

City of Sandy

Agenda

City Council Meeting

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

Meeting Date: Monday, November 5, 2018

Meeting Time: 6:00 PM



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1. COUNCIL WORKSHOP

- 1.1. Clackamas County Planning & Zoning Work Program

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Provide staff direction on forwarding project ideas to the Clackamas County Planning and Zoning Division.

[Clackamas County Planning & Zoning Work Program - Pdf](#)

- 1.2. Transportation Funding Work Session

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None - for information only

[Transportation Funding Work Session - Pdf](#)

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. CHANGES TO THE AGENDA

5. PUBLIC COMMENT

6. ORDINANCES

- 6.1. 18-039 DCA Code Amendments Staff Report

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Staff recommends the City Council do a second reading for modifications to Chapters 17.22, 17.28, 17.80, and 17.82 and approve the proposed code revisions.

I make a motion to approve the proposed code revisions to the City of Sandy

Development Code Chapters 17.22, 17.28, 17.80, and 17.82.

[File No. 18-039 DCA, Chapters 17.22 Notices, 17.28 Appeals, 17.80 Additional Setbacks on Collector and Arterial Streets, and 17.82 Special Setbacks on - Pdf](#)

7. RESOLUTIONS

- 7.1. Police Department Interfund Loan 78 - 80

Approve Resolution 2018-33, a resolution authorizing an interfund loan from the Transit Fund to the General Fund - Police Department.

[Police Department Interfund Loan - Pdf](#)

- 7.2. Telecommunications Interfund Loan 81 - 83

Approve Resolution 2018-32, a resolution authorizing an interfund loan from the Transit Fund to the Telecommunication Fund.

[Telecommunications Interfund Loan - Pdf](#)

8. CONSENT AGENDA

- 8.1. City Council Minutes 84 - 172

[City Council - 17 Sep 2018 - Minutes - Pdf](#)

[City Council Work Session - 25 Sep 2018 - Minutes - Pdf](#)

[City Council - 01 Oct 2018 - Minutes - Html](#)

[City Council Work Session - 01 Oct 2018 - Minutes - Html](#)

[City Council Workshop and Regular Meeting- 15 Oct 2018 - Minutes - Pdf](#)

9. REPORT FROM THE CITY MANAGER

10. COMMITTEE REPORTS

11. COUNCIL REPORTS

12. STAFF UPDATES

- 12.1. [Monthly Reports](#)

13. ADJOURN



Staff Report

Meeting Date: November 5, 2018

From Kelly O'Neill, Planning Director

SUBJECT: Clackamas County Planning & Zoning Work Program

Background:

As a municipality in Clackamas County we have been invited by the Clackamas County Planning and Zoning Division to participate in the 2019-2020 Long Range Planning Work Program. We need to submit suggestions for long range land use and/or transportation planning projects by December 17, 2018. The list we provide will be evaluated by County staff and potentially include projects that are forwarded for consideration to the Planning Commission and Board of County Commissioners in 2019. The projects are prioritized based on policy implications, staff and financial resources, and consistency with legal requirements and County goals. See [Attachment A](#) to read the letter we received on October 1, 2018.

The work program typically consists of land use policy assessments and code amendments, and transportation feasibility studies and master plans. See [Attachment B](#) for a list of the 2018-2019 Long Range Planning Work Program. Some ideas that Development Services staff has are the following:

Land Use

- Assess county-wide plan for habitat connectivity, including stream corridors/riparian buffers. This evaluation could create a development code toolkit for local municipalities, CPOs and Hamlets to consider using for development.
- Assess the Green Corridor agreement to determine additional regulations in the County Code to adopt for development along Highway 26 to fulfill the agreement.
- Amend the existing County development code to create more robust code policies on solar field installations, including additional vegetative screening standards.

Transportation

- Analyze the feasibility and implications of connecting the Springwater Trail to the Mt. Hood bike trail system.
- Address design concerns with the curve in 362nd Drive and explore traffic signal or round-a-about improvements at the intersection of Highway 211 and 362nd Drive.

- Address design concerns with the intersection of Firwood Road and Highway 26, including the potential reconfiguration of the slip lane and ingress/egress to the gas station.

Recommendation:

Provide staff direction on forwarding project ideas to the Clackamas County Planning and Zoning Division.

Budgetary Impact:

This is the Clackamas County Planning and Zoning Work Program so there is no budgetary impact to the City of Sandy at this time.



JENNIFER HUGHES, MANAGER
LINDSEY NESBITT, MANAGER
PLANNING & ZONING

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

October 1, 2018

TO: CPOs, Hamlets, County departments and other interested parties
RE: Suggestions for the 2019-2020 Long-Range Planning Work Program

You are invited to submit suggestions for long-range land use and/or transportation planning projects for the 2019-20 Long-Range Planning Work Program by December 17, 2018. Please send your ideas to Lorraine Gonzales at lorrainego@clackamas.us.

Every year, county long-range planning staff is only able to focus on a limited number of high priority projects. A request for proposed 2019-2020 projects now will provide adequate time to review all suggestions based on feasibility, cost implications and other factors before preparation of a prioritized list is forwarded to the Planning Commission and Board of County Commissioners in 2019.

Previous suggestions have included amendments to the Zoning and Development Ordinance (ZDO) and/or Comprehensive Plan to address changing community needs, development of new or updated community plans, and analyses of future transportation needs. A summary of the 2018-19 Long-Range Planning Work Program is attached, for your information. Please note that some of projects take more than one year and will continue into 2019-20.

Staff will evaluate and prioritize the suggested projects based on:

- policy implications,
- staff and financial resources, and
- consistency with legal requirements and County goals.

A prioritized list of the suggestions will be presented to the Planning Commission in early 2019 for review, public input and recommendation. The Planning Commission's recommendation will be forwarded to the Board of County Commissioners, which will invite additional public input before taking action. Progress on the work program will be posted on our website at www.clackamas.us/planning.

Any projects that meet legal requirements and County goals, but that can't be undertaken in the 2019-20 fiscal year, from July 1 2019-June 30, 2020, may be carried forward for consideration for a future work program. If you or your organization proposed a project in past years that was denied for lack of resources, please feel free to re-submit the idea. We will forward suggestions that are not suited for long-range planning to the appropriate county department and inform the proposer of our action.

If you have any questions, please contact me at 503-742-4541 or lorrainego@clackamas.us. We look forward to receiving your suggestions.

Respectfully,

Lorraine Gonzales, Senior Planner

lorrainego@clackamas.us/ 503-742-4541

Planning & Zoning Division; 150 Beaver Creek Rd, Oregon City OR 97045

C: Planning Commission
Attachment: 2018-19 Long Range Planning Workprogram

Long-Range Planning Work Program Overview

July 1, 2018 – June 30, 2019

LAND USE

#	Name	Description	Action Needed
L-1	Zoning and Development Ordinance (ZDO) Audit	Continue and complete multi-year ZDO audit – Section 700: Special Districts; Section 200: Definitions; possible renumbering / reorganization of entire document.	<ul style="list-style-type: none"> • Research • Write/revise code • Public notice, outreach and hearings • Adopt text amendments to ZDO and, as needed, Comprehensive Plan
L-2	Park Avenue Station Area Development & Design Standards	Develop and implement public outreach on commercial design and development standards, assess the livability of adjacent residential neighborhoods, and draft proposed design and development standards to support community goals.	<p>Work with project area residents, the community and the consultant to:</p> <ul style="list-style-type: none"> • Develop and implement an inclusive public engagement process • Develop proposed design & development standards
L-3	Marijuana Ordinance Amendment	Limit the number of Oregon Liquor Control Commission marijuana production licenses and Oregon Health Authority medical marijuana registrations allowed per property.	<ul style="list-style-type: none"> • Research • Write/revise code • Public notice, outreach and hearings • Adopt ZDO and Comprehensive Plan amendments
L-4	Short-Term Rentals in Single-Family Residential Zones	Allow short-term rentals (e.g., Airbnb) in single-family dwellings.	<ul style="list-style-type: none"> • Research • Coordinate with Tourism, Septic, Building Codes and others • Write/revise code • Public notice, outreach and hearings • Adopt ZDO and Comprehensive Plan amendments
L-5	Change Low-Density Residential Zones	Amend policies for applying different low-density residential zones (R-2.5 through R-30).	<ul style="list-style-type: none"> • Research • Write/revise code • Public notice, outreach and hearings • Adopt ZDO and Comprehensive Plan amendments
L-6	Accessory Dwelling Unit Regulations for Rural Areas	Allow ADUs in rural zoning districts to the extent enabled by changes to state law.	<ul style="list-style-type: none"> • Research • Write/revise code • Public notice, outreach and hearings • Adopt amendments to ZDO and Comprehensive Plan
L-7	Housing Needs Assessment and Buildable Lands Inventory	Prepare countywide needs assessment in compliance with Oregon Planning Housing Goal 10; work with Clackamas County Coordinating Committee (C4); support Homeless and Housing Affordability Task Force.	<p>Provide technical support to appropriate county committees and departments.</p> <ul style="list-style-type: none"> • In-depth analysis of current and future housing options • Buildable lands analysis

TRANSPORTATION

#	Name	Description	Action Needed
T-1	Safe Routes to Schools (SRTS)	Develop SRTS action plans for four schools in order to increase safety for children, parents and others going to and from schools.	<ul style="list-style-type: none"> • Education and outreach • Research and analysis • Writing plans
T-2	Damascus Area Transportation Needs	Review current plans for transportation projects on county roads in unincorporated area formerly in the city of Damascus and outside Happy Valley's planning jurisdiction, and identify or develop needed projects to include in the county's Transportation System Plan (TSP).	<ul style="list-style-type: none"> • Research and assess projects in city and county plans • Identify needed projects • Amend Capital Improvement Plan/TSP • Public notice, outreach and hearings • Adopt Comp Plan amendments
T-3	Canby Ferry Alternatives Feasibility Study	Analyze the feasibility of adding to or replacing the Canby Ferry with a bridge at the ferry site.	<ul style="list-style-type: none"> • Traffic and cost analysis • Financial feasibility study • Toll operations and administration • Public outreach
T-4	Arndt Road Extension Goal Exception	Explore alignment options and undertake, as necessary, development of a goal exception to support the crossing of the Molalla River in relation to the Board of Commissioners goal to provide access from I-5 to the city of Canby.	<ul style="list-style-type: none"> • Explore alignment options • Complete cost estimates • Discuss cost, funding with Canby • Update goal exception for alignment <ul style="list-style-type: none"> ▪ Write amendments ▪ Public notice, outreach, hearings
T-5	Stafford Area Preliminary Infrastructure Feasibility Analysis	Work with adjacent cities and the Stafford community to study potential demands various levels of urban growth would have on infrastructure in the Stafford area, and how those demands would impact neighboring cities.	<ul style="list-style-type: none"> • Scope project • Hire consultant • Research and analysis • Identify demands of urban growth • Recommend appropriate future jurisdictional areas of responsibility
T-6	Rhododendron Sidewalk and Pedestrian Crossings	Address design concerns identified by ODOT in Appendix 3 of the County's Mt. Hood Villages Pedestrian & Bicycle Implementation Plan to prepare capital projects that will meet sidewalk and pedestrian crossing needs.	Coordinate with ODOT Transportation and Growth Management (TGM) Quick Response Program and Rhododendron CPO to develop a project application
T-7	Barton Park Complex Master Plan	Develop a master plan to ensure coordination and best use of facilities and amenities to meet the long-term needs of users.	Provide long-range planning expertise and support

The following two projects will be worked on if funds become available. Funds are being sought for both projects.

T-8	Lake Oswego – Oak Grove Ped/Bike Bridge Feasibility Study	Work with regional, state and federal partners to determine scope and special studies needed, and to identify appropriate project roles and contributions.	<ul style="list-style-type: none"> • Identify feasible locations • Develop construction, operations and maintenance funding plans • Public outreach
T-9	Transit Planning for Clackamas County	Seek funding to develop strategies, actions and tools to make transit more usable in the County.	<ul style="list-style-type: none"> • Identify possible funding sources. • Develop grant and other funding requests.



Staff Report

Meeting Date: November 5, 2018
From: Mike Walker, Public Works Director
SUBJECT: Transportation Funding Work Session

Background:

The City has two primary sources of revenue for transportation improvements: System Development Charges (SDCs) collected from new development (annual revenue varies based on development - we predicted about \$250K annually in the current budget) and State and Federal fuel taxes (about \$600,000 year) distributed by ODOT based on population. The City also collects approximately \$300,000 annually from a \$0.02/gallon local fuel tax that is dedicated to street maintenance. We spend about \$1.1 million annually on operating expenses (which includes about \$250K annually for street lighting and street sweeping). Because the cost of most transportation projects far exceeds the available discretionary finds in any given year we have been 'banking' SDCs until we have a balance large enough to fund a project or projects.

Currently, the Street Fund has a cash balance of about \$3.2 million. While this may seem like a lot of money the current Transportation Capital Improvement Plan (CIP) totals about \$42.3 million. These projects range from \$290,000 for minor improvements to the intersection of Jacoby Rd. and Dubarko Rd. to \$7.6 million dollars for a center turn lane on Hwy 211 between US 26 and Bornstedt Rd. (see table). Of this \$42 million we can collect up to \$34 million from SDCs leaving a gap of \$8 million that must come from other sources.

Transportation - Motor Vehicles
 CIP

Project Number	Description	Cost - Indexed for Inflation	Percent Benefitting New Dev.	Cost Benefitting New Dev. Indexed for Inflation
M-1	362nd Dr. at US 26 Intersection Improvements	\$2,765,101	67%	\$1,844,322

M-2	362nd Dr. at Dubarko - Single Lane Roundabout	\$1,437,570	100%	\$1,437,570
M-3	362nd Dr. from US 26 to Kelso Dubarko Rd., Eastern	\$6,506,257	100%	\$6,506,257
M-4	Terminus to West Vista Loop Bell St.	\$1,941,136	100%	\$1,941,136
M-5	Western Terminus to 362nd	\$5,328,041	100%	\$5,328,041
M-6	OR-211, Bornstedt Rd. to US 26	\$7,651,210	40%	\$3,022,228
M-7	Kate Schmitz, US 26 to Bell Industrial Way,	\$2,371,600	100%	\$2,371,600
M-8	West Terminus to Jarl Rd. US 26 / Ten	\$5,404,702	100%	\$5,404,702
M-9	Eyck Rd: Intersection Improvements	\$1,315,160	91%	\$1,202,056
M-10	Bornstedt Rd Vertical Realignment	\$851,620	15%	\$127,743
M-11	362nd at Industrial Way Intersection Improvement	\$3,665,200	100%	\$3,665,200
M-12	Realign Alt Ave. at Proctor Blvd. (keep signal)	\$2,156,000	30%	\$638,176
M-13	Jacoby at Dubarko Intersection Improvements	\$291,060	100%	\$291,060
M-14	Complete North end of Village Blvd. to OR-211	\$646,800	48%	\$313,051

Total**\$42,331,457****\$34,093,143**

HB 2017, passed during the last legislative session increases the state fuel tax by \$0.06/gallon incrementally over the next six years. Once fully implemented in 2023 Sandy should receive an additional \$297K/year. If Clackamas County adopts a \$30/year Vehicle Registration Fee (VRF) we could receive \$215K year. The combination of these two sources of revenue will provide approximately \$400,000/year that could be used for debt service to close the gap between available funds and project costs. \$400K annually would service about \$5.6 million in debt over 20 years. Combined with the balance in the Street Fund this would provide us with about \$8.8 million for one large project or several smaller projects.

We are also in the process of updating our Transportation System Plan (TSP). This project will provide us with updated traffic counts at key intersections and will generate a new or revised Capital Improvement Plan. This will allow the Council to prioritize projects in the CIP based on current and projected intersection and roadway capacity.

Recommendation:

None - for information only

Code Analysis:**Budgetary Impact:**

None - for information only



Staff Report

Meeting Date: November 5, 2018

From Emily Meharg, Associate Planner
File No. 18-039 DCA, Chapters 17.22 Notices, 17.28 Appeals, 17.80
Additional Setbacks on Collector and Arterial Streets, and 17.82

SUBJECT: Special Setbacks on Transit Streets

Background:

File No. 18-039 DCA proposes to amend Chapters 17.22, 17.28, 17.80, 17.82, and 17.102 containing procedures and conditions for notices, appeals, setbacks on arterial & collector streets, special setbacks on transit streets, and urban forestry regulations. These updates primarily remove inconsistencies in the development code. On September 24, 2018, the Planning Commission voted 6-0 to recommend the proposed code revisions with a few minor changes. On October 15, 2018 City Council did a first reading for 4 of the original 5 code sections: 17.22, 17.28, 17.80, and 17.82. City Council chose not to continue forward with proposed changes to 17.102.

I. SUMMARY (4 code sections)

17.22 Notices

The proposed code changes increase the noticing distance for a Type II notice from property owners within 200 feet of the development site to property owners within 300 feet of the development site; and increase the noticing distance for a Type III notice from property owners within 300 feet of the development site to property owners within 500 feet of the development site. This update also modifies the language related to DLCDC noticing to stay in compliance with the 35-day noticing period.

17.28 Appeals

The proposed code change increases the appeal period for a Type III procedure from 10 to 12 calendar days from notice of the decision. This is consistent with the 12 day appeal period for Type I and II procedures.

17.80 Additional Setbacks on Collector and Arterial Streets

The proposed code change references the latest adopted Sandy Transportation System Plan (TSP) rather than directly listing arterial and collector streets in the code. This modification reduces the need to modify the development code when the TSP is modified. The updated code also exempts the Central Business District (C-1) from Chapter 17.80 regulations.

17.82 Special Setbacks on Transit Streets

The proposed code changes delete a majority of the code sections within this chapter and update building orientation requirements for dwellings adjacent to transit streets. This update removes all references to commercial structures and uses as was intended when Sandy Style was adopted.

Recommendation:

Staff recommends the City Council do a second reading for modifications to Chapters 17.22, 17.28, 17.80, and 17.82 and approve the proposed code revisions.

I make a motion to approve the proposed code revisions to the City of Sandy Development Code Chapters 17.22, 17.28, 17.80, and 17.82.

Code Analysis:

Exhibit A Chapter 17.22 Code Modifications
Exhibit B Chapter 17.28 Code Modifications
Exhibit C Chapter 17.80 Code Modifications
Exhibit D Chapter 17.82 Code Modifications

Exhibit E CC Staff Report and Exhibits - October 15, 2018
Exhibit F PC Staff Report and Exhibits - September 24, 2018
Exhibit G Tracy Brown Comments on Ordinance 2018-29

Ordinance with Exhibits A-D

Budgetary Impact:

None

EXHIBIT A

CHAPTER 17.22 NOTICES

17.22.00 INTENT

The requirement for notice to affected property owners, governmental agencies, public utility providers, etc., is intended to ~~assure that an opportunity is provided~~ provide those persons and entities an opportunity for comments to be submitted regarding to comment on a proposed development and to afford ~~citizens-~~ interested parties the opportunity to participate in the land use decision making process.

17.22.10 TYPE II QUASI-JUDICIAL NOTICE

- A. The applicant or authorized agent;
- B. Any person who owns property within 2300 ft., excluding street right-of-way, of the development site;
- C. Any other person, agency, or organization that may be designated by the Code;
- D. Interested parties, such as counties, state agencies, public utilities, etc., that may be affected by the specific development proposal shall receive notice of the scheduled public hearing.
- E. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

17.22.20 TYPE III QUASI-JUDICIAL NOTICE

Where a quasi-judicial hearing is required by this Code notice shall be mailed to the following:

- A. The applicant or authorized agent;
- B. Any person who owns property within 3500 ft., excluding street right-of-way, of the development site, except as otherwise authorized by this Code;
- C. Tenants of any existing manufactured-dwelling park for which a zoning district change is proposed;
- D. Any other person, agency, or organization that has filed with the Director a request to receive notices of hearings and has paid a reasonable fee to cover the cost of providing notice;
- E. Any other person, agency, or organization that may be designated by the Code;
- F. Any other person, agency, or organization that may be designated by the City Council or its agencies;
- G. Any other resident owner of property whom the Director determines is affected by the application;
- H. Any neighborhood or community organization recognized by the governing body and whose boundaries include the site;

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Revised by Ordinance 2008-05 effective 04/02/08

- I. Interested parties, such as counties, state agencies, public utilities, etc., that may be affected by the specific development proposal shall receive notice of the scheduled public hearing;
- J. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

17.22.30 TYPE IV LEGISLATIVE HEARING NOTICE

- A. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan amendments and Development Code amendments ~~at least 45 days~~ before the first evidentiary hearing in accordance with OAR 660-018-0020. The notice to DLCD shall include an affidavit of transmittal. ~~DLCD Certificate of Mailing~~.
- B. Notice shall be sent by mail at least 20 days, but not more than 40 days, prior to the first evidentiary hearing to owners of property if the proposed action would “rezone” the property according to ORS 227.186.
- C. Additional notices may be mailed to other property owners or posted as determined appropriate by the Director based on the impact of the proposed development.

17.22.40 CONTENTS OF NOTICE

The notice provided by the City shall:

- A. Explain the nature of the application and the proposed use or uses which could be authorized;
- B. List the applicable criteria from the ordinance and the Plan that apply to the application at issue:
 - 1. Nature of the proposed development and the proposed uses that could be authorized;
 - 2. Legal description, address, or tax map designations;
 - 3. Map showing the location of a zoning change, subdivision, or proposed development;
 - 4. Name and telephone number of a staff member from whom additional information can be obtained;
 - 5. Where a zone change or subdivision is proposed, the notice shall include the statement that the hearing body may consider modifications to what was requested by the applicant.
- C. Set forth the street address or other easily understood geographical reference to the subject property;
- D. State the date, time and location of the hearing or the date by which written comments may be submitted, as applicable to the type of land use action;
- E. For quasi-judicial notices, ~~State-state~~ that failure to raise an issue ~~in a hearing~~, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue, prior to the closing of the record of the proceeding, precludes an appeal based on that issue;

- F. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;
- G. ~~State~~ For quasi-judicial notices, state that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at a reasonable cost; and
- H. Include a general explanation of the requirements for submission of testimony and the procedures for conducting the hearings.

17.22.50 MAILING OF NOTICES

- A. Type III and Type IV notices must be mailed at least:
 - 1. Twenty days before the evidentiary hearing; or
 - 2. If two or more evidentiary hearings are allowed, ten days before the first evidentiary hearing.
- B. Type II Limited Land Use Decision notices must be mailed at least:
 - 1. Fourteen days in advance of a pending Type II decision.

17.22.60 PUBLICATION OF NOTICES

Notice of public hearings shall be published in a newspaper of general circulation at least 10 days in advance of the hearing.

17.22.70 CONTINUED HEARINGS

Where a hearing is continued to a date certain, no additional notice need be given.

17.22.80 LIST OF PROPERTY OWNERS

The applicant shall provide a certified list of property owners and mailing labels as required by notice provisions of this Code. Unless otherwise provided, addresses for a mailed notice shall be obtained from the County's real property tax records. Unless the address is on file with the Director, a person whose name is not in the tax records at the time of filing of an application, or of initiating other action not based on an application, need not be furnished mailed notice.

EXHIBIT B

CHAPTER 17.28 APPEALS

17.28.00 INTENT

This chapter sets forth procedures for processing an appeal of a decision made by staff, the Planning Commission or the City Council.

17.28.10 REQUEST FOR REVIEW-APPEAL OF DECISION

- A. Type I or Type II Procedure. ~~An affected party may appeal a Type I or Type II decision to the Planning Commission. The party must file an appeal with the Director within 12 calendar days of the date the city mails notice of the decision~~ ~~decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within 12 calendar days of notice of the decision.~~ The notice of appeal shall indicate the nature of the ~~interpretation~~ decision that is being appealed and contain other information the Director may require. ~~The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type I and II decisions~~ the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.
- B. Type III Procedure. ~~An affected party may appeal a~~ decision of the Planning Commission ~~may be appealed to the City Council. The party must file an appeal~~ ~~by an affected party by filing an appeal~~ within ~~10-12~~ calendar days of notice of the decision. The notice of appeal shall indicate the decision that is being appealed and contain other information the Director may require. ~~The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type III decisions.~~ The City Council's decision regarding an appeal of a Planning Commission decision is final for the purposes of an appeal to the Land Use Board of Appeals.
- C. Type IV Procedure. A Type IV decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA) or to ~~the legal authority governing land use regulations and issues by an affected party by filing an appeal in accordance with applicable statutes~~ other tribunals in accordance with Oregon law.

17.28.20 REQUIREMENTS OF APPEAL APPLICATION

- A. An application for an appeal shall contain at least all of the following:
1. An identification of the decision sought to be reviewed, including the date of the decision;
 2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
 3. The specific grounds relied upon for review;
 4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and
 5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed.
- ~~5-6.~~ The name and mailing address of the person or entity appealing the decision.

17.28.30 SCOPE OF REVIEW

- A. Except where a *de novo* hearing is required for review of Type II (Limited Land Use) decisions, an appeal is limited to a review of the record and a hearing for receipt of oral arguments regarding the record. At its discretion and if good cause has been demonstrated by the appellant or ~~city~~-City staff, the hearing body may allow an appeal to include new evidence based upon circumscribed issues relevant to the appeal, or it may allow a *de novo* hearing.

17.28.40 REVIEW ON THE RECORD

Unless otherwise provided under subsection 17.28.50, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

- A. A factual report prepared by the Director;
- B. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
- C. The transcript of the hearing below, if previously prepared; otherwise, a detailed summary of the evidence, but the details need not be set forth verbatim.

The reviewing body shall make its decision based upon the record after first granting the right of argument but not the introduction of additional evidence to any party who has filed a notice of appeal.

17.28.50 REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW

- A. Except where a *de novo* hearing is required for review of Type II (Limited Land Use) decisions, the reviewing body may hear the entire matter *de novo*; or it may admit additional testimony and other evidence without holding a *de novo* hearing if it is satisfied that the additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision:
 - 1. Prejudice to the parties;
 - 2. Convenience or availability of evidence at the time of the initial hearing;
 - 3. Surprise to opposing parties;
 - 4. The competency, relevancy and materiality of the proposed testimony or other evidence.
- B. "De novo hearing" shall mean a hearing by the review body as if the action had not been previously heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

17.28.60 REVIEW BODY DECISION

- A. Upon review, the review body may by order affirm, reverse or modify in whole or in part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of the hearing body, the review body,

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Revised by Ordinance 2008-05 effective 04/02/08

in its order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the review body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it.

~~B. Action by the review body shall be decided by a majority vote of its members present at the meeting at which review as made and shall be taken either at that or any subsequent meeting. The review body shall render its decision no later than 90 days after the filing of the request for review and shall file that decision with the City Recorder within 10 days after it is rendered.~~

**CHAPTER 17.80
ADDITIONAL SETBACKS ON COLLECTOR AND ARTERIAL STREETS**

17.80.00 INTENT

The requirement of additional special setbacks for development on arterial or collector is intended to provide better light, air and vision on more heavily traveled streets. The additional setback, on substandard streets, will protect collector and arterial streets and permit the eventual widening of streets.

17.80.10 APPLICABILITY

These regulations apply to all collector and arterial and collector streets as identified in the latest adopted edition of the Sandy Transportation System Plan (TSP). The Central Business District (C-1) is exempt from Chapter 17.80 regulations. to all property abutting the following streets:

A. Minor Arterials:

- ~~SE 362nd Avenue (Duncan Road)~~
- ~~Bluff Road~~
- ~~Kelso Road~~
- ~~Ten Eyck Road~~
- ~~Langensand Road~~
- ~~Bornstedt Road~~
- ~~Bell Street~~

B. Collector Streets:

- ~~Industrial Way~~
- ~~Sandy Heights (Wewer Road) Street~~
- ~~Tupper Road~~
- ~~Meinig Road (south of Proctor)~~
- ~~Meinig Road (First Avenue)~~
- ~~McCormick~~
- ~~Van Fleet Street~~
- ~~Gary Street~~
- ~~Pleasant Street~~
- ~~Sunset Street~~

C. Residential Minor Arterial

- ~~Dubarko Road~~

17.80.20 SPECIFIC SETBACKS

Any structure located on streets listed above or identified in the Transportation System Plan as arterials or collectors shall have a minimum setback of 20 feet measured from the property line. This applies to applicable front, rear and side yards.

EXHIBIT D

CHAPTER 17.82 SPECIAL SETBACKS ON TRANSIT STREETS (~~This Chapter is only applicable to residential development~~)

17.82.00 INTENT

The intent is to provide for convenient, direct, and accessible pedestrian access to and from public sidewalks and transit facilities; ~~and~~ provide a safe, pleasant and enjoyable pedestrian experience by connecting activities within a structure to the adjacent sidewalk and/or transit street; and, promote the use of pedestrian, bicycle, and transit modes of transportation. ~~to retail and commercial activities.~~

17.82.10 APPLICABILITY

~~This chapter applies to A~~ all residential development located adjacent to a collector or arterial transit street. A transit street is defined as any street designated as a collector or arterial, unless otherwise determined designated in the by the City of Sandy Transit Director Transit System Plan. ~~within 400 feet of an existing or proposed transit street (typically a major significant arterial or major collector street) must comply with one of two options. Directive options require compliance with specific standards unless exempted. Discretionary options place the burden of preferential treatment for transit and pedestrian use on the project designer.~~

17.82.20 BUILDING ORIENTATION

- A. All residential buildings shall have their primary entrances oriented toward a transit street rather than a parking area, or if not adjacent to a transit street, toward a public right-of-way or private walkway which leads to a transit street. Multi-family residential buildings adjacent to a transit street shall have the primary entrances of all ground floor dwelling units oriented toward a transit street, unless otherwise reviewed and approved by the Director.
- B. Buildings shall have a primary entrance connecting directly between the street and building interior. A clearly marked, convenient, safe and lighted pedestrian route shall be provided to the entrance, from the transit street. The pedestrian route shall consist of materials such as concrete, asphalt, stone, brick, permeable pavers, or other materials as approved by the Director. The pedestrian path shall be permanently affixed to the ground with gravel subsurface or a comparable subsurface as approved by the Director. ~~This entrance shall be open to the public during all business hours and shall comply with the accessibility standards of the Uniform Building Code.~~
- C. ~~In lieu of a building entrance oriented to a transit street, a building's entrance may be enhanced and identified in the following manner:~~
- ~~1. An entrance plaza of at least 150 square feet, at least 100 square feet of which shall be visible from the transit street. The entrance plaza shall be at least 10 feet wide at the narrowest dimension; and~~
 - ~~2. A permanent building feature (e.g. a portico, porch or awning) shall be visible from the transit street, signifying an entrance; and~~
 - ~~3. Pedestrian-scale lighting shall be required at the entrance; and~~
 - ~~4. A clearly marked, convenient, safe and lighted pedestrian route shall be provided to the entrance, from the transit street.~~

~~D.C.~~ Primary building entrances shall be architecturally emphasized and visible from the street and shall include a covered porch at least 5 feet in depth. ~~Building entrances shall incorporate a arcades, roofs, porches, alcoves, porticoes, and awnings that protect pedestrians from the rain and sun. Continuous arcades are strongly encouraged.~~

~~E.~~ All building entrances and exits shall be well lit. Lighting shall be a pedestrian scale (3' - 12') and the source light shall be shielded to reduce glare.

~~F.~~ For commercial buildings with facades over 300 feet in length on a transit street, two or more building entrances on the street must be provided.

~~G.D.~~ If the site has frontage on more than one transit street, the building shall provide one main entrance oriented to a transit street or to a corner where two transit streets intersect.

~~17.82.30 — PARKING, LOADING AND SERVICE AREAS~~

~~All developments shall meet these parking area location and design standards:~~

~~A.~~ Parking lots shall be located behind or beside buildings or on one or both sides. Parking and maneuvering areas are prohibited between the building facade with the primary entrance and the street. Parking lots and maneuvering areas located to the side of a building shall not occupy more than 50% of the site's frontage onto a transit street. Parking lots and maneuvering areas on corner lots shall not be located adjacent to intersections.

~~B.~~ Service and loading areas shall not be located on the frontage of a transit street.

~~C.~~ In order to eliminate the need to use public streets for movements between commercial or industrial properties, parking areas shall be designed to connect with parking areas on adjacent properties unless not feasible. Access easements between properties shall be required where necessary to provide for parking area connections.

~~D.~~ In order to facilitate pedestrian and bicycle traffic, access and parking area plans shall provide efficient sidewalk and/or walkway connections between neighboring developments or land use.

~~17.82.40 — ACCESS, EGRESS AND CIRCULATION~~

~~A.~~ Walkways shall be constructed between a new development and neighboring developments. If connections are not currently available, then planned connections shall be designed to provide an opportunity to connect adjoining developments.

~~B.~~ The maximum distance between a parking space and a walkway shall not exceed 100 feet. All surface treatments of walks shall be firm, stable, and slip resistant.

~~C.~~ Walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes.

