



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** January 24, 2014  
**To:** Interested Person  
**From:** Kathy Harnden, Land Use Services  
503-823-7318 / [Kathy.Harnden@portlandoregon.gov](mailto:Kathy.Harnden@portlandoregon.gov)

## **NOTICE OF A TYPE Ix 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. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 13-198428 LDP**

#### **GENERAL INFORMATION**

**Owner:** Damir Karin  
D.K. Homes LLC  
Po Box 90277  
Portland, OR 97290

**Applicant:** Kym Nguyen  
Concept Design & Associates  
PO Box 8464  
Portland, OR 97207

**Site Address:** 8122 SE Taylor St

**Legal Description:** BLOCK 1 LOT 5, STRAWBERRY DALE  
**Tax Account No.:** R801300160  
**State ID No.:** 1S2E05AD 00301  
**Quarter Section:** 3138

**Neighborhood:** Montavilla, contact Lewis Scholl at 503-258-0312.  
**Business District:** Montavilla-East Tabor, contact Dokken Ramey at 503-467-4127.  
Eighty-Second Ave of Roses Business Association, contact Frank Harris at 503-774-2832.

**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Zoning:** Residential 2000 with the Alternative Design Density overlay (R2a)  
**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

#### **Proposal:**

The applicant proposes to divide this flat, 5,000 square-foot, vacant lot into two parcels that will be consistent with the site's R2 zoning. The existing lot is 50 feet wide by 100 feet deep. The two new parcels will be 25 feet wide by 100.04 feet deep and will front on SE Taylor

Street. Each parcel is proposed to be developed with a single, detached house, with on-site parking and a drywell for stormwater detention at the rear.

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:** 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 in southeast Portland, approximately half way between Mt. Tabor Park to the west and I-205 to the east, and about 200 feet west of SE 82<sup>nd</sup>. The site is in an older, 1920s neighborhood that is developed mostly with single dwelling houses, although commercial businesses line both sides of SE 82<sup>nd</sup>.

The site is currently developed with an existing garage located near the southwest corner of the lot and an older, concrete driveway. The remainder of the site is vacant. It is bordered by a vacant lot to the east, and lots developed with houses to the west, north and south.

### Infrastructure:

- **Streets** – The site has approximately 50 feet of frontage on SE Taylor Street. As noted above, there is one driveway entering the site that leads to a garage. There are no other structures on the site. At this location, SW Taylor Street is classified as a Local Service Street for all modes in the TSP. TriMet provides frequent transit service along SW 82<sup>nd</sup> via Bus 72, and parking is allowed on both sides of SW Taylor.

Also at this location, SE Taylor is improved with 27 feet of paved roadway surface, with 6-inch curbs and an 11-foot sidewalk corridor with a 5-foot sidewalk, 4-foot planter area and 2-foot setback to private property (4-5-2) within a fifty-two-foot wide right of way.

- **Water Service** – There is an existing 5/8” metered water service from a 6-inch CI water main in SE Taylor that may potentially be used to provide service to Parcel 2. The main may also potentially be used to provide service to new development on this site.
- **Sanitary Service** – There is an 8-inch CSP public combination sewer located in SE Taylor that can serve the sanitary disposal needs of this project. An existing lateral is available to serve Parcel 2. A new lateral will be required to provide service to Parcel 1.

**Zoning:** This site is zoned Residential 2,000, with the “a” (Alternative Design Density) overlay (R2a). The R2 designation is one of the City’s multi-dwelling zones which are intended to create and maintain higher density residential neighborhoods. This zone implements the comprehensive plan policies and designations for multi-dwelling housing.

**Land Use History:** City records indicate one prior land use review for this site: a lot confirmation, PR 13-169286 LC, issued in July 2013. This review confirmed that the subject lot is a legal lot of record and is not combined with the vacant lot adjacent to the east.

**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 **November 26, 2013**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

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

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in diameter are located fully on the site or outside of the environmental zone on the site.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:****A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.**

**Findings:** Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing two parcels for detached houses in the R2 zone. 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. No street dedications are required for this development. Therefore, the total site area shown on the applicant's survey is 4,996 square feet, which is used for calculating density. 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:

<b>R2</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width</b>	<b>Minimum lot depth</b>	<b>Minimum front lot line</b>
<b>Detached Houses</b>	1,600	25	none	25
Parcel 1	2,498	25	100.04	25
Parcel 2	2,498	25	100.04	25

\* 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.

**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 any proposed clearing and grading is reasonable given the infrastructure needs, site conditions, and tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case, the site has only a slight grade, and is not located within the Potential Landslide Hazard Area. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. Therefore, no significant clearing or grading will be required on the site in order to make the new lots developable, and this criterion is met.

***Land Suitability***

The site is currently in residential use, although a house once existed on the site. That house had a cesspool, which was decommissioned in September 2013 when the decommission permit was finalized. In addition, the site has only a slight grade 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.

**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, if necessary. Chapter's

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:

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p>
<p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of Ch. 33.651 have been verified. Therefore, this criterion is met.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer standards of CH. 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p>
<p>The applicant has proposed on-site infiltration within drywells for each of the proposed structures. Stormwater from these parcels will be directed to these drywells, which will treat the water and slowly infiltrate it into the ground. Both parcels have sufficient area for this type of stormwater facility, which will be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized house. The Bureau of Environmental Services has indicated conceptual approval of the proposed drywells for the purpose of this land use review. Further, the Bureau had no comments regarding the improvements to the sidewalk. Therefore, this condition is met.</p>
<p><b>33.654.110.B.1 Through streets and pedestrian connections</b>  <b>33.654.130.B Extension of existing public dead-end streets &amp; pedestrian connections</b>  <b>33.654.130.C Future extension of proposed dead-end streets &amp; pedestrian connections</b></p>
<p>Generally, through streets should be provided at least 200 feet apart, but no more than 530 feet apart. The site is located less than 200 feet from the intersection of SE Taylor with SE 82<sup>nd</sup>. In addition, the existing block pattern and development within those blocks makes the likelihood of future north/south street development unlikely. Because the site is less than 200 feet from an intersection, additional connectivity is not required at this location. Therefore, this criterion is met.</p>
<p><b>33.641 – Transportation Impacts – 33.641.020 and 33.641.030</b>  <b>33.654.120.B &amp; C Width &amp; elements of the right-of-way –</b>  <b>33.654.130.D Partial Rights of way</b></p>
<p>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:</p>
<p><i>At this location, SE Taylor is classified as a Local Service Street for all modes. It is improved with an 11-ft wide sidewalk corridor with a 4-5-2 configuration. As a condition of building permit approvals the sidewalk must be reconstructed to the current City standard of 4.5-6-0.5 configuration. If the applicant wants to seek approval to leave the existing sidewalk they must file for approval of a public works appeal. Information about the appeal process can be found at the following link:</i></p> <p><a href="http://www.portlandonline.com/index.cfm?c=61827&amp;a=375532">http://www.portlandonline.com/index.cfm?c=61827&amp;a=375532</a></p>
<p><i>The proposal will result in a net increase of 2 single-family residences. These residences can be expected to generate 20 daily vehicle trips with 2 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.</i></p>

*PBOT has reviewed and concurs with the information supplied, the methodology, assumptions and conclusions made by the applicant's traffic consultant. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area.*

Therefore, with a condition that the sidewalk be reconstructed to current City standards at the time of building permit, these criteria are met.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent rights-of-way 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**

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 either 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.

### **Future Development**

Among the various development standards that will be applicable to this lot, the applicant should take note of:

Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures (i.e., the existing garage) on Proposed Parcel 2 must be removed prior to final plat.

A Demolition permit is required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary. A copy of the demolition permit must be submitted, or if the garage is less than 200 square feet in size, the applicant must submit before and after photos to document its removal.

## **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.

<b>Bureau</b>	<b>Code Authority and Topic</b>	<b>Contact Information</b>
Water Bureau	Title 21 - Water availability	503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>

<b>Bureau</b>	<b>Code Authority and Topic</b>	<b>Contact Information</b>
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>

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

- The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements, ensuring adequate hydrant flow from the nearest fire hydrant, and fire hydrant spacing. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).

## **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 matters related to this proposal include stormwater and transportation.

## **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 following must occur prior to Final Plat approval:**

1. 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 to final plat approval.
2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate fire hydrant spacing.
3. The applicant must obtain, and have finalized, a demolition permit to remove the existing garage on proposed Parcel 2 and provide a copy of the finalized permit with the Final Plat application. If the garage is less than 200 square feet in size, the applicant must provide before and after photos as proof that the garage has been removed.

### **B. The following must occur at the time of building permit review:**

1. The public sidewalk must be reconstructed to current City standards.
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 measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
3. The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements.

**Staff Planner: Kathy Harnden**

Decision rendered by:  on January 22, 2014  
By authority of the Director of the Bureau of Development Services

**Decision mailed: January 24, 2014**

**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 August 29, 2013, and was determined to be complete on November 25, 2013.

*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 August 29, 2013.

*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 requested that the 120-day review period be extended for 11 days. Unless further extended by the applicant, **the 120 days will expire on: January 24, 2014.**

**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. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone.



Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

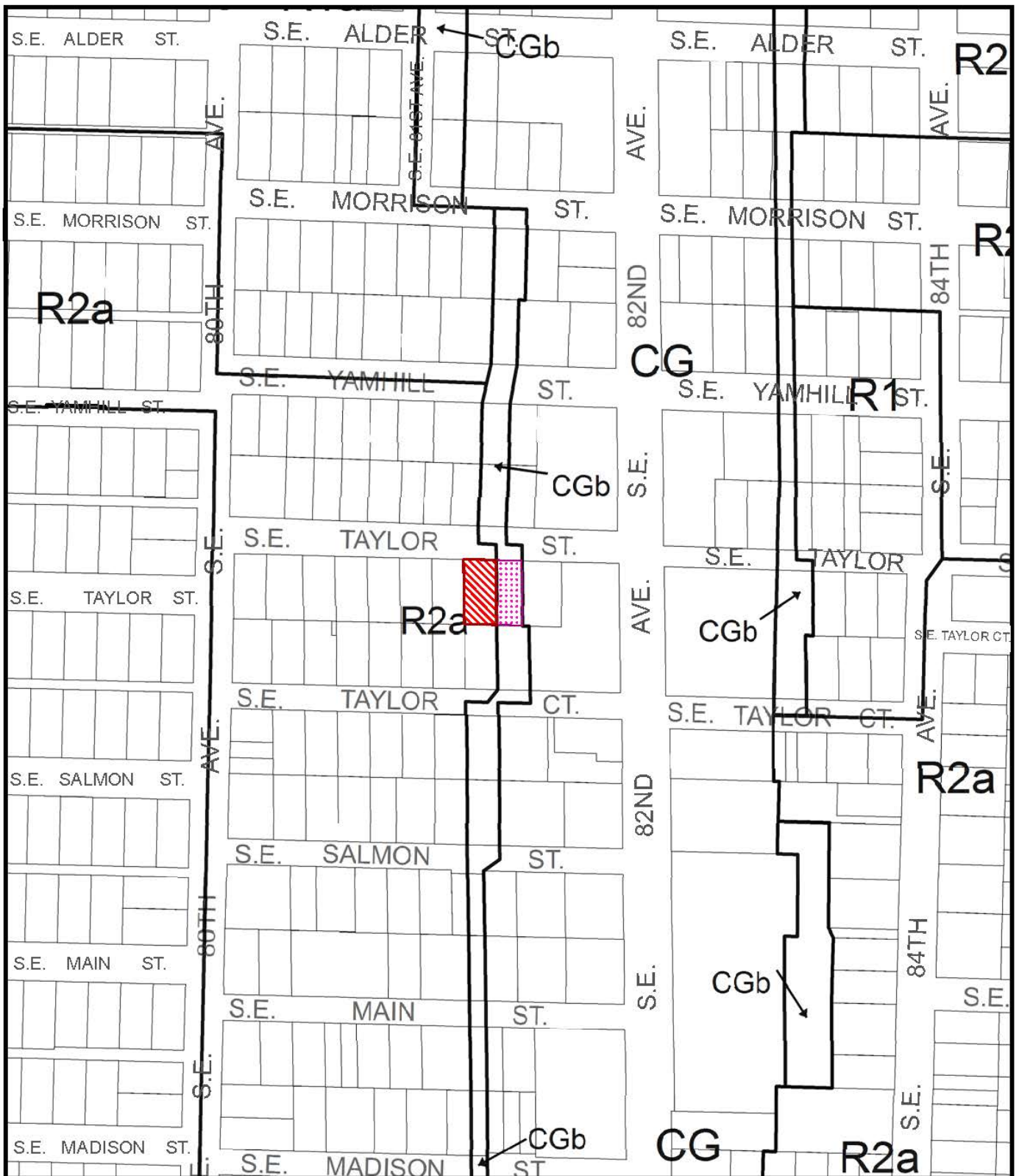
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative
  - 2. Simplified approach stormwater report
  - 3. Request for extension of 120-day review period
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Proposed Partition Plat (attached)
  - 2. Proposed Development Plan
- 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
  - 6. Bureau of Parks, Forestry Division
  - 7. Life/Safety
- F. Correspondence:
  - 1. None
- G. Other:
  - 1. Original Land Use Application
  - 2. Incomplete Letter with Service Bureau Comments

**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 13-198428 LDP  
 1/4 Section 3138  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E05AD 301  
 Exhibit B (Sep 03, 2013)

