



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: July 27, 2022
To: Interested Person
From: Kate Green, Land Use Services
503-865-6428 / Kate.Green@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 22-110551 RP

GENERAL INFORMATION

Applicant: Sarah Radelet, Strata Land Use Planning
PO Box 90833, Portland OR 97290
sarah@stratalanduse.com, 503-320-0273

Property Owner: ZPROP LLC (representative: Jeff Edmonson)
2051 Willamette Falls Drive, West Linn OR 97068

Surveyor: Tony Ryan, Weddle Surveying
6950 SW Hampton Street #170, Tigard OR 97223

Site Address: 2135 and 2155 NE 112TH AVENUE
Legal Description: BLOCK 13 LOT 1-8 TL 3500, CASMUR
Tax Account No.: R141903050, R141903050
State ID No.: 1N2E27CA 03500, 1N2E27CA 03500
Quarter Section: 2841 & 2842

Neighborhood: Parkrose Heights/contact: badrickt@gmail.com
Business District: Gateway Area Business Association/contact: gabapdxboard@gmail.com
District Coalition: East Portland Community Office/contact: info@eastportland.org

Zoning: Residential 7,000 (R7)
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 a **Replat** to reconfigure multiple existing platted lots into 2 parcels, as shown on the attached survey (Exhibit C1). The existing structures are proposed to be retained; one house on Parcel 1 and another on Parcel 2.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- **Replat: 33.675.300 Approval Criteria**

FACTS

Site and Vicinity: The subject site is relatively flat and approximately 21,091 square feet in area. The site is developed with two detached homes, with tuck under garages accessed via driveways flanked by retaining walls. Additional paved and gravel areas are also located in front of each residence and appear to be in use as parking. Large trees, grass and fencing are situated behind the houses.

The site has frontage on NE 112th Avenue, which is developed with a gravel roadway and no curbs, sidewalks or street trees. The surrounding street pattern is somewhat fragmented with a mix of dead-end streets and connected through streets, which do not meet the city's spacing goals.

The surrounding area consists primarily of similar size lots and development. Other nearby development includes Sacramento Elementary School and Knott Park, which are approximately 500 feet to the east and northeast; as well as a mixed multi-dwelling residential and commercial area approximately 1,400 feet to the south, along the NE Weidler and NE Halsey corridors.

Zoning: The site is situated in the **Residential 7,000 (R7)** single-dwelling zone. 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 show the site was part of one prior land use action while within the jurisdiction of Multnomah County (MCF 8-70 C/70-100144 LU); however, the case records are incomplete and no conditions are known to apply.

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 3, 2022**. No written responses have been received.

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 R7 zone, so the replatted lots must meet the standards in Chapter 33.610 or one of the noted exceptions, above.

The proposed replatted lots meet the lot dimension standards of the R7 zone (per Table 610-2 of the Zoning Code), as shown in the following table:

| | R7 Zone Requirement | Parcel 1 | Parcel 2 |
|--------------------------------|----------------------------|-----------------|-----------------|
| Minimum Lot Area (square feet) | 4,200 | 9,182 | 11,908 |
| Maximum Lot Area (square feet) | 12,000 | | |
| Minimum Lot Width* (feet) | 40 | 57 | 62 |
| Minimum Front Lot Line (feet) | 30 | 57 | 62 |
| Minimum Lot Depth (feet) | 55 | 192 | 192 |

* Width is measured at the minimum front building setback line

The lot lines are regular and perpendicular to the street, with the exception of the north lot line for Parcel 1, which jogs approximately 100 feet into the site, due to prior divisions on the abutting properties.

As noted herein, the proposed replatted lots meet the standards of Chapter 33.610. 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 site is currently developed with two detached dwellings. One dwelling will be located on Parcel 1 and the other dwelling will be located on Parcel 2.

The applicant obtained and finalized a Zoning Permit (22-123571 ZP) to modify the existing development on Parcel 1, so it will not move further out of conformance with the R7 development standards. The changes include planting two trees in the rear yard and reducing the amount of paving in the front yard.

Otherwise, the balance of the existing development is to remain in conformance or not move further out of conformance with the R7 standards relative to the new property configurations. Accordingly, 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: City records show a Multnomah County File (MCF 8-70) approved an action that involved the subject site; however, no conditions are noted. As such, this criterion is met.

