



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

Chloe Eudaly, Commissioner  
Rebecca Esau, Interim Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** September 13, 2017  
**To:** Interested Person  
**From:** Lois Jennings, City Planner  
Land Use Services Section of BDS  
503-823-2877 or [lois.jennings@portlandoregon.gov](mailto:lois.jennings@portlandoregon.gov)

## **NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

### **CASE FILE NUMBER: LU 17-164682 LC**

#### **GENERAL INFORMATION**

**Applicant:** David Greenidge, National Urban Housing & Economic Community Development Corporation (NUHECDC)  
5425 NE 27<sup>th</sup> Avenue  
Portland, OR, 97211  
503-477-7387 or [Davidg@Nuhecdc.Org](mailto:Davidg@Nuhecdc.Org)

**Representative:** Andrew Montgomery, Architect  
Terraforma Architecture  
645 SW Viewmont Dr.  
Portland, OR 97225  
503-296-0076 or [Apm@Terraforma.B12](mailto:Apm@Terraforma.B12)

**Owner:** National Urban Housing & Economic Community Development  
11321 SW Naeve Street  
Tigard, OR 97224

**Site Address:** 10859 E BURNSIDE ST

**Legal Description:** LOTS 1-5, BURNSWICK STATION  
**Tax Account No.:** R121550250  
**State ID No.:** 1N2E34CA 08405  
**Quarter Section:** 3041

**Neighborhood:** Hazelwood, contact Arlene Kimura at 503-252-9429.  
**Business District:** Gateway Area Business Association, contact Paul Wild at [paul.wild@mhcc.edu](mailto:paul.wild@mhcc.edu)

**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** East Corridor Plan District

**Zoning:** R2- Low Density Multi-Dwelling Zone with an “a”-Alternative Design Density overlay and “d”-Design Density Overlay

**Case Type:** Lot Consolidation (LC)

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

**Proposal to vacate public utility easements:** A Land Division located at 10859 E. Burnside was approved by the City in June of 1999 under case file# LUR 98-1087 SU AD, to create 4 attached housing lots and one multi-family lot. The final plat for this subdivision is known as Burnswick Station and was recorded with Multnomah County Deeds & Records on June 29, 1999 (Book 1243 Page 18).

These lots were encumbered by private pedestrian access, private access, private and public utility and private storm drainage easements that restrict the future multi-family development layout on the site. The proposed lot consolidation plat will replace Lots 1-5 of Burnswick Station subdivision plat and vacate all easements platted under Burnswick Station plat.

You are being notified per Oregon State Statute (OR 92.185(4)), that these easements will be vacated with the recordation of the proposed Lot Consolidation Plat. Any utility company that desires to maintain an easement as delineated on Burnswick Station plat must notify in writing the governing body of the City of Portland within 14 days of this mailing per ORS listed above.

**Lot Consolidation Proposal:** The applicant proposes to consolidate Lots 1, 2, 3, 4 and 5 of Burnswick Station Subdivision into one parcel (as shown on the lot consolidation plat survey attached). This lot consolidation will remove the requirements of the prior land division approval which restricts the type of development to be specifically attached housing on current Lots 1-4 and allow multi-family development to occur on the complete site. As part of this replat into one parcel the lot consolidation plat will vacate all private easements (pedestrian, storm, sanitary, gas, access) and public utility easements as shown on Burnswick Station plat and remove conditions of approval of the land division. The vacation of these easements will allow for multi-family development to occur on this new parcel without these encumbrances. New multi-family development will be subject to the code in effect at the time of permit.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.675.300, Lot Consolidation Standards.**

## ANALYSIS

**Site and Vicinity:** The project site is vacant with limited existing landscaping (shrubs, grass, and trees) and is located on the north side of E. Burnside Street between NE 108<sup>th</sup> Avenue and NE 109<sup>th</sup> Avenue.

The Light Rail lines run along E. Burnside with a transit station six blocks west at NE 102<sup>nd</sup> Avenue. The surrounding area to the south and north is zoned R2-low density multi-dwelling and then properties along E. Burnside to the west are designated RH-high density multi-dwelling. Single family residential (R5) zoning is to the northeast of the site. Single family residential homes primarily surround this site, with more of the multi-family development occurring along E. Burnside.

**Zoning:** The R2 zone is a low density multi-dwelling zone. This R2 zone allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, and requires a minimum density of one unit per 2,500 square feet of site area.

