

STAFF REPORT
CITY OF LAKE OSWEGO

PLANNING DIVISION

APPLICANT/OWNER:

Farm Fresh to Market LLC

FILE NO:

LU 13-0004

TAX LOT REFERENCE:

Tax Lots 2402 & 2600 of Tax Map 21E 18BDDD

STAFF:

Johanna Hastay

LOCATION:

17711 Jean Way

DATE OF REPORT:

March 7, 2013

COMP. PLAN DESCRIPTION:

Industrial Park

120-DAY DECISION DATE

June 14, 2013

ZONING DESIGNATION:

GC

NEIGHBORHOOD ASSOCIATION:

Rosewood

I. APPLICANT'S REQUEST

The applicant is requesting approval of a modification of a Development Review permit [DR 15-95/SD 19-95 (Mod 3-97)] for five additional parking lot lights with single-head 150-watt high pressure sodium lamps.

II. DECISION

Approval with conditions. The complete list of conditions is provided on page 8 of this report.

III. APPLICABLE REGULATIONS

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

LOC 50.01.006.7
LOC 50.02.002
LOC 50.06.004.3
LOC 50.07.003.1.b
LOC 50.07.003.3
LOC 50.07.003.5

Nonconforming Characteristics of Use
Commercial, Industrial, Mixed Use Zones
Lighting Standards
Burden of Proof
Public Notice/Opportunity for Public Comment
Conditions of Approval

LOC 50.07.003.7.
LOC 50.07.003.11
LOC 50.07.003.14
LOC 50.09.002.5

Appeal of Development Decision
Modification of Development Permits
Minor Development Decision
Compliance with Approved Permit

B. Prior Approvals:

DR 15-95/SD 19-95(Mod 3-97)

IV. **FINDINGS**

A. Background/Existing Conditions:

1. The site is bordered by three public right-of-ways: Boones Ferry Road (major arterial) to the north, Jean Way (major collector) to the east, and Jean Road to the south (considered a local street at this location) (Exhibit E1).
2. The property is zoned General Commercial (GC) and contains an existing commercial structure. Properties to the north and east are also zoned GC and developed with commercial uses. Properties to the west and south are zoned Industrial Park (IP) and developed with industrial commercial uses.
3. The only exterior modification proposed is to the parking lot lights.

V. **REVIEW AND APPROVAL PROCEDURES**

A. Neighborhood Meeting

Per LOC 50.07.003.1.f the City Manager may require neighborhood contact pursuant to this section prior to the filing of an application, if neighborhood contact is deemed to be beneficial. No neighborhood meeting was required for this application.

B. Public Notice to Surrounding Area

Pursuant to LOC 50.07.003.3.e, the City has provided adequate public notice and opportunity to comment on this application. No comments were received during the comment period.

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.

D. Classification of Application

LOC 50.07.003.14.a describes a modification of an approved Development Permit as a minor development.

E. Modification of Approved Permit [LOC 50.07.003.11]

Modifications to a development permit are classified as the same type of development as the original permit and shall be reviewed under the applicable review criteria for that classification of development, except that the review criteria shall be limited to those criteria that are affected by the requested modification. This application is being correctly processed as a Minor Development application.

F. Minor Development- 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;

General Commercial- GC [LOC 50.02.002]

The site is located in the GC zone. The request is for a modification to site improvements at an existing commercial development, a grocery store, which is a permitted use in the GC zone [LOC 50.03.002].

The site development requirements of the zone were met as part of the original review of the building [DR 15-95/SD 19-95(Mod 3-97)]. No exterior modifications to the building are proposed with this application (Exhibit F1). These standards are not affected by the requested modification.

2. The Development Standards applicable to minor developments;

Lighting Standard [LOC 50.06.004.3]

This section is applicable to all development, which includes public and private streets, public pathways and access ways, or parking lots.

The approved permit [DR15-95/SD19-95(Mod 3-97)] included a condition of approval that specifically limited parking lot lighting to a specific type and wattage:

Condition A(4). "Submit a final site lighting plan, including photometric data, for review and approval of staff. The parking lights shall be limited to a maximum of 150 watt high pressure sodium (HPS) luminaires (*sic*) mounted at a maximum height of 20 feet (including the base)."

The existing lighting that was installed per the prior approval consists of six light poles with four luminaires on each pole mounted at 19 feet. The applicant would like to add five more light poles with single-headed 150 watt HPS luminaires mounted at a maximum height of 20 feet (Exhibits E2 and F1). No changes to the existing light poles or the mounting height of the existing luminaires are proposed (Exhibit F1)

In order to approve the proposed modification, the following criteria must be met:

(1) General Provisions

- (a) For multi-level parking facilities, the roof level shall be considered an open air parking lot.*

The existing parking lot is a surface parking lot (Exhibit E2). This criterion is not applicable.

