

# Conditional Use Permit, Class 3 Site Plan Review, (6) Class 2 Adjustments, (2) Property Line Adjustments, and (2) Class 2 Driveway Approach Permits

Submittal Date: April 2023

Submitted To: City of Salem Planning

Project Location: 2908 Market Street NE  
Salem, OR

Applicant(s): Salem N RE, LLC  
Owner

Applicant's Land Use Representative: Britany Randall of BRAND Land Use  
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# BRAND

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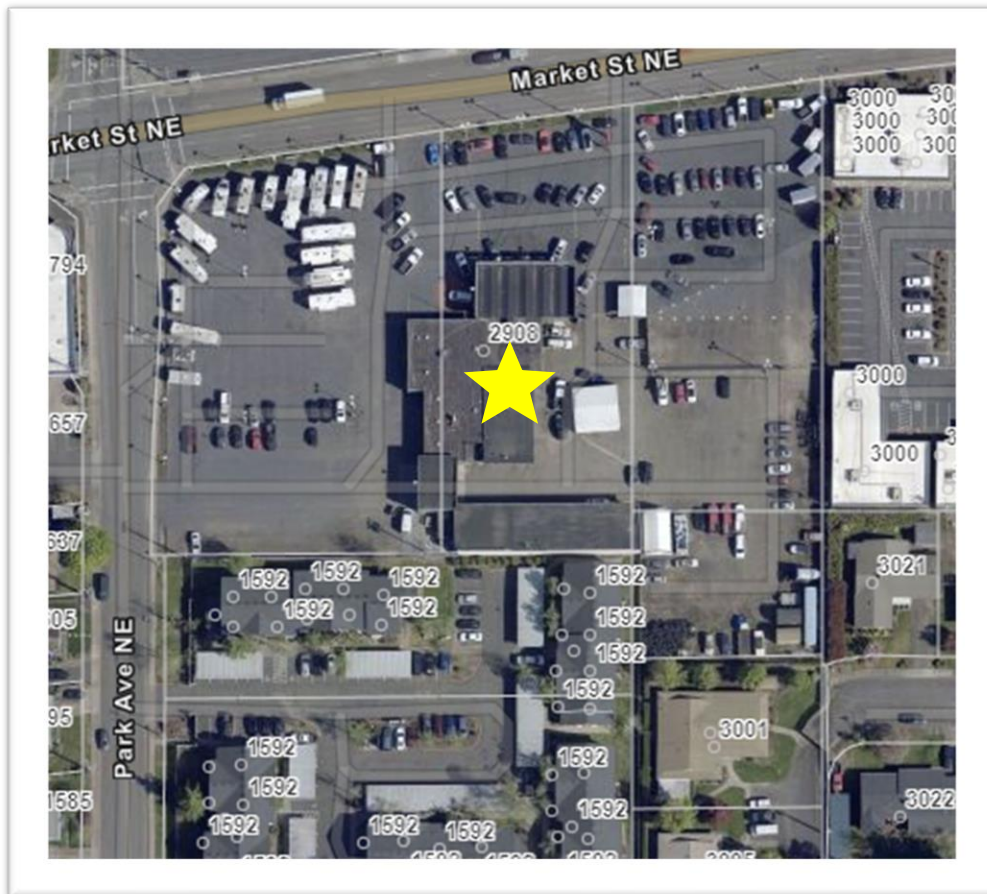
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### Arial View of Subject Property and Existing Development



## Section 1: Property Background and Request

The applicant is presenting a consolidated request for a conditional use permit, class 3 site plan review, class 2 driveway approach permit, property line adjustments, and class 2 adjustments for the redevelopment of Nissan of Salem dealership. Prior to the Our Salem project, the property had a commercial zoning designation making the car dealership and outright permitted use. Upon completion of the Our Salem project, the property has a new designation of MUIII (Mixed Use III) which requires a conditional use permit for car dealerships. Though the use of the dealership is continued, the expansion and intensification of the use triggers a conditional use permit. The applicant is also seeking some relief to site design standards which are not compatible with the proposed use such as setting the building at the setback line. Where possible, the applicant is proposing mitigation to the relief they are seeking to meet the intent of the standards being adjusted. The subject property is located at 2908 Market Street NE in Salem and can be identified as Marion County Map and Tax Lot Numbers 073W24BD08800, 073W24BD08900, and 073W24AC02700.

## Section 2: Existing Conditions

The development site is approximately 3.04 acres in size and is described as Marion County Assessor Map and Tax Lots 073W24BD08800, 073W24BD08900, and 073W24AC02700 a Marion County Tax Map is included in the exhibits of this narrative.

The site is located within corporate City limits of the City of Salem. The Salem Area Comprehensive Plan (SACP) map designates the subject property as “Mixed Use”. Additionally, the property is located within the City’s Urban Service Area (USA) making an Urban Growth Area Development Permit unnecessary.

The Comprehensive Plan designations of surrounding properties include:

North: Across Market Street NE, MU “Mixed Use”

South: MF “Multi-Family Residential” and SF “Single Family Residential”

East: MU “Mixed Use” and SF “Single Family Residential”

West: Across Park Avenue NE, MU “Mixed Use”

The subject property is zoned MU-III (Mixed Use-III). Surrounding properties are zoned as follows:

North: Across Market Street NE, MU-III (Mixed Use-III)

South: RM2 (Multiple Family Residential 2) and RS (Single Family Residential)



East: MU-III (Mixed Use-III)

West: Across Park Avenue SE, MU-III (Mixed Use-III)

## Section 3: Applicable Zoning Codes

### **Salem Revised Code Chapter 205 – Land Division and Reconfiguration**

*Section 205.001 – Purpose*

*Section 205.055 – Property Line Adjustments*

*Section 205.060 – Validation of Unit of Land*

*Section 205.070 – Modification of Approval*

*Section 205.080 – Easements Created on Plats*

### **Salem Revised Code Chapter 220 – Site Plan Review**

*Section 220.001 – Purpose*

*Section 220.005 – Site Plan Review*

### **Salem Revised Code Chapter 240 – Conditional Use Permit**

*Section 240.001 – Purpose*

*Section 240.005 – Conditional Use Permits*

*Section 240.010 – Modification of Conditional Use Approval*

### **Salem Revised Code Chapter 250 – Adjustments**

*Section 250.001 – Purpose*

*Section 250.005 – Adjustments*

### **Salem Revised Code Chapter 300 – Procedures for Land Use Applications and Legislative Land Use Proposals**

*Section 300.001 – Purpose*

*Section 300.010 – Scope and Applicability*

*Section 300.020 – General Rule*

*Section 300.100 – Procedure Types*

*Section 300.110 – Review Authorities*

*Section 300.120 – Procedures for Review of Multiple Applications*

*Section 300.200 – Initiation of Applications*

*Section 300.210 – Application Submittal*

*Section 300.220 – Completeness Review*

*Section 300.230 – Withdrawal of Application*

*Section 300.300 – Pre-application Conference*

*Section 300.310 – Neighborhood Association Contact*

*Section 300.600 – General Description*

*Section 300.610 – Type III Applications*

*Section 300.620 – Type III Procedure*

*Section 300.800 – Public Notice Compliance; Waiver of Notice*

*Section 300.810 – State Mandated Decision Date*

*Section 300.820 – Conditions of Approval*

*Section 300.830 – Amended Decisions*

*Section 300.840 – Issuance; Effective Date*

*Section 300.850 – Expiration and Extensions*

*Section 300.860 – Revocation of Approval*

*Section 300.900 – Public Hearings, Generally*

*Section 300.920 – Rules of Procedure*

*Section 300.960 – Orders of Proceedings*

*Section 300.970 – Continued Hearing; Extension of Record*

*Section 300.980 – Record of Proceedings*

**Salem Revised Code Chapter 535 – MU-III – Mixed Use-III**

*Section 535.001 – Purpose*

*Section 535.010 – Uses*

*Section 535.015 – Development Standards*

*Section 535.020 – Design Review*

**Salem Revised Code Chapter 602 – Airport Overlay Zone**

*Section 602.001 – Purpose*

*Section 602.010 – Airport Overlay Zone Boundary*

*Section 602.015 – Uses*

*Section 602.020 – Development Standards*

*Section 602.025 – Airport Overlay Zone Height Variance*

**Salem Revised Code Chapter 800 – General Development Standards**

*Section 800.001 – Purpose*

*Section 800.005 – Applicability*

*Section 800.050 – Fences, Walls, Hedges, Gates, and Retaining Walls*

*Section 800.055 – Solid Waste Service Areas*

*Section 800.060 – Exterior Lighting*

*Section 800.065 – Pedestrian Access*

**Salem Revised Code Chapter 802 – Public Improvements**

*Section 802.001 – Purpose*

*Section 802.010 – Design Standards and Specifications*

*Section 802.015 – Development to be Served by City Utilities*

*Section 802.020 – Easements*

*Section 802.025 – Utilities to be Placed Underground*

**Salem Revised Code Chapter 804 – Driveway Approaches**

*Section 804.001 – Purpose*

*Section 804.010 – Applicability*

*Section 804.015 – Driveway Approach Permit Required*

*Section 804.025 – Class 2 Driveway Approach Permit*

*Section 804.030 – Access Onto Local and Collector Streets*

*Section 804.035 – Access onto Major and Minor Arterials*

*Section 804.045 – Shared Access*

*Section 804.050 – Driveway Approach Development Standards*

*Section 804.055 - Driveway Approach Relocation, Reconstruction, and Maintenance*

