



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

Chloe Eudaly, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** April 13, 2017  
**To:** Interested Person  
**From:** Brandon Rogers, Land Use Services  
503-823-7597 / [Brandon.Rogers@portlandoregon.gov](mailto:Brandon.Rogers@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 16-273495 LDP**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Jennifer Farmer/City Craft Development  
6931 NE Mlk Blvd  
Portland, OR 97211

**Site Address:** 1735 NE SKIDMORE ST  
**Legal Description:** BLOCK 12 E 1/2 OF LOT 13&14, IRVINGTON HTS  
**Tax Account No.:** R421001910  
**State ID No.:** 1N1E23DB 01800  
**Quarter Section:** 2632  
**Neighborhood:** Sabin Community Assoc., contact Rachel Lee at 503-964-8417.  
**Business District:** North-Northeast Business Assoc, contact at [chair@nnebaportland.org](mailto:chair@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

**Zoning:** Residential 5,000 (R5) with the "h" Aircraft Landing overlay zone.  
**Case Type:** Land Division Partition (LDP).  
**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:** The applicant proposes a two-parcel partition of the 5,000 square foot site to create two, 2,500 square foot parcels for development of attached houses using the provisions of subsection 33.110.2410.E, *Duplexes and Attached Houses on Corners*. Water and sanitary sewer services are proposed from existing utilities located within NE 18<sup>th</sup> Avenue, stormwater is proposed to be managed by on-site drywells. Access is proposed from NE 18<sup>th</sup> Avenue and NE Skidmore Street with separate driveways. The site contains trees subject to the preservation standards of Title 33, however the applicant proposes mitigation instead of preservation. The existing house is proposed to be removed.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create two units of land. Therefore, this land division is considered a partition.

**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 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

## FACTS

**Site and Vicinity:** The corner lot site is developed with a single family residence constructed in 1922, which is proposed to be removed. The topography of the site is primarily level; the site elevation is approximately two feet higher than the elevation of the adjoining sidewalks. The surrounding neighborhood is developed primarily with single family residences and duplexes, with a nearby Bicycle Boulevard along NE Going Street. Sabin Hydro Park and Sabin Elementary Park are located within the vicinity of the site. The street grid is well developed, with sidewalks and paved streets. The typical block pattern in the neighborhood is a repeating series of 200 foot by 340 foot blocks extending along NE Skidmore east to NE 33<sup>rd</sup> Avenue.

### Infrastructure:

- **Streets – The site** has 50-feet of frontage on NE Skidmore Street and 100-feet of frontage on NE 18<sup>th</sup> Avenue. The Transportation System Plan classifies NE 18<sup>th</sup> as a Local Service Street for all transportation modes. NE Skidmore is classified as a City Bikeway and a Local Service Street for all other modes. According to City GIS information, both NE 18<sup>th</sup> and NE Skidmore are improved with a 4-6-2 sidewalk corridor.
- **Water Service** – There is an existing 24-inch water main in NE Skidmore Street and an 8-inch water main in NE 18<sup>th</sup> Avenue. The existing house is served by a 3/4-inch metered service from the main in NE 18<sup>th</sup> Avenue.
- **Sanitary Service** - There is an existing 8-inch public combination sewer line in NE 18<sup>th</sup> Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The **R5** designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The **Aircraft Landing (“h”)** overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation.

**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 5, 2017**. A written response has been received from the Sabin Neighborhood Association and responses have been received from two notified property owners in response to the proposal.

**Staff Response:** Letters from the two neighbors state no opposition to the proposal, but express concerns regarding construction of the proposed homes including design regulations and development standards. Development standards that are not relevant to the land division review have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed. Attached houses on corner lots are subject to certain standards, as discussed below in the *Development Standards* section on Page 8. Note, the applicant has not proposed any Adjustments for reduced setbacks nor Adjustments for any other development standards. Concerns regarding preservation of the 34-inch Pin Oak street tree are expressed in the letters. The applicant has revised the proposal to preserve this tree, as further discussed below in 33.654.120.H *Standard for Street Trees*.

## ZONING CODE APPROVAL CRITERIA

### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

**33.660.120** *The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.*

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are **not** applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared	No shared courts are proposed or required.

