EXHIBIT E

SANDY

Notice of Intent to Appeal

1 page

Name of Appellant:	William Trimble	Phone Number:	503.702.3923
Email:	trimblerentals@gmail.com	Address:	P.O. Box 10, Sandy OR 97055

Map & Tax Lot #:	T: 2S	R: 4E	Section: 13CA	Tax Lot(s) 9008

BASIS FOR STANDING APPEAL (please check all that apply)

Submitted written evidence during the initial review	☑
Testified orally at the hearing	☐
Participated through?	Appearance by representative Aryn Ferguson

Grounds for the Appeal: Attach separate page(s) stating the ground for the appeal. The appeal must be based upon issues raised during the decision-making process or hearing. You must identify the issue with sufficient information so that the reviewing body understands under what the criteria within the Sandy Development Code, the Comprehensive Plan, or Statewide Land Use Goals you are appealing.

Relevant Code Sections: Attach separate page(s) listing the relevant code sections, which relate to the appeal application.

Please note:

* If the notice fails to confirm to the above requirements or is not actually received by the City (delivered to the City Manager, Development Services Director, City Recorder or their staff) within the timelines specified, the appeal is void and shall be dismissed.

* An appeal stays an approval until resolution of the appeal.

Staff Use Only

Appeal Filed within 12 calendar days of Written Decision:	Yes ☑	No ☐	
Application complete:	Yes ☐	No ☐	
Scheduled for review before the:	Planning Commission ☐	City Council ☐	

File No.:		Date of Decision:		Date Notice of Decision Mailed:	
Appeal Fee:	$785	Date Appeal Filed:	4/12/21	Date Set for Hearing:	

17.28.20 REQUIREMENTS OF APPEAL APPLICATION

A. 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;

Response: The appellant appeals the decision of the City of Sandy Planning Decision dated March 31, 2021 in File No. 21-001 Ap Creekside loop Garage Setback Adjustment Appeal. A Copy of the Planning Commission Decision is attached as Exhibit 1. The Notice of Decision attached as Exhibit 3 provides more relevant information pertaining to the subject property, the application and the decision.

A copy of the Staff Decision of the underlying file, 20-049 ADJ, is attached as Exhibit 3.

The property that is the subject of the appeal is 38797 Creekside Loop and 38799 Creekside Loop. T2S, R4E, Section 13CA TL 9008. See Exhibit 4.

2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;

Response: The Appellant, William B. Trimble, owns property adjacent to the subject property that takes access via Creekside Drive, and is adversely affected and aggrieved by the Planning Commission decision. Mr. Trimble was a party to the initial proceedings and also appealed the staff decision to the Planning Commission on January 11, 2021. *See* Exhibit 2.

3. The specific grounds relied upon for review;

Response: Adjustment Criterion 17.66.40(c) requires an applicant for an adjustment to demonstrate that the "proposed development will not adversely affect existing physical systems and natural systems, such as traffic, drainage, dramatic land forms, or parks." In this case, the approval granting the adjustment the conditions of approval from file 05-031 MP and what is shown on the plat map 2006-059, which shows access off Tupper Road. Approving the adjustment adversely affects traffic on Creekside because it reduces the amount of on-street parking available on Creekside Loop. On street parking on Creekside loop will also make exiting the subject property difficult, because of the blind spots created by the parked cars. Driveway access at this location creates a safety hazard due to the parked cars.

Furthermore, as stated in our December 18, 2020 letter:

> The adjustment being proposed in File 20-049 ADJ, poses a concern for vehicle traffic and parking on Creekside Loop. Reducing the 20-foot garage setback required per Code Section 17.40.30 creates a condition where the occupants will not be able to park vehicles in front of the garage without partially obstructing the sidewalk. We know from experience that occupants rarely use the garage to park vehicles, they are almost always used for storage, which would leave one useable off street parking space per unit.

Therefore, occupants would most likely be parked on the public street, which is already heavily used. We suggest the following options:

1. The garage setbacks in File 20-049 ADJ be modified to meet the 20-foot setback as required by code section 17.40.30.
2. Utilize the access off Tupper Road per partition plat 2006-059.

We also ask that File 20-049 ADJ be further reviewed by the Development Services Director and/or the Planning Commission. We also believe that File No. 18-042 DR, related to File 20-049 ADJ should be subject to the conditions as put forth in File 05-031 MP.

