

BEFORE THE DEVELOPMENT REVIEW COMMISSION OF THE
CITY OF LAKE OSWEGO

Approved

APPEAL OF TREE REMOVAL PERMIT) AP 13-01 (499-12-03474)-1810
FOR LANDSCAPING PURPOSES TO REMOVE) JESSICA LEE STEPHENS
TWO 36" FIR TREES AND ONE 16" FIR TREE) FINDINGS, CONCLUSIONS & ORDER

NATURE OF APPLICATION

The applicant is requesting approval of the following:

The applicant is requesting approval to remove three Douglas fir trees for landscaping purposes (Exhibit E-2). Two of the Douglas firs are 36 inches in diameter and the third is 16 inches in diameter.

The site is located at 4230 Collins Way (Tax Lot 9900 of Tax Map 21E 8BC)

HEARINGS

The Development Review Commission (Commission) held two public hearings and considered this application at its meetings on April 1 and April 15, 2013.

At the April 1 public hearing, the Waluga Neighborhood Association submitted Exhibit F-5, a report with information about the trees in the vicinity of the site.

After the April 1 public hearing and prior to the April 15 public hearing, the following exhibits were submitted:

- Exhibit E-5: Video from the Waluga Neighborhood Association of the 1995 Wind Storm
- Exhibit E-6: Video from the Waluga Neighborhood Association of the 1996 Wind Storm
- Exhibit F-6: Letter from Jessica Lee Stephens (applicant) dated April 12, 2013
- Exhibit G-2: Letter from the Waluga Neighborhood Association dated April 6, 2013

CRITERIA AND STANDARDS

A. City of Lake Oswego Tree Code (LOC Chapter 55)

- LOC 55.02.080 Criteria for Issuance of Type II Tree Cutting Permits
- LOC 55.02.084 Mitigation Required
- LOC 55.02.085 Request for Public Hearing on a Type II Tree Cutting Permit
- LOC 55.02.094 Conditions of Approval for Tree Cutting Permits

CONCLUSION

The Commission concludes that tree removal application 499-12-03474 complies with all applicable approval criteria.

FINDINGS AND REASONS

The Commission incorporates the March 18, 2013, Staff Report (with all exhibits attached thereto), and staff memorandum dated April 11, 2013, as support for its decision supplemented by the further findings and conclusion set forth herein. In the event of any inconsistency between the supplementary matter

1 herein and the staff report, the matter herein controls. To the extent they are consistent with the
2 approval granted herein, the Commission adopts by reference its oral deliberations on this matter.
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4 Following are the supplementary findings and conclusions of this Commission:
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- 6 1. The Commission reviewed written testimony and video evidence that was submitted by the
7 Waluga Neighborhood Association (Association), (Exhibits E-5, E-6, F-5, G-1, and G-2). The
8 Association submitted this evidence in support of its claim that due to the specific geographic
9 characteristics of the Collins Way area, removal of these trees will create wind throw dangers
10 for other trees nearby, and, therefore, tree removal should occur gradually. After reviewing
11 the opinion of the City’s consulting arborist, who believes removal of the trees will not
12 negatively impact the wind resistance of other trees, and finding no other similar expert
13 testimony, the Commission finds the applicant has met the burden of proof in showing that
14 criterion LOC 55.02.080(2) has been met: there is no countering expert testimony evidence
15 that staggering the tree removal, as requested by the Association, is necessary for the safety of
16 other trees.
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- 18 2. The Commission heard testimony that the initial tree removal application was incomplete
19 because the applicant did not initially submit a detailed landscaping plan. The applicant
20 submitted a landscape plan to the Commission for the appeal hearing. Any person, including
21 the applicant, may submit evidence to the Commission at the appeal hearing. The Commission
22 is to then determine from the complete record whether or not the criteria are met. LOC
23 55.02.085(4).¹ The Commission finds that the reasons stated by the applicant for removing the
24 three Douglas fir trees (to protect the foundation of the existing dwelling from damage and
25 construct a pathway, in the case of the 36-inch trees, and to protect the driveway from
26 damage and allow further landscaping of the front yard, in the case of the 16-inch tree)
27 reasonably relate to landscaping, and that the approval criterion of LOC 55.02.080(1) is met.
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¹ “The DRC shall hear testimony from the applicant, followed by those in favor of the application, those opposed to the application (beginning with the person who requested the hearing if different from the applicant), and concluding with rebuttal by the applicant. **Any person may testify before the DRC. Following the close of the public testimony, the DRC shall determine, based upon the evidence and testimony in the record, whether or not the application complies with the criteria contained in LOC 55.02.080.** The findings, conclusions, and order shall contain the DRC’s reasons for approving, denying or modifying the permit.” LOC 55.02.085(4).

1 **ORDER**

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3 **IT IS ORDERED BY THE DEVELOPMENT REVIEW COMMISSION of the City of Lake Oswego that tree**
4 **removal application 499-12-03474 is approved.**

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6 DATED this 6th day of May, 2013.

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9 Don Richards /s/
10 Don Richards, Chair
11 Development Review Commission

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13 _____
14 Janice Reynolds /s/
15 Janice Reynolds
16 Administrative Support III

17 **ATTEST:**

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19 **ORAL DECISION – April 15, 2013**

20 AYES: Richards, Creighton, Needham, Ahrend, Johnson, Poulson
21 NOES: None
22 ABSTAIN: None
23 ABSENT: Rossi

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26 **WRITTEN FINDINGS – May 6, 2013**

27 AYES: Richards, Needham, Johnson, Poulson
28 NOES: None
29 ABSTAIN: None
30 ABSENT: Creighton, Rossi and Ahrend