

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## RECOMMENDATION OF THE HEARINGS OFFICER

### I. GENERAL INFORMATION

**File No.:** LU 12-160096 CP ZC (HO 4120025)

**Applicant/Owner:** Haddish Tarekegn  
Pristine Cleaning LLC  
7325 N Fenwick Avenue  
Portland, OR 97217

**Applicant's  
Representative:** Dave Spitzer, Architect  
DMS Architects, Inc.  
2106 NE MLK Jr. Boulevard  
Portland, OR 97212

**Hearings Officer:** Gregory J. Frank

**Bureau of Development Services (BDS) Staff Representative:** Sheila Frugoli

**Site Address:** 7424 N Mississippi Avenue

**Legal Description:** BLOCK 24 LOT 3-8, FAIRPORT

**Tax Account No.:** R267903160

**State ID No.:** 1N1E15BA 14700

**Quarter Section:** 2329

**Neighborhood:** Piedmont

**Business District:** North-Northeast Business Association; North Portland Business Association

**District Neighborhood Coalition:** North Portland Neighborhood Services

**Zoning:** CG, General Commercial and R5, Single-Dwelling Residential

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

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

**Public Hearing:** The hearing was opened at 8:59 a.m. on October 29, 2012, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 10:12 a.m. The record was held open until 4:30 p.m. on November 1, 2012 for new written evidence, and until 4:30 pm. on November 8, 2012 for Applicant's rebuttal. The record was closed at that time.

**Testified at the Hearing:**

Sheila Frugoli, BDS Staff Representative

David Spitzer, DMS Architects, 2106 NE MLK, Portland, OR 97212

Fabio de Freitas, Portland Bureau of Transportation (PBOT), 1900 SW 4th Avenue, Portland, OR

Bren Reis, 848 N Stafford Street, Portland, OR 97217

Carl Stewart, 840 N Stafford Street, Portland, OR 97217

**Proposal:** Haddish Tarekegn/Pristine Cleaning, Inc. ("Applicant") is requesting a Comprehensive Plan Map and concurrent Zoning Map Amendment Review to change the current designation and zoning on the southern two-thirds of the property (platted lots 5-8) from High Density Single-Dwelling Residential, R5 and the remaining one-third of the property (platted lots 3 and 4) from General Commercial to Mixed Commercial/Residential, CM. The southern 10,000 square feet of the site contains an existing 3-story building. Formerly the southern portion of the site was used for church purposes. The church's sanctuary building was demolished in 2009. Lots 3 through and including 8 shall collectively be referred to as the "Subject Property."

Applicant is requesting the map change so that the existing building may be remodeled and used as a commercial building. Commercial zoning would allow a variety of uses including Retail Sales and Service and Office. The existing concrete pad at the southwest corner of the Subject Property will be used as an outdoor patio. Applicant indicated, to BDS staff, that he intends to construct a paved parking area with landscaping for accessory parking on the northern portion of the Subject Property.

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

- **33.810.050 Comprehensive Plan Map Amendment**
- **33.855.050 Zoning Map Amendments**

## II. ANALYSIS

**Site and Vicinity:** The 15,000 square foot Subject Property is currently developed with a three-story, approximately 9,500 square foot concrete block building. The building served as an accessory structure to the former North Baptist Church of Portland. It was constructed, under permit, in the early 1950s. Immediately west of the building is a concrete pad and partial concrete retaining wall. They are remnants of the previous church building that sat at the northeast corner of N Mississippi and N Stafford for approximately 80 years. The church was constructed in 1924 and was demolished in 2009. The entrance to the building is oriented to N Stafford. North, behind the building is an unpaved open area. The open area abuts a vacant lot that has frontage on both N Mississippi and N Lombard. The vacant lot has a large utility-like trailer parked on it. At the intersection of N Lombard and N Mississippi is a small strip commercial shopping center, an auto parts store, storefront commercial buildings and an apartment building. On the same block of the Subject Property, there is a 2-story commercial building that appears vacant and a moving truck and trailer rental business. The rental vehicles are stored outdoors within a tall chain link fenced area. Stafford is developed with single-dwelling residences. North Mississippi, except for the commercially-zoned sites at N Lombard, is developed with single-dwelling residences.

Both N Mississippi and N Stafford are fully improved streets with curbs, sidewalks and planter strips. The Subject Property is one block east of the I-5 interstate and approximately one block west of the signalized intersection of N Albina and N Lombard.

**Zoning:** One of the three 5,000 square foot lots is within the CG zone. The two other lots that are proposed for change are currently zoned R5. A description of the existing and proposed zones is provided below.

### EXISTING ZONING

**Single-Dwelling Residential 5,000 ("R5") zone:** The R5 zone allows a density of one dwelling unit per 5,000 square feet of site area. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

**General Commercial ("CG") zone:** The CG zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. Development is expected to be generally auto-accommodating, except where the site is adjacent to a transit street or in a Pedestrian District. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves.

## **PROPOSED ZONING**

**Mixed Commercial/Residential (“CM”) zone:** The CM zone promotes development that combines commercial and housing uses on a single site. This zone allows increased development on busier streets without fostering a strip commercial appearance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The emphasis of the nonresidential uses is primarily on locally oriented retail, service, and office uses. Other uses are allowed to provide a variety of uses that may locate in existing buildings. Development is intended to consist primarily of businesses on the ground floor with housing on upper stories. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk, especially at corners.

The CM zone allows Retail Sales and Service and Office Uses and imposes a building height limit of 45 feet. However, the CM zone would limit the total amount of commercial floor area to a maximum of 15,000 square feet on the site. Unlike the CG zone, the CM zone prohibits drive-through retail and vehicle service uses, prohibits Auto Repair uses and does not allow exterior display and storage. The CM zone requires one square foot of residential development for every square foot of new commercial floor area to achieve a 50-50 balance of mixed use in the zone.

**Land Use History:** City records indicate there are prior land use reviews for the Subject Property. Previous decisions are summarized below:

- **Ordinance No. 86407:** In December 1947, the Portland City Council approved an additional church building on the Subject Property.
- **CU 024-66:** The Planning Bureau approved a request to develop accessory parking for the church.
- **PC53C:** The Planning Commission approved a double-face sign for the church.
- **LU 08-112758 CU:** BDS gave Conditional Use Review approval for the installation of a wireless telecommunication facility, with three antennas and two microwave dish antennas to be concealed inside faux exhaust stacks on the church’s accessory building.

**Summary of Applicant’s Statement:** The application states:

“It is the intent of the owner and applicant to utilize the existing support structure for very low impact office, daycare, etc uses. Preliminary market analysis suggests that a large anchor tenant will likely not be available at this site. However, smaller office/mixed use tenants that could be rented by people living in the adjacent Piedmont Neighborhood do appear to be in need and therefore that is the current direction for development on this site. (Exhibit A.1)”

**Agency Review:** A "Request for Response" was mailed September 4, 2012.

The following bureaus responded with "no concerns" to this proposal:

- Fire Bureau (Exhibit E.7)
- Site Development Section of BDS (Exhibit E.7)
- Life Safety Section of BDS (Exhibit E.6)
- Bureau of Parks-Forestry Division (Exhibit E.7)

The following bureaus provided written comments related to this proposal:

The **Bureau of Environmental Services ("BES")** responded with comments related to the Comprehensive Plan Map and Zoning Map Amendment request as well as a building permit (12-156434 CO). The BES response is summarized as findings under relevant criteria below. Exhibit E.1 contains the entire BES response.

The **Portland Bureau of Transportation ("PBOT")** submitted an extensive response with findings related to the Comprehensive Plan transportation policies and to the Zoning Map Amendment transportation-related approval criteria (Exhibit E.2).

The **Water Bureau** responded with no concerns or objections (Exhibit E.3). The response is identified below under relevant criteria.

The **Police Bureau** response is provided below under relevant approval criteria (Exhibit E.4).

The **Bureau of Planning and Sustainability ("BPS")** submitted a response (Exhibit E.5) and, in part, stated:

"The proposal requests a Comprehensive Plan Map and Zoning Map amendment on a portion of the site from the current High Density Single Dwelling plan designation and corresponding R5 zone to the General Commercial plan designation and corresponding CG zone. There is an existing building on site that was developed as part of a former use. Due to the location of the site and its context, the Bureau of Planning and Sustainability does not support the change as proposed, and recommends use of an alternate plan designation and zone or specific conditions to limit the potential impacts of uses and development.

The site is located on N Mississippi Avenue and N Stafford Street in the Piedmont neighborhood. The site is currently split zoned: a portion fronting N Mississippi Street closer to (but not fronting on) N Lombard Street is zoned CG, and a portion of the site fronting N Stafford Street is zoned R5. The R5 zoned portion includes an existing building on the eastern portion of the site. The properties surrounding the site to the east, west and south are zoned R5, and developed with residences. Both N Mississippi

Avenue and N Stafford Street are classified as local streets in the Comprehensive Plan.

Policy 10.4 of the Portland Comprehensive Plan indicates the General Commercial designation and CG zone is generally intended to be used on arterial streets in developing areas and older areas which already have an auto-oriented development style. The portion of the site for which a map change is requested abuts local streets, and while the site to the north is zoned CG, the surrounding properties are zoned R5 and in residential uses. The CG zone allows a full range of commercial, employment and other uses, many of which are auto oriented and a generous height allowance (45') and floor area ratio (3:1). Allowed uses include Quick Vehicle Servicing and Vehicle Repair, and the development standards of the CG zone allow exterior display, exterior storage, and drive through facilities in addition to large buildings. The uses allowed in the CG zone may pose conflicts with surrounding residential development, and the Comprehensive Plan indicates that application of CG zoning fronting on local streets is generally not appropriate. Further, Policy 2.23 of the Comprehensive Plan also calls for mitigation of impacts through buffering and access limitations when designations on sites are changed from Residential to Commercial. Finally, as noted in Policy 10.7, the proposal will need to demonstrate how it addresses lost housing potential, either through rezoning or another method.

The City of Portland is currently undertaking an update of the Comprehensive Plan, and is exploring the types of land uses and Comprehensive Plan and Zoning map implementation tools appropriate for development of vibrant commercial centers and corridors and the best ways for those activities to interface with adjacent residential areas. The question of land use activities and the transition in scale to adjacent residential areas is currently being considered. It is anticipated that a new set of mapping guidelines and implementation tools will emerge from the Comprehensive Plan Update process. However, the outcomes are not fully known at this time and not expected until 2014.

Recommendations: The Bureau of Planning and Sustainability recommends a Comprehensive Plan map and zoning approach that limits the potential impacts of intense commercial activity on nearby residential areas and is appropriate for the context. We recommend designations and zoning that limits the broad array of uses, the extensive exterior development allowances, and the maximum height and floor area ratio allowed in the General Commercial designation and CG zone. Specifically we recommend limiting uses in the Commercial category to allow only Retail Sales and Service and Office uses; and prohibiting all uses in the Industrial category. Further, we recommend prohibiting exterior display and storage and drive through development on the portion of the site being rezoned, and generally lowering the FAR and the maximum height from that allowed by CG. BPS recommends use of the Neighborhood Commercial plan designation and CN1 zone as a means

to accomplish this. Alternatively, the Urban Commercial plan designation and CM zone may also achieve similar goals. Either would allow limited commercial use of the existing building, but limit the impacts of future development and uses on the adjacent residences. The loss of housing potential is addressed by use of Urban Commercial (CM zone) approach, and would need to be addressed in another way (e.g. housing pool, or other) in the Neighborhood Commercial (CN1) approach. Conditions of approval and a buffer overlay could be placed on a commercial zone such as CG, but this is not recommended due to the extent of conditions needed, and the possibility that a future planning approach may conflict with this designation."

