

STAFF REPORT
CITY OF LAKE OSWEGO

PLANNING DIVISION

PROPERTY OWNER/APPLICANT:

Springs II at Lake Oswego, LLC

FILE NO:

LU 13-0016

APPLICANT'S REPRESENTATIVE:

Myhre Group Architects, Inc

STAFF:

Johanna Hastay

TAX LOT REFERENCE:

Tax Lots 5600 and 5601 of Tax Map 21E05CD

DATE OF REPORT:

May 24, 2013

LOCATION:

3800 & 3900 Carman Drive

120-DAY DECISION DATE:

September 3, 2013

COMP. PLAN DESCRIPTION:

OC/R-3

NEIGHBORHOOD ASSOCIATION:

Waluga

ZONING DESIGNATION:

OC/R-3

DATE OF PUBLIC HEARING:

June 3, 2013

I. APPLICANT'S REQUEST

The applicant is requesting approval of a Development Review permit to construct a 5,800 sq. ft. single story addition to an existing congregate housing and a Minor Variance to construct an 8-foot tall fence around the residential care housing facility's courtyard. The applicant is also requesting approval to fully enclose an existing covered patio at the rear of the residential care housing facility. The proposal incorporates site improvements, including the removal of 16 trees.

II. RECOMMENDATION

Approval with conditions. The complete list of conditions is provided on pages 16-17 of this report.

III. **APPLICABLE REGULATIONS**

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

LOC 50.02.001	Residential High Density Zone
LOC 50.03.002.1	Residential Use Table
LOC 50.03.003.2.a	Use Specific Standards for Residential Care Housing and Congregate Housing
LOC 50.04.001.3	R-3 Residential High Density Zone Dimensional Table
LOC 50.04.001.5	OC Commercial Zone Dimensional Table
LOC 50.04.002	Special Street Setbacks
LOC 50.05.010	Sensitive Lands Overlay District
LOC 50.06.001.5	Building Design
LOC 50.06.002	Parking
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 50.06.004.1	Landscaping, Screening and Buffering
LOC 50.06.004.3	Lighting Standard
LOC 50.06.005; 50.07.004.7	Park and Open Space Contributions
LOC 50.06.006.1	Weak Foundation Soils
LOC 50.06.006.3.a; 50.07.004.1	Drainage Standard for Minor Development
LOC 50.06.008; 50.07.004.11	Utilities
LOC 50.06.011	Vision Clearance
LOC 50.07.003.1.b	Burden of Proof
LOC 50.07.003.6	Effect of Decision
LOC 50.07.003.7	Appeals
LOC 50.07.003.14	Minor Development Decisions
LOC 50.08.002	Minor Variances

B. **City of Lake Oswego Signs [LOC Chapter 47]:**

LOC 47.03.005 - 47.03.030.2	Signs
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C. **City of Lake Oswego Tree Chapter [LOC Chapter 55]:**

LOC 55.02.010 - 55.02.080	Tree Removal
LOC 55.02.084	Mitigation Requirements
LOC 55.08.020	Tree Protection Plan Required
LOC 55.08.030	Tree Protection Measures Required

D. **Prior Approvals:**

DR 13-84
DR 4-95/SD 5-95, PD 3-05
LU 99-0033
LU 10-0032

IV. FINDINGS

A. Background/Existing Conditions:

1. The Springs II is a unified site of approximately 6.17 acres containing a 144-unit congregate housing (the applicant's materials describe it as an independent living facility or ILF) and a 29-unit residential care housing facility (referred to as an assisted living facility or ALF). Although developed separately, the two facilities are now under common ownership and are connected through a system of shared site amenities, including pedestrian pathways, driveways, and parking lots. The site abuts Carman Drive (a neighborhood collector) to the north, Daniel Way (a private street) to the west, and Davis Lane (a local street) to the east.
2. The subject site is split zoned OC/R-3 but is developed with a residential use. Per LOC 50.02.002.e, the R-3 zone residential density and floor area standards will apply. For all other purposes, the proposal must comply with the OC zone commercial zone requirements. Properties surrounding the site are zoned R-3, R-5, NC, and OC/R-3 and are developed with a mix of single family dwellings to multifamily housing and commercial office development.
3. The City's Sensitive Lands Atlas illustrates a Resource Protection District (stream corridor) along the western property line. No expansion of development is proposed within the resource but the existing ALF facility may be non-conforming to certain Sensitive Lands standards.

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. A neighborhood meeting was held on January 8, 2013 (Exhibit F5).

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 prior to the publication of this report.

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.ii(6) and (16) describe the construction of an addition to a congregate housing facility, alteration of a residential care housing facility, and a Minor Variance to fence height all as minor developments.

