



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

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**Date:** August 30, 2018  
**To:** Interested Person  
**From:** JP McNeil, 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 18-139889 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Simone Goldfeder  
Constructive Form Architecture and Design LLC  
1222 SW Broadway | Portland, OR 97205  
(503) 894-9638 | [sgoldfeder@constructiveform.com](mailto:sgoldfeder@constructiveform.com)

**Owner:** Simone A. Goldfeder  
2975 SW Upper Dr. | Portland, OR 97201

**Site Address:** 4043 NE 6TH AVE

**Legal Description:** BLOCK 16, LOT 13, LINCOLN PK ANX  
**Tax Account No.:** R497302590  
**State ID No.:** 1N1E23CB 19700  
**Quarter Section:** 2631

**Neighborhood:** King | Margaret O'Hartigan | [margaret@kingneighborhood.org](mailto:margaret@kingneighborhood.org)  
**Business District:** Soul District Business Association | [info@nnebaportland.org](mailto:info@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods | Jessica Rojas | 503-388-5030

**Zoning:** R2.5a – Residential 2,500 with the 'a' Alternative Design Density Overlay

**Case Type:** LDP – Land Division (Partition)  
**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:** The applicant is proposing a two-parcel partition on a 5,000 square foot lot. The existing home on the site will be removed and the two new parcels will be made available for new attached housing. Both parcels are narrow lots as the proposed lot widths (19' 6" and 30' 6") are smaller than the minimum width for the zone (36 feet). Drywells are being

proposed for on-site stormwater management for the future development. Due to this site's proximity to a frequent service bus line, off-street parking is not required at this location, though one space is proposed on Parcel 2.

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 parcels. 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 approval criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

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. This application was submitted on March 23, 2018 and determined to be complete on July 2, 2018.

## FACTS

**Site and Vicinity:** The site is relatively flat and is currently occupied by a single dwelling unit that was constructed in 1905. The immediately surrounding area is primarily comprised of one and two story single dwelling development. Two blocks to the east, the NE Martin Luther King Boulevard Corridor is a mixture of commercial and multidwelling development.

**Infrastructure:**

- **Streets** – The site has approximately 50 feet of frontage on NE 6<sup>th</sup> Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, NE 6<sup>th</sup> Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 360 feet from the site at NE Grand Avenue via Bus Line 6.

NE 6<sup>th</sup> Avenue has a 30-foot curb-to-curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 50-foot wide site frontage the pedestrian corridor includes a 3-foot wide planter area, curb, 6-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (3-6-1 configuration).

- **Water Service** – There is an existing 6-inch CI water main in NE 6<sup>th</sup> Avenue. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 12-inch VSP public combination sewer line in NE 6<sup>th</sup> Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The R2.5 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 “a” overlay is intended to allow increased density that meets design compatibility requirements. It fosters owner-occupancy, focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division is not using any provisions of the “a” overlay.

**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 **July 13, 2018**. Two written responses have been received from the Neighborhood Association and a notified property owner in response to the proposal. The concerns raised are summarized and addressed by staff below.

- **Narrow Lots:** Objection to the reduced lot widths for the proposed lots was raised in both responses received.

*Staff Response:* Though standard lots are required to be 36 feet wide in the R2.5 zone, Section 33.611.200.C.2 allows lots to be reduced in width provided they meet certain criteria, including the portion of the code raised in one of the responses that “the planned intensity of the zone is respected” when new lots are created. In this case, the new lots are located in the R2.5 Zone, which allows for one primary dwelling unit per 2,500 square feet. Approval of this Land Division would still meet that density requirement since the original 5,000 square foot lot will be divided into two lots for primary dwellings, which is the planned intensity of this zone. This issue, and how the lots will meet the purpose statement for narrow lots in the R2.5 Zone is discussed further under Criterion A, below.

- **Scale and Design of Proposed Dwellings:** Several objections were raised to the proposed scale and design of the proposed new development on the site, including the bulk of the structures and building coverage.

*Staff Response:* The applicant submitted conceptual building footprints with the application so that staff can evaluate the feasibility of new development on the site as it relates to the proposed land division. Based on the development standards in the R2.5 Zone (requirements that new dwellings will have to meet at the time of development related to size, bulk, location, and design), the proposed new parcels are of adequate size and dimensions for new development to meet development standards for that zone. At the time of building permit, building plans will be evaluated for conformance with development standards, including building coverage.

