

**PLANNING COMMISSION STAFF REPORT
TYPE III LAND USE PROPOSAL**

This proposal was reviewed concurrently as a Type III Design Review with four (4) Type III variances, and tree removal. The following exhibits and findings of fact explain the proposal and support the staff recommendation.

DATE: February 17, 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.....48

PARKLAND AND OPEN SPACE – Chapter 17.8651

EROSION CONTROL – Chapters 15.44 and 8.04.....52

RECOMMENDATION..... 53

RECOMMENDED CONDITIONS OF APPROVAL..... 55

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)

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 is April 28, 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. The applicant is also 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.
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.

8. At publication of this staff report, one written public comment was received. Dennis Petross (Exhibit V) 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. Staff did not have time to do an in-depth evaluation of the updated plans but note the following:
 - A. The majority of parking spaces on Tax Lot 902 are still detailed at 16 feet deep. At least 60 percent of the parking spaces on Tax Lot 902 will need to meet the standard parking space size requirement of 9 feet by 18 feet. All other parking related requirements (e.g., aisle width, landscaping buffer width, etc.) will still need to be met.
 - B. The reconfiguration removes the proposed open lawn area in the northwest corner of Tax Lot 902. The applicant will need to confirm that the shared outdoor recreation requirement is still being met. If the Planning Commission approves the requested variance to the minimum tree retention standards, the location of any required mitigation trees on Tax Lot 902 will need to be reevaluated.
 - C. The proposed reconfiguration of the parking area south of the Paola's Pizza Barn will need to be evaluated. The right-of-way dedication required along Highway 26 will also need to be considered. An analysis of the required and proposed parking for Tax Lot 1000 is still required.
 - D. The applicant will need to demonstrate that all other requirements of the Development Code will be met with the new layout.

DESIGN REVIEW – Chapter 17.90

10. 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.

Staff finds the proposal is generally in compliance with the intent of the Sandy Style, but believes the project contains a few elements that are incompatible with Sandy Style as proposed, particularly D.i. and not adhering to C.ii. The two incompatibilities are discussed further in Section 17.90.120(F) of this document as part of the analysis of the applicant's request to remove substantial existing trees within the property's existing required landscape buffer along Highway 26.

11. 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.**
12. 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.
13. 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 C, Sheet 3), the proposed parking for the mixed-use lot is located behind the proposed building. The reconfigured parking area on the Paola's Pizza Barn lot is located behind the existing building; however, the existing parking in front of the building is proposed to remain.
14. 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 C, Sheet 3) details a pedestrian walkway along the pole portion of the lot that connects the sidewalk on Highway 26 to the proposed mixed-use building entrance. The proposal also includes a reconfiguration of the existing parking areas on the Paola's Pizza Barn site (Tax Lot 1000). Currently, there are existing parking spaces for the Paola's Pizza Barn located in the flagpole portion of Tax Lot 902 with a striped walkway connecting the spaces to the Paola's Pizza Barn building. The proposed reconfiguration will remove these spaces and the striped walkway. The parking spaces located within the flagpole will be replaced with the relocated shared access driveway and pedestrian walkway connecting the sidewalk on Highway 26 to the mixed-use building. **The applicant shall update the Plan Set to detail a colored concrete inlay crosswalk connecting the pedestrian walkway located in the flagpole of Tax Lot 902 across the**

shared driveway aisle to the Paola's Pizza Barn entrance in compliance with the design standards of Section 17.90.120(A.5 and 7). The pedestrian crossing shall have a paved delineation in the form of a colored concrete inlay.

15. 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 C, 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 C, 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, but it is difficult to evaluate the depth of the articulation based on the elevations. The Floor Plan – Level 01 (Exhibit C, Sheet A1.21) does not include any articulation on any of the ground floor facades, with the exception of the gabled entries on the north, west, and east elevations. The gabled entries occur at a spacing in conformance with the requirements of Section 17.90.120(B) on the east and west elevations, but the north elevation appears to include wall planes greater than 40 feet in length. The ground floor of the south elevation does not appear to include any articulation and neither the north nor south ground floor elevations include contrasting materials. **The applicant shall update the Floor Plan – Level 01 and Elevations to detail articulated elevations on ground floor (level 01) of all four building facades meeting the wall plane requirements of Section 17.90.120(B) (i.e., distinct planes of no more than 40 linear feet with recessed or projecting sections that project or recede at least six inches from the adjacent plane, for a length of at least four feet).**
16. 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 C, 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.
17. 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 C, 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 C, Sheet A1.03), bicycle enclosure (Exhibit C, Sheet A1.04), and gazebo (Exhibit C, 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.

18. 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 C, 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.
19. 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 C, 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, but do not specify the depth or spacing. **Battens shall be a minimum of two-inches wide by one-inch deep and spaced 24 inches apart or closer.**
20. 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 C, 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).
21. 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 C, 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.
22. 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 C, Sheet A1.23) and the

trash enclosure (Exhibit C, Sheet A1.03), bicycle enclosure (Exhibit C, Sheet A1.04), and gazebo (Exhibit C, Sheet A1.05), the applicant is proposing a 6:12 roof pitch for all proposed structures.

23. 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 C, Sheet A2.01), the applicant is proposing four (4) dormers along the north roof in compliance with the code.
24. 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.
25. 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.
26. 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 10 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.
27. 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.

28. 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 46,500 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.
29. 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.
30. 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.
31. 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 narrative states that the glazed opening area, which includes 17 windows and three doors (two single doors and one double door) with windows above, is 349 square feet; however, the North Elevation (Exhibit C, Sheet A2.01) notes that the ground floor glazing is 339.5 square feet. 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. Based on measurements taken from the north elevation (Exhibit C, Sheet A2.01), it appears the wall

area calculated in the narrative was not based on a 12-foot ground floor. Chapter 17.10 of the Development Code defines ground floor elevation as: “The elevation of a building that is at or nearest the ground level measured from the ground to a point 12-feet above the ground. (This definition is used to measure the ground floor area subject to window requirements in Chapter 17.90).” In addition, it appears that the glazing calculations include the window trim. **The applicant shall update the elevations and floor plan to detail two (2) additional windows (detailed at 3-feet by 5-feet-6-inches per elevation note #16) on the ground floor of the north elevation. Staff recommends the two (2) additional windows be added to the north wall of the mini-storage office to the west of the main lobby entrance.**

32. 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 C, 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).

