



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** July 29, 2014  
**To:** Interested Person  
**From:** Stephanie Beckman, 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 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 13-237634 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Mike Coyle, 503-680-5497 / Faster Permits  
14334 NW Eagleridge Lane / Portland OR 97229

**Consultant:** Bruce Vincent, 503-842-5391 / Bedsaul / Vincent Consulting, LLC  
416 Laurel Ave #3 / Tillamook OR 97141

**Owner:** Jeff Koopman / Po Box 16506 / Portland, OR 97292-0506

**Site Address:** 5343 SE 105TH AVE

**Legal Description:** BLOCK 1 N 58' OF E 190' OF LOT 4, HIRAMS PL  
**Tax Account No.:** R392500220  
**State ID No.:** 1S2E15BC 11400 **Quarter Section:** 3541  
**Neighborhood:** Lents, contact Cora Potter at 503-823-4550.  
**Business District:** Midway, contact Bill Dayton at 503-252-2017.  
**District Coalition:** East Portland Neighborhood Office, Richard Bixby at 503-823-4550.  
**Plan District:** Johnson Creek Basin  
**Zoning:** R5a – Single Dwelling Residential 5,000 with Alternative Design  
Density “a” 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 proposes to divide the 11,010 square foot vacant site into 2 parcels, each of which could be developed with a single dwelling. Parcel 1 fronts on SE 105<sup>th</sup> Ave and is proposed to be 4,136 square feet. Parcel 2 is a flag lot and is proposed to be 6,699 square feet. Both lots will be accessed from SE 105<sup>th</sup> via a shared driveway located within the 13 foot wide pole on Parcel 2.

The applicant proposes to preserve a 27 inch diameter Silver Maple adjacent to the SE 105<sup>th</sup> Ave right-of-way. All other trees on the site are nuisance species and are therefore exempt from tree preservation requirements.

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.**

## **FACTS**

**Site and Vicinity:** The site is currently vacant. A house and detached garage were demolished in 2008. The site is flat is an open grassy area, with the exception of a few trees. The surrounding area is also flat and is developed with single-dwelling homes, most of which are one story in height. The area is characterized by large trees along the street and in yards.

**Infrastructure:**

- **Streets** – The site has approximately 58 feet of frontage on SE 105<sup>th</sup> Avenue. There is one driveway entering the site that served the previous development on the site. At this location, SW 105<sup>th</sup> Ave is classified as a Local Service Street for all modes. It is a 50-ft wide ROW improved with a 32-ft roadway with curbs, but lacks sidewalks along the site frontage. Tri-Met provides transit service approximately 325 feet from the site on SE Harold Street via Bus #10.
- **Water Service** – There is an existing 5/8” metered service which provides water to this location from the existing 6” DI water main in SE 105th Ave.
- **Sanitary Service** - There is an 8-inch public sanitary-only sewer located in SE 105<sup>th</sup> that can serve the sanitary disposal needs of this project. According to 1992 City connection records there is an existing lateral located 375 feet from the manhole in SE Harris. This lateral will be available for future development on Parcel 1.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. There is a public underground injection control (UIC) system located in SE 105<sup>th</sup> just north of the project site that receives stormwater runoff from the public right-of-way. The UIC is made up of two inlets and an infiltration sump. Private stormwater is not allowed to be directed to publically maintained UICs.

**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 Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. The plan district regulations do not impact this proposal.

**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 **March 11, 2014**. One written response has been received from a notified property owner in response to the proposal. Concerns expressed in the letter are summarized below followed by a staff response.

**Summary of Comment Letter** (See Exhibit F.1 for additional details):

- Property is too small and too narrow to accommodate two homes
- Is the proposal including the unfenced portion of the property to the north?
- Adequate space for garbage and mail service on frontage of site
- Fire access to flag lot
- Additional traffic and parking
- Creating a cluttered, congested and overcrowded neighborhood
- Negative impact on property value
- Scale of homes that don't fit with existing style of neighborhood
- Suggests one home be constructed instead of dividing the land for two homes

**Staff Response:** The proposal complies with density and lot size requirements of the R5 zone. This zone has a maximum density of 1 unit per 5,000 square feet and lots can range in size from 3,000 to 8,500 square feet. The site is too narrow to create two standard lots that would allow for homes that are oriented to the street. In this case a flag lot is permitted and the proposed flag lot meets all of the applicable requirements. See additional discussion under Criterion “A. Lots”.

