

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

DATE: December 1, 2020

FILE NO.: 20-039 DR/ADJ

PROJECT NAME: Hood Street Daycare

APPLICANT: Robert Mosier, Architect

OWNER: Rick Minor

LEGAL DESCRIPTION: T2S R4E Section 13 BC, Tax Lot 2400

SITUS ADDRESS: 38422 Hood Street

The above-referenced proposal was reviewed as a Type II Design Review with two Adjustments. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the conditions of approval.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application and Supplemental Application
- B. Narrative
- C. Plan Set
 - Sheet A1.1: Proposed Site Plan
 - Existing Conditions
 - Sheet L1.0: Landscape Plan
 - Sheet C1.0: Site Hardscape Plan
 - Sheet A1.2: Proposed Site Utility Plan
 - Sheet A2.1: First Floor Plan
 - Sheet A2.2: Second Floor Plan
 - Sheet A2.3: Roof Plan
 - Sheet A3.1: Elevations (North, West, and Glazing Diagram - North)
 - Sheet A3.2: Elevations (South, East, and Glazing Diagram - West)
 - Sheet A3.3: Elevations (Trach Enclosure)
- D. Photometric Plan and Exterior Lighting Fixture Cut Sheets
- E. Trip Generation Analysis Letter
- F. Stormwater Report

Agency Comments

- G. Fire Marshal (October 29, 2020)

- H. Building Official (email from November 16, 2020)
- I. Public Works Director (email from November 16, 2020)

Public Comments

- J. Marc and Linda Gordien (Received November 16, 2020)

FINDINGS OF FACT

General

1. These findings are based on the applicant’s submittal materials received on October 1, 2020 with additional items received on October 26, 2020. The application was deemed complete on October 27, 2020. The 120-day deadline is February 24, 2021.
2. The subject site is approximately 0.14 acres and is located on the south side of Hood Street, east of Bluff Road and west of Beers Avenue.
3. The parcel has a Plan Map designation of Commercial and a Zoning Map designation of C-1, Central Business District.
4. Robert Mosier Architect submitted an application on behalf of Rick Minor for development of a new daycare center and associated improvements at 38422 Hood Street. The proposed building is two stories and approximately 4,384 square feet total for both floors. Other site improvements include civic space and landscaping. No off-street parking is proposed. In addition, the applicant is requesting the following:
 - Type I Adjustment to Section 17.90.110(B.1.a) to exceed the 30-foot maximum wall plane allowed without a variation.
 - Type II Adjustment to Section 17.90.110(E.2) to provide less than 40 percent windows on the ground floor of the north (street-facing) façade.
5. Notification of the proposal was mailed to property owners within 300 feet of the subject property and affected agencies on October 28, 2020. One public comment was received after the comment period deadline and thus has no appeal standing. Marc and Linda Gordien (Exhibit J) expressed opposition to the proposed daycare stating concerns about traffic and lack of parking and play areas.

17.42 – Central Business District (C-1)

6. The applicant proposes a daycare, which is a primary use permitted outright in Section 17.42.10(B.2.c).
7. The Central Business District (C-1) zoning district does not require a minimum front yard setback but does have a maximum front yard setback of 10 feet. The zoning district does not contain any side yard or rear yard setbacks. The Site Plan (Exhibit C, Sheet A1.1) details the building setback at 10 feet from the front property line. The proposal also includes a 5 foot right-of-way dedication. The maximum building height allowed in the C-1 zoning district is 45 feet. The building is proposed at 32 feet 9.5 inches in height in compliance with the code.
8. Per the submitted narrative (Exhibit B), the site will include a total of 891 square feet of landscaping (15.4 percent) in compliance with the standards of Section 17.42.30(A).

17.66 – Adjustments and Variances

9. Chapter 17.66 contains regulations associated with adjustments and variances. Adjustments are a means to vary the development standards normally applied in a particular district and variances are a means of requesting a complete waiver or major adjustment to certain development standards. The applicant requested the following adjustments:
- Type I Adjustment to Section 17.90.110(B.1.a) to exceed the 30-foot maximum wall plane allowed without a variation.
 - Type II Adjustment to Section 17.90.110(E.2) to provide less than 40 percent windows on the ground floor of the north (street-facing) façade.

10. WALL PLANE ADJUSTMENT

Section 17.90.110(B.1.a) states: “All elevations visible from an abutting public street or pedestrian way shall be divided into distinct planes no more than 30 lineal feet long.”

Request: The applicant requests a Type I Adjustment to Section 17.90.110(B.1.a) to exceed the 30-foot maximum wall plane allowed without a variation by 3.9 percent.

Section 17.66.40 contains Type I and Type II Adjustment criteria. Criteria A of Section 17.66.40 states “The proposed development will not be contrary to the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City.” The Comprehensive Plan states that the Central Business (C-1) District is intended to provide the community with a mix of civic, retail, personal services, offices and residential needs of the community and its trade area in the city's traditional commercial core. The intent of Section 17.90.110(B) is to provide building façades, materials and colors consistent with the Sandy Style. The proposed development is consistent with the intent of the Central Business District zone by providing a daycare. The proposal includes Sandy Style elements and the proposed wall plane only exceeds the 30-foot maximum by 1-foot-2-inches. In addition, that section of the wall will be behind a 6-foot-tall cedar fence and not visible from the street. Criterion A is met.