E. 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(s) in which it is located;

R-3 Residential Zone [LOC 50.04.001.3] & OC Commercial Zone [LOC 50.04.001.5]

The site is located in the OC/R-3 split zone but is developed with a residential use. Per LOC 50.02.002.e¹, the only R-3 zone requirements that apply are the floor area and density standards. For all other purposes, the commercial standards of the OC zone will apply. The current request is for a 5,800 sq. ft. recreational use addition to an existing congregate housing facility, to fully enclose an existing covered patio area on the residential care housing facility, and a Minor Variance to construct an 8-foot fence (Exhibit F1). The modifications will not increase the number of units in either facility and will not create additional traffic impacts on the surrounding neighborhood.

The applicable R-3 and OC zone standards are listed in the matrix, below:

Proposed Addition on Existing Congregate Housing Facility & Alteration of Existing Residential Care Housing Facility		
Standard	Required/Allowed	Proposed
Lot Area (OC zone)	none	6.17 acres
Lot Depth (OC zone)	none	Existing, no change
Lot Width (OC zone)	none	Existing, no change
Setbacks (OC zone)		
Front	none	Existing, no change
Sides	none	Existing, no change
Rear	none	~30 ft
Lot Coverage (OC zone)	25% or 67,191 sq. ft.	23% or 67,656 sq. ft.
Floor Area (R-3 zone)	1.2:1 or 322,517 sq. ft.	158,080 sq. ft. or .59:1 including the addition and enclosed patio area
Height (OC zone)	45 feet for the addition (more than 60 feet from a residential zone)	Addition is approximately 20 feet in height

¹ On March 20, 2013, Ordinance 2526 was adopted which clarifies which zone dimensional standards apply in the case of a split/mixed-use zone designation. The application was submitted on March 22, 2013; therefore, the current standard applies. The applicant's materials reference the prior code interpretation which required a residential development in a split/mixed use zone like R-3/OC to fully comply with the residential zone standards.

As shown in Exhibits E2, E6, and F1 and the matrix, above, the congregate housing addition complies with all of the site development limitations of the OC and R-3 zones, as applicable. The proposed enclosed patio on the residential care facility is located under the cantilevered second floor of the existing building; enclosure will not impact lot coverage, setbacks, or height. The new floor area associated with the enclosure, 1,632 sq. ft., is not accounted for in the applicant's narrative (Exhibit F1). As shown in the matrix above, the floor area total is still under the maximum allowed. This standard is met.

Use Specific Standards for Residential Care Housing and Congregate Housing [LOC 50.03.003.2.a]

The following are general standards that apply to residential care and congregate housing projects in the R-3 zone:

- (1) Any site to be used for residential care housing or congregate housing shall be at least one-half acre in size. All abutting property, which is in one ownership or the subject of a joint application involving more than one ownership, shall be considered as the site.*

The two abutting tax lots are under common ownership and make up a unified site that is 6.17 acres in size (Exhibits E2 and F1). This standard is met.

- (2) All requirements of the underlying zone, such as lot coverage, height limitations, setbacks and of the Lake Oswego Code generally, shall be complied with unless modified by this section. However, there are no density limitations on the number of residential care or congregate housing living units, which may be developed, provided all the other requirements of the Code and other governmental regulatory agencies are met.*

As reviewed, above, the proposed development complies with the underlying zone standards. The proposal does not increase density in that no new units are proposed with this application in either building (Exhibits E9 and F1-F2). This standard is met.

- (3) Within the allowed single- and multi-family zones, residential care housing and congregate housing shall be permitted only on those properties which abut a major or minor arterial or a major collector or neighborhood collector. Access to the development site shall be by the street with the highest classification unless prohibited by access constraints.*

The site abuts Carman Drive which is a neighborhood collector. The existing three main access points are taken from Carman Drive, the highest classified street (Exhibit E2). The site also has an access point on Davis Lane which is a local street. No changes to the existing access points are proposed with this application (Exhibit F1). This standard is met as existing.

- (4) Any building to be occupied for residential care housing and congregate housing shall be designed or renovated specifically for this use. Any required regulatory licenses shall be obtained before residents occupy the building.*

The existing development was designed and constructed as residential care housing and congregate housing. The proposal is for new floor area serving those residential uses; the applicant's narrative states that all regulatory licenses will be obtained for the new services (Exhibit F1). Compliance with this standard will be made a condition of approval. As conditioned, this standard is met.

- (5) All public services shall be available and have the capacity to serve the facility.*

The existing development is served by public services. The proposed development will be served by the existing services without diminishing their service capacity (Exhibit F1). This standard is met.

- (6) Site design shall illustrate the accommodation of the special accessibility needs of those with varying levels of disabilities such as grade and width of walkways, exterior lighting, signage, resident parking, and orientation of entrances, which emphasize easy recognition.*

The proposed site improvements include an accessible memory care courtyard, upgraded internal living areas, and new accessible patios and pathways that comply with ADA width and grade requirements (Exhibits E6 and F1). The applicant's materials demonstrate that the residents' varying accessibility needs continue to be or will be met (Exhibits E6 and F1). This standard is met.

