:

- (a) Explains the criteria and standards considered relevant to the decision;**
- (b) States the facts relied upon in issuing the decision; and**
- (c) Explains the justification for the decision based on the criteria, standards and facts set forth.**

Finding:

After submittal and completeness review as required by this section, notice for the Type II application was mailed by city staff on July 30, 2019 and contained the information required by this section. These standards are met.

(5) Notice of Type II Decision. Notice of the decision must be provided to the property owner, applicant, and any person who submitted written comments in accordance with TDC 32.220(3)(d). If approval is granted to remove a Heritage Tree, a copy of the decision must be sent to the chairman of the Tualatin Park Advisory Committee. The Type II Notice of Decision must contain all of the following information:

- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;**
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;**
- (c) A statement a statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;**
- (d) The date the decision becomes final, unless an appeal is submitted; and**
- (e) A statement that all person entitled to notice of the decision may appeal the decision in accordance with TDC 32.310.**

(6) Appeal of a Type II Decision. Appeals may be made in accordance with TDC 32.310.

(7) Effective Date of Type II Decision. A Type II Decision becomes effective 14 days after the City mails the Notice of Decision, unless an Appeal is submitted pursuant to TDC 32.310 or unless the conditions of approval specify otherwise.

Finding:

A final decision and any appeal will follow the requirements of this section. These standards will be met.

Chapter 33: Applications and Approval Criteria

[...]

Section 33.110 Tree Removal Permit/Review

(1) Purpose. To regulate the removal of trees within the City limits other than trees within the public right-of-way which are subject to TDC Chapter 74.

(2) Applicability. No person may remove a tree on private property within the City limits, unless the City grants a tree removal permit, consistent with the provisions of this Section.

[...]

Finding:

The applicant has proposed removal of 50 trees. This standard is met by submittal of the subject tree removal permit application.

(3) Procedure Type. Tree Removal Permit applications are subject to Type II Review in accordance with TDC Chapter 32. Tree Removal Permit applications submitted with an Architectural Review, Subdivision, or Partition application will be processed in conjunction with the Architectural Review, Subdivision, or Partition decision.

(4) Specific Submittal Requirements. In addition to the general submittal requirements in TDC 32.140 (Application Submittal), an applicant must submit the following:

(a) Tree Preservation Plan. A tree preservation plan drawn to scale must include:

- (i) The location, size, species, and tag identification number of all trees on-site eight inches or more in diameter;
- (ii) All trees proposed for removal and all trees proposed to be preserved;
- (iii) All existing and proposed structures;
- (iv) All existing and proposed public and private improvements; and
- (v) All existing public and private easements.

(b) Tree Assessment Report. A tree assessment prepared by a certified arborist must include:

- (i) An analysis as to whether trees proposed for preservation may be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved;
- (ii) An analysis as to whether any trees proposed for removal could reasonably be preserved in light of the development proposed and health of the tree;
- (iii) a statement addressing the approval criteria set forth in TDC 33.110(5);
- (iv) the name, contact information, and signature of the arborist preparing the report; and
- (v) The tree assessment report must have been prepared and dated no more than one calendar year preceding the date the development or Tree Removal Permit application is deemed complete by the City.

(c) Tree Tags. All trees on-site must be physically identified and numbered in the field with an arborist-approved tagging system that corresponds to the Tree Preservation Plan and Tree Assessment Report.

Finding:

The subject application has been processed consistent with Type II review procedures. The applicant has submitted the necessary submittal information. These standards are met.

(5) Approval Criteria.

(a) An applicant must satisfactorily demonstrate that at least one of the following criteria are met:

(i) The tree is diseased and:

- (A) The disease threatens the structural integrity of the tree; or**
- (B) The disease permanently and severely diminishes the esthetic value of the tree; or**
- (C) The continued retention of the tree could result in other trees being infected with a disease that threatens either their structural integrity or esthetic value.**

(ii) The tree represents a hazard which may include but not be limited to:

- (A) The tree is in danger of falling; or**
- (B) Substantial portions of the tree are in danger of falling.**

(iii) It is necessary to remove the tree to construct proposed improvements based on Architectural Review approval, building permit, or approval of a Subdivision or Partition Review.

(b) If none of the conditions in TDC 33.110(5)(a) are met, the certified arborist must evaluate the condition of each tree.

[...]

Finding:

The arborist report included in Exhibit A, identifies a total of 184 trees over 8" of dbh on the Todd Village Site. Of these trees, 50 trees are proposed for removal, with 29 trees meeting (i) being diseased/dying and 21 trees meeting (ii) being hazardous by damaging sidewalks, building foundations, and underground utilities. These standards are met.

[...]

