



City of Sandy

Agenda

Planning Commission Meeting

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

Meeting Date: Monday, September 24, 2018

Meeting Time: 6:59 PM

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1. ROLL CALL	
2. APPROVAL OF MINUTES	
2.1. Approval of Minutes: July 30, 2018 PC Minutes -7-30-18 Draft Minutes	3 - 8
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3. REQUESTS FROM THE FLOOR - CITIZEN COMMUNICATION ON NON- AGENDA ITEMS	
4. OLD BUSINESS	
4.1. Bloom Annexation Continuance	13 - 54
<p>It is hereby recommended that the application be granted a continuance for the requested 245 day extension from the ORS 120-day final action rule, not to extend beyond May 27, 2019 (245 days from September 24, 2018). This will provide the applicant with additional time to obtain and submit the information required to make a final decision, reviewers time to complete their analysis and adequate time to hold the necessary Planning Commission and City Council hearings for consideration.</p> <p>"I make a motion to approve a continuance for File No. 18-026 ANN, Bloom Annexation, not to extend beyond May 27, 2019 (245 days)."</p> <p>Bloom Annexation Continuance - Pdf</p>	
5. NEW BUSINESS	

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

[18-039 DCA Chapters 17.22 17.28 17.80 17.82 17.102 Code Amendments \(PC\) - Pdf](#)

6. ITEMS FROM COMMISSION AND STAFF

7. ADJOURN

Sandy Planning Commission Work Session / Regular Meeting Monday, July 30, 2018

Chairman Jerry Crosby called the meeting to order at 6:34 p.m.

1. WORKSESSION ROLL CALL

Commissioner Carlton – Present
Commissioner Lesowski – Present
Commissioner MacLean Wenzel – Present
Commissioner Logan – Present
Commissioner Mobley – Present
Commissioner Abrams – Present
Chairman Crosby – Present

Others present: City Manager, Kim Yamashita, Planning & Building Director Kelly O'Neill Jr., Associate Planner Emily Meharg, Associate Planner James Cramer, Planning Assistant Rebecca Casey, Advisor Daisey Meade

2. WORK SESSION

City Manager Kim Yamashita came to the Planning Commission to address the City's new branding strategy and the progress on the Sandy Community Campus.

Yamashita explained the reason behind the new branding. Reasons included the lack of continuity across departments and the fact that the City was violating their own Municipal Code the way the seal was being used. Yamashita said the process included a selection committee that ultimately hired NorthStar Destinations with Council's approval. She said that NorthStar compiled all the City's documents such as letterhead, business cards, etc. and did undercover surveys around Sandy to see how people looked at the city. Yamashita stated that it is less about how we see ourselves and more about how others see us. She also said that this was not just a branding strategy, but also a marketing package. Yamashita showed the Commission examples of the different marketing items the City is looking to purchase, such as the utility pole banners and bike racks that follow the new design.

Regarding the Sandy Community Campus, Yamashita explained that City Council approved the purchase of the old Cedar Ridge property that is roughly 40+ acres. She explained the process of hiring the design company and elaborated on the stakeholder meetings. She also showed the Commission some conceptual designs of this project including the swimming pool area, a kitchen, a teen hangout area, and other misc. concepts to make this a multi- generational facility. Yamashita gave other examples of how to use the acquired land including an amphitheater, leasable retail space and discussed the possible locations of parking facilities over the current "bunker" building. Yamashita concluded her presentation by explaining the different phases and the city's next steps.

REGULAR MEETING

Chairman Jerry Crosby called the meeting to order at 7:31 p.m.

1. ROLL CALL

Commissioner Carlton – Present
Commissioner Lesowski – Present

Commissioner MacLean Wenzel – Present
Commissioner Logan – Present
Commissioner Mobley – Present
Commissioner Abrams – Present
Chairman Crosby – Present

Advisor Daisy Meade – Present

Others present: Planning & Building Director Kelly O'Neill Jr., Associate Planner Emily Meharg, Associate Planner James Cramer, City Attorney David Doughman, Planning Assistant Rebecca Casey

2. APPROVAL OF MINUTES – May 29, 2018 and June 14, 2018

Motion: To approve minutes for May 29, 2018 and June 14, 2018

Moved By: Commissioner Logan

Seconded By: Commissioner Lesowski

Yes votes: Commissioners Carlton, Lesowski, MacLean Wenzel, Logan, Mobley, Abrams and Chairman Crosby

No votes: None

Abstentions: Commissioner Mac-Lean Wenzel for May 29, 2018

3. REQUESTS FROM THE FLOOR – CITIZEN COMMUNICATION ON NON-AGENDA ITEMS

None

NEW BUSINESS

4. PUBLIC HEARING – Tractor Supply Store (18-018 DR/CUP/VAR) Chairman Crosby opened the public hearing on File No.18-018 DR/CUP/VAR (Tractor Supply Store) at 7:34 p.m. Crosby noted that this is a quasi-judicial public hearing. He 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. Commissioner Mobley recused himself as he owns Lancaster Engineering that worked on the Traffic Analysis Study for this application. Crosby went over the public hearing procedures for a quasi-judicial public hearing and called for the staff report.

Staff Report:

Associate Planner Emily Meharg summarized the staff report and addressed the background, factual information, applicable criteria, and went through a slide show. Meharg focused on the seven Variances, two Adjustments and the Minor Conditional Use the applicant had requested and gave a detailed explanation on each. Meharg finished with the summary and conclusion, and explained staff's main recommendations.

Commissioner MacLean-Wenzel asked about the lighting "issue" and if the applicant's request meets the city's Dark Sky Ordinance. Meharg said that staff has requested the applicant update the proposed parking area lights with lights that have a smaller distribution and emit less intense light.

Applicant Presentation:

Trey Jinright, Project Engineer, Jade Consulting, PO Box 1929, Fairhope, AL 36533

Mr. Jinright gave a brief introduction and explained he is present on behalf of Hix Snedeker who is the developer and owner of the property going forward. Mr. Jinright said for a project such as the Tractor Supply Store to be successful it needs a combination of both cost and operational requirements. He also said they have made every effort to meet the city's "Sandy Style" requirements. Mr. Jinright explained to the Commission that the applicant would like to come to a "happy medium" regarding the parking and outdoor display requirements.

Howard Hix, Hix Snedeker, PO Box 130, Daphne, AL 36526

Mr. Hix explained that he is the developer and soon to be the owner of this property. He will then go into a long-term lease with the Tractor Supply Store. He explained the different states and cities he has other developments in and invests in making sure these stores look good. Mr. Hix explained why they need the adjustment on the outdoor display request. He said they want this store to follow the "Sandy Style" and for them to add these additional aesthetic enhancements that meet this style, but the income generated from the outdoor display sales is crucial. He also said they need a certain amount of sales per square foot to meet their objectives.

Proponent Testimony:

Mark Benson, 16355 Champion Way, Sandy, OR 97055

Mr. Benson explained he is currently the land owner and is very much in favor of this application. Mr. Benson stated that the City should be warm and welcoming in bringing this applicant into the community and by giving them as much flexibility as possible.

Testimony:

Roz Rushing, 19100 Arletha Court, Sandy, OR 97055

Mrs. Rushing said her main concerns were the outdoor displays with the pallets and the increased traffic in that area.

Advisor Testimony:

Daisy Meade, 18321 Tickle Creek, Sandy, OR 97055

Mrs. Meade addressed the elevation drawings and her idea to have more of a gabled entry on the west side of the building that can be seen from Hwy 26. She also mentioned the lighting and gave an example that would solve the problem for any light pollution.

Staff Recap:

O'Neill briefly explained the commercial/industrial building development since the "Sandy Style" was implemented. He mentioned the Goodwill building and explained that they complied 100 percent with the city's code. O'Neill said the "Sandy Style" was adopted back in April of 2008 and explained its significance.

Applicant Rebuttal:

None

Discussion:

Commissioner Carlton said he would like to find a happy medium between staff's recommendations and the applicant's requests. He explained that he could see screening the west side of the building but thinks the north side should be as open as possible along with additional windows.

Commissioner Lesowski said in the beginning about ten years ago, he was opposed to the "Sandy Style". He now believes the benefits outweigh the extra cost and overall the results have been good. In regard to landscaping, he would like to see more vegetation near the retaining wall on the south side of the site. He also wants to stick to the 15 percent for outdoor product display. Lesowski finished by saying he is in favor of sticking with the code.

Commissioner Maclean-Wenzel said over the years the community has benefited from the "Sandy Style". She also said since this building will be in a very visible area, the "Sandy Style" is very important. Maclean-Wenzel also would like to see the 25 percent window coverage on the north side. She explained that the community did a lot of hard work deciding whether or not to adopt the "Sandy Style" and feels it is their job to make sure it is followed.

Commissioner Logan said he was ok with approving 17 percent for outdoor product display. He also said that sometimes you must pay for what the code requires and believes they should stand by the code (referring to the Sandy Style).

Commissioner Abrams said he is 100 percent in favor of sticking with the code as much as possible and following the "Sandy Style" requirements.

Chairman Crosby discussed the "faux" door. He asked how it would be perceived to have a door that leads to nowhere. Carlton said it is only for aesthetics regardless if the door opens or not. Carlton asked about the Fire Department requirements and suggested that the door could be used as a fire exit.

Maclean-Wenzel wanted more clarification on what would happen to the west side of the building. Carlton said he would like to see vegetative screening as opposed to piling on a bunch of "Sandy Style" elements on the back of the building.

Motion: To Close Public Hearing at 9:51 p.m.

Moved by: Commissioner Carlton

Seconded by: Commissioner Logan

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Motion: Move to approve File No.18-018 DR/CUP/VAR (Tractor Supply Store) but adjust the Minor Special Conditional Use Permit as defined by the staff recommendation on page 64 in the staff report, changing the allowable outdoor area square footage from 17,207 sq. ft to 19,515 sq. ft.

Moved by: Commissioner Carlton

Seconded by: Commissioner Lesowski

Yes votes: Commissioners Carlton, Maclean-Wenzel, Logan, Abrams and Chairman Crosby

No votes: Commissioner Lesowski

Abstentions: Commissioner Mobley

Motion: Move to approve File No.18-018 DR/CUP/VAR (Tractor Supply Store). Approve staff's recommendations regarding the Variances and Adjustments stated on page 66 of the staff report but deny the Special Variance to Section 17.90.120 (E.2)

Moved by: Commissioner Carlton

Seconded by: Commissioner Logan

Yes votes: Commissioners Carlton, Lesowski, Maclean-Wenzel, Logan, Abrams and Chairman Crosby

No votes: None

Abstentions: Mobley

Commissioner Mobley returned to the dais to rejoin the meeting.