Criteria B states “The proposed development will not substantially reduce the amount of privacy enjoyed by users of nearby structures when compared to the same development located as specified by this Code.” The proposal to extend the maximum wall plane without a variation from 30 feet to 31 feet 2 inches will not affect the amount of privacy enjoyed by users of nearby structures. Criterion B is met.

Criteria C states “The proposed development will not adversely affect existing physical systems and natural systems, such as traffic, drainage, dramatic land forms, or parks.” Based on the Trip Generation Letter (Exhibit E), the proposed project is projected to have 48.75 PM peak hour trips. The stormwater report (Exhibit F) states that all runoff will be treated and then discharged to the existing storm system located in Hood Street. Criterion C is met.

Criteria D states “Architectural features of the proposed development will be compatible to the design character of existing structures on adjoining properties and on the proposed development site.” The proposed building will be designed to be compatible with Sandy Style and includes gabled roofs, secondary roof forms, a mix of siding material, and strong base material. Criterion D is met.

Staff believes that a 1 foot 2 inch increase to the maximum 30 foot wall plane without variation is not contrary to the Comprehensive Plan or other City policies, does not reduce the amount of privacy enjoyed by users of nearby structures, will not adversely affect existing systems, and will be compatible to the design character of existing structures on adjoining properties. **The applicant's request for a Type I Adjustment to Section 17.90.110(B.1.a) to exceed the 30-foot maximum wall plane allowed without a variation is approved.**

11. WINDOW PERCENT ADJUSTMENT

Section 17.90.110(E.2) states: "The ground floor elevation of all new buildings shall contain display areas, windows, and doorways along street frontages and where the building abuts a civic space as follows: Lots with multiple street frontages are required to meet this standard on only two frontages." Buildings up to 10,000 square feet in size are required to provide windows on 40 percent of the ground floor elevation.

Request: The applicant requests a Type II Adjustment to Section 17.90.110(E.2) to reduce the percent windows on the ground floor of the north (street-facing) façade from the required 40 percent to 32.9 percent, which is a 17.75 percent reduction.

Section 17.66.40 contains Type I and Type II Adjustment criteria. Criteria A of Section 17.66.40 states "The proposed development will not be contrary to the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City." The Comprehensive Plan states that the Central Business District (C-1) is intended to provide the community with a mix of civic, retail, personal services, offices and residential needs of the community and its trade area in the city's traditional commercial core. The intent of Section 17.90.110(E) is to promote business vitality, public safety and aesthetics through effective window placement and design, consistent with the Sandy Style. The proposed development is consistent with the intent of the Central Business District zone by providing a daycare. The code requires a minimum of 40 percent windows on the north façade, but can be reduced by up to 20 percent (to 32 percent windows) through the adjustment process. The proposal includes 32.9 percent windows on the north façade, which is 7.1 percent less than the required 40 percent (or a 17.75 percent adjustment to the quantifiable provision of 40 percent). Because the proposal also includes the required stone base, staff acknowledges it would be difficult to meet both the stone base requirement and the 40 percent window requirement. Criterion A is met.

Criteria B states "The proposed development will not substantially reduce the amount of privacy enjoyed by users of nearby structures when compared to the same development located as specified by this Code." The proposal to reduce the percent windows on the north elevation by 7.1 percent will not affect the amount of privacy enjoyed by users of nearby structures. In fact, it may increase privacy. Criterion B is met.

Criteria C states "The proposed development will not adversely affect existing physical systems and natural systems, such as traffic, drainage, dramatic land forms, or parks." Based on the Trip Generation Letter (Exhibit E), the proposed project is projected to have 48.75 PM peak hour trips. The stormwater report (Exhibit F) states that all runoff will be treated and then discharged to the existing storm system located in Hood Street. Criterion C is met.

Criteria D states "Architectural features of the proposed development will be compatible to the design character of existing structures on adjoining properties and on the proposed development

site.” The proposed building will be designed to be compatible with Sandy Style and includes gabled roofs, secondary roof forms, a mix of siding material, and strong base material. Criterion D is met.

Section 17.90.110(D.7) requires buildings to provide at least two elevations where the pedestrian environment is “activated.” An elevation is “activated” when it meets the window transparency requirements in Subsection 17.90.110(E) and contains a customer entrance with a pedestrian shelter extending at least five (5) feet over an adjacent sidewalk, walkway, or civic space. The applicant is proposing the north elevation and the northern section of the west elevation on the street side of the cedar fence as the two activated frontages. The proposed building has a primary entrance on the north elevation and a secondary entrance on the west elevation, meeting the entrance criteria. The glazing diagram for the north elevation (Exhibit C, Sheet A3.1) details 32.9 percent windows, which does not meet the minimum 40 percent window standard. The submitted narrative (Exhibit B) states that the building incorporates a 36-inch high stone base and generous entry porch roof forms, which limit the area available for ground floor windows on the north elevation. Staff believes a 7.1 percent reduction below the 40 percent minimum window coverage on the street-facing facade is not contrary to the Comprehensive Plan or other City policies, does not reduce the amount of privacy enjoyed by users of nearby structures, will not adversely affect existing systems, and will be compatible to the design character of existing structures on adjoining properties. The submitted glazing diagram of the west elevation (Exhibit C, Sheet A3.2) details 44.5 percent windows on the northern (activated) section of the west elevation in compliance with the minimum 40 percent window standard. To accomplish this, the applicant added transom windows above the standard windows. However, due to the overhang of the gabled roof over the secondary entrance on the setback portion of the north façade, the transom windows will not be highly visible. In addition, the transom windows are only proposed on the north section of the west façade with the sole reason of meeting the minimum window standard; no other facades include transom windows. If the applicant is able to design the activated portion of the west facade staff such that the percent windows is within 20 percent of the 40 percent requirement (i.e. 32 percent windows or greater), staff would be supportive of a Type II Adjustment for the northern section of the west façade as well since staff feels this may better maintain the integrity of the design. **The applicant’s request for a Type II Adjustment to Section 17.90.110(E.2) to provide less than 40 percent windows on the ground floor of the north (street-facing) façade is approved. Staff is also supportive of a design that does not include the transom windows on the northern (activated) section of the west façade provided the design includes 32 percent windows or greater.**

