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15 February, 2023

Jamie Donaldson,
Planner II
Community Development
555 Liberty Street SE
Salem OR., 97301

RE: 22-125164-PLN (Class 3 Site Plan Review) 1717 Freeway Court NE

In response to your letter of 9 February, 2023

Item:	
Submittal Requirements	<p>The application form must be signed by the applicant(s), property owner(s), and/or duly authorized representative(s). If the applicant and/or property owner is a Limited Liability Company (LLC), a list of all members of the LLC must be provided with your land use application.</p> <p>The application indicates the application was submitted by 35M LLC. An operating agreement was provided for the LLCs listed on the deeds, but please also provide a list of LLC members for the applicant, 35M LLC</p>
<p>Response: it is unclear what is being asked. There are 2 people involved in both LLC, Joseph R. Fox, Hawthorne Parking Lot LLC and Mary R. Hawkins - Hawthorne Land Investment, LLC. 35M LLC conveyed their interest to Hawthorne Restaurant LLC on Jan 7, 2013. According to the Title company 35M LLC, has no interest in the Property.</p> <p>In the past application has been made by submitting an application via email. Now with the new system that is not the case. The signed application from both Fox and Hawkins are attached. Do you have further concerns?</p>	
Neighborhood Association Contact	<p>A copy of the required e-mail or letter to the neighborhood association, and a list of the e-mail or postal addresses to which the e-mail or letter was sent, is required. Pursuant to SRC 300.310(c), the contact shall be sent to the chair(s) and land use chair(s) of the applicable neighborhood association(s), and contain a conceptual site plan. The neighborhood association contact submitted only included the contact information. Please revise the neighborhood association contact to comply with the standards under SRC 300.310.</p>

Response: Please see attached email, plus the operator of the car lot made an in-person presentation at their December meeting. The neighborhood response was very favorable, hoping for some positive energy at the interchange	
Written Statement (CU)	The written statement provided for the Conditional Use Permit does not adequately address the criteria. More specifically, it does not address how the proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property. In addition, there do not appear to be any proposals to minimize likely adverse impacts of the use on the immediate neighborhood. Please revise the written statement to provide further detail as to how the development meets the criteria, as outlined in SRC 240.005(d), and should be allowed as a conditional use in the MU-III zone
<p>Response: Sec. 535.001. - Purpose.</p> <p>The purpose of the Mixed Use-III (MU-III) zone is to identify allowed uses and establish development standards that encourage infill development and redevelopment in mixed-use corridors and centers and promote pedestrian access. The MU-III zone generally allows a variety of retail and office uses, commercial services, and multiple family residential uses.</p> <p>Auto sales are a retail use, while hopefully retaining a smaller restaurant/bar. The former restaurant is unlikely to be reused as a restaurant due to it size. Perhaps development patterns have changed in the last 25 years to the point, certainly post Covid. The amount of redevelopment in the past few years have fallen off sharply. The amount of investment in this property is such that it will not be scraped. The alternative is for the homeless have taken up residence, overnight camping and dumping occurs regularly. This is unsightly and the absence of a tenant has many more adverse effects than the benign Autosales. Our proposal will strengthen the fabric of neighborhood.</p> <p>This conditional use for operation of a used car sales business should be granted.</p> <p><u>Commercial Use development Policy 3</u> encourages the redevelopment of the existing surplus realstate created by the reconstruction of the freeway interchange for commercial use. The proposed use will be placed an underutilized property is consistent with redevelopment .</p> <p><u>Commercial Use development Policy 4.</u> Community shopping and services shall be located adjacent to major and minor arterials. The site is on the north side Market Street, access to Market street from Freeway court via Hawthorne Avenue and is consistent with with this policy.</p> <p><u>Commercial Use development Policy 5</u> discourages strip develoment unless the land use pattern is already committed to that pattern. The subject property is within the existing commercial pattern long since established. This proposal will not change or affect the existing land use pattern and consistant with existing land use.</p> <p>(d) Criteria. An application for conditional use permit shall be granted if all of the following criteria are met:</p>	

(1) The proposed use is allowed as a conditional use in the zone; The site is zoned Mixed Use III and the Comprehensive Plan Designation is also mixed use. Salem Revised Code(SRC) Chapter 535 table 535-1 Uses, identifies Motor Vehicle Sales as a conditional use