~~D.~~ Where a walkway crosses or adjoins a vehicular way (and where there are no curbs, railing or other elements separating the pedestrian and vehicular area detectable by a person who has a severe vision impairment) the boundary between the areas shall be defined by a marked crosswalk having a continuous, detectable marking not less than 36 inches wide. Pedestrian

~~walkways crossing driving aisles shall be clearly marked with contrasting slip-resistant materials, and comply with the Uniform Building Code on Accessibility.~~

~~E. Where required for pedestrian access, interior landscape strips provided between rows of parking shall be at least 10 feet in width to accommodate pedestrian walkways, shrubbery, and trees 20 to 30 feet on center. Angled or perpendicular parking spaces shall provide bumper stops or widened curbs to prevent bumper overhang into interior landscaped strips or walkways.~~

~~F. If no other practical access exists in commercial or industrial zones, joint access and the provision of reciprocal easements shall be required as a condition of issuing a building permit.~~

~~17.82.50 SETBACKS SINGLE BUILDING ON A SITE~~

~~For sites with one building, a minimum of 20 feet or 50% of the face of the building, whichever is greater shall not exceed a maximum front yard setback of 50 feet. The primary entrance shall be contained within that portion of the building meeting the maximum setback requirement.~~

~~17.82.60 SETBACKS MULTIPLE BUILDINGS ON A SITE~~

~~For sites with more than one building, buildings shall occupy at least 40% of the site frontage. The building setback shall not exceed 50 feet. Satellite (pad site) buildings shall comply with the setback requirement of Chapter 17.82.20 above.~~

~~17.82.70 ALTERNATIVE DEVELOPMENT OPTION~~

~~An alternative development option is reviewed through a Type III procedure. An alternative development option requires:~~

~~A. That the project meets the intent and requirements of the Transportation Planning Rule (OAR 660-12-000 et seq.) based on the specific features of the site and surrounding properties. Costs of any third-party review to determine compliance with the Transportation System Plan or the Transportation Planning Rule will be assessed to the developer.~~

~~B. That the intent of Chapter 17.82 be met.~~

~~C. That the results are functionally equivalent to a project of similar size and type using the specific standards set forth in Chapter 17.82.~~

~~17.82.80 EXEMPTIONS~~

~~The following permitted uses are exempt from meeting the requirements of this section:~~

~~A. Building materials sales and supplies and retail lumber yards~~

~~B. Car washes~~

~~C. Commercial parking facilities, excluding commercial parking structures.~~

~~D. Heavy equipment sales~~

—
~~E. Manufactured home sales~~

—
~~F. Motor vehicle service stations, excluding convenience stores associated therewith.~~

—
~~G. Motor vehicle service, maintenance and repair facilities, including oil and lubrication services, tire and muffler installation and service, body shops or other motor vehicle services but excluding retail or wholesale outlets selling motor vehicle parts and accessories without providing for on-site installation.~~

—
~~H. Motor vehicle, recreational vehicle, boat or travel trailer sales, leasing, retail or storage.~~

—
I. [A](#). Truck stops

CHAPTER 17.28 APPEALS

17.28.00 INTENT

This chapter sets forth procedures for processing an appeal of a decision made by staff, the Planning Commission or the City Council.

17.28.10 REQUEST FOR REVIEW-APPEAL OF DECISION

- A. Type I or Type II Procedure. ~~An affected party may appeal a Type I or Type II decision to the Planning Commission. The party must file an appeal with the Director within 12 calendar days of the date the city mails notice of the decision~~ ~~decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within 12 calendar days of notice of the decision.~~ The notice of appeal shall indicate the nature of the ~~interpretation~~ decision that is being appealed ~~and contain other information the Director may require.~~ The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type I and II decisions ~~the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.~~
- B. Type III Procedure. ~~An affected party may appeal a~~ decision of the Planning Commission ~~may be appealed to the City Council. The party must file an appeal~~ ~~by an affected party by filing an appeal~~ within ~~10-12~~ calendar days of notice of the decision. The notice of appeal shall indicate the decision that is being appealed ~~and contain other information the Director may require.~~ The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type III decisions. The City Council's decision regarding an appeal of a Planning Commission decision is final for the purposes of an appeal to the Land Use Board of Appeals.
- C. Type IV Procedure. A Type IV decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA) or to ~~the legal authority governing land use regulations and issues by an affected party by filing an appeal in accordance with applicable statutes~~ other tribunals in accordance with Oregon law.

17.28.20 REQUIREMENTS OF APPEAL APPLICATION

- A. An application for an appeal shall contain at least all of the following:
1. An identification of the decision sought to be reviewed, including the date of the decision;
 2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
 3. The specific grounds relied upon for review;
 4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and
 5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed.
- ~~5-6.~~ The name and mailing address of the person or entity appealing the decision.

17.28.30 SCOPE OF REVIEW

- A. Except where a *de novo* hearing is required for review of Type II (Limited Land Use) decisions, an appeal is limited to a review of the record and a hearing for receipt of oral arguments regarding the record. At its discretion and if good cause has been demonstrated by the appellant or ~~city~~-City staff, the hearing body may allow an appeal to include new evidence based upon circumscribed issues relevant to the appeal, or it may allow a *de novo* hearing.

17.28.40 REVIEW ON THE RECORD

Unless otherwise provided under subsection 17.28.50, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

- A. A factual report prepared by the Director;
- B. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
- C. The transcript of the hearing below, if previously prepared; otherwise, a detailed summary of the evidence, but the details need not be set forth verbatim.

The reviewing body shall make its decision based upon the record after first granting the right of argument but not the introduction of additional evidence to any party who has filed a notice of appeal.

17.28.50 REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW

- A. Except where a *de novo* hearing is required for review of Type II (Limited Land Use) decisions, the reviewing body may hear the entire matter *de novo*; or it may admit additional testimony and other evidence without holding a *de novo* hearing if it is satisfied that the additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision:
 - 1. Prejudice to the parties;
 - 2. Convenience or availability of evidence at the time of the initial hearing;
 - 3. Surprise to opposing parties;
 - 4. The competency, relevancy and materiality of the proposed testimony or other evidence.
- B. "De novo hearing" shall mean a hearing by the review body as if the action had not been previously heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

17.28.60 REVIEW BODY DECISION

- A. Upon review, the review body may by order affirm, reverse or modify in whole or in part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of the hearing body, the review body,

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Revised by Ordinance 2008-05 effective 04/02/08

in its order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the review body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it.

~~B. Action by the review body shall be decided by a majority vote of its members present at the meeting at which review as made and shall be taken either at that or any subsequent meeting. The review body shall render its decision no later than 90 days after the filing of the request for review and shall file that decision with the City Recorder within 10 days after it is rendered.~~



City of Sandy Staff Report

DATE: October 8, 2018

TO: City Council

FROM: Kelly O'Neill Jr., Planning & Building Director
Emily Meharg, Associate Planner

SUBJECT: File No. 18-039 DCA, Chapters 17.22 Notices, 17.28 Appeals, 17.80 Additional Setbacks on Collector and Arterial Streets, 17.82 Special Setbacks on Transit Streets, and 17.102 Urban Forestry

File No. 18-039 DCA proposes to amend Chapters 17.22, 17.28, 17.80, 17.82, and 17.102 containing procedures and conditions for notices, appeals, setbacks on arterial & collector streets, special setbacks on transit streets, and urban forestry regulations. These updates primarily remove inconsistencies in the development code.

I. SUMMARY (5 code sections)

17.22 Notices

The proposed code changes increase the noticing distance for a Type II notice from property owners within 200 feet of the development site to property owners within 300 feet of the development site; and increase the noticing distance for a Type III notice from property owners within 300 feet of the development site to property owners within 500 feet of the development site. This update also modifies the language related to DLCD noticing to stay in compliance with the 35-day noticing period.

17.28 Appeals

The proposed code change increases the appeal period for a Type III procedure from 10 to 12 calendar days from notice of the decision. This is consistent with the 12 day appeal period for Type I and II procedures.

17.80 Additional Setbacks on Collector and Arterial Streets

The proposed code change references the latest adopted Sandy Transportation System Plan (TSP) rather than directly listing arterial and collector streets in the code. This modification reduces the need to modify the development code when the TSP is modified. The updated code also exempts the Central Business District (C-1) from Chapter 17.80 regulations.

17.82 Special Setbacks on Transit Streets

The proposed code changes delete a majority of the code sections within this chapter and update building orientation requirements for dwellings adjacent to transit streets. This update removes all references to commercial structures and uses as was intended when Sandy Style was adopted.

17.102 Urban Forestry

The proposed code changes clarify definitions and application submittal requirements, and exempt tree removal required for the maintenance or improved safety of public parks. These modifications also increase tree retention requirements to be consistent with those set for the Bornstedt Village Overlay (BVO), and create a second urban forestry fund to collect fee-in-lieu payment for required mitigation trees. Additionally, the update requires recording a tree protection covenant and placing retention trees in tree preservation tracts or a conservation easement, instead of on small individual lots close to anticipated house footprints.

On September 24, 2018, the Planning Commission voted 6-0 to recommend the proposed code revisions with a few minor changes.

II. RECOMMENDATION

Staff recommends the City Council hold a public hearing to take testimony regarding modifications to Chapters 17.22, 17.28, 17.80, 17.82, and 17.102 and approve the proposed code revisions.

ATTACHMENTS:

- Chapter 17.22 Code Modifications
- Chapter 17.28 Code Modifications
- Chapter 17.80 Code Modifications
- Chapter 17.82 Code Modifications
- Chapter 17.102 Code Modifications

**CHAPTER 17.22
NOTICES**

17.22.00 INTENT

The requirement for notice to affected property owners, governmental agencies, public utility providers, etc., is intended to provide those persons and entities an opportunity to comment on a proposed development and to afford interested parties the opportunity to participate in the land use decision making process.

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17.22.10 TYPE II QUASI-JUDICIAL NOTICE

- A. The applicant or authorized agent;
- B. Any person who owns property within 300 ft., excluding street right-of-way, of the development site;
- C. Any other person, agency, or organization that may be designated by the Code;
- D. Interested parties, such as counties, state agencies, public utilities, etc., that may be affected by the specific development proposal shall receive notice of the scheduled public hearing.
- E. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

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17.22.20 TYPE III QUASI-JUDICIAL NOTICE

Where a quasi-judicial hearing is required by this Code notice shall be mailed to the following:

- A. The applicant or authorized agent;
- B. Any person who owns property within 500 ft., excluding street right-of-way, of the development site, except as otherwise authorized by this Code;
- C. Tenants of any existing manufactured-dwelling park for which a zoning district change is proposed;
- D. Any other person, agency, or organization that has filed with the Director a request to receive notices of hearings and has paid a reasonable fee to cover the cost of providing notice;
- E. Any other person, agency, or organization that may be designated by the Code;
- F. Any other person, agency, or organization that may be designated by the City Council or its agencies;
- G. Any other resident owner of property whom the Director determines is affected by the application;
- H. Any neighborhood or community organization recognized by the governing body and whose boundaries include the site;

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- I. Interested parties, such as counties, state agencies, public utilities, etc., that may be affected by the specific development proposal shall receive notice of the scheduled public hearing;
- J. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

17.22.30 TYPE IV LEGISLATIVE HEARING NOTICE

- A. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan amendments and Development Code amendments before the first evidentiary hearing in accordance with OAR 660-018-0020. The notice to DLCD shall include an affidavit of transmittal.
- B. Notice shall be sent by mail at least 20 days, but not more than 40 days, prior to the first evidentiary hearing to owners of property if the proposed action would “rezone” the property according to ORS 227.186.
- C. Additional notices may be mailed to other property owners or posted as determined appropriate by the Director based on the impact of the proposed development.

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17.22.40 CONTENTS OF NOTICE

The notice provided by the City shall:

- A. Explain the nature of the application and the proposed use or uses which could be authorized;
- B. List the applicable criteria from the ordinance and the Plan that apply to the application at issue:
 - 1. Nature of the proposed development and the proposed uses that could be authorized;
 - 2. Legal description, address, or tax map designations;
 - 3. Map showing the location of a zoning change, subdivision, or proposed development;
 - 4. Name and telephone number of a staff member from whom additional information can be obtained;
 - 5. Where a zone change or subdivision is proposed, the notice shall include the statement that the hearing body may consider modifications to what was requested by the applicant.
- C. Set forth the street address or other easily understood geographical reference to the subject property;
- D. State the date, time and location of the hearing or the date by which written comments may be submitted, as applicable to the type of land use action;
- E. For quasi-judicial notices, state that failure to raise an issue, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue, prior to the closing of the record of the proceeding, precludes an appeal based on that issue;

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F. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;

G. ~~For quasi-judicial notices, state~~ that a copy of the staff report will be available for inspection at no cost at least seven ~~(7)~~ calendar days prior to the hearing and will be provided at a reasonable cost; and

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H. Include a general explanation of the requirements for submission of testimony and the procedures for conducting ~~ing, the hearing.~~

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17.22.50 MAILING OF NOTICES

- A. Type III and Type IV notices must be mailed at least:
 - 1. Twenty days before the evidentiary hearing; or
 - 2. If two or more evidentiary hearings are allowed, ten days before the first evidentiary hearing.
- B. Type II Limited Land Use Decision notices must be mailed at least:
 - 1. Fourteen days in advance of a pending Type II decision.

17.22.60 PUBLICATION OF NOTICES

Notice of public hearings shall be published in a newspaper of general circulation at least 10 days in advance of the hearing.

17.22.70 CONTINUED HEARINGS

Where a hearing is continued to a date certain, no additional notice need be given.

17.22.80 LIST OF PROPERTY OWNERS

The applicant shall provide a certified list of property owners and mailing labels as required by notice provisions of this Code. Unless otherwise provided, addresses for a mailed notice shall be obtained from the County's real property tax records. Unless the address is on file with the Director, a person whose name is not in the tax records at the time of filing of an application, or of initiating other action not based on an application, need not be furnished mailed notice.

**CHAPTER 17.28
APPEALS**

17.28.00 INTENT

This chapter sets forth procedures for processing an appeal of a decision made by staff, the Planning Commission or the City Council.

17.28.10 REQUEST FOR REVIEW-APPEAL OF DECISION

- A. Type I or Type II Procedure. ~~An affected party may appeal a Type I or Type II decision to the Planning Commission. The party must file an appeal with the Director within 12 calendar days of the date the city mails notice of the decision.~~ The notice of appeal shall indicate the nature of the decision that is being appealed and contain other information the Director may require. The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type I and II decisions.
- B. Type III Procedure. ~~An affected party may appeal a decision of the Planning Commission to the City Council. The party must file an appeal within 12 calendar days of notice of the decision. The notice of appeal shall indicate the decision that is being appealed and contain other information the Director may require. The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type III decisions. The City Council's decision regarding an appeal of a Planning Commission decision is final for the purposes of an appeal to the Land Use Board of Appeals.~~
- C. Type IV Procedure. A Type IV decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA) or to other tribunals in accordance with Oregon law.

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Deleted: the legal authority governing land use regulations and issues by an affected party by filing an appeal in accordance with applicable statutes

17.28.20 REQUIREMENTS OF APPEAL APPLICATION

- A. An application for an appeal shall contain at least all of the following:
 - 1. An identification of the decision sought to be reviewed, including the date of the decision;
 - 2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
 - 3. The specific grounds relied upon for review;
 - 4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and
 - 5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed.
 - 6. The name and mailing address of the person or entity appealing the decision.

17.28.30 SCOPE OF REVIEW

- A. Except where a de novo hearing is required for review of Type II (Limited Land Use) decisions, an appeal is limited to a review of the record and a hearing for receipt of oral arguments regarding the record. At its discretion and if good cause has been demonstrated by the appellant or City staff, the hearing body may allow an appeal to include new evidence based upon circumscribed issues relevant to the appeal, or it may allow a de novo hearing.

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17.28.40 REVIEW ON THE RECORD

Unless otherwise provided under subsection 17.28.50, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

- A. A factual report prepared by the Director;
- B. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
- C. The transcript of the hearing below, if previously prepared; otherwise, a detailed summary of the evidence, but the details need not be set forth verbatim.

The reviewing body shall make its decision based upon the record after first granting the right of argument but not the introduction of additional evidence to any party who has filed a notice of appeal.

17.28.50 REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW

- A. Except where a *de novo* hearing is required for review of Type II (Limited Land Use) decisions, the reviewing body may hear the entire matter *de novo*; or it may admit additional testimony and other evidence without holding a *de novo* hearing if it is satisfied that the additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision:
 - 1. Prejudice to the parties;
 - 2. Convenience or availability of evidence at the time of the initial hearing;
 - 3. Surprise to opposing parties;
 - 4. The competency, relevancy and materiality of the proposed testimony or other evidence.
- B. "De novo hearing" shall mean a hearing by the review body as if the action had not been previously heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

17.28.60 REVIEW BODY DECISION

- A. Upon review, the review body may by order affirm, reverse or modify in whole or in part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of the hearing body, the review body, in its order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the review body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it.

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**CHAPTER 17.80
ADDITIONAL SETBACKS ON COLLECTOR AND ARTERIAL STREETS**

17.80.00 INTENT

The requirement of additional special setbacks for development on arterial or collector is intended to provide better light, air and vision on more heavily traveled streets. The additional setback, on substandard streets, will protect collector and arterial streets and permit the eventual widening of streets.

17.80.10 APPLICABILITY

These regulations apply to all collector and arterial streets as identified in the latest adopted Sandy Transportation System Plan (TSP). The Central Business District (C-1) is exempt from Chapter 17.80 regulations.

17.80.20 SPECIFIC SETBACKS

Any structure located on streets listed above or identified in the Transportation System Plan as arterials or collectors shall have a minimum setback of 20 feet measured from the property line. This applies to applicable front, rear and side yards.

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<#>Dubarko Road¶

**CHAPTER 17.82
SPECIAL SETBACKS ON TRANSIT STREETS**

17.82.00 INTENT

The intent is to provide for convenient, direct, and accessible pedestrian access to and from public sidewalks and transit facilities; provide a safe, pleasant and enjoyable pedestrian experience by connecting activities within a structure to the adjacent sidewalk and/or transit street; and, promote the use of pedestrian, bicycle, and transit modes of transportation.

17.82.10 APPLICABILITY

This chapter applies to all residential development located adjacent to a collector or arterial street. A transit street is defined as any street designated as a collector or arterial, unless otherwise determined by the City of Sandy Transit Director.

17.82.20 BUILDING ORIENTATION

- A. All residential buildings shall have their primary entrances oriented toward a transit street rather than a parking area, or if not adjacent to a transit street, toward a public right-of-way or private walkway which leads to a transit street. Multi-family residential buildings adjacent to a transit street shall have the primary entrances of all ground floor dwelling units oriented toward a transit street, unless otherwise reviewed and approved by the Director.
- B. Buildings shall have a primary entrance connecting directly between the street and building interior. A clearly marked, convenient, safe and lighted pedestrian route shall be provided to the entrance, from the transit street. The pedestrian route shall consist of materials such as concrete, asphalt, stone, brick, permeable pavers, or other materials as approved by the Director. The pedestrian path shall be permanently affixed to the ground with gravel subsurface or a comparable subsurface as approved by the Director.
- C. Primary building entrances shall be architecturally emphasized and visible from the street and shall include a covered porch at least 5 feet in depth.
- D. If the site has frontage on more than one transit street, the building shall provide one main entrance oriented to a transit street or to a corner where two transit streets intersect.
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Deleted: within 400 feet of an existing or proposed transit street (typically a major significant arterial or major collector street) must comply with one of two options. Directive options require compliance with specific standards unless exempted. Discretionary options place the burden of preferential treatment for transit and pedestrian use on the project designer.

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<#>In lieu of a building entrance oriented to a transit street, a building's entrance may be enhanced and identified in the following manner:¶

<#>An entrance plaza of at least 150 square feet, at least 100 square feet of which shall be visible from the transit street. The entrance plaza shall be at least 10 feet wide at the narrowest dimension; and¶
<#>A permanent building feature (e.g. a portico, porch or awning) shall be visible from the transit street, signifying an entrance; and¶
<#>Pedestrian-scale lighting shall be required at the entrance; and¶
<#>A clearly marked, convenient, safe and lighted pedestrian route shall be provided to the entrance, from the transit street.¶

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Deleted: Building entrances shall incorporate a arcades, roofs, porches, alcoves, porticoes, and awnings that protect pedestrians from the rain and sun. Continuous arcades are strongly encouraged.

Deleted: <#>All building entrances and exits shall be well lit. Lighting shall be a pedestrian scale (3'-12') and the source light shall be shielded to reduce glare.¶

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<#>For commercial buildings with facades over 300 feet in length on a transit street, two or more building entrances on the street must be provided.¶

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All developments shall meet these parking area location and design standards:¶

<#>Parking lots shall be located behind or beside buildings or on one or both sides. Parking and maneuvering areas are prohibited between the building facade with the primary entrance and the street. Parking lots and maneuvering areas located to the side of a building shall not occupy more than 50% of the site's frontage onto a transit street. Parking lots and maneuvering areas on corner lots shall not be located adjacent to intersections.¶

<#>Service and loading areas shall not be located on the frontage of a transit street.¶

<#>In order to eliminate the need to use public streets for movements between commercial or industrial properties, parking areas shall be designed to connect with parking areas on adjacent properties unless not feasible. Access easements between properties shall be required where necessary to provide for parking area connections.¶

<#>In order to facilitate pedestrian and bicycle traffic, access and parking area plans shall provide efficient sidewalk and/or walkway connections between neighboring developments or land use.¶

17.82.40 . ACCESS, EGRESS AND CIRCULATION¶

<#>Walkways shall be constructed between a new development and neighboring developments. If connections are not currently

**CHAPTER 17.102
URBAN FORESTRY**

17.102.00 INTENT

- A. This chapter is intended to conserve and replenish the ecological, aesthetic and economic benefits of urban forests, by regulating tree removal on properties greater than half an acre (0.5 acres or 21,780 square feet) and properties less than half an acre (0.5 acre) that contain retention and/or mitigation tree(s) within the Sandy Urban Growth Boundary.
- B. This chapter is intended to facilitate preservation of retention/mitigation trees.
- C. This chapter is intended to facilitate planned urban development as prescribed by the Sandy Comprehensive Plan, through the appropriate location of harvest areas, landing and yarding areas, roads and drainage facilities.
- D. This chapter shall be construed in a manner consistent with Chapter 17.60 Flood and Slope Hazard Overlay District. In cases of conflict, Chapter 17.60 shall prevail.

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 17.102.00 INTENT . 1¶
 17.102.10 DEFINITIONS . 1¶
 17.102.20 APPLICABILITY . 2¶
 17.102.30 PROCEDURES AND APPLICATION REQUIREMENTS . 2¶
 <#>PERMIT REVIEW . 4¶
 <#>TREE RETENTION AND PROTECTION REQUIREMENTS . 4¶
 17.102.60 TREE REPLANTING REQUIREMENTS . 5¶
 17.102.70 VARIANCES . 5¶
 <#>ENFORCEMENT . 5¶
 17.102.90 . APPLICABILITY OF THE OREGON FOREST PRACTICES ACT . 6¶
 17.102.100 . URBAN FORESTRY FUND . 6¶

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17.102.10 DEFINITIONS

Technical terms used in this chapter are defined below. See also Chapter 17.10, Definitions.

Urban Forestry Related Definitions

- **Caliper:** The diameter of a tree measured 6 inches above the ground.
- **Diameter at Breast Height (DBH):** The diameter of a tree inclusive of the bark measured 4½ feet above mean ground level at the base of the trunk.
- **Hazard Tree:** A tree located within required setback areas or a tree required to be retained as defined in 17.102.50 that is cracked, split, leaning, or physically damaged to the degree that it is likely to fall and injure persons or property. Hazard trees include diseased trees, meaning those trees with a disease of a nature that, without reasonable treatment or pruning, is likely to spread to adjacent trees and cause such adjacent trees to become diseased and thus become hazard trees.
- **Mitigation Tree:** A tree that is planted to compensate for removal of a protected tree and is subject to specific standards for removal and replacement.
- **Nuisance Tree:** A tree of a species listed on the City of Portland's "Nuisance Plant List."
- **Protected Setback Areas:** Setback areas regulated by the Flood and Slope Hazard Ordinance (FSH), Chapter 17.60, including 80 feet from top of bank of Tickle Creek and 50 feet from top of bank of other perennial streams outside the city limits, within the urban growth boundary.
- **Retention Tree:** A tree that is protected as a requirement of development and is subject to specific standards for removal and replacement.
- **Tree:** For the purposes of this chapter, tree means any living, standing, woody plant having a trunk 6 inches DBH or greater.
- **Tree Protection Area:** The area reserved around a tree or group of trees in which no grading, access, stockpiling or other construction activity shall occur.
- **Tree Removal:** Tree removal means to cut down a tree or remove 50 percent or more of the crown, trunk, stem or root system of a tree; or to damage a tree so as to cause the tree to

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decline and/or die. Tree removal includes topping, but does not include trimming or pruning of trees in accordance with the American National Standards Institute (ANSI) "A 300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture.

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17.102.20 APPLICABILITY

This chapter applies only to properties within the Sandy Urban Growth Boundary (UGB) that are greater than half an acre (0.5 acre) including contiguous parcels under the same ownership, and properties that are less than half an acre (0.5 acre) that contain required retention and/or mitigation tree(s).

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A. General: No person shall cut, harvest, or remove trees without first obtaining a permit and demonstrating compliance with this chapter.

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1. As a condition of permit issuance, the applicant shall agree to implement required provisions of this chapter and to allow all inspections to be conducted.

2. Tree removal is subject to the provisions of Chapter 15.44, Erosion Control, Chapter 17.56, Hillside Development, Chapter 17.60 Flood and Slope Hazard, Chapter 17.90, and Chapter 17.92 Landscaping and Screening.

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B. Exceptions: The following tree removals are exempt from the requirements of this chapter.

1. Tree removal as required by the City or public utility for the installation or maintenance or repair of public roads, public utilities, public structures, or other public infrastructure.

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2. Tree removal to prevent an imminent threat to public health or safety, or prevent imminent threat to public or private property, or prevent an imminent threat of serious environmental degradation. In these circumstances, a Type I tree removal permit shall be applied for within seven (7) calendar days following the date of tree removal.

3. Tree removal required for the maintenance or improved safety of public parks as jointly determined by the City of Sandy Public Works and Planning Departments.

17.102.30 PROCEDURES AND APPLICATION REQUIREMENTS

A person who desires to remove trees shall first apply for and receive one of the following tree cutting permits before tree removal occurs:

A. Type I Permit. The following applications shall be reviewed under a Type I procedure:

1. Tree removal on sites within the city limits under contiguous ownership where 20 or fewer trees are requested to be removed.
2. Removal of a hazard tree or trees that presents an immediate danger of collapse and represents a clear and present danger to persons or property.
3. Removal of up to two trees per year, six inches DBH or greater within the FSH Overlay District as shown on the City Zoning Map and described in Chapter 17.60.

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4. Tree removal on sites outside the city limits and within the urban growth boundary and outside protected setback areas.
5. Removal of up to two trees per year outside the city limits within the UGB and within protected setback areas.

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An application for a Type I Tree Removal permit shall be made upon forms prescribed by the City to contain the following information:

1. Two copies of a scaled site plan to contain the following information:

- a. Dimensions of the property and parcel boundaries.
- b. Location, species, size, and condition of all trees 6 inches DBH or greater on the property and on adjacent properties within 25 feet of the subject property.
- c. Location, condition, size, and species of trees to be retained.
- d. Location and type of tree protection measures to be installed.
- e. Location, size, and species of mitigation trees (if applicable).

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2. A brief narrative describing the work to be performed.
3. Estimated starting and ending dates for tree removal.
4. A scaled re-planting plan indicating ground cover type, species of trees to be planted, and general location of re-planting.
5. An application for removal of a hazard tree within a protected setback area or a tree required to be retained as defined in Chapter 17.102.50 or a tree identified as a required retention or mitigation tree on a recorded tree protection covenant shall also contain a report from a certified arborist or professional forester indicating that the condition or location of the tree presents a hazard or danger to persons or property and that such hazard or danger cannot reasonably be alleviated by treatment or pruning.

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- B. Type II Permit. The following applications shall be reviewed under a Type II procedure:

1. Tree removal on sites under contiguous ownership where greater than 20 trees are requested to be removed as further described below:
 - a. Within City Limits: outside of FSH Restricted Development Areas as defined in Chapter 17.60.

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An application for a Type II Permit shall contain the same information as required for a Type I permit above in addition to the following:

- a. A list of property owners on mailing labels within 300 feet of the subject property.
- b. A written narrative addressing the tree retention and protection requirements in 17.102.50, or other criteria as determined necessary for review.

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Adopted November 18, 2002 Ordinance 2002-10

C. Type III Permit. The following applications shall be reviewed under a Type III procedure:

1. Request for a variance to tree retention requirements as specified in Section 17.102.50 may be permitted subject to the provisions of 17.102.70.

An application for a Type III Permit shall contain the same information as required for a Type I permit in addition to the following:

- a. A list of property owners on mailing labels within 500 feet of the subject property.
- b. A written narrative addressing applicable code sections 17.102.50, 17.102.60, and 17.102.70.

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17.102.40 PERMIT REVIEW

An application for a Type II or III tree removal permit shall demonstrate that the provisions of Chapter 17.102.50 are satisfied. The Director may require a report from a certified arborist or professional forester to substantiate the criteria for a permit. Costs of any third-party review to determine compliance with Chapter 17.102 will be assessed to the developer.

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- A. The Director shall be responsible for interpreting the provisions of this chapter. The Director may consult with the Oregon Department of Forestry in interpreting applicable provisions of the Oregon Forest Practices Act (OAR Chapter 629). Copies of all forestry operation permit applications will be sent to the Oregon Department of Forestry and Department of Revenue. The City may request comments from the Oregon Department of Forestry, the Oregon Department of Fish & Wildlife or other affected state agencies.
- B. Expiration of Tree Removal Permits. Tree removal permits shall remain valid for a period of two (2) years from the date of issuance or date of final decision by a hearing body, if applicable. A 30-day extension shall be automatically granted by the Director if requested in writing before the expiration of the permit. Permits that have lapsed are void.

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17.102.50 TREE RETENTION AND PROTECTION REQUIREMENTS

- A. Tree Retention. The landowner is responsible for retention and protection of trees required to be retained as specified below:

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1. At least three (3) trees 11 inches DBH or greater and three (3) trees 8 inches DBH or greater are to be retained for every one-acre of contiguous ownership.
2. At least six (6) trees 11 inches DBH or greater and three (3) trees 8 inches DBH or greater are to be retained for every one-acre of contiguous ownership within 300 feet of the Flood and Slope Hazard (FSH) overlay district.
3. Retained trees can be located anywhere on the site at the landowner's discretion and Director approval before the harvest begins. Clusters of trees are encouraged.
4. Retention trees shall be placed in a conservation easement or tree preservation tract.
5. Trees proposed for retention shall be in good condition, healthy and likely to grow to maturity, and be located to minimize the potential for blow-down following the harvest. Retention trees shall not be nuisance species.
6. If possible, at least two of the required trees per acre must be of conifer species native to western Oregon.

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- 7. Trees within the required protected setback areas may be counted towards the tree retention standard if they meet these requirements.
- 8. The applicant shall record a tree protection covenant that details the species and location of the required retention trees and the location of the associated tree protection area located 5 feet beyond the drip line.

B. Tree Protection Area. Except as otherwise determined by the Director, all tree protection measures set forth in this section shall be instituted prior to any development activities and removed only after completion of all construction activity. Failure to install or maintain tree protection measures is a violation of the Code and may result in a fee, penalty, or citation. Tree protection measures are required for land disturbing activities including but not limited to tree removal, clearing, grading, excavation, or demolition work.

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- 1. Trees identified for retention shall be marked with yellow flagging tape and protected by protective barrier fencing placed five feet beyond the drip line of the tree, but in no case, less than 10 horizontal feet from the outside edge of the trunk.
- 2. Offsite trees that have a tree protection area (5 feet beyond the drip line) that overlaps with the development property also require tree protection fencing.
- 3. Required fencing shall be installed per the City of Sandy tree protection fencing standard detail. A sign that is clearly marked "Tree Protection Zone" shall be prominently attached to the fence and shall describe the penalties for violation.
- 4. No construction activity shall occur within the tree protection zone, including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles.

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C. Inspection. The applicant shall not proceed with any tree removal or construction activity, except erosion control measures, until the City has inspected and approved the installation of tree protection measures. Within 15 days of the date of accepting an application for a Type I permit, the City shall complete an onsite inspection of proposed activities and issue or deny the permit. Within 15 days of issuing a Type II or Type III permit, the City shall complete an onsite inspection of proposed activities.

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For ongoing forest operations, the permit holder shall notify the City by phone or in writing 24 hours prior to subsequent tree removal. The City may conduct an onsite re-inspection of permit conditions at this time.

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17.102.60 TREE REPLANTING REQUIREMENTS

- 1. All areas with exposed soils resulting from tree removal shall be replanted with a ground cover of native species within 30 days of harvest during the active growing season (April 1 – September 30), or by June 1st of the following spring.
- 2. All areas with exposed soils resulting from tree removal occurring between October 1 and March 31 (or as required by the City) shall also be covered with straw to minimize erosion.
- 3. Removal of hazard trees as defined shall be replanted with two native trees of quality nursery stock for every tree removed.
- 4. Tree Removal allowed within the FSH Overlay District shall be replanted with at least two native trees of quality nursery stock for every tree removed.

5. Tree Removal not associated with a development plan must be replanted following the provisions of OAR Chapter 629, Division 610, Section 020-060

17.102.70 VARIANCES

Under a Type III review process, the Planning Commission may allow newly-planted trees to substitute for retained trees if:

1. The substitution is at a ratio of at least two-to-one (i.e., at least two native quality nursery grown trees will be planted for every protected tree that is removed);
2. ~~The trees are a minimum of 6 feet in height (if evergreen) or 1.5-inch caliper (if deciduous);~~
3. ~~The proposed location of the mitigation trees is protected with tree protection fencing during construction activity such that the mitigation trees are not planted in compacted soil;~~
4. ~~The species and location of the mitigation trees and associated tree protection area at least 5 feet beyond the drip line (but no less than 10 horizontal feet from the outside edge of the trunk) is recorded in a tree protection covenant;~~
5. ~~Mitigation trees shall be placed in a conservation easement or tree preservation tract; and~~
6. The substitution more nearly meets the intent of this ordinance due to at least one of the following:
 - a. The location of the proposed new trees is more compatible with required public infrastructure than the location of existing trees.
 - b. The physical condition of the existing trees or their compatibility with the existing soil and climate conditions.
 - c. An undue hardship of creating a development below the minimum density requirement is caused by the requirement for retention of existing trees.
 - d. Tree removal is necessary to protect a designated public scenic view corridor.

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17.102.80 ENFORCEMENT

The provisions of Chapter 17.06, Enforcement, shall apply to tree removal that is not in conformance with this chapter and other violations of Chapter 17.102, Urban Forestry, including but not limited to failure to install or maintain tree protection measures, topping and excessive pruning, non-compliance with terms and conditions of a tree and/or development permit, removal or failure to maintain required trees, and conducting regulated activities without a tree permit. Each unauthorized violation shall be considered a separate offense for purposes of assigning penalties under Section 17.06.80. Seventy (70) percent of funds generated as a result of enforcement of this ordinance shall be dedicated to the Urban Forestry Fund established under Section 17.102.100 below.

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17.102.90 APPLICABILITY OF THE OREGON FOREST PRACTICES ACT

The following provisions of the Oregon Forest Practices Act (OAR Chapter 629) are adopted by reference for consideration by the City in the review of Forest Operations Plans. Although the Director may seek advice from the Department of Forestry, the Director shall be responsible for interpreting the following provisions.

