



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

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Date: September 28, 2022
To: Interested Person
From: Diliana Vassileva, 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 22-135853 RP

GENERAL INFORMATION

Applicant: Kevin Partain,
Urban Visions
6180 Trout Greek Ridge Rd
Mt Hood Prkdl, OR 97041
503-421-2967
kevinp@gorge.net

Owner: Intrinsic Homes Llc
P O Box 3665
Apollo Beach, FL 33572

Surveyor: Joseph Mcallister,
Compass Land Surveyors
4107 International Way #705
Milwaukie, OR 97222

Site Address: 811 NE 92ND AVE

Legal Description: BLOCK 4 LOT 8-11, ROSE WOOD
Tax Account No.: R724000740, R724000730
State ID No.: 1N2E33BD 01300, 1N2E33BD 01301
Quarter Section: 2939

Neighborhood: Montavilla, contact Adam Wilson at adam@montavillapdx.org
Business District: NONE
District Coalition: Southeast Uplift, contact Matchu Williams at matchu@seuplift.org

Plan District: NONE
Zoning: RM1, Residential Multi-Dwelling 1

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 four historically platted lots (ROSE WOOD, BLOCK 4, LOTS 8-11) into three parcels. Parcel 1 will be approximately 2,103 square feet in size, Parcel 2 will be approximately 3,417 square feet in size and contain the existing residence, and Parcel 3 will be approximately 4,455 square feet in size. No new development is being proposed at this time.

Relevant Approval Criteria:

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

- **Section 33.675.300, Replat Approval Criteria**

ANALYSIS

Site and Vicinity: The subject site is a corner lot located on the northwest corner of the intersection of NE 92nd Avenue and NE Oregon Street. The property is approximately 10,000 square feet in area and is comprised of four historically platted lots which are configured into two tax lots, approximately 2,500 square feet and 7,500 square feet in size respectively.

The site is developed with a single-dwelling residence and a detached garage. Vehicular access to the property is from a driveway on NE 92nd Avenue north of the house. There are several mature trees on the subject site.

Surrounding properties are also zoned RM1, and are developed with single-dwelling residences as well as low-density multi-family development such as triplexes and fourplexes.

Zoning:

- RM1 zone. The RM1 zone is a low-scale multi-dwelling zone that is generally applied in locations intended to provide a transition in scale to single-dwelling residential areas, such as the edges of mixed-use centers and civic corridors, and along or near neighborhood corridors. Allowed housing is characterized by one to three story buildings that relate to the patterns of residential neighborhoods, but at a somewhat larger scale and building coverage than allowed in the single-dwelling zones.

Land Use History: City records indicate there are two prior land use reviews for this site:

- **LU 21-104766 RP:** A replat application, which was withdrawn prior to being deemed complete for processing.
- **LU 22-100968:** A lot confirmation application confirming Lot 8 of Rosewood, Block 4, and the combination of Lots 9-11 of Rosewood, Block 4.

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 **July 22, 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 RM1 zone, so the replatted lots must meet the standards in Chapter 33.612 or one of the noted exceptions, above. The proposed replatted lots meet the lot dimension standards of the RM1 zone as shown in the following table (this information is found in Table 612-1 of the Zoning Code):

	RM1 Zone Requirement	Parcel 1	Parcel 2	Parcel 3

Minimum Lot Area (square feet)	Detached Houses/Detached Duplexes	1,600	2,103	3,417	4,455
	Triplex/Fourplex	2,000			
	Multi-Dwelling Structure/ Development	4,000			
	Attached Houses/Attached Duplexes	1,600			
Minimum Lot Width* (feet)	Detached Houses/Detached Duplexes	25	38	55.33	44.67
	Triplex/Fourplex	33			
	Multi-Dwelling Structure/ Development	33			
	Attached Houses/Attached Duplexes	15			
Minimum Front Lot Line (feet)	Detached Houses/Detached Duplexes	25	38	55.33	44.67
	Triplex/Fourplex	30			
	Multi-Dwelling Structure/ Development	30			
	Attached Houses/Attached Duplexes	15			
Minimum Lot Depth (feet)	Detached Houses/Detached Duplexes	None	55.33	61.75	99.75
	Triplex/Fourplex	50			
	Multi-Dwelling Structure/ Development	70			
	Attached Houses/Attached Duplexes	None			

The applicant must show how the replatted lots can meet the minimum density. The required minimum density identified in Chapter 33.120 is one unit per 2,500 square feet of site area. Currently the subject site has a minimum density of four units. Following the replat, Parcel 1 will have a minimum density of one unit, Parcel 2 will have a minimum density of one unit, and Parcel 3 will have a minimum density of two units, resulting in a minimum density of four total units for the subject site. The replatted lots are sized and configured such that the residential structure type required to meet the minimum density can be accommodated on each parcel in accordance with the dimensional standards in Table 612-1. Specifically, Parcels 1 and 2 meet the standards for a house, duplex, triplex or fourplex. Parcel 3 meets the standards for all housing types, including multi-dwelling structures or development.