- (b) Open air parking lot lighting shall be designed to provide uniform lighting throughout the facility, but shall accomplish uniform lighting with the minimum lighting necessary for safety, security, and identification of necessary features.*

The applicant proposes five new light poles and single-head HPS luminaires in order to obtain more uniform lighting with the minimum number of luminaires necessary for safe and secure parking lot lighting (Exhibits E4-E5, F1). This criterion is met.

- (c) Open air parking lot lighting shall not produce light trespass by the direct illumination of adjacent and nearby properties or streets.*

The applicant has provided a photometric plan that demonstrates that no light trespass on abutting properties will occur as a result of the new light poles and luminaires (Exhibits E5 and F1). This criterion is met.

- (d) Open air parking lot lighting shall not produce annoying or disabling glare at normal viewing angles.*

As noted in the cutsheets and applicant's narrative (Exhibits F1 and F2), the HPS luminaires are designed with full cutoff optics that restrict light trespass, glare, and light pollution. From normal viewing angles, the proposed lighting does not produce any annoying or disabling glare. This criterion is met.

- (e) Where an open air parking lot is not anticipated to have a nighttime use, or where lighting would be out of character with the immediate environment, the reviewing authority may waive the illumination requirement.*

The grocery store will be in operation at night (Exhibit F1). This criterion is not applicable.

(2) Equipment and Installation Standards

- (a) Open air parking lot lighting shall employ the use of full cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA), except in special design districts where a particular "period" or architectural style has been adopted, or as specifically allowed by the reviewing authority.*

The proposed lighting is designed with full cutoff optics with reduced high-angle brightness (Exhibits F1 and F2). This criterion is met.

(b) Open air parking lot lighting shall use lamps whose emission is perceived as the warm (yellow/orange) end of the color spectrum, except under the circumstances permitted in this section.

The proposed HPS lighting is at the warm end of the color spectrum (Exhibit E5). This criterion is met.

(c) The maximum height of a pole mounted luminaire shall be 22 ft., or the height of the associated building, if less than 22 ft. in height.

The proposed luminaires will be mounted at the same height as the existing HPS luminaires (19-20 feet) (Exhibit F1). This criterion is met.

(d) Fixtures shall be positioned or shielded so as to prevent light trespass onto adjacent properties, and glare from normal viewing angles.

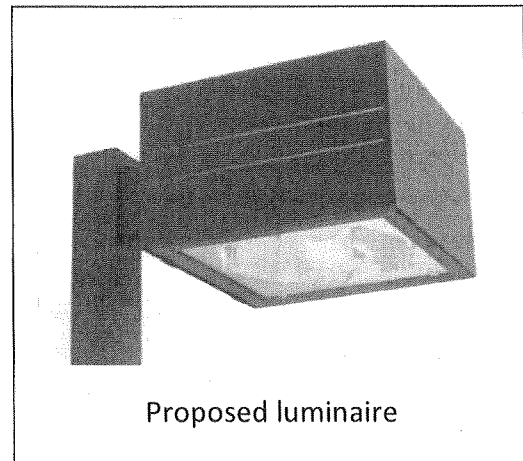
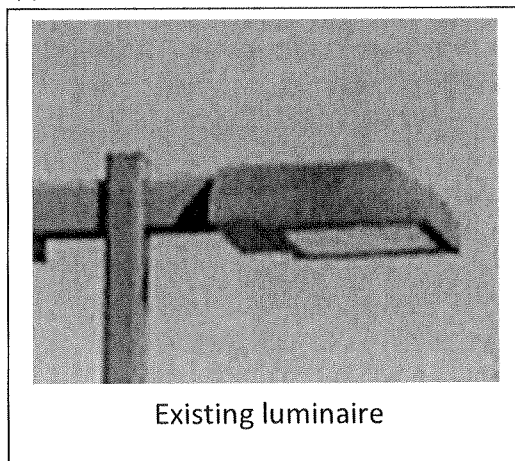
The proposed lights are single-head 150-watt HPS luminaries with full shields. The lighting will not increase at property lines. This criterion is met.

(e) Luminaires and poles shall be coated with a decorative protective finish as approved by the reviewing authority or shall be manufactured of a colored composite material (such as fiberglass). Unpainted galvanized steel, stainless steel, or other "raw" metals are not acceptable.

