

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

**DATE:** October 31, 2023

**FILE NO.:** 23-031 DR/FSH

**PROJECT NAME:** 37220 Dubarko Road House Addition

**APPLICANT:** D.R. Steinke Construction

**OWNER:** Jerri and Richard Elsberry

**LEGAL DESCRIPTION:** Lot 1 of Knollwood Estates Phase II (24E14DB07400)

**ADDRESS:** 37220 Dubarko Road

The above-referenced proposal was reviewed as a Type I Design Review and Type II Flood and Slope Hazard (FSH) overlay review. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the conditions of approval. This findings of fact and final order also acts as the notice of decision to all persons and agencies that submitted comment.

**EXHIBITS:**

**Applicant Submittals**

- A. Land Use Application Form
- B. Project Narrative
- C. Plans from All County Surveyors
  - i. Topographic Survey and Flood and Slope Hazard Map
  - ii. Site Plan with Survey
- D. Plan from D.R. Steinke Construction
- E. Project Valuation email from D.R. Steinke Construction
- F. Retaining Wall Email and Pictures (received October 11, 2023)

**Agency Comments**

- G. Parks and Recreation Department (received October 5, 2023)

**Public Comments**

- H. Jan Thomson (received October 3, 2023)
- I. Khris Alexander (received October 3, 2023)
- J. Tom Newell (received October 3, 2023)
- K. Paul Heistuman (received October 10, 2023)
- L. Christy Morgan (received October 11, 2023)
- M. Dave Freeman (received October 11, 2023)
- N. Tom Ibsen (received October 12, 2023)
- O. Cynthia Neverez (received October 13, 2023)

## FINDINGS OF FACT

### General Findings

1. These findings are based on the applicant's original submittal received on August 28, 2023, with additional information received on September 14, 2023. The application was deemed complete on September 26, 2023. The applicant submitted additional information on the retaining wall and creek (Exhibit F) on October 11, 2023.
2. The subject property is located south of Sandy Heights Street, west of Dubarko Road, and east of Tickle Creek. The subject property is 8,290 square feet.
3. The subject property has a zoning district designation of Medium Density Residential (R-2) and is encumbered by the Flood and Slope Hazard (FSH) Overlay.
4. The applicant, D.R. Steinke Construction, submitted a land use application on behalf of the property owners, Jerri and Richard Elsberry, to construct a two-story addition within 80 feet of the top of bank of Tickle Creek. According to the applicant, the entire subject property is located within the Flood Slope Hazard (FSH) Overlay and the majority of the property (64.25 percent) is located within the 80-foot restricted development area to the top of bank of Tickle Creek.
5. The applicant proposes removing the existing 410 square foot wooden deck located at the southwest corner of the home to accommodate a 360 square foot master bedroom suite with a bathroom. The applicant states that the proposal reduces the area of impact within the restricted development area by 50 square feet. In addition to construction of the master suite, the applicant is also proposing to construct a bonus room above the existing garage. City staff is also evaluating the encroachments (shed, retaining wall, and synthetic turf) that was installed on City property to the west of 37220 Dubarko Road in a location that is planned for the Tickle Creek Trail.
6. This application is not subject to the moratorium on development adopted by City Council because the proposed addition is allowed in Resolution 2023-27 as the addition does not necessitate a new sanitary connection, nor does it create additional anticipated flows.
7. This application is a Type II FSH review and therefore notification to surrounding property owners was required. The City mailed notice to all property owners within 300 feet of the subject site on September 29, 2023.
8. The City received eight written comments (Exhibits H through O). The comments included a mix of people who thought the City should approve the requested addition and people who thought the City should deny the requested addition. A few of the written comments also spoke to the proposed expansion of the Tickle Creek Trail. While the comments were well written and thoughtful, they did not modify the decision or conditions as set forth in this final order.

### **Chapter 17.38 – Medium Density Residential (R-2) Zoning District**

9. The applicant proposes expanding an existing single-family dwelling in the R-2 zoning district. A single-family dwelling is a primary use per Section 17.38.10.
10. Section 17.38.30 details the development standards for the R-2 zoning district. The applicant proposes removing the existing 410 square foot wooden deck located at the southwest corner of the home to accommodate a 360 square foot master bedroom suite with a bathroom. The proposal meets all applicable setbacks in the R-2 zoning district.
11. Section 17.38.40 requires the improvements on the site to connect to municipal services including water and sanitary sewer. The existing house is already connected to utility services and no new utility connections are proposed.