- The “a” –Alternative Design Density overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.
- The “d”-Design overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.
- The East Corridor plan district encourages new housing and mixed use development and expansions of existing development to promote the corridor’s growth and light rail transit ridership and to implement the objectives of the City’s Pedestrian Districts to enhance the pedestrian experience and access to and from light rail service.

**Land Use History:**

- LUR 98-000747 SU AD: Approval of a minor land division to create eight attached housing lots and one multi-family lot with an approval of an adjustment to the pedestrian path standard. This land division was preliminary approved but never platted.
- LUR 98-01087 SU AD: January 22, 1999 Approval of a minor land division to create five lots; specifically four (4) attached housing lots and one multi-dwelling lot with a concurrent approval of an Adjustment to reduce the minimum width of the required pedestrian path (This requirement is found under Section 33.526.270.C.4 of Portland Zoning Code) for Lots 1 through 4 from 6 feet wide to 3 feet wide. The final plat for this five lot subdivision, known as Burnswick Station was approved by the City on June 25, 1999 and recorded with the Multnomah County on June 29, 1999 (Book 1243 Page 18). This subdivision was subject to the following condition D. “Curb cuts on E. Burnside Road need to provide vehicular access to the site shall be limited to a maximum of one.” This lot consolidation will remove this condition.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on May 24, 2017.

1. **Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The following Bureaus have responded with no objections or concerns about the proposal:
  - Bureau of Environmental Services
  - Portland Bureau of Transportation
  - Water Bureau
  - Fire Bureau
  - Site Development Section of BDS
  - Life Safety Section of BDS
  - Urban Forestry of Bureau of Parks

The following utility agencies have responded with no conflict or no issues with the vacating utility easements:

- AT & T (Pivotal Communications, LLC)
- Sprint

2. **Neighborhood Review:** No written response was received from the Neighborhood Association. One written response was received from a notified property owner in response to the proposal. The neighbor raised concerns regarding the future multi-

family development which will be occurring at the site with the address of 28 NE 109<sup>th</sup> Avenue, which is a property also owned by National Urban Housing. The future development at 28 NE 109<sup>th</sup> Avenue is not part of this lot consolidation review.

## **ZONING CODE APPROVAL CRITERIA**

### **LOT CONSOLIDATIONS**

#### **33.675.010 Purpose**

**This chapter states the procedures and regulations for removing lot lines within a site to create one lot. The regulations ensure that lot consolidation does not circumvent other requirements of this Title, and that lots and sites continue to meet conditions of land use approvals. The lot consolidation process described in this chapter is different from (and does not replace) the process used by the county to consolidate lots under one tax account. A tax consolidation does not affect the underlying platted lots. A lot consolidation results in a new plat for the consolidation site.**

#### **33.675.050 When These Regulations Apply**

**A lot consolidation may be used to remove lot lines within a site. The applicant may also choose to remove such lot lines through a land division. A lot consolidation may be required by other provisions of this Title.**

#### **33.675.100 Review Procedure**

**A. Generally. Lot consolidations are reviewed through Type Ix procedure.**

**B. Sites in PUDs or PDs. If any portion of the site is within a Planned Unit Development (PUD) or Planned Development (PD), an amendment to the PUD or PD is also required. The amendment to the PUD or PD must be reviewed concurrently with the lot consolidation.**

**Findings:** The site is not involved in any past or proposed Planned Unit Development or Planned Developments. Therefore, the requested lot consolidation review has been reviewed under the Type Ix procedure.

**33.675.300 Approval Criteria.** A lot consolidation will be approved if the review body finds that all of the approval criteria have been met:

**A. Lots. Consolidated lots must meet the standards of Chapters 33.605 through 33.615, with the following exceptions:**

**1. Lot dimension standards.**

- a. Minimum lot area. If the area of the entire lot consolidation site is less than that required of new lots, lots in the lot consolidation site are exempt from minimum lot area requirements;**
- b. Maximum lot area. If any of the lots within the lot consolidation site are larger than the maximum lot area allowed, lots in the lot consolidation site are exempt from maximum lot area requirements;**
- c. Minimum lot width. If the width of the entire lot consolidation site is less than that required of new lots, lots in the lot consolidation site are exempt from minimum lot width requirements;**
- d. Minimum front lot line. If the front lot line of the entire lot consolidation site is less than that required of new lots, lots in the lot consolidation site are exempt from minimum front lot line requirements;**
- e. Minimum lot depth. If the depth of the entire lot consolidation site is less than that required of new lots, lots in the lot consolidation site are exempt from minimum lot depth requirements.**

