



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: March 25, 2020
To: Interested Person
From: Timothy Novak, Land Use Services
503-823-5395 / Timothy.Novak@portlandoregon.gov

NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 19-260870 LC

GENERAL INFORMATION

Applicant/Owner: Michael Stouder | 5 Parkside Design Inc
13417 SE Parkside Dr | Happy Valley OR 97086
(971) 563-1880 | mstouder@comcast.net

Surveyor: Toby Bolden | Centerline Concepts Inc
19376 Molalla Ave Suite 120 | Oregon City, OR 97045

Site Address: 5046 SE OGDEN ST

Legal Description: BLOCK 7 LOT 9-11, ERROL HTS
Tax Account No.: R255300970
State ID No.: 1S2E19BD 03000
Quarter Section: 3735

Neighborhood: Brentwood-Darlington, contact at bdlanduse@gmail.com.
Business District: Woodstock Community Business Association, contact at <http://www.woodstockbiz.com/>

District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313

Plan District: None
Zoning: Residential 5,000 (R5) with Alternative Design Density Overlay (a)
Case Type: Lot Consolidation (LC)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to consolidate historic Lots 9 and 10 of Errol Heights, Block 7 into one parcel. The lot consolidation is in preparation for a future property line adjustment (PR 19-260890 PLA) with abutting Lot 11 of the same subdivision and currently under the same ownership. The property line adjustment is not part of this review. The property adjustment will result in two buildable lots, both 37.5 feet wide by 100 feet deep. The existing garage and house are being demolished, with demolition permits for both structures under inspection.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are stated in Zoning Code section 33.675.300, Lot Consolidation Standards.

ANALYSIS

Site and Vicinity: The subject site is mid-block in the Brentwood-Darlington neighborhood. The vicinity has a relatively flat topography and a standard street grid within about 1,000 feet of the site, with an average of about 400 feet between intersections (varies between about 200 and 600 feet). Street improvements vary between paved with sidewalks to single-lane, unpaved roads with no sidewalks. The site is about 200 feet west of SE 52nd Avenue, a designated Community Corridor. Development in the vicinity includes some smaller scale commercial along SE 52nd Avenue, but is otherwise a broad mix of more recent and older single-family residential.

Zoning: The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Newly created lots must have a maximum density of 1 lot per 5,000 square feet of site area.

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 January 2, 2020.

1. **Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the applicable criteria for review of the proposal.
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 combine into one to three lots. The regulations ensure that the 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 counties to consolidate lots under one tax account. A tax account 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 perimeter of consolidated lots must follow existing lot lines. Lot lines cannot be created or moved through this process. 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 Ix 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 Ix procedure.

33.675.300 Approval Criteria

A lot consolidation will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met:

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, lots in the lot consolidation site are 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, lots in the lot consolidation site are 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, lots in the lot consolidation site are 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, lots in the lot consolidation site are 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, lots in the lot consolidation site are exempt from minimum lot depth requirements.
- 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;
- 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;
- 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;
- 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: The subject property is in the R5 zone, so the consolidated lots (Parcel 1) must meet the standards in Chapter 33.610 or one of the noted exceptions, above. 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):

	R5 Zone Requirement	Parcel 1 (after consolidation)

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

Maximum density in the R5 zone is one unit per 5,000 square feet. The consolidated parcel will be in conformance with the maximum density requirement. The existing lots have street frontage and are not through lots; all lots are in one base zone.

As noted herein, the proposed consolidated lot meets the standards of Chapter 33.610. None of the exceptions are applicable. Therefore, this criterion is met.

B. Conditions of land division approvals. The lot consolidation must meet one of the following:

1. **All conditions of previous land division approvals continue to be met or remain in effect; or**
2. **The conditions of approval no longer apply to the site, or to the development on the site, if the lots are consolidated.**

Findings: There are no previous land division approvals for this site, therefore these requirements do not apply.

C. 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 requirement does not apply.

D. Services. The lot consolidation does not eliminate the availability of services to the lots, and the consolidated lots are not out of conformance with service bureau requirements for water, sanitary sewage disposal, and stormwater management.

