



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

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Date: June 6, 2022
To: Interested Person
From: Diane Hale, 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 20-214835 RP

GENERAL INFORMATION

Applicant/Owner: Jordan Winkler, Winkler Development Corporation Db a Gabriel 45, LLC
210 SW Morrison St #600 / Portland, OR 97204 / (503) 225-0701

Owner: Plaza Properties LLC / 4915 SW Griffith Dr #300 / Beaverton OR, 97005

Surveyor: Chase Jones & Associates Inc / 716 SE 11th Ave / Portland OR 97214

Site Address: 4510-4522 SW VERMONT ST, 6737 SW 45TH AVE, 6825 SW 45TH AVE

Legal Description: BELLA VISTA, BLOCK 2, LOT 2&3 EXC PT IN ST, LOT 4 EXC PT IN ST, LOT 5 EXC PT IN ST; PARTITION PLAT 2017-72, LOT 1; PARTITION PLAT 2017-71, LOT 1; BELLA VISTA, BLOCK 1, LOT 9 EXC N 11' & EXC PT IN ST; BELLA VISTA, BLOCK 1, LOT 1 EXC PT IN ST, LOT 2&3, N 11' OF LOT 8&9

Tax Account No.: R064300080, R06430010, R064300110, R649682850, R649682810
State ID No.: 1S1E19AA 100, 1S1E19AA 300, 1S1E19AA 302, 1S1E19AA 00402, & 1S1E19AA 00400

Quarter Section: 3724
Neighborhood: Maplewood, contact Claire Carder at board@maplewoodna.org
Business District: None
District Coalition: In care of Office of Community and Civic Life, contact Leah Fisher at leah.fisher@portlandoregon.gov

Plan District: None
Zoning: CM1 – Commercial/Mixed Use 1; RM2 – Residential Multi-Dwelling 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 proposes to replat the existing historic lots within the site into two parcels; Parcel 1 will be 48,902 sq feet, and Parcel 2 will be 15,876 sq feet (see Exhibit C.1). The existing lot lines will be removed or reconfigured. No new development is proposed with this land use review. The applicant is proposing new development (121 multi-family units known as “The Gabriel”) for Parcel 1 that is being reviewed through the standard City of Portland permit review process (permit # 21-022267 CO). There is no proposal at this time to alter/demolish or otherwise change the existing development on Parcel 2.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are **Section 33.675.300, Replat Approval Criteria.**

FACTS

Site and Vicinity: The site is comprised of two properties; the northern property is a 15,876 sq foot corner lot developed with commercial uses. The southern property extends to SW California St, is 48,902 sq feet, and contained two single family detached homes that have recently been removed. Gabriel Park and the SW Community Center are located across the street from the site to the east.

Zoning:

- Commercial/Mixed Use 1 – The CM1 zone is a small-scale zone intended for sites in dispersed mixed-use nodes within lower density residential areas, as well as on neighborhood corridors and at the edges of neighborhood centers, town centers and regional centers. The zone is also appropriate in core commercial areas of centers in locations where older commercial storefront buildings of 1 to 2 stories are predominant. This zone allows a mix of commercial and residential uses. The size of commercial uses is limited to minimize impacts on surrounding residential areas. Development is intended to be pedestrian-oriented and compatible with the scale and characteristics of adjacent residentially zoned areas or low-rise commercial areas. The maximum FAR allowed is 1.5:1.
- Residential Multi-Dwelling 2 – The RM2 zone is a medium-scale multi-dwelling zone that allows multi-dwelling residential development up to a maximum FAR of 1.5 to 1 and requires a minimum density of 1 unit per 1,450 square feet of site area.

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

- **LU 20-164787 AD:** Approval of two Adjustments to increase the maximum building height from 45 feet to 47.5 feet and reduce the minimum parking space width from 8.5 feet to 7 feet 11 inches for up to 75 of the 112 spaces.
- **LU 16-213788 LC:** Approval of a Lot Consolidation to create one parcel of historic lot 6 and part of historic lot 1 of Block 2, Bella Vista.

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 **May 17, 2021**. No written responses have been received in response to the proposal.

ZONING CODE APPROVAL CRITERIA**REPLAT****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. Parcel 1 is located in the RM2 zone, and Parcel 2 is located in the CM1 zone. The replatted parcels must meet the standards in Chapter 33. 612 (RM2) and 33.613 (CM1) or one of the noted exceptions, above. The proposed replatted parcels meet the lot dimension standards of the RM2 and CM1 zones as shown in the tables below. In the CM1 zone, lots must have a 10-foot front lot line, and also 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 Parcel 2 at this time. The lot is of a sufficient size to accommodate a variety of commercial/mixed uses and development.

