

**FINDINGS OF FACT and FINAL ORDER
TYPE II LAND USE DECISION**

DATE: August 26, 2020

FILE NO.: 18-045 MP

PROJECT NAME: Sandy Community Campus Minor Revised Plat

APPLICANT: City of Sandy

OWNER: City of Sandy and Oregon Trail School District (OTSD)

ADDRESS: 38955 Pleasant Street (Sandy Grade School); 39055 Pleasant Street (Olin Bignall Aquatic Center); 17225 Smith Avenue (old Cedar Ridge Middle School)

TAX LOT DESCRIPTION: T2S R4E Section 13BD Tax Lots 100 and 101

The above-referenced proposal was reviewed as a Type II Land Division (Minor Revised Plat) because the street(s) are existing, and no extension or reconstruction/realignment is necessary. All parcels resulting from the replat must comply with the standards of the Sandy Municipal Code.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application Form from the City of Sandy
- B. Land Use Application Form from the Oregon Trail School District
- C. Proposed Re-Plat
- D. Proposed Revocable Easement
- E. Recorded Deed 2018-023129
- F. Ordinance 2018-28

Agency Comments

- G. Email from the Clackamas County Surveyor's Office (June 25, 2020)

Public Comments

- H. Avery and Erin Wakefield (17145 Strauss Avenue)

FINDINGS OF FACT

General

1. City of Sandy staff started to compile items for this land use application on August 15, 2018. The Oregon Trail School District submitted a signed land use application on April 15, 2020.

More information was received periodically in 2019 and 2020 as the City of Sandy and the Oregon Trail School District worked together to solve some of the property line issues.

2. The City of Sandy submitted an application to replat the series of parcels owned by the City of Sandy (Exhibit C) and the Oregon Trail School District (OTSD) with four (4) right-of-way segments recently vacated per Ordinance 2018-28 (Exhibit F).
3. The subject properties have historically been the site of the Sandy Grade School and Cedar Ridge Middle School, including the football field and associated track. The lots include vacated portions of right-of-way and are identified as the following:

Property owned by the Oregon Trail School District:

- Lots 2-10, Block 10 of the Sandy Land Company's 2nd Addition to Sandy
- Lots 2-9, Block 16 of the Sandy Land Company's 2nd Addition to Sandy

Property owned by the City of Sandy:

- Lot 1, Block 10 of the Sandy Land Company's 2nd Addition to Sandy
- Lots 1-10, Block 14 of the Sandy Land Company's 2nd Addition to Sandy
- Lots 1-10, Block 15 of the Sandy Land Company's 2nd Addition to Sandy
- Lots 1 and 10, Block 16 of the Sandy Land Company's 2nd Addition to Sandy
- Lots 1-3, Block 20 of the Sandy Land Company's 2nd Addition to Sandy
- Portions of Tax Lot 101 north of the vacated portion of Park Street and to the east of Lots 1-3, Block 20 of the Sandy Land Company's 2nd Addition to Sandy

4. This replat partition is being done for the following two reasons:
 - a. With the sale of the Cedar Ridge Middle School, Olin Bignall Aquatic Center, and accompanying property the City of Sandy was unfortunately left owning a portion of the Sandy Grade School building and playground. The sale of property was never meant to convey a portion of the Sandy Grade School to the City of Sandy. This replat, with an accompanying sale agreement, will allow for the OTSD to own the entirety of Sandy Grade School and the associated playgrounds and transfer a portion of recently vacated right-of-way to the City of Sandy. The replat will also create a new lot line between the two properties bisecting Lot 1 of Block 10, and Lots 1 and 10 of Block 16, as agreed upon by the OTSD Superintendent and the City Manager.
 - b. The State of Oregon Building Code does not allow for structures to cross lot lines. The Sandy Grade School and all the buildings on the City of Sandy property cross lot lines and old vacated right-of-way lines. Prior to any new construction occurring at either site the internal lot lines need to be removed so that new construction complies with the State of Oregon Building Codes.
5. Completion of the proposed replat will ultimately result in two newly defined parcels (Exhibit C). The OTSD owns Parcel 1 and the City of Sandy owns Parcel 2. Parcel 1 is 2.80 acres and Parcel 2 is 10.64 acres.
6. The site includes a track that was constructed for the Cedar Ridge Middle School that previously existed at the subject site. This track crosses property lines and has been identified by the Clackamas County Surveyor's office (Exhibit G) as creating an

encroachment. **The City of Sandy shall record an easement for the track that benefits the subject property that is being replatted.**