The proposal does not incorporate property to the north. The fence is clearly shown on the survey provided and is 3.5 to 4.3 feet north of the subject site's northern property line.

There are no specific approval criteria that relate to garbage and mail service, however the frontage of the site is 58 feet wide. A driveway (approximately 9 feet wide) will be located within the flag pole, which will serve both of the lots. This leaves 49 feet of frontage where garbage and recycling can be placed one day a week. Mail service for the flag lot can be placed within the frontage of the pole.

The applicant has addressed the Fire Bureau requirement for access by agreeing to install fire sprinklers in the new home to be constructed on Parcel 2. This allows the Fire access to be extended to 250 feet, which allows service from SE 105<sup>th</sup>. See additional discussion under “Other Technical Requirements” and Exhibit E.4.

Portland Transportation has reviewed the proposal and has not raised any concerns regarding parking or traffic in the area. The proposal includes on-site parking on each lot and there will be two parking spaces on the frontage of the site in front of Parcel 1. See additional discussion under Criterion “K. Transportation Impacts”.

There are no approval criteria that relate to overcrowding or potential impacts on property value, however as noted above the proposal meets the density and lot size standards for the R5 zone. The new homes will be subject to the development standards of the R5 zone. These include special standards for flag lots including greater setbacks and a landscape buffer. See additional information under “Development Standards”.

## **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>
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 site is 11,010 square feet in area. The maximum density in the R5 zone is one unit per 5,000 square feet of site area. Therefore, the maximum density is 2 units. Minimum density for the site is one unit because it is always one less than the maximum in single-dwelling zones. The applicant is proposing 2 single family 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>Min. Flag Lot Width** (feet)</b>	<b>Min. Flag Lot Depth** (feet)</b>
<b>R5 Zone</b>	3,000	8,500	36	50	30	40	40
Parcel 1	4,136		45	92			
Parcel 2	6,699 (entire lot) 5,510 (flag portion)				n/a	58	95

\* 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) lot area calculations do not include the pole portion of the lot; and (3) flag lots are exempt from the minimum front lot line requirement.

#### Flag Lots

##### ***When allowed***

In this case the applicant is proposing 2 parcels, one of which is a flag lot. The site is 58 feet wide, which precludes a land division that meets the minimum lot width standard of 36 feet. As described above, 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 the 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 pole portion of Parcel 2 (the flag lot) will provide driveway access for both of 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. In addition, it will make it possible to preserve the mature Silver maple tree located along the frontage of Parcel 1. A private access easement will be placed over the entirety 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, 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 arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.4). 6 trees have been exempted because they are nuisance species.

One tree is subject to the preservation requirements of this chapter, a 27 inch diameter silver maple located along the frontage of the site. The applicant proposes to preserve this

tree. This 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 of 16 feet is shown on the applicant's Tree Preservation Plan (Exhibit C.1). Development on the site must be carried out in conformance with this plan. In order to preserve the tree, both the applicant's arborist and the City Forester indicated that the required sidewalk improvements would need to be modified adjacent to the tree. In addition, the need to remove a steel cable around the stem of the tree was also noted. For the long-term health of the tree the cable needs to be removed. Documentation that this has been done must be provided prior to final plat approval.

The applicant obtained approval of a Public Works Alternative Review to construct a curb tight sidewalk in the area adjacent to the tree. That approval included a condition requiring a report from a private arborist be made to the Bureau of Transportation about the health and condition of the tree after construction of the sidewalk forms and again after pouring the sidewalk. These reports will also be reviewed by the City Forester. If it is determined during this process that the health and/or condition of the tree has been significantly compromised and must be removed due to the sidewalk construction, the applicant will no longer meet the tree preservation requirements of this chapter. If this occurs, mitigation will be required with a payment into the tree fund to 35 percent of the non-exempt tree diameter, or 10 inches.