*Section 804.060 – Driveway Approach Closure*

## **Salem Revised Code Chapter 805 – Vision Clearance**

*Section 805.001 – Purpose*

*Section 805.005 – Vision Clearance Areas*

*Section 805.010 – Obstruction to Vision Prohibited*

*Section 805.015 – Alternative Standards*

## **Salem Revised Code Chapter 806 – Off-Street Parking, Loading, and Driveways**

*Section 806.001 – Purpose*

*Section 806.005 – Off-Street Parking; When Required*

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

*Section 806.015 – Amount Off-Street Parking*

*Section 806.020 – Method of Providing Off-Street Parking*

*Section 806.035 – Off-Street Parking and Vehicle Use Area Development Standards for Uses or Activities Other Than Single Family, Two Family, Three Family, and Four Family*

*Section 806.040 – Driveway Development Standards for Uses or Activities Other Than Single Family, Two Family, Three Family, or Four Family*

*Section 806.045 – Bicycle Parking; When Required*

*Section 806.050 – Proximity of Bicycle Parking to Use or Activity Served*

*Section 806.055 – Amount of Bicycle Parking*

*Section 806.060 – Bicycle Parking Development Standards*

*Section 806.065 – Off-Street Loading Areas; When Required*

*Section 806.070 – Proximity of Off-Street Loading Areas to Use or Activity Served*

*Section 806.075 – Amount of Off-Street Loading*

*Section 806.080 – Off-Street Loading Development Standards*

## **Salem Revised Code Chapter 807 – Landscaping and Screening**

*Section 807.001 – Purpose*

*Section 807.010 – Applicability*

*Section 807.015 – Landscaping and Screening*

*Section 807.020 – Landscaping Plan and Landscaping Permit*

*Section 807.025 – Plant Material Standards*

*Section 807.030 – Tree Protection Measures During Construction*

*Section 807.035 – Installation*

*Section 807.040 – Irrigation*

*Section 807.045 – Maintenance*

*Section 807.050 – Compliance/Performance Assurance*

*Section 807.055 – Administrative Relief*

## **Salem Revised Code Chapter 808 – Preservation of Trees and Vegetation**

*Section 808.001 – Purpose*

*Section 808.010 – Heritage Trees*

*Section 808.015 – Significant Trees*

*Section 808.020 – Trees and Native Vegetation in Riparian Corridors*

*Section 808.025 – Trees on Lots or Parcels 20,000 Square Feet or Greater*

*Section 808.030 – Tree and Vegetation Removal Permits*

*Section 808.035 – Tree Conservation Plans*

*Section 808.045 – Tree Variances*

*Section 808.046 – Protection Measures During Construction*

*Section 808.050 – Tree Planting Requirements*

## **Section 4: Findings Applicable to Administrative Procedures**

**Chapter 300 – Procedures for Land Use Applications and Legislative Land Use Proposals**

**Section 300.001 – Purpose**

The purpose of this chapter is to establish uniform procedures for the review and processing of land use applications, and to establish procedures for legislative land use proposals. This chapter is intended to make the land use application review process clear and understandable for applicants; to facilitate timely review of land use applications by the City; and to enable the public to effectively participate in the local land use decision making process.

***Applicant's Findings:*** *The applicant understands the purpose of Chapter 300 and has provided findings in response to each applicable criterion to satisfy the burden of proof for approvability of the requested application.*

#### Section 300.010 – Scope and Applicability

This chapter applies to all land use actions and all legislative land use proceedings under the UDC.

***Applicant's Findings:*** *The applicant understands the provisions of SRC Chapter 300 are applicable to the applications being proposed.*

#### Section 300.020 – General Rule

No person shall engage in or cause development, as defined under SRC chapter 111, to occur without first obtaining the necessary land use approvals required by, and according to the procedures in, this chapter.

***Applicant's Findings:*** *The applicant understands they may not proceed with any development prior to obtaining land use approval.*

#### Section 300.100 – Procedure Types

- (a) Unless otherwise provided in the UDC, land use actions required under the UDC are classified as one of four procedure types set forth in Table 300-1. The procedure type governs the decision-making process for the specific land use application.

***Applicant's Findings:*** *The applicant is submitting a consolidated review for a conditional use permit, replat, class 3 site plan review, driveway approach permit, and adjustments. Because the application is consolidated, the entire land use application will be reviewed utilizing Type III procedures.*

- (b) The specific procedure type assigned to a land use application is specified in Table 300-2.

***Applicant's Findings:*** *This application is a consolidated request for a conditional use permit, replat, class 3 site plan review, driveway approach permit, and adjustments. In accordance with Table 300-2, these applications are processed using Type III procedures.*



(c) When the procedure type for a land use application is not identified in Table 300-2, specified elsewhere in the UDC, or otherwise required by law, the Planning Administrator shall determine the applicable procedure based on the guidelines in this subsection. Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

(1) Type I procedures shall be used when the land use action will be based on standards and criteria that do not require interpretation or the exercise of policy or legal judgment.

***Applicant's Findings:*** *The review type for the applications submitted are identified in Table 300-2, this criterion is not applicable.*

(2) Type II procedures shall be used when the land use action will be based on standards or criteria that require only limited discretion or legal judgment.

***Applicant's Findings:*** *The review type for the applications submitted are identified in Table 300-2, this criterion is not applicable.*

(3) Type III procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment.

***Applicant's Findings:*** *The applicant understands the review is Type III as the review requires discretion or legal judgement. This criterion will be met.*

(4) Type IV procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment, and where the land use application must first be referred to an advisory body for review and recommendation to the Council, which then makes the decision.

***Applicant's Findings:*** *The review type for the application submitted is identified in Table 300-2. Therefore, this criterion is not applicable.*

(d) Notwithstanding any other provision in this section, and upon payment of the applicable fee, an applicant may choose to process a land use application that would be a Type I procedure as a Type II or Type III procedure, or to process a land use application that would be a Type II procedure as a Type III procedure.

***Applicant's Findings:*** *The applicant will not ask for a higher review type as the application being submitted will be processed using Type III procedures.*

#### **Section 300.110 – Review Authorities**

(a) *Review authorities, generally.* Review authorities are those designated individuals or bodies that make recommendations or decisions regarding land use actions. The

applicable Review Authorities for specific land use actions are identified under Table 300-2. The Review Authority shall review an application following the applicable procedure type for the application and according to the applicable approval standards and criteria.

***Applicant's Findings:*** *The applicant understands the review authority in this case to be city staff as the consolidated application will be reviewed using the Type III process.*

(b) *Review Authority hierarchy.* Review authorities are organized under the following hierarchy, from lowest to highest:

- (1) Staff, including, but not limited to, the Planning Administrator, Community Development Director, Public Works Director, and Building Official;
- (2) Historic Landmarks Commission;
- (3) Hearings Officer;
- (4) Planning Commission;
- (5) Council.

***Applicant's Findings:*** *The applicant understands the hierarchy of review authorities.*

(c) *Historic Landmarks Commission jurisdiction over certain applications.* Notwithstanding any other provision of this section, the Historic Landmarks Commission shall have exclusive jurisdiction over those land use applications under SRC chapter 230 requiring Historic Landmarks Commission review.

***Applicant's Findings:*** *The subject building is not historic, and the Historic Landmarks Commission (HLC) does not have review authority in this case.*

### Section 300.120 – Procedures for Review of Multiple Applications

When multiple land use actions are required or proposed by an applicant, the applications may be processed individually in sequence, concurrently, or through the consolidated procedure provided in this section. The applicant shall elect how the land use applications are to be processed, except where a specific review process or sequence is otherwise required or where the land use applications are subject to the same procedure type and decided upon by the same Review Authority. When multiple land use applications are subject to the same procedure type and decided upon by the same Review Authority, the land use applications shall be consolidated.

***Applicant's Findings:*** *This application is for a consolidated review of a conditional use permit, replat, class 3 site plan review, driveway approach permit, and adjustments. This application requires a Type III review process.*

(a) *Applications processed individually in sequence.* Multiple applications processed individually require the filing of separate applications for each land use action. Each

application shall be reviewed separately according to the applicable procedure type and processed sequentially, as follows:

- (1) Applications with the highest numbered procedure type must be processed first;
- (2) Notwithstanding any other provision in this subsection, where a particular sequence for the review of land use applications is established by another section of the UDC, the applications shall be processed in that sequence; and
- (3) Notwithstanding any other provision in this subsection, where one land use application is dependent upon the approval of another land use application (e.g., conditional use permit is subject to prior approval of a zone change), the land use application upon which the other is dependent shall be processed first.

***Applicant's Findings:*** *The applications are being processed consolidated, not individually. Therefore, this criterion is not applicable.*

- (a) *Applications processed concurrently.* Multiple applications processed concurrently require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and processed simultaneously.

***Applicant's Findings:*** *The applications are being processed consolidated, not concurrently. Therefore, this criterion is not applicable.*

- (b) *Consolidated applications.* When multiple applications are consolidated, a single application is filed for all land use actions. The application shall be accompanied by the information and supporting documentation required for each individual land use action. Review of the application shall be according to the highest numbered procedure type required for any of the land use applications. The Review Authority shall be the highest applicable Review Authority under the highest numbered procedure type required for any of the land use applications. Notwithstanding the provisions of this subsection, where multiple applications that are proposed to be consolidated include an application subject to review by the Historic Landmarks Commission, the application that is subject to Historic Landmarks Commission review shall be processed individually or concurrently.

