

City of Sandy

Agenda

City Council Meeting

Meeting Location: City Hall- Council Chambers, 39250
Pioneer Blvd., Sandy, Oregon 97055

Meeting Date: Monday, April 15, 2019

Meeting Time: 6:00 PM



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1. WORK SESSION 6PM

- 1.1. ROLL CALL
- 1.2. Agenda Review - Regular Council Meeting
- 1.3. Sandy Urban Renewal Plan and Projects
- 1.4. ADJOURN WORK SESSION

2. REGULAR CITY COUNCIL MEETING 7PM

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

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12. STAFF UPDATES

- 12.1. [Monthly Reports](#)

13. ADJOURN



Staff Report

Meeting Date: April 15, 2019

From Karey Milne, Recorder Clerk

SUBJECT: Parks and Trails Advisory Board Appointment

Background:

The Parks and Trails Advisory Board currently has open positions. We received an application recently from Mr. Don Robertson. He attended the Parks and Trails Board meeting on March 27, 2019. A committee was formed of Councilor Smallwood, Councilor Exner and Councilor Shultz, they interviewed Mr. Robertson on April 5, 2019.

Recommendation:

The committee would like to recommend that Council appoint Mr. Robertson to the Parks and Trails Advisory Board.



Staff Report

Meeting Date: April 15, 2019
From Tyler Deems, Finance Director
SUBJECT: Budget Committee Appointments

Background:

Since the last Budget Committee meeting in April 2017, several terms have expired and positions have become vacant. Local Budget Law states that the Budget Committee is comprised of the governing body and an equal number of electors appointed by the governing body. These electors must live within city limits, and be registered voters. In Sandy's case, the committee would consist of seven citizens.

There are currently five openings on the committee. Staff has advertised the vacancies in a variety of ways, including the City's website, Facebook, The Post, and the water bill newsletter. As of April 5th, when the postings expired, staff had received four applications from citizens who met the minimum qualifications. The four citizens are as follows:

- Amber Pritchard
- Fritz van Gents
- Kathleen Walker
- Valerie Wicklund

Currently, there are five openings, with four willing citizens. There are two other existing members, bring the total citizen count to six. The city is only allowed to have a budget committee of less than seven citizen members if fewer than seven citizens are willing to serve. Additionally, if qualified citizens apply and there are vacancies on the committee, these citizens should be appointed to fill the vacancies. As such, there is no need to conduct interviews for these four citizens.

Recommendation:

Staff recommends that Council appoint Amber Pritchard, Fritz van Gents, Kathleen Walker, and Valerie Wicklund to the Budget Committee.



Staff Report

Meeting Date: April 15, 2019

From Mike Walker, Public Works Director
Award Contract for Revenue Ave. Transfer Pump Station

SUBJECT: Improvements

Background:

We solicited proposals for installing an additional pump at the Revenue Ave. Transfer Pump Station on March 14th. The additional pump will allow us to mix and transfer the same amount of water daily while running the pumps for fewer hours while increasing redundancy. We received two proposals on April 4th as summarized below:

Firm	Amount
Stettler Supply Company	\$58,955.00
R.L. Reimers Company	\$58,675.00

R.L. Reimers Co. has completed several successful projects for us in the past and we have always been pleased with their work.

Recommendation:

Award the contract to R.L. Reimers Company in the amount of \$58,675.00

Code Analysis:

N/A

Budgetary Impact:

There are sufficient funds in the Water Fund Capital budget for this work.



Staff Report

Meeting Date: April 15, 2019

From Kelly O'Neill, Planning Director

SUBJECT: 19-004 ZC Ruthardt Properties Ordinance Modification

Background:

Kyle Ruthardt submitted an application on behalf of Ruthardt Properties LLC for an ordinance modification to Ordinance No. 2015-03 (File No. 14-028 ZC) that was adopted by the Sandy City Council on June 15, 2015. The requested ordinance modification would remove the future commitment for the subject property tax lot 1120 (Lot 7, Block 1 of Sandy Industrial Park) to be rezoned to I-1 (Industrial Park zoning designation) when tax lot 1116 (Lots 2-5, Block 1 of Sandy Industrial Park) to the west is rezoned in accordance with Ordinance No. 2015-03. This ordinance modification would leave the existing zoning designation for tax lot 1120 (Lot 7, Block 1 of Sandy Industrial Park) as I-2 (Light Industrial). No site improvements are being requested with this land use application.

Attachments:

- A) Notice of Public Hearing
- B) Ordinance 2015-03
- C) Ordinance 2015-03 Findings
- D) Ordinance 2019-02

Recommendation:

Staff recommends that City Council adopt Ordinance No. 2019-02 to modify Ordinance No. 2015-03.

Budgetary Impact:

No budget impact.

DATE OF THIS NOTICE: March 15, 2019

WE WANT YOUR COMMENTS ON A PROPOSED ORDINANCE MODIFICATION

Kyle Ruthardt submitted an application on behalf of Ruthardt Properties LLC for an ordinance modification to Ordinance No. 2015-03 (File No. 14-028 ZC) that was adopted by the Sandy City Council on June 15, 2015. The requested ordinance modification would remove the future commitment for the subject property tax lot 1120 (Lot 7, Block 1 of Sandy Industrial Park) to be rezoned to I-1 (Industrial Park zoning designation) when tax lot 1116 (Lots 2-5, Block 1 of Sandy Industrial Park) to the west is rezoned in accordance with Ordinance No. 2015-03. This ordinance modification would leave the existing zoning designation for tax lot 1120 (Lot 7, Block 1 of Sandy Industrial Park) as I-2 (Light Industrial). No site improvements are being requested with this land use application.

You are invited to take part in the City's review of this project by sending in your written comments and attending a public hearing before the City of Sandy City Council on **Monday, April 15, 2019 at 7:00 PM in the City Hall Council Chambers (lower level) at 39250 Pioneer Boulevard**. At the public hearing you will be given an opportunity to submit written testimony and present oral testimony.

FILE NO.: 19-004 ZC Ruthardt Properties Ordinance Modification

PROPERTY LOCATION: North of Industrial Way, south of HWY 26, and east of 362nd Drive

TAX MAP/LOTS: T2SR4E14, Tax lot 1120 (Lot 7, Block 1 of Sandy Industrial Park)

COMPREHENSIVE PLAN DESIGNATION: Industrial

ZONING DISTRICT DESIGNATION: I-2, Light Industrial

APPLICANT/PROPERTY OWNER: Ruthardt Properties LLC (Kyle Ruthardt)

NOTICE IS MAILED TO: Property Owners within 500 feet of the site, Interested Citizens and Agencies

DECISION PROCESS: In order to be approved, this proposal must meet the approval criteria or standards of the Sandy Development Code listed on the comment sheet. The City Council will make a decision on this proposal. They will consider the criteria for approval as well as any comments received, and will either approve, approve with conditions, or deny this proposal.

SUBMITTING COMMENTS: We are mailing you information about this project because you own land within 500 feet of the proposed new project. We invite you to send any written comments regarding the proposal within 14 days from the date of this notice. Your comments should state why the application should or should not be approved or include proposed modifications you believe are necessary for approval according to the standards. Please include the file number (**19-004 ZC**) in your letter or if you prefer, use the space provided below on the comment sheet.

If you mail your comments to the City, please put the following information on the outside of the envelope:

City of Sandy
Planning & Building Department
39250 Pioneer Boulevard
Sandy, OR 97055

You can also email your comments to planning@ci.sandy.or.us or the staff contact listed below.

APPLICABLE MATERIALS: All documents and evidence submitted by the applicant, and the applicable criteria from the municipal code, are available for public review at no cost or a copy can be provided at reasonable cost. The materials can be reviewed from 8:00 a.m. to 5:00 p.m. weekdays, excluding holidays, in the Planning Department at City Hall, 39250 Pioneer Blvd., Sandy, Oregon.

DECISION: Notice of the Council decision, including a brief description of the criteria and evidence upon which the decision is based, will be mailed to persons who submitted written testimony. The Council's decision is final unless appealed.

STAFF CONTACT: Kelly O'Neill Jr.
Phone: (503) 489-2163
Email: koneill@ci.sandy.or.us

ORDINANCE NO. 2015-03

AN ORDINANCE CONDITIONALLY AMENDING THE CITY OF SANDY ZONING MAP BY CHANGING THE ZONING MAP DESIGNATIONS FOR TWO PROPERTIES

Whereas, Michael Maiden submitted a request to change the zoning for two properties (24E14 tax lots 1116 and 1120) composed of five lots and containing approximately 4.98 acres;

Whereas, the applicant requests changing the Zoning Map designation for this property from I-2, Light Industrial to I-1, Industrial Park;

Whereas, the applicant has proposed the zone change to be conditioned on completing modifications to the existing buildings in compliance with the Sandy Style Design Standards;

Whereas, the Planning Commission held a public hearing to review the proposal on March 23, 2015 and forwarded a recommendation to the City Council to approve the request; and

Whereas, the City Council then held public hearings to review the proposal on May 4, 2015 and June 1, 2015.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:

Section 1: The Council conditionally approves the following zoning map amendment, subject to the applicant's compliance with the terms and conditions contained in Exhibit A: the Zoning Map designation for T2S R4E Section 14, Tax Lots 1116 and 1120 is conditionally changed from I-2, Light Industrial to I-1, Industrial Park.

Section 2: All remaining provisions of the Sandy Comprehensive Plan and Title 17 of the Sandy Municipal Code are reaffirmed in their entirety.

Section 3: The zone change contained in this Ordinance will only be effective following completion of the terms and conditions contained in Exhibit A. This document contains findings supporting the above changes to the Zoning Map and relevant conditions of approval.

THIS ORDINANCE IS ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS 15th DAY OF JUNE, 2015.

William King
Mayor

ATTEST:

Lisa Young
City Recorder

**EXHIBIT A
ORDINANCE 2015-03**

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

DATE: June 1, 2015

FILE NO.: 14-028 ZC

PROJECT NAME: Maiden Zone Change

APPLICANT/OWNER: Michael Maiden LLC

LEGAL DESCRIPTION: T2S R4E Section 14 Tax Lots 1116 and 1120

DECISION: The City Council approves a conditional zone change amendment subject to conditions contained in this Order.

The above-referenced proposal was reviewed as a Type IV Zone Change Amendment, the following Findings of Fact are adopted supporting approval of the plan in accordance with Chapter 17 of the Sandy Municipal Code.

EXHIBITS:

Applicant Submittals

- A. Land Use Application Form
- B. Plat Map
- C. Applicant's Narrative
- D. Review of Comprehensive Plan Goals
- E. Transportation Planning Rule Review (MacKenzie consultants)
- F. Building Façade Remodel Renderings

Agency Comments

- G. Replinger & Associates (City Traffic Consultant)
- H. Seth Brumley, ODOT

Additional Exhibits

- I. Subdivision plat overlay aerial photo
- J. Supplement Transmittal from MacKenzie consultants (4/30/15)

Public Comments

None

FINDINGS OF FACT

General

1. These findings are based on the applicant's original submittal received on November 24, 2014 and additional information submitted on December 17, 2014. Where there is a conflict between these findings and the staff reports, these findings shall control.
2. The application was deemed complete on December 27, 2015.

3. The staff reports and this final order are based upon the exhibits listed above, as well as the testimony and discussion at the Planning Commission hearing held on March 23, 2015 and the City Council hearing held on May 4, 2015 and June 1, 2015.
4. Notification of the proposal before the Planning Commission meeting was mailed to property owners within 300 feet of the subject property and to affected agencies on February 25, 2015. A legal notice was published in the Sandy Post on March 11, 2015. A legal notice for the City Council hearing was published in the Sandy Post on Wednesday, April 22, 2015.
5. No individuals, besides the applicant, spoke at the Planning Commission or City Council public hearings.
6. Comments were received from the Oregon Department of Transportation and the City's Traffic Consultant.
7. The Planning Commission reviewed the application at a public hearing on March 23, 2015 and recommended approval of the application with a vote of 6-0 subject to conditions contained in this motion.
8. The City Council reviewed the application at a public hearing on May 4, 2015 and voted unanimously to direct staff to prepare an Ordinance and Final Order for their consideration at a subsequent meeting to include the Planning Commission recommended conditions.
9. The subject site contains a total gross area of approximately 4.98 acres composed five legal lots (Lots 2 – 5 and 7) consolidated as two tax lot. Lots 2-5 currently contain buildings and Lot 7 is vacant.
10. The site has a Plan Map designation of Industrial and a Zoning Map designation of Light Industrial, I-2. The applicant proposed changing the zoning designation for all five lots from Light Industrial, I-2 to Industrial Park, I-1. The Plan Designation will not change with this request.

Chapter 17.26 – Zoning District Amendment

11. Section 17.26.40(B)1 requires that in order to complete a zone change the applicant shall determine the effects on City facilities and services. Development on the site will require fill and a retaining wall, stormwater treatment and detention on-site, and water service for irrigation of landscaping around the future parking lot. Extension of sanitary sewer will be required with future development of the lot. The proposed comprehensive plan change and zone change should not negatively impact public facilities or create service capacity shortfalls. Changing the zoning from I-2 to I-1 has the potential of allowing more transportation intensive uses to access the site than what is currently allowed. As discussed in the applicant's submittal (Exhibit E), as reviewed by the City's Traffic Consultant (Exhibit G), transportation related issues associated with more traffic intensive uses accessing the site is the primary issue affecting city facilities and services. Because the proposal will not create a significant impact to City facilities and services, the application meets this criterion.
12. Section 17.26.40(B)2 requires that in order to complete a zone change the applicant shall assure consistency with the purposes of this chapter. The applicant has requested review of a Type IV

Quasi-Judicial Amendment to the Zoning Map as required by Chapter 17.26. With the applicant's proposal to reconstruct the existing buildings in compliance with the design review standards in the I-1 zone, the proposal is generally consistent with the purposes of this chapter. The applicant has requested review of a Type IV Quasi-Judicial Amendment to the Zoning Map as required by Chapter 17.26. As analyzed through review of Chapter 17.26, the City Council has determined with conditions as discussed in this Order, the proposal meets the applicable criteria. The subject properties are currently planned and zoned industrial and is proposed to be rezoned to a more traffic intensive uses. The properties are adjacent to industrial properties and right-of-way.

13. Section 17.26.40(B)3 requires that in order to complete a zone change the applicant shall assure consistency with the policies of the Comprehensive Plan. All properties contain a Comprehensive Plan designation of Industrial. This will not change. The proposal conforms to the policies of the City of Sandy Comprehensive Plan, specifically the following goals and policies:

Goal 1, Policy 2 – This proposed Comprehensive Plan change includes citizen participation as the approval process includes two public hearings and allows for people to submit written comment.

Goal 2 Policy 6 – This proposal is consistent with the Sandy Development Code, Municipal Code, and all adopted standards and enforcement codes of the City of Sandy.

Goal 9, Policy 2 – The proposed zone change is requested to allow additional uses in existing buildings and a vacant parcel. Expected development of the properties can be accommodated by existing water, sewer, and street capacity. The proposed trip cap will insure street capacity is maintained.

