



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

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**Date:** March 29, 2012  
**To:** Interested Person  
**From:** Sean Williams, Land Use Services  
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## **NOTICE OF A TYPE I 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 this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. 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 11-101833 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Maksim Belousov  
2636 SE 107<sup>th</sup> Avenue  
Portland, OR 97266

**Representative:** Lisa Barker  
LMB Permit Services  
307 NW 16<sup>th</sup> Avenue  
Battleground, WA 98604

**Site Address:** 2636 SE 107<sup>th</sup> Avenue

**Legal Description:** BLOCK 4 LOT 12 TL 4300 SPLIT LEVY R244315 (R660601484), PITTOCK GROVE; BLOCK 4 LOT 12 TL 4301 SPLIT LEVY R244314 (R660601480), PITTOCK GROVE

**Tax Account No.:** R660601480, R660601484

**State ID No.:** 1S2E10BA 04300, 1S2E10BA 04301

**Quarter Section:** 3341

**Neighborhood:** Powellhurst-Gilbert, contact Mark White at 503-761-0222.

**Business District:** Midway, contact Bill Dayton at 503-252-2017.

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

**Plan District:** Johnson Creek Basin

**Zoning:** Residential 5,000 (R5) w/ Alternative Design Density Overlay (a)

**Case Type:** Land Division Partition (LDP)

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

#### **Proposal:**

The applicant is proposing to divide the subject property into three lots, ranging in size from 4,627 to 6,208 square feet that will be accessed via a private street tract.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 4 units of land (3 lots and 1 tract). Therefore this land division is considered a subdivision.

**Relevant Approval Criteria:**

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

## FACTS

**Site and Vicinity:** The site is located on the east side of SE 107<sup>th</sup> Avenue approximately 80 feet north of the intersection with SE Clinton Street. Existing development consists of a single family dwelling that will be retained within Parcel 1. 7 trees are located within the site subject to preservation standards. The site is adjacent to Multi-Dwelling zoning to the north and a commercial corridor along SE Division Street. Zoning to the south is primarily comprised of Single Dwelling designations. Kelly Butte Park is located approximately 350 feet south of the site.

**Infrastructure:**

- **Streets** – The site has approximately 80 feet of frontage on SE 107<sup>th</sup> Avenue. There are two driveways entering the site that serve the existing house. At this location, SE 107<sup>th</sup> Avenue is classified as a local service street for all modes in the Transportation System Plan (TSP). Tri-Met provides *frequent* transit service approximately 350 feet north of the site on SE Division Street via Bus #4. Parking is currently allowed on both sides of SE 107<sup>th</sup> Avenue. At this location, SE 107<sup>th</sup> Avenue is improved with a 32 foot paved surface, curb and 9 foot setback to private property within a 50 foot right-of-way.
- **Water Service** – There is an existing 4-inch CI water main in SE 107<sup>th</sup> Avenue. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch public sanitary sewer line in SE 107<sup>th</sup> Avenue.

**Zoning:** The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The “a” 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. This land division proposal is not using any of the provisions of the “a” overlay.

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency Review:** Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits “E” for details.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **July 14, 2011**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

## **ZONING CODE APPROVAL CRITERIA**

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

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

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

<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.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
	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.D - Partial rights-of-way	No partial public streets are proposed or required

### **Applicable Approval Criteria are:**

**A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.**

**Findings:** Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The applicant is proposing 3 single family parcels for detached houses to be served by a private street. The minimum and maximum density for the site is as follows:

Minimum =  $(19,146 \text{ square feet} * .68) \div 5,000 \text{ square feet} = 2.60$  (which rounds up to a minimum of 3 lots, per 33.930.020.A)

Maximum =  $(19,146 \text{ square feet} * .85) \div 5,000 \text{ square feet} = 3.25$  (which rounds down to a maximum of 3 lots, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum.

Therefore in this case the minimum density is reduced to 2.

The applicant is proposing 3 parcels. The density standards are therefore met.

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

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R5 Zone</b>	3,000	8,500	36	50	30
Parcel 1	4,372		51.60	79.65	51.60
Parcel 2	4,487		79.70	58.10	86.20
Parcel 3	6,208		80.10	80	30

\* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

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

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

**Findings:** The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site and evaluates their condition (Exhibit A.3). A total of 10 trees were inventoried, of which, 8 trees were determined to be exempt as they are considered nuisance species. Thus, two non-exempt trees are located within the land division site. These non-exempt trees comprise 36 inches in total diameter for the purposes of chapter 33.630. The applicant has indicated that it will not be feasible to preserve either of these trees. The proposal does not meet any of the tree preservation options in 33.630.100, and for that reason, the applicant proposes to use the mitigation options of 33.630.300.

The applicant has proposed a private street to serve the interior of the site. The location of the private street is dictated by the need to provide lots that meet the dimensional requirements of the R5 zone within the boundaries of the site. The two non-exempt trees on the site are located within the area that will be impacted by the required street improvements. Without these trees available for preservation, the applicant cannot meet any of the tree preservation options in 33.630.100. Therefore, Criterion C.2 is met as the applicant cannot meet the connectivity requirements of 33.654 and still preserve the required number of tree inches. Criterion A is also met as it is not be feasible to preserve any of the non-exempt trees on site.

