



PLANNING COMMISSION MEETING

Monday, June 10, 2024 at 6:30 PM
Sandy City Hall and via Zoom

AGENDA

TO ATTEND THE MEETING IN-PERSON:

Come to Sandy City Hall (lower parking lot entrance) - 39250 Pioneer Blvd., Sandy, OR 97055

TO ATTEND THE MEETING ONLINE VIA ZOOM:

Please use this link: <https://us02web.zoom.us/j/88284563017>

Or by phone: (253) 215-8782; Meeting ID: 88284563017

ROLL CALL

APPROVAL OF MINUTES

1. Approval of Minutes for April 22, 2024

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

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

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

DIRECTOR'S REPORT

2. Director's Report for June 2024

COUNCIL LIAISON AND PLANNING COMMISSIONER DISCUSSION

NEW BUSINESS

3. Tickle Creek Village Temp Trailer APPEAL - Staff Report

NEW BUSINESS

4. Chapter 17.74 Work Session

ADJOURN

Americans with Disabilities Act Notice: Please contact Sandy City Hall, 39250 Pioneer Blvd. Sandy, OR 97055 (Phone: 503-668-5533) at least 48 hours prior to the scheduled meeting time if you need an accommodation to observe and/or participate in this meeting.

**Sandy Planning Commission
Regular Meeting
Monday, April 22, 2024**

Chair Wegener called the meeting to order at 6:32 p.m.

1. MEETING FORMAT NOTICE: Instructions for electronic meeting

2. ROLL CALL

Commissioner Crosby – Present
Commissioner Poulin – Present
Commissioner Ramseyer – Present
Commissioner Vincent – Present
Commissioner Myhrum – Absent
Vice Chair Weinberg – Excused
Chair Wegener – Present

Council Liaison Mayton – Present

Others present: Development Services Director Kelly O'Neill Jr., Executive Assistant Rebecca Markham, Senior Planner Patrick Depa, City Attorney Josh Soper

3. APPROVAL OF MINUTES – February 26, 2024

Chair Wegener asked for any edits to the draft minutes. With no requested edits, Wegener declared the minutes approved.

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

None

5. DIRECTOR'S REPORT

Development Services Director Kelly O'Neill Jr. updated the Commissioners on the two upcoming work sessions discussing the Comprehensive Plan with the City Council on May 20th and the work session on Development Code Amendments that was scheduled for May 28th. After some discussion, the Planning Commission decided to move the work session scheduled for May 28th to June 10th.

O'Neill provided an update on the moratorium and the Commissioners asked O'Neill about the additional 270 ERU's. O'Neill said that the updated resolution with the additional 270 ERU's will be presented to the City Council on June 3rd for adoption.

6. NEW BUSINESS:

6.1. Land Use Approval Extension Ordinance (File No. 24-020 DCA)

Chair Wegener opened the legislative hearing on File No. 24-020 DCA at 6:46 p.m. Wegener called for any abstentions, conflicts of interest, ex-parte contact, challenges to the jurisdiction of the Planning Commission, or any challenges to any individual member of the Planning Commission. No challenges were made, and no declarations were made by the Planning Commission.

Staff Report:

O'Neill provided the Commission with the background, reason for the ordinance, and went over who would qualify. He explained that the ordinance will only allow for allocating ERU's for already approved developments prior to October 3, 2022, and will assist developers in gaining lending.

O'Neill also mentioned the public comments staff received from Next Adventure, Margo Clinton with SGS Development (Sandy Woods II), and Garrett Stephenson for Dave Vandehey (Bull Run Terrace). Mr. Stephenson on behalf of Bull Run Terrace supports the ordinance but would like to see a few modifications for "clear and objective" purposes and requests a two (2) year extension instead of the one (1) year extension being proposed.

O'Neill finished with staff's recommendation that the Planning Commission review the ordinance and findings and provide a recommendation to City Council.

Public Testimony in Favor:

Dave Vandehey
PO Box 703
Cornelius, OR 97113

Mr. Vandehey thanked O'Neill and said he did a great job summarizing the ordinance and their request for modifications. Vandehey explained their challenges and the reason for their request to modify the ordinance to two years from the one year being presented by staff.

Public Testimony in against:

None

Public Testimony neutral:

None

Staff Recap:

O'Neill said that he doesn't feel strongly one way or another on the modification or on changing the ordinance from one year to two years as requested by Mr. Vandehey's attorney.

Motion: Motion to close the public hearing at 7:03 p.m.

Moved By: Commissioner Crosby

Seconded By: Commissioner Ramseyer

Yes votes: All Ayes

No votes: None

Abstentions: None

Discussion:

The Commissioners discussed the request to modify the ordinance from one year to two years and had some concerns about the longer extension request. Chair Wegener stated that he doesn't like longer extensions but he's also neutral on either one or two years. Commissioner Crosby said he's also neutral on the modification to extend to two years but said the two years does give more assurance to lenders. Commissioner Ramseyer was concerned that two years would create a lapse in urgency and was not in favor of the two-year modification.

After some discussion, the Commissioners discussed ways to draft language that would allow a two-year extension only for projects that meet certain criteria such as size, scope, or related to a letter from a financial institution. Ramseyer also wanted something specified that wouldn't allow the applicant to modify the project.

Motion: Motion to forward the ordinance for File No. 24-020 DCA to the City Council for their approval with the addition of staff and the City Attorney drafting language that would allow for a two-year extension based on the complexity or size of the project, a letter from a financial institution, and that the development could not be altered.

Moved By: Commissioner Crosby
 Seconded By: Commissioner Ramseyer
 Yes votes: All Ayes
 No votes: None
 Abstentions: None

7. WORK SESSION:

7.1. Sign Code Modifications (Chapter 15.32)

O'Neill explained to the Commissioners that the last time the sign code was updated was in 2011. He also stated that staff started these modifications back in 2017 and worked closely with the City Attorney on the changes.

