

FINDINGS OF FACT and FINAL ORDER

TYPE II SUBDIVISION PURSUANT TO ORS 92.830 THROUGH 92.845

The above-referenced proposal was reviewed as a mobile home park subdivision pursuant to ORS 92.830 through 92.845. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the conditions of approval.

DATE: May 15, 2023

FILE NO.: 22-053 SUB

PROJECT NAME: Johnston Park Subdivision

APPLICANT/OWNER: Ron Johnston

PHYSICAL ADDRESS: 17902 Sue Lane

LEGAL DESCRIPTION: Lot 2 of Johnston Park per Plat 3258

TAX IDENTIFICATION: T2S R4E Section 14DA Tax Lot 1308

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EXHIBITS

Applicant's Submission

- A. Land Use Application
- B. Narrative
- C. Tentative Plan
- D. Letter to Ron Johnston from Tracy A. Brown dated March 23, 2015
- E. Letter to Ron Johnston from Joseph A. Yazbeck, Jr. dated February 4, 2015

Additional Documents Submitted by Staff

- F. Plat 3258
- G. 1995 Site Plan
- H. Final Order for File Number 95-824 DR

FINDINGS OF FACT

GENERAL FINDINGS

1. These findings are based on the applicant's submittal received on January 4, 2023, with additional items received on March 21 and March 30, 2023. This application was deemed complete on April 4, 2023. The 120-day clock expires on August 3, 2023.
2. This land use application is not subject to the moratorium on development adopted by Resolution 2022-24 because it does not propose a new sanitary sewer connection. The 17 manufactured homes were approved with Design Review No. 823 in 1995. Design Review No. 824 was also associated with this applicant at the same time but was for a six-lot zero side yard dwelling development to the north of Nettie Connett Drive. **The applicant shall not be permitted to add any new sanitary sewer connections as part of this application.**
3. The applicant is requesting to convert the existing manufactured home park at 17902 Sue Lane to a manufactured dwelling subdivision pursuant to Oregon Revised Statutes (ORS) 92.830 through 92.845. The existing mobile home park was approved in 1995 for 17 mobile home spaces and a stormwater facility (Tract A). After conversion of the mobile home park to a manufactured dwelling subdivision, there will be 17 separate manufactured home lots that can be individually owned and sold; Tract A will be jointly owned by the owners of each of the 17 lots.
4. Notification of the proposal was mailed to property owners within 100 feet of the subject property on April 13, 2023, in compliance with ORS 197.195(3)(b). No comments were received by the comment deadline.
5. **Construction of a manufactured dwelling requires a building permit and shall adhere to the Oregon Building codes for structural, plumbing, electrical, and mechanical requirements. The applicant shall obtain a building permit from the City of Sandy prior to construction of a manufactured dwelling on any of the parcels.**
6. At the pre-application meeting for this proposal held on September 22, 2022, the submitted materials detailed adjusting the shared lot line between Parcel 1 and 2 of Plat 3258. The applicant is not proposing any changes to the external boundary lines of Parcels 1 and 2 of Plat 3258 with the subject application (File No. 22-053 SUB) consistent with ORS 92.835(1)(b). **Lot 1 shall be removed from the proposed plat as it was not part of Design Review No. 823 and shall remain at 8,347 square feet per Plat 3258.**

