

1 **BEFORE THE DEVELOPMENT REVIEW COMMISSION OF THE**
2 **CITY OF LAKE OSWEGO**

-Approved-

3
4 9-LOT PLANNED DEVELOPMENT) LU 14-0034-1856
5 WITH RCPA DETERMINATION) R. KENT & MARLEIGH MATHIOT (O)
6) MIKE & SUSAN FOOTE (A)
7) FINDINGS, CONCLUSIONS & ORDER
8

9 **NATURE OF APPLICATION**

10 The applicants are requesting approval of the following:

- 11
12
13 • A Resource Conservation Protection Area determination;
14 • A 9-lot single family residential planned development with five flag lots; and,
15 • The removal of 32 trees to accommodate the proposed development.
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17 The site is located at 5316, 5324, and 5362 Carman Drive (Tax Lots 2500, 2600, and 2700 of Tax
18 Map 21E07AC).
19

20 **HEARINGS**

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22 The Development Review Commission (Commission) held a public hearing and considered this
23 application at its meeting of September 3, 2014.
24

25 **CRITERIA AND STANDARDS**

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

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LOC 50.02.001	Residential Districts
LOC 50.04.001	R-7.5 Zone Dimensional Table
LOC 50.04.002	Special Street Setbacks
LOC 50.04.004	Solar Design Exemptions & Adjustments
LOC 50.05.010	Sensitive Lands Overlay Districts
LOC 50.06.001	Building Design
LOC 50.06.002	Parking
LOC 50.06.003.1	Access/Access Lanes (Flag Lots)
LOC 50.06.003.2	On-Site Circulation – Driveways & Fire Access Roads
LOC 50.06.003.3	On-Site Circulation – Bikeways, Walkway & Accessways
LOC 50.06.003.4	Local Street Connectivity
LOC 50.06.004.1	Landscaping, Screening, & Buffering
LOC 50.06.004.2	Fences
LOC 50.06.004.3	Lighting
LOC 50.06.005	Park & Open Space
LOC 50.06.006.1	Weak Foundation Soils

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1	LOC 50.06.006.3	Drainage Standards
2	LOC 50.06.007	Solar Access
3	LOC 50.06.008	Utilities
4	LOC 50.07.003.1	Burden of Proof
5	LOC 50.07.003.5	Conditions on Development
6	LOC 50.07.003.7	Appeals
7	LOC 50.07.003.14	Minor Development Decision
8	LOC 50.07.004	Additional Submission Requirements
9	LOC 50.07.007.2	Flag Lots
10	LOC 50.07.007.4	Planned Development Overlay

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12 B. City of Lake Oswego Streets and Sidewalks Code [LOC Chapter 42]:

13	LOC 42.08.400 - 42.08.470	Streets and Sidewalks
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16 C. City of Lake Oswego Tree Code [LOC Chapter 55]:

17	LOC 55.02.010 - 55.02.080	Tree Removal
18	LOC 55.02.084	Mitigation Requirements
19	LOC 55.08.020	Tree Protection Plan Required
20	LOC 55.08.030	Tree Protection Measures Required

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23 D. City Charter:

24	Chapter IX Public Improvements	Section 40 Major Road Expenditures
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27 E. Prior Approvals:

28	LU 13-0038 (RC District Delineation)
29	LU 13-0049 (Comprehensive Plan and Zoning Map Amendments)

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32 **CONCLUSION**

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34 The Commission concludes that LU 14-0034 can be made to comply with all applicable criteria
35 by the application of certain conditions.

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37 **FINDINGS AND REASONS**

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39 The Commission incorporates the August 22, 2014, Staff Report (with all exhibits) as support for
40 its decision supplemented by further findings and conclusions. In the event of any inconsistency
41 between the following supplementary matter and the staff report, the supplementary matter
42 controls.

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1 Following are the supplementary findings and conclusions of this Commission:
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3 1. The Commission was informed that certain corrections were necessary regarding the
4 development parameters outlined in the Staff Report for Lot 7. Lot 7 is actually 5,831 sq. ft.
5 in area and the setbacks should be adjusted to better reflect the lot orientation. As
6 recommended by staff, the proposed 15-foot rear yard setback should be described as
7 “west” and the side yard setbacks as north and south. The corrections are included in the
8 conditions of approval, below.
9

10 2. Staff recommended an additional condition of approval to switch the north and south side
11 yard setbacks on Lot 9 to 5-foot north side yard and a 10-foot south side yard setbacks in
12 order to provide additional protection for two Douglas fir trees in the Waluga Park-West
13 located to the south.
14

15 LOC 50.07.007.4.d.2(ii)(d) permits the reviewing authority, in deciding whether to grant lot
16 dimensional exceptions, to consider whether the requested exception “will enhance or
17 better protect a significant natural feature on the site, such as a ..., a tree”.