O'Neill said that the main modifications centered around removing First Amendment violations. He explained that the sign code is full of First Amendment rights violations such as what types of flags citizens can fly. He said the existing sign code is also very hard to understand and is very complicated.

O'Neill went through all the modifications with the Commission and answered their questions.

The Commission would like to see modifications to the reference of "watts" by having that updated to either "lumens" or the most up to date measurement of lighting.

Chair Wegener said that under "projecting signs" in Section 15.32.020(C)(6), he noticed that "marquees" do not mention size requirements as the other signs in that section do. The Commission discussed if "marquees" should have its own section or be modified with size and clearance restrictions. O'Neill stated that staff will look into it further.

Wegener also asked about the "base" requirements within residential zones for commercial and institutional uses under Section 15.32.30 (E)(5). Wegener feels it would be a bit burdensome for a home-based business. O'Neill explained that it relates to businesses such as daycares and churches while the smaller home-based businesses are referenced in the home occupation code in Section 17.74.80. O'Neill said staff will update this section to clarify and "cross reference" the home-occupation section.

Under Section 15.32.032 it was noted that item number three (3) under "area" is a repeat of number one (1) which also references the size. Staff will remove item number three.

Wegner asked for additional clarity under "prohibited signs" in Section 15.32.080(E) that mentions signs placed on motor vehicles. There was discussion about if it was clear enough to differentiate between work vehicles and larger non-operational parked trailers, semi-trucks, and other large stationary vehicles advertising a business. O'Neill stated that staff will modify and add clarity to the section. It was also noted in this same section there was a duplicate mention of the food cart exemption. O'Neill will remove one of the repeat sentences.

Under "nonconforming signs" (Section 15.32.060), Section A, number three (3), Crosby would like to see the wording "shall be abandoned" removed from the end of the sentence as he felt

there was no definition to determine what “abandoned” meant. O’Neill said that staff will review.

Ending the discussion, the Commission had questions about electronic menu boards that could be facing the right-of-way. O’Neill said that staff will review the electronic menu board regulations further.

8. ADJOURNMENT

Chair Wegener adjourned the meeting at 9:04 p.m.

Chair Darren Wegener

Attest:

Date signed: _____

Kelly O’Neill Jr.,
Development Services Director

DRAFT



STAFF REPORT

Planning Commission

Meeting Type: Planning Commission
Meeting Date: June 10, 2024
From: Kelly O'Neill Jr., Development Services Director
Subject: Director's Report for June 2024

Upcoming Meetings:

August 26, 2024 (tentative): Public Hearing regarding the Comprehensive Plan

Moratorium Update: After months of negotiations with the Environmental Protection Agency (EPA) and the Oregon Department of Environmental Quality (DEQ), the City of Sandy is pleased to announce that we will soon have an additional 270 ERUs available for construction. As a reminder, one ERU is the equivalent sanitary sewer flow of one single-family home. These 270 ERUs are in addition to the 300 ERUs that were originally granted under the Consent Decree in June 2023, providing a new total of 570 ERUs. Since June 20, 2023, the City has distributed 111.7 ERUs to construction projects in Sandy, leaving a remainder of 458.3 ERUs available as of the writing of this report.

It is important to note that these additional ERUs will be allocated almost entirely to development projects that have already received land use approval. While this enables development projects with existing land use approvals to proceed with construction, it does not provide for the submission of new land use applications with an additional sanitary sewer connection or an increase in sanitary sewer flows through an existing connection.

Based on this provision of 270 additional ERUs from EPA and DEQ, City staff have drafted a new replacement sanitary sewer moratorium resolution for the City Council's consideration. This new resolution includes several significant changes, including but not limited to increased ERU numbers; allowance for zone change requests; terms and conditions for the limited transfer of ERUs; and an ERU allocation program for properties with an existing land use approval. The negotiations with EPA and DEQ also resulted in conditional provision of an extra 190 ERUs in the future, contingent upon the City completing additional sanitary sewer system improvements. City staff will continue to pursue these further improvements as quickly as possible.

The City Council will consider the draft moratorium resolution at a public hearing on June 3, 2024, at 7:00 PM.

Comprehensive Plan Update: Following the joint work session that occurred on May 20, 2024, City staff and 3J Consulting have been working on modifications to the comprehensive plan document. These modifications are based on feedback from Councilor Hokanson, Commissioner Lee, and additional input that was received from the Department of Land Conservation and Development (DLCD). The final document is being prepared for a public hearing before the Planning Commission that is tentatively set to occur on August 26, 2024.

Land Use Approval Extension Ordinance: On May 20, 2024, the City Council adopted the land use extension ordinance as recommended by the Planning Commission. The land use extension ordinance includes a process to request a two-year extension. This ordinance is only applicable to properties with an existing land use approval for an application that was submitted prior to the adoption of the moratorium on October 3, 2022.

City Hall Staffing Update: Due to the development moratorium and the limitations on new connections to our wastewater system (particularly the lack of any capacity for new commercial development applications), City Administration had to make the very difficult decision to discontinue the Economic Development Manager position, effective August 1.

David Snider has been a valued member of our organization for well over a decade, and he will be greatly missed. I wish him the very best and am confident he will be successful in his next endeavors.

PLANNING COMMISSION STAFF REPORT

DATE:	May 31, 2024
NATURE OF APPLICATION:	Appeal the Temporary Structure Decision
APPLICANT/OWNER:	Dubarko Development Corporation/Gerry Engler
APPLICABLE CRITERIA:	Section 17.74.60 - Temporary Structures and Section 17.28.20 - Requirements for Appeal Application
PROPERTY LOCATION:	37101 Dubarko Road
MAP/TAX LOT	2S4E1403100
STAFF CONTACT:	Patrick Depa, Senior Planner
FILE NUMBER:	24-028 AP

PURPOSE

To determine if the Planning Division decision to allow just one temporary structure on a twenty-five (25) building condominium development is sufficient and should be upheld or should the decision be reversed or modified to allow a second temporary structure as the applicant requests.

