

Approved

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

4
5 APPROVAL OF A DEVELOPMENT REVIEW) LU 12-0005-1781
6 PERMIT TO CONSTRUCT AN ADDITION) JOHN BENJAMIN CHESSAR
7 TO AN HISTORIC LANDMARK) FINDINGS, CONCLUSIONS & ORDER
8

9 **NATURE OF APPLICATION**

10
11 The applicant is requesting approval of a Development Review Permit to construct an addition to an
12 existing single family dwelling that is designated as an historic landmark. This requires a Major Alteration
13 to an Historic Landmark.

14
15 The site is located at 1125 Maple Street (Tax Lot 3800 of Tax Map 21E 10 CA).

16
17 **HEARINGS**

18
19 The Development Review Commission (Commission) held several public hearings and considered this
20 application at its meetings of March 19 and April 16, 2012. Written testimony received after the initial staff
21 report was published or at the initial public hearing is listed in the April 13, 2012 Staff Memo. An opponent of
22 the application requested that the March 19 hearing be continued in order to submit additional information.
23 The Commission continued the hearing to April 16, 2012, for additional written or verbal testimony.

24
25 The following information was presented to the Commission at the April 16, 2012 hearing and added into the
26 record:

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28 Exhibit G-1 Letter from Marylou Colver, dated April 16, 2012
29 Exhibit G-2 Letter from State Historic Preservation Office, dated April 16, 2012
30 Exhibit G-206 Letter from Hilary Mackenzie, dated April 9, 2012 and submitted April 16, 2012
31

32 **CRITERIA AND STANDARDS**

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

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36 LOC 50.08.005 - 50.08.055 R- 7.5 Low Density Zone Description
37 LOC 50.40.005 - 50.40.030 Drainage Standard for Minor Development
38 LOC 50.43.005 - 50.43.035 Hillside Protection
39 LOC 50.55.005 - 50.55.020 Parking
40 LOC 50.58.005 - 50.58.035 On-Site Circulation - Driveways and Fire Access Roads
41 LOC 50.64.005 - 50.64.035 Utilities
42 LOC 50.70.005 Non-Conforming Uses and Structures
43 LOC 50.77.007 Burden of Proof
44 LOC 50.79.025 Review Criteria for Minor Developments
45 LOC 50.79.040 Conditions of Approval
46 LOC 50.81.005 - 50.81.020 Review of Minor Development Applications
47 LOC 50.84.005 Appeal of Minor Development Decision
48 LOC 50.87.005 - 50.87.025 Compliance with Approved Permit
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1 B. City of Lake Oswego Tree Chapter [LOC Chapter 55]:

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3 LOC 55.08.020 Tree Protection Plan Required
4 LOC 55.08.030 Tree Protection Measures Required
5

6 C. City of Lake Oswego Solar Access Chapter [LOC Chapter 57]:

7
8 LOC 57.06.050 - 57.06.092 Solar Balance Point
9

10 D. City of Lake Oswego Historic Preservation [LOC Chapter 58]:

11
12 LOC 58.02.005 - 58.02.165 Historic Preservation
13

14 **CONCLUSION**

15
16 The Commission concludes that LU 12-0005 can be made to comply with all applicable criteria by the
17 application of certain conditions.
18

19 **FINDINGS AND REASONS**

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21 The Commission incorporates the March 9, 2012, Staff Report, and the April 13, 2012, Staff
22 Memorandum (with all exhibits attached thereto), as support for its decision, supplemented by the
23 further findings and conclusion set forth herein. In the event of any inconsistency between the
24 supplementary matter herein and the staff report, the matter herein controls. To the extent they are
25 consistent with the approval granted herein, the Commission adopts by reference its oral deliberations
26 on this matter.
27

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

30 The Commission finds that the application can be approved under LOC 58.02.135(3)(a) OR (b).
31

- 32 1. LOC 58.02.135(3)(a): *The proposed alteration will not diminish the historical or architectural*
33 *significance of the landmark.*
34

35 The Commission received oral and written testimony concerning the following issues:

- 36 a. Comments from the State Historic Preservation Office (SHPO) were cited (Exhibit G-200)
37 regarding concerns that if the addition were to be removed in the future, the form and
38 integrity of the original structure would be lost not complying with SHPO guidelines.
39 b. The addition could compromise the integrity of the structure leading to possible de-listing
40 of the house from the National Register.
41 c. There may be problems with the City code if it allows staff to disagree with the experts at
42 SHPO.
43

44 The Commission finds that SHPO guidelines are advisory and that the criteria for approval of an
45 alteration to an historic landmark are found in the Lake Oswego Code LOC 58.02.135(3). In
46 addition, although not a criterion for approval, per Exhibit G-2, it is unlikely that SHPO would
47 pursue de-listing from the National Register in response to approval of a major alteration to the
48 landmark. Finally, it is not a Code problem if there is a disagreement amongst witnesses or
49 staff as to whether a proposal does or does not meet the Code criteria; the Commission weighs

1 the testimony of all persons and evidence before it and reaches a decision based upon that
2 testimony and evidence.