18
19 The applicants testified that this action would unreasonably restrict the building envelope
20 on Lot 9 and requested that setbacks be determined during the building permit process with
21 the assistance of a certified arborist.
22

23 The Commission finds that, in order to approve a Planned Development (PD), setbacks must
24 be determined at the time of approval of the PD. See LOC 50.07.007.4.d.ii(1), (3). The
25 Commission further finds pursuant to LOC 50.07.007.4.d.2(ii)(d) that a 10-foot south side
26 yard setback is the minimum necessary to ensure the long-term health of the two fir trees.
27 In addition, the applicants must work with a certified arborist to determine specific tree
28 preservation methods as a part of building permit review. The new conditions are
29 incorporated into the conditions of approval, below.
30

31 3. The Commission discussed the proposed reduced lot sizes and protection of significant trees
32 outside of the proposed Resource Conservation Protection Area (RCPA) per LOC
33 50.07.007.4.d.2(ii)(d). The applicants’ “conceptual development plan” (Exhibit E8) shows
34 the approximate footprints of the future homes and also demonstrates the extent of future
35 tree removal on the individual lots. The Commission finds that although the reduced lot
36 sizes (and associated reduced setbacks) are necessary to ensure compliance with the
37 required minimum density of nine lots, many trees will likely be removed when the
38 individual lots are developed. The proposed RCPA meets the criteria for the reasons stated
39 in the Staff Report and the Commission finds that there was no reasonable way to modify
40 the proposal to ensure protection of more trees located outside of the RCPA while
41 preserving the minimum density requirement. Further, the Commission finds that, with the
42 modified side yard setbacks on Lot 9, there were sufficient conditions of approval to protect
43 significant trees, such as four large Oregon white oaks, from future development as much as
44 possible under the PD criteria.
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1 4. The Commission received testimony from neighbors abutting the site to the east regarding
2 existing drainage issues and their concerns about the proposed development exacerbating
3 those issues. Per LOC 50.06.003.3.b(ii)(3)(a), the applicants are required to demonstrate
4 that alterations of drainage patterns, e.g., surface runoff, do not adversely affect other
5 properties. The Commission reviewed the applicants' drainage report and proposed
6 drainage plan and finds that, while the on-site infiltration rates were low, development of
7 the site should improve upon the current surface water runoff drainage conditions as new
8 stormwater runoff will be piped to approved drainage facilities rather than ponding in yards.
9 No additional conditions of approval are necessary to meet the drainage standard.

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11 **ORDER**

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13 **IT IS ORDERED BY THE DEVELOPMENT REVIEW COMMISSION of the City of Lake Oswego that:**

- 14
15 1. LU 14-0034 is approved, subject to compliance with the conditions of approval set forth in
16 Subsection 2 of this Order.
17
18 2. The conditions for LU 14-0034 are as follows:

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20 **A. Prior to Recording the Final Plat, the Applicants/Owners Shall:**