Goal 9, Policy 35 – Changing the zoning from I-2 to I-1 will increase the diversity of businesses allowed on the subject properties.

Goal 9, Policy 36 – This policy strives to protect industrial lands for industrial use and to limit commercial development in industrial areas. Changing the zoning from I-2 to I-1 will increase the opportunity for commercial uses on this property. The city recently completed an analysis to determine if sufficient commercial and industrial lands exist in the current urban growth boundary to accommodate projected growth for the next 20 years. This study concluded that there is currently a surplus of industrial lands and a deficient of commercial lands. As a result, converting the subject properties from I-2 to I-1 will not adversely affect this policy.

14. Section 17.26.40(B)4. requires that in order to complete a zone change the applicant shall assure consistency with the Statewide Planning Goals as may be necessary, and any other applicable policies and standards adopted by the City Council. In order to comply with the requirements of this section, the proposal must also meet the intent of the applicable Statewide Planning Goals.

Goal 1 – Citizen Involvement. The planning commission held a hearing on the zone change application on March 23, 2015. The council held a public hearing on May 4, 2015. The city

provided notice of the hearings in accordance with state law and the city's development code. Goal 1 is satisfied.

Goal 2 – Land Use Planning. Goal 2 requires the ordinance to be coordinated with other affected governmental entities and to be supported by an adequate factual base. The city provided notice of the proposed ordinance to the state, as Oregon law requires. Written comments were received from the Oregon Department of Transportation (Exhibit H).

With respect to an adequate factual base, the council believes the record contains evidence reasonable persons would rely on in approving the application. As noted elsewhere in these findings, the application meets the relevant approval criteria, and no participant alleged otherwise. The property occupies a prominent location in Sandy, particularly relative to those entering the city from the west. Permitting a change in zoning on the properties will result in a development meeting the “Sandy Style” design requirements, thereby improving the “curb appeal” of development in this area. As discussed further in these findings, a vehicle trip cap that ODOT has approved will mitigate increased traffic impacts that may result from the zone change. Goal 2 is satisfied.

Goal 3 – Agricultural Lands. Goal 3 is not applicable to the decision.

Goal 4 – Forest Lands. Goal 4 is not applicable to the decision.

Goal 5 – Natural Resources. Goal 5 is not applicable to the decision. The decision does not affect a Goal 5 resource under OAR 660-023-0250(3). In particular, while the zone change will permit new uses on the properties, none of those uses will conflict “with a particular significant Goal 5 resource site on an acknowledged resource list” and no participant presented evidence contradicting this conclusion.

Goal 6 – Air Water and Land Quality. The city's comprehensive plan with respect to Goal 6 and its development regulations governing land, air and water quality are not affected by the decision. Goal 6 is satisfied to the extent is it applicable to the decision.

Goal 7 – Natural Hazards. The city's comprehensive plan with respect to Goal 7 and its development regulations governing natural hazard areas are not affected by the decision. Goal 7 is satisfied to the extent is it applicable to the decision.

Goal 8 – Recreational Needs. No resorts are contemplated or authorized by the decision. The city's comprehensive plan with respect to Goal 8, its parks master plan and its development regulations governing recreational needs (e.g. park dedication/fee in-lieu-of requirements, open space provisions, etc.) are not affected by the decision. Goal 8 is satisfied to the extent is it applicable to the decision.

Goal 9 – Economy. The city has adopted an economic opportunities analysis (“EOA”) as Goal 9 requires. As the EOA describes, Sandy has a need for smaller employment sites (< five acres) and it could meet this need in part through a better use of underutilized sites via infill and redevelopment. The EOA also describes Sandy's comparative advantage for attracting businesses and suggested the city establish policies to attract professional service businesses, retirement facilities, personal services (lodging, restaurants, tourist-oriented

retail, etc.) and small-scale manufacturing firms. Based on the city's advantages, the EOA predicted these types of businesses are most likely to choose to locate in Sandy. The zone change the council conditionally approves in this decision will further the city's efforts to capitalize on those advantages, as the I-1 zone will allow for an increased mix of land uses relative to the existing I-2 zoning on the property, including overnight lodging and more permissive standards for restaurants and retail. Therefore, Goal 9 is satisfied.

Goal 10 – Housing. Goal 10 is not applicable to the decision.

Goal 11 – Public Facilities. The city has an existing public facilities plan that includes all properties within the city's urban growth boundary, including islands of unincorporated property. The zone change the council conditionally approves in this decision will not undermine or contradict any aspect of the existing public facilities plan. Goal 11 is satisfied.

Goal 12 – Transportation. The city's Comprehensive Plan contains an acknowledged Goal 12 element that contains policies to ensure sufficient and adequate transportation facilities and services are available (or will be available as appropriate) to serve lands within the UGB. The state's transportation planning rule is triggered when a post-acknowledgment amendment such as this zone change "significantly affects" a transportation facility. OAR 660-012-0060(1)(a)-(c) defines a significant effect for the purposes of the rule as an amendment that: (1) changes the functional classification of an existing or future facility; (2) changes the standards implementing the functional classification system; or (3) results in any of the effects listed in 0060(1)(c)(A)-(C).

The applicant submitted an analysis of the Transportation Planning Rule from MacKenzie (Exhibit E) and this analysis was reviewed by Replinger & Associates, the City's Traffic Consultant (Exhibit G). This submittal was also reviewed by the Oregon Department of Transportation (Exhibit H). This document calculated the development potential of the site based on current zoning and calculated a trip generation rate based on these assumptions. The analysis estimated at full development of the site, based on current zoning, the site would generate 760 average daily trips (ADT) and 134 trips in the weekday PM peak hour. The applicant initially proposed these numbers be used to establish a trip cap for the property. The City's Traffic Consultant (Exhibit G) reviewed this analysis and generally agreed with the conclusions. He raised a concern regarding the correct number to be used for the PM peak hour. Mr. Replinger suggested that instead of using a proposed land use code of 715 (single tenant office building) that a code of 710 (general office building) be used. Using this land use code is estimated to produce 151 trips in the PM peak house instead of 134. Staff recommended the applicant respond to this recommendation. In addition, in order to determine the available trip capacity for the site, staff recommended the applicant provide a table identifying all of the existing uses on the site and the expected trip generation (both ADT and PM peak hours) for each of these uses. The applicant submitted a supplemental analysis prepared by MacKenzie Consultants (Exhibit J) agreeing with the recommendations of City's Traffic Consultant.

The City has experience administering a trip cap as a similar methodology was established for the three buildings in the Pioneer Corp. Park next to the Sandy Cinema. The proposed zoning amendment does not change the functional classification of any transportation facility, nor does it change standards implementing a functional classification system.

Furthermore, it is not clear the amendment will result in any of the effects identified in 0060(1)(c)(A)-(C). To the extent the amendment will result in any of those effects, the rule also expressly permits local governments to impose transportation demand management strategies to mitigate those effects. In this case, the city is proposing a condition that would impose a trip cap on the rezoned property, which will limit trips to those that are currently permitted under the property's existing I-2 zoning. ODOT has reviewed this strategy to manage traffic demands to the rezoned property and does not object to it. Therefore, Goal 12 is satisfied.

Goal 13 – Energy. The city's comprehensive plan with respect to Goal 13 and its standards governing energy conservation are not affected by the decision. Goal 13 is satisfied.

Goal 14 – Urbanization. The decision does not analyze or expand the city's urban growth boundary. Goal 14 is not applicable.

DECISION

For the reasons described above, the request by Michael Maiden, LLC, to change the zoning designation from I-2 to I-1 is hereby conditionally approved subject to the conditions listed below.

CONDITIONS OF APPROVAL

A. Prior to final conditional approval the applicant shall complete the following:

1. Enter into a development agreement with the City of Sandy specifying the terms and timelines associated with the zone change as detailed below.
 - A pre-application conference shall be applied for within two months from the date of this approval.
 - A design review application and approval received for all buildings within six months of approval.
 - All building upgrades shall be completed within three years.
 - The applicant has the option of completing building upgrades in two phases to include: the northern lots (Lots 2 and 3) and the southern lots (Lots 4 and 5). The zone change for each phase will become effective following completion of the building upgrades on that phase.
 - The change of zoning on Lot 7 (currently vacant) will only become effective concurrent with or following the effective date of the zone change for both phases above.

B. General Conditions of Approval

1. The zoning designation for the property will remain I-2, Light Industrial until all of the conditions contained in this Order are completed.

2. Following final approval of the Zone Change, the five lots in this application will be subject to a trip cap as detailed in the report by MacKenzie Consultants (Exhibits E and J) as modified by the City Engineer (Exhibit G) and reviewed by ODOT (Exhibit H). The site is allowed a maximum of 151 trips in the PM peak hour without doing a Traffic Impact Analysis.

Prior to initiating a new use (permitted or conditional) including tenant improvements or a business license on property subject to this trip cap, the applicant or its successor in interest shall submit a letter to the City Planning Director identifying the proposed use and confirming that the proposed use, when combined with then-existing uses, will not exceed PM weekday peak hour limits on vehicle trips, using the methodology set forth in this condition. The City will not consider approval of a use or combination of uses that exceeds the trip cap without submittal and approval of a traffic study meeting City and ODOT requirements and evaluating mitigation measures that may be required to meet City LOS standards and ODOT v/c standards.

- (a) Vehicle trips shall be calculated using the most recent edition of ITE *Trip Generation*.
- (b) If the Planning Director determines that there is a good match between the proposed use and the land use categories in *Trip Generation*, the rates in *Trip Generation* for the PM weekday peak hour shall be used.
- (c) If the Planning Director determines that there is not a good match between the proposed use and the land use categories in *Trip Generation*, the applicant may select from the following options for estimating PM peak weekday hour trip generation for the proposed use:
 - (1) Accept the trip rate for the Specialty Retail land use category from *Trip Generation*; or
 - (2) Submit evidence from a qualified professional engineer of a trip rate observed from similar uses from no fewer than three other sites; or
 - (3) Submit evidence from a qualified professional engineer documenting actual trips at this site.
- (d) If the applicant uses a trip rate for Specialty Retail pursuant to paragraph (c)(1) of this condition, the applicant may choose to use that rate as interim rate until such time as a different rate can be developed pursuant to paragraphs (c)(2) or (c)(3). For purposes of paragraph (c)(3), the following conditions must be met: the business must have been in full operation for at least six months and sampling of PM weekday peak hour traffic from the site must have been conducted during at least three different months. For businesses that the Planning Director concludes may vary by season, the City may further require that sampling occur during specific months.
- (e) For purposes of the trip calculation the total number of estimated PM weekday peak hour trips from each use shall be reduced by 10 percent to account for internal trips that reflect the potential for motorists to visit one or more of the other businesses in the immediate area. There shall be no reduction allowed in the trip calculation for pass-by or diverted-link trips.



NO. 2019-02

AN ORDINANCE AMENDING ORDINANCE 2015-03 BY LEAVING ONE LOT AS CURRENTLY ZONED

Whereas, Ordinance No. 2015-03 conditionally changed the Zoning Map designation from I-2, Light Industrial to I-1, Industrial Park, for five lots (Lots 2-5 and 7, Block 1, Sandy Industrial Park) containing approximately 4.98 acres;

Whereas, Ordinance No. 2015-03 was approved with a condition to complete modifications to the existing buildings on Lots 2-5, Block 1, Sandy Industrial Park in compliance with the Sandy Style Design Standards, before the zone change will take effect;

Whereas, Kyle Ruthardt submitted an application on behalf of Ruthardt Properties LLC to amend Ordinance No. 2015-03 to remove Lot 7, Block 1, Sandy Industrial Park from the conditional zone change that Ordinance No. 2015-03 approved;

Whereas, this ordinance modification would leave the existing zoning designation of Lot 7, Block 1, Sandy Industrial Park as I-2 (Light Industrial) regardless of whether the conditionally approved zone change for Lots 2-5 becomes effective.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:

Section 1: The conditional zone change approved in Ordinance No. 2015-03 is not applicable to Lot 7, Block 1 of Sandy Industrial Park and the zoning on that lot will remain I-2.

Section 2: All remaining provisions of the Sandy Comprehensive Plan and Title 17 of the Sandy Municipal Code are reaffirmed in their entirety.

This ordinance is adopted by the Common Council of the City of Sandy and approved by the Mayor this 15 day of April 2019

Stan Pulliam, Mayor

ATTEST:

#2019-02

Karey Milne, City Recorder

#2019-02



Staff Report

Meeting Date: April 15, 2019
From James Cramer, Associate Planner
SUBJECT: Appeal to City Council

Background:

On February 13, 2019, the Planning Commission issued a Final Order (18-051 VAR) denying the applicant's request to reduce the property's side (north) yard setback to 2 feet (19 inches to roofline) and rear (east) setback to 3 feet 5 inches (14 inches to roofline) when Subsection 17.38.30 requires a minimum side yard setback of 5 feet and minimum rear setback of 15 feet. This adjustment request would modify the setback to bring the partially constructed carport into compliance and allow the applicant to finish construction on the RV carport.

On Feb 22, 2019 the applicant, Robert Mottice, applied for an appeal to City Council to reconsider the Planning Commission's decision to ultimately have the request approved.

Recommendation:

Staff recommends City Council hold a public hearing in "**de novo**" to take public testimony regarding the appeal. In addition, staff recommends the City Council approve the applicant's appeal for the reasons described above.

Code Analysis:

See Attached for analysis.

Budgetary Impact:

None.

SUBJECT: File No. 19-007 AP – RV Storage Setback Variance Appeal

AGENDA DATE: April 15, 2019

DEPARTMENT: Planning & Development

STAFF CONTACT: James Cramer, Associate Planner

Application Submitted: Nov. 15, 2018
Deemed Complete: Nov. 28, 2018
Final Order Issued: Feb. 13, 2019
Appeal Filed: Feb 22, 2019
120-Day Deadline: March 28, 2019

EXHIBITS:

Applicant’s submittals with appeal request

- A. Notice of Intent to Appeal Form
- B. Applicant’s Narrative

Documents from design review approval

- C. Findings of Fact (includes all Exhibits reviewed at the Planning Commission hearing)
- D. Final Order

Public Comments submitted in response to appeal notice

- E. Bill and Barbara Linn
- F. Tom Newell

Additional Documents Submitted by Staff

- G. Applicant’s Submitted Height Dimensions
- H. Height of Building Definition

I. BACKGROUND

A. BACKGROUND INFORMATION:

On February 13, 2019, the Planning Commission issued a Final Order (18-051 VAR) denying the applicant’s request to reduce the property’s side (north) yard setback to 2 feet (19 inches to roofline) and rear (east) setback to 3 feet 5 inches (14 inches to roofline) when Subsection 17.38.30 requires a minimum side yard setback of 5 feet and minimum rear setback of 15 feet. This adjustment request would modify the setback to bring the partially constructed carport into compliance and allow the applicant to finish construction on the RV carport.

