City of Sandy

Agenda

Planning Commission Meeting

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

Meeting Date: Monday, January 28, 2019

Meeting Time: 7:00 PM

Page

1. ROLL CALL

2. APPROVAL OF MINUTES

2.1. PC Minutes -10-29-18 - Draft Minutes 3 - 5

3. APPOINTMENTS: PLANNING COMMISSION CHAIR & VICE-CHAIR

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

5. NEW BUSINESS

5.1. 18-051 VAR RV Storage Setback Variance 6 - 40

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

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

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

18-051 VAR RV Storage Setback Variance - Pdf

5.2. 19-001 TREE City Townhouses Tree Variance 41 - 68

Staff recommends the Planning Commission hold a public hearing to take public testimony regarding the proposal. Staff recommends the Planning Commission **approve** the variance request with modifications as recommended in this report.

"Make a motion to approve the variance request with modifications as recommended in this report."

19-001 TREE - Pdf

6. ITEMS FROM COMMISSION AND STAFF

7. ADJOURN

Sandy Planning Commission
Regular Meeting
Monday, October 29, 2018

Chairman Jerry Crosby called the meeting to order at 7:03 p.m.

1. **ROLL CALL**

Commissioner Carlton – Present
Commissioner Lesowski – Present
Commissioner MacLean Wenzel – Absent
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, Planning Assistant Rebecca Casey

2. APPROVAL OF MINUTES – September 24, 2018
Motion: To approve minutes for September 24, 2018
Moved By: Commissioner Lesowski
Seconded By: Commissioner Carlton
Yes votes: Commissioners Carlton, Lesowski, Logan, Abrams, and Chairman Crosby
No votes: None
Abstentions: None
The motion passed

3. REQUESTS FROM THE FLOOR – CITIZEN COMMUNICATION ON NON-AGENDA ITEMS
None

NEW BUSINESS
4. PUBLIC HEARING – Orient Drive Special Variance (18-036 VAR) Chairman Crosby opened the public hearing on File No. 18-036 VAR (Orient Drive Special Variance) at 7:03 p.m. Crosby noted that this is a legislative 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 legislative public hearing and called for the staff report.

Staff Report:
Associate Planner Emily Meharg summarized the staff report and addressed the background, factual information, public comments staff received, applicable criteria, and went over a brief slide show. Meharg explained to the Commission that normally when a property is developed it "triggers" connection to all public utilities. Meharg followed to say that in the Development Code under Section 17.84.60(F) allows private on site sanitary sewer and storm drainage facilities without needing a Variance if the applicant can provide it on site but also stated that there is no execption though to broadband fiber and water which is the reason why this application is before the Planning Commission.

Meharg finished her report with the summary and conclusion and staff's recommendation to approve the variance request with modifications that were recommended in the staff report.

Applicant Presentation:
Ray Moore, All County Surveyors and Planners, PO Box 955, Sandy, OR 97055
Mr. Moore addressed concerns over the possible lack of water and the fire concerns. He explained the applicant could address this by having a below ground holding tank.

Proponent Testimony:
Jim Schilling, 15585 Orient Drive, Boring, OR 97009
Mr. Schilling said he is the co-owner of the property and wants to put on the record that he supports this Variance.

Opponent Testimony:
None

Testimony:
John Nolen, 34935 SE Crescent Road, Boring, OR 97009
Mr. Nolen said he isn't against the development but has some concerns. He stated his main concern is the possible shortage of water. He is worried about possible fire danger with lack of water. He also said he is worried that when he plans to develop his property he will be the one obligated to bring water to that area.

Staff Recap:
Associate Planner Emily Meharg again stated the City's position on this application. Planning and Building Director Kelly O'Neill Jr. followed up and addressed Mr. Nolen's comments regarding the "lack of water" and fire concerns. He referred Mr. Nolen to the Fire Department.

Applicant Recap:
Mr. Moore also addressed Mr. Nolen's concerns and said he will have plenty of time to comment once the project goes to a design review application.

Discussion:
As the Commission discussed the application, O'Neill explained in more detail about what a Local Improvement District (LID) is and how this could work in this situation. O'Neill gave the Snowberry subdivision as an example of when a reimbursement district was used.

O'Neill said the applicant would need to extend the water and fiber by 2,400 feet which is quite a bit and then hope that someone hooks to these within the next twenty years.

Motion: To Close Public Hearing at 7:29 p.m.
Moved by: Commissioner Carlton
Seconded by: Commissioner Mobley
No votes: None
Abstentions: None
The motion passed.

Motion: To accept file no. 18-036 VAR (Type III Special Variance for Public Utilities Services at 15585 SE Orient Dr.) as presented by staff.
Moved by: Commissioner Lesowski
Seconded by: Commissioner Logan
Yes votes: Commissioner Lesowski, Logan, Mobley, Abrams and Chairman Crosby
No votes: Commissioners Carlton
Abstentions: None
The motion passed.

6. ITEMS FROM COMMISSION AND STAFF
Planning and Building Director Kelly O'Neill Jr. told the Commission that there will not be a meeting held in November but said there are at least four different applications coming up soon that will be heard by the Commission.

O"Neill also mentioned that the applicants for the Bloom Annexation completed getting the TPR analysis done and that staff is still waiting for ODOT to comment but that the City's traffic engineer was ok with it.

O'Neill said staff is working with the State of Oregon on the Historical Cultural Designation which at some point will be brought before the Commission.

O'Neill explained that City Council adopted the first four chapters of the Development Code Amendments the Commission recommended for forwarding. The only section not adopted was 17.102 (Urban Forestry). He said that Council wants a Committee formed for this section that will include developers, builders, an arborist, community members, and a member from the Watershed Council.

O'Neill finished by giving updates on the Double Creek Condos that staff is currently working on, and the two different storage units staff has applications for.

7. ADJOURNMENT
Motion: To adjourn
Moved By: Commissioner Logan
Seconded By: Commissioner Abrams
Yes votes: All Ayes
No votes: None
Abstentions: None
The motion passed.

Chair Crosby adjourned the meeting at 7:48 p.m.

_____
Chairman Jerry Crosby

Attest:

_____ Date signed:_____
Kelly O'Neill Jr., Planning & Building Director

Staff Report

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

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

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

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

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

Code Analysis:
See attached Staff Report.

Budgetary Impact:
None.

SANDY
WHERE INNOVATION MEETS ELEVATION

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

PLANNING COMMISSION
STAFF REPORT
TYPE III LAND USE PROPOSAL

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

AGENDA DATE: January 28, 2019

DEPARTMENT: Planning Division

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

STAFF CONTACT: James Cramer, Associate Planner

EXHIBITS:

Applicant's Submittals:

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

Public Comments:

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

Agency Comments:

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

Additional Documents Submitted by Staff

L. Nicolas Glen No. 3 Plat

I. BACKGROUND

A. PROCEEDING

Type III Special Variance

B. FACTUAL INFORMATION

1. APPLICANT & PROPERTY OWNER: Robert Mottice

2. PROJECT NAME: RV Storage Setback Variance

3. SITUS ADDRESSES: 18050 Rachael Drive

4. LEGAL DESCRIPTION: 24E14DC, tax lot 12200

5. PROPERTY LOCATION: The second property south of the Solso Rd. / Rachael Dr. intersection on the east side of the street.

6. PROPERTY SIZE: 0.12 acres

7. COMPREHENSIVE PLAN DESIGNATION: Medium Density Residential

8. ZONING DISTRICT DESIGNATION: R-2, Medium Density Residential

C. PUBLIC COMMENTS

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

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

D. AGENCY COMMENTS

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

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

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

F. EXPLANATION OF PROPOSED IMPROVEMENTS

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

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

G. PROPERTY BACKGROUND

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

H. PROCEDURAL CONSIDERATION ANY NOTICE

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

II. ANALYSIS OF CODE COMPLIANCE

CHAPTER 17.30 – ZONING DISTRICT

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

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

CHAPTER 17.38 – MEDIUM DENSITY RESIDENTIAL (R-2)

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

17.34.10 PERMITTED USES

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

17.38.30 DEVELOPMENT STANDARDS

Type	Standard
Minimum Lot Area	No minimum
Minimum Average Lot Width	

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

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

CHAPTER 17.74 – ACCESSORY DEVELOPMENT ADDITIONAL PROVISIONS AND PROCEDURES

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

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

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

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

17.74.10 RESIDENTIAL ACCESSORY STRUCTURES

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

A. Detached Accessory Structure Setbacks.

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

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

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

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

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

CHAPTER 17.66 – ADJUSTMENTS AND VARIANCES

17.66.60 VARIANCES

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

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

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

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

17.66.80 TYPE III SPECIAL VARIANCES

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

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

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

A. The unique nature of the proposed development is such that:
   1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
   2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.

B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.

   C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.

Variance A:

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

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

A. The unique nature of the proposed development is such that:
   1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
   2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.

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

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

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

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

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

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

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

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

Variance B:

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

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

A. The unique nature of the proposed development is such that:
   1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
   2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.

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

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

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

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

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

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

CHAPTER 17.98 – PARKING, LOADING, & ACCESS REQUIREMENTS

17.98.00 INTENT

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

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

17.98.130 PAVING

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

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

III. SUMMARY AND CONCLUSION

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

IV. RECOMMENDATION

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

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

EXHIBIT A

CITY OF SANDY, OREGON

LAND USE APPLICATION FORM

(Please print or type the information below)

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

Name of Project Mottice RV Storage Structure

Location or Address 18050 Rachael Drive

Map & Tax Lot Number T____, R____, Section____; Tax Lot(s) 153 0500 1099

Plan Designation _____ Zoning Designation _____ Acres .12

Request:

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

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

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

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

File No. 18-051 VAR	Date 11/15/18	Rec. No.	Fee $ 1070.00
Type of Review (circle one): Type I	Type II	(Type III)	Type IV

G:\Forms All Departments\Planning\Form Updates 2014\Applications\General Land Use Application.doc Page 1 of 1

24E14DC12200

EXHIBIT B

October 21, 2018

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

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

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

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

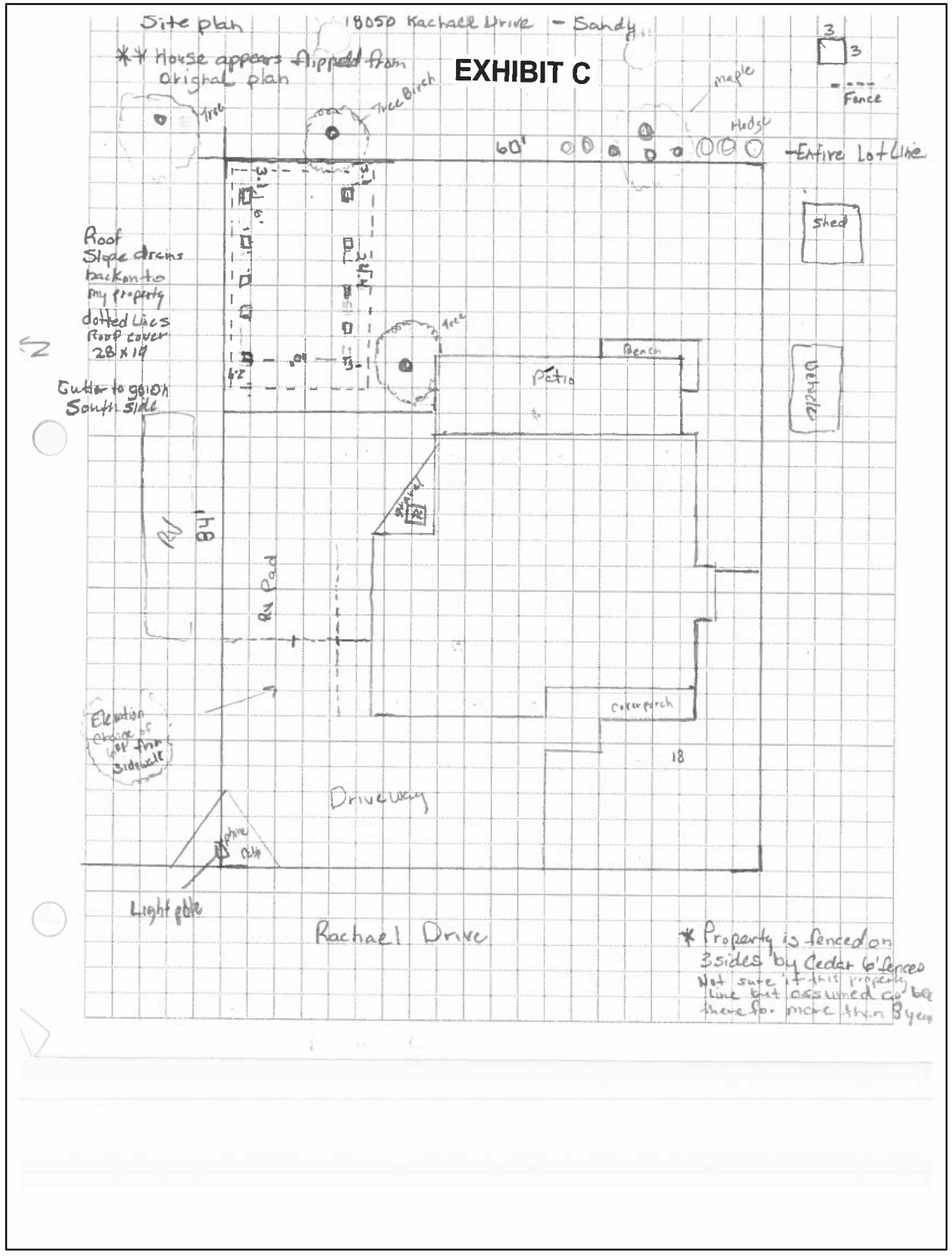
I planned to install T1-11 siding down the upper portion (8') on the north side and match the height around the east to help blend the structure into neighborhood. This siding would be painted to match the house. The South side eave would have a gutter installed, and water would be directed away from the building toward the street. There are no other structures in the area impacted by the placement of the RV cover. The neighbor to the east has trees that block the direct view of it.
If the structure had to be moved to gain the required setbacks on the North side and East end, it would encroach on the tree in my backyard and also make it impossible to back the trailer and camper into the RV cover due to the angle and the location of existing RV slab. If the RV cover had to be moved fifteen feet off the east fence line the cover would be shortened by twelve feet, leaving only twelve feet remaining. Due to keeping the required separation from my house, I cannot move the RV cover to the west.

