

TO: Hearings Officer

FROM: Lisa Anderson-Ogilvie, AICP
Deputy Community Development Director and
Planning Administrator

DATE: September 11, 2024

SUBJECT: **Conditional Use Case No. CU-SPR24-05 – 3393 Silverton Rd NE; Final
Rebuttal**

On August 14, 2024, the Hearings Officer held a public hearing for CU24-05. The hearing was closed, and the record was left open until August 28, 2024, at 5:00 p.m. for anyone to provide additional written testimony. Testimony received during the period was forwarded to the Hearings Officer and interested parties. Any party was able to submit rebuttal to testimony given until September 4, 2024, at 5:00 p.m. No rebuttal testimony was received. The applicant had until September 11, 2024, at 5:00 p.m. to submit final written rebuttal. The final written rebuttal is attached.

Attachments: A. BRAND Land Use – September 11, 2024

cc: CU24-05 File



Final Written Testimony

Conditional Use Permit Case No. CU24-05

3393 Silverton Road NE Salem, OR 97301

Hearing Date: August 14th, 2024

Open Record Final Period Closes: September 11, 2024, at 5 PM

September 11, 2024

To: City of Salem Hearings Officer
Provided Via Email to City
555 Liberty Street SE
Salem, Oregon 97302

Re: Conditional Use Permit Case No, CU24-05; Final Written Testimony

Dear Hearings Officer:

The applicant and property owner, Oregon Alliance, LLC, is presenting a conditional use permit application to permit a motor vehicle service use on property zoned Mixed Use III. A conditional use permit is required to permit the motor vehicle service use within the MUIII zoning designation. This final written testimony is submitted to the record, in response to the document submitted to the record by city staff titled: Items Raised in Written Testimony for the Public Hearing Before the Hearings Officer on August 14, 2024. This response is intended to supplement the application and conclude the open record period.

Revised Condition 1:

Staff proposes the following replacement condition for the Hearings Officer's consideration, "The applicant shall obtain the necessary building permit to establish the change of occupancy, within 90 days of the effective date of the Class 1 Site Plan Review approval. The applicant shall request obtain Final Occupancy within 90 days after the building permit is issued."

Applicant Response: Conditions should be limited to actions that are within the control of the applicant and we caution the adoption of a condition that forces the

applicant to rely on the city to not cause any delay. We suggest the following revisions to this condition:

Condition 1: The applicant shall ~~obtain~~ apply for the necessary building permit to establish the change of occupancy within 90 days of the effective date of the Class 1 Site Plan Review approval. ~~The applicant shall request obtain final occupancy within 90 days after the building permit is issued.~~

Revised Condition 3:

Applicant Response: The applicant agrees with staff's revision of condition 3.

Revised Condition 4:

Applicant Response: When considering the conditional use permit approval criteria which are:

- (1) The proposed use is allowed as a conditional use in the zone;
- (2) The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions; and
- (3) The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

Staff's detailed analysis loses sight of the requirement to consider and mitigate impacts on the immediate neighborhood and surrounding property. As such, the applicant encourages the Hearings Officer to consider the normal operating hours of business operating adjacent to the subject site. Those hours, as determined through internet searches are:

- Jacksons Auto Body: 7:30 AM – 5 PM Monday-Friday
- United Rentals: 7 AM – 5 PM Monday-Friday
- Cheetahs Cabaret: 7 PM – 4 AM Tuesday-Thursday, and 6 PM – 5 AM Friday-Saturday
- Capital Transmission Experts: 8 AM – 5 PM Monday-Friday

Based on this information, the language of the approval criteria, and limitations to conditions of approval, the applicant maintains that any proposed condition limiting hours of operation should be rejected.

Summary of Request and Conclusion:

The applicant agrees with staff that the proposed conditional use permit application meets the applicable approval criteria. However, we ask the hearings

officer to weigh the additional evidence provided in this written testimony and revise the approval to include only the following conditions:

Condition 1 (as revised by the applicant)

Condition 2

Condition 3 (as revised by staff)

Condition 5

Condition 6

This document is respectfully submitted on behalf of the applicant to the City of Salem Hearings Officer for consideration by:

A handwritten signature in black ink that reads "Britany Randall". The signature is fluid and cursive, with the first name "Britany" and last name "Randall" clearly legible.

Britany Randall

BRAND Land Use

Owner & Principal Planner

Office: (503) 370-8704

Britany@brandlanduse.com

www.brandlanduse.com

Exhibit A – 30-day extension request

Cc: Jamie Donaldson, Planner III
PAC Portal 24-102368-PLN

BRAND

Land Use

Extension Request

Conditional Use Permit Case No. CU24-05
3393 Silverton Road NE Salem, OR 97301

September 11, 2024

To: City of Salem Hearings Officer
Provided Via Email to City
555 Liberty Street SE
Salem, Oregon 97302

Re: Conditional Use Permit Case No, CU24-05; Extension Request

Dear Hearings Officer:

The applicant and property owner, Oregon Alliance, LLC, is requesting an extension of 30-days to the jurisdictional 120-day deadline in this case. This extension request is in addition to previously requested extension of 90 days, bringing the jurisdictional deadline in this case to: January 25, 2025.

Please feel welcome to contact me with any questions regarding this extension request.



Britany Randall
BRAND Land Use
Owner & Principal Planner
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