The partially constructed carport measures an overall height of 15 feet 1.25 inches (181.25 inches) and therefore meets the maximum 16-foot height limitation for accessory structures per Subsection 17.74.10(B)(6). The measuring methods delineated in “Height of Building” located within Subsection 17.10.30 were applied to calculate the overall height.

B. SCOPE OF REVIEW:

Prior to beginning the public hearing, the City Council will need to decide whether to review the application “on the record” or “de novo”. Review of the application “on the record” allows

the Council to review arguments received by the applicant and the public as part of the appeal of the Planning Commission decision, including testimony at this meeting, but would not require review of the entire application. A “de novo” hearing on the other hand would essentially treat the application as new allowing review of the entire application as if the application had not been previously reviewed by the Planning Commission and a decision had not been previously rendered. **Staff recommends the Council move to hold the hearing based “de novo”.**

C. FACTUAL INFORMATION

1. APPLICANT & PROPERTY OWNER: Robert Mottice
2. PROJECT NAME: RV Storage Setback Variance
3. SITUS ADDRESSES: 18050 Rachael Drive
4. LEGAL DESCRIPTION: 24E14DC, tax lot 12200
5. PROPERTY LOCATION: The second property south of the Solso Rd. / Rachael Dr. intersection on the east side of the street.
6. PROPERTY SIZE: 0.12 acres
7. COMPREHENSIVE PLAN DESIGNATION: Medium Density Residential
8. ZONING DISTRICT DESIGNATION: R-2, Medium Density Residential

D. APPLICABLE CRITERIA: Sandy Development Code; 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.28 Appeals; and 17.38 Medium Density Residential (R-2).

E. PROCEDURAL CONSIDERATIONS

This request is being processed as a Type III Appeal. Notification of the proposal was mailed to property owners within 500 feet of the subject property and to affected agencies on March 18, 2019. A legal notice was published in the Sandy Post on Wednesday, April 3, 2019.

F. PUBLIC COMMENTS

As noted above, notification of the appeal was mailed on March 18, 2019. The notification period had not ended at time of staff report publication. Public comments received will be presented at the City Council public hearing.

II. ANALYSIS OF APPLICANT/APPELLANT’S SUBMITTAL

GROUND FOR APPEAL #1 – Denial of the requested side and rear yard setback reduction.

Summary: The applicant is appealing the Planning Commission’s January 28, 2019 decision to deny the request to reduce the property’s side (north) yard setback to 2 feet (19 inches to roofline) and rear (east) setback to 3 feet 5 inches (14 inches to roofline) when Subsection 17.38.30 requires a minimum side yard setback of 5 feet and minimum rear setback of 15 feet. This adjustment request would modify the setback to bring the partially constructed carport into compliance and allow the applicant to finish construction on the RV carport.

The partially constructed carport measures an overall height of 15 feet 1.25 inches (181.25 inches) and therefore meets the maximum 16-foot height limitation for accessory structures per Subsection 17.74.10(B)(6). The measuring methods delineated in “Height of Building” located within Subsection 17.10.30 were applied to calculate the overall height.

The applicant notes the accessory structure is of legal height and that *“the issues that were raised at the planning commission hearing kept coming back to the height, size and process, the bulk of the hearing revolved around these items when the hearing was specific for the side and rear setbacks.”* In addition, the applicant details compliance with the requirements of Subsection 17.74.10 – Residential Accessory Structures with the exception of the requested variance.

Staff Analysis: The proposed accessory structure (RV Storage) covers 392 square feet of area, therefore the structure is not permitted to be within any required setback of the R-2 zone district. As a result, the proposed accessory structure is required to have a minimum side (east) yard setback of 5 feet (same standard as the R-2 zone district 17.38.30 for the primary structure) and a minimum rear (east) yard setback of 15 feet (same standard as the R-2 zone district 17.38.30 for the primary structure). The applicant has requested special variances for the side (north) yard setback to be 2 feet (19 inches to roofline) and rear (east) setback to be 3 feet 5 inches (14 inches to roofline).

The applicant provided the height dimensions via email (Exhibit G) per the code determination on height which indicated the height did not exceed the maximum height, therefore not requiring a variance. The site plan indicated that the side and rear yard setbacks were not met.

The intent of setbacks for structures is to provide development predictability based on zone districts for property owners and citizens. While required setbacks result in the separation of primary structures to preserve open space they also provide means for a property owner to access and maintain a structure on their property. Additionally, in many cases setbacks provide the ability for public utilities to access a property through a recorded public utility easement and create a buffer for fire separation.

Staff recommended the City Council approve both variance requests with the following conditions:

1. Prior to building permit approval, the City shall contact NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet and provide a two-week comment period for agencies to respond with any conflicts associated with the proposed structure’s encroachment into the recorded PUE.
2. The property shall install siding beginning at six feet above grade extending upwards to the proposed structure’s roof line for the full length of both the north and east façades.
3. The applicant shall use a minimum 1-Hour fire-rated wall for the area of the structure located within 3 feet of the north property line as well as verify the distance between the

north façade and property line and adjust the eave according to ORSC standards prior to approval of a building permit.

4. All siding and/or trim used on the accessory structure shall match the property's primary structure (single-family dwelling) in material and color.

At the January 28, 2019 Planning Commission Meeting, the Planning Commission voted on a motion to approve the requested two special variances (Variances A & B). The results of the vote were a tie with two votes to approve and two votes to deny the motion. Under Robert's Rules, a majority, or more than half, vote is the fundamental requirement to pass a motion therefore the motion did not carry, and the variances were denied.

III. RECOMMENDATION

Staff recommends City Council hold a public hearing in "**de novo**" to take public testimony regarding the appeal. In addition, staff recommends the City Council approve the applicant's appeal for the reasons described above.

Exhibit A



NOTICE OF INTENT TO APPEAL

(Please print or type the information below)

File No. <u>(18-051) 19-007 App</u>	Date of Decision: <u>2-12-19</u>
Date Notice of Decision Mailed:	Date Appeal Filed:
Appeal Filed within 12 calendar days of Written Decision: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Application Complete: <input type="checkbox"/> Yes <input type="checkbox"/> No	Appeal Fee: \$ _____ Receipt No. _____
Scheduled for review before the <input type="checkbox"/> Planning Commission <input checked="" type="checkbox"/> City Council	
Date Set for Appeal Hearing: _____	

Name of Appellant: Robert D Mottice Phone Number 503-724-9208

Address: 18050 Rachael Dr.
(city/state/zip)

Legal Description of Property under Appeal: T2S R24E Section 1400 TL 12200

Basis for Standing to Appeal:

- Submitted written evidence during the initial review
- Testified orally at the hearing
- Participated through _____

Grounds for the Appeal: Attach separate page(s) stating the grounds 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 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 conform to the above requirements or is not actually received by the city (delivered to the city manager, planning 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.

24E 1400 12-20

Exhibit B

February 19, 2019

Notice of Intent to Appeal

File 18-051 Type III Special Variance for side and rear setbacks for an accessory structure at 18050 Rachael Drive

The variance came before the Planning commission on January 28, 2019

First, the accessory structure (RV Storage) is of legal height and staff is in support of the variance as presented by the applicant Robert Mottice with four conditions as presented for the planning commission and in the staff report. The variance was for the north side and east rear setbacks for the accessory structure.

The issues that were raised at the planning commission hearing kept coming back to the height, size and the process, the bulk of the hearing revolved around these items when the hearing was specific for the side and rear setbacks. The City staff tried several times to remind the Planning commission the reason for the variances were for the side and rear setbacks from the property lines. The Residential Specialty code gives a fix for encroachment of the property lines and Sandy Building Code Official (Terrence Gift) provided the requirements to rating the walls that are within the setback given by the develop code. These are outlined in the Agency Comments; the reference is to the Residential Specialty Code, Table 302.1

Per the City Staff report Chapter 17.30 Zoning District Medium Density Residential (R2) within the Nicolas Glenn Subdivision the accessory structure does not affect the existing primary use or density of the property.

The proposed detached carport to be used as a RV storage is accessory to the primary use of the residential dwelling and is outright permitted use in subsection 17.34.10(B)(2) zone district. There was structure there previously in the same footprint.

17.74.10 Residential Accessory Structures

Proposed structure is more than 6 feet away from the primary structure.

- A. The structure is larger than 200 sq. ft. and taller than 12 feet, the side setback should be 5 feet, the proposed accessory structure is 2 feet the described fix is to rate the wall to a 1 hour standard. The Rear setback is 15 feet and the proposed structure is only 3 feet, again the described fix per the Residential Code is to rate the wall to a one hour standard.
- B. General Standards
 - 1) The accessory structure is to the rear of the primary structure (back yard)
 - 2) The set back from the front of the property far exceeds the minimum required 10 feet setback.

- 3) The proposed structure has a shed style roof (not opposed by City Staff) has 4/12 roof pitch sloped away from the property to the North and drains back on to the applicants property, if allowed to be finished the South side roof will have a gutter to handle the rain runoff. Note the previous structure shed the water from the roof to the neighbor's property to the North.
- 4) The proposed structure for vehicle storage (RV) is more than 20 feet from the street on the front side of the lot.
- 5) The proposed structure is less than the max size of 1,200 square feet; it is 392 square feet.
- 6) The proposed structure is less than the max height of 16 feet (measure per the direction of City staff). The proposed structure is 15 feet 1.25 inches.
- 7) Proposed structure complies with being on the same lot as the primary structure.
- 8) Not a temporary membrane structure.

City staff find that Subsection 17.74.10(A) side and rear setback will need to have a variance due to being less than 5 feet for the side (North) and rear east) setbacks.

The four utility companies did not provide comments opposed or in favor.

Sandy City staff recommended the approval of variance with reduction of the north side and east side setbacks. With four conditions listed in their report.

The City of Sandy Planning commission vote ending in a tie vote two in favor and 2 opposed, with one abstaining. The two in support of the variance both believed that the motion passed with the tie going to the applicant. The City Attorney, who was present by phone, later corrected this. The tie caused the application for variance for the setbacks to fail. There was more discussion on options and if any of the commissioners wanted to change their votes. There was no change and one of the commissioners stated that the applicant could just appeal their decision to City Council.

Exhibit C



Staff Report

Meeting Date: January 28, 2019
From James Cramer, Associate Planner
SUBJECT: 18-051 VAR RV Storage Setback Variance

Background:

Robert Mottice submitted an application to adjust the side (north) yard and rear (east) setbacks to accommodate a recreational vehicle (RV) carport. The proposed side (north) yard setback is 2 feet (19 inches to roofline) and rear (east) setback is 3 feet 5 inches (14 inches to roofline) when Subsection 17.38.30 requires a minimum side yard setback of 5 feet and minimum rear setback of 15 feet. This adjustment request would modify the setback to bring the partially constructed carport in this location closer to compliance and allow the applicant to finish construction on the RV carport.

Recommendation:

It is hereby recommended that the Planning Commission approve both variance requests with the following conditions:

1. Prior to building permit approval, the City shall contact NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet and provide a two-week comment period for agencies to respond with any conflicts associated with the proposed structure's encroachment into the recorded PUE.
2. The property shall install siding beginning at six feet above grade extending upwards to the proposed structure's roof line for the full length of both the north and east façades.
3. The applicant shall use a minimum 1-Hour fire-rated wall for the area of the structure located within 3 feet of the north property line as well as verify the distance between the north façade and property line and adjust the eave according to ORSC standards prior to approval of a building permit.
4. All siding and/or trim used on the accessory structure shall match the property's primary structure (single-family dwelling) in material and color.

"I make a motion to approve the requested side and rear yard setbacks with the condition 1-4 identified within Section IV of the attached Staff Report"

Code Analysis:

See attached Staff Report.

Budgetary Impact:
None.

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

SUBJECT: File No. 18-051 VAR RV Storage Setback Variance

AGENDA DATE: January 28, 2019

Application Submitted: November 15, 2018
Application Complete: November 28, 2018
120-Day Deadline: March 28, 2019

DEPARTMENT: Planning Division

STAFF CONTACT: James Cramer, Associate Planner

EXHIBITS:

Applicant's Submittals:

- A. Land Use Application
- B. Narrative
- C. Site Plan and Elevations
- D. Historic Photography
- E. Parcel Information

Public Comments:

- F. John Lewis (December 28, 2018 & January 2, 2019)
- G. Mr. and Mrs. W. Linn (January 2, 2019)
- H. Tom Newell (January 2, 2019)
- I. Guimar and James DeVaere (January 4, 2019)
- J. Brandon Shay (January 14, 2019)

Agency Comments:

- K. Terrence (Terre) Gift (January 4, 2019)

Additional Documents Submitted by Staff

- L. Nicolas Glen No. 3 Plat

I. BACKGROUND

A. PROCEEDING

Type III Special Variance

B. FACTUAL INFORMATION

- 1. APPLICANT & PROPERTY OWNER: Robert Mottice
- 2. PROJECT NAME: RV Storage Setback Variance

3. SITUS ADDRESSES: 18050 Rachael Drive
4. LEGAL DESCRIPTION: 24E14DC, tax lot 12200
5. PROPERTY LOCATION: The second property south of the Solso Rd. / Rachael Dr. intersection on the east side of the street.
6. PROPERTY SIZE: 0.12 acres
7. COMPREHENSIVE PLAN DESIGNATION: Medium Density Residential
8. ZONING DISTRICT DESIGNATION: R-2, Medium Density Residential

C. PUBLIC COMMENTS

Two public comments were received prior to publishing this staff report and are as follow:

1. John Lewis (Exhibit F) owns the property directly east of the subject property and are in support of the variance request.
2. Mr. and Mrs. W Linn (Exhibit G) have concerns regarding the structure's height and the wood material being used for construction and therefore are not in support of the request.
3. Tom Newell (Exhibit H) has concerns regarding the height and setbacks with regards to the adjacent properties and their "visual" space.
4. Guimar and James DeVaere (Exhibit I) have concerns regarding the fact the applicant did not originally obtain a permit for the construction as well as do not believe the height of the structure should be as tall as proposed.
5. Brandon Shay (Exhibit J) believes the structure is an "eye sore", to tall and could set a precedent to allow similar structures in the neighborhood.

D. AGENCY COMMENTS

One agency comment was received prior to publishing this staff report as follows:

1. Terrence (Terre) Gift (Exhibit K), the City of Sandy Building Code Official, submitted comments stating that garage walls or residential building walls less than 3 feet from the property line are required to comply with TABLE R302.1 in the Oregon Residential Specialty Code. If walls are constructed on the wood framed carport, then the walls shall be fire-rated with a minimum of 1-HR fire-rated construction. If the walls are less than 2 feet to the property line, then the maximum roof eave projections (including gutters) cannot exceed 4 inches.

E. APPLICABLE CRITERIA: Sandy Development Code Chapters: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.34 Medium Density Residential (R-2); 17.66 Adjustments and Variances; 17.74 Accessory Development Additional Provisions and Procedures; 17.98 Parking, Loading, and Access.