### **Chapter 17.60 – Flood & Slope Hazard (FSH) Overlay District**

12. Section 17.60.20 contains permitted uses and activities within the restricted development area of the FSH overlay district. The proposal is to expand an existing single-family dwelling on a lot of record within the Knollwood Estates II subdivision. This is a permitted use within the FSH Overlay, but requires the following prescribed conditions:
  - a. The applicant must demonstrate that the lot has received planning approval from either Clackamas County or the City of Sandy and that there is insufficient buildable land on the same lot to allow the proposed construction or expansion.
  - b. The site review, engineering, erosion control, water quality and re-vegetation standards of this chapter have been fully satisfied.
  - c. The residence or addition has been sited so as to minimize excavation and disturbance to native vegetation on restricted development areas.
  - d. The maximum impervious surface coverage resulting from development on restricted development areas shall be 2,500 square feet. Exception: This standard may be exceeded to allow a superior private driveway design and location that reduces adverse impacts to protected areas. To exceed the standard, the applicant must demonstrate that a longer driveway will avoid required setbacks from protected water features, and that driveway construction will either: (a) more closely follow hillside contours and thereby reduce overall cut and fill area by at least 20 percent; or (b) avoid tree clusters and thereby reduce the number of six-inch or greater dbh trees that must be removed by at least 20 percent.
  - e. The option of an adjustment under Section 17.60.100 has been considered as a means of avoiding or minimizing impacts on restricted development areas.
  - f. Development shall not result in cuts or fills in excess of three feet except for basement construction unless specifically approved by the Director.
13. Section 17.60.20(B)(7)(a) states that the applicant must demonstrate that the lot has received planning approval from either Clackamas County or the City of Sandy and that there is insufficient buildable land on the same lot to allow the proposed construction or expansion. The applicant stated in the submitted narrative (Exhibit B) the following: *“The applicant requests approval from the City of Sandy to replace an existing deck located at the southwest corner of the home with a new ground level master suite. As shown on the Site Plan, the majority of the subject property and the entire development site is located within the restricted development area to Tickle Creek. Because of this restriction, in*

*addition the constraint of complying with required setbacks, no other area exists on the subject property to construct this addition.*” There are other areas to consider for the addition, including even one area to the south of the existing garage that would be outside the restricted development area of the FSH Overlay. That said, the location of the existing garage and layout of the existing house would make the expansion of a first-floor bedroom outside the restricted development area very difficult. The location of the house was approved by the City of Sandy and the house was constructed in 1989. The construction of the house predates the FSH Overlay code and the prescribed restricted development area.

14. Section 17.60.20(B)(7)(b) states the site review, engineering, erosion control, water quality and re-vegetation standards of this chapter have been fully satisfied. The applicant stated in the submitted narrative (Exhibit B) the following: *“All requirements of this section can be satisfied.”* Staff agrees with the applicant that this section can be satisfied if the applicant follows the requirements and conditions in this final order.
  
15. Section 17.60.20(B)(7)(c) states the residence or addition has been sited so as to minimize excavation and disturbance to native vegetation on restricted development areas. The applicant stated in the submitted narrative (Exhibit B) the following: *“The proposed structure will result in the removal of a 410 sf existing deck and the replacement of this structure with a 360 sf ground floor master suite. With the development, no additional disturbance to native vegetation will occur.”* The applicant or the previous owner of the subject property installed a retaining wall along the top of bank of Tickle Creek, installed an accessory structure, installed a raised flower bed, and installed artificial turf all located on property owned by the City of Sandy. These improvements were done to the west of the subject property and without consent from the City of Sandy. These improvements were done in the channel of a fish bearing stream and impacted native vegetation within the restricted development area. **The applicant shall remove the accessory structure, raised flower bed, and artificial turf from the property owned by the City of Sandy and restore the property with native vegetation. The applicant shall revise the site plan to detail the accessory structure, raised flower bed, and artificial turf removed from City property and shall submit a planting plan for review and approval by City staff.**
  
