

BEFORE THE DEVELOPMENT REVIEW COMMISSION OF THE
CITY OF LAKE OSWEGO

-Approved-

DEVELOPMENT REVIEW PERMIT FOR) LU 12-0042-1804
CONSTRUCTION OF A COMMERCIAL BLDG) GTK PROPERTY MGMT, LLC
INCLUDING MAJOR ADJUSTMENTS TO) PSIHOGIOS PROPERTIES, LLC
THE LAKE GROVE VILLAGE CENTER STANDARDS) FINDINGS, CONCLUSIONS & ORDER

NATURE OF APPLICATION

The applicants are requesting approval of a Development Review Permit for construction of a new commercial building, including the following major adjustments to the Lake Grove Village Center Standards:

- A reduction in percentage of Storefront display window requirement along the building frontage on Douglas Way
- Reduction to parking lot landscaping requirements in several areas, including width of landscaped islands (more than 20%) within the parking lot and adjacent to the pedestrian walkway
- Elimination of trees and/or shrubs in several parking lot landscaped islands

One tree is proposed for removal to accommodate the project.

The site is located at 3996 Douglas Way (Tax Lots 12800, 12900, 13000 and 13100 of 21E08 BC).

HEARINGS

The Development Review Commission (Commission) held a public hearing and considered this application at its meeting of March 4, 2013. A member of the Waluga Neighborhood and a member of the former Advisory Committee for the Lake Grove Village Center Overlay testified in support of the proposal. The following information was presented to the Commission at the hearing and added into the record:

- Exhibit G-101 Letter from the Waluga Neighborhood Association, dated March 4, 2013
Exhibit F-11 PowerPoint presentation by the applicants

CRITERIA AND STANDARDS

A. City of Lake Oswego Community Development Code (LOC Chapter 50)¹

LOC 50.02.002.1-2	Commercial Districts-GC Zone Description
LOC 50.03.002	Commercial Districts-Use Table
LOC 50.04.001.4	Site Development Limitations -Commercial Zones
LOC 50.05.007.1-50.05.007.7	Lake Grove Village Center Overlay District
LOC 50.06.002	Off-Street Parking, Loading, and Bicycle Access
LOC 50.06.003.1	Access
LOC 50.06.003.2	On-Site Circulation - Driveways and Fire Access Roads
LOC 50.06.003.3	On-Site Circulation - Bikeways, Walkway and Accessways
LOC 50.06.003.5	Transit System

¹ LOC Chapter 50 was revised effective January 17, 2013. The standards and criteria applied to this application are as LOC Chapter 50 existed on the date of application (September 7, 2012), per ORS 227.173 and LOC 50.07.003.1.b,14.d.ii.

1	LOC 50.06.004.3	Lighting Standard
2	LOC 50.06.005	Park and Open Space
3	LOC 50.06.006.1	Weak Foundation Soils
4	LOC 50.06.006.3.b; 50.07.004.1	Drainage Standards
5	LOC 50.06.008	Utilities
6	LOC 50.06.011	Vision Clearance
7	LOC 50.08.006	Lake Grove Village Center Adjustments
8	LOC 50.07.003.1.b	Burden of Proof
9	LOC 50.07.003.5	Conditions on Development
10	LOC 50.07.003.14	Review of Minor Development Applications
11	LOC 50.07.003.7.b and c	Appeal of Minor and Major Development Decisions
12	LOC 50.07.003.6	Effect of Decision
13	LOC 50.07.003.10	Certificate of Occupancy

14
15 B. City of Lake Oswego Streets and Sidewalks [LOC Chapter 42]:

16		
17	LOC 42.03.005-42.03-210	Street Design Standards, Construction Permits
18	LOC 42.12.610-42.12.670	Permit Required, Conditions, Corrections
19	LOC 42.08.400-42.08.470	Sidewalk
20		

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

22		
23	LOC 55.08.020	Tree Protection Plan Required
24	LOC 55.08.030	Tree Protection Measures Requirements
25		

26 **CONCLUSION**

27
28 The Commission concludes that LU 12-0042 can be made to comply with all applicable criteria by the
29 application of certain conditions.

