



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: December 1, 2014
To: Interested Person
From: Stephanie Beckman, Land Use Services
503-823-6979 / Stephanie.Beckman@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, including the written response to the approval criteria and to public comments received on this application, 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 14-111258 LDP

GENERAL INFORMATION

Applicant: Kevin Partain / Urban Visions Planning Services 503-421-2967
223 NE 56th Ave / Portland, OR 97213

Owner: Jin Huang / Jinji LLC
2645 NW Garryanna Dr Apt 5 / Corvallis, OR 97330

Site Address: 2251 SE 139TH AVE

Legal Description: BLOCK 11 LOT 9 EXC W 145', HOOD ACRES & PLAT 2 & 3
Tax Account No.: R401406120
State ID No.: 1S2E02DD 10200
Quarter Section: 3244
Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910. Midway, contact Bill Dayton at 503-252-2017.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.
Zoning: R5a – Single Dwelling Residential 5,000, with Alternative Design Density 'a' overlay zone.
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 proposes to divide this 10,857 square foot site to create two parcels. The existing home and accessory dwelling unit will be retained on Parcel 1, which would be 6,732 square feet in area. Parcel 2 is proposed to be 4,128 square feet and would be available for development of a new single family home. Parcel would be a flag lot accessed

via SE 139th Avenue via a 12 foot wide pole. An easement and shared driveway to serve both Parcel 1 and Parcel 2 is proposed over the flag pole.

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 2 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**.

ANALYSIS

Site and Vicinity: The site is flat and is currently developed with a single-dwelling home and a detached accessory dwelling located in the northwest corner of the lot. There are three mature Douglas fir trees located south of the existing house, as well as a mature fir on the neighboring property to the west directly adjacent to the rear property line.

The surrounding area is primarily developed with single dwelling homes. There are a number of flag lots in the area, as well as lots served by public or private dead-end streets. There are also a number of large properties that have development potential in the area.

Infrastructure:

- **Streets** – At this location, the City's Transportation System Plan classifies SE 139th Ave as a Neighborhood Collector, City Walkway and a Local Service street for all other modes. According to City GIS, SE 139th Ave is improved with 40-ft of paving and a 10-ft wide sidewalk corridor (comprised of a 5.5-ft wide curb-tight sidewalk and a 4.5-ft wide frontage zone within a 60-ft wide right-of-way). The site is served by nearby transit service along SE Division approximately 610 feet south of the site via Tri-Met route #4 [Division/Fessenden].
- **Water Service** – There is an existing 6-inch DI water main in SE 139th Avenue. The existing house and ADU are served by a 3/4-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC public sanitary sewer line in SE 139th Avenue. The existing residence and ADU are served by a system that connects to the public main in the northern portion of the site within the frontage of proposed Parcel 1.
- **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 “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential

neighborhood. This land division proposal is not using any of the 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 3, 2014**. One written response has been received from a notified property owner in response to the proposal. Concerns raised in the letter are summarized below followed by staff responses (see Exhibit F.1 for additional details).

- Concern about adding another dwelling unit to the site which already has an accessory dwelling in the back yard.

Staff Response: *Staff acknowledges that this is an unusual situation to have a flag lot proposed on a site that already has a detached accessory dwelling unit (ADU) in the rear yard. ADUs are not counted toward the maximum allowed density on the site. The proposal meets all of the density and lot dimension requirements of the zoning code and therefore it must be approved.*

- Concern about construction damage to the mature fir tree on the neighboring property creating a dangerous situation. The neighbor requests that the applicant pay to remove the tree if development is to proceed.

