

**STAFF REPORT**  
**CITY OF LAKE OSWEGO**

**PLANNING DIVISION**

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APPLICANT/OWNER:

FAOF Bay Vista LLC  
(Agent: Redwood Construction)

FILE NO:

LU 13-0007

TAX LOT REFERENCE:

Tax Lot 300 of Tax Map 21E 10 AA

STAFF:

Debra Andreades, AICP

LOCATION:

295 3<sup>rd</sup> Street

DATE OF REPORT:

April 2, 2012

COMP. PLAN DESCRIPTION:

R-0/EC

120-DAY DECISION DATE

July 12, 2013

ZONING DESIGNATION:

R-0/EC

NEIGHBORHOOD ASSOCIATION:

Evergreen

**I. APPLICANTS' REQUEST**

The applicant is requesting approval of a Development Review permit for an exterior remodel of an existing multi-family dwelling.

**II. DECISION**

**Approval** with conditions. The complete list of conditions is provided on page 5 of this report.

### III. APPLICABLE REGULATIONS

#### A. City of Lake Oswego Community Development Code (Chapter LOC 50):

LOC 50.01.006	Nonconforming Structures and Uses
LOC 50.04.001.3	Dimensional Standards-R-0 zone
LOC 50.06.002	Parking
LOC 50.05.004.1-50.05.004.12	Downtown Redevelopment District Design Standards
LOC 50.06.003.1	Access
LOC 50.06.004.1	Landscaping, Screening and Buffering
LOC 50.06.004.3	Lighting
LOC 50.06.005	Park and Open Space
LOC 50.06.006.3	Drainage
LOC 50.07.003.1.b	Burden of Proof
LOC 50.07.003.5	Conditions of Approval
LOC 50.07.003.14	Review of Minor Development Applications
LOC 50.07.003.7.b	Appeal of Minor Development Decision
LOC 50.07.003.6	Effect of Decision
LOC 50.01.003.2.d	Interpretation of Approvals
LOC 50.07.003.10	Certificate of Occupancy

### IV. FINDINGS

#### A. Background/Existing Conditions:

1. The site is located on 3<sup>rd</sup> Street, a local street (Exhibit E-1).
2. The site contains several existing multi-family structures. One of these structures is the subject of this application. The property is zoned R-0/EC which is a high density residential zone that is located within the East End Design District. Properties to the north and south are also zoned R-0/EC and developed with multi-family and single family dwellings, respectively. Properties to the west are zoned R-7.5 and developed with single family dwellings, and to the east is Millennium Park, zoned PNA (Parks and Natural Areas), Exhibit E-2.

### V. REVIEW AND APPROVAL PROCEDURES

#### A. Neighborhood Meeting

Per LOC 50.07.003.1.f the City Manager may require neighborhood contact pursuant to this section prior to the filing of an application, if neighborhood contact is deemed to be beneficial. No neighborhood meeting was required for this application because the proposed modification to the façade is not extensive and only affects one building in a multi-structure development.

#### B. Public Notice to Surrounding Area

Pursuant to LOC 50.07.003.3.e, the City has provided adequate public notice and opportunity to comment on this application. No comments were received as of the date of this report.

C. Burden of Proof:

Per LOC 50.07.003.1.b, the applicant for a development permit shall bear the burden of proof that the application complies with all applicable review criteria or can be made to comply with applicable criteria by imposition of conditions of approval. The applicant has provided sufficient evidence to enable staff to evaluate the proposal. These documents are listed as exhibits at the end this report.

D. Classification of Application

A request for a Development Review Permit is a minor development per LOC 50.07.003.14.a.ii.2 (modification of more than 25% of the façade).

E. Minor Development- Criteria for Review of Application

Per LOC 50.07.003.14.d.ii, for any minor development application to be approved, it shall first be established that the proposal complies with:

**1. The requirements of the zone in which it is located;**

**Dimensional Standards: R-0 zone [LOC 50.04.001.3]**

The site is located within the Downtown Redevelopment Design District with split zoning of R-0/EC. The existing use is residential; therefore the standards of the R-0 zone apply. The request is for improvements to a multi-family residential structure which is an allowed use in the zone [LOC 50.03.002].

The yard setback is 10 feet for all yards, floor area ratio (FAR) is 1.2:1, the maximum height of a structure may average 40 feet over the project site with a single structure at 50 feet maximum, and the maximum lot coverage is 40%. There are no city records of a prior land use review. The applicant is proposing to replace the exterior siding on the façade of Building A of the Bay Vista Apartments, add window/door trim, replace balcony railings and re-paint the structure. The existing structure is assumed to be non-conforming with regard to some of the above site development standards, given the age of the structure. (The county assessor's records do not indicate the year built, nor does the city have a building permit record for construction. This suggests that the structures were built prior to when building permits records were required to be retained. In the absence of any contrary evidence, it is assumed that the multi-family dwelling structure was legally built at the time.) The request does not affect these standards and repair or maintenance (re-siding) of the structure is allowed per LOC 50.01.006.6 (Non-Conforming Uses).

**Non-Conforming Uses [LOC 50.01.006.1.d]**

No modifications to the existing access into the site are proposed with this application. Alterations of non-conforming structures are limited by LOC 50.01.006.1.d, which states that a non-conforming use or structure may be continued and maintained in reasonable repair so long as it remains otherwise lawful. However, it may not be expanded. The applicant does not propose to expand the structure or the use. Therefore, the limitation on expansion of non-conforming structures is met.

