

FINDINGS OF FACT and FINAL ORDER
TYPE III LAND USE PROPOSAL

This proposal was reviewed concurrently as a Type III Design Review with five (5) Type III variances, and tree removal. The following exhibits and findings of fact explain the proposal and support the Planning Commission’s decision.

DATE: May 8, 2023

FILE NO.: 22-031 DR/VAR/TREE

PROJECT NAME: State Street Homes Mixed Use Development

APPLICANT: State Street Homes

OWNER: State Street Homes (Tax Lot 902); Joycelyn D Paola Trustee (Tax Lot 1000)

PHYSICAL ADDRESS: 38015 Highway 26 and adjacent parcel to the east (no situs)

LEGAL DESCRIPTION: T2SR4E14AD, Tax Lots 902 and 1000

TABLE OF CONTENTS:

EXHIBITS..... 2

FINDINGS OF FACT..... 4

GENERAL FINDINGS.....4

DESIGN REVIEW – Chapter 17.906

FENCES/RETAINING WALLS – Chapter 17.74.....18

VARIANCES – Chapter 17.6619

ZONING and SETBACKS – Chapters 17.44 and 17.8024

TRANSPORTATION AND IMPROVEMENTS – Chapter 17.8425

PARKING, LOADING, AND ACCESS REQUIREMENTS – Chapter 17.9828

UTILITIES – Chapters 17.84 and 15.3034

URBAN FORESTRY – 17.10238

LANDSCAPING AND SCREENING – Chapter 17.92.....47

PARKLAND AND OPEN SPACE – Chapter 17.8650

EROSION CONTROL – Chapters 15.44 and 8.04.....51

DECISION..... 52

CONDITIONS OF APPROVAL 53

RIGHT OF APPEAL 65

EXHIBITS

Applicant's Submittals:

- A. Land Use Applications
- B. Project Narrative (dated September 16, 2022)
- C. Plan Set
 - Sheet G0.01 - Cover Sheet
 - Sheet 1 - Cover Sheet and Notes
 - Sheet 2 – Existing Conditions and Demo Plan
 - Sheet 3 – Composite Site Plan
 - Sheet 4 – Entry Utility Plan
 - Sheet 5 – Site Utility Plan
 - Sheet 6 – Stormwater Extension Plan
 - Sheet 7 –Grading and ESC Plan
 - Sheet 8 – Wall Cross Sections
 - Sheet 9 – Entry Grading Plan
 - Sheet 10 – Civic Area Grading Plan
 - Sheet 11 – ESC Notes and Details
 - Sheet 12 – Site Circulation Plan
 - Sheet L1.1 – Existing Tree Inventory
 - Sheet L2.1 – Preliminary Planting Plan
 - Sheet A1.01 – Site Plan
 - Sheet A1.02 – Enlarged Site Plan
 - Sheet A1.03 – Trash Enclosure
 - Sheet A1.04 – Bicycle Enclosure
 - Sheet A1.05 – Gazebo
 - Sheet A1.21 – Floor Plan – Level 01
 - Sheet A1.22 – Floor Plan – Levels 02-04
 - Sheet A1.23 – Floor Plan – Roof
 - Sheet A2.01 – Elevations (north and east)
 - Sheet A2.02 – Elevations (south and west)
- D. Lighting Plans
 - Sheet E0.00 – Site Lighting Plan
 - Sheet E0.01 – Photometric Plan
- E. Lighting Cut-Sheets
- F. Preliminary Stormwater Report (dated September 12, 2022)
- G. Transportation Analysis Letter (dated August 29, 2022)
- H. Arborist Report (dated September 22, 2022)
- I. ODOT Memo (dated December 5, 2022)
- J. ODOT Indenture of Access (dated December 5, 2022)
- K. Reciprocal Access and Maintenance Agreement (Clackamas County Doc. 2022-037782)
- L. Storm Sewer Easement (Clackamas County Doc. 2022-037783)

Agency Comments:

- M. Parks and Recreation Director (dated January 3, 2023)
- N. Fire Marshal (dated January 10, 2023)

- O. ODOT (dated January 13, 2023)
- P. City Transportation Engineer (dated January 17, 2023)
- Q. Assistant Public Works Director (received January 17, 2023)
- R. Third-party Arborist Review (dated January 19, 2023)

Additional Documents Submitted by Staff:

- S. ODOT comments from State Street Homes pre-application meeting (dated May 24, 2021)
- T. ODOT email (dated December 21, 2022)

Additional Documents Submitted by the Applicant:

- U. Updated Sheets A1.01 and A1.02

Public Comments:

- V. Dennis Petross (received February 14, 2023)

Updated Documents Submitted by the Applicant for the April 24, 2023, PC Meeting:

- W. Email from the applicant tolling the 120-day clock (dated February 28, 2023)
- X. Letter from Studio 3 Architecture (dated March 21, 2023)
- Y. Revised Plan Set (dated March 21, 2023)

Public Comments:

- Z. Dennis Petross (received April 12, 2023)

ODOT Comments:

- AA. ODOT email (received April 13, 2023)

FINDINGS OF FACT

GENERAL FINDINGS

1. These findings are based on the applicant's submittal items received on August 2, 2022, with additional items received October 3, 2022, December 5, 2022, and December 22, 2022. The application was deemed complete on December 29, 2022. The 120-day deadline was April 28, 2023. However, the applicant tolled the original 120-day clock between the first and second hearing which extended the 120-day clock to June 23, 2023. As explained in Findings 10-13, additional items were received after the public hearing on February 27, 2023.
2. This report is based upon the exhibits listed in this document, including the applicant's submittals, agency comments, and public testimony.
3. This application is not subject to the moratorium on development adopted by City Council through Resolution 2022-24 because it was submitted prior to the effective date of the moratorium.
4. The proposal includes two lots (Tax Lots 902 and 1000) that total 2.46 acres. The existing Paola's Pizza Barn (Tax Lot 1000) is located at 38015 Highway 26 and the proposed mixed-use development is located on the flag lot to the east (Tax Lot 902; no situs address).
5. The parcel has a Comprehensive Plan Map designation of Commercial and a Zoning Map designation of General Commercial (C-2).
6. The applicant, State Street Homes, submitted an application on behalf of the owners, State Street Homes and Joycelyn Paola, to construct a four-story mixed-use building with associated parking and landscaping. The building will contain self-service storage on the ground floor and 42 multi-family residential units above. The recent adoption of Ordinance 2022-26 to restrict self-service storage does not apply to this application. The proposed development and the existing Paola's Pizza Barn will share an access from Highway 26 and the existing Paola's Pizza Barn parking lot will be reconfigured. At the hearing on February 27, 2023, the applicant was requesting the following four (4) variances:
 - A. Type III Special Variance to Section 17.74.40(B.2) to exceed the maximum 4-foot height of a wall/fence on a commercial property in the front yard.
 - B. Type III Special Variance to Section 17.74.40(B.4) to exceed the maximum 8-foot height of a wall/fence on a commercial property in the rear yard.
 - C. Type III Special Variance to Section 17.74.40(B.4) to exceed the maximum 8-foot height of a wall/fence on a commercial property in the side yard.
 - D. Type III Tree Removal Variance in accordance with Section 17.102.70.

After the Planning Commission hearing and reviewing the staff report in further detail, the applicant decided to apply for a fifth Type III variance. The additional variance was a Type III Special Variance to Section 17.90.160 (D) regarding the requirement to have eight (8) foot building recesses and extensions every 20 feet. The applicant requested four (4) foot offsets as reviewed in the variance section below.

7. The City of Sandy completed the following notices:
 - A. A transmittal was sent to agencies asking for comment on December 29, 2022.
 - B. Notification of the proposed application was mailed to affected property owners within 500 feet of the subject property on February 2, 2023.
 - C. A legal notice was published in the Sandy Post on February 8, 2023.
 - D. Since the public hearing was continued to a date certain no additional notices were sent.
8. Two written public comments were received. Dennis Petross (Exhibit V and Exhibit Z) expressed concerns related to the proposed retaining wall, stormwater management, nature path width, light pollution, and erosion control. Petross noted wall height contradictions and the lack of wall sections, details, construction methods, and maintenance access in the submitted items, and requested additional details and information on the proposed retaining wall and photometric plans prior to making final comments.
9. On February 9, 2023, the applicant submitted an updated Site Plan (Sheet A1.01) and Enlarged Site Plan (Sheet A1.02) (Exhibit U) in response to a request from staff for more information and clarification on a few items prior to the hearing. The updated plans detail the proposed building outside of the 15-foot sanitary sewer line easement along the south property line of the flag portion of Tax Lot 902.
10. The Planning Commission held a hearing to review the proposal on February 27, 2023. The Commission heard a presentation from City staff, a presentation from the applicant, and received public comments from four individuals. After a brief discussion, the Commission decided to continue the public hearing to April 24, 2023. The continuance was made in order to give the applicant time to provide clarification on a number of items identified at the hearing and to give staff, the Commissioners, and the public time to review the updated materials.
11. On February 28, 2023, the applicant submitted an email (Exhibit W) tolling the 120-day clock from February 27 to April 24, 2023. This request to toll the clock extended the 120-day clock deadline to June 23, 2023.
12. On March 21, 2023, the applicant submitted new materials (Exhibits X and Y) for staff to review and the Planning Commission to consider. Exhibit X is a letter summarizing the changes and Exhibit Y is a revised plan set. The applicant noted that the different plan sets (e.g., civil, architectural, landscape, etc.) were not fully coordinated due to the time constraint. **The applicant shall revise the entire plan set to make sure all sheets are consistent, and no site improvements or existing conditions proposed to remain are contradictory in the plan set.**
13. On April 13, 2023, ODOT submitted an email into the record (Exhibit AA) indicating they are not willing to locate the driveway to the location as requested by the Planning Commission.

DESIGN REVIEW – Chapter 17.90

14. The proposal is subject to all the requirements for Design Review as stated in Section 17.90.00. **As required by Section 17.90.00, the reviewing body shall refer to the following objectives in evaluating Design Review requests:**

- A. Protect and enhance the city's quality of life and community image.
- B. Encourage functional, safe, and aesthetically pleasing development, while maintaining compatibility with the surrounding built and natural environment.
- C. Implement the Sandy Style, as described by this chapter. The Sandy Style is based on the following guiding principles:
 - i. Celebrate Sandy as the Gateway to Mount Hood through contextually appropriate landscaping and building designs.
 - ii. Protect and enhance Sandy's tree canopy, particularly along the Highway 26 Landscape Management Corridor.
 - iii. Emphasize a "village" scale and character in new development. Village scale means development is compact and walkable, building entrances are oriented to the street sidewalk or a plaza, and large building masses are broken down through a combination of design elements such as articulation, combinations of complementary building materials and detailing.
 - iv. Express elements of or reflect Cascadian architecture by adapting appropriate elements of English Arts and Crafts Style (1900—1920) and Oregon Rustic Style (1915—1940), and/or similar elements, into new buildings and exterior remodels, except in locations where this Code allows or requires a different architectural style (e.g., C-1 Historic Roadside Commercial District).
 - v. Encourage green building practices in new construction, such as the use of renewable energy (e.g., solar and wind), use of recycled materials, integration of water quality facilities in landscapes, capture of rainwater for irrigation, and similar practices.
- D. The city considers the following elements to be incompatible with the Sandy Style. The reviewing body may deny, or require modifications to, a project with any of the following:
 - i. Excessive tree removal and/or grading that may harm existing vegetation within a designated landscape conservation area.
 - ii. Commercial development where buildings are setback from the street behind surface parking lots.
 - iii. Excessive surface parking lot paving and redundant driveways.
 - iv. Drive-up facilities adjacent to a street that interrupt pedestrian circulation patterns or create potential safety hazards.
 - v. Disjointed parking areas, confusing or unsafe circulation patterns.
 - vi. Box-like structures with large, blank, unarticulated wall surfaces.
 - vii. Building materials or colors that do not conform to this Code.
 - viii. Highly reflective surfaces or heavily tinted glass storefronts.
 - ix. Strongly thematic architectural styles, forms, colors, materials, and/or detailing, that do not conform to the Sandy Style, including some forms of franchise architectural styles associated with some chain commercial establishments.
 - x. Inadequate landscape buffers adjacent to parking lots, walkways, and streets.

- xi. Visible outdoor storage, loading, and equipment areas.

The applicant's original submittal as reviewed at the February 27, 2023, Planning Commission hearing included a few elements that were incompatible with Sandy Style as proposed, particularly D.i. and not adhering to C.ii. The updated proposal submitted on March 21, 2023, (Exhibit Y) addresses these concerns by keeping the driveway in its current location and retaining the existing landscape management buffer along Highway 26. Therefore, staff finds the updated proposal is in compliance with the intent of the Sandy Style. However, on April 13, 2023, ODOT submitted an email into the record (Exhibit AA) indicating they are not willing to locate the driveway to the location as requested by the Planning Commission. ODOT is requiring the driveway at the shared property line (Station 759+85), which will require removing the existing landscape buffer. This decision from ODOT is not in compliance with Section 17.90.00 C. 2. nor D. 1.

- 15. 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.**
- 16. Section 17.90.120 contains design standards for the General Commercial (C-2) zone. Section 17.90.120(A) contains standards related to site layout and access. Section 17.90.120(A.1) requires all lots to abut or have cross access to a dedicated public street. The multi-family development lot (Tax Lot 902) and the existing Paola's Pizza Barn lot (Tax Lot 1000) are proposed to share an access to Highway 26.
- 17. Section 17.90.120(A.3) requires off-street parking to be located to the rear or side of buildings with no portion of the parking lot located within required setbacks or within ten feet of the public right-of-way. When access must be provided directly from a public right-of-way, driveways for ingress or egress shall be limited to one per 150 feet. For lots with frontage of less than 150 feet or less, shared access may be required. As detailed on the Site Plan (Exhibit Y, Sheet A1.01), the proposed parking for the mixed-use lot is located behind the proposed building. The existing Paola's Pizza Barn includes parking to the front, side, and rear of the building. The applicant is proposing to remove the parking to the side of the building and to add additional parking to the rear of the building. The existing parking in front of the building is proposed to remain, but the number of spaces will be reduced, and the layout will be reconfigured to come into compliance with the standards of Chapter 17.98.
- 18. Section 17.90.120(A.5) requires urban design details, such as raised or painted pedestrian crossings and similar devices incorporating changes in paving materials, textures or color, to be used to calm traffic and protect pedestrians in parking areas. Section 17.90.120(A.7) requires walkways from the public street sidewalk to the building entrance(s) and that crosswalks through parking lots and drive aisles shall be constructed of a material contrasting with the road surface or painted (e.g., colored concrete inlay in asphalt). The proposed mixed-use development is on a flag lot and the building and parking area are set back from Highway 26. The Site Plan (Exhibit Y, Sheet 3) details a pedestrian walkway along the east side of the shared driveway that connects the sidewalk on Highway 26 to the proposed mixed-use building entrance. The Site Plan also details a 4-foot-wide colored concrete inlay

pedestrian walkway that connects the pedestrian walkway across the shared driveway aisle to the Paola's Pizza Barn entrance in compliance with Sections 17.90.120(A.5 and A.7).

19. Section 17.90.120(B) contains provisions specifying building façade articulation, pedestrian shelters, construction materials, and colors. Section 17.90.120(B.1) requires that buildings visible from an abutting public street or pedestrian walkway are to be articulated, varied, and provide visual interest. The ground floor of the proposed mixed-use building is a commercial use and subject to the requirements of Section 17.90.120(B). The narrative (Exhibit B) states that the north elevation of the proposed building is visible from Bluff Road. The Enlarged Site Plan (Exhibit Y, Sheet A1.02) details pedestrian walkways on all four sides of the proposed building, thus all four ground floor elevations are required to meet Section 17.90.120(B). The Elevations (Exhibit Y, Sheets A2.01 and A2.02) detail the change in materials with different types of proposed siding and decking on the residential floors and ground floor as well as delineation between the ground floor and upper floors. The Floor Plan – Level 01 (Exhibit Y, Sheet A1.21) details gabled entries that project outward on the north, west, and east elevations, as well as recessed pockets on the north and south elevations. As stated in the letter from the applicant dated March 21, 2023 (Exhibit X), the recessed pockets on the north and south facades are 9-inches deep and no wall plane is greater than 37 feet in compliance with Section 17.90.120(B).
20. Section 17.90.120(B.2) requires that buildings incorporate pedestrian shelters over primary building entrances and pedestrian areas. The pedestrian shelters must extend at least 5 feet over the pedestrian area. Shelters designed with gables are preferred over flat shelters and must comply with the roof pitch standards in Section 17.90.120(C). Building entrances are located on the north, west, and east sides of the mixed-use building. As detailed on the Floor Plan – Level 01 (Exhibit Y, Sheet A1.21), all entrances are proposed to have a minimum 5-foot-deep pedestrian shelter, with the primary entrance on the north elevation detailed to have a 12-foot-deep pedestrian shelter. As stated in the narrative (Exhibit B), the upper-level patios and exterior storage areas provide shelter over the walkway along the north façade.
21. Section 17.90.120(B.3.a) requires architecturally unified buildings. Architectural unity means buildings are related in architectural style and share some common elements, such as color scheme, materials, roof forms, and/or detailing. The applicant is proposing the primary mixed-use building as well as a garbage enclosure, bicycle parking enclosure, and covered gazebo. The mixed-use building elevations (Exhibit Y, Sheets A2.01 and A2.02) detail a cultured stone base with a mix of lap siding and cedar shake siding, and a standing seam metal roof with gabled ends featuring heavy timbers. The trash enclosure (Exhibit Y, Sheet A1.03), bicycle enclosure (Exhibit Y, Sheet A1.04), and gazebo (Exhibit Y, Sheet A1.05), all detail gabled roofs with wooden beams. Both the bicycle enclosure and gazebo also have a stone base at the base of the supporting posts. Architectural unification of buildings on the site is satisfied.
22. Section 17.90.120(B.3.b) requires strong base materials on those sides of the building visible from an abutting public street. Per the submitted building elevations (Exhibit Y, Sheets A2.01 and A2.02), all of the main mixed-use building elevations feature a 36-inch-tall cultured stone base in compliance with this standard.

