



February 28, 2025

VIA ELECTRONIC MAIL: jdonaldson@cityofsalem.net

City of Salem Hearings Officer
555 Liberty Street SE
Room 305
Salem, Oregon 97301

RE: Applicant's Rebuttal for Case No. CU-SPR-ADJ25-01 for 1450 McDonald Street NE
Our File No: 44568-00001

Dear Hearings Officer:

A public hearing for City of Salem Conditional Use/ Class 3 Site Plan Review/ Class 2 Adjustment Case No. CU-SPR-ADJ25-01 for 1450 McDonald Street NE was held on February 12, 2025 (the "**Hearing**"). City of Salem Planning Staff submitted to the Hearings Officer a staff report for the Hearing (the "**Staff Report**"). The record was held open until February 19, 2025, to allow for the submission of new evidence, until February 26, 2025, for a response period, and until March 5, 2025, for Applicant's final rebuttal period. Applicant is timely submitting this letter for the Applicant's final rebuttal period and requests that it be entered into the record for the above referenced matter.

The Northgate Neighborhood Association submitted a letter dated February 24, 2025, during the response period referenced above (the "**Northgate Response**"). The Northgate Response reiterated concerns expressed at the Hearing regarding noise impacts, traffic accidents, and compatibility with the surrounding area, which Applicant addresses in detail below.

Jamie Donaldson, Planner for the City of Salem, visited the Subject Property with Applicant on February 18, 2025. Ms. Donaldson and Applicant conducted noise testing to determine the ambient noise level for the adjacent residential zone, which Planning staff have entered into the record as the document labeled "CU-SPR-ADJ25-01 Open Record Memo." Ms. Donaldson conducted the noise testing with a handheld meter. Applicant also conducted noise testing with an iPhone application called "NIOSH Sound Level

SALEM
Park Place, Suite 200
250 Church Street SE
Salem, Oregon 97301

Post Office Box 470
Salem, Oregon 97308

tel 503.399.1070
fax 503.371.2927

BEND
Vision Plaza
404 SW Columbia St
Suite 150
Bend, Oregon 97702
tel 541.693.1070

Meter” which has been verified by the CDC to provide accurate noise testing. The testing by Ms. Donaldson and Applicant found that the average ambient noise level in the adjacent residential zone is 55 dBA, ranging between 50 dBA and 67 dBA.

As stated on page 9 of the Staff Report, the residential properties that will be closest to the OMW-1000 machine (the “**Machine**”) are approximately 200 feet away. As demonstrated by the noise level statistical information for the operation of the Machine previously submitted by Applicant, the maximum noise level at 100 feet from the Machine will be 63 dBA, which is half the distance to the nearest residential properties. See Attachment I on pages 67 through 68 of the Staff Report. The Northgate Response references “Attachment 1” which Applicant assumes is referring to Attachment I of the Staff Report. The Northgate Response notes that the noise level of the auger on the Machine is 69 dBA. However, this is at 30 feet from the Machine without any obstructions or buffering. The Northgate Response also asserts that the noise impacts from the Machine will be 132 dBA, which they came to by adding 69 dBA, the noise level of the auger at 30 feet, with 63 dBA, the noise level of the compactor at 100 feet. Notwithstanding the fact that 69 dBA and 63 dBA are the noise levels from parts of the Machine at different distances, the overall sound impact cannot be calculated by simply adding the dBA levels together. For example, as shown by Attachment I, a washing machine and air conditioner can each produce up to 75 dBA. However, if a washing machine and air conditioner are both running inside a dwelling, it does not produce 150 dBA. 150 dBA is the equivalent of a jet engine taking off. As previously stated in Applicant’s attorney’s testimony at the Hearing, the maximum noise level of 63dBA at 100 feet from the Machine assumes there are no obstructions or buffering within that 100 feet. The noise impact of 63 dBA is already consistent with the ambient noise level of the adjacent residential neighborhood, which is 55 dBA. The noise level of 63 dBA is akin to a normal conversation, which is approximately 60 dBA. See Attachment I on pages 67 through 68 of the Staff Report. Further, the noise impacts from the proposed use would be less than 63 dBA without any buffering since 63 dBA is the noise level at 100 feet and the nearest residential properties are approximately 200 feet away.

