



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

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**Date:** June 21, 2017  
**To:** Interested Person  
**From:** William Piro, Land Use Services  
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## **NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 17-131646 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Gene Hubbell | Portland Development Group Investments LLC  
4224 NE Halsey St, Suite 300  
Portland OR 97220  
971-506-9698  
[Network@Easystreet.net](mailto:Network@Easystreet.net)

**Owner:** Mike Hubbell | Portland Development Group Investments LLC  
4224 NE Halsey St, Suite 300  
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**Representative:** Aaron Buster | Portland Development Group  
4224 NE Halsey St Suite 300  
Portland OR 97213  
503-490-8949  
[Aaronb@Pdginvest.com](mailto:Aaronb@Pdginvest.com)

**Site Address:** 2620 SE 51ST AVE  
**Legal Description:** BLOCK 6 LOT 10, PECKS ADD  
**Tax Account No.:** R653101150  
**State ID No.:** 1S2E07AB 01800  
**Quarter Section:** 3336

**Neighborhood:** Richmond, contact Matt Otis at [matt.otis@gmail.com](mailto:matt.otis@gmail.com)  
**Business District:** Division-Clinton Business Association, contact at 503-706-3730.  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.  
**Zoning:** Residential 2,000 (R2) Multi-Dwelling 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 is proposing to partition a 5,000 square foot site to create two 2,500 square foot parcels for development of attached houses and accessory dwelling units (ADU's) employing the provisions of 33.120.270.C *Alternative Development Options*. Access is proposed from S.E. 51<sup>st</sup> Avenue with a shared driveway. The applicant proposes to remove the existing 19-inch diameter at breast height (D.B.H.) street tree at located at the entrance of the proposed driveway. Water and sanitary sewer services are proposed from existing utilities located within S.E. 51<sup>st</sup> Avenue, and stormwater will be managed by on-site drywells. The site contains trees subject to the preservation standards of Title 33. The applicant has chosen to meet preservation standards. The existing house and garage have been demolished.

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 33.660110).

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

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in Section 33.660.120, Approval Criteria for Land Division in Open Space and Residential Zones

**FACTS**

**Site and Vicinity:** The site is relatively flat and the existing house and garage have been demolished. There are a number of trees on the site which are greater than 6-inch D.B.H. which are subject to preservation. The site is surrounded by modest single-family homes and larger multi-family buildings. There are no significant topographical or environmental features within the immediate vicinity. The street grid within the neighborhood is relatively complete and provides vehicle and pedestrian access.

**Infrastructure:**

- **Streets** – The site has approximately 50-feet of frontage on S.E. 51<sup>st</sup> Ave. There is currently one driveway entering the site which previously served a house that has since been demolished. At this location, S.E. 51<sup>st</sup> Ave is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 285 feet west of the site at S.E. 50th Avenue via Bus #14.

At this location S.E. 51st has a 28-foot curb to curb paved surface within a 57-foot right-of-way with parking on both sides. Along the 50-foot wide site frontage the pedestrian corridor includes a 14.5-foot sidewalk corridor (6.5-6-2 configuration). For Local Service Classified streets in an R2 zone, such as SE 51<sup>st</sup>, the City’s Pedestrian Design Guidelines requires an 11-ft sidewalk corridor to consist of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and a 0.5-ft frontage zone. The existing sidewalk corridor and the elements within it exceed current City standards.

- **Water Service** – There is an existing 8-inch CI water main in S.E. 51 Avenue. The prior house was served by a 5/8-inch metered service from this main.

- **Sanitary Service** - There is an existing 10-inch variable material combined public combination sewer line in S.E. 51<sup>st</sup> Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The subject site and surrounding area is zoned R2 (multi-dwelling 2,000) which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

**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 **May 26, 2017**. **One** written response was received from the Neighborhood Association or notified property owners in response to the proposal.

An email response was received on **May 5, 2017** from a Mr. Arthur Smid (Exhibit F.1). The letter generally supports the land partition and increased density. There were not specific concerns or comments as they relate to the zoning code approval criteria.

