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## 190982

Ordinance

### Amend the Comprehensive Plan Map and Zoning Map for properties at 5505-5525 SE Milwaukie Avenue and the northeast corner of SE Ellis St and SE Milwaukie at the request of Renee France, Radler White Parks & Alexander LLP (LU 21-094203 CP ZC)

Passed

Amended by Council

The City of Portland ordains:

Section 1. The Council finds:

1. The Applicant seeks a Comprehensive Plan Map Amendment from R5 – Residential 5,000 to MD-U – Multi-Dwelling – Urban Center, and a Zoning Map Amendment from R5 – Single-Dwelling Residential 5,000 to RM4 – Residential Multi-Dwelling 4, for the following three properties. Further, the applicant requests removal of the “z” Constrained Sites Overlay and addition of the “d” Design Overlay for all parcels. Further, the applicant seeks to retain the existing “e” River Environmental and “g\*” River General Overlays as currently applied on the three properties. See Exhibits 1 and 2.
  - A. SE River Oaks Dr (1S1E14AC 9700), legally described as “BROWN’S TRACT, BLOCK 6, INC PT VAC ST LOT 2”
  - B. 5515 W/ SE MILWAUKIE AVE (1S1E14DB 17300), legally described as “BROWN’S TRACT, BLOCK 5, INC PT VAC ST LOT 9”; and
  - C. 5515 W/ SE MILWAUKIE AVE (1S1E14DB 17200), legally described as “BROWN’S TRACT, BLOCK 5, INC PT VAC ST LOT 1”.
2. The Applicant seeks a Comprehensive Plan Map Amendment from MU-N – Mixed-Use – Neighborhood to MD-U – Multi-Dwelling – Urban Center, and a Zoning Map Amendment from CM1 – Commercial Mixed-Use 1 to RM4 – Residential Multi-Dwelling 4, for the following three properties. Further, applicant seeks to retain the “d” Design Overlay on all three parcels. Further, the applicant seeks to retain the existing “e” River Environmental and “g\*” River General Overlays as currently applied on the properties. See Exhibits 1 and 2.
  - A. 5505-5525 SE MILWAUKIE AVE (1S1E14DB 17000), legally described as “BROWN’S TRACT, BLOCK 5, LOT 5-7, INC PT VAC ST LOT 8, LAND & IMPS SEE R122536 (R110000511) FOR OTHER IMPS”;

Introduced by

[Commissioner Dan Ryan](#)

Bureau

[Development Services \(BDS\)](#)

Contact

Amanda Rhoads

City Planner II

✉ [amanda.rhoads@portlandoregon.gov](mailto:amanda.rhoads@portlandoregon.gov)

📞 [503-865-6514](tel:503-865-6514)

Requested Agenda Type

Time Certain

- B. 5515 W/ SE MILWAUKIE AVE (1S1E14DB 17500), legally described as "BROWN'S TRACT, BLOCK 5, LOT 4"; and
  - C. 5515 W/ SE MILWAUKIE AVE (1S1E14DB 17100), legally described as "BROWN'S TRACT, BLOCK 5, INC PT VAC ST LOT 3".
3. The Applicant seeks a Comprehensive Plan Map Amendment from R2.5 – Residential 2,500 to MD-C – Multi-Dwelling – Corridor, and a Zoning Map Amendment from R2.5 – Single-Dwelling Residential 2,500 to RM2 - Residential Multi-Dwelling 2, and addition of the "d" Design Overlay, for the following one property. See Exhibits 1 and 2.
- A. NEC/ ELLIS & SE MILWAUKIE AVE (1S1E14DB 15900), legally described as "MIDWAY, BLOCK 4, LOT 1&2".
4. The City received an application complying with all requirements of Title 33, Planning and Zoning, of the Code of the City of Portland seeking Comprehensive Plan Map and Zoning Map Amendment Review with the proper fee for filing paid.
5. The Hearings Officer held a duly noticed public hearing on February 16, 2022 and issued a Recommendation on March 25, 2022 (BDS File No. LU 21-094203 CP ZC and Hearings Office 4220002). The Hearings Officer recommended approval of the requested Comprehensive Plan Map and Zoning Map Amendment with conditions.
6. Based on the findings and conclusions contained in the Recommendation of the Hearings Officer, and with the recommended conditions of approval, the City Council finds the Comprehensive Plan Map and Zoning Map Amendments are in conformance with the Comprehensive Plan and relevant Title 33 approval criteria.

