



# City of Sandy

## Agenda

### Planning Commission Meeting

Meeting Location: Virtual via Zoom

Meeting Date: Monday, March 29, 2021

Meeting Time: 6:30 PM

Page

#### 1. MEETING FORMAT NOTICE

The Planning Commission will conduct this meeting electronically using the Zoom video conference platform. Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge. See the instructions below:

- To login to the electronic meeting online using your computer, click this link: <https://us02web.zoom.us/j/81056864310>
- If you would rather access the meeting via telephone, dial (253) 215-8782. When prompted, enter the following meeting number: 810 5686 4310
- If you do not have access to a computer or telephone and would like to take part in the meeting, please contact City Hall by Thursday March 25 and arrangements will be made to facilitate your participation.

#### 2. ROLL CALL

#### 3. NEW PLANNING COMMISSIONER INTRODUCTION - JAN LEE

#### 4. LAND USE TRAINING PRESENTED BY CHRIS CREAN

#### 5. APPROVAL OF MINUTES

- |      |  |         |
|------|--|---------|
| 5.1. | Draft Minutes for January 25, 2021<br><a href="#">Planning Commission - 25 Jan 2021 - Minutes - Pdf</a>  | 3 - 13  |
| 5.2. | Draft Minutes for February 22, 2021<br><a href="#">Planning Commission - 22 Feb 2021 - Minutes - Pdf</a> | 14 - 15 |

#### 6. REQUESTS FROM THE FLOOR - CITIZEN COMMUNICATION ON NON- AGENDA ITEMS

The Commission welcomes your comments at this time. Please see the instructions below:

- If you are participating online, click the "raise hand" button and wait to be recognized.

- If you are participating via telephone, dial \*9 to "raise your hand" and wait to be recognized.

## **7. DIRECTOR'S REPORT**

- 7.1. Director's Report for March 29, 2021 16  
[Director's Report for March 29, 2021 - Pdf](#)

## **8. PLANNING COMMISSIONER DISCUSSION**

This is a discussion for items not on the agenda.

## **9. NEW BUSINESS**

- 9.1. 21-001 AP 38797 & 38799 Creekside Loop Appeal 17 - 32  
[21-001 AP 38797 & 38799 Creekside Loop Appeal - Pdf](#)
- 9.2. 21-004 TREE/VAR Mairin's Viewpoint Tree Variance 33 - 95  
[21-004 TREE/VAR Mairin's Viewpoint Tree Variance - Pdf](#)

## **10. ADJOURN**



**MINUTES**  
**Planning Commission Meeting**  
**Monday, January 25, 2021 Zoom 6:30 PM**

**COMMISSIONERS PRESENT:** Don Carlton, Commissioner, Ron Lesowski, Commissioner, Hollis MacLean-Wenzel, Commissioner, Steven Hook, Commissioner, Chris Mayton, Commissioner, and Jerry Crosby, Commissioner

**COMMISSIONERS ABSENT:**

**STAFF PRESENT:** Kelly O'Neill, Development Services Director, Emily Meharg, Senior Planner, Shelley Denison, Associate Planner, David Doughman, City Attorney, and Jeff Aprati, City Recorder

**MEDIA PRESENT:**

**1. Meeting Format Notice**

Chairman Crosby called the meeting to order at 6:36 p.m.

**2. Roll Call**

**3. New Planning Commissioner Introductions**

Chairman Crosby introduced Commissioner Hook. Commissioner Hook stated he recently moved from Fairview where he was a Planning Commissioner. Mr. Hook said he works for Providence Medical. All Commissioners welcomed Commissioner Hook.

**4. Chair and Vice Chair Appointments**

Chairman Crosby stated that the Commission needs to nominate and vote for a chair and vice chair. Commissioner Mayton asked if there are other people that would like to be the chair or vice chair. Attorney Doughman said that it's a very informal process and doesn't need to have many protocols. Commissioner Mayton asked if there are any rotation rules to which Chairman Crosby said no.

Commissioner Carlton nominated Crosby and Commissioner Maclean-Wenzel seconded the nomination. Commissioner Crosby was selected as Chair for 2021 with a vote of 6:0.

The commission had a discussion about the Vice Chair position, including an idea to have different commissioners chair on different items. Commissioner Mayton nominated Carlton as Vice Chair and Commissioner Lesowski seconded the nomination. Commissioner Carlton was selected as Vice Chair for 2021 with a vote of 6:0.

**5. Approval of Minutes**

5.1. Draft Planning Commission Minutes from December 16, 2020

**Motion:** Approve the Planning Commission minutes for December 16, 2020.

Moved By: Commissioner Carlton

Seconded By: Commissioner Lesowski

Yes votes: All Ayes

No votes: None

Abstentions: Commissioner Hook

The motion passed.

**6. Requests From the Floor - Citizen Communication on Non- Agenda Items**

None

**7. Director's Report**

Development Services Director O'Neill explained the upcoming meeting date of February 22 and asked the Commission when they want to meet in March. O'Neill explained that the February 22 meeting will be a work session regarding the Transportation System Plan (TSP) and an update on the Bypass Feasibility Assessment. After some discussion the Commission selected March 29 as the March meeting date.

**8. Planning Commissioner Discussion**

Commissioner Carlton asked what information the Council received between the first reading and the second reading of Bull Run Terrace that changed their vote. O'Neill and Associate Planner Denison explained the main different between the two hearings was that staff had an opportunity to review the density difference between the existing zoning and the proposed zoning, and that the unit number difference was enough to change the Council's vote.

**9. NEW BUSINESS**

9.1. **Rogue Fabrication Zone Change (20-041 ZC):**

Chairman Crosby opened the public hearing on File No. 20-041 ZC at 6:56 p.m. Crosby called for any abstentions, conflicts of interest, ex-parte contact, challenges to the jurisdiction of the Planning Commission, or any challenges to

any individual member of the Planning Commission. No challenges were made, and no declarations were made by the Planning Commission.

**Staff Report:**

Associate Planner Denison summarized the staff report and provided an overview of the proposal, history of the project, and explained the zone change criteria.

**Applicant Testimony:**

Joey Gambino  
42335 SE Marmot Road  
Sandy, OR 97055

Rogue Fabrication started as a side business as Mr. Gambino wanted to start making roll cages for vehicles. He has since expanded to making tube benders. Mr. Gambino has outgrown his current space and would like to expand his manufacturing business to an industrial property. He stated he only employs local people and uses products that are only made in the United States. Mr. Gambino explained that his building elevations were created to show the potential of the buildings on the subject property.

Ryan O'Brian  
1862 NE Estate Drive  
Hillsboro, OR 97124

Mr. O'Brian introduced the applicant team. Mr. O'Brian explained that Sandy did not have a lot of I-2 zoned land. He also explained that Mr. Gambino submitted elevations to show the Planning Commission that his businesses will have some nice architectural elements.

Mike Ard  
17790 SW Dodson Drive  
Sherwood, OR 97140

Mr. Ard explained that the change in zoning will actually lead to a decrease in trips compared to what would be allowed in the I-1 zone.

**Proponent Testimony:**

None

**Opponent Testimony:**

None

**Neutral Testimony:**

Ellie Kassab  
Owner of Sandy Cinema  
16605 Champion Way  
Sandy, OR 97055

In favor of the development and wants more employment in Sandy.

**Staff Recap:**

Denison stated that she thinks the proposal is great and it is refreshing that it's not controversial. All elevations and a site plan will be evaluated with a future design review. O'Neill stated he supports applications that create living wage jobs.

**Applicant Rebuttal:**

Mr. Gambino thanked Mr. Kassab and city staff.

**Discussion:**

Commissioner Maclean-Wenzel stated she appreciates the applicant's presentation and thanked the applicant for incorporating some SandyStyle themes into the future building. Commissioner Lesowski asked a clarification on the 20 foot buffer. Denison said it would be 20 feet of landscape screening between the street right-of-way and any future off-street parking and outside storage. She stated the intent was to keep some of the I-1 features by providing more landscaping and building design. Commissioner Lesowski and Chairman Crosby asked that additional clarity is added to the landscape buffer.

Commissioner Mayton asked a question about sustainability. Mr. Gambino stated that a lot of the equipment intensive work with coolants would be done offsite. He said they are sorting different metals to be recycled and are sorting and recycling cardboard and other packaging items.

Commissioner Carlton stated that he heard that one of the main reasons for the zone change seemed to be mainly to save costs associated with construction of the buildings. He stated there is residential past Champion Way to the south of the subject site. Mr. Carlton said he would have preferred variances instead of a zone change. Commissioner Mayton stated that when the zoning map was created it was a different time and that drawing jobs into the community is a need. Since it has been over two decades since the last comprehensive plan amendment maybe it is time to reevaluate the existing zoning designations. Commissioner Hook thanked the applicant for the design documents and said that in Fairview they had many commercial and industrial lands that were vacant for years. He thinks that Sandy needs to consider this zone change to help growth and create more jobs. Commissioner Lesowski

asked Mr. Gambino what the cost difference is between developing the buildings to the standards of I-1 and the standards of I-2. O'Neill reminded the Commission that the zone change request before the Commission tonight is based on the criteria for zone change.

Mr. Ard explained the difference between variances and zone changes. The applicant felt that the variance procedure is a more discretionary process than the zone change process. Mr. O'Brian said the property directly to the east of the subject site is zoned I-2 and is designed as an industrial facility.

Carlton requested the public hearing be closed.

**Motion:** Motion to close the public hearing at 7:50 p.m.

Moved By: Commissioner Carlton

Seconded By: Commissioner Mayton

Yes votes: All Ayes

No votes: None

Abstentions: None

Chairman Crosby said the additional design submittals were welcomed but that it may have made the decision more complicated. O'Neill stated he believes Commissioner Hook is spot on that if the property has been vacant for a long time and we have development interest that will create living wage jobs then we should try to accommodate the request. He stated that the subject property has been vacant for decades and since his time in Sandy starting in 2011 there has been little interest to develop the property. Mr. O'Neill explained that as soon as 362nd Drive is extended north of Highway 26 the city of Sandy will have 120 acres of commercial property for development so he would like to see the subject property developed to accommodate living wage jobs and not worry about preserving the land for SandyStyle commercial buildings.

**Motion:** Motion to recommend approval of the zone change to the City Council with the additional recommendations in finding #17 and additional clarification on the 20 foot landscaping buffer.

Moved By: Commissioner Lesowski

Seconded By: Commissioner Mayton

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed at 7:57 p.m.

*Break at 7:57 p.m.*

9.2. **Sandy High School Field House (20-040 DR/VAR):**

Chairman Crosby opened the public hearing on File No. 20-040 DR/VAR at 8:04 p.m. Crosby called for any abstentions, conflicts of interest, ex-parte contact, challenges to the jurisdiction of the Planning Commission, or any challenges to any individual member of the Planning Commission. No challenges were made, and no declarations were made by the Planning Commission.

**Staff Report:**

Senior Planner Meharg summarized the staff report and provided an overview of the proposal, history of the project, and explained the variance requests.

**Applicant Testimony:**

Bryce Baillie  
31520 Hamlet Drive  
Boring, OR 97009

Mr. Baillie said that most 6A high schools in Oregon have field houses and Sandy athletes deserve a fieldhouse. He also stated he has worked with Jones Architecture on several projects.

Sienna Shiga  
120 NW 9th Avenue, Suite 210  
Portland, OR 97209

The structure is a pre-engineered steel building with a metal roof and metal siding. One of the primary reasons for this minimalist design is cost considerations, but thinks that designing the building as a backdrop, instead of a main feature is the best idea. Ms. Shiga shared a brief presentation and described some of the existing buildings on the site. She then explained the reasons for the special variance requests.

**Proponent Testimony:**

Jen Mine  
37573 Coralburst Street  
Sandy, OR 97055

Ms. Mine said she has been on the board for Sandy Pioneer Baseball and has been helping assist with this project for years. She explained that children will use this space for baseball, softball, and as a hangout. She also explained that the building will not be highly visible.



Michelle Allsop  
PO Box 891  
Sandy, OR 97055

Ms. Allsop said she is also on the board for Sandy Pioneer Baseball and supports the request.

**Opponent Testimony:**

None

**Neutral Testimony:**

Kathleen Walker  
15920 Bluff Road  
Sandy, OR 97055

Ms. Walker said that she lives in the neighborhood and appreciates the purpose of the facility. She said that she doesn't like the basic metal design of the structure and thinks additional architecture features would be great. Also thinks the school site should have a master plan for all future athletic facilities and cohesive design for all future buildings.

**Staff Recap:**

Meharg stated that 17.90.120 does have some design elements that are related to having street frontage, but based on line of sight analysis the building does not need to have a stone base or the three additional design features/elements. Meharg said the building meets the setback distance to parking. O'Neill said the large design on the building will need to be processed as a sign permit.

**Applicant Rebuttal:**

Mr. Baillie said it will be an indoor training facility for all sports. Ms. Shiga said the intent of the large graphic can be modified. Mr. O'Neill asked for clarification on sign code regulations and first amendment rules. City Attorney David Doughman said that defining what is and isn't a sign is very difficult, but anything that is meant to visually communicate something could be considered a sign.

**Discussion:**

Commissioner Carlton said he supports the fieldhouse, but that the design of the building should be constructed to municipal code. He said he is fine with the modification to the roof pitch, thinks fake windows could be used but wants fire exiting to be approved, and thinks the key element to consider is

the metal siding. Mr. Carlton is supportive of metal on the north and east sides, but the west and south sides should not exceed 30 percent metal.

Commissioner Mayton stated he agrees with Commissioner Carlton on almost all of the items. He believes there should be windows on the building, and that the west and south sides of the building should not exceed 30 percent metal.

Commissioner Maclean-Wenzel is excited to see a fieldhouse in the works, but the west and south sides of the building should not exceed 30 percent metal. She said the entry covers should be pitched and based on other school buildings there should be more windows on the building, especially by the doors, for increased safety and security.

Commissioner Hook asked what is to the north of the building and what is to the east? Meharg said to the north is a parking lot for a church and to the east is the backyard of a residential property. Commissioner Hook asked if any property around the fieldhouse could be developed? Meharg said all properties have redevelopment potential, but staff is not aware of any development being proposed.

Commissioner Lesowski said he is fine with the modified roof pitch but would like to see additional windows and the west and south sides of the building should contain less than 100 percent metal.

Chairman Crosby said he is in-line with the other commissioners. Agrees that the north and east sides can be 100 percent metal, but the other two sides need portions to be siding material other than metal. Crosby stated he would like to see real windows that can be screened from the inside of the windows. He likes windows for providing natural daylight and also for surveillance.

O'Neill stated that staff would prefer a percentage of windows per elevation, instead of a specific design requirement, such as windows in a specific location on the building.

Commissioner Hook made a clarification on the variance criterion. Attorney Doughman explained the variance procedures and the criterion. Commissioner Lesowski asked do windows need to be on more than one elevation? Meharg stated windows need to only be located on the activated frontage. The window percentage would have to be 30 percent per the code standards. Commissioner Maclean-Wenzel said she likes the high windows for light, but that she would like windows by doors and to meet the 30 percent requirement. Commissioner Carlton said he believes the west and south sides

of the building are equally important. Chairman Crosby said he is fine with the windows only on the west elevation. Crosby then asked a question regarding the special variance review criteria to the city attorney. Attorney Doughman addressed Crosby's question and explained how to address the criterion.

Commissioner Hook asked what flexibility the applicant has to accept conditions. Mr. Baillie said he can accept some windows and siding that is not metal.

**Motion:** Motion to close the public hearing at 9:17 p.m.

Moved By: Commissioner Carlton

Seconded By: Commissioner Lesowski

Yes votes: All Ayes

No votes: None

Abstentions: None

**Motion:** Motion to approve the 100 percent metal on only the north and east facades with the west and south facades not exceeding 30 percent metal, approve the roof pitch of 4:12, and deny the special variance for window percentage with windows at least 30 percent on the activated frontage, and approval of all other findings and conditions.

Moved By: Commissioner Lesowski

Seconded By: Commissioner Mayton

Yes votes: Carlton, Lesowski, Maclean-Wenzel, Mayton, and Crosby

No votes: Hook

Abstentions: None

The motion passed at 9:27 p.m.

*Note: Commissioner Hook voiced that his primary concern was related to allowing metal siding at 100 percent and this was the primary reason for his vote of denial.*

9.3. **House Bill 2001 Code Amendments (20-032 DCA):**

Chairman Crosby opened the public hearing on File No. 20-032 DCA at 9:34 p.m. Crosby called for any abstentions, conflicts of interest, ex-parte contact, challenges to the jurisdiction of the Planning Commission, or any challenges to any individual member of the Planning Commission. No challenges were made, and no declarations were made by the Planning Commission.

**Staff Report:**

Senior Planner Meharg summarized the staff report and provided an overview of House Bill 2001 code amendments.

**Public Testimony:**

None

**Motion:** Motion to close the public hearing at 9:49 p.m.

Moved By: Commissioner Carlton

Seconded By: Commissioner Hook

Yes votes: All Ayes

No votes: None

Abstentions: None

**Discussion:**

Commissioner Carlton asked staff an interpretation on density. He then stated he has a concern with the density requirements of House Bill 2001 and that he is concerned there is not adequate off-street parking. Meharg provided some clarity on parking and that the State of Oregon is predicting that 3 percent of lots will be converted to duplex lots.

Commissioner Lesowski stated that he believes the market will change and that as density increases hopefully people's habits change. Commissioner Carlton said that density will increase everywhere but that Sandy is not Portland. He also said there are some positives that could come forward as a result of House Bill 2001.

Chairman Crosby asked for information on the definition. Commissioner Hook said that ADUs are important and that he believes we should accommodate them. Commissioner Maclean-Wenzel said that ADUs help people maintain their status and location in a community. The Commissioners did not have any issues with the recommended changes to flag lots on transit streets nor the increase from 600 square feet to 800 square feet for ADUs. Meharg made some additional clarification on the definition for ADUs. Attorney Doughman said that the Commission needs to recommend either an ADU with a single family residence and/or an ADU with a duplex. O'Neill, Commissioner Carlton, and Attorney Doughman provided additional clarity on ADUs and the low demand for duplexes and ADUs all on one lot.

**Motion:** Motion to recommend approval to the City Council as recommended by staff with the additional modifications to the ADU definition to allow them with single family homes and duplexes.

Moved By: Commissioner Hook  
Seconded By: Commissioner Mayton  
Yes votes: Carlton, Lesowski, Maclean-Wenzel, Mayton, Hook, and Crosby  
No votes: None  
Abstentions: None  
The motion passed at 10:16 p.m.

**10. Adjourn**

**Motion:** To adjourn  
Moved By: Commissioner Carlton  
Seconded By: Commissioner Maclean-Wenzel  
Yes votes: All Ayes  
No votes: None  
Abstentions: None  
The motion passed.

Chairman Crosby adjourned the meeting at 10:17 p.m.



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Chair, Jerry Crosby



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Planning Director, Kelly O'Neill Jr



**MINUTES**  
**Planning Commission Meeting**  
**Monday, February 22, 2021 Zoom 6:30 PM**

**COMMISSIONERS PRESENT:** Don Carlton, Commissioner, Ron Lesowski, Commissioner, Hollis MacLean-Wenzel, Commissioner, Jan Lee, Commissioner, Steven Hook, Commissioner, Chris Mayton, Commissioner, and Jerry Crosby, Commissioner

**COMMISSIONERS ABSENT:** None

**CITY COUNCILORS PRESENT:** Stan Pulliam (also CAC member), Jeremy Pietzold, Carl Exner (also CAC member), Don Hokanson, Laurie Smallwood, Richard Sheldon, Kathleen Walker

**CITIZEN ADVISORY COMMITTEE (CAC) MEMBERS PRESENT:** Gary Boyles, Don Robertson, Heather Michet, Lea Pfau, Khrys Jones, Mike Walker, Andi Howell, Jeff Aprati

**OUTSIDE AGENCY STAFF PRESENT:** Reah Flisakowski with DKS Associates, Jennifer Donnelly with DLCD, Seth Brumley with ODOT

**STAFF PRESENT:** Kelly O'Neill, Development Services Director, Emily Meharg, Senior Planner, Shelley Denison, Associate Planner, Greg Brewster, IT/SandyNet Director, Jordan Wheeler, City Manager, Sarah McIntyre, Library Director, and David Snider, Economic Development Manager

**MEDIA PRESENT:** None

**1. Roll Call - Planning Commissioners**

Chairman Crosby called the work session to order at 6:30 p.m.

**2. Work Session**

Kelly O'Neill Jr. provided a brief background of the agenda and introduced DKS Associates and ODOT staff.

**2.1. Update on the Transportation System Plan (TSP) and Bypass Feasibility Reevaluation**

Reah Flisakowski with DKS Associates provided a presentation highlighting the achievements to date on the TSP and the Bypass Feasibility Reevaluation.

Commissioners, council members, CAC members, and staff asked questions. Reah Flisakowski, Seth Brumley, and Kelly O'Neill Jr. provided answers to the questions.

**2.2. TSP 101 Training presented by DKS Associates**

Reah Flisakowski with DKS Associates provided a presentation explaining TSP basics and what the TSP study will accomplish. Commissioners, council members, CAC members, and staff asked questions. Reah Flisakowski, Mike Walker, and Kelly O'Neill Jr. provided answers to the questions.

**3. Adjourn**

**Motion:** To adjourn

Moved By: Commissioner Carlton

Seconded By: Commissioner Lesowski

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Chairman Crosby adjourned the meeting at 8:31 p.m.



