



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**Date:** July 11, 2008  
**To:** Interested Person  
**From:** Rachael Hoy, Land Use Services  
503-823-0646 / [RachaelH@ci.portland.or.us](mailto:RachaelH@ci.portland.or.us)

## **NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 08-119426 LC**

#### **GENERAL INFORMATION**

**Applicant:** Mark Wilde  
13824 SE Eastridge St  
Portland, OR 97236

**Surveyor:** Joe Ferguson  
Ferguson Land Surveying  
8134 SE Taylor St  
Portland, OR  
97215

**Site Address:** 6450 NE 31ST AVE  
**Legal Description:** LOT 45 & 43 BLOCK 43, IRVINGTON PK  
**Tax Account No.:** R421316320  
**State ID No.:** 1N1E13CA 06800 **Quarter Section:** 2433  
**Neighborhood:** Concordia, contact George Bruender at 503-287-4787.  
**Business District:** North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Robin Denburg at 503-823-4135.  
**Zoning:** R5ah – Single Family Residential 5,000 with an “a” Alternative Design Density overlay Zone and “h” Aircraft Landing Zone Overlay  
**Case Type:** LC – Lot Consolidation  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:**

The applicant proposes to consolidate historic Lots 45 & 43 of Block 43 Irvington Park into one parcel. The lot consolidation is in preparation for a future property line adjustment (LU 08-119429 PLA) with abutting Lot 41 in the same ownership. The property line adjustment is not part of this review.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in Section 33.675.300, lot consolidations.

**ANALYSIS**

**Site and Vicinity:** The site is located at the corner of NE 31<sup>st</sup> Avenue and NE Rosa Parks Way. The site is developed with a single family home situated on the western half of the property. Pedestrian and vehicle access for the house is from NE 31<sup>st</sup> Avenue. The surrounding neighborhood is primarily single family homes with Concordia University to the west.

**Zoning:** The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This proposal is not using any of the provisions of the "a" overlay.

The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The allowed height limit for buildings and vegetation on the site per the "h" overlay is 180 feet above the lowest base point at Portland International Airport. The airport low base point is at an elevation of 18.3 feet. Therefore, the topographical elevation of the site PLUS the proposed building cannot exceed 198.3 feet. The highest ground elevation on the site is approximately 110 feet. Therefore, buildings and vegetation on the site cannot exceed 88.3 feet in height. On this site, however, the base zone (R5) height limit of 30 feet is more restrictive than the 'h' overlay allows and cannot be exceeded without a future adjustment review.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on April 16, 2008.

1. **Agency Review:** The following Bureaus have responded to the proposal (see Exhibits E 1-7).
  - Bureau of Environmental Services: No concerns or requirements. However, if it is found that the existing sanitary sewer service is located on the proposed new eastern parcel after the PLA, BES will require either a private easement or finalized permits for the capping of the existing lateral and re-establishment of a new lateral.
  - Water Bureau: No concerns or requirements.
  - Fire Bureau: No concerns or requirements.
  - Site Development Section of BDS: Site Development has no objection to the proposed lot consolidation. Site Development has also confirmed that the sanitary sewer lateral for the existing house will not cross the proposed new property line after the PLA. Site Development has inspected and approved stormwater disposal for the existing house.
  - Bureau of Transportation Engineering: No concerns or requirements.
  - Bureau of Parks-Forestry Division: No concerns or requirements.
  - Life Safety Section of BDS: No concerns or requirements.

2. **Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### LOT CONSOLIDATIONS

#### 33.675.010 Purpose

This chapter states the procedures and regulations for removing lot lines within a site to create one lot. The regulations ensure that lot consolidation does not circumvent other requirements of this Title, and that lots and sites continue to meet conditions of land use approvals. The lot consolidation process described in this chapter is different from (and does not replace) the process used by the county to consolidate lots under one tax account. A tax consolidation does not affect the underlying platted lots. A lot consolidation results in a new plat for the consolidation site.

#### 33.675.050 When These Regulations Apply

A lot consolidation may be used to remove lot lines within a site. The applicant may also choose to remove such lot lines through a land division. A lot consolidation may be required by other provisions of this Title.

#### 33.675.100 Review Procedure

**A. Generally.** Lot consolidations are reviewed through Type I procedure.

**B. Sites in PUDs or PDs.** If any portion of the site is within a Planned Unit Development (PUD) or Planned Development (PD), an amendment to the PUD or PD is also required. The amendment to the PUD or PD must be reviewed concurrently with the lot consolidation.

