

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

DATE: June 28, 2022

FILE NO.: 22-022 DR

PROJECT NAME: Immanuel Church Playground

APPLICANT: Katy Rees

OWNER: Immanuel Lutheran Church

LEGAL DESCRIPTION: T2S R4E Section 13AD, Tax Lots 902 and 905

SITUS ADDRESS: 39901 Pleasant Street

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
- B. Site Plan
- C. Structure Site Plan
- D. Structure Site Plan with Area for Swings
- E. NE View of Play Structure
- F. Playground Budget
- G. Partition Plat 2019-041
- H. Tax Lot 902 Assessment
- I. Tax Lot 905 Assessment

Agency Comments

- J. Building Official (email from June 24, 2022)

FINDINGS OF FACT

General

1. These findings are based on the applicant's submittal materials received on May 16, 2022, with payment received May 17, 2022. The application was deemed complete on June 10, 2022.

2. The subject site is approximately 0.24 acres and is located east of Ten Eyck Road, south of Hood Street, north of Pleasant Street, and west of the existing Immanuel Lutheran Church.
3. The parcel has a Plan Map designation of Medium Density Residential and a Zoning Map designation of R-2, Medium Density Residential.
4. Katy Rees submitted an application on behalf of the Immanuel Lutheran Church to install a playground on the two contiguously owned parcels (Tax Lots 902 and 905) west of the existing Immanuel Lutheran Church (Tax Lot 800). The proposal includes moving the existing swings, removing the merry-go-round, adding a climbing structure, and fencing in the play area to Pleasant Street. To accomplish this, the applicant plans to make the area with the play equipment level so the bark underneath will stay within the installed borders. The applicant is not proposing any changes to landscaping or utilities.
5. Per the Building Official (Exhibit J), playground equipment is not exempt from requiring a building permit. **The applicant shall apply for a building permit.** In addition, the applicant is proposing to level the play equipment area so the bark will stay within the borders. **The applicant shall apply for a Grading and Erosion Control Permit.** The installation of a playground structure does not necessitate stormwater detention and treatment.

17.38 – Medium Density Residential (R-2)

6. The applicant is proposing to expand the use of the site as a playground by adding additional playground equipment. The existing and proposed use as a playground is accessory to the existing church. An accessory structure is an accessory use permitted outright per Section 17.38.10(B.2). In this case, the proposed playground is an accessory use to the existing church, which is the primary use. Therefore, the playground is a permitted use.

17.74 – Accessory Development

7. The applicant is proposing to install playground equipment on Tax Lots 902 and 905. The proposed playground equipment (Exhibit C) requires a 6-foot minimum use zone around the entirety of the structure, resulting in a combined play equipment and minimum use zone footprint of 39 feet by 27 feet. **The applicant shall install the playground equipment according to the manufacturer's installation instructions, including the required minimum use zone. The minimum use zone shall remain clear of obstructions.**
8. The playground is accessory to the primary use of the site, which is the church on Tax Lot 800. Per Section 17.74.10(B.7), an accessory structure may be located on an adjacent lot that does not contain a primary structure provided: a) Both lots are under the exact same ownership; and b) A deed restriction is recorded requiring the accessory structure to be removed within 30 days of transfer of ownership of either lot into separate ownership; and c) The accessory structure complies with setback requirements as applied to the lots under same ownership. At the time of publication of this final order, Tax Lots 800, 902, and 905 are under the exact same ownership. **The applicant shall record a deed restriction requiring the accessory structure to be removed within 30 days of transfer of ownership of either lot (Tax Lot 800, 902, or 905) into separate ownership.** Setback requirements do not apply to the play structure, with the exception of the required minimum use zone.

9. Section 17.74.40(A) contains fence and wall height requirements for residential zones. The applicant is proposing to fence in the play equipment area as detailed on the Site Plan (Exhibit B). The Site Plan notes that the proposed fencing is 4-foot-tall cyclone fencing in compliance with the front, side, and rear yard fencing standards. **The fencing around the playground shall be black-coated chain link fence, or an alternative fence reviewed and approved by staff.**

17.84 – Improvements Required with Development

10. Chapter 17.84 provides general information regarding improvements required in association with development. **All required improvements shall be installed or financially guaranteed prior to approval of the building permit final.**
11. Section 17.84.30(B) contains standards related to pedestrian facilities. There are no existing sidewalks adjacent to the two subject parcels. Installation of a playground does not require site improvements; however, the sidewalk along the Pleasant Street frontage of Tax Lot 905 was conditioned to be constructed as part of the subdivision application for the adjacent property to the west to provide a continuous sidewalk connection from the proposed subdivision to the existing sidewalk adjacent to the church parcel (Tax Lot 800). The approval of this design review will not trigger right-of-way improvements on Hood Street; however, future development of the subject lots will likely trigger right-of-way improvements on Hood Street.