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Chair, Jerry Crosby



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Planning Director, Kelly O'Neill Jr



## Staff Report

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**Meeting Date:** March 29, 2021  
**From** Kelly O'Neill, Development Services Director  
**SUBJECT:** Director's Report for March 29, 2021

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### **BACKGROUND:**

#### Upcoming hearing item:

- **Leslie Pole Barn:** This application at 37625 SE Kelso Road is for a special variance for an accessory structure on a residential property. The Planning Commission will likely hear this special variance request at the May Planning Commission meeting.

#### Recent decisions of note:

- **House Bill 2001:** Emily Meharg and DLCD staff provided presentations to the City Council on March 15, 2021. City Council initiated the public hearing process and continued the hearing to April 19, 2021.
- **The Views Planned Development:** On March 1, 2021 the City Council denied this planned development request with a vote of 4:3.
- **Rogue Fabrication Zone Change:** On March 15, 2021 the City Council approved this zone change with a vote of 7:0.
- **Les Schwab Remodel:** The final order to approve this remodel was issued by staff on February 24, 2021. SURA Board reviewed and enthusiastically approved a Façade grant proposal for this project at their meeting on March 8, 2021.
- **Tickle Creek Apartments:** Developers of this project, formerly called Phase II of the Double Creek Condos project, requested slight modifications to site layout, amenities, and building elevations. The final order was issued by staff on February 10, 2021.

#### New applications of note:

- **Next Adventure Phase III:** This project is in the completeness stage. The proposal is to add a new structure to connect with the existing structure that was constructed in 2018. This proposal includes the removal of the old ski shop building and removal of the large tree by the driveway. This review will be a Type II and reviewed by staff.

#### Long range planning of note:

- **Comprehensive Plan Update:** Shelley Denison has been meeting with City Councilors, Planning Commissioners, and the chairs of a few other boards to get their high-level visions and priorities for the Comprehensive Plan update. Shelley is also developing an RFQ for a consultant, reviewing the purchase of public engagement software, looking into potential grant opportunities, and creating timelines/deadlines.





## Staff Report

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**Meeting Date:** March 29, 2021  
**From** Emily Meharg, Senior Planner  
**SUBJECT:** 21-001 AP 38797 & 38799 Creekside Loop Appeal

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**BACKGROUND:**  
**BACKGROUND**

**Garage Setback Adjustment Application (File No. 20-049 ADJ)**

Applicable Code Criteria:

Section 17.40.30 contains setback requirements for the R-3 zoning district and requires a 20 foot minimum garage setback for front vehicle access.

Applicant's Request:

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

Staff Decision (File No. 20-049 ADJ):

The applicant's request for a Type I Adjustment to the garage setback for Unit A was **approved with conditions** in conformance with the criteria outlined in the Sandy Development Code, Section 17.66.40. The applicant is permitted to reduce the garage setback to 18 feet 2 inches for Unit A. The applicant's request for a Type II Adjustment to the garage setback for Unit B was **denied**; however, a Type I Adjustment was **approved with conditions**. The applicant is permitted to reduce the garage setback to a minimum of 18 feet for Unit B. All other conditions of approval in File No. 20-049 ADJ shall be met.

**Appeal of Garage Setback Application (File No. 21-001 AP)**

William Trimble appealed the staff decision on January 11, 2021 (File No. 21-001 AP). Mr. Trimble believes the garage setback adjustment should be denied and requests that the Planning Commission "deny the adjustment and ensure the applicant provides the

full 20-foot setback for the garage of both units as required by Code Section 17.40.30 or the applicant revises the access to be off Tupper Road.”

The previous approved partition for the subject site was approved prior to the construction and dedication of Creekside Loop so that is likely the reason there was access approval to Tupper Road as mentioned by Mr. Trimble, but that was the only street it could access at the time. Since the partition approval for the subject site in 2005, Creekside Loop has been constructed (Trimble Loop Subdivision was platted in Nov 2009) and is a public street and therefore new access can be granted. The approval of File No. 18-042 DR approved access to Creekside Loop and is not appealable by Mr. Trimble.

**Summary of Important Dates:**

<b>ACTION</b>	<b>DATE</b>
Final Order for Duplex Issued (File No. 18-042 DR)	November 7, 2018
Building Permit for Duplex Submitted	October 30, 2020
Garage Setback Application Submitted (File No. 20-049 ADJ)	November 20, 2020
Garage Setback Application Deemed Complete	December 8, 2020
Neighborhood Notice Sent for Garage Setback	December 8, 2020
Final Order for Garage Setback Issued	December 30, 2020
Notice of Intent to Appeal Received	January 11, 2021
120-Day Rule	April 7, 2021

**BUDGETARY IMPACT:**

None

**RECOMMENDATION:**

**Recommendation**

Staff recommends the Planning Commission review the following documents:

- The Final Order issued for File No. 20-049 ADJ, which includes the original public testimony submitted by Mr. Trimble (the appellant) as well as staff’s analysis of the adjustment request and rationale for the decision.
- The appellant’s notice of intent to appeal, which includes the appellant’s reasons for appealing the decision and requesting denial of the adjustment.

Staff recommends the Planning Commission do one of the following:

1. Uphold the staff decision to approve a Type I adjustment to the garage setback for both units of the duplex per the final order for File No. 20-049 ADJ dated December 30, 2020.
2. Deny both garage setback adjustment requests and require the garage setbacks for both units of the duplex to meet the 20 foot minimum setback as requested by the appellant and required by Section 17.40.30.

3. Approve the applicant's original adjustment requests, which includes both a Type I and Type II garage setback adjustment.

**LIST OF ATTACHMENTS/EXHIBITS:**

Final Order for File No. 20-049 ADJ (staff issued decision)

Notice of Intent to Appeal submitted by William Trimble

Original applicant submittals for File No. 20-049 ADJ (application, narrative, and site plan)

**FINDINGS OF FACT and FINAL ORDER  
TYPE I and II ADJUSTMENT**

**DATE:** December 30, 2020

**FILE NO.:** 20-049 ADJ

**APPLICANT/OWNER:** Jeff Newberry

**LOCATION:** 38797 & 38799 Creekside Loop

**LEGAL:** T2S R4E Section 13CA Tax Lot 9008

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

**EXHIBITS:**

**Applicant's Submission**

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

**Agency Comments**

- D. Public Works Director (December 14, 2020)

**Public Comments**

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

**Additional Documents Submitted by Staff**

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

**FINDINGS OF FACT**

1. These findings are based on the applicant's submittal received on November 20, 2020. This application was deemed complete on December 8, 2020.
2. Jeff Newberry submitted an application requesting an adjustment to Section 17.40.30 to reduce the required garage setbacks for an approved duplex at 38797 and 38799 Creekside Loop from 20 feet to 17 feet 4 inches for one unit of the duplex (a Type II Adjustment request) and 18 feet 2 inches for the second unit (a Type I Adjustment request).

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

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

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

4. With this application (File 20-049 ADJ), the applicant submitted a revised Site Plan (Exhibit C) that details the garage setback for Unit A (the western unit) at 18 feet 2 inches and the garage setback for Unit B (the eastern unit) at 17 feet 4 inches, both of which can be processed as adjustments. Therefore, a variance request is not necessary.
5. Notification of the proposal was mailed to property owners within 300 feet of the subject property and affected agencies on December 8, 2020. Comments were received from the Public Works Director (Exhibit D). Two public comments were received.
6. Ron Hughes submitted a written comment (Exhibit E) expressing concern about the access to this property via Creekside Loop. Hughes states: “Added vehicular traffic on this road will generate a hardship to the current owners for mail and package delivery, garbage service and police and fire protection” and prefers that the subject property access Tupper Road. Hughes’s comment did not include anything about the current application for an adjustment to the garage setback.
7. William Trimble submitted a written comment (Exhibit F) also expressing concern about access to the subject property from Creekside Loop rather than Tupper Road. The letter cites previous planning files and plats that required a driveway from the subject property to Tupper Road. Trimble states that the proposed adjustment “poses a concern for vehicle

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

8. Creekside Loop is a public right-of-way and not a private road intended to benefit only select property owners. The subject property only has frontage on Creekside Loop and, therefore, Creekside Loop is the access for the subject property. Prior to Creekside Loop being dedicated as a public right-of-way, the subject property did not have direct frontage on any public rights-of-way and gained access to/from Tupper Road via a 20 foot wide access and utility easement as detailed on Partition Plat 2006-059 (Exhibit G). In 2008, Creekside Loop was dedicated as a public right-of-way and the subject property gained direct access to and frontage on a public right-of-way.
9. As noted by Trimble (Exhibit F), the subject property was previously part of a partition request from 2005 under File No. 05-031 MP (Exhibit H). Findings 12 and 13 from the Final Order for File No. 05-031 MP address access to the subject property (referred to as Parcel 2 at the time) and confirm the intent for the subject property to take future access from Creekside Loop (referred to as tax lot 9005 and 9006 at the time). Finding 12 states: “The minimum lot frontage in the zoning district is 20 feet. The site has no frontage on a public street at this time, however it is likely that the site will have frontage on a public street if Tax Lots 9005 and 9006 (south of the site) are converted into public right-of-way as has been requested by the owner of Tax Lot 8801. Regardless, the applicant proposes a 20-footwide access easement benefiting Parcel 2, as well as at least 20 feet of lot width between the northern and southern property lines, which complies with the intent of the minimum lot frontage standard.” Finding 13 states: “The applicant proposes construction of a duplex on Parcel 2 at some point in the future. Future development of Parcel 2 shall comply with the development standards in effect at the time a building permit is submitted, including the setback standards of Section 17.40.30. If the developer of Parcel 2 has the ability to obtain access to/from a public right-of-way south of the site, and if the developer takes access from this right-of-way, the developer may be responsible for costs associated with construction of a public street in the right-of-way.” Since the partition approval in 2005, Creekside Loop was constructed as a public street and dedicated to the City of Sandy. As the road authority for Creekside Loop, the City of Sandy permitted new access from the subject property to Creekside Loop with the approval of File No. 18-042. Access rights are not part of this adjustment application and therefore are not an item that can be subject to review on appeal.

Chapter 17.44 – High Density Residential (R-3)

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

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

Chapter 17.66 – Adjustments and Variances

12. Section 17.66.10 specifies the intent of adjustments and states “Adjustments are a Type I or Type II procedure that provide a means to vary the development standards normally applied in a particular district. This option exists for those circumstances where uniform; unvarying rules would prevent a more efficient use of a lot. A typical example is permitting a structure to be located closer to a property boundary than normally allowed by the zoning district regulations.”
13. Section 17.66.20 specifies that the Type I Adjustment procedure allows the Director to grant or deny an adjustment request that involves only the expansion or reduction of a quantifiable provision of the Sandy Development Code by not more than 10 percent. Section 17.66.30 specifies that the Type II Adjustment procedure allows the Director to grant or deny an adjustment request that involves only the expansion or reduction of a quantifiable provision of the Sandy Development Code by not more than 20 percent.
14. Per the submitted narrative (Exhibit B) and Site Plan (Exhibit C), the applicant is requesting an adjustment to reduce the required garage setback for the duplex from 20 feet to 18 feet 2 inches for Unit A and 17 feet 4 inches for Unit B. The proposed reduction to 18 feet 2 inches is a reduction of 1 foot 10 inches (1.833 feet), which is a 9.2 percent reduction from the required 20 foot garage setback and can thus be processed as a Type I Adjustment. The proposed reduction to 17 feet 4 inches is a reduction of 2 feet 8 inches (2.666 feet), which is a 13.3 percent reduction from the required 20 foot garage setback and can thus be processed as a Type II Adjustment.
15. Section 16.66.40 contains the review criteria for both Type I and Type II Adjustments. In order to be approved, an adjustment request must meet all four (4) criteria.
16. Adjustment Criteria A states: “The proposed development will not be contrary to the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City.” The garage setback is intended to recess the garage from the public right-of-way such that the front door and porch are more prominent than the garage, with the intention of providing a friendlier pedestrian realm. An additional benefit is that the 20 foot garage setback allows a vehicle to park in the driveway in front of the garage without blocking the sidewalk, albeit this is still not likely enough depth for larger vehicle types and is the main impetus for the setback requirement of 22 feet in the SFR and R-1 zoning districts. Section 17.98.20(A.8) requires a duplex to provide two (2) off-street parking spaces per dwelling unit. Section 17.98.60(B.1) requires a standard parking space to be 9 feet by 18 feet. Section 17.98.50 allows required off-street parking to be located in a driveway for single family residences and duplexes. The proposal includes one interior garage parking space and one exterior 9 foot by 18 foot parking space located to the west of the garage for Unit A and to the east

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



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

17. Adjustment Criteria B states: “The proposed development will not substantially reduce the amount of privacy enjoyed by users of nearby structures when compared to the same development located as specified by this Code.” The reduction to garage setbacks will not substantially reduce the amount of privacy enjoyed by the residents of neighboring structures. Criteria B is met.
18. Adjustment Criteria C states: “The proposed development will not adversely affect existing physical systems and natural systems, such as traffic, drainage, dramatic land forms, or parks.” The reduction to garage setbacks will not adversely affect existing physical systems and natural systems such as traffic, drainage, dramatic landforms or parks. Public and private utilities will not be affected by the setback adjustment. As the Public Works Director (Exhibit D) notes, the applicant could meet the garage setback by shifting the duplex north approximately 1.5 feet, which would necessitate adjustments to the rear and side yard setbacks instead. However, that would result in a net decrease in pervious (yard) surface and a net increase in impervious (driveway) surface. Reducing the garage setback results in a reduction of impervious surface, which results in less stormwater sheet flow than the alternative reduction to rear or side yard setbacks. Criteria C is met.
19. Adjustment Criteria D states: “Architectural features of the proposed development will be compatible to the design character of existing structures on adjoining properties and on the proposed development site.” The applicant is requesting a reduction to the garage setbacks. The design of the proposed duplex was previously reviewed in accordance with the Sandy Style residential design standards in Section 17.90.150. Criteria D is met.

### **DECISION**

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

### **CONDITIONS OF APPROVAL**

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

- a. The applicant shall update the site plan to detail the garage setback for Unit B at 18 feet minimum.
  - b. The applicant shall either design the driveway approaches such that the 20 foot 4 inch widths include the wing lengths or shall update the Site Plan to reflect the actual on-street parking area that remains after the wings are subtracted. This shall include the length from the west property line to the edge of the west wing of the driveway for Unit A, the length from the edge of the east wing of the driveway for Unit A to the edge of the west wing of the driveway for Unit B, and the length from the edge of the east wing of the driveway for Unit B to the east property line.
  - c. The applicant shall designate the parking spaces on the sides of the two garages for oversized vehicles to help prevent the sidewalk from being blocked.
2. The applicant shall work with the Public Works Director on approval of the construction plans for modifying the right-of-way.
  3. Any vehicle encroaching into and/or blocking the sidewalk shall be issued a citation.
  4. The City may revoke this Type I Adjustment if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the structure or site.



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Emily Meharg  
Senior Planner

#### **RIGHT OF APPEAL**

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

An application for an appeal shall contain:

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



Name of Appellant:			Phone Number:		
Email:			Address:		
Map & Tax Lot #:	T:	R:	Section:	Tax Lot(s)	

**BASIS FOR STANDING APPEAL (please check all that apply)**

Submitted written evidence during the initial review <input type="checkbox"/>
Testified orally at the hearing <input type="checkbox"/>
Participated through?

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

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

**Please note:**

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

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

Staff Use Only

Appeal Filed within 12 calendar days of Written Decision: Yes <input type="checkbox"/> No <input type="checkbox"/>					
Application complete: Yes <input type="checkbox"/> No <input type="checkbox"/>					
Scheduled for review before the: Planning Commission <input type="checkbox"/> City Council <input type="checkbox"/>					
File No.:		Date of Decision:		Date Notice of Decision Mailed:	
Appeal Fee:		Date Appeal Filed:		Date Set for Hearing:	

Development Services Department, 39250 Pioneer Blvd, Sandy, OR 97055, 503.489.2160

APPEAL

NOTICE OF LAND USE DECISION

NOTICE DATE: December 30, 2020

File No. 20-49 ADJ Creekside Loop Garage Setback Adjustment

January 11, 2021

This letter is to appeal the land use decision approving the Type I Adjustment for the garage setback for Unit A and the denial/approval with conditions for the garage setback for Unit B at the duplex located at 38797 & 38799 Creekside Loop.

As an adjacent property owner, I am seeking review of this decision. I had submitted comments on December 19<sup>th</sup>, 2020 on the initial File No 20-049 ADJ with my reasons for requesting the denial of this adjustment and still believe the adjustment should be denied for these reasons:

The adjustment being proposed in File 20-049 ADJ, poses a concern for vehicle traffic and parking on Creekside Loop. Reducing the 20-foot garage setback required per Code Section 17.40.30 creates a condition where the occupants will not be able to park vehicles in front of the garage without partially obstructing the sidewalk.

The access off Creekside Loop contradicts the recorded Partition Plat 2006-059 and the conditions of approval of File 18-042 DR, which has the access off Tupper Road. No notice regarding this access change was provided to the public or surrounding property owners.

We encourage the city to deny the adjustment and ensure the applicant provides the full 20-foot setback for the garage of both units as required by Code Section 17.40.30 or the applicant revises the access to be off Tupper Road.

Thank you for your consideration,

William Trimble  
503-702-3923  
PO Box 10  
Sandy, OR 97055  
trimblerentals@gmail.com

3. Other uses similar in nature.

**B. Conditional Uses:**

1. Community services;
2. Congregate housing;
3. Funeral and interment services, cemetery, mausoleum or crematorium;
4. Golf course and club house, pitch-and-putt, but not garden or miniature golf or golf driving range;
5. Hospital or home for the aged, retirement, rest or convalescent home;
6. Lodges, fraternal and civic assembly;
7. Major utility facility;
8. Preschool, orphanage, kindergarten or commercial day care;
9. Residential care facility [ORS 443.000 to 443.825];
10. Schools (public, private, parochial or other educational institution and supporting dormitory facilities, excluding colleges and universities);
11. Other uses similar in nature.

**17.40.30 DEVELOPMENT STANDARDS**

<b>Type</b>	<b>Standard</b>
<b>Minimum Average Lot Width</b> - Single detached dwelling - Single detached zero lot line dwelling - Single attached zero lot line dwelling - Other permitted uses	40 ft. 30 ft. 20 ft. No minimum
<b>Minimum Lot Frontage</b>	20 ft. except as allowed by Section 17.100.160
<b>Minimum Average Lot Depth</b>	No minimum
<b>Setbacks</b> - Front yard - Rear yard - Side yard (interior) - Corner Lot - <b>Garage</b>	10 ft. minimum 15 ft. minimum 5 ft. minimum <sup>1</sup> 10 ft. minimum on side abutting the street <sup>3</sup> <b>20 ft. minimum for front vehicle access</b> 15 ft. minimum if entrance is perpendicular to the street (subject to Section 1.79.220) 5 ft. minimum for alley or rear access
<b>Projections into Required Setbacks</b>	See Chapter 17.74
<b>Accessory Structures in Required Setbacks</b>	See Chapter 17.74
<b>Multi-family – Landscaping</b> Setbacks	25% minimum See Section 17.90.230
<b>Structure Height</b>	35 ft. maximum
<b>Building Site Coverage</b>	No maximum
<b>Landscaping</b>	See Chapter 17.92
<b>Off-Street Parking</b>	See Chapter 17.98

<sup>1</sup> Excluding zero lot line development

<sup>3</sup> Must comply with clear vision requirements of Chapter 17.74



## LAND USE APPLICATION FORM

(Please print or type the information below)

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

Name of Project \_\_\_\_\_

Location or Address \_\_\_\_\_

Map & Tax Lot Number T\_\_\_\_, R\_\_\_\_, Section\_\_\_\_; Tax Lot(s)\_\_\_\_\_

Plan Designation \_\_\_\_\_ Zoning Designation \_\_\_\_\_ Acres \_\_\_\_\_

Request:

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

Applicant	Owner
Address	Address
City/State/Zip	City/State/Zip
Phone	Phone
Email	Email
Signature	Signature

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

File No.	Date	Rec. No.	Fee \$
Type of Review (circle one):    Type I      Type II      Type III      Type IV			

## Narrative

**Newberry Duplex**  
**Creekside Loop, Sandy, OR 97055**  
**Land Use Decision No. 18-042 DR**

The subject site geometry presents a challenge to design a building that is 2 dwelling units, has a front façade that focuses on the “non-garage front” features, meets the required front, side and rear setbacks and has desirable livability characteristics. The previous proposal indicated 15’-2” and 17’-0” setbacks at the garage fronts for Units A and B respectively. The plan has subsequently been modified to increase this setback dimension as much as possible while keeping garages part of the units.

One purpose of the required 20’ setback is so the remaining front façade can be the prominent feature of the structure. The second purpose is to provide enough room for a vehicle to park in front of the garage without blocking the sidewalk (although this space is not an “official” required off-street parking location). A typical passenger car parking space is 9’x18’ according to the City of Sandy zoning code. Due to the difficult site geometry, it seems practical to reduce the required front setback so that there is at least 18’ between the garage front and the sidewalk.