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

This criterion is met, subject to the conditions described above.

**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 one tree required to be preserved will be protected by tree protection fencing during construction. 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. The prior home was demolished in 2008 and the cesspool was decommissioned at that time. 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 proposed to allow shared use of a driveway located in the flag pole portion of Parcel 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, 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. The Development Review Section of the Portland Bureau of Transportation 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:

**Street Capacity and Levels of Service**

*The proposal will result in an increase of 2 single-family residences. These residences can be expected to generate 20 daily vehicle trips with 2 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.*

**Vehicle Access/Loading**

*The new lots will have driveways to provide access to parking and loading.*

**On-Street Parking Impacts**

*The new lots will have at least one on-site parking space with potentially an additional space in front of the garage. Impacts to the on-street parking supply should be minimal.*

**Availability of Transit**

*Tri Met Bus Line #10 is available to serve the site 0.1 mile to the south at SE Harold and SE 105<sup>th</sup>..*

**Neighborhood Impacts**

*The site is being developed with 2 new single-family residences in compliance with the existing R5 zoning. In addition, standard frontage improvements including sidewalks will reduce the potential for conflicts between pedestrians and vehicles.*

**Safety for All Modes**

*New sidewalks along the site frontage will provide adequate pedestrian facilities. Given the low vehicle speeds and volumes on SE 105th, cyclists can safely share the roadway.*

As described above PBOT has reviewed and concurs with the information supplied. Standard sidewalk improvements will be required to ensure the transportation system is 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
<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"> <li>• <b>Public Street Improvements:</b> 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 may be a viable alternative to constructing stormwater management facilities, and will be reviewed with the sidewalk construction permit.</li> <li>• <b>Parcels 1 and 2:</b> BES has reviewed the Simplified Approach infiltration test results of 10-inches per hour. The applicant proposes on-site infiltration of stormwater from the new homes by means of a 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.</li> </ul> <p>The applicant proposes to use two 2-foot filter strips on either side of the driveway down the pole portion of the flag lot. The filter strips do not meet SWMM setbacks since infiltration facilities are required to be 5-feet from property lines and runoff from vegetated filters are not allow to run directly onto neighboring properties. BES requests that the applicant provide a supplemental plan at time of final plat that demonstrates stormwater management systems for both lots that can meet the SWMM. BES has no objections to the proposed stormwater management approach for the purposes of land use review. However, the plan will need to be revised prior to final plat and building permit submittal.</p>
<b>33.654.110.B.1 Through streets and pedestrian connections</b>
<p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be an east-west through street provided in the vicinity of the site. However, existing development patterns of lots that cannot be further divided to the west of the site prevent the opportunity to obtain either road or pedestrian connections to SE 104th.</p> <p>No connections are shown on adopted Master Street Plan for the area, so criterion d. does not apply.</p> <p>This criterion is met.</p>
<b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment



At this location, SW 105<sup>th</sup> Ave is a 50-ft wide ROW improved with a 32-ft roadway with curbs, but lacks sidewalks along the site frontage. Based on the zoning and street classification, an 11-ft sidewalk corridor with a 4.5-6-0.5 configuration is required. In order to provide adequate ROW width for this sidewalk improvement a 2-3 foot dedication will be a condition of final plat approval. The applicant must provide a current survey that documents the final amount of dedication needed to provide 11-ft from the face of the existing curb to the property line. The sidewalk improvement will occur with development on the new lots.

The applicant was granted approval of a Public Works Alternative Review to construct a curb tight sidewalk in the area adjacent to a maple tree to be preserved. A standard 11-ft sidewalk corridor shall continue to be required for the remainder of the frontage.

With those improvements, two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided. This criterion is met, with the condition the required right-of-way dedication is shown on the Final Plat. The required sidewalk improvement will occur with development on the lots.

### **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**

- Flag Lots—Additional development standards apply to flag lots at the time of development and will apply to Parcel 2, including, but not limited to:
  - Special setback standards apply in the RF-R2.5 zone
  - Special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones
  - Building coverage calculations are based only on the area of the flag portion of the lot.