***Applicant's Findings:*** *As stated previously, this application for a conditional use permit, replat, class 3 site plan review, driveway approach permit, and adjustments is a consolidated application review. In an effort to keep the record clear and demonstrate the burden of proof has been met, the applicant is providing a narrative which is broken up into sections responding to applicable criterion for each application under review.*

## Section 300.200 – Initiation of Applications

- (a) Type I, Type II, Type III, and Type IV land use applications may be submitted by one or more of the following persons:
- (1) The owner of the subject property;
  - (2) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;
  - (3) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or
  - (4) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by subsection (a)(1), (2) or (3) of this section and accompanied by proof of the agent's authority.

***Applicant's Findings:*** *The applicant is the owner of the subject property. This criterion is met.*

- (b) Type III applications may be initiated by the City where identified in the UDC for specific application type.

***Applicant's Findings:*** *This application is a Type III application, but it was not initiated by the city. This criterion is met.*

- (c) Type IV applications may be initiated by the City.

***Applicant's Findings:*** *The application is Type III; this criterion is not applicable.*

#### **Section 300.210 – Application Submittal**

- (a) Land use applications shall be submitted on forms prescribed by the Planning Administrator. A land use application shall not be accepted in partial submittals. All of the following must be submitted to initiate completeness review under SRC 300.220. All information supplied on the application form and accompanying the application shall be complete and correct as to the applicable facts.
- (1) A completed application form. The application form shall contain, at a minimum, the following information:
    - (A) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
    - (B) The address or location of the subject property and its assessor's map and tax lot number;
    - (C) The size of the subject property;
    - (D) The comprehensive plan designation and zoning of the subject property;
    - (E) The type of application(s);
    - (F) A brief description of the proposal; and

- (G) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).

***Applicant's Findings:*** *The required forms and information have been included with this application submittal for review by city staff.*

- (2) Recorded deed/land sales contract with legal description;

***Applicant's Findings:*** *The recorded deed has been supplied along with this application submittal.*

- (3) Any information that would give rise to an actual or potential conflict of interest under state or local ethics laws for any member of a Review Authority that will or could make a decision on the application;

***Applicant's Findings:*** *The applicant sees no reason city staff would have a conflict of interest under any state or local ethics laws. This section is not applicable.*

- (4) Pre-application conference written summary, if a pre-application conference was required under SRC 300.310(a) and Table 300-2; or copy of the approved pre-application conference waiver, if such approval was granted pursuant to SRC 300.310(b);

***Applicant's Findings:*** *In accordance with Table 300-2, a pre-application conference is required. The applicant held the mandatory pre-application conference on February 16<sup>th</sup>, 2023. A copy of the pre-application conference notes is included with this land use submittal. This criterion is met.*

- (1) A statement as to whether any City-recognized neighborhood associations whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact and who it was with (e.g., phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;

***Applicant's Findings:*** *In accordance with Table 300-2, contact with the Neighborhood Association ahead of application submittal is required for a Class 3 Site Plan Review. The letter sent to the neighborhood association and supplemental exhibits are included with this submittal package. This criterion is met.*

- (5) For applications requiring neighborhood association contact under SRC 300.310, 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;

***Applicant's Findings:*** *As stated previously, neighborhood association contact is required for this application. The applicant provided notice and has attached the emails and exhibits sent with this land use submittal. This criterion is met.*

- (6) For applications requiring an open house under SRC 300.320:
- (A) A copy of the sign-in sheet for the open house and a summary of the comments provided; or
  - (B) When a neighborhood association meeting has been substituted for a required open house, a summary of the comments provided at the neighborhood association meeting;

***Applicant's Findings:*** *Pursuant to SRC 300.320, an open house is not required for this submittal. This criterion is not applicable.*

- (7) A statement as to whether the Salem-Keizer Transit District was contacted in advance of filing the application; and if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact, who it was with, and the result;

***Applicant's Findings:*** *Cherriots was provided with the same information provided to the neighborhood association prior to submittal of this land use application. Additionally, the applicant's representatives engaged Cherriots during the pre-application conference. This criterion is met.*

- (8) A written statement addressing each applicable approval criterion and standard;

***Applicant's Findings:*** *This narrative includes findings and responses to each applicable approval criterion and standard.*

- (9) For Type II, Type III, and applicant-initiated Type IV applications involving property subject to an active and duly incorporated Homeowner's Association (HOA) registered with the Oregon Secretary of State which includes an identified registered agent, the HOA name and mailing address for the registered agent.

***Applicant's Findings:*** *The subject property is not incorporated into an HOA that is registered with the Oregon Secretary of State. This criterion is not applicable.*

- (10) For applications for affordable multiple family housing where a 100-day state mandated decision date is sought, a draft copy of the covenant required under ORS 197.311 restricting the owner, and each successive owner, of the



development or a residential unit within the development from selling or renting any of the identified affordable residential units as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

***Applicant's Findings:*** *This application is not for affordable multiple family housing. This section is not applicable.*

- (11) Any additional information required under the UDC for the specific land use action sought;

***Applicant's Findings:*** *The applicant believes no additional information will be required to be submitted and staff will be able to move forward and write a favorable decision.*

- (12) Any additional information, as determined by the Planning Administrator, that may be required by another provision, or for any other permit elsewhere, in the UDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;

***Applicant's Findings:*** *The applicant believes no additional information will be required to be submitted and staff will be able to move forward and write a favorable decision.*

- (13) Payment of the applicable application fee(s) pursuant to SRC 110.090.

***Applicant's Findings:*** *Upon population of the applicable application fees, the applicant will pay them within 5 days. This criterion will be met.*

- (b) The Planning Administrator may waive any submittal requirement if the Planning Administrator determines that the specific requirement would not provide evidence needed to satisfy any of the applicable criteria.

***Applicant's Findings:*** *The applicant understands that the planning administrator has the authority to waive any submittal requirement. However, a thorough and complete application is being submitted to city staff for review and it is not anticipated any requirement will be waived.*

- (c) Each application, when received, shall be date-stamped with the date the application was received, and designated with a receipt number and a notation of the staff person who received the application.

***Applicant's Findings:*** *The applicant understands this requirement of city staff for processing applications.*

#### **Section 300.220 – Completeness Review**

- (a) Except as otherwise provided under ORS 227.178, the Planning Administrator shall review an application for completeness within 30 days of its receipt.

***Applicant's Findings:*** *The applicant understands the 30-day completeness review rule pursuant to ORS 227.178. The applicant anticipates having satisfied all code requirements for the proposal.*

- (b) Determination of completeness shall be based upon the information required under SRC 300.210 and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

***Applicant's Findings:*** *The applicant understands the provisions for determining the completeness of this application. The applicant believes this application is able to be deemed complete and a favorable decision will be rendered.*

- (c) If an application is determined to be complete, review of the application shall commence.

***Applicant's Findings:*** *The applicant anticipates the application submitted is complete and review of the application can proceed. However, it is understood staff will need a review period to examine the materials being submitted.*

- (d) If an application is determined to be incomplete, written notice shall be provided to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete upon initial filing shall be deemed complete for purposes of this section upon receipt of:
  - (1) All of the missing information;
  - (2) Some of the missing information and written notice from the applicant that no other information will be provided; or
  - (3) Written notice from the applicant that none of the missing information will be provided.

***Applicant's Findings:*** *The applicant understands written notice of an incomplete application will be provided, if applicable. The applicant also understands the three actions they may take to satisfy completeness.*

- (e) If an application was complete at the time it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.

***Applicant's Findings:*** *The applicant understands if there is a code amendment to the approval criteria during the review process of the application, the code in effect at the time the application was submitted will be used to determine approval.*

- (f) An application shall be deemed void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (d) of this section.

***Applicant's Findings:*** *The applicant understands if the 180-days is surpassed and completeness is not satisfied, the application will be void.*

#### Section 300.230 – Withdrawal of Application

- (a) An application may be withdrawn by the applicant at any time prior to the issuance of the final written decision of the City, including the final written decision of the City on an appeal or City Council Review.

***Applicant's Findings:*** *The applicant understands they may withdraw their application at any time prior to the issuance of the final written decision of the city. The applicant does not believe they will need to withdraw their application at this time.*

- (b) A request to withdraw an application shall be in writing.

***Applicant's Findings:*** *The applicant understands, if they need to withdraw their application, they will need to do so in writing.*

- (c) Upon receipt of a request to withdraw, the application shall be deemed dismissed without further action by the Review Authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A new application, upon payment of a new fee, may be filed unless the filing is barred by another provision of the UDC. Withdrawals under this subsection cannot be appealed.

***Applicant's Findings:*** *The applicant understands, if they withdraw their application, a withdrawal of the application will not impact future applications.*

- (d) If an application is withdrawn after the mailing of public notice, the Planning Administrator shall send written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

***Applicant's Findings:*** *The applicant understands, if they withdraw their application, the planning administrator will send out written notices of the application being withdrawn.*

#### Section 300.300 – Pre-Application Conference

- (a) ***Purpose.*** Pre-application conferences are intended to familiarize applicants with the requirements of the UDC; to provide applicants with an opportunity to meet with city staff to discuss proposed projects in detail; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use

process but is not intended to be an exhaustive review that identifies or resolves all potential issues and does not bind or preclude the City from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

***Applicant's Findings:*** *The applicant understands the purpose of requiring a pre-application conference. On February 16<sup>th</sup>, 2023, the applicant held a pre-application conference with staff which satisfies the requirement of this section. The pre-application conference notes are included in the exhibits.*

(b) *Applicability and waiver of pre-application requirement.*

- (1) Pre-application conferences are mandatory for those land use actions identified under Table 300-2 as requiring a pre-application conference.

