STAFF REPORT

CITY OF LAKE OSWEGO

PLANNING DIVISION

APPLICANT/OWNER:

Steel Creek Homes, LLC

TAX LOT REFERENCE:

Tax Lot 8800 of Tax Map 21E03DA

LOCATION:

658 1st Street

COMP. PLAN DESCRIPTION:

R-0

ZONING DESIGNATION:

R-0

NEIGHBORHOOD ASSOCIATION:

First Addition-Forest Hills

FILE NO:

LU 15-0033

STAFF:

Debra Andreades

DATE OF REPORT:

July 24, 2015

HEARING DATE:

August 3, 2015

120-DAY DECISION DATE:

November 6, 2015

I. APPLICANT'S REQUEST

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.

II. RECOMMENDATION

Approval of LU 15-0033, with conditions. The complete listing of conditions is provided on pages 16 through 20 of this report.

III. APPLICABLE REGULATIONS

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
LOC 50.07.003.14	Minor Development Decisions

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

LOC 42.03.130	Vision Clearance at Intersections
LOC 42.08.400-42.08.470	Streets and Sidewalks

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

LOC 55.02.010 - 55.02.080	Tree Removal
LOC 55.02.084	Mitigation Requirements
LOC 55.08.020	Tree Protection Plan Required
LOC 55.08.030	Tree Protection Measures Required

D. Prior Approval:

LU 06-0041

IV. FINDINGS

A. Background/Existing Conditions:

1. The subject site is 12,045 square feet in area (Exhibit E-1) and fronts on 1st Street (a local street), with access to a 20-foot alley in the rear (west).

2. There are approximately 19 trees interspersed on the site; a mixture of mature and younger trees, with a large sequoia along the north property line and two large sequoias; one 72 inches in diameter, on the property to the north. The site is vacant.

3. The site is zoned R-0. Properties to the north, east and south are also zoned R-0 and developed with a mixture of single family dwellings and multi-family development. The properties to the west across the alley are zoned R-2 and developed with single family homes.

V. REVIEW AND APPROVAL PROCEDURES

A. Neighborhood Meeting

The applicant held a neighborhood meeting on March 31, 2015. The minutes of the meetings are included in this report as Exhibit F-5.

B. Public Notice to Surrounding Area:

The City has provided adequate public notice and opportunity to comment on this application pursuant to LOC 50.07.003. 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.

VI. MINOR DEVELOPMENT

A. Classification of Application

LOC 50.07.003.14.a.ii(2) classifies a development that requires a City permit that is reviewed based on Clear and Objective Housing Standards for Approval in LOC 50.06.001.7 as minor development. The City Manager has elected to refer this request to the Development Review Commission pursuant to LOC 50.07.003.14.d.i because it is the first proposal to be reviewed under these standards that were adopted on March 19, 2015.

LOC 50.07.003.14.a.ii(6) describes the construction of a structure other than a detached single-family dwelling, duplex, zero lot line dwelling or accessory structure as a minor development.

B. Criteria for Review of Application

Per LOC 50.07.003.14.d, 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;

Residential R-0 zone Dimensional Standards [LOC 50.04.001.3]

The R-0 zone is a high density residential zone. The code indicates that any type of dwelling unit listed in Table 50.03.002-1 is allowed, including multi-family development. The applicant proposes multi-family development. When multi-family development is proposed in the R-0 zone (Table 50.04.001-11), a minimum density of 20 units per acre is required. The required minimum density on the site is six units. As indicated on Exhibit E-4, six units are proposed, complying with the standard.

The maximum lot coverage in the R-0 zone is 55% of the 12,045 square-foot site, or 6,624 square feet. The proposed structure is approximately 6,549 square feet as indicated on Exhibits E-4 and F-1. The maximum floor area in the R-0 zone is 1.2:1 which allows 14,454 square feet on the site. The total floor area proposed is approximately 13,340 square feet as indicated on Exhibits E-10 through E-12 and Exhibit F-1.

The setbacks for multi-family structures in the R-0 zone are 10 feet for front, rear and sides. The site plan shows that other than the allowed projections into the setback (fireplaces), the structure complies with the 10-foot setbacks on all sides.

The height limit in the R-0 zone is 28-32 feet depending on the slope of the lot. The lot is considered a "lot with sloping topography". Therefore, the base height may not exceed 32 feet above the natural grade. As indicated on the building elevations (Exhibits E-5 and E-6), the proposed structure complies with the height limitation.

2. The Development Standards applicable to minor developments; [LOC 50.06]

Building Design - Clear and Objective Standards [LOC 50.06.001.7.c.i]

These standards are intended to promote well-designed structures that include housing. Compliance with the clear and objective standards is an alternative to the discretionary standards of LOC 50.06.001.1-.6. [LOC 50.06.007.c].

c. Design Standards

i. Standards for Multi-Family and Residential Mixed Use Structures

(1) Building Articulation

(a) All building elevations facing a street, public courtyard or plaza shall be articulated along all stories by providing a minimum two-ft. horizontal change in building plane at least every 30 ft. For elevations not facing a street, public courtyard or plaza, articulation shall occur at least every 40 ft. For each story over two stories, the required horizontal change shall be increased by one ft. A change in plane shall be provided through at least two of the following:

(i) Projecting bays measuring at least six ft. in width.
(ii) Building recesses measuring at least six ft. in width.