The proposed luminaires will be coated with a black finish. The proposed poles will be coated with a black baked-on polyester powder finish (Exhibits F1 and F2). This criterion is met.

(f) Luminaires and poles shall be architecturally compatible with the associated use.

The applicant's narrative (Exhibit F1) states that the proposed luminaires are substantially similar in appearance to the existing luminaires (Exhibit F2), which were subject to design review and approval per DR15-95/SD19-95(Mod 3-97).



As can be seen from the inset photo and graphic, the design of the proposed box-shaped luminaire differs in design from the existing luminaires with low rounded profiles. As a condition of approval, the applicant should submit cut sheets for a luminaire that is substantially similar to the existing, to the satisfaction of staff. As conditioned, this criterion can be met.

- (g) *The use of wood poles shall be limited to parking lots in nature parks or similar natural areas.*

The proposed poles are metal (Exhibit F1). This criterion is met.

(3) *Lighting Standards*

- (a) *Minimum level of illumination – 0.15 foot-candles on the pavement.*

The applicant's photometric plan does not include the specific foot-candle levels of illumination (Exhibit E5). As a condition of approval, the applicant shall submit a photometric plan that includes minimum and maximum foot-candle levels for each of the existing and proposed luminaires. As conditioned, this criterion can be met.

- (b) *Maximum level of illumination – 4.0 foot-candles on the pavement.*

As noted above, the applicant's photometric plan does not provide sufficient information to determine the maximum level of illumination (Exhibits E4-E5). As previously conditioned, this criterion can be met.

- (c) *Uniformity ratio 4:1.*

As noted above, the applicant's photometric plan does not provide specific foot-candle illumination levels. While the photometric plan appears to increase lighting uniformity, the previous condition of approval to submit a modified plan with foot-candle illumination levels will ensure compliance with this standard. As previously conditioned, this criterion can be met.

- (d) *The reviewing authority may grant an exception to the lighting standards upon finding that a particular use warrants a higher level of illumination to protect the public safety and welfare. The discouragement of property damage crime is not a sufficient factor in and of itself to warrant an exception to the lighting standards.*

No exceptions to the lighting standards are requested as a part of this application. This criterion is not applicable.

(4) *Prohibitions*

- (a) *Mercury vapor lamp fixtures and lamps.*
- (b) *Metal halide fixtures and lamps, unless the use thereof is warranted by exceptional security demands or the need for accurate color rendering, as determined by the reviewing authority. When approved, metal halide lamps shall be filtered.*
- (c) *Laser source lights.*
- (d) *Bare bulbs and strings of lights, except for traditional holiday lights during the respective holiday period.*
- (e) *Flickering lights.*
- (f) *Search lights.*
- (g) *Overhead spans of wire.*

The applicant does not proposed to use any of the above prohibited materials or products (Exhibit F1). This criterion is met.

(5) *Curfew*

The reviewing authority may impose a curfew on all, or part of, an open air parking lot's lighting system, and may further impose the regulated system to be controlled by an automatic timer.

Staff finds that no curfew on the parking lot lighting system is necessary to meet the lighting standards. This criterion is met.

(6) *Nonconforming Lights*

(a) Open air parking lot light fixtures that are in service and which were lawfully installed prior to July 11, 2003, are exempt from the requirements of this section, except that the replacement of damaged or obsolete nonconforming light fixtures shall conform to the requirements of this section.

The existing HPS luminaires were legally installed prior to July 11, 2003, but do not provide a uniform level of illumination. The applicant is proposing to install additional single-head HPS luminaires on five new poles in compliance current standards (Exhibit F1). This criterion is met.

(b) Nonconforming lighting shall be replaced with a system that complies with this section when the remodeling of any use associated with an open air parking lot exceeds 50% of the value of that use, or the removal and renewal or expansion of an open air parking lot exceeds 50% of the area occupied by the pre-existing parking lot.

The redevelopment associated with this site does not exceed 50% of the value of that use (Exhibit F1). In addition, the only modification to the parking lot is to the luminaires. This criterion is not applicable.

(7) *Lighting Plan Required – Content*

Proposals to illuminate an open air parking lot shall include a lighting plan. Lighting plans shall be prepared by a qualified professional specializing in illumination, and shall illustrate iso-illuminance circles expressed in foot-candles. Lighting plans shall be accompanied with all pertinent technical data for the proposed luminaires. The reviewing authority may require lighting plans to account for the influence of adjacent off-site lighting, reflection off vertical surfaces, window spill, shadow causing objects, and any other factors deemed relevant in evaluating the perceived level of illumination.