***Applicant's Findings:*** *In accordance with Table 300-2, a pre-application conference is required for a conditional use permit. A pre-application conference was held on February 16<sup>th</sup>, 2023.*

- (2) Nothing in this section shall preclude an applicant from voluntarily requesting a pre-application conference for any other land use action.

***Applicant's Findings:*** *In accordance with Table 300-2, a pre-application conference is required for a conditional use permit. A pre-application conference was held on February 16<sup>th</sup>, 2023.*

- (3) Notwithstanding the provisions of this section, a mandatory pre-application conference may be waived by the Planning Administrator if the application is relatively simple, and good cause is shown by the applicant. An application for a waiver shall be made on forms provided by the Planning Administrator. The applicant for a waiver shall acknowledge that waiving the pre-application conference increases the risk of an application being rejected or processing delayed due to insufficient, incomplete, or incorrect information being provided. The decision of the Planning Administrator on an application to waive a pre-application conference is not appealable.

***Applicant's Findings:*** *The applicant understands they could have sought a waiver to the pre-application conference requirement from the planning administrator. However, they chose to hold the required pre-application conference as demonstrated. Therefore, this criterion is not applicable.*

(c) *Pre-application conference procedures.*

- (1) *Application requirements.*

- (A) *Application form.* Pre-application conference requests shall be made on forms provided by the Planning Administrator.

(B) *Submittal requirements.* Pre-application conference requests shall:

- (i) Include a completed application form;
- (ii) Include payment of the application fee;
- (iii) Be accompanied by the information required, if any, for the specific pre-application conference sought; and
- (iv) Be accompanied by any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow city staff to review and comment.

(2) *Scheduling of pre-application conference.* Upon receipt of a complete application, the Planning Administrator shall schedule the pre-application conference. The Planning Administrator shall coordinate the involvement of other city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

(3) *Pre-application conference summary.* Subsequent to the pre-application conference, the Planning Administrator will provide the applicant with a written summary of the conference. The purpose of the written summary is to provide a preliminary assessment of the proposal but shall not be deemed to be a recommendation by the City or any other outside agency or service provider on the merits of the proposal.

(4) *Validity period for mandatory pre-application conferences; follow-up conferences.* A follow-up conference is required for those mandatory pre-application conferences that have already been held when:

- (A) A complete application relating to the proposed development that was the subject of the pre-application conference has not been submitted within 18 months of the pre-application conference;
- (B) The proposed use, layout, and/or design of the proposal have significantly changed; or
- (C) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.

***Applicant's Findings:*** *The applicant understands the requirements for the pre-application conference and subsequent follow-up.*

#### Section 300.310 – Neighborhood Association Contact

- (a) *Purpose.* The purpose of neighborhood association contact is to provide an opportunity for neighborhood associations to learn of upcoming land use applications involving land

within or adjacent to their boundaries in advance of applications being submitted. This encourages dialogue and provides opportunities for feedback and resolution of potential issues prior to filing.

***Applicant's Findings:*** *The applicant understands the purpose of requiring neighborhood association contact.*

(b) *Applicability.*

- (1) Neighborhood association contact, as provided in this section, is required for those land use applications identified under Table 300-2 as requiring neighborhood association contact.

***Applicant's Findings:*** *As mentioned previously, Table 300-2 requires neighborhood association contact for the applications. The applicant's representative prepared a letter and sent it to the chair and land use chair of the neighborhood association. The letter was sent via email. The email and the letter are included with this submittal.*

- (2) When multiple land use applications are consolidated into a single application and one or more of the applications involved include a requirement for neighborhood association contact and the other applications do not require neighborhood association contact, the entire consolidated application shall require neighborhood association contact.

***Applicant's Findings:*** *The applicant understands because the application is consolidated, neighborhood association contact is required for all applications included. As demonstrated by the contact materials provided, the applicant notified the chair and land use chair of all applications being requested. This criterion is met.*

- (3) Nothing in this section shall be construed to preclude additional contact between an applicant and neighborhood association beyond the requirements of this section, or an applicant from contacting a neighborhood association where no neighborhood association contact is required.

***Applicant's Findings:*** *The applicant understands nothing in this section shall preclude additional contact between the applicant and neighborhood association.*

- (c) *Process.* Prior to submitting a land use application requiring neighborhood association contact, the applicant shall contact the City-recognized neighborhood association(s) whose boundaries include, or are adjacent to, the subject property via e-mail or mailed letter. The e-mail or mailed letter shall:

- (1) Be sent to the chair(s) and land use chair(s) of the applicable neighborhood association(s) prior to submitting the land use application; and
- (2) Contain the following information:



- (A) The name, telephone number, and e-mail address of the applicant;
- (B) The address of the subject property;
- (C) A summary of the proposal;
- (D) A conceptual site plan, if applicable, that includes the proposed development; and
- (E) The date on which the e-mail or letter is being sent;

***Applicant's Findings:*** *The applicant emailed a letter with information relating to the proposal to both the chair and land use chair of the neighborhood association. The letter included all the required information listed above. This criterion is met.*

- (d) *Effect on subsequent land use application submittal.* A land use application requiring neighborhood association contact shall not be accepted, as provided under SRC 300.210, unless it is accompanied by a copy of the e-mail or letter that was sent to the neighborhood association, and a list of the e-mail or postal addresses to which the e-mail or letter was sent.

***Applicant's Findings:*** *The applicant understands the city is unable to accept applications requiring neighborhood association contact prior to contact being made. However, the applicant has demonstrated satisfying this criterion prior to submittal.*

### Section 300.600 – General description

Type III applications are quasi-judicial in nature and involve land use actions governed by criteria and standards that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with the UDC and Salem Area Comprehensive Plan. A Type III application is a quasi-judicial review process where the Review Authority receives evidence and testimony, reviews the application for conformance with the applicable standards and approval criteria and issues a decision. The Type III application process is illustrated in Figure 300-3.

### Section 300.610 – Type III applications

The following land use actions are Type III applications:

- (a) Those identified in Table 300-2 as Type III applications;
- (b) Those identified in the UDC as Type III applications; or
- (c) Those identified by the Planning Administrator as Type III applications based upon the guidelines for classification of applications under SRC 300.100(c).

***Applicant's Findings:*** *The review type for the applications submitted is identified in Table 300-2. Type III application procedures will be used to review the application package.*

## Section 300.620 – Type III procedure

### (a) *Application requirements.*

(1) *Applicant initiated.* If the Type III application is applicant initiated, the following shall apply:

(A) *Application form.* Type III applications shall be made on forms provided by the Planning Administrator.

(B) *Submittal requirements.* Type III applications shall include the information required under SRC 300.210.

(2) *City initiated.* If the Type III application is City initiated, the application shall be initiated by resolution of the Council or Planning Commission.

***Applicant's Findings:*** *This submittal includes the required application forms provided by the city. Each submittal requirement is provided, and the applicant has demonstrated how the proposal meets each criterion.*

(b) *Public notice.* Public notice is required for Type III applications. With the exception of annexation applications, public notice shall be by first class mail and by posting on the subject property. Annexation applications require public notice to be provided by first class mail, posted in a public place, and published.

(1) *Oregon Department of Land Conservation and Development notice.* Notice to the Oregon Department of Land Conservation and Development is required for certain Type III applications, pursuant to ORS 197.610. Notice to the Oregon Department of Land Conservation and Development shall be provided as follows:

(A) The City shall provide notice of the application to the Oregon Department of Land Conservation and Development no later than the minimum number of days required by ORS Ch. 197. An affidavit of mailing shall be prepared and made part of the file.

(B) Notice to the Oregon Department of Land Conservation and Development shall be made on forms provided by the Oregon Department of Land Conservation and Development. Notice shall be accompanied by information of sufficient detail to convey the nature and effect of the application, and a certificate of mailing.

(2) *Mailed notice.* Mailed notice shall be provided as follows:

(A) The City shall mail notice of the public hearing not less than 20 days prior to the public hearing. An affidavit of mailing shall be prepared and made part of the file.

(B) Notice of public hearing shall be mailed to:

(i) The applicant(s) and/or authorized representative(s);

- (ii) The owner(s) or contract purchaser(s) of record of the subject property;
- (iii) The address of the subject property, based on the City's current addressing records;
- (iv) The tenants of a manufactured home or mobile home park, for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park;
- (v) All property owners whose property will become an enclave notifying them of the potential for their property to become an enclave, for annexation applications resulting in the creation of an enclave;
- (vi) Any active and duly incorporated Homeowner's Association (HOA) involving the subject property that is registered with the Oregon Secretary of State and which includes an identified registered agent. For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the registered agent of the HOA utilizing the contact information provided by the applicant;
- (vii) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (viii) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (ix) Addresses, based on the City's current addressing records, within 250 feet of the subject property;
- (x) The Salem Area Mass Transit District;
- (xi) Any governmental agency entitled to notice by law or under an intergovernmental agreement with the City;
- (xii) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City; and

- (xiii) All property owners within the historic district, for Class 3 major historic design review, historic resource demolition, Class 2 historic accessory structure demolition, and historic resource relocation applications within a historic district.