Staff states that access on Creekside Loop was determined in 18-042 DR, a type I review which did not require public notice. However, any substantial change to the plat map should have triggered a replat process, and should have been subject to public review.

Finally, the city is going to approve access to Creekside Loop, it should condition the adjustment on the developer reimbursing Mr. Trimble and Hughes on a pro-rata basis for the cost of the Off-site portions of Creekside Loop. Finding 13 states: "The applicant proposes construction of a duplex on Parcel 2 at some point in the future. Future development of Parcel 2 shall comply with the development standards in effect at the time a building permit is submitted, including the setback standards of Section 17.40.30. If the developer of Parcel 2 [Now Parcel 4] has the ability to obtain access to/from a public right-of-way south of the site, and if the developer takes access from this right-of-way, the developer may be responsible for costs associated with construction of a public street in the right-of-way."

4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and

Response: The appellant does not request a de novo hearing.

5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed.

Response: A credit card authorization form, authorizing the amount of $785.00, is attached to this appeal.

6. The name and mailing address of the person or entity appealing the decision.

Response: William Trimble, P.O. Box 10, Sandy, OR 97055
trimblerentals@gmail.com

39250 Pioneer Blvd
Sandy, OR 97055
503-668-5533

WHERE INNOVATION MEETS ELEVATION

FINDINGS OF FACT and FINAL ORDER
TYPE III APPEAL DECISION

DATE: March 31, 2021

FILE NO.: 21-001 AP

PROJECT NAME: 38797 & 38799 Creekside Loop Garage Setback Adjustment Appeal

APPLICANT/OWNER: Jeff Newberry

APPELLANT: William Trimble

LEGAL DESCRIPTION: T2S R4E Section 13CA Tax Lot 9008

The above-referenced proposal was reviewed as an Appeal of a Type I and Type II Adjustment request. As discussed further in this Order, the Planning Commission ultimately denies the appeal and upholds the staff decision from the final order for File No. 20-049 ADJ dated December 30, 2020. The following Findings of Fact are adopted to support denial of the appeal in accordance with the Sandy Municipal Code.

FINDINGS OF FACT

General

1. Jeff Newberry previously submitted an application (File 20-049 ADJ) requesting an adjustment to Section 17.40.30 to reduce the required garage setbacks for an approved duplex at 38797 and 38799 Creekside Loop from 20 feet to 17 feet 4 inches for one unit of the duplex (a Type II Adjustment request) and 18 feet 2 inches for the second unit (a Type I Adjustment request). The applicant proposed four off-street parking spaces for the duplex (two spaces for each dwelling unit) in addition to the area in front of the garages that can accommodate smaller vehicles. The reduced setback request allows construction of a duplex on the lot while meeting all other applicable setback requirements. This duplex was previously approved on November 7, 2018 (File No. 18-042 DR) and a building permit application was received on October 30, 2020 within the two (2) year application approval period, so the approval of File No. 18-042 DR is active and valid.

2. Staff approved the applicant's request for a Type I Adjustment to the garage setback for Unit A with conditions in conformance with the criteria outlined in the Sandy Development Code, Section 17.66.40, and permitted the applicant to reduce the garage setback to 18 feet 2 inches for Unit A. Staff denied the applicant’s request for a Type II Adjustment to the garage setback for Unit B; however, staff approved a Type I Adjustment with conditions and permitted the applicant to reduce the garage setback to a minimum of 18 feet for Unit B.

3. William Trimble appealed the staff decision on January 11, 2021 (File No. 21-001 AP). Mr. Trimble stated the garage setback adjustment should be denied and requested that the Planning Commission "deny the adjustment and ensure the applicant provides the full 20-foot setback for the garage of both units as required by Code Section 17.40.30 or the applicant revises the access to be off Tupper Road."

4. The Planning Commission reviewed the appeal at a public hearing on March 29, 2021. Jeff Newberry spoke as the applicant and Aryn Ferguson spoke on behalf of the appellant. There were no public comments.

5. Staff recommended the Planning Commission review the final order for File No. 20-049 ADJ and the appellant's notice of intent to appeal and do one of the following:
   a. Uphold the staff decision to approve a Type I adjustment to the garage setback for both units of the duplex per the final order for File No. 20-049 ADJ dated December 30, 2020.
   b. Deny both garage setback adjustment requests and require the garage setbacks for both units of the duplex to meet the 20 foot minimum setback as requested by the appellant and required by Section 17.40.30.
   c. Approve the applicant's original adjustment requests, which includes both a Type I and Type II garage setback adjustment.

