

BEFORE THE DEVELOPMENT REVIEW COMMISSION OF THE
CITY OF LAKE OSWEGO

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A FOUR-LOT SINGLE FAMILY RESIDENTIAL) LU 15-0037
SUBDIVISION WITH TWO FLAG LOTS AND REMOVAL) MELVIN TAYLOR
OF FIVE TREES FOR THE ASSOCIATED SITE) FINDINGS, CONCLUSIONS & ORDER
IMPROVEMENTS.

NATURE OF APPLICATION

The applicant is seeking approval of the following:

- A four-lot single family residential subdivision with two flag lots; and
- Removal of five trees for the associated site improvements.

The site is located at 18975 Pilkington Road (Tax Lot 200 of Tax Map 21E19BA).

HEARINGS

The Development Review Commission (Commission) held a public hearing and considered this application at its meeting of October 19, 2015.

CRITERIA AND STANDARDS

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

LOC 50.02.001	Residential Districts
LOC 50.04.001	R-10 Zone Dimensional Table
LOC 50.04.002	Special Street Setbacks
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 50.06.003.5	Transit
LOC 50.06.004.1	Landscaping, Screening, & Buffering
LOC 50.06.004.2	Fences
LOC 50.06.004.3	Lighting
LOC 50.06.006.3.b	Drainage Standards for Subdivisions
LOC 50.06.007	Solar Access
LOC 50.06.008	Utilities
LOC 50.07.003.1	Burden of Proof
LOC 50.07.003.5	Conditions on Development
LOC 50.07.003.7	Appeals
LOC 50.07.007.2	Flag Lots

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

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

2
3 LOC 55.02.010 - 55.02.084 Tree Removal and Mitigation
4 LOC 55.08.020 – 55.08.030 Tree Protection

5
6 **CONCLUSION**

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8 The Commission concludes that LU 15-0037 can be made to comply with all applicable criteria by the
9 application of certain conditions.

10
11 **FINDINGS AND REASONS**

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13 The Commission incorporates the October 10, 2015, Staff Report, (with all exhibits attached thereto), as
14 support for its decision, supplemented by the further findings and conclusions below. If there is any
15 inconsistency between the supplementary findings and the staff report, the supplementary findings
16 control. To the extent they are consistent with the approval granted herein, the Commission adopts by
17 reference its oral deliberations on this matter.

18
19 Following are supplementary findings and conclusions of the Commission:

- 20
21 1. The Commission discussed storm water management alternatives for this site and finds that the
22 applicant’s proposal meets the City’s standards.
23
24 2. The Commission discussed street improvements on Pilkington Road and finds that the existing
25 asphalt pathway will provide sufficient connectivity until the time that coordinated improvements
26 along Pilkington Road can be made. The Commission noted that Condition 2(A)9 requires a waiver of
27 remonstrance for a future Local Improvement District for street improvements, and thus meets the
28 requirements of LOC 50.07.003.5a.iii.

29
30 **ORDER**

31
32 **IT IS ORDERED BY THE DEVELOPMENT REVIEW COMMISSION of the City of Lake Oswego that:**

- 33
34 1. LU 15-0037 is approved, subject to compliance with the conditions of approval set forth in Subsection
35 2 of this Order.
36
37 2. The conditions for LU 15-0037 are as follows:

38
39 **A. Prior to Recording the Final Plat, the Applicant/Owner Shall:**

- 40
41 1. Apply for and obtain a demolition permit for the existing structures on site. The applicant
42 shall note that this may require an asbestos report from a licensed agency to the satisfaction
43 of the Building Official. The demolition permit shall be accompanied by proper applications
44 for tree/Sensitive Lands protection and erosion control.
45
46 2. Submit a final plat for staff review and signature of approval within one year of the date of
47 this decision. **The deadline to submit the final plat to the City staff is October 5, 2016.** The
48 final plat must be dimensioned as depicted in Exhibit E5 and reference this land use
49 application – City of Lake Oswego Planning and Building Services Department Case File LU 15-
50 0037. Upon written application, prior to expiration of the one-year period, the City Manager

1 shall, in writing, grant a one-year extension. Additional extensions may be requested in
2 writing and must be submitted to the City Manager for review of the project for conformance
3 with current law, development standards and compatibility with development that may have
4 occurred in the surrounding area. The extension may be granted or denied and, if granted,
5 may be conditioned to require modification to bring the project into compliance with then
6 current law and compatibility with surrounding development.
7