## 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     | Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.                          |
| F         | 33.634 - Recreation Area                               | Not applicable. The proposed density is less than 40 units.   |
| I         | 33.639 - Solar Access                                  | Not applicable. This standard only applies to detached single-dwelling units. The proposal is for attached housing. |
| J         | 33.640 - Streams, Springs, and Seeps                   | No streams, springs, or seeps are evident on the site.  |
| L         | 33.654.110.B.2 - Dead end streets                      | No dead end streets are proposed.   |
|           | 33.654.110.B.3 - Pedestrian connections in the I zones | The site is not located within an I zone.   |
|           | 33.654.110.B.4 - Alleys in all zones                   | No alleys are proposed or required  |
|           | 33.654.120.C.3.c - Turnarounds                         | No turnarounds are proposed or required   |

|  |  |   |
|--|--|---|
|  | 33.654.120.D - Common Greens   | No common greens are proposed or required   |
|  | 33.654.120.E - Pedestrian Connections  | There are no pedestrian connections proposed or required  |
|  | 33.654.120.F - Alleys  | No alleys are proposed or required  |
|  | 33.654.120.G - Shared 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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 2 attached housing parcels.

Single-dwelling or duplex development is proposed for some or all of the site, therefore the applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review.

Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 5,000 square feet. The site has a minimum required density of 2 units and a maximum density of 3 units.

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

\* Width is measured from the midpoints of opposite lot lines.

| <b>R2</b>              | <b>Minimum lot area (square feet)</b> | <b>Minimum lot width (feet)</b> | <b>Minimum lot depth (feet)</b> | <b>Minimum front lot line (feet)</b> |
|------------------------|---------------------------------------|---------------------------------|---------------------------------|--------------------------------------|
| <b>Attached Houses</b> | 1,600                                 | 15                              | none                            | 15                                   |
| Parcel 1 attached      | 2,500                                 | 25                              | 100                             | 25                                   |
| Parcel 2 attached      | 2,500                                 | 25                              | 100                             | 25                                   |

\* Width is measured from the midpoints of opposite lot lines.

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

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

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

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show

that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

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

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

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.4) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 2 trees, which provide a total of 47-inches of tree diameter, are subject to the preservation requirements of this chapter. Both trees subject to preservation are 20-inches or greater. The applicant has proposed to preserve a 22-inch Shore Pine (*Pinus contorta*), noted as tree number 3. This tree is in fair condition and is a native species to Oregon and provides screening for the property to the east. The second tree a 25-inch Austrian pine (Tree ID No. 2) is non-native and cannot be preserved as it will impact the construction of the house on parcel 1.

The proposed root protection zone for the tree to be retained will allow for the type of development anticipated in the R2 zone and will not conflict with any existing utility easements, proposed services or site grading.

The applicant proposes to retain 50 percent of the trees that are 20 or more inches and 22-inches of the total tree diameter, so the proposal complies with:

*Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.*

Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of the parcels are aware for the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (A.4).

At the time of development, the individual parcels must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The tree to be retained as part of this review may be applied toward meeting those Title 11 requirements.

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

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

**Findings:**

***Clearing and Grading***

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

In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. Additionally, the applicant has provided an arborist report (Exhibit A.4) which outlines in detail a prescriptive path for tree protection in accordance with the Title 11 tree code. A 22-foot root protection zone (RPZ) as shown in attachment 1 of the arborist report, Exhibit A.4 will ensure that less than 25 percent of the RPZ of Tree 3 will be impacted by construction and no encroachments will be closer than one-half the required RPZ radius.

### ***Land Suitability***

The site is currently in residential use, there is no record of any other use in the past, and there is no record of any old cesspools on site. The applicant has obtained demolition permits to remove the existing house. This permit has been finalized and no additional action is necessary. The applicant has also applied for a demolition permit for the garage. City records indicate that this permit has not yet been finalized. In order to ensure that the new lots are suitable for development, the demolition permit for the detached garage must be finalized prior to final plat approval. With this condition, the new lots can be considered suitable for development, and 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 Reciprocal Access Easement across the first 6-feet of driveway entrance on Parcel 1 and 2 to allow shared use of a driveway that will straddle proposed lot lines;

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

*“A Declaration of Maintenance agreement for (name of feature) 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. Mitigation may be necessary to reduce impacts.