Option 1 of the Tree Preservation Standards (33.630.100.A.1) would require that 35 percent, or approximately 13 inches of the existing non-exempt tree diameter on site be preserved. Planting as a form of mitigation for this amount of caliper inches is limited for this proposal considering the T1 tree planting requirements. Section 33.248.020.H, known as the T1 tree planting standard, requires trees to be planted on new lots as part of the approval of future building permits. The T1 tree standard requires the planting of at least 2 inches of tree caliper per 1,000 square feet of site area, which would result in 9-inches of new trees for Parcel 2 and 13-inches for Parcel 3. In addition, one street tree is required to be planted on each lot as described later in this report. Therefore, it will not be feasible to plant additional trees on Parcels 2 and 3 beyond the T1 requirement without jeopardizing the overall health of all the trees on these individual parcels. However, additional trees may be planted on Parcel 1 where the existing house will be retained. Therefore, 8-inches of new trees shall be planted on Parcel 1, which would be the equivalent of the T1 planting requirement. In addition, all trees planted to meet the T1 and mitigation requirements shall be native species, selected from the Portland Plant List. The remaining 4 inches of tree diameter necessary to mitigate for the equivalent of Option 1 of the Tree Preservation Standards shall be applied towards payment into the City Tree Fund. The required mitigation is consistent with the purpose of Chapter 33.630, Tree Preservation as the combination of planting and payment into the tree fund will provide for the same caliper inches as Option 1.

Therefore, with the conditions noted above for mitigation, the criteria can be met.

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

**Findings:**

***Clearing and Grading***

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However a new street and associated stormwater system is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Grading Plan (Exhibit C.4) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas, and the overall limits of disturbance.

The proposed clearing and grading shown on Exhibit C.4 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed by infiltration planters to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new street without being excessive. The limits of disturbance shown on the applicant's plan include grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This will help manage erosion and sedimentation concerns and limit the disturbance on the adjacent properties. The clearing and grading plan does not indicate show topsoil storage, or a stockpile area, but there is ample room on the site to locate soil stockpiles. A condition of approval will require the clearing and grading plan submitted with the Site Development permit indicate the location of stockpile areas and the limits of disturbance be extended to include these areas.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction

of the proposed private street. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan with the change noted above, this criterion is met.

### ***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With this condition, the new lots can be considered suitable for new development, and this criterion is met.

### **H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;**

**Findings:** The proposal includes a private street and stormwater management tract. With a condition that the proposed tract be owned in common by the owners of Parcels 1 through 3, this criterion can be met.

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

*"A Declaration of Maintenance agreement for private street and stormwater management tract has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*

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

### **K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,**

### **L. 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:

<b>33.651 Water Service standard</b> - See Exhibit E.3 for detailed bureau comments.
The water standards of 33.651 have been verified and noted earlier in this report. Water is available to serve the proposed development from the water main in SE 107 <sup>th</sup> Avenue. Parcel 1 has an existing water service from that main. This criterion is met.
<b>33.652 Sanitary Sewer Disposal Service standards</b> - See Exhibit E.1 for detailed comments.
The sanitary sewer standards of 33.652 have been verified and noted earlier in this report. There is an existing public sanitary sewer main located in SE 107 <sup>th</sup> Avenue that can serve the sanitary needs of the proposed parcels. Parcel 1 has an existing sewer service from this main. This criterion is met.

**33.653.020 & .030 Stormwater Management criteria and standards–** See Exhibits E.1 & E.5

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:

- **Private Street:** Stormwater will be directed into two infiltration planters located within the street tract. The applicant has submitted stormwater calculations and soil test results that indicate the size of the proposed swale can accommodate the volume of stormwater runoff from the impervious areas of the street. The Bureau of Environmental Services has indicated conceptual approval of the proposed planter locations and size.
- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the frontage of the site to City standards (discussed later in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground. The Bureau of Environmental Services has noted that the splash blocks on the north side of the house will meet the required setbacks to the proposed property lines.
- **Parcels 2 & 3:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywells.

**33.654.110.B.1 -Through streets and pedestrian connections****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 Portland Bureau of Transportation has provided the following evaluation (Exhibit E.2) of connectivity for this proposal:

"No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The 530-ft spacing goal for public through streets is satisfied on the subject block. However, the 330-ft spacing goal for pedestrian connections is not met. Given the diverse zoning and the varied development types on the subject block, including a large scale office/retail uses and multi-family residential uses, no pedestrian connections are physically possible without the demolition of these uses. Portland Transportation has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition."

For the reasons described above, this criterion is met.

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

The proposal includes a private dead-end street, which will be located in the new street tract. As discussed under the findings for through streets above, a new public through street is not required for this proposal. The private dead-end street will serve only 3 dwelling units and it is approximately 165 feet in length from the frontage along SE 107<sup>th</sup> Avenue to the terminus. This criterion is met.

**33.641 – Transportation Impacts – 33.641.020 and 33.641.030**  
**33.654.120.B & C Width and elements of the street right-of-way**  
**33.654.130.D Partial Rights of way**

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. Small land divisions involving only a few dwelling units generally do not require a formal transportation impact study, even though such a study will usually be required for larger projects (Title 17 includes technical standards describing when a more formal study is required). The Portland Bureau of Transportation/Development Review (PBOT) 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. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

"Street capacity and level-of-service

**Findings:** Using the evaluation factors listed in this code section, the applicant should provide a narrative and all necessary plans and documentation to demonstrate that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. The following discussion is based on Portland Transportation's assessment of the transportation impacts for this proposal:

The proposed land division will create two new parcels in order to accommodate two new detached single-family residential homes. The existing house on the site will be retained on Parcel 1. Based on the ITE Trip Generation Manual, there will be approximately 20 additional daily trips (including 2 additional AM peak hour trip and 2 additional PM peak hour trip) that potentially may result from the development proposal on the site. These are an insignificant number of trips that do not warrant any improvements to nearby intersections. The impacts to the area's intersections most likely to be effected by the additional project-related trip generation will be negligible. The intersections at SE 107<sup>th</sup> Ave/SE Division and SE 107<sup>th</sup> Ave/SE Clinton appear to be currently operating at acceptable levels (related to the City's performance measures) and will continue to operate at acceptable levels with the vehicle trips generated by the proposed project factored into the analysis.

