



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** February 27, 2014  
**To:** Interested Person  
**From:** Kathy Harnden, Land Use Services  
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## **NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 13-165107 LDP**

#### **GENERAL INFORMATION**

**Applicant/Owner:** MAJ Development Corporation / Michael Jenkins, President  
300 W 15<sup>th</sup> St, Suite 200 / Vancouver, WA 98660

**Representative:** Ryan Schera / Group Mackenzie  
1515 SE Water Avenue #100 / Portland, OR 97214

**Site Address:** 11549-63 NE GLENN WIDING DR

**Legal Description:** LOT 3 EXC PT IN HWY, INT'L CORPORATE CTR NO 2  
**Tax Account No.:** R416610200  
**State ID No.:** 1N2E15AC 00400  
**Quarter Section:** 2342, 2442  
**Neighborhood:** Parkrose Neighborhood Assoc., contact EPNO at 503-823-4550.  
**Business District:** Columbia Corridor Association, Peter Livingston at 503-796-2892.  
**District Coalition:** East Portland Neighborhood Office, Richard Bixby at 503-823-4550.  
**Plan District:** Columbia South Shore  
**Other Designations:** Multnomah County Drainage District No. 1  
**Zoning:** EG2hx – General Employment 2, with the “h” (Aircraft Landing) and “x” Portland International Airport Noise Impact) overlay zones

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

#### **Proposal:**

The applicant proposes to partition a 93,427 square-foot commercial site into three new parcels. A 7-11 store, with gas pumps, is currently operating on proposed Parcel 1. The other two lots will also be developed with quick service businesses in the future. A proposed shared driveway across Parcel 3 will provide access to all three parcels from NE Glen Widing Drive. Water, sanitary sewer and storm water services are located within surrounding streets and easements, and are available to serve existing and future development. Parcel 1, the largest, will contain 42,950 square feet. Parcels 2 and 3 will contain 12,632 square feet

and 37,549 square feet, respectively. Although there had been a number of parking lot trees on the site, the applicant removed most of those trees prior to the land division application.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a commercial, employment, or industrial 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 review (such as an Adjustment, Design Review, or Environmental Review) is requested or required (see 33.662.110).

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 3 units of land. Therefore this land division is considered a partition.

**Relevant Approval Criteria:**

To be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in **Section 33.662.120, Approval Criteria for Land Divisions in Commercial, Employment, and Industrial zones.**

**FACTS**

**Site and Vicinity:** This large, 2.1-acre site is currently developed with paving and new construction of a 7-11 convenience store and gas pumps. The remaining two lots will be further developed in the future. Development in this area is characterized by low to medium-density commercial uses surrounded by surface parking areas, including Home Depot to the north and Shari’s Restaurant to the southeast of the site. NE Airport Way borders the site to the south and Interstate 205 is located just west of the site. A large pond, a remnant of the old slough system that runs throughout this area, is located across NE Glenn Widing Drive from the site.

**Infrastructure:**

- **Streets** – This commercial site has approximately 161.7 feet of frontage along NE Glenn Widing Drive, which is classified as a Local Service street for all modes in the Transportation System Plan (TSP). There is one driveway entering the site. Tri-Met provides transit service approximately 600 feet south of the site, as the crow flies, via Bus 87 on NE Holman and over 1,000 feet on NE Airport Way. The surrounding area is developed with commercial and some industrial developments. The Portland International Airport is due west of the site.
- **Water Service** – There is an existing 12” DI water main in a Water Bureau easement adjacent on the north side of the site between NE Glenn Widing Dr. and NE 112<sup>th</sup> Avenue, which provides four services to the site. There is also an existing 12-inch DI water main in NE Glenn Widing Drive, which does not currently provide any services to the site.
- **Sanitary Service** – There is an existing 8-inch PVC, sanitary only-sewer in NE Glenn Widing available to serve this site. Also, there is a 12.5-foot, City of Portland Sewer and Water Facility Easement along the north property line; currently, however, there are no sewer facilities within this easement area.
- **Stormwater Disposal** – There is an existing 36-inch CSP storm-only sewer in NE Glenn Widing. There is an existing storm lateral from the site located in NE Glenn Widing from the manhole near the south property line.

**Zoning:** The project site is located in a General Employment 2 (EG2) base zone and within the Columbia South Shore Plan District. The entire project area is also mapped within the Aircraft Landing (“h”) and the Portland International Airport Noise Impact (“x”) overlay zones.