23. Section 17.90.120(B.3.d) states that siding shall consist of wood, composite-wood (e.g., concrete fiberboard, panels or shingles), stone, brick, split-faced or rusticated concrete block, concrete form liner or a combination of these materials. The applicant is proposing to use a mix of lap siding, fiber cement shingles, and vertical board and batten siding as an accent. Section 17.90.120(B.3.d.ii) states: “Where board-and-batten siding is used, battens shall be a minimum of two-inches wide x one-inch deep and spaced 24 inches apart or closer; rough-sawn boards (specialty panel) are preferred over panels having a resin overlay.” The mixed-use building elevations (Exhibit Y, Sheets A2.01 and A2.02) specify lap siding with alternating 4-inch and 8-inch exposure and lap siding with 8-inch exposure in compliance with the code. The elevations also specify fiber cement board and batten siding two-inches wide and spaced a maximum of 24 inches on center.
24. Section 17.90.120(B.3.e) requires building elevations facing a public street to incorporate at least three (3) Sandy Style features. The south elevation of the proposed mixed-use building faces Highway 26, though the building will be substantially set back from the highway on the flag portion of the flag lot and won’t be easily visible from the highway. The east elevation faces Bluff Road, with a parking lot owned by the Oregon Trail School District (OTSD) located between the building and the road. As detailed on the mixed-use building north and east elevations (Exhibit Y, Sheet A2.01) and explained in the narrative (Exhibit B), all elevations feature exposed natural wood-colored beams, brackets and trim, metal canopies and roofing, and shingles as an accent material. The trash enclosure, bicycle parking enclosure, and gazebo all feature gabled roofs with wood beams, brackets, and a standing seam metal roof. Thus, all proposed structures are detailed in compliance with Section 17.90.120(B.3.e).
25. Section 17.90.120(B.4) requires exterior building colors to include warm earth tones that conform to the Color Palette in Chapter 17.90, Appendix C. As specified in the narrative (Exhibit B), all paint colors are earth tones from the City’s approved Miller Paint Historic Collection. As detailed on the elevations (Exhibit Y, Sheets A2.01 and A2.02), the fiber cement lap siding with alternating 4-inch and 8-inch exposure will be painted “Palomino,” lap siding with 8-inch exposure “Gropius Gray,” cedar shake siding “Portobello,” board and batten siding “Jewett White,” and trim, heavy timber canopy, bracket, cedar fascia board, and decking will all be painted “Chocolate” in conformance with the color palette.
26. Section 17.90.120(C.1) requires gable roofs with a minimum roof pitch of 6:12 on new buildings with a span of 50 feet or less. The proposed building is approximately 190 feet by 69 feet; thus the roof span is greater than 50 feet. However, as stated in the narrative (Exhibit B) and detailed on the mixed-use building Floor Plan - Roof (Exhibit Y, Sheet A1.23) and the trash enclosure (Exhibit Y, Sheet A1.03), bicycle enclosure (Exhibit Y, Sheet A1.04), and gazebo (Exhibit Y, Sheet A1.05), the applicant is proposing a 6:12 roof pitch for all proposed structures.
27. Section 17.90.120(C.4) requires pitched roofs visible from an abutting public street to provide a secondary roof form. The applicant did not submit a line-of-sight diagram but the narrative (Exhibit B) states that the north elevation of the building will be visible from Bluff Road. The north roof is approximately 190 feet, which requires four (4) secondary roof

forms. As detailed on the north elevation (Exhibit Y, Sheet A2.01), the applicant is proposing four (4) dormers along the north roof in compliance with the code.

28. Section 17.90.120(C.5) requires visible roof materials to be wood shingle or architectural grade composition shingle, slate, or concrete tile. Metal with standing or batten seam may also be used conforming to the Color Palette in Appendix D of the Development Code. The applicant is proposing to use standing seam metal in “Dark Brown,” which is an approved roof color in Appendix D.
29. Section 17.90.120(C.6) requires all roof and wall-mounted mechanical, electrical, communications, and service equipment, including satellite dishes and vent pipes, to be screened from view from all adjacent public rights-of-way and civic spaces by parapets, walls, or by other approved means. Per the narrative (Exhibit B), all rooftop penetrations (i.e., vent pipes) and wall penetrations (i.e., venting for exhaust fans) will have covers and/or be hooded and be a similar color to the adjacent building material so as to blend in with the building; there will be no other rooftop/wall-mounted mechanical, electrical, or communication systems.
30. Section 17.90.120(D) contains standards related to building orientation and entrances. The intent of providing adequate building orientation and entrances is to maintain and enhance streetscapes as public spaces, emphasizing pedestrian-scale and character. Section 17.90.120(D.1) requires buildings to be oriented to a public street or civic space. This standard is met when at least 50 percent of the subject site's street frontage is comprised of building(s) placed within 20 feet of a sidewalk, walkway, or civic space and not more than 20 percent of the off-street parking is located between a building's front façade and the adjacent street(s). The proposed mixed-use building is located on a flag lot and thus is set back greater than 20 feet from the street frontage; however, there is a proposed walkway within 20 feet of all four sides of the building as well as a proposed civic space within 20 feet of the west side of the building. In addition, the proposed building is set back 15 feet from the south property line on the flag portion of the lot and comprises approximately 71 percent of the flag's south property line. The proposal includes a direct pedestrian walkway connecting the primary building entrances to the sidewalk on Highway 26. No parking is proposed to be located between the building's front façade and the highway.
31. Section 17.90.120(D.3) states that ground floor spaces shall face a public street or civic space and shall be connected to it by a direct pedestrian route (i.e., avoid out-of-direction travel). The proposed mixed-use building is located on a flag lot and is set back substantially from Highway 26. The south elevation technically faces Highway 26 but is separated from the highway by the parcel to the south (Tax Lot 900). The pedestrian and vehicular access to the building is along the flagpole portion of the lot and the pedestrian walkway directly connects the building's three pedestrian entrances (on the north, east, and west facades) to the Highway 26 sidewalk.
32. Section 17.90.120(D.5) requires structures greater than 40,000 gross square feet to have at least two clearly articulated public entrances on the structure; at least one such entrance shall be visible from a public street and connected to that street by a pedestrian sidewalk or walkway. The proposed building is 48,804 square feet and is therefore required to comply

with Section 17.90.120(D.5). The building is located on the flag portion of a flag lot and thus is set back substantially from Highway 26. The applicant is proposing public entrances on the north, east, and west facades, all of which have a pedestrian walkway that connects the entrance to the Highway 26 sidewalk. The entrances on the north and west facades will be visible from the shared driveway access and pedestrian walkway where residents/customers will enter the site.

33. Section 17.90.120(D.7) requires buildings to provide at least one (1) elevation where the pedestrian environment is “activated.” An elevation is “activated” when it meets the window transparency requirements in Subsection 17.90.120(E) and contains a public entrance with a pedestrian shelter extending at least five (5) feet over an adjacent sidewalk, walkway, or civic space. As stated in the narrative (Exhibit B), the applicant has identified the north building elevation as the “activated” elevation. The north elevation contains a primary building entrance with a pedestrian shelter extending greater than five feet over the walkway in front of the entrance. The window transparency requirements are discussed in Section 17.90.120(E) below.
34. Section 17.90.120(D.8) states that primary entrances shall be architecturally emphasized, visible from the public right-of-way, and where practical sheltered with a gabled canopy, overhang, or portico with a depth of at least five (5) feet. Detailing around the base of the building, such as stonework, benches, or art, should also be used to emphasize an entrance. As previously stated, the proposed mixed-use building is located on the flag portion of the flag lot and is not highly visible from either Highway 26 or Bluff Road. The proposed building has primary entrances on the north, west, and east elevations, all of which have a pedestrian shelter with a depth of at least 5 feet. As stated in the narrative (Exhibit B), all primary entrances are articulated by a separate roof structure from the building that provides at least 5 feet of shelter.
35. Section 17.90.120(E.2) contains standards for construction and placement of ground floor windows. A building greater than 30,000 square feet is required to provide 20 percent ground floor windows on the activated frontage. As noted in the narrative (Exhibit B), the applicant has designated the north elevation as the activated frontage. Per the narrative (Exhibit B), the ground floor wall area of the north elevation is 1,693 square feet, which requires 339 square feet of glazing. The North Elevation (Exhibit Y, Sheet A2.01) details 19 windows and three doors (two single doors and one double door) with windows above and calculates ground floor glazing at 363.11 square feet in compliance with Section 17.90.120(E.2). Per the narrative, all ground floor glazing is made of clear glass, vertically oriented, and provided with trim surrounds with a depth of 3.5 inches.
36. Section 17.90.120(E.3) contains standards for upper floor windows. Per the narrative (Exhibit B), all upper floor windows are vertical in nature and are less than 5-feet by 7-feet. All windows will have internal grids and a 3.5-inch trim. As noted on the north elevation (Exhibit Y, Sheet A2.01), the internal grids on all of the upper story windows will not exceed 1-foot in either direction. The upper floor windows are in compliance with Section 17.90.120(E.3).

37. Section 17.90.120(F) contains additional landscaping and streetscape design standards, including standards for parcels along Highway 26. Section 17.90.120(F.2) states that parcels abutting Highway 26 shall provide a landscape buffer comprising not less than 30 percent of the highway frontage, to a depth of not less than 20 feet. One of the many requirements within the buffer is that existing trees shall be preserved to the greatest extent practicable. The required landscape buffer is further detailed in the Chapter 17.10 definitions, which defines the landscape management corridor as: “The required yards abutting Highway 26 within the C-2, I-I and I-2 zoning districts where the Development Code requires native conifer and deciduous landscaping, creating the appearance of a forested corridor; openings or breaks in the landscape corridor are minimized, allowing for transportation access and framed views into development sites.” The subject properties (Tax Lots 902 and 1000) both have frontage on Highway 26. Both lots currently share an access located at Station (STA) 759+40 and are proposed to continue to share an access. The combined frontage on Highway 26 is approximately 171 feet, requiring a 51-foot landscape buffer. The lots currently have a 65-foot-wide landscape buffer with existing trees and vegetation located along the entire south property line of the flagpole adjacent to Highway 26 and the eastern portion of the south property line of Tax Lot 1000 in compliance with Section 17.92.120(F). The original plans reviewed at the February 27, 2023, Planning Commission hearing included a proposal to remove the existing landscape buffer to accommodate relocation of the shared access driveway. Relocation of the driveway results in removal of approximately nine (9) trees and one (1) shrub within the 20-foot buffer plus an additional three (3) trees and four (4) shrubs further north outside of the designated buffer area. Per Section 17.90.00(C.2) protecting and enhancing Sandy's tree canopy, particularly along the Highway 26 Landscape Management Corridor, is one of the guiding principles of the Sandy Style that the reviewing body is required to refer to in reviewing all Design Review requests. In addition, “excessive tree removal and/or grading that may harm existing vegetation within a designated landscape conservation area” is one of the elements determined to be incompatible with the Sandy Style per Section 17.90.00(D.1) and the reviewing body may deny, or require modifications to, a project that includes excessive tree removal within a designated landscape area. Thus, removal of the existing landscape buffer along Highway 26 is not compatible with Sandy Style and may constitute a reason for denial of a Design Review application. Based on preliminary feedback from the Planning Commission, the applicant updated the proposal to keep the shared driveway at the existing location and to retain the existing landscape buffer along Highway 26 in compliance with the requirements of Section 17.90.120(F) as well as the guiding principles of the Sandy Style. On April 13, 2023, ODOT submitted an email into the record (Exhibit AA) indicating they are not willing to relocate the driveway to the location as requested by the Planning Commission. Since ODOT is unwilling to move the driveway location the applicant will need to modify the driveway approach once again on the plan set. However, the majority of the driveway alignment may remain as proposed in Exhibit Y. There is an additional landscaped area along the west side of the south frontage of Tax Lot 1000, but the applicant did not submit a tree inventory or any other details on the existing plants. Based on Google Earth imagery, it appears that the western landscaped area is sparsely planted and does not meet the requirements of Section 17.90.120(F). **The applicant shall update the Plan Set to detail a minimum 20-foot-deep landscape buffer that comprises at least 30 percent (51 feet minimum) of the combined Highway 26 frontage of the subject properties in compliance with Section 17.90.120(F). The applicant shall revise the plan set to align the access at STA 759+85. Due to concerns**

with Asian Long-horned Beetle, the maple species are not currently permitted; cascara, pacific dogwood, or an alternative native deciduous tree species reviewed and approved by staff shall be selected instead. Since the Planning Commission approved the applicant's request for a variance to the minimum tree retention standards, all new landscaping on the subject properties shall be native species or water-efficient species acclimated to the Willamette Valley, consistent with the conservation benchmarks in the City of Sandy 2016 Water Management and Conservation Plan.

38. Section 17.90.120(G) contains requirements related to civic space. The intent of civic space is to connect buildings to the public realm and create comfortable and attractive gathering places and outdoor seating areas for customers and the public. As detailed on the Enlarged Site Plan (Exhibit Y, Sheet A1.02), the applicant proposes a 1,534 square foot outdoor public plaza located on the west side of the building, which is in compliance with the code requirement. The narrative (Exhibit B) states that due to the property being on a flag lot, having a civic space directly abut a public right-of-way is not possible; however, the location was chosen for its pedestrian connectivity to Highway 26 via the new pedestrian walkway that connects the proposed mixed-use building and civic space to the highway. The civic space is proposed to contain various raised planters and public benches.
39. Section 17.90.120(H) contains standards related to lighting and states that walkways and parking lots should be illuminated at 1.5 to 2.0 foot-candles. The proposal includes parking on Tax Lot 1000 and parking and pedestrian walkways on Tax Lot 902. The Photometric Plan (Exhibit D, Sheet E0.01) details lighting in both parking areas and along the pedestrian pathways north, west, and east of the building as well as the pedestrian walkway through the flagpole portion of Tax Lot 902 that connects to Highway 26; however, not all areas are detailed at 1.5 – 2.0 foot-candles. In addition, the Photometric Plan does not show any lighting along the pedestrian walkway south of the proposed mixed-use building. **The applicant shall update the Photometric Plan to detail all walkways and parking lots illuminated at 1.5 – 2.0 foot-candles. The applicant shall update the Photometric Plan to detail path lighting along the proposed pedestrian walkway on the south side of the mixed-use building at 1.5 – 2.0 foot-candles. To prevent impact within the critical root zones of existing trees on the adjacent property to the south (Tax Lot 900), staff recommends solar path lighting; however, if electrical conduit is installed, the applicant shall bore the conduit at a minimum depth of 18-inches under the critical root zone of the existing trees under supervision of an ISA-certified arborist.** Lighting is further reviewed in Chapter 15.30 of this document.
40. Section 17.90.120(I) contains standards related to safety and security and requires window placement that enables visibility between the building interior and exterior pedestrian and parking areas. As detailed on the mixed-use building elevations (Exhibit Y, Sheets A2.01 and A2.02), all four sides of the building contain windows, which provides visibility between the interior of the building and the parking areas and pedestrian walkway areas.
41. Section 17.90.120(I.3) contains standards related to addressing and requires street address numbers measuring a minimum of six (6) inches high, which clearly locate buildings and their entries for patrons and emergency services. **The applicant shall provide street address numbers measuring a minimum of six (6) inches high, which clearly locate the**

mixed-use building and its entries for patrons and emergency services. The applicant shall verify the location(s) of the address with the Building Official and emergency service providers. Per the Fire Marshal (Exhibit N), the address identification shall be legible and placed in a position that is visible from the street or road fronting the property, including on a monument sign.

42. The intent of Section 17.90.120(J) is to promote land use compatibility and aesthetics, particularly where development abuts public spaces. Section 17.90.120(J.1) states that exterior storage of merchandise and/or materials, except as specifically authorized as a permitted accessory use, is prohibited. The applicant is not proposing outdoor storage or display areas. The applicant is proposing a garbage and recycling area, which will be screened.
43. Section 17.90.120(J.3) states that mechanical, electrical, communications equipment including meters and transformers, and service and delivery entrances and garbage storage areas shall be screened from view from public rights-of-way and civic spaces. Garbage storage areas are addressed in staff's response to Section 17.90.120(J.4), below. The proposed building is set back on the flag lot and not likely to be highly visible from a public right-of-way; however, the west elevation will be highly visible from the civic space area. In addition to the civic space, the proposed layout includes primary building entrances with pedestrian walkways on the north and east elevations, with parking along the north elevation and additional pedestrian amenities (bicycle parking, gazebo, fire pit, dog area) along the east elevation. Thus, the north and east elevations will be highly visible from the interior of the site. The Enlarged Site Plan (Exhibit Y, Sheet A1.02) and east and south elevations (Exhibit Y, Sheets A2.01 and A2.02) detail mechanical and electrical equipment located along the south elevation at the southwest corner of the proposed building. The Preliminary Planting Plan (Exhibit Y, Sheet L2.1) details proposed screening of the mechanical and electrical equipment consisting of Silver King Euonymus as well as Kaleidoscope Abelia and Yedda Hawthorn. **All mechanical, electrical, and communications equipment shall be screened from view from all public rights-of-way and civic spaces. On-grade and above-grade electrical and mechanical equipment such as transformers, heat pumps, and central air conditioner units shall be screened with sight obscuring fences, walls, or landscaping.**
44. Section 17.90.120(J.4) contains standards for trash collection and recycling areas. The applicant proposes a screened garbage and recycling area to the east of the proposed mixed-use building. The submitted Trash Enclosure Elevations (Exhibit Y, Sheet A1.03) detail a covered structure with a gabled roof and a 6-foot-tall wall on all four sides designed to match the primary building in compliance with the code. The wall is proposed to be alternating 1-inch by 6-inch and 1-inch by 8-inch horizontal boards with a 1/2-inch gap between each and painted "Gropius Gray" to match the main building with 6-inch by 6-inch pressure treated wood posts. The front (west) and side (south) walls contain gates for access.
45. Section 17.90.160 includes additional design standards for multi-family developments. The proposal includes a mixed-use building with self-service storage on the ground floor and residential units above and thus is subject to the additional multi-family design standards.

