



CITY OF LAKE OSWEGO
Development Review Committee Minutes

June 3, 2013

-Approved-

CALL TO ORDER / ROLL CALL

Chair Don Richards called the Development Review Commission meeting of June 3, 2013, to order at approximately 7:00 p.m. in the Council Chamber of City Hall at 380 "A" Avenue, Lake Oswego, Oregon.

Members present: Chair Don Richards, Ann Johnson, Bob Needham, David Poulson and Brent Ahrend

Members excused: Vice chair Gregg Creighton and Frank Rossi

Staff present: Hamid Pishvaie, Assistant Planning Director; Evan Boone, Deputy City Attorney; Johanna Hastay, Associate Planner; Leslie Hamilton, Senior Planner; Jessica Numanoglu, Senior Planner; Erica Rooney, Assistant City Engineer and Janice Reynolds, Administrative Support

MINUTES

Commissioner Johnson moved to **approve** the minutes of April 1 and April 15, 2013, and May 6, 2013 as corrected. Commissioner Poulson **seconded** the motion; **passed** unanimously.

FINDINGS

LU 12-0052: A request by Kruse Village, LLC, for approval of a Development Review Permit for the following:

- Construction of an approximately 64,000 sq. ft. retail/office development in six single-story, multi-tenant buildings;
- Minor variances to reduce the 15-ft. setback by up to two feet along the Carman Dr. and Meadows Rd. frontages to accommodate canopies on Buildings A, C, D, E and F;
- Delineation of a Resource Preservation District; and
- The removal of 128 trees.

The property is located at: 4591 Carman Drive [Tax Lot 110 of Tax Map 2 1E 07AA]. The staff coordinator is Jessica Numanoglu.

Ms. Numanoglu referenced a memo which revised the staff recommended findings. The applicant agreed at the May 20 hearing to provide \$20,000 for street mitigation. Two projects

were suggested that, including curb extensions at Galewood/Quarry and sidewalk at the northeast quadrant of the roundabout. The two projects when put together was estimated to be more than the \$20,000, therefore, the sidewalk extension was determined to be the best project for the \$20,000. The conditions of approval were updated to reflect these changes.

Commissioner Poulson thought that the money was planned for future traffic studies and/or designs. Deputy City Attorney Evan Boone explained that the City Engineer thought the \$20,000 was not enough for a study and designs. It was also deemed too open ended and believed the suggested projects were more likely to get accomplished rather than leaving it for some future improvements.

Commissioner Poulson was interested in finding and dealing with the storm runoff after the development was completed as well as all the other properties developed.

Mr. Boone reminded the Commission that they were here to determine if the project met the Code. The drainage standards were reflective of the City Engineer's analysis.

Commissioner Poulson **moved** to approve the findings **LU 12-0052-1813 as recommended in the staff report, with exception to have the storm water system reviewed by the City Engineer;** Commissioner Needham **seconded**; it passed 2-1, Johnson voted against.

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LU 13-0009: A request by Darryl & Christina Eddy for approval of the following:

- A minor partition to divide the site into two parcels;
- A Development Review Permit to construct a 4,430 square foot commercial building on Parcel 1 and a seven space parking lot on Parcel 2; and,
- A major LGVC adjustment to the side wall plane standard [LOC 50.05.007.5.i.ii].

The property is located at: 15955 & 15987 Boones Ferry Rd [Tax Lot 2000 of Tax Map 2 1E 08CB]. The staff coordinator is Jessica Numanoglu.

Commissioner Ahrend **moved** to approve the application **LU 13-0009 as recommended;** Commissioner Poulson **seconded**; it passed 4-0.

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AP 13-03 [TR 499-13-00586]: A request by Eslinger Builders to remove three trees under a Type II permit in order to construct a new single-family dwelling.

The property is located at: 881 C Ave [Tax Lot 06600 of Tax Map 21E 3CA]. The staff coordinator is Andy Gulizia.

Chair Richards declared that he has no bias and no conflict of interest. When asked, no one challenged Chair Richards ability to participate in the vote.

Chair Richards shared that he had visited the site and reviewed the trees in question. In his professional opinion the trees under consideration do not appear to be in good condition.

Commissioner Ahrend also visited the site recently and agreed with Chair Richards assessment of the trees in question.

Commissioner Johnson **moved** to approve **AP 13-03 [TR 499-13-00586] with the new findings;** Commissioner Poulson **seconded**; it passed 6-0.

PUBLIC HEARING

AP 13-02 [TR 499-13-00538]: A request by Exceptional Homes to remove six trees under a Type II permit in order to construct a new single-family dwelling. The hearing has been continued from May 20, 2013, in order to provide additional opportunity for any person to testify before the Commission.