- (7) Buffering and screening of the facility with fences, walls and landscaping shall be required to mitigate external noise and other disruptive conditions from surrounding uses such as light glare.*

Landscaping is provided for the congregate housing addition (Exhibits E15 and F1). The addition is located so that existing building screens the abutting residential neighborhoods from all visual and noise impacts (Exhibits E2 and E3). All new lights incorporate shields to restrict glare on abutting properties (Exhibit E17). The proposed 8-foot fence around the memory care facility's outdoor courtyard will ensure full screening and buffering for that outdoor use (Exhibit E6). Staff finds that impacts from new development will be mitigated as proposed. This standard is met.

- (8) At least 20% of the development site exclusive of areas required for park land and sensitive lands protection shall be landscaped. The required landscaped area is inclusive of landscaping required for parking lots, and within required buffer areas. Landscaping may include courtyards, raised beds and planters, espaliers, arbors and trellises.*

The applicant's materials demonstrate that, after development and exclusive of the RP District, the remaining landscaped area on the unified site exceeds 20% of the site (Exhibit E8 and F1). This standard is met.

- (9) Large expanses of paving, including off-street parking and loading areas, shall be landscaped. These areas shall be buffered and screened from adjoining land uses with landscaping. Trees shall be integral to the landscaping plan and incorporated into parking lot design to provide for shade and surface water runoff and quality benefits.*

There are no changes proposed to the landscaped portions of the existing parking lot and loading areas (Exhibit F1). This standard is either met or is permitted to continue as non-conforming (LOC 50.01.006.1.d).

(10) *Buildings and the development site shall be designed with a residential character and theme. Development in the EC zone is subject to the requirements of LOC 50.05.004, Downtown Redevelopment Design District. If a conflict exists between LOC 50.05.004 and the requirements below, LOC 50.05.004 shall prevail. To achieve a residential character and theme, the reviewing authority may require design elements including, but not limited to, any or all of the following:*

(a) *Complex massing and asymmetrical building composition;*

The applicant's narrative and building elevations demonstrate that the addition reflects the complex massing and asymmetrical composition of the existing building (Exhibits E10 and F1). This standard is met.

(b) *Use of masonry, wood or wood appearing composites as exterior cladding materials;*

As shown on the elevation drawings and materials board, the proposed exterior siding is primarily wood composite horizontal siding with stone veneer accents (Exhibits E10 and E18). This standard is met.

(c) *Use of harmonious building materials and earth and muted tone colors and compatible color accents;*

The color and materials board illustrates the proposed exterior materials for both the addition and the patio enclosure will match and complement the color schemes of the existing buildings (Exhibit E18). All painted portions will be in muted earth colors (Exhibit E18). This standard is met.

(d) *Lush landscaping including the use of border plantings and trees throughout the development site.*

The landscape plans show all new development is fully landscaped with a variety of trees, shrubs, and ground covers (Exhibit E15). This standard is met.

(11) *Monotony of design in single or multiple buildings shall be avoided. Variation of detail, form, and building siting shall be used to enhance design quality. To achieve these objectives, the reviewing authority may impose requirements including, but not limited to, any or all of the following:*

(a) *No continuous blank walls shall be allowed along the public front of the buildings and shall not exceed 25 linear ft. without windows, recess, or change of plane. Appropriate use of windows shall be made to provide scale with the amount of fenestration or glazing proportional to the mass of the building facade.*

No continuous blank walls fronting the public area are proposed (Exhibit E10); therefore, no conditions of approval are necessary. This standard is not applicable.

(b) *Architectural features and accents such as bay windows, gables, dormers and projecting eaves shall be used to break up roof expanses. Verandas and projecting balconies shall be used where safe and practical.*

As the proposed addition incorporates a rooftop deck, the addition's roof expense is broken up naturally (Exhibits E9 and E10). The proposed alteration of the residential care patio is under an existing roof form and no alteration of the roof will occur as a result of this development (Exhibit E10). This standard is either met or is permitted to continue as non-conforming (LOC 50.01.006.1.d).

- (c) Roof materials shall consist of cedar shingles, tiles, or three tab composite shingles in dark gray, green or black colors. Metal roofs and colored roofs, other than those mentioned above, and mansard or decorative roof forms are prohibited.*

As shown on the color and materials board, the proposed roof material consists of dark grey architectural composite asphalt shingles that match the existing roofing (Exhibit E18). No conditions are necessary. This standard is met.

Staff finds that the proposed design avoids monotony of design through the use of complex massing, varied siding materials and colors, and the judicious use of fenestration on all elevations. This standard is met.