Vehicle access and loading

Access to proposed Parcels 2 and 3 will be via a new private street located along the northern property line. There are apparently to existing curb cuts along the site's SE 107<sup>th</sup> frontage, one north of the existing house (along the northern property line) and one south of the existing house (along the southern property line). The driveway along the southern property line is assumed to remain to serve as access to proposed Parcel 1 (where the existing house will be retained).

Pursuant to Code Section 17.28.110 (Driveways Permits and Conditions), and more specifically, sub-section C.1 (Residential Driveway), one driveway is allowed to be constructed for a property frontage with a lot dimension of 76-ft to 100-ft. wide. This Code Section goes on to state that "more than one driveway may be allowed for frontage up to 100-ft with the approval from the City Engineer or City Traffic Engineer." In order to preserve as many on-street parking opportunities as possible (in relation to the above referenced on-street parking impact evaluation factor and discussed further below), the applicant will be required to close the existing southern-most curb cut/driveway. Access to proposed Parcel 1 will be restricted to the new private street proposed to serve the development. Based on the submitted plans, there is adequate space on proposed Parcel 1 at the north-eastern corner of this lot to accommodate an on-site parking space. The new on-site parking space for



proposed Parcel 1 must be in the north-eastern corner of this lot, and not at the north-western corner of the lot. Said curb cut/driveway closure (along SE 107<sup>th</sup> Ave) and the new curb cut/driveway (for proposed Parcel 1 along the new private street) will be addressed during Building Permit review).

#### On-street parking impacts

The proposed partition request includes a new private street to serve as access to proposed Parcels 2 and 3 (as shown). The private street will not be wide enough to allow for any on-street parking for the future residents (and their guests). The new parcels will need to provide an on-site parking space (as required by the Zoning Code). As mentioned above, there are two existing curb cuts/driveways along the site's frontage. To preserve (and actually enhance) the number of on-street parking opportunities (along SE 107<sup>th</sup>), the applicant will be required to close the existing southern-most curb cut/driveway. Accordingly, there will not be an on-street parking impact in relation to the proposed partition.

#### Availability of transit service and facilities and connections to transit

The site is located approximately 350-ft south of SE Division Street, along which, Tri-Met provides transit service via route #4.

#### Impacts on the immediate and adjacent neighborhoods

As noted previously, the expected number of vehicle trips that will be generated by the additional two new single-family residences will not result in any negative impacts to the area's transportation system. Similarly, given the additional on-site parking spaces to be provided by the applicant in relation to the creation of the new parcels, and because one of the existing curb cuts/driveways along the site's SE 107<sup>th</sup> Ave frontage will be closed, there will be no impacts to neighbors with regard to on-street parking.

#### Safety for all modes

It is not expected that the proposed partition request will result in any safety issues for any mode of transport. In fact, safety should be enhanced for both pedestrians and vehicles; the applicant will be required to construct the standard sidewalk corridor along the site's SE 107<sup>th</sup> Ave frontage which will benefit pedestrians in the area; and, by closing one of the two existing driveways along the site's frontage, a potential conflict point between vehicles (and pedestrians) travelling along SE 107<sup>th</sup> Ave, will be eliminated."

Based on the preceding analysis, Portland Transportation has determined that sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed later in this report, additional right-of-way must be dedicated along the frontage of the site. With those improvements, two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

The applicant has proposed that a 22-foot wide private street tract is sufficient to accommodate the expected users. The Administrative Rules for Private Rights of Way are the standards that govern the construction of private streets. These rules recommend a roadway width of 16-20 feet, dependent upon the designation of a fire apparatus access road, for streets up to 300 feet long that will serve 1-3 lots. The proposed private street is approximately 167 feet in length and will only serve 3 lots. Therefore, a sidewalk, turnaround and on-street parking is not required. The applicant appears to be proposing a 16-foot paved roadway surface with 2 1-foot mountable curbs and an approximate 2-foot setback between the street improvements and private property on both sides. In this proposal, the applicant will be disposing of stormwater from the private street within two

infiltration swales. Because a typical planter strip is not present within the street tract, the applicant will be required to plant one street tree within the front yard of each lot, within 5-feet of the street tract. The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 3 parcels by the *Administrative Rules* governing private streets if the street is not considered a fire apparatus access road, which will necessitate residential sprinklers to be installed in the new homes on Parcels 2 and 3.

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

#### **33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)**

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

### **DEVELOPMENT STANDARDS**

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 7.4 feet from the street tract and 11.3 feet from the east (rear) 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.
- Required Off-Street Parking - In this zone, one parking space per dwelling unit is required. Two curb cuts exist along the sites frontage which provides access to unpaved parking areas. As a result of this land division, the private street tract will be in the location of the northern parking area and the southern curb cut must be closed to accommodate sidewalk improvements in the public right-of-way. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 350 feet north of the site on SE Division Street via Bus #4. Bus number 4 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 1.
- Street-Facing Facades in R10 through R2.5 Zones -- In this zone, street-facing facades of residential structures are required to have windows that comprise at least 15 percent of the façade area. The existing house that will remain on Parcel 1 currently meets this standard on the front of the house, which is oriented toward

the street. After the land division, additional street frontage for this house will be provided by the new private street. The applicant provided evidence (G.5) to document that the façade of the house facing the private street will comply with street facing façade requirements (33.110.232.C) after the land division is recorded.

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.

