

**FINDINGS OF FACT and FINAL ORDER**  
**TYPE IV APPEAL DECISION**

**DATE:** June 3, 2020

**FILE NO.:** 20-016 AP

**PROJECT NAME:** Sandy Vault Storage Major Modification Appeal

**APPLICANT:** Axis Design Group

**OWNER:** Sandy Automotive, LLC (Mark Benson)

**LEGAL DESCRIPTION:** T2S R4E Section 15A, Tax Lot 209

The above-referenced proposal was reviewed as an Appeal of a Type III Design Review Major Modification with Variances and Design Deviations. As discussed further in this Order, the City Council ultimately denies the appeal and upholds the Planning Commission decision from the final order for File No. 19-046 MOD/VAR/DEV dated May 1, 2020. The following Findings of Fact are adopted to support denial of the appeal in accordance with the Sandy Municipal Code.

**FINDINGS OF FACT**

**General**

- I. Axis Design Group previously submitted an application on behalf of Sandy Automotive (Mark Benson) for a self-storage facility located on an approximately 5.46-acre site at the NW corner of Champion Way and Industrial Way (File No. 18-047 DR/VAR/ADJ). The proposal included five (5) self-storage buildings varying in size from 5,324 square feet to 33,178 square feet. The Planning Commission held a hearing on March 19, 2019 and approved the application with conditions. The Planning Commission approved the applicant's request for the following nine (9) adjustments, variances, and design deviations:
  - a. Type II Adjustment to Section 17.90.120(B.3.d.4) to allow up to 36 percent metal siding on the south elevations of Buildings 4 and 5.
  - b. Special Variance to Section 17.90.120(A.3) and 17.98.80(A) to allow a second right-out only driveway egress on Champion Way to be spaced less than 150 feet from the existing common access easement driveway, or as otherwise approved by the City Transportation Engineer.
  - c. Special Variance to Section 17.90.120(C.1) to allow flat roofs on all buildings.
  - d. Special Variance to Sections 17.90.120(E.2) to allow less than the required window coverage on the north elevation of Building 1, the east elevations of Buildings 1 and 2, and the south elevations of Buildings 4 and 5, provided the applicant detail metal

- awnings above the proposed windows and landscaped trellises in the two proposed sections of metal siding on the south elevations of Buildings 4 and 5.
- e. Special Variance to Section 17.74.40(B.3) to allow a retaining wall in the front yard greater than 6 feet tall. The Planning Commission approves a maximum 8.5 foot wall reveal, as proposed by the applicant.
  - f. Special Variance to Section 17.90.120(B.3.d.4) to allow 89.7 percent metal siding on the south elevation of Building 2 and 100 percent metal siding on the north elevation of Building 3, as proposed by the applicant.
  - g. Special Variance to Section 17.90.120(D.1) to allow less than 50 percent of the street frontage along Industrial Way to be comprised of buildings within 20 feet of the sidewalk, provided the applicant expand the wetland natural area by planting a mix of native groundcover, shrubs, and trees in the areas between Buildings 4 and 5 and the Industrial Way right-of-way.
  - h. Special Variance to Section 17.90.120(G) to allow 250 square feet of civic space rather than the 1,727 square feet required.
  - i. Design deviation to Section 17.90.120(D.3 and 7) to not require a public entrance and connecting walkway on Buildings 2-5.

The Planning Commission denied the applicant's request for a Special Variance to Section 17.90.120(E.2) to allow less than the required window percent coverage on the east elevation of Building 5 and the west elevations of Buildings 3 and 4.

2. On November 15, 2019, the applicant submitted an application for a major modification to the previously approved land use application (File 18-047 DR/VAR/ADJ), with additional information submitted on January 10, 2020 and January 28, 2020. The major modification application (File No. 19-046 MOD/VAR/DEV) included the following three (3) variances and design deviations:
  - Type III Special Variance to Section 17.90.120(B.3.d.4) to increase the percentage of metal siding on Buildings 1-4 to 80 percent;
  - Type III Special Variance to Section 17.90.120(E.2) to reduce the required window coverage for Buildings 1 and 4; and,
  - Type III Design Deviation to Section 17.90.120(D.7) to reduce the activated frontages on Buildings 1 and 4 as previously identified and approved by Planning Commission.

The applicant also proposed to add additional new structures (i.e. modular units) to the site; however, that request would be processed as a separate design review and the applicant opted to not provide the additional information and fees that would be needed to process that request with this application. The proposed modular units do not meet the requirements of Chapter 17.90. The applicant did not request variances or deviations to Chapter 17.90 for the modular units so staff and the Planning Commission could not evaluate these structures as part of File No. 19-046 MOD/VAR/DEV.

3. The Planning Commission reviewed the proposal for a major modification at a public hearing on April 27, 2020. Tim Brunner, owner of Axis Design Group, and Mark Benson, owner of Sandy Automotive LLC, spoke on behalf of the applicant. There were no public comments. Agency comments were received from the Sandy Fire District #72 Fire Marshal and the Public Works Director.