30
31 **FINDINGS AND REASONS**

32
33 The Commission incorporates the February 22, 2013 Staff Report, and the February 27, 2013 Staff
34 Memorandum (with all exhibits attached thereto), as support for its decision, supplemented by the further
35 findings and conclusion set forth herein. In the event of any inconsistency between the supplementary
36 matter herein and the staff report, the matter herein controls. To the extent they are consistent with the
37 approval granted herein, the Commission adopts by reference its oral deliberations on this matter.

38
39 Following are the supplementary findings and conclusions of this Commission:

- 40
41 1. The Commission finds that the massing, materials and design elements of the proposed commercial
42 structure conform to the design features and support the village character, as required by the Lake
43 Grove Village Center standards. In addition, the proposed pedestrian features create an engaging
44 pedestrian environment along Douglas Way and along the public pathway through the site, which will
45 require a public easement to be recorded, by Condition A(1).

46 The Commission notes that there is no development standard that requires a “vision clearance” area for
47 a public pathway intersecting with a private drive, and therefore no condition of approval can be added
48 to require pedestrian signage. However, since the pedestrian pathway will be dedicated and come
49 under the jurisdiction of the City, the Commission expresses to the City Engineer concerns regarding

1 pedestrian safety. The Commission recommends to the City Engineer that some form of warning for
2 pedestrians be placed at this location.

3 2. The Commission also expressed concern regarding vehicular safety at the southern end of the parking
4 lot which exits onto the school district driveway. The Commission requires the applicant to place
5 signage at this location that indicates that the exit at the school driveway is left turn only and imposes a
6 condition of approval that the applicants obtain a sign permit from the City prior to installing this sign.

7
8 3. The Commission heard testimony from the applicants regarding the major adjustments
9 requested; that although the building could physically provide the required percentage of
10 storefront windows along Douglas Way, the integrity of the design, related to the Italianate and
11 Oregon Rustic styles, requires some breaks in the window pattern.

12
13 The Commission finds that this adjustment and the two related reductions in landscaping do not
14 affect the streetscape and do not prevent the purpose of the standards from being met, which is
15 to reinforce a village scale and character, buffer dissimilar uses, and ensure a unified streetscape
16 theme and continuity within the Lake Grove District.; Therefore, based upon the findings in the
17 Staff Reports and these supplemental findings, the major adjustments may be approved.

18
19 4. The Commission notes that the unified site plan and shared access and parking, which is a private
20 agreement between two property owners, helps carry out the vision of the Lake Grove Village
21 Center Plan. The Commission notes that the existing structure on Tax Lot 12800 is not
22 redeveloping at this time; and the site plan shows construction of parking and landscaping on Tax
23 Lot 12900 in two phases, with the first phase providing sufficient landscaping and parking to meet
24 the requirements for the proposed new structure on Tax Lots 13100 and 13000. Therefore, the
25 Commission finds that Condition D(1) should be amended to allow the installation of landscaping
26 and parking on Tax Lot 12900, indicated by the applicants/owners as their Phase 2 on the site plan
27 (Exhibit E-5) to be performed within the three year period of validity of the permit.

28
29 5. The Commission notes the importance of tree protection for the large fir tree located off-site on
30 the property to the west and finds that to ensure that adequate measures are taken to protect
31 the tree, additional conditions of approval are needed that require arborist review of the
32 construction plans and presence on site during excavation.

33
34 **ORDER**

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

37
38 1. LU 12-0042 is approved, subject to compliance with the conditions of approval set forth in Subsection 2
39 of this Order, as amended by the Commission.