46. Section 17.90.160(A) contains requirements for roofs. However, this building is located in the General Commercial (C-2) zoning district, and this code provision is superseded by the 6:12 roof slope provision. The proposed mixed-use building features a 6:12 roof pitch in compliance with Section 17.90.120(C).
47. Section 17.90.160(B) contains requirements for entries. As discussed in Section 17.90.120(B), all entrances are proposed to have a minimum 5-foot-deep pedestrian shelter, with the primary entrance on the north elevation detailed to have a 12-foot-deep pedestrian shelter. All entries face a pedestrian walkway with a direct connection to the sidewalk on Highway 26. Therefore, staff finds that the proposed entries are in compliance with Section 17.90.160(B).
48. Section 17.90.160(C) states that building facades shall be articulated with windows, entries, balconies and/or bays. Towers or other special vertical elements may be used in a limited fashion to focus views to the area from surrounding streets. As detailed on the Elevations (Exhibit Y, Sheets A2.01 and A2.02), all facades of the mixed-use building feature windows and three of the facades (north, west, and east) contain an entry with a projecting gable end in compliance with this section. In addition, the north and south facades include balconies.
49. Section 17.90.160(D) states that along the vertical face of a structure, when facing a public street, pedestrian way, or an abutting residential use, offsets shall occur at a minimum of every 20 feet by providing recesses of a minimum depth of eight feet or extensions with a minimum depth of eight feet. If a partially enclosed covered porch is proposed, this can meet one of the offset requirements provided the porch is eight feet deep and at least 125 square feet in area. All four sides of the proposed mixed-use building face a pedestrian walkway. Based on the Floor Plan – Levels 02-04 (Exhibit Y, Sheets A1.22-24), it appears that the applicant is proposing alternating storage areas and outdoor patios on the north and south elevations; however, they are only extended or recessed 4 feet. In addition, some of the offsets occur greater than 20 feet apart. No offsets are detailed on the east and west elevations. The applicant is requesting a Special Variance to Section 17.90.160(D) to not provide eight-foot-deep offsets at a minimum of every 20 feet. The variance request is discussed in Chapter 17.66 of this document.
50. Section 17.90.160(E) contains requirements for private outdoor areas. A separate outdoor area of not less than 48 square feet in the form of balconies, terraces, or porches shall be provided for each dwelling unit located above the ground level. As detailed on the Floor Plan – Levels 02-04 (Exhibit Y, Sheets A1.22-24), 18 of the 1-bedroom units include a 54 square foot outdoor patio, nine of the 1-bedroom units include a 47 square foot patio, three of the 1-bedroom units include a 69 square foot patio, and two of the 1-bedroom units include a 51 square foot patio, all in compliance with the code. All 2-bedroom units include a 51 square foot patio in compliance with the code.
51. Section 17.90.160(F) contains parking lot requirements. Parking lots in multi-family developments shall not occupy more than 50 percent of the frontage of any public street abutting the lot or building. The proposed parking and maneuvering area for the mixed-use development is located behind (north of) the proposed building on the flag portion of the flag lot in compliance with this section.

52. Section 17.90.160(G) contains requirements for individual storage areas. Enclosed storage areas shall be required and may be attached to the exterior of each dwelling unit to accommodate garden equipment, patio furniture, barbecues, bicycles, etc. Individual storage areas are required to be a minimum of 24 square feet and a minimum of 6 feet in height for 1-bedroom units, and a minimum of 36 square feet and 6 feet in height for 2-bedroom units. As detailed on the Floor Plan – Levels 02-04 (Exhibit Y, Sheets A1.22-24), each 1-bedroom unit includes either a 27 or 28 square foot individual storage area, with the exception of two of the 1-bedroom units on the fourth floor that contain a 21 square foot and an 18 square foot storage area for a total of 39 square feet of storage; thus, all 1-bedroom units are in compliance with the minimum storage requirement. Each 2-bedroom unit includes a 21 square foot and an 18-square foot storage area for a total of 39 square feet of storage area in compliance with the code.
53. Section 17.90.160(I) contains requirements for shared outdoor recreation areas. Multi-family residential development shall provide usable recreation areas for developments containing more than 5 dwelling units at the rate of 200 square feet per dwelling unit. The proposed 42-unit multi-family project requires 8,400 square feet of shared outdoor recreation area ($42 \times 200 = 8,400$). The Enlarged Site Plan (Exhibit Y, Sheet A1.02) details 8,994 square feet of shared outdoor area as follows: 980 square foot off-leash dog area, 320 square foot covered gazebo (counted at 1.25 of the 256 square foot size), 263 square foot fire pit with outdoor seating, 1,198 square foot eastern outdoor lawn area, 4,146 square foot landscaped nature path connecting the eastern open lawn area to the pedestrian walkway in the flag pole, and 2,087 square foot landscaped nature area located to the east of the pedestrian walkway in the flag pole.
54. Section 17.90.160(J) contains requirements for safety and security, which include providing an outdoor lighting system which facilitates police observation and resident observation through strategic location, orientation, and brightness without being obtrusive by shining into residential units or adjacent residential developments, and establishing a directory for apartment complexes of four or more units, which clearly orients visitors and emergency service providers as to the location of residential units. Where possible, this system should be evident from the primary vehicle entryway. The applicant submitted a Site Lighting Plan (Exhibit D, Sheet E0.00) that details proposed lighting. Lighting is discussed in further detail in Section 17.90.120(H) and Chapter 15.30 of this document. Neither the Site Plans (Exhibit Y, Sheets 3, A1.01, and A1.020) nor the Floor Plans (Exhibit Y, Sheets A1.21 and A1.22) detail the location of an apartment directory. The ground floor plan (floor plan – level 01) details a lobby at the main entrance, which is assumed to serve both the residential units and the mini-storage facility. **The applicant shall update the Floor Plan – Level 01 to detail an apartment directory in the lobby.**
55. Section 17.90.160(K) contains requirements for service, delivery, and screening. Per Section 17.90.160(K.2), pedestrian access from unit entries to postal delivery areas, garbage and recycling collection areas, shared activity areas, and parking areas is required to be provided. Elements such as, but not limited to, concrete paths, striped walkways or raised walkways through vehicular areas or gravel trails will meet this requirement. Per Section 17.90.160(K.4), garbage collection areas shall have a concrete floor surface and shall have a gate on the truck-loading side and a separate pedestrian access. Per Section 17.90.160(K.5),

outdoor storage areas, garbage containers and recycling bins shall be screened from view with a solid sight obscuring wall or fence not less than six feet in height and constructed of durable materials compatible with the primary structure(s) or with evergreen plant materials which will retain their screening ability and will reach the height of six feet within three years from time of planting. As detailed on the Enlarged Site Plan (Exhibit Y, Sheet A1.02), the garbage enclosure is located along the east property line with a pedestrian walkway directly connecting the garbage enclosure to the building's entrances. The Trash Enclosure (Exhibit Y, Sheet A1.03) details the garbage area having a concrete floor and screened by a 6-foot-tall wall with both a gate on the truck-loading side (west) and a separate pedestrian gate on the south side. The Enlarged Site Plan (Exhibit Y, Sheet A1.02) details mailboxes located just east of the primary entryway on the north elevation.

56. Section 17.90.160(L) contains requirements for electrical and mechanical equipment. On-grade and above-grade electrical and mechanical equipment such as transformers, heat pumps, and central air conditioner units shall be screened with sight obscuring fences, walls, or landscaping. The Enlarged Site Plan (Exhibit Y, Sheet A1.02) and the east and south elevations (Exhibit Y, Sheets A2.01 and A2.02) detail electrical and mechanical equipment located along the south elevation at the southwest corner of the proposed building. The Preliminary Planting Plan (Exhibit Y, Sheet L2.1) details the proposed mechanical and electrical equipment screening, which consists of Silver King Euonymus as well as Kaleidoscope Abelia and Yedda Hawthorn.

FENCES/RETAINING WALLS – Chapter 17.74

57. Section 17.74.40 specifies, among other things, retaining wall and fence height in front, side, and rear yards. Retaining walls on property in commercial zones shall not exceed 4 feet in height in the front yard and 8 feet in height in the rear yard and side yards. The Grading and ESC Plan (Exhibit Y, Sheet 7) and the Wall Cross Sections (Exhibit Y, Sheet 8) detail retaining walls on the south, north, and east sides of the proposed mixed-use building lot. The narrative (Exhibit B) and Enlarged Site Plan (Exhibit Y, Sheet A1.02) state that the walls will have a 3-foot-6-inch guardrail on top of them. The combined height of the retaining wall and fence on the south, north, and east sides exceed the maximum allowed wall/fence height in a commercial zone per Section 17.74.40(B). The applicant has requested three (3) special variances to exceed the maximum allowed retaining wall and fence height for the south, north, and east sides of the mixed-use lot, which are discussed in more detail in Chapter 17.66 of this document. With the additional submission items since the hearing on February 27, 2023, the applicant did not address the majority of the concerns raised by Dennis Petross (Exhibits V and Z). **The applicant shall submit additional information from an engineer providing a guarantee that the proposed retaining walls will not cause unintended stormwater drainage to properties to the north and east of the subject site.**

VARIANCES – Chapter 17.66

58. The applicant requested the following five (5) variances:

- A. Type III Special Variance to Section 17.74.40(B.2) to exceed the 4-foot maximum height of a retaining wall and fence in a commercial front yard (south side).
- B. Type III Special Variance to Section 17.74.40(B.4) to exceed the 8-foot maximum height of a retaining wall and fence in a commercial rear yard (north side).
- C. Type III Special Variance to Section 17.74.40(B.4) to exceed the 8-foot maximum height of a retaining wall and fence in a commercial side yard (east side).
- D. Type III Tree Removal Variance.
- E. Type III Special Variance to Section 17.90.160(D) to not provide 8-foot-deep offsets a minimum of every 20 feet on the residential floors.

Variances A-C and E are processed through Chapter 17.66 and are reviewed in detail below. The Type III Tree Removal Variance is processed in accordance with Section 17.102.70 and is discussed in Chapter 17.102 of this document.

Variance A: Wall/Fence Height – Front Yard (South Side)

59. The applicant requested a Type III Special Variance to Section 17.74.40(B.2) to exceed the 4-foot maximum height of a retaining wall and fence in a commercial front yard (south side).

60. To be granted a Type III Special Variance, the applicant must meet one of the following criteria in Section 17.66.80:

- A. The unique nature of the proposed development is such that:
 - 1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
 - 2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.
- B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.
- C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.

61. The Planning Commission found that the requested variance to Section 17.74.40(B.2) to exceed the 4-foot maximum height of a retaining wall and fence in a commercial front yard meets both Criterion A and Criterion B. As detailed on the Composite Site Plan (Exhibit Y, Sheet 3) and the Grading and ESC Plan (Exhibit Y, Sheet 7), the applicant is proposing a retaining wall with a maximum height of 5 feet on the south side (front) of Tax Lot 902 south of the proposed bicycle parking enclosure, stairs, and gazebo. The narrative (Exhibit B) states and the Enlarged Site Plan (Exhibit Y, Sheet A1.02) details that the wall will have a 3-foot-6-inch guardrail on top for a maximum combined height of 8.5 feet. Neither the narrative or the

Plan Set specify details on the type of retaining wall and type of guardrail that are proposed. Chapter 17.74 of the narrative states that the maximum 4-foot retaining wall/fence height in a front yard cannot be met due to the topography of the site. The narrative did not provide any additional information, nor did it address the variance criteria in Chapter 17.66. Because the subject parcel (Tax Lot 902) is a flag lot, the front lot line is not adjacent to the public right-of-way and appears more like a side yard or rear yard than a front yard. Per Section 17.74.40(B.4) a wall/fence in a commercial side yard or rear yard is permitted to be 8 feet in height. Thus, permitting a variance to allow the combined wall/fence height at 8 feet is in line with the intent of the height regulations and will not be detrimental to the adjacent property owner since the adjacent property owner would be outright permitted to have an 8-foot-tall wall/fence along the same property line since it is their rear yard. As proposed, the wall would only be visible from the subject property (Tax Lot 902). The property that abuts the subject property would only see the guardrail on top of the wall. In addition, there is an existing vegetative screen as indicated on the Existing Conditions and Demolition Plan (Exhibit Y, Sheet 2) along the property line between the subject property (Tax Lot 902) and the property to the south (Tax Lot 700). It is also worth noting, that while there is an existing house to the south of the subject property, the existing zoning is General Commercial (C-2). For these reasons, **the Planning Commission approved the requested variance to exceed the 4-foot maximum height of a retaining wall at 5 feet and fence in a commercial front yard (south side) with changes to the retaining wall height not to exceed 10 percent as submitted by the applicant. The retaining wall shall be a split face block wall or alternative wall reviewed and approved by the Director and the guardrail shall be black steel or aluminum picket fence, or submit a similar alternative design to staff for review and approval. Where the fence pickets are required as a guard from falling, the space between pickets shall be less than 4 inches.**

Variance B: Wall/Fence Height – Rear Yard (North Side)

62. The applicant requested a Type III Special Variance to Section 17.74.40(B.4) to exceed the 8-foot maximum height of a retaining wall and fence in a commercial rear yard (north side).
63. To be granted a Type III Special Variance, the applicant must meet one of the following criteria in Section 17.66.80:
 - A. The unique nature of the proposed development is such that:
 1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
 2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.
 - B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.
 - C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.

64. The Planning Commission found that the requested variance to Section 17.74.40(B.4) to exceed the 8-foot maximum height of a retaining wall and fence in a commercial rear yard meets Criterion B. As detailed on the Wall Cross Sections (Exhibit Y, Sheet 8), the applicant is proposing a retaining wall with a maximum wall height of 14.9 feet on the north side (rear) of Tax Lot 902. The narrative (Exhibit B) states and the Enlarged Site Plan (Exhibit Y, Sheet A1.02) details that the wall will have a 3-foot-6-inch guardrail on top for a maximum combined height of 18.4-feet. The Wall Cross Sections specify the retaining wall is a modular wall but neither the narrative nor the Plan Set specify the type of modular retaining wall nor the type of guardrail that are proposed. Chapter 17.74 of the narrative states that the maximum 8-foot retaining wall/fence height in a rear yard cannot be met due to the topography of the site. The narrative did not provide any additional information, nor did it address the variance criteria in Chapter 17.66. The Planning Commission found that the requested variance is the minimum variance needed to permit practical compliance of the site with the parking, landscaping, shared outdoor recreation, and other site requirements. It is also worth noting, that while there are existing houses to the north of the subject property, the existing zoning is General Commercial (C-2). For these reasons, **the Planning Commission approved the requested variance to exceed the 8-foot maximum height of a retaining wall at 14.9 feet and fence in a commercial rear yard (north side) with changes to the retaining wall height not to exceed 10 percent as submitted by the applicant. The retaining wall shall be a split face block wall or alternative wall reviewed and approved by the Director and the guardrail shall be black steel or aluminum picket fence, or submit a similar alternative design to staff for review and approval. Where the fence pickets are required as a guard from falling, the space between pickets shall be less than 4 inches.**

Variance C: Wall/Fence Height – Side Yard (East Side)

65. The applicant requested a Type III Special Variance to Section 17.74.40(B.4) to exceed the 8-foot maximum height of a retaining wall and fence in a commercial side yard (east side).
66. To be granted a Type III Special Variance, the applicant must meet one of the following criteria in Section 17.66.80:
- A. The unique nature of the proposed development is such that:
 - 1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
 - 2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.
 - B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.
 - C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.

67. The Planning Commission found that the requested variance to Section 17.74.40(B.4) to exceed the 8-foot maximum height of a retaining wall and fence in a commercial side yard meets Criterion B. As detailed on the Grading and ESC Plan (Exhibit Y, Sheet 7) and Wall Cross Sections (Exhibit Y, Sheet 8), the applicant is proposing an approximately 7.55-foot tall retaining wall on the east side (side yard) of Tax Lot 902. The wall is a continuation of the wall along the north property line. The Wall Cross Sections detail the tallest wall section at 7.55-feet in height (STA 3+00) but the detail for the north wall section just before the wall turns the corner to the east is detailed at 11.75-feet (STA 2+50). The submittal items did not include an elevation profile of the entire wall, so it is unclear what the maximum wall height is for the portion of the wall on the east property line between stations 2+50 and 3+00. The narrative (Exhibit B) states and the Enlarged Site Plan (Exhibit Y, Sheet A1.02) details that the wall will have a 3-foot-6-inch guardrail on top for a combined height of approximately 11.05-feet, or greater, depending on whether the wall is 7.55 feet as detailed on the Wall Cross Section at STA 3+00, or potentially taller north of STA 3+00. The Wall Cross Sections specify the retaining wall is a modular wall but neither the narrative nor the Plan Set specify the type of modular retaining wall nor the type of guardrail that are proposed. Chapter 17.74 of the narrative states that the maximum 8-foot retaining wall/fence height in a side yard cannot be met due to the topography of the site. The narrative did not provide any additional information, nor did it address the variance criteria in Chapter 17.66. The wall and guardrail will be visible from the adjacent OTSD parking lot to the east and from Bluff Road. The Planning Commission found that the requested variance is the minimum variance needed to permit practical compliance of the site with the parking, landscaping, shared outdoor recreation, and other site requirements. It is also worth noting, that the properties to the east of the subject property are zoned as General Commercial (C-2) and owned by the Oregon Trail School District. For these reasons, **the Planning Commission approved the requested variance to exceed the 8-foot maximum height of a retaining wall at 11.75 feet and fence in a commercial side yard (east side) with changes to the retaining wall height not to exceed 10 percent as submitted by the applicant. The retaining wall shall be a split face block wall or alternative wall reviewed and approved by the Director and the guardrail shall be black steel or aluminum picket fence, or submit a similar alternative design to staff for review and approval. Where the fence pickets are required as a guard from falling, the space between pickets shall be less than 4 inches.**

Variance E: Building Offsets

68. The applicant requested a Type III Special Variance to Section 17.90.160 (D) to not provide eight (8) foot building recesses and/or extensions every 20 feet.

69. To be granted a Type III Special Variance, the applicant must meet one of the following criteria in Section 17.66.80:

- A. The unique nature of the proposed development is such that:
 1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
 2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.

- B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.
- C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.

70. Staff believes the requested variance to Section 17.90.160(D) to not provide 8-foot-deep recesses and/or extensions every 20 feet meets Criterion A. Section 17.90.160(D) states that along the vertical face of a structure, when facing a public street, pedestrian way or an abutting residential use, offsets shall occur at a minimum of every 20 feet by providing recesses and/or extensions (e.g., decks, patios, entrances, floor area, etc.) at a minimum depth of 8 feet. The proposed site layout includes pedestrian walkways around all four sides of the building, thus all four elevations are required to meet Section 17.90.160(D). The applicant is proposing alternating storage areas and outdoor patios on the north and south elevations as detailed on the Floor Plan – Levels 02-04 (Exhibit Y, Sheets A1.22-24); however, they are only extended or recessed 4 feet. In addition, a few of the offsets occur approximately 23 feet apart instead of 20 feet apart. No offsets are detailed on the east and west elevations. Per the applicant’s written statement dated March 21, 2023 (Exhibit X), providing 8-foot-deep offsets is not practical for a building at this scale. The letter states: “8’-0” building overhangs are not practical in the upper floors without the use of columns at every overhang, which we don’t believe would be a better representation of the Sandy style than what we are currently proposing. The proposed building incorporates 4’-0” deep offsets in the upper levels to best reflect the intent of this standard, while keeping the constructability of the building in mind as well.” Staff finds that the intent of the offset requirement is to break up the wall plane into smaller and varied sections. In addition to the proposed storage/patio area offsets, the applicant is proposing three (3) different siding materials on the north and south facades as well as a stone base, gabled roof forms, shed roofs with ornamental brackets, and many windows, all of which will provide visual interest. In addition, the north façade, which will be the more visible of the two, contains four dormers, more ground floor windows, and a gabled entryway, adding additional interest. The east and west facades do not contain any offsets on the upper residential floors; however, they also feature a stone base, gabled roof forms, and four (4) different siding materials, thereby providing varied wall plane sections and visual interest.

