

STAFF REPORT
CITY OF LAKE OSWEGO

PLANNING DIVISION

APPLICANT/OWNER:

Goodall Knaus, LLC

FILE NO:

LU 14-0062

TAX LOT REFERENCE:

Parcel 9 of Partition Plat 2014-070 (Tax Map 2 1E 04 BA)

STAFF:

Debra Andreades

LOCATION:

12800 Goodall Road

DATE OF REPORT:

December 17, 2014

COMP. PLAN DESCRIPTION:

R-7.5

NEIGHBORHOOD ASSOCIATION:

Forest Highlands

ZONING DESIGNATION:

R-7.5

I. APPLICANT'S REQUEST

The applicant is requesting approval of a minor land partition to divide the .68-acre site into two parcels. (The proposed parcels are located in the area of Lots 5 and 6 under the Highlands Master Plan, LU 14-0031).

II. DECISION

Approval of LU 14-0062 with conditions. The complete listing of conditions is provided on pages 4-7 of this report.

III. APPLICABLE REGULATIONS

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

LOC 50.04.001.1	Dimensional Table for Low Density Residential Zones
LOC 50.07.003.1.b	Burden of Proof
LOC 50.07.003.13	Ministerial Development Decisions

B. Prior Approvals

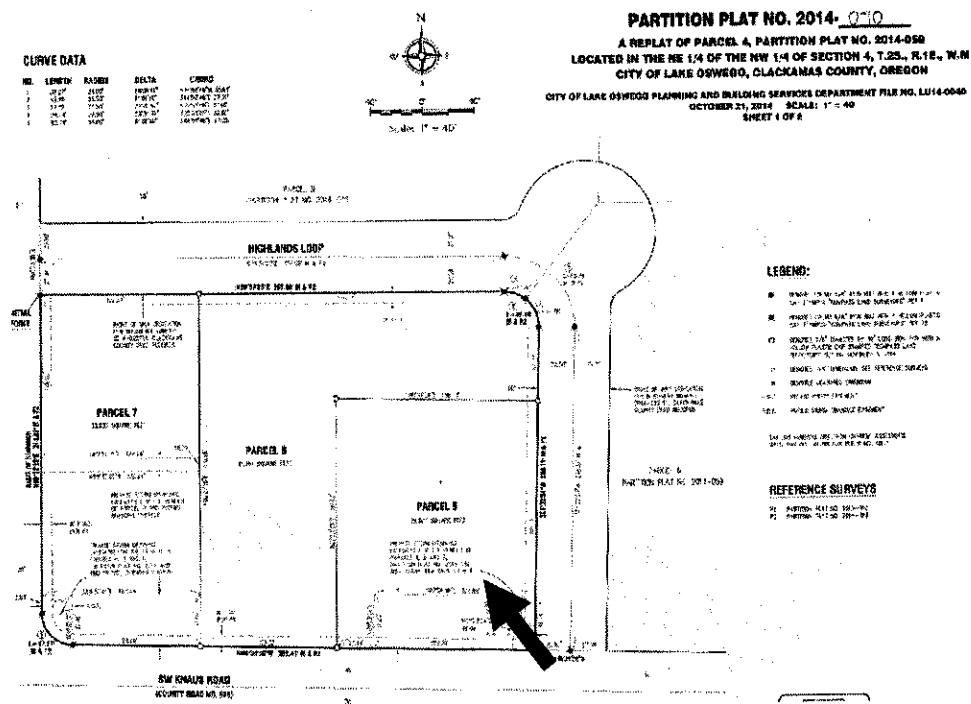
LU 13-0044
LU 14-0021
LU 14-0031
LU 14-0040

Exhibit F-2: Development Agreement, Section 5.3

IV. FINDINGS

A. Background/Existing Conditions:

1. The property, which is vacant, is Parcel 9 of Partition Plat 2014-070 (approved by LU 14-0040), is approximately .68 acres in size, and has frontage on both Knaus Road (a neighborhood collector) and Highlands Loop (a local street), (Exhibit E-1).



2. The site is zoned R-7.5, as are the surrounding properties (Exhibit E-2). All surrounding properties are developed with single family homes.
3. The site slopes down towards the south. There are three mature conifers on the property immediately to the west (Exhibit E-3).
4. On May 7, 2014, the City entered into a Development Agreement (DA) with the applicant to develop the property (LU 14-0021-Ordinance 2642). The DA set out a serial partition ministerial review process to create the lots that will facilitate a Master Plan (Exhibit F-2). The Master Plan to develop Parcels 1, 2, and 3 of Partition Plat 2013-060 ("Master Plan Site") with 16 lots was approved by the Development Review Commission (Commission) on August 4, 2014 (LU 14-0031, Exhibit E-5). The first partition was approved in 2013 (LU 13-0044); the second partition on this portion of the site was approved in early 2014 (LU 14-0040) and this application is part of a set of five partitions that will allow full development of the Master Plan site by 2015.