- 3
4 d. The proposed addition may compromise the architectural significance of the landmark.
5 e. The addition should be compatible with; not identical to the existing architectural style.
6

7 The Commission finds that the design of the proposed addition is balanced between compatibility
8 with, versus distinguishing the addition from the original house because:
9

- 10 1. There is a differentiation of material in the addition by the use of siding rather than
11 brick.
12 2. The size of the windows and number of panes are consistent with those on the
13 original house.
14 3. Many of the distinctive decorative features of the house, but not all of them, are
15 repeated in the addition.
16

17 The Commission notes that the proposed addition received support from the City's Historic
18 Resources Advisory Board (HRAB) for meeting the first alternative criterion. The Commission finds
19 that the addition is compatible with the architectural style of the original house and the proposed
20 alteration will not diminish the historical or architectural significance of the landmark, meeting the
21 criteria of LOC 58.02.135(3) for major alteration of an historic resource.
22

23 The Commission finds that one element of the original house had been altered by previous owners
24 most likely as part of a repair (plinths below the porch posts) and the proposed addition
25 reproduces this altered element. The Commission finds that as a condition of approval, the plinths
26 should be eliminated on the addition in order to not compromise the architectural significance of
27 the landmark, as originally constructed.
28

29 The Commission agrees with the Considerations contained in the Staff Report. However, as to
30 Consideration 5(b)(8):
31

32 (8) Restoration Possible: Except where Building Code precludes it, new additions or alterations
33 to structures shall be done in such a manner that if such additions or alterations were to be
34 removed in the future, the essential form and integrity of the original structure could be
35 restored.
36

37 The Commission finds that detailed drawings of the existing east façade of the house should be
38 provided to establish a record of the original design, which will be helpful to assure that if removed
39 in the future, the addition would not diminish the historical or architectural significance of the
40 landmark.
41

- 42 2. LOC 58.02.135(3)(b): *For alterations which diminish the historical or architectural significance,*
43 *through an ESEE analysis, it can be shown that the benefit to the community of allowing the*
44 *alteration outweighs the benefit to the community of preserving the resource in its present*
45 *condition..*
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47 Because the Commission finds that the first alternative criterion is met, the Commission need not
48 determine whether the second alternative criterion is met.
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1 **ORDER**

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

- 4
5 1. LU 11-0005 is approved, subject to compliance with the conditions of approval set forth in Subsection
6 2 of this Order.
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8 2. The conditions for LU 12-0005 are as follows:

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10 **A. Approval of LU 12-0005 shall be valid for a 3-year period from the date of the Order granting**
11 **final approval of the Development Review Permit, and shall be void if construction is not**
12 **complete within that time period.**

13
14 **B. Prior to Issuance of any Building Permits, the Applicant/Owner Shall:**

- 15
16 1. Submit final site and building plans for review and approval of staff that are the same or
17 substantially similar to the site plan, floor plans, and building elevations illustrated on
18 Exhibits E-3 through E-12, **with the following modification:**
19
20 a. **Remove any plinths below posts on the proposed addition; posts shall extend to**
21 **the ground and terminate on a stand-off post base.**
22
23 2. Submit a storm water disposal plan (showing the proposed infiltration trench design and
24 details) for Engineering staff approval. The infiltration system shall meet minimum setbacks
25 of 5-feet from property lines, and 10-feet from building foundations.
26
27 3. Submit a geotechnical report from a registered soils engineer for review and approval of the
28 Building Official.
29
30 4. Submit a tree protection permit application as required by LOC 55.08.020 and 55.08.030 for
31 review and approval by staff, including off-site trees that are within the construction zone.
32 The tree protection plan shall be attached to the construction documents or printed on the
33 construction site plans, and shall include:
34
35 a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high
36 cyclone fence secured by steel posts, around the tree protection zone, or as
37 recommended by the project arborist and approved by the City.
38
39 b. A note stating that no fill or compaction shall occur within the critical root zones of any
40 of the trees, or that if fill or compaction is unavoidable, measures will be taken as
41 recommended by a certified arborist to reduce or mitigate the impact of the fill or
42 compaction. Such measures should be clearly outlined in the tree protection plan.
43
44 c. A note that clearly informs all site contractors about the necessity of preventing
45 damage to the trees, including bark and root zone. The applicant and contractor(s)
46 shall be subject to fines, penalties and mitigation for trees that are damaged or
47 destroyed during construction.
48

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

5 **5. Provide detailed drawings and photos of the east elevation of the existing dwelling to**
6 **the satisfaction of staff.**
7

8 **C. Prior to any Construction Activity on the Site, the Applicant/Owner Shall:**
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10 1. Install all tree protection measures as required by the Condition B-4, above. The tree
11 protection fencing shall be inspected and approved by City staff prior to commencing
12 any construction activities.
13

14 2. Apply for and obtain an erosion control permit, and install all erosion control
15 measures.
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17 **D. Prior to any Final Building Inspection, the Applicant/Owner Shall:**
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19 1. Request a final inspection by the Planning staff to assure that the dwelling complies
20 with the approved final plans, per Conditions B(1), above.
21
22

23 **Note:**
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25 1. Development plans review, permit approval, and inspections by the City of Lake Oswego
26 Planning and Building Services Department are limited to compliance with the Lake Oswego
27 Community Development Code, and related code provisions. The applicants are advised to
28 review plans for compliance with applicable state and federal laws and regulations that could
29 relate to the development, i.e., Americans with Disabilities Act, Endangered Species Act. Staff
30 may advise the applicants of issues regarding state and federal laws that staff member believes
31 would be helpful to the applicants, but any such advice or comment is not a determination or
32 interpretation of federal or state law or regulation.
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1 DATED this 7th day of May, 2012.

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4 /s/ Gregg Creighton
5 Gregg Creighton, Chair
6 Development Review Commission
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8
9 /s/ Janice Reynolds
10 Janice Reynolds
11 Administrative Support III
12

13
14 **ATTEST:**

15
16 **ORAL DECISION – April 16, 2012**

17 AYES: Creighton, Richards, Rossi, Ahrend and Peck
18 NOES: Needham
19 ABSTAIN: None
20 ABSENT: None
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22 **WRITTEN FINDINGS – May 7, 2012**

23 AYES: Creighton, Rossi, Ahrend and Peck
24 NOES: Needham
25 ABSTAIN: Johnson
26 ABSENT: Richards
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