



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office Fax: (503) 378-5518

Third Floor/Measure 37 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

November 30, 2006

TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Portland Plan Amendment
DLCD File Number 004-05



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: December 13, 2006

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Mark Walhood, City Of Portland

<paa> ya



NOTICE OF ADOPTION

This form must be mailed to DLCD not later than 5 working days after adoption
ORS 197.615 and OAR Chapter 660, Division 18

See reverse side for submittal requirements

DEPT OF

NOV 24 2006

Jurisdiction CITY OF PORTLAND Local File # W 05-107223 CP ZC
Date of Adoption Findings adopted + ordinance: 10/25/06 Date Mailed 11/22/06
Δ's effective on maps: 11/24/06
Date the Notice of Proposed Amendment was mailed to DLCD 6/10/05

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Comprehensive Plan^(CP) and Zoning Map^(ZC) Amendments for portions of a three parcel site
e SE 82nd Ave. + Bybee Blvd Area of 21,078# From Low-Density Multi-Dwelling (CP) + R2 (ZC)
to High-Density Residential (CP) + RH (ZC) Area of 52,159# from Low-Density
Multi-Dwelling (CP) + R2 (ZC) to General Commercial (CP) + CG (ZC).

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."

Only portions of site were changed, with different Comp. Plan and Zoning Map
designations versus original proposal. Site-wide Urban Commercial (CP) and CM (ZC)
was replaced with lesser uses of High-Density Res/RH and General Commercial/CG.

Plan Map Change From Low-Density Multi-Dwelling to High-Density Residential (21,078#)
General Commercial (52,159#)
Zone Map Change From R2 - Residential 2,000 to RH - High-Density Res - 21,078#
CG - General Commercial - 52,159#

Location: 6919 SE 82nd Ave + adj. parcels to N+S. Acres Involved: 1.69

Specify Density: Previous Density MAX. 48 ^{dwellly units} New Density MAX. 59 ^{dwellly units}

Applicable Goals: 1, 2, 9, 10, 12, 14 Was an Exception adopted? Yes No

DLCD File # 004-05 (14457) DLCD Appeal Deadline _____

Did DLCD receive a Notice of Proposed Amendment 45 days prior to the final hearing?

Yes No: The Statewide Planning Goals do not apply
 Emergency Circumstances Required Expedited Review

Affected State or Federal Agencies, Local Governments or Special Districts: CITY OF
PORTLAND, OREGON DEPARTMENT OF TRANSPORTATION

Local Contact: MARK WALHOOD, PLANNER Phone: (503) 823.7806
Address: 1900 SW 4TH AVE., PORTLAND, OR 97201

SUBMITTAL REQUIREMENTS

ORS 197.615 and OAR Chapter 660, Division 18

1. Send this Form and One (1) Copy of the Adopted Amendment to:
Department of Land Conservation and Development
635 Capitol Street NE, Suite 200
Salem, OR 97301-2540
2. Submit one (1) copy of adopted material, if copies are bounded please submit one complete copies of documents and maps.
3. Adopted materials must be sent to DLCD not later than five (5) working days following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you do not submit this Notice of Adoption within five working days of the final decision. Appeals to LUBA may be filed within 21 days of the date Notice of Adoption is sent to DLCD.
6. In addition to sending Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

If you need more copies of this form, please call the DLCD at 503-373-0050 or this form may be duplicated on green paper.



**OFFICE OF CITY AUDITOR
CITY OF PORTLAND**

**Gary Blackmer, City Auditor
Council/Contracts Division**

Mailing Address:
1221 SW 4th, Room 140
Portland, Oregon 97204-1900
Email: kmoore-love@ci.portland.or.us
Phone: (503) 823-4086 Fax: (503) 823-4571

October 31, 2006

NOTICE OF DECISION

RE CASE FILE: LU 05-107223 CP ZC

Consider the proposal of Samantha Dang and the recommendation from the Hearings Officer for denial of a Comprehensive Plan Map and Zoning Map Amendments for property at the northwest corner of SE 82nd Avenue and SE Bybee Boulevard (Hearing; LU 05-107223 CP ZC)

To Whom It May Concern:

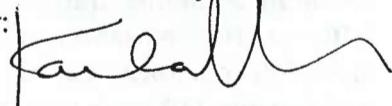
On October 25, 2006, at 9:30 a.m., at a regularly scheduled meeting in Council Chambers, after having a public hearing and considering evidence, the Council adopted findings and conclusions in Case File No. LU 05-107223 CP ZC and unanimously passed Ordinance No. 180548.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, 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. The Board's address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, OR 97310-2552. You may call the Land Use Board of Appeals at 1-503-373-1265 for further information on filing an appeal.

Yours sincerely,

Gary Blackmer
Auditor of the City of Portland

By:



Karla Moore-Love, Council Clerk

ORDINANCE No. 180548

Amend the Comprehensive Plan Map and Zoning Map designations for portions of a three-parcel, approximately 2.2-acre site at the northwest corner of the intersection of SE Bybee Boulevard and SE 82nd Avenue, from Low-Density Multi-Dwelling (R2) to High Density Multi-Dwelling (RH) and General Commercial (CG) (Ordinance; Findings; LU 05-107223 CPZC)

The City of Portland ordains:

Section 1. The Council finds:

1. The Applicant seeks, for the project located at Section 20AA, Township 1S, Range 2E, Tax Lots 8700, 8800, and 8900, the following:
 - a. For approximately 21,078 square feet of site area east of the future extension of SE 81st Place, a Comprehensive Plan Map Amendment from Low-Density Multi-Dwelling to High Density Multi-Dwelling, and a Zoning Map Amendment from Residential 2,000 with the Alternative Design Density overlay zone (R2a) to High Density Residential (RH); and
 - b. For approximately 52,159 square feet of site area abutting SE 82nd Avenue and SE Bybee Boulevard, a Comprehensive Plan Map Amendment from Low-Density Multi-Dwelling to General Commercial, and a Zoning Map Amendment from Residential 2,000 with the Alternative Design Density overlay zone (R2a) to General Commercial (CG).
2. An application complying in all respects with all requirements of Title 33, Planning and Zoning, of the Code of the City of Portland seeking amendment of the Comprehensive Plan Map and Zoning Map has been received with the proper fee for filing paid.
3. The Report and Recommendation of the Hearings Officer dated April 13, 2006 (LU 05-107223 CP ZC, HO 405033), after duly authorized and conducted public hearings held January 18, 2006 and March 8, 2006, recommended denial of the Comprehensive Plan and Zoning Map Amendments. After holding public hearings on the Hearings Officer's recommendation and considering additional evidence, including additional traffic information submitted by the applicant, the Portland Office of Transportation and the Oregon Department of Transportation concerning phased development and transportation improvements, the City Council overturned the Hearings Officer's recommendation and granted the Comprehensive Plan Amendments and Zoning Map Amendments with conditions.
4. The notice requirements for public hearings were fulfilled according to law.
5. The rezoning constitutes an amendment of the City's Comprehensive Plan Map. Based upon the facts, findings and conclusions of the City Council, this amendment of the Comprehensive Plan Map from Low-Density Multi-Dwelling to High Density

Multi-Dwelling and General Commercial, and the amendment of the Zoning Map from R2a to RH and CG, is found to be in accordance with the Comprehensive Plan.

- 6. This rezoning is in conformance with the Comprehensive Plan for the City, is in accordance with generally accepted land use planning standards and with applicable City and State legislative enactments as indicated in the City Council's findings and decision.

NOW THEREFORE, the Council directs:

- a. That the Findings and Decision of the City Council in LU 05-107223 CP ZC are adopted by the City Council.
- b. Based on the Council's Findings and Decision, the zoning of portions of Tax Lots 8700, 8800 and 8900 are changed in part from R2a to RH and CG as shown on the approved Proposed Zoning Map (Exhibit B.2), and the Comprehensive Plan Map is amended to conform thereto.
- c. These Comprehensive Plan Map and Zoning Map Amendments are granted under the following conditions:
 - 1. Tier 1 development, consisting of any combination of allowed uses that generate 30 PM peak hour trips or less at the intersection of SE 82nd Avenue and SE Bybee Boulevard, per Table 1 (below), is allowed. The trip generation equivalencies are to be provided based on Table 1 (below). The applicant must provide written verification with each building permit that these limits are being met.

Table 1		
Use Category	Square Footage/Other	Trip Equivalent
Office/Medical	671	1 Trip
Retail	33	1 Trip
Quick Vehicle Repair	One Service Bay	15 Trips
Auto Repair	215	1 Trip
Schools	3 Students	5 Trips
Religious Institutions	1,500	1 Trip
Day Care	66	1 Trip
(Res.) Dwelling Units	9 Units	5 Trips

- 2. At least 38 dwelling units must be constructed prior to any Tier 2 development. Tier 2 development consists of any combination of allowed uses that generate more than 30 PM peak hour trips at the intersection of SE 82nd Avenue and SE Bybee Boulevard per Table 1 in condition A (above).

180548

3. Prior to any Tier 2 development generating more than 30 PM peak hour trips at the intersection of SE 82nd Avenue and SE Bybee Boulevard (per Table 1 in condition A), the applicant must apply and receive approval for such additional development through a Type IIX land use review procedure. The application for this land use review must include a traffic study prepared by an Oregon licensed traffic engineer. This land use review will be approved if the following approval criterion is met:

“The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts due to traffic volume; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand strategies.”

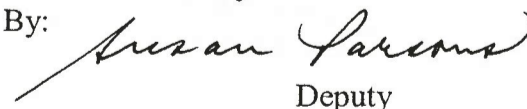
4. Prior to approval of any Tier 2 development generating more than 30 PM peak hour trips at the intersection of SE 82nd Avenue and SE Bybee Boulevard (per Table 1 in condition A), the applicant must construct a median or any other mitigation measure required by the State Traffic Engineer (ODOT).

Passed by the Council, OCT 25 2006

Commissioner Randy Leonard
Mark Walhood, BDS
October 12, 2006

GARY BLACKMER
Auditor of the City of Portland

By:



Deputy

BACKING SHEET INFORMATION

AGENDA NO. 1405, 1443-2006

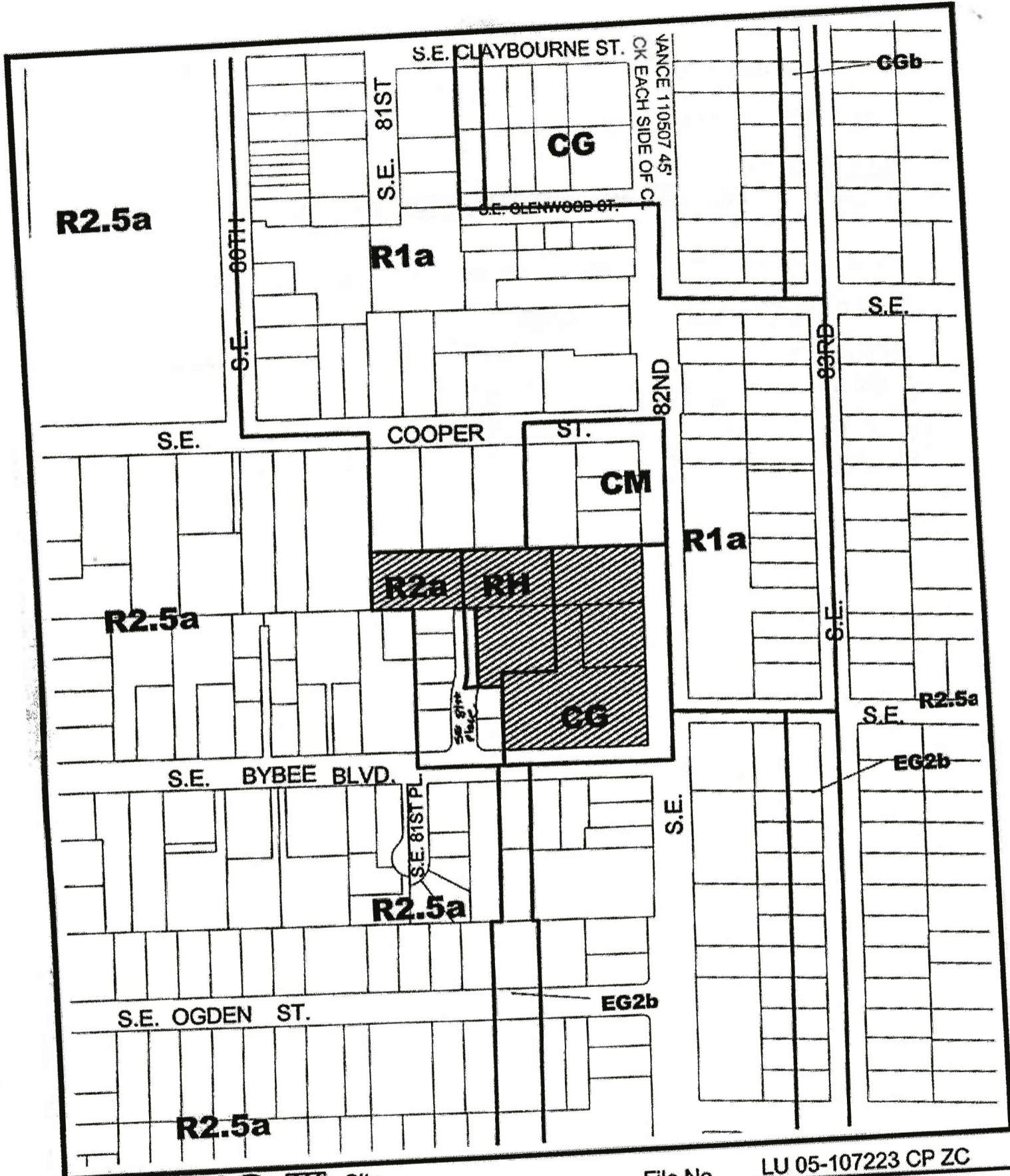
ACTION TAKEN:

OCTOBER 18, 2006 PASSED TO SECOND READING OCTOBER 25, 2006
9:30AM

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 180548

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
ADAMS	X	
LEONARD	X	
SALTZMAN	X	
STEN	X	
POTTER	X	

180548



ZONING PROPOSED

 Site



File No. LU 05-107223 CP ZC
 1/4 Section 3738
 Scale 1 inch = 200 feet
 State-Id 1S2E20AA 8700+
 Exhibit B.2 (Oct 27, 2005)

IN THE CITY COUNCIL OF THE
CITY OF
PORTLAND, OREGON

IN THE MATTER OF AN APPLICATION)
BY SAMANTHA DANG FOR APPROVAL)
OF A COMPREHENSIVE PLAN MAP)
AND ZONING MAP AMENDMENT AT)
SE BYBEE BOULEVARD AND SE 82ND)
AVENUE)

LU 05-107223 CP ZC

FINDINGS AND CONCLUSIONS

ADOPTED BY THE
CITY COUNCIL ON
OCTOBER 5, 2006

IN THE CITY COUNCIL OF THE
CITY OF
PORTLAND, OREGON

IN THE MATTER OF AN APPLICATION)
BY SAMANTHA DANG FOR APPROVAL)
OF A COMPREHENSIVE PLAN MAP) LU 05-107223 CP ZC
AND ZONING MAP AMENDMENT AT)
SE BYBEE BOULEVARD AND SE 82ND)
AVENUE)

FINDINGS AND CONCLUSIONS

The findings and conclusions of the City Council in this matter are set forth below.

