

STAFF REPORT
CITY OF LAKE OSWEGO

PLANNING DIVISION

APPLICANT/OWNER:

Amy Tongue, DVM

FILE NO:

LU 15-0043

APPLICANT'S REPRESENTATIVE:

Waterleaf Architecture

STAFF:

Johanna Hastay, AICP

TAX LOT REFERENCE:

Tax Lots 100 & 200 of Tax Map 21E03DC

DATE OF REPORT:

February 26, 2016

LOCATION:

590 3rd Street

120-DAY DECISION DATE:

May 30, 2016

COMP. PLAN DESCRIPTION:

EC

PUBLIC HEARING DATE:

March 7, 2016

ZONING DESIGNATION:

EC

NEIGHBORHOOD ASSOCIATION:

First Addition – Forest Hills

I. APPLICANT'S REQUEST

The applicant is requesting approval of a Development Review Permit for an exterior remodel and the construction of a 2-story addition on an existing veterinary hospital. The request includes a design variance to the Downtown Redevelopment District Design (DRDD) storefront display window standards. The applicant is also requesting the removal of five trees (three of which are street trees) to accommodate the project.

II. RECOMMENDATION

Approval of LU 15-0043 with conditions. The complete listing of conditions is provided on pages 23-26 of this report.

III. APPLICABLE REGULATIONS

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

LOC 50.01.003.4	Development Permits Restricted for Unlawful Uses
LOC 50.03.002.3	Commercial Uses
LOC 50.04.001.4	Commercial, Mixed Use & Industrial Zone Standards
LOC 50.05.004	Downtown Redevelopment District Design Standards
LOC 50.06.002	Parking
LOC 50.06.003.1	Access/Access Lanes (Flag Lots)
LOC 50.06.003.2	On-Site Circulation – Driveways & Fire Access Roads
LOC 50.06.004.1	Landscaping, Screening & Buffering
LOC 50.06.004.3	Lighting
LOC 50.06.005	Park and Open Space
LOC 50.06.006.1	Weak Foundation Soils
LOC 50.06.006.3	Drainage for Major Development, Partitions, Subdivisions, & Certain Structures
LOC 50.06.008	Utilities
LOC 50.07.003.1	Application for Development, Burden of Proof
LOC 50.07.003.5	Conditions of Approval
LOC 50.07.003.7	Appeal of Minor Development Decisions
LOC 50.07.003.14	Review Criteria for Minor Developments
LOC 50.08.003	Design Variances

B. City of Lake Oswego Streets and Sidewalks Code (LOC Chapter 42):

LOC 42.03.005 – 42.08.470 Streets & Sidewalks

C. City of Lake Oswego Sign Code (LOC Chapter 47):

47.10.412 Permanent Signage Allowed in the EC Zone

D. City of Lake Oswego Tree Code (LOC Chapter 55):

LOC 55.02.010 – 55.02.135 Tree Removal & Mitigation

IV. FINDINGS

A. Background/Existing Conditions:

1. The site is approximately 12,000 sq. ft. in size and is bordered by C Avenue to the north and 3rd Street to the east, both local streets (Exhibit E1).
2. The site is zoned East End General Commercial (EC). The structure was originally a residential dwelling that, according to the City's records, was converted to a veterinary hospital in 1995.
3. Adjacent properties to north are zoned R-2 and R-6, and are developed with single family dwellings or duplexes. Adjacent properties to the east and south are zoned EC and are developed with single family dwellings or duplexes. Property to the west is Rossman Park, zoned PNA.

4. There are ten trees that are five inches in diameter or greater on the site or in the rights-of-way abutting the site (Exhibit E3).

V. PUBLIC NOTICE OF APPLICATION AND APPLICANT'S BURDEN OF PROOF

A. Neighborhood Meeting

The applicant held a neighborhood meeting on June 18, 2015. The minutes of the meeting and the notification materials are included in this report as Exhibit F6.

B. Public Notice to Surrounding Area

The City has provided adequate public notice and opportunity to comment on this application pursuant to LOC 50.07.003. No comments were received by the date 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.

VI. MINOR DEVELOPMENT

A. Classification of Application

LOC 50.07.003.14.a.ii(6) classifies a substantial remodel and construction of an addition to a commercial structure as minor development.

B. 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 in which it is located;

Development Permits Restricted for Unlawful Uses [LOC 50.01.003.4]

No development permit shall be issued for a development or use of land in violation of this Code, unless the violation is rectified as part of the development.

It was brought to staff's attention that the existing veterinary hospital advertises the provision of animal boarding facilities on its official website. Per LOC 50.03.002.3, an animal boarding facility is not an allowed use in the East End General Commercial (EC) zone. Staff notes that when the dwelling was converted to a vet hospital in 1995, an animal boarding facility was also not an allowed use in the EC zone. It is unclear when boarding was initially incorporated into the business, but the use is in violation of the zone standards. Staff recommends a condition of approval requiring the applicant to rectify this violation prior to the issuance of any further development permits for this use on this site. As conditioned, this standard can be met.

EC Dimensional Standards [LOC 50.04.001.4]

The dimensional standards for the EC zone are listed in the matrix, below, and illustrated in Exhibits E4 and F1.

EC Zone Dimensional Standards		
Standard	Requirement	Proposed
Setbacks		
C Avenue (north)	10 feet	14 feet
3 rd Street (east)	None	12 feet
Alley (west)	None	24 feet
Internal Side (south)	None	18 feet
Lot Coverage	100%	~ 37%
Height (within 120 feet of R-6 zone)	35 feet	~ 31 feet
Floor Area Ratio	3.0:1	0.4:1
	36,000 sq. ft.	4,860 sq. ft. (basement is exempt)

Staff finds that the proposed development complies with all of the site development limitations of the zone. This standard is met.

2. The Development Standards applicable to minor developments;

Downtown Redevelopment District Design Standards [LOC 50.05.004.1-12]

Staff notes that DRDD standards for new buildings do not apply to this project.

50.05.004.5 Building Siting and Massing

Building siting and massing shall create a village character by compliance with the following requirements:

Height Limit [Subsection e]: No building shall be taller than 60 ft. in height. No flat roofed building shall be taller than 41 ft. in height.

The existing building is single story and the proposed 2-story addition is 31 feet tall (Exhibit E5). All roof forms are pitched (Exhibit E5).

Entrances [Subsection f]: The primary building entrances shall be oriented to pedestrian ways along streets to encourage increased pedestrian density on existing streets, sidewalks and other public ways. Secondary building entrances or tenant space shall be required along alleys to take advantage of and enhance the intimate scale of the alley space.

The main entrance is oriented towards 3rd Street and includes a direct walkway from the public sidewalk to the entrance (Exhibits E4 and E5).

Staff finds that all applicable Building Siting and Massing standards are met as proposed.

50.05.004.6 Building Design

Building elements shall be designed to create a village character through compliance with the following requirements:

Lake Oswego Style Required [Subsection a]: Buildings shall be designed using building design elements of the Lake Oswego Style to create distinctive buildings which have richly textured, visually engaging facades. See LOC 50.11.001, Appendix A – Lake Oswego Style.

The applicant's narrative and elevations illustrate that the design utilizes the following characteristics of the Arts and Crafts Style (Exhibits E5-E6 and F1):

- Complex intersecting pitched gable roofs that break the massing into smaller scale forms both at the roof and at the pedestrian level.
- Asymmetrical composition, generally rectangular, incorporating pitched roofs and a prominent front porch.
- Patterned casement and picture windows with defined window trim;
- Stone and horizontal siding used in combination.
- Wood accents such as simulated trusses, exposed rafter tails, and vertical emphasis on the window jamb moldings.

