

BEFORE THE DEVELOPMENT REVIEW COMMISSION OF THE CITY OF LAKE OSWEGO

APPROVAL OF A DEVELOPMENT REVIEW) LU 07-0059-1650
PERMIT TO INSTALL A GANGWAY AND) City of Lake Oswego Parks & Recreation Dept.
ABUTMENT TO ACCESS A FLOATING DOCK) FINDINGS, CONCLUSIONS & ORDER

NATURE OF APPLICATION

The applicant is requesting approval of the following:

- 1. Major modification of LU 03-0067 to remove Condition A(2)(I), which requires an information kiosk to be installed at the park; and,
2. A Development Review Permit to install a gangway and abutment to access a new floating dock in the Willamette River.

The site is located at 199 Foothills Road (Tax Lot 100 of Tax Map 21E 02CC).

HEARINGS

The Development Review Commission held a public hearing and considered this application at its meeting of October 15, 2007.

CRITERIA AND STANDARDS

A. City of Lake Oswego Community Development Code [LOC Chapter 50]:

Table with 2 columns: Code (LOC 50.13B.005 - 50.13B.050, etc.) and Description (Park and Natural Area Zone, Greenway Management Overlay District, etc.)

B. City of Lake Oswego Development Standards:

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2 LODS 3.005 - 3.040 Stream Corridors

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4 C. City of Lake Oswego Tree Chapter (LOC Chapter 55):

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6 LOC 55.08.020 Tree Protection Plan Required
7 LOC 55.08.030 Tree Protection Measures Required

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9 D. Prior Approvals

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11 LU 03-0028
12 LU 03-0067

13
14 **CONCLUSION**

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16 The Development Review Commission **approves** the gangway and abutment development permit, and
17 **denies** the major modification of LU 03-0067 to remove Condition A(2)(1)[information kiosk], as it
18 concludes that LU 07-0059 can be made to comply with all applicable criteria by the application of certain
19 conditions.

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21 **FINDINGS AND REASONS**

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23 The Development Review Commission incorporates the September 21, 2007, Staff Report, (with all
24 exhibits attached thereto), as support for its decision supplemented by the further findings and conclusion
25 set forth herein. In the event of any inconsistency between the supplementary matter herein and the staff
26 report, the matter herein controls. To the extent they are consistent with the approval granted herein, the
27 Commission adopts by reference its oral deliberations on this matter.

28
29 Following are the supplementary findings and conclusions of this Commission:

- 30
31 1. The Commission received testimony from the applicant in opposition to installing a kiosk at the park.
32 The applicant noted that events at Foothills Park are sufficiently advertised by other means and that a
33 kiosk would be a maintenance burden because it is often a target for vandals and requires continuous
34 updating by staff. Further, the applicant indicated that the prior indication of consent to the condition
35 of approval suggested by the DRC was not by a Parks and Recreation representative.

36
37 The Commission found that:

- 38
39 • The kiosk was originally required because the park, which is designed to be utilized for public
40 events, is somewhat removed from the rest of the City and does not provide for opportunities on
41 the site to convey information to visitors about these events. While other means of advertising
42 may be utilized for park events, the Commission found that the benefits of an information kiosk to
43 visitors at this park, including the opportunity to post information about other community events,
44 would still outweigh any maintenance burden.
- 45
46 • At the time the condition to install the kiosk was imposed, the applicant had an opportunity to
47 object and did not do so.
- 48 • The Commission had an understanding with the applicant regarding the kiosk at the hearing for the
49 original park application and an expectation that this condition would be complied with, yet the

1 park construction was completed without installation of the kiosk. It is only because the applicant
2 is now requesting new development on the site that they are forced to deal with this condition.
3

- 4 • Allowing the condition to be removed would set a bad precedent because it would suggest that an
5 applicant could agree to a condition at the public hearing, and then choose which conditions they
6 want to comply with after a decision has been made.
7

