

# NOTICE OF DECISION

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005



*Si necesita ayuda para comprender esta información, por favor llame  
503-588-6173*

## DECISION OF THE PLANNING ADMINISTRATOR

### CLASS 3 SITE PLAN REVIEW/ CLASS 2 ADJUSTMENT / CLASS 2 DRIVEWAY APPROACH PERMIT CASE NO.: SPR-ADJ-DAP22-35

**APPLICATION NO.:** 22-107351-RP, 22-107352-ZO, 22-112295-ZO

**NOTICE OF DECISION DATE:** September 22, 2022

**REQUEST:** An application for development of two new restaurant buildings within the Willamette Town Center.

Description: An application for a Class 3 Site Plan Review, Class 2 Adjustments, and a Class 2 Driveway Approach Permit for Phase II-A development within the Willamette Town Center, including two new restaurant buildings with pedestrian access, parking lot modifications, landscaping modifications, and a drive-through for one building. The Class 2 adjustments are requested to:

- (1) Increase the development site landscaping from 6.4% with Phase I to 6.5% with Phase II-A, when the standard is 15% (SRC 522.010(d)(3));
- (2) Request relief from the requirement to provide a pedestrian connection within 20 feet of a transit stop (SRC 800.065(a)(1)(B));
- (3) Request relief from the requirement to provide 5-foot-wide setbacks on both sides of interior property lines that cross parking and vehicle use areas (SRC 806.035(c)(3));
- (4) Request a reduction in the percentage of interior parking lot landscaping (SRC 806.035(d)(2)).

The subject properties are approximately 2.35 acres in size, located within a 49.91 acre development site in the CR (Retail Commercial) zone at 3815 & 3817 Center Street NE 97301 (Marion County Map and Tax Lots (072W19CC / 5404).

**APPLICANT:** DOWL on behalf of JCK Restaurants INC

**LOCATION:** 3815 & 3817 Center Street NE, Salem OR 97301

**CRITERIA:** Salem Revised Code (SRC) Chapters 220.005(f)(3)- Class 3 Site Plan Review; 250.005(d)(2) – Class 2 Adjustment; 804.025(d) – Class 2 Driveway Approach Permit

**FINDINGS:** The findings are in the attached Decision dated September 22, 2022.

**DECISION:** The **Planning Administrator APPROVED** Class 3 Site Plan Review / Class 2 Adjusmten / Class 2 Driveway Approach Permit Case No. SPR-ADJ-DAP22-35 subject to the following conditions of approval:

**Condition 1:** At the time of building permit review, the applicant shall provide plans showing Fire Department access and Fire hydrant locations as required, or the applicant shall provide the required fire sprinklers and location of the Fire Department Connection.

- Condition 2:** The applicant shall ensure that the Property Line Adjustment Case Numbers PLA22-09 and PLA22-10 are recorded prior to issuance of any civil site work or building permits.
- Condition 3:** At the time of building permit, the applicant shall indicate the surrounding pad area for the trash enclosure, pursuant to SRC 800.055(b)(1).
- Condition 4:** At the time of building permit review, the applicant shall demonstrate that all required pedestrian connections conform with the design and material requirements of SRC Chapter 800, specifically SRC 800.065(b)(1) and 800.065(c).
- Condition 5:** Convey land for dedication to equal a half-width right-of-way of up to 48 feet on the development side of Center Street NE.
- Condition 6:** Install street trees to the maximum extent feasible along the Center Street NE frontage.
- Condition 7:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.
- Condition 8:** At the time of building permit review, provide a landscape plan demonstrating that the proposed landscape areas will be planted with a minimum of one plant unit per 16 square feet, with 40 percent of the plant units being trees.
- Condition 9:** The adjusted setbacks, pedestrian access, and landscaping standards, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development requirements, unless adjusted through a future land use action.

The rights granted by the attached decision must be exercised, or an extension granted, by October 8, 2026, or this approval shall be null and void.

Application Deemed Complete:	<u>July 8, 2022</u>
Notice of Decision Mailing Date:	<u>September 22, 2022</u>
Decision Effective Date:	<u>October 8, 2022</u>
State Mandate Date:	<u>November 5, 2022</u>

Case Manager: Jamie Donaldson, [jdonaldson@cityofsalem.net](mailto:jdonaldson@cityofsalem.net), 503-540-2328

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m. Friday, October 7, 2022. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 220, 250, 804. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Hearings Officer will review

the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

## BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

### DECISION

IN THE MATTER OF APPROVAL OF ) FINDINGS & ORDER  
CLASS 3 SITE PLAN REVIEW, )  
CLASS 2 ADJUSTMENT, AND )  
CLASS 2 DRIVEWAY APPROACH PERMIT )  
CASE NO. SPR-ADJ-DAP22-35 )  
3815 & 3817 CENTER STREET NE - 97301 ) SEPTEMBER 22, 2022

In the matter of the application for Class 3 Site Plan Review, Class 2 Adjustment, and Class 2 Driveway Approach Permit, applications submitted by submitted by the applicant, Mike Towle with DOWL, on behalf of the property owner, Lancaster Development Company LLC, the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

### REQUEST

**Summary:** An application for development of two new restaurant buildings within the Willamette Town Center.

**Request:** An application for a Class 3 Site Plan Review, Class 2 Adjustments, and a Class 2 Driveway Approach Permit for Phase II-A development within the Willamette Town Center, including two new restaurant buildings with pedestrian access, parking lot modifications, landscaping modifications, and a drive-through for one building. The Class 2 adjustments are requested to:

- 1) Increase the development site landscaping from 6.4% with Phase 4 I to 6.5% with Phase 2 II-A, and ~~6.6% with Phase 3~~, when the standard is 15% (SRC 522.010(d)(3));
- 2) Request relief from the requirement to provide a pedestrian connection within 20 feet of a transit stop (SRC 800.065(a)(1)(B));
- 3) Request relief from the requirement to provide 5-foot-wide setbacks on both sides of interior property lines that cross parking and vehicle use areas (SRC 806.035(c)(3));
- 4) Request a reduction in the percentage of interior parking lot landscaping (SRC 806.035(d)(2)).

The subject property is approximately ~~2.35~~ .64 acres in size, located within a 49.91-acre development site in the CR (Retail Commercial) zone at 3815 & 3817 Center Street NE 97301 (Marion County Map and Tax Lots (072W19CC / 5404).

A vicinity map illustrating the location of the property is attached hereto and made a part of this staff report (**Attachment A**).

### PROCEDURAL FINDINGS

#### 1. Background

On April 8, 2021, a consolidated application for Class 3 Site Plan Review and Class 2 Adjustments was filed for the proposed development. After additional information was provided, including submission of a Class 2 Driveway Approach Permit, the applications were deemed complete for processing on July 8, 2022. The 120-day state mandated decision deadline for this consolidated application is November 5, 2022.

The applicant's proposed site plan is included as **Attachment B** and the applicant's written statement addressing the approval criteria is included as **Attachment C**.

## **SUBSTANTIVE FINDINGS**

### **2. Summary of Record**

The following items are submitted to the record and are available: 1) all materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 22 107351.

### **3. Neighborhood Association and Public Comments**

The subject property is located within the boundaries of North East Salem Community Association (NESCA), and adjacent to the East Lancaster Neighborhood Association (ELNA).

Applicant Neighborhood Association Contact: SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), land use applications included in this proposed consolidated land use application request require neighborhood association contact. On April 1, 2022, the applicant's representative contacted both neighborhood associations to provide details about the proposal in accordance with the requirements of the SRC.

Neighborhood Association Comment: Notice of the application was provided to NESCA and ELNA pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. As of the date of completion of this staff report, no comments have been received from the neighborhood association.

Homeowners Association: The subject property is not located within a Homeowners Association.

Public Comment: Notice was also provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. As of the date of completion of this staff report, no comments have been received from the surrounding property owners and tenants.

### **4. City Department Comments**

Public Works Department: Reviewed the proposal and provided a memo which is included as **Attachment D**.

Building and Safety: Reviewed the proposal and indicated no site concerns.

**Fire Department:** Reviewed the proposal and indicated that Fire Department access appears to be provided from Center Street and the parking lot. The existing fire hydrant on Center Street appears to provide the Fire Department water supply. Note: if the buildings are provided with a fire sprinkler system the FDC (Fire Department Connection) shall be in an approved location within 100 feet of a fire hydrant. To ensure these standards are met, the following condition applies:

**Condition 1:** At the time of building permit review, the applicant shall provide plans showing Fire Department access and Fire hydrant locations as required, or the applicant shall provide the required fire sprinklers and location of the Fire Department Connection.

## **5. Public Agency Comments**

No Public or Private Agency comments were received.

## **DECISION CRITERIA FINDINGS**

### **6. Analysis of Class 3 Site Plan Review Approval Criteria**

Salem Revised Code (SRC) 220.005(f)(3) provides that an application for a Class 3 Site Plan Review shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

***SRC 220.005(f)(3)(A): The application meets all applicable standards of the UDC.***

**Finding:** On August 4, 2020, Case Number SPR-ADJ-DAP20-26 approved a phased development for the Willamette Town Center. However, significant changes to the initial proposal since then have required a new Site Plan Review for development of Phase II-A associated with SPR-ADJ-DAP20-26. The proposal includes construction of two new restaurant buildings, one with a drive-through facility, with pedestrian access connections, parking lot modifications, and landscape improvements. Four adjustments are requested to setbacks, pedestrian access, and landscaping standards. All original conditions under SPR-ADJ-DAP20-26 shall still apply to the development site.

### **Use and Development Standards – CR (Retail Commercial) Zone:**

***SRC 522.005(a) – Uses:***

Table 522-1 lists permitted uses in the CR Zone.

**Finding:** The proposal includes development of two new restaurant buildings classified as Eating and Drinking Establishments under the Retail Sales and Services use category. Eating and Drinking Establishments are a permitted use in the CR zone per Table 522-1.

***SRC 522.010(a) – Lot Standards:***

There are no minimum lot area or dimension requirements in the CR zone. All uses, other than single family, are required to have a minimum of 16 feet of street frontage.