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

Based on City GIS data, it appears as if one single-family home is currently located on the subject parcel. The subject application proposes the development of two single-family attached homes to replace the existing single-family home. The proposed development will create the potential for the development of one additional single-family home. According the *ITE Trip Generation Manual, 9<sup>th</sup> Edition*, a new single-family detached dwelling is expected to generate approximately ten trips per day, including one additional trip during the morning peak hour and one additional trip during the evening peak hour. Based on that information, the proposed development will not significantly impact street capacity of level-of-service. With a requirement that the applicant provide a shared driveway that is 14-ft in width, on-street parking is preserved. The proposed curbside vehicle access and loading area, as well as the driveways shown on the site plan, will be sufficient to accommodate vehicle access and loading for one additional dwelling. Existing sidewalks on SE 51<sup>st</sup> include 6-ft sidewalk corridors that comply with current City standards, and provide sufficient pedestrian access. Based on Google maps, bus #14, #71, and #4 are located 0.1 miles from the proposed development. The proposed development site provides sufficient availability of transit service and facilities. Additionally, the shared 14-ft wide shared driveway and reciprocal access easement over the first 6-feet of driveway will help to preserve on-street parking. The proposed development will not negatively impact transit service or safety for any mode.

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 and below. Additionally, the Water Bureau has provided the following comments:</p> <p>Parcel 1 may use the existing 5/8” metered domestic service. At the time of building permit submission the meter size will be reviewed, if the meter is found to be inadequate it will be resized at the expense of the applicant.</p> <p>Parcel 2 has water available from the 8” main in SE 51<sup>st</sup> Avenue. Static pressure is estimated at 43 – 54 PSI.</p> <p>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. 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>  |

No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods.

- **Parcels:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells, therefore this criteria is met.

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

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.

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

The subject parcel is approximately 150-ft from the closest pedestrian/street connection to the south, and 100-ft from the closest pedestrian/street connection to the north. Therefore, a pedestrian connection on the subject parcel would not provide at least 200-ft between pedestrian connections, and would not meet the spacing standards to require a pedestrian connection. Additionally, due to the existing block pattern in the area, which provides street connections at regular intervals, the surrounding transportation system will not be significantly affected if a new through street or pedestrian connection is not created. Therefore, street and pedestrian connections are not required at this location.

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 comments.

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. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

The proposed development on the site includes adjacent driveways with a single curb cut centered on the common property line between the two parcels. This will replace the current curb cut and driveway serving the existing house to be demolished. PBOT will require the applicant to repair or reconstruct the sidewalk that is in disrepair. The applicant may also be required as a condition of Building Permit approval to reconstruct and curb that does not provide at least 4-inches of curb-face exposure.

#### **Driveways and Curb Cuts (Section 17.28)**

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of Building Permits. **As a condition of Building Permit approval, the applicant is required to close any curb cuts/driveways that do not access a legal parking/loading space, such as the driveway on the southern parcel boundary, and reconstruct the curb and sidewalk at that location.**

With the conditions of Building Permit approval above, this criterion is met.

### **33.654.120.H – Standards for Street Trees.**



The applicant has proposed to remove 1 street tree located in the City right-of-way located immediately west and adjacent to the proposed shared-driveway on the site. This tree has been proposed for removal to allow for vehicle access.

The Urban Forestry Department of Portland Parks & Recreation has reviewed the application against the standard for street trees, the following is a summary of their findings (see Exhibit E.6):

The applicant proposes to remove the following:

One 19" Boxelder in front of Parcel 2 can be approved for removal.