NOW THEREFORE, the Council directs:








- A. City Council adopts the facts, findings, conclusions, and recommendations of the Hearings Officer in BDS File No. LU 21-094203 CP ZC as amended.
- B. City Council approves a Comprehensive Plan Map Amendment from R5 – Residential 5,000 to MD-U – Multi-Dwelling – Urban Center, and a Zoning Map Amendment from R5 – Single-Dwelling Residential 5,000 to RM4 – Residential Multi-Dwelling 4, for the following three properties. Further, Council approves removal of the "z" Constrained Sites Overlay and addition of the "d" Design Overlay for all parcels, and retention of the "e" River Environmental and "g\*" River General Overlays as currently applied on the properties.
  - 1. SE River Oaks Dr (1S1E14AC 9700), legally described as "BROWN'S TRACT, BLOCK 6, INC PT VAC ST LOT 2"
  - 2. 5515 W/ SE MILWAUKIE AVE (1S1E14DB 17300), legally described as "BROWN'S TRACT, BLOCK 5, INC PT VAC ST LOT 9"; and
  - 3. 5515 W/ SE MILWAUKIE AVE (1S1E14DB 17200), legally described as "BROWN'S TRACT, BLOCK 5, INC PT VAC ST LOT 1".
- C. City Council approves a Comprehensive Plan Map Amendment from MU-N – Mixed-Use – Neighborhood to MD-U – Multi-Dwelling – Urban Center, and a Zoning Map Amendment from CM1 – Commercial Mixed-Use 1 to RM4 – Residential Multi-Dwelling 4, for the following three properties. Further, Council approves retention of the "d" Design Overlay for all parcels, and retention of the "e" River

Environmental and "g\*" River General Overlays as currently applied on the properties.

1. 5505-5525 SE MILWAUKIE AVE (1S1E14DB 17000), legally described as "BROWN'S TRACT, BLOCK 5, LOT 5-7, INC PT VAC ST LOT 8, LAND & IMPS SEE R122536 (R110000511) FOR OTHER IMPS";
  2. 5515 WI/ SE MILWAUKIE AVE (1S1E14DB 17500), legally described as "BROWN'S TRACT, BLOCK 5, LOT 4"; and
  3. 5515 WI/ SE MILWAUKIE AVE (1S1E14DB 17100), legally described as "BROWN'S TRACT, BLOCK 5, INC PT VAC ST LOT 3".
- D. City Council approves a Comprehensive Plan Map Amendment from R2.5 – Residential 2,500 to MD-C – Multi-Dwelling – Corridor, and a Zoning Map Amendment from R2.5 – Single-Dwelling Residential 2,500 to RM2 - Residential Multi-Dwelling 2, and addition of the "d" Design Overlay, for the following one property:
1. NEC/ ELLIS & SE MILWAUKIE AVE (1S1E14DB 15900), legally described as "MIDWAY, BLOCK 4, LOT 1&2".
- E. Approval is subject to the following conditions:
1. It must be shown that one of the following is achieved prior to design review approval or building permit issuance for the first vertical development, whichever comes first:
    - a. The private stormwater management system can be designed to meet the requirements of the SWMM and so any offsite stormwater discharges are limited such that the total peak wet weather flow rate from the aggregate zone change site – both storm and sanitary – do not exceed the current estimated peak flow of 3.87cfs during the 25-year, 6-hour design storm (or updated rate from BES staff if appropriate to reflect system changes and/or modeling assumptions). If building and stormwater designs for the other parcels within the zone change site are unknown, wet weather flow calculations must assume offsite stormwater discharge in compliance with SWMM flow control standards for those future projects; or
    - b. The applicant or owner will be required to improve the public sewer system or provide mitigation to offset hydraulic risk due to discharges above the current estimated peak flow rate (or updated rate from BES if appropriate to reflect system changes and/or modeling assumptions).
  2. The applicant must submit stormwater management reports with the results of infiltration testing for all subsequent land use and building permit reviews for future development of the subject properties.
  3. In addition to the step-down height limits stated in Zoning Code Section 33.120.215.B.2 and Table 120-3, development on the site must meet the following additional step-down height limits:
    - a. For the West Property, along the roughly 125-foot length across SE Milwaukie from single-dwelling