**Finding:** The proposal is part of a development site consisting of multiple parcels, totaling approximately 49.91 acres in size. Prior approval of two property line adjustments, Case Numbers PLA22-09 and PLA22-10, reconfigured the parcels of the development site, creating a parcel approximately .64 acres in size (tax lot 072W19CC05404) where the proposed development is located. The overall development site has frontage exceeding 16 feet on D Street NE, Lancaster Drive NE, and Center Street NE, and the subject parcel has more than 16 feet of frontage along Center Street NE. The subject property is in compliance with the minimum lot standards of the CR zone. To ensure that the development is located on one parcel, as reviewed throughout this report, the following condition applies:

**Condition 2:** The applicant shall ensure that the Property Line Adjustment Case Numbers PLA22-09 and PLA22-10 are recorded prior to issuance of any civil site work or building permits.

*SRC 522.010(b) – Setbacks:*

**North, East, West:** Adjacent to the north, east, and west are interior property lines abutting other parcels zoned CR (Retail Commercial) within the development site. There is no minimum building or accessory structure setback required to an interior property line. Vehicle use areas require a minimum five-foot setback.

**South:** Adjacent to the south is right-of-way for Center Street NE. Buildings must be set back a minimum of five feet abutting a street. Vehicle use areas require a minimum 6-10-foot setback per Chapter 806 adjacent to a street.

**Finding:** The applicant is requesting a Class 2 Adjustment from the requirement to provide 5-foot-wide setbacks on both sides of interior property lines that cross parking and vehicle use areas. Findings for the Adjustment are included in Section 7 of this report. The proposal is otherwise in compliance with all applicable setback requirements of the CR zone and SRC Chapter 806.

*SRC 522.010(b) – Lot Coverage, Height:*

There is no maximum lot coverage requirement. The maximum height in the CR zone is 50 feet.

**Finding:** The proposed buildings are approximately 23 feet in height and are in compliance with the maximum height standard in the CR zone.

*SRC 522.010(d) – Landscaping:*

- (1) *Setbacks.* Required setbacks shall be landscaped. 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 Chapter 806 and SRC Chapter 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 vehicular use areas, may count toward meeting this requirement

**Finding:** The proposed building for a retail sales use is within a development site that was developed prior to the adoption of the minimum 15 percent landscaping requirement. The existing development site of 49.91 acres has landscaping of 3.09 acres (6.43 percent).

The proposed site plan indicates adequate landscaped setbacks and interior parking lot landscaping area, with the exception of the setbacks on both sides of the interior property lines within the parking areas and the 15 percent development site landscaping that is required within the CR zone. The applicant has applied for a Class 2 Adjustment to eliminate the setbacks on both sides of the interior property lines within the parking and vehicle use areas and to reduce the minimum 15 percent landscape requirement for the development site to 6.5 percent with Phase II-A. Findings for the Adjustment are included in Section 7 of this report.

Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC Chapter 807 at the time of building permit application review.

### **General Development Standards SRC 800**

#### *SRC 800.055(a) – Applicability.*

Solid waste service area design standards shall apply to all new solid waste, recycling, and compostable services areas, where use of a solid waste, recycling, and compostable receptacle of 1 cubic yard or larger is proposed.

**Finding:** The site plan indicates one new solid waste enclosure with receptacles greater than one cubic yard in size are proposed.

#### *SRC 800.055(b) – Solid Waste Receptacle Placement Standards.*

All solid waste receptacles shall be placed at grade on a concrete pad that is a minimum of 4 inches thick, or on an asphalt pad that is a minimum of 6 inches thick. The pad shall have a slope of no more than 3 percent and shall be designed to discharge stormwater runoff.

(1) *Pad area.* In determining the total concrete pad area for any solid waste service area:

- (a) The pad area shall extend a minimum of 1-foot beyond the sides and rear of the receptacle.
- (b) The pad area shall extend a minimum 3 feet beyond the front of the receptacle.
- (c) In situations where receptacles face each other, a minimum four feet of pad area shall be required between the fronts of the facing receptacles.

**Finding:** The proposed plans do not indicate the pad area surrounding the trash enclosures. To ensure compliance, the following condition applies:

**Condition 3:** At the time of building permit, the applicant shall indicate the surrounding pad area for the trash enclosure, pursuant to SRC 800.055(b)(1).

(2) *Minimum Separation.*

- (a) A minimum separation of 1.5 feet shall be provided between the receptacle and the side wall of the enclosure.
- (b) A minimum separation of 5 feet shall be provided between the receptacle and any combustible walls, combustible roof eave lines, or building or structure openings.



**Finding:** Adequate separation distance is provided within the enclosure. Receptacles will not be placed within 5 feet of a building or structure.

(3) Vertical Clearance.

- (a) Receptacles 2 cubic yards or less in size shall be provided with a minimum of 8 feet of unobstructed overhead or vertical clearance for servicing.
- (b) Receptacles greater than 2 cubic yards in size shall be provided with a minimum of 14 feet of unobstructed overhead or vertical clearance for serving.

**Finding:** No cover is proposed for this enclosure; therefore, this standard is not applicable.

*SRC 800.055(d) – Solid Waste Service Area Screening Standards.*

- (1) Solid waste, recycling, and compostable service areas shall be screened from all streets abutting the property and from all abutting residentially zoned property by a minimum six-foot-tall sight-obscuring fence or wall; provided, however, where receptacles, drop boxes, and compactors are located within an enclosure, screening is not required. For the purpose of this standard, abutting property shall also include any residentially zoned property located across an alley from the property.
- (2) Existing screening at the property line shall satisfy screening requirements if it includes a six-foot-tall sight-obscuring fence or wall.

**Finding:** The subject property does not abut residential zoned property or residential uses. An enclosure is provided for the solid waste service area that is proposed to be constructed with a solid CMU wall which screens the solid waste service area from abutting properties and streets consistent with this requirement.

*SRC 800.055(e) – Solid Waste Service Area Enclosure Standards.*

When enclosures are used for required screening or aesthetics, such enclosure shall conform to the following standards:

- (1) *Front Opening of Enclosure.* The front opening of the enclosure shall be unobstructed and shall be a minimum of 12 feet in width.

**Finding:** The width of the proposed front opening for all enclosures is approximately 21 feet, exceeding the minimum standard.

- (2) *Measures to Prevent Damage to Enclosure.* Enclosures constructed of concrete, brick, masonry block, or similar types of material shall contain a minimum four-inch nominal high bumper curb at ground level located 12 inches inside the perimeter of the outside walls of the enclosure, or a fixed bumper rail to prevent damage from receptacle impacts.

**Finding:** The trash enclosure plans indicate that a wheel stop is provided 12 inches inside the perimeter of the enclosure walls to prevent damage from receptacle impacts consistent with this standard.

- (3) *Enclosure Gates.* Any gate across the front opening of an enclosure shall swing freely without obstructions. For any opening with an unobstructed width of 15 feet or greater, the gates shall open a minimum of 90 degrees. All gates shall have restrainers in the open and closed positions.

**Finding:** The proposed gates can swing to 90 degrees in compliance with this provision.

*SRC 800.055(f) – Solid Waste Service Area Vehicle Access.*

(1) *Vehicle Operation Area.* A vehicle operation area shall be provided for solid waste collection service vehicles that are free of obstructions and no less than 45 feet in length and 15 feet in width. Vehicle operation areas shall be made available in front of every receptacle.

**Finding:** The proposed vehicle operation area meets the minimum dimensional requirements for service vehicle access.

*SRC 800.065 – Pedestrian Access.*

Except where pedestrian access standards are provided elsewhere under the UDC, all developments, other than single family, two family, three family, four family, and multiple family developments, shall include an on-site pedestrian circulation system developed in conformance with the standards in this section.

**Finding:** The pedestrian access standards of SRC Chapter 800 apply to the proposed development.

*SRC 800.065(a)(1) – Pedestrian Connection Between Entrances and Streets*

(A) A pedestrian connection shall be provided between the primary entrance of each building on the development site and each adjacent street. Where a building has more than one primary building entrance, a single pedestrian connection from one of the building's primary entrances to each adjacent street is allowed; provided each of the building's primary entrances are connected, via a pedestrian connection, to the required connection to the street.

**Finding:** Direct pedestrian access is provided from the primary entrance of each proposed building to Center Street NE.

(B) Where an adjacent street is a transit route and there is an existing or planned transit stop along street frontage of the development site, at least one of the required pedestrian connections shall connect to the street within 20 feet of the transit stop.

**Finding:** Center Street NE is a transit route with two stops on the south side of the mall development site. The existing and proposed pedestrian connections are not located within 20 feet of these transit stops. The applicant previously received an adjustment to eliminate the requirement to provide a pedestrian connection within 20 feet of a transit stop (SPR-ADJ20-20), which was also included under SPR-ADJ-DAP20-26 and has been requested again as this part of the proposed development has not changed. Findings for the Adjustment are included in Section 7 of this report.

*SRC 800.065(a)(2) – Pedestrian Connection Between Buildings on the same Development Site*

Where there is more than one building on a development site, a pedestrian connection(s), shall be provided to connect the primary building entrances of all of the buildings.

**Finding:** Multiple buildings exist on the development site. Pedestrian connections are provided connecting the primary building entrances of the proposed buildings in Phase II-A to the

adjacent mall building and other adjacent buildings to the east and west; this standard is met for the current phase.

*SRC 800.065(a)(3) – Pedestrian Connection Through Off-Street Parking Areas.*

(A) *Surface parking areas.* Except as provided under subsection (a)(3)(A)(iii) of this section, off-street surface parking areas greater than 25,000 square feet in size or including four or more consecutive parallel drive aisles shall include pedestrian connections through the parking area to the primary building entrance as provided in this subsection.

**Finding:** After recording PLA22-09 and PLA22-10, the subject parcel does not include any existing or proposed parking areas greater than 25,000 square feet. However, the applicant has provided the required pedestrian connections across the adjacent parking lots greater than 25,000 square feet, as conditioned under SPR-ADJ-DAP20-26. This standard is met.

