

BEFORE THE DEVELOPMENT REVIEW COMMISSION OF THE
CITY OF LAKE OSWEGO

DEVELOPMENT REVIEW PERMIT FOR 6-UNIT) LU 15-0033-1875
MULTI-FAMILY RESIDENTIAL STRUCTURE UNDER) Steel Creek Homes, LLC
CLEAR AND OBJECTIVE HOUSING STANDARDS) FINDINGS, CONCLUSIONS & ORDER

NATURE OF APPLICATION

The applicant is requesting approval of a Development Review Permit to construct a 6-unit multifamily residential structure under Clear and Objective Housing Standards For Approval (LOC 50.06.001.7), and the removal of 15 trees to accommodate the project.

The site is located at 658 1st Street (Tax Lot 8800 of Tax Map 21E03DA).

HEARINGS

The Development Review Commission (Commission) held a public hearing and considered this application at its meeting of August 3, 2015. At the hearing, the following Exhibits were submitted:

- Exhibit E-15 Material Board-Window Area/Proportion
- Exhibit E-16 Proposed Brick Material and Paint Color Chips
- Exhibit G-200 Presentation/letter by Carol Ockert, dated August 3, 2015

CRITERIA AND STANDARDS

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

- LOC 50.02.001 Residential Zones
- LOC 50.04.001.3 Residential R-0 Zone Standards
- LOC 50.06.001.7 Building Design-Clear and Objective Standards
- LOC 50.06.002 Parking
- LOC 50.06.003.1 Access/Access Lanes
- LOC 50.06.003.2 On-Site Circulation-Driveways and Fire Access Roads
- LOC 50.06.003.3 On-Site Circulation-Bikeways, Walkways, and Access-ways
- LOC 50.06.003.5 Transit
- LOC 50.06.004.1 Landscaping, Screening and Buffering
- LOC 50.06.004.3 Lighting Standard
- LOC 50.06.005 Park and Open Space
- LOC 50.06.006.1 Weak Foundation Soils
- LOC 50.06.006.3.b Drainage Standard for Major Developments, Partitions, Subdivisions, and Certain Structures
- LOC 50.06.008 Utilities
- LOC 50.07.003.1.b Burden of Proof
- LOC 50.07.003.3 Public Notice/Opportunity for Public Comment
- LOC 50.07.003.4 Hearings
- LOC 50.07.003.5 Conditions on Development
- LOC 50.07.003.7 Appeals
- LOC 50.09.002.5 Compliance with Approved Permit

1 LOC 50.07.003.14 Minor Development Decisions

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

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5 LOC 42.03.130 Vision Clearance at Intersections

6 LOC 42.08.400-42.08.470 Streets and Sidewalks

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8 C. City of Lake Oswego Tree Code [LOC Chapter 55]

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10 LOC 55.02.010 - 55.02.080 Tree Removal

11 LOC 55.02.084 Mitigation Requirements

12 LOC 55.08.020 Tree Protection Plan Required

13 LOC 55.08.030 Tree Protection Measures Required

14

15 D. Prior Approval:

16

17 LU 06-0041

18

19 **CONCLUSION**

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21 The Commission concludes that LU 15-0033 can be made to comply with all applicable criteria by the
22 application of certain conditions.

23

24 **FINDINGS AND REASONS**

25

26 The Commission incorporates the July 24, 2015, Staff Report (with all exhibits attached thereto) as
27 support for its decision, supplemented by further findings and conclusions below. If there is any
28 inconsistency between the supplementary findings and the staff report, the supplemental findings
29 control. To the extent they are consistent with the approval granted herein, the Commission adopts by
30 reference its oral deliberations on this matter.

31

32 Following are the supplementary findings and conclusions of this Commission:

33

34 1. Staff clarified that design standards under LOC 50.06.001.7.c.i(2) apply to only the front building
35 elevation. Therefore proposed condition of approval A(1)(a), relating to percentage of glazing,
36 should be modified accordingly. Further, proposed Condition A(1)(b), which applied the changes in
37 cladding or detailing and color required by 50.06.001.7.c.i(2)(b)(iii) to side elevations, should be
38 deleted. Condition A(1)(a) should also be modified to require that 60 percent of upper story
39 windows on the front façade should have a minimum vertical to horizontal ratio of 1.5:1, as
40 required by LOC 50.06.001.7.c.i(2)(b)(i).