(C) Mailed notice shall include:

- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
- (ii) The type of application and a concise description of the nature of the request;
- (iii) The proposed site plan, if any;
- (iv) The street address or other easily understood geographical reference to the subject property;
- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the applicable criteria by name and code section;
- (vii) The date, time, and place of the public hearing;
- (viii) A statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost;
- (ix) A brief summary of the decision-making process for the application;
- (x) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- (xi) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony; and that only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision;
- (xii) A statement that failure to raise an issue prior to the close of the public hearing, in person or in writing, or failure to provide statements or evidence with sufficient specificity to afford the

applicant and Review Authority to respond to the issue precludes an appeal to the Oregon Land Use Board of Appeals on that issue;

- (xiii) A statement that a copy of the staff report with recommendation to the Review Authority will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at a reasonable cost;
- (xiv) A statement that after the close of the public hearing a decision shall be made that will be mailed to the applicant, property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision; and
- (xv) The name and contact information for the staff case manager.

(3) *Posted notice.* Posted notice shall be provided as follows:

(A) *Notice posted on subject property.* Except for annexation applications, notice for Type III applications shall be posted on the subject property as follows:

- (i) The applicant, or City, if the application is City-initiated, shall post notice on the subject property no earlier than 14 and no later than ten days prior to the public hearing. The notice shall remain in place through the day of the public hearing. An affidavit of posting shall be filed no later than five days after the date of the original posting. The affidavit shall be made a part of the file.
- (ii) Notice shall be posted on each street frontage of the subject property in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.
- (iii) Posted notice shall be provided on signs as prescribed by the Planning Administrator.

- (iv) The applicant, or City, if the application is City-initiated, shall remove and return the signs within seven days after the close of the public hearing.

(B) *Notice posted in public place.* Notice for annexation applications shall be posted in a public place as follows:

- (i) The applicant, or City, if the application is City-initiated, shall post notice in four public places within the City for two weeks prior to the public hearing. The notice shall remain in place through the day of the public hearing. An affidavit of posting shall be filed no later than five days after the date of the original posting. The affidavit shall be made part of the file.
- (ii) Notice shall be posted in a conspicuous place that is visible from the public right-of-way.
- (iii) Posted notice shall be provided on signs as prescribed by the Planning Administrator.
- (iv) The applicant, or City, if the application is City-initiated, shall remove and return the signs within seven days after the close of the public hearing.

(4) *Published notice.* The City shall cause notice of the public hearing on an annexation application to be published in a newspaper of general circulation within the City at least once a week for two consecutive weeks prior to the hearing. An affidavit of publication from the newspaper shall be obtained and made part of the file.

***Applicant's Findings:*** *The applicant understands the noticing procedures required under this section. Posting notice on the subject property is required for the requested application and the procedures outlined above will be followed.*

- (c) *Application review and staff report.* Staff shall review the application, written comments, and evidence submitted prior to the public hearing and prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and making a recommendation to the Review Authority. The staff report shall be made available to the public for review a minimum of seven days prior to the hearing.

***Applicant's Findings:*** *The applicant understands staff will have an initial review of the application to prepare a staff report and recommendation for the Hearings Officer's consideration.*



- (d) *Public hearing.* A public hearing shall be held before the Review Authority for the purpose of receiving evidence and testimony regarding the application. The hearing shall be conducted in accordance with the public hearing procedures established under SRC 300.900. The Review Authority shall consider in its review the application, all evidence and testimony submitted for the record, and the recommendation of staff.

***Applicant's Findings:*** *The applicant understands the Hearings Officer to be the review authority for this case and understands a public hearing will be held.*

- (e) *Decision.* The Review Authority shall approve, conditionally approve, or deny the application based upon the facts contained within the record and according to the applicable standards and criteria. The decision shall be a written order or, in the case of an annexation application, an ordinance that shall include:

- (1) A list of the approval criteria by section number;
- (2) A statement of facts upon which the Review Authority relied to find the application does or does not comply with each approval criterion and to justify any conditions of approval. The Review Authority may direct the party whose position is adopted to prepare the statement of facts, and may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order;
- (3) A statement of conclusions based on the statement of facts; and
- (4) An order or ordinance approving, approving with conditions, or denying the application.

***Applicant's Findings:*** *The applicant understands the options of the review authority for making a decision in this case.*

- (f) *Notice of decision.* Notice of the decision shall be mailed within seven days from the date the Review Authority adopts the written order or, in the case of an annexation application, within seven days from the date of adoption of the ordinance. An affidavit of mailing shall be prepared and made part of the file.

- (1) Notice of decision shall be mailed to:
  - (A) The applicant(s) and/or authorized representative(s);
  - (B) The owner(s) or contract purchaser(s) of record of the subject property;
  - (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
  - (D) Any group or individual who submitted testimony for the record prior to the close of the public hearing;
  - (E) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any

- governmental agency that submitted testimony prior to the close of the public hearing;
- (F) Any community organizations, agencies, or individuals who submitted written requests for notice of the decision to the City; and
- (G) The Oregon Department of Land Conservation and Development, for decisions which required notice to the Oregon Department of Land Conservation and Development.

***Applicant's Findings:*** *The applicant understands who shall be entitled to receipt of the mailed notice of decision.*

(2) Notice of decision shall include:

- (A) A brief description of the application;
- (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and its comprehensive plan designation and zoning;
- (C) A brief summary of the decision, and conditions of approval, if any;
- (D) A statement of the facts relied upon;
- (E) The date the Review Authority's decision becomes effective, unless appealed;
- (F) The date, time, and place by which an appeal must be filed, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- (G) A statement that all persons who presented evidence or testimony as part of the hearing may appeal the decision; and
- (H) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

***Applicant's Findings:*** *The applicant understands the information that the city must include in the notice of decision as listed in this section.*

(g) *Appeal and review.*

- (1) Unless appealed pursuant to SRC 300.1010 or review is initiated by the Council pursuant to SRC 300.1050, the decision of the Review Authority on a Type III application shall be the final decision of the City.

- (2) Only the applicant and persons who provided evidence or testimony prior to the close of the public hearing have standing to appeal a Type III application.
- (3) The Review Authorities for appeals are identified under Table 300-2. The decision of the Review Authority on appeal, or, if review is initiated by the Council, the Council on review, shall be the final decision of the City.
- (4) *Exceptions.* Notwithstanding any other provision of this subsection:
  - (A) The decision on a Class 3 major historic design review application is not subject to Council review unless the application is for new construction, as defined under SRC Chapter 230.
  - (B) The Council decision on an annexation application is the final decision of the City.
- (5) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

***Applicant's Findings:*** *The applicant understands the provisions applicable to an appeal of the decision as itemized above.*

- (h) *Expiration of approval.* Approval of a Type III application expires automatically as provided under SRC 300.850(a).

***Applicant's Findings:*** *As demonstrated previously, the applicant understands the expiration and extension provisions of this application submittal.*

#### Section 300.800 – Public Notice Compliance; Waiver of Notice

Notice of land use approval under the procedures of this chapter shall be deemed to have been satisfied as follows:

- (a) *Compliance.* The requirements for notice shall be deemed satisfied for any person who, prior to the public hearing and in any manner, obtains actual knowledge of the date, time, place, and subject matter of the hearing. Requirements for the provision of mailed, posted or published public hearing notice shall be deemed satisfied as follows:
  - (1) *Mailed notice.* Mailed notice shall be deemed to have been provided upon the date the notice is deposited in the mail. Failure of the addressee to receive such notice shall not invalidate the proceedings if it can be demonstrated by affidavit that such notice was deposited in the mail.
  - (2) *Posted notice.* Posted notice shall be deemed to have been provided upon the date when the sign is first posted. Subsequent removal of or damage to the sign by anyone other than the applicant or an officer of the City shall not invalidate the proceeding.
  - (3) *Published notice.* Published notice shall be deemed to have been provided upon the date when the notice appears within a newspaper of general circulation within the City.

***Applicant's Findings:*** *The applicant understands the public notice requirements including mailed, posted, and published notice.*

- (b) *Waiver of notice.* The appearance or provision of testimony or comments on an application by any person subsequent to the initiation of the application or prior to the close of the record after a public hearing shall be deemed a waiver of such person to any claim of defect in the provision of notice.

***Applicant's Findings:*** *The applicant understands the provisions of waiver of notice in accordance with this section.*

#### Section 300.810 – State Mandated Decision Date

- (a) Except as otherwise provided in this section, the City shall take final action on land use applications subject to ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete pursuant to SRC 300.220, unless the applicant provides written request or consent to an extension of such period pursuant to ORS 227.178(5).

***Applicant's Findings:*** *The applicant understands the city must take final action on land use actions subject to ORS 227.178, including the resolution of appeals, within 120 days after the application has been deemed complete. The applicant understands they have the right to grant an extension to the 120-day rule.*

- (b) The City shall take final action on an application for affordable multiple family housing, including resolution of all local appeals, within 100 days after the application has been deemed complete pursuant to SRC 300.220, unless the applicant provides a written request or consent to an extension pursuant to ORS 227.178(5).