BACKGROUND

In March 2024, Dubarko Development Corporation, owned by Gerry Engler, submitted a temporary structure application requesting the placement of two temporary trailers for the development of his condominium project. The condominium project called Timber Creek Village (File No. 19-038 DR/FSH/VAR/TREE) is approved for construction of twenty-five (25) multi-family/condominium buildings to contain a total of sixty-seven (67) dwelling units. The proposed development is on the southern portion of the property located north of Dubarko Road and east of Ruben Lane.

After the City reviewed the application (24-021 TEMP), a decision was issued on April 22, 2024, allowing just one temporary structure. The temporary structure application was reviewed according to the requirements for a Type II procedure because it was a renewal of their original Type I temporary structure request.

The applicant's Type I approval, File No. 21-055 TEMP, was approved on August 23, 2021, for one structure/trailer, and expired on May 30, 2022. The applicant eventually placed a second temporary structure/trailer on site without approval. During the time frame from the expiration of the first temporary structure approval, May 30, 2022, and the applicant's renewal approval on April 22, 2024, two temporary structures/trailers remained on site.

Summary of Important Dates:

ACTION	DATE
Application for Temporary Structure Received	March 13, 2024
Application Deemed Complete	March 20, 2024
Final Order Issued for File No. 24-021 TEMP	April 22, 2024
Appeal Submitted	May 3, 2024
Neighborhood Notice Sent	May 16, 2024
Legal Notice Published by Pamplin Media	May 22, 2024
Planning Commission Appeal Hearing	June 10, 2024

COMMENTS

- The city received two citizen comments (See EXHIBITS D & F)
- No comments were received from any other city departments.

APPEAL ANALYSIS

On May 3, 2024, the applicant/owner appealed conditions 1 and 2 of the staff decision approval issued on April 22, 2024. Condition 1 allows the applicant to “locate one temporary job site trailer per the submitted site plan” and Condition 2 details that “the second trailer presented in the application shall be removed within 30 days of this decision.” The property owner appealed the staff decision based on arguments made in their narrative, Exhibit B.

The applicant’s reason for appeal is that this decision creates a physical and financial hardship. As noted in the applicant’s request, one of the temporary structures (trailers) will be used as a temporary office and the second structure will be used for dry storage purposes only. The applicant is concerned that requiring removal of either of these trailers creates an unnecessary hardship, inconvenience, and expense as he works to construct the approved, multi-million-dollar housing project.

The Planning Division’s decision to allow only one temporary structure/trailer is based on past experiences with development of similar size or larger where only one temporary structure/trailer was requested and approved. Another reason for the hesitation to allow a second trailer was for the applicant’s past actions being in direct conflict with past conditions of approval. Temporary trailers were not removed after the approval period ended, a second trailer was moved on site without approval, and overnight stays were observed.

CONCLUSION

The Planning Division understands that construction had been paused and that is what triggered the interval between the first temporary structure approval on August 23, 2021, and the second approval on April 22, 2024. The Planning Division has seen recent investment in the project including the issuance of building permits that signals the project is back on track. The Planning Division also believes a compromise could allow the applicant to keep the second trailer until one of the units in Building A or B could be converted into a sales office and contractors space.

RECOMMENDATION

Staff recommends the Planning Commission do one of the following:

1. Uphold the staff decision per the final order for File No. 24-021 TEMP.
2. Modify the staff decision or conditions of approval.

EXHIBITS

- A. Notice of Intent to Appeal Form
- B. Grounds for Appeal Narrative
- C. Site Plan – Trailer Location
- D. Khris Alexander - Public Comment (May 20, 2024)
- E. Final Order for File No. 24-021 TEMP (staff issued decision)
- F. Tracy Brown email



Notice of Intent to Appeal

1 page

Name of Appellant:	Gerry Engler	Phone Number:	503-227-0440
Email:	GRE@buildersnw.com	Address:	37101 Dubarko Road (Site)
Map & Tax Lot #:	T: 2S	R: 4E	Section: 14
			Tax Lot(s) 3100

BASIS FOR STANDING APPEAL (please check all that apply)

Submitted written evidence during the initial review <input type="checkbox"/>
Testified orally at the hearing <input type="checkbox"/>
Participated through? Appeal of File No. 24-021 TEMP, Type II Temporary Structure Permit Application

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

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

Please note:

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

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

Staff Use Only

Appeal Filed within 12 calendar days of Written Decision: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Application complete: Yes <input type="checkbox"/> No <input type="checkbox"/>
Scheduled for review before the: Planning Commission <input type="checkbox"/> City Council <input type="checkbox"/>

File No.:	24-028 AP	Date of Decision:		Date Notice of Decision Mailed:	
Appeal Fee:	\$425	Date Appeal Filed:		Date Set for Hearing:	

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

Appeal Narrative File No. 24-021 TEMP

Items Submitted with this Application

- Completed Notice of Intent to Appeal Form
- Appeal Narrative
- Mailing Labels for Properties within 500 feet

Introduction

Gerry Engler, of Dubarko Development Corp, as property owner and applicant of the Tickle Creek Village Condominium project appeals Conditions 1 and 2 of File No. 24-021 TEMP. These Conditions allow only a single temporary job trailer to be located on the site and require the applicant to remove the second trailer within 30 days of the date of this decision (April 22, 2024). This document represents the applicant's initial comments to establish this appeal. Additional comments and information may be provided at a later date.

At the request of the City, on or about March 13, 2024 the applicant submitted a Type II Temporary Structure Permit application with fee requesting approval to site two temporary structures on the subject property to aid in the construction of the Tickle Creek Village Condominium project. These structures include two trailers, one used as a temporary office and a second for dry storage only. As stated in this application, the applicant made this request for two temporary structures because he believes both of these structures are necessary to ensure the successful completion of his project. The application was deemed complete by the City on March 20, 2024.

Following completion of the application, the City mailed notices to property owners within 500 feet of the site. Two property owners provided comments in response to the notice and both commenters recommended the application be approved.