OREGON REVISED STATUTES (ORS) 92.830 – 92.845

7. The applicant is requesting conversion of an existing mobile home park to a manufactured dwelling subdivision pursuant to ORS 92.830-92.845.
8. ORS 92.830 contains the definitions for ORS 92.830 to 92.845. ORS 92.832 contains the policy behind the provision for subdividing a manufactured home park.
9. ORS 92.835 contains standards for approval of the subdivision of a manufactured dwelling park or mobile home park that was lawfully approved before July 2, 2001, and states that the governing body of a city shall approve a tentative plan upon receipt and verification of evidence that the proposal meets ORS 92.835(1)(a) through (1)(e). The following contains an analysis of ORS 92.835(1)(a) through (1)(e).
 - a. Per ORS 92.835(1)(a), the park must be in compliance with the governing body's standards for a manufactured dwelling park or a mobile home park or must be an approved nonconforming use. For the purposes of this paragraph, a park is in compliance if the governing body of the city or county has not issued a written notice of noncompliance on or before July 2, 2001. The City did not issue a written notice of noncompliance on or before July 2, 2001. Staff finds the proposal meets ORS 92.835(1)(a).
 - b. Per ORS 92.835(1)(b), the tentative plan cannot make changes from the approved manufactured dwelling park or mobile home park development, including but not limited to increasing or decreasing the number of lots or changing the external boundary lines or setback requirements. The original approval in Design Review No. 823 in 1995 was for 17 manufactured home lots, a recreation area with stormwater facilities at 5,148 square feet and a recreational vehicle area totaling 3,068 square feet. The approved grading and erosion control plan dated September 10, 1995 details 17 manufactured homes, with 8 homes on the east side of the private drive (Sue Lane) and 9 homes on the west side of the private drive. The applicant is proposing 18 lots and Tract A for stormwater storage. Lot 1 of the proposed plat is Lot 1 of Johnston Park per Plat 3258. **Lot 1 shall be removed from the proposed plat as it was not part of Design Review No. 823 and shall remain at 8,347 square feet.** The applicant is proposing Tract A at 4,956 square feet, but the original approval with Design Review No. 823 detailed this area at 5,148 square feet. **The applicant shall modify Tract A to be 5,148 square feet in accordance with Design Review No. 823.** The original approval with Design Review No. 823 detailed a recreational vehicle area to the west of Lot 1 of Johnston Park Play 3258. **The applicant shall redesign Lot 2 on the proposed plat to separate out Tract B at 3,068 square feet for recreational vehicle storage in accordance with Design Review No. 823. The applicant shall redesign the layout to have 17 manufactured home lots, with 8 lots for manufactured homes on the east side of the private drive (Sue Lane) and 9 lots for manufactured homes on the west side of the private drive.** If the applicant modifies the plat per the above conditions of approval, then and only then does the proposal meet ORS 92.835(1)(b).

- c. Per ORS 92.835(1)(c), the tentative plan shall restrict the use of lots in the subdivision to the installation of manufactured dwellings and shall restrict any other property in the subdivision to use as common property as defined in ORS 94.550 (Definitions for ORS 94.550 to 94.783) or for public purposes. **The applicant shall include a note on the plat stating that the use of lots in the subdivision shall be restricted to the installation of manufactured dwellings and any other property in the subdivision shall be restricted to use as common property as defined in ORS 94.550 (Definitions for ORS 94.550 to 94.783) or for public purposes.** With the proposed condition of approval, staff finds the proposal can meet ORS 92.835(1)(c).
 - d. Per ORS 92.835(1)(d), the tentative plan cannot contain conditions of approval or require development agreements except the original conditions of approval and development agreements contained in the original approval for the park or conditions required by ORS 92.830 (Definitions for ORS 92.830 to 92.845) to 92.845 (Relationship of subdivision in manufactured dwelling park or mobile home park to planned community statutes and series partition statutes). **The applicant shall adhere to conditions of approval of Design Review No. 823 and all requirements of ORS 92.830 to 92.845. The applicant shall modify Note 2 on the proposed plat to include a detail that the City of Sandy has an easement over the entirety of Sue Lane for access and maintenance of utilities consistent with Note 2 on Plat 3258. The applicant shall add a 20-foot-wide public storm easement and note along the entire length of the west boundary line consistent with Note 3 on Plat 3258.** The applicant is detailing 5-foot-wide public utility easements (PUEs) around all lots consistent with Note 1 on Plat 3258. With the proposed conditions of approval, staff finds the proposal can meet ORS 92.835(1)(d).
 - e. Per ORS 92.835(1)(e), the property owners applying for the conversion shall sign and record a waiver of the right of remonstrance, in a form approved by the city or county, for the formation of a local improvement district by a city or county. **The applicant shall sign and record a waiver of the right of remonstrance, in a form approved by the City, for the formation of a local improvement district by the City.** With the proposed condition of approval, staff finds the proposal can meet ORS 92.835(1)(e).
10. ORS 92.835(2) states that the governing body of a city or county shall approve a plat in compliance with the applicable requirements of ORS 92.010 (Definitions for ORS 92.010 to 92.192) to 92.192 (Property line adjustment), except standards and procedures adopted by regulation or ordinance under ORS 92.044 (Adoption of standards and procedures governing approval of plats and plans) or 92.048 (Procedure for adoption of regulations under ORS 92.044 and 92.046). The plat may not contain conditions of approval or require development agreements except the original conditions of approval and development agreements contained in the original plat for the park or conditions required by ORS 92.830 (Definitions for ORS 92.830 to 92.845) to 92.845 (Relationship of subdivision in manufactured dwelling park or mobile home park to planned community statutes and series partition statutes). **The applicant shall modify Note 2 on the proposed plat to include a**

detail that the City of Sandy has an easement over the entirety of Sue Lane for access and maintenance of utilities consistent with Note 2 on Plat 3258. The applicant shall add a 20-foot-wide public storm easement and note along the entire length of the west boundary line consistent with Note 3 on Plat 3258. The applicant is detailing 5-foot-wide public utility easements (PUEs) around all lots consistent with Note 1 on Plat 3258.