	Courts	
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

**A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.**

**Findings:** Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 5,000 square feet. The maximum density in the R5 zone is calculated at one unit per 5,000 square feet. Minimum density is calculated at one unit per 5,000 square feet based on 80 percent of the site area. Therefore, the site has both a minimum and maximum density of 1 unit.

The applicant is proposing two parcels, which exceeds the maximum density normally allowed for the site. However, both of the parcels are proposed to be developed with attached houses under the provision in 33.110.240.E, which allows one extra unit in conjunction with attached houses on corner lots. Therefore, an additional lot is allowed provided Parcels 1 and 2 are developed with attached houses.

With a condition of approval limiting the development on Parcels 1 and 2 to attached houses, the density standards are met.

The required and proposed lot dimensions are shown in the following table:

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
<b>Original lot before division in R5 zone</b>	4,500	N/A	N/A	N/A	N/A
Original lot before division	5,000				
<b>New attached housing lots meet R2.5 Zone dimensions</b>	1,600	N/A	36	40	30
Parcel 1	2,500		50	50	50
Parcel 2	2,500		50	50	50

\* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

Attached Houses on Corner Lots

Parcels 1 and 2 are smaller than would normally be allowed in the R5 zone. As described above, these lots are being created through a provision that allows attached houses on corner lots. To use this code provision, the original lot before the division must be at least 4,500 square feet. As shown in the table above, taken together (before the division), the lot dimension requirements are met. Proposed Parcels 1 and 2 each exceed the minimum lot dimension standards. Therefore, the corner lot may be divided to create the parcels as proposed.

The findings above show that the applicable density and lot dimension standards are met. Therefore, this criterion is met.

**B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.**

**Findings:** The regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees.

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

Healthy, native and non-nuisance species, trees measuring 20 or more inches in diameter and tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

Trees are exempt from the requirements of this chapter, include unhealthy, nuisance species, trees within 10 feet of a building to remain on the site, trees within an existing right-of-way, or trees within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.3) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

The site contains five trees measuring at least 6-inches diameter at breast height. Of these five trees, four have been identified as nuisance species by the applicant's arborist report and the Portland Plant List and are therefore exempt. The remaining one tree, Tree #1, a 26-inch Pin Oak, is subject to the tree preservation requirements of this chapter. Tree #1 is in good health and is located at the north property line of the site. The arborist report states that the tree should not be preserved because the proposed development would be located within 9.5 feet of the base of the tree, leading to death or instability.

In this case, the scale of the development proposed limits options to retain Tree #1 in accordance with these regulations, so it is reasonable to consider mitigation options that will replace the functions of Tree #1, which is proposed to be removed.

The proposed development on the site and the size of the proposed parcels are not conducive to on-site tree planting for mitigation. Additionally, the Title 11 tree density (tree planting) standards require that trees be planted on the lots at the time of building permit. Based on the size of the proposed lots, 1,000 square feet of tree area will be required to be satisfied by planting trees on each lot. The number and species of trees to be planted depends on the size and type of trees chosen by the applicant. Given the required tree planting, there is not sufficient room on the lots for additional tree planting to mitigate for tree removal without jeopardizing the overall health of the trees as they mature. Therefore, offsite mitigation in the form of payment into the City Tree Preservation and Planting Fund is more appropriate for this proposal.

The tree preservation standards require up to 35 percent of the total non-exempt tree diameter on the site be preserved. The total non-exempt tree diameter is 26-inches. This amounts to 10 inches on this site (see 33.930.020.A, fraction rounding for minimum requirements). With the condition that a payment equivalent to 10 inches be paid to the City

Tree Planting and Preservation Fund prior to final plat approval, tree removal will be adequately mitigated.

In addition, the applicant's arborist report has also identified a street trees located adjacent to the site within the right of way of NE 18<sup>th</sup> Avenue. The Urban Forestry Division of Portland Parks reviewed the proposal for its impact to existing street trees in accordance with Title 11, Trees and Title 33. Land Division proposals are required to have preliminary approval from the City Forester, in consultation with the City Engineer, for the retention of existing street trees and providing adequate areas for future street tree planting on existing and proposed public streets (33.654.120.H). Therefore, findings for the existing street tree can be found below in Section K *Transportation Impacts*.