Division 610 Forest Practices Reforestation Rules. Where reforestation is required, the

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Adopted November 18, 2002 Ordinance 2002-10

provisions of OAR Chapter 629, Division 610, Section 020-060, [Reforestation Stocking Standards](#), shall be considered by the Director, in addition to the requirements of Section 17.102.60.

Division 615 - Treatment of Slash. Slash shall not be placed within the protected setback areas. Otherwise, the Director shall consider the provisions of OAR Chapter 629, Division 615 in determining how to dispose of slash.

Division 620 - Chemical and Other Petroleum Product Rules. The storage, transferring, cleaning of tanks and mixing of chemicals and petroleum products shall occur outside the protected setback areas. Aerial spraying shall not be permitted within the Urban Growth Boundary. Otherwise, the provisions of Chapter 629, Division 620 shall apply.

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Division 625 - [Forest Road Construction and Maintenance](#). Forest roads, bridges and culverts shall not be constructed within the protected setback areas, except where permitted within the FSH overlay area as part of an approved urban development. Otherwise, the Director shall consider the provisions of OAR Chapter 629, Division 625 in the review of road, bridge and culvert construction.

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Division 630 - Harvesting. Forest harvesting operations, including but not limited to skidding and yarding practices, construction of landings, construction of drainage systems, treatment of waste materials, storage and removal of slash, yarding and stream crossings, shall not be permitted within protected setback areas. Otherwise, the provisions of Chapter 629, Division 630 shall apply.

17.102.100 URBAN FORESTRY FUND CREATED

In order to encourage planting of trees, the City will create a fund or account to be used for tree planting in rights-of-way, city parks, riparian areas, and other public property. The source of funds will be [penalty enforcement](#), donations, grants, and any other funds the City Council may designate.

[The City will create a second fund or account to collect fee-in-lieu payment for required mitigation trees. These funds will be used to plant native trees in parks, open spaces, private tree preservation tracts, or other City owned land in cases where mitigation trees are not able to be located on the property on which they are required to be planted.](#)

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City of Sandy Staff Report

DATE: September 14, 2018

TO: Planning Commission

FROM: Kelly O'Neill Jr., Planning & Building Director
Emily Meharg, Associate Planner

SUBJECT: File No. 18-039 DCA, Chapters 17.22 Notices, 17.28 Appeals, 17.80 Additional Setbacks on Collector and Arterial Streets, 17.82 Special Setbacks on Transit Streets, and 17.102 Urban Forestry

File No. 18-039 DCA proposes to amend Chapters 17.22, 17.28, 17.80, 17.82, and 17.102 containing procedures and conditions for notices, appeals, setbacks on arterial & collector streets, special setbacks on transit streets, and urban forestry regulations. These updates primarily remove inconsistencies in the development code. The Commission's role in this process is to forward recommendations to the City Council.

I. SUMMARY (5 code sections)

17.22 Notices

The proposed code changes increase the noticing distance for a Type I notice from property owners within 200 feet of the development site to property owners within 300 feet of the development site; and increase the noticing distance for a Type II notice from property owners within 300 feet of the development site to property owners within 500 feet of the development site. This update also modifies the language related to DLCD noticing to stay in compliance with the 35-day noticing period.

17.28 Appeals

The proposed code change increases the appeal period for a Type III procedure from 10 to 12 calendar days from notice of the decision. This is consistent with the 12 day appeal period for Type I and II procedures.

17.80 Additional Setbacks on Collector and Arterial Streets

The proposed code change references the latest adopted Sandy Transportation System Plan (TSP) rather than directly listing arterial and collector streets in the code. This modification reduces the need to modify the development code when the TSP is modified. The updated code also exempts the Central Business District (C-1) from Chapter 17.80 regulations.

17.82 Special Setbacks on Transit Streets

The proposed code changes delete a majority of the code sections within this chapter and update building orientation requirements for dwellings adjacent to transit streets. This update removes all references to commercial structures and uses as was intended when Sandy Style was adopted.

17.102 Urban Forestry

The proposed code changes clarify definitions and application submittal requirements, and exempt tree removal required for the maintenance or improved safety of public parks. These modifications also increase tree retention requirements to be consistent with those set for the Bornstedt Village Overlay (BVO), and create a second urban forestry fund to collect fee-in-lieu payment for required mitigation trees. Additionally, the update requires recording a tree protection covenant and placing retention trees in tree preservation tracts or a conservation easement, instead of on small individual lots close to anticipated house footprints.

II. RECOMMENDATION

Staff recommends the Planning Commission hold a public hearing to take testimony regarding modifications to Chapters 17.22, 17.28, 17.80, 17.82, and 17.102 and forward a recommendation to the City Council.

ATTACHMENTS:

- Chapter 17.22 Code Modifications
- Chapter 17.28 Code Modifications
- Chapter 17.80 Code Modifications
- Chapter 17.82 Code Modifications
- Chapter 17.102 Code Modifications

EXHIBIT A

**CHAPTER 17.22
NOTICES**

17.22.00 INTENT

The requirement for notice to affected property owners, governmental agencies, public utility providers, etc., is intended to ~~assure that an opportunity is provided~~ provide those persons and entities an opportunity for comments to be submitted regarding to comment on a proposed development and to afford ~~citizens interested parties~~ the opportunity to participate in the land use decision making process.

17.22.10 TYPE II QUASI-JUDICIAL NOTICE

- A. The applicant or authorized agent;
- B. Any person who owns property within 3200 ft., excluding street right-of-way, of the development site;
- C. Any other person, agency, or organization that may be designated by the Code;
- D. Interested parties, such as counties, state agencies, public utilities, etc., that may be affected by the specific development proposal shall receive notice of the scheduled public hearing.

17.22.20 TYPE III QUASI-JUDICIAL NOTICE

Where a quasi-judicial hearing is required by this Code notice shall be mailed to the following:

- A. The applicant or authorized agent;
- B. Any person who owns property within 5300 ft., excluding street right-of-way, of the development site, except as otherwise authorized by this Code;
- C. Tenants of any existing manufactured-dwelling park for which a zoning district change is proposed;
- D. Any other person, agency, or organization that has filed with the Director a request to receive notices of hearings and has paid a reasonable fee to cover the cost of providing notice;
- E. Any other person, agency, or organization that may be designated by the Code;
- F. Any other person, agency, or organization that may be designated by the City Council or its agencies;
- G. Any other resident owner of property whom the Director determines is affected by the application;
- H. Any neighborhood or community organization recognized by the governing body and whose boundaries include the site;
- I. Interested parties, such as counties, state agencies, public utilities, etc., that may be affected by the specific development proposal shall receive notice of the scheduled public hearing;

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Revised by Ordinance 2008-05 effective 04/02/08

- J. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

17.22.30 TYPE IV LEGISLATIVE HEARING NOTICE

- A. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan amendments and Development Code amendments ~~at least 45 days~~ before the first evidentiary hearing in accordance with OAR 660-018-0020. The notice to DLCD shall include an affidavit of transmittal. ~~DLCD Certificate of Mailing~~.
- B. Notice shall be sent by mail at least 20 days, but not more than 40 days, prior to the first evidentiary hearing to owners of property if the proposed action would “rezone” the property according to ORS 227.186.
- C. Additional notices may be mailed to other property owners or posted as determined appropriate by the Director based on the impact of the proposed development.

17.22.40 CONTENTS OF NOTICE

The notice provided by the City shall:

- A. Explain the nature of the application and the proposed use or uses which could be authorized;
- B. List the applicable criteria from the ordinance and the Plan that apply to the application at issue:
1. Nature of the proposed development and the proposed uses that could be authorized;
 2. Legal description, address, or tax map designations;
 3. Map showing the location of a zoning change, subdivision, or proposed development;
 4. Name and telephone number of a staff member from whom additional information can be obtained;
 5. Where a zone change or subdivision is proposed, the notice shall include the statement that the hearing body may consider modifications to what was requested by the applicant.
- C. Set forth the street address or other easily understood geographical reference to the subject property;
- D. State the date, time and location of the hearing or the date by which written comments may be submitted, as applicable to the type of land use action;
- E. For quasi-judicial notices, State-state that failure to raise an issue ~~in a hearing~~, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue, prior to the closing of the record of the proceeding, precludes an appeal based on that issue;
- F. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;

- G. ~~State~~ For quasi-judicial notices, state that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at a reasonable cost; and
- H. Include a general explanation of the requirements for submission of testimony and the procedures for conduct ~~ofing~~ the hearings.

17.22.50 MAILING OF NOTICES

- A. Type III and Type IV notices must be mailed at least:
1. Twenty days before the evidentiary hearing; or
 2. If two or more evidentiary hearings are allowed, ten days before the first evidentiary hearing.
- B. Type II Limited Land Use Decision notices must be mailed at least:
1. Fourteen days in advance of a pending Type II decision.

17.22.60 PUBLICATION OF NOTICES

Notice of public hearings shall be published in a newspaper of general circulation at least 10 days in advance of the hearing.

17.22.70 CONTINUED HEARINGS

Where a hearing is continued to a date certain, no additional notice need be given.

17.22.80 LIST OF PROPERTY OWNERS

The applicant shall provide a certified list of property owners and mailing labels as required by notice provisions of this Code. Unless otherwise provided, addresses for a mailed notice shall be obtained from the County's real property tax records. Unless the address is on file with the Director, a person whose name is not in the tax records at the time of filing of an application, or of initiating other action not based on an application, need not be furnished mailed notice.

EXHIBIT B

CHAPTER 17.28 APPEALS

17.28.00 INTENT

This chapter sets forth procedures for processing an appeal of a decision made by staff, the Planning Commission or the City Council.

17.28.10 REQUEST FOR REVIEW-APPEAL OF DECISION

- A. Type I or Type II Procedure. An affected party may appeal a Type I or Type II decision to the Planning Commission. The party must file an appeal with the Director within 12 days of the date the city mails notice of the decision~~decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within 12 calendar days of notice of the decision.~~ The notice of appeal shall indicate the nature of the interpretation decision that is being appealed and contain other information the Director may require. The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type I and II decisions~~the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.~~
- B. Type III Procedure. An affected party may appeal a decision of the Planning Commission~~may be appealed to the City Council. The party must file an appeal by an affected party by filing an appeal~~ within 40-12 calendar days of notice of the decision. The notice of appeal shall indicate the decision that is being appealed and contain other information the Director may require. The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type III decisions. The City Council's decision regarding an appeal of a Planning Commission decision is final for the purposes of an appeal to the Land Use Board of Appeals.
- C. Type IV Procedure. A Type IV decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA) or to~~the legal authority governing land use regulations and issues by an affected party by filing an appeal in accordance with applicable statutes~~other tribunals in accordance with Oregon law.

17.28.20 REQUIREMENTS OF APPEAL APPLICATION

- A. An application for an appeal shall contain at least all of the following:
1. An identification of the decision sought to be reviewed, including the date of the decision;
 2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
 3. The specific grounds relied upon for review;
 4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and
 5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed.
 - 5-6. The name and mailing address of the person or entity appealing the decision.

17.28.30 SCOPE OF REVIEW

- A. Except where a *de novo* hearing is required for review of Type II (Limited Land Use) decisions, an appeal is limited to a review of the record and a hearing for receipt of oral arguments regarding the record. At its discretion and if good cause has been demonstrated by the appellant or [city-City](#) staff, the hearing body may allow an appeal to include new evidence based upon circumscribed issues relevant to the appeal, or it may allow a *de novo* hearing.

17.28.40 REVIEW ON THE RECORD

Unless otherwise provided under subsection 17.28.50, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

- A. A factual report prepared by the Director;
- B. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
- C. The transcript of the hearing below, if previously prepared; otherwise, a detailed summary of the evidence, but the details need not be set forth verbatim.

The reviewing body shall make its decision based upon the record after first granting the right of argument but not the introduction of additional evidence to any party who has filed a notice of appeal.

17.28.50 REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW

- A. Except where a *de novo* hearing is required for review of Type II (Limited Land Use) decisions, the reviewing body may hear the entire matter *de novo*; or it may admit additional testimony and other evidence without holding a *de novo* hearing if it is satisfied that the additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision:
 - 1. Prejudice to the parties;
 - 2. Convenience or availability of evidence at the time of the initial hearing;
 - 3. Surprise to opposing parties;
 - 4. The competency, relevancy and materiality of the proposed testimony or other evidence.
- B. "De novo hearing" shall mean a hearing by the review body as if the action had not been previously heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

17.28.60 REVIEW BODY DECISION

- A. Upon review, the review body may by order affirm, reverse or modify in whole or in part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of the hearing body, the review body,

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Revised by Ordinance 2008-05 effective 04/02/08

in its order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the review body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it.

~~B. Action by the review body shall be decided by a majority vote of its members present at the meeting at which review as made and shall be taken either at that or any subsequent meeting. The review body shall render its decision no later than 90 days after the filing of the request for review and shall file that decision with the City Recorder within 10 days after it is rendered.~~

EXHIBIT C

**CHAPTER 17.80
ADDITIONAL SETBACKS ON COLLECTOR AND ARTERIAL STREETS**

17.80.00 INTENT

The requirement of additional special setbacks for development on arterial or collector is intended to provide better light, air and vision on more heavily traveled streets. The additional setback, on substandard streets, will protect collector and arterial streets and permit the eventual widening of streets.

17.80.10 APPLICABILITY

These regulations apply to all collector and arterial and collector streets as identified in the latest adopted edition of the Sandy Transportation System Plan (TSP). The Central Business District (C-1) is exempt from Chapter 17.80 regulations. to all property abutting the following streets:

A. Minor Arterials:

- ~~SE 362nd Avenue (Duncan Road)~~
- ~~Bluff Road~~
- ~~Kelso Road~~
- ~~Ten Eyck Road~~
- ~~Langensand Road~~
- ~~Bornstedt Road~~
- ~~Bell Street~~

B. Collector Streets:

- ~~Industrial Way~~
- ~~Sandy Heights (Wewer Road) Street~~
- ~~Tupper Road~~
- ~~Meinig Road (south of Proctor)~~
- ~~Meinig Road (First Avenue)~~
- ~~McCormick~~
- ~~Van Fleet Street~~
- ~~Gary Street~~
- ~~Pleasant Street~~
- ~~Sunset Street~~

C. Residential Minor Arterial

- ~~Dubarko Road~~

17.80.20 SPECIFIC SETBACKS

Any structure located on streets listed above or identified in the Transportation System Plan as arterials or collectors shall have a minimum setback of 20 feet measured from the property line. This applies to applicable front, rear and side yards.

EXHIBIT D

CHAPTER 17.82 SPECIAL SETBACKS ON TRANSIT STREETS (This Chapter ~~chapter~~ is only applicable to residential development)

17.82.00 INTENT

The intent is to provide for convenient, direct, and accessible pedestrian access to and from public sidewalks and transit facilities; ~~provide a safe, pleasant and enjoyable pedestrian experience by connecting activities within a structure to the adjacent sidewalk and/or transit street; and, promote the use of pedestrian, bicycle, and transit modes of transportation, to retail and commercial activities.~~

17.82.10 APPLICABILITY

~~This chapter applies to~~ All residential development located adjacent to a collector or arterial street within 400 feet of an existing or proposed transit street (typically a major ~~significant arterial or major collector street~~) must comply with one of two options. ~~Directive options require compliance with specific standards unless exempted. Discretionary options place the burden of preferential treatment for transit and pedestrian use on the project designer.~~

Commented [K01]: Why is this clause in here? Can we remove?

17.82.20 BUILDING ORIENTATION

A. All ~~dwelling buildings~~ shall have their primary entrances oriented toward a transit street rather than a parking area, or if not adjacent to a transit street, toward a public right-of-way or private walkway which leads to a transit street.

B. Buildings shall have a primary entrance connecting directly between the street and building interior. ~~A clearly marked, convenient, safe and lighted pedestrian route shall be provided to the entrance, from the transit street. This entrance shall be open to the public during all business hours and shall comply with the accessibility standards of the Uniform Building Code.~~

~~C. In lieu of a building entrance oriented to a transit street, a building's entrance may be enhanced and identified in the following manner:~~

- ~~1. An entrance plaza of at least 150 square feet, at least 100 square feet of which shall be visible from the transit street. The entrance plaza shall be at least 10 feet wide at the narrowest dimension; and~~
- ~~2. A permanent building feature (e.g. a portico, porch or awning) shall be visible from the transit street, signifying an entrance; and~~
- ~~3. Pedestrian scale lighting shall be required at the entrance; and~~
- ~~4. A clearly marked, convenient, safe and lighted pedestrian route shall be provided to the entrance, from the transit street.~~

~~D.C.~~ Primary building entrances shall be architecturally emphasized and visible from the street ~~and Building entrances shall include incorporate a arcades, roofs, covered porches, alcoves, porticoes, and awnings that protect pedestrians from the rain and sun. Continuous arcades are strongly encouraged.~~

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~~E. All building entrances and exits shall be well lit. Lighting shall be a pedestrian scale (3'-12') and the source light shall be shielded to reduce glare.~~

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~~F. For commercial buildings with facades over 300 feet in length on a transit street, two or more building entrances on the street must be provided.~~

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~~G.D. If the site has frontage on more than one transit street, the dwelling building shall provide one main entrance oriented to a transit street or to a corner where two transit streets intersect.~~

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~~17.82.30 — PARKING, LOADING AND SERVICE AREAS~~

~~All developments shall meet these parking area location and design standards:~~

~~A. Parking lots shall be located behind or beside buildings or on one or both sides. Parking and maneuvering areas are prohibited between the building facade with the primary entrance and the street. Parking lots and maneuvering areas located to the side of a building shall not occupy more than 50% of the site's frontage onto a transit street. Parking lots and maneuvering areas on corner lots shall not be located adjacent to intersections.~~

~~B. Service and loading areas shall not be located on the frontage of a transit street.~~

~~C. In order to eliminate the need to use public streets for movements between commercial or industrial properties, parking areas shall be designed to connect with parking areas on adjacent properties unless not feasible. Access easements between properties shall be required where necessary to provide for parking area connections.~~

~~D. In order to facilitate pedestrian and bicycle traffic, access and parking area plans shall provide efficient sidewalk and/or walkway connections between neighboring developments or land use.~~

~~17.82.40 — ACCESS, EGRESS AND CIRCULATION~~

~~A. Walkways shall be constructed between a new development and neighboring developments. If connections are not currently available, then planned connections shall be designed to provide an opportunity to connect adjoining developments.~~

~~B. The maximum distance between a parking space and a walkway shall not exceed 100 feet. All surface treatments of walks shall be firm, stable, and slip resistant.~~

~~C. Walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes.~~

~~D. Where a walkway crosses or adjoins a vehicular way (and where there are no curbs, railing or other elements separating the pedestrian and vehicular area detectable by a person who has a severe vision impairment) the boundary between the areas shall be defined by a marked crosswalk having a continuous, detectable marking not less than 36 inches wide. Pedestrian walkways crossing driving aisles shall be clearly marked with contrasting slip resistant materials, and comply with the Uniform Building Code on Accessibility.~~

~~E. Where required for pedestrian access, interior landscape strips provided between rows of parking shall be at least 10 feet in width to accommodate pedestrian walkways, shrubbery, and trees 20 to 30 feet on center. Angled or perpendicular parking spaces shall provide bumper stops or widened curbs to prevent bumper overhang into interior landscaped strips or walkways.~~

~~F. If no other practical access exists in commercial or industrial zones, joint access and the provision of reciprocal easements shall be required as a condition of issuing a building permit.~~

~~**17.82.50 — SETBACKS — SINGLE BUILDING ON A SITE**~~

~~For sites with one building, a minimum of 20 feet or 50% of the face of the building, whichever is greater shall not exceed a maximum front yard setback of 50 feet. The primary entrance shall be contained within that portion of the building meeting the maximum setback requirement.~~

~~**17.82.60 — SETBACKS — MULTIPLE BUILDINGS ON A SITE**~~

~~For sites with more than one building, buildings shall occupy at least 40% of the site frontage. The building setback shall not exceed 50 feet. Satellite (pad site) buildings shall comply with the setback requirement of Chapter 17.82.20 above.~~

~~**17.82.70 — ALTERNATIVE DEVELOPMENT OPTION**~~

~~An alternative development option is reviewed through a Type III procedure. An alternative development option requires:~~

~~A. That the project meets the intent and requirements of the Transportation Planning Rule (OAR 660-12-000 et seq.) based on the specific features of the site and surrounding properties. Costs of any third party review to determine compliance with the Transportation System Plan or the Transportation Planning Rule will be assessed to the developer.~~

~~B. That the intent of Chapter 17.82 be met.~~

~~C. That the results are functionally equivalent to a project of similar size and type using the specific standards set forth in Chapter 17.82.~~

~~**17.82.80 — EXEMPTIONS**~~

~~The following permitted uses are exempt from meeting the requirements of this section:~~

~~A. Building materials sales and supplies and retail lumber yards~~

~~B. Car washes~~

~~C. Commercial parking facilities, excluding commercial parking structures.~~

~~D. Heavy equipment sales~~

~~E. Manufactured home sales~~

~~F. Motor vehicle service stations, excluding convenience stores associated therewith.~~

~~G. Motor vehicle service, maintenance and repair facilities, including oil and lubrication services, tire and muffler installation and service, body shops or other motor vehicle services~~

~~but excluding retail or wholesale outlets selling motor vehicle parts and accessories without providing for on-site installation.~~

~~H. Motor vehicle, recreational vehicle, boat or travel trailer sales, leasing, retail or storage.~~

~~I.A. Truck stops~~

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EXHIBIT E

CHAPTER 17.102 URBAN FORESTRY

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17.102.00 INTENT

A. This chapter is intended to conserve and replenish the ecological, aesthetic and economic benefits of urban forests, by regulating tree removal on properties greater than one acre within the Sandy Urban Growth Boundary.

A-B. This chapter is intended to facilitate preservation of retention/mitigation trees.

B-C. This chapter is intended to facilitate planned urban development as prescribed by the Sandy Comprehensive Plan, through the appropriate location of harvest areas, landing and yarding areas, roads and drainage facilities.

C-D. This chapter shall be construed in a manner consistent with Chapter 17.60 Flood and Slope Hazard Overlay District. In cases of conflict, Chapter 17.60 shall prevail.

17.102.10 DEFINITIONS

Technical terms used in this chapter are defined below. See also Chapter 17.10, Definitions.

Urban Forestry Related Definitions

- **Diameter at Breast Height (DBH):** The diameter of a tree inclusive of the bark measured 4½ feet above the ground on the uphill side of a tree.
- **Hazard Tree:** A tree located within required setback areas or a tree required to be retained as defined in 17.102.50 that is cracked, split, leaning, or physically damaged to the degree that it is likely to fall and injure persons or property. Hazard trees include diseased trees, meaning those trees with a disease of a nature that, without reasonable treatment or pruning, is likely to spread to adjacent trees and cause such adjacent trees to become diseased ~~or~~ and thus become hazard trees.
- **Protected Setback Areas:** Setback areas regulated by the Flood and Slope Hazard Ordinance (FSH), Chapter 17.60, ~~and including~~ 870 feet from top of bank of Tickle Creek and 50 feet from top of bank of other perennial streams outside the city limits, within the urban growth boundary.
- **Tree:** For the purposes of this chapter, tree means any living, standing, woody plant having a trunk ~~11-6~~ inches DBH or greater.

Commented [K01]: How about greater than 10,000 sq. ft.?

Commented [EM2R1]: Or... by regulating tree removal on properties greater than 10,000 square feet and properties less than 10,000 square feet that contain required retention and/or mitigation trees.

Commented [K03R1]: How about just making another intent line like I did below? I think we should discuss the correct size of property.

Commented [EM4]: Also define significant tree per 17.92.10.C?

DFD: Yes.

Commented [EM5]: Could delete and just use definition of tree in definitions chapter (17.10).

DFD: Yes, assuming there is no continuing policy reason to have a different definition "for the purposes of this chapter."

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- **Tree Protection Area:** The area reserved around a tree or group of trees in which no grading, access, stockpiling or other construction activity shall occur.
- **Tree Removal:** Tree removal means to cut down a tree; ~~11 inches DBH or greater~~, or remove 50 percent or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline and/or die. ~~Tree removal includes topping, but does not include normal trimming or pruning of trees in accordance with the American National Standards Institute (ANSI) "A 300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture.~~

17.102.20 APPLICABILITY

~~This chapter applies only to properties within the Sandy Urban Growth Boundary (UGB) that are greater than one (1) acre including contiguous parcels under the same ownership.~~

- A. General: No person shall cut, harvest, or remove trees ~~11-6 inches DBH or greater~~ without first obtaining a permit and demonstrating compliance with this chapter.
1. As a condition of permit issuance, the applicant shall agree to implement required provisions of this chapter and to allow all inspections to be conducted.
 2. Tree removal is subject to the provisions of Chapter 15.44, Erosion Control, Chapter 17.56, Hillside Development, ~~and~~ Chapter 17.60 Flood and Slope Hazard, ~~Chapter 17.90, and Chapter 17.92 Landscaping and Screening.~~
- B. Exceptions: The following tree removals are exempt from the requirements of this chapter.
1. Tree removal as required by the ~~city~~ City or public utility for the installation or maintenance or repair of public roads, public utilities, public structures, or other public ~~structures~~ infrastructure.
 2. Tree removal to prevent an imminent threat to public health or safety, or prevent imminent threat to public or private property, or prevent an imminent threat of serious environmental degradation. In these circumstances, a Type I tree removal permit shall be applied for within seven (7) days following the date of tree removal.
 - 2.3. ~~Tree removal required for the maintenance or improved safety of public parks as jointly determined by the City of Sandy Public Works and Planning Departments.~~

17.102.30 PROCEDURES AND APPLICATION REQUIREMENTS

A person who desires to remove trees shall first apply for and receive one of the following tree cutting permits before tree removal occurs:

- A. Type I Permit. The following applications shall be reviewed under a Type I procedure:
1. Tree removal on sites within the city limits under contiguous ownership where ~~50-20~~ or fewer trees are requested to be removed.
 2. Removal of a hazard tree or trees that presents an immediate danger of collapse and represents a clear and present danger to persons or property.

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Commented [K06]: Do you think we should define "normal"?

Commented [EM7R6]: Yes. We can look at City of Portland Title 11 definitions section which contains definitions of "excessive pruning" and "proper arboricultural practices."

Portland's topping definition: "Topping" means the inappropriate pruning practice used to reduce tree height by cutting to a predetermined crown limit without regard to tree health or structural integrity. Topping does not include acceptable pruning practices as described in the American National Standards Institute (ANSI) "A-300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture, such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard, dead or diseased material. Topping is considered "removal".

Commented [K08]: Are we going to say 10,000 square feet or what is the plan here? A discussion?

Commented [DD9]: This is technically redundant based on the definition of a "tree." I'd take it out.

3. Removal of up to two trees per year, six inches DBH or greater within the FSH Overlay District as shown on the City Zoning Map and described in Chapter 17.60.
4. Tree removal on sites outside the city limits and within the urban growth boundary and outside protected setback areas.
5. Removal of up to two trees per year outside the city limits within the UGB and within protected setback areas.

~~B.~~ An application for a Type I Tree Removal permit shall be made upon forms prescribed by the City to contain the following information:

1. Two copies of a scaled site plan to contain the following information:

- a. Dimensions of the property and parcel boundaries.
- ~~a-b.~~ Location, species, size, and condition of all trees 6 inches DBH or greater on the property and on adjacent properties within 25 feet of the subject property.
- ~~b-c.~~ Location, condition, size, and species of trees 4 1/2" inches DBH or greater to be retained.
- ~~d.~~ ~~e.~~ Location and type of tree protection measures to be installed.
- ~~e-e.~~ Location, size, and species of mitigation trees (if applicable).

2. A brief narrative describing the ~~project~~ work to be performed.
3. Estimated starting and ending dates for tree removal.
4. A scaled re-planting plan indicating ground cover type, species of trees to be planted, and general location of re-planting.
5. An application for removal of a hazard tree within a protected setback area or a tree required to be retained as defined in Chapter 17.102.50 or a tree identified as a required retention or mitigation tree on a recorded tree protection covenant shall also contain a report from a certified arborist or professional forester indicating that the condition or location of the tree presents a hazard or danger to persons or property and that such hazard or danger cannot reasonably be alleviated by treatment or pruning.

B. Type II Permit. The following applications shall be reviewed under a Type II procedure:

1. Tree removal on sites under contiguous ownership where greater than ~~50-20~~ trees are requested to be removed as further described below:
 - a. Within City Limits: outside of FSH Restricted Development Areas as defined in Chapter 17.60.

~~D.~~ An application for a Type II Permit shall contain the same information as required for a Type I permit above in addition to the following:

- a. A list of property owners on mailing labels within ~~200-300~~ feet of the subject property.

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Commented [DD10]: See comment above re redundancy.

Commented [EM11]: POST PC DRAFT: 50 feet? All trees whose driplines are within 25 feet? Not sure what the appropriate distance is.

Lake O: a. Location, species, and diameter of each tree on site and within 15 ft. of the site;
b. Location of the drip line of each tree

Gresham: When development is proposed for property that includes or abuts the dripline of a Significant Tree(s) on an abutting site, the Significant Tree(s) abutting the site shall be preserved and protected as specified in Subsection (B) during all development activities, including preliminary grubbing and clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s) on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a Certified Arborist determines that the tree can be protected adequately with less distance.

DFD: policy call for city.

Commented [KO12R11]: I like the idea of saying all tree whose driplines are within 25 feet. Seems reasonable to me.

Commented [EM13]: POST PC DRAFT: Added since sent to PC

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b. A written narrative addressing permit review criteria in 17.102.40 and the tree retention and protection requirements in 17.102.50.

Commented [EM14]: POST PC DRAFT: delete?

C. Type III Permit. The following applications shall be reviewed under a Type III procedure:

1. Request for a variance to tree retention requirements as specified in Section 17.102.50 may be permitted subject to the provisions of 17.102.70.

~~E.~~ An application for a Type III Permit shall contain the same information as required for a Type I permit in addition to the following:

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a. A list of property owners on mailing labels within ~~300~~500 feet of the subject property.

b. A written narrative addressing applicable code sections 17.102.50, 17.102.60, and 17.102.70.

17.102.40 PERMIT REVIEW

An application for a Type II or III tree removal permit shall demonstrate that the provisions of Chapter 17.102.50 are satisfied. The ~~Planning~~ Director may require a report from a certified arborist or professional forester to substantiate the criteria for a permit. Costs of any third-party review to determine compliance with Chapter 17.102 will be assessed to the developer.

Commented [DD15]: City should follow this with a change to its master fee resolution to be sure it has legal authority to impose such third-party costs.

Commented [KO16R15]: I like this idea and we can complete a master fee resolution change relatively easy.

A. The Director shall be responsible for interpreting the provisions of this chapter. The Director may consult with the Oregon Department of Forestry in interpreting applicable provisions of the Oregon Forest Practices Act (OAR Chapter 629). Copies of all forestry operation permit applications will be sent to the Oregon Department of Forestry and Department of Revenue. The City may request comments from the Oregon Department of Forestry, the Oregon Department of Fish & Wildlife or other affected state agencies.

B. Expiration of Tree Removal Permits. Tree removal permits shall remain valid for a period of ~~one-two (2)~~ years from the date of issuance or date of final decision by a hearing body, if applicable. A 30-day extension shall be automatically granted by the ~~Planning~~ Director if requested in writing before the expiration of the permit. Permits that have lapsed are void.

17.102.50 TREE RETENTION AND PROTECTION REQUIREMENTS

A. Tree Retention~~:-~~ The landowner is responsible for retention and protection of trees required to be retained as specified below:

1. ~~4-~~ At least three (3) trees 11 inches DBH or greater and three (3) trees 8 inches DBH or greater are to be retained for every one-acre of contiguous ownership.

Commented [DD17]: Just to clarify, these are intended to be larger than the base definition of 6 inches, correct?

~~2-~~ At least six (6) trees 11 inches DBH or greater and three (3) trees 8 inches DBH or greater are to be retained for every one-acre of contiguous ownership within 300 feet of the Flood and Slope Hazard (FSH) overlay district.

Commented [EM18R17]: yes

~~3-~~ Retained trees can be located anywhere on the site at the landowner's discretion and Director approval before the harvest begins. Clusters of trees are encouraged.

Commented [EM19]: POST PC DRAFT: could also say all retention trees shall be in a tree conservation easement (applied to 5 feet beyond dripline) and at least X% of retention trees shall be in a tree preservation tract (70? 75? 80?)

4. Retention trees shall be placed in a conservation easement or tree preservation tract.

Commented [KO20R19]: Not sure on the answer to this one. It seems this one is hard to guess the correct answer but after we use the revised code for awhile we will have a better idea of the appropriate breakdown. This seems like a good discussion item with PC and Council.

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53. Trees proposed for retention shall be in good condition, healthy and likely to grow to maturity, and be located to minimize the potential for blow-down following the harvest. Retention trees shall not be nuisance species.
64. If possible, at least two of the required trees per acre must be of native conifer species native to western Oregon.
7. Trees within the required protected setback areas may be counted towards the tree retention standard if they meet these requirements.
8. The applicant shall record a tree protection covenant that details the species and location of the required retention trees and the location of the associated tree protection area located 5 feet beyond the drip line. The tree's protection covenant shall clearly state that the tree protection area will increase in size as the tree grows and the drip line expands.

B. Tree Protection Area— Except as otherwise determined by the Planning Director, all tree protection measures set forth in this section shall be instituted prior to any development activities and removed only after completion of all construction activity. Failure to install or maintain tree protection measures is a violation of the Code and may result in a fee, penalty, or citation. Tree protection measures are required for land disturbing activities including but not limited to tree removal, clearing, grading, excavation, or demolition work.

1. Trees identified for retention shall be marked with yellow flagging tape and protected by protective barrier fencing placed five feet beyond the drip line of the tree, but in no case less than 10 horizontal feet from the outside edge of the trunk.
- 1-2. Offsite trees that have a tree protection area (5 feet beyond the drip line) that overlaps with the development property also require tree protection fencing.
- 2-3. Required fencing shall be a minimum of six feet tall chain link fence supported with metal posts placed no farther than ten feet apart installed flush with the initial undisturbed grade. A sign that is clearly marked "Tree Protection Zone" shall be prominently attached to the fence and shall describe the penalties for violation.
- 3-4. No construction activity shall occur within the tree protection zone, including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles.