33. 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 a relocated access located at STA 759+85. 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). However, the applicant is proposing 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. 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). Staff recommends the Planning Commission require the applicant to either:**

- A. **Retain the existing 65-foot landscape buffer as is, including retaining all of the existing trees and shrubs for a minimum depth of 20 feet. This option would require keeping the current shared access driveway location at STA 759+40, or as otherwise approved by ODOT, terminating the shared access easement at STA 759+85, recording an updated shared access easement reflecting that location, and updating the driveway and sidewalk design in compliance with ODOT and ADA standards.**

- B. **Update the Plan Set to detail an alternative landscape buffer that meets the requirements of Section 17.90.120(F). If the applicant chooses to propose an alternative landscape buffer location, the applicant shall update the Preliminary Planting Plan to detail retention of all existing trees within the buffer area as well as planting 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. The proposed plants shall be selected from the list in Section 17.90.120(F.3). 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. If the Planning Commission approves the applicant's request for a variance to the minimum tree retention standards, staff recommends all new landscaping on the subject properties 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.**

34. 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 stated in the narrative (Exhibit B), the applicant proposes a 1,590 square foot outdoor public plaza located on the west side of the building, which is in compliance with the code requirement. The narrative further 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.

35. 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.

36. 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 C, 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.
37. 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.**
38. 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.
39. 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 submitted narrative (Exhibit B) does not address Section 17.90.120(J.3) and the submitted elevations (Exhibit C, Sheets A2.01 and A2.02) do not detail mechanical, electrical, or communications equipment. 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. **All mechanical, electrical, and communications equipment shall be screened from view from all public rights-of-way and civic spaces.** 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. **Staff recommends the Planning Commission require mechanical, electrical, and communications equipment to be screened from view from pedestrian amenity areas and parking areas in addition to being screened from public rights-of-way and civic spaces.**

40. 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 C, 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.
41. 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.
42. 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).
43. 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).
44. 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 C, 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.
45. 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 C, Sheet A1.22), 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 shall update the Floor Plan – Levels 02-04 to detail offsets at a minimum of every 20 feet by providing recesses or extensions with a minimum depth of eight feet on all four elevations of the proposed mixed-use building. If this cannot be accomplished, the applicant will need to apply for an adjustment or variance to Section 17.90.160(D).**

46. 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 C, Sheet A1.22), 18 of the 1-bedroom units include a 54 square foot outdoor patio and 12 of the 1-bedroom units include a 49 square foot patio, both in compliance with the code. All 2-bedroom units include a 51 square foot patio in compliance with the code.
47. 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.
48. 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 C, Sheet A1.22), each 1-bedroom unit includes a 26 square foot individual storage area, and each 2-bedroom unit includes a 20 square foot and an 18-square foot storage area for a total of 38 square feet of storage area in compliance with the code.
49. 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 C, Sheet A1.02) details 9,081 square feet of shared outdoor area as follows: 786 square foot off-leash dog area, 320 square foot covered gazebo (counted at 1.25 of the 256 square foot size), 285 square foot fire pit with outdoor seating, 1,785 square foot northern outdoor lawn area, 958 square foot eastern outdoor lawn area, 2,860 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.

50. 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 C, Sheets 3, A1.01, and A1.020) nor the Floor Plans (Exhibit C, 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.**
51. 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 C, 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 C, 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. In the narrative response to Section 17.84.100, the applicant states that the mail delivery area is located in front of the development. However, the Site Plans (Exhibit C, Sheets 3, A1.01, and A1.02) do not clearly identify the location of the mail delivery area. **The applicant shall update the Plan Set to detail the location of the mail delivery area in a convenient location efficiently designed for residents and mail delivery personnel and in accordance with U.S. Postal Service requirements.**
52. 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 submitted narrative (Exhibit B) does not address Section 17.90.160(L) and the submitted elevations (Exhibit C, Sheets A2.01 and A2.02) do not detail 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.**

FENCES/RETAINING WALLS – Chapter 17.74

53. 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 C, Sheet 7) and the Wall Cross Sections (Exhibit C, Sheet 8) detail retaining walls on the south, north, and east sides of the proposed mixed-use building lot. The narrative (Exhibit B) states 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 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 staff report.

VARIANCES – Chapter 17.66

54. The applicant requested the following four (4) 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

Variances A-C are processed through Chapter 17.66 and are reviewed in detail below. The Type II 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)

55. 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).

56. 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.

57. Staff believes 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 Criterion A. As detailed on the Composite Site Plan (Exhibit C, Sheet 3) and the Grading and ESC Plan (Exhibit C, Sheet 7), the applicant is proposing an approximately 5-foot to 7-foot tall retaining wall on the south side (front) of Tax Lot 902 south of the proposed bicycle parking enclosure, stairs, and gazebo. The Site Plan includes a note (key note #17) that states the wall is +/- 7 feet. The Stairs Grading Detail on the Grading and ESC Plan labels the wall as 5-feet in height. The submittal items did not include an elevation profile of the entire wall so it is unclear what the maximum wall height is. The narrative (Exhibit B) states and the Enlarged

Site Plan (Exhibit C, Sheet A1.02) details that the wall will have a 3-foot-6-inch guardrail on top for a combined height of approximately 8.5 to 10.5 feet, depending on whether the wall is 5 feet as detailed on the Grading and ESC Plan or +/- 7 feet as detailed on the Site Plan. 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 C, 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).

