



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

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Date: July 19, 2011
To: Interested Person
From: Kathy Harnden, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-129414 LDP

GENERAL INFORMATION

Owner: Andre Koshuba
Exceptional Homes By Andrey Inc.
14237 Bridge Ct.
Lake Oswego, OR 97034

United States National Bank of Oregon
2800 East Lake St
Minneapolis, MN 55406

Applicant: Kevin Partain
Urban Visions
223 NE 56th Ave
Portland OR 97213

Site Address: vacant lot east of 3846 SE Salmon St

Legal Description: BLOCK 1 LOT 10 TL 13301, GOODS ADD
Tax Account No.: R333300140
State ID No.: 1S1E01AD 13301
Quarter Section: 3134

Neighborhood: Sunnyside, contact Paul Loney at 503-233-8265.
Business District: None
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Plan District: None
Other Designations: None

Zoning: Neighborhood Commercial 2 (CN2)
Case Type: Land Division Partition (LDP)
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to divide a 4,081 square foot site into two lots. Parcel 1 will be 23 feet wide by 99.99 feet deep with 2,299.77 square feet in area. Parcel 2 will be 18.66 feet wide by 100 feet deep, and 1,781.23 square feet in area. Both parcels will have direct frontage on SE Salmon Street and will be developed with attached houses. New structures will have individual drywells to provide stormwater management for roof run-off. No new public streets or utility extensions are proposed.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create 2 units of land. Therefore this land division is considered a partition.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.662.120 – Approval Criteria for Land Division in Commercial, Employment, and Industrial Zones**

FACTS

Site and Vicinity: The subject site is located within a developed residential area in southeast Portland. The site is a relatively flat lot situated on SE Salmon, between SE Cesar Chavez Boulevard to the east and SE 38th Avenue to the west. The site is currently vacant and contains no trees or shrubs.

The surrounding properties include commercial to the east, a large parking lot for the commercial structure to the south, and mainly less dense single-dwelling residential properties to the west and north, with the exception of one site on the north side of SE Salmon that is developed with two attached houses. Most of the nearby single-dwelling, residentially zoned lots are developed with one and two-story residencies.

Infrastructure:

Streets – The site has approximately 42 feet of frontage on SE Salmon Street. At this location, SE Salmon Street is classified as a Local Service Street for all modes in the Transportation System Plan.

SE Salmon is improved with a 36-ft roadway and 12-ft sidewalk corridors that meet current City standards has a 35-foot wide curb to curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 42-foot wide site frontage there is a curb, 4-foot wide planter area and 6-foot sidewalk.

Tri-Met provides frequent transit service approximately 130 feet from the site at SE Main Street via Bus Line 75.

Water Service – There is an existing 6-inch CI water main in SE Salmon Street, with one existing 5/8-inch metered service to the site which may be available for use to one of the two properties. A second service would be required.

Sanitary Service - There is an existing 10-inch clay public combination sewer line in SE Salmon Avenue and an existing capped lateral to the site. A second lateral will be required.

Zoning: The site is in the **Neighborhood Commercial (CN2)** zone which is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **May 26, 2011**. Two written responses have been received from the notified property owners in response to the proposal. Ms. Vickie Matlock commented that the area around the site was quite busy and additional development could be very hazardous for pedestrians as well as bicyclists and motorists. Mr. Mark Oshin commented that with a new residential development adjacent to the neighboring bank’s drive-through lanes, the lanes should be closed and the area used to create a wider lot than the current one being proposed for development.

ZONING CODE APPROVAL CRITERIA

Title 33.613. LOTS IN COMMERCIAL ZONES

The 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. Development is expected to be predominantly auto accommodating, except where the site is adjacent to a transit street. The provisions of this zone allow this use.

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

The relevant criteria are found in Section **33.662.120 [A-K], Approval Criteria for Land Divisions in Commercial, Employment and Industrial Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.613	Lots	Applicable – See findings below
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site/outside of the environmental zone on the site.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.

Criterion	Code Chapter	Topic	Applicability Findings
F	33.635 .100	Clearing and Grading	Not applicable - This approval criterion is not relevant because the site is primarily flat, is not located in the Potential Landslide Hazard Area, and the applicant has not proposed any grading on the site to occur prior to obtaining building permits for development on the individual lots.
F	33.635 .200	Land Suitability	Not applicable - There is no record of any previous land uses or conditions that would create a hazard.
G	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
H	33.639	Solar Access	Not applicable - Single Dwelling Detached development is not proposed for the site.
I	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
J	33.641	Transportation Impacts	Applicable - See findings below
K	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.613 through 33.615 must be met;

Findings: Chapter 33.613 contains the lot standards applicable in the commercial zones. Chapter 33.613 works in conjunction with other chapters of the Zoning Code to ensure that land divisions create lots that can support appropriate uses and development. The standards are as follows:

33.613.100 Minimum Front Lot Line Standard
Each lot must have a front lot line that is at least 10 feet long.

Each proposed lot has a front lot line that is at least 10 feet long. Parcel 1 will have a front lot line of 23 feet and Parcel 2 will have a front lot line of 18.66 feet. This standard is met.

