

# 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 HEARINGS OFFICER

**CONDITIONAL USE / CLASS 3 SITE PLAN REVIEW CASE NO.: CU-SPR23-03**

**APPLICATION NO.: 23-101851-PLN**

**NOTICE OF DECISION DATE:** April 4, 2023

**SUMMARY:** Development of car dealership tenant in the MU-III (Mixed Use-III) zone.

**REQUEST:** A Conditional Use Permit and Class 3 Site Plan Review to allow a used car dealership tenant space in an existing building with associated site changes for vehicle display and improvements to pedestrian connections, for properties totaling approximately 1.4 acres in size, zoned MU-III (Mixed Use-III) and located at 1717 Freeway Court NE - 97301 (Marion County Assessors Map and Tax Lot numbers: 073W24AD / 0500 & 0202).

**APPLICANT:** Ron Ped on behalf of Hawthorne Parking Lot LLC (Joseph Fox)

**LOCATION:** 1717 Freeway Ct NE, Salem OR 97301

**CRITERIA:** Salem Revised Code (SRC) Chapters 240.005(d) – Conditional Use; 220.005(f)(3) – Class 3 Site Plan Review

**FINDINGS:** The findings are in the attached Decision dated April 3, 2023.

**DECISION:** The **Hearings Officer APPROVED** Conditional Use / Class 3 Site Plan Review Case No. CU-SPR23-03 subject to the following conditions of approval:

### CONDITIONAL USE:

- Condition 1:** If Applicant installs fencing around the vehicle display lot or pedestrian fencing along the Market Street NE frontage, or both, fencing material must be cast iron or wrought iron.
- Condition 2:** Normal hours of operation where the business is open to the public may only be between the hours of 8 AM and 8 PM. When the use is not open for business, vehicle display area lighting shall be turned off, and only pedestrian and security lighting may be used.

### SITE PLAN REVIEW:

- Condition 3:** At the time of building permit review, the applicant must submit plans that include a minimum six-foot setback to the east property line, with Type A landscaping.

- Condition 4:** At the time of building permit review, the applicant must provide a full landscape plan demonstrating how the development site meets Type A landscaping, including all existing landscaped areas, by providing a minimum of one plant unit per 20 square feet, with 40 percent of the plant units being trees.
- Condition 5:** If the applicant installs a fence and gate at the corner of the building granting pedestrian access from the street, the gate must have a restrainer in the open position that must remain open during business hours.
- Condition 6:** All windows within the tenant space for the used car dealership may not be mirrored or treated in such a way as to block visibility into the building. The windows must have a minimum visible transmittance (VT) of 37 percent.
- Condition 7:** At the time of building permit review, the applicant must demonstrate that all required pedestrian connections conform with the design and material requirements of SRC Chapter 800, specifically SRC 800.065(b) and 800.065(c).
- Condition 8:** At the time of building permit review, the applicant must provide installation details that indicate that the bicycle racks will meet the required dimensions, design standards, and accessibility requirements of SRC Chapter 806.
- Condition 9:** The proposed development is subject to a special setback equal to 48 feet from centerline on the development side of Hawthorne Street NE, which must be included on development plans at the time of permit review.

The rights granted by the attached decision must be exercised, or an extension granted, by the dates listed below, or this approval shall be null and void.

Conditional Use:	<u>April 20, 2025</u>
Class 3 Site Plan Review:	<u>April 20, 2027</u>
Application Deemed Complete:	<u>February 28, 2023</u>
Public Hearing Date:	<u>March 22, 2023</u>
Notice of Decision Mailing Date:	<u>April 4, 2023</u>
Decision Effective Date:	<u>April 20, 2023</u>
State Mandate Date:	<u>June 28, 2023</u>