With the implementation of the noted conditions, the approval criteria will be met.

**G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.**

**Findings:**

***Clearing and Grading***

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, the trees required to be preserved in the areas where new development on the site is anticipated will be protected at the time of demolition and development. This criterion is met.

***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

**K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,**

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts: the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. Mitigation may be necessary to reduce impacts.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

The applicant is proposing this two-parcel partition in order to create two parcels for development with attached houses. The existing house is proposed to be removed. Accordingly, the proposed project will result in a net increase of one new single-family home. Based upon trip generation estimates obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th Edition, the project is projected to generate one additional trip during both the morning and evening peak hours (10 additional trips in total each day). The small number of trips that will be added into the transportation system as a

result of the proposed development will not adversely impact the operations of area intersections.

As proposed, each lot will be developed with sufficient on-site parking area to accommodate two off-street parking spaces. The surrounding area has an established residential development pattern that includes single-family homes on lots that accommodate one, and in some cases, multiple on-site parking spaces thereby reducing the demand for on-street parking in this area. Given the on-site parking opportunities that will be provided with the new development, on-street parking in the area will not be adversely impacted by the proposed new dwelling unit.

There are existing transit facilities in the vicinity and the nearest bus stop is located at NE 15th Ave & NE Prescott Street approximately 686-ft from the site. Access to transit facilities is accommodated via fully improved sidewalk corridors that meet City standards. The proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

**L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.**

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed to direct stormwater for Parcels 1 and 2 to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.
<b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment
This section requires approval by PBOT for the elements within the right-of-way. Frontage improvements will not be required in relation to the proposed development. The TSP classifies NE 18th as a Local Service Street for all transportation modes. NE Skidmore is classified as a City Bikeway and a Local Service Street for all other modes. According to City GIS information, both NE 18th and NE Skidmore are improved with a 4-6-2 sidewalk corridor. For a Local Service Street, abutting an R5 zoned site the City’s Pedestrian Design Guide recommends an 11-ft wide pedestrian corridor consisting of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and an 0.5-ft frontage zone. The existing pedestrian corridor does not meet the standards of the Pedestrian Design Guide as the furnishing zone is 3.5-ft wide where 4-ft is required. However, the site qualifies for an exemption under Administrative Rule 1.22 “Infill Development on Streets with an Existing Sidewalk Corridor”. Accordingly,

the existing sidewalk corridor configurations will be accepted as the standard sidewalk configuration for the block lengths. No ROW improvements or property dedication will be required in relation to the proposed partition request. Minor Improvement Permits associated with the Building Permits for each new house will be required for the new curb cuts/driveways for both parcels.

**33.654.120.H Standard for Street Trees** - See Exhibits E.6, A.4 for bureau comment

For existing and proposed public streets, the City Forester, in consultation with the City Engineer, has preliminarily approved the proposal and found it acceptable for the retention of existing street trees and providing adequate areas for future planting. The frontage of the site along NE 18<sup>th</sup> Avenue contains a large street tree identified in the applicant's arborist report as a healthy, 34-inch Pin Oak street tree. The applicant's original proposal (Exhibit A.1) included the proposed removal of this street tree in order to provide for a new driveway connection to NE 18<sup>th</sup> Avenue to be shared by Parcels 1 and 2. Shared driveways are required by PBOT for attached houses.

Urban Forestry inspected the tree, determined that it was healthy and did not support removal of the tree. The applicant applied for and received approval of a Driveway Design Exception from PBOT (TR-17-128423, attached as Exhibit E.4) allowing separated driveways in order to preserve the street tree. The applicant revised the proposed development plan to show two separate driveways positioned to provide for the preservation of the street tree. The applicant submitted an arborist report (Exhibit A.5) proposing the Performance Path for tree protection, which has been reviewed by Urban Forestry. The Performance Path of tree protection has been approved by Urban Forestry (Exhibit E.6) and will be implemented at the time of demolition of the existing house and at the time of construction of the proposed attached houses. The approved performance path report requires the arborist to be on site during demolition and construction. With a condition of approval requiring tree protection at the time of demolition and development, this criterion is met.