Staff Response: *Because the tree in question is not on the development site, it is not subject to the tree preservation regulations that apply to this proposal. There are no other regulations that require that applicant to address the neighboring tree. Generally, this is a matter that must be addressed between property owners. However, the applicant’s arborist has acknowledged the fir tree on the adjacent property and has provided recommendations to limit impacts to its root system, including arborist supervision of excavation and not planting trees under its dripline. Any additional action to remove the tree to address potential impacts is up the two property owners to determine. It should be noted that removal of the tree would likely require a permit from the City’s Urban Forestry Division.*

- **Request for a privacy fence to be installed**

Staff Response: *There are no regulations or approval criteria that require a privacy fence to be installed in this situation. However, the regulations for flag lots require a landscape screen to be installed on the rear and side lot lines of the flag lot.*

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.
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, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
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.

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. The maximum density is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum.

The site has a maximum density of 2 units. The minimum required density would also be 2 units, however it is reduced to one (one less than the maximum). The applicant is proposing 2 single dwelling parcels (the existing accessory dwelling unit does not count in the density calculations). The density standards are therefore met.

The lot dimensions required and proposed 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)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R5 Zone	3,000	8,500	36	50	30	40	40
Parcel 1	6,732		63	145	63		
Parcel 2	4,125 (total) 3,141 (flag portion)		n/a	n/a	n/a	50	62.82

* 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.

** For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) minimum lot area calculations do not include the pole portion of the lot.

Flag Lots

When allowed

In this case the applicant is proposing 2 parcels, only one of which is a flag lot. The existing home has been on the property for at least 5-years and is located so that it precludes a land division that meets minimum lot width standards. The minimum density standards are met. Therefore the thresholds for when a flag lot is allowed to be created have been met.

Dimensions

The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width and depth standards.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, the flag portion of Parcel 2 will provide off street parking access for both the parcels. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. An access easement will be placed over the relevant portion of the pole to allow shared access.

Parcel 2 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 2 is allowed.

The findings above show that the applicable density and lot dimension standards are met. Therefore, with conditions requiring shared access by both parcels from the flag pole on Parcel 2 and for the related access easement, 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 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.5). Two trees have been exempted: #47, 27-inch Douglas fir because it is within 10 feet of the existing home to remain, and #49, 8-inch Fruiting apple because of its condition. Two trees are subject to the preservation requirements of this chapter: # 46 and 48, 34-inch and 30-inch Douglas firs.

The total non-exempt tree diameter on the site is 64 inches. The applicant proposes to preserve tree #48, which is 30 inches, or 46 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total non-exempt tree diameter on the site to be preserved. The tree to be preserved and the required root protection zone is shown on the applicant's Tree Preservation Plan (Exhibit C.2).

The arborist has recommended an alternative root protection zone for tree #48 to provide space to install the new driveway and utilities for Parcel 2. The RPZ fencing would be installed 4 feet south, 5 feet west and 30 feet north and east of the tree. In addition, utilities will need to be bored under the tree roots (within 20 feet of the tree) and the driveway must

be installed using special construction techniques within 30 feet of the tree. This includes limited grading to remove the litter layer only (no excavation) and a modified profile using geo-textile fabric, clean crushed rock and pervious paving.

The arborist did not specifically state whether Tree #47 will be retained or removed. It is exempt because it is within 10 feet of the house to remain, therefore its retention is optional. It is within the non-disturbance area for Tree #48 tree protection, however the applicant's plan indicate that it could be intended for removal. Given the proximity of Tree #47 to Tree #48, which is required to be preserved, a condition is needed for additional information to be provided about protection of Tree #48 if the applicant decides to remove Tree #47.

The arborist has recommended measures to protect an off-site tree, a 36-inch tree just west of the site. This includes RPZ fencing 5 feet east of the tree, arborist supervision of excavation within the 18 foot radius dripline and no tree planting under the dripline.

See the arborist report (Exhibit A.5) for additional details.

In order to ensure that future owners of the lots are aware of the tree preservation requirements for Tree #48, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions at the time of final plat.

This criterion is met, subject to the condition that development on Parcel 2 is carried out in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.5) and an Acknowledgement of Tree Preservation Land Use Conditions is recorded with the final plat.