- **Dwelling Unit Density:** A neighbor raised the issue of the number of proposed dwelling units, citing concerns that there could be up to 6 units on the site.

*Staff Response:* The R2.5 Zone is a single dwelling zone which generally allows one primary single-family dwelling per lot. The applicant is proposing, and would only be allowed, one primary dwelling unit on each lot. Zoning Code Section 33.205.020 allows for one accessory dwelling unit (ADU) on a site in addition to a primary dwelling unit in the single dwelling zones, meaning that each new lot created as a result of this Land Division would be allowed one ADU per lot.

- **Gentrification and Displacement:** The neighborhood association raised the issue of gentrification and displacement of the historically African-American neighborhoods of Northeast Portland as a reason that the proposal should be denied.

*Staff Response:* Staff recognizes the concern that historic disinvestment and redevelopment have fueled gentrification and displacement and the profound demographic

*changes that North and Northeast Portland has experienced; however, these issues are not addressed by the approval criteria for Land Divisions and are beyond the scope of this review.*

## **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.

<b>Criterion</b>	<b>Code Chapter/Section and Topic</b>	<b>Findings: Not applicable because:</b>
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
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	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands 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 Courts	No shared courts are proposed or required.
	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.
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**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The maximum density in the R2.5 zone is one unit per 2,500 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

Based on the applicant's survey, the site area is 5,000 square feet, therefore, the site has a maximum density of two (2) units and a minimum required density of one (1) units. The applicant is proposing two (2) single dwelling parcels. The density standards are therefore met.

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

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R2.5 Zone</b>	1,600	NA	36	40	30
Parcel 1	1,950		19.5	100	19.5
Parcel 2	3,050		30.5	100	30.5

\* 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.

Narrow Lots

Parcel 1 is 19.5 feet wide and Parcel 2 is 30.5 feet wide — narrower than the minimum width for the R2.5 zone, as shown in the table above. The Zoning Code, however, allows narrower lots if the future development can meet the regulations of 33.611.200.C.

***On balance, the proposed lots will have dimensions that are consistent with the purpose of this section.***

The purpose of lot dimension regulations are as follows:

*The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter; and (10) lots are regularly shaped.*

The applicant has demonstrated that the proposed Parcels 1 and 2 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that, with some minor modifications, can meet all applicable setback requirements and is oriented towards the street. Therefore, they have demonstrated that the proposed lots can accommodate a reasonably sized house while meeting the development standards of the zoning code.

- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services
- The proposed parcels will be developed with attached houses and only one parcel will have an on-site parking space, so the future development will give the appearance of a single residence. Also, since the height of the structures on the parcels will be limited to 1.5 times the width of the structures (33.110.215) or 35-feet, whichever is less, the scale of the development allowed on the parcels will be similar to that allowed on nearby lots. Additionally, the parcels will be regularly shaped, since the lot lines are straight and perpendicular to the abutting right-of-way, resulting in rectangular parcels comparable in form to the nearby properties. As such, though smaller than the size of the nearby lots, the size of the proposed parcels will be compatible with the planned intensity and purpose of the R2.5 zone lot standards.
- The proposed narrow lots are compatible with existing lots because the adjacent lots are zoned R2.5 and RH. Though many nearby lots are 5,000 square feet, the surrounding area is zoned in such a way to allow future development of equal (or greater) intensity and on lots of similar size.
- The proposed lots are not landlocked, nor do they narrow to an unbuildable width close to the street

***The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet***

- Since one parcel is proposed to be less than 25 feet, the lots must be developed with attached houses; therefore, this standard does not apply.

***If the lot abuts an alley, then vehicle access is allowed only from the alley***

- The site does not have access from an alley, so this standard does not apply.

***Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development***

- No garage is allowed on Parcel 1 per 33.110.253.D.3.b. The width of Parcel 2 would allow for a garage that meets the garage limitation standards, though there no garages proposed as part of this proposal.

