



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** April 21, 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 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 14-197837 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Tien Huynh / Mcculloch Construction / 503-830-8024  
1729 NE Siskiyou St / Portland OR 97212

**Owner:** William and Holly Edmonds  
2516 NE 27th Ave / Portland, OR 97212-4853

**Site Address:** 2516 NE 27TH AVE

**Legal Description:** TL 2100 0.24 ACRES, SECTION 25 1N 1E  
**Tax Account No.:** R941250090  
**State ID No.:** 1N1E25CB 02100  
**Quarter Section:** 2833  
**Neighborhood:** Grant Park, contact Ken Peterson at [gpnalanduse@gmail.com](mailto:gpnalanduse@gmail.com).  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.

**District Coalition:** Northeast Coalition of Neighborhoods, contact [info@necoalition.org](mailto:info@necoalition.org)  
**Other Designations:** Irvington Historic District (existing home is contributing structure)  
**Zoning:** R5 – Single Dwelling Residential 5,000  
**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 10,404 square foot site to create two parcels. Parcel 1 is proposed to be 6,052 square feet and would contain the existing house and detached garage. Parcel 2 is proposed to be 4,352 square feet and would be available for new single dwelling development. An Arizona Cypress tree in the rear of Parcel 1 is proposed to be preserved. The Deodar cedar and Scots pine located in the southern portion of the site

would be removed. The Scots pine is identified by the applicant's arborist as exempt from tree preservation requirements because of health issues.

A conceptual house footprint and driveway location for Parcel 2 is shown for the purposes of the land division review. However, new home construction on Parcel 2 will be subject to Historic Resource Review due to the site's location in the Irvington Historic District.

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 a corner lot with frontage on NE 27<sup>th</sup> Avenue and NE Brazee Street. It is developed with a single dwelling home and detached garage oriented toward NE 27<sup>th</sup>. To the south of the home is a relatively large side yard surrounding by a hedge and containing two mature trees. Surrounding development consists primarily of single dwelling development. There is a well developed street grid with sidewalks in the area. The site and surrounding area to the north, south and west are within the Irvington Historic District. The historic district boundary runs along the site's eastern border.

**Infrastructure:**

**Streets** – The site has approximately 102 feet of frontage on both NE 27<sup>th</sup> Avenue and NE Brazee Street. There is one driveway entering the site from NE 27<sup>th</sup> that serves the existing house that will be retained on the site.

At this location, the City's Transportation System Plan (TSP) classifies NE 27<sup>th</sup> and NE Brazee as Local Service streets for all transportation modes. According to City GIS, NE 27<sup>th</sup> is improved with a 28-ft wide paved roadway and a 4-6-1 pedestrian corridor within a 50-ft right-of-way (ROW). NE Brazee is improved with a 28-ft wide paved roadway and an 8-6-2 pedestrian corridor within a 60-ft ROW.

Tri-Met provides transit service approximately 760 feet from the site on NE 27<sup>th</sup> Avenue via Bus #17.

- **Water Service** – There are existing 8-inch CI water mains in NE 27<sup>th</sup> Avenue and NE Brazee. The existing house is served by a 1-inch metered service from the main in NE 27<sup>th</sup> Ave.
- **Sanitary Service** - There is an existing 8-inch VSP public combination sewer line in NE 27<sup>th</sup> Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The site is within the R5 zone, which 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 site is also within the Irvington Historic District. Historic Districts are a collection of individual resources that is of historic or cultural significance at the local, state or national level. New development and most exterior alterations to existing development are subject to Historic Resource review (33.445.320).

**Land Use History:** City records indicate there is one prior land use reviews for this site:

- **LU 14-133300:** Approval to replace a non-historic window at the north elevation with a wood double hung window, in a contributing structure in the Irvington Historic District.

**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 **February 27, 2015**. Two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal (Exhibit F.1 and F.2). The comments are summarized below with staff responses.

- The Irvington neighborhood association expressed concern about the “cut-out” in Parcel 2 for the existing garage and indicated they would like to see two 50 x 100 foot lots in keeping with the historic platting pattern in the area. Included a suggestion that the garage, which is a non-contributing structure, be relocated or replaced.