***Applicant's Findings:*** *This application is not for affordable multiple family housing and therefore does not apply.*

#### Section 300.820 – Conditions of Approval

- (a) *Imposition of conditions, generally.* The Review Authority may impose conditions on land use actions to the extent allowed by law in order to protect the public and adjacent property owners from adverse impacts resulting from the proposed development, to fulfill an identified need for public services or infrastructure caused by or required for the proposed development, or to ensure conformance with the applicable development standards and criteria in the UDC. A condition of approval shall be valid and enforceable from and after the date the decision becomes effective.
  - (1) Conditions of approval should be stated in clear and unambiguous terms; be reasonably related to the public health, safety, and welfare; and be designed to reasonably effectuate the intended purpose.

***Applicant's Findings:*** *The applicant understands the review authority may impose conditions on the land use application included in this submittal. The conditions of approval should be clear, unambiguous, related to the public health, safety, and welfare, and designed in a manner to effectuate the intended purpose.*

- (2) The Review Authority shall not impose any permanent condition which would limit use of the subject property to one particular owner, tenant, or business. Permanent conditions may limit the subject property as to use but shall not be so restrictive that other occupants who might devote the property to the same or substantially similar use would be unable to reasonably comply with the conditions.

***Applicant's Findings:*** *The applicant understands the limits imposed on permanent conditions.*

- (b) *Effect of conditions.* Conditions of approval shall be construed and enforced, in all respects, as provisions of the UDC relating to the use and development of land.

***Applicant's Findings:*** *The applicant understands the effect of conditions in accordance with this section.*

- (c) *Imposition of conditions on applications for housing developments.*

- (1) Except as otherwise provided in this subsection, the Review Authority may impose conditions on applications for housing developments. The Review Authority may not, however:

- (A) Impose a condition on an application for a housing development reducing its density if:

- (i) The density applied for is at or below the maximum density allowed; and
    - (ii) At least 75 percent of the floor area applied for is reserved for housing.

- (B) Impose a condition on an application for a housing development reducing its height if:

- (i) The height applied for is at or below the maximum height allowed;
    - (ii) At least 75 percent of the floor area applied for is reserved for housing; and
    - (iii) Reducing the height would have the effect of reducing the proposed density.

- (2) Notwithstanding paragraph (1) of this subsection, the Review Authority may impose a condition on an application for a housing development reducing its density or height if the reduction is necessary to resolve a health, safety, or

habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

***Applicant's Findings:*** *The application is not for a housing development and the provisions of this section are not applicable to this submittal.*

#### Section 300.830 – Amended Decisions

- (a) After notice of a decision on a land use action has been provided, an amended decision may be issued correcting typographical errors, rectifying inadvertent omissions, and/or making other minor changes that do not materially alter the decision if the amended decision is issued prior to the expiration of the appeal period of the original decision, but in no event beyond the state mandated decision date set forth under ORS 227.178 unless the applicant otherwise agrees to and requests an extension pursuant to ORS 227.178(5).

***Applicant's Findings:*** *The applicant understands an amended decision may be issued within the appeal period in accordance with the limitations listed in this section.*

- (b) Notice of an amended decision shall be given using the same mailing and distribution list as for the original notice of the decision.

***Applicant's Findings:*** *If an amended decision is issued, it is understood that it will be distributed to the same interested parties the original decision was distributed to.*

- (c) A new appeal period equal to that of the original decision shall be provided from the date of mailing the amended decision.

***Applicant's Findings:*** *The applicant understands with an amended decision, a new appeal period would be required.*

#### Section 300.840 – Issuance; Effective Date

- (a) Each decision shall be specific as to the approval granted and shall be subject to the standards and conditions set forth in UDC, including any variances or conditions authorized pursuant to the UDC.

***Applicant's Findings:*** *The applicant understands each application, when granted, is subject to their own conditions and standards listed within the UDC.*

- (b) Decisions on land use actions become effective on:
  - (1) The day the decision is issued, if no appeal is allowed;
  - (2) The later occurring of either:
    - (A) The day after the appeal period expires, if an appeal is allowed, but no notice of appeal is timely filed; or

- (B) The day after the decision appears on the City Council agenda, if the decision is eligible for Council Review pursuant to SRC 300.1050, but Council Review is not initiated;
- (3) The day the decision is issued by the final appeal body, if an appeal is allowed and notice of appeal is timely filed;
- (4) The day the decision is issued by the Council, if the decision is eligible for Council Review and Council Review is initiated pursuant to SRC 300.1050; or
- (5) The effective date of the ordinance, if the written decision is issued by ordinance.

***Applicant's Findings:*** *The applicant understands the provisions related to when the land use action becomes effective.*

### Section 300.850 – Expiration and Extensions

#### (a) *Approval expiration and termination.*

- (1) Unless a different period of time is established in the UDC or in the decision, all approvals of land use actions shall expire automatically upon the dates set forth in Table 300-3 unless one of the following has occurred:
  - (A) Development has commenced in compliance with the land use approval;
  - (B) An extension has been granted pursuant to SRC 300.850(b); or
  - (C) The land use approval has been revoked as provided under SRC 300.860 or is otherwise invalidated by an administrative board or court of competent jurisdiction.
- (2) Where the decision involves work for which a building permit is required, no exercise of the rights granted under the land use action shall be deemed to have commenced until a building permit has been issued. Unless otherwise extended, the approval of the land use action shall automatically expire if the approval has expired as set forth in Table 300-3, and all required building permits issued for the land use action have expired.

***Applicant's Findings:*** *The applicant understands the provisions surrounding expiration standards.*

#### (b) *Extensions.*

- (1) Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended for the times set forth in Table 300-3 through filing an application for extension prior to the expiration date.
- (2) Classes.

- (A) *Class 1 extension.* A Class 1 extension is an extension that applies when there have been no changes to the standards and criteria used to approve the original application.
  - (B) *Class 2 extension.* A Class 2 extension is an extension that applies when there have been changes to the standards and criteria used to approve the original application, but such changes to the standards and criteria would not require modification of the original approval.
- (3) Procedure type.
  - (A) A Class 1 extension is processed as a Type I procedure under SRC chapter 300.
  - (B) A Class 2 extension is processed as a Type II procedure under SRC chapter 300.
- (4) Criteria.
  - (A) A Class 1 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application.
  - (B) A Class 2 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application that would require modification of the original approval.
- (5) Appeal and review.
  - (A) The decision on a Class 1 extension may not be appealed and is not subject to Council review.
  - (B) The decision on a Class 2 extension may be appealed and is subject to Council review pursuant to SRC 300.1050. The Review Authority for an appeal of a Class 2 extension shall be the Hearings Officer.
- (6) While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending.
- (7) The decision granting an extension shall revive all rights under the original approval as they existed prior to the expiration of the original approval period.

***Applicant's Findings:*** As expressed previously under the administrative procedures, the applicant understands both the expiration and extension provisions for this application.



## Section 300.860 – Revocation of Approval

(a) Unless otherwise provided under the UDC, the Director may revoke a permit or approval issued pursuant to the UDC when:

- (1) The permit or approval was issued on the basis erroneous or misleading information, or a material misrepresentation;
- (2) The development authorized under the permit or approval violates other applicable law;
- (3) The development violates the permit or approval, the UDC, or other applicable law;
- (4) The permittee failed to pay an administrative penalty for violations relating to the development authorized under the permit or approval;
- (5) The work is, or threatens to become, an imminent hazard to property or public safety; or
- (6) Prior to the development obtaining vested rights or nonconforming status, a change in the UDC, or the Salem Area Comprehensive Plan, has made the approved development unlawful or not permitted.

***Applicant's Findings:*** *The applicant understands the director may revoke a permit or approval if such instances, as those listed above, exist to warrant a revocation.*

(b) Revocation of a permit or approval shall follow a Type I procedure.

***Applicant's Findings:*** *It is understood the revocation would follow a Type I procedure.*

(c) Notice of revocation shall be given, in writing, to the applicant or the applicant's assigns or successors in interest, stating the grounds for revocation, the date upon which the revocation becomes effective, and the right to appeal.

***Applicant's Findings:*** *The applicant understands the notice procedure required in conjunction with a revocation.*

(d) Any person entitled to notice under subsection (c) of this section may appeal the revocation to the Hearings Officer by filing written notice of appeal with the Planning Administrator within ten days of the date the notice of revocation was mailed.

***Applicant's Findings:*** *The applicant understands any person entitled to notice, as provided under subsection (c), would have the right to appeal any revocation of decision within ten days of the date of mailing the notice.*

(e) Revocation shall be effective immediately upon the mailing of notice. Unless otherwise provided in the notice, revocation terminates all rights to continue the use or development under the approval of the land use action. It is unlawful to continue any use or development for which approval has been revoked.

***Applicant's Findings:*** *The applicant understands the effective date of a revocation is immediately upon the mailing of notice and that the revocation terminates the rights to continue the use or development.*

- (f) Revocation of approval of a land use action on the basis of false, inaccurate, or incomplete statements of material fact in the application shall not bar, nor otherwise prejudice the right of the applicant to resubmit a new application containing accurate and complete statements of material fact. Revocation on any other grounds shall be treated as a basis for denial of the application on its merits and resubmission of application shall be made as provided in SRC 300.870.

***Applicant's Findings:*** *The applicant understands they may resubmit an application following a revocation with a revised set of information.*

- (g) Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

***Applicant's Findings:*** *The applicant understands the provisions of this section and that revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy in regard to applications involving false or inaccurate information.*

#### Section 300.900 – Public hearing, generally

The provisions of SRC 300.900 through 300.990 apply to all public hearings held pursuant to this chapter. Where the provisions of SRC 300.900 through 300.990 conflict with other sections of the Salem Revised Code the provisions of SRC 300.900 through 300.990 shall control.