***60 percent landscaping requirement for attached houses***

- Parcel 2 will have an individual driveway that is approximately 10 feet wide. Parcel 1 will not have a driveway (as noted under the Facts section of this report on off-street parking is not required at the site per Section 33.266.110.B as it is located within 500 feet of frequent transit). Parcel 2 is 30.5 feet wide, which will still allow for the 60% standard to be met in the area not devoted to driveway pavement.

***If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.***

- Parking is not required; however, the applicant is proposing off-street parking for Parcel 2 on a parking pad. No garage or parking is proposed on Parcel 1, and therefore, a covenant must be executed with the City that the property will be developed without parking and that a driveway with access to on-site parking cannot be added unless it is conformance with regulations in effect at that time.

The findings above show that the applicable density and lot dimension standards are met. With the condition noted above, this criterion is 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, there are no trees required to be preserved in the areas where new development on the site is anticipated. 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 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, septic system decommissioning, and sewer capping prior to final plat approval. Please note the City's Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources. 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 provided a written statement sufficient to address the relevant approval criteria. The applicant requests a Land Division to divide one parcel into two parcels that each provide frontage on NE 6th and which can each accommodate a single-family home. According the ITE Trip Generation Manual, 9th Edition, one new single-family dwelling is expected to generate approximately 10 vehicle trips per day, including one additional trip during the morning peak hour and one additional trip during the evening peak hour. The proposed development is therefore not expected to significantly impact street capacity or level-of-service. The development proposed will create one new curb cut, in order to locate a driveway on the northern parcel proposed. Two on-street parking spaces will be retained. On-site parking/loading and on-street parking/loading will be sufficient to serve the proposed uses. The driveway is proposed in a location that will preserve two on-street parking spaces, thereby minimizing negative impacts to on-street parking; the existing development includes one driveway, to be closed. A stop for the #44 bus is approximately 2,000 ft from the proposed development and a stop for the #6 bus is 0.2 miles from the proposed development; therefore, access to transit service and facilities is provided. The subject right-of-way is of low volume and low vehicle speeds; roadways can accommodate bicyclists. Existing sidewalk corridors provide pedestrian access. The proposed development is expected to result in minimal impacts to immediate and adjacent neighborhoods.*

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:

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p>
<p>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.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that sanitary sewer 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.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> <li>• <b>Parcels 1 and 2:</b> Stormwater from these lots will be directed 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.</li> </ul>
<p><b>33.654.110.B.1 Through streets and pedestrian connections</b></p>
<p>Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.</p> <p>The block on which the subject property is located meets the noted spacing requirements for through streets, but, at 400 feet long, is over the minimum spacing requirement of 330 feet for pedestrian connections. Though a pedestrian connection may be appropriate at this site, given the configuration of the adjacent properties and the fact that the distance is just 70 feet longer than the recommended pedestrian connection spacing standard, there is no practicable opportunity or pressing need to provide one at this location.</p> <p>In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.</p> <p>For the reasons described above, this criterion is met.</p>
<p><b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment</p>
<p>Portland Transportation has indicated that the existing street is currently improved in a manner that meets City standards and is sufficient to serve the expected users. Prior to Building Permit approval, the applicant is required to repair the sidewalk corridor if necessary and to close any curb cuts that do not provide access to a legal parking space.</p> <p>With the conditions of approval described above, this criterion is met.</p>
<p><b>33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)</b></p>
<p>Any easements that may be needed for private utilities that cannot be accommodated within the adjacent rights-of-way 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.</p>



## DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review have not been addressed in the review. 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 11 can be met, and those 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.

### Future Development

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

- Narrow Lots-- development on Parcels 1 and 2 will be subject to the following standards at the time of development permitting:
- Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and
- Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a
- Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.D.3.b. Detached dwelling units are not permitted on lots that are less than 25 feet in width.

**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 R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

With the conditions noted above, 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 regard 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. This requirement is based on the standards of Title 11.

## CONCLUSIONS

The applicant has proposed a two-parcel partition, 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:

- Narrow lot creation
- Demolition of the existing house
- Septic system decommissioning
- Sidewalk rebuilding
- Fire Bureau requirements
- Street tree planting

With conditions 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 narrow lots for 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. 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 shall meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning the septic system on the site.