After modifying the building design, Unit A has a proposed front setback of 18’-2” from the garage to the property line and 19’-6 ¾” from the garage to the sidewalk. Unit B is located on a curve and does not have a uniform setback from one side of the garage to the other. The minimum proposed setback from the garage to the property line is 17’-4” on one side of the garage and 18’-6 ¾” on the other. The proposed setback to the sidewalk for Unit B exceeds 20’ across the entire garage front.








PROPERTY CONTINUES NORTH.  
REFER TO TOPO SURVEY

**PROJECT INFORMATION**

LEGAL DESCRIPTION: TS2 R4E SECTION 13 TAX LOT 9008  
 LAND USE FILE NO.: 18-042 DR  
 ADDRESS: NA  
 ZONING DISTRICT: R-3  
 LOT AREA: 5636 SF  
 TOTAL NEW IMPERVIOUS AREA (ROOF AND DRIVEWAYS): 2597SF

**LANDSCAPING KEY**

-  = NEW PAPERBARK MAPLE STREET TREE. 4 TOTAL. TO BE 7' TALL AND 1.5" CALIPER MEASURED 6" ABOVE GROUND MIN. AT TIME OF PLANTING. BALLED AND BURLAPPED.
-  = WESTERN RED CEDAR TO BE 5' TALL MIN. AT TIME OF PLANTING.
-  = RHODODENDRON OR SIMILAR SHRUB, 5 GAL.
-  = HEAVENLY BAMBOO OR SIMILAR SHRUB/HEDGE, 2 GAL.
-  = BLUE OAT GRASS OR SIMILAR GRASS OR GROUND COVER, 1 GAL.

**LANDSCAPING NOTES** (REF. 17.92.20 ZONING CODE)

1. ALL ON SITE AREAS NOT OCCUPIED BY BUILDINGS OR HARDSCAPES TO BE LANDSCAPED. MINIMUM REQUIRED LANDSCAPED AREA = 25% OF SITE = .25x5636 = 1,409SF.
2. 75% OF LANDSCAPED AREA = 1409x.75 = 1057SF, TO BE TREES, SHRUBS AND GROUND COVER. THE REMAINING 25% = 1409x.25 = 352SF CAN BE BARK/MULCH. ALL REMAINING SITE AREAS TO BE BARK/MULCH OR GRASS.
3. LANDSCAPING SHALL NOT BE PERMITTED WITHIN VISION CLEARANCES OF DRIVEWAYS.
4. TREES MAY NOT BE PLANTED IN THE FOLLOWING AREAS:
  - 4.1. WITHIN 5' OF PERMANENT HARD SURFACES (SIDEWALKS, DRIVEWAYS, ETC.) THE EXCEPTION ARE THE APPROVED STREET TREES THAT MAY BE PLANTED IN AN ADEQUATE PLANTING STRIP.
  - 4.2. WITHIN 10' OF FIRE HYDRANTS AND UTILITY POLES
  - 4.3. WITHIN 5' OF EXISTING CURBS
  - 4.4. WITHIN 10' OF PUBLIC SANITARY OR STORM SEWERS OR WATER LINES
5. ALL LANDSCAPING SHALL BE CONTINUALLY MAINTAINED, INCLUDING NECESSARY WATERING (MANUAL OR AUTOMATIC), PRUNING AND REPLACEMENT OF DEAD AND DYING VEGETATION.
6. ANY AREAS DISTURBED DURING CONSTRUCTION SHALL BE RE-VEGITATED TO PRE-PROJECT CONDITIONS.
7. NO TREES GREATER THAN 8" DIA. SHALL BE REMOVED FROM THE SITE WITHOUT CITY STAFF REVIEW AND APPROVAL.

**UTILITIES**

1. REFER TO TOPO SURVEY FOR AS-BUILT UTILITY LOCATIONS.
2. THE PROPOSED DEVELOPMENT SHALL BE CONNECTED TO MUNICIPAL WATER AND SANITARY SEWER PER CODE AND CITY STANDARDS.

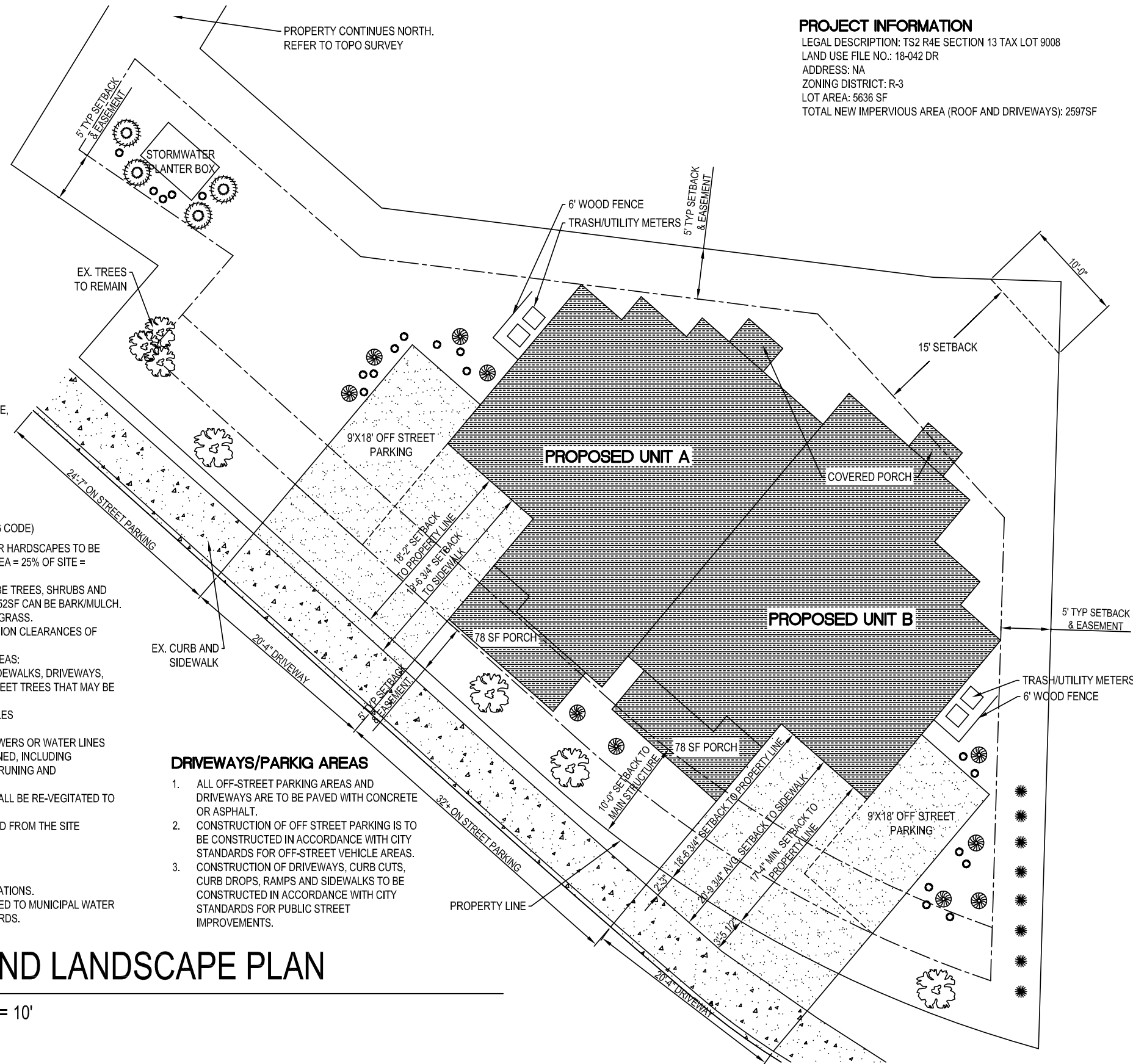
**DRIVEWAYS/PARKING AREAS**

1. ALL OFF-STREET PARKING AREAS AND DRIVEWAYS ARE TO BE PAVED WITH CONCRETE OR ASPHALT.
2. CONSTRUCTION OF OFF STREET PARKING IS TO BE CONSTRUCTED IN ACCORDANCE WITH CITY STANDARDS FOR OFF-STREET VEHICLE AREAS.
3. CONSTRUCTION OF DRIVEWAYS, CURB CUTS, CURB DROPS, RAMPS AND SIDEWALKS TO BE CONSTRUCTED IN ACCORDANCE WITH CITY STANDARDS FOR PUBLIC STREET IMPROVEMENTS.

1  
A2

**SITE AND LANDSCAPE PLAN**

SCALE: 1" = 10'



**NEWBERRY DUPLEX  
 CREEKSIDE LOOP  
 SANDY, OR 97055**

PERMIT SET		
No	Revision	Date
DRAWING TITLE		
<b>SITE PLAN</b>		
DATE		1-2-19
SHEET #		<b>A2</b>





## Staff Report

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**Meeting Date:** March 29, 2021

**From** Emily Meharg, Senior Planner

**SUBJECT:** 21-004 TREE/VAR Mairin's Viewpoint Tree Variance

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**BACKGROUND:**

John Mahaffy submitted an application for a variance to the tree retention standards of Section 17.102.50 to allow fewer than the minimum required retention trees. The Mairin's Viewpoint subdivision (File No. 17-053 SUB, Exhibit F) was approved with conditions on December 28, 2017 and the plat was recorded on February 24, 2021. The subdivision approval included a condition that the applicant shall submit an updated arborist report and tree inventory for staff review and approval. The subject property is approximately 1.39 acres, which requires retention of four (4) healthy trees 11-inches diameter at breast height (DBH) or greater, that are likely to grow to maturity, and are located to minimize the potential for blow-down.

The applicant and project arborist have been working with staff to identify four (4) retention trees; however, there are very few retention tree candidates on the subject property due to the trees' conditions, species, and locations in relation to building footprints and public improvements. The applicant is requesting a variance to Section 17.102.50 and is proposing to retain three (3) trees and plant two (2) mitigation trees in compliance with Section 17.102.70.

**BUDGETARY IMPACT:**

None

**RECOMMENDATION:**

Staff recommends the Planning Commission approve the requested variance to the tree retention standards of Section 17.102.50 in compliance with Section 17.102.70. Staff further recommends the Planning Commission require the applicant to retain Tree #542 as a retention tree; however, rather than retaining Trees #506 and 558, staff recommends the Planning Commission require the applicant to mitigate for these two trees as well as for the fourth required retention tree, for a total of six (6) mitigation trees. Staff recommends that the Planning Commission require the applicant pay the mitigation tree fee-in-lieu of \$500 per tree for a total of \$3,000.

**LIST OF ATTACHMENTS/EXHIBITS:**

**EXHIBITS:**

Applicant's Submittals

- A. Land Use Application
- B. Tree Variance Narrative

- C. Arborist Report (Mary Giersch Consulting Arborist; February 15, 2021)
- D. Tree Inventory Table
- E. Tree Preservation Plan

**Submitted by the City of Sandy**

- F. Final Order for File No. 17-053 SUB
- G. Arborist Report (Mary Giersch Consulting Arborist; April 2020)
- H. Pictures of Tree #506
- I. Tree Covenants for Lots 1, 3, and 4 (Recorded February 18, 2021)

**PLANNING COMMISSION STAFF REPORT  
TYPE III REVIEW**

**DATE:** March 19, 2021

**FILE NO.:** 21-004 TREE/VAR

**PROJECT NAME:** Mairin's Viewpoint Tree Variance

**APPLICANT/OWNER:** John Mahaffy

**ADDRESS:** 15545 Bluff Road

**LEGAL DESCRIPTION:** T2S R4E Section 11DA Tax Lot 400

The above-referenced proposal was reviewed as a Type III Tree Variance. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the recommended conditions of approval.

**EXHIBITS:**

**Applicant's Submittals**

- A. Land Use Application
- B. Tree Variance Narrative
- C. Arborist Report (Mary Giersch Consulting Arborist; February 15, 2021)
- D. Tree Inventory Table
- E. Tree Preservation Plan

**Submitted by the City of Sandy**

- F. Final Order for File No. 17-053 SUB
- G. Arborist Report (Mary Giersch Consulting Arborist; April 2020)
- H. Pictures of Tree #506
- I. Tree Covenants for Lots 1, 3, and 4 (Recorded February 18, 2021)

**FINDINGS OF FACT:**

1. These findings are based on the applicant's submittal received on February 17, 2021 with additional information received on February 18, 2021. The application was deemed complete on March 2, 2021 and the 120-day deadline is June 30, 2021.
2. John Mahaffy submitted an application for a variance to the tree retention standards of Section 17.102.50 to allow fewer than the minimum required retention trees. The Mairin's Viewpoint subdivision (File No. 17-053 SUB, Exhibit F) was approved with conditions on December 28, 2017 and the plat was recorded on February 24, 2021. The subdivision approval included a condition that the applicant shall submit an updated arborist report and

tree inventory for staff review and approval. The subject property is approximately 1.39 acres, which requires retention of four (4) healthy trees 11-inches diameter at breast height (DBH) or greater, that are likely to grow to maturity, and are located to minimize the potential for blow-down.

3. The applicant and project arborist have been working with staff to identify four (4) retention trees; however, there are very few retention tree candidates on the subject property due to the trees' conditions, species, and locations in relation to building footprints and public improvements. The applicant is requesting a variance to Section 17.102.50 and is proposing to retain three (3) trees and plant two (2) mitigation trees in compliance with Section 17.102.70.
4. Notification of the proposed application was mailed to property owners within 500 feet of the subject property and affected agencies on March 2, 2021. A legal notice was published in the Sandy Post on March 17, 2021. As of March 17, 2021, no written public comments were received.

#### 17.102 – Urban Forestry

5. Chapter 17.102, Urban Forestry, applies to properties within the Sandy Urban Growth Boundary that are greater than one acre in area (including contiguous parcels under the same ownership).
6. The subject property contains approximately 1.39 acres; thus, compliance with the tree retention requirements of Chapter 17.102 is required. Chapter 17.102 requires retention of three (3) trees per acre that are 11-inches or greater diameter at breast height (DBH), in healthy condition, likely to grow to maturity, and located to minimize the potential for blow-down. Thus, the minimum retention requirement for the subject property is 4 trees.
7. As noted above, the original subdivision approval (File 17-053 SUB) included a condition that the applicant shall submit an updated arborist report and tree inventory for staff review and approval. The applicant and project arborist have been working with staff to identify four (4) retention trees; however, there are very few retention tree candidates on the subject property due to the trees' conditions, species, and locations in relation to building footprints and public improvements. The applicant is requesting a variance to Section 17.102.50 and is proposing to retain three (3) trees and plant two (2) mitigation trees in compliance with Section 17.102.70. The narrative (Exhibit B) states: "While there is an existing cluster of trees on the west half of the project site, many of the trees are not healthy enough to be deemed viable candidates for preservation. The three (3) trees proposed for preservation are in fair health and were deemed not to be blow-down hazards. Only one (1) of the proposed trees slated for preservation is a coniferous species, however, the applicant proposes to plant two (2) additional, native conifers should this application be approved."
8. The three (3) trees proposed to be retained are as follows:
  - Tree #506, an 18-inch DBH bigleaf maple in fair condition
  - Tree #542, a 36-inch DBH western redcedar in fair condition
  - Tree #558, a 16-inch DBH pear in fair condition

9. Section 17.102.70 contains the Type III review process for variances to the urban forestry regulations. The Arborist Report and Tree Inventory prepared by Mary Giersch Consulting Arborist dated February 15, 2021 (Exhibits C and D) inventoried 46 trees 11-inches DBH or greater on the subject property. Of the 46, five (5) are dead, dying, or in hazard condition, and three (3) are nuisance species. Of the remaining 38 trees, 12 are in poor condition and 26 are in fair condition. The Arborist Report states that the twenty-six (26) trees with a condition rating of fair were assessed to determine if adequate root protection space was available to allow for tree preservation and long-term sustainability. Based on the assessment, three (3) trees were proposed for preservation based on their condition, size, location, and tree species construction tolerance ratings. The applicant's narrative (Exhibit B) states: "Unfortunately, due to the location of trees within the proposed lots, the public improvements required, the poor health of many onsite trees, and the presence of nuisance tree species, the applicant is unable to meet the tree preservation requirements as required in the approved Mairin's Viewpoint Subdivision Application. It is for this reason that the applicant is seeking a Type III Tree Variance for the project site."

Staff visited the site on March 9, 2021 and concurs that there are very few good candidates for retention. A majority of the trees are covered in English ivy; in some cases, the ivy has climbed so far up into the tree that it appears to have taken over the entire trunk of the tree. Staff has concerns about the health of Tree #506, which is one of the ivy-covered trees (see photos, Exhibit H). In an arborist report prepared by the project arborist and submitted to staff in April 2020 (Exhibit G), Tree #506 was evaluated as being in poor condition. The more recent arborist report (Exhibit C) evaluates Tree #506 as being in fair condition. In addition, Tree #506 is located in the northwest corner of Lot 1 within the allowable building footprint and close to the proposed future sidewalks on Dreamcatcher Avenue and Olson Street. Even if Tree #506 is healthy, staff is not convinced it will be able to be adequately protected during construction based on its location. Staff also has concerns about Tree #558 being selected as a retention tree. Tree #558 is a pear tree with many vertical water sprouts. While it was deemed to be in fair condition by the project arborist and meets the minimum size threshold for a retention tree, staff does not believe retaining a pear tree in perpetuity meets the intent of the retention tree standards, which prefers two-thirds of the retained trees to be conifer species. During the site visit, staff surveyed the site for other potential retention tree candidates and identified a few trees that appear to be healthy and have not been taken over by ivy (Tree #525, for example); however, most of the trees that were free of ivy were located within the building footprint of Lot 3. Staff also identified Tree #539, a 42-inch DBH grand fir in fair condition, as a potential candidate. Tree #539 is located on the lot with the existing house that will be retained (Lot 4) so will not be as heavily impacted by construction activity as trees on the other lots that will be developed. However, staff has talked to the property owner multiple times about retaining Tree #539 and the property owner is concerned it is too close to the existing house and poses a hazard to the existing house. Staff has had multiple conversations with both the property owner and project arborist regarding the difficulty of finding suitable retention trees on the subject property primarily due to condition, species, and location.

Based on concerns with Trees 506 and 558 and the lack of good alternative retention candidates on the site, **staff recommends the Planning Commission grant the applicant a variance to the minimum tree retention standards for the subject property. Staff further recommends the Planning Commission require the applicant to retain Tree #542 as a retention tree; however, rather than retaining Trees #506 and 558, staff recommends the Planning Commission require the applicant to mitigate for these two trees as well as for the fourth required retention tree, for a total of six (6) mitigation trees. To verify that Tree #542 remains protected and healthy through construction, the applicant shall submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist. The post-construction report shall be completed after all construction on the subject property has been completed and shall assess the condition of the required retention tree. If the retention tree is damaged or otherwise compromised and needs to be removed, the applicant shall apply for a hazard tree removal permit and shall replace mitigation trees at a higher mitigation ratio based on the size of the tree removed; the applicant shall also be required to pay a third-party arborist review fee for any trees proposed for removal from the property in the future.** If the Planning Commission decides to require that the applicant plant the six (6) required mitigation trees rather than paying the fee-in-lieu, the post-construction arborist report will need to verify that the mitigation trees are alive. If the post-construction arborist report determines that any of the newly planted mitigation trees were damaged or are unhealthy, the applicant shall plant a new mitigation tree(s) or shall pay the \$500 fee-in-lieu of mitigation tree per required mitigation tree to have the trees planted off-site.

10. Section 17.102.50(B) includes tree protection requirements. The narrative (Exhibit B) states that the applicant has worked with the project arborist to modify the root protection zones of the three (3) trees being preserved, to accommodate both public and private improvements. The typical root protection zone is the critical root zone. Per the Pacific Northwest International Society of Arboriculture (ISA), the ISA defines the critical root zone (CRZ) as “an area equal to a 1-foot radius from the base of the tree’s trunk for each 1 inch of the tree’s diameter at 4.5 feet above grade (referred to as diameter at breast height).” Often the dripline is used to estimate a tree’s CRZ; however, it should be noted that a tree’s roots typically extend well beyond its dripline. The typical minimum root protection zone (MRPZ) is 0.5 feet per 1-inch DBH, which is the minimum setback to be protected from the trunk of a tree in feet when impacted on one side of the root system. The Arborist Report (Exhibit C) specifies modified root protection zones for each tree that do not adhere to the standard critical root zone. The proposed root protection zones in relation to the standard CRZ and MRPZ are as follows:

<b>Tree #</b>	<b>Size (DBH, inches)</b>	<b>Standard CRZ (1 foot per 1-inch DBH; feet)</b>	<b>Standard MRPZ (0.5 feet per 1-inch DBH; feet)</b>	<b>Project Arborist’s Recommended Root Protection Zone (feet)</b>
506	18	18	9	15 feet north, south, east; 10 feet west
542	36	36	18	27 feet south and east; 16 feet north and west
558	16	16	8	16 feet north, south, and east; 6 feet south

The Arborist Report notes that the arborist has not been provided detailed development plans and that the root protection zone recommendations are subject to change based on updated development plans. Typical tree protection standards include no impact to the MRPZ but allow up to 25 percent of the CRZ to be impacted provided the work is done under supervision of the project arborist. The City of Sandy typically requires the fencing to be placed at the CRZ around each tree; if work needs to be done within the CRZ, the fencing can be opened to allow construction workers inside provided they are accompanied by the project arborist. Staff is concerned that the root protection zones identified by the project arborist will be insufficient to protect the retention trees. The root protection zone proposed by the project arborist is less than the standard CRZ on all sides for both Trees #506 and 542. Staff is particularly concerned for Tree #542 as the project arborists' recommendation for tree fencing placement is significantly inside the standard CRZ area and is even within the standard minimum root protection zone on the north and west sides. It is unclear why tree fencing couldn't be placed at the CRZ for Tree #542, particularly on the south and east sides as the CRZ would be outside any proposed building footprint or stormwater infrastructure. The root protection zone proposed by the project arborist for Tree #558 is located at the CRZ on the north, south, and east sides. The reason it is less on the south side (6 feet instead of 16 feet) is that the south property boundary is 6 feet from the tree. No construction activity will be occurring on the property to the south so the proposed tree protection fencing for Tree #558 should be sufficient to protect the tree. Based on staff's recommendation regarding the requested variance, only Tree #542 would require tree protection fencing. Condition D.3 of the final order for File No. 17-053 SUB (Exhibit F) requires that tree protection fencing be installed 5 feet outside of the dripline around all trees to be retained on the site. **Therefore, in order to remain in compliance with approval for the subdivision (File No. 17-053 SUB), the applicant shall install tree protection fencing for Tree #542 located 5 feet outside of the dripline. The applicant may enter the critical root zone of Tree #542 to complete work in up to 25 percent of the CRZ under supervision of a TRAQ certified arborist; however, no construction activity shall occur within the minimum root protection zone (0.5 feet per 1-inch DBH), including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The applicant shall submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist that assesses the condition of the retention tree after all construction activity on the subject property has been completed.** If the Planning Commission decides to retain Trees #506 and 558, the tree protection fencing shall be installed 5 feet outside the dripline of Trees #506 and 558; up to 25 percent of the CRZs of Tree #506 may be impacted if the work is done under the supervision of a TRAQ certified arborist.