- 8 3. All plats and public easements submitted to the City of Lake Oswego shall have
9 accompanying vector based electronic drawings or maps consistent with the prevailing
10 technologies in the Civil Engineering and/or Surveying fields (e.g. current or near current
11 versions of AutoCAD). The electronic drawings shall conform to the mapping requirements
12 for plats adopted in O.R.S. Chapter 92.
13
- 14 4. Submit a revised final plat that is substantially similar to Exhibit E5, with the following
15 modifications for review and approval of staff:
 - 16
 - 17 a. Public sanitary sewer easement over the private access drive for the public sewer
18 extension into the site, to the satisfaction of the City Engineer.
 - 19
 - 20 b. Public utility easements, to the satisfaction of the franchise utility companies.
21
 - 22 c. Private stormwater easements for the development's common stormwater facilities
23 throughout the development and private stormwater easement across the lots as
24 necessary for private emergency overflow lines.
 - 25
 - 26 d. Common private access easement over the private access drive serving the lots.
27
- 28 5. Submit engineered construction drawings for the public improvements for review and
29 approval by the City Engineer. Drawings shall conform to the City's most current design
30 standards and the drafting specifications. All final engineering design drawings and as-built
31 plans submitted for the creation of public facilities (street, wastewater, water and surface
32 water) shall be vertically controlled by the City Datum (NGVD'29) and horizontally controlled
33 by the Oregon State Plane coordinate system (NAD 83/91). The design plans shall include the
34 following:
 - 35
 - 36 a. Design of an 8-inch public sewer extension up Pilkington Road from the existing sewer
37 located approximately 775 feet south of the site at the intersection of Pilkington Road and
38 Childs Road, to the site's north boundary line. In addition, design of an 8-inch public
39 sewer main, within a minimum 15-foot wide public sanitary sewer easement, into the site
40 from Pilkington Road under the common access driveway, in order to serve all of the lots.
41 The public sewer shall terminate with a manhole within the public sanitary easement at
42 the easterly lot line of the back two lots, approximately 120 feet from the Pilkington Road
43 westerly right-of-way line. The existing septic system on site shall be decommissioned and
44 abandoned/removed per local and state requirements.
45

46 (Note: Pilkington Road south of Dawn Street is within the boundary of the City of
47 Rivergrove and is under the road authority and maintenance jurisdiction of Clackamas
48 County. The applicant should contact Clackamas County regarding sewer work and
49 permitting requirements within their jurisdiction.)
50

- b. Design to replace the existing 10-inch AC water main along the site frontage with a 10-inch ductile iron pipe.
 - c. Design of the common access driveway approach onto Pilkington Road to City standards, AASHTO and vision clearance standards.
 - d. Design for the removal of the existing driveway approach serving the site. The existing pathway across the approach shall remain.
 - e. Design of street lighting along the street frontage of Pilkington Road according to the lighting standards.
 - f. Design of the individual private water service and sanitary service laterals.
6. Submit on-site engineered construction drawings for the private on-site improvements.
 7. Submit a final stormwater drainage report for all required stormwater improvements, prepared by a registered engineer.
 8. Submit for the Engineering staff review the Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities for the storm water facilities to be maintained by the Homeowner's Association (HOA).
 9. Sign and record a non-remonstrance agreement for participating in a future Local Improvement District (LID) for street improvements that will include a bike lane and possible alignment adjustments to Pilkington Road.
 10. 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.
 11. Submit a final landscape plan that shows the following:
 - a. A 5-foot landscaping buffer on the north and south sides of the access lane, meeting the standards of LOC 50.07.007.2.f.i.
 - b. A 6-foot sight-obscuring fence along the south and west property lines of Lot 3 and the north and west property lines of Lot 4, unless the applicant can provide written waivers from the abutting property owners that a fence is not necessary.
 - c. A 6-foot landscape buffer along the south property line of Lot 3 and the north property line of Lot 4, meeting the standards of LOC 50.07.007.2.f.iii, unless the applicant can provide a written waiver from the abutting property owner that the buffer is not necessary. Illustrate specific planting materials, including size, species and location of all plant material.
 - d. The size, species and location of two or more street trees each on Lots 1 and 2, at the proper spacing for the species, to the satisfaction of staff.

1 e. The landscape material shall not include any species identified as invasive on the Lake
2 Oswego Plant List.

3
4 f. Provide a note on the final landscape plan requiring all burlap or wire cages to be
5 completely removed from root balls of all trees and shrubs before they are planted.
6

7 12. Record a "Notice of Development Restriction" with the final plat. The development
8 restriction shall be submitted for staff review and approval prior to recording and shall
9 contain the following restriction listed below for review and approval of City staff. A reduced
10 copy of the site plan showing the shared access lane, utility easements and the Protected
11 Solar Building Line on Lots 1-4 shall be included with the Notice and labeled as "Exhibit A" to
12 be recorded in the County Recorder's Office. The site plan shall be no larger than 8 ½" x 11"
13 in size and cannot contain any lettering smaller than 10 point font.

