



MEMORANDUM

TO: Development Review Commission
FROM: Debra Andreades, Senior Planner
SUBJECT: LU 13-0044
DATE: October 17, 2013

On October 7, 2013, the Development Review Commission (DRC) held a public hearing to review this request for a three-parcel minor partition. The Chair of the Forest Highlands Neighborhood Association asked that the hearing be continued per LOC 50.07.003.4.a.xi to provide an opportunity for interested persons to submit additional information. The DRC continued the hearing to October 21st and left the record open for written testimony only, until 5:00 pm on October 14, 2013, with rebuttal written testimony to be submitted by 5:00 pm on October 16th.

Prior to the October 14th deadline, the following information was submitted:

Exhibit F-8 E-mail from Applicant to Forest Highlands (FHNA) Neighbors, dated 10/8/2013
Exhibit F-9 Letter and Exhibits from Mike Robinson, Applicant's Representative, dated 10/14/13
Exhibit G-200 Letter from Jeffrey Kleinman, FHNA's Representative, dated 10/14/13

Prior to the October 16th deadline, the following information was submitted:

Exhibit F-10 Rebuttal from Mike Robinson, dated 10/15/13

No additional written rebuttal information was submitted prior to the October 16th deadline.

The FHNA has raised several issues (Exhibit G-200) which were addressed by the applicant in Exhibits F-9 and F-10. Following is staff's review and analysis of these issues.

Three-parcel Minor Partition

The FHNA is concerned that approval of the 3-parcel partition requested in LU 13-0044 implies implicit approval of future partitions on the site (Exhibit G-200) and that any approval of this partition should be contingent on the City's approval of a Development Agreement for future partitioning of the site. Staff found that the applicant's request meets all of the applicable criteria for a 3-parcel partition and no further analysis is needed. The applicant is not requesting anything more than this 3-parcel partition at this time. Neither the Community Development Code nor ORS 94.504 et seq. [Development Agreements] permit the City to require a developer to enter into a Development Agreement in lieu of a stated intent to submit a series of partition applications over a multi-calendar year basis. Staff notes

that any subsequent partition application will be reviewed against the applicable criteria in effect at the time of application.

The requirement in LOC 50.07.007.2.a.iv for submission of a conceptual plan of complete parcelization of the subject property does not result in the approval of the future parcelization of the site by virtue of the 3-parcel partition approval. The function of the requirement in LOC 50.07.007.2.a.iv for a conceptual parcelization plan is to permit the imposition of conditions of approval for the partition that ensure that the opportunity for future parcelization of the subject property will not be precluded.

Traffic

The FHNA has raised the issue that there are “feasibility” issues with traffic for the proposed 3-parcel partition. Although a 3-parcel partition of a property would increase the number of trips in the vicinity, the City Engineer has found that those trips are mitigated by street improvements required as a condition of approval of this application. (See discussion on LOC Chapter 42 in the September 27, 2013 Staff Report).

Drainage

The FHNA questioned the feasibility of the application to comply with the proposed drainage measures (Exhibit G-200). The City Engineer found that the applicant’s proposal was in compliance with the Drainage Standard for this 3-parcel partition, and conditions of approval require compliance. (Staff notes that with regard to any subsequent partitions, the drainage issue will be reviewed against the applicable criteria in effect at the time of those future applications.)

Staff notes that the applicant and several members of the FHNA met on site to discuss the drainage concerns. Per the applicant’s e-mail to members of the FHNA (Exhibit F-10-Ex. 2), several measures were agreed to on-site by the applicant and the FHNA regarding drainage. The applicant has not, however, modified the present application to include these measures, and therefore the City Engineer has not reviewed them nor are they approved as a part of the proposed drainage plan. Should these measures be included in any subsequent (or modified) partition application, the City Engineer will review them for compliance with the Drainage Standard at that time.

RECOMMENDATION

Staff finds, after review of all materials submitted, that the applicant has met the criteria for a 3-parcel partition and recommends **approval** of LU 13-0044, subject to the conditions of approval in the September 27, 2013 Staff Report:

A. Prior to Approval of the Final Partition Plat, the Applicant/Owner Shall:

1. Submit a final plat to City staff for review and signature of approval within one year of the dated of this decision. **The deadline to submit the final plat to City staff is May 21, 2014.** The final plat must be dimensioned as depicted in Exhibit E-6, and reference this land use application – City of Lake Oswego Planning and Building Services, Case File LU 13-0044. Upon written application, prior to expiration of the one-year period, the City Manager shall, in writing, grant a one-year extension. Additional extensions may be requested in writing and must be submitted to the City Manager for review of the project for conformance with current law, development standards and compatibility

with development that may have occurred in the surrounding area. The extension may be granted or denied and, if granted, may be conditioned to require modification to bring the project into compliance with current law and compatibility with surrounding development.