6. The Planning Commission discussed the applicant's garage setback adjustment request, the appellant's request to deny the requested garage setback adjustments, and staff's decision to approve Type I adjustments for both units of the duplex. The Planning Commission agreed with staff that Type I adjustments to the garage setback are in compliance with the adjustment criteria in Section 17.66.40.

DECISION

For the reasons described above, the Planning Commission **denies** the appeal of the garage setback adjustment request by William Trimble by a vote of 6-1**.**

The Planning Commission upholds the staff decision as outlined in the Final Order for File No. 20-049 ADJ dated December 30, 2020. The Planning Commission adopts by reference the findings and conclusions contained in the staff's December 30, 2020 Final Order for File No. 20-049 ADJ.

March 31, 2021

Jerry Crosby
Planning Commission Chair

Date

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) days of notice of the decision. The notice of appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and,
5. Payment of required filing fees.

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39250 Pioneer Blvd
Sandy, OR 97055
503-668-5533

NOTICE OF LAND USE DECISION

NOTICE DATE: March 31, 2021

THIS NOTICE IS MAILED TO: Those previously commenting on this application.

FROM: City of Sandy Planning Division

STAFF CONTACT: Emily Meharg, Senior Planner, 503-783-2585, emeharg@ci.sandy.or.us

FILE NO.: 21-001 AP Creekside Loop Garage Setback Adjustment Appeal

EXPLANATION OF THE PROPOSAL: Jeff Newberry previously submitted an application (File 20-049 ADJ) requesting an adjustment to Section 17.40.30 to reduce the required garage setbacks for an approved duplex at 38797 and 38799 Creekside Loop from 20 feet to 17 feet 4 inches for one unit of the duplex (a Type II Adjustment request) and 18 feet 2 inches for the second unit (a Type I Adjustment request). Staff approved the applicant's request for a Type I Adjustment to the garage setback for Unit A with conditions in conformance with the criteria outlined in the Sandy Development Code, Section 17.66.40, and permitted the applicant to reduce the garage setback to 18 feet 2 inches for Unit A. Staff denied the applicant's request for a Type II Adjustment to the garage setback for Unit B; however, staff approved a Type I Adjustment with conditions and permitted the applicant to reduce the garage setback to a minimum of 18 feet for Unit B. William Trimble appealed the staff decision on January 11, 2021 (File No. 21-001 AP).

DECISION: The Planning Commission **denies** the appeal of the garage setback adjustment request by William Trimble by a vote of 6-1. The Planning Commission upholds the staff decision as outlined in the Final Order for File No. 20-049 ADJ dated December 30, 2020. The Planning Commission adopts by reference the findings and conclusions contained in the staff's December 30, 2020 Final Order for File No. 20-049 ADJ.

APPLICANT/OWNER: Jeff Newberry

LEGAL DESCRIPTION: T2S R4E Section 13CA Tax Lot 9008

SITUS ADDRESS: 38797 & 38799 Creekside Loop

DECISION PROCESS: This notice is to inform you that a decision has been issued on the above referenced land use file. This decision will not become final until 12 days following the date of the decision. Any person adversely affected or aggrieved by the decision, or any person entitled to notice of the decision may appeal the decision in a manner consistent with the City's land use procedures. An appeal of this decision cannot be made directly to the Land Use Board of Appeals. An appeal can be made to the City Council by filing an appeal, accompanied by an appeal fee, with the Development Services Director within 12 calendar days of notice of the decision. Access rights are not part of this adjustment application and therefore are not an item that can be subject to review on appeal.

FOR MORE INFORMATION: Additional information is available by contacting the staff contact listed above. A copy of the final decision, summarizing the standards and facts that justified the decision is available for review. In addition, all documents and evidence submitted with this application are also available for review.

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Sandy, OR 97055
503-668-5533

FINDINGS OF FACT and FINAL ORDER
TYPE I and II ADJUSTMENT

DATE: December 30, 2020

FILE NO.: 20-049 ADJ

APPLICANT/OWNER: Jeff Newberry

LOCATION: 38797 & 38799 Creekside Loop

LEGAL: T2S R4E Section 13CA Tax Lot 9008

DECISION: Type I Adjustment request approved with conditions; Type II Adjustment request denied.