- 21
22 1. Complete the public notice and election requirements prescribed in Section 40 of the
23 City Charter. The applicants/owners shall coordinate with the Engineering staff to
24 complete this process.
25
26 2. Apply for and obtain a demolition permit for the existing structures on site. The
27 applicants shall note that this may require an asbestos report from a licensed agency
28 to the satisfaction of the Building Official. The demolition permit shall be
29 accompanied by proper applications for tree/Sensitive Lands protection and erosion
30 control.
31
32 3. Submit a final plat for staff review and signature of approval within one year of the
33 date of this decision, prepared in accordance with Condition of Approval A(5), below.
34 The final plat must be dimensioned as depicted in Exhibit E7 and reference this land
35 use application – **City of Lake Oswego Planning and Building Services Department**
36 **Case File LU 14-0034**. Upon written application, prior to expiration of the one-year
37 period, the City Manager shall, in writing, grant a one-year extension. Additional
38 extensions may be requested in writing and must be submitted to the City Manager
39 for review of the project for conformance with current law, development standards
40 and compatibility with development that may have occurred in the surrounding area.
41 The extension may be granted or denied and, if granted, may be conditioned to
42 require modification to bring the project into compliance with then current law and
43 compatibility with surrounding development.
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- 1 4. All plats and public easements submitted to the City of Lake Oswego shall have
2 accompanying vector based electronic drawings or maps consistent with the
3 prevailing technologies in the Civil Engineering and/or Surveying fields (e.g. current
4 or near current versions of AutoCAD). The electronic drawings shall conform to the
5 mapping requirements for plats adopted in O.R.S. Chapter 92.
6
- 7 5. Submit a revised final plat that is substantially similar to Exhibit E7, with the
8 following modifications for review and approval of staff:
9
- 10 a. Label the open space tracts as Private Open Space Tracts A, B, and C.
 - 11
 - 12 b. Label the shared driveway on Lot 9 as a private reciprocal access and utility
13 easement benefiting Lot 8. (The access easement may be required to be shifted
14 north partially onto Lot 8 to remove all possible grading impacts from the 5-foot
15 RCPA construction setback on Lot 9, to the satisfaction of staff)
 - 16
 - 17 c. Label the shared access lane on Lots 1-7 as a private reciprocal access and utility
18 easement benefitting all lots.
 - 19
 - 20 d. Provide a public sanitary sewer easement over the private shared access lane (off
21 Carman Drive) for the public sewer extension into the site.
22
 - 23 e. Sufficient right-of-way dedication along Carman Drive frontage to ensure that the
24 required street frontage improvements are located entirely within the public right-of-
25 way. Provide a public sidewalk easement for any portion of the sidewalk that meanders
26 onto the site in order to preserve the trees at the southeast corner of the site.
27
 - 28 f. Provide a private reciprocal access easement for the four parking spaces on Lot 2,
29 benefitting all lots.
 - 30
 - 31 g. Provide public utility easements for all utilities that are planned to be located
32 outside a public right-of-way, to the satisfaction of the franchise utility companies.
33
 - 34 h. Provide private storm easements for the site's detention facility and the common
35 private storm lines throughout the development which will provide conveyance
36 from the individual storm facilities on each lot, and conveyance from the
37 infiltration swales along the shared access lane.
38
- 39 6. Determine the final floor area allocation for each lot for a total of no more than
40 32,898 sq. ft. Submit final matrices indicating lot size, lot coverage, floor area, and
41 setbacks for each lot (showing both square footage and percentages) prepared in
42 accordance with the findings in the final approval and/or as shown in the tables,
43 below:
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ALLOWED LOT COVERAGE AND FLOOR AREA				
	Lot Size in sq. ft.	Allowed Floor Area in sq. ft.	Allowed Lot Coverage in sq. ft.	Lot Coverage Percentage
Lot 1	4,950	<i>tbd</i>	2,300	46.5%
Lot 2	7,054	<i>tbd</i>	2,300	32.6%
Lot 3	8,179	<i>tbd</i>	2,450	30%
Lot 4	5,179	<i>tbd</i>	2,375	46%
Lot 5	5,332	<i>tbd</i>	2,525	47.4%
Lot 6	5,373	<i>tbd</i>	2,250	42%
Lot 7	5,831	<i>tbd</i>	2,400	41.2%
Lot 8	6,639	<i>tbd</i>	2,650	40%
Lot 9	6,284	<i>tbd</i>	2,300	36.6%
Total	54,821	32,898	21,550	40.2% (average)

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ALLOWED SETBACKS AND HEIGHT					
	Front setback	Side Setback	Rear Setback	Side and Rear Setback Total	Building Height
Lot 1	5 ft. (north)	15 ft. (west) 20 ft. (east)	5 ft. (south)	n/a	Per R-7.5
Lot 2	5 ft. (north)	29 ft. (west) 5 ft. (east)	20 ft. (south)	n/a	Per R-7.5
Lot 3	5 ft. (north)	5 ft. (west) 20 ft. (east)	30 ft. (south)	n/a	Per R-7.5
Lot 4 (flag lot)	Measured from access easement 10 ft. (dwelling) 18 ft. (garage)	5 ft. (west) 5 ft. (east)	15 ft. (south)	25 ft.	26.7 ft.
Lot 5 (flag lot)	Measured from access easement 10 ft. (dwelling) 18 ft. (garage)	5 ft. (west) 5 ft. (east)	15 ft. (south)	25 ft.	26.7 ft.
Lot 6 (flag lot)	Measured from access easement 10 ft. (dwelling) 20 ft. (garage)	5 ft. (west) 5 ft. (east)	15 ft. (south)	25 ft.	26.7 ft.
Lot 7 (flag lot)	Measured from access easement 10 ft. (dwelling) 20 ft. (garage)	5 ft. (north) 5 ft. (south)	15 ft. (west)	25 ft.	26.7 ft.
Lot 8 (flag lot)	Measured from access easement 10 ft. (dwelling) 20 ft. (garage)	5 ft. (west) 5 ft. (east)	30 ft. (north)	40 ft.	26.7 ft.
Lot 9	25 ft. (west)	5 ft. (north) 10 ft. (south)	5 ft. (east)	n/a	Per R-7.5

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1 7. Submit a "Notice of Development Restrictions" to be recorded with the final plat for
2 review and approval by staff. The Notice shall include the following:

- 3
- 4 ▪ Exhibit "A", lot coverage, floor area, and setback matrices required by Condition
- 5 A(6), above;
- 6 ▪ Exhibit "B", a site plan showing the 5-foot landscape screening along both sides
- 7 of the shared access lane as it abuts Lots 1-7. The site plan also shall illustrate a
- 8 4-foot fence on Lots 1-3 along the Carman Drive frontage.
- 9 ▪ Exhibit "C", a site plan showing the protected Oregon white oak trees on or near
- 10 Lots 2, 3, and 6;
- 11 ▪ Exhibit "D", a site plan showing the RCPA and the 5-foot construction setback on
- 12 Lots 4-6, and 8-9;
- 13 ▪ Exhibit "E", the table of RCPA trees (including Tree #, size, and species).
- 14 ▪ Exhibit "F", a site plan showing the landscaping and 6-foot solid fence in open
- 15 space Tract B abutting Lots 1, 7, and 8.
- 16