Motor Vehicle, Trailer, and Manufactured Dwelling Sales and Service		
Motor vehicle and manufactured dwelling and trailer sales	C	

(2) The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions; and

There is no adverse impact to this use, If you visit the Auto sales lots in the area, they are by far cleaner (no trash on the ground,) landscape is better maintain Than non-automotive business. This is because they take pride in the presentation of their wares. Business activity of any stripe is better than vacuum created without it. To the extent there are impacts there are no residents or uses to be impacted by the proposed use. The site is completely surrounded by parking. The Motel at the closest point to our use is a Short-term commercial lodging use (Comfort Inn) is 70' feet on the diagonal from the subject property. Because of the window orientation. There are no windows facing the subject property. Only a few of the Motel windows can see the subject property. To do so you must press your face to the window to see the site. The mass of the Comfort Inn completely screens this site from any residential property. Such residential properties are blocks away. Used car sales omit no odors, make no noise, creates no vibrations. Display lighting will be "cut off" type and will be oriented toward the display vehicles and light bleed will be minimized. This is typical of the industry. Used auto sales is part of the fabric neighborhood (indeed the most prominent by area.)

(3) The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

There is no place in Salem more compatible with used car sales. Because of the proximity to the Market Street interchange, land use patterns are decidedly automobile oriented. There are four brands of new cars sales and one truck agency in the general area. There are also 3 large used car lots, and a couple of smaller ones and an Autobody shop nearby. The Park and Ride is across Hawthorne Avenue dedicated to comings and goings of automobiles. The seven hotels and motels in proximity of the site were located there because of the freeway interchange. There are also a number of fast food and high turnover restaurant near the freeway. There are is a hand full of suburban shopping centers nearby. All of the

<p>above are uses rely on the automobile</p> <p>Since the arrival of the interstate the automobile has been the primary organizing element of the neighborhood. It has been developed, demolished and redeveloped but always around the automobile</p>	
<p>Written Statement (SPR)</p>	<p>The written statement provided only addresses criteria for non-conforming development and not the standards of the MU-III zone. A Conditional Use Permit is a Type III land use procedure which requires discretion or legal judgement, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with the UDC and Salem Area Comprehensive Plan. Non-conforming development may not continue to operate as non-conforming through a type III procedure, and the development will likely be conditioned to provide the necessary improvements to bring the development into conformance with current zoning standards. Please revised the written statement describing the proposal and how it meets the standards of the UDC, including the development standards of the MU-III zone, as outlined in SRC 220.005(f)(3).</p>
<p>Response:</p> <p>(3) Class 3 site plan review. An application for Class 3 site plan review shall be granted if: The application meets all applicable standards of the UDC;</p> <p>Section 270.010 is the applicable standard</p> <p>Sec. 270.010. - Nonconforming development.</p> <p>(a) Generally. Nonconforming development is any development which met the applicable City or county development standards imposed at the time the development was constructed, but which no longer complies with development standards due to the adoption of, or amendment to, the City's land use regulations, the annexation of the property into the City, or the acquisition of public right-of-way. A nonconforming development may be continued until the development's nonconforming status is terminated as provided in subsection (d) of this section.</p> <p>Type 3 process, nor Conditional Use is not mentioned in subsection (d) as terminating Nonconforming development</p> <p>(1) This is not a dangerous building (2) The Cost does not exceed the 60% of the replacement cost (3) The building has not been destroyed.</p> <p>No mention of Conditional Use or type 3 process</p> <p>The proposed use is largely in compliance with Chapter 535</p>	
<p>Pedestrian-oriented Design</p>	<p>The following standards for the MU-III zone shall be addressed to provide a development in conformance with the current</p>