(iii) Upper level balconies (projecting or recessed), measuring at least four ft. in width and projecting not more than two ft. beyond the building facade.
(iv) Front porch or stoop projections, measuring at least six ft. in width.
(v) Recessed building entries measuring at least six ft. in width.

The front and rear building elevations, as indicated on Exhibits E-5 and E-6, are articulated on all stories with a 3-foot horizontal change in building plane at least every 30 feet as required for a structure that has three stories. The side elevations are articulated at least every 40 feet, as indicated on Exhibit E-5. These articulations are accomplished by building recesses measuring at least six feet in width, upper level balconies measuring at least four feet in width and recessed building entries measuring at least six feet in width. This standard is met.

(b) Roofline articulation shall be provided in a manner that corresponds with the facade articulation. This shall be accomplished by providing the following roofline or roof form elements at least every 30 ft., as viewed from adjacent street(s), public courtyards, and plazas.

(i) Roofline articulation shall include gables, dormers, offsets in ridgeline, stepped parapets, cornice lines, or changes in roofline elevation.
(ii) The distance between rooflines where articulation occurs shall be measured from the center point of the street-facing gable, dormer, or offset, to the center point of the next street-facing gable, dormer, or offset, or to the edge of the roof if that is the next closest break in the roofline (see Figure 50.06.001-N).

As indicated on the roof plan and building elevations (Exhibits E-5, E-6 and E-13), roofline articulation corresponds to the façade articulation. This is accomplished by providing, at least every 30 feet, roofline or roof form articulation of cornice lines and roofline elevation as measured to the edge of the roof between breaks in the roofline. This standard is met.

(c) Ground floor entries to individual residential units shall provide a covered front porch, or a front entry that is recessed a minimum of two ft. behind the front building facade.

As indicated on Exhibits E-4, E-5 and E-11, the entries to Units 3 and 6 have front entries that are recessed a minimum of two feet behind the building façade. This standard is met.

(d) Primary building entries (including shared entries to residential units) shall provide an awning or canopy, or be recessed a minimum of two ft. behind the front building facade.

The site plan (Exhibit E-4), indicates that the shared entry to the motor court where the entries to the other units are located is recessed a minimum of two feet behind the front building façade. This standard is met.

(2) Building Facade Elements
The front building elevation of multi-family and residential mixed use structures with multiple stories shall meet the following standards, which are intended to avoid large uninterrupted wall planes and provide a defined building base, middle, and top

as follows. Single-story multi-family and residential mixed use structures shall provide a defined building base and top (see Figure 50.06.001-O).

(a) Base: The "base" of a multi-story building extends from the sidewalk or landscape grade, as applicable, to the bottom of the second story or the belt course/string course/cornice that separates the ground floor from the upper levels of the building. The base of a single-story building extends from the sidewalk or landscape grade, as applicable, to the ceiling. The building base shall be defined by providing the following elements:

(i) All ground floor building entries shall be protected from the weather by canopies, or recessed behind the front building facade at least two feet.

As indicated on Exhibits E-4 and E-5, the ground floor building entries are protected from the weather by being recessed behind the front building façade by at least two feet. This standard is met.

(b) Middle: The "middle" of the building extends from the top of the belt course/string course/cornice at the top of the building base to the ceiling of the highest building story. The middle of the building shall be defined by providing all of the following elements:

(i) A minimum of 60% of all upper story windows shall be vertically oriented, with a minimum vertical to horizontal dimension ratio of 1.5:1. This vertical orientation applies to individual windows, as opposed to grouped window arrays as illustrated in Figure 50.06.001-O.

(ii) Upper building stories shall provide a minimum of 30% glazing on upper level building facades facing a street or public space. For the purposes of this standard, minimum glazing includes any glazed portions of doors.

(iii) In addition to the required "middle" elements outlined above, two of the following building elements shall be provided in the middle section:

(A) A change in exterior cladding or detailing and material color between the ground floor and upper floors.

(B) Street-facing balconies or decks.

(C) A six-ft. minimum building step back on upper floors.

As indicated on Exhibits E-5 and E-6, there are approximately 96 upper story windows, more than 60% of which are oriented with a minimum vertical to horizontal ratio of 1.5:1. This applies to the front and rear façades which face 1st Street and the alley. As indicated on Exhibits E-5 and E-6, the upper story of the 1st Street façade is 1,509 square feet with 473 square feet of glazing or 31.3%. There were no calculations provided for the rear elevation although it appears to have approximately 30% glazing. As a condition of approval, the percentage of glazing on the front and rear facades shall be a minimum of 30% on the final building elevations at the time of building permit review. There are street facing balconies and a change in exterior cladding between the ground floor and upper floors of the front façade as indicated on Exhibit E-14. However, the side elevations do not show a change in exterior cladding or detailing and material color between ground and upper floors. As a condition of approval, the final building elevations shall show a change in exterior cladding on the side elevations at the time of building permit review.