On April 22, 2024 the City of Sandy issued a Final Order for this application limiting the applicant's request to one trailer only. Specifically, Condition 1 allows the applicant to "locate one temporary job site trailer per the submitted site plan" and Condition 2 details that "the second trailer presented in the application shall be removed within 30 days of this decision."

Conditions of Approval

1. The applicant is permitted to locate one temporary job site trailer per the submitted site plan at 37101 Dubarko Road (Tickle Creek Village), retroactively beginning on March 13, 2024, through March 12, 2025.
2. The second trailer presented in the application shall be removed within 30 days of this decision. No other structures are allowed with approval of this temporary use permit.

The reason(s) stated in the Final Order for this decision is found in Finding 7 and 8 of the Final Order:

7. Typical residential developments of this size usually have only one construction trailer and often use their first building for additional storage and occasionally a model for sales. The development has had multiple trailers on it in the past which have been reported as not being well maintained.
8. The City is only willing to approve one trailer at this time to stay consistent with other development projects.

Grounds for the Appeal

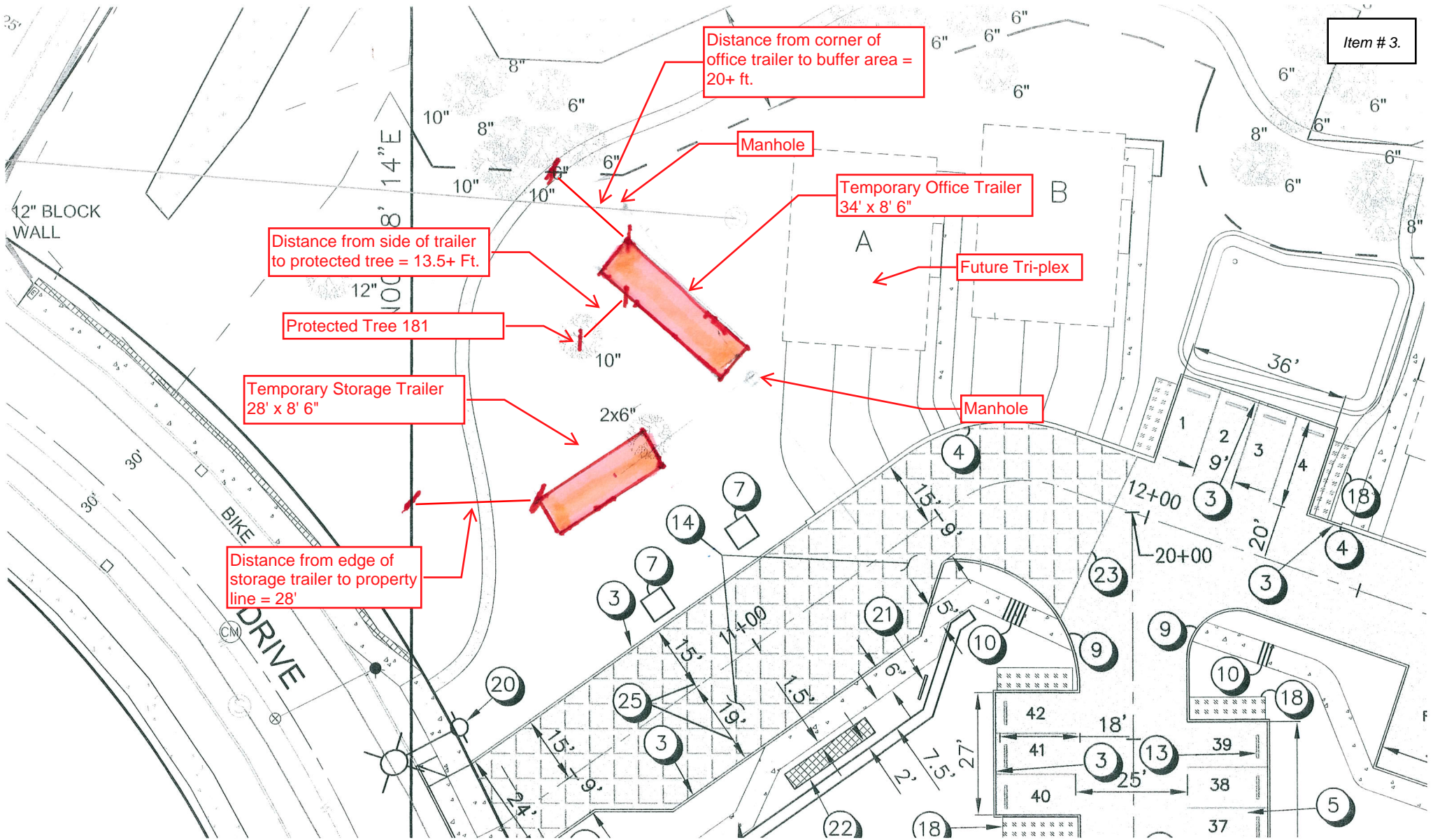
The applicant has appealed this decision due to the hardship that it creates. As noted in the applicant's request, one of the temporary structures (trailers) will be used as a temporary office and the second for dry storage purposes only. The applicant is concerned that requiring removal of either of these trailers creates an unnecessary hardship, inconvenience, and expense as he works to construct the approved, multi-million dollar housing project.

The applicant has been in the construction trade and project development business for over 40 years and his Foreman working on the site also has similar experience. It was with this experience that the applicant determined it was necessary to have both an onsite office and storage structure on the site. Factors that contributed to the applicant's request included the reality of working in varying onsite weather conditions and his history of dealing with theft and vandalism on the site. For these reasons, the applicant concluded it was necessary to have both a storage space to secure tools and equipment and a secure office space for his onsite Foreman to work out of. The applicant also felt that his request for two temporary structures was reasonable given the size and complexity of the project.

As detailed in Section 17.74.60, "temporary structures in connection with the building or sale of dwellings and land, and construction of industrial or commercial facilities may be permitted, for a period not to exceed one year, provided a temporary permit is first obtained ...". The applicant has requested two temporary structures.