#### Required Legal Documents

4. The applicant shall execute a covenant with the city that prohibits the development of an off-street parking space or curb cut on Parcel 1, unless the applicant demonstrates that regulations in effect at that time are met. The covenant must meet the requirements of section 33.700.060 and must be referenced on and recorded with the plat.

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

1. Parcels 1 and 2 must be developed with attached dwelling units.
2. No on-site parking space(s) or vehicular curb cuts are permitted on Parcel 1 unless the applicant demonstrates that regulations in effect at that time are met.
3. The applicant shall meet the requirements of the City Engineer for rebuilding the sidewalk along NE 6<sup>th</sup> Avenue frontage if necessary and for closing the existing curb.
4. 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.
5. The applicant must meet the requirements of Urban Forestry to plant street trees in the planter strip on NE 6<sup>th</sup> Avenue adjacent to Parcels 1 and 2. The applicant must contact Urban Forestry at 503-823-TREE (8733) prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit.

**Staff Planner: Jason P. McNeil**

**Decision rendered by:**  **on August 28, 2018**

By authority of the Director of the Bureau of Development Services

**Decision mailed August 30, 2018**

**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 March 23, 2018 and was determined to be complete on July 2, 2018.

*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 March 23, 2018.

*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: October 30, 2018.**

**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).

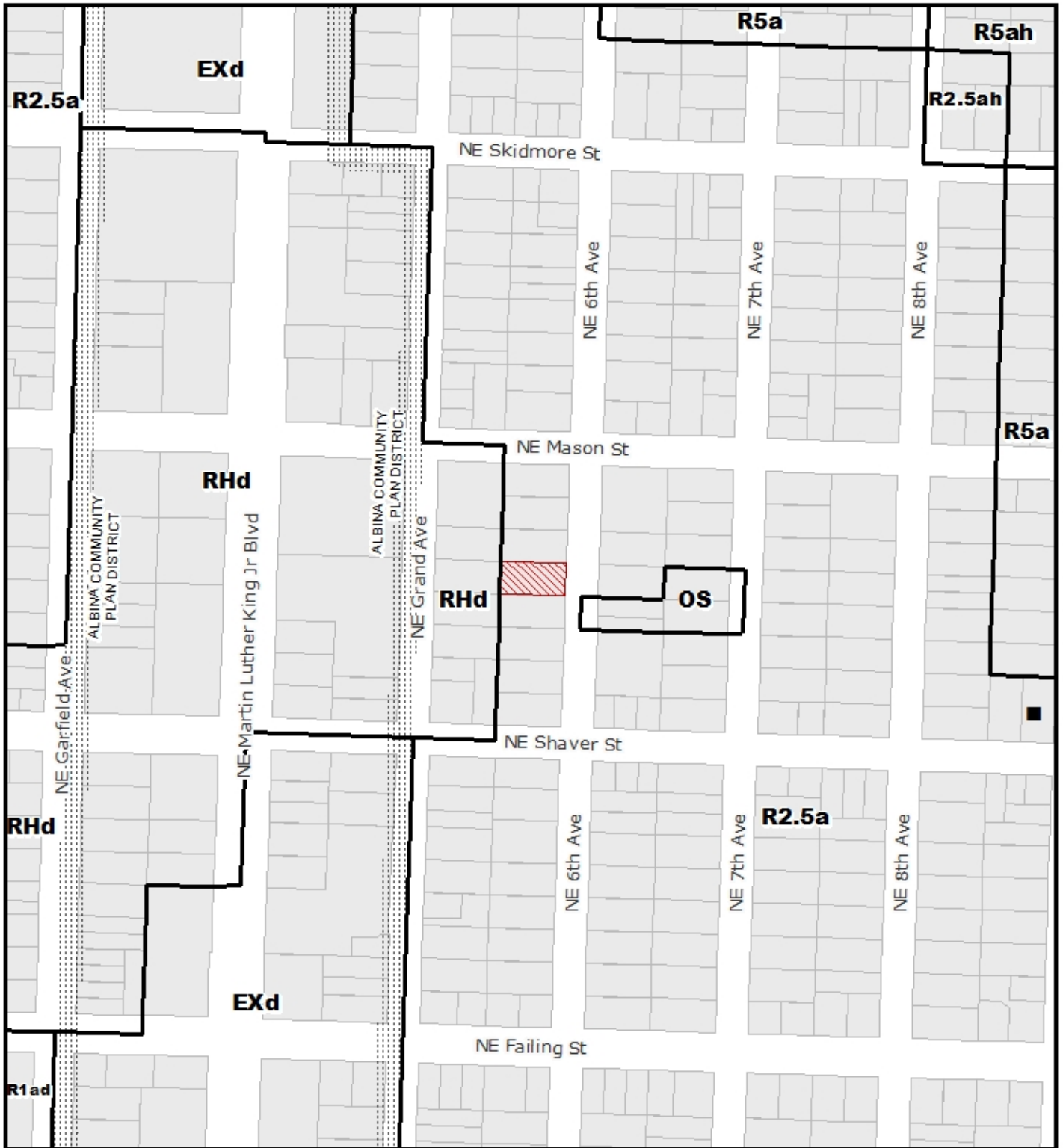
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Submittal
  - 1. Applicant narrative 3/23/18
  - 2. Stormwater form
  - 3. Revised narrative 7/2/18
  - 4. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Original Site Plan
  - 2. Existing Conditions Survey
  - 3. Revised Site Plan 7/2/18 (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 Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of BDS
- F. Correspondence:
  - 1. Margaret O'Hartigan, King Neighborhood Association, 8/8/18: Concerns about narrow lot creation and scale of proposed development, history of gentrification and displacement in inner NE Portland.
  - 2. Bryhn and Rachel Ireson, 8/13/18: Concerns about narrow lots, scale of development, density, and impact to property value.
- G. Other:
  - 1. Original LU application
  - 2. Expedited Land Division Acknowledgement Form
  - 3. 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).**