17.74 – Accessory Development

12. Section 17.74.40(B) contains height requirements for fences and retaining walls in commercial and industrial zones. The subject property is zoned Central Business District (C-1). The applicant is proposing a 6-foot-tall cedar fence along the rear and side property lines in compliance with the code. The fence will connect from the side property lines to the building but will be setback from the front plane of the proposed building on both sides.

17.84 – Improvements Required with Development

13. Chapter 17.84 provides general information regarding improvements required in association with development. **All required improvements shall be installed or financially guaranteed prior to final occupancy.**

14. Section 17.84.20 provides information on timing of improvements. Submission of preliminary street and utility plans during the land use review process is solely for compliance with the data requirements of Section 17.100.60 (D). **Preliminary plat approval does not connote utility or public improvements plan approval which will be reviewed and approved separately upon submittal of public improvement construction plans.**
15. Section 17.84.30 requires sidewalks and planting areas along all public streets. The applicant proposes to install a 5 foot wide curb-tight sidewalk to match the existing sidewalk on Hood Street. The applicant also proposes a 5 foot right-of-way dedication to accommodate a landscape area with street trees. **The applicant shall improve the Hood Street frontage of the site including but not limited to: curb, sidewalks, storm drainage, streetlighting, and street trees per the requirements in Chapter 15.20 and Section 17.84.30 of the Sandy Municipal Code.** The Public Works Director (Exhibit I) notes that a recent development on Hood Street to the west of the subject property installed 8 foot wide sidewalks. To maintain consistency, **the sidewalk shall be an eight-foot wide curb-tight sidewalk to match the recently installed sidewalk on Hood Street. The applicant shall install a streetlight on the existing pole.** The Public Works Director also notes that typical street trees would not be advisable due to the existing overhead utilities, the PGE pole, and guy wire on the site. The proposed site plan (Exhibit C, Sheet A1.1) details the street trees approximately 8.75 feet back from the back of curb in the center of the 5 foot wide right-of-way dedication. To prevent future conflict between the street trees and the overhead wires and pole, **the applicant shall update the plan set to detail the street trees 10.75 feet from the back of curb.**
16. Section 17.84.50 contains standards for street improvements and traffic evaluations. The applicant submitted a Trip Generation Analysis Letter (Exhibit E) dated August 31, 2020 and prepared by the project architect using the Institute of Transportation Engineers Common Trip Generation Rates (PM Peak Hour) Table, Trip Generation Manual, 10th Edition. The analysis estimates that the proposed daycare will generate 48.75 PM peak hour trips. Per the definition of local streets in Chapter 17.10, proposed outright permitted projects in the C-1, Central Business District, are exempt from adherence to the ADT standards on local streets. Therefore, staff finds that no additional mitigation is necessary.
17. Sections 17.84.60 and 17.84.70 relate to public utilities. Utility and right-of-way improvement plans are submitted with the land use application solely for conformance with the submittal requirements in Section 17.100.60(D). Land use approval does not connote approval of public improvement plans. The applicant is proposing to connect to an existing 8-inch water main, 6-inch sanitary sewer main, stormwater main, and natural gas line in Hood Street. The existing sanitary sewer pipe does not extend to the west edge of the subject property. **The applicant shall extend the sanitary sewer main in Hood Street to the west property boundary.** The applicant is proposing a Contech Storm Filter catch basin for stormwater treatment before discharging to the existing city storm system. In addition, the applicant is proposing tree credits to mitigate the impervious surface on the east side. The project consists of 3,873 square feet of impervious area (3,141 sq. ft. of roof and 732 sq. ft. of walkways). The 3,141 square foot roof area will be piped directly to a single cartridge (18-inch) Contech Storm Filter catch basin, which can mitigate up to 4,257 square feet of impervious area. The impervious surface area from the walkways on the west side of the building will also drain to the proposed Contech Storm Filter catch basin for a total of 3,537 square feet of impervious area draining to the Contech catch basin. The impervious surface area from the walkways on the east side (335 sq. ft.) will be mitigated with tree credits.

Stormwater management shall conform to the requirements in the City of Portland Stormwater Management Manual and the requirements in Sections 13.18 and 13.20 of the Sandy Municipal Code.