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>

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 is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access, fire flow/water supply, fire hydrant spacing, turning radius, installing no parking signs, addressing and aerial Fire Department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code. See Exhibit E.4.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the new planter strip after sidewalk improvements are completed, prior to final plat approval. This requirement is based on the standards of Title 20. See Exhibit E.6.

## CONCLUSIONS

The applicant has proposed a 3 parcel partition and private street tract, as shown on the attached preliminary plans (Exhibit C.1-C.4). 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 preservation and transportation impacts.

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 lots and a private street tract, as illustrated with Exhibits C.1-C.4, 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 fire Bureau review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside;
- The nearest fire hydrant;
- New trees required to be planted on Parcel 1 per Condition C.12;
- Any other information specifically noted in the conditions listed below.

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

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 107<sup>th</sup> Avenue. The required right-of-way dedication must be shown on the final plat.
2. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.9 and C.10 below. The recording block(s) 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."

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

**Streets**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street SE 107<sup>th</sup> Avenue frontage. The applicant must obtain an approved Right Of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. As a part of these right-of-way improvements the applicant shall close the southern most curb cut along the sites frontage.
2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.1-C.4 and the Private Street Administrative Rule. In addition, one street tree shall be planted on Parcel 1 within 5-feet of the tract boundary upon completion of the street improvements and prior to final inspection approval of the site development permit.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for

the private street and all required site development improvements. The design for the private street must include a driveway approach and curbs cuts in a location that can provide access to the new parking space required on the lot with the existing house that will remain. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition C.2. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C.4) with the following additions:

- It must show stockpile areas

### **Utilities**

5. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.
6. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
7. The applicant shall meet the requirements of the Fire Bureau regarding fire hydrant spacing. If existing hydrants do not meet applicable Fire Code spacing requirements, the applicant shall be required to install a new fire hydrant. 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.

### **Existing Development**

8. The applicant must plant street tree(s) in the new planter strip on SE 107<sup>th</sup> Avenue adjacent to Parcel 1 after the required right-of-way improvements have been constructed per condition C.1. Street trees will be chosen from the City's approved street tree list for a 4- foot planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

### **Required Legal Documents**

9. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Parcels 1-3 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
10. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcels 2 and 3 to contain internal fire suppression

sprinklers. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

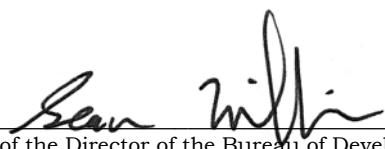
**Other requirements**

11. The applicant must pay into the City Tree Fund the amount equivalent to 4 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.
12. The applicant shall receive final inspection approval of a Zoning Permit to plant 8-inches of trees on Parcel 1. The trees shall be native species selected from the Portland Plant List. The new trees must also be shown on the supplemental plan.

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

1. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
2. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
3. The applicant must post the private street with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
4. The applicant must meet the addressing requirements of the Fire Bureau for the private street. The location of the sign must be shown on the building permit.
5. The applicant will be required to install residential sprinklers in the new houses on Parcels 2 and 3 to the satisfaction of the Fire Bureau.
6. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
7. The applicant shall plant one street tree on Parcels 2 and 3 within 5 feet of the tract boundary. Trees planted to meet T1 (33.248.020.H) requirements may not be used to meet this condition.
8. All trees planted to meet T1 (33.248.020.H) standards shall be native species selected from the Portland Plant List.

**Staff Planner: Sean Williams**

**Decision rendered by:**  **on March 27, 2012**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: March 29, 2012**

**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 January 7, 2011, and was determined to be complete on **July 6, 2011**.

*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 January 7, 2011.

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 extended the 120-day review period, as stated with Exhibit A.1.

