

**IN THE CITY COUNCIL OF THE  
CITY OF  
PORTLAND OREGON**

**IN THE MATTER OF AN APPLICATION BY ROBERT CUSHMAN FOR A  
COMPREHENSIVE PLAN MAP AMENDMENT AND ZONING MAP AMENDMENT FOR  
3322 SE CESAR E. CHAVEZ BOULEVARD**

**LU 13-173075 CPZC (HO 4140016)**

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**FINDINGS AND DECISION**

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**ADOPTED BY THE CITY COUNCIL ON  
November 12, 2014  
(Denial of a Comprehensive Plan Map Amendment and Zoning Map Amendment)**

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FINDINGS AND DECISION

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

**I. GENERAL INFORMATION**

**Applicant:** Robert Cushman, William Allen LLC  
1833 NE 50th Avenue  
Portland OR 97213

Laurie Simpson, Architect  
4072 N Williams Street #A  
Portland OR 97227

**Owner:** Jeffrey Evershed  
1833 NE 50th Avenue  
Portland, OR 97213-2035

**Hearings Officer:** Kenneth D. Helm

**Bureau of Development Services (BDS) Staff Representative:** Kathleen Stokes

**Site Address:** 3322 SE CESAR E CHAVEZ BLVD

**Legal Description:** TL 7600 0.45 ACRES, SECTION 12 1S 1E

**Tax Account No.:** R991120080

**State ID No.:** 1S1E12AD 07600

**Quarter Section:** 3334

**Neighborhood:** Richmond

**Business District:** Division-Clinton Business Assn

**District Coalition:** Southeast Uplift

**Zoning:** R2.5 (Attached Single-Dwelling - Residential 2,500)

**Case Type:** Comprehensive Plan Map Amendment (CP)  
Zoning Map Amendment (ZC)

**Procedure:** Type III, with a public hearing before the Hearings Officer. The Hearings Officer will make a recommendation to City Council, who makes the final decision on this matter.

**BDS Staff Recommendation to Hearings Officer:** Approval with conditions

**Hearings Officer Recommendation to City Council:** Approval with no conditions

**City Council Decision:** Denial of the application

## II. INTRODUCTION AND PROCEDURAL HISTORY

**Proposal:** The applicant is proposing a change in the Comprehensive Plan Map Designation for this 19,575 square-foot property, from Single-Dwelling Attached Residential to Medium Density Multi-Dwelling Residential, and a concurrent Zoning Map Amendment, from R2.5 ( Single-Dwelling Residential 2,500) to R1 (Multi-Dwelling Residential 1,000). Redevelopment of the site for a maximum 19 residential units could be allowed if the R1 designation is approved for the site.

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

**33.810.050 Comprehensive Plan  
Map Amendment**

**33.855.050 Zoning Map  
Amendments**

**Procedural History:** This case was submitted on June 28, 2013. It was deemed complete on December 23, 2013 but was placed on hold to consider various options for the future development of the site. The case was reactivated on June 10, 2014. The first public hearing was conducted by the Hearings Officer and was opened at 1:33 p.m. on August 4, 2014, in the 3<sup>rd</sup> floor hearing room, 1900 S.W. 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 3:00 p.m. The applicant waived the right to an additional 7-day time period to submit final written argument into the record. No party requested that the record remain open, and the record for the Hearings Officer was closed at the end of the hearing.

The Hearings Officer indicated that the following participants testified at the first hearing:

Kathleen Stokes, BDS staff for this review, recommended approval with conditions that required design review, limited the height of the structures to 35 feet and also required that the existing house be subject to a modified version of demolition delay.

Ben Gates and Attorney, Mike Connors, representing the applicants, testified and requested that the proposal be approved with no conditions.

Neighborhood participants (Gordon Brown, Neil Carpenter, DeeDee Remington, Robin Paynter, and Hunter Shobe) testified in opposition to the proposal, but requested that the staff-recommended conditions be applied, if the proposal was approved. The neighbors' arguments fell into the following categories:

- Allowing the full 45' height allowed in the R-1 zone will be out of character for the neighborhood.
- Allowing the full 45' height would cast shadow on neighboring properties.
- The site is not adequately screened by existing trees leading to a loss of privacy for adjacent land owners.
- If the maximum density of 19 units is allowed, then parking problems will result.

- Increased vehicles will cause traffic problems at the intersection of SE Franklin and SE Cesar Chavez Blvd.

The applicant provided a brief rebuttal explaining that a Traffic Impact Analysis was conducted and it showed an insignificant impact on traffic patterns and safety.

The Hearings Officer's recommendation discussed his perceived role in providing a recommendation to the City Council. He explained that, based on case law, he was obliged to take a very narrow view of the proposal and the application of the approval criteria, which he believed would not allow him to impose the conditions of approval that staff had recommended. The Hearings Officer noted, however, that the standard of review for the interpretation of comprehensive plan goals and policies of local elected bodies, such as the City Council, is much lower and potentially more flexible.

The case was brought to a public hearing before the Portland City Council on October 15, 2014 at 2:00 p.m. Four of the Council members were present, with Commissioner Fish as an excused absence. After a brief presentation by staff, the applicants were again represented by Ben Gates and Attorney Mike Connors, who advocated approval of the proposed map amendments and adoption of the Hearings Officer's recommendation.

The Richmond Neighborhood Association submitted written testimony to City Council, in a letter dated October 14, 2014. The letter stated that the neighborhood voted to support the proposed amendments, "but with the conditions recommended by the staff report by Kathleen Stokes, BDS."

Douglas Klotz, the Land Use Chair for the Richmond Neighborhood Association, stated that he was not testifying in that capacity, but as an individual citizen and resident of the Richmond Neighborhood. Mr. Klotz supported the applicants' proposal, and urged Council to adopt the Hearings Officer's recommendation of approval with no conditions, based on the potential for affordable housing and the desire to see increased residential density close to major transportation corridors.

Several other Richmond neighbors, including two Richmond Neighborhood Association board members, testified in opposition to the proposal (Megan Light, DeeDee Remington, Denise Hair, Neil Carpenter and Gordon Brown). These neighbors cited the same issues that were raised before the Hearings Officer and also stated that the impacts of significant increases in density, such as were being requested in this proposal, were causing citizens in established single-dwelling neighborhoods to disinvest in their properties because of the lack of confidence in the ability to maintain neighborhood livability.

Based on the testimony by neighbors and other credible evidence in the record, the City Council found that the arguments of the neighbors in this case were persuasive. The Council voted unanimously to deny the applicants' proposal for the reasons explained in the Council's findings in Section IV, below.

### **III. ANALYSIS**

**Site and Vicinity:** The site is a 19,575 square foot property that is located on the east side of SE Cesar E. Chavez Boulevard. According to Multnomah County records, the lot is 74.9 feet wide by 261 feet deep. The property is currently developed with a two-story, single-dwelling residence, constructed in 1907. The house is located on top of a bank that is adjacent to the street lot line and the remainder of the site, which appears to be relatively level, is undeveloped, containing a garden and landscaped area.

The area around the site includes a mixture of uses and development. Immediately to the north, the block fronting onto the south side of SE Francis Street contains single-dwelling residences on the eastern half of the block and low density, two to three-unit, multi-dwelling structures on the western half of the block. Beyond that area, for several blocks further to the north, the development consists more uniformly of single-dwelling residences. However, to the northeast, the residential development pattern is disrupted by a nonconforming commercial use in the residential zone. This use, a plant nursery, covers nearly three acres, which is most of the area from SE Franklin Street, north to SE Tibbetts Street, and from the place where SE 41<sup>st</sup> Avenue would be located, if it connected through to the south, eastward to SE 43<sup>rd</sup> Avenue. From SE 43<sup>rd</sup> Avenue to SE 45<sup>th</sup> Avenue and from SE Powell Boulevard, north to SE Tibbetts Street are properties that are developed as religious institutions.