## **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.

<b>Bureau</b>	<b>Code Authority and Topic</b>
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	Title 17 – Public Right-of-Way Improvements

<a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 20 – Street Trees and other Public 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. The applicant has provided documentation of the hydrant location and fire flow meeting Fire Bureau requirements (see Exhibit A.5). The applicant has also indicated that they will install fire sprinklers in the home on Parcel 2 to satisfy the Fire access requirement. This will require an Acknowledgement of Special Land Use Conditions to be recorded with and referenced on the final plat. Additional requirements will apply at the time of development in regards to addressing requirements and aerial access for buildings over 30 feet in height. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. See Exhibit E.4.

## CONCLUSIONS

The applicant has proposed a 2 parcel partition with one standard lot and one flag lot, 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. Concerns were raised by a neighbor about a number of issues related to the size of the site, the ability to accommodate two homes and traffic and parking impacts. However, the site conforms with the density and lot dimension regulations and meets the requirements for creating a flag lot. No traffic or parking issues were identified by Portland Transportation. The one issue identified by staff is with regards to preservation of the mature silver maple tree on the frontage of the site. Portland Transportation has approved a Public Works Alternative Review allowing a curb-tight sidewalk adjacent to the tree. Inspection of the health and condition of the tree is required during sidewalk construction as indicated in Exhibit E.2. The sidewalk will be installed with development on the site. 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 for single-dwelling development, as illustrated with Exhibit C.1, subject to the following conditions:

### A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 105<sup>th</sup> Avenue. The required right-of-way dedication must be shown on the final plat. The applicant must provide a current survey that documents the final amount of dedication needed to provide 11-ft from the face of the existing curb to the property line.
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 typically be used for.
3. A recording block for 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 A.2 – A.4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A (*name of document*) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

1. The applicant shall submit a supplemental site plan that demonstrates stormwater management systems for roof and paved areas of each lot that can meet the Stormwater Management Manual prior to final plat approval.

**Required Legal Documents**

2. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition A.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 to satisfy fire access requirements. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.
4. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

**Other requirements**

5. The applicant shall provide documentation that the steel cable around the stem of silver maple tree (Tree #1) has been removed to the satisfaction of Portland Parks, Urban Forestry.

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

1. Development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.4). Specifically, tree #1, a 27 inch diameter silver maple is required to be preserved, with the root protection zone indicated on Exhibit C.1. 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. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. If it is determined by the City Forester that Tree #1 has been damaged during sidewalk construction and cannot be retained, the applicant must pay into the City Tree Fund 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. In this situation, condition D.1 no longer applies.
3. The applicant must meet the requirements of the Fire Bureau with regards to:
  - Installing residential sprinklers in the new house on Parcel 2
  - Addressing, including the location of the house numbers
  - Aerial fire department access for buildings that exceed 30 feet in height as measured to the bottom of the eave or the top of the parapet for a flat roof.
4. Vehicle access to Parcel 1 must be from the flag pole of Parcel 2. A driveway is not allowed along the frontage of Parcel 1.

**Staff Planner: Stephanie Beckman**

**Decision rendered by:** Stephanie Beckman **on July 24, 2014**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 29, 2014**

**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 December 12, 2013, and was determined to be complete on **March 5, 2014**.

*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 December 12, 2013.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended 30 day, as stated with Exhibit A.6. Unless further extended by the applicant, **the 120 days will expire on: August 1, 2014.**