C. Inspection. The applicant shall not proceed with any tree removal or construction activity, except erosion control measures, until the City has inspected and approved the installation of tree protection measures. Within 15 days of the date of accepting an application for a Type I permit, the city-City shall complete an onsite inspection of proposed activities and issue or deny the permit. Within 15 days of issuing a Type II or Type III permit, the city-City shall complete an onsite inspection of proposed activities.

For ongoing forest operations, the permit holder shall notify the city-City by phone or in writing 24 hours prior to subsequent tree removal. The city-City may conduct an onsite re-inspection of permit conditions at this time.

17.102.60 TREE REPLANTING REQUIREMENTS

1. All areas with exposed soils resulting from tree removal shall be replanted with a ground cover of native species within 30 days of harvest during the active growing season, or by June 1st of the following spring.

17.102 - 5

Adopted November 18, 2002 Ordinance 2002-10

Commented [EM21]: POST PC DRAFT: Add language re: a fine if tree fencing is removed or relocated closer to the tree?

DFD: policy choice for city.

Portland: Failure to install or maintain protection measures. It is unlawful for any person to fail to install required tree protection measures prior to commencing any development activity subject to Chapter 11.50. Furthermore, it is unlawful for such person to move any required protection measures, neglect or fail to maintain such measures throughout the development activity, or allow any restricted activity or disturbance to occur within the protection area without prior City approval.

Civil penalties. The City Forester or BDS Director may issue a fee, penalty notice or citation, as applicable, to any person who cuts, removes, prunes or harms any tree without a permit as required by this Title or is otherwise in non-compliance with any term, condition, limitation or requirement of an approval granted under this Title, and require payment of a civil penalty up to \$1,000 per day. Each tree constitutes a separate violation, and each day that the person fails to obtain a permit or remains in non-compliance with a permit or tree plan may also constitute a separate violation.

Gresham: A violation shall have occurred when any requirement or provision of Section 9.1000 has not been complied with. Violation of any provision of Section 9.1000 may be subject to enforcement action by the Manager, and may be enforced pursuant to Gresham Revised Code Article 7.50. B. Each day a violation continues to exist shall constitute a separate violation for which a separate civil penalty may be assessed. The provisions of Gresham Revised Code 7.50.730 through Gresham Revised Code 7.50.760 shall apply to the imposition of civil penalties under Section 9.1000.

Lake O: 55.08.050 Penalties.

1. **Civil Violation.** A violation of this article, or the breach of any condition of a tree protection plan shall be a civil violation as defined by LOC 34.04.105, enforceable pursuant to LOC Article 34.04. Failure to comply with the provisions of this article or a condition of approval shall be a separate offense each day the failure to comply continues. The violation shall be punishable by a fine set forth by the municipal court and the enforcement fee. (If a tree removal occurs due to the violation, the removal would be enforced by LOC Article 55.02.)
2. **Nuisance Abatement.** The removal of a tree in violation of this chapter is hereby declared to be a public nuisance, and may be abated by appropriate proceedings pursuant to LOC Article 34.08.
3. A person who violates this article or a condition of a tree protection plan shall pay an enforcement fee to the City in an amount as established by resolution of the City Council. (...)

Commented [EM22]: POST PC DRAFT: Changed back to 6 feet after sending to PC

Commented [EM23]: POST PC DRAFT: Added after sending to PC based on Damien's recommendation for a recent retention tree evaluation:

The root protection fencing must be a minimum of 6 foot high chain link fence panels. Fencing should be placed at least 25' from the trunk on all practicable sides, and as far as possible on the side closest to construction. Place the yellow sign marked "Tree Root Protection Zone" prominently on the fence designating the root protection zone and describing the penalties for violation. Install the fence before any ground-disturbing activities take place, including clearing, grading, or construction. Keep the fence in place until final inspection. The supply and erection of this fencing should be planned as the first priority of operation and should be processed (...)

Commented [EM24]: POST PC DRAFT: Add back in?

Commented [EM25]: POST PC DRAFT: Added per Damien's rec

2. All areas with exposed soils resulting from tree removal occurring between October 1 and March 31 shall also be covered with straw to minimize erosion.
3. Removal of hazard trees as defined shall be replanted with two native trees of quality nursery stock for every tree removed.
4. Tree Removal allowed within the FSH Overlay District shall be replanted with at least two native trees of quality nursery stock for every tree removed.
5. Tree Removal not associated with a development plan must be replanted following the provisions of OAR Chapter 629, Division 610, Section 020-060

17.102.70 VARIANCES

Under a Type III review process, the Planning Commission may allow newly-planted trees to substitute for retained trees if:

1. The substitution is at a ratio of at least two-to-one (i.e., at least two native quality nursery grown trees will be planted for every protected tree that is removed);
2. The trees are a minimum of 6-8 feet in height (if evergreen) or 1.5-inch caliper (if deciduous);
3. The proposed location of the mitigation trees is protected with tree protection fencing during construction activity such that the mitigation trees are not planted in compacted soil;
4. The species and location of the mitigation trees and associated tree protection area at least 5 feet beyond the drip line (but no less than 10 horizontal feet from the outside edge of the trunk) is recorded in a tree protection covenant. The tree protection covenant shall clearly state that the tree protection area will increase in size as the tree grows and the drip line expands;
5. Where practicable, mitigation trees shall be placed in a conservation easement or tree protection/preservation tract; and
6. The substitution more nearly meets the intent of this ordinance due to at least one of the following:
 - a. The location of the ~~existing and~~ proposed new trees is more compatible with required public infrastructure than the location of existing trees.
 - b. The physical condition of the existing trees or their compatibility with the existing soil and climate conditions.
 - c. An undue hardship of creating a development below the minimum density requirement is caused by the requirement for retention of existing trees.
 - d. Tree removal is necessary to protect a designated public scenic view corridor.

Commented [EM26]: Keep or delete or better define?

17.102.80 ENFORCEMENT

The provisions of Chapter 17.06, Enforcement, shall apply to tree removal that is not in conformance with this chapter and other violations of Chapter 17.102, Urban Forestry, including but not limited to failure to install or maintain tree protection measures, topping and excessive pruning, non-compliance with terms and conditions of a tree and/or development permit, removal or failure to maintain required trees, and conducting regulated activities without a tree permit. Each unauthorized tree removal violation shall be considered a separate offense for purposes of assigning penalties under Section 17.06.80. Funds Seventy (70) percent of funds generated as a result of enforcement of this ordinance shall be dedicated to the Urban Forestry

Commented [EM27]: POST PC DRAFT: Added this

Commented [EM28]: POST PC DRAFT: changed to violation to include more than just tree removal

Commented [EM29]: Noryne also mentioned assessing a fee, instead of a penalty/citation, so we would get the money (not the court) and have more control over waiving/reducing the amount. Something similar to the fee assessed for someone starting work without a permit.

17.102 - 6

Adopted November 18, 2002 Ordinance 2002-10

Fund established under Section 17.102.100 below.

Commented [K030]: Planning budget 036 needs some of the money for mailing costs and staff administrative costs.

17.102.90 APPLICABILITY OF THE OREGON FOREST PRACTICES ACT

The following provisions of the Oregon Forest Practices Act (OAR Chapter 629) are adopted by reference for consideration by the City in the review of Forest Operations Plans. Although the Director may seek advice from the Department of Forestry, the Director shall be responsible for interpreting the following provisions.

Division 610 -- Forest Practices Reforestation Stocking Standards~~Rules~~. Where reforestation is required, the provisions of OAR Chapter 629, Division 610, Section 020-060, Reforestation Stocking Standards, shall be considered by the Director, in addition to the requirements of Section 17.102.60.

Division 615 - Treatment of Slash. Slash shall not be placed within the protected setback areas. Otherwise, the Director shall consider the provisions of OAR Chapter 629, Division 615 in determining how to dispose of slash.

Division 620 - Chemical and Other Petroleum Products ~~Rules~~. The storage, transferring, cleaning of tanks and mixing of chemicals and petroleum products shall occur outside the protected setback areas. Aerial spraying shall not be permitted within the Urban Growth Boundary. Otherwise, the provisions of Chapter 629, Division 620 shall apply.

Division 625 -- Forest Road Construction and Maintenance. Forest roads, bridges and culverts shall not be constructed within the protected setback areas, except where permitted within the FSH overlay area as part of an approved urban development. Otherwise, the Director shall consider the provisions of OAR Chapter 629, Division 625 in the review of road, bridge and culvert construction.

Division 630 - Harvesting. Forest harvesting operations, including but not limited to skidding and yarding practices, construction of landings, construction of drainage systems, treatment of waste materials, storage and removal of slash, yarding and stream crossings, shall not be permitted within protected setback areas. Otherwise, the provisions of Chapter 629, Division 630 shall apply.

17.102.100 URBAN FORESTRY FUND CREATED

In order to encourage planting of trees, the City will create a fund or account to be used for tree planting in rights-of-way, city parks, riparian areas, and other public property. The source of funds will be penalty enforcement, donations, grants, and any other funds the City Council may designate.

The City will create a second fund or account to collect fee-in-lieu payment for required mitigation trees. These funds will be used to plant native trees in parks, open spaces, private tree preservation tracts, or other City owned land in cases where mitigation trees are not able to be located on the property on which they are required to be planted.

Commented [DD31]: Make sure to coordinate this with Tyler from a fund/budgeting perspective and make any necessary changes to master fee resolution.

17.102 - 7

Adopted November 18, 2002 Ordinance 2002-10

EXHIBIT G

Date: October 25, 2018

To: Sandy City Council

From: Tracy Brown, Tracy Brown Planning Consultants, LLC

Re: Ordinance 2018-29 - Chapter 17.82 Proposed Amendments

I understand the City Council adopted the first reading of Ordinance No. 2018-29 at your last meeting to adopt some of the amendments contained in the Ordinance. These comments are related to the proposed amendments to Chapter 17.82 contained in the ordinance. As stated in the staff report, the proposed amendments to Chapter 17.82 are intended to clarify that this chapter is only applicable to residential dwellings constructed on collector and arterial streets and to remove references to commercial development. Some but not all references to transit streets have been eliminated in the proposed amendments. When the chapter was originally crafted it was intended to regulate the orientation of commercial structures on transit streets. Later, it was also interpreted to also apply to residential structures on transit streets.

When the Sandy Style regulations were added in 2008, instead of modifying or eliminating this chapter, a clause was included below the chapter title specifying that these regulations only apply to residential development. Staff is now proposing amendments to this chapter to delete references to commercial development.

As the City Council considers these amendments, rather than simply making amendments to the chapter, it would seem prudent for the Council to also consider whether these regulations are good public policy or not. Unfortunately, the staff report included with the Ordinance did not discuss the historical context of these regulations or evaluate their pros and cons.

Subdivision design is controlled by a variety of often competing and conflicting regulations. As an example, Section 17.100.220(E) limits lots from gaining direct access to collector and arterial streets. In order to comply with these regulations, lots that will directly abut a collector or arterial street are required to provide access from an internal local street or alley. This scenario is further complicated by Section 17.100.220(D) which strives to limit double frontage lots.

E. Lots shall avoid deriving access from major or minor arterials. When driveway access from major or minor arterials may be necessary for several adjoining lots, the Director or the Planning Commission may require that such lots be served by a common access drive in order to limit possible traffic hazards on such streets. Where possible, driveways should be designed and arranged to avoid requiring vehicles to back into traffic on minor or major arterials.

D. Double frontage lots shall be avoided except where necessary to provide separation of residential developments from arterial streets or to overcome specific disadvantages of topography or orientation.

The main problem with the requirements of Chapter 17.82 are that they do not work well when applied to large single family residential lots. This code requires homes constructed on these lots to be designed to include a porch on the back of the home and a pedestrian walkway constructed from this back entrance to the sidewalk along the collector or arterial street. The result of the required is that these homes now will be designed with two front doors/porches, one facing the local street and the other one facing the collector/arterial street. In essence these regulations turn the backyard of these lots into a quasi-front entry. Since parking is also typically restricted on collector and arterial streets the pedestrian walkway through the backyard of these lots becomes essentially useless to provide pedestrian access and is not wanted by the property owner.

Because of these issues, the disadvantages of requiring two front doors on larger lots far outweigh any benefits. The intent as stated in this chapter is, *“provide for convenient, direct, and accessible pedestrian access to and from public sidewalks and transit facilities; provide a safe, pleasant and enjoyable pedestrian experience by connecting activities within a structure to the adjacent sidewalk and/or transit street; and, promote the use of pedestrian, bicycle, and transit modes of transportation.”* Although these are noble goals, it is hard to imagine how the intent of this chapter is achieved by requiring construction of a walkway through the backyard of a large residential lot since a walkway is already provided to connect the true front door to the local street sidewalk.

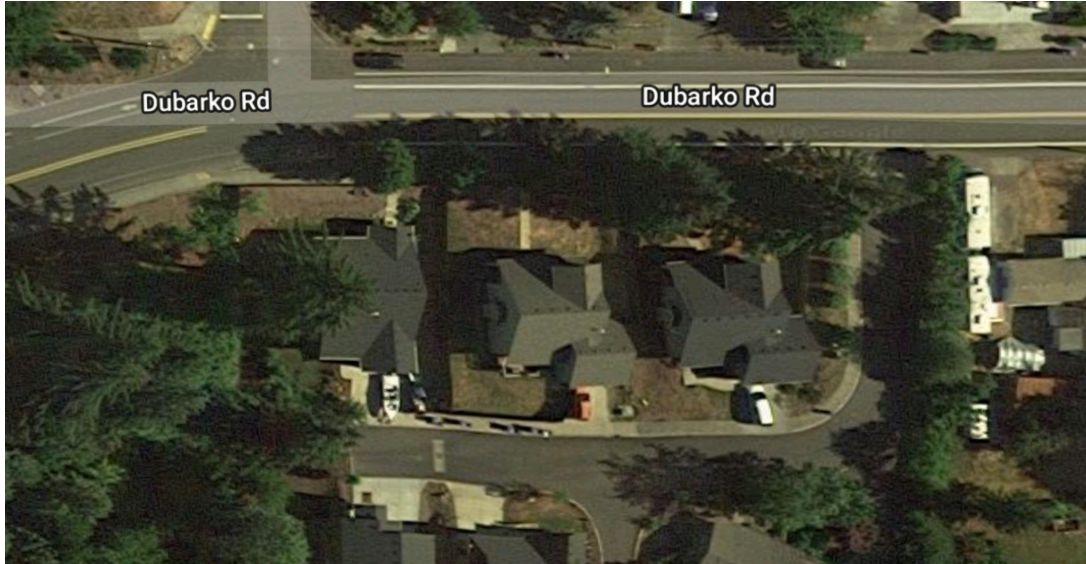
The backyard of large lots are intended to be a place of privacy and sanctuary where kids and animals are able to play in a safe environment. It also a place where gardening can be done. Given current lot and home prices within the City these yards are a valuable asset for the homeowner. The requirement to construct a walkway through this yard to provide access to the general public through the backyard, would appear to defeat the benefits of having this backyard space. For extra deep lots this walkway could be upwards of 50 - 80 feet long.

Several examples exist in town where this regulation was required on large lots but has not worked as intended. It is not uncommon for the builder constructing the home on a large lot make required improvements (two front entries and walkways) only to have the homeowner later construct taller fences, close gates, and limit pedestrian access through their backyard. Please see the attached photos of homes located at 39060 - 39068 Dubarko Road as an example. In believe this is understandable in that the homeowner has paid good money for the large lot and desires to maintain a private and secure backyard without a gate/walkway cutting through their backyard. In these cases the City is left with a choice of either overlooking these modifications or to initiate a code enforcement action to enforce these regulations on often unaware property owners who are likely to be adamantly opposed to the regulations. This would appear to present the City with two poor choices.

On the flip side, there may be limited circumstances where requiring a front door and pedestrian access on a collector or arterial street is a good idea. These circumstances typically occur in the Villages on higher density single family development where dwellings are provided with alley access. Existing examples of this include homes constructed on the south side of Dubarko in the Deer Pointe Subdivision east of Langensand Road (See Photos Below) or in the Bornstedt Village along Cascadia Village Drive.

CONCLUSION: As discussed in this review staff has not presented an evaluation of the pros and cons of these regulations. From a builder's and homeowner's perspective, the cons of the adopting these regulations as they apply to large lot residential development far outweigh any benefits. As such, rather than simply modifying these regulations it is suggested that they be eliminated entirely or at a minimum modified to be only applicable within Villages for higher density development that is provided with alley access.

AERIAL VIEW OF HOMES CONSTRUCTED AT 39060 -39068 DUBARKO ROAD SHOWING CONCRETE WALKWAY IN BACKYARD



STREET VIEW OF THESE HOMES SHOWING CLOSED GATES AND “NO TRESPASSING SIGNS” FACING DUBARKO RD.



**AERIAL VIEW OF HOMES CONSTRUCTED AT 40302 - 40464 DUBARKO ROAD
SHOWING ALLEY ACCESS AND CONCRETE WALKWAY CONNECTING TO DUBARKO
ROAD**



STREET VIEW OF SOME OF THESE HOMES





NO. 2018-29

AN ORDINANCE AMENDING CERTAIN CHAPTERS OF TITLE 17 OF THE SANDY MUNICIPAL CODE.

Whereas, the City Council wants to resolve inconsistencies in the Development Code; and

Whereas, the City Council wants to increase the noticing distance for Type II and Type III land use development projects; and

Whereas, the City Council wants to increase the appeal period for Type III land use procedures; and

Whereas, the City Council wants to remove reference to specific collector and arterial streets and reference the most revised version of the City of Sandy's Transportation System Plan (TSP); and

Whereas, the City Council wants to exempt the Central Business District (C-1) from 20-foot setback standards detailed in Chapter 17.80; and

Whereas, the City Council wants to remove references to commercial structures and uses in Chapter 17.82 as was intended when Sandy Style was adopted; and

Whereas, in addition, the City Council wants to make other minor code changes as contained below.

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

Section 1: Sandy Municipal Code Chapter 17.22 is amended as detailed in Exhibit A, attached and incorporated by reference.

Section 2: Sandy Municipal Code Chapter 17.28 is amended as detailed in Exhibit B, attached and incorporated by reference.

Section 3: Sandy Municipal Code Chapter 17.80 is amended as detailed in Exhibit C, attached and incorporated by reference.

Section 4: Sandy Municipal Code Chapter 17.82 amended as detailed in Exhibit D, attached and incorporated by reference.

#2018-29

This ordinance is adopted by the Common Council of the City of Sandy and approved by the Mayor this 05 day of November 2018



William King, Mayor

ATTEST:



Karey Milne, City Recorder

#2018-29

**CHAPTER 17.22
NOTICES****17.22.00 INTENT**

The requirement for notice to affected property owners, governmental agencies, public utility providers, etc., is intended to provide those persons and entities an opportunity to comment on a proposed development and to afford interested parties the opportunity to participate in the land use decision making process.

17.22.10 TYPE II QUASI-JUDICIAL NOTICE

- A. The applicant or authorized agent;
- B. Any person who owns property within 300 ft., excluding street right-of-way, of the development site;
- C. Any other person, agency, or organization that may be designated by the Code;
- D. Interested parties, such as counties, state agencies, public utilities, etc., that may be affected by the specific development proposal shall receive notice of the scheduled public hearing.
- E. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

17.22.20 TYPE III QUASI-JUDICIAL NOTICE

Where a quasi-judicial hearing is required by this Code notice shall be mailed to the following:

- A. The applicant or authorized agent;
- B. Any person who owns property within 500 ft., excluding street right-of-way, of the development site, except as otherwise authorized by this Code;
- C. Tenants of any existing manufactured-dwelling park for which a zoning district change is proposed;
- D. Any other person, agency, or organization that has filed with the Director a request to receive notices of hearings and has paid a reasonable fee to cover the cost of providing notice;
- E. Any other person, agency, or organization that may be designated by the Code;
- F. Any other person, agency, or organization that may be designated by the City Council or its agencies;
- G. Any other resident owner of property whom the Director determines is affected by the application;
- H. Any neighborhood or community organization recognized by the governing body and whose boundaries include the site;

- I. Interested parties, such as counties, state agencies, public utilities, etc., that may be affected by the specific development proposal shall receive notice of the scheduled public hearing;
- J. Additional notices may also be mailed to other property owners or posted as determined appropriate by the Director and based on the impact of the proposed development.

17.22.30 TYPE IV LEGISLATIVE HEARING NOTICE

- A. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan amendments and Development Code amendments before the first evidentiary hearing in accordance with OAR 660-018-0020. The notice to DLCD shall include an affidavit of transmittal.
- B. Notice shall be sent by mail at least 20 days, but not more than 40 days, prior to the first evidentiary hearing to owners of property if the proposed action would “rezone” the property according to ORS 227.186.
- C. Additional notices may be mailed to other property owners or posted as determined appropriate by the Director based on the impact of the proposed development.

17.22.40 CONTENTS OF NOTICE

The notice provided by the City shall:

- A. Explain the nature of the application and the proposed use or uses which could be authorized;
- B. List the applicable criteria from the ordinance and the Plan that apply to the application at issue:
 - 1. Nature of the proposed development and the proposed uses that could be authorized;
 - 2. Legal description, address, or tax map designations;
 - 3. Map showing the location of a zoning change, subdivision, or proposed development;
 - 4. Name and telephone number of a staff member from whom additional information can be obtained;
 - 5. Where a zone change or subdivision is proposed, the notice shall include the statement that the hearing body may consider modifications to what was requested by the applicant.
- C. Set forth the street address or other easily understood geographical reference to the subject property;
- D. State the date, time and location of the hearing or the date by which written comments may be submitted, as applicable to the type of land use action;
- E. For quasi-judicial notices, state that failure to raise an issue, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue, prior to the closing of the record of the proceeding, precludes an appeal based on that issue;
- F. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;

17.22 - 2

Revised by Ordinance 2018-029 effective 12/05/18

- G. For quasi-judicial notices, state that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at a reasonable cost; and
- H. Include a general explanation of the requirements for submission of testimony and the procedures for conducting the hearing.

17.22.50 MAILING OF NOTICES

- A. Type III and Type IV notices must be mailed at least:
 - 1. Twenty days before the evidentiary hearing; or
 - 2. If two or more evidentiary hearings are allowed, ten days before the first evidentiary hearing.
- B. Type II Limited Land Use Decision notices must be mailed at least:
 - 1. Fourteen days in advance of a pending Type II decision.

17.22.60 PUBLICATION OF NOTICES

Notice of public hearings shall be published in a newspaper of general circulation at least 10 days in advance of the hearing.

17.22.70 CONTINUED HEARINGS

Where a hearing is continued to a date certain, no additional notice need be given.

17.22.80 LIST OF PROPERTY OWNERS

The applicant shall provide a certified list of property owners and mailing labels as required by notice provisions of this Code. Unless otherwise provided, addresses for a mailed notice shall be obtained from the County's real property tax records. Unless the address is on file with the Director, a person whose name is not in the tax records at the time of filing of an application, or of initiating other action not based on an application, need not be furnished mailed notice.

**CHAPTER 17.28
APPEALS**

17.28.00 INTENT

This chapter sets forth procedures for processing an appeal of a decision made by staff, the Planning Commission or the City Council.

17.28.10 REQUEST FOR REVIEW-APPEAL OF DECISION

- A. Type I or Type II Procedure. An affected party may appeal a Type I or Type II decision to the Planning Commission. The party must file an appeal with the Director within 12 calendar days of the date the city mails notice of the decision. The notice of appeal shall indicate the nature of the decision that is being appealed. The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type I and II decisions.
- B. Type III Procedure. An affected party may appeal a decision of the Planning Commission to the City Council. The party must file an appeal within 12 calendar days of notice of the decision. The notice of appeal shall indicate the decision that is being appealed. The Director may create and periodically amend an appeal form and require affected parties to use this form to appeal Type III decisions. The City Council's decision regarding an appeal of a Planning Commission decision is final for the purposes of an appeal to the Land Use Board of Appeals.
- C. Type IV Procedure. A Type IV decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA) or to other tribunals in accordance with Oregon law.

17.28.20 REQUIREMENTS OF APPEAL APPLICATION

- A. An application for an appeal shall contain at least the following:
 - 1. An identification of the decision sought to be reviewed, including the date of the decision;
 - 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. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed.
 - 6. The name and mailing address of the person or entity appealing the decision.

17.28.30 SCOPE OF REVIEW

- A. Except where a de novo hearing is required for review of Type II (Limited Land Use) decisions, an appeal is limited to a review of the record and a hearing for receipt of oral arguments regarding the record. At its discretion and if good cause has been demonstrated by the appellant or City staff, the hearing body may allow an appeal to include new evidence based upon circumscribed issues relevant to the appeal, or it may allow a de novo hearing.

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Revised by Ordinance 2008-05 effective 04/02/08

17.28.40 REVIEW ON THE RECORD

Unless otherwise provided under subsection 17.28.50, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

- A. A factual report prepared by the Director;
- B. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
- C. The transcript of the hearing below, if previously prepared; otherwise, a detailed summary of the evidence, but the details need not be set forth verbatim.

The reviewing body shall make its decision based upon the record after first granting the right of argument but not the introduction of additional evidence to any party who has filed a notice of appeal.

17.28.50 REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW

- A. Except where a *de novo* hearing is required for review of Type II (Limited Land Use) decisions, the reviewing body may hear the entire matter *de novo*; or it may admit additional testimony and other evidence without holding a *de novo* hearing if it is satisfied that the additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision:
 - 1. Prejudice to the parties;
 - 2. Convenience or availability of evidence at the time of the initial hearing;
 - 3. Surprise to opposing parties;
 - 4. The competency, relevancy and materiality of the proposed testimony or other evidence.
- B. "De novo hearing" shall mean a hearing by the review body as if the action had not been previously heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

17.28.60 REVIEW BODY DECISION

- A. Upon review, the review body may by order affirm, reverse or modify in whole or in part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of the hearing body, the review body, in its order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the review body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it.

17.28 - 2

Revised by Ordinance 2008-05 effective 04/02/08

**CHAPTER 17.80
ADDITIONAL SETBACKS ON COLLECTOR AND ARTERIAL STREETS**

17.80.00 INTENT

The requirement of additional special setbacks for development on arterial or collector is intended to provide better light, air and vision on more heavily traveled streets. The additional setback, on substandard streets, will protect collector and arterial streets and permit the eventual widening of streets.

17.80.10 APPLICABILITY

These regulations apply to all collector and arterial streets as identified in the latest adopted Sandy Transportation System Plan (TSP). The Central Business District (C-1) is exempt from Chapter 17.80 regulations.

17.80.20 SPECIFIC SETBACKS

Any structure located on streets listed above or identified in the Transportation System Plan as arterials or collectors shall have a minimum setback of 20 feet measured from the property line. This applies to applicable front, rear and side yards.

**CHAPTER 17.82
SPECIAL SETBACKS ON TRANSIT STREETS**

17.82.00 INTENT

The intent is to provide for convenient, direct, and accessible pedestrian access to and from public sidewalks and transit facilities; provide a safe, pleasant and enjoyable pedestrian experience by connecting activities within a structure to the adjacent sidewalk and/or transit street; and, promote the use of pedestrian, bicycle, and transit modes of transportation.

17.82.10 APPLICABILITY

This chapter applies to all residential development located adjacent to a transit street. A transit street is defined as any street designated as a collector or arterial, unless otherwise designated in the Transit System Plan.

17.82.20 BUILDING ORIENTATION

- A. All residential buildings shall have their primary entrances oriented toward a transit street rather than a parking area, or if not adjacent to a transit street, toward a public right-of-way or private walkway which leads to a transit street. Multi-family residential buildings adjacent to a transit street shall have the primary entrances of all ground floor dwelling units oriented toward a transit street, unless otherwise reviewed and approved by the Director.
- B. Buildings shall have a primary entrance connecting directly between the street and building interior. A clearly marked, convenient, safe and lighted pedestrian route shall be provided to the entrance, from the transit street. The pedestrian route shall consist of materials such as concrete, asphalt, stone, brick, permeable pavers, or other materials as approved by the Director. The pedestrian path shall be permanently affixed to the ground with gravel subsurface or a comparable subsurface as approved by the Director.
- C. Primary building entrances shall be architecturally emphasized and visible from the street and shall include a covered porch at least 5 feet in depth.
- D. If the site has frontage on more than one transit street, the building shall provide one main entrance oriented to a transit street or to a corner where two transit streets intersect.

CHAPTER 17.82
SPECIAL SETBACKS ON TRANSIT STREETS

17.82.00 INTENT

The intent is to provide for convenient, direct, and accessible pedestrian access to and from public sidewalks and transit facilities; provide a safe, pleasant and enjoyable pedestrian experience by connecting activities within a structure to the adjacent sidewalk and/or transit street; and, promote the use of pedestrian, bicycle, and transit modes of transportation.

17.82.10 APPLICABILITY

This chapter applies to all residential development located adjacent to a transit street. A transit street is defined as any street designated as a collector or arterial, unless otherwise designated in the Transit System Plan.

17.82.20 BUILDING ORIENTATION

- A. All residential dwellings shall have their primary entrances oriented toward a transit street rather than a parking area, or if not adjacent to a transit street, toward a public right-of-way or private walkway which leads to a transit street.
- B. Dwellings shall have a primary entrance connecting directly between the street and building interior. A clearly marked, convenient, safe and lighted pedestrian route shall be provided to the entrance, from the transit street. The pedestrian route shall consist of materials such as concrete, asphalt, stone, brick, permeable pavers, or other materials as approved by the Director. The pedestrian path shall be permanently affixed to the ground with gravel subsurface or a comparable subsurface as approved by the Director.
- C. Primary dwelling entrances shall be architecturally emphasized and visible from the street and shall include a covered porch at least 5 feet in depth.
- D. If the site has frontage on more than one transit street, the dwelling shall provide one main entrance oriented to a transit street or to a corner where two transit streets intersect.



Staff Report

Meeting Date: November 5, 2018
From: Tyler Deems, Finance Director
SUBJECT: Police Department Interfund Loan

Background:

On September 4, 2018, Council approved a supplemental budget for the 2017-2019 biennium. In this supplemental budget, Council approved an interfund loan from the Transit Fund to the General Fund - Police Department for \$356,272. As detailed in the supplemental budget, the loan is for capital purposes, including the purchase of new radios and computers. As such, ORS allows the term of the loan to be 10 years. The recommended interest rate for the loan is 1.92%.

Recommendation:

Approve Resolution 2018-33, a resolution authorizing an interfund loan from the Transit Fund to the General Fund - Police Department.

Budgetary Impact:

None.



NO. 2018-33

A resolution authorizing an interfund loan from the Transit Fund to the General Fund (Police Department)

Whereas, the contract between the City of Sandy and the City of Estacada recently ended; and

Whereas, the Police Department is in need of additional funds to continuing operating at the same service level that is required; and

Whereas, the Police Department was in need of new equipment, including computers and radios; and

Whereas, the Transit Department has cash reserves available; and

Whereas, Local Budget Law allows for interfund loans when such loans are approved by the governing body and, if the loan is for capital purposes, the loans are repaid within ten years;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy

An interfund loan in the amount up to a total of \$356,272 be approved from the Transit Fund to the General Fund (Police Department) with an annual interest rate of 1.92%, and to be repaid within ten years of initiation of said loan.

This resolution is adopted by the Common Council of the City of Sandy and approved by the Mayor this 05 day of November 2018

A handwritten signature in cursive script that reads "William King".

William King, Mayor

ATTEST:

#2018-33



Karey Milne, City Recorder

#2018-33



Staff Report

Meeting Date: November 5, 2018
From: Tyler Deems, Finance Director
SUBJECT: Telecommunications Interfund Loan

Background:

On September 4, 2018, Council approved a supplemental budget for the 2017-2019 biennium. In this supplemental budget, Council approved an interfund loan from the Transit Fund to the Telecommunications Fund for \$500,000.00. As detailed in the supplemental budget, the loan is for capital purposes. As such, ORS allows the term of the loan to be 10 years. The recommended interest rate for the loan is 1.92%.

Recommendation:

Approve Resolution 2018-32, a resolution authorizing an interfund loan from the Transit Fund to the Telecommunication Fund.

Budgetary Impact:

None.



NO. 2018-32

A resolution authorizing an interfund loan from the Transit Fund to the Telecommunications Fund

Whereas, the City's Fiber-to-the-Premises project has had better than expected demand; and

Whereas, the Telecommunications Fund is in need of additional funds to continue meeting the needs of customer requests for fiber optic drops for both homes and businesses; and

Whereas, the Transit Fund has adequate cash reserves available; and

Whereas, Local Budget Law allows for interfund loans when such loans are approved by the governing body and, if the loan is for capital purposes, the loans are repaid within ten years;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy:

An interfund loan in the amount of \$500,000 be approved from the Transit Fund to the Telecommunications Fund with an annual interest rate of 1.92%, and to repaid within ten years of initiation of said loan.

This resolution is adopted by the Common Council of the City of Sandy and approved by the Mayor this 05 day of November 2018

A handwritten signature in black ink that reads "William King". The signature is written in a cursive style.

William King, Mayor

ATTEST:

#2018-32



Karey Milne, City Recorder

#2018-32



MINUTES
City Council Meeting
Monday, September 17, 2018 City Hall- Council Chambers,
39250 Pioneer Blvd., Sandy, Oregon 97055 7:00 PM

COUNCIL PRESENT: Bill King, Mayor, Jeremy Pietzold, Council President, Scott Horsfall, Councilor, John Hamblin, Councilor, Jan Lee, Councilor, and Carl Exner, Councilor

COUNCIL ABSENT: Jean Cubic, Councilor

STAFF PRESENT: Karey Milne, Recorder Clerk and Kim Yamashita, City Manager

MEDIA PRESENT:

1. Pledge of Allegiance

2. Roll Call

3. Changes to the Agenda

4. Public Comment

Dave Carter, 41248 SE Vista Loop Drive, against the plastic bag ban. Re-usable bags have contaminates, would like to see the city just ratchet it back a bit and deal with more important things, and he would like to see people stop parking on Vista Loop Drive.