17 The above exhibits shall be no larger than 8 ½" x 11" and shall not contain lettering
18 smaller than 10 point font.

19
20 The Notice also shall include the following information:

- 21
- 22 a. Setbacks, lot coverage and floor area shall be limited to those illustrated in Exhibit A,
- 23 unless modified by prior written approval by the City of Lake Oswego.
- 24
- 25 b. Lots 4, 5, 6, 7, and 8 are flag lots. Development of structures on these lots shall comply
- 26 with the provisions of LOC 50.07.007.1 regarding building and site design standards,
- 27 including height limitations, garage placement, and landscape buffer requirements.
- 28 The following site development restrictions apply:
- 29
- 30 i. The maximum height of the future dwellings shall be 26.7 feet, measured from
- 31 the ground to the ridgeline of the roof as defined by LOC 50.10.003 "Height of
- 32 Building".
- 33
- 34 ii. The front, side, and rear yard setbacks shall be as outlined in attached Exhibit
- 35 A. In addition to the setbacks outlined in Exhibit A, all primary structures
- 36 shall be located at least five feet from shared access easements. The front of
- 37 the dwellings on Lots 4-7 (and the associated dwelling and garage front yard
- 38 setbacks) shall be oriented towards the shared access lane to the north. The
- 39 front of the dwelling on Lot 8 (and the associated dwelling and garage front
- 40 yard setbacks) shall be oriented towards the access easement on Lot 9 to the
- 41 south.
- 42
- 43 iii. Maintenance of the 5-foot landscape buffer along both sides of the shared
- 44 access lane as it abuts Lots 1-7 is the ongoing obligation of the owners of
- 45 these lots. See attached Exhibit B.
- 46

1 iv. The City of Lake Oswego Fire Department has determined that the fire apparatus
2 means of access to Lots 4 and 5 do not meet the minimum requirements of the
3 Fire Code and State Building Code requirements. The Building Official may allow
4 an alternate to the minimum requirements of the One-and Two-Family Dwelling
5 Specialty Code as authorized by ORS 455.610. The owner or owner's
6 representative shall install the approved alternate method for fire suppression on
7 Lots 4 and 5, an NFPA 13-D residential fire sprinkler system, to the satisfaction of
8 the Building Official.

9
10 c. Tree #795, a 45-inch Oregon white oak on Lot 6, shall be preserved from
11 development until such time as the tree is determined to be dead or hazardous
12 to people or property by a certified arborist. See attached Exhibit C. If removal
13 becomes necessary, the property owner(s) shall apply for and obtain an
14 appropriate tree removal permit issued by the City of Lake Oswego.

15
16 d. Trees #747 and 757 on Lot 3, (a 33-inch and a 29-inch Oregon white oaks,
17 respectively) shall be preserved from development. See attached Exhibit C. All
18 development on Lot 3 shall be set back a minimum of 10 feet from the trunk of
19 Tree #757. As such time that either or both trees are determined to be dead or
20 hazardous to people or property by a certified arborist, removal may be allowed.
21 If removal becomes necessary, the property owner(s) shall apply for and obtain
22 an appropriate tree removal permit issued by the City of Lake Oswego.

23
24 e. Tree #762, a 40-inch Oregon white oak in the public right-of-way abutting Lot 2,
25 shall be preserved from development until such time as the trees are determined
26 to be dead or hazardous to people or property by a certified arborist. See
27 attached Exhibit C. If removal becomes necessary, the property owner(s) shall
28 apply for and obtain an appropriate tree removal permit issued by the City of
29 Lake Oswego.

30
31 f. **Private Open Space Tract B** shall be landscaped and fenced as shown in attached
32 Exhibit F. Maintenance of the landscaping and fencing is the ongoing obligation
33 of property owners of Lots 1, 7, and 8. No buildings or structures other than
34 fencing shall be allowed in Tract B.

35
36 g. Lots 4-6 and Lots 8-9 are subject to a 5-foot Resource Conservation Protection Area
37 construction setback where their respective side or rear yards abut Private Open
38 Space Tracts A and C. This is illustrated on Exhibit D.