I. GENERAL INFORMATION

File No.: LU 05-107223 CP ZC (HO 405033)

Applicant/Contact:
Samantha N. Dang
6919 SE 82nd Avenue
Portland, Oregon 97266

Property Owners:
Thanh Q. Nguyen and Samantha Dang
6919 SE 82nd Avenue
Portland, Oregon 97266

Ackerly Communications of the Northwest (Billboard only)
3601 6th Avenue South
Seattle, Washington 98134

Hearings Officer: Gregory J. Frank

BDS Staff Representative: Mark Walhood

Site Address: 6919 SE 82nd Avenue (and adjacent parcels to North and South)

Legal Descriptions: TL 8700 0.91 ACRES, SECTION 20 1 S 2 E; TL 8800 0.23 ACRES,
SECTION 20 1 S 2 E; TL 8900 1.06 ACRES LAND & IMPS ALSO SEE -
2371, SECTION 20 1 S 2 E; TL 8900 BILLBOARD ALSO SEE -2370,
SECTION 20 1S 2E

Tax Account Nos.: R992200340, R992201100, R992202370, R992202371

State ID Nos.: 1S2E20AA 08700, 1S2E20AA 08800, 1S2E20AA 08900, 1S2E20AA 08900A1

Quarter Section: 3738

Neighborhood: Brentwood-Darlington

Neighborhood within 1,000 feet of the site: Lents

Business District: Eighty-Second Avenue

District Coalition: Southeast Uplift Neighborhood Program

District Coalition within 1,000 feet of the site: East Portland Neighborhood Office

Existing Comprehensive Plan Map Designation: Low Density Multi-Dwelling

Existing Zoning: **R2a** (Multi-Dwelling Residential 2,000 base zone with the "a" or Alternative Design Density overlay zone)

Proposed Comprehensive Plan Map Designation: General Commercial, High Density Multi-Dwelling and Low Density Multi-Dwelling

Proposed Zoning: **CG** (General Commercial), **RH** (High Density Residential) and **R2a**

Land Use Review: Comprehensive Plan Map Amendment and Zoning Map Amendment

BDS Staff Recommendation to Hearings Officer: Denial

Hearings Officer Recommendation to City Council: Denial

Proposal: The original proposal submitted by the applicant in February, 2005 included rezoning the entire site to the Mixed Commercial/Residential (CM) base zone. Due primarily to transportation-related concerns of City and State agencies raised in June, 2005, the applicant placed the case on hold and re-designed the project. In September, 2005, a revised proposal was presented by the applicant, including modified Comprehensive Plan and Zoning Map designations, as well as new conceptual development plans.

The site consists of three adjacent parcels at the northwest corner of the intersection of SE Bybee Boulevard and SE 82nd Avenue. Together, these parcels total approximately 2.2 acres in size. The southernmost property is developed with a mobile home park. The smallest, central parcel, with frontage only on SE 82nd Avenue, is developed with a residence that is undergoing remodeling, with a large addition currently on hold due to permitting issues. The northernmost parcel is vacant. Although the west edge of the site is near the public right-of-way in SE 81st Place, the property does not currently have access to this street because of "spike strip" parcels (owned by the City of Portland) between this street and the site.

At this time, the entire site has a Low-Density Multi-Dwelling Comprehensive Plan Map designation, and a Zoning Map designation of Residential 2,000 with the "a" or Alternative

Design Density overlay (R2a). The revised proposal requested by the applicant retains the existing designations on the westernmost portion of the site, but would modify them on the central and eastern portions of the site. After accounting for the required street dedications in SE 81st Place, SE Bybee Boulevard, and SE 82nd Avenue (see attached zoning plan and maps), the Comprehensive Plan and Zoning Map designations at the site would be as follows:

- 11,094 square feet of site area northwest of the extension of SE 81st Place would retain the Low-Density Multi-Dwelling Comprehensive Plan and R2a Zoning Map designations;
- 21,078 square feet of site area east and northeast of the extension in SE 81st Place would be changed to the High Density Multi-Dwelling Comprehensive Plan and RH (High Density Residential) Zoning Map designations; and
- 52,159 square feet of site area abutting SE 82nd & Bybee would be changed to the General Commercial Comprehensive Plan and Zoning Map (CG) designations.

The applicant has identified four conceptual development programs, indicating their long-term goals for the site (options A through D - see attached plans). In the R2a zone, the applicant has identified a 5-unit townhouse project. In the RH zone, conceptual plans include a 4-story residential building with between 34 to 54 units, and from 15 to 27 parking spaces. In the CG zone, conceptual development includes between 10,000 and 74,400 square feet of office or retail space, with parking for between 68 and 102 vehicles. To mitigate for lost housing potential in the area being zoned CG, the applicant will likely be required to build at least 36 units of housing in the RH-zoned area. The applicant also intends to work with local agencies and organizations to relocate the current mobile home tenants, if necessary.

Although these conceptual plans reflect the likely maximum build-out, the applicant has phrased this request as being a change to the stated zoning designations without other restrictions. In summary, the development standards for the proposed zoning regulations are as follows:

	R2a	RH	CG
Maximum Density	1 unit per 2,000 sq. ft of site area	FAR of 2 to 1	FAR of 3 to 1 (non-residential)
Maximum Height	40 ft.	25 ft. (within 10' of front lot line), 65 ft.	45 ft.
Maximum Building Coverage	50% of site area	85% of site area	85% of site area
Minimum Landscaping	30% of site area	15% of site area	15% of site area
Parking Required?	No Minimum Parking (Bus #19 - Woodstock provides 20-minute peak hour service within 500 feet of site - exempt from minimums per 33.266.110.B)		

In summary, the applicant seeks to “re-zone” the site as indicated in the above narrative and on the attached plans. No specific development plan is proposed. In order to approve this request, therefore, the applicant has requested the necessary Type III Comprehensive Plan and Zoning Map Amendments.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are found at **PCC 33.810.050.A.1-3** (Comprehensive Plan Map Amendments), **33.855.050.A-C** (Zoning Map Amendments - Base Zone Changes), and **33.855.060.A-C** (Zoning Map Amendments - Overlay Zone Changes). The Comprehensive Plan Map Amendment criteria include, by reference, applicable provisions in Metro’s *Urban Growth Management Functional Plan* and Oregon’s *Statewide Planning Goals*.

II. PROCEDURAL HISTORY

Public Hearings before the City's Hearings Officer: The hearing was opened at 9:00 a.m. on January 18, 2006, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, OR, and was closed at 9:57 a.m. The hearing was continued to March 8, 2006, at 9:00 a.m. The hearing was opened at 9:03 a.m. on March 8, 2006, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, OR, and was closed at 9:15 a.m. The record was held open until 4:30 p.m., March 29, 2006, for new evidence; and until 4:30 p.m., April 5, 2006, for applicant's rebuttal. The record was closed at that time. Prior to the close of the record, the applicant, representatives of the applicant, and agency staff testified orally and submitted written testimony during the open record period. The Brentwood-Darlington Neighborhood Association offered their support for the proposal.

In their testimony, transportation agency staff (ODOT) emphasized that they could only support any potential approval of the request via a condition of approval requiring the construction of a median in SE 82nd Avenue at SE Bybee, restricting the northbound left-turn movement onto SE 82nd & SE Bybee. Transportation staff (PDOT) noted that the neighborhood "cut-through" traffic created by the potential median could impact nearby neighbors on SE 78th, SE 82nd, and SE Duke, as well as faculty and staff at the nearby (Woodmere Elementary) school, and that these individuals had not received public notice of these potential impacts. Relevant issues raised by this testimony are addressed later in this report in the appropriate sections.

The Hearings Officer issued a recommendation to the City Council on the proposal on April 14, 2006. Echoing concerns raised by staff from Portland Transportation and the Oregon Department of Transportation, the Hearings Officer found that Public Involvement by those potentially impacted by additional traffic generated by the subject site and diverted from SE 82nd (at the subject site) to SE 78th and SE Duke is important. Further, the Hearings Officer found that it is necessary to provide such impacted neighbors an opportunity to comment on this proposal before the City Council, as potential traffic impacts from the redistribution of traffic from SE 82nd Avenue (at the subject site) may be significant. The Hearings Officer concluded that until public notice detailing potential traffic issues and an opportunity to comment before Council was provided to impacted neighbors, that he had no choice but to recommend denial.

Public Hearings before the City Council: The Portland City Council held the first hearing on the proposed amendments on June 22, 2006. Prior to this first hearing, consistent with the direction requested by the Hearings Officer, a public notice of the first City Council hearing was mailed to property owners along SE Bybee from the site to SE 78th, along SE 78th between SE Bybee and SE Duke, and along SE Duke between SE 78th and SE 82nd, as well as to the principal of Woodmere Elementary School (at SE 78th & Duke). At the June 22, 2006 hearing, City Council received a substantial amount of oral and written testimony. While several representatives of the Brentwood Darlington Neighborhood Association voiced continued support for the proposal, several nearby property owners and a representative from Portland Public Schools voiced objections to the proposal, based on traffic- and safety-related concerns regarding neighborhood "cut-through" traffic.

At the conclusion of the June 22, 2006 hearing, City Council directed the applicant to work with City staff, ODOT, concerned neighbors, and the school district to pursue collaborative problem-solving with regards to the potential transportation concerns. City Council directed that the applicant pursue creative solutions to the traffic issues and return to a time certain continuance of the first hearing on August 17th, 2006.

Prior to the continued hearing on August 17th, 2006 the applicant organized two different meetings with interested parties. On August 14th, 2006, the applicant met with City Staff to gain preliminary approval on the concept of creating a tiered approach to development at the site, supported by a supplemental traffic analysis prepared by the applicant's traffic engineer. The applicant presented supplemental traffic engineering data showing that the site could accommodate 38 new dwelling units and legalization of the approximately 6,000 square feet of unfinished office space within the necessary limitation of 30 PM peak hour trips or less. During the August 14th meeting, Portland Transportation staff conceptually agreed that a self-imposed limitation on "tier 1" (initial) redevelopment at the site could avoid the need for construction of the median in SE 82nd Avenue, provided supplemental traffic engineering data was provided showing no net increase in evening traffic above what current zoning would generate (30 PM peak hour trips or less).

On August 15th, 2006, after providing written invitations to all interested parties (neighbors living on potential "cut-through" traffic streets, city and state agency staff, school district and neighborhood association representatives), the applicant held a meeting to discuss the "tier 1" development limitation concept discussed above. The meeting was attended by the school district representative who had testified before City Council, a representative from the Oregon Department of Transportation (ODOT), as well as the applicant and her traffic engineer. At this meeting, given the modest scale of development contemplated under "tier 1" (38 new housing units and legalization of the unfinished office), and with the understanding that a future land use review and construction of the median in SE 82nd Avenue would be required for development beyond "tier 1", the school district representative and ODOT staff voiced support for the proposal.

At the continued hearing on August 17th, 2006, the applicant requested a further continuance, in order to work out the details of the "tier 1" concept, which would temporarily avoid the need for construction of the median and the attendant "cut-through" neighborhood traffic. City Council was briefed on the potential solution being pursued by the applicant and agency staff. City Council approved the request for a continuation, and passed a motion to further consider the proposal on September 7th, 2006.

On August 22nd, 2006 the applicant and her traffic engineer met with agency staff to review and refine a potential condition of approval outlining acceptable "tier 1" development that could occur without construction of the median in SE 82nd Ave and any future land use review. The applicant's traffic engineer provided a table of potential uses at the site and the ratio of additional resulting PM peak hour trips per square footage or other amount of each use. City and State Transportation staff agreed to the "tier 1" limitation in concept, pending development of a condition of approval ensuring that development beyond "tier 1" be subject to construction of the median in SE 82nd Avenue and a future land use review to evaluate transportation issues. Transportation staff agreed to review the new traffic engineering data provided by the applicant and work internally with senior agency staff to craft acceptable language for a condition of approval to recommend to City Council.

On September 1st, 2006, Portland Transportation staff published a revised formal response with conditions of approval to recommend to City Council, and received support for the conditions from the Oregon Department of Transportation. The proposed conditions of approval allowed for a "tier 1" phase of redevelopment at the site to include the legalization of the existing office building and up to 38 housing units without construction of the median in SE 82nd Avenue. The proposed conditions of approval, in order to ensure that the "no net housing loss" criterion be met, also required that "tier 1" of redevelopment include a minimum of 38 housing units. For development beyond the "tier 1" level, where development would generate more than 30 PM peak hour trips, the applicant would be required to complete a Type

Ilx land use review to evaluate potential traffic impacts, and to construct the median in SE 82nd Avenue or any other mitigation measure required by the State Traffic Engineer.