41

42 2. The Commission heard public testimony from the First Addition/Forest Hills Neighborhood
43 Association that the requirement for 25% of the required parking to be available for visitor use is
44 not met with a locked gate at the entrance to the motor court.

45

46 During rebuttal, the applicant explained that the proposed parking is private off-street parking for
47 the residents of the development and that three spaces will be made available for visitor parking, as
48 required. Staff noted that the Staff Report contained a condition of approval that requires three
49 parking spaces to have signage as dedicated spaces for guest parking, which is more restrictive than

1 the Code requirement in LOC Table 50.06.002-3, which simply states these spaces must be located
2 to provide for common or visitor use.

3
4 The Commission finds that, per LOC Table 50.06.002-3, the proposed development requires nine
5 parking spaces. The applicant is providing 12 spaces, three of which will be set aside for visitor use.
6 The Commission finds that the proposal complies with the parking standard provided a key pad,
7 code and/or intercom is installed to ensure visitor access; and no garage doors are installed in front
8 of the parking spaces in the motor court. Additionally, the Commission finds that the visitor parking
9 must be identified with proper signage to help locate it in the motor court.

10
11 3. The Commission finds that the type of gate to the motor court at the rear (west) elevation is critical
12 so that the vision clearance required by LOC 42.03.130 is not compromised for cars exiting the
13 building at the alley, and a visual block is not presented for residents exiting the elevators into the
14 motor court. Therefore, the Commission finds that a condition of approval should be added
15 prohibiting a swing gate that opens into the alley.

16
17 4. With regard to the design of the structure, the Commission finds that the proposal meets all of the
18 Clear and Objective Standards of LOC 50.06.001.7 or can be made to comply with conditions of
19 approval as set out in the Staff Report.

20
21 5. The Commission finds that large sequoia trees on site or in close proximity to the site, in particular
22 the 72-inch sequoia off-site along the north property line, could be impacted by utility and
23 foundation construction without special measures. The Commission finds that, under LOC
24 50.07.003.5.a.iv, a condition of approval should be added requiring that all plans shall be reviewed
25 by a certified arborist and that the arborist shall be on site during excavation.

26
27 6. The Commission discussed drainage concerns with regard to the catch basin in the motor court
28 which could be blocked if not properly maintained because it is at a lower elevation than the
29 driveway approach at the alley. The Commission finds that the City Engineer has reviewed the
30 proposal and found that it complies with the Drainage standard. However, the Commission suggests
31 that the City Engineer review the emergency water flow from the motor court towards the street,
32 with special attention to the flooding potential in that area.

33 **ORDER**

34
35
36 **IT IS ORDERED BY THE DEVELOPMENT REVIEW COMMISSION of the City of Lake Oswego that:**

37
38 1. LU 15-0033 is approved, subject to compliance with the conditions of approval set forth in Subsection
39 2 of this Order.

40
41 2. The conditions for LU 15-0033 are as follows:

42 **A. Prior to any Grading, Construction or Issuance of any Building Permits, the Applicant/Owner Shall:**

- 43
44
45 1. Submit final building plans for review and approval by staff that are the same or in
46 substantial compliance with the plans approved by Exhibits E-4 through E-16, with the
47 following modifications, to the satisfaction of staff:

- 1 a. The percentage of glazing on the upper stories of the front ~~(east) and rear~~
2 ~~(west) facades shall be a minimum of 30% and 60% of the windows shall be~~
3 **oriented with a vertical to horizontal ratio of 1.5:1.**
4
- 5 ~~b. On the side elevations, the structure shall show a change in exterior cladding or~~
6 ~~detailing and material color between ground and upper floors.~~
7
- 8 c. The final landscape plan shall show a minimum of 4,818 square feet of landscaping
9 and open space. Shrubs shall be a minimum 3-gallon size or 36-inches tall,
10 whichever is greater. There shall be a note on the plan requiring removal of all
11 burlap and wire baskets from trees or shrubs before they are planted.
12
- 13 d. On the site and ground floor plans, show three parking spaces with signage as
14 dedicated for guest parking.
15
- 16 e. The structure shall include residential fire sprinklers per the Building Code to the
17 satisfaction of the Fire Marshall.
18
- 19 f. **A swing gate that opens onto the alley shall not be installed at the motor court**
20 **entrance to the alley. Only an overhead gate or other types that do not impede**
21 **vision clearance may be installed.**
22
- 23 g. **No garage doors shall be installed in the motor court that will close off the 12**
24 **parking spaces.**
25
- 26 h. **A key pad, code and/or intercom system shall be installed at the entrance to the**
27 **motor court from the alley to ensure visitor access.**
28
- 29 2. Submit engineered construction drawings for the public improvements for review and
30 approval by the City Engineer. Drawings shall conform to the City's most current design
31 standards and the drafting specifications. All final engineering design drawings and as-built
32 plans submitted for public facilities (street, wastewater, water and surface water) shall be
33 vertically controlled by the City Datum (NGVD'29) and horizontally controlled by the Oregon
34 State Plane Coordinate System (NAD 83/91). The design plans shall include the following:
35
- 36 a. Along the site frontage of 1st Street:
37
- 38 i. Design of a new standard curb adjacent to the existing gravel parallel parking
39 area to match into the curb on the north and south abutting properties.
40
- 41 ii. Design of a new 5-foot wide concrete sidewalk to replace the existing
42 substandard sidewalk.
43
- 44 b. Along the site frontage of the alley:
45
- 46 i. Design to pave the entire alley width to match the existing pavement on both
47 sides of the site. The existing utility pole located along the west side of the alley
48 at the northwest corner of the site shall be located outside of the alley

