



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

Carmen Rubio, Commissioner  
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[www.portland.gov/bds](http://www.portland.gov/bds)

**Date:** March 21, 2023  
**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 22-211740 RP**

#### **GENERAL INFORMATION**

**Contact Person:** Danelle Isenhart  
Isenhart Consulting LLC  
Po Box 2364  
Beaverton, OR 97075  
(503)-880-4979  
[danelle@isenhartconsulting.com](mailto:danelle@isenhartconsulting.com)

**Owner/Applicants:** James & Carri Arnal  
3104 NE Us Grant Pl  
Portland, OR 97212  
(503)-351-3000  
[jim@pdxhomes.com](mailto:jim@pdxhomes.com)

**Party of Interest:** Jeff Buehler  
6855 SW Canyon Dr  
Portland, OR 97225  
[Jbuehler7@gmail.com](mailto:Jbuehler7@gmail.com)

**Site Address:** 3104 NE US GRANT PL AND 2120 NE 30<sup>TH</sup> AVE

**Legal Description:** BLOCK 10 INC PT OF VAC ST S 50' OF LOT 1 S 50' OF LOT 2, S 50' OF W 46' OF LOT 3, DOLPH PK; BLOCK 10 E 2.5' OF LOT 3 LOT 4, W 14' OF LOT 5, DOLPH PK

**Tax Account No.:** R212502810, R212502930  
**State ID No.:** 1N1E25CA 18500, 1N1E25CA 18300  
**Quarter Section:** 2833

**Neighborhood:** Grant Park, contact Neon Brooks at [neonbluebrooks@gmail.com](mailto:neonbluebrooks@gmail.com)  
**Business District:** Soul District Business Association, contact at [Info@nnebaportland.org](mailto:Info@nnebaportland.org)  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at [alisons@cnncoalition.org](mailto:alisons@cnncoalition.org)

**Zoning:** R5 – Single Dwelling Zone  
**Case Type:** RP – Replat  
**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

The applicant proposes to replat the existing adjusted lot and lot remnants within the site. The existing lot lines will be removed and reconfigured resulting in a total of two parcels, one of which will be 4,503 sq/ft (Parcel 1) and the other 11,893 sq/ft (Parcel 2).

An existing structure currently on Parcel 1 is proposed for removal; however, it will have no impact on compliance with the development standards for structures in the single dwelling zone.

**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 surrounding vicinity is low-density residential in character with surrounding use consisting predominately of single-family dwellings. Grant High school is approximately ¼ mile east from the subject site.

The site is relatively flat and contains an existing single-family dwelling on each respective tax lot. There are several accessory structures on 3104 NE US Grant Place which are proposed to remain.

**Zoning:** R5 – Single Dwelling Zone.

**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 **January 24, 2023**. 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. Maximum density. If the replat does not move the site further out of conformance with maximum density requirements, the replat does not have to meet maximum density requirements;
3. 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;
4. 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;
5. 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. One of the proposed replatted lots meet the lot dimension standards of the R5 zone as shown in the following table whereas the other lot meets one of the exceptions listed above (this information is found in Table 610-2 of the Zoning Code):

|                                | <b>R5 Zone Requirement</b> | <b>Parcel 1</b> | <b>Parcel 2</b> |
|--------------------------------|----------------------------|-----------------|-----------------|
| Minimum Lot Area (square feet) | 3,000                      | 4,503           | 11,893          |
| Maximum Lot Area (square feet) | 8,500                      |                 |                 |
| Minimum Lot Width* (feet)      | 36                         | 50              | 65              |
| Minimum Front Lot Line (feet)  | 30                         | 50              | 65              |
| Minimum Lot Depth (feet)       | 50                         | 90.17           | 144.67          |

\* Width is measured at the minimum front building setback line

The following findings are related to specific applicable portions of 33.605:

- The minimum density for the subject site is 2.62 or 2 lots per 33.610.100.E.1, the maximum density is 3.27 or 3 lots; therefore, the replat will remain within the range of required density standards.

Future Parcel 2 exceeds the maximum lot area for the zone. However, per 33.675.330.A.1.b, one of the existing lots (the adjusted lot containing 3104 NE US Grant Pl) was already over the maximum lot size and therefore is allowed to exceed the maximum lot area standards of the R5 zone after the replat.

- The lot lines in this replat are perpendicular to the street and the replatted lines are internal to the site (back and sideyards). This does not alter the appearance and interface with the public streets and adjusts only internal lot lines to the site and does not alter the surrounding vicinity's development pattern.

The replat is largely consistent with the regular lot line standards and will not create a confusing or irregular lot layout in the area.

As noted herein, the proposed replatted lot(s) meet the standards of Chapter 33.610 and exceptions when they apply as mentioned above.

**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:** Parcels 1 and 2 contain existing dwellings and associated accessory structures. The development on each future parcel will either remain in conformance with the development standards or not move further out of conformance with the development standards of the R5 zone.

**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 following findings below are a summary from each reviewing bureau with the detailed responses found in Exhibit E.

Bureau of Environmental Services (Exhibit E.1): Any future proposed development will be subject to standards and requirements. No objection or conditions of approval.

Bureau of Transportation (Exhibit E.2): PBOT has performed a review of the replat document, submitted January 23, 2023. PBOT has no issues with the submitted plat document. The applicant is approved to proceed to mylars following Multnomah County's review.

Water Bureau (Exhibit E.3): No objections or proposed conditions of approval.

Site Development Section of Bureau of Development Services (Exhibit E.4): No objections or proposed conditions of approval.

Life Safety Section of Bureau of Development Services (Exhibit E.5): No objections or proposed conditions of approval.

## **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<br><a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>                 | Title 24 – Building Code, Flood Hazard, Clearing and Grading<br>Title 10 – Erosion Control, Site Development<br>Administrative Rules for Private Rights-of-Way<br>OAR 340-071 and OAR 340-073 – Onsite<br>Wastewater Treatment Systems |
| Environmental Services/503-823-7740<br><a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>               | Title 17 – Sewer Improvements<br>Stormwater Management Manual  |
| Fire Bureau/503-823-3700<br><a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>                        | Title 31 – Fire Regulations<br>City of Portland Fire Code  |
| Transportation/503-823-5185<br><a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a> | Title 17 – Public Right-of-Way Improvements<br>Transportation System Plan  |
| Urban Forestry (Parks)/503-823-4489<br><a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>           | Title 11 – Trees   |
| Water Bureau/503-823-7404<br><a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>                     | 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.

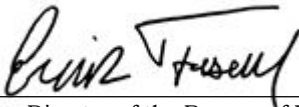
## CONCLUSIONS

The applicant proposes to replat an adjusted lot and lot remnants into two 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, as illustrated by Exhibit C.1, signed and dated March 14, 2023

Decision rendered by:  on March 14, 2023

By authority of the Director of the Bureau of Development Services

**Decision mailed (within 5 days of dec.) March 21, 2023**

**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 JUNE 12, 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 December 15, 2022, and was determined to be complete on January 9, 2023.

*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 December 15, 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, therefore the deadline is May 9, 2023.

**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. Incomplete Letter Response, 1.20.23
  - 2. Downspout Document, 1.20.23
  - 3. Original Narrative, 12.16.23
  - 4. Deeds, 12.16.23
  - 5. Preliminary Title Report, 12.16.23
  - 6. Sewer Easement, 12.16.23
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Partition Plat (attached)
  - 2. Existing Conditions Map
- 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. Site Development Review Section of BDS
  - 5. Life Safety Review Section of BDS
- G. Other:
  - Original LU Application
    - 1. Application Packet and Associated Documents

**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).**