Conclusion

The applicant has appealed File No. 24-021 TEMP, specifically Conditions 1 and 2 of this Final Order because he believes that limiting the job site to only one temporary structure creates an unnecessary hardship, inconvenience, and expense as he works to construct this project. The applicant requests the Planning Commission modify Conditions 1 and 2 of the Final Order to allow two temporary structures as requested.



TICKLE CREEK CONSTRUCTION TRAILERS
 37101 Dubarko Rd Sandy OR
 Scale = 1" = 30'

Rebecca Markham <rmarkham@ci.sandy.or.us>**Fwd: File # 24-028 AP**

1 message

Patrick Depa <pdepa@ci.sandy.or.us>
To: Rebecca Markham <rmarkham@ci.sandy.or.us>

Mon, May 20, 2024 at 9:42 AM

Rebecca, can you please put the email in the file. THANK YOU.

Patrick Depa
Senior Planner

City of Sandy
39250 Pioneer Boulevard
Sandy, OR 97055
(503) 783-2585
pdepa@ci.sandy.or.us



----- Forwarded message -----

From: **Khris Alexander** <trimet6213@gmail.com>
Date: Sat, May 18, 2024 at 1:32 PM
Subject: File # 24-028 AP
To: pdepa@ci.sandy.or.us <pdepa@ci.sandy.or.us>

I got a notice about this construction site. This is the 1st I'm hearing that 25 multi family condos and 67 dwellings are being built there. The traffic is already bad enough on dubarko and ruben lane that this will make it worse. The light on ruben to hwy 26 already sucks because it's not long enough to allow traffic unless someone hits the crosswalk button.

The 2 trailers on this property aren't construction trailers those are living quarter type rv's. I have seen construction trailers and they look like portable offices and for dry storage for tools how is an rv trailer with windows safe vs having a convex box like other construction companies use.

I say no for both trailers it already looks like someone is living in the nicer trailer and it's way to nice to be used as a construction trailer, I feel they wanna live on property.

Please don't allow either trailer on that property their not labeled as construction trailers. Those are rv's please make them have actual construction site trailers for an office and tool storage which both would be more secure and not an eyesore as rv's it kinda looks like a portland homeless camp with them there.

I live on sandy heights and dubarko and drive by this site numerous times a day.

Sorry to ramble and sound like a broken record.

Khris Alexander
Sandy, Oregon 97055

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**FINDINGS OF FACT and FINAL ORDER
TYPE II TEMPORARY STRUCTURE PERMIT**

DATE:	April 22, 2024
FILE NO.:	24-021 TEMP
APPLICATION:	Type II – Temporary Structure
NAME OF PROJECT:	Tickle Creek Village Condos Temp Job Trailer
APPLICANT:	Gerry Engler
OWNER:	Dubarko Development Corp.
LOCATION:	37101 Dubarko Road
TAX MAP & LOT:	24E14 03100
ZONING:	R-3 (High Density Residential)
STAFF CONTACT:	Patrick Depa, Senior Planner

EXHIBITS:

Applicant’s Submission

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

FINDINGS OF FACT

1. The applicant applied for a renewal for a temporary construction site trailer which is associated with Tickle Creek Village Condominiums (File No. 19-038 DR/FSH/VAR/TREE). The applicant is asking for the placement of two temporary construction trailers.
2. This temporary structure request was reviewed under a Type II application as required by Section 17.74.60(B). Section 17.74.60(B) requires that any Type I approval for a temporary structure be reviewed as a Type II if the original approval is renewed. The applicant’s Type I approval, File# 21-055 TEMP was approved on August 23, 2021, and expired May 30, 2022.
3. According to Section 17.74.60(B), temporary structures in connection with construction may be permitted for a period not to exceed one (1) year.
4. The temporary job site trailers are proposed to be placed between Building A and Dubarko Road on the northside of the entrance road. The trailers are already on site and have been at the locations represented on the site plan for an undetermined time.
5. The applicant is proposing the trailers will be a minimum of twenty (20) feet from the designated buffer area which will be verified. There are no replacement trees in the vicinity of the proposed trailer locations.
6. The larger of the two portable construction trailers is 272 sq. ft and 34 feet in length by 8 feet in width. The smaller construction trailer is 224 sq. ft and 28 feet in length by 8 feet in width.

7. Typical residential developments of this size usually have only one construction trailer and often use their first building for additional storage and occasionally a model for sales. The development has had multiple trailers on it in the past which have been reported as not being well maintained.
8. The City is only willing to approve one trailer at this time to stay consistent with other development projects.
9. The Sandy Development Code does not permit overnight accommodation (i.e., sleeping) in a recreational vehicle. Therefore, **no one shall sleep in the job site trailer.**
10. The applicant proposes to use a temporary onsite portable restroom facility.
11. The applicant is currently using a portable generator to power the temporary job site trailer. **The temporary job site trailer shall comply with Section 8.20 of the Municipal Code regarding noise.**
12. Signage shall not be allowed without first obtaining a sign permit. **The applicant is responsible for complying with Chapter 15.32 for all signage.**
13. The city received two responses from surrounding residents who are both in support of the trailers and the project starting back up again.

DECISION

For the reasons described above, the request by Dubarko Development Corp. to locate one temporary job site trailer at 37101 Dubarko Road (Tickle Creek Village), retroactively beginning on March 13, 2024, through March 12, 2025, is hereby **approved** as modified by the conditions listed below, including the requirement that one of the temporary job site trailers shall be removed within 30 days of this decision.

Staff has **denied** a second temporary job site trailer as other projects of similar size and scope have only been permitted one temporary job site trailer.