4. The Planning Commission approved some of the applicant's requests in the major modification application with conditions. More specifically the Planning Commission made the following decisions:
  - a. The applicant's request to place 34 new modular storage units on the subject property was not reviewed as part of this application as the applicant did not submit a design review application for the modular units.
  - b. The applicant's request for a Special Variance to decrease the percent of windows on the north elevation of Building 1 and the south elevation of Building 4 was **denied**.
  - c. The applicant's request to reduce the amount of activated frontages such that only a small portion of the north frontage of Building 1 and a small portion of the frontage of Building 4 be considered activated was **denied**.
  - d. The applicant's request to increase the percent metal for the following elevations was **approved**:
    - Building 1 South Elevation
    - Building 1 West Elevation
    - Building 2 North Elevation
    - Building 2 East Elevation
    - Building 2 West Elevation
    - Building 3 South Elevation
    - Building 3 East Elevation
    - Building 4 North Elevation, provided the parapet height stays the same on the west end of Building 4 as the south elevation
    - Building 4 East Elevation
  - e. The following elevations shall remain as previously approved in File No. 18-047:
    - Building 1 North Elevation
    - Building 1 East Elevation
    - Building 2 South Elevation
    - Building 3 North Elevation
    - Building 3 West Elevation
    - Building 4 South Elevation
    - Building 4 West Elevation
5. The applicant appealed the Planning Commission decision on May 12, 2020 (File No. 20-016 AP). The appeal narrative cited two code sections as the basis for the appeal: Section 17.90.120(B)(1) and Section 17.90.120(B)(3)(f). However, as staff noted in its staff report and during its presentation at the appeal hearing, the major modification application did not include requests for deviations or variances to these code criteria and the Planning Commission therefore did not review either of them in arriving at its decision on the major modification.

6. Section 17.90.120(B.1) relates to articulation and states:

*Articulation. The Sandy Style includes asymmetrical building forms, which by definition require buildings to be articulated, varied, and provide visual interest. This standard is met by dividing elevations visible from an abutting public street or pedestrian way into smaller areas or planes to minimize the appearance of bulk as follows:*

  - a. *All elevations visible from an abutting public street or pedestrian way shall be divided into distinct planes of no more than 40 lineal feet long to include the following:*
    - 1) *Wall planes meeting this standard shall include a feature or variation in the wall plane that are those that are entirely separated from other wall planes by a recessed or projecting section of the structure that projects or recedes at least six (6) inches from the adjacent plane, for a length of at least four (4) feet. Changes in plane may include but are not limited to recessed entries, bays, secondary roof forms (e.g., gables, lower roof sheds, dormers and towers), building bases, canopies, awnings, projections, recesses, alcoves, pergolas, porticos, roof overhangs, or other features consistent with the Sandy Style.*
    - 2) *Wall planes shall incorporate at least one visually contrasting and complementary change in materials or changes in texture or patterns, including trim, moldings, or other ornamental devices.*
    - 3) *The lower and upper floors of multi-storied buildings shall be delineated by using pedestrian shelters, changes in siding materials, heavy timbers, or natural wood accents (e.g. brackets, paneling, or other detailing).*
7. Section 17.90.120(B.3.f) states: “*Materials required on elevations visible from an abutting public street must turn the building corner and incorporate appropriate transitions onto elevations not requiring these materials for a distance of not less than four (4) feet.*”
8. As mentioned above, the major modification application (File No. 19-0046 MOD/VAR/DEV) did not include any requests to vary the standards of Section 17.90.120(B.1) or Section 17.90.120(B.3.f). The major modification request was for the following three code sections:
  - a. Type III Special Variance to Section 17.90.120(B.3.d.4) to increase the percentage of metal siding on Buildings 1-4 to 80 percent;
  - b. Type III Special Variance to Section 17.90.120(E.2) to reduce the required window coverage for Buildings 1 and 4; and,
  - c. Type III Design Deviation to Section 17.90.120(D.7) to reduce the activated frontages on Buildings 1 and 4 as previously identified and approved by Planning Commission.
9. The applicant’s appeal did not identify any of the three (3) code sections reviewed as part of the major modification application. Thus, the basis of the appeal was not clear. The applicant did not clarify this issue during the appeal hearing, despite the fact that staff noted in its report and orally at the hearing that the appeal appeared to be based on code sections that were not reviewed as part of the major modification application.
10. The City Council reviewed the appeal at a public hearing on June 1, 2020. Tim Brunner, owner of Axis Design Group, and Mark Benson, owner of Sandy Automotive LLC, spoke on behalf of the applicant. There were four (4) public comments in opposition to the applicant’s

proposal from: Kathleen Walker, Nancy Becker, Greg Becker, and Andrea Bacon. Kathleen Walker also submitted a written comment.

11. Staff recommended the City Council do one of the following:
  - a. Approve some of the applicant's requests in the major modification application with conditions as outlined in the Planning Commission final order dated May 1, 2020.
  - b. Deny the major modification requests since they are not in compliance with the relevant design standards and revert back to the original 18-047 DR/VAR/ADJ approval, which included approval of 9 adjustments, variances, and design deviations.
  
12. Because the applicant did not seek deviations or variances to Sections 17.90.120(B)(1) or 17.90.120(B)(3)(f) as part of its major modification application, the City Council finds that the applicant cannot rely on those sections of the code as the basis for its appeal to the City Council.

## DECISION

For the reasons described above, the City Council **denies** the appeal of the major modification proposal request by Axis Design Group on behalf of Sandy Automotive LLC by a vote of 7-0.

The City Council upholds the Planning Commission decision as outlined in the Final Order for File No. 19-046 MOD/VAR/DEV dated May 1, 2020. The City Council adopts by reference the findings and conclusions contained in the Planning Commission's May 1, 2020 Final Order for File No. 19-046 MOD/VAR/DEV.



06/03/2020

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Stan Pulliam  
Mayor

Date

## RIGHT OF APPEAL

A party with standing may appeal this decision to the Land Use Board of Appeals (LUBA). Any appeal must be filed with LUBA by the required date and time and in the form and manner provided in ORS 197.805 to 197.850.