

ORDINANCE No.

Amend the Comprehensive Plan Map and Zoning Map for property at 4928 NE 11th Avenue at the request of Allison Reynolds, Stoel Rives LLP (Ordinance; LU 21-098835 CP ZC).

The City of Portland ordains:

Section 1. The Council finds:

1. The Applicant requests a Comprehensive Plan Map Amendment to change the Comprehensive Plan Land Use Designation from Single Dwelling – 2,500 to Mixed Use – Urban Center and a Zoning Map Amendment to change the zoning designation from Residential 2.5 (R2.5) to Commercial Mixed Use 2 (CM2) for the following subject property. Further, the applicant seeks to add the Design (d) and Centers Main Street (m) overlay zones to the subject property. The existing Aircraft Landing (h) overlay zone is proposed to remain on the subject property. See [Proposed Zoning Map](#), Exhibit ~~1~~A.
 - A. 4928 NE 11th Avenue (1N1E23BD 3900), legally described as “ALBINA HTS, BLOCK 3, LOT 4”
2. 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.
3. The Hearings Officer held a duly noticed public hearing on June 29, 2022, and issued a Recommendation on August 5, 2022 (BDS File No. LU 21-098835 CP ZC and Hearings Office 4220004). The Hearings Officer recommended approval of the requested Comprehensive Plan Map and Zoning Map Amendment with conditions.
4. 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 21-098835 CP ZC.

~~A-B.~~In response to testimony, the Council adopts Exhibit B as further findings and conclusions in support of its decision.

~~B-C.~~ City Council approves a Comprehensive Plan Map Amendment to change the Comprehensive Plan Land Use Designation from Single Dwelling – 2,500 to Mixed Use – Urban Center and a Zoning Map Amendment to change the zoning designation from Residential 2.5 (R2.5) to Commercial Mixed Use 2 (CM2) for the following subject property. Further, City Council approves adding the Design (d) and Centers Main Street (m) overlay zones to the subject

property and retaining the Aircraft Landing (h) overlay zone on the subject property.

1. 4928 NE 11th Avenue (1N1E23BD 3900), legally described as “ALBINA HTS, BLOCK 3, LOT 4”.

C.D. Approval is subject to the following conditions:

1. At the time of redevelopment, at least three residential dwelling units must be maintained or developed on the Property. For purposes of this condition, “redevelopment” means either a) new development as defined in Zoning Code Section 33.910.030 or b) establishment of a primary use other than housing.
2. At the time of redevelopment, no new structure or portion of any new structure on the Property shall exceed 35 feet in height.
3. Floor Area Ratio at the Property shall not be transferred to the development under construction at 1130 NE Alberta Street as of June 29, 2022, and approved under LU 19-187641 DZM.



City of Portland, Oregon
Bureau of Development Services
Inspection Services
FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-1054
Fax: (503) 823-7250
TTY: (503) 823-6868
www.portland.gov/bds

MEMORANDUM

October 6, 2022

TO: Mayor Ted Wheeler
Commissioner Jo Ann Hardesty
Commissioner Mingus Mapps
Commissioner Carmen Rubio
Commissioner Dan Ryan

FROM: Rebecca Esau, Director **RE**

RE: City Council hearing for LU #21-098835CP ZC (Request to Amend the Comprehensive Plan Map and Zoning Map)

The purpose of this memorandum is to transmit the adopting Ordinance, Report, Financial Impact Statement and a brief description of the land use review that will be presented to you in a public hearing on October 6, 2022, at 2 pm.

Site Address: 4928 NE 11th Avenue

BDS Representative: Marguerite Feuersanger, City Planner

1. Land Use Reviews Requested

The Applicant requests a Comprehensive Plan and Zoning Map Amendment for the subject property as follows:

- Change the Comprehensive Plan Land Use Designation from Single Dwelling – 2,500 to Mixed Use – Urban Center;
- Change the Zoning designation from Residential 2.5 (R2.5) to Commercial Mixed Use 2 (CM2);
- Add the Design (d) and Centers Main Street (m) overlay zones; and
- Retain the Aircraft Landing (h) overlay zone.

2. Key Elements of the Hearings Officer's Recommendation

The Hearings Officer recommends approval of the requested Comprehensive Plan Map and Zoning Map Amendment with three conditions for that approval.

3. Alternatives Facing Council

1. Accept the Hearings Officer's recommendation of approval with conditions, with no changes;
2. Accept the Hearings Officer's recommendation of approval, with modified findings and/or conditions; or
3. Reject the Hearings Officer's recommendation and deny the proposal.



NOTICE OF A PUBLIC HEARING BEFORE THE CITY COUNCIL ON A COMPREHENSIVE PLAN MAP AMENDMENT AND ZONING MAP AMENDMENT

CASE FILE: #21-098835 CP ZC / Hearings Office Case #4220004
WHEN: October 6, 2022, at 2 pm
REMOTE ACCESS: City Council Agenda:
<http://www.portland.gov/council/agenda>

Date: September 15, 2022
To: Interested Person
From: Marguerite Feuersanger, Land Use Services
503-823-7619 / Marguerite.Feuersanger@portlandoregon.gov

Due to the City's Emergency Response to COVID-19, this land use hearing will be remote participation via Zoom.

Please refer to <https://www.portland.gov/council/agenda> for information on how to observe and participate remotely. You can also visit this website a few days before the hearing to find out if City Hall Chambers are open for in-person attendance in addition to remote participation.

A virtual public hearing will be held to consider the Land Use Hearings Officer's recommendation on a Comprehensive Plan Map and Zoning Map Amendment proposal. On August 5, 2022, the Hearings Officer issued a recommendation to approve the proposal with conditions, found on this page: <https://www.portlandoregon.gov/bds/article/800348>.

A copy of the existing and proposed zoning maps are attached. For an application which includes a Comprehensive Plan Map Amendment, the City Council must make the final decision.

You are invited to testify at the hearing. I am the staff person handling this case. Please contact me with any questions regarding this proposal. This will be an Evidentiary hearing, one in which new evidence can be submitted to the City Council. For a general explanation of the City Council hearing process and how to testify, please refer to the Hearing Process page of this notice.

Applicant: Allison Reynolds
Stoel Rives LLP
760 SW 9th Ave #3000 (30th Fl)
Portland, OR 97205
allison.reynolds@stoel.com (503) 294-9625

Owner: Alberta Street Development LLC
2910 1st Ave S #201
Seattle, WA 98134-1859

Site Address: 4928 NE 11th Avenue

Legal Description: BLOCK 3 LOT 4, ALBINA HTS
Tax Account No.: R010200380
State ID No.: 1N1E23BD 03900
Quarter Section: 2531

Neighborhood: King, contact Libby Deal at libby.kingnapdx@gmail.com
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact at info@necoalition.org

Current Zoning: Base Zone: R2.5: Single-Dwelling Residential 2,500.
Overlay Zone: Aircraft Landing (h) overlay zone

Case Type: CP ZC, Comprehensive Plan Map Amendment and Zoning Map Amendment

Procedure: Type III, with a public hearing and recommendation by the Hearings Officer, followed by a public hearing and decision by City Council. The decision of City Council may be appealed to the State Land Use Board of Appeals (LUBA).

Proposal: For the above-cited property, the applicant is requesting a Comprehensive Plan Map Amendment from Single Dwelling – 2,500 to Mixed Use – Urban Center and a Zoning Map designation from Residential 2.5 (R 2.5) to Commercial Mixed Use 2 (CM2). The applicant proposes to add the Design (d) and Centers Main Street (m) overlay zones to the site, similar to other nearby properties along NE Alberta Street. The existing Aircraft Landing “h” overlay zone is proposed to remain on the site.

A detached house is located on the 4,000-square foot subject site, which is part of the same ownership as the property to the north with frontage on NE Alberta Street. The applicant envisions a mix of uses on the subject site, including a restaurant with outdoor seating, multi-unit residential development, a commercial business, or a guest house. Development of the subject site, however, is not proposed at this time.

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 Approval Criteria for Comprehensive Plan Map Amendments;
- 33.855.050 Approval Criteria for Base Changes; and
- 33.855.060 Approval Criteria for Other Changes.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. This application was submitted on October 22, 2021 and determined to be complete on March 28, 2022.

Review of the case file: If you are interested in viewing information in the file, the full case file and audio of the Hearings Officer hearing are available online:

<https://efiles.portlandoregon.gov/record/15234931>.

We are seeking your comments on the proposal. The hearing will be held before the City Council. To comment, you may write or testify at the hearing. In your comments, you should address the approval criteria, which are identified above. Please refer to the case file number when seeking information or submitting testimony. Written comments must be received by the end of the public testimony of the hearing and should include the case file number and name and address of the submitter. Written comments must be given to the Council Clerk in person, mailed to 1221 SW Fourth Avenue, Room 130, Portland, OR 97204, or e-mailed to cctestimony@portlandoregon.gov. To register to provide testimony for the hearing, follow the instructions at <https://www.portland.gov/council/agenda>. Note that pre-registration is required to offer verbal testimony.

APPEAL PROCESS

A description of the City Council Hearing process is attached. City Council's decision is final. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the City Council, they may not be able to respond to the issue you are trying to raise. For more information, call the Auditor's Office at (503) 823-4086.

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

Enclosures:

City Council Hearing Process
Existing Zoning Map
Proposed Zoning Map

**GENERAL EXPLANATION OF THE CITY COUNCIL HEARINGS PROCESS
FOR AN EVIDENTIARY HEARING**

1. SUBMISSION OF TESTIMONY

- a. Testimony may be submitted via email to CCTestimony@portlandoregon.gov or in writing to the Council Clerk, 1221 SW Fourth Avenue, Room 130, Portland, Oregon 97204. Written comments must be received by the time of the hearing and should include the case file number.
- b. Testimony may be submitted orally (see below).

2. HEARINGS PROCESS

- a. The order of appearance and time allotments are generally as follows:

| | |
|---------------------------|----------------|
| Staff Report | 10 minutes |
| Applicant | 10 minutes |
| Supporters of Application | 3 minutes each |
| Opponents of Application | 3 minutes each |
| Applicant Rebuttal | 5 minutes |
| Council Discussion | As needed |

- b. The applicant and supporters have the burden of proof to show that each and every element of the approval criteria can be satisfied. If the applicant is opposing the Hearings Officer's recommendation, the applicant may also argue the criteria are being incorrectly interpreted, the wrong approval criteria are being applied or additional approval criteria should be applied.
- c. In order to prevail, the opponents of the application must persuade the City Council to find that the applicant has not carried the burden of proof to show that the evidence submitted in support of the application demonstrates that each and every element of the approval criteria is satisfied. The opponents may wish to argue the criteria are being incorrectly applied, the wrong criteria are being applied or additional approval criteria should be applied.
- d. The applicant's rebuttal testimony is limited to addressing the testimony of the opponents.
- e. The failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) on that issue.

If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.



EXISTING ZONING

For Zoning Code in effect Post August 1, 2021



Site

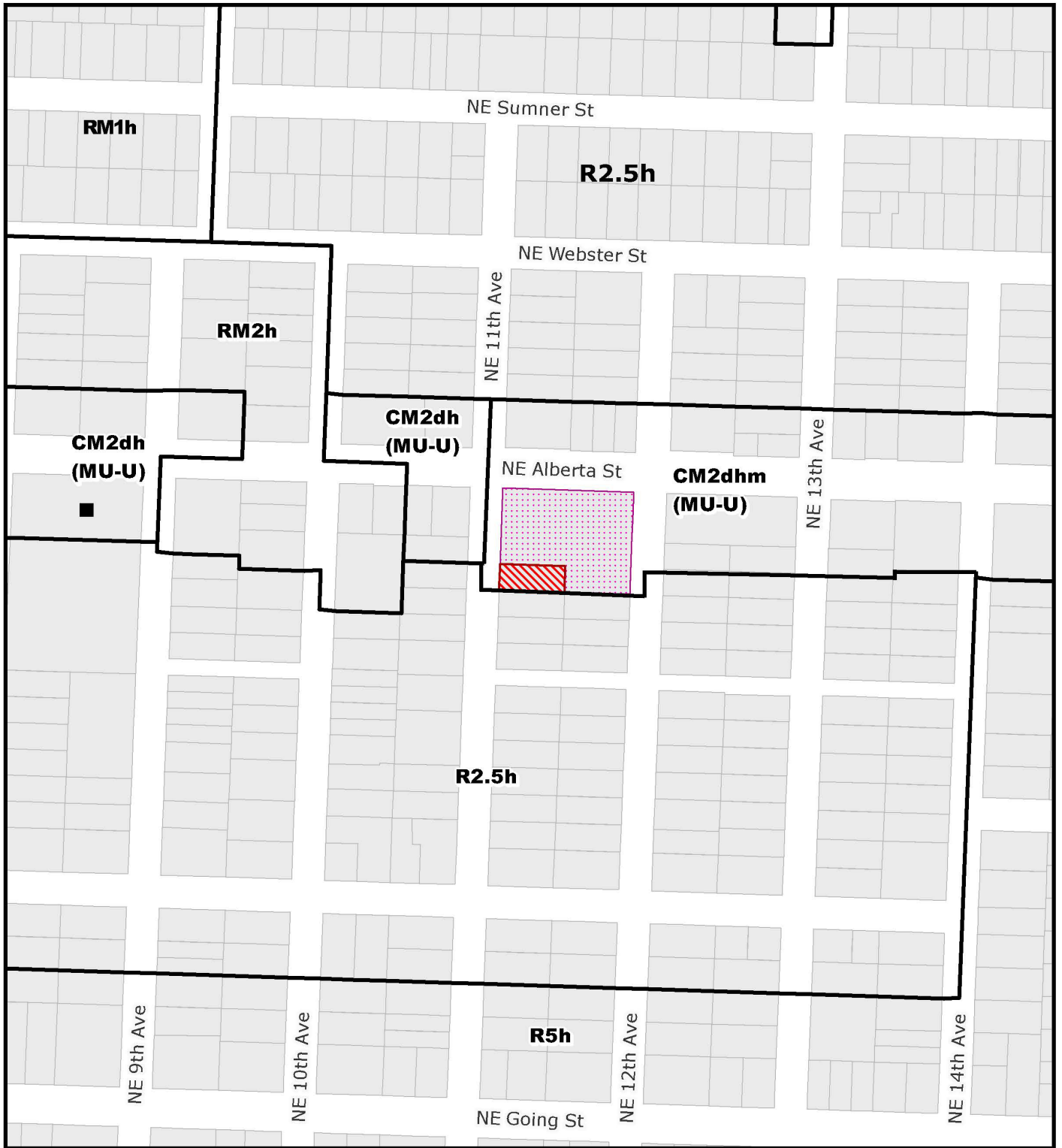


Also Owned Parcels



Historic Landmark

| | |
|-------------|--------------------|
| File No. | LU 21-098835 CP ZC |
| 1/4 Section | 2531 |
| Scale | 1 inch = 200 feet |
| State ID | 1N1E23BD 3900 |
| Exhibit | B-1 June 28, 2022 |



PROPOSED ZONING



For Zoning Code in effect Post August 1, 2021

-  Site
-  Also Owned Parcels
-  Historic Landmark

| | |
|-------------|---------------------------|
| File No. | <u>LU 21-098835 CP ZC</u> |
| 1/4 Section | <u>2531</u> |
| Scale | <u>1 inch = 200 feet</u> |
| State ID | <u>1N1E23BD 3900</u> |
| Exhibit | <u>B-2 June 28, 2022</u> |



Hearings Office

City of Portland

1900 SW 4th Avenue, Room 3100, Portland, OR 97201
www.portland.gov/omf/hearings
email: HearingsOfficeClerks@portlandoregon.gov

phone: 503.823.7307
fax: 503.823.4347



RECOMMENDATION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File Number: LU 21-098835 CP ZC (Hearings Office 4220004)

Applicant: Allison Reynolds
Stoel Rives LLP
760 SW 9th Avenue #3000 (30th Floor)
Portland, OR 97205
allison.reynolds@stoel.com

Property Owner: Alberta Street Development LLC
2910 1st Ave S #201
Seattle, WA 98134-1859

Hearings Officer: William Guzman

Bureau of Development Services (BDS) Staff Representative: Marguerite Feuersanger

Site Address: 4928 NE 11th Avenue

Legal Description: BLOCK 3 LOT 4, ALBINA HTS

Tax Account Number: R010200380

State ID Number: 1N1E23BD 03900

Quarter Section: 2531

Neighborhood: King

Business District: Soul District Business Association

District Neighborhood Coalition: Northeast Coalition of Neighborhoods

Existing Zoning: R2.5h, Residential 2,500 Zone, and within the Aircraft Landing (h) overlay zone

Proposed Zoning: CM2dhm, Mixed Use Commercial 2 with an Aircraft Landing (h) overlay zone, a Design Overlay ('d') zone and a Centers Main Street ('m') overlay zone.

Land Use Review: Type III, CP ZC, Comprehensive Plan Map Amendment and Zoning Map Amendment

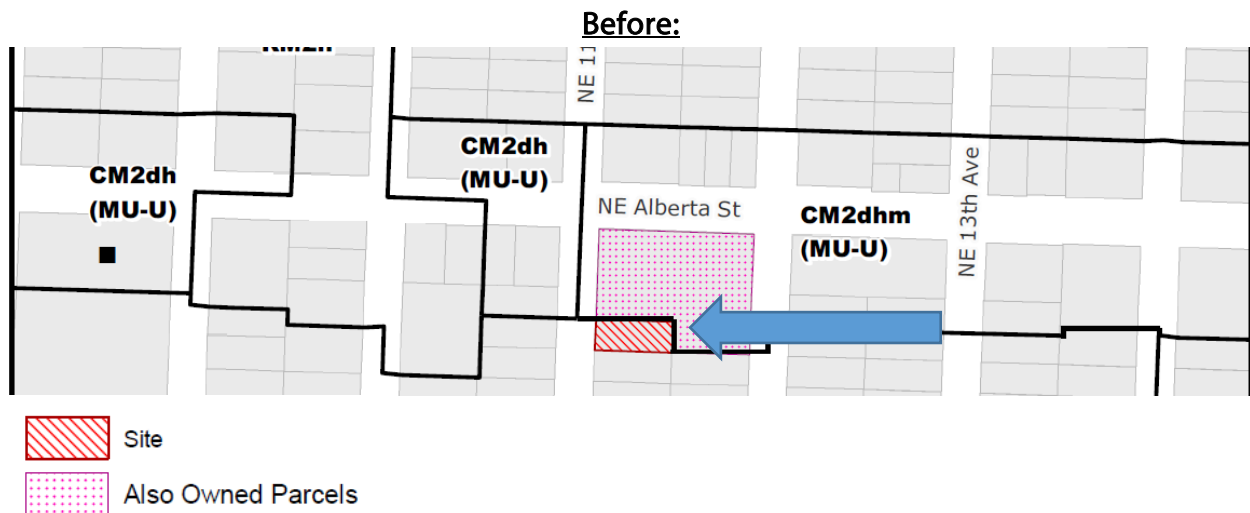
BDS Staff Recommendation to Hearings Officer: Denial.

Public Hearing: The hearing was opened at 2:14 p.m. on June 29, 2022, via Zoom and also in the third-floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 3:42 p.m. The record was held open until 4:00 p.m. on July 6, 2022 for the Applicant's final argument. The record was closed at 4:01 p.m. on July 6, 2022.