To the south of the site, there is a mixture of commercial uses and development, in the corridor along SE Powell Boulevard (Highway 26) and in the node that extends to the north and south from Powell, along Cesar E. Chavez Boulevard. On the southeast corner of the intersection, there is a Safeway grocery store. Further to the east, on the south side of Powell Boulevard, at SE 43<sup>rd</sup> Avenue, there is a public park in an Open Space (OS) zone. On the west side of Cesar E. Chavez Boulevard, there is a mixture of single and multi-dwelling residential uses that appear to date from the early 1900s. Commercial uses tend to be located in more recently constructed buildings that are generally clustered near Powell Boulevard. However, there are some structures that appear to be residential buildings that were converted to commercial uses that are sprinkled along the Cesar E. Chavez Boulevard corridor, as well.

**Existing Zoning:** The current zoning for the site is Single Dwelling Residential 2,500 (R2.5), which has the Comprehensive Plan designation of Attached Residential. The R2.5 zone is the highest density single-dwelling zone and allows attached and detached single-dwelling structures and duplexes. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The maximum density in the R2.5 zone is one unit for every 2,500 square feet of site area. Each lot must have street frontage which would require the creation of a private street. Thus, the development potential of the existing zoning would be a total of six lots.

(Maximum density, per 33.611.100 D.1. and 33.930.020 B. 2. is based on the following calculations:  $19,575 \text{ sq. ft.} \times .85 = 16,638.75 \text{ sq. ft.}$   
 $16,638.75 \text{ sq. ft.} / 2,500 \text{ sq. ft.} = 6.65$ , which is rounded down to 6)

**Proposed Zoning:** The proposed zoning for the site is Multi-Dwelling Residential 1,000 (R1), which has the Comprehensive Plan designation of Medium Density Multi-Dwelling Residential. This zone allows up to one unit per 1,000 square feet of site area and requires a minimum of one unit per 1,450 square feet of site area, or 1 unit per 2,000 square feet of site area for sites that are smaller than 10,000 square feet. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the lower density multi-dwelling zones. The major type of new housing will be condominiums and apartments, duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near neighborhood collector and district collector streets, and local streets adjacent to commercial areas, or major streets. The development potential of the proposed zoning would be a total of 19 multi-dwelling units.

**Land Use History:** City records indicate that prior land use reviews include the following case:

**04-011493 LD ZC** - 2004 approval of a Zoning Map Amendment, in compliance with the Comprehensive Plan Map Amendment, from R5 to R2.5 and preliminary approval of a five-lot subdivision with a private street for access. The final plat for the approved subdivision was never completed and so it expired and the approval for the land division was voided.

### **Agency and Neighborhood Review:**

#### **1. Agency Review**

A "Request for Response" was mailed June 12, 2014. The City's service bureaus have responded with the following comments:

- Environmental Services provided information on sanitary infrastructure and commented on the proposed storm water management plan, noting that site testing indicates that stormwater can be completely contained and drained into the native soils onsite (Exhibit E-1).
- Transportation Engineering considered the traffic and parking impact analysis that the applicant submitted and provided comments and findings regarding the proposal, as it relates to Goal 6 of the Comprehensive Plan (Exhibit E-2).
- Water Bureau provided information on the existing water service for the site and noted requirements for upgrading the service for redevelopment of the site (Exhibit E-3).
- Fire Bureau noted that all applicable Fire Code requirements will apply at the time of permit review and development (Exhibit E-4).
- Police Bureau sent a response that indicated that the bureau is capable of serving the proposed change that has been requested. The response also contained a recommendation that on-site persons and the developer work with the East Precinct Commander on any public safety issues or concerns (Exhibit E-5).
- Site Development Section of BDS provided a description of the physical characteristics of the site and noted that the erosion prevention and sediment control requirements of Title 10 will apply to both the site preparation work and future development on this site (Exhibit E-6).
- Life Safety Plan Review Section of BDS provided a response that noted some of the building code requirements for the necessary building permits for the redevelopment of the site, including requirements for accessible parking spaces and pedestrian connections (Exhibit E-7).
- Parks-Forestry Division provided information regarding City requirements for on-site tree preservation and planting of street trees (Exhibit E-8).

#### **2. Neighborhood Review:**

A "Notice of Proposal in Your Neighborhood" was mailed on July 8, 2014. Prior to the hearing, three written responses were received by BDS staff from notified property owners in response to the proposal. All of the responses expressed objections to the proposal. The letters included the following concerns:

The first letter, which was sent on July 2<sup>nd</sup>, before the public notice was mailed, came from a neighbor on SE Franklin Street who expressed concerns regarding security for her property, privacy, increased noise and light from the proposed apartments, reduced natural light from shade cast by the building, increased traffic and congestion on adjacent streets, on-street parking impacts and fears that all of these impacts would decrease property values for the adjacent lots (Exhibit F-1).

The second letter referenced the Richmond Neighborhood Plan and stated that the proposal was not consistent with several sections of Policies 4 and 6 of this adopted plan, as follows:

“1. Under Policy 4 of the RNP, Objective 4.1 is to Encourage the restoration, rehabilitation, and maintenance of existing owner occupied and rental housing stock. If the zoning is changed to R1, the owners are planning on demolishing the existing house to make room for the proposed 19 units. This is in direct conflict to the RNP. Currently, the zoning would allow 7.8 units, so additional units could still be built while retaining the existing house.

2. Under Policy 4, Housing Action Item H4 describes investigating development options along 39th Ave that *enhance* the residential character of the area. Although the proposal is to put residences on that site, we know that R1 allows a height of up to 45'. This would greatly impact the character of the block, and negatively impact the surrounding residences. A height of 45' may technically be residential, but it feels more like commercial when it abuts your backyard. Action Item H8 states: Advocate to retain the residential zoning along SE 39th. Although this could be interpreted various ways, perhaps the intent of "retain the residential zoning" was to also retain the residential feel and character. And even though the developer is proposing only a 2 story building, it would not be unheard of that a developer would build out to the maximum allowed. I think it is also important to look at the "worse case scenario" density wise, since the current owner is not necessarily the one who will end up developing it.

3. Under Policy 6, Transportation, Objective 6.5 is to minimize the negative impacts of motorized vehicle traffic in the Richmond Neighborhood. I am all for biking and walking, but the fact is, that most people have cars in Portland. This particular area on 39th is very busy, and adding 19 units to this site would create additional traffic congestion. It would create additional hazards for all drivers if residents are waiting to turn left (if coming from the north) into their driveway or additional traffic flow on side streets if they need to go "around the block" to access the development” (Exhibit F-2).

The third letter stressed the impacts of the allowed 45-foot height of structures in the R1 zone, stating that it would block daylight for the three properties directly abutting the site to the north. As an example of the potential impacts, pictures were provided of these properties and also of another property in a different southeast Portland neighborhood, where a similarly-sized apartment building was constructed on the lot that abuts a vintage single-dwelling residence. A suggestion was made that restricting the height of the proposed redevelopment to the existing 35-foot limit might provide some mitigation. The writer of this letter also expressed concern regarding the potential impacts on the availability of on-street parking that might be created from the development of 19 apartments on the subject site. The writer suggested limiting the development to a smaller number of apartments to mitigate potential impacts on the availability of parking in the area (Exhibit F-3).

#### **IV. ZONING CODE APPROVAL CRITERIA AND FINDINGS**

##### **33.810.050 Approval Criteria**

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

1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be equally

or more supportive of the Comprehensive Plan as a whole than the old designation;

**Findings:** This approval criterion requires a comparison of each relevant Comprehensive Plan policy: does the “new” map designation equally or better meet each relevant Comprehensive Plan policy than the “old” designation. The approval criterion is not satisfied by simply demonstrating that the “new” Comprehensive Plan map designation meets or is consistent with each Comprehensive Plan policy.