**Staff Response:** *Land division proposals are not subject to historic resource review. In addition, there are no approval criteria that relate to the continuation of historic platting patterns or for straight lot lines. Therefore, there is no nexus to require the applicant to straighten the lot line or to move or demolish the garage to accommodate a straight lot line.*

- Concerns about trees to be removed and questions about whether there are options to remove limbs and save the trees instead of removing them.

**Staff Response:** *The two trees in question are a 39-inch Deodar Cedar, located toward the middle of proposed Parcel 2, and an 18-inch Scots Pine, located in the southeast corner. The applicant’s arborist indicated that the Pine has a severe needle cast infection and poor structure and recommended it be removed. Based on this information it was designated as exempt from the tree preservation standards. However, the property owner could voluntarily decide to retain the tree. The Cedar and its root protection zone conflict heavily with the developable area of Parcel 2. For more details see the “Tree Preservation” section of this report below.*

## ZONING CODE APPROVAL CRITERIA

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

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.

E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
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. The minimum density is one unit per 5,000 square feet based on 80 percent of the site area. The site is 10,404 square feet, therefore the minimum required density is 2 units and the maximum density is 2 units. 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. Therefore in this case the minimum density is reduced to 1 unit.

The applicant is proposing 2 single dwelling parcels. The density standards are therefore met.

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

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R5 Zone</b>	3,000	8,500	36	50	30
Parcel 1	6,052		57	102	57

Parcel 2	4,352	45	102	45
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\* 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.

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 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.4). There are 5 trees identified in the report, two of which are in the right-of-way and therefore not subject to this chapter. Of the 3 on-site trees, one is exempted by the arborist because of its condition – tree #4, 18-inch Scots Pine, which is described as having severe needle cast infection and poor structure. Therefore, two trees are subject to the preservation requirements of this chapter: #3, 39-inch Deodar cedar, and #5, 8-inch Arizona Cypress.

The total non-exempt tree diameter on the site is 47 inches. The applicant proposes to preserve tree #5, which is 8 inches, or 17 percent of the total non-exempt tree diameter.

The proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes, instead, to use the mitigation options of 33.630.300.

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for detached housing, which is an allowed housing type in the R5 zone. The only other non-exempt tree on the site is a very large Deodar cedar (tree #3). Its root protection zone encompasses most of proposed Parcel 2. Given this, preservation of tree #3 would prevent a practicable arrangement of lots that could each contain a reasonable building area. Therefore, this proposal qualifies to use the mitigation option under Criterion C.4.

The applicant is proposing to preserve the one other non-exempt tree on the site (tree #5), which is located in the rear of Parcel 1 behind the existing house. Therefore, as many trees as possible will be preserved and criterion A is met.

The applicant proposes to mitigate for tree removal by preserving the laurel hedge and planting 3 trees on Parcel 2. However, the hedge is likely a nuisance species and no information has been provided about how it could be impacted by construction on the site. Therefore, the hedge should not be counted toward mitigation.

Tree planting will be required at the time of development on Parcel 2 to meet the Title 11 tree density standards. Based on the size of the lot, 2 to 6 trees will be required, depending on the type of trees chosen by the applicant (or payment made to the City tree fund). The applicant will also be required to document that Parcel 1, with the existing house, has not moved out of conformance with tree standards as a result of the land division. Given the standard tree planting requirements, there is not sufficient room on the lots for additional tree planting to mitigate for tree removal without jeopardizing the overall health of the trees as they mature. Therefore, offsite mitigation in the form of payment into the City Tree Fund is more appropriate for this proposal. Option 1 of the tree preservation standards would require that 35 percent of the total non-exempt tree diameter be preserved. This amounts to approximately 16 inches. With 8 inches being preserved, this leaves 8 inches requiring mitigation. Therefore, the applicant will be required to pay that amount into the tree fund as mitigation.

In addition, to mitigate for the loss of a mature conifer, at least one tree shall be planted on Parcel 2 that is a large canopy conifer. With the conditions described above tree removal will be adequately mitigated and Criterion B is met.

In order to ensure that future owners of Parcel 1 are aware of the tree preservation requirement for Tree #5, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions at the time of final plat.

With the conditions noted above for mitigation and recording the Acknowledgement, the criteria are met.

