

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

DATE: July 13, 2021

FILE NO.: 21-026 MP

PROJECT NAME: 39221 Pleasant Street Minor Revised Plat

APPLICANT: Lee Gibson

OWNER: Martin and Laura Oakland

ADDRESS: 39221 Pleasant Street

TAX LOT DESCRIPTION: T2S R4E Section 13AC Tax Lots 2600 & 2700

The above-referenced proposal was reviewed as a Type II Land Division (Minor Revised Plat) because the street(s) are existing, and no extension or reconstruction/realignment is necessary. All parcels resulting from the replat must comply with the standards of the Sandy Municipal Code.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application Form
- B. Site Exhibit

Public Comments

- C. Mike and Lindy Hanley (39224 Pleasant Street)
- D. Fritz Van Gent (39105 Scenic Street)

FINDINGS OF FACT

General

1. These findings are based on the applicant's original submittal received on May 24, 2021 with additional information received on June 9, 2021 and June 15, 2021. The application was deemed complete on June 25, 2021.
2. The subject site consists of two lots (Tax Lots 2600 & 2700) with a total area of approximately 10,713 square feet.
3. The two lots have a Plan Map designation of Commercial and a Zoning Map designation of Central Business District, C-1.

4. Lee Gibson submitted an application on behalf of property owners Laura and Martin Oakland to adjust the common property line between two adjacent lots (Lot 5 (Tax Lot 2600) and Lot 6 (Tax Lot 2700) of Block 1 of Otto Meinig's 2nd Addition to Sandy, Plat 0282) located at 39221 Pleasant Street. Lot 5 contains an existing house while Lot 6 is vacant. The common property line is proposed to be relocated 9-feet-3-inches to the east. Lot 5 will increase in area from 4,951 square feet to 5,917 square feet, while Lot 6 will decrease in area from 5,762 square feet to 4,796 square feet. The applicant states that the proposed relocation of the property line is to allow for the addition of a stairwell on the east side of the existing house while still meeting the required 5-foot side yard setback. The subject lots were created by plat; therefore, this application is processed as a minor replat.
5. Notification of the proposal was mailed to property owners within 300 feet of the subject property and to affected agencies on June 25, 2021.
6. Two public comments were received. Mike and Lindy Hanley (Exhibit C) are supportive of the proposal and excited to see the historic home being improved. Fritz Van Gent (Exhibit D) also wants the proposal to be approved.

15.20 – Curbs, Sidewalks, and Underground Utilities

7. Subsection 15.20.020 has regulations for remodeling and additions to single family homes and duplexes. The regulations are the following:
 - a. Curbs, Sidewalks and Half-street Improvements. No building permit shall be issued for remodeling, alteration or addition to any building or structure when the estimated cost of the remodeling, alteration or addition exceeds fifty percent of the value of the building or structure before such remodeling, alteration or addition is commenced on any lot which does not have existing curbs, sidewalks and half-street improvements meeting the city standards on all abutting streets to such lots, unless the applicant agrees to construct curbs, sidewalks and half-street improvements to city standards along all such city streets which abut the property described in the building permit in conjunction with the construction activity related to the building permit.
 - b. Undergrounding of Utilities. No building permit shall be issued for remodeling, alteration or addition to any building or structure when the estimated cost of the remodeling, alteration or addition exceeds fifty percent of the value of the building or structure before such remodeling, alteration or addition is commenced on any lot which is not served by underground utilities, unless the applicant agrees to construct equipment and related facilities to accept and receive all underground utility lines which shall serve the building or structure, including but not limited to those required for all electric communication and cable TV services in conjunction with the construction activity related to the building permit.
8. Based on the existing building value of \$75,150 and the project value of \$75,000, frontage improvements and the undergrounding of utilities are required. There is an existing curb-tight sidewalk on both Meinig Avenue and Pleasant Street; however, there is no planter strip or street trees. **The applicant shall install street trees along Pleasant Street and Meinig**

Avenue. All overhead utility laterals shall be underground. The undergrounding shall occur prior to final Certificate of Occupancy.

17.42 – Central Business District (C-1)

9. Section 17.42.30(A) contains development standards for “residential – not above commercial buildings” in the C-1 zoning district and requires setback standards to be in conformance with Chapter 17.40, High Density Residential (R-3). Section 17.40.30 contains the development standards for the R-3 zoning district and requires the following minimum setbacks: 10 foot front, 15 foot rear, 5 foot interior side, 10 foot corner lot side, and 20 foot garage. The applicant is proposing to add a staircase on the east side of the existing house. In order to meet the 5 foot minimum setback along the east property line of Lot 5, the applicant is proposing to relocate the common lot line between Lots 5 and 6 to the east, which will provide the required 5 foot setback from the new staircase to the east property line.