NEW BUSINESS

5. PUBLIC HEARING – Code Interpretation on Windows (18-027 INT) Chairman Crosby opened the public hearing on File No.18-027 INT (Code Interpretation on Windows) at 10:30 p.m. Crosby noted that this is a quasi-judicial public hearing. He 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. With no declarations noted, Crosby went over the public hearing procedures for a quasi-judicial public hearing and called for

the staff report.

Staff Report:

Planning & Building Director Kelly O'Neill Jr. summarized the staff report and addressed the background, factual information, applicable criteria, staff's summary and recommendation and went through a brief slide show.

Commissioner Carlton asked if a faux window and a fake window were considered the same. O'Neill said that they were considered the same.

Applicant Presentation:

Bill Whitney, Whitney Axis Design Group, 52 NW 2nd Street, Gresham, OR 97030

Mr. Whitney explained the context of the buildings and gave an example that building one is 10 feet below the sidewalk that fronts the Arco station since it recedes downhill and is not visible from Hwy 26. Mr. Whitney addressed the screening and explained that it becomes a hardship for the applicant having to follow the window code requirements.

Proponent Testimony:

Mark Benson, 16355 Champion Way, Sandy, OR 97055

Mr. Benson began explaining that he built the AMPM and their property taxes are \$45,000 a year when the Shell station is only \$6,000 a year. He said because he had to build the AMPM to "Sandy Style" requirements it raised how much his property taxes are. He said the "Sandy Style" ends up being a future tax and is very damaging.

Mr. Benson told the Commission to tell him where to put the windows if they want the 20 percent because he is open to their suggestion and finished by asking the Commission if he must put windows on his mini storage units, then what kind of bars does he use for safety and protection of the units.

Advisor Testimony:

Daisy Meade, 18321 Tickle Creek, Sandy, OR 97055

Mrs. Meade said the applicants proposal looks very good for storage units and the recessed pockets are a nice feature. Although, she said that a way to add additional windows would be to remove the "pocket" and make a straight wall where a window could be installed. She said this option would sacrifice the entry "pocket" but it would help add the required windows the code requires.

Staff Recap:

O'Neill explained that he believes a Variance on this application would have been the better option than the Code Interpretation. He also said that staff realized that building one was the only one with the entryway and wanted an interpretation from the Commission to see if they wanted entryways on each building.

Applicant Rebuttal:

Mr. Benson again addressed the amount of property taxes the "Sandy Style" would cause him.

City Attorney David Doughman responded to Mr. Benson and said the tax issue has nothing to do with the application before the Commission tonight but did state that new construction is taxed at a higher rate.

Discussion:

Commissioner Carlton voiced some concerns about adding the "Sandy Style" on the storage units that are already deemed an outright permitted use. He thinks the applicant's proposal looks good and the units will not be used as a public space but since the applicant presented their application

as a Code Interpretation instead of a Variance, then under the definition his answer is no to the request.

Chairman Crosby went over the applicants request and asked the Commission the question if an applicant can consider a garage door as qualifying for ground floor windows on the activated frontage of buildings. After the straw poll was taken, it was agreed that garage doors do not qualify as windows.

The Commission discussed the activated frontage for each building.

Motion: To Close Public Hearing at 11:26 p.m.

Moved by: Commissioner Lesowski

Seconded by: Commissioner Mobley

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Motion: Move to Interpret File No.18-027 INT (Highway 26 Storage Code Interpretation). The property owner cannot be allowed to consider garage doors as qualifying for ground floor windows on the activated frontage of buildings.

Moved by: Commissioner Logan

Seconded by: Commissioner Lesowski

Yes votes: Commissioners Carlton, Lesowski, Maclean-Wenzel, Logan, Mobley, Abrams and Chairman Crosby

No votes: None

Abstentions: None

5. ITEMS FROM COMMISSION AND STAFF

None

6. ADJOURNMENT

Motion: To adjourn

Moved By: Commissioner Lesowski

Seconded By: Commissioner Logan

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Chair Crosby adjourned the meeting at 11:34 p.m.

Chairman Jerry Crosby

Attest:

Kelly O'Neill Jr., Planning & Building
Director

Date signed: _____

**Sandy Planning Commission
Regular Meeting
Monday, August 27, 2018**

Chairman Jerry Crosby called the meeting to order at 7:00 p.m.

1. ROLL CALL

Commissioner Carlton – Present
Commissioner Lesowski – Present
Commissioner MacLean Wenzel – Present
Commissioner Logan – Present
Commissioner Mobley – Excused
Commissioner Abrams – Present
Chairman Crosby – Present

Advisor Daisy Meade - Absent

Others present: Planning & Building Director Kelly O'Neill Jr., Associate Planner Emily Meharg, Associate Planner James Cramer, City Attorney David Doughman, Planning Assistant Rebecca Casey

2. APPROVAL OF MINUTES – June 25, 2018

Motion: To approve minutes for June 25, 2018

Moved By: Commissioner Lesowski

Seconded By: Commissioner Abrams

Yes votes: Commissioners Carlton, Lesowski, Maclean-Wenzel, and Abrams

No votes: None

Abstentions: Commissioner Logan and Chairman Crosby abstained from the vote since they were excused from the June 25, 2018 meeting.

The motion passed.

3. REQUESTS FROM THE FLOOR – CITIZEN COMMUNICATION ON NON-AGENDA ITEMS

None

NEW BUSINESS

4. PUBLIC HEARING – Bloom Annexation (18-026 ANN) Chairman Crosby opened the public hearing on File No. 18-026 ANN (Bloom Annexation) at 7:02 p.m. Crosby noted that this is a quasi-judicial public hearing. He 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. With no declarations noted, Crosby went over the public hearing procedures for a quasi-judicial public hearing and called for the staff report.

Staff Report:

Associate Planner James Cramer summarized the staff report and addressed the background, factual information, public comments staff received, applicable criteria, and went through a slide show. Cramer finished with the summary and conclusion along with staff's recommendation. Under staff's recommendation, Cramer explained the applicant will need to submit Transportation Planning Rule (TPR) findings, pay a fee for the third-party City of Sandy traffic engineer consultant and request that the Commission continue this hearing to a future date to give the applicant time to submit the TPR findings. Staff also asked the applicant submit a waiver from the ORS 120-day final action rule (submitted as Exhibit K) and recommends this annexation be conditioned that prior to future development of this property the applicant map the Flood Slope Hazard (FSH) Overlay and required setbacks.

Chairman Crosby asked for clarification on the applicant's submitted 120-day rule waiver and asked for guidance on setting a future date for this application. City Attorney David Doughman said the Commission should first take in any testimony from the audience, keep the hearing open until the next meeting and work with the applicant to come up with an exact date when the extension is due.

Doughman then addressed the TPR requirements. He explained that because of what happened with the UGB expansion process there is now a step that requires applicants applying for annexation to analyze traffic impacts in the area.

Applicant Presentation:

William Bloom, PO Box 1283, Wrangell, AK 99929

Mr. Bloom submitted a letter requesting a 120-day rule extension. Mr. Bloom was not in attendance, so staff submitted his letter to the Commission as Exhibit K.

Opponent Testimony:

James Peterson, 39128 Jerger St, Sandy, OR 97055

Mr. Peterson told the Commission that he isn't against the annexation, but he bought his house because of the forest and does not want to see the trees removed and the land developed.

Testimony:

Jeff Moyer, 19880 Bornstedt Rd, Sandy, OR 97055

Mr. Moyer was concerned about the future of the historical log house on the applicant's property.

Staff Recap:

Doughman addressed Mr. Moyer's concerns about the historical log house. He said in Oregon it is property owner driven for a house to be considered historic and placed on the State registry for historic houses if approved by the State of Oregon. Doughman said the City would need to follow up and see if anything was registered or any action taken for this log house. Cramer said additional research will need to be done before development.

Mr. Moyer said the Sandy Historical Society has a complete dossier on the log house. Cramer thanked Mr. Moyer and said he would follow up with the Historical Society.

O'Neill said during the UGB expansion process staff looked at properties that could be served the easiest through water, sewer, and transportation. He also said they looked at properties that were larger in size that could be developed. O'Neill explained that land that had forest on it was not taken into account. He said that once the property comes into the city of Sandy it will have some tree retention requirements, but a good percentage of the trees will be removed if the owners choose to do so with a tree permit.

The Commission finished with discussing the Fair Housing Council letter (Exhibit N), the tree retention plan for annexations and the Flood Slope Hazard Overlay requirements in newly annexed developments.

Motion: Move to continue file 18-026 ANN (Bloom Annexation) to the next Planning Commission meeting on September 24, 2018.

Moved by: Commissioner Lesowski

Seconded by: Commissioner Maclean-Wenzel

Yes votes: Commissioners Carlton, Lesowski, Maclean-Wenzel, Logan, Abrams and Chairman Crosby

No votes: None

Abstentions: None

5. PUBLIC HEARING – Sandy Community Campus Right-of-Way Vacation (18-029 VAC)

Chairman Crosby opened the public hearing on File No. 18-029 VAC (Sandy Community Campus Right-of-Way Vacation) at 7:35 p.m. Crosby noted that this is a quasi-judicial public hearing. He 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. With no declarations noted, he went over the public hearing procedures for a quasi-judicial public hearing and called for the staff report.

Staff Report:

Associate Planner James Cramer summarized the staff report and addressed the background, factual information, analysis of conformance under the Oregon Revised Statutes, agency comments staff received, applicable criteria, and went through a slide show. Cramer finished with the summary and staff's recommendation to forward the petition to City Council with a recommendation for approval.

Motion: To Close Public Hearing at 7:43 p.m.

Moved by: Commissioner Carlton

Seconded by: Commissioner Logan

No votes: None

Abstentions: None

The motion passed.

Motion: Move to forward file 18-029 VAC (Sandy Community Campus Right-of-Way Vacation) to City Council with a recommendation for approval.

Moved by: Commissioner Carlton

Seconded by: Commissioner Logan

Yes votes: Commissioners Carlton, Lesowski, Maclean-Wenzel, Logan, Abrams and Chairman Crosby

No votes: None

Abstentions: None

6. ITEMS FROM COMMISSION AND STAFF

Planning & Building Director Kelly O'Neill Jr. reminded the Commission that there will be a meeting on September 24, 2018 to discuss the continuance of the Bloom Annexation and also discuss Code Modifications that will include Urban Forestry.