16. Section 17.60.20(B)(7)(d) states the maximum impervious surface coverage resulting from development on restricted development areas shall be 2,500 square feet. Exception: This standard may be exceeded to allow a superior private driveway design and location that reduces adverse impacts to protected areas. To exceed the standard, the applicant must demonstrate that a longer driveway will avoid required setbacks from protected water features, and that driveway construction will either: (a) more closely follow hillside contours and thereby reduce overall cut and fill area by at least 20 percent; or (b) avoid tree clusters and thereby reduce the number of six-inch or greater dbh trees that must be removed by at least 20 percent. The applicant stated in the submitted narrative (Exhibit B) the following: *“As shown on the submitted Site Plan, the existing deck contains approximately 410 sf and the new building addition will contain 360 sf. As a result of this proposal, the area of disturbance within the restricted development area will be reduced by 50 sf.”* It is true that an existing deck is proposed for removal, but the construction of

the addition is also located in the restricted development area. There is also artificial turf already installed in the restricted development area. In addition to private impervious surface which likely exceeds 2,500 square feet, the applicant or a previous owner of the subject property also installed impervious surface improvements on the public property in the restricted development area. The Parks and Recreation Department submitted an email (Exhibit G) into the record. The Parks and Recreation Director stated the following:

- a. "We would be willing to allow retaining the improvements on public property, as opposed to removal and restoration by the homeowner, if an engineer signs off on the integrity of the retaining wall, stairs, etc."
- b. "We request the homeowner install a fence for privacy."
- c. "This is a location of the future trail as listed in the 2022 Parks and Trails Master Plan (Trail T28 Tickle Creek Reroute). Therefore, please have the homeowner remove turf and shed to allow for future trail development."

**As stated above, the applicant shall remove the accessory structure, raised flower bed, and artificial turf from the property owned by the City of Sandy and restore the property with native vegetation. The applicant shall also submit a structural evaluation from an engineer confirming that the retaining wall and stairs are structurally stable and will not fail.** Staff also recommends the applicant install a fence at their rear property line to maintain privacy for when Trail T28 is installed. With these conditions of approval this condition is met.

17. Section 17.60.20(B)(7)(e) states the option of an adjustment under Section 17.60.100 has been considered as a means of avoiding or minimizing impacts on restricted development areas. The applicant stated in the submitted narrative (Exhibit B) the following: "*The applicant considered requesting an adjustment under Section 17.60.110 but because of the configuration of the site and the location of the FSH restricted development area on the property, an adjustment to code standards would not work to achieve the applicant's needs.*" City staff is not aware of any adjustment considerations by the applicant, but the applicant's narrative states that the applicant did consider an adjustment, so this condition is met.
18. Section 17.60.20(B)(7)(f) states Development shall not result in cuts or fills in excess of three feet except for basement construction unless specifically approved by the Director. The applicant stated in the submitted narrative (Exhibit B) the following: "*The only cut needed to construct the proposed development will be for required foundation footings. In no case will any cuts exceed three feet in depth.*" The proposed addition will not result in any excess cuts or fills so staff finds that this condition is met.
19. In accordance with Section 17.60.40(B)(3) the review procedure is a Type II as the proposal is to expand an existing single-family dwelling on a lot of record within the Knollwood Estates II subdivision in the restricted development area within 80 feet of the top of bank of Tickle Creek. The approval standards for development proposed within the restricted development area of the FSH Overlay district is in Section 17.60.60. The approval standards consist of six review criterion as reviewed below.