F. EXPLANATION OF PROPOSED IMPROVEMENTS

Robert Mottice submitted an application to adjust the side (north) yard and rear (east) yard setbacks to accommodate a partially constructed recreational vehicle (RV) carport. The proposed side (north) yard setback is 2 feet (19 inches to roofline) and rear (east) yard

setback is 3 feet 5 inches (14 inches to roofline) when Subsection 17.38.30 requires a minimum side yard setback of 5 feet and minimum rear yard setback of 15 feet. Approval of the request would permit the partially constructed RV carport to be completed in its current position.

G. PROPERTY BACKGROUND

The subject parcel is located within the Nicolas Glen No. 3 subdivision recorded January 12, 2000. The property includes a 1,338 square foot, two-story single-family residential dwelling with an attached two-car garage (not included in overall square footage). Per the applicant’s submitted material, staff observed a photo of a carport previously located in the northeast portion of the property. The City has no recorded permits associated with this carport structure which has since been removed from the property. **Future development of the property shall require approval of a Land Use Application in accordance with applicable regulations.**

H. PROCEDURAL CONSIDERATION ANY NOTICE

Review of the variance requires a public hearing before the Sandy Planning Commission. Notification of this proposal was mailed to property owners within 500 feet of the subject property and to affected agencies on December 21, 2018. A legal notice was published in the Sandy Post on January 9, 2019

II. ANALYSIS OF CODE COMPLIANCE

CHAPTER 17.30 – ZONING DISTRICT

The subject property is located within the Medium Density Residential (R-2) zone district and within the Nicolas Glen Subdivision. This development consists of 165 platted lots of which 164 have been developed into single-family residential dwellings and one duplex dwelling.

***RESPONSE:** The proposal does not affect the existing primary use or density of the property.*

CHAPTER 17.38 – MEDIUM DENSITY RESIDENTIAL (R-2)

The applicant proposes to incorporate a detached carport to be used for RV storage as an accessory use to the primary single-family residential dwelling. The proposed accessory use does not affect the existing primary use or density of the property as detailed in Chapter 17.30 of this report.

17.34.10 PERMITTED USES

***RESPONSE:** Subsection 17.34.10(B)(2) identifies accessory structures, detached or attached as an accessory use permitted outright within the R-2 zone district.*

17.38.30 DEVELOPMENT STANDARDS

Type	Standard
Minimum Lot Area	No minimum
Minimum Average Lot Width	

- Single detached dwelling - Single detached zero lot line dwelling - Single attached zero lot line dwelling - Other permitted uses	50 ft. 40 ft. 30 ft. No minimum
Minimum Lot Frontage	20 ft. except as allowed by Section 17.100.160
Minimum Average Lot Depth	No minimum
Setbacks (Main Building) - Front yard - Rear yard - Side yard (interior) - Corner Lot - Garage	10 ft. minimum 15 ft. minimum 5 ft. minimum 1 10 ft. minimum on side abutting the street 20 ft. minimum for front vehicle access 15 ft. minimum if entrance is perpendicular to the street (subject to Section 17.90.220) 5 ft. minimum for alley or rear access
Projections into Required Setbacks	See Chapter 17.74
Accessory Structures in Required Setbacks	See Chapter 17.74
Multi-family – Landscaping - Setbacks	25% minimum See Section 17.90.230
Structure Height	35 ft. maximum
Building Site Coverage	No minimum
Off-Street Parking	See Chapter 17.98

RESPONSE: *The proposed accessory structure does not meet the side or rear yard setback requirements of the R-2 zone district. The applicant has requested special variances for the interior side and rear yard setbacks which are further detailed within Chapter 17.66 of this report. In addition, all accessory structures in required setbacks are subject to the provisions in Chapter 17.74*

CHAPTER 17.74 – ACCESSORY DEVELOPMENT ADDITIONAL PROVISIONS AND PROCEDURES

This chapter is intended to establish the relationship between principal and accessory development and specify criteria for regulating accessory developments.

RESPONSE: *As defined in the Subsection 17.10.30 an accessory structure (detached) is;*

“a structure that is clearly incidental to and subordinate to the main use of property and located on the same lot as the main use; freestanding and structurally separated from the main use.”

The applicant has expressed the intention of the proposed accessory structure is for RV storage. Staff finds this to be subordinate to and commonly associated with the primary use (single-family residential dwelling) of the property. Additionally, the proposed structure is located on the same lot of record as the primary use and is incidental in design to the primary structure.

17.74.10 RESIDENTIAL ACCESSORY STRUCTURES

A detached accessory structure shall be separated from the primary structure by at least six (6) feet. An accessory structure located closer than six (6) feet from the primary structure shall be considered attached and is required to comply with the same setbacks as the primary structure.

A. Detached Accessory Structure Setbacks.

Accessory Structure Size	Interior Side Yard Setback	Rear Yard Setback
Up to 120 sq. ft., Up to 10 ft. tall	1 foot	1 foot
Up to 120 sq. ft., Up to 12 ft. tall	3 feet	3 feet
Larger than 120 sq. ft. up to 200 sq. ft. and up to 12 ft. in height	3 feet	3 feet
Larger than 200 sq. ft. or taller than 12 ft. in height	5 feet minimum or same as primary structure whichever is greater	15 feet minimum or same as primary structure whichever is greater

B. General Standards.

1. No accessory structure shall be located in front of the principal building. If located to the side of the principal building on an interior lot, the structure shall not be placed closer to the front lot line than the farthest back front wall of the principal building.
2. An accessory structure located on the street side of a corner lot shall follow the same setbacks as the principal building (10 feet).
3. The roof of the structure shall be constructed so that water runoff from the structure does not flow onto an abutting parcel.
4. Accessory structures for private vehicle storage which have an entrance from the street side yard (except alleys) shall have a minimum street side yard setback of 20 ft.
5. The total accumulative square footage of all accessory structures on an individual lot shall not exceed 1,200 square feet.
6. No accessory structure shall exceed a maximum height of 16 feet.
7. An accessory structure may be located on an adjacent lot that does not contain a primary structure provided:
 - a. Both lots are under the exact same ownership; and
 - b. A deed restriction is recorded requiring the accessory structure to be removed within 30 days of transfer of ownership of either lot into separate ownership; and
 - c. The accessory structure complies with setback requirements as applied to the lots under same ownership.
8. Exception for Temporary Use of Rigid Frame Fabric Membrane Structures. Exceptions to these standards may be made by the Planning Director for temporary storage of materials for not more than three days within any 30 day period.

RESPONSE: After observing the property and submitted photos, staff confirms that, once completed, the proposed structure will exceed 6 feet in distance from the primary structure. Based on this finding and the definition of an accessory structure (detached), **staff finds the criterion of Subsections 17.74.10(A) and 17.74.10(B) are applicable to the proposed structure.**

Subsection 17.74.10(A): The proposed accessory structure covers 392 square feet of area therefore the structure is not permitted to be within any required setback of the R-2 zone district. As a result, the proposed accessory structure is required to have a minimum side (east) yard setback of 5 feet (same standard as the R-2 zone district 17.38.30) and a minimum rear (east) yard setback of 15 feet (same standard as the R-2 zone district 17.38.30). The applicant has requested special variances for the interior side and rear yard setbacks which are further detailed within Chapter 17.66 of this report. Should Planning Commission approve the requested variances the proposal will be in compliance with this section of the code.

Subsection 17.74.10(B): The proposed accessory structure is located on the same lot of record as the associated primary structure and will be constructed behind the front plane/facade of the primary structure. The property is not a corner lot therefore there is no access from a street side yard. As observed in the submitted photos and plans, as well as described in the applicant's narrative, the roof line has been designed with a single pitched roof in order to direct stormwater runoff south onto the applicant's property as opposed to adjacent properties. Additionally, the applicant **shall install a gutter on the south roof line to mediate water run off on the site.** The overall height of the proposed accessory structure will be 15 feet 1.25 inches (181.25 inches).

CHAPTER 17.66 – ADJUSTMENTS AND VARIANCES

17.66.60 VARIANCES

Variations are a means of requesting a complete waiver or major adjustment to certain development standards. They may be requested for a specific lot or as part of a land division application. The Type II variance process is generally reserved for major adjustments on individual lots, while variations to development standards proposed as part of a land division are processed as a Type III application (requiring a public hearing).

RESPONSE: The applicant has requested the following two Type III Special Variances:

Variance A: To finish construction of an accessory structure 2 feet (19 inches to roofline) from an interior side (north) yard property line when Subsection 17.38.30 requires a minimum interior side yard setback of 5 feet in the R-2 zone district.

Variance B: To finish construction of an accessory structure 3 feet 5 inches (14 inches to roofline) from a rear (east) yard property line when Subsection 17.38.30 requires a minimum rear yard setback of 15 feet in the R-2 zone district.

17.66.80 TYPE III SPECIAL VARIANCES

The Planning Commission may grant a special variance waiving a specified provision under the Type III procedure if it finds that the provision is unreasonable and unwarranted due to the specific nature of the proposed development. In submitting an application for a Type III Special Variance, the proposed development explanation shall provide facts and evidence sufficient to enable the

Planning Commission to make findings in compliance with the criteria set forth in this section while avoiding conflict with the Comprehensive Plan.

One of the following sets of criteria shall be applied as appropriate.

- 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.

Variance A:

Subsection 17.74.10(A) requires accessory structures larger than 200 square feet or taller than 12 feet in height to be setback a minimum of 5 feet from an interior side yard property line or the same as the primary structure, whichever is greater. The subject property is located within the R-2 zone district and Section 17.38.30 identifies the interior side yard setback for a primary structure as a minimum of 5 feet.

Request: There is nothing unique about the subject property and the location of the carport on the subject property is of the applicant's making so a Type II Variance request would have to be denied. Therefore, the applicant requests a Type III Special Variance to reduce the required interior side yard setback of the property from 5 feet to 2 feet. This results in a 60 percent variation from the required setback standard identified in Subsections 17.74.10(A) and 17.38.30 of the development code.

- 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.

RESPONSE: *The intent of setbacks for structures is to provide development predictability based on zone districts for property owners and citizens. While required setbacks result in the separation of primary structures to preserve open space they also provide means for a property owner to access and maintain a structure on their property. Additionally, in many cases setbacks provide the ability for public utilities to access a property through a recorded public utility easement and create a buffer for fire separation.*

The proposed structure is on private property and will not be detrimental to the public welfare. While the location of the proposed structure is in close proximity to the shared north property line it was observed that there are no structures on the adjacent property to the north in close proximity to the shared property line. The design of the proposed structure is open on all four sides however the applicant has expressed their intention on installing T1-11 siding for the upper eight feet of the north elevation and to be painted to match the existing primary structure (house) on the site. Additionally, this siding will wrap around to the eastside of the structure to help blend the structure into the neighborhood. With the exception of minimal exterior maintenance, it is reasonable to infer that the adjacent property owner to the north would not likely be negatively affected by any future maintenance of the proposed structure.

*Oregon Residential Specialty Code (ORSC) R302.1 identifies that garage walls or residential building walls less than 3 feet from a property line are required to comply with TABLE R302. The structure is proposed to be 2 feet (19 inches to roofline) therefore, if approved, the building **shall have a minimum of 1-Hour fire-rated construction.** Additionally, if the walls are less than 2 feet of the property line, then the maximum roof eave projections (including gutters) cannot exceed 4 inches. **The applicant shall verify the distance between the north façade and property line and adjust the eave according to ORSC standards prior to approval of a building permit.***

The property is located in the Nicolas Glen No. 3 subdivision recorded January 12, 2000. The plat identifies the subject property having a five-foot public utility easement (PUE) on the front, side and rear yard property lines. This would indicate that the proposed structure would encroach 3 feet into this PUE as identified on the plat. NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet were notified of the proposal to which the City did not receive comments in favor or against.

RECOMENDATION: *The Special Variance being requested is located on private property at the rear of the subject property with no other structures in close proximity. While the structure is proposed a short distance to the north property line, the ORSC identifies means to help mediate potential risks to neighboring properties which are covered within the conditions below. The intention of this code requirement is to provide a predictable set of development standards to promote open space on private property and create a buffer for fire separation. Additionally, the applicant proposes incorporating additional design elements to enhance the structure's facade and function to ensure it does not negatively affect neighboring properties or the aesthetic integrity of the neighborhood. **Staff recommends the Planning Commission approve the requested special variance to reduce the side (north) yard setback to 2 feet with the following conditions:***

- 1. Prior to building permit approval, the City shall contact NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet and provide a two-week comment period for agencies to respond with any conflicts associated with the proposed structure's encroachment into the recorded PUE.***
- 2. The property shall install siding beginning at six feet above grade extending upwards to the proposed structure's north elevation roof line for the full length of the north façade.***
- 3. The applicant shall use a minimum 1-Hour fire-rated wall for the area of the structure located within 3 feet of the north property line as well as verify the distance between***

the north façade and property line and adjust the eave according to ORSC standards prior to approval of a building permit.

4. *All siding and/or trim used on the accessory structure shall match the property's primary structure (single-family dwelling) in material and color.*

Variance B:

Subsection 17.74.10(A) requires accessory structures larger than 200 square feet or taller than 12 feet in height to be setback a minimum of 15 feet from a rear yard property line or the same as the primary structure whichever is greater. The subject property is located within the R-2 zone district and Section 17.38.30 identifies the side interior setback for a primary structure as a minimum of 15 feet.

Request: The applicant requests a Type III Special Variance to reduce the required rear yard setback of the property from 15 feet to 3 feet 5 inches. This results in a 77 percent variation from the required setback standard identified in Subsections 17.74.10(A) and 17.38.30 of the development code.

- 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.

RESPONSE: *The intent of setbacks for structures is to provide development predictability based on zone districts for property owners and citizens. While required setbacks result in the separation of primary structures to preserve open space they also provide means for a property owner to access and maintain a structure on their property. Additionally, in many cases setbacks provide the ability for public utilities to access a property through a recorded public utility easement and create a buffer for fire separation.*

*The proposed structure is on private property and will not be detrimental to the public welfare. While the location of the proposed structure is in close proximity to the shared east property line it was observed that there are no structures on the adjacent property to the east in close proximity to the shared property line. The design of the proposed structure is open on all four sides with the exception of the top eight feet of the north façade. The applicant has expressed their intention on installing T1-11 siding for the upper eight feet of the north elevation to be painted to match the existing primary structure (house) on the site. Additionally, this siding will wrap around to the eastside of the structure to help blend the structure into the neighborhood. The applicant has identified there is a tree located on the adjacent property to the east that blocks off-site views of the proposed structure. However, seasonal changes and the loss of leaves on trees will lead to increased visibility of the proposed structure. **To decrease the visibility of the contents within the proposed structure staff recommends the applicant install siding on the east elevation to match siding proposed on the remainder of the proposed structure.** With the exception of minimal exterior maintenance it is reasonable to infer that the adjacent property owner to the east would not likely be negatively affected by any future maintenance of the*

proposed structure. In addition, the property owner to the east of the subject property submitted a letter in support of the proposed structure.