1 pavement area or alternative design provided to the satisfaction of the City
2 Engineer.

3
4 ii. Design of a mountable curb along the east side of the alley to manage storm
5 water runoff and to match into the existing curb on the north and south
6 abutting properties.

7
8 iii. Design of the driveway approach to City standards.

- 9
10 3. Construct all public improvements or provide a financial guarantee to ensure their
11 construction per LOC 50.07.003.9. The financial guarantee shall be based on an
12 itemized engineer's estimate that is in turn based on plans that are far enough
13 advanced to support the estimate, to the satisfaction of the City Engineer.
14
15 4. Submit a stormwater disposal plan, prepared by a registered engineer, to the satisfaction of
16 the City Engineer. All infiltration systems shall meet minimum setbacks of five feet from
17 property lines and 10 feet from building foundations. Driveway runoff cannot be directed to
18 a subsurface infiltration disposal system without DEQ approval. Any emergency overflow
19 shall be conveyed to an approved point of disposal.
20
21 5. Submit design of the private sanitary service lateral to serve the new structure, to the
22 satisfaction of the City Engineer.
23
24 6. Submit design of the private water services and fire suppression systems, to the
25 satisfaction of the City Engineer and the Fire Marshall. Fire hydrant requirements shall
26 be to the satisfaction of the Fire Marshal.
27
28 7. Submit an Operations and Maintenance Plan and Declaration of Covenant for
29 Operation and Maintenance of Surface Water Management Facilities for the onsite
30 private storm water facilities, to the satisfaction of the City Engineer.
31
32 8. Submit a Maintenance Agreement for the open space/landscaping for review and
33 approval of staff.
34
35 9. Submit a Notice of Development Restriction containing the following restriction, which
36 must be recorded against the site, for review and approval of staff:
37
38 a. Maintenance of the open space and landscaping is the responsibility of the Homeowner's
39 Association as set forth in the attached Maintenance Agreement, Exhibit A.
40
41 10. Apply for and obtain a verification tree removal permit for 15 trees and submit a mitigation plan
42 showing 15 mitigation trees, and the following information:
43
44 a. Planting specifications that ensure all trees will be planted without burlap and root ball
45 wire baskets.
46
47 11. Install all tree protection fencing as required by the Tree Code (LOC 55), below. All
48 protection fencing shall be inspected and approved by staff prior to the issuance of any
49 grading or building permits.

- 1 12. Apply for an erosion control permit and install the erosion control fencing as required
 2 by LOC 52. These measures shall remain in place throughout construction period.
 3
 4 13. Demonstrate that the driveway approach to the alley complies with AASHTO and the “vision
 5 clearance triangle” standards. No vegetation, fence, or signage higher than 30 inches will be
 6 allowed within the area formed by 10-foot legs extending from the intersection of the
 7 driveway and the edge of the alley pavement.
 8
 9 **14. Provide a written agreement between the applicant and a certified arborist
 10 requiring the arborist to review the final site, utility, grading and landscape plans
 11 and provide a report regarding the measures needed to assure long term survival of
 12 the sequoia trees along the north property line, both on and off-site; and that the
 13 arborist be present on site at any time during excavation, trenching, grading, root
 14 pruning or other activity within the tree protection zone to ensure proper protection
 15 of trees. The arborist report shall outline protection measures that will maintain a
 16 favorable root environment for preservation of these trees. The applicant shall
 17 carry out the arborist’s recommendations.**