In the continued public hearing before City Council on September 7th, 2006, staff presented a summary of the intervening meetings between the applicant and interested parties, the "tier 1" development limitation agreed to by the applicant, and the conditions of approval recommended by Portland Transportation. Based on the compromise reached, with the avoidance of significant traffic impacts to the neighborhood, and with inclusion of the recommended conditions of approval, City Council closed the record and issued a decision approving the series of requested Comprehensive Plan and Zoning Map Amendments at the site.

II. ANALYSIS

Site and Vicinity: The site consists of three adjacent parcels at the northwest corner of the intersection of SE Bybee Boulevard and SE 82nd Avenue, which together total 2.2 acres in size (approximately 96,000 square feet). The large, rectangular north parcel is currently vacant, although some vehicles are being stored on a small paved area in the south central portion of the parcel. The smallest central parcel, with frontage only on SE 82nd Avenue, is developed with a home that includes a large, three-story addition currently in progress (building is framed but without windows, exterior siding, or interior finish work). The irregularly-shaped southern parcel is developed with a mobile home park and several older buildings which have been converted to storage or other uses. The mobile home park and existing home have existing driveway access (curb cuts) onto SE 82nd Avenue.

The surrounding area is developed with a variety of residential, commercial, and light industrial uses. In the areas immediately west of the site, the neighborhood consists exclusively of residential uses, including both newer and older homes and multi-story apartments. North and south of the site along both sides of SE 82nd Avenue, the area includes a variety of commercial uses (vehicle sales, restaurants, retail), some light industrial (manufacturing) uses, and a few older residential structures.

Southeast 82nd Avenue abutting the site is improved with a two-way, four-lane paved roadway with center left-turn aisle, curbing, and curb-tight sidewalks. Southeast Bybee Boulevard abutting the site is improved with a paved two-way roadway, but an unpaved shoulder on both sides of the street and no paved sidewalks. Southeast 81st Place, directly west of the site, has recently been improved with a paved roadway surface, and curbing and sidewalks on the west-side of the street only.

Zoning: The existing zoning includes the Residential 2,000 (R2) base zone, as well as the "a" or Alternative Design Density overlay zone. The R2 zone is a low-density multi-dwelling zone, with new development generally characterized by one to three story buildings. In general, density is limited to one dwelling unit per 2,000 square feet of site area, although density may be as much as 50% greater if amenity bonus options are used. New development in the R2 zone usually includes duplexes, townhouses, attached houses (on their own lots) and garden apartment buildings. Mobile home parks are allowed in the R2 zones, subject to the regulations in Chapter 33.251, Manufactured Homes and Mobile Home Parks. The "a" overlay zone provides optional opportunities for increased density in some developments, provided additional architectural design compatibility requirements are satisfied.

The High-Density Residential base zone (RH) does not regulate density by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use is regulated by floor area ratio (FAR) limits and other site development standards. Allowed housing is

characterized by medium to high height (65 foot maximum) and a relatively high percentage of building coverage. Major types of new housing development often include low, medium, and high-rise apartments and condominiums. The RH zone is usually found in areas well-served by transit facilities or near areas with supportive commercial services.

The General Commercial (CG) base zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. Some industrial uses are allowed but limited in size to avoid adverse effects different in kind or amount than commercial uses, and to ensure that they do not dominate the character of the area. Where the site is adjacent to a transit street (such as SE 82nd Avenue), development standards seek to create a pleasant environment for pedestrians and transit users. Along transit streets, for example, the amount of street frontage that can be developed with vehicle areas is limited, and new buildings are required to be placed near the sidewalk. Overall, development in the CG zone is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves.

Land Use History: City records indicate only one prior land use review at the site. Under case file #LU 02-139393 AD, an Adjustment was requested to increase the maximum transit street setback for an addition to the existing home at the site, but was withdrawn by the applicant.

Hearings Officer Note to City Council: This review was initiated by the applicant to “legalize” the construction of an addition to the existing house at 6919 SE 82nd. Because of the existing (residential only) zoning at the site, and because the proposed use does not appear to meet the use regulations of the R2 zone or conform to an issued Home Occupation Permit, the site is currently under code enforcement actions (04-068380 CC). The applicant has applied for a permit to legalize the work (05-153960 CO), but the building cannot be approved as a commercial structure (which it appears to be) until commercial zoning is in place at the site.

Agency Review: A “Request for Response” on the revised proposal was mailed **October 28, 2005**. The following Bureaus have responded:

The *Bureau of Environmental Services* (BES) reviewed the revised proposal and responded with informational comments regarding sanitary and stormwater-related regulations that must be met during future permitting procedures. Sanitary sewers are available to serve the site, but there are no public storm sewers available. Stormwater from development on private property and for any street improvements must be managed on-site per requirements in the City’s *Stormwater Management Manual* (SMM). The BES had no objections or other requirements with regards to the adequacy of services for sanitary sewers or stormwater treatment and disposal. (Exhibit E.1)

The *Development Review Division of Portland Transportation* reviewed the revised proposal and responded with detailed comments regarding conformance of the request with applicable policies, Comprehensive Plan Goals, and approval criteria. With the exception of the “adequacy of service” criteria for this request (Comp. Plan Policy 6.18, 33.855.050.B.2), applicable transportation-related issues have been addressed. The Development Review Division of Portland Transportation initially recommended denial of the proposed Comprehensive Plan and Zoning Map Amendments based on failure of the proposal to demonstrate that adequate transportation facilities can be provided. At the time of additional development on the site, regardless of the zoning designations, street dedications and/or improvements along the property frontages will be required during future permits (see “Development Standards” section, later in this recommendation). Detailed information from Portland Transportation’s initial response is incorporated into the transportation-related findings, later in this

recommendation. Exhibit E.2.a contains staff contact and additional information. Following additional evidence submitted by the applicant's traffic consultant before the Hearings Officer Portland Transportation submitted a supplemental response and continued to recommend denial of the application. (Exhibit H.7)

After additional notification prior to the City Council Hearings, and following multiple meetings between the applicant, the school district, and both Portland Transportation and Oregon Department of Transportation Staff, a final supplemental response was provided (Exhibit I.12). This final response includes a recommended condition of approval limiting development at the site to level that will avoid significant traffic impacts, with development beyond a defined "tier 1" level requiring future land use review and any ODOT-required improvements.

The *Fire Bureau* reviewed the proposal for fire-related access and water supply issues, and had no conditions or requirements related to the revised Comprehensive Plan and Zoning Map Amendment requests. The Fire Bureau will review all new construction on the site, and may impose conditions or other requirements at that time. (Exhibit E.3)

The *Police Bureau* reviewed the revised proposal and responded that the Police Bureau is capable of serving the proposed use. Although no objections to this specific request have been made, the Police Bureau has recommended that the Comprehensive Plan be reviewed periodically for impacts upon police services. (Exhibit E.4)

The *Site Development Section of the Bureau of Development Services (BDS)* responded to the revised proposal and noted that stormwater infiltration is acceptable at this location. Compliance with the *Stormwater Management Manual (SMM)* and stormwater disposal hierarchy is a mandatory requirement that will be determined at the time of (building permit) plan review. (Exhibit E.5)

The *Life Safety Section of BDS* has responded to the revised proposal and notes that building permits are required for construction work at the site, and that all proposals must be designed to meet all applicable building codes and ordinances. (Exhibit E.6)

The *Oregon Department of Transportation (ODOT)* reviewed the revised proposal and responded with detailed comments. Because SE 82nd Avenue (aka Oregon Highway 213) is an ODOT facility, they have an interest in ensuring that the proposal is consistent with the facility's safe and efficient operation. The initial ODOT written response in the record commented that the applicant's traffic study notes the proposed zone change would have a significant effect on traffic, and that the proposed mitigation did not comply with OAR 734-051 and the Oregon Highway Plan. Also, because the site has access onto SE Bybee Boulevard, an access onto SE 82nd Avenue cannot be used in the zone change operational analysis (until the applicant applies to ODOT for an approach and land use permit). ODOT initially recommended denial unless certain conditions of approval ensuring mitigation measures are provided as shown via additional TIS (traffic impact study) documentation. ODOT subsequently responded that it could "support a finding of no significant impact if the City" applied identified mitigation measures. (Exhibit H.6)

During the City Council Hearings process, ODOT agreed with a revised response from Portland Transportation that the request could be approved with conditions of approval (Exhibit I.13). Specifically, conditions will require that development at the site be limited to that which will not increase overall traffic impacts beyond that allowed under current zoning ("tier 1" development). The language in the conditions of approval ensure that any ODOT-required improvements and a future land use review to evaluate transportation adequacy be completed prior to "tier 2" development.

The *Water Bureau* reviewed the revised proposal and responded that there are no service adequacy-related issues with regards to water service at the site. (Exhibit E.8)

Neighborhood Review before the Hearings Officer: One response was received from notified property owners, neighbors, or recognized neighborhood associations prior to the issuance of the BDS staff report. Commenting on the revised proposal, the Land Use Chair of the Brentwood-Darlington Neighborhood Association (BDNA) notes that they are in support of the proposed zone change. The BDNA suggests that future development under the proposed zoning at the site will improve the neighborhood by providing for additional commercial development, while still allowing for the construction of new housing. (Exhibit F.1) This letter is included as exhibit F.1 in the case file record. Additional neighbor (including close-by grade school) comments are included in the applicant's final submission to the Hearings Officer. (Exhibit H.8)

ZONING CODE APPROVAL CRITERIA

This recommendation contains the following parts, each of which examines compliance with applicable criteria:

Part A: Comprehensive Plan Map Amendment

Part B: Zoning Map Amendment

PART A. COMPREHENSIVE PLAN MAP AMENDMENT

33.810.050 Approval Criteria

A. Quasi-Judicial. Amendments to the Comprehensive Plan Map that are quasi-judicial will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be equally or more supportive of the Comprehensive Plan as a whole than the old designation;

Findings: The Hearings Officer has, in past comprehensive plan application cases, expressed concern over how this approval criteria should be applied. At the January 18, 2006 hearing the Hearings Officer requested that BDS staff review and respond back to the Hearings Office with how BDS staff viewed this approval criteria. BDS staff did respond to the Hearings Officer in a March 29, 2006 memorandum. (Exhibit H.5)

The Hearings Officer found the comments made by BDS staff to be persuasive and adopted the approach suggested in the memorandum. In particular the Hearings Officer agreed with the following:

"After discussions with my supervisor (Susan McKinney) and a City Attorney (Linly Rees), I am afraid I don't have a succinct answer other than that there is no mathematical formula, and that each case must be evaluated individually depending on the facts. With this case, for example, the potential impacts in regards to Goal 6 (Transportation) are viewed as overwhelming the potential beneficial impacts the project otherwise has in terms of Goals 2 and 3: the traffic issues are significant at this location and, if not adequately addressed by the applicant, could tend to overwhelm the other issues."

BDS staff, in the memorandum, also suggested revisions to the findings for this approval criteria to read:

“Based on the above findings, the requested Comprehensive Plan Map designations, with the significant exception of Policy 6.18 (Adequacy of Transportation Facilities), are generally more supportive of applicable Comprehensive Plan Goals and Policies as compared to the existing designation. This criterion provides for evaluation of the proposal against *relevant* Comprehensive Plan policies and whether or not the request is, *on balance*, equally or more supportive of these policies versus the existing designations. In this case, assuming the transportation capacity-related concerns can be addressed, the request is equally or more supportive of Comprehensive Plan Goals 2 & 3, with the sole exception of Policy 2.16 (strip commercial). Goals 7 through 12 are either not impacted by the proposal or equally satisfied versus the existing designations. However, if the proposal results in significant additional trips through the neighborhood and at the intersection of SE Bybee Boulevard and SE 82nd Avenue, the proposal could be found to be less supportive of Goals 2 and 3. For example, the additional transportation impacts associated with the project, if not adequately mitigated, could reverse positive findings in regards to retaining the character of residential neighborhoods (Goal 3). In this case, however, significant issues with regards to how the project is not supportive of Goal 6 overwhelm the supporting qualities in terms of Goals 2 and 3. Given these considerations, with the recommendation from Portland Transportation and also because significant issues have been raised by ODOT with regards to transportation capacity in SE 82nd Avenue (an ODOT-controlled facility), staff does not recommend at this time that criterion 33.81.050.A.1 be considered satisfied.”

Subsequent to the BDS staff recommendation (Exhibit H.5) ODOT revised its recommendation based upon certain mitigation measures. (See Exhibit H. 6, recommended “Conditions of Approval”) ODOT stated that it could “support a finding of no significant impact if the City applies the traffic mitigation requirements stipulated at the bottom of the memo. In addition, ODOT suggests that the City require the developer to contact affected neighborhood associations and businesses to help ensure community acceptance of roadway changes that affect local circulation.” (Exhibit H.6, page 1)

PDOT, in written comments (Exhibit H.7) received subsequent to the BDS memo (Exhibit H.5) agreed with ODOT that the intersection of SE 82nd and SE Bybee would meet ODOT requirement if certain mitigation measures were undertaken. However, PDOT expressed that local neighborhood streets will be impacted if the mitigation measures are undertaken and that the impacts upon the local streets has not been comprehensively undertaken and therefore “we cannot support the proposed comprehensive plan map amendment and zone change at this time.”

The Hearings Officer found that the impacts from this proposal related to Goal 6 still outweighed the other “positive” goal aspects. Therefore, the Hearings Officer found, on balance, that the requested designations are not equally or more supportive of the Comprehensive Plan as the existing designation.

City Council found that, by adopting a condition of approval limiting development at the site to a “tier 1” level allowed for under the current zoning, and by requiring a future land use review and ODOT-required improvements for development beyond “tier 1”, that the transportation-related policies and criteria are adequately satisfied. Council finds,

with a condition of approval as noted above, that the proposal is, on balance, equally or more supportive of the Comprehensive Plan as the existing designation, for the reasons explained below.