**ZONING**  NORTH

-  Site
-  Historic Landmark

File No.	<u>LU 18-139889 LDP</u>
1/4 Section	<u>2631</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N1E23CB 19700</u>
Exhibit	<u>B Mar 27, 2018</u>

**Project:**  
**NE 6TH**

**Land Division / Permit**  
401 NE 6th Ave  
Portland, OR 97212

**Owner:**  
**Sinone Goldfeder A/E/T**  
2975 SW Upper Drive  
Portland, OR 97201  
Contact: Sinone Goldfeder  
503.894.9638  
sgoldfeder@constructiveform.com

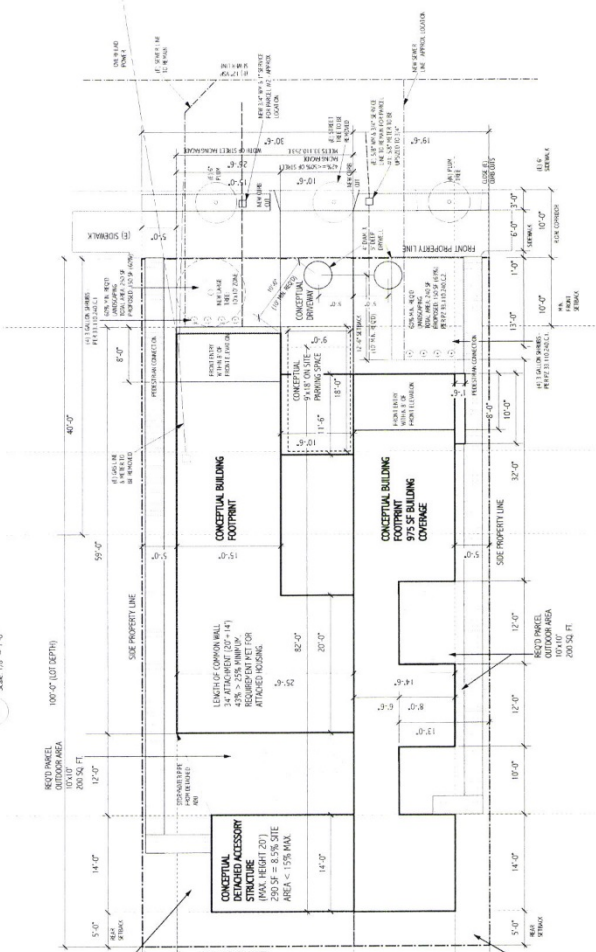
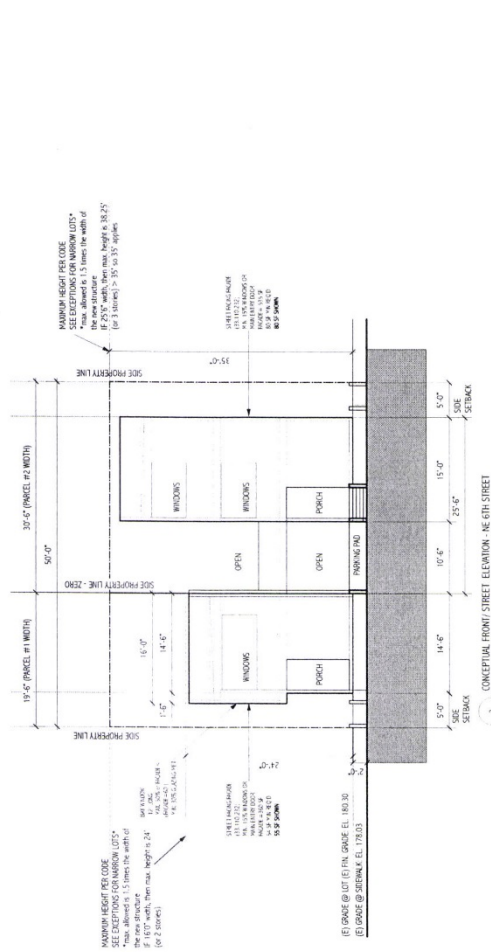
**Architect:**  
**Constructive Form**  
Architecture and Design, LLC  
1222 SW 8th Avenue  
Portland, OR 97205  
Contact: Sinone Goldfeder  
503.894.9638  
sgoldfeder@constructiveform.com