11. Section 17.102.60 contains tree replanting requirements. The applicant's narrative (Exhibit B) states: "Tree removal will happen prior to commencing construction on the approve Mairin's Viewpoint Subdivision. Proper BMP's will be provided throughout construction activities to minimize erosion, and final replanting and soil stabilization will be done upon completion of project improvements and site grading. The final soil stabilization will occur pursuant to this section. The applicant proposes to replant two (2) trees to mitigate the fourth and final tree required for preservation from the approved Mairin's Viewpoint Subdivision

Application. No FSH exists on the project site, nor will any tree removal occur that is not associated with the approved tree removal plan.” Based on staff’s recommendation to only retain Tree #542, six (6) mitigation trees would be required.

12. The intent of the Urban Forestry code is “to conserve and replenish the ecological, aesthetic and economic benefits of urban forests.” The intent of the tree retention standard is to protect large, healthy trees that are likely to grow to maturity. While the code does allow newly-planted trees to substitute for retained trees, the intent is not to remove all of the existing trees on a site and replace them with newly-planted trees. All trees provide important benefits, but large, mature trees provide greater and more immediate ecological value, including reducing urban heat island effect, providing habitat, managing stormwater, and improving air quality. Thus, while the code sets a substitution ratio of at least two mitigation trees for every one protected tree that is removed, it would be nearly impossible to determine, for example, how many young 6 foot tall mitigation Douglas firs it would actually take to provide value equal to that of a mature 60-inch DBH Douglas fir. In addition, most development sites are graded or otherwise impacted during construction, leaving the soil compacted. This creates harsh conditions for newly planted mitigation trees, which often struggle to survive in the compacted soils. The applicant is proposing to plant two (2) mitigation trees to substitute for retention of the fourth required retention tree. The two (2) mitigation trees are proposed to be Douglas fir trees planted in the southwest corner of Lot 4. With previous subdivisions in Sandy, staff has witnessed that many of the mitigation trees planted on private lots are illegally removed after the house receives a certificate of occupancy, or the new homeowner doesn’t water the trees and they die within a couple years. Once the subdivision is fully built out, it will be difficult for staff or code enforcement to monitor the health of the mitigation trees if they are not located in a visible location close to a public right-of-way. Based on staff’s recommendation, six (6) mitigation trees would be required. Due to concerns related to the long-term health and retention of the mitigation trees on private property, **staff recommends the Planning Commission require the applicant to pay a fee-in-lieu of mitigation tree of \$500 for each required mitigation tree for a total of \$3,000.** The fee-in-lieu would be used to plant and maintain six (6) mitigation trees on a City-owned site in the same watershed, for example the City-owned property directly east of the subject property. Should the Planning Commission instead decide to require the mitigation trees to be planted on the private lots, staff recommends the following conditions:
- The applicant shall plant the six (6) required mitigation trees in the 20-foot setback from Bluff Road on Lots 5 and 6 so that staff can more easily monitor their health.
  - The mitigation trees shall be 6-8 foot tall native evergreens of quality nursery stock.
  - The applicant shall not anchor anything to the mitigation trees, compact the soil under the dripline, or otherwise harm or damage the mitigation trees.
  - The mitigation trees shall be planted per the City of Sandy standard planting detail. All ties and burlap shall be removed from the root ball prior to planting. If the burlap cannot be completely removed from the root ball without compromising the integrity of the root ball, the burlap shall be removed from at least the top one third of the side of the root ball. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stake and the twine shall be removed after the first growing season but no later than one year from being planted.



- The mitigation trees shall be adequately watered during the first three dry seasons (summers). The applicant shall submit details on the proposed irrigation system for the mitigation trees prior to any approved tree removal or other activity on the site.
- In order to improve the chance of survival for newly-planted mitigation trees, the applicant shall amend and aerate the soil to a depth of 3 feet in a 15 foot radius around the location of each proposed mitigation tree. The applicant shall submit written confirmation from the project landscape company stating that soil amendment and aeration were completed prior to planting the mitigation trees.

13. As a condition of approval in the Final Order for File No. 17-053 SUB (Exhibit F), the applicant was required to record a tree protection covenant. On February 18, 2021, the applicant recorded a tree covenant for Lots 1, 3, and 4 (Exhibit I) as three separate documents that include the species and location of the three (3) retention trees proposed by the applicant (Trees #506, 542, and 558) on each respective lot. Based on the staff recommendation to only retain Tree #542, only the tree covenant for Lot 3 is needed. **The applicant shall terminate the tree covenants for Lots 1 and 4.** If the Planning Commission requires the applicant to plant the six (6) mitigation trees rather than paying the fee-in-lieu of mitigation trees as recommended by staff, the applicant will need to record a tree covenant that includes the species and locations of the six (6) mitigation trees as well.

14. The applicant did not indicate if there are nests in the trees proposed for removal. **If the trees are removed during prime nesting season (February 1- July 31), the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant shall delay tree removal until after the nesting season or shall hire a professional to relocate the nests to an appropriate nearby location, provided the species using the nest is not invasive.**

**RECOMMENDATION:**

Staff recommends the Planning Commission approve the requested variance to the tree retention standards of Section 17.102.50 in compliance with Section 17.102.70. Staff further recommends the Planning Commission require the applicant to retain Tree #542 as a retention tree; however, rather than retaining Trees #506 and 558, staff recommends the Planning Commission require the applicant to mitigate for these two trees as well as for the fourth required retention tree, for a total of six (6) mitigation trees. Staff recommends that the Planning Commission require the applicant pay the mitigation tree fee-in-lieu of \$500 per tree for a total of \$3,000.

The conditions below are draft conditions of approval based on the staff recommendation.

**DRAFT CONDITIONS OF APPROVAL:**

**A. The applicant shall retain Tree #542 and pay a fee-in-lieu of mitigation tree of \$500 for each required mitigation tree for a total of \$3,000.**

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

1. Apply for and receive approval for a grading and erosion control permit in conformance with City standards detailed in Section 15.44 of the Municipal Code.
2. Submit proof of receipt of a Department of Environmental Quality 1200C permit.
3. Per the conditions of approval for File No. 17-053 SUB, have a licensed pest control agent evaluate the site to determine if pest eradication is needed. Submit the evaluation to the City of Sandy for review and approval.
4. Request an inspection and receive approval of erosion control measures.
5. Install tree protection fencing 5 feet outside of the dripline of Tree #542, in compliance with the final order for File No. 17-053 SUB. The tree protection fencing shall be 6 feet tall no-jump horse fencing supported with metal posts placed no farther than ten feet apart installed flush with the initial undisturbed grade. The applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches) to the protection fencing indicating that the area behind the fence is a tree protection area and that the fence shall not be removed or relocated. Up to 25 percent of the critical root zone (1-foot per 1-inch DBH) may be impacted by development provided the work occurs under supervision of the project arborist or another TRAQ certified arborist; however, no construction activity shall occur within the minimum root protection zone (0.5 feet per 1-inch DBH), including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The applicant shall retain the project arborist or another TRAQ certified arborist onsite for any construction activity within the critical root zone of a retention tree.
6. Request inspection and receive City approval of tree protection fencing prior to any tree removal, grading, or other construction activity on the site.

**C. Within 90 days from the end of construction, the applicant shall submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist. The post-construction report shall be completed after all construction on the subject property has been completed and shall assess the condition of the retention tree. If the retention tree was damaged or otherwise compromised and needs to be removed, the applicant shall apply for a hazard tree removal permit and shall replace mitigation trees at a higher mitigation ratio based on the size of the tree removed; the applicant shall also be required to pay a third-party arborist review fee.**

**D. Terminate the tree covenants for Lots 1 and 4 within 90 days of issuance of the final order. Submit a copy of the terminations of the tree covenants to the Planning Division.**

**E. General Conditions of Approval**

1. If the trees as approved by Planning Commission are removed during prime nesting season (February 1- July 31), the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant shall delay tree removal until after the nesting season or shall hire a professional to relocate the nests to an appropriate nearby location, provided the species using the nest is not invasive.
2. Successors-in-interest of the applicant shall comply with requirements of this final order. In the event the applicant should sell or lease the property upon which the condition contained in this document apply, the sale or lease will be subject to the restrictions and conditions described herein. The conditions shall run with the land and are binding on applicant's heirs, personal representatives, successors, and assigns.
3. Activity within the right-of-way (e.g., staging, etc.) requires a separate right-of-way permit through the Public Works Department.

**EXHIBIT A**



**General Land Use Application**

**1 page**

<b>Name of Project:</b>	
<b>Location or Address:</b>	

<b>Map &amp; Tax Lot #</b>	<b>T:</b>	<b>R:</b>	<b>Section:</b>	<b>Tax Lot (s):</b>
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<b>Request:</b>

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

Applicant (if different than owner)	Owner
Address	Address
City/State/Zip	City/State/Zip
Email	Email
Phone	Phone
Signature	Signature

Staff Use Only

File #:	Date:	Fee\$:	Planner:
Type of review:    Type I <input type="checkbox"/> Type II <input type="checkbox"/> Type III <input type="checkbox"/> Type IV <input type="checkbox"/>			
Has applicant attended a pre-app?    Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, date of pre-app meeting:			

Development Services Department, 39250 Pioneer Blvd, Sandy, OR 97055, 503.489.2160

**MAIRIN'S VIEWPOINT SUBDIVISION**

**Type III Tree Variance Application**

**February 17, 2021**

**Applicant:**

**John Mahaffy  
13100 SE Sunnyside Road, Suite B  
Clackamas, OR 97015  
(503) 256-1112  
jmahaffy@gtrealty.com**

**Project Arborist:**

**Mary Giersch  
iArboristPDX LLC  
mkgiersch@gmail.com**

**Planner:**

**Tyler Henderson  
All County Surveyors & Planners, Inc.  
P.O. Box 955  
Sandy, OR 97055  
tyler@allcountysurveyors.com  
(541) 965-0277**



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## **Site and Project Description**

The project site lies entirely within tax lot 400. Tax lot 400 is approximately 60,679 square feet and gently slopes to the west, away from Bluff Road. The buildable portion of the site is bordered by Bluff Road to the east, SE Olson Street to the north, and the future Dreamcatcher Avenue to the west.

The site currently has an approved land-use application for a 6-lot subdivision which will begin construction soon. Unfortunately, due to the location of trees within the proposed lots, the public improvements required, the poor health of many onsite trees, and the presence of nuisance tree species, the applicant is unable to meet the tree preservation requirements as required in the approved Mairin's Viewpoint Subdivision Application. It is for this reason that the applicant is seeking a Type III Tree Variance for the project site.

On the following pages the applicant seeks to address the applicable Sandy Development Code sections in reference to the Type III Tree Variance.

### **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. At least three trees 11 inches DBH or greater are to be retained for every one-acre of contiguous ownership.*
- 2. Retained trees can be located anywhere on the site at the landowner's discretion before the harvest begins. Clusters of trees are encouraged.*
- 3. Trees proposed for retention shall be healthy and likely to grow to maturity, and be located to minimize the potential for blow-down following the harvest.*
- 4. If possible, at least two of the required trees per acre must be of conifer species.*
- 5. Trees within the required protected setback areas may be counted towards the tree retention standard if they meet these requirements.*

Response: The parcel size of the subject property dictates that four (4) trees should be preserved with the development of the property. While there is an existing cluster of trees on the west half of the project site, many of the trees are not healthy enough to be deemed viable candidates for preservation. The three (3) trees proposed for preservation are in fair health and were deemed not to be blow-down hazards. Only one (1) of the proposed trees slated for preservation is a coniferous species, however, the applicant proposes to plant two (2) additional, native conifers should this application be approved. There are no required setback areas within the project boundary.

**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. 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 no less than 10 horizontal feet from the outside edge of the trunk.*
- 2. Required fencing shall be a minimum of six feet tall supported with metal posts placed no farther than ten feet apart installed flush with the initial undisturbed grade.*
- 3. 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.*

Response: The trees slated for preservation onsite shall be marked with the yellow flagging, and appropriate fencing provided around the trees pursuant to this section. The applicant has worked with the project arborist to modify the root protection zones of the three (3) trees being preserved, to accommodate both public and private improvements - refer to the Arborist Report and Tree Preservation Exhibit included with this application. The project arborist shall be onsite to witness construction activities near protected trees, as needed, during construction.



**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. 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.*

**Response:** The applicant is aware of this requirement and will make the proper arrangements with the city for inspection of tree protection measures prior to the removal of onsite trees and the commencement of construction.

#### **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 1<sup>st</sup> of the following spring.*
- 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 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*

**Response:** Tree removal will happen prior to commencing construction on the approved Mairin's Viewpoint Subdivision. Proper BMP's will be provided throughout construction activities to minimize erosion, and final replanting and soil stabilization will be done upon completion of project improvements and site grading. The final soil stabilization will occur pursuant to this section. The applicant proposes to replant two (2) trees to mitigate the fourth and final tree required for preservation from the approved Mairin's Viewpoint Subdivision Application. No FSH exists on the project site, nor will any tree removal occur that is not associated with the approved tree removal plan.

#### **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); and*
- 2. The substitution more nearly meets the intent of this ordinance due to:*
  - a. The location of the existing and proposed new trees, or*
  - b. The physical condition of the existing trees or their compatibility with the existing soil and climate conditions; or*
  - c. An undue hardship is caused by the requirement for retention of existing trees.*
  - d. Tree removal is necessary to protect a scenic view corridor.*

Response: The applicant seeks to replant two (2) native conifers to mitigate for the final tree required for preservation with the Mairin's Viewpoint Subdivision. The location of many of the healthy trees within the lots of the Mairin's Viewpoint Subdivision make them too burdensome for home construction to be viable for preservation. In addition, many of the trees located in ideal positions within the lots are not healthy enough to be candidates for preservation. The proposed location of the mitigation trees will minimize the impact to access of the proposed, private rear-yard drain system, and the building envelope of Lot 4. No tree removal is occurring to protect a scenic view corridor.

## EXHIBIT C



MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way  
Beaverton, OR 97007

### ASSIGNMENT

To conduct a Limited Visual Tree Assessment for several trees on a development site located at 15545 SE Bluff Road, Sandy, Oregon, and to provide recommendations.

### FIELD OBSERVATIONS

I visited the property on February 3<sup>rd</sup> and 24<sup>th</sup>, 2018, March 11<sup>th</sup>, April 28<sup>th</sup>, 2020, and January 28<sup>th</sup>, 2021. My observations were limited to what was visible to me from the ground and the condition of the trees and site on the dates and times of my assessments.

There are forty-six (46) trees greater than or equal to 11 inches Diameter-at-Breast-Height (DBH). Trees were assessed for health/condition, and measured for Diameter-at-Breast-Height. An Arborist Tree Inventory Table is included as an attachment to this report.

Five (5) of the trees are Dead, Dying, or Hazard condition, and three (3) are Nuisance Tree Species. The remaining thirty-eight (38) trees are in fair or poor condition. The following species are represented:

- Grand Fir (*Abies grandis*)
- Bigleaf Maple (*Acer macrophyllum*)
- Deodar Cedar (*Cedrus deodara*)
- Magnolia (*Magnolia sp.*)
- Apple (*Malus sp.*)
- Sweet Cherry (*Prunus avium*)
- Cherry Plum (*Prunus cerasifera*)
- Douglas-fir (*Pseudotsuga menziesii*)
- Pear (*Pyrus sp.*)
- Western Red-cedar (*Thuja plicata*).

The twenty-six (26) trees with a condition rating of fair were assessed to determine if adequate root protection space was available to allow for tree preservation and long-term sustainability. Based on this assessment, three (3) trees are proposed for preservation based on their condition, size, location, and tree species construction tolerance ratings. One of the trees is a conifer (Western Red-cedar), and the other two (Bigleaf Maple and Pear) are deciduous.

Tree 506 is a mature Bigleaf Maple with a DBH measurement of 18 inches. It is located near the northwest corner of Lot 1 and is in fair condition. It can be retained and protected with a Root Protection Zone (RPZ) 15 feet north, south, east, and 10 feet west.

Tree 542 is a mature Western Red-cedar with a DBH measurement of 36 inches. It is located near the back of Lot 3 and is in fair condition. It can be retained and protected with a RPZ 27 feet south and east, and 16 feet north and west.



## MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way  
Beaverton, OR 97007

Tree 558 is a mature Pear with a DBH measurement of 16 inches. It is located along the southern property line of Lot 4 and is in fair condition. It can be retained and protected with a RPZ 16 feet north, east and west, and 6 feet south.

Root Protection Zone (RPZ) distance recommendations are included in the attached Tree Inventory Table. I have not been provided detailed development plans for this site as of this date. RPZ recommendations are subject to change based on updated development plans.

Trees identified for preservation shall be marked with yellow flagging tape and RPZ fencing at distances set forth above. RPZ fencing shall be a minimum of six feet tall supported with metal posts placed no farther than ten feet apart installed flush with the initial undisturbed grade. No construction activity shall occur within the RPZ, including but not limited to dumping or storage of materials such as building supplies, soil, waste items, equipment or parked vehicles. RPZ fencing shall be installed prior to any land disturbing activities including but not limited to tree removal, clearing, grading, excavation, or demolition work, and removed only after completion of all construction activity.

Please contact me with questions pertaining to this report at 503-523-6411, or [mkgiersch@gmail.com](mailto:mkgiersch@gmail.com).

Sincerely,

Mary Kay Giersch

*ISA Certified Arborist PN-6732A*

*Member, American Society of Consulting Arborists*



## MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way  
Beaverton, OR 97007

### ATTACHMENT A – CERTIFICATION OF PERFORMANCE

I, Mary Kay Giersch, certify:

- That I have personally inspected the trees and property referred to in this report, and have stated my findings accordingly. The extent of the evaluation is stated in the attached report and the terms of Assignment;
- That I have no current or prospective interest in the vegetation or the property that is the subject of this report and have no personal interest or bias with respect to the parties involved;
- That the analysis, opinions and conclusions stated herein are my own and are based on current scientific procedures and facts;
- That my analysis, opinions and conclusions were developed and this report has been prepared according to commonly accepted arboriculture practices;
- That no one provided significant professional assistance to me, except as indicated within the report;
- That my compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party nor upon the results if the assignment, the attainment of stipulated results, or the occurrence of any subsequent events;
- Any legal description provided to me is assumed to be correct. Titles and ownerships to property are assumed to be good and marketable;
- Sketches, drawings and photographs in this report are intended as visual aids and are probably not to scale;
- Unless expressed otherwise, information in this report covers only items that were examined and reflects the condition of those items at the time of inspection. The inspection is limited to visual examination of accessible items without laboratory analysis, dissection, excavation, probing or coring, unless otherwise stated;
- There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the plants or property may not arise in the future;
- Loss or alteration of any part of the report invalidates the entire report. Ownership of the report passes to the client only when all fees have been paid.

