



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

Carmen Rubio, Commissioner  
Rebecca Esau, Director  
Phone: (503) 823-7310  
TTY: (503) 823-6868  
[www.portland.gov/bds](http://www.portland.gov/bds)

**Date:** March 23, 2023  
**To:** Interested Person  
**From:** Sean Williams, Land Use Services  
503-865-6441 / [Sean.Williams@portlandoregon.gov](mailto:Sean.Williams@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 22-162928 RP**

#### **GENERAL INFORMATION**

**Applicant:** Schuyler Dury, KPFF  
111 SW 5<sup>th</sup> Avenue, Suite 2600  
Portland, OR 97204  
(503) 505-3823 / [schuyler.dury@kpff.com](mailto:schuyler.dury@kpff.com)

**Owner/Agent:** Erin Graham, Oregon Museum of Science and Industry  
1945 SE Water Avenue  
Portland, OR 97214

**Site Address:** 1945 SE Water Avenue

**Legal Description:** TL 300 7.01 ACRES, SECTION 03 1S 1E  
**Tax Account No.:** R991030690  
**State ID No.:** 1S1E03D 00300  
**Quarter Section:** 3230  
**Neighborhood:** Hosford-Abernethy, contact Michael Wade at [wade.michael@comcast.net](mailto:wade.michael@comcast.net)  
**Business District:** Central Eastside Industrial Council, contact [ceic@ceic.cc](mailto:ceic@ceic.cc).  
**District Coalition:** Southeast Uplift, contact Matchu Williams at [matchu@seuplift.org](mailto:matchu@seuplift.org)  
**Plan District:** Central City - Central Eastside  
**Other Designations:** FEMA Special Flood Hazard Area  
**Zoning:** Central Employment (EX), Design Overlay (d), Scenic Overlay (s), River General (g\*) & Environmental (e) Overlay  
Replat (RP)  
**Case Type:** 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 (Stephens Addition to East Portland, Lots 1-8 of Block 14, Lots 1-8 of Block of Block 27, and portions of Lots 1-4 of Block 34) in addition to other lots of record within the site. The existing lot lines will be removed or reconfigured resulting in a total of 2 parcels, which will be 264,991 (Parcel 1) and 131,423 (Parcel 2) square feet in size. No development is proposed, and existing development will not be altered through this review.

**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:** Existing development consists of the Oregon Museum of Science and Industry (OMSI) and associated parking. The site is generally bounded by SE Water Avenue to the east, the Willamette River to the west, and the Tilikum Crossing Bridge to the south.

**Zoning:** The Central Employment (EX) zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development which is similar in character to existing development.

The Design overlay (d) zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

The River Overlay zones implement the land use pattern identified in the Central City 2035 Plan (2020) and River Plan / South Reach (2020). There are three River Overlay zones each with their own purpose:

1. River General. The River General overlay zone allows for uses and development that are consistent with the base zoning and allows for public use and enjoyment of the riverfront.
2. River Recreational. The River Recreational overlay zone encourages river-dependent and river-related recreational uses, which provide a variety of types of public access to, along, and in the river, and which enhance the river's natural and scenic qualities. (This overlay zone is not found in the master plan area)
3. River Environmental. The River Environmental overlay zone protects, conserves and enhances important natural resource functions and values while allowing environmentally sensitive development. The purpose of the zone is to limit the impacts from development and vegetation maintenance on the natural resources and functional values contained within the overlay zone. The River Environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. Mitigation is required for unavoidable impacts and is intended to compensate for impacts and improve natural resource features or functions over time. The River Environmental overlay zone applies to specific natural resource areas identified in two detailed studies: the Willamette River Central Reach Natural Resources Protection Plan (2020) and the River Plan / South Reach Natural

Resources Protection Plan (2020). This overlay zone always applies in combination with one of the other River Overlay zones.

The Scenic Resource Zone (s) overlay is intended to protect Portland's significant scenic resources as identified in the Scenic Resources Protection Plan (1991) and the Central City Scenic Resources Protection Plan (2017); enhance the appearance of Portland to make it a better place to live and work; create attractive entrance ways to Portland and its districts; improve Portland's economic vitality by enhancing the City's attractiveness to its citizens and to visitors; and implement the scenic resource policies and objectives of Portland's Comprehensive Plan. The purposes of the Scenic Resource zone are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources.