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

Findings: There are no other prior land use approvals for this site, so 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 relevant service agencies reviewed the proposal and noted the proposal will not eliminate services to the proposed parcels and the reconfigured lots are not out of conformance with service bureau requirements, as follows:

Water: The Water Bureau (Exhibit E3) and Fire Bureau (Exhibit E4) have reviewed the proposal for impacts on water service and noted: *Water is available to Parcels 1 and 2 from the 4-inch main in NE 112th Avenue; and the existing structures may continue to use the existing services.*

Sanitary Sewer: The Bureau of Environmental Services (BES) has reviewed the proposal for impacts on sanitary sewer (Exhibit E1), and noted: *There is a public 8-inch PVC sanitary-only sewer in NE 112th Ave (BES as-built #4569). According to City plumbing records, the existing home on proposed Parcel 2 (address 2135 NE 112th Ave) is currently connected to the sanitary sewer in NE 112th Ave via a lateral located approximately 255 feet north of the maintenance hole at the intersection of NE San Rafael St and NE 112th Ave. According to BES sewer inspection records, the existing home on proposed Parcel 1 (address 2155 NE 112th Ave) is currently connected to the sanitary sewer in NE 112th Ave via a lateral connection at the maintenance hole (asset ID ABE303) within the frontage of the parcel. The locations of the laterals do not appear to conflict with the replatted property lines; therefore, the property does not move out of conformance with BES requirements for sanitary service. The proposed replatted lot configuration does not change the availability of sanitary services to the lots.*

Additionally, the Site Development Section of BDS has reviewed the proposal for impacts on-site sewage disposal (septic systems) (Exhibit E5) and noted:

City records do not show that the septic systems on the site were decommissioned at the time the houses were connected to the public sewer system. The following is intended as informational for the property owners associated with both Parcels 1 and 2. While this land use application does not trigger the State Administrative Rule for Cesspool decommissioning, the applicant is advised that there are inherent risks associated with future construction near or over these abandoned septic features. Cesspools or septic tanks may collapse, settle and/or cause subsidence of the ground which may damage structures or otherwise result in hazardous conditions. It is your responsibility as the property owner to protect yourself and your property against the potential adverse effects these features may cause.

Stormwater Management: BES also reviewed the proposal for stormwater management services (Exhibit E1) and noted: *The lots do not have access to a storm sewer. The proposed replatted lot configuration does not change the availability of storm service to the lots. According to the submitted survey and the locate report from Alpha Locates, the existing home on proposed Parcel 2 discharges stormwater to a drywell at the front of the home. The existing home on proposed Parcel 1 discharges stormwater to two drywells, one at the front of the home and a second located at the back on the home. The drywell locations do not appear to conflict with the replatted property lines and appear to meet required setbacks from the proposed property line; therefore, the property does not move out of conformance with BES stormwater management requirements.*

Additionally, BES notes: *There are no public right-of-way improvements that will trigger BES public stormwater drainage improvements.*

Based on these factors, 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 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 Casmur, Block 13, Lots 1-7 and a portion of Lot 8, including a portion of vacated Eugene Street into 2 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 2 parcels of Casmur, Block 13, Lots 1-7 and a portion of Lot 8, including a portion of vacated Eugene Street, as illustrated by Exhibit C1, signed and dated July 22, 2022.

Decision rendered by:  **on July 22, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed July 27, 2022

Staff Planner: Kate Green

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 October 25, 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 February 4, 2022, and was determined to be complete on April 28, 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 February 4, 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 30 days (Exhibit A4).

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. Initial Submittal
 - a. Narrative
 - b. Existing Conditions
 - c. Supplemental Survey
 - d. Survey
 - e. Plat
 - f. Historic Map
 - g. Title Report
 - h. Business Registry
 - 2. Revised Submittal-April 28, 2022
 - a. Response Memo
 - b. Revised Application Form
 - c. Business Operating Documents
 - d. Drywell Locates
 - e. Title Report
 - f. Existing Conditions-revised
 - g. Supplemental Survey-revised
 - h. Plat-revised
 - 3. Revised Submittal-June 16, 2022
 - a. Supplemental Survey-revised
 - b. Plat-revised
 - 4. Timeline Extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Replat Survey-signed (attached)
- 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-BDS
 - 6. Life Safety-BDS
 - a. Life Safety-BDS addendum
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application
 - 2. Completeness Review 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).