

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

**DATE:** April 1, 2022

**FILE NO.:** 22-006 MP

**PROJECT NAME:** FreeUp Storage Partition (16555 Champion Way)

**APPLICANT:** Ben Dubin, S&F Land Services; Sandy Automotive (Mark Benson)

**OWNER:** FreeUp Storage Sandy, LLC

**ADDRESS:** 16555 Champion Way

**LEGAL DESCRIPTION:** T2S R4E Section 15A Tax Lot 209

The above-referenced proposal was reviewed as a Type I Minor Partition, the following Findings of Fact are adopted supporting approval of the plan in accordance with Chapter 17 of the Sandy Municipal Code.

**EXHIBITS:**

**Applicant's Submittals**

- A. Land Use Application Forms
- B. Preliminary Partition Plat

**Agency Comments**

- C. Fire Marshal (March 29, 2022)

**Additional Materials Submitted by Staff**

- D. Partition Plat 2018-112
- E. Clackamas County Document No. 2018-064543
- F. City of Sandy Planning File No. 18-019 MP Tractor Supply Minor Partition Order

**FINDINGS OF FACT**

**General**

1. These findings are based on the applicant's original submittal received on March 22, 2022. The 120-day deadline is July 20, 2022.
2. The subject property is located at 16555 Champion Way between Highway 26 and Industrial Way. The entire parcel contains 5.45 acres.

3. The subject property has a Comprehensive Plan Map designation of Light Industrial and a Zoning Map designation of Industrial Park, I-1.
4. S&F Land Services submitted an application on behalf of FreeUp Storage Sandy, LLC to partition Tax Lot 209, a 5.45-acre legal lot of record, into two (2) parcels: Parcel 1 (1.62 acres) and Parcel 2 (3.83 acres).
5. Tax Lot 209 was previously partitioned into two parcels in 2018 (File No. 18-019 MP; Exhibit F). The partition resulted in a 2.65-acre parcel for the Tractor Supply Company store (now Tax Lot 221) and a second parcel consisting of the remaining 5.45 acres of Tax Lot 209, which is now being proposed for further land division. **The applicant shall either complete all conditions of approval for File No. 18-019 MP or financially guarantee the improvements per Section 17.100.330, prior to recording the partition for File No. 22-006 MP. If the applicant chooses to financially guarantee the remaining right-of-way improvements adjacent to proposed Parcels 1 and 2, the applicant shall record a bond or other financial guarantee mechanism with the City of Sandy for Champion Way and Industrial Way and a bond or other financial guarantee mechanism with ODOT for Highway 26.**
6. Parcel 2 of the current partition application (File No. 22-006 MP) is the FreeUp Storage site, which was previously approved with conditions as part of File No. 18-047 DR/VAR/ADJ and File No. 19-046 MOD/VAR/DEV. Parcel 1 is proposed for future development with a large portion of this parcel encumbered by a BPA powerline easement.
7. Agency comments were received from the Fire Marshal (Exhibit C).
8. This minor partition is reviewed according to the requirements for a Type I procedure as the land division does not create a street and the resulting parcels comply with the Development Code. As such, notification of the proposal is not required.

#### 17.48 – Industrial Park (I-1)

9. Section 17.48.30 contains development requirements for the I-1 Industrial Park zoning district. Parcel 2 will have four (4) buildings, which are in the process of being constructed. Parcel 1 does not contain any existing buildings. Future buildings are required to meet all applicable development code requirements.

#### 17.80 – Additional Setbacks on Collectors

10. Section 17.80.10 specifies additional setbacks for structures constructed adjacent to collector and arterial streets. This applies to applicable front, rear, and side yards. Industrial Way and Champion Way are collector streets and Highway 26 is a major arterial, therefore **future structures on Parcels 1 and 2 require a setback of 20 feet along Highway 26, Industrial Way, and Champion Way.**

#### 17.84 – Improvements Required with Development

11. Chapter 17.84 contains requirements for construction of public improvements. As part of File No. 18-019 MP (Exhibit F), the applicant was required to improve street frontages

along Highway 26, Industrial Way, and Champion Way adjacent to the subject property to City standards or to provide financial guarantee of their completion.

