

## **FINDINGS OF FACT and FINAL ORDER TYPE I LAND USE DECISION**

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<b>DATE OF ISSUANCE:</b>	November 14, 2024
<b>FILE NO.:</b>	24-062 MOD
<b>PROJECT NAME:</b>	Cascade Creek Building A Façade Modification
<b>APPLICABLE CRITERIA:</b>	Chapter 17.90.80 Modifying Approvals
<b>APPLICANT:</b>	William Bowdish
<b>PROPERTY OWNER:</b>	Zac Baker
<b>SITUS ADDRESS:</b>	38272 and 38330 Highway 211
<b>MAP/TAX LOT:</b>	T2 RE Section 24BC, Tax Lots 4400 and 4500
<b>ZONE DESIGNATIONS:</b>	Low-Density Residential (R-1), Medium-Density Residential (R-2), and Village Commercial (C-3) with the Bornstedt Village Overlay (BVO)
<b>STAFF CONTACT:</b>	Kelly O'Neill Jr., Development Services Director

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This proposal was reviewed concurrently as a Type I design review minor modification. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the proposed conditions of approval.

### **BACKGROUND**

The Planning Commission approved a Type III design review, major partition, and four variances associated with the Cascade Creek Mixed-Use Development subject to conditions of approval. The Cascade Creek Mixed-Use Development met the applicable approval criteria in the Sandy Municipal Code and achieved some major goals consistent with long range planning objectives in the City of Sandy. Since the approval in July 2023 the property owner has completed construction plan review and has started earthwork, utility installations, and foundation work on the buildings.

The applicant is proposing to modify their design review application (22-039 DR/VAR/MP/TREE) for Building A which is north of Cascadia Village Drive. The applicant proposes to move the electrical panels from the west side of Building A to the east side of Building A. The relocation of the electrical panels will lead to the removal of a window on the east elevation, but fortunately will remove the panels from a prominent view on Village Blvd.

The applicant applied for this design review modification on November 4, 2024, and City staff issued a letter of completeness on November 6, 2024. The 120-day deadline for this application is March 6, 2025.

### **EXHIBITS**

#### **Applicant's Submittals**

- A. Land Use Application
- B. Approved Plans
- C. Proposed Plans

## **FINDINGS OF FACT**

### **Section 17.90.80. – Modifying approvals**

A. *Major Modification.* A major modification to a Design Review approval shall be processed as a new application. Major Modifications include but are not limited to:

- a. Changes in proposed land use;
- b. Substantial change in building elevation and materials;
- c. Changes in type and location of access ways and parking areas where off-site traffic would be affected;
- d. Increase in the floor area proposed for nonresidential use by more than ten percent from what was previously specified;
- e. Increase in the total ground area proposed to be covered by structures or parking by more than ten percent from what was previously specified;
- f. Reduction of project amenities provided, such as civic space, recreational facilities, screening, and/or landscaping provisions by more than ten percent from what was previously specified, and;
- g. Any other modification to a requirement established at the time of Design Review approval.

B. *Minor Modification.* Minor Modifications may include any of the changes listed above provided the change is below the quantifiable thresholds for a Major Modification, per Section 17.90.80.A. Minor modifications shall be processed as a Type I or Type II decision; a Type II procedure shall be used where the modification requires interpretation of a discretionary standard.

1. There are no changes in the proposed land use. There is no substantial change in building elevation and materials. There are no changes to the parking area or circulation patterns that would alter any off-site traffic. The modification is not a major modification as defined in Section 17.90.80(A). The modification is below the thresholds of a major modification and is therefore processed as a Type I design review minor modification. **All conditions from the Final Order for File No. 22-039 DR/VAR/MP/ TREE shall be met unless specifically modified by this Final Order.**

### **Chapter 17.90 – Design Standards**

2. The proposal is subject to all the requirements for a Design Review as stated in Chapter 17.90. For the purpose of this design review minor modification, only applicable code sections will be contained in the findings.
3. Section 17.90.70 specifies that **design review approval shall be void after two (2) years from the date of the Final Order unless the applicant has submitted revised plans for building permit approval.**

