



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

February 13, 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 013-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 1, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 (1), 197.830 (2), and 197.830 (9) 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 ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Sylvia Cate, City of Portland

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NOTICE OF ADOPTION

LU05-161931CPZC

DEPT OF

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

FEB 10 2006

See reverse side for submittal requirements

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction PORTLAND

Local File # LU 05-161931CPZC

Date of Adoption 2-8-2006

Date Mailed 2-9-2006

Date the Notice of Proposed Amendment was mailed to DLCD NOV 7, 2005

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."

Comp plan map Amendment & Zone Map Amendment to
change existing R1a to CN2b.

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."

SAME

Plan Map Change From MED DENSITY MULTIDWELLING to NEIGH COMMERCIAL

Zone Map Change From R1A to CN2b

Location: 2436 SE 87th + 2429 SE 89th Acres Involved: .75

Specify Density: Previous Density 43U/AC New Density 0/AC

Applicable Goals: 1, 2, 3, 4, 5, 6, 8 Was an Exception adopted? Yes No
9, 10, 11, 12

DLCD File # 013-05
(14804)

DLCD Appeal Deadline _____

G-4

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: _____

Local Contact: SYLVIA GATE Phone: 503 823 7777
Address: 1900 SW 4th Suite 4500 PORTLAND 97201

SUBMITTAL REQUIREMENTS

ORS 197.615 and OAR Chapter 660, Division 18

ORD.

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.

ORDINANCE No. 179924 AS AMENDED

*Amend the Comprehensive Plan Map designation from Medium Density Multi-Dwelling to Neighborhood Commercial and change zoning from R1a, Residential 1,000 with Alternative Design Density overlay to CN2b, Neighborhood Commercial 2 with Buffer overlay of the North 7 feet of Lot 3 and all of Lots 38 and 61, Anderson Tract at the request of Samson and Nita C. Cheung (Ordinance; LU 05-161931 CP ZC)

Section 1. Council finds:

1. The Applicant seeks the following for property legally described as:
the North 7 feet of Lot 3 and all of Lots 38 and 61, ANDERSON TRACT (the "Property"):
 - a. A Comprehensive Plan Map Amendment to the Property which is currently designated Medium Density Multi-Dwelling to Neighborhood Commercial; and
 - b. A Zoning Map Amendment to the Property which is currently designated R1a (Residential 1,000 with Alternative Design Density overlay) to CN2b (Neighborhood Commercial 2 with Buffer overlay).
2. An application complying 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 Hearings Officer held a duly noticed public hearing on January 4, 2006, and issued a Recommendation on January 11, 2006 (BDS File No. LU 05-161931 CP ZC [HO 405076]). The Hearings Officer recommended approval of the requested Comprehensive Plan Map and Zoning Map Amendments, with conditions.
4. The requested amendments to the Comprehensive Plan and Zoning Map, based on the findings contained in the Recommendation of the Hearings Officer, are found to be in conformance with the Comprehensive Plan and relevant Title 33 approval criteria.

NOW THEREFORE, the Council directs:

- a. City Council adopts the facts, findings, conclusions and recommendations of the Hearings Officer in BDS File No. LU 05-161931 CP ZC [HO 405076] with condition B modified to include only 2549 SE 109th Ave., 1 S2E10BA 3800 as the receiver site.
- b. The Comprehensive Plan Map and Zoning Map are amended as follows:
 1. The Comprehensive Plan Map is amended to redesignate the North 7 feet of Lot 3 and all of Lots 38 and 61, ANDERSON TRACT, which is currently designated Medium Density Multi-Dwelling, to Neighborhood Commercial; and
 2. The Zoning Map is amended to redesignate the North 7 feet of Lot 3 and all of Lots 38 and 61, ANDERSON TRACT, which is currently designated R1a (Residential 1,000 with Alternative Design Density overlay), to CN2b (Neighborhood Commercial 2 with Buffer overlay).

Section 2. The Council declares an emergency exists because there should be no delay in the beneficial use of the above-described properties; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council: **FEB 08 2006**
Introduced by City Auditor Gary Blackmer
Gregory J. Frank/db January 25, 2006

GARY BLACKMER
Auditor of the City of Portland
By /S/ *Susan Parsons*

Deputy

RECOMMENDATION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File No.: LU 05-161931 CP ZC (HO 405076)

Applicant: Samson and Nita C Cheung, property owners
87th And Division LLC
8733 SE Division St #210
Portland, OR 97266

Representative: Nancy D'Urso, main contact
9834 NW Justus
Portland OR 97229
503 407 4059

Hearings Officer: Gregory J. Frank

BDS Staff Representative: Sylvia Cate

Site Address: 8733 SE DIVISION ST

Legal Description: LOT 3 EXC N 7' & EXC PT IN RD# 2546 & EXC PT IN ST, ANDERSON TR;
LOT 4 EXC PT IN RD #2546 & EXC PT IN ST, ANDERSON TR; LOT 5 EXC
PT IN RD #2546 & EXC PT IN ST, ANDERSON TR; LOT 38, ANDERSON
TR; LOT 61 N 7' OF LOT 3, ANDERSON TR

Tax Account No.: R026200070, R026200090, R026200110, R026200850, R026201330

State ID No.: 1S2E04CD 04300, 1S2E04CD 04400, 1S2E04CD 04500, 1S2E04CD 04200,
1S2E04CC 02100

Quarter Section: 3239

Neighborhood: Montavilla

Business District: Eighty-Second Avenue

District Coalition: Southeast Uplift Neighborhood Program

Plan District: None

Other Designations: None

Existing Zoning: R1a, Medium Density Multi Dwelling with Alternative Design Density overlay

Proposed Zoning: Neighborhood Commercial 2 with buffer overlay

Land Use Review: Type III Comprehensive Plan Map Amendment with concurrent Zone Map Amendment

BDS Staff Recommendation to Hearings Officer: Approval with conditions.

Public Hearing: The hearing was opened at 9:02 a.m. on January 4, 2006, in the 3rd floor hearing room, 1900 S.W. 4th Avenue, Portland, OR, and was closed at 9:51 a.m.

Testified at the Hearing:

Sylvia Cate, BDS Staff Representative

Mark Whitlow, Perkins Coie, 1120 NW Couch, 10th floor, Portland, OR 97209

Nancy D'Urso, 9834 NW Justus, Portland, OR 97229

Proposal:

The applicant requests a Comprehensive Plan Map Amendment and concurrent Zone Map Amendment to change the current designation and zoning on the site from Medium Density Residential [designation] and R1a, Multi-Dwelling Residential 1,000 with Alternative Design Density overlay [zoning] to Neighborhood Commercial [designation] and CN2b, Neighborhood Commercial 2 with Buffer overlay [zoning].

The applicant owns abutting property to the south which is developed with a commercial building that includes offices and a restaurant. With an approval of the requested change in zoning, the applicant proposes that the parking demand related to the abutting commercial development can be served by an existing parking lot that was developed without benefit of permits on the subject site. Because the parking lot was developed without permits and is on property zoned residential, the site is subject to a zoning code enforcement case [05-112854 CC] and is currently fenced off from the commercial development to the south and is not being used by patrons or visitors. Refer to the attached zoning maps for a graphical depiction of the Existing and Proposed Zoning and to the attached site plan.

Closing of Hearing Record: At the public hearing the Hearings Officer kept the record open for the submission of written evidence until 4:30 pm on January 4, 2006. The Hearings Officer noted to the applicant that the applicant was entitled to submit, in writing, a final argument/rebuttal until 4:30 pm on January 11, 2006; but the applicant could request (after 4:30 pm on January 4, 2006) that the record be closed prior to 4:30 pm on January 11, 2006. Applicant submitted a letter after 4:30 pm on January 4, 2006 to the hearings office requesting that the record be closed. (Exhibits H.3 and H.4) The Hearings

Officer closed the record for the submission of written evidence, argument and rebuttal effective January 5, 2006.

Approval Criteria:

In order to be approved, this proposal must comply with the criteria of Title 33, the Planning and Zoning Code. The applicable criteria are:

- 33.810.050 Comprehensive Plan Map Amendments
- 33.855.050 Zoning Map Amendments

The above criteria also include, by reference, applicable portions of the *Portland Comprehensive Plan* (goals and policies), State Land Use Goals, and the *Metro Urban Growth Management Functional Plan* (titles).

II. ANALYSIS

Site and Vicinity: The site consists of two lots, one at 2436 SE 87th [1S2E04CC 2100] which is 16, 617 square feet in area and developed with a detached single dwelling house 1,344 square feet in size, the second lot is located at 2429 SE 89th [1S2E04CC 4200] which is 16,117 square feet in area and developed with a detached single dwelling house 980 square feet in size. The 'back yard' area of both of these lots has been developed with a paved surface parking lot without benefit of permits, as discussed earlier in this recommendation. Both lots are immediately north of a small commercial development also owned by the applicant. The abutting commercial development has frontage on and is accessed from SE Division Street. Commercial uses and development dominate the north side of SE Division on the block face between SE 87th and SE 89th. Directly west, across SE 87th is commercial development on lots fronting SE Division, and residential development in the R2a zoned lots immediately north of the commercial development and the Binnesmead Middle School to the northwest. Single and Multi dwelling development and uses are immediately north of the subject site, and to the east are residential uses and development, with commercial uses along SE Division to the east of the site. To the south of the site, across SE Division is a combination of multi dwelling row houses and commercial development in the CS zone.

