



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

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Date: March 17, 2022
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 21-100735 RP

GENERAL INFORMATION

Applicant/Agent: Stephen Smiley | *Corbett Garage Condominium Association & Corbett Garage Partners, LLC*
4412 S Corbett Ave | Portland, OR 97210
smiley@psearchs.com | (503) 720-5055

Owners: Ron Petti
145 Dublin Ct | Petaluma, CA 94952-7521

Hans Ettlin
12357 Hampton Dr | Oregon City, OR 97045

Susan Strom
4408 S Corbett Ave | Portland, OR 97239

Walter Scott Currie & Elizabeth Dexter | *Currie/Dexter Family Trust*
3620 SE Henderson St | Portland, OR 97202

Site Address: 231 S Hamilton St. & 4412 S Corbett Ave

Legal Description: BLOCK 2 LOT 2&3 TL 6500, PORTLAND HMSTD; GENERAL COMMON ELEMENTS, CORBETT GARAGE CONDOMINIUM

Tax Account No.: R669100430, R178050010
State ID No.: 1S1E10CD 06500, 1S1E10CD 80000
Quarter Section: 3429

Neighborhood: South Portland NA., contact at board@southportlandna.org
Business District: South Portland Business Association, contact info@southportlanddba.com.

District Coalition: Office of Community & Civic Life, contact Leah Fisher at leah.fisher@portlandoregon.gov

Plan District: NONE

Zoning: CM2 (Commercial/Mixed Use 2)

Case Type: RP (Replat)

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

Proposal:

The applicant is proposing a Replat between the property addressed 231 S Hamilton St and the property abutting its northwestern lot line at 4412 S Corbett Ave. No new development is proposed, the existing structures will remain on each lot. The replat will transfer approximately 1,908 square feet of site area from the property addressed 231 S Hamilton St. (Parcel 2) to the property addressed 4412 S Corbett Ave (Parcel 1).

The replat will result in Parcel 2 being reduced to 5,742 square feet in area while Parcel 1 will grow to 10,413 square feet in area. The replat is necessary since the site currently has historically platted lots underlying the site (Portland Homestead Addition, Block 2, Lot 3 and portion of Lot 2) which must be consolidated as part of the re-plat review in order to transfer property between each lot.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- **Zoning Code section 33.675.300 Replat Standards**

ANALYSIS

Site and Vicinity: The site is in South Portland, on the east slope of the West Hills. It is located between I-5 and SW Barbur Blvd, about a mile south of the City core. Zoning in the area within about 400 feet of the subject site is all zoned CM2, Commercial Mixed Use. Actual development within the vicinity is quite varied, with a significant household living presence, combined with commercial and office uses.

Zoning: CM2. The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed-use areas that have frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas

Land Use History: City records indicate at least one prior land use review at 4412 S Corbett Ave site.

- LU 00-007008 (LUR 00-00453) AD: Approval of an Adjustment to decrease to the minimum transit street setback. The review also included an Adjustment Request to the reduce the required vehicle parking spaces that was denied by staff and appealed by the applicant; the denial was overturned by the Adjustment Committee and approved with conditions. The conditions of approval are not relevant to this review.

There is an additional review referenced, VZ 66-88. Any conditions of the review no longer apply, since Per 33.700.110.A, conditions of approval from land use reviews prior to 1981 no longer apply to except for land division and PUD decisions.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **December 17, 2021**. The following Bureaus responded; no issues or concerns about the proposal were identified. See the 'E' Exhibits for the complete responses:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Life Safety Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **December 17, 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

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 CM2 zone, so the replatted lots must meet the standards in Chapter 33.613 or one of the noted exceptions, above.

The proposed site is in the CM2 zone. In Commercial/Mixed Use zones there is a minimum front lot line standard of 10 feet (33.613.100). Each of the proposed parcels have a front lot line that meets this standard. There are no minimum lot area, width or depth standards. Lots must be of a size, shape, and orientation that is appropriate for the location and for the type of development and use that is contemplated (33.613.200). There is no additional development proposed on the consolidated lot at this time. The lots are of a sufficient size to accommodate a variety of commercial/mixed uses and development.

As such, and as noted herein, the proposed replatted lots meet the standards of Chapter 33.613. None of the exceptions are applicable. 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: As previously noted, there are no changes to existing development proposed and the proposed replat does not take the existing development out of conformance or further out of conformance with the development standards of 33.130, including minimum setbacks, height, building coverage, and maximum FAR. The minimum density of the combined site increases from 10 units to 11 units. Only one development standard will move further out of conformance with as a result of this request: Tree Density for 4412 S Corbett Ave. The applicant has paid the fee in lieu of planting to address this issue and come into conformance with the Tree Density Standard of 11.50.050.

Therefore, this approval 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: As noted above, there is one land use review for 4412 S Corbett Ave with conditions that continue to apply, LU 00-007008 AD (Exhibit G.4). Those conditions are as follows:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the four (4) required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File #LUR 00-00453AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Implement a Transportation Plan that includes the following:
- Provide subsidized transit passes to all employees.
 - Provide two bicycles for employees to use in attending meetings in downtown Portland and other points close to the office.
 - Provide a fleet of six hybrid electric or other alternative fuel vehicles.
 - Provide a changing area and a shower facility on-site for use by bicycle and pedestrian commuters.
 - Encourage involvement by the employees in transportation issues and awareness of an alternative transportation program.
 - By example the principals of the firm and management will utilize public transportation, hybrid electric vehicles (or other alternative fuel vehicles) and other aspects of the transportation plan.
 - Attendant will be available to assist visitors and staff with their parking needs.

The first condition is directed at the renovation of the existing building that occurred in 2000 and is no longer applicable. The second condition is not affected or impacted by the proposed replat. 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: As noted above, multiple review groups reviewed the proposal, including the Bureau of Environmental Services, the Water Bureau, and the Site Development Review Section of BDS. None identified impacts on services as a result of the proposal (Exhibits E.1 – E.6).

Therefore, this criterion is met.

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 portions of historic Portland Homestead, Block 2, Lots 2 and 3. 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 portions of historic Portland Homestead, Block 2, Lots 2 and 3, as illustrated by Exhibit C.1, signed and dated March 14, 2022.

Decision rendered by:  on March 14, 2022
By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) March 17, 2022

Staff Planner: Timothy Novak

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 (MARCH 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 October 27, 2021, and was determined to be complete on December 13, 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 October 27, 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: April 12, 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. 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 land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City’s approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Original submittals
 - a. Plat Survey and Supplemental Survey
 - b. Title Report and Deed History
 - 2. Submittals, Dec. 14, 2021
 - a. Plat Survey and Supplemental Survey
 - b. Narrative
 - c. Deeds for 4412 S Corbett Ave
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Signed Mylars (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 LUR application
 - 2. Incomplete Letter
 - 3. Member Info for Corbett Garage Condominiums, LLC
 - 4. Decision for LU 00-007008 AD

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).