18. Section 17.84.80 contains standards for franchise utility installation. Private utility services will be submitted for review and approval by service providers and City staff in association with construction plans, and all utility lines will be extended to the perimeter of the site. **All franchise utilities shall be installed underground and in conformance with City standards. The applicant shall call the PGE Service Coordinators at 503-323-6700 when the developer is ready to start the project.**

19. The Fire Marshal (Exhibit G) reviewed the proposal and provided general comments as well as comments related to firefighting water supplies. **Construction documents detailing compliance with fire protection water supply requirements shall be provided to Sandy Fire District for review and approval upon building permit submittal. The Fire Marshal's decision shall be submitted to the Planning Division. The applicant shall comply with the requirements of the Sandy Fire Marshal as contained in Exhibit G.** The Fire Marshall identified the following requirements as being of particular importance:
 - The applicant will be responsible for conducting a fire flow test to verify available water.
 - Each new fire hydrant installed shall be ordered in an OSHA safety red finish and have a 4-inch non-threaded metal faced hydrant connection with cap installed on the steamer port. If a new building, structure, or dwelling is already served by an existing hydrant, the existing hydrant shall also be OSHA safety red and have a 4-inch non-threaded metal faced hydrant connection with cap installed (applicable for nearest existing hydrant).

20. Section 17.84.100 contains requirements for mail delivery facilities. The applicant will need to coordinate with the United States Postal Service (USPS) to relocate mail facilities and these will be approved by the City and USPS. **Mail delivery facilities shall be provided by the applicant in conformance with Section 17.84.100 and the standards of the USPS. The applicant shall submit a mail delivery plan to the City and USPS for review and approval prior to installation of mailboxes.**

17.90 – Design Standards

21. The proposal is subject to all the requirements for Design Review as stated in Section 17.90.00.

22. Section 17.90.70 specifies that **design review approval shall be void after two (2) years from the date of the Final Order unless the applicant has submitted plans for building permit approval.**

23. Section 17.90.110(A) contains site layout and vehicle access standards intended to provide for compact, walkable development, and to design and manage vehicle access and circulation in a manner that supports pedestrian safety, comfort and convenience. All lots shall abut or have cross access to a dedicated public street. The subject property abuts Hood Street.

24. Section 17.90.110(A)(3) requires that off-street parking shall be located to the rear or side of buildings with no portion located within 10 feet of the public right-of-way. The proposed project is a commercial project in the C-1 zoning district and is therefore exempt from minimum off-

street parking standards per Section 17.98.20(A.1). The proposed project does not include any off-street parking. **In order to facilitate drop-off and pick-up, staff recommends that the applicant request “15 minute maximum” parking signs be installed along the Hood Street frontage of the site.**

25. Section 17.90.110(B) contains standards regarding building facades, materials, and colors intended to be consistent with the Sandy Style. Section 17.90.110(B.1) requires that buildings be articulated, varied, and provide visual interest. The proposed elevations of the structure include varying wall planes that do not exceed 30 feet in length, with the exception of the rear portion of the west wall, which is 31 feet 2 inches without a variation. The applicant has requested a Type I Adjustment to Section 17.90.110(B.1) for the rear portion of the west wall, which is reviewed in Chapter 17.66 of this document. Variations include secondary roofs, wall projections, and changes in siding material.
26. Section 17.90.110(B.2) requires that buildings incorporate pedestrian shelters over primary building entrances. Pedestrian shelters shall extend at least five feet over the pedestrian area. The proposal includes a gabled primary pedestrian entry on the north façade of the building with a roof overhang that exceeds the 5 foot minimum. In addition, there are pedestrian doors on the west, south, and east facades. Per the narrative (Exhibit B) all doors have overhangs that exceed 5 feet with the exception of an entry on the east elevation, which is covered by a projecting bay that is 4-feet-6-inches deep. However, this bay has a roof with an overhang of 2 feet which ultimately provides an overhang protecting this entrance of 6-feet-6-inches in compliance with the code.
27. Section 17.90.110(B.3) specifies approved building materials. Section 17.90.110(B.3.b) requires buildings to include strong base materials such as natural stone, split-faced rusticated concrete block, or brick on all sides of a building visible from an abutting public street. The front (north) elevation and the portions of the west and east elevations in front of the 6 foot tall cedar fence are visible from the public right-of-way and, therefore, require a strong base material. The Elevations (Exhibit C, Sheets A3.1 and A3.2) detail a 36-inch high stone base (Mutual Materials “Dressed Fieldstone”) on the north elevation and the front portion of the west elevation. The east elevation does not detail a stone base in the northern portion north of where the fence connects to the building. **The applicant shall update the east elevation to detail a 36-inch stone base along the portion north of the cedar fence for approximately 4 feet. If the location of the fence moves further south in the future, the applicant shall install a matching 36-inch stone base along the exposed portion of the east elevation for approximately 16 total feet to the sprinkler room.**
28. Section 17.90.110(B.3.d) contains approved siding. The applicant is proposing to use a mix of vertical and horizontal siding. Per the submitted narrative (Exhibit B), siding materials include cementitious lap siding for the first story walls, Board and Batten style siding composed of “rough sawn” cementitious panels with 1x3 vertical battens at 16-inches on center for the second story walls, and natural finished cedar shingles at the gable end peaks at the north and south ends of the building.
29. Section 17.90.110(B.3.e) requires that building elevations facing a public street incorporate at least three architectural features from the list in Section 17.90.110(B.3.e). The north elevation of the proposed building faces Hood Street. Per the submitted narrative (Exhibit B), the north

elevation features a “Timber Framed” entry porch with naturally stained timbers and beams, heavy metal structural brackets at the post and beam connections, and naturally finished cedar shingles at the gable end peak. In addition, the north elevation includes a “Dressed Fieldstone” stone base.