**33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)**

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

## DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

### Future Development

Among the various development standards that will be applicable to this lot, the applicant should take note of:

- **Attached Houses on Corner Lots**-- special requirements apply to development on new lots created using the provisions of Section 33.110.240.E.
  1. The address and main entrance of each house must be oriented to a separate street frontage.
  2. Development on Parcel 1 must be oriented toward the NE Skidmore Street and development on Parcel 2 must be oriented toward NE 18th Avenue.
  3. The height of the two units must be within 4 feet of each other
  4. The exterior finish material must be the same, or visually match in type, size and placement.
  5. The predominant roof pitch must be the same.
  6. Roof eaves must project the same distance from the building wall.
  7. Trim must be the same in type, size and location.
  8. Windows must match in proportion and orientation.



- **Accessory Dwelling Units** - Accessory Dwelling Units (ADUs) are **not** allowed to be added to attached houses in the R20 through R5 zones that were built using the regulations of 33.110.240.E, Duplexes and Attached Houses on Corners.

**Existing development that will remain after the land division.** The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

## 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 preliminary partition 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 plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
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

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcels 1 and 2 prior to final plat approval. This requirement is based on the standards of Title 11.

## CONCLUSIONS

The applicant has proposed a two parcel partition for development of attached houses, as shown on the attached preliminary plan (Exhibit C.3). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: street tree preservation, demolition of the existing house and detached garage, mitigation for on-site tree preservation. With conditions of approval that address these requirements this proposal can be approved.

**ADMINISTRATIVE DECISION**

**Approval** of a Preliminary Plan for a two-parcel partition, that will result in two standard lots for development of attached houses as illustrated with Exhibit C.3, subject to the following conditions:

**A. The following must occur prior to Final Plat approval:****Utilities**

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

**Existing Development**

2. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. The site plan for the demolition permit must show the street tree to be preserved and root protection zones as shown on Exhibit A.5. All demolition work must be in conformance with the recommendations in the applicant's arborist report (Exhibit A.5). Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City's Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources.
3. The applicant must obtain a finalized demolition permit for removing the existing, detached garage on the site. Prior to removal of this structure, street tree protection must be installed in accordance with the approved Street Tree Preservation Plan, per Condition B.1.

**Other requirements**

4. The applicant must pay into the City Tree Preservation and Planting Fund [Private Property Trees – Planting and Establishment, fee in Lieu (per inch)] the amount equivalent to 10 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

**B. The following conditions are applicable to site preparation and the development of individual lots:**

1. Development on Parcels 1 and 2 shall be in conformance with the Street Tree Preservation Plan and the applicant's arborist report (Exhibit A.5) for protection of a 34-inch Pin Oak street tree. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. An arborist must be on-site during excavation at edge of root protection zone.
2. Parcels 1 and 2 may only be developed with attached houses meeting the development standards of Section 33.110.240.E.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

**Staff Planner: Brandon Rogers**

**Decision rendered by:**  **on April 11, 2017**

By authority of the Director of the Bureau of Development Services

**Decision mailed April 13, 2017**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on November 15, 2016, and was determined to be complete on December 30, 2016.

*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 November 15, 2016.

*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. Unless further extended by the applicant, **the 120 days will expire on: April 29, 2017.**

**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.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**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.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-