The property is located in the Nicolas Glen No. 3 subdivision recorded January 12, 2000. The plat identifies the subject property having a five-foot public utility easement (PUE) on the front, side and rear yard property lines. This would indicate that the proposed structure would encroach 2 feet 7 inches into this PUE as identified on the plat. NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet were notified of the proposal to which the City did not receive comments in favor or against.

RECOMENDATION: *The Special Variance being requested is located on private property with no other structures in close proximity. The intention of this code requirement is to provide a predictable set of development standards to promote open space on private property and create a buffer for fire separation. Additionally, the applicant proposes incorporating additional design elements to enhance the structure's facade and function to ensure it does not negatively affect neighboring properties or the aesthetic integrity of the neighborhood. Staff recommends the Planning Commission approve the requested special variance to reduce the rear (east) yard setback to 3 feet 5 inches with the following conditions:*

- 1. Prior to building permit approval, the City shall contact NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet and provide a two week comment period for agencies to respond with any conflicts associated with the proposed structure's encroachment into the recorded PUE.***
- 2. The property shall install siding beginning at six feet above grade extending upwards to the proposed structure's east elevation roof line for the full length of the east facade.***
- 3. All siding and/or trim used on the accessory structure shall match the property's primary structure (single-family dwelling) in material and color.***

CHAPTER 17.98 – PARKING, LOADING, & ACCESS REQUIREMENTS

17.98.00 INTENT

The intent of these regulations are to provide adequate capacity and appropriate location and design of on-site parking and loading areas as well as adequate access to such areas. The parking requirements are intended to provide sufficient parking in close proximity for residents, guests, customers, and/or employees of various land uses. These regulations apply to both motorized vehicles (hereinafter referred to as vehicles) and bicycles.

RESPONSE: *The proposed carport is located in the rear portion of the subject property and therefore will require off-street improvements to comply with the standards and regulations of this chapter.*

17.98.130 PAVING

- A. Parking areas, driveways, aisles and turnarounds shall be paved with concrete, asphalt or comparable surfacing, constructed to city standards for off-street vehicle areas.
- B. Gravel surfacing shall be permitted only for areas designated for non-motorized trailer or equipment storage, propane or electrically powered vehicles, or storage of tracked vehicles.

RESPONSE: *As observed by staff and represented in the applicants submitted photographs the subject property currently has improved pavement between the right-of-way and proposed carport. The applicant shall maintain the existing improved surface on the property as long as the structure is used for a motorized vehicle.*

III.SUMMARY AND CONCLUSION

Robert Mottice submitted an application to adjust the side (north) yard and rear (east) yard setbacks to accommodate a partially constructed recreational vehicle (RV) carport. The proposed side (north) yard setback is 2 feet (19 inches to roofline) and rear (east) yard setback is 3 feet 5 inches (14 inches to roofline) when Subsection 17.38.30 requires a minimum side yard setback of 5 feet and minimum rear yard setback of 15 feet. Approval of this request would permit the partially constructed RV carport to be completed in its current position.

IV. RECOMMENDATION

Staff recommends the Planning Commission hold a public hearing to take public testimony regarding the proposal. Staff recommends the Planning Commission **approve** both variance requests with the following conditions:

- 1. *Prior to building permit approval, the City shall contact NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet and provide a two-week comment period for agencies to respond with any conflicts associated with the proposed structure's encroachment into the recorded PUE.***
- 2. *The property shall install siding beginning at six feet above grade extending upwards to the proposed structure's roof line for the full length of both the north and east façades.***
- 3. *The applicant shall use a minimum 1-Hour fire-rated wall for the area of the structure located within 3 feet of the north property line as well as verify the distance between the north façade and property line and adjust the eave according to ORSC standards prior to approval of a building permit.***
- 4. *All siding and/or trim used on the accessory structure shall match the property's primary structure (single-family dwelling) in material and color.***

EXHIBIT A



LAND USE APPLICATION FORM

(Please print or type the information below)

Planning Department
39250 Pioneer Blvd.
Sandy OR 97055
503-668-4886

Name of Project Mottice RV Storage Structure
 Location or Address 18050 Rachael Drive
 Map & Tax Lot Number T____, R____, Section____; Tax Lot(s) 153 0500 1099
 Plan Designation _____ Zoning Designation _____ Acres .12

Request:

a variance from the required set backs on the North side of structure and the East side of the same structure from the property lines, so that I can permit the RV storage structure at its current location.

I am the (check one) owner lessee of the property listed above and the statements and information contained herein are in all respects true, complete and correct to the best of my knowledge and belief.

Applicant <u>Robert Mottice</u>	Owner <u>Robert Mottice</u>
Address <u>18050 Rachael Dr. / P.O. Box 813</u>	Address <u>Same</u>
City/State/Zip <u>Sandy OR 97055</u>	City/State/Zip <u>Same</u>
Phone <u>503-724-9208</u>	Phone _____
Email <u>robmo96@yahoo.com</u>	Email _____
Signature <u>Robert Mottice</u>	Signature _____

If signed by Agent, owner's written authorization must be attached.

File No. <u>18051 JMR</u>	Date <u>11/15/18</u>	Rec. No.	Fee \$ <u>1070.00</u>
Type of Review (circle one): Type I Type II <u>Type III</u> Type IV			

24E14DC12200

EXHIBIT B

October 21, 2018

I purchased the residence at 18050 Rachael Drive, in the Nichols Glenn Subdivision, on September 24, 2018. I purchased this residence because it had RV parking with a covered structure on its North side. The RV parking runs the entire length of the North side of the lot. The lot is fenced on three sides and has a fence and gate on the street side. The house position on the property is actually flipped from what the City has on record. Please see attached.

The structure that existed on the property at the time I purchased it was most likely not permitted and sat on, or near, the property line on the North side. The structure was constructed using telephone poles (six) for posts, two by four roof rafters, three-eighths inch plywood sheathing, and three tab asphalt shingles. The roof was shed style and sloped from the south to the north, dumping the water on to the neighbor's property to the north. The roof was sagging -- please see the attached pictures. I planned to attach new posts to the telephone poles to get more height, but the posts were not stable and were not set in the ground well enough, so this entire structure was completely torn down.

Since the new structure was pretty close to the same size as the old one, and I moved the structure away from the North property line, I assumed that I would be in compliance. Therefore, I did not acquire a planning variance and permit for the new structure. I did increase the height and change the direction of the water runoff. The changing of the roof slope has diverted the water on to my property, which is a positive for the neighbor to the north that had standing water in their backyard. The current location sits farther off the property line, and saves the small tree in backyard.

The replacement RV cover doesn't comply with the required setbacks and height restrictions. This encroachment in the setbacks is no worse than what the former structure was and if anything, the distance is better and the water runoff from the roof is retained to my property. I am asking for a variance from the side (five feet) and rear (fifteen feet) setbacks, as well as the height limitation, (I require a twelve-foot clearance to remove my camper from the truck bed). My RV cover is placed two-and-a-half feet from the assumed property (fence) line on the North side and three feet and five inches from the assumed (fence) property line on the East side of my property. The RV cover is an open pole beam structure that has a shed roof with a 4/12 pitch from the north to the south; the roof is 3-tab asphalt shingles. The posts are treated 4x6's with five posts on each side, and each side is approximately ten feet apart.

I planned to install T1-11 siding down the upper portion (8') on the north side and match the height around the east to help blend the structure into neighborhood. This siding would be painted to match the house. The South side eave would have a gutter installed, and water would be directed away from the building toward the street. There are no other structures in the area impacted by the placement of the RV cover. The neighbor to the east has trees that block the direct view of it.

If the structure had to be moved to gain the required setbacks on the North side and East end, it would encroach on the tree in my backyard and also make it impossible to back the trailer and camper into the RV cover due to the angle and the location of existing RV slab. If the RV cover had to be moved fifteen feet off the east fence line the cover would be shortened by twelve feet, leaving only twelve feet remaining. Due to keeping the required separation from my house, I cannot move the RV cover to the west.

I hope to get this variance approved so I can permit and finish the RV cover. I think once this cover is completed, it will blend into the neighborhood and will keep my RV and trailer off the street. The RV will sit behind a fence and along the side of the residence. Additionally, a big benefit is that water from this accessory structure will remain on my property and not drain on to my neighbor's property.

Thank you for considering this variance.



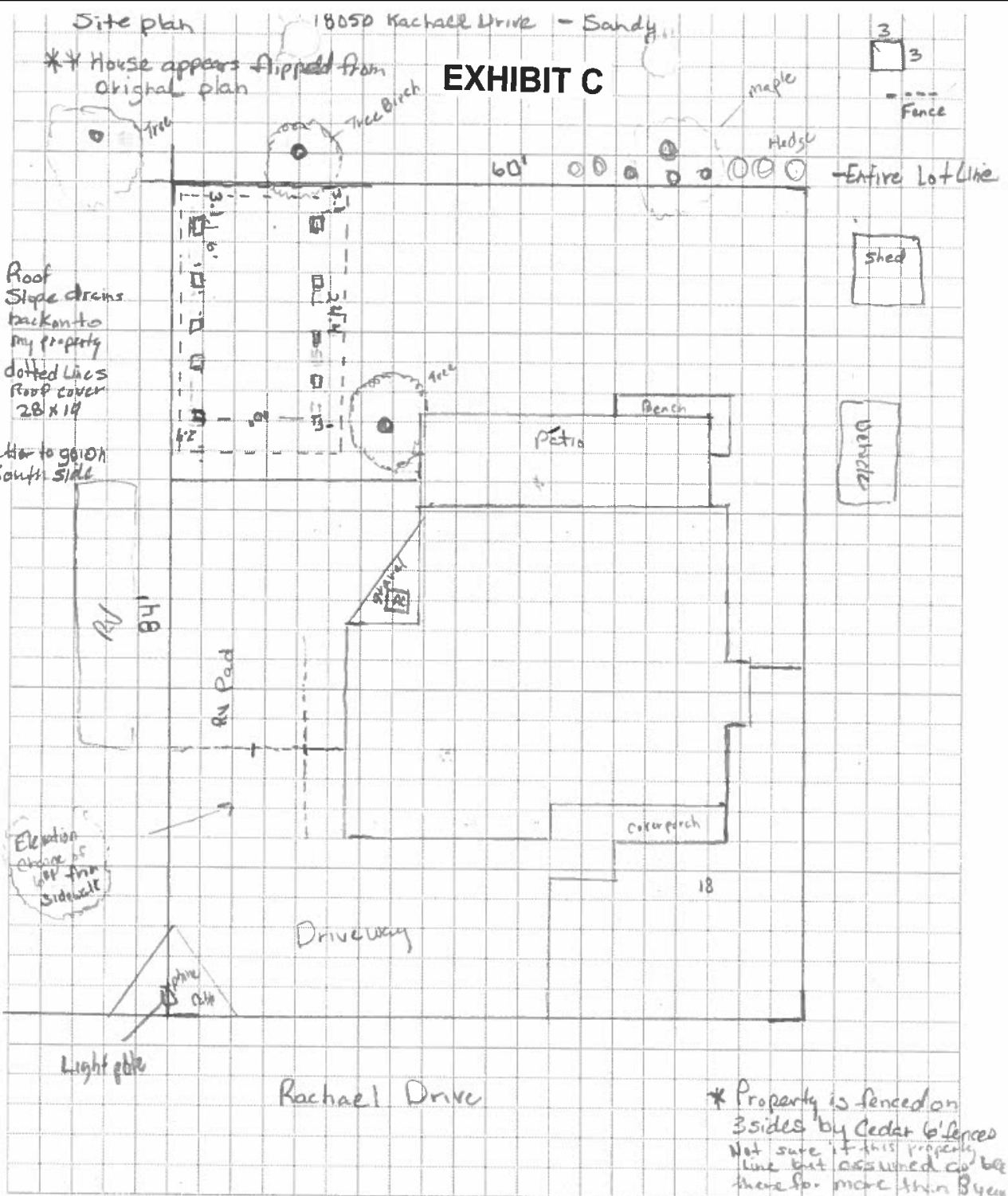
Robert Mottice

Site plan

1805D Rachael Drive - Sandy

EXHIBIT C

* House appears flipped from original plan

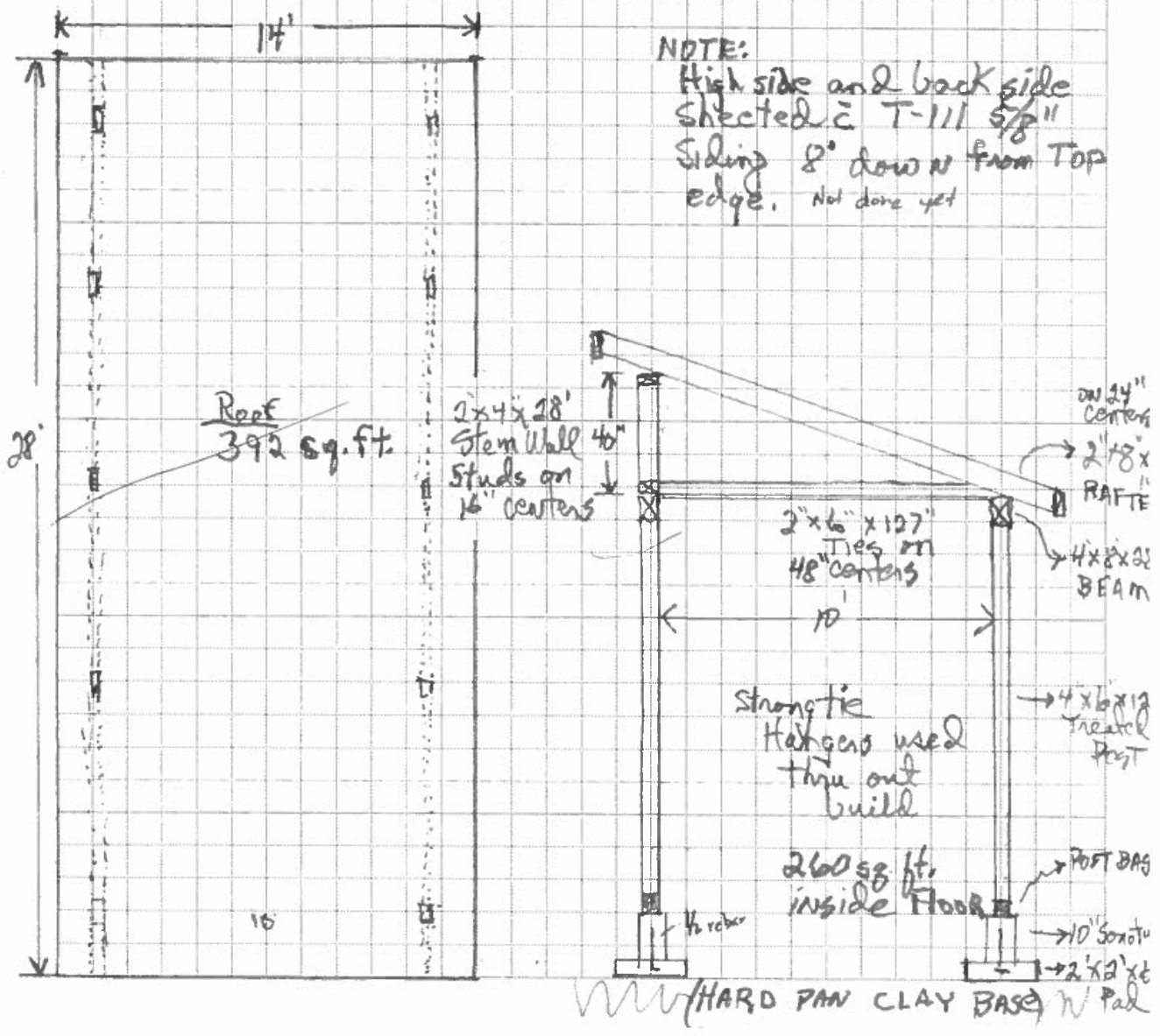


* Property is fenced on 3 sides by Cedar 6' fence Not sure if this property line but assumed to be there for more than 13 years