Goal 1 Metropolitan Coordination

The Comprehensive Plan shall be coordinated with federal and state law and support regional goals, objectives and plans adopted by the Columbia Region Association of Governments and its successor, the Metropolitan Service District, to promote a regional planning framework.

Findings: Policy 1.5 of this goal (Compliance with Future Metro Planning Efforts) requires reviewing and updating Portland's *Comprehensive Plan* so that it complies with the *Regional Framework Plan* adopted by Metro. The *Urban Growth Management Functional Plan* was approved by the Metro Council on November 21, 1996, and became effective February 19, 1997. The purpose of this plan is to implement the Regional Urban Growth Goals and Objectives, including the 2040 Growth Concept. Local jurisdictions must address the *Functional Plan* when Comprehensive Plan Map Amendments are proposed through the quasi-judicial or legislative processes. Each title of the *Urban Growth Management Functional Plan* is addressed below.

- **Title 1, Requirements for Housing and Employment Accommodation**, *requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations.*

The requested Comprehensive Plan Map amendment will ensure that the subject property contributes to increasing development capacity within the Urban Growth Boundary. The proposed General Commercial designation and its corresponding zoning map designation, CG, allow for residential as well as commercial and some light industrial development, while the existing designation limits uses other than residential. The proposed High Density Multi-Dwelling designation allows for the retention of existing housing capacity at the site. The two new proposed designations will promote development that increases the development capacity of the land at the site, which is within the Urban Growth Boundary. The proposal is strongly supportive of this Title.

- **Title 2, Regional Parking Policy**, *regulates the amount of parking permitted by use for jurisdictions in the region.*

Regardless of the Comprehensive Plan designations, parking on the site will continue to be regulated by provisions of Portland City Code (PCC) 33.266, Parking and Loading, and specifically, PCC 33.266.110 (Minimum Required Parking Spaces) and PCC 33.266.115 (Maximum Allowed Parking Spaces). Because the site is located within 500 feet of a transit street on which frequent public transportation service is provided via Tri-Met Bus Line #19, there are no minimum parking requirements on the site, regardless of the Comprehensive Plan Map designation. The maximum allowed parking on the site, which is based either on a per dwelling unit or per floor area basis, will continue to be regulated by zoning regulations at 33.266.115. These standards ensure that on-site parking will be consistent with Title 2. This Title is unaffected by the proposal.

- **Title 3, Water Quality, Flood Management, and Fish and Wildlife Conservation**, *protects the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution of the region's waterways.*

This Title is unaffected by the proposed Comprehensive Plan Map designation. The property is not in any designated floodplain, and development at the site must comply with applicable City of Portland regulations related to erosion control (Title 10 of Portland City Code), as well as the adopted City of Portland Stormwater Management Manual. Conformance with these regulations is mandatory, regardless of the Comprehensive Plan Map designations.

- **Title 4, Industrial and Other Employment Areas**, *places restrictions on certain uses in three designations on the 2040 Growth Concept Map.*

Neither the existing nor proposed Comprehensive Plan Map designations are for the various Industrial or Employment designations. The site is not within the areas of the 2040 Growth Concept Map designated as Regionally Significant Industrial Areas, Industrial Areas, or Employment areas (which generally correspond to already mapped Industrial and Employment zones). This title does not apply to the proposal.

- **Title 5, Neighbor Cities and Rural Reserves**, *protects land along the green corridors from continuous strip development to maintain their rural character and agricultural economy.*

This Title is not applicable to the subject site or proposal, as it falls entirely within the City of Portland.

- **Title 6, Central City, Regional Centers, Town Centers and Station Communities**, *enhances the Centers designated on the 2040 Growth Concept Map by encouraging development in these Centers.*

The subject site is not located within any of these designated centers. The nearest such designated center is the Lents Town Center, whose closest point is approximately ½ mile to the northeast of the site. This Title does not apply.

- **Title 7, Affordable Housing**, *recommends that local jurisdictions implement tools to facilitate development of affordable housing.*

This Title is unaffected by the proposed Comprehensive Plan Map designation, as it relates to the implementation of tools by local government bodies. Nevertheless, the proposed designations will continue to provide significant housing potential at the site, which could potentially be developed with affordable housing.

- **Title 8, Compliance Procedures**, *outlines compliance procedures for amendments to comprehensive plans and implementing ordinances.*

This proposal meets this Title by fulfilling the notice requirements for Type III land use reviews, as outlined in PCC 33.730.030 (Type III Procedure). In addition to notifying the affected city-recognized organizations and property-owners within a 400-foot radius of the site, a notice of the proposal has also been sent to Metro and to the Department of Land Conservation and Development. Therefore, the proposal is consistent with this Title.

- **Title 9, Performance Measures**, ensures that progress or lack of progress is measured in the implementation of the Urban Growth Management Functional Plan (UGMFP) and the 2040 Growth Concept.

This Title is not applicable to the requested land use action.

- **Title 10, Definitions**, defines the words and terms used in the document.

This Title is not applicable to the requested land use action.

- **Title 11, Planning for New Urban Areas**, guides planning of areas brought into the UGB for conversion from rural to urban use.

This Title is not applicable to the requested land use action.

- **Title 12, Protection of Residential Neighborhoods**, protects the region's existing residential neighborhoods from air and water pollution, noise and crime, and ensures provision of adequate levels of public services.

The requested designation will have no greater impact on air and water pollution than the existing designation on the subject site. Crime is not expected to increase and may decrease with more active use of the site by the uses allowed under the General Commercial designation. It is not expected that the uses or development allowed by the corresponding zone of the proposed General Commercial or High Density Multi-Dwelling designations will generate noise levels that are significantly greater than those generated by uses and development allowed by the existing Low Density Multi-Dwelling designation. The Title includes requirements that ensure that commercial services are conveniently located for residential areas. The General Commercial and Low Density Multi-Dwelling designations will allow the introduction of additional households, as well as commercial services at the edge of an area that is an established residential community. The proposed plan map amendment and zone change do have the possibility of impacting residential neighborhoods through traffic generated by development of the site and redistributing traffic from SE 82nd to SE Bybee, then to SE 78th and then to SE Duke. Hearings Officer comments may be found in the Policy 6.18 findings.

Summary: Overall, as noted in the discussion above (with the exception of possible traffic impacts resulting from site traffic upon SE Bybee, SE 78th and SE Duke), the requested General Commercial and High Density Multi-Dwelling designations either will support the intent of the Titles contained in the Urban Growth Management Functional Plan, or these Titles will be met through compliance with other applicable City regulations.

Goal 2, Urban Development.

Maintain Portland's role as the major regional employment, population, and cultural center through public policies that encourage expanded opportunity for, housing and jobs, while retaining the character of established residential neighborhoods and business centers.

Findings: The proposed change will result in continued opportunities to expand housing, as the High Density Multi-Dwelling designation retains the existing (unit count) housing potential at the site, and because housing is also allowed in the General Commercial zone. In addition, establishment of a General Commercial designation at the site will provide for

expanded opportunities for jobs at the property, by providing for the legalization of the existing law office, as well as for additional (future) commercial uses. By virtue of the location of the site along SE 82nd Avenue, which includes a diverse blend of commercial, residential, and even some light industrial uses, the proposed designations are respectful of the established character of the area. With retention of the existing Low Density Multi-Dwelling designation on the west end of the site, and placement of the High Density Multi-Dwelling designation between that and the proposed General Commercial designation, the request provides for a transition between future redevelopment at the site and the single-dwelling homes nearby to the west. This opportunity to buffer the separate uses and provide a transition between the two encourages the growth of both jobs and housing, while maintaining the area's character. For these reasons, the proposed designations are supportive of this overall goal.

Policy 2.1, Population Growth: Allow for population growth within the existing city boundary by providing land use opportunities that will accommodate the projected increase in city households by the year 2000.

Findings: The proposal better supports this policy than the existing zoning because High Density Multi-Dwelling designation retains the existing residential development potential at the site, while also allowing for potential housing within the area designated as General Commercial.

Policy 2.2, Urban Diversity: Promote a range of living environments and employment opportunities for Portland residents in order to attract and retain a stable and diversified population.

Findings: The existing designation provides only for low-density residential development, such as detached houses, duplexes, and townhouse or garden apartments. The existing designation of Low-Density Multi-Dwelling does not provide for employment opportunities, as commercial uses are prohibited in the R2 zone. Providing an area of High Density Multi-Dwelling designation at the site will diversify the potential housing stock that can be constructed at the site, by allowing low- and medium-rise apartments of up to approximately 5 or 6 stories (65 feet maximum height limit). The proposed General Commercial designation would provide for new commercial and employment opportunities at the site which do not exist today, as well as for the potential of mixed-use (commercial and residential) structures. The proposed designations are strongly supportive of this policy versus the existing designation.

Policy 2.3 through 2.8 (Annexation, Urban Lands, Future Urban Areas, Open Space, Willamette River Greenway Plan, Forest Lands).

Findings: These policies are not relevant to either the existing or proposed designations.

Policy 2.9 Residential Neighborhoods: Allow for a range of housing types to accommodate increased population growth while improving and protecting the City's residential neighborhoods.

Findings: For reasons similar to those under findings above for Policy 2.2, the proposed designations are supportive of this policy. Providing for a greater range of potential housing types while still maintaining the existing housing potential at the site, the proposal accommodates increased population growth within the City. Also, redevelopment of the site under the proposed designations will allow for this growth while also ensuring a transition between future commercial uses along SE 82nd and the

established residential neighborhoods west of the site. On balance, this policy is better supported by the proposed General Commercial and High Density Multi-Dwelling designations than by the existing Low Density Multi-Dwelling designation.

Policy 2.10 Downtown Portland.

Findings: This policy is not impacted by either the existing or proposed designations.

Policy 2.11 Commercial Centers: Expand the role of major established commercial centers which are well served by transit. Strengthen these centers with retail, office, service and labor-intensive industrial activities which are compatible with the surrounding area. Encourage the retention of existing medium and high density apartment zoning adjacent to these centers.

Findings: Properties directly north of the site on the west side of SE 82nd are already within a commercial designation (CM zone). Although these properties cannot be described as a major established commercial center, expanding a commercial designation on the remainder of the block will expand the future potential for this small area, which is well served by public transportation. Provision of retail, office and service uses at the site would be allowed under the proposed General Commercial designation. Provision of the High Density Multi-Dwelling designation will create a small new area of high density apartment zoning adjacent to the proposed commercial area along the block face between SE Cooper and Bybee Boulevard. The proposed designations are supportive of this policy.

Policy 2.12 Transit Corridors: Provide a mixture of activities along Major Transit Priority Streets, Transit Access Streets, and Main Streets to support the use of transit. Encourage development of commercial uses and allow labor-intensive industrial activities which are compatible with the surrounding area. Increase residential densities on residentially-zoned lands within one-quarter mile of existing and planned transit routes to transit-supportive levels. Require development along transit routes to relate to the transit line and pedestrians and to provide on-site pedestrian connections.

Findings: Southeast 82nd Avenue abutting the site is classified as a Major Transit Priority Street in the City's *Transportation System Plan*. By providing for the development of commercial activity and higher density residential development, the proposal is consistent with the intent to move towards transit-supportive development patterns. The proposed designations, while allowing for a more transit-supportive use of the site, will also provide for a transition between the new designations east of SE 81st Place and the retention of existing Low Density Multi-Dwelling areas west of SE 81st Place (and its future extension to the north). Development standards along transit streets, under either the existing or proposed designations include a requirement that new street-facing buildings be placed near the pedestrian area (sidewalk in SE 82nd). By providing for commercial opportunities and a mixture of more intensive housing types at the site, the proposed designations are more supportive of this policy than the existing designation.

Policy 2.13 Auto-Oriented Commercial Development: Allow auto-oriented commercial development to locate on streets designated as Major City Traffic Streets by the Transportation Element. Also allow neighborhood level auto-oriented commercial development to locate on District Collector Streets or Neighborhood Collector Streets near neighborhood areas where allowed densities will not support development oriented to transit or pedestrians. Where neighborhood commercial uses are located on designated transit streets, support pedestrian movement and the use of transit by locating buildings

and their entrances conveniently to transit users, pedestrians, and bicyclists and providing on-site pedestrian circulation to adjacent streets and development.

Findings: Southeast 82nd Avenue is designated as a Major City Traffic Street. The General Commercial designation would allow auto-oriented commercial development such as drive-through facilities and Quick Vehicle Servicing. Existing development standards in place at the site, regardless of the designations, ensure that buildings and entrances be oriented towards Southeast 82nd Avenue, a designated transit street, and that on-site pedestrian circulation systems be provided. The proposed area of General Commercial designation results in the proposal being more supportive of this policy than the existing designation.

Policy 2.14, Industrial Sanctuaries: Provide industrial sanctuaries. Encourage the growth of industrial activities in the city by preserving industrial land primarily for manufacturing purposes.

Findings: Because there are no existing or proposed Industrial designations at the site, this policy does not apply.

Policy 2.15 Living Closer to Work: Locate greater residential densities near major employment centers, including Metro-designated regional and town centers, to reduce vehicle miles traveled per capita and maintain air quality. Locate affordable housing close to employment centers. Encourage home-based work where the nature of the work is not disruptive to the neighborhood.

Findings: The proposed General Commercial and High Density Multi-Dwelling designations will provide new opportunities for employment opportunities near existing and future residential areas. By increasing the potential housing types allowed at the site, the proposed designations will allow for greater potential residential densities (in the High Density Multi-Dwelling designation area). Existing home occupation regulations for dwellings in a residential zone will continue to apply. The proposed designations are moderately more supportive of this policy than the existing designations.

Policy 2.16 Strip Development: Discourage the development of new strip commercial areas and focus future activity in such areas to create a more clustered pattern of commercial development.