Staff concurs with the applicant's findings that the proposed design is richly textured and reflects the relevant architectural details of the Arts and Crafts style.

Storefront Appearance [Subsection b]: Buildings fronting on streets or alleys designed for pedestrian use shall create a storefront appearance on the ground floor. A minimum of 80% (linear measurement) of the exterior ground floor abutting pedestrian ways shall be designed as storefront with display windows and entry features. The bottom edge of windows along pedestrian ways shall be constructed no more than 30 in. above the abutting walkway surface and shall be no closer than 12 in. above the walkway surface. Sufficient interior or soffit lighting to allow night-time window shopping shall be provided.

The applicant is requesting a design variance to the storefront appearance standards. Please see the Design Variance discussion, below.

Ground Floor Materials [Subsection c.i]: Buildings shall use masonry as the predominant building material for walls on the ground floor. "Masonry" includes fabricated bricks, blocks, stucco and glass. The design of these materials shall create an historic or vernacular Lake Oswego Style appearance as shown in LOC 50.11.001, Appendix A – Lake Oswego Style.

The Development Review Commission recently determined that "predominant" means that a minimum of fifty percent of an elevation must incorporate the required cladding materials of bricks, block, stucco, or glass (see LU 15-0061). As shown on the proposed elevations, the front (east) façade and the south facade include masonry and glass fenestration materials on at least fifty percent of the ground floor (Exhibits E5 and E13). The two remaining façades do not meet this standard. Staff recommends that, as a condition of approval, the north and west elevations be revised to include at least fifty percent of the required materials.

Upper Story Materials [Subsection c.ii]: Buildings shall use wood and glass as the predominant building materials for upper stories. These materials are intended to soften the appearance of a building that sits on a heavier appearing masonry/glass base and thereby effectively creating a mixed use village appearance. Wood siding or cedar shingles may be used.

The proposed upper story materials include glass fenestration and composite horizontal wood siding (Exhibits E5, E6, and E13).

Roof Materials [Subsection c.iii]: Roofs shall use be slate, tile, shakes or wood shingles, or synthetic materials (e.g., concrete, pressed wood products, metal or other materials) that are designed to and do appear to be slate, tile, shake, or wood shingles.

The proposed roof materials are composite slate shingles (Exhibit E13).

Prohibited Materials [Subsection c.iv]: The following exterior materials are prohibited:

- (1) Plastic, except when used to replicate old styles;
- (2) Metal or vinyl siding;
- (3) Mirrored glass;
- (4) T-111 Type plywood;
- (5) Corrugated metal or fiberglass;
- (6) Standard form concrete block (not including split faced, colored or other block designs that mimic stone, brick or other similar masonry); and
- (7) Backlit fabrics, except that awning signs may be backlit fabrics for individual letters or logos.

No prohibited materials are proposed (Exhibit E13).

Ground Floor Design [Subsection d]: Buildings shall have a strong ground floor cornice designed to separate the ground floor functions and materials from the upper story or stories and to provide continuity with cornice placement on abutting buildings as shown in Figure 50.05.004-F: Ground Floor Design. Methods for compliance with this requirement include but are not limited to:

- i. Use of the same or similar building materials and/or colors from storefront to storefront or building to building; or
- ii. Painting the wood elements in the first floor storefront areas white, black, dark brown, dark green or gray-blue. This color range is not intended to be an exclusive list, but is recommended to create compatibility and design strength at the ground floor storefront level while encouraging diversity with multi-tenant buildings and in large lot (whole block) developments.

The existing building is single story and does not include a cornice area (Exhibit E5). The 2-story addition has a strongly detailed covered porch on the front elevation that creates a distinct break between the floors as viewed from the street (Exhibit E5).

There are no abutting commercial/mixed use buildings that could be used to create visual continuity between cornices (Exhibit E1). Staff interprets the second portion of this standard -- “provide continuity with cornice placement on abutting buildings as shown in Figure 50.05.004-F: Ground Floor Design” -- to only be applicable if the abutting buildings are commercial/mixed use because the cornice continuity is to be “as shown in” Figure 50.05.004-F.

Figure 50.05.004-F: Ground Floor Design



Molding [Subsection e]: *Moldings, window casings and other trim elements shall be designed in a dimension and character reflecting the Lake Oswego Style. Larger dimensions may be used to exaggerate or illustrate a creative design concept or to match the scale of the new building. Moldings shall match or complement the detailing of adjacent buildings that comply with this section.*

Staff concurs with the applicant's finding that the proposed trim elements reflect the Arts and Craft styles. The window jams are offset from the headers and sills (Exhibit E5). The fascia boards and trim under the eaves emphasize the gable ends (Exhibit E5). The design includes brackets and exposed rafter tails (Exhibit E5).

Mechanical Equipment [Subsection f]: *Mechanical equipment shall be mounted within... roof attics where possible. Roof mounted mechanical equipment on flat roofed structures shall be screened by parapet walls to the maximum degree possible. Site located mechanical equipment shall be installed in below grade vaults where possible. Other building mounted mechanical equipment shall be screened from view to the maximum degree possible.*

All mechanical equipment is contained within the building (Exhibit F1).

Awnings and Canopies [Subsection g]: *Buildings with more than one story shall provide awnings or canopies extending six ft. from window walls (with design specifications).*

The building does not abut the public sidewalks along C Avenue and 3rd Street where a pedestrian would benefit from an awning extension (Exhibit E4). The proposed design incorporates a covered front porch that provides weather protection at the main entrance to the building (Exhibit E4 and E5).

Outdoor Relationships [Subsection h]: *Buildings shall be designed to open up to outdoor seating and display areas that are intended to be accessory to an indoor use, such as a restaurant or cafe.*

The only outdoor areas that are accessory to the vet hospital indoor use is a fenced-in yard for animals, which is provided (Exhibit E12).

Corner Buildings [Subsection j]: *Buildings located on street corners shall:*

- i. Be designed to complement and be compatible with other corner buildings at the same intersection by repeating or echoing the same pattern of corner treatment by creating similar focal points such as entries, towers, material or window elements, signage, etc.*
- ii. Reinforce building corners by repeating facade elements such as signs, awnings and window and wall treatments on both "Avenue" and "Street" sides.*
- iii. If the building "cuts" the corner at ground level, anchor the corner with a column supporting the upper levels or roof or with a free-standing column or obelisk. The area of the "cut" corner shall be equal to or greater than the public area in the abutting sidewalk as shown in LOC 50.11.001, Appendix A – Lake Oswego Style, Figure 2.*

The existing building and addition are set back from the property lines in a manner compatible with the abutting and adjacent residential structures (Exhibit E1 and E4). As shown in the elevations, the proposed design incorporates numerous architectural elements in the Arts and Crafts style similar to nearby residences (Exhibit E5). For example, the front elevation is marked by a covered front porch leading to the main entrance and the proposed windows are more residential in style (Exhibit E5).

Alley Space [Subsection k]: Alley space shall be designed to minimize service functions, to screen trash/storage areas and to enhance pedestrian/patron use. Outdoor cafe seating, landscaping, signage, lighting and display features shall be included in alley design where feasible.

The minimal service functions proposed for the alley including an enclosed trash enclosure, several parking spaces, and a secondary entrance to the hospital (Exhibit E4).