20. Review criterion number one in Section 17.60.60(A.1) pertains to cumulative impacts and requires that development within the FSH overlay district, including vegetation removal, will not measurably decrease water quantity or quality in streams or wetlands below existing conditions. The applicant stated in the submitted narrative (Exhibit B) the following: *“The proposed development results in a reduction of the development area within the restricted development area by 50 square feet. Approval of this request is expected to have no impact on the adjoining Tickle Creek.”* The cumulative impacts of previous site development on the subject lot, proposed site development on the subject lot, and unpermitted development on the City property to the west of the lot is considerable. Cumulative impacts can be mitigated to a certain extent by removal of unpermitted improvements on City property and with planting of native vegetation. **All exposed soils shall be covered with jute matting and planted with native plants before the wet weather season begins. The applicant shall submit a planting plan detailing the species, size, location, and quantity of the native vegetation proposed to be planted in the FSH overlay.** With these conditions of approval, Criteria A.1 can be met.
21. Sections 17.60.60(A.2, A.3, and A.4) pertain to impervious surface area, construction materials and methods, and cuts and fills, respectively. The applicant stated in the submitted narrative (Exhibit B) the following: *“The proposed development footprint is the minimum necessary to accomplish the applicant’s objective to provide a ground floor master suite for her and her husband. Given site constraints, the proposed development location represents the only logical location on the subject property to construct this addition. The proposed excavation to construct foundation footing is the minimum necessary to allow construction of this single story ground floor master suite. No special reports were requested or are any required.”* The applicant or the previous owner of the subject property installed a retaining wall along the top of bank of Tickle Creek, installed an accessory structure, installed a raised flower bed, and installed artificial turf all located on property owned by the City of Sandy. These improvements were done to the west of the subject property and without consent from the City of Sandy. As explained elsewhere in this final order, removal of the accessory structure, artificial turf, and raised flower bed on City property, and planting of native vegetation will alleviate a few impervious surface concerns close to Tickle Creek. Criterion A.2, A.3, and A.4 can be satisfied if the applicant follows the requirements and conditions in this final order.
22. Section 17.60.60(A.5) pertains to minimizing wetland and stream impacts and requires that the site shall maintain the quantity and quality of surface and groundwater flows to locally significant wetlands or streams in the FSH overlay district. The applicant stated in the submitted narrative (Exhibit B) the following: *“With approval of this development, no changes to the quantity and quality of surface or groundwater to Tickle Creek as a result of the development will occur.”* Staff agrees with the applicant that Criterion A.5 can be satisfied if the applicant follows the requirements and conditions in this final order.
23. Section 17.60.60(A.6) requires that development shall minimize the loss of native vegetation. The applicant stated in the submitted narrative (Exhibit B) the following: *The proposed development will replace an existing 410 square foot deck with a new 360 square foot ground floor master suite. With this development, the area of impact within*

*the FSH restricted development area will be reduced by 50 square feet. No additional disturbance to native vegetation will occur as a result of approval of this request.*” The existing improvements on the subject lot and on the City property to the west of the lot has negatively impacted native vegetation. The applicant has installed artificial turf within the restricted development area of Tickle Creek which is not permitted by the Sandy Development Code. **Where native vegetation is lost as a result of development within restricted development areas, it shall be replaced on-site on a 2:1 basis according to type and area. Disturbed understory and groundcover shall be replaced by native understory and groundcover species that effectively covers the disturbed area.** With these conditions of approval Criterion A.6 can be met.

24. Future activity on the subject property within the FSH overlay requires additional land use review. **The applicant shall apply for a separate FSH review permit for all additional/future activity within the FSH overlay; including but not limited to grading, removal of fill, removal of trees, removal of vegetation, planting vegetation, and repair of unstable slopes. The applicant shall not remove any native vegetation within the FSH overlay district, with the exception of removal of up to two trees 6 inches DBH or greater per calendar year when approved by permit. A violation of the provisions set forth in Chapter 17.60, FSH, (e.g., tree removal without permit authorization or native vegetation removal) may result in a fine as specified in Section 17.06.80.**

#### **Chapter 17.84 Improvements Required with Development**

25. Section 17.84.20 contains standards for timing of improvements. **All improvements required by the standards in Chapter 17.84 shall be installed concurrently with development. 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.**
26. The subject property has curb, sidewalk, and a planter strip, but no street trees. Per Section 15.20.020 (A), “No building permit shall be issued for remodeling, alteration or addition to any building or structure when the estimated cost of the remodeling, alteration or addition exceeds 50 percent of the value of the building or structure before such remodeling, alteration or addition is commenced on any lot which does not have existing curbs, sidewalks and half-street improvements meeting the city standards on all abutting streets to such lots, unless the applicant agrees to construct curbs, sidewalks and half-street improvements to city standards along all such city streets which abut the property described in the building permit in conjunction with the construction activity related to the building permit.” The applicant submitted a project valuation (Exhibit E) detailing a project valuation of \$180,000 for construction. The existing value of the improvements on the subject property according to the Clackamas County Assessor’s office is \$333,500. The improvement total is 54 percent of the existing value of the structures on the subject lot. Therefore, new street trees are required to fulfill the requirements of Section 15.20.020 (A). **Based on linear feet, the applicant shall plant two street trees on Dubarko Road and two street trees on Sandy Heights Street. The applicant shall**

**submit a street tree plan, detailing the proposed species for staff review and approval.**

27. Per Section 15.20.020 (B), “No building permit shall be issued for remodeling, alteration or addition to any building or structure when the estimated cost of the remodeling, alteration or addition exceeds 50 percent of the value of the building or structure before such remodeling, alteration or addition is commenced on any lot which is not served by underground utilities, unless the applicant agrees to construct equipment and related facilities to accept and receive all underground utility lines which shall serve the building or structure, including but not limited to those required for all electric communication and cable TV services in conjunction with the construction activity related to the building permit.” **The applicant shall underground all utility lines in compliance with Section 15.20.020(B).**