The *EG zones* implement the Mixed Employment map designation of the Comprehensive Plan. The zones allow a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial and industrially related uses. Other commercial uses are allowed to support a wide range of services and employment opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial/commercial areas. Areas zoned EG2 typically have larger lots than those in the EG1 zone, and an irregular or large block pattern. The EG2 area is less developed than the EG1 zone, with sites having medium to low building coverages and buildings which are usually set back from the street.

Regulations of the *Columbia South Shore Plan District* encourage the development of the Columbia South Shore as an industrial employment center that is intended to attract a diversity of employment opportunities. The Plan District regulations also protect significant environmental and scenic resources and maintain the capacity of the area infrastructure to accommodate future development. There are no regulations of this Plan District that apply to the proposed development.

The *Aircraft Landing overlay zone* provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment. For the proposed project, only vegetation that is listed in the approved *NE Airport Way Landscape Design Handbook* is allowed.

The *Portland International Airport Noise Impact overlay zone* reduces the impact of aircraft noise on development within the noise impact area surrounding the Portland International Airport. The zone achieves this by limiting residential densities and by requiring noise insulation, noise disclosure statements, and noise easements. There are no regulations of this Plan District that apply to the proposed development.

**Land Use History:** City records indicate that prior land use reviews in the area include the following:

- LU 96-00213 EN, IR AD
- LU 93-00719 SU, IR, EN
- LU 93-00137 SU
- CU 128-86

The above land use cases applied to development of the general area that led to the creation of the existing lot and development of the Home Depot lot. None of these cases contained conditions of approval that would affect development of the subject 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 **September 9, 2013**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## **ZONING CODE APPROVAL CRITERIA**

### **APPROVAL CRITERIA FOR LAND DIVISIONS IN A COMMERCIAL, EMPLOYMENT, OR INDUSTRIAL ZONE**

**33.662.120 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.**

The relevant criteria are found in Section **33.662.120 [A-K], Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones**. 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 applicability of each criterion.

<b>Criterion</b>	<b>Code Chapter/Section and Topic</b>	<b>Findings: Not applicable because:</b>
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
H	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
I	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
J	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 33.613 through 33.615 must be met.**

**Findings:** Chapter 33.614 contains the lot standards applicable in the employment zone.

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

	<b>Min. Lot Area (square feet)</b>	<b>Min. Dimensions (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>EG2 Zone Standard A</b>	20,000	100 x 100	35
<b>EG2 zone Standard B</b>	10,000	75 x 75	35

Parcel 1	42,950	169.0 x 231.5	224.89
Parcel 2	12,632	102.0 x 116.0	113.88
Parcel 3 "through" lot	37,549	112.5 x 156.0	93.0-West and 47.78- East

For land divisions of less than 10 lots, all but one lot must meet standard A. Only one lot may meet standard B.

As shown above, Parcels 1 and 3 meet standard A and Parcel 2 meets Standard B. 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 site was landscaped with parking lot trees in isles between lots and parking spaces within lots, as well as around the perimeter of the site in the late 1980s/early 1990s with the construction of the "Good Guys," an electronics chain store. Recently, a 7-11 convenience store was constructed on what is Parcel 1 of this land partition, after the old store was demolished. The other two lots are not yet under development.

The applicant provided a current inventory of the trees within the land division site, which shows that there are both perimeter and parking lot trees on the site. This inventory included eleven trees that are 6 inches or greater in diameter that remained on the site at the time of application. These trees are subject to the preservation requirements of this chapter, although most of them must be removed to make way for future development of the site (Exhibit C.4).

The inventory identified the following trees:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Ash	12	No	Yes	12 ft
2	Ash	13	No	No	NA
3	Ash	12	No	No	NA
4	Ash	12	No	No	NA
5	Ash	12	No	No	NA
6	Ash	6	No	No	NA
7	Ash	13	No	No	NA
8	Ash	8	No	No	NA
9	Ash	6	No	Yes	6 ft
10	Pine		Not on site	Yes	
11	Pine		Not on site	Yes	

The applicant recently planted approximately 30, 3-inch diameter trees per the landscaping requirements of the development review for construction of the 7-11 store. Because these trees are less than 6 inches in diameter, they are exempt from the tree preservation requirements of the Zoning Code and are neither included in the inventory nor in the mitigation requirements. However, these trees meet the required landscaping standards for the store.