39
40 h. **Private Open Space Tracts A and C** shall remain in their natural condition to
41 provide a scenic, aesthetic appearance; protect natural resources; provide
42 passive recreational uses; and maintain the native vegetation of the open space.
43 The City may approve activities that enhance the natural qualities of the open
44 space and meet the above purpose of the open space. Trees may be removed
45 only after they have been shown to be dead, invasive, or hazardous to life or
46 property by a certified arborist, and after a tree removal permit has been

1 obtained from the City of Lake Oswego in accordance with Chapter 55 Tree Code
2 and/or Sensitive Lands (LOC 50.05.010). A mitigation plan shall be required as
3 part of any tree removal permit application. Improvements in this area, which
4 are in keeping with the above purpose, including public utilities and pedestrian
5 pathways may be approved by the City of Lake Oswego. No buildings or
6 structures shall be allowed in Tracts A and C.
7

8 **Private Open Space Tracts A and C** contain a delineated a RC Protection Area as
9 illustrated in Exhibits D and E and as determined and documented in City of Lake
10 Oswego Planning and Building Services Case File LU 14-0034. Future
11 development in these areas is subject to the City of Lake Oswego RC Protection
12 Area standards set forth in LOC 50.05.010, including but not limited to:

- 13
- 14 i. Tree removal within the RC Protection Area is subject to the tree removal
15 permit requirements of LOC Chapter 55 (Tree Code) and the Sensitive Lands
16 provisions of LOC 50.05.010.
17
- 18 ii. Manual removal of invasive or nuisance plant material (such as English ivy,
19 Himalayan blackberry, and poison oak) within the RC Protection Area may be
20 allowed, so long as native understory plants are maintained.
21
- 22 iii. The RC Protection Area is intended to remain in its natural state to maintain
23 the natural function and character of the resource area, which provides food
24 and shelter for native wildlife.
25

26 **CONTACT THE CITY OF LAKE OSWEGO PLANNING AND BUILDING SERVICES**
27 **DEPARTMENT PRIOR TO COMMENCING ANY ACTIVITY INSIDE THE RC**
28 **PROTECTION AREA.**
29

30 The RC Protection Area may be modified as provided in Lake Oswego Code
31 [LOC 50.05.010.5.b]. In the event the RC Protection Area is removed from the
32 subject property, a release of this Development Restriction shall be recorded
33 by the City of Lake Oswego within 30 days following a request by the
34 Grantor(s).
35

- 36 8. Submit maintenance agreements for the private shared access lane serving Lots 1-7,
37 the access easement serving Lots 8 and 9, any public or private utility easements,
38 and the parking spaces on Lots 2, for review and approval of staff. These agreements
39 shall be recorded at the Clackamas County Recorder's Office at the time of recording
40 the final plat.
41
- 42 9. Submit a stamped and signed survey of the RC Protection Area boundaries, as
43 illustrated on Exhibit E5, along with an 8 ½" x 11" reduction to be used as an exhibit
44 in the Notice of Development Restrictions. The following information shall be
45 included on the survey:
46

- 1 a. Clearly label the boundaries of the RC Protection Area.
- 2
- 3 b. Label distances and bearings of the RC Protection Area boundaries.
- 4
- 5 c. Label the 5-foot construction setback from the RCPA.
- 6
- 7 10. Submit CC&Rs of the HOA for review and approval of staff that address the following:
- 8
- 9 a. Ownership, use, and maintenance of open space Tracts A, B, and C.
- 10
- 11 b. An operation and maintenance plan, for the stormwater facilities in Tract A and
- 12 along the frontage of Carman Drive, and a schedule for annual inspection and
- 13 maintenance for these stormwater facilities by the HOA to control non-native
- 14 vegetation.
- 15
- 16 c. An annual maintenance report for the stormwater facilities.
- 17
- 18 d. Upon transfer of the HOA from the developer to the homeowners within the
- 19 development, the City shall be notified of the name and address of a contact
- 20 person for the HOA.
- 21
- 22 e. Upon election of new officers for the HOA, the City shall be notified of the new
- 23 contact person.
- 24
- 25 f. The City's right to enforce the provisions of the CC&Rs required, above, including
- 26 the right to recover all expenses of enforcement, the right to lien the lots to
- 27 secure enforcement expenses, "non-waiver" of enforcement, non-amendment or
- 28 rescission of the provisions of the CC&Rs required, above, and indemnification to
- 29 the City for claims arising from the failure to properly design, locate, construct, or
- 30 maintain the open space tracts or stormwater facilities. (Suggested text for this
- 31 requirement may be obtained from the City Attorney's office.)
- 32
- 33 g. The ownership, use, and maintenance of the following features:
- 34
- 35 i. The four parking spaces on Lot 2 with an access easement for all lots.
- 36
- 37 ii. Access easements for the shared access lane for Lots 1-7 and the access
- 38 easement on Lot 9 benefitting Lot 8.
- 39
- 40 11. Submit final construction plans and an itemized cost estimate for review and
- 41 approval by the City Engineer. The plans shall conform to the City's design standards
- 42 and the drafting specifications found in the City's booklet "CAD standards and Design
- 43 Requirements", May 2006. The plans shall include the following material, design
- 44 features and notes:
- 45
- 46