#### **Chapter 17.90 – Design Standards**

28. Section 17.90.150(B) contains the applicability of residential design standards as well as exemptions. Additions and alterations adding less than 50 percent to the existing floor area of the structure are exempt per Section 17.90.150(B.1). The applicant is not proposing to remove a deck and increase the existing dwelling footprint by 360 square feet. The existing building footprint without the deck is approximately 1,565 square feet. The addition is 23 percent of the existing building footprint; therefore, the proposal is exempt from the design standards of Section 17.90.150.
29. 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.**

#### **Chapter 17.92 – Landscaping and Screening**

30. Chapter 17.92 contains standards for landscaping and screening. Section 17.92.10(C) states that significant plant and tree specimens should be preserved to the greatest extent practicable and integrated into the design of a development. Significant trees are defined as those that are approximately 8-inches diameter at breast height (DBH) or greater.
31. Per Section 17.92.10(L), **all landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacement of dead or dying vegetation. Any areas disturbed during modification of the existing site shall be re-vegetated to pre-project condition.**
32. Section 17.92.30 requires street trees spaced approximately 30 feet on center. **Based on linear feet, the applicant shall plant two street trees on Dubarko Road and two street trees on Sandy Heights Street. The applicant shall submit a street tree plan, detailing the proposed species for staff review and approval. The street trees shall be selected from the City’s Street Tree List and shall be planted per the City’s standard planting detail. Staff is not approving ash trees at this time due to concerns with Emerald Ash Borer. Street trees are required to be a minimum caliper of 1.5-inches measured 6 inches from grade and shall be planted per the City of Sandy standard planting detail. Trees shall be planted, staked, and the planter strip shall**



**be graded and backfilled as necessary, 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).**

33. Section 17.92.130 contains standards for a performance bond. The applicant has the option to defer the installation of street trees and/or landscaping for weather-related reasons. Staff recommends the applicant utilize this option rather than install 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 street trees based on the standard establishment period of a tree. **If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the street trees/landscaping, assuring installation within 6 months. The cost of the street 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.**

#### **Chapter 17.98 – Parking, Loading, & Access Requirements**

34. Section 17.98.20(A.8) requires a single-family dwelling to provide two off-street parking spaces. The site currently includes a garage and a driveway that can accommodate two vehicles, so the site already meets the minimum parking requirements for off-street parking.
35. Section 17.98.100 contains driveway standards. The subject property has an existing driveway that is approximately 20 feet in width. The applicant is not proposing to modify the existing driveway. However, there is a gravel surface to the south of the driveway. Based on Google Earth imagery from 2023 there was a vehicle observed parked on the gravel which is a violation of the Sandy Development Code. **No vehicles shall be parked on gravel surfaces. If the applicant desires to pave a portion of the gravel area on the subject lot, the paving shall be coordinated with review and approval by staff.**
36. Section 17.98.130 requires all parking areas, driveways, and driveway approaches to be paved with concrete, asphalt, or comparable surfacing and be constructed to city standards for off-street vehicle areas. The existing driveway is concrete and in compliance with the Sandy Development Code.

#### **Chapter 15.44 Erosion Control Regulations**

37. All erosion control and grading shall comply with Section 15.44 of the Municipal Code. **All on-site earthwork activities including any retaining wall construction shall follow the requirements of the most current edition of the Oregon Structural Specialty Code (OSSC).**
38. **Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties without a proper collection system. 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. The applicant shall submit a grading and erosion control permit and request an inspection of installed devices prior to any additional grading onsite.** The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction of the subdivision. **All erosion control and grading shall comply with Section 15.44 of the Municipal Code.**

## **DECISION**

For the reasons described above in the findings of fact, the request by D.R. Steinke Construction on behalf of Jerri and Richard Elsberry to construct a two-story addition within 80 feet of the top of bank of Tickle Creek is hereby **approved** subject to the conditions listed below.

If the applicant appeals this land use decision or doesn't decide to proceed with development as approved in this land use decision, the City will continue to pursue removal of the accessory structure, raised flower bed, and artificial turf in preparation of installing Trail T28 as defined in the Parks and Trails System Master Plan. The City will also continue to pursue confirmation that the unpermitted retaining wall is stable and will not fail.



