

Willamette Town Center Property Line Adjustment and Class 2 Adjustments

Date: March 2024

Submitted to: City of Salem
555 Liberty Street SE, #305
Salem, OR 97301

Applicant: Lancaster Development Company, LLC c/o
C.E. John Company, Inc.
1701 SE Columbia River Drive
Vancouver, WA 98661

AKS Job Number: 5410



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Exhibits

- Exhibit A:** Preliminary Plans
 - Exhibit B:** Preliminary Title Report
 - Exhibit C:** Property Ownership Information
 - Exhibit D:** SPR-ADJ-DAP20-26
 - Exhibit E:** Marion County Assessor's Map
 - Exhibit F:** Draft Deeds & Exhibits
 - Exhibit G:** Record of Survey
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Submitted to:	City of Salem 555 Liberty Street SE, #305 Salem, OR 97301
Applicant/Owner:	Lancaster Development Company LLC c/o C.E. John Company, Inc. 1701 SE Columbia River Drive Vancouver, WA 98661
Applicant's Consultant:	AKS Engineering & Forestry, LLC 3700 River Road N, Suite 1 Keizer, OR 97303 Contact: Zach Pelz, AICP Email: PelzZ@aks-eng.com Phone: (503) 400-6028
Site Location:	831 and 783 Lancaster Drive NE, Salem, OR 97301
Marion County Assessor's Map:	07 2W 19CC, Tax Lots 5400 and 5800
Site Size:	TL 5400: ±24.87 acres TL 5800: ±1.38 acres
Land Use Districts:	MU-III (Mixed Use III)

I. Executive Summary

AKS Engineering and Forestry, LLC is submitting this application on behalf of Lancaster Development Company, LLC c/o C.E. John Co., Inc. (Applicant) to the City of Salem for a Property Line Adjustment (PLA) and Class 2 Adjustments to the City of Salem's vehicle use area and parking area perimeter setback standards in the Mixed Use III (MU-III) zone and related landscape standards. The Applicant previously submitted two property line adjustment applications (Permit Nos. 21 116895 00 LD and 21 116896 00 LD) to reconfigure existing property lines for the purpose of containing a future drive through restaurant that was approved under SPR-ADJ-DAP20-26.

The planned property line adjustment will relocate a common boundary between Tax Lot 5400 and 5800 to facilitate refinancing this property in preparation for future development. Existing parcel boundaries pass through existing parking and vehicle use areas. Adjustments to the applicable setback and landscaping standards, as requested here, were approved in prior PLA/adjustment decisions (SPR-ADJ-DAP20-26). This application will preserve the previously approved adjustments.

The City of Salem Revised Code (SRC) requires the Class 2 Adjustments be considered through a Type II procedure. This written statement includes findings that demonstrate that the application complies with all applicable approval standards. These findings are supported by substantial evidence, including preliminary plans and other written documentation. This information provides the necessary basis for the City of Salem to approve the application.

II. Site Description/Setting

The subject site consists of two tax lots located on the site of the Willamette Town Center shopping mall in the City of Salem's MU-III zoning district. The application applies to reconfigured property lines between tax lots 5400 and 5800. The property is developed with the shopping mall, parking and loading areas, drive aisles, and landscaping. The property is subject to the conditions of approval under SPR-ADJ-DAP20-26, which approved adjustments to the same standards along the property lines in their current configuration.

III. Applicable Review Criteria

SALEM REVISED CODE

Sec. 205.055. Property line adjustments.

- (a) *Applicability.* A property line adjustment is required to relocate or eliminate all or a portion of a common property line between two abutting units of land that were lawfully established, as defined by ORS 92.010(3)(a), or to incorporate into another unit of land, as provided by ORS 92.010(9)(e), excess right-of-way that was acquired for street or other right-of-way purposes and subsequently sold by a public body. Property line adjustments shall not be used to create an additional unit of land, or to create units of land that are non-conforming. No property line shall be relocated or eliminated without property line adjustment approval as set forth in this section.
- (b) *Procedure type.* A property line adjustment is processed as a Type I procedure under SRC chapter 300.

Response: As shown in Exhibit A, the application seeks approval to adjust the boundary between Property A and Property B, both of which are lawfully established units of land. The application will not result in the creation of an additional unit of land or units of land that are non-conforming. Because the application seeks approval for a Class II adjustment, the application will be processed pursuant to the City Type II review process.