4. Section 17.90.110(B) contains provisions specifying building facades, construction materials, and colors. **The applicant shall submit revised plans to the Building Division detailing additional cementitious siding on Building A on the west elevation and the removal of cementitious siding on the east elevation to accommodate the electrical panels.** There is a small overhang on the west elevation for the electrical panels. It is not clear with the submitted application materials for this modification if the cover will remain or be removed. **The applicant shall submit revised plans to the Building Division with details on the cover that was proposed above the electrical panels on the west elevation.** The overhang on the east elevation that was proposed above the window, that is proposed for removal, will remain above the electrical panels.
5. Section 17.90.110(B)(3)(b) requires that at least 36 inches of a buildings base contains stone on the sides of the building visible from the public street. The removal of the electrical panels will allow for additional stone base on the west elevation but will remove some of the stone base on the east elevation. **The applicant shall submit revised plans to the Building Division detailing additional stone along the base of Building A on the west elevation and the removal of stone along the base on the east elevation to accommodate the electrical panels.**
6. Section 17.90.110(B)(4) requires exterior building colors to include warm earth tones that conform to the Color Palette in Chapter 17.90, Appendix C. The applicant submitted paint colors in conformance with the approved color palette. **The applicant shall paint the modified building areas on the west and east elevations of Building A with the approved paint colors on those elevations.**
7. Section 17.90.110(E) contains standards for construction and placement of windows. The intent of windows is to promote business vitality, public safety, and aesthetics through effective window placement and design. Both the north and south elevations of Building A meet the pedestrian activation requirement by providing pedestrian entrances and shelters facing Cascadia Village Drive and the parking lot to the north of the building, and also provide window glazing meeting the requirements in Section 17.90.110(E). The window that is proposed to be removed is on the east elevation of Building A which is not an activated frontage and doesn't have the same glazing requirements.
8. Section 17.90.110(I) contains standards to promote natural surveillance of public spaces. Windows located on the front, sides, and rear of the building will allow employees to watch the parking area and other areas of the property. The buildings are designed to allow viewing of all parking areas. The window that is being proposed for removal on the east elevation is located in a storage area within the first floor of Building A. The storage area will not be occupied. The removal of the window will have no impact on surveillance.
9. Section 17.90.110(J) contains standards regarding external storage and screening intended to promote land use compatibility and aesthetics, particularly where development abuts public spaces. Per Section 17.90.110(J)(3), mechanical, electrical, communications equipment including meters and transformers, and service and delivery entrances and garbage storage areas shall be screened from view from public rights-of-way and civic spaces. **The**

**applicant shall submit revised plans to the Building Division detailing the proposed screening method for the electrical panels on the east elevation of Building A.**

## **DECISION**

The design review minor modification for Building A in the Cascade Creek Mixed-Use Development is hereby **approved** with adherence to the conditions of approval listed below.

## **CONDITIONS OF APPROVAL**

**A. All conditions from the Final Order for File No. 22-039 DR/VAR/MP/ TREE shall be met unless specifically modified by this Final Order.**

**B. The applicant shall submit revised building plans to the Building Division for staff review and approval, detailing the following:**

1. Additional stone along the base of Building A on the west elevation and the removal of stone along the base on the east elevation to accommodate the electrical panels.
2. Additional cementitious siding on Building A on the west elevation and the removal of cementitious siding on the east elevation to accommodate the electrical panels.
3. Details on the cover that was proposed above the electrical panels on the west elevation.
4. Details on the proposed screening method for the electrical panels on the east elevation of Building A.

**C. General Conditions**

1. Design review approval shall be void after two (2) years from the date of the Final Order unless the applicant has submitted revised plans for building permit approval.
2. The applicant shall paint the modified building areas on the west and east elevations of Building A with the approved paint colors on those elevations.
3. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of additional building permits.
4. Land use approval does not connote approval of utility or public improvement plans submitted with the land use application.
5. Comply with all other conditions or regulations imposed by the Clackamas Fire District or state and federal agencies. Compliance is made a part of this approval and any violations of these conditions and/or regulations may result in the review of this approval and/or revocation of approval.



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Kelly O'Neill Jr.  
Development Services Director

## **RIGHT OF APPEAL**

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

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in 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) or 500 feet of the subject property for appeal of a Type II or Type III decision. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal. Note that a Type IV decision may be appealed to the Land Use Board of Appeals (LUBA) or to other tribunals in accordance with Oregon law.