**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).

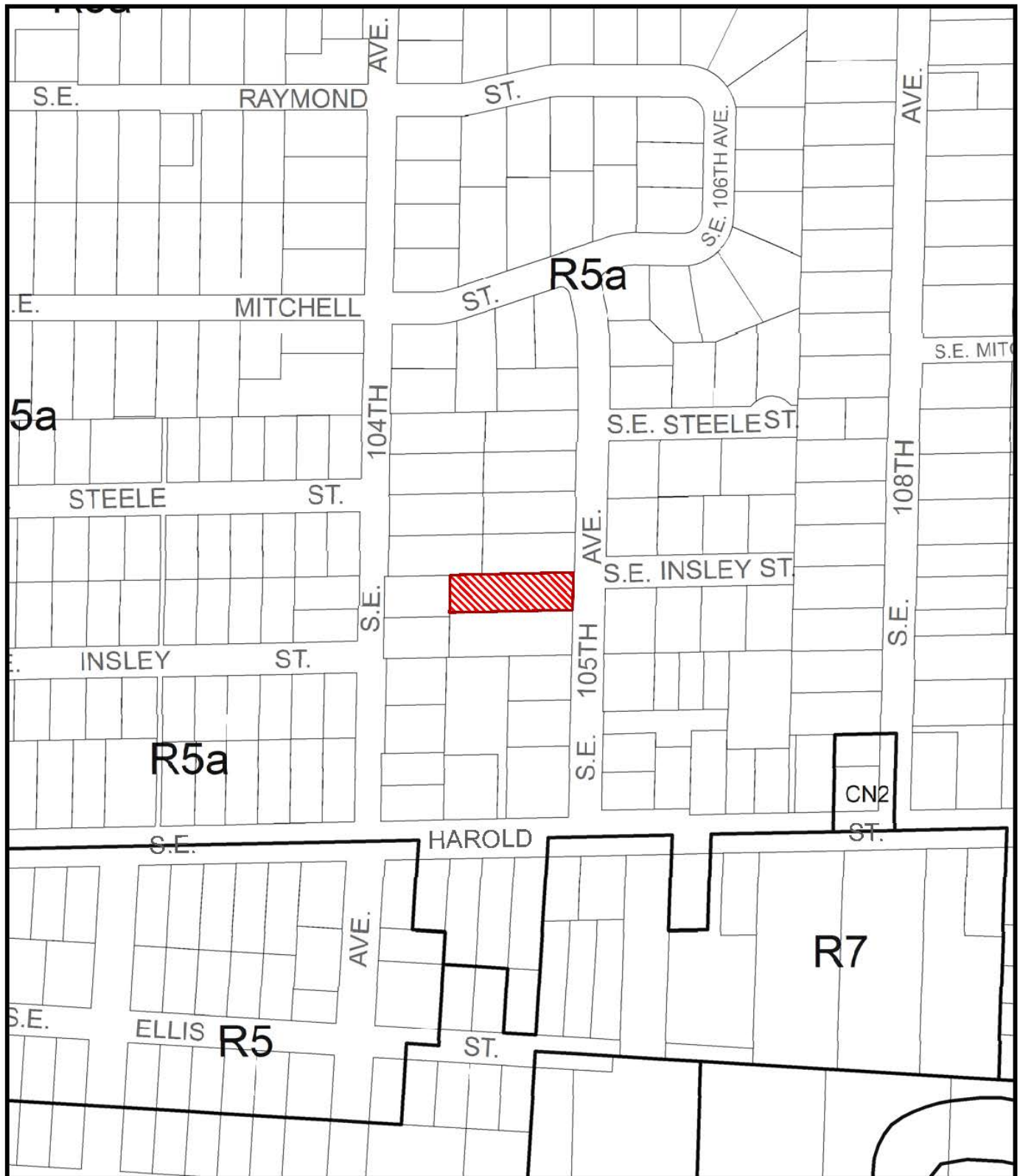
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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
  - 2. Additional information (3/5/14)
  - 3. Stormwater Simplified Approach Form
  - 4. Arborist Report
  - 5. Fire hydrant and flow information
  - 6. 120 day review extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Land Division and Tree Preservation Plan (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. Tamara Gerald, 5315 SE 105<sup>th</sup>, Portland, OR 97266
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. Public Works Alternative Review Approval

**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



This site lies within the:  
JOHNSON CREEK BASIN PLAN DISTRICT

File No. LU 13-237634 LDP  
1/4 Section 3541  
Scale 1 inch = 200 feet  
State\_Id 1S2E15BC 11400  
Exhibit B (Dec 17, 2013)