5. Ordinances

- 5.1. Open a Public Hearing - Sandy Community Campus Right-of-Way Vacation
- 5.2. SCC Right of Way

James Cramer, Associate Planner, The applicant, the City of Sandy, Oregon, requests a Type IV right-of-way (ROW) street vacation of four street segments totaling 72,085 square feet. The street segments are as followed: • Alt Avenue, between Pleasant and Park Street; 16,500 square feet • Hood Street, between Alt and Smith Avenue; 12,500 square feet • Park Street, between Strauss Avenue and extending 99.70 feet east of Smith Avenue; 34,985 square feet (note: the right-of-way does not extend to Meinig Avenue) • Smith Avenue, extending 162 feet south from the Smith/Park intersection; 8,100 square feet Should the request be approved the title to the right-of-way area being

vacated will be dedicated to the lands bordering on such area in equal portions. Ownership of the vacated right-of-way will be transferred to the City of Sandy, OR and the Oregon Trail School District and through separate processes be platted into each owner's respective parcel boundaries. Council had a few questions regarding the adjustment of lines, once the ROW is vacated.

Moved by Jeremy Pietzold, seconded by Jan Lee

Motion To Close the Public Hearing

CARRIED.

Moved by Carl Exner, seconded by Scott Horsfall

"Make a motion for the first reading to adopt Ordinance 2018-28 by title only approving the requested right-of-way vacation per File No. 18-029 VAC"

CARRIED.

Moved by Jeremy Pietzold, seconded by Jan Lee

Make a Motion for the second reading and motion to adopt Ordinance 2018-28 by title only approving the requested right-of-way vacation per File No. 18-029 VAC.

CARRIED.

6. New Business

6.1. Bi Lateral Compliance Agreement

Public Works Director, Mike Walker, As a result of several positive cryptosporidium samples collected in the Portland Water Bureau's Bull Run system in 2016 and 2017 the State of Oregon Drinking Water Services program (DWS) revoked the City of Portland's variance from compliance with the requirements for treatment for cryptosporidium. City of Portland entered into an agreement with the state to by 2027 complete a treatment plant, Portland provides water to 19 other cities, and they were only asking the city of sandy to enter the same agreement, we did some research to find out why as well as sent a letter asking why our city was being treated differently, after some review we found everyone else is downstream where we are upstream. So the

provision left in the agreement is that we either Purchase water from the PWB that has been treated for cryptosporidium or treat water purchased from PWB. Since our connection to Portland's system is upstream of the location where they intend to build their treatment plant we need to either treat the water from the present connection or extend a pipeline and build a pump station to obtain treated water from Portland at the new site. Until Portland completes their planning process it isn't possible to know with a great deal of precision what it might cost to extend a pipeline and construct a pump station (or relocate our existing pump station) to connect to Portland's new treatment plant. An update to our Water Master Plan will cost between \$200K and \$300K. Once the update is complete we will know with greater confidence the cost to connect to Portland's treatment plant or the cost to treat PWB water at our current connection.

Staff Recommendation is to authorize the Mayor to sign the Bi-Lateral Compliance agreement on behalf of the City.

Council had some questions for Public Works Director Mike Walker.

Public Works Director Mike Walker, stated that this does not commit the City to anything but one choice or the other. We would decide later which way we would go. The City of Portland will not change their direction based on what they sell our city. The city attorney reviewed the contract, and we do not have much leverage against the City of Portland.

We will start to look at the costs either treating or connecting, we have 9 years to get which ever choice we choose complete.

If there is a notice, we would fall under the Portland notification, however, we can turn that water off, and run our other sources until they have any issues cleared up. Bull Run is better protected due to the higher elevation, and no people in it.

Moved by Jeremy Pietzold, seconded by Carl Exner

Motion to authorize the Mayor to sign the Bi-Lateral Compliance agreement on behalf of the City.

CARRIED.

6.2. Energy Savings

Public Works Director, Mike Walker, McKinstry has prepared a short Power Point presentation. Michael Johnson of McKinstry will be at the meeting to answer any questions and share the presentation at the meeting. Back in

January of 2016 the council selected the proposal from McKinstry to provide audits of our existing streetlights and water meters to determine if there were sufficient energy and water savings to fund a streetlight conversion and water meter replacement. McKinstry's preliminary analysis indicates that it should be possible to: 1) Convert all city-owned streetlights (about 900) to LED lighting and pay for the conversion with the energy savings in about 14 years; and 2) Replace about 90% of the City's existing water meters (about 4,000) with newer, more accurate meters and pay for the conversion with the increased revenues in about 16 years (at current water rates). The next step would be to perform a more comprehensive audit for each project to determine the exact number, wattage and type of each streetlight and the exact number, age and type of each water meter. The proposed costs for these more comprehensive audits are: Streetlighting conversion \$29,500 and water meter replacement \$15,986 (phase I). These costs are folded into the total project cost and the City is only obligated to pay these amounts if we decide not to proceed with one or both projects. No payment is required at this time.

Staff recommends council to enter into an agreement with McKinstry for the streetlight and water meter accuracy audits.

Council had a few questions for McKinstry and Public Works Director Mike Walker before authorizing to enter into the agreement.

Moved by Carl Exner, seconded by Jan Lee

Authorize staff to enter into an agreement with McKinstry for the streetlighting and water meter accuracy audits.

CARRIED.

7. Consent Agenda

None

8. Report from the City Manager

8.1.

City Manager Yamashita, has received no bids on the Sandy Heights property the 260,000 price was still too high for people. She asked how would Council like to proceed? Council, the market seems to be cooling down, so lets hold off on selling it for now.

A reminder that the Youth Council Workshop is 7PM on the 25th. The Arts Commission selection process is scheduled for Oct 1 before the Regular Council Meeting.

On the 1st and 15th will have the public hearings on the plastic bag bans. Staff

will like to participate in the Trick or Treat Trail on October 27th.

Sept 24th is candidates forum put on by the Sandy Area Chamber of Commerce

She will be speaking at the League of Oregon Cities Conference, she was asked to speak on public safety issues in schools.

State Candidate Forum, will be held on the 16th of October by the Sandy Area Chamber of Commerce.

9. Committee Reports

9.1.

Councilor Exner, C4 meeting, they made a decision on the vehicle registration fees, State required 60/40 split was maintained so the City will get the 40% the County get 60% he thinks it will take a year to start to show the funds. Your renewal fees will show an increase of 30.00 annually. Funds are required to go to roads.

10. Council Reports

10.1.

Council Pietzold, Participated in the Boring marathon, funds went to track and field teams in the area.

Councilor Horsfall, was contacted by Scout Troupe 662, they would like to attend a council meeting, and ask questions.

He has also been asked by a number people ask about bypass in Sandy. Sandy ODOT station has put him in contact with Ted Miller follow up on ideas and things to look at. We need to keep an eye to the future. Mayor King, has met with Matt Garrett Regional head of ODOT a number of times, he will be at the LOC conference, so stop by and chat with him, however he has been told that ODOT has no funds for a project like that.

City Manager, Kim Yamashita, would like to remind council, they had asked for an ODOT workshop, she still needs to get more input from council on agenda topics.

Councilor Lee, was with a group over the past weekend and the restrooms at Meinig Park were not cleaned, the Mayor took it upon himself to clean up those bathrooms, she would just like to give him a Thank You. She also would like to ask when the Council Retreat might be.

Mayor King, said he is waiting until after the election.

Councilor Exner, he had some conversations about what happened to the cameras in Meinig Park?

IT, Department Greg Brewster, informed council that the camera that was there was destroyed by vandals, and was not replaced. His understanding was that when the park was to go under renovation and fiber installed they would add cameras back. Councilor Pietzold, believes there was some money set aside for cameras. Mayor King, mentioned that the SDC funds that we had a grant match for the remodel, but those funds could only be used to expand the park not to renovate, so that project is now on hold. Councilor Exner, informed council that the citizens reaching out to him are mothers taking their kids to the park, there are things their kids are finding that should not be in a park, as well as activities happening that should not be in a park. It would be nice to have some way to try help people feel more secure.

Mayor King, noticed that the picnic tables under the gazebo, had been vandalized. City Manager, Yamashita, let him know they have already been replaced.

Police Chief, Ernie Roberts, did ask staff to do walk through the park every shift.

A resident was mentioning the speeding on Meinig Hill coming down the hill, they are requesting speed bumps. He would like to see a little bit more patrol in our residential areas. Police Chief, Ernie Roberts, informed council that they will have a traffic officer working by October, working on trying to track complaints as well.

11. Staff updates

11.1. [Monthly Reports](#)

12. Adjourn



Mayor, William King

City Recorder, Karey Milne

Draft



MINUTES
City Council Work Session Meeting
Tuesday, September 25, 2018 City Hall- Council Chambers, 39250
Pioneer Blvd., Sandy, Oregon 97055 7:00 PM

COUNCIL PRESENT: Jeremy Pietzold, Council President, John Hamblin, Councilor, Carl Exner, Councilor, and Bill King, Mayor

COUNCIL ABSENT: Scott Horsfall, Councilor, Jan Lee, Councilor, and Jean Cubic, Councilor

STAFF PRESENT:

MEDIA PRESENT:

1. Roll Call

2. New Business

2.1. Youth Council Question and Answer

City Manager, Kim Yamashita, we have a smaller turn out that anticipated, however Rebecca Robinawitz who is heading up the youth council does have some questions for Council to get some clarification.

Council was asked several questions.
Council answered their questions.

3. Report from the City Manager

None

4. Council Reports

None

5. Adjourn

Mayor, William King

City Recorder, Karey Milne

Draft



MINUTES
City Council Meeting
Monday, October 1, 2018 City Hall- Council Chambers, 39250
Pioneer Blvd., Sandy, Oregon 97055 7:00 PM

- COUNCIL PRESENT:** Bill King, Mayor, Jeremy Pietzold, Council President, Scott Horsfall, Councilor, John Hamblin, Councilor, Carl Exner, Councilor, and Greg Brewster, Assistant IT Director
- COUNCIL ABSENT:** Councilor Cubic
- COUNCIL EXCUSED:** Councilor Lee
- STAFF PRESENT:** Karey Milne, Recorder Clerk, Kim Yamashita, City Manager, Andi Howell, Transit Director, Ernie Roberts, Police Chief, Joe Knapp, IT Director, Mike Walker, Public Works Director, Sarah McNyre, Library Director, and Tanya Richardson, Community Services Director
- MEDIA PRESENT:** Brittany Allen

1. Pledge of Allegiance

2. Roll Call

3. Changes to the Agenda

City Manager, Kim Yamashita, Yes we will move the Transit Advisory Board Appointment up, to fall after George Hoyt Presentation.

4. Public Comment

- 4.1. Mike Grant, 14534 Walnut Grove Way, Oregon City, he is here to introduce himself, he is running for the position of Clackamas County Assessor. He gave some background information spoke about how and why he would be a good candidate for Clackamas County Assessor.

Mark Benson - 16355 Champion Way, Sandy, OR, he informed council he has asked to come before council several times. He is not a fan of the Sandy Style, he is looking into building a mini storage, and he currently has a deal with Tractor Supply to purchase his property off champion and 26. He feels the Sandy style increases the expense in building in Sandy. He was working on a

storage idea in pods, he was informed it would not work with Sandy Style. Someone here in town is putting up storage containers, there have been no fines etc. Does building code apply or does it not? The burden and expense is huge to go along with the Sandy Style, he would just like to see an equal playing field.

5. Presentation

5.1. George Hoyt - Recognition of Service to the Library District Advisory Board.

Mayor King, recognized Mr. Hoyt's dedication of service to the Library District. Mr. Hoyt, said a few words.

5.2. Transit Advisory Board Appointment

Staff Report - 0054

Heather Michet, 39385 Idleman St, Chair of the Transit Advisory, the board is greatly pleased with the application that Bernice Tynan has put in, she has attended two meetings with the board as of late. She has an extensive background in media and marketing and has given some great input in already on helping getting the work out.

Bernice, asked the council if there are any questions for her.

Council asked a few questions.

She stated she has been involved with the Friends of the Sandy Library for over 15 years. She also stated that she has become interested in the transit board, because she was recently told she is no longer able to drive. She found STAR and just loves it, it gives her a sense of freedom and she wants to help let others know.

Mayor and Council thanked her for her service.

Moved by John Hamblin, seconded by Jeremy Pietzold

Motion to appoint Bernice Tynan to the Transit Advisory Board

CARRIED.

6. Ordinances

6.1. Single Use Plastic Bag Ban Public Hearing #1

Staff Report - 0045

Open Public Hearing 7:21pm
Mayor Asked for Public Comment.

Bill Brookhart, 36525 Dubarko Rd, Sandy, he and his wife used to clean up trash, he sure did not like picking up all the plastic bags they found. He has been aware of some of the things going on east of here with the plastic bans. He submitted to council a document on a survey, that a plastic bag carrier is best according to new study. We do have a federal environmental agency that can make these decisions for us. He feels this is a needless restriction to be made at a city level. Gave some more statistics. Feels we should implement and get more serious about our current litter law.

Khryss Jones, Sandy Chamber 38979 Pioneer Blvd, The chamber put together a survey to their members. They have not had a huge response yet, but they have some. 10% retail 9% service industry responded to the survey, 20% use plastic bags and 80% do not. She will be making phone calls to try to get some more perspective from their members on the subject.

Susie Jenkins, 37708 Coralburst, she is here because she tries to do what she can to help reduce waste, and she would like to do what she can to help. She Uses her own bags to shop and has been using at least one bag for over 20 years.

Rene Grey, Bickford Street, she and her son would like to applaud Sandy for trying to reduce waste. She and her family work towards zero waste. She is a teacher at the highschool and she does a lot of research and she has done some current research on industrial ecology, which is the idea of looking at how we can use nature, grow and prosper, and people and nature both benefit. Instead of looking at plastic and thinking what do we do with it next, its not the idea that plastics are not necessarily bad, they need to be designed to be used over and over again, and plastic bags are not. When we recycle it we feel good about our selves but we then down cycle it does not really help. So anything to help curb mindless consumerism is awesome. They recently traveled to Japan and there is no use of towels in the bathroom, there are no garbage cans. There is no litter, it is not messy.

Issac Grey, the first plastic that was ever made, is still on earth, it has never gone away!

Matt Wilson, 17335 Meinig, he is very opposed to the ordinance at the local level, what problem does this actually solve in the City of Sandy? He does not

see plastic bags around he sees other litter? What science is there that backs up the actual harm of the plastic bags? What are the results of other cities bans?

Council had some discussion after hearing the public comments.
Mayor Reviewed Council Goals and Policies.

- 6.2. Motion to Close the Public Hearing and move forward with other ways to help educate our community on reducing waste.

Moved by Carl Exner, seconded by Jeremy Pietzold

Motion to Close the Public Hearing and move forward with other ways to help educate the community on reducing waste.

CARRIED.

7. New Business

- 7.1. 2018 Street Maintenance - Bid Opening

Staff Report - 0051

Public Works Director, Mike Walker, Recommends to award the contract to Eastside Paving for the 2018 street maintenance and to Stettler Supply Company for the Hudson Rd pump station PH Adjustment system.

Council had a few questions.

Moved by Jeremy Pietzold, seconded by Scott Horsfall

Motion to award the contract Stettler Supply Company for the Hudson road pump station PH adjustment system.

CARRIED.

Moved by John Hamblin, seconded by Carl Exner

Motion To award the contract to Eastside paving for the 2018 street maintenance program

CARRIED.

[Notice of Intent to Award - Sandy](#)
[Hudson Pump Station Recommendation of Award](#)

7.2. Library District Master IGA Amendment

Staff Report - 0032

Library Director, Sarah McIntyre, Reviewed her staff report, some key points, The proposed amendment includes: • An amended section 1.6, which would designate the County, and not the City of Gladstone, as the eventual recipient of retained funds currently held in trust by the District to support the construction of new library facilities for the Gladstone and Oak Lodge service areas. • A new section 2.4, which would establish Clackamas County as the permanent Library Service Provider for the Oak Lodge Library Service area and memorializes the intent for Clackamas County to construct and manage two new libraries using District distributions, accumulated reserves, and other revenues. • An amended Attachment B, which would eliminate language regarding service area boundary changes which were originally contemplated when it was anticipated that the City of Gladstone would construct a single facility to serve both the Gladstone and Oak Lodge library service areas. She would recommend that council approve the amendments to the Library District Master IGA and authorize the City Manager to sign for the City of Sandy.

Council had a few questions.

Moved by John Hamblin, seconded by Carl Exner

Staff Report - 0032

Recommend a Motion to approve the amendments to the Library District Master IGA and authorize the City Manager to sign for the City of Sandy.

CARRIED.

8. Consent Agenda

- 8.1. City Council Meeting and Workshop Minutes September 4, 2018
City Council Worksession Minutes September 11, 2018

Moved by John Hamblin, seconded by Carl Exner

Motion to approve the consent agenda as written.

CARRIED.

9. Report from the City Manager

9.1.

City Hall will participate in the Trick or Treat Trail October 27th 1-4pm, if you would like to participate.

City Manager hiring process, as of today we have 29 applicants, varies from west coast east coast, Mayor has selected members for the hiring committee, applications will go to the committee once the applicants have met minimum qualifications.

Correspondence, from Sandy Area Chamber of Commerce, thank you for your membership and commitment.

Police Department is holding Coffee with a Cop coming up wed 9am on 3rd at Ant Farm.

10. Committee Reports

None

11. Council Reports

Councilor Exner, League of Oregon City Conference, next year will be in Bend he hopes to see more of our councilors go. The highlight for him this year he went to an art economic development tour in Springfield, saw about 17 of their art items, they had no budget set for the art however they found ways to make it happen. In the Middle of October Public Works Director, Mike Walker will take the Clackamas Watershed Council on a tour of the wastewater treatment plant.

He has one request, the corner of Dubarko and Langendsand is taken over by blackberries.

John Hamblin, we had our youth council workshop last week, planning a visit to school board meeting next week to get a partnership built and more involvement. we also had a few weeks ago and this evening we finalized the members of the arts commission, there were some amazingly talented people.

Thank you to staff for all being here.

Mayor King, thanked staff, he had an incident Saturday they all took care of the issue in a timely and professional matter.

12. Staff updates

12.1. [Monthly Reports](#)

13. Adjourn

City Council
October 1, 2018



Mayor, William King

City Recorder, Karey Milne

Draft



MINUTES
City Council Work Session Meeting
Monday, October 1, 2018 City Hall- Council Chambers, 39250 Pioneer Blvd., Sandy, Oregon 97055 6:00 PM

COUNCIL PRESENT: Bill King, Mayor, Jeremy Pietzold, Council President, Carl Exner, Councilor, and John Hamblin, Councilor

COUNCIL ABSENT:

STAFF PRESENT: Kim Yamashita, City Manager and Karey Milne, Recorder Clerk

MEDIA PRESENT:

1. Roll Call

2. New Business

2.1. Workshop - Continuance of Arts Commission Interviews

Staff Report - 0047

The remainder of the applicants interviewed for a position on the Arts Commission.

1. Lea Topliff
2. Pamela Smithstead
3. Lou Sennick

Council held the interviews and decided on who they would appoint to the Arts Commission.

Council Appointed:
Lea Topliff
Pamela Smithstead
Marsha Morrow
Becky Hawley
Adam Triplett
Sandy Jordan
Lou Sennick

3. Adjourn

Mayor, William King

City Recorder, Karey Milne

Draft



MINUTES
City Council Meeting
Monday, October 15, 2018 City Hall- Council Chambers,
39250 Pioneer Blvd., Sandy, Oregon 97055 6:00 PM

COUNCIL PRESENT: Bill King, Mayor, Jeremy Pietzold, Council President, Scott Horsfall, Councilor, John Hamblin, Councilor, Jan Lee, Councilor, and Carl Exner, Councilor

COUNCIL ABSENT: Jean Cubic, Councilor

STAFF PRESENT: Karey Milne, Recorder Clerk, Kim Yamashita, City Manager, Andi Howell, Transit Director, Emily Meharg, Associate Planner, Ernie Roberts, Police Chief, Greg Brewster, Assistant IT Director, Kelly O'Neill, Planning Director, Mike Walker, Public Works Director, and Sarah McInyre, Library Director

MEDIA PRESENT:

1. Workshop

1.1. Brownfield Site Cleanup - City Shops

6 - 25

Staff Report - 0057

Planning Director, Kelly O'Neill Jr, gave a brief over view and introduced Mr. Legarza with Clackamas County.

Mr. Legarza, distributed some handouts to help everyone understand what the Brownfield program is. Reviewed Who, What, Why, Where and how this might work for a potential project.

Council had a few questions regarding the process and how it would work.

[Clackamas County Business and Community Services Economic Development](#)

2. Pledge of Allegiance

3. Roll Call

4. Changes to the Agenda

None

5. Public Comment

None

6. PRESENTATIONS

6.1. Presentation by Sandy Watershed 26 - 53

Staff Report - 0052

Steve Wise, Director of Sandy Watershed Council, reviewed what they are about and reviewed funding situation from 2017-18 and went over some the current projects they are working on.

[SRWC Sandy City Council presentation 10-18](#)

7. Ordinances

7.1. **Public Hearing - Ordinance 2018-29 Amending Development Code Chapters 17.22, 17.28, 17.80, 17.82 and 17.102**

Staff Report - 0056

7.2. 54 - 71

Mayor King,
Open Public Hearing at 7:29pm
Reviewed the legislative script regarding the public hearing
Call for Staff Report: File No. 18-039 DCA proposes to amend Chapters 17.22, 17.28, 17.80, 17.82, and 17.102 containing procedures and conditions for notices, appeals, setbacks on arterial & collector streets, special setbacks on transit streets, and urban forestry regulations. These updates primarily remove inconsistencies in the development code.

City Manager, Kim Yamashita and Planning Director Kelly O'Neill Jr, gave a summary, some history and some challenges that are occurring with the current code.

Associate Planner, Emily Meharg, went through each section of code, discussed what the code said before and what changes are proposed.

Public Comment was open after each section of code.

Dale Hult - 39660 Pleasant Street, Sandy OR
Kathleen Walker - 15920 Bluff Rd, Sandy OR
Tom Orth - 26951 SE Forrester Rd, Boring OR
Ray Moore - 39660 Pleasant Street, Sandy OR
Bob West -

Jim Raze - 4020 NE 216th, Fairview, OR

There was extensive discussion through Public Comment, Council, City Attorney and Staff Members.

Council concluded putting together a committee to work on section 17.102 and to have a First Reading of Ordinance No. 2018-29 Striking Section 17.102 with Second Reading to be held November 5th.

Moved by John Hamblin, seconded by Scott Horsfall

Motion to approve First Reading by Title Only Ordinance No. 2018-19 with the proposed code revisions to the City of Sandy code chapter 17.22, 17.28, 17.80, 17.82 striking section 5, 17.102.

CARRIED.

[Comments on Ordinance 2018-29](#)

[Tree Code Letter-10-15-18](#)

[City of Sandy Mail - Response to letter to council](#)

[Jennifer Hart](#)

[Public Comment Ord. 2018-29 - Tracy Brown](#)

[20181024160323](#)

[20181024143324](#)

[Sign In Sheet](#)

8. New Business

City Manager, Kim Yamashita, asked for a change to the agenda, to move up Hoodview Disposal as they have been patiently waiting.

8.1. Hood View Disposal and Recycling Rate Increase

Staff Report - 0053

City Manager, Kim Yamashita, Introduced Hoodview Disposal, and gave a brief summary of why they are here tonight.

Hoodview Disposal gave an overview and asked council for a rate increase.

Moved by Jan Lee, seconded by Carl Exner

Motion to approve rate increase by Hoodview Disposal.

CARRIED.

8.2. Intergovernmental Agreement - City of Sandy Updated Transit Master Plan

Staff Report - 0055

Transit Director, Andi Howell,

In June of 2017, Council passed a resolution in support of Sandy Transit applying for funds to update the Sandy Transit Master Plan through the Transportation Growth Management (TGM) Program. She briefly reviewed the recitals of the attached IGA. She Recommends Council to authorize the City Manager to sign an Intergovernmental Agreement (IGA) between Sandy and the Oregon Department of Transportation (ODOT) to complete an updated Transit Master Plan. The budgetary impact would be, total Cost of project \$140,450 with a local match provided through Sandy Transit payroll tax in the amount of \$19,152.

Moved by John Hamblin, seconded by Scott Horsfall

Authorize the City Manager to sign an Intergovernmental Agreement (IGA) between Sandy and the Oregon Department of Transportation (ODOT) to complete an updated Transit Master Plan.

CARRIED.

9. **Consent Agenda**

9.1. No Items

10. **Report from the City Manager**

Transportation priorities workshop had to be moved to October 30th. She would like to thank Kelly and Emily and Staff for their hard work.

11. **Committee Reports**

Councilor Hamblin, School Board meeting, they had a brief discussion about the youth council, they will go back to the school board with a bit more information.

Councilor Exner, at the C4 Meeting, Maria Pope is new CEO with PGE and they are working to reduce their greenhouse emissions by 80% within the next 25 years, so you can expect increase in your PGE rates.

12. **Council Reports**

Councilor Lee, she was not here on the first when the plastic bag ban was talked

about, but she was informed that there is legislation going to state for plastics ban. Councilor Hamblin, The hiring committee has met twice, they were passed 19 candidates to review. It was a very strong candidate pool.

13. Staff updates

13.1. [Monthly Reports](#)

14. Adjourn

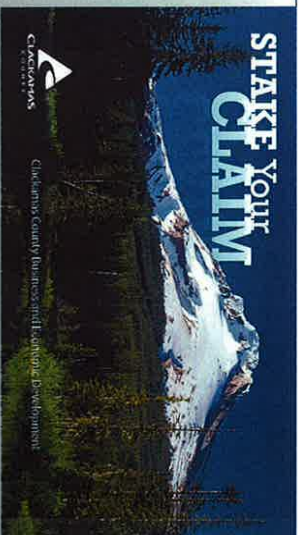


Mayor, William King

City Recorder, Karey Milne

Draft

Clackamas County Business and Community Services Economic Development



Clackamas County Land Bank Authority (CCLBA)
February 20th

Catherine Grubowski-Johnson, Manager
Cindy Knudsen, Economic Development Coordinator
Corina Copeland, Administrative Assistant
John Southgate, Special Projects Manager
Sam Dicke, Economic Development Coordinator
Jon Legarza, Economic Development Coordinator



A Division of
Business & Community Services
Laura Zentner, Interim Director

Why establish a Business Plan for Brownfield Land Bank Authority?

- The Business Plan would build a pathway for the County to partner with other agencies, property owners with the goal of creating new long term Employment land opportunities in the County
- The Business Plan would identify the sources and uses for the County to startup the Brownfield Land Bank Authority
- The Business Plan would establish a project schedule
- Submit Grant in March and report back to BCC in September with completed Business Plan for Land Bank Authority
- Trailblazers | Clackamas County would be the first county in the State to establish Land Bank Authority



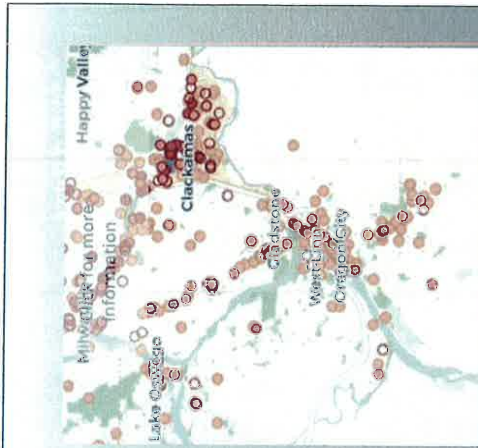
What is a “Brownfield”?

- Generally-Any property with some environmental contamination that impedes development
- Per ORS 285A.185 “real property where expansion or redevelopment is complicated by actual or perceived environmental contamination.”
- Can be anything from a former dry cleaner or gas station site to a large scale industrial setting such as the former blue heron site in Oregon City



Why Consider a Brownfields Land Bank Authority?

- Opportunity to reposition industrial land
- Negative value situation
- County has demand for Employment lands
- Brownfield sites draw little attention from users



What Tools Exist to Help Remediate Brownfields?

- New tools now exists: “Land Bank Authority” (HB 2734)
- New legislation passed June 2015: effective January 1, 2016
 - Authorizes local governments to create separate land bank authorities to acquire and redevelop land



HB 2734-The Land Bank Authority Bill

- **HB 2734, was enacted to enable local government to “create an authority for the purpose of acquiring, rehabilitating, redeveloping, reutilizing, or restoring brownfield properties that are located within the geographic boundaries over which the local government has jurisdiction.”**
- **Once established, a Land Bank Authority has “all powers necessary to accomplish the purposes of acquiring, rehabilitating, redeveloping, reutilizing or restoring brownfield properties.”**



**STAKE YOUR
CREATIVITY**

How does the Brownfields Land Bank Work?

Land bank authorities are created by resolution/ordinance of the local government. Once established, the Land Bank Authority is managed and controlled by a board of directors, the composition of which is made up of individuals from the local government and local community.

- Land Bank is a municipal corporation under Oregon Law
- Subject to all public records requirements
- Must give public notice of proposed dispositions of land
- Prepare an annual report to the governor



STAKE YOUR
CLATW

Clackamas County would apply for a grant to fund a business plan

Business Oregon manages the state-funded Brownfield Redevelopment Fund which provides financing assistance to evaluate the community and economic impacts.

- **Apply for a Grant of \$25,000**
 - Anticipate award in March from Business Oregon
- **Issue an RFP to hire Consultant team**
 - BED staff would manage the process
 - Staff will research Michigan and Ohio Land Banks Models
- **Report back to the BCC in September**
 - Presentation of Solicitors and Best for LBA



STAKE YOUR CLAIM

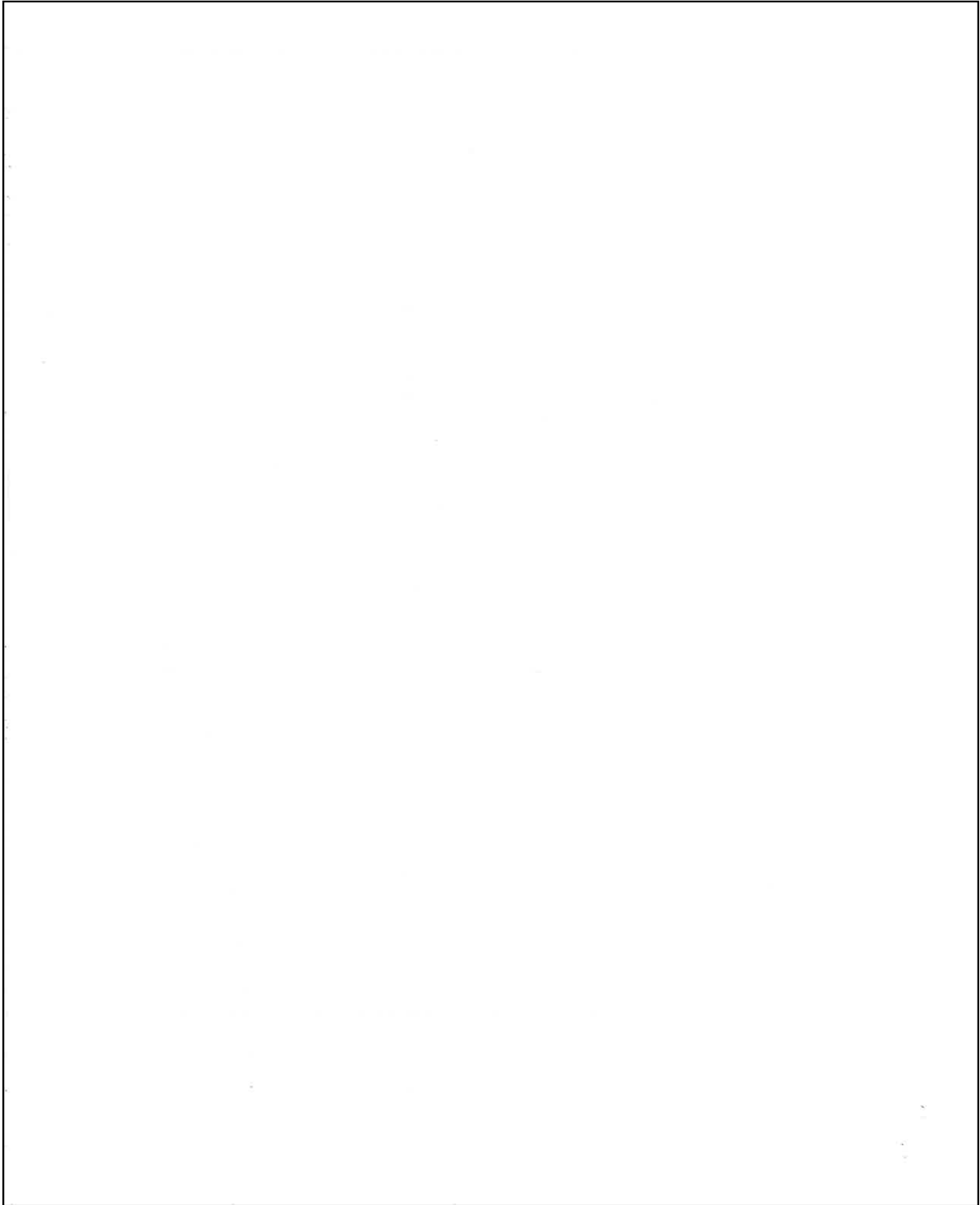
Clackamas County Business and Community Services Economic Development

503-742-4BIZ

www.Clackamas.us/business



**STAKE YOUR
CLATTM**



Enrolled

House Bill 2734

Sponsored by Representative READ, Senator HANSELL, Representative FREDRICK, Representative HUFFMAN, Senators MONNES ANDERSON, ROBLAN (Presession filed.)

CHAPTER

AN ACT

Relating to remediation of contaminated property; creating new provisions; and amending ORS 244.050, 466.255, 466.640 and 468B.310.

Be It Enacted by the People of the State of Oregon:

LAND BANK AUTHORITIES

SECTION 1. As used in sections 1 to 8 of this 2015 Act:

(1) "Authority" means any public land bank authority created pursuant to sections 1 to 8 of this 2015 Act.

(2) "Brownfield" has the meaning given that term in ORS 285A.185.

(3) "Local government" means a local government as defined in ORS 174.116 or a inter-governmental entity created under an intergovernmental agreement between two units of local government under ORS 190.010.

(4) "Remedial action," "remedial action costs" and "removal" have the meanings given those terms in ORS 465.200.

SECTION 2. (1) A local government may, upon its own motion, consider whether it is advisable to create an authority for the purpose of acquiring, rehabilitating, redeveloping, reutilizing or restoring brownfield properties that are located within the geographic boundaries over which the local government has jurisdiction.