(B) *Parking structures and parking garages.* Where an individual floor of a parking structure or parking garage exceeds 25,000 square feet in size, a pedestrian connection shall be provided through the parking area on that floor to an entrance/exit.

**Finding:** The development site does not include any existing or proposed parking structures or garages greater than 25,000 square feet; therefore, this standard is not applicable.

*SRC 800.065(a)(4) – Pedestrian Connection to Existing or Planned Paths and Trails.*

Where an existing or planned path or trail identified in the Salem Transportation System Plan (TSP) or the Salem Comprehensive Parks System Master Plan passes through a development site, the path or trail shall:

- (A) Be constructed, and a public access easement or dedication provided; or
- (B) When no abutting section of the trail or path has been constructed on adjacent property, a public access easement or dedication shall be provided for future construction of the path or trail.

**Finding:** There is not a planned path or trail that passes through the development site; therefore, this standard is not applicable.

*SRC 800.065(a)(5) – Pedestrian Connection to Abutting Properties*

Whenever a vehicular connection is provided from a development site to an abutting property, a pedestrian connection shall also be provided.

**Finding:** The proposed development is within a development site bounded on three sides by streets and on the fourth side by a freeway; therefore, this standard is not applicable.

*SRC 800.065(b) – Design and materials*

Required pedestrian connections shall be in the form of a walkway, or may be in the form of a plaza.

(1) Walkways shall conform to the following:

- (A) Walkways shall be paved with a hard-surface material meeting the Public Works Design Standards and shall be a minimum of five feet in width.
- (B) Where a walkway crosses driveways, parking areas, parking lot drive aisles, and loading areas, the walkway shall be visually differentiated from such areas through the use of elevation changes, a physical separation, speed bumps, a different paving

material, or other similar method. Striping does not meet this requirement, except when used in a parking structure or parking garage.

(C) Where a walkway is located adjacent to an auto travel lane, the walkway shall be raised above the auto travel lane or separated from it by a raised curb, bollards, landscaping, or other physical separation. If the walkway is raised above the auto travel lane it must be raised a minimum of four inches in height and the ends of the raised portions must be equipped with curb ramps. If the walkway is separated from the auto travel lane with bollards, bollard spacing must be no further than five feet on center.

(2) Wheel stops or extended curbs shall be provided along required pedestrian connections to prevent the encroachment of vehicles onto pedestrian connections.

**Finding:** The proposed pedestrian connection is at least five feet in width in all locations. The type of material proposed for the pedestrian connections is not listed in the application materials. At the time of building permit, the applicant shall demonstrate that all applicable standards of this section are met. To ensure that the proposed pedestrian walkway meets the design and material standards, including where walkway passes driveways and drive-aisles, the following condition applies:

**Condition 4:** At the time of building permit review, the applicant shall demonstrate that all required pedestrian connections conform with the design and material requirements of SRC Chapter 800, specifically SRC 800.065(b)(1) and 800.065(c).

*SRC 800.065(c) – Lighting.*

The on-site pedestrian circulation system shall be lighted to a level where the system can be used at night by employees, customers, and residents.

**Finding:** The application materials do not provide sufficient detail to determine compliance with this development standard. Per Condition 4 above, at the time of building permit review, the plans will be reviewed for conformance with applicable exterior lighting development standards.

**Off-Street Parking, Loading, and Driveways SRC 806**

*SRC 806.005(a) – Off-Street Parking; When Required.*

Off-street parking shall be provided and maintained as required under SRC Chapter 806 for each proposed new use or activity.

*SRC 806.010 – Proximity of Off-Street Parking to Use or Activity Served.*

Required off-street parking shall be located on the same development site as the use or activity it serves.

**Finding:** The proposal includes development of a new off-street parking area located on the same development site as the proposed building.

*SRC 806.015 – Amount of Off-Street Parking.*

- a) *Minimum Required Off-Street Parking.* Because the subject property is located within the CSDP area, the proposed multi-family residential use does not require any off-street parking spaces per Table 806-1.

- b) *Compact Parking.* Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.
- c) *Carpool and Vanpool Parking.* New developments with 60 or more required off-street parking spaces and falling within the Public Services and Industrial use classifications, and the Business and Professional Services use category, shall designate a minimum of 5 percent of their total off-street parking spaces for carpool or vanpool parking.
- d) *Maximum Off-Street Parking.* Unless otherwise provided in the SRC, off-street parking shall not exceed the amounts set forth in Table 806-2.

**Finding:** The buildings are within a shopping center with multiple uses. Previous approval of phased development for the overall site under SPR-ADJ-DAP20-26 approved the Phase II-A development of restaurants as 3,000 square feet. The new proposal for Phase II-A provides a Jersey Mike's restaurant of approximately 1,550 square feet and a Dave's Hot Chicken restaurant of approximately 2,915 square feet, for a total of 18 required parking spaces. The parking spaces provided at the conclusion of this phase include 2,998 parking spaces. Carpool/vanpool spaces are not required for the proposed development. As demonstrated in the table below, adequate parking is available for the proposed use.

Use	Area	Ratio 1 /	Required Spaces
Hobby Lobby	60750	250	243
Sierra Trading	20000	250	80
Home Goods	20000	250	80
Ulta	10500	250	42
DSW	6500	250	26
Xfinity	3950	250	16
Former Sears	47177	250	189
TJ Maxx	25000	250	100
Famous Footwear	7970	250	32
Burlington	87030	250	348
Cinema	53195		503
Petco	13204	250	53
Best Buy	45000	900	50
Bank of America	4400	500	9
McGrath's	8220	250	33
US Bank	7200	500	14
Applebee's	5520	250	22
Sleep Train	5870	900	7
Crumbl Cookies	1400	250	6
MOD Pizza	5000	250	20
Super Cuts	1182	350	3
Affordable Framing	1557	350	4
Joann	28450	250	113
Pier 1	11450	250	46
DMV	10209	500	20
Sprint	1500	250	6
Baja Fresh	3500	250	14
Mall office	1800	350	5

Internal retail	82666	250	331
Panera Bread	4000	250	16
Visionworks Retail	3000	250	12
Acorn Dentistry	5005	350	14
<b>Phase II-A Restaurants:</b>			
<b>Jersey Mike's</b>	<b>1550</b>	<b>250</b>	<b>6</b>
<b>Dave's Hot Chicken</b>	<b>2915</b>	<b>250</b>	<b>12</b>
<i>Future Phase II-B Retail</i>	<i>6720</i>	<i>250</i>	<i>27</i>
Minimum			2,259
Maximum			3,953
Provided			Phase I: 3,078 Phase II-A: 2,998

**SRC 806.035 – Off-Street Parking and Vehicle Use Area Development Standards.**

- a) *General Applicability.* The off-street parking and vehicle use area development standards set forth in this section apply to the development of new off-street parking and vehicle use areas.
- b) *Location.* Off-street parking and vehicle use areas shall not be located within required setbacks.
- c) *Perimeter Setbacks and Landscaping.* Perimeter setbacks 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.

**Finding:** The proposed modifications of the parking lot meet setbacks, except an interior property line crosses the existing parking and vehicle use area west of the area that will be modified, and there are no setbacks proposed on either side of the property line. The applicant has requested an adjustment to the setbacks abutting the interior property line. Findings for the adjustment are in Section 7 of this decision.

- d) *Interior Landscaping.* Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. For off-street parking areas 50,000 square feet in size and greater, a minimum of 8 percent of the parking area interior shall be landscaped.

**Finding:** The applicant has requested an adjustment to allow interior parking lot landscaping less than 8 percent for the entire development. Findings for the adjustment are in Section 7 of this decision.

- e) *Off-Street Parking Area Dimensions.* Off-street parking areas shall conform to the minimum dimensions set forth in Table 806-6.

**Finding:** The proposed off-street parking spaces comply with the minimum aisle width and dimensional requirements for compact and standard vehicle parking spaces established in Table 806-6.

- f) *Additional Off-Street Parking Development Standards 806.035(f)-(m).*

**Finding:** The proposed off-street parking area is developed consistent with the additional development standards for grade, surfacing, and drainage. Bumper guards shall be provided

as required by SRC Chapter 806. The parking area striping, marking, signage, and lighting shall comply with the standards of SRC Chapter 806. Off-street parking area screening per SRC 806.035(m) is not required for the proposed parking area.

## **Bicycle Parking**

### *SRC 806.045 – General Applicability.*

Bicycle parking shall be provided and maintained for each proposed new use or activity.

### *SRC 806.050 – Proximity of Bicycle Parking to use or Activity Served.*

Bicycle parking shall be located on the same development site as the use or activity it serves.

### *SRC 806.055 – Amount of Bicycle Parking.*

Per SRC Chapter 806, Table 806-8, An eating and drinking establishment use requires the greater of four bicycle parking spaces or one space per 1,000 square feet.

**Finding:** The proposed two restaurant buildings total 4,465 square feet and require four bicycle parking spaces. The applicant's summary table indicates that eight bicycle parking spaces are proposed, exceeding the minimum requirement.

### *SRC 806.060 – Bicycle Parking Development Standards.*

- a) *Location.* SRC 806.060(a)(2) provides that where bicycle parking cannot be located outside a building, it may be located inside a building within a convenient distance of, and accessible from, the primary building entrance.

**Finding:** The applicant's site plan indicates four proposed bike parking spaces on the north side of the west building and four proposed bike parking spaces on the north side of the east building, both of which are within a convenient distance of their respective building entrances. This standard is met.

## **Off-Street Loading Areas**

### *SRC 806.065 – General Applicability.*

Off-street loading areas shall be provided and maintained for each proposed new use or activity.

### *SRC 806.070 – Proximity of Off-Street Loading Areas to use or Activity Served.*

Off-street loading shall be located on the same development site as the use or activity it serves.

### *SRC 806.075 – Amount of Off-Street Loading.*

Multi-family uses containing between 100-199 units are required to provide a minimum of two off-street loading spaces meeting the minimum dimensional requirements in Table 806-9.

**Finding:** The applicant's written statement indicates that the uses or activities in Phases II-A do not require a delivery vehicle which exceeds a maximum combined vehicle and load rating of 8,000 pounds. The off-street parking area is located within 25 feet of the building or the use or activity that it serves. No loading space is required.