- (12) Buildings shall use materials that are architecturally harmonious for all walls and exterior components. To achieve this objective, the reviewing authority may impose requirements including, but not limited to, the following:*

- (a) Materials for building walls may consist of wood shingle, brick, horizontal wood or composite wood siding, stone, masonry, concrete block which mimics stone, brick or other masonry. Stucco and timbers shall be allowed on gable ends only.*

As the applicant is proposing composite wood siding (Exhibits E10, E18, and F1), no conditions of approval are necessary. This standard is met.

- (b) The following exterior materials are not allowed: EIFS or other synthetic stucco material; metal panels; flagstone; plywood paneling; vinyl cladding; mirrored glass; standard form concrete block; backlit fabrics.*

None of the prohibited materials are proposed (Exhibits E18 and F1). No conditions of approval are necessary. This standard is met.

- (13) Building vents and mechanical devices shall be screened from view with materials harmonious to the building. Exterior site elements such as storage, trash collection areas and noise generating equipment shall be located away from abutting property lines and sight-obscuring fencing and landscaping shall be used to screen and buffer these areas.*

No new trash collection areas are proposed and all new storage is incorporated into the proposed congregate housing addition's lower floor (Exhibit F1). The applicant proposes to relocate a transformer which will be fully screened as shown on the landscape plans (Exhibit E15). This standard is met.

- (14) Access to public and commercial services, parks and other recreation areas, churches, shopping, and other places frequented by the public in the course of daily life shall be made available to the residents through a transport service privately provided by the residential care housing facility.*

As discussed in the applicant's supplemental report, both the residential care housing and congregate housing residents are served by an existing transportation service that allows them to fully meet their off-site daily needs (Exhibit F3). This standard is met.

(15) Access to public sidewalks and/or pathways shall be provided. Street crossings bordering on streets three lanes and larger shall be located at traffic light controlled crossings. Crossings on two lane streets classified as either collectors or arterials may occur at sign controlled intersections. All other crossings may occur at non-controlled intersections provided that safe sight distance per the AASHTO Standards is present. When projects are located on streets greater than 10,000 ADT and it can reasonably be expected that future residents will cross these streets, a traffic study shall be required to show that safe sight distance and adequate traffic "gaps" exist to allow safe crossing.

The existing walkway system fully connects all portions of the site and both facilities to the public sidewalks along Carman Drive and Davis Lane (Exhibits E5 and E6). No new street crossings are proposed or required with this application. This standard is met.

Staff finds that the proposed development meets the use specific standards for residential care housing facilities and congregate housing. This standard is met.

Sensitive Lands Overlay District [LOC 50.05.010]

The purpose of the sensitive lands districts, as designated on the City's Natural Resources Inventory Maps, is to protect the functions and values of wetlands, stream corridors and tree groves on lands with environmental or natural significance. There is an undelineated RP district on the westerly portion of the site (Exhibit E2). The City's Natural Resource planner reviewed the proposal and determined that the courtyard area that is within the protected riparian area is already developed, and that the proposal includes installing a fence and enclosing an existing covered patio—the footprint of the courtyard will not change. The proposed development is exempt from the environmental review requirements (LOC 50.05.0102.c) and delineation is not necessary; therefore, these standards do not apply.

2. The Development Standards applicable to minor developments;

Building Design Standards for Institutional Development [LOC 50.06.001.5]

The building design standards are applicable to all minor and major development involving residential care housing facilities or congregate housing. As prescribed by this standard, buildings are to be designed and located to complement and preserve existing buildings and other elements of the built environment. Where existing buildings are to remain on site, new development shall be designed to integrate the remaining buildings into the overall design with regard to materials, roof lines, height and overall proportions. Buildings are to be designed to complement and preserve natural land forms, trees, shrubs and other natural vegetation.

The applicant is proposing a 5,800 sq. ft. addition to the rear of the existing congregate housing facility (Exhibits E6 and F1). The applicant is also proposing to enclose a small existing covered patio at the rear of the residential care housing facility (Exhibits E6 and F1). In both cases, the applicant's narrative, building elevations, and materials board demonstrate that the addition and enclosed patio are designed to complement the existing buildings on the site with regards to style, materials, colors, and massing (Exhibits E7, E10, E14, E18, and F1).

The height of the one-story addition is much lower than the existing congregate housing and the applicant proposes to install dense landscaping around the perimeter of the addition to help integrate it into the site (Exhibits E10 and E15). The enclosed patio will be sided in the same horizontal lap siding as the existing facility (Exhibit E10). All architectural elements and fenestration will match their counterparts on the existing buildings (Exhibits E14 and E16-E17). Extensive grading is not necessary to site the larger addition and completely avoided with the patio enclosure. The proposal does require the removal of 16 smaller decorative trees but proposed development is located to preserve the numerous mature Oregon white oaks scattered throughout the site (Exhibit E11). Staff finds that the proposed development complies with these standards.