EXHIBITS:

Applicant's Submission

A. Land Use Application
B. Narrative
C. Site Plan

Agency Comments

D. Public Works Director (December 14, 2020)

Public Comments

E. Ron Hughes (December 18, 2020)
F. William Trimble (December 19, 2020)

Additional Documents Submitted by Staff

G. Final Order for File No. 05-031 MP
H. Partition Plat 2006-059
I. Floor Plan

FINDINGS OF FACT

1. These findings are based on the applicant's submittal received on November 20, 2020. This application was deemed complete on December 8, 2020.

2. Jeff Newberry submitted an application requesting an adjustment to Section 17.40.30 to reduce the required garage setbacks for an approved duplex at 38797 and 38799 Creekside Loop from 20 feet to 17 feet 4 inches for one unit of the duplex (a Type II Adjustment request) and 18 feet 2 inches for the second unit (a Type I Adjustment

request). The applicant has proposed four off-street parking spaces for the duplex (two spaces for each dwelling unit) in addition to the area in front of the garages that can accommodate smaller vehicles. The reduced setback will allow construction of a duplex on the lot while meeting all other applicable setback requirements. This duplex was previously approved on November 7, 2018 (File No. 18-042 DR) and a building permit application was received on October 30, 2020 within the two (2) year application approval period, so the approval of File No. 18-042 DR is active and valid.

3. The applicant previously submitted an application to construct a duplex on the subject property (File No. 18-042), which was approved with conditions on November 7, 2018. As part of that application, the applicant submitted a site plan that detailed front loading garage entrances to be setback 15 feet-2 inches (Unit A) and 17 feet (Unit B) from the front property line. Finding 11 in the final order for File No. 18-042 states: "Subsection 17.40.30 requires front loading garage accesses to be setback 20 feet from a front property line. The applicant shall complete either alternative A or B identified below:

    A. Redesign the site to accommodate the required 20-foot garage setback.
    B. Apply for a Special Variance for Unit A and a Type II Adjustment for Unit B to incorporate the garage entrances as proposed."

    Condition A.1 states that prior to building permit final approval, the applicant shall "Redesign the site to accommodate the required 20-foot garage setback or apply for a Special Variance for Unit A and a Type II Adjustment for Unit B to incorporate the garage entrances as proposed. If the layout is modified the applicant shall submit a site plan to the City of Sandy for review and approval."

4. With this application (File 20-049 ADJ), the applicant submitted a revised Site Plan (Exhibit C) that details the garage setback for Unit A (the western unit) at 18 feet 2 inches and the garage setback for Unit B (the eastern unit) at 17 feet 4 inches, both of which can be processed as adjustments. Therefore, a variance request is not necessary.

5. Notification of the proposal was mailed to property owners within 300 feet of the subject property and affected agencies on December 8, 2020. Comments were received from the Public Works Director (Exhibit D). Two public comments were received.

6. Ron Hughes submitted a written comment (Exhibit E) expressing concern about the access to this property via Creekside Loop. Hughes states: "Added vehicular traffic on this road will generate a hardship to the current owners for mail and package delivery, garbage service and police and fire protection" and prefers that the subject property access Tupper Road. Hughes's comment did not include anything about the current application for an adjustment to the garage setback.

7. William Trimble submitted a written comment (Exhibit F) also expressing concern about access to the subject property from Creekside Loop rather than Tupper Road. The letter cites previous planning files and plats that required a driveway from the subject property to Tupper Road. Trimble states that the proposed adjustment "poses a concern for vehicle

traffic and parking on Creekside Loop. Reducing the 20-foot garage setback required per Code Section 17.40.30 creates a condition where the occupants will not be able to park vehicles in front of the garage without partially obstructing the sidewalk. We know from experience that occupants rarely use the garage to park vehicles, they are almost always used for storage, which would leave one useable off street parking space per unit. Therefore, occupants would most likely be parked on the public street, which is already heavily used." Trimble suggests that either the garage setbacks be modified to meet the 20-foot setback as required by Section 17.40.30 or that the subject property be required to access Tupper Road per partition plat 2006-059.

8. Creekside Loop is a public right-of-way and not a private road intended to benefit only select property owners. The subject property only has frontage on Creekside Loop and, therefore, Creekside Loop is the access for the subject property. Prior to Creekside Loop being dedicated as a public right-of-way, the subject property did not have direct frontage on any public rights-of-way and gained access to/from Tupper Road via a 20 foot wide access and utility easement as detailed on Partition Plat 2006-059 (Exhibit G). In 2008, Creekside Loop was dedicated as a public right-of-way and the subject property gained direct access to and frontage on a public right-of-way.