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Kelly O'Neill Jr.  
Development Services Director

## **CONDITIONS OF APPROVAL**

**A. Prior to applying for a grading and erosion control permit (if needed) or building/plumbing/mechanical permits the applicant shall submit additional information as identified below:**

1. Submit a street tree plan, detailing the proposed species for staff review and approval. Based on linear feet, the applicant shall plant two street trees on Dubarko Road and two street trees on Sandy Heights Street. The street trees shall be selected from the City's Street Tree List and shall be planted per the City's standard planting detail. Staff is not approving ash trees at this time due to concerns with Emerald Ash Borer.
2. Submit a structural evaluation from an engineer confirming that the retaining wall and stairs are structurally stable and will not fail.
3. Submit a revised site plan detailing the accessory structure, raised flower bed, and artificial turf removed from City property.

4. Submit a planting plan to restore the City property for review and approval by City staff.

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

1. Apply for and receive approval for a grading and erosion control permit, if needed, in conformance with City standards detailed in Section 15.44 of the Municipal Code.
2. Request an inspection of erosion control measures and tree protection fencing.

**C. The applicant shall apply for and receive approval for all necessary building, plumbing, mechanical, and electrical permits prior to any construction. Contact the Building Division for submission requirements. Electrical permits shall be coordinated with Clackamas County and/or PGE as applicable.**

**D. Prior to Occupancy, the applicant shall complete the following:**

1. The applicant shall remove the accessory structure, raised flower bed, and artificial turf from the property owned by the City of Sandy and restore the City property with native vegetation as approved on the planting plan.
2. Plant four street trees (i.e., quarter-street improvements) per the approved street tree plan.
3. All areas of exposed soils resulting from tree removal shall be replanted with a groundcover of native species within 30 days of harvest during the active growing season, or by June 1st of the following year.

**E. General Conditions of Approval**

1. Design review approval shall be void after two (2) years from the date of the Final Order, unless the applicant has submitted plans for building permit approval.
2. All on-site earthwork activities including any retaining wall construction shall follow the requirements of the most current edition of the Oregon Structural Specialty Code (OSSC).
3. Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties without a proper collection system. 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.
4. No vehicles shall be parked on gravel surfaces. If the applicant desires to pave a portion of the gravel area on the subject lot, the paving shall be coordinated with review and approval by staff.

5. All landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacement of dead or dying vegetation.
6. Street trees are required to be a minimum caliper of 1.5-inches measured 6 inches from grade and shall be planted per the City of Sandy standard planting detail. Trees shall be planted, staked, and the planter strip shall be graded and backfilled as necessary, 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).
7. If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the street trees/landscaping, assuring installation within 6 months. The cost of the street 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. Any areas disturbed during modification of the existing site shall be re-vegetated to pre-project condition.
9. Where native vegetation is lost as a result of development within restricted development areas, it shall be replaced on-site on a 2:1 basis according to type and area. Disturbed understory and groundcover shall be replaced by native understory and groundcover species that effectively covers the disturbed area.
10. The applicant shall apply for a separate FSH review permit for all additional/future activity within the FSH overlay; including but not limited to grading, removal of fill, removal of trees, removal of vegetation, planting vegetation, and repair of unstable slopes. The applicant shall not remove any native vegetation within the FSH overlay district, with the exception of removal of up to two trees 6 inches DBH or greater per calendar year when approved by permit. A violation of the provisions set forth in Chapter 17.60, FSH, (e.g., tree removal without permit authorization or native vegetation removal) may result in a fine as specified in Section 17.06.80
11. All existing and proposed franchise utilities (i.e., cable, electric, phone, etc.) shall be installed underground and in conformance with City standards. If applicable, the applicant shall call the PGE Service Coordinators at (503) 323-6700 when the developer is ready to start the project.
12. Land use approval does not connote approval of utility or public improvement plans submitted with the land use application. Applicable plan details will be reviewed by the City Engineer and Public Works Director.
13. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.

14. Comply with all other conditions or regulations imposed by Clackamas County Fire, or state and federal agencies. Compliance is made a part of this approval and any violations of these conditions and/or regulations may result in the review of this approval and/or revocation of approval.

## **RIGHT OF APPEAL**

A decision on a land use proposal or permit may be appealed to the City Council by an affected party by filing an appeal with the Director within twelve (12) calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, “*Notice of Appeal*”, and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in 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.