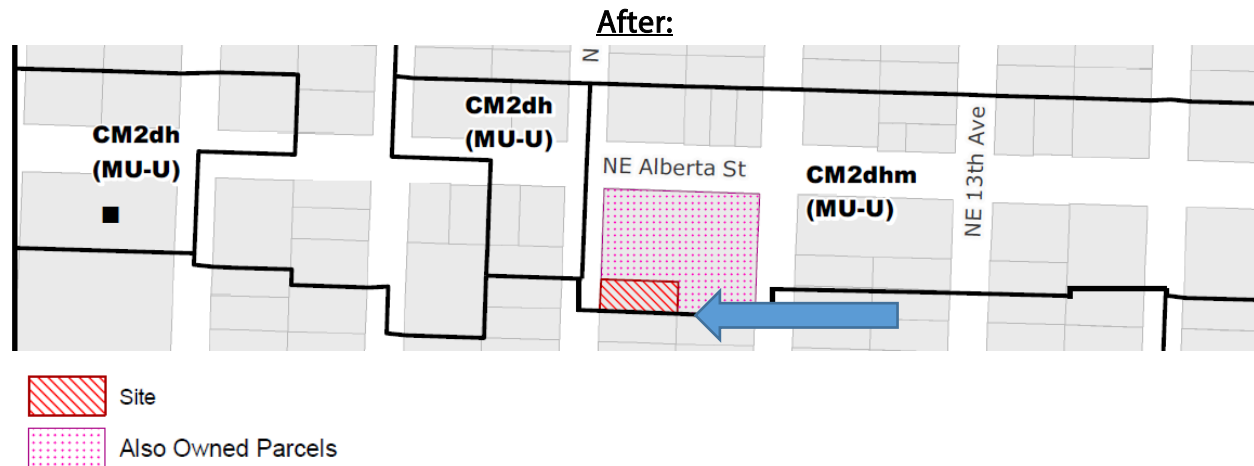
Testified at the Hearing:

Marguerite Feuersanger
Allison Reynolds
Sujata Hara
Brian Heather

Proposal: The Applicant is requesting a Comprehensive Plan Map Amendment for the subject property to change the Comprehensive Plan Land Use Designation from Single Dwelling – 2,500 to Mixed Use – Urban Center and a Zoning Map Amendment to change the zoning designation from Residential 2.5 (R2.5) to Commercial Mixed Use 2 (CM2). The images below demonstrate the current land use pattern and the proposed change. (Exhibit H-9, attached).



This image demonstrates how the land use pattern will be updated if the proposal is approved. (Exhibit H-10, attached).



The Applicant also proposes to add the Design (d) and Centers Main Street (m) overlay zones to the site, which is similar to other nearby properties along NE Alberta Street. The existing Aircraft Landing “h” overlay zone is proposed to remain on the site.

A detached house is located on the 4,000-square foot subject site, which is part of the same ownership as the property to the north with frontage on NE Alberta Street. The Applicant envisions a mix of uses on the subject site, including a restaurant with outdoor seating, multi-unit residential development (“workforce housing”), a commercial business, or a guest house. No development of the subject site is being proposed at this time.

Hearings Officer Conclusion

The Staff Report (Exhibit H-5) recommends denial of the application. The Staff Report contains the following summary of general themes that led to the recommendation of denial:

- Alberta Street is a narrow and uniform commercial corridor, but its existing commercially-zoned land has capacity to accommodate existing and forecasted demand.
- Expanding commercial zoning into the adjacent neighborhood area is contrary to the established land use pattern, potentially disruptive, and may cause negative impacts on the established neighborhood.
- The proposal will likely result in removal of the existing house and redevelopment into a restaurant, given that the site includes a large commercial property.
- With the existing designation, the small lot is likely to remain in residential use in the short term and long term.

A review of the proposal was conducted by the City’s service bureaus. The proposal meets the goals and criteria regarding adequate and available public services.

The Hearings Officer recommends approval with conditions that address the concerns in the Staff Report.

Condition 1

At the time of redevelopment, at least three residential dwelling units must be maintained or developed on the Property. For purposes of this condition, “redevelopment” means either a) new development as defined in Zoning Code Section 33.910.030 or b) establishment of a primary use other than housing.

Condition 2

At the time of redevelopment, no new structure or portion of any new structure on the Property shall exceed 35 feet in height.

Condition 3

Floor Area Ratio at the Property shall not be transferred to the development under construction at 1130 NE Alberta Street as of June 29, 2022, and approved under LU 19-187641 DZM.

The Staff Report cautions against using conditions in a Comprehensive Plan Amendment and Zoning Map proposal. “Conditions limiting building height and other development standards are used sparingly and infrequently for proposed comprehensive plan and zoning map changes because such conditions are difficult to track (conditions are not added to the zoning map), impact all development moving forward indefinitely, and often have unintended consequences that can only be remedied by going through a subsequent Comprehensive Plan Amendment and Zoning Map Amendment land use review.” The Hearings Officer would point out that the last Comprehensive Plan Amendment and Zoning Map Amendment reviewed and approved by City Council included conditions of approval (Case Number 21-094203 CP ZC).

Neighborhood Response

On behalf of the nonprofit organization Alberta Main Street, Devon Horace, Board Chairman, submitted a letter (Exhibit H-6) in support of the proposal: “Since we are close to Alberta and the hotel already exists on the block, we don’t expect an extension of that development onto the small lot will negatively impact our property.”

Liz Grotyohann, the homeowner directly across the street from the subject site, submitted a letter in support of the proposal: “I do not feel like a zoning change would be out of character for the neighborhood or would negatively impact my property.”

At the Hearing, Sujata Hara, a member of the neighborhood, raised two concerns in opposition to the Proposal. First, Ms. Hara testified that she believed that the approved, under-construction hotel on the northern portion of the lot and any new development, including construction to increase residential density, on the Property would cause adverse

impacts to available parking in the area. (Audio Recording at 59:14.1 and 1:26:56). Second, Ms. Hara testified that she is concerned about potential gentrification impacts from the approved, under-construction hotel and would like to see a requirement that the Owner provide affordable housing or ensure that people of color are able to reside at the Property. The Owner provided rebuttal testimony explaining that the hotel will provide parking for employees if the property is developed into workforce housing. Audio Recording at 1:28:18.

The Applicant objects to the admission of that portion of Sujata Hara's testimony that was submitted into the record after the Hearings Officer closed the record for public testimony. The Hearings Officer acknowledges this procedural irregularity but does not find the Applicant was prejudiced or disadvantaged by the testimony. First, the Hearings Officer allowed the Owner to provide rebuttal testimony at the Hearing in response to Sujata Hara's testimony. Second, the Applicant submitted a Final Argument responding to Sujata Hara's oral testimony (Exhibit H-13). Third, the second hearing before City Council will allow additional evidence from the public so there is another opportunity for the public to submit opposition testimony. Regardless, the Hearings Officer resolves these issues (traffic, parking, gentrification) below in favor of the Applicant finding that, on balance, the proposal with conditions can meet the applicable criteria.

Relevant Land Use and Zoning Designations

The following are a description of the proposed land use and zoning designations relevant to the proposal:

- **Existing Designation: Single-Dwelling — 2,500**
This designation allows a mix of housing types that are single-dwelling in character. This designation is intended for areas near, in, and along centers and corridors, near transit station areas, where urban public services, generally including complete local street networks and access to frequent transit, are available or planned. Areas within this designation generally do not have development constraints. This designation often serves as a transition between mixed use or multi-dwelling designations and lower density single dwelling designations. The maximum density is generally 17.4 units per acre. The corresponding zone is R2.5.
- **Mixed Use – Urban Center (Comprehensive Plan Designation, MU-UC)**
MU-UC is intended for areas that are close to the Central City and within Town Centers where urban public services are available or planned, including access to high-capacity transit, very frequent bus service, or streetcar service. The designation allows a broad range of commercial and employment uses, public services, and a wide range of housing options. Areas within this designation are generally mixed-use and very urban in character. Development will be pedestrian-oriented with a strong emphasis on design and street level activity and will range from low- to mid-rise in scale. The range of zones and development scale associated with this designation are intended to allow for more intense development in core areas of centers and corridors and near transit stations,

while providing transitions to adjacent residential areas. The corresponding zones are Commercial Mixed Use 1 (CM1), Commercial Mixed Use 2 (CM2), Commercial Mixed Use 3 (CM3), and Commercial Employment (CE). This designation is accompanied by the Design overlay zone.

- Commercial/Mixed Use 2 (base zone designation CM2)
CM2 is a medium scale base zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.
- Design (d) overlay zone
This overlay ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:
 - Build on context by enhancing the distinctive physical, natural, historic, and cultural qualities of the location while accommodating growth and change;
 - Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and
 - Promotes quality and long-term resilience in the face of changing demographics, climate, and economy.
- Centers Main Street (m) overlay zone
This designation encourages a mix of commercial, residential and employment uses on the key main streets within town centers and neighborhood centers identified in the Comprehensive Plan. The regulations are intended to encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit.
- Aircraft Landing (h) overlay zone
This overlay provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

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.A.1-4, Comprehensive Plan Map Amendment Approval Criteria;
- 33.855.050.A-D, Zoning Map Amendment Approval Criteria;
- (by reference at 33.810.050.A.1) Comprehensive Plan Policies; and
- (by reference at 33.810.050.A.2) Statewide Land Use Planning Goals.

Zoning Code Chapters 33.810 and 33.855 are available online at <https://www.portland.gov/code/33/800s> (scroll down and open Chapter 810 or 855).

Comprehensive Plan Policies are available online in the Bureau of Planning and Sustainability Document Library at this link: <https://www.portland.gov/bps/comp-plan/2035-comprehensive-plan-and-supporting-documents>.

Statewide Land Use Planning Goals are available online on the Oregon Department of Land Conservation and Development (DLCD) website at this link: <http://www.oregon.gov/LCD/pages/goals.aspx>

II. ANALYSIS

Procedural Background

Title 33.700.070.H distinguishes between a legislative review process and a quasi-judicial review process noting that the latter generally involves “the application of existing law or policy to a small area or a specific factual situation.” The Hearings Officer finds that this application’s review process is quasi-judicial, as compared to legislative in nature. Title 33.810.020.A authorizes the Applicant to initiate this quasi-judicial review process.

Title 33.810.040.A sets out the proper procedure: “Requests for a Comprehensive Plan Map amendment which are quasi-judicial are reviewed through a Type III procedure. City Council adoption is also required for these requests.” The Hearings Officer must hold an evidentiary hearing followed by a recommendation to City Council. City Council must hold a second evidentiary hearing followed by a final City Decision appealable to the Land Use Board of Appeals.

The Comprehensive Plan analysis requires evaluation of the proposal vis-à-vis its relevance and compliance with a significant number of goals and policies. The Applicant provided an analysis of the goals and policies (“A” exhibits). The Staff Report provided analysis of the proposal against these goals and policies (Exhibit H-5). Note that Exhibits B-1 and B-2 and the Site Survey are replaced with corrected Exhibits H-9, H-10, and H-11.

The Hearings Officer's recommendation to City Council borrows heavily from the Applicant's materials and the Staff Report (including exhibits). Where the Applicant and the Staff Report are in alignment, the Hearings Officer generally concurs with the findings. Where there is disagreement between the Applicant and the Staff Report, the recommendation identifies the issue, the positions of the parties, and recommends a conclusion.

Title 33.810.050 Approval Criteria

Subsection A states that "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[.]" There are three criteria of which only two are applicable.

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.
2. The requested change is consistent with Statewide Land Use Planning Goals.
3. The proposal does not include an Industrial Sanctuary or Mixed Employment Comprehensive Plan Map designation and, therefore, this criterion does not apply.

Title 33.810.050.A.1

The Hearings Officer evaluated the proposed designation change, from Single Dwelling – 2,500 to Mixed Use – Urban Center, against relevant Comprehensive Plan policies and on balance has been found it to be equally supportive of the Comprehensive Plan as long as the three conditions outlined earlier are included.

CHAPTER 1: THE PLAN

When applying goals and policies to particular situations, such as specific development proposals or area plans, there may be competing or conflicting policies. Although it would be ideal to always meet each goal and policy, sometimes that is not possible. So, proposals or situations must be judged whether they meet the goals and policies "on balance." Even the strongest policies do not automatically trump other policies. Every decision is different, with different facts. The particular policies that matter more will change from one decision to another. There is no set formula — no particular number of "heavier" policies equals a larger set of "lighter" policies. In cases where there are competing directions embodied by different policies, City Council may choose the direction it believes best supports the Plan as a whole. This approach recognizes that there are trade-offs and compromises and allows flexibility while still guiding land use and capital decisions. The Plan's Guiding Principles provide an anchor or reference point to consider when making trade-offs and compromises.

Goal 1.E Administration. Portland's Comprehensive Plan is administered efficiently and effectively and in ways that forward the intent of the Plan as a whole. It is administered in accordance with regional plans and state and federal law.

Policy 1.10 Compliance with the Comprehensive Plan. Ensure that amendments to the Comprehensive Plan's elements, supporting documents, and implementation tools comply with the Comprehensive Plan. "Comply" means that amendments must be evaluated against the Comprehensive Plan's applicable goals and policies and on balance be equally or more supportive of the Comprehensive Plan as a whole than the existing language or designation.

This goal and corresponding policy are implemented by the approval criterion for Comprehensive Plan Map Amendments in Zoning Code Section 33.810.050.A.1. The findings in this Recommendation analyze compliance with Zoning Code Section 33.810.050.A.1. Because this criterion is met based on the findings below in this Recommendation, the proposal is consistent with Policy 1.10.

Policy 1.11 Consistency with Metro Urban Growth Management Functional Plan and Urban Growth Boundary.

Each title of the Urban Growth Management Functional Plan relevant to the requested Comprehensive Plan Map Amendment is addressed below.

Title 1 – Housing Capacity accomplishes the policies of the Regional Framework Plan by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120. The Regional Framework Plan calls for a compact urban form and a "fair share" approach to meeting regional housing needs.

This section requires that housing capacity must be maintained or increased. There is currently one residence on the subject site. The Staff Report points out that the current designation requires at least one residence and that the proposed designation requires none. Therefore, the Staff Report concludes that Title 1 above is not met. The Hearings Officer finds that is a reasonable and valid concern and that inclusion of Condition of Approval Number 1 resolves the Staff Report's concern because at the time of redevelopment, at least three dwelling units will be required. Therefore, the Hearings Officer finds the proposal is equally or more supportive of Metro Title 1.

Title 3 – Water Quality and Flood Management protects beneficial water uses and functions and values of resources within Water Quality and Flood Management Areas by limiting or mitigating impacts from development activities and protecting life and property from dangers associated with flooding.

As required by Title 3, the City has adopted regulations that apply to development within the Federal Emergency Management Agency Special Flood Hazard Area. The property is not located within the Special Flood Hazard Area. Therefore, the proposed Comprehensive Plan amendments are consistent with the flood management requirements of Title 3.

Compliance with Title 3 water quality requirements is achieved through the implementation of the City's Stormwater Management Manual and other development regulations at the time of building permit review. The Bureau of Environmental Services (BES), which implements the Stormwater Management Manual, reviewed the proposal, and had no objections or recommended conditions. BES notes requirements that will apply with future proposed development (Exhibit E-1).

Erosion control is regulated through Title 10 of the City Code, which is implemented by the BDS Site Development Section at the time of building permit review. The BDS Site Development Section reviewed the application and expressed no concerns about the ability of development on the site to meet the Title 10 requirements (Exhibit E-6).

For these reasons, the Hearings Officer finds the proposed Comprehensive Plan Map designation is equally supportive of Title 3.

Title 6 – Centers, Corridors, Station Communities and Main Streets calls for enhancements of the identified areas as principal centers of urban life via actions and investments by cities and counties, complemented by regional investments.

The Staff Report argues that although the subject site is not currently within these designated areas, this proposal, combined with the adjacent ownership, would become part of the NE Alberta Corridor and Main Street on Metro's 2040 Concept Plan Map last published in 2018.

The Staff Report applies the following reasoning for why the proposal fails to meet the criterion:

Most commercial properties extend 80 to 100 feet from Alberta Street, which is fitting with and is proportional to its narrow right-of-way. A unique aspect of the site ownership is that extends 120 to 160 feet southward from Alberta Street, a great deal further than other commercial properties and out of proportion to the general zoning pattern. The extent and depth of the existing commercial site is an anomaly along Alberta Street, placing it more in character with a Civic Corridor, which has a wider right-of-way and deeper adjacent commercial zones than Neighborhood Corridor.

The Applicant disagrees that Title 6 is applicable to the proposal. The language of this Title section specifies "actions and investments by cities and counties, complemented by regional investments" which appears to place the onus on government. Even if it does apply, the Applicant argues that the depth of the commercial area of the site is not unique and is not an anomaly. The Applicant argues the following in Exhibit H-5:

“[T]he blocks surrounding the Property on the south side of Alberta have a 120-foot commercial depth and at least 8 properties along the Alberta corridor have a commercial depth of 150 feet or more.”

The Hearings Officer finds that the Applicant’s assertion above is accurate. Therefore, the commercial depth is not unique. The Hearings Officer finds that the relatively small size of the property will not materially change the overall character of the commercial area along NE Alberta Street and the Proposal will provide a consistent commercial distance along the block, aligned with the remainder of the site. The proposed Comprehensive Plan Map designation is equally supportive of Title 6 as the existing residential designation.

Title 7 – Housing Choice implements policies of the Regional Framework Plan regarding establishment of voluntary affordable housing production goals to be adopted by local governments, and assistance from them on reports on progress toward increasing the affordable housing supply.

The Staff Report reasons that: “The subject site is small -- only 4,000 square feet in area -- and future development is unlikely to trigger Inclusionary Housing requirements with either the existing or proposed designations.” The Hearings Officer finds the proposal with conditions is equally supportive of Title 7. Note that the City Attorney (according to testimony from City Staff) takes the position that a condition requiring inclusionary or affordable housing cannot legally be required (it is possibly an unenforceable condition).

Title 8 – Compliance Procedures ensures all cities and counties are fairly and equitably held to the same standards and that the Metro 2040 Growth Concept is implemented. It sets out compliance procedures and establishes a process for time extensions and exemptions to Metro Code requirements. It requires Metro’s chief operating officer submit an annual compliance report: how cities and counties are complying with the Urban Growth Management Functional Plan’s requirements in Metro Code Chapter 3.07, titles 1, 3, 4, 11 and 13; and how they are complying with the Regional Transportation Functional Plan’s requirements Metro Code Chapter 3.08, titles 1-5.

The Staff Report concludes the proposal equally meets this title because the public notice requirements for Type III land use reviews, as outlined in Zoning Code Section 33.730.030, are satisfied. In addition to notifying City-recognized organizations within a 1,000-foot radius of the site and neighbors within a 400-foot radius of the site, a notice of the proposal was posted at the subject site and sent to Metro and to the Oregon State Department of Land Conservation and Development. The Hearings Officer finds this criterion satisfied as the proposal is equally supportive.

Title 12 – Protection of Residential Neighborhoods intends to protect existing residential neighborhoods from air and water pollution, noise and crime, and

provides adequate levels of public services. Cities are allowed to permit limited retail and commercial opportunities in neighborhood centers and must make parks and greenspaces available to neighborhood residents.

To the extent that the public-services approval criterion in Zoning Code Section 33.855.050.B for the Zoning Map Amendment is met, the proposal is consistent with providing adequate levels of public services. The Staff Report finds that the public services approval criterion is satisfied. The Hearings Officer finds the proposal will not cause significant changes in the impacts related to noise or pollution. Issues related to water pollution will be addressed through the requirements of the Stormwater Management Manual and other regulations that apply during building permit reviews of proposed development. Therefore, the proposal is equally supportive of Title 12.

Title 13 (Sections 3.07.1310 – 3.07.1370) – Nature in Neighborhoods The purposes of this program are to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and to control and prevent water pollution for the protection of the public health and safety and to maintain and improve water quality throughout the region.

The site is not designated with an Environmental Conservation, Environmental Protection, or Greenway overlay zone and is not within the flood plain or potential landslide hazard areas. During building permit review, any development would be required to meet the applicable Stormwater Management Manual requirements, thereby mitigating for water pollution and protecting water quality. In addition, tree preservation is required through the City’s Title 11, Trees. Therefore, the proposal is equally supportive of this title.