1 Carman Drive

- 2
- 3 a. Widen the pavement along the entire site frontage to achieve a minimum 12-foot
- 4 travel lane and 6-foot bike lane (measured from the existing painted yellow
- 5 centerline) and construct a minimum 3-foot wide compacted crushed rock shoulder.
- 6
- 7 b. Construct an 8-foot wide vegetated drainage swale along the site frontage.
- 8
- 9 c. A public storm main in Carman Drive, oriented along the site frontage.
- 10
- 11 d. Construct a 6-foot wide asphalt pedestrian pathway behind the drainage swale along
- 12 the site frontage and connect to the existing abutting sidewalk at each end of the
- 13 site. A minimum 1-foot level area between the drainage swale and the front of the
- 14 pathway and a minimum 1-foot level area between the back of the pathway and the
- 15 right-of-way line shall also be provided.
- 16
- 17 e. Street lighting to comply with the provisions of the lighting standard. A photometrics
- 18 plan and illumination details for the required street light shall be submitted, to the
- 19 satisfaction of staff.
- 20
- 21 f. An 8-inch public sanitary sewer extension from the intersection of Royal Oaks Drive
- 22 and Carman Drive to the northeast corner of the site and terminate with a manhole
- 23 in Carman Drive. The design shall take into account the grade to allow for future
- 24 extension beyond the development.
- 25
- 26 g. Sufficient public right-of-way dedication along the entire site frontage so that the
- 27 above described improvements are located entirely within the right-of-way. The
- 28 only exception is that a public sidewalk easement will be allowed for any portion of
- 29 the sidewalk that will meander onto the site in order to preserve trees.
- 30
- 31 h. An 8-inch public sanitary sewer main into the site from the new main extension in
- 32 Carman Drive in order to serve Lots 1-7. The sewer shall be located in the shared
- 33 access lane within a public sanitary sewer easement.
- 34
- 35 i. A shared access driveway approach onto Carman Drive for access to Lots 1-7 to City
- 36 standards and AASHTO standards. The maximum width of the shared access lane
- 37 approach, where the approach meets the right-of-way line, shall be 20 feet. In
- 38 addition, no parking shall be allowed on either side of the access lane; signage in
- 39 compliance with the Fire Code shall be required.
- 40
- 41 j. Shift the access easement on Lot 9 north partially onto Lot 8. As an alternative, the
- 42 applicants may keep the current access easement location on Lot 9 and limit all
- 43 grading associated with the driveway and shoulder to the 5-foot RCPA construction
- 44 setback. (Note: If the latter option is chosen, the applicants shall provide a certified
- 45 arborist report that details specific tree preservation measures to ensure the long-
- 46 term health of any RCPA trees in open space Tract C that may be impacted.)

- k. Individual private sanitary services and storm laterals.
- l. Water services to Lots 1-7, to the satisfaction of the Lake Grove Water District.
- m. Installation of a fire hydrant near the intersection of the shared access lane and Carman Drive, to the satisfaction of the Fire Marshal and City Engineer.

Greystoke Drive

- a. An 8-inch public sanitary sewer main extension at the end of Greystoke Drive for approximately 10 feet, terminating with a manhole at the right-of-way line/project boundary line, in order to provide sanitary service to Lots 8 and 9 and to prevent diagonal laterals from being constructed across the end of the street.
 - b. A public storm main extension from the existing manhole at the intersection of Royal Oaks Drive and Greystoke Drive, to the site's west boundary line, in order to provide conveyance for the runoff from the development site.
 - c. Water service to Lots 8 and 9, to the satisfaction of the Lake Grove Water District.
12. Complete all public improvements or provide a financial guarantee to ensure their construction per LOC 50.07.003.9. The financial guarantee shall be based on an itemized engineer's estimate of the public improvements that is in turn based on plans that are far enough advanced to support the estimate, to the satisfaction of the City Engineer.
13. Per LOC Chapter 52, apply for and obtain an approved erosion prevention and sediment control permit issued through the City of Lake Oswego, and install and maintain all BMPs as indicated in the permit. These measures shall remain in place as indicated throughout the development period.
14. Apply for and obtain a verification tree removal permit for the 31 trees approved for removal to construct the public improvements and completion of the approved grading plan. The verification tree removal permit submittal shall include an 8½" x 11" copy of the tree removal plan and a mitigation plan showing 31 replacement trees in compliance with Condition A(15), below. Replacement trees shall not be dwarf or ornamental varieties and shall be at least two inches in caliper if deciduous or at least six to eight feet tall (excluding the leader) if evergreen. Replacement trees located within the RC Protection Area shall be a native species identified on the City of Lake Oswego's Master Plant List.