**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.**

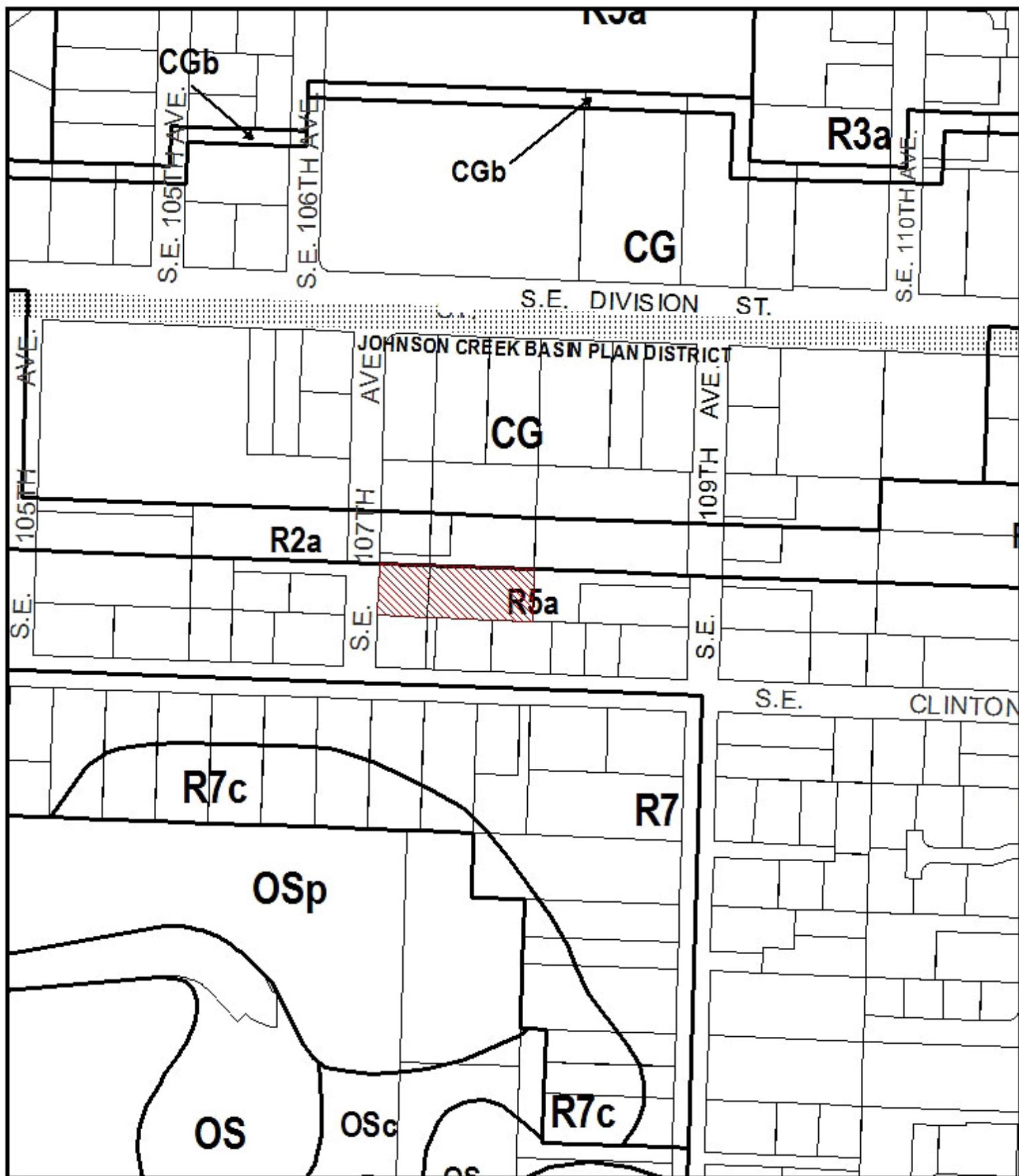
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Request for extension of 120-day review period
  - 2. Application narrative
  - 3. Arborist report
  - 4. Stormwater report
  - 5. Street facing façade of 2636 SE 107<sup>th</sup> Avenue
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Partition Plat (attached)
  - 2. Preliminary Site Plan (attached)
  - 3. Preliminary Utility Plan (attached)
  - 4. Preliminary Grading Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services w/ addendum (3/12/12)
  - 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 Plans Examiner
- F. Correspondence: NONE
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Request for completeness responses
  - 4. Incomplete letter

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





# ZONING



Site



NORTH

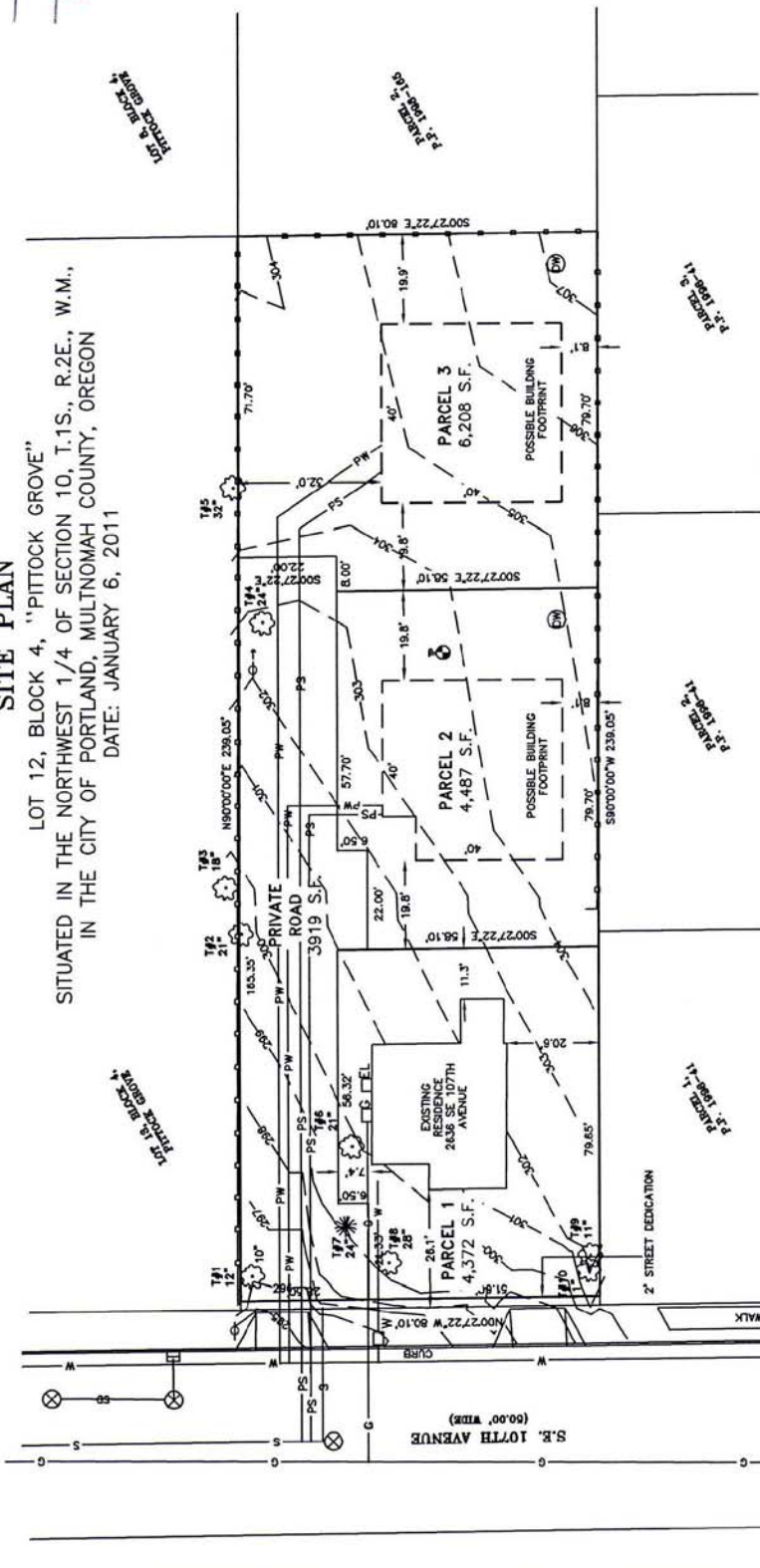
This site lies within the:  
JOHNSON CREEK BASIN PLAN DISTRICT