(c) *Top: The "top" of the building extends from the ceiling of the uppermost floor to the highest vertical point on the roof of the building. The top of the building shall be defined as follows:*

(i) *All flat-roofed structures shall provide a cornice or parapet measuring at least 12 in. in height and distinguished from the wall plane either with a minimum six-in. projection or a change in building material and/or color.*

The proposed structure has a flat roof. The cornice is at least 13 inches in height with a 1.5' projection and distinguished from the wall plane with a change in color and material. This standard is met.

ii. *Rooftop mechanical equipment shall be screened by either a parapet or architectural screen along the building facade that is at least as tall as the equipment, or by setting back the equipment from the roof edges at least three ft. for each foot of height of the equipment. Solar or other renewable energy systems are exempt from this screening requirement, provided they meet the standards of LOC 50.04.003.4.b.*

There is no roof top mechanical equipment shown. Mechanical equipment is located within the structure on the ground floor, Exhibit E-10.

d. *Buildings shall be designed and constructed with roof angles, overhangs, flashings, and gutters to direct water away from the structure.*

As indicated on Exhibit E-5, the structure has overhangs. Compliance with this standard will be assured during building permit review.

e. *Buildings shall incorporate features such as arcades, roofs, alcoves, porticos and awnings to protect pedestrians from the elements. These projections shall maintain a minimum vertical clearance of 13 ft. six in. where over fire lanes.*

As indicated on the site plan (Exhibit E-4) and the building elevations (Exhibit E-5), there is an alcove at the front entrance to the motor court and to the two entrances to Units 3 and 6 on 1st Street which will protect pedestrians from the elements.

f. *Building orientation shall be designed to encourage pedestrian access from public streets and make the street pedestrian friendly.*

ii. *Building orientation shall include:*

(1) *Locating buildings within 30 ft. of a public street except where prevented by topographic constraints, existing natural resources, or where, in multi-building complexes, the configuration of the lot prevents locating all buildings within 30 ft. of a public street.*

(2) *Buildings located on sites with multiple frontages on public and/or transit streets shall provide at least one public entrance within 30 ft. of the transit street.*

(3) *Buildings located on sites adjacent to a transit street shall have at least one public entrance within 30 ft. of the transit street.*

(4) *Buildings that are within 30 ft. of a public street shall have a public entrance directly from the street.*

As indicated on the site plan, the proposed structure is 13 feet from the front property line on 1st Street with entrances to two units and to the motor court that are connected directly to the street by a sidewalk, complying with the standard for building orientation. First Street is not considered a transit street. This standard is met.

Staff finds that the proposed structure meets all of the Clear and Objective standards required for multi-family development or the criteria can be met by the imposition of conditions of approval.

Off-Street Parking, Loading and Bicycle Access [LOC 50.06.002]

This standard requires that multi-family development provide 1.5 spaces per unit when there are two or more bedrooms. The upper floor plan (Exhibit E-12) indicates that the two front units each have three bedrooms and the rear four units each have two bedrooms. Therefore, nine parking spaces are required. The ground floor plan (Exhibit E-10) shows that each unit will have a two-car garage with a total of 12 parking spaces. For multi-family development, 25% of the required parking shall be available for common or visitor use. For this project, 2.25 or three spaces of the nine required spaces shall be provided in this manner. As indicated on the ground floor plan, Exhibit E-10 and the rear elevation, Exhibit E-6, the motor court will have a gate and none of the 12 spaces provided in the motor court will have garage doors. Therefore, three of the spaces must have signage that indicates they are spaces available for guest parking. As a condition of approval, three spaces shall be shown with signage as dedicated for guest parking on the final site and ground floor plans, at the time of building permit review.

Minimum bicycle spaces are one space per dwelling unit, therefore six bicycle spaces are required. The ground floor plan (Exhibit E-10) shows that each garage will have a bicycle rack for a total of six covered bicycle racks. This standard is met.

Access [LOC 50.06.003.1]

This standard is applicable to construction of multi-family development. Every multi-family residential development shall abut a street for at least 25 feet. The site has 100 feet of frontage on 1st Street. Access shall be designed based on topography and traffic volume. The units will take vehicular access from the alley on the west side of the site. This standard is met.

On-Site Circulation - Driveways and Fire Access Roads [LOC 50.06.003.2]

This standard is applicable to all development proposing a new use or an increased use on a site when the development will result in the construction of or the increased use of driveways or parking lot aisles, and contains the geometric design standards for proposed driveways that serve as fire department access roads, and other design features such as slope and width of driveway approaches. Driveway approaches shall be located and designed so that drivers entering or exiting the driveway can see approaching traffic for a sufficient distance to make a safe entrance and exit, and the American Association of State Highway and Transportation Officials (AASHTO) standards shall be used in determining compliance with this standard.