I further certify that I am an International Society of Arboriculture Certified Arborist (PN-6732A)



MARY GIERSCH CONSULTING ARBORIST

EXHIBIT D

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way, Beaverton, OR 97007  
503-523-6411

ATTACHMENT B -- TREE INVENTORY TABLE

ID	COMMON NAME	BOTANIC NAME	DBH <sup>(1)</sup>	CONDITION <sup>(2)</sup>	TREATMENT	COMMENTS/RPZ <sup>(3)</sup>
500	Douglas-fir	<i>Pseudotsuga menziesii</i>	36	Fair	Remove	
503	Western Red-cedar	<i>Thuja plicata</i>	36	HAZARD	Remove	
505	Sweet Cherry	<i>Prunus avium</i>	16	Fair	Remove	Nuisance Tree Species
506	Bigleaf Maple	<i>Acer macrophyllum</i>	18	Fair	RETAIN	RPZ 15' North, South & East, 10' West
507	Douglas-fir	<i>Pseudotsuga menziesii</i>	39	Fair	Remove	
508	Douglas-fir	<i>Pseudotsuga menziesii</i>	42	Poor	Remove	
509	Douglas-fir	<i>Pseudotsuga menziesii</i>	36	Poor	Remove	
510	Bigleaf Maple	<i>Acer macrophyllum</i>	22	Fair	Remove	
511	Bigleaf Maple	<i>Acer macrophyllum</i>	44	Fair	Remove	
512	Bigleaf Maple	<i>Acer macrophyllum</i>	12	Poor	Remove	
513	Bigleaf Maple	<i>Acer macrophyllum</i>	13	Poor	Remove	
517	Bigleaf Maple	<i>Acer macrophyllum</i>	24	Poor	Remove	
519	Bigleaf Maple	<i>Acer macrophyllum</i>	47	HAZARD	Remove	
520	Sweet Cherry	<i>Prunus avium</i>	22	HAZARD	Remove	
522	Douglas-fir	<i>Pseudotsuga menziesii</i>	36	Fair	Remove	
524	Bigleaf Maple	<i>Acer macrophyllum</i>	28	Fair	Remove	
525	Western Red-cedar	<i>Thuja plicata</i>	28	Fair	Remove	
526	Douglas-fir	<i>Pseudotsuga menziesii</i>	40	Fair	Remove	
527	Douglas-fir	<i>Pseudotsuga menziesii</i>	29	Fair	Remove	



MARY GIERSCH CONSULTING ARBORIST

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ATTACHMENT B -- TREE INVENTORY TABLE

ID	COMMON NAME	BOTANIC NAME	DBH <sup>(1)</sup>	CONDITION <sup>(2)</sup>	TREATMENT	COMMENTS/RPZ <sup>(4)</sup>
528	Douglas-fir	<i>Pseudotsuga menziesii</i>	31	Fair	Remove	
529	Douglas-fir	<i>Pseudotsuga menziesii</i>	55	Fair	Remove	
531	Bigleaf Maple	<i>Acer macrophyllum</i>	37	Poor	Remove	
532	Bigleaf Maple	<i>Acer macrophyllum</i>	18	Poor	Remove	
534	Douglas-fir	<i>Pseudotsuga menziesii</i>	36	Fair	Remove	
535	Douglas-fir	<i>Pseudotsuga menziesii</i>	47	Fair	Remove	
536	Sweet Cherry	<i>Prunus avium</i>	12	Poor	Remove	Nuisance Tree Species
537	Bigleaf Maple	<i>Acer macrophyllum</i>	36	Fair	Remove	
538	Bigleaf Maple	<i>Acer macrophyllum</i>	54	Poor	Remove	
539	Grand Fir	<i>Abies grandis</i>	42	Fair	Remove	
540	Douglas-fir	<i>Pseudotsuga menziesii</i>	31	HAZARD	Remove	
541	Apple	<i>Malus sp.</i>	13	Poor	Remove	
542	Western Red-cedar	<i>Thuja plicata</i>	36	Fair	RETAIN	RPZ -- 27' South & East, 16' North & West
543	Bigleaf Maple	<i>Acer macrophyllum</i>	45	Fair	Remove	
544	Sweet Cherry	<i>Prunus avium</i>	18	Fair	Remove	Nuisance Tree Species
545	Douglas-fir	<i>Pseudotsuga menziesii</i>	31	Fair	Remove	
546	Douglas-fir	<i>Pseudotsuga menziesii</i>	31	Fair	Remove	
547	Douglas-fir	<i>Pseudotsuga menziesii</i>	24	Fair	Remove	
548	Douglas-fir	<i>Pseudotsuga menziesii</i>	27	Fair	Remove	



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ATTACHMENT B -- TREE INVENTORY TABLE

ID	COMMON NAME	BOTANIC NAME	DBH <sup>(1)</sup>	CONDITION <sup>(2)</sup>	TREATMENT	COMMENTS/RPZ <sup>(4)</sup>
549	Douglas-fir	<i>Pseudotsuga menziesii</i>	20	Fair	Remove	
550	Douglas-fir	<i>Pseudotsuga menziesii</i>	34	Fair	Remove	
552	Western Red-cedar	<i>Thuja plicata</i>	31	Poor	Remove	
553	Deodar Cedar	<i>Cedrus deodara</i>	38	Fair	Remove	
554	Deodar Cedar	<i>Cedrus deodara</i>	22	Dying	Remove	
555	Cherry Plum	<i>Prunus cerasifera</i>	14	Poor	Remove	
556	Magnolia	<i>Magnolia sp.</i>	18	Poor	Remove	
558	Pear	<i>Pyrus sp.</i>	16	Fair	RETAIN	RPZ – 16' North, East & West, 6' South

(1) DBH = Diameter-at-Breast-Height = measured at 4.5 feet above natural grade

(2) Condition = Good, Fair, Poor, Dead

(3) RPZ = Root Protection Zone measured in feet in radius from tree trunk



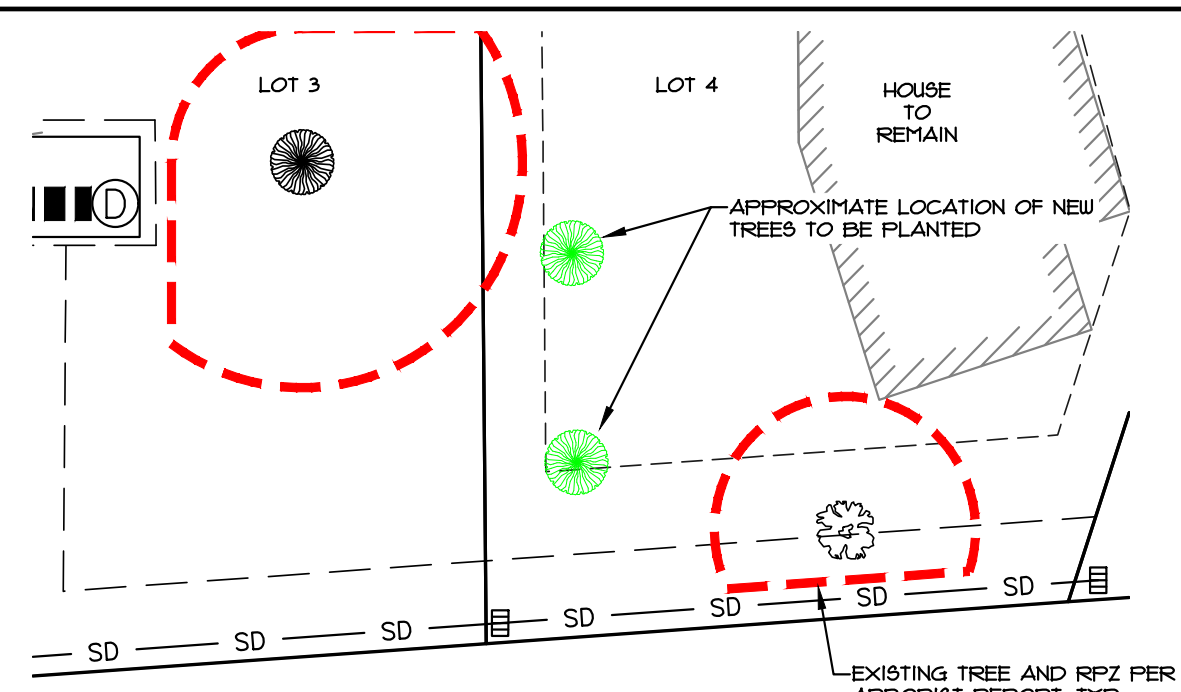
**TREE INVENTORY**

ID	COMMON NAME	BOTANIC NAME	DBH(1)	CONDITION(2)	TREATMENT	COMMENTS/RPZ(3)
500	Douglas-fir	Pseudotsuga menziesii	36	Fair	Remove	
503	Western Red-Cedar	Thuja plicata	36	HAZARD	Remove	
505	Sweet Cherry	Prunus avium	16	Fair	Remove	Nuisance Tree Species
506	Bigleaf Maple	Acer macrophyllum	18	Fair	Retain	15' North, South & East, 10' West
507	Douglas-fir	Pseudotsuga menziesii	39	Fair	Remove	
508	Douglas-fir	Pseudotsuga menziesii	42	Poor	Remove	
509	Douglas-fir	Pseudotsuga menziesii	36	Poor	Remove	
510	Bigleaf Maple	Acer macrophyllum	22	Fair	Remove	
511	Bigleaf Maple	Acer macrophyllum	44	Fair	Remove	
512	Bigleaf Maple	Acer macrophyllum	12	Poor	Remove	
513	Bigleaf Maple	Acer macrophyllum	13	Poor	Remove	
517	Bigleaf Maple	Acer macrophyllum	24	Poor	Remove	
519	Bigleaf Maple	Acer macrophyllum	47	HAZARD	Remove	
520	Sweet Cherry	Prunus avium	22	HAZARD	Remove	
522	Douglas-fir	Pseudotsuga menziesii	36	Fair	Remove	
524	Bigleaf Maple	Acer macrophyllum	28	Fair	Remove	
525	Western Red-Cedar	Thuja plicata	28	Fair	Remove	
526	Douglas-fir	Pseudotsuga menziesii	40	Fair	Remove	
527	Douglas-fir	Pseudotsuga menziesii	29	Fair	Remove	
528	Douglas-fir	Pseudotsuga menziesii	31	Fair	Remove	
529	Douglas-fir	Pseudotsuga menziesii	55	Fair	Remove	
531	Bigleaf Maple	Acer macrophyllum	37	Poor	Remove	
532	Bigleaf Maple	Acer macrophyllum	18	Poor	Remove	
534	Douglas-fir	Pseudotsuga menziesii	36	Fair	Remove	
535	Douglas-fir	Pseudotsuga menziesii	47	Fair	Remove	
536	Sweet Cherry	Prunus avium	12	Poor	Remove	Nuisance Tree Species
537	Bigleaf Maple	Acer macrophyllum	36	Fair	Remove	
538	Bigleaf Maple	Acer macrophyllum	54	Poor	Remove	
539	Grand Fir	Abies grandis	42	Fair	Remove	
540	Douglas-fir	Pseudotsuga menziesii	31	HAZARD	Remove	
541	Apple	Malus sp.	13	Poor	Remove	
542	Western Red-Cedar	Thuja plicata	36	Fair	Retain	27' South & East, 16' North & West
543	Bigleaf Maple	Acer macrophyllum	45	Fair	Remove	
544	Sweet Cherry	Prunus avium	18	Fair	Remove	Nuisance Tree Species
545	Douglas-fir	Pseudotsuga menziesii	31	Fair	Remove	
546	Douglas-fir	Pseudotsuga menziesii	31	Fair	Remove	
547	Douglas-fir	Pseudotsuga menziesii	24	Fair	Remove	
548	Douglas-fir	Pseudotsuga menziesii	27	Fair	Remove	
549	Douglas-fir	Pseudotsuga menziesii	20	Fair	Remove	
550	Douglas-fir	Pseudotsuga menziesii	34	Fair	Remove	
552	Western Red-Cedar	Thuja plicata	31	Poor	Remove	
553	Deodar Cedar	Cedrus deodara	38	Fair	Remove	
554	Deodar Cedar	Cedrus deodara	22	Dying	Remove	
555	Cherry Plum	Prunus cerasifera	14	Poor	Remove	
556	Magnolia	Magnolia sp.	18	Poor	Remove	
558	Pear	Pyrus sp.	16	Fair	Retain	16' North, West & East, 6' South

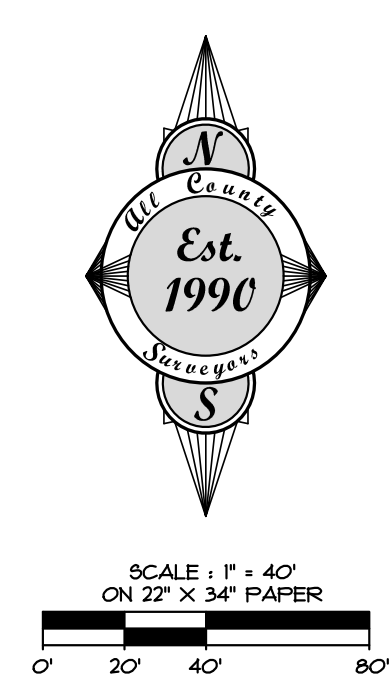
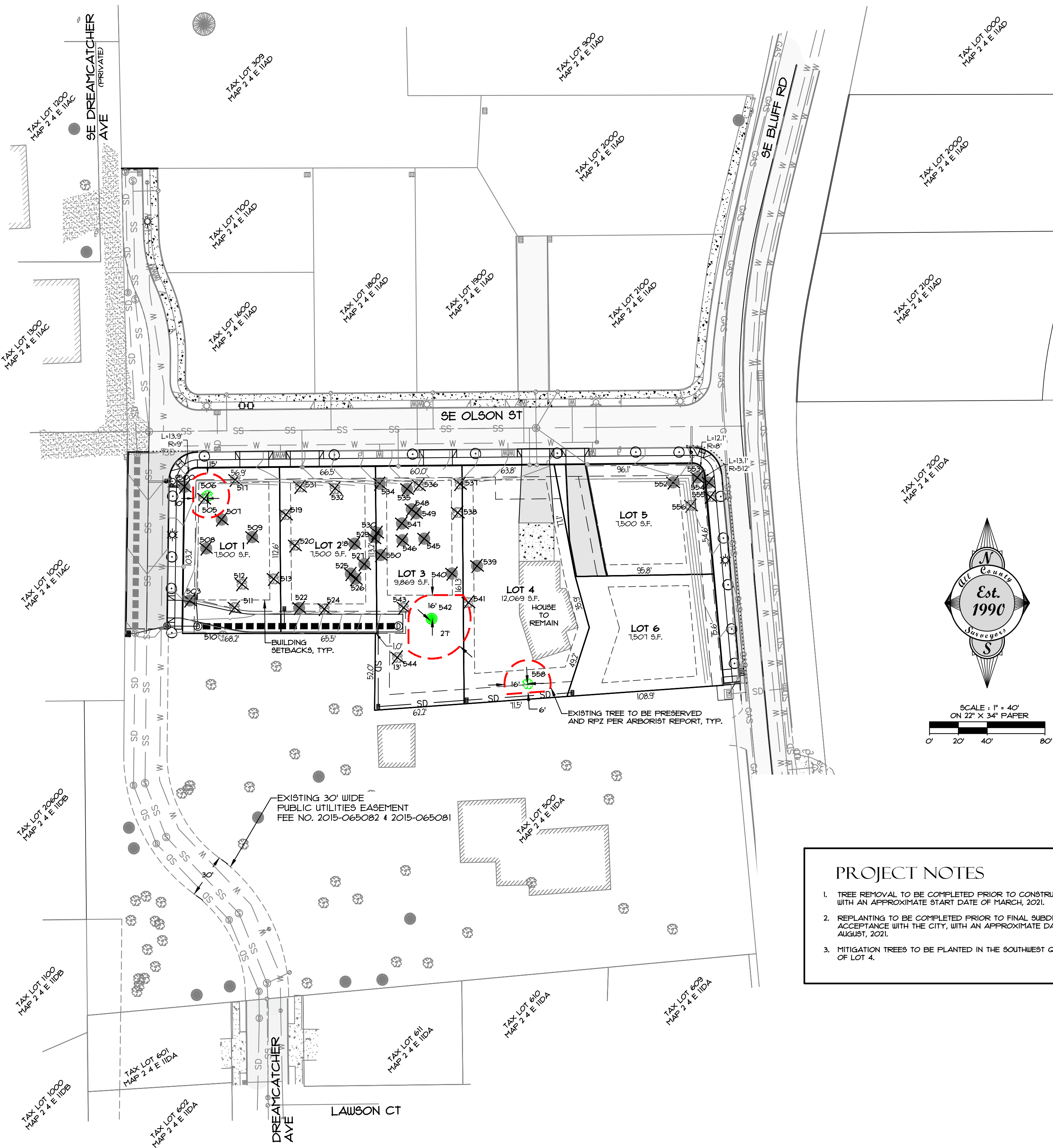
(1) DBH= DIAMETER-AT-BREAST-HEIGHT = MEASURED AT 4.5 FEET ABOVE NATURAL GRADE  
 (2) CONDITION = GOOD, FAIR, POOR, DEAD  
 (3) RPZ = ROOT PROTECTION ZONE MEASURED IN FEET IN RADIUS FROM TRUNK  
 NOTE: THE ABOVE INVENTORY WAS COMPLETED BY TREE CARE & LANDSCAPE UNLIMITED PER DOCUMENT DATED FEBRUARY 1, 2006, AND WAS UPDATED BY MARY GIERSCHE CONSULTING ON JANUARY 28, 2021.

**LEGEND**

DOUGLAS-FIR (Pseudotsuga menziesii)  
 NOTE: GROUND COVER AROUND NEWLY PLANTED TREES TO BE CEDAR MULCH, OR APPROVED EQUAL.



**REPLANTING PLAN**  
 SCALE: 1" = 20'  
 ON 22" X 34" PAPER



**PROJECT NOTES**

- TREE REMOVAL TO BE COMPLETED PRIOR TO CONSTRUCTION WITH AN APPROXIMATE START DATE OF MARCH, 2021.
- REPLANTING TO BE COMPLETED PRIOR TO FINAL SUBDIVISION ACCEPTANCE WITH THE CITY, WITH AN APPROXIMATE DATE OF AUGUST, 2021.
- MITIGATION TREES TO BE PLANTED IN THE SOUTHWEST QUADRANT OF LOT 4.

SHEET <b>1</b>	OF <b>1</b>	DESIGNED: CTH / RLMT	CHECKED: RLMT	APPROVED: RLMT
		DATE: _____	NO. _____	REVISION _____
SCALE: N/A	VERT: N/A	HORIZ: 1" = 40'	DATE: 02/15/2021	FILE: 11-020 TREES.dwg
SECTION: II		TWP: 25	RANGE: 4E	LEGAL: _____
<b>MAIRIN'S VIEWPOINT</b> TREE PRESERVATION EXHIBIT LOCATION: <b>15545 SE BLUFF RD, SANDY, OR 97055</b>				
PROJECT: _____ DATE OF PLOT: 02/15/2021				
<b>JOHN MAHAFFY</b> JOHN MAHAFFY 13100 SE SUNNYSIDE RD SUITE B CLACKAMAS, OR 97015				
<b>Surveyors &amp; Planners, Inc.</b> Surveying, Planning and Civil Engineering P.O. Box 955 Sandy, OR 97055 Phone: (503) 868-7730 Fax: (503) 868-7730				



CITY OF  
**SANDY**

39250 PIONEER BOULEVARD ♦ SANDY, OR 97055  
www.ci.sandy.or.us

**EXHIBIT F**

PHONE (503) 668-5533  
FAX (503) 668-8714

*Gateway to Mt. Hood*

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

**DATE:** December 8, 2017

**FILE NO.:** 17-053 SUB

**PROJECT NAME:** Mairin's Viewpoint Subdivision

**APPLICANT/OWNER:** John Mahaffy

**LEGAL DESCRIPTION:** T2S R4E Section 11, tax lot 400

**SITUS ADDRESS:** 15545 Bluff Road

**DECISION:** The Planning Department approves this Type II Subdivision to allow for the six lot Mairin's Viewpoint subdivision located to the south of Olson Street and the west of Bluff Road subject to Conditions of Approval.

The above-referenced proposal was reviewed as a Type II Subdivision and the following Findings of Fact are adopted supporting approval of the Tentative Plat in accordance with Chapter 17 of the Sandy Municipal Code.

**EXHIBITS:**

**Applicant's Submittals**

- A. Land Use Application Form
- B. Narrative
- C. Project Plan Set
  - Sheet 1: Cover Sheet and Preliminary Plat Map
  - Sheet 2: Existing Conditions and Tree Inventory
  - Sheet 3: Preliminary Street and Utility Plan
  - Sheet 4: Preliminary Parking Plan
  - Sheet 5: Future Street Plan
  - Sheet 6: Grading and Erosion Control Plan
- D. Arborist Report
- E. Traffic Analysis Letter
- F. Stormwater Report

**Agency Comments**

G. City Engineer (October 17, 2017)

H. Public Works Director (November 21, 2017)

**Public Letters**

None

**FINDINGS OF FACT**

**General**

1. These findings are based on the applicant's submittal received on September 21, 2017. The application was deemed complete on October 10, 2017 and the 120-day deadline is February 8, 2018.
2. The subject site consists of one parcel containing approximately 1.39 acres (area to be developed is 1.19 acres). The site is located south of Olson Street, north of Lawson Court, east of Dreamcatcher Avenue and west of Bluff Road.
3. The parcel has a Plan Map designation of Low Density Residential and a Zoning Map designation of SFR, Single Family Residential.
4. All County Surveyors and Planners Inc., on behalf of John Mahaffy, submitted an application to subdivide 1.39 acres into a six lot subdivision. The subject lot will be divided into six lots varying in size from 7,500 square feet to 11,849 square feet, and 0.20 acres dedicated for right-of-way. The proposal is to widen and improve Olson Street and Dreamcatcher Avenue, and dedicate five feet on the west side of Bluff Road to complete street frontage improvements. All six lots are proposed to take access from Olson Street. The existing house is proposed to remain and is already connect to municipal water, but **the existing house shall connect to sanitary sewer and pay appropriate system development charges (SDCs).**
5. There is no clear record how the subject lot was created, but likely it was created by deed. The tax assessor information states the existing house was constructed in 1969.
6. The dedication of right-of-way and subsequent construction of streets will eliminate the existing mailboxes. **The Clackamas County Surveyors Office requires the applicant to resolve any encroachments prior to final plat approval.**
7. There is an existing house on the subject property that is proposed to remain with platting of the subdivision. The existing house is proposed on Lot 4 and is proposed to meet all applicable setbacks once the new plat is created.
8. A notice of proposed development was mailed to all property owners within 200 feet of the subject site on October 10, 2017 and allowed for a comment period of 14 days as required by Section 17.22.50. No public comments were received. Agency comments were received from the City Engineer and Public Works Director.

