



## **Incomplete Application Response**

24-104327-PLN | 3393 Silverton Road NE

This letter shall serve as the applicant's written response to an incomplete application notice received on April 2, 2024. None of the items identified as missing from the application will be provided. The application is complete and the applicant requests all of the items included in the record and this response be forwarded to the Hearings Officer.

With thanks,  
Britany Randall

# BRAND

## Proposed Conditions and Comments:

3393 Silverton Road NE – Draft Conditions of Approval\*

\*NOTE: These conditions are draft and are being shared with the applicant as a courtesy so that Staff and the Applicant can work through the recommendation ahead of the Hearings Officer hearing.

**Condition 1:** There shall be no outdoor storage of vehicles or vehicle parts on site. No parking spaces shall be used for the storage of vehicles. Any outdoor storage shall require site plan review to obtain approval for a sight-obscuring enclosure to be screened from all adjacent properties.

**Our Comments:** This condition eliminates the use of any of the 9 parking spaces for vehicles waiting to be serviced by Adon's Automotive. The portion of the condition talking about outdoor storage being restricted is acceptable. However, outdoor storage restrictions should be limited to tools and parts, not the vehicles themselves being parked in a vehicular parking lot.

**Condition 2:** At the time of building permit review, the applicant shall submit plans that include a minimum five-foot setback to the west property line, with Type A landscaping.

**Our Comments:** This condition suggests that Giovanna's family doesn't have any existing nonconforming development rights which are granted by Salem Revised Code Chapter 270 and the MUIII zone itself. To install a landscaped setback as this condition suggests would mean the applicant's family will have to tear up existing pavement and install irrigation. Additionally, the proposal does not include any changes to the building – any building permit submitted will only be for a change of occupancy from the commercial bakery to automotive service and repair.

**Condition 3:** Normal hours of operation where the business is open to the public may only be between the hours of 8 AM and 8 PM.

**Our Comments:** Please explain how the applicant operating their business will negatively impact 1) Jackson's Autobody – also an automotive repair shop; 2) a heavy equipment rental company that has more excavators than people on their site; 3) a strip club; 4) an adult video arcade; and 5) a marijuana dispensary. This site is at the corner of two very busy and bustling streets which a reasonable person could assume has more impact on the immediate neighborhood than the applicant operating a vehicle services use on the site.

**Condition 4:** The applicant shall provide pedestrian access from the building entrance to each adjacent street in conformance with SRC 800.065 or obtain approval of a Zoning Adjustment.

**Our Comments:** The code is not written in a manner that permits the city to require this. To require the applicant to seek a zoning adjustment will move the Class 1 site plan review to a Class 3 site plan review. The applicability statement of Chapter 800 says the following: (800.005 – Applicability) The standards set forth in this chapter apply to all development in every zone unless otherwise exempted by the UDC. In the event of a conflict between the standards set forth in this chapter and any other provision of the UDC, the more restrictive provision shall apply. To take this review a bit further, we thought we should confirm how the city defines development. Chapter 111 says the following: Development means to construct or alter a structure, to make alterations or improvements to the land or to make a change in use or appearance of land, to divide or reconfigure land, or to create, alter, or terminate a right of access. The term "development" does not include: (a) Maintenance and repair, usual and necessary for the continuance of an existing use; (b) Reasonable emergency procedures necessary for the safety or operation of property; or (c) Interior or exterior remodeling that does not increase the square footage or height of a structure, or substantially alter the appearance of a structure. The provisions of Chapter 800 are not triggered.

**Condition 5:** The applicant shall provide a wheel stop and post signage for the ADA parking space, and paint "No Parking" within the striped access aisles. The access aisle serving the ADA space shall be a minimum of 8 feet wide.

**Our Comments:** In the narrative and application materials, the applicant proposed to provide wheel stops for the 8 parking stalls that are near the sidewalk and doesn't have any issue adding one to the ADA space as well. Installing the ADA parking signage is also not an issue.

**Condition 6:** The applicant shall provide a minimum of one ADA space elsewhere on site, meeting the minimum access requirements, if Hawthorne Avenue NE is widened to meet standards.

**Our Comments:** We understand if in the future the ADA space is eliminated, a new one will need to be provided.

**Condition 7:** If customer parking is to remain on site, the applicant shall submit plans for the parking lot that demonstrate compliance with the standards of SRC Chapter 806, including the landscaped setback for a vehicle use area abutting a street, as well as the vision clearance standards of SRC Chapter 805, or obtain approval of a Zoning Adjustment.

**Our Comments:** This proposed condition is confusing, and we do not believe the city is able to require an existing nonconforming development site to demonstrate compliance with SRC Chapter 806. We turn to the applicability statement of SRC Chapter 806 and it says: General applicability. The off-street parking and vehicle use area development standards set forth in this section shall apply to: (1) The development of new off-street parking and vehicle use areas; (2) The expansion of existing off-street parking and vehicle use areas, where additional paved surface is added; (3) The alteration of existing off-street parking and vehicle use areas, where the existing paved surface is replaced with a new paved surface; and (4) The paving of an unpaved area. With no alteration to the parking lot proposed, this condition cannot be proposed.

**Condition 8:** The property is subject to a special setback equal to 48-feet from the centerline of Hawthorne Avenue NE.

**Our Comments:** This is fine, we understand.

**Condition 9:** The property is subject to a special setback equal to 48-feet from the centerline of Silverton Road NE.

**Our Comments:** This is fine, we understand.

**Condition 10:** Private parking areas are not permitted to encroach into the public right-of-way pursuant to SRC 76.010. Prior to issuance of a Building Permit, the applicant shall submit a site plan demonstrating parking areas do not encroach into the public right-of-way.

**Our Comments:** The applicant does not need to submit a site plan to the city because there are no proposed alterations to the building footprint or to the site.

**Condition 11:** The applicant shall obtain a Revokable License to Encroach into the Special Setback for any parking proposed in the special setback, pursuant to SRC 800.040.

**Our Comments:** No new parking or alterations to the parking is proposed. (800.005 – Applicability) The standards set forth in this chapter apply to all development in every zone unless otherwise exempted by the UDC. In the event of a conflict between the standards set forth in this chapter and any other provision of the UDC, the more restrictive provision shall apply. To take this review a bit further, we thought we should confirm how the city defines development. Chapter 111 says the following: Development means to construct or alter a structure, to make alterations or improvements to the land or to make a change in use or appearance of land, to divide or reconfigure land, or to create, alter, or terminate a right of access. The term "development" does not include: (a) Maintenance and repair, usual and necessary for the continuance of an existing use; (b) Reasonable emergency procedures necessary for the safety or operation of property; or (c) Interior or exterior remodeling that does not increase the square footage or height of a structure, or substantially alter the appearance of a structure. The provisions of Chapter 800 are not triggered.

**Condition 12:** For any parking areas directly abutting the right-of-way, wheel stops shall be provided to ensure that vehicles do not overhang into the sidewalk directly adjacent to the parking area.

**Our Comments:** The applicant agrees with this condition and even proposed this in their application materials. They take pedestrian safety very seriously and this is not an issue.