Access will be taken from the 20- foot wide alley to the west. The Fire Marshall states that access is adequate for emergency vehicles. The maximum width of a driveway

approach, measured where the edges of the driveway meet the right-of-way, shall be 24 feet, unless otherwise justified by the recommendations of a traffic study. Where the driveway meets the public right of way, the landing area shall be a minimum of 25 feet long and shall have a maximum grade of 5%. The Engineering staff states that the site plan (Exhibit E-4) shows compliance with these standards for the driveway, as follows:

- The location of the proposed driveway is acceptable
- The width of the driveway approach at the right-of-way line will not exceed 24-feet, and the proposed grade will not exceed 5% for the first 25-feet.
- Sight distance triangles according to AASHTO standards are shown on the site plan. No vegetation, fence, or signage shall be located higher than 30 inches within a "vision clearance triangle." Accordingly, sight distance is sufficient in both directions for the driveway to operate safely.
- All other standards for construction will be met through final plan review.

These standards will be assured during building permit review. This standard is met.

On-Site Circulation – Bikeways, Walkways and Accessways [LOC 50.06.003.3]

This standard is applicable to all minor and major development involving the construction of a new structure other than a detached single-family dwelling, duplex, or accessory structure, and subdivisions and planned developments and requires that walkways connect at least one public entrance of each building to the nearest public walkway and that walkways meet the accessibility standards of the Americans with Disabilities Act (ADA). The site plan (Exhibit E-4) shows that the sidewalk on 1st Street will connect with the front entrances of two of the dwellings and to the motor court beyond where the other entrances are located. This standard is met.

Transit [LOC 50.06.003.5]

This standard is applicable to residential development of four units or more and requires the construction of pedestrian linkages and other amenities related to mass transit. The site is located within 400 feet of State Street, which is a transit route. The nearest bus stop is located at the intersection of D Avenue and State Street. A sidewalk will be constructed along the site frontage that connects to other sidewalks that lead to the transit stop and to an on-site sidewalk. This standard is met.

Landscaping, Screening and Buffering [LOC 50.06.004.1]

All development abutting streets shall provide street trees at the proper spacing for the species. The landscape plan, Exhibit E-7 shows Chaticleer pear trees along the 1st Street frontage. Per LOC 50.06.004.1.b, multi-family development shall provide 20% of the gross land area of the development site in landscaping in addition to the 20% park and open space requirements. Forty percent of the 12,045 square-foot site is 4,818 square feet. Landscaping may include courtyards, raised beds and planters, espaliers, arbors and trellises. The site plan (Exhibit E-4) indicates a total of 4,926 square feet of combined landscaping and open space, including 227 square feet of "living wall" (planted trellises on the front façade and front corner as shown on the landscape plan (Exhibit E-7). The final plans shall show the required amount of landscaping as indicated in Exhibit E-7. This standard is met.

Lighting Standard [LOC 50.06.004.3]

This section is applicable to all minor or major development which results in increased use of public and private streets, public pathways and accessways, or parking lots. Street lights are not required along local streets except at street intersections. Table 50.06.004-6: City Standard Criteria For Street And Roadway Lighting. This development will increase the use of the site, adding to vehicle and pedestrian traffic at the intersections of C Avenue/1st Street and D Avenue/1st Street. These intersections already have existing street lighting; therefore, no additional street lights will be required for this development. Staff notes that there is also existing street lighting located along the west side of 1st Street between C Avenue and D Avenue. This standard is met.

Park and Open Space [LOC 50.06.005]

This standard requires that multi-family development provide 20% of the gross land area in open space. See discussion above under the Landscaping standard. Maintenance of the open space and landscaping will be the responsibility of the Homeowner's Association through the recordation of a maintenance agreement. This will be made a condition of approval. As conditioned, this standard can be met.

Weak Foundation Soils [LOC 50.06.006.1]

The site is identified as having weak foundation soils on the City's Soil Inventory Map. The applicant submitted a geotechnical report (Exhibit F-3), which states that the foundation excavation should be reviewed prior to forming, though the potential for weak or expansive soils on the site is low. Continuous grade beams and steel pipe piles are recommended within 10 feet of any dry well excavation. Compliance with this standard will be assured during building permit review.

Drainage Standard for Major Developments, Partitions, Subdivisions, and Certain Structures [LOC 50.06.006.3.b]

This standard requires that drainage improvements be provided to ensure that the proposed development will not adversely affect surrounding properties and run-off rates are maintained at their natural undeveloped levels. In addition, this standard requires design features to minimize pollutants from entering the stormwater system and that the intensity of runoff rates are maintained at their natural undeveloped level. The determination of whether or not the application meets the drainage requirements is under the review authority of the City Engineer.

Sufficient stormwater detention shall be provided. When on-site detention is not feasible or practical, as determined by the City Manager, or required by the City, the applicant shall submit a plan to mitigate any adverse effects resulting from increased runoff and construct these mitigating measures (LOC 50.07.004.1.c).

The Engineering staff has determined that it is not feasible or practical to require this development to provide on-site detention per the code requirement, because the amount of stormwater release from the proposed development that would be required to be detained would not be sufficient to keep the system functioning; the amount of release that would be required to be detained is likely not significant enough to prevent the orifice in the detention control structure from being frequently clogged. LOC

50.07.004.1.c.i requires the development to mitigate any adverse effects (such as erosion and flooding of culverts) for its increased runoff resulting from the increased impervious areas; therefore, stormwater facilities shall be provided to maximize the amount of stormwater which is percolated into the soil and to minimize direct overland runoff into streets, drainage systems, and/or adjoining property, thus providing runoff mitigation to comply with the detention standards.