CONDITIONS OF APPROVAL

1. The applicant is permitted to locate one temporary job site trailer per the submitted site plan at 37101 Dubarko Road (Tickle Creek Village), retroactively beginning on March 13, 2024, through March 12, 2025.
2. The second trailer presented in the application shall be removed within 30 days of this decision. No other structures are allowed with approval of this temporary use permit.
3. The temporary job site trailer approved with this decision shall be removed by the applicant no later than Wednesday March 12, 2025, unless an application extending this timeline has been applied for and approved prior to this date.
4. An additional extension of the temporary structure permit shall require a Type II process as specified by Section 17.74.60 (B) of the Sandy Development Code.

5. The temporary job site trailer and generator shall comply with Section 8.20 of the Municipal Code regarding noise.
6. No one shall sleep or stay overnight in the job site trailer.
7. The applicant is proposing the trailers will be a minimum of twenty (20) feet from the designated buffer area which will be verified.
8. This Temporary Structure Permit may be revoked by the City if the conditions of approval in this decision are not met. Approval of this Temporary Structure does not grant authority for the unrestricted use of the site.
9. Any other conditions or regulations required by Clackamas County and Fire District No. 72, are hereby made a part of this permit and any violation of the conditions of this approval will result in the review of this permit and/or revocation.
10. The applicant shall contact the Public Works Department for approval prior to connecting to the City's sanitary sewer infrastructure.
11. All signage requires a separate sign permit per Chapter 15.32.
12. The applicant shall apply for a building permit and install all improvements as required by the Sandy Building Official including adhering to all ADA standards.

Patrick Depa
Senior Planner

RIGHT OF APPEAL

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

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;

4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.28.50;
5. *Payment of required filing fees.* Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed;
6. The name and mailing address of the person or entity appealing the decision; and
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal.

Appeal of File No. 24-021 TEMP

Tracy Brown <tbrownplan@gmail.com>
To: Patrick Depa <pdepa@ci.sandy.or.us>
Bcc: Gerry Engler <gre@buildernw.com>

Mon, May 6, 2024 at 3:05 PM

Hi, please find my responses in blue below. Also, I just talked to Gerry on the phone and he said he is going to reach out to you to set up an onsite meeting for Wednesday.

I looked over the application and everything appears to be included. I will look it over again and if it is good I will write up a completion letter. I probably will get the notice out next week for the June 10th meeting. Just to clarify, the Planning Commission is meeting on June 10th?

I recall you telling us at one point the second trailer was full of mold. Did we hear you wrong? Should we ask for a mold test or is he planning on moving that trailer out and moving a new one in? I never said the trailer was full of mold and when I looked inside it the other day, I didn't see any mold. The second trailer has various construction materials and tools in it. It is needed to store these items.

I also heard Gerry let someone live in the other trailer as his security until he died. Is that a true story, because overnight stays are not allowed. I believe I heard that was during a time when this temporary permit expired and the two trailers stayed on the property illegally. I don't know everything that was said in the past between Gerry and the City, but the original application for a temporary structure permit was applied for by the Excavation Contractor to have a place for workers to have lunch etc. As it evolved the site was hit several times by vandals and Gerry talked to Kelly about having someone stay onsite overnight as a night watchman. I wasn't involved but. I know Gerry talked to Kelly about this and Gerry told me Kelly said he was ok with that as long as no one complained. I don't believe anyone ever complained.. I suggest you talk to Kelly or Gerry about this past history as they know it better than I do.

FINDINGS OF FACT and FINAL ORDER TYPE I TEMPORARY STRUCTURE PERMIT

DATE: September 24, 2021

FILE NO.: 21-055 TEMP ~ Tickle Creek Village – Job Site RV

APPLICANT: Dan Riehl Excavating

OWNER: Dubarko Development Corporation (Gerry Engler)

LOCATION: 37101 Dubarko Road

LEGAL DESCRIPTION: 24E14 03100

Also, isn't one of his trailers a RV? Has the city approved a RV as a construction trailer in the past? He may have to remove the trailer and replace it with a true construction trailer. Both of the temporary structures are RV's and this is the type of structure that was approved back in 2021. One of the trailers is owned by the onsite Foreman who has used this trailer on numerous construction projects over the years. The other trailer is owned by Gerry and has essentially been gutted to be used for storage. The answer to your question about the City approving RV's to be used as a construction trailer, I would say the answer is yes as evidenced by both the current and previous approval. To tell you the truth, in my 15 years as Planning Director I don't recall ever processing a temporary structure permit for a job trailer or any kind used on a construction site. I always felt this was up to the contractor to determine how and when a construction trailer was needed and this seemed like an unnecessary requirement to me. I also don't recall this ever became a problem or was it abused or required Code Enforcement action.

Please let me know if you have any questions. I hope you are able to make it out to the site on Wednesday.

Item # 3.

Tracy

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Sandy, Oregon

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[Quoted text hidden]



STAFF REPORT

Planning Commission

Work Session

Meeting Type: Planning Commission
Meeting Date: June 10, 2024
From: Kelly O'Neill Jr.
Subject: Chapter 17.74 Work Session

DECISION TO BE MADE:

Hold a work session to discuss proposed code amendments for fences/retaining walls and temporary uses/structures in Chapter 17.74 of the Sandy Municipal Code.

BACKGROUND / CONTEXT:

On November 27, 2023, the Planning Commission held a [work session](#) to discuss municipal code amendments. The work session included a prioritization of code amendments, which included input from the Commission that code amendments from the City Council and City Administration should be completed first. As discussed during that work session, the code amendments would come before the Commission after the adoption of the Clear and Objective Code Audit. The City Council adopted the Clear and Objective Code modifications by ordinance on February 20, 2024.

On April 22, 2024, the Planning Commission held a work session to discuss code modifications to the Sandy Sign Code in Chapter 15.32. Mayor Pulliam has since created a subcommittee consisting of three City Councilors and Commission Chair Wegener to review code amendments related to fines and code enforcement actions.

This work session before the Commission is to address fences/retaining walls and temporary uses/structures. Future code amendment work sessions will include urban forestry standards (Chapter 17.102), drive-thru requirements (Chapter 17.94), commercial and industrial accessory building standards (Chapter 17.90), and major utilities (Chapter 17.76).