The applicant has provided a photometric plan that includes all of the content noted above with the exception that the plan does not include specific foot-candle information to determine minimum, maximum and uniform foot-candle illumination levels (Exhibits E4-E5). As previously conditioned, this criterion can be met.

(8) *Method of Measurement*

(a) Field measurements of illumination levels shall be measured with an instrument having a spectral response similar to that of the human eye, following the standard

spectral luminous efficiency curve adopted by the International Commission on Illumination.

The applicant states that the photometric plan was generated using computer software that measures and complies with the standards (Exhibit F1). This criterion is met.

(b) The height of a luminaire is the vertical distance between the surface of the ground and the lowest part of the luminaire.

The applicant proposes to install the new HPS luminaires at the height of the existing HPS luminaires which are in conformance with the lighting standards (Exhibit F1). This criterion is met.

Staff finds that, as conditioned, the Lighting standards can be met.

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

There are no development standards that are triggered by the scope of this proposal.

4. Any conditions of approval imposed as part of an approved ODPS or prior development permit affecting the subject property.

The conditions of approval imposed by prior development permits, DR15-95/SD19-95(Mod 3-97), will continue to apply.

VI. CONCLUSION

Based upon the information provided by the applicant and the findings presented within this report, staff concludes that LU 13-0004 complies with all of the applicable criteria or can be made to comply through the imposition of conditions.

VII. ACTION

Approval of LU 13-0004, subject to the following conditions:

A. Prior to Issuance of an Electrical Permit for the New Luminaires, the Applicant/Owner Shall:

1. Submit final photometric plans and specifications for the review and approval of staff, that are the same or substantially similar to the plans and specifications illustrated on Exhibits E2-E6 and F2 with the following modifications:
 - a. Provide a plan with specific foot-candle illumination levels for each proposed and existing luminaire in order to determine compliance with minimum, maximum, and uniform lighting standards, to the satisfaction of the City Engineer.
 - b. Modify the proposed luminaire to a housing style substantially similar in size, style, and profile to the existing luminaires and provide cut sheets, to the satisfaction of staff.

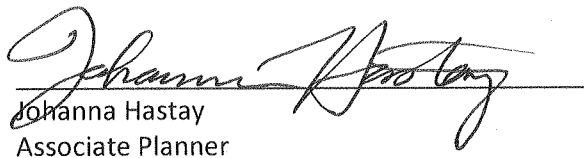
Code Requirements:

1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the Development Review permit approved by this decision shall expire three years following the effective date of this approval, and can be extended by the City Manager pursuant to the provisions of this section.

Note:

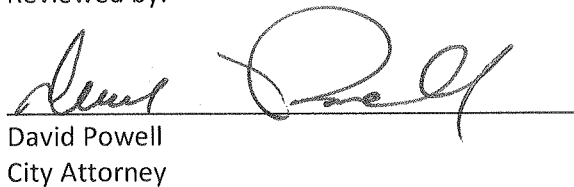
1. Development plans review, permit approval, and inspections by the City of Lake Oswego Development Review Section are limited to compliance with the Lake Oswego Community Development Code, and other applicable codes and regulations. The applicants are advised to review plans for compliance with applicable state and federal laws and regulations that could relate to the development, e.g., Americans with Disabilities Act, Endangered Species Act. City staff may advise the applicants of issues regarding state and federal laws that the City 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.

Prepared by:


Johanna Hastay
Associate Planner

3/7/13
Date

Reviewed by:


David Powell
City Attorney

3/7/13
Date

Approved by:


S. Hamid-Pishvaie
Assistant Planning Director

3/7/2013
Date

EXHIBITS

- A. **Notice of Appeal:**
(No current exhibits; reserved for hearing use)
- B. **Findings, Conclusions and Order:**
(No current exhibits; reserved for hearing use)
- C. **Minutes:**
(No current exhibits; reserved for hearing use)

D. Staff Report:
(No current exhibits; reserved for hearing use)

E. GRAPHIC/PLANS

- E1 Tax Map
- E2 Site Plan
- E3 Utility Plan
- E4 Existing Lighting Levels Plan
- E5 Photometric Plan
- E6 Landscape Plan

F. WRITTEN MATERIALS

- F1 Applicant's Narrative
- F2 Light Cut Sheet
- F3 Fire Marshal Memo

G. LETTERS:

Neither for nor Against: (G1-99)

None

Support: (G100-199)

None

Opposition: (G-200-)

None

Date of Application Submittal: February 1, 2013

Date Application Determined to be Complete: February 14, 2013

State Mandated 120-Day Rule: June 14, 2013