Staff finds that the ground floor of the west elevation facing the civic space needs additional windows. Adding an additional four windows on the ground floor, two windows on each side of the gabled entry, would meet the intent of Section 17.90.120 (E) by promoting business vitality, public safety, and aesthetics through effective window placement and design. **The applicant shall update the Building Elevations to include an additional four windows on the west ground floor elevation with at least two windows on each side of the gabled entry.** For the reasons explained above, **the Planning Commission approved the requested variance to Section 17.90.160(D) to not provide 8-foot-deep offsets every 20 feet. The Planning Commission requires the applicant to provide visual interest on all four elevations as outlined above and detailed on the Elevations (Exhibit Y, Sheets A2.01 and A2.02).**

ZONING and SETBACKS – Chapters 17.44 and 17.80

71. The applicant proposes constructing a four-story mixed-use building with associated parking and landscaping on Tax Lot 902. The building will contain self-service storage on the ground floor and 42 multi-family residential units above as permitted in the general commercial (C-2) zoning district per Sections 17.44.10(B.2.i) and 17.44.10(A.1), respectively. The applicant also proposes redesigning the existing Paola's Pizza Barn parking lot, which is permitted as an accessory use per Section 17.44.10(C.3).
72. Section 17.44.30(A) contains the development requirements for the C-2 zoning district, which include a 20 percent minimum landscaping requirement. Per the submitted narrative (Exhibit B) and Enlarged Site Plan (Exhibit Y, Sheet A1.02), the site is proposed to contain 24.66 percent landscaping. It appears that this calculation is for the mixed-use development lot (Tax Lot 902) and does not include the Paola's Pizza Barn lot (Tax Lot 1000). **The applicant shall submit additional information on the percent landscaping on Tax Lot 1000 demonstrating that the 20 percent landscaping minimum is met.** Landscaping is discussed further in Chapter 17.92 of this document.
73. Per Section 17.44.30(A), the maximum structure height is 55-feet. The narrative (Exhibit B) and Elevations (Exhibit C, Sheet A2.01) detail the proposed mixed-use building height at 52-foot-2-inches to the mid-point of the highest gable, in compliance with the standard.
74. Section 17.44.30(A) requires a 10-foot minimum and 50-foot maximum front yard setback. Chapter 17.80 contains additional setback requirements on collector and arterial streets. Section 17.80.20 requires all structures to have a minimum setback of 20 feet to collector and arterial streets. Highway 26 is classified as an arterial street and, thus, all structures will need to be set back at least 20 feet from the applicable property line. The proposed mixed-use development is located on a flag lot, with the flag portion of the lot set back approximately 215 feet from Highway 26 and the proposed mixed-use building set back 15 feet from the south property line of the flag portion of the lot.

TRANSPORTATION AND IMPROVEMENTS – Chapter 17.84

75. Section 17.84.20 pertains to timing of required improvements. Section 17.84.20(A.2) states that where a land division is not proposed, the site shall have required public and franchise utility improvements installed or financially guaranteed in accordance with the provisions of Chapter 17 prior to temporary or final occupancy of structures. **The applicant shall install required public and franchise utility improvements prior to temporary or final occupancy of the proposed mixed-use building.**
76. Section 17.84.30 includes pedestrian and bicycle requirements. Section 17.84.30(A.2) requires all proposed sidewalks on arterial or collector streets to be six feet wide and separated from curbs by a tree planting area that is a minimum of five feet in width. As required by Section 17.84.30(B), safe and convenient pedestrian and bicyclist facilities that strive to minimize travel distance to the extent practicable shall be provided in conjunction with new development. The existing sidewalk along the subject properties and the adjacent properties to the east and west is curb-tight. Based on Figure 6 of the 2011 Transportation System Plan, the required improvements for a 40-mph zone along Highway 26 include a 6-foot-wide bike lane, 6-inch curb, planter strip with street trees set back at least 6 feet from the curb, and 6-foot-wide sidewalk. Based on a total identified minimum width of 22 to 24 feet, the planter strip is required to be 9.5-11 feet in width. The recent Goodwill project west of the subject properties included an 11-foot-wide planter strip. As noted by ODOT (Exhibit O), the applicant will be required to dedicate right-of-way as necessary to accommodate the planned cross section and ADA improvements. Based on preliminary feedback from the Planning Commission, the applicant updated the proposal to keep the shared driveway at the existing location. On April 13, 2023, ODOT submitted an email into the record (Exhibit AA) indicating they are not willing to relocate the driveway to the location as requested by the Planning Commission. Since ODOT is unwilling to move the driveway location the applicant will need to modify the driveway approach once again on the plan set. However, the majority of the driveway alignment may remain as proposed in Exhibit Y. The Composite Site Plan (Exhibit Y, Sheet 3) details the proposed frontage improvements, which include a 6-inch curb, 10-foot planter strip, 6-foot sidewalk, and 0.55-foot frontage zone, in addition to the existing bicycle lane. The plan notes there will be a 12-foot right-of-way dedication. The sidewalk on the east side of the frontage meanders slightly, resulting in a slightly narrower and slightly wider planter strip adjacent to the meandering section. This is presumably designed to maximize protection of existing trees in the landscape buffer along Highway 26. A small section of sidewalk in the flagpole of Tax Lot 902 is located outside the proposed right-of-way dedication and encroaches slightly onto the property. The Composite Site Plan details street trees 30 feet on center and located within the northern 5 feet of the 10-foot planter strip such that they are further from the highway. Per the Assistant Public Works Director (Exhibit Q), **frontage improvements along Highway 26 shall be made in accordance with Figure 6 in the 2011 Transportation System Plan for a 40 MPH speed zone. ADA compliance and 6-foot sidewalks shall be maintained across the frontage. If necessary, the applicant shall record an access easement for the portion of the Highway 26 sidewalk that encroaches onto Tax Lot 902.**
77. Section 17.84.50(B) outlines requirements for transportation impact studies for developments with dwellings. The applicant submitted a Transportation Analysis Letter (Exhibit G) from

Lancaster Mobley, dated August 22, 2022. The City Transportation Engineer (Exhibit P) reviewed the letter and determined that a full traffic impact analysis is not triggered based on a peak hour trip generation under the threshold for this development. This finding analyzes the Transportation Analysis Letter (TAL).

- A. According to the TAL, the proposed development would generate up to 16 site trips during the morning peak hour, 17 trips during the evening peak hour, and 196 average weekday trips.
- B. The City Transportation Engineer (Exhibit P) reviewed the TAL and provided the following comments in a letter dated January 17, 2023:
 - i. **The development shall contribute System Development Charges toward citywide impacts.**
 - ii. **Minimum sight distance requirements shall be met at all site driveways. Sight distances should be verified in the final engineering/construction stages of development.**
- C. ODOT (Exhibit O) reviewed the TAL and provided the following comments in a letter dated January 13, 2023:
 - i. The site of this proposed land use action proposes an access to US 26. ODOT has permitting authority for this facility and an interest in ensuring that this proposed land use is compatible with its safe and efficient operation. **The applicant shall contact the District Contact, Robbie Cox, at D2CAP@odot.oregon.gov to determine permit requirements and obtain application information.** Per the Assistant Public Works Director (Exhibit Q), **the applicant shall update the “Utility Notes” on Sheet 1 of the Plan Set to note that ODOT approval must be secured before constructing the new entrance on Highway 26.**
 - ii. **Right-of-way donated to ODOT as necessary to accommodate the planned cross section and ADA improvements shall be provided. The deed must be to the State of Oregon, Oregon Department of Transportation. The ODOT District contact will assist in coordinating the transfer. ODOT should provide verification to the local jurisdiction that this requirement has been fulfilled. The property owner must be the signatory for the deed and will be responsible for a certified environmental assessment of the site prior to transfer of property to the Department.** Note: It may take up to 3 months to transfer ownership of property to ODOT.
 - iii. **A State Highway Approach Road Permit from ODOT for access to the state highway for the proposed use is required and being completed. Truck turning templates shall be provided as needed to ensure vehicles can enter and exit the approach safely. Site access to the state highway is regulated by OAR 734.51. For application information go to <http://www.oregon.gov/ODOT/HWY/ACCESSMGT/Pages/Application-Forms.aspx>.** Note: It may take 2 to 3 months to process a State Highway Approach Road Permit.
 - iv. **The applicant shall record cross-over access easements to the adjacent properties with state highway frontage with the County Assessor to facilitate future shared access.** Shared access will improve highway safety by reducing

potential conflicts between vehicles and between vehicles and pedestrians and bicyclists at closely spaced driveways and will implement ODOT Access Management Program goals.

- v. **The applicant is advised that the subject property's highway frontage is access controlled. ODOT has acquired and owns access rights to the subject property. The subject property was granted a Reservation of Access, as recorded in the property deed. Based on the reviewed material, the proposal is relocating the access and an Indenture of Access is required and being processed. If ODOT approves an Indenture of Access, it changes the terms for using the access right and any modification must be recorded in a property deed. The owner is responsible for recording the deed and for any associated costs. Note: It may take 1 to 2 months to process an Indenture of Access.**
- vi. **An ODOT Miscellaneous Permit must be obtained for all work in the highway right-of-way.**

78. Sections 17.84.50(F and G) require public streets to be improved to City standards along the entire frontage of the property. Highway 26 is identified as an arterial street in the TSP and is therefore required to be improved to arterial street City standards. Per the Assistant Public Works Director (Exhibit Q), **frontage improvements along Highway 26 shall be made in accordance with Figure 6 in the 2011 Transportation System Plan for a 40 MPH speed zone. ADA compliance and 6-foot sidewalks shall be maintained across the frontage.**

PARKING, LOADING, AND ACCESS REQUIREMENTS – Chapter 17.98

79. Section 17.98.10(O) pertains to unassigned parking for residential developments. Multi-family developments with more than 10 required vehicle parking spaces shall provide unassigned parking. The unassigned parking shall consist of at least 15 percent of the total required parking spaces and be located to be available for use by all occupants and guests of the development. The applicant did not indicate whether they are planning to provide assigned parking or if all of the spaces will be unassigned. **If the applicant proposes assigned parking for the multi-family development, at least 15 percent of the total required parking spaces for the multi-family development shall be unassigned and available for use by all occupants and guests of the development.**
80. Section 17.98.20 contains off-street parking requirements. The proposed use is a mixed-use building with self-service storage on the ground floor and 42 multi-family residential units above. As detailed in the calculations on the Enlarged Site Plan (Exhibit Y, Sheet A1.02), 32 of the residential units are 1-bedroom units and the remaining 10 residential units are 2-bedroom units. Per Section 17.98.20(A.8), a 1-bedroom unit requires a minimum of 1.5 parking spaces per unit and a 2-bedroom unit requires a minimum of 2 parking spaces per unit. In addition, one bicycle parking space is required for each residential unit. Therefore, the multi-family portion of the development requires 68 parking spaces $((32 \times 1.5) + (10 \times 2) = 68)$ and 42 bicycle parking spaces. Per Section 17.98.20(A.11), storage establishments require 1 parking space per employee on the largest shift and two (2) bicycle parking spaces. The submitted narrative (Exhibit B) states that a maximum of two (2) employees will be working at once. Therefore, the self-service storage portion of the development requires two (2) parking spaces and two (2) bicycle parking spaces. In total, the proposed mixed-use development requires 70 parking spaces and 44 bicycle parking spaces. The proposed mixed-use development includes 70 parking spaces as detailed on the site plans (Exhibit Y, Sheets 3 and A1.02) and in compliance with Section 17.98.20. The Bicycle Enclosure Detail (Exhibit Y, Sheet A1.04) details 20 bicycle parking spaces in a covered outdoor bicycle area and the Residential Floor Plans (Exhibit Y, Sheets A1.22-24) detail 8 bicycle racks on each residential floor for a total of 44 bicycle parking spaces in compliance with the required minimum.
81. In addition to the proposed mixed-use building and associated parking on Tax Lot 902, the applicant is proposing alterations to the existing parking lot for the Paola's Pizza Barn on Tax Lot 1000. The proposal includes removal of approximately 42 parking spaces located adjacent to the west property line of Tax Lot 1000, adjacent to the east property line of Tax Lot 1000, within the northern portion of the flagpole on Tax Lot 902, and just east of the existing Paola's Pizza Barn building as well as a reconfiguration of the parking area to the rear (north) of the Paola's Pizza Barn building. One of the parking spaces proposed for removal is an ADA parking space. The proposed parking area north of the existing building includes 33 relocated parking spaces, none of which are detailed as ADA spaces. The applicant proposes modifying the parking area directly south of the Paola's Pizza Barn building to include 5 parking spaces, 3 of which are proposed as ADA parking spaces with access aisles. **Due to the requirement to locate the driveway at Station 759+85, the applicant may submit plans for redesign of the parking to the south of Paola's Pizza Barn for staff review and approval if the parking proposal complies with Chapter 17.98**

and any other relevant code provisions. Per Section 17.98.20(A.10), eating or drinking establishments require 1 parking space per 250 square feet of gross floor area or 1 parking space per 4 fixed seats or stools, plus 1 per 2 employees. In addition, two (2) bicycle parking spaces or 5 percent of the minimum parking spaces (whichever is greater) are required. The updated Site Plan (Exhibit Y, Sheet A1.01) includes an analysis of required parking for the Paola's Pizza Barn (Tax Lot 1000). The analysis states that the existing restaurant building is 4,421 square feet and that there will be 10 employees on the largest shift, which requires a total of 23 parking spaces and two (2) bicycle parking spaces. The proposed parking area redesign includes a total of 38 parking spaces, 33 to the rear of the building and 5 in front of the building. It is not clear from the Site Plan where the two bicycle parking spaces are located. **The applicant shall update the Site Plan to detail the location for the two (2) required bicycle parking spaces on Tax Lot 1000.**

82. Section 17.98.160 contains requirements related to bicycle parking facilities. Per Section 17.98.160(B) each required bicycle parking space shall be at least two and one-half feet by six feet; vertical or upright bicycle storage structures are exempt from the parking space length. An access aisle of at least five feet wide shall be provided and maintained beside or between each row of bicycle parking. The submitted Bicycle Enclosure (Exhibit Y, Sheet A1.04) details the proposed bicycle enclosure with 10 "Inverted U" bike racks separated into two rows with a 5-foot-wide access aisle between the two rows of bike racks. In addition, the Floor Plan – Levels 02-04 (Exhibit Y, Sheets A1.22-24) details a bike storage room with eight (8) bike racks on each of the three residential floors. The covered bicycle area is located at the southwest side of the building and is not visible from the primary building entrance. The original Plan Set (Exhibit C) detailed five (5) additional bike parking spaces near the primary entrance on the north side of the proposed mixed-use building, as labeled on the Preliminary Planting Plan (Exhibit C, Sheet L2.1). However, the updated Plan Set (Exhibit Y) does not detail bicycle parking near the primary entrance.
83. Section 17.98.60 includes standards on parking lot design, size, and access. The Enlarged Site Plan (Exhibit Y, Sheet A1.02) identifies 70 parking spaces on the mixed-use development lot (Tax Lot 902). The Enlarged Site Plan labels 27 of the spaces as "compact" and three (3) as ADA. The three (3) ADA parking spaces are all detailed at 9 feet by 18 feet, and one has a passenger side access aisle in compliance with the code and ORS 447.233. **Signage associated with the ADA parking spaces shall meet the head clearance distance requirement in the Building Code. All approved parking spaces shall be clearly delineated with painted lines and the entrance and exit driveways shall be signed or marked with paint.** Section 17.98.60(B.5) states that no more than 40 percent of the parking stalls shall be compact spaces. As detailed, 27 parking spaces (or 39 percent) are compact in compliance with the code.
84. The Site Plan (Exhibit Y, Sheet A1.01) details 33 reconfigured parking spaces behind the existing Paola's Pizza Barn, and an additional 5 parking spaces in front of the Paola's Pizza Barn, including three (3) ADA parking spaces, two of which have a passenger side aisle. All 38 parking spaces are detailed at 9 feet by 18 feet with 25-foot-wide parking aisles.
85. Section 17.98.60(C) contains standards on parking lot aisle width. All parking lot aisles are proposed to meet or exceed the minimum aisle width standards for one-way and two-way

parking lot aisles. The Site Plan (Exhibit Y, Sheet A1.01) and the Enlarged Site Plan (Exhibit Y, Sheet A1.02) detail all parking lot aisles at 25 or 26 feet wide on both tax lots in compliance with the code.