30. Section 17.90.110(B.4) specifies approved colors. The applicant is proposing “Asian Jute” for the horizontal siding and “Wild Oats” for the vertical siding. The trim and fascia are “Winter Meadow.” All three colors are approved colors on the City’s color palette.
31. Section 17.90.110(C) requires gable roofs on new buildings. The proposed building includes a gabled roof on the north elevation as well as additional gabled roofs over the primary and secondary entrances on the north elevation. The proposed roof pitch is 8:12 in compliance with Section 17.90.110(C.1).
32. Section 17.90.110(C.4) requires secondary roof forms based on roof length. The proposed roof length is 74 feet, which requires two (2) secondary roof forms. The applicant is proposing two secondary roofs along the east and west elevations at an 8:12 roof pitch in compliance with the code.
33. Section 17.90.110(C.5) requires visible roof materials to be wood shingle or architectural grade composition shingle, slate, or concrete tile. Metal with standing or batten seam may also be used conforming to the Color Palette in Appendix D of the development code. The applicant is proposing to use architectural composition shingle in compliance with the code.
34. Section 17.90.110(D) contains standards regarding building orientation and entrances intended to maintain and enhance downtown and village commercial streetscapes as public spaces, emphasizing a pedestrian-scale and character in new development, consistent with the Sandy Style; and to provide for a continuous pedestrian network that promotes pedestrian safety, comfort and convenience, and provides materials and detailing consistent with the Sandy Style. The proposed building has frontage on Hood Street. Section 17.90.110(D.1) requires at least 50 percent of the subject site’s street frontage to be comprised of building(s) placed within 10 feet of the sidewalk or an approved civic space. The building occupies more than 50 percent of the street frontage on Hood Street. Hood Street has a curb tight sidewalk so the applicant is proposing to extend the existing curb tight sidewalk and dedicate 5 feet of right-of-way to accommodate the planter strip and street trees. This places the proposed building 15 feet from the sidewalk. However, the applicant is proposing to locate the required civic space at the front of the building, between the building and the sidewalk. The proposed building will be directly adjacent to the civic space and will therefore meet the standards of Section 17.90.110(D.1).
35. Section 17.90.110(D.6) specifies that buildings shall provide at least two elevations where the pedestrian environment is “activated.” An elevation is “activated” when it meets the window transparency requirements in Subsection 17.90.110(E) and contains a customer entrance with a pedestrian shelter extending at least five (5) feet over an adjacent sidewalk, walkway or civic space. Where providing a customer entrance on two (2) elevations is not practical, the reviewing body may allow a single entrance. The proposed building contains a primary entrance on the north façade as well a secondary entrance on a recessed portion of the north façade and the northern portion of the west façade that’s on the street side of the proposed fence. The portion of the west façade that is adjacent to a civic area and visible from the street contains 44.5

percent windows, in compliance with the code. The applicant has requested a Type II Adjustment to allow less than the required 40 percent windows on the north facade, which is reviewed in Chapter 17.66 of this document.

36. Section 17.90.110(D.7) specifies primary entries shall face a public street or a civic space and shall be spaced not more than 30 feet apart on average. The proposed primary entrance faces Hood Street in compliance with the code.
37. Section 17.90.110(E) contains standards for construction and placement of windows. The intent of windows is to promote business vitality, public safety, and aesthetics through effective window placement and design. Section 17.90.110(E.2) states that the ground floor elevation of all new buildings shall contain display areas, windows, and doorways along street frontages and where the building abuts a civic space. The two activated frontages are the north façade and the northern portion of the west façade that is adjacent to a civic area and visible from the street. The northern portion of the west façade meets the 40 percent window requirement. The applicant requested a Type II Adjustment to Section 17.90.110(E.2) to not meet the 40 percent window requirement on the north façade. The adjustment request is reviewed in Chapter 17.66 of this document.
38. Section 17.90.110(E.3) contains standards related to upper floor windows. The proposed building is two stories. Section 17.90.110(E.3.b) states individual window units shall not exceed five (5) feet by seven (7) feet. Any portion of a window unit with a dimension exceeding four (4) feet shall be divided into smaller panes. Section 17.90.110(E.3.c) states at least half of all the window area in upper floors shall be made up of glass panes with dimensions no greater than two (2) feet by three (3) feet. Per the submitted narrative (Exhibit B), the upper floor windows are 3 feet by 4 feet single hung windows with the upper sash divided into 3 sections such that no individual glass pane exceeds two feet by three feet in compliance with the code.
39. Section 17.90.110(F) contains additional landscaping and streetscape design standards. This provision requires properties in the C-1 zoning district to comply with the Downtown Sandy Streetscape Design as contained in Appendix F. The proposal includes a 5 foot wide right-of-way dedication to accommodate a landscape strip with street trees. As previously reviewed in Chapter 17.84 of this document, typical street trees would not be advisable due to the existing overhead utilities, the PGE pole, and guy wire on the site. The proposed site plan (Exhibit C, Sheet A1.1) details the street trees approximately 8.75 feet back from the back of curb in the center of the 5 foot wide right-of-way dedication. To prevent future conflict between the street trees and the overhead wires and pole, **the applicant shall update the plan set to detail the street trees 10.75 feet from the back of curb.**
40. Section 17.90.110(G) contains standards for civic spaces within developments. The intent of civic space is to connect buildings to the public realm and create comfortable and attractive gathering places and outdoor seating areas for customers and the public. The development code requires developments to provide a civic space area that is at least three percent of the building ground floor area and in no instance is less than 64 square feet. The ground floor area of the proposed use is 2,304 square feet which results in a total need for approximately 69 square feet of civic space. The proposal includes a total of 120 square feet of civic space in the form of a hardscaped area at the primary entrance along Hood Street. The civic space is proposed to contain pavers or scored concrete, and a bench.