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- (c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a property line adjustment shall include:
- (1) A copy of recorded deeds for the existing units of land;
 - (2) A site plan, drawn to scale, indicating:
 - (A) The dimensions and areas of the units of land before and after the proposed property line adjustment;
 - (B) Setbacks, building separations, lot coverage, vehicular access, and public and private utilities;
 - (3) Proof of ownership including, but not limited to, a preliminary title report not older than 30 days for each affected property at the time the application is submitted;
 - (4) Any additional documents required to establish that the unit(s) of land were legally created;
 - (5) A copy of the draft property line adjustment deed(s), in a form approved by the Director, containing:
 - (A) The names of the owners;
 - (B) Legal descriptions of the adjusted property(ies) and the transacted property prepared and sealed by an Oregon-registered Professional Land Surveyor;
 - (C) References to original recorded deeds including the creation date and instrument used to lawfully establish each unit of land; and
 - (D) A place for the signatures of all parties, along with proper notary acknowledgment.

Response: The application submittal information listed above is included in this narrative and in the accompanying Exhibits A-F.

- (d) *Criteria.* A property line adjustment shall be approved if all of the following criteria are met:
- (1) The property line adjustment will not create an additional unit of land;
 - (2) The property line adjustment will not create nonconforming units of land or nonconforming development, or increase the degree of nonconformity in existing units of land or existing development;
 - (3) The property line adjustment involves only units of land that were lawfully established, where the instruments creating the units of land have been properly recorded, or the property line adjustment involves the incorporation of excess right-of-way, acquired for street or other right-of-way purposes and subsequently sold by a public body, into a unit of land that was lawfully established;
 - (4) The property line adjustment is not prohibited by any existing City land use approval, or previous condition of approval, affecting one or both of the units of land;
 - (5) The property line adjustment does not involve the relocation or elimination of any public easement or right-of-way; and
 - (6) The property line adjustment does not adversely affect the availability or access to public and private utilities or streets.

Response: As shown in Exhibit A, the property line adjustment will not create an additional unit of land. Further, with the requested adjustments, the property line adjustment will not

result in any non-conforming units of land or development. As evidenced by Exhibits D and F, the application involves only lawfully established units of land and will not call into question any prior applicable conditions of approval. Finally, the property line adjustment does not affect any public easement or public right-of-way. The applicable criteria are met.

Chapter 250 Adjustments

250.001. Purpose.

The purpose of this chapter is to provide a process to allow deviations from the development standards of the UDC for developments that, while not meeting the standards of the UDC, will continue to meet the intended purpose of those standards. Adjustments provide for an alternative way to meet the purposes of the Code and provide for flexibility to allow reasonable development of property where special conditions or unusual circumstances exist.

Response: Applicant is proposing a Type 2 Adjustment in preparation to refinance this area of the property for a commercial/mixed-use project, subject to future approval. For this reason, the Applicant is proposing to adjust certain requirements of this chapter as discussed below.

250.005. Adjustments.

(a) Applicability.

(1) Classes.

- (A) A Class 1 adjustment is an adjustment to any numerical development standard in the UDC that increases or decreases the standard by not more than 20 percent.**
- (B) A Class 2 adjustment is an adjustment to any development standard in the UDC other than a Class 1 adjustment, including an adjustment to any numerical development standard in the UDC that increases or decreases the standard by more than 20 percent.**

Response: This Class 2 Adjustment involves adjusting vehicle use area setbacks, perimeter parking setbacks, and the associated landscape and screening requirements within those areas by up to 100 percent of the required standard. Therefore, Class 2 Adjustments are necessary and included in this application.

(2) Prohibition. Notwithstanding subsection (a)(1) of this section, an adjustment shall not be granted to:

- (A) Allow a use or activity not allowed under the UDC;**
- (B) Change the status of a use or activity under the UDC;**
- (C) Modify a definition or use classification;**
- (D) Modify a use standard;**
- (E) Modify the applicability of any requirement under the UDC;**
- (F) Modify a development standard specifically identified as non-adjustable;**
- (G) Modify a development standard that contains the word "prohibited";**
- (H) Modify a procedural requirement under the UDC;**

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- (I) Modify a condition of approval placed on property through a previous planning action;
 - (J) A design review guideline or design review standard, except Multiple Family Design Review Standards in SRC Chapter 702, which may be adjusted; or
 - (K) The required landscaping in the Industrial Business Campus (IBC) Zone.

Response: The project does not include an Adjustment to any of the standards, guidelines, or requirements listed in (A) through (K) above. This standard is met.

- (b) Procedure type. Class 1 and Class 2 adjustments are processed as a Type II Procedure under SRC chapter 300.

Response: The Class 2 Adjustment included in this application is being processed per the City's Type II procedure.

- (c) Submittal requirements. In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for a Class 1 or Class 2 adjustment shall include the following:

- (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing all information necessary to establish satisfaction with the approval criteria. By way of example, but not of limitation, such information may include the following:

- (A) The total site area, dimensions, and orientation relative to north;

Response: The total site area, dimensions, and orientation relative to north are included on the PLA Site Plan in Exhibit A. This requirement is met.