The City Engineer has made the following findings and recommendations:

The applicant has submitted a preliminary stormwater report prepared by a registered engineer dated June 26, 2015 (Exhibit F-2) indicating that stormwater runoff from the new roof areas will be conveyed directly to two drywells on the site, and runoff from the proposed driveway area will be conveyed through a storm filter catch basin and then routed to the drywells. The drywells have been sized to infiltrate the runoff from all storm events up to and including the 10-year, 24-hour storm event. The emergency overflow for each drywell will be piped to the curb line in 1st Street. The treatment design for stormwater quality is 0.36 inches of precipitation falling in four hours with an average return period of 96 hours. The preliminary drainage analysis indicates one filter cartridge will be needed in the catch basin. The proposed private on-site walkway on the east side of the property leading to 1st Street, will be constructed of a pervious pavement material. Site specific infiltration testing indicated an infiltration rate of nine inches/hour at depths of six to 10 feet and 12 inches/hour at a depths below 10 feet.

The Engineering staff finds the proposed stormwater disposal plan compliant with LOC 50.06.006.3.b. The Engineering staff also notes that driveway runoff cannot be directed to a subsurface disposal system without Department of Environmental Quality (DEQ) approval. Any alternative design that provides the equivalent compliance with the stormwater management standards shall be approved by the City Engineer, e.g., rain gardens or storm chambers.

A final storm design and drainage report shall be submitted for review at the time of building permit issuance for the development, to the satisfaction of the City Engineer. All on-site storm water facilities will be private. As a condition of approval, the applicant will be required to submit an operations and maintenance plan and record a Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities. As conditioned, this standard is met.

Utilities[LOC 50.06.008]

The Engineering staff has reviewed the application and finds that utilities are available or can be made available as follows:

Sanitary Sewer: Sewer service can be obtained from an existing 8-inch public sanitary sewer located along the site frontage in 1st Street. There is an existing 6-inch lateral serving this property with a 6-inch cleanout located at the right-of-way line. The utility plan (ExhibitE-8) shows the existing sanitary lateral will be utilized for providing sanitary sewer service for the development. The Engineering staff finds the proposed sanitary layout acceptable and notes that a plumbing permit will be required for the on-site work.

Water and Hydrants: There is an existing 6-inch public water main located in 1st Street. The utility plan (Exhibit E-8) shows three meters will be located along the right-of-way at the

northeast corner of the site and three meters located at the southeast corner. The Engineering staff finds the proposed water layout acceptable, and notes that each water service will be required to have an individual service line between the meter box and the main. The nearest fire hydrant is located approximately 100 feet north of the site at the southwest corner of the intersection of D Avenue and 1st Street. The Fire Marshall states that hydrant location is adequate for a structure up to 4,800 square feet including all levels. The proposed structure exceeds this limitation. However, Building Code requires residential fire sprinklers installed throughout the structure. With this as a condition of approval, no additional hydrant is needed and this standard is met.

Other utilities: It is the applicant's responsibility to ascertain the availability of electric, gas, telecommunications and cable TV. All new utilities shall be installed underground.

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

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

Vision Clearance at Intersections [LOC 42.03.130]

This standard requires that no vegetation, fence or signage higher than 30 inches be located within a "vision clearance triangle." The vision clearance triangle for driveways is formed by 10-foot legs extending from the intersection of the driveway and the travel lane. The Engineering staff states that the site plan (Exhibit E-4) does not specifically show the 10-foot legs for the driveway approach to the alley; however, the location of the proposed approach is such that the required sight triangles can be assured at the time of building permit review. As conditioned, this standard is met.

Streets and Sidewalks [LOC 42.08.400-42.08.470]

This Chapter authorizes the City Engineer to make specific street and sidewalk improvement recommendations after taking a variety of policy and site specific factors into consideration[1]. The City Engineer's comments are included for review of the overall understanding of the project. The City Engineer's conditions of approval are included, as they must be included in the decision, to find that the application will comply with this article.

The Engineering staff has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and Transportation System Plan (TSP), and offers the following observations and recommendations.

The proposed development is estimated to generate approximately six vehicle trips per dwelling unit per day for a total of 36 vehicle trips per day. Additional pedestrian

[1] *To meet the review criteria for a minor development, the applicant must comply with "any additional ... Lake Oswego Code provisions which may be applicable to the specific minor development application, such as ... the Streets and Sidewalks Ordinance." LOC 50.07.003.14.d. The determination of whether or not the application meets the requirements of LOC Chapter 42, Streets and Sidewalks, is under the review authority of the City Manager or City Engineer; the requirements of this Chapter are not under the review authority of a hearing body, other than to find whether or not the City Engineer or City Manager has found that the application complies with LOC Chapter 42, or whether conditions of approval are required for compliance with this Chapter.*

and bicycle trips can be expected as well. The cumulative effect of new trips (all modes), imposes an additional burden and concomitant concerns for preserving street capacity and public safety, particularly for bicycles and pedestrians.