(2) If the local government, after public hearing according to the local government's rules, determines that it is wise and desirable to create in an authority the powers and duties set forth in sections 1 to 8 of this 2015 Act, the local government shall by ordinance or resolution create such an authority. The ordinance or resolution shall set forth:

(a) The name of the authority, which shall be "The Land Bank Authority of (local government), Oregon" or other similar distinctive name.

(b) The number of directors of the authority, which must be an odd number not less than five or more than 11.

(c) The names of the initial directors and their initial terms of service, which may not exceed four years.

(d) Other provisions that may be appropriate and not inconsistent with sections 1 to 8 of this 2015 Act or the laws of Oregon.

(3) Upon the adoption of an ordinance or resolution under subsection (2) of this section, the authority shall be deemed established as a municipal corporation of the state and as a

body corporate and politic exercising public powers. Notwithstanding any law to the contrary, the authority shall exist as a legal entity separate from the local government that created the authority.

(4) An authority organized under this section shall have all the powers and duties contained in sections 1 to 8 of this 2015 Act.

SECTION 3. (1) An authority shall be managed and controlled by a board of directors. The initial board of directors shall be appointed by the local government that created the authority. Subsequent directors shall be appointed as provided in this section and the rules adopted by the authority.

(2) The regular term of a member of the board is four years. The board may establish special terms for positions that are shorter than four years for the purpose of staggering the terms of members of the board. Before the expiration of the term of a member, a successor shall be appointed whose term begins on January 1 of the year next following. A member is eligible for reappointment but may serve no more than a total of three terms, including terms shorter than four years. If there is a vacancy for any cause, a new member shall be appointed to complete the unexpired term, subject to the requirements of subsection (3) of this section.

(3) The board of directors must include:

(a) At least one director who is also a member of the governing body of the local government that created the authority;

(b) At least one director who represents the largest municipal corporation within the geographic jurisdiction of the local government that is not a school district;

(c) At least one director who represents the largest school district within the geographic jurisdiction of the local government; and

(d) Subject to the maximum number of directors allowed by the ordinance or resolution establishing the authority, one or more directors who are also members of civic organizations that serve the same geographic jurisdiction as the authority and that have a purpose or mission that aligns with that of the authority.

(4) The board shall hold an annual meeting. The board shall select from among themselves at the annual meeting a chairperson, vice chairperson, secretary, treasurer and other officers as the board determines.

(5) The board shall adopt and may amend rules for calling and conducting its meetings and carrying out its business and may adopt an official seal. All decisions of the board shall be by motion or resolution and shall be recorded in the board's minute book, which shall be a public record. A majority of the directors of the board constitutes a quorum for the transaction of business, and a majority is sufficient to pass a motion or resolution.

(6) The board may employ employees and agents as the board deems appropriate and provide for their compensation. The employees and agents of the authority are not employees or agents of the local government that created the authority.

(7) A director is not entitled to compensation for service on the board of an authority.

SECTION 4. (1) An authority shall have all powers necessary to accomplish the purposes of acquiring, rehabilitating, redeveloping, reutilizing or restoring brownfield properties, including without limitation the power to:

(a) Sue and be sued, plead and be impleaded in all actions, suits or proceedings brought by or against the authority.

(b) Acquire, hold, use, enjoy and convey, lease or otherwise dispose of any interest in:

(A) Brownfield properties within the authority's geographic jurisdiction;

(B) Properties undergoing removal or remedial action under the supervision or approval of the Department of Environmental Quality that are within the authority's geographic jurisdiction; and

(C) Personal property.

(c) Conduct removal or remedial action on real property in which the authority has a property interest under an agreement with the Department of Environmental Quality.

(d) Assist parties that are interested in acquiring a property interest in real property held by the authority with entering into an agreement with the Department of Environmental Quality under ORS 465.327.

(e) Enter into contracts with any person.

(f) Borrow moneys and issue notes and revenue bonds for the purpose of carrying out the authority's powers.

(g) Invest moneys into property, securities or other instruments.

(h) Obtain insurance.

(i) Solicit and accept grants, gifts or other assistance from a public or private source.

(j) Develop and prepare plans or reports to evaluate the authority and to guide future improvements to the processes and operations of the authority.

(k) Develop priorities for the use of property of the authority that may include, but are not limited to, public use, affordable housing, open space and commercial or industrial development.

(l) Adopt and amend ordinances and resolutions.

(2) An authority may establish an advisory committee to advise the board of directors of the authority on the interests of the community in the actions of the board and the authority. If a committee is established, a member of the committee shall serve as a liaison between the board of the authority and a community of interest affected by a decision or proposed decision of the board.

(3) An authority shall give public notice of a proposed disposition of any interest in real property held by the authority. The notice shall allow 30 days for the public to comment on the proposed disposition. The authority shall provide responses to comments prior to final disposition of the property interest.

(4) An authority shall annually prepare and submit a report to the Governor and, in the manner described in ORS 192.245, submit the report to the Legislative Assembly. The report must summarize the activity of the authority, including a list of real properties in which the authority has acquired or disposed of a property interest, the method of acquisition or disposition, the price paid or received for each property and additional information as requested by the Governor, the President of the Senate or the Speaker of the House of Representatives.

SECTION 5. (1) Except as provided in subsection (2) of this section, the debts, obligations and other liabilities of an authority are not a general or other obligation or liability of the local government that created the authority.

(2) A local government may incur debt, including the issuance of bonds under any bonding authority available to the local government, on behalf of an authority created by the local government and, by ordinance or resolution, deem a debt incurred under this subsection to be a general obligation of the local government and a charge upon its tax revenues.

SECTION 6. (1) Except as provided in subsection (2) of this section, an authority, all assets owned by the authority, the income from those assets, and all bonds issued by the authority, together with the coupons applicable to those bonds and the income from the bonds, shall be exempt from all taxation in the State of Oregon.

(2) The real and personal property owned by the authority and leased to a third party shall be subject to property taxation if the property would be subject to taxation if owned by the lessee.

SECTION 7. (1) An authority shall keep a record of the authority's remedial action costs.

(2) Notwithstanding any law to the contrary, an authority may, based on the record compiled by the authority under subsection (1) of this section, bring an action to recover from a person liable under ORS 465.255 or 465.260 the amount of the authority's remedial action costs.

(3) In an action brought by an authority to recover remedial action costs under ORS 465.255 (1) or damages under ORS 468B.310 (1), the court may allow the authority to recover costs, expert witness fees, reasonable attorney fees and prejudgment or preaward interest if the authority prevails in the action.

SECTION 8. (1) Dissolution of an authority may be initiated:

(a) By resolution of the board of directors of the authority, filed with the local government that created the authority, if the board determines that dissolution of the authority is in the best interest of the community served by the authority; or

(b) By resolution of the local government that created the authority:

(A) If, at the time of the annual meeting of the board, board members have not been appointed to fill vacancies on the board as required by section 3 of this 2015 Act; or

(B) If the local government determines that dissolution of the authority is in the best interest of residents within the jurisdiction of the local government.

(2) Within five days after a resolution of the board is filed or a resolution of the local government is adopted under this section, a copy shall be filed with the secretary of the authority, if any, or with any other officer of the authority who can with reasonable diligence be located.

(3) If there are no members of the board of directors of the authority, the local government shall act as or appoint a board of trustees to act on behalf of the authority to develop and implement a plan for dissolution.

(4) Within 60 days after initiation of the dissolution proceeding, a plan of dissolution shall be filed with the office of the clerk of the county in which the authority is located and shall be available for inspection by any interested person.

(5) Upon approval of dissolution by the governing body of the local government that created the authority, the authority shall be declared dissolved. If the local government has not appointed a board of trustees under subsection (3) of this section:

(a) The board of directors shall constitute a board of trustees that shall pay the debts or procure releases of the debts and dispose of the property of the authority; or

(b) The board of directors may designate the local government as the board of trustees for the purpose of winding up the affairs of the authority.

(6) After the affairs of the authority have been fully settled, all books and records of the authority shall be deposited by the board of trustees in the office of the county clerk of the county in which the authority is located. At the same time, the board of trustees shall execute under oath, and file with the local government that created the authority, a statement that the authority has been dissolved and its affairs liquidated. From the date of the statement, the corporate existence of the authority is terminated for all purposes.

SECTION 9. ORS 465.255 is amended to read:

465.255. (1) The following persons shall be strictly liable for those remedial action costs incurred by the state or any other person that are attributable to or associated with a facility and for damages for injury to or destruction of any natural resources caused by a release:

(a) Any owner or operator at or during the time of the acts or omissions that resulted in the release.

(b) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in the release, and who knew or reasonably should have known of the release when the person first became the owner or operator.

(c) Any owner or operator who obtained actual knowledge of the release at the facility during the time the person was the owner or operator of the facility and then subsequently transferred ownership or operation of the facility to another person without disclosing such knowledge.

(d) Any person who, by any acts or omissions, caused, contributed to or exacerbated the release, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.

(e) Any person who unlawfully hinders or delays entry to, investigation of or removal or remedial action at a facility.

(2) Except as provided in subsection (1)(c) to (e) of this section and subsection (4) of this section, the following persons shall not be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, or for damages for injury to or destruction of any natural resources caused by a release:

(a) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in a release, and who did not know and reasonably should not have known of the release when the person first became the owner or operator.

(b) Any owner or operator if the release at the facility was caused solely by one or a combination of the following:

(A) An act of God, "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(B) An act of war.

(C) Acts or omissions of a third party, other than an employee or agent of the person asserting this defense, or other than a person whose acts or omissions occur in connection with a contractual relationship, existing directly or indirectly, with the person asserting this defense. As used in this subparagraph, "contractual relationship" includes but is not limited to land contracts, deeds or other instruments transferring title or possession.

(3) Except as provided in subsection (1)(c) to (e) of this section or subsection (4) of this section, the following persons shall not be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, or for damages for injury to or destruction of any natural resources caused by a release:

(a) A unit of state or local government that acquired ownership or control of a facility in the following ways:

(A) Involuntarily by virtue of its function as sovereign, including but not limited to escheat, bankruptcy, tax delinquency or abandonment; or

(B) Through the exercise of eminent domain authority by purchase or condemnation.

(b) A person who acquired a facility by inheritance or bequest.

(c) Any fiduciary exempted from liability in accordance with rules adopted by the Environmental Quality Commission under ORS 465.440.

(d) An authority that becomes the owner or operator of the facility as authorized in section 4 of this 2015 Act.

(4) Notwithstanding the exclusions from liability provided for specified persons in subsections (2) and (3) of this section such persons shall be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, and for damages for injury to or destruction of any natural resources caused by a release, to the extent that the person's acts or omissions contribute to such costs or damages, if the person:

(a) Obtained actual knowledge of the release and then failed to promptly notify the Department of Environmental Quality and exercise due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances; or

(b) Failed to take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the reasonably foreseeable consequences of such acts or omissions.

(5)(a) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from any person who may be liable under this section, to any other person, the liability imposed under this section. Nothing in this section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this section.

(b) A person who is liable under this section shall not be barred from seeking contribution from any other person for liability under ORS 465.200 to 465.545 and 465.900.

(c) Nothing in ORS 465.200 to 465.545 and 465.900 shall bar a cause of action that a person liable under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(d) Nothing in this section shall restrict any right that the state or any person might have under federal statute, common law or other state statute to recover remedial action costs or to seek any other relief related to a release.

(6) To establish, for purposes of subsection (1)(b) of this section or subsection (2)(a) of this section, that the person did or did not have reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability.

(7)(a) Except as provided in paragraph (b) of this subsection, no person shall be liable under ORS 465.200 to 465.545 and 465.900 for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance or advice in accordance with rules adopted under ORS 465.400 or at the direction of the department or its authorized representative, with respect to an incident creating a danger to public health, safety, welfare or the environment as a result of any release of a hazardous substance. This paragraph shall not preclude liability for costs or damages as the result of negligence on the part of such person.

(b) No state or local government shall be liable under ORS 465.200 to 465.545 and 465.900 for costs or damages as a result of actions taken in response to an emergency created by the release of a hazardous substance generated by or from a facility owned by another person. This paragraph shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the state or local government. For the purpose of this paragraph, reckless, willful or wanton misconduct shall constitute gross negligence.

(c) This subsection shall not alter the liability of any person covered by subsection (1) of this section.

SECTION 10. ORS 466.640 is amended to read:

466.640. (1) Any person owning or having control over any oil or hazardous material spilled or released or threatening to spill or release shall be strictly liable without regard to fault for the spill or release or threatened spill or release. However, in any action to recover damages, the person shall be relieved from strict liability without regard to fault if the person can prove that the spill or release of oil or hazardous material was caused by:

(a) An act of war or sabotage or an act of God.

(b) Negligence on the part of the United States Government or the State of Oregon.

(c) An act or omission of a third party without regard to whether any such act or omission was or was not negligent.

(2) Notwithstanding the provisions of subsection (1) of this section:

(a) A person who has entered into, and is in compliance with, an administrative agreement under ORS 465.327 is not liable to the State of Oregon for any spill or release of oil or hazardous material at a facility that is subject to ORS 465.200 to 465.545 existing as of the date of the person's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327.

(b) A person who has entered into, and is in compliance with, a judicial consent judgment or an administrative consent order under ORS 465.327 is not liable to the State of Oregon or any person for any spill or release of oil or hazardous material at a facility that is subject to ORS 465.200 to 465.545 existing as of the date of the person's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327.

(c) An authority created under sections 1 to 8 of this 2015 Act is not liable to the State of Oregon or any person for any spill or release of oil or hazardous material at a facility that is subject to ORS 465.200 to 465.545 existing as of the date of the authority's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327 for a person that has entered into, and is in compliance with, an administrative agreement, judicial consent judgment or an administrative consent order.

SECTION 11. ORS 468B.310 is amended to read:

468B.310. (1) Any person owning oil or having control over oil which enters the waters of the state in violation of ORS 468B.305 shall be strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by such entry. However, in any action to recover damages, the person shall be relieved from strict liability without regard to fault if the person can prove that the oil to which the damages relate, entered the waters of the state by causes set forth in ORS 468B.305 (2).

(2) Nothing in this section shall be construed as limiting the right of a person owning or having control of oil to maintain an action for the recovery of damages against another person for an act or omission of such other person resulting in the entry of oil into the waters of the state for which the person owning or having control of such oil is liable under subsection (1) of this section.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section:

(a) A person who has entered into, and is in compliance with, an administrative agreement under ORS 465.327 is not liable to the State of Oregon for any entry of oil into the waters of the state from a facility that is subject to the date of the person's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327.

(b) A person who has entered into, and is in compliance with, a judicial consent judgment or an administrative consent order under ORS 465.327 is not liable to the State of Oregon or any person for any entry of oil into the waters of the state from a facility that is subject to ORS 465.200 to 465.545 and 468B.300 to 468B.500 that occurred before the date of the person's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327.

(c) An authority created under sections 1 to 8 of this 2015 Act is not liable to the State of Oregon or any person for any entry of oil into the waters of the state from a facility that is subject to ORS 465.200 to 465.545 and 468B.300 to 468B.500 that occurred before the date of the authority's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327 for a person that has entered into, and is in compliance with, an administrative agreement, judicial consent judgment or an administrative consent.

CONFORMING AMENDMENTS

SECTION 12. ORS 244.050 is amended to read:

244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) The Chancellor and Vice Chancellors of the Oregon University System and the president and vice presidents, or their administrative equivalents, in each public university listed in ORS 852.002.

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

- (H) State Forester.
- (I) State Geologist.
- (J) Director of Human Services.
- (K) Director of the Department of Consumer and Business Services.
- (L) Director of the Department of State Lands.
- (M) State Librarian.
- (N) Administrator of Oregon Liquor Control Commission.
- (O) Superintendent of State Police.
- (P) Director of the Public Employees Retirement System.
- (Q) Director of Department of Revenue.
- (R) Director of Transportation.
- (S) Public Utility Commissioner.
- (T) Director of Veterans' Affairs.
- (U) Executive director of Oregon Government Ethics Commission.
- (V) Director of the State Department of Energy.
- (W) Director and each assistant director of the Oregon State Lottery.
- (X) Director of the Department of Corrections.
- (Y) Director of the Oregon Department of Aviation.
- (Z) Executive director of the Oregon Criminal Justice Commission.
- (AA) Director of the Oregon Business Development Department.
- (BB) Director of the Office of Emergency Management.
- (CC) Director of the Employment Department.
- (DD) Chief of staff for the Governor.
- (EE) Administrator of the Office for Oregon Health Policy and Research.
- (FF) Director of the Housing and Community Services Department.
- (GG) State Court Administrator.
- (HH) Director of the Department of Land Conservation and Development.
- (II) Board chairperson of the Land Use Board of Appeals.
- (JJ) State Marine Director.
- (KK) Executive director of the Oregon Racing Commission.
- (LL) State Parks and Recreation Director.
- (MM) Public defense services executive director.
- (NN) Chairperson of the Public Employees' Benefit Board.
- (OO) Director of the Department of Public Safety Standards and Training.
- (PP) Executive director of the Higher Education Coordinating Commission.
- (QQ) Executive director of the Oregon Watershed Enhancement Board.
- (RR) Director of the Oregon Youth Authority.
- (SS) Director of the Oregon Health Authority.
- (TT) Deputy Superintendent of Public Instruction.
- (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- (i) Every elected city or county official.
- (j) Every member of a city or county planning, zoning or development commission.
- (k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.
- (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- (m) Every member of a governing body of a metropolitan service district and the executive officer thereof.
- (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.
- (p) Every member of the following state boards and commissions:
 - (A) Board of Geologic and Mineral Industries.

was nominated for public office described in subsection (1) of this section at the preceding primary subsection (1) of this section who was not a candidate in the preceding primary election, or who (4) Within 30 days after the filing deadline for the general election, each candidate described in required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as and 244.090.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern- ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070

8 of this 2015 Act.

(u) Every member of the board of directors of an authority created under sections 1 to ORS 352.054.

(t) Every member of a governing board of a public university with a governing board listed in (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

or 777.915 to 777.953.

(r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 (C) Director of the Investment Division.

(B) Chief of staff for the office of the State Treasurer.

(A) Deputy State Treasurer.

(q) The following officers of the State Treasurer:

(FF) Early Learning Council.

(EE) Oregon Growth Board.

(DD) Higher Education Coordinating Commission.

(CC) Capitol Planning Commission.

(BB) Oregon Health and Science University Board of Directors.

(AA) Columbia River Gorge Commission.

(Z) Pacific Northwest Electric Power and Conservation Planning Council.

(Y) Oregon State Lottery Commission.

(X) Oregon Facilities Authority.

(W) Workers' Compensation Board.

(V) Water Resources Commission.

(U) Oregon Transportation Commission.

(T) Oregon Racing Commission.

(S) Public Employees Retirement Board.

(R) Employment Relations Board.

(Q) Board of Commissioners of the Port of Portland.

(P) Energy Facility Siting Council.

(O) Mass transit district boards.

(N) State Marine Board.

(M) Oregon Short Term Fund Board.

(L) Oregon Liquor Control Commission.

(K) Land Conservation and Development Commission.

(J) Oregon Investment Council.

(I) State Board of Higher Education.

(H) Oregon Health Policy Board.

(G) Oregon Government Ethics Commission.

(F) State Board of Forestry.

(E) Fish and Wildlife Commission of the State of Oregon.

(D) Environmental Quality Commission.

(C) State Board of Education.

(B) Oregon Business Development Commission.

election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350.

UNIT CAPTIONS

SECTION 13. The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.

Passed by House June 4, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 23, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State

STATE OF THE SANDY



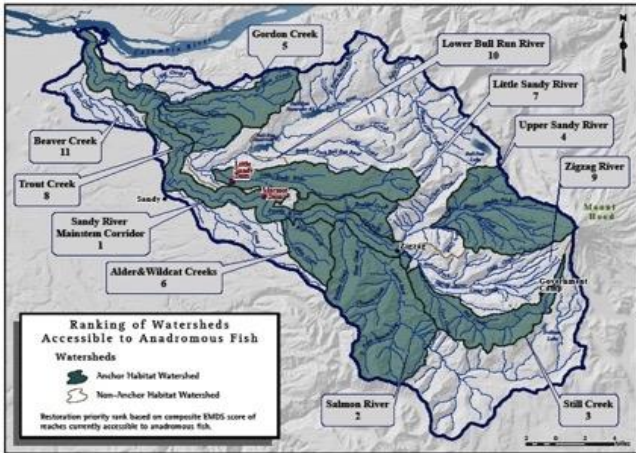
**Sandy River Basin
Watershed Council**
Working together to restore the Sandy River

Bolstering Resiliency in a Decade of Post-dam Restoration

Steve Wise
Katherine Cory
October 15, 2018
Sandy City Council



SANDY RIVER
watershed council



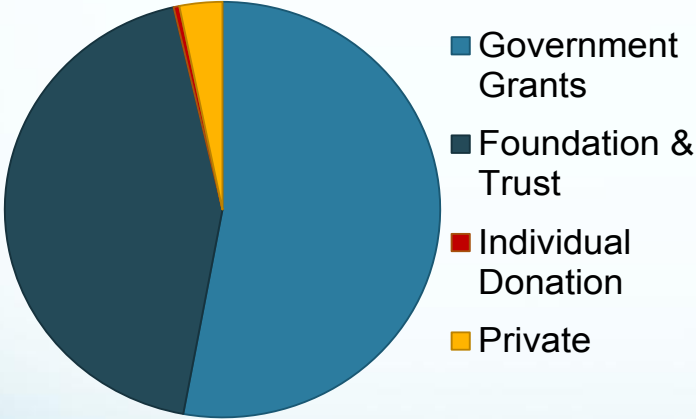
Mission—To restore and protect the natural, cultural, and historic resources of the Sandy River basin

Photo: Josh Kling, Western Rivers Conservancy



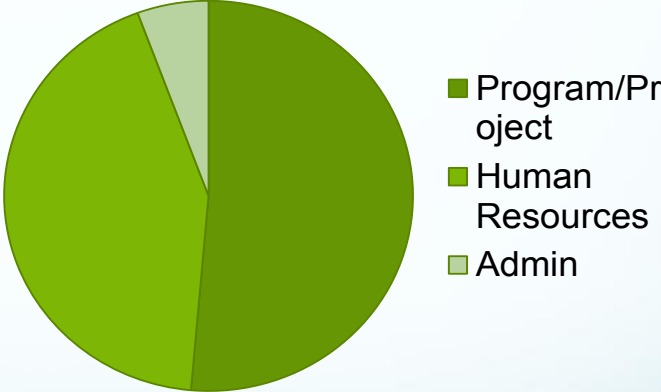
SRWC 2017 Funding

Income



\$629,219.61

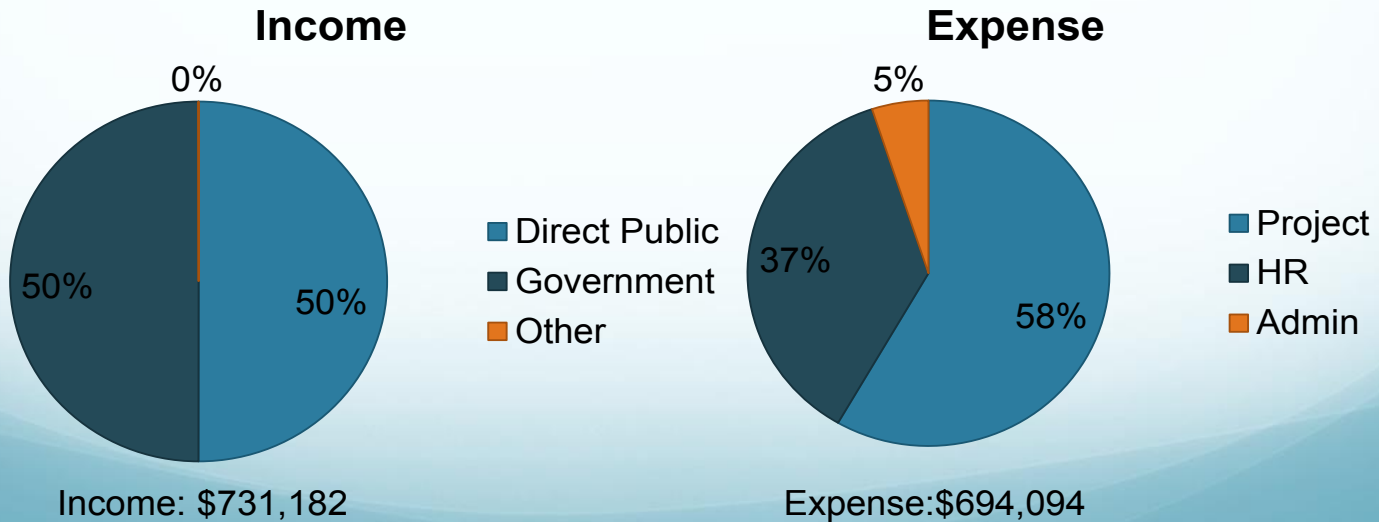
Expenses



\$602,289.60

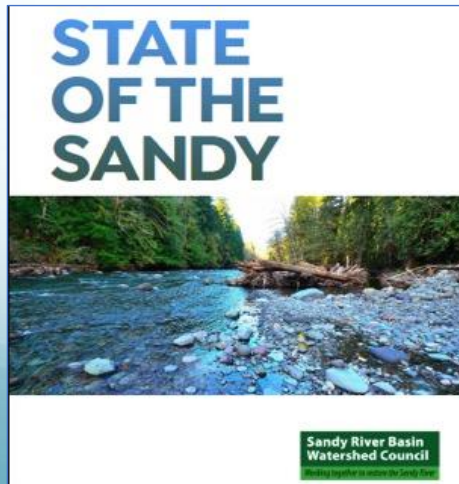
SRWC 2018 YTD

- Current bank balance: \$160,733.40
- Accounts receivable: \$119,320
- Approaching \$1M/yr including project expenses



State of the Sandy

- 10 year progress review: Dam removal; restoration; fish; people
- 'Seven steps' toward a healthy future

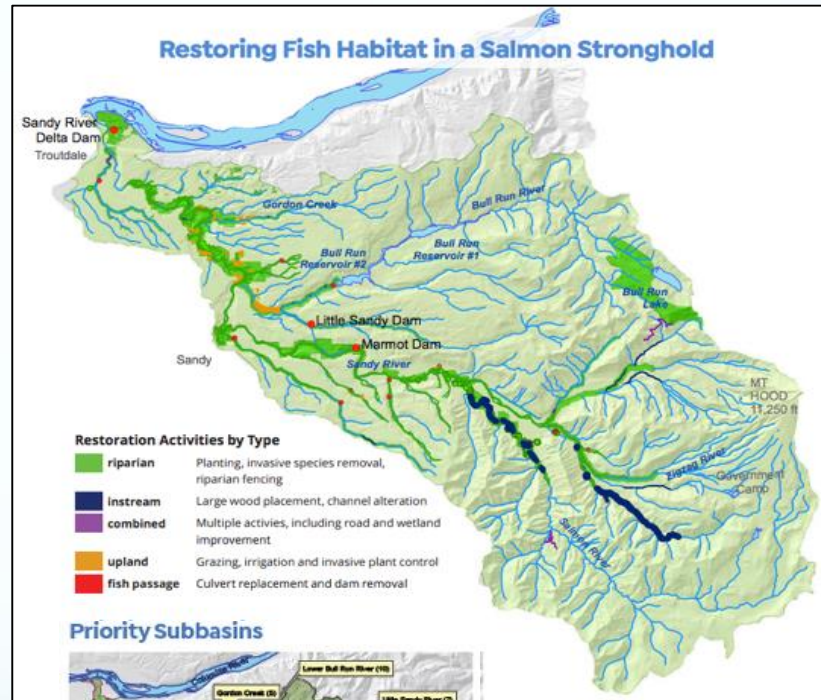


Sandy Undammed



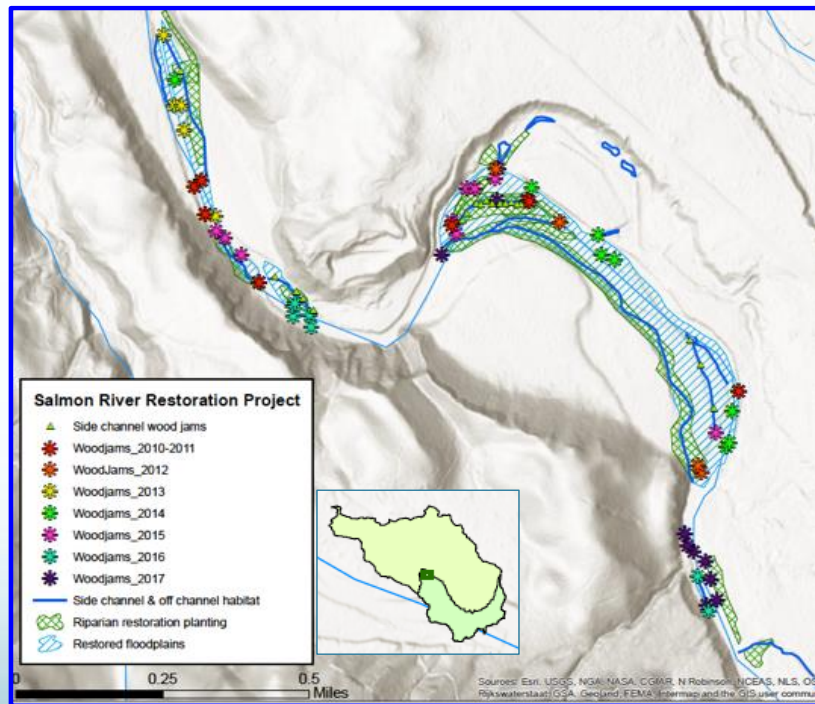
Restoration Actions

- Prioritized sub-basins
- Actions addressing limiting factors
- In-stream complexity, riparian, passage/floodplain connectivity, others



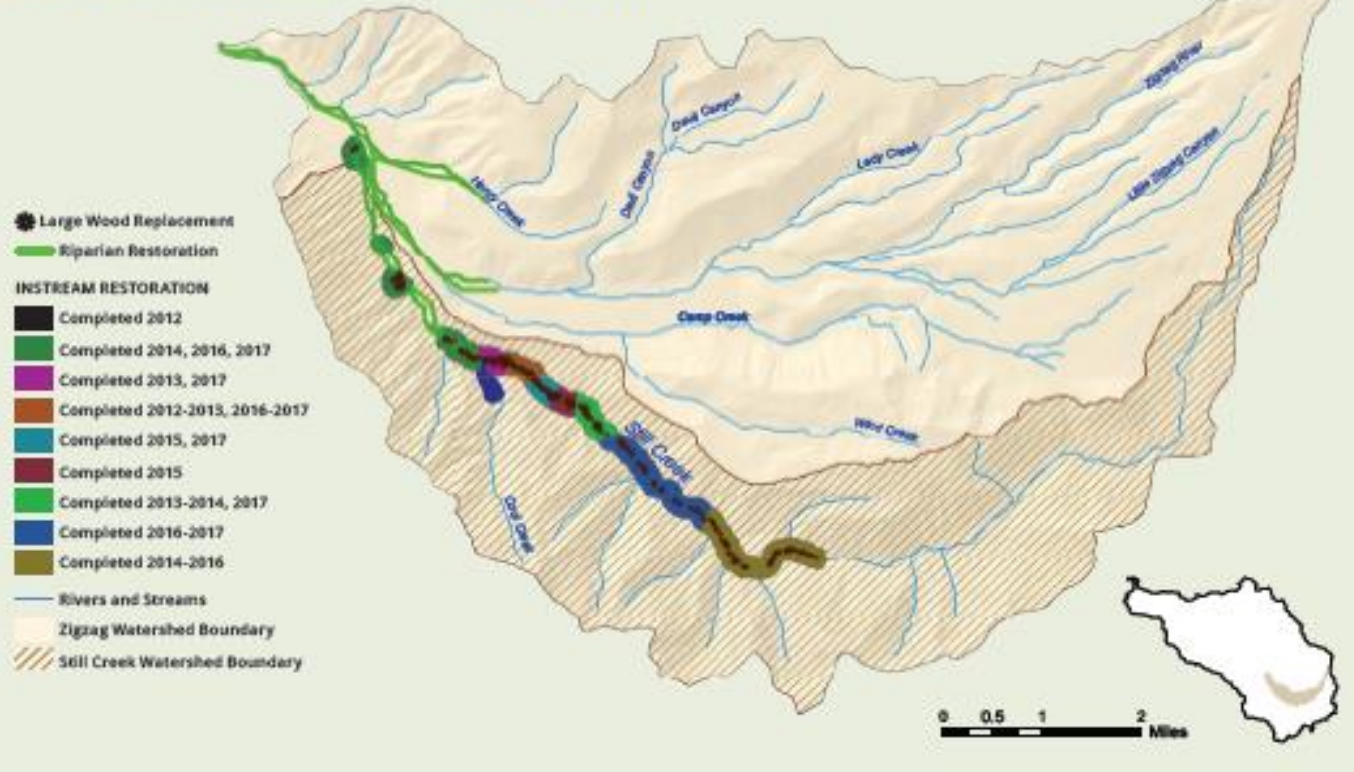
Subbasin Priority: **Salmon River**

- 2.1 side channel miles restored in 2.5 mile reach
- 67 logjams, ~2000 large wood pieces
- Increased juvenile, spawning densities



Subbasin Priority: **Still Creek**

Still Creek Restoration 2012-2017

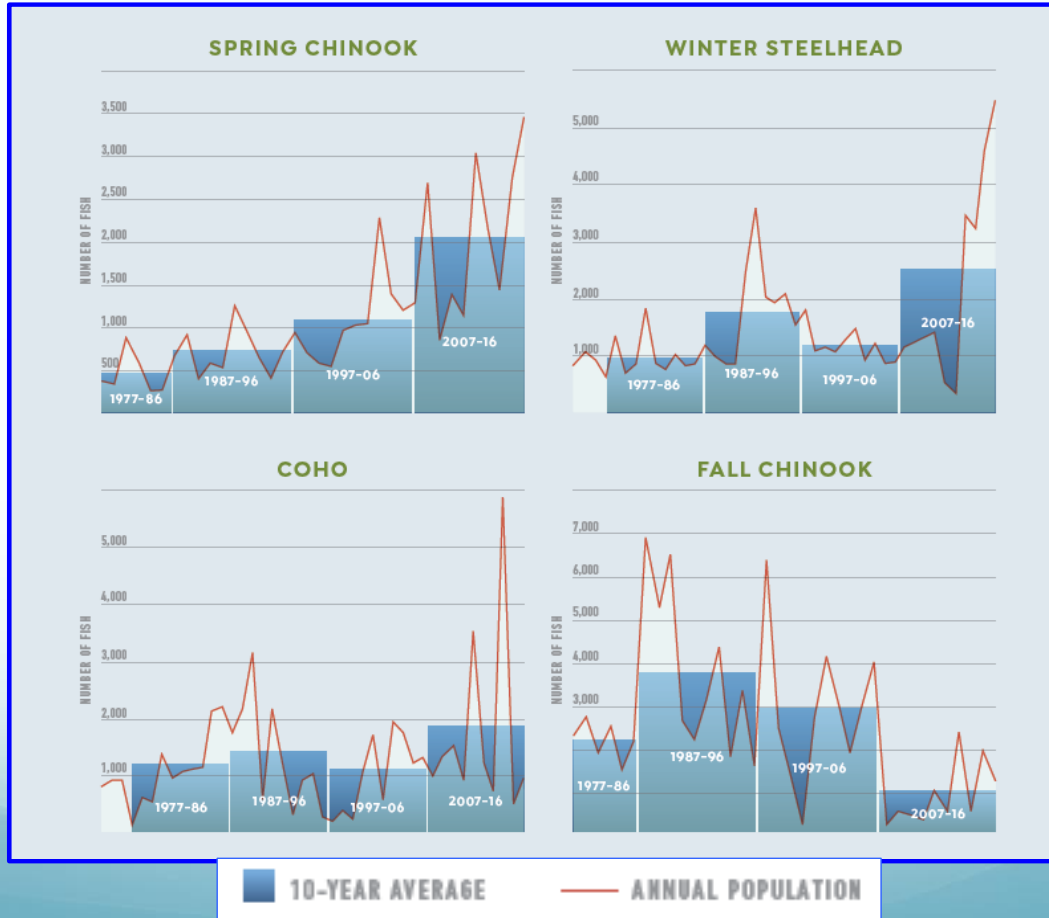


Monitoring:
Biological (+ social) Response



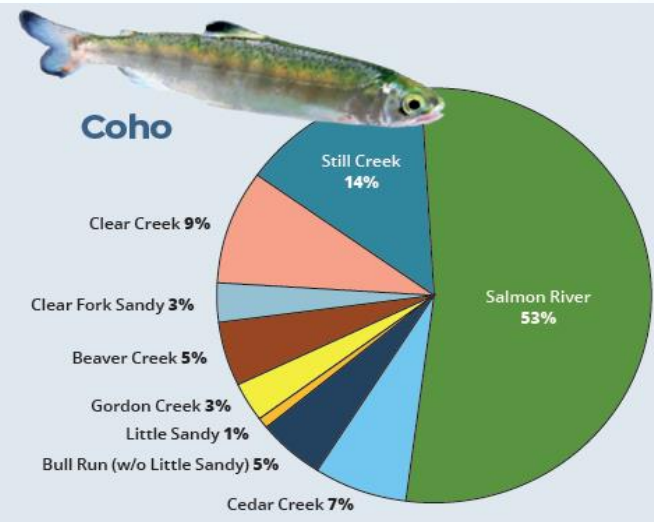
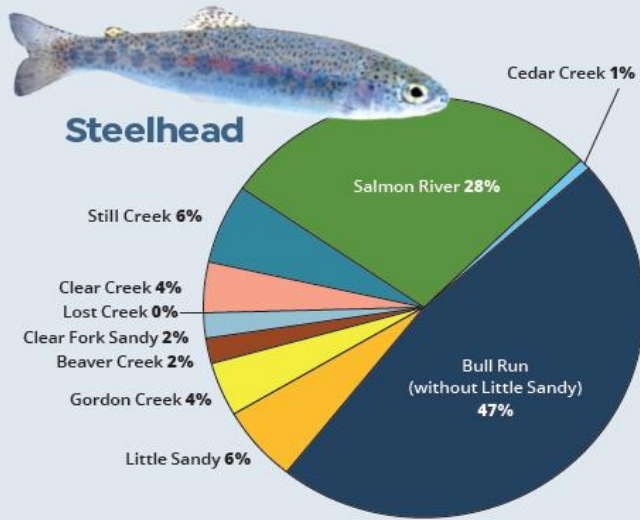
Columbia Land Trust
CONSERVING THE NATURE YOU LOVE

'Fish? Don't Go There'



'Fish? Don't Go There' pt 2

Where are Smolts Coming From?