The total non-exempt tree diameter on the site is 102 inches. The tree preservation standards require at least 35 percent of the total non-exempt tree diameter on the site to be preserved, which would be 35.7 inches, which rounds up to 36 inches. The applicant had

proposed to preserve trees 1, 5, 11, and 12. However, trees 11 and 12 are located off-site. These two trees, therefore, are not eligible to meet the preservation requirements. However, the Tree Preservation Chapter allows alternatives to preserving trees on site under certain circumstances.

Mitigation Option C.5 (33.630.300.C.5) allows alternative preservation options for proposed development in the Employment zones if: It is not possible under any reasonable scenario to meet Section 33.630.100 and: In E and I zones, to provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone.

In this case, there are eight trees in the middle of proposed Parcels 2 and 3 whose preservation would make the lots unsuitable for commercial development or interfere with proposed stormwater treatment. The applicant provided a mitigation plan for the removal of these trees by proposing to maintain 4 trees with a total diameter of 30.0 inches and either plant 10 inches of additional trees on the site or pay into the Tree Fund for the equivalent of 10 inches of tree diameter to meet the 35 percent preservation requirement. However, as discussed above, two of the trees to be retained are not located on the site and can't be included in the amount of trees to be preserved (Ex. C.4).

Therefore, the applicant must include only the diameters of the two trees on the east side of Parcel 2 in the total tree diameter on the site and exclude the two pine trees that are off-site. It is not practicable to try to preserve additional on-site trees, or plant additional trees on the site due to T1 tree planting standards that applied during the building permit review process. It makes more sense to have the applicants pay into the City's Tree Fund instead, so that new trees can be planted in other areas of the City that need new trees, than to try to squeeze more trees onto the perimeter of this site.

In a situation where meeting the Tree Chapter's planting requirements is not feasible, Chapter 33.630.300 provides mitigation options. The Tree Chapter allows mitigation when (A) the applicant has shown that as many trees as possible will be preserved; (B) the applicant has submitted a mitigation plan that adequately mitigates for the loss of trees and shows how the mitigation plan equally or better meets the purpose of this chapter; and (C) it is not possible under any reasonable scenario to meet the tree preservation requirements and one of 7 minimum requirements.

The total tree diameter is 102 inches and preserving 35 percent would equal 35.7 inches. The applicant proposes to preserve 18 inches which reduces the amount required to be mitigated to 17.7, which rounds to 18 inches. Because there is no room available to plant additional trees on the site, the applicant must pay into the City's Tree Fund for the 18 inches of tree diameter that cannot be planted on this site. Therefore, with conditions that require the applicant to mitigate 18 inches of tree diameter by paying \$5,400 into the City's Tree Fund and to provide verification of this payment at the time of Final Plat review, this criterion will be met.

To ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

**F. 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. In addition, the site was paved for a previous commercial development. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. Parking lot landscape trees, which had remained on-site from previous development, have subsequently been removed during the recent construction activity on proposed Parcel 1. Therefore, no significant clearing and grading is anticipated for the further development of this site, and this criterion is met.

### **Land Suitability**

The site is currently in commercial 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.

### **G. 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. However, the following easements are proposed for this land division:

- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 3, for an existing sanitary sewer lateral connection that serves Parcel 1 (Sheet C2.1 of Exhibit C.3);
- A Private Storm Sewer Easement is required to convey stormwater from Parcels 1 and 3 through a shared discharge pipe on both parcels that will discharge into the public storm sewer located in NE Glenn Widing Drive (Sheet C2.2 of Exhibit C.3).
- An Access Easement is required to allow Proposed Parcels 1 and 2 to use that portion of Parcel 3, which is designated as driveway for all three parcels (Sheet C2.2 of Exhibit C.3).
- An Access Easement is required to allow Proposed Parcels 2 and 3 to use that portion of Parcel 1 which is designated as driveway for all three parcels (Sheet C2.2 of Exhibit C.3).

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements are required that describe maintenance responsibilities for the easements described above and for the facilities within those easement areas. This criterion can be met with the condition that a maintenance agreement for each easement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreements 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.”*

In addition, there is an existing 12.5-foot City of Portland Sewer and Water Facility Easement along the north property line of the site, although it appears that there are no BES facilities located within the easement. This existing City sewer and water easement must also be shown on the Final Plat, although the applicants have no maintenance responsibilities associated with it.

A Supplemental Plan is required in order to demonstrate the locations of:

- the existing sanitary sewer line and easement area for Parcel 1 across Parcel 3;
- the shared storm sewer lines and easement areas for Parcels 1 and 3;
- the shared access locations and easement areas on Parcels 1 and 3;
- the existing City sewer and water easement area that runs along the north side of the site.