58. For the reasons discussed, **staff recommends the Planning Commission approve the requested variance to exceed the 4-foot maximum height of a retaining wall and fence in a commercial front yard (south side). Staff recommends the Planning Commission require the applicant to submit clarification on the height of the wall and make a determination as follows:**
- A. **If the wall is 5-feet-tall as specified in the Stairs Grading Detail, staff recommends the Planning Commission approve the requested variance with a maximum wall height of 5 feet and a maximum guardrail height of 3.5 feet, in which case the applicant shall update the Plan Set to detail the south (front) retaining wall and fence as a maximum 5-foot-tall retaining wall with a maximum 3-foot-6-inch-tall guardrail on top.**
 - B. **If the wall is greater than 5 feet in height, staff recommends the Planning Commission review the applicant's updated information regarding wall height and make a determination on the maximum wall height they'd support in a commercial front yard.**

In either case, **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)

59. 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).

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. Staff believes 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 A. As detailed on the Composite Site Plan (Exhibit C, Sheet 3), Grading and ESC Plan (Exhibit C, Sheet 7), and Wall Cross Sections (Exhibit C, Sheet 8), the applicant is proposing an approximately 12-foot to 14.9-foot tall retaining wall on the north side (rear) of Tax Lot 902. The Site Plan includes a note (key note #15) that states the wall is +/- 12 feet. The Wall Cross Sections detail one wall section at 14.9-feet in height (STA 1+00). The narrative (Exhibit B) states and the Enlarged Site Plan (Exhibit C, Sheet A1.02) details that the wall will have a 3-foot-6-inch guardrail on top for a combined height of approximately 15.5-feet to 18.4-feet, depending on whether the wall is +/- 12-feet as detailed on the Site Plan or 14.9-feet as detailed on the Wall Cross Section. 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. Due to the conflicting information submitted by the applicant, staff finds it difficult to make a specific recommendation regarding maximum wall height; however, staff recognizes the topography of the site provides a design challenge and is generally supportive of a variance to exceed the 8-foot wall/fence height maximum in a commercial rear yard. 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).

62. For the reasons discussed, **staff recommends the Planning Commission approve the requested variance to exceed the 8-foot maximum height of a retaining wall and fence in a commercial rear yard (north side). Staff recommends the Planning Commission**

require the applicant to submit clarification on the height of the wall, review public testimony, and make a determination on the maximum wall height they'd support in a commercial rear yard (with a 3.5-foot guardrail on top). 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)

63. 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).
64. 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.
65. Staff believes 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 A. As detailed on the Composite Site Plan (Exhibit C, Sheet 3), Grading and ESC Plan (Exhibit C, Sheet 7), and Wall Cross Sections (Exhibit C, Sheet 8), the applicant is proposing an approximately 7.55-foot to 8-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 Site Plan includes a note (key note #16) that states the wall is +/- 8-feet. 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 C, Sheet A1.02) details that the wall will have a 3-foot-6-inch guardrail on top for a combined height of approximately 10.05-feet to 11.5-feet, or greater, depending on whether the wall is +/- 8 feet as detailed on the Site Plan or 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. Due to the conflicting information submitted by the applicant, staff finds it difficult to make a specific recommendation regarding maximum wall height; however, staff recognizes the topography of the site provides a design challenge and is generally supportive of a variance to exceed the 8-foot wall/fence height maximum in a commercial side yard. 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.

66. For the reasons discussed, **staff recommends the Planning Commission approve the requested variance to exceed the 8-foot maximum height of a retaining wall and fence in a commercial side yard (east side). Staff recommends the Planning Commission require the applicant to submit clarification on the height of the wall, review public testimony, and make a determination on the maximum wall height they'd support in a commercial side yard (with a 3.5-foot guardrail on top). 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.**

ZONING and SETBACKS – Chapters 17.44 and 17.80

67. 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 relocating the shared access driveway to span the common lot line between Tax Lots 902 and 1000, as well as reconfiguring the existing Paola's Pizza Barn parking lot, which is permitted as an accessory use per Section 17.44.10(C.3).
68. 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 C, Sheet A1.02), the site contains 27.21 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 proposal includes removal of existing landscaping on Tax Lot 1000 to accommodate a relocated access driveway. **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 staff report.
69. 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-feet-2-inches to the mid-point of the highest gable, in compliance with the standard.
70. 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 10 feet from the south property line of the flag portion of the lot.

TRANSPORTATION AND IMPROVEMENTS – Chapter 17.84

71. 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.**
72. 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. As stated in the narrative (Exhibit B), the existing driveway will be relocated, and the sidewalk will be modified. The submitted Site Plans (Exhibit C, Sheets 3 and A1.01) do not detail sidewalk improvements. The narrative states the modified sidewalk will be a minimum of 5 feet in width, which is insufficient for an arterial street sidewalk. 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. It's unclear from the submittal items how much right-of-way remains behind the existing curb; however, 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. 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. The applicant shall update the Plan Set to detail a minimum 6-foot-wide sidewalk, 9.5-foot to 11-foot-wide planter strip, 6-inch curb, and 6-foot-wide bike lane along the Highway 26 frontage of the subject properties. Street trees shall be planted 30 feet on center within the planter strip, with ODOT approval. The required width of the planter (minimum 9.5 feet up to 11 feet) shall be determined based on the relative location of the required street trees in relation to the overhead power lines such that the street trees are set back sufficiently so as not to grow into the power lines (minimum of 6 feet from curb). If an 11-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 plant short growth species to avoid conflict with overhead utilities.**
73. 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.**

74. 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. The applicant shall update the Plan Set to detail a minimum 6-foot-wide sidewalk, 9.5-foot to 11-foot-wide planter strip, 6-inch curb, and 6-foot-wide bike lane along the Highway 26 frontage of the subject properties. Street trees shall be planted 30 feet on center within the planter strip, with ODOT approval. The required width of the planter (minimum 9.5 feet up to 11 feet) shall be determined based on the relative location of the required street trees in relation to the overhead power lines such that the street trees are set back sufficiently so as not to grow into the power lines (minimum of 6 feet from curb). If an 11-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 plant short growth species to avoid conflict with overhead utilities.**