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

**Findings:**

***Clearing and Grading***

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

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

***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. 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.

**I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.**

**Findings:** The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

The proposed lots are on the east side of a north-south oriented street. Parcel 1 will be an interior lot and will be wider than the corner lot. This criterion is therefore 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 (see Exhibit E.2):

*The proposed project will divide the property into two lots, with each lot to contain a single-family dwelling. The existing home on Parcel 1 will be retained. Therefore, the project will result in a net addition of one new single-family home. Based upon trip generation estimates, ITE Trip Generation Manual, 9<sup>th</sup> Edition, the new lot is projected to generate one additional trip during both the morning and evening peak hours (10 additional trips in total each day). The small number of trips that will be added as a result of the proposed development will not adversely impact the operations of area intersections.*

*The site is located within an area that has an established residential development pattern that includes single-family homes on lots that accommodate at least one on-site parking space and in many cases multiple on-site spaces. On-street parking in the area will not be adversely impacted given the on-site parking opportunities that will be provided on the new lot.*

*There are transit opportunities in the area with the closest stop located at NE Brazee & NE 24<sup>th</sup> approximately 760-ft from the subject property. Transit facilities can easily and safely be accessed via pedestrian corridors that meet or exceed City standards. The proposed lot split will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.*

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

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

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

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>Plumbing records for the existing house are inconclusive. Best available mapping indicates that there are multiple laterals that could be serving the existing house, none of which match the location of the lateral shown on the site plan submitted by the applicant. As a condition of final plat approval, the applicant must show that Parcel 1 is served within its frontage. Prior to final plat approval the applicant must either:</p> <ul style="list-style-type: none"> <li>• Demonstrate that the service lateral for the existing house will be located on the lot that it serves; or</li> <li>• Cap the existing lateral to provide future service to Parcel 2 and establish a new lateral for the existing house.</li> </ul> <p>To accurately determine the location of the existing lateral it must be field located and shown on the surveyor's supplemental plan. For capping and establishing new service, the work must be completed and permits finalized prior to final plat approval. With this condition, the sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p><b>Parcel 1 (the lot with the existing house):</b> The submitted site plan did not indicate how stormwater from the existing house is managed. Prior to final plat approval, the applicant will need to demonstrate to the satisfaction of BES that stormwater for Parcel 1 is managed on that property. If stormwater facilities for Parcel 1 are found to be located on proposed Parcel 2, the applicant will need to make adjustments and obtain and finalize permits for any required work prior to plat approval. The applicant must submit a site utility plan that shows the surveyed locations of existing stormwater facilities on each property. If downspouts are routed to splashblocks, show the direction stormwater runoff flows on the site. Be aware, stormwater runoff cannot impact adjacent properties. Because Parcel 1 has adequate area to move or install stormwater facilities, the proposal is acceptable for the purposes preliminary plan review.</p> <p><b>Parcel 2:</b> The applicant submitted a Simplified stormwater report that includes infiltration test results of 4.5 inches per hour, and proposes that runoff from the development will be infiltrated onsite via a drywell. Staff concurs with this conceptual approach for the purpose</p>

of reviewing the preliminary land division plan against the stormwater management approval criterion. The proposed driveway on Parcel 2 is less than 500 square feet and can be sloped towards the street or a vegetated area.

With the condition described above, these standards and criteria are met.

### **33.654.110.B.1 Through streets and pedestrian connections**

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The subject property is located on a block where the public street connectivity goal is being met. While the specified goal for pedestrian connectivity is not met on this block, improved pedestrian connectivity in association with this land division is not feasible due to the site's location at the corner of NE Brazee and NE 27<sup>th</sup>. A future pedestrian connection located mid-block would be more appropriate to further the City's connectivity goals. PBOT has no concerns relative to connectivity in association with the proposed land division. This criterion is met.

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

At this location, the City's Transportation System Plan (TSP) classifies NE 27<sup>th</sup> and NE Brazee as Local Service streets for all transportation modes. For a Local Service street, abutting a R5 zoned site, the City's Pedestrian Design Guide recommends an 11-ft wide sidewalk corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/0.5-ft frontage zone). According to City GIS, NE 27<sup>th</sup> is improved with a 28-ft wide paved roadway and a 4-6-1 pedestrian corridor within a 50-ft right-of-way (ROW). NE Brazee is improved with a 28-ft wide paved roadway and an 8-6-2 pedestrian corridor within a 60-ft ROW.