File No. LU 11-101833 LDP  
1/4 Section 3341  
Scale 1 inch = 200 feet  
State\_Id 1S2E10BA 4301  
Exhibit B (Jan 12,2011)

# SITE PLAN

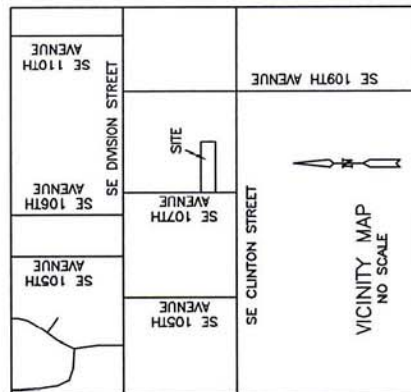
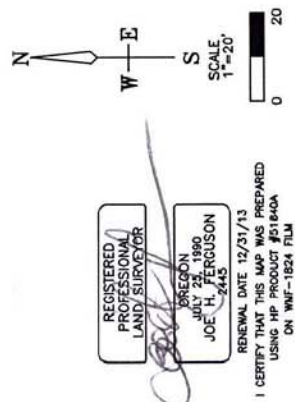
LOT 12, BLOCK 4, "PITTOCK GROVE"  
SITUATED IN THE NORTHWEST 1/4 OF SECTION 10, T.1S., R.2E., W.M.,  
IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON  
DATE: JANUARY 6, 2011

CASE NO. 11-101833  
EXHIBIT C-1



## SYMBOLS

- ⊕ = POWER POLE
- ⊙ = GUY ANCHOR
- ⊖ = WATER METER
- ⊕ = GAS METER
- ⊖ = ELECTRIC METER
- ⊕ = WATER VALVE
- ⊙ = MANHOLE
- ⊖ = CATCH BASIN
- ⊕ = FIRE HYDRANT
- W— = WATER LINE
- PW— = PROPOSED WATER LINE
- G— = GAS LINE
- SD— = STORM
- S— = SANITARY SEWER
- PS— = PROPOSED SANITARY SEWER
- ⊙ = DECIDUOUS
- ⊖ = CONIFEROUS
- ⊕ = BENCH MARK 3262 ELEV. 305.14
- ⊖ = PROPOSED DRYWELL
- ⊕ = INFILTRATION TEST PIT
- ⊖ = (APPROXIMATE LOCATION)
- T# = CORRESPONDS WITH TREE REPORT



CLIENT: MAX BELOUSOV  
2636 SE 107TH  
PORTLAND, OR 97266

Ferguson Land Surveying, Inc.  
646 SE 108TH AVE., PORTLAND, OR 97216  
Phone (503) 408-0601 Fax (503) 408-0602

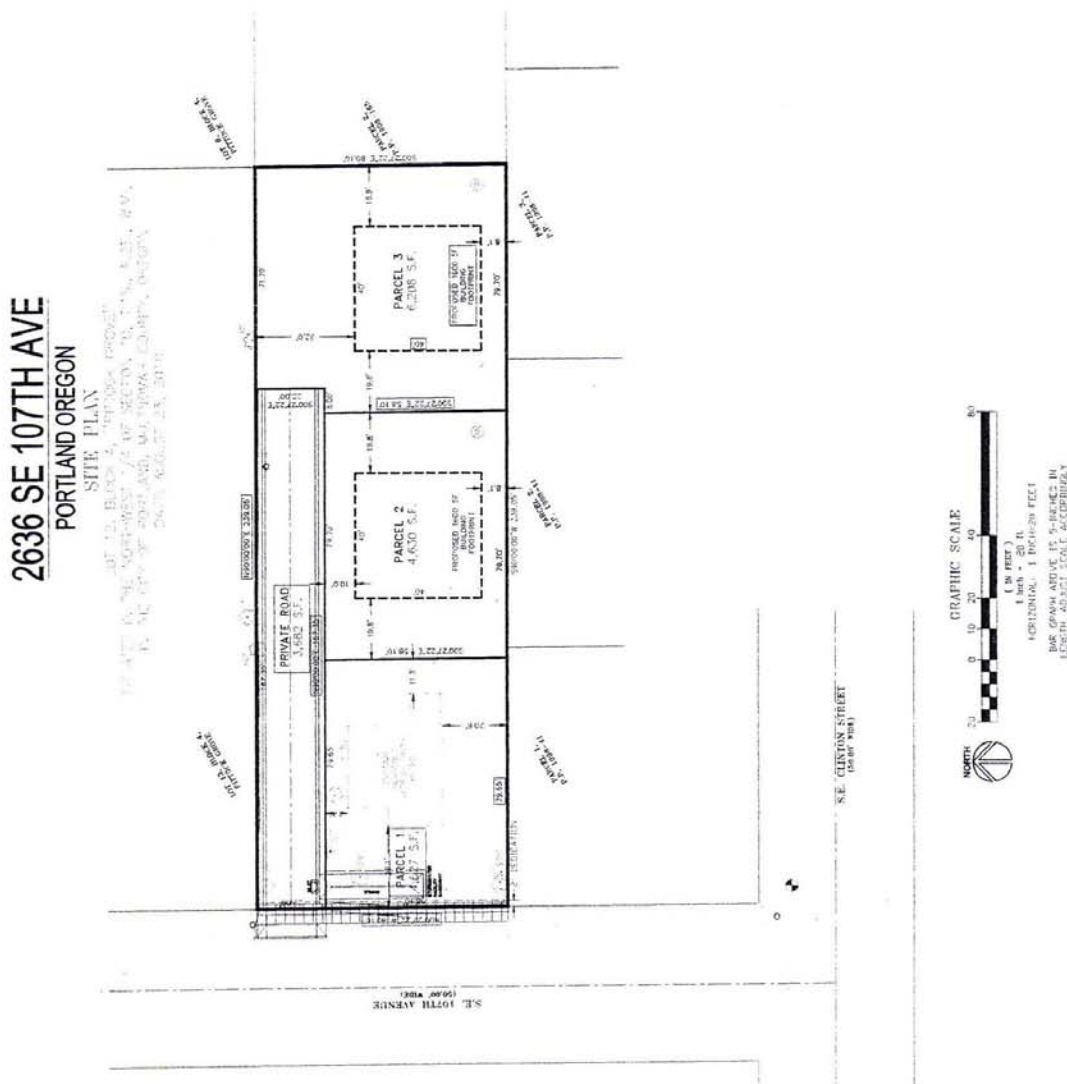
SHEET NO. 1 OF 1  
JOB NO. 10-073-SP  
REVISED 1/26/2012