86. Section 17.98.80(A) requires access from a lower functional order street. Both subject parcels (Tax Lots 902 and 1000) have frontage on Highway 26, with Tax Lot 902 being a flag lot. Neither parcel has access to any other streets. The parcels (Tax Lots 902 and 1000) are proposed to share an access from Highway 26. At the pre-application meeting for the subject application, ODOT provided pre-application meeting comments (Exhibit S) requiring the applicant to either work with the property owner of Tax Lot 900 to establish a crossover easement to one of the reservations located on the frontage of Tax Lot 900, or to relinquish access rights to the engineering stations located on Tax Lot 900 in exchange for establishing access rights at the existing Paola's Pizza Barn access on Tax Lot 1000 (STA 759+40), with a crossover easement between Tax Lot 1000 and 902. At some point between the pre-application meeting and submittal of the land use application, ODOT revised their recommendation to require a shared access between Tax Lots 1000 and 902 but to relocate the access from the existing access at STA 759+40 further east to STA 759+85 such that the new access straddles the shared property line. Relocating the shared access and driveway further east, as proposed, requires removal of at least 13 mature trees, five (5) mature shrubs, and existing groundcover, and brings the proposal out of compliance with the landscape buffer requirement detailed in Sections 17.90.120(F) and 17.90.00(C.2). Staff reached out to ODOT staff for more information regarding the updated access location recommendation and received a response (Exhibit T). ODOT explained that they have been having issues with shared accesses where the access is strictly located on one parcel and the owners of the parcel with the access block the access for the other parcel. ODOT's updated recommendation to relocate the shared access such that the center line of the shared access is on the shared lot line between Tax Lots 1000 and 902 removes the likelihood of one owner blocking another owner's right to access. Staff understands this concern but also recognizes that relocating the access will bring the subject properties out of compliance with Sections 17.90.120(F) and 17.90.00(C.2). Moreover, staff requires that a shared access easement be recorded regardless of whether the existing shared access is maintained or if the shared access is relocated. The location of the shared access and the requirement to comply with the landscape buffer requirement are discussed further in Section 17.90.120(F) of this document. Based on preliminary feedback from the Planning Commission, the applicant updated the proposal to keep the shared driveway at the existing location and to retain the existing landscape buffer along Highway 26 in compliance with the requirements of Section 17.90.120(F) as well as the guiding principles of the Sandy Style. On April 13, 2023, ODOT submitted an email into the record (Exhibit AA) indicating they are not willing to move the driveway to the location as requested by the Planning Commission. Since ODOT is unwilling to move the driveway location the applicant will need to modify the driveway approach once again on the plan set. However, the majority of the driveway alignment may remain as proposed in Exhibit Y. **The applicant shall revise the plan set to align the access at STA 759+85 as required by ODOT. The applicant shall update the Preliminary Planting Plan to detail native species or water-efficient species acclimated to the Willamette Valley, consistent with the conservation benchmarks in the City of Sandy 2016 Water Management and Conservation Plan.**

87. Section 17.98.120 contains landscaping and screening provisions for parking areas. Section 17.98.120(A) requires screening of parking areas containing 4 or more spaces. Section 17.92.80 requires buffering in conjunction with issuance of construction permits for parking areas containing four or more spaces, loading areas, and vehicle maneuvering areas. The proposal includes a parking area associated with the proposed mixed-use development on Tax Lot 902 and modifications to the Paola's Pizza Barn parking areas, driveway, and aisles on Tax Lot 1000. The Enlarged Site Plan (Exhibit Y, Sheet A1.02) and Preliminary Planting Plan (Exhibit Y, Sheet L2.1) detail boundary plantings between the parking areas and adjacent properties as well as plantings between parking bays and vehicle maneuvering areas.

The Enlarged Site Plan details all landscaping buffers on Tax Lot 902 at a minimum of 5-feet in width in compliance with the code. The proposed retaining walls along the north and east property lines will be placed within the landscape buffer area; however, the Enlarged Site Plan details that the minimum 5-foot landscaping area width will still be met. The Preliminary Planting Plan (Exhibit Y, Sheet L2.1) details a mix of groundcover and shrubs with one tree proposed along the west parking lot buffer, shrubs with a few trees along the north parking lot buffer, and shrubs along the east parking lot buffer. **The applicant shall update the Preliminary Planting Plan to detail a mix of low-lying ground cover and shrubs and vertical shrubs and trees in the west, north, and east parking lot landscaping buffers on Tax Lot 902.** The Site Plan (Exhibit Y, Sheet A1.01) and the Preliminary Planting Plan (Exhibit Y, Sheet L2.1) detail a landscaping buffer along the west side of the newly configured parking area behind the Paola's Pizza Barn on Tax Lot 1000 at 2-feet in width that is proposed to be planted with a single groundcover (kinnikinick). **The applicant shall update the Plan Set to detail a minimum 5-foot-wide (interior dimension) landscape planter with a mix of low-lying ground cover and shrubs, and vertical shrubs and trees between the proposed westernmost parking row on Tax Lot 1000 and the property to the west.**

88. Section 17.98.120(B) requires parking in a commercial district that adjoins a residential district to include a site-obscuring screen that is at least 80 percent opaque when viewed horizontally from between 2 and 8 feet above the average ground level. Although there are residences to the north and south of the proposed mixed-use development, all adjacent properties are zoned General Commercial, C-2, so this standard is not applicable.

89. Section 17.98.120(C) requires parking facilities to include at least 10 percent landscaping. The Enlarged Site Plan (Exhibit Y, Sheet A1.02) includes a landscaping analysis for the parking area on Tax Lot 902. Based on the analysis, the parking area is 26,680 square feet, which requires 2,668 of landscaping. The proposed parking lot landscaping on Tax Lot 902 is 3,870 square feet in compliance with the standard. The Site Plan (Exhibit Y, Sheet A1.01) includes the parking lot landscaping analysis for Tax Lot 1000. Based on the combined square footage of the parking areas in front of and to the rear of the Paola's Pizza Barn, 1,739 square feet of parking lot landscaping is required. As noted on Sheet A1.01, the applicant is providing 2,131 square feet of parking lot landscaping on Tax Lot 1000 in compliance with the standard.

90. Section 17.98.120(D) restricts parking bays to no more than 20 spaces and requires landscape planters at the ends of each parking bay that have a minimum width of five feet and a

minimum length of 17 feet for a single depth bay and 34 feet for a double bay. Each planter shall contain one major structural tree and ground cover. The Preliminary Planting Plan (Exhibit Y, Sheet L2.1) details planter bays at the ends of all the parking bays that are at least five feet in width by 17 feet in length or five feet in width and 34 feet in length for a double bay. All of the planters are detailed to contain one major structural tree and ground cover, with the exception of the planter to the south of the easternmost parking row on Tax Lot 902, which does not contain a tree. **The applicant shall update the Preliminary Planting Plan to detail one major structural tree in the landscape area south of the easternmost parking row on Tax Lot 902.**

91. Section 17.98.120(E) states that parking area setbacks shall be landscaped with major trees, shrubs, and ground cover. Section 17.92.80 requires parking area buffers to contain a balance of low-lying ground cover and shrubs, and vertical shrubs and trees. As discussed in findings above, **the applicant shall update the Preliminary Planting Plan to detail a mix of low-lying ground cover and shrubs and vertical shrubs and trees in the west, north, and east parking lot landscaping buffers on Tax Lot 902. The applicant shall update the Preliminary Planting Plan Set to detail a minimum 5-foot-wide (interior dimension) landscape planter with a mix of low-lying ground cover and shrubs, and vertical shrubs and trees between the proposed westernmost parking row on Tax Lot 1000 and the property to the west.**
92. Section 17.98.120(F) requires wheel stops or other methods to protect landscaped areas and pedestrian walkways. The Preliminary Planting Plan (Exhibit Y, Sheet L2.1) and the Site Plan (Exhibit Y, Sheet A1.01) detail wheel stops in all of the proposed parking spaces on Tax Lots 902 and 1000.
93. Section 17.98.130 requires that all parking and vehicular maneuvering areas shall be paved with asphalt or concrete. As required by Section 17.98.130, **all parking, driveway, and maneuvering areas shall be constructed of asphalt, concrete, or other approved material.**
94. Section 17.98.140 requires parking areas, aisles, and turnarounds to provide adequate provisions for on-site collection of stormwater to eliminate sheet flow onto sidewalks, public rights-of-way, and abutting private property. **The applicant shall comply with the requirements of Section 13.18 of the Sandy Municipal Code.**
95. Section 17.98.150 requires lighting to be provided in all required off-street parking areas. The applicant submitted a lighting fixture schedule for new site lighting, and a photometric plan. These submittals are reviewed in Chapter 15.30 of this document.
96. Section 17.98.190 contains minimum standards for off-street loading facilities for commercial and industrial developments and states that all commercial and industrial uses that anticipate loading and unloading of products/materials shall provide an off-street area for loading/unloading of products/materials. The proposal includes self-service storage on the ground floor, which is expected to require loading and unloading of products/materials. The Enlarged Site Plan (Exhibit Y, Sheet A1.02) details a 10 foot by 35 foot loading area with an unobstructed height clearance of 14 feet near the east entrance of the mixed-use building in

compliance with the code. The plan does not specify how the loading area will be delineated. **The loading area shall be delineated either by striping or use of a different material. The loading area shall be screened from public view from public streets and from adjacent properties.**

UTILITIES – Chapters 17.84 and 15.30

97. Section 17.84.60 outlines the requirements of public facility extensions. The applicant submitted an Entry Utility Plan (Exhibit C, Sheet 4) and a Site Utility Plan (Exhibit C, Sheet 5) that show the location of proposed water, sanitary sewer, and stormwater drainage facilities for Tax Lots 902 and 1000.
98. The applicant's original Plan Set (Exhibit C) detailed the proposed building encroaching into the sanitary sewer line easement area that runs along the southern portion of the flag portion of the lot. The Assistant Public Works Director (Exhibit Q) reviewed the proposal and noted the encroachment. Section 17.84.90(A.2) requires the easement to be a minimum of 15 feet wide. The space between the building and the property line as originally proposed was only 10 feet wide. The building's second story is also cantilevered, which encroached even further into the existing area that needs to be maintained for future access to the sewer line. Lastly, the Assistant Public Works Director noted that grades are difficult to determine since they do not show the depth of the sewer, but the building is six or seven feet below native ground adjacent to the sewer on the south side of the building. The updated Plan Set (Exhibit Y) details the proposed building (including the cantilever) set back at least 15 feet such that it is no longer encroaching into the existing utility. **The applicant shall record a 15-foot-wide sanitary sewer easement where the existing sewer line runs along the south property line of the flag portion of Tax Lot 902 or submit documentation of the existing recorded easement.**
99. Broadband vault/conduit infrastructure are required for all new developments. **The applicant shall provide SandyNet with a set of PGE utility and street/sidewalk lighting plans to design and return a SandyNet broadband deployment plan to overlay in the dry utility shared trench. SandyNet will provide requirements for layout and acceptable materials for the developer/contractor. SandyNet shall be contacted after installation of infrastructure and coordinated for onsite inspection before backfilling the common trench. Plans for SandyNet design shall be sent to Greg Brewster gbrewster@ci.sandy.or.us, 503-953-4604. The onsite contact for general questions and inspections will be Ron Yow, ryow@ci.sandy.or.us, 541-514-9771.**
100. Franchise utilities will be provided as required in Section 17.84.80. The location of these utilities shall be identified with building permit plans and installed or guaranteed prior to the mixed-use building site receiving a certificate of occupancy. **All franchise utilities shall be installed underground. The developer shall make all necessary arrangements with franchise utility providers.**
101. Eight-foot-wide public utility easements (PUE) are required along all property lines abutting a public right-of-way. Both properties (Tax Lots 902 and 1000) contain frontage on Highway 26. **The applicant shall record an eight-foot-wide public utility easement along the entirety of the Highway 26 right-of-way of Tax Lots 902 and 1000.**
102. Section 17.84.100 outlines the requirements for mail delivery facilities. The Enlarged Site Plan (Exhibit Y, Sheets A1.02) details mailboxes located just east of the primary entryway on the north elevation. **The location and type of mail delivery facilities shall be**

coordinated with the City Engineer and the Post Office as part of the construction plan process.

103. The Fire Marshal (Exhibit N) reviewed the proposal and provided general comments as well as comments related to fire apparatus access and firefighting water supplies. **The applicant shall comply with all applicable Oregon Fire Code requirements.** When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the fire code official. **The applicant shall adhere to all Fire Marshal requirements in Exhibit N, including but not limited to the following:**
- A. **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 concurrently with building permit submittal. All construction activities shall comply with the applicable Oregon Fire Code and the Fire Code Application Guide.**
 - B. **The owner or owner's authorized agent shall be responsible for the development, implementation and maintenance of a written plan establishing a fire prevention program at the project site applicable throughout all phases of the construction. The plan shall address the requirements found in OFC Chapter 33 and shall be made available for review by the fire code official upon request.**
 - C. **Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except where approved alternative methods of protection are provided.**
 - D. **Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property, including monument signs.**
 - E. **A key lock box for building will be required to provide access to common use areas, the fire alarm control panel(s), and the fire sprinkler riser room(s). The Fire District uses KNOX brand boxes. To order a KNOX box keyed for the Sandy Fire District, please visit Sandy Fire's website (<https://www.knoxbox.com/Products> for ordering information.**
 - F. **Knox Box Contents. When more than one key is secured in the Knox Box, each key shall be legibly identified as to its use, utilizing a round key tag that is a minimum of 1-inch in diameter. Necessary keys provided by the building owner or business owner may include: a) Main entrance door, b) Fire Alarm Control Panel, c) Alarm codes, d) Manual pull stations, e) Fire Sprinkler Control padlock/s, f) Mechanical rooms, g) Elevator control, h) Attic or roof access, and i) Any other keys necessary to access building controls.**
 - G. **An emergency vehicle access and maintenance agreement shall be deeded and recorded as a condition of approval.**
 - H. **New buildings four or more stories above grade plane, except those with a roof slope greater than four units vertical in 12 units horizontal (33.3% slope), shall be provided with a stairway to the roof.**
 - I. **Commercial buildings exceeding three stories or 30 feet in height shall have not fewer than two means of fire apparatus access for each building.**

- J. **A minimum of one on-site fire hydrant shall be provided near the proposed mixed-use development for firefighting operations. If distances between fire hydrants exceeds 500 feet, additional on-site fire hydrants may be required along the fire apparatus access road.**
 - K. **Fire department connections (FDC) are required to be remote and shall be located within 100 feet of a public fire hydrant. All FDC's shall be permanently labeled with appropriate address in which it serves and shall be accessible and visible from the fire apparatus access road.**
 - L. **Each new fire hydrant installed shall be ordered in an OSHA safety red finish and have a 4-inch non-threaded metal faced hydrant connection with cap installed on the steamer port (4 ½-inch NST x 4-inch Storz Adaptor). If a new building, structure, or dwelling is already served by an existing hydrant, the existing hydrant shall also be OSHA safety red and have a 4-inch non-threaded metal faced hydrant connection with cap installed.**
104. The applicant submitted a preliminary stormwater report (Exhibit F). **All site runoff shall be detained such that post-development runoff does not exceed the predevelopment runoff rate for the 2, 5, 10 and 25 year storm events. Stormwater quality treatment shall be provided for all site drainage per the standards in the City of Portland Stormwater Management Manual (COP SWMM).** With the additional submission items since the hearing on February 27, 2023, the applicant did not address the majority of the concerns raised by Dennis Petross (Exhibits V and Z). **The applicant shall submit additional information from an engineer providing a guarantee that the proposed retaining walls will not cause unintended stormwater drainage to properties to the north and east of the subject site.**
105. The proposal includes an offsite stormwater conveyance line as detailed on the Stormwater Extension Plan (Exhibit C, Sheet 6) that extends through three properties to the north before connecting to an existing storm line connection into a ditch inlet in Meeker Street. Per the Assistant Public Works Director (Exhibit Q), **the applicant shall confirm that the storm system shown is private until it outfalls to the ditch inlet. New storm lines shall require an easement through any applicable property. The applicant shall record all necessary easements for offsite utilities.** Based on the proposed location of the stormwater conveyance line, it appears that a number of existing trees on the properties to the north may be negatively affected. **The applicant shall submit additional information from the project arborist or third-party arborist regarding the proposed stormwater conveyance line extension that evaluates impacts on offsite trees and outlines strategies to minimize negative impacts to existing trees. The applicant shall retain the project arborist or third-party arborist on site during extension of the storm line within the critical root zone of 1-foot per 1-inch DBH of the offsite trees. If any of the offsite trees need to be removed, the applicant and subject property owner shall submit a tree removal application in accordance with Chapter 17.102.**
106. Chapter 15.30 contains the City of Sandy's Dark Sky Ordinance. The applicant submitted a Site Lighting Plan (Exhibit D, Sheet E0.00), Photometric Plan (Exhibit D, Sheet E0.01), and a lighting fixture cut sheet (Exhibit E) for a D-Series Size 0 LED Area Luminaire by Lithonia Lighting. The Site Lighting Plan details four (4) single-headed lights and five (5)

double-headed lights and specifies that the lights will be 3,000 Kelvins in compliance with the code. **Downward facing, full cut-off lighting shall be required. Lights shall not exceed 4,125 Kelvins or 591 nanometers to minimize negative impacts on wildlife and human health.**

107. Section 15.30.060(D) states that all outdoor lighting systems shall be designed and operated so that the area ten feet beyond the property line of the premises receives no more than one-quarter of a foot-candle of light from the premises lighting system. The submitted Photometric Plan (Exhibit D, Sheet E0.01) details foot candles extending 10 feet beyond the property lines. Light trespass onto adjacent properties is detailed to exceed the 0.25 foot-candle maximum on the property east of the flagpole (Tax Lot 900) as well as the property east of the flag portion of Tax Lot 902 (Tax Lot 600). In addition, the applicant is required to provide lighting along the proposed path south of the mixed-use building, which will need to be analyzed for light trespass. **The applicant shall update the Photometric Plan such that the area ten feet beyond the property line of the subject properties receives no more than one-quarter of a foot-candle of light from the development's lighting system.**

URBAN FORESTRY – 17.102

108. In addition to the landscaping requirements of Chapter 17.92, Chapter 17.102 contains Urban Forestry regulations. An Arborist Report prepared by Caleb Lattimer of Teragan & Associates and dated September 22, 2022, is included as Exhibit H. The arborist inventoried all trees 2-inches and greater diameter at breast height (DBH) on the subject property as well as trees on the adjacent properties that may be impacted by development on the subject property. The inventory of existing trees is also included in the Plan Set (Existing Tree Inventory; Exhibit Y, Sheet L1.01), though the one included in the Arborist Report is more accurate and comprehensive in terms of existing trees and species identification. However, the arborist report was based on an outdated version of the site plan. Based on preliminary feedback from the Planning Commission, the applicant updated the proposal to keep the shared driveway at the existing location and to retain the existing landscape buffer along Highway 26 in compliance with the requirements of Section 17.90.120(F) as well as the guiding principles of the Sandy Style. On April 13, 2023, ODOT submitted an email into the record (Exhibit AA) indicating they are not willing to move the driveway to the location as requested by the Planning Commission. Since ODOT is unwilling to move the driveway location the applicant will need to modify the driveway approach once again on the plan set. However, the majority of the driveway alignment may remain as proposed in Exhibit Y. The arborist report also shows a number of trees in the southeast corner of Tax Lot 902 marked for removal (with an X) that are marked as being retained in the inventory and in the Plan Set. In addition, the only trees detailed in the arborist report on Tax Lot 1000 are those located within the existing landscape buffer in the southeast corner of Tax Lot 1000. It appears that there may be a couple additional trees on Tax Lot 1000 located in the southwest corner in front of the existing building. **The applicant shall update the Tree Retention Plan in the Arborist Report to reflect the updated site plan and the driveway location at Station 759+85 as required by ODOT.**
109. The applicant's Arborist Report was reviewed by a third-party arborist reviewer. The third-party review was conducted by Todd Prager of Todd Prager & Associates, LLC and is dated January 19, 2023 (Exhibit R). The third-party review noted the outdated site plan used in the applicant's arborist report and states: "The main differences appear to be on the east side of the site adjacent to trees 28 through 30. The site plan changes should be reviewed by the project arborist to ensure the trees will be adequately protected. Particular attention should be paid to the location of the proposed retaining wall adjacent to trees 31 and 32 (see sheet 3 in Attachment 2) and the proposed grading that potentially conflicts with the root zones of trees 28 and 29 (see sheet 7 in Attachment 2)." **The project arborist shall review the site plan changes on the east side of Tax Lot 902 and shall ensure the trees marked for retention will be adequately protected. Particular attention shall be paid to the location of the proposed retaining wall adjacent to Trees #31 and 32 (see sheet 3 in Attachment 2 of the third-party arborist review (Exhibit R)) and the proposed grading that potentially conflicts with the root zones of Trees #28 and 29 (see sheet 7 in Attachment 2 of the third-party arborist review (Exhibit R)).**
110. Section 17.102.50(A) contains tree retention requirements and requires retention of at least three (3) trees per acre. Retention trees are required to be 11-inches DBH or greater, healthy, likely to live to maturity, and be located to minimize the potential for blow-down.

