

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

DATE: September 22, 2021

FILE NO.: 21-007 DR

PROJECT NAME: Wells Fargo Lighting Upgrades

APPLICANT: Bonnie Roberts

OWNER OF ATM: Wells Fargo

PROPERTY OWNER: Sandy Safeway Center LLC

LEGAL DESCRIPTION: T2S R4E Section 14, Tax Lot 300

ADDRESS: 37601 Highway 26

The above-referenced proposal was reviewed as a Type I Design Review. 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 Form
- B. Property Owner Approval
- C. Letter from Applicant Dated April 16, 2021
- D. Engineering Plan Set
 - Sheet E100: Cover Sheet
 - Sheet E101: Site Electric Plan
 - Sheet S101: Pole Detail & Calculations
- E. Lighting Design Plan Set
 - Cover Sheet
 - Sheet LU-1: General Notes
 - Sheet LU-2: Luminaire Schedule
 - Sheet LU-3: Overall Site Plan
 - Sheet LU-4: Full Site Photometrics
 - Sheet LU-5: Fixture Removal & Dimensioning Plan
 - Sheet LU-6: ATM Compliance Area Photometrics Plan
- F. Lighting Cut-sheets

FINDINGS OF FACT

General

1. These findings are based on the applicant's original submittal received on March 4, 2021, and additional items received on March 11, 2021, April 19, 2021, July 20, 2021, and August 31, 2021. The application was deemed complete on September 1, 2021. This final order is based upon the exhibits listed above.
2. The subject property is located at 37601 Highway 26. The subject property has a comprehensive plan designation of Commercial and a zoning district designation of C-2, General Commercial.
3. The Wells Fargo ATM is located on the primary Sandy Safeway parcel (tax lot 300), which is approximately 6.5 acres. The applicant proposes to upgrade the lights to LED lighting. The site modifications include replacing five (5) existing fixtures and adding five (5) new fixtures and one (1) new light pole.

Chapter 17.44 – General Commercial (C-2)

4. The Wells Fargo ATM is a drive-up ATM, which is a primary use permitted outright in the C-2 zoning district per Section 17.44.10(B.1.d).
5. The applicant is only proposing LED lighting upgrades and is not proposing any changes to the overall site layout.

Chapter 17.90 – Design Standards

6. The proposal is subject to all the requirements for Design Review as specified in Section 17.90.00.
7. 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.**
8. Section 17.90.120(A) contains standards related to site layout and access. The applicant is not proposing any changes to site layout or access.
9. Section 17.90.120(H) contains standards regarding lighting. The proposal includes replacing five (5) existing fixtures and adding five (5) new fixtures and one (1) new light pole. Section 17.90.120(H.2) states that exterior lighting must be an integral part of the architectural design and must complement any ornamental street lighting and remain in context with the overall architectural character of the C-2 zoning district. On-site fixtures conforming to the Sandy Style are encouraged. The applicant is proposing to add one (1) new light pole that is similar to the existing light poles on the subject property.
10. Section 17.90.120(H.3) requires lighting to be adequate for safety purposes and states that walkways and parking lots should be illuminated at 1.5 – 2.0 foot-candles. Based on the submitted Photometric Plan (Exhibit E, Sheet LU-4), the illumination exceeds 2.0

foot-candles in the parking area around the ATM. Lighting is discussed further in Chapter 15.30 of this order.

Chapter 15.30 – Dark Sky Ordinance

11. Chapter 15.30 contains the City of Sandy’s Dark Sky Ordinance. The proposal includes replacing five (5) existing fixtures and adding five (5) new fixtures and one (1) new light pole. The Dark Sky Ordinance requires all exterior lighting to be full cut-off, downward facing, and not to exceed 4,125 Kelvins. The applicant submitted lighting cut sheets (Exhibit F) for all proposed lighting. The lighting cut sheets detail downward facing, full cut-off lights at 4,000 Kelvins in compliance with the code.

12. The Dark Sky Ordinance also requires that lighting trespass shall not exceed 0.25 foot-candles 10 feet beyond the property line. The applicant submitted a Photometric Plan (Exhibit E, Sheet LU-4) that details foot candle readings in the vicinity of the ATM, including readings 10 feet beyond the south property line along Highway 26. The foot candle readings exceed 0.25 foot-candles in multiple places. The applicant’s letter dated April 16, 2021 (Exhibit C) states that one of the main purposes of the lighting upgrade is “so that the ATM location will follow the Oregon State Statute.” The letter specifically cites the following four (4) requirements of the Oregon State Statute:
 - “The ATM must have at least ten (10) candlefoot power at the face of the ATM and extending in an unobstructed direction outward five (5) feet.
 - The ATM must have at least two (2) candlefoot power within 50 feet from any unobstructed direction from the face of the ATM.
 - If the ATM is located within 10 feet of the corner of a building and is generally accessible from the adjacent side, at least two (2) candlefoot power along the first 40 unobstructed feet of the adjacent side of the building.
 - The ATM must have at least two (2) candlefoot power in the part of the defined parking area within 60 feet of the ATM.”

13. Staff determined that the Oregon State Statute the applicant is referring to is ORS 714.295, Lighting requirements for ATMs and night deposit facilities. Staff and the City attorney reviewed ORS 714.295 as well as ORS 714.305, Exempted ATMs and night deposit facilities. Staff determined that the subject property is exempt from the requirements of ORS 714.295 per the provisions of ORS 714.305 (3), which specifically exempts ATMs located in a parking area that is not controlled by the operator. The Wells Fargo ATM is located in a parking area owned by Sandy Safeway Center LLC (Brad Picking); therefore, the Wells Fargo ATM is exempt from having to adhere to the standards in ORS 714.295. **The applicant shall update the Photometric Plan such that the area 10 feet beyond the property line does not exceed 0.25 foot-candles in compliance with Chapter 15.30.**

DECISION

For the reasons described above the request by Wells Fargo to upgrade the ATM lighting plan to LED lights is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL

A. Prior to building permit or electrical permit submittal the applicant shall submit the following. (Submit to planning@ci.sandy.or.us)

1. Update the Photometric Plan such that the area 10 feet beyond the property line does not exceed 0.25 foot-candles in compliance with Chapter 15.30.

B. General Conditions of Approval

1. 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.
2. Future changes to the structure or development of the site shall require separate land use approval, including potentially a pre-application conference, and shall comply with the design standards in Chapter 17.90.
3. The applicant shall confer with the Sandy Fire District to ensure compliance with the requirements of the Sandy Fire Marshal. The applicant shall comply with all applicable Oregon Fire Code Requirements.
4. Successors-in-interest of the applicant shall comply with site development requirements.
5. Comply with all other conditions or regulations imposed by the Sandy Fire District or 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 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.