17.30 – Zoning Districts

9. The applicant does not propose a density transfer with this application. Density in the SFR Zoning District shall not be less than 3 units or more than 5.8 units per gross acre. The total gross acreage for the entire site is 1.39 acres. The total acreage dedicated for public street right-of-way is .20 acres and no land is dedicated for parks or open space. The total net acreage after removing the street right-of-way is 1.19 net acres.
10. The net acreage of 1.19 acres shall contain a minimum of 3 dwelling units (1.19 x 3) and a maximum of 7 dwelling units (1.19 x 5.8). The applicant proposes 6 dwelling units within the required density range.

17.34 – SFR Single Family Residential Zoning District

11. As noted above, the proposed 6-lot subdivision complies with the density range in this chapter.
12. The applicant proposes constructing single family homes as permitted by Section 17.34.10.
13. The SFR zoning district requires a minimum lot size of 7,500 square feet, a minimum average lot width of 60 feet, and a minimum street frontage of 20 feet. The proposed lots range in size from 7,500 square feet to 11,849 square feet and the lots meet or exceed minimum average lot width and minimum lot frontage requirements. Lot 6 gains access from a private access easement on Lot 5, but only has frontage on Bluff Road.
14. The SFR zoning district requires minimum rear yard setbacks at 20 feet, front yard setbacks at 10 feet, side yard setbacks at 7.5 feet, corner lot setbacks at 10 feet, and garage setbacks at 22 feet. The proposed Plan Set includes building envelopes in compliance with these standards. Individual building setback standards will be confirmed at the time of building permit submittal.
15. Section 17.40.30 allows a maximum building height of 35 feet. Section 17.10 defines building height as the vertical distance above the highest adjoining ground surface to the average height of the highest gable of a pitched or hipped roof. Individual building heights will be confirmed at the time of each building permit submittal, but in no case shall buildings exceed 35 feet in height.
16. Section 17.40.40 contains minimum requirements for development. **All proposed homes and the existing home shall connect to municipal water and municipal sewer.**

17.80 – Additional Setbacks on Collector and Arterial Streets

17. Section 17.80.10 specifies additional setbacks for structures constructed adjacent to collector and arterial streets. Two of the proposed lots (Lots 5 and 6) are proposed to front Bluff Road which is classified as a minor arterial street. **All structures constructed on Lots 5 and 6 shall maintain a 20-foot setback to Bluff Road as specified in 17.80.20.**

17.82 – Special Setbacks on Transit Streets

18. Section 17.82.20 requires residential dwellings constructed along an existing or future transit street to be oriented towards the transit street. Bluff Road is identified as a future transit street in the Transit Master Plan requiring compliance with this section. **Houses on Lots 5 and 6 shall be**

**oriented to front Bluff Road, including construction of a front porch facing Bluff Road with a walkway connecting the porch to the Bluff Road sidewalk.**

17.84 – Improvements Required with Development

19. Section 17.84.20 contains requirements for the timing of improvements. Each lot shall have required public and franchise utility improvements installed or financially guaranteed in accordance with the provisions of Chapter 17 prior to approval of the Final Plat. The applicant did not propose a phasing plan with this application.
20. Section 17.84.30 requires sidewalks along all public streets. The Preliminary Plat Map (Exhibit C, Sheet 1) depicts an 8 foot wide public utility easement along the frontage of Dreamcatcher Avenue and Olson Street and a 10 foot wide combined public utility and sidewalk easement along the frontage of Bluff Road to facilitate future installation of utilities. Sidewalks abutting the proposed lots shall be constructed in association with development of the lots. The sidewalks on Bluff Road shall be six feet in width and the sidewalks on Dreamcatcher Avenue and Olson Street shall be five feet in width, all three streets shall have sidewalks separated by a planter strip in areas not transverse by driveways. **Since no vehicular access will be permitted from Bluff Road, sidewalk improvements along this frontage shall be completed prior to Final Plat approval.**
21. The submitted Street Plan (Exhibit C, Sheet 3) identifies street trees along all three streets abutting the subdivision; however, more street trees can be accommodated on Olsen Street and Dreamcatcher Avenue than are identified. The submitted plan identifies five street trees on Bluff Road, five street trees on Olson Street, and three street trees on Dreamcatcher Avenue. **The applicant shall submit a revised Street and Utility Plan featuring at least seven street trees on Olson Street and at least four street trees on Dreamcatcher Avenue, spaced approximately 30 feet apart.**
22. Section 17.84.30(B) requires pedestrian and bicyclist facilities to minimize travel distance between residential areas, planned developments and parks. The applicant proposes five foot wide sidewalks on local streets (Dreamcatcher Avenue and Olson Street) and six foot wide sidewalks on the minor arterial (Bluff Road) along the proposed subdivision. These sidewalks provide safe and convenient pedestrian access within the subdivision and connect the site to neighboring properties. Staff does not recommend additional pedestrian connections. **Since no vehicular access will be permitted from Bluff Road, sidewalk improvements along this frontage shall be completed prior to Final Plat approval.**
23. Section 17.84.30(D) requires installation of pedestrian facilities extended through the site to the edge of adjacent properties. The proposal complies with this section.
24. Section 17.84.40 contains standards for public transit and school bus transit. The Transit Manager verbally indicated the proposed development will not require a transit amenity or concrete pad.
25. Section 17.84.50 contains standards for street improvements and traffic evaluations. The Traffic Analysis Letter (Exhibit E) for the proposed six lots was completed by Lancaster Engineering

(September 18, 2017). The traffic assumptions are based on the Trip Generation handbook, Ninth Edition. The trip rates indicate that upon full occupancy the subdivision, including the existing house, will generate about 5 trips during the morning peak hour, 6 trips during the evening peak hour, and 58 trips on a typical weekday. The existing house is generating approximately 10 trips on a typical weekday. The analysis concludes that based on the minimal trip rate anticipation and that most traffic will be local traffic there are no recommended improvements or mitigation suggestions, other than typical street frontage improvements. The City Engineer did not recommend updates to the Traffic Analysis Letter. The City Engineer (Exhibit G) states there are no apparent intersection sight distance concerns as indicated in the Transportation Analysis Letter. The City Engineer also states the Sandy Transportation System Plan (STSP) requires 62 feet to 82 feet of right-of-way on Bluff Road, but the existing right-of-way (ROW) is only 60 feet in width. The applicant is proposing to dedicate an additional 5 feet of right-of-way, which the City Engineer finds adequate given that no on-street parking will be allowed, and a left turn lane is not warranted.

26. The Public Works Director noted in the review of View Point Subdivision (File No. 15-048 SUB) that in order to reduce conflicts with left turns to and from Bluff Road and meet the City intersection spacing standards for arterial streets, it's the City's intention to close Olson Street to traffic when the local street network is developed to the point of allowing access from other streets to the north, south and west of the subject development. **The future full closure or partial closure (restricted turning movements) of Olson Street at Bluff Road shall be preserved in a plat note. Emergency vehicle access shall be maintained to Bluff Road even if there is a full closure.**
27. The proposed local street plan has been designed to facilitate the traffic needs of this development while ensuring there are no intersection conflicts with future development. There is most likely no future street development to the east of this development due to the steep slope east of Bluff Road. As depicted on the Future Street Plan (Exhibit C, Sheet 5), Dreamcatcher Avenue will connect to the section of Dreamcatcher Avenue south of tax lot 500 and other streets will connect to existing streets to the north and west. All streets to the west of this proposed subdivision are only conceptual at this time. **The applicant shall provide a profile design for a minimum of 200 feet for all future street extensions past the project boundary to ensure future grades can be met.**
28. Bluff Road improvements: The completion of Bluff Road includes a five foot right-of-way dedication and a 10 foot wide combined public utility and pedestrian easement to accommodate the sidewalk on the east property line of the subject subdivision. The City Engineer has no concerns with the proposed Bluff Road sidewalk being placed in a public access easement. The Public Works Director concurs with the applicant that a new sidewalk along the east side of the roadway will not be needed due to topographic constraints. The street requirements include concrete curbs, a five foot planter strip with street trees within the right-of-way, and a six foot wide concrete sidewalk on the west side of the street. Additional improvements include street lighting, ADA ramps, and public utilities.

29. Olson Street improvements: The completion of Olson Street includes an 8.5 foot right-of-way dedication, a five foot planter strip with street trees and five foot sidewalk on the south side of the street. Additional improvements include street lighting, ADA ramps, and public utilities.
30. Dreamcatcher Avenue improvements: The three-quarter improvements for Dreamcatcher Avenue include 41 feet of right-of-way dedication, 28 feet of asphalt, concrete curbs on the east side of the street, a five foot planter strip with street trees and five foot sidewalk on the east side of the street. The planter strip and sidewalk on the west side of the street will be complete with future development to the west of the right-of-way. Additional improvements include street lighting, ADA ramps, and public utilities.
31. The applicant is not proposing any new streets or street names. All right-of-way expansion will take place on existing streets.
32. The proposed streets and grades satisfy the standards of Chapter 17.84. The subject site west of Bluff Road is gentle sloping, only sloping 14 feet in elevation from east to west over approximately 440 lineal feet. **Site grading should not in any way impede, impound or inundate the surface drainage flow from the adjoining properties. All the work within the public right-of-way and within the paved area should comply with American Public Works Association (APWA) and City requirements as amended.**
33. Section 17.84.60 contains standards for public facility extensions. The applicant's Utility Plan (Exhibit C, Sheet 3) depicts the location and type of proposed public utilities including water, sanitary sewer and stormwater. All public utility installations shall conform to the City's facilities master plans. **The applicant is required to include broadband fiber locations as detailed by the SandyNet Manager with Construction Plans. No building permits will be issued until all public utilities including sanitary sewer are available to serve the development. In addition, the applicant shall pay plan review, inspection and permit fees as determined by the Public Works Director.**
34. Section 17.84.80 contains specifications for franchise utility installations. Private utility services will be submitted for review and approval by service providers and City staff in association with construction plans, and all utility lines will be extended to the perimeter of the site. **All franchise utilities shall be installed underground and in conformance with City standards.**
35. Section 17.84.90 contains requirements regarding land for public purposes. The applicant is not proposing dedication of any land, with the exception of land for right-of-way expansion. **The proposed right-of-way dedication to facilitate construction of Olson Street and Dreamcatcher Avenue, and the additional five foot dedication strip along Bluff Road shall be identified on the face of the final plat.**
36. **The following easements shall be included on the Final Plat:**
- **An eight foot wide public utility easement (PUE) along the frontage of Dreamcatcher Avenue and Olson Street;**
  - **A 10 foot wide public utility easement (PUE) and public pedestrian easement along the frontage of Bluff Road;**

- **A 15 foot wide public storm drain easement along the south lot line of Lots 1 and 2;**
  - **A 10 foot wide private storm drain easement along the south lot line of Lots 3 and 4; and,**
  - **A one-foot vehicle non-access reserve strip (VNAR) along the Bluff Road frontage of Lots 5 and 6 and along the Olson Street frontage of Lot 5 for the entirety of the property east of the driveway.**
37. The proposed 10 foot wide public utility and pedestrian access easement along the Bluff Road frontage shall be granted by a separate document using the City's standard easement language to specify additional terms and conditions. **A copy of the 10 foot wide public utility and pedestrian access easement document shall be provided to the City and the recording number for the easement shall be shown on the final plat.**
38. Section 17.84.100 contains requirements for mail delivery facilities. The applicant will need to coordinate with the United States Postal Service (USPS) regarding the location of the new mailboxes (including replacement of the existing mail box for the existing house), and these will be approved by the City and USPS. **Mail delivery facilities shall be provided by the applicant in conformance with 17.84.100 and the standards of the USPS. Staff recommends the applicant submit a mail delivery plan for all new and existing mail boxes, featuring grouped lockable mail facilities, to the City and USPS for review and approval prior to installation of mailboxes.**
39. All public utility installations shall conform to the city's facilities master plans. **No building permits will be issued until all public utilities including sanitary sewer are available to serve the subdivision and the Final Plat has been recorded.** Public utilities must be installed to meet city standards. **Development of this subdivision will require payment of system development charges in accordance with applicable city ordinances.**

17.86 – Parkland and Open Space

40. The applicant proposes six single-family detached dwellings with this subdivision request. Based upon the calculations adopted by the City and specified within Section 17.86.10, the required dedication area is .08 acres of public parkland (6 proposed units x 3 persons per unit x .0043=.0774 rounded to the nearest 1/100 of an acre = .08 acres to be dedicated).
41. Section 17.86.40 contains factors for the City to evaluate whether to require parkland dedication based on this formula or collect a fee in lieu of dedication. This section specifies that it is entirely at the City's discretion, to accept payment of a fee in lieu of the land dedication or require the dedication. Based on the calculations specified in Section 17.86.10, the applicant is responsible for dedicating .08 acres of public parkland. The subject property is located within walking distance of Jonsrud Viewpoint, which will eventually have a trail to connect to Sandy River Park and the Sandy River. The subject property is also within a half-mile of Bluff Park, which contains a dog park, walking trails, grass fields, a playground, and small pond. No parkland is identified on the subject property in the Parks Master Plan. **For these reasons, staff requires the applicant to pay a fee in lieu for the required parkland dedication.** Ordinance 2013-03 allows the applicant to pay a minimum of 50 percent of the fee to receive final plat approval with the remaining balance to be paid as a proportionate amount with each building permit. Per



Resolution 2013-14, the required fee in lieu amount is \$241,000 per acre if the entire amount is paid prior to final plat approval. **Therefore, based on the current Fee Resolution, the applicant would be required to pay a fee in lieu of dedication in the amount of \$19,280 (.08 acres of land to be dedicated x \$241,000). If a portion of the fee is deferred, Resolution 2013-14 specifies a per acre fee of \$265,000. Based on this method, the applicant would be required to pay \$21,200 if a portion of the fee is deferred (.08 x \$265,000). A minimum of 50 percent (\$10,600) is required to be paid prior to final plat approval and the remaining 50 percent (\$10,600) divided between the 6 lots (\$1,766.66 per lot).** Existing City ordinances do not mention anything about parkland fee in lieu for existing houses being waived or reduced. **If the deferred option is chosen the \$1,766.66 for Lot 4 shall be paid prior to final plat.**

17.90 – Design Standards

42. **The Planning Department requires all homes constructed in this subdivision to provide building design features in accordance with the standards in Section 17.90.150.**

17.92 – Landscaping and Screening

43. Section 17.92.30 specifies that street trees shall be chosen from the City-approved list. As required by Section 17.92.30, the development of the subdivision requires trees spaced 30 feet on center along all street frontages. The submitted Street Plan (Exhibit C, Sheet 3) identifies street trees along all three streets abutting the subdivision; however, more street trees can be accommodated on Olsen Street and Dreamcatcher Avenue than are identified. The submitted plan identifies five street trees on Bluff Road, five street trees on Olson Street, and three street trees on Dreamcatcher Avenue. **The applicant shall submit a revised Street and Utility Plan featuring at least seven street trees on Olson Street and at least four street trees on Dreamcatcher Avenue, spaced approximately 30 feet apart.** The Street and Utility Plan does not specify the tree species or size of trees. Street trees are required to be a minimum caliper of 1.5 inches measured 6 inches from grade. **The applicant shall submit a revised Planting Plan featuring trees selected from the City’s street-tree list and identified at a minimum caliper of 1.5 inches. Trees shall be planted, staked, and the planter strip shall be graded and backfilled as necessary, and bark mulch or vegetation installed prior to occupancy.** Street trees shall be installed in conjunction with issuance of building permits. **The location of street lighting, hydrants, mail boxes, driveways, utilities, and other amenities shall be considered when locating street trees.**
44. **Per Section 17.92.10(C), the applicant shall install protective fencing located 5 feet outside of the dripline around all trees to be retained on the site.**
45. Section 17.92.40 requires that all landscaping shall be irrigated, either with a manual or automatic system. **As required by Section 17.92.140, the developer shall be required to maintain all vegetation planted in the development for two years from the date of completion, and shall replace any dead or dying plants during that period.**
46. Section 17.92.50 specifies the types and sizes of plant materials that are required when planting new landscaping. **All street trees shall be a minimum of 1.5 inches in caliper measured 6 inches above the ground and are required to be staked.**

47. Section 17.92.60 requires revegetation in all areas that are not landscaped or remain as natural areas. The applicant did not submit any plans for re-vegetation of areas damaged through grading/construction, although most of the areas affected by grading will be improved. **Staff requires the applicant to maintain all un-landscaped and/or revegetated areas for a period of two years following the date of recording of the final plat associated with those improvements.**

17.98 – Parking, Loading, and Access Requirements

48. Section 17.98.20 requires two parking spaces per single family detached dwelling unit. The 6 dwelling units proposed in this subdivision requires 12 off-street parking spaces. Each lot will have a driveway and due to the large size of the proposed lots they will most likely have the ability to have a double car garage.
49. Section 17.98.50 has specifications for parking area setbacks. Garages will need to be set back at least 22 feet from the front property line to meet setback requirements in the Single Family Residential (SFR) zoning district. The 22 foot setback allows vehicles to park in driveways without overhanging onto the sidewalk.
50. Section 17.98.60 contains specifications for parking lot design and size of parking spaces. The parking areas in front of the proposed garages for all lots need to be at least 10 feet in width by 22 feet in length. Driveways for single family homes are required to be at least 10 feet wide as detailed below in Section 17.98.100. The garages shall be adequate depth to park a vehicle (at least 18 feet in depth) and the on-street parking spaces shall be at least 22 feet in length.
51. Section 17.98.80 specifies access requirements to arterial and collector streets. The two lots proposed to front Bluff Road (Lots 5 and 6) will be accessed by a shared driveway from Olson Street. All proposed driveways are required to access local streets.
52. Section 17.98.100 has specifications for driveways. The Public Works construction details specify a residential driveway approach a minimum of 12 feet wide and a maximum of 24 feet wide. Development Code Section 17.98.100 specifies that a driveway for a single family dwelling shall have a minimum width of 10 feet. The Parking Plan (Exhibit C, Sheet 4) details driveway curb cuts for all lots at 20 feet in width or less. The proposed driveways meet the required width. **The applicant shall revise the Plan Set to separate the driveways for Lots 4 and 5 at least 5 feet from each (measured at the end of the wing) to accommodate a street tree between the driveways.**
53. Section 17.98.130 requires that all parking and vehicular maneuvering areas shall be paved with asphalt or concrete, including the driveway for the existing house. **The applicant shall pave the driveway for the existing house on Lot 4 prior to final plat.** The applicant is required to adhere to the paving requirements of Section 17.98.130.
54. Section 17.98.140 contains requirements for drainage. Other sections of this order detail the stormwater requirements.

55. Section 17.98.200 contains requirements for providing on-street parking spaces for new residential development. The Parking Plan (Exhibit C, Sheet 4) indicates there will be at least nine (9) on-street public parking spaces, which exceeds the minimum number required for six dwelling units. No parking courts are proposed. The location of fire hydrants will be reviewed by the Sandy Fire Department in more detail with Construction Plans. **The applicant shall revise the Parking Plan if required fire hydrants affect on-street parking spaces and submit to staff for review and approval.** All of the on-street parking spaces were designed at 22 feet in length as required in Section 17.98.60.

17.100 – Land Division

56. **The Final Plat shall be recorded as detailed in Section 17.100.60(I).**

57. Section 17.100.60(E) contains submittal requirements and criteria for approving residential subdivisions. Section 17.100.60(E)(1) requires subdivisions to be consistent with the density, setback and dimensional standards of the base zoning district, unless modified by a Planned Development approval. The applicant requests subdivision approval for a subdivision that is in compliance with all of the applicable development standards. As a result, the application for the subdivision is being processed through a Type II procedure.

58. Section 17.100.60(E)(2) requires subdivisions to be consistent with the design standards set forth in this chapter. Consistency with design standards in this chapter is discussed under each subsection below. Conditions of approval can be adopted where necessary to bring the proposal into compliance with applicable standards.

59. Section 17.100.60(E)(3) requires the proposed street pattern to be connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy. The proposed subdivision is consistent with the City's street plan and development code standards.

60. Section 17.100.60(E)(4) requires that adequate public facilities be available or can be provided to serve the proposed subdivision. As shown on the submitted plans, all public facilities including water, sewer, and stormwater are available or will be constructed by the applicant to serve the subdivision.

61. Section 17.100.60(E)(5) requires all proposed improvements to meet City standards through the completion of conditions as listed within this final order and as detailed within these findings. The detailed review of proposed improvements is contained in this document. Staff has identified a few aspects of the proposed subdivision improvements requiring additional information or modification by the applicant, but conditions of approval can be adopted to bring the proposal into compliance with all municipal code standards.