## GENERAL CONSTRUCTION NOTES:

[illegible]

ENGINEER:  
MEL HOGAN, P.E.  
CIVIL ENGINEERING  
224 HANCOCK BLVD  
ROSCOVILLE, OIL, CA 95246  
503-735-8413

SUBSCRIBER:  
PETER AUSTRIAN LAND DEVELOPERS  
INC.  
1446 SE 10TH AVE.  
PORTLAND, OR 97216



EXISTING	NOTED	DATE	BY	REVISION
1	NONMOUNT			PROPOSED
2	PROPERTY CORNER			
3	POWER IN/OUT BOX			
4	POLE SIGNAGE			
5	LIGHT POLE			
6	TELEPHONE FURNISH			
7	WATER METER			
8	WATER VALVE			
9	FIRE HYDRANT			
10	SANITARY CLEAN IN			
11	SEWER CLEAN OUT			
12	STORM SEWER VELL			
13	DRY WELL			
14	CATCH BASIN			
15	EASEMENT LINE			
16	PROXIMITY LINE			
17	RIGHT OF WAY			
18	RIGHT OF WAY			
19	BOUNDARY			
20	ENCLOSURE			
21	WATER LINE			
22	SEWER LINE			
23	CONTRACT SECTORS			
24	6-12 LINE			
25	TELEPHONE LINE			
26	ROAD CENTERLINE			
27	ROAD STRIPING			
28	EDGE OF ASPHALT			
29	EDGE OF GRAVEL			
30	CURB			
31	PAV. OF INTERVAL			
32	SECTION LINE			
33	ADDITIONAL			





**GRADING NOTES:**

1. FILL SHALL BE COMPACTED TO 90 PERCENT OF MAXIMUM DENSITY AS DETERMINED BY ASTM TEST METHOD D-1557, AFTER THE NECESSARY ARRANGEMENTS FOR SUCH TESTING AND FOR SUPPLYING THE RESULTS TO THE CITY ENGINEER AND THE NECESSARY GRADING MEASUREMENTS HAVE BEEN MADE.
2. REMOVAL OF VEGETATION, NON-COMPACT FILL, TYPICAL OR OTHER MATERIALS SHALL BE TO A MINIMUM OF 12 INCHES BELOW THE PROPOSED FINISHED GRADE.
3. SLOPES SHALL NOT EXCEED A GRADE OF 2 HORIZONTAL TO 1 VERTICAL.
4. AND GRADING ORIGINATE NO CUT SHALL EXCEED A GRADE OF 2 HORIZONTAL TO 1 VERTICAL.
5. CUT AND FILL SLOPES SHALL BE PROTECTED FROM EROSION BY MEANS OF EROSION CONTROL MEASURES AS APPROVED BY THE CITY ENGINEER.
6. MEASURES SHALL BE IN PLACE PRIOR TO EARTHWORK OR THE START OF CONSTRUCTION.
7. ANYTIME FOR REQUIRED INSPECTIONS AT THE FOLLOWING STAGES OF CONSTRUCTION:
  - AFTER THE GRADING MEASUREMENTS HAVE BEEN MADE.
  - AFTER THE PLACEMENT OF EACH 500 YARDS OF FILL.
  - AFTER THE PLACEMENT OF EACH 500 YARDS OF CUT.
  - WHEN FINAL GRADING IS COMPLETE.
  - WHEN FINAL GRADING IS COMPLETE.