Due to the species, size, and condition of trees removed, two trees are required to be planted to mitigate the loss as a result of this project. Tree replacement for trees removed shall occur in the street planter strip, on site, or in the same watershed either by planting or by paying a fee in lieu of planting of \$450.00 for each tree not planted. Street tree planting standards must also be met in accordance with 11.50.060.C. Trees will be required to be planted through the Building permit or Public Works permit.

The applicant has proposed to mitigate for the removed street-tree by planting one new 1.5-inch caliper tree in the front of Parcel 2 as shown on the Tree Preservation Plan (Exhibit C.1 and the applicant's arborist report (Exhibit A.4). Urban Forestry will determine if this satisfies mitigation requirements for the removal of the street tree at the time of building permit review.

#### Street Tree Planting (11.50.060.C)

The applicant has provided a conceptual street tree planting plan showing two new street trees to be planted. This plan meets the requirements of 11.50.060 for street tree planting; however the proposed street tree in front of Parcel 1 is plotted too close to a street lamp. Trees are required to be planted at least 25' from street lamps. Due to the proximity of the proposed tree in front of Parcel 1 and the street lamp, this tree will not be required. Tree species must be shown on plans. Street trees must be planted at a minimum 1.5 caliper inches and be a species chosen from approved street tree list found here:

<https://www.portlandoregon.gov/trees/article/516350> .

Street tree requirements for removal, mitigation and planting will be met at the time of Building Permit or Public Works permit. With consideration of requirements at the time of permit, this standard has been 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.

**Existing development that will remain after the land division.** The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

## **OTHER TECHNICAL REQUIREMENTS**

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

| <b>Bureau</b>   | <b>Code Authority and Topic</b>   |
|---|---|
| Development Services/503-823-7300<br><a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>                 | Title 24 – Building Code, Flood plain<br>Title 10 – Erosion Control, Site Development<br>Administrative Rules for Private Rights-of-Way |
| Environmental Services/503-823-7740<br><a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>               | Title 17 – Sewer Improvements<br>2008 Stormwater Management Manual  |
| Fire Bureau/503-823-3700<br><a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>                        | Title 31 Policy B-1 – Emergency Access  |
| Transportation/503-823-5185<br><a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a> | Title 17 – Public Right-of-Way Improvements<br>Transportation System Plan   |
| Urban Forestry (Parks)/503-823-4489<br><a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>           | Title 11 – Trees  |
| Water Bureau/503-823-7404<br><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 following:

#### **FIRE FLOW/WATER SUPPLY**

One and two family dwellings: The minimum fire-flow requirements for one and two family dwellings having a fire flow calculation area, which does not exceed 3,600 square feet, shall be 1,000 gallons per minute. Fire flow and flow duration for dwellings having a fire flow calculation area in excess of 3,600 square feet shall not be less than that specified in Table B105.1.

**EXCEPTION: A reduction in required fire flow of 50 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system.**

Buildings other than one and two family dwellings: The minimum fire flow and flow duration for buildings other than one and two family dwellings shall be as specified in Table B105.1

#### **ADDRESSING OF STRUCTURES**

All addresses shall be permanently displayed as directed by the Fire Marshal's Office (mounted on a building, fence, post, etc.). Numbers/letters shall be contrasting in color to the background and of sufficient size to be plainly visible from the street or road fronting the property. Numbers/letters shall be a minimum 4" high. This office may specify larger numbers/letters.

#### **AERIAL FIRE DEPARTMENT ACCESS ROADS**

Buildings or portions of buildings exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

Width: Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than 30 feet in height. Aerial fire apparatus road width may be reduced to not less than 20 feet (no parking allowed) when the building being served is fully sprinklered and access to the building face is from at least 2 directions. The sprinkler system shall be of a greater design than the minimum specified by the OSSC.

These requirements and conditions are based on the technical standards of the 2016 Portland Fire Code, Title 31, and Fire Bureau Policy B-1.

- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 2 prior to final plat approval. This requirement is based on the standards of Title 11.