Findings: Southeast 82nd Avenue is an area of the City often associated with strip commercial development, where extended linear segments of the street are already developed with low-density, automobile-oriented commercial development. Although the proposed designations would increase the amount of commercial potential along this street, current development standards seek to ensure that development is oriented towards the pedestrian environment. Several nearby properties to the north and south of the site along SE 82nd Avenue may be characterized as strip development, with extended segments of low-intensity, auto-oriented commercial development. The proposed General Commercial designation is contrary to this policy.

Policy 2.17 Transit Stations and Transit Centers.

Findings: The site is not within one-half mile of a transit station, nor within one-quarter mile of a transit center. This policy is not impacted by the proposal.

Policy 2.18 Transit-Supportive Density.

Findings: Because this is an individual quasi-judicial proposal, and not a community planning process, this policy is not impacted by the proposal.

Policy 2.19 Infill and Redevelopment: Encourage infill and redevelopment as a way to implement the Livable City growth principles and accommodate expected increases in population and employment. This policy seeks to encourage infill and redevelopment in the Central City, at transit stations, along Main Streets and as neighborhood infill in existing residential, commercial and industrial areas.

Findings: Both the existing and proposed designations provide for infill and redevelopment opportunities at the site. However, by proposing a General Commercial designation on a portion of the site, the proposal encourages and allows employment opportunities at the site which do not exist today. By continuing to provide for infill housing opportunities as well as new employment development, the proposed designations are more supportive of this policy than the existing designation.

Policy 2.20 Utilization of Vacant Land: Provide for full utilization of existing vacant land except in those areas designated as open space.

Findings: Both the existing and proposed designations are equally supportive of this policy, as zoning standards provide for the full utilization of existing vacant land at the site.

Policy 2.21 Existing Housing Stock: Provide for full utilization of larger single-family homes with conditions that preserve the character of the neighborhood and prevent speculation.

Findings: The existing and proposed designations at the site do not impact this policy.

Policy 2.22 Mixed Use: Continue a mechanism that will allow for the continuation and enhancement of areas of mixed use character where such areas act as buffers and where opportunities exist for creation of nodes or centers of mixed commercial, light industrial and apartment development.

Findings: The proposed General Commercial designation will provide for new mixed-use development opportunities, as single structures could be created that contain both commercial and residential (apartment) development. Establishment of the General Commercial designation at the site is supportive of this policy.

Policy 2.23 Buffering: When residential zoned lands are changed to commercial, employment, or industrial zones, ensure that impacts from nonresidential uses on residential areas are mitigated through the use of buffering and access limitations. Where R-zoned lands had a C, E, or I designation, and the designation includes a future Buffer overlay zone, zone changes will be granted only for the purpose of expanding the site of an abutting nonresidential use.

Findings: The area proposed for the General Commercial designation is located on the east and south portions of the site, with access only via either SE 82nd Avenue or Bybee Boulevard. No specific buffering limitations have been proposed, although development standards will require that a landscaped area with high shrubs (5' deep to the L3 standard) be provided abutting the residentially-zoned lots. Development standards related to the transit street designation of SE 82nd Avenue will require that future buildings be placed relatively close to SE 82nd Avenue. Likely future development of the

General Commercial area would include parking areas on the western edge, between future non-residential uses and the abutting residential zones, although the existence of no minimum parking requirement does not absolutely ensure this result. Although some buffering is provided by the lack of direct vehicle access from the proposed commercial areas to the east, as well as by landscaping and setbacks that would be required from the residential area, no additional buffering or access limitations have been proposed. For these reasons, the proposed designations are somewhat less supportive of this policy versus the existing designation.

Policies 2.24 through 2.26 (Terwilliger Parkway Corridor Plan, Central City Plan, Albina Community Plan).

Findings: Both the existing and proposed designations have no impact on these policies.

Policy 2.27 Outer Southeast Community Plan: Promote the economic vitality, diverse residential character, environmental quality, and livability of Outer Southeast Portland by including the Outer Southeast Community Plan as part of this Comprehensive Plan.

Findings: The site is located within the boundaries of the Outer Southeast Community Plan, which was included as part of the Comprehensive Plan in January, 1996 (Ordinance # 169763). Relevant policies and objectives of the Outer Southeast Community Plan are addressed below in the findings for *Policy 3.9, Outer Southeast Community Plan Neighborhoods and Business Plan.*

Goal 3, Neighborhoods.

Preserve and reinforce the stability and diversity of the City's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses and insure the City's residential quality and economic vitality.

Findings: The proposed designations will provide for increased residential density on a portion of the site, as well as for new business opportunities. The commercial designation is supportive of this goal because it will expand the allowed uses on the site, encouraging growth and redevelopment that will contribute to neighborhood stability. The opportunity for mixed-use development will preserve and reinforce neighborhood diversity. The General Commercial and High Density Multi-Dwelling designations are more supportive of this overall policy than the existing single designation of Low Density Multi-Dwelling.

Policies 3.1 through 3.5 (Physical Conditions, Social Conditions, Neighborhood Diversity, Historic Preservation, Neighborhood Involvement).

Findings: These policies are not relevant, as they relate to the establishment and coordination of governmental efforts with regards to neighborhoods.

Policy 3.6 Neighborhood Plan: Maintain and enforce neighborhood plans that are consistent with the Comprehensive Plan and that have been adopted by City Council.

Findings: The Brentwood-Darlington Neighborhood Plan (BDNP) was adopted by City Council in January, 1992 (Ordinance #165071). The proposed designations are consistent with Policy 4 (Housing) of the BDNP by providing additional opportunities for new housing for people of all ages and income levels, by promoting new housing development on vacant properties, and by supporting new multifamily development on underutilized sites. The proposed designations are consistent with Policy 5 (Land Use)

of the BDNP by providing for new commercial and higher-density multi-family housing opportunities on land that is not developed predominantly with single-dwelling structures. Policy 6 (Business and Industry) of the BDNP is supported by the proposed General Commercial designation at the site, which will encourage professional legal services to locate and expand in the neighborhood, as well as by providing for increased employment opportunities for an existing business. With the exception of the possibility of additional traffic being diverted to residential neighborhoods (See findings for Policy 6.18) the proposed designations are somewhat more supportive of the BDNP than the existing designations, because additional employment opportunities and desirable professional services are likely to result, and because the designations do not occur on land already developed with existing single-family homes.

Policy 3.7 Visual Communication.

Findings: This policy relates to safe and attractive signage in the community, and is not impacted by the proposal.

Policy 3.8 Albina Community Plan Neighborhoods.

Findings: This policy is not relevant to the proposal.

Policy 3.9 Outer Southeast Community Plan Neighborhoods and Business Plan: Include as part of the Comprehensive Plan neighborhood and business plans developed as part of the Outer Southeast Community Plan.

Findings: The Brentwood Darlington Neighborhood Plan was developed prior to the Outer Southeast Community Planning Process, and has been addressed under Policy 3.6, earlier in this recommendation. By applying the General Commercial designation at the property, the proposal is consistent with the Vision Statement in the Outer Southeast Business Plan, which seeks in part to increase the level of commercial activity, job creation, and investment in the area. Similarly, the proposed General Commercial designation is consistent with Policy 1 of the Outer Southeast Business Plan by building and developing existing commercial activity. By adding a commercial designation where none exists today, the proposal is more supportive of the Outer Southeast Business Plan than the existing designation.

Policy 3.10 Northwest District Plan.

Findings: This policy is not relevant to the proposal.

Goal 4 Housing

Enhance Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodate the needs, preferences and financial capabilities of current and future households.

Policy 4.1 Housing Availability: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of Portland's households now and in the future.

Policy 4.2 Maintain Housing Potential: Retain housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. When considering

requests for amendments to the Comprehensive Plan Map, require that any loss of potential housing units be replaced.

Findings: The proposed designations at the site will continue to provide housing opportunities at the site, without any net reduction in total housing potential at the site. The “no net loss” housing policy is met with this proposal, as will be considered in greater detail under findings for criterion 33.810.050.A.2, later in this recommendation. The existing and proposed designations are equally supportive of this policy.

Policies 4.3 through 4.9 (Sustainable Housing, Housing Safety, Housing Conservation, Housing Quality, Balanced Communities, Regional Housing Opportunities, Fair Housing).

Findings: The existing and proposed designations at the site, because there is no net loss in overall housing potential, have no impact on these policies.

Policy 4.10 Housing Diversity: Promote creation of a range of housing types, prices, and rents to 1) create culturally and economically diverse neighborhoods; and 2) allow those whose housing needs change to find housing that meets their needs within their existing community.

Findings: The proposed High Density Multi-Dwelling designation, by increasing the diversity of potential housing structure types at the site, is slightly more supportive of this policy than the existing designation

Policies 4.11 through 4.15 (Housing Affordability, Housing Continuum, Humble Housing, Neighborhood Stability, Regulatory Costs and Fees)

Findings: The existing and proposed designations at the site, because there is no net loss in overall housing potential, have no impact on these policies.

Goal 5 Economic Development

Foster a strong and diverse economy which provides a full range of employment and economic choices for individuals and families in all parts of the City.

Findings: As detailed below, the proposal, on balance, equally or better supports Goal 5 than the existing designation.

Policy 5.1 Urban Development and Revitalization: Encourage investment in the development, redevelopment, rehabilitation and adaptive reuse of urban land and buildings for employment and housing opportunities.

Findings: The proposal supports this policy as it encourages investment in redeveloping a currently underutilized site and allows adaptive reuse that will foster new employment and housing opportunities. The existing designation provides only for low density residential development, and does not provide for employment or commercial activity. Therefore, the proposed General Commercial and High Density Multi-Dwelling designations better support this policy than the existing designation.

Objectives: A. Ensure that there are sufficient inventories of commercially and industrially zoned buildable land supplied with adequate levels of public and transportation services.

Policy 5.2 Business Development: Sustain and support business development activities to retain, expand and recruit businesses.

Findings: Because the proposed General Commercial designation allows for mixed-use and commercial business development activities, it provides for the retention and expansion of the existing law office at the site. In addition, the proposed commercial designation will allow for future commercial structures, that could potentially be used to recruit new businesses to the neighborhood. Because the proposed designation allows commercial uses outright, unlike the existing residential designation, the proposal has the potential to more readily recruit new business opportunities to the site, and is therefore more supportive of this policy.

Policies 5.3 through 5.12 (Community-Based Economic Development, Transportation System, Infrastructure Development, Area Character and Identify within Designated Commercial Areas, Business Environment within Designated Commercial Areas, Diversity and Identity in Industrial Areas, Protection of Non-industrial Lands, Columbia South Shore, Science and Technology Quarter, Guild's Lake Industrial Sanctuary Plan)

Findings: The above policies are not relevant to either the existing or proposed designations because they address community or government-directed actions related to business development activities, infrastructure development, industrial areas, or programs targeted to specific locations off the site.

Goal 6 Transportation

Develop a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution, and lessens reliance on the automobile while maintaining accessibility.

Findings: The Development Review Division of Portland Transportation reviews Comprehensive Plan Map Amendment requests for conformance with applicable policies of Goal 6. Their response to these issues follows below.

Street Classification Designations for Surrounding Streets

Southeast 82nd Avenue is designated a Major City Traffic Street, Major Transit Priority Street, City Walkway, Major Truck Route, Major Emergency Response Street, and a Regional Corridor in the Transportation Street Plan. SE 82nd Avenue is a City right-of-way with access control under the jurisdiction of ODOT. Southeast Bybee Blvd and SE 81st Place are classified as a Local Service Streets for all modes.

Conformance with Transportation Policies

Comprehensive Plan Map Amendments must be reviewed against applicable Transportation Policies in the Transportation System Plan.

Policies 6.1 through 6.17 (Coordination and Involvement Policies, Street Classification and Description Policies)

Findings: Classifications for the surrounding streets are outlined above. Applicant's discussion in the narrative showing conformance with these policies is sufficient to demonstrate compliance.

Policy 6.18 Adequacy of Transportation Facilities

Applicant should address how the transportation facilities related to the proposed development are consistent with the identified function, capacity and level service of the facility.

Findings: The applicant provided a revised Traffic Impact Study prepared by Lancaster Engineering dated December 2005. One requirement of a traffic study for a Comprehensive Plan Map Amendment is to look at a 20 year planning horizon. That means the study would predict levels of service at study intersections out to the year 2024. The submitted study only looked out till the year 2020. The study looked at the projected transportation impacts to SE 82nd and SE Bybee based on site build out with the uses allowed by the proposed zone change from R2 to CG. It analyzed the impacts with access to the site limited to SE Bybee and some limited direct access to SE 82nd. The increase in vehicle trips that would occur with the proposed zone change averages a 10-fold increase over the R2 base zone. Vehicle trips projected with R2 compliant development (47 apartments) would likely result in 316 weekday trips with 24 of those trips occurring in the AM Peak Hour and 29 in the PM Peak Hour. With full build out under the proposed CG zoning, there would be 3,714 trips during the weekday with 233 in the AM Peak Hour and 362 in the PM Peak Hour. The majority of those trips would be generated by the potential to build 50,000 sq. ft. of retail use in addition to 100 apartments, 5 single-family homes, and 50,000 sq. ft. of office.

At unsignalized intersections such as SE 82nd and SE Bybee Blvd, the City's Level of Service (LOS) standard is LOS E or better. For the Oregon Department of Transportation (ODOT), the standard is a Volume-to-Capacity ratio (VC) of .095 to 1. This intersection is under the jurisdiction of both the City of Portland and ODOT.