- zoning, building height within 15 feet of the east lot line is limited to 45 feet; and
- b. For the East Property, building height within 15 feet of the north lot line is limited to 35 feet.
4. Maximum height on the lots designated as RM4-zoned by this decision is limited to 65 feet.
  5. Discretionary Design Review is required for initial redevelopment of the site, including both the West Property and the East Property. Level of review will be determined by Zoning Code Section 33.825.025.A and Table 825-1. After primary buildings have been constructed, subsequent alterations may meet Design Standards if eligible.
  6. Development on the West Property shall not include permanent disturbance area within the River Overlay Zone located on the West Property at the time of this decision.
  7. All new development on the West Property is subject to Bird-Safe Glazing standards of Zoning Code Section 33.475.235 on the exterior of west-facing façades.

## Documents and Exhibits

-  [Council Findings and Conclusions - LU 21-094203 CP ZC](#) (1.02 Mb)
-  [Amendment approved by Council - LU 21-094203 CP ZC](#) (29.47 Kb)
-  [Memo to Council](#) (170.42 Kb)
-  [Exhibit 1](#) (826.06 Kb)
-  [Exhibit 2](#) (806.78 Kb)
-  [Hearings Officer Recommendation 21-094203 CP ZC](#) (1.9 Mb)
-  [Hearing Notice - LU 21-094203 CP ZC](#) (5.91 Mb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed as amended by Council  
August 31, 2022

Auditor of the City of Portland  
Mary Hull Caballero

## Impact Statement

### Purpose of Proposed Legislation and Background Information

The request is not for a legislative action, but for approval of a Type III quasi-judicial land use review. The request is to amend the Comprehensive Plan Map and Zoning Map designations on the site.

Quasi-judicial procedures described in Zoning Code Chapter 33.730, commonly known as land use reviews, are handled by the Bureau of Development Services. Quasi-judicial procedures specifically describe the City

Council as the decision-maker for Type III Comprehensive Plan Map Amendments and concurrent review requests, per 33.730.030.F.3.a(2).

The Hearings Officer has recommended approval of the land use review with conditions. Staff will be presenting the Hearings Officer's recommendation at the hearing.

### **Financial and Budgetary Impacts**

This is not a legislative action. There are no costs to the City associated with this quasi-judicial land use review. The City resources necessary to review the application are covered by the land use review fees paid by the applicant.

### **Community Impacts and Community Involvement**

The standard public involvement procedures for a Type III land use review process have been followed. A public hearing with the Hearings Officer was held regarding the proposal. The proposal and BDS Staff Report were contested by the Sellwood-Moreland Improvement League and numerous residents of the two neighborhoods, and nine members of the public testified against the proposal. The most common objections were concerns about landslide risk; environmental degradation; neighborhood characteristics; and traffic and parking impacts.

The Hearings Officer addressed each area of testimony in his recommendation and concluded that, on balance, the proposed amendments to the Comprehensive Plan Map are found to be equally supportive of the Comprehensive Plan as a whole compared to the current designations. The Hearings Officer retained all recommended staff conditions except one.

### **100% Renewable Goal**

Not applicable

### **Agenda Items**

#### **485 Time Certain in [June 1-2, 2022 Council Agenda](#)**

Continued

Continued to June 16, 2022 at 2:00 p.m. time certain  
Oral and written record are closed

#### **542 Time Certain in [June 15-16, 2022 Council Agenda](#)**

Tentatively accept the Hearings Officer's recommendation of approval with the recommended conditions and with additional conditions; prepare Findings for July 13, 2022 at 10:15 a.m. Time Certain.