V. **REVIEW AND APPROVAL PROCEDURES**

A. **Neighborhood Meeting:**

There is no neighborhood meeting 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.

VI. **LOC 50.07.003.13 - MINISTERIAL DEVELOPMENT**

A. **Classification of Application**

This partition application is classified as ministerial development per Ordinance 2642, specifically Section 5.3 of the adopted DA.

B. **Criteria for Review of Application**

Per Section 5.3 of the DA, the sole criterion for approval of this ministerial application shall be that the parcels conform to the Master Plan (which includes the conditions of approval relating to subsequent partitions pursuant to the Master Plan).¹

Master Plan: Size and Location of Lots

The applicant proposes to divide this partition site into two parcels (Parcels 21 and 22), Exhibit E-4. Per the DA, partitions shall demonstrate compliance with the lot size² and location as shown in the Master Plan (Exhibit E-5). As indicated on Exhibit E-4, Parcel 21 will be 12,432 sf and Parcel 22 will be 17,104 sf. The two parcels created by this application are substantially compliant with the lot size and location depicted for Lots 6 and 5 on the Master Plan.

¹ Accordingly, compliance with the zone requirements, development standards (Off Street Parking, Loading and Bicycle Access [LOC 50.06.002]; Access [LOC 50.06.003.1]; On-Site Circulation – Driveways and Fire Access [LOC 50.06.003.2]; Local Street Connectivity [LOC 50.06.003.4]; Landscaping, Screening and Buffering [LOC 50.06.004.1]; Lighting [LOC 50.06.004.3]; Hillside Protection [LOC 50.06.006.2]; Drainage Standard for Minor Development [LOC 50.06.006.3]; Solar Access [LOC 50.06.007]; and Utility Standard [LOC 50.06.008], any applicable conditions of approval imposed pursuant to an approved ODPS or prior development permit affecting the subject property, Vision Clearance [LOC 42.03.130], Street and Sidewalk Improvements [LOC 42.03.005 – .125], and Tree Code [LOC Chapter 55] were determined at the time of approval of the Master Plan. Per Ordinance 2642, compliance with these standards was reviewed and approved during review of the Master Plan. The rights of way for internal streets were dedicated by separate instrument.

² All lots sizes approved by the Master Plan exceeded the minimum lot size required by the R-7.5 zone.

Master Plan: Conditions of Approval

Conditions A(1) – A(16) (Exhibit F-3)

Conditions of approval A(1) – A(16) of the Master Plan, must be met prior to approval of any partition application. Conditions A(1) through A(6) pertain to construction of public improvements that are in the process of being met and do not preclude approval of this partition application, per Sections 3 and 6.1 of the DA. Condition A(7) requires that a Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities, be recorded. This has been recorded.

The parcels created through the final build out of the Master Plan are subject to a Notice of Development Restriction [Condition A(8)] and CC&Rs [Condition A(9)], which shall apply to the entire 16-lot development once completed. Both have been recorded, however, the recorded Notice of Development Restriction will need to be updated so that the lot references will coincide with this partition application, per Condition A(8), (see Condition A-3, below).

Conditions A(10) through A(16) have been satisfied.

Conditions B(1) – B(4)

These conditions are required to be satisfied prior to the issuance of any grading or building permits to construct any structure on any parcel. Construction of future structures on each parcel will be subject to the site development requirements that were in effect on May 7, 2014, the effective date of the DA. Compliance is continued through conditions of approval, below. They will be reviewed for compliance at the time of submission of building permit applications.

Conditions C(1) – C(4)

These conditions are required to be satisfied prior to any final building inspection or occupancy of any structure on any parcel. Compliance is continued through conditions of approval, below. They will be reviewed for compliance at the time of submission of building permit applications.

VII. CONCLUSION

Based upon the materials submitted by the applicant and findings presented in this report, staff concludes that LU 14-0062 complies with all applicable criteria and standards or can be made to comply through the imposition of conditions.