As discussed above, the proposed Mixed Use – Urban Center designation is equally supportive of Titles 1, 3, 6, 7, 8, 12, and 13 of the Urban Growth Management Functional Plan. This criterion is met.

Policy 1.12 Consistency with Statewide Planning Goals. Ensure that the Comprehensive Plan, supporting documents, and implementation tools remain consistent with the Oregon Statewide Planning Goals.

The Staff Report explains that the City’s Comprehensive Plan was written to comply with the Oregon Statewide Land Use Planning Goals. The Statewide Planning Goals are comparable to chapters in the City’s Comprehensive Plan as follows:

- Statewide Planning Goal 1 (Citizen Involvement) – Comprehensive Plan Chapter 2 (Community Involvement)

- Statewide Planning Goal 2 (Land Use Planning) – Comprehensive Plan Chapter 1 (The Plan) and Chapter 10 (Land Use Designations and Zoning)
- Statewide Planning Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources) – Comprehensive Plan Chapter 4 (Design and Development), Chapter 7 (Environment and Watershed Health), and Chapter 8 (Public Facilities and Services)
- Statewide Planning Goal 6 (Air, Water, and Land Resources Quality) – Comprehensive Plan Chapter 7 (Environment and Watershed Health)
- Statewide Planning Goal 7 (Areas Subject to Natural Disasters and Hazards) – Comprehensive Plan Chapter 4 (Design and Development) and Chapter 7 (Environment and Watershed Health)
- Statewide Planning Goal 8 (Recreation Needs) – Comprehensive Plan Chapter 8 (Public Facilities and Services)
- Statewide Planning Goal 9 (Economy of the State) – Comprehensive Plan Chapter 6 (Economic Development)
- Statewide Planning Goal 10 (Housing) – Comprehensive Plan Chapter 5 (Housing)
- Statewide Planning Goal 11 (Public Facilities and Services) – Comprehensive Plan Chapter 8 (Public Facilities and Services)
- Statewide Planning Goal 12 (Transportation) – Comprehensive Plan Chapter 9 (Transportation)
- Statewide Planning Goal 13 (Energy) – Comprehensive Plan Chapter 4 (Design and Development)
- Statewide Planning Goal 14 (Urbanization) – Comprehensive Plan Chapter 3 (Urban Form)
- Statewide Planning Goal 15 (Willamette Greenway) – Comprehensive Plan Chapter 7 (Environment and Watershed Health)

Statewide Planning Goals not listed above relate to agricultural resources (Goal 3), forest lands (Goal 4), estuarine resources (Goal 16), coastal shorelands (Goal 17), beaches and dunes (Goal 18), and ocean resources (Goal 19). The Hearings Officer finds these goals do not apply to the subject site.

For quasi-judicial Comprehensive Plan Map Amendments, compliance with the City's Comprehensive Plan goals shows compliance with applicable Statewide Planning Goals. The City's goals and policies are equally or more supported by the proposed Comprehensive Plan Map designation when compared to the existing designation. Therefore, with the adoption of conditions of approval 1 and 2, the Applicant demonstrated that the Proposal is equally or more supportive of the relevant comprehensive plan policies. The Hearings Officer finds the proposal with conditions of approval is consistent with all applicable Statewide Planning Goals and is equally supportive of Policy 1.12. This criterion is met.

Policy 1.13 Consistency with State and Federal Regulations. Ensure that the Comprehensive Plan remains consistent with all applicable state and federal regulations, and that implementation measures for the Comprehensive Plan are well coordinated with other City activities that respond to state and federal regulations.

Compliance with state and federal regulations is a burden on the City rather than applicants for quasi-judicial land use applications. However, the proposal to change the Comprehensive Plan designation from R2.5 – Residential 2,500 to CM2 – Mixed Use - Urban Center on the subject site will not affect regulations that require any uses or development on the sites to remain consistent with applicable state and federal regulations. As such, the proposal is equally supportive of this policy.

Policy 1.14 Public facility adequacy. Consider impacts on the existing and future availability and capacity of urban public facilities and services when amending Comprehensive Plan elements and implementation tools. Urban public facilities and services include those provided by the City, neighboring jurisdictions, and partners within Portland's urban services boundaries, as established by Policies 8.2 and 8.6.

The proposed Mixed Use - Urban Center designation corresponds to the proposed CM2 zone. The criterion of Zoning Code Section 33.855.050.B for the Zoning Map Amendment to CM2 requires an evaluation of the existing availability and future capacity of public services. The criterion is found to be met, because the proposal is consistent with providing adequate levels of public services for water, sanitary sewer, stormwater disposal, police and fire protection, and the transportation system (E Exhibits). In addition, Portland Public Schools, the Port of Portland, and TriMet were notified in writing of the proposal and invited to comment. As of the date of this Recommendation, no comments in opposition from these entities were received. For the above reasons, the proposal is equally supportive of Policy 1.14.

Policy 1.15 Intergovernmental coordination. Strive to administer the Comprehensive Plan elements and implementation tools in a manner that supports the efforts and fiscal health of the City, county and regional governments, and partner agencies such as school districts and transit agencies.

Implementation of this policy seems to mainly lie with governmental entities. Relevant governmental agencies were notified of the proposal and were given the opportunity to provide comments and recommendations. The proposal will not impact the City's administration of the Comprehensive Plan as it relates to fiscal health of the City and other governmental agencies. As demonstrated in the application, there is adequate capacity within the City's service systems to accommodate the Proposal. The proposal is equally supportive of this policy.

Policy 1.18 Quasi-judicial amendments to the Comprehensive Plan Map. Applicants for quasi-judicial amendments to the Comprehensive Plan Map must show that the requested change adheres to Policies 1.10 through 1.15 and:

- Is compatible with the land use pattern established by the Comprehensive Plan Map.
- Is not in conflict with applicable adopted area-specific plans as described in Policy 1.19, or the applicable hearings body determines that the identified conflict represents a circumstance where the area specific plan is in conflict with the Comprehensive Plan and the proposed amendment is consistent with the Comprehensive Plan.

The Hearings Officer must review and make recommendations to the City Council on all quasi-judicial amendments to the Comprehensive Plan Map using procedures outlined in the Zoning Code.

As discussed in the findings above, the proposal meets Policies 1.10 through 1.15. Regarding compatibility with the Comprehensive Plan's land use pattern, the Hearings Officer incorporates the analysis of the Functional Plan Title 6 above here, which addresses the commercial depths along NE Alberta. The Hearings Officer finds that the small size of the subject site, in combination with commercial zone requirements of height reductions and increased setbacks near residential properties, help reduce the potential intensity and amount of commercial development adjacent to the identified lots. The Hearings Officer finds that the proposal increases the commercial depth only nominally, and conditions 1 and 2 help mitigate the concerns raised in the Staff Report pages 12 -15. The Applicant includes the following information in Exhibit H-8 at page 6:

The Owner reached out early to Property neighbors to gauge support for the Proposal, and they agreed that redevelopment of the Property with the Owner's intended use (low scale, mixed use development with outdoor area) would be positive for the neighborhood. These residents noted that they do not expect their experience to change with a nominal increase of commercial depth at the Property since they already reside so close to the Alberta Street corridor and already have a vibrant, mixed-use experience in their neighborhood. COAs 1 and 2 will ensure that any redevelopment of the Property aligns with neighbor expectations, remains small scale, and includes

residential use. These COAs soften the transition from the existing CM2 zoning to the residential homes adjacent to the Property.

The Hearings Officer finds these arguments persuasive. The Hearings Officer finds the proposal is compatible with the land use pattern established by the Comprehensive Plan Map. Lastly, the subject site is within the boundaries of the adopted King Neighborhood Plan area (King) and the Albina Community Plan area (Albina) and the proposal with conditions is found to be consistent with certain policies and objectives related to housing, discussed later in this Recommendation. Based on the above, the Hearings Officer finds the proposal, with conditions, is equally consistent with Policy 1.18

Policy 1.19 Area-specific plans. Use area-specific plans to provide additional detail or refinements applicable at a smaller geographic scale, such as for centers and corridors, within the policy framework provided by the overall Comprehensive Plan.

1.19.a. Area-specific plans that are adopted after May 24, 2018, should clearly identify which components amend Comprehensive Plan elements, supporting documents, or implementation tools. Such amendments should be appropriate to the scope of the Comprehensive Plan; be intended to guide land use decisions; and provide geographically-specific detail. Such amendments could include policies specific to the plan area, land use designation changes, zoning map changes, zoning code changes, and public facility projects necessary to serve designated land uses.

1.19.b. Area-specific plan components intended as context, general guidance, or directives for future community-driven efforts should not amend the Comprehensive Plan elements or implementation tools but be adopted by resolution as intent. These components include vision statements, historical context, existing conditions, action plans, design preferences, and other background information.

1.19.c. Community, area, neighborhood, and other area-specific plans that were adopted by ordinance prior to May 24, 2018, are still in effect. However, the elements of this Comprehensive Plan supersede any goals or policies of a community, area, or neighborhood plan that are inconsistent with this Plan. See Figure 1-2 – Area-Specific Plans Adopted by Ordinance Prior to January 1, 2018, and Figure 7-2 — Adopted Environmental Plans

The Staff Report finds that King and the Albina Plans were adopted by the City Council in 1993, and therefore, Policy 1.19.c applies. This Policy aligns with Policy 1.18 to require comprehensive plan map changes not be in conflict with adopted area plans. The Staff Report concludes that the Proposal does not meet certain area plan Policies under the Albina Community Plan (ACP) and King Neighborhood Plan (KNP).

Albina Community Plan
Policy Area I: Land Use

Policy A: General Land Use

Encourage residential, recreational, economic and institutional developments that reinforce Plan Area neighborhoods; increase the attractiveness of Albina to residents, institutions, businesses and visitors; and create a land use pattern that will reduce dependence on the automobile.

Policy B: Livable Neighborhoods

Protect and improve the livability of the residential neighborhoods within the Albina Community. Direct new development activity to those areas that have experienced or are experiencing a loss of housing. Ensure the compatibility of new development with nearby housing. Foster the development of complete neighborhoods that have service and retail business located within or conveniently near to them. Promote increases in residential density without creating economic pressure for the clearance of sound housing.

Objectives:

1. Encourage the reestablishment of neighborhood-oriented service and retail businesses. Recognize the economic interrelationship between jobs, services and residential density by supporting commercial areas with new housing at nearby locations.
2. Buffer residential areas from the negative impacts of nearby large-scale commercial, employment, industrial and institutional developments.
3. Review new infill development to ensure that it reinforces the neighborhood's positive characteristics.
4. Improve the appearance and livability of residential areas in Albina by eliminating nuisances and supporting activities such as neighborhood clean-ups.

The Staff Report argues the following points:

“Physical changes or development is not proposed but the proposed rezoning of the site likely will lead to the removal of the existing house and redevelopment to commercial uses in the near future, if not immediately. If this were not the case, the applicant would have less reason or desire to seek a commercial designation. The proposal is also likely to lead to a higher valuation of the property and increased market pressure to remove the single-family home and redevelop the site to a higher and better use allowed by the new zone. Although property value is affected [by] a number of variables, including location and improvements, commercial property valuation is almost always higher than that of residential properties. Commercial zones allow a greater mix of uses, are typically larger in size and in more central locations. To support this, Multnomah County Assessment and Taxation cites rezoning as one circumstance where assessed value of property will increase.”

The Applicant argues that the Staff Report applies the wrong standard for compliance to certain area plan provisions.

“Under Policy 1.19, an applicant must demonstrate that the Proposal ‘is not in conflict with’ applicable adopted area-specific plans. This standard is different from the standard applied to the CP Policies themselves, which require an applicant to demonstrate that the Proposal is equally or more supportive of the CP Policies. Under the CP, in ‘conflict with’ means ‘incompatible or irreconcilable with.’ A dictionary definition of these two terms is: incompatible: ‘so opposed in character as to be incapable of existing together,’ and irreconcilable: ‘representing findings or points of view that are so different from each other that they cannot be made compatible.’ If an area plan policy, goal, or objective is not incapable of being met under the Proposal, the Proposal is not in conflict with that portion of the area plan.”

The Applicant refers to the “Johnson Memorandum,” which evaluated displacement risks if the Proposal leads to redevelopment of the Property (Exhibit A-4), and states:

“The study found that ‘the impact on the local area related to the loss of this housing unit is expected to be negligible. The loss of a single detached unit will be more than offset by the gain in housing units from recently completed and underway projects [in the area].”

Based on the above, applying the standard suggested by the Applicant, the proposal is consistent with Policy A and B.

Policy D: Economic Development

Foster development of distinct, well-anchored commercial, institutional and industrial nodes and centers that serve the needs of the community, attract shoppers from throughout the region and take advantage of the close proximity of the district to the Central City, Oregon Convention Center and Columbia Corridor. Ensure that institutions have opportunities for growth that meet their needs. Support the expanding and new industrial firms that provide family wage jobs to Albina Community residents. Protect residential neighborhoods from negative impacts associated with commercial, institutional and/or industrial growth.

Objectives:

1. Reduce conflicts between residential uses and commercial, industrial and institutional activities.
2. Ensure that sites are available in adequate size, depth, location and zoning to attract market driven business, institutional and housing developers within the Albina Community.
3. Recognize and reinforce concentrations of commercial and employment businesses within the district and encourage the formation of a clear identity for these areas.
4. Encourage the growth of existing businesses, preferably within the Albina Community.
5. Foster the establishment of new small businesses and housing developments, particularly on land that is vacant or underutilized.

6. Recognize the role that medical and educational institutions play in providing employment and training to Portland and Albina Community residents. Create planning mechanisms that encourage their growth.
7. Foster the establishment and growth of related businesses near major institutions

The Applicant provided the following response:

“The Property is adjacent to the Alberta Street commercial corridor which is well served by transportation infrastructure. The proposed CM2 zoning requires protective stepdowns and setbacks from residential properties and the proposed design overlay will require design review for redevelopment. The Property is part of a larger site zoned CM2 which is being developed with commercial use. The Proposal will allow the Property to be redeveloped with neighborhood scale commercial use (restaurant with outdoor area) to integrate with the remainder of the Site and the Alberta commercial area. The Property is underutilized as it is developed with a small home but the existing zoning and adjacent infrastructure and services would support greater residential density and commercial use. The Proposal will allow a variety of uses to be developed on the Property, including commercial, employment, medical, institutions and mixed use. The Proposal is not in conflict with this Policy or these Objectives. (Exhibit A-5).”

The Staff Report (pages 18 -19) concurs with the Applicant’s assessment regarding the CM2 zoning requirements. In addition, the Staff Report recommends consideration of the following points:

- The adjacent ownership property is 27,000 square feet in area and the previous land use approval included over 100,000 square feet of commercial floor area. The building has been designed to meet the protective step-downs and setbacks referenced by the Applicant.
- The commercial zoning of the adjacent ownership property extends 120 to 160 feet south of NE Alberta Street, which provides the deepest length of commercial zoning along the entire commercial stretch of the street, increasing development intensity and flexibility. Based on this, the commercial area of the ownership is adequate for the commercial development envisioned for NE Alberta, and therefore, a change in designation for the subject site is not needed to meet the Albina Plan District economic policies and objectives.
- Commercial zone areas along NE Alberta Street appear to be adequate to accommodate a range of business types.
- The Applicant has not provided information or market analysis to determine existing or future demand for commercial zone land in the nearby area. Existing development in the corridor and the immediate area may indicate there is not market demand for commercial area beyond what is already programmed under

the existing Comprehensive Plan as evidenced by the existence of low density residential dwellings d (zoned CM2) fronting NE Alberta that have not been either consolidated into a larger commercial lot or redeveloped individually.

The Staff Report's analysis above suggests that the Applicant has an evidentiary burden to establish that more commercial land is needed in the area and that failure to prove this point renders the Proposal in conflict with Policy D. The Hearings Officer finds that Policy D does not require a demonstration by the Applicant that existing commercial land is inadequate to meet demand. Regarding commercial areas, Policy D requires the City to "ensure that sites are available to attract market driven-businesses" and to "encourage the growth of existing businesses." The Proposal will provide land that can be used for both of these objectives (including for business use related to the under-construction hotel). The existence of other land in the area that also meets this policy does not create a conflict with adopting the Proposal.

Policy E: Transit Supportive Land Use

Focus new development at locations along transportation corridors that offer opportunities for transit supportive developments and foster the creation of good environments for pedestrians in these areas.

Objectives:

1. Increase opportunities for people to live near where they work and shop by locating higher density housing near commercial and institutional areas.
2. Create opportunities for new housing development near Portland Community College's Cascade Campus and near Concordia College.
3. Concentrate new commercial investment in areas which are well served by transit.
4. Consider increasing allowable density to transit supportive levels at locations that are within one-quarter mile of transit streets.
5. Encourage the development of mixed-use projects in commercial areas that include both ground level business uses and upper story residential units.
6. Encourage employees of Albina area businesses and institutions to live in the area.

The Applicant provides the following response:

"The Proposal will change the Property's zoning but does not involve redevelopment. However, by changing the Property's zoning to CM2, the Proposal will allow commercial and employment use, as well as mixed-use development, to be located on the Property; all of which are currently prohibited. The Property is nearby to higher density housing and along the Alberta Street commercial corridor. Development with either neighborhood commercial uses or higher density housing (or both) is consistent with these objectives. The Property is an area well-served by high frequency bus lines, pedestrian and bicycle infrastructure. Light rail is accessible and in the vicinity.

NE Alberta is a transit street as defined in PCC Title 33 and the Property is far less than ¼ mile from this street. The Proposal will rezone the Property to transit supportive density levels. The Proposal will also allow a mixed use project which is appropriate along the Alberta commercial corridor. The Proposal is not in conflict with this Policy or these Objectives.” (Exhibit A-5)

The Staff Report concurs with the Applicant’s response and finds that the existing residential designation and zoning and the proposal are not in conflict with Policy E or its objectives. The Hearings Officer adopts this finding as well.

Policy III: Business Growth and Development

Stimulate investment, capital formation, and job creation benefiting Albina enterprises and households. Expand and diversify the area's industrial, commercial, and institutional employment base. Aggressively market the Albina Community to investors, developers, business owners, workers, households, and tourists.

The Staff Report finds that the proposal will rezone the property to allow commercial and employment uses which is consistent with allowing business growth and development. The Hearings Officer adopts this finding as the proposal is not in conflict with this policy.

Policy A: Business Investment and Development

Build a sustainable and robust economic activity and employment base in the Albina Community. Use public policies and resources to capture and direct the benefits of growth in community institutions and Albina Impact Area industries to Albina Community enterprises and households. Improve the competitive position and performance of the community's retail and service sectors. Maintain the public infrastructure necessary to support the expansion of economic activities and employment.

Objectives

- Encourage the creation, siting, and expansion of economic activities which broaden and diversify the industrial, commercial, and institutional base of the Albina Community.
- Strengthen the operational linkages of enterprises in the Albina Community with other Portland metropolitan area urban businesses and industries.
- Nurture and promote local entrepreneurship, micro-business growth, and business expansion particularly for emerging small businesses and enterprises owned by women and minorities.
- Support community and private sector efforts to build working capital loan funds for Albina Community business start-up and expansion.
- Support industrial firms and employment growth through greater participation in Oregon economic development efforts such as the Key Industries and Enterprise Zone programs. Stimulate private investment through the coordinated use of federal, state, regional, and local economic development programs and resources.

- Support timely public and private investment in physical infrastructure, social and educational services, and financial resources necessary to support business development and employment growth.
- Strengthen the markets for local goods and services by encouraging business growth, tourism development, residential rehabilitation, and new housing construction.
- Encourage professional firms to locate in the Albina Community.