1 15. Submit a final landscape plan for review and approval of staff. The plan shall be in
2 accordance with Exhibit E18, with the following modifications:

- 3
- 4 i. Illustrate the size, species, and location of a total of 31 Type II mitigation trees (a
5 mix of native deciduous and evergreen trees that meet minimum size
6 requirements of LOC Chapter 55).
7
- 8 ii. A minimum of 19 of the required 31 mitigation trees (required due to
9 development activity in open space Tract A) shall be spread out into the RCPA
10 behind Lots 4-6 with a minimum of 12-foot on-center spacing. In addition, at
11 minimum four of the seven proposed vine maples shall be replaced with 2-inch
12 caliper Oregon white oaks.
13
- 14 iii. A 4-foot privacy fence along the Carman Drive frontages of Lots 1-3.
15
- 16 iv. Modify the proposed seven Norway maple street trees along the Carman Drive
17 frontage to a different (non-invasive) species of maple.
18
- 19 v. A note instructing the removal of all burlap and wire baskets from all trees and
20 shrubs prior to planting.
21

22 16. Pay the final plat review fee.
23

24 17. Provide a written agreement between the applicants and a certified arborist
25 demonstrating that the arborist will review the final site, utility, grading and
26 landscape plans to assure long term survival of trees and will be present on site at
27 any time excavation, trenching, grading, root pruning or other activity occurring
28 within the tree protection zones, to ensure proper protection of all trees to remain.
29

30 18. Submit a preliminary title report or lot book report showing the status of title and
31 any liens and encumbrances.
32

33 **B. Within 90 Days of the Recordation of the Final Plat, the Applicants/Owners Shall:**
34

- 35 1. Submit a final title report, or lot book report from a title company demonstrating
36 that the final plat was validly recorded and that the private and public easements,
37 Notice of Development Restrictions, and the maintenance agreements as required by
38 conditions, above, are valid and subsisting, and that the parcels are either free and
39 clear of liens or encumbrances, or that the holders of the liens and encumbrances
40 consent to the creation and recordation of the plat, dedication, easements, and
41 Notice of Development Restriction.
42
43
44
45

1 **C. Prior to Constructing the Public Improvements or Issuance of a Site Grading Permit, the**
2 **Applicants/Owners Shall:**
3

- 4 1. Obtain a street opening permit for any work in the public rights-of-way, including
5 underground utility installation.
6

7 **D. Prior to the Issuance of a Building Permit on any of the Lots, the Applicants/Owners**
8 **Shall:**
9

- 10 1. Demonstrate compliance with Conditions A, B, and C, above.
11
12 2. Complete all public and site improvements as required by Condition A(11), above,
13 submit certified “as-built” drawings, and receive a certificate of completion and
14 acceptance by the City. This includes the construction of the private sanitary
15 services, private storm lines and laterals, private water services and private franchise
16 utilities serving all of the lots.
17
18 3. Install all mitigation plantings in open space Tract A pursuant to the final landscaping
19 plan, as required by Condition A(15), above, to the satisfaction of staff.
20
21 4. Post a performance bond or letter of credit to the City that is equal to 120% of the
22 value of the open space Tract A mitigation plantings as required by Condition D(3),
23 above, for a 3-year period, to the satisfaction of staff.
24
25 5. The required yard setbacks, height, lot coverage, and floor area for each lot shall be
26 as illustrated in the Notice of Development Restriction, Condition A(7), above.
27
28 6. For Lots 2, 3, 6, 7, and 8, provide a certified arborist report that outlines specific tree
29 preservation methods for the Oregon white oaks required to be preserved per
30 Condition A(7), above (Trees #747, 757, 762, and 795). The reports shall outline
31 specific protection measures that will maintain a favorable root environment for
32 preservation of these trees. For Lot 9, provide a certified arborist report that
33 outlines specific tree preservation methods for the two Douglas firs located on
34 Waluga Park-West (Trees # 10046 and 10050 per Exhibit E5), to the south of the site.
35
36 7. The shared driveway for Lots 8 and 9 shall be constructed so grading for the 4-foot
37 shoulder is contained wholly within the 5-foot RCPA construction setback. In
38 addition, provide a certified arborist report that outlines specific tree preservation
39 methods for any trees in the RCPA Tract C that may be impacted. The report shall
40 outline specific protection measures that will maintain a favorable root environment
41 for preservation of these trees. As an alternative, if the applicants have shifted the
42 access easement north partially onto Lot 8, no grading within the 5-foot RCPA
43 construction setback shall be allowed.
44
45 8. All development on Lot 3 shall be set back a minimum of 10 feet from the trunk of
46 Tree #757.