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

Thank you for considering this variance.

Robert Mottice

Robert Mottice

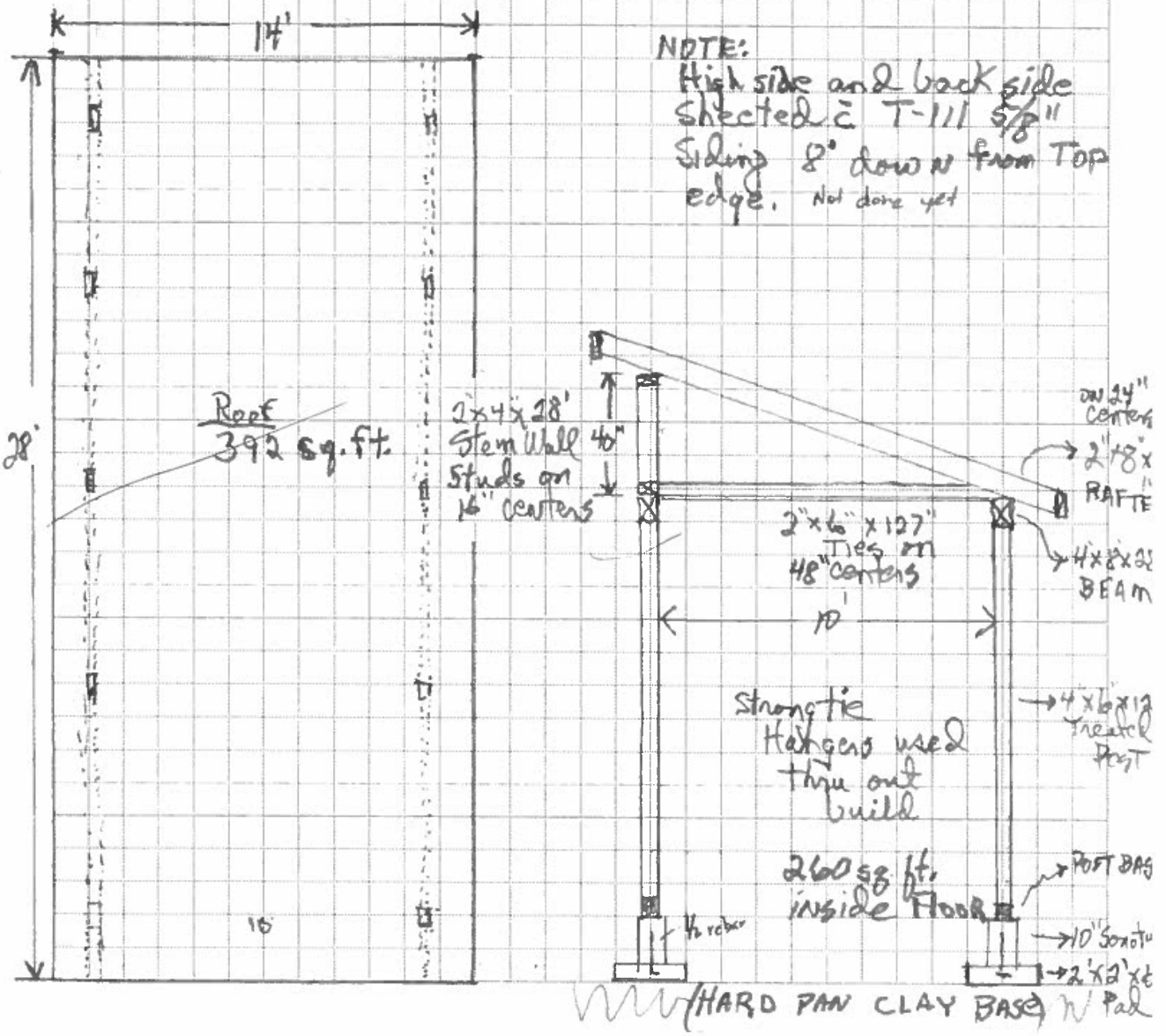

Site plan
18050 Rachael Drive - Sandy
** House appears flipped from orignal plan
EXHIBIT C
Tree
Tree Birch
maple
Hedge
3
3
Fence
60'
Entire Lot Line
shed
Roof Slope drains backonto my property
dotted lines Roof cover 28x19
Gutter to go on South side
Tree
Patio
Bench
Garage
RV
84'
RV Pad
Elevation change 6" higher than sidewalk
Driveway
Cover porch
18
Light pole
Rachael Drive
* Property is fenced on 3 sides by Cedar 6' fences
Not sure if this property line but assumed to be there for more than 8 years

R.V. Storage Structure

(Need 12' head room)

10-1-2018
18050 Rachael Drive
Sandy, Oregon

15 lb felt, 20 year 3 tab



NOTE:
High side and back side
shected c T-111 5/8"
Siding 8" down from Top
edge. Not done yet

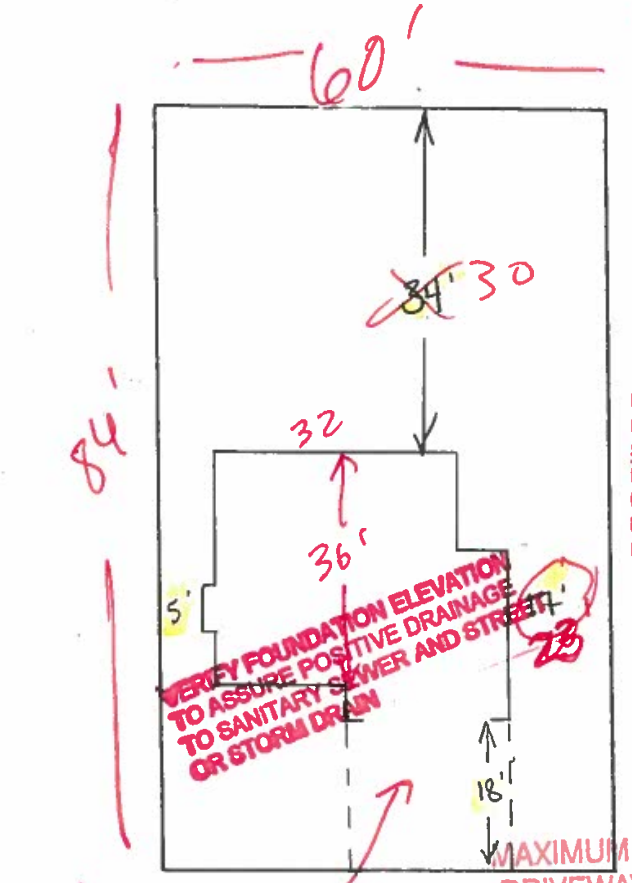
.TE CORPORATION
.40 S POPE LANE
GON CITY OR 97045

#1567

.0 RACHAEL DRIVE

T 153, NICHOLAS GLEN 3

CITY OF SANDY
CITY COPY



REVIEWED
CITY OF SANDY

BASED UPON INFORMATION SHOWN	SUBJECT TO INSPECTION AND TEST	
PUBLIC WORKS		2/21/07
PLANNING	JAN 21 '07	
BUILDING		
DATE		

Please submit & complete & accurate information in the future

EXHIBIT D

18050 Rachael Dr
Sandy, OR 97055

$339,950

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

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

To View This Property Call:

Kris Shuler
Broker

503-826-9000

No set back - rain water dumped into neighbors - -

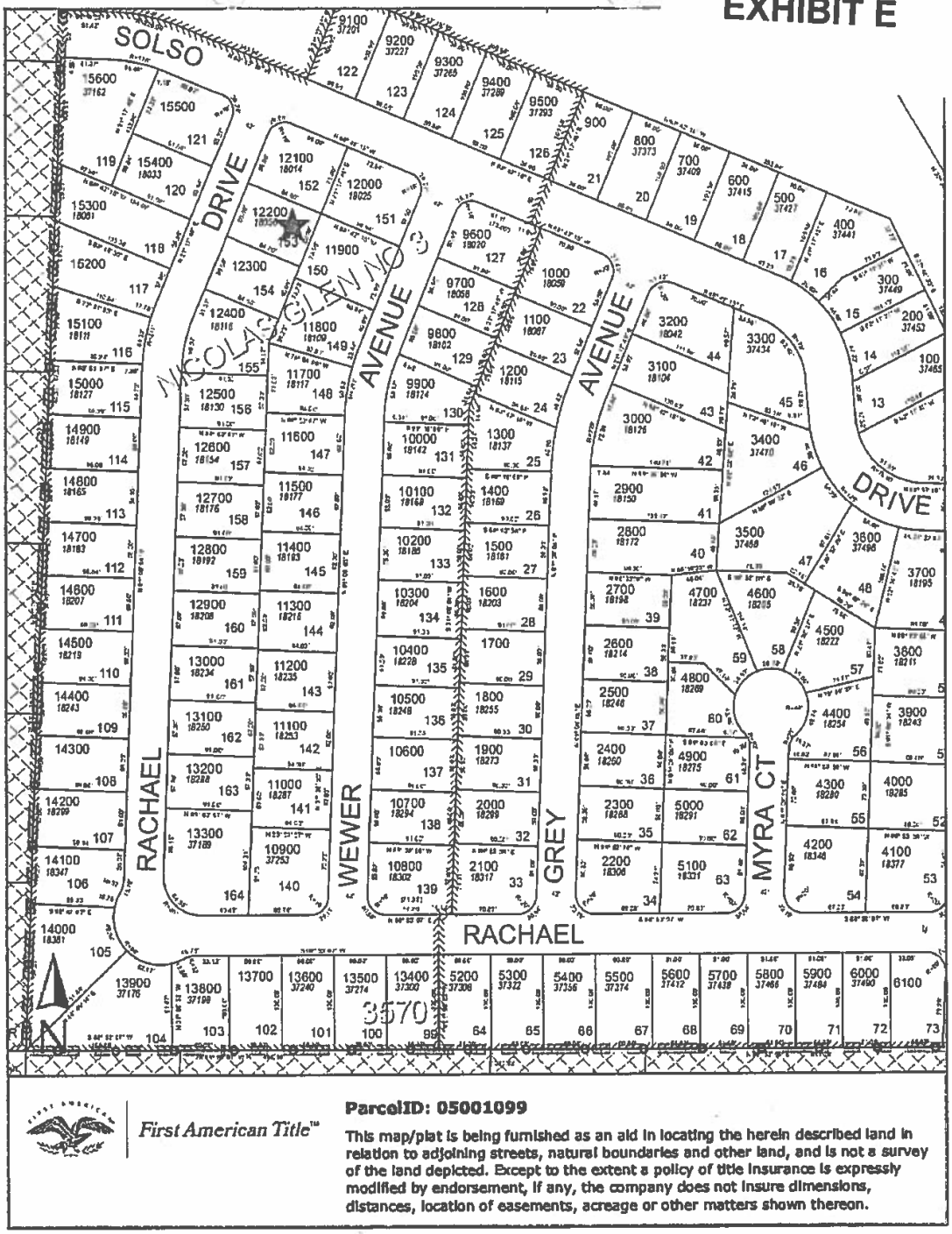
7/2017

Current setbacks 7/2017


Untitled Map
18050 Rachael Drive
Legend
18050 Rachael Dr
Google Earth
© 2018 Google
6.92 ft
N

7/2017

EXHIBIT E



First American Title™

ParcelID: 05001099

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

THIS SPACE RESERVED FOR RECORDER'S USE

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

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

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

READ & APPROVED
Rbm

STATUTORY WARRANTY DEED

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

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

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

Subject to:

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

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

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

Dated this _____ day of _____, 20_____.