The Supplemental Plan must be submitted with the Final Plat.

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

**J. 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 (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

PBOT made the following comments:

*Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.*

*Based on City GIS, at this location, NE Glenn Widing Dr is improved with 44-ft of paving & a 0-6-2 sidewalk corridor within a 60-ft r.o.w. NE 112th Ave is an unimproved 27-ft r.o.w. (approx). NE Airport Way is under the jurisdiction of the Oregon Department of Transportation.*

*The City's Transportation System Plan classifies NE Glenn Widing Dr & NE 112th Ave as Local Service streets for all modes. NE Airport way is classified as a Major City Traffic street, Community Transit street, City Bikeway, City Walkway & an Urban Road.*

*The applicant was granted approval of a Public Works Administrative Appeal (12-0151499 PW) to not bring the frontages up to current City standards. No dedications or street improvements will be required.*

*Land divisions of industrial land do not create the potential for additional vehicle trips beyond those already allowed outright by the zoning. Therefore, a traffic study is not necessary and no mitigation is required. Vehicle access to the site will be from a recently reconstructed driveway on Glenn Widing Drive and through an access easement with the Home Depot parcel on the north. Each parcel will provide the minimum required on-site parking. All loading activities will occur on site. Nearby transit is provided by Tri Met Bus line 87. Sidewalks are provided along both sides of Glenn Widing Drive and the south side of Airport Way. Bike lanes are provided on Airport Way. The sidewalks and bike lanes provide connections to the nearby I-205 Multi Use Path. There are no nearby residential neighborhoods to be impacted by site traffic. The land division will not result in any safety impacts to any transportation modes.*

*PBOT finds the transportation system can safely support the proposal in addition to the existing uses in the area and has no objection to approval.*

**Transportation System Development Charges (Chapter 17.15)**

*System Development Charges (SDCs) may be assessed for this development. The applicant can receive an estimate of the SDC amount prior to submission of building permits by contacting Rich Eisenhauer at 503-823-6108.*

**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.*

PBOT has reviewed and concurs with the information supplied, including the methodology, assumptions and conclusions made by the applicant's traffic consultant. PBOT has determined that no mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. Therefore, these criteria are met.

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

**Findings:** The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. 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. However, as a result of the proposed land division, the existing water service for Parcel 1 would cross proposed Parcel 2. The applicant must meet the Water Bureau requirements for individual and separate water services for each of the three parcels. The applicants must provide to the Water Bureau the following information prior to Final Plat approval:</p> <ol style="list-style-type: none"> <li>1) A Supplemental Plan is required in order to demonstrate the locations of all existing and proposed water service lines and the Parcels they will serve;</li> <li>2) A plumbing report, signed by a licensed plumber, which verifies that existing water lines have been severed where they cross new lot lines; and</li> <li>3) Any fire service requirements proposed for Parcel 1 and any new or adjusted domestic services. If any are proposed, they must be purchased and installed at the time of Final Plat.</li> </ol>
<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>However, as a result of the proposed land division, the existing sewer connection that serves the development on Parcel 1 will cross over the driveway portion of Parcel 3 to reach the sewer main in NE Glen Widing Drive. The applicant must provide an easement for this sanitary sewer line on the Final Plat. BES may also require a sewer scope and locate report to confirm the sanitary sewer line’s location at the time of Final Plat.</p> <p>In addition, a Maintenance Agreement for the easement must be submitted for approval by both BDS and the City Attorney, and must be recorded with the Final Plat.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1 &amp; E.5</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> <li>• <b>Parcels 1 and 3:</b> Stormwater from these parcels will be directed to on-site vegetated ponds that will detain and treat the water. The treated water will be directed into a shared storm line system that will discharge into the existing storm sewer in NE Glenn Widing Drive. These lots have sufficient area for stormwater facilities that can be adequately sized and located to meet setback standards, and accommodate water from the proposed developments. Stormwater from these lots will be directed into vegetated treatment ponds that remove pollutants and suspended solids. The water will then be directed to the existing 36-inch storm sewer in NE Glen Widing Drive, as approved by the Bureau of Environmental Services.</li> <li>• <b>Parcel 2:</b> Stormwater from the existing paved surface of Parcel 2 is currently discharged onto adjacent property. This storm line must be capped prior to final plat approval with the appropriate plumbing and connection permits finalized. Stormwater from future development</li> </ul>

of this parcel will be treated in an on-site vegetated treatment pond and will be discharged to the existing storm sewer across Parcel 3 in NE Glenn Widing Drive.

The Bureau of Environmental Services has provided conceptual approval of the proposed storm water system plans subject to the above conditions.

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

**33.654.110.B.3 - Pedestrian connections in the I zones**

**33.654.130.B - Extension of existing public dead-end streets & pedestrian connections**

**33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections**

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements.

However, this commercially zoned area is adjacent to the Home Depot parking lot to the north and to NE Airport Way to the south. The streets and sidewalks have all been developed since the late 1980s in compliance with land use decisions at that time.

The Portland Bureau of Transportation noted that land divisions within commercial areas “do not create the potential for additional vehicle trips beyond those already allowed outright by the zoning.” Further, existing sidewalks and bike lanes provide connections to the nearby I-205 Multi-Use Path and there are no nearby residential neighborhoods to be impacted by site traffic.” Transportation concluded that “The land division will not result in any safety impacts to any transportation modes” and that the “existing transportation system can safely support the proposal in addition to the existing uses in the area.”

This criterion is met.

**33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.**

No dead-end streets are proposed by or required for this proposal. Therefore this criterion does not apply.

**33.654.110.B.4 Approval criterion for alleys in all zones.**

**33.654.130.E Ownership of Alleys**

No alleys are proposed with this development. Therefore this criterion does not apply.

**33.641 – Transportation Impacts – 33.641.020 and 33.641.030**

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

**33.654.130.D Partial Rights of way**

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 two additional commercial developments can be safely served by this existing street without having any significant impact on the level of service provided.

**33.654.120.C.3.c. Approval criterion for turnarounds.**

No turnarounds are requested or required. Therefore, this criterion does not apply.

**33.654.120.D. Approval criteria for common greens.**

No common greens are proposed. Therefore, this criterion does not apply.

**33.654.120.E. Approval criterion for the width of pedestrian connections.**

No additional pedestrian connections are proposed or required. Therefore, this criterion does not apply.

**33.654.120.F. Approval criterion for the width of alleys. The width of the alley right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity such as existing street and pedestrian system improvements, existing structures, and natural features.**

No alleys are proposed. Therefore, this criterion does not apply.

**33.654.120.G – Approval criteria for shared courts**

Shared courts are not proposed. Therefore this criterion does not apply.

**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.

**Future Development**

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

**Existing development that will remain after the land division.** The existing development on the site that will remain is located on Parcel 1. This is a new 7-11 convenience store and fuel station. The division of the property may not cause these structures to move out of conformance or further out of conformance to any development standard applicable in the EG2hx 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 is one Zoning Code standard that relates to existing development on the site:

Minimum Setbacks – The existing building 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 building will be over 110 feet from the closest new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

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 regard to fire apparatus access, fire flow/water supply, fire hydrant spacing, addressing, and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a 3-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:

- Tree Mitigation
- Storm Water and Access Easements and Maintenance Agreements
- Existing Sanitary Sewer Line Easement
- Fire and Water Bureau requirements

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 3-parcel partition, that will result in three standard commercial lots with on-site stormwater management ponds and access through two common driveways, as illustrated with Exhibits C.3, 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 and BES review and approval. This 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;
- The actual or proposed locations of building footprints for each of the vacant lots;
- The proposed/existing locations of driveways into the site and their easement areas;
- The location of all existing sanitary sewer lines and their required easements;
- All proposed storm sewer lines and required easement areas on Parcels 1, 2, and 3;
- All existing and proposed water service lines, labeled as such, and noting the parcels they will serve;
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside;
- The location of a private fire hydrant on the site and the existing fire line;
- Trees 1 and 5 as numbered by staff on Sheet L2.0, Exhibit C.4;
- Any other information specifically noted in the conditions listed below.

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

1. A Reciprocal Access Easement over the “driveway” portion of Parcel 1 for the benefit of Parcels 2 and 3 shall be shown and labeled on the final plat. The easement shall allow

shared use of this area for all of the purposes for which a commercial use driveway would be typically used.

2. A Reciprocal Access Easement over the “driveway” portion of Parcel 3 for the benefit of Parcels 1 and 2 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes for which a commercial use driveway would be typically used.
3. A private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 3.
4. A private reciprocal storm sewer easement, for the benefit of Parcels 1 and 3, shall be shown and labeled over the relevant portions of Parcels 1 and 3.
5. The existing 12.5-foot City of Portland Sewer and Water Facility Easement (BES tracking #443) shall be shown and labeled along the north property lines of Parcels 1 and 2.
6. A recording block for each of the legal documents such as maintenance agreement(s) and Acknowledgements as required by Conditions C.6 and C.7, below. The recording blocks shall, at a minimum, include language 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.”
7. A recording block for the Acknowledgement of Tree Preservation Requirements as required by Condition C.9 below. The recording block shall, at a minimum, include language substantially similar to the following example: “An Acknowledgement of Tree Preservation Requirements has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

**Utilities**

1. The existing storm water line on Parcel 2 that discharges onto adjacent property must be capped and the appropriate plumbing and connection permits must be approved by the Bureau of Environmental Services and finalized prior to final plat approval.
2. The applicant shall provide an up-to-date plumbing report, signed by a licensed plumber, which verifies that all existing water lines have been severed where they cross property boundaries per the approval of the Water Bureau.
3. The applicant shall inform the Water Bureau of any fire service requirements for proposed Parcel 1. After Water Bureau approval of any proposed new fire service and/or any new or adjusted domestic service, the applicant shall then purchase and install any such required service(s);
4. The applicant shall meet any Fire Bureau requirements for installing a new fire hydrant in the public right of way, if required. If a fire hydrant is required, the applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.
5. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant.

**Required Legal Documents**

6. Separate Maintenance Agreements shall be executed for the Reciprocal Access, Private Sanitary Sewer, and Stormwater Management Easements described in Condition's B.1 – 5, above. These separate agreements shall include provisions assigning maintenance responsibilities for the easement areas and any shared facilities within those areas, consistent with the purpose of the easements and with all applicable City Code standards. The agreements for shared driveways must detail any “no parking” signs. The agreements must be reviewed by the City Attorney, the Bureau of Environmental Services, and the Bureau of Development Services, and approved as to form, prior to final plat approval.
7. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that discusses the tree preservation requirements applicable to Parcel 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The Acknowledgment shall be notarized and recorded with Multnomah County and referenced on the final plat.

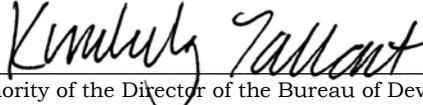
**Other requirements**

8. The applicant shall pay \$5,400 into the City's Tree Fund for 18 inches of tree diameter and provide verification of the Tree Fund payment. Payment must be made to the Bureau of Development Services, which 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 2 shall be in conformance with the Tree Preservation Plan indicated on Exhibit C.4. Tree protection fencing is required along the root protection zone of each tree to be preserved. Fencing must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. The root protection zones may be reduced to the perimeter of existing pavement on the site and along NE Glen Widing Drive, but shall extend to the north corner of the property for Tree 1 and then southward to 6 feet south of Tree 5. 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, demonstrating that the arborist has approved of the specified methods of construction, and that the activities will be performed under that arborist's supervision.
2. The applicant must provide a fire access way that meets the Fire Bureau requirements for paving, signs, and turning radius.
3. The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements.
4. Development must meet the Fire Bureau requirements for fire hydrant access.

**Staff Planner: Kathy Harnden**

**Decision rendered by:**  **on February 25, 2014**  
By authority of the Director of the Bureau of Development Services

**Decision mailed February 27, 2014**

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

**Procedural Information.** The application for this land use review was submitted on June 6, 2013, and was determined to be complete on September 9, 2013.

*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 June 6, 2013.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended four different times, as follows: on October 14, 2013, an extension of 6 weeks; on November 4, 2013, an extension of 8 weeks; on January 15, 2014, an extension of 2 weeks, and on February 3, 2014, an extension of 30 days, for a total extension of 142 days, as stated with Exhibits G . Unless further extended by the applicant, **the 120 days will expire on: May 30, 2014.**

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

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

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

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

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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**

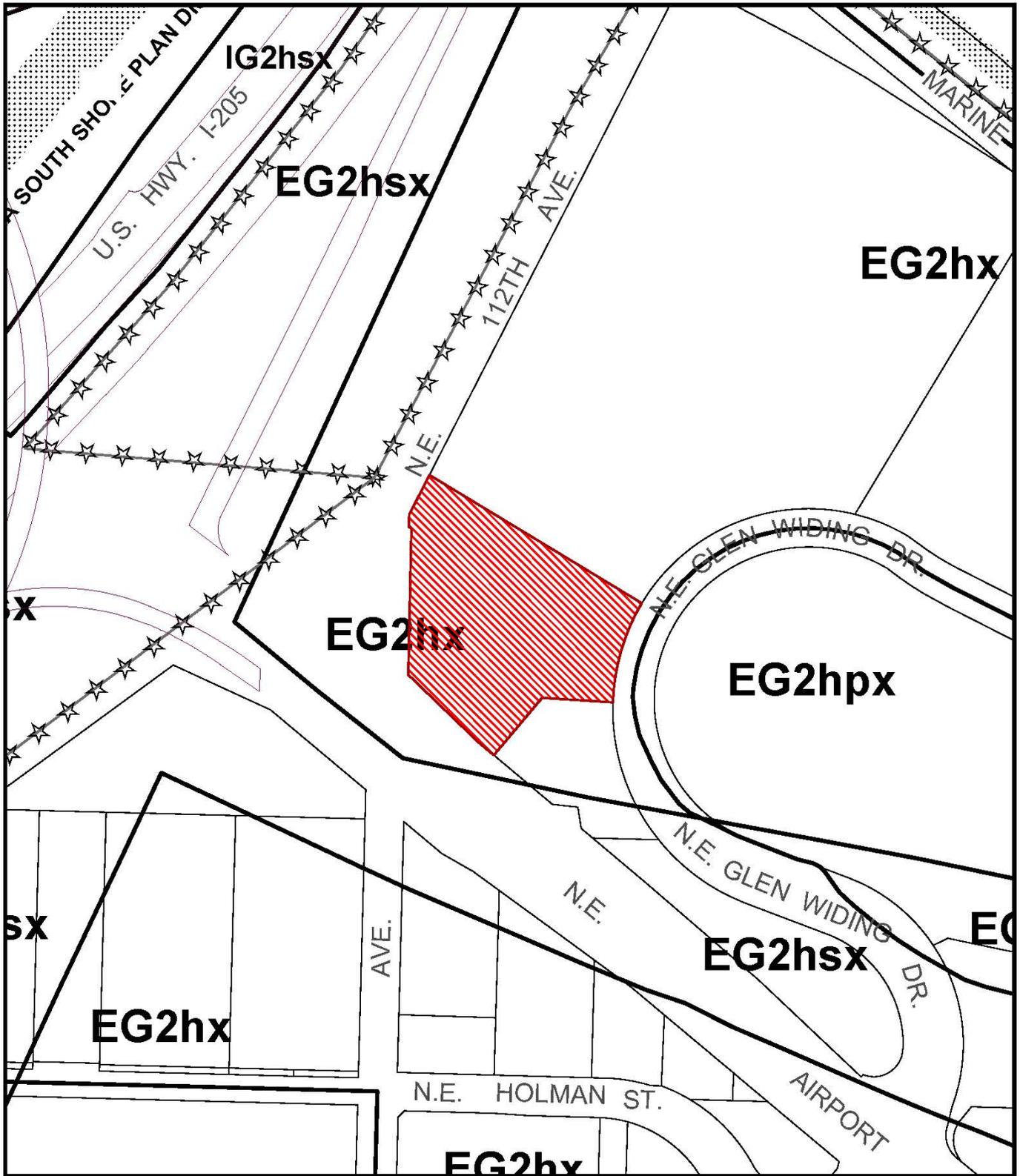
**a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Initial Submittal
  - 2. Supplemental Narrative 8/28/13
  - 3. Supplemental Narrative 8/29/13
  - 4. Supplemental Narrative 10/24/13
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Plat (attached)
  - 2. Full Size Plan Set 8/28/13
  - 3. Full Size Plan Set 12/03/13 (Approved)
  - 4. Proposed Development Plan (Attached)
  - 5. Tree Preservation Plan 1/16/14 (Attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1.a Bureau of Environmental Services
  - 1.b Bureau of Environmental Services
  - 2.a Bureau of Transportation Engineering and Development Review
  - 2.b Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Life/Safety
- F. Correspondence:
  - None
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter w/Bureau Completeness Comments sent 7/10/13
  - 3. Letter to Applicant w/Bureau Notice Response Letters
  - 4. Applicant's Request for Extensions, No.'s 1 - 4

**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:  
COLUMBIA SOUTH SHORE PLAN DISTRICT

File No. LU 13-165107 LDP  
 1/4 Section 2342,2442  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E15AC 400  
 Exhibit B (Jun 11,2013)