PARKING, LOADING, AND ACCESS REQUIREMENTS – Chapter 17.98

75. 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.**
76. 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 stated in the narrative (Exhibit B), 30 of the residential units are 1-bedroom units and the remaining 12 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 spaces is required for each residential unit. Therefore, the multi-family portion of the development requires 69 parking spaces $((30 \times 1.5) + (12 \times 2) = 69)$ 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 71 parking spaces and 44 bicycle parking spaces. The proposed mixed-use development includes 72 parking spaces in compliance with the required minimum as stated in the narrative (Exhibit B) and detailed on the site plans (Exhibit C, Sheets 3 and A1.02). The narrative also states there will be 20 bicycle parking stalls in a covered outdoor bicycle area and 8 bicycle racks on each residential floor for a total of 44 bicycle parking spaces in compliance with the required minimum.
77. 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 to accommodate the proposed relocation of the shared access driveway, 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. No changes are proposed to the parking area directly south of the Paola's Pizza Barn building, which contains 11 parking spaces. 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 submitted narrative (Exhibit B) does

not include any analysis of the existing and proposed changes to parking associated with the Paola's Pizza Barn. It is unclear if the site has any bicycle parking spaces, how many existing spaces there are, how many employees are present on the largest shift, the number of seats in the restaurant, or what the total square footage of the restaurant building(s) is. In addition, there are some issues related to the aisle width and vehicle maneuvering area related to the 11 existing spaces to the south of the existing building. **The applicant shall submit a parking analysis for the Paola's Pizza Barn on Tax Lot 1000, including an analysis of required parking spaces, existing parking spaces, proposed parking spaces, and ADA parking spaces, as well as a proposed reconfiguration of the parking area south of the building in compliance with Chapter 17.98. If the minimum parking requirements for parking spaces, ADA parking spaces, and/or bicycle parking spaces are not met, the applicant shall submit an updated parking plan for Tax Lot 1000 in conformance with Chapter 17.98 and ADA requirements.**

78. 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 C, 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 C, Sheet A1.22) 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. However, the Plan Set details 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).
79. Section 17.98.60 includes standards on parking lot design, size, and access. The Enlarged Site Plan (Exhibit C, Sheet A1.02) identifies 72 parking spaces on the mixed-use development lot (Tax Lot 902). The Enlarged Site Plan labels 28 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.** The spaces that are labeled "compact" are detailed at 8 feet by 16 feet, with the exception of one (1) that is detailed at 9 feet wide with a depth of 18 feet on the west and 16 feet on the east. However, many of the other parking spaces that aren't labeled "compact" are also detailed at 16 feet in depth, which does not meet the minimum size requirement for a standard parking space. Only 13 of the proposed parking spaces on the mixed-use property meet the minimum 9-foot by 18-foot requirement for a standard parking space (including the three ADA parking spaces). Section 17.98.60(B.5) states that no more than 40 percent of the parking stalls shall be compact spaces. As detailed, 59 parking spaces (or 82 percent) are compact. **The applicant shall update the Plan Set to detail that a minimum of 43 (60 percent) of the parking spaces on Tax Lot 902 meet the minimum standard parking space size requirement (9 feet by 18 feet).**

80. The Enlarged Site Plan details 33 reconfigured parking spaces behind the existing Paola's Pizza Barn, and an additional 11 existing parking spaces in front of the Paola's Pizza Barn, including one ADA parking space with a passenger side aisle. All 33 parking spaces at the rear of the building are detailed at 9 feet by 18 feet with 25-foot-wide parking aisles. As previously stated, there are numerous issues with the existing parking area located to the south of the Paola's Pizza Barn Building. **The applicant shall submit a parking analysis for the Paola's Pizza Barn on Tax Lot 1000, including an analysis of required parking spaces, existing parking spaces, proposed parking spaces, and ADA parking spaces, as well as a proposed reconfiguration of the parking area south of the building in compliance with Chapter 17.98. If the minimum parking requirements for parking spaces, ADA parking spaces, and/or bicycle parking spaces are not met, the applicant shall submit an updated parking plan for Tax Lot 1000 in conformance with Chapter 17.98 and ADA requirements.**
81. 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 Enlarged Site Plan (Exhibit C, Sheet A1.02) details all parking lot aisles at 25 or 26 feet wide. The Composite Site Plan (Exhibit C, Sheet 3) details the northernmost parking aisle on Tax Lot 902 at 24.95 feet in width. The applicant is required to update the Plan Set to detail additional standard parking spaces, which may affect aisle width and/or landscaping. **The updated Plan Set shall demonstrate compliance with the aisle width standards in Section 17.98.60(C).**
82. 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 9000, 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.

83. 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 C, Sheet A1.02) and Preliminary Planting Plan (Exhibit C, 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 the landscaping buffers at 5-feet in width for the most part; however, the middle landscape planter in the double row of parking spaces on Tax Lot 902 is detailed at 5 feet wide including the curb. **The applicant shall update the Plan Set to detail planter and boundary areas in the parking lot at a minimum diameter of five feet (two and one-half foot radius, inside dimensions).**

Neither the Enlarged Site Plan nor the Preliminary Planting Plan detail a landscaping buffer along the west side of the newly configured parking area behind the Paola's Pizza Barn on Tax Lot 1000. **The applicant shall update the Preliminary Planting Plan 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.**

In addition, the Enlarged Site Plan includes a note (Keynote 8) that indicates there will be a retaining wall with a guardrail on top located within the landscaping buffer along the north and east property lines of Tax Lot 902. It is unclear exactly where the retaining wall is proposed to be located. **The applicant shall submit section drawings that clearly detail the parking area, landscaping area, retaining wall, guardrail, and property lines for the areas between the parking area and the north and east property line; the landscape buffer shall have a minimum inside dimension of 5 feet.**

84. 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.

