

**FINDINGS OF FACT and FINAL ORDER
TYPE II PROPERTY LINE ADJUSTMENT**

DATE: November 6, 2020

FILE NO.: 20-031 PLA/FSH

PROJECT NAME: Vista Loop Lot Line Adjustment

APPLICANT: Township Land Surveys

OWNER: Paul Reeder

LOCATION: 41011 Vista Loop Drive

LEGAL DESCRIPTION : T2S R5E Section 18CD Tax Lots 100 and 500

EXHIBITS:

Applicant's Submission

- A. Land Use Application
- B. Preliminary Map
- C. Aerial Map
- D. Property Ownership Information
- E. Water & Sewer Map
- F. FSH Overlay Map
- G. Clackamas County Assessor's Map
- H. Updated Preliminary Map (October 21, 2020)

Agency Review Comments

- I. Mike Walker, Public Works Director (July 24, 2020)

FINDINGS OF FACT

1. These findings are based on the applicant's submittal received on July 16, 2020 and October 21, 2020. The application was deemed complete on July 21, 2020. A revised preliminary plat was received on October 21, 2020.
2. The applicant requests a Type II Property Line Adjustment to adjust the common lot line between Tax Lot 100 and Tax Lot 500 of Tax Map T2SR5E Section 18CD. Tax Lot 100 is currently 0.657 acres and Tax Lot 500 is currently 1.537 acres. No new lots are being proposed.

3. The subject site is zoned as Single Family Residential (SFR) and has no existing structures.
4. The proposed adjustment would change the common line between these two parcels from generally a north-south orientation to an east-west orientation with a flag lot for Tract 2. The adjustment would result in two parcels which is consistent with the existing number of parcels. After the adjustment, Tract 1 would contain 0.49 acres and Tract 2 would contain 1.71 acres.
5. Generally, a property line adjustment would require only a Type I application. However, because the subject site contains an FSH overlay, the application was elevated to a Type II.
6. Notice was sent to affected property owners within 300 feet of the subject site on July 29, 2020. No public comments were received.
7. After reviewing the preliminary plat map (Exhibit B), planning staff determined that the proposed orientation would be in violation of SDC Section 17.100.220(C), which requires that lots abut a public street. The applicant revised the preliminary plat (Exhibit H) to adjust the lots, creating a flag lot with Tract 2. This is discussed further in the findings related to Chapter 17.100.

17.30 – Zoning Districts

8. The subject site is zoned as Single Family Residential (SFR).
9. The net site area for Tract 1 will be 0.49 acres. The net site area for Tract 2 will be 1.71 acres. The unrestricted site area for Tract 2 (after subtracting restricted FSH area and the “flag pole” access strip area) will be 0.513 acres.
10. According to the underlying zoning district (SFR), the minimum allowable number of dwelling units per unrestricted site acre is 3 and the maximum allowable number of dwelling units per unrestricted site acre is 5.8. However, since no new lots are being created the density calculations are a moot point.

Chapter 17.34 – Single Family Residential (SFR)

11. **Future design review for development of the subject site shall meet the development standards found in Section 17.34.30, minimum requirements found in Section 17.34.40, additional requirements found in Section 17.34.50 and the design requirements in Chapter 17.90.**
12. Sections 17.34.40(A) and (B) state that the subject property must connect to municipal water and sewer concurrent with development. According to Exhibit I, there is an existing 8” sanitary sewer and a 6” water line in Vista Loop Dr. capable of serving either proposed parcel. The applicant states that Tract 2 is over 200 feet north of SE Vista Loop

Drive and may be exempt from the requirement to connect to the public sewer system because of the minimum 200 foot dimension in Section 17.34.40 of the Municipal Code. However, this would be a situation of the applicant's own making. The distance between the Vista Loop right-of-way and the south line of proposed Tract 2 is 202.55 feet. **The proposed adjusted property line common to the proposed parcels shall be moved three feet south or the angle of the proposed common line be changed to reduce the distance from Tract 2 to the public sewer to less than 200 feet.**

13. Regardless of the 200 foot distance referenced in Section 17.34.40, Clackamas County (which regulates on-site sewage disposal systems in Sandy) considers sewer service as physically and legally available if it is within 300 feet of a property and will not issue a permit for an on-site system on a property within 300 feet of a public sewer line per OAR 340-071-016. There is no advantage in trying to place the adjusted property line barely over 200 feet from the public right-of-way in order to avoid connecting to sewer. It is also unlikely that the slope and property line setbacks for a drainfield and replacement system could be met on Tract 2 and still allow development at the minimum density required.
14. **A separate, minimum 10 foot wide sanitary sewer easement benefitting proposed Tract 2 shall be required along the west boundary of proposed Tract 1.** This location would align with an existing manhole in Vista Loop Drive and corresponds to the lowest corner of the properties and provide the maximum flexibility connecting proposed Tract 2 to the sewer system. It would not significantly affect the buildable land area of proposed Tract 1 as the side yard setback in this zoning district is 7.5 feet.
15. Connections to the existing sanitary sewer are subject to an advanced financed public improvement reimbursement per the terms of Resolution 2006-06 until November 20, 2026. The reimbursement amount is \$1,840.62 per dwelling unit. This amount does not include any connection or system development charges.
16. **Concurrent with future development of the subject parcels the applicant shall connect to municipal water and sewer.**

