



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

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Date: January 14, 2022
To: Interested Person
From: Sean Williams, 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 21-040550 RP

GENERAL INFORMATION

Applicant/Owner: Jennifer Santhouse
Portland General Electric
121 SW Salmon Street
Portland OR 97204
(503) 464-8121 | Jennifer.Santhouse@PGN.com

Site Address: 12500 NW Marina Way

Legal Description: TL 100 10.80 ACRES DEPT OF REVENUE, SECTION 34 2N 1W; TL 300 62.97 ACRES DEPT OF REVENUE, SECTION 34 2N 1W

Tax Account No.: R971340100, R971340180

State ID No.: 2N1W34 00100, 2N1W34 00300

Quarter Section: 1717,1718,1817,1818

Neighborhood: Linnton, contact Sarah Taylor at sarahsojourner@mac.com

Business District: NONE

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: NONE

Other Designations: FEMA Special Flood Hazard Area

Zoning: Base Zone: Heavy Industrial (IH) and Open Space (OS); Overlays: Prime Industrial Overlay Zone (k) and River General (g), River Natural (n) and River Water Quality (q) Greenway Overlays

Case Type: Replat (RP)

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 of record within the site. The existing lot lines will be removed or reconfigured resulting in a total of 2 parcels, which will be 25.14 (Parcel 1) and 48.73 (Parcel 2) acres in size. Existing development consists of an

electrical substation located on Parcel 1. A habitat restoration area is located within Parcel 2.

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 **33.675.300, Replat Approval Criteria.**

FACTS

Site and Vicinity: The PGE Harborton property is a 74-acre site on the western bank of the Willamette River, just south of Sauvie Island and the Multnomah Channel. The property is located at 12500 NW Marina Way, Portland, Oregon and lies just inside the Portland city limits. The site is comprised of two contiguous parcels (Tax Lots 2N1W34-100 and 2N1W34-300) that PGE purchased between 1939 and 1975. In addition, a maintenance access road, located southeast of the project Property, is located for part of its length on another parcel owned by PGE (Tax Lot 2N1W34-1000).

The Property is bounded to the northeast and northwest by the Willamette River and Multnomah Channel, respectively. Undeveloped property is located to the northwest, which is owned by Fred's Marina and is proposed as the Miller Creek NRDA restoration project. NW Marina Way borders the property to the southwest and beyond that is the Burlington Northern-Santa Fe (BNSF) rail line immediately adjacent to the road. A narrow, vegetated buffer separates the rail line from Oregon Highway 30.

The PGE substation occupies approximately 21 acres of the site within the IH zone. Open yards, access drives, a railroad spur, and manmade levees dominate the substation area. Two of several towers supporting electrical cables across the Willamette River stand along the south property line of the site. The Olympic Pipeline runs through the northern portion of the site as well. The remainder of the land consists of relatively undeveloped upland riparian forest, with forested wetlands.

Zoning: The zoning designations on the site include IH and OS base zones, with the Prime Industrial Overlay Zone (k) and Greenway River Natural (n), Greenway River General (g), and Greenway River Water Quality (q) overlay zones.

The IH zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The proposal is limited to resource enhancement and culvert replacement, and the development standards from this base zone do not apply and are not addressed in this report.

The Open Space base zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas provide opportunities for outdoor recreation, provide contrasts to the built environment, preserve scenic qualities, protect sensitive or fragile environmental areas, enhance and protect the values and functions of trees and the urban forest, preserve the capacity and water quality of the stormwater drainage system, and provide pedestrian and bicycle transportation connections. The proposal is limited resource enhancement and culvert replacement, and the development standards from this base zone do not apply and are not addressed in this report.

The purposes of the Prime Industrial overlay zone are to protect land that has been identified in the Comprehensive Plan as Prime Industrial, and to prioritize these areas for long-term retention. Prime Industrial Land is suited for traded-sector and supportive industries and possesses characteristics that are difficult to replace in the region. In Portland, Prime Industrial land consists of the Portland Harbor, Columbia Corridor, and Brooklyn Yard industrial districts. These freight-hub districts include Oregon's largest seaport, rail hub, and airport. Existing and potential multimodal freight access in these districts support interregional transport, exporting industries, and associated industrial

businesses and activities. The regulations protect these areas by preventing, or requiring an off-set for, conversion of the land to another zone or use that would reduce industrial development capacity.

The Greenway overlay zones are intended to protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers; establish criteria, standards, and procedures for the development of land, change of uses, and the intensification of uses within the greenway; and implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368 and Metro's Title 3. The purpose of this land use review is to ensure compliance with the regulations of the Greenway overlay zones.