85. Section 17.98.120(C) requires parking facilities to include at least 10 percent landscaping. The Enlarged Site Plan (Exhibit C, Sheet A1.02) states that the overall landscaping for the mixed-use development site (Tax Lot 902) is 27.21 percent. Although the plan does not

include a landscaping analysis for the parking area specifically, a majority of the proposed landscaping consists of planter bays and buffers within the parking area. In addition, the applicant did not submit any information on the percent of landscaping on Tax Lot 1000. **The applicant shall submit additional information regarding landscaping in the parking areas on Tax Lot 1000 to ensure that the 10 percent minimum landscaping standard is met.**

86. 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 C, Sheet L2.1) details planter bays at the ends of a majority of the parking bays that are at least five feet in width by 17 feet in length with one major structural tree and ground cover; however, there are multiple planter bays that do not meet the minimum 5-foot by 17-foot requirement and/or do not detail one major structural tree and groundcover. **The applicant shall update the Preliminary Planting Plan to detail a landscape planter at the end of each parking bay at a minimum width of 5-feet and a minimum length of 17-feet, exclusive of curb, with one major structural tree and ground cover.**
87. 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. The submitted Preliminary Planting Plan (Exhibit C, Sheet L2.1) details landscaping buffers between parking areas and adjacent properties; however, the buffers along the east and west property lines of Tax Lot 902 and the west property line of Tax Lot 1000 are detailed to only contain groundcover. **The applicant shall update the Preliminary Planting Plan to detail a mix of groundcover, shrubs, and trees in the required landscaping buffers between parking areas and adjacent properties.**
88. Section 17.98.120(F) requires wheel stops or other methods to protect landscaped areas and pedestrian walkways. The Preliminary Planting Plan (Exhibit C, Sheet L2.1) and the Enlarged Site Plan (Exhibit C, Sheet A1.02)) detail wheel stops in all of the reconfigured parking spaces on Tax Lot 1000, and in the middle rows and southern row of parking spaces on Tax Lot 902. Section 17.98.120(F) allows parking to project over an internal sidewalk provided a minimum clearance of five feet for pedestrian circulation is maintained. Section 17.92.10(D) states that where the curb or the edge of a required planter or boundary area is used as a tire stop for parking, the planter or boundary plantings shall be a minimum width of seven and one-half feet. The applicant will be required to update the parking plan to include standard sized parking spaces, which may affect the landscaping buffers. **The updated Plan Set shall either detail wheel stops in the parking spaces adjacent to landscaping and walkways (5-foot minimum, exclusive of curb) to protect landscaping and pedestrian walkways, or shall detail a minimum planting area of 7.5 feet, exclusive of curb, adjacent to all parking spaces that use the curb as a tire stop and a minimum clearance of 5 feet for pedestrian walkways that are adjacent to parking spaces that use the curb as a tire stop.**

89. 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.**
90. 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.**
91. 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.
92. 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 C, Sheet A1.02) details a loading area near the east entrance of the mixed-use building. **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 applicant shall update the Plan Set to detail a minimum 10-foot by 35-foot loading area with 14 feet of clearance. 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

93. 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.
94. The Assistant Public Works Director (Exhibit Q) reviewed the proposal and notes that the plans and overview show potential encroachment into the sanitary sewer line (and possibly easement) between the proposed mixed-use building and the south property line. 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 appears to be only 10 feet wide. The building's second story is also cantilevered, which appears to encroach even further into the existing area that needs to be maintained for future access to the sewer line. Lastly, 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 applicant shall update the Plan Set to detail 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. The applicant shall update the Plan Set to detail the proposed building, including the cantilever, outside of the 15-foot easement. Alternatively, the applicant may be able to abandon the existing public sanitary sewer line along the south property line of Tax Lot 902 and relocate the public sanitary sewer line such that it extends further north from the point the existing sewer line enters Tax Lot 902 and aligns with the proposed parking aisles on Tax Lot 902 and then connects to the private sewer lateral on Tax Lot 1000. In this case, the applicant shall record a 15-foot easement reflecting the updated location of the public sanitary sewer line on Tax Lot 902.**
95. 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.**
96. 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.**
97. 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.**

98. Section 17.84.100 outlines the requirements for mail delivery facilities. **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.**
99. 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 1/2-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.**
100. 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).**
101. 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 each 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.**
102. 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.**

103. 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

104. 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 C, 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. 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, the retention of the trees in the southeast corner of Tax Lot 902, and the location, condition, and species of any additional trees on Tax Lot 1000.**
105. 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)).**
106. 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 is proposing to retain 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. Because the proposal does not meet the minimum tree retention requirement, the applicant is requesting a variance to the tree retention requirement pursuant to Section 17.102.70.

107. 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 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."

108. 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 the fourth tree (Tree #35) is located towards the center of the site within the proposed parking lot. Retention of Tree #7 would depend on how much right-of-way needs to be dedicated to accommodate the required street frontage improvements.

109. 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 that tree 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).

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 request. Removal of these trees could potentially meet tree variance criteria B.1 (in Section 17.102.70) due to ODOT’s request to relocate the shared access driveway. 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 either:

- A. Retain the existing landscape buffer, including the existing trees and other vegetation, and keep the existing location of the shared access driveway (or another location approved by ODOT that does not impact the existing landscape buffer), -OR-
- B. Relocate the required landscape buffer to allow the shared access driveway to be located on the shared property line as requested by ODOT.

If the applicant chooses option A, five (5) to six (6) trees that either meet or are close to meeting the retention standards could likely be retained (Trees #4, 4.1, 5, 10, and 11 should be able to be retained and Tree #7 may also be able to be retained depending on how much right-of-way dedication is required) in addition to Tree #28. If the applicant chooses option B, Tree #28 is the only potential retention tree that could be retained. **Staff recommends the Planning Commission determine whether they want to grant a variance to the tree retention standards in Section 17.102.50 based on the criteria in Section 17.102.70. Staff recommends the Planning Commission review the existing and proposed driveway location keeping in mind both ODOT’s recommendation and the City’s Development Code requirements, particularly Sections 17.90.00(C.2), 17.90.00(D.1), 17.90.120(F), and 17.92.10(C), in addition to the tree retention requirements of Chapter 17.102. If the Planning Commission decides to grant a variance to the minimum tree retention standards, staff recommends the Planning Commission determine the minimum number of retention trees they will require be retained. In addition, if the Planning Commission grants a variance to allow the applicant to not retain the minimum number of trees, staff recommends the Planning Commission require 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.**

110. 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.** With regards to Trees #4, 4.1, 5, 7, 10, and 11, **the applicant shall either:**

- A. **Retain existing Trees #4, 4.1, 5, 7, 10, and 11 as retention trees.** This will require adequately protecting the trees throughout construction such that they remain healthy and likely to grow to maturity. Tree protection fencing will be required at the critical root zone of 1-foot per 1-inch DBH, with allowance for up to 25 percent impact to the critical root zone provided there is no encroachment into the minimum root protection zone of 0.5-feet per 1-inch DBH.
- B. **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. If the applicant chooses this option, 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.