33.613.200 Minimum Lot Area, Width and Depth Approval Criterion

There are no minimum lot area, width or depth standards. Lots must be of a size, shape, and orientation that is appropriate for the location of the land division and for the type of development and use that is contemplated.

However, the vacant, rectangular lot contains 4,082 square feet is of a similar size and shape as the residentially developed lots on 3800 block of SE Salmon. The surrounding residential area is composed of rectangular lots that generally contain around 4,400 square feet, although two lots across SE Salmon from the proposed land division contain 2,600 square feet each, and a site with two attached houses west and north of the site contain 2,064 and 2,145 square feet respectively, or 4,211 altogether.

Most of the houses on the block cover most of the width of their individual parcels, and most of them are set back from the street by 15 to 20+ feet with the exception of the existing attached houses. The existing attached houses are conspicuous by the fact that they are set much closer to the street (approximately 10 feet) than the other houses on the block. By contrast, the applicant shows that the proposed attached houses will be set back approximately 18 feet from the front property line, which will be more consistent with the

other houses. The proposed attached housing on the subject site will, in effect, make the site look as though it has one house on it, and this, combined with the setback, will help it blend in with the surrounding residential neighborhood to some extent.

Parcel 1 will be located adjacent to an “R” zoned (residential zone) lot on the west side. This location requires a minimum setback of 5 feet from the west lot line, which must be landscaped to at least the L3 standard. At least 15 feet of the remaining area of Parcel 1 must also be landscaped.

The findings above describe how the applicable lot standards are met.

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

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated, if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

At this location, SE Salmon is designated as a Local Service Street for all modes. It is improved with a 36-ft roadway and 12-ft sidewalk corridors that meet current City standards. Therefore, no dedications or improvements will be required other than to repair any sidewalk sections and curbs that are damaged by the development process.

Further, the Bureau of Transportation stated that the partition of a commercially zoned site would not result in any more additional vehicle trips than would otherwise be allowed. Therefore, no impacts to transportation facilities are expected. The transportation system is capable of serving the proposed new lots in addition to existing uses in the area. Therefore, this condition is met. See Exhibit E.2 for details.

K. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

Water: The water standards of 33.651 have been verified. An existing 6-inch water main is available in SE Salmon Street to service both new parcels. In addition, there is an existing

5/8" metered service which provides water to the existing lot and could potentially be used to provide water service to Parcel 1.

For Parcel 2, a new water service and meter will be required to be installed within the public right-of-way and within the specific property boundary/frontage for which it will serve. See Exhibit E-3 for more details.

Sanitary Sewer: The sanitary sewer standards of 33.652 have been verified. There is a public 10-inch clay, combined gravity sewer located in SE Salmon Street that can serve the sanitary disposal needs of this project. An existing sewer service from that main is proposed for service to proposed Parcel 2. A new service lateral must be constructed to serve proposed Parcel 1. See Exhibit E-1 for more details.

Stormwater: The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

BES noted that there is no public storm-only sewer available to this property. The applicant proposes on-site infiltration by means of an individual drywell for each residence, and submitted Simplified Approach infiltration test results of 5.9 inches per hour, which is satisfactory. The proposed drywells meet required setbacks. At the time of building permit review, a stormwater management facility must be provided to the satisfaction of BES.

With the conditions of approval described above, the stormwater management criteria are met.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and is not considered to be a discretionary review. Pertinent development standards that are not relevant to the land division review, have not been addressed in the review. However, such standards will have to be met at the time that each of the proposed lots is developed.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2008 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant must meet the requirements of the Fire Bureau, at the time of final plat approval, regarding the requirement to meet the minimum fire-flow requirements for one and two family dwellings.

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met or can be met with conditions, as follows:

- Fire hydrant flow and location and aerial access roads

With conditions of approval that address this requirement, this proposal can be approved.