_____ Brandon M. Benfield

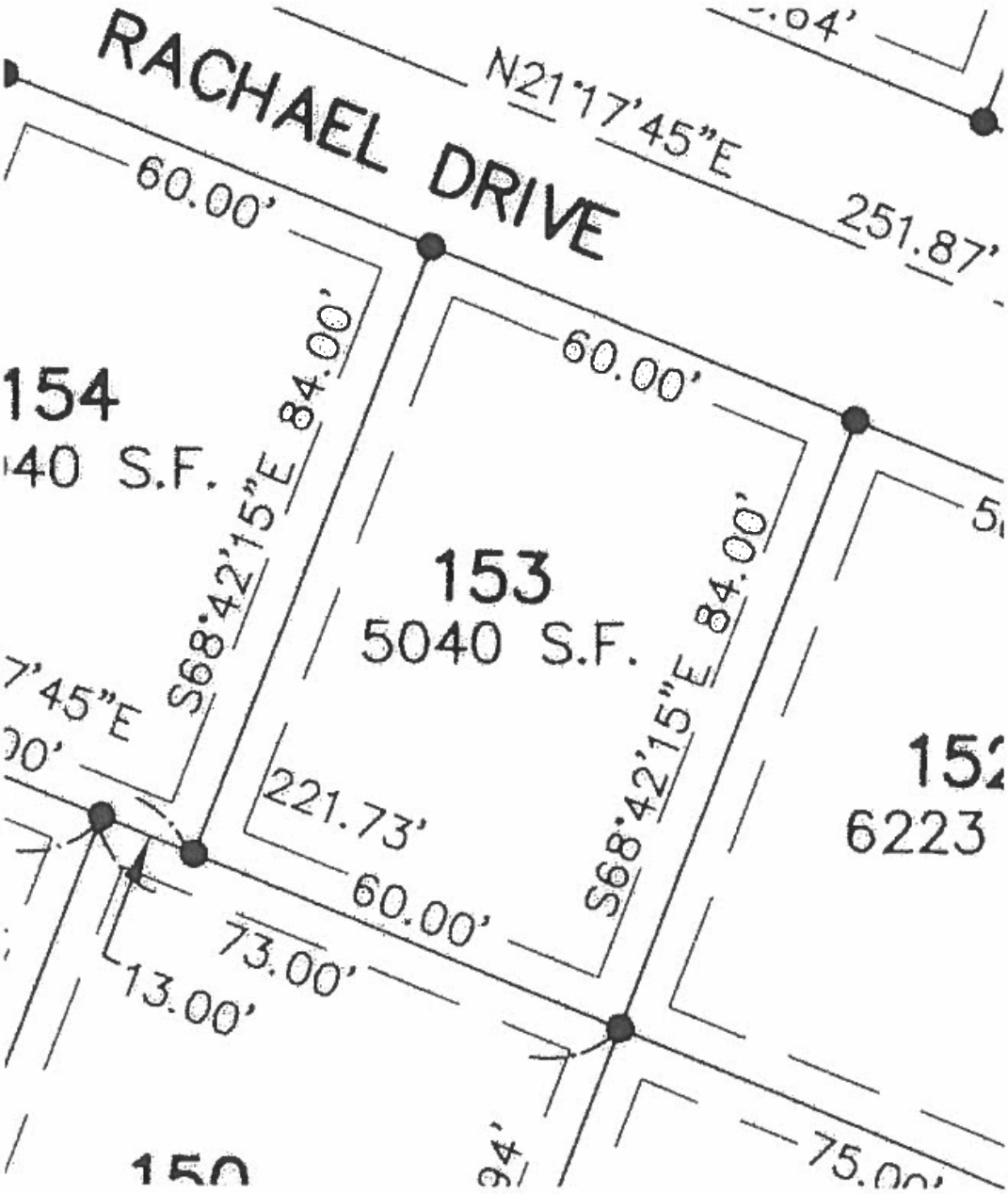
_____ Kyndra E. Benfield

STATE OF Oregon)
)ss.
County of Multnomah)

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

_____

Notary Public for Oregon
My commission expires:


RACHAEL DRIVE
N21°17'45"E
251.87'
60.00'
154
40 S.F.
S68°42'15"E 84.00'
60.00'
153
5040 S.F.
S68°42'15"E 84.00'
221.73'
60.00'
73.00'
13.00'
75.00'
6223

RECEIVED
DEC 28 2018
CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

EXHIBIT F

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

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

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

Your Name: JOHN LEWIS

Phone Number: 503-577-9348

Address: ~~108~~ 18081 WEWER AVE SANDY OR 97055

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

RECEIVED JAN 02 2019 CITY OF SANDY

RECEIVED DEC 28 2018 CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

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EXHIBIT G

RECEIVED
JAN 0 2 2019
CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

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

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

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

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

EXHIBIT H

City of Sandy Planning and Building Department

December 29, 2018

Comment Sheet on File 18-051

Thank you for seeking community input on this matter.

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

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

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

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

Respectfully,

Tom Newell

Tom Newell

18007 Rachael Drive

EXHIBIT I

RECEIVED
JAN 04 2019
CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

Planning Commission, City of Sandy:

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

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

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

Guimar & James DeVaere — 503-201-5298
Your Name — Phone Number

18176 Rachael Drive, Sandy OR 97055
Address

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

EXHIBIT J

RECEIVED
JAN 14 2019
CITY OF SANDY

COMMENT SHEET for File No. 18-051 VAR:

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

BRAD SHAY — 971 404 7237
Your Name — Phone Number

37201 SOLSO DR
Address

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

SANDY OREGON

EXHIBIT K

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

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

Terre Gift <tgift@ci.sandy.or.us> Fri, Jan 4, 2019 at 3:20 PM
To: James Cramer <jcramer@ci.sandy.or.us>

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

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

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

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

Your friend in the Building Department,

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

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

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

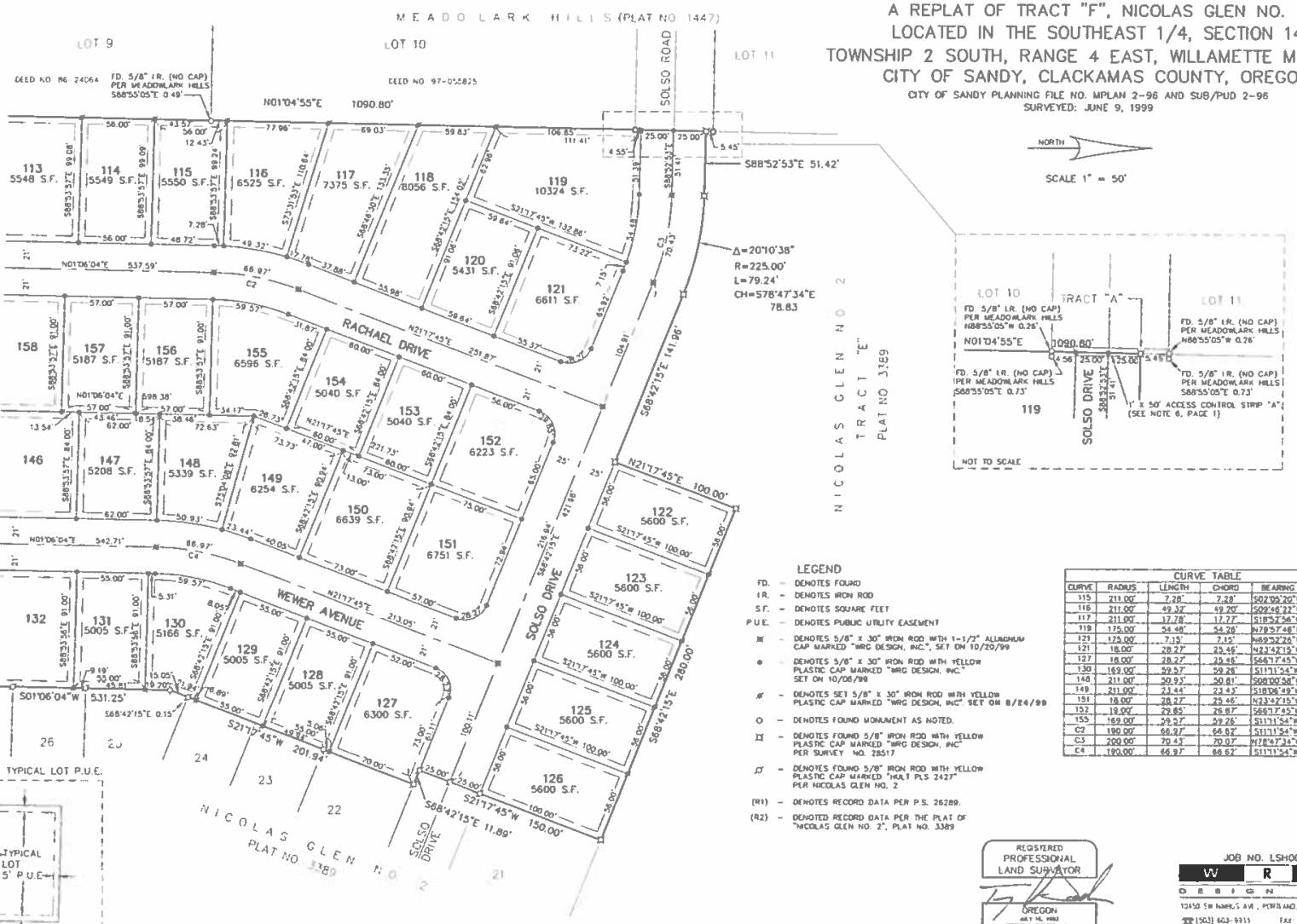
EXHIBIT L

BOOK 117 PAGE 2

NICOLAS GLEN NO. 3

A REPLAT OF TRACT "F", NICOLAS GLEN NO. 2
LOCATED IN THE SOUTHEAST 1/4, SECTION 14
TOWNSHIP 2 SOUTH, RANGE 4 EAST, WILLAMETTE MERIDIAN,
CITY OF SANDY, CLACKAMAS COUNTY, OREGON

CITY OF SANDY PLANNING FILE NO. MPLAN 2-96 AND SUB/PUD 2-96
SURVEYED: JUNE 9, 1999



LEGEND

- FD. – DENOTES FOUND
- I.R. – DENOTES IRON ROD
- S.F. – DENOTES SQUARE FEET
- P.U.E. – DENOTES PUBLIC UTILITY EASEMENT
- ⊠ – DENOTES 5/8" X 30" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "WRG DESIGN, INC.", SET ON 10/20/99
- ● – DENOTES 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "WRG DESIGN, INC." SET ON 10/06/99
- ⊠ – DENOTES SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "WRG DESIGN, INC" SET ON 8/24/99
- O – DENOTES FOUND MONUMENT AS NOTED.
- ⊠ – DENOTES FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "WRG DESIGN, INC" PER SURVEY NO. 28517
- ⊠ – DENOTES FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "HULT PLS 2427" PER NICOLAS GLEN NO. 2
- (R1) – DENOTES RECORD DATA PER P.S. 26289.
- (R2) – DENOTED RECORD DATA PER THE PLAT OF "NICOLAS GLEN NO. 2", PLAT NO. 3389

CURVE TABLE

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C15	211.00'	7.28'	7.28'	S02°06'20"W	01°58'34"
C16	211.00'	49.32'	49.20'	S09°46'22"W	13°23'30"
C17	211.00'	17.78'	17.77'	S18°52'56"W	04°49'38"
C18	175.00'	54.48'	54.26'	N78°57'48"W	17°50'15"
C19	175.00'	7.15'	7.15'	N69°52'26"W	01°20'23"
C21	18.00'	28.27'	25.46'	N23°42'15"W	90°00'00"
C27	18.00'	28.27'	25.46'	S66°17'45"W	90°00'00"
C30	169.00'	59.57'	59.28'	S11°11'54"W	20°11'41"
C48	211.00'	50.93'	50.81'	S08°00'58"W	13°49'48"
C49	211.00'	23.44'	23.43'	S18°06'49"W	06°21'53"
C51	18.00'	28.27'	25.46'	N23°42'15"W	90°00'00"
C52	19.00'	29.85'	26.87'	S66°17'45"W	90°00'00"
C55	169.00'	59.57'	59.28'	S11°11'54"W	20°11'42"
C2	190.00'	66.97'	66.62'	S11°11'54"W	20°11'42"
C3	200.00'	70.43'	70.07'	N78°47'34"W	20°10'38"
C4	190.00'	66.97'	66.62'	S11°11'54"W	20°11'41"

I HEREBY CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL PLAT OF "NICOLAS GLEN NO. 3"

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 14, 1983
TERRY GOODMAN
1988
RENEWAL DATE: 7-01-01

JOB NO. LSH002

W R G DESIGN INC
10450 SW NIMBUS AVE., PORTLAND, OREGON 97223
PH (503) 603-9311 FAX (503) 603-9344
PLANNERS ● ENGINEERS ● LANDSCAPE ARCHITECTS ● SURVEYORS

PAGE 3 OF 4

3570

Staff Report

Meeting Date: January 28, 2019

From Emily Meharg, Associate Planner

SUBJECT: 19-001 TREE

Background:
Bruce Erickson submitted an application on behalf of McKenzie Cook for a variance to the tree retention standards of Chapter 17.102, Urban Forestry. Removal of 19 trees from the property was previously approved (File No. 17-049 TREE) in conjunction with an application to construct 6 townhouses on the property (File No. 17-048 SUB). Three (3) trees were retained on the property in compliance with the minimum tree retention requirement. However, once grading of the site began, it became apparent that the surface roots for one of the retained trees were very close to the future townhome on Lot 6. With this application, the applicant is requesting to remove one of the required retention trees and to plant two mitigation trees in its place. This requires a variance to the City's tree retention standards since the minimum tree retention standard would no longer be met.

