



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

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Date: December 23, 2022
To: Interested Person
From: Erik Forsell, 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 22-165353 RP

GENERAL INFORMATION

Applicant: Emily Sandy, Strata Land Use Planning
PO Box 90833
Portland, OR 97290
emily@stratalanduse.com
503-317-3548

Owner/Agent: Peter Kharitonenko
4934 Ogden LLC
1419 Broadway St
Vancouver, WA 98663

Site Address: 4934 SE OGDEN ST
Legal Description: BLOCK 8 LOT 1&2 LOT 3, ERROL HTS
Tax Account No.: R255301120
State ID No.: 1S2E19BD 14500
Quarter Section: 3735

Neighborhood: Brentwood-Darlington, contact 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

Plan District: None

Zoning: Single Dwelling Zone; R2.5

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 lots described as Errol Heights Subdivision, Block 8, Lots 1, 2, and 3 by eliminating the existing lot lines and reconfiguring the property lines into two new discrete parcels. Parcel 1 and Parcel 2 are proposed to be each 3,750 square feet in area. As part of the replat proposal, the applicant will demolish all existing development on the subject property.

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 property is located at 4934 SE Ogden Street at the corner of SE Ogden and SE 50th Avenue. The property previously contained an existing home and detached garage that were approved for demolition. The site is relatively flat and contains two mature trees on the westernmost portion of the site; the trees' Diameter at Breast Height (DBH) is approximately 15 to 16 inches and 9 to 12 inches.

The surrounding vicinity is primarily residential in character and is comprised of a mixture of lower density housing types.

Zoning: Single Dwelling Zone; R2.5

Land Use History: City records indicate there are no relevant 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 **August 15, 2022**. No written responses have been received from 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 R2.5 zone, so the replatted lot(s) must meet the standards in Chapter 33.611 or one of the noted exceptions, above.

The proposed replatted lots meet the lot dimension standards of the R2.5 zone as shown in the following table (this information is found in Table 611-2 of the Zoning Code):

	R2.5 Zone Requirement	Parcel 1	Parcel 2
Minimum Lot Area (square feet)	1,500	3,750	3,750
Maximum Lot Area (square feet)	N/A		
Minimum Lot Width* (feet)	36	37.5	37.5
Minimum Front Lot Line (feet)	30	37.5	37.5
Minimum Lot Depth (feet)	40	100	100

* Width is measured at the minimum front building setback line

The proposed replat complies with the standards for minimum density (2 lots) and maximum density (3 lots). The new proposed replat line is a straight and regular lot line.

As noted herein, the proposed replatted lot(s) meet the standards of Chapter 33.611. 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: The subject property has an inspected and finaled demolition permit for all structures on the property (City Permit Nos. 22-170192-RS and 22-170196-RS). Therefore, the development standards are not applicable to this replat proposal.

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 relevant 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 E.1). BES staff did not recommend any conditions of approval nor have any objections to the proposed development. Detailed information related to requirements and standards for future development is included in the response.

The Water Bureau has reviewed the proposal for impacts on water service. Water Bureau staff have no objections to the proposed replat and have not requested any conditions of approval.

The Site Development Section of BDS has reviewed the proposal for impacts onsite sewage disposal (septic systems) and has no objections to the replat nor have they requested conditions of approval.

The Life Safety Section of BDS has reviewed the proposal and required that 22-170192-RS and 22-170196-RS for the demolition of the existing structures on the property must be completed and finaled prior to the approval of the replat. The applicant has obtained finaled demolition permits for the existing structures on the subject site so these requirements have been 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 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.

The Life Safety Section of BDS has reviewed the proposal and required that 22-170192-RS and 22-170196-RS for the demolition of the existing structures on the property must be completed and finalized prior to the approval of the replat. Those requirements have been met.

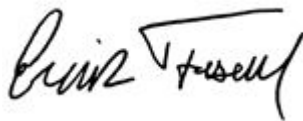
CONCLUSIONS

The applicant proposes to replat historic lots Errol Heights Subdivision, Block 8, Lots 1, 2, and 3 into two new reconfigured 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 two parcels of historic Errol Heights Subdivision, Block 8, Lots 1, 2, and 3 as illustrated by Exhibit C.1, signed and dated DECEMBER 19, 2022.



Decision rendered by: _____ **on DECEMBER 19, 2022**

By authority of the Director of the Bureau of Development Services

Decision mailed: DECEMBER 23, 2022

Staff Planner: Erik Forsell, AICP

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 19, 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 July 21, 2022, and was determined to be complete on August 11, 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 July 21, 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 requested that the 120-day review period be extended three times, for a total of 102 days, Exhibit A.3

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>.

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. Applicant's Narrative
 - 2. Applicant's Supporting Materials
 - 3. Timeline Extension Forms
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Approved Plat
- 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. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original Land Use Application

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).