62. Section 17.100.60(E)(6) strives to ensure that a phasing plan, if requested, can be carried out in a manner that meets the objectives of the above criteria and provides necessary public improvements for each phase as it develops. The applicant did not submit a phasing plan. This subdivision request is for a six lot subdivision.

63. Section 17.100.70 specifies that all land divisions shall be in conformance with the requirements of the applicable base zoning district. The tentative plat is designed to comply with all standards of the City of Sandy Development Code, Transportation System Plan, Facilities Master Plans and Sandy Municipal Code.
64. Section 17.100.100(A) requires the pattern of streets established through land divisions should be connected to provide safe multimodal options, create a logical pattern of circulation, and spread traffic over many streets. The continued expansion of Dreamcatcher Avenue provides the subdivision with a logical transportation network.
65. Section 17.100.100(B) contains standards for street improvements and traffic evaluations. The traffic evaluation was sufficient in accordance with the review as detailed in Finding #25 above.
66. The Public Works Director noted in the review of View Point Subdivision (File No. 15-048 SUB) that in order to reduce conflicts with left turns to and from Bluff Road and meet the City intersection spacing standards for arterial streets, it's the City's intention to close Olson Street to traffic when the local street network is developed to the point of allowing access from other streets to the north, south and west of the subject development. **The future full closure or partial closure (restricted turning movements) of Olson Street at Bluff Road shall be preserved in a plat note. Emergency vehicle access shall be maintained to Bluff Road even if there is a full closure.**
67. Section 17.100.100(C) requires that all streets follow topographic and arrangement specifications. Considering the site's topography, the proposed street layout is acceptable given the topography and proposed residential use of this site and the topography and use of adjacent properties.
68. Section 17.100.100(D) specifies that street layout shall generally use a rectangular grid pattern. The proposal includes a rectangular pattern of streets as allowed by topography, natural features, and existing right-of-way locations.
69. Section 17.100.100(E) requires that future street plans assure access for future development and promote a logical, connected pattern of streets. There is limited future street development to the east of this development due to the dramatic slope east of Bluff Road. As depicted on the Future Street Plan (Exhibit C, Sheet 5), the existing portion of Dreamcatcher Avenue in the Sandy Bluff neighborhood will continue north in the same general alignment as the utility easement to intersect with Olson Street and the portion of Dreamcatcher Avenue created with this subdivision. Other streets to the north and west of the subject subdivision are highly conceptual at this time. **The applicant shall provide a profile design with Construction Plans a minimum of 200 feet past the project boundary for all future street extensions to ensure future grades can be met.**
70. Sections 17.100.100(F and G) contain specifications for street connections and exemptions for when typical connections are not possible. The proposed design facilitates a connected street system, as is feasible given topographical constraints and other street connections.

71. Section 17.100.110 specifies street standards and roadway functional classifications. The proposed street network and improvements generally comply with City standards. There are three streets adjacent to the proposed subdivision as detailed in Section 17.84.50 above.
72. Section 17.100.120 requires that residential blocks for local streets not exceed 400 feet in length, unless physical conditions justify larger blocks. The proposed block length on Olson Street from Bluff Road to Dreamcatcher Avenue is approximately 360 feet. The proposed portion of block length on Bluff Road from Olson Street to tax lot 500 is approximately 151 feet and the portion of block length on Dreamcatcher Avenue from Olson Street to tax lot 500 is approximately 112 feet. The placement of all right-of-ways has been predetermined by existing development. If the property to the south of the proposed subdivision is redeveloped, the necessity to provide another east/west street will be evaluated at that time. No block is proposed over 600 feet in length and no pedestrian or bicycle access ways are proposed.
73. Section 17.100.180 contains requirements for the creation of new intersections. All proposed intersections are already existing, but the proposed subdivision would widen the intersections. There are no streets being created with this subdivision. The proposed intersections meet the required minimum spacing standard of 150 feet as required in Section 17.84.50(C)2.
74. Section 17.100.190 contains requirements for street signs. **The applicant shall pay for the cost of all street signs and the City will install the signs.**
75. Section 17.100.210 specifies that the applicant is financially responsible for the installation of the abutting street lighting system. The Street and Utility Plan (Exhibit C, Sheet 3) does not identify the location of street lighting on any of the subject streets. **Street lighting will need to be installed wherever street lighting is determined insufficient by the Public Works Director. The applicant shall specify street light locations with construction plans.**
76. Section 17.100.220 contains requirements for lot arrangement, lot dimensions, and other lot specifications. All lots meet minimum lot size, frontage, and width requirements. No lots are proposed to have double frontage or are accessible from major or minor arterials. All lots are required to comply with clear vision requirements on all street/street intersections.
77. The applicant that developed the View Point Subdivision (File No. 15-048 SUB) secured an off-site utility easement (granted to the City) from the property owners to the south of the site and to the north of Dreamcatcher Avenue. City facilities that were extended from Dreamcatcher Avenue have adequate capacity to serve the proposed development. The utility easements are located such that utilities will be located in the future extension of Dreamcatcher Avenue. Water service lines and sanitary sewer laterals were installed with the construction of View Point Subdivision to the north. According to the Public Works Director (Exhibit H) the installation of the laterals was performed without approved plans. **Since utility service lines were installed without approved plans the City reserves the right to cause the relocation, realignment, or removal of water services and/or sanitary sewer laterals during construction plan review.**
78. Section 17.100.250 contains specifications for surface drainage and stormwater systems. The City Engineer (Exhibit G) states that preliminary stormwater calculations were not provided with

submittal of Mairin's Viewpoint. The drainage report shall be in compliance with the water quality/quantity criteria as stated in the City of Sandy Development Code (SDC) 13.18 Standards and the City of Portland current Stormwater Management Manual (SWMM) Standards that were adopted by reference into the Sandy Development Code. **The City Engineer requires a final drainage report be submitted to the City for review and approval as part of the final design.** The applicant is proposing a 5 foot wide private storm drain easement along the south lot line of Lots 3 and 4. **The City Engineer states that the plan set shall be revised to detail a 10 foot wide private storm drain easement along the south lot line of Lots 3 and 4.** The applicant also proposes a 15 foot wide public storm drain easement along the south lot line of Lots 1 and 2 which meets the width requirement for a public storm easement. All new public stormwater facilities shall be a minimum of 12-inches in diameter.

79. This subdivision proposal includes a four foot storm detention tank at the rear of Lots 1 and 2. The Public Works Director (Exhibit H) states that the subdivision shall include an all-weather access to the stormwater detention tank at the rear of Lots 1 and 2 in compliance with Clean Water Service standards. **The applicant shall submit additional details on the all-weather access to the stormwater detention tank with construction plans.**
80. Section 17.100.260 states that all subdivisions shall be required to install underground utilities. **The applicant shall install utilities underground with individual service to each lot.**
81. Section 17.100.270 specifies that sidewalks shall be installed on both sides of a public street. The applicant proposes constructing sidewalks along all public street frontages along the subject site.
82. Section 17.100.280 requires that when appropriate, bicycle routes shall be extended within the proposed subdivision. The applicant does not propose any specific bicycle routes.
83. Section 17.100.290 specifies that where planting strips are provided in the public right-of-way, a master street tree plan shall be submitted and approved. Street tree analysis is contained in Chapters 17.84 and 17.92 above.
84. Section 17.100.300 contains requirements for erosion control for new land divisions. **The applicant shall submit a grading and erosion control permit and request an inspection of installed devices prior to any additional grading onsite.** The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction of the subdivision and construction of the row homes. **All erosion control and grading shall comply with Section 15.44 of the Municipal Code. The proposed subdivision is greater than one acre which requires the applicant to apply for a DEQ 1200-C Permit.**
85. Install all improvements detailed in Section 17.100.310 as required. **The applicant shall be responsible for all of the improvements detailed in Section 17.100.310, including fiber facilities. The applicant shall work with the City to ensure that broadband infrastructure meets the design standards and adopted procedures as described in Section 17.84.70.** Entry monument signs shall be located entirely outside the public right-of-way and clear vision areas as required by Section 17.74.30. **If entry signs are desired, the applicant shall submit a detailed plan showing the location of such signage.**

#### 17.102 – Urban Forestry

86. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. The property contains 1.39 acres and requires conformance with the tree retention requirements of Chapter 17.102.
87. Section 17.102.50 requires the retention of at least three trees 11 inches DBH or greater to be retained for every one acre of contiguous ownership. Chapter 17.102 requires retention of at least 4 (1.39 acres x 3 = 4.17) 11 inches DBH or greater. The applicant submitted an Arborist Report (Exhibit D) and a Tree Inventory (Exhibit C, Sheet 2) for the subject lot to be subdivided. The tree inventory detailed six trees for retention, but one of the trees was labeled at less than 11 inches DBH. On November 30, 2017 staff visited the site to examine the trees proposed for retention. Since the tree assessment was done in 2006 it appears numerous trees have fallen or been removed. Some of the trees were also missing tree identification tags. **Prior to moving forward with tree removal on the site the applicant shall submit an updated arborist report and tree inventory for staff review and approval. The updated report shall contain revised tree species, sizes (DBH), condition, and other details. The trees shall also be retagged for staff to conduct future site visits.**
88. **Once the tree retention plan is approved the applicant shall record a tree protection covenant specifying protection of retained trees and limiting removal without submittal of an Arborist's Report and City approval. This document shall include a sketch identifying the location of required protected trees, and shall be recorded as part of the Final Plat. The applicant shall request an inspection of erosion control measures and tree protection measures as specified in Section 17.102.50(C) prior to construction activities or grading.**

#### 8.04 –Declaration of Nuisance

89. On November 30, 2017 staff visited the site and saw junk accumulation, what appeared to be junk vehicles, and other violations of Chapter 8 of the Municipal Code occurring around the existing house at 15545 Bluff Road. **The applicant shall remove the code violations (i.e. junk nuisances) from the subject site by January 5, 2018 or be subject to Code Enforcement regulations.**
90. In addition to the nuisances specifically enumerated within Chapters 8.08 through 8.20, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the city is declared to be a nuisance and may be abated as provided in Chapter 8.24. The presence of pests is considered to be a nuisance and potentially detrimental to public health. Prior to development of the site, **the applicant shall have a licensed pest control agent evaluate the site to determine if pest eradication is needed. The evaluation from the pest control agent shall be submitted to the City of Sandy for review and approval.**

#### 15.30 – Dark Sky

91. Chapter 15.30 contains the City of Sandy's Dark Sky Ordinance. Section 17.100.210 specifies that the applicant is financially responsible for the installation of a lighting system. Olson Street has street lighting on the north side of the street that was installed with development of the View

Point Subdivision (File No. 15-048 SUB). **Street lighting will need to be installed wherever street lighting is determined insufficient by the Public Works Director. The applicant shall specify street light locations with construction plans.**

15.44 – Erosion Control

92. All on-site earthwork activities including any retaining wall construction should follow the requirements of the current edition of the Oregon Structural Specialty Code. **Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties.**
93. All erosion control and grading shall comply with Section 15.44 of the Municipal Code. **The applicant shall submit a grading and erosion control permit, and request an inspection of installed devices prior to any grading onsite. Prior to issuance of a grading plan the applicant shall submit proof of receipt of a DEQ 1200-C Permit.** Any grading performed on the lots shall be certified by a licensed professional geotechnical engineer.
94. Section 15.44.50 contains requirements for maintenance of a site including re-vegetation of all graded areas. **The applicant's Erosion Control Plan shall be designed in accordance with these standards.**

**DECISION**

The Mairin's Viewpoint Subdivision at 15545 Bluff Road is hereby **approved** as modified by the conditions of approval listed below.

**CONDITIONS OF APPROVAL**

- A. Remove the code violations (i.e. junk nuisances) from the subject site by January 5, 2018 or be subject to Code Enforcement regulations.**
- B. Prior to moving forward with tree removal on the site the applicant shall submit an updated arborist report and tree inventory for staff review and approval. The updated report shall contain revised tree species, sizes (DBH), condition, and other details. The trees shall also be retagged for staff to conduct future site visits.**
- C. Prior to submittal of construction plans, issuance of permits and/or grading or other construction activities on the site, the applicant shall complete the following:**
1. Submit a complete revised Plan Set featuring the following details:
    - Detail the driveways for Lots 4 and 5 at least 5 feet from each (measured at the end of the wing) to accommodate a street tree between the driveways.
    - Specify a 10 foot wide private storm drain easement along the south lot line of Lots 3 and 4.
    - Specify a one-foot vehicle non-access reserve strip (VNAR) along the Bluff Road frontage of Lots 5 and 6 and along the Olson Street frontage of Lot 5 for the entirety of the property east of the driveway.



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

1. Submit proof of receipt of a DEQ 1200-C Permit. (*Submit to Planning Department and Public Works Department for approval*)
2. Have a licensed pest control agent evaluate the site to determine if pest eradication is needed. Submit the evaluation to the City of Sandy for review and approval.
3. Install a tree protection area per Section 17.92.10(C) located 5 feet outside of the dripline around all trees to be retained on the site.
4. Request an inspection to verify tree protection fencing is appropriately installed.

**E. Prior to all construction activities, except grading and/or excavation, the applicant shall submit the following additional information as part of construction plans and complete items during construction as identified below: (*Submit to Public Works unless otherwise noted*)**

1. Submit written confirmation from the Sandy Fire District regarding the number and location of required fire hydrants. Submit a revised Parking Plan if required fire hydrants affect on-street parking spaces and submit to staff for review and approval.
2. Submit a revised Street and Utility Plan featuring at least seven street trees on Olson Street and at least four street trees on Dreamcatcher Avenue, spaced approximately 30 feet apart.
3. Submit a revised Utility Plan indicating the location of broadband fiber as detailed and approved by the SandyNet Manager.
4. Specify street light locations as determined insufficient by the Public Works Director.
5. Submit additional details on the all-weather access to the stormwater detention tank at the rear of Lots 1 and 2.
6. Submit a detailed stormwater analysis in conformance with Sandy Development Code Section 13.18 and the City of Portland Stormwater Management Manual (SWMM) Standards.
7. Submit a profile design for a minimum of 200 feet for all future street extensions past the project boundary to ensure future grades can be met.
8. Submit a mail delivery plan, featuring grouped lockable mail facilities for all new and existing mail boxes, to the City and the USPS for review. Mail delivery facilities shall be provided by the developer in conformance with 17.84.100 and the standards of the USPS. Obtain written approval for this plan from the USPS prior to construction.

**F. Prior to Final Plat approval, the applicant shall complete the following tasks or provide assurance for their future completion:**

1. Dedicate additional right-of-way to the City (by deed using the City's standard form) to facilitate construction of Olson Street and Dreamcatcher Avenue and the additional five foot dedication strip along the west side of Bluff Road.
2. Submit easement documents for all easements dedicated to the public for staff review and approval, and reference these easements on the final plat.
3. The future full closure or partial closure (restricted turning movements) of Olson Street at Bluff Road shall be preserved in a plat note. Emergency vehicle access shall be maintained to Bluff Road even if there is a full closure.
4. The following easements shall be detailed on the Final Plat:
  - An eight foot wide public utility easement (PUE) along the frontage of Dreamcatcher Avenue and Olson Street;
  - A 10 foot wide public utility easement (PUE) and public pedestrian easement along the frontage of Bluff Road;
  - A 15 foot wide public storm drain easement along the south lot line of Lots 1 and 2;
  - A 10 foot wide private storm drain easement along the south lot line of Lots 3 and 4; and,
  - A one-foot vehicle non-access reserve strip (VNAR) along the Bluff Road frontage of Lots 5 and 6 and along the Olson Street frontage of Lot 5 for the entirety of the property east of the driveway.
5. Install street lights as identified on the construction plans.
6. Complete street improvements for Bluff Road, Olson Street, and Dreamcatcher Avenue as specified on approved as-builts.
7. Complete sidewalk improvements along the Bluff Road frontage. Street trees can be installed in conjunction with individual lot development.
8. Pave the driveway for the existing house on Lot 4.
9. Connect the existing house on Lot 4 to sanitary sewer and pay appropriate system development charges (SDCs).
10. Record a tree protection covenant specifying protection of retained trees limiting removal without submittal of an Arborist's Report and City approval. This document shall include a sketch identifying the location of required protected trees, and shall be recorded as part of the Final Plat.
11. Pay plan review, inspection and permit fees as determined by the Public Works Director.

12. Pay a fee in lieu of park dedication in the amount of \$19,280 (.08 acres of land to be dedicated x \$241,000). If a portion of the fee is deferred, Resolution 2013-14 specifies a per acre fee of \$265,000. Based on this method, the applicant would be required to pay \$21,200 if a portion of the fee is deferred (.08 x \$265,000). A minimum of 50 percent (\$10,600) is required to be paid prior to final plat approval and the remaining 50 percent (\$10,600) divided between the 6 lots (\$1,766.66 per lot). If the deferred option is chosen the \$1,766.66 for Lot 4 shall be paid prior to final plat.

13. Reimburse the City for the cost of installing all required signage.

14. Submit two copies of a Final Plat and fee.

15. The Clackamas County Surveyors Office requires the applicant to resolve any encroachments prior to final plat approval.

**G. Prior to issuance of building permits on any lot, the applicant shall:**

1. Submit a true and exact reproducible copy (Mylar) of the recorded Final Plat including associated documents and a digital CAD version of the subdivision plat.
2. No building permits will be issued until all public utilities including sanitary sewer and water service are available to serve the development.

**H. Conditions related to individual home construction:**

1. All homes shall provide building design features in conformance with the standards of Section 17.90.150.
2. Homes located on Lots 5 and 6 adjacent to Bluff Road shall maintain a 20 foot setback to Bluff Road. In addition, homes located on these lots shall be oriented to front Bluff Road, including construction of a front porch facing Bluff Road with a walkway connecting the porch to the Bluff Road sidewalk.
3. Plant street trees in the planter strips 30-feet-on-center. Street trees shall have a minimum caliper of 1.5 inches measured 6 inches from grade, and shall be planted and staked in accordance with City standards.
4. The planter strips on Bluff Road, Olson Street, and Dreamcatcher Avenue shall be graded and backfilled as necessary, and bark mulch or vegetation installed prior to occupancy.
5. Development of this subdivision will require payment of system development charges in accordance with applicable City ordinances.

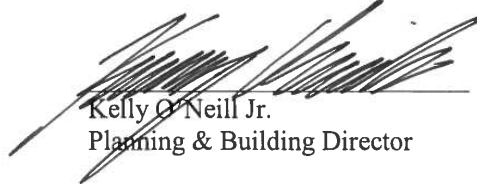
**I. General Conditions of Approval:**

1. The Final Plat shall be recorded as detailed in Section 17.100.60(I).

2. If entry signs are desired, the applicant shall submit a detailed plan showing the location of such signage.
3. All work within the public right-of-way and within the paved area shall comply with the American Public Works Association (APWA) and City requirements.
4. Since utility service lines were installed without approved plans the City reserves the right to cause the relocation, realignment, or removal of water services and/or sanitary sewer laterals during construction plan review.
5. All proposed homes and the existing home shall connect to municipal water and municipal sewer.
6. All franchise utilities shall be installed underground and in conformance with City standards.
7. The location of street lighting, hydrants, mail boxes, driveways, utilities, and other amenities shall be considered when locating street trees.
8. Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties.
9. Water line sizes shall be based upon the Water Facilities Master Plan and shall be sized to accommodate domestic fire protection flows on the site.
10. All public sanitary sewer, waterline mains and stormwater facilities shall be extended to the plat boundaries to provide for future connections to adjoining properties.
11. As required by Section 17.92.140, the developer shall maintain all vegetation planted in the development for two (2) years from the date of completion, and shall replace any dead or dying plants during that period.
12. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
13. All improvements listed in Section 17.100.300 shall be provided by the applicant including drainage facilities, monumentation, mail facilities, sanitary sewers, storm sewer, sidewalks, street lights, street signs, street trees, streets, traffic signs, underground communication lines including telephone and cable, underground power lines, water lines and fire hydrants.
14. Land use approval does not connote approval of utility or public improvement plans submitted with the land use application. Plan details will be reviewed during the construction plan submittal phase by the City Engineer and Public Works Director.
15. Comply with all standards required by Section 17.84 of the Sandy Development Code. Public and franchise improvements shall be installed or financially guaranteed in accordance with Chapter 17 of the Sandy Municipal Code prior to temporary or final occupancy of structures.

Water lines and fire hydrants shall be installed in accordance with City standards. All sanitary sewer lines shall be installed in accordance with City standards.

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

  
Kelly O'Neill Jr.  
Planning & Building Director

12/8/17  
Date

### **RIGHT OF APPEAL**

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

An application for an appeal shall contain:

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



## EXHIBIT G

### MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way  
Beaverton, OR 97007

#### ASSIGNMENT

To conduct a Limited Visual Tree Assessment for several trees on a development site located at 15545 SE Bluff Road, Sandy, Oregon, and to provide recommendations.

#### FIELD OBSERVATIONS

I visited the property on February 3<sup>rd</sup> and 24<sup>th</sup>, 2018, March 11<sup>th</sup>, and April 28<sup>th</sup>, 2020. My observations were limited to what was visible to me from the ground and the condition of the trees and site on the dates and times of my assessments.