Based on the acreage of the subject properties, a minimum of seven (7) retention trees are required. The applicant's original proposal included retention of one (1) tree on the subject properties. The tree proposed for retention is a 28-inch DBH bigleaf maple (Tree #28) determined to be in good condition and fair structure, with multiple stems at the base and deadwood in the crown. Tree #28 is located along the east property line at the southeast corner of Tax Lot 902. Based on feedback from the Planning Commission, the applicant updated the plan set (Exhibit Y) to keep the existing shared driveway location and retain the existing trees in the flagpole portion of Tax Lot 902 and the landscape buffer along Highway 26. The updated Existing Tree Inventory (Exhibit Y, Sheet L1.1), details retention of four (4) trees that meet the retention criteria of Section 17.102.50(A). These are Trees # 4, 5, 11, and 28. However, on April 13, 2023, ODOT submitted an email into the record (Exhibit AA) indicating they are not willing to move the driveway to the location as requested by the Planning Commission. Since ODOT is unwilling to move the driveway location the applicant will need to modify the driveway approach once again on the plan set and the applicant will no longer be able to retain Trees 4, 5, and 11. Because the proposal does not meet the minimum tree retention requirement of seven (7) retention trees, the applicant is requesting a variance to the tree retention requirement pursuant to Section 17.102.70.

111. Section 17.102.70 outlines the process for a variance to the minimum tree retention standard. Under a Type III review process, the Planning Commission may allow newly-planted trees to substitute for retained trees if the substitution is at a ratio of at least two-to-one (i.e., at least two native quality nursery grown trees will be planted for every protected tree that is removed) and the substitution more nearly meets the intent of this chapter due to the location of the existing and proposed new trees, or the physical condition of the existing trees or their compatibility with the existing soil and climate conditions, or an undue hardship is caused by the requirement for retention of existing trees, or tree removal is necessary to protect a scenic view corridor. Neither the applicant's arborist report (Exhibit H) nor the narrative (Exhibit B) addressed Section 17.102.70 or specified why the tree retention variance was being requested. The third-party arborist review (Exhibit R) reviewed the applicant's original proposal as well as the code requirements and determined there are six (6) potential retention trees that meet the criteria of Section 17.102.50(A). The six (6) potential retention trees are:

- Tree #4 (a 12-inch DBH Colorado blue spruce in good condition)
- Tree #5 (an 11-inch DBH western redcedar in good condition)
- Tree #11 (a 15-inch DBH Norway spruce in good condition)
- Tree #28 (a 28-inch DBH bigleaf maple in good condition)
- Tree #33 (a 24-inch DBH Douglas fir in good condition)
- Tree #34 (a 24-inch DBH Douglas fir in good condition).

These six (6) retention tree candidates are highlighted in yellow on Attachment 1 and 2 of the third-party arborist review (Exhibit R). The third-party arborist report states: "Of these trees, tree 28 is proposed for retention while the remaining trees will be removed. Trees 33 and 34 do not appear practicable to retain based on their locations towards the center of the site within the proposed parking lot. However, trees 4, 5, and 11 may be possible to retain

if the site access could be reconfigured. It should be clarified whether the driveway reconfiguration is an ODOT requirement, or a recommendation. Based on this clarification, a determination can be made as to whether up to four retention trees could be retained, or if only one retention tree can be retained. The balance of required retention trees could be mitigated if a variance is approved by the Planning Commission according to Sec. 17.102.70.” The applicant is not proposing to retain Tree #33 or Tree #34. Trees #33 and 34 are located towards the center of the site within the proposed parking lot and do not make sense to retain based on their location.

112. In addition to the six (6) trees that meet the retention standards of being 11-inches DBH or greater and in good condition, there are a few additional trees that are either in good condition but less than 11-inches DBH, or 11-inches DBH or greater but in fair condition. In the past, the Planning Commission has allowed trees slightly smaller than 11-inches DBH in good condition to count as retention trees and has allowed 11-inch or greater trees in fair condition to count as retention trees at a 2:1 ratio (two trees in fair condition count as one retention tree). There are a few existing trees on the subject properties that could be potential retention trees based on these criteria; these are:

- Tree #4.1 (a 10-inch DBH Colorado blue spruce in good condition)
- Tree #7 (a 10-inch DBH windmill palm in good condition)
- Tree #10 (a 16-inch sugar maple in fair condition)
- Tree #35 (a 12-inch DBH bigleaf maple in fair condition).

Three (3) of the four (4) trees (Trees #4.1, 7, and 10) are located near the southeast corner of the subject properties in the existing landscape buffer along Highway 26 and could potentially be retained if the shared driveway is kept in its existing location, however, ODOT will not allow the driveway approach to remain in its existing location, therefore, Trees #4.1, 7, and 10 will not be able to be retained. The fourth tree (Tree #35) is located towards the center of the site within the proposed parking lot and does not make sense to retain for the same reasons as Trees #33 and 34, discussed above.

113. With the driveway being located at Station 759+85 as required by ODOT, the applicant is proposing to retain one (1) tree on the subject properties: Tree #28. The third-party arborist review evaluated whether Tree #28 can be adequately protected from construction impacts, taking into account the area of root zone impacts by the proposed construction, grading, and retaining wall in the root zone of the tree. As identified in the third-party arborist review (Exhibit R): “The currently proposed impacts include grading within four feet of the tree’s trunk and disturbance of approximately 40 percent of its root zone. This well exceeds the City’s typical minimum tree protection zone in Figure 1 and will likely not provide adequate protection for tree 28. The applicant should explore whether it is possible to construct a retaining wall as shown in the example markup on sheet L2.1 in Attachment 2 to limit root zone disturbance to less than 25 percent and limit grade changes and any construction to at least 14 feet from tree 28. If this is possible, the tree could be adequately protected.” Thus, based on the applicant’s proposal and the third-party arborist review, only one (1) retention tree is proposed (Tree #28); however, adequate protection of Tree #28 would require additional protection measures to limit root zone disturbance such that the

tree is likely to grow to maturity as required of a retention tree per Section 17.102.50(A.3). **The applicant shall update the arborist report to include a determination of whether it is possible to construct a retaining wall near Tree #28 to limit critical root zone disturbance to less than 25 percent and limit grade changes and any construction to at least 14 feet from Tree #28 (see the example markup on sheet L2.1 in Attachment 2 of the third-party arborist review). If adequate protection of Tree #28 is possible, staff recommends the Planning Commission require retention of Tree #28 and count it as a retention tree.**

In addition to the proposed retention tree (Tree # 28), there are five (5) other trees that meet the tree retention requirements (Trees #4, 5, 11, 33, and 34) as well as four (4) additional trees that are close to meeting the retention requirements and could be potential candidates (Trees #4.1, 7, 10, and 35). Of these nine (9) additional retention tree candidates, three (3) trees (Trees #33, 34, and 35) are located towards the center of the site within the proposed parking lot and do not make sense to retain based on their location. Staff finds that these three (3) trees (Trees #33, 34, and 35) meet variance criteria 17.102.70(B.1). The remaining six (6) trees (Trees #4, 4.1, 5, 7, 10, and 11) are all located in the existing required landscape buffer along Highway 26 in the southeast corner of the subject properties. The applicant is proposing to remove all of these existing trees (as well as others that don't meet the retention standards) in order to accommodate relocation of the shared access driveway per ODOT's requirement in Exhibit AA. Removal of these trees meets tree variance Criteria B.1 (in Section 17.102.70) due to ODOT's requirement to relocate the shared access driveway to Station 759+85 (shared lot line). Staff would prefer to see existing healthy trees retained rather than plant mitigation trees due to the low survival rate and continued code enforcement issues that mitigation trees have historically resulted in. Staff understands ODOT's concerns and desire to relocate the shared access driveway, but staff is also required to uphold the requirements of the Development Code, including the following:

- The landscape buffer requirement outlined in Section 17.90.120(F)
- The Sandy Style guiding principle to protect the landscape buffer along Highway 26 in Section 17.90.00(C.2)
- Excessive tree removal and/or grading that may harm existing vegetation within a designated landscape conservation area is explicitly listed as an element incompatible with Sandy Style in Section 17.90.00(D.1)
- The minimum tree retention standards in Section 17.102.50(A)
- The tree protection standards in Section 17.92.10(C)

As discussed in Section 17.90.120(F) of this document, the applicant will be required to relocate the required landscape buffer to allow the shared access driveway to be located on the shared property line at Station 759+85 as required by ODOT.

Based on ODOT's requirement to have the access located at Station 759+85, Tree #28 is the only potential retention tree. **Based on ODOT's requirement to locate the driveway at Station 759+85 (shared lot line), the Planning Commission granted a variance to the minimum tree retention standards. The Planning Commission requires that all**

new landscaping on the property be native species or water-efficient species acclimated to the Willamette Valley (see the Water-Efficient Plants for the Willamette Valley booklet). The applicant shall update the Preliminary Planting Plan to detail native species or water-efficient plants acclimated to the Willamette Valley, consistent with the conservation benchmarks in the City of Sandy 2016 Water Management and Conservation Plan.

114. **With regards to Tree #28, the applicant shall explore whether it is possible to construct a retaining wall near Tree #28 to limit root zone disturbance to less than 25 percent and limit grade changes and any construction to at least 14 feet from Tree #28 (see the example markup on sheet L2.1 in Attachment 2 of the third-party arborist review). If this is possible, Tree #28 could be adequately protected and counted as a retention tree. If this is not possible, the applicant shall mitigate for Tree #28 by planting two (2) mitigation trees on the subject properties. The applicant shall mitigate for Trees #4, 4.1, 5, 7, 10, and 11 at a minimum 2:1 ratio. This will require planting (or paying a fee in lieu of mitigation for) of 12 mitigation trees. The required landscape buffer along Highway 26 will need to be relocated and planted per Section 17.90.120(F). As discussed in Section 17.90.120(F) of this document, this will include planting nine (9) trees within the relocated landscape buffer.**
115. This finding analyzes the need for mitigation trees. Based on whether or not Tree #28 can be adequately protected and retained, the applicant will need to mitigate for required retention trees, which could result in up to 14 required mitigation trees. These mitigation trees will need to be planted on the subject properties and located such that they can grow to maturity. If there is insufficient space to plant the required number of mitigation trees, the City may require a fee-in-lieu of mitigation tree for one or more required mitigation trees at \$500 per tree.

As required by Section 17.102.70(A), mitigation trees are required to be native species, and are typically planted “like for like.” Five of the six retention tree candidates are evergreen conifers (2 Colorado blue spruce, 2 Doug firs, and a Norway spruce) and the sixth is a large native deciduous tree (a bigleaf maple). Of the four (4) potential retention candidates, one is an evergreen conifer, one is an evergreen palm, and two are large deciduous trees. Thus, a minimum of 10-12 of the mitigation trees would need to be large native evergreen trees, such as Alaska yellow cedar, incense cedar, Douglas fir, or western hemlock, and the remaining 2-4 mitigation trees would need to be large native deciduous trees, such as bigleaf maple or red alder. Staff analyzed the proposed development on both subject properties and determined there is insufficient space on Tax Lot 902 to plant mitigation trees. The only non-developed area on Tax Lot 1000 that could accommodate mitigation trees is the northern portion of the site, north of the proposed parking lot. While there appears to be sufficient space to accommodate planting some mitigation trees, there is also a stormwater conveyance line that is proposed to enter the northern portion of Tax Lot 1000 from the east and then turn north, continuing through the northern portion of Tax Lot 1000 and exiting at the north property line. **The applicant shall submit analysis from the project arborist or third-party arborist evaluating the mitigation tree planting potential for the northern portion of Tax Lot 1000, including potential impacts from the stormwater conveyance line as well as a determination of how many large**

evergreen mitigation trees the area can accommodate based on sufficient soil volume and planting space. If the applicant is unable to provide sufficient soil volume and planting space for the necessary number of mitigation trees, the applicant shall pay a fee-in-lieu of mitigation tree at \$500 per tree for the number of mitigation trees the site cannot support.

All proposed mitigation trees will need to be kept alive and healthy. To help maximize the health and survival of the mitigation trees in the future, **the applicant shall adhere to the following conditions:**

- **The applicant shall aerate and amend the soil prior to planting the mitigation trees and shall submit documentation from the project landscaper stating that the soil has been amended and aerated prior to planting the mitigation trees.**
- **The applicant shall not anchor anything to the mitigation trees, compact the soil under the dripline, or otherwise harm or damage the mitigation trees.**
- **The mitigation trees shall be a minimum of 5 feet in height at time of planting and planted per the City of Sandy standard planting detail. All ties and burlap shall be removed from the root ball prior to planting. If the burlap cannot be completely removed from the root ball without compromising the integrity of the root ball, the burlap shall be removed from at least the top one third of the side of the root ball. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stake and the twine shall be removed after the first growing season but no later than one year from being planted.**
- **The mitigation trees shall be adequately watered for at least the first three dry seasons (summers). To help ensure proper watering, the applicant shall install an irrigation system, such as drip-line irrigation.**

116. There are also multiple existing trees on the adjacent properties to the south (Tax Lot 900) and east (Tax Lots 500 and 600) of Tax Lot 902 that will be retained; however, due to their proximity to the shared property line with Tax Lot 902, development of Tax Lot 902 will impact the root systems of these trees. Negative impacts to these existing trees on adjacent properties should be minimized to the greatest extent practicable. The third-party arborist report (Exhibit R) identifies 21 trees on adjacent properties that are proposed to be retained and protected with development (highlighted in green on Attachment 1 and 2 of the third-party review). The third-party arborist reviewed the impact of the applicant's original proposal and proposed construction adjacent to these with the trees' critical root zones (1 foot per 1-inch DBH) and minimum root protection zones (0.5 feet per 1-inch DBH) as detailed in Figure 1 of the third-party review and determined that there are 12 trees on neighboring properties that will not be able to meet the minimum trees protection zone requirements as detailed in Figure 1. The third-party review outlined recommendations to protect the neighboring trees in addition to the protection measures outlined in the applicant's arborist report; however, based on the applicant's updated site layout, some of the third-party arborist's recommendations are no longer relevant.

- **Tree 15:** Consider locating utilities under the sidewalk or driveway so they are further from the tree. **The applicant shall update the Utility Plan to locate utilities under the sidewalk or driveway so they are further from Tree #15.**
- **Trees 21, 23, 24, 25, and 26:** Trees 21, 24, 25, and 26 are nuisance species (sweet cherry, *Prunus avium*). Consider discussing removal with the tree owner rather than protecting this low value species.
- **Trees 29, 31, and 32:** These trees have the greatest potential to be impacted based on the sizes of the root zones and proximity of grading or retaining walls. Consider whether a retaining wall could be used to prevent grading within the typical minimum construction setback radius of tree 29. For trees 31 and 32, consider removing the parking space closest to the tree and shifting the retaining wall to the edge of the parking lot and driveway access to avoid the typical minimum construction setback radii of the trees. **The applicant shall consider whether a retaining wall could be used to prevent grading within the typical minimum construction setback radius of Tree #29. For Trees #31 and 32, the applicant shall consider removing the parking space closest to the tree and shifting the retaining wall to the edge of the parking lot and driveway access to avoid the typical minimum construction setback radii of the trees.**

117. The Arborist Report (Exhibit H) provides recommendations for protection of retained trees including identification of the recommended tree protection zone for these trees as detailed on page 9 of the report. However, as previously stated, the arborist report is based on an outdated site plan. The third-party arborist review (Exhibit R) reviewed the proposed tree protection fencing plan and added the critical root zone and minimum root protection zones to the page 9 plan used in the applicant's arborist report as well as to the updated site plan in Attachment 2 of the third-party report. **The applicant shall update the proposed tree protection fencing plan on page 9 of the arborist report to reflect the updated site plan. The updated tree protection plan shall address the third-party recommendation for a retaining wall to protect Tree #28 and shall detail the tree fencing such that no more than 25 percent of the critical root zone of Tree #28 is impacted with no encroachment into the minimum root zone, or, if this is not feasible and Tree #28 cannot be adequately protected, Tree #28 shall not count as a retention tree. The applicant shall install tree protection fencing as detailed on the updated tree protection fencing plan. Tree protection shall comply with the following requirements:**

- **The tree fencing shall be installed prior to any development activity on the site, including earthwork, tree removal, and erosion control measures, in order to protect the trees and the soil around the trees from disturbance.**
- **Erosion control fencing shall be installed outside of the tree protection area fencing. If erosion control is required inside the tree protection zones, use straw wattles to minimize root zone disturbance of the trees to be retained.**
- **The applicant shall not relocate or remove the tree protection fencing prior to the certificate of occupancy.**

- The tree protection fencing shall be 6-foot-tall chain link or no-jump horse fencing supported with metal posts placed no farther than 10 feet apart installed flush with the initial undisturbed grade.
- The applicant shall affix laminated signs (minimum 8.5 inches by 11 inches, placed every 75 feet or less) to the tree protection fencing with the following information as recommended by the project arborist:

TREE PROTECTION ZONE, DO NOT REMOVE OR ADJUST THE APPROVED LOCATION OF THIS TREE PROTECTION FENCING, Please contact the City's Planning Division and the project arborist if alterations to the approved location of the tree protection fencing are necessary. Planning Division – planning@cityofsandy.com. [Name], Project Arborist – [Phone Number/contact].