**Findings:** The site is not involved in any past or proposed Planned Unit Development or Planned Developments therefore the requested lot consolidation review has been reviewed under the Type I procedure.

### Approval Standards for a Lot Consolidation

#### 33.675.300 Standards

A lot consolidation must meet the following standards:

- A. Lots.** Consolidated lots must meet the standards of Chapters 33.605 through 33.615, with the following exceptions:
1. Lot dimension standards.
    - a. Minimum lot area. If the area of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot area requirements;
    - b. Maximum lot area. If any of the lots within the lot consolidation site are larger than the maximum lot area allowed, the lot consolidation site is exempt from maximum lot area requirements;
    - c. Minimum lot width. If the width of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot width requirements;
    - d. Minimum front lot line. If the front lot line of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum front lot line requirements;
    - e. Minimum lot depth. If the depth of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot depth requirements.

**Findings:** The proposed site is in the R5 zone. Approval standards 1.a through 1.e are related to the required lot dimensions and creation of a consolidated parcel that will either meet the lot dimension standards of the zone or meet the listed exceptions. The proposed

consolidated lot meets the lot dimension standards of the R5 zone as shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	<b>R5 Zone Requirement</b>	<b>Lot 1 (after consolidation)</b>
Minimum Lot Area	3,000 square feet	5,000 square feet
Maximum Lot Area	8,500 square feet	
Minimum Lot Width*	36 feet	50 feet
Minimum Front Lot Line	30 feet	50 feet
Minimum Lot Depth	50 feet	100 feet

\* Width is measured at the minimum front building setback line

As noted herein, the proposed consolidated lot meets the standards of 1.a through 1.e.

2. Maximum density. If the consolidation brings the lot consolidation site closer to conformance with maximum density requirements, the consolidation does not have to meet maximum density requirements;

**Findings:** The maximum density of the consolidated lot is (5,000 sq. ft. site/5,000 sq. ft. density) = 1.00 = 1 unit. The site is developed with one single-family dwelling. Therefore the maximum density will not be exceeded by consolidating the historic lots that currently make up this site. This standard is met.

3. Lots without street frontage. If the lot consolidation consolidates lots that do not have street frontage with a lot that has street frontage, the consolidation does not have to meet minimum density and maximum lot area requirements;

**Findings:** Both lots in the lot consolidation site have street frontage, therefore this standard does not apply.

4. Through lots. If any of the existing lots within the lot consolidation site are through lots with at least one front lot line abutting an arterial street, then the consolidated lot may be a through lot;

**Findings:** The proposed consolidated Lot 1 will not be a through lot, therefore this standard does not apply.

5. Split zoning. If any of the existing lots within the lot consolidation site are in more than one base zone, then the consolidated lot may be in more than one base zone.

**Findings:** This site contains only one zoning designation, therefore the consolidated lot will not have split zoning. This standard does not apply.

**B. Conditions of land use approvals.** Conditions of land use approvals continue to apply, and must be met.

**Findings:** There are no previous land use cases for this site, therefore this standard does not apply.

## **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

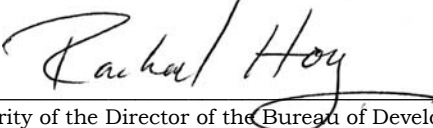
## CONCLUSIONS

The applicant proposes to consolidate historic Lots 45 & 43 of Block 43 Irvington Park into one parcel. No City Bureaus raised objection to the proposal.

As discussed above, the requested lot consolidation has been reviewed and shown to be able to meet all the required standards for lot consolidations as laid out in Section 33.675.300.

## ADMINISTRATIVE DECISION

Approval of a Lot Consolidation to create one parcel of historic lots 45 & 43 of Block 43, Irvington Park into one parcel, as illustrated by Exhibit C.1, signed and dated July 2, 2008 2008.

Decision rendered by:  on July 7, 2008  
By authority of the Director of the Bureau of Development Services

**Decision mailed (within 5 days of dec.) July 11, 2008**

**Staff Planner: Rachael Hoy**

**About this Decision.** This land use decision is **not a permit** for development. **THE SIGNED FINAL PLAT MUST BE RECORDED WITH MULTNOMAH COUNTY DEED RECORDS WITHIN 90 DAYS OF THE DATE OF THIS DECISION (October 6, 2008), OR THIS DECISION WILL BECOME NULL AND VOID.** Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on April 1, 2008, and was determined to be complete on April 11, 2008.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on April 1, 2008.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at [www.portlandonline.com](http://www.portlandonline.com).