KEY CONSIDERATIONS / ANALYSIS:

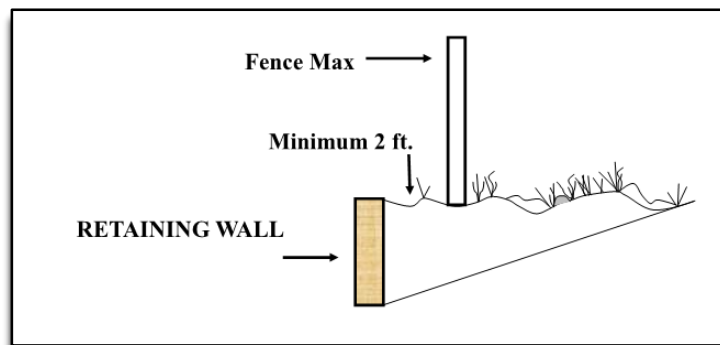
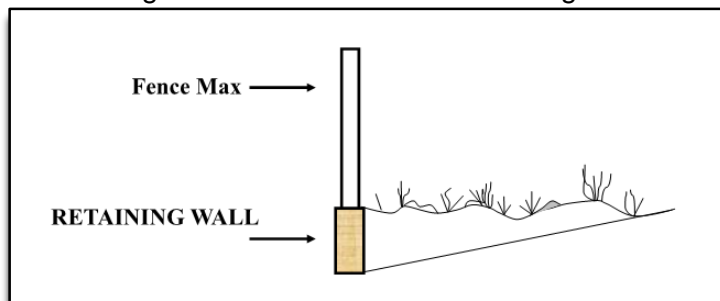
The following information outlines the primary proposed code modifications:

Section 17.74.40. Fences and retaining walls:

Staff brought proposed amendments regarding fences and retaining walls to the Planning Commission in November 2015, but those code amendments were never adopted. The height of fences and retaining walls are currently regulated by regulations based on the zoning district of the property and the location of the fence or wall. For example, in a residential zone the maximum fence/retaining wall (for combination walls also) is only permitted at 8 feet in height in rear yards and interior side yards, and 6 feet in height in side yards abutting a right-of-way.

Due to topography in Sandy, many lots have slopes that make strict adherence to fence and retaining wall height regulations challenging. We occasionally receive requests from property owners wanting to exceed the eight-foot combined height for fences and retaining walls in rear and side yards. There have been cases where modifications to this standard can be processed through an adjustment or variances process. Creating additional code language for combined fences/retaining walls could allow for increased flexibility without violating the intent of the regulations. Staff recommends new standards are adopted to allow a fence/retaining wall combination to exceed the eight-foot height maximum under some circumstances. The proposal is to allow a combined height up to 10 feet when a fence is on top of a retaining wall and allow a combined height up to 12 feet when the fence is setback at least two linear feet from the retaining wall.

Diagram of combined fence/retaining wall:



The proposed code modifications also include a limitation on galvanized metal fencing in front yards, except for hog wire framed with wood.

Picture of hog wire framed with wood:



Section 17.74.60. Temporary uses or structures:

City Administration asked for updates to this code section to align code language with temporary use and temporary structure permits that have been issued the past few years. The proposed code language incorporates standards that are commonly integrated into the findings and conditions for temporary uses and structures.

The Development Services Department routinely issues temporary use permits for events, such as the Mount Hood Farmers Market or Sandy Invitational Chainsaw Carving Event. Temporary structure permits are more routinely issued for construction trailers and temporary storage.

RECOMMENDATION:

Staff recommends that the Planning Commission discuss the proposed code modifications and provide staff with suggested modifications for staff to prepare a legislative public hearing.

LIST OF ATTACHMENTS / EXHIBITS:

Exhibit A. Chapter 17.74 markup

Sec. 17.74.40. Fences and retaining walls.

A. ~~Fences~~—Residential/*Parks and Open Space zoning districts*.

1. Fences on corner lots. Any fence or retaining wall, constructed upon or adjacent to any property line that abuts two or more intersecting streets, shall not exceed three feet in height within the vision clearance area as specified in Section 17.74.30.
2. Fences in a front yard. The height of a fence or retaining wall in a front yard shall not exceed four feet. Front yard fencing cannot be galvanized metal fencing material, except for hog wire framed with wood.
3. Fences—Side and rear yards abutting streets. The height of a fence, retaining wall, or a combination of the two in a side or rear yard abutting a public right-of-way shall not exceed six feet above the grade of the right-of-way.
4. Fences—Side and rear yards abutting other lots. The height of a fence, ~~or~~ retaining wall, ~~or a combination of the two~~ in a side or rear yard abutting other lots shall not exceed eight feet, ~~above the grade of the right-of-way~~. The combined height of a fence with a retaining wall may exceed eight feet in height in accordance with the following:
 - a. The total combined height of a fence and retaining wall shall not exceed 10 feet with the fence or retaining wall not exceeding a total individual height of eight feet.
 - a.b. The total combined height of a fence and retaining wall shall not exceed 12 feet with the fence or retaining wall not exceeding a total individual height of eight feet, provided that the fence is setback a minimum of two horizontal feet from the retaining wall.
5. Sight Obscuring Hedges. Trees or shrubs that form a sight-obscuring hedge shall comply with the same height requirement as a fence within the ~~clear~~-vision clearance area. Deciduous trees separated by at least 15 feet may grow to any height.
6. Front Yard Fences for Existing Dwellings on Major Arterials. The height of a fence in a front yard for an existing dwelling (constructed prior to July 1, 1996) facing a major arterial shall not exceed a height of six feet outside the ~~clear~~-vision clearance area.
7. Fences on Through Lots. Gates are required in rear-yard fences on through lots since it remains the property owners' responsibility to maintain the area from the curb or edge of pavement to a proposed fence.