Parking [LOC 50.06.002]

Vehicle Parking

This standard applies to all development that generates a parking need, including remodels of existing structures that increase on-site parking requirements. The existing on-site parking lots were approved in 1984 (congregate housing) and 1995 (residential care housing facility). The applicant has provided a letter that states the new floor area associated with the congregate care facility will not increase the level of existing staff and does not incorporate any additional residential units (Exhibit F2). The enclosed patio area will also not require additional staff or increase the number of residents. As such, the proposed development does not generate an additional parking need beyond what is currently provided by the existing parking facilities. This portion of the standard is met as existing.

Bicycle Parking

The parking standard also requires one bicycle space per 20 residents. As discussed above, the proposed development does not increase the number of residential units or actual residents over what was previously approved. Therefore, the proposed development does not generate an additional bicycle parking need beyond what is currently provided by the existing bicycle parking facilities. This portion of the standard is met as existing.

Access/Access Lanes (Flag Lots) [LOC 50.06.003.1]

This standard is applicable to construction or alteration of institutional development, and establishes minimum street frontages and construction standards for access. Every lot shall abut a street for 25 feet.

The site abuts Carman Drive for more than 25 feet (Exhibit E1). The site is currently served by four access points – one egress driveway and two ingress/egress driveways along the Carman Drive, and an egress driveway along the Davis Lane frontage (Exhibit E2). The applicant does not propose any new access points to the site or any modifications to the existing points (Exhibit F1). This standard is met.

On-Site Circulation - Driveways and Fire Access Roads [LOC 50.06.003.2]

This standard contains the geometric design standards for driveways that serve as fire access roads, and other design features such as slope and width of driveway approaches. This section is applicable to all development proposing a new use or an increased use on a site which will result in the increased use of driveways and parking lot aisles, and prescribes standards for driveway design, width, and grade. For institutional uses, driveway width is limited to 24 feet.

There are four access points located along two of the site's frontages (Exhibit E2). The existing main driveway on the Carman Drive frontage is approximately 30 feet in width but no modifications to it are proposed (Exhibits E2 and F1). No modifications to the other driveway grades or approaches are proposed at this time. The proposed development neither proposes a new use or increased use on a site which will result in the increased use of driveways and parking lot aisles. This standard is not applicable.

On-Site Circulation - Bikeways, Walkways, and Access-ways [LOC 50.06.003.3]

This section is applicable to all development involving the construction of a new structure other than a detached single-family dwelling, duplex, or accessory structure, and subdivisions and planned developments. This section is also applicable to modifications which increase the square footage of an institutional building by more than 10 percent. For the purposes of this section, an "existing building" is a building as it exists on February 19, 1998.

The applicant has provided a site plan that includes a pedestrian circulation plan for the site (Exhibit E6). The plan is connected to the existing commercial office development to the south of the site but connections to other properties other than the street system are not feasible. The public entrances of both buildings are already connected by walkways to public sidewalks along the Carman Drive and Davis Lane frontages. The on-site ADA-compliant walkways connect the two buildings and all outside amenities. Other than the relocation of a portion of the southerly walkway that is in the area of the new addition, no modifications are proposed with this application (Exhibits E6 and F1). Staff finds that the relocated walkway will fully comply with these standards. This standard is met.

Landscaping, Screening and Buffering [LOC 50.06.004.1]

This standard applies to all development and requires such development to provide 15% of gross land area in landscaping, and to provide street trees at the proper spacing for the trees.

As noted in the applicant's narrative, over 40% of the site after the addition will remain as landscaping (Exhibits E8 and F1). The applicant has provided landscape plans that show dense landscaping with a variety of ground cover, shrubs and trees around the new congregate housing addition and around the two residential care patios (Exhibit E15).

This standard also requires screening and buffering to mitigate noise and lighting, screening of utility and storage areas and parking lots, and separation between dissimilar uses [LOC 50.06.004.1.b.vi]. Staff agrees with the applicant's finding that the proposed and existing landscaping (along with the layout and distance of existing buildings) will provide sufficient screening and buffering of both facilities' outdoor areas to mitigate any negative impacts on adjacent residences (Exhibit F1). This standard is met.

Fences [LOC 50.06.004.2]

Minor Variance Criteria and Analysis [LOC 50.08.002]

The maximum height for a fence located within mixed use commercial/residential zones is six feet. This site carries an OC/R-3 split zone designation which is considered a mixed use zone. The proposed fence subject to this application is eight feet in height and located along the edge of the existing back patio of the residential care facility (Exhibits E?? and F??). The applicant is correctly requesting a Minor Variance to this standard.

Minor Variances are small changes from the Code requirements that will have minimal effect on adjacent properties or users. The applicant has applied for a 2-foot exception to the 6-foot maximum fence height in order to meet State fence regulations regarding secure outdoor areas for Memory Care facilities. The applicant's request falls within the parameters of a Minor Variance per LOC 50.08.002.3(f).