O'Neill said if the Commission meets in October he would like to move the date from October 22 to October 29, 2018 due to a staff scheduling conflict. The Commission agreed the change of date to October 29, 2018 would work.

7. ADJOURNMENT

Motion: To adjourn

Moved By: Commissioner Lesowski

Seconded By: Commissioner Carlton

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Chair Crosby adjourned the meeting at 7:53 p.m.

Chairman Jerry Crosby

Attest:

Kelly O'Neill Jr., Planning & Building
Director

Date signed: _____

DRAFT



Staff Report

Meeting Date: September 24, 2018
From James Cramer, Associate Planner
SUBJECT: Bloom Annexation Continuance

Background:

The applicant, William Bloom, requests a Type A Annexation for a parcel totaling approximately 12.84 acres into the City of Sandy. The current Clackamas County Comprehensive Plan Designation of these properties is Rural (R) and the current zoning of the property is Rural Residential Farm Forest 5-Acre (RRFF-5) with Historic District (HD) Overlay and Historic Landmark (HL) Overlay uses. The applicant proposes to zone the property to Single Family Residential (SFR) within the City's Zone Map and classify the property Low Density Residential (LDR) within the Sandy Comprehensive Plan Map. Per the provisions of ORS 222.111 to 222.180 as modified by Senate Bill 1573, the Sandy City Council may approve an annexation without sending it to the voters if it is determined to be compliant with applicable City criteria.

At the August 27, 2018 Planning Commission hearing a continuance was approved for Case No. 18-026 ANN to the September 24, 2018 hearing. As of September 18, 2018 the applicant has submitted a request to waive ORS 227.178 120-day final action rule. The applicant has requested to waive the deadline to the maximum number of day, 245, for a new completion date of May 27, 2019. This will provide the applicant with additional time to obtain and submit the information required to make a final decision, reviewers time to complete their analysis and adequate time to hold the necessary Planning Commission and City Council hearings for consideration.

Recommendation:

It is hereby recommended that the application be granted a continuance for the requested 245 day extension from the ORS 120-day final action rule, not to extend beyond May 27, 2019 (245 days from September 24, 2018). This will provide the applicant with additional time to obtain and submit the information required to make a final decision, reviewers time to complete their analysis and adequate time to hold the necessary Planning Commission and City Council hearings for consideration.

"I make a motion to approve a continuance for File No. 18-026 ANN, Bloom Annexation, not to extend beyond May 27, 2019 (245 days)."

Code Analysis:

Case No. 18-026 ANN Code Analysis from the August 27, 2018 Planning Commission hearing still hold applicable at this time and has been attached for reference purposes.

Financial Impact:

None.



Staff Report

Meeting Date: August 27, 2018

From James Cramer, Associate Planner

SUBJECT: Bloom Annexation

Background:

The applicant, William Bloom, requests a Type A Annexation for a parcel totaling approximately 12.84 acres into the City of Sandy. The current Clackamas County Comprehensive Plan Designation of this property is Rural (R) and the current zoning of the property is Rural Residential Farm Forest 5-Acre (RRFF-5) with a Historic District (HD) Overlay and Historic Landmark (HL) Overlay. The applicant proposes to zone the property as Single Family Residential (SFR) and designate the property as Low Density Residential (LDR) on the Sandy Comprehensive Plan Map.

Recommendation:

It is hereby recommended that the applicant submit TPR findings for the 'reasonable worst case' development scenario consistent with the proposed zoning for the subject property. Additionally, staff recommends the applicant pay a \$1,500 fee for the third-party City of Sandy traffic engineer consultant, a continuance to the Planning Commission hearing until TPR findings are complete and that the applicant submit a waiver from the ORS 120-day final action rule. This will provide additional time for the applicant and staff to complete a comprehensive analysis of the required TPR findings. Staff also recommends this annexation be conditioned that prior to future development of this property the applicant map the FSH Overlay and required setbacks per Section 17.60.30.

"I make a motion to approve a continuance for File No. 18-026 ANN, Bloom Annexation, with the condition that the applicant submit TPR findings for review per code requirement, pay the \$1,500 fee associated with a third-party review as well as waive the ORS 120-day final action rule. Additionally, this motion shall condition that prior to future development of the subject property the applicant shall map the FSH Overlay and required setbacks per Section 17.60.30."

Code Analysis:

See Attached Staff Report

Financial Impact:
None.

SUBJECT: File No. 18-026 ANN – Bloom Annexation

AGENDA DATE: August 27, 2018

Application Complete: June 28, 2018
120-Day Deadline: October 26, 2018

DEPARTMENT: Planning Division

STAFF CONTACT: James A. Cramer, Associate Planner

EXHIBITS:

Applicant's Submittals

- A. Land Use Application
- B. Supplemental Land Use Application No. 1 & 2
- C. Mailing Labels for Notifying Property Owners
- D. Notification Map
- E. Parcel 3 of Partition Plat No. 2018-045 (Sheet 1 and 2)
- F. Replat of Parcel 1 of Partition Plat 2015-029 and The Adjoining Tract of Land Described in Deed Document No. 2008-049728
- G. Z0023-17-PLA Site Plan
- H. Project Narrative
- I. Site Photos

Agency Comments

None

Public Comments

- J. Darcy and Dennis Jones received July 19, 2018

I. BACKGROUND

A. APPLICABLE CRITERIA & REVIEW STANDARDS

Sandy Development Code: Chapter 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.34 Single Family Residential; 17.78 Annexations

Urban Growth Boundary Expansion Analysis: Chapter 4 Expansion Alternative Justification

B. PROCEEDING

In conformance with the standards of Chapter 17 of the Sandy Municipal Code (SMC) and the voter annexation requirements, this application is processed as a Type IV, Quasi-Judicial Land Use Decision.

C. FACTUAL INFORMATION

- 1. APPLICANT/PROPERTY OWNER: William Bloom

2. **LEGAL DESCRIPTION:** T2S R4E Section 24 C, Tax Lot 100
3. **PROPOSAL:** The applicant, William Bloom, requests a Type A Annexation for a parcel totaling approximately 12.84 acres into the City of Sandy. The current Clackamas County Comprehensive Plan Designation of this property is Rural (R) and the current zoning of the property is Rural Residential Farm Forest 5-Acre (RRFF-5) with a Historic District (HD) Overlay and Historic Landmark (HL) Overlay. The applicant proposes to zone the property as Single Family Residential (SFR) and designate the property as Low Density Residential (LDR) on the Sandy Comprehensive Plan Map.
4. **SITE LOCATION:** South adjacent to the Cascadia Village neighborhood. Fronting SE Bornstedt Road on the east side of the right-of-way.
5. **SITE SIZE:** property is 12.84 acres.
6. **SITE DESCRIPTION:** The site contains approximately 12.74 acres of land with approximately .10 acres of right-of-way for a total land area of 12.84 acres. The subject property is currently outside the city limits; however, the property is contiguous to city limits on its north and west property lines.
7. **COUNTY COMPREHENSIVE PLAN/ZONING:** The existing Clackamas County Comprehensive Plan Designation of the property is Rural (R) and the current zoning of the property is Rural Residential Farm Forest 5-Acre (RRFF-5) with a Historic District (HD) Overlay and Historic Landmark (HL) Overlay.
8. **PROPOSED CITY COMPREHENSIVE PLAN DESIGNATION/ZONING:** The applicant proposes to reclassify the property to Low Density Residential (LDR) on the Sandy Comprehensive Plan Map and zone the property to Single Family Residential (SFR) on the Sandy Zoning Map.
9. **VICINITY DESCRIPTION:**
 - North: Low Density Residential (R-1)
 - South: Rural Residential Farm Forest 5-Acre (RRFF-5)
 - East: Rural Residential Farm Forest 5-Acre (RRFF-5)
 - West: Single Family Residential (SFR)
10. **SERVICE CONSIDERATIONS:** The subject property has an existing 1,056 square foot historic barn and a well house. The site previously had a single-family residence which was demolished via a practice burn by the Sandy Fire Department on May 19, 2018. Future development of the property will require connection to city water and sewer service. Storm drainage, including retention, detention, and water quality treatment will also be required. Any future development will require conformance with storm detention and water quality requirements.

11. RESPONSE FROM GOVERNMENTAL AGENCIES, UTILITY PROVIDERS, AND CITY DEPARTMENTS: No comments received.

12. PUBLIC COMMENTS: No comments received.

D. PUBLIC COMMENT

- Darcy and Dennis Jones of 38884 Jerger St. – were told when they purchased their home that the space behind their home would never be developed and do not want to see their views or the existing trees be removed. Suffer from migraines and nervous additional construction noise would “set them off.”

E. PREVIOUS LAND USE DECISIONS: The site previously had a single-family residence which was demolished via a practice burn by the Sandy Fire Department on May 19, 2018. Staff is not aware of any previous land use actions regarding the subject property and notes that the City of Sandy does not have a historic landmark overlay for properties within the City limits.

F. SENATE BILL 1573: Senate Bill 1573 was passed by the legislature and became effective on March 15, 2016 requiring city’s whose charter requires annexation to be approved by voters to annex the property without submitting it to the voters if the proposal meets certain criteria:

(a) The territory is included within an urban growth boundary adopted by the city or Metro, as defined in ORS 197.015; **RESPONSE:** As shown on the attached Vicinity Map, the subject property is located within the city’s Urban Growth Boundary (UGB).

(b) The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city; **RESPONSE:** The subject property is identified to have a Low Density Residential designation as identified on the adopted Comprehensive Plan map.

(c) At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; **RESPONSE:** The subject parcel is contiguous to city limits along the north and west property lines.

(d) The proposal conforms to all other requirements of the city’s ordinances. **RESPONSE:** An evaluation of each of the city criteria follows.

II. ANALYSIS OF CONFORMANCE

SANDY DEVELOPMENT CODE

1. Chapter 17.26 Zoning District Amendments

In association with the annexation request, the applicant requests Single Family Residential (SFR) zoning to apply the underlying conceptual zoning designation determined in the 2017 Urban Growth Boundary Expansion Analysis.

2. Zoning

The Zoning Map depicts a conceptual zoning designation for the property of SFR, Single Family Residential. Density will be evaluated during land use review (i.e. subdivision) of the subject property.