Staff finds that, as conditioned, the proposal complies with the DRDD Building Design standards.

50.05.004.8 Landscaping and Site Design

Landscaping shall be designed to enhance building design, enhance public views and spaces, define the street, provide buffers (screening) and transitions, and provide for a balance between shade and solar access.

Landscaping Required [Subsection b]: Landscaping on the site, visible from the ground, shall be 10% of the lot for a nonresidential use. Vines on espaliers shall be placed along at least one building wall. Landscaping for screening and buffering shall be required to screen public or private utility and storage areas and parking lots, and as a separation between dissimilar uses.

The required landscaping for this nonresidential use is 10% of the 12,000 sq. ft. site or 600 sq. ft. The area of proposed landscaping is 4,133 sq. ft. (Exhibit E12 and F1). The landscape plan incorporates espaliered pear trees along the north property line abutting C Avenue (Exhibit E12). The dissimilar use to the south (residential duplexes) is screened by layered landscaping including trees, shrubs, and a fence (Exhibit E12).

Style and Design [Subsection c.i-ii]: Landscaping shall be coordinated with the building design so that landscaping complements the building design. Landscape design shall incorporate elements such as iron/steel plant balconies, metal fences, railing and gates, masonry walls, window boxes, hanging plant brackets and other similar features that complement the character of the building design. Landscaping may be placed in pots, raised planters, or flower boxes.

The proposed landscape design complements the Arts and Crafts style through a specific planting palette that incorporates varied colors, textures heights, and year-round screening, all of which accentuate the richness of the proposed architectural detail on the building (Exhibit E12 and F1).

Courtyards [Subsection c.iii-iv]: Courtyards visible from the street or sidewalk shall be used to break up the scale and proportion of structures. Courtyards shall contain landscaping or features that complement the design of the building and the surrounding structures and landscaping. Courtyard amenities, including art or fountains, may be required as part of the design by the reviewing authority. Landscaping design shall be compatible with abutting or adjacent properties and shall consider the relationship of plantings, site furnishings and materials on those properties and the proposed site.

The proposal does not include a traditional courtyard, but instead an outdoor area for animals is provided that is surrounded by a sight-obscuring wooden fence and landscaping. A walkway leads from the public sidewalk to the fenced courtyard area, winding through landscape areas that will be planted with shrubs, trees, and extensive flower beds (Exhibit E12). The landscaping

is also compatible with the abutting and adjacent properties in that it reflects a mix of grassy lawns, flower beds, ornamental, and shade trees, all designed to soften the proposed massing and orient focus on walkways and the entrances (Exhibit E12). Staff finds that the courtyard proposal is appropriate for this use and location.

Street trees [Subsection d]: *Street trees shall be planted in conformance with the Street Tree List in the Lake Oswego Plant List, and City/LORA specifications for spacing, planting, root barriers, irrigation, lighting (uplighting and holiday lighting), etc.*

The applicant is proposing six street trees along the 3rd Street and C Avenue frontages (Exhibit E12). The trees are located in tree wells that can, through a condition of approval, meet the City/LORA specifications for spacing, planting, root barriers, irrigation, and lighting. The two proposed species, paperbark maples and katsura, are both on the Street Tree List (Exhibit E12).

Green Landscaping [Subsection f.i]: *Landscape design shall incorporate the following environmentally friendly design and planting concepts to the maximum degree possible:*

- (1) Utilize plant materials that are best suited for the areas of the site, e.g., water, soil, sun and shade.*
- (2) Use plant materials, soils, and soil amendments which minimize the use of fertilizers, particularly ones containing phosphate.*
- (3) Use drought tolerant plants, when possible, to minimize water usage.*
- (4) Incorporate native plantings and utilize plant materials which are grown in the PNW.*
- (5) Use plant materials that are pest and disease resistant to minimize or avoid the use of pesticides and fungicides.*
- (6) Irrigation shall use methods and watering schedules which minimize water consumption. These may include drip, micro-spray or bubbler emitters for trees and shrub beds. Irrigation systems shall be designed with solar powered controllers when practicable.*
- (7) Design tree/vine placement to provide shade on ground/wall surfaces...*

The applicant is proposing drought-tolerant, low maintenance planting materials such as dogwood, katsura, magnolias, vine maples, Oregon grape, redbud dogwood, huckleberry, English lavender, and western swordfern (Exhibit E12). The layered landscaping will provide shade on the ground and over walkways.

Landscape Maintenance [Subsection f.ii]: *The landscape plans shall include instructions for the continued maintenance of the landscaping, which shall include the following:*

- (1) When necessary, utilize soil amendments and soil mulches to preserve moisture content.*
- (2) Irrigation shall avoid systems which throw water into the air especially during high wind or high temperature periods. Watering should occur between 6:00 p.m. and 9:00 a.m.*
- (3) Plant during seasons when plants will be less stressed and requires less initial watering.*
- (4) Plant trees "bare root" when possible.*
- (5) When possible, plant turf by seed (not sod), to promote deep root development which will make the turf more drought tolerant.*

Staff recommends a condition of approval to provide a landscape maintenance plan to ensure the long term health of all planting material, to the satisfaction of staff.

Street Furniture and Lighting [Subsection g]: *Buildings shall incorporate street furniture and lighting within the public right-of-way and in private areas open to public pedestrian activity. Street furniture and lighting shall comply with designs approved by the City of Lake Oswego.*

The landscape plan incorporates a bench on private property along the C Avenue frontage (Exhibits E4 and E12). Instead of requiring a public access easement for the bench, staff recommends conditions of approval to relocate the bench to the 4-foot wide street furnishing zone on the north side of the new public sidewalk and to work with the City Engineer/LORA to ensure the design of the bench meets the specifications.

The applicant's narrative states that no street lights are required as existing lighting at the C Avenue and 3rd Street intersection is sufficient; no photometric plan was provided (Exhibit F1). Any new street lights that may be required under the Lighting standard (LOC 50.06.004.3) must be in the Lake Oswego style and also include hanger arms for hanging flower baskets. For further analysis, please see the Lighting discussion, below.

Brick Paving [Subsection h]: Where a development is proposed abutting to a sidewalk or intersection, brick paving shall be required for sidewalk surface detail panels on numbered streets and at primary building entrances as shown in the paving detail diagrams. Brick pavers shall be used to provide color and texture on north-south streets. The use of brick, cobbles or flagstones as pavement for other pedestrian ways, courtyards or parking lots is encouraged, but is not required.

The applicant's narrative states that brick accents details will be incorporated into the existing public sidewalk along the 3rd Street frontage (Exhibits E4 and F1). Staff recommends a condition of approval to work with the City Engineer and LORA to ensure the design, pattern, and location of the new sidewalk materials and brick accents meet the DRDD regulations.

Natural Stone [Subsection i]: New and substantially remodeled buildings shall use natural stone (preferably Columbia River Basalt) for retaining walls, courtyard walls or similar landscape applications.

The proposed masonry for the ground floor cladding is "stacked" slate stone veneer (Exhibits E5 and E13). By definition, masonry includes "a veneer (overlay of a layer of fine or decorative material) that has an average range of depth of 1.75 in. or greater, based upon the manufacturer's specifications" (LOC 50.10.003.2).