	RM2 Zone Requirement (Multi-dwelling structure)	Parcel 1
Minimum Lot Area (square feet)	10,000	48,902
Maximum Lot Area (square feet)	NA	
Minimum Lot Width (feet)	70	153.8
Minimum Front Lot Line (feet)	70	153.8
Minimum Lot Depth (feet)	70	423

	CM1 Zone Requirement	Parcel 2
Minimum Lot Area (square feet)	NA	15,876
Maximum Lot Area (square feet)	NA	
Minimum Lot Width (feet)	NA	105
Minimum Front Lot Line (feet)	10	85.31
Minimum Lot Depth (feet)	NA	153.8

Parcel 1 is vacant, therefore will not move out of conformance with minimum density standards, which are applied at the time of development in the RM2 zone. There is no minimum density standard in the CM1 zone, and there are no maximum density standards in either the RM2 or CM1 zone, therefore the proposed parcels are in conformance with all density standards.

As noted herein, the proposed replatted parcels meet the standards of Chapters 33.612 and 33.613. None of the exceptions are applicable. Therefore, this criterion is met.

DH – I realized after I got this whole section above written that I don't really need to address density stuff here for this proposal because the density standards are in the base zones for these zones (therefore should really go under dev standards, I guess).

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 currently vacant, therefore the replat will not cause existing development to move out of conformance with standards of this title. Parcel 2 is developed with a commercial building containing retail sales and service uses. The existing southern lot line of 4510-4522 SW Vermont is not recognized by the City as a legal lot boundary; the replat will legalize this boundary. The existing development was permitted on the site with this boundary (04-001221 CO), therefore, the replat will not cause the existing development on Parcel 2 to move out of or further out of conformance with standards in Title 33. 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: The replat review will not preclude Parcels 1 and 2 from meeting the conditions of approval of previous land use reviews listed above. 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). The existing houses and other structures on Parcel 1 have been demolished and the existing septic systems have been decommissioned. Therefore Parcel 1 is not out of conformance with BES sewer and stormwater management standards. According to historic plumbing records, the existing building to remain on Parcel 2 is connected to the sanitary-only sewer in SW Vermont Street within the frontage of proposed Parcel 2. The applicant provided a video demonstrating that stormwater runoff from the existing building to remain on Parcel 2 discharges to weepholes in the curb on SW Vermont Street. Therefore, Parcel 2 is not out of conformance with BES sewer and stormwater management requirements.

The **Water Bureau** has reviewed the proposal for impacts on water service (Exhibit E.3). The existing structure on Parcel 2 can continue to use the existing services connected to the 8" CI main in SW 45th Ave and the existing 8" CI main in SW Vermont Street. Water is available to serve Parcel 1 from the 8" DI water main in SW California St and the 8" CI main in SW 45th Avenue.

The **Site Development Section of BDS** has reviewed the proposal for impacts to on-site sewage disposal (septic systems) (Exhibit E.5) and finds that the replat will not cause the site to move out of conformance with standards. The applicant decommissioned the existing historic cesspools on Parcel 1 under permits 21-109048 RS and 21-109063 RS.

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

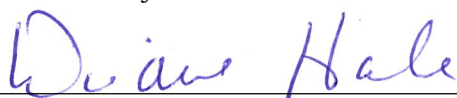
CONCLUSIONS

The applicant proposes to replat Partition Plat No 2017-071, Partition Plat No 2017-072, a portion of vacated SW Florida Street, and a portion of lots 1, 2, 3, 8 and 9 of Block 1, Bella Vista. 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 Partition Plat No 2017-071, Partition Plat No 2017-072, a portion of vacated SW Florida Street, and a portion of lots 1, 2, 3, 8 and 9 of Block 1, Bella Vista, as illustrated by Exhibit C.1.

Decision rendered by:  **on June 1, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed June 6, 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 (August 29, 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 November 13, 2020, and was determined to be complete on May 4, 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 November 13, 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 waived the 120-day period (Exhibit A.8).

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 this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee is required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 Submittal
 - 2. Applicant's Submittal, January 6, 2021
 - 3. Applicant's Submittal, May 4, 2021
 - 4. Applicant's Submittal, October 7, 2021
 - 5. Applicant's Submittal, April 15, 2022
 - 6. Title reports
 - 7. Extension Form
 - 8. Timeline Waiver Request
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Partition Plat (attached)
 - 2. Existing Conditions Plan
 - 3. Recorded Plat maps
- 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: None
- G. Other:
 - 1. Original Land Use 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).