After making the comparison described above, the Council must determine whether, on balance, the new designation is equally or more supportive of the Comprehensive Plan as a whole than the current designation. In making this determination, it is permissible and necessary for the Council to engage in some weighing and balancing of the relevant Comprehensive Plan policies. The Council has broad discretion in establishing how to balance the relevant goals and policies given the particular proposal and location before it. There is nothing in the City’s code or its policies that requires that all Comprehensive Plan policies be given equal weight in the balancing process. The Council has the authority to give some relevant Comprehensive Plan policies more weight and other relevant policies less weight in reaching its final decision as to whether the “new” proposed designation, equally or better, satisfies the policies than the “old” designation for this particular property.

The Council finds that the most important Comprehensive Plan policy subject areas, as they relate to this particular proposal, pertain to the preservation of residential neighborhoods and neighborhood character, and transportation, particularly traffic access and parking. The change in comprehensive plan and zoning map designations and the potential development of 19 housing units on the site proposed here is more supportive of a small number of comprehensive plan policies than the current designation. It is, however, not equally or more supportive of key comprehensive plan policies addressing residential neighborhoods and transportation, which have special relevance given the site’s location near a busy commercial intersection, the adjoining, increasingly fragile residential neighborhood, and the configuration of this site.

The following analysis assesses the Comprehensive Plan goals, policies and objectives relevant to this proposal. Based on this analysis, on balance, the Council finds the requested designation is not equally or more supportive of the Comprehensive Plan as a whole than the old designation. Therefore, this criterion is not met, for the reasons explained below.

### **Comprehensive Plan Goals and Policies**

The following Comprehensive Plan Goals and Policies are relevant to this proposal:

#### **Goal 1 Metropolitan Coordination**

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

**Findings:** The *Urban Growth Management Functional Plan* was approved November 21, 1996, by the Metro Council, and became effective February 19, 1997. The purpose of the plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO),

including the 2040 Growth Concept. Local jurisdictions must address the Functional Plan when Comprehensive Plan Map Amendments are proposed through the quasi-judicial or legislative processes. The *Urban Growth Management Functional Plan* is found in Section 3.07 of the [Metro Code](#).

The City of Portland's Comprehensive Plan and the implementing Zoning regulations of PCC Title 33 are either in compliance with, or are not inconsistent with, the applicable Metro Titles. This proposal is not consistent with all of the Metro Titles that are applicable.

The applicable Metro Titles in Section 3.07 are summarized and addressed below.

### **Urban Growth Management Functional Plan**

**Title 1 Housing Capacity.** This title calls for compact urban form and a “fair-share” approach to meeting the regional housing needs. It is accomplished by requiring each city and county to maintain or increase its housing capacity. This requirement is generally implemented through city-wide analysis based on calculated capacities from land use designations.

**Findings:** The requested amendment would change the housing capacity of the site. The proposed Comprehensive Plan designation of Medium Density Multi-Dwelling and implementing zone of Residential 1,000 (R1) would allow a maximum of 19 dwelling units at this site. The existing Comprehensive Plan designation of Attached Residential and enabling zone of General Residential 2,500 (R2.5) would allow a maximum of six units. The long narrow configuration of the property and the limited vehicle access from the abutting right-of-way, due to the heavy traffic load that it carries, make it difficult to accommodate the increase in density that would be allowed through an approval of the proposed amendment. The current designation provides adequate density for this property and any increase that is contemplated would be best achieved by grouping properties that could be developed in a more comprehensive fashion, rather than trying to fit a relatively large number of units on one irregularly shaped parcel. Maintaining the current comprehensive plan and zoning designations on this site will not prevent the City from contributing its fair share of residentially zoned land to meet the region's housing needs. The City currently has a supply of land that is more than adequate to accommodate its share of this need. Therefore the proposal is not consistent with this Title.

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

This title protects the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution of the region's waterways.

**Findings:** Compliance with this title is achieved in these areas through the review of development against the current Stormwater Management Manual regulations at time of building permits. At the time of future development, any project on this site must comply with all stormwater management requirements. The Bureau of Environmental Services provided comments and noted that there is adequate infiltration to contain stormwater onsite in this location. Therefore the proposal is consistent with this title.

**Title 4 - Industrial and Other Employment Areas.** This title seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas. The title also seeks to provide the benefits of “clustering” to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. It further seeks to protect the capacity and efficiency of the region's transportation system for the

movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities.

**Findings:** The site is not located in a Regionally Significant Industrial Area. While it is located on a street that is designated as a Major City Traffic Street and also is within one block of State Highway 26, Powell Boulevard, which is also designated as a Major City Traffic Street, it has historically been a residentially zoned property. If the proposal were approved, the site would continue as a residential property, but at an increased residential density. To the extent Title 4 is relevant and applicable, the proposal will not affect a Regionally Significant Industrial Area and has no effect on the City's compliance with Title 4.

**Title 6 - Centers, Corridors, Station Communities and Main Streets.** The Regional Framework Plan identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. This title calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval. The intention of Title 6 is to enhance the Centers designated on The 2040 Growth Concept Map by encouraging development in these Centers. This title recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept.

**Findings:** The proposal is for a site that is not within the Central City, nor is it in an area that is designated as a Regional or Town Center or a Station Community. The site is located on Cesar E. Chavez Boulevard. The map that accompanies Metro Title 6 does not indicate which rights-of-way are Main Streets. In the City of Portland's Transportation System Plan, Cesar E. Chavez Boulevard is designated as a Regional Corridor. The site is also within one block of SE Powell Boulevard, which is also designated as a Regional Corridor and is the route of State Highway 26. The fact that the site is outside of any designated center or station community means that the proposal appears to have no impact on this title. The fact that the site is at the intersection of two major thoroughfares, however, means that increasing the residential density in this location would be consistent with the purposes of this title.

**Title 7 - Affordable Housing.** This title ensures that all cities and counties in the region are providing opportunities for affordable housing for households of all income levels.

**Findings:** Approval of the proposal would allow for an incremental increase in the number of housing units available within the City, thereby increasing the range of housing available on the open market. The proposal is consistent with this title.

**Title 12 - Protection of Residential Neighborhoods.** The purpose of this title is to protect the region's existing residential neighborhoods from air and water pollution, noise and crime, and to provide adequate levels of public services.

**Findings:** If the proposal is approved, the applicants intend to build up to 19 residential units on a property that is nearly one block long and only 75 feet wide. Neighbors testified that this intensity of development would reduce light and air to adjacent residential properties since the proposed comprehensive plan and zoning designations allow development up to 45 in height. The neighbors also claimed that the increased density allowed by the proposal would create the potential for increased noise impacts for the abutting residences and the nearby single-dwelling residential area.

Based on the neighbors' testimony, photographs of the neighboring residential area, and other evidence in the record, the Council agrees and concludes the proposal is not consistent with the Title.

In summary, while the proposal is consistent with some of the Metro Titles, it is inconsistent with Titles 1 and 12. Therefore, the request is not consistent with the regional planning framework, and the proposed designation is not equally or more supportive of Goal 1, Metropolitan Coordination, than the existing designation.

## **GOAL 2 Urban Development**

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

**Some of the policies of this goal do not apply to this situation because they are directed at other types of uses or other parts of the City. The policies that potentially have some relevance to this proposal are the following:**

### **2.1 Population Growth**

*Allow for population growth within the existing city boundary by providing land use opportunities that will accommodate the projected increase in city households by the year 2000.*

### **2.9 Residential Neighborhoods**

*Allow for a range of housing types to accommodate increased population growth while improving and protecting the city's residential neighborhoods.*

**Findings:** The Council finds that this goal is satisfied by retaining the comprehensive plan designation and the zoning that currently exists on the site. Trying to fit the proposed increase in density onto this property is likely to have significant detrimental impacts on the abutting residential neighborhood. These impacts include reduced light, air and privacy and increased noise and traffic congestion. The proposed designation is not necessary to maintain Portland's role as a regional center or to provide expanded opportunity for housing. Any potential density increase that might result from approving the proposal would come at the expense of the surrounding residential neighborhood and, as neighbors testified, significantly and negatively affect its character. Council finds that the existing Attached Residential designation is more supportive of Goal 2, Urban Development and the relevant policies.