Gates, Hangers, Hanging Baskets, and Art [Subsections j, k, and l]: Decorative iron gates and hangers for signs, flags and hanging baskets shall be required as part of the landscape plan and shall be designed in the Arts and Crafts. Any required landscaping shall include seasonal hanging flower baskets placed within parking lots and along streets and sidewalks. The site design shall include locations for placing public or private art.

The applicant states a hanger arm designed in the Arts and Crafts style for a hanging flower basket will be provided on the existing utility pole at the intersection (Exhibit F1). The final number of hanger arms may increase if any new street light poles are required as determined under Subsection g, above. The applicant states that a 3-foot by 3-foot art pedestal will be provided at a location on the 3rd Street public sidewalk (Exhibits E4 and F1). Staff recommends a condition of approval to relocate the art pedestal to the curb extension area at the intersection as there may be a conflict with vehicles parallel parking on 3rd Street.

Protecting Pedestrians [Subsection m]: In areas of potential vehicle/pedestrian conflict, City approved street furniture or bollards shall be used to help create a "protected zone" for the pedestrian.

The applicant is removing existing head-in nonconforming parking located along the C Avenue frontage and building a 9-foot curb-tight sidewalk (Exhibits E3 and E4). All new on-site parking is located on the west side of the site with ingress/egress to C Avenue through the alley (Exhibit E4). The applicant's proposed site plan shows at least one directional ADA-compliant sidewalk ramp and a change in paving material, both of which will alert pedestrians to the vehicular crossing (Exhibit E4). Thus, there are no vehicle/pedestrian conflict areas where street furniture or bollards can appropriately be used to create a protected zone for pedestrians. (Exhibit E4).

Undergrounding of Utilities [Subsection n]: Overhead utilities shall be placed underground, unless the City Engineer determines that undergrounding is not practical based upon site conditions.

The applicant's narrative states that all existing utilities are already underground (Exhibit F1). Engineering notes there are existing overhead utilities along the C Avenue frontage. The City Engineer finds that the applicant will not be required to underground these overhead utility lines at this time due to the degree of impact and mitigation requirements to the system based on Dolan's "rough proportionality" analysis as discussed under LOC Chapter 42, Streets and Sidewalks, below.

Staff finds that, as conditioned, the proposal complies with the DRDD Landscaping and Site Design standards.

50.05.004.9 Parking Requirements

Parking shall be designed to provide adequate, but not excessive spaces while preserving and enhancing the village character of Lake Oswego, through compliance with the criteria in this section.

Employee and patron parking [Subsection b]: Parking shall be restricted to available parking within the commercial district as follows:

- i. On-site parking,*
- ii. Owner or easement parking for patrons within 500 ft. of the business site,*
- iii. Owner or easement parking for employees within 1,000 ft. of the business site, or*
- iv. On-street parking along the property frontage.*

All required employee and patron parking is provided either on-site or with on-street parking along the property frontage (Exhibits E4 and F1).

Staff finds that the applicable DRDD Parking Requirements are met as proposed.

50.05.004.10 Parking Lot Design

Parking Design: Parking shall be designed in compliance with the following criteria:

- a. Parking configuration and circulation shall be designed to provide access from streets within the district and direct traffic away from residential zones, particularly delivery vehicles. Off-site, signal or signage improvements may be required if needed to direct traffic away from residential zones.*
- b. Driveways to parking areas shall be located to avoid breaking the storefront pattern along primary pedestrian ways. First Street south of "B" Avenue shall be considered a primary pedestrian way.*

- c. *Parking lots and structures shall be sited and designed to mitigate adverse lighting and noise impacts on residents. The reflection of sound by the lake surface shall be specifically considered.*

All on-site parking is provided at the rear of the site with access taken from the alley (Exhibit E4). Traffic is directed to C Avenue, a local street that is at the border of the lower density residential areas (Exhibit E1). No driveways are proposed (Exhibit E4). The applicant is proposing minimal lighting near the proposed parking spaces (Exhibit E4).

Staff finds that the applicable DRDD Parking Lot Design standards are met as proposed.

50.05.004.12 Street, Alley and Sidewalk Design

Street, sidewalk and alley design shall safely and efficiently provide for vehicular and pedestrian travel while enhancing village character through compliance with the following design standards.

Curb Extensions [Subsection c.ii]: *Curb extensions shall be created at all intersections where feasible from a traffic management standpoint and unless such extensions would interfere with the turning and stopping requirements of emergency service vehicles (e.g., fire trucks, ambulances), buses or delivery vehicles. Such extensions will be designed to accommodate the turning and stopping requirements of such vehicles.*

The applicant is proposing to construct a full curb extension at the intersection of C Avenue and 3rd Street (Exhibit E4).

Sidewalks [Subsection d]: *Sidewalk design shall consider and encourage opportunities for outdoor cafes, pushcart vendors, seasonal sidewalk sales, festivals and similar uses and activities which enliven pedestrian walkways.*

The applicant is proposing a new 9-foot sidewalk (measured from the back of the curb) along C Avenue to replace the head-in parking (Exhibits E3 and E4). As a recommended condition of approval for LOC 50.05.004.8.h, above, the sidewalk shall consist of a scored concrete pattern to the satisfaction of the City Engineer/LORA. The existing 7-foot sidewalk along 3rd Street will not be modified except to install brick accent details as necessary, to the satisfaction of the City Engineer/LORA.

The existing use, a vet clinic, does not lend itself to the type of sidewalk activities listed, but the proposal does not preclude the use of the sidewalk area for public activities such as festivals, etc.

Alleys [Subsection e]: *Alleys shall be incorporated into design plans as pedestrian and vehicular accessways.*

The existing alley is being used for vehicular access for the seven new parking spaces and as a secondary entrance to the building (Exhibit E4).

Angled Parking [Subsection g]: *On numbered streets, angle parking shall be installed when it will maximize the number of spaces provided and still comply with the capacity, service level and safety requirements of the street system.*

The applicant is not required to install angled parking along the 3rd Street frontage as the City Engineer finds that the existing width of the right-of-way is insufficient and right-of-way dedication is not warranted under Dolan’s “rough proportionality” requirement. For the public improvement analysis, please see the discussion under LOC Chapter 42, Streets and Sidewalks.

Staff finds that the proposal complies with the applicable DRDD Street, Alley, and Sidewalks standards as proposed.

Conclusion. With approval of the requested design variance to the storefront window standards, discussed below, and with the recommended conditions of approval, the proposal complies with all applicable DRDD standards.

Design Variances [LOC 50.08.003]

The purpose of a design variance is to allow adjustments of certain standards of this Code where the resulting design would be superior to development in the surrounding neighborhood or would better achieve the purpose/objectives of the applicable zone or design districts and design standards. Per LOC 50.08.003.1.b, a design variance from any standard in LOC Chapter 50 is allowed in the DRDD, unless prohibited by LOC 50.08.001.2.

The applicant is requesting a design variance to the storefront window design standards (LOC 50.05.004.6.b), which require 80% fenestration in the form of lit display windows (Exhibit F1).

Per LOC 50.08.003.3, a design variance request is subject to the following General Design Variance criteria:

- a. *The applicant demonstrates that:*
 - i. *Compliance with the applicable standard is not practicable due to the physical characteristics of the site or existing structure; **or***
 - ii. *An alternative design will better accomplish the purposes, goals, or objectives of the base district and any adopted plan or overlay district applicable to the property.*

The size and type of storefront display windows required by the DRDD standards ensure an active retail experience for pedestrians. The standard assumes that a building abuts a sidewalk and that the internal use of the building is consistent with large expanses of lit display windows. As discussed in the applicant’s narrative, the location of the existing building is set back 14-20 feet from the sidewalks on both frontages (Exhibits E4 and F1). The proposed 2-story addition is, logically, set back in the same manner as the existing building. Without the pedestrian proximity, the effectiveness of display windows is minimal. As this site is at the edge of the DRDD, transitioning from a more intensive commercial look with the maximum 80% display window fenestration to a design with a more residential appearance better suits the physical characteristics of the site, existing structure location, and the addition.