Findings: The relevant service bureaus have responded with no objections or concerns with this lot consolidation proposal (See E Exhibits), therefore this requirement is met.

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 requirements of Title 11 can be met, and 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.

The site consists of Lots 9, 10 and 11, Block 7 of Errol Heights Subdivision. Lots 9 and 10, Block 7 of Errol Heights Subdivision are being consolidated into one parcel. This lot consolidation will reestablish a lot line between Lot 11 and the new consolidated parcel. Lot 11 meets the minimum requirement for a primary structure under 33.110.212 because it has not had a dwelling unit on it within the last 5 years, is not in an environmental zone, is at least 25 feet wide, and is at least 2,400 square feet.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical

expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this lot consolidation proposal.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

The supplemental plan shows that the existing house will not meet minimum side building setbacks to the confirmed lot line between the consolidated parcel and Lot 11; the detached garage will straddle that same lot line. Fire Bureau and Life Safety requirements generally require removal or modifications to structures that straddle or are less than 3 feet from a proposed lot line. The responses from the Fire Bureau and Life Safety reviewers are predicated on final approval of Demolition Permits 19-257113 RS and 19-257136 RS for the house and detached garage on the site, which are currently in “under inspection” status. The applicant has submitted documentation that the small detached shed shown on the supplemental plan has been removed. In order to ensure that no conflicts with Fire Bureau or building code requirements arise on the site, approval of this lot consolidation will be conditioned on final approval of the aforementioned demolition permits prior to issuance of any building permits at the site.

CONCLUSIONS

The applicant proposes to consolidate historic lots 9 and 10 into one parcel, as shown on the lot consolidation plat survey. The lot consolidation is required to be able to complete the related property line adjustment (PR 19-260890 PLA).

As noted above, final approval of demolition permits for the house and detached garage on the site that straddle or are within 3 feet of the lot line to be confirmed between the consolidated parcel and Lot 11 is necessary to comply with Building Code and Fire Bureau requirements. To ensure that the demolition permits are finalized by the owner of the property, a condition will be applied as follows: Prior to issuance of any building permits for new development at the site, demolition permits for the house and detached garage must receive final approval.

As discussed above, and with the noted condition, the requested lot consolidation has been shown to be able to meet all the requirements for lot consolidations as laid out in Section 33.675.300.

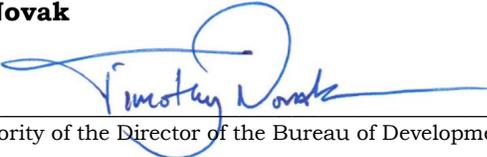
ADMINISTRATIVE DECISION

Approval of a Lot Consolidation to consolidate historic lots 9 and 10, Block 7 of Errol Heights into one parcel, as illustrated by Exhibit C.1, signed and dated March 17, 2020.

This approval is subject to the following conditions:

1. Prior to issuance of any building permits for new development on this property, demolition permits for the house and detached garage must receive final approval.

Staff Planner: Timothy Novak

Decision rendered by:  **on March 17, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 25, 2020

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 December 5, 2019, and was determined to be complete on December 30, 2019.

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 December 5, 2019.

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. Unless further extended by the applicant, **the 120 days will expire on: April 28, 2020.**

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.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

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. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and accessibility to files, only digital copies of material in the file are available for viewing. 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.portlandonline.com.