111. This finding analyzes the potential need for mitigation trees. Based on whether or not Tree #28 can be adequately protected and retained and whether the applicant chooses option A or B, the applicant may need to mitigate for one or more 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 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 the following in relation to the location of potential mitigation trees.

- A. Based on an analysis of the proposed site and landscape plans for the mixed-use development site (Tax Lot 902), staff determined that if mitigation trees were to be planted on the flag lot (Tax Lot 902), they would need to be placed within the proposed 1,785 square foot open lawn area in the northwest corner of the flag lot in order to ensure sufficient soil volume and planting space, and to reduce potential future conflicts with built structures or other development. **If the applicant needs to plant mitigation trees on Tax Lot 902, the mitigation trees shall be planted in the 1,785 square foot open lawn area in the northwest corner of the lot.** The third-party arborist (Exhibit R) reviewed the proposed mixed-use development site and landscaping plans and noted there is one black gum (*Nyssa sylvatica*) proposed in that location, which has a 20- to 30-foot-wide mature crown spread. That leaves a remaining planting space of approximately 55 to 60 linear feet. Based on that analysis, the third-party arborist recommends no more than one to two large, native, evergreen trees to be planted in the 1,785 square foot open lawn area to avoid

excessive competition over time between trees growing in that location. In addition, there is a proposed stormwater conveyance line that bisects the proposed open lawn area. **The applicant shall plant no more than two (2) of the required mitigation trees within the 1,785 square foot open space area in the northwest corner of Tax Lot 902.**

- B. Any remaining required mitigation trees would either need to be planted on Tax Lot 1000 or the applicant would need to pay a fee-in-lieu of mitigation tree at \$500 per tree. 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. **If the applicant needs to plant additional mitigation trees on Tax Lot 1000, the trees shall be planted on the northern portion of Tax Lot 1000 and the applicant shall submit analysis from the project arborist or third-party arborist detailing that the northern portion has sufficient soil volume and planting space to accommodate the necessary number of mitigation trees (large native evergreens). 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.**

112. 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 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 outlines the following recommendations to protect the neighboring trees in addition to the protection measures outlined in the applicant's arborist report.

- **Trees 2.1, 2.3, and 13.2:** Consider shifting the pedestrian pathway so it is directly adjacent to the driveway alignment at the driveway entrance adjacent to trees 2.1 and 2.3. Also, consider shifting the entire driveway further from all three trees if allowed by ODOT. **If the applicant chooses to locate the driveway along the shared property line, the applicant shall update the Plan Set to detail the pedestrian walkway so it's directly adjacent to the driveway alignment at the driveway entrance adjacent to Trees #2.1 and 2.3.**
- **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.**

113. 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 update 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. 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.**

114. Page 9 of the applicant’s arborist report (Exhibit H) details trees proposed to be retained and trees proposed for removal. The plan details Trees #28 and #29 as being removed; however, the tree inventory on page 8 notes these two trees will be retained, which is also reflected in the Plan Set. **The applicant shall update the tree retention plan on page 9 of the arborist report to indicate retention of Trees # 28 and 29. The applicant shall not remove any trees that aren’t marked for removal.**

115. 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.**

116. The applicant did not indicate if there are nests in the trees proposed for removal. **If the trees are removed during prime 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.**

117. 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.

118. **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

119. 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.
120. **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.**
121. 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.
122. 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 C, Sheet A1.02) details a 27.21 percent landscaping area on the mixed-use development site (Tax Lot 902). As a condition of approval, the applicant is required to provide additional standard sized parking spaces, which may affect the landscaping area. **The applicant shall submit confirmation that the proposal meets the minimum landscaping requirement on Tax Lot 902 after all required updates are made to the Plan Set.** The applicant did not submit the percent landscaping for the Paola's Pizza Barn lot (Tax Lot 1000). The proposal includes removal of existing landscaping on Tax Lot 1000 to accommodate a relocated access driveway. **The applicant shall submit additional information on the percent landscaping on Tax Lot 1000 demonstrating that the 20 percent landscaping minimum is met.**
123. 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 72 parking spaces, which requires a minimum of 9 medium trees. The Preliminary Planting Plan details 10 medium-large trees in the parking area, as well as three (3) small trees. Two additional trees will also need to be planted to meet the requirements of Section 17.98.120(D). Tax Lot 1000 contains approximately 44 parking spaces, which requires a minimum of 6 parking lot trees. The Preliminary Planting Plan (Exhibit C, Sheet L2.1) details planting 2 parking lot trees on Tax Lot 1000. However, as previously stated, in order to be in compliance with Section 17.98.120(D), **the applicant shall update the Preliminary Planting Plan to detail one**

major structural tree and ground cover in the landscape planters at each end of each parking bay. This will require a reconfiguration of the parking in front (south) of the existing Paola's Pizza Barn building.

124. 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.**
125. 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.**
126. 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.**
127. 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. **Staff recommends the applicant update the Preliminary Planting Plan to detail native species or water-efficient plants acclimated to the Willamette Valley. If the Planning Commission approves the applicant's request for a variance to the minimum tree retention standards, staff recommends the Planning Commission require the applicant to update the Planting Plan to detail all new landscaping as 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.
128. 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.**

129. 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.
130. 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

131. 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). 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

132. 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.**
133. 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.**
134. **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.**
135. 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.**
136. 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.**

RECOMMENDATION

Staff recommends the Planning Commission **approve** the proposed mixed-use development and parking lot reconfiguration request **with conditions as outlined in the staff report**.