Recommendation:
Staff recommends the Planning Commission hold a public hearing to take public testimony regarding the proposal. Staff recommends the Planning Commission **approve** the variance request with modifications as recommended in this report.

"Make a motion to approve the variance request with modifications as recommended in this report."

Code Analysis:
See attached

Budgetary Impact:
None

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

WHERE INNOVATION MEETS ELEVATION

STAFF REPORT
TYPE III LAND USE PROPOSAL

REPORT DATE: January 22, 2019

SUBJECT: File No. 19-001 TREE Center City Townhouses Tree Variance

AGENDA DATE: January 28, 2019

DEPARTMENT: Planning Division

Application Submitted: January 7, 2019
Application Complete: January 9, 2019
120-Day Deadline: May 9, 2019

STAFF CONTACT: Emily Meharg, Associate Planner

EXHIBITS:

Applicant's Submittals:

A. Land Use Application
B. Narrative (including maps)
C. Arborist Report (Teragan & Associates Inc.)
D. PGE Facilities Plan

Public Comments:

E. Richard L. Webster (January 14, 2019)

Additional Documents Submitted by Staff

F. Final Order 17-049 TREE

I. BACKGROUND

A. PROCEEDING

Type III Tree Variance

B. FACTUAL INFORMATION

1. APPLICANT: Bruce Erickson
2. OWNER: McKenzie Cook
3. PROJECT NAME: Center City Townhouses Tree Variance
4. SITUS ADDRESSES: No situs
5. LEGAL DESCRIPTION: T2S R4E Section 13DB Tax Lot 2100
6. PROPERTY LOCATION: North of McCormick Drive, west of Wolf Drive

7. PROPERTY SIZE: 0.38 acres

8. COMPREHENSIVE PLAN DESIGNATION: High Density Residential

9. ZONING DISTRICT DESIGNATION: High Density Residential, R-3

C. PUBLIC COMMENTS

One public comment was received prior to publishing this staff report. Richard L. Webster (Exhibit E) at 17735 Loundree Dr. stated that the application is ok with him.

D. APPLICABLE CRITERIA: Sandy Development Code Chapters: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.102 Urban Forestry.

E. EXPLANATION OF PROPOSED IMPROVEMENTS

Bruce Erickson submitted an application on behalf of McKenzie Cook for a variance to the tree retention standards of Chapter 17.102, Urban Forestry. Removal of 19 trees from the property was previously approved (File No. 17-049 TREE) in conjunction with an application to construct 6 townhouses on the property (File No. 17-048 SUB). Three (3) trees were retained on the property in compliance with the minimum tree retention requirement. However, once grading of the site began, it became apparent that the surface roots for one of the retained trees were very close to the future townhome on Lot 6. With this application, the applicant is requesting to remove one of the required retention trees and to plant two mitigation trees in its place. This requires a variance to the City's tree retention standards since the minimum tree retention standard would no longer be met.

F. PROPERTY BACKGROUND

The subject parcel is the result of a property line adjustment that occurred in 2016 (File No. 16-028 PLA). Prior to the property line adjustment, there were two parcels (tax lots 2100 and 2200) under single ownership divided by a north-south property line. The property line adjustment changed the common lot line to an east-west orientation and facilitated the sale of the southern parcel (tax lot 2100) for future development. Prior to the property line adjustment and subsequent sale of the property, the contiguously owned parcels were greater than one acre; therefore, the tree retention requirements of Chapter 17.102, Urban Forestry, apply. In 2017, the applicant submitted concurrent applications for a six (6) lot subdivision (File No. 17-048 SUB) and associated tree removal (File No. 17-049 TREE). The proposed tree removal request was to remove 19 trees from the two properties and to retain three (3) trees in compliance with the minimum tree retention requirements. However, once grading of the site began, it became apparent that the surface roots for one (1) of the three (3) required retention trees were very close to the future townhome on Lot 6. With this application (File No. 19-001 TREE), the applicant is requesting to remove one (1) of the three (3) required retention trees and to plant two (2) mitigation trees in its place. This requires a variance to the City's tree retention standards since the minimum tree retention standard would no longer be met.

G. PROCEDURAL CONSIDERATIONS

Review of the tree variance request is a Type III procedure that requires a public hearing before the Sandy Planning Commission. Notification of this proposal was mailed to property

owners within 500 feet of the subject property and to affected agencies on January 10, 2019. A legal notice was published in the Sandy Post on January 16, 2019.

II. ANALYSIS OF CODE COMPLIANCE

CHAPTER 17.102 – URBAN FORESTRY

17.102.20 APPLICABILITY

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

A. General**:** No person shall cut, harvest, or remove trees 11 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.

B. Exceptions: The following tree removals are exempt from the requirements of this chapter.
   1. Tree removal as required by the city or public utility for the installation or maintenance or repair of roads, utilities, or other structures.
   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 days following the date of tree removal.

RESPONSE: *The subject property contains 0.38 acres; however, prior to the re-plat of the property (File No. 16-028 PLA), tax lots 2100 and 2200 were under the same ownership and totaled approximately 1.12 acres. Thus, compliance with the tree retention requirements of Chapter 17.102 was required. Chapter 17.102 requires retention of three (3) trees (1.11 x 3) 11-inches or greater diameter at breast height (DBH) and in good condition. With the previous tree removal request in 2017 (File No. 17-049 TREE, Exhibit F), the applicant removed 19 trees from the two parcels and retained the minimum requirement of three (3) trees on the subject property. With this application (File No. 19-001 TREE), the applicant is requesting to remove one (1) of the three (3) required retention trees due to proximity of the tree to a proposed retaining wall and the building footprint on Lot 6 in the City Center Townhouses. This would result in only two (2) retention trees on the properties, which is a variance to the tree retention standards of Section 17.102.50.*

17.102.50 TREE RETENTION AND PROTECTION REQUIREMENTS

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

   1. At least three trees 11 inches DBH or greater are to be retained for every one-acre of contiguous ownership.

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

***RESPONSE**: The subject property requires retention of at least three (3) trees 11-inches or great DBH and in good health. In 2017, the applicant received approval to remove all but three (3) required retention trees from the site (File No. 17-049 TREE, Exhibit F). With this application (File No. 19-001 TREE), the applicant is requesting to remove one (1) of the three (3) retention trees due to proximity of the tree to a proposed retaining wall and the building footprint on Lot 6 in the Center City Townhouses. This would result in only two (2) retention trees on the properties, which is a variance to the tree retention standards of Section 17.102.50. This variance request is a Type III application and must be brought before Planning Commission.*

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

RESPONSE:** The applicant's narrative (Exhibit B) states that the applicant will cover all exposed areas with straw and later replant with a native groundcover. **The applicant shall replant any areas with exposed soil resulting from tree removal with a native ground cover. The applicant shall submit a site plan detailing the species, size, and location of native ground cover, or submit additional information demonstrating that there are no areas with exposed soil resulting from tree removal for Planning staff review and approval (e.g., there shouldn't be any exposed soil if the stumps are not removed).

17.102.70 VARIANCES

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

1. The substitution is at a ratio of at least two-to-one (i.e., at least two native quality nursery grown trees will be planted for every protected tree that is removed); and
2. The substitution more nearly meets the intent of this ordinance due to:

a. The location of the existing and proposed new trees, or
b. The physical condition of the existing trees or their compatibility with the existing soil and climate conditions; or
c. An undue hardship is caused by the requirement for retention of existing trees.
d. Tree removal is necessary to protect a scenic view corridor.

RESPONSE: *The applicant is proposing to remove one (1) of the three (3) required retention trees on the site and is requesting a variance to the tree retention standards. The applicant is proposing to retain the other two (2) trees. The applicant submitted an updated Arborist Report by Teragan & Associates (Exhibit C) that evaluated the three (3) retention trees after preliminary grading and excavation of the site resulted in root damage to one (1) of the trees. The arborist report identifies the following three (3) trees:*

- *Tree #1: 60-inch DBH Douglas fir in good health and good structural condition*
- *Tree #2: 47-inch DBH Western red cedar in fair health and good structural condition*
- *Tree #3: 43-inch DBH Douglas fir in fair health and fair structural condition*

Tree #1 has already sustained root damage to its surface roots due to the grading of the site. In addition, staff observed a large section of a tree trunk had been felled inside the tree protection fencing and was laying against Tree #1, thus, the applicant received a violation for not maintaining the required tree protection area during tree falling that occurred on the site. Based on the size of Tree #1 (60-inches DBH), the arborist report states that no construction activity should come within 30 feet on one of the tree's sides and 60 feet on the other sides. The proposed development on Lot 6 includes a wall within 8.5 feet on three sides of the tree. In addition, the building footprint for the townhome on Lot 6 will encroach within the critical root zone of Tree #1. Thus, the arborist report recommends that Tree #1 be removed. ***The applicant shall remove Tree #1 and plant two (2) mitigation trees as proposed. The mitigation trees shall be 6-8 foot tall native evergreens of quality nursery stock. The applicant shall locate the mitigation trees in a spot that is easily visible for City staff to monitor the health of these trees in the future.***

The intent of the Urban Forestry code is "to conserve and replenish the ecological, aesthetic and economic benefits of urban forests." The intent of the tree retention standard is to protect large, healthy trees that are likely to grow to maturity. While the code does allow newly-planted trees to substitute for retained trees, the intent is not to remove all of the existing trees on a site and replace them with newly-planted trees. All trees provide important benefits, but large, mature trees provide greater and more immediate ecological value, including reducing urban heat island effect, providing habitat, managing stormwater, and improving air quality. Thus, while the code sets a substitution ratio of at least two mitigation trees for every one protected tree that is removed, it would be nearly impossible to determine, for example, how many young 6 foot tall mitigation Douglas firs it would actually take to provide value equal to that of a mature 60-inch DBH Douglas fir. In addition, most development sites are graded or otherwise impacted during construction, leaving the soil compacted. This creates harsh conditions for newly planted mitigation trees, which often struggle to survive in the compacted soils. Recognizing that retention trees are often impacted by development, staff recommended the following in the Final Order for the original approval for tree removal on the site (File No. 17-

049 TREE, Exhibit F): "To avoid potential issues with removal of retention trees in the future, staff encourages the applicant to retain more than three (3) 11-inch DBH or greater trees in good condition on the site." The applicant chose not to retain more than the absolute bare minimum number of retention trees and now the applicant is asking to reduce the number of retention trees below the minimum threshold and to plant mitigation trees instead. ***In order to improve the chance of survival for newly-planted mitigation trees, the applicant shall aerate the soil to a depth of 3 feet in a 15 foot radius around the location of each proposed mitigation tree. In addition, the applicant shall obtain a letter of credit in the amount of $500 per tree to cover replacement and establishment of the mitigation tree should it die within 3 years.***

Per the applicant's narrative (Exhibit B), the applicant is planning to move the storm detention facility and retaining wall to minimize conflict with the roots of Trees #2 and #3. The arborist report (Exhibit C) cites that while the proposed location of the storm detention facility would have detrimental impacts to Trees #2 and #3, it's possible that Trees #2 and #3 could be saved if the storm detention facility and sidewalk are moved further away from the trees' critical root zones (CRZ). Specifically, the report states "If and [sic] improvements can be kept at least 23.5 feet from tree # 2 and # 3, it may be possible to retain the [sic] two out of the three trees successfully as long as the project arborist is on site during any excavations within 23.5 feet of trees # 2 and 3." The submitted site plan with needed root protection zones attached to the narrative (Exhibit B), details a setback sidewalk with planter strip. A section of the proposed sidewalk is located within the CRZ of Tree #3. Section 17.84.30(A.3) of the Sandy Development Code allows exceptions to the standard sidewalk/planter strip design to save mature trees. ***The applicant shall update the plan set to detail a curb-tight sidewalk in the section where the proposed sidewalk encroaches within the CRZ of Tree #3 and shall submit to the City for review and approval. The applicant shall update the plan set to relocate other improvements, including the storm detention facility and PGE vault, as far outside of the 23.5 foot CRZ around Tree #2 and the 21.5 foot CRZ around Tree #3 as possible and shall submit to the City for review and approval. The applicant shall retain an arborist on site during any excavations within 23.5 feet of Tree #2 and 21.5 feet of Tree #3. The applicant shall relocate the tree protection fencing around Trees #2 and #3 per the arborist's recommendation and shall call for an inspection with the City once the tree protection fencing is reestablished.***

The arborist report (Exhibit C) states that if too many roots are impacted within the CRZ such that the tree's structural stability is compromised, Tree #2 and/or Tree #3 may still need to be removed. Staff supports relocating the storm detention facility and retaining an arborist on site during excavations to monitor the impact of construction on critical roots in an effort to retain Trees #2 and #3. ***If the arborist finds that Trees #2 and #3 can be successfully retained then the applicant shall retain Trees #2 and #3. If the arborist finds that Tree #2 and/or Tree #3 cannot be successfully retained, the applicant shall submit a land use application for a Type III Tree Variance before Planning Commission and shall include an arborist report with an updated recommendation related to the removal of Tree #2 and/or Tree #3. The applicant shall also be required to pay a third party arborist review fee for any trees proposed for removal from the property in the future.***

As a condition of Final Order 17-049 TREE (Exhibit F), the applicant was required to record a tree protection covenant for the three (3) retained trees. With removal of the one (1) retention tree, the tree protection covenant will include two (2) retention trees and two (2) mitigation

trees. ***The applicant shall record a tree protection covenant specifying protection of the two (2) required retention trees and two (2) required mitigation trees and limiting removal without submittal of an Arborist's Report and City approval. This document shall include a sketch identifying the species and location of the retention and mitigation trees.***

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

III. SUMMARY AND CONCLUSION

Bruce Erickson submitted an application on behalf of McKenzie Cook for a variance to the tree retention standards of Chapter 17.102, Urban Forestry. Removal of 19 trees from the property was previously approved (File No. 17-049 TREE) in conjunction with an application to construct 6 townhouses on the property (File No. 17-048 SUB). Three (3) trees were retained on the property in compliance with the minimum tree retention requirement. However, once grading of the site began, it became apparent that the surface roots for one of the retained trees were very close to the townhome on Lot 6. With this application, the applicant is requesting to remove one of the required retention trees and to plant two mitigation trees in its place. However, as stated in the arborist report, the remaining two trees will be difficult to adequately protect from being damaged unless the storm facility and sidewalk are redesigned.