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42
43
44 2. The conditions for LU 12-0042 are as follows: **(New conditions in bold)**

45
46 A. **Prior to Issuance of any Building Permit, the Applicants/Owners Shall:**

47
48 1. Submit a Declaration of Unified Site Plan for development of Tax Lots 12800, 12900, 13000
49 and 13100 for review and approval of staff. This document shall be recorded at the

1 Clackamas County Recorder’s Office prior to approval of any Building Permit, **along with a**
2 **public easement for the pedestrian pathway through the site, on Tax Lot 13000. The**
3 **applicants shall provide the City with evidence that these two documents have been**
4 **recorded.**
5

- 6 2. Submit final building plans for review and approval of staff that are the same or substantially
7 similar to the site plan and elevations illustrated on Exhibits E-5 through E-29 and Exhibit E-
8 33, with the following clarifications and modifications:
- 9 a. Submit a revised roof plan that replaces the roof-top mechanical unit that is 55 inches in
10 height with one that is a maximum 42 inches in height.
 - 11
 - 12 b. Bike racks shall be painted dark bronze to complement the trim and foundation on the
13 building.
 - 14
 - 15 c. Placement of tree wells along Douglas Way shall ensure the sidewalk complies with ADA
16 standards while continuing to space the trees evenly apart.
 - 17
 - 18 d. Show commercial fire sprinklers or a site plan that indicates an additional hydrant to the
19 satisfaction of the Fire Marshal.
 - 20
 - 21 e. Show a bench on the public pedestrian pathway as well as landscaped pots adjacent to
22 the east building façade in the area of the pathway.
 - 23
 - 24 f. Submit a copy of the Geotechnical Report (Exhibit F-4) with the building permit
25 application.
 - 26
- 27 3. Submit a final landscape plan showing the additional following information for review and
28 approval of staff:
- 29
 - 30 a. Provide a note on the landscape plan requiring removal of the burlap and/or wire cages
31 from all trees and shrubs prior to planting.
 - 32
- 33 4. Submit final construction plans for the public improvements and storm water management
34 facilities, and an itemized cost estimate for review and approval by the City Engineer. The
35 final plans shall conform to the City’s design standards and specifications, and shall include
36 the following supplementary materials, design features, and notes:
- 37
 - 38 a. Widening of the pavement to achieve a 28-foot wide curb-to-curb finished street
39 width along Douglas way to match the existing curb of the adjacent property to the
40 east. The new curb along the site frontage shall be concrete curb and gutter.
 - 41
 - 42 b. Construction of a minimum 8-foot wide sidewalk (including 6-inch curb width)
43 along the site frontage. A minimum 5-foot clearance width shall be maintained
44 around tree wells, benches and street lights. Benches shall be installed a minimum
45 of two feet from the face of the curb and shall face the minimum 5-foot clearance
46 width area.
 - 47
 - 48 c. Construction of an asphalt ramp at the northwest corner of the site to provide
49 pedestrian access from the existing street up to the new sidewalk. The new curb

1 and sidewalk shall end east of the site's west property line far enough for the
2 asphalt ramp to be constructed in the right of way and not trespass onto the west
3 adjoining property.
4

