

-Approved-

BEFORE THE DEVELOPMENT REVIEW COMMISSION
OF THE CITY OF LAKE OSWEGO

A REQUEST FOR A DEVELOPMENT REVIEW) LU 13-0043 – 1829
PERMIT TO CONSTRUCT A DONATION CENTER) GOODWILL INDUSTRIES
AND A NEW COMMERCIAL BUILDING) FINDINGS, CONCLUSIONS & ORDER

NATURE OF APPLICATION / REQUEST

The applicant is requesting approval of the following:

- A Development Review Permit to construct a 1,057 sq. ft. Goodwill Donation Center and a 6,416 sq. ft. retail commercial building;
- Two Minor Variances: 2-foot reductions to the 20-foot front and street side yards setbacks;
- A Hardship Variance to allow a direct access point onto Boones Ferry Road (an arterial street); and,
- The removal of seven trees to accommodate the proposed development.

The site is located at 17150 Boones Ferry Road (Tax Lot 4000 of Tax Map 21E18BA).

HEARINGS

The Development Review Commission (Commission) held a public hearing and considered this application at its meeting of January 6, 2014.

The following information was presented to the Commission at the January 6th hearing and added into the record:

- Exhibit E-26 Proposed Revision to Color and Materials Board with Goldenrod Brick Siding
- Exhibit F-14 Traffic Impact Analysis Addendum, Kittleson & Associates, dated January 6, 2014
- Exhibit F-15 Hardship Variance Economic Impact Review, prepared by Pate LaManna Commercial, LLC, dated January 4, 2014
- Exhibit F-16 Applicant’s PowerPoint Presentation, dated January 6, 2014
- Exhibit G100 Letter in Support, Mike Duyn, dated January 6, 2014
- Exhibit G200 Letter in Opposition, Stephanie Anders, dated January 3, 2014

CRITERIA AND STANDARDS

A. City of Lake Oswego Comprehensive Plan:

- Goal 2 Land Use Planning
- Goal 6 Air, Water, and Land Resources Quality
- Goal 9 Economic Development
- Goal 12 Transportation

1	B. <u>City of Lake Oswego Community Development Code (Chapter LOC 50):</u>	
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3	LOC 50.02.002	Commercial Districts
4	LOC 50.02.002.2.2.b.iv	Site Specific Standards for Industrial Park Zone
5	LOC 50.03.002.3	Use Table
6	LOC 50.04.001.4	Dimensional Standards
7	LOC 50.05.008	Industrial Park Overlay District
8	LOC 50.06.001	Building Design
9	LOC 50.06.002	Parking
10	LOC 50.06.003.1	Access
11	LOC 50.06.003.2	On-Site Circulation - Driveways and Fire Access Roads
12	LOC 50.06.003.3	On-Site Circulation – Bikeways, Walkway and
13		Accessways
14	LOC 50.06.003.5	Transit
15	LOC 50.06.004.1	Landscaping, Screening, and Buffering
16	LOC 50.06.004.2	Fences
17	LOC 50.06.004.3	Lighting
18	LOC 50.06.005	Park and Open Space
19	LOC 50.06.006.3	Drainage Standards
20	LOC 50.06.008	Utilities
21	LOC 50.07.003.1.b	Burden of Proof
22	LOC 50.07.003.5	Conditions of Approval
23	LOC 50.07.003.7	Appeal of Development Decision
24	LOC 50.07.003.14	Minor Development Decision
25	LOC 50.08.002	Minor Variances
26	LOC 50.08.003	Hardship Variances
27	LOC 50.11.002	Appendix B – Industrial Land Use Policy Element
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29	C. <u>City of Lake Oswego Streets and Sidewalks Code [LOC Chapter 42]:</u>	
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31	LOC 42.08.400 - 42.08.470	Streets and Sidewalks
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33	D. <u>City of Lake Oswego Signs Code [LOC Chapter 47]:</u>	
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35	LOC 47.03.005 - 47.03.030.2	Signs
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37	E. <u>City of Lake Oswego Tree Code [LOC Chapter 55]:</u>	
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39	LOC 55.02.010 - 55.02.080	Tree Removal
40	LOC 55.02.084	Mitigation Requirements
41	LOC 55.08.020	Tree Protection Plan Required
42	LOC 55.08.030	Tree Protection Measures Required
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1 **FINDINGS AND REASONS**

