

**STAFF REPORT**  
**CITY OF LAKE OSWEGO**

**PLANNING DIVISION**

PROPERTY OWNER/APPLICANT:

Sean Foushee, OttBone Investments, LLC

FILE NO:

LU 16-0034

TAX LOT REFERENCE:

Tax Lot 400 of Tax Map 21E03BD

STAFF:

Evan Fransted

LOCATION:

853 G Avenue

DATE OF REPORT:

August 9, 2016

120-DAY DECISION DATE:

October 12, 2016

NEIGHBORHOOD ASSOCIATION:

First Addition- Forest Hills

COMP. PLAN DESCRIPTION:

R-7.5

ZONING DESIGNATION:

R-7.5

**I. APPLICANT'S REQUEST**

The applicant is requesting approval of a Resource Preservation (RP) District boundary delineation.

**II. DECISION**

**Approval of LU 16-0034.**

**III. APPLICABLE REGULATIONS**

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

LOC 50.04.001.1	R-7.5 Zone Standards
LOC 50.05.010; LOC 50.07.004.8	Sensitive Lands Overlay Districts
LOC 50.07.003.1	Application for Development, Burden of Proof
LOC 50.07.003.5	Conditions of Approval
LOC 50.07.003.6	Effect of Decision
LOC 50.07.003.7	Appeals
LOC 50.07.003.14	Review Criteria for Minor Developments

#### IV. FINDINGS

##### A. Background/Existing Conditions

1. The property is approximately 40,457 square feet in size and is located on the north side of G Avenue, a local street (Exhibit E1).
2. The site is zoned R-7.5 and is currently developed with a single-family dwelling (Exhibit E2). The application does not propose any new development at this time; future development on the site will be subject to the site development requirements that are in effect at the time of building permit application. The abutting properties to the west and north are also zoned R-7.5 and are developed with single-family residences. Tyron Creek State Natural Area is abutting the property to the northeast and is zoned PNA (Park and Natural Area). The adjacent properties to the south are zoned R-6 and are developed with single-family residences. The abutting property to the southeast is zoned R-7.5 and R-6.

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

##### A. Neighborhood Meeting

A neighborhood meeting is not required for an RP District delineation application.

##### B. Public Notice to Surrounding Area

The City has provided adequate public notice and opportunity to comment on this application, as required by LOC 50.07.003.3. One public comment in opposition was received from Michele Gordon who resides at 885 9<sup>th</sup> Street. Ms. Gordon states the reason for opposing the application is that tree removal and storm water management would negatively impact the environment (Exhibit G200). The review of the application does not include review of tree removal or storm water management as no development is proposed at this time. Tree removal and storm water management will be reviewed as part of the building permit.

##### C. Burden of Proof

Per LOC 50.07.003.1.b, the applicant for a development permit shall bear the burden of proof that the application complies with all applicable review criteria or can be made to comply with applicable criteria by imposition of conditions of approval. The applicant has provided sufficient evidence to enable staff to evaluate the proposal. These documents are listed as exhibits at the end this report.

##### D. Classification of Application

LOC 50.07.003.14.a.ii(20) designates the delineation of an RP District boundary as a minor development.

##### E. Criteria for Review of Application

Per LOC 50.07.003.14.d.ii, 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;**

**Dimensional Standards [LOC 50.04]**

**Residential Low Density Zones Dimensional Standards [LOC 50.04.001.1]**

The site is zoned R-7.5. No development is proposed with this application. An RP District delineation does not necessitate review of the dimensional standards.

**Sensitive Lands Overlay Districts [LOC 50.05.010 and 50.07.004.8]**

The purpose of the Sensitive Lands overlay districts is to protect wildlife habitat, protect and improve water quality, control and prevent water pollution, and comply with federal, state, and regional laws. The City's Sensitive Lands Map and Atlas identifies that the site contains an RP District along the east and southeast side of the property (Exhibit E3). The RP District is part of 8<sup>th</sup> Street Tributary (W-122) and is classified as a Class I Stream Corridor.

*Delineation of Resource [LOC 50.07.004.8.d]*

Resource delineation is a more precise, site-specific determination of the location of a resource prepared by a qualified professional. Staff compares the applicant's delineation map with the 1994/1995 ESEE Study and the Sensitive Lands Atlas and inspects the staked, delineated resource boundaries on the site. Staff will approve the delineation if he or she finds that the delineated boundary more accurately reflects the location of the resource than the boundary illustrated in the Sensitive Lands Atlas.

The methodology for delineating a stream corridor shall be based on topographic maps, hydrology maps, and/or field observations pursuant to Figure 50.07.004-A.