There is no maximum density or maximum lot size in the RM1 zone.

As noted herein, the proposed replatted lots meet the standards of Chapter 33.612. None of the exceptions are applicable. To ensure future development on Parcels 1 and 2 is consistent

with the approved lot sizes, a condition of approval will be applied. With that condition, 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 2 and compliance with development standards of Title 33, including setbacks, building coverage, and floor area standards, will be maintained.

In the RM1 zone, accessory structures are not allowed on a lot without a primary structure. Following the replat, a detached garage would have been located on Parcel 1 without a primary structure, however, the applicant has provided pictures demonstrating that the detached garage has been removed. The applicant has identified that the detached garage is less than 200 square feet and thus, removal of the structure does not require a demolition permit. Parcels 1 and 3 will be vacant, and no accessory structure will be located on a lot without a primary structure.

A gravel driveway will remain on Parcel 1, and compliance with driveway and vehicle area standards will be reviewed upon new residential development on Parcel 1. The existing house on Parcel 2 will no longer have a driveway or vehicular access. Pursuant to 33.266.110 and Table 266-1, there is no minimum parking requirement for residential uses with less than 30 units in the RM1 zone, therefore, the existing house will not come out of compliance with minimum parking requirements.

The replat will cause Parcel 2 to come out of compliance with tree density standards in Chapter 11.50, however, a fee-in-lieu of planting was paid to mitigate the substandard tree density on Parcel 2 as part of a prior lot confirmation review (PR 22-100968 LC). Because this was previously addressed, no additional tree plantings or fee-in-lieu of planting is required as part of the replat application.

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

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 8-inch PVC sanitary-only sewer in NE Oregon St and NE 92nd Ave (BES as-built #4460). According to the submitted survey and the sewer as-built drawing, the existing dwelling to remain on proposed Parcel 2 is currently connected to the sewer in NE Oregon St via a lateral located approximately 72 feet from the maintenance hole at the intersection of NE 92nd Ave and NE Oregon St. Under associated plumbing permit #22-155967-PT (finalized on 6/29/2022), the on-site sanitary sewer was relocated onto Parcel 2 and the existing connection to the sewer main was found to be within the frontage of proposed Parcel 2. Based on this information, the location of the lateral 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. Currently, Parcels 1 & 2 have access to the sanitary sewer in NE 92nd Ave and Parcels 2 & 3 have access to the sanitary sewer in NE Oregon St. The proposed replatted lot configuration does not change the availability of sanitary services to the lots.

According to submitted survey and downspout photos, the existing dwelling on proposed Parcel 2 discharges stormwater from downspouts to splashblocks. The applicant retrofitted the system to meet setbacks from the new proposed property lines. Based on this information, the locations of the downspouts do not appear to conflict with the replatted property lines; therefore, the property does not move out of conformance with BES stormwater management requirements. Currently, the parcels do not have access to a storm sewer. The proposed replatted lot configuration does not change the availability of storm service to the proposed parcels.

The Water Bureau has reviewed the proposal for impacts on water service (Exhibit E.3). The existing house on Parcel 2 may continue to utilize the existing water service. Water is available to Parcel 1 from the 12" main in NE 92nd Avenue, and available to Parcel 3 from the 4" main in NE Oregon Street. The Portland Water Bureau has 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). City records show that the on-site septic system was decommissioned under an On-Site Sewage Evaluations & Services (SE) Permit. Site Development has 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

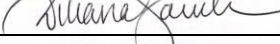
The applicant proposes to replat historic lots Rose Wood, Block 4, Lots 8-11 into three parcels. No City Bureaus raised objection to the proposal.

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, with the condition below.

ADMINISTRATIVE DECISION

Approval of a replat to create three parcels of historic Rose Wood, Block 4, Lots 8-11, as illustrated by Exhibit C.1, signed and dated September 26, 2022, subject the following condition:

- A. Parcels 1 and 2 have an allowed housing type of attached/detached house, attached/detached duplex, triplex or fourplex.

Decision rendered by:  **on September 26, 2022.**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.): September 28, 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 EFFECTIVE DATE OF THIS DECISION (BY DECEMBER 29, 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 April 25, 2022, and was determined to be complete on July 8, 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 April 25, 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, April 25, 2022
 - 2. Applicant's Submittal, July 8, 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 Land Use 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).