**BDS Comments to Hearings Officer (Exhibit H.2):** BDS staff, in the Staff Report and Recommendation to the Hearings Officer ("BDS Recommendation") stated:

"On October 4, 2012, after BDS staff identified concerns and shared the Bureau of Planning and Sustainability response with the applicant, the applicant revised his proposal. The mailed public notice describes the revised request to re-designate and rezone the entire site from R5 and CG zones to the CM zone."

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on October 4, 2012. No written responses were received from either the notified neighborhood associations or notified property owners in response to the proposal prior to the issuance of the BDS Recommendation. Two persons appeared and testified at the October 29, 2012 hearing. One person ("Reis") stated that he was hopeful that development of the Subject Property would be pedestrian oriented. The other person ("Stewart") expressed concern about safety risks created by on-street parking along N Mississippi in close proximity to N Lombard. Where relevant, the Hearings Officer will address these issues in the approval criteria findings below.

**ZONING CODE APPROVAL CRITERIA**

**33.810.050 Comprehensive Plan Map Approval Criteria**

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

1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be equally or more supportive of the Comprehensive Plan as a whole than the old designation;

**Findings:** The 15,000 square foot Subject Property is split-zoned with a portion of the ownership designated and zoned R5 and a portion designated and zoned CG. Applicant is requesting a Comprehensive Plan Map Amendment and concurrent Zone Map Amendment to change the

current designation to Urban Commercial and the zoning to CM, Mixed Commercial/Residential. Initially, Applicant proposed to extend the CG designation and zone on the southern portion of the R5 zoned lot. However, in response to concerns raised by BPS staff, Applicant revised the application.

For comparison, the Comprehensive Plan Policy 10.4 describes the Urban Commercial and General Commercial designations as follows:

**Urban Commercial:** This designation is intended for more developed parts of the city near relatively dense residential areas. A full range of retail, service, and business uses are allowed serving a local and a larger market area. It is intended primarily for areas which are served by transit. Development should have a strong orientation to pedestrians. It is also intended to allow commercial development in some areas while maintaining housing opportunities. The corresponding zones are CM and Storefront Commercial (“CS”).

**General Commercial:** This designation allows a full range of commercial uses having a local or regional market. Development will mostly have an auto-orientation, but along streets where high quality transit-service is available, development will also be oriented to pedestrians, bicycles, and transit. It is intended for arterial streets and to be used for developing areas and for larger, older areas which already have an auto-oriented development style. The corresponding zone is General Commercial (“CG”).

Even though the Subject Property abuts CG zoned properties and one of the three 5,000 square foot lots is presently zoned CG, the extension of the CG zone over the entire Subject Property would not be appropriate. The CG zone would allow up to 45,000 square feet of commercial development and/or auto-oriented uses such as drive-through vehicle service or fast food restaurants. BPS staff noted, in Exhibit E.5, that BPS is exploring, as part of the City Comprehensive Plan update, zoning implementation tools that will achieve vibrant commercial centers and corridors that interface with adjacent residential areas. BPS recommended the use of the Neighborhood Commercial 1 (CN1) zone because it applies a lower height and floor area limit and would prohibit auto-oriented development. However, BPS staff also noted that the CM zone would achieve similar goals.

PBOT, in its response, determined that the transportation system could not adequately support the level of intensity (i.e. full build-out) that would be allowed if the entire Subject Property were rezoned to the CG zone (Exhibit E.2). In order to not exacerbate the unacceptable level of service (capacity) at the N Mississippi and N Lombard intersection, PBOT determined that the use(s) and resulting trip count currently allowed on the Subject Property could not be exceeded via the change in zoning.

Staff, in the BDS Recommendation, expressed support for Applicant’s revised request to apply the CM zone. BDS staff indicated that the CM zone would provide a transition between the commercial development allowed on N Lombard and the adjacent residential neighborhood. The CM zone will allow continued use of an existing non-residential building while restricting



commercial expansion. The existing building is over 31 feet in height, which is within the allowance of the CM zone but exceeds the 30 foot height limit of the CN1 zone. The CM zoning would create a bridge between the current zoning pattern and the possible changes that will occur through the City's Comprehensive Plan Update process.

Because of the limited capacity of the nearby intersection, PBOT recommended a condition that would apply a trip cap and require a traffic analysis if/when the Subject Property is redeveloped and/or when more than 1,000 square feet of commercial or more than two dwelling units is proposed on the site. It should be noted that Zoning Code Section 33.700.110.B.1 requires continuation of conditions of approval for Zone Change requests even if the Subject Property is remapped through a legislative project. As long as the remapping is to a comparable zone, such as commercial to commercial, the condition(s) will continue to apply.

Based on the findings below, the requested designations will, on balance, be equally supportive of the Comprehensive Plan as the existing designation.

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

**Goal 1: Metropolitan Coordination**

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

**Findings:** The *Urban Growth Management Functional Plan* was approved November 21, 1996 by the Metro Council and became effective February 19, 1997. The purpose of the plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO), including the 2040 Growth Concept. Local jurisdictions must address the Functional Plan when Comprehensive Plan Map Amendments are proposed through the quasi-judicial or legislative processes. The *Urban Growth Management Functional Plan* is Section 3.07 of the Metro Code. The relevant titles in that section are summarized and addressed below.

Overall, as noted in the discussion below, the request to re-designate and rezone from Single-Dwelling Residential and General Commercial to the Urban Commercial and CM zone will have little or no effect on the intent of these titles or these titles will be met through compliance with other applicable City regulations. The Hearings Officer believes that this proposal is consistent with Metro's regional planning framework, and therefore the requested Comprehensive Plan Map Amendment and Zone Change is consistent with Goal 1, Metropolitan Coordination, of the City's Comprehensive Plan.

**Urban Growth Management Functional Plan**

***Title 1 - Requirements for Housing and Employment Accommodation***

This section of the Functional Plan facilitates efficient use of land within the Urban Growth Boundary (UGB). Each city and county has determined its capacity for providing housing and

employment which serves as their baseline and if a city or county chooses to reduce capacity in one location, it must transfer that capacity to another location. Cities and counties must report changes in capacity annually to Metro.

*Hearings Officer Comments:* The proposal includes specific site improvements and remodeling the existing building for new commercial tenant spaces. As discussed further below, the requested CM zone addresses approval criteria that protect housing development potential for the site. The requested change will not create housing or employment capacity conflicts. The utilization of an existing, non-residential building for commercial uses will likely create additional employment opportunities for North Portland residents. In the future, if additional development is proposed on the Subject Property, the CM zone requires a floor area match. For each square foot of new commercial floor area, there must be at least 1 square foot of residential floor area constructed. To address the capacity of the transportation system, PBOT recommended a condition imposing a vehicle trip cap. This proposal complies with the intent of Title 1.

### ***Title 3 - Water Quality and Flood Management***

The goal of the Stream and Floodplain Protection Plan (Title 3) is to protect the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution of the region's waterways.

*Hearings Officer Comments:* Compliance with this title is achieved through the implementation of the Stormwater Management Manual and other development regulations at time of Building Permit review. BES analyzed Applicant's stormwater report that was submitted as part of the building permit currently under review. BES expressed no objections to the proposed stormwater management approach, an on-site infiltration planter (Exhibit E.1). The stormwater management regulations can be met. Therefore, the proposal complies with the intent of this Title.

### ***Title 6 - Centers, Corridors, Station Communities and Main Streets***

The intention of Title 6 is to enhance the Centers designated on the 2040 Growth Concept Map by encouraging development in these Centers. This title recommends planning actions such as: (1) completing an assessment, (2) developing a plan of action for public investments and (3) developing incentives for private investment to achieve mixed-use, pedestrian-friendly, transit-supportive development that support the 2040 Growth Concept.

*Hearings Officer Comments:* The Subject Property is located near a Metro-designated Main Street—N Lombard Street. Title 6 states that centers, corridors, station communities and main streets need a mix of uses, such as grocery stores and restaurants, schools, medical offices, public spaces, as well as a mix of housing types, to be vibrant and walkable. The proposal will allow commercial uses to occupy the existing nonresidential building. The CM zone will allow a maximum of 15,000 square feet of commercial floor area on the Subject Property. The existing building contains 9,500 square feet that would be available for commercial use. With new and or additional commercial floor area, residential development will be required. The CM zone allows uses and development that are consistent with the Metro "Main Street" designation. With a condition that applies a vehicle trip cap, the future redevelopment or expansion will not adversely

impact the service performance of the intersections. The proposal does not conflict with this Title.

***Title 7 - Housing Choice***

The framework plan calls for establishment of voluntary affordable housing production goals to be adopted by local governments.

*Hearings Officer Comments:* The requested CM zone will address the City's "no-net loss" housing policy and approval criterion 33.810.050.A.2. The City's Zoning Code does not regulate affordability (costs/rents). However, retaining the potential for additional housing on the Subject Property may indirectly affect affordability. Therefore, the proposal supports this title.

***Title 12- Protection of Residential Neighborhoods***

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

*Hearings Officer Comments:* The proposal is subject to review and evaluation against existing and future demand on public services, and whether there are adequate levels of same to support the proposed re-designation and zoning pattern. To the extent that the proposal meets the criteria found at 33.855.050 B, as discussed below, the proposal is consistent with the intent of this title.

***Title 13- 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.

*Hearings Officer Comments:* The Subject Property is not located in an environmental or greenway overlay zone, nor is it within a floodplain. Water quality requirements, via the City's Stormwater Management Manual requirements will be satisfied, as noted above. The proposal complies with the intent of this Title.

***GOAL 2: Urban Development***

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

**Findings:** The proposal will allow continued use of a 3-story, non-residential building. The building, described as a "Sunday School Addition," was constructed in the early 1950s. The Subject Property, in the past, had Conditional Use status for a Religious Institution in a residential zone; the Conditional Use rights have now expired. Approval of this proposal will allow

commercial occupancy of the building and/or redevelopment of the Subject Property with a mix of commercial and residential uses.

As explained below, the proposal is consistent with the following applicable policies: *Policy 2.1 Population Growth, Policy 2.2 Urban Diversity, Policy 2.9 Residential Neighborhoods, Policy 2.11, Commercial Centers, Policy 2.12 Transit Corridors, Policy 2.13 Auto-Oriented Commercial Development, Policy 2.16 Strip Development, Policy 2.19 Infill and Redevelopment, Policy 2.20 Utilization of Vacant Land, Policy 2.22 Mixed Use, Policy 2.23 Buffering and Policy 2.26 Albina Community Plan.* Because of the proposal's consistency with these relevant policies, the proposal is supportive of Goal 2 Urban Development, of the Comprehensive Plan.