3. Chapter 17.78 Annexation

Section 17.78.20 requires that the following conditions must be met prior to beginning an annexation request:

- A. The requirements of Oregon Revised Statutes, Chapters 199 and 222, for initiation of the annexation process are met; and
- B. The site must be within the City of Sandy Urban Growth Boundary; and
- C. The site must be contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water; and
- D. The site has not violated Section 17.78.25.

RESPONSE: *Oregon Revised Statute Section 199 pertains to Local Government Boundary Commissions and City-County Consolidation. Oregon Revised Statute Section 222 pertains to City Boundary Changes; Mergers; Consolidations and Withdrawals. The proposal complies with applicable requirements at this time and all notices were mailed as necessary.*

The site is located within the Urban Growth Boundary (UGB). The north property line is contiguous with city limits as well as the west property line provides an additional 417 feet of continuity along the SE Bornstedt Road right-of-way. The proposed annexation would not create an island, cherry stem, or shoestring annexation.

Section 17.78.25 requires review of tree retention requirements per SMC 17.102 and SMC 17.60 at the time of annexation to discourage property owners from removing trees prior to annexing as a way of avoiding Urban Forestry Ordinance provisions.

- A. Properties shall not be considered for annexation for a minimum of five (5) years if any of the following apply:

1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the five years prior to the annexation application.
2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the five years prior to the annexation application.
3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the five years prior to the annexation application.
4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the five years prior to the annexation application.
5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the five years prior to the annexation application, except as provided below:
 - a. Sites under one (1) acre in area shall not remove more than five (5) trees in the five years prior to the annexation application.
 - b. Sites where removal of ten (10) or fewer trees will result in fewer than three (3) trees per gross acre remaining on the site. Tree removal may not result in fewer than three (3) trees per gross acre remaining on the site. At least three (3) healthy, non-nuisance trees 11 inches DBH or greater must be retained for every one-acre of contiguous ownership.
 - c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six (6) healthy 11 inch DBH or greater trees per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH Overlay District, tree removal must not result in fewer than nine (9) healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than fifteen (15) trees in the five years prior to the annexation application. A calculation of 1.2 acres is rounded down to one (1) acre and a calculation of 1.8 is rounded up to two (2) acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under SMC 17.78.25(A) 2. and 3. shall count towards tree removal under SMC 17.78.25(A) 5.

B. Exceptions. The City Council may grant exceptions to this section where:

1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than five years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
2. The Council finds that tree removal was necessary due to hazards, or utility easements or access; or
3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
4. The trees removed were nuisance trees; or
5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
7. The application of this section will create an island of unincorporated area.

***RESPONSE:** The subject property is 12.74 acres with .10 acres of right-of-way. The applicant has not proposed any development at this time and therefore have not completed an arborist report; however, review of aerial photography reveals the property is heavily forested on the east half of the property with a cluster of trees in the northwest corner of the property. A review of historic aerial photos from 1995 to the present does not reveal any trees have been removed from the property.*

Section 17.78.50 contains required annexation criteria. Requests for annexation should not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area. Generally, it is desirable for the city to annex an area if the annexation meets **any** of the following criteria:

- A. A necessary control for development form and standards of an area adjacent to the city; or
- B. A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
- C. Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or

D. Needed routes for utility and transportation networks.

RESPONSE: *The applicant's narrative indicates they believe annexation of the subject property meets Criterion C and D above. Staff generally agrees with the applicant that the property provides a logical growth pattern for the city and encourages orderly growth. The site is bordered by city limits on the entire north property line and the property to the north has been developed into a single-family dwelling neighborhood known as Cascadia Village. Cascadia Village was designed to include a stubbed street, Averill Parkway, that intersects the subject site to allow for future connection between Cascadia Village and future development on the subject property. Property to the west of the subject site was approved by Planning Commission (File No. 17-066 SUB/VAR) on March 26, 2018. The approval granted the property to be subdivided into 37 residential lots for future development of single family homes as well as six variances to the Sandy Development Code. Currently there are utility connections available within Averill Parkway north of the subject property and in SE Bornstedt Road right-of-way to the west of the subject property. Annexation of the subject property will allow for future development which will in turn lead to extension of utility services providing needed utility infrastructure to serve future development within the city's urban growth boundary. Future development of the subject property and improvements to SE Bornstedt Road right-of-way will add to the existing and future transportation network within the urban grown boundary.*

Per Section 17.78.60 (F)3. the applicant was supposed to map the location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District. Prior to future development of this property the City will require that the FSH Overlay is mapped and required setback areas per Section 17.60.30 are identified on the subject property.

4. Urban Growth Boundary Expansion Analysis

Chapter 4 Expansion Alternative Justification

Goal 12 – Transportation contains policies to ensure sufficient and adequate transportation facilities and services are available. This goal states that Oregon Administrative Rule (OAR) 660-024-0020(1)(d) does not require the City to conduct an analysis pursuant to the transportation planning rule (“TPR”) prior to adding lands to expand the UGB. This is because the lands that are being added to the UGB will retain their existing county zoning until the owners of the lands choose to annex into the City. At that time, the City will conduct a TPR analysis relative to those lands.

RESPONSE: *Upon receiving the application, staff did not require TPR findings to be submitted. After additional analysis of code requirements, conversations with the Oregon Department of Transportation (ODOT) and confirmation from the City's attorney, it has been determined that TPR findings shall be submitted for review prior to final approval*

of any proposed annexations of lands brought into the UGB with the 2017 UGB Expansion. All TPR analysis shall consider a 'reasonable worst case' development scenario consistent with the type of development allowable under the City of Sandy Development Code for the zoning district the conceptual zoning map defines for the subject property. The analysis shall be based on the trip rates presented in the Institute of Transportation Engineers' Trip Generation Manual – 10th Edition. The analysis conducted by the applicant shall also be reviewed by the City of Sandy transportation engineer consultant which requires the payment of a \$1,500 third-party review fee. Until TPR findings are complete and the analysis determines either an insignificant or significant affect on transportation facilities the City of Sandy staff cannot provide a recommendation on approval for this application.

III. SUMMARY

The broad purpose of the City is to provide for the health, safety, and welfare of Sandy's residents. As a means of working to accomplish this purpose, the City regulates development to ensure it occurs in appropriate locations with access to services and is consistent with the values of the community. In addition, the City must ensure that an adequate level of urban services, such as sanitary sewer, can be provided before permitting annexation and subsequent development.

The proposed annexation is located within the city's urban growth boundary with the anticipation of being included in city limits. As noted above, the subject property complies with the criteria contained in Chapter 17.78 of the Sandy Development Code and complies with the requirements found in Senate Bill 1573 passed by the Oregon Legislature in 2016.

Following annexation, the subject property would be zoned Single Family Residential (SFR) as shown on the conceptual zoning map with a comprehensive land designation of Low Density Residential.

IV. RECOMMENDATION

It is hereby recommended that the applicant submit TPR findings for the 'reasonable worst case' development scenario consistent with the proposed zoning for the subject property. Additionally, staff recommends the applicant pay a \$1,500 fee for the third-party City of Sandy traffic engineer consultant, a continuance to the Planning Commission hearing until TPR findings are complete and that the applicant submit a waiver from the ORS 120-day final action rule. This will provide additional time for the applicant and staff to complete a comprehensive analysis of the required TPR findings. Staff also recommends this annexation be conditioned that prior to future development of this property the applicant map the FSH Overlay and required setbacks per Section 17.60.30.

EXHIBIT A

LAND USE APPLICATION FORM

(Please print or type the information below)



CITY OF SANDY, OREGON

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

Name of Project BLOOM ANNEXATION

Location or Address 19618 SE BORNSTEDT ROAD

Map & Tax Lot Number T 2S, R 4E, Section 24C; Tax Lot(s) 100

Plan Designation LDR Zoning Designation SFR Acres 12.74

Request:

Type A Annexation of one property containing 12.74 acres and public right-of-way for a total annexation area of 12.84 acres.

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

Applicant <u>William Bloom</u>	Owner <u>same as applicant</u>
Address <u>P.O. Box 1283</u>	Address
City/State/Zip <u>Wrangell, Alaska 99929</u>	City/State/Zip
Phone <u>503-297-5067</u>	Phone
Email <u>Info@av-blinds-shades.com</u>	Email
Signature <u><i>William Bloom</i></u>	Signature

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

File No. <u>18006MN</u>	Date <u>6/22/18</u>	Rec. No.	Fee \$ <u>2136.00</u>
Type of Review (circle one): Type I Type II Type III <u>Type IV</u>			

24E 24C 00100

EXHIBIT B



**SUPPLEMENTAL
LAND USE APPLICATION FORM (No. 1)**

(Please print or type the information below)

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

ANNEXATION ZONE CHANGE COMPREHENSIVE PLAN AMENDMENT

Property Identification			
Tax Lot Number	Township	Range	Section
100	2S	4E	24C

Existing and Proposed Land Use Designations				
Tax Lot Number(s)	Comprehensive Plan		Zoning Map	
	Existing	Proposed	Existing	Proposed
100	Rural	LDR	RR-FF-5	SFR

IMPORTANT: Each section on this application must be fully completed or your application could be deemed incomplete.

Tax Lot Number	Clackamas County Recording Number	Assessed Land Value	Size in Acres or Sq. Ft.
100	Partition Plat 2018-045	\$326,237	12.74

LEGAL DESCRIPTION: Attach a separate page with the written metes and bounds legal description. Accuracy of the legal description(s) must be certified by a registered land surveyor for all annexation applications.

DESCRIBE EXISTING USES

Tax lot 100 includes a mix of pasture and woods and contains a 1,056 square foot historic barn and a well house. A residence previously located on the property line between Parcels 3 and 4 of the partition plat was demolished by a practice burn of the Sandy Fire Department on May 19, 2018.

DESCRIBE EXISTING BUILDINGS

How many buildings are located on the property? 2

Number of Total Dwelling Units :

0 - The former residence was demolished by a practice burn on May 19, 2018.

DESCRIBE EXISTING TOPOGRAPHY

Approximate acreage with slopes less than 14.9%	100%
Approximate acreage with slopes 15% to 24.9%	0
Approximately acreage with slope in excess of 25%	0
Any creeks, water sources, drainageways or wetlands within the property? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Any steep slopes, ravines, draws or bluffs within or abutting the property? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

DESCRIBE EXISTING ACCESS

Does the subject property abut a public right-of-way? Yes No

Name of public right-of-way: SE Bornstedt Road

Does the property abut a private road? Yes No

Name of abutting private road(s): none

Describe any unusual difficulties in accessing the property:

The property has 417 feet of frontage on SE Bornstedt Road. The location of an access to serve the property will need to consider sight distance due to topographic considerations.