The existing pedestrian corridor along the site's NE Brazee frontage exceeds City standards. While the sidewalk along the site's NE 27<sup>th</sup> frontage does not meet the recommended corridor of the Pedestrian Design Guide, the site qualifies for an exception under Administrative Rule 1.22 "Infill Development on Streets with an Existing Sidewalk Corridor" and can be accepted as the standard pedestrian corridor for the block. Accordingly, the applicant will only be required to make sidewalk repairs as needed. A Minor Improvement Permit associated with the Building Permit for the new house will be required for the new curb cut/driveway on NE 27<sup>th</sup>.

The width of the local streets are sufficient to accommodate expected users and the elements of the right-of-way meet PBOT requirements and 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**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

**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 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 will be 10 feet from the new property line and the existing garage will be 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 buildings relative to the adjacent new lot line.
- **T1 Tree Standard** – Residential development has a tree requirement that is currently met on the site. Due to the land division, and associated tree removal, it is not clear whether Parcel 1 (the lot with the existing house) will continue to meet this standard. Parcel 1 is 6,052 square feet, therefore 12 inches of trees are required. The applicant is preserving an 8-inch tree, therefore up to 4 additional inches are required. There appear to be other existing smaller diameter trees on the site that could count toward meeting the T1 standard, however that information was not provided in the application. Prior to final plat approval, the applicant must demonstrate that Parcel 1 meets the T1 requirement for 12 inches of trees on the site (with a site plan and photos of trees), plant additional trees to meet the standard, or make a payment into the City Tree Fund for the difference between the total inches of existing trees and the 12 required inches.

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.

<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 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 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 in regards to addressing requirements 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-lot 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: documenting sanitary sewer and stormwater management for the existing house and mitigation for tree removal. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2-lot partition, that will result in two standard lots as illustrated with Exhibit C.1, 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 Review and BES 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;
- The location of existing stormwater facilities on the site;
- The location of the existing sanitary sewer lateral serving the house (field located); and
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. 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 Condition C.4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

### Existing Development

1. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for documenting sanitary sewer service for Parcel 1 (the lot with the existing house). Prior to final plat approval the applicant must either:
  - Demonstrate that the service lateral for the existing house will be located on the lot that it serves; or
  - Cap the existing lateral and establish a new lateral for the existing house.
2. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for documenting that stormwater for Parcel 1 (the lot with the existing house) is managed on that property. The applicant must submit a site utility plan that shows the surveyed location of existing stormwater facilities for the house. If modifications to the existing system are needed, the applicant will need to obtain and finalize any required permits prior to plat approval.
3. The applicant must demonstrate that Parcel 1 meets the T1 tree requirement for 12 diameter inches of trees on the site prior to final plat approval, with one of the following options:

- Provide a site plan and photographs that document that the lot currently meets the standard;
- Plant additional trees to meet the standard. A finalized Zoning Permit must be obtained to document tree planting; or
- Make a payment into the City Tree Fund for the difference between the total inches of existing trees and the 12 required inches.

#### **Required Legal Documents**

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 referenced on and recorded with the final plat.

#### **Other requirements**

5. The applicant must pay into the City Tree Fund the amount equivalent to 8 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

#### **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 number 5, an 8-inch Arizona Cypress, is required to be preserved, with the root protection zones 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. The building permit plans for Parcel 2 must show planting of at least one large canopy conifer tree on the site. The tree must be installed prior to final inspection approval. The tree may count toward Title 11 tree density standards.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

**Staff Planner: Stephanie Beckman**

**Decision rendered by:** Stephanie Beckman **on April 17, 2015**  
By authority of the Director of the Bureau of Development Services

**Decision mailed April 21, 2015**

**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 August 13, 2014, and was determined to be complete on **February 4, 2015**.

*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 August 13, 2014.

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, provided a full extension to the 120-day review period, as stated with Exhibit A.6. Unless further extended by the applicant, **the 120 days will expire on: 2/4/2016.**