- 5 d. All utilities shall be installed underground.
6
 - 7 e. Construction of a driveway approach meeting the City's standards. The driveway
8 approach shall be designed so that the driver entering or exiting the driveway can see
9 approaching traffic for a sufficient distance to make a safe entrance and exit. AASHTO
10 standards shall be used in determining compliance with this condition.
11
 - 12 f. Installation of one street light along the site frontage at the intersection of Hallmark
13 Drive and Douglas Way, according to City standards. The new street light shall be the
14 Providence style.
15
 - 16 g. The site plan details shall indicate where 3-inch concrete curbs are proposed at the
17 entrance to the site and within the parking lot on the east side, that they be constructed
18 using 4,000 psi concrete and rebar for reinforcement to ensure that the curb can
19 accommodate large truck loads.
20
 - 21 h. Construction of a private sanitary service to serve the development shall include a 6-inch
22 sanitary cleanout at the right of way line along Douglas Way.
23
 - 24 i. Submit a final storm plan and storm drainage report for the on-site water quality and
25 detention system, prepared by a registered engineer.
26
 - 27 j. Submit an Operations and Maintenance plan for the private on-site storm facilities for
28 the unified site plan, including Tax Lots 12800, 12900, 13000 and 13100.
29
 - 30 k. Any awnings that extend over the sidewalk shall have a minimum pedestrian clearance
31 height of seven feet.
32
 - 33 l. Submit revised photometric and site plans showing compliance with the illumination
34 standard for the entire parking lot with an additional parking lot light on the east side of
35 the site in the Phase 2 portion, if needed. Upon construction of Phase 2, the additional
36 light shall be installed, if required.
37
- 38 5. Submit a Maintenance Agreement specifying maintenance responsibilities for the shared
39 access and parking for review and approval of staff. The Agreement shall be recorded
40 against Tax Lots 12800, 12900, 13000 and 13100.
41
 - 42 6. Construct all public improvements as required by Condition A(4), above, or provide a
43 financial guarantee to ensure their construction per LOC 50.07.003.9. The financial
44 guarantee shall be based on an engineer's estimate that is based on construction plans that
45 are far enough advanced to support the materials and quantities found in the estimate.
46
 - 47 7. Dedicate additional right of way on Douglas Way (approximately 12 feet) to accommodate
48 the road improvements as required by Condition A(4)(a), above. This dedication shall be
49 based on final engineering plans for the street, sidewalk and frontage improvements.

- 1 8. Record the Declaration of Covenant for the approved Operations and Maintenance Plan for
2 the surface water management facilities, as provided for in Condition A(4)(j), above, and the
3 Maintenance Agreement for the shared access and parking lot, as provided for in condition
4 A(5), above, at the Clackamas County Recorder’s Office.
5
- 6 9. **Submit a contract with a certified arborist to review the construction plans and provide**
7 **recommendations for protection of the fir tree on the property to the west, as well as be**
8 **present on site during excavation.**
9
- 10 10. **Submit a title report, lot book report, or similar report from a title company showing**
11 **that the street dedication on Douglas Way and the public easement for the**
12 **pedestrian pathway on Tax Lot 13000 are free of any liens or encumbrances, or that**
13 **any holder of a lien or encumbrance consents to the dedications.**
14

15 **B. Prior to any Construction Activity on the Site or in the Public Rights of Way, the**
16 **Applicants/Owners Shall:**
17

- 18 1. Comply with Conditions of Approval A(1)-(8 10), above.
19
- 20 2. Install all tree protection measures as required by the Tree Code. The tree protection fencing
21 shall be inspected and approved by City staff prior to commencing any construction activities.
22
- 23 3. Apply for and obtain an erosion control permit, and install all erosion control measures.
24
- 25 4. Obtain all necessary approvals for a construction and traffic management plan.
26
- 27 5. **Ensure that the contract Arborist will be on-site during excavation.**
28

29 **C. Prior to Commencing the Street Widening Work on Douglas Way, the Applicants/Owners Shall:**
30

- 31 1. Comply with Section 40 of the City Charter, including public notice requirements, and obtain
32 approval for the street widening.
33

34 **D. Prior to any Final Building Inspection or Occupancy of the Project, the Applicants/Owners Shall:**
35

- 36 1. Install all landscaping as required by Condition A(3), above, and as shown on Exhibit E-24,
37 **except landscaping shown as Phase 2 on Exhibit E-5, on the east side of the parking lot on**
38 **Tax Lot 13100, may be completed within the three year period of validity of this**
39 **development permit.**
40
- 41 2. Complete all public improvements as required by Condition A(4), above; submit certified “as
42 built” drawings complying with the city standards for record drawings; and receive a
43 certificate of completion and acceptance by the City.
44
- 45 3. Stripe all parking spaces and mark any compact spaces as such.
46
- 47 4. Provide a one-year guarantee (one 12-month growing season from the date of installation)
48 for all landscape materials, including mitigation planting, pursuant to LOC 50.06.010.2. The
49 guarantee shall consist of a security in the amount of five percent of the total landscaping
50 cost (including labor and cost of landscaping materials).