Existing Zoning: The subject site is zoned R1a, Medium Density Multi-Dwelling Residential 1,000 with the Alternative Design Density overlay.

The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a maximum building coverage of 60% percent. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The Alternative Design Density Overlay Zone may be established or removed as the result of an area planning study, reviewed through the legislative procedure. Establishment or removal of the Alternative Design Density Zone through a quasi-judicial procedure is prohibited. The ADD zone has no effect on projects in RH, RX, IR, C, E, or I zones. When property is rezoned to one of these zoning designations from a zone that is accompanied by the "a," the ADD zone will be deleted from the Official Zoning Map.

Proposed Zoning: The applicant proposes to re-designate both lots to Neighborhood Commercial and rezone both properties to CN2 with the 'b' buffer overlay zone.

The Neighborhood Commercial 2 (CN2) zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods. The emphasis of the zone is on uses which will provide services for the nearby residential areas, and on other uses which are small scale and have little impact. Uses are limited in intensity to promote their local orientation and to limit adverse impacts on nearby residential areas. Development is expected to be predominantly auto accommodating, except where the site is adjacent to a transit street or in a Pedestrian District. The development standards reflect that the site will generally be surrounded by more spread out residential development.

The Buffer overlay zone requires additional buffering between nonresidential and residential zones. It is used when the base zone standards do not provide adequate separation between residential and nonresidential uses. The separation is achieved by restricting motor vehicle access, increasing setbacks, requiring additional landscaping, restricting signs, and in some cases by requiring additional information and proof of mitigation for uses that may cause off-site impacts and nuisances. The Buffer zone is to be applied primarily along the edge of a nonresidential zone abutting or located across a street from a residential zone. For industrial and employment zones, the street can be any classification of street, as classified by the Transportation Element of the Comprehensive Plan. For commercial zones, the street should be a Local Service Traffic Street.

Land Use History: City records indicate there is one prior land use review for this site. In 1991, via case file LUR 91-00606 CP ZC a request to rezone the subject site along with a number of other properties in the area from R3 townhouse multi-dwelling to CG, General Commercial, was denied. The zoning subsequently was changed to the current pattern via adoption of the Outer Southeast Community Plan. Of interest is the fact that the current zoning pattern, the result of rezoning via the Outer Southeast Community Plan, rezoned all the parcels involved in the 1991 request to CN2, with the exception of the two parcels that are the subject site for the current review.

Agency Review: A "Request for Response" was mailed **November 17, 2005**. The following Bureaus have responded with no issues or concerns:

- *Water Bureau* notes that water service is available to the site. Static water pressure in this area is estimated to be approximately 49-62 PSI. Exhibit E-3 contains further details.
- *Fire Bureau* has reviewed the request and notes that all access and water supply issues have been satisfied. Exhibit E-4 has further details.
- *Police Bureau* has responded with no objections or concerns, but notes that the applicant should work with the Police Bureau to look at possible crime preventative measures that can be installed on the site

via environmental design elements. Exhibit E-5 contains additional information.

- *The Bureau of Environmental Services* responded with comments that there are public sanitary sewers available to serve the site, but that there is no public storm sewer available. On site treatment and disposal of stormwater will be required for new development as approved by BES at time of building permit review. BES has no objections to the request. Exhibit E-1 has additional details.
- *The Bureau of Transportation Engineering* responded with comments that reviewing the proposal against all relevant policies of the Transportation System Plan and the transportation related approval criteria for Comprehensive Plan Map Amendments and Zone Map Amendments are met. Portland Transportation has no objections to the proposal. Exhibit E-2 has additional details.
- *The Site Development Section of BDS* responded with comments that the applicant must obtain a building permit upon successful completion of a land use review approving the request. During permit review, the applicant must meet all applicable stormwater management requirements. Exhibit E-6 has additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 8, 2005. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

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 applicant, 87th And Division LLC, proposes to legalize an existing surface parking lot that was developed to serve a retail/office development adjacent to the south. The commercial development to the south was built with permits and met the requirements of the CN2 zoning on that portion of the ownership. However, once the commercial building was completed, tenants and uses have located in the building that have heavier associated parking demands than what was initially anticipated. The applicant subsequently developed a surface parking lot on adjacent land under their ownership. Because the adjacent property is zoned R2a, and the surface parking lot is serving commercial uses, the parking lot is prohibited in the R2a zone. Therefore, the applicant requests a Comprehensive Plan Map Amendment and concurrent Zone Map Amendment to change the current designation and zoning on the site from Medium Density Residential [designation] and R1a, Multi-Dwelling Residential 1,000 with Alternative Design Density overlay [zoning] to Neighborhood Commercial [designation] and CN2b, Neighborhood Commercial 2 with Buffer overlay [zoning].

On balance, based on the findings below, the requested designations will be equally supportive of the Comprehensive Plan as the existing designation, and therefore, this criterion is met.

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: The *Urban Growth Management Functional Plan* was approved November 21, 1996 by the Metro Council and became effective February 19, 1997. The purpose of the plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO), 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. The *Urban Growth Management Functional Plan* is Section 3.07 of the Metro Code. The 12 titles in that section are summarized and addressed below.

Overall, as noted in the discussion below, the requested Neighborhood Commercial designation will have little or no effect on the intent of these titles or these titles will be met through compliance with other applicable City regulations. As discussed in detail below, the project is consistent with the regional planning framework, and this Goal is met.

Urban Growth Management Functional Plan

Title 1 - Requirements for Housing and Employment Accommodation

This section of the Functional Plan facilitates efficient use of land within the Urban Growth Boundary (UGB). Each city and county has determined its capacity for providing housing and employment which serves as their baseline and if a city or county chooses to reduce capacity in one location, it must transfer that capacity to another location. Cities and counties must report changes in capacity annually to Metro.

Findings: The proposal, if approved, will result in no net loss in housing units [via a restrictive covenant described later in this recommendation that requires housing units to be built on a designated receiver site when specific thresholds are met] while increasing the land area for redevelopment in the Neighborhood Commercial zone. The purpose of the re-designation and zoning is to legalize an existing parking lot that would serve the commercial uses immediately adjacent to the south. The proposal will result in a significant reduction of parking demand on limited available on street parking in the residential neighborhood immediately north of the site. With no net loss in housing potential and with the additional parking becoming available to support existing and future commercial uses, the proposed re-designation and zoning comply with this requirement. Therefore, the proposal complies with the intent of this Title.

Title 2 - Regional Parking Policy

The Metro 2040 Growth Concept calls for more compact development to encourage more efficient use of land, promote non-auto trips and protect air quality. In addition, the federally mandated air quality plan adopted by the state relies on the 2040 Growth Concept fully achieving its transportation objectives. This title establishes region-wide parking policies that set the minimum number of parking spaces that can be required by local governments for certain types of new development. It does not affect existing development. Parking maximums are also specified. By not creating an over supply of parking, urban land can be used most efficiently.

Findings: The proposal will legalize a surface parking lot intended to serve commercial uses allowed by right in the CN2 zone. The commercial development has 24,680 square feet of office and commercial retail space with approximately 12,400 sq ft leased as office space and 7,000 sq ft leased to a restaurant. The existing parking available to the commercial development includes 38 parking spaces and 8 bicycle spaces with two long-term bicycle parking spaces provided inside the building. The minimum parking required for general office and general retail uses is 1 space per 500 square feet of floor area. This commercial development has frontage on SE Division Street, which is designated as a Major Transit Street, and has frequent transit service by Bus Line #4. Per 33.266.110 B 3 sites within 500 feet of frequent service transit [20-minute interval service during peak hours] are not required to meet the minimum number of parking spaces. Therefore the original commercial development complied with all applicable parking regulations. However, after the commercial building was constructed, a popular and successful restaurant leased 7,000 square feet of floor area. Table 266-2 requires at a minimum 1 space per 250 sq ft of floor area, and therefore the restaurant use generates, at a minimum, a parking demand of at least 28 spaces. The maximum number of parking spaces allowed for a restaurant use is 1 space per 63 square feet of area, or up to a total maximum of 111 additional parking spaces. As noted earlier, the site *is not required* to meet the minimum number of parking spaces because of the frequent service level of transit along SE Division Street.

With the legitimization of the existing surface parking lot, an additional 44 on site parking spaces will be provided to serve the tenants and uses within the existing commercial building to the south of the subject site. With the additional parking spaces, both existing and future development and uses in the CN2 zone will comply with the parking regulations found at PCC 33.266, Parking. The proposed parking on site falls within the minimums and maximums set by the Portland zoning code. In addition, utilizing the parking lot will help reduce parking demand for on street parking throughout the residential neighborhood immediately north of the site. Adequate bicycle parking will also be provided on site in compliance with the applicable development standards of Chapter 33.266. Therefore, the proposal complies with the intent of this Title.

Title 3 - Water Quality, Flood Management and Fish and Wildlife Conservation

The goal of the Stream and Floodplain Protection Plan (Title 3) is to protect the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution of the region's waterways.