Staff finds that compliance with the storefront display window standard is not practicable due to the physical characteristics of the existing structure and proposed addition. As proposed, the requested variance complies with criterion a.i.

- b. *The proposed variance will result in a project that is exceptional in the quality of detailing, appearance and materials or creates a positive unique relationship to other nearby structures, views or open space.*

The applicant's narrative and plans detail how the proposed design consists of high quality architectural details and materials (Exhibits E10, E15, and F1). Staff concurs with the applicant's finding and further finds that granting the requested storefront window design variance would have a positive impact as the proposed fenestration is consistent with the architectural style of the buildings in close proximity. As proposed, criterion b is met.

Staff finds that the requested variance complies with both of the General Design Variance criteria. This standard is met.

Per LOC 50.08.003.4, in addition to the General Design Variance criteria, a request for an exception to the storefront window DRDD standard must also comply with the following DRDD-specific design variance standard.

The reviewing authority shall approve a variance to the DRDD design requirements in LOC 50.05.004.5 through 50.05.004.7 if the applicant demonstrates that the variance is necessary to create a complementary relationship with a viable existing structure on an abutting lot that is not designed in the Lake Oswego Style.

The one abutting structure to the south is a well-maintained duplex that incorporates a blend of architectural elements from the English Cottage and Ranch styles, neither of which are an allowed Lake Oswego Style. The dwelling incorporates single story rectangular massing, a simple low pitched gable roof with deep eaves, a prominent chimney, symmetrical windows, and a mix of exterior cladding materials (brick base topped by horizontal lap siding). There are no windows facing 3rd Street, and the dwelling is set back from the street for privacy and to allow for a front lawn accented by sculpted landscaping.



Existing duplex south of the site at 568 and 570 3rd Street.

The proposed design creates a complementary relationship with the abutting duplex by mimicking a more residential style of windows on a building set back from the street frontage to allow for landscaping between the public sidewalk and entry. (Although not abutting, the site is also adjacent to other residential structures that incorporate the same type of fenestration and building location.) Staff concurs with the applicant's finding that the proposed design variance meets the DRDD-specific design variance criterion. Overall, the proposal blends into its location, creating a smooth pattern of development as 3rd Street transitions into the lower density residential neighborhood.

Conclusion: The proposed design variance to the DRDD storefront display window standards complies with both the General and DRDD-specific design variance criteria.

Parking [LOC 50.06.002]

This standard applies to all development that generates a parking need. The total number of parking spaces shall be the sum of the various uses computed separately. The maximum number of parking spaces for commercial development cannot exceed 125% of the minimum required spaces. Per LOC 50.05.004.3.c, the parking standards of this section apply in full to any project in the DRDD, but the requirements may be modified as provided in LOC 50.05.004.9, Parking Requirements. Both the standards of LOC 50.06.002 and the modifications allowed in the DRDD per LOC 50.05.004.9.a.i and vi are analyzed together, below.

Commercial Parking

Medical and dental offices or clinics including accessory laboratories for medicine, dentistry, veterinarian practice or other practices of the healing arts have a minimum parking requirement of 3.9 spaces per 1,000 sq. ft. of gross floor area (GFA) rounded up to the nearest whole number. The proposed GFA (excluding the basement which does not meet the definition of story/floor) is 4,860 sq. ft. with a minimum parking requirement of 19 spaces. For sites located in the DRDD, a 25 percent reduction to the minimum required parking is allowed. Therefore, the total required parking is 15 spaces. The applicant is constructing seven spaces on the site (accessed from the alley), creating four new parallel spaces along the C Avenue frontage, and preserving four parallel parking spaces along the 3rd Street frontage for a total of 15 spaces (Exhibit E4). Staff finds that the proposal complies with the minimum and maximum parking requirements.

Bicycle Parking

Bicycle parking must be provided for all commercial developments. The bicycle parking requirement for a veterinarian practice with 4,860 sq. ft. of GFA is two spaces. The applicant's narrative states that three spaces will be provided, two uncovered and one internal (Exhibit F1). Staff finds that the proposal complies with the bike parking requirements.

This standard is met.

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

This standard is applicable to commercial and mixed use development and prescribes standards for the design of access points and lanes. Per LOC 50.06.003.1.c.iii and iv, direct access to an arterial street is prohibited where alternative access is available and access to a local residential street is required unless such access is not available.

The site currently has no access (driveway) points along the two street frontages, but does have six head-in parking spaces along the C Avenue frontage (Exhibit E3). The proposed development will remove the head-in parking. The new seven on-site spaces will use the alley as the access point to C Avenue (Exhibits E4 and F1). C Avenue is a local street; no other access point is available. This standard is met.

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

This standard is applicable to mixed use development and contains design standards for driveways. Driveways must be located at least 30 feet from the nearest intersection (measured from edge of driveway to curb), are limited to 24 feet in width, and must meet the American Association of State Highway and Transportation Officials (AASHTO) standards for safe entrance and exit. This standard also prescribes design standards for driveways, including maximum

grade, cross-slope and grade breaks for driveways, and requires a landing area where a driveway meets the right-of-way.

There are no driveways proposed with this application (Exhibit E4). Fire and parking access will be from the alley, and from the C Avenue and 3rd Street frontages (Exhibit E4). For compliance with “vision clearance triangles” for the access point from the alley to C Avenue, see the LOC Chapter 42 Streets and Sidewalk discussion, below. This standard is met.

Landscaping, Screening and Buffering [LOC 50.06.004.1]

Per LOC 50.06.004.1.a.ii(1), this standard is not applicable to development located within the DRDD; see the landscaping analysis under LOC 50.05.004, above.

Lighting [LOC 50.06.004.3]

This development will increase the use of public streets to the site, adding to the need to determine if adequate illumination levels for local streets are met per LOC Table 50.06.004-6: City Standard criteria for Street and Roadway Lighting.

Although the City Engineer finds that there is an existing street light at the C Avenue and 3rd Street intersection, the applicant is still required to provide a photometric plan demonstrating the required foot-candle illumination levels for this site are met. The applicant did not provide a photometric plan. Without a photometric plan, staff is unable to determine if the existing lighting is sufficient. Staff recommends that, as a condition of approval, the applicant provide a photometric plan that demonstrates whether or not there is a sufficient number of street lights and, if not, a street light design plan that shows the location of new lights and/or poles, to the satisfaction of the City Engineer/LORA.

Park and Open Space Contributions [LOC 50.06.005]

This standard is not applicable to development located within the DRDD; see the landscaping analysis under LOC 50.05.004, above.

Weak Foundation Soils [LOC 50.06.006.1]

As shown on the City’s Weak Foundation Soils Maps, a portion of the site may contain weak foundation soils. The applicant submitted a geotechnical engineering evaluation for the proposed development (Exhibit F3). The purpose of the evaluation was to explore the subsurface conditions at the site and provide geotechnical engineering recommendations for design and construction. Based on the analysis, the site can be developed as proposed with no special recommendations (Exhibits F1 and F3). A copy of the geotechnical report will be required to be submitted with the building permit application. This standard is met.