IV. RECOMMENDATION

Staff recommends the Planning Commission hold a public hearing to take public testimony regarding the proposal. Staff recommends the Planning Commission **approve** the variance request with modifications as recommended in this report.

- **The applicant shall replant any areas with exposed soil resulting from tree removal with a native ground cover. The applicant shall submit a site plan detailing the species, size, and location of native ground cover, or submit additional information demonstrating that there are no areas with exposed soil resulting from tree removal for Planning staff review and approval (e.g., there shouldn't be any exposed soil if the stumps are not removed).**
- **The applicant shall remove Tree #1 and plant two (2) mitigation trees as proposed. The mitigation trees shall be 6-8 foot tall native evergreens of quality nursery stock.**
- **The applicant shall locate the mitigation trees in a spot that is easily visible for City staff to monitor the health of these trees in the future.**
- **In order to improve the chance to survival of newly-planted mitigation trees, the applicant shall aerate the soil to a depth of 3 feet in a 15 foot radius around the location of each proposed mitigation tree. In addition, the applicant shall obtain a letter of credit in the amount of $500 per tree to cover replacement and establishment of the mitigation tree should it die within 3 years.**
- **The applicant shall update the plan set to detail a curb-tight sidewalk in the section where the proposed sidewalk encroaches within the CRZ of Tree #3 and shall submit to the City for review and approval. The applicant shall update the plan set to relocate other improvements, including the storm detention facility and PGE vault, as far**

outside of the 23.5 foot CRZ around Tree #2 and the 21.5 foot CRZ around Tree #3 as possible and shall submit to the City for review and approval. The applicant shall retain an arborist on site during any excavations within 23.5 feet of Tree #2 and 21.5 feet of Tree #3. The applicant shall relocate the tree protection fencing around Trees #2 and #3 per the arborist's recommendation and shall call for an inspection with the City once the tree protection fencing is reestablished.

- **If the arborist finds that Trees #2 and #3 can be successfully retained then the applicant shall retain Trees #2 and #3. If the arborist finds that Tree #2 and/or Tree #3 cannot be successfully retained, the applicant shall submit a land use application for a Type III Tree Variance before Planning Commission and shall include an arborist report with an updated recommendation related to the removal of Tree #2 and/or Tree #3. The applicant shall also be required to pay a third party arborist review fee for any trees proposed for removal from the property in the future.**
- **The applicant shall record a tree protection covenant specifying protection of the two (2) required retention trees and two (2) required mitigation trees and limiting removal without submittal of an Arborist's Report and City approval. This document shall include a sketch identifying the species and location of the retention and mitigation trees.**
- **If the trees are removed during prime nesting season (February 1- July 31), the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant shall delay tree removal until after the nesting season or shall hire a professional to relocate the nests to an appropriate nearby location, provided the species using the nest is not invasive.**

CITY OF SANDY, OREGON

LAND USE APPLICATION FORM

(Please print or type the information below)

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

EXHIBIT A

Name of Project: Center City Townhouses (6 Units)

Location or Address: Northwest Corner of McCormick Drive and Wolf Drive, Sandy, OR

Map & Tax Lot Number T 2 S., R 4 E., Section 13DB; Tax Lot(s) 2100

Plan Designation R-3 Zoning Designation R-3 Acres 0.39

Request:

Request for a Variance to Tree Retention Requirements as specified in Section 17.102.50, which may be permitted subject to provisions of Section 17.102.70 (City of Sandy, Development Code, Chapter 17.102 Urban Forestry).

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: Bruce W. Erickson, P.E.	Owner: McKenzie "Ken" Cook
Address: 22035 SE Firwood Road	Address: 79110 Via Corta
City/State/Zip: Sandy, OR 97055	City/State/Zip: La Quinta, CA 92253
Phone: 971-400-0339	Phone: 503-932-0128
Email: berickson@bhhsnw.com	Email: kenmarylou@aol.com
Signature: Bruce W. Erickson	Signature: DocuSigned by: McKenzie "Ken" Cook 121322EB55F540C

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

File No. 19-001 TREE	Date 1/7/19	Rec. No.	Fee $ 4300.00
Type of Review (circle one):	Type I	Type II	Type III Type IV

24E 13DB 2100

EXHIBIT B

REQUEST FOR A VARIANCE TO TREE RETENTION REQUIREMENTS AS SPECIFIED IN SECTION 17.102.50, WHICH MAY BE PERMITTED SUBJECT TO PROVISIONS OF SECTION 17.102.70 (CITY OF SANDY DEVELOPMENT CODE, CHAPTER 17.102 URBAN FORESTRY).

LAND USE APPLICATION SUPPLEMENTAL INFORMATION TYPE III PERMIT FOR TREE REMOVAL.

An application for a Type III Permit shall contain the following information:

1. **Two copies of a scaled site plan to contain the following: dimensions of the property and parcel boundaries, location and species of trees 11" DBH or greater to be retained, location and type of tree protection measures to be installed.**

   This information is shown in Exhibits A and B attached hereto.

2. **A brief narrative describing the project.**

   The project was approved in November 2017 (File No. 17-048 SUB) as a Type II Subdivision to allow for the six lot Center City Townhouses subdivision located to the north of McCormick Drive and west of Wolf Drive subject to Conditions of Approval. Prior to the above approval, the applicant did submit a Tree Inventory and Retention Plan to the City for approval, which was approved in September 2017 (File No. 17-049 TREE). This Arborist Report and Tree Plan is attached hereto as Exhibit C. This approval gave authorization to remove 19 trees from the subdivision property and adjacent church property to the north. Per Section 17.102.50 of the development code three trees on the subdivision property were to be retained and protected. These trees were a 54-inch cedar, a 44-inch cedar, and a 38 inch Douglas fir. This condition was also stated in the subdivision conditions of approval.

   The 19 trees were removed from the site in September 2018, and the 3 trees to be retained were protected as required in Section 17.102.50 B, of the development code. Once grading commenced on site, it became apparent the surface roots for one of the retained trees were very close to the townhome on Lot 6. Grading was then ceased in this area, and an Arborist retained to examine the site for his opinion on whether the tree could be saved or not. The need for a 10' storm drainage easement along the west boundary of the property, to serve the church property to the north, further impacted the subject tree. This required the lot lines and buildings to be shifted eastward and closer to the tree.

3. **Estimated starting and ending dates.**

   Until this variance is approved to remove the retained tree, no grading activities will commence in this area nor will the tree be removed. In addition, should the Arborist recommended a larger protective area for the trees to be retained, the protection fence for these trees will be removed and replaced to fit the expanded protection area. In order to

further protect the two remaining trees to be retained, the proposed grading retaining walls will be relocated, as well as relocating the storm water detention system, to areas outside of any expanded protective area. This redesign work will be undertaken immediately and completed before the end of the month. Once the approval is given to remove the tree, the tree will be removed and grading operations within this area commenced. The planting of two additional trees as a substitution to the tree removed, will occur after the site grading is completed and weather permitting.

4. **A scaled re-planting plan indicating ground cover type, species of trees to be planted, and general location of replanting.**

   The proposed location for the planting of the two substitute trees is shown in attached Exhibit D. The two substitute trees will be native conifer trees of quality nursery stock. The size and species of the two trees will be as recommended or approved by the City.

   Generally, the entire site not covered by buildings or other improvements will be landscaped, to provide an attractive development. Landscaping elements will include lawn or turf, bark mulch, shrubbery, and other types of native grass, as approved by the City. All exposed areas from tree removal activities will be replanted with a ground cover of native species, that will not compact the soil within the protection zones of retained trees.

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 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.**

   The Applicant has retained the services of a Board Certified Master Arborist, Terrance P. Flanagan of Teragan & Associates, Inc., to review the location of the three trees to be retained and the site plans showing the location of planned improvements. His report is attached hereto as Exhibit E.

   In summary, his report recommends that one tree (Tree #1, a 60-inch Douglas fir) be removed as the grading and the planned improvements are too close to it. He also recommended that Tree #2 (47-inch Western Red Cedar) and Tree #3 (43-inch Douglas fir) be removed if we could not relocate planned improvements further away from these trees.

6. **A list of property owners on mailing labels within 500 feet of the subject property.**

   This list is provided, an attached as Exhibit F.

7. **A written narrative addressing applicable code Sections 17.102.50, 17.102.60, and 17.102.70.**

17.102.50 Tree Retention and Protections Requirements

The Applicant will retain the two protected tree (Tree #2 and Tree #3) by relocating planned improvements so they will not be impacted by site development activities. Both trees are in fair to good condition, conifer species and greater than 11 inches DBH.

No grading or construction activity will occur within the necessary protective area as recommended in the Arborist Report, which is at least 6 times the diameter of the tree on a radius from the center of the tree. (This protective area is shown by the circles around the trees on Exhibits A and B.) The existing protective barrier fencing in the field will be relocated to cover this expanded circle zone, from the 10 horizontal feet circle from the outside edge of the tree trunk as was required in Section 17.102.50 B.

The Applicant will notify the City, as required, before proceeding with tree removal or construction activity within the subject area, so that the City may inspect and approve of installation of tree protection measures.