People, Culture, Conservation



SRWC 2018 Activities



Lower Sandy River Floating Cleanup

50 participants, ~750 lb of trash, 2 tires, and 1 negative pregnancy test

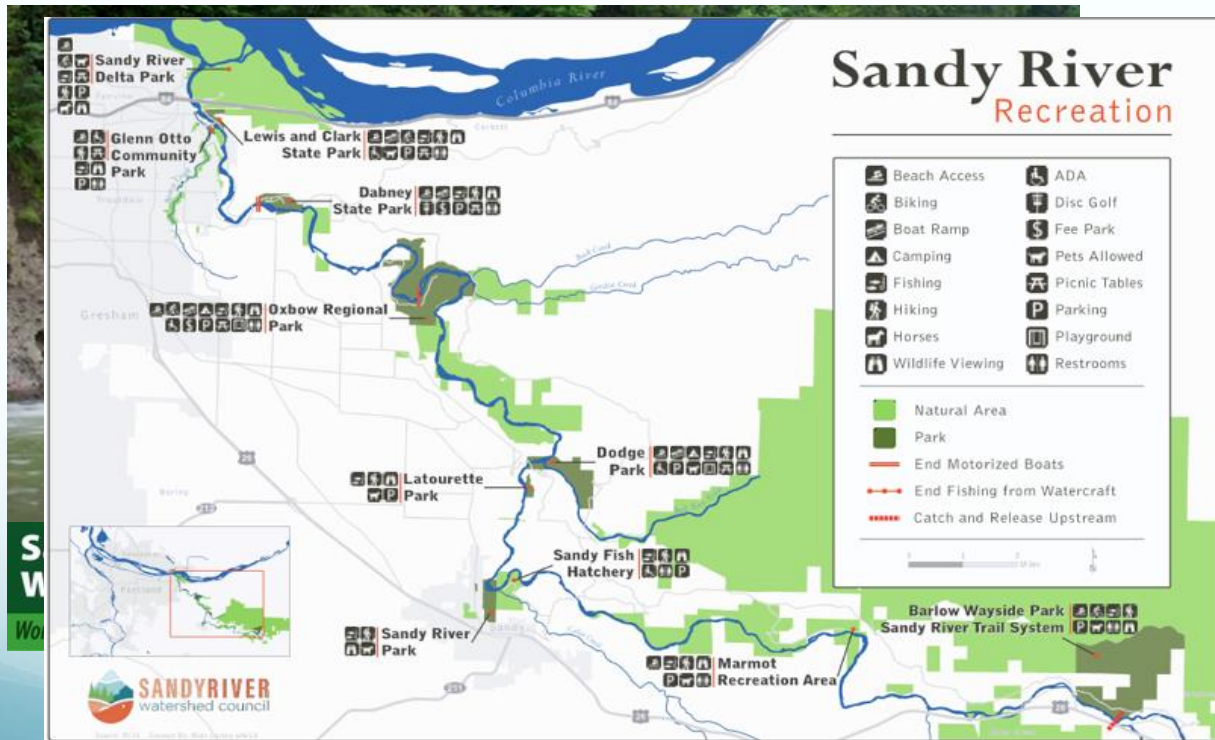
YTD	2018	2017
Volunteers	3642	2237
Events	74	55



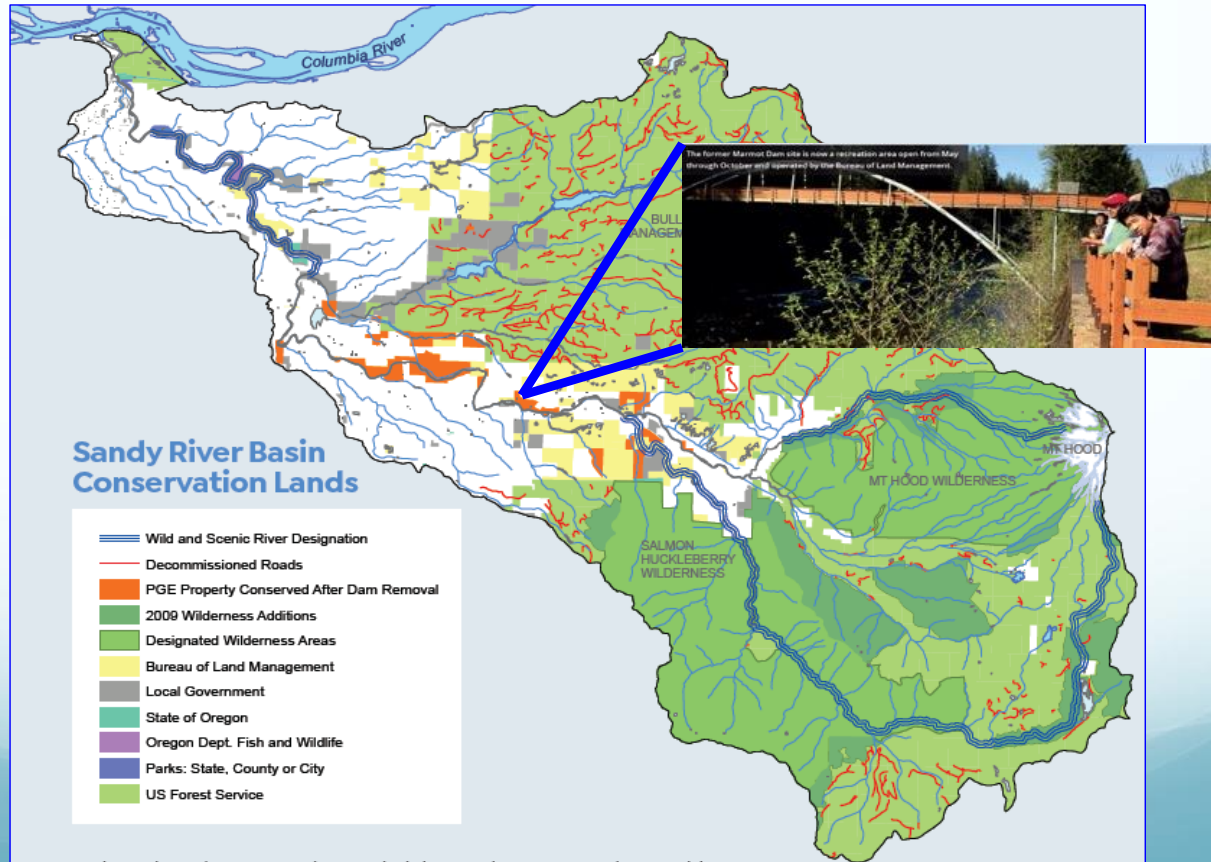
Timberline Cleanup

75 volunteers,
1000lb of trash
(or 2 tons?!)

Conservation Oriented Recreation guide

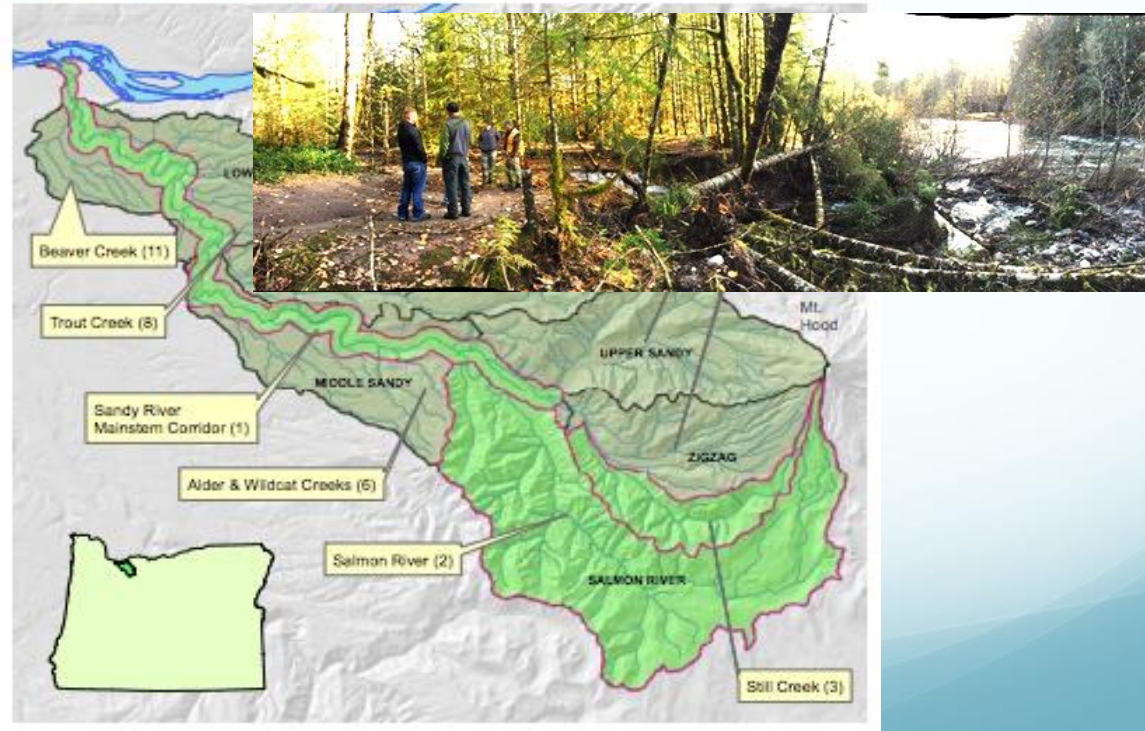


Conservation Lands

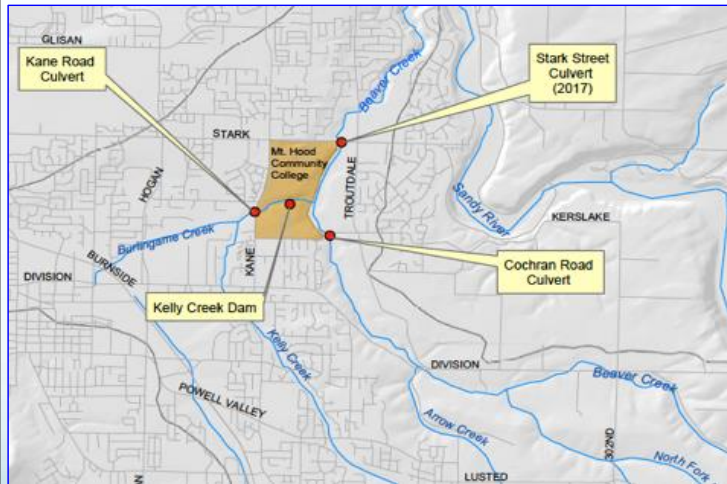


Seven Steps:
Next Priority Restorations

Priority Subbasins

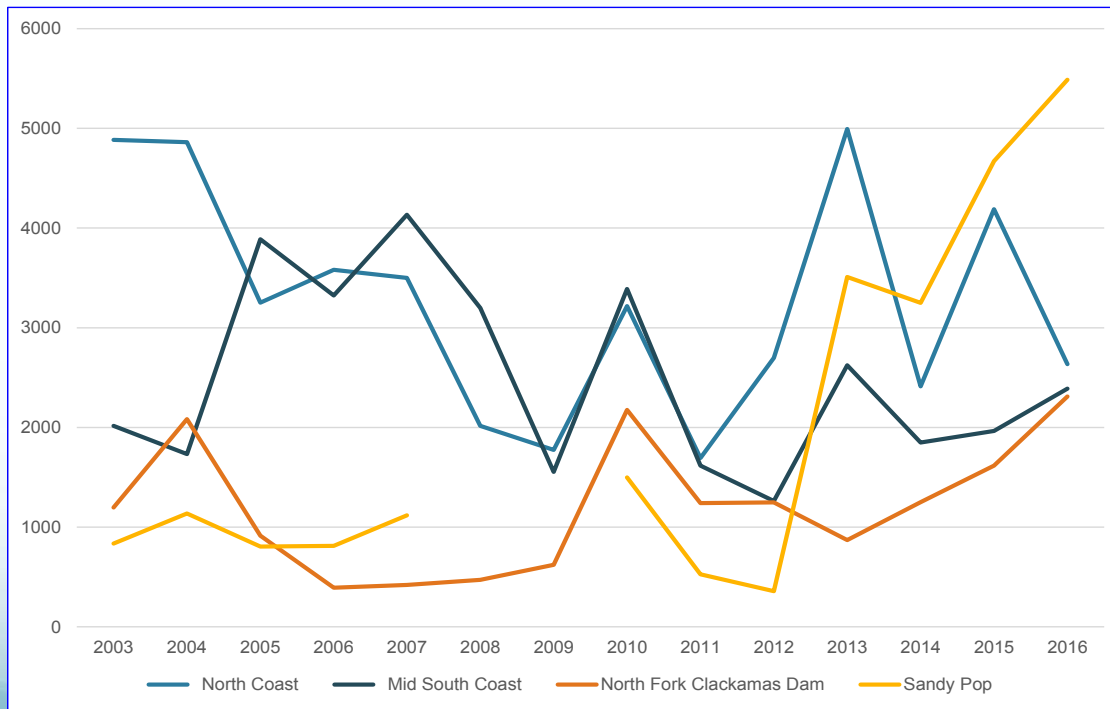


Seven Steps: (More) Rites of Passage



Imagine Salmon...

Seven Steps:
Digging Into Sandy Science

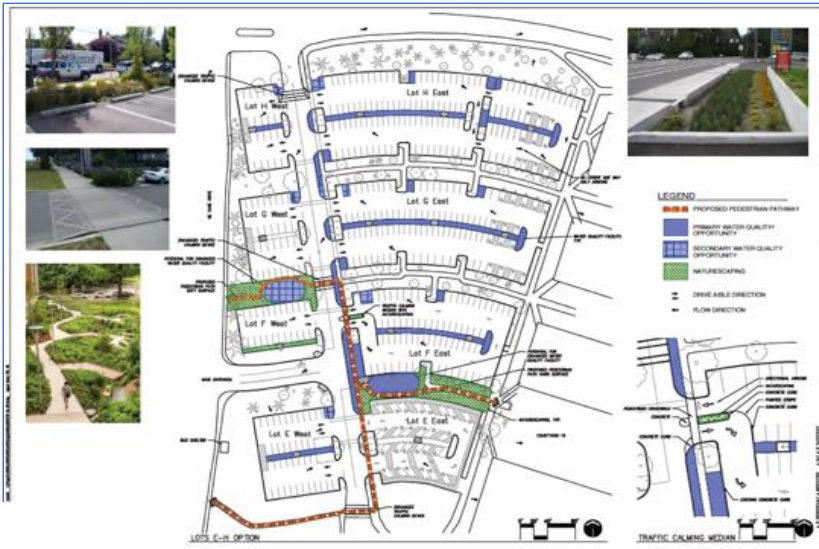


Steelhead Comparison
(ODFW adjusted proportional data)

Seven Steps: Coping with Urban Impacts



- Legend**
- Projects**
- Bioretention
 - Bioretention/Perm Pavement
 - Complete Street
 - Courtyard Demonstration
 - Green Roof
 - Naturescape
 - Other
 - Pedestrian Corridor Demonstration
 - Permeable Pavement
 - Regenerative Storm Conveyance



MHCC Salmon Safe Retrofit
 24 projects
 1 Billion gallon 30-year *(capital infrastructure)* intercept goal

MHCC Retrofit Updates

- Parking lots E & F retrofit complete
 - Council tour 10/26 5-6 pm



Source: LinkedIn (shared from MHCC) (download from project) (copyright) support MHCC educational opportunities



MHCC to help the environment one rain garden at a time

College parking lots get salmon-friendly improvements

By TERESA CARSON
The Oklahian

Students coming to Mt. Hood Community College this fall might notice some changes in the main parking lots designed to make the campus healthier for salmon and the environment.

"MHCC's salmon safe project and its partners are making a big difference for Beaver Creek and the Sandy River with these retrofits," said Sandy River Watershed Council Executive Director Steve Wain. "A few small steps for the campus lead to a great leap forward for salmon, clearing millions of gallons of water into the future."



Construction to make parking lot runoff cleaner at Mt. Hood Community College will be completed by Monday, Sept. 24, when students come back to school.

Called the Sandy River Watershed Council

certification is 1.6 million gallons of water will be cleaned every year by this

"MHCC's Salmon Safe project and its partners are making a big difference for Beaver Creek and the Sandy River with these retrofits."

— Steve Wain, Sandy River Watershed Council executive director

plants will be planted in the rain gardens and bioswales.

This is part of the college's work to maintain its Salmon Safe certification. MHCC is the first certified Salmon Safe community college in the state.

To maintain certification, the college must stick to best practices in wastewater management, pest control, asbestos and mold/moisture control, water conservation and energy

- Planting 10/27 9 am
- Impact: **~2MGals/yr = 1 year's total annual runoff** over 30-yr capital lifecycle

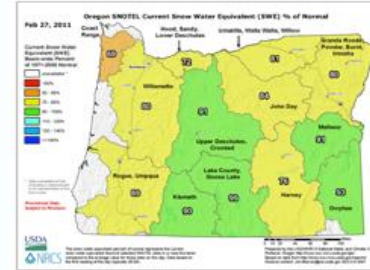
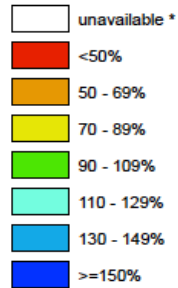
- New Leadership (*your neighbor Lisa Skari*)



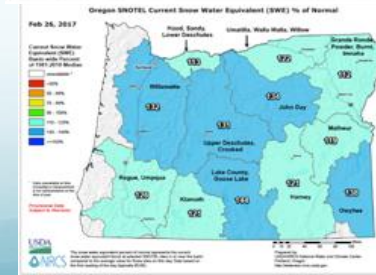
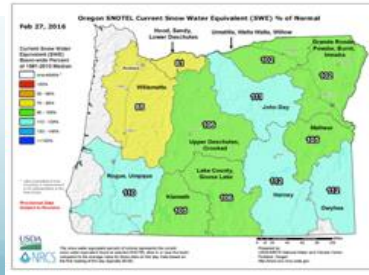
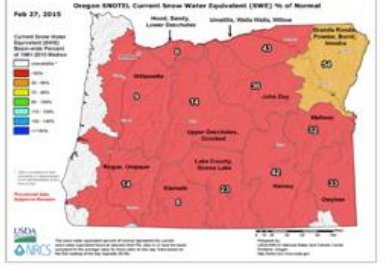
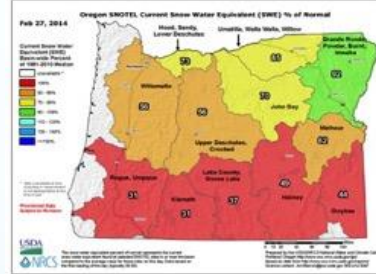
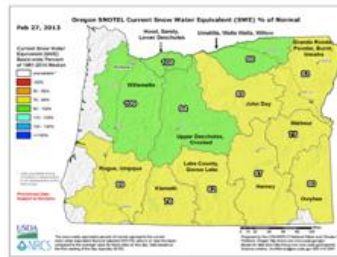
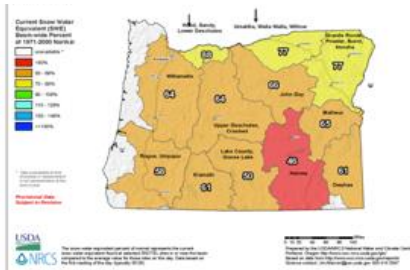
Seven Steps:

Climate Adaptation

Current Snow Water Equivalent (SWE) Basin-wide Percent of 1981-2010 Median

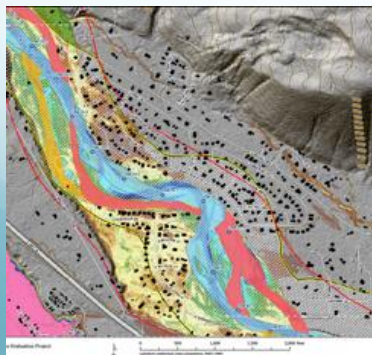
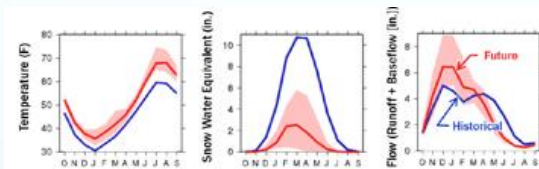


TEL Current Snow Water Equivalent (SWE) % of Normal



Hydrology 2080

- Shifting snow levels – 8% snow dominant vs 45% current
- 20+% increased storm intensity
- Additional debris from retreating glaciers
- Infrastructure risk: 450 houses w/in channel migration hazard zone



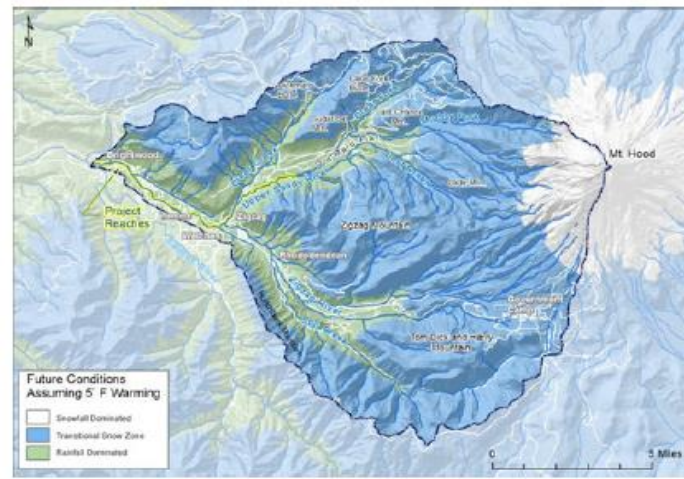
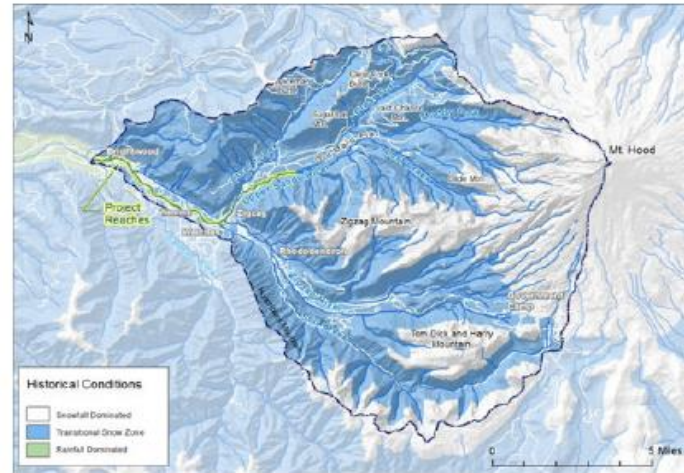
DOGAMI (2011) Channel Migration Hazard Delineation from Open File Report O-11-13

- Channel Migration Zone (CMZ)
- Historical Migration Zone (HMZ)
- Avulsion Hazard Zone (AHZ)
- Erosion Hazard Area (EHA)
- Disconnected Migration Area (DMA)

CMZ = HMZ+AHZ+EHA-DMA

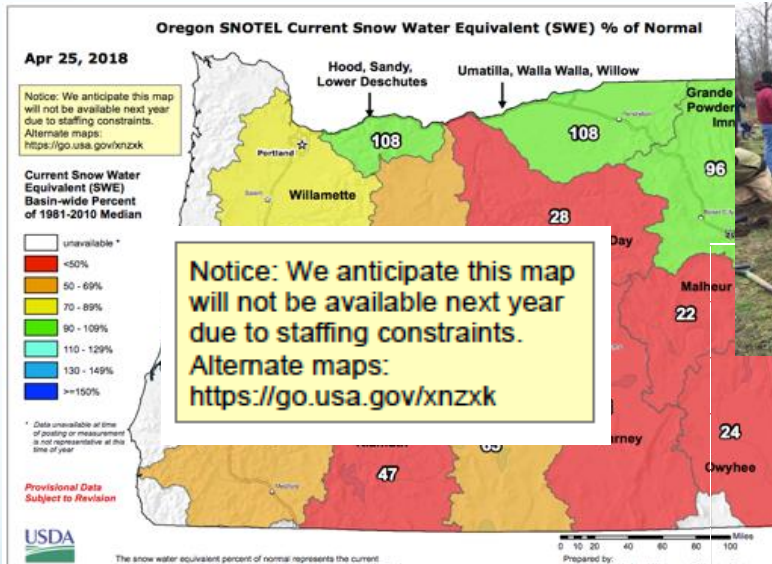
Natural Systems Design Delineation (2014)

- Channel Migration Zone (CMZ)
- Avulsion Hazard Zone (AHZ)



Upper Sandy River Flood Erosion Hazard Mitigation Evaluation

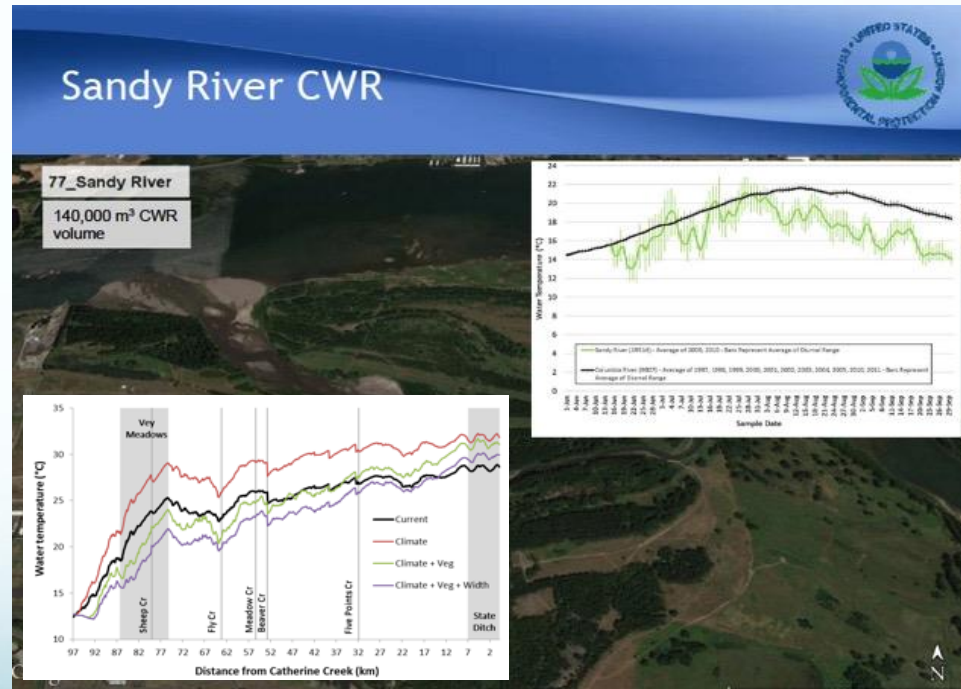
Seven Steps: Climate Adaptation This Year



2 01 Nov 01 Dec 01 Jan 01 Feb 01 Mar 01 Apr 01 May 01 Jun 01 Jul 01 Aug 01 Sep 01

Cold Water Refuge

- EPA study: Sandy 2-3 degrees cooler than Columbia
- CRITFC study: intensive instream +riparian planting can temper climatic stream heating
- SRWC Climate Adaptation workshop 11/13 9-1



Median temperature change
(Climate + Veg + Width) = -2 °C
Justice, White and McCullough



Seven Steps:
Not Just for Fish

44

Rare, Threatened,
and Endangered
Species known in
the Sandy



Yellow-billed cuckoo



Seven Steps:

Fellowship of the Undammed

	2017	2016
Volunteers	2994	1834
Events	82	37
Value	\$125,712	\$94,942



Thank You / For More Info

www.sandyriver.org



@sandywatershed

Steve Wise
swise@sandyriver.org
503-622-9134



OCTOBER 15, 2018

TO: SANDY CITY COUNCIL
FROM: TOM ORTH
RE: File No. 18-039 DCA

I have not received notice of the proposed amendment(s) and I am an affected landowner.

COMMENTS ON ORDINANCE 2018-29

Chapter 17.82

The proposed amendments try to clarify that the chapter is only applicable to residential dwellings constructed on collector and arterial streets. Some but not all references to transit streets have been eliminated. When the chapter was originally crafted it was intended to regulate the orientation of commercial structures on transit streets. It was also interpreted to apply to residential structures on transit streets.

When the Sandy Style regulations were added in 2008, instead of modifying or eliminating this chapter a clause (cut and paste) was included on the chapter title specifying that the regulations only apply to residential development. Staff is now proposing amendments to the chapter to delete all references to commercial development. As the City Council considers these amendments to the chapter, it would seem prudent that the Council consider the intent of these regulations and whether they are good policy or not. The staff report has not evaluated the historical context or the pros and cons of these regulations.

Subdivision design is controlled by a variety of often competing and conflicting regulations. Section 17.100.220(E) limits lots from gaining direct access to collector and arterial streets. In order to comply with these regulations, lots directly abutting collector or arterial streets are provided access by an internal local street or alley. This scenario is further complicated by Section 17.100.220(D) which also limits double frontage lots.

E. Lots shall avoid deriving access from major or minor arterials. When driveway access from major or minor arterials may be necessary for several adjoining lots, the Director or the Planning Commission may require that such lots be served by a common access drive in order to limit possible traffic hazards on such streets. Where possible, driveways should be designed and arranged to avoid requiring vehicles to back into traffic on minor or major arterials.

D. Double frontage lots shall be avoided except where necessary to provide separation of residential developments from arterial streets or to overcome specific disadvantages of topography or orientation.

The main problem with the requirements in Chapter 17.82 is that because direct access cannot be provided from the collector or arterial street, homes designed on these streets require two front doors and two front porches. The result is that what would typically be the backyard is turned into a quasi-front entry. Since parking is also often limited on collector and arterial streets the pedestrian walkway required to be constructed through the backyard essentially becomes unnecessary for pedestrian access and not wanted by the property owner.