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. As described above, there are restrictions on grading in the root protection zone of Tree #48, as well as the near the tree on the neighboring property. Provided the arborist recommendations are followed, 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. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

The following easements are proposed and/or required for this land division:

- A Private Access Easement is required over the flag pole of Parcel 2 to provide a shared access serving Parcels 1 and 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and

facilities within that area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block for each agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for private access easement has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, 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.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. PBOT has provided the following findings (see Exhibit E.2):

The proposed land division will create 2 parcels from the current lot in order to accommodate 2 detached single-family homes (the existing single-family detached house on the site will be retained on Proposed Parcel 1 and a new home will be constructed on Proposed Parcel 2). Referring to the ITE Trip Generation Manual, 9th Edition, there will be 1 new AM peak hour trip and 1 additional PM peak hour trip (10 additional total new daily trips) that may result from the development proposal on the site. The new peak hour trips will have minimal impacts to the area's nearby intersections and do not warrant any mitigation to said intersections. The intersections will continue to operate at current levels without further degradation from the vehicle trips generated by the proposed project factored into the analysis.

No significant negative impacts are expected to occur in relation to any of the other evaluation factors. The site is served by nearby transit service along SE Division, south of the subject site via Tri-Met route #4 [Division/Fessenden]. There are existing sidewalk corridors throughout the vicinity that facilitate pedestrian travel. There are identified bike facilities (Portland Bike/Walk Map) in the area including a Painted Bike Lane along SE Division, south of the site and Shared Roadways along SE 139th Ave and SE Lincoln, north of the site.

With regard to impacts to on-street parking, the new residence that will be developed on the site will include on-site parking opportunities for at least one vehicle, with access via the pole portion of the proposed flag lot. The existing curb cut along the site frontage will be, therefore, there will be no net gain or loss of physical on-street parking opportunities related to the proposed development.

However, in association with the proposed development on the site, there will be an increase in on-street parking demand that needs to be factored. The parking demand that is expected to be generated as a result of the proposed project is estimated using rates from the Institute of Transportation Engineers (ITE), Parking Generation Manual, 4th Edition, 2010. The data utilized to determine the parking demand for the one additional dwelling unit on the site was for land use #210, Single-Family Detached Housing. Based upon this data, the 85th percentile peak parking demand for the one additional dwelling unit is 2 parking spaces. With on-site parking opportunities for at least one vehicle on each of the proposed lots, on-street parking impacts will be minimized.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the street within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

PBOT has reviewed the information supplied and available evidence and has determined that 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>33.651 Water Service standard – 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>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>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.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> • Public Street Improvements: PBOT requires new sidewalk construction in a pedestrian corridor where a curb and paved street already exist. Constructing the sidewalk so that it slopes toward a vegetated area and/or planting street trees will be a viable alternative to constructing stormwater management facilities, and will be reviewed with the public works permit. • Parcel 1 (the lot with the existing house and ADU): The applicant has shown downspouts and a drywell related to the ADU construction that will remain on Parcel 1 and meets the stormwater requirements for that lot. • Parcel 2 (the flag lot): The applicant has submitted a Simplified Approach stormwater report from the 2014 Stormwater Management Manual, which describes that an infiltration test yielded a rate of 6” per hour. The applicant proposes a drywell on Parcel 2. Although the revised plan submitted for review proposed a vegetated strip down the middle of the driveway, which could infiltrate runoff from the two wheel tracks, based on discussions with BDS staff the applicant will be required to construct the driveway with a pervious paving material due to a recommendation from the applicant’s arborist. Staff has not reviewed the technical feasibility of the pervious pavement at this time, but the slope of the site should not preclude it, and based on what is generally known about soils in this area, staff anticipates that the soils will be able to accommodate it. During review of building permit plans, the applicant may be required to submit the results of infiltration tests specific to the depth of the pervious pavement subgrade. An additional amount of base rock may be necessary to hold the 10-year storm if infiltration rates are below the minimum required. Based on the new information that has been submitted, BES has no further concerns with the proposal, provided a condition of approval is included requiring pervious pavement in the Parcel 2 driveway. This will satisfy staff’s previous concern that no stormwater management for the driveway was proposed.
<p>33.654.110.B.1 Through streets and pedestrian connections</p> <p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. Pedestrian connections should generally be provided no more than 330 feet apart. No street connections have been identified in the vicinity of this property in the Portland</p>

Master Street Plan document.