R.V. Storage Structure
(Need 12' head room)

10-1-2018
12050 Rachael Drive
Sandy, Oregon

15 lb felt, 20 year 3 tab

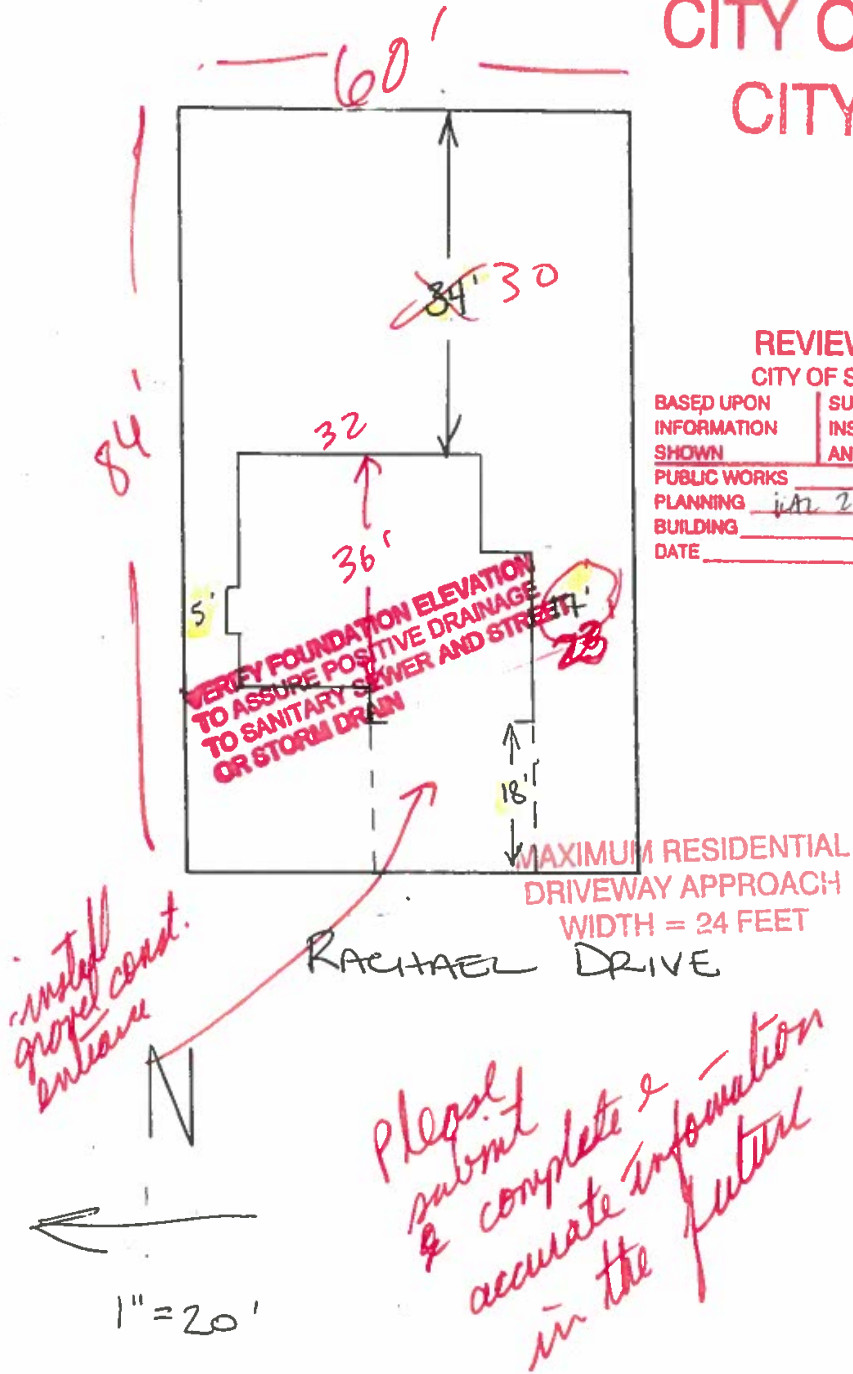


...E CORPORATION
40 S POPE LANE
GON CITY OR 97045

1567

...O RACHAEL DRIVE
...T 153, NICHOLAS GLEN 3

CITY OF SANDY CITY COPY



REVIEWED
CITY OF SANDY

BASED UPON INFORMATION SHOWN	SUBJECT TO INSPECTION AND TEST
PUBLIC WORKS	<u>AV</u> <u>2/21/07</u>
PLANNING	<u>Jan 21 2007</u>
BUILDING	
DATE	

*install
proper const.
entrance*

*Please
submit
& complete &
accurate information
in the future*

EXHIBIT D



18050 Rachael Dr
Sandy, OR 97055

\$339,950

Adorable 3 Bedroom Sandy home with RV Parking and New Roof. Nice and Bright with lots of Natural Light, Newer Hardwoods and Gas Fireplace in the Living Room, Updated SS Appliances in the Kitchen, Master Suite with Walk-In Closet. Enjoy Outdoor Entertaining in the Well Maintained Backyard with great Patio and Covered Storage area.

- 3 Bedroom ~ 2.5 Bath
- New Hardwoods & Doors
- New Roof
- Gas Fireplace
- Central Air
- RV Parking
- Fenced Backyard
- Covered Storage



To View This Property Call:

Kris Shuler
Broker



503-826-9000
503-480-8101



Untitled Map

Write a description for your map.

Legend

-  18050 Rachael Dr
-  Cranston Construction



No set back - rain water dumped into neighbors -

7/2017

Untitled Map

Write a description for your map.

Legend

 18050 Rachael Dr



Current setbacks

7/2017

Untitled Map
18050 Rachael Drive

Legend
📍 18050 Rachael Dr

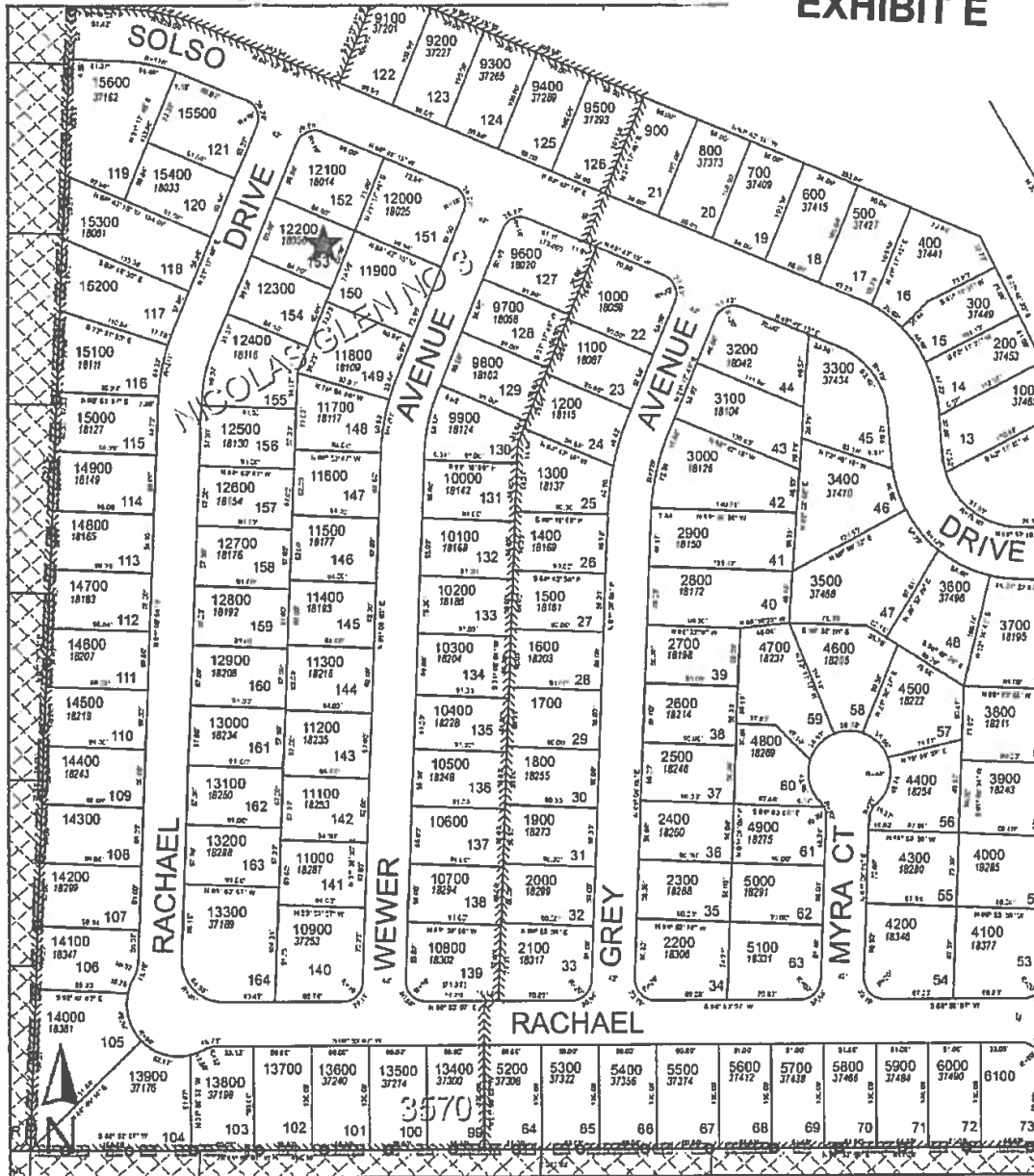


6.92 ft

Google Earth
© 2018 Google

7/2017

EXHIBIT E



First American Title™

ParcelID: 05001099

This map/plot is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.



After recording return to:
Robert Mottice
18050 Rachael Drive
Sandy, OR 97055

Until a change is requested all tax
statements shall be sent to the
following address:
Robert Mottice
~~18050 Rachael Drive~~ P.O. Box 813
Sandy, OR 97055

File No.: 7012-3093365 (sll)
Date: July 10, 2018

THIS SPACE RESERVED FOR RECORDER'S USE

READ & APPROVED
Rbm

STATUTORY WARRANTY DEED

Brandon M. Benfield and Kyndra E. Benfield, as tenants by the entirety, Grantor, conveys and warrants to **Robert Mottice**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

LEGAL DESCRIPTION: Real property in the County of Clackamas, State of Oregon, described as follows:

LOT 153, NICOLAS GLEN NO. 3, IN THE CITY OF SANDY, COUNTY OF CLACKAMAS AND STATE OF OREGON.

Subject to:

1. The **2018-2019** Taxes, a lien not yet payable.
2. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$340,000.00**. (Here comply with requirements of ORS 93.030)

APN: 05001099

Statutory Warranty Deed
- continued

File No.: 7012-3093365 (sll)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this _____ day of _____, 20_____.

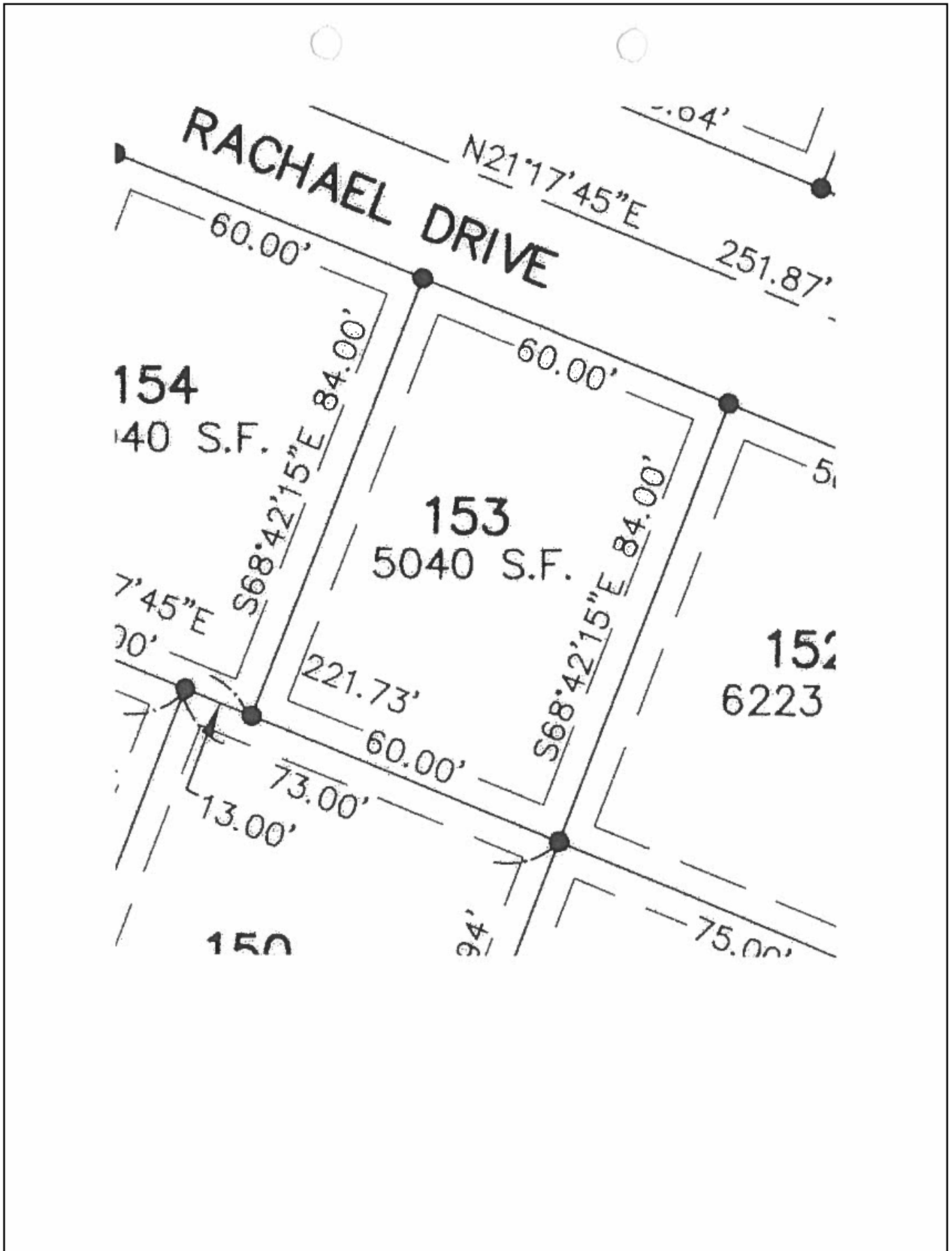
Brandon M. Benfield

Kyndra E. Benfield

STATE OF Oregon)
)ss.
County of Multnomah)

This instrument was acknowledged before me on this _____ day of _____, 20_____
by **Brandon M. Benfield and Kyndra E. Benfield.**

Notary Public for Oregon
My commission expires:



RECEIVED

DEC 28 2018

CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

EXHIBIT F

I am a direct back yard neighbor to Mr. Mottice. We have no issues with the carport /RV cover. ~~##~~

The construction of this carport is very well done and poses no threat or incumbrance to our property or for that matter other neighboring properties. In fact, there was a covered area that was in the same spot as the newly placed construction when the property was purchased. The only thing I have noticed is new construction is higher and perhaps a bit larger than previous building.