9. As noted by Trimble (Exhibit F), the subject property was previously part of a partition request from 2005 under File No. 05-031 MP (Exhibit H). Findings 12 and 13 from the Final Order for File No. 05-031 MP address access to the subject property (referred to as Parcel 2 at the time) and confirm the intent for the subject property to take future access from Creekside Loop (referred to as tax lot 9005 and 9006 at the time). Finding 12 states: "The minimum lot frontage in the zoning district is 20 feet. The site has no frontage on a public street at this time, however it is likely that the site will have frontage on a public street if Tax Lots 9005 and 9006 (south of the site) are converted into public right-of-way as has been requested by the owner of Tax Lot 8801. Regardless, the applicant proposes a 20-footwide access easement benefiting Parcel 2, as well as at least 20 feet of lot width between the northern and southern property lines, which complies with the intent of the minimum lot frontage standard." Finding 13 states: "The applicant proposes construction of a duplex on Parcel 2 at some point in the future. Future development of Parcel 2 shall comply with the development standards in effect at the time a building permit is submitted, including the setback standards of Section 17.40.30. If the developer of Parcel 2 has the ability to obtain access to/from a public right-of-way south of the site, and if the developer takes access from this right-of-way, the developer may be responsible for costs associated with construction of a public street in the right-of-way." Since the partition approval in 2005, Creekside Loop was constructed as a public street and dedicated to the City of Sandy. As the road authority for Creekside Loop, the City of Sandy permitted new access from the subject property to Creekside Loop with the approval of File No. 18-042. Access rights are not part of this adjustment application and therefore are not an item that can be subject to review on appeal.

<u>Chapter 17.44 – High Density Residential (R-3)</u>

10. The subject property is zoned R-3, High Density Residential.

11. Section 17.40.30 contains setback requirements for the R-3 zoning district and requires a 20 foot garage setback. The applicant is requesting an adjustment to reduce the required garage setback for the duplex from 20 feet to 17 feet 4 inches for one unit of the duplex and 18 feet 2 inches for the second unit.

Chapter 17.66 – Adjustments and Variances

12. Section 17.66.10 specifies the intent of adjustments and states "Adjustments are a Type I or Type II procedure that provide a means to vary the development standards normally applied in a particular district. This option exists for those circumstances where uniform; unvarying rules would prevent a more efficient use of a lot. A typical example is permitting a structure to be located closer to a property boundary than normally allowed by the zoning district regulations."

13. Section 17.66.20 specifies that the Type I Adjustment procedure allows the Director to grant or deny an adjustment request that involves only the expansion or reduction of a quantifiable provision of the Sandy Development Code by not more than 10 percent. Section 17.66.30 specifies that the Type II Adjustment procedure allows the Director to grant or deny an adjustment request that involves only the expansion or reduction of a quantifiable provision of the Sandy Development Code by not more than 20 percent.

14. Per the submitted narrative (Exhibit B) and Site Plan (Exhibit C), the applicant is requesting an adjustment to reduce the required garage setback for the duplex from 20 feet to 18 feet 2 inches for Unit A and 17 feet 4 inches for Unit B. The proposed reduction to 18 feet 2 inches is a reduction of 1 foot 10 inches (1.833 feet), which is a 9.2 percent reduction from the required 20 foot garage setback and can thus be processed as a Type I Adjustment. The proposed reduction to 17 feet 4 inches is a reduction of 2 feet 8 inches (2.666 feet), which is a 13.3 percent reduction from the required 20 foot garage setback and can thus be processed as a Type II Adjustment.

15. Section 16.66.40 contains the review criteria for both Type I and Type II Adjustments. In order to be approved, an adjustment request must meet all four (4) criteria.

