



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: October 17, 2022
To: Interested Person
From: Diliana Vassileva, Land Use Services
503-823-8969 / Diliana.Vassileva@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 22-149135 RP

GENERAL INFORMATION

Applicant: Paul Roeger
CMT Surveying & Consulting
20330 SE Hwy 212
Damascus, OR 97089
503.860.2545
paul@cmtsc.net

Owner/Agent: Greg Cochell, Greenwood Homes
181 N Grant St, Suite 203
Canby, OR 97013

Surveyor: David Roeger
CMT Surveying & Consulting
20330 SE Hwy 212
Damascus, OR 97089

Site Address: 2620 N TERRY ST

Legal Description: BLOCK 1 LOT 35-37, PENINSULAR ADD
Tax Account No.: R655100350
State ID No.: 1N1E09CD 04500
Quarter Section: 2227

Neighborhood: Kenton, contact at knalanduse@gmail.com
Business District: None
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District: None

Zoning: R5, Residential 5,000

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 to replat three historically platted lots (PENINSULAR ADDITION, BLOCK 1, LOTS 35-37). The existing lot lines will be removed or reconfigured resulting in a total of two parcels. Parcel 1 will be approximately 3,700 square feet in area and will contain the existing residence. Parcel 2 will be approximately 3,800 square feet in area.

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 subject site is approximately 7,500 square feet in area and is comprised of three historically platted lots.

The property is developed with a single-dwelling residence and a small shed. The site previously had vehicular access via a driveway from N Terry Street leading to a detached garage, however, the detached garage has been demolished and the curb cut providing driveway access has been closed off. There are several mature trees on the subject property.

Surrounding properties are zoned R5 and R2.5 and are primarily developed with single-dwelling detached residences. South of the site, near N Lombard Street, properties have Residential Multi-Dwelling and Commercial/Mixed-Use zoning. Kenton Park is less than a quarter-mile northeast of the subject site, and Peninsula Elementary School is approximately a half-mile to the northwest.

Zoning:

R5, Residential 5,000: 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.

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: Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 23, 2022**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA**REPLAT****33.675.300 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 lot(s) must meet the standards in Chapter 33.610 or one of the noted exceptions, above.

The proposed replatted lot(s) meet the lot dimension standards of the R5 zone as shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	R5 Zone Requirement	Parcel 1	Parcel 2
Minimum Lot Area (square feet)	3,000	3,700	3,800
Maximum Lot Area (square feet)	8,500		

Minimum Lot Width* (feet)	36	37	38
Minimum Front Lot Line (feet)	30	37	38
Minimum Lot Depth (feet)	50	100	100

* Width is measured at the minimum front building setback line

Both the minimum density and the maximum density for the site is one unit. When minimum and maximum density result in the same number of units, the minimum density is automatically reduced by one, thus the minimum density for the subject site is zero units. The two proposed parcels exceed the maximum density, however, the property currently consists of three platted lots and the replat will result in only two lots. Therefore, the replat is bringing the site closer to conformance with maximum density requirements and does not need to comply with the maximum density requirements in accordance with the exception in 33.675.300.A.1.3 above.

As noted herein, the proposed replatted lot(s) meet the standards of Chapter 33.610, and the proposed density complies with exception 33.675.300.A.1.3 above. 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: An existing house will remain on Parcel 1 and compliance with development standards of Title 33 will be maintained.

The existing driveway and detached garage would have straddled the replatted property line between Parcels 1 and 2, however, the detached garage has been demolished and the curb cut was closed under PBOT Minor Improvement Permit 22-164268 TM, which has received final inspection approval. The detached garage was less than 200 SF in size and a demolition permit wasn't required to remove it. The applicant has submitted pictures of the property demonstrating that the garage has been removed.

The existing development will continue to maintain compliance with development standards of Title 33.

A permit for a new single-dwelling residence on proposed Parcel 2 has been submitted (22-162808 RS), however, this permit is currently under review and could not be issued until approval of this replat application and the recording of the replat.

C. Conditions of land division approvals. The replat must meet one of the following:

1. All conditions of previous land division approvals continue to be met or remain in effect; or
2. The conditions of approval no longer apply to the site, or to development on the site, if the lots are reconfigured.

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

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

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

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

Findings: The Bureau of Environmental Services has reviewed the proposal for impacts on sanitary sewer and stormwater management services (Exhibit E.1). There is a public 12-inch concrete (CSP) combined sewer in N Terry St. (BES as-built #1667). According to City records and the submitted survey, the existing home on proposed Parcel 1 is currently connected to combined sewer in N Terry St. via a lateral located approximately 105 feet west from the maintenance hole (asset ID AAH526) in N Terry St. This places the lateral within the frontage of Parcel 1 and this location does not appear to conflict with the replatted property lines; therefore, the property does not move out of conformance with BES requirements for sanitary service.

According to the submitted survey and photos, the existing home on proposed Parcel 1 discharges stormwater to splashblocks that appear to meet setbacks from the proposed new property line. As the location of the downspouts do not appear to conflict with the replatted property lines, the property does not move out of conformance with BES stormwater management requirements.

The Water Bureau has reviewed the proposal for impacts on water service (Exhibit E.3). The existing house in Parcel 1 may continue to use the existing service. Water is available to Parcel 2 from the 8" main in N Terry St. The Portland Water Bureau has identified no concerns with the proposed replat.

The Site Development Section of BDS has reviewed the proposal for impacts on-site sewage disposal (septic systems) (Exhibit E.5), and identified no concerns with the proposed replat.

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 Hazard, Clearing and Grading Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way OAR 340-071 and OAR 340-073 – Onsite Wastewater Treatment Systems
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 – Fire Regulations 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 may be included in the Administrative Decision on this proposal.

CONCLUSIONS

The applicant proposes to replat historic lots Peninsular Addition, Block 1, Lots 35-37 into three 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 three parcels of historic Peninsular Addition, Block 1, Lots 35-37, as illustrated by Exhibit C.1, signed and dated October 12, 2022.

Decision rendered by:  on October 12, 2022.
By authority of the Director of the Bureau of Development Services

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

Staff Planner: Diliana Vassileva

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 (BY JANUARY 15, 2023), 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 June 2, 2022, and was determined to be complete on August 9, 2022.

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 June 2, 2022.

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.

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 only digital copies of material are available. Additional information about the City of Portland and city bureaus is available at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available <https://www.portland.gov/code/33>.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original Submittal, June 2, 2022
 - 2. Applicant's Submittal, August 9, 2022
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Approved Plat (attached)
 - 2. Existing Conditions 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. BDS Life Safety
- 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).