## **GOAL 3 Neighborhoods**

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

**Some of the policies of this goal do not apply to this proposal because they are directed at other types of uses or other parts of the City. The policies that potentially could have some relevance to this proposal are the following:**

### **3.5 Neighborhood Involvement**

*Provide for the active involvement of neighborhood residents and businesses in decisions affecting their neighborhood through the promotion of neighborhood and business associations. Provide information to neighborhood and business*

*associations which allows them to monitor the impact of the Comprehensive Plan and to report their findings annually to the Planning Commission.*

**Findings:** The applicant presented this proposal to the Richmond Neighborhood Association, prior to submittal of this application to the City. The neighborhood commented in the previously described letter to Council, in which they supported the proposed amendment, but only with the Conditions of Approval that were originally recommended by BDS staff. In addition, notice of the hearing on the proposed amendments was sent by the City to the appropriate Neighborhood Association and to property owners within 400 feet of the site. The site was posted with information pertaining to the application and hearing schedule. Overall, the process for the review of the proposal is consistent with this policy's intent to actively involve neighbors and neighborhood associations in implementation of the comprehensive plan—both at the planning and individual development proposal levels.

### **3.6 Neighborhood Plan**

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

**Findings:** The Richmond Neighborhood Plan (RNP) was adopted by the Portland City Council in November 1994. Policy 4: Housing states, "Preserve and improve existing housing while providing opportunities for new housing for people of all ages and income levels." Several objectives further elaborate on this policy. Two of these objectives direct the retention of existing residential structures, particularly those that potentially have some historic character.

"Objective 4.1. Encourage restoration, rehabilitation and maintenance of existing owner occupied and rental housing stock."

"Objective 4.2. Identify, recognize, and celebrate historic resources in the neighborhood."

This proposal would remove a single-dwelling residence that was built in 1907. The house is not on the City's historic inventory. Originally, staff recommended a condition of approval that would require a modified version of "demolition delay," modeled after the guidance provided by Portland Zoning Code Section 33.445.810. This condition was removed from the Hearings Officer's recommendation, at the request of the applicant. Commissioner Fritz commented that new requirements for the demolition of houses have been implemented and would apply to this proposal. Therefore, these policies would be supported regardless of the outcome of any decision on this proposal.

Two additional objectives require provision of a greater variety of housing opportunities in the neighborhood, particularly along "main streets," and near transit routes and commercial nodes.

"Objective 4.3. Support housing opportunities for people of all ages, backgrounds, and economic levels."

"Objective 4.4. Accommodate anticipated population growth through "main street" development (mixed residential/commercial uses along major transit streets or other construction methods that retain or enhance existing neighborhood character."

The proposed Comprehensive Plan Map designation is consistent with these objectives and would potentially support them more fully than the existing Comprehensive Plan

Map designation. The existing designation allows a maximum of six lots (with a private street) on the subject site. The requested Medium Density Multi-Dwelling designation would allow up to 19 units to be built on this site, which is located on a Transit Access Street and is also located less than a block from a Major Transit Priority Street. Approval of the proposal would not create mixed residential/commercial uses, but could theoretically increase the availability of housing opportunities three-fold, at least in terms of the maximum density permitted on the site. The Council finds, however, that these opportunities can be better provided in other locations, where the property is more appropriately configured and situated to absorb the higher density without causing negative impacts on abutting established residential areas.

The existing neighborhood to the north of the site, which Council focused on in this decision, has a quiet residential character that is largely comprised of single-dwelling homes that are one and two-story structures from the early 1900s and some one-story duplexes with at or below grade garages that were constructed from high quality materials in the 1960s. The residents of these duplexes would see the greatest impact from approval of this proposal because the three duplexes, each on a 71.8-foot deep lot, abut the north property line of the applicants' site. Due to the configuration of the subject site, there is inadequate space available to place this increased density and still provide some buffering for these existing homes. The homes on these adjacent sites already have a reduced lot depth, in comparison to the surrounding area, which further compounds the situation. The new multi-dwelling development on the subject site would reduce light, air and privacy for these duplexes, especially, and if built to the full allowed 45-foot height limit would loom over all of the surrounding development. Impact from noise and an overall sense of crowding could potentially reduce neighborhood stability or at the very least, the sense of enjoyment of the existing character of these nearby properties. Council found that the existing Attached Residential designation offers a more compatible transition, in both scale and allowed density, between the commercially zoned area to the south and the lower density residential area to the north. The existing designation offers protection and buffering for the existing neighborhood character in a way that the proposed Medium Density Multi-Dwelling designation could not provide in this situation.

The final objective of this policy addresses commercial activities.

“Objective 4.5. Protect residential areas from commercial encroachment.”

This objective is not relevant to this proposal.

In summary, the proposed designation is inconsistent with this policy of the RNP because, as described in the findings above, it would negatively impact the existing residential character of the immediate area. Overall, the Council does not find the proposal to be more supportive of this policy than the existing designation.

Policy 6 Transportation states, “Increase accessibility to travel destinations and transportation options available to neighborhood residents and visitors. Reduce the negative impact of auto traffic in residential and business areas.” Once again, there are several objectives that clarify this general policy statement. Four of these objectives provide direction for making improvements to encourage the use of various types of transportation options.

“Objective 6.1. Improve arterial and collector streets to provide safe and convenient bicycle access to neighborhood destinations and to encourage the use of bicycles as a transportation alternative to the automobile. Establish a

network of alternative bike routes on local service streets, with particular attention to providing safe bicycle access to schools.

“Objective 6.2. Make Richmond a more pedestrian-oriented neighborhood by emphasizing pedestrian safety and convenience.

“Objective 6.3. Make Richmond a more transit-friendly neighborhood. Encourage the use of public transportation by those who work, live, shop and visit the neighborhood. Support convenient, cost effective public transportation serving Richmond. Work with Tri-Met to improve the transit infrastructure in Richmond.”

“Objective 6.4. Increase and improve transportation options through and around the Richmond Neighborhood.”

These objectives provide direction for improvements to the transportation infrastructure of the Richmond Neighborhood that would make multi-modal travel options more convenient for the residents of the area. Clustering higher density along major thoroughfares and providing a variety of travel options in these areas will create a critical mass that will push the economies of capital expenditures to create these types of improvements. In the light of this principle of planning theory, the increased density that this proposal would allow would be more supportive of these objectives than the existing Attached Residential designation.

In this situation, however, the Council finds the time is not ripe for this type of change. The Council recognizes that there is no logical zoning pattern in the immediate vicinity of the site, but concludes that it is precisely because of the apparent disparity in the existing map pattern that any up-zoning in recognition of the adjacent transportation corridors should be accomplished through a broader, comprehensive area-wide study and plan rather than the “piecemeal” application of a designation that increases density at the expense of the livability of an established residential neighborhood.

The remaining two objectives are focus on the concept of minimizing the potentially negative impacts of various transportation choices on the neighborhood.

“Objective 6.5. Minimize the negative impacts of motorized vehicle traffic in the Richmond Neighborhood.”

“Objective 6.6. Retain existing parking. Add additional parking to meet specific parking needs. New parking should be designed to be pleasing and safe from a pedestrian point of view.”

The Council finds that the increase in traffic that would result from the proposed designation (as discussed under Goal 6, below) is one of several potential impacts that indicates that this proposed amendment is not as supportive of the Neighborhood Plan policies and objectives as the existing designation.