Findings: Compliance with this title is achieved in these areas through the review of development against the current Stormwater Management Manual regulations at time of building permits. The existing parking lot associated with this zoning request will be required to be engineered and or

redesigned in order to adequately manage stormwater via on-site infiltration methodologies that will be reviewed at time of building permits. Compliance with the stormwater management regulations will result in a project anticipated to have no impact on fish or wildlife conservation efforts as it is an urban development on land that has no specifically identified environmental resources to protect. Therefore, the proposal complies with the intent of this Title.

Title 4 - Industrial and Other Employment Areas

Title 4 places restrictions of certain uses in three designations on the 2040 Growth Concept Map. In Employment Areas, retail uses are limited to less than 60,000 square feet. This can be increased if it is demonstrated that transportation facilities are adequate to serve the retail use and to serve other planned uses in the Employment Area.

Findings: The applicant does not propose either an Industrial or Employment zone for this site. Therefore this Title is not applicable to this application.

Title 5 - Neighbor Cities and Rural Reserves

This section of the Functional Plan directs Metro to work with its neighbor cities to protect common locations for green corridors along transportation corridors connecting the Metro region and each neighboring city.

Findings: The proposal has no impact on this title, as the subject site is within the urban growth boundary and has no impact on neighboring cities or rural reserves. Therefore, this Title is not applicable.

Title 6 - Central City, Regional Centers, Town Centers and Station Communities

The intention of Title 6 is to enhance the Centers designated on The 2040 Growth Concept Map by encouraging development in these Centers. This title recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept.

Findings: The subject site lies outside these designated Centers. However, the City of Portland has adopted street design standards, as well as pedestrian, bicycle and accessibility standards. These requirements will be applied at the time of any future land division or development on the subject site. The current proposal does include a specific development proposal, to legalize an existing surface parking lot, and the legalization will result in a project and configuration that would be consistent with the transportation goals of this Title. Therefore, the proposal complies with the intent of this Title.

Title 7 - Affordable Housing

This section of the functional plan will ensure that all cities and counties in the region are providing opportunities for affordable housing for households of all income levels.

Findings: The proposed re-designation and zoning, if approved, would not prevent future housing to be developed at the same density that would be allowed under the current zoning; the applicant is proposing a restrictive covenant that would require replacement housing units to be developed on a designated

receiver site. The applicant notes that such housing development would be 22 housing units that will provide housing opportunities close to transit service and would expand the opportunity for increasing the economic diversity of housing in the neighborhood. The receiver site is located on SE 109th just south of SE Division Street. Therefore, the proposal is consistent with the intent of this title, and this criterion is met.

Title 8 - Compliance Procedures

This title ensures that all cities and counties in the region are fairly and equitably held to the same standards and that the Metro 2040 Growth Concept is implemented. It sets out compliance procedures and establishes a process for time extensions and exemptions to Metro Code requirements.

Findings: This proposal meets this Title by fulfilling the notice requirements for Type III land use reviews, as outlined in PCC 33.810, Comprehensive Plan Map Amendments and concurrent base zone changes. In addition to notifying the affected neighborhood associations 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

This title 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.

Findings: This title is not applicable to this proposal.

Title 10 - Definitions

This title defines the words and terms used in the document.

Findings: This title is not applicable to this proposal.

Title 11 - Planning for New Urban Areas

The purpose of this title is to guide planning of areas brought into the UGB for conversion from rural to urban use.

Findings: This title is not applicable to this proposal.

Title 12 - Protection of Residential Neighborhoods

The purpose of this title is to protect the region's existing residential neighborhoods from air and water pollution, noise and crime, and to provide adequate levels of public services.

Findings: The proposal is subject to review and evaluation against existing and future demand on public services, and whether there are adequate levels of same to support the proposed re-designation and zoning pattern. To the extent that the proposal meets the criteria found at 33.855.050 B, as discussed below, the proposal is consistent with the intent of this title. Pollution and noise control is achieved via compliance with other City regulations at time of building permit at development. Crime control is addressed via the City of Portland – Police Bureau, as noted in Exhibit E-5.

The applicant notes that the project will be subject to the development standards of the CN2 zone and the 'b' or buffer overlay zone and the regulations and development standards are specifically intended to limit potential impacts of commercial development when abutting residential zones. Therefore, the proposal is consistent with the intent of this title.

Because the proposal will have little or no effect on the intent of these titles or these titles will be met through compliance with other applicable City regulations, the request is consistent with the regional planning framework, and this Goal [**GOAL 1: Metropolitan Coordination**] is met.

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 proposal is consistent with the following applicable policies: Policy 2.1, *Population Growth*; Policy 2.2, *Urban Diversity*; Policy 2.9, *Residential Neighborhoods*, Policy 2.11, *Commercial Centers*; Policy 2.12, *Transit Corridors*; Policy 2.13, *Auto-oriented Commercial Development*; Policy 2.19, *Infill and Redevelopment*; Policy 2.23, *Buffering*, and Policy 2.27, *Outer Southeast Community Plan*.

The proposed designation provides for greater diversity of uses on the Site than the existing Plan Map or Zoning Map designations, including employment opportunities. Development allowed outright under the existing designation, is limited to primarily residential uses. In contrast, the proposed Neighborhood Commercial designation allows housing by right, as well as Retail Sales and Service, Office, and institutional uses. The requested CN2 designation will allow an area devoted on the Commercial Site to be consistent with the proposed use and development, and allow the Site to be redeveloped in a congruent manner. This will help to ensure that the property as an urban site does not become underutilized or vacant, and that new employment opportunities will be provided within the neighborhood area.

The broader range of uses and corresponding development standards allowed under the CN2 designation ensure that the use and development will be consistent with the surrounding residential uses and neighborhoods. Potential impacts to the residential properties immediately north will be buffered by an 8-foot high fully sight-obscuring wooden fence and L3 landscaping within a 5-foot set back, as proposed by the applicant. Applicant and staff agreed to an additional condition relating to the landscaping. (See Exhibit H.3)

Further, the proposed Amendments will not decrease the number of housing units in this central area and will not prohibit the future development of housing on the Site. The 22 residential units will be required as a condition of development on the Mitigation Site, through a recorded covenant, as approved in final form by the City (See Exhibit J in Exhibit A-1). Therefore, the proposed transfer of residential units pursuant to PCC 33.810.050 is consistent with Goal 2.

Finally, the proposed designation and use of additional parking improvements will facilitate less parking on SE Division and the local neighborhood streets to the north, without causing adverse impacts to the character of this developing neighborhood. The surrounding area of SE Division is commercial in nature with CN2 zoning, among other commercial zones (CS, CG and CN2) and the proposed designation would be in keeping with the character of the area and the adjacent Commercial Site. On balance, the Amendments are equally or more supportive of this policy than the current designation.

Because of the proposal's consistency with these Policies, the proposal, on balance, is supportive of Goal 2, Urban Development, of the Comprehensive Plan. A detailed analysis of the applicable policies follows, below.

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.

Comment: The proposal is supportive of this policy because the proposed designation and zoning will provide an increase in land area designated Neighborhood Commercial, and will provide an opportunity to reduce parking impacts on on-street parking spaces in the residential neighborhood. The project will preserve the housing unit potential on the site via a restrictive covenant which will designate a receiver site to provide 22 additional housing units to be developed in the future. Therefore, the proposal is supportive of this 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.

Comment: The proposal is supportive of this policy because it will provide greater utilization of the commercial development to the south, thus increasing employment opportunities in the immediate area. The covenant that will ensure housing units to be built off site in the CG zone will provide future dwelling units that will provide housing opportunities within the neighborhood. Overall the proposal and associated development is supportive of this 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.

Comment: The proposal will preserve housing unit potential via a covenant and a designated receiver site. The proposal is intended to reduce parking impacts on the nearby residential neighborhood from a thriving commercial use that is generating a parking demand greater than what can be currently accommodated on-site. The buffer overlay is intended to provide additional buffering and screening between the residential uses to the north and the commercial activity.

The Site is located within the Montavilla Neighborhood. The Montavilla Neighborhood consists of the area bounded by I-84 to the north, I-205 to the east, and Division to the south. The west boundary runs along SE 68th Avenue between Halsey and Burnside then east along Burnside to 76th Avenue where it then turns south and runs along SE 76th between Burnside and Division.

The applicant notes in their narrative that the proposed change in designation and zone for this Site is consistent with the goals, policies and objectives of this area as further discussed herein under Comprehensive Plan Policy 3.9, *The Outer Southeast Community Plan Neighborhoods and Business Plan*.

For these reasons, therefore, the proposal is supportive of this 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.

Comment: This policy is supported because the proposal will strengthen the viability of the immediately adjacent commercial development along SE Division Street. The immediately surrounding area to the site was rezoned via the Outer Southeast Community Plan to expand commercial zoning along this portion of SE Division Street. The depth of the commercial zoning varies both to the west and east of the subject site. By expanding the neighborhood commercial designation and CN2 zoning to the north approximately 71 additional feet, a small but significant increase in land area will become available to further develop and support existing commercial development immediately to the south. The site will be contiguous with multi dwelling zones that allow medium density housing. Overall, the proposal is supportive of this 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.