18
 19 **B. Prior to Final Building Inspection or Occupancy of the Structure, the Applicant/Owner Shall:**

- 20
 21 1. Complete all public improvements and submit certified “as-built” drawings of public
 22 improvements conforming to the City’s standards for record drawings.
 23
 24 2. Complete all private utility services, including water, storm, sanitary and franchise utilities.
 25
 26 3. Record with the County Clerk’s Office the Declaration of Covenant for Operation and
 27 Maintenance of Surface Water Management Facilities, the landscaping Maintenance
 28 Agreement, and the Notice of Development Restriction, as required conditions of approval,
 29 above.
 30
 31 4. Install all landscaping, including all mitigation and street trees, as approved by Condition
 32 A(1), above, and Exhibit E-7 (landscape plan).
 33
 34 5. Provide a one-year guarantee (one 12-month growing season from the date of installation)
 35 for all landscape materials, including mitigation planting, pursuant to LOC 50.06.010.2. The
 36 guarantee shall consist of a security in the amount of five percent of the total landscaping
 37 cost.
 38

39 **Code Requirements**

- 40
 41 1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the approval of LU 15-0033 shall expire
 42 three years following the effective date of this development permit, and may be extended by the
 43 City Manager pursuant to the provisions of this section.
 44
 45 2. **Tree Protection:** Submit a tree protection permit application as required by LOC 55.08.020 and
 46 55.08.030 for review and approval of staff, including off-site trees that are within the construction
 47 zone. This plan shall be attached to the construction documents or printed on the construction
 48 site plans, and shall include:
 49

- 1 a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high
2 cyclone fence secured by steel posts, around the tree protection zone, or as recommended
3 by the project arborist and approved by the City.
4
- 5 b. A note stating that no fill or compaction shall occur within the critical root zones of any of
6 the trees, or that if fill or compaction is unavoidable, measures will be taken as
7 recommended by a certified arborist to reduce or mitigate the impact of the fill or
8 compaction. Such measures shall be clearly outlined in the tree protection plan. The note
9 shall also inform contractors that the project arborist shall be on site and oversee all
10 construction activities within the tree protection zone.
11
- 12 c. A note that clearly informs all site contractors about the necessity of preventing damage to
13 the trees, including bark and root zone. The applicant and contractor(s) shall be subject to
14 fines, penalties and mitigation for trees that are damaged or destroyed during
15 construction.
16
- 17 d. A sign shall be attached to the tree protection fencing, which states that inside the fencing
18 is a tree protection zone, not to be disturbed unless prior approval has been obtained
19 from the City Manager and project arborist.
20

21 **Notes:**
22

- 23 1. The applicant is advised to take part in a post-Land Use Approval meeting with City staff to discuss
24 this decision and the conditions of approval necessary to finalize the project. The purpose of the
25 meeting is to ensure all the conditions are understood and to identify other permits necessary to
26 complete the project. To take advantage of this meeting, please contact the staff coordinator at
27 (503) 635-0290.
28
- 29 2. The land use approval for this project does not imply approval of a particular design, product,
30 material, size, method of work, or layout of public infrastructure except where a condition of
31 approval has been devised to control a particular design element or material.
32
- 33 3. Development plans review, permit approval, and inspections by the City of Lake Oswego
34 Planning and Building Services Department are limited to compliance with the Lake Oswego
35 Community Development Code, and related code provisions. The applicants are advised to
36 review plans for compliance with applicable state and federal laws and regulations that could
37 relate to the development, i.e., Americans with Disabilities Act, Endangered Species Act. Staff
38 may advise the applicants of issues regarding state and federal laws that staff member believes
39 would be helpful to the applicants, but any such advice or comment is not a determination or
40 interpretation of federal or state law or regulation.
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1 DATED this 17th day of August, 2015.

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David Poulson /s/
David Poulson, Vice Chair
Development Review Commission

Iris McCaleb /s/
Iris McCaleb
Administrative Support III

ATTEST:

TENTATIVE DECISION – August 3, 2015

- AYES: Ahrend, Melendez, Prichard, Smith and, Shearer
- NOES: Poulson
- ABSTAIN: None
- ABSENT: Rabbino

WRITTEN FINDINGS – August 17, 2015

- AYES: Melendez, Prichard, Smith
- NOES: Poulson
- ABSTAIN: Rabbino
- ABSENT: Ahrend, Shearer