A representative of ODOT testified at the initial public hearing (January 18, 2006) that the applicant's original application and traffic study did not meet the Oregon Transportation Rule because the maximum v/c ratio for SE 82nd had not been met. (See Auth memo attached to Exhibit H.6) ODOT reviewed additional information submitted by the applicant's traffic consultant and considered suggestions made by representatives of Portland Transportation. Portland Transportation suggested that "site egress trips" be "headed northbound through SE Bybee Street to SE 78th Avenue to SE Duke Street to OR 213. This redistribution of traffic would eliminate the critical movement (eastbound to northbound un-signalized left-turn movement) that cause the OR 213/SE Bybee Street intersection not to meet City and ODOT's standards." ODOT recommended conditions of approval be attached if "the City of Portland decides to go forth with the proposed zoning and comprehensive plan map amendments." (See Auth memo attached to Exhibit H.6)

Portland Transportation agreed with ODOT that if a median is installed "the intersection of Bybee and 82nd will meet ODOT and City standards for volume/capacity and levels of service. PDOT has no objection to ODOT's recommended condition regarding the median and related improvements to 82nd and Bybee contained in their response dated March 27, 2006." (Exhibit H.7) However, the Hearings Officer notes that Portland Transportation did not fully endorse the application just because it agreed with ODOT's finding that, with conditions, the application complied with the Transportation Planning Rule. Portland Transportation indicated that because of a lack of analysis of PDOT's suggested "caps" on square footage for the office and retail uses and, more importantly because of the lack of notice to neighbors along SE 78th and SE Duke (including the Portland Public elementary school) and an opportunity for those neighbors to comment it (PDOT) could not support the proposed comprehensive map amendment and zone change. (Exhibit H.7)

The applicant submitted information that notice had been provided to impacted neighbors related to the diversion of traffic from the subject property to SE 78th and

then to SE Duke. (See Exhibit H.8, attachments) The notices, in the form of emails from the applicant, include a clear statement that traffic would be redistributed from SE 82nd (at the subject property location) onto SE 78th and SE Duke and would impact surrounding neighbors; including the Woodmere Elementary School. The applicant received a response from a neighbor (address – 6343 SE 61st) and the principal of Woodmere Elementary School. Both responses indicated support for the comprehensive plan map amendment and zone change.

The Hearings Officer found that the Oregon Transportation Planning Rule may be satisfied by the imposition of a condition in the form suggested by ODOT. (See Exhibit H.6) However, the Hearings Officer was unable to find that the applicant had adequately addressed how the transportation facilities relate to the proposed development *if* the condition, as recommended by ODOT, is implemented. The hearing notices provided by the applicant per the Portland City Code prior to the City Council hearings did not address redistributing traffic from the proposed development to SE 78th and SE Duke. Neighbors, especially those located along SE 78th, could not tell from the pre-Council legal notices provided in this case, that this application would increase traffic on their local/neighborhood street. Both ODOT and PDOT commented that the applicant should solicit comments from potentially impacted neighbors. (Exhibit H.6 and H.7) The Hearings Officer noted that the applicant made an attempt to contact *some* neighbors, but there is no evidence in the record that such notice was provided to *all* potentially impacted neighbors. The Hearings Officer found that notice must be provided to at least *all* impacted neighbors along SE 78th between SE Bybee and SE Duke. The Hearings Officer recommended that the applicant provide notice to all neighbors with the required notice area in addition to those on SE 78th.

Prior to the City Council hearing, property owners and school district representatives for Woodmere Elementary were notified of the hearing date and time, and the notice included a description of the location and amount of potential cut-through neighborhood traffic. After the first hearing on June 22, 2006, City Council directed the applicant to work with staff, concerned neighbors, and the school district to come up with an acceptable creative solution. After several meetings with interested school district and agency staff, the applicant agreed to a condition of approval limiting development at the site to that which would create no more than 30 PM peak hour trips, which is equivalent to that allowed under the current zoning. Development beyond that amount would require a future land use review to evaluate potential transportation impacts, as well as a median or other mitigation measures as required by the State Traffic Engineer (ODOT).

City Council finds, with the conditions of approval as recommended by Portland Transportation on September 1, 2006, that the proposal is supportive of Policy 6.18.

Policy 6.20 Connectivity

Findings: Creating street connectivity, where appropriate, will be required. As a condition of future development, regardless of the designations, the existing dead-end SE 81st Place will be required to be extended to the northern boundary of the site. With this extension of SE 81st Place, the connectivity policy can be met.

Policy 6.22 Pedestrian Transportation

The applicant should address how the new development will increase and/or improve pedestrian transportation, including access to and through the site.

Findings: SE 82nd Avenue is a City Walkway, all other streets abutting the site are designated Local Service Walkways. Improvements to the pedestrian facilities will be required with the development of the site.

Policy 6.23 Bicycle Transportation

The applicant should address how the new development will increase and/or improve bicycle transportation.

Findings: All other streets abutting the site are designated Local Service Bikeways. Future street improvements that will serve the needs of bicyclists will be required with development of the site, regardless of the designations.

Policies 6.25, 6.26 and 6.27 On and Off-Street Parking Management

Findings: Future development of the site will have to meet the applicable provisions of Title 33 for on-site parking, regardless of the designations.

Policy 6.30 Truck Movement

Findings: Southeast 82nd Avenue is designated a Major Truck Street. The proposal is consistent with the Transportation System Plan.

Policy 6.37 Southeast Transportation District

Findings: Applicant's discussion in the narrative showing conformance with this policy is sufficient to demonstrate compliance.

Summary Finding/Recommendation from Portland Transportation regarding Goal 6: The Development Review Division of Portland Transportation recommends approval of the request based on the recommended conditions of approval in their September 1, 2006 memorandum (Exhibit I.12).

Goal 7 Energy

Promote a sustainable energy future by increasing energy efficiency in all sectors of the city by ten percent by the year 2000.

Findings: This goal and its policies require action on the part of the city and therefore are not applicable to this proposal.

Goal 8 Environment

Maintain and improve the quality of Portland's air, water and land resources and protect neighborhoods and business centers from detrimental noise pollution.

Findings: This goal addresses governmental objectives with regards to air and water quality, protection of open spaces and other unique environmental resources which are not present on the site, and noise or RF emission issues which are not applicable to the site. This goal and its attendant policies are not directly applicable to either the existing or proposed designations.

Goal 9 Citizen Involvement

Improve the method for citizen involvement in the on-going land use decision-making process and provide opportunities for citizen participation in the implementation, review and amendment of the adopted Comprehensive Plan.

Policy 9.1 Citizen Involvement Coordination: Encourage citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations, through the reasonable availability of planning reports to city residents and businesses, and notice of official public hearings to neighborhood associations, business groups, affected individuals and the general public.

Policy 9.3 Comprehensive Plan Amendment: Allow for the review and amendment of the adopted Comprehensive Plan which insures citizen involvement opportunities for the city's residents, businesses and organizations.

Findings: The city and the applicant have complied with the mandated neighborhood notification requirements identified in the Portland Zoning Code. This includes posting the site with a description of the proposal at least 30 days before the hearing; mailing affected property-owners, neighborhood associations, district coalition offices, and business associations a written description of the proposal (with exhibits) and notifying them of the opportunity to comment on the proposal; and holding public hearings before the Hearings Officer and City Council.

The Hearings Officer noted, however, that notices provided, as referenced above, did not contain information relating to the redistribution of traffic from SE 82nd (at the subject site) to SE 78th and then to SE Duke. The Hearings Officer found that potentially significant impacts to neighbors (especially along SE 78th between SE Bybee and SE Duke) could result from the ODOT mandated redistribution of traffic. The Hearings Officer found that approving the comprehensive plan map amendment and zone change, with a condition as recommended by ODOT, without the opportunity for neighbor comment would not be consistent with the applicable Goal 9 policies. To address this issue, the mailed public notice of the hearing before City Council was mailed to property owners along SE Bybee, SE 78th, and SE Duke in the area of potential cut-through traffic, several of whom attended the initial Council hearing on June 22, 2006. Based on this additional notification and opportunities for public involvement, the proposal is consistent with Goal 9.

Goal 10 Plan Review and Administration

Portland's Comprehensive Plan will undergo periodic review to assure that it remains an up-to-date and workable framework for land use development. The Plan will be implemented in accordance with State law and the Goals, Policies and Comprehensive Plan Map contained in the adopted Comprehensive Plan.

Findings: As indicated below in response to the applicable policies, the proposed designations will be equally or better supportive of this goal as compared with the existing designation.

Policy 10.7, Amendments to the Comprehensive Plan Map: Quasi-judicial amendments to the Comprehensive Plan Map will be reviewed by the Hearings Officer prior to City Council action, using procedures stated in the zoning code. For quasi-judicial amendments, the burden of proof for the amendment is on the applicant. The applicant must show that the requested change is: (1) Consistent and supportive of the appropriate Comprehensive Plan Goals and Policies, (2) Compatible with the land use pattern established by the Comprehensive Plan Map, (3) Consistent with the Statewide Land Use Planning Goals, and (4) Consistent with any adopted applicable area plans adopted as part of the Comprehensive Plan.

Findings: 1) *Consistent and supportive of the appropriate Comprehensive Plan Goals and Policies.*

The approval criteria contained in PCC 33.810.050.A requires the applicant to demonstrate the requested amendment equally or better supports applicable goals and policies of the Comprehensive than the existing designation. As detailed in the findings included in this decision, with the exceptions of Policy 2.16 and Policy 2.23, the applicant has demonstrated that the proposed designations are consistent and supportive of the relevant goals and policies.

2) *Compatible with the land use pattern established by the Comprehensive Plan Map.*

The existing Comprehensive Plan Map designation for this site was placed with the conversion of existing zoning in the area to current zoning designations with adoption of the Outer Southeast Community Plan in March, 1996. Prior to this, the site was zoned entirely R2 (Low Density Multi-Dwelling) between that time and January of 1991. Prior to the major "Code Re-Write" project which was effective December 31, 1990, the property was in a multi-family zoning designation (MR4) on the western majority of the site, with a commercial zoning designation (SC) on the first 100 feet west of SE 82nd Avenue. The three parcels in question, along with the closest few parcels to the west, have consistently been zoned for slightly higher density than the single-dwelling neighborhoods to the west.

The proposed designations are consistent with the traditional land use pattern of the Comprehensive Plan Map, in that the property has always been zoned for a somewhat higher density of development than surrounding neighborhoods to the west, most likely due to the low intensity of development (and therefore redevelopment potential). By modifying the Comprehensive Plan Map as proposed, the site retains a "step-down" or gradation from the traditionally more intensive pattern of development along SE 82nd towards the lower-density residential areas west of the site. After the northward extension of SE 81st Place, which would be required regardless of the proposed designations, this new street will act as an additional buffer between the higher residential densities and commercial activity east of the street, and the established lower residential densities to the west. With existing commercial zoning directly north of the site along SE 82nd, employment zoning to the south, and multi-dwelling residential zoning to the east, the zoning pattern of the surrounding area is already of a mixed character, consistent with the proposed designations.

3) *Consistent with the Statewide Land Use Planning Goals.*

The requested Comprehensive Plan Map amendment is consistent with the applicable Statewide Land Use Planning Goals, since the State Land Conservation and Development Commission (LCDC) has acknowledged the City's *Comprehensive Plan*, and the city goals mentioned in "LCDC and Comprehensive Plan Considerations" are comparable to the statewide planning goals, as follows: City Goal 1 is the equivalent of State Goal 2 (Land Use Planning); City Goal 2 addresses the issues of State Goal 14 (Urbanization); and City Goal 3 deals with local issues of the neighborhoods. Additionally, the following city and state goals are similar: City Goal 4 - State Goal 10 (Housing); City Goal 5 - State Goal 9 (Economic Development); City Goal 6 - State Goal 12 (Transportation); City Goal 7 - State Goal 13 (Energy Conservation); City Goal 8 - State Goals 5, 6, and 7 (Environmental Impacts); and City Goal 9 - State Goal 1 (Citizen Involvement). Further, City Goal 10 addresses city plan amendments and rezoning, and City Goal 11 is similar to State Goal 11 (Public Facilities and Services).

4) *Consistent with any adopted applicable area plans adopted as part of the Comprehensive Plan.*

The site is located within the boundaries of the adopted Outer Southeast Community Plan and the Brentwood-Darlington Neighborhood Plan.

As detailed earlier in this recommendation in findings for Policies 3.6 (Neighborhood Plans) and 3.9 (Outer Southeast Community Plan), on balance the proposed designations equally or better support these two adopted plans.

Policy 10.8, Zone Changes: Base zone changes within a Comprehensive Plan Map designation must be to the corresponding zone stated in the designation. When a designation has more than one corresponding zone, the most appropriate zone will be applied based on the purpose of the zone and the zoning and general land uses of surrounding lands. Zone changes must be granted when it is found that public services are presently capable of supporting the uses allowed by the zone, or can be made capable prior to issuing a certificate of occupancy. The adequacy of services is based on the proposed use and development. If a specific use and development proposal is not submitted, services must be able to support the range of uses and development allowed by the zone. For the purposes of this requirement, services include water supply, sanitary sewage disposal, stormwater disposal, transportation capabilities, and police and fire protection.

Findings: See the service adequacy-related findings under the approval criteria for 33.855.050, Zoning Map Amendments, in Section B, later in this recommendation. The existing R2 zoning designation corresponds to the Low Density Multi-Dwelling Comprehensive Plan Map designation. The proposed RH zoning corresponds to the High Density Multi-Dwelling Comprehensive Plan Map designation. The proposed CG zoning corresponds to the proposed General Commercial Comprehensive Plan Map designation.

Goal 11 Public Facilities

(11 A) Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.

Findings: The policies contained in Goal 11 refer to the provision of public infrastructure and facilities, orderly land development, and governmental efforts with regards to parks, street, and capital improvement planning. Adequacy of public services for this specific zone change has been addressed elsewhere in this recommendation, under findings for Policy 6.18, for example, and under the criteria for the requested Zoning Map Amendment.

Goal 12 Urban Design

Enhance Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a sustainable legacy of quality private developments and public improvements for future generations.

Findings: The required development standards, whether under the zone that corresponds to the existing Comprehensive Plan Map designation or the proposed designation, ensure that the relevant design issues identified in this goal are met. The development standards of the corresponding zones for both existing and proposed designations regulate where buildings may be placed on the site, setbacks, site coverage, building height, minimum window area, location of entrances, pedestrian circulation systems, landscaping and screening. These standards are intended to create

desirable and livable areas that are aesthetically pleasing, and to ensure that development will be compatible with the envisioned character of the area and the city.