The Central City Plan District implements the Central City 2035 Plan. The regulations address the unique role the Central City plays as the region's premier center for jobs, health and human services, tourism, entertainment and urban living. The regulations encourage a high-density urban area with a broad mix of commercial, residential, industrial and institutional uses, and foster transit-supportive development, pedestrian and bicycle-friendly streets, a vibrant public realm and a healthy urban river. The site is within the Central Eastside Subdistrict of this plan district.

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

- **CU 121-87/GP 21-87 and DZ 7-90:** Conditional Use Review, Conditional Use Greenway permit, and Design Review approvals, with conditions, for the construction of the Oregon Museum of Science & Industry.
- **CU 127-87, GP 23-89, and 7771-PA:** Conditional Use Review approval for three fills for the proposed esplanade, Conditional Use Greenway permit for the construction of a freeway and ramp, approval of a Comprehensive Plan Map Amendment to remove OS "Open Space" designations, approval of a Goal 15 Exception for a freeway and ramp to encroach into the 25-foot Greenway Setback, approval of a Zone Change and Comprehensive Plan Map Amendment from WSR to WSD, and approval of an Adjustment to waive the interior tree requirement for the parking lot. All approvals with multiple conditions.
- **LUR 92-00449 DZ GW:** Withdrawn Greenway Review application to defer improvements per CU 121-87 for a portion of the site.
- **LUR 93-00368 CU DZ GW:** Design Review, Conditional Use Review, and Greenway Review approvals with conditions for a proposed submarine installation, public access to the river through ramps and docks available to the public as well as to OMSI patrons, and modifications to Greenway Trail improvements.
- **LUR 96-00224 DZ:** Design Review approval of an outdoor exhibit to display the propeller from the USS Blueback Submarine.
- **LUR 96-00389 CU DZ GW:** Conditional Use Review, Design Review, and Greenway Review approvals, with conditions, for new tour boat docking at an existing dock area, while continuing to allow temporary public tie-ups to the dock.
- **LUR 00-00462 GW DZ:** Conditional Use Review and Design Review approval for a series of exterior display elements called the Riverwalk exhibit, with 10 displays in four different configurations.
- **LUR 00-00464 GW:** Withdrawn Greenway Review application for a proposed ticket booth on the OMSI dock.
- **LU 06-168525 DZ GW CU:** Design Review, Greenway Review, and Conditional Use Review approvals for a proposed elevator addition and exterior courtyard improvements on the west side of the building.
- **LU 07-138197 DZ GW:** Design Review and Greenway Review approvals of two new cooling towers [combined: 17'-0" wide by 22'-0" feet long and 12'-3" tall] and an 8-foot tall screening enclosure [concrete walls, painted metal fencing, lighting and benches]; two new sign areas: 1) north elevation-32 SF and 2) south elevation-21 SF; approval to remove the existing six trees and replace with four new native conifers; and approval to relocate existing bike parking.

- **LU 09-172431 GW DZ:** Greenway Review and Design Review approvals for a new solar panel array, support structure, electric vehicle charging station, interpretive kiosk, four bicycle parking stands and two bike lockers, one fixed seat, two bollards, and parking space signage in front of parking spaces at the north end of the parking lot.
- **LU 11-113357 GW DZ:** Greenway Review and Design Review approvals for a new interactive salmon exhibit and educational kiosk, including seven lighting components, on OMSI's property and adjacent to the Willamette Greenway.
- **LU 15-189138 HRM AD:** Approval of Historic Resource Review for signage and wayfinding alterations to the OMSI site. The proposed alterations include the addition of 35 new pole mounted and freestanding signs, located throughout the site, and 3 new metal flag poles, located together, south of the existing buildings. The improvements provide increased clarity and coherency better directing and informing all users and modes: vehicle, cyclists and pedestrian, using the site. Approval a Modification to 33.32.020 Title 32 Sign Code: To increase the total number of "freestanding signs" on site from 5, per the allowance of Title 32, the Sign Code: 32.32.020: Table 2, to 20 - for an addition of 15 "freestanding signs". Approval an Adjustment to 32.32.030.F.2. Title 32 Sign Code: To allow "freestanding" signs to be located in areas of the site other than "arterial street frontages", per Title 32, the Sign Code: 32.32.030.F.2.
- **LU 15-189519 DZ:** Design Review approval for signage and wayfinding alterations to the site, including the addition of 35 new pole-mounted and freestanding signs located throughout the site and 3 new metal flagpoles located south of the existing main buildings.
- **LU 19-269652 HR:** Historic Resource Review approval to replace an existing, deteriorated roof on the clerestory roof portion of the southern portion of the OMSI Turbine Hall building, which is a contributing structure of the Historic Landmark Portland General Electric Co. Station L Group in the Central Eastside Subdistrict of the Central City Plan District, with a standing seam metal roof that is colored to match the metal roof that covers the rest of the building.
- **LU 20-189450 HR:** Withdrawn Historic Resource Review for a proposed 200kW ballasted roof mount photovoltaic solar array.
- **LU 21-115214 CCMS AD:** Approval of a Design Review and multiple Adjustments for the Central City Master Plan Review for the proposed Oregon Museum of Science and Industry (OMSI) Central City Master Plan proposal in the Central Eastside Subdistrict of the Central City Plan District.