## Landscaping

All required setbacks shall be landscaped with a minimum of 1 plant unit per 20 square feet of landscaped area. A minimum of 40 percent of the required number of plant units shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. Plant materials and minimum plant unit values are defined in SRC Chapter 807, Table 807-2.

All building permit applications for development subject to landscaping requirements shall include landscape and irrigation plans meeting the requirements of SRC Chapter 807.

**Finding:** As noted in the applicant's written statement, the proposed parking area and buildings are being added to a site that was developed prior to the adoption of the minimum 15 percent landscaping requirement. The existing development provides landscaping which encompasses 6.43 percent of the entire development site.

The proposed site plan indicates a net increase with this phase, bringing the total development site landscaping 6.5 percent with Phase II-A. The applicant has requested an adjustment to the 15 percent landscaping standard for the entire development site. Findings for the adjustment are in Section 7 of this decision.

The previous conditions of approval for the requested adjustment requires an increased density of plant units, one per 16 square feet of landscaped area, to mitigate for reduced landscape area. A minimum of 40 percent of the required plant units are to be trees.

Some trees have been indicated to be removed from existing landscaped setbacks abutting Center Street NE and Lancaster Drive NE. However, because those trees are located in areas that will be dedicated as right-of-way, street trees shall be required, as conditioned below.

Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC 807 at the time of building permit application review.

## Natural Resources

*SRC 601 – Floodplain:* Development in the floodplain shall be regulated to preserve and maintain the capability to the floodplain to convey the flood water discharges and to minimize danger to life and property.

**Finding:** Public Works staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject property.

*SRC 808 – Preservation of Trees and Vegetation:* The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove a significant tree (Oregon White Oak greater than 20 inches in diameter at breast height) (SRC 808.015) or a tree or native vegetation in a riparian corridor (SRC 808.020), unless the removal is excepted under SRC 808.030(a)(2), undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045.

**Finding:** There are no protected trees identified on the subject property.



**SRC 809 – Wetlands:** Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetland laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures.

**Finding:** According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas or hydric soils.

**SRC 810 – Landslide Hazards:** A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area.

**Finding:** According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas within the development area of the subject property.

**SRC 802 – Public Improvements, SRC 803 – Streets and Right-of-Way Improvements, SRC 804 – Driveway Approaches, and SRC 805 – Vision Clearance:** With completion of the conditions of approval, the subject property meets all applicable standards of the following chapters of the UDC.

***SRC 220.005(f)(3)(B): The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.***

**Finding:** The existing right-of-way width of Center Street NE does not meet current standards for its classification of street per the Salem TSP. The applicant shall convey for dedication a half-width right-of-way up to 48 feet to major arterial street standards as specified in the PWDS and based on a rational nexus calculation. Center Street NE meets the improvement width for its classification per the Salem TSP and, therefore, no street improvements are required.

**Condition 5:** Convey land for dedication to equal a half-width right-of-way of up to 48 feet on the development side of Center Street NE.

The "planting plan" submitted with the application shows multiple new street trees along the Center Street NE property frontage. The applicant is required to install new street trees to the maximum extent feasible per SRC 86.015(e).

**Condition 6:** Install street trees to the maximum extent feasible along the Center Street NE frontage.

***SRC 220.005(f)(3)(C): Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.***

**Finding:** The driveway access onto Center Street NE provides for safe turning movements into and out of the property. Plans show the existing driveway approach along Center Street NE will be modified to meet Commercial driveway approach standards pursuant to PWDS.

***SRC 220.005(f)(3)(D): The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.***

**Finding:** The Public Works Department has reviewed the applicant's preliminary plan for this site. The water, sewer, and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development.

The applicant's engineer submitted a statement demonstrating compliance with Stormwater PWDS Appendix 004-E(4) and SRC Chapter 71. The preliminary stormwater design proposes the use of green stormwater infrastructure (GSI) to the maximum extent feasible, but additional design features will be needed during the building plan review process to establish compliance with PWDS. At time of development, the applicant shall design the stormwater management system in compliance with PWDS, which may require a design exception from the City Engineer.

**Condition 7:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.

## **7. Analysis of Class 2 Adjustment Approval Criteria**

Salem Revised Code (SRC) 250.005(d)(2) provides that an application for a Class 2 Adjustment shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

***SRC 250.005(d)(2)(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.***

**Finding:** The applicant is requesting four Class 2 Adjustments to:

- 1) Increase the development site landscaping from 6.4% with Phase I to 6.5% with Phase II-A, when the standard is 15% (SRC 522.010(d)(3));
- 2) Request relief from the requirement to provide a pedestrian connection within 20 feet of a transit stop (SRC 800.065(a)(1)(B));
- 3) Request relief from the requirement to provide 5-foot-wide setbacks on both sides of interior property lines that cross parking and vehicle use areas (SRC 806.035(c)(3));
- 4) Request a reduction in the percentage of interior parking lot landscaping (SRC 806.035(d)(2)).

*Adjustment to increase development site landscaping to 6.5 percent (Phase II-A), rather than the minimum of 15 percent (SRC 522.010(d)(3)).*

The applicant is requesting an adjustment for a reduction of more than 20 percent from the development site landscaping requirement of 15 percent. Because the development was constructed prior to the establishment of the 15 percent standard, it is legally nonconforming

with respect to that standard. The development site contains parking lot landscaping and landscaped setbacks, which count toward the 15 percent. However, bringing the entire 49.91-acre development site into compliance with the current standard at this time would require significant site disturbance including removal of pavement, loss of parking spaces, reconfiguration of vehicle circulation, and reconfiguration of irrigation systems.

The applicant's plans indicated the proposed landscaping for the development area would provide 4,372 square feet of landscaping, or 15.8 percent, which meets the 15 percent requirement for the development area of the proposed new buildings alone. The applicant states that the proposed development would result in a net increase of landscaped area of 1,439 square feet in Phase II-A to increase the entire development site landscaping to 3.243 acres (6.5percent). The applicant states that, because the proposed project disturbs only a portion of the site in each phase, it is more realistic to apply the landscaping standard to the areas of project disturbance.

The purpose of the development site landscaping standard is to ensure that development sites include landscaped area and tree canopy to break up large expanses of pavement and structures and provide shade. While the proposed site plan does not comply with the minimum standards for the entire development site, the proposed enhancements to the Phase II-A site would bring the nonconforming site into greater conformance with the landscaping requirements by providing an overall net increase in the area of landscaping. The landscaping requirement of 15 percent would be required to meet the standard of one plant unit per 20 square feet. A higher density of plant units would mitigate for the reduced planting area. As previously conditioned under Case Number SPR-ADJ-DAP20-26, the following condition of approval is incorporated herein:

**Condition 8:** At the time of building permit review, provide a landscape plan demonstrating that the proposed landscape areas will be planted with a minimum of one plant unit per 16 square feet, with 40 percent of the plant units being trees.

As conditioned, the proposal equally or better meets the purpose of the standard.

*Request relief from the requirement to provide a pedestrian connection within 20 feet of a transit stop (SRC 800.065(a)(1)(B)):*

Pursuant to SRC 800.065(a)(1)(B), where an adjacent street is a transit route and there is an existing or planned transit stop along street frontage of the development site, at least one of the required pedestrian connections from buildings to the street shall connect to the street within 20 feet of the transit stop.

The applicant has proposed a phased plan to provide additional pedestrian connections at various areas within the nonconforming site are redeveloped. The applicant is seeking to bring the proposed phases into compliance with the pedestrian connection standards of SRC 800.065, with the exception of the location of the pedestrian connections near two existing transit stops on Center Street NE.

The existing transit stop south of McGrath's is located on the public sidewalk. The existing north-south pedestrian connection on the west side of McGrath's ends at the public sidewalk and is approximately 22 feet from the transit stop. The applicant states that the applicant cannot provide a connection across the McGrath's property within 20 feet of the transit stop

due an existing ground lease over which the applicant has no control. However, as part of Phase I of the development, the applicant has provided a pedestrian connection extending north from the existing private sidewalk west of McGrath's (3805 Center Street NE) and connecting to an east to west pedestrian connection at the southern edge of the Phase I parking area, as conditioned.

The existing transit stop southeast of US Bank is also located on the public sidewalk. The applicant states that grade challenges, an existing power vault, and a large tree make a pedestrian connection within 20 feet of the transit stop infeasible. The applicant is proposing an indirect connection from the transit stop to the west using the existing public sidewalk, then to the north using a proposed pedestrian connection to the mall building, then to the east across the interior driveway to the private sidewalk at the US Bank building.

While the proposed connections do not meet the minimum distances of 20 feet from existing transit stops, the existing public sidewalks and proposed pedestrian connections provide safe access from the transit stops to the buildings. A direct pedestrian connection has been provided from the new restaurant buildings extending north to the mall building, which meets the pedestrian connection from McGrath's and the west, and the pedestrian connection from US Bank on the east, thereby providing indirect connections to both transit stops. The proposed locations also minimize reconfigurations of existing parking spaces or reductions in the number of parking spaces below those included in tenants' lease agreements and retain existing landscaping near US Bank.

Staff finds the proposed pedestrian connections will provide safe connections to the existing transit stops. The increase of pedestrian connections to transit stops is bringing the development site closer to compliance, which is equally or better meeting the intent of the pedestrian access standard. The proposal meets this criterion.

*Adjustment to request relief from the requirement to provide 5-foot-wide setbacks on both sides of interior property lines that cross parking and vehicle use areas (SRC 806.035(c)(3)).*

The subject property consists of multiple separate tax lots and lawfully established units of land. SRC Chapter 522, Table 522-5, does not require a minimum building setback adjacent to the interior property lines; however, SRC 806.035(c)(3) requires that off-street parking and vehicle use areas abutting an interior front, side, or rear property line shall be set back a minimum of five feet, and the setbacks shall be landscaped according to the Type A standard set forth in SRC Chapter 807. 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.

The applicant states that it is impractical and infeasible to create a 5-foot landscaped setback on either side of the internal lot lines without substantial loss of parking and maneuvering areas. 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. The proposal meets this criterion.