The site slopes more than 25% adjacent to the 8<sup>th</sup> Street Tributary (W-122). A delineated RP District shall include the delineated stream which is measured outward from the edge of the delineated stream corridor or wetland. A Class I RP District with a slope adjacent to a resource equal to or more than 25% requires a 30-200 feet protected riparian area, measured from the outer edge of the stream corridor or delineated wetland to the natural break in the 25% slope. Slope is measured perpendicular to and at intervals of not more than 25 feet along the outer edge of the stream or wetland. Where a stream or wetland is confined by a ravine or gully, the top of ravine is where there is a consistent break in the 25% slope that is more than 30 feet from the stream/wetland edge; the width of the vegetated corridor may vary.

The applicant's representative and City staff delineated the stream corridor in the field. The applicant's narrative discusses the delineation, which is shown on the delineation map (Exhibits E3 and F1). The delineation map shows the stream corridor as 30 feet from the consistent break in the 25% slope. Staff evaluated the proposed delineation and concludes that the RP District has been accurately delineated according to the methodologies prescribed by LOC 50.07.004.8.d. Per LOC 50.07.004.8.d.iii, upon final approval of the delineation, the boundary of the RP Districts as shown in the Sensitive Lands Atlas shall be modified to be consistent with the delineated boundary.

Staff finds that the delineated RP District boundary, as shown in Exhibit E3, can be approved. This standard is met.

**2. The Applicable Development Standards [LOC 50.06];**

There is no development proposed within the RP District. Compliance with these standards will be assured at the time of building permit application.

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

No additional statutory standards are applicable to this proposal. This standard does not apply.

**VII. CONCLUSION**

Based upon the materials submitted by the applicant and findings presented in this report, staff concludes that LU 16-0034 complies with all applicable criteria and standards.

**VIII. ACTION TAKEN**

**Approval** of LU 16-0034, subject to the following conditions.

**A. Within 60-Days of the Date of This Decision, the Applicant/Owner Shall:**

1. Submit a stamped and signed survey map showing the RP District boundary, as illustrated on Exhibit E3, along with an 8 ½" x 11" reduction, to the satisfaction of staff. The following information shall be included on the survey:

- a. Clearly label the boundaries of the RP District.
- b. Label distances and bearings of the RP District boundary.

2. Submit a "Notice of Development Restrictions" containing the restrictions listed, below, for review and approval of staff. Staff can provide a template for the Notice upon request. A reduced copy of the survey map showing the approved RP District boundary, as required by Condition A(1), above, shall be included with the Notice as "Exhibit A" to be recorded in the County record. Exhibit A shall be no larger than 8½" x 11" in size and cannot contain any lettering smaller than 10-point font. The Notice shall include the following information:

The property contains a delineated Resource Protection (RP) District as depicted in Exhibit A, and as determined and documented in City of Lake Oswego Planning and Building Services Department, Case File LU 16-0034.

The future development of the RP District is subject to the City of Lake Oswego code requirements and development standards set forth in LOC Article 50.05.010.

Contact the City of Lake Oswego Planning and Building Services Department prior to commencing any activity inside the RP District boundary.

2. Record the approved "Notice of Development Restrictions", as described in Condition A(2), above, with the Clackamas County Clerk's Office.

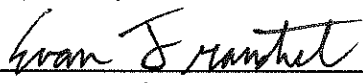
**Code Requirements:**

1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the RP District delineation 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.

**Note:**


1. Development plans review, permit approval, and inspections by the City of Lake Oswego Planning and Building Services Department are limited to compliance with the Lake Oswego Community Development Code, and related code provisions. The applicants are advised to review plans for compliance with applicable state and federal laws and regulations that could relate to the development, i.e., Americans with Disabilities Act, Endangered Species Act. Staff may advise the applicants of issues regarding state and federal laws that staff member believes would be helpful to the applicants, but any such advice or comment is not a determination or interpretation of federal or state law or regulation.

Prepared by:

  
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Evan Fransted  
Associate Planner


8/9/16  
\_\_\_\_\_  
Date

Reviewed by:

  
\_\_\_\_\_  
David Powell  
City Attorney

8-9-16  
\_\_\_\_\_  
Date

Approved by:

  
\_\_\_\_\_  
Leslie Hamilton  
Acting Planning Manager

8/9/16  
\_\_\_\_\_  
Date

**EXHIBITS**

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

**E. GRAPHICS/PLANS**

- E1 Tax Map
- E2 Location/Zoning Map
- E3 Existing Features Map/RP District Delineation Map

**F. WRITTEN MATERIALS**

- F1 Applicant's Narrative

**G. LETTERS**

Neither for nor Against (G1-99)

None

Support (G100-199)

None

Opposition (G200+)

G200 Letter from Michele Gordon (submitted August 2, 2016)

Date of Application Submittal: June 22, 2016

Date Application Determined to be Complete: June 14, 2016

State Mandated 120-Day Rule: October 12, 2016