Staff further recommends the Planning Commission **approve** the following requested 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). Staff recommends the Planning Commission require the applicant to submit clarification on the height of the wall and make a determination as follows:
- If the wall is 5-feet-tall as specified in the Stairs Grading Detail, staff recommends the Planning Commission approve the requested variance with a maximum wall height of 5 feet and a maximum guardrail height of 3.5 feet, in which case the applicant shall update the Plan Set to detail the south (front) retaining wall and fence as a maximum 5-foot-tall retaining wall with a maximum 3-foot-6-inch-tall guardrail on top.
 - If the wall is greater than 5 feet in height, staff recommends the Planning Commission review the applicant's updated information regarding wall height and make a determination on the maximum wall height they'd support in a commercial front yard.

In either case, 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.

- 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). Staff recommends the Planning Commission require the applicant to submit clarification on the height of the wall, review public testimony, and make a determination on the maximum wall height they'd support in a commercial rear yard (with a 3.5-foot guardrail on top). 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.
- 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). Staff recommends the Planning Commission require the applicant to submit clarification on the height of the wall, review public testimony, and make a determination on the maximum wall height they'd support in a commercial side yard (with a 3.5-foot guardrail on top). 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.

Staff recommends the Planning Commission determine whether they want to grant a variance to the tree retention standards in Section 17.102.50 based on the criteria in Section 17.102.70. Staff recommends the Planning Commission review the existing and proposed driveway location keeping in mind both ODOT's recommendation and the City's Development Code requirements, particularly Sections 17.90.00(C.2), 17.90.00(D.1), 17.90.120(F), and 17.92.10(C), in addition to the tree retention requirements of Chapter 17.102. If the Planning Commission decides to grant a variance to the minimum tree retention standards, staff recommends the Planning Commission determine the minimum number of retention trees they will require be retained. In addition, if the Planning Commission grants a variance to allow the applicant to not retain the minimum number of trees, staff recommends the Planning Commission require 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), consistent with the conservation benchmarks in the City of Sandy 2016 Water Management and Conservation Plan. The applicant shall update the Preliminary Planting Plan to detail native species or water-efficient plants acclimated to the Willamette Valley.

In either case, the applicant will be required to 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). Staff recommends the Planning Commission require the applicant to either:

- A. Retain the existing 65-foot landscape buffer as is, including retaining all of the existing trees and shrubs for a minimum depth of 20 feet. This option would require keeping the current shared access driveway location at STA 759+40, or as otherwise approved by ODOT, terminating the shared access easement at STA 759+85, recording an updated shared access easement reflecting that location, and updating the driveway and sidewalk design in compliance with ODOT and ADA standards.
- B. Update the Plan Set to detail an alternative landscape buffer that meets the requirements of Section 17.90.120(F). If the applicant chooses to propose an alternative landscape buffer location, the applicant shall update the Preliminary Planting Plan to detail retention of all existing trees within the buffer area as well as planting 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. The proposed plants shall be selected from the list in Section 17.90.120(F.3). 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.

Additional Staff Recommendations

1. Staff recommends the Planning Commission require mechanical, electrical, and communications equipment to be screened from view from pedestrian amenity areas and parking areas in addition to being screened from public rights-of-way and civic spaces.

RECOMMENDED CONDITIONS OF APPROVAL

A. Prior to submittal of trade permits and/or grading or other construction permits, the applicant shall update the plans submitted with the land use application to include the following items as specified below:

1. Update the Plan Set to detail the following:
 - a. A colored concrete inlay crosswalk connecting the pedestrian walkway located in the flagpole of Tax Lot 902 across the shared driveway aisle to the Paola's Pizza Barn entrance in compliance with the design standards of Section 17.90.120(A.5 and 7). The pedestrian crossing shall have a paved delineation in the form of a colored concrete inlay.
 - 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). The applicant shall either:
 - i. Retain the existing 65-foot landscape buffer as is, including retaining all of the existing trees and shrubs for a minimum depth of 20 feet. This option would require keeping the current shared access driveway location at STA 759+40, or as otherwise approved by ODOT, terminating the shared access easement at STA 759+85, recording an updated shared access easement reflecting that location, and updating the driveway and sidewalk design in compliance with ODOT and ADA standards.
 - ii. Update the Plan Set to detail an alternative landscape buffer that meets the requirements of Section 17.90.120(F). If the applicant chooses to propose an alternative landscape buffer location, the applicant shall update the Preliminary Planting Plan to detail retention of all existing trees within the buffer area as well as planting 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. The proposed plants shall be selected from the list in Section 17.90.120(F.3). 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.
 - c. The location of the mail delivery area in a convenient location efficiently designed for residents and mail delivery personnel and in accordance with U.S. Postal Service requirements. 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.
 - d. A minimum 6-foot-wide sidewalk, 9.5- to 11-foot-wide planter strip, 6-inch curb, and 6-foot-wide bike lane along the Highway 26 frontage of the subject properties. Street trees shall be planted 30 feet on center within the planter strip. The required width of

the planter (minimum 9.5 feet up to 11 feet) shall be determined based on the relative location of the required street trees in relation to the overhead power lines such that the street trees are set back sufficiently so as not to grow into the power lines (minimum of 6 feet from curb). If an 11-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 plant short growth species to avoid conflict with overhead utilities.

- e. 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.
 - f. A minimum of 43 (60 percent) of the parking spaces on Tax Lot 902 meet the minimum standard parking space size requirement (9 feet by 18 feet).
 - g. Demonstrate compliance with the aisle width standards in Section 17.98.60(C).
 - h. Planter and boundary areas in the parking lot at a minimum diameter of five feet (two and one-half foot radius, inside dimensions).
 - i. Either detail wheel stops in the parking spaces adjacent to landscaping and walkways (5-foot minimum, exclusive of curb) to protect landscaping and pedestrian walkways, or detail a minimum planting area of 7.5 feet, exclusive of curb, adjacent to all parking spaces that use the curb as a tire stop and a minimum clearance of 5 feet for pedestrian walkways that are adjacent to parking spaces that use the curb as a tire stop.
 - j. A minimum 10-foot by 35-foot loading area with 14 feet of clearance. The loading area shall be delineated either by striping or use of a different material.
 - k. A 15-foot-wide sanitary sewer easement where the existing sanitary sewer line runs along the south property line of the flag portion of Tax Lot 902. Detail the proposed building, including the cantilever, outside of the 15-foot sanitary sewer easement. Alternatively, the applicant may be able to abandon the existing public sanitary sewer line along the south property line of Tax Lot 902 and relocate the public sanitary sewer line such that it extends further north from the point the existing sewer line enters Tax Lot 902 and aligns with the proposed parking aisles on Tax Lot 902 and then connects to the private sewer lateral on Tax Lot 1000. In this case, the applicant shall record a 15-foot easement reflecting the updated location of the public sanitary sewer line on Tax Lot 902.
 - l. If the applicant chooses to locate the driveway along the shared property line, the applicant shall update the Plan Set to detail the pedestrian walkway so it's directly adjacent to the driveway alignment at the driveway entrance adjacent to Trees #2.1 and 2.3.
2. Update the Floor Plans and Elevations to detail the following:
 - a. Articulated elevations on all four ground floor (level 01) building facades meeting the

