



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: January 25, 2022
To: Interested Person
From: Clare Fuchs, Land Use Services
503-865-6423 / Clare.Fuchs@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 21-021623 RP

GENERAL INFORMATION

Applicant: Tyson Okely, Dez Development LLC
15648 SE 114th Ave, Suite #211 Clackamas OR 97015
tyson@dezdevelopment.com 503-858-3035

Owner's Agent and Owner: Rudi Pino - kingdomcapitalnw@gmail.com, 360-921-9099
7808 SE 60th LLC
10117 SE Sunnyside Road #F1123 Clackamas, OR 97015

Site Address: 7808 SE 60TH AVE

Legal Description: BLOCK 13 LOT 1&2 W 10 1/2' OF LOT 3, DARLINGTON
Tax Account No.: R197902940
State ID No.: 1S2E19DA 04600 **Quarter Section:** 3836

Neighborhood: Brentwood-Darlington, contact Stephenie Frederickson at bdlanduse@gmail.com

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

District Coalition: Southeast Uplift, contact Matchu Williams at matchu@seuplift.org

Zoning: Residential 5,000 (R5)
Overlay Zone: Alternative Design Density ("a")
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 2 existing historic lots, and 1 historic lot remnant on this site: Darlington Subdivision, Block 13, Lots 1 and 2, and the west 10.5 feet of Lot 3.

Existing lot line(s) will be removed and reconfigured resulting in a total of 2 parcels, which will be 4,507 (Parcel 1) and 2,503 (Parcel 2), square feet in size.

In order to show feasibility of providing services and other criteria, the applicant has provided a site plan showing an existing residence on Parcel 1 to remain with on-site parking accessed via a driveway on SE Lambert Street. Parcel 2 is currently vacant and does not have a conceptual development proposal. On-site parking is not required (33.266.110.B.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 site contains an existing home to remain on Parcel 1. The vast majority of the parcels in the area are zoned R5 and contain mostly single dwelling detached homes. The lots range in size from approximately 2,500 square feet to 10,000 square feet. In the area, there is a small pocket of RM1 (Residential Multi-Dwelling 1) and CM1 (Commercial Mixed Use 1) zoning due north of this project on SE 60th Avenue. Two other Single-Dwelling zones exist nearby as well. R2.5 (Residential 2,500) is located approximately 700 feet west of the site and R7 (Residential 7,000) is located approximately 380 feet south of the site. Lane Middle School is located approximately a quarter-mile to the north. Harney Park and Hazeltine Park are located approximately 0.45 of a mile to the southeast and approximately a quarter-mile to the southwest respectively.

Zoning: Residential 5,000 (R5) The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

Overlay Zoning: The purpose of the Alternative Design Density Overlay Zone (“a”) is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

Please note that this overlay zone was removed from the Zoning Code on August 1, 2021. However, this overlay zone applies to this application as it was submitted prior to that date. The code that applies to the land use review is the code in effect at the time of application.

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

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**. One written response have been received from notified property owners in response to the proposal.

- Density and Available Services: Oregon Revised Statue 92.017 requires the City to recognize all platted lots, regardless of whether they meet today’s Zoning Code. This includes recognizing existing platted lots that cause the site to exceed the number of lots allowed in land division under the current Zoning Code. All service providers that are applicable to the Replat approval criteria have stated that they can serve the additional lot. See findings below.
- On-street Parking and Safety: The Replat approval criteria do not include transportation impacts, however the following information is provided in response to

the comment. A garage is proposed for the new home in for building permit review for proposed Parcel 2 (21-033297-RS), though on-site parking is no longer required for household living uses in single dwelling zones per Zoning Code section [33.266.110.B](#). City Council made a clear statement regarding vehicle parking by passing zoning regulations which do not require off-street parking for any household living use in any single dwelling zoned property. This policy de-emphasized accommodations for vehicles and establishes a position of tolerance for on-street parking impacts that result from infill development. Zoning which encourages infill development and increases in density is expected to create added impacts to on street parking.