The City has a governmental interest in assuring that new development does not contribute to a degradation of adequate, safe and efficient public transportation facilities. New development should mitigate the negative impacts (increased noise, and the degradation of aesthetics, safety, system capacity, and bicycle and pedestrian mobility) resulting from new development. The City has adopted a broad palette of policies, plans, regulations, and fees that have been designed to offset the adverse impacts of development on the natural and built environment. In this regard, the following regulations, standards and site specific characteristics have a direct bearing on the governmental interest in preserving the functionality and safety of the public infrastructure, and are particularly relevant to this development proposal:

- 1st Street is designated as a local street, and as such should be designed to safely accommodate bike and pedestrian traffic.
- The site is located within walking and biking distance of the surrounding neighborhoods and businesses.
- The site is located within a quarter of mile of a transit system.
- The existing sidewalk along the site frontage of 1st Street is substandard in width.
- There is an existing curb located along the street frontage of 1st Street along the abutting properties to the north and south of the site, with no existing curb along the street frontage of this site.
- The alley along the site frontage consists of gravel. The alley surface along the site frontage of the abutting properties to the north and south of the site consists of asphalt.
- LOC Chapter 42 directs the City Engineer to recommend to the decision making authority the appropriate width of public rights of way, and the width and character of the improvements contained therein.
- LOC Chapter 42 requires frontage improvements, including pedestrian improvements, to be constructed when property is developed.

The implementation of the City's plans, policies, and regulations will offset to some degree the negative impacts of development on the public infrastructure. LOC 50.07.003.5 allows the reviewing authority to impose conditions of approval on a development permit when the condition is reasonably related to alleviation of a need for public services or facilities created or contributed to by the proposed development. In addition, the US Supreme Court has ruled (Dolan v. City of Tigard) that, in order to require exactions, the local government must apply a test of "rough proportionality" between the impacts of the proposed development and the need for the exaction.

To mitigate for the adverse impacts that this development would have on the street and sidewalk system, the development will be required to construct curb and sidewalk along the entire site frontage of 1st Street, matching into the existing improvements on the abutting properties to the north and south of the site. In addition, the alley shall be paved and an extruded curb constructed along the east side of the alley along the

entire right-of-way frontage. The alley improvements shall match the existing improvements on the abutting properties to the north and south of the site.

The Engineering staff also notes existing overhead utilities along the west side of the alley. Per LOC 50.06.008.4.d, utilities shall be installed underground. This development will not be required to underground the existing overhead utility lines located along the alley; however, any new utilities leading to the site shall be located underground. The Engineering staff also notes that the existing utility pole located along the west side of the alley at the northwest corner of the site shall be located outside of the alley pavement area, or an alternative design provided to the satisfaction of the City Engineer.

As a condition of approval of the proposed development, the City will require the following mitigations:

Along the site frontage of 1st Street:

- Construct a new standard curb adjacent to the existing gravel parallel parking area in order to match the curb on the north and south abutting properties.
- Construct a new 5-foot wide concrete sidewalk in order to replace the existing sidewalk that is substandard in width.

Along the site frontage of the alley:

- Pave the alley in order to match the existing pavement on both sides of the site. The existing utility pole located along the west side of the alley at the northwest corner of the site shall be located outside of the alley pavement area, or an alternative design provided to the satisfaction of the City Engineer.
- Construct a mountable curb along the east side of the alley in order to manage storm water runoff and to match into the existing curb on the north and south abutting properties.
- Construct the driveway approach to City standards.

The above described improvements are directly related to mitigating the adverse impacts created by the development, as follows:

- The improvements will address the increased vehicle traffic because with a separation between vehicle, bicyclists and pedestrian the traffic capacity of the street will be preserved.
- The improvements will encourage use of the sidewalks and bike lanes, and use of transit, thus reducing the demand that would otherwise arise for vehicle travel on the street.
- The improvements will address the safety of the pedestrians and bicyclists by providing separation of modes of travel.
- The improvements will address the safety of ingress into the site and egress from the site.

The City; therefore, finds that the mitigating improvements on 1st Street and the alley are directly related to the increased traffic, bike, and pedestrian trips that will be created by this development.

The City finds that the required improvements are roughly proportional and mitigate the adverse impacts created by the development because:

- The proposed development is estimated to generate approximately six vehicle trips per dwelling unit per day for a total of 36 vehicle trips per day. The required frontage improvements along the property frontage will result in a greater use of alternative modes of travel (pedestrian, bicycle, transit), both today and in the future, as traffic congestion increases in the area. These additional alternative mode travel trips will help offset additional vehicle trips generated by the development.
- Similar mitigation requirements for site frontage improvements have been required for similar developments in the area, with the result being that such improvements have mitigated the increased traffic (vehicle, pedestrian, and bicycle) by preserving the functionality and public safety features of the public street system.