(7) Conditions of Approval. Any tree required to be retained must be protected in accordance with the TDC 73B and 73C.

Finding:

The proposed application includes a Landscape Plan, L3 in Exhibit A which includes 51 replacement trees. With Condition of Approval A2, these standards are met.

(8) Permit Expiration. A Tree Removal Permit is valid for one year from the date of issue.

Finding:

The proposed application is approved subject to the compliance with the above criteria. With Condition of Approval A1, these standards are met.

(9) Tree removal in violation of Zone Standards.

(a) In addition to any applicable civil violation penalties, any property owner who removes, or causes to be removed, one or more trees in violation of applicable TDC provisions must pay an Enforcement Fee and a Restoration Fee to the City of Tualatin, as follows:

- (i) Enforcement Fee of \$837.00 per incident, plus \$10 for each tree removed; and**
- (ii) Restoration Fee of \$2,000 per tree removed.**

(b) The City Manager may administratively reduce or waive these fees based upon a demonstration of hardship, adequate mitigation, or other good cause shown.

Finding:

The proposed application is approved subject to the compliance with the above criteria. If tree removal violates the zone standards, enforcement and restoration fees will apply unless waived by the City Manager. These standards are administered by the Code Enforcement Division.

Chapter 73B: Landscaping Standards

Section 73B.070 – Minimum Landscaping Standards for All Zones.

The following are minimum standards for landscaping for all zones.

(3) Tree Preservation	<ul style="list-style-type: none">• Trees and other plant materials to be retained must be identified on the landscape plan.• Trees and plant materials identified for preservation must be protected by chain link or other sturdy fencing placed around the tree at the drip line;• [...]• When it is necessary for a preserved tree to be removed in accordance with TDC 33.110 (Tree Removal Permit) the landscaped area surrounding the tree or trees must be maintained and replanted with trees that relate to the present landscape plan, or if there is no landscape plan, then trees that are complementary with existing, landscape materials. Native trees are encouraged• [...]
------------------------------	--

Finding:

A Tree Preservation Plan has been included as Sheet L2 and a Landscape Plan has been included as Sheet L3 in Exhibit A. With Condition of Approval A2 and A5, these standards are met.

Section 73B.080 – Minimum Standards Trees and Plants.

The following minimum standards apply to the types of landscaping required to be installed for all zones.

Standard	
(1) Deciduous Shade Trees	<ul style="list-style-type: none"> • One and on-half inch caliper measured six inches above ground; • Balled and burlapped; bare root trees will be acceptable to plant during their dormant season; • Reach a mature height of 30 feet or more; • Cast moderate to dense shade in summer; • Live over 60 years; • Do well in urban environments, tolerant of pollution and heat, and resistant to drought; • Require little maintenance and mechanically strong; • Insect- and disease-resistant; • Require little pruning; and • Barren of fruit production.
(2) Deciduous Ornamental Trees	<ul style="list-style-type: none"> • One and on-half inch caliper measured six inches above ground; • balled and burlapped; bare root trees will be acceptable to plant during their dormant season; and • Healthy, disease-free, damage-free, well-branched stock, characteristic of the species

Finding:

As shown on the Landscaping Legend of Sheet L3 (Exhibit A), replacement trees include Amur Maple, Trident Maple, and Japanese Tree Lilac and will meet the planting standards for deciduous categories. A comment from Cassie Cohen and Rodolfo Valentin was received on August 12, 2019 during the Notice of Application period. Their comment requested that native trees be used for the replacement trees. With Condition of Approval A6, these standards are met.

Chapter 74: Public Improvement Requirements

Section 74.330 Utility Easements.

(1) Utility easements for water, sanitary sewer and storm drainage facilities, telephone, television cable, gas, electric lines and other public utilities must be granted to the City.

Finding:

Stormwater and sewer easements bisect the property as shown on the plans included in Exhibit A. A storm drain easement identified in Exhibit D is not reflected on the plans. This easement is generally located centrally on the northern boundary and travels at a slight angle to the southeast for approximately 170 feet. Stump grinding for tree removal and root barriers are required within ten feet of easement areas to protect existing storm and sewer infrastructure. With Condition of Approval A3, these standards are met.

IV. APPEAL

The decision will be final after 14 calendar days on September 5, 2019 unless a written appeal is received by the **Community Development Department – Planning Division at 18880 Martinazzi Avenue, Tualatin, Oregon 97062 before 5:00 p.m., September 4, 2019. The appeal must be submitted on the City appeal form with all the information requested provided thereon and signed by the appellant.** The plans and appeal forms are available at the Community Development Department – Planning Division offices.

Submitted by:



Erin Engman
Associate Planner