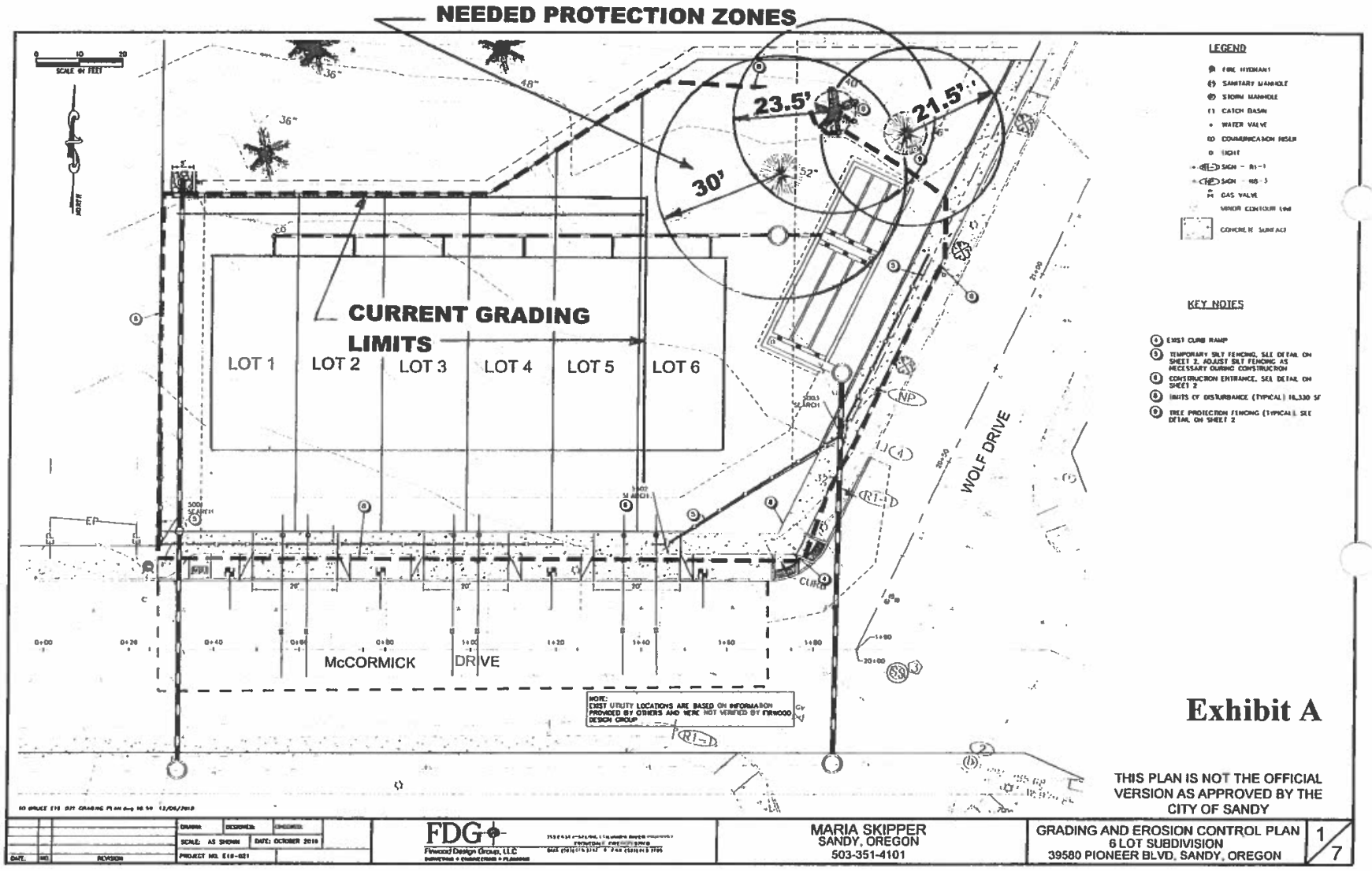
17.102.60 Tree Replanting Requirements

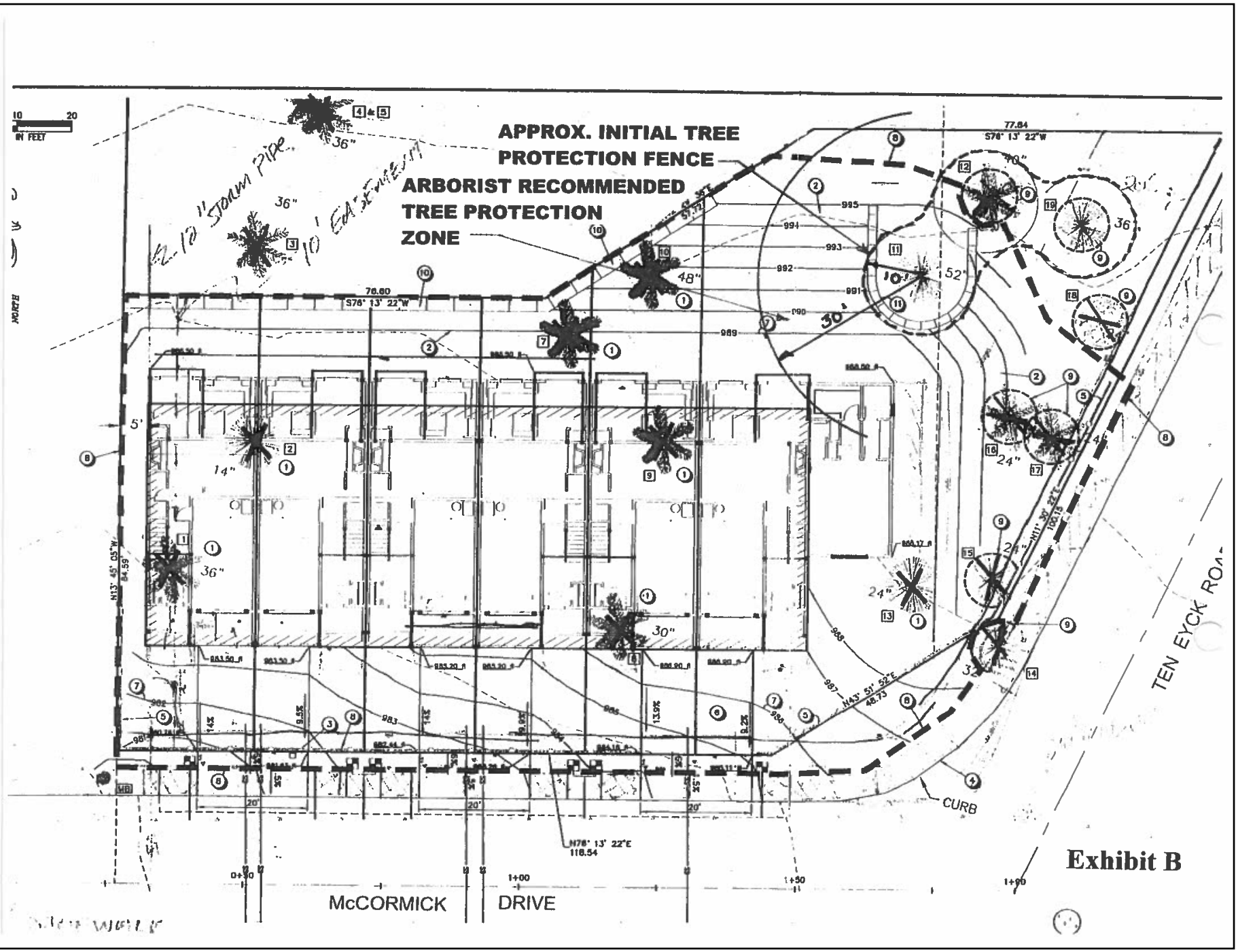
The Applicant agrees with the tree replanting requirements of this section. All areas with exposed soils resulting from the tree removal occurring between October 1 and March 31 will be covered with straw to minimize erosion, and later replanted with a ground cover of native species. Two native trees of quality nursery stock will be replanted for every tree removed.

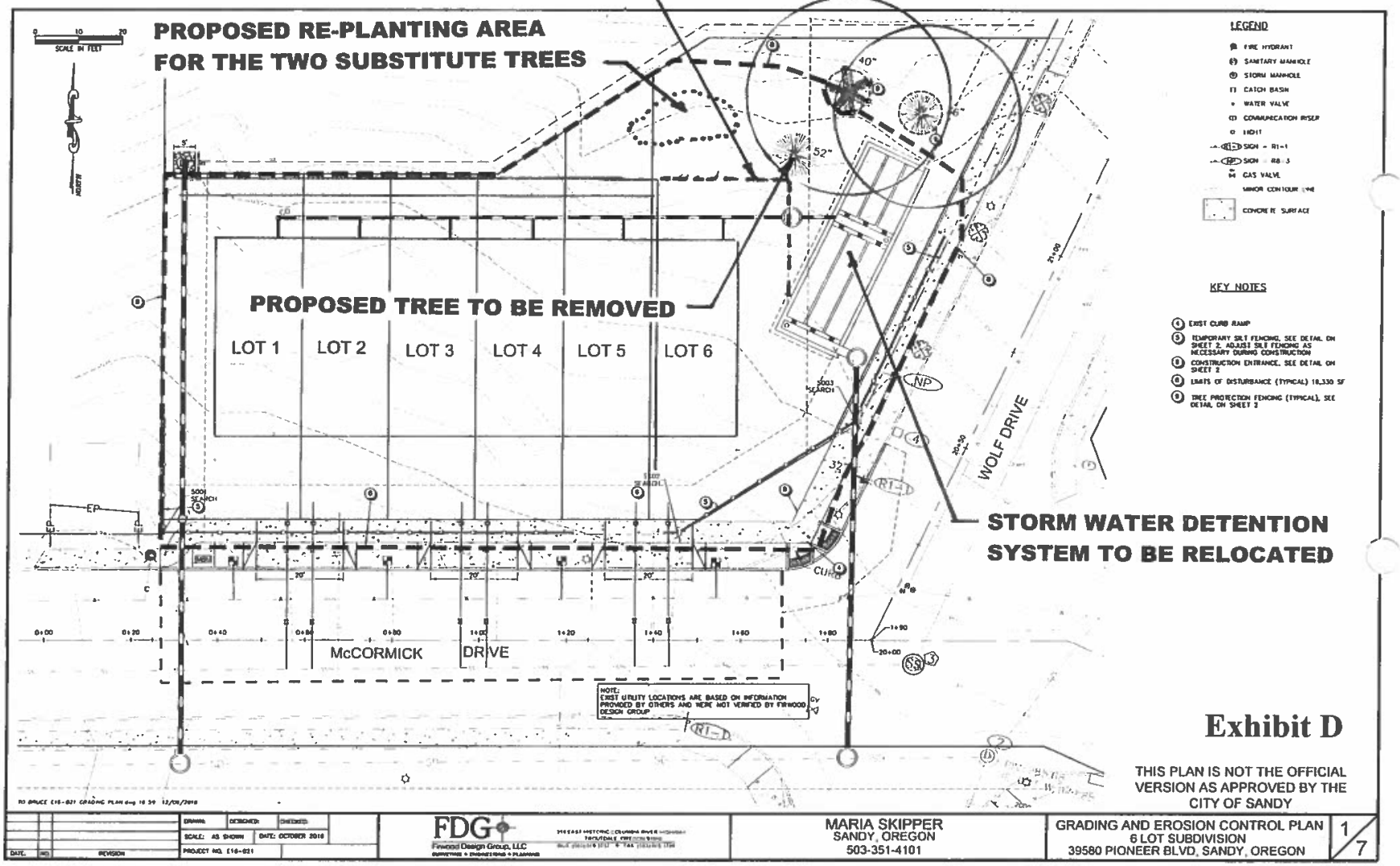
17.102.70 Variances

Under a Type III review process, which we are requesting, the Planning Commission may allow newly-planted trees to substitute for retained trees if: 1. The substitution is a ratio of at least two-to-one (i.e., at least two native quality nursery grown trees will be planted for every protected tree that is removed); and 2. The substitution more nearly meets the intent of this ordinance due to: a. location of the existing and proposed new trees, or b. Physical condition of the existing trees or their compatibility with the existing soil and climate conditions; or c. Undue hardship is caused by the requirement for retention of existing trees; and d. Tree removal is necessary to protect a scenic corridor.

The Applicant is agreeable to the substitution ratio of two-to-one for the removal of protected Tree #1. These two replacement trees will be native quality nursery grown trees. The applicant further believes that this substitution more nearly meets the intent of this ordinance due to the existing location of Tree #1 and its proximity to planned site improvements, and the proposed location of the two new trees.


NEEDED PROTECTION ZONES
23.5'
21.5'
30'
CURRENT GRADING LIMITS
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
McCORMICK DRIVE
WOLF DRIVE
LEGEND
KEY NOTES
Exhibit A
THIS PLAN IS NOT THE OFFICIAL VERSION AS APPROVED BY THE CITY OF SANDY
FDG
Firwood Design Group, LLC
MARIA SKIPPER
SANDY, OREGON
503-351-4101
GRADING AND EROSION CONTROL PLAN
6 LOT SUBDIVISION
39580 PIONEER BLVD, SANDY, OREGON
1/7


APPROX. INITIAL TREE PROTECTION FENCE
ARBORIST RECOMMENDED TREE PROTECTION ZONE
Exhibit B
McCORMICK DRIVE
TEN EYCK ROAD
CURB
36"
48"
52"
30"
24"
14"
76.60
S76° 13' 22"W
77.84
S76° 13' 22"W
N76° 13' 22"E
116.54
N13° 45' 05"W
84.59
N43° 51' 52"E
48.73
N11° 38' 24"E
100.13
0+50
1+00
1+50


APPROXIMATE LOCATION OF PROPOSED UPPER RETAINING WALL
PROPOSED RE-PLANTING AREA FOR THE TWO SUBSTITUTE TREES
PROPOSED TREE TO BE REMOVED
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
STORM WATER DETENTION SYSTEM TO BE RELOCATED
McCORMICK DRIVE
WOLF DRIVE
LEGEND
KEY NOTES
Exhibit D
THIS PLAN IS NOT THE OFFICIAL VERSION AS APPROVED BY THE CITY OF SANDY
FDG
Firwood Design Group, LLC
MARIA SKIPPER
SANDY, OREGON
503-351-4101
GRADING AND EROSION CONTROL PLAN
6 LOT SUBDIVISION
39580 PIONEER BLVD, SANDY, OREGON
1/7

TERAGAN & ASSOCIATES, INC.
ARBORICULTURAL CONSULTANTS

December 14, 2018

EXHIBIT C

Bruce Erickson
Berkshire-Hathaway
39460 Proctor Blvd
Sandy, OR 97055

RE: Tree Protection on the Center City Townhouse Project

Summary

After a review of the trees on December 5, 2018 and the site plans showing the location of planned improvements, I do not recommend retaining any of the three trees that have been left on site.

It may be possible that trees #2 and 3 could be retained if the impact to their roots is discovered to be acceptable by the project arborist. If the trees #2 and 3 are to be retained, the arborist shall be on site to observe the number and size of roots impacted during excavation in order to determine if the trees can remain on the site safely. If the placement of the improvements closest to the trees is moved further away, that may also make it possible to retain the trees.