12. Parcel 2 is in the process of being developed and was required to install all utilities as a condition of approval of File No. 18-019 MP. **The applicant will be required to install all utilities for Parcel 1 at the time of development of Parcel 1 in conformance with Sections 17.84.60 and 17.84.80.**
13. **Section 17.84.60 requires all development sites to be provided with public water, sanitary sewer, and storm drainage. All public utility installations shall conform to the City's facilities master plans.**
14. Section 17.84.90 contains requirements for creating easements for public sanitary sewer, water, stormwater, and pedestrian/bicyclist facilities whenever these facilities are located outside the public right-of-way. Section 17.84.90(C) specifies that a drainage way dedication shall be provided to the City where a development site is traversed by a drainage way or water course. Partition Plat 2018-112 (Exhibit D) was recorded as part of File No. 18-019 MP and details multiple easements and additional plat notes. The applicant is proposing to partition Tax Lot 209 into two parcels with the dividing lot line located in the middle of the Industrial Way Easement Area benefitting Tax Lot 221 (see Document No. 2018-064543, Exhibit E). **The plat shall retain the easements, deed restrictions, VNARs, and other plat notes detailed on Partition Plat No. 2018-112 with the exception of the Industrial Way Easement Area benefitting Tax Lot 221, which shall be modified to be a shared access and utility easement benefitting Tax Lot 221 and Parcels 1 and 2 as labeled in this application (File No. 22-006 MP). The Easements, Covenants, Conditions, and Restrictions Agreement (Clackamas County Document No. 2018-064543; Exhibit E) shall be modified to account for access and utilities for Parcel 3 of Partition Plat 2018-112 (Tax Lot 221) and Parcels 1 and 2 as labeled in this application (File No. 22-006 MP).**
15. The Fire Marshal reviewed the proposal and provided the following comments (Exhibit C). **All future construction activities shall comply with the applicable Oregon Fire Code. Construction documents detailing compliance with fire apparatus access and fire protection water supply requirements shall be provided to Sandy Fire District for review and approval prior to any building permit submittal.**

#### 17.98 – Parking, Loading, and Access Requirements

16. Section 17.98.80 details standards for access to arterial and collector streets. Highway 26 is a major arterial and Champion Way and Industrial Way are collectors. Neither Parcel 1 nor Parcel 2 have frontage on a local street. **Access to Parcel 2 shall be gained from the 30-foot common access easement on Tax Lots 209 and 219 and/or via a shared access easement on proposed Parcels 1 and 2 benefitting proposed Parcels 1 and 2 and Tax Lot 221 and connecting to Industrial Way. Access to Parcel 1 shall be from the shared access easement on proposed Parcels 1 and 2 benefitting proposed Parcels 1 and 2 and Tax Lot 221 and connecting to Industrial Way.** Direct access to Highway 26 is not allowed from Parcel 1.

### 17.100 – Land Division

17. Section 17.100.40(D) contains criteria for approving a partition. The proposed partition shall satisfy all five approval criteria in order for the partition to be approved.
18. Criterion one requires the proposed partition to be consistent with the density, setback, and dimensional standards of the base zoning district. The approval for development of Parcel 2 is consistent with the density, setback, and dimensional standards, or received variances to deviate from the standards as part of File No. 18-047 DR/VAR/ADJ and File No. 19-046 MOD/VAR/DEV. Parcel 1 will be conditioned to meet dimensional standards with future development of the lot. This criterion is satisfied.
19. 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 partition of the subject property. Parcel 2 received design approval with conditions through of File No. 18-047 DR/VAR/ADJ and File No. 19-046 MOD/VAR/DEV. **Future development on Parcel 1 shall comply with the design standards in Chapter 17.90.** This criterion is satisfied.
20. Criterion three requires public facilities to be adequate, available, or can be provided to serve the proposed partition. Water and sanitary sewer service is available and could be extended to both parcels as required. Public utility service requirements for Parcel 1 were required as part of approval for development of Parcel 1 through of File No. 18-047 DR/VAR/ADJ and File No. 19-046 MOD/VAR/DEV. Public utility service requirements for Parcel 2 will be completed in conjunction with the development of Parcel 1. This criterion is satisfied.
21. 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 shall either complete all conditions of approval for File No. 18-019 MP or financially guarantee the improvements per Section 17.100.330, prior to recording the partition for File No. 22-006 MP. If the applicant chooses to financially guarantee the remaining right-of-way improvements adjacent to proposed Parcels 1 and 2, the applicant shall record a bond or other financial guarantee mechanism with the City of Sandy for Champion Way and Industrial Way and a bond or other financial guarantee mechanism with ODOT for Highway 26.** With this condition, criterion four is satisfied.
22. Criterion five requires the plan to preserve the potential for future redivision of the parcels, if applicable. Parcel 1 is not proposed for development at this time. Parcel 2 is proposed to be developed as FreeUp Storage as approved through previous land use applications (File No. 18-047 DR/VAR/ADJ and File No. 19-046 MOD/VAR/DEV). Criterion five is satisfied.
23. Submittal of preliminary utility plans is solely to satisfy the requirements of Section 17.100.60. **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.**