The Staff Report finds that the proposal would allow a broad range of uses on the property, including commercial, employment, light industrial maker uses, institutions, and mixed use. Redevelopment would require payment of system development charges and upgrades to the surrounding street system under the City's policies which are necessary to maintain the public infrastructure over time. The Hearings Officer finds the proposal is not in conflict with this Policy.

The Applicant suggests that a new restaurant or other community-serving commercial use on the site has the potential to foster linkages with rural area businesses that produce food. The Proposal in combination with the larger adjacent commercial site and development will encourage business growth by providing additional land along the Alberta Street corridor that can be used for start-up businesses. The Proposal is not in conflict with Policy III.A or the associated Objectives.

Policy B: Commercial, Institutional and Employment Centers

Recruit, retain, and encourage expansion of economic activities and institutions which enhance neighborhood livability. Conserve community assets and resources. Use public programs and resources to encourage more efficient design and utilization in the Albina Community's commercial, institutional and institutional centers.

Objectives

- Encourage uses and development densities within Albina's commercial, institutional, and industrial centers which stimulate market activity and reduce business development and operational costs.
- Create accessible, spatially concentrated commercial convenience centers where area shoppers may purchase essential consumer goods and personal services such as groceries, flower shops, beauty and barber shops, and dry cleaners located in or near higher-density residential areas and existing neighborhood commercial centers.
- Use entertainment activities, hospitality industries, athletic and recreational centers, and daycare, park and other community facilities as attractors or primary anchors for the development and revitalization of small commercial centers and nodes.
- Encourage rehabilitation and reuse of older non-residential building stock within Albina commercial, institutional, and employment centers and nodes to provide affordable business locations, induce private capital investment and attract business growth.

- Encourage new construction on vacant infill and underutilized lots within Albina commercial, institutional, and employment centers and nodes to create more attractive and viable markets for area businesses and service providers.
- Encourage multiuse and mixed-use development designed to create safe and attractive centers of activity, commerce, and employment.
- Increase the proportion of local business owners, managers, and employees who live in the Albina Community.

The Staff Report finds that the existing residential zone designation and the proposal's zone are not in conflict with this policy and the related objectives. The Hearings Officer adopts this finding.

Policy C: Household Income and Employment

Use public resources to stimulate the creation of new sources of household income and family- wage employment for community residents. Focus economic development activities to produce the greatest positive impact on those portions of Albina suffering most severely from under-utilization of human resources.

Implementation of this policy is primarily the responsibility of governmental agencies and community organizations. The proposal is put forth by a private property owner and therefore the policy doesn't apply.

Policy IV: Jobs and Employment

Reduce the unemployment rate among Albina residents. Strengthen programs that provide education, job training, job retention skills and services that prepare area residents for long-term employment and that create opportunities for career advancement. Ensure that job training programs include comprehensive services that are ethnically and culturally sensitive.

The Staff Report finds that:

Implementation of this policy is primarily the responsibility of governmental agencies and community organizations. The proposal does not include redevelopment but if approved, commercial development is likely to occur on the subject site. Commercial use has the potential to create jobs. The Proposal is not in conflict with this Policy or these Objectives.

The Hearings Officer adopts this finding.

Policy V: Housing

Increase housing opportunities for current and future residents of the Albina Community by preserving and rehabilitating the existing housing stock, constructing appropriate infill housing in residential neighborhoods and building higher density housing near business centers and major transit routes. Stimulate new housing

investment by emphasizing the Albina Community's central location, established public services, and qualify housing stock.

Objectives

1. Improve the quality and quantity of housing for Albina residents. Provide a variety of housing types for households of all sizes and incomes.
2. Add 3,000 new housing units to the Albina Community Plan Study Area over the next twenty years.
3. Provide opportunities for home ownership for Albina residents. Emphasize infill development that accommodates owner-occupancy and is compatible with the surrounding neighborhood.
4. Preserve and encourage the rehabilitation of existing sound housing, especially rental housing.
5. Decrease the number of vacant and abandoned housing units by 50% over the first five years of the plan. Clear unsalvageable housing and build new housing in its place.
6. Discourage speculation that deters construction of housing on vacant land.
7. Market the Albina Community to housing developers and prospective home owners.
8. Improve the quality of rental housing by ensuring better management and property maintenance.
9. Revisit the issue of housing density in 10 to 15 years after Albina Community Plan neighborhoods have been stabilized. Seek opportunities for increasing housing density and accommodating a greater share of the region's growth.
10. Rehabilitate at least 100 housing units each year to provide affordable housing to low and moderate income households.
11. Create a portion of the Albina Community's housing stock as permanent affordable rental housing through ownership by nonprofit organizations.
12. Revisit the housing affordability issue in the Albina Community neighborhoods in 10 to 15 years after the Albina Community neighborhoods have stabilized. Seek to increase opportunities for affordable housing and reductions in displacement that might otherwise result from neighborhood stabilization and rising property values.

The Staff Report provides the following analysis and ultimately concludes the Proposal is inconsistent this Policy and Objectives 4 and 6 but is not in conflict with the remaining Objectives.

“The subject site is near the Alberta commercial corridor, within a Neighborhood Center and part of an ownership and site that fronts Alberta Street and is zoned CM2. A single-story house is located on the Property. Physical development or changes to the site are not proposed, but the applicant identifies the potential of a restaurant with outdoor seating. The house is more likely to be preserved under the existing residential zoning since

commercial uses are prohibited. Further, because the site is small in area, the potential yield of housing units (up to six units) is similar under the existing and proposed designation. For the existing residential designation, implementation of the Residential Infill Project encourages retaining the house by allowing additional housing units to be added to the site. Or different housing types that allow up to the six housing units could replace the existing house. A maximum number of housing units is not applied with the proposed designation, but the minimum setbacks and step-down height limits the amount of available buildable area. Lastly, housing is not required in commercial zones – note that the property owner developed the adjacent ownership with over 100,000 sf of space without any housing. Therefore, the house is likely be removed under commercial zoning to make way for intended retail development as described by the applicant.”

Regarding ACP Policy V: Housing, the Staff Report finds a conflict with the Objectives 4 and 6 to “preserve and encourage the rehabilitation of existing sound housing, especially rental housing” and “discourage speculation that deters construction of housing on vacant land.”

The Applicant points out that the Property is not vacant and therefore cannot be considered “vacant land.” Objective 6 therefore does not apply to this proposal. The Hearings Officer finds that the proposal, with conditions, will allow retention of the existing home. If the home is removed and replaced, the minimum residential density of three units would be triggered. The Proposal does not approve development on the Property that is incompatible with retaining the home nor does it require that commercial uses be added to the lot. The Hearings Officer finds the proposal is not irreconcilable or incompatible with Objectives 4 and 6.

King Neighborhood Plan

Goals, Policies, Objectives and Implementation Actions for King

The following statement is included in the Albina Community Plan. Inclusion of this statement as an Albina Community Plan policy also includes, by reference, this policy into Portland's Comprehensive Plan. Such inclusion will make the King Neighborhood Plan a part of Portland's Comprehensive Plan. Future land use changes in the Albina Community Plan area will be required to conform with the Albina Community Plan and applicable neighborhood plan as well as the citywide Comprehensive Plan. These policies read:

Comprehensive Plan Policies 2.25 and 3.38

2.25 Albina Community Plan

Promote economic vitality, historic character and livability of inner north and inner northeast Portland by including the Albina Community Plan as part of this Comprehensive Plan.

3.38 Albina Community Plan Neighborhoods

Include as part of the Comprehensive Plan neighborhood plans developed as part of the Albina Community Plan. Neighborhood plans developed as part of the Albina Community Plan are those for Arbor Lodge, Boise, Concordia, Eliot, Humboldt, Irvington, Kenton, King, Piedmont, Sabin, and Woodlawn.

The Staff Report explains that the above Comprehensive Plan policies were removed from the Comprehensive Plan with the 2018 update and replaced with the policies under Goal 2: Community Involvement, discussed in this Recommendation. Therefore, the above policies do not apply.

Objective H. Ensure the King Neighborhood's improvement and growth as a vital neighborhood in the heart of Portland's Albina Community. As the King Neighborhood physically improves also improve economic conditions for King's residents. Use the King Neighborhood Plan to guide decisions on land use, capital improvement projects, urban renewal and community development activities within King.

The Staff Report explains that for this land use review request, it must be shown that the proposal is not in conflict with the King Neighborhood plan. Since this objective calls for the Plan to guide land use decisions, the proposal is not in conflict with this Objective.

Policy I: Urban Design

Create a safe, attractive, livable neighborhood that has distinct and enriching character.

Objectives:

1. Promote building designs that ensure crime prevention through environmental design and protect streets, open spaces, and architectural integrity of the neighborhood.
2. Protect the dignity of King residences in the placement and design of social and public service facilities.
3. Protect historic resources located in the King Neighborhood.
4. Encourage developers to consider and conform to design standards for new developments in the King Neighborhood.

The proposal does not include physical development, but the Design overlay zone is proposed on the property. Future development will require compliance with the Design overlay zone standards or will require discretionary Design review (land use review). There are no historic resources or designated open spaces on the property. The Staff Report and the Hearings Officer find that the existing residential designation and the Proposal are not in conflict with these Objectives.

Policy II: Housing

Increase the number and type of housing opportunities while upgrading existing housing. Ensure the need of King's residents for low-cost quality housing is met.

Objectives:

1. Encourage visual vitality by allowing a variety of housing types where compatibility of scale, bulk and design can be assured.
2. Encourage development of alternative housing types that promote efficient land use.
3. Relocate houses removed as the result of new development activities; replace the houses on vacant lots located within the King Neighborhood.
4. Support and maintain existence of low and middle income homeowners.
5. Attract a diversity of households and a range of income groups to the King Neighborhood.

The Staff Report argues:

“The above conditions show that the residential zone is more consistent with this policy, as the existing house is more likely to be retained and upgraded to include additional housing units than under the commercial designation. Therefore, the proposal is inconsistent with this Policy.”

The Applicant argues that the Staff Report uses the wrong standard and that with the condition of approval 1 regarding redevelopment of the site the proposal is not in conflict with the policy.

“The SR finds that the existing zoning is ‘more consistent’ with this Policy II because it is more likely that housing would be retained if the existing zoning is left in place. The SR does not find that the Proposal is in conflict with (e.g., irreconcilable or incompatible with) Policy II. Policy II encourages development of a variety of housing types. The Proposal would allow construction of housing at higher density than the current designation and with adoption of COA 1, will mandate that if the site is redeveloped and the home is removed, at least 3 housing units must be developed on the Property to meet minimum CM2 density. The Proposal, which will mandate retention or construction of housing is not in conflict with Policy II, which encourages development of housing.”

The Hearings Officer concurs with the Applicant’s statement above.

Policy III: Public Safety

Support citizen-responsive community policing within the King Neighborhood.

Objectives:

1. Promote neighborhood safety.
2. Promote a stronger relationship among King residents, businesses and the police patrolling the neighborhood.

The Applicant states:

The Proposal will change the property's comprehensive plan designation and zoning but does not involve development or any changes to the City's policing practices and interaction with the neighborhood. The Applicant, as a business owner in the neighborhood regularly engages with the neighborhood business community and nearby residents on all issues of concern. The Proposal is not in conflict with this Policy or these Objectives. (Exhibit A-5)

Based on the above, the Staff Report and Hearings Officer conclude that the proposal is not in conflict with this policy and related objectives.

Policy IV: Economic Development

Promote economic vitality that will make the King Neighborhood prosperous and livable.

Objectives:

1. Support the formation of new business and investments within the King Neighborhood which are linked to Convention Center and Lloyd Center area development.
2. Provide opportunities for home-based businesses.
3. Develop the King Neighborhood's role as a tourist attraction by capitalizing on and promoting inner northeast Portland's unique ethnic diversity and historical significance.
4. Support the growth of existing businesses within the King Neighborhood.

The Applicant states:

The Proposal does not include redevelopment but would allow the Property to be redeveloped with commercial, employment, industrial maker uses, institutions and mixed use, including retail and home-based businesses such as a childcare. Redevelopment with commercial use has the potential to create additional jobs within the Albina area for community residents. The Property is part of a Site that is currently being redeveloped and the applicant desires to provide a restaurant with outdoor seating area to serve both guests of the adjacent development and the neighborhood as a whole. The Proposal is not in conflict with this Policy or these Objectives. (Exhibit A-5)

Staff and the Hearings Officer concur that the existing residential designation and the proposal are not in conflict with this policy and related objectives.

CHAPTER 2: COMMUNITY INVOLVEMENT

Goal 2.A: Community involvement as a partnership

The City of Portland works together as a genuine partner with all Portland communities and interests. The City promotes, builds, and maintains relationships, and communicates with individuals, communities, neighborhoods, businesses, organizations, Neighborhood Associations, Business Associations, institutions, and other governments to ensure meaningful community involvement in planning and investment decisions. Partnerships with historically under-served and under-represented communities must be paired with the City's neighborhood organizations to create a robust and inclusive community involvement system.

Goal 2.B: Social justice and equity

The City of Portland seeks social justice by expanding choice and opportunity for all community members, recognizing a special responsibility to identify and engage, as genuine partners, under-served and under-represented communities in planning, investment, implementation, and enforcement processes, particularly those with potential to be adversely affected by the results of decisions. The City actively works to improve its planning and investment-related decisions to achieve equitable distribution of burdens and benefits and address past injustices.

Goal 2.C: Value community wisdom and participation

Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.

Goal 2.D: Transparency and accountability

City planning and investment decision-making processes are clear, open, and documented. Through these processes a diverse range of community interests are heard and balanced. The City makes it clear to the community who is responsible for making decisions and how community input is taken into account. Accountability includes monitoring and reporting outcomes.

Goal 2.F: Accessible and effective participation

City planning and investment decision-making processes are designed to be accessible and effective, and responsive to the needs of all communities and cultures. The City draws from acknowledged best practices and uses a wide variety of tools, including those developed and recommended by under-served and under-represented communities, to promote inclusive, collaborative, culturally-responsive, and robust community involvement.

Goal 2.G: Strong civic infrastructure

Civic institutions, organizations, and processes encourage active and meaningful community involvement and strengthen the capacity of individuals and communities to participate in planning processes and civic life.

Policy 2.1 Partnerships and coordination. Maintain partnerships and coordinate land use engagement with:

2.1.a. Individual community members.

2.1.b. Communities of color (including those whose families have been in this area for generations such as Native Americans, African Americans, and descendants of immigrants), low-income populations, Limited English Proficient (LEP) communities, Native American communities, immigrants and refugees, and other under-served and under-represented communities.

2.1.c. District coalitions, Neighborhood Associations, watershed councils, and business district associations as local experts and communication channels for place-based projects.

2.1.d. Businesses, unions, employees, and related organizations that reflect Portland's diversity as the center of regional economic and cultural activity.

2.1.e. Community-based, faith-based, artistic and cultural, and interest-based non-profits, organizations, and groups.

2.1.f. People experiencing disabilities.

2.1.g. Institutions, governments, and Sovereign tribes.

Policy 2.2 Broaden partnerships. Work with district coalitions, Neighborhood Associations, and business district associations to increase participation and to help them reflect the diversity of the people and institutions they serve. Facilitate greater communication and collaboration among district coalitions, Neighborhood Associations, business district associations, culturally-specific organizations, and community-based organizations.

Policy 2.8 Channels of communication. Maintain two-way channels of communication among City Council, the Planning and Sustainability Commission (PSC), project advisory committees, City staff, and community members.

Policy 2.12 Roles and responsibilities. Establish clear roles, rights, and responsibilities for participants and decision makers in planning and investment processes. Address roles of City bureaus, elected officials, and participants, including community and neighborhood leadership, business, organizations, and individuals.

Policy 2.13 Project scope. Establish clear expectations about land use project sponsorship, purpose, design, and how decision makers will use the process results.

Policy 2.15 Documentation and feedback. Provide clear documentation for the rationale supporting decisions in planning and investment processes. Communicate to participants about the issues raised in the community involvement process, how public input affected outcomes, and the rationale used to make decisions.

Policy 2.24 Representation. Facilitate participation of a cross-section of the full diversity of affected Portlanders during planning and investment processes. This diversity includes individuals, stakeholders, and communities represented by race, color, national origin, English proficiency, gender, age, disability, religion, sexual orientation, gender identity, and source of income.

Policy 2.25 Early involvement. Improve opportunities for interested and affected community members to participate early in planning and investment processes, including identifying and prioritizing issues, needs, and opportunities; participating in process design; and recommending and prioritizing projects and/or other types of implementation.

Policy 2.38 Accommodation. Ensure accommodations to let individuals with disabilities participate in administrative, quasi-judicial, and legislative land use decisions, consistent with or exceeding federal regulations.

Policy 2.39 Notification. Notify affected and interested community members and recognized organizations about administrative, quasi-judicial, and legislative land use decisions with enough lead time to enable effective participation. Consider notification to both property owners and renters.

Policy 2.40 Tools for effective participation. Provide clear and easy access to information about administrative, quasi-judicial, and legislative land use decisions in multiple formats and through technological advancements and other ways.

Policy 2.41 Limited English Proficiency (LEP). Ensure that limited English proficient (LEP) individuals are provided meaningful access to information about administrative, quasi-judicial, and legislative land use decisions, consistent with federal regulations.

The Staff Report (at page 27) explains that on June 3, 2022, BDS mailed the notice of public hearing regarding the proposed Comprehensive Plan Map Amendment to neighbors within 400 feet of the site, including both property owners and renters (Exhibit D-5, Mailing List, and Exhibit D-6 Mailed Notice).

In addition to owners and residents, the notice was mailed to the King Neighborhood Association, the Sabin Community Association, the Northeast Coalition of Neighborhoods, the Alberta Main Street Business Association, and the SOUL District Business Association.

Following Zoning Code requirements, the Applicant posted a sign on the site, providing notification of the proposal and the public hearing. A summary of the proposal and a phone number to obtain further information are included on the sign (Exhibits D-2, D-3, and D-4). Notice of the proposal and public hearing was also posted on the BDS website.

The mailed notice, the site posting sign, and the online notices identify the Applicant's proposal, the decision-making process, and the opportunity for interested parties to obtain further information, provide written comments on the proposal, or testify at two public hearings: one before the Hearings Officer and another before City Council. Roles assigned in the land use review process to staff, the Hearings Officer, the City Council, and other interested parties are described in the mailed and on-line notices.

To ensure equal access to land use review information and public hearings, BDS offers translation services for non-English speakers and services for persons needing special accommodations. The mailed notice (Exhibit D-6) includes a contact phone number to request these services.

Therefore, information about the proposal has been distributed broadly, and those interested in or potentially affected by the proposal have meaningful opportunities to participate in the land use review decision-making process.

Based on the above findings, the proposal equally supports these policies.

CHAPTER 3: URBAN FORM

GOAL 3.A: A city designed for people

Portland's built environment is designed to serve the needs and aspirations of all Portlanders, promoting prosperity, health, equity, and resiliency. New development, redevelopment, and public investments reduce disparities and encourage social interaction to create a healthy connected city.

Policy 3.1 Urban Design Framework. Use the Urban Design Framework (UDF) as a guide to create inclusive and enduring places, while providing flexibility for implementation at the local scale to meet the needs of local communities.

The Applicant states that,

"The Property is within a Neighborhood Center and is part of a large Site abutting NE Alberta, a Neighborhood Corridor. The Proposal will create opportunities for greater residential density as well as neighborhood commercial space in an area supportive of greater density. The Proposal is equally as supportive of this Policy as the Property's current designation."
(Exhibit A-5)

The Staff Report counters that,

“Under the proposal, the Alberta Neighborhood Corridor would be expanded further south into the existing residential neighborhood and the commercial zone would extend to a depth of 160 feet along NE 11th Avenue. Given the existing, consistent and purposeful narrow depth of most commercially zoned properties, the proposal is not compatible with the proposed CM2 designation. The resulting depth of commercial zoning would be similar to that envisioned for Civic Corridors, which are more prominent, wider and higher density streets. In consideration of the above designations and the applicant’s response, the proposal is not equally or more supportive of this policy * * *.”