7. With the replat the City of Sandy will be granting a revocable access easement (Exhibit D) to the OTSD on a portion of Parcel 2. **The City of Sandy shall record the revocable access easement with the OTSD prior to recording the plat. The revocable access easement will include language that the easement will not be revoked unless the City of Sandy provides alternative access.**
8. A notice of proposed land division was mailed to all property owners within 300 feet of the subject site on May 7, 2020. The City of Sandy received one public comment on May 20, 2020 from Avery and Erin Wakefield at 17145 Strauss Avenue.

17.30 – Zoning Districts Chapter

9. No residential development is being proposed on this site, so density provisions are not being evaluated.

17.38 – Medium Density Residential (R-2)

10. Section 17.38.30 contains development standards for the R-2, Medium Density Residential, zoning district. Future structures on the subject property are required to meet applicable setbacks and height requirements but will be reviewed with future land use applications and building permits.

17.84 – Improvements Required with Development

11. Chapter 17.84 contains requirements for construction of public improvements. This replat by itself does not elicit street frontage improvements as the rough proportionality of this replat does not provide an essential nexus for the City of Sandy and the Oregon Trail School District to spend hundreds of thousands of dollars in frontage improvements. The street frontage improvements along Pleasant Street, Smith Avenue, Strauss Avenue, Meinig Avenue, and Scenic Street will become necessary with future development of the two sites. **Future improvements on the City of Sandy and the Oregon Trail School District sites will need to be evaluated in accordance with Chapter 15.20 to determine the level of frontage improvements necessary within the above rights-of-way.**
12. Section 17.84.80 (E) requires all franchise utility lines shall be placed underground. **Future improvements on the City of Sandy and the Oregon Trail School District sites will need to be evaluated in accordance with Chapter 15.20 to determine if undergrounding of existing service lines is necessary.**

17.86 – Parkland and Open Space

13. The City of Sandy owns parkland to the north of the subject property. There are no existing dwellings on the subject properties. There are no proposed dwellings, therefore no parkland and open space dedication is required.

17.100 – Land Division

14. Section 17.100.40(D) contains criteria for approving a replat. The proposed partition shall satisfy all five approval criteria in order for the partition to be approved.

15. Criterion one requires the proposed partition to be consistent with the density, setback, and dimensional standards of the base zoning district. The surveyor of record identified a fence encroachment in the Smith Avenue right-of-way and the track encroaches on the property to the north of the site, also owned by the City of Sandy. The Clackamas County Surveyor requires fence encroachments and the track encroachment to be resolved prior to final plat. **The City of Sandy shall remedy the fence line encroachment in the Smith Avenue right-of-way prior to final plat. As explained in Finding 6, the City of Sandy shall record an easement for the track that benefits the subject property that is being replatted. If any other encroachments are identified by the surveyor of record or the Clackamas County Surveyor's office, they shall be remedied either through removal, easement, or another alternative method prior to final plat.** Criterion one is satisfied.
16. Criterion two requires the proposed partition to be consistent with the design standards set forth in this chapter. All standards set forth in Chapter 17.100 of the Development Code can be satisfied with partition of the subject property. **Future development of the subject properties shall comply with the design standards in Chapter 17.90.** Criterion two is satisfied.
17. Criterion three requires that adequate public facilities are available or can be provided to serve the proposed partition. The sites owned by the OTSD and City of Sandy already contain public utilities. Prior to future development on the two sites the sites will need to be evaluated for adequacy in relation to public facilities. Criterion three is satisfied.
18. Criterion four requires that all proposed improvements meet City standards. All future site and frontage improvements will be required to be developed in accordance with City standards. This replat by itself does not elicit street frontage improvements as the rough proportionality of this replat does not provide an essential nexus for the City of Sandy and the Oregon Trail School District to spend hundreds of thousands of dollars in frontage improvements. The street frontages improvements along Pleasant Street, Smith Avenue, Strauss Avenue, Meinig Avenue, and Scenic Street will become necessary with future development of the two sites. **Future improvements on the City of Sandy and the Oregon Trail School District sites will need to be evaluated in accordance with Chapter 15.20 to determine the level of frontage improvements necessary within the above right-of-ways.** Criterion four is satisfied.
19. Criterion five requires the plan to preserve the potential for future redivision of the parcels, if applicable. The Sandy Grade School and all the buildings on the City of Sandy property cross lot lines and old vacated right-of-way lines. Prior to any new construction occurring at either site the internal lot lines need to be removed so that new construction complies with the State of Oregon Building Codes. Criterion five is satisfied.