***Policy 2.1 Population Growth***

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

***Policy 2.2 Urban Diversity***

Promote a range of living environments and employment opportunities for Portland residents in order to attract and retain a stable and diversified population.

***Policy, 2.9 Residential Neighborhoods***

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

*Hearings Officer Comments:* The proposal will allow utilization of an existing commercial building while maintaining housing potential on the Subject Property. The CM zone will serve as a transition between the N Lombard commercial corridor and the residential area. The commercial and residential potential provided in the CM zone will offer additional employment and residential opportunities. If the Subject Property is ever redeveloped and/or there is an expansion of the commercial floor area, the CM zone requires an equal amount of residential floor area. To address the limited capacity of nearby intersections, PBOT recommended a trip cap limit be imposed as a condition. The condition will apply to future redevelopment and/or significant expansions of floor area on the Subject Property.

***Policy 2.11 Commercial Centers***

Expand the role of major established commercial centers which are well served by transit. Strengthen these centers with retail, office service and labor-intensive industrial activities which are compatible with the surrounding area. Encourage the retention of existing medium and high-density apartment zoning adjacent to these centers.

***Policy 2.12 Transit Corridors***

Provide a mixture of activities along Major Transit Priority Streets, Transit Access Streets, and Main Streets to support the use of transit. Encourage development of commercial uses and allow labor-intensive industrial activities which are compatible with the surrounding area. Increase residential densities on residentially zoned lands within one-quarter mile of existing and planned transit routes to transit-supportive levels. Require development along transit routes to relate to the transit line and pedestrians and to provide on-site pedestrian connections.

***Policy 2.13 Auto-Oriented Commercial Development***

Allow auto-oriented commercial development to locate on streets designated as Major City Traffic Streets by the Transportation Element. Also, allow neighborhood level auto-oriented commercial development to locate on District Collector Streets or Neighborhood Collector Streets near neighborhood areas where allowed densities will not support development oriented to transit or pedestrians. Where neighborhood commercial uses are located on designated transit streets, support pedestrian movement and the use of transit by locating buildings and their entrances conveniently to transit users, pedestrians, and bicyclists and providing on-site pedestrian circulation to adjacent streets and development.

***Policy 2.16 Strip Development***

Discourage the development of new strip commercial areas and focus future activity in such areas to create a more clustered pattern of commercial development

*Hearings Officer Comments:* Because the Subject Property, and nearby sites are best described as a "Main Street" corridor rather than a major center, Policy 2.11 Commercial Centers does not apply. The CM zone prohibits auto-oriented uses such as Quick Vehicle Services (a.k.a. gas stations) and other drive-through facilities. Furthermore, if the Subject Property was proposed for redevelopment, the CM zone will not allow commercial strip development because the development standards require buildings that are pedestrian oriented and housing is a key requirement. Therefore, the proposal is consistent with Policy 2.16.

Even though the Subject Property is located near a frequent service transit line and the proposed CM zone would allow significantly higher density than the current R5 zone, PBOT staff recommended a condition that limits development potential based upon the anticipated vehicle trips. The recommended condition may restrict full realization of Policy 2.12; however as explained above, the CM zone's development standards are intended to achieve pedestrian-oriented development. Therefore, the proposal is consistent with these policies.

***Policy 2.19 Infill and Redevelopment***

Encourage infill and redevelopment as a way to implement the Livable City growth principles and accommodate expected increases in population and employment. Encourage infill and redevelopment in the Central City, at transit stations, along Main Streets, and as neighborhood infill in existing residential, commercial and industrial areas.

*Policy 2.20 Utilization of Vacant Land*

Provide for full utilization of existing vacant land except in those areas designated as open space.

*Policy 2.22 Mixed Use*

Continue a mechanism that will allow for the continuation and enhancement of areas of mixed use character where such areas act as buffers and where opportunities exist for creation of nodes or centers of mixed commercial, light industrial and apartment development.

Hearings Officer Comments: These policies are supported because the proposal will allow continued use of a non-residential building and will provide opportunities for additional mixed-use development. PBOT staff recommended a condition that allows a modest increase in commercial and residential development. The condition, however, would require a traffic analysis be submitted to document that the proposed expansion will not result in the trip cap being exceeded. Redevelopment of the Subject Property would be allowed to achieve its full mixed-use potential if the mix of commercial and residential units is found to stay within the limitations of a trip cap.

*Policy 2.23 Buffering*

When residential zoned lands are changed to commercial, employment or industrial zones, ensure that impacts from nonresidential uses on residential areas are mitigated through the use of buffering and access limitations. Where R-zoned lands have a C, E, or I designation, and the designation includes a future Buffer overlay zone, zone changes will be granted only for the purpose of expanding the site of an abutting nonresidential use.

Hearings Officer Comments: As explained above, the CM zone applies use restrictions and development standards that prohibit commercial development that could negatively impact the livability of a residential area. The CM zone requires (for new development) a match of residential floor area for every square foot of commercial floor area. Applicant submitted to BDS a building permit application that includes plans to renovate the existing building and improve the accessory parking lot. The plans show that Applicant intends to install perimeter parking lot landscaping. For these reasons, BDS staff did not recommend one or more conditions requiring additional buffering. The Hearings Officer concurs with BDS' analysis and conclusion that additional conditions, related to landscape buffering, are unnecessary. Applicant's specific development proposal will support the intent of this policy.

*Policy 2.26 Albina Community Plan*

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

Hearings Officer Comments: The policy analysis, below, under Policy 3.6 and 3.8, shows that the proposal is consistent with this policy and the other relevant policies of the Albina Community Plan and Piedmont Neighborhood Plan.

***GOAL 3: Neighborhoods***

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

**Findings:** The proposal is consistent with *Policy 3.5 Neighborhood Involvement*. The Hearings Officer finds that the proposal supports all of the relevant policies and objectives of the adopted Albina Community Plan and Piedmont Neighborhood Plan and therefore is consistent with *Policy 3.6 Neighborhood Plan*. Relevant plan policies and objectives are identified below.

*Policy 3.5 Neighborhood Involvement*

Provide for the involvement of neighborhood residents and businesses in decisions affecting their neighborhood.

*Hearings Officer Comments:* Notice of the hearing on the proposed amendments was sent by the City to the appropriate neighborhood associations and to property owners within 400 feet of the Subject Property. The Subject Property was posted with information pertaining to the application and hearing schedule. According to the application, Applicant attended two Piedmont Neighborhood Association meetings. This review process supports this Policy.

*Policy 3.6 Neighborhood Plan*

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

*Policy 3.8 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.

*Objective I.*

Reinforce Piedmont as one of Portland's premier residential neighborhoods. Protect the neighborhood's heritage of historic structures and sites. Improve the neighborhood's livability while fostering the diversity of its residents. Use the Piedmont Neighborhood Plan to guide decisions on land use, capital improvement projects, urban renewal and community development activities within Piedmont.

*Hearings Officer Comments:* The Subject Property lies within the plan area of the Albina Community Plan and the Piedmont Neighborhood Plan, both were adopted by City Council in July 1993. The following Community Plan and Neighborhood Plan policies and objectives are relevant to this proposal.

## Albina Community Plan

### Policy 1.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 a dependence on the automobile.

### Policy 1.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 businesses located within or conveniently near to them. Promote increases in residential density without creating economic pressure for the clearance of sound housing.

### Policy 1.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 clear identity for these areas.
5. Foster the establishment of new small businesses and housing developments, particularly on land that is vacant or underutilized.

### Policy E: Transit Supportive Land Use

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

### Objective 5

Encourage the development of mixed-use projects in commercial areas that include both ground level business uses and upper story residential units.



*Policy 2 Transportation*

Take full advantage of the Albina Community's location by improving its connections to the region. Emphasize light rail transit as the major transportation investment while improving access to freeways to serve industrial and employment centers. Protect neighborhood livability and the viability of commercial areas when making transportation improvements. Provide safe and attractive routes for bicyclists and pedestrians.

Objectives:

4. Protect residential areas from impacts of through-traffic and the traffic of commercial, employment and institutional districts.
7. Concentrate new residential developments and commercial investment near transit corridors.

Policy 3.B Business Growth and Development

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 industrial centers.

Objectives

6. 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.
7. 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.
8. Encourage multiuse and mixed-use development designed to create safe and attractive centers of activity, commerce and employment.

Policy 5: 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 quality housing stock.

Objective 6

*Discourage speculation that deters construction of housing on vacant land.*

### **Piedmont Neighborhood Plan**

#### **Policy: Housing**

Promote and enhance Piedmont as a residential neighborhood consisting predominantly of single-family, owner-occupied homes whose residents represent a cross-section of the City's population, ethnically and economically.

#### **Policy 6: Business Growth and Development**

Stimulate business growth in the Piedmont Neighborhood that provides services and job opportunities for neighborhood residents with minimum impacts on the Residential Core area of Piedmont. Concentrate this development along Martin Luther King Jr. Boulevard and the North Industrial Area.

#### **Objective 4**

Reduce the negative impacts of all business growth and development on the Residential Core. Guard against these land uses encroaching into residential areas.

**Hearings Officer Comments:** BDS Staff identified no conflicts with the relevant Neighborhood Plan and Community Plan policies and objectives. The Hearings Officer concurs with BDS' analysis and conclusions. To address capacity issues of nearby intersections, PBOT staff recommended that a condition be included, if the application were approved, requiring a vehicle trip cap to apply to redevelopment and or major expansions on the Subject Property. Specifically, the recommended condition will result in a project that satisfies the intended results of Community Plan Policy 2: Transportation and Piedmont Policy 6: Business Growth and Development.

#### ***GOAL 4: Housing***

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

**Findings:** The Hearings Officer finds that the proposal is consistent with *Policy 4.1 Housing Availability, Policy 4.2 Maintain Housing Potential, Policy 4.3 Sustainable Housing, Policy 4.7 Balanced Communities, Policy 4.10 Housing Diversity, Policy 4.11 Housing Affordability and 4.14 Neighborhood Stability*. Because of the proposal's consistency with these policies, it is supportive of Goal 4 Housing, of the Comprehensive Plan. An analysis of the applicable policy follows, below.

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

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

Policy 4.2 Maintain Housing Potential

Retain housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. When considering requests for amendments to the *Comprehensive Plan* map, require that any loss of potential housing units be replaced.

Objective A

Allow the replacement of housing potential to be accomplished by such means as: 1) rezoning (and redesignating) existing commercial, employment, or industrial land to residential; 2) rezoning (and redesignating) lower density residential land to higher density residential land; and 3) rezoning to the CM zone; or 4) building residential units on the site or in a commercial or employment zone if there is a long term guarantee that housing will remain on the site.

Hearings Officer Comments: The proposal is consistent with Policy 4.1 and Policy 4.2 because Applicant is requesting to change the designation and to rezone the property to the CM zone. The Hearings Officer finds that upon redevelopment and/or expansions, the Subject Property will meet or exceed its current housing potential.

Policy 4.3 Sustainable Housing

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

Policy 4.7 Balanced Communities

Strive for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region.