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

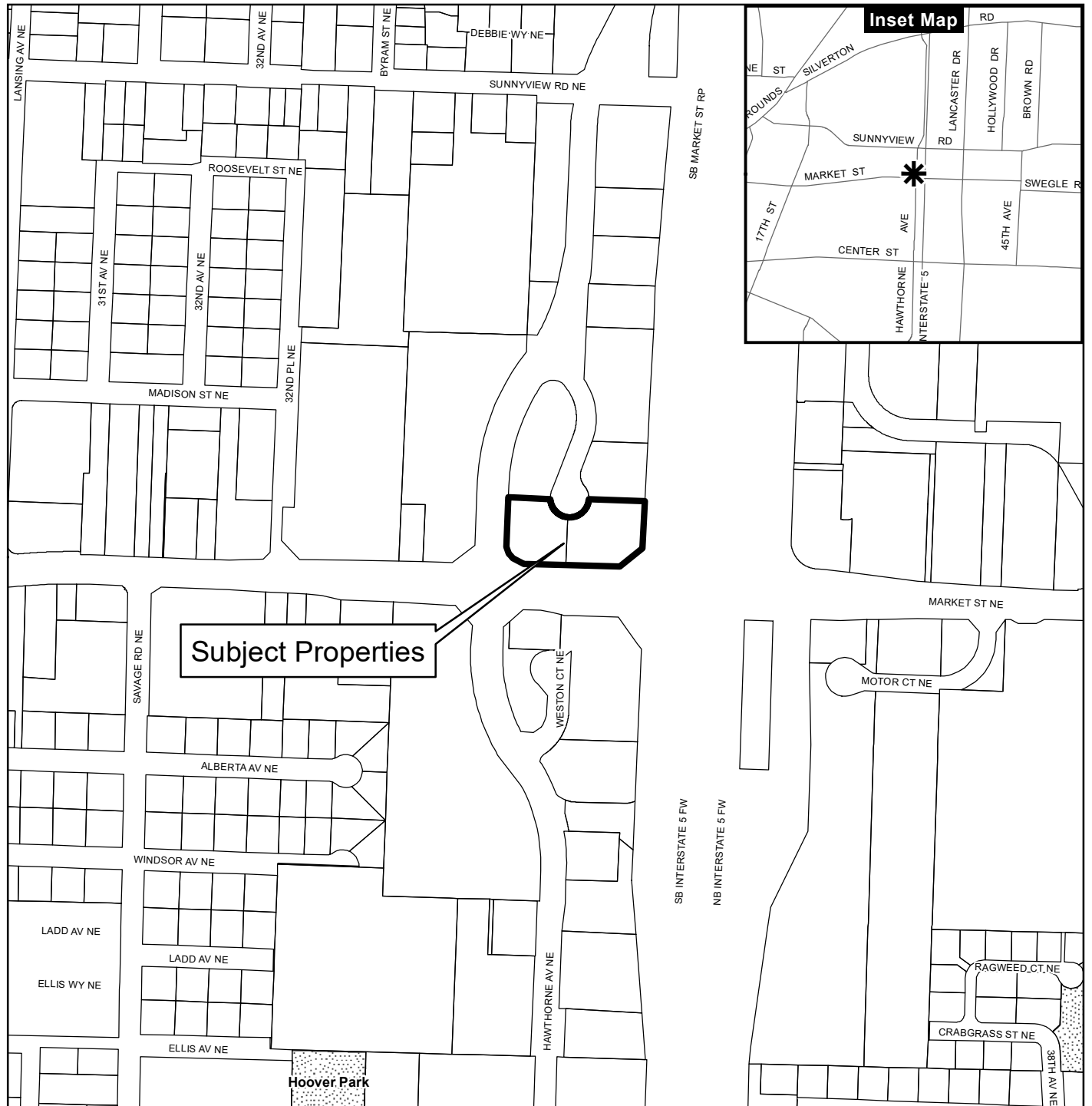
This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m. Wednesday, April 19, 2023. 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) 240, 220. 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 Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission 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>

# Vicinity Map

## 1717 Freeway Court NE



### Legend

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

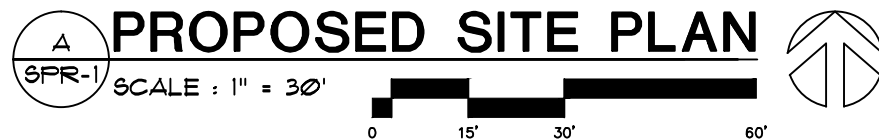
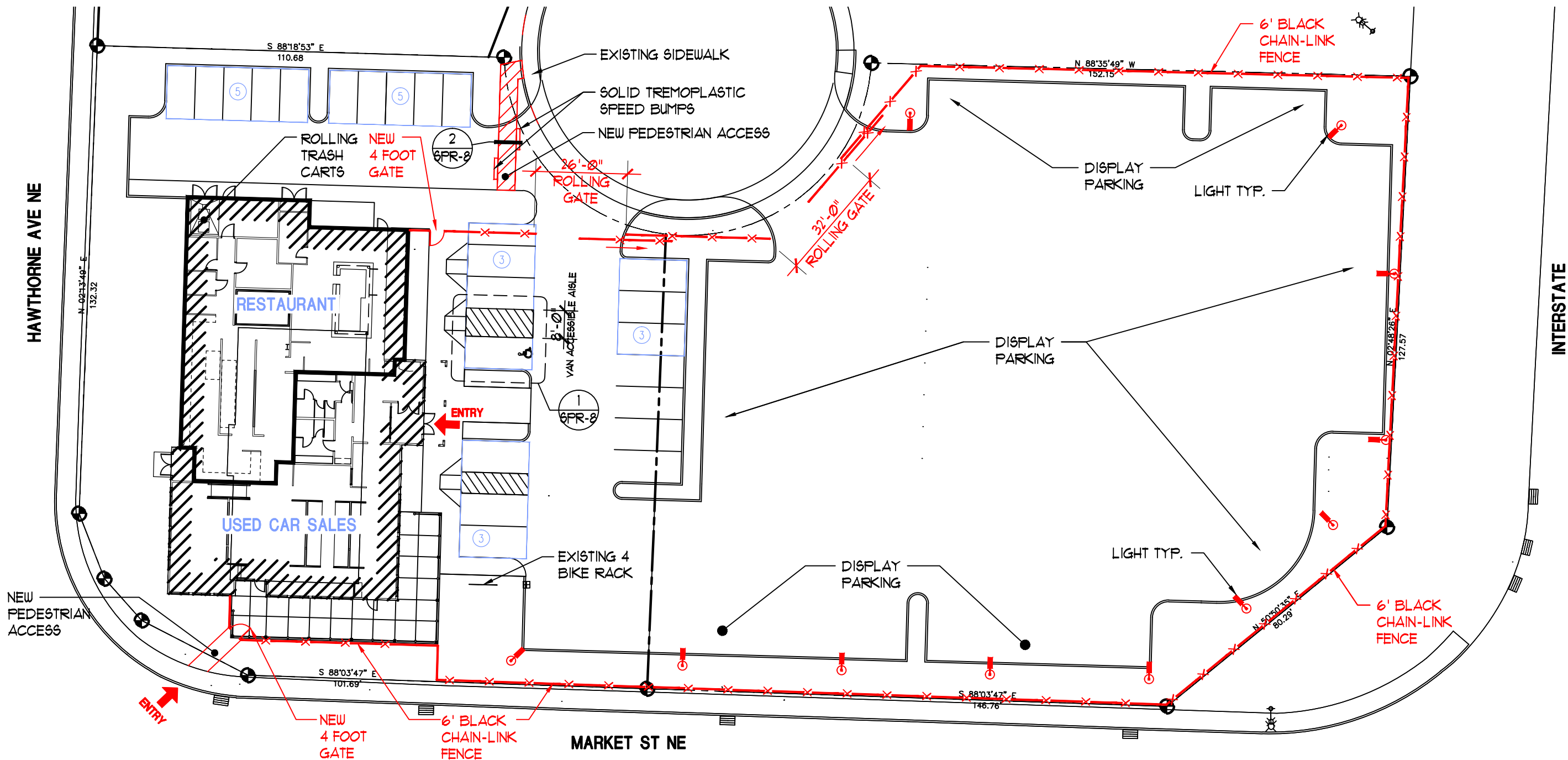
Parks