In light of the above facts and Code requirements, staff finds that the development of this site will place sufficient additional demand on the surrounding street system to justify the associated improvements above, and that these mitigating improvements are roughly proportional to the degree of impact imposed by the new development.

City of Lake Oswego Tree Code [LOC Chapter 55]

Tree Removal

This Code requires approval of a permit for removal of any tree in excess of 5-inches in diameter, subject to Type II criteria as listed in LOC 55.02.080(1-4), and prescribes protection measures for trees to remain during construction. The tree removal plan (Exhibit E-3) indicates 15 trees are proposed for removal, three of which are in the right-of-way at the frontage where street improvements will be constructed. The City Manager hereby authorizes the applicant to seek removal of the trees in the right-of-way, subject to showing compliance with all applicable standards for tree removal. Compliance with LOC 55.02.080 is required for such tree removal. (The plan also shows that there are two invasive trees that will be applied to be removed under a separate Invasive Tree Removal Permit and one tree that is less than five inches in diameter and is therefore not regulated). Any trees proposed for removal will be granted tree removal permits [LOC 55.02.035; 55.02.080], if they:

- Must be removed for development or landscaping purposes;
- Will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks;
- Will not have a significant negative impact on the character, aesthetics, or property values of the neighborhood, except when alternatives to tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone; and,
- The sole purpose is not for the purpose of providing or enhancing views.

Regarding the removal of 15 trees, staff finds that:

- Tree removal is necessary for development because they are in the building footprint or along the rear property line in close proximity to the area that will be disturbed

and/or graded to widen the alley to construct the proposed development. The three trees in the street right-of-way are in the area where the required stormwater swale will be constructed at the front of the site.

- The removal will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks because, as indicated on Exhibit E-3, there are two very large sequoias along the north property line that work together to provide this function with a similar tree on the property to the north.
- The removal will not have a significant negative impact on the character, aesthetics, or property values of the neighborhood because the 30 and 33-inch Sequoias along the north property line of the site have large canopies and provide the treed character in the vicinity of the site; removal of the 15 trees will not reduce the treed character of the neighborhood.
- The tree removal is not for view enhancement because the removal of the 15 trees will not improve any view, and as stated above, they are being removed for development purposes.

The applicant shall apply for a verification tree removal permit for 15 trees.

Mitigation

Any tree approved for removal should be mitigated at a minimum 1:1 ratio. Mitigation trees are required to be a minimum 2-inch caliper for deciduous trees and a minimum 6-8-feet height (excluding leader) for evergreen trees. The landscape plan (Exhibit E-7) shows that more than 15 trees that meet the requirements for mitigation will be planted on site. All burlap and wire cages shall be removed before trees are planted which will be a condition of approval.

4. Any applicable condition of approval imposed pursuant to 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 on the information provided by the applicant and the findings presented in this report, staff concludes that LU 15-0033 complies with all of the applicable criteria or can be made to comply through the imposition of conditions.

VIII. RECOMMENDATION

Approval of LU 15-0033, subject to the following conditions:

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

1. Submit final building plans for review and approval by staff that are the same or in substantial compliance with the plans approved by Exhibits E-4 through E-14, with the following modifications, to the satisfaction of staff:

a. The percentage of glazing on the upper stories of the front (east) and rear (west) facades shall be a minimum of 30%.

b. On the side elevations, the structure shall show a change in exterior cladding or detailing and material color between ground and upper floors.

c. The final landscape plan shall show a minimum of 4,818 square feet of landscaping and open space. Shrubs shall be a minimum 3-gallon size or 36-inches tall, whichever is greater. There shall be a note on the plan requiring removal of all burlap and wire baskets from trees or shrubs before they are planted.

d. On the site and ground floor plans, show three parking spaces with signage as dedicated for guest parking.

e. The structure shall include residential fire sprinklers per the Building Code to the satisfaction of the Fire Marshall.

2. Submit engineered construction drawings for the public improvements for review and approval by the City Engineer. Drawings shall conform to the City's most current design standards and the drafting specifications. All final engineering design drawings and as-built plans submitted for public facilities (street, wastewater, water and surface water) shall be vertically controlled by the City Datum (NGVD'29) and horizontally controlled by the Oregon State Plane Coordinate System (NAD 83/91). The design plans shall include the following:

   a. Along the site frontage of 1st Street:

      i. Design of a new standard curb adjacent to the existing gravel parallel parking area to match into the curb on the north and south abutting properties.

      ii. Design of a new 5-foot wide concrete sidewalk to replace the existing substandard sidewalk.

   b. Along the site frontage of the alley:

      i. Design to pave the entire alley width to match the existing pavement on both sides of the site. The existing utility pole located along the west side of the alley at the northwest corner of the site shall be located outside of the alley pavement area or alternative design provided to the satisfaction of the City Engineer.

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

      iii. Design of the driveway approach to City standards.

3. Construct 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 that is in turn based on plans that are far enough advanced to support the estimate, to the satisfaction of the City Engineer.

4. Submit a stormwater disposal plan, prepared by a registered engineer, to the satisfaction of the City Engineer. All infiltration systems shall meet minimum setbacks of five feet from property lines and 10 feet from building foundations. Driveway runoff cannot be directed to a subsurface infiltration disposal system without DEQ approval. Any emergency overflow shall be conveyed to an approved point of disposal.