Policy 4.10 Housing Diversity

Promote creation of a range of housing types, prices, and rents to 1) create culturally and economically diverse neighborhoods; and 2) allow those whose housing needs change to find housing that meets their needs within their existing community.

Policy 4.11 Housing Affordability

Promote the development and preservation of quality housing that is affordable across the full spectrum of household incomes.

Hearings Officer Comments: The proposal is consistent with these policies because the CM zone will maintain housing potential and will ensure that any future commercial floor area expansions will have to include a residential component. Maintaining an adequate supply of housing, both actual and potential, will help to address affordability for Portland residents.

Policy 4.14 Neighborhood Stability

Stabilize neighborhoods by promoting: 1) a variety of homeownership and rental housing options; 2) security of housing tenure; and 3) opportunities for community interaction.

*Hearings Officer Comments:* For approximately 80 years, the church that operated on the 15,000 square foot Subject Property provided stability to the surrounding neighborhood. After the demolition of the church sanctuary building in 2009, the building improvement on the Subject Property has been vacant. BDS staff concurred with Applicant's statement that the proposed renovation could be considered an investment in the neighborhood. BDS staff also agreed with Applicant that renovation of the existing building creates "a potential small commercial hub where an abandoned, graffitied building currently sits." The building improvements will provide spaces for office and retail uses that can serve the surrounding residential neighborhood and that can spur additional investment to adjacent commercially zoned sites. The proposal is consistent with this policy.

***GOAL 5: Economic Development***

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

**Findings:** The Hearings Officer finds that the proposal is consistent with *Policy 5.1 Urban Development and Revitalization, Policy 5.2 Business Development, Policy 5.6 Area Character and Identity within Designated Commercial Areas, and Policy 5.7 Business Environment within Designated Commercial Areas.* Because of the proposal's consistency with these policies, the proposal is supportive of Goal 5 Economic Development, of the Comprehensive Plan. The policy analysis follows, below.

*Policy 5.1 Urban Development and Revitalization*

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

*Policy 5.2 Business Development*

Sustain and support business development activities to retain, expand and recruit businesses.

*Policy 5.6 Area Character and Identity within Designated Commercial Areas*

Promote and enhance the special character and identity of Portland's designated commercial areas.

*5.7 Business Environment within Designated Commercial Areas*

Promote a business environment within designated commercial areas that is conducive to the formation, retention and expansion of commercial businesses.

*Objective C*

Sustain the role of designated commercial areas in providing shopping and employment opportunities for city residents.

*Objective F*

Encourage the retention and development of higher density housing and mixed use development within commercial areas.

*Hearings Officer Comments:* If approved, the proposal will enable Applicant to utilize an existing, viable commercial building. The CM zone will provide opportunities for locally serving businesses and opportunities for housing development, achieving a mixed-use project adjacent to a Metro designated "Main Street." Therefore, the proposal is consistent with these policies and objectives.

### **GOAL 6: Transportation**

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

**Findings:** Comprehensive Plan Map Amendments must be reviewed against relevant Transportation Policies in the Comprehensive Plan. PBOT 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 and found the proposal to change from a residential to a commercial designation is, on balance, equally or more supportive of the relevant policies of Goal 6, as follows:

#### Policy 6.1 Coordination

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

#### Policy 6.2 Public Involvement

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

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

#### Policies 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, and 6.11 Classification Descriptions

Policy 6.4 states that the Street classification descriptions and designations describe the types of motor vehicle, transit, bicycle, pedestrian, truck and emergency vehicle movement that should be emphasized on each street. Policies 6.5 through 6.11 detail the intended character and use of streets for each transportation mode.

*Hearings Officer Comments:* At this location, N Mississippi and N Stafford are classified as Local Service streets for all transportation modes in the City's Transportation System Plan. The street grid system in the area surrounding the Subject Property provides a transportation system

that serves all modes. The proposed Comprehensive Plan Amendment is consistent with the Local Service street classification (for all modes) for the abutting N Mississippi Avenue and N Stafford Street. The proposal supports these policies.

Policy 6.12 Regional and City Travel Patterns

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

Hearings Officer Comments: The Subject Property has nearby access to N Lombard and to Interstate-5, both State of Oregon facilities. The proposed Comprehensive Plan Amendment will not result in changes to interregional trips onto the City's local transportation system. The surrounding grid system that serves the immediate neighborhood will be capable of supporting Subject Property related trips expected to be generated in relation to the proposed land use action. The proposal is consistent with this policy.

Policy 6.13 Traffic Calming

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

Hearings Officer Comments: The proposed Plan Map and Zone Change to Urban Commercial and Mixed Residential/Commercial zone will not warrant traffic calming measures (such as speed bumps, curb extensions, etc.) since, as identified in the submitted Traffic Impact Study (TIS), Applicant's traffic consultant determined that the proposed Comprehensive Plan Map and Zone Change will result in traffic continually being managed consistent with the land uses they serve and preserving and enhancing neighborhood livability. The proposal is consistent with this policy.

Policy 6.16 Access Management

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

Hearings Officer Comments: Since no new development is currently proposed in relation to the requested Comprehensive Plan Map and Zone Change, an in depth access analysis was not provided. It should be noted that the Subject Property is situated in close proximity to, but not directly on, N Lombard and Interstate-5. Both N Lombard and Interstate-5 are State of Oregon facilities. PBOT indicated that it did not anticipate that the State would further restrict access onto either N Lombard or Interstate-5 in the event the proposed Comprehensive Plan Map and Zone Change would be approved. The proposal does not conflict with this policy.

Policy 6.17 Coordinate Land Use and Transportation

Implement the Comprehensive Plan Map and the 2040 Growth Concept through long-range transportation and land use planning and the development of efficient and effective transportation projects and programs.

Hearings Officer Comments: This policy is met through the requirements of the quasi-judicial process for notification of the land use proposal and the requirement for analysis of the proposal in respect to the relevant policies and objectives of the Comprehensive Plan.

Policy 6.18 Adequacy of Transportation Facilities

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

Hearings Officer Comments: This policy reflects a requirement in the Transportation Planning Rule (Oregon Administrative Rule 660-012, hereafter the “TPR”) to ensure that certain land use changes will not have an unacceptable impact on transportation facilities. Title 33, Planning and Zoning, contains approval criteria language that implements this policy.

Performance Standards

The most recent amendments to the TPR went into effect at the beginning of this year. Oregon Administrative Rule 660-012-0060(1) states that “if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule.” Acceptable level-of-service for signalized intersections that are under City of Portland authority is LOS “D” or better. Acceptable level-of-service for un-signalized intersections that are under City of Portland authority is LOS “E” or better.

Applicant provided a TIS prepared by Greenlight Engineering. The TIS was prepared to address transportation impacts associated with the proposed Comprehensive Plan Amendment and Zone Change. The TIS compares the reasonable worst-case scenario for the existing site zoning with the reasonable worst-case scenario for the (originally) proposed CG zoning. In summary, the results of the TIS indicate that the transportation system, with specific conditions of approval limiting future building area/vehicle trips, will have adequate level-of-service to support the proposed Comprehensive Plan Map and Zone Change. The proposal is consistent with this policy.

Policy 6.19 Transit Oriented Development

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

Hearings Officer Comments: A stated objective of this policy “requires commercial and multifamily development to orient to and provide pedestrian and bicycle connections to transit streets and, for major developments, provides transit facilities on a site or adjacent to a transit stop.” TriMet bus route #4 serves the Subject Property nearby along N Lombard and N Albina. The proposed Comprehensive Plan Map and Zone Change will result in a potential development

on the Subject Property to support the use of the above referenced frequent transit line. The proposal supports this policy.

Policy 6.20 Connectivity

Support development of an interconnected, multi-modal transportation system to serve mixed-use areas, residential neighborhoods, and other activity centers.

Hearings Officer Comments: The Subject Property is located within a typical 200-foot to 350-foot spaced street grid system (depending on orientation) that meets or exceeds the pedestrian and street connection spacing goals. The prescribed goals are 330-foot maximum for pedestrian connection spacing and 530-foot maximum for street connection spacing. This policy is met.

Policy 6.21 Right-of-Way Opportunities

Preserve existing rights-of-way unless there is no existing or future need for them, established street patterns will not be significantly interrupted, and the functional purpose of nearby streets will be maintained.

Hearings Officer Comments: No established street patterns will be interrupted and the functional purpose of nearby streets will be maintained. The proposal supports this policy.

Policy 6.22 Pedestrian Transportation

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

Hearings Officer Comments: According to City database sources, N Mississippi is improved with 28-feet of paving and an "8-6-2" sidewalk corridor configuration within a 60-foot public right-of-way. North Stafford is improved with 30-feet of paving and a "3-6-1" sidewalk corridor. The N Mississippi frontage currently exceeds City standards while the existing 3-6-1 sidewalk corridor along N Stafford does not satisfy City standards (an 11-foot wide sidewalk corridor is necessary). In the event of future development on the Subject Property, a property dedication of 1-foot and reconstruction of the existing sidewalk corridor will be necessary. The map amendment request does not conflict with the policy.

Policy 6.23 Bicycle Transportation

Make the bicycle an integral part of daily life in Portland, particularly for trips of less than five miles, by implementing a bikeway network, providing end-of-trip facilities, improving bicycle/transit integration, encouraging bicycle use, and making bicycling safer.

Hearings Officer Comments: According to City database sources, N Mississippi is improved with 28-feet of paving and an "8-6-2" sidewalk corridor configuration within a 60-foot right-of-way. North Stafford is improved with 30-feet of paving and a "3-6-1" sidewalk corridor. The local street system provides adequate bicycle facilities. The proposal supports this policy.



Policy 6.25 Parking Management

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

Policy 6.26 On-street Parking Management

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

Policy 6.27 Off Street Parking

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

Hearings Officer Comments: There is an existing parking area on the northern 1/3 of the Subject Property which is proposed to be retained (and improved) in relation to a current redevelopment proposal on the Subject Property. Applicant's plans indicate that parking can be accommodated on the Subject Property to serve current/future uses which places less demand on the on-street parking in the public right-of-way. With more parking on-site, additional parking spaces can be anticipated to be available for other uses in close proximity to the Subject Property. The proposal is consistent with these policies.

**GOAL 7: Energy**

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

**Findings:** In general, Goal 7 policies and objectives are directed toward local jurisdictions in implementing energy related strategies, and not the applicant. However, the Hearings Officer finds that this proposal is consistent with this goal because the request will allow re-use of an existing structure for commercial uses that can serve the immediate area.

**GOAL 8: Environment**

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

**Findings:** The Hearings Officer finds this proposal will not adversely impact the City's air, water or land resources. If approved, future commercial uses will be subject to the Zoning Code's off-site impacts regulations (Chapter 33.262) and must comply with the City's Title 18 noise regulations that protect neighborhoods from detrimental noise levels.

**GOAL 9: Citizen Involvement**

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

**Findings:** The Hearings Officer finds this proposal is consistent with relevant policies 9.1, Citizen Involvement Coordination and 9.3, Comprehensive Plan Map Amendment and therefore is consistent with Goal 9 Citizen Involvement. A detailed analysis of the applicable policies follows, below.