## CONCLUSIONS

The applicant has proposed a 2-parcel partition for attached houses, 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: shared driveway requirements, tree preservation, and mitigation.

With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a 2-parcel partition for attached houses, as shown on the attached preliminary plan, (Exhibit C.1):

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

1. A 14-foot wide Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the common property line between Parcel 1 and 2 on and over the driveway access, and shall extend 6-feet from the SE 51<sup>st</sup> Ave right-of-way towards the rear property line of Parcel 1 and 2. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. 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 B.3 and B.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 Condition" has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

### B. The following must occur prior to Final Plat approval

#### Existing Development

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

#### Required Legal Documents

3. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 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 and recorded with the final plat.
4. A Maintenance Agreement shall be executed for the Reciprocal Access Easement described in Condition A.1 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.

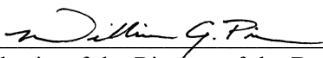
**C. The following conditions are applicable to site preparation and the development of individual lots:**

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.4). Specifically, tree number 3 the 22-inch shore pine is required to be preserved with a root protection zone as 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 if it meets the Prescriptive Path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 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/her supervision.
2. At the time of Building Permit approval, Parcel 1 and 2 must be developed with attached-houses and are required to provide access to the properties via a shared driveway with a 14-foot throat and must include a 3-foot driveway wing.
3. The applicant must meet PBOT requirements to close any curb cuts/driveways that do not access a legal parking/loading space and reconstruct the curb and sidewalk. In addition the applicant will be required to repair or replace sidewalk that is in disrepair. The applicant may also be required, as a condition of Building Permit approval, to reconstruct any curb that does not provide at least 4-inches of curb-face exposure.

A Minor Improvement Permit associated with the Building Permit will be required for sidewalk and curb cut/driveway reconstruction.

4. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

**Staff Planner: William Piro**

**Decision rendered by:**  **on (June 19, 2017)**  
By authority of the Director of the Bureau of Development Services

**Decision mailed (within 5 days of dec.) DATE**

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

**Procedural Information.** The application for this land use review was submitted on March 7, 2017, and was determined to be complete on May 1, 2017.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 7, 2017.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: August 29, 2017.**