In summary, the proposed amendment would result in an incremental increase in the permissible density within a well established residential neighborhood in close proximity to neighborhood businesses and services, which could support and encourage transit improvements, such as those included in Objectives 6.1 through 6.4, more than the existing designation. The Council finds that this is not a sufficient reason to approve the requested Comprehensive Plan Map amendment to allow the proposed increase in density because more negative impacts would occur than the value of the support for these policies would merit. The configuration of this property

makes it challenging to develop. The Council is persuaded by the neighbors who testified that the development of the site at the requested density would have negative impacts from many sources, including increased traffic and competition for parking, which could destabilize the neighborhood and drive away long-term residents. Therefore, on balance, the requested designation is not equally supportive of this goal and its policies as the existing designation.

#### **GOAL 4 Housing**

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

**Some of the policies of this goal do not apply to this situation because they are directed at other types of uses or other parts of the City. The policies that are potentially relevant to this proposal are the following:**

##### **4.1 Housing Availability**

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

**Findings:** The proposed amendment would result in a small increase in residential density, thus making a small contribution toward ensuring the City has an adequate supply of housing potential for the future. Overall, however, the Council finds that the City's existing and potential housing supply is more than adequate. Any further increase in this supply is more reasonably created in other locations that do not carry so many detrimental impacts along with the increase.

##### **4.3 Sustainable Housing**

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

**Findings:** The proposal would allow more density in this location, but it is not clear that this would be a more efficient use of land in this situation, due to the impacts on the adjacent residential neighborhood. The location is well situated for an increase in density, due to the access to frequent service transit, with bus connections on SE Cesar E. Chavez and less than a block away on SE Powell. The site is only about four blocks from a neighborhood park, at SE 43<sup>rd</sup> and Powell, and less than a block from a full scale retail grocery store. A number of other neighborhood businesses and services are in close proximity and easily accessed by all transportation modes. Numerous routes in SE Portland provide good bicycle access for future residents. Overall, however, the Council finds that a characteristic of sustainable development patterns includes maintaining livability in established residential neighborhoods. This proposal would result in many impacts that would work against that end.

On balance, Council finds that the requested designation is not equally or more supportive of Goal 4 as the existing designation.

**GOAL 5 Economic Development**

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

**Some of the policies of this goal do not apply to this situation because they are directed at other types of uses or other parts of the City. Only one policy has some potential relevance to this proposal:**

**5.1 Urban Development and Revitalization**

*Encourage investment in the development, redevelopment, rehabilitation and adaptive reuse of urban land and buildings for employment and housing opportunities.*

**Findings:** While not directly related to economic activities, the proposal could incrementally increase the range of economic choices in housing and provide housing that may fill some of the needs of working individuals and families in the Richmond Neighborhood. Alternatively, the existing designation could also allow redevelopment, though at a lower density which might be more easily absorbed into the existing neighborhood fabric. On balance, there does not appear to be any difference in how supportive either designation is for this Goal and so the proposed designation can be found to be equally supportive of Goal 5 as the existing designation.

**GOAL 6 Transportation**

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

**Findings:** The Portland Bureau of Transportation reviewed the proposal, and provided a portion of the following analysis:

**6.1 Coordination**

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

**6.2 Public Involvement**

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

**Findings:** Policies 6.1 and 6.2 are met by the land use review notice requirements which include sending notice of the proposed amendment to state and local agencies, and to property owners within a radius of 400 feet of the Amendment Site.

**6.5 Traffic Classification Descriptions**

*Maintain a system of traffic streets that support the movement of motor vehicles for regional, interregional, inter-district, and local trips as shown. For each type of traffic classification, the majority of motor vehicle trips on a street should conform to its classification description.*

**Findings:** At this location, SE Cesar E. Chavez Boulevard is designated as a Major City Traffic Street. Major City Traffic Streets are intended to serve as the principal routes for

traffic that has at least one trip-end within a transportation district. The type of uses and density of development that would be allowed under the proposed designation are expected to generate an additional five PM peak hour trips. As such, the proposed Comprehensive Plan Map designation will promote the type and density of uses that are appropriate for the traffic classifications and the functions of the abutting streets.

The applicants' proposal would be equally or more supportive of this policy, if safety were not a concern. However, Cesar E. Chavez Boulevard is one of the few streets that provide a continuous north-south connection across the City's entire east side. The street has rather compact travel lanes but carries a heavy burden of four lanes of traffic at all times. Left turns from this right-of-way are difficult and often dangerous, outside of intersections that are signalized to facilitate such traffic maneuvers. The applicants' site is located mid-block on the east side of the street. There is a bus stop immediately to the south of the existing driveway for the site. To the north, the intersection at SE Francis Street prohibits left turns. The next intersection to the south is that of SE Powell Boulevard, which is also State Highway 26, where signals regulate left and right turn movements. Given these traffic conditions, left turns from the site would also be difficult or unsafe. Even with the small number of increased peak hour trips, due to the difficulty of access to and from the adjacent two-way street, the Council finds that safety is a significant concern with the increased density that would be allowed under the requested Comprehensive Plan Map designation. Therefore, on balance, the applicants' proposal would not be equally or more supportive of this policy,

#### **6.6 Transit Classification Descriptions**

*Maintain a system of transit streets that supports the movement of transit vehicles for regional, interregional, inter-district, and local trips.*

**Findings:** Cesar Chavez Boulevard is designated a Transit Access Street. Transit Access Streets are intended for district oriented transit service, serving main streets, neighborhoods, and commercial, industrial and employment areas. One goal is to encourage pedestrian activity in commercial and mixed-use areas along Transit Access streets. The proposed designation better provides for pedestrian-oriented development along a Transit Access Street.

The type of uses and density of development allowed under the proposed designation are expected to increase the number of households that could potentially use transit directly on both a north/south and an east/west transit corridor. This is supportive of the transit corridor and supportive of reducing the number of vehicle trips generated by the development while allowing additional housing density. Therefore, on balance, the applicants' proposal is equally or more supportive of this policy.

#### **6.7 Bicycle Classification Descriptions**

*Maintain a system of bikeways to serve all bicycle users and all types of bicycle trips.*

**Findings:** Cesar Chavez Boulevard is designated a Local Service Bikeway. Local Service Bikeways are intended to serve local circulation needs for bicyclists and provide access to adjacent properties. Most single-dwelling residences are capable of accommodating the use and storage of bicycles for the residents of the houses. The proposed designation will allow multi-dwelling development to be created, and, in accordance with the requirements of Title 33, bicycle parking will be provided onsite for the residents. This is consistent with the local service access provisions so the requested designation will be equally supportive of this policy as the existing designation.

### **6.8 Pedestrian Classification Descriptions**

*Maintain a system of pedestrianways to serve all types of pedestrian trips, particularly those with a transportation function.*

**Findings:** Cesar Chavez Boulevard is designated as a City Walkway. City Walkways are intended to provide safe, convenient, and attractive pedestrian access to activities along major streets and to recreation and institutions; provide connections between neighborhoods; and provide access to transit. The proposed designation will increase the allowed number of residences, which will encourage increased pedestrian activity. The proposed designation will also better support the goal by triggering City requirements for additional right-of-way and improved pedestrian facilities including a vegetative buffer between the street and sidewalk. Therefore, on balance, the applicants' proposal is more supportive of this policy.

### **6.9 Freight Classification Descriptions**

*Designate a system of truck streets, railroad lines, and intermodal and other freight facilities that support local, national, and international distribution of goods and services.*

**Findings:** Cesar Chavez Boulevard is designated a Truck Access Street. Truck Access Streets are intended to serve as an access and circulation route for delivery of goods and services. According to the traffic impact analysis of the proposed Action, the impact of the proposal will be negligible on this system and therefore will not have an adverse affect.