Land Use History: City records indicate the following prior land use reviews for this site:

- **LU 71-002944:** Approval of Conditional Use review for diking and filling.
- **LU 73-002628:** Approval for the operation of gas turbine power generators for a limited term ending in 1975.
- **LU 86-005301:** Approval of Greenway Review related to stockpiling within the diked area.
- **LU 04-008697 EN GW:** Approval of an Environmental Review and a Greenway Review for a proposal to excavate a portion of the Olympic Pipeline for inspection and to install a temporary access route to the pipeline through a hardwood wetland forest. As part of this case, BDS staff required mitigation in another location at the site due to concerns that mitigation planting near the pipeline would be overcome by invasive reed canarygrass and not survive.
- **LU 04-008697 EN GW:** included conditions of approval for installation of mitigation plantings as well as for 2 years of monitoring and maintaining those plantings.
- **LU 16-239742 GW:** Approval of Greenway Review for tree removal and herbicide application associated with site preparation for habitat restoration. Included conditions for mitigation as indicated in LU 04-008697 EN GW, as well as additional planting requirements associated with this review and a two-year monitoring period.
- **LU 16-259062 GW:** Approval of Greenway Review for installation of cement deep soil mix soil stabilization, to address soil liquefaction within the substation area; construction of a new power substation within a smaller development footprint in the west corner of the current PGE Substation facility; excavation of approximately 560 cubic yards of soil from the man-made levee area; and construction of new stormwater facilities.
- **LU 18-151725 GW:** Approval of a Greenway Review for the following:
 - Excavation and construction of a new tributary stream channel, the northern tributary in Sub-Area 3, to re-establish a hydraulic connection to the Willamette River and eliminate the existing partial fish passage barrier caused by the berm along the river bank;
 - Enhancement of fish habitat and riparian habitat in and along the new northern tributary channel through installation of large in-stream habitat wood, invasive plant species control, and installation of native riparian and wetland vegetation;
 - Placement of large woody material (LWM) in wetland in Sub-Area 4 to serve as red-legged frog haul-out and basking features;
 - Placement of approximately 160,700 cubic yards of excavated soils, and upland plantings, within Sub-Area 2 to create an upland berm between the new substation area and the Willamette River, and along the southeast side of the new substation;
 - Removal and replacement of a failed culvert in Sub-Area 1, between the Willamette River and the southern tributary;

- Removal of invasive plant species found throughout the site, through minor excavation, herbicide application as described in Exhibit A.7, and invasive-vegetation removal, re-vegetation with native species, and routine maintenance;
- Enhancement of shoreline, riparian, and upland habitats through native re-vegetation plantings and maintenance;
- Enhancement of fish habitat and riparian habitat in and along the southern tributary in Sub-Area 1 through minor regrading of the streambed and banks, installation of large in-stream habitat wood and clean streambed substrate, invasive plant removal, and planting of native riparian and wetland vegetation;
- Removal of trees and vegetation depicted within the “Grubbing and Tree Removal Area” shown on Exhibit C.12 Clearing and Grubbing and Tree Removal Plan, and removal of Trees #1 through #12 as shown on Exhibit C.37;
- Ongoing monitoring, maintenance, and adaptive management of the restoration project as described in Exhibit A.1 Appendix H, Portland General Electric Harborton Restoration Project: Monitoring & Adaptive Management Plan (March 2018);

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **November 3, 2021**. No written responses have been received from the Neighborhood Association or notified property owners regarding 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 split zoned Open Space (OS) and Heavy Industrial (IH) and the replatted parcels will continue to be within both base zones, which is allowed per exception 33.675.300.A.6. Since the replatted parcels are located in two base zones, they must meet the standards of both 33.605 and 33.615. Per 33.605.100, there are no minimum lot dimensions in the Open Space zone. New lots must be of a size, shape, and orientation that is appropriate for uses that are allowed, or are limited or conditional uses, in the Open Space zone. Parcel 1, which is primarily located within the IH zone, is of a size, shape, and orientation appropriate for the existing electrical substation use. Parcel 2 is of a size, shape, and orientation appropriate for the habitat restoration site approved through LU 18-151725 GW.

