



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Ted Wheeler, Mayor  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** April 9, 2019  
**To:** Interested Person  
**From:** Lois Jennings, Land Use Services  
503-823-2877 or [lois.jennings@portlandoregon.gov](mailto:lois.jennings@portlandoregon.gov)

## **NOTICE OF A TYPE IIx PROPOSAL IN YOUR NEIGHBORHOOD**

Development has been proposed in your neighborhood. The proposed development requires a land use review. The proposal, review process, and information on how to respond to this notice are described below. A copy of the site plan and zoning map is attached. I am the staff person handling the case. Please call me if you have questions regarding this proposal. Please contact the applicant if you have questions regarding any future development on the site.

Because we must publish our decision within 42 days, **we need to receive your written comments by 5 p.m. on May 9, 2019.** Please mail or deliver your comments to the address at the bottom of the page, and include the Case File Number, LU 18-254404 LDP, in your letter. It also is helpful to address your letter to me, Lois Jennings. You can also e-mail your comments to me at my e-mail address identified above. Please note that all correspondence received will become part of the public record.

### **CASE FILE NUMBER: LU 18-254404 LDP**

**Applicant:** Danelle Isenhardt, Emerio Design  
6445 SW Fallbrook Pl #100, Beaverton, OR 97008  
Phone#: 503-746-8812 or e-mail: [danelle@emeriodesign.com](mailto:danelle@emeriodesign.com)

**Owners:** Noe & Anna E. Garnica  
6312 SW Capitol Hwy PMB 124, Portland, OR 97239

**Site Address:** 2540 SW Custer St

**Legal Description:** TL 17100 0.39 ACRES, SECTION 20 1S 1E  
**Tax Account No.:** R991201000  
**State ID No.:** 1S1E20AD 17100  
**Quarter Section:** 3726

**Neighborhood:** Multnomah, contact at [contact-multnomah@swni.org](mailto:contact-multnomah@swni.org).  
**Business District:** Multnomah Village, contact Jason Lensch at [benji10@comcast.com](mailto:benji10@comcast.com).  
**District Coalition:** Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

**Plan District:** None  
**Zoning:** Single Dwelling Residential, 7,000 (R7)  
**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type IIx, an administrative decision with appeal to the Hearings Officer.

**Proposal:** The applicant is proposing to divide the subject parcel into two parcels. A building permit (16-171713 RS) has been issued to construct a new single-family residence on this site. Parcel 1 will be 9,645 s.f. in area and the new house will be retained on this lot. Parcel 2 will be

7,325 s.f. in area. The applicant's site plan shows four trees being preserved. The following four trees are being proposed to be preserved to meet the tree preservation standard: #11- a 27-inch Douglas Fir; #15 a 21-inch Douglas Fir; #20-19-inch Shore Pine; #28-a 35-inch Douglas Fir. The applicant's preliminary site & utility plan shows these trees and how services (sanitary, storm and water) will be provided for each lot. Stormwater will be carried off site via a connection to the public storm sewer located on the adjacent property to the west.

March 3, 2016 a Public Works Alternative (16-136950 PW) to not provide frontage improvements along this site's frontage was approved by the Public Works Alternative Committee with conditions. One of the conditions required the owner to provide the identified dedication to public right-of-way and to sign and record waivers of remonstrance for future participating in a Local Improvement District (LID) at the time of building permit application. This condition was completed under 16-171713 RS.

The site is on the Potential Landslide Hazard map and the applicant has provided a Geotechnical Engineering Report to address the landslide hazard area and land suitability approval criteria.

This partition proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create two (2) units of land (2 Parcels). Therefore, this land division is considered a partition.

**Relevant Approval Criteria:** IN ORDER TO BE APPROVED, THIS PROPOSAL MUST COMPLY WITH THE APPROVAL CRITERIA OF TITLE 33. THE RELEVANT CRITERIA ARE FOUND IN:

- **SECTION 33.660.120, APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES.**

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. This application was submitted on October 18, 2018 and determined to be complete on April 4, 2019.

#### **DECISION MAKING PROCESS**

The Bureau of Development Services will make a decision on this proposal. After we consider your comments we will do one of the following:

- Approve the proposal.
- Approve the proposal with conditions; or
- Deny the proposal.

The neighborhood association listed on the first page of this notice may take a position on this application. They may also schedule an open meeting prior to making their recommendation to the Bureau of Development Services. Please contact the person listed as the neighborhood contact to determine the time and date of this meeting.

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 on April 4, 2019. The 120-day review period may be extended at the request of the applicant.

The file and all evidence on this case are available for your review by appointment by making a request online or contacting me.

- Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. Copies of all information in the file can be obtained for the cost of making copies during the appointment.
- If you would like to request a copy of the file online, please visit <https://www.portlandoregon.gov/bds/54732>. The fee for this service varies based on the size of the case file and how long it would take to scan or copy documents.
- I can provide some information over the phone or through email.

Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandoregon.gov](http://www.portlandoregon.gov).

#### **APPEAL PROCESS**

If you disagree with the Bureau of Development Services administrative decision, you can appeal the decision to the Hearings Officer. This review body will hold a public hearing for the appeal. When the decision is mailed, the criteria used to make the decision and information on how to file an appeal will be included. If you do not send any comments, you can still appeal the decision. There is a 14-day deadline to file an appeal beginning on the day the decision is mailed. The reason for the appeal must be specifically defined in order for the review body to respond to the appeal. If an appeal is filed, you will be notified of the time and location of the appeal hearing.

There is a fee charged for appeals. Recognized neighborhood associations may qualify for an appeal fee waiver.

#### **APPEAL OF THE FINAL CITY DECISION**

After an appeal hearing, the review body decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. The phone number for LUBA is 1-503-373-1265. Issues that may provide the basis for an appeal to LUBA must be raised prior to the comment deadline or prior to the conclusion of the hearing if a local appeal is requested. If you do not raise an issue with enough specificity to give the Bureau of Development Services an opportunity to respond to it, that may also preclude an appeal to LUBA on that issue.

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**

#### **Enclosures:**

Zoning Map  
Preliminary Site & Utility Plan



# ZONING



NORTH



Site



Recreational Trails

File No.	LU 18-254404 LDP
1/4 Section	3726
Scale	1 inch = 200 feet
State ID	1S1E20AD 17100
Exhibit	B Oct 22, 2018

