

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

DATE: July 20, 2020

FILE NO.: 20-020 ADU

PROJECT NAME: 38448 Maple Street ADU

APPLICANT/OWNER: Stafford Homes and Land

LEGAL DESCRIPTION: T2S R4E Section 24BC Tax Lot 23900

DECISION: Approved subject to conditions of approval

The above-referenced proposal was reviewed as a Type I Accessory Dwelling Unit, the following Findings of Fact are adopted supporting approval of the plan in accordance with Chapter 17 of the Sandy Municipal Code.

EXHIBITS:

Applicant's Submission

- A. Land Use Application
- B. Plan Set
- C. Site Plan

Agency Review Comments

- D. Public Works

Public Comments

None

FINDINGS OF FACT

General

1. These findings are based on the applicant's original submittal received on May 19, 2020 along with additional information submitted on June 4, 2020. The application was deemed complete on June 5, 2020.

2. The subject site consists of one legal lot of record with a total area of approximately 0.345 acres (15,010 square feet). There are currently no structures on the parcel, though there are plans to construct a single family home.
3. The parcel has a Plan Map designation of Village and a Zoning Map designation of Single Family Residential, SFR.
4. The subdivision was originally approved in File No. 17-066 SUB/VAR. **All conditions from the approval of the subdivision application will remain in effect.**
5. The subject site was created through a Type II Major Partition, combining two separate lots, which was approved in File No. 20-008 MP. **All conditions from the approval of the partition application will remain in effect.**
6. Notification of the proposal was mailed to property owners within 300 feet of the subject property on June 24, 2020 and to affected agencies on July 2, 2020. The subject mailing was not required but staff felt it was best practice given the multiple land use applications that applied to the subject property in the recent past.
7. No public comments were received.
8. One agency comment was received by the City's Public Works Department (Exhibit D).
9. The ADU requires payment of System Development Charges (SDCs). **The applicant shall be required to pay all SDCs at time of building permit issuance.** Per the Public Works Director (Exhibit D), **transportation and sanitary sewer System Development Charges may be reduced if the applicant signs and records a deed restriction / covenant prohibiting use of the ADU or main dwelling as short-term rentals and partition of the property for a period of 10 years after the Certificate of Occupancy is issued for either or both units.** Parks SDCs will need to be paid in full.

17.34: Single Family Residential (SFR)

10. The subject property is zoned SFR, Single Family Residential. Section 17.34.10 lists accessory dwelling units as an accessory use permitted outright in the SFR zoning district subject to the provisions in Chapter 17.74.

17.74: Accessory Development Additional Provisions and Procedures

11. The proposal is subject to the ADU standards found in Section 17.74.70. This section references development standards specific to the underlying zone, which is Single Family Residential, SFR. SFR development standards can be found in Section 17.34.30 of the development code.
12. According to the dimensional standards in Section 17.74.70(B), the maximum square footage of the ADU shall not exceed 600 square feet. The proposed ADU is 484 square feet in compliance with the standard.

13. Required setbacks for the ADU are the same as the underlying zoning district, SFR. The proposed ADU is within acceptable setback dimensions:
 - i. Section 17.34.30(E) requires that the front yard setback be at least 10 feet. The proposed ADU has a front yard setback of approximately 26 feet.
 - ii. Section 17.34.30(E) requires that the rear yard setback be at least 20 feet. The proposed ADU has a rear yard setback of approximately 73 feet.
 - iii. Section 17.34.30(E) requires that a corner lot have a corner setback of at least 10 feet. The proposed ADU has a corner lot setback of 10 feet.
14. The maximum structure height for the ADU is the same as the underlying zoning district. According to Section 17.34.30(I), the maximum structure height is 35 feet. The proposed ADU is 18 feet and 11 1/8 inches in height in compliance with this standard.
15. According to Section 17.74.70(B), **the maximum number of ADU occupants shall not exceed three.**
16. According to Section 17.74.70(D)(1), **the ADU shall remain subordinate to the principal residence.** According to the applicant's site plan, the ADU is set back and to the side from the principal residence.
17. According to Section 17.74.40(D)(5), detached ADUs shall be architecturally consistent with the principal dwelling unit. Staff has determined based on a review of the design of the ADU and the design of the primary residence that they are architecturally consistent. For example, similar siding materials are proposed for the ADU and the primary residence. Additionally, they both utilize the same roof structure.
18. Section 17.74.70(F.1) states that adequate provisions shall be made for drainage, water and sanitary sewer waste. Per the Public Works Director (Exhibit C), **when the building permit application for the main dwelling and/or the ADU is submitted the applicant shall clarify whether water service will be provided through the water service line for the main dwelling and whether a branch off the main dwelling sewer will be used for the ADU or whether separate services will be needed.**
19. According to Section 17.74.70(F)(3), **the ADU may not be developed for sale and may only be rented.**

DECISION

For the reasons described above, the request by Stafford Homes and Land to build an ADU at 38448 Maple Street is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL

A. All conditions from Final Order 17-066 SUB/VAR still apply and shall be met.

B. All conditions from Final Order 20-008 MP still apply and shall be met.

C. General Conditions of Approval

1. When the building permit application for the ADU is submitted the applicant shall clarify whether water service will be provided through the water service line for the main dwelling and whether a branch off the main dwelling sewer will be used for the ADU or whether separate services will be needed.
2. The applicant shall be required to pay all SDCs at time of building permit issuance. Transportation and sanitary sewer System Development Charges may be reduced if the applicant signs and records a deed restriction / covenant prohibiting use of the ADU or main dwelling as short-term rentals and partition of the property for a period of 10 years after the Certificate of Occupancy is issued for either or both units. Parks SDCs will need to be paid in full.
3. The maximum number of ADU occupants shall not exceed three.
4. The ADU shall remain subordinate to the principal residence.
5. The ADU may not be developed for sale and may only be rented.
6. Approval for the construction of the ADU shall be effective for a 2-year period from the date of this order. If substantial construction of the ADU has not taken place by the end of the 2-year period, approval for the construction of the ADU will expire. The Director may grant a 1-year extension if the applicant requests such an extension prior to expiration of the initial time limit.
7. 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.

Shelley Denison
Associate Planner

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.