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

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

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

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

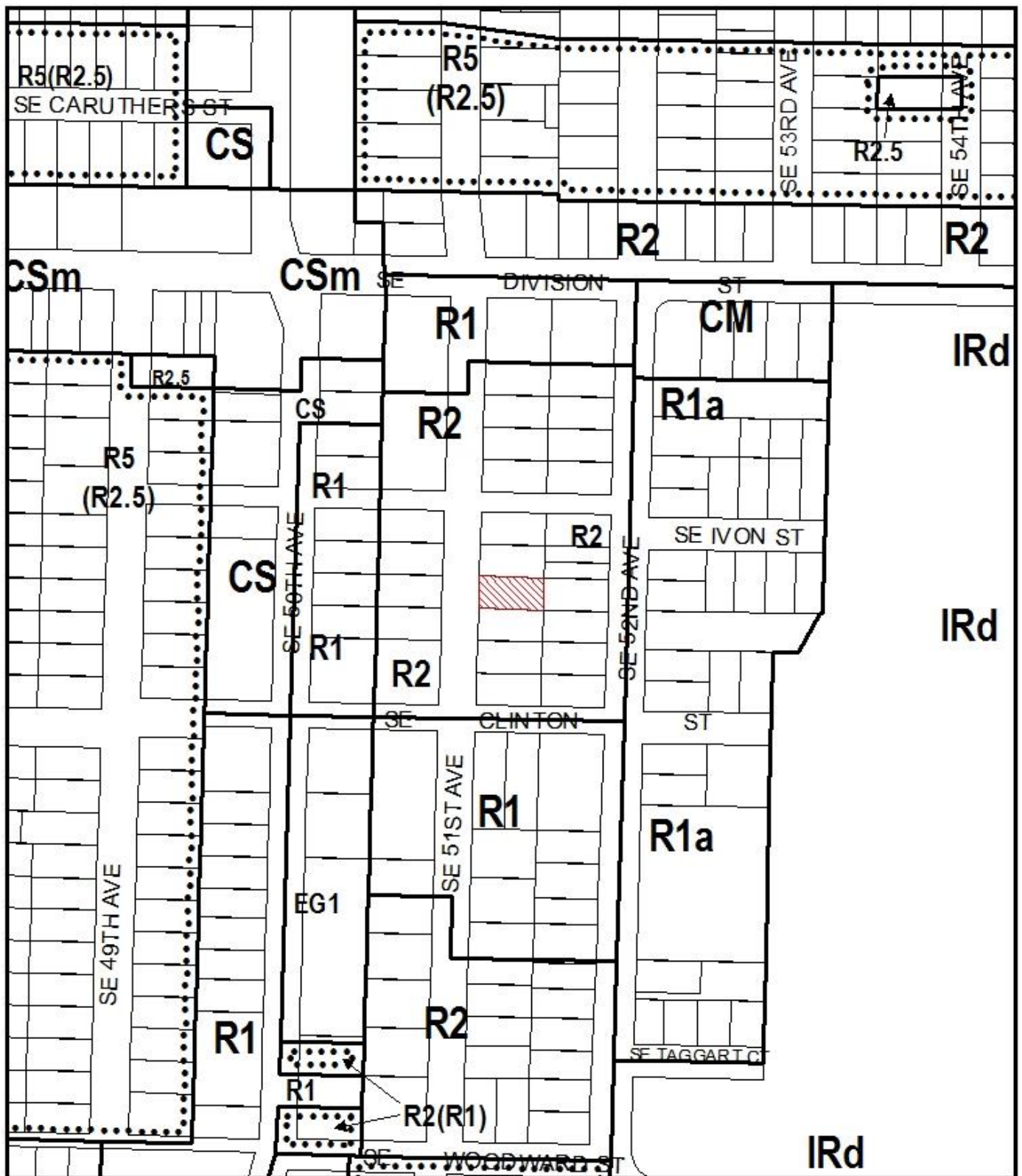
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Applicants Narrative
  - 2. Additional Information: Transportation Impacts
  - 3. 6-7-2017 Simplified Approach Form
  - 4. April 17, 2017 Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Site Plan/Existing Conditions/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 Bureau of Development Services
- F. Correspondence:
  - 1. Arthur Smid, May 26, 2017.
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. Expedited Land Division Acknowledgement

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



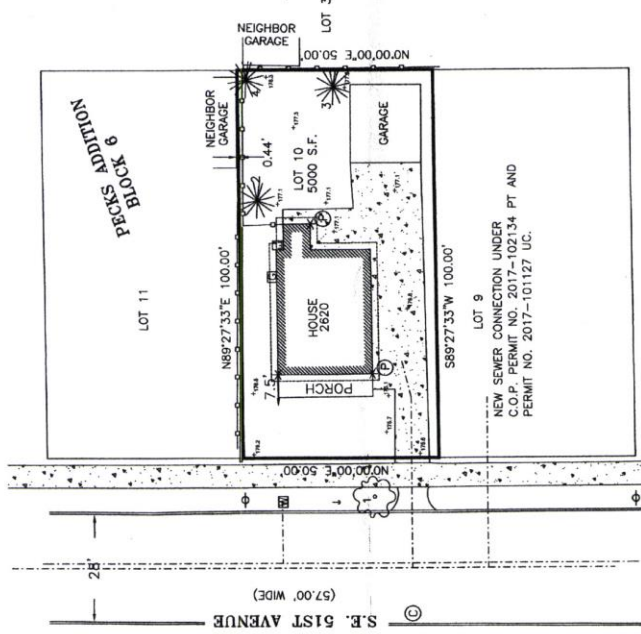
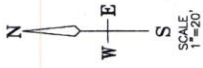
# ZONING