**KHE Engineering, Inc.**  
CIVIL DESIGN  
1200 W. 10TH AVE.  
SUITE 100  
DALLAS, TEXAS 75208  
TEL: 214-343-1100  
FAX: 214-343-1101  
WWW.KHE-ENGINEERING.COM

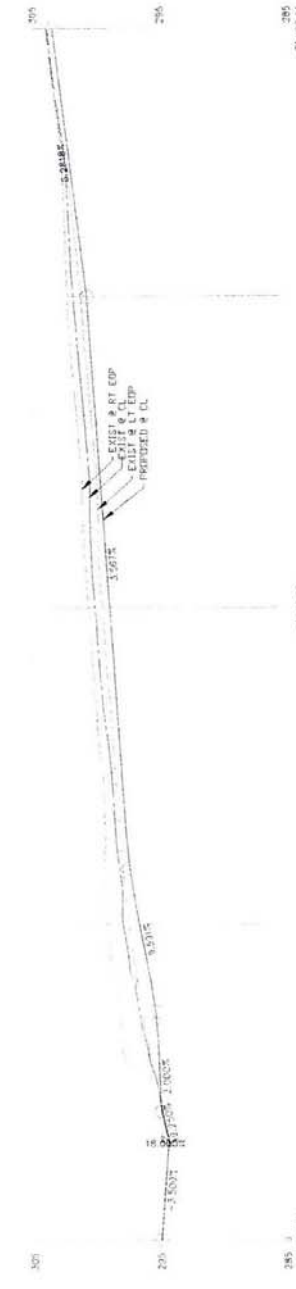
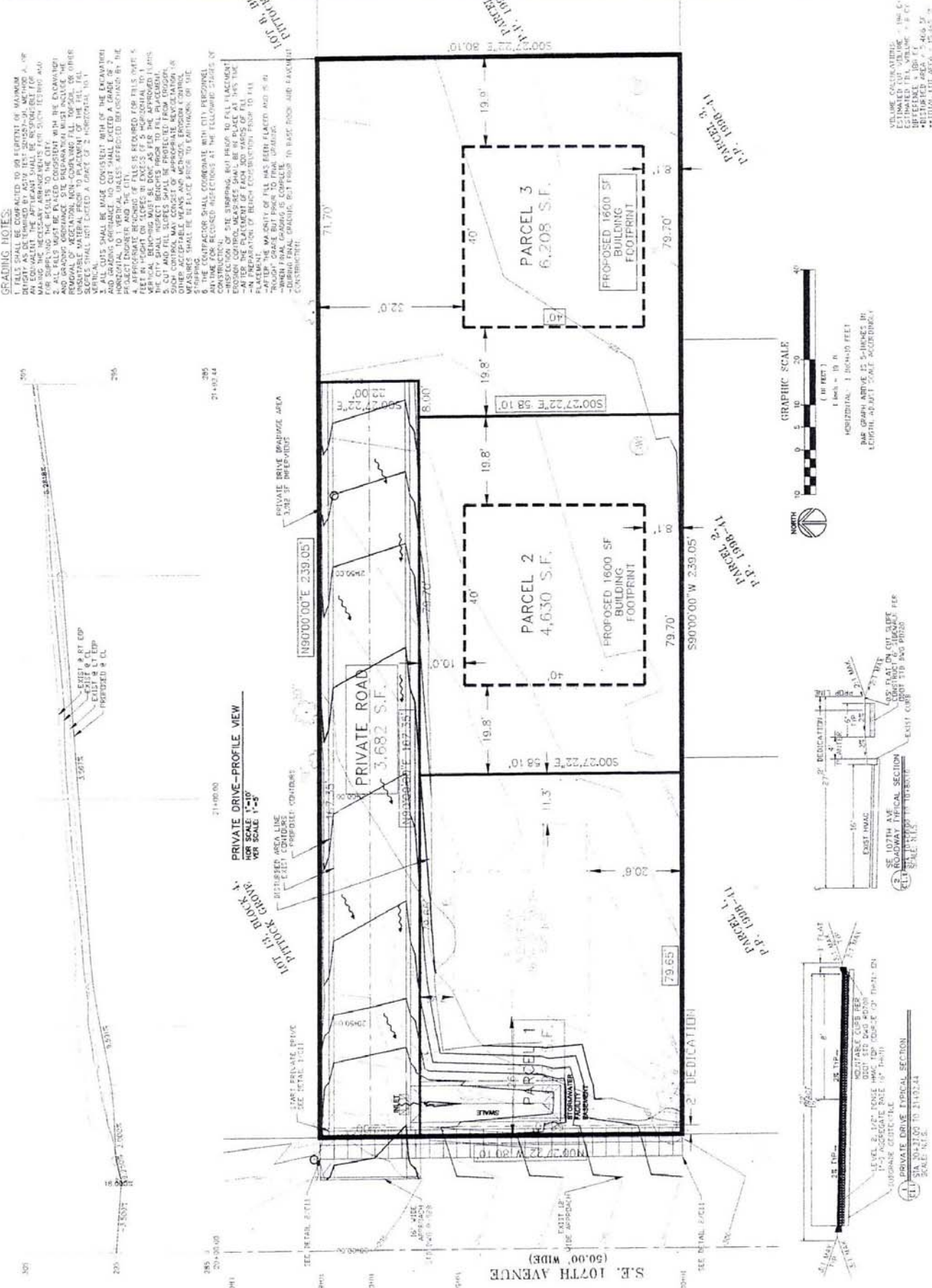
Project: 2836 SE 10TH AVE  
11-101833-000-00-LU

DESIGNER: KHE ENGINEERING, INC.  
307 NW 10TH AVE  
DALLAS, TEXAS 75208

Project No: 11-101833  
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Date: 07/02/11  
Title: PRELIMINARY GRADING PLAN

Sheet No: **C1.1**

TH E V.D. 11-101833





**KHE engineering**  
CIVIL DESIGN  
1000 10TH AVENUE, SE  
SUITE 100  
SEATTLE, WA 98104

**PRELIMINARY UTILITY PLAN**

Project: 2636 SE 107TH AVE  
11-101833-000-00-LU

Client: LISA BAKER  
1000 10TH AVENUE, SE  
SUITE 100  
SEATTLE, WA 98104

Project No.: 11-101833

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Date: 07/05/11  
Sheet Count: 1