8 The Commission concluded that the request to remove Condition A(2)(l) of LU 03-0067 should be
9 denied.
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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**
14 **that:**
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- 16 1. LU 07-0059 is approved with respect to the modification for the gangway and abutment (but denied
17 with respect to the requested major modification for elimination of a condition of approval requiring the
18 installation of a kiosk), subject to compliance with the conditions of approval set forth in Subsection 2
19 of this Order.
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- 21 2. The conditions for LU 07-0059 are as follows:
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23 **A. Approval of LU 07-0059 shall be valid for a 3-year period from the date of the order**
24 **granting final approval, and shall be void if construction is not complete within that time**
25 **period.**
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27 **B. Prior to the Issuance of a Building Permit to Construct the Proposed Development, the**
28 **Applicant/Owner Shall:**
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- 30 1. Submit final building and site plans for the review and approval of staff that are the same
31 or substantially similar to those approved by Exhibits E2, E3, E7, and E8.
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- 33 2. Demonstrate that all necessary approvals from State, Federal, and local government
34 agencies have been obtained for the proposed development.
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- 36 3. If any on or off-site trees are within the construction zone, submit a tree protection plan for
37 staff review and approval. This plan shall be attached to the construction documents or
38 printed on the construction site plans, and shall include:
39
 - 40 a. The location of temporary tree protection fencing, consisting of a minimum 6-foot
41 high cyclone fence secured by steel posts, around the tree protection zone, or as
42 recommended by the project arborist and approved by the City.
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 - 44 b. A note stating that no fill or compaction shall occur within the critical root zones of
45 any of the trees, or that if fill or compaction is unavoidable, measures will be taken as
46 recommended by a certified arborist to reduce or mitigate the impact of the fill or
47 compaction. Such measures should be clearly outlined in the tree protection plan.
48
 - 49 c. A note that clearly informs all site contractors about the necessity of preventing
50 damage to the trees, including bark and root zone. The applicant and contractor(s)
51 shall be subject to fines, penalties and mitigation for trees that are damaged or
destroyed during construction. The note shall also inform contractors that the project

1 arborist shall be on site and oversee all construction activities within the tree
2 protection zone.

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4 d. A sign shall be attached to the tree protection fencing, which states that inside the
5 fencing is a tree protection zone, not to be disturbed unless prior approval has been
6 obtained from the City Manager and project arborist.

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8 **C. Prior to Construction or Grading Activity on the Site, the Applicants/Owners Shall:**

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10 1. Apply for an Erosion Control permit and install the erosion control and, if required, the
11 tree protection fencing as required by LOC 45 and Condition B(3), above. These
12 measures shall remain in place throughout construction period.

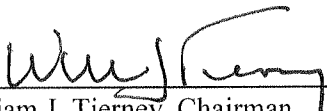
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14 **D. Prior to the Approval of the final Building Inspection, the Applicant/Owner Shall:**

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16 1. Remove invasive vegetation and install all landscaping materials in substantial
17 compliance with Exhibits E3 and F1, pages 11-13.
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19 2. The mitigation plantings required by Condition D(1), above, shall be monitored in
20 accordance with the maintenance and monitoring plan outlined in Exhibit F1, pages 11-
21 12 for a period of five years from the date of installation. An annual report shall be
22 submitted to the City of Lake Oswego Planning Division in October of each of the
23 monitoring years.

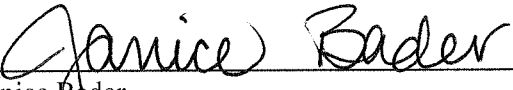
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25 **Notes:**

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27 1. In the event that ground disturbing activities expose cultural deposits or artifacts Oregon State
28 Laws (ORS 97.740 - 97.760, 358.905, 358.955 and 390.235) require that work in the vicinity
29 of such finds immediately be suspended. The SHPO should be notified and a professional
30 archeologist called in to evaluate the significance of the find and recommend a subsequent
31 course of action in consultation with SHPO and the appropriate Indian tribes.
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33 2. The land use approval for this project does not imply approval of a particular design, product,
34 material, size, method of work, or layout of public infrastructure except where a condition of
35 approval has been devised to control a particular design element or material.
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37 3. Development plans review, permit approval, and inspections by the City of Lake Oswego
38 Development Review Section are limited to compliance with the Lake Oswego Community
39 Development Code, and related code provisions. The applicants are advised to review plans
40 for compliance with applicable state and federal laws and regulations that could relate to the
41 development, i.e., Americans with Disabilities Act, Endangered Species Act. City staff may
42 advise the applicants of issues regarding state and federal laws that the City staff member
43 believes would be helpful to the applicants, but any such advice or comment is not a
44 determination or interpretation of federal or state law or regulation.

1 DATED this 5th day of November, 2007.
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William J. Tierney, Chairman
Development Review Commission



Janice Bader
Administrative Support III

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13 **ATTEST:**

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15 **ORAL DECISION – October 15, 2007**

16 AYES: Tierney, Ostly, Binkley, Needham, and Stadnik
17 NOES: None
18 ABSTAIN: None
19 ABSENT: None

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21 **WRITTEN FINDINGS – November 5, 2007**

22 AYES: Tierney, Ostly, Needham, and Stadnik
23 NOES: None
24 ABSTAIN: None
25 ABSENT: Binkley
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