 Site

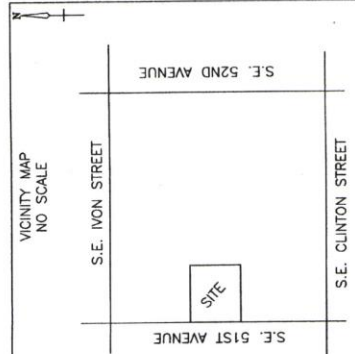
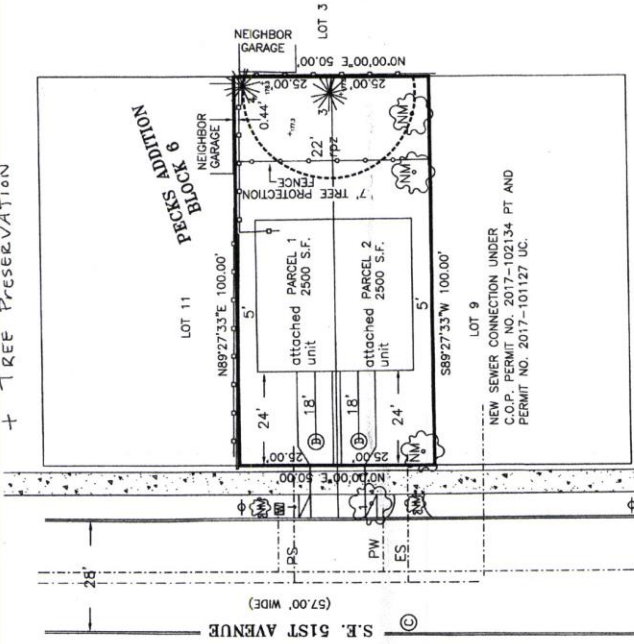


File No. LU 17-131646 LDP  
 1/4 Section 3335 3336  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E07AB 1800  
 Exhibit B (Mar 10, 2017)

**EXISTING CONDITIONS**



**PROPOSED CONDITIONS**  
+ TREE PRESERVATION



- SYMBOLS**
- ◆ POWER POLE
  - ⊕ GUY ANCHOR
  - ⊖ WATER METER
  - ⊙ GAS METER
  - ⊗ ELECTRIC METER
  - ⊘ WATER VALVE
  - ⊙ GAS VALVE
  - ⊗ MANHOLE
  - ⊘ CLEAN OUT
  - ⊙ DRAINAGE PIPE
  - ⊘ CATCH BASIN
  - ⊙ FIRE HYDRANT
  - PW — PROPOSED WATER
  - W — WATER LINE
  - G — GAS LINE
  - E — ELECTRIC LINE
  - S — SAN. SEWER
  - PS — PROPOSED SAN. SEWER
  - NS — NEW SMALL TREE
  - NM — NEW MEDIUM TREE
  - ⊙ = DECIDUOUS TREE
  - ⊙ = CONIFER TREE

REGISTERED PROFESSIONAL LAND SURVEYOR  
 Oregon  
 No. 1196  
 Exp. 12/31/17  
 J. L. Ferguson  
 240  
 RENEWAL DATE 12/31/17

NOTE: ELEVATION DATUM IS PER CITY OF PORTLAND BENCHMARK NO. 756

**Ferguson Land Surveying, Inc.**  
 646 SE 106TH AVE. PORTLAND, OR 97216  
 Phone (503) 408-0601 Fax (503) 408-0602  
 www.FergusonLandSurveying.com

**SITE PLAN**  
 LOT 10, BLOCK 6, "PECKS ADDITION"  
 ABBOTT BUSTER  
 4244 NE HALSEY ST SUITE 300  
 PORTLAND, OR 97213  
 IN THE NE 1/4, SECTION 7, T.15S., R.2E., W.M.  
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

PORTLAND DEVELOPMENT GROUP  
 DATE: NOVEMBER 14, 2016  
 REVISIONS: FEBRUARY 6, 2017 - NEW SEWER CONNECT  
 REVISIONS: 4/29/2017  
 JOB NO. 16-163  
 DRAFTED 11.14.16  
 SHEET 1 OF 1