#### Section 300.920 – Rules of procedure

Public hearings shall be conducted in accordance with the provisions of this section and rules of procedure adopted by the Review Authority.

- (a) Any party may speak in person, through an attorney, or elect to have a representative from an officially recognized neighborhood association present the party's case.
- (b) A copy of any written testimony or physical evidence which a party desires to have introduced into the record at the time of hearing shall be submitted to the clerk of the Review Authority prior to, or at the time the party makes his or her presentation. If the testimony or evidence is not submitted to the secretary, it shall not be included in the record for the proceeding.
- (c) No person may speak more than once without obtaining permission from the Review Authority.

- (d) Upon being recognized by the presiding officer of the Review Authority, any member of the Review Authority, city staff or the City Attorney may question any person who testifies.
- (e) Testimony shall be directed towards the applicable standards and criteria which apply to the proposal.
- (f) The Review Authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the Review Authority may call for those in favor and those in opposition to rise, and the secretary of the Review Authority shall note the numbers of such persons for the record in the minutes.

***Applicant's Findings:*** *The applicant understands the rules of procedure of a public hearing as listed in this section.*

### Section 300.960 – Order of proceedings

The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted rules of procedure of the Review Authority as appropriate:

- (a) *General.* Before receiving the staff report, testimony or evidence on the proposal, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the Review Authority has the discretion to proceed or terminate the hearing.
- (b) *Land use hearing disclosure statement.* The secretary of the Review Authority shall read the land use disclosure statement, which shall include:
  - (1) A list of the applicable criteria;
  - (2) A statement that testimony, arguments and evidence must be directed toward the applicable criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision;
  - (3) A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals based on that issue; and
  - (4) If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
- (c) *Call for ex parte contacts.* The presiding officer of the Review Authority should inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact.
- (d) *Call for abstentions.* The presiding officer of the Review Authority should inquire whether any member must abstain from participation in the hearing due to conflicts of interest or due to any of the circumstances set forth in the Salem City Charter, section 62. Any member announcing a conflict of interest shall state the nature of the conflict,

and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises.

- (e) *Staff summary.* City staff shall present a summary and recommendation concerning the proposal.
- (f) *Presentation of the case.*
  - (1) Applicant's case.
  - (2) Persons in favor.
  - (3) Neighborhood associations. Appearance by a representative from any officially recognized neighborhood association which includes the affected area to present the association's position on the proposal.
  - (4) Persons opposed.
  - (5) Other interested persons.
  - (6) Rebuttal and surrebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters which were introduced during the hearing. If new evidence is submitted by the applicant during rebuttal, all other persons shall have the opportunity for surrebuttal.
- (g) *Close of hearing.* No further information shall be received after the close of the hearing, except for specific questions directed to staff. If the response to any such questions requires the introduction of new factual evidence, all parties shall be afforded an opportunity to respond to the new factual evidence.
- (h) *Reopened hearings.* The hearing may be reopened by the Review Authority, upon majority vote, prior to decision, to receive additional testimony, evidence or argument. Notice shall be provided to the same persons who received notice of the original hearing.
- (i) *Deliberations and decision.* Deliberations shall immediately follow the hearing, except that the Review Authority may delay deliberations to a subsequent date and time certain.
- (j) *Findings and order.* The Review Authority may approve, approve with conditions, or deny an application. The Review Authority shall adopt findings to support its decision. The Review Authority may incorporate findings proposed by the applicant, an opponent, staff, the hearings officer or the planning commission in its decision or may direct the prevailing party to prepare draft findings for consideration by the Review Authority.

***Applicant's Findings:*** *The applicant understands the general order of the proceedings of a public hearing as well as the supplementation of the rules of procedure.*

## Section 300.970 – Continued hearing; extension of the record

- (a) *Procedure when hearing does not constitute the first evidentiary hearing.* If additional evidence or documents are provided by any party after the date the staff report is made available to the public, the Review Authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the date for closing the record requested by an applicant shall result in a corresponding extension of the state mandated decision date set forth under ORS 227.178—227.179.
- (b) *Procedure when hearing constitutes the first evidentiary hearing.* Prior to the conclusion of a quasi-judicial land use proceeding which constitutes the first evidentiary hearing on the matter, any party may request an opportunity to present additional evidence, arguments or testimony regarding the proposal. Upon such request, the Review Authority shall either continue the hearing or hold the record open as provided in this subsection.
- (c) *Continuances.*
  - (1) If the Review Authority grants a continuance, the hearing shall be continued to a time certain at least seven days after the date of the hearing. The continued hearing shall provide an opportunity for persons to present and rebut new evidence, arguments and testimony.
  - (2) If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.
  - (3) Only one continuance is available of right under this subsection; provided, however, nothing in this subsection shall restrict the Review Authority, in its discretion, from granting additional continuances.
- (d) *Holding the record open.*
  - (1) If the Review Authority holds the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days after the close of the hearing.
  - (2) Any participant may file a written request with the City Recorder for an opportunity to respond to any new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is held open. If such a request is filed, the Review Authority shall reopen the record.
- (e) *Reopening the record.* If the record is reopened, any person may submit additional evidence, arguments or testimony to respond to the new evidence or new testimony submitted during the period the record was left open or raise new issues or make new arguments which relate to the new evidence, new arguments or new testimony. Notice

of the reopened record shall be provided to any person who presented evidence or testimony in the proceedings prior to the date the record was reopened.

- (f) *Presentation of final written argument.* Prior to the close of the record, the applicant may, in writing, request an opportunity to submit final written argument. If an applicant makes such a request, as provided in this subsection, the applicant shall have at least seven days after the record is closed to all other parties to submit final written argument in support of the application. The applicant's final submittal shall be considered part of the record but shall not include any new evidence. A failure by an applicant to make a request to submit final written argument, as provided by this subsection, shall be deemed a waiver by the applicant of this right.
- (g) *Effect on state mandated decision date.* Any continuance of the hearing or extension of the date for closing the record which is agreed to or requested by the proponent shall result in a corresponding extension of the state mandated decision date imposed by ORS 227.178—227.179. A seven-day period for submittal of final written argument provided to the proponent shall likewise result in a corresponding extension of the state mandated decision date. Any other continuance or extension shall be subject to the state mandated decision date.
- (h) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Argument* means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent of a decision. Argument does not include facts.

*Evidence* means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by the proponent to be relevant to the proposal.

***Applicant's Findings:*** *The applicant understands the provisions surrounding continuances, the submittal of additional evidence and documents, as well as key definitions and how they pertain to a public hearing.*

#### Section 300.980 – Record of proceedings

- (a) *Record content.* A record of the proceedings shall be prepared and maintained for all public hearings. The record of proceedings is comprised of:
  - (1) The Charter of the City, the Salem Area Comprehensive Plan, and the Salem Revised Code, all of which shall be automatically incorporated into the record by virtue of this subsection;
  - (2) The application, resolution, or other action which initiated the proceeding;

- (3) All testimony, evidence, and exhibits submitted prior to the close of the record of the proceeding. Where practicable, exhibits submitted shall be marked to show the identity of the person offering the item and whether the person is in favor, or opposed to, the application;
  - (4) Any staff reports submitted prior to and after the hearing;
  - (5) An electronic recording of the hearing;
  - (6) Minutes of the hearing;
  - (7) Minutes of any public meeting after the close of the hearing at which the proceeding is discussed or acted upon by the hearing body; and
  - (8) The written decision.
- (b) *Access to record.* Access to the record shall be made available to the public at a reasonable time and place; any person may obtain copies of the record at the person's own expense.

***Applicant's Findings:*** *The applicant understands what will be included in the record of proceedings and the availability of this record.*

## Section 5: Findings Applicable to Conditional Use Permit

### Chapter 240 – Conditional Use Permits

#### Section 240.001 – Purpose

The purpose of this chapter is to allow uses that are similar to other uses permitted outright in a zone but because of the manner in which the use may be conducted, or the land and buildings developed for the use, review is required to determine whether the imposition of conditions is necessary to minimize the negative impacts on uses in the surrounding area.

#### Section 240.005 – Conditional Use Permits

(a) *Applicability.*

- (1) 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.
- (2) No use for which a conditional use permit has been granted shall be expanded, relocated, or changed to another conditional use, and no building or structure devoted to such use shall be structurally altered or enlarged, unless a new conditional use permit, or a modification of an existing conditional use permit, has been granted pursuant to this chapter for such expansion, relocation, change, structural alteration, or enlargement; provided, however, a new conditional use permit, or modification of an existing conditional use permit, shall not be required for interior construction or tenant improvements that

involve no change of use, or for alterations required to address a building code violation or to comply with the Americans with Disabilities Act.

***Applicant's Findings:*** *The sale of motor vehicles is permitted as a conditional use in the Mixed Use-III zone. The existing building, previously used for the sale of motor vehicles, is being redeveloped and intensifying the use on site which triggers the requirement for the applicant to obtain a conditional use permit.*

(b) *Procedure type.* A conditional use permit is processed as a Type III procedure under SRC chapter 300.