17.102 – Urban Forestry

20. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. There are no current redevelopment plans associated with the subject properties to warrant analysis at this time. Tree retention requirements shall be reviewed with a comprehensive arborist report with any future development

21. **No trees shall be removed from the subject properties prior to obtaining a Tree Removal permit from the City of Sandy.**

15.30 – Dark Sky

22. Chapter 15.30 contains the City of Sandy’s Dark Sky Ordinance. The applicant may need to install additional street lights with future development. **Future lighting shall be full cut-off, shall not exceed 4,125 Kelvins, and shall follow all requirements of Sandy’s Dark Sky Ordinance.**

RECOMMENDATION

This partition request is hereby **approved** by the Development Services Director as modified by the conditions of approval listed below.

CONDITIONS OF APPROVAL

A. Prior to signing of the Final Plat all the following conditions shall be satisfied:

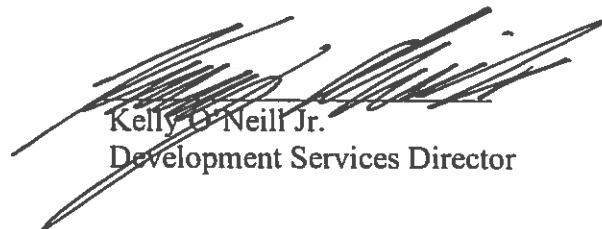
1. Submit a revised plat with the following modifications:
 - Add City of Sandy Planning File No. “18-045 MP” to the final partition plat submittal.
 - Modify the plat as encroachments are removed or legally settled.
2. The City of Sandy shall record the revocable access easement with the OTSD prior to recording the plat. The revocable access easement will include language that the easement will not be revoked unless the City of Sandy provides alternative access.
3. The City of Sandy shall remedy the fence line encroachment in the Smith Avenue right-of-way.
4. The City of Sandy shall record an easement for the track that benefits the subject property that is being replatted.
5. If any other encroachments are identified by the surveyor of record or the Clackamas County Surveyor’s office, they shall be remedied either through removal, easement, or another alternative method prior to final plat.
6. Submit two paper copies of a Final Plat with required fee for City review.
7. Submit a Mylar version of the Final Plat for signature.

B. Within 30 days of Recording of Final Plat:

1. Submit a copy of the recorded partition plat as approved by the City and Clackamas County and a digital version of the plat.

C. General Conditions of Approval:

1. Future development of the subject lots requires approval of a Land Use Application in accordance with applicable regulations in the Sandy Municipal Code.
2. Future improvements on the City of Sandy and the Oregon Trail School District sites will need to be evaluated in accordance with Chapter 15.20 to determine the level of frontage improvements necessary within the rights-of-way for Pleasant Street, Smith Avenue, Strauss Avenue, Meinig Avenue, and Scenic Street.
3. Future improvements on the City of Sandy and the Oregon Trail School District sites will need to be evaluated in accordance with Chapter 15.20 to determine if undergrounding of existing service lines is necessary.
4. Future development of the subject properties shall comply with the design standards in Chapter 17.90.
5. Future lighting shall be full cut-off, shall not exceed 4,125 Kelvins, and shall follow all requirements of Sandy's Dark Sky Ordinance.
6. No trees shall be removed from the subject properties prior to obtaining a Tree Removal permit from the City of Sandy.
7. Successors-in-interest of the applicant shall comply with requirements of this partition approval prior to recording of the partition plat.
8. Approval of this partition may be revoked if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the site. Any use of the site may be prohibited until such time as all required improvements are completed.
9. Any conditions or regulations required by Clackamas County, Fire District No. 72, or state or federal agencies are hereby made a part of this permit and any violation of these conditions and/or regulations or conditions of this approval will result in the review of this permit and/or revocation.


Kelly O'Neil Jr.
Development Services Director

8/26/20
Date

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within 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 Chapter 17.28.50; and,
5. Payment of required filing fees.