EXISTING CONDITIONS, TREE SURVEY, SITE UTILITY  
 PLAN & TENTATIVE PLAN, PROPOSED PARTITION PLAT,  
 NORTH 58' OF EAST 190', LOT 4, BLOCK 1, HIRAM'S PLACE  
 BOOK 2151, PAGE 549, OCTOBER 28, 1988

*Preliminary Land Division and  
 Tree Preservation  
 Plan*

"POE'S ADDITION"  
 BLOCK 1

"HIRAM'S PLACE"  
 BLOCK 1

SITUATED IN THE NW 1/4 OF SECTION 15, T.1N., R.2E., W.M.  
 MULTNOMAH CO., OREGON

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

DATE DRAWN: OCTOBER 8, 2013  
 DRAWING NO. 13084EXC  
 ACCOUNT NO. 13084  
 REVISION: OCTOBER 15, 2013  
 REVISION: NOVEMBER 18, 2013  
 REVISION: FEBRUARY 19, 2014  
 REVISION: FEBRUARY 19, 2014  
 REVISION: FEBRUARY 24, 2014

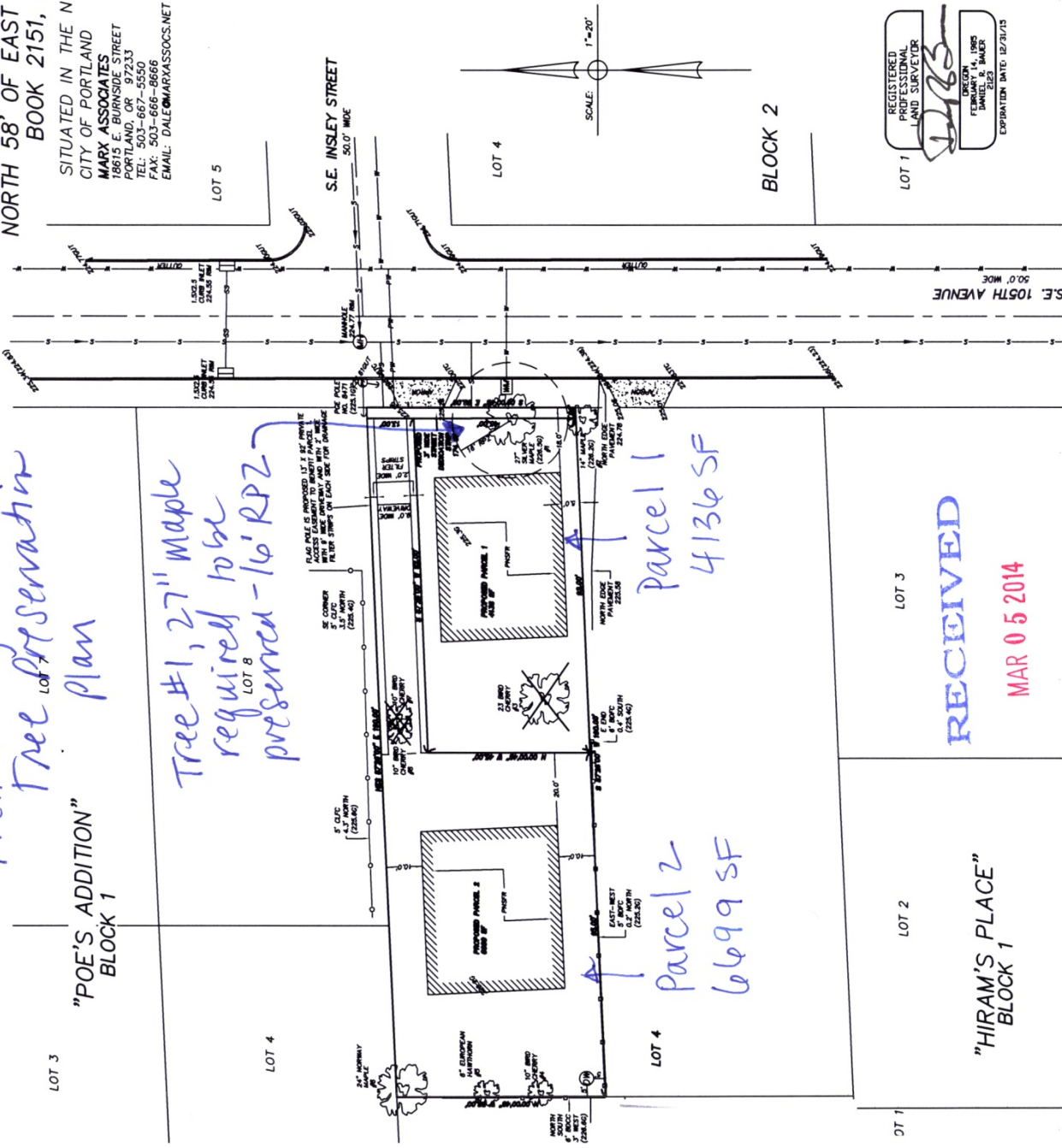
PARCEL DATA:  
 NORTH 58' OF EAST 190', LOT 4, BLOCK 1, HIRAM'S PLACE  
 MULTNOMAH COUNTY PLAT RECORDS PER BOOK 2151, PAGE  
 549, OCTOBER 28, 1988. MULTNOMAH COUNTY DEED RECORDS.