Drainage Standard for Major Development [LOC 50.06.006.3]

This standard requires that drainage alterations, including new development, not adversely affect neighboring properties. In addition, this standard requires design features to minimize pollutants from entering the stormwater runoff systems. The determination of whether or not the application complies with the requirements of this standard is under the review authority of the City Manager or City Engineer.

The applicant has submitted a preliminary stormwater report prepared by a registered engineer (Exhibit F2) indicating that stormwater runoff from the new roof area will be managed by directing the storm runoff through a sediment trap, and then into an infiltration trench located along the south portion of the site. The new parking area along the alley will be constructed with pervious pavement or pervious pavers. The lowest site specific infiltration rate that was measured was two inches/hour at a depth of five feet.

The Engineering staff finds that the proposed stormwater disposal plan complies with LOC 50.06.006.3.b. Any alternative design that provides the equivalent compliance with the stormwater management standards shall be approved by the City Engineer, e.g. rain garden, drywell, storm chamber or infiltration planter. As conditions of approval, a final stormwater management design and drainage report shall be submitted at the time of building permit review, to the satisfaction of the City Engineer. All on-site stormwater facilities will be private. The applicant 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. As conditioned, this standard is met.

Utilities [LOC 50.06.008]

This standard is applicable to all development requiring connection to utilities. Utilities are available or can be made available as follows:

Sanitary Sewer: There is an existing 8-inch public sanitary sewer main located in the alley. The applicant is proposing to tap this 8-inch main with a new 6-inch service lateral as indicated on the utility plan (Exhibit E10). The Engineering staff finds the proposed location of the tap will be acceptable. The service lateral shall be six inches in diameter within the alley right-of-way, and a 6-inch clean-out shall be installed at the right-of-way line.

Water and Hydrants: The City has an existing 8-inch public water main located in C Avenue and an 8-inch public main located in 3rd Street. The closest hydrant is located at the southeast quadrant of the intersection of C Avenue and 3rd Street. The applicant is proposing to utilize the existing water service located along the site frontage of C Avenue (Exhibits E10 and F1). The Engineering staff notes that the water meter shall be relocated behind the new sidewalk, as shown on the preliminary utility plan (Exhibit 10). The Fire Marshal has found that the hydrant location and water flow are sufficient (Exhibit F7).

Streets: 3rd Street and C Avenue are both designated as local streets in the City's functional street classification system. The existing right-of-way width for both of these streets is 60 feet along the site frontages. See LOC Chapter 42 Streets and Sidewalk discussion, below, for public improvements.

Sidewalks: There is an existing 7-foot sidewalk located along the site frontage of 3rd Street. There is no existing sidewalk along the site's C Avenue frontage. There is an existing sidewalk located along the north side of C Avenue, an existing sidewalk located along the east side of 3rd Street, and an existing concrete walkway leading into the park across the alley. This property is located within the boundaries of the First Addition-Forest Hills Neighborhood (Neighborhood Plan adopted in 1996). Within that Neighborhood Plan, there are proposed transportation improvements showing a completed sidewalk along the south side of C Avenue between 3rd Street and the alley at the west side of the site. See LOC Chapter 42 Streets and Sidewalk discussion, below, for public improvements.

Other utilities: It is the applicant's responsibility to ascertain the availability of electric, gas, telecommunications and cable TV. All overhead utilities shall be installed underground.

Compliance with this standard will be assured at the time of building permit application.

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

City of Lake Oswego Streets and Sidewalks [LOC Chapter 42]

This Chapter authorizes the City Engineer to make specific street and sidewalk improvement recommendations after taking a variety of policy and site specific factors into consideration.¹ The City Engineer's comments are included for the review of the overall understanding of the project. The City Engineer's conditions of approval are included, as they must be included in the decision, to find that the application will comply with this Chapter.

The Engineering staff has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and Transportation System Plan (TSP), and offers the following observations and recommendations. The proposed development can be expected to contribute an additional 23 vehicle trips to the City's street system per peak hour between 4 and 6 p.m. per average weekday. Additional pedestrian and bicycle trips can be expected as well. The cumulative effect of new trips (all modes), imposes an additional burden and concomitant concerns for preserving street capacity and public safety, particularly for bicycles and pedestrians.

The City has a governmental interest in assuring that new development does not contribute to a degradation of adequate, safe and efficient public transportation facilities. New development should mitigate the negative impacts (increased noise, and the degradation of aesthetics, safety, system capacity, and bicycle and pedestrian mobility) resulting from new development. The City has adopted a broad palette of policies, plans, regulations, and fees that have been designed to offset the adverse impacts of development on the natural and built environment. In this regard, the following regulations, standards and site specific characteristics have a direct bearing on the governmental interest in preserving the functionality and safety of the public infrastructure, and are particularly relevant to this development proposal:

- 3rd Street and C Avenue are both designated as local streets in the City's Functional Street Classification System, and as such, should be designed to safely accommodate bike and pedestrian traffic.
- The existing right-of-way width for both of these streets is 60 feet along the site frontages.
- The site is located within walking and biking distance of the surrounding residential and commercial neighborhoods.

¹To meet the review criteria for a major development, the applicant must comply with "any additional ... Lake Oswego Code provisions which may be applicable to the specific major development application, such as ... the Streets and Sidewalks Ordinance." LOC 50.07.003.15(d)(ii)(d). The determination of whether or not the application meets the requirements of LOC Chapter 42, Streets and Sidewalks, is under the review authority of the City Manager or City Engineer; the requirements of this Chapter are not under the review authority of a hearing body, other than to find whether or not the City Engineer or City Manager has found that the application complies with LOC Chapter 42, or whether conditions of approval are required for compliance with this Chapter.

- Per the DRDD standards, where a development is proposed abutting a sidewalk, brick paving shall be required for sidewalk surface detail panels on numbered streets and at primary building entrances. Brick pavers set in concrete shall be used to provide color and texture on north-south streets.
- This property is located within the boundaries of the First Addition-Forest Hills Neighborhood, which adopted a neighborhood plan in 1996. That plan indicates proposed transportation improvements with a complete sidewalk along the south side of C Avenue, between 3rd Street and the alley.
- There is an existing 7-foot curb and sidewalk located along the site frontage of 3rd Street.
- LOC Chapter 42 requires frontage improvements to be constructed when property is developed.
- LOC Chapter 42 directs the City Engineer to recommend to the decision making authority the appropriate width of public rights-of-way, and the width and character of the improvements contained therein.

The implementation of the City's plans, policies, and regulations will offset to some degree the negative impacts of development on the public infrastructure. LOC 50.07.003.5 allows the reviewing authority to impose conditions of approval on a development permit when the condition is reasonably related to alleviation of a need for public services or facilities created or contributed to by the proposed development. In addition, the US Supreme Court has ruled (*Dolan v. City of Tigard*) that, in order to require exactions, the local government must apply a test of "rough proportionality" between the impacts of the proposed development and the need for the exaction.

The Engineering staff notes there are existing overhead utilities along the C Avenue frontage. Per LOC 50.06.008.4.d, utilities shall be installed underground. This development will not be required to underground the existing overhead utility lines located along C Avenue because (1) it is impractical to underground existing utilities along the site frontage due to the short distance, and (2) the burden that would be imposed on the applicant substantially exceeds the impact of the additional development on the streetscape, exceeding the rough proportionality standard in *Dolan*. However, any new utilities leading to the site shall be located underground.