My recommendation is to let Mr. Mottice continue and complete as planned.

Your Name

JOHN LEWIS

Phone Number

503-577-9348

Address

~~108~~ 18081 WEWER AVE SANDY OR 97055

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.34 Medium Density Residential (R-2); 17.66 Adjustments and Variances; 17.74 Accessory Development Additional Provisions and Procedures.

RECEIVED

RECEIVED

COMMENT SHEET for File No. 18-051 VAR:

JAN 02 2019

DEC 28 2018

CITY OF SANDY

CITY OF SANDY

I am a direct back yard neighbor to Mr. Mottice. We have no issues with the carport /RV cover. ~~##~~

The construction of this carport is very well done and poses no threat or incumbrance to our property or for that matter other neighboring properties. In fact, there was a covered area that was in the same spot as the newly placed construction when the property was purchased. The only thing I have noticed is new construction is higher and perhaps a bit larger than previous building.

My recommendation is to let Mr. Mottice continue and complete as planned.

Your Name

Phone Number

JOHN LEWIS

503-577-9348

Address

~~108~~ 18081 WENNER AVE SANDY OR 97055

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.34 Medium Density Residential (R-2); 17.66 Adjustments and Variances; 17.74 Accessory Development Additional Provisions and Procedures.

EXHIBIT G

RECEIVED

JAN 02 2019

CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

We have looked at this project at length and discussed it. this project is too high and obstructs the view of other houses, also it is to close to the property line, another thing that concerns us is it is made of wood which would create a fire hazard. we vote no for these reasons and if you allow one property owner to do this then everyone else could do this which in turn could cause problems

Mr & Mrs W. Linn 503 826-9639
Your Name Phone Number

18071 S.E. Grey Av Sandy, Oregon 97055
Address

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.34 Medium Density Residential (R-2); 17.66 Adjustments and Variances; 17.74 Accessory Development Additional Provisions and Procedures.

EXHIBIT H

City of Sandy Planning and Building Department

December 29, 2018

Comment Sheet on File 18-051

RECEIVED

JAN 02 2019

CITY OF SANDY

Thank you for seeking community input on this matter.

I must admit I am not real keen on allowing this structure to circumvent the existing building codes noted on the variance request. But based more on the (approximately) twenty foot height of the structure with a roof peak that is as tall as the adjacent single story family dwelling.

I am most concerned for the three adjoining properties whose backyard "visual" space has been sacrificed to this two story structure. Besides being closed-in by this object projecting twelve feet (or more) above their fences along the property lines, it is casting a 'manufactured' shade interfering with the enjoyment of their backyard space and success of lawn and garden growth on these plots.

I am also worried about the precedent this construction will set. The Nicolas Glen sub-division has many RV'ers who may view this construction as an opportunity to do the same. Already we have experienced campers and trailers parked along the curbs for days beyond the limits.

This matter should not just be of concern to properties within 500 feet as this variance could eventually impact other lots throughout the neighborhood with added RV carports.

Respectfully,



Tom Newell

18007 Rachael Drive

EXHIBIT I

RECEIVED

JAN 04 2019

CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

Planning Commission, City of Sandy.

We believe this application should not be approved as is. The main factor being that the applicant is a City of Gresham firefighter. Meaning he knew for a fact that he would need a permit to build, but chose to build without one. Construction also continued even after the project was red taped and supposed to Cease.

We also don't think a storage building needs to be two story and as tall as the house.

A modification to the permit could work if the building was only one story.

Guimar & James DeKiere 503-201-5298

Your Name

Phone Number

18176 Rachael Drive, Sandy OR 97055

Address

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.34 Medium Density Residential (R-2); 17.66 Adjustments and Variances; 17.74 Accessory Development Additional Provisions and Procedures.

EXHIBIT J

RECEIVED

JAN 14 2019

CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

WE ARE NOT HAPPY WITH THIS STRUCTURE
IT IS VERY LARGE AND IS AN "EYE SORE"
WE FEEL THIS STRUCTURE IS TOO TALL AND
ALLOWING THIS MAY SET A PRECEDENT FOR
FUTURE SIMILAR PROJECTS IN OUR NEIGHBORHOOD.

Multiple horizontal lines for additional comments.

BRANDY SHAY 971 404 7237
Your Name Phone Number
37201 SOLSO DR
Address

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.34 Medium Density Residential (R-2); 17.66 Adjustments and Variances; 17.74 Accessory Development Additional Provisions and Procedures.



EXHIBIT K

James Cramer <jcramer@ci.sandy.or.us>

2107 ORSC (Oregon Residential Specialty Code) requirements for Carport within 3 feet of property line -

Terre Gift <tgift@ci.sandy.or.us>
To: James Cramer <jcramer@ci.sandy.or.us>

Fri, Jan 4, 2019 at 3:20 PM

James, the following comments are based upon ORSC R302.1, and apply to the Carport.

Garage walls or residential building walls **less than 3 feet** from the property line are required to comply with TABLE R302.1.

If walls are constructed to the wood framed carport, then the walls shall be fire-rated with a minimum of 1-HR fire-rated construction.

If the walls are **less than 2 feet** of the property line, then the maximum roof eave projections (including gutters) cannot exceed 4 inches .

Your friend in the Building Department,

Terrence Gift, CBO
Building Codes Official
City of Sandy
39250 Pioneer Blvd.
Sandy, Oregon 97055

Desk Line: 503-489-2164
Cell Phone: 503-741-0347
Fax: 503-668-8714

FIRST PREVENTERS: Whether their title is Building Official, Inspector, Plan Reviewer, or Fire Marshal their mission is the same: to prevent harm by ensuring compliance with building safety codes before a disaster occurs. Prevention goes unnoticed by design and definition. Success is a non-event. First Preventers play a major role in saving lives, protecting property, and reducing recovery costs often borne by the public.

**FINDINGS OF FACT and FINAL ORDER
TYPE III LAND USE PROPOSAL**

DATE: February 13, 2019

FILE NO. 18-051 VAR

PROJECT NAME: RV Storage Setback Variance

OWNER/APPLICANT: Robert Mottice

LEGAL DESCRIPTION: 24E14DC, tax lot 12200

DECISION: Denied by the Planning Commission

The above-referenced proposal was reviewed as two, Type III Special Variance requests. Robert Mottice submitted an application to adjust the side (north) yard and rear (east) yard setbacks to accommodate a partially constructed recreational vehicle (RV) carport. The proposed side (north) yard setback is 2 feet (19 inches to roofline) and rear (east) yard setback is 3 feet 5 inches (14 inches to roofline) when Subsection 17.38.30 requires a minimum side yard setback of 5 feet and minimum rear yard setback of 15 feet.

EXHIBITS:

Applicant's Submittals:

- A. Land Use Application
- B. Narrative
- C. Site Plan and Elevations
- D. Historic Photography
- E. Parcel Information

Public Comments:

- F. John Lewis (December 28, 2018 & January 2, 2019)
- G. Mr. and Mrs. W. Linn (January 2, 2019)
- H. Tom Newell (January 2, 2019)
- I. Guimar and James DeVaere (January 4, 2019)
- J. Brandon Shay (January 14, 2019)

Agency Comments:

- K. Terrence (Terre) Gift (January 4, 2019)

Additional Documents Submitted by Staff

- L. Nicolas Glen No. 3 Plat
- M. 18-051 VAR RV Storage Setback Variance Staff Report

FINDINGS OF FACT

General

1. These findings supplement and are in addition to the staff report dated January 28, 2019, which is incorporated herein by reference (Exhibit M). Where there is a conflict between these findings and the staff report, these findings shall control.
2. These findings are based on the applicant's submittal materials deemed complete on November 28, 2018. These items are identified as Exhibits A – E including a written narrative, a site plan with associated elevations, historic photography as well as parcel information.
3. The subject site consists of one parcel with a total area of approximately 0.12 acres. The subject property is located within the Nicolas Glen No. 3 subdivision recorded January 12, 2000. The property includes a 1,338 square foot, two-story single-family residential dwelling with an attached two-car garage (not included in the overall square footage).
4. The parcel has a Comprehensive Plan Designation of Medium Density Residential and a Zoning Map designation of R-2, Medium Density Residential.
5. Property owner Robert Mottice submitted an application to adjust the side (north) yard and rear (east) yard setbacks to accommodate a partially constructed recreational vehicle (RV) carport. Additionally, Mr. Mottice requested a Special Variance to allow the structure to exceed the maximum 16-foot height limitation.
6. Specifically, the applicant's submission included the following three Special Variance requests:
 - Variance A: To finish construction of an accessory structure 2 feet (19 inches to roofline) from an interior side (north) yard property line when Subsection 17.38.30 requires a minimum interior side yard setback of 5 feet in the R-2 zone district.
 - Variance B: To finish construction of an accessory structure 3 feet 5 inches (14 inches to roofline) from a rear (east) yard property line when Subsection 17.38.30 requires a minimum rear yard setback of 15 feet in the R-2 zone district.
 - Variance C: To allow the final height of the structure to exceed the maximum 16-foot height limitation Subsection 17.74.10(B)(6) requires for residential detached accessory structures.
7. Upon further review it was determined the height of the existing structure did not exceed the height limitation of Subsection 17.74.10(B)(6) therefore the requested Variance C was not required.
8. Notification of this proposal was mailed to property owners within 500 feet of the subject property and to affected agencies on December 21, 2018. A legal notice was published in the Sandy Post on January 9, 2019.

9. On January 28, 2019 the Planning Commission held a public hearing to review the application. At this hearing the Planning Commission voted on a motion to approve the requested two special variances. The results of the vote were a tie with two votes to approve and two votes to deny the motion. Under Robert's Rules, a majority, or more than half, vote is the fundamental requirement to pass a motion, therefore the motion did not carry and was **denied**.

17.30 – Zone Districts

10. The subject property is located within the Medium Density Residential (R-2) zone district and within the Nicolas Glen Subdivision. This development consists of 165 platted lots of which 164 have been developed into single-family residential dwellings and one duplex dwelling.

17.38 – Medium Density Residential

11. The applicant proposes to incorporate a detached carport to be used for RV storage as an accessory use to the primary single-family residential dwelling. The proposed accessory use does not affect the existing primary use or density of the property as detailed in Chapter 17.30 of this report.
12. Subsection 17.38.10(B)(2) identifies accessory structures, detached or attached as an accessory use permitted outright within the R-2 zone district.
13. The proposed accessory structure does not meet the side or rear yard setback requirements of the R-2 zone district (Subsection 17.38.30). The applicant has requested the three special variances identified in Item No. 6 above which are further detailed within Finding Nos. 24-36 below.

17.74 – Accessory Development Additional Provisions and Procedures

14. Subsection 17.10.30 defines an accessory structure (detached) as, *“a structure that is clearly incidental to and subordinate to the main use of property and located on the same lot as the main use; freestanding and structurally separated from the main use.”*
15. The applicant expressed the intention of the proposed detached accessory structure is for RV storage. The proposed use of the structure is subordinate to and commonly associated with the primary use (single-family residential dwelling) of the property. Additionally, the proposed structure is located on the same lot of record as the primary use and is incidental in design to the primary structure.
16. A detached accessory structure shall be separated from the primary structure by at least six (6) feet (Subsection 17.40.10). After conducting a site visit at the subject property and reviewing the submitted photos, staff confirms that, once completed, the proposed structure will exceed 6 feet in distance from the primary structure and therefore meets the definition of a detached accessory structure.
17. The proposed accessory structure covers 392 square feet of area; therefore the structure is not permitted to be within any required setback of the R-2 zone district. As a result, the proposed accessory structure is required to have a minimum side (east) yard setback of 5 feet (same standard as the R-2 zone district 17.38.30) and a minimum rear (east) yard

setback of 15 feet (same standard as the R-2 zone district 17.38.30). The applicant has requested two special variances from the required setback standards, one for the interior side yard setback and one for the rear yard setback which are further detailed within Finding Nos. 24-33 below.

18. The proposed accessory structure is located on the same lot of record as the associated primary structure and will be constructed behind the front plane/facade of the primary structure.
19. The property is not a corner lot, therefore there is no access from a secondary street side yard.
20. As observed in the submitted photos and plans, as well as described in the applicant's narrative, the roof line has been designed with a single pitched roof in order to direct stormwater runoff south onto the applicant's property as opposed to adjacent properties. Additionally, the applicant proposes to install a gutter on the south roof line to mediate water run off on the site.
21. The overall height of the proposed accessory structure will be 15 feet 1.25 inches (181.25 inches), and therefore will not exceed the 16-foot height limitation of Subsection 17.74.10(B)(6) meaning that requested Variance C is not required as further detailed in Finding Nos. 34-36 below.

17.66 – Adjustments and Variances

22. The applicant requests two Type III Special Variances to the side and rear yard setback requirements of Subsection 17.38.30. In order for a variance to be approved, the applicant must meet all criteria of Section 17.66.70.
23. As presented within Exhibit M, the intent of setbacks for structures is to provide development predictability based on zone districts for property owners and citizens. While required setbacks result in the separation of primary structures to preserve open space they also provide means for a property owner to access and maintain a structure on their property. Additionally, in many cases setbacks provide the ability for public utilities to access a property through a recorded public utility easement and create a buffer for fire separation.

Variance A – interior side (north) yard setback

24. The applicant requested to finish construction of an accessory structure 2 feet (19 inches to roofline) from an interior side (north) yard property line when a 5-foot setback is required.
25. The proposed accessory structure is on private property and will not be detrimental to the public welfare. While the location of the proposed structure is in close proximity to the shared north property line it was observed that there are no structures on the adjacent property to the north in close proximity to the shared property line. The design of the proposed structure is open on all four sides; however, the applicant expressed their intention on installing T1-11 siding for the upper eight feet of the north elevation and to be painted to match the existing primary structure (house) on the site. Additionally, this siding will wrap around to the eastside of the structure to help blend the structure into the neighborhood. With the exception of minimal exterior maintenance, it is reasonable to infer that the

adjacent property owner to the north would not likely be negatively affected by any future maintenance of the proposed structure.

