

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

DATE: August 10, 2021

FILE NO.: 21-038 DR

PROJECT NAME: Fred Meyer EV Charging Station

APPLICANT: SAI Group (Lorraine Spencer)

OWNER: Fred Meyer Stores Inc.

PROJECT ADDRESS: 35965 Industrial Way

LEGAL DESCRIPTION: T2S R4E Section 15A, Tax Lot 190

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 Submission

- A. Land Use Application
- B. Project Summary (Narrative) and Letter of Authorization from Fred Meyer
- C. Project Plan Set:
 - Sheet CS-1: Cover Sheet
 - Sheets GN-1 and 2: General Notes
 - Sheet A-1: Overall Site Plan
 - Sheet A-2: Demolition Site Plan
 - Sheet A-3: Site Plan
 - Sheet A-4: Equipment Pad Layout
 - Sheet A-5: Elevation
 - Sheet A-6: Staging Plan
 - Sheets D-1 through D-4: Construction Details
 - Sheet E-1: Utility Plan
 - Sheet E-2: Electric Plan
 - Sheet E-3: One-Line Diagram
 - Sheet E-4: Electrical Detail
 - Sheet E-5: Switchgear
 - Sheet E-6: Grounding Details
- D. Lighting Cut-Sheets

FINDINGS OF FACT

General

1. These findings are based on the applicant's submittal dated June 25, 2021 with payment received on July 2, 2021. The application was deemed complete on July 22, 2021 and the 120-day deadline is November 19, 2021.
2. The subject site currently contains a Fred Meyer store with associated site improvements, including parking and landscaping and has a Plan Map designation of Industrial and a Zoning Map designation of Industrial Park, I-1.
3. The applicant proposes to install four (4) DC fast charger electric vehicle charging units, including four (4) charging dispersers, four (4) power cabinets, and switchgear. The charging stations will be located between the existing Fred Meyer building to the east and the existing Fred Meyer gas station to the west. The proposal also includes installation of one LED light fixture and landscaping.
4. In 2012, Ecotality North America received approval (12-001 DR) to install two electric vehicle charging units along a pedestrian walkway located in the southwest portion of the Fred Meyer site. In 2015, Tesla received approval (15-025 DR) to install eight (8) Tesla vehicle charging units along the west property line of the Fred Meyer site to the south of the fuel center.
5. Notice of the proposal was not mailed to surrounding property owners as Type I Land Use Decisions do not require notice.

Chapter 17.48 – Industrial Park (I-1)

6. Section 17.48.10(B)(1) permits accessory uses that are customarily incidental and subordinate to a principal use permitted outright. The existing Fred Meyer store was permitted through file number 01-024 CUP/VAR/DR. The proposed electric vehicle charging station is a permitted accessory use.
7. Section 17.48.30 contains development standards for the I-1, Industrial Park zoning district. The Overall Site Plan (Exhibit C, Sheet A-1) details the proposed site modifications well outside of the 20 foot setback from the Industrial Way right-of-way in compliance with the code. All other development standards are met, although the subject development does not include review of the 15 percent landscaping requirement for the entire Fred Meyer site.

Chapter 17.80 – Additional Setbacks on Collector and Arterial Streets

8. Chapter 17.80 requires any structure located on arterial or collector streets to have a minimum 20 foot setback measured from the property line. The Overall Site Plan (Exhibit C, Sheet A-1) details the proposed site modifications well outside of the 20 foot setback from the Industrial Way right-of-way in compliance with the code.

Chapter 17.90 – Design Standards

9. The proposal is subject to all the requirements for Design Review as stated in Section 17.90.00.
10. 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.**
11. Section 17.90.120(A) contains standards related to site layout and access. The subject site layout and access will not change as part of this project.
12. Section 17.90.120(J) contains standards to promote land use compatibility and aesthetics, particularly where development abuts public spaces. Section 17.90.120(J)(3) requires “mechanical, electrical, communications equipment including meters and transformers, and service and delivery entrances and garbage storage areas to be screened from view from public rights-of-way and civic spaces.” The applicant submitted a Landscaping Detail (Exhibit C, Sheet D-3) specifying proposed screening plants along with a Site Plan (Exhibit C, Sheet A-3) that details the location of proposed landscaping and an Elevation (Exhibit C, Sheet A-5) that shows the proposed landscape screen. The applicant is proposing to remove approximately 8 hedges to accommodate three (3) new post mounted signs and the proposed transformer. The proposal does not include removal of any trees. The applicant proposes planting three (3) green mountain boxwood in the landscape planter southwest of the proposed transformer and 10 emerald green arborvitae, including six (6) on the south side and four (4) on the east side of the proposed cabinets. The boxwoods are proposed to be 24-inches tall at the time of planting while the arborvitae are proposed to be 6 feet tall at the time of planting. The proposed cabinets are approximately 6.94 feet tall so the 6 foot arborvitae should provide a sufficient screen. Landscaping requirements are further reviewed in Chapter 17.92 below.
13. According to the plan set the transformer is not proposed to be painted. Staff is concerned the transformer will not blend into the proposed and existing landscaping and will potentially be visible from Industrial Way. **The applicant shall paint the transformer an earth tone color, green or brown, to blend into the landscaping.**

Chapter 17.92 – Landscaping and Screening

14. Section 17.92.30 specifies the requirements for tree plantings. The site already has trees planted along the public street frontage of Industrial Way. The applicant shall plant all coniferous trees at least 5 feet in height and deciduous trees at least 1.5-inches in caliper measured 6 inches above the ground at the time of planting. The proposed arborvitae are specified at 6 feet tall in compliance with the code.
15. Section 17.92.40 specifies that landscaping be irrigated, either with a manual or automatic system, to sustain viable plant life. The submitted plans do not indicate an irrigation system. Section 17.92.140 requires that the installer and/or developer must guarantee all landscape materials for a period of time of at least two years. **The applicant shall submit details to staff for review and approval regarding how landscaping will be irrigated.**