5. Submit design of the private sanitary service lateral to serve the new structure, to the satisfaction of the City Engineer.

6. Submit design of the private water services and fire suppression systems, to the satisfaction of the City Engineer and the Fire Marshall. Fire hydrant requirements shall be to the satisfaction of the Fire Marshal.

7. Submit an Operations and Maintenance Plan and Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities for the onsite private storm water facilities, to the satisfaction of the City Engineer.

8. Submit a Maintenance Agreement for the open space/landscaping for review and approval of staff.

9. Submit a Notice of Development Restriction containing the following restriction, which must be recorded against the site, for review and approval of staff:

    a. Maintenance of the open space and landscaping is the responsibility of the Homeowner's Association as set forth in the attached Maintenance Agreement, Exhibit A.

10. Apply for and obtain a verification tree removal permit for 15 trees and submit a mitigation plan showing 15 mitigation trees, and the following information:

    a. Planting specifications that ensure all trees will be planted without burlap and root ball wire baskets.

11. Install all tree protection fencing as required by the Tree Code (LOC 55), below. All protection fencing shall be inspected and approved by staff prior to the issuance of any grading or building permits.

12. Apply for an erosion control permit and install the erosion control fencing as required by LOC 52. These measures shall remain in place throughout construction period.

13. Demonstrate that the driveway approach to the alley complies with AASHTO and the "vision clearance triangle" standards. No vegetation, fence, or signage higher than 30 inches will be allowed within the area formed by 10-foot legs extending from the intersection of the driveway and the edge of the alley pavement.

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

1. Complete all public improvements and submit certified "as-built" drawings of public improvements conforming to the City's standards for record drawings.

2. Complete all private utility services, including water, storm, sanitary and franchise utilities.

3. Record with the County Clerk's Office the Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities, the landscaping Maintenance Agreement, and the Notice of Development Restriction, as required conditions of approval, above.

4. Install all landscaping, including all mitigation and street trees, as approved by Condition A(1), above, and Exhibit E-7 (landscape plan).

5. Provide a one-year guarantee (one 12-month growing season from the date of installation) for all landscape materials, including mitigation planting, pursuant to LOC 50.06.010.2. The guarantee shall consist of a security in the amount of five percent of the total landscaping cost.

Code Requirements

1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the approval of LU 15-0033 shall expire three years following the effective date of this development permit, and may be extended by the City Manager pursuant to the provisions of this section.

2. **Tree Protection:** Submit a tree protection permit application as required by LOC 55.08.020 and 55.08.030 for review and approval of staff, including off-site trees that are within the construction zone. This plan shall be attached to the construction documents or printed on the construction site plans, and 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. Such measures shall be clearly outlined in the tree protection plan. 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 approval has been obtained from the City Manager and project arborist.

Notes:

1. The applicant is advised to take part in a post-Land Use Approval meeting. City staff would like to offer you an 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 you understand all the conditions and to identify other permits necessary to complete the project. If you would like to take advantage of this meeting, please contact the staff coordinator at (503) 635-0290.

3. The land use approval for this project does not imply approval of a particular design, product, material, size, method of work, or layout of public infrastructure except where a condition of approval has been devised to control a particular design element or material.

3. Development plans review, permit approval, and inspections by the City of Lake Oswego Planning and Building Services Department are limited to compliance with the Lake Oswego Community Development Code, and related code provisions. The applicants are advised to review plans for compliance with applicable state and federal laws and regulations that could relate to the development, i.e., Americans with Disabilities Act, Endangered Species Act. Staff may advise the applicants of issues regarding state and federal laws that 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.

EXHIBITS

A-D. [No current exhibits; reserved for hearing use]

E. GRAPHICS/PLANS

E-1 Tax Map
E-2 Vicinity Map with Zoning
E-3 Existing Conditions Plan with Tree Removal
E-4 Site Plan
E-5 Front and Side Building Elevations
E-6 Rear (Alley) Building Elevation
E-7 Landscape and Open Space Plan (2 pages)
E-8 Utility Plan
E-9 Details (2 pages)
E-10 Ground Floor Plan
E-11 Main Floor Plan
E-12 Upper Floor Plan
E-13 Roof Plan and Detail
E-14 Color and Materials Board

F. WRITTEN MATERIALS

F-1 Applicants' Narrative
F-2 Storm Drainage Report, prepared by 3J Consulting, Inc., dated June 26, 2015
F-3 Geotechnical Reports, prepared by GeoPacific Engineering Inc., dated 1/16/15 and 4/22/15
F-4 Tree Assessment, prepared by Northwest Tree Specialists; not dated
F-5 Minutes of Neighborhood Meeting held on March 31, 2015

G. LETTERS

Neither for nor Against (G1- 99)

None

Support (G100-199)

None

Opposition (G200+)

None

Date of Application Submittal: May 21, 2015
Date Application Determined to be Complete: July 10, 2015
State Mandated 120-Day Rule: November 6, 2015