As the Applicant points out in Exhibit H-5:

“[T]he blocks surrounding the Property on the south side of Alberta have a 120-foot commercial depth and at least 8 properties along the Alberta corridor have a commercial depth of 150 feet or more.”

The Hearings Officer finds that the relatively small size of the property will not materially change the overall character of the commercial area along NE Alberta Street and the Proposal will provide a consistent commercial distance along the block, aligned with the remainder of the site. In consideration of the designations and the Applicant’s response, the proposal is equally or more supportive of this policy.

Policy 3.3 Equitable development. Guide development, growth, and public facility investment to reduce disparities; encourage equitable access to opportunities, mitigate the impacts of development on income disparity, displacement and housing affordability; and produce positive outcomes for all Portlanders.

Policy 3.9 Growth and development. Evaluate the potential impacts of planning and investment decisions, significant new infrastructure, and significant new development on the physical characteristics of neighborhoods and their residents, particularly under-served and under-represented communities, with particular attention to displacement and affordability impacts. Identify and implement strategies to mitigate the anticipated impacts. More detailed policies are in Chapter 5: Housing.

The term used in Policy 3.9, “planning and investment decisions” is defined in the Comprehensive Plan as:

“Legislatively adopted land use plans, zoning maps, zoning regulations, comprehensive plan map designations, the policies and projects identified in the Transportation System Plan, and changes to the list of significant capital projects necessary to support the land uses designated in the Comprehensive

Plan (the List of Significant Projects). The phrase 'planning and investment decisions' is also used to mean decisions about plans and investments as defined here."

Because "planning and investment decisions" applies to legislatively adopted zoning and comprehensive plan maps, evaluation of "planning and investment decisions" does not apply to this quasi-judicial land use review request.

The Staff Report argues that the proposal contains "significant new development" and therefore Policy 3.9 applies. The Staff Report reasons that the adjacent property under the same ownership (and a part of the "site" as defined) has a project currently under construction that therefore the proposal includes significant new development. Since the proposal (the actual application under current review) does not contain development, the Hearings Officer finds that the proposal does not include significant new development. Policy 3.9 does not apply.

The Applicant's response to these policies argue that gentrification forces and displacement have occurred in the past but are no longer at play within the Alberta/King Neighborhood area. The findings of the Johnson Memorandum (Exhibit A-4) are referenced:

"The Memorandum determined that, based on the City's Gentrification and Displacement Study (updated 2020), 'the displacement risk in the City has now largely shifted east of 82nd Avenue, with the area surrounding the subject site no longer identified as a typology with a high risk of displacement.' Additionally, the Memorandum finds that '[t]he Alberta MLK neighborhood is the only neighborhood in the City with a higher share of communities of color that combines high opportunity and low vulnerability. Areas in this quadrant are amenity and service rich, while having lower rates of vulnerable populations.' Regarding gentrification risks, the Memorandum concludes that 'this area saw considerable gentrification in the past few decades but is not currently considered to have an elevated level of displacement risk.' Importantly, the small scale of the Proposal (which will impact the zoning of a 4,000 square foot site) 'is not expected to have any substantive impact on gentrification or displacement in the area.'

Regarding affordability, the Memorandum concludes that, 'the loss of a single residential unit would not impact the supply/demand balance in the area and the zone change would increase potential residential capacity on the Property. The current home's estimated value (\$600k) is not consistent with affordable housing.' Finally, the Memorandum concludes that: '[t]he City of Portland has identified displacement, gentrification, and equity as areas of concern and have adopted policies and tools to address these issues. The proposed zone change, which could result in the loss of one unoccupied detached residential unit,

would not be expected to contribute to either displacement or gentrification in the neighborhood.”

The Staff Report concludes that, “Overall, there is not a strong reason to conclude one designation is more supportive than the other with respect to these policies. In consideration of the above, proposal is equally supportive of these policies as is the existing designation.” The Hearings Officer maintains that the proposal does not include significant development but even if the under-construction hotel should be considered since the site includes this already approved construction project, the conditions of approval tip the balance in favor of the proposed designation.

GOAL 3.B: A climate and hazard resilient urban form
Portland’s compact urban form, sustainable building development practices, green infrastructure, and active transportation system reduce carbon emissions, reduce natural hazard risks and impacts, and improve resilience to the effects of climate change.

Policy 3.5 Energy and resource efficiency. Support energy-efficient, resource-efficient, and sustainable development and transportation patterns through land use and transportation planning.

The Applicant states:

“The Property is well-served by a variety of transportation options, including high frequency bus lines and cycling infrastructure, and the Lancaster Memorandum (TIA) demonstrates that even at maximum build out the transportation system is adequate to support the proposed zone change. The Proposal will allow greater residential density, commercial and employment uses at the Property. These uses have the potential to better utilize the Property’s density-supportive infrastructure than the lower-density residential development allowed by the current designation and are appropriate uses in a designated Neighborhood Center. The Proposal is more supportive of this Policy than the Property’s current designation.”

The Staff Report adds that the CM2 zoning provides greater ability to meet these characteristics, as it has a greater development potential than the R2.5 designation regarding the number of residential units and density as well as a variety of commercial and employment uses. The Hearings Officer finds the existing and proposed designations are equally supportive of this goal and policy.

GOAL 3.C: Focused growth
Household and employment growth is focused in the Central City and other centers, corridors, and transit station areas, creating compact urban development in areas with a high

level of service and amenities, while allowing the relative stability of lower-density single-family residential areas.

GOAL 3.D: A system of centers and corridors

Portland's interconnected system of centers and corridors provides diverse housing options and employment opportunities, robust multimodal transportation connections, access to local services and amenities, and supports low-carbon complete, healthy, and equitable communities.

Policy 3.1 Urban Design Framework. Use the Urban Design Framework (UDF) as a guide to create inclusive and enduring places, while providing flexibility for implementation at the local scale to meet the needs of local communities. See Figure 3.1 — Urban Design Framework.

Policy 3.2 Growth and stability. Direct the majority of growth and change to centers, corridors, and transit station areas, allowing the continuation of the scale and characteristics of Portland's residential neighborhoods.

Policy 3.52 Neighborhood Corridors. Enhance Neighborhood Corridors as important places that support vibrant neighborhood business districts with quality multi-family housing, while providing transportation connections that link neighborhoods.

Policy 3.6 Land efficiency. Provide strategic investments and incentives to leverage infill, redevelopment, and promote intensification of scarce urban land while protecting environmental quality.

Policy 3.87 Inner Neighborhoods main streets. Maintain and enhance the Streetcar Era pattern of street-oriented buildings along Civic and Neighborhood corridors.

Policy 3.89 Inner Neighborhoods infill. Fill gaps in the urban fabric through infill development on vacant and underutilized sites and in the reuse of historic buildings on adopted inventories.

The Applicant argues the following:

“These Goals and Policies aim to focus growth in appropriate areas of the City where facilities and services can support increased residential and employment density. The Property is within a neighborhood center and along a neighborhood corridor (NE Alberta) and as demonstrated in the application, is near a high level of services and amenities sufficient to support the maximum level of development possible with CM2 zoning. The Proposal is consistent with focusing growth in centers and corridor areas that contain growth-supportive facilities.”

The Hearings Officer finds that the conditions of approval suggested by the Applicant means that the proposal will maintain or increase housing. The Applicant explains the following:

The Owner expects to develop at least 3 units of workforce housing on the Property as part of a low-scale mixed use development with ground floor commercial uses and outdoor area. COA 1 will ensure that at least 3 housing units (the minimum CM2 density for developments with housing) are included if full redevelopment occurs, which will increase the housing density on the Property beyond what exists today. Additional housing density beyond that permitted in R 2.5 would also be allowed, and therefore more likely to develop, under the Proposal.

The Hearings Officer does not find that the Applicant must demonstrate a need for additional commercial designations. With the proposed conditions of approval, any redevelopment will be neighborhood-scale and include housing. The Proposal will allow the kind of development in the centers and corridors that these Goals and Policies seek to encourage.

CHAPTER 4: DESIGN AND DEVELOPMENT

Goal 4.A: Context-sensitive design and development

New development is designed to respond to and enhance the distinctive physical, historic, and cultural qualities of its location, while accommodating growth and change.

Policy 4.5 Pedestrian-oriented design. Enhance the pedestrian experience throughout Portland through public and private development that creates accessible, safe, and attractive places for all those who walk and/or use wheelchairs or other mobility devices.

Policy 4.6 Street orientation. Promote building and site designs that enhance the pedestrian experience with windows, entrances, pathways, and other features that provide connections to the street environment.

Policy 4.11 Access to light and air. Provide for public access to light and air by managing and shaping the height and mass of buildings while accommodating urban-scale development.

Policy 4.12 Privacy and solar access. Encourage building and site designs that consider privacy and solar access for residents and neighbors while accommodating urban-scale development.

Requirements for development in the proposed commercial designation concern the street-facing facades, such as a minimum window area, main entrances that face the street, and articulated facades to limit the bulk of buildings and provide visual interest. These and other standards, such as limits on the amount and placement of vehicle areas, aim to create a high-quality pedestrian environment. To provide access to light and air and privacy, the commercial zoning designations include requirements such as an increased setback, landscaping, and a maximum step-down height when adjacent or across the street from residential zones.

The existing residential designation has similar requirements regarding window area, main entrances, setbacks, and building height limits, and limits on garage entrance locations and widths. These requirements are focused on improving the pedestrian environment, privacy, and access to light and air.

Given the above, the Staff Report and the Hearings Officer find that the proposal is equally supportive of these policies.

Policy 4.15 Residential area continuity and adaptability. Encourage more housing choices to accommodate a wider diversity of family sizes, incomes, and ages, and the changing needs of households over time. Allow adaptive reuse of existing buildings, the creation of accessory dwelling units, and other arrangements that bring housing diversity that is compatible with the general scale and patterns of residential areas.

Policy 4.16 Scale and patterns. Encourage design and development that complements the general scale, character, and natural landscape features of neighborhoods. Consider building forms, scale, street frontage relationships, setbacks, open space patterns, and landscaping. Allow for a range of architectural styles and expression.

The Staff Report finds that the proposal is not equally or more supportive of these policies (at pages 33 -34). The Applicant argues that these criteria are legislative in quality and should not be considered in a quasi-judicial procedure. These Policies require the City to “encourage” more housing choices, adaptive reuse, and design that compliments the general scale and character of neighborhoods. The Comprehensive Plan defines “encourage” as “[p]romote or foster using some combination of voluntary approaches, regulations, or incentives.” Since the Proposal is a quasi-judicial map revision and not a policy change to the City’s voluntary approaches, regulations, or incentives, these Policies do not appear to apply.

The Hearings Officer finds that to the extent these policies apply, the proposed condition of approval 1 addresses the Staff Report’s concerns regarding loss of housing. With adoption of condition of approval 1, the Proposal could not result in redevelopment of the Property without housing. The Hearings Officer finds that even if design review could not be utilized to ensure compatibility with the surrounding area when it comes to building height, condition of approval 2 will ensure that the height (and therefore overall size) of any development on the site will not exceed 35 feet. Combined with the setback and buffer requirement in CM2 (which exceed those in the existing zone), this height limit will ensure scale that is compatible with the surrounding residential area. The Hearings Officer finds that the proposal is equally or more supportive of these policies.

Policy 4.17 Demolitions. Encourage alternatives to the demolition of sound housing, such as rehabilitation and adaptive reuse, especially affordable housing, and when new development would provide no additional housing opportunities beyond replacement.

This Policy requires the City to “encourage” (e.g., promote voluntary approaches, adopt regulations, or provide incentives for) alternatives to demolition when new development would provide no additional housing opportunities beyond replacement. This Policy does not appear to apply to the Proposal since it requires the City to take policy actions and is not an approval criterion for a quasi-judicial map amendment.

To the extent this Policy is relevant, the Applicant urges adoption of condition of approval 1, which will require at least three housing units on the lot if demolition and full redevelopment occurs. With adoption of condition of approval 1, new development would necessarily provide additional housing opportunities beyond replacing the single home on the Property consistent with this Policy. As the Staff Report notes, the Proposal does not require removal of the existing home which could be retained to meet the housing requirements under condition of approval 1.

Policy 4.21 Street environment. Encourage development in centers and corridors to include amenities that create a pedestrian-oriented environment and provide places for people to sit, spend time, and gather.

The Staff Report analyzes this policy and the Hearings Officer adopts the following conclusion:

The subject lot with the house is within a Neighborhood Center but does not have frontage on Alberta Street, a Neighborhood Corridor. The new significant commercial development on the adjacent lots under the same ownership provides pedestrian amenities along its NE Alberta and NE 11th frontages. The proposal could result in development of retail spaces that could contain similar pedestrian amenities. The proposal is equally supportive of this policy.

Policy 4.22 Relationship between building height and street size. Encourage development in centers and corridors that is responsive to street space width, thus allowing taller buildings on wider streets.

The current residential designation allows buildings up to 35 feet in height. Condition 2 requires that “At the time of redevelopment, no new structure or portion of any new structure on the Property shall exceed 35 feet.” The proposal with conditions is equally supportive.

Policy 4.25 Residential uses on busy streets. Improve the livability of places and streets with high motor vehicle volumes. Encourage landscaped front setbacks, street trees, and other design approaches to buffer residents from street traffic.

The Applicant commissioned a Transportation Impact Analysis evaluating the proposed commercial designation (Exhibit A-3). Portland Bureau of Transportation (PBOT) staff

reviewed the Transportation Impact Analysis and found it acceptable and had no objections or required conditions (Exhibit E-2). Also, the City's Urban Forestry Division reviewed the proposal and has no objections but cites Title 11 regulations that require street trees with development proposals (Exhibit E-7). For these reasons, the proposal is equally supportive of this policy.

Policy 4.30 Scale transitions. Create transitions in building scale in locations where higher-density and higher-intensity development is adjacent to smaller-scale single-dwelling zoning. Ensure that new high-density and large-scale infill development adjacent to single dwelling zones incorporates design elements that soften transitions in scale and limit light and privacy impacts on adjacent residents

The Staff Report states the following:

The proposed commercial designation contains setback, landscaping, and height step-downs where adjacent to single-dwelling zones. In addition, the Design overlay zone regulations incorporate additional standards or guidelines designed to improve this transition. For these reasons, the proposal is equally supportive of this policy.

The Applicant states the following:

"This Policy requires the City to adopt regulations that soften transitions between high density and large-scale development and single dwelling zones. The SR expresses concern about the Proposal's consistency with this Policy but does not determine whether the Proposal is supportive of the Policy. The CM2 zone incorporates buffers (step downs, setbacks and landscaping requirements) that accomplish the required "softening" under this Policy. The CM2 standards were adopted by the City and if they do not accomplish the transition needs under this Policy, they should be revised. The Proposal does not alter these standards and any future development will be required to comply with them. Adoption of COA 2 will go further than the CM2 zone by limiting height on the Property to 35 feet. To the extent the CM2 zone protections did not adequately soften the transition between the Hotel and the Property due to the Hotel's allowed 60-foot height, COA 2 will address this issue Property neighbors by limiting height to 35 feet."

The Hearings Officer agrees finding that the proposal, with conditions, is equally or more supportive than the existing designations.

Policy 4.79 Natural hazards and climate change risks and impacts. Limit development in or near areas prone to natural hazards, using the most current hazard and climate change-related information and maps.

Policy 4.80 Geological hazards. Evaluate slope and soil characteristics, including liquefaction potential, landslide hazards, and other geologic hazards.

Policy 4.81 Disaster-resilient development. Encourage development and site-management approaches that reduce the risks and impacts of natural disasters or other major disturbances and that improve the ability of people, wildlife, natural systems, and property to withstand and recover from such events.

The site is not with a potential flood or landslide hazard area, and its topography is relatively flat. The Site Development Section of BDS reviews proposals for site stability, flood, and erosion control issues. However, this proposal does not include a physical site development proposal. Site Development staff have no objection to the proposed commercial designations (Exhibit E-6). Therefore, the proposal is equally supportive of this policy.

CHAPTER 5: HOUSING

The Staff Report explains that certain Housing policies do not apply to the proposal because this review is quasi-judicial and are therefore not included in the analysis. Policies are not applicable for a number of reasons, such as, they are mainly the responsibility of governmental entities and community organizations, or because they apply exclusively to "Plans and Investments." This term is defined in the Comprehensive Plan and refers to legislative actions and therefore does not apply to quasi-judicial land use reviews.

Goal 5.A: Housing diversity

Portlanders have access to high-quality affordable housing that accommodates their needs, preferences, and financial capabilities in terms of different types, tenures, density, sizes, costs, and locations.

Goal 5.B: Equitable access to housing

Portland ensures equitable access to housing, making a special effort to remove disparities in housing access for people with disabilities, people of color, low-income households, diverse household types, and older adults.

Goal 5.C: Healthy connected city

Portlanders live in safe, healthy housing that provides convenient access to jobs and to goods and services that meet daily needs. This housing is connected to the rest of the city and region by safe, convenient, and affordable multimodal transportation.

Goal 5.E: High-performance housing

Portland residents have access to resource-efficient and high-performance housing for people of all abilities and income levels.

Goal 5.D: Affordable housing

Portland has an adequate supply of affordable housing units to meet the needs of residents vulnerable to increasing housing costs.

Policy 5.1 Housing supply. Maintain sufficient residential development capacity to accommodate Portland's projected share of regional household growth.

Policy 5.4 Housing types. Encourage new and innovative housing types that meet the evolving needs of Portland households, and expand housing choices in all neighborhoods. These housing types include but are not limited to single dwelling units; multi-dwelling units; accessory dwelling units; small units; pre-fabricated homes such as manufactured, modular, and mobile homes; co-housing; and clustered housing/clustered services.

Policy 5.39 Compact single-family options. Encourage development and preservation of small resource-efficient and affordable single-family homes in all areas of the city.

The Applicant states:

"The City identified its residential capacity and housing needs in its buildable lands inventory and housing needs analysis (Ordinance 187831) and found it has an adequate supply of land for housing. The Proposal will allow housing uses on the Property at greater densities than the current designation. The Proposal is equally as supportive of this Policy as the Property's current designation.

The Property is currently developed with a single family residence that is not affordable housing as discussed in detail above. The Proposal would allow development of higher density housing, including affordable housing, however, because commercial uses are also allowed under the proposed designation, there is a potential that future development could result in loss of the existing housing unit without replacement housing being built. The Johnson Memorandum evaluated the potential for the Proposal to impact displacement and affordability and concludes that due to significant development in the neighborhood, even if the Proposal results in removal of the current residence without replacement, the Proposal would not impact affordability or displacement due to current housing construction trends in the neighborhood and the home's high relative cost. Furthermore, housing affordability is heavily tied to supply and demand, as explained at length by the 2019 Housing Underproduction in Oregon report by Up for Growth (available here: https://www.upforgrowth.org/sites/default/files/2020-07/housing_underproduction_or.pdf) so by increasing the allowed residential density on the Property the Proposal has the potential to positively impact housing affordability as compared with the current zoning. The highest density of housing and the most housing units are created in Portland's zoning districts

that allow a variety of uses, including commercial and employment. For these reasons, the Proposal is equally as supportive of this Policy as the Property's current designation.

The Proposal will allow development of all of the housing types allowed by the current designation, but also allows mixed use development and greater housing density than the current designation. The Proposal is equally as supportive of this Policy as the Property's current designation." (Exhibit A-5)

The Staff Report generally concurs with the Applicant's response. Since the potential loss of only one housing unit is at stake under likely development scenarios, the proposal equally meets these policies.

Policy 5.5 Housing in centers. Apply zoning in and around centers that allows for and supports a diversity of housing that can accommodate a broad range of households, including multi-dwelling and family-friendly housing options.

Policy 5.6 Middle housing. Enable and encourage development of middle housing. This includes multi-unit or clustered residential buildings that provide relatively smaller, less expensive units; more units; and a scale transition between the core of the mixed use center and surrounding single family areas. Where appropriate, apply zoning that would allow this within a quarter mile of designated centers, corridors with frequent service transit, high capacity transit stations, and within the Inner Ring around the Central City.

Policy 5.7 Adaptable housing. Encourage adaption of existing housing and the development of new housing that can be adapted in the future to accommodate the changing variety of household types.

Policy 5.8 Physically-accessible housing. Allow and support a robust and diverse supply of affordable, accessible housing to meet the needs of older adults and people with disabilities, especially in centers, station areas, and other places that are proximate to services and transit.

Policy 5.9 Accessible design for all. Encourage new construction and retrofitting to create physically-accessible housing, extending from the individual unit to the community, through the use of Universal Design Principles.

Policy 5.11 Remove barriers. Remove potential regulatory barriers to housing choice for people in protected classes to ensure freedom of choice in housing type, tenure, and location.

Policy 5.19 Aging in place. Encourage a range of housing options and supportive environments to enable older adults to remain in their communities as their needs change.

Policy 5.47 Healthy housing. Encourage development and maintenance of all housing, especially multi-dwelling housing, that protects the health and safety of residents and encourages healthy lifestyles and active living.

Policy 5.48 Housing safety. Require safe and healthy housing free of hazardous materials such as lead, asbestos, and radon.

Policy 5.49 Housing quality. Encourage housing that provides high indoor air quality, access to sunlight and outdoor spaces, and is protected from excessive noise, pests, and hazardous environmental conditions.

Policy 5.50 High-performance housing. Encourage energy efficiency, green building practices, materials, and design to produce healthy, efficient, durable, and adaptable homes that are affordable or reasonably priced.

Policy 5.51 Healthy and active living. Encourage housing that provides features supportive of healthy eating and active living such as useable open areas, recreation areas, community gardens, crime-preventive design, and community kitchens in multifamily housing.

The Staff Report argues the proposal is not equally supportive of these policies:

“Housing is an allowed use under the existing and proposed designations, and the zoning and building code regulations allow and encourage a range of housing types designed to be accessible.

Development of housing, however, is more likely to be realized by maintaining the existing residential designation, which prohibits commercial uses but allowed up to five more units when bonuses are utilized. No physical development is proposed at this time, but the applicant has indicated they intend to add a restaurant with outdoor seating to support the adjacent hotel/office development. For these reasons, the proposal is not equally supportive of these policies.”

The Applicant provides the following explanation regarding Policies 5.5, 5.6, 5.7, 5.8, 5.9, 5.11, 5.19, 5.47, 5.48, 5.49, 5.50, and 5.51:

These Policies focus on ensuring the zoning and land use pattern allows and encourages development of a variety of housing types in appropriate areas of the City, but do not require development or maintenance of housing. These Policies require: applying zoning in centers that can accommodate multi-dwelling housing and allows middle housing, encouraging adaptable housing, allowing affordable and accessible housing, removing barriers to housing choice for those in protected classes, encouraging a range of housing options

to accommodate aging in place, encouraging development and maintenance of housing that protects health and safety, requiring housing to be free of hazards such as lead and asbestos, encouraging housing with healthy indoor air protected from hazardous conditions, encouraging energy efficiency and green building, and encouraging housing that supports healthy active lifestyles. As we have noted in our response to other Policies, since many of these Policies require the City to “encourage” a certain objective they do not apply to this application. To the extent these Policies are relevant, they direct the features that the City desires its housing to have but do not require the development or retention of housing as the SR posits. None-the-less, proposed COA 1 appears to address the SR concerns about loss of housing under this Policy by ensuring that housing will be maintained or included in any redevelopment on the Property.

The Hearings Officer adopts the Applicant’s reasoning to find that these policies are not applicable and to the extent they apply the condition of approval 1 ensures housing will be included in any redevelopment.

Policy 5.12 Impact analysis. Evaluate plans and investments, significant new infrastructure, and significant new development to identify potential disparate impacts on housing choice, access, and affordability for protected classes and low-income households. Identify and implement strategies to mitigate the anticipated impacts.

Policy 5.15 Gentrification/displacement risk. Evaluate plans and investments, significant new infrastructure, and significant new development for the potential to increase housing costs for, or cause displacement of communities of color, low- and moderate-income households, and renters. Identify and implement strategies to mitigate the anticipated impacts.

Policies 5.12 and 5.15 concern the potential for disparate impacts to marginalized groups, gentrification, and displacement to result from the City’s legislative policy choices, significant new development, or infrastructure projects. The Hearings Officer finds that these Policies are not relevant to the Proposal because the Proposal is a quasi-judicial land use decision and therefore not a “planning and investment” decision.

The Staff Report argues that the proposal includes significant new development because the property adjacent to the subject property is currently under development.

“In addition to the above factors, the adjacent development on the northern part of the site under the same ownership must be considered. With over 100,000 square feet of floor area, the new hotel/office building is a significant new development. Because the site is within the CM2 zone, housing was allowed but not required, and therefore, Inclusionary Housing requirements

were not triggered since the approved development only included retail and office uses. Despite that gentrification and displacement risk has diminished over the last 10 to 15 years, the significant new development contributes to the trends that increase housing costs, impacting affordability. Because the proposal seeks to add commercial development potential to this new significant development, it does not equally or greater support these policies.”

The Applicant concludes that even if these policies apply to the proposal, the application with conditions should be approved:

“In sum, the Johnson Memorandum demonstrates that the Proposal, even without the adoption of COAs 1 and 2, will not materially impact housing costs or displacement for communities of color, renters, or low- and moderate-income households. Moreover, to the extent any impacts will occur, proposed COAs 1 and 2 are a workable ‘strategy’ to mitigate those anticipated impacts within the meaning of Policies 5.12 and 5.15. Thus, the Proposal is at least as supportive of Policies 5.12 and 5.15 as the existing zoning.”

The Hearings Officer finds 5.12 and 5.15 do not apply because the proposal does not include significant new development. Alternatively, the proposal is equally supportive because of the proposed conditions of approval.

Policy 5.35 Inclusionary housing. Use inclusionary zoning and other regulatory tools to effectively link the production of affordable housing to the production of market-rate housing. Work to remove regulatory barriers that prevent the use of such tools.

Policy 5.36 Impact of regulations on affordability. Evaluate how existing and new regulations affect private development of affordable housing, and minimize negative impacts where possible. Avoid regulations that facilitate economically-exclusive neighborhoods.

Policy 5.38 Workforce housing. Encourage private development of a robust supply of housing that is affordable to moderate-income households located near convenient multimodal transportation that provides access to education and training opportunities, the Central City, industrial districts, and other employment areas.

Policy 5.35 requires the City to use including zoning and regulatory tools to link production affordable housing to market rate housing. The Proposal does not involve changes to the City’s policies on affordable housing and therefore, Policy 5.35 is not relevant. Similarly, Policy 5.36 requires the City to evaluate its regulations for impacts to affordable housing development and is not relevant to the application.

Policy 5.38 is to encourage private development of a robust supply of workforce housing. As discussed above, “encourage” requires the City to promote an outcome using voluntary

incentives, regulations, or incentives and therefore this Policy is not applicable to the Proposal. To the extent it applies, the Proposal will not change the City's policies that promote, regulate, or incentive development of workforce housing and, therefore, the Proposal is equally as supportive of this Policy as the existing designation. The Owner intends to develop workforce housing on the Property if the Proposal is adopted, but this development plan is irrelevant to the City's policies regarding this type of housing.

Policy 5.22 New development in opportunity areas. Locate new affordable housing in areas that have high/medium levels of opportunity in terms of access to active transportation, jobs, open spaces, high-quality schools, and supportive services and amenities. See Figure 5-1 — Housing Opportunity Map.

Policy 5.23 Higher-density housing. Locate higher-density housing, including units that are affordable and accessible, in and around centers to take advantage of the access to active transportation, jobs, open spaces, schools, and various services and amenities.

Policy 5.31 Household prosperity. Facilitate expanding the variety of types and sizes of affordable housing units, and do so in locations that provide low-income households with greater access to convenient transit and transportation, education and training opportunities, the Central City, industrial districts, and other employment areas.

Policy 5.32 Affordable housing in centers. Encourage income diversity in and around centers by allowing a mix of housing types and tenures.

Policy 5.52 Walkable surroundings. Encourage active transportation in residential areas through the development of pathways, sidewalks, and high-quality onsite amenities such as secure bicycle parking.

The site is within the Alberta/MLK neighborhood center and 120 feet south of NE Alberta Street, a Neighborhood Corridor and transit street with frequent bus service. The public sidewalk system connects the site to existing and future bicycle and pedestrian routes and nearby corridors, centers, and transit routes. The site is within the high/medium opportunity area identified in Figure 5-1 in the Staff Report.

The Staff Report states:

The potential for affordable housing and higher density housing on the 27,000 square foot adjacent site was significant but that potential was not realized with the new 5.5 story building with hotel and office uses. The subject lot, at 4,000 square feet in area, has a small potential for high density housing under the existing and proposed designations. For these reasons, the proposal is equally supportive of this goal and policies.

The Hearings Officer concurs in this assessment.

The potential for affordable housing and higher density housing on the 27,000 square foot adjacent site was significant but that potential was not realized with the new 5.5 story building with hotel and office uses. The subject lot, at 4,000 square feet in area, has a small potential for high density housing under the existing and proposed designations. For these reasons, the proposal is equally supportive of this goal and policies.

Policy 5.42 Homeownership retention. Support opportunities for homeownership retention for people of color and other groups who have been historically under-served and under-represented.

Policy 5.43 Variety in homeownership opportunities. Encourage a variety of ownership opportunities and choices by allowing and supporting including but not limited to condominiums, cooperatives, mutual housing associations, limited equity cooperatives, land trusts, and sweat equity.

Policy 5.53 Responding to social isolation. Encourage site designs and relationship to adjacent developments that reduce social isolation for groups that often experience it, such as older adults, people with disabilities, communities of color, and immigrant communities.

The proposal involves a small lot, developed with a house that is currently unoccupied, and has an imperceptible impact on these policies. Both designations provide options for home ownership. Based on this, the proposal is equally supportive of these policies.

CHAPTER 6: Economic Development

Goals and Policies:

Goal 6.A: Prosperity Portland has vigorous economic growth and a healthy, diverse economy that supports prosperity and equitable access to employment opportunities for an increasingly diverse population. A strong economy that is keeping up with population growth and attracting resources and talent can:

- Create opportunity for people to achieve their full potential.
- Improve public health.
- Support a healthy environment.
- Support the fiscal well-being of the city.

Goal 6.B: Development Portland supports an attractive environment for industrial, commercial, and institutional job growth and development by 1) maintaining an adequate land supply; 2) a local development review system that is nimble, predictable, and fair; and 3) high-quality public facilities and services.

Goal 6.C: Business district vitality Portland implements land use policy and investments to:

- Ensure that commercial, institutional, and industrial districts support business retention and expansion.
- Encourage the growth of districts that support productive and creative synergies among local businesses.
- Provide convenient access to goods, services, and markets.
- Take advantage of our location and quality of life advantages as a gateway to world-class natural landscapes in Northwest Oregon, Southwest Washington, and the Columbia River Basin, and a robust interconnected system of natural landscapes within the region's Urban Growth Boundary.

The Staff Report explains that certain Economic Development policies do not apply to property-specific proposals such as the subject proposal, a quasi-judicial land use review, and are therefore not included in the Report. These policies are not applicable for a number of reasons, such as, they are mainly the responsibility of governmental entities and community organizations, or because they apply exclusively to "Plans and Investments." This term is defined in the Comprehensive Plan and refers to legislative actions and therefore does not apply to quasi-judicial land use reviews. The Hearings Officer concurs.

Policy 6.13 Land supply. Provide supplies of employment land that are sufficient to meet the long-term and short-term employment growth forecasts, adequate in terms of amounts and types of sites, available and practical for development and intended uses. Types of sites are distinguished primarily by employment geographies identified in the Economic Opportunities Analysis, although capacity needs for building types with similar site characteristics can be met in other employment geographies.

Policy 6.43 Dispersed employment areas. Provide small, dispersed employment areas for a flexible and affordable mix of office, creative services, small-scale manufacturing, traded sector and distribution, and other small-format light industrial and commercial uses with access to nearby freeways or truck streets.

Policy 6.65 Home-based businesses. Encourage and expand allowances for small, low-impact home based businesses in residential areas, including office or personal service uses with infrequent or by-appointment customer or client visits to the site. Allow a limited number of employees, within the scale of activity typical in residential areas. Allow home-based businesses on sites with accessory dwelling units.

Policy 6.62 Neighborhood business districts. Provide for the growth, economic equity, and vitality of neighborhood business districts.

Policy 6.64 Small, independent businesses. Facilitate the retention and growth of small and locally-owned businesses.

Policy 6.67 Retail development. Provide for a competitive supply of retail sites that support the wide range of consumer needs for convenience, affordability, accessibility, and diversity of goods and services, especially in under-served areas of Portland.

Staff Report findings include the following.

The Property is within the Alberta/MLK Neighborhood Center. Alberta Street is designated a Neighborhood Corridor. The site is well served by transit and has a connected system of sidewalks and streets. PBOT reviewed the proposal and finds that the proposal will not impact the existing transportation system (Exhibit E-2).

Comprehensive Plan background reports (adopted in June 2016) provide information to help determine the proposal's impact on the above policies. The Economic Opportunities Analyses conclude the following:

- Summary from Sections 2 and 3, Supply and Demand, Economic Opportunity Analysis:

Neighborhood Centers & Corridors: Nearly 18% of citywide employment growth is allocated to this extensive geography, which drives a demand for over 510 acres of employment land. This geography also has a surplus of about 350 acres of capacity, even after discounting the zoned capacity for mixed use residential and market factors. As with the Town Centers geography, most of the Neighborhood Commercial capacity is in smaller, underutilized, redevelopable sites. To the extent that capacity shortages are not effectively addressed in other geographies (especially for commercial and institutional uses), some of the unmet demand might be shifted to this employment geography.

- Summary from Section 4, Community Choices, Economic Opportunity Analysis:

The 2035 Comprehensive Plan will provide a 20-year supply of additional commercial land in neighborhood business districts by enhancing the capacity of existing centers and corridors, investing in new centers and corridors, providing small business support and neighborhood revitalization programs, and addressing the needs of underserved neighborhoods.

The above conclusions show that the amount of existing commercial zoned lands is adequate to meet forecasted demand. Recent changes to commercial zone regulations along NE Alberta provide for additional retail capacity. An example of this is the adjacent hotel/office development under construction, which used bonus provisions to achieve the 5.5 stories devoted to retail and office uses, whereas the prior commercial zone limited such developments to four stories. Also, properties developed with houses and other low-density development along Alberta Street hold additional and unrealized commercial capacity. Low density residential structures face the new hotel/office building on Alberta Street and could be redeveloped to include larger and higher density/more intense uses.

The Staff Report concludes that additional commercial zoned land along NE Alberta Street is not needed to support consumer needs. Based on the above considerations, the Hearings Officer finds the proposal is equally supportive of this policy.

Policy 6.73 Centers.

Encourage concentrations of commercial services and employment opportunities in centers.

6.73.a. Encourage a broad range of neighborhood commercial services in centers to help residents and others in the area meet daily needs and/or serve as neighborhood gathering places.

6.73.b. Encourage the retention and further development of grocery stores and local markets as essential elements of centers.

6.73.c. Enhance opportunities for services and activities in centers that are responsive to the needs of the populations and cultural groups of the surrounding area.

6.73.d. Require ground-level building spaces in core areas of centers accommodate commercial or other street-activating uses and services.

6.73.e. Encourage employment opportunities as a key function of centers, including connections between centers, institutions, and other major employers to reinforce their roles as vibrant centers of activity

Staff Report Findings: The site is in the Alberta/MLK Neighborhood Center and is adjacent to a new hotel/office building being constructed on, the northern part of the same site and ownership. This new development is supportive of this policy, as it concentrates commercial and employment opportunities, anchored at the Alberta/NE 11th intersection. The Hearings Officer finds the proposal is more supportive of this policy as it further expands the existing concentration of commercial services.

CHAPTER 7: ENVIRONMENT AND WATERSHED HEALTH

Goal 7.A: Climate

Carbon emissions are reduced to 50 percent below 1990 levels by 2035.

Goal 7.B: Healthy watersheds and environment

Ecosystem services and ecosystem functions are maintained, and watershed conditions have improved over time, supporting public health and safety, environmental quality, fish and wildlife, cultural values, economic prosperity, and the intrinsic value of nature.

Goal 7.C: Resilience

Portland's built and natural environments function in complementary ways and are resilient in the face of climate change and natural hazards.

Goal 7.D: Environmental equity

All Portlanders have access to clean air and water, can experience nature in their daily lives, and benefit from development designed to lessen the impacts of natural hazards and environmental contamination.

Goal 7.E: Community stewardship

Portlanders actively participate in efforts to maintain and improve the environment, including watershed health.

Many of the Environment and Watershed Health goals and policies are implemented through the City's resource overlay designations, which are not applied on the subject site. Below are policies which have some applicability to the proposal.

Policy 7.1 Environmental quality. Protect or support efforts to protect air, water, and soil quality, and associated benefits to public and ecological health and safety, through plans and investments.

Any future redevelopment of the subject site must comply with current code provisions that have been adopted to implement this general environmental quality policy, which was not in place when the existing house was constructed. The relevant provisions include the BES Stormwater Management Manual, landscaping requirements of the Zoning Code, energy efficiency programs, and the requirements of Title 11, Trees. Therefore, the proposed amendments are equally or more supportive of this policy than existing designations.

Policy 7.11 Urban forest. Improve, or support efforts to improve the quantity, quality, and equitable distribution of Portland's urban forest through plans and investments.

7.11.a. Tree preservation. Require and incent preservation of large healthy trees, native trees and vegetation, tree groves, and forested areas.

7.11.b. Urban forest diversity. Coordinate plans and investments with efforts to improve tree species diversity and age diversity.

7.11.c. Tree canopy. Coordinate plans and investments toward meeting City tree canopy goals.

7.11.d. Tree planting. Invest in tree planting and maintenance, especially in low-canopy areas, neighborhoods with under-served or under-represented communities, and within and near urban habitat corridors.

7.11.e. Vegetation in natural resource areas. Require native trees and vegetation in significant natural resource areas.

7.11.f. Resilient urban forest. Encourage planting of Pacific Northwest hardy and climate change resilient native trees and vegetation generally, and especially in urban habitat corridors.

7.11.g. Trees in land use planning. Identify priority areas for tree preservation and planting in land use plans, and incent these actions.

7.11.h. Managing wildfire risk. Address wildfire hazard risks and management priorities through plans and investments.

These Urban Forest policies are largely implemented through the landscaping requirements of Title 33, the Portland Zoning Code (minimum site landscaping, parking area screening, landscaped setbacks, etc.) and Title 11, Trees (tree preservation, protection, mitigation, tree density, and street tree requirements). Redevelopment of the subject site must comply with the applicable implementing code provisions at the time of redevelopment. Therefore, the proposal is equally supportive of these policies.

CHAPTER 8: PUBLIC FACILITIES AND SERVICES

Goal 8.A: Quality public facilities and services

High-quality public facilities and services provide Portlanders with optimal levels of service throughout the city, based on system needs and community goals, and in compliance with regulatory mandates.

Goal 8.C: Reliability and resiliency

Public facilities and services are reliable, able to withstand or recover from catastrophic natural and manmade events, and are adaptable and resilient in the face of long-term changes in the climate, economy, and technology.