The subject block and others in the vicinity do not satisfy the above referenced public street or pedestrian connection spacing goals. Though the subject site is located in what appears to be a correct alignment to connect to existing public right-of-way west of the subject site (SE Grant Ct), making it a desirable location to provide at least a pedestrian connection through the block, it is not feasible without eliminating existing development on abutting lot(s). Further, an accessory dwelling unit was permitted in 2012 along the northern property line of the subject site precluding any such connectivity along this side of the subject site. Additionally, considering that the existing access to the current home on the subject site is along a driveway along the southern property line of the site and access to Proposed Parcel 2 is also along this side of the site, these facts also do not make any broader connectivity opportunities to the west feasible. Lastly, given the existing size of the subject site, providing a pedestrian connection through the subject site (or block) would likely compromise the ability to create the proposed parcels. These impacts do not make further connectivity through the subject site or block practicable. PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.

For the reasons described above, this criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development.

At this location, the City's Transportation System Plan classifies SE 139th Ave as a Neighborhood Collector, City Walkway and a Local Service street for all other modes. According to City GIS, SE 139th Ave is improved with 40-ft of paving width and a 10-ft wide sidewalk corridor (comprised of a 5.5-ft wide curb-tight sidewalk and a 4.5-ft wide frontage zone – this information is verified by the applicant's surveyed plans) within a 60-ft wide right-of-way. For a City Walkway classified street abutting an R5-zoned lot, the City's Pedestrian Design Guide recommends a 12-ft wide sidewalk corridor comprised of a 0.5-ft curb, 4-ft wide furnishing zone, 6-ft wide sidewalk and a 1.5-ft wide frontage zone. The existing 10-ft wide (overall width) sidewalk corridor and actual 5.5-ft wide curb-tight sidewalk do not satisfy the above referenced standard or configuration.

Prior to final plat approval, the applicant will be required to upgrade the existing sidewalk corridor to satisfy the above referenced standard. In order to accommodate the 12-ft wide standard sidewalk corridor, the applicant will also be required to dedicate 2-ft of property. The dedication of property will occur as part of the Final Plat process.

With the conditions described above, 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:

Flag Lots-- Special standards for flag lots will apply to Parcel 2(33.110.240.F.), including:

- Setback standards – 10 foot setbacks required
- Perimeter landscaping standards – note that the project arborist indicates that trees should not be planted under the dripline of the tree adjacent to the rear property line.
- Required outdoor area may not extend into the landscape area.
- Maximum building coverage is based on the flag portion of the lot only.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house and ADU identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house, deck and ADU will be at least 5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required (additional parking is not required for ADUs). Currently, a paved driveway provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. The parking space must provide for adequate turning radius from the shared flag pole driveway. Based on a review by PBOT traffic engineering the turning radius would be adequate if the parking space is widened to 12 feet. A permit must be obtained to construct the new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

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 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
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 20 – Street Trees and other Public 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 have been included in the Administrative Decision on this proposal.

- The applicant must meet the requirements of the Fire Bureau. The applicant has indicated that the new home on Parcel 2 will have fire sprinklers installed, therefore the flag pole driveway is not required to provide fire access to the site. The applicant will be required to provide an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 1 and the document will need to be referenced on the plat. At the time of development, requirements include installation of the sprinklers, addressing, and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C.1). 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 tree protection requirements. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in one standard lot and one flag lot as illustrated with Exhibits C.1 and C.2, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Services review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 139th Ave. The required right-of-way dedication must be shown on the final plat.