B. ~~Fences~~—Commercial/*Industrial zoning districts*.

1. Fences on corner lots. Any fence or retaining wall, constructed upon or adjacent to any property line that abuts two or more intersecting streets, shall not exceed three feet in height within the ~~clear~~-vision clearance area as specified in Section 17.74.30.
2. Fences in a front yard (specific to C commercial zoning districts). The height of a fence or retaining wall in a front yard shall not exceed four feet. Front yard fencing cannot be galvanized metal fencing material, except for hog wire framed with wood.
3. Fences in a front yard (specific to H industrial zoning districts). The height of a fence or retaining wall in a front yard shall not exceed six feet. Front yard fencing cannot be galvanized metal fencing material, except for hog wire framed with wood.

4. Fences—Side and Rear Yards. The height of a fence or retaining wall adjacent to a side or rear yard or a side or rear property line shall not exceed eight feet. The combined height of a fence with a retaining wall may exceed eight feet in height in accordance with the following:
- a. The total combined height of a fence and retaining wall shall not exceed 10 feet with the fence or retaining wall not exceeding a total individual height of eight feet.
 - a.b. The total combined height of a fence and retaining wall shall not exceed 12 feet with the fence or retaining wall not exceeding a total individual height of eight feet, provided that the fence is setback a minimum of two horizontal feet from the retaining wall.
5. Sight Obscuring Hedges. Trees or shrubs that form a sight-obscuring hedge shall comply with the same height requirement as a fence within the ~~clear~~-vision clearance area. Deciduous trees separated by at least 15 feet may grow to any height.
- C. *Fence Regulations for Recreation Areas.* Any recreational court may be enclosed by a wire fence not exceeding 12 feet in height provided that no part of the court fence is within 20 feet of any ~~street~~ public right-of-way.
- D. *Fence Regulations for Swimming Pool/Hot Tub Areas.* A swimming pool, hot tub, or other human-made outside body of water, which has a depth greater than 18 inches shall be enclosed with a fence not less than four feet and not more than eight feet in height. If located on or surrounded by a deck, the deck shall be enclosed with a railing ~~with a height~~ of not less than four feet and not more than eight feet in height. The fence or railing shall not have any openings, holes, or gaps larger than four inches square, except for doors or gates. Any gate shall be equipped with a self-closing, self-latching device. A dwelling unit and/or accessory building may form part of the enclosure.
- E. *Fence Regulations for Stormwater Detention Facilities and Human-Made Wetlands.* A stormwater detention facility or human-made wetlands, which is designed for a water depth greater than 18 inches, shall be enclosed with a black coated chain link fence not less than six feet and not more than eight feet in height.
- F. *Wire Fences.*
1. Barbed wire fencing may be permitted for agricultural, community service, commercial, or industrial uses when the wire is employed on the top of any other type of fencing, and when the barbed wire is a minimum of six feet above the finished ground surface and does not extend over a public right-of-way. The maximum combined height of the fence with barbed wire shall not exceed eight feet.
 2. No electrically charged or sharp pointed fencing such as razor wire (other than barbed wire fencing) shall be constructed or maintained within the city limits.
- G. Fences in excess of seven (7) feet in height require a building permit in accordance with Title 15.
- (Ord. No. 2021-03 , § 6(Exh. F), 5-17-2021)

Sec. 17.74.60. Temporary uses or structures.

A. *Temporary Uses.* Temporary uses, as defined in Chapter 17.10—Definitions, not located within a structure (except for fire-retardant fabric structures), may be permitted for a period not to exceed 90 days, provided a temporary use permit is first obtained under the Type I procedure. Temporary use permits shall meet all the following standards:

1. The temporary use shall be located within the boundaries of the property and not located in the right-of-way unless the City approves the use in the right-of-way under a separate process.
2. The temporary use shall not interfere with ADA compliant parking spaces and vehicles shall not be parked on unimproved surfaces, such as grass, unless permitted by the temporary use approval.
3. The temporary use shall be monitored to ensure there is no disruption to traffic or adverse impacts to surrounding properties.
4. The temporary use shall comply with Title 8 of the Sandy Municipal Code in regard to music and amplified music.
5. The temporary use shall comply with Title 15 of the Sandy Municipal Code in regard to signage.
6. Fabric structures shall be secured at all corners to prevent being blown by the wind. The securing system used shall not penetrate any parking lot surfaces.
7. The use shall continuously meet the requirements of the Oregon Fire Code, Chapter 31.

When a temporary use permit expires, the applicant shall return the site to pre-temporary use conditions immediately. The ~~R~~ renewal of a temporary permit shall be processed under the Type II procedure and shall be applied for at least 30 days prior to expiration of the temporary use permit.

B. *Temporary Structures.* Temporary structures in connection with the building or sale of dwellings and land, ~~and~~ construction of industrial or commercial facilities, construction of parks, or in conjunction with an emergency (e.g. a kitchen fire), may be permitted, for a period not to exceed one (1) year, provided a temporary structure permit is first obtained under the Type I procedure. ~~Renewal of a temporary permit shall be processed under the Type II procedure.~~ Temporary structure permits shall meet all the following standards:

1. The temporary structure shall be located within the boundaries of the property, not located in the right-of-way, and shall not include any overnight accommodation.
2. All locational standards for structures in the applicable zoning district are met (e.g., setbacks and height).
3. Ingress and egress to the temporary structure shall meet the requirements of the latest edition of the Oregon Building Codes.
4. The temporary structure shall be served by utility services or shall submit a utility service plan.

When a temporary structure permit expires, the applicant shall remove the temporary structure from the site immediately. The renewal of a temporary structure permit shall be processed under the Type II procedure and shall be applied for at least 30 days prior to expiration of the temporary structure permit.

C. *Portable Outdoor Storage Unit.* Portable outdoor storage units may be placed on a lot, including within the setback areas, for not more than 60 days (any portion of a day, between 12:00 a.m. and ending at 11:59 p.m., shall be counted as a day) within any 12 month period. Portable outdoor storage units shall not be located in the public right-of-way and shall not restrict access to any walkway.