26. Oregon Residential Specialty Code (ORSC) R302.1 identifies that garage walls or residential building walls less than 3 feet from a property line are required to comply with TABLE R302. The structure is proposed to be 2 feet (19 inches to roofline) from the property line, therefore, if approved, the building **shall have a minimum of 1-Hour fire-rated construction**. Additionally, if the walls are less than 2 feet from the property line, then the maximum roof eave projections (including gutters) cannot exceed 4 inches. **The applicant shall verify the distance between the north façade and property line and adjust the eave according to ORSC standards prior to approval of a building permit.**
27. The property is located in the Nicolas Glen No. 3 subdivision recorded January 12, 2000. The plat identifies the subject property having a five-foot public utility easement (PUE) on the front, side and rear yard property lines. This would indicate that the proposed structure would encroach 3 feet into this PUE as identified on the plat. NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet were notified of the proposal, but the City did not receive comments in favor or against the proposed accessory structure location.
28. At the January 28, 2019 Planning Commission Meeting staff recommended approval of the requested variance with the following conditions:
- Prior to building permit approval, the City shall contact NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet and provide a two-week comment period for agencies to respond with any conflicts associated with the proposed structure's encroachment into the recorded PUE.
 - The applicant shall install siding beginning at six feet above grade extending upwards to the proposed structure's roof line for the full length of both the north and east façades.
 - The applicant shall use a minimum 1-Hour fire-rated wall for the area of the structure located within 3 feet of the north property line as well as verify the distance between the north façade and property line and adjust the eave according to ORSC standards prior to approval of a building permit.
 - All siding and/or trim used on the accessory structure shall match the property's primary structure (single-family dwelling) in material and color.

Variance B – rear (east) yard setback

29. The applicant requested to finish construction of an accessory structure 3 feet 5 inches (14 inches to roofline) from a rear (east) yard property line when a 15-foot setback is required.
30. The proposed structure is on private property and will not be detrimental to the public welfare. While the location of the proposed structure is in close proximity to the shared east property line it was observed that there are no structures on the adjacent property to the east in close proximity to the shared property line. The design of the proposed structure is open on all four sides with the exception of the top eight feet of the north façade. The applicant has expressed their intention on installing T1-11 siding for the upper eight feet of the north elevation to be painted to match the existing primary structure (house) on the site. Additionally, this siding will wrap around to the eastside of the structure to help blend the

structure into the neighborhood. The applicant has identified an existing tree located on the adjacent property to the east that blocks off-site views of the proposed structure. However, seasonal changes and the loss of leaves on the identified tree will lead to increased visibility of the proposed structure. **To decrease the visibility of the contents within the proposed structure staff recommended the applicant install siding on the east elevation to match siding proposed on the remainder of the proposed structure.**

31. With the exception of minimal exterior maintenance, staff believes it is reasonable to infer that the adjacent property owner to the east would not likely be negatively affected by any future maintenance of the proposed structure. In addition, the property owner to the east of the subject property submitted a letter in support of the proposed structure (Exhibit F).
32. The property is located in the Nicolas Glen No. 3 subdivision recorded January 12, 2000. The plat identifies the subject property having a five-foot public utility easement (PUE) on the front, side and rear yard property lines. This would indicate that the proposed structure would encroach 2 feet 7 inches into this PUE as identified on the plat. NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet were notified of the proposal, but the City did not receive comments in favor or against the proposed accessory structure location.
33. At the January 28, 2019 Planning Commission Meeting staff recommended approval of the requested variance with the following conditions:
 - Prior to building permit approval, the City shall contact NW Natural Gas, Portland General Electric, Wave Broadband and SandyNet and provide a two-week comment period for agencies to respond with any conflicts associated with the proposed structure's encroachment into the recorded PUE.
 - The applicant shall install siding beginning at six feet above grade extending upwards to the proposed structure's roof line for the full length of both the north and east façades.
 - The applicant shall use a minimum 1-Hour fire-rated wall for the area of the structure located within 3 feet of the north property line as well as verify the distance between the north façade and property line and adjust the eave according to ORSC standards prior to approval of a building permit.
 - All siding and/or trim used on the accessory structure shall match the property's primary structure (single-family dwelling) in material and color.

Variance C -residential detached accessory structure height

34. The applicant requested to finish construction of a detached accessory structure with a height that exceeds the maximum 16-foot height limitation.
35. The overall height of the proposed accessory structure will be 15 feet 1.25 inches (181.25 inches).
36. Upon further review it was determined the height of the existing structure did not exceed the height limitations of Subsection 17.74.10(B)(6) therefore the requested Variance C was not required.

17.98 – Parking, Loading, & Access Requirements

37. The proposed carport is located in the rear portion of the subject property and therefore will require off-street improvements to comply with the standards and regulations of this chapter. As observed by staff and represented in the applicant's submitted photographs the subject property currently has improved surfacing (pavement) between the right-of-way and proposed carport.

DECISION

At the January 28, 2019 Planning Commission Meeting, the Planning Commission voted on a motion to approve the requested two special variances (Variances A & B). The results of the vote were a tie with two votes to approve and two votes to deny the motion. Under Robert's Rules, a majority, or more than half, vote is the fundamental requirement to pass a motion therefore the motion did not carry and was **denied**.


Jerry Crosby
Chair, Planning Commission


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) 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 Chapter 17.28.50; and
5. Payment of required filing fees.

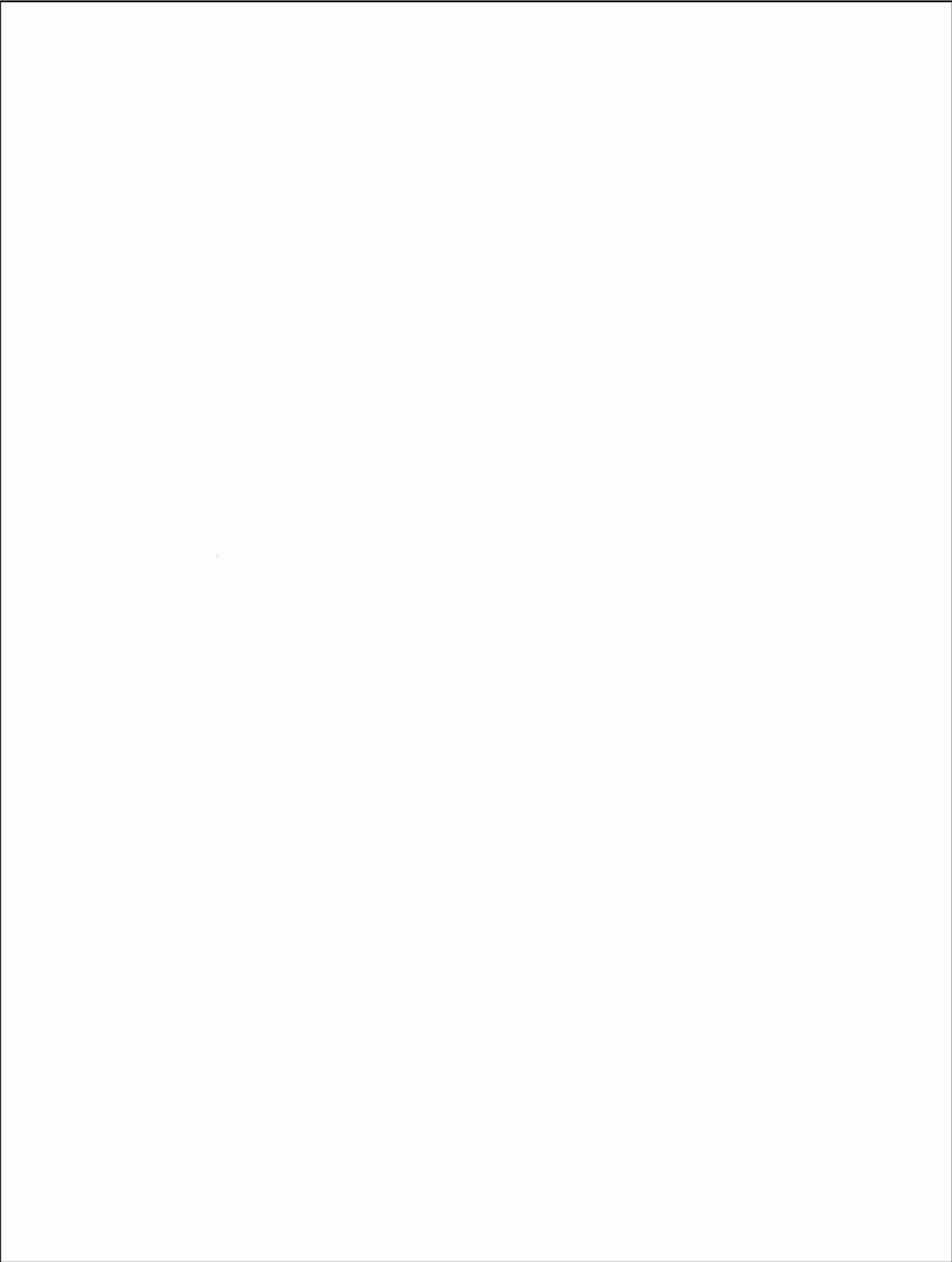




Exhibit E

James Cramer <jcramer@ci.sandy.or.us>

File No.: 19-007 AP

James Cramer <jcramer@ci.sandy.or.us>
To: Tom Newell <tom.newell@live.com>

Wed, Mar 27, 2019 at 4:04 PM

Tom,

Sorry about that, yes it was a typo, my apologies for any confusion. I will add your message to the file for the record. Never hesitate to reach out or think you're being a pest if you have any questions, we appreciate the interest and input.

On Wed, Mar 27, 2019 at 1:39 PM Tom Newell <tom.newell@live.com> wrote:

Thank you for the definition.

You did not address the "color of the roof" query that I had. Would you tell me if that was simply a typo or is it the focus of the appeal?

Please feel free to re-submit my original my original message into the record.

Sorry to be a pest here, Tom

Sent from my iPad

On Mar 27, 2019, at 1:20 PM, James Cramer <jcramer@ci.sandy.or.us> wrote:

Tom,

Thank you for reaching out. Subsection 17.74.010.B.6 limits the overall height of any accessory structure to 16 feet tall. The "Height of Buildings" definition within Chapter 17.10 of the land development code determines how to calculate the overall height of a building (see attached). Essentially you take the average between the high and low points of a pitched/gabled roof and add it to the height between the grade and low point of the pitched/gabled roof. Based on this method of determining the building's height and the applicant's measurements it was determined that the structure meets the height limitation and therefore is in compliance. The request before Planning Commission was to reduction to the side and rear yard setbacks and the applicant is appealing the Planning Commission's decision to deny the setback requests.

Attached is the Final Order approved by the Planning Commission for your review. Please let me know if you have any questions and if you would like me to add your original message into the record or if you will be supplying another.

I hope all is well,

On Wed, Mar 27, 2019 at 12:28 PM Tom Newell <tom.newell@live.com> wrote:

Hi James.....

My name is Tom Newell. I live at 18007 Rachael Dr across the street from the 'new development' cited in 19-007 AP.

I had submitted concerns to this project when it was 18-051 VAR. And, today I have questions as to how you can state that this structure is measured at only 15'-1.25" . As I sit and look at the structure out my front window, it is clearly taller than 15 feet. It is a single pitch incline roof that has to culminate at 22 or more feet tall. This was clearly my main concern as this went before the Planning Commission and remains the same today.

I am considering entering another comment for this appeal and am seeking clarification on the measuring to form my response.

Oh, and by the way.....I note on page two of the packet I received under the bulletpoint DECISION: it states that this a decision....."on roof color that is under review(File 19-007 AP)". That is not correct is it??

Thank you for inviting the community to respond to these neighborhood issues. Feel free to call if you would prefer over emailing.

Tom Newell
503-477-2911

Sent from [Mail](#) for Windows 10

--
James A. Cramer
Associate Planner
City of Sandy
[39250 Pioneer Blvd](#)
[Sandy, OR 97055](#)
[phone \(503\) 783-2587](#)
jcramer@ci.sandy.or.us
Office Hours 8am - 4pm

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<Height of Building Calculation.pdf>

<18-051 VAR RV Storage Setback Variance Final Order Signed.pdf>

--
James A. Cramer
Associate Planner
City of Sandy
[39250 Pioneer Blvd](#)
[Sandy, OR 97055](#)
[phone \(503\) 783-2587](#)
jcramer@ci.sandy.or.us
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Exhibit F

RECEIVED

MAR 29 2019

CITY OF SANDY

COMMENT SHEET for File No. 19-007 AP:

2nd Comment its too High,
Too close to property line, its wood
that creates a fire hazard, I vote
absolutely not! it also blocks view

Bill & Barbara Linn 503-826-9639
Your Name Phone Number

18071 SE Grey Av. Sandy, OR 97055
Address

APPLICABLE CRITERIA: Sandy Development Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.28 Appeals; and 17.38 Medium Density Residential (R-2).



Exhibit G

James Cramer <jcramer@ci.sandy.or.us>

Completness Letter and Clarification

Robert Mottice <robmo96@yahoo.com>
To: James Cramer <jcramer@ci.sandy.or.us>

Sun, Dec 9, 2018 at 6:43 PM

OK, got measurements on the top, highest point to bottom of beam - 59 1/2"
Ground to bottom of beam - 151 1/2"

I hope this what you were looking for.

Robert Mottice

Sent from my iPhone
[Quoted text hidden]

<Height measurements.pdf>

Exhibit H

City of Sandy Planning and Building Department

December 29, 2018

Comment Sheet on File 18-051

RECEIVED

JAN 02 2019

CITY OF SANDY

Thank you for seeking community input on this matter.

I must admit I am not real keen on allowing this structure to circumvent the existing building codes noted on the variance request. But based more on the (approximately) twenty foot height of the structure with a roof peak that is as tall as the adjacent single story family dwelling.

I am most concerned for the three adjoining properties whose backyard "visual" space has been sacrificed to this two story structure. Besides being closed-in by this object projecting twelve feet (or more) above their fences along the property lines, it is casting a 'manufactured' shade interfering with the enjoyment of their backyard space and success of lawn and garden growth on these plots.

I am also worried about the precedent this construction will set. The Nicolas Glen sub-division has many RV'ers who may view this construction as an opportunity to do the same. Already we have experienced campers and trailers parked along the curbs for days beyond the limits.

This matter should not just be of concern to properties within 500 feet as this variance could eventually impact other lots throughout the neighborhood with added RV carports.

Respectfully,



Tom Newell

18007 Rachael Drive



James Cramer <jcramer@ci.sandy.or.us>

File No.: 19-007 AP

James Cramer <jcramer@ci.sandy.or.us>
To: Tom Newell <tom.newell@live.com>

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