Assignment

The purpose of this report is to evaluate the ability to safely retain three trees long term on the property of the Center City Townhouses Project.

Assumptions and Limiting Conditions

Please see Appendix #2 for a detailed list of Assumptions and Limiting conditions.

Background

The City of Sandy has requested a review of the three trees that have been retained on the site. A concern has arisen that roots from the most southern tree has experienced root damage from equipment operating on the site.

A tree plan was created by Richard Gillum of Rich's Tree Service, date unknown. The scan copy of the plan that I received was very difficult to read but it is not clear which trees were to be retained from the tree plan. However, per Bruce Erickson of Berkshire-Hathaway, the project current engineer/real estate broker, the three trees in the northeast corner of the property are to be retained.

Teragan & Associates, Inc.
3145 Westview Circle • Lake Oswego, OR 97034
• (503) 697-1975 • Fax (503) 697-1976 • E-mail : info@teragan.com

Observations

On December 5, 2018 I met with Mr. Erickson to review the trees and the planned improvements. The trees are located in the northeast corner of the property on the northwest corner of the intersection of McCormick Drive and Wolf Drive, Sandy, OR.

The three trees have been numbered on the Site and Stormwater Plan which is attached as appendix # 3.

Tree Inventory

Tree Number	Common Name	Scientific Name	Tree Diameter*	Tree Health Condition	Tree Structure Condition	Comments
1	Douglas-fir	Pseudotsuga menziesii	60"	Good	Good	Significant butt log swell, sweep, live crown ratio 75%
2	Western red cedar	Thuja plicata	47"	Fair	Good	Full crown, 85% live crown ratio, crown foliage a bit thin
3	Douglas-fir	Pseudotsuga menziesii	43"	Fair	Fair	Live crown ratio 80%, open branched crown, foliage a bit thin.

*Tree Diameter was measured at 4.5 feet above ground level, the industry standard to measure a tree diameter known as diameter breast height (DBH)

Tree #1 has already had some root damage on its surface root south of the tree. The root damage was the reason for the City of Sandy to require that these trees be evaluated again.

Discussion

The three trees that have been chosen to be retain on the site have full crowns; are in fair to good condition and are good specimens to be retain that should add to the site for many years to come if they can be properly protected.

Per the Site and Stormwater Plan, sheet 3/10, tree # 1 will be less than 8.5 feet away from a planned retaining wall; tree #2 will be less than 11 feet from the north corner of an underground water detention facility; and tree #3 will be less than 10 feet from the north side of the detention facility.

Generally, it is best to come no closer than 6 times the diameter of a tree on a radius from the center of the tree on one side of the tree that is to have construction nearby. On the other three sides, construction should come no closer than 12 times. Encroaching within these parameters can be done, possibly without impacting the long-term health or structure of the tree if done carefully within limits as dictated by the site and the tree. 6 times the diameter of an excurrent form conifer such as these trees usually equates to the length of the tree's dripline, the extent of the tree's branches

Tree #1 is 60-inches diameter tree as measured at 4.5 feet above ground. With a tree 60 inches in diameter no construction activity should come within 30 feet on one of the tree's sides, 60 feet on the other sides of the tree. The plan for the project indicates a new wall will be installed

within 8.5 feet on three sides of the tree, far less than 3 times the diameter of the tree, way too close to the tree to expect that severe damage won't occur to the tree roots.

Tree # 2 is 47-inch diameter Western red cedar *(Thuja plicata)* at 4.5 feet above ground. The guidelines would indicate that no construction should come within 23.5 feet on one side of the tree. However, as this tree is to the north of tree # 1, the spread of its roots is limited to the south/southwest due to the presence of the roots from tree #1. It is unlikely that tree #2's roots will be impacted by the wall construction as long as the eastern side of the wall is modified to not extend to the north/northeast. However, the construction of the storm detention facility will impact the tree on its southeast side within 11 feet of the tree's center. This distance is less than 3 times the tree diameter and too close to be sure that the construction won't severely impact its roots. There is a chance that the distribution of the tree's roots may not extend too greatly in the direction where the facility is to be located. However, to be sure that the excavation for the storm facility won't cause the loss of too many roots, the project arborist shall be on site during the excavation to document any roots encountered and guide the pruning of any roots large than one inch. If too many roots are encountered, the project arborist may have to recommend removal of the tree due to concerns of the tree's structural stability.

Tree # 3 is a 43-inch diameter Douglas-fir that will have the northeast side of the storm detention facility within 10 feet of the tree's center, the new sidewalk on the east side of the tree will be within 15 feet. Ideally no construction activity should not come within 21.5 feet on any side of the tree. It may be possible to encroach closer than the suggested guidelines if the project arborist can observe the excavation to see if any roots are impacted and if so, they can be pruned without impacting the structural stability of the tree. In addition, grading for the new sidewalk may have to be limited if roots are encountered which will cause the sidewalk to be constructed on top of grade. The project arborist shall also have the ability to call for the tree's removal if too many roots are impacted that would impact the structural stability of the tree.

Moving the storm water detention facility or redesigning it so that it will be placed further from tree #2 and #3 will give those two trees better probability to be able to be successfully retained.

Tree Protection

If and improvements can be kept at least 23.5 feet from tree # 2 and # 3, it may be possible to retain the two out of the three trees successfully as long as the project arborist is on site during any excavations within 23.5 feet of trees # 2 and 3.

Conclusion

It will be very difficult to adequately protect the three trees from being damaged to the point of becoming unstable unless the design of the storm facility and new sidewalk is redesigned. The improvements should not be placed within at least six times the diameter of the trees.

As the project is designed now it will not be possible to retain tree # 1 and trees # 2 and 3 are unlikely to be adequately protected given the need to encroach on the trees' root systems.

Recommendations

I recommend that tree # 1 be removed as the planned retaining wall is too close to it. In addition, trees # 2 and 3 should also be removed unless either the project arborist can confirm that critical roots are not impacted during the excavation for the installation of the improvements or the planned improvement are move further away from the trees.

Please call if you have any questions or concerns regarding this report.

Sincerely,

Terrence P. Flanagan

Terrence P. Flanagan
ISA Board Certified Master Arborist, #PN-0120 BMTL
ISA Tree Risk Assessment Qualified
Member, American Society of Consulting Arborists

Enclosures

Appendix 1: Certification of Performance
Appendix 2: Assumptions and Limitations Conditions
Appendix 3: Site Plan with Tree Numbering

Appendix 1
Certification of Performance

I, Terrence P. Flanagan, Certify:

- That a representative of Teragan & Associates, Inc., has inspected the tree(s) and/or the property referred to in this report. The extent of the evaluation is stated in the attached report.
- That Teragan & Associates, Inc. has no current or prospective interest in the vegetation of the property that is the subject of this report, and Teragan & Associates, Inc. has no personal interest or bias with respect to the parties involved.
- That Teragan & Associates, Inc.'s compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party, or upon the results of the assessment, the attainment of stipulated results, or the occurrence of any subsequent events.
- That the analysis, opinions, and conclusions that were developed as part of this report have been prepared according to commonly accepted arboricultural practices.
- That a Board-Certified Master Arborist has overseen the gathering of data.

Appendix 2
Assumptions and Limiting Conditions

1. Any legal description provided to the consultant is assumed to be correct. Teragan and Associates, Inc. checked the species identification and tree diameters in the field.
2. It is assumed that this property is not in violation of any codes, statutes, ordinances, or other governmental regulations.
3. The consultant is not responsible for information gathered from others involved in various activities pertaining to this project. Care has been taken to obtain information from reliable sources.
4. Loss or alteration of any part of this delivered report invalidates the entire report.
5. Drawings and information contained in this report may not be to scale and are intended to be used as display points of reference only.
6. The consultants' role is only to make recommendations. Inaction on the part of those receiving the report is not the responsibility of the consultant.
7. This report is to certify the trees that are on site, their condition, outlining the tree protection steps to protect the trees to be retained on site. This report is written to meet the requirements necessary for tree protection on properties that are to be developed for residential or commercial use.

Appendix # 3 - Site Plan with Tree Numbering

Center City Townhouses
Bruce Erickson

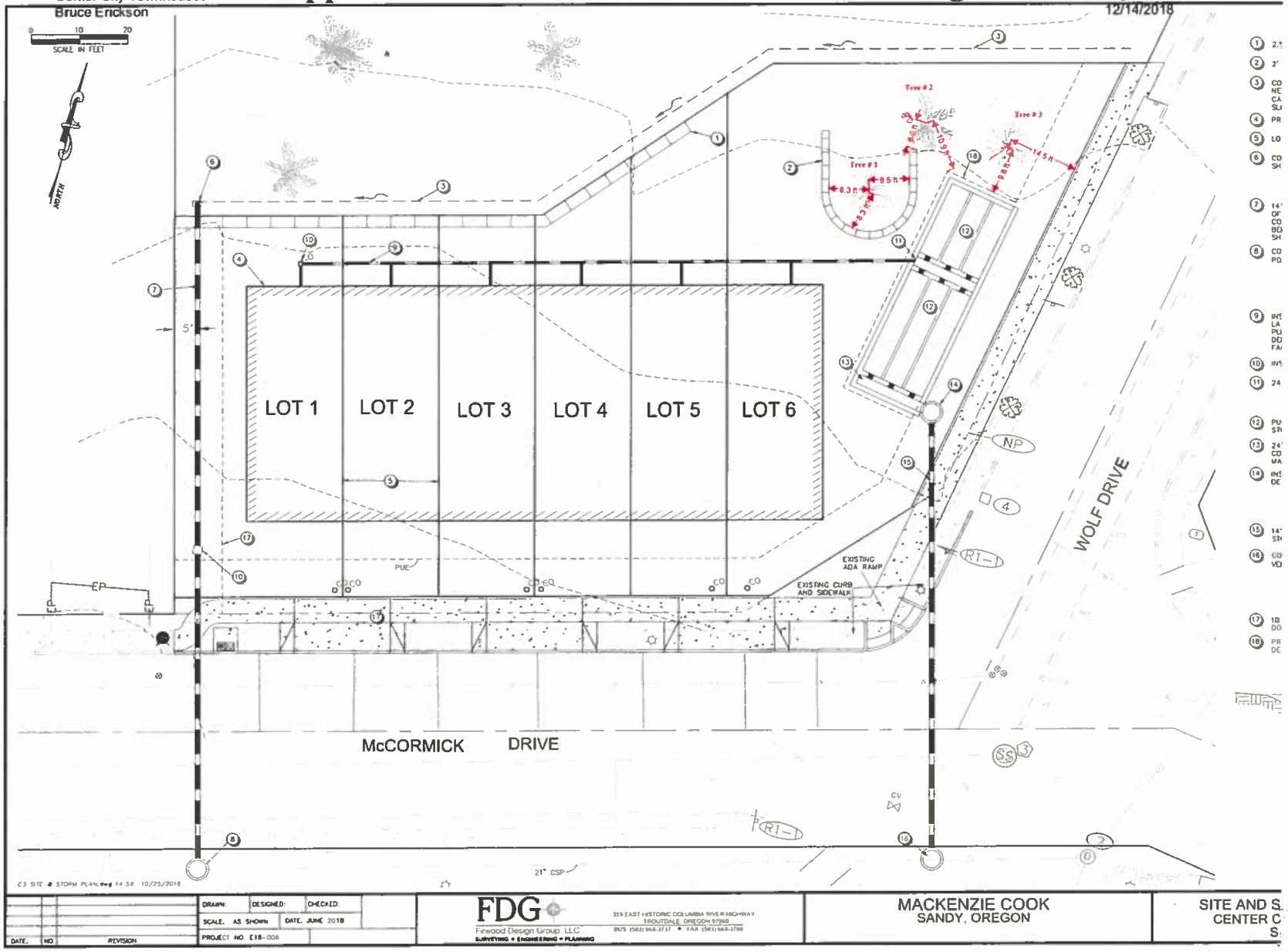
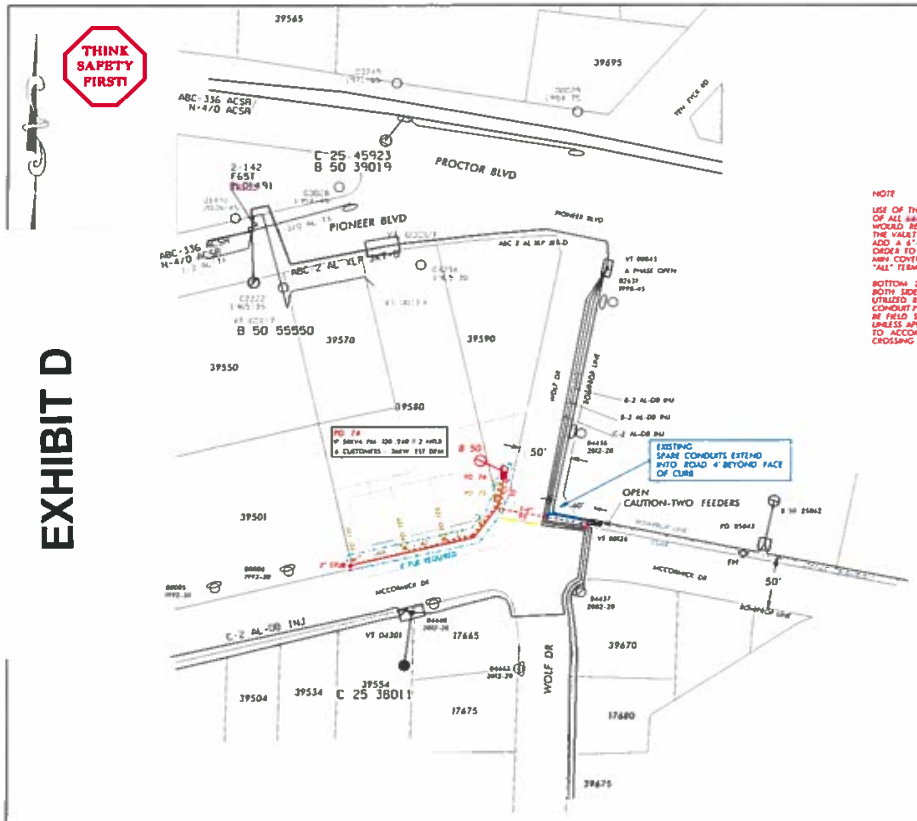


EXHIBIT D

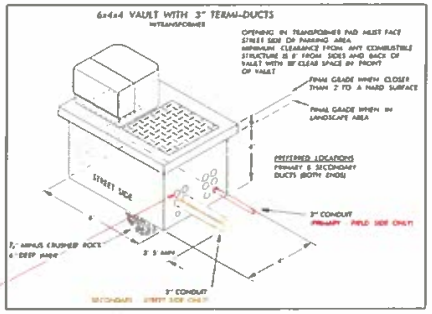
THINK SAFETY FIRST!