1
2 5. Submit a title report, lot book report, or similar report from a title company showing
3 that the Covenant for Operation and Maintenance of the Surface Water Management
4 Facilities and Maintenance Agreement for the access, as required in Condition D(2),
5 above, has been recorded.
6

7 **6. Install signage, upon approval of a sign permit for incidental signage at the southern exit**
8 **of the site, signaling that exiting onto the school driveway is left turn only.**
9

10 **Code Requirements**
11

- 12 1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the approval of LU 12-0042 shall expire
13 three years following the effective date of this development permit, and may be extended by the
14 City Manager pursuant to the provisions of this section.
15
- 16 2. **Tree Protection:** Submit a tree protection permit application as required by LOC 55.08.020 and
17 55.08.030 for review and approval by staff, including off-site trees that are within the construction
18 zone. The plan shall include:
19
- 20 a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high
21 cyclone fence secured by steel posts around the tree protection zone, or as recommended by
22 the project arborist and approved by the City.
23
 - 24 b. A note stating that no fill or compaction shall occur within the critical root zones of any of the
25 trees, or that if fill or compaction is unavoidable, measures will be taken as recommended by a
26 certified arborist to reduce or mitigate the impact of the fill or compaction. Such measures
27 should be clearly outlined in the tree protection plan. The note shall also inform contractors
28 that the project arborist shall be on site and oversee all construction activities within the tree
29 protection zone.
30
 - 31 c. A note that clearly informs all site contractors about the necessity of preventing damage to
32 the trees, including bark and root zone. The applicant and contractor(s) shall be subject to
33 fines, penalties and mitigation for trees that are damaged or destroyed during construction.
34
 - 35 d. A sign shall be attached to the tree protection fencing which states that inside the fencing is a
36 tree protection zone, not to be disturbed unless prior written approval has been obtained
37 from the City Manager and project arborist.
38
- 39 3. **Redevelopment of Tax Lot 12800:** At the time of redevelopment of Tax Lot 12800 in the future,
40 landscaping requirements shall be evaluated and addressed based on the unified site plan as
41 discussed in this report, including Tax Lots 12800, 12900, 13000 and 13100.
42

43 **Notes**
44

- 45 1. The applicant is advised to take part in a Post Land Use Approval meeting. City staff would like to
46 offer you an opportunity to meet and discuss this decision and the conditions of approval necessary
47 to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and
48 to identify other permits necessary to complete the project. If you like to take advantage of this
49 meeting, please contact the staff coordinator at (503) 635-0290.
50

- 1 2. The land use approval for this project does not imply approval of a particular design, product,
2 material, size, method of work, or layout of public infrastructure except where a condition of approval
3 has been devised to control a particular design element or material.
4
- 5 3. Development plans review, permit approval, and inspections by the City of Lake Oswego Planning and
6 Building Services Department are limited to compliance with the Lake Oswego Community
7 Development Code, and related code provisions. The applicants are advised to review plans for
8 compliance with applicable state and federal laws and regulations that could relate to the
9 development, i.e., Americans with Disabilities Act, Endangered Species Act. Staff may advise the
10 applicants of issues regarding state and federal laws that staff member believes would be helpful to
11 the applicants, but any such advice or comment is not a determination or interpretation of federal or
12 state law or regulation
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1 DATED this 18th day of March, 2013.

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Gregg Creighton /s/
Gregg Creighton, Vice- Chair
Development Review Commission

Janice Reynolds /s/
Janice Reynolds
Administrative Support III

ATTEST:

ORAL DECISION – March 4, 2013

AYES: Richards, Creighton, Needham, Rossi, Ahrend, Johnson and Poulson
NOES: None
ABSTAIN: None
ABSENT: None

WRITTEN FINDINGS – March 18, 2013

AYES: Creighton, Needham, Johnson and Poulson
NOES: None
ABSTAIN: None
ABSENT: Richards, Rossi and Ahrend