*Policy 9.1 Citizen Involvement Coordination*

Encourage citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations.

*Hearings Officer Comments:* According to the application, Applicant attended two Piedmont Neighborhood Association meetings and reported that no objections were raised. The City provided notice of the proposed Comprehensive Plan Map Amendment and Zone Change to surrounding property owners within 400 feet of the Subject Property, to the Piedmont Neighborhood Association, and to the Kenton and Arbor Neighborhood Associations in order to inform them of their opportunity to comment on the application both in writing and at the public hearings on this application. In addition, the Subject Property was posted per the requirements of the Portland Zoning Code for Type III Land Use Reviews. The requested land use review supports this policy.

*Policy 9.3 Comprehensive Plan Amendment*

Allow for the review and amendment of the adopted Comprehensive Plan which insures citizen involvement opportunities for the city's residents, businesses and organizations.

*Hearings Officer Comments:* The land use review process provides for citizen involvement through mailed requests for responses, posting of the Subject Property, mailed notifications of public hearing, and public hearings before the Hearings Officer and City Council. Citizen involvement efforts related to this case are detailed in response to Policy 9.1, above. This policy has been met.

***GOAL 10: Plan Review and Administration***

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

**Findings:** The Hearings Officer finds this proposal is consistent with relevant Policies 10.7 and 10.8 and therefore is supportive of Goal 10. A detailed analysis of the applicable policies follows, below.

*Policy 10.7 Amendments to the Comprehensive Plan Map*

The Planning Commission must review and make recommendations to the City Council on all legislative amendments to the Comprehensive Plan Map. Quasi-judicial amendments to the Comprehensive Plan Map will be reviewed by the Hearings Officer prior to City Council action,

using procedures stated in the zoning code. For quasi-judicial amendments, the burden of proof for the amendment is on the applicant. The applicant must show that the requested change is:

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

*Hearings Officer Comments:* The preceding analysis and findings demonstrate that the proposed Plan Map Amendment is, on balance, supportive of and consistent with the relevant goals and policies of the Comprehensive Plan.

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

*Hearings Officer Comments:* The requested Plan designation and zoning for the Subject Property is compatible with the general land use pattern established by the Comprehensive Plan for the surrounding area. Although not abutting other sites designated Urban Commercial, the Urban Commercial designation and CS, Storefront Commercial zone is applied to three lots that are located on the north side of N Lombard, within approximately 150 feet of the Subject Property. The zone will allow utilization of a 3-story non-residential building that was constructed in the early 1950s. Because this request will extend commercial zoning another 100 feet into a designated single-dwelling residential area, the proposed CM zone is appropriate. The CM zone limits the total amount of commercial development to a 1 to 1 Floor Area Ratio ("FAR") which equates to 15,000 square feet for the Subject Property. The zone prohibits auto-oriented uses and drive-through facilities. Further, the zone does not allow exterior display and storage.

(3) Consistent with the Statewide Land Use Planning Goals

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

For quasi-judicial plan amendments, compliance with the City's plan goals, as discussed here, show compliance with applicable state goals. The discussion below indicates that overall, the City goals and policies are supported by the proposal. Consequently, the proposal is consistent with all applicable statewide goals.

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

Hearings Officer Comments: As previously discussed above, the proposal is consistent with the adopted Albina Community Plan and the Piedmont Neighborhood Plan.

Policy 10.8 Zone Changes

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

Hearings Officer Comments: The Urban Commercial designation has two corresponding zones: the Mixed Commercial/Residential zone and the Storefront Commercial zone that implement the designation. As explained above, under Policy 10.7, the CM zone is the most appropriate zone given the surrounding uses and map pattern.

Applicant is requesting a Comprehensive Plan Map and concurrent Zoning Map Amendment Review to change the current designation and zoning on the southern two-thirds of the property (platted lots 5-8) from High Density Single-Dwelling Residential, R5 and the remaining one-third of the property (platted lots 3 and 4) from General Commercial to Mixed Commercial/Residential, CM. The proposed change is illustrated on the attached Proposed Zoning Map, Exhibit B.2. This policy is addressed through this land use review, specifically addressed in findings for conformance with the approval criteria for the proposed Zone Map Amendment, 33.855.050.A-D, following this section on the proposed Comprehensive Plan Map Amendment. To the extent that applicable approval criteria of 33.855.050.A-D are met, as described above, these policies and objectives are met.

***GOAL 11 A: Public Facilities***

*Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.*

**Findings:** The proposal is consistent with Goal 11 and Policy 11.2 as explained below. Agency responses to this proposal indicate that either adequate public facilities and services exist or can be reasonably made available as discussed under approval criterion 33.855.050.B, below and in Exhibits E.1 through E.7.

*Policy 11.2, Orderly Land Development*

Urban development should occur only where urban public facilities and services exist or can be reasonably made available.

Hearings Officer Comment: The adequacy of public facilities is discussed in detail below in this recommendation under the criterion 33.855.050 B. The Hearings Officer finds that the proposal is consistent with this policy.

***GOAL 12: Urban Design***

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

**Findings:** The proposal is consistent with Goal 12 and its policies, which is intended to enhance Portland's identity as a livable city with attractive amenities creating a dynamic urban environment through quality projects. A detailed analysis of the applicable policies follows, below.

*Policy 12.2 Enhancing Variety*

Promote the development of areas of special identity and urban character. Portland is a city built from the aggregation of formerly independent settlements. The City's residential, commercial, and industrial areas should have attractive identities that enhance the urbanity of the City.

*Objective C.* Foster the development of an attractive urban character along Portland's commercial streets and in its commercial districts. Accommodating pedestrians as shoppers and visitors in commercial areas is a major priority of development projects. Commercial areas should allow the development of a mixture of uses, including residential uses. Add new building types to establish areas with care and respect for the context that past generations of builders have provided.

*12.6 Preserve Neighborhoods*

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

*Objective B.* Respect the fabric of established neighborhoods when undertaking infill development projects.

Hearings Officer Comment: The existing "Post-World War 2" building and the former church building created a buffer between the single-dwelling residences and the auto-oriented uses located on the adjacent CG-zoned sites that front N Lombard. The CM and CG zone are similar in the allowed scale of buildings. Both have a height limit of 45 feet. However, the zones differ in that the commercial floor area is limited in the CM zone, housing will be required with commercial expansion and no exterior display and storage or drive-through vehicle areas is allowed in the CM zone. The urban character of the zone will continue to buffer the residences from the more intense commercial activities found on N Lombard. For these reasons, the proposal supports these policies.

### **33.810.050 Comprehensive Plan Map Approval Criteria**

A.2. When the requested amendment is:

- From a residential Comprehensive Plan Map designation to a commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation; or
- From the urban commercial Comprehensive Plan Map designation with CM zoning to another commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation;

the requested change will not result in a net loss of potential housing units. The number of potential housing units lost may not be greater than the potential housing units gained. The method for calculating potential housing units is specified in subparagraph A.2.a, below; potential housing units may be gained as specified in subparagraph A.2.b, below.

- a. Calculating potential housing units. To calculate potential housing units, the maximum density allowed by the zone is used. In zones where density is regulated by floor area ratios, a standard of 900 square feet per unit is used in the calculation and the maximum floor area ratio is used. Exceptions are:
  - (1) In the RX zone, 20 percent of allowed floor area is not included;
  - (2) In the R3, R2, and R1 zones, the amenity bonus provisions are not included; and
  - (3) In the CM zone, one half of the maximum FAR is used.
  - (4) Where a residentially zoned area is being used by an institution and the zone change is to the Institutional Residential zone, the area in use as part of the institution is not included.
  - (5) Where a residentially zoned area is controlled by an institution and the zone change is to the Institutional Residential zone the area excluded by this provision also includes those areas within the boundaries of an approved current conditional use permit or master plan.
- b. Gaining potential housing units. Potential housing units may be gained through any of the following means:
  - (1) Rezoning and redesignating land off site from a commercial, employment, or industrial designation to residential;

- (2) Rezoning and redesignating lower-density residential land off site to higher-density residential land;
- (3) Rezoning land on or off site to the CM zone;
- (4) Building residential units on the site or in a commercial or employment zone off site. When this option is used to mitigate for lost housing potential in an RX, RH, or R1 zone, only the number of units required by the minimum density regulations of the zone are required to be built to mitigate for the lost housing potential; or
- (5) Any other method that results in no net loss of potential housing units, including units from the housing pool as stated in 33.810.060 below.
- (6) In commercial and employment zones, residential units that are required, such as by a housing requirement of a plan district, are not credited as mitigating for the loss of potential units.
- (7) When housing units in commercial or employment zones are used to mitigate for lost housing potential, a covenant must be included that guarantees that the site will remain in housing for the credited number of units for at least 25 years.

**Findings:** The proposal includes a requested amendment from a residential to a commercial designation. Therefore, this criteria is applicable. The Subject Property is comprised of three 5,000 square foot lots. Two of the lots are zoned R5 and each is respectively 5,000 square feet in size. The R5 zone allows a density of one dwelling unit per 5,000 square feet. Consequently, the housing unit potential of the Subject Property is two units. The proposal to apply the CM zone on the entire Subject Property fulfills this requirement.

The Hearings Officer finds that the proposal supports all of the relevant goals, policies and objectives and therefore, on balance, is equally or more supportive of the Comprehensive Plan, as a whole.

#### **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.

1. 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 of each zone and the zoning pattern of surrounding land.

**Findings:** The proposed Comprehensive Plan Map designation is Urban Commercial. This designation has two corresponding zones CM, Mixed Commercial/Residential and CS, Storefront Commercial. As explained earlier in this recommendation, the Mixed Commercial/Residential zone is the most appropriate zone to apply because it will allow utilization of the existing building but limits the amount of commercial floor area to one-third the amount that is allowed in the CS zone (as well as the CG zone). The Hearings Officer finds that this approval criterion is met.

2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.

**Findings:** Part of the Subject Property is currently zoned R5, Single-Dwelling Residential 5,000, but does not have a commercial designation with a Buffer overlay on the Subject Property. Therefore, the Hearings Officer finds that this approval criterion is not applicable.

3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.

**Findings:** The Subject Property is currently zoned R5 and CG and the proposal is to change to the CM zone. Therefore, the Hearings Officer finds that this approval criterion is not applicable.

**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.
  - 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.
  - 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.

**Findings:** The Hearings Officer finds that public services are adequate and with a recommended condition related to transportation impacts, public services will continue to be adequate, as explained below.

BES expressed no objection to approval of Applicant's proposed Comprehensive Plan Map Amendment with concurrent Zone Map Amendment. (Exhibit E.1) Note that this land use application does not alter BES requirements as identified under building permit application #12-156434-CO, which is currently under review. The BES response, in Exhibit E.1, states in relevant part the following:

**"SANITARY SERVICE**

1. *Existing Sanitary Infrastructure:*
  - a. There is an 8-inch concrete public combined gravity sewer located in N Mississippi Avenue (BES project # 0422).
  - b. There is a 12-inch vitrified clay public combined gravity sewer located in N Stafford Street (BES project # 0814).
2. *Combined Sewer:* The combined sewer system currently surcharges under certain conditions. BES will allow sanitary connections, but stormwater discharges will be restricted. See the *Stormwater Management* section, below, for a discussion of the impact this may have on the development's stormwater management plan. NOTE: BES Engineering Asset Systems Management assessed the capacity of the combined sewer system available to this site and determined that the system has capacity to serve the proposed change in zoning. BES prefers discharges be directed to the 12-inch combined sewer in N Stafford Street.