17.84 – Improvements Required with Development

10. Chapter 17.84 contains requirements for construction of public improvements. There is an existing curb-tight sidewalk along the Pleasant Street frontages of both lots as well as along the Meinig Avenue frontage of Lot 5. However, there is no planter strip or street trees. The Site Exhibit (Exhibit B) details three (3) street trees along the Meinig Avenue frontage of the site but only details two (2) street trees along Pleasant Street. **The applicant shall install at least three (3) street trees along the Meinig Avenue frontage and at least three (3) street trees along the Pleasant Street frontage of the site. The street trees shall be selected from the City’s Street Tree List and shall be planted per the City’s standard planting detail.** Staff is not approving maples or ashes as street trees at this time due to concerns with Asian Longhorn Beetle and Emerald Ash Borer as well as an interest in increasing species diversity.
11. Section 17.84.90 pertains to land for public purposes. Section 17.84.90(A) states that easements for public sanitary sewer, water, storm drain, pedestrian and bicycle facilities shall be provided whenever these facilities are located outside a public right-of-way. There are sanitary sewer mainlines located in both Pleasant Street and Meinig Avenue. However, the sewer mainline in Pleasant Street is not deep enough to serve the entirety of Lot 6. An easement on the rear of Lot 5 to access the sanitary sewer mainline in Meinig Avenue would provide more flexibility for future development of Lot 6. **The applicant shall identify a 15-foot wide private sanitary sewer easement on the face of the plat across the rear of Lot 5 benefitting Lot 6.**

17.98 – Parking, Loading, and Access Requirements

12. The applicant previously installed a gravel driveway to the vacant lot. Per Section 17.98.130(A), parking areas, driveways, aisles and turnarounds shall be paved with concrete, asphalt or comparable surfacing, constructed to City standards for off-street vehicle areas. **The applicant shall apply for a driveway approach permit from the Public Works Department and shall pay the appropriate fees. The driveway shall be paved with concrete, asphalt, or comparable surfacing and constructed to City standards for off-street vehicle areas. If the property owner proposes to use a driveway on Lot 6 for the house on Lot 5 then the applicant shall record a restrictive covenant that ties the two lots to one another.**

17.100 – Land Division

13. Section 17.100.20(D) contains the procedures for a minor replat and states: “A minor replat of an existing platted subdivision shall be a Type II procedure when the street(s) are existing and no extension or reconstruction/realignment is necessary, when the replat does not increase the allowable density, the resulting parcels comply with the standards of the zoning district and this chapter, and the replat involves no more than six lots.” The proposed replat is for two lots and does not require any street extensions nor does it affect the allowable density. The replat request to adjust the common lot line between Lots 5 and 6 is so that the structure on Lot 5 can maintain the required 5 foot side yard setback. Therefore, the proposal is in compliance with the requirements for a Type II minor replat.
14. Section 17.100.40(D) contains criteria for approving a replat. The proposed partition shall satisfy all five approval criteria in order for the partition to be approved.
15. Criterion one requires the proposed partition to be consistent with the density, setback, and dimensional standards of the base zoning district. The replat request to adjust the common lot line between Lots 5 and 6 is so that the structure on Lot 5 can maintain the required 5 foot side yard setback. Criterion one is satisfied.
16. Criterion two requires the proposed partition to be consistent with the design standards set forth in this chapter. All standards set forth in Chapter 17.100 of the Development Code can be satisfied with a minor replat of the subject property. **Future development of the subject properties shall comply with the design standards in Chapter 17.90.** Criterion two is satisfied.
17. Criterion three requires that adequate public facilities are available or can be provided to serve the proposed partition. The existing house is already served by public utilities. Prior to future development on the vacant lot, the site will need to be evaluated for adequacy in relation to public facilities. Criterion three is satisfied.
18. Criterion four requires that all proposed improvements meet City standards. All future site and frontage improvements will be required to be developed in accordance with City standards. The applicant is required to install street trees and underground overhead utilities as part of this replat application. Criterion four is satisfied.
19. Criterion five requires the plan to preserve the potential for future redivision of the parcels, if applicable. The request to relocate the shared property line between Lots 5 and 6 does not affect the potential for future redivision of the parcels. Criterion five is satisfied.

RECOMMENDATION

This minor replat request is hereby **approved** by the Development Services Director as modified by the conditions of approval listed below.

CONDITIONS OF APPROVAL

A. Prior to submission of the final plat:

1. Add a signature block for the City of Sandy, Development Services Director, to the plat as well as the appropriate Clackamas County offices.
2. Add “City of Sandy Planning File No. 21-026 MP” to the plat.
3. Identify a 15-foot wide private sanitary sewer easement on the face of the plat across the rear of Lot 5 benefitting Lot 6.

B. Final plat review. Submit two paper copies of the final plat along with the filing fee for staff review.

C. Once the Director is satisfied with the paper copies, please submit a Mylar copy of the final map for the Development Services Director signature.

D. Prior to final Certificate of Occupancy, the applicant shall complete the following:

1. Underground all utility laterals.
2. Install at least three (3) street trees along both the Pleasant Street and Meinig Avenue frontages of the site.
3. Apply for a driveway approach permit from the Public Works Department and pay the appropriate fees.
4. Pave the driveway with concrete, asphalt, or comparable surfacing and constructed to City standards for off-street vehicle areas.
5. If the property owner proposes to use a driveway on Lot 6 for the house on Lot 5 then the applicant shall record a restrictive covenant that ties the two lots to one another.

E. General Conditions of Approval:

1. Future development of the subject lots requires approval of a Land Use Application in accordance with applicable regulations in the Sandy Municipal Code.
2. Future development of the subject properties shall comply with the design standards in Chapter 17.90.
3. The street trees shall be selected from the City’s Street Tree List and shall be planted per the City’s standard planting detail. Staff is not approving maples or ashes as street trees at this time due to concerns with Asian Longhorn Beetle and Emerald Ash Borer as well as an interest in increasing species diversity.
4. Successors-in-interest of the applicant shall comply with requirements of this minor replat approval prior to recording of the partition plat.
5. Approval of this partition may be revoked if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the site. Any use of the site may be prohibited until such time as all required improvements are completed.

6. 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.



July 13, 2021

Emily Meharg
Senior Planner

Date

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.