14
15 a. A minimum 5-foot landscape buffer is required along the north and south sides of the
16 access lane, except where the vehicular and pedestrian access is taken. Maintenance of
17 the buffer is the ongoing obligation of the property owner(s) of Lots 1-4.
18

19 b. Lots 3 and 4 are flag lots. Development of structures on these lots shall comply with the
20 provisions of LOC 50.07.007.1 regarding building and site design standards, including
21 height limitations, garage placement, and landscape buffer requirements. The following
22 site development restrictions apply:
23

24 c. The maximum height of the dwellings on Lots 3 and 4 shall be 26 feet (regardless if, at the
25 time of building permit review, the footprint meets the definition of "Sloped Footprint" or
26 "Lot with sloping Topography" per LOC 50.10.003), measured from the ground to the
27 ridge line of the roof as defined by LOC 50.10.003, "Height of Building."
28

29 d. The front, side, and rear yard setbacks for primary structures on Lots 3 and 4 shall be as
30 follows:
31

Setbacks for Lots 3 and 4		
		Add'l Requirements
Front		As measured from the projection of the access lane
-Structure	10 feet	
-Garage, Carport	20 feet	
Sides	10 feet (east), 30 feet (west)	
Rear	10 feet	

32
33 e. All lots are subject to the requirements of LOC 50.06.007.1.d.ii [Protected Solar Building
34 Line].
35

36 f. The City of Lake Oswego Fire Department has determined that an alternative method of
37 fire suppression, such as residential fire sprinklers, is required for new dwellings on all lots if
38 the dwellings are more than 4,800 square feet in size including all levels and attached
39 garage.
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- 1 g. There shall be a 6-foot sight-obscuring fence along the south and west property lines of Lot
- 2 3 and the north and west property lines of Lot 4, unless the abutting property owner(s)
- 3 waive this requirement, in which event the waiver shall be recorded.
- 4
- 5 h. There shall be a 6-foot landscape buffer along the rear property line (south) of Lot 3 and
- 6 the rear property line (north) of Lot 4, unless the abutting property owner waives this
- 7 requirement, in which event the waiver shall be recorded.
- 8
- 9 i. Maintenance of the 5-foot landscape buffer along both sides of the shared access lane as
- 10 it abuts Lots 1-4 is the ongoing obligation of the owners of these lots.
- 11
- 12 13. Submit maintenance agreements for the private shared access lane serving Lots 1-4, any
- 13 public or private utility easements, for review and approval of staff. These agreements shall
- 14 be recorded at the Clackamas County Recorder's Office at the time of recording the final plat.
- 15
- 16 14. Submit CC&Rs of the HOA for review and approval of staff that address the following:
- 17
- 18 a. 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 person for
- 20 the HOA.
- 21
- 22 b. Upon election of new officers for the HOA, the City shall be notified of the new contact
- 23 person.
- 24
- 25 c. The ownership, use, and maintenance of the following features:
- 26
- 27 i. Access easements for the shared access lane for Lots 1-4.
- 28
- 29 15. Pay the final plat review fee of \$388.
- 30
- 31 16. Submit a preliminary title report or lot book report showing the status of title and any liens
- 32 and encumbrances.
- 33
- 34 17. Record the Declaration of Covenant for Operation and Maintenance of Surface Water
- 35 Management Facilities for the private onsite storm water facilities.
- 36

37 **B. Within 90 Days of the Recordation of the Final Plat, the Applicant/Owner Shall:**

- 38
- 39 1. Submit a final title report, or lot book report from a title company demonstrating that the
- 40 final plat was validly recorded and that the private and public easements, Notice of
- 41 Development Restrictions, and the maintenance agreements as required by conditions,
- 42 above, are valid and subsisting, and that the lots are either free and clear of liens or
- 43 encumbrances, or that the holders of the liens and encumbrances consent to the creation
- 44 and recordation of the plat, dedication, easements, and Notice of Development Restriction.
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1 **C. Prior to Constructing the Public Improvements or Issuance of a Site Grading Permit, the**
2 **Applicant/Owner Shall:**
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- 4 1. Obtain a street opening permit for any work in the public rights-of-way, including
5 underground utility installation.
6
7 2. Apply for and obtain a verification tree removal permit for the five trees approved for
8 removal to construct the public improvements and completion of the approved grading plan.
9 The verification tree removal permit submittal shall include an 8½" x 11" copy of the tree
10 removal plan and a mitigation plan showing five replacement trees in compliance with
11 Condition A(11), above. Replacement trees shall not be dwarf or ornamental varieties and
12 shall be at least two inches in caliper if deciduous or at least six to eight feet tall (excluding
13 the leader) if evergreen.
14