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

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0 100 200 400 Feet





## SITE SUMMARY

1717 Freeway Court NE OREGON 97301

TAX ACCOUNT: 526954 & 526953

TAXLOT NUMBER: 073W24AD00500 & 073W24AD00202

ZONING: MU-III

ACRES: (TL202 (.77 AC) 33,541.2 SF) (TL500 (.61 AC) 26,571.6 SF) = 60,112.8 SF - 100%

TOTAL LANDSCAPE: (ALL LANDSCAPING IS EXISTING) = 12,300 SF - 20.4%

BUILDINGS FOOTPRINT: = 7,025 SF - 11.7%

HARD SURFACE: = 40,787.8 SF - 67.9%

## PARKING

RESTAURANT - 3,757 SF/250 = 15

DEALER - 3,268 SF/900 = 4

TOTAL PARKING REQ'D = 19

ACCESSIBLE SPACES REQ'D = 1

RESTAURANT/  
USED CAR SALES  
REQUIRED PARKING

## DRAWING INDEX

SPR-1 - PROPOSED SITE PLAN

SPR-2 - EXISTING SITE PLAN

SPR-3 - UTILITY PLAN

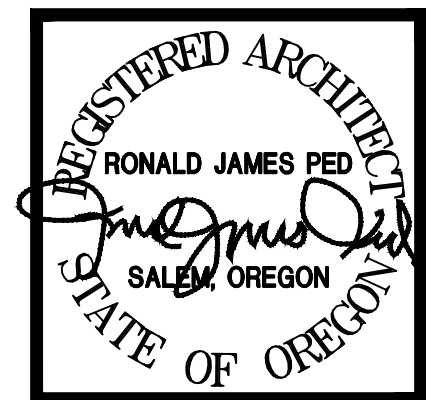
SPR-4 - GRADING PLAN

SPR-5 - LANDSCAPE PLAN

SPR-6 - EXTERIOR ELEVATIONS

SPR-7 - EXTERIOR ELEVATIONS

SPR-8 - DETAILS



Applicant: Hawthorne Parking Lot LLC  
Hawthorne Land Investment, LLC

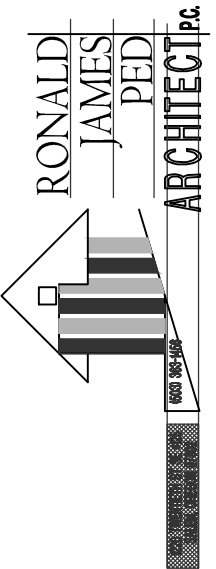
Application: CONDITIONAL USE / SPR-3

CREDIT YES AUTO

1717 Freeway Ct NE, SALEM OR 97301

DATE: 1-10-2023  
DRAWN: AK  
JOB NO.: 2299

SPR-1



**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONDITIONAL USE PERMIT AND CLASS 3 SITE PLAN REVIEW TO ALLOW A USED CAR DEALERSHIP TENANT SPACE IN AN EXISTING BUILDING WITH ASSOCIATED SITE CHANGES FOR VEHICLE DISPLAY AND IMPROVEMENTS TO PEDESTRIAN CONNECTIONS, FOR PROPERTIES TOTALING APPROXIMATELY 1.4 ACRES IN SIZE, ZONED MU-III (MIXED USE-III) AND LOCATED AT 1717 FREEWAY COURT NE - 97301 (MARION COUNTY ASSESSOR'S MAP AND TAX LOT NUMBERS: 073W24AD / 0500 & 0202).	} } } } } } } } } } } } }	CU-SPR23-03    FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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**DATE AND PLACE OF HEARING:**

**APPEARANCES:**

<u>Staff:</u>	Jamie Donaldson, Planner II
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	Ronald Ped, on behalf of Applicant
<u>Opponents:</u>	None

**SUMMARY OF THE APPLICATION AND HEARING**

**BACKGROUND**

The City of Salem held a duly authorized and noticed public hearing on March 22, 2023, regarding a request for the development of a car dealership tenant in the MU-III (Mixed Use – III) zone, located at 1717 Freeway Court NE.