The Engineering staff considered the angled on-street parking along 3rd Street required per the DRDD standards. For 100 feet of frontage, the number of possible angled stalls is five and the number of parallel stalls is four. If angled parking is constructed, it would amount to one additional stall. With angled parking, the applicant would also have to dedicate approximately five feet of right-of-way for the entire 3rd Street frontage in order to widen the travel lane and reconstruct the sidewalk to accommodate the overhang of parked vehicles. A unique curb design at the southern end of the angled parking zone would be necessary, as angled parking is not continuous to the abutting property to the south (Exhibit E3). Additionally, an extension of a 10-inch stormwater pipe from B Avenue up to the location of the southerly parking stall would be required to capture the stormwater at the new low point along the curb. Engineering staff finds that these additional public infrastructure improvements along the site's 3rd Street frontage do not justify the small benefit gained from one additional parking stall.

Where the “rough proportionality” test in *Dolan v. City of Tigard*, [512 US 374, 114 S Ct 2309, 129 L Ed 2d (1994)] applies, it can function as a kind of variance, providing a basis under which a local government may choose not to exact property as a condition of development approval that it would otherwise be entitled to exact under its land use regulations, as an alternative to compensating the landowner for the taking. *Columbia Riverkeeper v. Clatsop County*, 58 OR LUBA 235 (2009).

Because this development will create increased traffic, bike and pedestrian trips to the transportation system, mitigation to offset its impacts shall be provided. As conditions of approval on the proposed development, the City will require the following mitigations to alleviate impacts created or increased by the proposed development. The improvements shall be constructed in general accordance with the improvements shown on the proposed site plan (Exhibit E4), to the satisfaction of the City Engineer.

Along the C Avenue frontage:

- Remove the existing head-in parking that is located along the northwest corner of the site, and install a new standard concrete curb along the entire site frontage, terminating at the curb of the alley. The location of the curb shall be 20 feet from the center of the right-of-way to allow for a travel lane and parallel parking along the curb. The street improvements shall accommodate the existing utility pole and guy wire at the intersection curb return. It does not appear that any right-of-way dedication will be required.
- Construct a new scored concrete sidewalk at the back of the existing right-of-way along the site frontage. The sidewalk shall contain trees wells per City standards for the street trees. The Engineering staff concurs that the sidewalk width shall be 9.5-foot wide (from face of curb to back of walk) as shown on the site plan (Exhibit E4) due to the necessary sidewalk width needed behind the tree wells and also with parallel parking being located along the site frontage.
- Install a 2-directional ADA ramp at the intersection of 3rd Street and C Avenue, and a new ADA ramp across the street at the northwest corner of the intersection of 3rd Street and C Avenue.
- Install an ADA ramp on the east side of the alley parallel to C Avenue.
- Construct a new catch basin at the west side of the curb return bump-out at the intersection of 3rd Street and C Avenue, and install a public storm conveyance line in C Avenue to the existing storm main located at the intersection of the alley and C Avenue. A downstream analysis (to the intersection of 3rd Street/B Avenue) shall be provided to ensure there is adequate storm capacity in the existing storm conveyance system to accept the runoff from the new catch basin, or provide mitigation as necessary if any deficiencies are determined.

Along the 3rd Street site frontage:

- There is an existing curb and sidewalk located along the site frontage of 3rd Street. No travel lane improvements will be required along 3rd Street as a condition of this development. The existing curb and sidewalk will not be required to be modified except to include brick accent panels where the on-site walkways meet the sidewalk, to the satisfaction of the City Engineer/LORA.

Along the alley:

- With the construction of the seven on-site parking spaces on the west side of the site, the existing parking spaces along the west side of the alley will be required to be removed and a “no parking” sign installed.

The City finds that the required improvements, above, are directly related to mitigating the increased traffic, bike, and pedestrian trips that will be created by this development.

- The improvements will address the increased vehicle traffic because, with a separation between vehicle, bicyclists and pedestrians, the traffic capacity of the street will be preserved.
- The improvements will encourage use of the sidewalks and bike lanes, and use of transit, thus reducing the demand that would otherwise arise for vehicle travel on the street.
- The improvements will address the safety of the pedestrians and bicyclists by providing separation of modes of travel.
- The improvements will address the safety of ingress into the site and egress from the site.

The City finds that requiring the various street frontage improvements along the site frontage are roughly proportional to the adverse impacts created by the development because:

- The proposed development is estimated to generate an additional 23 vehicle trips to the City’s street system per peak hour between 4 and 6 p.m. per average weekday. The required frontage improvements will result in a greater use of alternative modes of travel (pedestrian, bicycle, transit), both today and in the future, as traffic congestion increases in the area. These additional alternative mode travel trips will help offset additional vehicle trips generated by the development.
- Similar mitigation requirements for street improvements have been required for similar developments in the City, with the result being that such improvements have mitigated the increased traffic (vehicle, pedestrian, and bicycle) by preserving the functionality and public safety features of the public street system.

In light of the above facts and Code requirements, staff finds that the development of this site will place sufficient additional demand on the surrounding street system to justify the associated improvements above, and that these mitigating improvements are roughly proportional to the degree of impact imposed by the new development, as described above, and consistent with the improvements of similarly sized developments of land in the vicinity, as required by the U.S. Supreme Court in the case of *Dolan v. the City of Tigard*.

Vision Clearance

This standard requires that no vegetation, fence, or signage be located higher than 30 inches within a “vision clearance triangle”. The vision clearance triangle for alleys is formed by 10-foot legs extending from the intersection of the edge of alley and the street travel lanes. The applicant’s site plan (Exhibit E4) demonstrates that the vision clear triangles for the alley approach to C Avenue will comply with the provisions of this standard.

This standard is met.

City of Lake Oswego Tree Code [LOC Chapter 55]

As illustrated on Exhibit E3 and discussed in the arborist's report (Exhibit F4), there are ten trees on the site that are five inches in diameter or greater, including street trees in the public rights-of-way. The applicant is requesting the removal of five trees in order to construct the proposed addition and the public improvements (Exhibits E4, E11, F1, and F4). The trees are a 13-inch Norway maple, 23-inch cherry, 23-inch dogwood, 5-inch magnolia, and a 22-inch magnolia.

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 on-site or public improvement development (Exhibits E4, E11, and F1).

(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 and proposed drainage improvements will be designed to handle stormwater runoff for all new impervious surfaces. The removal will also not have a significant impact on protection of adjacent trees or existing windbreaks because the trees are generally open-grow and/or smaller landscaping trees (Exhibits E4, F1 and F4).

(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

Many of these trees are smaller stature landscaping trees or are in poor condition (Exhibit F4). Staff concurs with the applicant that none of the trees are significant and that removal will not significantly impact the treed character of the neighborhood.

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

The trees are not being removed solely for the purposes of view enhancement. The trees are being removed for development purposes and removal will not improve any views.

For the reasons outlined above, staff concludes that the removal request for the five 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 criteria shall be mitigated at a minimum 1:1 ratio. 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 final mitigation plan with the verification tree removal application showing the size, species and location of the five mitigation trees in compliance with the mitigation requirements.

Sign Code [LOC Chapter 47]

Signs are reviewed for compliance with the specific sign standards relating to the zone and design standards applicable to all permanent signs per the Sign Code. The applicant has indicated that no new signs are proposed (Exhibit F1).