15 **D. Prior to the Issuance of a Building Permit on any of the Lots, the Applicant/Owner Shall:**
16

- 17 1. Demonstrate compliance with Conditions A(1) – A(17), above.
18
19 2. Complete all public and site improvements as required by Conditions A(5) and A(6), above,
20 submit certified "as-built" drawings, and receive a certificate of completion and acceptance
21 by the City. This includes the construction of the private sanitary services, private storm lines
22 and laterals, private water services and private franchise utilities serving all of the lots.
23
24 3. Complete construction of the private sanitary services, common private storm facilities,
25 private water services and private franchise utilities serving all of the lots.
26
27 4. As applicable, site plans for all lots shall include street trees, shared access lane landscaping,
28 fencing, and flag lot landscaping as shown on Exhibit E8 and modified by Condition A(11),
29 above.
30
31 5. The garages on Lots 3-4 (flag lots) shall comply with the Flag Lot garage appearance and
32 location standards per LOC 50.07.007.2.e.ii, to the satisfaction of staff.
33
34 6. Submit an engineered design for on-site subsurface stormwater disposal systems and/or rain
35 gardens on each lot, to the satisfaction of the City Engineer. All infiltration systems shall
36 meet minimum setbacks of five feet from property lines and 10 feet from building
37 foundations. Driveway runoff cannot be directed to a subsurface infiltration disposal system
38 without DEQ approval. Any emergency overflow shall be conveyed to an approved point of
39 disposal.
40
41 7. Install construction protection measures for the common access lane stormwater facility in
42 order to protect the facility during home construction.
43
44 8. For each lot, apply for the appropriate tree removal permit, if necessary, and submit
45 mitigation plans. For mitigation, deciduous trees shall have a minimum caliper of two (2)
46 inches and conifer trees shall be a minimum of 6-8 feet high (excluding the leader).
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- 1 9. Post-construction protection measures for protecting the common access driveway
2 stormwater facility shall be left in place until after the final home construction has been
3 completed.
4

5 **E. Prior to any Final Building Inspection or Occupancy of any Dwelling on any Lot, the**
6 **Applicants/Owners Shall:**
7

- 8 1. Provide certification from the engineer of record that the stormwater infiltration facility for each
9 lot was constructed according to the design and is functioning properly.
10
11 2. Install all mitigation plantings pursuant to the final landscaping plan, as required by Condition
12 A(11), above, to the satisfaction of staff.
13
14 3. Install all Type II mitigation trees as required by Condition D(8), above.
15
16 4. Install all street trees, fencing, and landscaping, as required by Condition A(11), above.
17

18 **Code Requirements:**
19

- 20 1. **Tree Protection:** Submit a tree protection plan and application as required by LOC 55.08.020 and
21 55.08.030 for review and approval by staff, including off-site trees that are within the
22 construction zone. The plan shall include:
23
24 a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high
25 cyclone fence secured by steel posts around the tree protection zone, or as recommended by
26 the project arborist and approved by the City.
27
28 b. A note stating that no fill or compaction shall occur within the critical root zones of any of the
29 trees, or that if fill or compaction is unavoidable, measures will be taken as recommended by
30 a certified arborist to reduce or mitigate the impact of the fill or compaction. The note shall
31 also inform contractors that the project arborist shall be on site and oversee all construction
32 activities within the tree protection zone.
33
34 c. A note that clearly informs all site contractors about the necessity of preventing damage to
35 the trees, including bark and root zone. The applicant and contractor(s) shall be subject to
36 fines, penalties and mitigation for trees that are damaged or destroyed during construction.
37
38 d. A sign shall be attached to the tree protection fencing which states that inside the fencing is a
39 tree protection zone, not to be disturbed unless prior written approval has been obtained
40 from the City Manager and project arborist.
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1 DATED this 2nd day of November, 2015.

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Brent Ahrend /s/
Brent Ahrend, Chair
Development Review Commission

Janice Bader /s/
Janice Bader
Administrative Support III

ATTEST:

TENTATIVE DECISION – OCTOBER 19, 2015

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

WRITTEN FINDINGS – November 2, 2015

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