41. Section 17.90.110(H) contains standards regarding lighting. **The applicant shall follow all Dark Sky Ordinance requirements as outlined in Chapter 15.30 of this document.**
42. Section 17.90.110(I) contains standards regarding safety and security intended to promote natural surveillance of public spaces. There is no proposed off-street parking. The north elevation contains 32.9 percent windows, which provides adequate visibility to the adjacent sidewalk.
43. Section 17.90.110(I.3) requires street address numbers. **The applicant shall provide street address numbers measuring a minimum of six (6) inches high and of contrasting color, which clearly locate buildings and their entries for patrons and emergency services. The applicant shall verify the location(s) of the address with the Building Official and emergency service providers.**
44. Section 17.90.110(J) contains standards regarding external storage and screening intended to promote land use compatibility and aesthetics, particularly where development abuts public spaces. The proposal includes a garbage/recycle enclosure along the west property line. The Trash Enclosure Plan & Elevations (Exhibit C, Sheet A3.3) details a 5 foot by 9 foot enclosure with cementitious lap siding to match the existing building and a metal frame gate with wood slats. The proposed location of the accessory trash/recycling enclosure is in front of the front plane of the primary building with the bicycle parking located behind it. **The applicant shall update the plan set to flip the locations of the trash/recycling enclosure and the bicycle parking such that the trash/recycling enclosure is located behind the front plane of the primary building.** The Building Official (Exhibit H) notes that a trash/recycling enclosure is required to have 1-hour rated fire-resistive construction when less than 10 feet from the property line (OSSC Table 602). **The applicant shall work with the Building Official to determine if the trash/recycling enclosure meets the 1-hour rated fire resistive construction requirements.** Hoodview Disposal and Recycling typically requires the applicant to verify the level of service to determine if the trash/recycling enclosure is adequate size. **The applicant shall verify the size of the trash and recycling containers and appropriate pick-up location with Hoodview.**
45. The narrative (Exhibit B) indicates that any mechanical equipment will be behind the 6-foot tall cedar fence.

17.92 – Landscaping and Screening

46. Section 17.92.20 requires that a minimum of 10 percent of the site be landscaped in the C-1 zoning district. The submitted narrative (Exhibit B) and Site Plan (Exhibit C, Sheet A1.1) indicate there will be 891 square feet of landscaped area, which equates to a total of 15.4 percent of the site.
47. Section 17.92.10(C) requires significant plant and tree specimens to be preserved to the greatest extent practicable and integrated into the design of a development. There are no existing trees on the subject property; however, there are trees on the adjacent properties to the east and southwest that likely have roots that extend onto the subject property. **The applicant shall work with an arborist to determine the critical root zone (1 foot per 1 inch DBH) of the adjacent trees; the arborist shall be on-site during any construction activity within the critical root zone of adjacent trees.**

48. Section 17.92.30 requires trees to be planted along public street frontages. The Landscape Plan (Exhibit C, Sheet L1.0) details street trees along the Hood Street frontage. As previously discussed, typical street trees would not be advisable due to the existing overhead utilities, the PGE pole, and guy wire on the site. The proposed site plan (Exhibit C, Sheet A1.1) details the street trees approximately 8.75 feet back from the back of curb in the center of the 5 foot wide right-of-way dedication. To prevent future conflict between the street trees and the overhead wires and pole, **the applicant shall update the plan set to detail the street trees 10.75 feet from the back of curb.** The proposed street trees are 1.75-inch caliper Japanese Stewartia (*Stewartia pseudocamellia*). **All street trees shall be a minimum of 1.5-inches in caliper measured 6 inches above the ground and shall be planted per the City of Sandy standard planting detail. All street trees shall be staked and tied with loose twine so as not to damage the trunk; the twine shall be removed after one growing season (or a maximum of 1 year).**
49. Section 17.92.40 requires that all landscaping be irrigated, either with a manual or automatic system. The applicant did not indicate how the landscaping will be irrigated. **The applicant shall submit details on the proposed irrigation system. As required by Section 17.92.140, the developer shall be required to maintain all vegetation planted in the development for two (2) years from the date of completion, and shall replace any dead or dying plants during that period. After that, the property owner shall be responsible for landscaping. As required by Section 17.92.10(L), all landscaping shall be continually maintained, including necessary water, weeding, pruning, and replacing.**
50. Section 17.92.50 specifies the types and sizes of plant materials for landscaped areas. The development code requires that all deciduous trees shall be at least 1.5 inches caliper and all coniferous trees shall be a minimum of 5 feet in height at planting. All shrubs/plants are required to be a minimum of 1 gallon in size or 2 feet in height at planting. The Landscape Plan (Exhibit C, Sheet L1.0) identifies proposed trees at 1.5-inch or 1.75-inch caliper as well as a mix of shrubs that meet the minimum 1-gallon size requirement.
51. Section 17.92.130 details performance bond standards as they associate to required landscaping. The applicant has the option to defer the installation of street trees and/or landscaping for weather-related reasons. Staff recommends the applicant utilize this option rather than install trees and landscaping during the dry summer months. **If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the landscaping, assuring installation within 6 months. The cost of street trees shall be based on the street tree plan and at least \$500 per tree. The cost of landscaping shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.**