### 17.102 – Urban Forestry

24. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. The subject property is 5.45 acres and requires conformance with the tree retention requirements of Chapter 17.102. Both proposed parcels will be greater than 1 acre so any future tree removal from Parcel 1 or Parcel 2 will require compliance with Chapter 17.102 and Chapter 17.92. **No trees shall be removed from Parcels 1 or 2 prior to obtaining a Tree Removal permit from the City of Sandy.**

## **DECISION**

For the reasons described above, the request by S&F Land Services and Sandy Automotive on behalf of FreeUp Storage Sandy, LLC to partition a 5.45-acre legal lot of record into two parcels, Parcel 1 (1.62 acres) and Parcel 2 (3.83 acres), is hereby **approved** as modified by the conditions listed below.

## **CONDITIONS OF APPROVAL**

### **A. Prior to signing of the Final Plat all the following conditions shall be satisfied:**

1. Submit a revised partition plat with the following modifications:
  - The plat shall retain the easements, deed restrictions, VNARs, and other plat notes detailed on Partition Plat No. 2018-112 with the exception of the Industrial Way Easement Area benefitting Tax Lot 221, which shall be modified to be a shared access and utility easement benefitting Tax Lot 221 and Parcels 1 and 2 as labeled in this application (File No. 22-006 MP). Access to Parcel 2 shall be gained from the 30-foot common access easement on Tax Lots 209 and 219 and/or via a shared access easement on proposed Parcels 1 and 2 benefitting proposed Parcels 1 and 2 and Tax Lot 221 and connecting to Industrial Way. Access to Parcel 1 shall be from the shared access easement on proposed Parcels 1 and 2 benefitting proposed Parcels 1 and 2 and Tax Lot 221 and connecting to Industrial Way.
  - Provide a signature block on the partition plat for the City of Sandy Development Services Director, as well as the appropriate Clackamas County offices.
  - Add City of Sandy Planning File No. “22-006 MP” to the final partition plat submittal.
  - Remove contours, utilities, and other items not necessary for plat recording.
2. Modify the Easements, Covenants, Conditions, and Restrictions Agreement (Clackamas County Document No. 2018-064543; Exhibit E) to account for access and utilities for Parcel 3 of Partition Plat 2018-112 (Tax Lot 221) and Parcels 1 and 2 as labeled in this application (File No. 22-006 MP).

3. Complete all conditions of approval for File No. 18-019 MP or financially guarantee the improvements per Section 17.100.330, prior to recording the partition for File No. 22-006 MP. If the applicant chooses to financially guarantee the remaining right-of-way improvements adjacent to proposed Parcels 1 and 2, the applicant shall record a bond or other financial guarantee mechanism with the City of Sandy for Champion Way and Industrial Way and a bond or other financial guarantee mechanism with ODOT for Highway 26.
4. Submit two paper copies of a Final Plat with required fee for City review.

**B. Within 30 days of Recording of Final Plat:**

1. Submit a digital version of the recorded partition plat as approved by the City and Clackamas County.

**C. Prior to Construction on Parcel 1:**

1. Future development on Parcel 1 shall comply with the following:
  - Design standards in Chapter 17.90.
  - Development requirements in Chapter 17.48.
  - Future structures on Parcels 1 and 2 require a setback of 20 feet along Highway 26, Industrial Way, and Champion Way and compliance with Chapter 17.48 for other setback requirements.
  - Future development adjacent to Highway 26, Champion Way, or Industrial Way shall orient towards Highway 26, Champion Way, and Industrial Way or shall meet the alternate orientation requirements of Section 17.82.20(C).
  - All future construction activities shall comply with the applicable Oregon Fire Code. Construction documents detailing compliance with fire apparatus access and fire protection water supply requirements shall be provided to Sandy Fire District for review and approval prior to any building permit submittal.

**D. General Conditions of Approval:**

1. Future development of Parcel 1 requires approval of a Land Use Application in accordance with applicable regulations.
2. No trees shall be removed from the subject property prior to obtaining a Tree Removal permit from the City of Sandy.
3. All public utility installations shall conform to the City's facilities master plans. The applicant will be required to install all utilities for Parcel 1 at the time of development of Parcel 1 in conformance with Sections 17.84.60 and 17.84.80.
4. Submittal of preliminary utility plans is solely to satisfy the requirements of Section 17.100.60. 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.

5. Successors-in-interest of the applicant shall comply with requirements of this partition approval prior to recording of the partition plat.
6. Land use approval does not connote approval of public improvement plans submitted with the land use application. Plan details shall be reviewed during the construction plan submittal phase.
7. 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.
8. 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.



04/01/2022

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Emily Meharg  
Senior Planner

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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.