During the hearing, Jamie Donaldson requested that the Staff Report be entered into the Record, and the Hearings Officer granted the request. Prior to the

close of the public hearing, the applicant waived the additional 7-day period for additional testimony.

The Staff Report and Staff presentation stated, observed, noted, and alleged the following:

### **FINDINGS OF FACT AND CONCLUSIONS**

#### **1. Salem Area Comprehensive Plan (SACP) designation**

The applications were submitted on January 12, 2023. At the time this application was submitted, the Salem Area Comprehensive Plan (SACP) map designation for the subject property is Mixed Use.

#### **2. Zoning and Surrounding Land Uses**

The applications were submitted on January 12, 2023. The subject properties are currently zoned MU-III (Mixed Use-III) as of August 25, 2022, with the changes implemented with the City's Our Salem project.

The zoning designation of surrounding properties is as follows:

North: MU-III (Mixed Use – III) Zone

South: Across Market Street NE, MU-III (Mixed Use – III) Zone

East: Across Interstate 5 Freeway, CR (Retail Commercial) Zone

West: Across Hawthorne Avenue NE, MU-III (Mixed Use – III) Zone

#### **3. Site Analysis**

The proposal is part of a development site consisting of two units of land totaling approximately 1.4 acres in size, and abutting two streets to the west and south, a cul-de-sac to the north, and a freeway ramp to the east. The development site has a combined frontage of approximately 340 feet of frontage along Market Street NE, and approximately 140 feet of frontage along Hawthorne Avenue NE, which are both designated as Major Arterial Streets in the Transportation System Plan. The subject property is located within the Urban Growth Boundary and within the Urban Service Area.

#### **4. Neighborhood and Citizen Comments**

The subject property is located within the North Lancaster Neighborhood Association (NOLA). Pursuant to SRC Chapter 300, the applicant is required to contact the Neighborhood Association prior to submittal of this consolidated

application. On January 9, 2023, the applicant contacted the NOLA Neighborhood Association, meeting the requirements of SRC 300.310(c). Notice was provided to the NOLA Neighborhood Association and to surrounding addresses, property owners, and tenants within 250 feet of the subject property. At the time of the hearing, no public comments had been received.

## **5. City Department and Public Agency Comments**

Notice of the proposal was provided to City Departments, public agencies, and to public & private service providers. The following comments were received:

City of Salem Public Works Department: reviewed the proposal and provided a memo.

City of Salem Building and Safety Division: reviewed the proposal and indicated no concerns.

City of Salem Fire Department: reviewed the proposal and indicated no concerns.

## **DECISION CRITERIA FINDINGS**

### **6. Analysis of Conditional Use Criteria**

Salem Revised Code (SRC) Chapter 240.005(a)(1) provides that no building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this Chapter.

Salem Revised Code (SRC) 240.005(d) provides that an application for a Conditional Use Permit shall be granted if the following criteria are met.

***SRC 240.005(d)(1): The proposed use is allowed as a conditional use in the zone.***

**Finding:** The proposal includes development of a used car dealership which is classified as a *motor vehicle sales* use. In the MU-III zone *motor vehicle sales* use requires a Conditional Use Permit; therefore, a Conditional Use Permit is required to establish the proposed use on the subject property.

***SRC 240.005(d)(2): The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.***

**Finding:** The proposed motor vehicle sales use is consistent with the character of the Market Street corridor, in which other motor vehicle sales uses can be found, and is a reasonably compatible use for the area.

The proposed development includes a new motor vehicle sales office as a tenant space in an existing building at the west end of the development site. The tenant



space will have ground floor windows and an entrance directly to the public sidewalk. The existing building previously operated as a restaurant but has been vacant for some time. The applicant proposes to leave 3,757 square feet as a restaurant for a future tenant and will convert 3,268 square feet into office space for the used car dealership. The applicant will maintain landscaping for a minimum of 15 percent of the development site, including along the perimeter of the property. One driveway will serve the proposed development from the Freeway Court entrance at the north side of the property. The amount of average daily trips expected to the site does not require a traffic impact analysis and is expected to have minimal impact on the immediate area.

A combination of landscaping and non-sight-obscuring fencing will be provided along the frontage of Market Street NE and the freeway ramp to mitigate the visual impacts while allowing the applicant to display vehicles. However, the applicant has proposed a chain-link fence to enclose the vehicle display lot. To further mitigate the visual impacts of the vehicle display lot to neighboring properties, the following condition applies:

**Condition 1:** If Applicant installs fencing around the vehicle display lot or pedestrian fencing along the Market Street NE frontage, or both, fencing material must be cast iron or wrought iron.

As conditioned, the Hearings Officer finds that the proposed development will have a minimal impact on the immediate neighborhood.