DESCRIBE SURROUNDING USES ON ADJACENT PROPERTIES

Properties to the south, east, and west of the subject property are developed as rural residential/farm uses. The subject property abuts Cascadia Village for a portion of its northern border which is developed with medium density residential dwellings.

DESCRIBE PROPOSED USE OF THE PROPERTY OR LAND DIVISIONS

Include number of lots, densities, etc.

There is no development plan at this time. Development of the property will be completed in compliance with applicable City ordinances.



SUPPLEMENTAL ANNEXATION LAND USE APPLICATION FORM (No. 2)

List of all owners of property included in the application

Owner Information	Property Description TL, Section, Township, Range
Owner William Bloom	Parcel 3 of Partition Plat 2018-045 2S 4E 24C, tax lot 100 19618 SE Bornstedt Road
Address P.O. Box 1283	
City/State/Zip Wrangell, Alaska 99929	
Phone 503-297-5067	
Owner	
Address	
City/State/Zip	
Phone	
Owner	
Address	
City/State/Zip	
Phone	
Owner	
Address	
City/State/Zip	
Phone	
Owner	
Address	
City/State/Zip	
Phone	

EXHIBIT C

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Rh Adams
39084 Jerger St
Sandy, OR 97055

24E24BD12900
Emily & Ryan Alexander
19315 Averill Pkwy
Sandy, OR 97055

24E24BD09500
James Peterson Jr
39128 Jerger St
Sandy, OR 97055

24E24BD09000
William & Jennifer Anderson
19368 Averill Pkwy
Sandy, OR 97055

24E24BD03426
Ryan Baty
38838 Haskins St
Sandy, OR 97055

24E24BD04800
Linda Bay
38926 Haskins St
Sandy, OR 97055

24E24C 00100
William Bloom
Po Box 1283
Wrangell, AK 99929

24E24BD04700
Michael Bohrer
38904 Haskins St
Sandy, OR 97055

24E24BD11200
David Bressel
13420 SE Meadowpark Dr
Happy Valley, OR 97086

24E24BD09200
Susan Burdell
19402 Averill Pkwy
Sandy, OR 97055

24E24BD13200
Cascade Community Properties Llc
Po Box 87970
Vancouver, WA 98687

24E24BD09400
Brian & Mary Casey
39142 Jerger St
Sandy, OR 97055

~~24E24BC20300
City Of Sandy
39250 Pioneer Blvd
Sandy, OR 97055~~

~~24E24BC20400
City Of Sandy
39250 Pioneer Blvd
Sandy, OR 97055~~

~~24E24BD13100
City Of Sandy
39250 Pioneer Blvd
Sandy, OR 97055~~

24E24BD11500
Gannon Colbry
38893 Jerger St
Sandy, OR 97055

24E24BD11000
James Cusick
38806 Jerger St
Sandy, OR 97055

24E24BD13000
Kyle & Stefanee Danielle
19293 Averill Pkwy
Sandy, OR 97055

24E24AC10000
Daniel & Camille Eide
39186 Amherst St
Sandy, OR 97055

24E24BD03425
Lindsay & Jason Erceg
38844 Haskins St
Sandy, OR 97055

24E24BD09600
Charlene Fine
39106 Jerger St
Sandy, OR 97055

24E24BD03600
247 Pmb
38954 Proctor Blvd
Sandy, OR 97055

24E24BD10500
Vincent & Kate Finzer
38906 Jerger St
Sandy, OR 97055

24E24BD10400
Matthew & Miranda Franke
38928 Jerger St
Sandy, OR 97055

24E24BC17000
Douglas & Wendy Gabbert
19404 Oak Ave
Sandy, OR 97055

24E24BD12800
Rafael Garcia & Hernandez Maria
39113 Jerger St
Sandy, OR 97055

24E24BD12400
Kody Geertz
19320 Wellesley Ave
Sandy, OR 97055

24E24BD03424
Kara & Michael Gentry
38854 Haskins St
Sandy, OR 97055

24E24BD12500
Gooing & Pedraza-Gooing O
39057 Jerger St
Sandy, OR 97055

24E24BC16900
Wayt Investment Co Llc
9773 SE 302nd Ln
Boring, OR 97009



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Grey Properties Llc
1905 SW 257th Ave
Troutdale, OR 97060

~~24E24BC17300
Grey Properties Llc
1905 SW 257th Ave
Troutdale, OR 97060~~

24E24A 01800
Mitchell & Mallory Hamann
19420 SE Jacoby Rd
Sandy, OR 97055

24E24BD05100
Christy Hanna
38982 Haskins St
Sandy, OR 97055

24E24A 01700
Kenneth Harrison
Po Box 2020
Sandy, OR 97055

24E24BD12700
Larry Hedges
39091 Jerger St
Sandy, OR 97055

24E24BD11400
Brandon Height
38871 Jerger St
Sandy, OR 97055

24E24BD11100
Isaac & Jessica Hibbs
38815 Jerger St
Sandy, OR 97055

24E24BD10100
Irma Hickey
38984 Jerger St
Sandy, OR 97055

24E24BD04900
John & Megan Holder
38948 Haskins St
Sandy, OR 97055

24E24BD10600
Dennis Jones
38884 Jerger St
Sandy, OR 97055

24E24BD05400
John Barker Jr & Nicole Hypse
39028 Haskins St
Sandy, OR 97055

24E24BD12000
Adam Kennedy
39013 Jerger St
Sandy, OR 97055

24E24BD08300
Jillian Kinney
39120 Amherst St
Sandy, OR 97055

24E24BD11900
Michael Lawrence
38991 Jerger St
Sandy, OR 97055

24E24BD07600
James & Donna Lazenby
19271 Averill Pkwy
Sandy, OR 97055

24E24BD05000
Dylan Lerch & Alexandra Popescu
38960 Haskins St
Sandy, OR 97055

24E24BD07500
Richard Lilly
19286 Wellesley Ave
Sandy, OR 97055

24E24BD10800
Aleksandr Logvinenko
38840 Jerger St
Sandy, OR 97055

24E24C 01803
Douglas & Joni Lyver
19885 SE Bornstedt Rd
Sandy, OR 97055

24E24C 01900
Ernest & Mary Marshall
19737 SE Bornstedt Rd
Sandy, OR 97055

~~24E24C 02100
Ernest & Mary Marshall
19737 SE Bornstedt Rd
Sandy, OR 97055~~

24E24C 02200
Ernest & Mary Marshall
19737 SE Bornstedt Rd
Sandy, OR 97055

24E24C 02300
Richard Marshall
19545 SE Bornstedt Rd
Sandy, OR 97055

24E24BD09300
Mattes Gregory A (Trustee)
Po Box 6448
Santa Rosa, CA 95406

24E24BD12600
Jennifer Mccarthy
39079 Jerger St
Sandy, OR 97055

24E24D 01800
Timothy Mcdaniel
19619 SE Jacoby Rd
Sandy, OR 97055

24E24D 01700
Gary & Cindy Mcqueen
19705 SE Jacoby Rd
Sandy, OR 97055

24E24BD11300
Scott Mengis
38859 Jerger St
Sandy, OR 97055

24E24BD08400
Johannah & Greg Miller
39142 Amherst St
Sandy, OR 97055





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Robert Miller
19901 SE Jacoby Rd
Sandy, OR 97055

24E24D 02200
Melvin & Shirley Miller
19575 SE Jacoby Rd
Sandy, OR 97055

24E24BD12300
Jason Mitchell
19308 Wellesley Ave
Sandy, OR 97055

24E24A 01600
~~ERROR~~ - UNDETERMINED
19451 SE Jacoby Rd
Sandy, OR 97055

24E24BD08900
Breanne Morton
19346 Averill Pkwy
Sandy, OR 97055

24E24C 00200
Jeffrey & Barbara Moyer
19880 SE Bomstedt Rd
Sandy, OR 97055

24E24C 00201
Jeffrey & Barbara Moyer
19880 SE Bomstedt Rd
Sandy, OR 97055

24E24AC09900
Paul Mullins
39208 Amherst St
Sandy, OR 97055

24E24BD04600
Mathew & Sara Mullikin
38882 Haskins St
Sandy, OR 97055

24E24BD11600
Lisa Murphy
38935 Jerger St
Sandy, OR 97055

24E24BD12200
Kasey Myers
19313 Wellesley Ave
Sandy, OR 97055

24E24D 01400
Jeffrey Nicholson
19815 SE Jacoby Rd
Sandy, OR 97055

24E24BD10900
Lindsey Rask
38828 Jerger St
Sandy, OR 97055

24E24BC17200
Raze Custom Homes Inc
4020 NE 216th Ave
Fairview, OR 97024

24E24BD05300
Breckenridge Property Fund 2016 Llc
2015 Manhattan Beach Blvd
Redondo Beach, CA 90278

24E24BD12100
Jacqui Rodden-Gray
19335 Wellesley Ave
Sandy, OR 97055

24E24BD11800
Rpv Llc
Po Box 775
Boring, OR 97009

24E24BC03700
~~Sandy Meadows Homeowners Assn~~

24E24C 01800
Gary & Jerri Schwartz
19839 SE Bomstedt Rd
Sandy, OR 97055

24E24BD05200
Marcello Sifuentes & Haley Lawrence
38994 Haskins St
Sandy, OR 97055

24E24BD11700
Cathleen Johnson & John Myers Jr
35501 SE Gunderson Rd
Sandy, OR 97055

24E24BD09900
John Simonitch
39040 Jerger St
Sandy, OR 97055

24E24BD09800
Gary & Terry Smith
39062 Jerger St
Sandy, OR 97055

24E24BD08700
Clifford & Murlene Stanford
19302 Averill Pkwy
Sandy, OR 97055

24E24BD08500
Tawnya Stevens
39164 Amherst St
Sandy, OR 97055

24E24BD10700
Michael Sweeney
38862 Jerger St
Sandy, OR 97055

24E24BD09100
Tony Taylor
9032 Soquel Dr
Aptos, CA 95003

24E24BD10300
Paul Turner
38940 Jerger St
Sandy, OR 97055

24E24BD10000
Lori Vanduzer
39008 Jerger St
Sandy, OR 97055

24E24BD03500
Vantage Homes Llc
3416 Via Oporto
Newport Beach, CA 92663



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Richard West
19651 SE Bornstedt Rd
Sandy, OR 97055