**STORMWATER MANAGEMENT**

3. *Existing Stormwater Infrastructure:*
  - a. There is no public storm-only sewer available to this property.
  - b. There is a public underground injection control (UIC) system located in the vicinity of this site that receives stormwater runoff from the public right-of-way:
    - 1) In N Mississippi Avenue (south of N Stafford Street) there is a UIC consisting of 3 inlets, 1 sedimentation manhole, and 1 infiltration sump.
4. *General Stormwater Management Requirements:* All development and redevelopment proposals are subject to the requirements of the City of Portland Stormwater Management Manual (SWMM). The SWMM is periodically updated; projects must comply with the

version that is adopted when permit applications are submitted. The 2008 SWMM may be obtained at the City of Portland Development Services Center (1900 SW 4<sup>th</sup> Ave) and from the BES website ([www.portlandonline.com/bes/2008SWMM](http://www.portlandonline.com/bes/2008SWMM)). Development projects are evaluated using the criteria described in Section 1.3 of the SWMM. The Stormwater Hierarchy guides the applicant in determining where stormwater runoff should be conveyed (i.e. infiltrated on-site or discharged off-site). The highest technically feasible category must be used. Regardless of the discharge point, vegetated surface facilities are required to the maximum extent feasible to meet SWMM pollution reduction and flow control requirements.

5. *On-Site Stormwater Management Comments:* BES reviews stormwater management facilities on private property for the feasibility of infiltration, pollution reduction, flow control, and off-site discharges. The Site Development Section of BDS determines if stormwater infiltration on private property is feasible when slopes on or near the site present landside or erosion related concerns, or where proximity to buildings might cause structural problems.
  - a. BES has reviewed the stormwater report submitted under building permit #12-156434-CO for redeveloped impervious area in the parking lot area. The report includes Simplified Approach infiltration test results of 68 inches per hour. The applicant proposes on-site infiltration by means of an infiltration planter for the proposed redeveloped area in the parking lot. BES has no objections to the proposed stormwater management approach.
6. *Public Right-of-Way Stormwater Management Comments:* BES reviews stormwater management facilities in the public right-of-way for compliance with SWMM requirements such as Infiltration and Discharge, Pollution Reduction, and Flow Control. The following comments apply to this project, as required by the City of Portland Bureau of Transportation (PBOT).
  - a. PBOT requires new sidewalk construction in a pedestrian corridor where a curb and paved street already exist. Constructing the sidewalk so that it slopes toward a vegetated area and/or planting street trees may be a viable alternative to constructing stormwater management facilities, and will be reviewed with the public works permit. Refer to PBOT's response and the City of Portland Public Works Permitting website for more information.
7. *Nonconforming Parking Lot and Landscape Requirements:* If this project will bring existing parking areas into compliance with current landscaping requirements per Chapter 33.258.070, then Section 1.5 of the SWMM requires that new landscaped areas must also be utilized as vegetated stormwater facilities where feasible. Section 1.5 includes examples of criteria that will be considered to determine feasibility. Note that if a stormwater facility is determined feasible the facility must be sized using the appropriate methodology from Chapter 2 of

the SWMM, and should therefore be included in the required stormwater report. Plans submitted for land use review must be revised to show all required parking lot landscaping upgrades.

**CONDITIONS OF APPROVAL**

BES has no recommended conditions of land use review approval."

The Water Bureau stated, in Exhibit E.3, that it:

"...has no objections to the requested Comprehensive Plan Map and Zoning Map Amendment Review, for the property located at 7424 N Mississippi Ave. There is an existing 1" metered service (Serial #87113538, Account #2958404300) which supplies this location with water from the existing 8" CI water main in N Stafford St. The estimated static water pressure range for this location is 51 psi to 64 psi at the existing service elevation of 122 ft."

The Fire Bureau responded that it had no concerns. (Exhibit E.7)

The Police Bureau stated, in Exhibit E.4, that "it has been determined that the Portland Police Bureau is capable of serving the proposed change at this time."

PBOT responded that transportation staff reviewed information provided by Applicant that addressed Goal 6 policies. (Exhibit E.2) PBOT indicated that it concurred with the evidence and conclusions provided by Applicant and concluded that the requested Comprehensive Map Amendment was consistent with adopted Goal 6 Policies. The PBOT response (Exhibit E.2) states, in part, the following:

"The applicant has provided a Transportation Impact Study (TIS) prepared by Greenlight Engineering. The study was prepared to address transportation impacts associated with the proposed Comprehensive Plan Amendment and Zone Change.

As a point of clarification, the applicant's traffic consultant prepared his analyses with direction from the applicant that the site was originally proposed to be rezoned from R5 to CG. After receiving input from City staff early during the review process, the applicant modified the proposed Zone Change to the current request to change the zoning from R5 to CM (across the entire site). Though the TIS has not been amended to address the change in scope of the Zone Change request, PBOT will be able to extrapolate from the submitted TIS and demonstrate that the results from the change from CG to CM will be at least equal, if not more favorable with regard to potential impacts on adequacy of services.

As required by PBOT, the study area for this application includes the intersections of N Lombard/N Mississippi and N Mississippi /N Stafford. N. Stafford and N Mississippi are under the

jurisdiction of the City of Portland and are classified as Local Service streets for all modes in the City's Transportation System Plan (TSP). According to City GIS, at this location N Stafford is improved with 30-ft of paving and a 3-6-1 sidewalk corridor within a 50-ft wide right-of-way (r.o.w.). The street is a two-lane, two-way roadway with parking allowed on both sides of the street.

N Mississippi is improved with 28-ft of paving width and an 8-6-2 sidewalk corridor within a 60-ft wide r.o.w. The street is a two-lane, two-way roadway, with parking allowed on both sides of the street. N. Lombard (US-30 Bypass) is under the jurisdiction of the City of Portland and the Oregon Department of Transportation. Lombard is classified as a District Collector, Major Transit Priority street, City Bikeway, City Walkway and a Community Corridor in the City's TSP. N Lombard/US-30 Bypass is classified as a District Highway by ODOT. N Lombard is improved with 50-ft of paving and 15-ft wide sidewalk corridors within an 80-ft wide r.o.w. The street is a four-lane, two-way roadway and parking is not allowed. Tri-Met bus lines #4, 6, and 75 serve Lombard St at stops located just east and west of Mississippi Ave.

The intersection of N Lombard St/N Mississippi is controlled with stop signs on the N Mississippi approaches to N Lombard. Eastbound and westbound left turns occur from the through lanes of N Lombard St. There are no dedicated left turn lanes on N Lombard St. The intersection of Stafford St/N Mississippi is an uncontrolled intersection. There are no stop signs or yield signs at the intersection. Drivers entering the intersection must yield to drivers simultaneously approaching on their right per Oregon law (ORS 811.275).

In that the subject land use review proposes a change in zoning, an estimate of long-term traffic operations is required. A planning horizon of 2035 was used for the analysis. City of Portland staff provided 2008 and 2035 Regional Transportation Plan model traffic volumes. Based upon this information, a growth rate was derived for the study area. Generally, the area is anticipated to experience a growth rate of 15% over the 27 year study period. In past projects, low annual growth rates, often less than one percent per year, have been derived within the City of Portland.

The submitted TIS contains a capacity analysis which was conducted under 2012 existing conditions and 2035 background conditions to determine the existing and future adequacy of the transportation system. The study was conducted using acceptable industry unsignalized intersection analysis methodologies in the 2000 *HIGHWAY CAPACITY MANUAL* (HCM) published by the Transportation Research Board. Level of Service (LOS) can range from A, which indicates little or no delay, to F, which indicates a significant amount of congestion and delay. City of Portland operational standards require LOS E or better at unsignalized intersections. ODOT operational standards for the US-30 Bypass are a v/c ratio of 0.99 for the first and second peak hours of the transportation

system. In order to gauge the amount of capacity remaining at the intersection, the volume-to-capacity ratio, or v/c ratio, is also calculated and reported. A v/c ratio of less than 1.0 indicates that the intersection is operating within capacity. At unsignalized intersections, the v/c ratio is not dependent on the delay that a driver experiences while waiting for a suitable gap in traffic, but rather, the number of available gaps and the demand on the side street.

The intersection of N Stafford /N Mississippi Ave is uncontrolled by stop or yield signs. The Highway Capacity Manual does not provide a methodology for the analysis of such intersections. They are typically very low volume and are typically well under capacity. However, for the purposes of the proposed Zone Change, it was assumed that N Stafford is controlled by stop signs. This is a conservative assumption for the basis of analyzing the intersection. For both level of service and v/c ratio, the reported results apply to the stop-controlled movements from the side streets. These movements generally experience the longest delays.

The results of the capacity analysis show that the intersection of N Stafford/N Mississippi Ave currently operates at an acceptable level of service during both the weekday morning and evening peak hours. In the background 2035 scenario, the capacity of the intersection will remain adequate.

The results of the capacity analysis show that the intersection of N Lombard/N Mississippi Ave currently operates at an unacceptable level of service (LOS F) during the weekday morning peak hour and an acceptable level of service (LOS E) during the weekday evening peak hour. Calculations indicate that in the background future 2035 scenario, levels of service at the intersection will deteriorate to F and F for the weekday morning and evening peak hours respectively under the existing zoning.

However, with the implementation of a trip cap, discussed below, the proposed Zone Change will not further degrade the level of service at the intersection of N Lombard/N Mississippi, thereby complying with the State Transportation Planning Rule and the applicable City of Portland approval criteria. The proposed trip cap will ensure that trip generation related to future development on the site will not exceed that which is allowed under current zoning.

Because a change in zoning is proposed, it is typically necessary to compare the reasonable worst-case development scenario under the existing zoning to the reasonable worst-case development scenario under the proposed zoning. The net increase in trips associated with these two scenarios determines the amount of impact that the proposed zone change could have on the adjacent transportation system. However, a trip cap is proposed as part of this application, which essentially limits the amount and type of

development that can occur on the property to that which can occur under the existing zoning. This trip cap will allow the property to develop flexibly allowing some of the development that would normally be allowed to occur on the CG portion of the site to develop on the portion of the property subject to the zone change without impacting the transportation system. With the implementation of a trip cap, there will no net increase in trips from the existing zoning to the proposed zoning for the property. Accordingly, in this case, a comparison of the trips associated with the existing zoning to the proposed zoning is not necessary.

In order to determine the trip cap, a reasonable worst-case trip generation estimate for the property under the existing zoning was calculated. The existing R5 single-dwelling residential zoning designation allows single-family residences to be constructed on the southern 10,000 sf of subject parcel, while the existing CG zoning allows several floors of retail and office uses to be constructed on the northern 5,000 sf portion of the site. While retail uses typically generate more vehicle trips than office uses, it was agreed (between the applicant and City staff) that more retail uses beyond the ground floor area (of a proposed building) were an unreasonable assumption.