In the IH zone, all but one lot must meet Standard A stated in Table 615-1 and one lot may meet Standard B. The proposed replatted parcels meet the lot dimension standards of the IH zone as shown in the following table (this information is found in Table 615-1 of the Zoning Code):

IH Zone Requirement	Standard A	Standard B	Parcel 1	Parcel 2
Minimum Lot Area	40,000 sq. ft.	10,000 sq. ft.	1,051,473 sq. ft.	2,122,717 sq. ft.
Minimum Dimension	150 ft. x 150 ft.	75 ft. x 75 ft.	≈ 870 ft. x 1,100 ft.	≈ 1,200 ft. x 1,300 ft.
Minimum Front Lot Line	35 ft.		1,797 ft.	46 ft.

As noted herein, the proposed replatted parcels meet the standards of Chapter 33.605 and 33.615 and may be in more than one base zone, per exception 33.675.300.A.6. Therefore, this criterion is 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: Parcel 1 is developed with an electrical substation and Parcel 2 is used as a habitat restoration area, per LU 18-151725 GW. Existing development will remain in conformance with the development standards of Title 33 after the replat. Therefore, this criterion is met.

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 is extensive land use history associated with this site as noted on pages 3 and 4 of this decision. Conditions of these land use approvals will continue to apply. Therefore, this criterion is met.

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 (Exhibit E.1):

This site contains a habitat restoration project and an electrical substation, neither of which appear to have connections to sanitary sewer. Therefore, BES has no concerns related to the reconfigured lots being out of conformance with sanitary sewer requirements.

According to the submitted survey, the existing substation discharges stormwater runoff to two stormwater facilities located on the northeast and southwest sides of the substation. These facilities treat stormwater runoff for pollution reduction. Both facilities are located far from the proposed new property lines and their disposal locations do not appear to conflict with the proposed new lot configuration; therefore, the property does not appear to move out of conformance with BES stormwater management requirements.

The Water Bureau has reviewed the proposal for impacts on water service (Exhibit E.3):

No concerns with the Replat review. Both taxlots/Parcels are within the Portland Water Service District but the western edge of the western taxlot is the eastern edge of the Burlington Water District.

Parcel 1 is currently served through a split service that includes a 1" meter and an 8" fire line. Additional water is available to Parcel 1 from the 8" CI water main in NW Marina Way. The static water pressure is estimated as 67 - 83 psi at 37 feet in elevation.

Water is not available to Parcel 2 however, because Parcel 2 is currently subject to a deed restriction that will not allow development in Parcel 2 and a main extension in this area would not be beneficial to the Portland Water Bureau a water main extension is not required for this Replat review.

As noted above, the replat does not eliminate the availability of services to the parcels, and the reconfigured parcels are not out of conformance with service bureau requirements for water, sanitary sewage disposal, and stormwater management. Therefore, this criterion 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 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.

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 replat 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 2016 or 2020 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 and 2016 City of Portland Fire Code
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.

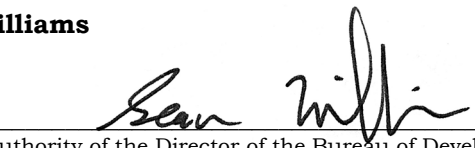
CONCLUSIONS

The applicant proposes to replat the existing historic lots of record within the site. The existing lot lines will be removed or reconfigured resulting in a total of 2 parcels, which will be 25.14 (Parcel 1) and 48.73 (Parcel 2) acres in size. As discussed above, the requested replat has been reviewed and shown to be able to meet all the requirements as laid out in Section 33.675.300.

ADMINISTRATIVE DECISION

Approval of a replat to create 2 parcels from the existing historic lots of record within the site, as illustrated by Exhibit C.1, signed and dated January 7, 2022.

Staff Planner: Sean Williams

Decision rendered by:  on January 10, 2022
By authority of the Director of the Bureau of Development Services

Decision mailed: January 14, 2022

About this Decision. This land use decision is **not a permit** for development. **THE SIGNED PARTITION PLAT MUST BE RECORDED WITH MULTNOMAH COUNTY DEED RECORDS WITHIN 90 DAYS OF THE DATE OF THIS DECISION (APRIL 14, 2022), OR THIS DECISION WILL BECOME NULL AND VOID.** Permits may be required prior to any work. Contact Permitting Services at 503-823-7357 for information about permits.

Procedural Information. The application for this land use review was submitted on April 26, 2021 and was determined to be complete on October 22, 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 April 26, 2021.

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: February 19, 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.

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.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. 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 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. Narrative
 - 2. Application Form
 - 3. Title Report
 - 4. Lot of Record Evidence
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Approved Plat (attached)
 - 2. Supplemental Survey
- 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 Plans Examiner
 - 7. Oregon Department of Transportation
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter

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).