The property is located at: 5502 Koderra Ave [Tax Lot 09300 of Tax Map 21E 18CA]. The staff coordinator is Andy Gulizia.

Deputy City Attorney Evan Boone outlined the applicable procedure and time limits. He asked the Commissioners to declare conflicts of interest, ex parte contacts, bias, and their employment. Commissioners Johnson (retired housing program manager); Poulson (civil engineer) and Needham (retired lawyer) were familiar with the site and declared no conflicts of interest, bias, or ex parte contacts. Chair Richards (Arborist), and Commissioner Ahrend (traffic engineer) have visited the site and also declared no conflicts of interest, bias, or ex parte contacts.

When invited, no one present challenged the authority of any Commissioner to hear the application.

STAFF REPORT

Mr. Gulizia had nothing more to add to the report, but recommended the DRC focus on Exhibit E-7 a summary report from the City's Consulting Arborist.

APPLICANT

Mike Osterman, Osterman Design, Oregon City, Oregon 97062

Mr. Osterman spoke on behalf of the owner/builder of Exceptional Homes. He stated he was the designer for the project. He reported the site development restrictions and other issues were studied in depth and assumptions were then made that this application would not be in

conflict with any regulations. He explained that the house design has already been modified to be smaller. The affected trees were in close proximity to the house and were deemed needing to be removed. He further explained why the two fir trees should be removed together due to the connectedness of the root system and intertwined limbs. He consulted his structural engineer about using concrete slabs and such and was recommended against it. He explained that meeting the lot coverage allowance for the site and the minimum house size requirement of the CC&Rs made it difficult to retain these trees.

PROPONANT

None

OPPOSED

Peter Klæbe, Chair of Rosewood Neighborhood Association, Lake Oswego

Mr. Klæbe had a question for the DRC regarding a reasonable approval allowing a setback variance and the cost associated with it. He believed requesting the setback variance was cheaper than removing the two trees in question.

Cindy Calabria, Lake Oswego

Ms. Calabria stated the reason she moved into the house across the street was because of the trees. She believed preserving the trees was a priority and was essential to the character of the neighborhood. She suggested moving the house back a bit would be a win-win for everyone.

Lisa Vopel, Lake Oswego

Ms. Vopel stated that she has been working hard to protect the trees in the neighborhood. She shared that many individuals in the neighborhood support protecting the trees. She read a written statement referencing her concern over the tree removal and the Arborists' reports. She compared the trees to heritage trees. She provided an example of another home that was built in similar proximity to a large tree and it was not a problem for the developer.

NEITHER FOR OR AGAINST

None

REBUTAL

None

DELIBERATIONS

Staff explained that the site plan (Exhibit E-3) was corrected since the last meeting. Commissioner Ahrend stated that he would like to see the trees saved, however, did not believe that was possible given the requirements of the Code and site development requirements. He believed the DRC had no other options but to approve the application.

Commissioner Needham noted that the potential building envelopes were looked at during the approval of the subdivision. It's a learning process for the Commission because no one ever said that all the trees on that one lot will be removed, but in truth there is no requirement to preserve those trees. If the applicant wants to remove trees vs. a variance, he can't be forced to do that. He felt like his hands were tied because he can't make the applicant move his house because he's within his rights to develop his property.

Commissioner Poulson continued that the builder solves the equation to meet the City Code and then decide about the tree removal.

Commissioner Needham noted that the applicant for the subdivision came forward and presented their plans for the project, however, no one ever showed up a matrix of tree removal when we're approving the subdivision.

Commissioner Ahrend stated that the large tree in question wasn't shown correctly on the map.

Chair Richards summed up the two trees along Pilkington could be retained, but there isn't enough space to incorporate all the street trees that are required. The second issue relates to building too close to trees. He pointed to buildings in the First Addition neighborhood where builders have used cantilevered foundations and other techniques as alternative methods that could be used in saving the big fir trees. The applicant's representative could have applied for a variance, however, they chose not to because of the time it would take to process a variance.

Mr. Gulizia explained that in determining the maximum allowed lot coverage on this property, staff deducted the recommended 10-foot tree protection zone around the large fir trees from the total lot area. The result was that the applicant could not achieve the maximum lot coverage without a variance or some other relief, and that's why the application was approved by staff.

Commissioner Ahrend **moved** to approve **AP 13-02 [TR 499-13-00538]**; Commissioner Johnson **seconded**; it passed 6-0.

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LU 13-0016: A request by Springs II at Lake Oswego, LLC, for approval of a Development Review Permit to construct a 5,800 sq. ft. addition to an existing congregate housing and to fully

enclose an existing covered patio at the rear of the residential care housing facility. The applicant also is requesting a Minor Variance to construct an 8-foot tall fence around the residential care facility's courtyard. The proposal incorporates the removal of 16 trees.