Summary Finding for Comprehensive Plan Goals and Policies (33.810.050.A.1):

Based on the above findings, the requested Comprehensive Plan Map designations are, with conditions of approval recommended by Portland Transportation on September 1, 2006, generally more supportive of the applicable Comprehensive Plan Goals and Policies as compared to the existing designation. With the condition of approval requiring a future land use review to evaluate transportation impacts and the construction of ODOT-required improvements for development beyond approved "tier 1" levels, Council finds that this criterion is met.

33.810.050.A.2. When the requested amendment is:

- From a residential Comprehensive Plan Map designation to a commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation; or
- From the urban commercial Comprehensive Plan Map designation with CM zoning to another commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation;

the requested change will not result in a net loss of potential housing units.

Findings: The proposal does designate 52,159 square feet of land currently in a residential designation to a commercial designation. The proposal also involves changing 21,078 square feet of land from the Low Density Multi-Dwelling (R2) to the High Density Multi-Dwelling (RH) designation. At sections 33.810.050.A.2.a-b, this criterion provides a formula for the calculation of lost potential housing units and how to gain potential housing units.

For the 52,159 square feet going from R2 to CG, the code requires a calculation based on the maximum density of the R2 zone. The maximum density of the R2 zone is one dwelling unit per 2,000 square feet of site area. With a land area in transition of 52,159 square feet, this amounts to a net loss of 26.0795 potential housing units. For maximum density measurements involving numbers of 11.01 or larger, fractions of less than .50 are rounded down to the next whole number (33.930.020.B.2.c). The potential lost housing units in the area going from R2 to CG, therefore, is 26 units.

For the 21,078 square feet going from R2 to RH, the existing potential housing units under R2 amounts to 10.5375 housing units (2,000 square feet per unit). For maximum density measurements involving amounts between 4.01 and 10.99, fractions of less than .75 are rounded down to the next whole number. The existing potential housing units in the area going from R2 to RH, therefore, amount to 10 units.

The potential housing in this same area of proposed RH zoning, because maximum density in the RH zone is regulated by floor area limits versus unit density, must be measured per this criterion at 900 square feet per unit and the maximum floor area ratio is used. In the RH zone, the maximum floor area ratio is 2:1. In summary, given the 21,078 square feet of land, the maximum potential housing units in the RH zone is 46.84 units ($21,078 * 2 = 42,156 / 900 = 46.84$). Because this number is greater than 11.01, and the fraction exceeds .51, the potential (RH) housing units is 47 units.

In summary, there are 26 potential lost housing units in the area going from a residential to a commercial designation. In the area going from R2 to RH the existing density allows for 10 units, and the potential RH density calculation amounts to 47 units, for a net increase of 37 potential housing units. Because the proposed designations per this criterion results in a loss of 26 potential housing but a net increase of 37 potential units, there is no net loss in potential housing units. This criterion is met.

33.810.050.A.3 - When the request is for a site within the Guild's Lake Industrial Sanctuary plan district and involves a change from the Industrial Sanctuary designation to any other designation, in order to prevent the displacement of industrial uses and preserve land primarily for industrial uses, the following criteria must also be met:

Findings: This site is not located within the boundaries of the Guild's Lake Industrial Sanctuary Plan District. Therefore, this criterion does not apply.

PART B. ZONING MAP AMENDMENT

33.855.010 Purpose of Zoning Map Amendment Reviews

This chapter states the procedures and approval criteria necessary to process an amendment to the base zones, overlay zones, plan districts, and other map symbols of the Official Zoning Maps. The chapter differentiates between amendments which are processed in a quasi-judicial manner and those processed in a legislative manner. A discussion of quasi-judicial and legislative is found in 33.700.070.

33.855.050 Approval Criteria for Base Zone Changes

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

- A. Compliance with the Comprehensive Plan Map.** The zone change is to a corresponding zone of the Comprehensive Plan Map.
1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.
 2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.
 3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.

Findings: The High Density Multi-Dwelling designation has only one corresponding zone, and this (RH) zone is proposed for the area within this designation. The General Commercial designation has only one corresponding zone, and this (CG) zone is proposed for the area within this designation. There are no Buffer overlay zoning designations on the Comprehensive Plan Map for the site. There are no proposed

changes from a higher-density residential zone to a lower-density residential zone, or from the CM to the CS zone. Based on these considerations and the proposed zoning maps, this criterion is met.

B. Adequate public services. Public services for water supply, transportation system facilities and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete, and proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services.

1. Adequacy of services applies only to the specific zone change site.
2. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands. Service demands may be determined based on a specific use or development proposal, if submitted. If a specific proposal is not submitted, determination is based on City service bureau demand projections for that zone or area which are then applied to the size of the site. Adequacy of services is determined by the service bureaus, who apply the demand numbers to the actual and proposed services to the site and surrounding area.

Findings: For purposes of this review, the service demands for the subject site were based on projections for uses and densities allowed under the proposed CG and RH zones, and not on a specific development proposal. As indicated below, the Bureaus of Environmental Services, Transportation, Fire, Water and Police have responded with information about services at this location. With the condition of approval requested by Portland Transportation, each relevant service agency (bureau) notes that adequate existing services are available for the anticipated level of use(s) that may occur under the proposed zoning designation.

Water Supply: The Water Bureau has reviewed the proposal, and responded that there are no issues with regards to water-related service adequacy (Exhibit E.8). The applicant will be required to obtain any necessary permits or water connections at the time of development at the site, as is the case under the existing zoning designations.

Transportation System Facilities and Capacity: The City Council incorporates the findings from Policy 6.18 above; the findings for this approval criteria are satisfied for the reasons set forth in the Policy 6.18 findings.

Police and Fire Protection: Staff from both the Portland Police Bureau and the Portland Fire Bureau have reviewed the proposal for adequacy of services with regards to police and fire protection, and have neither objected nor requested conditions of approval in regards to service adequacy (Exhibits E.3.a and E.4.a).

Sanitary Waste Disposal and Stormwater Disposal Systems: The Bureau of Environmental Services has reviewed the proposal, and notes that existing sanitary sewers are available to serve future development at the site, but that no public storm sewers are available (Exhibit E.1.a). Future development at the site and in adjacent rights-of-way will have to comply with adopted stormwater-related treatment and disposal regulations, regardless of the existing or proposed zoning designations at the site.

3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

Findings: The requested rezoning is not to IR, Institutional Residential, so this criterion does not apply.

33.855.060 Zoning Map Amendment Approval Criteria for Other Changes

In addition to the base zones and Comprehensive Plan designations, the Official Zoning Maps also show overlay zones, plan districts, and other items such as special setback lines, recreational trails, scenic viewpoints, and historic resources. Amendments to all of these except historic resources and the creation of plan districts are reviewed against the approval criteria stated in this section. Historic resources are reviewed as stated in Chapter 33.846, Historic Reviews. The creation of a new plan district is subject to the approval criteria stated in 33.500.050. An amendment will be approved (either quasi-judicial or legislative) if the review body finds that all of the following approval criteria are met:

- A. Where a designation is proposed to be added, the designation must be shown to be needed to address a specific situation. When a designation is proposed to be removed, it must be shown that the reason for applying the designation no longer exists or has been addressed through other means;
- B. The addition or removal is consistent with the purpose and adoption criteria of the regulation and any applicable goals and policies of the Comprehensive Plan and any area plans; and
- C. In the Marquam Hill plan district, relocation of a scenic viewpoint must be shown to result in a net benefit to the public, taking into consideration such factors as public access, the quality of the view, the breadth of the view, and the public amenities that are or will be available.

Findings: The applicant has proposed to remove the “a” or Alternative Design Density overlay zone in the areas going from the R2 to RH and CG zoning. Because the “a” overlay zone has no effect on projects in the RH or CG zones (33.405.030), the reason for applying this designation no longer exists. The site is not within the Marquam Hill plan district. Therefore, these criteria are 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. Any plans submitted for future building or zoning permits 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.

Whether or not the Comprehensive Plan Map and Zoning Map amendment is approved, the City Engineer will require that existing street frontage be brought up to current City standards at the time of additional development on the site. Those improvements will likely include the following:

SE 82nd Avenue: Dedicate 10-ft and construct a 6-ft wide sidewalk separated from the curb by a 4-ft wide furnishing zone.

SE Bybee Blvd: Dedicate a minimum of 7-ft of right-of-way and construct a curb located 16-ft from the centerline, 8-9-ft wide stormwater swale/planting strip, 6-ft wide sidewalk, street trees, street lighting, and public stormwater facilities as needed.

SE 81st Place: Dedicate 20-ft of right-of-way and construct a curb located 16-ft from the centerline, 8-9-ft wide stormwater swale/planting strip, 6-ft wide sidewalk, street trees, street lighting, and public stormwater facilities as needed.

Street improvements must be constructed under a separate street job permit issued by the City Engineer as a condition of building permit approval.

Compliance with the City's *Stormwater Management Manual*, including the stormwater destination and disposal hierarchy, is a mandatory requirement that applies to all development and redevelopment projects.

III. CITY COUNCIL CONCLUSIONS

The applicant has proposed two new Comprehensive Plan and Zoning Map designations at a large, three-parcel site at the northwest corner of the intersection of SE 82nd Avenue and Bybee Boulevard, in the Brentwood-Darlington Neighborhood. The entire site is presently within the R2 zone, which allows only residential uses at relatively low densities, and commercial uses are prohibited. The requested Comprehensive Plan Map designations are, with the exceptions of Policy 2.16 (Strip Development), Policy 2.23 (Buffering), generally more supportive of the applicable Comprehensive Plan Goals and Policies as compared to the existing designation. However, the Hearings Officer found that Public Involvement by those potentially impacted by additional traffic generated by the subject site and diverted from SE 82nd (at the subject site) to SE 78th and to SE Duke is important and it is necessary to provide such impacted neighbors an opportunity to comment on this proposal. Further, the potential traffic impacts from the redistribution of traffic from SE 82nd (at the subject site) may be significant.

Prior to the City Council hearing, mailed public notices were provided to all property owners along nearby streets that potentially faced additional "cut-through" neighborhood traffic. Several individuals residing on these streets, as well as a representative of the school district, testified at the initial City Council hearing with concerns about the potential neighborhood traffic impacts associated with the proposal. At the initial Council hearing on June 22, 2006, City Council directed the applicant to work proactively with interested neighbors, the school district, and agency staff to seek creative solutions to transportation-related concerns.

Following this directive, the applicant proposed a phased or tiered approach to development at the site, requesting that a limited "tier 1" of development be considered separately from a future "tier 2" level of development. Tier 1 would include the legalization of the under-construction office building, which the applicant states includes no more than 6,039 square feet, as well as approximately 38 dwelling units. As supported by an amended report from the applicant's traffic engineer, and with the support of both Portland Transportation and the Oregon Department of Transportation, a condition of approval was proposed allowing this initial phase to proceed without construction of a median in SE 82nd Avenue and the attendant neighborhood traffic impacts. Future development beyond this "tier 1" phase, or any development generating more than 30 PM peak hour trips, would require a future land use review to evaluate impacts to the transportation system and a median or other mitigation measure as required by the State Traffic Engineer (ODOT).

City Council, declaring that the transportation and Public Involvement issues identified by the Hearings Officer have been adequately addressed via conditions of approval, finds that the proposed Comprehensive Plan and Zoning Map Amendments are able to meet the relevant criteria and should be approved.

IV. CITY COUNCIL DECISION

Approval of a Comprehensive Plan Map Amendment, per Exhibit B.2 (Proposed Zoning) to change designations at the site in areas east of the future northward extension of SE 81st Place from Low-Density Multi-Dwelling as follows:

- 21,078 square feet of site area east of the future extension of SE 81st Place is changed to the High Density Multi-Dwelling designation; and
- 52,159 square feet of site area abutting SE 82nd Avenue and SE Bybee Boulevard is changed to the General Commercial designation.

Approval of a Zoning Map Amendment, per Exhibit B.2 (Proposed Zoning) to change zoning at the site in areas east of the future northward extension of SE 81st Place as follows:

- 21,078 square feet of site area east of the future extension of SE 81st Place changes from the Residential 2,000 (R2) to the High Density Residential (RH) base zone; and
- 52,159 square feet of site area abutting SE 82nd Avenue and SE Bybee Boulevard changes from the Residential 2,000 (R2) to the General Commercial (CG) Zoning Map designation.

The above Comprehensive Plan and Zoning Map Amendments at the site are approved subject to the following **conditions of approval**:

- A.** Tier 1 development, consisting of any combination of allowed uses that generate 30 PM peak hour trips or less at the intersection of SE 82nd Avenue and SE Bybee Boulevard, per Table 1 (below), is allowed. The trip generation equivalencies are to be applied based on Table 1 (below). The applicant must provide written verification with each building permit that these limits are being met.

Use Category	Square Footage/Other	Trip Equivalent
Office/Medical	671	1 Trip
Retail	33	1 Trip
Quick Vehicle Repair	One Service Bay	15 Trips
Auto Repair	215	1 Trip
Schools	3 Students	5 Trips
Religious Institutions	1,500	1 Trip
Day Care	66	1 Trip
(Res.) Dwelling Units	9 Units	5 Trips

- B.** At least 38 dwelling units must be constructed prior to any Tier 2 development. Tier 2 development consists of any combination of allowed uses that generate more than 30 PM peak hour trips at the intersection of SE 82nd Avenue and SE Bybee Boulevard, per Table 1 in condition A (above).
- C.** Prior to any Tier 2 development generating more than 30 PM peak hour trips at the intersection of SE 82nd Avenue and SE Bybee Boulevard (per Table 1 in condition A), the applicant must apply and receive approval for such additional development through a Type IIX land use review procedure. The application for this land use review must include a traffic study prepared by an Oregon licensed traffic engineer. This land use review will be approved if the following approval criterion is met:
- “The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability;

on-street parking impacts; access restrictions; neighborhood impacts due to traffic volume; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand strategies.”