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3 The Commission incorporates the December 27, 2013, Staff Report (with all exhibits attached thereto)
4 as support for its decision supplemented by the further findings and conclusion set forth herein. In the
5 event of any inconsistency between the supplementary matter herein and the staff report, the matter
6 herein controls. To the extent they are consistent with the denial herein, the Commission adopts by
7 reference its oral deliberations on this matter.
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9 Following are the supplementary findings and conclusions of this Commission:
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- 11 1. The Commission finds that the requested Hardship Variance to allow a direct access point onto
12 Boones Ferry Road, an arterial, did not meet the applicable criteria as addressed in the staff report.
13 Direct access onto Boones Ferry Road may be desirable for this type of development at this specific
14 location; nevertheless, the applicant must take into account all of the zoning and development
15 standards imposed by the Community Development Code. While the Code does permit variances
16 to standards, the Commission finds that the applicant failed to demonstrate that an “unnecessary
17 hardship” exists on the site due to physical circumstances that are not self-created and which
18 prevent reasonable use of the property. As the proposed design/site plan was predicated on the
19 Boones Ferry Road access point, and conditions for the redesign of the site without this access point
20 cannot be imposed by the Commission without altering the fundamental design of the site, the
21 Commission finds that the application fails to meet all applicable criteria and therefore must be
22 denied.
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- 24 2. The Commission finds that the requested Minor Variances (2-foot reductions to the 20-foot front
25 yard and 20-foot street side yard setbacks) meet the Minor Variance criteria for the reasons set
26 forth in the staff report.
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- 28 3. The application includes removal of seven trees to accommodate the proposed site improvements,
29 including two Bigleaf maples along the southerly property line. The Commission finds that removal
30 of these maples would not have a significant negative impact on the character, aesthetics, or
31 property values of the neighborhood because, as detailed in the arborist’s report (Exhibit F5), the
32 maples had suffered significant long-term damage from the prior industrial use on this site.
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- 34 4. In response to staff’s recommended Condition of Approval A(1)(b), the applicant proposed to
35 modify the upper wall siding material on both the retail and donation center buildings from the
36 proposed 4x16-inch CMU blocks in a sandstone color to 3.5x11.5-inch structural brick in a
37 goldenrod color (Exhibits E25, E26, and F16). The Commission finds the proposed material change
38 would meet the applicable Building Design standards.
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- 40 5. In the event the Commission granted the Hardship Variance, Staff suggested Condition of Approval
41 A(1)(c) to modify the proposed stucco and metal doors on the retail building’s street facing façade
42 to fenestration and glass doors in order to create a better aesthetic relationship to The Crossing, a
43 commercial center adjacent to the site across Pilkington Road. The applicant testified that a
44 commercial building must provide a minimal amount of blank walls with no fenestration in order to
45 allow for internal storage and utilitarian areas. The Commission finds that even with the small
46 portion of blank wall on that façade, the building design would be complementary to adjacent
47 structures of good design; therefore, this condition would not be necessary.

1 6. The applicant testified that the proposed transformer pad located along the Pilkington Road façade
2 of the retail building was for a future above-ground PGE utility vault. The Commission finds that
3 this type of utility must meet required yard setbacks (20 feet for a street side yard) and that LOC
4 50.06.008.4.d (Utilities) allows for above-ground utilities only if approved by the City Manager
5 under exceptional circumstances. If allowed by the City Manager, an above-ground utility must be
6 fully screened and buffered.

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8 **CONCLUSION**

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10 The Commission concludes that LU 13-0043 does not comply with all applicable criteria and that
11 conditions of approval cannot be imposed which would result in the application complying with the
12 applicable criteria.

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1 **ORDER**

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3 The Commission **denies** LU 13-0043.

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5 DATED this 22nd day of JANUARY, 2014.

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Don Richards /s/
Don Richards, Chair
Development Review Commission

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Janice Reynolds /s/
Janice Reynolds
Administrative Support III

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18 **ATTEST:**

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20 **PRELIMINARY ORAL DECISION– January 6, 2014**

21 AYES: Richards, Needham, Johnson and Ahrend,

22 NOES: Creighton and Poulson

23 ABSTAIN: None

24 ABSENT: Rossi

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28 **WRITTEN FINDINGS – January 22, 2014**

29 AYES: Richards, Creighton, Needham, Johnson, Ahrend, and Poulson

30 NOES: None

31 ABSTAIN: None

32 ABSENT: Rossi

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