Comment: This policy is supported because the proposal will result in a commercial use compatible with the major transit designation of SE Division while being configured such that the associated parking demand from the existing commercial development immediately to the south is accommodated on the site. On site pedestrian circulation systems providing a safe pedestrian connection between SE Division and the commercial building to the south will remain; this building also complies with all the applicable development standards for commercial structures in the CN2 zone that are transit related. The proposed additional surface parking lot will be located away from SE Division and a majority of the additional parking will be behind the existing commercial building, thereby reducing visual impacts and potential pedestrian vehicle conflicts between visitors to the site. Overall, the proposal is supportive of this 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.

Comment: This policy is supported because the proposed surface parking lot to the north of the existing commercial development is configured such that it has minimal impact on transit users, and will not change the existing pedestrian connections, main entrance facing the street, ground floor windows, etc that in combination create a supportive and convenient development for transit users. The proposed additional parking that would serve the existing commercial development would result in a total of 80 parking spaces; currently there are 38 spaces on the commercially zoned portion of the site. Per the parking ratio standards of Chapter 33.266, as previously discussed above, in this recommendation, the code would allow up to 111 parking spaces, based on the square footage area of the restaurant. Therefore the applicant is proposing to provide more parking spaces on site, but not to excessive levels, thus balancing transit use with actual vehicle trips and parking demand associated with the commercial uses to the south. Overall, the proposal is supportive of this 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. 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.

Comment: This policy is supported because the proposal, if approved, will allow approximately 32,734 square feet to be rezoned to Neighborhood Commercial, and allow a surface parking lot to serve the existing commercial development immediately to the south. The re-designation and rezoning is supportive of this policy because it will utilize land area in an efficient pattern that allows it to be redeveloped as additional parking for a very active commercial use immediately to the south, or other allowed CN2 uses at a future date.

Overall, the proposal is supportive of this 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 have 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.

Comment: The proposal would rezone a residentially zoned site to the Neighborhood Commercial zone, and relocate the existing buffer overlay zone to the northern property lines such that all applicable buffering requirements of the b overlay zone are maintained and continue to provide protection and buffering from impacts associated with the proposed parking lot and associated commercial uses to the south.

It is important to note that access to the proposed parking lot will occur only from SE Division Street, and therefore vehicular trips being displaced onto adjacent Local Service Streets primarily serving the residential neighborhood to the north is eliminated. As a result, this access configuration will help minimize the impacts of vehicle trips on the adjacent residential neighborhood.

Additionally, the applicant notes the following in their application:

The residential lots adjacent to the site will continue to be buffered through the "b" overlay zone by the use of fencing, landscaping setbacks and landscape plantings. Applicant is proposing to shift the existing b overlay zone north, extending from SE 87th to SE 89th. There is an 8-foot high perimeter wood fence, which separates and buffers the Site from the residences to the north. The 5-foot setback landscaped areas closest to residences will be planted to the L3 level for buffering and screening along the north property line, and since the proposed zone will then have residences across the street from a C zone (PCC 33.410.040 A). A 10-foot setback landscaped to the L3 standard will be planted in conjunction with this approval. There is also a 10% interior parking lot landscaping requirement based on the Site's area as required by PCC 33.348 Landscaping and Screening, which the Site will comply with.

As demonstrated above, the development standards of the CN2 zone will limit the adverse impacts on nearby residential areas by ensuring adequate separation and buffering between residential and non-residential uses that would otherwise not apply under the R1 zone or the

buffer overlay zone requirements. The development standards of the CN2 zone that apply already anticipate commercial and residential uses to coexist side-by-side. These integral requirements of the CN2 standards will ensure that impacts are minimized for the neighboring residential properties.

The existing b overlay zone will remain adjacent to residential uses. This is consistent with the b overlay's initial application in 1996 through the Outer Southeast Community Plan (Outer SE Plan).

With a condition, approved by BDS staff and applicant, insuring landscaping treatment and a condition restricting access from SE 87th and SE 89th the overall proposal is supportive of this Policy.

2.27 Outer Southeast Community Plan

Promote the economic vitality, diverse residential character, environmental quality, and livability of Outer Southeast Portland including the Outer Southeast Community Plan as a part of the Comprehensive Plan.

Findings: Adopted on January 31, 1996 (Ordinance No. 169763) the Outer SE Plan creates an overall framework for the area included in its boundaries. The Montavilla Neighborhood Plan Area (Neighborhood Plan) is located in the northwest portion of the Outer SE Plan area. The subject Site is on the southern border of the Neighborhood Plan area, just within the boundary. The objectives and policies of this Neighborhood Plan are further addressed under Goal 3, below. However, the proposal is consistent with the policy of promoting economic vitality and livability by incorporating a relatively small [approximately 33,000 square feet] of land area into the Neighborhood Commercial designation in order to provide additional on site parking for very active commercial uses immediately to the south, and potentially to provide an opportunity at a future date for mixed-use development allowed in the CN2 zone. The additional on site parking will help promote and maintain livability of the residential areas immediately to the north by reducing parking pressures on on-street parking throughout the residential neighborhood.

For all of these reasons, the overall proposal is supportive of this Policy.

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 proposal is consistent with Policy 3.5, *Neighborhood Involvement*, and Policy 3.8 *Outer Southeast Community Plan*. Because of the proposal's consistency with these policies, the proposal, on balance, is supportive of Goal 3, **Neighborhoods**, of the Comprehensive Plan. A detailed analysis of the applicable policies follows, below.

In addition, the applicant notes in their application the following:

It is not anticipated that the proposed Neighborhood Commercial zoning, or surface parking use or intensity will affect the surrounding neighborhood or residences to the north because of the existing wood fence and 5-foot setback with landscaping that will buffer the residences. In addition, the buffer overlay will be retained on the Site to protect the residences into the future. Impacts from lighting will be minimized with low level lighting adjacent to the north Site boundary and noise is expected to be within the City's noise and lighting standards as provided under Table 3 herein.

The CN2 zone development standards were specifically designed to accommodate adjacent residential uses and therefore, these standards already incorporate such consideration of residential neighbors. For example, building setbacks from residential zone lot lines are based on the height of the building wall. The greater the height, the greater the minimum setback required, up to 14 feet. In addition, Applicant is proposing to shift the b overlay north which will prevent commercial access to the Site from SE 87th and SE 89th and therefore, auto noise created by vehicles entering and exiting the Site. Access is solely from the SE Division. Since the density and scale of the development on the Site is compatible with the surrounding neighborhood, and is less intensive development than what is otherwise likely under the R1 zone, no significant change to the neighborhood is expected, only benefits by relieving parking on its Local Streets.

Transit supportive development standards were implemented with the development of the building on the Commercial Site. For example, the maximum building setback from the street is 8 feet, and the location of the building is within this setback adjacent to the right-of-way of SE Division, with a six-foot wide sidewalk for pedestrians.

Policy 3.5 – Neighborhood Involvement

Provide for the involvement of neighborhood residents and businesses in decisions affecting their neighborhood.

Comment: This Policy is supported because prior to submittal of this application to the City, representatives of the applicant indicate that they contacted the Montavilla Neighborhood Association several times, leaving phone messages regarding the proposal and application.

In addition, notice of the hearings on the proposed amendments have been sent by the City to the appropriate Neighborhood Association and to property owners within 400 feet of the site. The site is posted with information pertaining to the application and hearing schedule. Overall, the proposal is supportive of this Policy.

3.8 Outer Southeast Community Plan

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

Findings: The site lies within the Montavilla Neighborhood within the Outer Southeast Community Plan area. The proposal is specifically consistent with Objective G of the adopted Montavilla Neighborhood, the only relevant objective of the Plan, which states:

G. Strengthen Montavilla as a historic, commercially viable neighborhood with a wide variety of historic structures and accessible open spaces.

Findings: The proposed designation will not directly affect the historic or open space objectives, however, the proposed designation is directly supportive of strengthening the commercial viability of the neighborhood through the ultimate success of the Commercial Site. A prosperous development will help stabilize the existing residential neighborhood by providing convenient jobs, pedestrian access to services, and making the neighborhood a more attractive and convenient place to live. Therefore, on balance, the proposed Amendments are equally supportive of this policy and Neighborhood Plan objective.

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.

Findings: The proposal is consistent with Policy 4.1, *Housing Availability*; Policy 4.2, *Maintain Housing Potential*, Policy 4.3, *Sustainable Housing*, Policy 4.6, *Housing Quality*; Policy 4.7, *Balanced Communities*, Policy 4.10, *Housing Diversity*. Because of the proposal's consistency with these policies, the proposal, on balance is supportive of Goal 4, **Housing**, of the Comprehensive Plan. A detailed analysis of the applicable policy follows, below.

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.

Comment: The proposal is consistent with the Objectives under this Policy because the proposal will result in a no net loss of housing potential because of the proposed covenant that the applicant describes in their narrative will meet the requirements of 33.700.060 and will ensure that the 22 potential housing units lost by the rezoning will be developed in the future on the designated receiver site. Future development of these housing units will be required when triggered by any application for permits for development on the receiver site.