- No construction activity shall occur within the tree protection zone, including, but not limited to, grading, clearing, excavation, access, stockpiling, or dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles.
 - The applicant shall request an inspection of tree protection measures with City staff and the project arborist prior to any tree removal, grading, or other construction activity on the site.
 - Up to 25 percent of the area between the minimum root protection zone of 0.5 feet per 1-inch DBH and the critical root zone of 1 foot per 1-inch DBH may be able to be impacted without compromising the tree, provided the work is monitored by a qualified arborist.
 - The applicant shall retain an arborist on site to monitor any construction activity within the critical root protection zones of the retention trees or trees on adjacent properties that have critical root protection zones that would be impacted by development activity on the subject property.
 - Prior to receiving a certificate of occupancy, the applicant shall submit a post-construction arborist report prepared by the project arborist or other TRAQ certified arborist to assess whether any of the retention trees were damaged during construction. If retention trees were damaged and need to be replaced, the mitigation ratio shall be 4:1 achieved through planting mitigation trees and/or paying a fee in lieu of mitigation tree as determined by staff.
118. The applicant did not provide specific information regarding how the trees proposed for removal with this application would be felled. **The applicant shall have the trees felled such that they do not negatively impact existing trees that will remain either on the subject properties or the adjacent properties. Tree removal shall be completed without the use of vehicles or heavy equipment in the tree protection zone. Removal of any trees from within the critical root zones of protected retention trees or existing trees on adjacent properties shall be completed under the supervision of the project arborist and the applicant shall fell the trees to be removed away from the trees to be**

retained so they do not contact or otherwise damage the trunks or branches of the trees to be retained.

119. The applicant did not indicate if there are nests in the trees proposed for removal. **If the trees are removed during prime bird nesting season (February 1- July 31), the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant shall delay tree removal until after the nesting season or shall hire a professional to relocate the nests to an appropriate nearby location, provided the species using the nest is not invasive.**
120. The applicant's submitted Arborist Report (Exhibit H) and the third-party arborist review (Exhibit R) include recommendations for additional protection measures related to tree removal as well as tree protection recommendations for the trees to be retained. **The applicant shall adhere to recommendations contained in the arborist report and third-party arborist review including the following:**
- The project arborist shall be onsite during excavation within the critical root zones of retained Trees # 13.2, 14, 15, 21, 23, 24, 25, 26, 28, 29, 31, and 32.
 - The project arborist shall evaluate and oversee the proper cutting of roots with sharp cutting tools. If many significant roots are encountered during excavation in the zones highlighted in Appendix 5 of the arborist report, an alternative layout for areas requiring excavation should be considered to maintain the health and safety of retained trees. Alternate methods of construction may also be necessary for the preservation of significant roots of retained trees. Other construction methods include but are not limited to bridging over significant roots, constructing sidewalks on top of grade over landscape fabric without excavation, and using post and beam construction instead of conventional footing foundations within the critical root zone.
 - The arborist report (with updates as required) and the third-party arborist review shall be shared in their entirety to the project team, including contractors performing demolition and concrete work.
 - The applicant shall adhere to the tree protection specifications contained in Appendix 3 of the arborist report (pages 4-6) including requirements before construction begins, during construction, and after construction.
121. **To ensure protection of the required retention and mitigation trees, the applicant shall record a tree protection covenant specifying protection of the approved retention and mitigation trees on the subject properties and limiting removal without submittal of an Arborist's Report and City approval. The covenant shall detail the species and locations of the mitigation trees and retention trees as well as the critical root zones of each retention tree at 1 foot per 1-inch DBH. This covenant shall be finalized after the post-construction arborist report.**

LANDSCAPING AND SCREENING – Chapter 17.92

122. Section 17.92.10 contains general provisions for landscaping. As required by Section 17.92.10(C), trees over 25-inches circumference measured at a height of 4.5 feet above grade are considered significant and should be preserved to the greatest extent practicable and integrated into the design of a development. Trees to be retained shall be protected from damage during construction by a construction fence located five feet outside the dripline. A 25-inch circumference tree measured at 4.5 feet above grade has roughly an eight-inch diameter at breast height (DBH). The applicant is proposing to remove a majority of the trees on the site and the proposed development will likely negatively impact existing trees on adjacent properties. Tree retention and protection are discussed in more detail in the Urban Forestry, Chapter 17.102, section of this document.
123. **Per Section 17.92.10(D), planter and boundary areas used for required plantings shall have a minimum diameter of five feet (two and one-half foot radius, inside dimensions). Where the curb or the edge of these areas are used as a tire stop for parking, the planter or boundary plantings shall be a minimum width of seven and one-half feet.**
124. Per Section 17.92.10(L), **all landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.** Landscaping will be maintained or otherwise enforced by Code Enforcement.
125. Section 17.92.20 contains minimum landscaping area requirements. The subject property is zoned General Commercial, C-2. Section 17.92.20 requires that a minimum of 20 percent of the site be landscaped in the General Commercial (C-2) zoning district. The submitted Enlarged Site Plan (Exhibit Y, Sheet A1.02) details a 24.66percent landscaping area on the mixed-use development site (Tax Lot 902). The applicant did not submit the percent landscaping for the Paola's Pizza Barn lot (Tax Lot 1000). **The applicant shall submit additional information on the percent landscaping on Tax Lot 1000 demonstrating that the 20 percent landscaping minimum is met.**
126. Section 17.92.30 states that planting of trees is required for all parking lots with four or more parking spaces, public street frontages, and along private drives more than 150 feet long. Parking lot trees are required at 1 medium tree per 8 parking spaces, or 1 large tree per 12 parking spaces. The mixed-use development (Tax Lot 902) contains 70 parking spaces, which requires a minimum of 9 medium trees or 6 large trees. The Preliminary Planting Plan (Exhibit Y, Sheet L2.1) details six (6) medium-large trees in the parking area, as well as four (4) small trees (Crape Myrtles). As discussed in Section 17.98.120(D), the applicant is required to plant a major structural tree (medium-large size) south of the easternmost parking area on Tax Lot 902, which will result in a total of seven (7) medium-large trees and four (4) small trees in the parking area of Tax Lot 902. Tax Lot 1000 contains 37 parking spaces, which requires a minimum of 5 medium sized parking lot trees. The Preliminary Planting Plan (Exhibit Y, Sheet L2.1) details planting 4 medium sized parking lot trees in the rear parking area and three (3) medium sized trees in the front parking area on Tax Lot 1000 in compliance with the code. The updated Composite Site Plan (Exhibit Y, Sheet 3) details the proposed frontage improvements along Highway 26,

including the 10 foot wide planter strip with street trees placed approximately 30 feet on center and located in the north 5 feet of the planter strip to minimize conflict with overhead powerlines. The Preliminary Planting Plan (Exhibit Y, Sheet L2.1) does not reflect the updated frontage improvements nor does it detail proposed street trees. **The applicant shall update the Preliminary Planting Plan to detail the required frontage improvements, including street trees, and the planting palette shall indicate the street tree species. If the 10-foot-wide planting strip provides insufficient space to set back the street trees such that they won't grow into the power lines, the applicant shall select short growth species to avoid conflict with overhead utilities.**

127. The applicant is proposing to mass grade the area of the subject properties that will be developed as detailed on the Grading and ESC Plan (Exhibit C, Sheet 7). This will remove topsoil and will heavily compact the existing soil. To maximize the success of the landscaping required to be planted, **the applicant shall aerate and amend the soil within the planting areas on the buildable portion of the site to a depth of 3 feet prior to planting required landscaping. The applicant shall submit a letter from the project landscaper confirming that the soil has been aerated and amended prior to planting required landscaping.**
128. Section 17.92.40 requires that all landscaping shall be irrigated, either with a manual or automatic system. The Preliminary Planting Plan (Exhibit C, Sheet L2.1) states that the irrigation system will be an “automated underground system design build by the landscape contractor.” **The applicant shall submit details on the proposed automatic irrigation system with building plans. Per Section 17.92.10(L), all landscaping shall be continually maintained, including necessary watering, weeding, pruning and replacing.**
129. Section 17.92.50 specifies the types and sizes of plant materials that are required when planting new landscaping. Trees are typically required to be a minimum caliper of 1.5-inches measured 6 inches from grade if deciduous, or 5 feet in height if coniferous. Shrubs are required to be a minimum of one gallon in size or two feet in height when measured immediately after planting. **All trees planted on the site shall be a minimum of 1.5-inches in caliper measured 6 inches above the ground (if deciduous) or 5 feet in height (if coniferous) and shall be planted per the City of Sandy standard planting detail. Trees shall be planted, staked, and bark mulch, vegetation, or other approved material installed prior to occupancy. Tree ties shall be loosely tied twine or other soft material and shall be removed after one growing season (or a maximum of 1 year). All shrubs shall be a minimum of one gallon in size or 2-feet in height when measured immediately after planting.**
130. Section 17.92.50(B) encourages the use of native plant materials or plants acclimatized to the Pacific Northwest where possible. The Preliminary Planting Plan (Exhibit C, Sheet L2.1) includes two native plants. The remaining proposed plants are not native to the Pacific Northwest but are also not nuisance species. **The applicant shall update the Preliminary Planting Plan to detail native species or water-efficient plants acclimated to the Willamette Valley, consistent with the conservation benchmarks in the City of Sandy 2016 Water Management and Conservation Plan.**

131. Section 17.92.60 requires revegetation in all areas that are not landscaped or remain as natural areas. The applicant did not submit any plans for re-vegetation of areas damaged through grading/construction. Most of the areas affected by grading on Tax Lot 902 will be improved; however, the plans show grading on the north section of Tax Lot 1000 to accommodate the storm sewer in a portion of the site that does not contain any proposed development. **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.**
132. Section 17.92.80 requires boundary plantings in parking, loading, and vehicle maneuvering areas to buffer these uses from adjacent properties and the public right-of-way. Parking lot buffer landscaping is discussed in further detail in Section 17.98.120 of this document.
133. Section 17.92.130 contains standards for a performance bond. The applicant has the option to defer the installation of trees and other landscaping for weather-related reasons. Staff recommends the applicant utilize this option rather than planting trees and landscaping during the dry summer months. Consistent with the warranty period in Section 17.92.140, staff recommends a two-year maintenance and warranty period for trees and landscaping. **If the applicant chooses to postpone tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the trees/landscaping, assuring planting within 6 months. The cost of the trees shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.**

PARKLAND AND OPEN SPACE – Chapter 17.86

134. Section 17.86.10 includes minimum parkland dedication requirements and requires residential developments, including multi-family development, to provide parkland to serve the residents of the development. The proposed 42 multi-family units are required to provide 0.571 acres of parkland (42 units x 2 persons/units x 0.0068 per person parkland dedication factor). Per the submitted narrative (Exhibit B), the applicant proposes payment in lieu of land dedication. Section 17.86.10(C) and 17.86.40 pertain to fee in lieu of dedication. Sections 17.86.40(A-C) state that the City shall accept a fee in lieu of dedication if the land area proposed for dedication is not identified in the 2022 Parks and Trails Master Plan proposed park system or proposed trail system and if the level of service standard for mini parks described in the 2022 Parks and Trails Master Plan has been satisfied. The Parks and Recreation Director (Exhibit M) reviewed the application and code criteria and recommends a fee-in-lieu of parkland dedication. The current fee-in-lieu amount is \$869,242.00 per acre. A payment in lieu of land dedication is separate from Park Systems Development Charges (SDCs) and is not eligible for a credit of Park SDCs. **The applicant shall pay a fee in lieu of parkland dedication in the amount of \$496,337.18 (0.571 acres x \$869,242 per acre) or at a reduced rate per the terms of Resolution 2023-12 if the City Council adopts Resolution 2023-12. The fee in lieu of dedication shall be paid at the time of building permit issuance for the mixed-use building.**

EROSION CONTROL – Chapters 15.44 and 8.04

135. A separate Grading and Erosion Control Permit will be required prior to any site grading. **The applicant shall submit a grading and erosion control permit and request an inspection of installed devices prior to any additional grading onsite.**
136. Section 15.44.50 contains requirements for maintenance of a site including re-vegetation of all graded areas. **All erosion control and grading shall comply with Section 15.44 of the Municipal Code. The proposed development is greater than one acre which typically requires approval of a DEQ 1200-C Permit.**
137. **All the work within the public right-of-way and within the paved area should comply with American Public Works Association (APWA) and City requirements as amended.**
138. Recent development has sparked unintended rodent issues in surrounding neighborhoods. Prior to development of the site, **the applicant shall have a licensed pest control agent evaluate the site to determine if rat eradication is needed. The result of the evaluation shall be submitted to staff.**
139. The Assistant Public Works Director (Exhibit Q) reviewed the proposal and noted that it appears that the construction entrance is called out with a wash station on Sheet 9 of the Plan Set. **The applicant shall confirm the location and dimensions of the construction entrance.**

DECISION

On April 24, 2023, the Planning Commission **approved** State Street Homes with a vote of 6:0. The Commission completed the following motion: Approve the design review and five variances as written in the staff report findings and conditions, with changes to the retaining wall heights not to exceed 10 percent as submitted by the applicant.



Jerry Crosby
Planning Commission Chair

CONDITIONS OF APPROVAL

A. Submit the following with the trade permits and prior to any grading or tree removal:

1. Revise the entire plan set to make sure all sheets are consistent, and no site improvements or existing conditions proposed to remain are contradictory in the plan set, including a revision to the plan set to align the access at Station 759+85 as required by ODOT.
2. Based on the required ODOT access at Station 759+86, submit an updated Plan Set detailing the following:
 - a. A minimum 20-foot-deep landscape buffer that comprises at least 30 percent (51 feet minimum) of the combined Highway 26 frontage of the subject properties in compliance with Section 17.90.120(F). Planting shall be a mix of both deciduous and evergreen trees (nine (9) trees minimum), shrubs, and groundcover at a quantity sufficient to provide a partial buffer within two (2) years from the date they are planted. All new landscaping on the subject properties shall be native species or water-efficient species acclimated to the Willamette Valley, consistent with the conservation benchmarks in the City of Sandy 2016 Water Management and Conservation Plan.
 - b. Revise the “Utility Notes” on Sheet 1 of the Plan Set to note that ODOT approval must be secured before constructing the new entrance on Highway 26 at Station 759+85.
 - c. Detail the location for the two (2) required bicycle parking spaces on Tax Lot 1000.
 - d. Due to the requirement to locate the driveway at Station 759+85, the applicant may submit plans for redesign of the parking to the south of Paola’s Pizza Barn for staff review and approval if the parking proposal complies with Chapter 17.98 and any other relevant code provisions.
3. Submit updated Floor Plans and Elevations to detail the following:
 - a. An apartment directory in the lobby.
 - b. Include an additional four windows on the west ground floor elevation with at least two windows on each side of the gabled entry.
4. Submit an update Photometric Plan to detail the following:
 - a. The area ten feet beyond the property line of the premises receives no more than one-quarter of a foot-candle of light from the premises lighting system.
 - b. Detail all walkways and parking lots illuminated at 1.5 – 2.0 foot-candles.
 - c. Detail path lighting along the proposed pedestrian walkway on the south side of the mixed-use building at 1.5 – 2.0 foot-candles. To prevent impact within the critical

root zones of existing trees on the adjacent property to the south (Tax Lot 900), staff recommends solar path lighting; however, if electrical conduit is installed, the applicant shall bore the conduit at a minimum depth of 18-inches under the critical root zone of the existing trees under supervision of an ISA-certified arborist.

5. Submit an updated Preliminary Planting Plan to detail the following:
 - a. A minimum 5-foot-wide (interior dimension) landscape planter with a mix of low-lying ground cover and shrubs, and vertical shrubs and trees between the proposed westernmost parking row on Tax Lot 1000 and the property to the west. The revised plan (Exhibit Y, Sheet L2.1) details this landscape planter at only 2 feet in width.
 - b. A minimum 20-foot-deep landscape buffer that comprises at least 30 percent (51 feet minimum) of the combined Highway 26 frontage of the subject properties in compliance with Section 17.90.120(F).
 - c. All new landscaping on the subject properties shall be native species or water-efficient species acclimated to the Willamette Valley, consistent with the conservation benchmarks in the City of Sandy 2016 Water Management and Conservation Plan. However, due to concerns with Asian Long-horned Beetle, the maple species are not currently permitted; cascara, pacific dogwood, or an alternative native deciduous tree species reviewed and approved by staff shall be selected instead.
 - d. Detail a mix of low-lying ground cover and shrubs and vertical shrubs and trees in the west, north, and east parking lot landscaping buffers on Tax Lot 902.
 - e. Detail one major structural tree in the landscape area south of the easternmost parking row on Tax Lot 902.
 - f. Detail the required frontage improvements, including street trees, and the planting palette shall indicate the street tree species. If the 10-foot-wide planting strip provides insufficient space to set back the street trees such that they won't grow into the power lines, the applicant shall select short growth species to avoid conflict with overhead utilities.
 - g. Additional information on the percent landscaping on Tax Lot 1000 demonstrating that the 20 percent landscaping minimum is met.
6. Submit an updated Tree Retention Plan, Arborist Report, and Planting Plan based on the following required considerations:
 - a. Consider discussing removal of Trees #21, 24, 25, and 26 (all of which are nuisance species (sweet cherries)) with the adjacent property owner rather than protecting this low value species.
 - b. The applicant shall consider whether a retaining wall could be used to prevent

grading within the typical minimum construction setback radius of Tree #29. For Trees #31 and 32, the applicant shall consider removing the parking space closest to the tree and shifting the retaining wall to the edge of the parking lot and driveway access to avoid the typical minimum construction setback radii of the trees.