**Findings:** The proposed site is in the R2 zone. The proposed consolidated lot meets the lot dimension standards for multi-dwelling development of the R2 zone as shown in the following table (this information is found in Table 612-1 of the Zoning Code):

	<b>R2 Zone Requirement</b>	<b>Parcel 1 (after consolidation)</b>
Minimum Lot Area	4,000	21,703 s.f.
Minimum Lot Width	33 feet	125 feet
Minimum Front Lot Line	30 feet	125 feet
Minimum Lot Depth	70 feet	172 feet

As noted herein, the proposed consolidated lot meets the applicable standards of Chapters 33.605 through 33.615. This requirement is met.

**2. Maximum density. If the consolidation brings the lot consolidation site closer to conformance with maximum density requirements, the consolidation does not have to meet maximum density requirements;**

**Findings:** The maximum density of the consolidated lot is  $(21,706/2,000) = 10$  units. The site is vacant at this time. Therefore the maximum density will not be exceeded by consolidating the lots that currently make up this site. This requirement is met.

**3. Lots without street frontage. If the lot consolidation consolidates lots that do not have street frontage with a lot that has street frontage, the consolidation does not have to meet minimum density and maximum lot area requirements;**

**Findings:** All lots in the lot consolidation site have street frontage, therefore this requirement does not apply.

**4. Through lots. If any of the existing lots within the lot consolidation site are through lots with at least one front lot line abutting an arterial street, then the consolidated lot may be a through lot;**

**Findings:** The existing lots within the lot consolidation site are not through lots and proposed consolidated Parcel 1 will not be a through lot. Therefore this requirement does not apply.

**5. Split zoning. If any of the existing lots within the lot consolidation site are in more than one base zone, then the consolidated lot may be in more than one base zone.**

**Findings:** This site contains only one zoning designation; therefore the consolidated lot will not have split zoning. This standard does not apply.

**B. Conditions of land division approvals. The lot consolidation must meet one of the following:**

- 1. All conditions of previous land division approvals continue to be met or remain in effect; or**
- 2. The conditions of approval no longer apply to the site, or to development on the site, if the lots are consolidated.**

**Findings:** The previous land division approval restricted the development type to be attached housing for four of the lots. The existing easements shown on the recorded Burnswick Station plat restrict the type of development on the site due to the location of the platted easements. Vacating all easements and consolidating lots into one parcel will allow the site to be developed as multi-family development which is allowed in this zone. Condition D "Curb cuts on E. Burnside needed to provide vehicular access to the site shall be limited to a maximum of one." is not necessary since PBOT regulates driveway



**Staff Planner: Lois Jennings**

**About this Decision.** This land use decision is **not a permit** for development. **THE SIGNED FINAL PLAT MUST BE RECORDED WITH MULTNOMAH COUNTY DEED RECORDS WITHIN 90 DAYS OF THE DATE OF THIS DECISION (By December 13, 2017), OR THIS DECISION WILL BECOME NULL AND VOID.** 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 May 2, 2017, and was determined to be complete on May 22, 2017.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on May 22, 2017

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended by 30 days and this extension ends on October 19, 2017.

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

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

**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 is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at [www.portlandonline.com](http://www.portlandonline.com).

**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.

**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 is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at [www.portlandonline.com](http://www.portlandonline.com).

**Recording the Final Plat.** The signed plat must be recorded by the applicant with the County Deed Records within 90 days following approval by the Bureau of Development Services or the approval will be null and void.