Therefore the proposal will result in no net loss in housing potential by this method, which is one of several of the methodologies available in compliance with the City's no net housing loss policies and regulations, per 33.810.050A 2 b. This issue is discussed in full under the approval criterion 33.810.050 A 2, below, in this recommendation. This will assure that the requested re-designations will not negatively affect the supply of buildable residential land within the city. On balance, the proposal is consistent with this 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.

Comment: The proposal is consistent with this policy by providing for no net loss of residential opportunities, via a restrictive covenant, proposed by the applicant. This is discussed in further detail below in this recommendation in the findings under approval criterion 33.810.050 A 2. Housing opportunity which currently exists for this site would be replaced by the development of housing units in the future. Such replacement would occur, per the proposed restrictive covenant, at time of additional development on the designated receiver site, which is one of several recognized methodologies available for compliance with the City's no net housing loss policies and regulations. This will assure that the requested re-designations will not negatively affect the supply of buildable residential land within the city. On balance, the proposal is consistent with this Policy.

4.3 Sustainable Housing

Encourage housing that supports sustainable development patterns by promoting the efficient use of land, conservation of natural resources, easy access to public transit and other efficient modes of transportation, easy access to services and parks, resource efficient design and construction, and the use of renewable energy resources.

Comment: The requested re-designation to Neighborhood Commercial, along with the no net loss in housing covenant as proposed, will maintain the housing opportunities that are currently present on the site under the existing R1 zone. These future housing units would be developed on a designated receiver site, zoned General Commercial, and located within 200 feet of SE Division. This proposal will ensure the future development will occur at a higher residential density [allowed by right in the CG zone] and which will result in a more compact, sustainable development pattern, well served by transit.

In addition, the applicant notes that while the proposal does not include development of sustainable housing at this time, the requested Neighborhood Commercial designation does not remove the potential for housing and /or sustainable housing to be developed in the future on the subject site.

The proposal is therefore supportive of Policy 4.3, *Sustainable Housing*.

4.6 Housing Quality

Encourage the development of housing that exceeds minimum construction standards.

Comment: This policy and objectives will be met with future housing development because such development will be subject to zoning, building and other city codes that ensure safe and livable housing.

4.7 **Balanced Communities**

Strive for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region.

Comment: The proposal is consistent with this policy, because any future residential development on the receiver site would be developed as multi-dwelling housing, due to the required 22 housing units to be replaced and the General Commercial zoned site within which they will be located. This housing would provide an opportunity to increase the diversity in the neighborhood due to this increased housing opportunity in the area, as well as provide for further opportunities for diversification of income levels within the neighborhood. The replacement housing would be located close to transit services, also consistent with Policy 2.18, Transit-Supportive Density. On balance, the proposal is supportive of this 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.

Comment: As discussed above, in this recommendation, the proposal will maintain opportunities for residential development that will provide incremental diversification within the neighborhood. Such housing opportunities are consistent with the surrounding area's existing transit services, which include frequent service bus service. On balance, the proposal is supportive of this policy.

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: The proposal is consistent with Policy 5.1, *Urban Development and Revitalization*; Policy 5.4, Objective D, *Transportation*, Policy 5.6 *Area Character and Identity within Designated Commercial Areas*, and Policy 5.7, *Business Environment within Designated Commercial Areas*. Because of the proposal's consistency with these policies, the proposal, on balance is supportive of Goal 5, **Economic Development**, of the Comprehensive Plan. A detailed analysis of the applicable policy follows, below.

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.

Comment: The proposal supports this Policy because it encourages investment in a currently under utilized site and will allow for reasonable and adaptive reuse of the existing improvements [surface parking lot] on land area otherwise unusable for commercial purposes. The proposed re-

designation and rezoning will result in a project that is supportive of the commercial development and uses immediately to the south. As a result the proposal will provide for greater potential for employment and commercial opportunities than the current R1 zoning. This in turn is anticipated to contribute a positive economic benefit to the existing commercial development, to the immediate neighborhood, and employees in the immediate area. The employees and visitors to this site are anticipated to patronize the immediately surrounding commercial uses as customers, bringing enhanced vitality to this area. On balance, this policy is met.

5.2 Business Development

Sustain and support business development activities to retain, expand and recruit businesses.

Comment: The applicant notes that approval of this request will enable a local business to provide additional parking on site to serve an active commercial use. Providing the additional land area within the Neighborhood Commercial zone will create greater flexibility and opportunities for future business development and new employment opportunities. The necessary urban infrastructure already exists and is in place [see findings under 33.855.050 B, below in this recommendation] to support the designation and development that is allowed in the CN2 zone. Adding sufficient parking to serve the existing commercial development to the south will support the recruitment, attraction and retention of long-term viable businesses in this area. Overall, the proposal is supportive of this Policy.

5.4 Transportation System

Promote a multi-modal regional transportation system that encourages economic development.

Objectives:

- D. Support transit-supportive development and redevelopment along designated transit streets and in the vicinity of transit stations.

Comment: The site has frontage along SE Division Street, a designated Major Transit Street. The applicable development standards that implement transit supportive development have been met by the existing commercial development immediately adjacent to the south of the subject site. The proposal, if approved, will provide additional amenities necessary to accommodate the motor vehicular traffic generated by the adjacent commercial uses. However, the proposed expanded parking is well below the maximum that could be allowed to be built, based on the applicable parking ratio standards of 33.266. In addition, the location of the proposed surface parking lot is set back some distance from the SE Division Street frontage, and a majority of the additional parking is situated behind an existing commercial building that meets all of the applicable transit supportive development standards. Therefore, the proposal will result in a re-designation and rezoning that supports a commercial development that is transit supportive while also providing additional transportation amenities [on site parking] that is supportive of a multi-modal transportation system.

For these reasons, the proposal is supportive of this Policy.

5.6 Area Character and Identity within Designated Commercial Areas

Promote and enhance the special character and identity of Portland's designated commercial areas.

Comment: The proposal will help promote and enhance the character of the existing commercial area to the south which includes a distinctive and active restaurant use specializing in Asian seafood cuisine. As noted earlier in this recommendation, the existing commercial structure to the south was built meeting all applicable development standards and parking requirements. However, due to the activity generated by the restaurant, the parking demand is greater than what was originally built on the land within the existing CN2 zone. Therefore, the proposal, if approved, will result in on site parking which will further support, promote and enhance the character and identity of the existing commercial development immediately to the south. Therefore, on balance, the proposal is consistent with this policy.

5.7 Business Environment within Designated Commercial Areas

Promote a business environment within designated commercial areas that is conducive to the formation, retention and expansion of commercial businesses.

Comment: If approved, the proposal would enable the applicant, a local business, to redevelop the site with a legal surface parking lot. The additional on site parking will provide a more favorable business environment for the existing commercial development immediately to the south, which lies within the CN2 zone. The additional parking proposed is not excessive, yet will provide reasonable and necessary business amenities that will further support the retention and expansion of commercial uses within the existing CN2 zone. The additional parking is anticipated to allow the retention and expansion of this local business, and potential future businesses, while visitors and employees are anticipated to spend some of their consumer dollars within the neighborhood, thereby further promoting the commercial uses in the immediate area.

In addition, the applicant notes in their application that the proposal is supportive of this policy because of the following:

When a commercial site is adjacent to a Transit Street, there is no minimum amount of parking required. However, Applicant believes that the desired character of the residential area to the north is more at risk for intrusion by autos without an appropriate amount of parking for the Commercial Site. This proposal is consistent with the character of the existing CN2 zoning in the area, along both sides of SE Division. The Commercial Site is served by bus, but not MAX light-rail service, which makes it more difficult to justify a reduced amount of parking, when development is expected to be primarily auto-accommodating in the CN2 zone.

For all of these reasons, on balance, the proposal is consistent with this policy.

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 following findings are compiled from Portland Transportation’s review and response to the proposal. As discussed below, the proposal is consistent with the applicable Policies, and therefore, on balance is supportive of Goal 6, **Transportation**.

6.1 Coordination

Coordinate with affected state and federal agencies, local governments, special districts, and providers of transportation services when planning for and funding transportation facilities and services.

Findings: The proposed Comprehensive Plan Map Amendment does not preclude or significantly impact the City’s ability to coordinate with other agencies for planning and funding transportation facilities. This policy is met.

6.2 Public Involvement

Carry out a public involvement process that provides information about transportation issues, projects, and processes to citizens, businesses and other stakeholders, especially to those traditionally under served by transportation services, and that solicits and considers feedback when making decisions about transportation.

Findings: The proposed Comprehensive Plan Map Amendment does not preclude or significantly impact the City’s ability to carry out public process when making transportation decisions. This policy is met.

6.3 Transportation Education

Implement educational programs that support a range of transportation choices and emphasize safety for all modes of travel.

Findings: The proposed Comprehensive Plan Map Amendment does not preclude or significantly impact the City’s ability to implement education programs supporting transportation choices. This policy is met.