17.90 – Design Standards

12. The applicant proposes installation of a playground. As such, the proposal is subject to the requirements for Design Review as stated in Section 17.90.00. The subject property is located in the R-2 zoning district, which would require review for compliance with the provisions of Section 17.90.150. However, the playground is accessory to the primary use of the site, the church, and is therefore reviewed as an accessory structure. The proposal does not include any structures that could be designed in accordance with the Sandy Style design requirements.
13. 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.**

17.92 – Landscaping and Screening

14. The subject property is zoned Medium Density Residential, R-2. Per Section 17.92.20, there is no minimum landscaping required in the R-2 zoning district. The applicant is not proposing any changes to existing landscaping.
15. 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 site. Trees to be retained shall be protected from damage during construction by a construction fence located five feet outside the dripline. There are three (3) existing trees on the east property line adjacent to Tax Lot 800 as well as multiple street trees along the Pleasant Street and Hood Street frontages of the site. **Prior to any earthwork, grading, excavation, or fill on the site, the applicant shall install tree protection fencing located five feet outside the dripline of all trees on or adjacent to Tax Lots 902 and 905.**
16. Section 17.92.60 pertains to revegetation in unlandscaped or natural landscaped areas and requires the following: A) Areas where natural vegetation has been removed or damaged through

grading or construction activity in areas not affected by the landscaping requirements and that are not to be occupied by structures or other improvements shall be replanted; B) Plant material shall be watered at intervals sufficient to assure survival and growth; and, C) The use of native plant materials or plants acclimatized to the Pacific Northwest is encouraged to reduce irrigation and maintenance demands. **The applicant shall revegetate all areas disturbed during construction that are not covered with bark chips for the playground area. As required by Section 17.92.10(L), all landscaping shall be continually maintained, including necessary water, weeding, pruning, and replacing.**

17.102 – Urban Forestry

17. Chapter 17.102 contains urban forestry requirements. The contiguously owned property (Tax Lots 902, 905, 800, and 890) total 1.53 acres. Thus, the properties are subject to the provisions of Chapter 17.102. The applicant is not proposing any tree removal with this application. **The applicant shall not remove any trees from the subject properties (Tax Lots 800, 890, 902, and 905). Any future tree removal shall require additional permit approvals.**

15.30 – Dark Sky Ordinance

18. Chapter 15.30 contains the City of Sandy’s Dark Sky Ordinance, which regulates outdoor lighting in order to reduce or prevent light pollution. The Dark Sky ordinance requires that all new lighting be full-cutoff and downward facing. The applicant is not proposing any new exterior lighting as part of this project. **If exterior lights are desired in the future, the applicant shall submit a photometric analysis and lighting fixture cut sheets for staff review and approval; proposed lighting shall comply with Dark Skies requirements (including downward facing, full-cutoff lights that do not exceed 4,125 Kelvins).**

15.44 – Erosion Control Regulations

19. 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.**

20. **Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties without a proper collection system. The applicant shall submit a grading and erosion control permit and request an inspection of installed devices prior to any 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 Katy Rees on behalf of the Immanuel Lutheran Church to install playground equipment is hereby **approved as modified by the conditions of approval listed below.**

CONDITIONS OF APPROVAL

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

1. Install tree protection fencing located five feet outside the dripline of all trees on or adjacent to Tax Lots 902 and 905.
2. Call for inspection and approval of tree protection fencing.
3. 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.

B. Submit and obtain a building permit.

C. Prior to the approval of the building permit final, the applicant shall complete the following:

1. Record a deed restriction requiring the accessory structure to be removed within 30 days of transfer of ownership of either lot (Tax Lot 800, 902, or 905) into separate ownership.
2. Install the playground equipment according to the manufacturer's installation instructions, including the required minimum use zone.
3. Revegetate all areas disturbed during construction that are not covered with bark chips for the playground area.

D. 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. The fencing around the playground shall be black-coated chain link fence, or an alternative fence reviewed and approved by staff.
3. The minimum use zone shall remain clear of obstructions.
4. The applicant shall not remove any trees from the subject properties (Tax Lots 800, 890, 902, and 905). Any future tree removal shall require additional permit approvals.
5. If exterior lights are desired in the future, the applicant shall submit a photometric analysis and lighting fixture cut sheets for staff review and approval; proposed lighting shall comply with Dark Skies requirements (including downward facing, full-cutoff lights that do not exceed 4,125 Kelvins).
6. As required by Section 17.92.10(L), all landscaping shall be continually maintained, including necessary water, weeding, pruning, and replacing.
7. 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.

8. Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties without a proper collection system.
9. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
10. 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 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.