### **6.10 Emergency Response Classification Descriptions**

*Emergency Response Streets are intended to provide a network of streets to facilitate prompt emergency response.*

**Findings:** Cesar Chavez is a Major Emergency Response Street. Major Emergency Response Streets are intended to serve primarily the longer, most direct legs of emergency response trips. According to the traffic impact analysis for the proposed designation, the impact of the proposal would be small and therefore would not have an adverse affect on emergency response capabilities. The Council is persuaded, however, by the neighbors who are concerned that traffic congestion may be increased at the driveway to the site. This driveway would provide access for a projected 18 to 20 vehicles for the 19 units that could be developed on the subject site. If concern regarding potential congestion at the driveway is given credence, then there would be the potential for delay for emergency vehicles. The Council finds the proposed designation would not then be seen to be as supportive of this policy as the existing designation which would only allow 6 primary units to be developed and which would require the units to be served by a private street.

### **6.11 Street Design Classification Descriptions**

*Street Design Classification Descriptions identify the preferred modal emphasis and design treatments for regionally significant streets and special design treatments for locally significant streets.*

**Findings:** The site is located adjacent to SE Cesar Chavez Boulevard which is designated as a Regional Traffic Way. Regional Trafficways are intended to serve interregional district movement that has only one trip-end in a transportation district or to serve trips that bypass a district completely. The traffic impact analysis shows that the additional trips will not have a significant impact on interregional traffic movements. Therefore, on balance, the proposed designation is equally supportive of the street classifications for Cesar E. Chavez Boulevard as the existing designation.

**6.12 Regional and City Travel Patterns**

*Support the use of the street system consistent with its state, regional, and city classifications and its classification descriptions.*

**Findings:** The site is located on SE Cesar E. Chavez Boulevard, which is a major arterial. The classifications for the street are discussed in the findings for Policies 6.5 through 6.11, above. The requested designation would allow an increased residential density for this site, which is consistent with the classifications for this right-of-way.

**6.13 Traffic Calming**

*Manage traffic on Neighborhood Collectors and Local Service Traffic Streets, along main streets, and in centers consistent with their street classifications, classification descriptions, and desired land uses.*

**Findings:** The Bureau of Transportation advised that the proposed Comprehensive Plan Map Amendment and Zoning Map Amendment will not warrant traffic calming measures (such as speed bumps, curb extensions, etc.). The applicants' Traffic Impact Study (TIS) concludes that the proposed Comprehensive Plan Map and Zone Change will result in traffic volumes consistent with the associated road classifications and available capacity. While the proposal may be consistent with the Major City Traffic Street classification for SE Cesar Chavez, the Council is persuaded by the neighbors' credible testimony based on their daily experience navigating the traffic and traffic congestion on the adjacent streets surrounding this site. The narrow configuration of the subject property and the difficulty in making a mid-block left turn from the southbound lane on Chavez Boulevard could add to periodic problems with traffic congestion. This concern is further acknowledged by the fact that left turns are actually prohibited from SE Franklin Street, at the intersection to the north of the subject site. Therefore, the Council finds this policy is not met with the proposed Comprehensive Plan Map designation.

**6.14 Emergency Response**

*Provide a network of emergency response streets that facilitates prompt response to emergencies.*

**Findings:** SE Cesar E. Chavez Boulevard has been designated as a major emergency response route. The requested change in the Comprehensive Plan designation for this property will not change this street classification. This is policy is not relevant to this proposal.

**6.15 Transportation System Management**

*Give preference to transportation improvements that use existing roadway capacity efficiently and improve the safety of the system.*

**6.16 Access Management**

*Promote an efficient and safe street system, and provide adequate accessibility to planned land uses.*

**Findings:** The proposal does not include review of a specific development plan for the site. However, available access to the site is only possible from Cesar E. Chavez Boulevard. The details of any necessary street improvements and of the vehicle access to the site will be reviewed under Title 17 at the time that the redevelopment plan is put forward, whether under the requested designation or the existing designation. The Council finds that there are some valid safety concerns for vehicular access to, and

gress from, this property at the allowed density of the requested designation. Therefore, while Transportation indicates that these policies are not relevant to the proposal at this time, the Council disagrees and finds that the proposal is not equally or more supportive of these policies.

#### **6.18 Adequacy of Transportation Facilities**

*Ensure that amendments to the Comprehensive Plan (including goal exceptions and map amendments), zone changes, conditional uses, master plans, impact mitigation plans, and land use regulations that change allowed land uses are consistent with the identified function and capacity of, and adopted performance measures for, affected transportation facilities.*

**Findings:** The key intersection near the site is SE Cesar E. Chavez Boulevard and SE Powell Boulevard. The applicants' traffic study shows that the anticipated traffic impact at the intersection is an increase of three PM peak hour trips, which is a negligible increase. Therefore, and based on these findings, the Bureau of Transportation concluded the applicants' proposal is, on balance, equally or more supportive of this policy. The Council finds, however, that, while the proposed amendment may be compatible with the adjacent transportation facilities, unstudied impacts, such as off-peak trips, impacts on streets and parking supply on the residential street to the north, may cause unacceptable impacts on neighborhood livability, which are contrary to this policy.

#### **6.19 Transit-Oriented Development**

*Reinforce the link between transit and land use by encouraging transit-oriented development and supporting increased residential and employment densities along transit streets, at existing and planned light rail transit stations, and at other major activity centers.*

**Findings:** The Site is located along SE Cesar E. Chavez Boulevard, a mixed Transit Access Street, and is near SE Powell Boulevard, a Major Transit Priority Street. The proposed Action will better meet this goal by allowing additional density of housing which will provide a better transit-oriented development opportunity. Therefore, on balance, the proposed designation is more supportive of this policy than the existing designation.

#### **6.22 Pedestrian Transportation**

*Plan and complete a pedestrian network that increases the opportunities for walking to shopping and services, schools and parks, employment and transit.*

**Findings:** The site is located next to SE Cesar E. Chavez Boulevard, a City Walkway. Under both the existing and proposed comprehensive plan and zoning designations, any development of the site will require the dedication of additional right-of-way and the creation of a planting strip to buffer the sidewalk from the street. This will provide improved pedestrian facilities along the street. Therefore, on balance, the applicants' proposal and the existing designation are both equally supportive of this policy.

#### **6.23 Bicycle Transportation**

*Make the bicycle an integral part of daily life in Portland, particularly for trips of less than five miles, by implementing a bikeway network, providing end-of-trip*

*facilities, improving bicycle/transit integration, encouraging bicycle use, and making bicycling safer.*

**Findings:** The Zoning Code requires bicycle parking on the site to serve multi-dwelling residential development. This requirement will provide facilities for future residents. Therefore, on balance, applicants' proposal is equally or more supportive of this policy as the existing designation.

**6.24 Public Transportation**

*Develop a public transportation system that conveniently serves City residents and workers 24 hours a day, seven days a week and can become the preferred form of travel to major destinations, including the Central City, regional and town centers, main streets, and station communities.*

**Findings:** The requested designation will better meet this policy by creating the opportunity for more transit trips associated with the additional housing density. Therefore, on balance, the applicants' proposal is more supportive of this policy than the existing designation.

**6.25 Parking Management On-Street Parking Management**

*Manage the parking supply to achieve transportation policy objectives for neighborhood and business district vitality, auto trip reduction, and improved air quality.*

**6.26 On-Street Parking Management**

*Manage the supply, operations, and demand for parking and loading in the public right-of-way to encourage economic vitality, safety for all modes, and livability of residential neighborhoods.*

**6.27 Off Street Parking**

*Regulate off-street parking to promote good urban form and the vitality of commercial and employment areas.*

**Findings:** The only right-of-way frontage for this site is on SE Cesar E. Chavez Boulevard. This street has four travel lanes, two in each direction, and does not allow any on-street parking in this area. The redevelopment plan for the requested designation is conceptual, at this time, but the applicants indicate that the intent is to provide parking for the 19 units that would be allowed if the requested designation is approved. Under the current designation, a private street and up to six lots could be created, and each could have a primary dwelling unit and an accessory unit, for an overall total of twelve units. The possible addition of at least seven more residential units would increase the potential number of private automobiles by at least one-third. Further, development under the existing Attached Residential designation would require a private street that would be expected to create the opportunity for on-site parking spaces, as well as additional on-street parking spaces for the residents. No onsite parking is required for either the units that would be allowed if the proposed designation is approved or the units that are allowed under the current designation, due to the proximity of frequent transit service. As a majority of residents still choose to own cars, there is nothing that shows that the new residents would not have cars parked on the nearest available street, which is SE Franklin. The current supply of on-street parking appears to be adequate for the residents on this street. However, if this street also served as primary or even overflow parking for the increased number of units that would be allowed under the proposed designation, this would impact the livability

of this residential area. Therefore, these policies do not appear to be equally supported by the requested designation as by the existing designation.

### **6.38 Southeast Transportation District**

*Reduce travel demand and reliance on the automobile in Southeast Portland to protect residential areas and industrial sanctuaries from non-local traffic, while maintaining access to established commercial areas.*

*H. Minimize left-turn movements to auto-accommodating development along SE 39<sup>th</sup> Avenue (now Cesar E. Chavez Boulevard), and eliminate or consolidate driveways where possible.*

**Findings:** Objective H is the only portion of the Southeast Transportation District policy that directly applies to this site. This objective, however, is directed at auto-accommodating development, which is generally viewed as commercial or institutional uses that draw larger numbers of people to a site. As discussed above, residents would have difficulty safely making a left turn, either to or from the south bound lanes of SE Cesar E. Chavez Boulevard in this location. With the proposed designation, the drive would have to serve 19 units, rather than the existing one unit or the six primary units that could be allowed under the existing Attached Residential designation. This would increase the potential for attempts at left turns to and from the site. Therefore, this policy is not equally supported by this proposal.

GOAL 6 - In summary, the proposed designation equally or better supports several of the policies of this goal, particularly those that encourage a range of transportation options and choices through provision of additional housing density allowable on a multi-modal transportation route. However, the Council finds that the existing designation also equally or better supports other policies, particularly those policies that are intended to address safety and impacts on neighborhood livability and the Council further finds that these policies carry more weight for this proposal.

Therefore, on balance, Council finds that the requested designation is not equally supportive of Goal 6 as the existing designation.

### **GOAL 7 Energy**

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

**Some of the policies of this goal do not apply to this situation because they are directed at other types of uses or other parts of the City. The policies that are potentially relevant to this proposal are the following:**

#### **7.4 Energy Efficiency through Land Use Regulations**

*The City shall promote residential, commercial, industrial, and transportation energy efficiency and the use of renewable resources.*

#### **7.6 Energy Efficient Transportation**

*Provide opportunities for non-auto transportation including alternative vehicles, buses, light rail, bikeways, and walkways. The City shall promote the reduction of gasoline and diesel use by conventional buses, autos and trucks by increasing fuel efficiency and by promoting the use of alternative fuels.*

**Findings:** The bulk of the Goal 7 policies and objectives are generally directed toward City implementation of energy-related strategies. However, Policies 7.4 and 7.6 focus on promoting energy efficiency through land use regulations.

The proposal is supportive of these policies. The location of the proposal is in close proximity to transit and provides an opportunity to reduce vehicle trips and associated fossil fuel use. While there is no guarantee that when the site is redeveloped the residents of this 19-unit residential development will make use of these transit opportunities, there would be the potential for these residents to take use transit because of their close proximity to a bus stop. The current designation allows redevelopment of the site with six primary units (and up to twelve units, if each unit also had an accessory dwelling unit). Comparing the potential number of housing units under each designation, the requested designation is slightly more supportive of Goal 7 and its policies than the existing designation.

The bulk of the Goal 7 policies and objectives are generally directed toward the City implementing energy-related strategies. However there are two policies that focus on promoting energy efficiency through land use regulations.

The proposal is supportive of these policies, as the location of the proposal is in close proximity to transit, therefore provides an opportunity to reduce vehicle trips and the related energy use. There is no requirement that the residents of this site, when redeveloped will make use of these transit opportunities, but the potential would be to have 19 residential units that are in close proximity to a bus stop. The current designation would see redevelopment with six primary units (and up to twelve units, if each unit also had an accessory dwelling unit). The comparison of numbers indicates that the requested designation could be slightly more supportive of Goal 7 and its policies than the existing designation.

#### **GOAL 8 Environment**

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

**Some of the policies of this goal do not apply to this situation because they are directed at other types of uses or other parts of the City. The policies that are potentially relevant to this proposal are the following:**

#### **8.4 Ride Sharing, Bicycling, Walking, and Transit**

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

**Findings:** Although most of the policies and objectives under this goal are not relevant to the requested proposal, this policy is potentially applicable. As a result, the proposed designation would allow a wider range of housing types and is located in an area that is well served by frequent transit service. The nearby neighborhood streets provide good bicycle access. The site is also located within easy walking distance to a number of neighborhood-oriented businesses and services. The requested designation is equally or more supportive of this policy than the existing designation.

#### **GOAL 9 Citizen Involvement**

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

**Findings:** The City provided notice of the proposal to surrounding property owners within 400 feet of the site and to the neighborhood association, and informed them of their opportunity to comment on the application both in writing and at the public hearings on this application. In addition, notice of the proposal was posted on the site consistent with the zoning code's requirements for Type III Land Use Reviews. The Richmond Neighborhood Association and the neighbors participated orally and in writing in the hearings before the Hearings Officer and the City Council. The manner in which this land use review has been processed is supportive of this Goal.

#### **GOAL 10 Plan Review**

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

**Findings:** This Goal and related policies address how the City of Portland will address periodic review and how the Plan is implemented, including quasi-judicial Comprehensive Plan Map Amendments.

**Some of the policies of this goal do not apply to this situation because they are directed at other types of uses or other parts of the City or to policy directions or administrative actions by the City. The policies that are potentially relevant to this proposal are the following:**

#### **10.7 Amendments to the Comprehensive Plan Map**

*The Planning Commission must review and make recommendations to the City Council on all legislative amendments to the Comprehensive Plan Map. Quasi-judicial amendments to the Comprehensive Plan Map will be reviewed by the Hearings Officer prior to City Council action, using procedures stated in the zoning code. For quasi-judicial amendments, the burden of proof for the amendment is on the applicant. The applicant must show that the requested change is:*

*(1) Consistent and supportive of the appropriate Comprehensive Plan Goals and Policies,*

**Findings:** The analysis and findings in this decision conclude that, the proposed Comprehensive Plan Map Amendment is not generally as supportive of and consistent with the relevant goals and policies of the Comprehensive Plan as the existing designation.

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

**Findings:** The Council finds that the requested Plan designation and zoning for this site is not compatible with the general land use pattern established by the Comprehensive Plan for the area around the site. The Council finds that the existing Attached Residential designation provides a proper transition in the allowed density between the Commercial Zone area to the south and the Single-Dwelling Residential Zone area to the north. The lower overall height and building coverage and the smaller scale of structures that are allowed in the Attached Residential designation offer more

protection to preserve the quiet, traditional residential character of the single-dwelling area to the north of the site. Council finds that this type of transition is better than the requested designation and notes that the map should reflect this type of pattern in a more coherent way in any future changes that are anticipated for this area. Therefore, Council finds that the existing designation is more supportive of this objective than the proposed designation.

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

**Findings:** The State of Oregon Land Conservation and Development Commission (LCDC) has acknowledged the Comprehensive Plan for the City of Portland. The city goals mentioned in “LCDC and Comprehensive Plan Considerations” are comparable to the statewide planning goals in that City Goal 1 is the equivalent of State Goal 2 (Land Use Planning); City Goal 2 addresses the issues of State Goal 14 (Urbanization); and City Goal 3 deals with the local issues of neighborhoods. The following city and state goals are similar: City Goal 4, State Goal 10 (Housing); City Goal 5, State Goal 9 (Economic Development); City Goal 6, State Goal 12 (Transportation); City Goal 7, State Goal 13 (Energy Conservation); City Goal 8, State Goals 5, 6 and 7 (Environmental Impacts); and City Goal 9, State Goal 1 (Citizen Involvement). City Goal 10 addresses city plan amendments and rezoning; and City Goal 11 is similar to State Goal 11 (Public Facilities and Services). Other statewide goals relate to agricultural, forestry and coastal areas, etc., and therefore do not specifically apply to this site.

For quasi-judicial plan amendments, compliance with the city’s plan goals and policies, as discussed here, shows compliance with applicable state goals. The analysis in these findings indicates that the proposal does not equally or better support several of the City’s goals and policies. Consequently, the proposal is not consistent with all applicable Statewide goals.

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

**Findings:** As previously discussed above in these findings, the proposed designation is not consistent with the Housing and Transportation Goals that are included within the adopted Richmond Neighborhood Plan.

### **10.8 Zone Changes**

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

**Findings:** The Medium Density Multi-Dwelling Residential designation has one corresponding zone which implements the designation: Multi-Dwelling Residential 1,000. Because the proposal is not equally supportive of the Comprehensive Plan Goals

and Policies as the existing designation, the proposed zoning Map Amendment cannot be approved.

**GOAL 12 Urban Design**

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

**12.1 Portland's Character**

*Enhance and extend Portland's attractive identity. Build on design elements, features and themes identified with the City. Recognize and extend the use of City themes that establish a basis of a shared identity reinforcing the individual's sense of participation in a larger community.*

**12.6 Preserve Neighborhoods**

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

**Findings:** The site is situated immediately adjacent to a busy regional commercial node at SE Powell Boulevard and SE Cesar E. Chavez Boulevard. It is sandwiched between the commercial corridor that extends along SE Powell Boulevard and the established single-dwelling residential area that starts on the south side of SE Franklin Street. The Council agrees with the neighbors who opposed the proposal and found that the introduction of the density that would be allowed through an approval of this proposal would have significant and lasting negative impacts on the abutting residential area. The allowed 45-foot height of the R1 zoning designation that accompanies the requested Medium Density Multi-Dwelling Residential Comprehensive Plan Designation would have negative impacts on the abutting properties, due to loss of light, air and privacy. The Council also agrees that there would likely be a significant increase in noise and traffic congestion and that issues related to traffic safety and the adequacy of on-street parking would likely also create detrimental impacts on livability.

Therefore, the proposal is not consistent with Goal 12, which is intended to enhance Portland's identity as a livable city with attractive amenities creating an urban dynamic through quality projects. Because the proposal is not consistent with this Goal and its Policies, the requested designation, on balance, is not as supportive of Goal 12, Urban Design as the existing designation.

**SUMMARY:** The requested designation has not been found to be equally or more supportive of the relevant Goals, Policies and Objectives of the City of Portland Comprehensive Plan than the existing designation. Therefore, this criterion is not met.

2. When the requested amendment is:
  - From a residential Comprehensive Plan Map designation to a commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation; or
  - From the urban commercial Comprehensive Plan Map designation with CM zoning to another commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation;

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

**Findings:** The requested amendment is not from a residential designation, or from urban commercial, to a commercial, employment, industrial or institutional campus Comprehensive Plan Map designation. The requested amendment is from a lower density to a higher density residential designation. Therefore, this criterion is not applicable to the proposal.

3. When the requested amendment is from an Industrial Sanctuary or Mixed Employment Comprehensive Plan Map designation, in order to prevent the displacement of industrial and employment uses and preserve land primarily for these uses, the following criteria must also be met:

**Findings:** The requested amendment is not from an Industrial Sanctuary or Mixed Employment Comprehensive Plan Map designation. Therefore, this criterion is not applicable to this proposal.

**SUMMARY:** The proposed Comprehensive Plan Map Amendment to Medium Density Multi-Dwelling Residential is not equally or more supportive of the Comprehensive Plan Goals and Policies than the existing Attached Residential designation. As a result, the Council finds the applicants' proposal is not approvable and must be denied.

### **33.855.050 Approval Criteria for Base Zone Changes**

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

- A. Compliance with the Comprehensive Plan Map.** The zone change is to a corresponding zone of the Comprehensive Plan Map.
- B. Adequate public services.**
- C. When the requested zone is IR, Institutional Residential.** In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.
- D. Location.** The site must be within the City's boundary of incorporation. See Section 33.855.080.

**Findings:** City Council's decision to deny the requested Comprehensive Plan Map Amendment leaves only the existing R2.5 zone designation as the corresponding zone to the Attached Residential Comprehensive Plan designation for the site. Therefore, the applicants are prohibited from changing the existing R2.5 designation to the requested R1 Zoning Map Designation. Criterion A is not met and therefore, it is unnecessary for the Council to address the remaining zone change approval criteria.

## **V. CONCLUSIONS**

The Portland City Council finds that, on balance, the proposed Medium Density Multi-Dwelling Residential designation does not equally or better support the Goals and Policies of the Portland Comprehensive Plan as the existing Attached Residential designation for this site.

## **VI. DECISION**

It is the decision of City Council to deny the proposed Comprehensive Plan Map Amendment, from Single-Dwelling Attached Residential to Medium Density Multi-Dwelling Residential, and also to deny the concurrent Zoning Map Amendment, from R2.5 ( Single-Dwelling Residential 2,500) to R1 (Multi-Dwelling Residential 1,000).

## **VII. APPEAL INFORMATION**

### **Appeals to the Land Use Board of Appeals (LUBA)**

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

### EXHIBITS NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Application and original narrative and plans
  - 2. Supplemental information, received December 23, 2013
  - 3. Supplemental information, received June 3, 2014
  - 4. Property information ("Trio")
- B. Zoning Map
  - 1. Existing Zoning
  - 2. Proposed Zoning
- C. Plans & Drawings:
  - 1. Site Plan
- D. Notification information:
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. Mailed notice
  - 7. First notice to DLCD
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Police Bureau
  - 6. Site Development Review Section of Bureau of Development Services
  - 7. Life Safety Plan Review Section of Bureau of Development Services
  - 8. Bureau of Parks, Forestry Division
  - 9. Summary of electronic responses from City service agencies

- F. Letters:
  - 1. DeeDee Remington
  - 2. Megan Light
  - 3. Gordon Brown
- G. Other:
  - 1. Letter from Kathleen Stokes to Robert Cushman, July 31, 2013
  - 2. Pre-application Conference Summary Notes (EA 13-118097 PC)
- H. Received in the Hearings Office
  - 1. Notice of Public Hearing -- Stokes, Kathleen
  - 2. 7/24/14 Letter from Neil Carpenter -- Stokes, Kathleen
  - 3. Staff Report -- Stokes, Kathleen
  - 4. 7/27/14 Letter -- Klotz, Douglas
  - 5. 8/4/14 Letter -- Connors, Mike
  - 6. Photos -- Connors, Mike
  - 7. Photos -- Connors, Mike
  - 8. PowerPoint Presentation -- Stokes, Kathleen
  - 9. Record Closing Information -- Hearings Office
- I. City Council Hearing
  - 1. Hearings Officer's Recommendation
  - 2. Notice of City Council Hearing
  - 3. Power Point presentation to City Council by BDS staff
  - 4. Letter: Allen Field, Chair, Richmond Neighborhood Assn., October 14, 2014
  - 5. Signup sheet for testimony in support of proposal
  - 6. Signup sheet for testimony in opposition to proposal
  - 7. Written copy of testimony in support: Doug Klotz
  - 8. Written copy of testimony in opposition: Megan Light
  - 9. Written copy of testimony in opposition: Neil Carpenter and Robin Paynter
  - 10. Written copy of testimony in opposition: Gordon Brown
  - 11. Written copy of testimony in opposition: Cindy Reyes