**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 **September 14, 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. 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 Central Employment (EX) zone, so the replatted parcels must meet the standards in Chapter 33.614 or one of the noted exceptions, above. In the EX zone, each lot must have a front lot line that is at least 10 feet long. There are no other required minimum lot dimensions (33.614.100.C). Both Parcels 1 and 2 have a front lot line that is well in excess of 10-feet long.

As noted herein, the proposed replatted parcels meet the standards of Chapter 33.614. 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:** In order to address development standards moving out of conformance, particularly those relating to parking area setbacks and landscaping (33.266.130.G), the applicant has recorded a covenant not to sell Parcels 1 and 2 separately (Exhibit A.6). Note that this Replat review is an interim step to redevelopment of the site per the approved Central City Master Plan (LU 21-115214 CCMS AD). 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:** All conditions of other land use approvals will continue to apply after the Replat review. 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:** The Bureau of Environmental Services has reviewed the proposal for impacts on sanitary sewer and stormwater management services (Exhibit E.1):

*In order to demonstrate that the reconfigured lots are not out of conformance with BES requirements for sanitary sewage disposal, BES required that the applicant obtain an encroachment permit for the existing private sanitary system located in the right-of-way and receive approval of a plumbing code appeal. Both items have now been addressed. Therefore, with the proposed private sewer easements shown on the plat, BES finds that this criterion has been met.*

*In order to demonstrate that the reconfigured lots are not out of conformance with BES requirements related to stormwater management, BES required that the applicant receive approval of a plumbing code appeal for the storm system that crosses property lines. The appeal was approved by BDS. Therefore, with the proposed private storm easements shown on the plat, BES finds that this criterion has been met.*

*BES has no further objections to approval of the replat application.*

The Water Bureau has reviewed the proposal for impacts on water service (Exhibit E.3):

*Water can support the Replat review. Water service/s are available from the existing 12" main in SE Water St. The existing 2" irrigation, 4" domestic and 8" fire service in Parcel 1 may continue to be used in Parcel 1.*

As noted above, 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. Therefore, this criterion is 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 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	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 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 – Fire Regulations City of Portland Fire Code
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 –Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability


## CONCLUSIONS

The applicant proposes to replat historic lots (Stephens Addition to East Portland, Lots 1-8 of Block 14, Lots 1-8 of Block of Block 27, and portions of Lots 1-4 of Block 34) in addition to other lots of record within the site. 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 historic Stephens Addition to East Portland, Lots 1-8 of Block 14, Lots 1-8 of Block of Block 27, and portions of Lots 1-4 of Block 34 in addition to other lots of record within the site, as illustrated by Exhibit C.1, signed and dated March 20, 2023

**Staff Planner:** Sean Williams

**Decision rendered by:**  **on March 21, 2023**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: March 23, 2023**

**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 21, 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 12, 2022, and was determined to be complete on September 6, 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 12, 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, as stated with Exhibit A.9. Unless further extended by the applicant, **the 120 days will expire on: April 4, 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. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

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. Narrative
  - 2. Preliminary Title report
  - 3. Chain of Title
  - 4. Exceptions (Title Report)
  - 5. Stephen's Addition Plat
  - 6. Recorded Covenant not to Sell Separately
  - 7. Plumbing Code Appeal
  - 8. Encroachment Permit
  - 9. Request for Extension of 120-Day Review Period
  - 10. Storm Sewer Easement Maintenance Agreement
  - 11. Sanitary Sewer Easement Maintenance Agreement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Signed Plat (attached)
  - 2. Existing Conditions Survey
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services w/ Addendum
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau w/ Addendum
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Plans Examiner
- 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).**