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 Parcel 1 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	Parcel 2
Minimum Lot Area	3,000 square feet	4,047 square feet	2,503 square feet
Maximum Lot Area	8,500 square feet		
Minimum Lot Width*	36 feet	62.50 feet	37.5 feet
Minimum Front Lot Line	30 feet	62.50 feet	37.5 feet
Minimum Lot Depth	50 feet	65.50 feet	65.50 feet

* Width is measured at the minimum front building setback line

As noted above, the proposed Parcel 1 meets the standards of Chapter 33.610. As noted herein, Lot 2 from Darlington Subdivision, Block 13, is 2,500 square feet, so Parcel 2 was platted at 2,503 square feet per the exception allowed above in 33.675.300.A.1.a. The two proposed parcels exceed maximum density for the site, however the replat will not move the site further out of conformance with maximum density because the site currently consists of two lots and a lot remnant and the replat will result in two parcels.

The proposed internal lot line jog is necessary to meet setbacks for the existing house while maintaining enough square footage for the lot. The applicant has already demolished a

garage, an attached porch, and a trellis/overhang on the existing house to meet setbacks. The jog in the proposed internal parcel line represents 4.5% departure from a straight parcel line, which would be allowed in a property line adjustment. Property line adjustments in R5 zones are allowed to be 20% longer or shorter than an existing straight lot line per 33.677.300.B. As the historic straight lot lines are being reconfigured with this Replat, it is consistent to use the same metric when adjusting the property lines in this project. The applicant has demonstrated that the proposed internal parcel line is as straight as practical. 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, the has the existing house to remain, obtained a finaled permit to remove a detached garage and porch that was partially on proposed Parcel 2 as well as a trellis/overhang on the south side of the existing house to meet setbacks. Parcel 1 also obtained a finaled zoning permit to create a concrete driveway and standard parking pad for the existing house out onto SE Lambert Street. The concrete approach and driveway on Parcel 2 will be resolved with the new residential building permit in for review. There is no other development on Parcel 2 besides the concrete approach and driveway. There are no trees on Parcel 2, so Parcel 1 will not be going further out of conformance with tree density. 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 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 (BES) has reviewed the proposal for impacts on sanitary sewer and stormwater management services (Exhibit E1).

Approval of this application does not alter BES requirements as identified under building permit application #21-033297-RS, which is currently under review.

Sewer: The existing sewer lateral for the existing house connects to the main in SE Lambert Street and does not appear to conflict with the replatted parcel lines. There is no sewer service in SE 60th Avenue, but BES has approved a 10-foot wide easement across the east property line of Parcel 1, to benefit Parcel 2. The future easement area has been shown on the plat, as well as a maintenance agreement has been signed, notarized, and provided to be recorded with the plat.

Stormwater:

The downspouts for the existing house on Parcel 1 have been retrofitted so they don't appear to conflict with the replatted parcel lines.

Water:

The Water Bureau has reviewed the proposal for impacts on water service (Exhibit E3). Parcel 1 can continue to use its existing water lateral. The new house can take service from a 6" main in SE 60th Avenue.

The Site Development Section of BDS has reviewed the proposal for impacts on site sewage disposal (septic systems) (Exhibit E5). Site Development indicates they have no concerns.

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
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 applicant must meet the requirements of the Fire Bureau in regards to ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant proposes to replat historic lots Darlington Subdivision, Block 13, Lots 1 and 2, and the west 10.5 feet of Lot 3 into 2 parcels. No City Bureaus raised objection to the proposal.

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 of historic Darlington Subdivision, Block 13, Lots 1 and 2, and the west 10.5 feet of Lot 3, as illustrated by Exhibits C1 and C2, signed and dated January 21, 2022, subject to the following conditions:

A. The following conditions are applicable to site preparation and the development of individual lots:

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal.
2. The applicant must meet the Fire Bureau requirements for aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Decision rendered by:  on January 19, 2022

By authority of the Director of the Bureau of Development Services

Decision mailed January 25, 2022

Staff Planner: Clare L. Fuchs

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 26, 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 March 4, 2021, and was determined to be complete on August 31, 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 March 4, 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 requested that the 120-day review period be extended 60 days, to February 27, 2022, as stated with Exhibit A6.

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.

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. Narrative
 - 2. Deed History
 - 3. Downspout Retrofit Photos
 - 4. Site Plan
 - 5. Existing Conditions Plan
 - 6. 120 Day Extension
 - 7. Private Sanitary Sewer Maintenance Agreement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Approved Plat (attached)
 - 2. Site Plan
- 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 Section of BDS
- F. Correspondence:
 - 1. Scott Tienken, 11-10-21 and 12-2-21, Opposed to Project
- G. Other:
 - 1. Original LU Application

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).