4. Any applicable condition of approval imposed pursuant to an approved ODPS or prior development permit affecting the subject property.

There are no outstanding conditions of approval that affect the subject property.

VII. CONCLUSION

Based upon the materials submitted by the applicant and findings presented in this report, staff concludes that LU 15-0043 complies with all applicable criteria and standards.

VIII. RECOMMENDATION

Staff recommends **approval** LU 15-0043, subject to the following conditions:

A. Prior to the Issuance of any Grading or Building Permits, the Applicant/Owner Shall:

1. Submit written evidence that the animal boarding facilities are no longer offered as a service on this site.
2. Submit final site and building plans for review and approval of staff that are the same or substantially similar to the approved plans, illustrated on Exhibits E4-E13, to the satisfaction of staff, with the following modifications:
 - a. Revise the north and west elevations to incorporate the proposed “stacked slate” stone veneer siding on a minimum of 50% of the ground floor facades.
3. Submit a final landscape plan substantially similar to Exhibit E12, except modified to show the following information, for review and approval of staff:
 - a. Ensure all new street trees are located in 4-foot by 4-foot tree wells that comply with the City Engineer/LORA specifications for tree grates, spacing, planting, root barriers, irrigation, and lighting.
 - b. Relocate the proposed bench from private property to the 4-foot street furnishing zone on the new C Avenue public sidewalk.

- c. Relocate the proposed art pedestal to the curb extension at the intersection of 3rd Street and C Avenue, to the satisfaction of the City Engineer/LORA.
 - d. A note stating that all burlap and/or cages shall be removed from all trees, shrubs, and plants prior to planting.
 - e. Submit a landscape maintenance and monitoring plan.
4. Submit a photometric plan that demonstrates whether additional street lights will be necessary to meet minimum street light illumination levels. If new street light(s) are necessary, submit an updated street light plan (Exhibit E8) that illustrates the style and location(s) of the poles, to the satisfaction of the City Engineer/LORA.
 5. Submit engineered construction drawings for the public improvements for review and approval by the City Engineer. Drawings shall conform to the City's most current design standards and the drafting specifications. All final engineering design drawings and as-built plans submitted for the creation of public facilities (street, wastewater, water and surface water) shall be vertically controlled by the City Datum (NGVD'29) and horizontally controlled by the Oregon State Plane coordinate system (NAD 83/91). The plans shall include the following:

Along the C Avenue frontage:

- a. Design to remove the existing head-in parking along the northwest corner of the site and install a new standard concrete curb along the entire site frontage, terminating at the curb of the alley. The location of the curb shall be 20 feet from the center of the right-of-way. The improvements shall accommodate the existing utility pole and guy wire at the intersection curb return. It does not appear that any right-of-way dedication will be required.
- b. Construct a new 9.5-foot sidewalk (measured from face of curb to back of walk) along the site frontage. The sidewalk shall contain 4-foot by 4-foot tree wells/grates, the street bench, and concrete scoring per City Engineer/LORA specifications.
- c. Install a 2-directional ADA ramp at the intersection of 3rd Street and C Avenue, and a new ADA ramp across the street at the northwest corner of the intersection of 3rd Street and C Avenue.
- d. Install an ADA ramp on the east side of the alley parallel to C Avenue.
- e. Construct a new catch basin at the west side of the curb return bump-out at the intersection of 3rd Street and C Avenue. Install a public storm conveyance line in C Avenue to the existing storm main located at the intersection of the alley and C Avenue. A downstream analysis (to the intersection of 3rd Street/B Avenue) shall be provided to ensure there is adequate capacity in the existing storm conveyance system to accept the runoff from the new catch basin, or provide mitigation as necessary if any deficiencies are determined.
- f. Location and details of additional street light(s), if applicable. Any new pole(s) shall also include hanger arms for hanging flower baskets.

Along the 3rd Street site frontage:

- g. Design of new brick accent panels, to the satisfaction of the City Engineer/LORA.
- h. Location and details of additional street light(s), if applicable. Any new pole(s) shall also include hanger arms for hanging flower baskets.

Along the alley:

- i. Remove the existing parking spaces along the west side of the alley and install a “no parking” sign.
6. Construct all public improvements as required by Condition A(5), above, or submit a financial guarantee for all required public improvements, per LOC 50.87.020. The financial guarantee shall be based on an engineer’s estimate that is in turn is based on construction plans that are far enough advanced to support the materials and quantities found in the estimate.
 7. Submit a copy of the geotechnical report with the building permit.
 8. Submit a final site plan, utility plan, stormwater plan and drainage report for the on-site stormwater facilities, prepared by a registered engineer. Driveway and parking lot runoff cannot be directed to a subsurface infiltration disposal system without Department of Environmental Quality (DEQ) approval. Infiltration facilities shall meet minimum setbacks of five feet from property lines and 10 feet from building foundations. Any emergency overflow shall be conveyed to an approved point of disposal.
 9. Pay all applicable System Development Charges pertaining to the development.
 10. Per LOC Chapter 52, apply for and obtain an approved erosion prevention and sediment control permit issued through the City of Lake Oswego, and install and maintain all BMPs as indicated in the permit.
 11. Apply for and obtain a verification tree removal permit for the five trees approved for removal to construct the improvements. The verification tree removal permit 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 the Final Building Inspection or Occupancy of any Building, the Applicant/Owner Shall:

1. Provide certification from the engineer of record that the stormwater facilities for the development were constructed according to the design and are functioning properly.
2. Submit for review and approval of staff an Operations and Maintenance Plan for the private on-site storm facilities and record a Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities.

3. Complete all public improvements, including installation of required street furniture and art pedestal, and submit certified “as-built” drawings of public improvements conforming to the City’s standards for record drawings.
4. Complete the construction of all private utility services, including water, storm, sanitary, and franchise utilities.
5. Install all landscaping/mitigation plantings as illustrated in Exhibit E12, and modified by Condition A(3), above.
6. 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 (including materials and labor). The applicant/owner shall also submit a landscape maintenance plan for review and approval of City staff.

Code Requirements:

1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the development approved by this decision 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 plan and application prepared by a certified arborist as required by LOC 50.08.020 and 55.08.030 for review and approval by staff, including off-site trees that are within the construction zone. The plan 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 would 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.

EXHIBITS

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

E. GRAPHICS/PLANS

- E1 Tax Map
- E2 Vicinity Map
- E3 Existing Conditions
- E4 Proposed Site Plan
- E5 Proposed Building Elevations
- E6 Renderings
- E7 Floor Plans
- E8 Lighting Plan
- E9 Grading Plan
- E10 Utility Plan
- E11 Tree Removal Plan
- E12 Proposed Landscape Plan
- E13 Proposed Color and Materials

F. WRITTEN MATERIALS

- F1 Applicant's Narrative
- F2 Stormwater and Infiltration Report, prepared by Humber Design Group, Inc., dated July 10, 2015
- F3 Geotechnical Report, prepared by Rapid Soil Solutions, LLC, dated July 10, 2015
- F4 Arborist's Report, prepared by Emerald Tree, dated October 9, 2015
- F5 Window and Lighting Cut sheets
- F6 Neighborhood Meeting Information
- F7 Fire Marshal Memo

G. LETTERS

Neither for nor Against (G1-99)

None

Support (G100-199)

None

Opposition (G200-299):

None

Date of Application Submittal: July 1, 2015

Date Application Determined to be Complete: February 5, 2016

State Mandated 120-Day Rule: May 30, 2016