11. ORS 92.837 pertains to the application of city or county comprehensive plans and land use regulations. **The property in question will be subject to, and must comply with, the requirements of ORS 92.837.**
12. ORS 92.839 contains requirements regarding notice to tenants of conversion and tenant's rights during conversion. **The applicant shall comply with the notice requirements contained in ORS 92.839.**
13. ORS 92.840 pertains to sale of subdivision lots. **The applicant shall adhere to the requirements of ORS 92.840 regarding sale of the subdivision lots.**
14. ORS 92.843 relates to approval of a declaration or amendment to a declaration made pursuant to ORS 92.845. **The applicant shall adhere to the requirements of ORS 92.843 regarding declaration or amendment to a declaration.**
15. ORS 92.845 pertains to the relationship of the subdivision of manufactured dwellings in a manufactured dwelling park or mobile home park to planned community statutes and series partition statutes. **The applicant shall adhere to the requirements of ORS 92.845.**

DECISION

The applicant's request to convert an existing mobile home park to a manufactured dwelling subdivision pursuant to ORS 92.830-92.845 is **approved with conditions as outlined in this final order.**



Kelly O'Neill Jr.
Development Services Director

CONDITIONS OF APPROVAL

A. Submit the tentative plat with the required fee and with the following revisions to the plat:

1. Remove Lot 1 as it was not part of Design Review No. 823 and shall remain at 8,347 square feet per Plat 3258.
2. Redesign the layout to have 17 manufactured home lots, with 8 lots for manufactured homes on the east side of the private drive (Sue Lane) and 9 lots for manufactured homes on the west side of the private drive.
3. Modify Tract A to be 5,148 square feet in accordance with Design Review No. 823.
4. Redesign Lot 2 on the proposed plat to separate out Tract B at 3,068 square feet for recreational vehicle storage in accordance with Design Review No. 823.
5. Modify Note 2 on the proposed plat to include a detail that the City of Sandy has an easement over the entirety of Sue Lane for access and maintenance of utilities consistent with Note 2 on Plat 3258.
6. Add a 20-foot-wide public storm easement and note along the entire length of the west boundary line consistent with Note 3 on Plat 3258.
7. Add a note on the plat stating that the use of lots in the subdivision shall be restricted to the installation of manufactured dwellings and any other property in the subdivision shall be restricted to use as common property as defined in ORS 94.550 (Definitions for ORS 94.550 to 94.783) or for public purposes.

B. Prior to the recording of the plat, the applicant shall obtain approval for all of the required tentative plat modifications and shall supply proof of the following:

1. Submit a copy of the recorded waiver of the right of remonstrance, in a form approved by the City, for the formation of a local improvement district by the City.
2. Submit proof of compliance with the notice requirements contained in ORS 92.839.

C. Construction of a manufactured dwelling requires a building permit and shall adhere to the Oregon Building codes for structural, plumbing, electrical, and mechanical requirements. The applicant shall obtain a building permit from the City of Sandy prior to construction of a manufactured dwelling on any of the parcels.

D. General Conditions

1. This approval does not waive adherence to the Sandy Municipal Code. Future modifications to the subdivision lots, including tree removal, shall adhere to the regulations in Title 17 of the Sandy Municipal Code.

2. The applicant shall not be permitted to add any new sanitary sewer connections as part of this application.
3. The applicant shall adhere to conditions of approval of Design Review No. 823 and all requirements of ORS 92.830 to 92.845.
4. The applicant shall adhere to the requirements of ORS 92.840 regarding sale of the subdivision lots.
5. The applicant shall adhere to the requirements of ORS 92.843 regarding declaration or amendment to a declaration.
6. The applicant shall adhere to the requirements of ORS 92.845.

RIGHT OF APPEAL

A Type II decision may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within twelve (12) days of notice of the decision. The notice of appeal shall indicate the nature of the decision that is being appealed.

An application for an appeal shall contain at least the following:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.28.50;
5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed;
6. The name and mailing address of the person or entity appealing the decision; and
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal.