



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Charlie Hales, Mayor Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: June 18, 2013 **To:** Interested Person

From: Sean Williams, Land Use Services

503-823-7612 / Sean.Williams@portlandoregon.gov

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 the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal 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 12-129743 LDP

GENERAL INFORMATION

Applicant: Kevin J Kane

3303 SE Division Street / Portland, OR 97202-1456

Representative: Colleen Spurgeon, Planning Coordinator / Township Surveys, LLC

1415 Washington Street / Oregon City, OR 97045

Site Address: 5233 SE Cesar E Chavez Boulevard

Legal Description: BLOCK 6 LOT 1, CHELSEA

Tax Account No.: R151800370 **State ID No.:** R151813AD 05200

Quarter Section: 3534

Neighborhood: Reed, contact Gabe Headrick at gabe.headrick@reedneighborhood.org;

Woodstock, contact Terry Griffiths at 503-771-0011.

Business District: Greater Brooklyn, contact David Weislogel at 503-239-9050.

Woodstock Community Business Association, contact Sean Daugherty

at 503-754-2636.

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Zoning: Residential 2,000 (R2)

Case Type: Land Division Partition (LDP)

Procedure: Type I, an administrative decision with appeal to the Oregon Land Use

Board of Appeals (LUBA).

Proposal:

The applicant is requesting to divide the subject property into two parcels of approximately 2,289 (Parcel 2) and 2,414 (Parcel 1) square feet in size.

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

For purposes of State Law, this land division is considered a 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 33.660.120**, **Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: The site is located on the northwest corner of the intersection of SE Steele Street and SE Cesar Chavez Boulevard. Existing development consists of a single family dwelling that will be retained within Parcel 1. Two trees subject to preservation standards are located within the land division site. The surrounding vicinity is primarily composed of single family development with comparable zoning. Reed College is located approximately 1,000 feet southwest of the site.

Infrastructure:

• **Streets** – The site has approximately 50 feet of frontage on SE Cesar Chavez Boulevard and 100 feet of frontage on SE Steele Street. There is one driveway entering the site from SE Steel Street that serves the existing house. At this location, SE Cesar Chavez Boulevard is classified as a Neighborhood Collector, Transit Access Street, City Walkway, Truck Access Street, Major Emergency Response Street and a Local Service Street for all other modes in the Transportation System Plan (TSP). SE Steele Street is classified as a Neighborhood Collector, Community Transit Street, City Bikeway, City Walkway, and a Local Service Street for all other modes in the TSP. Tri-Met provides *frequent* transit service along the sites SE Cesar Chavez Boulevard frontage via Bus #75 and along the sites SE Steele Street frontage via Bus #10. Parking is not allowed on SE Cesar Chavez Boulevard at this location. Parking is allowed on both sides of SE Steele Street at this location.

At this location, SE Cesar Chavez Boulevard is improved with a 43-foot paved roadway surface and pedestrian corridor that consists of a 6.5-foot curb tight sidewalk and 2-foot setback to private property (0-6.5-2) within a 60-foot wide right-of-way. SE Steele Street is improved with a 43-foot paved roadway surface and pedestrian corridor that consists of a 3-foot planter, 5-foot sidewalk and 2.7-foot setback to private property (3-5-2.7) within a 60-foot wide right-of-way.

- **Water Service** There is an existing 8-inch CI water main in SE Cesar Chavez Boulevard and a 6-inch DI water main in SE Steele Street. The existing house is served by a 3/4-inch metered service from the main in SE Cesar Chavez Boulevard.
- **Sanitary Service** There is an existing 8-inch VSP public combination sewer main in SE Cesar Chavez Boulevard. There is no sewer service in SE Steele Street at this location. According to 1925 City plumbing and connection records the existing structure at 5833 SE Cesar Chavez is served through a lateral located 162 feet south if the southern right-of-way line of SE Mitchell.

Zoning: The R2 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

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 **October 12, 2012**. One written response has been received from a notified property owner. The correspondence expressed concerns regarding removal of a tree and transportation impacts resulting from the proposed partition. These issues are addressed in the relevant findings of this decision associated with Tree Preservation (33.630) and Transportation Impacts (33.641) approval criterion.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
С	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential	The site is not within the potential landslide
	Landslide Hazard Area	hazard area.
E	33.633 - Phased Land	A phased land division or staged final plat has not
	Division or Staged Final	been proposed.
	Plat	
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits
		new parcel configuration (33.610.200 supercedes
		33.639).
J	33.640 - Streams, Springs,	No streams, springs, or seeps are evident on the
	and Seeps	site outside of environmental zones.
L	33.654.110.B.2 - Dead end	No dead end streets are proposed.
	streets	
	33.654.110.B.3 -	The site is not located within an I zone.
	Pedestrian connections in	
	the I zones	
	33.654.110.B.4 - Alleys in	No alleys are proposed or required
	all zones	
	33.654.120.C.3.c -	No turnarounds are proposed or required
	Turnarounds	
	33.654.120.D - Common	No common greens are proposed or required
	Greens	
	33.654.120.E - Pedestrian	There are no pedestrian connections proposed or
	Connections	required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared	No shared courts are proposed or required
	Courts	
	33.654.130.D - Partial	No partial public streets are proposed or required
	rights-of-way	

Applicable Approval Criteria are:

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

Findings: Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing two parcels for detached houses. Single-dwelling development is proposed for the entire site; therefore the applicant must

show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3.

Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 5,000 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A street dedication is required for both SE Cesar Chavez Boulevard (3.5-feet) and SE Steele Street (1.3-feet) that totals approximately 300 square feet. Therefore the resulting lot size for calculating density is 4,700 square feet. Therefore, the site has a minimum required density of 2 units and a maximum density of 2 units. The required and proposed lot dimensions are shown in the following table:

R2	Minimum lot area (square feet)	Minimum lot width (square feet)	Minimum lot depth (square feet)	Minimum front lot line (square feet)
Detached Houses	1,600	25	none	25
Parcel 1	2,414	48.7	49.57	48.7
Parcel 2	2,289	47	48.7	47

^{*} Width is measured from the midpoints of opposite lot lines.

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

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

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

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). Two Douglas-fir trees are located within the land division site subject to preservation standards. A letter from a notified property owner (Exhibit F.1) identified an additional Douglas-fir tree that was removed. This tree was apparently taken down prior to the land division application per the attached tree cutting permit (Exhibit G.4) issued through Urban Forestry.

The total non-exempt tree diameter on the site is 80 inches. The applicant proposes to preserve the 39.4-inch Douglas-fir tree on Parcel 1, which equates to 50 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Proposed Partition Plat showing the preserved tree (Exhibit C.1). The arborist report did not make specific recommendations regarding a root protection zone. Therefore, this tree shall maintain a standard root protection zone (33.930.140) of 1 foot radius for each 1 inch diameter of tree.

In order to ensure the continued viability of this tree the arborist report recommends, and Urban Forestry concurs, that pruning of the tree occur to include upper crown thinning, subordinating the sub-dominate crown, crown thinning/reduction of lateral branches, leaders and hazardous deadwood removal. In addition, installation of the sewer line that will serve Parcel 2 through an easement on Parcel 1 shall be accomplished through boring beneath the soil versus trenching to lessen impacts to the root zone. In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

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

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

Findings:

Clearing and Grading

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, the applicant will be required to bore beneath the soil for installation of a new sewer line that will serve Parcel 2 in order to minimize impact to the Douglas fir tree required to be preserved on Parcel 1.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

Findings: No tracts are proposed or required for this land division, so criterion A does not apply. The following easement is proposed and/or required for this land division:

• A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 2.

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

"A Declaration of Maintenance	agreement for Private Sanitary Sewer Easement has beer
recorded as document no	, Multnomah County Deed Records."

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

- K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,
- L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard - See Exhibit E.3

The water standards of 33.651 have been verified and noted earlier in this decision. The dwelling to be retained within Parcel 1 may continue to be served by a lateral connected to the 8-inch CI water main in SE Cesar Chavez Boulevard. Water is available to serve proposed Parcel 2 from the 6-inch DI water main in SE Steele Street. Therefore, this criterion is met.

33.652 Sanitary Sewer Disposal Service standards - See Exhibit E.1

The sanitary sewer standards of 33.652 have been verified and noted earlier in this decision. The dwelling to be retained within Parcel 1 may continue to be served by a lateral connected to the 8-inch VSP public combination sewer main in SE Cesar Chavez Boulevard. There is no public sanitary sewer available in SE Steele Street to serve Parcel 2. The nearest available sewer is located in SE Cesar Chavez Boulevard. The applicant has proposed a 10 foot wide easement along the southernmost portion of Parcel 1 for a sanitary sewer lateral connection that will serve Parcel 2 from the main in SE Cesar Chavez Boulevard. Therefore, an easement for the sewer line must be provided on the Final Plat and a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. With the conditions of approval described above, this criterion is met.

33.653.020 & .030 Stormwater Management criteria and standards- See Exhibit E.1

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

- Parcel 1 (the lot with the existing house): As of 11/9/12 the downspouts on the existing house were directed to the ground at the northeast, southeast, and northwest corners of the house. Runoff from the downspout at the northwest corner was directed onto Parcel 2. The applicant has completed the construction of a Flowell drywell near the southwest corner of Parcel 1 (plumbing permit #13-154071 was finaled 6/10/13). Prior to final plat approval the applicant will need to demonstrate that the west gutter line is directed to the newly installed Flowell.
- Parcel 2: Stormwater from this lot will be directed to an individual infiltration facility (soakage trench or drywell) that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of an infiltration facility for the purpose of this land use review.

33.654.110.B.1 -Through streets and pedestrian connections

33.654.130.B - Extension of existing public dead-end streets & pedestrian connections 33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. This is a corner lot location which meets the above criteria for adequate connectivity. Additional connectivity is not required at this location. Therefore, this criterion

33.641 - Transportation Impacts - 33.641.020 and 33.641.030

33.654.120.C Width and Design of the street right-of-way

33.654.130.D Partial Rights of way

is met.

The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

At this location, SE Cesar Chavez Blvd is classified as a Neighborhood Collector, Transit Access Street, City Walkway, Truck Access Street, Major Emergency Response Street and a Local Service Street for all other modes. It is improved with a 43-ft wide roadway and 0-6.5-2 substandard sidewalk corridors.

SE Steele Street is classified as an Neighborhood Collector, Community Transit Street, City Bikeway, City Walkway, and a Local Service Street for all other modes. It is improved with a 43-ft wide roadway with a substandard 3-5-2.7 substandard sidewalk corridor.

Since both frontages are classified as City Walkways, 12-ft wide sidewalk corridors shall be required along both frontages. The 12-ft consists of the existing 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and a 1.5-ft frontage zone between the back of the sidewalk and the property line. Widening the sidewalk will require reconstruction of the corner ramp to meet current ADA requirements. There is also a pedestrian activated signal head at the corner that will have to be relocated out of corner ramp area. This improvement will require a separate public works permit prepared by an Oregon licensed civil engineer. A 3.5-ft dedication must be shown on Cesar E Chavez Blvd, and a minimum 1.3-ft dedication shown for SE Steele Street. The survey must confirm that there will be 12-ft from the face of the existing curbs to the property line on both frontages.

BDS would prefer to require the existing fir tree that will be in the front yard of the home to be retained next to the SE Cesar Chavez Blvd frontage. As part of the public works permit review in coordination with the City Forrester, preservation of the tree will be explored. It may be possible to narrow the new sidewalk near the root zone to preserve the tree. The City Forrester will have to determine if the tree is worth saving.

The net increase of one single-family residence can be expected to generate 10 daily vehicle trips with 1 vehicle trip occurring during the AM and PM Peak Hour. This negligible increase in peak hour trips will have no impact on levels of service of the adjacent intersection or street capacity on any nearby street segments.

Based on the level of transit available, on-site parking is not required. If any on-site parking is proposed, it must be designed to allow vehicles to enter and exit the site in a forward manner. Vehicle access to SE Cesar Chavez Blvd will no be permitted because the corner lot has frontage on SE Steele. This requirement will be enforced during building permit review for the new residence. Since on-street parking is permitted on SE Steele, constructing a driveway would remove one on-street public parking space and create one on-site private parking space with no net change in parking supply other than the reduction of a public parking space. Since both lots have a combined 100-ft of frontage on SE Steele, there is room along this frontage for 4 on-street parking spaces. While these spaces cannot be reserved for any individual, they still represent more than enough to adequately serve the proposal in addition to the existing parking supply in the area.

The neighborhood has expressed concerns regarding on-street parking impacts that have been addressed above. There is nothing inherently unsafe about this intersection design based on accepted traffic engineering principles related to road geometry. The land use process cannot address actual or perceived speeding or unsafe driving behaviors'. The neighborhood should contact PBOT Traffic Investigations to explore any options for increasing speed compliance at 503-823-SAFE.

Upon learning of PBOT's requirements for sidewalk improvements, as identified above, the applicant applied for a Public Works Administrative Appeal (G.3) in order to preserve the 39.4-inch Douglas-fir tree proposed for preservation on Parcel 1. The appeal was granted to allow this tree to be preserved subject to requirement for right-of-way dedication to allow for sidewalk reconstruction in the future.

This criterion is met, with the condition that the required right-of-way dedication is shown on the Final Plat and any on-site parking shall be limited to access from SE Steele Street and must be designed to allow forward ingress and egress only.

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

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

this criterion is met.

DEVELOPMENT STANDARDS

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

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- <u>Minimum Setbacks</u> The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed <u>new</u> lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 5.67-feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Required Off-Street Parking A paved parking pad provides parking for the existing house on Parcel 1. As a result of this land division, the parking space for the existing house will be located on a Parcel 2, and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service along the sites SE Cesar Chavez Boulevard frontage via Bus #75. Bus number #75 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 1.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water

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

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 in regards to addressing requirements, ensuring adequate hydrant flow from the nearest fire hydrant, fire hydrant spacing and aerial Fire Department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).
- Urban Forestry has indicated that street tree planting will be evaluated during building permit application for Parcel 2 and concurs with the requirements of the arborist report regarding pruning of the tree required to be preserved on Parcel 1. These requirements are based on the standards of Title 20 (Exhibit E.6).

CONCLUSIONS

The applicant has proposed a two parcel 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. The primary issues identified with this proposal are: tree preservation, utilities/services and transportation impacts.

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in two single dwelling lots, as illustrated with Exhibit C.1, subject to the following conditions:

A. The final plat must show the following:

- 1. The applicant shall meet the street dedication requirements of the City Engineer for SE Cesar E Chavez Boulevard and SE Steele Street. The required right-of-way dedication must be shown on the final plat.
- 2. A private sanitary sewer easement, for the benefit of Parcel 2, shall be shown and labeled over the relevant portions of Parcel 1.
- 3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.4 and B.5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _______, Multnomah County Deed Records."

B. The following must occur prior to Final Plat approval:

- 1. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for demonstrating that the west gutter line is directed to the newly installed Flowell drywell located on Parcel 1.
- 2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
- 3. The applicant shall comply with the recommendation of the Arborist Report (Exhibit A.2) for pruning of the Douglas-fir tree required to be preserved on Parcel 1. An addendum to the arborist report shall be provided demonstrating the work has been completed.
- 4. A Maintenance Agreement shall be executed for the Private Sanitary Sewer Easement described in Condition A.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
- 5. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

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

- 1. Development on Parcel 1 shall be in conformance with the Proposed Partition Plat (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, the 39.4-inch Douglas-fir tree is required to be preserved with the a standard root protection zone (33.930.140) of 1 foot radius for each 1 inch diameter of tree. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
- 2. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
- 3. Any on-site parking shall be limited to access from SE Steele Street and must be designed to allow forward ingress and egress only.
- 4. Installation of the sewer line that will serve Parcel 2 through an easement on Parcel 1 shall be accomplished through boring beneath the soil.

Staff Planner: Sean Williams

Decision rendered by:

By authority of the Silector of the Bureau of Development Services

Decision mailed: June 18, 2013

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 13, 2012, and was determined to be complete on October 10, 2012.

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 13, 2012.

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 waived the 120-day review period, as stated with Exhibit A.4.

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

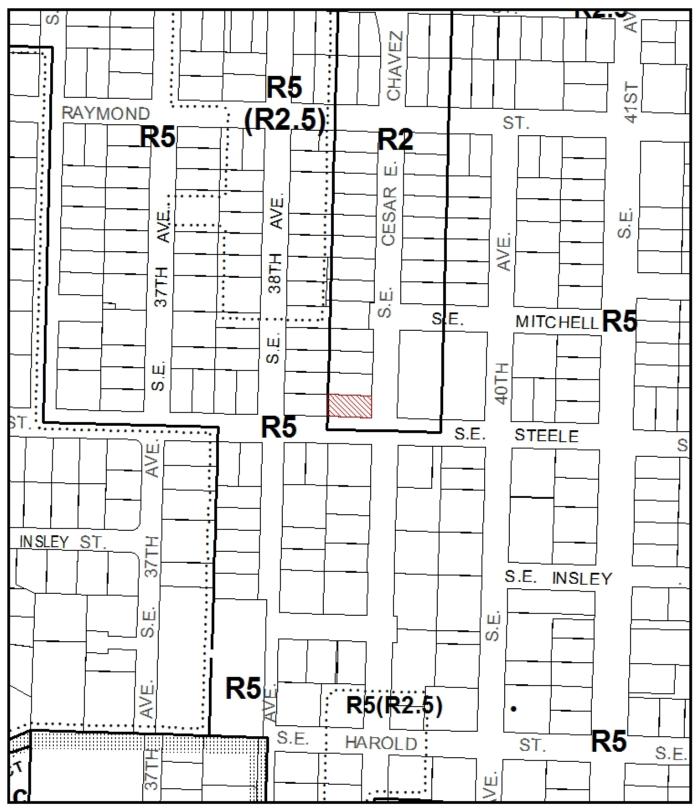
the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Arborist Report
 - 3. Simplified approach stormwater report
 - 4. Request for extension of 120-day review period (2)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Proposed Partition Plat (attached)
 - 2. Stormwater Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services w/ Addendum
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS; Life Safety Plans Examiner
 - 6. Bureau of Parks, Forestry Division w/ Email (12/12/12)
- F. Correspondence:
 - 1. Cary Sneider & Elizabeth Carter (11/7/12)
- G. Other
 - 1. Original LU Application
 - 2. Incomplete Letter w/ RFC responses
 - 3. Public Works Appeal Decision (13-104107 PW)
 - 4. Tree cutting permit

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