## OVERLAY AND DESIGN DISTRICTS LOC 50.05

### Downtown Redevelopment District Design Standards - [LOC 50.05.004.1-50.05.004.12]

The purpose of this standard is to guide the redevelopment of downtown Lake Oswego in a manner that creates a feeling of vitality and sense of place and to create a community center that reflects and enhances the character of the City.

This standard requires that substantially remodeled buildings shall be designed using the building design elements of the Lake Oswego Style to create distinctive buildings with richly textured, visually engaging facades. If the proposal modifies more than 50% of the façade the downtown standards apply.

In applying this standard to a façade improvement, it is only applied to the actual improvement area, recognizing that the unaffected portion of the structure has a right to continue under LOC 50.01.006.1.d (...a non-conforming use or structure may be continued and maintained in reasonable repair so long as it remains otherwise lawful, but it shall not be altered in a manner to enlarge or expand or reconstruct the use or structure). The structure is non-conforming because it does not conform to the Lake Oswego Style. The remodeling work cannot cause the balance of the structure to become more non-conforming.

The applicant is proposing to modify Building A (Exhibits E-3 and E-4) as follows: cover the existing vertical wood siding with horizontal composite siding, replace existing balcony/deck wood railings with composite wood railings, and add new window and door trim to accommodate the depth of the new siding at connection points (Exhibits E-5 and E-6). The structure will then be painted to match the colors of the other structure (Building B) on the site (Exhibits E-4, E-7 and E-8). While the architectural style of the structure does not conform to any of the three allowed styles in the District, the existing brick and proposed siding and railing materials are allowed materials and are used in the Arts and Crafts style. In addition, the new siding will cover the existing siding which is a prohibited material in the District.

The applicant states that the proposed modifications to Building A will update the façade of building while at the same time increasing visual compatibility with Building B. As indicated in Exhibits E-4, E-7 and E-8, Building B is painted the same color proposed for Building A (Anonymous Grey), with Black Fox as the trim color. The proposed modifications are visually compatible with the colors on the other buildings in close proximity.

With regard to the actual siding, the change from vertical to horizontal siding (preserving the existing brick, below), creates a more complementary relationship with Building B which also has horizontal siding and brick (Exhibit F-1).

Staff finds that the proposed modification meets the applicable Downtown Redevelopment Design District standards.

Staff notes that the Building Division will not require a building permit for the re-siding of the building.

**2. The Development Standards applicable to minor developments;**

None. As discussed above, the review criteria are limited to those criteria that are affected by the requested modification. None of the Development Standards that may have been applicable when the structure was originally constructed are affected by the request to replace the siding and railings on the existing structure.

**3. Any additional statutory, or Lake Oswego Code provisions which may be applicable to the specific minor development application;**

None.

**4. Any conditions of approval imposed as part of an approved ODPS or prior development permit affecting the subject property.**

There are no outstanding conditions of approval that affect the subject property.

**VII. CONCLUSION**

Based upon the information provided by the applicant and the findings presented within this report, staff concludes that LU 13-0007 complies with all of the applicable criteria or can be made to comply through the imposition of conditions.

**VIII. ACTION**

Approval of LU 13-0007, subject to the following conditions:

**A. Final Re-Siding and Painting of Building A at 295 3<sup>rd</sup> Street Shall:**

1. Be the same or substantially similar to the building elevations and materials board illustrated on Exhibits E-6 and E-8 to the satisfaction of staff.


**Code Requirements:**

1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the Development Review permit approved by this decision shall expire three years following the effective date of this development permit, and can be extended by the City Manager pursuant to the provisions of this section.

**Note:**


1. Development plans review, permit approval, and inspections by the City of Lake Oswego Development Review Section are limited to compliance with the Lake Oswego Community Development Code, and other applicable codes and regulations. The applicants are advised to review plans for compliance with applicable state and federal laws and regulations that could relate to the development, e.g., Americans with Disabilities Act, Endangered Species Act. City staff may advise the applicants of issues regarding state and federal laws that the City staff member believes would be helpful to the applicants, but any such advice or comment is not a determination or interpretation of federal or state law or regulation.

Prepared by:

  
Debra Andreades, AICP  
Senior Planner

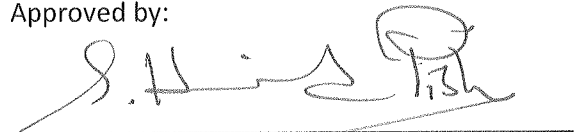
4/2/13  
Date

Reviewed by:

  
Evan Boone  
Deputy City Attorney

4/2/13  
Date

Approved by:

  
S. Hamid Pishvaie  
Assistant Planning Director

4/2/2013  
Date

**EXHIBITS**

- A. **Notice of Appeal:**  
(No current exhibits; reserved for hearing use)
- B. **Findings, Conclusions and Order:**  
(No current exhibits; reserved for hearing use)
- C. **Minutes:**  
(No current exhibits; reserved for hearing use)
- D. **Staff Report:**  
(No current exhibits; reserved for hearing use)

**E. GRAPHIC/PLANS**

- E-1 Tax Map
- E-2 Vicinity Map with Zoning
- E-3 Site Plan (2 pages)
- E-4 Site Plan with Proposed Building Color
- E-5 Existing Building Elevations (2 pages)
- E-6 Proposed Building Elevations (2 pages)
- E-7 Photos of Existing Building with Proposed Building Color (2 pages)
- E-8 Color and Materials Board

F. WRITTEN MATERIALS

F-1 Applicant's Narrative

G. LETTERS:

Neither for nor Against: (G1-99)

None

Support: (G100-199)

None

Opposition: (G-200-)

None

Date of Application Submittal: February 14, 2013

Date Application Determined to be Complete: March 15, 2013

State Mandated 120-Day Rule: July 12, 2013