16. Section 17.92.50 specifies the types and sizes of plant materials for landscaping areas. The applicant submitted information on the types and sizes of proposed plants (Exhibit C, Sheet D-3). The boxwoods are proposed to be 24-inches tall at the time of planting while the arborvitae are proposed to be 6 feet tall at the time of planting in compliance with the code. The applicant is also proposing to remove approximately 8 hedges to accommodate three (3) new post mounted signs and the proposed transformer. **The applicant shall rake soil in the impacted landscape areas and install sod, groundcover, or bark mulch.**
17. Section 17.92.140 specifies that all landscape materials and workmanship shall be guaranteed by the developer for a period of time not less than two years. **The applicant shall be responsible for on-going maintenance of the site in compliance with this section.**

Chapter 17.98 – Parking, Loading, and Access Requirements

18. Section 17.98.20 contains off-street parking requirements. The submitted Demolition Plan (Exhibit C, Sheet A-2) shows that the proposed site changes will impact nine (9) existing parking spaces. The narrative (Exhibit B) includes the following analysis: “The proposed installation will utilize the area of 9 existing parking stalls. Four stalls will be designated for EV Charging resulting in a net loss of 5 parking spaces. According to the approval for the Tesla EV Charging application, the overall Fred Meyer site including the store and fuel center, requires approximately 487 parking spaces. According to an inventory assessment during the remodel of the Fred Meyer Fuel Center, including the removal of three parking spaces to accommodate the fuel center expansion, the site has a total of 538 parking spaces, 23 of which are occupied for seasonal sales and 13 for storage area and cart corrals. With the removal of the one space for the Tesla installation, the site has 501 parking spaces to accommodate vehicles (537 total including seasonal sales and cart corrals). No existing ADA parking stalls will be impacted. Under this proposal, the removal of a total of 5 spaces brings the total number of spaces available to 496 spaces (532 total including seasonal sales and cart corrals). The current requirement for the property is overall 487 parking spaces must be provided. Under this proposal 496 spaces will remain. The proposed installation will not impact the current ADA parking provided on the site.”
19. Section 17.98.60(A.) specifies that all areas for required parking and maneuvering of vehicles shall have a durable hard surface such as concrete or asphalt. The parking lot is constructed with asphalt. The proposal includes the replacement of asphalt in areas impacted by installing underground utilities. The proposal also includes installation of a new concrete pad for the proposed cabinets and new curbing to the west of proposed parking space EV1 and south of the proposed cabinets and transformer.
20. Section 17.98.60(B.) specifies the dimensions of parking spaces. The Site Plan (Exhibit C, Sheet A-3) shows three parking spaces at 10 feet by 18 feet and one parking space at 15 feet by 18 feet in compliance with the code. In addition, the narrative (Exhibit X) states that parking stall striping will match existing striping and the installation of the EV charging spaces will not impact the minimum requirements for parking aisles.
21. Section 17.98.120(F) requires wheel stops to protect landscaped areas. The submitted Site Plan (Exhibit C, Sheet A-3) details wheel stops in the four (4) proposed EV parking spaces in compliance with the code.

22. There are no proposed modifications to the Fred Meyer building and this accessory use does not require parking per the development code parking requirements. The proposal will limit parking for non-electric vehicles at the four designated parking spaces.

Chapter 15.30 – Dark Sky Ordinance

23. Chapter 15.30 contains the City of Sandy’s Dark Sky Ordinance. 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. In addition, lights shall be downward facing and full cut-off and shall not exceed 4,125 Kelvins. The applicant proposes to install one LED light fixture located between EV space 1 and EV space 2. Per the submitted narrative (Exhibit B), the light fixture is a flat square design, matching the design of the current light poles on the property. The applicant submitted lighting cut sheets (Exhibit D) that specify 4,000 Kelvin lighting with an R3 distribution. The applicant did not submit a separate Photometric Plan detailing foot candles 10 feet beyond the property line. However, the lighting cut-sheet includes a photometric diagram that specifies foot candles based on distribution type. The diagram for the R3 distribution shows that foot candles will be at 0.1 within approximately 75 feet or less from the light on all sides. The proposed light is located well over 100 feet from the property line; therefore, staff finds that the light trespass will not exceed 0.25 foot candles 10 feet beyond the property line.

DECISION

For the reasons described above, this request by SAI Group to install four electric vehicle charging units and associated improvements as shown on the submitted plans dated June 23, 2021 is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL

A. Prior to construction or issuance of a building permit, the applicant shall complete the following and receive necessary approvals as described below.

1. Submit details to staff for review and approval regarding how landscaping will be irrigated.

B. General Conditions of Approval

1. Complete all site improvements including, but not limited to, the following:
 - Install the signet dispensers, signet power cabinets, transformer, bollards, and other proposed charging station improvements.
 - Install new wheel stops.
 - Plant all approved landscaping.
 - Rake soil in the impacted landscape areas and install sod, groundcover, or bark mulch.

- Paint the transformer an earth tone color, green or brown, to blend into the landscaping.
2. All utilities shall be installed underground, with the exception of those listed in Section 17.84.80(E). All utilities shall be installed to City standards.
 3. The applicant shall be responsible for on-going maintenance of the site.
 4. Successors-in-interest of the applicant shall comply with site development requirements prior to issuance of building permits.
 5. Approval of this use may be revoked if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the structure or site. Any use of the site may be prohibited until such time as all required improvements are completed.
 6. 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 as specified in Section 17.90.70.
 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.



Kelly O'Neill Jr.
Development Services Director

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.