16. Adjustment Criteria A states: "The proposed development will not be contrary to the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City." The garage setback is intended to recess the garage from the public right-of-way such that the front door and porch are more prominent than the garage, with the intention of providing a friendlier pedestrian realm. An additional benefit is that the 20 foot garage setback allows a vehicle to park in the driveaway in front of the garage without blocking the sidewalk, albeit this is still not likely enough depth for larger vehicle types and is the main impetus for the setback requirement of 22 feet in the SFR and R-1 zoning districts. Section 17.98.20(A.8) requires a duplex to provide two (2) off-street parking spaces per dwelling unit. Section 17.98.60(B.1) requires a standard parking space to be 9 feet by 18 feet. Section 17.98.50 allows required off-street parking to be located in a driveway for single family residences and duplexes. The proposal includes one interior garage parking space and one exterior 9 foot by 18 foot parking space located to the west of the garage for Unit A and to the east

of the garage for Unit B. Based on the floor plan submitted with the building permit (Exhibit I), the interior garage parking areas are approximately 10 feet 9.5 inches by 19 feet 6 inches, in compliance with the minimum parking area for a garage. Thus, the required two (2) off-street parking spaces are being provided without needing to count the driveway space in front of the garages as a parking space; however, it is likely that the driveway area in front of the garages will still be used for parking. The proposed driveway space in front of the garage for Unit A meets the minimum parking space requirement and could thus qualify as a third off-street parking space. However, the proposed driveway space in front of the garage for Unit B is only 17 feet 4 inches at its shortest length and thus does not meet the minimum off-street parking standard space size requirement and cannot be used for off-street parking of standard sized vehicles. Staff could require that the space in front of the garage not be used for parking; however, this would be difficult to enforce. It's likely that vehicles will park in the driveway in front of the garage regardless of whether or not their vehicle fits. Thus, staff believes the best approach is to provide at least the minimum parking space size (9 feet by 18 feet). The proposed space in front of Unit A already meets this requirement and a minimum 9 foot by 18 foot space could be accomplished by approving a Type I Adjustment, rather than a Type II Adjustment, for the garage setback in front of Unit B. **The applicant shall update the site plan to detail the garage setback for Unit B at 18 feet minimum in compliance with a Type I Adjustment.** Staff has noticed that vehicles often don't fit in the driveway space in front of the garage even with a 20 or 22 foot garage setback and vehicles frequently illegally extend into the plane of the sidewalk. A vehicle encroaching into and/or blocking the sidewalk is a violation of the Sandy Municipal Code Section 10.34.010. **The applicant shall designate the parking spaces on the sides of the two garages for oversized vehicles to help prevent the sidewalk from being blocked. Any vehicle encroaching into and/or blocking the sidewalk shall be issued a citation.** In addition to required off-street parking, Section 17.98.200(A.1) requires one (1) on-street parking space within 300 feet of each dwelling unit. Section 17.98.60(B.4) requires a parallel parking space to be 22 feet in length. The submitted Site Plan (Exhibit C) details the proposed driveway widths and remaining parking areas along the frontage of the site. However, the Public Works Director (Exhibit D) points out that these calculations mis-state the effective on-street parking area because they do not take into account the driveway "wings." **The applicant shall either design the driveway approaches such that the 20 foot 4 inch widths include the wing lengths or shall update the Site Plan to reflect the actual on-street parking area that remains after the wings are subtracted. This shall include the length from the west property line to the edge of the west wing of the driveway for Unit A, the length from the edge of the east wing of the driveway for Unit A to the edge of the west wing of the driveway for Unit B, and the length from the edge of the east wing of the driveway for Unit B to the east property line.** As noted by the Public Works Director, if the applicant increases the sidewalk width to 6 feet, then the wings could decrease to 3 feet, which would result in 6 additional feet of on-street parking area while maintaining compliance with ADA requirements for the sidewalk. **The applicant shall work with the Public Works Director on approval of the construction plans for modifying the right-of-way.** A reduction to the required garage setback by up to 10 percent (a Type I Adjustment) will provide a minimum 9 foot by 18 foot parking space in the driveway area in front of each

garage and will not be contrary to the purposes of the Sandy Development Code, the policies of the Comprehensive Plan, or any other applicable policies and standards adopted by the City. The requested Type II Adjustment for the garage setback in front of Unit B would not provide the minimum 9 foot by 18 foot parking area and would therefore not meet the intent of the Sandy Development Code. With the addition of the above conditions, Criteria A can be met for a Type I Adjustment.

17. Adjustment Criteria B states: "The proposed development will not substantially reduce the amount of privacy enjoyed by users of nearby structures when compared to the same development located as specified by this Code." The reduction to garage setbacks will not substantially reduce the amount of privacy enjoyed by the residents of neighboring structures. Criteria B is met.