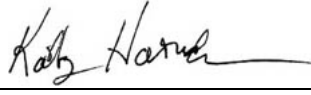
ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition that will result in two parcels for development of two attached houses as illustrated in Exhibit C.1, subject to the following conditions:

A. The following condition is applicable to site preparation and the development of individual lots:

1. The applicant must provide a fire access way to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.

Staff Planner: Kathy Harnden

Decision rendered by:  **on July 18, 2011**

By authority of the Director of the Bureau of Development Services

Decision mailed July 19, 2011

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on April 14, 2011, and was determined to be complete on **May 23, 2011**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on April 14, 2011.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant authorized the 120-day review period to be extended twice, the first time for 14 days and the second time for 4 days, for a total of 19 days. Unless further extended by the applicant, **the 120 days will expire on: October 5, 2011.**

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

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

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

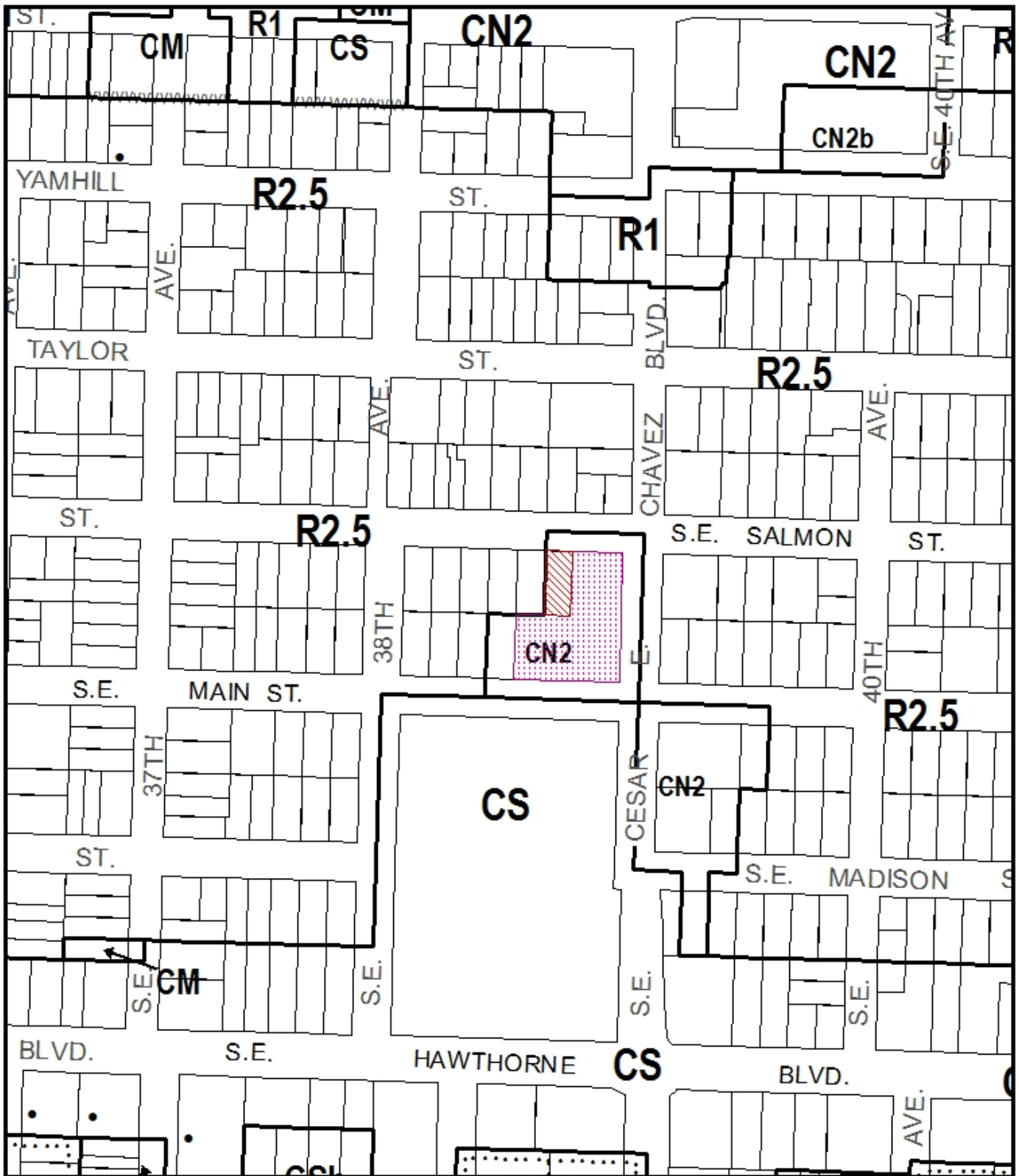
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Information
 - 1. Applicants' Narrative
 - a. Addition to Narrative
 - 2. 14-day extension to 120-day clock
 - 3. 4-day extension to 120-day clock
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions and Tentative Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
- F. Correspondence:
 - 1. Vickie V. Matlock, 6/23/1011
 - 2. Mark Oshin, 6/27/11
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter
 - 4. Simplified Approach Form 1
 - 5. Miscellaneous documents

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



ZONING

-  Site
-  Also Owned



File No. LU 11-129414 LDP
 1/4 Section 3134
 Scale 1 inch = 200 feet
 State_Id 1S1E01AD 13301
 Exhibit B (Apr 19, 2011)