**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).

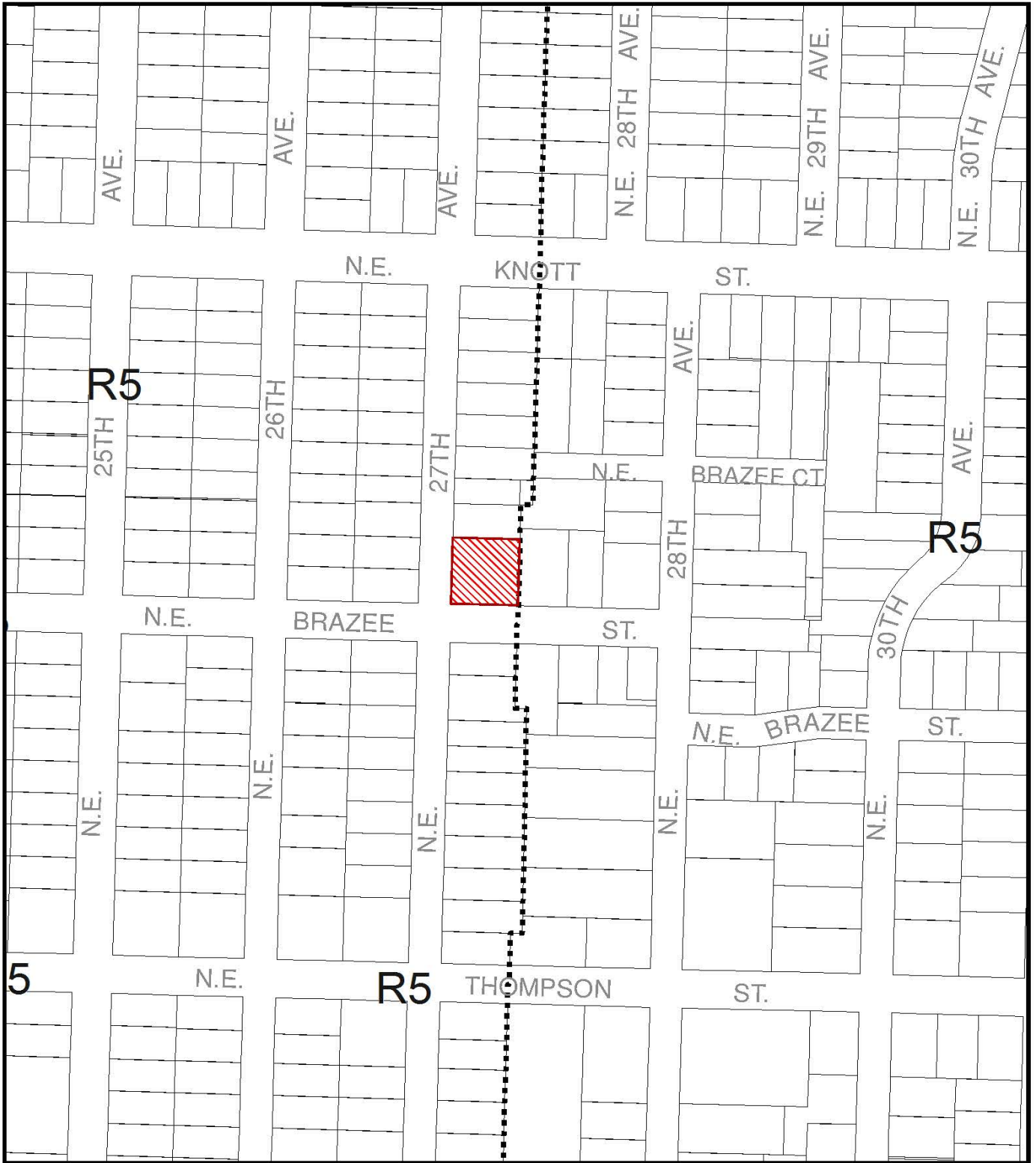
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Response to incomplete letter (2/4/15)
  - 3. Additional information submitted (2/24/15)
  - 4. Arborist report
  - 5. Stormwater report
  - 6. 120 day extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Land Division and Tree Preservation Plan (attached)
  - 2. Existing Conditions Plan
- 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. Life Safety Section of BDS
- F. Correspondence:
  - 1. Dean Gisvold, Irvington Neighborhood Association
  - 2. Kevin Bernhard
- 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

This site lies within the:  
IRVINGTON HISTORIC DISTRICT

File No. LU 14-197837 LDP  
 1/4 Section 2833  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E25CB 2100  
 Exhibit B (Aug 14, 2014)