***SRC 240.005(d)(3): The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.***

**Finding:** The subject property previously operated as an eating and drinking establishment, Newport Seafood Grill, but has been vacant for some time. Adjacent neighboring properties include the following uses:

North: Hotel and Gas station

South: Across Market Street NE; Restaurant and Hotel

East: Across Interstate 5 Freeway; Car dealerships

West: Across Hawthorne Avenue NE; Car dealership and Hotel

The property is located in an area with uses that share a similar impact, with several motor vehicle sales uses operating along Market Street NE, and a variety of restaurants in the area. The development site is also bordered by hotels on three sides, where lighting for the display lot could adversely impact nearby hotel guests. To minimize the impact of lighting, the Hearings Officer imposes a condition of

approval limiting the normal hours of operation where the business is open to the public to between the hours of 8 A.M. and 8 P.M. When the site is not open for business, vehicle display area lighting must be turned off, and only pedestrian and security lighting may be used.

**Condition 2:** Normal hours of operation where the business is open to the public may only be between the hours of 8 AM and 8 PM. When the site is not open for business, vehicle display area lighting must be turned off, and only pedestrian and security lighting may be used.

Given the location of the proposed buildings, and the addition of landscaping and fencing along the perimeter, the Hearings Officer finds that the proposed development will have a minimal impact on the livability of the surrounding property.

## **7. 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 certain criteria are met. The following subsections are organized by approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for either 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:** The applicant is requesting a change of use for a portion of an existing building from an eating and drinking establishment to a motor vehicle sales use, with associated site changes for a vehicle display lot. The proposed site plan complies with all applicable development standards of the Unified Development Code (UDC) as follows.

### **Use and Development Standards – MU-III (Retail Commercial) Zone:**

*SRC 535.010(a) – Uses:*

Table 535-1 lists permitted uses in the MU-III Zone.

**Finding:** The proposal includes a change of use for a tenant space of approximately 3,268 square feet within an existing building to support a used car dealership. The used car dealership is classified as a *motor vehicle sales* use. In the MU-III zone, all *motor vehicle sales* use requires a Conditional Use Permit; therefore, a Conditional Use Permit is required to establish the proposed use on the subject property.

*SRC 535.015(a) – Lot Standards:*

There are no minimum lot area or dimension requirements in the MU-III 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 two units of land abutting right-of-way on all four sides. The development site has a combined frontage of approximately 340 feet of frontage along Market Street NE, and approximately 140 feet of frontage along Hawthorne Avenue NE, exceeding the minimum standard of 16 feet.

*SRC 535.015(b) – Dwelling unit density:*

Development within the MU-III zone that is exclusively residential shall have a minimum density of 15 dwelling units per acre.

**Finding:** The proposal does not include development of any residential units; therefore, this standard does not apply.

*SRC 535.015(c) – Setbacks:*

Setbacks within the MU-III zone shall be provided as set forth in Table 535-3 and Table 535-4.

*Abutting Street/Alley*

**North:** Adjacent to the north is the cul-de-sac right-of-way for Freeway Court NE. Buildings and accessory structures for uses other than household living 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.

**South:** Adjacent to the south and west is right-of-way for Market Street NE. Buildings and accessory structures for uses other than household living 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.

**West:** Adjacent to the south and west is right-of-way for Hawthorne Avenue NE. Buildings and accessory structures for uses other than household living 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.

**East:** Adjacent to the east is right-of-way for a freeway ramp. Buildings and accessory structures for uses other than household living 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 proposed development does not change the location of the existing building, or the footprint of the vehicle use area. The vehicle use area abutting Market Street NE is set back at least 10 feet, meeting the standard. However, the vehicle use area abutting the freeway ramp is set back approximately three feet from the property line. Since changes are proposed to the vehicle use area to

accommodate a vehicle display lot, the applicant is directed to increase the setback on the east side of the development to a minimum of six feet.

**Condition 3:** At the time of building permit review, the applicant must submit plans that include a minimum six-foot setback to the east property line, with Type A landscaping.

As conditioned, the proposal is in compliance with all applicable setback requirements of the MU-III zone and SRC Chapter 806.

#### *Interior Property Lines*

**North:** Adjacent to the north are properties zoned MU-III. There is no minimum building or accessory structure setback required to an interior property line. Vehicle use areas require a minimum five-foot setback with Type A landscaping.

**East/West:** The proposal is part of a development site consisting of two units of land zoned MU-III and sharing a common property line; the west parcel abuts the MU-III zone to the east, and the east parcel abuts the MU-III zone to the west. There is no minimum building or accessory structure setback required to an interior property line. Vehicle use areas require a minimum five-foot setback with Type A landscaping.

**Finding:** The proposed development does not change the location of the existing building, where there is no setback requirement to interior property lines anyway. There are no changes proposed to the configuration of the existing parking lot for customers, where the shared property line is located. Should the applicant propose any changes to the vehicle use area adjacent to this property line, the development would be required to provide the five-foot landscaped setback on either side of the property line or request an adjustment to this standard. The proposal is in compliance with all applicable setback requirements of the MU-III zone.

#### *SRC 535.015(d) – Lot Coverage, Height:*

There is no maximum lot coverage requirement. The maximum height in the MU-III zone is 70 feet.

**Finding:** There are no changes proposed to the existing building, which is approximately 21 feet in height and is in compliance with the maximum height standard in the MU-III zone.

#### *SRC 535.015(e) – 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.

- (4) *Gasoline stations.* Gasoline stations shall be required to provide a minimum of one plant unit per 16 square feet of landscaped area. The landscaped area shall conform to the standards set forth in SRC Chapter 807.