Goal 8.E: Sanitary and stormwater systems

Wastewater and stormwater are managed, conveyed, and/or treated to protect public health, safety, and the environment, and to meet the needs of the community on an equitable, efficient, and sustainable basis.

Goal 8.G: Water

Reliable and adequate water supply and delivery systems provide sufficient quantities of high-quality water at adequate pressures to meet the needs of the community on an equitable, efficient, and sustainable basis.

Goal 8.I: Public safety and emergency response

Portland is a safe, resilient, and peaceful community where public safety, emergency response, and emergency management facilities and services are coordinated and able to effectively and efficiently meet community needs.

Policy 8.3 Urban service delivery. Provide the following public facilities and services at urban levels of service to urban lands within the City's boundaries of incorporation:

- Public rights-of-way, streets, and public trails
- Sanitary sewers and wastewater treatment
- Stormwater management and conveyance
- Flood management
- Protection of the waterways of the state
- Water supply
- Police, fire, and emergency response
- Parks, natural areas, and recreation
- Solid waste regulation

Policy 8.21 System capacity. Establish, improve, and maintain public facilities and services at levels appropriate to support land use patterns, densities, and anticipated residential and employment growth, as physically feasible and as sufficient funds are available.

Policy 8.61 Sewer connections. Require all developments within the city limits to be connected to sanitary sewers unless the public sanitary system is not physically or legally available per City Code and state requirements; or the existing onsite septic system is functioning properly without failure or complaints per City Code and state requirements; and the system has all necessary state and county permits.

Policy 8.68 Stormwater facilities. Provide adequate stormwater facilities for conveyance, flow control, and pollution reduction.

Policy 8.72 Stormwater discharge. Avoid or minimize the impact of stormwater discharges on the water and habitat quality of rivers and streams.

Policy 8.73 On-site stormwater management. Encourage on-site stormwater management, or management as close to the source as practical, through land use decisions and public facility investments.

Policy 8.87 Fire protection. Provide adequate water facilities to serve the fire protection needs of all Portlanders and businesses.

Policy 8.104 Emergency preparedness, response, and recovery coordination. Coordinate land use plans and public facility investments between City bureaus, other public and jurisdictional agencies, businesses, community partners, and other emergency response providers, to ensure coordinated and comprehensive emergency and disaster risk reduction, preparedness, response, and recovery.

Policy 8.106 Police facilities. Improve and maintain police facilities to allow police personnel to efficiently and effectively respond to public safety needs and serve designated land uses.

The Staff Report makes the following findings:

The proposal calls for the existing R2.5 residential designation on the subject site to be changed to a commercial designation, MU-U. The above goals and policies directly relate to the more specific public services approval criterion in Zoning Code Section 33.855.050.B for the Zoning Map Amendment request (from R2.5 to the CM2 zone). As discussed in the Staff Report, staff finds that the public services approval criterion in Zoning Code Section 33.855.050.B is met. The full complement of public services as described in Policy 8.3 are available and adequate under the existing R2.5 zone as well as the proposed CM2 zone.

The City's service bureaus, including the Police, Water and Fire Bureaus, the Urban Forestry Division of the Bureau of Parks and Recreation (who oversee street trees), and BES (who oversee sewer connections and stormwater facilities) reviewed and evaluated the proposal and have no concerns. Their responses mean that public services in the area are adequate for the existing level of development and the potential development intensity allowed under the proposed designation (Exhibits E-1, E-3, E-4, E-5, and E-7). Future development would be subject to service bureau requirements at the time of land use or permit review. Therefore, staff finds the proposal is equally supportive of the above goals and policies as the existing designation. The Hearings Officer concurs.

Policy 8.28 Shared costs. Ensure the costs of constructing and providing public facilities and services are equitably shared by those who benefit from the provision of those facilities and services.

Policy 8.29 System development. Require private or public entities whose prospective development or redevelopment actions contribute to the need for public facility improvements, extensions, or construction to bear a proportional share of the costs.

New development, under both the existing and proposed zoning designations, would be subject to System Development Charges to ensure that costs of constructing and providing public services are equitably shared by the property owner who benefits from the services. The proposal is therefore equally supportive of these policies.

Policy 8.113 School district capacity. Consider the overall enrollment capacity of a school district – as defined in an adopted school facility plan that meets the requirements of Oregon Revised Statute 195 – as a factor in land use decisions that increase capacity for residential development.

Findings: The subject site is located within the Portland Public School district and is served by King Elementary School, Harriet Tubman Middle School, and Jefferson or Grant High Schools. Portland Public Schools does not have an adopted school facility plan. Therefore, this policy cannot be applied to this proposal.

CHAPTER 9: TRANSPORTATION

The Applicant provided a narrative response to Chapter 9 and its transportation goals and policies (Exhibit A-5) and a transportation impact study (Exhibit A-3). PBOT reviewed the Applicant's materials and provided the following response (Exhibit E.2):

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

*Comprehensive Plan Change Approval Criterion, 33.810.050
Portland Bureau of Transportation (PBOT) Development Review has reviewed the applicant's narrative and Transportation Impact Study (TIS) prepared by Lancaster Mobley, dated March 28, 2022, addressing the transportation-related goals and policies contained within the Transportation Element of the Comprehensive plan. PBOT found the following Comprehensive Plan Goals and Policies are specifically pertinent to the request.*

Goal 9.A – Safety: In order to evaluate the safety of the study area, the applicant's traffic engineer utilized ODOT's Crash Data System for the most recent five years of available crash history (January 2015 through December 2019). Crash data was evaluated based on the number of crashes and type of collisions; and Crash severity is based on injuries sustained by people involved in the crash that includes five categories. The analysis found the majority of the reported crashes occurred at the NE 15th Ave and NE Alberta intersection. Most were rear-ending or turning movement collisions, however, there was one pedestrian incident in which a vehicle struck a pedestrian in a crosswalk that resulted in possible injury (Injury C) for the pedestrian. The driver of the vehicle was determined to be at fault. Overall, no significant trends or crash patterns were identified at any of the study intersections that were indicative of safety concerns. Accordingly, no additional safety mitigation is recommended per the crash data analysis. For bicycle safety, there are nearby Neighborhood Greenways that provide safe, low volume cycling conditions to connect to other cycling infrastructure in the City. The sidewalk network in the area is generally complete and provides for many routes. Additionally crossing measures are located near NE 11th Ave and at the intersection of NE 15th Ave at NE Alberta St. Therefore, PBOT finds the proposed zone change and future development of the site will not negatively impact intersection operations.

Goal 9.E - Equitable Transportation: The surrounding network of sidewalks, bicycle routes and transit service-stops contribute to supporting all Portlanders by reducing service disparities and achieve equitable access to all types of facilities and transportation modes.

Policy 9.1 to 9.10 – Design and Planning: At this location, the City's Transportation System Plan (TSP) classifies NE 11th Ave as Local Service for all modes, in which the ROW is improved with an approximate 20-ft wide paved roadway within a 50-ft ROW, in which the abutting pedestrian corridor is improved to an 8.5-6-.5 configuration, which exceeds City standards in

terms of width but does not meet in configuration. As a single-family zone, development would be allowed to retain the existing configuration. However, as a Commercial zone, development would require the abutting pedestrian corridor to be reconstructed meet current City standards, with excess given to the Furnishing Zone.

The TSP states that a Neighborhood Collector (NE Alberta St) is intended to serve as distributors of traffic and/or connections between higher classified stress, which should connect neighborhoods to nearby centers, corridors, and other nearby destinations. Local Service streets are intended to distribute local traffic and provide access to local residences or commercial uses, which should give preference to access for individual properties and to the specific needs of property owners and residents along the street. These street designations are consistent with the proposed CM2 zoning and development would bring the pedestrian corridor up to City standards. Therefore, this policy is met.

Policy 9.17 to 9.40 – Modal policies: The TSP states that a City Walkways are intended to provide safe, convenient, and attractive pedestrian access to activities, recreation, and institutions; provide connections between neighborhoods, and provide access to transit. All of the abutting established pedestrian corridors meet or exceed City standards and will continue to do so under the proposed Comprehensive Plan change.

For bicycles, the TSP states that City Bikeways are intended to establish direct and convenient bicycle access to significant destinations; provide convenient access to higher classified facilities; and to provide coverage within three city blocks of any given points. The site is well situated with many identified bicycle facilities located nearby. The proposed Comprehensive Plan amendment will not distract from the existing bikeway network already in place.

For transit, The subject site is located within an approximate quarter-mile walking/biking distance to TriMet transit bus lines #8 –Jackson Park/NE 15th and #72 – Killingsworth/82nd Ave, which offer frequent service. The nearest stops are located at the intersections of NE 11th Ave at NE Alberta St and NE 15th Ave at NE Alberta St. Safe and comfortable travel routes are available between the site and the nearest stops which serve these transit lines. Therefore, adequate transit services are available within the site vicinity to serve the site and other existing, surrounding land uses.

In summary, the subject properties are located in a dense multi-use urban environment with a fully established transportation network. All ROWs have established sidewalks and bicycle facilities. As such, there is excellent pedestrian, bicycle, and transit network availability; and are consistent with the purposes and designs mentioned above. The street grid system in the area surrounding this site provides a transportation system that serves all modes. These modal designations are consistent with the proposed CM2 zone and the surrounding neighborhood; therefore, this policy is met.”

Based on PBOT’s analysis above of both the Applicant’s narrative and the TIS provided by the Applicant’s transportation engineer, the Staff Report finds the proposal to be equally

consistent with the goals and policies in Chapter 9 – Transportation. The Hearings Officer concurs.

CHAPTER 10: LAND USE DESIGNATIONS AND ZONING

Goal 10.A: Land use designations and zoning

Effectively and efficiently carry out the goals and policies of the Comprehensive Plan through the land use designations, Zoning Map, and the Zoning Code.

Policy 10.1 Land use designations. Apply a land use designation to all land and water within the City's Urban Services Boundary. Apply the designation that best advances the Comprehensive Plan goals and policies. The land use designations are shown on the adopted Land Use Map and on official Zoning Maps.

7. Single-Dwelling — 2,500. This designation allows a mix of housing types that are single-dwelling in character. This designation is intended for areas near, in, and along centers and corridors, near transit station areas, where urban public services, generally including complete local street networks and access to frequent transit, are available or planned. Areas within this designation generally do not have development constraints. This designation often serves as a transition between mixed use or multi-dwelling designations and lower density single dwelling designations. The maximum density is generally 17.4 units per acre. The corresponding zone is R2.5.

16. Mixed Use — Urban Center This designation is intended for areas that are close to the Central City and within Town Centers where urban public services are available or planned including access to high-capacity transit, very frequent bus service, or streetcar service. The designation allows a broad range of commercial and employment uses, public services, and a wide range of housing options. Areas within this designation are generally mixed-use and very urban in character. Development will be pedestrian oriented with a strong emphasis on design and street level activity, and will range from low- to mid-rise in scale. The range of zones and development scale associated with this designation are intended to allow for more intense development in core areas of centers and corridors and near transit stations, while providing transitions to adjacent residential areas. The corresponding zones are Commercial Mixed Use 1 (CM1), Commercial Mixed Use 2 (CM2), Commercial Mixed Use 3 (CM3), and Commercial Employment (CE). This designation is accompanied by the Design overlay zone.

The Staff Report finds the proposal is not equally or more supportive of the Comprehensive Plan's goals and policies than the current designation. The Staff Report states the following:

“The site is within the City's Urban Services Boundary. The Staff Report finds that the Mixed Use – Urban Center designation is not equally or more supportive of the Comprehensive Plan's goals and policies than the current designation as discussed in the findings throughout the staff report.

The site is near a Neighborhood Corridor and within a Neighborhood Center. It is close to transit service, within walking distance of commercial areas and, as discussed in the findings for Zoning Code Section 33.855.050.B below, adequate public services are available. However, when taking into consideration all relevant goals and policies, on balance, the proposed MU-U land use and CM2 zoning designation would not effectively and efficiently advance the goals and policies of the Comprehensive Plan as a whole. As such, staff finds the proposal does not support Goal 10.A and Policy 10.1.”

The Applicant counters that “Our responses above demonstrate that the Proposal, with proposed COAs 1 and 2 incorporated, is equally or more supportive of the CP Policies and the CP as a whole and therefore is equally as supportive of Goal 10.A and Policy 10.1.” The Hearings Officer agrees with the Applicant that the inclusion of the proposed conditions results in the proposal being equally supportive of CP policies and therefore is equally supportive of Goal 10.A.

Policy 10.2 Relationship of land use designations to base zones. Apply a base zone to all land and water within the City’s urban services boundary. The base zone applied must either be a zone that corresponds to the land use designation or be a zone that does not correspond but is allowed according to Figure 10-1 — Corresponding and Less-Intense Zones for Each Plan Map Designation. In some situations, there are long-term or short-term obstacles to achieving the level of development intended by the land use designation (e.g., an infrastructure improvement to serve the higher level of development is planned but not yet funded). In these situations, a less intense zone (listed in Figure 10-1) may be applied. When a land use designation is amended, the zone may also have to be changed to a corresponding zone or a zone that does not correspond but is allowed.

Policy 10.3 Amending the Zoning Map.

10.3.a. Amending a base zone may be done legislatively or quasi-judicially.

10.3.b. When amending a base zone quasi-judicially, the amendment must be to a corresponding zone (see Figure 10-1 — Corresponding and Allowed Zones for Each Land Use Designation). When a designation has more than one corresponding zone, the most appropriate zone, based on the purpose of the zone and the zoning and general land uses of surrounding lands, will be applied.

10.3.c. When amending a base zone legislatively, the amendment may be to a corresponding zone or to a zone that does not correspond but is allowed (see Figure 10-1 — Corresponding and Allowed Zones for each Land Use Designation for zones that are allowed). A legislative Zoning Map amendment may not be to a zone that is not allowed.

10.3.d. An amendment to a base zone consistent with the land use designation must be approved when it is found that current public services are capable of supporting the uses allowed by the zone, or that public services can be made capable by the time the development is complete. 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 management, transportation, school district capacity (where a school facility plan exists), and police and fire protection.

10.3.e. An amendment to apply or remove an overlay zone or plan district may be done legislatively or quasi-judicially, and must be based on a study or plan document that identifies a specific characteristic, situation, or problem that is not adequately addressed by the base zone or other regulations.

The Staff Report Findings:

“The site is within the City’s Urban Services Boundary. The applicant proposes a Comprehensive Plan Map Amendment to change the land use designation from Single-Dwelling 2,500 to the Mixed Use – Urban Center designation. Concurrently with this Comprehensive Plan Map Amendment, the applicant proposes a Zoning Map Amendment to apply the CM2 zone, which is a corresponding base zone of the MU -U designation. As demonstrated in the findings for Zoning Code Section 33.855.050.A below, the CM2 base zone would be the more appropriate corresponding zone, if changed, based on the existing surrounding commercial zoning adjacent to the site. For these reasons, staff finds the proposal equally supports Policies 10.2 and 10.3.”

The Hearings Officer concurs.

Summary for Zoning Code Section 33.810.050.A.1: Based on the above findings, the proposed Comprehensive Plan Map designation with conditions of approval is equally or more supportive of the relevant goals and policies of the Comprehensive Plan than the current designations. The Hearings Officer finds the approval criterion in Zoning Code Section 33.810.050.A.1 is met.

Title 33.810.050.A.2 The requested change is consistent with Statewide Land Use Planning Goals. As discussed above in the findings for 33.810.050.A.1, the proposal is found to be consistent with Statewide Land Use Planning Goals, and therefore this criterion is met. The Applicant, Staff Report, and Hearings Officer are in agreement that the proposal does not include an Industrial Sanctuary or Mixed Employment Comprehensive Plan Map designation and, therefore, the third criterion of Subsection A does not apply.

ZONING MAP AMENDMENT APPROVAL CRITERIA

Title 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. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes or characteristics of each zone and the zoning pattern of surrounding land.

The Staff Report finds that the adjacent property north and west of the subject site is zoned CM2, which is the primary commercial base zone mapped for properties adjacent to NE Alberta Street, between NE Grand Avenue and NE 31st Avenue. In contrast, the other corresponding zones are not mapped in the immediate area (within 1,000-foot radius) of the site. The closest commercial zones to the site include a small neighborhood-serving node of CM1 zoning is located at NE Prescott and NE 15th Avenue, roughly 1,300 feet southeast of the site. The CM3 zone is mapped on properties along NE Martin Luther King, Jr. Boulevard, nearly 2,000 feet west of the site. The CE zone is not found within a 2,000-foot perimeter of the site.

The CE and CM3 zones are not preferred as they are typically applied to Civic Corridors – not strongly compatible with NE Alberta Street as it is designated as a lower intensity Neighborhood Corridor. The CE zone is generally not applied in centers – not strongly compatible as the site is within the Alberta/MLK Neighborhood Center.

The CM1 zone is typically applied near edges of Neighborhood Centers – the subject site is at the eastern edge of the Alberta/MLK Neighborhood Center. But given that there is no existing CM1 zoning in the area of the site and given the strong linear CM2 zoning pattern along NE Alberta Street, the CM2 zone is the most appropriate choice.

For the above reasons, the Staff Report concludes the requested zone change meets this approval criterion. The Hearings Officer concurs in this finding.

B. Adequate public services.

1. Adequacy of services applies only to the specific zone change site.
2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the applicant to provide the necessary analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any.
 - a. Public services for water supply, and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete.

The Water Bureau reviewed the proposal and responded with no concerns regarding the changes to the Comprehensive Plan Map and the Zoning Map (Exhibit E.3). The Pre-Application Conference response from the Water Bureau indicated that adequate water

service is available for the proposed development from the 10" cast iron water main in SE Milwaukie Avenue and the 6" cast iron water main in SE Ellis Street (Exhibit G.3).

The Fire Bureau indicated no issues regarding the proposal and noted that all applicable Fire Code requirements shall apply at the time of permit review and development (Exhibit E.4). The Pre-Application Conference notes stated, "the Fire Bureau has no concerns with the proposal of changing the zoning of the referenced parcels" (Exhibit G.3).

The Police Bureau reviewed the proposal and stated the following:

The Police Bureau has reviewed this land use case and has no concerns with the proposal. The proposal was evaluated on whether police can provide adequate public safety services to the proposed base zone change. The Police Bureau is currently able to serve the existing site and will be capable of providing police services to the additional density created by the new zoning. Police officers can reasonably access the site using the existing right of ways by foot and vehicle without restriction (Exhibit E-8).

For these reasons, staff finds this criterion is met. The Hearings Officer concurs in this assessment.

b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate.

BES reviewed the proposal and provided the following comments regarding sanitary waste and stormwater waste disposal systems (Exhibit E.1).

Summary: BES does not object to approval of the zoning map amendment & comprehensive plan map amendment application. The proposed development will be subject to BES standards and requirements during the permit review process.

For the zoning map amendment & comprehensive plan map amendment application to be approved, the applicant must show that the proposal complies with the public services approval criterion related to sanitary waste disposal (PCC 33.855.050.B.2.b).

The comments below are in response to this criterion. Staff finds the applicant's proposed sanitary sewer service acceptable for the purpose of reviewing the zone map & comprehensive plan amendment application against the sanitary sewer disposal approval criterion.

STORMWATER MANAGEMENT

For the zoning map amendment & comprehensive plan map amendment application to be approved, the applicant must show that the proposal complies with the public services approval criterion related to stormwater disposal (PCC 33.855.050.B.2.b). The comments below are in response to this criterion.

Existing Stormwater Infrastructure: According to available GIS data, the following stormwater infrastructure is located in the vicinity of the project site:

- There are no public storm-only sewers available to this property and a public storm main extension is not required.
- Currently, stormwater from the public right-of-way discharges to an existing public sump system.