There are forty-eight (48) trees greater than or equal to 11 inches Diameter-at-Breast-Height (DBH). Trees were assessed for health/condition, and measured for Diameter-at-Breast-Height. Six (6) of the trees are Dead, Dying, or Hazard condition. The remaining forty-two (42) are in either fair or poor condition. The following species are represented:

- Grand Fir (*Abies grandis*)
- Bigleaf Maple (*Acer macrophyllum*)
- Deodar Cedar (*Cedrus deodara*)
- Dogwood (*Cornus florida*)
- Magnolia (*Magnolia sp.*)
- Apple (*Malus sp.*)
- Sweet Cherry (*Prunus avium*)
- Cherry Plum (*Prunus cerasifera*)
- Douglas-fir (*Pseudotsuga menziesii*)
- Pear (*Pyrus sp.*)
- Western Red-cedar (*Thuja plicata*).

A significant number of trees on this site are heavily covered with English Ivy, which may hide potential structural defects. The English Ivy should be removed for any of the trees planned for preservation.

Root Protection Zone (RPZ) distance recommendations are included in the attached Tree Inventory Table. I have not been provided any specific development plans for this site as of this date. RPZ recommendations are subject to change based on updated development plans.

Please contact me with questions pertaining to this report at 503-523-6411, or [mkgiersch@gmail.com](mailto:mkgiersch@gmail.com).

Sincerely,

Mary Kay Giersch  
ISA Certified Arborist PN-6732A  
Member, American Society of Consulting Arborists



## MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way  
Beaverton, OR 97007

### ATTACHMENT A – CERTIFICATION OF PERFORMANCE

I, Mary Kay Giersch, certify:

- That I have personally inspected the trees and property referred to in this report, and have stated my findings accordingly. The extent of the evaluation is stated in the attached report and the terms of Assignment;
- That I have no current or prospective interest in the vegetation or the property that is the subject of this report and have no personal interest or bias with respect to the parties involved;
- That the analysis, opinions and conclusions stated herein are my own and are based on current scientific procedures and facts;
- That my analysis, opinions and conclusions were developed and this report has been prepared according to commonly accepted arboriculture practices;
- That no one provided significant professional assistance to me, except as indicated within the report;
- That my compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party nor upon the results if the assignment, the attainment of stipulated results, or the occurrence of any subsequent events;
- Any legal description provided to me is assumed to be correct. Titles and ownerships to property are assumed to be good and marketable;
- Sketches, drawings and photographs in this report are intended as visual aids and are probably not to scale;
- Unless expressed otherwise, information in this report covers only items that were examined and reflects the condition of those items at the time of inspection. The inspection is limited to visual examination of accessible items without laboratory analysis, dissection, excavation, probing or coring, unless otherwise stated;
- There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the plants or property may not arise in the future;
- Loss or alteration of any part of the report invalidates the entire report. Ownership of the report passes to the client only when all fees have been paid.

I further certify that I am an International Society of Arboriculture Certified Arborist (PN-6732A)



MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way, Beaverton, OR 97007  
503-523-6411

ATTACHMENT B -- TREE INVENTORY TABLE

ID	COMMON NAME	BOTANIC NAME	DBH <sup>(1)</sup>	CONDITION <sup>(2)</sup>	TREATMENT	COMMENTS/RPZ <sup>(3)</sup>
500	Douglas-fir	<i>Pseudotsuga menziesii</i>	36	Fair	Remove	
501	Bigleaf Maple	<i>Acer macrophyllum</i>	9	Poor	Remove	
502	Bigleaf Maple	<i>Acer macrophyllum</i>	7	Poor	Remove	
503	Western Red-cedar	<i>Thuja plicata</i>	36	HAZARD	Remove	
504	Bigleaf Maple	<i>Acer macrophyllum</i>	8	Poor	Remove	
505	Sweet Cherry	<i>Prunus avium</i>	16	Poor	Remove	
506	Bigleaf Maple	<i>Acer macrophyllum</i>	18	Poor	Remove	
507	Douglas-fir	<i>Pseudotsuga menziesii</i>	39	Fair	Remove	
508	Douglas-fir	<i>Pseudotsuga menziesii</i>	42	Poor	Remove	
509	Douglas-fir	<i>Pseudotsuga menziesii</i>	36	Poor	Remove	
510	Bigleaf Maple	<i>Acer macrophyllum</i>	22	Fair	Remove	
511	Bigleaf Maple	<i>Acer macrophyllum</i>	44	Fair	Remove	
512	Bigleaf Maple	<i>Acer macrophyllum</i>	12	Fair	Remove	
513	Bigleaf Maple	<i>Acer macrophyllum</i>	13	Poor	Remove	
514	Bigleaf Maple	<i>Acer macrophyllum</i>	10	Poor	Remove	
515	Bigleaf Maple	<i>Acer macrophyllum</i>	9	Poor	Remove	
516	Sweet Cherry	<i>Prunus avium</i>	7	Poor	Remove	
517	Bigleaf Maple	<i>Acer macrophyllum</i>	24	Poor	Remove	





MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way, Beaverton, OR 97007  
503-523-6411

ATTACHMENT B -- TREE INVENTORY TABLE

ID	COMMON NAME	BOTANIC NAME	DBH <sup>(1)</sup>	CONDITION <sup>(2)</sup>	TREATMENT	COMMENTS/RPZ <sup>(4)</sup>
518	Sweet Cherry	<i>Prunus avium</i>	8	Poor	Remove	
519	Bigleaf Maple	<i>Acer macrophyllum</i>	47	HAZARD	Remove	
520	Sweet Cherry	<i>Prunus avium</i>	22	HAZARD	Remove	
521	Sweet Cherry	<i>Prunus avium</i>	10	Fair	Remove	
522	Douglas-fir	<i>Pseudotsuga menziesii</i>	36	Fair	Remove	
523	Bigleaf Maple	<i>Acer macrophyllum</i>	9	Poor	Remove	
524	Bigleaf Maple	<i>Acer macrophyllum</i>	28	Fair	Remove	
525	Western Red-cedar	<i>Thuja plicata</i>	28	Fair	Remove	
526	Douglas-fir	<i>Pseudotsuga menziesii</i>	40	Fair	Remove	
527	Douglas-fir	<i>Pseudotsuga menziesii</i>	29	Fair	Remove	
528	Douglas-fir	<i>Pseudotsuga menziesii</i>	31	Fair	Remove	
529	Douglas-fir	<i>Pseudotsuga menziesii</i>	55	Fair	Remove	
531	Bigleaf Maple	<i>Acer macrophyllum</i>	37	Fair	Remove	
532	Bigleaf Maple	<i>Acer macrophyllum</i>	18	Fair	Remove	
533	Bigleaf Maple	<i>Acer macrophyllum</i>	10	Poor	Remove	
534	Douglas-fir	<i>Pseudotsuga menziesii</i>	36	Fair	Remove	
535	Douglas-fir	<i>Pseudotsuga menziesii</i>	47	Fair	Remove	
536	Sweet Cherry	<i>Prunus avium</i>	12	Poor	Remove	



MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way, Beaverton, OR 97007  
503-523-6411

ATTACHMENT B -- TREE INVENTORY TABLE

ID	COMMON NAME	BOTANIC NAME	DBH <sup>(1)</sup>	CONDITION <sup>(2)</sup>	TREATMENT	COMMENTS/RPZ <sup>(4)</sup>
537	Bigleaf Maple	<i>Acer macrophyllum</i>	36	Fair	Remove	
538	Bigleaf Maple	<i>Acer macrophyllum</i>	54	Poor	Remove	
539	Grand Fir	<i>Abies grandis</i>	42	Fair	Remove	
540	Douglas-fir	<i>Pseudotsuga menziesii</i>	31	HAZARD	Remove	
541	Apple	<i>Malus sp.</i>	13	Poor	Remove	
542	Western Red-cedar	<i>Thuja plicata</i>	36	Fair	RETAIN	27' South & East, 16' North & West
543	Bigleaf Maple	<i>Acer macrophyllum</i>	45	Fair	Remove	
544	Sweet Cherry	<i>Prunus avium</i>	18	Fair	RETAIN	13' North, East & South, 9' West
545	Douglas-fir	<i>Pseudotsuga menziesii</i>	31	Fair	Remove	
546	Douglas-fir	<i>Pseudotsuga menziesii</i>	31	Fair	Remove	
547	Douglas-fir	<i>Pseudotsuga menziesii</i>	24	Fair	Remove	
548	Douglas-fir	<i>Pseudotsuga menziesii</i>	27	Fair	Remove	
549	Douglas-fir	<i>Pseudotsuga menziesii</i>	20	Fair	Remove	
550	Douglas-fir	<i>Pseudotsuga menziesii</i>	34	Fair	Remove	
551	Cherry Plum	<i>Prunus cerasifera</i>	11	DEAD	Remove	
552	Western Red-cedar	<i>Thuja plicata</i>	31	Poor	Remove	



MARY GIERSCH CONSULTING ARBORIST

ISA Certified Arborist  
PN-6732A

16050 SW Waxwing Way, Beaverton, OR 97007  
503-523-6411

ATTACHMENT B -- TREE INVENTORY TABLE

ID	COMMON NAME	BOTANIC NAME	DBH <sup>(1)</sup>	CONDITION <sup>(2)</sup>	TREATMENT	COMMENTS/RPZ <sup>(4)</sup>
553	Deodar Cedar	<i>Cedrus deodara</i>	38	Fair	Remove	
554	Deodar Cedar	<i>Cedrus deodara</i>	22	Dying	Remove	
555	Cherry Plum	<i>Prunus cerasifera</i>	14	Poor	Remove	
556	Magnolia	<i>Magnolia sp.</i>	18	Poor	Remove	
557	Dogwood	<i>Cornus florida</i>	8	Fair	RETAIN	6'
558	Pear	<i>Pyrus sp.</i>	16	Fair	RETAIN	16' North, West & East, 5' South

(1) DBH = Diameter-at-Breast-Height = measured at 4.5 feet above natural grade

(2) Condition = Good, Fair, Poor, Dead

(3) RPZ = Root Protection Zone measured in feet in radius from tree trunk

EXHIBIT H







EXHIBIT I

38

After recording return to (Name, Address, Zip):

Clackamas County Official Records  
Sherry Hall, County Clerk

2021-019294

John Mahaffy  
13100 SE. Sunnyside Rd.  
Suite B  
Clackamas, OR 97015



\$103.00

02431990202100192940030034

02/24/2021 09:30:20 AM

PD-COV Cnt=1 Stn=73 LESLIE  
\$15.00 \$16.00 \$62.00 \$10.00

RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT ("Covenant") is made as of 10th day of February, 2021, by John Mahaffy with respect to property they own in the City of Sandy, State of Oregon.

RECITALS

- A. John Mahaffy is the owner of Property identified as 15545 SE Bluff Rd, in the City of Sandy, County of Clackamas, State of Oregon.
- B. The Property is being reviewed as part of an application before the City of Sandy for Land Use Application for subdivision. The application is being processed as City of Sandy File No. 17-053-SUB Pursuant to a condition of approval imposed by the City of Sandy as part of that review, John Mahaffy is required to record a restrictive covenant against the property that will protect certain specified trees on the property. The purpose of this Covenant is to prohibit removal of the specified trees, except under certain circumstances more particularly described below.

COVENANT

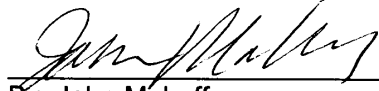
NOW, THEREFORE, John Mahaffy declare and covenant:

- 1. Neither John Mahaffy nor any future owner of the property shall remove any of the trees identified on the attached "Exhibit A" (the "Trees") without first obtaining approval from the City of Sandy pursuant to Sandy Development Code Chapter 17.102.30, or any Successor chapter or ordinance thereto.
- 2. Removal of any of the Trees shall only be allowed upon a determination by a qualified professional that the Tree is diseased, dead, dying, or otherwise hazardous to persons or property in a way that can only be remediated by complete removal of the Tree.
- 3. This Covent is intended to and shall run with the lots and shall be binding upon John Mahaffy their successors in interest and all future owners of the Property.

IN WITNESS WHEREOF, the undersigned Grantors have hereunto executed this Covenant on the date stated below the (respective) Grantor's signature.

Dated this 10th day of February, 2021

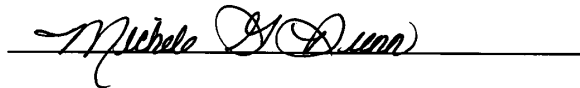
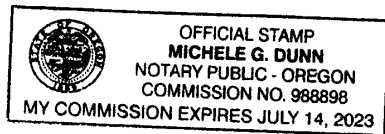
John Mahaffy



By: John Mahaffy

State of Oregon            )  
  )ss.  
County of Clackamas    )

On this 10th day of February, 2021 before me the undersigned Notary Public,  
personally appeared John Mahaffy.



Notary Public for Oregon  
My Commission Expires: July 14th, 2023



# EXHIBIT "A" LOT 1, MAIRIN'S VIEWPOINT

## LEGEND:



EXISTING TREE REQUIRED TO REMAIN. TREE NUMBER PER ARBORIST REPORT FOR MAIRIN'S VIEWPOINT, CITY OF SANDY PLANNING FILE NO. 17-053 SUB. ARBORIST REPORT PREPARED BY MARY GIERSCH, ISA CERTIFIED ARBORIST PN-6732A.

SE OLSON ST.

DREAMCATCHER AVE.

506

LOT 1



SCALE : 1" = 30'



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JANUARY 23, 1990  
DALE L. HULT  
2427

RENEWS 07/01/21



17-020-TREE  
EXHIBITS.dwg  
DATE OF PLOT: 02/17/21

30

After recording return to (Name, Address, Zip):



\$103.00

John Mahaffy  
13100 SE. SUNNY SIDE RD.  
Suite B  
CLACKAMAS, OR 97015

02/24/2021 09:30:20 AM

PD-COV Cnt=1 Stn=73 LESLIE  
\$15.00 \$18.00 \$62.00 \$10.00

**RESTRICTIVE COVENANT**

THIS RESTRICTIVE COVENANT ("Covenant") is made as of 18th day of February 2021, by John Mahaffy with respect to property they own in the City of Sandy, State of Oregon.

**RECITALS**

- A. John Mahaffy is the owner of Property identified as 15545 SE Bluff Rd, in the City of Sandy, County of Clackamas, State of Oregon.
- B. The Property is being reviewed as part of an application before the City of Sandy for Land Use Application for subdivision. The application is being processed as City of Sandy File No. 17-053-SUB Pursuant to a condition of approval imposed by the City of Sandy as part of that review, John Mahaffy is required to record a restrictive covenant against the property that will protect certain specified trees on the property. The purpose of this Covenant is to prohibit removal of the specified trees, except under certain circumstances more particularly described below.

**COVENANT**

NOW, THEREFORE, John Mahaffy declare and covenant:

- 1. Neither John Mahaffy nor any future owner of the property shall remove any of the trees identified on the attached "Exhibit A" (the "Trees") without first obtaining approval from the City of Sandy pursuant to Sandy Development Code Chapter 17.102.30, or any Successor chapter or ordinance thereto.
- 2. Removal of any of the Trees shall only be allowed upon a determination by a qualified professional that the Tree is diseased, dead, dying, or otherwise hazardous to persons or property in a way that can only be remediated by complete removal of the Tree.
- 3. This Covent is intended to and shall run with the lots and shall be binding upon John Mahaffy their successors in interest and all future owners of the Property.

IN WITNESS WHEREOF, the undersigned Grantors have hereunto executed this Covenant on the date stated below the (respective) Grantor's signature.

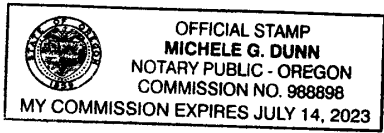
Dated this 18th day of February, 2021

John Mahaffy

*John Mahaffy*  
By: John Mahaffy

State of Oregon            )  
  )ss.  
County of Clackamas    )

On this 18th day of February, 2021 before me the undersigned Notary Public,  
personally appeared John Mahaffy.



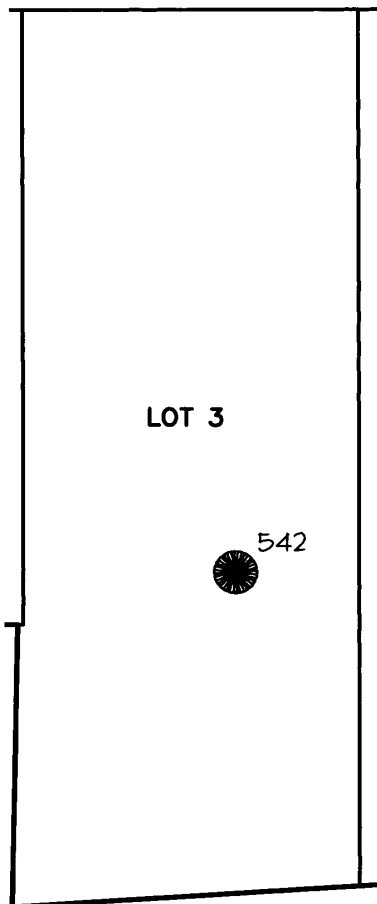
*Michele G. Dunn*  
Notary Public for Oregon  
My Commission Expires: July 14th, 2023

# EXHIBIT "A" LOT 3, MAIRIN'S VIEWPOINT

## LEGEND:

EXISTING TREE REQUIRED TO REMAIN. TREE NUMBER PER ARBORIST REPORT FOR MAIRIN'S VIEWPOINT, CITY OF SANDY PLANNING FILE NO. 17-053 SUB. ARBORIST REPORT PREPARED BY MARY GERSCH, ISA CERTIFIED ARBORIST PN-6732A.

SE OLSON ST.

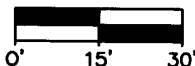


LOT 3

542



SCALE : 1" = 30'



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Dale L. Hult*  
OREGON  
JANUARY 23, 1990  
DALE L. HULT  
2427

RENEWS 07/01/21

*All County*  
**Surveyors & Planners, Inc.**  
Surveying, Planning  
and Civil Engineering  
P.O. Box 955 Sandy, OR 97055  
Phone: (503) 668-3151  
Fax: (503) 668-4730  
Subject to General Conditions 2006

17-020-TREE  
EXHIBITS.dwg

DATE OF PLOT: 02/17/21

3p

Clackamas County Official Records  
Sherry Hall, County Clerk

2021-019296

After recording return to (Name, Address, Zip):

John Mahaffy  
13100 SE. Seavyside Rd.  
Suite B  
Clackamas, OR. 97015



02431993202100192960030036

\$103.00

02/24/2021 09:30:20 AM

PD-COV Cnt=1 Stn=73 LESLIE  
\$15.00 \$16.00 \$62.00 \$10.00

### RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT ("Covenant") is made as of 18th day of February, 2021, by John Mahaffy with respect to property they own in the City of Sandy, State of Oregon.

### RECITALS

- A. John Mahaffy is the owner of Property identified as 15545 SE Bluff Rd, in the City of Sandy, County of Clackamas, State of Oregon.
- B. The Property is being reviewed as part of an application before the City of Sandy for Land Use Application for subdivision. The application is being processed as City of Sandy File No. 17-053-SUB Pursuant to a condition of approval imposed by the City of Sandy as part of that review, John Mahaffy is required to record a restrictive covenant against the property that will protect certain specified trees on the property. The purpose of this Covenant is to prohibit removal of the specified trees, except under certain circumstances more particularly described below.

### COVENANT

NOW, THEREFORE, John Mahaffy declare and covenant:

- 1. Neither John Mahaffy nor any future owner of the property shall remove any of the trees identified on the attached "Exhibit A" (the "Trees") without first obtaining approval from the City of Sandy pursuant to Sandy Development Code Chapter 17.102.30, or any Successor chapter or ordinance thereto.
- 2. Removal of any of the Trees shall only be allowed upon a determination by a qualified professional that the Tree is diseased, dead, dying, or otherwise hazardous to persons or property in a way that can only be remediated by complete removal of the Tree.
- 3. This Covent is intended to and shall run with the lots and shall be binding upon John Mahaffy their successors in interest and all future owners of the Property.

IN WITNESS WHEREOF, the undersigned Grantors have hereunto executed this Covenant on the date stated below the (respective) Grantor's signature.

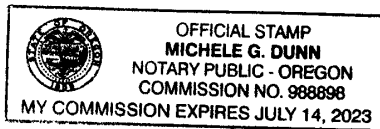
Dated this 18th day of February, 2021

John Mahaffy

*John Mahaffy*  
By: John Mahaffy

State of Oregon            )  
  )ss.  
County of Clackamas    )

On this 18th day of February, 2021 before me the undersigned Notary Public,  
personally appeared John Mahaffy.



*Michele G. Dunn*  
Notary Public for Oregon  
My Commission Expires: July 14th, 2023

# EXHIBIT "A" LOT 4, MAIRIN'S VIEWPOINT

SE OLSON ST.

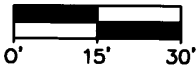
## LEGEND:



EXISTING TREE REQUIRED TO REMAIN. TREE NUMBER PER ARBORIST REPORT FOR MAIRIN'S VIEWPOINT, CITY OF SANDY PLANNING FILE NO. 17-053 SUB. ARBORIST REPORT PREPARED BY MARY GIERSCH, ISA CERTIFIED ARBORIST PN-6732A.



SCALE : 1" = 30'



LOT 4



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JANUARY 23, 1990  
DALE L. HULT  
2427

RENEWS 07/01/21

*All County*  
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Surveying, Planning  
and Civil Engineering  
P.O. Box 955 Sandy, OR 97055  
Phone: (503) 668-3151  
Fax: (503) 668-4730  
Subject to General Conditions 2006

17-020-TREE  
EXHIBITS.dwg  
DATE OF PLOT: 02/17/21