- 1 9. As applicable, site plans for all lots shall include street trees, shared access lane
2 landscaping, fencing, and open space landscaping as shown on Exhibit E18 and
3 modified by Condition A(15), above.
4
- 5 10. On Lots 4-6, 8 and 9, illustrate the RCPA boundaries and the 5-foot RCPA
6 construction setback on the site plans for all future development applications.
7
- 8 11. The garages on Lots 4-8 (flag lots) shall comply with the Flag Lot garage appearance
9 and location standards per LOC 50.07.007.2.e.ii, to the satisfaction of staff.
10
- 11 12. Submit an engineered design for on-site subsurface stormwater disposal systems
12 and/or planters on each lot, to the satisfaction of the City Engineer. The infiltration
13 systems shall be uniquely designed for each lot, and shall take into consideration
14 runoff entering the lot from the adjacent private driveways (if any). The systems
15 shall also be oriented and located as prescribed in the geotechnical report (Exhibit
16 F5).
17
- 18 13. Install construction protection measures for the shared access lane bio-cells in order
19 to protect the facilities during dwelling construction, to the satisfaction of the City
20 Engineer.
21
- 22 14. Submit updated geotechnical reports for each lot, as deemed necessary by the
23 Building Official.
24
- 25 15. Show the vision clearance triangles on the site plans of each building permit
26 application. On corner lots, the nearest edge of the proposed driveway to the
27 intersection shall be no closer than 30 feet when measured from the projected curb
28 of the street that is the most parallel to the alignment of the proposed driveway.
29 The four off-street parking stalls and any associated landscaping along the private
30 shared access lane on Lot 2 shall also meet the vision clearance standard.
31
- 32 16. For each lot, apply for the appropriate tree removal permit, if necessary, and submit
33 mitigation plans. For mitigation, deciduous trees shall have a minimum caliper of
34 two (2) inches and conifer trees shall be a minimum of 6-8 feet high (excluding the
35 leader).
36

37 **E. Prior to any Final Building Inspection or Occupancy of any Dwelling on any Lot, the**
38 **Applicants/Owners Shall:**
39

- 40 1. Install all Type II mitigation trees as required by Condition D(16), above.
41
- 42 2. Install all street trees, fencing, and landscaping, as required by Conditions A(15) and
43 D(9), above.
44

3. Provide certification from the engineer of record that the stormwater planter for each lot was constructed according to the design and is functioning properly, to the satisfaction of the City Engineer.
4. Post-construction protection measures for protecting the shared access lane and Carman Drive drainage facilities shall be left in place until after the final dwelling construction has been completed.

Code Requirements:

1. **Tree Protection:** Submit a tree protection plan and application as required by LOC 55.08.020 and 55.08.030 for review and approval by staff, including off-site trees that are within the construction zone. The plan shall include:
 - a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high cyclone fence secured by steel posts around the tree protection zone, or as recommended by the project arborist and approved by the City.
 - b. A note stating that no fill or compaction shall occur within the critical root zones of any of the trees, or that if fill or compaction is unavoidable, measures will be taken as recommended by a certified arborist to reduce or mitigate the impact of the fill or compaction. The note shall also inform contractors that the project arborist shall be on site and oversee all construction activities within the tree protection zone.
 - c. A note that clearly informs all site contractors about the necessity of preventing damage to the trees, including bark and root zone. The applicant and contractor(s) shall be subject to fines, penalties and mitigation for trees that are damaged or destroyed during construction.
 - d. A sign shall be attached to the tree protection fencing which states that inside the fencing is a tree protection zone, not to be disturbed unless prior written approval has been obtained from the City Manager and project arborist.

Notes

1. The applicants are advised to take part in a Post Land Use Approval meeting. City staff offers the opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure all the conditions are understood and to identify other permits necessary to complete the project. To take advantage of this meeting, please contact the staff coordinator at (503) 635-0290.

- 1 2. The land use approval for this project does not imply approval of a particular
2 design, product, material, size, method of work, or layout of public infrastructure
3 except where a condition of approval has been devised to control a particular
4 design element or material.
5
6 3. Development plans review, permit approval, and inspections by the City of Lake
7 Oswego Planning and Building Services Department are limited to compliance
8 with the Lake Oswego Community Development Code, and related code
9 provisions. The applicant is advised to review plans for compliance with
10 applicable state and federal laws and regulations that could relate to the
11 development, e.g., Americans with Disabilities Act, Endangered Species Act, etc.
12 City staff may advise the applicant of issues regarding state and federal laws that
13 the City staff member believes would be helpful to the applicants, but any such
14 advice or comment is not a determination or interpretation of federal or state
15 law or regulation.
16

1 DATED this 15th day of September, 2014.

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Bob Needham /s/
Bob Needham, Chair
Development Review Commission

Janice Reynolds /s/
Janice Reynolds
Administrative Support III

ATTEST:

TENTATIVE DECISION – September 3, 2014

AYES: Needham, Ahrend, Creighton, Melendez and Prichard
NOES: Poulson
ABSTAIN: None
ABSENT: Johnson

WRITTEN FINDINGS – September 15, 2014

AYES: Needham, Ahrend, and Melendez
NOES: Poulson
ABSTAIN: None
ABSENT: Johnson, Creighton and Prichard