



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

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Date: December 15, 2021
To: Interested Person
From: Timothy Novak, Land Use Services
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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 20-224179 RP

GENERAL INFORMATION

Applicant: Danelle Isenhardt | *Emerio Design*
6445 SW Fallbrook Pl, #100
Beaverton OR. 97008

Owner/Applicant: Daniel Silvey | *D.B.S. Group, LLC*
Po Box 96
Tualatin, OR. 97062

Site Address: 6141 SE DUKE ST

Legal Description: BLOCK 11 LOT 14&15 LOT 16 EXC N 5', TREMONT PL
Tax Account No.: R842403050
State ID No.: 1S2E18DD 05200
Quarter Section: 3636

Neighborhood: Mt. Scott-Arleta, contact Sarah Lannarone at MSANAlandusechair@gmail.com

Business District: Woodstock Community Business Association, contact at <http://www.woodstockbiz.com>

District Coalition: Southeast Uplift, contact Nancy Champlin at Nanci@seuplift.org

Plan District: NONE

Zoning: R5a – (R5) Single-Dwelling Residential 5,000
(a) Alternative Design Density Overlay (*Not applicable*)

Case Type: (RP) Replat

Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to replat the existing historic lots and lot remnant within the site. The existing lot lines will be removed or reconfigured into a total of two parcels of approximately 6,250 square feet each in size. The house, shed, and detached garage at the

site have been demolished because they would have straddled the proposed shared lot line between the new parcels.

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 Replat Approval Criteria.**

ANALYSIS

Site and Vicinity: With the demolition of the house and detached garage, the site is now vacant. Included with the demolition was the removal of all the trees on the site. The property is a corner lot with alley access off of SE Duke St. Just south of the site is Brentwood Park and Lane Middle School. Brentwood Community Garden and Green Thumb Community Orchard are both nearby, across the street from the park, on SE 60th Ave. Otherwise, the vicinity is primarily developed with single-family houses, excepting a small commercial corner at SE Duke St and SE 60th Ave, the large church complex off Duke between SE 52nd Ave and SE 57th Ave. The Woodstock commercial center begins about 1,500 feet to the Northwest, as the crow flies. The whole of the area is relatively flat and without any notable waterbodies.

Zoning: The **R5** base 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 Review: A Notice of Proposal in your Neighborhood was mailed on **January 27, 2021**. Multiple Bureaus reviewed the proposal and responded; no issues or concerns about the proposal were identified. See the 'E' Exhibits for the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **January 27, 2021**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

REPLAT

33.675.010 Purpose

This chapter states the procedures and regulations for removing or reconfiguring lot lines within a site to combine into one to three lots. The regulations ensure that the replat does not circumvent other requirements of this Title, and that lots and sites continue to meet development standards and conditions of land use approvals.

33.675.050 When These Regulations Apply

A replat may be used to remove or reconfigure lot lines within a site to combine into no more than three lots. The perimeter of a replatted site must follow existing lot lines. Lot lines cannot be created through this process however lot lines can be moved. A replat cannot result in the creation of a flag lot or the creation of a buildable lot from an unbuildable lot remnant or lot of record. The applicant may also remove or reconfigure lot lines through a land division. A replat may be required by other provisions of this Title.

33.675.100 Review Procedure

A. Generally. Replats 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 replat.

Findings: The site is not involved in any past or proposed Planned Unit Development or Planned Developments. Therefore, the requested replat has been reviewed under the Type Ix procedure.

33.675.300 Approval Criteria

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

- A. Lots.** The replatted lots must meet the standards of Chapters 33.605 through 33.615, with the following exceptions:
1. Lot dimension standards.
 - a. Lots and adjusted lots that do not meet the minimum lot area required for new lots are exempt from the minimum lot area requirement if they do not move further out of conformance with the minimum lot area required for new lots, and they meet the following:
 - (1) No portion of the lot or adjusted lot is in an environmental protection, environmental conservation, or river environmental overlay zone;
 - (2) No portion of the lot or adjusted lot is in the special flood hazard area; and
 - (3) The lot or adjusted lot has an average slope of less than 25 percent;
 - b. Maximum lot area. If any of the lots within the replat site are larger than the maximum lot area allowed, the same number of lots in the replat site are exempt from maximum lot area requirements;
 - c. Minimum lot width. Lots and adjusted lots that do not meet the minimum lot width required for new lots are exempt from the minimum lot width requirement if they do not move further out of conformance with the minimum lot width required for new lots, and they meet the following:
 - (1) No portion of the lot or adjusted lot is in an environmental protection, environmental conservation, or river environmental overlay zone;
 - (2) No portion of the lot or adjusted lot is in the special flood hazard area; and
 - (3) The lot or adjusted lot has an average slope of less than 25 percent;
 2. Regular lot lines. As far as is practical, all lot lines must be straight and the side lot lines of a lot or parcel must be at right angles to the street on which it fronts, or be radial to the curve of a curved street.
 3. Maximum density. If the replat brings the replat site closer to conformance with maximum density requirements, the replat does not have to meet maximum density requirements;
 4. Lots without street frontage. If the replat consolidates lots that do not have street frontage with lots that have street frontage, the replat does not have to meet minimum density and maximum lot area requirements;
 5. Through lots. If any of the existing lots within the replat site are through lots with at least one front lot line abutting an arterial street, then the consolidated or reconfigured lots may be through lots;
 6. Split zoning. If any of the existing lots within the replat site are in more than one base zone, then the consolidated or reconfigured lot may be in more than one base zone.