General Stormwater Management Requirements: Development and redevelopment sites that include any of the triggers listed in PCC 17.38.040 are subject to the policies and standards of PCC 17.38.035, Portland's Stormwater Management Manual (SWMM) and Source Control Manual (SCM). Projects must comply with the current adopted version of the SWMM as of the permit application date. A fundamental evaluation factor in the SWMM is the Stormwater Infiltration and Discharge Hierarchy (Section 1.3.3), which sets the framework that will be used to determine when a project's stormwater runoff must be infiltrated onsite and when offsite discharge will be permitted, and the parameters that must be met for either scenario. If tested infiltration rates on a property are greater than or equal to 2 inches per hour, onsite infiltration will be required unless the site qualifies for the ecoroof exception per Section 3.2.1 or infiltration is determined infeasible based on site conditions described in Chapter 2 of the SWMM. Note that maximum building coverage allowed by the zoning code, including below grade development, does not exempt the applicant from stormwater requirements. Pollution reduction and flow control requirements must be met using vegetated facilities to the maximum extent feasible, though roof runoff and some paved impervious surfaces are exempt when discharging directly to a UIC (refer to Sections 1.3.2, 1.3.4, 3.2.4 and 4.2.2 of the SWMM).

Stormwater Disposal Systems: BES has assessed capacity in the combined sewer system in NE 11th Avenue and determined that the proposed zone change will not negatively affect capacity in the receiving combined sewer system. Stormwater from the existing house discharges through downspouts to the ground surface. Future development on this property must meet stormwater management requirements of the SWMM.

Clean River Rewards Program: Clean River Rewards, Portland's stormwater discount program, offers discounts up to 100% of the City's onsite stormwater management charge to ratepayers who manage stormwater runoff on their property. Please note that this discount is not automatically applied; ratepayers must register their property and describe how stormwater is being managed to qualify. Be aware that some properties discharging to the Multnomah County Drainage Districts (within the Columbia Slough watershed) are not charged an onsite stormwater management fee by the City and are therefore ineligible to register for this program. See the Clean River Rewards website or call 503-823-1371 for more information.

BES Staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the zone map & comprehensive plan amendment application against the stormwater management approval criterion.

Based on the above BES comments and recommendation, the Staff Report finds this criterion is met and the Hearings Officer concurs.

c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.

PBOT reviewed the application and submitted a response Exhibit E.2. PBOT has no objections to the proposed Comprehensive Plan and Zoning Map Amendments. Based on PBOT's findings above, the Staff Report and the Hearings Officer find this criterion is met.

d. The school district within which the site is located has adequate enrollment capacity to accommodate any projected increase in student population over the number that would result from development in the existing zone. This criterion applies only to sites that are within a school district that has an adopted school facility plan that has been acknowledged by the City of Portland.

The Staff Report finds that the site is within the Portland Public School District, which has not adopted a school facility plan. Therefore, compliance with this criterion is not required. The Hearings Officer concurs.

3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

The Staff Report finds that the proposal does not rezone property to the Institutional Residential base zone. This criterion does not apply. The Hearings Officer concurs.

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.

Findings: The proposal does not rezone property to the Institutional Residential base zone. This criterion does not apply.

D. When the requested zone change is CI1 or CI2. When the requested zone change is CI1 or CI2, a Transportation Impact Review is required as part of the zoning map amendment.

Findings: The proposal does not rezone property to a Campus Institutional base zone. This criterion does not apply.

E. Location. The site must be within the City's boundary of incorporation. See Section 33.855.080.

Findings: The subject site is within the incorporated boundaries of the City of Portland. This criterion is met.

APPROVAL CRITERIA FOR OTHER CHANGES

Title 33.855.060 Approval Criteria for Other Changes

In addition to the base zones and Comprehensive Plan designations, the Official Zoning Maps also show overlay zones, plan districts, and other items such as special setback lines, recreational trails, scenic viewpoints, and historic resources. Amendments to all of these except historic resources and the creation of plan districts are reviewed against the approval criteria stated in this section. Historic resources are reviewed as stated in Chapter 33.846, Historic Resource Reviews. The creation of a new plan district is subject to the approval criteria stated in 33.500.050. An amendment will be approved (either quasi-judicial or legislative) if the review body finds that all of the following approval criteria are met:

A. Where a designation is proposed to be added, the designation must be shown to be needed to address a specific situation. When a designation is proposed to be removed, it

must be shown that the reason for applying the designation no longer exists or has been addressed through other means;

The Applicant proposes to add the Design (d) and Centers Main Street (m) overlay zones to the site. The Aircraft Landing (h) overlay zone exists on the site; no changes are proposed to the location of the existing "h" overlay zone.

Currently, properties fronting on NE Alberta Street, including the adjacent site under the same ownership as the subject site, are within the CM2 zone also include the "d" overlay zone. Most importantly, as stated in Chapter 10 of the Comprehensive Plan, the MU – UC designation is accompanied by the Design overlay zone. Therefore, the proposal to add the "d" overlay zone to the site is not arbitrary but is guided by the Comprehensive Plan designation, the base zone, and the nearby existing zoning pattern.

Currently, properties fronting on NE Alberta Street within the CM2 zone, including the adjacent site under the same ownership as the subject site, include the "m" overlay zone. The "m" overlay zone is needed if the site is rezoned to CM2, as it supports the site's Neighborhood Center designation and NE Alberta Street's Neighborhood Corridor designation, and is meant to:

"... encourage a mix of commercial, residential and employment uses on the key main streets within town centers and neighborhood centers identified in the Comprehensive Plan. The regulations are intended to encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit." (Section 33.415.010)

Based on the above reasons, staff finds this criterion is met. The Hearings Officer concurs.

B. The addition or removal is consistent with the purpose and adoption criteria of the regulation and any applicable goals and policies of the Comprehensive Plan and any area plans;

The purpose of the "d" overlay zone is stated in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;

- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

The Staff Report analysis of the purpose is as follows:

Adding the "d" overlay zone to the site would result in additional oversight of proposed development with the CM2 zone. The "d" overlay zone ensures that new development and exterior alterations to existing development are either consistent with objective design standards or satisfy discretionary design guidelines through the Design review (land use review) process. The design elements highlighted in the purpose statement are important considerations given the CM2 zone's potential for tall buildings and a mix of uses. The Design review process provides the surrounding community the opportunity to participate and comment on development proposal through a public review process. Neighborhood character, urban design, pedestrian orientation, subarea context are inherent in the regulations of the "d" overlay zone.

The "d" overlay zone addresses neighborhood context through attentive building and site design and is compatible with the Comprehensive Plan goals and policies addressing urban form, community involvement, design, and development.

The purpose of the "m" overlay zone is stated in Zoning Code Section 33.415.010:

"The Centers Main Street overlay zone encourages a mix of commercial, residential and employment uses on the key main streets within town centers and neighborhood centers identified in the Comprehensive Plan. The regulations are intended to encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit."

The Staff Report analysis is set forth below.

Adding the "m" overlay zone is consistent with the purpose and adoption criteria. The accompanying regulations will prohibit certain uses not compatible with the desired character of NE Alberta Street and encourage active uses at the sidewalk level. Other "m" overlay zone regulations strengthen the CM2 regulations aimed at creating a safe and pleasant pedestrian environment.

In the response to approval criterion 33.810.050.A.1, the findings in this report highlight the goals and policies of the adopted King Neighborhood and Albina Community Plans, many of

which will be addressed through the regulations of the “d” and “m” overlay zones. For the reasons stated above, staff finds this criterion is met.

The Staff Report finds that the “d” and “m” overlay zones are consistent with the respective purpose of each overlay zone and with the goals and policies of adopted area plans. The Hearings Officer concurs and finds this criterion is met.

C. In the Marquam Hill plan district, relocation of a scenic viewpoint must be shown to result in a net benefit to the public, taking into consideration such factors as public access, the quality of the view, the breadth of the view, and the public amenities that are or will be available.

The Staff Report, the Applicant, and the Hearings Officer are in agreement that the subject site is not within the Marquam Hill Plan District. This criterion is not applicable.

III. RECOMMENDATION

Approval with conditions.

Condition 1

At the time of redevelopment, at least three residential dwelling units must be maintained or developed on the Property. For purposes of this condition, “redevelopment” means either a) new development as defined in Zoning Code Section 33.910.030 or b) establishment of a primary use other than housing.

Condition 2

At the time of redevelopment, no new structure or portion of any new structure on the Property shall exceed 35 feet in height.

Condition 3

Floor Area Ratio at the Property shall not be transferred to the development under construction at 1130 NE Alberta Street as of June 29, 2022 and approved under LU 19-187641 DZM.

William Guzman

William Guzman, Hearings Officer

August 5, 2022

Date

Application Determined Complete: March 28, 2022
Report to Hearings Officer: June 21, 2022
Recommendation Mailed: August 5, 2022

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

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

City Council Hearing. The City Code requires the City Council to hold a public hearing on this case and you will have the opportunity to testify. The hearing will be scheduled by the City Auditor upon receipt of the Hearings Officer’s Recommendation. You will be notified of the time and date of the hearing before City Council. If you wish to speak at the Council hearing, you are encouraged to submit written materials upon which your testimony will be based, to the City Auditor.

If you have any questions, contact the Bureau of Development Services representative listed in this Recommendation.

The decision of City Council, and any conditions of approval associated with it, is final. The decision may be appealed to the Oregon Land Use Board of Appeals (LUBA), as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that:

- an appellant before LUBA must have presented testimony (orally or in writing) as part of the local hearings process before the Hearings Officer and/or City Council; and
- a notice of intent to appeal be filed with LUBA within 21 days after City Council’s decision becomes final.

Please contact LUBA at 1-503-373-1265 for further information on filing an appeal.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

If the Zone Change or Comprehensive Plan Map Amendment approval also contains approval of other land use decisions, other than a Conditional Use Master Plan or Impact Mitigation Plan, those approvals expire three years from the date the final decision is rendered, unless a building permit has been issued, or the approved activity has begun.

EXHIBITS RECEIVED IN THE HEARINGS OFFICE – SEE NEXT PAGE
(NOT ATTACHED UNLESS INDICATED)

The exhibits in the land use case file are all assigned a letter (example A-1). The Hearings Office accepts exhibits filed online in its case management system. These exhibits are marked in the lower right-hand corner that identifies the exhibit as a “Portland Hearings Office” exhibit. All of these exhibits are designated “H Exhibits” (that is, Hearings Office Exhibits). See the BDS Staff Report for a list of exhibits prior to “H.”



Hearing Office

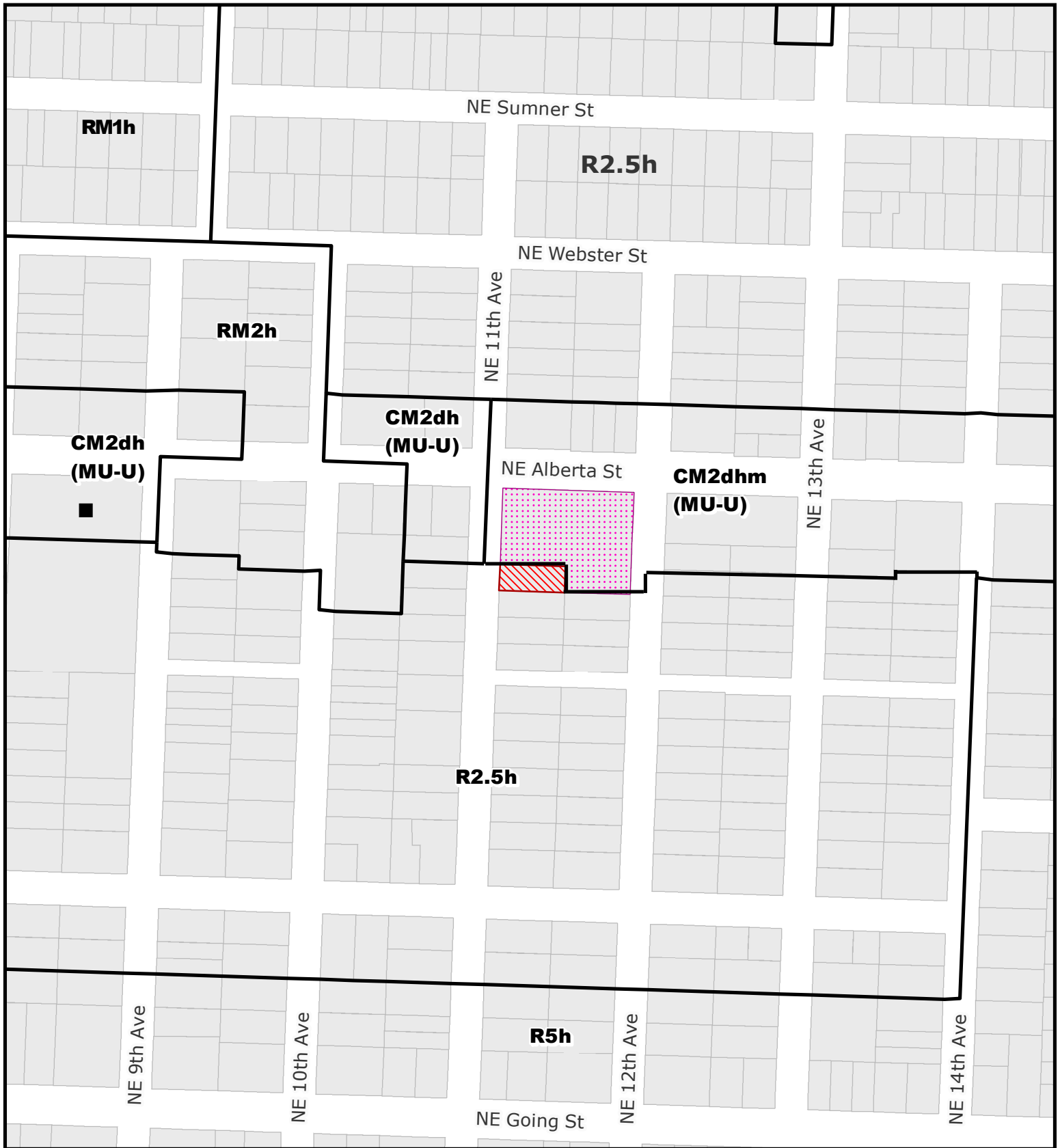
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phone: 503.823.7307
fax: 503.823.4347



Exhibits, Orders, and Other Attachments

| Number | Title | Status |
|------------------------------|--|----------|
| Exhibit 1 | Participation Instructions | Accepted |
| Exhibit 2 | RESCHEDULE REQUEST FORM | Accepted |
| Exhibit 3 | Rescheduled Participation Instructions | Accepted |
| Exhibit 4 | Hearing Notice | Accepted |
| Exhibit 5 | STAFF REPORT | Accepted |
| Exhibit 6 | Horace Letter | Accepted |
| Exhibit 7 | Grottyohann Letter | Accepted |
| Exhibit 8 | Applicant's Response to Staff Report | Accepted |
| Exhibit 9 (attached) | CORRECTED EX B-1 | Accepted |
| Exhibit 10 (attached) | CORRECTED EX B-2 | Accepted |
| Exhibit 11 | CORRECTED SITE SURVEY | Accepted |
| Exhibit 12 | Record Closing Information | Accepted |
| Exhibit 13 | Applicant's Final Written Argument | Accepted |



EXISTING ZONING

For Zoning Code in effect Post August 1, 2021



NORTH



Site



Also Owned Parcels



Historic Landmark

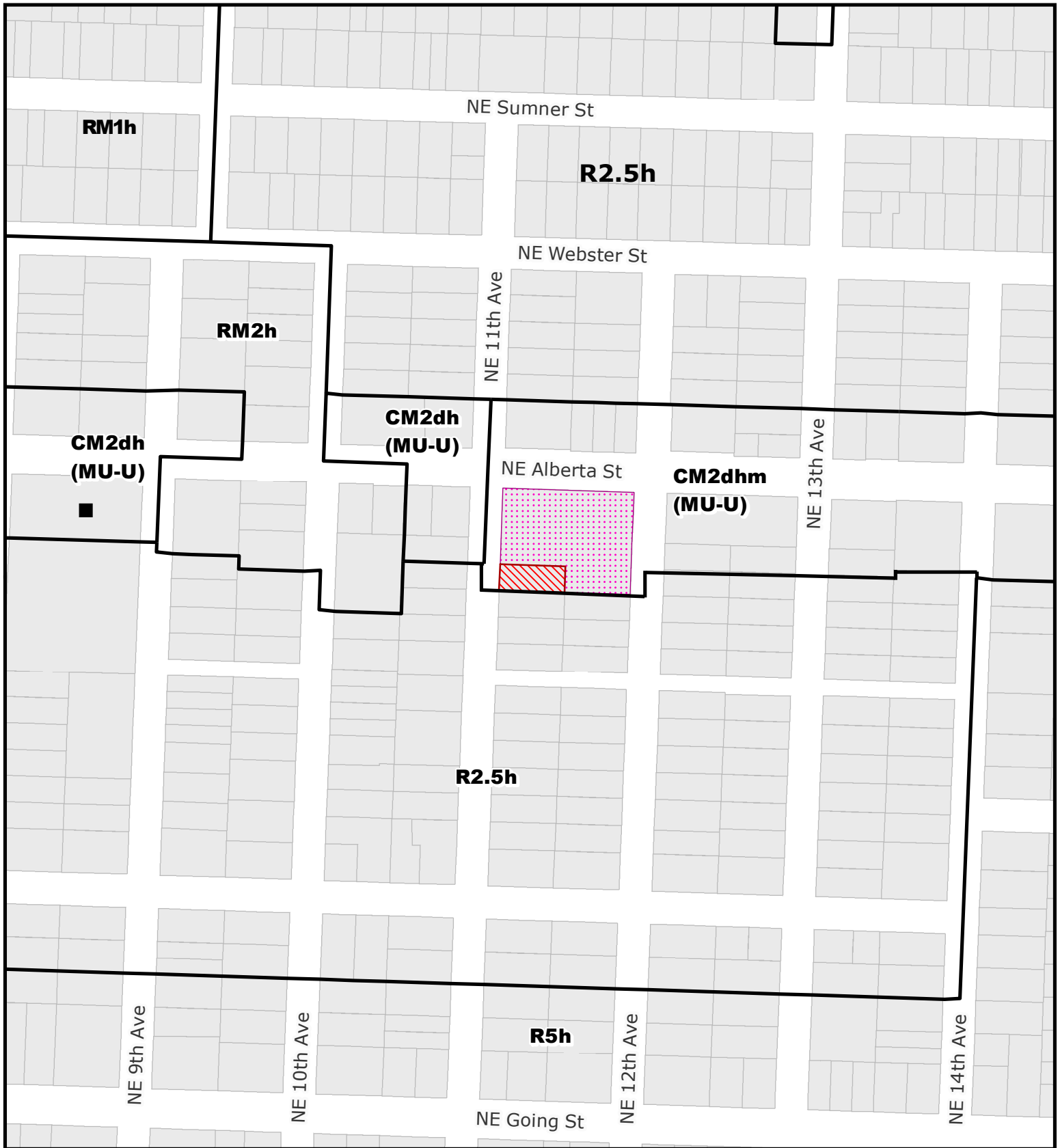
File No. LU 21-098835 CP ZC

1/4 Section 2531

Scale 1 inch = 200 feet

State ID 1N1E23BD 3900

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| Portland Hearing Office Case #4220004 Bureau Case # LU 21-098835 CP ZC Exhibit #94 Page 7306174 | Exhibit <u>B-1</u> | <u>June 28, 2022</u> |
|---|--------------------|----------------------|



PROPOSED ZONING



For Zoning Code in effect Post August 1, 2021



Site



Also Owned Parcels



Historic Landmark

File No. LU 21-098835 CP ZC
 1/4 Section 2531
 Scale 1 inch = 200 feet
 State ID 1N1E23BD 3900

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 Exhibit #10
 Page 7406174

Exhibit B-2 June 28, 2022