To estimate the number of trips that could be generated under the existing zoning, trip rates from the manual *TRIP GENERATION*, Eighth Edition, published by the Institute of Transportation Engineers (ITE), were used. The results of the trip generation analysis quantify the existing zoning reasonable worst-case trip generation and effectively establish the trip cap for the property. Based on the submitted TIS' reasonable worst-case trip generation analysis for a mixed use building on the existing CG portion of the site and 2 single-family detached residential homes on the existing R5 portion of the site, it was determined that the site could reasonably generate 444 weekday AM and 327 weekday PM peak hour trips. With the provision of a trip cap, the site will not be allowed to exceed these referenced number of trips during the weekday AM and weekday PM peak hour with the approval of the proposed zone change. With each future phase of development on the property, it will be necessary for staff and the applicant (or future applicants) to conduct a trip generation assessment to confirm that the existing uses and proposed uses on site aren't and won't exceed the trip cap. A condition of approval related to implementing the trip cap is warranted and recommended.

#### **Additional information**

It is PBOT's understanding that the applicant has agreed to a recommendation by BDS staff to modify the proposal to request the Urban Commercial Comprehensive Plan Map designation and the CM, Mixed Residential/Commercial zone be applied to both the CG portion and R5 portion of the 15,000 sf, split zoned site. With the CM zone, a maximum allowed 15,000 sf of commercial development could conceivably be constructed on the site. Given the Zoning Code's requirements for CM zoned lots, the maximum commercial

development on the site would need to be matched by an equal amount (floor area dedicated) of residential development. Again, based on the Zoning Code's requirements, said residential development would be maximized at 16 units. The variety of residential development could include mid-rise apartments, rental townhomes or high-rise condominiums. These types of residential development are identified as land use categories in the aforementioned ITE *TRIP GENERATION* manual for the purposes of estimating trip generation. Accordingly, and based on the various rates for these residential development types, the resulting AM and PM peak hour trip generation could be between 6-12 vehicle trips. This represents an increase of 4-10 trips generated by residential type development over what is allowed on the current R5 portion of the site.

This increase as a result of the additional residential development on the site is off-set however, by the number of vehicle trips that could have been generated by uses allowed in the previously proposed CG zone district, which are not allowed on the site with currently proposed CM zoning. For example, a vehicle-related use that is allowed in the CG zone and not allowed in the CM zone is 'quick vehicle service.' Such a use would generate 15 AM/PM peak hour vehicle trips on the site if it were rezoned (entirely) CG, as originally proposed. The CM zone limits certain, and does not allow numerous vehicle-related uses that could otherwise be allowed in the CG zone. The resulting lower (or no) trip generation allowed by CM type uses is a more conservative impact on the transportation system than the number of trips calculated under the worse development scenario with the current zoning on the site. PBOT suggests therefore, that by modifying the proposal to change the zoning (and associated Comprehensive Plan Map) to the CM designation, that the resulting impacts on the transportation system will be less than those related to the current zoning on the site. And as analyzed previously in this response, the trip cap that is proposed is related to the development potential with the site's current zoning; accordingly, the estimated trip generation by the potential combination of uses related to the (now) proposed CM zone will be less than that associated with the proposed trip cap. PBOT is therefore supportive of the trip cap and will recommend implementation of said cap as a condition of approval for future development of the site. For timing purposes, and to allow a reasonable amount of development prior to triggering any traffic analysis, BDS and PBOT staff have agreed to the allowance of 1,000 sf of commercial development or up to 2 residential units on the site can be developed. When site development exceeds 1,000 sf of commercial development or greater than 2 residential units, said development will trigger compliance with the condition to conduct and submit the required traffic analysis.

The recently amended Transportation Planning Rule (effective January 1, 2012) generally requires a local government to determine whether certain regulatory amendments will

'significantly affect an existing or planned transportation facility.' The land use actions that trigger compliance with this requirement are amendments to a functional plan, comprehensive plan, or a land use regulation (including a Zoning Map Amendment). (OAR 660-012-0060(1)) If the local government finds an amendment has a significant effect, it must take one or more specifically identified steps to address and remedy this conflict. (OAR 660-012-0060(2))

A plan or land use regulation amendment significantly affects a transportation facility if it would:

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

In this case, as was previously identified, the intersection of N Lombard/N Mississippi is projected to not meet the City's performance standards, with or without the proposed Comprehensive Map/Zoning Map Changes. With the imposition of a condition of approval to limit future development to the equivalent number of vehicle trips calculated to be generated by development on the site under current zoning, the above referenced approval criterion is satisfied.

***Based on the above referenced analysis, PBOT has found that the applicant has demonstrated compliance with the applicable transportation-related approval criteria. PBOT is therefore supportive of the proposed Zone Change (and Comprehensive Map Amendment).***

#### **TITLE 17 REQUIREMENTS**

##### **Transportation System Development Charges (Chapter 17.15)**

System Development Charges ('SDCs') may be assessed for this development. The applicant can receive an estimate of the SDC amount, prior to submission of building permits by contacting Rich Eisenhauer at (503) 823-6108.

##### **Driveways and Curb Cuts (Section 17.28)**

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits.



**Street Improvements (Section 17.88)**

According to City database, the site's N Mississippi frontage currently exceeds City standards while the existing 3-6-1 sidewalk corridor along N Stafford does not satisfy City standards (an 11-ft wide sidewalk corridor is necessary). The applicant is advised that in the event of future development on the site, a property dedication of 1-ft and reconstruction of the existing sidewalk corridor will be necessary.

**RECOMMENDATION**

PBOT has no objections to the proposed Comprehensive Map Amendment or Zone Change, subject to the following condition of approval:

1. Uses on the site are limited to a total of 444 weekday AM and 327 weekday PM peak hour trips. When the site is redeveloped or when more than 1,000 square feet of additional commercial floor area and/or 3 or more new residential units are proposed, the applicant must submit sufficient traffic analysis prepared by a professional traffic consultant to confirm that the maximum number of vehicle trips associated with the development project(s) will not be exceeded. This trip cap applies to the combined three lots identified as the site. A traffic analysis is not required for floor area expansions that result in less than a cumulative total of 1,000 square feet of additional commercial floor area and/or 2 or less new residential units on the site."

The Oregon Department of Transportation ("ODOT") did not submit a formal written response. However, ODOT staff was in contact with Applicant and PBOT and reviewed the proposal.

Stewart, a nearby property owner, testified at the October 29, 2012 hearing that a relatively recent commercial development at the corner of Lombard/Mississippi has created more traffic and on-street parking demand on Mississippi. Stewart expressed his opinion that vehicles parked along Mississippi, in close proximity to N Lombard, create safety risks to vehicles and pedestrians.

BDS staff, in an open-record period submission, responded to the comments made by Stewart at the October 29, 2012 hearing. (Exhibit H.5) BDS staff states, in Exhibit H.5, the following:

"There was discussion of on-street parking impacts during the public hearing that stemmed from testimony by an interested neighbor. In response, PBOT staff indicated that future parking analyses could be provided for review as the site redevelops. Upon further consideration, it may be difficult for future development proposals to adequately address such a requirement for on-street parking analysis. Given the proximity of the subject site to N Lombard, a street with frequent transit service, the Zoning Code exempts any requirement for on-site parking spaces. Further, the proposed CM zone allows development to occur without on-site parking. To require the applicant (or future potential developers/tenants/businesses) to submit

professionally prepared parking analyses for future uses on a site that doesn't require and is exempt from providing on-site parking, would likely result in information that suggests that there will be no available on-street parking (since most parking is anticipated to occur along the street anyway). As indicated at the hearing, the submitted traffic study associated with the subject CP ZC included a brief parking analysis which indicated that there is sufficient on-street parking to serve the users in the area. Although there has been new recent development across the street from the subject site at the southwest corner of N Mississippi/N Lombard, the development does include surface parking on-site. There is currently substantial uninterrupted curb length along the subject site's two frontages to accommodate 5-6 parked vehicles along each street. Contrary to the responses provided at the public hearing, PBOT staff suggests that future development on the subject site should be limited to the previously identified trip cap only, and not on additional parking analyses."

The Hearings Officer concurs generally with the above-quoted BDS staff comments. The Hearings Officer takes note that on-site parking is not required at the Subject Property location. The Hearings Officer finds that it would be inconsistent with the PCC (provisions not requiring on-site parking) to impose a condition of approval in this case that requires, in the future, on-street parking analyses. The Hearings Officer finds credible the evidence provided by Applicant that there is currently an adequate supply of on-street parking in the immediate vicinity.

The Hearings Officer finds, with the imposition of the PBOT recommended condition of approval related to the imposition of a vehicle trip cap, that the above-referenced public services are adequate. The Hearings Officer finds that this approval criterion is met.

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.

**Findings:** The proposal does not involve IR zoning. The Hearings Officer finds that this approval criterion is not applicable.

- 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 request does not include the Institutional Residential zone. The Hearings Officer finds that this approval criterion is not applicable.

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

**Findings:** The Subject Property is within the City of Portland. The Hearings Officer finds that this approval criterion is met.

### **Development Standards**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

### **III. CONCLUSIONS**

Applicant is requesting a Comprehensive Plan Map Amendment and concurrent Zone Map Amendment to change the current designations and zoning on a split-zoned property. Since the 1920s, the site, currently zoned R5 and CG housed a religious institution with a sanctuary building, support building and accessory parking. Since 2009, after the church sanctuary building was demolished, the existing support building remained vacant. Applicant requested the Urban Commercial Comprehensive Plan designation and the CM zone designation be applied to the Subject Property. Applicant has indicated that it desires to renovate the existing 9,500 square foot building for commercial use and improve the small parking lot to serve the building's uses.

The BPS staff response noted a current legislative planning project intended to update the City's Comprehensive Plan. Possibly within two years, this planning effort could result in changes to the City's zoning map pattern and/or to the Zoning Code regulations. However, at this early stage, without specific changes developed, the current designations, adopted policies and the Metro 2040 Main Street designation on N Lombard sets the framework for this request.

PBOT recommended the inclusion of a condition of approval that would be triggered in the event an application were submitted that would result in 10,500 square feet of more of commercial floor area and/or three or more new residential units. The recommended PBOT condition would require a professionally prepared traffic analysis to assure that the additional development on the Subject Property did not exceed a certain number of peak hour traffic trips. The Hearings Officer found that the PBOT recommended condition is reasonable and necessary if this application is to be approved.

The Hearings Officer found that the requested comprehensive plan map amendment and zone map changes meet all relevant approval criteria. The Hearings Officer notes that the CM zone provides housing potential if any future expansions and/or redevelopment of the Subject Property are requested.