*Adjustment to request a reduction in the percentage of interior parking lot landscaping (SRC 806.035(d)(2)).*

The applicant is requesting an adjustment to the minimum interior parking lot landscaping for the overall mall area for each phase of the development. The applicant states that bringing the entire site into compliance with the current interior landscape standard at this time would require significant site disturbance and would impact parking counts, vehicle circulation, and other existing site features. The applicant is proposing increases in the percentage of interior landscaping that will bring the site and proposed phases closer to conformance.

In Phase II-A, the proposed development would result in removal of three landscaped islands, but would also provide three replacement landscaped islands. The existing landscape within the development area for the new buildings is 787 square feet (2.8 percent). The plans propose to add landscaping for a net increase of approximately 1,439 square feet, bringing the development area to 4,372 square feet of landscaping (15.8 percent), and increasing the entire development site landscaping to 3.243 acres (6.5percent). In addition, as conditioned above, a higher density of plant units shall be provided to mitigate for the reduced planting area.

By adding landscaping on the site and within the reconfigured parking areas, the proposal will improve the appearance and visual character of the site and equally or better meet the purpose of the standard.

***SRC 250.005(d)(2)(B): If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.***

**Finding:** The subject property is located within an CR (Retail Commercial) zone; therefore, the criterion is not applicable.

***SRC 250.005(d)(2)(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.***

**Finding:** Four separate Class 2 Adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. The cumulative impact of the adjustments results in an overall project which is consistent with the intent and purpose of the zoning code.

Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

**Condition 9:** The adjusted setbacks, pedestrian access, and landscaping standards, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development requirements, unless adjusted through a future land use action.

## **8. Analysis of Class 2 Driveway Approach Permit Approval Criteria**

Salem Revised Code (SRC) 804.025(d) provides that an application for a Class 2 Driveway Approach Permit shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

***SRC 804.025(d)(1): The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards.***

**Finding:** The proposed modifications to the existing driveway meet the standards for SRC Chapter 804 and PWDS.

***SRC 804.025(d)(2): No site conditions prevent placing the driveway approach in the required location.***

**Finding:** There are no site conditions prohibiting the location of the proposed driveway.

***SRC 804.025(d)(3): The number of driveway approaches onto an arterial are minimized.***

**Finding:** The development site is a large retail shopping center. The proposal is to modify one of the existing driveways to improve pedestrian access. There are no “new” driveways onto the arterial street.

***SRC 804.025(d)(4): The proposed driveway approach, where possible:***

***(A) Is shared with an adjacent property; or***

***(B) Takes access from the lowest classification of street abutting the property***

**Finding:** The existing driveway approaches are shared among multiple parcels that contain a retail shopping center.

***SRC 804.025(d)(5): The proposed driveway approach meets vision clearance standards.***

**Finding:** The modifications to the existing driveway meet the PWDS vision clearance standards set forth in SRC Chapter 805.

***SRC 804.025(d)(6): The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access.***

**Finding:** No evidence has been submitted to indicate the proposed driveway modifications will create traffic hazards or unsafe turning movements. Additionally, staff analysis of the proposed driveway indicates it will not create a traffic hazard and will provide for safe turning movements for access to the subject property.

***SRC 804.025(d)(7): The proposed driveway approach does not result in significant adverse impacts to the vicinity.***

**Finding:** Staff analysis of the proposed driveway modifications and the evidence that has been submitted indicate the location of the driveway will not have any adverse impacts to the adjacent properties or streets.

***SRC 804.025(d)(8): The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections.***

**Finding:** The existing driveway approach is located on an arterial street and does not create a significant impact to adjacent streets and intersections

***SRC 804.025(d)(9): The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.***

**Finding:** The existing driveway approach is not located in the vicinity of a residentially zoned area. The driveway will not have an effect on the functionality of the adjacent streets.

## **10. Conclusion**

Based upon review of SRC Chapters 220, 225, and 250, the applicable standards of the Salem Revised Code, the findings contained herein, and due consideration of comments received, the application complies with the requirements for an affirmative decision.

### **IT IS HEREBY ORDERED**

Final approval of Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review Case No. SPR-ADJ-DAP22-35 is hereby **APPROVED** subject to SRC Chapters 220, 225, and 250, the applicable standards of the Salem Revised Code, conformance with the approved site plan included as Attachment B, and the following conditions of approval:

- Condition 1:** At the time of building permit review, the applicant shall provide plans showing Fire Department access and Fire hydrant locations as required, or the applicant shall provide the required fire sprinklers and location of the Fire Department Connection.
- Condition 2:** The applicant shall ensure that the Property Line Adjustment Case Numbers PLA22-09 and PLA22-10 are recorded prior to issuance of any civil site work or building permits.
- Condition 3:** At the time of building permit, the applicant shall indicate the surrounding pad area for the trash enclosure, pursuant to SRC 800.055(b)(1).
- Condition 4:** At the time of building permit review, the applicant shall demonstrate that all required pedestrian connections conform with the design and material requirements of SRC Chapter 800, specifically SRC 800.065(b)(1) and 800.065(c).
- Condition 5:** Convey land for dedication to equal a half-width right-of-way of up to 48 feet on the development side of Center Street NE.

- Condition 6:** Install street trees to the maximum extent feasible along the Center Street NE frontage.
- Condition 7:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.
- Condition 8:** At the time of building permit review, provide a landscape plan demonstrating that the proposed landscape areas will be planted with a minimum of one plant unit per 16 square feet, with 40 percent of the plant units being trees.
- Condition 9:** The adjusted setbacks, pedestrian access, and landscaping standards, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development requirements, unless adjusted through a future land use action.



---

Jamie Donaldson, Planner II, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

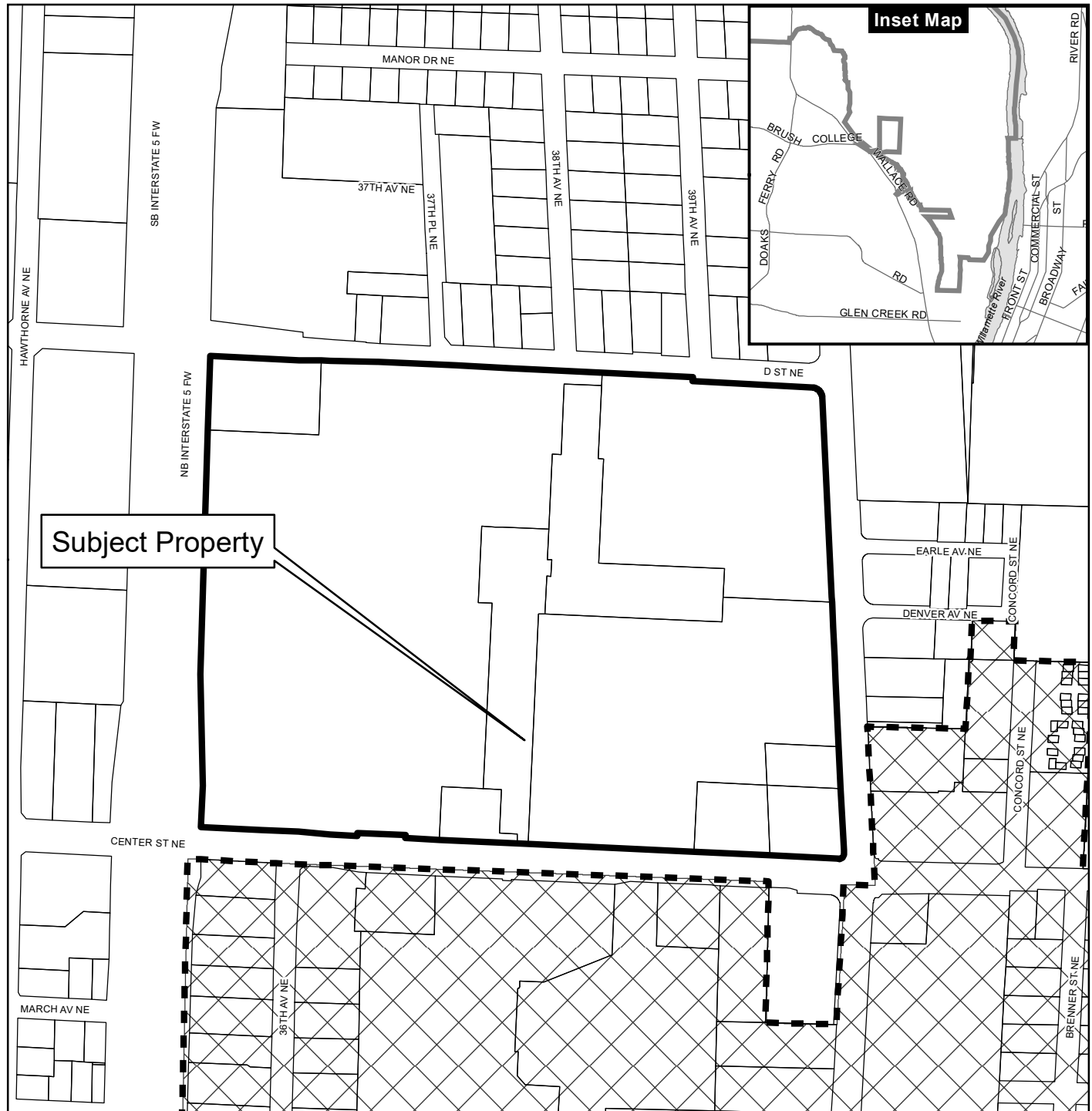
Attachments: A. Vicinity Map  
B. Proposed Development Plans  
C. Applicant's Written Statement  
D. Public Works Memo

<http://www.cityofsalem.net/planning>



# Vicinity Map

## 3815 & 3817 Center St NE at Willamette Town Center



### Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools

Parks

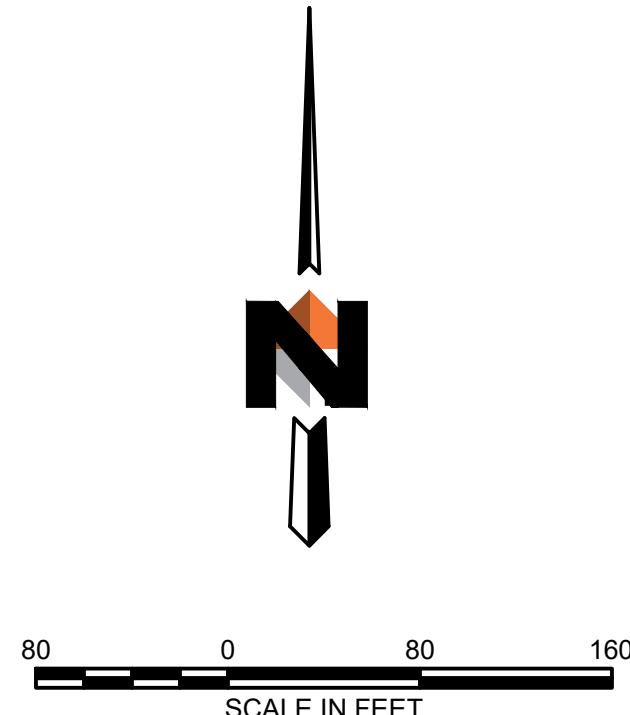
**CITY OF Salem**  
AT YOUR SERVICE  
Community Development Dept.