	<p>zoning code:</p> <p>(3) Outdoor storage. Outdoor storage of merchandise located within 50 feet of the right-of-way shall be screened with landscaping or a site-obscuring fence or wall.</p> <ul style="list-style-type: none"> ▪ The proposed chain-link fence does not meet this standard, and does not provide an ideal aesthetic for the development or meeting approval criteria. <p>(5) Ground-floor windows. For buildings within the maximum setback abutting a street, ground floor building facades facing that street shall include transparent windows on a minimum of 50 percent of the ground floor facade. The windows shall not be mirrored or treated in such a way as to block visibility into the building. The windows shall have a minimum visible transmittance (VT) of 37 percent.</p>
<p>Response: We are not storing vehicles we are displaying the vehicles for sale according Section 111.001</p> <p>Vehicle storage area means an area of a development site used for the storage of motor vehicles, utility trailers, recreational vehicles, boats, aircraft, or other vehicles.</p> <p>We displaying vehicles</p> <p><i>Vehicle display area means an area of a development site where motor vehicles, recreational vehicles, trailers, boats, or other vehicles are displayed for sale or lease.</i></p> <p>Sec. 806.035. - Off-street parking and vehicle use area development standards for uses has standards for Parking, display and Storage</p> <p>(5) Ground-floor windows are existing and the window that existing will meet the standards. Much of the Hawthorne façade is the kitchen of the old Newport Bay Restaurant Kitchen we hope to reuse the kitchen. The restaurant use will continue.</p>	
Site Plan / Landscaping	<p>The proposed site plan appears to alter and/or remove many existing landscape planters; this will not be supported as part of the development. A Conditional Use Permit shall be granted if likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions, including mitigation and beautifying measures like landscape. Please revise the plans to preserve all existing landscape planters. Additional plant units for existing planters will likely be a condition of approval</p>
<p>Response: the area where interior landscaping being removed is in a display area, (identified as such on the proposed site plan SPR 1) interior landscape is not required in display areas</p> <p>Sec. 806.035. - Off-street parking and vehicle use area development standards</p> <p>(d) interior landscaping.</p> <p>(1) Interior landscaping, generally. Interior landscaping, as set forth in this subsection, shall be required for off-street parking areas 5,000 square feet or greater in size; provided, however, interior landscaping is not required for:</p>	

(B) Vehicle display areas.	
Landscaping	<p>Pursuant to SRC 535.015(d), a minimum of 15 percent of the development site shall be landscaped, and required setbacks and vehicle use area shall meet the Type A 1 standard set forth in SRC Chapters 806 and 807. Please indicate how the development meets the minimum 15 percent requirement for the development site if there are proposed changes to the existing landscape.</p> <p>Please note: It is recommended that you provided the following items for review prior to the public hearing, which shall be required at the time of building permit review:</p> <ul style="list-style-type: none"> • Plant unit count, distribution, and density • Diameter at Breast height (DBH), species, and quantity for each tree. <p>In addition, pursuant to SRC 807.015(d)(1), when existing trees, are proposed for removal from within required setbacks or more than 75 percent of the trees on site, two new trees shall be planted for each tree removed. Replanted trees shall be of either a shade or evergreen variety with a minimum 1.5-inch caliper. Please indicate the existing trees on site and whether any are planned for removal.</p>
<p>Response: regarding SRC 535.015(d), I am confused. On the site plan review sheet 1 in the lower left-hand corner, indicates 20.4% with the removal of the interior landscape within the display area.</p> <p>Regarding the plant count the landscape is existing, it may meet the current standards or it may not. it was lawfully submitted, approved and inspected and a valid C of O is still in effect. I don't know that is subject to review.</p> <p>We have not indicated that we are removing landscape, other than the interior landscape in the display area. We will take note of the comment.</p>	
	<p>Some parking spaces appear to be compact. Please indicate how many compact spaces are part of the required parking designations.</p> <p>In addition, the plans as proposed do not illustrate conformance with SRC 806.035(f)(2) and the required turnaround area where a drive aisle terminates at a dead-end (see Figure 806-9). A parking space will need to be designated as providing the appropriate turnaround area, and may not be used towards the parking count.</p>
<p>Response: the existing 10 spaces along the north property line (NW corner) are compact. The balance of the 23 spaces provide are full size or accessible. Only 19 spaces are required. So only 6 compacts are required spaces. I would maintain that this parking lot is existing non-conforming development. As such not subject to SRC</p>	

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Public Works Comments	Please see Public Works completeness review comments below. For questions on the Public Works items listed, the applicant may contact Laurel Christian in Development Services at 503-588- 6211 or by email at LChristian@cityofsalem.net.
Response: I spoke to Laurel, we are not changing any improvements, on the site. The special setback and Public utilities	

Please call with questions.

Ronald James Ped
Architect, PC
President