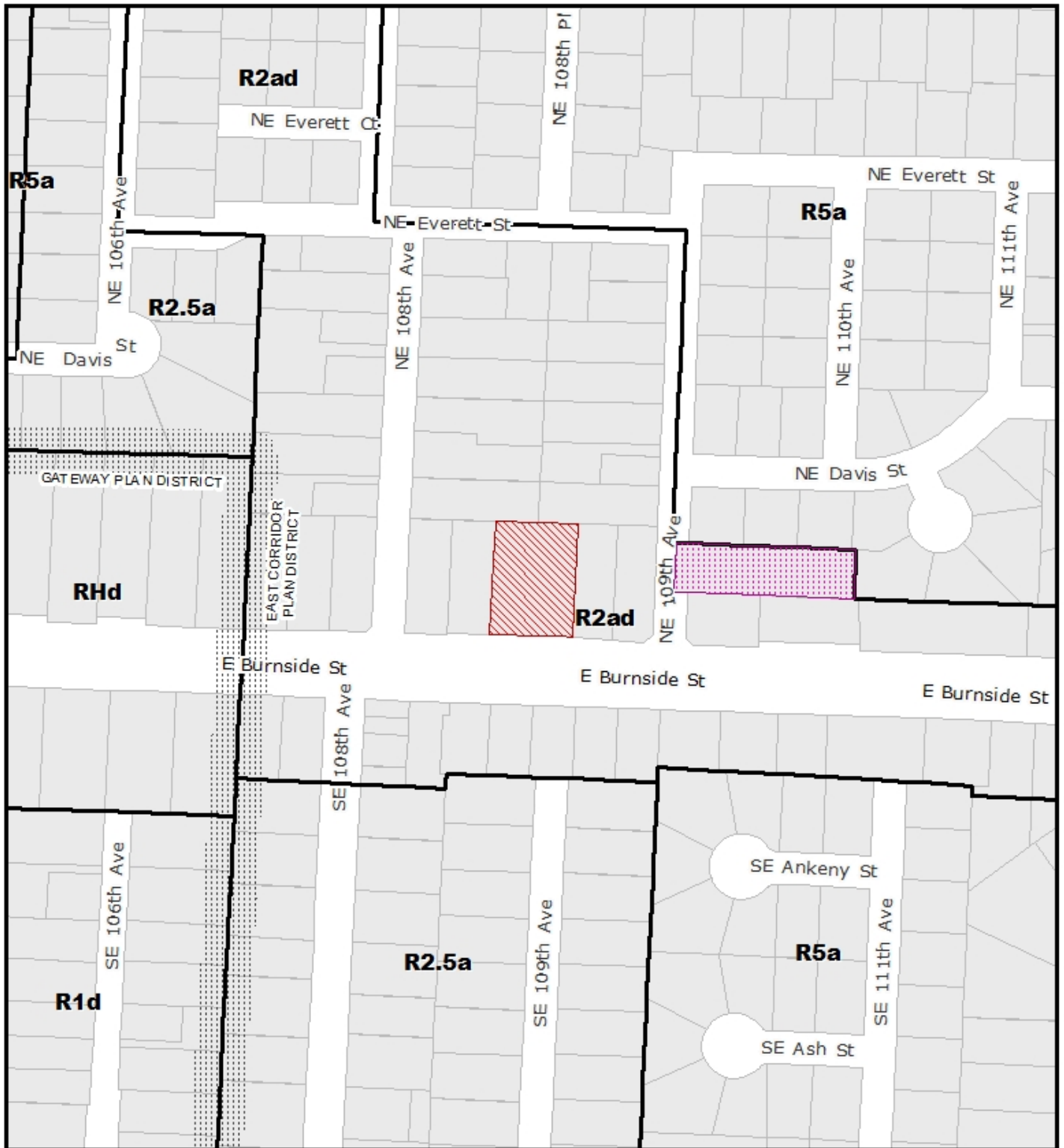
### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED



- A. Applicant's Statement
  - 1. Narrative
  - 2. Burnswick Station Recorded Plat
  - 3. Existing Conditions Topographic Site Map
  - 4. Title Report
  - 5. Request for Extension to 120-day Review Period
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Lot Consolidation Approved Plat (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
  - 3. E-mail & Mailing list for utility agencies
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of Bureau of Development Services
  - 8. Sprint Long Distance
  - 9. AT & T -Pivotal Communications, LLC
- F. Correspondence:
  - 1. Sean Monahan and Evan Epstein- May 23, 2017
- G. Other:
  - 1. Original LU Application
  - 2. Copy of LUR 98-001087 SU AD Decision
  - 3. Lot Consolidation Final Plat Status Report
  - 4. E-mail communication with applicant/owner form May 2017-August 2017

**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**   
 NORTH  
 THIS SITE LIES WITHIN THE:  
 EAST CORRIDOR  
 PLAN DISTRICT

-  Site
-  Also Owned Parcels

File No.	LU 17-164682 LC
1/4 Section	3041
Scale	1 inch = 200 feet
State ID	1N2E34CA 8405
Exhibit	B May 09, 2017