**Finding:** The summary table indicates that approximately 12,300 square feet (20.4 percent) of landscape area is provided for the entire development site, exceeding the minimum requirement. However, the applicant has proposed to remove existing landscape planters on the development site to accommodate the vehicle display lot. While interior parking lot landscaping is not required for vehicle display lots, the applicant must provide Type A landscaping for all other existing landscaped areas of the development site, to offset the removal of landscape.

**Condition 4:** At the time of building permit review, the applicant must provide a full landscape plan demonstrating how the development site meets Type A landscaping, including all existing landscaped areas, by providing a minimum of one plant unit per 20 square feet, with 40 percent of the plant units being trees.

The site plan indicates that 12,300 square feet of landscaped area is proposed, requiring a minimum of 615 plant units ( $12,300 / 20 = 615$ ). Of the required plant units, a minimum of 246 plant units will be trees ( $615 \times 0.4 = 246$ ).

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

*SRC 535.015(f) – Development standards for continued uses:*

Buildings housing a continued use and existing accessory structures may be structurally altered or enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding conforms to development standards in this chapter and to all other applicable provisions of the UDC.

**Finding:** The proposal includes a request for a change of use, and therefore does not classify as a continued use. The portion of the restaurant that remains a restaurant may qualify for review as a continued use upon determination of future tenant occupancy.

*SRC 535.015(f) – Pedestrian-oriented design.*

Development within the MU-III zone, excluding development requiring historic design review and multiple family development, shall conform to the pedestrian-oriented design standards set forth in this section.

- (1) *Off-street parking location.* New off-street surface parking areas and vehicle maneuvering areas shall be located behind or beside buildings and structures.

New off-street surface parking areas and vehicle maneuvering areas shall not be located between a building or structure and a street.

**Finding:** The off-street surface parking and vehicle maneuvering areas associated with the proposed development already exist on site and are not new areas of development; therefore, this standard does not apply.

(2) *Drive through location.* New drive-throughs shall be located behind or beside buildings and structures.

**Finding:** There are no drive-through areas included with the development proposal; therefore, this standard does not apply.

(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.

**Finding:** The vehicle display lot associated with the development is not classified as outdoor storage of merchandise, as the nature of a display lot is to view the vehicle inventory rather than screen it from sight; therefore, this standard does not apply.

(4) *Building entrances:* For buildings within the maximum setback abutting a street, a primary building entrance for each building facade facing a street shall be facing the street. If a building has frontage on more than one street, a single primary building entrance on the ground floor may be provided at the corner of the building where the streets intersect.

**Finding:** The building orientation is existing, with a primary façade facing east towards the parking and vehicle display areas. However, the applicant has proposed a pedestrian connection from a building entrance at the corner of the building to the intersection of Hawthorne Avenue NE and Market Street NE, in an effort to make the building more conforming. Because the applicant has proposed a four-foot fence and gate at this corner entry, and to ensure pedestrian access during business hours, the following condition applies:

**Condition 5:** If the applicant installs a fence and gate at the corner of the building granting pedestrian access from the street, the gate must have a restrainer in the open position that must remain open during business hours.

(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.

**Finding:** The specific location of the tenant space within the building appears to provide adequate windows on the ground floor façade facing the street. Any portion of the building dedicated to a tenant space other than the *motor vehicle sales* use must be evaluated at the time of site plan review for tenant occupancy. To ensure conformance with the window standards above, the following condition applies:

**Condition 6:** All windows within the tenant space for the used car dealership may not be mirrored or treated in such a way as to block visibility into the building. The windows must have a minimum visible transmittance (VT) of 37 percent.

### **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 proposal does not include a new trash enclosure; therefore, this section does not apply with this proposal.

#### *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. For purposes of this section, development means the construction of, or addition to, a building or accessory structure or the construction of, or alteration or addition to, an off-street parking or vehicle use area. Development does not include construction of, or additions to, buildings or accessory structures that are less than 200 square feet in floor area.

When a development site is comprised of lots under separate ownership, the pedestrian access standards set forth in this section apply only to the lot, or lots, proposed for development, together with any additional contiguous lots within the development site that are under the same ownership as those proposed for development.

**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:** The applicant's plans indicate direct pedestrian access to be provided from the existing building entrance to the north, meeting the cul-de-sac street of Freeway Court NE. The applicant has also provided a pedestrian connection from the intersection of Hawthorne Avenue NE and Market Street NE to a building entrance at the corner of the building, which further connects to the primary entrance on the east façade of the building. This standard is met.

(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:** There are no existing or planned transit stops along the development site's street frontage. This standard does not apply to the proposed development.

*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:** There is only one building on site; therefore, this standard does not apply.

*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:** The proposed off-street parking areas are less than 25,000 square feet in size and do not include four or more consecutive parallel drive aisles; therefore, this standard is not applicable.

(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 no 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 development site is comprised of two properties under same ownership. However, the parcel to the east is proposed to be designated solely as a vehicle display lot, which does not have vehicular access open to the public; therefore, this standard does not apply.