Motion to tentatively accept the Hearings Officer's recommendation of approval with the recommended conditions and with additional conditions limiting development in the River Overlay, reducing the height of the RM4 properties to 65 feet, and requiring bird-safe glazing on the west façade of the

development on the West Property: Moved by Ryan and seconded by Hardesty.

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Absent

Mayor Ted Wheeler Yea

**610 Time Certain in [July 13, 2022 Council Agenda](#)**

Rescheduled

Rescheduled to August 24, 2022 at 9:45 a.m. Time Certain.

**707 Time Certain in [August 24, 2022 Council Agenda](#)**

Passed to second reading as amended

Motion to amend the findings as proposed: Moved by Ryan and seconded by Rubio. (Y-4)

Passed to second reading August 31, 2022 at 10:15 a.m. Time Certain as amended

**736 Time Certain in [August 31, 2022 Council Agenda](#)**

Passed As Amended

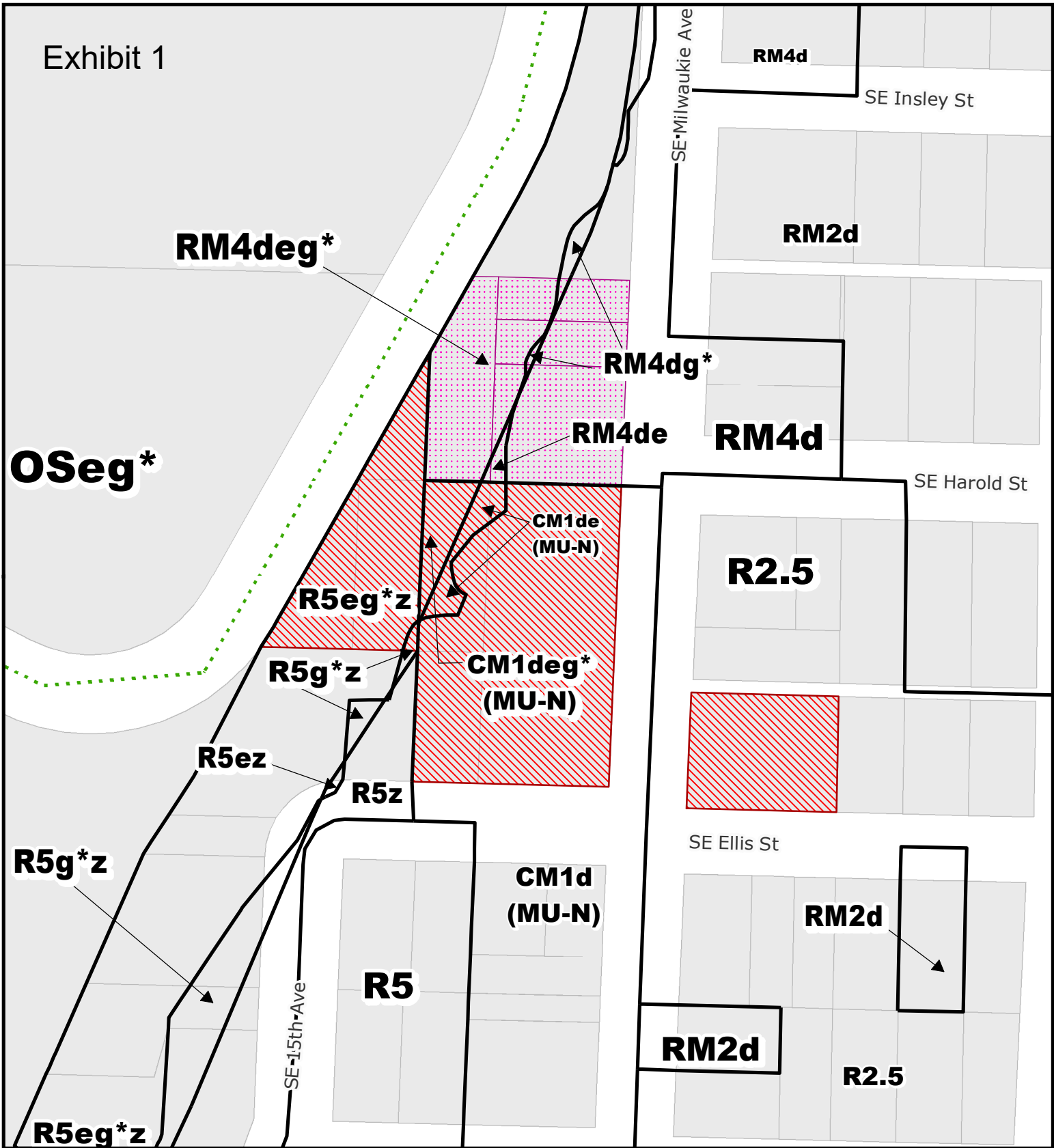
Commissioner Jo Ann Hardesty Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea




Commissioner Dan Ryan Yea

Mayor Ted Wheeler Yea



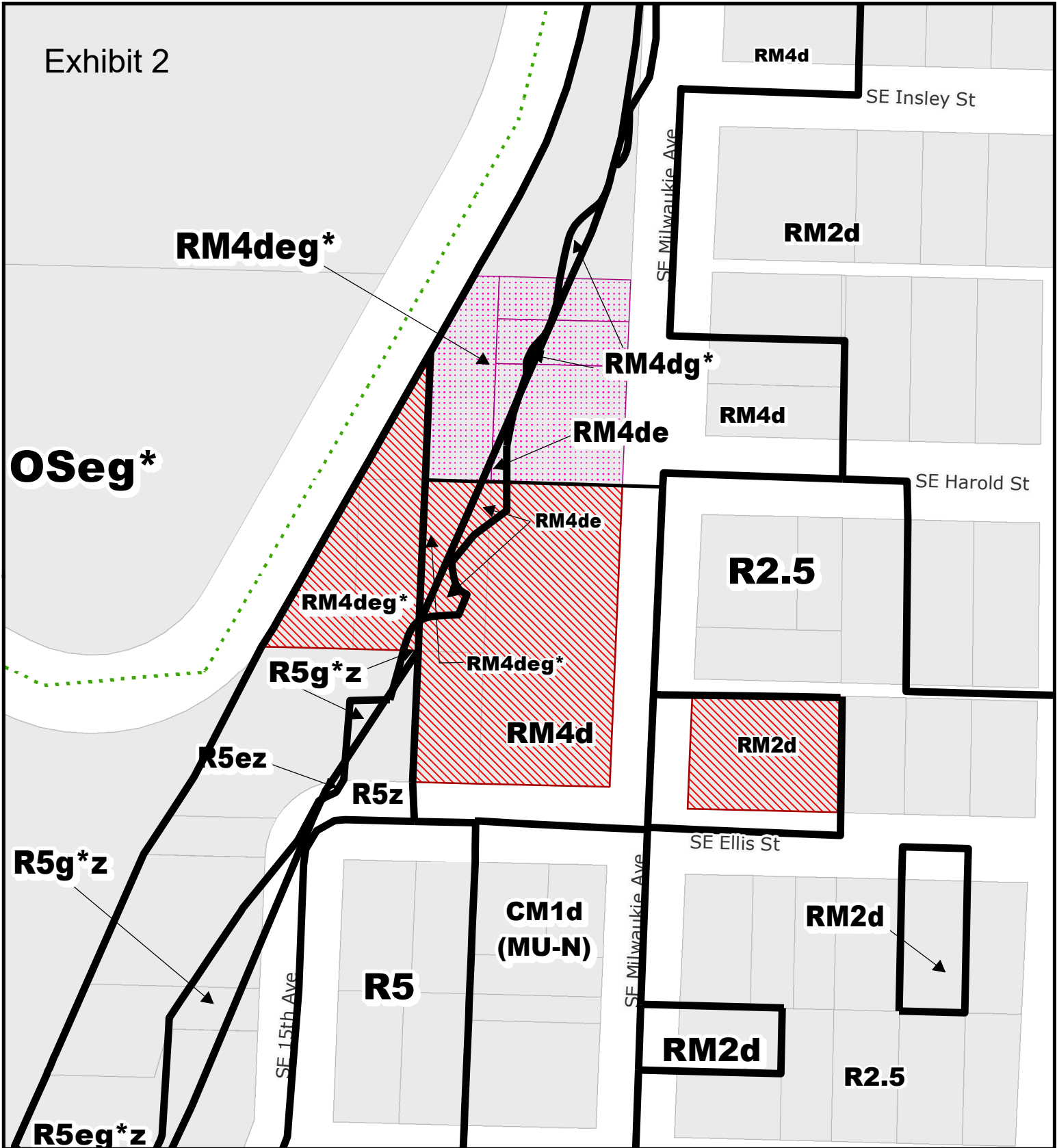
# EXISTING ZONING



-  Site
-  Also Owned Parcels
-  Recreational Trails

File No.	LU 21 - 094203 CP ZC
1/4 Section	3532 & 3632
Scale	1 inch = 100 feet
State ID	1S1E14DB 17000
Exhibit	B.1 Feb. 02, 2022

For Zoning Code in effect Post August 1, 2021



# PROPOSED ZONING



- Site
- Also Owned Parcels
- Recreational Trails

File No.	LU 21 - 094203 CP ZC
1/4 Section	3532 & 3632
Scale	1 inch = 100 feet
State ID	1S1E14DB 17000
Exhibit	B Feb. 04, 2022

For Zoning Code in effect Post August 1, 2021





September 6, 2022

Renee France  
Radler White Parks & Alexander LLP  
111 SW Columbia St, Suite 700  
Portland, OR 97201

Marvin La Porte  
5515 SE Milwaukie Ave  
Portland, OR 97202

**LU 21-094203 CP ZC** – In the matter of an application by Renee France, Radler White Parks & Alexander LLP for a Comprehensive Plan Map and Zoning Map amendment at 5505-5525 SE Milwaukie Avenue and the northeast corner of SE Ellis Street and SE Milwaukie Avenue

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 21-094203 CP ZC. This Order must be recorded with the Multnomah County Recorder within 10 days of receipt of this letter.

1. Please send a check for \$116.00 made payable to the Multnomah County Recorder, indicating the file number on your check.
2. MAIL CHECK TO: The City of Portland, Office of the City Auditor, 1221 SW 4<sup>th</sup> Ave. Room 130, Portland, OR 97204-1900

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of 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 appeared orally or in writing during the City's proceedings on this land review. LUBA's address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA's website ([www.oregon.gov/LUBA](http://www.oregon.gov/LUBA)) for further information on filing an appeal.

Yours sincerely,  