17.98 – Parking, Loading, and Access Requirements

52. Section 17.98.20 contains off-street parking requirements. Section 17.98.20(A.1) exempts commercial uses in the Central Business District (C-1) from off-street parking requirements. As previously stated, **staff recommends that the applicant request “15 minute maximum” parking signs be installed along the Hood Street frontage of the site in order to facilitate drop-off and pick-up.**

53. Two bicycle spaces are required for a daycare per Section 17.98.20(A.9). The Site Plan (Exhibit C, Sheet A1.1) details two bicycle parking spaces adjacent to the secondary entrance at the northwest corner of the building and behind the trash/recycling enclosure. **The applicant shall update the plan set to flip the locations of the trash/recycling enclosure and the bicycle parking such that the trash/recycling enclosure is located behind the front plane of the primary building.**

15.30 – Dark Sky Ordinance

54. Chapter 15.30 contains the City of Sandy’s Dark Sky Ordinance. The applicant submitted a Photometric Plan (Exhibit D) that details foot candles on the subject property and 10 feet beyond the property lines. All outdoor lighting systems must be designed so that the area 10 feet beyond the property line of the premises receives no more than .25 (one quarter) of a foot-candle of light from the proposed lighting system. As detailed in the submitted Photometric Plan, the foot-candle readings 10 feet beyond the property lines do not exceed 0.25 foot candles in compliance with the code.
55. The submitted Photometric Plan and lighting cut-sheets (Exhibit D) detail all lights at 4,000 Kelvins or less and downward facing. **All exterior lights shall be full cut-off and shall not exceed 4,125 Kelvins.**

15.44 – Erosion Control Regulations

56. All erosion control and grading shall comply with Section 15.44 of the Municipal Code. **All on-site earthwork activities including any retaining wall construction shall follow the requirements of the most current edition of the Oregon Structural Specialty Code (OSSC). If the proposal includes a retaining wall, the applicant shall submit additional details on the proposed retaining wall for staff review and approval. The earthwork activities shall be observed and documented under the supervision of a geotechnical engineer.**
57. **Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties without a proper collection system. All the work within the public right-of-way and within the paved area should comply with American Public Works Association (APWA) and City requirements as amended. The applicant shall submit a grading and erosion control permit and request an inspection of installed devices prior to any additional grading onsite.** The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction of the subdivision. **All erosion control and grading shall comply with Section 15.44 of the Municipal Code.**

DECISION

For the reasons described above, the request by Robert Mosier on behalf of Rick Minor to construct a daycare building is hereby **approved as modified by the conditions listed below.**

In addition, the following requests are **approved as modified by the conditions of approval:**

- Type I Adjustment to Section 17.90.110(B.1.a) to exceed the 30-foot maximum wall plane allowed without a variation.
- Type II Adjustment to Section 17.90.110(E.2) to provide less than 40 percent windows on the ground floor of the north (street-facing) façade. Staff is also supportive of a design that does not

include the transom windows on the northern (activated) section of the west façade provided the design includes 32 percent windows or greater.

Though not required, **staff recommends that the applicant request “15 minute maximum” parking signs be installed along the Hood Street frontage of the site in order to facilitate drop-off and pick-up.**

CONDITIONS OF APPROVAL

A. Prior to submitting construction plans, including grading and erosion control permits, and building permits the applicant shall update the plan set and associated documents and shall submit a full set of the updated plans to the Planning Division staff for review and approval. (Submit to *planning@ci.sandy.or.us*)

1. Provide staff with one copy of the final and complete plan set, including elevations, for the proposal to be included in the case file for future reference. Provide revised digital materials.
2. Update the plan set to detail the street trees 10.75 feet from the back of curb.
3. Update the plan set to flip the locations of the trash/recycling enclosure and the bicycle parking such that the trash/recycling enclosure is located behind the front plane of the primary building.
4. Update the east elevation to detail a 36-inch stone base along the portion north of the cedar fence for approximately 4 feet. If the location of the fence moves further south in the future, the applicant shall install a matching 36-inch stone base along the exposed portion of the east elevation for approximately 16 total feet to the sprinkler room.
5. Submit details on the proposed irrigation system.

B. Prior to any onsite grading or earthwork the applicant shall complete the following:

1. Submit and obtain a grading and erosion control permit and request and obtain an approved inspection of installed devices prior to any onsite grading. The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction. All erosion control and grading shall comply with Section 15.44 of the Municipal Code.
2. Work with an arborist to determine the critical root zone (1 foot per 1 inch DBH) of the adjacent trees; the arborist shall be on-site during any construction activity within the critical root zone of adjacent trees.