*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 pedestrian connections proposed measure 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 must 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 7:** At the time of building permit review, the applicant must demonstrate that all required pedestrian connections conform with the design and material requirements of SRC Chapter 800, specifically SRC 800.065(b) 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 6 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.* Unless otherwise provided under the UDC, off-street parking shall be provided in amounts not less than those set forth in 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 applicant proposes to create a tenant space that will provide multiple uses on site. The applicant proposes to leave 3,757 square feet as a restaurant for a future tenant and will convert 3,268 square feet into office space for the used car dealership, which is classified as a *motor vehicle sales* use and requires a minimum of one off-street parking space per 900 square feet of gross floor area. The restaurant portion will maintain the requirement for one space per 250 square feet of gross floor area. The following is a summary of the vehicle parking requirements for the development site:

Use	Floor Area	Parking Ratio	Minimum Parking
Eating & Drinking Establishment	3,757 SF	1/250 SF	15
Motor Vehicle Sales	3,268 SF	1/900 SF	3.6
<b>Total</b>			<b>19 Spaces</b>

A minimum of 19 off-street parking spaces are required for the development site, with a maximum allowance of 48 spaces ( $19 \times 2.5 = 48$ ). A minimum of five of the off-street parking spaces must be standard sized spaces; the remaining spaces may be compact spaces. Carpool/vanpool spaces are not required for new uses with less than 60 required parking spaces.

The proposed site plan indicates that 23 parking spaces will be provided on site, with no changes proposed to the existing dimensions; therefore, the proposal meets the standards.

*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 proposal does not include changes to the existing off-street parking or vehicle use areas serving the tenant spaces. Per Conditions 3 and 4, the development site will meet all perimeter setbacks and landscaping. The applicant has proposed changes to the adjacent lot to accommodate a new vehicle display lot.

*(d) Interior Landscaping.* Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. A minimum of one deciduous shade tree shall be planted for every 12 parking spaces within an off-street parking area.

**Finding:** The proposal does not include changes to off-street parking or vehicle use areas serving the tenant spaces. The applicant has proposed changes to the adjacent lot by removing existing landscape planter bays to accommodate a new vehicle display lot. Pursuant to SRC806.035(d)(1)(B), interior landscaping is not required for vehicle display areas, so removal of the planter bays is not prohibited. Per Condition 4, the applicant will install new landscaping to Type A standards in the remaining planter bays. This standard is met.

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

*(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) Off-street parking area access and maneuvering.* In order to ensure safe and convenient vehicular access and maneuvering, off-street parking areas shall:

- (1)* Be designed so that vehicles enter and exit the street in a forward motion with no backing or maneuvering within the street; and
- (2)* Where a drive aisle terminates at a dead-end, include a turnaround area as shown in Figure 806-9. The turnaround shall conform to the minimum dimensions set forth in Table 806-7.

**Finding:** The proposed off-street parking spaces are designed to allow safe and convenient access through the new vehicle use area and the adjacent, existing vehicle use area, and do not require any turnaround areas; therefore, they do not require conformance with this standard.

*(g) Additional Off-Street Parking Development Standards 806.035(g)-(n).*

**Finding:** The proposed off-street parking area is developed consistent with the additional development standards for grade, surfacing, and drainage. Bumper guards must be provided as required by SRC Chapter 806. The parking area striping, marking, signage, and lighting must comply with the standards of SRC Chapter 806. Off-street parking area screening per SRC 806.035(n) is not required for the proposed parking area.

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## 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.*

Unless otherwise provided under the UDC, bicycle parking shall be provided in amounts not less than those set forth in Table 806-9.

**Finding:** As indicated above, the applicant proposes to create tenant spaces that provide multiple uses on site. The applicant proposes to leave 3,757 square feet as a restaurant for a future tenant and will convert 3,268 square feet into office space for the used car dealership, which is classified as a *motor vehicle sales* use and requires a minimum of one bicycle parking space per 9,000 square feet of gross floor area. The restaurant portion will maintain the requirement as the greater of four bicycle parking spaces or one space per 1,000 square feet of gross floor area. The following is a summary of the bicycle parking requirements for the development site:

Use	Floor Area	Parking Ratio	Minimum Parking
Eating & Drinking Establishment	3,757 SF	Greater of 4 spaces or 1/1,000 SF	4
Motor Vehicle Sales	3,268 SF	1/9,000 SF	0.36
<b>Total</b>			<b>4 Spaces</b>

A minimum of four bicycle parking spaces are required for the proposed development. The applicant's summary table indicates that four bicycle parking spaces are existing on site, meeting the minimum requirement.

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

Bicycle parking areas shall be developed and maintained as set forth in this section.

- (a) *Location.* Short-term bicycle parking located outside a building shall be located within a convenient distance of, and be clearly visible from, the primary building entrance. In no event shall bicycle parking areas be located more than 50 feet from the primary building entrance, as measured along a direct pedestrian access route.
- (b) *Access.* Bicycle parking areas shall have direct and accessible access to the public right-of-way and the primary building entrance that is free of obstructions and any barriers, such as curbs or stairs, which would require

users to lift their bikes in order to access the bicycle parking area.