24E24BD10200
Oksana & Samuel Woodford
38962 Jerger St
Sandy, OR 97055

24E24BD08800
Christopher & Kristina Zavolas
19324 Averill Pkwy
Sandy, OR 97055

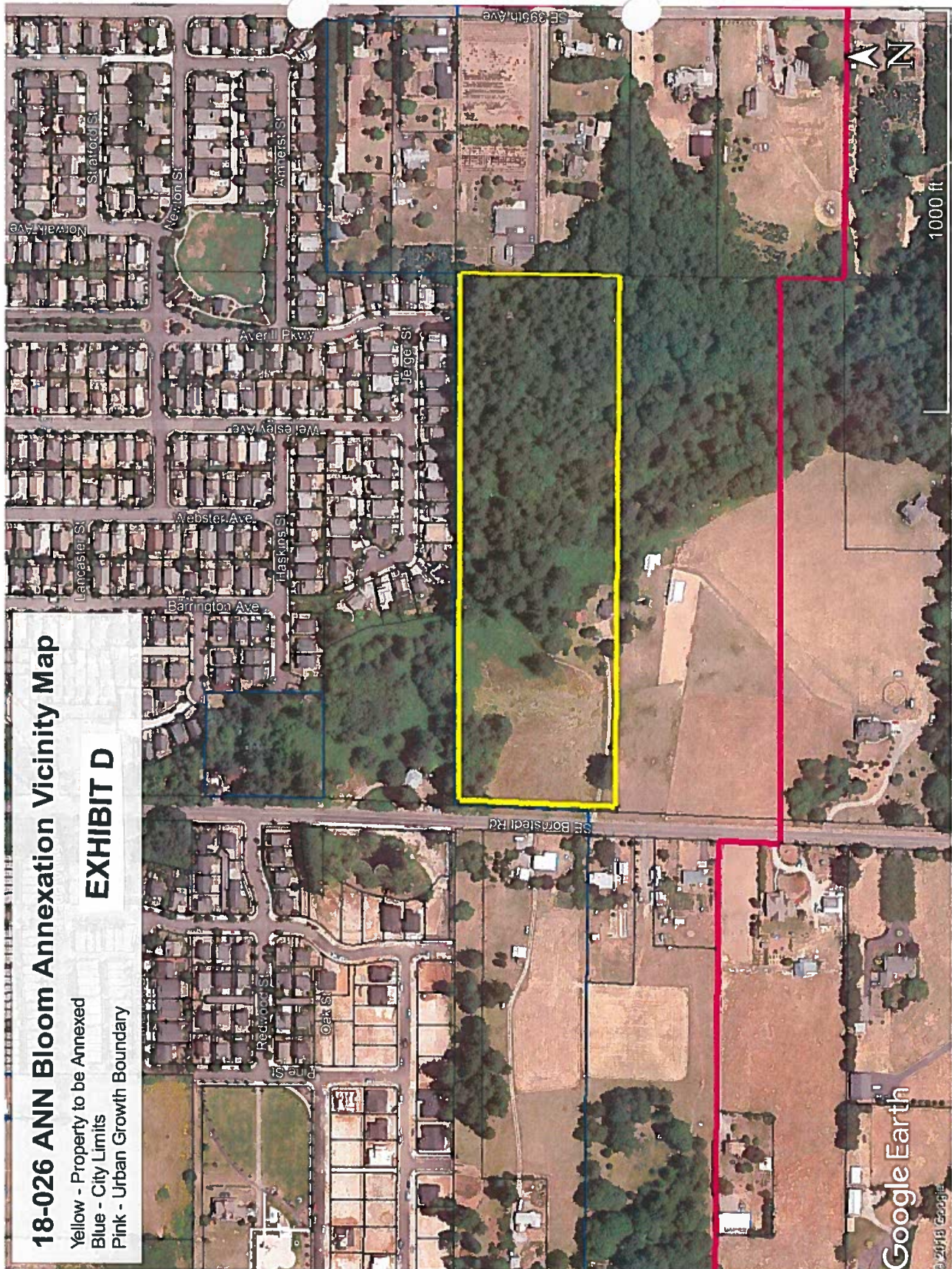
24E24BC20100
Zion Meadows Home Owners
9550 SE Clackamas Rd
Clackamas, OR 97015

24E24AC09800
Zook Marion (Trustee)
39220 Amherst St
Sandy, OR 97055

18-026 ANN Bloom Annexation Vicinity Map

EXHIBIT D

- Yellow - Property to be Annexed
- Blue - City Limits
- Pink - Urban Growth Boundary



Google Earth

© 2018 Google

1000 ft



EXHIBIT E

Exhibit 'A'

Parcel 3 of Partition Plat 2018-045

A tract of land located in the Northeast 1/4 of the Southwest 1/4 of Section 24 Township 2 South, Range 4 East, Willamette Meridian, County of Clackamas, State of Oregon and being more particularly described as follows:

Beginning at the 2-inch Iron Pipe marking the center of said Section 24;

Thence South 01°21'13" West 415.49 Feet along the centerline of said Section 24 to an Iron Rod with Pink Plastic Cap "45th P.GEO PLS90079";

Thence leaving said center section line, North 89°02'23" West along the North line of Parcel 4 of Partition Plat 2018-045, Clackamas County Survey Records, and a Westerly extension of said line 1398.64 Feet to the Westerly Right of Way of Southeast Bornstedt Road (County Road No. 682);

Thence North 03°03'52" East along the Westerly Right of Way of said Road 75.94 Feet;

Thence leaving said Westerly Right of Way line South 89°02'26" East 60.01 Feet to a point on the Easterly Right of Way of said road;

Thence North 03°03'54" East along the Easterly Right of Way of said Road 341.59 Feet to an Iron Rod with Pink Plastic Cap "45th P.GEO PLS90079";

Thence leaving said Easterly Right of Way, South 88°57'48" East 1326.15 Feet along the North line of the Northwest 1/4 of the Southwest 1/4 of Section 24 to said Point of Beginning.

Containing 12.84 Acres, more or less

Refer to Exhibit B for map of described tract

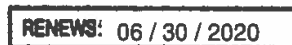
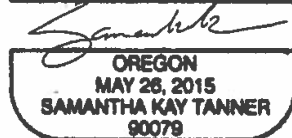
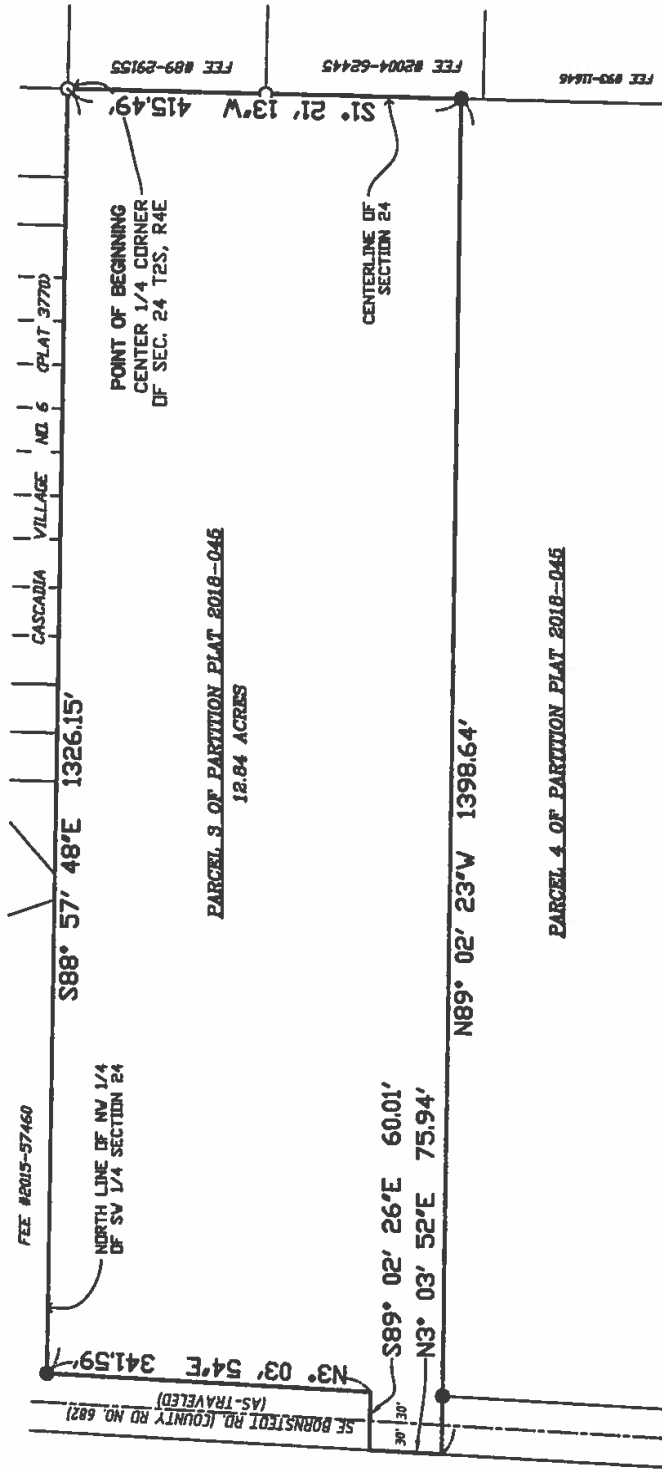
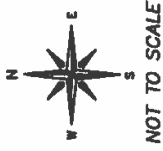


Exhibit A - PARCEL 3.docx PP 2018-045

EXHIBIT 'B'

PARCEL 3 OF PARTITION PLAT 2018-045 AND A PORTION OF SE BORNSTEDT ROAD LOCATED IN THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 24 TOWNSHIP 2 SOUTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, COUNTY OF CLACKAMAS, STATE OF OREGON
 JUNE 2018 CLIENT NAME: WILLIAM K. BLOOM



REGISTERED PROFESSIONAL LAND SURVEYOR
 SAMANTHA PLATT TANNER
 OREGON LICENSE #20079
 REVISED 9/30/20
 BornstedtPLA.dwg

- 2-INCH IRON PIPE
- 5/8" BY 30" IRON ROD WITH PINK PLASTIC CAP MARKED "45TH P.GEO PLS90079"

THE PURPOSE OF THIS EXHIBIT IS TO SHOW THE BOUNDARY OF A TRACT OF LAND AND A PORTION OF SE BORNSTEDT ROAD TO BE ANNEXED INTO THE CITY OF SANDY



Firwood Design Group, LLC
 SURVEYING + ENGINEERING + PLANNING

359 E COLUMBIA RIVER HWY
 TROUTDALE, OREGON 97060
 BUS: (503) 668-3737 ♦ FAX: (503) 668-3788

REPLAT OF PARCEL 1 OF PARTITION PLAT 2015-029 AND THE ADJOINING TRACT OF LAND DESCRIBED IN DEED DOCUMENT NO 2008-049728

PARTITION PLAT NO. 2015-029

NARRATIVE

The parcel is a portion of Parcel 1 of Partition Plat 2015-029 as approved by the Clackamas County Planning Commission on August 1, 2017. The parcel is located in the northwest 1/4 of Section 21, Township 3 South, Range 4 East, Multnomah County, Oregon. The parcel is bounded on the north by the 1/2" line of the southeast quarter of Section 21, Township 3 South, Range 4 East, Multnomah County, Oregon. The parcel is bounded on the east by the 1/2" line of the southeast quarter of Section 21, Township 3 South, Range 4 East, Multnomah County, Oregon. The parcel is bounded on the south by the 1/2" line of the southeast quarter of Section 21, Township 3 South, Range 4 East, Multnomah County, Oregon. The parcel is bounded on the west by the 1/2" line of the southeast quarter of Section 21, Township 3 South, Range 4 East, Multnomah County, Oregon.