2. A Private Access Easement over the “flag pole” portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.2-4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A [title of document] has been recorded as document no. _____, Multnomah County Deed Records.”

C. The following must occur prior to Final Plat approval:

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage Parcel 1. The applicant must obtain an approved Right Of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor.

Existing Development

1. A parking space shall be installed on Parcel 1. The parking space must be located outside of the front setback, meet minimum dimension requirements and provide for adequate turning radius from the new driveway in flag pole on Parcel 2. The applicant does not need to connect the new parking space to the existing street with a paved driveway to meet this condition. A connecting driveway can be provided when the new driveway is installed on Parcel 2. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan.

Required Legal Documents

2. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition B.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
3. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
4. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

D. 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 Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.5). Specifically, Tree #48 is required to be preserved, with the root protection zones indicated on Exhibit C.2 and the special construction measures described in Exhibit A.5. Specifically, utilities must be bored under tree roots within 20 feet of the tree and the driveway must be pervious paving and installed with limited grading (no excavation) and a modified profile within 30 feet of the tree.

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.

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.**

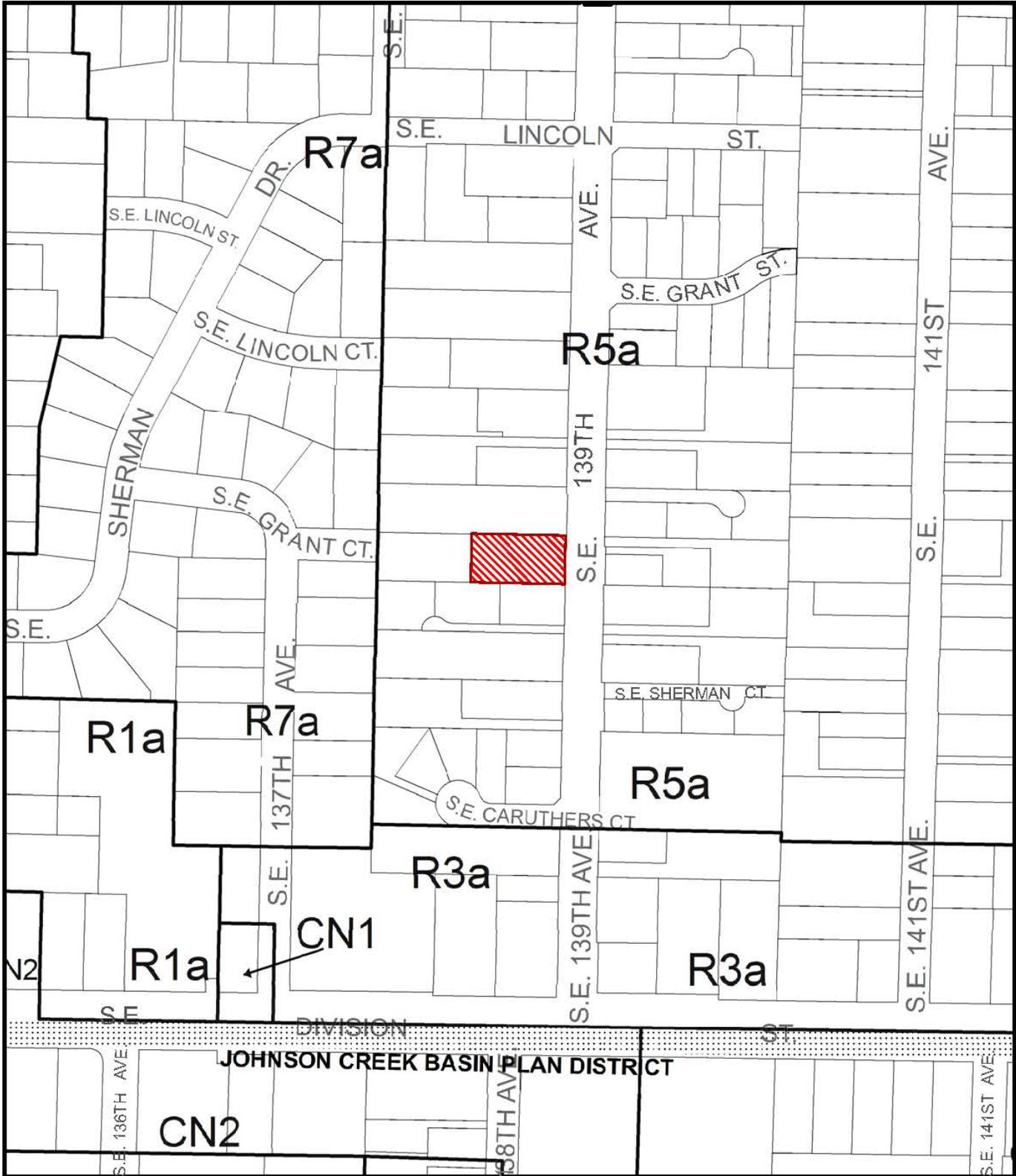
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Original submittal
 - 2. Response to incomplete letter
 - 3. Additional submittal (10/20/14)
 - 4. Additional submittal (11/5/14)
 - 5. Arborist Report (attached)
 - 6. Simplified Approach Stormwater Report
 - 7. Fire Flow Information
 - 8. 120 day review period extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division Plan (attached)
 - 2. Tree Preservation Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services (a&b)
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau (a&b)
 - 5. Site Development Review Section of BDS