- wall plane requirements of Section 17.90.120(B) (i.e., distinct planes of no more than 40 linear feet with recessed or projecting sections that project or recede at least six inches from the adjacent plane, for a length of at least four feet).
- b. Offsets at a minimum of every 20 feet by providing recesses or extensions with a minimum depth of eight feet on the upper floors (levels 02-04) of all four elevations of the proposed mixed-use building. If this cannot be accomplished, the applicant will need to apply for an adjustment or variance to Section 17.90.160(D).
 - c. Battens at a minimum of two-inches wide by one-inch deep and spaced 24 inches apart or closer.
 - d. Two (2) additional windows (detailed at 3-feet by 5-feet-6-inches per elevation note #16) on the ground floor of the north elevation. The two (2) additional windows shall be added to the north wall of the mini-storage office to the west of the main lobby entrance.
 - e. An apartment directory in the lobby.
3. Update the 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.
4. Update the 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.
 - b. A landscape planter at the end of each parking bay at a minimum width of 5-feet and a minimum length of 17-feet, exclusive of curb, with one major structural tree and ground cover.
 - c. A mix of groundcover, shrubs, and trees in the required landscaping buffers between parking areas and adjacent properties.
5. Update the Tree Retention Plan 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. 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.
- 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. With regards to Trees #4, 4.1, 5, 7, 10, and 11, the applicant shall either:
 - i. Retain existing Trees #4, 4.1, 5, 7, 10, and 11 as retention trees. This will require adequately protecting the trees throughout construction such that they remain healthy and likely to grow to maturity. Tree protection fencing will be required at the critical root zone of 1-foot per 1-inch DBH, with allowance for up to 25 percent impact to the critical root zone provided there is no encroachment into the minimum root protection zone of 0.5-feet per 1-inch DBH.
 - ii. 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. If the applicant chooses this option, 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. If the applicant needs to plant mitigation trees on Tax Lot 902, the mitigation trees shall be planted in the 1,785 square foot open lawn area in the northwest corner of the lot. The applicant shall plant no more than two (2) of the required mitigation trees within the 1,785 square foot open space area in the northwest corner of Tax Lot 902.
- g. If the applicant needs to plant additional mitigation trees on Tax Lot 1000, the trees shall be planted on the northern portion of Tax Lot 1000 and the applicant shall submit analysis from the project arborist or third-party arborist detailing that the northern portion has sufficient soil volume and planting space to accommodate the necessary number of mitigation trees (large native evergreens).

- h. 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.
- 6. Update the Tree Retention Plan and Tree Protection Fencing Plan on page 9 of the Arborist Report to reflect the following:
 - a. Updated site plan.
 - b. Retention of the trees in the southeast corner of Tax Lot 902
 - c. Location, condition, and species of any additional trees on Tax Lot 1000.
 - d. Detail retention of Trees # 28 and 29.
 - e. 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.
- 7. Update the Utility Plan to locate utilities under the sidewalk or driveway so they are further from Tree #15.
- 8. Submit a parking analysis for the Paola's Pizza Barn on Tax Lot 1000, including an analysis of required parking spaces, existing parking spaces, proposed parking spaces, and ADA parking spaces, as well as a proposed reconfiguration of the parking area south of the building in compliance with Chapter 17.98. If the minimum parking requirements for parking spaces, ADA parking spaces, and/or bicycle parking spaces are not met, the applicant shall submit an updated parking plan for Tax Lot 1000 in conformance with Chapter 17.98 and ADA requirements.).
- 9. Submit the following information related to site landscaping:
 - a. Confirmation that the proposal meets the minimum landscaping requirement on Tax Lot 902 after all required updates are made to the Plan Set.
 - b. Additional information on the percent landscaping on Tax Lot 1000 demonstrating that the 20 percent landscaping minimum is met.
 - c. Additional information regarding landscaping in the parking areas on Tax Lot 1000 to ensure that the 10 percent minimum landscaping standard is met.
 - d. Section drawings that clearly detail the parking area, landscaping area, retaining wall, guardrail, and property lines for the areas between the parking area and the north and east property line; the landscape buffer shall have a minimum inside dimension of 5 feet.
- 10. Confirm that the storm system shown is private until it outfalls to the ditch inlet. New storm lines shall require a recorded easement through each property per Condition E.10.c.

11. 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.
12. Confirm the location and dimensions of the construction entrance.
13. 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 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 measure 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. Submit the following information with the Building Permit:

1. Details on the proposed automatic irrigation system.
2. 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.
3. 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.
4. 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.
5. Pay a fee in lieu of parkland dedication in the amount of \$496,337.18 (0.571 acres x \$869,242 per acre).

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. Submit a copy of the right-of-way dedication to ODOT 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 as determined by condition A.5.
3. Install an irrigation system, such as drip-line irrigation, to water all landscaping, including trees. Submit documentation from the project landscaper detailing the type of irrigation system that was installed.
4. Install all required improvements.
 - a. 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.
5. 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 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.
6. 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.
7. 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.
8. An emergency vehicle access and maintenance agreement shall be deeded and recorded and a copy provided to City staff.

9. 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.
10. 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 each 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.

G. 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.

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 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.
 - 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.

19. 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.
20. 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.
21. 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).
22. Pay System Development Charges prior to issuance of the building permits.
23. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
24. 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.