CLACKAMAS COUNTY APPROVALS

APPROVED BY CLACKAMAS COUNTY PLANNING COMMISSION ON 08/01/2017. APPROVED BY CLACKAMAS COUNTY PLANNING COMMISSION ON 08/01/2017. APPROVED BY CLACKAMAS COUNTY PLANNING COMMISSION ON 08/01/2017.

ACKNOWLEDGMENTS

I, the undersigned, do hereby certify that the attached Partition Plat has been recorded for record in the County of Clackamas, Oregon, on this 08/01/2017.



STATE OF OREGON, CLACKAMAS COUNTY, I, the undersigned, do hereby certify that the attached Partition Plat has been recorded for record in the County of Clackamas, Oregon, on this 08/01/2017.

DECLARATION

I, the undersigned, do hereby certify that I have correctly surveyed and laid out with proper monuments the land represented by the attached Plat Book as shown on the attached Plat Book. I am a duly licensed and bonded surveyor in the State of Oregon.

WILLIAM E. HERRICK, Surveyor

Signature of William E. Herrick

SURVEYOR'S CERTIFICATE

I, William E. Herrick, do hereby certify that I have correctly surveyed and laid out with proper monuments the land represented by the attached Plat Book as shown on the attached Plat Book. I am a duly licensed and bonded surveyor in the State of Oregon.

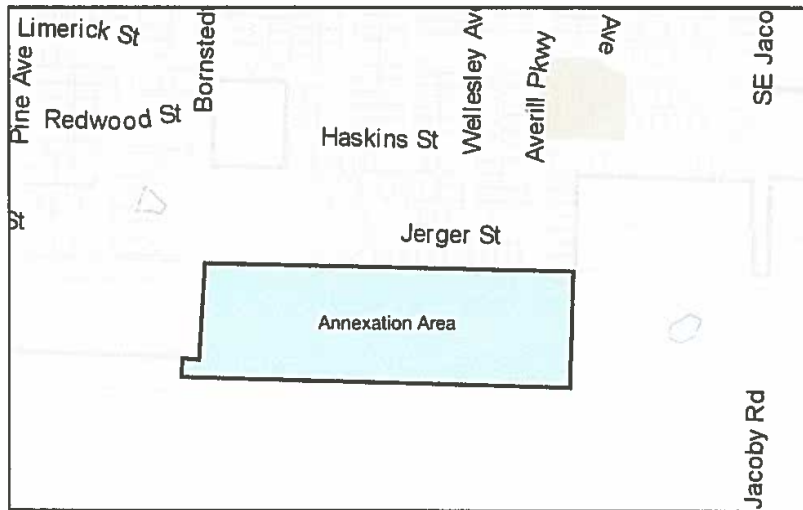


FDGC FINNOC DESIGN GROUP LLC 298 E. COLUMBIA RIVER HWY. FINNOC DESIGN GROUP LLC 616 (503) 838-3377 FAX (503) 838-3378

EXHIBIT H

**PROJECT NARRATIVE
FOR**

**BLOOM ANNEXATION
19618 SE Bornstedt Road, Sandy, Oregon
(24E24C tax lot 100)**



JUNE 2018

I. PROJECT DESCRIPTION

William Bloom requests approval to annex the property he owns located at 19618 SE Bornstedt Road into the City of Sandy. The annexation area includes a single property known as 24E24C tax lot 100 that was partitioned earlier this year with Partition Plat 2018-045. The property has about 417 feet of frontage on SE Bornstedt Road and contains 12.74 acres. Because a portion of Bornstedt Road adjacent to the subject property is not within the city limits, the annexation area also includes a portion of this roadway. With the addition of this portion of SE Bornstedt Road the entire annexation area contains 12.84 acres.

The subject property is located in the newly expanded Urban Growth Boundary approved in 2017. The property carries a conceptual Comprehensive Plan Designation of Low Density Residential and a conceptual Zoning Designation of Single Family Residential (SFR). The property is currently zoned by Clackamas County as "RRFF-5" and has a "Rural" county Comprehensive Plan designation. The applicant requests a Type 'A' Annexation in conformance with the city's conceptual zoning and plan designations.

The proposed annexation area is located on the east side of SE Bornstedt Road directly south of the Cascadia Village Subdivision and across Bornstedt Road from the Marshall Ridge Subdivision and south of the Zion Meadows Subdivision. The proposed annexation area is contiguous to the city limits along its entire northern boundary and the majority of its western boundary. The property includes a mix of pasture and woods and contains a 1,056 square foot historic barn and a well house/root cellar (see attached photos). A residence previously located on the property line between Parcels 3 and 4 of the partition plat was demolished by a practice burn of the Sandy Fire Department on May 19, 2018. A tributary of Tickle Creek flows through the middle of the property in a northerly direction.

II. ITEMS SUBMITTED WITH THIS APPLICATION

- Land Use Application
- Supplemental Application No. 1
- Supplemental Application No. 2
- Notification List
- Notification Map
- Mailing Labels for Notifying Property Owners
- Partition Plat No. 2018-045 (Sheet 1 and 2)
- Partition Site Plan showing structures
- Legal Description and Sketch of Annexation Area
- Project Narrative
- Site Photos

III. CODE ANALYSIS

17.26.00 ZONING DISTRICT AMENDMENTS

Response: In association with the annexation request, the applicant requests SFR zoning applying the underlying conceptual zoning designation determined during the recent Urban Growth Boundary Analysis process.

To determine the net buildable area of the property, 35 percent (4.46 acres) of the property was assumed to be removed for roads and the unbuildable area associated with the protection of Tickle Creek located on the property. These reductions result in a net buildable area of 8.28 acres (12.74 - 4.46 = 8.28).

Based on the density range requirements of the SFR Zoning District (3 units/net acre minimum to 5.8 units/net acre maximum) the density range for the property would be a minimum of 25 dwelling units (8.28 x 3 units = 24.84 units min.) and a maximum of 48 units (8.28 x 5.8 units = 48.02 units max).

CHAPTER 17.78 ANNEXATION

Chapter 17.78 contains the procedures and standards for reviewing annexation requests.

SENATE BILL 1573: Senate Bill 1573 passed by the legislature, effective on March 15, 2016 requires city's whose charter requires annexations to be approved by voters (Sandy's Charter includes this provision) to annex the property without submitting it to the voters if the proposal meets the following criteria:

(a) The territory is included within an urban growth boundary adopted by the city or Metro, as defined in ORS 197.015;

RESPONSE: *The subject property is located within the city's urban growth boundary effective June 2017. The proposal complies with this criterion.*

(b) The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;

RESPONSE: *The subject property is identified on the City's adopted Comprehensive Plan map to have a Low Density Residential Comprehensive Plan designation. The proposal complies with this criterion.*

(c) At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and

RESPONSE: *The property is contiguous to the city limits along its entire northern boundary and the majority of its western boundary. The proposal complies with this criterion.*

(d) The proposal conforms to all other requirements of the city's ordinances.

RESPONSE: *As reviewed below, the proposal complies with all requirements contained in the city's ordinance.*

17.78.00 INTENT

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

A. Maximize citizen involvement in the annexation review process by holding a public hearing;

- B. Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and,
- C. Where possible and practical, avoid the creation of irregular boundaries or annexations that create “island,” “cherry stem” or “shoestring” annexations.
RESPONSE: The City will process this application using a Type IV, public hearing review. This process requires notification of the proposal to property owners within 300 feet of the subject property. In addition, public hearings to review the proposal will be held before both the Planning Commission and City Council. The hearing bodies will consider the items contained in subsection B with review of the proposal. The subject property is contiguous to the city limits along its entire northern boundary and the majority of its western boundary and creates a logical expansion of the city boundaries and will not create an “island, cherry stem or shoestring”. The proposed annexation complies with the intent of this chapter.

17.78.10 PROCEDURAL CONSIDERATIONS

- A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.
- B. The City may annex an island if it is less than 100 acres and has at least 80 percent of its boundary contiguous to the City; or the land is of any size and has at least 80 percent of its boundary contiguous to the City if the area to be annexed existed as an island before October 20, 1997.
- C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.
RESPONSE: The procedural considerations in this section are not pertinent to the proposed annexation request.

17.78.15 TYPES OF ANNEXATION

- A. Type A: Annexation in conformance with conceptual zoning designation
- B. Type B: Annexation + zone change
- C. Type C: Annexation + plan map change + zone change
RESPONSE: The applicant requests a Type A annexation in conformance with the city's conceptual zoning (SFR) and plan designations (LDR).

17.78.20 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to beginning an annexation request:

- A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;
- B. The site must be within the City of Sandy Urban Growth Boundary (UGB); and
- C. The site must be contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water.