PRELIMINARY LAND DIVISION PLAN

OWNER : WILLIAMS R & HOLLY EDMONDS

2516 NE 27TH AVE.  
PORTLAND, OR 97212

M<sup>C</sup>CULLOCH  
construction

DRAFTER: TIEN HUYNH

PERMIT: LU 14-197837 LDP

REVISION: 001

DATE: 2/10/2015

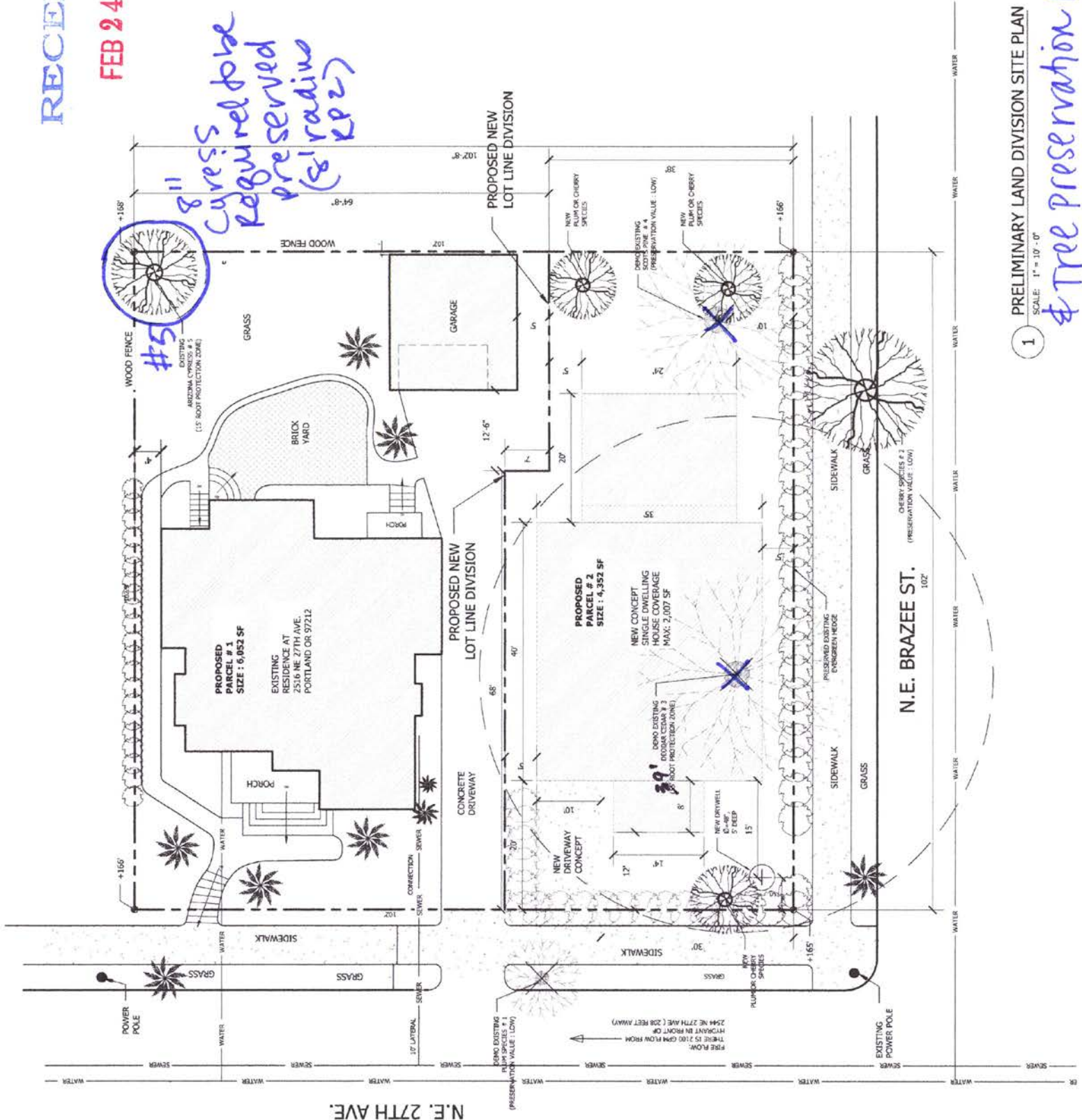
A - 02

SCALE: 1" = 10' - 0"

RECEIVED

FEB 24 REC'D

#5"  
8" cypress  
required to be  
preserved  
(8' radius  
RPZ)



1 PRELIMINARY LAND DIVISION SITE PLAN  
SCALE: 1" = 10' - 0"

Tree Preservation Plan

CASE NO. 14-197837

EXHIBIT C.1