

STAFF REPORT
CITY OF LAKE OSWEGO

PLANNING DIVISION

PROPERTY OWNER:

Oregon Parks and Recreation Department

FILE NO:

LU 13-0024

APPLICANT:

Tryon Creek Watershed Council

STAFF:

Andrea Christenson

LEGAL DESCRIPTION:

Tax Lot 100 of Tax Map 21E03

DATE OF REPORT:

September 16, 2013

LOCATION:

Iron Mountain Trail,
Tryon Creek State Natural Area

120-DAY DECISION DATE:

October 19, 2013

COMP. PLAN DESCRIPTION:

PNA

NEIGHBORHOOD ASSOCIATION:

Forest Highlands

ZONING DESIGNATION:

PNA

I. APPLICANT'S REQUEST

The applicant is requesting approval of a resource enhancement project in a Resource Protection (RP) District. The resource enhancement project includes replacing the existing Stone Bridge culvert with an arch-span wooden pedestrian bridge and restoring the stream channel.

II. DECISION

Approval of LU 13-0024 with conditions. The complete list of conditions is provided on pages 5-6 of this report.

III. APPLICABLE REGULATIONS

A. City of Lake Oswego Community Development Code

LOC 50.02.003
LOC 50.05.010

PNA Zone Standards
Sensitive Lands Overlay Districts

LOC 50.06.006.2	Hillside Protection
LOC 50.07.003.1.b	Burden of Proof
LOC 50.07.003.5	Conditions on Development
LOC 50.07.003.6	Effect of Decision
LOC 50.07.003.13	Ministerial Development Decisions
LOC 50.07.004.8	Sensitive Lands Overlay Districts

IV. FINDINGS

A. Background/Existing Conditions

1. The site is approximately 135 acres in size and is located in Tryon Creek State Natural Area. The project site is located on the west side of the parcel, east of Boca Raton Drive and northwest of Sunningdale Road (Exhibit E-1).
2. The site is zoned PNA, and the project area is developed with a soft-surface trail for passive recreational use. The parcel to the north of the project site is also zoned PNA. Surrounding properties to the east, south, and west are zoned R-10 and are developed with single-family residences.
3. The site is designated with an RP District and a Resource Conservation (RC) District in the City's Sensitive Lands Atlas. The project area is a section of Nettle Creek, which is a Class I stream corridor (Exhibit E-2).

V. REVIEW AND APPROVAL PROCEDURES

A. Neighborhood Meeting

No neighborhood meeting is required for a ministerial application.

B. Public Notice to Surrounding Area

Ministerial decisions are made without notice or the opportunity for appeal [LOC 50.07.003.13.c].

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

A resource enhancement project in an RP District is a ministerial development pursuant to LOC 50.07.003.13.a.ii(5).

E. Criteria for Review of Application

Per LOC 50.07.003.13.e.ii, a ministerial application shall be approved if the proposal complies with:

1. **The requirements of the zone in which it is located;**

PNA Site Development Limitations [LOC 50.02.003.c]

Site development limitations in the PNA zone include setbacks, lot coverage, and structure height. Setbacks apply to any above-ground permanent structure, including the proposed bridge. In the PNA zone, the setback on any respective yard (front, side, street side, or rear) shall be equal to the minimum required yard of the property adjacent to the respective yard's lot line. The closest residential properties to the project site are zoned R-10, and the largest setback in the R-10 zone is the 30-foot rear yard setback. The project area is approximately 200 feet from the closest residential properties. This standard is met.

Lot coverage applies to structures that are more than 30 inches above grade, including the proposed bridge. The maximum lot coverage is 35%, or 47.25 acres of footprint. There are few existing structures in the park, and certainly the current cumulative lot coverage is less than one acre. The proposed bridge would add a negligible amount of lot coverage to the 135-acre site. This standard is met.

The maximum height is 35 feet, or a height as determined by the ratio of one foot in height for every three and one-half feet of distance from the portion of the structure to the lot line of the nearest residentially zoned property to a maximum height of 75 feet. The proposed bridge measures 6.1 feet from top of footing to the height element of the bridge. This standard is met.