Chapter 17.60 – Flood & Slope Hazard (FSH) Overlay District

17. Tract 2 falls in the Flood & Slope Hazard (FSH) Overlay District. After the lot line adjustment, 1.03 acres of Parcel 2 will contain FSH Overlay. The Overlay area contains a slope with a grade of 25 percent or greater and a 25 foot setback from the top of the 25 percent slope break.
18. Chapter 17.60 is intended to promote the public health, safety and general welfare by minimizing public and private adverse impacts from flooding, erosion, landslides or degradation of water within the FSH Overlay District. **A violation of the provisions set forth in Chapter 17.60, FSH, (e.g. tree removal without permit authorization or native vegetation removal) may result in a fine as specified in Section 17.06.80.**

19. **All future development shall meet the requirements of Chapter 17.60, including a 25 foot setback from the top of the 25 percent slope break.**

Chapter 17.100 – Land Division

20. Section 17.100.30(C) specifies the criteria for reviewing Property Line Adjustments. These criteria include: 1) No additional parcels are created; 2) All parcels meet the density requirements and dimensional standards of the base zoning district; and, 3) Access, utilities, easements and proposed future streets will not be adversely affected by the property line adjustment.
21. The property line adjustment will not create additional lots or parcels. The site currently contains two parcels and two parcels will exist after the adjustment. As such, the proposal complies with Section 17.100.30(C)(1).
22. The two proposed lots are zoned SFR. Both parcels are capable of achieving density requirements (as applicable) and dimensional standards. As such, the proposal complies with Section 17.100.30(C)(2).
23. The proposed property line adjustment will not adversely impact access, utilities, easements and future streets. As such, the proposal meets the requirements of Section 17.100.30(C)(3).
24. All lots require public street frontage as prescribed by Section 17.100.220(C). To meet this requirement, the applicant is proposing a flag lot for Tract 2 in order to ensure street frontage. The frontage for this lot is 20 feet in width, satisfying the minimum flag lot street frontage requirement in Section 17.100.170. **Because Vista Loop Drive is a collector street as determined by the City’s TSP, Tracts 1 and 2 shall share access unless otherwise permitted by the Public Works Director.**
25. According to Section 17.100.170, **the access strip may not be counted toward the lot size requirements and the accessway shall have a minimum paved width of 10 feet.**
26. **Concurrent with future development of the subject parcels the applicant shall complete all required frontage improvements on Vista Loop Drive.**

Chapter 17.102 – Urban Forestry

27. As Tract 1 and Tract 2 will be under contiguous ownership and together constitute more than one acre, the tree retention requirements in Chapter 17.102 are relevant.
28. At least three trees at 11 inches DBH or greater are required to be retained for every one acre of contiguously owned land. 2.2 total acres x 3 trees = 6.6 required retention trees, rounded up to 7 required retention trees.

29. No trees shall be removed from the subject properties, including the FSH area, without an approved permit.

DECISION

The request by Township Land Surveys and Paul Reeder for a Type II Property Line Adjustment is in conformance with the approval criteria outlined in the Sandy Development Code, Section 17.100.30 and is hereby **approved**. The applicants are permitted to adjust the common lot line between Tax Lots 100 and 500 to the location as identified in this submittal.

CONDITIONS OF APPROVAL

1. Add a signature block for the City of Sandy, Development Services Director, to the final property line adjustment survey as well as the appropriate Clackamas County offices.
2. Add “City of Sandy Planning File No. 20-031 PLA/FSH” to the final property line adjustment survey.
3. Submit one original and one copy of the final property line adjustment for City signature prior to filing the record of survey and property line adjustment with the Clackamas County Surveyor’s Office.
4. Submit a true and exact copy of the property line adjustment (including electronic) within 30 days after recording including a boundary survey that complies with ORS Chapters 92 and 209.
5. All future development shall meet applicable requirements found in the Sandy Development Code. Future design review of development of the subject site shall meet the development standards found in Section 17.34.30, minimum requirements found in Section 17.34.40, additional requirements found in Section 17.34.50, and the design requirements in Chapter 17.90.
6. The proposed adjusted property line common to the proposed parcels should be moved three feet south or the angle of the proposed common line be changed to reduce the distance from Tract 2 to the public sewer to less than 200 feet.
7. A separate, minimum 10 foot wide sanitary sewer easement benefitting proposed Tract 2 shall be required along the west boundary of proposed Tract 1.
8. Concurrent with future development of the subject parcels the applicant shall connect to municipal water and sewer.
9. Concurrent with future development of the subject parcels the applicant shall complete all required frontage improvements on Vista Loop Drive.
10. No trees shall be removed without the appropriate City permit. Tree removal without a permit may result in a fine as specified in Section 17.06.80.

11. All future development shall meet the requirements of Chapter 17.60, including a 25 foot setback from the top of the 25 percent slope break. A violation of the provisions set forth in Chapter 17.60, FSH, (e.g. tree removal without permit authorization or native vegetation removal) may result in a fine as specified in Section 17.06.80.
12. The access strip on Tract 2 may not be counted toward the lot size requirements and the accessway shall have a minimum paved width of 10 feet.
13. Because Vista Loop Drive is a collector street as determined by the City's TSP, Tracts 1 and 2 shall share access unless otherwise permitted by the Public Works Director.
14. No trees shall be removed from the FSH area without an approved permit.

Shelley Denison

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 twelve (12) days of notice of the decision. The notice of 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.