Mary Hull Caballero  
Auditor of the City of Portland  
By: *Keelan McClymont*  
Keelan McClymont, Council Clerk

Encl.





## **NOTICE OF FINAL DECISION**

TO: All Interested Persons  
DATE: September 6, 2022

**LU 21-094203 CP ZC** – In the matter of an application by Renee France, Radler White Parks & Alexander LLP for a Comprehensive Plan Map and Zoning Map amendment at 5505-5525 SE Milwaukie Avenue and the northeast corner of SE Ellis Street and SE Milwaukie Avenue

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 21-094203 CP ZC, approving the application to amend the Comprehensive Plan Map and Zoning Map with additional conditions and adopting the Findings and Conclusions. If you wish to obtain a copy of the City Council's findings and decision, please contact the Council Clerk by email at [councilclerk@portlandoregon.gov](mailto:councilclerk@portlandoregon.gov) or at (503) 823-4082.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of 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 appeared orally or in writing during the City's proceedings on this land review. LUBA's address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA's website ([www.oregon.gov/LUBA](http://www.oregon.gov/LUBA)) for further information on filing an appeal.

Yours sincerely,  
Mary Hull Caballero  
Auditor of the City of Portland  
By: *Keelan McClymont*  
Keelan McClymont, Council Clerk

Encl.



**LU 21-094203 CP DZ**  
**Order of council mailed:**  
**9/6/22**

Emailed: Amanda Rhoads, Tim Heron, Kara Fioravanti, Linly Rees, Lauren King, BDS Hearings Clerks, Hearings Office Clerks, Doug Morgan, Kurt Krueger, Dawn Krantz, Robert Haley, Dawn Uchiyama, Stephen Himes

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and findings - sent to testimony  
that didn't provide a mailing  
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