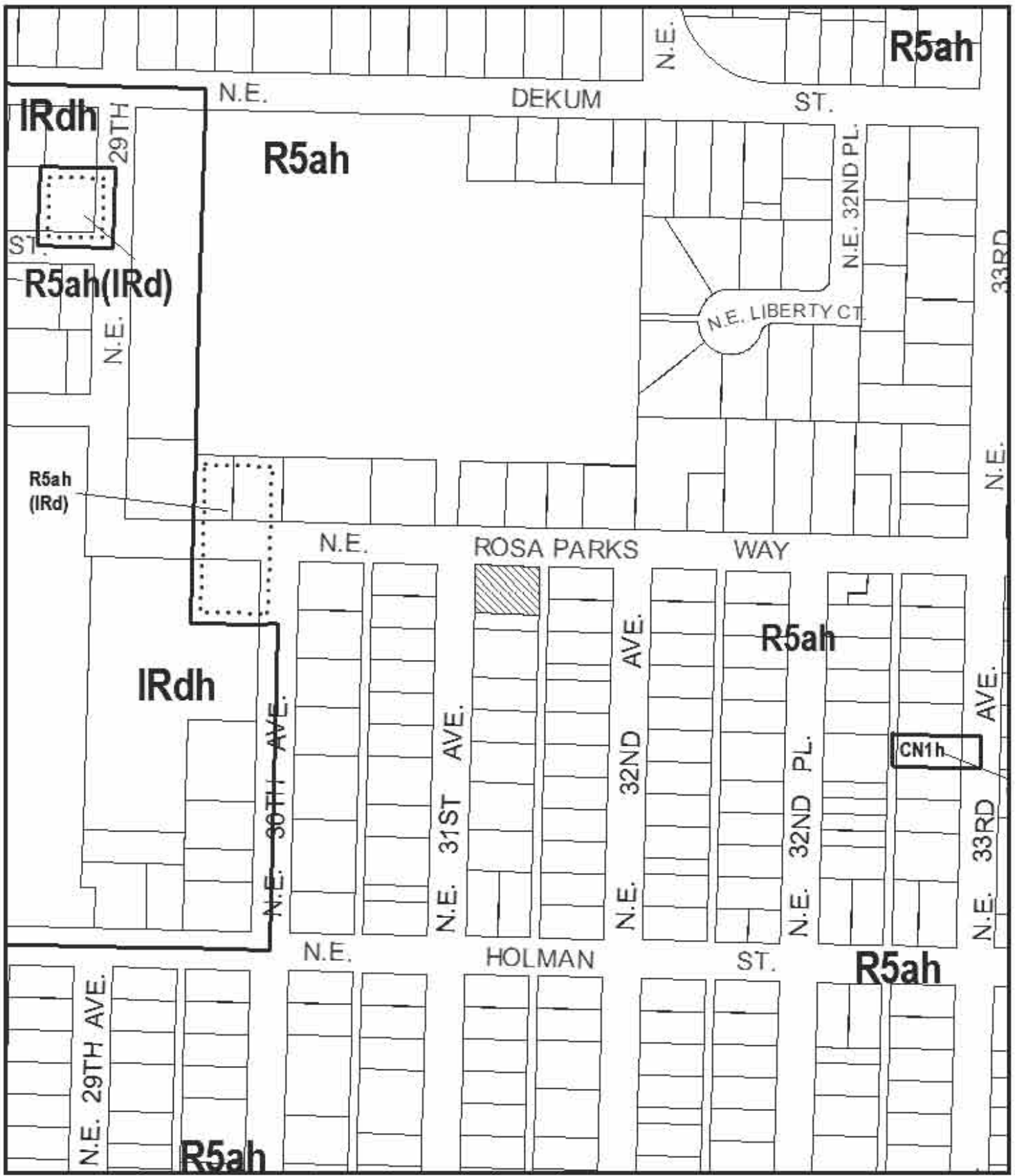
**Recording the Final Plat. The signed plat survey and legal description must be recorded by the applicant with the County Deed Records within 90 days of the approval by the Bureau of Development Services on this decision (By October 3, 2008) or the approval will be null and void.**

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Approved Plat (attached)
  - 2. Site plan with Existing Development
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**



# ZONING

 Site



File No.	LU 08-119426 LC
1/4 Section	2433
Scale	1 inch = 200 feet
State_Id	1N1E13CA 6800
Exhibit	B (Apr 02,2008)