C. The Final Construction Plans shall include the following:

1. Stormwater management conforming to the requirements in the City of Portland Stormwater Management Manual and the requirements in Sections 13.18 and 13.20 of the Sandy Municipal Code.

2. Construction documents detailing compliance with fire protection water supply requirements shall be provided to Sandy Fire District for review and approval upon building permit submittal. The Fire Marshal's decision shall be submitted to the Planning Division. The applicant shall comply with the requirements of the Sandy Fire Marshal as contained in Exhibit G.

D. Prior to construction, the applicant shall:

1. Submit all pertinent permit applications (building, mechanical, plumbing (electrical goes through Clackamas County) along with all required submittal documents for review and approval. Contact building@cityofsandy.com for submittal requirements or questions.
2. Pay all permit fees to obtain issued permits.
3. Call the PGE Service Coordinators at 503-323-6700 when the developer is ready to start the project.
4. Verify the size of the trash and recycling containers and appropriate pick-up location with Hoodview.
5. Work with the Building Official to determine if the trash/recycling enclosure meets the 1-hour rated fire resistive construction requirements.

E. Prior to the certificate of occupancy for the site, the applicant shall complete the following:

1. All required improvements shall be installed or financially guaranteed.
2. Extend the sanitary sewer main in Hood Street to the west property boundary.
3. Remove the existing driveway approach onto Hood Street and improve the Hood Street frontage of the site including but not limited to: curb, sidewalks, storm drainage, streetlighting, and street trees per the requirements in Chapter 15.20 and Section 17.84.30 of the Sandy Municipal Code. The sidewalk shall be eight feet wide curb-tight to match the recently installed sidewalk on Hood Street. The applicant shall install a streetlight on the existing pole.
4. Dedicate 5 feet of right-of-way to accommodate the street trees.
5. Install street address numbers measuring a minimum of six (6) inches high and of contrasting color, which clearly locate buildings and their entries for patrons and emergency services. The applicant shall verify the location(s) of the address with the Building Official and emergency service providers.
6. Install all landscaping, building improvements, and other site improvements as detailed in this final order.
7. Any areas disturbed during modification of the existing site shall be re-vegetated to pre-project condition.

8. Install mail delivery facilities in conformance with 17.84.100 and the standards of the USPS. The applicant shall submit a mail delivery plan to the City and USPS for review and approval prior to installation of mailboxes.

F. General Conditions of Approval

1. Design review approval and adjustment approval shall be void after two (2) years from the date of the Final Order unless the applicant has submitted plans for building permit approval.
2. The applicant shall follow all Dark Sky Ordinance requirements as outlined in Chapter 15.30. All exterior lights shall be full cut-off and shall not exceed 4,125 Kelvins.
3. All street trees shall be a minimum of 1.5-inches in caliper measured 6 inches above the ground and shall be planted per the City of Sandy standard planting detail. All street trees shall be staked and tied with loose twine so as not to damage the trunk; the twine shall be removed after one growing season (or a maximum of 1 year).
4. The applicant shall be responsible for the installation of all improvements detailed in Section 17.100.310, including fiber facilities. SandyNet requires the developer to work with the City to ensure that broadband infrastructure meets the design standards and adopted procedures as described in Section 17.84.70.
5. All new utility lines and franchise utilities for future development shall be installed underground and in conformance with City standards.
6. As required by Section 17.92.140, the developer shall be required to maintain all vegetation planted in the development for two (2) years from the date of completion, and shall replace any dead or dying plants during that period. After that, the property owner shall be responsible for landscaping. As required by Section 17.92.10(L), all landscaping shall be continually maintained, including necessary water, weeding, pruning, and replacing.
7. The applicant will be required to obtain a separate permit for any proposed signage.
8. All electrical and mechanical equipment shall be screened with sight obscuring fences, walls, or landscaping.
9. Preliminary plat approval does not connote utility or public improvements plan approval which will be reviewed and approved separately upon submittal of public improvement construction plans. Utility and right-of-way improvement plans are submitted with the land use application solely for conformance with the submittal requirements in Section 17.100.60(D). Land use approval does not connote approval of public improvement plans.
10. All on-site earthwork activities including any retaining wall construction shall follow the requirements of the most current edition of the Oregon Structural Specialty Code (OSSC). If the proposal includes a retaining wall, the applicant shall submit additional details on the proposed retaining wall for staff review and approval. The earthwork activities shall be observed and documented under the supervision of a geotechnical engineer.
11. Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties without a proper collection system. All the work within the public right-

of-way and within the paved area should comply with American Public Works Association (APWA) and City requirements as amended.

12. If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the landscaping, assuring installation within 6 months. The cost of street trees shall be based on the street tree plan and at least \$500 per tree. The cost of landscaping shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.
13. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
14. Comply with all other conditions or regulations imposed by the Sandy Fire District, county, state and federal agencies. Compliance is made a part of this approval and any violations of these conditions and/or regulations may result in the review of this approval and/or revocation of approval.



Emily Meharg
Senior Planner

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the City Council by an affected party by filing an appeal with the Director within twelve (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.