BENCH MARK:  
 OFF OF PORTLAND 27 BRASS DISC, BM NO. 1289, 1ST NORTH AVE.  
 OFF CORNER OF 10TH AVENUE AND SE MARZOLD STREET, ELEVATION  
 = 222.637 CIP DATUM

NOTES & LEGEND:

- 1. DEPICTS WATER METER
- 2. DEPICTS POWER POLE
- 3. DEPICTS 1.5 X 2.5 CURB INLET
- 4. DEPICTS SANITARY SINKER OR STORM SINKER MANHOLE
- 5. DEPICTS DOWNSPOUT TO SPLASHBLOCK EXCEPT AS NOTED (ARROW INDICATES DIRECTION OF FLOW)
- 6. DEPICTS PROPOSED DRYWELL
- 7. DEPICTS GUY ANCHOR
- 8. DEPICTS GROUND ELEVATION (ELEVATION IS AT DECIMAL POINT)
- 9. DEPICTS GROUND ELEVATION AT ITEM NOTED (ELEVATION IS AT DECIMAL POINT)
- 10. DEPICTS TOP CURB ELEVATION (ELEVATION IS AT DECIMAL POINT)
- 11. DEPICTS TOP CURB ELEVATION (ELEVATION IS AT DECIMAL POINT)
- 12. DEPICTS CENTERLINE ELEVATION (ELEVATION IS AT DECIMAL POINT)
- 13. DEPICTS GUTTER ELEVATION (ELEVATION IS AT DECIMAL POINT)
- 14. DEPICTS BOARD FENCE
- 15. DEPICTS BOARD FENCE
- 16. DEPICTS CHAIN LINK FENCE
- 17. DEPICTS WIRE FENCE
- 18. DEPICTS WIRE FENCE
- 19. DEPICTS WATER LINE
- 20. DEPICTS STORM SINKER LINE
- 21. DEPICTS PROPOSED SINKER LINE
- 22. DEPICTS PROPOSED WATER LINE
- 23. DEPICTS WHEEL CHAIR RAMP
- 24. DEPICTS SQUARE FEET
- 25. DEPICTS PROPOSED NEW SINGLE FAMILY RESIDENCE
- 26. DEPICTS ROOT PROTECTION ZONE

NOTE: UTILITY LOCATIONS ARE FROM CITY OF PORTLAND  
 UTILITY LOCATIONS ARE FROM CITY OF PORTLAND  
 UTILITY LOCATIONS ARE FROM CITY OF PORTLAND  
 SHOULD BE VERIFIED BEFORE CONSTRUCTION.



REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
 DALE  
 FEBRUARY 14, 1985  
 EXPIRATION DATE: 12/31/15

RECEIVED

MAR 05 2014

LM13-237634 LDP

EXHIBIT C.1