18. Adjustment Criteria C states: "The proposed development will not adversely affect existing physical systems and natural systems, such as traffic, drainage, dramatic land forms, or parks." The reduction to garage setbacks will not adversely affect existing physical systems and natural systems such as traffic, drainage, dramatic landforms or parks. Public and private utilities will not be affected by the setback adjustment. As the Public Works Director (Exhibit D) notes, the applicant could meet the garage setback by shifting the duplex north approximately 1.5 feet, which would necessitate adjustments to the rear and side yard setbacks instead. However, that would result in a net decrease in pervious (yard) surface and a net increase in impervious (driveway) surface. Reducing the garage setback results in a reduction of impervious surface, which results in less stormwater sheet flow than the alternative reduction to rear or side yard setbacks. Criteria C is met.

19. Adjustment Criteria D states: "Architectural features of the proposed development will be compatible to the design character of existing structures on adjoining properties and on the proposed development site." The applicant is requesting a reduction to the garage setbacks. The design of the proposed duplex was previously reviewed in accordance with the Sandy Style residential design standards in Section 17.90.150. Criteria D is met.

DECISION

The applicant's request for a Type I Adjustment to the garage setback for Unit A is **approved with conditions** in conformance with the criteria outlined in the Sandy Development Code, Section 17.66.40. The applicant is permitted to reduce the garage setback to 18 feet 2 inches for Unit A. The applicant's request for a Type II Adjustment to the garage setback for Unit B is **denied**; however, a Type I Adjustment is **approved with conditions**. The applicant is permitted to reduce the garage setback to a minimum of 18 feet for Unit B. All conditions of approval shall be met.

CONDITIONS OF APPROVAL

1. The applicant shall obtain the appropriate permits from the City of Sandy and Clackamas County prior to construction of the duplex.

a. The applicant shall update the site plan to detail the garage setback for Unit B at 18 feet minimum.

b. The applicant shall either design the driveway approaches such that the 20 foot 4 inch widths include the wing lengths or shall update the Site Plan to reflect the actual on-street parking area that remains after the wings are subtracted. This shall include the length from the west property line to the edge of the west wing of the driveway for Unit A, the length from the edge of the east wing of the driveway for Unit A to the edge of the west wing of the driveway for Unit B, and the length from the edge of the east wing of the driveway for Unit B to the east property line.

c. The applicant shall designate the parking spaces on the sides of the two garages for oversized vehicles to help prevent the sidewalk from being blocked.

2. The applicant shall work with the Public Works Director on approval of the construction plans for modifying the right-of-way.

3. Any vehicle encroaching into and/or blocking the sidewalk shall be issued a citation.

4. The City may revoke this Type I Adjustment if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the structure or site.