- (c) *Dimensions.* Except as provided for bicycle lockers, bicycle parking spaces shall be a minimum of 6 feet in length and 2 feet in width, with the bicycle rack centered along the long edge of the bicycle parking space. Bicycle parking space width may be reduced, however, to a minimum of three feet between racks where the racks are located side-by-side. Bicycle parking spaces shall be served by a minimum 4-foot-wide access aisle. Access aisles serving bicycle parking spaces may be located within the public right-of-way.
- (d) *Surfacing.* Where bicycle parking is located outside a building, the bicycle parking area shall consist of a hard surface material, such as concrete, asphalt pavement, pavers, or similar material, meeting the Public Works Design Standards.
- (e) *Bicycle Racks.* Where bicycle parking is provided in racks, the racks may be floor, wall, or ceiling racks. Bicycle racks shall meet the following standards:
  - (1) Racks must support the bicycle frame in a stable position, in two or more places a minimum of six inches horizontally apart, without damage to wheels, frame, or components;
  - (2) Racks must allow the bicycle frame and at least one wheel to be locked to the rack with a high security, U-shaped shackle lock;
  - (3) Racks shall be of a material that resists cutting, rusting, and bending or deformation; and
  - (4) Racks shall be securely anchored.
  - (5) Examples of types of bicycle racks that do, and do not, meet these standards are shown in Figure 806-10.

**Finding:** The applicant's site plan indicates four existing bike parking spaces on site, which are within a convenient distance of their respective building entrances. However, the location of the existing bike racks does not appear to be in an approved location, as they are covered by landscape shrubs and inaccessible to the public. As such, the following condition applies:

**Condition 8:** At the time of building permit review, the applicant must provide installation details that indicate the bicycle racks will meet the required dimensions, design standards, and accessibility requirements of SRC Chapter 806.

### **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.*

Unless otherwise provided under the UDC, off-street loading shall be provided in amounts not less than those set forth in Table 806-11.

**Finding:** The new *motor vehicle sales* use tenant space of 3,268 square feet does not require a loading space, as there is no loading space required for *motor vehicle sales* uses less than 5,000 square feet of gross floor area. This standard is met.

## **Landscaping**

*SRC 807 – Landscape and Screening:* 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.

**Finding:** The site plan indicates that 12,300 square feet of landscaped area is proposed, requiring a minimum of 615 plant units ( $12,300 / 20 = 615$ ). Of the required plant units, a minimum of 246 plant units will be trees ( $615 \times 0.4 = 246$ ). Per Condition 4, the proposal complies with all applicable landscape requirements of the MU-III zone and SRC Chapter 807.

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 flood water discharges and to minimize danger to life and property.

**Finding:** Public Works staff reviewed the Flood Insurance Study and Flood Insurance Rate Maps and 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 on 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:** Market Street NE and Freeway Court NE meet the improvement and right-of-way widths requirement according to the Salem TSP. Hawthorne Avenue NE does not meet the minimum right-of-way width requirement according to the Salem TSP. The existing street system is adequate to serve the proposed development and the development is not proposing a building addition subject to 803.040(a); therefore, no right-of-way dedication or street improvements are required. However, the proposed development is subject to a special setback equal to 48-feet from centerline on the development side of Hawthorne Street NE, which should be shown on the plans.

**Condition 9:** The proposed development is subject to a special setback equal to 48 feet from centerline on the development side of Hawthorne Street NE, which must be included on development plans at the time of permit review.

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***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 existing driveway access onto Freeway Court NE provides for safe turning movements into and out of the property. No changes to the existing driveway are proposed.

***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 subject property is located inside the Urban Service Area, and adequate facilities are available. No Urban Growth Area permit is required. 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 is directed to address modifications to the storm drainage system at the time of development. The application must provide an evaluation of the connection to the approved point of discharge for new areas of impervious surface per SRC 71.075.

The applicant is directed to design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director.

## **DECISION**

The Hearings Officer **APPROVES** the request for a Conditional Use and Site Plan Review consolidated application for the proposed development of a motor vehicle sales use tenant and vehicle display lot, located at 1717 Freeway Court NE, subject to the following conditions of approval:

### **CONDITIONAL USE:**

- Condition 1:** If Applicant installs fencing around the vehicle display lot or pedestrian fencing along the Market Street NE frontage, or both, fencing material must be cast iron or wrought iron.
- Condition 2:** Normal hours of operation where the business is open to the public may only be between the hours of 8 AM and 8 PM. When the use is not open for business, vehicle display area lighting shall be turned off, and only pedestrian and security lighting may be used.

**SITE PLAN REVIEW:**

- Condition 3:** At the time of building permit review, the applicant must submit plans that include a minimum six-foot setback to the east property line, with Type A landscaping.
- Condition 4:** At the time of building permit review, the applicant must provide a full landscape plan demonstrating how the development site meets Type A landscaping, including all existing landscaped areas, by providing a minimum of one plant unit per 20 square feet, with 40 percent of the plant units being trees.
- Condition 5:** If the applicant installs a fence and gate at the corner of the building granting pedestrian access from the street, the gate must have a restrainer in the open position that must remain open during business hours.
- Condition 6:** All windows within the tenant space for the used car dealership may not be mirrored or treated in such a way as to block visibility into the building. The windows must have a minimum visible transmittance (VT) of 37 percent.
- Condition 7:** At the time of building permit review, the applicant must demonstrate that all required pedestrian connections conform with the design and material requirements of SRC Chapter 800, specifically SRC 800.065(b) and 800.065(c).
- Condition 8:** At the time of building permit review, the applicant must provide installation details that indicate that the bicycle racks will meet the required dimensions, design standards, and accessibility requirements of SRC Chapter 806.
- Condition 9:** The proposed development is subject to a special setback equal to 48 feet from centerline on the development side of Hawthorne Street NE, which must be included on development plans at the time of permit review.

DATED: April 3, 2023



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Catherine M. Pratt, Hearings Officer