Sensitive Lands Overlay Districts [LOC 50.05.010 and 50.07.004.8]

The purpose of the Sensitive Lands overlay districts is to protect wildlife habitat, protect and improve water quality, control and prevent water pollution, and comply with federal, state, and regional laws. The City's Sensitive Lands Atlas identifies a Class I RP District on the project site.

Delineation of Streams

Resource delineation is not required for development that qualifies as a resource enhancement project [LOC 50.07.004.8.d.iv(2)]. Delineation can also be waived for the construction of the pedestrian bridge because the applicant acknowledges that the work will occur within what would be the RP District and consents to the application of the RP District Development Standards as if the work area had been found to be within an RP District through formal delineation.

Resource Enhancement Projects

The applicant proposes to enhance the RP District by removing the existing Stone Bridge culvert, restoring the stream channel grade, and constructing a new arch-span wooden pedestrian bridge.

Per LOC 50.05.010.6.c.ii(1)(f), a resource enhancement project can be approved if the following criteria are met:

(i) The project will cause no permanent degradation, or loss of natural features in the RP district; and

The proposed stream channel restoration is described in Exhibit F-1 and shown in Exhibits E-6 – E-9. No clearing would be required for the project. All grading would be limited to the area within the existing stream channel and adjacent banks, and the grading would improve rather than degrade the quality of the stream corridor (see below). Construction access methods would minimize the impact of the project by utilizing an existing trail to access the site and the stream channel itself to reach the furthest extent of the grading area. The only vegetation impacts would be on the top of the channel banks, and the applicant's project plan provides for restoration of all disturbed areas. Any detrimental impacts caused by the project would therefore be temporary.

If the stream channel restoration functions as proposed, the project would cause no permanent degradation or loss of natural features in the RP District. In order to ensure that the proposed design is effective and sustainable, the applicant must submit final plans and details that have been stamped by a licensed professional engineer. As conditioned, this criterion can be met.

(ii) There will be improvement in the quality of at least one function or value of the resource; and

The proposed project would improve the capacity of Nettle Creek to convey flows past the Stone Bridge location without destabilizing the channel bed. The Stone Bridge currently constricts medium to high flows, which leads to upstream backwater and sediment aggradation and downstream velocity increases and sediment scour. The proposed bridge design would eliminate the constriction and associated drainage and sediment issues. Replacing the existing culvert with a bridge and re-grading the channel bed would also restore fish passage and improve stream habitat. In addition, the project would reinforce the channel bed to avoid the development of future channel instability.

If the stream channel restoration functions as proposed, the project would improve multiple functions and values of the stream corridor, including flood and stormwater control, water quality, and wildlife habitat. In order to ensure that the proposed design is effective and sustainable, the applicant must submit final plans and details that have been stamped by a licensed professional engineer. As conditioned, this criterion can be met.

(iii) Only vegetation described in the Plant List as appropriate for resource landscaping shall be planted.

Nineteen of the 21 plant species in the applicant's proposed Planting Plan (Exhibit E-9) are included in the Native Plant list in LOC 50.11.004 Appendix D – Lake Oswego Master Plant List. Two of the species – stream violet (*Viola glabella*) and starry false Solomon's seal (*Maianthemum stellatum*) – are not included on the list but are also appropriate for resource landscaping: they are native to the Willamette Valley, are adapted to local climate and soils, and can thrive with little or no maintenance. This criterion is met.

Staff finds that the resource enhancement project can be approved because each of the criteria of LOC 50.05.010.6.c.ii(1)(f) is met.

Development Standards – Structures

Per LOC 50.05.010.6.c.ii(1)(e), passive use recreation facilities may be located within the RP District, and any disturbed land area shall be restored with native plants. “Passive use recreational facilities” is defined as “facilities for recreational uses related to the functions and values of a natural area that require limited and low impact site improvement, including ... pedestrian bridges...” [LOC 50.10.003.2]. The proposed pedestrian bridge meets the definition of a passive use recreational facility, and the proposal includes replanting the disturbed areas within native plants (Exhibit E-9). This standard is met.