6. Bureau of Parks, Forestry Division
 7. Life Safety Section of BDS
- F. Correspondence:
1. Robert and Connie Biggs, 13740 SE Grant Ct, Portland, OR 97233
- G. Other:
1. Original LU Application
 2. Incomplete letter

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



NORTH

File No. LU 14-111258 LDP
 1/4 Section 3244
 Scale 1 inch = 200 feet
 State_Id 1S2E02DD 10200
 Exhibit B (Feb 13, 2014)

MARK ASSOCIATES
 18615 E. BURNSIDE STREET
 PORTLAND, OR 97233
 TEL: 503-667-5550
 FAX: 503-666-8666
 EMAIL: DALE@MARKASSOC.S.NET

LU 14-111258
ZONING:
 R50

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Dale

OREGON
 FEBRUARY 14, 1985
 DANIEL B. BAUER
 #123

EXPIRATION DATE: 12/31/15

PARCEL DATA:
 LOT 9, BLOCK 11, h
 THEREOF, RECORDED
 DEED RECORDS.

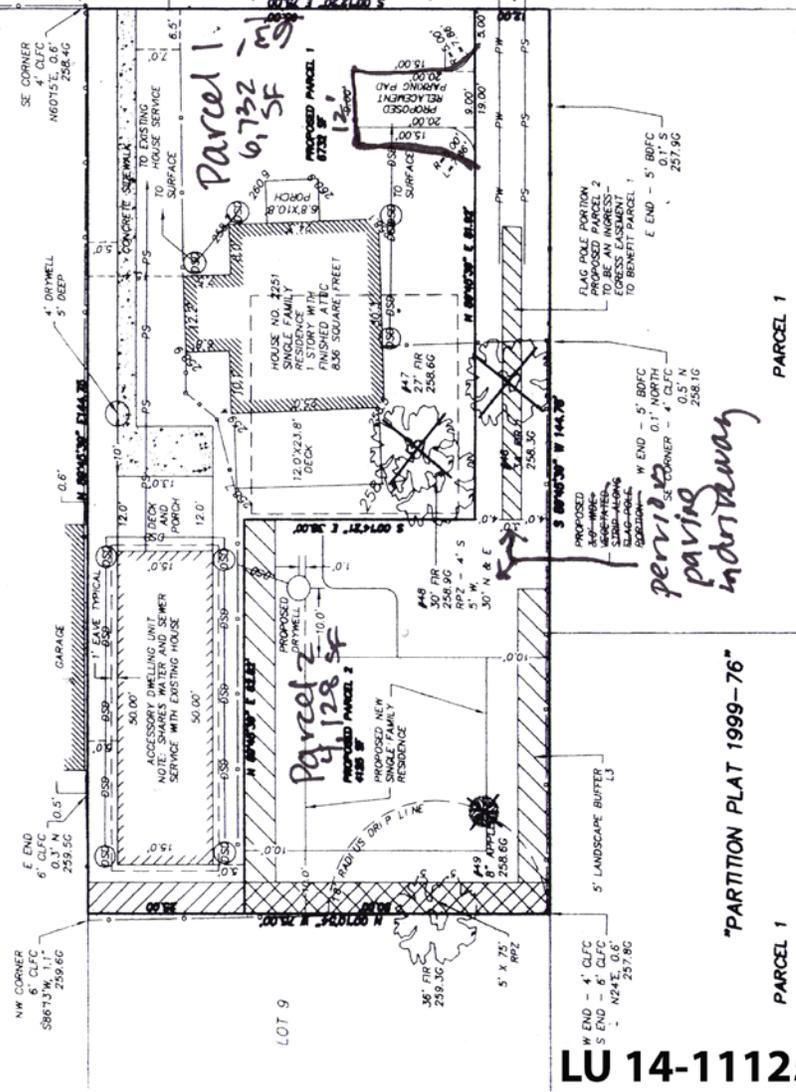
BENCH MARK:
 CITY OF PORTLAND
 AND SE 139TH AVE)

- NOTES & LEGEN**
- "WM" DEPICTS WA1
 - "MH" DEPICTS SAN
 - "PP" DEPICTS POM
 - "MB" DEPICTS MA
 - "123.4" DENOTES (ELEVATI
 - "123.45G" DENOTES (ELEVATI
 - "123.45G)" DENOTE (ELEVATI
 - "123.45(123.05)" DE (ELEVATI
 - "123.45TC" DENOTES (ELEVATI
 - "123.45CL" DENOTES (ELEVATI
 - "123.45GUT" DENOTE (ELEVA
 - "CLFC" DENOTES CI
 - "-o-" DEPICTS CH.
 - "BOFC" DENOTES BO
 - "-o-" DEPICTS BO.
 - "-W-" DEPICTS WA
 - "-S-" DEPICTS SF1

Preliminary Plan
2251 SF 139th Ave

"HOOD ACRES PLAT NO. 3"
 BLOCK 11

LOT 8



"PARTITION PLAT 1999-76"