823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

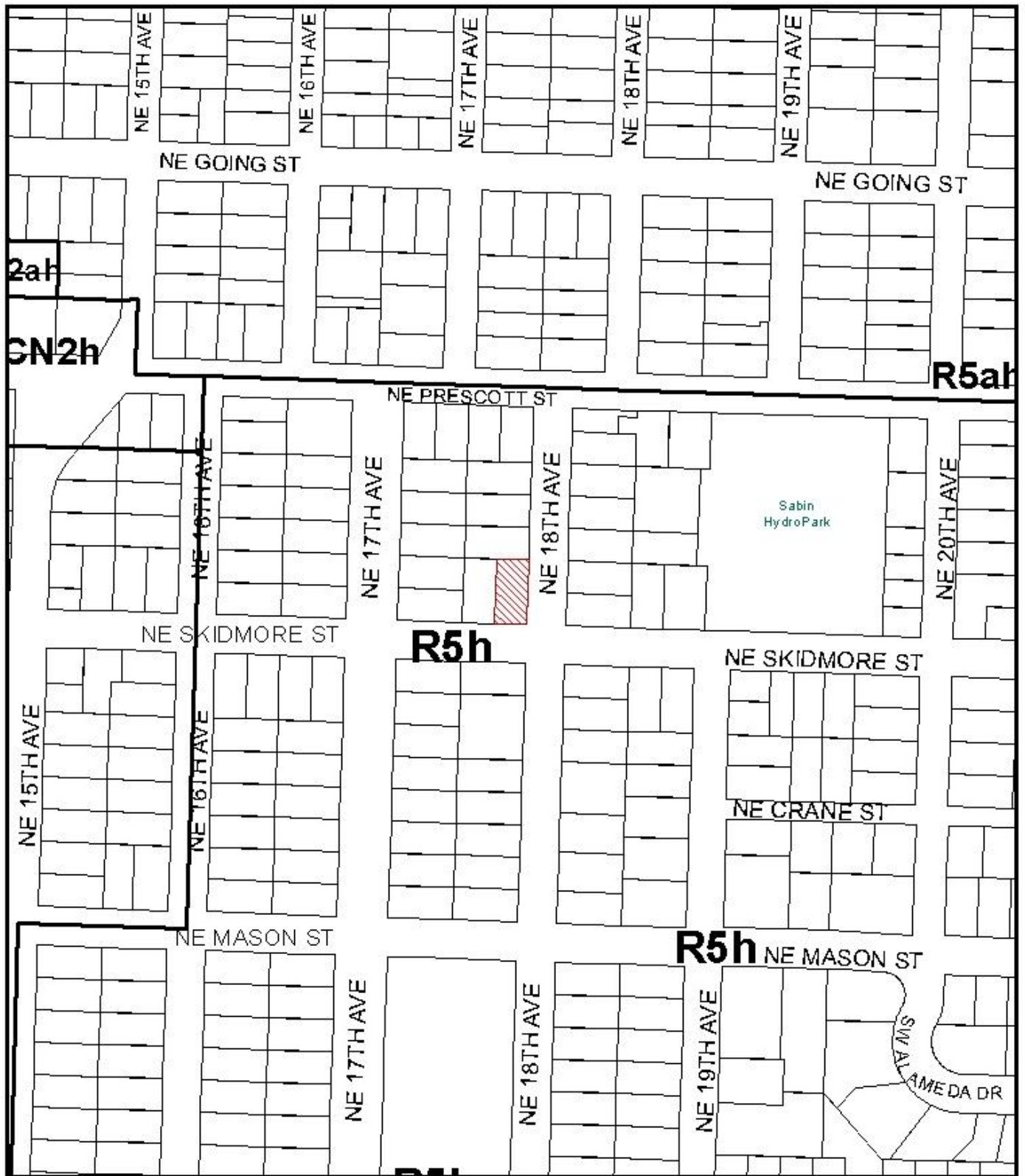
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

#### **EXHIBITS**


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Submittal/Applicant's Narrative
  - 2. Response to Incomplete Letter
  - 3. On Site Trees Arborist Report/Addendum
  - 4. Approved PBOT Driveway Design Exception
  - 5. Street Tree Performance Path Arborist Report
  - 6. Simplified Approach Stormwater Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Plan, Tree Survey
  - 2. Preliminary Plan
  - 3. Proposed Improvements and Tree Preservation Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services/Addendum
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division/Addendum
  - 7. Life Safety Section of BDS
- F. Correspondence:
  - 1. Cary Pinard
  - 2. Sabin Community Association
  - 3. Amy Sullivan
- G. Other:
  - 1. Original Land Use Application
  - 2. Incomplete Letter
  - 3. Expedited Land Division Form

**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).**



# ZONING

 Site



File No. LU 16-273495 LDP  
 1/4 Section 2632  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E23DB 1800  
 Exhibit B (Nov 21, 2016)