- (B) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway locations, indicating distance to such structures from all property lines and adjacent on-site structures;

Response: The location of all the existing improvements on site are shown on the Utilities and Buildings sheets in Exhibit A. This requirement is met.

- (C) All proposed landscape areas on the site, with an indication of square footage and as a percentage of site area;

Response: This Class 2 Adjustment application involves adjusting the required landscaping areas to zero. Therefore, the application does not propose landscape areas. This requirement does not apply.

- (D) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;

Response: This Class 2 Adjustment application does not involve new uses or structures that require screening. Therefore, landscaping and screening is not included in this application. This requirement does not apply.

- (E) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808; and

Response: This Class 2 Adjustment application does not involve tree or vegetation removal and does not involve the creation of new lots. A Tree Conservation Plan is not required; therefore, this requirement does not apply.

- (F) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.

Response: This Class 2 Adjustment application does not include physical development of the type described here. Rather, the application requests only to adjust standards that will apply to existing development affected by this application. This requirement does not apply.

- (2) An existing conditions plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
 - (A) The total site area, dimensions, and orientation relative to north;
 - (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines;
 - (C) The location of the 100-year floodplain, if applicable; and
 - (D) The location of drainage patterns and drainage courses, if applicable.

Response: This information is provided on the Utilities and Buildings sheets in Exhibit A. This requirement is met.

(d) Criteria

(***)

- (2) An application for a Class 2 adjustment shall be granted if all of the following criteria are met:
 - (A) The purpose underlying the specific development standard proposed for adjustment is:
 - (i) Clearly inapplicable to the proposed development; or
 - (ii) Equally or better met by the proposed development.

Response: The application does not propose new development. Adjustments to these standards along the interior property lines in their current configuration were previously approved under SPR-ADJ-DAP20-26. The reasons the adjustments are necessary for the adjusted lines are the same in the adjusted configuration as they were in the configuration approved by SPR-ADJ-DAP20-26, as described in staff findings:

The applicant is requesting to reduce the minimum 5-foot setback adjacent to a proposed interior lot line required by SRC 806.035(c)(3) to 0 feet where existing interior lot lines run through existing drive aisles and parking spaces. Interior property lines cross north-south within the existing parking area in Phase I and east-west near the southernmost row parking spaces and drive aisle in Phase II-B, as shown on the site plan. According to deeds submitted by the applicant for recent property line adjustments, the property line in Phase I has been in this location in the

parking area since 1970, and the property line in Phase II-B has been in this location since 1966.

The Adjustments requested with this application would apply those same adjustments to the new configuration of the property lines. Therefore, the same findings apply to the reconfigured lines. The City can rely on the same rationale that the City used to determine compliance with this criterion:

The purpose of the development standard is to provide separation between a parking area on one property and buildings or parking areas on an abutting property. In this case, the properties on both sides of the property lines are under common ownership, accommodate a single development, and have been treated as a single property, so the purpose of the development standard is clearly inapplicable to the proposed development. The requested adjustment will allow the drive aisle, interior driveways, and off-street parking areas to remain in the previously approved locations.

Staff finds that the purpose of the development standard is clearly inapplicable to the proposed development.

The same conditions exist for the adjusted property lines under the concurrent PLA application. Properties on both sides of the adjusted property lines are under common ownership, accommodate a single development, and have been treated as a single property, so the purpose of the development standard is clearly inapplicable to the proposed development. The requested adjustment will allow the drive aisle, interior driveways, and off-street parking areas to remain in the previously approved locations.

The purpose of the development standard is clearly inapplicable to the proposed development. Therefore, this criterion is met.

(B) If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

Response: This application does not propose development in a residential zone. This criterion does not apply.

(C) If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

Response: The cumulative effect of the adjustments does not change the existing development on site. This criterion is met.

(e) Transfer of adjustments. Unless otherwise provided in the final decision granting the adjustment, an adjustment shall run with the land.

Response: The Applicant understands that the adjustment will run with the land and will apply to the concurrent PLA applications.

Chapter 535 MU-III – Mixed Use-III

535.015 Development standards.

- (a) *Lot standards.* Lots within the MU-III zone shall conform to the standards set forth in Table 535-2.

Table 535-2 Lot Standards		
Requirement	Standard	Limitations & Qualifications
Lot Area		
All uses	none	
Lot Width		
All uses	none	
Lot Depth		
All uses	none	
Street Frontage		
All other uses	Min. 16 feet	

Response: Per Table 535-2, no minimum lot area, width, or depth standard is present in the MU-III zone. Also per this table, the minimum required frontage on a public street is 16-feet. As shown in Exhibit A, the adjusted Property A and Property B will continue to meet these applicable lot standards following the PLA.