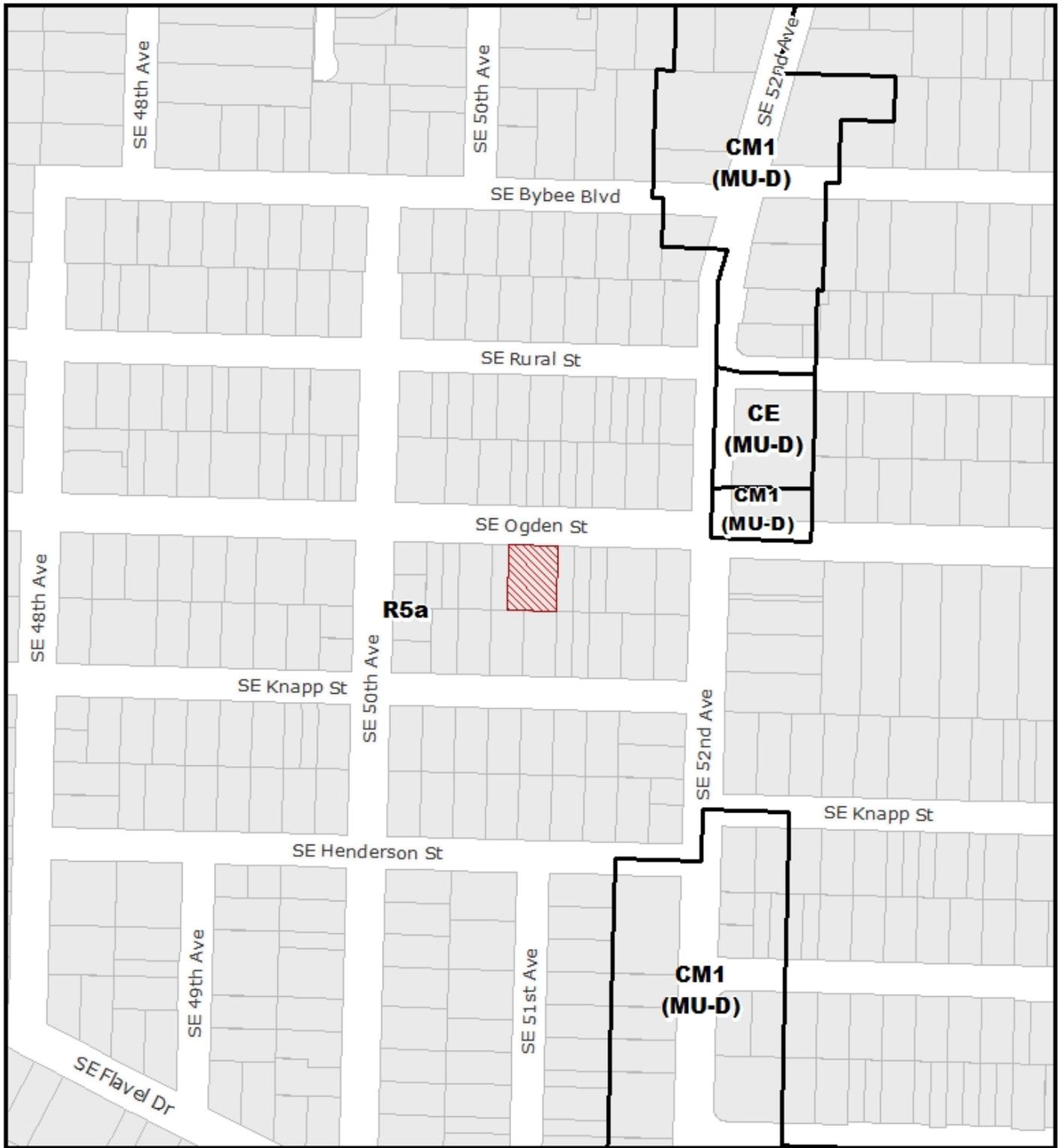
Recording the Final Plat. The signed plat must be recorded by the applicant with the County Deed Records within 90 days following approval by the Bureau of Development Services or the approval will be null and void.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's Narrative
 - 2. Supplemental Survey
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Approved Plat (attached)
- 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. Life Safety Review Section of BDS
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Deed and Title Report
 - 3. Copy of original plat
 - 4. Photo showing removal of shed

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).



ZONING



File No.	LU 19 - 260870 LC
1/4 Section	3735
Scale	1 inch = 200 feet
State ID	1S2E19BD 3000
Exhibit	B Dec 09, 2019