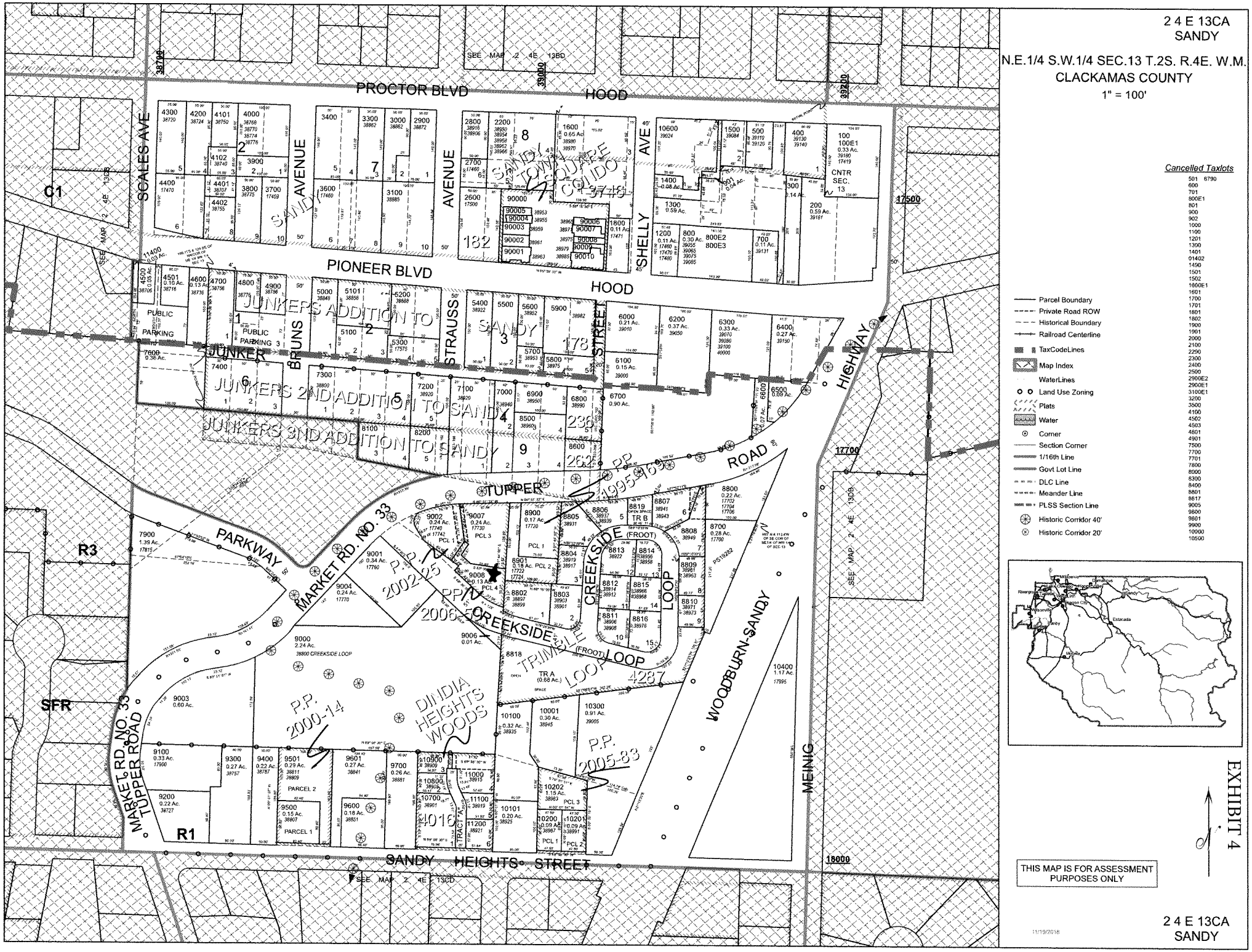
Emily Meharg
Senior Planner

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within twelve (12) days of notice of the decision. The notice of appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and,
5. Payment of required filing fees.


2 4 E 13CA
SANDY
N.E.1/4 S.W.1/4 SEC.13 T.2S. R.4E. W.M.
CLACKAMAS COUNTY
1" = 100'
PROCTOR BLVD
HOOD
PIONEER BLVD
SANDY HEIGHTS STREET
SCALES AVE
SANDY AVENUE
AVENUE
SHELLY AVE
BRUNS
STRAUSS
STREET
HIGHWAY
ROAD
PARKWAY
MARKET RD. NO. 33
TUPPER ROAD
CREEKSIDE LOOP
TRIMBLE LOOP
WOODBURN-SANDY
MEINIG
JUNKER'S ADDITION TO SANDY
JUNKERS 2ND ADDITION TO SANDY
JUNKERS 3ND ADDITION TO SANDY
SANDY TOWNSQUARE CONDO
DINDIA HEIGHTS WOODS
P.P. 2002-25
P.P. 2006-59
P.P. 2000-14
P.P. 2005-33
P.P. 1995-169
C1
R3
SFR
R1
SEE MAP 2 4E 13BD
SEE MAP 2 4E 13CD
SEE MAP 2 4E 13DB
Cancelled Taxlots
501 6790
600
701
800E1
801
900
902
1000
1100
1201
1300
1401
014102
1490
1501
1502
1600E1
1601
1700
1701
1801
1802
1900
1901
2000
2100
2290
2300
2400
2500
2900E2
2900E1
3100E1
3200
3500
4100
4502
4503
4601
4901
7500
7700
7701
7800
8000
8300
8400
8801
8817
9005
9800
9801
9900
10000
10500
Parcel Boundary
Private Road ROW
Historical Boundary
Railroad Centerline
TaxCodeLines
Map Index
WaterLines
Land Use Zoning
Plats
Water
Corner
Section Corner
1/16th Line
Govt Lot Line
DLC Line
Meander Line
PLSS Section Line
Historic Corridor 40'
Historic Corridor 20'
THIS MAP IS FOR ASSESSMENT PURPOSES ONLY
EXHIBIT 4
11/19/2018
2 4 E 13CA
SANDY