The disadvantages of creating lots with two front doors on larger lots far outweigh any benefits. The backyard of a large lots should be a place of privacy where kids and animals can play and gardens constructed, not a place bisected by a walkway providing access to the general public though the private backyard. In addition, city code can be interpreted to limit the height of fences along this frontage.

Numerous examples exist in town where this regulation has been required on large lots and has not worked as intended. It is not uncommon for a home builder to construct the home on these lots as required with the two front entries only to have the home owner construct taller fences, close gates, and limit pedestrian access through their backyard. This is understandable in that the homeowner desires to provide a private and secure backyard area and this gate/walkway limits this privacy. In these cases, the City has a choice to either overlook the modifications or initiate a code enforcement issue to enforce the regulations on often unaware and aware property owners who are likely adamantly opposed to these regulations.

There may be limited circumstances when requiring a front door and pedestrian access on a collector or arterial street is a good idea. These circumstances typically occur in the Villages where high density single family development is located and where dwellings are accessed by an alley rather than a local street.

CONCLUSION: I don't feel that staff has presented an evaluation of the pros and cons of these regulations. From a builder's, developer's and homeowner's perspective, the cons of the adopting these regulations far outweigh any benefits. As such, rather than simply modifying these regulations I suggest that they be eliminated entirely or at a minimum modified to be only applicable within Villages for high density development provided with alley access.

Chapter 17.102

The changes proposed to the chapter are the most concerning and potentially costly to developers and homeowners. The online code for this chapter is also previously very confusing in that staff comments had been shown in the margins which often

conflicted with the proposed changes. These comments seem to indicate that the proposed changes are based on regulations in the City of Portland, Lake Oswego, and Gresham. It is common knowledge that the tree regulations in the city of Portland and Lake Oswego are known to have the most restrictive and costly regulations in Oregon.

Council and staff may not be aware that the current version of Chapter 17.102 was guided an Urban Forestry Committee that was assembled for this purpose and this process took more than a year working on these regulations. The current amendments do not appear to have utilized a similar process or input. A review of the PC hearing video for September 24, 2018 reveals that this meeting was more of a work session with no input offered by the public. Perhaps no one is aware of the changes?

Within the last year or so city planning staff have interpreted tree protection regulations differently than has been done since Chapter 17.102 was adopted in 2002. Staff has also included language from Chapter 17.92, Landscaping & Screening to further regulate trees. This language is very broad and has been interpreted to require additional tree protection. It should be noted that these regulations were never intended to regulate tree protection as this was the purpose of creating Chapter 17.102, Urban Forestry.

The staff report included with these amendments does not review any of this history nor does it explain what the purpose is in bringing forward these amendments. What is the problem they are trying to solve? Where the current code only regulates trees 11-inches and greater on properties greater than one acre, the proposed code appears to require an inventory of trees six inches and greater on properties 0.5 acres or greater. The proposed amendments also change the protected area along Tickle Creek from 70 feet to 80 feet, which conflicts with the requirements of Chapter 17.60, FSH Overlay. The only explanation for this change is that it is to align with state law. The amendments extend the area a property owner is required to inventory to 25 feet beyond the property boundary. Obtaining permission to inventory trees on an adjoining property is a tricky requirement. The Planning Commission and Staff seem to have the impression that as long as developments meet the **minimum density requirements**, there is no harm caused. I disagree. **Staff has indicated that they will not approve mitigation variances to cut the trees to get more than the minimum number of lots.**

The most concerning change is to Section 17.102.50, Tree Protection Requirements, which more than doubles the tree retention requirements(100% increase) and reduces the size of one-half of retained trees to 8 inches. There is no explanation as to why trees six-inches and greater are required to be inventoried but only trees 8-inches and above are regulated. This section also requires that retained trees be placed in a conservation easements or tree retention tract. More taking of land.

A few other changes in the proposed code include a statement that, “retained trees shall not be nuisance species”, but no definition of “nuisance species” is included. Tree protection measures are also significantly modified by increasing the size of the tree protection area from 10 feet from the trunk to five feet beyond the dripline of the tree. This requirement will make developing houses on the lots even more difficult.

CONCLUSION: As noted above, the staff report does not articulate the purpose for or problem trying to be solved with the proposed amendments. These amendments will significantly change the tree inventory, retention, and protection requirements in the city and will add considerable cost and burden to land development project. Property owners with large parcels wanting to subdivide their property may end up losing several lots because of these regulations. The applicable property size has been reduced from greater than one acre to greater than one-half acre. Because of this and because these regulations will restrict the private property rights of property owner’s with trees on their property, notice of the proposed amendments should be cast widely (ie., Measure 56 Notice). This doesn’t appear to have occurred. In addition, if the city would like to move forward with changes to this chapter, the Council should consider assembling a committee of citizens and stakeholders similar to what was done previously who can provide citizen input in developing these regulations.

Measure 56:

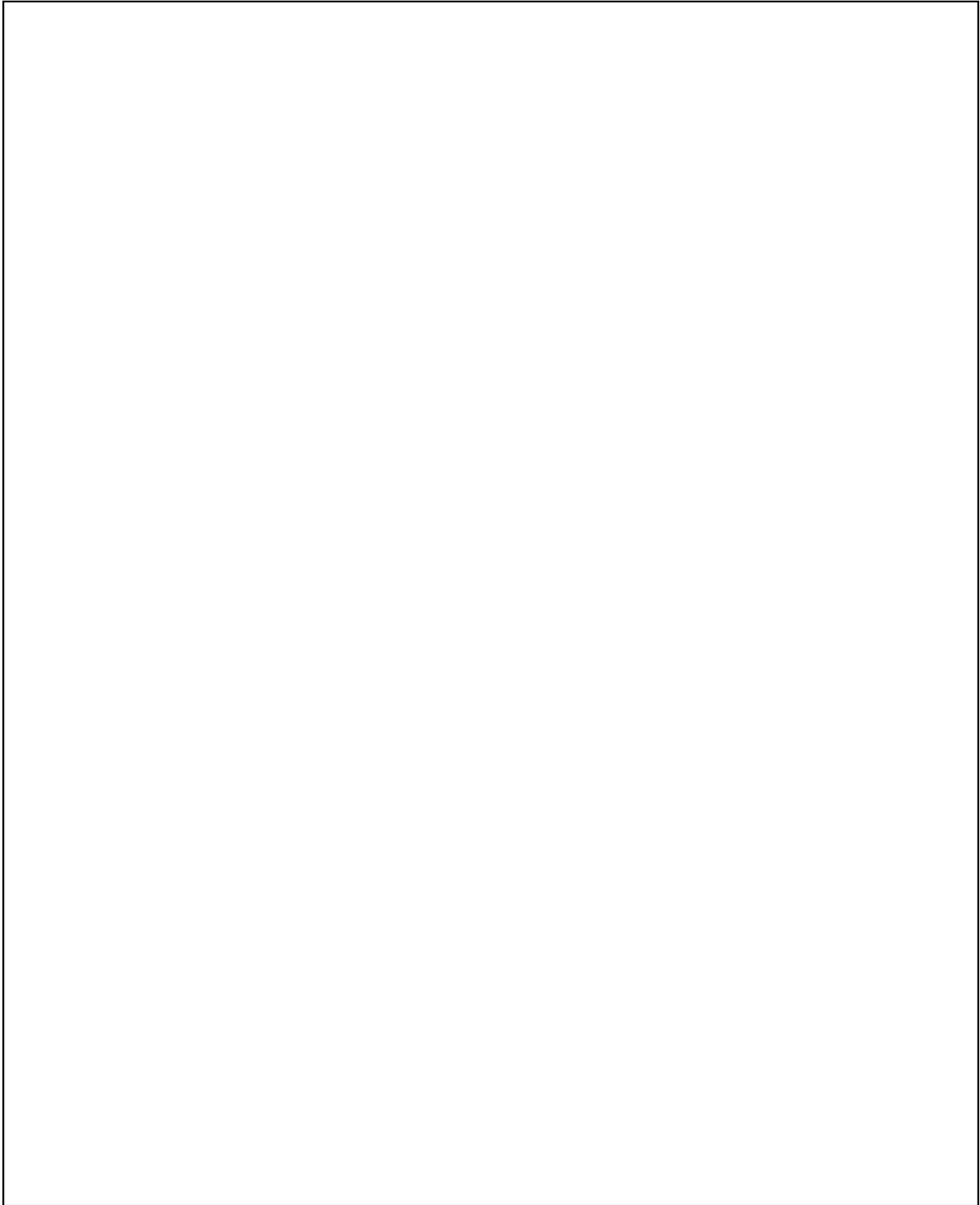
*When state planning laws or rules that might cause property to be rezoned are changed, a two-step notification is required. The state, through DLCD, must first notify every local government about the change. The local government must then mail a copy of DLCD's notice to every landowner whose property might be 'rezoned.' Each local government is required to make a decision about whether to mail the notice to any of the landowners in its jurisdiction, and if so, which ones. 'Rezoning' occurs when the governing body of a county or city: "Changes base zoning classifications of the property; **OR adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone."***

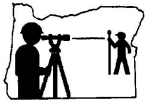
The City of Portland, City of Gresham and Multnomah County all mail notices to affected land owners.

I herein request that the Sandy City Council votes for a continuance to a later date so as to incorporate public input.

Thank you,

Tom Orth





All County Surveyors & Planners, Inc.

PO Box 955 • Sandy, Oregon 97055 • Phone: 503-668-3151 • Fax: 503-668-4730

October 15, 2018

City of Sandy
City Council

RE: Code Changes to 17.102 Urban Forestry

Dear Mayor and City Council.

I just recently found out about the proposed code changes that are going to be discussed at the hearing tonight. Our firm was not notified or asked for any input. We work with other Cities and Jurisdictions all the time that ask us for early input on code revisions. We would be more than happy to review drafts and provide input on future code revisions.

Regarding the proposed revisions to Section 17.102, I have the following concerns:

- 1) Staff has indicated that the revisions to this code will not have a "Financial Impact". I strongly disagree. The proposed changes will increase the number of trees that need to be saved on private property. Staff wants these trees to be placed in unbuildable tracts or conservation easements. This will reduce the density of developments. There will be a financial impact to the City, developer, land owner, and future homeowners. The City will miss out on permit fees, SDC fees, utility fees and property taxes. The loss of one lot to the City would be hundreds of thousands of dollars over time. The developer will have to pay less for the property, so the current owner will make less money. The construction costs will remain the same but there will be less lots, so the developer will have to spread that cost over the remaining lots. This will increase the cost per lot. That additional cost will be paid for by the homeowner. The homeowner will have to save money to pay to maintain the private tree tracts. If trees are in poor health, an arborist will need to be hired and the tree will need to be removed. This could be a few thousand dollars for just one tree. The City will then charge them for the tree that was removed to plant mitigation trees. I just don't understand how there will be no financial impact.
- 2) The proposed "private tracts and conservation easements" are a bad idea. Why would we want to create un-buildable tracts and easements on private buildable land? Staff made it clear at the Planning Commission meeting that they will not be granting variances to this code as long as the minimum densities are achieved. If this is the case, there could be a 37% reduction of lots on R1 buildable land. This will only force the UGB and City limits out sooner. Has staff and legal counsel addressed the requirements in Measure 56? The proposed changes to this chapter will "limit" land uses previously allowed. The City has an obligation to everyone (including property owners) to make them aware of proposed code changes that may limit development of their property. It was obvious, based on the turnout at the Planning Commission, that no one was notified directly of the proposed changes. Transparency in decision-making is a critical component of the City's Comprehensive Plan and the failure to provide such notice, may leave the City exposed to defending a LUBA appeal, should one property owner not be given a fair opportunity to participate.

Affiliated: Professional Land Surveys of Oregon • American Congress of Surveying and Mapping

- 3) There will be unexpected future problems with private tree tracts. Has anyone really thought this through? Sandy currently has a problem with the homeless and drug addicts. These new tree tracts will be an attractive place to hang out. There will be no lights, so it will be a great place not to be seen. These areas could end up being dangerous. It will be up to the adjacent homeowners or HOA's to deal with. Do the people of Sandy want to take on this responsibility and the added expense? I think the people of Sandy need to be part of this discussion.
- 4) Six- to eight-foot-tall mitigation trees in backyards and open spaces don't survive. This has been proven in the Zion Meadows Subdivision. To start a tree of this size, it will need a lot of water and care. If a new homeowner does not want the tree, it will not survive. If you create a tree tract for mitigation trees, they will not survive either without a lot of care. A 6" to 12" seedling would do better, they pop up in my yard all the time with no water or care needed. Rather than trying to dictate what trees to save with development, let the people landscape their yards as they see fit. They will take pride in what they plant, rather than trying to force something on them that Staff thinks they want. Ask anyone in the Zion Meadows subdivision if they want that protected tree or mitigation tree in their back yard.
- 5) It is difficult to protect trees or groups of trees in the middle of a mass graded construction site. Most developments require extensive grading for streets and utilities to meet code requirements such as block length, intersection spacing, planned street locations, street grades and ADA requirements, not to mention grading the lots so they are buildable. All this grading activity is detrimental to trees. If you allow the random location of trees to control new improvements, you will end up with inefficient and poor layouts that will fly in the face of good land use planning.
- 6) Staff is relying on Chapter 17.92 "Landscaping and Screening Standards" to help justify the size of trees to be protected in subdivisions. I have been doing land use planning in the City of Sandy for over 20 years, and not once have I ever had to address 17.92 with a subdivision application. Section 17.92 was not written or intended to protect trees in residential subdivision developments. That is why the City adopted Chapter 17.102 in the first place. I have addressed this section of the code numerous times with site development projects that require landscaping. In current subdivision applications, Staff is now requiring this section of the code to be met. 17.92.10.C. States "*Trees of 25-inches or greater circumference measured at a height of 4-½ ft. above grade are considered significant.*" and "*...should be preserved to the greatest extent practicable...*" A 25-inch circumference tree is 7.96-inches in diameter. Over the past 20 years, previous City planning staff and I have assumed the word "circumference" was a typo, and should have said "diameter". A 25-inch diameter tree is "significant", a 7.96-inch tree not so much. I disagree with how staff is interpreting this code and I would like City Council to give there opinion on this matter, as it affects current land use applications.

There are plenty of opportunities to protect and plant trees in Sandy. The development code already protects steep slopes, creeks and wetlands. These areas are not buildable and would be a great place to protect and plant trees. Also, the number of street trees could be increased, and more trees could be planted in public parks. New subdivisions already pay a hefty park fee at the time of plat, and then pay when the building permits are pulled. A 40-lot subdivision will pay a total of \$274,000 for new parks. Can some of this money be used to plant trees at the parks?

All County Surveyors & Planners, Inc.

I don't have all the answers to the proposed tree code, but I do know that the City really needs to step back and review the reason the code was written in the first place. In other words, determine what the problem is and then come up with a solution.

I urge you to deny the proposed changes, and direct Staff to start working with the people of Sandy and the development community to determine if the "Urban Forestry" code is needed or wanted in residential developments. I would be willing to volunteer and help the City come up with a reasonable solution once the problem has been identified.

If you have any questions or need additional information, please feel free to contact our office.

Sincerely,

All County Surveyors & Planners, Inc.



Ray L. Moore, PE, PLS
Engineering Division



Karey Milne <kmilne@ci.sandy.or.us>

Response to letter to council

1 message

David Doughman <David@gov-law.com>

Mon, Oct 15, 2018 at 2:27 PM

To: "Kelly O'Neill Jr." <koneill@ci.sandy.or.us>, Karey Milne <kmilne@ci.sandy.or.us>, City Council

<city_council@ci.sandy.or.us>, Kim Yamashita <kyamashita@ci.sandy.or.us>

Cc: Emily Meharg <emeharg@ci.sandy.or.us>

Hi all:

I've reviewed Mr. Orth's letter and have the following responses. I can elaborate on these tonight. If you have any questions, feel free to email me and if time permits I'll try to address them before tonight's meeting. Please do not "reply all" in order to avoid a potential public meeting issue.

- **Request for a continuance.** State law grants any participant in a quasi-judicial hearing the right to ask for a continuance, which the hearing body must either grant or, in the alternative, leave the record open for additional testimony and evidence. Tonight's hearing is not quasi-judicial in nature, but rather legislative. Neither state law nor Sandy's code grants anyone the right to ask for a continuance in a legislative context such as this one. Therefore, the council may choose to continue tonight's hearing, but it is not legally required to do so.

- **Measure 56 Notice.** In a legislative context, state law generally does not require the city to send notice to individual property owners prior to a hearing. One exception to this is so-called Measure 56 notice. When a jurisdiction seeks to "rezone" property, state law requires the jurisdiction to send notice of a hearing to individual property owners affected by the proposal. State law defines a "rezone" for purposes of Measure 56 in two ways: (1) when the base zoning on property is changing from one zoning district to another (for example, changing a property zoned SFR to R-1); or (2) when a jurisdiction adopts or amends an ordinance that will "limit or prohibit land uses previously allowed in the affected zone." Because the ordinance the council will consider does not change the base zoning on any property, the issue becomes whether any of the proposed amendments "limit or prohibit land uses" that the city previously allowed. Based on an Attorney General opinion from 1999 and from a LUBA case in 2008, I do not believe the city was required to send Measure 56 notice in advance of tonight's hearing. Both the AG's office and the LUBA panel reviewed the language of Measure 56 and concluded that only changes to uses that are listed in a given zone (for example, outright permitted uses, conditional uses, accessory uses, etc.) are covered by Measure 56. Changes to standards that indirectly impact land uses permitted in development codes (for example, setback standards, landscaping standards or, as here, tree preservation standards) are not covered by Measure 56.

Thanks and I'll see you all this evening!

David

From: **Jennifer Hart** <sandyjen23@gmail.com>
Date: Mon, Oct 15, 2018 at 2:23 PM
Subject: RE: File No. 18-039 DCA - Ordinance 2018-29 - Sandy City Council meeting - 10-15-2018
To: <recorder@ci.sandy.or.us>

Sandy City Council -

We recently built a home at 37793 Olson Street, Sandy, OR 97055. The house was built ADA for my stepfather, who is elderly, permanently disabled, and in a wheelchair. He currently resides in the residence with his caregivers. In order to receive permanent occupancy, the planning department is requiring that we put a walkway in our back yard.

We do not want a walkway in the back of our house for many reasons:

- the house has an Olson Street address - if the front of the house was on Bluff we would have a driveway coming off Bluff and a Bluff address (access is not permitted from Bluff Road).
- we do not want any passerbys inadvertently opening our gate and letting our grandchildren or pets out onto the busy road of Bluff to possibly get hit by passing vehicles.
- we do not want people walking off Bluff, entering our private back yard, and walking to our back door - scaring the hell out of us.
- we do not want a walkway in the middle of our backyard.
- there's no parking or transit on Bluff - there hasn't been a bus that has gone down Bluff in 25 years (the bus shelter next to Cedar Ridge Middle School is not in service).
- the sidewalk on Bluff ends at a retaining wall and doesn't extend to the adjoining property.
- the main entrance to the house is already easily accessible to emergency services (we have a letter proving this from Phil Schneider, Fire Chief, Sandy Fire District No. 72).

My other concern is how difficult the planning department is to work with and how they seem to be bullying homeowners, landscapers, and builders. We had no knowledge, until today, that this code was being addressed at this meeting. Since we have been in recent contact with members of the planning department in regards to this walkway, we feel it's unprofessional for them to leave us in the dark regarding this code review.

Towns should not covet the plan over reality.

Thank you,

Jennifer S Hart, Trustee

Date: October 15, 2018
To: Sandy City Council
From: Tracy Brown, Tracy Brown Planning Consultants, LLC
Re: Ordinance 2018-29

I am writing as a resident of the City of Sandy and also as former Planning Director for the City (8/2002 - 3/2017). I understand the Council will be considering amendments to the Development Code regarding Urban Forestry and other chapters tonight. It is not my intent to comment on the details of the proposed amendments but rather to offer an historical perspective on current tree protection regulations.

From reviewing the file and talking to my predecessor, prior to the adoption of Chapter 17.102, Urban Forestry in 2002, there had been growing community concern that City Code did not contain adequate tree protection and removal regulations. In 1995, a citizen's advisory committee was formed to assist the Planning Department to look into this issue and to make recommendations for new regulations. The roster of the committee appears to have represented a wide range of citizen, business, and private interests. The Urban Forestry Committee's work lasted several years, stopped and started a couple times, and after much discussion and compromise new regulations were brought forward in the form of Chapter 17.102, Urban Forestry. Following several public hearings, the Council then adopted the new regulations in November 2002.

During my entire tenure with the City after these regulations were adopted they were used exclusively to regulate tree protection and permitting. It was my belief as Director that this is what was intended and the reason these regulations were adopted in the first place. As defined in this chapter, a "tree" is "any living, standing, woody plant having a trunk 11 inches DBH or greater". Recently I was made aware the Planning Department has also been selecting language from Chapter 17.92, Landscaping and Screening, that existed prior to the adoption of Chapter 17.102, to regulate tree removal. As noted above, it was belief as Planning Director the reason Chapter 17.102 was adopted was because City Code lacked adequate tree protection regulations and these regulations were intended to fill this void.



October 15, 2018

Mac Even
Even Better Homes
(503) 348-5602

To Whom It May Concern:

I was recently informed that the city staff is working on a code change with regards to the protection & mitigation of trees on private property's owners land, as well as subdivision developments. My main concern, with the small amount of information that I have been able to obtain, is the significant financial impact this appears to have for property owners as well as future development.

The number one problem I have with this process is the lack of public notification. I am a landowner in Sandy and I am also a developer in the City of Sandy. I received no notification of the proposed changes and, from what I have been able to determine, no one else has either. I fear the city is working in a vacuum and the public is not being informed. These proposals would have a large financial impact to the community and we need to be informed.

Some of the financial impacts I foresee are, for example, A property owner lives on a 5 acre piece of land and has for 30 years. They are getting to retirement age and part of their retirement plan is to sell their property for development. In doing so, they should be able to develop say 20 lots. These lots have a pre developed value of \$40,000 each. I see this proposed ordinance possibly pushing the density of their property from 20 lots down to 15 lots. This would lower the value of their property by \$200,000. That kind of financial hit could make the difference between retirement and not.

Also, these tracts of trees will have to be maintained by the city and the neighborhoods. To say there is no costs associated with this is not true. People do not work for free, tree tracts do not get maintained for free.

There is also an impact to the city. With less lots available for development, there are less SDC's, fees & taxes collected that go directly into the city's coffers.

This code change will also dictate how people can use and enjoy their property. If there is a tract of land on a lot and the trees need to be protected, the homeowner will have to bear the costs of maintaining these trees but it could also limit the enjoyment they may have of their own home. In my opinion, this is a property rights violation.

I believe these changes will potentially have a huge financial impact to the city, the development community and the general citizenry of the City of Sandy. This proposal will limit development, strip



people of the use and enjoyment of their own property, bring less revenue into the city and increase the cost of housing.

All that said, I go back to my original point; the public was not notified of this proposed change. I see what could be big problems for the city on this front. Should a property owner find out that the city made a

change to the code of this significant nature I fear the property owner could have grounds for a LUBA appeal. LUBA appeals are slow and very expensive for the citizens who bring them and also for the city involved.

I am sorry I was not able to attend this council meeting, but I was only made aware of it a few hours prior. I have a family obligation that prohibits my ability to attend and with no public notice, I was not able to make other arrangements. I urge you to postpone a vote at this time and ask that you direct city staff to work with the public and the development community to find an acceptable solution.

Thank you

Mac Even
President, Even Better Homes

APRIL 4, 2018

NOTICE OF PROPOSED ZONING CODE AND MAP CHANGES THAT MAY AFFECT THE PERMISSIBLE USES OF YOUR PROPERTY AND OTHER PROPERTIES

You received this notice because the Planning and Sustainability Commission is considering proposed Zoning Code and Map changes that, if adopted, may affect the permissible uses of your property and other properties with the same zoning. These changes may affect the value of your property.

One of the properties that may be affected is your property at:

State ID #:

The current base zone(s) for this property is (are):

The proposed base zone(s) for this property is (are):

Does this property currently have an 'a' overlay zone?

Is the new 'a' overlay zone proposed for this property?

Other zoning regulations may also apply to this property, but they are not proposed to change at this time. For more information, please refer to www.portlandmaps.com or call 503-823-0195.

How could my property be affected by proposed changes?

If you choose to build a new house or expand an existing house, one or more of the following new rules, if adopted, may affect your property. Refer to your property's proposed zoning above to see what changes may apply.

For properties with ...	These changes are proposed:
Proposed base zone of R7	<ul style="list-style-type: none"> When building a new house/structure or when adding to an existing house, the maximum size would be limited to a portion of the lot's size. For example, on a 7,000-square-foot lot, the maximum size house would be 2,800 square feet.
Proposed base zone of R5	<ul style="list-style-type: none"> When building a new house/structure or when adding to an existing house, the maximum size would be limited to a portion of the lot's size. For example, on a 5,000-square-foot lot, the maximum size house would be 2,500 square feet. Lots must be at least 36 feet wide and at least 3,000 square feet in area to construct a house. However, lots that have not been owned in common with abutting lots may still be developed.
Proposed base zone of R2.5	<ul style="list-style-type: none"> When building a new house/structure or when adding to an existing house, the maximum size would be limited to a portion of the lot's size. For example, on a 2,500-square-foot lot, the maximum size house would be 1,750 square feet. Lots that are 25 feet wide or less must be developed with attached houses. However, lots that are 25 feet wide or less, and are not owned in common with abutting lots, may be developed with a small detached house.
Proposed new 'a' overlay (R7, R5 and R2.5 base zones)	<ul style="list-style-type: none"> Each property may include: one house, or one house with up to two accessory dwelling units (ADU), or one duplex, or one duplex plus a detached ADU, or one triplex (on corner lots only).
Current 'a' overlay without proposed new 'a' overlay (R7, R5 and R2.5 base zones)	<ul style="list-style-type: none"> The 'a' overlay would be removed. This would not affect properties in the R7 or R5 base zones. Triplexes would no longer be allowed in the R2.5 zone.



5772 SQ FT

M56-RIP2018

Why are these changes proposed?

The rules that govern the types of housing allowed in our neighborhoods also affect who can live there.

Over the past two years, Portlanders have expressed concerns that residential neighborhoods are becoming inaccessible to many and housing options are limited. This feedback has informed a proposal to allow more households to live in these neighborhoods — while limiting the construction of very large new homes. A zoning change alone won't solve our housing shortage, but it will give more people opportunities to live in these vibrant neighborhoods close to schools, parks, shopping and good transit options.

Are these changes a "done deal"?

No. The Planning and Sustainability Commission (PSC) is holding public hearings on these proposals. Their recommendations to City Council will be informed by oral and written testimony and may differ from these proposals. You will have other opportunities to review and testify on any changes to these proposals before City Council makes a decision (expected in late 2018).

Will the zone change require me to redevelop or sell my property?

No, as a property owner it is always your choice to sell or redevelop.

When will zoning changes take effect?

March 2019 is the earliest that these changes could take effect.

If I provide testimony, will my contact information be made public?

All testimony to the Planning and Sustainability Commission (PSC) is considered public record, and testifiers' name, address and any other information provided in the testimony may be included on the website.

The Bureau of Planning and Sustainability is committed to providing equal access to information and hearings.

If you need special accommodation, translation or interpretation, please call 503-823-7700,

the City's TTY at 503-823-6868, or the Oregon Relay Service at 711 at least five business days before hearing.

Interpreters available

This is a public notice about proposed land use changes that may affect your property.

For more information, call 503-823-0195 and ask for an interpreter.

Este es un anuncio público sobre los cambios al aprovechamiento del terreno que puedan afectar a su propiedad. Para obtener más información, comuníquese con el 503-823-0195 y solicite un intérprete.

这是一则关于可能影响您的财产的拟定土地使用变更的公共通知。如需更多信息，请致电 503-823-0195 并要求提供一名译员。

Đây là một thông báo công khai về các thay đổi trong việc sử dụng đất được đề xuất mà có thể gây tác động đến tài sản của quý vị. Để biết thêm thông tin, vui lòng gọi điện thoại đến số 503-823-0195 và yêu cầu một thông dịch viên ngôn ngữ.

Это публичное извещение о предлагаемых изменениях порядка землепользования, которые могут повлиять на принадлежащую вам собственность. Для того, чтобы получить более подробные сведения, позвоните по тел. 503-823-0195 и попросите соединить вас с устным переводчиком.

Kani waa ogaysiis dadweyne oo ku saabsan isticmaal dhuleed oo la soo jeediyayoo laga yaabo in uu raad ku yeesho hantidaada. Waxii macluumaad dheeraad ah, wac 503-823-0195 waxaanad codsataa turjubaan.

このお知らせは、提案されている土地利用の変更を公に通知するものです。この変更は、あなたの所有地に影響を及ぼす可能性があります。詳細については、503-823-0195 までお電話のうえ、通訳をご要請ください。

ນີ້ແມ່ນແຈ້ງການສາທາລະນະກ່ຽວກັບການປ່ຽນແປງໃນການນຳໃຊ້ທີ່ດິນທີ່ສະເໜີໄວ້ ຊຶ່ງອາດມີຜົນກະທົບຕໍ່ຊັບສິນຂອງທ່ານ. ສຳລັບຂໍ້ມູນເພີ່ມເຕີມ, ໂທ 503-823-0195 ແລະຂໍເອົາໃບຮ້າຍພາສາມາຊ່ວຍແປຕື່ມ.

هذا إشعار عام بشأن تغييرات مقترحة في استخدام الأراضي قد يكون لها تأثير على ممتلكك العقاري. للحصول على مزيد من المعلومات، يجب الاتصال برقم الهاتف 503-823-0195 وطلب مترجم شفهي.

Prezenta este o notificare publică referitoare la propozițiile schimbării ale regulilor de folosire a terenurilor care vă pot afecta proprietatea. Pentru informații suplimentare, sunați la 503-823-0195 și solicitați un traducător.

Це публічне повідомлення про запропоновані зміни у використанні землі, які можуть вплинути на вашу нерухомість. Щоб отримати додаткову інформацію, зателефонуйте на номер 503-823-0195 і попросіть поговорити з перекладачем.

How can I learn more?

ONLINE

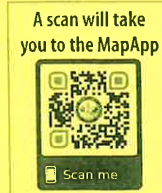
Visit our project website and the interactive Map App on any computer, tablet or smart phone. All Multnomah County libraries have public access computers.

1. Project website: www.portlandoregon.gov/bps/infill

Get the latest news, learn about events and drop-in hours, view documents and more.

2. Map App: www.portlandoregon.gov/bps/infill/mapapp

Learn how the project proposals may affect individual properties across Portland. Type in the property address to see proposed changes that may affect your property.



IN PERSON

3. Drop in to chat with City staff at a location near you. Staff will answer your questions one-on-one.

Tuesday, April 17, 2018, 5 – 7 p.m.	St Johns Library, 7510 N Charleston Avenue
Thursday, April 19, 2018, 4:30 – 6:30 p.m..	Midland Library, 805 SE 122nd Avenue
Thursday, April 26, 2018, 3:30 – 5:30 p.m.	North Portland Library, 512 N Killingsworth Street
Monday, April 30, 2018, 3:30 – 5:30 p.m.	Hollywood Library, 4040 NE Tillamook Street
Tuesday, May 1, 2018, 4:30 – 6:30 p.m.	Woodstock Library, 6008 SE 49th Avenue
Thursday, May 3, 2018, 4:30 – 6:30 p.m.	Hillsdale Library, 1525 SW Sunset Blvd



PHONE AND EMAIL

4. Ask City staff a question. We are happy to help. Call 503-823-0195 or email us at residential.infill@portlandoregon.gov.

How can I provide feedback to decision-makers?

You may testify to the Planning and Sustainability Commission (PSC) about proposed changes in the following ways:

Testify in person at the PSC public hearing

You may speak for two minutes at only one of the following hearings. Your testimony will be added to the public record.

Tuesday, May 8, 2018, at 5 p.m.

1900 SW 4th Avenue, Room 2500, Portland, Oregon

Tuesday, May 15, 2018, at 5 p.m.

1900 SW 4th Avenue, Room 2500, Portland, Oregon

To confirm the date, time and location, check the PSC calendar at www.portlandoregon.gov/bps/35452

If you need special accommodation, translation or interpretation, please call 503-823-7700 at least five business days before the hearing date.

All testimony to the Planning and Sustainability Commission is considered public record, and testifiers' name, address and any other information provided in the testimony may be included on the website.

Testify in writing between now and May 15, 2018

You must provide your full name and mailing address.

• **Map App: www.portlandoregon.gov/bps/infill/mapapp**

Click on the "Testify" button.

Testifying in the Map App is as easy as sending an email. Once your testimony is submitted, you can read it in real time.

• **U.S. Mail:**

Portland Planning and Sustainability Commission
Residential Infill Testimony
1900 SW 4th Avenue, Suite 7100
Portland, Oregon 97201



City of Portland, Oregon
 Bureau of Planning and Sustainability
 1900 SW 4th Avenue, Suite 7100
 Portland, Oregon 97201-5380 P514

Notice of Zoning Code and Map Changes

PRESORTED
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 1932 NE 144TH AVE
 PORTLAND OR 97230-4121

127 BRANHP1 97230



M56-RIP2018

**NOTICE OF PROPOSED ZONING CODE AND MAP
 CHANGES THAT MAY AFFECT THE PERMISSIBLE
 USES OF YOUR PROPERTY AND OTHER PROPERTIES**
 You will receive a notice for each property you own
 that may be affected by a proposed Zoning Code
 and/or Map change. Therefore, if you own multiple
 properties you may receive more than one notice.



If you wish to speak please Sign In

(Si Usted Desea Hablar Por favor Inicie sesión)

You have 5 minutes to Speak

(Tienes 5 Minutos para hablar)

**City Council Meeting
(Reunion del Consejo De La Ciudad)**

Meeting Date: October 15, 2018

PLEASE PRINT
(por favor imprimir)

Name / nombre	Address / dirección	City / ciudad
Tom Orth	26957 SE Fankesky Rd	Boring
Dane Hunt	29660 Pleasant St	Sandy
Ray Moore	Po Box 955 Sandy OR	SANDY
Jim Raze	4020 NE 216th Fairview	
Bob Wells	02500 Road	Sandy
Katherine	1920 Bess Rd	