- (c) *Setbacks.* Setbacks within the MU-III zone shall be provided as set forth in Tables 535-3 and 535-4.

Table 535-3 Setbacks		
Requirement	Standard	Limitations & Qualifications
Vehicle Use Areas		
All other uses	Zone-to-zone setback (Table 535-4)	

Table 535-4 Zone-to-zone Setbacks			
Abutting Zone	Type of Improvement	Setback	Landscape & Screening
Mixed-Use Zone	Vehicle Use Area	Min. 5 feet	Type A

Response: As shown in Exhibit A, the planned PLA would reconfigure the boundary of Property A and Property B such that the shared boundary resides within an existing vehicle use area. A Class 2 Adjustment is requested to adjust the vehicle use area setback and the associated landscape and screening requirements to zero. With the included adjustment the existing development on site will meet this standard. The criterion can be met.

- (d) *Lot coverage; height.* Buildings and accessory structures within the MU-III zone shall conform to the lot coverage and height standards set forth in Table 535-5.

Response: There is no maximum lot coverage in the MU-III zone. Further, the application does not involve changes to buildings or accessory structures. The applicable standards are met.

(e) *Landscaping.*

- (1) *Setbacks.* Setbacks, except setback areas abutting a street that provide pedestrian amenities, shall be landscaped to conform to the following standards:
 - (A) The required setback abutting a street for development that is exclusively residential shall meet the standard of a minimum of one plant unit per 16 square feet of landscaped area. Landscaping shall conform to the standards set forth in SRC [chapter 807](#).
 - (B) For all other uses, landscaping shall conform to the standards set forth in SRC [chapter 807](#).
- (2) *Vehicle use areas.* Vehicle use areas shall be landscaped as provided under SRC chapters [806](#) and [807](#).
- (3) *Development site.* A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC [chapter 807](#). Other required landscaping under the UDC, such as landscaping required for setbacks or vehicle use areas, may count towards meeting this requirement.

Response: As above, the planned property line adjustment would reconfigure the boundary of Property A and Property B such that the shared boundary will reside with vehicle use and parking areas. For this reason, landscaping cannot be provided along the shared boundary in a manner that is safe and consistent with the needs of patrons using the vehicle use areas. The requested Class 2 Adjustment seeks to eliminate vehicle use area setbacks, perimeter parking setbacks, and the associated landscape and screening requirements. With the included adjustments, the existing development on site will meet this standard. The criteria can be met.

(...)

Chapter 806. Off-Street Parking, Loading and Driveways

806.035. Off-street parking and vehicle use area development standards for uses or activities other than single family, two family, three family, and four family.

(...)

(c) Perimeter setbacks and landscaping.

- (1) Perimeter setbacks and landscaping, generally.
 - (A) Perimeter setbacks. Perimeter setbacks, as set forth in this subsection, shall be required for off-street parking and vehicle use areas abutting streets, abutting interior front, side, and rear property lines, and adjacent to buildings and structures. Perimeter setbacks for parking garages are set forth under subsection (c)(5) of this section. Perimeter setbacks are not required for:
 - (i) Off-street parking and vehicle use areas abutting an alley.
 - (ii) Vehicle storage areas within the IG zone.
 - (iii) Temporary and seasonal gravel off-street parking areas, approved pursuant to SRC chapter 701, abutting nonresidential zones, uses or activities other than household living, or local streets.

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- (iv) Gravel off-street parking areas, approved through a conditional use permit, abutting nonresidential zones, uses or activities other than household living, or local streets.
 - (v) Underground parking.
 - (B) *Perimeter landscaping.* Required perimeter setbacks for off-street parking and vehicle use areas shall be landscaped as set forth in this subsection.
 - (...)
 - (3) *Perimeter setbacks and landscaping abutting interior front, side, and rear property lines.* Unless a greater setback is required elsewhere within the UDC, off-street parking and vehicle use areas abutting an interior front, side, or rear property line shall be setback a minimum of five feet (see Figure 806-5). The setback shall be landscaped according to the Type A standard set forth in SRC chapter 807.

Response: This Class 2 Adjustment application involves adjusting the perimeter parking setbacks, and the associated landscape and screening requirements within those areas, to zero. With the included adjustments, the existing development on site will meet this standard. The applicable criteria can be met.

IV. Conclusion

The required findings have been made and this written narrative and accompanying documentation demonstrate the application is consistent with the applicable provisions of the Salem Revised Code. The evidence in the record is substantial and the City can rely upon this information to approve the application.

Exhibit A: Preliminary Plans

Exhibit B: City of Salem Application Forms

Exhibit C: Property Ownership

Exhibit D: SPR-ADJ-DAP20-26

Exhibit E: Marion County Assessor's Map

Exhibit F: Draft Deeds & Exhibits

Exhibit G: Record of Survey