Per LOC 50.08.002.2.a, a Minor Variance may be granted if it is established that:

(1) The granting of the variance will not be detrimental to the public health or safety, or materially injurious to properties or improvements within 300 feet of the property; and

The applicant's narrative (Exhibit F1) explains that the fence is not detrimental to public health or safety as it does not impede accessibility by Fire and Emergency vehicles. It is also not injurious to properties within 300 feet of the property as it is located behind and below the existing residential care facility and is fully screened by mature evergreen trees, rendering it invisible from the street and adjacent properties (Exhibits E2-E3, E6, and F1). This criterion is met.

(2) The proposed development will not adversely affect existing physical and natural systems such as traffic, drainage, Oswego Lake, hillsides, designated sensitive lands, historic resources, or parks, and the potential for abutting properties to use solar energy devices any more than would occur if the development were located as specified by the requirements of the zone.

While there is a designated stream corridor on the subject property, the location of the proposed fence is around a previously developed courtyard; the footprint of the existing residential care housing facility will not increase (Exhibit E6). The property does not abut Oswego Lake. The fence will have no adverse effect on drainage patterns on site because the site's existing drainage patterns will not be altered. Because the fence is much lower in height than the existing facility, the 8-foot fence does not prevent adjacent property owners from utilizing solar energy devices if so desired (Exhibits E2-E3). This criterion is met.

Staff finds that the requested variance will not be materially injurious or have an adverse effect on existing physical and natural systems. This standard is met.

Lighting Standards [LOC 50.06.004.3]

This standard is applicable when development will increase use of public and private streets, public pathways and accessways, or parking lots. The applicant's narrative states that there will be no increased use of public streets, public pathways, or of the parking lot proposed with this application (Exhibit F1). Nevertheless, the applicant is proposing new pathway lights that may not comply with the lighting standards that require low level lighting of less than 0.3 average foot-candles and with a maximum uniformity of illuminating ratio not to exceed 20:1 (Exhibit E13). The site lighting plan shows nine new pathway lights but notes that photometric data is not available for the proposed lights (Exhibits E13 and E17).

As a condition of approval, the applicant should provide an updated lighting/photometric plan at the time of building permit review that demonstrates that the foot-candle illumination level at the property is zero and is updated to include photometric data on the proposed pathway lights, a 0.3 average foot-candle, and maximum uniform illumination ratio not to exceed 20:1. As conditioned, this standard is met.

Park and Open Space [LOC 50.06.005]

All congregate housing and residential care housing development shall provide open space or park land in an aggregate amount equal to or at least 20% of the gross land area of the development. The site has a gross land area of 268,764 square feet, with a minimum of 53,755 sq. ft (or 20%) of park and open space provided as a combination of open areas and stream corridor (Exhibits E8 and F1). This standard is met.

Weak Foundation Soils [LOC 50.06.006.1]

This standard applies to all development that will involve proposed structures located in areas identified as having a slide potential as shown in the Weak Foundation Soils Atlas. The applicant's narrative states that they will comply with these standards at the time of building permit review (Exhibit F1). As a condition of approval, at the time of building permit review the applicant should provide a geotechnical report signed by a registered geotechnical engineer and should incorporate all structural and foundation recommendations outlined in the report, to the satisfaction of the Building Official. As conditioned, this standard can be met.

Drainage Standard for Minor Development [LOC 50.06.006.3.a.ii]

This standard requires that drainage improvements be provided to ensure that the proposed development will not adversely affect surrounding properties. In addition, this standard requires design features to minimize pollutants from entering the storm water system and that the intensity of runoff rates are maintained at their natural undeveloped level. The determination of whether or not the application meets the drainage requirements of LOC 50.06.006.3.b is under the review authority of the City Manager or City Engineer.

The applicant has submitted a stormwater report prepared by AAI Engineering, dated April 22, 2013 (Exhibits F1 and F4). Stormwater management will be provided by constructing four flow-through planters along the side of the congregate housing addition (Exhibits E12 and F1). The emergency overflow from the planter boxes will be routed to an existing public 12-inch storm line that runs across the south portion of the site that conveys drainage to existing detention ponds located at the southwest corner of the site (Exhibits F1 and F4).

The final design regarding the storm management facilities will be reviewed prior to building permit issuance. Any deviation from the submitted preliminary design layout shall be subject to review and approval of the City Engineer. All on-site storm water facilities will be private (except the 12-inch public line) and the owner will be required to submit an operations and maintenance plan and record a Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities for the new stormwater facilities prior to issuance of the building permit. This will be made a condition of approval. As conditioned, this standard is met.

Utilities [LOC 50.06.008]

The site is served by water, electric, phone, and sanitary sewer services. The Fire Marshal has found that the existing fire hydrant location and water flow for fire protection are adequate (Exhibit F6). No new utility lines are proposed or necessary with this application with the exception of the new stormwater facilities discussed, above. Compliance with this standard will be assured at the time of building permit application.