Street Classifications

Street Name	Traffic	Transit	Bicycle	Pedestrian	Freight	Emergency Response	Street Design
SE Division Street	District Collector Street	Major Transit Priority Street	City Bikeway	City Walkway	Minor Truck Street	Major Emergency Response Street	Community Main Street
SE 87 th Avenue	Local Service Street	Local Service Street	Local Service Street	Local Service Street	Local Service Street	Minor Emergency Response Street	Local Service Street
SE 89 th Avenue	Local Service Street	Local Service Street	Local Service Street	Local Service Street	Local Service Street	Minor Emergency Response Street	Local Service Street

Policies 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, and 6.11 Classification Descriptions

SE Division Street has higher order designations for traffic, transit, bicycle, and pedestrian traffic. SE 87th Avenue and SE 89th Avenue are designated local service streets for all modes. The major portion of the site frontage is located on SE Division Street. Movements to and from the site as well as through movements past the site can be accommodated on SE Division without significant impacts on local service streets. The proposed Comprehensive Plan Map Amendment does not preclude use or development of the streets in conformance with current classifications for traffic, transit, bicycles, pedestrians, freight, emergency response or street design. These policies are met.

Policy 6.18 Adequacy of Transportation Facilities

Comment: *Key intersections in the area include SE 82nd/Division, SE 87th/Division, SE 89th/Division, and SE 90th/Division. The intersections at 82nd and 90th are signalized, those at 87th and 89th are un-signalized. SE 82nd and Division is an ODOT facility and the level of service (LOS) at this intersection meets ODOT requirements for the volume to capacity ratio. To meet the City of Portland's standards for adequacy of services for a Comprehensive Plan Amendment, signalized intersections generally must be shown to operate at a level of service of D or better within a 20 year time horizon and un-signalized intersections must operate at a level of service of E or better.*

The applicant has provided a traffic study prepared by an Oregon registered traffic engineer. This analysis is based on the assumption that any use allowed in the CN2 zone might locate on the property rather than a specific development proposal. The study demonstrates that 92nd and Division will operate at a Level of Service E with background conditions in a 20-year time frame. The net increase in trips resulting from the Comprehensive Plan/Zone Amendment plus the background conditions will be the same as the background conditions. This is because there is only 1 projected increase in trips through the SE 92nd and Division intersection resulting from the Comprehensive Plan/Zone Map Amendment, which is insignificant because it does not impact the system. The net outcome resulting from the amendments at 92nd and Division is, therefore, projected to be unchanged from the background conditions under the existing zoning. This is consistent with Portland Office of Transportation policy for adequacy of services.

Level of Service at the un-signalized intersections of SE 87th and SE 89th with Division is projected to operate at LOS of E or better. This is achieved partly by the diversion of site trips to the existing site driveway on SE Division Street. Restrictions on vehicle access to the site from SE 87th Avenue and SE 89th Avenue should be made to assure that trips remain restricted to the Division entry point. Because it restricts vehicle access, this can be accomplished by the addition of the "b" Buffer Overlay zone along the north edge of the site as proposed.

With the placement of the "b" Buffer Overlay zone on the north edge of the site to restrict access to/from SE 87th and SE 89th, Portland Transportation/ Development Review finds that transportation services at key intersections in the area will operate within the Level of Service thresholds determined by the Portland Office of Transportation to provide an adequate level of transportation services.

The uses currently located on the existing CN2 zoned portion of the site (a restaurant and offices) generate traffic that is part of the background traffic today and projected into the future. Expansion of the existing parking area as intended into the portion of the site proposed to be changed from CN2 zoning to R1a zoning would not, therefore, result in a net increase in trips over and above the projected increase in background. The TIA provided by the applicant also demonstrates that the transportation system will be adequate to support new uses that might locate at the site in addition to the existing uses.

Policy 6.20 Connectivity

Comment: The existing streets adjacent to the site, SE 87th Avenue and SE 89th Avenue, provide connectivity to the north and to south. The site is located close to the intersections of SE 87th and Division and SE 89th & Division Street, which provides connectivity in an east/west direction.

Policy 6.22 Pedestrian Transportation

Comment: Objective C under this policy states “Improve the quality of the pedestrian environment by implementing pedestrian design guidelines to ensure that all construction in the right-of-way meets a pedestrian quality standard”. At the time of construction of the existing building on the site, sidewalks along SE Division Street frontage of the site were required to be widened to comply with the Portland Pedestrian Design Guide. Sidewalks along the frontages of SE 87th Avenue and SE 89th Avenue will be required by the City Engineer, at the time of increase in occupancy or significant alterations to development at the site, to be widened to meet the widths recommended in the Portland Pedestrian Design Guide. More specific details of what will be required are described below in this memorandum under “Street Improvements”. This requirement, applied at time of building permit review, will ensure compliance with Objective C of this policy.

Policy 6.23 Bicycle Transportation

Comment: SE Division Street is designated as a City Bikeway. There are striped bicycle lanes along this street, consistent with this policy.

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

Comment: These policies collectively address the impacts of parking both on and off the street. They encourage reductions in required off-street parking near existing or planned high-quality transit service, such as along SE Division which is designated a Major Transit Priority Street. They also require that transportation capacity and parking demand be considered in the regulation of the parking supply. There is no off-street parking required in the CN2 zone when a site is located within 100 feet of a transit street. This site meets this condition. The site is located adjacent to high-quality transit service, therefore, in order to meet the objectives of these policies, no special conditions mandating required off-street parking at this location should be made. At the same time, to be sure that parking demand can be considered for specific developments that may locate at this site under the CN2 zone (as contemplated by the objectives of these policies),

no special restrictions on the maximum parking allowed, other than those already in place in the CN2 zone, should be applied.

In this case, the actual use which has located on the currently CN2 zoned portion of the site (the three lots fronting directly on SE Division Street) has demonstrated a high level of parking demand that cannot be accommodated on the existing CN2 portion of the site. The amendments to the Comprehensive Plan and Zoning Map designations proposed will create a larger area at this development site in which to allow off-street parking, alleviating a demand that would otherwise park on public streets. The intent in raising this point is not to assume that other uses might not locate at the site in the future with different parking demands and configurations. The intent is to demonstrate that among the uses currently allowed in the CN2 zone there are uses (such as the existing use on the site) which generate a demand for parking greater than what can easily be accommodated on the existing site. By increasing the area of the site, as will be accomplished by approval of the Comprehensive Plan and Zoning amendments, more area will be available for the development of off-street parking, which will reduce the demand for on-street parking and which is consistent with the objectives of this policy.

Policy 6.37 Southeast Transportation District

Comment: None of the objectives of the Southeast Transportation District policy are specifically relevant to this request.

Comprehensive Plan Amendment review summary

The proposed Comprehensive Plan Amendment is consistent with all policies of the Transportation Element of the Comprehensive Plan.

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: The proposed Comprehensive Plan map amendment and zone change has no consequences related to energy use or conservation.

The applicant includes comments addressing Policy 7.4, *Energy Efficiency through Land Use Regulations*; however, these policies are directed toward local jurisdictions in implementing energy related strategies, and not the applicant. Therefore, this Goal is not applicable to this request.

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: The proposal has no impact on any city identified air, water or land resources as none are designated on the subject parcels, nor are there any such identified resources in proximity to the subject parcels. Any future development that might occur on the subject site must comply

with the city's noise regulations that protect neighborhoods from detrimental noise levels. The proposal is consistent with Policy 8.4, *Ride Sharing, Bicycling, Walking and Transit*; and Policy 8.20, *Noise Abatement Strategies*. Because of the proposal's consistency with the policy, the proposal, on balance, is supportive of Goal 8, Environment. A detailed analysis of the applicable policies follow below.

Policy 8.4, Ride Sharing, Bicycling Walking and Transit

Promote the use of alternative modes of transportation such as ridesharing, bicycling, walking, and transit throughout the metropolitan area.

Comment: The applicant notes that the proposed development for the site is multi-modal supportive. The proposed development will meet all the requirements for long and short-term bicycle parking on site. The proposed pedestrian system of the surface parking lot will provide pedestrian connectivity to the existing commercial development immediately to the south and to transit service on SE Division. The pedestrian circulation will also connect to the existing public pedestrian facilities in the immediate area. On balance, the proposal is supportive of this policy.

Policy 8.20, Noise Abatement Strategies

Reduce and prevent excessive noise levels from one use which may impact another use through on-going noise monitoring and enforcement procedures.

Comment: Although this policy is primarily oriented toward local jurisdictions, the applicant notes that the proposed parking lot configuration will have some buffering from fencing and landscaping. In addition, the applicant notes that the anticipated uses of the surface parking lot and associated commercial development is subject to the Noise Control regulations in PCC Title 18 and that the site will comply with all applicable decibel levels. On balance, the proposal is supportive of this policy.

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.

Findings: The proposal is consistent with Policy 9.1, Citizen Involvement Coordination and Policy 9.3, Comprehensive Plan Map Amendment. Because of the proposal's consistency with these Policies, the proposal, on balance, is supportive of Goal 9, **Citizen Involvement**, of the Comprehensive Plan. A detailed analysis of the applicable policies follows, below.

9.1 Citizen Involvement Coordination.

Encourage citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations.

Comment: The applicant and representatives indicate that they made efforts to contact the Montavilla Neighborhood Association prior to submitting the application to the City, as previously discussed under Policy 3.5, *Neighborhood Involvement*.