The property is located at: 3800 & 3900 Carman Drive, Tax Lots 5600 & 5601 of Tax Map 21E 05CD. The staff coordinator is Johanna Hastay.

Deputy City Attorney Evan Boone outlined the applicable procedure and time limits. He asked the Commissioners to declare conflicts of interest, ex parte contacts, bias, and their employment. Commissioners Johnson (retired housing program manager); Poulson (civil engineer) and Needham (retired lawyer) were familiar with the site and declared no conflicts of interest, bias, or ex parte contacts. Chair Richards (Arborist), and Commissioner Ahrend (traffic engineer) have visited the site and also declared no conflicts of interest, bias, or ex parte contacts.

When invited, no one present challenged the authority of any Commissioner to hear the application.

STAFF

Ms. Hastay presented the May 24, 2013 Staff Report. She reviewed all aspects of the request. She provided photos of the property and the surrounding area. Ms. Hastay reviewed all requirements of the zones and reported that the request met them all and she recommended approval of the project with conditions.

APPLICANT

Chuck Archer, Springs Living II, McMinnville, Oregon and Ray Yancey, Myhre Group Architects. Mr. Yancey stated that they chose the site for these improvements in a way to preserve the existing oak trees on site. They have left a 12-foot buffer between the new addition and the new decks they are adding to the units. He continued that they integrated the storm water design into the project dealing with the runoff quantity and quality on site.

Commissioner Needham commended the applicants for the quality and presentation of the application materials.

In response to a question from the DRC, Chris Shelby, Springs II at Lake Oswego, explained that they have approached Kruse Woods office development to the south about a potential construction access through that property. There was a lot of discussion about it and the office project has agreed to allow construction personnel parking on their site. The site will be accessed along the southern property line with appropriate tree protection and repair the utility easement after the construction is complete.

Commissioner Poulson asked about the fill they are proposing?

Mr. Yancey replied there is structural fill utilized near the proposed pool, however, there is a minimal amount of fill required there.

Commissioner Poulson asked about the HVAC system that is integrated into the design.

Mr. Shelby stated the best place to locate the HVAC was to be under the pool and that way it's fully screened.

Chair Richards asked about the geo tech report.

Mr. Shelby stated that it will be used to address any concerns that need to be addressed for footings once they get to build the pool.

Chair Richards noted the biggest threat to Oregon White Oaks is soil compaction. He observed that the applicant may not be able to haul out full loads, etc. because they're very sensitive.

Mr. Shelby replied the Oaks aren't located near the construction area, so there shouldn't be a concern.

The applicant waived the right to submit final written argument.

Chair Richards concurred that the application materials were organized so well, it was easy to use and look through.

Commissioner Poulson stated that he's not happy with the drainage calculations and believed there may be an error in the analysis.

Chair Richards stated that The DRC's charge is not to decide whether the Code is accurate or whether or not we agree with the Code, it's whether or not the applicant has met the existing Code and criteria as laid out by staff in their recommendation. If we don't agree then we can make our own recommendation.

Commissioner Ahrend **moved** to approve **LU 13-0016, including additional clarification regarding the site development standards provided by staff**; Commissioner Johnson **seconded**; it passed 6-0.

GENERAL PLANNING AND OTHER BUSINESS

LU 10-0006 Compliance Report: The Commission's review of the applicants' compliance with Conditions of Approval F(1)-(3) of LU 10-0006, a request to construct cellular antenna and ancillary ground equipment at Waluga Junior High (4700 Jean Road).

Ms. Hamilton presented the staff report. She stated that the project generally was in compliance with the conditions of approval and recommended termination of any further reports for this site.

Chair Richards explained the original approval required tall plant materials in order to fully and effectively screen the ancillary equipment on the ground. He observed that the existing plants failed to meet that objective, and they are planted so far apart that they will never screen all of the equipment from view.

Ms. Hamilton concurred with Chair Richards that the applicant needs to provide additional plants to better screen the equipment.

Chair Richards asked if there have been any further concerns from the neighbors regarding the RF exposure.

Commissioner Needham stated, "We can address the public's fear/perception by being responsive to the federal safety issue and the perception issue by doing it properly from an architectural/landscaping point of view."

Commissioner Needham **moved** to approve as amended with a requirement calling for additional landscaping around the ancillary equipment to fully screen this facility and no further review of this facility **LU 10-0006**. Commissioner Poulson **seconded**; it passed 6-0.

ADJOURNMENT

There being no further business, Chair Richards adjourned the meeting at approximately 9:00 a.m.

Respectfully submitted,

Janice Reynolds

Administrative Support

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