- D.** Prior to approval for any Tier 2 development generating more than 30 PM peak hour trips at the intersection of SE 82nd Avenue and SE Bybee Boulevard (per Table 1 in condition A), the applicant must construct a median or any other mitigation measure required by the State Traffic Engineer (ODOT).

Recording the final decision. If this Land Use Review is approved, the final decision must be recorded by the Multnomah County Recorder before the approved use is permitted, any building or zoning permits are issued, or any changes to the Comprehensive Plan Map or Zoning Map are made.

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 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.

Expiration of this approval. Comprehensive Plan and Zoning Map Amendments do not expire.

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

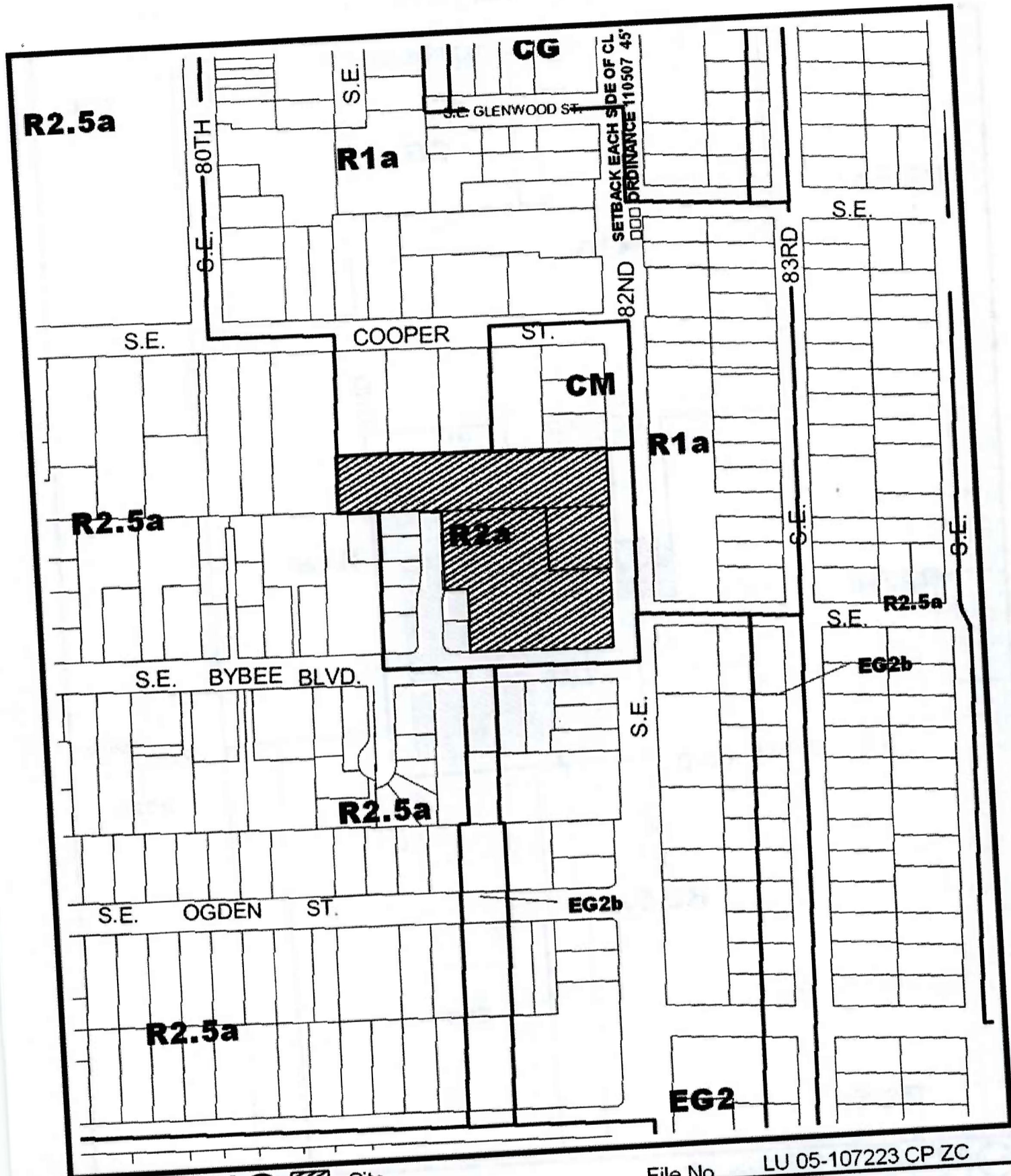
- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the Building Code.
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements:
1. Original Application Narrative, Neighborhood Contact Letters, and Pre-Application Conference Summary Report as submitted by Applicant February 4, 2005
 2. First Revised Application Narrative, submitted by Applicant May 23, 2005
 3. Original Traffic Impact Study (Lancaster Engineering, July 2004)
 4. Second Revised Application Narrative, submitted by Applicant September 23, 2005
 5. Revised Traffic Impact Study (Lancaster Engineering), submitted December 14, 2005
 6. Written request to delay 7/13/05 hearing, received June 29, 2005
 7. Written clarification that request is based on base zoning, not any specific development proposal, received 10/25/05
- B. Zoning Maps:
1. Existing Zoning (**attached**)
 2. Proposed Zoning (**attached**)
 3. Original/old proposed zoning map
- C. Plans & Drawings:
1. 8.5" x 11" Copies of Revised Conceptual Site Plans and Sections for "Options A - D", including Cover Sheet with Conceptual Plan Options Summary Table
 2. 11" x 17" Copies of Revised Conceptual Site Plans and Sections, including upper floor plans
 3. Original/Old Conceptual Site Plan and Building Elevations @ 8.5" x 11"
 4. 8.5" x 11" and 24" x 36" Copies of Original/Old Conceptual Site Plan - Full Sheet
- D. Notification information:
1. First Request for response, sent 6/10/05
 2. Original Posting Information, sent to applicant 6/9/05
 3. Applicant's Statement Certifying Posting, received 6/27/05
 4. Mailing list for 6/23/05 public notice
 5. Mailed 6/23/05 public notice
 6. Copy of Notice of Proposed Amendment to DLCD
 7. Supplemental Posting Information, sent to applicant 10/26/05
 8. Applicant's Supplemental Statement Certifying Posting, received 10/31/05
 9. Revised Request for Response, mailed 10/28/05
 10. Mailing list for revised proposal notice of 11/10/05
 11. Revised Proposal Notice, mailed 11/10/05
 12. Mailing list for Rescheduled Hearing Notice of 11/21/05
 13. Rescheduled Hearing Notice, mailed 11/21/05
 14. Verification of posting of Rescheduled Hearing Notice, received 1/5/06
- E. Agency Responses:
1. a. Bureau of Environmental Services - revised 11/15/05
b. Bureau of Environmental Services - original 6/29/05
 2. a. Development Review Division of Portland Transportation - 1/4/06
b. Development Review Division of Portland Transportation - 11/15/05
c. Development Review Division of Portland Transportation - 6/28/05

3. a. Fire Bureau - 11/15/05
 - b. Fire Bureau - 6/29/05
 4. a. Police Bureau - 11/14/05
 - b. Police Bureau - 6/30/05
 5. a. Site Development Section of BDS - 10/31/05
 - b. Site Development Section of BDS - 6/16/05
 6. a. Life Safety Section of BDS - 11/21/05
 - b. Life Safety Section of BDS - 6/16/05
 7. a. Oregon Department of Transportation - 12/22/05
 - b. Oregon Department of Transportation - 6/24/05
 8. Water Bureau
- F. Letters:
1. Letter of Support from Martha Richards, Brentwood-Darlington Neighborhood Association Land Use Chair, received 11/29/05
- G. Other:
1. Original LUR Application Form, Tax Account Information and Receipt
 2. Site History Research
 3. Pre-Application Conference Information and Summary Report
 4. Additional NSF and Fee Payment Information
 5. First Incomplete Letter from Staff to Applicant, sent 2/25/05
 6. Supplemental Incomplete Letter from Staff to Applicant, sent 3/2/05
 7. Various Correspondence Regarding Compliance Case #04-068380 CC
 8. Neighborhood Contact Letters, submitted by applicant 2/4/05
 9. Tri-Met Bus Map and Schedule for Line #19 (to qualify for minimum parking exemption)
- H. Received in the Hearings Office:
1. BDS Staff Report
 2. Power Point Presentation
 3. Guff letter
 4. Haley e-mail
 5. Walhood memorandum
 6. ODOT letter and memorandum
 7. PDOT memorandum
 8. Dang final rebuttal
 9. Dang final rebuttal with revised exhibit
- I. City Council Exhibits:
1. Recommendation of the Hearings Officer
 2. Mailing List and City Council Hearing Notice
 3. Mailed Copy of City Council Hearing Notice
 4. Powerpoint Presentation for 6/22/06 Council Hearing
 5. Staff Handout for 6/22/06 Council Hearing
 6. Schematic Development Plans presented by Applicant at 6/22/06 Council Hearing
 7. Letter with Concerns from Portland Public Schools, rec'd. 6/21/06
 8. Copy of Letter sent by Applicant to Neighbors in advance of 6/22/06 Council Hearing
 9. E-mail from Applicant requesting attendance at 8/15/06 neighborhood and school meeting, rec'd. 8/11/06
 10. E-mail Response from School District Representative to 8/15/06 meeting invitation
 11. E-mail Summary from Applicant regarding 8/15/06 meeting, rec'd. 8/16/06
 12. Revised Portland Transportation Response with recommended language

- for conditions of approval, rec'd. 9/1/06
13. E-mail response from Oregon Department of Transportation indicating acceptance of Portland Transportation's recommended conditions of approval, rec'd. 9/1/06
 14. E-mail correspondence from applicant verifying acceptability of proposed conditions of approval, rec'd. 9/6/06
 15. PowerPoint Presentation from 8/17/06 Council Hearing

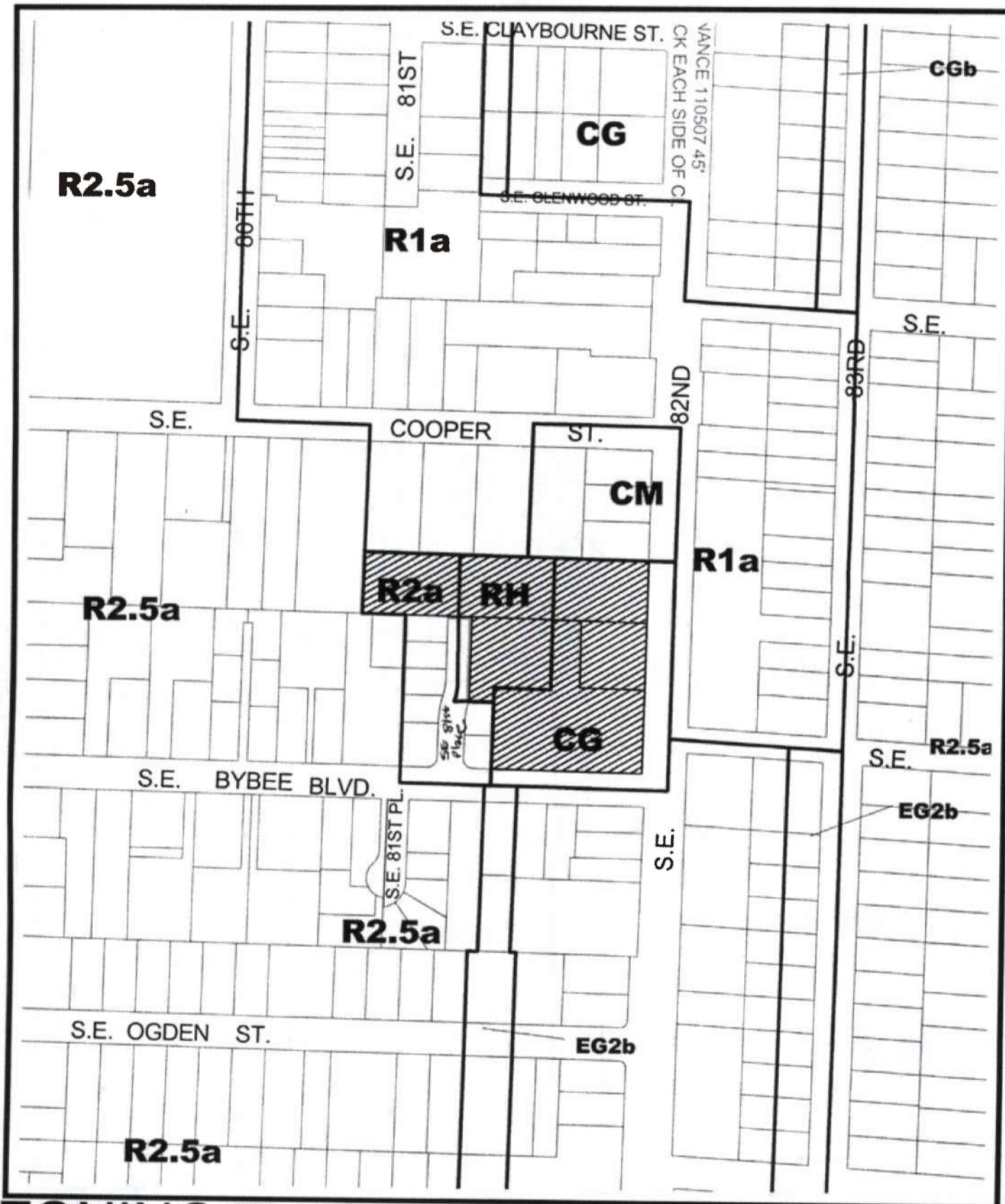


ZONING EXISTING




 Site

File No.	LU 05-107223 CP ZC
1/4 Section	3738
Scale	1 inch = 200 feet
State-Id	1S2E20AA 8700+
Exhibit	B (Feb 9, 2005)



ZONING PROPOSED



 Site

File No.	LU 05-107223 CP ZC
1/4 Section	3738
Scale	1 inch = 200 feet
State-Id	1S2E20AA 8700+
Exhibit	B.2 (Oct 27, 2005)