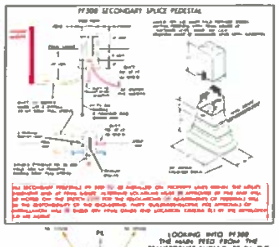
NOTE
USE OF THE TOP ROW OF ALL 660-PGE VAULTS WOULD REQUIRE SETTING THE VAULT DEEPER TO ADD A 6'-12" RISER IN ORDER TO MAINTAIN THE MIN COVERAGE OVER 'ALL' TERMA-DUCTS

BOTTOM 2 ROWS ON BOTH SIDES CAN BE UTILIZED BY SECONDARY CONDUIT PRIMARY IS TO BE FIELD SIDE AS INDICATED, UNLESS APPROVED BY PGE TO ACCOMMODATE A ROAD CROSSING

6x4x4 VAULT WITH 3" TERMI-DUCTS



PF300 SECONDARY SPLICE PEDESTAL



LOOPING INTO PF300
THE MAIN FEED FROM THE TRANSFORMER SHOULD BE IN THE REAR THE TWO STUBS FORWARD FUTURE HOUSE METERS FOR GOLD SHALL BE IN THE FRONT (STREET SIDE) TYPE STREETS A LOOPING FORWARD FOR THE 2ND HOUSE CAN ALSO BE MADE AT THE PGE VAULT TO BE INSTALLED IN THE REAR BEHIND THE MAIN INCOMING FEED CONDUIT

APARTMENT LEGEND

NEW PGE FACILITIES TO BE INSTALLED
(UNLESS OTHERWISE SPECIFIED)

660-PGE PADMOUNT VAULT WITH 66-3329-2126-PGE TOP PROVIDED & INSTALLED BY CUSTOMER

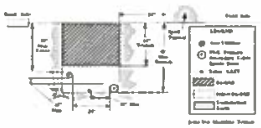
FAULT INDICATOR

INSTALL 1/0 AL-EPR AT PRIMARY IN 5" PVC CONDUIT PROVIDED & INSTALLED BY THE CUSTOMER

1.5" PVC CONDUIT FOR PHONE WIRE PROVIDED & INSTALLED BY CUSTOMER

DO WITH SLCST WO#42584373

CONSTRUCTION NOTES:



CONDUIT INSPECTION

SCHEDULE A PRE-CONSTRUCTION MEETING WITH YOUR CONTRACTOR AND PGE BEFORE STARTING CONSTRUCTION

CONTACT PGE 10 TO 15 WORKING DAYS PRIOR TO EXCAVATION CONDUIT INSPECTION REQUIRED PRIOR TO BACKFILL PGE WILL NOT INSTALL WIRE UNTIL TRENCH IS PROPERLY BACKFILLED

PGE WILL NOT INSTALL POWER UNTIL THE DEVELOPMENT INFRASTRUCTURE HAS RECEIVED FINAL APPROVAL

DUANE COOMBES – CONDUIT INSPECTOR PHONE 503-869-3538

PRE-EXCAVATION NOTES

- NO BACK TO BACK BENDS ALLOWED MUST HAVE 3' OF STRAIGHT PIPE BETWEEN ALL BENDS AND LEAVING ALL VAULTS

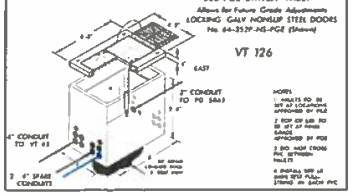
- KICK PIPE AT METER BASE MUST BE INSTALLED 90 DEGREES STRAIGHT AND FLUSH WITH WALL

- PRE-PLAN METER LOCATIONS IF FOOTING WILL REQUIRE A FOOTING BLOCK CUT OR POUR IN PLACE TO MAINTAIN FLUSH TO STRUCTURE KICK PIPE INSTALLATION SUBJECT AND APPROVED BY PGE PRIOR TO INSTALLATION

660-PGE SWITCH VAULT

Allows for Future Grade Adjustments
LOCKING GALV MONSUP STEEL DOORS
No. 66-3529-NS-PGE (Standard)

VT 126



ANY DEVIATION FROM THIS DESIGN MUST BE APPROVED BY PGE PROJECT MANAGER

RIGHT-OF-WAY PERMIT NOTICE

A PERMIT FROM THE LOCAL JURISDICTION IS REQUIRED BEFORE ANY WORK IN THE RIGHT OF WAY MAY BE PERFORMED. ONLY PGE APPROVED CONTRACTORS AND CONTRACTORS WHO HAVE MADE OTHER SPECIAL AGREEMENTS WITH PGE WILL BE ALLOWED TO WORK UNDER PGE'S PERMIT. THE CONTRACTOR MUST NOTIFY THE LOCAL JURISDICTION 48 HOURS BEFORE WORK IS TO BEGIN. A COPY OF THE PERMIT MUST BE ON SITE

CALL 811 BEFORE YOU DIG

811 Know what's below. Call before you dig.

AS-BUILT VERIFICATION & NESC VIOLATIONS CORRECTED

PRELIMINARY

RECEIVED
JAN 14 2019
CITY OF SANDY

EXHIBIT E

COMMENT SHEET for File No. 19-001 TREE:

THIS APPLICATION IS OK WITH ME.

RICHARD L. WEBSTER 503-826-9350
Your Name Phone Number

17735 LONNDALE DR.
Address

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.102 Urban Forestry.

CITY OF
SANDY
39250 PIONEER BOULEVARD • SANDY, OR 97055
www.ci.sandy.or.us
PHONE (503) 668-5533
FAX (503) 668-8714

Gateway to Mt. Hood

FINDINGS OF FACT and FINAL ORDER
TYPE I REVIEW

DATE: September 28, 2017

FILE NO.: 17-049 TREE

PROJECT NAME: City Townhomes Tree Removal

APPLICANT: Maria Skipper

OWNERS: McKenzie Cook and David Gradner (Church of Christ)

ADDRESS: NW corner of McCormick Drive and Wolf Drive

LEGAL DESCRIPTION: T2S R4E Section 13DB, Tax Lots 2100 and 2200

PROPOSAL: Remove 19 trees from the lot associated with the City Townhomes subdivision in compliance with Section 17.102, Urban Forestry.

DECISION: The applicant is authorized to remove 19 trees in preparation for the City Townhomes subdivision.

EXHIBITS:

Applicant's Submittals

A. Land Use Application Form
B. Tree Protection Plan and Arborist Report

FINDINGS OF FACT:

1. The goals and policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.

2. The subject lots have a Plan Map designation of Commercial, and a Zoning Map designation of C-1, Central Business District, and R-3, High Density Residential.

3. Section 17.102, Urban Forestry, applies to properties within the Sandy Urban Growth Boundary that are greater than one acre in area (including contiguous parcels under the same

ownership). Prior to the replat of the property (File No. 16-028 PLA), tax lots 2100 and 2200 were under the same ownership and totaled 1.12 acres. The trees proposed for removal are located on both lots, which total more than one (1) acre. Therefore, the proposal must be processed to determine compliance with Section 17.102, Urban Forestry.

4. Following approval of File No. 16-028 PLA, the applicant submitted the current application requesting approval to remove 19 trees to accommodate construction of six (6) row homes.

5. On August 25, 2017, the applicant submitted a separate application (17-048 SUB) for subdivision of the property into six (6) lots.

6. Section 17.102.20(A) states: "no person shall cut, harvest or remove trees 11 inches DBH or greater without first obtaining a permit and demonstrating compliance with this chapter." Section 17.102.80 specifies that violations of this section are subject to enforcement procedures contained in Chapter 17.06, specifically Section 17.06.80. This section specifies that each violation of the code is considered a separate offense punishable by a fine.

7. The applicant proposes to remove 19 trees that are 11-inches diameter at breast height (DBH) or greater.

8. Section 17.102.30 (A) details the procedures and application requirements for Type I tree removal permits. The applicant submitted a tree removal application in compliance with Section 17.102.30 (B). The proposal is considered a Type I permit because fewer than 50 trees are proposed to be removed.

9. Section 17.102.50 (A) details tree retention and protection requirements. Section 17.102.50 (A.1.) states: "at least three trees 11 inches DBH or greater are to be retained for every one-acre of contiguous ownership." The subject properties are 1.12 acres, therefore, three (3) retention trees are required. **The applicant shall install protective barrier fencing around protected trees as specified in Section 17.102.50 (B). The applicant shall request an inspection of erosion control measures and tree protection measures as specified in Section 17.102.50 (C) prior to construction activities or grading. The applicant shall record a tree protection covenant specifying protection of retained trees limiting removal without submittal of an Arborist's Report and City approval. This document shall include a sketch identifying the location of required protected trees and shall be recorded as part of the Final Plat. The tree protection covenant shall be submitted to the City for review and approval prior to recording.**

10. The submitted arborist report and tree plan (Exhibit B) by Richard Gillum of Rich's Tree Service verified tree locations and conditions on January 25, 2016. The report identifies six (6) native trees in good condition that are 11–inches DBH or greater on the subject property (tree numbers 11, 12, 13, 15, 16, and 19 on the submitted arborist report and tree plan). The report also identifies seven (7) trees in fair condition (tree numbers 8, 9, 17, 20, 21, 22, and 23), 8 trees in poor condition (tree numbers 1, 2, 3, 4, 5, 7, 10, and 18), and 1 tree in very poor condition (tree number 6) on the subject property, as well as one tree in fair condition in the right-of-way (tree number14). With removal of the 19 trees in this application, the site

will retain three (3) trees 11-inches DBH or greater and in good condition. The retained trees are a 54-inch cedar, a 44-inch cedar, and a 38-inch Douglas fir, all in good condition (tree numbers 11, 12, and 19 on the submitted arborist report and tree plan). Per the tree protection covenant conditioned in Finding 9, above, future removal of the three (3) retention trees will not be allowed without submittal of an Arborist's Report and City approval. **The applicant shall also be required to pay a third party arborist review fee for any trees proposed for removal from either property in the future.** To avoid potential issues with removal of retention trees in the future, staff encourages the applicant to retain more than three (3) 11-inch DBH or greater trees in good condition on the site.

DECISION:

This application to remove 19 trees is **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

1. **Prior to final plat approval for the City Townhomes subdivision, the applicant shall complete the following:**

   a. Submit proof of a tree protection covenant specifying protection of retained trees and limiting removal without submittal of an Arborist's Report and City approval. This document shall include a sketch identifying the location of the three (3) protected trees. The tree protection covenant shall be submitted to the City for review and approval prior to recording.

2. Tree removal shall be limited to 19 trees (11-inches DBH or greater) as detailed on the submitted tree protection plan.

3. Install protective barrier fencing around retention trees as specified in Section 17.102.50(B) to protect trees. Request an inspection of erosion control measures and tree protection measures as specified in Section 17.102.50(C) prior to construction activities, grading, or removal of any trees.

4. Future tree removal on the subject properties will not be allowed without submittal of an Arborist's Report and City approval in accordance with the tree protection covenant. The applicant shall also be required to pay a third party arborist review fee for any trees proposed for removal from either property in the future. Tree removal without permit authorization may result in a fine per occurrence as specified in Section 17.06.80.

Emily Meharg
Associate Planner

RIGHT OF APPEAL

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

An application for an appeal shall contain:

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