2. The development standards applicable to ministerial developments [LOC 50.06];

Of the development standards listed in LOC 50.07.003.13.e.ii (listed on pages 1-2 of this report), only the hillside protection standard is applicable to this application. A resource enhancement project and construction of a pedestrian bridge do not necessitate review of the other development standards applicable to ministerial developments.

Hillside Protection

The site is identified as being in a potential slide area. Per LOC 50.06.006.2.d, all development on undisturbed slopes shall be designed to minimize the disturbance of natural topography, vegetation, and soils. The proposed pedestrian bridge would be located in the footprint of the existing Stone Bridge culvert and Iron Mountain Trail. All grading would be limited to the area within the existing stream channel and adjacent banks, and the only vegetation impacts would be on the top of the channel banks. This standard is met.

VII. CONCLUSION

Based upon the materials submitted by the applicant and findings presented in this report, staff concludes that LU 13-0024 complies with all applicable criteria and standards or can be made to comply through the imposition of conditions.

VIII. ACTION TAKEN

Approval of LU 13-0024, subject to the following conditions:

A. Prior to Commencement of the Project or Issuance of a Building Permit, the Applicant/Owner Shall:

1. Submit final plans and details for review and approval of staff. The final plans and details shall be stamped by a licensed professional engineer and shall be the same or substantially similar to the plans and details in Exhibits E-4 – E-8.
2. Apply for and obtain all necessary federal and state permits, which may include, but are not limited to, those from the Division of State Lands, Department of Environmental Quality, and/or Army Corps of Engineers.
3. Apply for and obtain an erosion control permit and install erosion control measures to the satisfaction of staff.

4. Install all tree protection measures as required by LOC 55.08.020 and 55.08.030 (see tree protection requirements, below). The tree protection fencing shall be inspected and approved by staff prior to commencing any construction activities.

B. Prior to Any Final Building Inspection for the New Bridge or Within 30 Days of Project Completion, the Applicant/Owner Shall:

1. Complete all project activities in accordance with the approved final plans and details, as required by Condition A(1), above. Substantial departures from the approved plans and details shall be approved in advance by the City of Lake Oswego.
2. Replant all disturbed areas in accordance with the approved Planting Plan (Exhibit E-9), to the satisfaction of staff. Any variation from the approved plant list shall be approved by the City of Lake Oswego.

Code Requirements:

1. **Expiration of Development Permit:** Per LOC 50.07.003.17, this approval shall expire three years following the effective date of the development permit, and may 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. 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.
3. **Engineering Permits:** This proposal may require a Traffic Control Plan. Contact the Engineering Division for additional information.

Note:

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 applicant is 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 applicant of issues regarding state and federal laws that the staff member believes would be helpful to the applicant, but any such advice or comment is not a determination or interpretation of federal or state law or regulation.

Prepared by:

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9/17/13
Date

Reviewed by:

Evan Boone
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Deputy City Attorney

9/17/13
Date

Approved by:

S. Hamid Pishvare
S. Hamid Pishvare
Assistant Planning Director

9/17/2013
Date

EXHIBITS

A.-D. [No current exhibits; reserved for hearing use]

E. GRAPHICS/PLANS

- E-1 Tax Map
- E-2 Sensitive Lands Map
- E-3 Vicinity Map
- E-4 Existing Conditions
- E-5 Tree Inventory
- E-6 Proposed Site Plan and Profile
- E-7 Construction Plan
- E-8 Construction Details
- E-9 Planting Plan

F. WRITTEN MATERIALS

- F-1 Applicant's Narrative
- F-2 Geotechnical Report

Date of Application Submittal: May 22, 2013

Date Application Determined to be Complete: June 21, 2013

State Mandated 120-Day Rule: October 19, 2013