This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

0 100 200 400 Feet





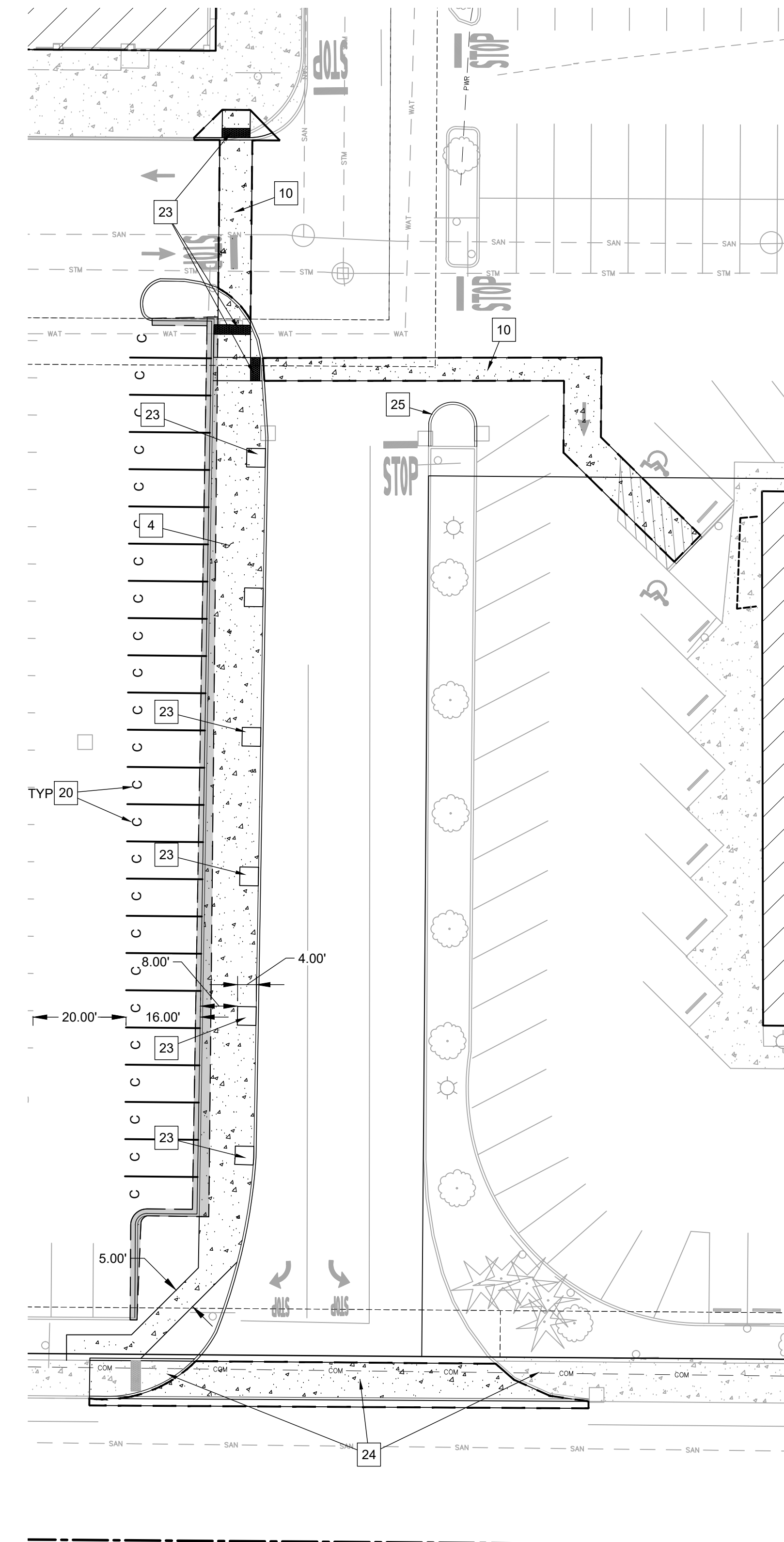
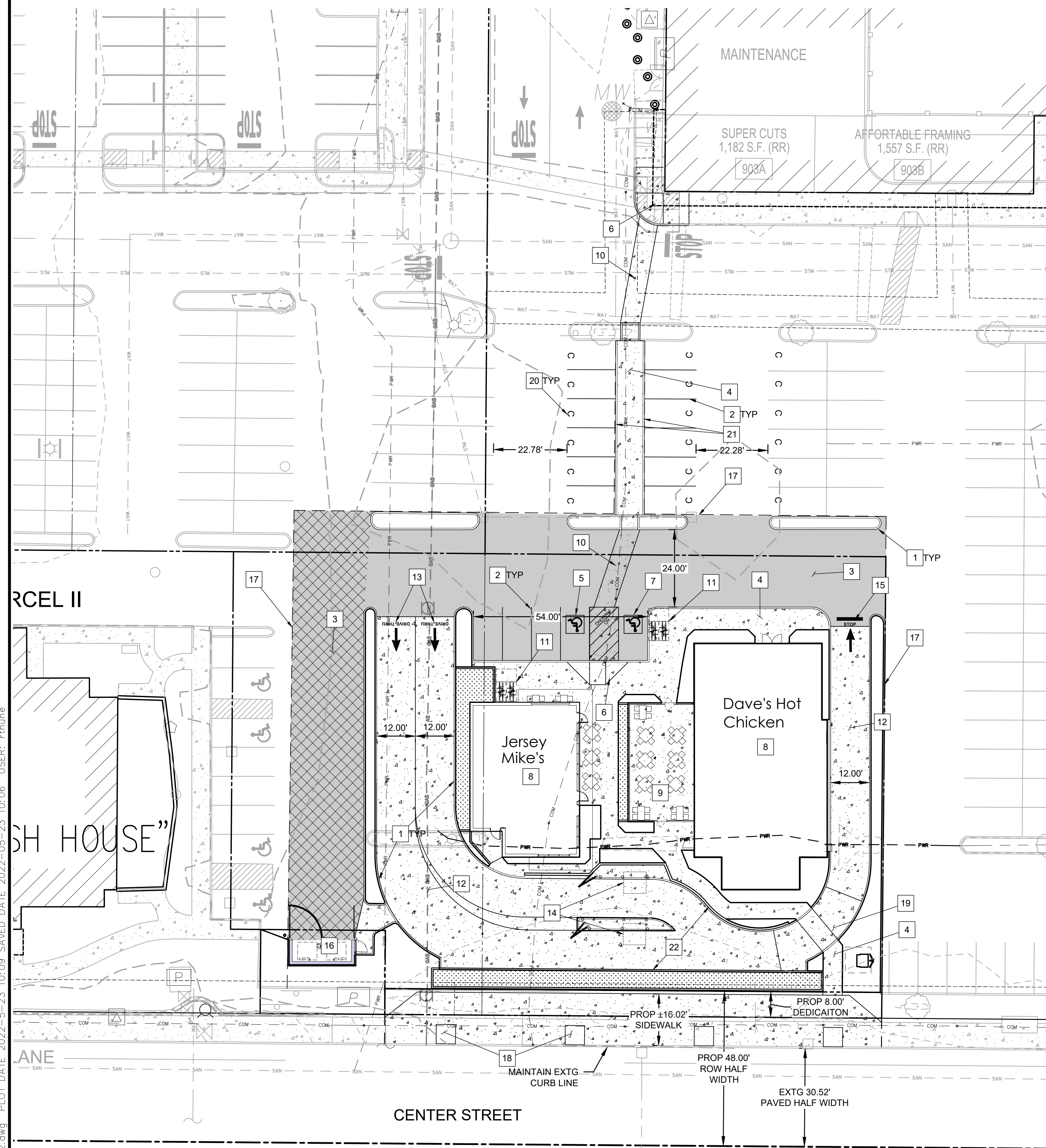


LANDSCAPE INFORMATION	
OVERALL SITE AREA:	49.91 AC
TOTAL ONSITE LANDSCAPE AREA:	3.209 AC (6.43%)
TOTAL LANDSCAPE POST WTC DHC:	3.243 AC (6.50%)
<b><u>WTC DAVE'S HOT CHICKEN DEVELOPMENT AREA:</u></b>	<b>27,644 SF (0.63 AC)</b>
EXISTING LANDSCAPE WITHIN DEVELOPMENT AREA:	787 SF (2.85%)
PROPOSED LANDSCAPE WITHIN DEVELOPMENT AREA:	4,372 SF (15.82%)
EXISTING LANDSCAPE LOT WITH EAST PED CONNECTION	2,146 SF
PROPOSED LANDSCAPE WITH PED CONNECTION	54 SF
NET POSITIVE LANDSCAPE:	1,493 SF
TOTAL DISTURBED AREA:	0.85 AC