2. All plats and public easements submitted to the City of Lake Oswego shall have accompanying vector based electronic drawings or maps consistent with the prevailing technologies in the Civil Engineering and/or Surveying fields (e.g., current or near current versions of AutoCAD). The electronic drawings shall conform to the mapping requirements for plats adopted in ORS Chapter 92.
3. The final plat shall include the following information to the satisfaction of staff:
 - a. Dedicate sufficient public right-of-way to accommodate the required street improvements along Goodall and Knaus Roads to the satisfaction of the City Engineer. The final construction plans shall be submitted that are advanced enough to determine the right-of-way dedication width required for providing future half street improvements along the entire site frontage of Goodall and Knaus Roads. The right-of-way dedication shall be wide enough to account for the design of the following street improvements:
 - i. Widen the pavement along the east side of Goodall Road and north side of Knaus Road along the entire site frontage to achieve a 14-foot wide shared travel lane (measured from the existing painted yellow centerline) and a minimum 3-foot wide, compacted crushed rock shoulder.
 - ii. An 8-foot wide drainage swale along the entire site frontage on Goodall and Knaus Roads.
 - iii. A 6-foot wide asphalt pedestrian pathway behind the drainage swale along the site frontage on Goodall and Knaus Roads. A culvert shall be provided at the pedestrian crossings where the pathway will connect back to the edge of road.
 - iv. Undergrounding the existing overhead utilities along the entire site frontage along Goodall Road.
 - b. Grant a public utility easement (according to the minimum width standards for the franchise utility companies) along the site frontage of Goodall Road for undergrounding the existing overhead utilities or franchise utilities.
4. Submit a landscape plan to show plant species, size and spacing for the following, to the satisfaction of staff:
 - a. A future vegetated drainage swale along Goodall and Knaus Roads.
 - b. Provide a note on the final landscape plan requiring all burlap or wire cages to be completely removed from root balls of all trees and shrubs before they are planted.

5. Record a "Notice of Development Restriction" with the final plat. The Notice shall be submitted for staff review and approval prior to recording and shall contain the restrictions listed below. A site plan showing the Protected Solar Building line shall be included and labeled as Exhibit A.
 - a. Parcels 1-3 are solar lots and Parcel 3 is subject to the requirements of LOC 50.06.007.1.d.ii [Protected Solar Building Line] as indicated in Exhibit A.
 - b. Any future parcelization of Parcels 1-3 shall conform to the Parcelization and Connectivity Plan attached as Exhibit B (Exhibit E-13 of LU 13-0044).
6. Submit engineered construction drawings for the public and site improvements for review and approval by the City Engineer. Drawings shall conform to the City's design standards and the drafting specifications found in the City's booklet "CAD Standards and Design Requirements," May 2006 edition. [Note: receiving construction plan approval is not a pre-requisite for recording the final plat.] The plans shall include the following:
 - a. Compiles with one of the following:
 - i. Design that brings the public sanitary sewer up Goodall Road to the north property line of Parcel 2, approximately 420 feet north of Knaus Road and that the public sanitary sewer shall be located within the public right-of-way, and service laterals shall be provided directly to a parcel, without crossing other parcels within a private sewer easement; or
 - ii. The public sewer easement is shown to be located in a driveway; or
 - iii. A subsequent partition or subdivision approval shows that the public sewer line will not cross any lots-parcels.
 - b. Design of an 8-inch public water main extension along Goodall Road up to the north property line of Parcel 2, approximately 420 feet north of Knaus Road.
 - c. Design showing the location of the private water services.
 - d. Design showing any new fire hydrants, if required by the Fire Marshal. Fire hydrants shall be installed per City standards.
 - e. At the applicant's option, either submit a design for hanging a light on the existing utility pole or submit a design showing a new street light at the intersection of Goodall and Knaus Roads, to the satisfaction of the City Engineer.
7. Construct the public improvements required by Condition A(6), above, or submit a financial guarantee to ensure construction of the public improvements per LOC 50.07.003.9. The financial guarantee shall be based on 120% of an itemized engineer's estimate of the cost of construction of the public improvements, that is in turn based on final construction plans that are far enough advanced to support the estimates, to the satisfaction of the City Engineer.

8. Submit a preliminary title report or lot book report showing the status of title and any liens and encumbrances.
9. Execute and, following City approval, record an LID Waiver to underground utilities on the utility poles. Note: the LID Waiver may be terminated by the City if the area is partitioned or subdivided in the future and the additional lot creation, along with this 3-lot partition, is adequate to meet the required rough proportionality to require the construction of undergrounding the overhead utilities.

B. Within 90 Days of the Recordation of the Final Partition Plat, the Applicant/Owner Shall:

1. Submit a final title report, or lot book report from a title company demonstrating that the plat was recorded and that the private and public easements and Notice of Development Restrictions are valid and subsisting, and that the parcels are either free and clear of liens or encumbrances, or that the holders of the liens and encumbrances consent to the creation and recordation of the easements, maintenance agreement and Notice of Development Restriction.

C. Prior to the Issuance of any Grading or Building Permits to Construct Any Structures on Parcels 1-3, the Applicant/Owner Shall:

1. Complete all public and site improvements as required by Condition A(6), above, submit certified "as-built" drawings, and receive a certificate of completion and acceptance by the City.
 - a. Parcels 1 and 2: Submit a storm water disposal plan for each parcel. Installation of a subsurface infiltration facility or rain garden on the individual parcels is an acceptable method for storm water disposal. The plan must include design calculations to ensure they are adequately sized. Stormwater disposal facilities shall meet minimum setbacks of five feet from property lines and 10 feet from building foundations. Subsurface disposal systems (i.e., drywells or storm chamber systems) shall be engineered. Driveway runoff shall not be directed to a subsurface infiltration disposal system without Department of Environmental Quality (DEQ) approval. Any emergency overflow shall be conveyed to an approved point of disposal.
 - b. Parcel 3: Demonstrate to the City Engineer's satisfaction that the existing drainage from Parcel 3 either:
 - i. Does not cross Parcels 1 and 2 and is contained on Parcel 3 or is discharged into an approved storm drainage facility as approved by the City Engineer, or
 - ii. There is a drainage easement across Parcels 1 and 2 for the current drainage pattern.
2. Apply for an erosion control permit and install the erosion control fencing as required by LOC 45. These measures shall remain in place throughout construction period.

3. Demonstrate that driveway approaches comply with the “vision clearance triangle” standards. No vegetation, fence, or signage higher than 30 inches will be allowed within the area formed by ten-foot legs extending from the intersection of the driveway and the street travel lanes.
 - a. Driveway approaches shall be asphalt and limited to 16 feet wide, irrespective of the number of garage doors facing the street. Culverts meeting City standards shall be located across the driveway approaches. The size of the culvert shall be engineered, but shall not be less than 10 inches in diameter.
 - b. Provide evidence from a traffic engineer that the driveway approaches are located and designed so that the driver entering or exiting the driveway can see approaching traffic for a sufficient distance to make a safe entrance and exit. American Association of State Highway and Transportation Officials (AASHTO) standards shall be used in determining compliance with this standard. Any sight-obstructing vegetation along the Goodall Road or Knaus Road site frontage as one exits the driveway approach shall be permanently removed.
4. If dead-end driveways on Parcels 1 and 2 exceed 150 feet in length, or additional square footage is added to the structure on Parcel 3, the applicant must provide either an approved fire department turnaround or an alternative method of fire suppression, such as residential sprinklers.
5. Apply for and obtain a verification tree removal permit for two trees, including a mitigation plan that shows a total of two mitigation trees.
6. For each parcel, apply for and obtain the appropriate tree removal permit, if necessary, and submit mitigation plans.
7. Install all tree protection fencing as required by the Tree Code (LOC 55), below. All protection fencing shall be inspected and approved by staff prior to the issuance of any grading or building permits.

D. Prior to the Final Building Inspection or Occupancy of any Dwelling on any Parcel, the Applicant/Owner Shall:

1. Provide certification from the engineer of record that the stormwater facility for each parcel was constructed according to the design and is functioning properly.

Code Requirements:

1. **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. 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.
2. 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.
3. Development plans review, permit approval, and inspections by the City of Lake Oswego Planning and Building Services Department are limited to compliance with the Lake Oswego Community Development Code, and related code provisions. The applicants are advised to review plans for compliance with applicable state and federal laws and regulations that could relate to the development, i.e., Americans with Disabilities Act, Endangered Species Act. Staff may advise the applicants of issues regarding state and federal laws that 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.