- c. Include a determination of whether it is possible to construct a retaining wall near Tree #28 to limit root zone disturbance to less than 25 percent and limit grade changes and any construction to at least 14 feet from Tree #28 (see the example markup on sheet L2.1 in Attachment 2 of the third-party arborist review). If this is possible, Tree #28 could be adequately protected and counted as a retention tree. If this is not possible, the applicant shall mitigate for Tree #28 by planting two (2) mitigation trees on the subject properties.
 - d. The project arborist shall review the site plan changes on the east side of Tax Lot 902 and shall ensure the trees marked for retention will be adequately protected. Particular attention shall be paid to the location of the proposed retaining wall adjacent to Trees #31 and 32 (see sheet 3 in Attachment 2 of the third-party arborist review (Exhibit R)) and the proposed grading that potentially conflicts with the root zones of Trees #28 and 29 (see sheet 7 in Attachment 2 of the third-party arborist review (Exhibit R)).
 - e. Since ODOT is requiring the shared driveway to be located at Station 759+85, the applicant shall mitigate for Trees #4, 4.1, 5, 7, 10, and 11 at a minimum 2:1 ratio. This will require planting (or paying a fee in lieu of mitigation for) 12 mitigation trees. The required landscape buffer along Highway 26 will need to be relocated and planted per Section 17.90.120(F). As discussed in Section 17.90.120(F) of this document, this will include planting nine (9) trees within the relocated landscape buffer.
 - f. Submit analysis from the project arborist or third-party arborist evaluating the mitigation tree planting potential for the northern portion of Tax Lot 1000, including potential impacts from the stormwater conveyance line as well as a determination of how many large evergreen mitigation trees the area can accommodate based on sufficient soil volume and planting space.
 - g. If the applicant is unable to provide sufficient soil volume and planting space for the necessary number of mitigation trees, the applicant shall pay a fee-in-lieu of mitigation tree at \$500 per tree for the number of mitigation trees the site cannot support.
7. Submit an updated Tree Retention Plan and Tree Protection Fencing Plan on page 9 of the Arborist Report to reflect the following:
- a. Updated site plan with the driveway at Station 759+85.
 - b. The updated tree protection shall address the third-party recommendation for a retaining wall to protect Tree #28 and shall detail the tree fencing such that no more

than 25 percent of the critical root zone of Tree #28 is impacted with no encroachment into the minimum root zone, or, if this is not feasible and Tree #28 cannot be adequately protected, Tree #28 shall not count as a retention tree.

8. Submit a plan detailing the proposed automatic irrigation system.
9. Submit an updated Utility Plan to locate utilities under the sidewalk or driveway so they are further from Tree #15.
10. Submit additional information from an engineer providing a guarantee that the proposed retaining walls will not cause unintended stormwater drainage to properties to the north and east of the subject site.
11. Submit an updated Retaining Wall Detail to detail a split face block wall or alternative wall reviewed and approved by the Director and a black steel or aluminum picket fence guardrail or submit a similar alternative design to staff for review and approval. Where the fence pickets are required as a guard from falling, the space between pickets shall be less than 4 inches.
12. Submit a detailed final stormwater report stamped by a licensed professional engineer for review. The calculations shall meet the water quality/quantity criteria as stated in the City of Sandy Development Code (SDC) Chapter 13.18 Standards and the City of Portland Stormwater Management Manual (SWMM) Standards that were adopted by reference into the Sandy Development Code.
13. Submit information confirming that the storm system shown is private until its outfall to the ditch inlet. New storm lines shall require a recorded easement through any applicable property per Condition E.11.c.
14. Submit additional information from the project arborist or third-party arborist regarding the proposed stormwater conveyance line extension that evaluates impacts on offsite trees and outlines strategies to minimize negative impacts to existing trees. The applicant shall retain the project arborist or third-party arborist on site during extension of the storm line within the critical root zone of 1-foot per 1-inch DBH of the offsite trees. If any of the offsite trees need to be removed, the applicant and subject property owner shall submit a tree removal application in accordance with Chapter 17.102.
15. Submit a set of PGE utility and street/sidewalk lighting plans to design and return a SandyNet broadband deployment plan to overlay in the dry utility shared trench. SandyNet will provide requirements for layout and acceptable materials for the developer/contractor. SandyNet shall be contacted after installation of infrastructure and coordinated for onsite inspection before backfilling the common trench. Plans for SandyNet design shall be sent to Greg Brewster gbrewster@ci.sandy.or.us, 503-953-4604. The onsite contact for general questions and inspections will be Ron Yow, ryow@ci.sandy.or.us, 541-514-9771.

16. Submit construction documents detailing compliance with fire apparatus access and fire protection water supply requirements shall be provided to the Sandy Fire District for review and approval concurrently with building permit submittal. All construction activities shall comply with the applicable Oregon Fire Code and the Fire Code Application Guide.
17. Submit information on the location and dimensions of the construction entrance.
18. Submit a copy of the State Highway Approach Road Permit from ODOT for access to the state highway for the proposed use to City staff.

B. Prior to tree removal, the applicant shall complete the following and receive the necessary approvals as described:

1. Apply for a Grading and Erosion Control Permit and detail the location of the tree protection fencing on the submitted Grading and Erosion Control Plan Set.
2. Install tree protection fencing as detailed on the updated tree protection fencing plan. The tree fencing shall be installed prior to any development activity on the site, including earthwork, tree removal, and erosion control measures, in order to protect the trees and the soil around the trees from disturbance. The tree fencing shall adhere to the following:
 - a. Erosion control fencing shall be installed outside of the tree protection area fencing. If erosion control is required inside the tree protection zones, use straw wattles to minimize root zone disturbance of the trees to be retained.
 - b. The applicant shall not relocate or remove the tree protection fencing prior to the certificate of occupancy.
 - c. The tree protection fencing shall be 6-foot-tall chain link or no-jump horse fencing supported with metal posts placed no farther than 10 feet apart installed flush with the initial undisturbed grade.
 - d. The applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches, placed every 75 feet or less) to the tree protection fencing with the following information: “TREE PROTECTION ZONE, DO NOT REMOVE OR ADJUST THE APPROVED LOCATION OF THIS TREE PROTECTION FENCING, Please contact the City’s Planning Division and the project arborist if alterations to the approved location of the tree protection fencing are necessary. Planning Division – planning@cityofsandy.com. [Name], Project Arborist – [Phone Number].”
3. Request an inspection of tree protection measures as specified in Section 17.102.50 C. with Planning staff and the project arborist. The tree protection fencing inspection shall be completed prior to any tree removal, earthwork, grading, or other development/construction activity on the site.

4. Once the tree protection fencing is approved, the applicant shall adhere to the following conditions when performing tree removal or other development activity on the site:
 - a. No construction activity shall occur within the tree protection zone, including, but not limited to, grading, clearing, excavation, access, stockpiling, or dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles.
 - b. Up to 25 percent of the area between the minimum root protection zone of 0.5 feet per 1-inch DBH and the critical root zone of 1 foot per 1-inch DBH may be able to be impacted without compromising the tree, provided the work is monitored by a qualified arborist.
 - c. Retain an arborist on site to monitor any construction activity within the critical root protection zones of the retention trees or trees on adjacent properties that have critical root protection zones that would be impacted by development activity on the subject property.
 - d. The applicant shall not remove any trees that aren't marked for removal.
 - e. Tree removal shall be completed without the use of vehicles or heavy equipment in the tree protection zone.
 - f. Removal of any trees from within the critical root zones of protected retention trees shall be completed under the supervision of the project arborist and the applicant shall fell the trees to be removed away from the trees to be retained so they do not contact or otherwise damage the trunks or branches of the trees to be retained.
 - g. If the trees are removed during prime bird nesting season (February 1- July 31), the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant shall delay tree removal until after the nesting season or shall hire a professional to relocate the nests to an appropriate nearby location, provided the species using the nest is not invasive.
 - h. The project arborist shall be onsite during excavation within the critical root zones of retained Trees # 13.2, 14, 15, 21, 23, 24, 25, 26, 28, 29, 31, and 32.
 - i. The project arborist shall evaluate and oversee the proper cutting of roots with sharp cutting tools. If many significant roots are encountered during excavation in the zones highlighted in Appendix 5 of the arborist report, an alternative layout for areas requiring excavation should be considered to maintain the health and safety of retained trees. Alternate methods of construction may also be necessary for the preservation of significant roots of retained trees. Other construction methods include but are not limited to bridging over significant roots, constructing sidewalks on top of grade over landscape fabric without excavation, and using post and beam construction instead of conventional footing foundations within the critical root zone.

- j. The arborist report (with updates as required) and the third-party arborist review shall be shared in their entirety to the project team, including contractors performing demolition and concrete work.
- k. The applicant shall adhere to the tree protection specifications contained in Appendix 3 of the arborist report (pages 4-6) including requirements before construction begins, during construction, and after construction.

C. Prior to earthwork, grading, or excavation, the applicant shall complete the following and receive necessary approvals as described:

- 1. Apply and receive approval for 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. All erosion control and grading shall comply with Section 15.44 of the Municipal Code.
- 2. Install sediment fencing outside the tree protection zones. If erosion control is required inside the tree protection zones, the applicant shall use straw wattles to minimize root zone disturbance of the trees to be retained.
- 3. Submit proof of receipt of a Department of Environmental Quality 1200-C permit or submit confirmation from DEQ if a 1200-C Permit will not be required.
- 4. Request an inspection of erosion control measures. Inspections of erosion control measures by the Public Works Department shall be completed prior to any earthwork or grading being conducted onsite.
- 5. Prior to grading or any earthwork, have a licensed pest control agent evaluate the site to determine if rat eradication is needed. The result of the evaluation shall be submitted to staff, and if required, the evaluation shall include eradication techniques.

D. Prior to issuance of the building permit the applicant shall pay all fees, including all system development charges and the fee in lieu of parkland dedication in the amount of \$496,337.18 (0.571 acres x \$869,242 per acre) or at a reduced rate per the terms of Resolution 2023-12 if the City Council adopts Resolution 2023-12.

E. Prior to receiving a certificate of occupancy, the applicant shall complete all of the following improvements or provide financial assurance for their future completion:

- 1. If necessary, the applicant shall record an access easement for the portion of the Highway 26 sidewalk that encroaches onto Tax Lot 902. If an easement is recorded with ODOT, the applicant shall submit a copy of the right-of-way dedication to City staff.
- 2. Install all required landscaping.
 - a. Aerate and amend the soil within the planting areas on the buildable portion of the site to a depth of 3 feet prior to planting the trees prior to planting mitigation trees and

- other landscaping. Submit a letter from the project landscaper confirming that the soil has been aerated and amended prior to planting the mitigation trees and required landscaping.
- b. Plant required mitigation trees and/or pay a fee-in-lieu of \$500 per tree for mitigation trees.
 3. Install an irrigation system, such as drip-line irrigation or a sprinkler system, to water all landscaping, including trees.
 4. Install all required on-site and off-site improvements. Frontage improvements along Highway 26 shall be made in accordance with Figure 6 in the 2011 Transportation System Plan for a 40 MPH speed zone and as approved by ODOT. ADA compliance and 6-foot sidewalks shall be maintained across the frontage.
 5. Install all 8,994 square feet of shared outdoor area as follows: 980 square foot off-leash dog area, 320 square foot covered gazebo (counted at 1.25 of the 256 square foot size), 263 square foot fire pit with outdoor seating, 1,198 square foot eastern outdoor lawn area, 4,146 square foot landscaped nature path connecting the eastern open lawn area to the pedestrian walkway in the flag pole, and 2,087 square foot landscaped nature area located to the east of the pedestrian walkway in the flag pole.
 6. Install address identification on the building as approved by the Building Official. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property, including on a monument sign. Provide street address numbers measuring a minimum of six (6) inches high, which clearly locate the mixed-use building and its entries for patrons and emergency services. The applicant shall verify the location(s) of the address with the Building Official and emergency service providers.
 7. Submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist to assess whether any of the retention trees were damaged during construction. If retention trees were damaged and need to be replaced, the applicant shall apply for a tree removal permit and the mitigation ratio shall be 4:1 achieved through planting mitigation trees and/or paying a fee in lieu of mitigation tree as determined by staff.
 8. Record a tree protection covenant specifying protection of the approved retention and mitigation trees on the subject properties and limiting removal without submittal of an Arborist's Report and City approval and submit a copy to City staff. The covenant shall detail the species and locations of the mitigation trees and retention trees as well as the critical root zones of each retention tree at 1 foot per 1-inch DBH.
 9. An emergency vehicle access and maintenance agreement shall be deeded and recorded and a copy provided to City staff.
 10. Install all required fire hydrants. Each new fire hydrant installed shall be ordered in an OSHA safety red finish and have a 4-inch non-threaded metal faced hydrant connection

with cap installed on the steamer port (4 ½-inch NST x 4-inch Storz Adaptor). If a new building, structure, or dwelling is already served by an existing hydrant, the existing hydrant shall also be OSHA safety red and have a 4-inch non-threaded metal faced hydrant connection with cap installed.

11. Record the following easements with the County Recorder and submit a copy to City staff:
 - a. Cross-over access easements to the adjacent properties with state highway frontage to facilitate future shared access.
 - b. An eight-foot-wide public utility easement along the entirety of the Highway 26 right-of-way of Tax Lots 902 and 1000.
 - c. All necessary easements for offsite utilities including an easement through any applicable property for the new stormwater conveyance line.
 - d. A 15-foot-wide sanitary sewer easement where the existing sewer line runs along the south property line of the flag portion of Tax Lot 902 or submit documentation of the existing recorded easement.

F. General Conditions

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. All mechanical, electrical, and communications equipment shall be screened from view from all public rights-of-way and civic spaces. On-grade and above-grade electrical and mechanical equipment such as transformers, heat pumps, and central air conditioner units shall be screened with sight obscuring fences, walls, or landscaping.
3. If the applicant proposes assigned parking for the multi-family development, at least 15 percent of the total required parking spaces for the multi-family development shall be unassigned and available for use by all occupants and guests of the development.
4. Signage associated with the ADA parking spaces shall meet the head clearance distance requirement in the Building Code.
5. All parking, driveway, and maneuvering areas shall be constructed of asphalt, concrete, or other approved material. All approved parking spaces shall be clearly delineated with painted lines and the entrance and exit driveways shall be signed or marked with paint.
6. The required loading berth shall be not less than ten feet in width by 35 feet in length and shall have an unobstructed height clearance of 14 feet. The loading area shall be screened from public view from public streets and from adjacent properties. The loading area shall be delineated either by striping or use of a different material.

7. Landscaping shall comply with the following requirements:
 - a. Per Section 17.92.10(D), planter and boundary areas used for required plantings shall have a minimum diameter of five feet (two and one-half foot radius, inside dimensions). Where the curb or the edge of these areas are used as a tire stop for parking, the planter or boundary plantings shall be a minimum width of seven and one-half feet.
 - b. All trees planted on the site shall be a minimum of 1.5-inches in caliper measured 6 inches above the ground and shall be planted per the City of Sandy standard planting detail. Trees shall be planted, staked, and bark mulch, vegetation, or other approved material installed prior to occupancy. Tree ties shall be loosely tied twine or other soft material and shall be removed after one growing season (or a maximum of 1 year).
 - c. All shrubs shall be a minimum of one gallon in size or 2-feet in height when measured immediately after planting.
 - d. All landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.
 - e. 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.
 - f. If the applicant chooses to postpone tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the trees/landscaping, assuring planting within 6 months. The cost of the trees shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.
8. The applicant shall not anchor anything to the mitigation trees, compact the soil under the dripline, or otherwise harm or damage the mitigation trees. The mitigation trees shall be a minimum of 5 feet in height at time of planting and planted per the City of Sandy standard planting detail. All ties and burlap shall be removed from the root ball prior to planting. If the burlap cannot be completely removed from the root ball without compromising the integrity of the root ball, the burlap shall be removed from at least the top one third of the side of the root ball. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stake and the twine shall be removed after the first growing season but no later than one year from being planted. The mitigation trees shall be adequately watered for at least the first three dry seasons (summers).
9. The applicant shall call the PGE Service Coordinators at 503-323-6700 when they are ready to start the project.

10. All franchise utilities shall be installed underground. The developer shall make all necessary arrangements with franchise utility providers.
11. An ODOT Miscellaneous Permit must be obtained for all work in the highway right-of-way.
12. Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except where approved alternative methods of protection are provided.
13. The applicant shall comply with all applicable Oregon Fire Code requirements. The applicant shall adhere to all Fire Marshal requirements in Exhibit N, including but not limited to the following:
 - a. The owner or owner's authorized agent shall be responsible for the development, implementation and maintenance of a written plan establishing a fire prevention program at the project site applicable throughout all phases of the construction. The plan shall address the requirements found in OFC Chapter 33 and shall be made available for review by the fire code official upon request.
 - b. A key lock box for the building shall be required to provide access to common use areas, the fire alarm control panel(s), and the fire sprinkler riser room(s). The Fire District uses KNOX brand boxes. To order a KNOX box keyed for the Sandy Fire District, please visit Sandy Fire's website for ordering information.
 - c. Knox Box Contents. When more than one key is secured in the Knox Box, each key shall be legibly identified as to its use, utilizing a round key tag that is a minimum of 1-inch in diameter. Necessary keys provided by the building owner or business owner may include: a) Main entrance door, b) Fire Alarm Control Panel, c) Alarm codes, d) Manual pull stations, e) Fire Sprinkler Control padlock/s, f) Mechanical rooms, g) Elevator control, h) Attic or roof access, and i) Any other keys necessary to access building controls.
 - d. New buildings four or more stories above grade plane, except those with a roof slope greater than four units vertical in 12 units horizontal (33.3% slope), shall be provided with a stairway to the roof.
 - e. Commercial buildings exceeding three stories or 30 feet in height shall have not fewer than two means of fire apparatus access for each building.
 - f. A minimum of one on-site fire hydrant shall be provided near the proposed mixed-use development for firefighting operations. If distances between fire hydrants exceeds 500 feet, additional on-site fire hydrants may be required along the fire apparatus access road.

- g. Fire department connections (FDC) are required to be remote and shall be located within 100 feet of a public fire hydrant. All FDC's shall be permanently labeled with appropriate address in which it serves and shall be accessible and visible from the fire apparatus access road.
14. Downward facing, full cut-off lighting shall be required, and shall not exceed 0.25 foot candles of light at ten feet beyond the property lines. Lights shall not exceed 4,125 Kelvins or 591 nanometers to minimize negative impacts on wildlife and human health.
 15. All earthwork activities to include grading, foundation excavation, site and sub-grade preparation, cut and fill slopes shall be observed and documented by a geo-technical engineer to assure compliance with IBC standards as amended by the state of Oregon and referenced as "Oregon Structural Specialty Code" (OSSC). Site grading shall not in any way impede or impound or inundate the surface drainage flow from the adjoining properties without a proper collection system. The earthwork activities shall be observed and documented under the supervision of the geotechnical Engineer.
 16. All site runoff shall be detained such that post-development runoff does not exceed the predevelopment runoff rate for the 2, 5, 10 and 25 year storm events. Stormwater quality treatment shall be provided for all site drainage per the standards in the City of Portland Stormwater Management Manual (COP SWMM).
 17. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
 18. 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.

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 twelve (12) days of notice of the decision. The notice of 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 at least the following:

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 Section 17.28.50;
5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed;
6. The name and mailing address of the person or entity appealing the decision; and
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal.