



# CITY OF PORTLAND

Office of City Auditor Mary Hull Caballero

## Hearings Office

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## DECISION OF THE HEARINGS OFFICER

### I. GENERAL INFORMATION

**File No.:** LU 15-136825 NCR (Hearings Office 4150012)

**Applicant:** Jennifer Kimura  
VLMK Consulting Engineers  
3933 SW Kelly Avenue  
Portland, OR 97239

**Owner:** Pyco LLC  
5949 NE Cully Boulevard  
Portland, OR 97218-3354

**Representative:** Brent Hedberg  
Specht Development, Inc.  
15325 SW Beaverton Creek Court  
Beaverton, OR 97006

**Hearings Officer:** Kenneth D. Helm

**Bureau of Development Services (BDS) Staff Representative:** Sylvia Cate

**Site Address:** 7626 NE Killingsworth Street

**Legal Description:** TL 1300 9.05 ACRES, SECTION 20 1N 2E; TL 200 8.47 ACRES,  
SECTION 20 1N 2E; TL 1400 0.95 ACRES, SECTION 20 1N 2E

**Tax Account No.:** R942200020, R942201060, R942202820

**State ID No.:** 1N2E20AA 01300, 1N2E20A 00200, 1N2E20AA 01400

**Quarter Section:** 2538

**Neighborhood:** Cully

**Business District:** None

**District Coalition:** Central Northeast Neighbors

**Plan District:** North Cully

**Zoning:** EG2h: General Employment 2 with Aircraft Landing overlay

**Land Use Review:** Type III, North Cully Development Review

**Public Hearing:** The hearing was opened at 1:30 p.m. on July 20, 2015, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 2:14 p.m. The record was closed at that time.

**Testified at the Hearing:**

Sylvia Cate  
Steve Pfeiffer  
Steve Deering  
Havlin Kemp  
Tony Defalco

**Proposal:**

Comcast proposes to develop a new industrial service facility that includes a warehouse, customer parking, employee parking, fleet parking and accessory office use. The new Comcast Customer Service facility will house sales, customer service and technical support functions in an approximately 50,400 square foot warehouse building. At full capacity, there will be approximately 62 full time employees in sales and service roles and 180 full time employees who will operate fleet vehicles out of the facility.

The North Cully Plan District requires a Development Review [33.560.020.] for development within the District on sites over 5 acres in size or with improvements valued over \$203,600.

**Approval Criteria:**

- 33.560.050.A. - H., *North Cully Approval Criteria*

**HEARINGS OFFICER OVERVIEW**

On July 20, 2015, the Hearings Officer held a public hearing on the application. The Hearings Officer notified all present of their rights under ORS. 197.763, and did not have any *ex parte* contacts to report.

BDS Staff provided a PowerPoint overview of the application. The site was described as was the scope of the proposed facility. The relevant approval criteria were discussed and the single condition of approval.

The applicant provided a brief history of the subject property and explained the site plan for the proposed development. There was no opposition testimony. However, the Hearings Officer determined that one issue warranted a brief discussion as part of an approval. That issue is the question of whether the project as proposed triggers any requirement for a pedestrian path along the southern border of Area 3. PCC 33.560.050(H)(1) contains such a requirement, but only for commercial or industrial development that is proposed on the southern border of Area 3. Since the current proposal is located to the north and is not adjacent to or even near the southern border of Area 3 the requirement is not triggered.

With the above clarification, the Hearings Officer adopts the balance of the BDS Staff report as set forth below.

## II. ANALYSIS

**Site and Vicinity:** The site is a vacant parcel, 5.08 acres in size, as the result of a Property Line Adjustment, 15-136846 PR. The site and also owned Tract 2 parcel are both part of a larger land area contained within 'Area 3'. Most of 'Area 3' remains undeveloped and vacant with one exception at the northwest corner of the former Killingsworth Quarry, south of Killingsworth. This approximately 8.5 acre site is developed with multi-tenant office and industrial service uses, approved via LUR 98-00459 MS AD.

The proposed Comcast facility will be immediately east of this development. Directly north of the site, across NE Killingsworth, are light industrial uses and development in the IG2 zone. Immediately east of the site is more development and uses in the IG2 zone. South of the site is undeveloped land within 'Area 3' / Killingsworth Quarry, and zoned EG2h. Further south, at NE Alberta Street, the grade changes sharply from the vacant lands approximately 26-28 feet up to NE Alberta Street. The south side of NE Alberta Street is zoned R7 and developed with single dwelling homes and residential uses. Further west on NE Alberta is a parcel in the OS zone, known as Sacajawea Park.

Immediately abutting and to the north of the expanded park site is a parcel approximately 3.342 acres in size, zoned R5h but identified with an (OS) designation. This parcel was previously donated to the City of Portland [via LU 03-177121 CP ZC] for the purposes of expanding Sacajawea Park. Abutting the donated parcel is a 3.888 acre parcel zoned R5h, which will be developed with single dwelling housing.

**Zoning:** The site is zoned EG2h: General Employment 2 with the Aircraft Landing overlay zone, and is located in the North Cully Plan District.

The General Employment 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.

General Employment 2. EG2 areas have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. EG2 zoned lands will generally be on larger areas than those zoned EG1.

The Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation.

The North Cully Plan District regulations are intended to ensure compatible redevelopment of certain large parcels as set forth in the Cully Neighborhood Plan. These parcels are developed with gravel pits, a number of smaller, older single family dwellings and trailer parks with redevelopment probable in the next two decades. Properties should be developed in a cohesive pattern in order to encourage compatible development with the neighborhood to the south. North Cully Development Review is a master plan review which will ensure compatibility and cohesive design.

**Land Use History:** City records indicate that prior land use reviews include:

Multnomah County Case Files:

CS 23-80: This land use review approved, with conditions, the development of a special purpose landfill and associated gravel quarry.

CU 9-82: This review approved, with conditions, a temporary asphalt batching plant.

HV 2-83: This review approved, with conditions, the expansion of the prior Community Service approval for quarrying and filling activities.

CS 3-83: Approved, with conditions, an expansion of the prior Community Service approval to permit placement of fill material on Tax Lots 63 and 106, subject to conditions.

LUR 91-00509 EF: Approval with conditions to fill a gravel pit with inert materials.

Staff Note: All of the above prior Reviews and Conditions are now moot, because the quarry and fill activities have ceased, circa 2002.

LU 14-139487 AD: Approval of an Adjustment to allow a total of 260 parking spaces on the site with development of Comcast Facility.

LU 15-136846 PR: Approval of Property Line Adjustment to amend the specific project/site area for the Comcast Facility.

**Agency Review:** A "Request for Response" was mailed **May 22, 2015**. The following Bureaus have responded with no issues or concerns:

- *Fire Bureau* responded with no concerns, and noted that at time of building permit review, all applicable Fire Code requirements must be met. See Exhibit E- 4 for the full response.
- *Site Development Section of BDS* notes no concerns. [Exhibit E-5].
- The *Bureau of Environmental Services* responded with no objections to the proposal and notes that the proposed development will be subject to BES standards and requirements at the time of building permit review. The response includes a number of technical comments regarding building permit requirements. See Exhibit E-1 for the full response.
- The *Bureau of Transportation Engineering* responded with an analysis of the traffic impacts of the proposal. Relevant comments are included in the findings below, under 33.560.050.D. The PBOT response also contains technical information for the applicant regarding requirements under Title 17 that must be met at the time of building permit review. The full response is contained in Exhibit E-2.

- The *Water Bureau* responded with no concerns and included a number of technical details and comments for the applicant to be aware of at the time of building permit submittal. See Exhibit E-3 for the full response.
- The *Bureau of Parks-Forestry Division* responded with no objections and includes a number of technical comments the applicant will need to satisfy at the time of building permit review. See Exhibit E-6 for the full response.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on June 29, 2015. Two written responses have been received from the Neighborhood Association and from the "Living Cully" organization in response to the proposal. The relevant issues raised in those letters are discussed in the Hearings Officer Overview above.

## **ZONING CODE APPROVAL CRITERIA**

### **33.560.050 Approval Criteria**

All North Cully Development review applications must meet the following approval criteria.

- A.** The applicable goals and objectives of the adopted neighborhood plan will be met.

**Findings:** The Cully Neighborhood Plan was adopted by City Council in 1991, and became effective January 1, 1992. The Neighborhood Plan includes Policies and Objectives to help guide development and changes within the neighborhood that will address issues and implement the vision statement for the Cully Neighborhood.

As discussed above, two letters were received regarding this application, and to a large extent both letters focus on this criterion and describe a number of conditions of approval that the authors feel will ensure that the application meets this criterion. (Additional concern was expressed in both letters regarding the requirements found in Criterion H, below).

The Neighborhood Plan contains specific Policies and Objectives for the 'special focus area' which is identified as portions of prior gravel pits which have been filled over time and are anticipated to be redeveloped 'in the upcoming decades.' Page 28 of the Neighborhood Plan includes a map of the special focus area and identifies Areas 1-4 and notes the Objectives under Policy 4 that are applicable to each area. However, these are not the only Goals and Objectives within the Neighborhood Plan, and more than Objective 4C-2 and 4C-4 are relevant to the proposal and this criterion.

A staff analysis of the Cully Neighborhood Plan indicates that Goals 1, 4, 6 and 7 are applicable, along with the relevant Objectives associated with each Goal. The applicant has also reviewed the Neighborhood Plan and offers the following statement:

Goal 1. Neighborhood Identity, Objective 1A-4.

*2. Encourage landscaping of all sites to enhance the neighborhood through the planning land use review process.*

**Response:** As shown on the Landscape Plan at Exhibit A, Sheets L1.0 and L2.0, over 17% of the site will be landscaped, consisting of both perimeter and interior landscaping which exceeds the 15% landscape requirements of the Portland Zoning Code. This objective is met.

Goal 4. Land Use and Recreation, Policy 4A - Protect Residential Areas.

Objective 4A-1.

*2. Buffer residential uses, especially on the northern edge of the neighborhood from negative impacts of commercial and industrial development.*

**Response:** Although residential areas exist to the south and to the west of the site, there are no residential areas directly adjacent to the subject site. The residential area to the south is located south of NE Alberta, and the subject site does not abut NE Alberta as a result of the property line adjustment. Other industrial users separate the subject site from the residential area to the west. As previously mentioned, even though there are no residential areas directly adjacent to the subject site, the site will contain landscaping which provides a visual buffer from other uses along the entire perimeter of the development. Furthermore, the perimeter landscaping that will be installed along the southern parking lot and boundary of the site will provide an enhanced buffer to the residential area to the south.

The proposed use is an Industrial Service use with warehousing, parking, and accessory office with customer service and sales functions. No uses are proposed that would generate noxious impacts that can be associated with industrial uses. This objective is met.

Goal 4. Policy 4B - Commercial and Industrial Uses.

*Maintain and encourage commercial and industrial uses which serve the neighborhood and provide stable employment.*

**Response:** The proposed facility will provide media and communications services to the residents and businesses of the Cully Neighborhood and beyond. Comcast currently provides stable employment to 22 people who reside in the Cully neighborhood. At full capacity, the new facility is expected to provide family-wage jobs to approximately 62 full-time employees in sales, customer service, and other roles and approximately 180 full-time employees that will be based at, and operate fleet vehicles out of, the new facility. Therefore, this policy is met.

Goal 4. Policy 4C - Redevelopment in the Special Focus Area, Objective 4C-2.

*South of NE Killingsworth. Minimize the impact of gravel pit on the neighborhood. After the year 2002, applicants or owners wishing to excavate and fill shall submit and receive Master Plan approval insuring excavation, fill and future redevelopment of the property are compatible with the adjacent properties.*

**Response:** The subject site lies within the special focus area to which this objective applies. The applicant is not proposing to resume any gravel pit excavation or landfill operations on the site. Nevertheless, pursuant to PCC 33.560.010, North Cully Development Review is a master plan review which will ensure compatibility and cohesive design. Therefore, by undergoing this review process, this objective is met.

Goal 4. Policy 4C - Redevelopment in the Special Focus Area, Objective 4C-4.

*Encourage public acquisition of Area 3 and redevelopment regulated in conformance with a master plan to ensure compatibility with the surrounding neighborhood.*

*1. Encourage projects to include buffering and design compatibility with the surrounding commercial and residential neighborhood.*

*3. Encourage pedestrian access but no vehicular access to the south or east as part of the master plan and development.*

**Response:** The subject site lies within the special focus area to which this objective applies. Public acquisition of a portion of Area 3 has already occurred and allowed for expansion of Sacajawea Park. The proposed project is undergoing North Cully Development Review which, as previously mentioned, is a master plan review to ensure compatibility with the surrounding neighborhood. Additionally, as shown on the Landscape Plan at Exhibit A, Sheets L1.0 and L2.0, the proposed facility includes landscape buffering along the entire perimeter of the site. Landscaping installed along the southern boundary of the site provides an enhanced buffer to the residential area to the south.

The proposed building will be compatible with the surrounding general employment and industrial uses in the EG2 and IG2 zones. The nearest commercially zoned parcel is over 780 feet away to the east, separated by a 700-foot wide area zoned IG2. The warehouse building will be one story in height and set back 84-feet from NE Killingsworth. There is no height limit in the EG2 zone, but the one story warehouse building is compatible with the surrounding light industrial, industrial and manufacturing uses in the immediate area, where low 1 to 2 story buildings are the dominant urban form in this area.

Significant landscaping and trees will be installed along the NE Killingsworth frontage of the site, which includes a sidewalk built to City standards. This enhances the streetscape along this segment of NE Killingsworth, and also provides greenery and buffering to the site and the surrounding vacant land within this portion of the former gravel pit.

Landscape screening along the south property line of the site will provide a visual buffer to the residential area to the south, along with significant horizontal distance (>600-feet) and vertical distance (the site is approximately 25 feet below the grade of NE Alberta). The cumulative result of the landscaping and separation distances adequately buffer the residential area to the south.

The proposed site is not adjacent to NE Alberta, therefore pedestrian access from the site to NE Alberta is not available. However, it is worth noting that pedestrian access from Area 3 to NE Alberta is already available via a public path through Sacajawea Park. Furthermore, as shown on the Site Plan, there is no vehicular access to the south or east of the site.

Therefore, this objective is met.

Goal 6. Transportation, Objective 6A-1.

*2. Encourage use of I-205, Columbia Boulevard and Portland Highway -*

*Killingsworth as the primary access routes to industries south of the slough.*

**Response:** NE Killingsworth will be the primary access route to the subject site, thereby meeting this objective.

Goal 6. Transportation, Objective 6B-1.

*3. High priority should be given to completion of the arterial sidewalk improvements in the Arterial Streets Classification policy for the following streets: NE Killingsworth.*

**Response:** As shown on the Site Plan and Site Details at Exhibit A, Sheets G1.0 and G5.0, new public sidewalks will be provided along the subject site's frontage on NE Killingsworth. Therefore, this objective is met.

Goal 7. Business and Industry, Objective 7A-1.

*Improve the appearance of commercial and industrial areas of the neighborhood.*

*1. Encourage business to meet high standards of appearance and maintenance of their buildings and grounds.*

*3. Encourage effective buffers between industrial and commercial land uses and residential land uses to mitigate noise, traffic and unsightliness in residential areas.*

**Response:** The proposed facility will greatly improve the appearance of the area and the site by redeveloping the brownfield site, updating the appearance of the site and its improvements, and by bringing the site in compliance with the landscaping requirements of the code. The proposed building will be constructed with higher quality materials and finishes than the adjacent and nearby uses. There are no residential areas directly adjacent to the subject site. Additionally, as shown on the Landscape Plan at Exhibit A, Sheets L1.0 and L2.0, the proposed facility includes landscape buffering along the entire perimeter of the site, creating a visual buffer between the site and other uses in the area. Furthermore, landscaping along the southern boundary of the site provides an enhanced buffer to the residential area to the south. Staff notes that all traffic to and from the site will be from NE Killingsworth, a designated Priority Truck Street. Therefore, these objectives are met.

Goal 7. Business and Industry, Objective 7A-4.

*Support the retention and expansion of existing businesses and employment opportunities and encourage new commercial uses which provide goods and services to the local residents and industrial activities to locate in appropriate zoned areas.*

*2. Develop and market the commercial and industrial portions of the neighborhood as locations for new or expanding businesses.*

**Response:** As previously mentioned, the applicant proposes to develop a new industrial service facility for Comcast, including a warehouse, fleet parking, and



accessory office use. The proposed facility will provide for the expansion of Comcast's operations in order to provide media and communications services to residents and businesses in the Cully Neighborhood and beyond. The proposed site is located in an employment and industrial area generally surrounded by large lots occupied by warehouse, light manufacturing, and auto garage uses. The proposed industrial service and office use with a larger surface parking area is not unusual in this area, does not detract from the urban form of the immediate area, and otherwise enhances the currently undeveloped nature of the site. At full capacity, the facility will employ approximately 62 full-time employees in the sales, customer service and support functions and 180 full-time employees who will be based at the facility and operate fleet vehicles out of the facility. Therefore, this objective is met.

Staff concurs with this analysis. Further, staff sees no nexus between this criterion and the Conditions of Approval requested in the letters found at F.1 and F2. Staff notes that neither the 'Gentrification Study' nor the draft Comprehensive Plan Amendments have been adopted by City Council, are not relevant to the North Cully Development Review approval criteria, and therefore do not apply to this review. While the concepts of job training, internship, and prioritized hiring are excellent community activities, the neighborhood requested conditions seek charitable programmatic operations of Comcast. The Zoning Code does not control hiring practices nor does it require charitable or in kind donations in order to meet this criterion.

This criterion is met.

**B.** The boundaries of the North Cully Development review application coincide with one of the subareas as shown in the adopted Cully Neighborhood Plan or adequate rationale is provided for any deviation.

**Findings:** The site is located within 'Special Focus Area: Area 3' which is also within the North Cully Plan District. This criterion is met.

**C.** The uses proposed are allowed in the base zone and overlay zones.

**Findings:** Comcast proposes to develop a new industrial service facility that includes a warehouse, customer parking, employee parking, fleet parking and accessory office use. Per Table 140-1 of Title 33, Industrial Service uses are allowed by right in the EG2 zone.

Per the Use Description found at 33.920.300:

*Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.*

The Use Description includes the statement that:

*Accessory uses may include offices, food membership distribution, parking, storage, rail spur or lead lines, and docks.*

The 'h' overlay has no bearing on allowed uses as this overlay zone regulates height of buildings and vegetation to ensure safe airplane maneuvers. The use is allowed by right by the base zone, and the accessory uses listed above are also allowed.

The applicant notes (Exhibit A-1) that the facility will be an Industrial Service use, as the repair and servicing of media and communications equipment will take place within the facility. The vehicle feet will be utilized by Comcast technicians who will be dispatched to install, replace, or retrieve communications equipment from businesses and individuals who subscribe to Comcast services and products. Occasional visits by customers will occur as well, to pick up, drop off, or switch out communications equipment. The accessory office use will include customer service, sales and marketing activities. All aspects of the proposal are allowed outright in the EG2 zone. For these reasons, this criterion is met.

**D.** Public services for water supply, streets, police and fire protection are capable of serving the proposed development and sanitary waste disposal, stormwater disposal systems, streets and traffic circulation meet the requirements of Title 17.

**Findings:** The Water Bureau responded to this proposal and notes that water is available from an existing 16-inch water main in NE Killingsworth Street, and that an existing 5/8<sup>th</sup> metered service provides water to this location. At time of building permit review, the applicant must provide fixture counts and fire flow volumes for the Water Bureau to review and determine the size of the water service and meter supplying the site.

The Fire Bureau responded with no concerns and commented that at time of building permit review, the development must meet all of the applicable Fire Codes.

The Police Bureau has informed staff (see Exhibit E-8) that the formal police response is in process, but will not be available prior to publication of this report. However, no concerns were raised by the responding officer and police services are available to the area. Prior to the scheduled public hearing, the formal Police Bureau response will be submitted.

The Portland Bureau of Transportation has responded, and offers the following analysis:

At this location the TSP classifies NE Killingsworth as Regional Trafficway & Major City Traffic street, a Major Transit Priority, a City Bikeway, a City Walkway, a Priority Truck street, a Major Emergency Response street, and an Urban Road. According to City GIS, NE Killingsworth is improved with 72-ft of paving and a 7-ft curb-tight sidewalk within a 110-ft ROW.

At this location, the City's Transportation System Plan (TSP) classifies NE Alberta as a Local Service street for all modes. According to City GIS, NE Alberta is improved with 25-ft of paving and the standard 11-ft sidewalk corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/0.5-ft frontage zone) within a 50-ft ROW.

The applicant will be required to reconstruct the project's NE Killingsworth frontage to current standards. For a City Walkway classified street, along an EG2h-zoned site, the Pedestrian Design Guide recommends a 12-ft sidewalk corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/1.5-ft frontage zone). Based upon City GIS, it appears there is sufficient ROW behind the existing curb to construct the required improvements.

The applicant has provided a Traffic Impact Analyses (TIA) prepared by Kittelson & Associates. PBOT staff has reviewed the TIA and concurs that the transportation system is capable serving the proposed development. The driveway designs and locations are subject to ODOT review and approval.

Comcast is proposing to develop a new Coordination Center along the south side of NE Killingsworth Street in Portland, Oregon. The new Coordination Center will consist of a 50,400 square-foot building for office and warehouse use and a surface parking lot for fleet

vehicle storage and dispatch for Comcast home/commercial services. There will be no customer activities at this location.

Access to the new Coordination Center will be provided via two full-movement driveways along NE Killingsworth Street. The site currently has two driveways to NE Killingsworth Street that served the former use of the site. The westernmost driveway will be relocated further to the west to align with an existing driveway on the north side of NE Killingsworth Street and increase access spacing. This westernmost driveway will generally serve the proposed building and its full day on-site employees as well as future development of adjacent property to the south. The easternmost driveway will remain where it is today and generally serve the fleet vehicle storage lot only. Construction of the new Coordination Center is expected to begin in 2015 with full build-out and occupancy in 2016.

#### **Pedestrian and Bicycle Facilities**

Sidewalks and bicycle lanes are currently provided along both sides of NE Killingsworth Street within the study area and provide adequate pedestrian and bicycle access to the site and to the nearest transit stops. Field observations indicate that the highest levels of pedestrian activity occur at the signalized intersections. A total of 79 pedestrian crossings occurred at the NE Cully Boulevard/NE Killingsworth Street intersection during the peak time period, 39 occurred at the NE 72<sup>nd</sup> Avenue/NE Killingsworth Street intersection, and 28 occurred at the NE 82<sup>nd</sup> Avenue/NE Killingsworth Street intersection. By comparison, a total of four pedestrian crossings occurred at the NE 75<sup>th</sup> Avenue/NE Killingsworth Street intersection, an unsignalized intersection, during the peak time period.

#### **Transit Facilities**

TriMet Bus Line 72 provides service along NE Killingsworth Street with eastbound stops at NE 73<sup>rd</sup> Avenue, at the 7600 block near the site, and at the 8100 block east of the site. Westbound stops are provided at NE 75<sup>th</sup> Avenue, at the 7700 block near the site, and at NE 82<sup>nd</sup> Avenue.

#### **Intersection Operations**

The weekday p.m. peak hour turning-movement volumes were used to conduct an operational analysis at the study intersections to determine the year 2016 total traffic conditions. The results of the analysis are shown in the TIA. As shown, all of the study intersections and site access points are forecast to operate acceptably during the weekday p.m. peak hour relative to their applicable mobility standards.

The Bureau of Environmental Services responded with no concerns and noted that BES maintains a public 10-inch CSP sanitary sewer pipe within NE Killingsworth Street. BES further states that there are no BES-maintained storm systems available for connections from this site, but there is a storm drainage system in NE Killingsworth Street that is maintained by Oregon Department of Transportation (ODOT). The applicant proposes to manage all stormwater on-site through infiltration and a below-grade detention system. Given this approach, a connection to the ODOT facility is not necessary.

To summarize, adequate public services are available to serve the proposed development. This criterion is met.

- E.** The development plan shows a completely developed site which is compatible with the surrounding area. In a phased development, the code requirements will be met at each phase in development.

**Findings:** The applicant does not propose phased development. The site plans depict a

completed development on the site, including, but not limited to, building, parking, landscaping, vehicular access, striped for pedestrian access, and street improvements, such as new sidewalks. The project is proposed to be developed in a single phase. This criterion is met.

- F.** Any land division proposed as part of the application must facilitate the goals and objectives of the adopted Cully Neighborhood Plan and must not cause piecemeal or fragmented development.

**Findings:** The applicant does not propose any Land Division as part of this application. This criterion is not applicable.

- G.** The proposal must not adversely impact the livability of nearby residential zoned land due to noise, glare from lights, late-night operations, odors and litter.

**Findings:** The site is roughly 25+ feet below the grade of NE Alberta Street. The nearest residentially zoned lands that are developed are along the south side of NE Alberta Street, approximately 614 feet south of the south property line of the site.

The applicant states in their project narrative (Exhibit A-1), that

*The subject site is in excess of 20 feet below the nearby residential zoned land. The topography of the area, in addition to the use of directional lighting on the site, will ensure that the proposed facility does not adversely impact the livability of nearby residences due to light glare or litter.*

*Furthermore, no late-night or loud noise-generating operations will occur at the proposed facility. The proposed facility will operate during normal business hours from approximately 7:00 am until 6:00 pm on weekdays, with a reduced shift on Saturdays. The proposed facility will not exceed nor exacerbate the noise level already produced by other industrial uses in the area, such as caused by heavy equipment rental and repair operations.*

There are no activities proposed to occur at the site that would have potential for the noise limits of Title 18 to be exceeded. Directional lighting will prevent glare or spill over to other adjacent properties, particularly the residential lots along NE Alberta that are well above the grade of the development. The applicant does not propose around the clock shifts, so there will be no late night activities. The proposed use and development is not anticipated to result in any nuisance odors. Comcast will maintain the site and litter will be placed in the screened recycling/garbage area on the site. This criterion is met.

- H.** In addition to the approval criteria listed above, development south of NE Killingsworth will meet the following approval criteria:

1. Vehicular access will be prohibited from NE Alberta through the area. A buffer will be established along the southern portion of the area if commercial or industrial uses are proposed along the southern edge. Pedestrian access from NE Alberta will be provided.
2. Development of the eastern portion of the area will support park acquisition and expansion of Sacajawea Park with service and recreational facilities.

3. Development will include a mixture of uses such as housing and commercial or light industrial.

**Findings:**

- (1) The site has no frontage along NE Alberta Street, and no vehicular or pedestrian access is proposed from NE Alberta Street as part of the Development Plan. It is important to note that a sidewalk will extend from NE Killingsworth Street to the rear of the site. The applicant notes the following in their application:

*Since the proposed site is not adjacent to NE Alberta, pedestrian access is not available. However, it is important to note that pedestrian access from NE Alberta to NE Killingsworth is already available via a public path through Sacajawea Park and the public right-of-way. As shown on the Landscape Plan at Exhibit A, Sheets L1.0 and L2.0, a landscaped buffer exceeding code requirements is provided along the southern edge of the site.*

The criterion is speaking to the 'southern portion of the area' which requires 'a buffer [to] be established... along the southern edge.' Within this context, the criterion is identifying the southern edge of the entire Area 3 which abuts NE Alberta Street. The south property line of the site is approximately 614 feet away from this 'edge.'

Furthermore, there are additional development opportunities in 'Area 3' and the remaining vacant land has frontage on both NE Killingsworth and NE Alberta. Furthermore, PBOT responded to this criterion with the following comments:

The site does not have any frontage along NE Alberta St. However, vehicle access from NE Alberta is neither proposed nor permitted per North Cully Plan District. PBOT staff interprets the pedestrian access requirement to NE Alberta is not to provide a through public pedestrian connection from NE Alberta through to NE Killingsworth. PBOT interprets this connection to provide a pedestrian connection to future employees and visitors to the businesses on the north side of NE Alberta to the adjacent residential neighborhood on the south. Any public pedestrian access through the site would have to meet current ADA requirements. Given the proposed development is at a significantly lower grade elevation than NE Alberta, an ADA compliant connection would be impracticable. PBOT would have safety concerns given the high volumes of commercial vehicle circulation on the site especially during the evening hours. There is land just to the west that was rezoned residential and Open Space for a new public park that will eventually be developed with new housing that will provide safe pedestrian access to NE Killingsworth along sidewalks on new public streets for immediate neighborhood.

This criterion is not applicable.

- (2) A significant portion of the site was donated to the City in order to expand Sacajawea Park as part of a prior land use review, LU 03-177121 CP ZC. The applicant notes the following:

*3.36 acres of land in Area 3 were donated to the City of Portland in 2006 to support expansion of Sacajawea Park. In 2009, pursuant to permit number 2009-158075-000-00-SD, this additional land was developed to include a new path, dog park, and landscaping. The expansion of Sacajawea Park and development of additional recreational facilities has already occurred.*

This criterion has already been satisfied and therefore is not applicable.

- (3) Development will include a mixture of uses such as housing and commercial or light industrial.

As part of LU 03-177121 CP ZC, a prior comprehensive plan map amendment modified the zoning from R7 to a mix of EG2h, R5h, and R5h(OS) which allows a mixture of uses when development occurs. The vacant land zoned R5h will be developed with single dwelling housing. The R5h(OS) parcel has already had some park improvements installed.

This application proposes a mixed use of Industrial Service/Warehouse and accessory Office for the Comcast facility. The mixture of uses is allowed outright in the EG2 zone. 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.

### **III. CONCLUSION**

The proposal meets all of the applicable approval criteria and therefore should be approved.

### **IV. DECISION**

Approval of:

- North Cully Development Review for a new industrial service facility that includes a 50,400 square foot warehouse building, customer parking, employee parking, fleet parking and accessory office use that will house sales, customer service and technical support functions.
- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.XX. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-136825 NCR."



Kenneth D. Helm, Hearings Officer

8-4-2015

Date

<b>Application Determined Complete:</b>	May 14, 2015
<b>Report to Hearings Officer:</b>	July 10, 2015
<b>Decision Mailed:</b>	August 5, 2015
<b>Last Date to Appeal:</b>	4:30 p.m., August 19, 2015
<b>Effective Date (if no appeal):</b>	August 20, 2015 Decision may be recorded on this date.

**Conditions of Approval.** 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.

**Appeal of the decision.** ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4<sup>TH</sup> AVENUE, PORTLAND, OR 97201 (503-823-7526). Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **An appeal fee of \$4,372 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

**Who can appeal:** You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after a date that will be identified in the Hearings Officer's decision.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

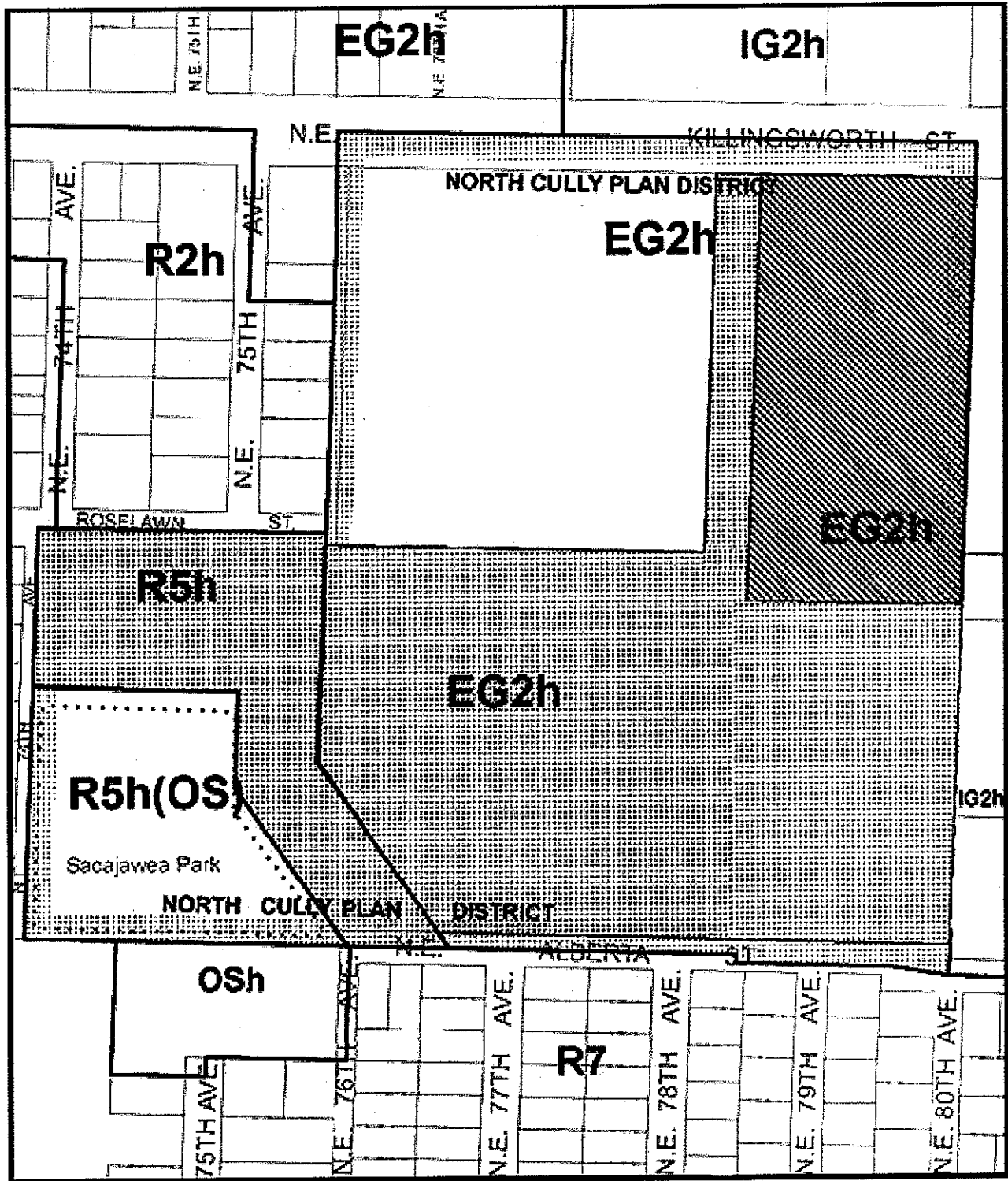
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.



**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Project Narrative
  - 2. Amended Narrative
  - 3. Traffic Impact Analysis: Kittelson & Associates
  - 4. VLMK Memo: Revised Utility Plan response
  - 5. Stormwater Report
  - 6. Geotechnical Report: Geo Design
  - 7. Phase I Environmental Site Assessment Report: PBS Engineering
  - 8. Recorded Deed for Property Line Adjustment
- B. Zoning Map (**attached**)
- C. Plans and Drawings
  - 1. Site Plan (**attached**)
  - 2. Elevations (**attached**)
  - 3. Landscape Plan (**attached**)
  - 4. Utility Plan
- D. Notification information
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. 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 Bureau of Development Services
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Plans Examiner Review Section of Bureau of Development Services
  - 8. Portland Police Bureau
- F. Letters
  - 1. David Sweet for Cully Association of Neighbors, June 18, 2015, in support but requests conditions of approval
  - 2. Tony DeFalco, Living Cully, June 22, 2015, in support but requests conditions of approval
- G. Other
  - 1. Original LUR Application
  - 2. Pre Application Conference Summary Notes
  - 3. Letter to Applicant; April 9, 2015; Application incomplete
- H. Received in the Hearings Office

1. Hearing Notice - Cate, Sylvia
2. Staff Report - Cate, Sylvia
3. 7/15/15 Memo - Marshman, Capt. Michael
4. 7/15/15 Memo - Cate, Sylvia
  - a. 7/15/15 Marshman Memo - Cate, Sylvia
5. PowerPoint presentation - Cate, Sylvia
6. Record Closing Information - Hearings Office



# ZONING



Site  
Also Owned



NORTH

This Site lies within the:  
North Cully Plan District

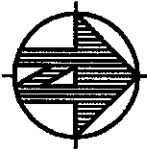
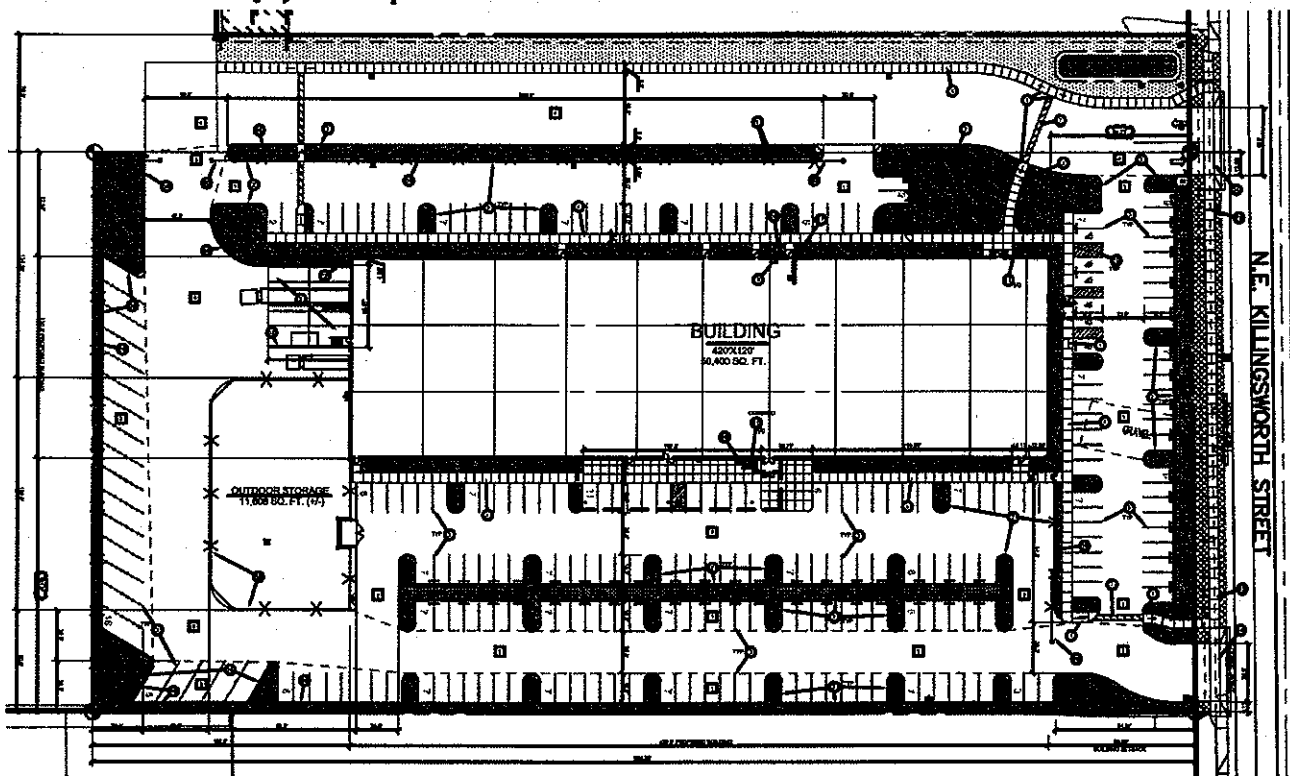
File No. LU 15-136825 NCR

1/4 Section 2538

Scale 1 inch = 200 feet

State Id 1N2E20AA 1300

Exhibit B (May 19, 2015)



**SITE PLAN**

1" = 100.0'



**AREA SUMMARY:**

SITE AREA:	221,262 SQFT.	5.08 ACRES (+/-)
NEW BUILDING:	50,400 SQFT.	22.8% COVERAGE
LANDSCAPE:	37,829 SQFT.	17.1% COVERAGE
SIDEWALKS:	8,336 SQFT.	3.8% COVERAGE
A.C. PAVING:	124,785 SQFT.	56.3% COVERAGE

**GENERAL IBC REVIEW:**

INTERNATIONAL BUILDING CODE (IBC) REVIEW, 2009 EDITION, OBCS AMENDMENTS 407/10  
 INTERNATIONAL FIRE CODE, 2009 EDITION, OBCS AMENDMENTS 7/01/10  
 OCCUPANCY: B (OFFICE)  
 CONSTRUCTION TYPE: V-6 (CONCRETE TILT-UP WITH WOOD ROOF)  
 FULLY SPRINKLED: YES  
 ALLOWABLE AREA: UNLIMITED (4 - 80 YARDS)

**PARKING SUMMARY:**

SITE AREA:	217,779 SQFT.	5.0 ACRES (+/-)
<b>PARKING COUNT:</b>		
231 AUTO		
11 VAN		
21 BUCKET TRUCK		
<b>263 TOTAL</b>		

**SITE PLANNING SYMBOLS:**

- ASPHALT PAVING AS NOTED THIS SHEET
- DENOTES CHANGE IN PAVEMENT SECTION TYPE
- LANDSCAPED AREA -
- SHALE PLANTING
- STREETSCAPE (LANDSCAPING)
- ROUGH SEED PLANTING MIX
- CONTROL DIMENSION
- 8.0' HIGH CHAIN LINK FENCE WITH GATES AS SHOWN (SEE SPECIFICATIONS)
- GARB. GARBAGE ENCLOSURE - SEE SITE DETAIL SHEET
- DISABLED PARKING STALL. 8.0' STALL WITH 8.0' STRIPED SIDE ACCESS. PROVIDE CODE APPROVED SIGN AT EACH STALL. SEE STANDARD DETAIL AT SITE DETAIL SHEET.
- DISABLED VAN PARKING STALL. 9.0' STALL WITH 8.0' STRIPED SIDE ACCESS. PROVIDE CODE APPROVED SIGN AT EACH STALL. SEE STANDARD DETAIL AT SITE DETAIL SHEET.
- NUMBER OF STANDARD PARKING STALLS 8.0' X 18.0'
- NUMBER OF COMPACT PARKING STALLS 8.5' X 15.0'
- (W) SP. AT 8.0' = 54.0' NUMBER AND WIDTH OF PARKING SPACES (COMPACT SPACES ONLY AS NOTED)

**SITE PLAN KEYNOTES:**

- 1 SIDEWALK RAMP, 1:12 MAXIMUM SLOPE. PROVIDE CODE APPROVED DETECTABLE WARNING.
- 2 EXTRUDED CONCRETE CURBS. LOCATE AROUND ALL LANDSCAPE AREAS AS SHOWN (U.N.O.) 8.0' TYPICAL CURB RADIUS AT CORNERS (U.N.O.). SEE SITE DETAIL SHEET.
- 3 3" WIDE PAINT STRIPE.
- 4 NEW CONCRETE SIDEWALK. SEE SITE DETAIL SHEET.
- 5 HANDICAPPED PARKING - SEE SITE DETAIL SHEET FOR ALL INFORMATION AND SIGNAGE REQUIRED.
- 6 TRANSFORMER PAD AND BOLLARDS - COORDINATE WITH ELECTRICAL.
- 7 3.0' WIDE STRIPED CROSSWALK WITH STRIPPING AT 3.0' O.C.
- 8 LOADING DOCK CONCRETE SLAB. 7 INCH THICK UNREINFORCED CONCRETE OVER 8 INCHES COMPACTED CRUSHED ROCK OVER COMPACTED SUBGRADE.
- 9 FIRE SPRINKLER AND DOMESTIC WATER RISER - SEE SITE UTILITY PLAN. (VERIFY WITH FLOOR PLANS FOR LOCATION).
- 10 PAINT STRIPING (3" WIDE AT 2.0' O.C.) DENOTING PEDESTRIAN ACCESS WALKWAY OR NO PARKING.
- 11 BICYCLE PARKING - SEE SITE DETAIL SHEET.
- 12 LOADING DOCK RETAINING WALL WITH GUARDRAIL - SEE SITE DETAIL SHEET.
- 13 NEW PUBLIC SIDEWALK - PUBLIC STANDARD PER SITE DETAIL SHEET.
- 14 NEW CONCRETE DRIVEWAY - PUBLIC RIGHT-OF-WAY STANDARD. SEE SITE CIVIL STREET IMPROVEMENT DRAWINGS.
- 15 12" CONCRETE BACKER CURB - SEE SITE DETAIL SHEET.
- 16 8.0' HIGH CHAIN LINK FENCE WITH BARS WIRE ABOVE - SEE SPECIFICATIONS.
- 17 GAS METER.
- 18 HOSE BIBB WITH INTERIOR SHUTOFF VALVE.
- 19 EARTH RETAINING WALL - SEE SITE DETAIL SHEET.
- 20 AUTOMATIC SLIDING GATE WITH CARD READER OPERATION. READER LOCATION TO BE COORDINATED WITH OWNER.

**VLMK ENGINEERING + DESIGN**  
 3833 SW Kelly Avenue Portland, Oregon 97239 | tel: 503.222.4453 | fax: 503.248.9283 | www.vlmk.com

**COMCAST**  
 7800 NORTHEAST KILLINGSWORTH STREET  
 PORTLAND, OREGON

20120583	MAR 2015
PROJ. NO.	DATE
PSH	HGK
DRAWN	CHECKED

**SITE PLAN LU15-136825 NCR**  
**G1.0**

EXHIBIT C-1 SITE PLAN





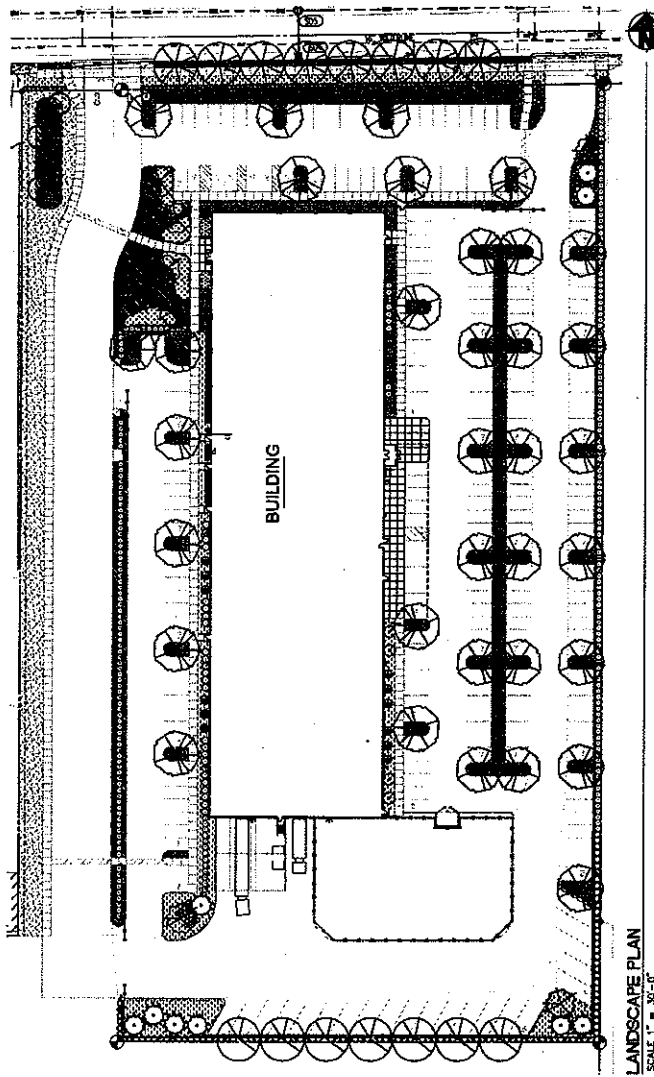
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**LANDSCAPE PLAN**

DATE: 10/15/2015  
PROJECT: NEW FIELD FULFILLMENT OFFICE  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
SCALE: AS SHOWN

**L10**

NORTH CULLY DEVELOPMENT REVISION 04/15/15



**LANDSCAPE PLAN**  
SCALE: 1" = 30'-0"

**PLANT LEGEND: GENERAL LANDSCAPING**

SYMBOL	QTY.	LATIN NAME / Common Name	SIZE	SPACING
○	35	ZELKOVIA SERBATA "GREEN WAVE" Green Wave Zelkova	1.5" cal.	As Shown
○	6	CERES CHAMORISUS "FOREST PANTRY" Forest Pantry Canadian Hedger	1 1/2" cal	As Shown
○	7	FRAXINUS PENN. "CUMAZAL" Cinnamaron Ash	2" cal.	As shown
○	8	QUERCUS ROBUR "FACTORIA" Shynochi oak	2" cal.	As shown
○	63	ABELIA X GRANIFLORA "HALEDSCOPE" Kaledoscope Abelia	1 gal.	3' o.c.
○	114	VIBURNUM DAVIDI David Viburnum	2 gal.	3' o.c.
○	103	JUNIPERUS CHEMUNIS "SPARTAN" Spartan Juniper	6"-8"	As shown
○	201	LIGUSTRUM JAPONICUM "TEXANUM" Wester Privet	5 gal.	4' o.c.
○	110	LEX ORIENTATA "GREEN ISLAND" Green Island Japanese Holly	2 gal.	3' o.c.
○	41	SPRAEA X BUX "ANTHONY WATERER" Anthony Waterer Spruce	2 gal.	3' o.c.
○	4	ACER CECROBATUM Vine Maple (Hls. & Stem)	6"-7"	As shown
○	15	QUILLICARIA OBUSA "GRACLES" Hick Cypress	5/8"	As Shown
○	9	PIUS NIPA Austrian Pine	5"-6"	15' o.c.
○	34	PIERIS JAPONICA "VALLEY VALDINE" Valley Valentine Pieris	18" HL	5' o.c.
○	25	ABELIA GRAND "EDWARD GOUCHER" Edward Goucher Abelia	5 gal.	4' o.c.
○	80	CAREX HACHIKENSIS "EVERFIELD" Cove Evergold Sedge	1 gal.	18" o.c.
○	347	ERICA CARNEA "SPRINGWOOD PINK" Witch Heather	1 gal.	2' o.c.
○	350	QUONIAUS FORTIUM "COLORATUS" Purple Wintermaple	1 gal.	3' o.c.
○	190	COTONEASTER DAMMER Cotoneaster	1 gal.	3' o.c.
○	893	RUBUS CALYC. "EMERALD CARPET" Emerald Carpet	1 gal.	3' o.c.
○		ROCKY SEED AREA See Specifications		
○	30'	ROUND		

**PLANT LIST: WATER QUALITY EQUITIES**

SYMBOL	QTY.	LATIN NAME / Common Name	SIZE	SPACING
■	1872	CAREX OBUSA Sedge Sedge	Bareroot	1' o.c.
■	1872	OSCHLOMOLA DESPITOSA Turked Hakoyan	1 plug	1' o.c.
○	1872	JUNCUS EFFUSUS Common Rush	Bareroot	1' o.c.
○	15	AMULANDER ALIFOLIA Western Serviceberry	5 gal.	4' o.c.
○	20	CORNUS SERICEA "NELETTY" Rusky Red-Start Dogwood	1 gal.	2' o.c.
○	3	FRAXINUS LAFOLIA Oregon Ash	2" cal	As shown
■		WATER QUALITY SEED MIX See Specifications		

**GENERAL NOTES:**

1. Verify all plant species, quantities, and sizes with the client.
2. Plantings to be installed by the contractor.
3. All plantings to be installed by the contractor.
4. All plantings to be installed by the contractor.
5. All plantings to be installed by the contractor.
6. All plantings to be installed by the contractor.
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8. All plantings to be installed by the contractor.
9. All plantings to be installed by the contractor.
10. All plantings to be installed by the contractor.

**EXHIBIT C-3**

**LV15-136825NCR**