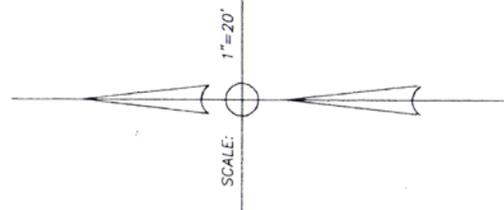
PARCEL 1

PARCEL 1

LOT 9

GUTTER LINE

S.E. 139TH AVENUE
 60.0' WIDE



PRE POLE NO. 3810
 256.1G

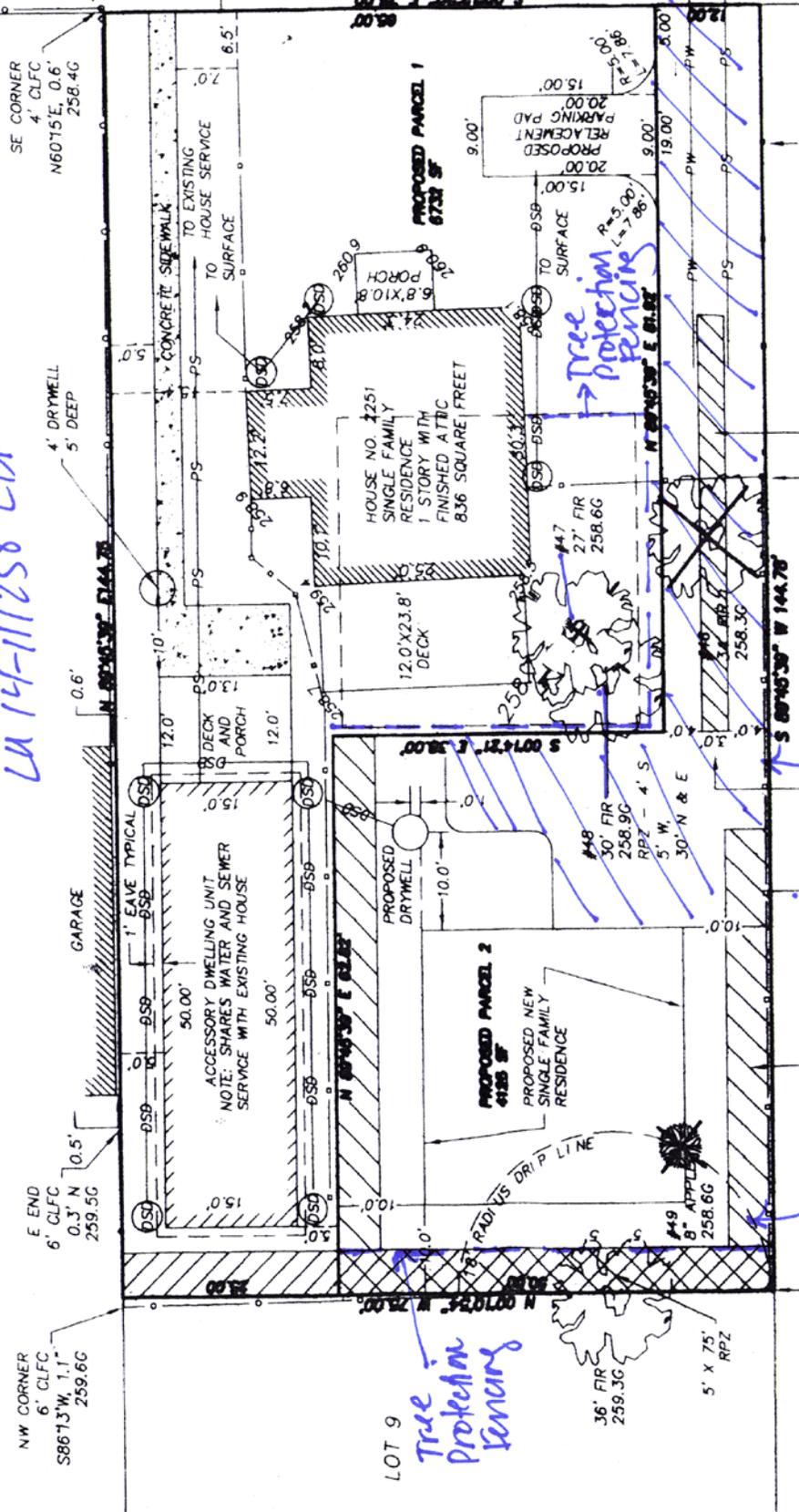
LU 14-111258 LDP

C.1

*The Preservation Plan.
2251 SE 139th Ave
LU 14-111258 LDP*

SE 139th Ave

N



*- Previous paving required
- Bore utilities w/in 20' of tree #48
- See Arborist Report (Ex. A.5) for driveway construction requirements (no excavation)*

*- Arborist supervise w/in drip line tree
- no tree planting*

Tree #48 - required to be preserved

Tree #47 - optional

14-111288

C.2