The City provided notice of the proposed Comprehensive Plan Map Amendment and Zone Change to surrounding property owners within 400 feet of the site and to the neighborhood association in order to inform them of their opportunity to comment on the application both in writing and at the public hearings on this application. In addition, the site has been posted per the requirements of the Portland Zoning Code for Type III Land Use Reviews. This policy has been met.

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.

Comment: The land use review process requires citizen involvement through mailed requests for responses, posting of the site, mailed notifications of public hearing, and public hearings before the Hearings Officer and City Council. Citizen involvement efforts related to this case are detailed in response to Policy 9.1, above. This policy has been met.

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: The proposal is consistent with Policies 10.7, and 10.8. Because of the proposal's consistency with these Policies, the proposal, on balance, is supportive of Goal 10, **Plan Review and Administration**, of the Comprehensive Plan. A detailed analysis of the applicable policies follows, below.

10.7 Amendments to the Comprehensive Plan Map

The Planning Commission must review and make recommendations to the City Council on all legislative 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,

Comment: The preceding analysis and findings in this recommendation demonstrate that the proposed Plan Map Amendment is, on balance, supportive of and consistent with the relevant goals and policies of the Comprehensive Plan.

(2) Compatible with the land use pattern established by the Comprehensive Plan Map,

Comment: The requested Plan designation and zoning for this site is compatible with the general land use pattern established by the Comprehensive Plan for the area around the site. The requested Neighborhood Commercial designation would expand the CN2 zone approximately 71 feet to the north while also relocating the existing buffer overlay zone to the north property lines of both subject parcels. The Neighborhood Commercial 2 zone and associated buffer overlay already exists to the west and east and the depth of this zoning varies between approximately 200 to 300 feet. If the proposal is approved the depth of the CN2 zoning will increase to approximately 265 feet in depth, which is consistent with the overall land use pattern in the immediate area.

(3) Consistent with the Statewide Land Use Planning Goals, and

Comment: The State of Oregon Land Conservation and Development Commission (LCDC) has acknowledged the Comprehensive Plan for the City of Portland. The city goals mentioned in "LCDC and Comprehensive Plan Considerations" are comparable to the statewide planning goals in that 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 the local issues of neighborhoods. 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). City Goal 10 addresses city plan amendments and rezoning; and City Goal 11 is similar to State Goal 11 (Public Facilities and Services). Other statewide goals relate to agricultural, forestry and coastal areas, etc., and therefore do not specifically apply to this site.

For quasi-judicial plan amendments, compliance with the city's plan goals, as discussed here, show compliance with applicable state goals. The analysis in this recommendation indicates that all of the City goals and policies are supported by the proposal. Consequently, the proposal is consistent with all applicable Statewide goals.

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

Comment: As previously discussed above in this recommendation, the proposal is consistent with the Montavilla Neighborhood Plan which is included within the Outer Southeast Community Plan.

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.

Comment: The proposed Comprehensive Plan Map amendment from Medium Density Multi Dwelling R1 to Neighborhood Commercial is combined with a Zoning Map amendment request to place the corresponding zone of CN2 on the site in the configuration shown on the attached Proposed Zoning Map. These policies and objectives are implemented through this land use review, and are specifically addressed in findings for conformance with the approval criteria for the proposed Zone Map Amendment, 33.855.050.A-C, following this section on the proposed Comprehensive Plan Map Amendment. To the extent that applicable approval criteria of 33.855.050.A-C contained in this recommendation is met, these policies and objectives are also met.

GOAL 11 A: Public Facilities

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

Findings: The proposal is consistent with Goal 11. Agency responses to this proposal indicate that either adequate public facilities and services exist or can be reasonably made available as discussed in Exhibits E-1 through E-6. Because of the proposal's consistency with these Policies, the proposal, on balance, is supportive of Goal 11, **Public Facilities** of the Comprehensive Plan. A detailed analysis of the applicable policies follows, below.

11.2 Orderly Land Development

Urban development should occur only where urban public facilities and services exist or can be reasonably made available.

Comment: The adequacy of public facilities is discussed in detail below in this recommendation under the criterion 33.855.050 B. To the extent that criterion is met, the proposal is consistent with this policy.

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 substantial legacy of quality private developments and public improvements for future generations.

Findings: The proposal is consistent with Goal 12, which is intended to enhance Portland's identity as a livable city with attractive amenities creating an urban dynamic through quality projects. Because of the proposal's consistency with these Policies, the proposal, on balance, is supportive of Goal 12, **Urban Design** of the Comprehensive Plan. A detailed analysis of the applicable policies follows, below.

12.6 Preserve Neighborhoods

Preserve and support the qualities of individual neighborhoods that help to make them attractive places. Encourage neighborhoods to express their design values in neighborhood and community planning projects. Seek ways to respect and strengthen neighborhood values in new development projects that implement this Comprehensive Plan.

Comment: The proposed re-designation is consistent with this policy because the proposed surface parking lot will be supportive of the residential neighborhood by tucking the parking lot behind the existing commercial development to the greatest extent feasible. In addition, the parking lot will have no frontage along either SE 87th or SE 89th, and access into the parking lot will be limited to SE Division only. Additional elements associated with the parking lot will include a high screen perimeter wooden fence, the required parking lot landscaping, required setbacks, and low-level lighting around the borders of the parking lot to ensure security without causing glare from lighting to spill over and disturb adjacent residential uses. The anticipated benefits of the additional parking includes a significant reduction of parking pressure on adjacent residential streets. The anticipated reduction in commercial visitors intruding into the residential neighborhood is expected to reinforce respect of the residential area and strengthen neighborhood values by providing reasonable separation and buffering between the commercial uses and the adjacent residential uses to the north. Additionally, the CN2 zone will allow for mixed use development on the subject site, which will support the surrounding residential area.

On balance, the proposal supports this policy.

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;

the requested change will not result in a net loss of potential housing units. The number of potential housing units lost may not be greater than the potential housing units gained. The method for calculating potential housing units is specified in subparagraph A.2.a, below; potential housing units may be gained as specified in subparagraph A.2.b, below.

a. Calculating potential housing units. To calculate potential housing units, the maximum density allowed by the zone is used. In zones where density is regulated by floor area ratios, a standard of 900 square feet per unit is used in the calculation and the maximum floor area ratio is used. Exceptions are:

.....

- (2) In the R3, R2, and R1 zones, the amenity bonus provisions are not included; and

- b. Gaining potential housing units. Potential housing units may be gained through any of the following means:

.....

- (4) Building residential units on the site or in a commercial or employment zone off site. When this option is used to mitigate for lost housing potential in an RX, RH, or R1 zone, only the number of units required by the minimum density regulations of the zone are required to be built to mitigate for the lost housing potential; or
- (7) When housing units in commercial or employment zones are used to mitigate for lost housing potential, a covenant must be included that guarantees that the site will remain in housing for the credited number of units for at least 25 years.

Findings: The proposal includes a requested amendment from residential to commercial, and therefore the provisions for no net loss in housing potential are applicable. The housing unit potential of the two parcels, currently under R1 zoning, that needs to be mitigated is 22 housing units. This is because the applicant proposes to build housing in a commercial zone, and per sub paragraph [4] above, only the number of units required by the minimum density regulations of the zone are required to be built.

The applicant proposes to preserve the number of potential housing units by a restrictive covenant applied to a commercially zoned receiver site. Utilizing this methodology will require that 22 housing units must be built at a specified time [when any subsequent development is proposed on the receiver site]. The applicant proposes a covenant as required by sub paragraph [7] above. The applicant has included a draft of the covenant [Exhibit J of Exhibit A-1]. The final covenant will be reviewed by the city attorney and must comply with the applicable regulations of 33.700.060. The final covenant must be recorded prior to the issuance of any building permits for the parking lot. Applicant, at the hearing, concurred in the methodology used to calculate the "22 units" and the condition requiring a covenant; condition B below. Therefore, this criterion is met.

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: The site is not within the Guild's Lake Industrial Sanctuary Plan District. This criterion is not applicable.

Zoning Change

33.855.010 Purpose

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.

Findings: The applicant proposes to re-designate the site to Neighborhood Commercial. There are two zones which implement this designation, Neighborhood Commercial 1 and Neighborhood Commercial 2. The applicant proposes CN2 to be applied. The purpose of the CN2 zone is found at 33.130.030, which states in part:

The Neighborhood Commercial 2 (CN2) zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods.

The purpose of the CN1 zone is stated in the same code section, which notes that

The Neighborhood Commercial 1 (CN1) zone is intended for small sites in or near dense residential neighborhoods.

The subject site is adjacent to a small commercial site and abuts medium density residential to the north. The surrounding zoning pattern is CN2 along SE Division adjacent to the subject site. Therefore, the most appropriate zone is CN2, Neighborhood Commercial 2. The applicant proposes CN2. Therefore, this criterion is met.

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.

Findings: The subject parcels are currently zoned R. The applicant proposes a re-designation to NC, Neighborhood Commercial and a repositioning of the existing buffer overlay to run along the northerly property lines of the two parcels, as shown on Exhibit B2, proposed zoning. As noted previously in this recommendation, the intent is to allow a

surface parking lot to serve an existing commercial development immediately abutting to the south in the CN2 zone. The proposal is for an expansion of the existing commercial use to the south and not for a new use. Therefore, this criterion is satisfied.