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DIVISION



EXPIRES 12/31/13  
REGISTERED PROFESSIONAL ENGINEER  
NO. 12345  
STATE OF WASHINGTON  
DATE EXPIRES: 12/31/13  
DATE ISSUED: 12/31/12  
EXPIRES 12/31/13

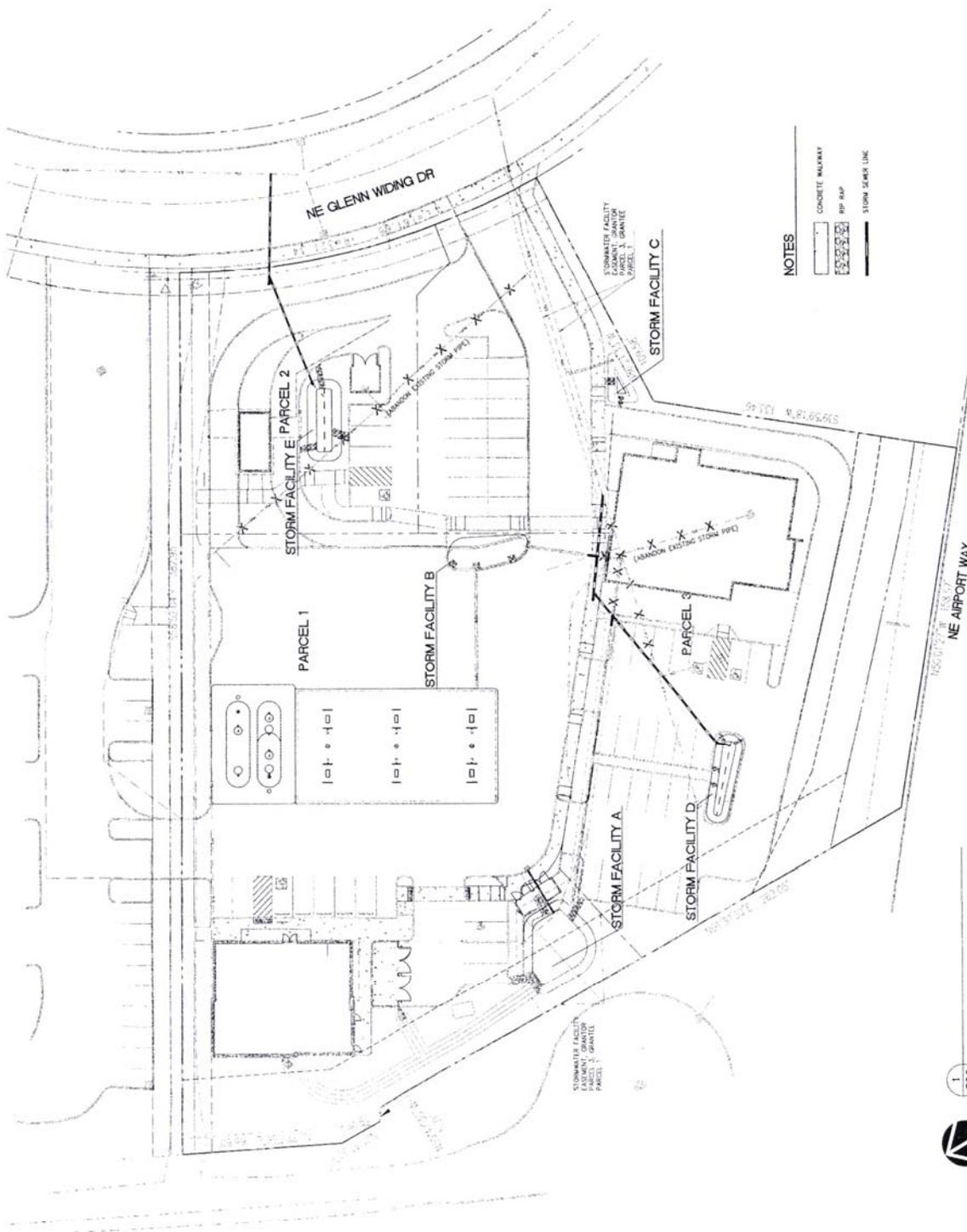
SHEET TITLE:  
PROPOSED  
STORM DRAINAGE  
PLAN

DRAWN BY: CTJ/MS/PMB  
CHECKED BY: RS  
SHEET:

C2.2

JOB NO. 2100286.26

REVISED 11-25-2013



- NOTES
- CONCRETE WALKWAY
  - RP IMP
  - STORM SINK LINE



Proposed Development  
LU13 165107 LUP  
Exhibit C.3