VIII. ACTION TAKEN

Approval of LU 14-0062, subject to the following conditions:

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

1. Submit a final plat to 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 December 17, 2015.** The final plat must be dimensioned as depicted in Exhibit E-4, and reference this land use application – City of Lake Oswego Planning and Building Services, Case File LU 14-

0062. 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. Comply with Condition A(8) of LU 14-0031 regarding the Notice of Development Restriction, which is set forth below for the reader's convenience (and is revised to reflect this partition):

"Submit a "Notice of Development Restrictions", with a copy of the Master Plan approved under LU 14-0031, to be recorded with the final plat for both the 2014 and 2015 partition plats for review and approval by staff. (These shall be updated during approval of the 2015 partition plats to include all lots). Attached exhibits shall be no larger than 8 ½" x 11" and shall not contain lettering smaller than 10 point font. The Notice shall include the following information:

- a. As provided for in the Development Agreement (LU 14-0021), all setbacks, height, and maximum lot coverage and floor area on individual lots shall be limited to those required of the R-7.5 zone on May 7, 2014.
- b. Private Open Space easements on all lots as shown in Exhibit "A", shall be planted and maintained per the approved Landscape Plan to provide a scenic and aesthetic appearance of the open space. **No fencing is permitted along the front or side property lines of all lots within the open space easements.** Trees may be removed only after they have been shown to be hazardous pursuant to LOC 55.02.042 (4) to life or property by a certified arborist, and after a tree removal permit (including the requirement for planting replacement trees) has been obtained from the City. Improvements in this area, which are in keeping with the above purpose, including public utilities and pedestrian pathways must be approved by the City of Lake Oswego. No buildings or structures shall be allowed in these areas.
- c. Parcels 21 and 22 (which are in the same area as Lots 6 and 5 of the Master Plan), are solar lots, subject to the requirements of LOC 50.06.007.2.c (protection from future shade). Development of structures or planting of non-exempt vegetation on these lots shall comply with the Solar Balance Point provisions of the Solar Access Ordinance. These requirements shall be binding upon the applicant and subsequent purchasers of these lots.
- d. Parcel 21 is in the area of Lot 6 of the Master Plan. Lot 6 is subject to the requirements of LOC 50.06.007 [Protected Solar Building Line], as depicted on Exhibit "B". The Protected Solar Building Line, if located closer to a property line than a required yard setback, shall not supersede the required yard setback.

- e. Based on the fact that Highland Loop is over 10% grade and the Fire Code states that access roads shall not exceed 10% grade; the Code allows 15% grade if residential fire sprinklers are installed in the future homes. The Building Official may allow an alternative to the minimum requirements of the One-and Two-Family Dwelling Specialty Code as authorized by ORS 455.610, which may include, but is not limited to, installation of an automatic fire sprinkler system,. The owners or owners' representative shall offer an approved alternate method for fire suppression, such as an NFPA 13-D residential fire sprinkler system, to the satisfaction of the Fire Marshal and Building Official."

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 Issuance of any Building Permits for any Structure on any Parcel, the Applicant/Owner Shall:

1. Comply with Conditions B(5) – B(8) of LU 14-0031 regarding driveway approaches.

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

1. Comply with Conditions C(1) - C(4) of LU 14-0031 regarding street trees and mitigation trees.
2. Not occupy any dwelling until the 2015 partition plat (which will result in the final build out provided for under the Master Plan) is recorded and each dwelling is on its own lot. [As provided for in the Development Agreement, building permits may be obtained to construct up to two single family dwellings per parcel prior to the recordation of this, the final partition plat that will be recorded in 2015; as a means to facilitate construction in preparation for featuring the development as the 2015 Portland Homebuilder's Association "Street of Dreams," that will take place in the summer of 2015.]

Code Requirements:

1. **Expiration of Development Permit:** The Development Agreement that governs this decision will expire within five years following the effective date of the Development Agreement approved by LU 14-0021.

Notes:

1. 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.

2. 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.

Prepared by:



Debra Andreades
Senior Planner

12/17/14
Date

Reviewed by:



Evan Boone
Deputy City Attorney

12-17-14
Date

Approved by:



S. Hamid Pishvaie
Assistant Planning Director

12/17/2014
Date

EXHIBITS

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

E. GRAPHICS/PLANS

- E-1 Plat Map
- E-2 Vicinity map with zoning
- E-3 Existing Conditions Plan
- E-4 Proposed Partition Site Plan
- E-5 Master Plan

F. WRITTEN MATERIALS

- F-1 Applicant's Narrative
- F-2 Ordinance 2642 and the Approved Development Agreement
- F-3 Master Plan Conditions (LU 14-0031)

Date of Application Submittal: October 15, 2014

Date Application Determined to be Complete: November 3, 2014