**Consultant:**  
**Andy Patis and Associates, Inc.**  
13475 Boonville Road  
Lake Oswego, OR 97035  
Contact: Andy Patis  
503.533.8344  
andypatis@aai-inc.com

Project: NE 6th Land Division  
Application No: 15-00000000  
Rec'd: 07 July 2018

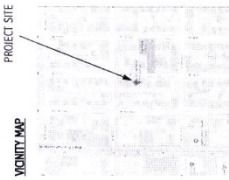


**A2.0**  
**Preliminary Land**  
**Division Plan & Elevation**



**PROJECT DESCRIPTION:**  
Land Division / Permit  
New Single Family Residence on each parcel.

**MONITOR MAP**  
PROJECT SITE



**PROJECT INFO:**  
PROPERTY ADDRESS:  
4043 NE 6th Ave  
Portland OR 97212  
Property ID: RR207433

**Legal:** LINCOLN PK. ANX. BLOCK 16, LOT 13  
City of Portland, Multnomah County, Oregon  
IN RECSOB 17-19700  
Zoning: R - 2.5 (a)

**Total Lot Area:** 5,000 SF (0.11 Acres)  
**Occupancy Group:** R-3  
**Construction Type:** V-B

**PARCEL #2**  
3060 SQ. FT.  
30'6" X 100'  
1,500 SF BUILDING  
COVERAGE

**PARCEL #1**  
1950 SQ. FT.  
19'6" X 100'  
975 SF BUILDING  
COVERAGE

**SHEET INFO:**  
A1.1 Existing Conditions Plan  
A2.0 Preliminary Land Division Plan

**PLANNING & ZONING SUMMARY**  
Applicable Zoning Code sections:  
All work shall conform to the City of Portland, Title 33, Planning and Zoning.  
Zoning: R - 2.5 (a)

Table 110-3: Development Standards in Single-Dwelling zones

Maximum Height	35 ft.
Minimum Front building setback	10 ft.
Minimum Side building setback	5 ft. (detached) / 5 ft. (attached)
Minimum Rear building setback	5 ft.
Minimum Garage entrance setback	18 ft.
Minimum Required outdoor area:	250 sq. ft. (detached) / 200 sq. ft. (attached)
Minimum outdoor area dimensions:	12 ft. x 12 ft. (detached); 10 ft. x 10 ft. (attached)

**RECEIVED**  
**JUL 02 2018**

CASE NO. **139889 LDP**  
EXHIBIT **C.3**