Vision Clearance [LOC 50.06.011]

This standard requires that no vegetation, fence or signage higher than 30 inches be located within a "vision clearance triangle" for driveways that provide egress from a site. The applicant's materials indicate that the vision clearance triangles for driveways providing both ingress and egress all comply with these standards (Exhibits E8 and F1). This standard is met.

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

City of Lake Oswego Sign Code [LOC Chapter 47]

A proposed sign is reviewed for compliance with the specific size, location, and design standards applicable to all permanent signs in the R-3 zone per the Sign Code. Because no sign permit applications are included as a part of this application, this discussion is intended to be informative to the applicant, in preparation of a future sign permit application. Approval of plans that depict of signage location and general size should not be considered approval of any signage.

For a congregate housing or residential care housing facility in the R-3 zone, the applicant may apply for either a 16-square foot free-standing sign or a wall sign attached to the building. The applicant has included a proposed sign design (Exhibit E14) that shows a new 16-square foot monument sign at the main driveway entrance on Carman Drive. The applicant's narrative indicates that, besides certain incidental signs for directional purposes, this is the extent of the proposed signage on the site (Exhibit F1).

All future signage shall comply with the provisions of the Sign Code [LOC 47.10.405]. Sign permits will be required and each proposed sign will be reviewed for compliance when the sign permit application is received. This standard can be met at the time of sign application.

City of Lake Oswego Tree Code [LOC Chapter 55]

Tree Removal

As illustrated in Exhibit E11, there are numerous trees on the site that are five inches in diameter or greater, including a number of mature Oregon white oaks. The applicant is requesting to remove 16 deciduous and evergreen trees in order to construct the congregate housing addition and the associated site improvements. Trees proposed for removal in conjunction with major or minor development can be granted tree removal permits if the following four criteria are met:

- (1) The removal is for development purposes pursuant to the City Code;*

The removal of these trees is necessary because they are located in the area of the proposed development (Exhibit E11).

- (2) The removal will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks;*

The removal will not have a significant negative impact on erosion, soil stability, or flow of surface waters because the area of removal will be developed with an addition and proposed drainage improvements will be designed to handle storm runoff for all new impervious surfaces (Exhibits E11, F1, and F4). The removal will also not have a significant impact on protection of adjacent trees or existing windbreaks because the trees are smaller in stature, located in a lee of the existing congregate housing, and separated far enough from each other and other trees that they do not provide windbreaks (Exhibit E5-E6, and E11).

(3) The removal will not have a significant negative impact on the character, aesthetics, or property values of the neighborhood, except where alternatives to tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone; and

The proposed tree removal will not have a significant negative impact on the character, aesthetics or property values of the neighborhood because these trees are not tall and are located behind the facility and below the street level locations that do not contribute to the treed character of the neighborhood (Exhibit E5).

(4) The removal is not for the sole purpose of providing or enhancing views.

The trees are not being removed for view enhancement because removal will not improve any views,

For the reasons outlined above, staff concludes that the removal request for the 16 trees complies with the applicable criteria and may be approved. The applicant will be required to apply for a verification tree removal permit for the trees prior to approval of any grading or building permit.

Mitigation

Any tree approved for removal under the Type II analysis shall be mitigated at a minimum 1:1 ration. Mitigation trees shall have a minimum 2-inch caliper diameter for deciduous trees and a minimum 6-8 foot height (excluding leader) for evergreen trees. The applicant will be required to submit a tree mitigation or landscape plan with the verification tree removal application showing the size, species and location of the mitigation tree in compliance with the minimum mitigation requirements.

Tree Protection

The Code requires tree protection measures when a tree protection zone or drip line of a tree is within the construction zone, whether on or off-site [LOC 55.08.030(1)]. There are several trees in the vicinity of work areas may need tree protection during site development. The protective fencing shall be placed at the tree protection zone, which is the zone required to protect the critical root area necessary for the continued health of the trees. The applicant should propose the tree protection zone for each tree, for review and approval by City staff, on site. As required by LOC 55.08.030(7), no construction, excavation, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the City.

A note should be placed on the construction documents that informs the site contractors about the necessity of preventing damage to these trees, including bark and root zone, and that no materials should be stored or compaction occur within the root zones of the adjacent trees [LOC 55.08.030]. The contractor shall be subject to fines, penalties and mitigation for trees that are damaged or destroyed during construction.

As a condition of approval, as required by LOC 55.08.02 and 55.08.030, a tree protection plan shall be submitted with the building permit plans for staff review and approval. Tree protection measures must be installed prior to issuance of any grading or building permits. Tree protection fencing consists of 6-foot high chain link fencing supported by 6-foot high metal posts, placed a maximum of ten feet apart.

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 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 13-0016, as conditioned, complies with all of the applicable criteria.