However, out of respect for the neighbors who have expressed concerns with potential noise impacts despite this evidence, Applicant has agreed to a condition of approval to only operate the Machine while the doors to the premises are closed, which provides buffering and reduces the noise impacts to nearby residential properties. As testified to by Applicant’s attorney during the Hearing, Applicant has also agreed to install sound buffering to the interior walls of the premises in order to further buffer and reduce the noise impacts of the Machine. Condition 4 and Condition 5, as stated in the Staff Report, are reasonable and adequate to ensure that the noise impacts of the proposed use remain compatible with surrounding uses and compliant with the City’s Noise Ordinance. Double sound proofing the walls and sound proofing the ceiling and doors as proposed by the Northgate Response is unnecessary and not reasonable to mitigate potential impacts. Applicant’s proposed soundproofing and the limitations imposed by Condition 4, as drafted, is more than adequate to ensure the noise impacts are reasonably mitigated while still allowing the business to operate efficiently. Further limiting the operational hours is not a reasonable condition given that substantial evidence supports that the noise impacts, without any buffering or limitations, will be compatible with the surrounding uses.

The Northgate Response asserts that there are more than two residential properties adjacent to the Subject Property. Applicant has acknowledged that there is a residential zone nearby to the south and east. However, as shown by the City of Salem Zoning Map, the only residentially zoned properties which directly abuts the Subject Property are 1459 Hickory St SE and 1439 Hickory St SE. The resident of 1459

Hickory St SE, the resident of 1469 Hickory St SE (which is zoned industrial but is sited with a dwelling), and the resident of 1335 McDonald St NE all expressed support for the application in respective letters dated November 15, 2024.

Marion Environmental Services submitted a public comment which can be found on pages 65 through 66 of the Staff Report. As stated on page 65 of the Staff Report, Marion Environmental Services has a strong track record of safe transportation practices in compliance with rules and regulations applicable to the industry, with no reported incidents in the past 35 years. Applicant also conducted searches and could not find any events in the public record which would support that there is a potential health or environmental risk from Marion Environmental Services transporting nonpathological medical waste to the facility. Marion Environmental Services has decades of experience safely transporting waste, including but not limited to medical waste, and it will continue to comply with all applicable local, state, and federal laws and regulations. The Northgate Response makes several claims, including that reckless driving has increased, but provides no evidence to support these assertions. Further, even if the proposed use were to be located elsewhere, this would not eliminate the possibility of traffic accidents. Nonpathological medical waste would still need to be transported out of the City of Salem for treatment or disposal. As testified to at the Hearing, reducing the distance the nonpathological medical waste must travel decreases the possibility of traffic accidents, which is already almost nonexistent as described above. Traffic accidents occurring during the transportation of nonpathological medical waste to the Subject Property are not a reasonably likely adverse impact and do not reasonably pose a health or environmental risk. No mitigation efforts or conditions or approval are required to address the concerns expressed regarding the transportation of waste to the Subject Property.

The Northgate Response asserts that property values will decrease if the proposed use is approved but again provides no evidence to support this assertion. The residences in the nearby residential zone are already adjacent to an existing industrial zone which permits and contains uses more intense than the proposed use, such as manufacturing. Depreciation of home values based on the proposed use is not a reasonably likely adverse impact and as such is not relevant to the approval of the application.

Lastly, while some residents of the Northgate Neighborhood Association may prefer that the proposed use be sited elsewhere, whether the proposed use could be sited on a different property is not an applicable approval criterion. The Subject Property is zoned General Industrial. Solid waste transfer stations are permitted as a conditional use in the General Industrial zone pursuant to Salem Revised Code 554.005. Applicant will be treating nonpathological medical waste, as testified to at the Hearing by Applicant's attorney. The Northgate Response also alludes to concerns regarding redlining and the Fair Housing Act. The Fair Housing Act is not applicable to the application. Redlining in relation to the Fair Housing Act is the practice of denying a creditworthy applicant a loan for housing in a certain neighborhood even though the applicant may otherwise be eligible for the loan, which is also not applicable to the application. Applicant is a long time tenant of the building located on the Subject Property. As described above, the proposed use is permitted as a conditional use in the General Industrial zone and Applicant has submitted the application consistent with the requirements of the Salem Revised Code. Concerns regarding the type of uses permitted in a particular zone should be discussed with the City but are beyond the scope of this application process. There is substantial evidence in the record to support that Applicant has satisfied all applicable approval criteria for the proposed use.

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Please confirm that this letter has been entered into the record for the above referenced matter.
Applicant respectfully requests that the Hearings Officer approve the applications.

Sincerely,



MARGARET Y. GANDER-VO
margaret@sglaw.com
Voice Message #374

MYG/EAR:bg
Enclosures
cc: Client