#### IV. RECOMMENDATION

**Approval** of a Comprehensive Plan Map Amendment and Zoning Map Amendment from the High Density Single-Dwelling designation and the Residential 5,000 (R5) zone to the Urban Commercial designation and Mixed Commercial/Residential (CM) zone for Lots 5-8, Block 24, Fairport; and

**Approval** of a Comprehensive Plan Map Amendment and Zoning Map Amendment from the General Commercial (CG) designation and zone to the Urban Commercial designation and Mixed Commercial/Residential (CM) zone for Lots 3 and 4, Block 24, Fairport, subject to the following condition:

- A. Uses on the Subject Property are limited to a total of 444 weekday AM and 327 weekday PM peak hour trips.
1. If the Subject Property is separated and/or divided into separate lots, the trip cap applies to the cumulative development/uses on the original 15,000 square foot site described as Lots 3-8, Block 24, Fairport.
  2. When the Subject Property is redeveloped or when additional commercial floor area is proposed on the Subject Property that will result in 10,500 square feet or more of commercial floor area and/or three or more new residential units, Applicant must submit a traffic analysis prepared by a professional traffic consultant. The analysis must confirm that the maximum number of vehicle trips associated with the development project(s), plus the existing uses on the Subject Property, will not exceed the 444 weekday AM and 327 weekday PM peak hour trip cap. The traffic analysis must be submitted as part of the Building Permit application for PBOT review.

  
\_\_\_\_\_  
Gregory J. Frank, Hearings Officer

12/5/12  
\_\_\_\_\_  
Date

**Application Determined Complete:** August 28, 2012  
**Report to Hearings Officer:** October 18, 2012  
**Recommendation Mailed:** December 6, 2012

**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 (503-823-7700).

*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.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to:  
Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

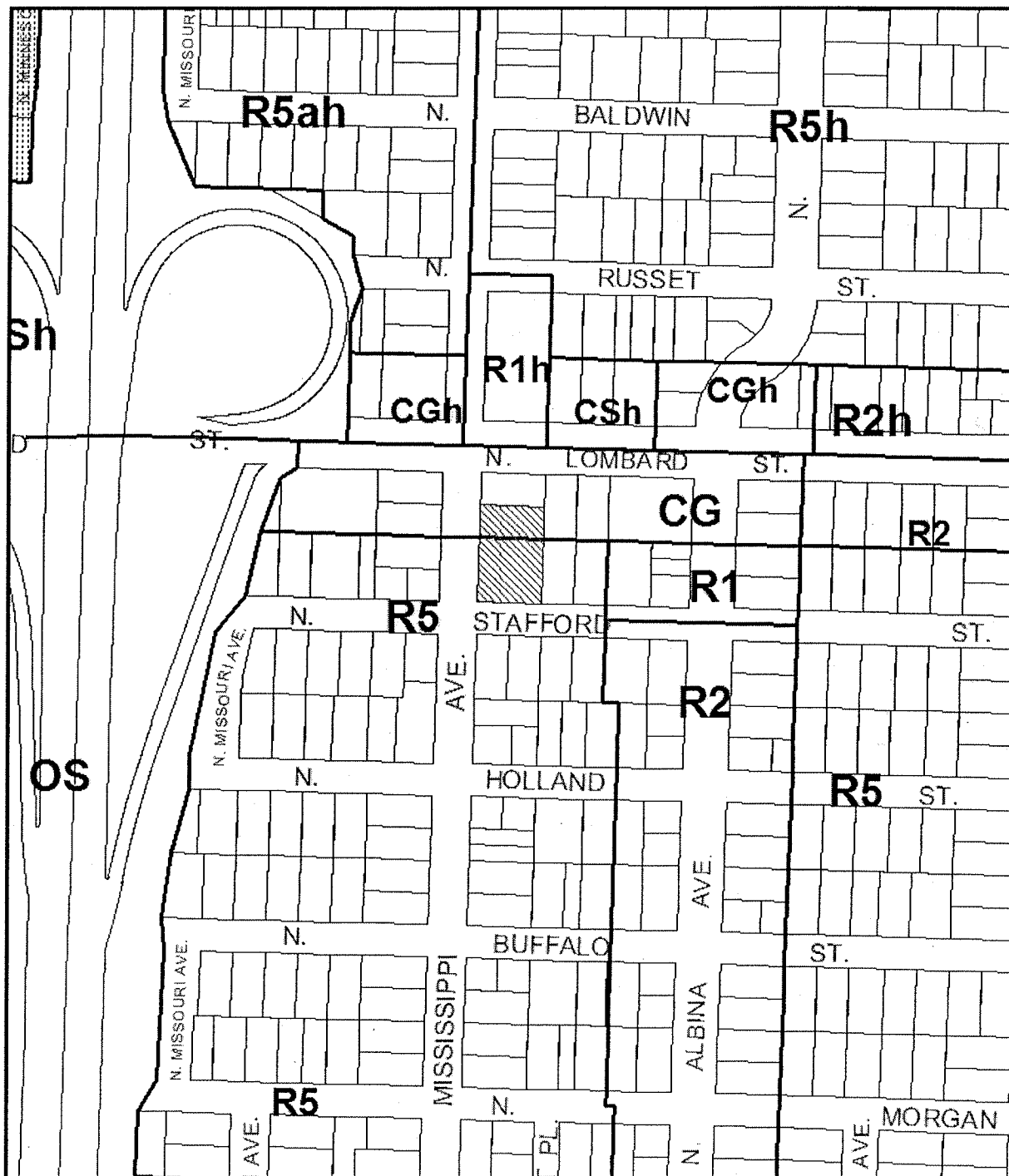
**Expiration of approval.** Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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.

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Revised Narrative and Response to Approval Criteria, submitted Aug. 22, 2012
  - 2. Original Narrative
  - 3. Traffic Impact Study, prepared by Greenlight Engineering
  - 4. Infiltration Test, prepared by Alder Geotechnical Services
- B. Zoning Map (**attached**)
  - 1. Existing Zoning
  - 2. Proposed Zoning
- C. Plans and Drawings
  - 1. Site Plan (**attached**)
- D. Notification information
  - 1. Request for Response
  - 2. Posting Letter Sent to Applicant
  - 3. Notice to be Posted
  - 4. Applicant's Statement Certifying Posting
  - 5. Mailing List
  - 6. Mailed Notice
- E. Agency Responses
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Police Bureau
  - 5. Bureau of Planning and Sustainability
  - 6. Life Safety Plan Review Section of BDS
  - 7. Response of "No Concerns" in TRACS from Fire Bureau, Site Development Review Section of Bureau of Development Services, and Bureau of Parks, Forestry Division
- F. Letters: NONE
- G. Other
  - 1. Original LUR Application
  - 2. Incomplete Application Letter to Applicant
  - 3. Pre-Application Conference Report
  - 4. Site Land Use Review History
  - 5. Notice of Proposed Amendment to Department of Land Conservation and Development
- H. Received in the Hearings Office
  - 1. Notice of Public Hearing - Frugoli, Sheila
  - 2. Staff Report - Frugoli, Sheila
  - 3. PowerPoint presentation printout - Frugoli, Sheila
  - 4. Record Closing Information - Hearings Office
  - 5. 10/31/12 Memo - Frugoli, Sheila



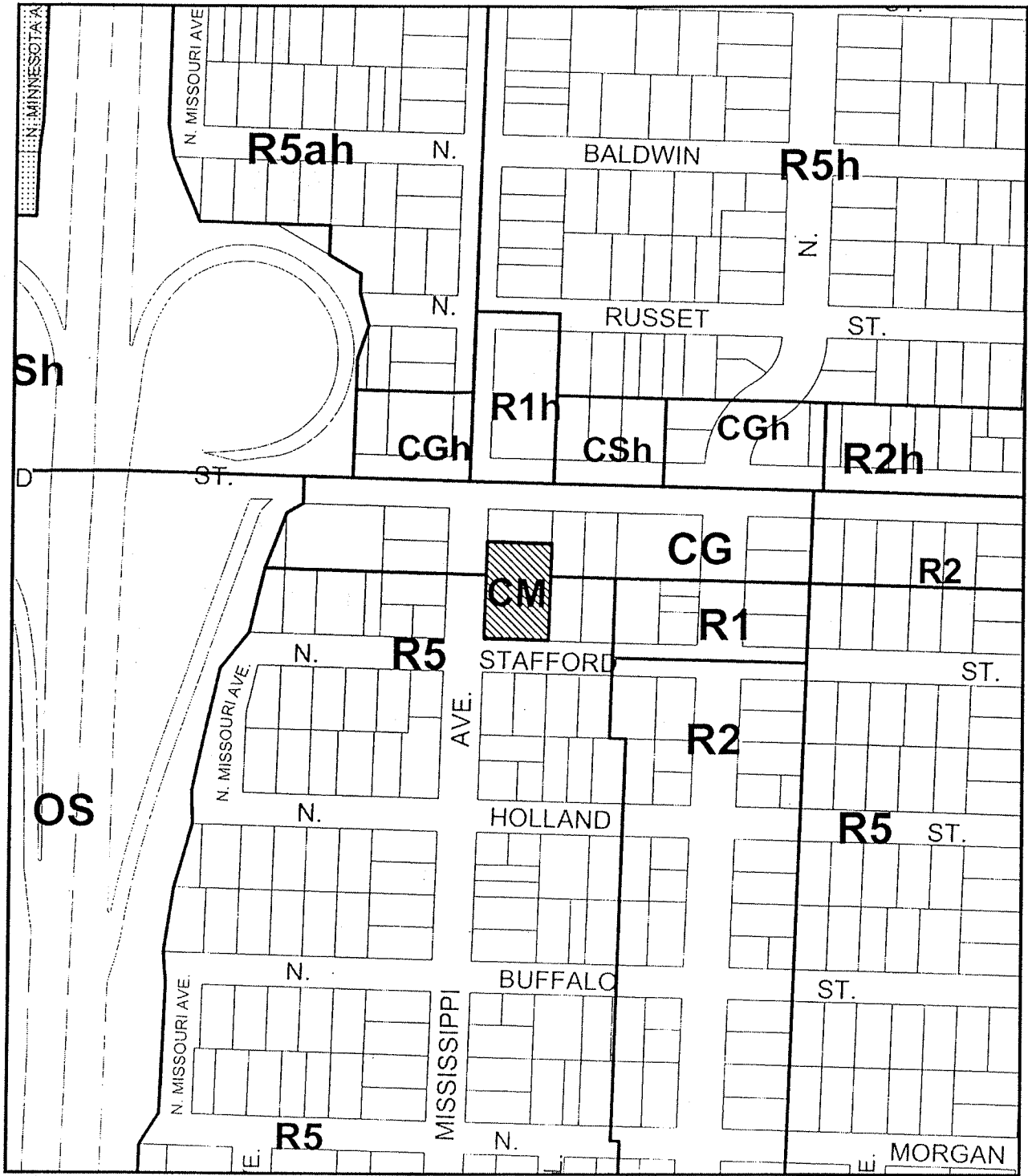
# ZONING EXISTING

 Site



File No. LU 12-160096 CP,ZC  
 1/4 Section 2329  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E15BA 14700  
 Exhibit B (Jul 19,2012)





# ZONING PROPOSED

 Site



File No. LU 12-160096 CP, ZC  
 1/4 Section 2329  
 Scale 1 inch = 200 feet  
 State Id 1N1E15BA 14700  
 Exhibit B (Oct. 4, 2012)