Findings: The subject property is in the R5 zone, so the replatted lots must meet the standards in Chapter 33.610 or one of the noted exceptions, above. The proposed replatted lots meet 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	Parcel 2
Minimum Lot Area	3,000 square feet	6,000 square feet	6,500 square feet
Maximum Lot Area	8,500 square feet		
Minimum Lot Width*	36 feet	48 feet	52 feet
Minimum Front Lot Line	30 feet	48 feet	52 feet
Minimum Lot Depth	50 feet	125 feet	125 feet

* Width is measured at the minimum front building setback line

All proposed lot lines are straight and parallel or at right angles to the adjacent streets. The maximum density for the site is 2 lots and 2 lots (parcels) are proposed. The proposed parcels have street frontage and are completely in the R5 base zone.

Therefore, these criteria are met.

B. Development standards. If existing development is in conformance with the development standards of this Title, the development must remain in conformance after the replat. If existing development is not in conformance with a development standard of this title, the replat will not cause the development to move further out of conformance with the standard unless an adjustment is approved.

Findings: As noted above, all structures on the site have been removed and the site is currently vacant, therefore this criterion does not apply.

C. Conditions of land division approvals. The replat 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 development on the site, if the lots are reconfigured.

Findings: There are no previous land division approvals for this site, therefore this criterion does not apply.

D. Conditions of other land use approvals. Conditions of other land use approvals continue to apply, and must be met.

Findings: There are no previous land use approvals for this site, therefore this criterion does not apply.

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

Findings: The Bureau of Environmental Services has reviewed the proposal for impacts on sanitary sewer and stormwater management services and indicated that there are sanitary sewer mains in both SE 62nd Ave and SE Duke St that are available to future development on the two proposed parcels (Exhibit E.1).

The Water Bureau has reviewed the proposal for impacts on water service and verified that water is available to both proposed parcels from existing main(s) (Exhibit E.3).

The Site Development Section of BDS has reviewed the proposal for impacts related to on-site sewage disposal (septic systems) and stated that there is no indication in City Records that the house was ever serviced by an on-site cesspool or septic tank and drain field (Exhibit E.5).

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.

CONCLUSIONS

The applicant proposes replatting two historic lots and a lot remnant to create two buildable parcels within the R5 zone. As documented in the findings above, the proposal meets all of the applicable approval criteria. Therefore, this review should be approved.

ADMINISTRATIVE DECISION

Approval of the replatting of Lots 14 & 15 and a lot remnant composed of Lot 16 except the north five feet, all in Block 11, Tremont Place Addition into two parcels, per the approved plat, Exhibit C-1, signed and dated December 10, 2021.

Staff Planner: Timothy Novak

Decision rendered by:  **on 12/10/2021**

By authority of the Director of the Bureau of Development Services

Decision mailed: 12/15/2021

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 8, 2020, and was determined to be complete on January 5, 2021.

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 8, 2020.

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 requested that the 120-day review period be extended 245 days (see Exhibit A.#). Unless waived by the applicant, **the 120 days will expire on: January 5, 2022.**

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. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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 limited accessibility to paper 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 [Title 33 Zoning Code | Portland.gov](#) .

Recording the Partition 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. Original Submittals (12/8/2020)
 - a. Application and Narrative
 - b. Deed History
 - c. Survey
 - d. Plat of Tremont Pl
 - e. Preliminary Title Report
 - 2. 1953 Deed recording the sale of the north 5 feet of Lot 16
 - 3. Deed history of 6421 SE 62nd Ave
 - 4. Revised Plat Sheets
- 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. Incomplete Letter
 - 2. E-mail affirming legal lot of record status
 - 3. 90-day extension, 01/11/2021
 - 4. 60-day extension, 06/23/2021
 - 5. 60-day extension, 08/17/2021
 - 6. 35-day extension, 11/09/2021

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).