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 request does not include zone changes as described. This criterion is not applicable.

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: As noted previously in this recommendation, under Agency Review, services are adequate as follows:

The Bureau of Environmental Services notes that sanitary sewers are available to serve the site, but storm water sewers are not available. Therefore stormwater management must occur on site.

Portland Transportation notes that Key intersections in the area include SE 82nd/Division, SE 87th/Division, SE 89th/Division, and SE 90th/Division. The intersections at 82nd and 90th are signalized, those at 87th and 89th are unsignalized. SE 82nd and Division is an ODOT facility and the level of service (LOS) at this intersection meets ODOT requirements for the volume to capacity ratio. To meet the City of Portland's standards for adequacy of services for a Zone Amendment where no specific use is proposed, signalized intersections generally must be shown to operate at a level of service of D or better within a 20 year time horizon and unsignalized intersections must operate at a level of service of E or better.

The applicant has provided a traffic study prepared by an Oregon registered traffic engineer. This analysis is based on the assumption that any use allowed in the CN2 zone might locate on the property rather than a specific development proposal. The study demonstrates that 92nd and Division will operate at a Level of Service E with background conditions in a 20-year time frame. The net increase in trips resulting from the Comprehensive Plan/Zone Amendment plus the background conditions will be the same as the background conditions. This is because there is only 1 projected increase in trips through the SE 92nd and Division intersection resulting from the Comprehensive Plan/Zone Map Amendment, which is insignificant because it does not impact the system. The net outcome resulting from the amendments at 92nd and Division is, therefore, projected to be unchanged from the background conditions under the existing zoning. This is consistent with Portland Office of Transportation policy for adequacy of services.

Level of Service at the unsignalized intersections of SE 87th and SE 89th with Division is projected to operate at LOS of E or better. This is achieved partly by the diversion of site trips to the existing site driveway on SE Division Street. Restrictions on vehicle access to the site from SE 87th Avenue and SE 89th Avenue should be made to assure that trips remain restricted to the Division entry point. Because it restricts vehicle access, this can be accomplished by the addition of the "b" Buffer Overlay zone along the north edge of the site as proposed.

With the placement of the "b" Buffer Overlay zone on the north edge of the site to restrict access to/from SE 87th and SE 89th, Portland Transportation/ Development Review finds that transportation services at key intersections in the area will operate within the Level of Service thresholds determined by the Portland Office of Transportation to provide an adequate level of transportation services.

The uses currently located on the existing CN2 zoned portion of the site (a restaurant and offices) generate traffic that is part of the background traffic today and projected into the future. Expansion of the existing parking area as intended into the portion of the site proposed to be changed from CN2 zoning to R1a zoning would not, therefore, result in a net increase in trips over and above the projected increase in background. The TIA provided by the applicant also demonstrates that the transportation system will be adequate to support new uses that might locate at the site in addition to the existing uses.

The Fire Bureau notes that access and water supply are adequate.
The Police Bureau notes that services are available and has no objections.

Based on responses by the affected service providers, this criterion is met.

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 proposal does not include a request to rezone to IR Institutional Residential. This criterion is not applicable.

- C. When the requested zone is IR, Institutional Residential.** In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

Findings: The proposal does not include a request to rezone to IR Institutional Residential. This criterion is not applicable.

33.855.060 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;

Findings: The applicant proposes to relocate the existing buffer overlay zone to the northerly property lines of the subject parcels, as shown on Exhibit B-2, Proposed zoning. The current location of the buffer runs along the existing CN2 zone and the existing R1 zone. The intent of the relocation of the buffer to the northerly portions of the subject properties is to continue the protections offered by the Buffer overlay zone by relocating the buffer to the north in order to provide buffering between the existing R1 zone and the proposed expanded CN2 zone. In addition, the buffer needs to be relocated in order to use the parking lot. Therefore, the proposed relocation addresses a specific situation, and is intended to be consistent with the existing Buffer zoning pattern in the immediate area. With a condition of approval that vehicular access to the parking lot is allowed only from SE Division Street and through the adjacent property to the south, and no vehicular access into the parking lot is allowed from either SE 87th or SE 89th, this criterion is met.

- 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

Findings: The proposed relocation of the buffer is consistent with the purpose of the buffer regulation as follows:

The purpose of the Buffer overlay zone is found at 33.410.010, Purpose, which states:

The Buffer overlay zone requires additional buffering between nonresidential and residential zones. It is used when the base zone standards do not provide adequate separation between residential and nonresidential uses. The separation is achieved by restricting motor vehicle access, increasing setbacks, requiring additional landscaping, restricting signs, and in some cases by requiring additional information and proof of mitigation for uses that may cause off-site impacts and nuisances.

As noted throughout this recommendation, the proposal includes moving the existing buffer overlay to the north in order to continue providing the additional buffering between the existing residential neighborhood to the north and to allow the expanded CN2 zone. This relocation of the buffer is consistent with the configuration of the existing buffer overlay zoning in the immediately surrounding area. As described earlier in this recommendation, the proposed relocation of the buffer is consistent with applicable goals and policies of the Comprehensive Plan and the Outer Southeast Community Plan. Therefore, this criterion is met.

- 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 subject parcels are not in the Marquam Hill Plan District. This criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

III. CONCLUSIONS

The applicant requests a Comprehensive Plan Map Amendment and concurrent Zone Map Amendment to change the current designation and zoning on the site from Medium Density Residential [designation] and R1a, Multi-Dwelling Residential 1,000 with Alternative Design Density overlay [zoning] to Neighborhood Commercial [designation] and CN2b, Neighborhood Commercial 2 with Buffer overlay [zoning].

The applicant owns abutting property to the south which is developed with a commercial building that includes offices and a restaurant. With an approval of the requested change in zoning, the applicant proposes that the parking demand related to the abutting commercial development can be served by an existing parking lot that was developed without benefit of permits on the subject site. Because the parking lot was developed without permits and is on property zoned residential, the site is subject to a zoning code enforcement case [05-112854 CC] and is currently fenced off from the commercial development to the south and is not being used by patrons or visitors.

The proposal is found to be, on balance, supportive of the Comprehensive Plan Goals and Policies, and meets all of the applicable approval criteria for the requested zone change. With a condition of approval that will ensure the number of potential housing units is preserved, as discussed in the findings above, and with a condition of approval that will prevent vehicular access to the parking lot from SE 87th or SE 89th, the proposal also meets all of the applicable approval criteria for a Quasi-Judicial Comprehensive Plan Map Amendment.

Therefore, the Hearings Officer recommends approval of the requested Comprehensive Plan Map Amendment, the concurrent Zoning Map Amendments.

IV. RECOMMENDATION

Approval of:

- A Comprehensive Plan Map Amendment, per 33.810.050, to change the current designation on the site from Medium Density Residential to Neighborhood Commercial; and
- A Zone Map Amendment, per 33.855.050 to change the current zoning from R1a, Multi-Dwelling Residential 1,000 with Alternative Design Density overlay to CN2b, Neighborhood Commercial 2 with Buffer overlay
- A Zone Map Amendment, per 33.855.060 to remove the existing Buffer overlay and relocate it along the northerly property lines of the subject site per Exhibit B-2,

To be applied to the two parcels known as:
2436 SE 87TH AVE, 1S2E04CC 2100; and
2429 SE 89TH AVE, 1S2E04CD 4200

subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 05-161931 CP ZC." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Prior to issuance of building permit to legalize the parking lot, the applicant must submit a covenant to maintain housing unit potential to the City Attorney for review and approval. The covenant must comply with all applicable regulations of PCC 33.700.060, *Covenants with the City*. The covenant

will be issued only after the final decision is recorded. The final decision may be recorded on or after **the day following the final decision.**

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

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

For further information on recording, please call the County Recorder at 503-988-3034

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

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

If the Zone Change or Comprehensive Plan Map Amendment approval also contains approval of other land use decisions, other than a Conditional Use Master Plan or Impact Mitigation Plan, those approvals expire three years from the date the final decision is rendered, unless a building permit has been issued, or the approved activity has begun.

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 Statement:
 - 1. Application Narrative
 - 2. Supplemental information
 - 3. Traffic Impact Study
- B. Zoning Map (**attached**):
 - 1. Existing Zoning
 - 2. Proposed Zoning
- C. Plans & Drawings:
 - 1. Site Plan (**attached**)
- D. Notification information:
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6...Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Police Bureau
 - 6. Site Development Review Section of Bureau of Development Services
- F. Letters: none received at time of publication
- G. Other:
 - 1. Original LUR Application
 - 2. Site History Research
 - 1. DLCD Notice of Proposed Amendment
 - 2. DLCD Notice of Adoption
 - 3. Pre Application Conference Notes
 - 4. Letter to applicant, re incomplete information October 14, 2005
- H. Received in the Hearings Office
 - 1. BDS Staff Report
 - 2. Thomas J. Clark letter
 - 3. Cate memorandum
 - 3a. Revised site plan (**attached**)
 - 4. Mark D. Whitlow letter
 - 5. Mark D. Whitlow letter (original of Exh. H-4)