VII. RECOMMENDATION

Approval of LU 13-0005 with the following conditions:

A. Prior to Issuance of any Building permits, the Applicant/Owner Shall:

1. Submit final site and building plans for review and approval of staff that are the same or substantially similar to the site plan, floor plans, landscape plan, cutsheets, and building elevations illustrated on Exhibits E6-E12 and E14-E17, to the satisfaction of staff.
2. Provide a geotechnical report prepared and signed by a registered soils engineer and incorporate all structural and foundation recommendations outlined in the report, to the satisfaction of the Building Official.
3. Provide a final private stormwater management design. Any deviation from the submitted preliminary design layout shall be subject to review and approval of the City Engineer. The final design shall include an operations and maintenance plan for the on-site stormwater facilities to the satisfaction of the City Engineer. This plan shall be recorded with the County Recorder's Office.
4. Provide a revised lighting/photometric plan (Exhibit E13) that includes complete photometric data on the proposed pathway lights, demonstrates that the foot-candle illumination level at south property line is zero, and shows a 0.3 average foot-candle and maximum uniform illumination ratio of 20:1.

5. Apply for and obtain a verification tree removal permit for the 16 trees approved by this application. The verification tree removal application submittal shall include an 8½" x 11" copy of the tree removal plan and a mitigation plan showing replacement trees on a 1:1 basis. Replacement trees shall not be dwarf or ornamental varieties and shall be at least two inches in caliper if deciduous or at least 6-8 feet tall (excluding the leader) if evergreens.

B. Prior to any Final Building Inspection or Occupancy of any Structure, the Applicant/Owner Shall:

1. Install all landscaping including mitigation trees, as required by Conditions A(1) and A(5), above.
2. Provide a one-year guarantee (one 12-month growing season from the date of installation) for all landscape materials, pursuant to LOC 50.06.010.2. The guarantee shall consist of a security in the amount of five percent of the total landscaping cost. The applicant/owner shall also submit a landscape maintenance plan for review and approval of City staff.
3. Provide verification that all regulatory licenses are obtained for the new services.

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.
2. **Tree Protection:** Submit a tree protection permit application as required by LOC 55.08.020 and 55.08.030 for review and approval of staff, including off-site trees that are within the construction zone. This plan shall be attached to the construction documents or printed on the construction site plans, and shall include:
 - a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high cyclone fence secured by steel posts, around the tree protection zone, or as recommended by the project arborist and approved by the City.
 - b. A note stating that no fill or compaction shall occur within the critical root zones of any of the trees, or that if fill or compaction is unavoidable, measures will be taken as recommended by a certified arborist to reduce or mitigate the impact of the fill or compaction. Such measures shall be clearly outlined in the tree protection plan. The note shall also inform contractors that the project arborist shall be on site and oversee all construction activities within the tree protection zone.
 - c. A note that clearly informs all site contractors about the necessity of preventing damage to the trees, including bark and root zone. The applicant and contractor(s) shall be subject to fines, penalties and mitigation for trees that are damaged or destroyed during construction.

- d. A sign shall be attached to the tree protection fencing, which states that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the City Manager and project arborist.

Notes:

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.
2. The applicant is advised to take part in a Post Land Use Approval meeting. City staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting, please contact the staff coordinator at (503) 635-0290.
3. The land use approval for this project does not imply approval of a particular design, product, material, size, method of work, or layout of public infrastructure except where a condition of approval has been devised to control a particular design element or material.

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. **GRAPHICS/PLANS**
 - E1 Tax Map
 - E2 Survey of Existing Conditions (5 pages)
 - E3 Site Vicinity Map
 - E4 Zoning Map
 - E5 Existing Conditions Photos (3 pages)
 - E6 Proposed Site Plans (5 pages)
 - E7 Perspective Drawings (3 pages)
 - E8 Architectural Site Plan
 - E9 Proposed Floor Plans (3 pages)
 - E10 Proposed Building Elevations (9 pages)
 - E11 Tree Removal and Mitigation Plans (2 pages)
 - E12 Grading Plans (2 pages)

- E13 Lighting Plans (2 pages)
- E14 Architectural Details (4 pages)
- E15 Landscape Plans (3 pages)
- E16 Door and Window Cutsheets (9 pages)
- E17 Light Cutsheets (10 pages)
- E18 Color and Materials Board

F. WRITTEN MATERIALS

- F1 Applicant's Narrative
- F2 Applicant's Staffing Level Report, dated April 24, 2013
- F3 Applicant's Private Transit Services Report, dated April 24, 2013
- F4 Stormwater Report, prepared by AAI Engineering, Inc, dated April 22, 2013
- F5 Neighborhood Meeting Information
- F6 Fire Marshal Memo

G. LETTERS:

Neither for nor Against: (G1-99)

None

Support: (G100-199)

None

Opposition: (G200-)

None

Date of Application Submittal: March 22, 2013

Date Application Determined to be Complete: May 6, 2013

State Mandated 120-Day Rule: September 3, 2013