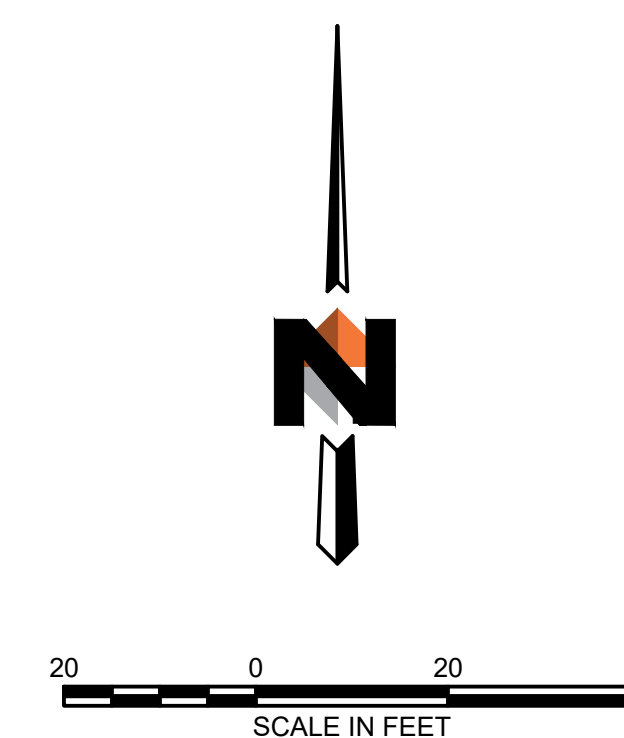
PARKING INFORMATION	
<b>TOTAL EXISTING PARKING:</b>	<b>3,078</b>
STANDARD PARKING STALLS	2,998
TOTAL ADA PARKING STALLS:	80
STANDARD ADA PARKING:	57
VAN ADA PARKING:	23
<b>TOTAL PROPOSED PARKING:</b>	<b>2,997</b>
EXISTING STALLS TO BE REMOVED	(86)
PROPOSED STALLS WITH DAVE'S HOT CHICKEN	5
STANDARD PARKING STALLS	2,916
TOTAL ADA PARKING STALLS:	81
STANDARD ADA PARKING:	58
VAN ADA PARKING:	23
<i>*[REQUIRED ADA STALLS (20 + 1 PER 100 OVER 1000):</i>	<i>40]</i>
<i>*[REQUIRED WHEELCHAIR (1 PER 6 PROVIDED):</i>	<i>7]</i>

**\*\*NOTE: TOTAL REQUIRED STALLS IS 2,505 FOR EXISTING AND PROPOSED USE**
















OREGON UTILITY  
NOTIFICATION CENTER  
1-800-332-2344



### LEGEND

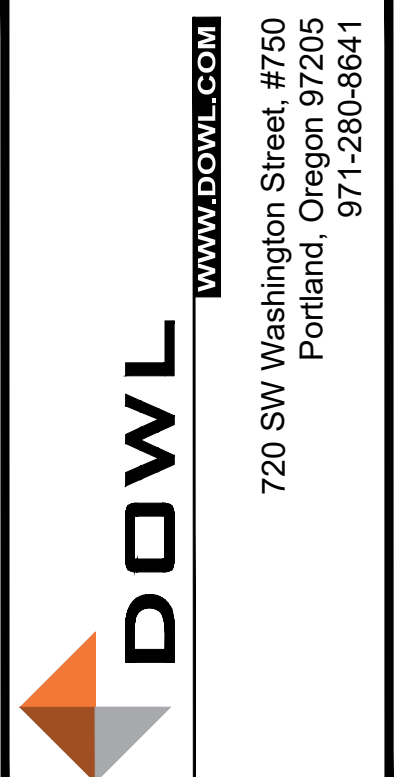
- |   |                             |
|---|-----------------------------|
|  | EXISTING PROPERTY LINE      |
|  | PROPOSED DEVELOPMENT LIMITS |
|  | EXISTING CENTERLINE         |
|  | PROPOSED SAWCUT LINE        |
|  | PROPOSED BUILDING           |
|  | PROPOSED CURB               |
|  | PROPOSED CONCRETE           |
|  | PROPOSED HEAVY CONCRETE     |
|  | PROPOSED AC                 |
|  | PROPOSED HEAVY AC           |
|  | PROPOSED SIGN               |

## ## SITE CONSTRUCTION NOTES

1. PROPOSED STANDARD CURB.
2. PROPOSED 4" WIDE PAINTED WHITE STRIPE. 2 COATS MINIMUM.
3. PROPOSED ASPHALT PAVEMENT SURFACE.
4. PROPOSED STANDARD CONCRETE SIDEWALK.
5. PROPOSED STANDARD ADA PARKING STALL.
6. PROPOSED ADA RAMP
7. PROPOSED VAN ACCESSIBLE A.D.A. STALL AND SIGNAGE.
8. REFER TO ARCHITECTURAL PLANS FOR BUILDING DETAILS
9. PROPOSED PATIO AREA. SEE ARCHITECTURAL PLANS FOR SCORING INFORMATION FOR DETAILS.
10. PROPOSED CONCRETE CROSSWALK WITH IMPACT SLAB
11. PROPOSED BIKE RACKS, 4 RACKS WITH 8 TOTAL STALLS
12. PROPOSED DRIVE-THRU CONCRETE.
13. PROPOSED DRIVE-THRU PAVEMENT MARKINGS
14. PROPOSED DRIVE-THRU EQUIPMENT AND SIGNAGE.
15. PROPOSED STOP BAR AND PAVEMENT MARKINGS
16. PROPOSED TRASH ENCLOSURE
17. PROPOSED SAWCUT OF EXISTING PAVEMENT WITH CLEAN VERTICAL EDGE.
18. PROPOSED PUBLIC SIDEWALK AND 6'X6' TREE WELLS SPACED AT 40'.C.
19. PROPOSED RAISED CONCRETE CROSSWALK.
20. PROPOSED COMPACT PARKING SYMBOL. MARKING TO BE A "C" IN 12" TALL LETTERING. 2 COATS MINIMUM WHITE PAINT.
21. PROPOSED FLUSH CURB WITH CONCRETE WHEEL STOPS AT LOCATED AT HEAD OF EACH STALL TO MAINTAIN EXISTING SITE DRAINAGE PATTERN. WHEEL STOP TO BE DRILLED AND EPOXY SET INTO FLUSH CURB.
22. PROPOSED 36" TALL CMU SCREEN WALL. SEE ARCHITECTURAL DETAILS FOR MORE INFORMATION
23. PROPOSED 4X4 TREE WELL WITH NO GRATE
24. PROPOSED CONCRETE COMMERCIAL DRIVINGWAY APPROACH. MAINTAIN AND PROTECT EXISTING SIDEWALK RAMP ON BOTH SIDES OF APPROACH. CONSTRUCT ADA SIDEWALK BEHIND EXISTING RAMP ON WEST SIDE TO ALLOW FOR CONNECTION TO NEW ONSITE PED ROUTE
25. PROPOSED NEW CURB TO EXTEND BEYOND EXISTING CATCH BASINS. CATCH BASINS TO BE PROTECTED AND ADJUSTED TO FINISHED GRADE.

[illegible]

FOR  
REVIEW  
ONLY



**WILLAMETTE TOWN CENTER - DAVE'S HOT CHICKEN  
LAND USE ADJUSTMENT**

# SITE PLAN

SE 1/4 S19, T7S, R2W WM TL5400  
MARION COUNTY, OR

PROJECT	14852.01
DATE	04/04/2022

DOWL 2020  
QUEST

## C2.1

c:\dowl\_pw\d0397352\SC-CS-SI-14852.dwg PLOT DATE 2022-5-23 10:09 SAVED DATE 2022-05-23 10:06 USER: rthune





proposed stormwater detention facility under the drive-through area. The water will move through the proposed flow control stormwater manhole, and storm pipe that will connect to an existing public stormwater main under Center Street NE. Sheet C4.0 also shows three proposed catch basins along the perimeter of the development site.

## Chapter 250. – ADJUSTMENTS

### SEC. 250.005. – ADJUSTMENTS.

#### (a) Applicability.

##### (1) Classes.

(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:

The Applicant is requesting the following Class 2 adjustments:

- UDC 522.010.d.3. – The Applicant requests an adjustment to the 15% of Type A landscaping required for the overall development site.
- UDC 800.065.a.1.B – The Applicant requests relief from the requirement to provide a pedestrian connection to the public street within 20 feet of a transit stop.
- UDC 806.035.c.3 – The Applicant requests relief from the requirement to provide 5-foot-wide setbacks on both sides of interior property lines that cross parking and vehicle use areas.
- UDC 806.035.d.2 – The Applicant requests to reduce the internal parking lot area from the entire WTC development site to a 2.36-acre internal parking area (see Internal Landscape Exhibit). The Applicant is proposing 0.04 acres (8.01%) of interior parking lot landscaping within that 2.36-acre internal parking area.

#### (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) inapplicable to the proposed development; or
- (ii) Equally or better met by the proposed development.

#### Response:

The purpose of the specific development standards for which the Applicant is requesting these adjustments is either clearly inapplicable to the proposed development or equally or better met by the proposed development.

- UDC 522.010.d.3. – The Applicant requests an adjustment to the 15% of Type A landscaping required for the overall development site. The overall site currently has 3.209 acres (6.43%) of landscaping. The Applicant is proposing 3.243 acres (6.5%) of Type A landscaping. As shown on the Site Plan Sheet C2.0, the Applicant proposes net positive landscaping with each subsequent phase of development. The overall site landscaping increases to 3.243 acres, or 6.50%, thus bringing the WTC site closer to compliance with the 15% landscaping requirement required pursuant to UDC 522.010.d.3. It would require significant site disturbance, impact

parking counts, vehicle circulation and other existing site features to bring the entire WTC site into compliance with this landscape standard.