D. The site has not violated Section 17.78.25.

RESPONSE: *The proposed annexation complies with the requirements of Chapters 199 and 222 and the Oregon Revised Statutes as allowed by the provisions of Senate Bill 1573. The site is within the City of Sandy Urban Growth Boundary as approved by the Sandy City Council, Clackamas County Board of Commissioners, and the Department of Land Conservation and Development, effective June 2, 2017. The annexation area is contiguous to the existing city limits along its entire northern boundary and the majority of its western boundary. As discussed in detail below, tree retention requirements of Section 17.78.25 have not been violated. For these reasons, the proposal meets all of the conditions in this section required prior to beginning the annexation request.*

17.78.25 TREE RETENTION

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of five (5) years if any of the following apply:
1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the five years prior to the annexation application.
 2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the five years prior to the annexation application.
 3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the five years prior to the annexation application.
 4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the five years prior to the annexation application.
 5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the five years prior to the annexation application, except as provided below.

RESPONSE: *A review of historical aerial photos and a site visit reveal that no trees have been removed anywhere on the subject property within the last five years in*

the areas specified in this section. As such, none of the conditions contained in this section pertain to the proposed annexation.

17.78.30 ZONING OF ANNEXED AREAS

- A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.
- B. Where only a single city zoning designation corresponds to the comprehensive plan designation (Type A) and the rezoning decision does not require the exercise of legal or policy judgment on the part of the city council, amendment of the zoning map shall be a ministerial decision of the director made without notice or any opportunity for a hearing. *RESPONSE: The subject property is identified on the City's Comprehensive Plan Map to have a LDR, Low Density Residential designation and on the City's Zoning Map to be zoned SFR, Single Family Residential. The applicant requests these designations be applied with approval of this application.*

17.78.50 ANNEXATION CRITERIA

Requests for annexation should not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area. Generally, it is desirable for the city to annex an area if the annexation meets any of the following criteria:

- A. A necessary control for development form and standards of an area adjacent to the city; or
- B. A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
- C. Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
- D. Needed routes for utility and transportation networks. *RESPONSE: The proposed annexation area is located directly south of the Cascadia Village Subdivision and southeast across Bornstedt Road from the Marshall Ridge and Zion Meadows Subdivisions. It is bordered by the existing city limits along its entire northern boundary and the majority of its western boundary. Water and sanitary sewer service is available to serve the property by extending services from Averill Parkway in Cascadia Village to the north. Development of the annexation area is a logical growth pattern of the city and utilities are available to be extended to the south in this area of the UGB with development of the property. The proposed annexation area complies with both Annexation Criteria C and D. Annexation of the property is a logical growth pattern of the city and encourages orderly growth. In addition, expansion of the city limits in this area will facilitate the extension of a local street system and public utilities into this area of the UGB.*

IV. CONCLUSION

William Bloom requests a Type 'A' Annexation to annex the property he owns located at 19618 SE Bornstedt in conformance with the city's conceptual Comprehensive Plan and Zoning Map. The annexation area consists of one parcel containing 12.74 acres and a portion of the Bornstedt Road right-of-way for a total annexation area of 12.84 acres. The property is located within the Urban Growth Boundary and is contiguous to the city limits along its entire northern boundary and a portion of its western boundary. The proposal complies with the city's conditions for annexation found in Section 17.78.20 and meets two of the annexation criteria contained in Section 17.78.50.

EXHIBIT I



PROPERTY LINE LOOKING EAST FROM BORNSTEDT ROAD

FORMER RESIDENCE REMOVED BY PRACTICE BURR 5/19/18



HISTORIC BARN ON PROPERTY





HISTORIC WELL HOUSE/ROOT CELLAR

File # 18-026 ANN

EXHIBIT J

RECEIVED

JUL 19 2018

COMMENT SHEET for File No. 18-026 ANN:

CITY OF SANDY

We were told when we purchased our home that we packed to a green space that would never be developed. It was one of the main reasons we purchased our home. Now with the proposed development it feels as though we've been lied to. Our backyard is so peaceful & bird friendly. Taking out this greenspace would rip that away from us. The wildlife that lives in this greenspace will be forced to flee! This green space needs to stay untouched/undeveloped! Please leave our trees! No new neighborhood, maybe a couple 2 or 3 houses would be ok, leaving many of the trees & natural space as is. We do NOT like the thought of constant construction & noise. If this development were to happen. We suffer from migraines & noise tends to set them off. Plus the trees/green space are literally right against our fence, the thought of them chopping them down so close to our house is very nerve-racking. Leave our small town small. We feel this development is not a need. Our quiet neighborhood w/ the beautiful backyard views will be gone. We are not happy about that at

Jarcy & Dennis Jones (503) 989-10494 ^{lover}
Your Name Phone Number
 38884 Jerger St. Sandy, OR. 97055
Address

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.26 Zoning District Amendments; 17.34 Single Family Residential; 17.78 Annexation.

all. We do not want to see houses & people when we look out our back door! We love our current woodsy view! Please do not allow them to obscure it w/ more houses. Please leave it the way it is. We need the greenspace. We do not need yet another housing development!! PLEASE save our green space!?



Staff Report

Meeting Date: August 27, 2018

From James Cramer, Associate Planner

SUBJECT: Bloom Annexation

Background:

The applicant, William Bloom, requests a Type A Annexation for a parcel totaling approximately 12.84 acres into the City of Sandy. The current Clackamas County Comprehensive Plan Designation of this property is Rural (R) and the current zoning of the property is Rural Residential Farm Forest 5-Acre (RRFF-5) with a Historic District (HD) Overlay and Historic Landmark (HL) Overlay. The applicant proposes to zone the property as Single Family Residential (SFR) and designate the property as Low Density Residential (LDR) on the Sandy Comprehensive Plan Map.

Recommendation:

It is hereby recommended that the applicant submit TPR findings for the 'reasonable worst case' development scenario consistent with the proposed zoning for the subject property. Additionally, staff recommends the applicant pay a \$1,500 fee for the third-party City of Sandy traffic engineer consultant, a continuance to the Planning Commission hearing until TPR findings are complete and that the applicant submit a waiver from the ORS 120-day final action rule. This will provide additional time for the applicant and staff to complete a comprehensive analysis of the required TPR findings. Staff also recommends this annexation be conditioned that prior to future development of this property the applicant map the FSH Overlay and required setbacks per Section 17.60.30.

"I make a motion to approve a continuance for File No. 18-026 ANN, Bloom Annexation, with the condition that the applicant submit TPR findings for review per code requirement, pay the \$1,500 fee associated with a third-party review as well as waive the ORS 120-day final action rule. Additionally, this motion shall condition that prior to future development of the subject property the applicant shall map the FSH Overlay and required setbacks per Section 17.60.30."

Code Analysis:

See Attached Staff Report

Financial Impact:
None.



Staff Report

Meeting Date: September 24, 2018

From Emily Meharg, Associate Planner
18-039 DCA Chapters 17.22 17.28 17.80 17.82 17.102 Code

SUBJECT: Amendments (PC)

Background:

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

I. SUMMARY (5 code sections)

17.22 Notices

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

17.28 Appeals

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

17.80 Additional Setbacks on Collector and Arterial Streets

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

17.82 Special Setbacks on Transit Streets

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

17.102 Urban Forestry

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

Recommendation:

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

Code Analysis:

None

Financial Impact:

None

EXHIBIT A

**CHAPTER 17.22
NOTICES**

17.22.00 INTENT

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

17.22.10 TYPE II QUASI-JUDICIAL NOTICE

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

17.22.20 TYPE III QUASI-JUDICIAL NOTICE

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

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

17.22 - 1

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

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

17.22.30 TYPE IV LEGISLATIVE HEARING NOTICE

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

17.22.40 CONTENTS OF NOTICE

The notice provided by the City shall:

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

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

17.22.50 MAILING OF NOTICES

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

17.22.60 PUBLICATION OF NOTICES

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

17.22.70 CONTINUED HEARINGS

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

17.22.80 LIST OF PROPERTY OWNERS

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

EXHIBIT B

CHAPTER 17.28 APPEALS

17.28.00 INTENT

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

17.28.10 REQUEST FOR REVIEW-APPEAL OF DECISION

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

17.28.20 REQUIREMENTS OF APPEAL APPLICATION

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

17.28.30 SCOPE OF REVIEW

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

17.28.40 REVIEW ON THE RECORD

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

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

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

17.28.50 REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW

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

17.28.60 REVIEW BODY DECISION

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

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

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

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

EXHIBIT C

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

17.80.00 INTENT

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

17.80.10 APPLICABILITY

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

A. Minor Arterials:

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

B. Collector Streets:

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

C. Residential Minor Arterial

- ~~Dubarko Road~~

17.80.20 SPECIFIC SETBACKS

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

EXHIBIT D

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

17.82.00 INTENT

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

17.82.10 APPLICABILITY

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

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

17.82.20 BUILDING ORIENTATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~17.82.40 — ACCESS, EGRESS AND CIRCULATION~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~**17.82.80 — EXEMPTIONS**~~

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

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

~~B. Car washes~~

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

~~D. Heavy equipment sales~~

~~E. Manufactured home sales~~

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

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

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

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

~~I.A. Truck stops~~

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EXHIBIT E

CHAPTER 17.102 URBAN FORESTRY

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17.102.00 INTENT

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

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

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

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

17.102.10 DEFINITIONS

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

Urban Forestry Related Definitions

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

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

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

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

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

DFD: Yes.

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

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

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Adopted November 18, 2002 Ordinance 2002-10

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

17.102.20 APPLICABILITY

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

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

17.102.30 PROCEDURES AND APPLICATION REQUIREMENTS

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

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

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Adopted November 18, 2002 Ordinance 2002-10

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Commented [DD10]: See comment above re redundancy.

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

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

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

DFD: policy call for city.

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

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

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

Commented [EM14]: POST PC DRAFT: delete?

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

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

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

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

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

17.102.40 PERMIT REVIEW

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

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

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

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

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

17.102.50 TREE RETENTION AND PROTECTION REQUIREMENTS

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

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

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

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

Commented [EM18R17]: yes

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

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

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

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

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

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

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

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

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

17.102.60 TREE REPLANTING REQUIREMENTS

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

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

DFD: policy choice for city.

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

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

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

Lake O: 55.08.050 Penalties.

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

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

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

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

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

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

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

17.102.70 VARIANCES

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

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

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

17.102.80 ENFORCEMENT

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

Commented [EM27]: POST PC DRAFT: Added this

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

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

Fund established under Section 17.102.100 below.

Commented [KO30]: Planning budget 036 needs some of the money for mailing costs and staff administrative costs.

17.102.90 APPLICABILITY OF THE OREGON FOREST PRACTICES ACT

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

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

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

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

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

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

17.102.100 URBAN FORESTRY FUND CREATED

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

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

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

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