- *UDC 800.065.a.1.B* – The Applicant requests relief from the requirement to provide a pedestrian connection to the public street within 20 feet of a transit stop. Tax lot 072W19CC05403 is located within 20 feet of a transit stop (Stop ID 1453). The Applicant cannot modify the abutting McGrath site to include a pedestrian connection near the phase II-B building due to this site having a separate ground lease agreement with the tenant. There is also an existing wall, signalized intersection, and ADA connection, therefore, an additional pedestrian connection is not feasible. The interior east-west sidewalk north of McGrath's and existing ADA connection will provide the most direct route from the transit stop to the restaurant pads to meet the intent of the standard.
- *UDC 806.035.c.3* – The Applicant requests relief from the requirement to provide 5-foot-wide setbacks on both sides of interior property lines that cross parking and vehicle use areas. The adjustment requested is to reduce the setback required from 5 feet to zero feet since the proposed development site is located within an existing developed lot within the larger WTC site. The existing lot lines on the site are located within the existing parking area and drive aisles; therefore, it is impractical and infeasible to create a 5-foot landscape setback on either side of these internal lot lines without considerable loss of parking and vehicle maneuvering areas. The landscape islands to the north of the proposed buildings are to be relocated and widened to provide additional landscape area and meet the intent of the standard.
- *UDC 806.035.d.2* – The Applicant requests to reduce the minimum internal parking lot area from the entire WTC development site to a 2.36-acre internal parking area (see Internal Landscape Exhibit). DOWL and the City Planner determined the boundaries for interior parking lot landscape calculations due to the large amount of existing asphalt on the site. The Applicant is proposing 0.04 acres (8.01%) of interior parking lot landscaping within that 102,650 SF (2.36-acre) internal parking landscape area. Compliance with the minimum landscaping standard is infeasible at the WTC property as it would require significant site disturbance, reduce impact parking facilities, impact vehicle circulation, and other existing site features. As shown on the Internal Landscape Exhibit, approximately 1,753 square feet (0.04 acres) of interior parking lot landscaping is proposed. The percentage of interior landscaping is increasing toward the 8% requirement which brings the site closer to compliance with the standard.

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

**Response:** The proposed development is not located within a residential area.

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

**Response:** This application requests four adjustments that maintain consistency with the overall purpose of the CR zone which is to allow for a wide range of retail sales and office uses. Bringing the entire site in compliance with the specific landscape and site design standards for which the applicant is requesting an adjustment: UDC 522.010.d.3, UDC 800.065.a.1.B, UDC 806.035.c.3, and UDC 806.035.d.2, would require significant disturbance and further impact parking counts, vehicle circulation, and other existing site features. Therefore, the requested adjustments to specific landscape and site design standards will allow for an array of retail sales uses to continue and maintain consistency with the overall purpose of the zone.

## **Chapter 522 CR – RETAIL COMMERCIAL**

### **SEC. 522.005. USES.**

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the CR zone are set forth in Table 522-1.

**Response:** The proposed development will be used for eating and drinking establishments. Per Table 522-1, all subcategories listed under Retail Sales and Service are permitted except used merchandise stores where sales are not conducted entirely within a building. No used merchandise stores are proposed where sales and storage are not conducted entirely within a building.

### **SEC. 522.010. DEVELOPMENT STANDARDS.**

Development within the CR zone must comply with the development standards set forth in this section.

(a) Lot Standards. Lots within the CR zone shall conform to the standards set forth in Table 522-2.

**Table 522-2: Lot Standard**

Requirement		Standard	Limitations & Qualifications	Response
Lot Area				
All Uses	None	--	No standard listed.	
Lot Width				
All Uses	None	--	No standard listed.	
Lot Depth				
All Uses	None	--	No standard listed.	
Street Frontage				
All Other Uses than Single Family	Minimum 16 feet	--	The overall site exceeds the minimum 16 feet of street frontage along Center Street NE. See Sheet C2.1.	

(b) Setbacks. Setbacks within the CR zone shall be provided as set forth in Tables 522-3 and 522-4.

**Table 522-3: Setbacks**


Requirement	Standard	Limitations & Qualifications	Response
<b>Abutting Street</b>			
<b>Buildings</b>			





# MEMO

**TO:** Jamie Donaldson, Planner II  
Community Development Department

**FROM:** Glenn J. Davis, PE, CFM, Chief Development Engineer  
Public Works Department 

**DATE:** July 20, 2022

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS**  
**SPR-ADJ-DAP22-35 (22-107351; 22-107784; 22-110185)**  
**3815 CENTER STREET NE**  
**NEW RESTAURANT BUILDINGS**

## **PROPOSAL**

An application for a Class 3 Site Plan Review, Class 1 and 2 Adjustments, and a Class 2 Driveway Approach Permit for Phase II-A development within the Willamette Town Center, including a new building with a drive-through, pedestrian access, parking lot modifications, and landscaping modifications, as well as a second building without a drive-through, on properties approximately 12.62 acres in size, located within a 49.91-acre development site in the CR (Retail Commercial) zone at 3815 Center Street NE 97301 (Marion County Map and Tax Lots (072W19CC / 5403 and 5404).

## **RECOMMENDED CONDITIONS OF APPROVAL**

1. Convey land for dedication to equal a half-width right-of-way of up to 48 feet on the development side of Center Street NE.
2. Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.
3. Install street trees to the maximum extent feasible along the Center Street NE frontage.

## **FACTS**

### **Streets**

1. Center Street NE
  - a. Standard—This street is designated as a major arterial street in the Salem TSP. The standard for this street classification is a 68-foot-wide improvement within a 96-foot-wide right-of-way.



- b. Existing Conditions—This street has an approximate 68-foot improvement within an 88-to-98-foot-wide right-of-way abutting the subject property.

### **Storm Drainage**

1. Existing Conditions

- a. A 12-inch storm main is located in Center Street NE.

### **Water**

1. Existing Conditions

- a. The subject property is located in the G-0 water service level.
- b. A 10-inch water main is located on the subject property in an easement. Mains of this size generally convey flows of 1,500 to 3,400 gallons per minute.

### **Sanitary Sewer**

1. Existing Conditions

- a. An 8-inch sewer main is located in Center Street NE.

### **CRITERIA AND FINDINGS**

Analysis of the development based on relevant criteria in SRC 220.005(f)(3) is as follows:

**Criteria: SRC 220.005(f)(3)(A) The application meets all applicable standards of the UDC (*Unified Development Code*)**

**Finding**—With completion of the conditions above, the subject property meets all applicable standards of the following chapters of the UDC: 601 – Floodplain; 802 – Public Improvements; 803 – Streets and Right-of-Way Improvements; 804 – Driveway Approaches; 805 – Vision Clearance; 809 – Wetlands; and 810 – Landslides.

Public Works staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist on the subject property.

According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas or hydric soils.

According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas within the development area of the subject property.

**Criteria: SRC 220.005(f)(3)(B) The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately**

**Finding—**The existing right-of-way width of Center Street NE does not meet current standards for its classification of street per the Salem TSP. The applicant shall convey for dedication a half-width right-of-way up to 48 feet to major arterial street standards as specified in the PWDS and based on a rational nexus calculation. Center Street NE meets the improvement width for its classification per the Salem TSP and, therefore, no street improvements are required.

**Condition:** Convey land for dedication to equal a half-width right-of-way of up to 48 feet on the development side of Center Street NE.

The "planting plan" submitted with the application shows multiple new street trees along the Center Street NE property frontage. The applicant is required to install new street trees to the maximum extent feasible per SRC 86.015(e).

**Condition:** Install street trees to the maximum extent feasible along the Center Street NE frontage.

**Criteria: SRC 220.005(f)(3)(C) Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians**

**Finding—**The driveway access onto Center Street NE provides for safe turning movements into and out of the property. Plans show the existing driveway approach along Center Street NE will be modified to meet Commercial driveway approach standards pursuant to PWDS.

**Criteria: SRC 220.005(f)(3)(D) The proposed development will be adequately served with City water, sewer, storm drainage, and other utilities appropriate to the nature of the development**

**Finding—**The Public Works Department has reviewed the applicant's preliminary plan for this site. The water, sewer, and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development.

The applicant's engineer submitted a statement demonstrating compliance with Stormwater PWDS Appendix 004-E(4) and SRC Chapter 71. The preliminary stormwater design proposes the use of green stormwater infrastructure (GSI) to the

maximum extent feasible, but additional design features will be needed during the building plan review process to establish compliance with PWDS. At time of development, the applicant shall design the stormwater management system in compliance with PWDS, which may require a design exception from the City Engineer.

**Condition:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and PWDS.

**Criteria—A Class 2 Driveway Approach Permit shall be granted if:**

- (1) The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards;**

**Finding—**The proposed modifications to the existing driveway meet the standards for SRC Chapter 804 and PWDS.

- (2) No site conditions prevent placing the driveway approach in the required location;**

**Finding—**There are no site conditions prohibiting the location of the proposed driveway.

- (3) The number of driveway approaches onto an arterial are minimized;**

**Finding—**The development site is a large retail shopping center. The proposal is to modify one of the existing driveways to improve pedestrian access. There are no “new” driveways onto the arterial street.

- (4) The proposed driveway approach, where possible:**

- i. **Is shared with an adjacent property; or**
- ii. **Takes access from the lowest classification of street abutting the property;**

**Finding—**The existing driveway approaches are shared among multiple parcels that contain a retail shopping center.

- (5) Proposed driveway approach meets vision clearance standards;**

**Finding—**The modifications to the existing driveway meet the PWDS vision clearance standards set forth in SRC Chapter 805.

- (6) The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access;**

**Finding**—No evidence has been submitted to indicate the proposed driveway modifications will create traffic hazards or unsafe turning movements. Additionally, staff analysis of the proposed driveway indicates it will not create a traffic hazard and will provide for safe turning movements for access to the subject property.

**(7) The proposed driveway approach does not result in significant adverse impacts to the vicinity;**

**Finding**—Staff analysis of the proposed driveway modifications and the evidence that has been submitted indicate the location of the driveway will not have any adverse impacts to the adjacent properties or streets.

**(8) The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections; and**

**Finding**—The exiting driveway approach is located on an arterial street and does not create a significant impact to adjacent streets and intersections.

**(9) The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.**

**Finding**—The existing driveway approach is not located in the vicinity of a residentially zoned area. The driveway will not have an effect on the functionality of the adjacent streets.

Prepared by: Laurel Christian, Program Coordinator  
cc: File