***Applicant's Findings:*** *This application is consolidated and will be processed as a Type III procedure. This criterion is met.*

(c) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for a conditional use permit shall include the following:

(1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

- (A) The total site area, dimensions, and orientation relative to north;
- (B) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway locations, indicating distance to such structures from all property lines and adjacent on-site structures;
- (C) Loading areas, if included with proposed development;
- (D) All proposed landscape areas on the site, with an indication of square footage and as a percentage of site area;
- (E) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;
- (F) The location of all trees and vegetation required to be protected under SRC chapter 808; and
- (G) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.

(2) An existing conditions plan of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

- (A) The total site area, dimensions, and orientation relative to north;



- (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines and whether they are to be removed;
  - (C) The location of the 100-year floodplain, if applicable; and
  - (D) The location of drainage patterns and drainage courses, if applicable.
- (3) A completed Trip Generation Estimate for the proposed development, on forms provided by the City.
  - (4) A traffic impact analysis, if required SRC chapter 803.

***Applicant's Findings:*** All of the items listed above are included in the exhibits for this submittal. This criterion is met.

- (d) *Criteria.* An application for conditional use permit shall be granted if all of the following criteria are met:
  - (1) The proposed use is allowed as a conditional use in the zone;

***Applicant's Findings:*** As identified throughout this narrative, the subject property is zoned MUIII. In accordance with SRC Chapter 535, Table 535-1: Uses, motor vehicle sales uses are listed as a conditional use within this zone. This criterion is met.

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

***Applicant's Findings:*** The subject property is abutting Market Street NE to the north, Park Avenue NE to the west, MUIII zoned property to the east, and RM2/MUIII property to the south. The area includes a mix of development types including commercial and multiple family uses. The development requirements for zone-to-zone setbacks, landscaping, and screening helps to buffer the differing uses. Table 535-1 Uses within the MUIII zone demonstrates commercial and residential uses can be compatible as they are both allowed within the zone. Though the uses in the area are varied, the proposed development is compatible with the mix of uses and the live/work intent of the MUIII zone and the Mixed-Use comprehensive plan designation.

The applicant addresses the development standards within this narrative for the requested site plan review. The development standards implemented by the code are put into place to mitigate the impacts of certain uses on other uses, by meeting the standards, or meeting the intent of the standards through an adjustment, the applicant is mitigating the impact of their development on surrounding uses. There are fairly large, proposed setbacks, dense landscaping requirements, and screening which aids in the compatibility of the mixed uses throughout the area.

*Based on the size, scale, orientation, and the site enhancements being proposed, it is not anticipated additional conditions will need to be imposed on the proposal to minimize impacts on surrounding properties. This criterion is met.*

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

***Applicant's Findings:*** *The subject site is currently developed with the use proposed in this conditional use permit. The motor vehicle sales use has existed for decades cohesively with the surrounding developments demonstrating through practice that the proposed use is reasonably compatible and will have minimal impact on the livability or appropriate development of surrounding property. Additionally, the existence of this development meets the comprehensive plan policy for providing employment opportunities where people are able to earn a livable wage. Through setbacks, screening, and landscaping, the applicant is proposing a project which will be cohesive with the surrounding development and will enhance and beautify this area along Market Street NE. This criterion is met.*

- (e) *Transfer of conditional use permit.* Unless otherwise provided in the decision granting the conditional use permit, conditional use permits shall run with the land.

***Applicant's Findings:*** *The applicant understands if the property were to transfer ownership upon approval of a conditional use permit, the rights granted will run with the land.*

## Section 6: Findings Applicable to Property Line Adjustments

### Chapter 205 – Land Division and Reconfiguration

#### Section 205.001 – Purpose

The purpose of this chapter is to provide regulations governing the division and reconfiguration of land.

***Applicant's Findings:*** *The applicant understands the purpose of this chapter. The subject property is comprised of three underlying platted lots. The applicant is seeking two property line adjustments to consolidate the property into one. Responses to all applicable criteria are provided below.*

#### Section 205.055 – Property line adjustments

- (a) *Applicability.* A property line adjustment is required to relocate or eliminate all or a portion of a common property line between two abutting units of land that were lawfully established, as defined by ORS 92.010(3)(a), or to incorporate into another unit of land, as provided by ORS 92.010(9)(e), excess right-of-way that was acquired for street or other right-of-way purposes and subsequently sold by a public body. Property line adjustments shall not be used to create an additional unit of land, or to create units

of land that are non-conforming. No property line shall be relocated or eliminated without property line adjustment approval as set forth in this section.

***Applicant's Findings:*** *The applicant is seeking two property line adjustments to consolidate the subject site into one property for the redevelopment of the Nissan of Salem building and associated site improvements, triggering the applicability of this section.*

(b) *Procedure type.* A property line adjustment is processed as a Type I procedure under SRC chapter 300.

***Applicant's Findings:*** *Though a property line adjustment is usually processed using Type I procedures, this application is consolidated and will be processed using Type III procedures.*

(c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a property line adjustment shall include:

- (1) A copy of recorded deeds for the existing units of land;
- (2) A site plan, drawn to scale, indicating:
  - (A) The dimensions and areas of the units of land before and after the proposed property line adjustment;
  - (B) Setbacks, building separations, lot coverage, vehicular access, and public and private utilities;

***Applicant's Findings:*** *All required information has been provided. This criterion is met.*

- (3) Proof of ownership including, but not limited to, a preliminary title report not older than 30 days for each affected property at the time the application is submitted;

***Applicant's Findings:*** *Proof of ownership is included with this application submittal. This criterion is met.*

- (4) Any additional documents required to establish that the unit(s) of land were legally created;

***Applicant's Findings:*** *Deed information is provided; the properties are platted lots and were lawfully established.*

- (5) A copy of the draft property line adjustment deed(s), in a form approved by the Director, containing:
  - (A) The names of the owners;
  - (B) Legal descriptions of the adjusted property(ies) and the transacted property prepared and sealed by an Oregon-registered Professional Land Surveyor;

- (C) References to original recorded deeds including the creation date and instrument used to lawfully establish each unit of land; and
- (D) A place for the signatures of all parties, along with proper notary acknowledgment.

***Applicant's Findings:*** *The applicant's surveyor has put together draft deeds and exhibits for review. This criterion is met.*

- (d) *Criteria.* A property line adjustment shall be approved if all of the following criteria are met:

- (1) The property line adjustment will not create an additional unit of land;

***Applicant's Findings:*** *The proposal is to consolidate three properties into one and will not create an additional unit of land. This criterion is met.*

- (2) The property line adjustment will not create nonconforming units of land or nonconforming development, or increase the degree of nonconformity in existing units of land or existing development;

***Applicant's Findings:*** *The proposed final configuration of the property will comply with the development and lot configuration standards of the MUIII zone. This criterion is met.*

- (3) The property line adjustment involves only units of land that were lawfully established, where the instruments creating the units of land have been properly recorded, or the property line adjustment involves the incorporation of excess right-of-way, acquired for street or other right-of-way purposes and subsequently sold by a public body, into a unit of land that was lawfully established;

***Applicant's Findings:*** *Deed information is provided; the properties are platted lots and were lawfully established. This criterion is met.*

- (4) The property line adjustment is not prohibited by any existing City land use approval, or previous condition of approval, affecting one or both of the units of land;

***Applicant's Findings:*** *There are no known city land use approval or previous condition of approval, affecting the properties which would prohibit the applicant's request. This criterion is met.*

- (5) The property line adjustment does not involve the relocation or elimination of any public easement or right-of-way; and

***Applicant's Findings:*** *The applicant's surveyor has demonstrated, on the preliminary plats provided, that neither of the two PLAs would involve the relocation or elimination of any public easement or right-of-way. This criterion is met.*

- (6) The property line adjustment does not adversely affect the availability or access to public and private utilities or streets.

***Applicant's Findings:*** *As demonstrated, the proposed property line adjustment will not impact the manner in which public or private utilities are accessed, nor will it impact any access to the public street. This criterion is met.*

- (e) *Multiple property line adjustments.* If more than three property line adjustment applications affecting the same unit of land are proposed within a six-month period, the property line adjustments shall be processed as follows:

- (1) When the units of land are within a recorded plat, the property line adjustments affecting the units of land shall be by replat; and
- (2) When the units of land are not within a recorded plat, the property line adjustments affecting the units of land shall be by partition.

***Applicant's Findings:*** *The applicant is seeking two property line adjustments to eliminate two property lines dividing the subject property into three units of land. This criterion is not applicable.*

- (f) *Monumentation recording.*

- (1) Property line adjustments shall be surveyed, monumented, and recorded as required by state law. Prior to recording the record of survey map with the county:

- (A) The City Surveyor shall review the final property line adjustment deed document(s) and an updated preliminary title report, not older than 30 days from the date of the review, and certify that it:

- (i) Identifies the correct owners of each property;
- (ii) Identifies the grantor and grantee in the correct manner;
- (iii) Includes, when applicable, references to any easements of record;
- (iv) Includes a legal description(s) that:

- (aa) Accurately describes the adjusted property(ies) and the properties being conveyed;

- (bb) Contains bearing and distance calls that mathematically close; and

- (cc) Contain, when applicable, correct references to artificial and natural monuments along adjoining property(ies).
- (v) Correctly represents the areas in each legal description; and
- (vi) Complies with the requirements of state law.
- (B) The applicant shall record the final property line adjustment deed(s) document; and
- (C) The City Surveyor shall review the record of survey map to ensure:
  - (i) That the record of survey map conforms with the property line adjustment deeds; and
  - (ii) Compliance with state law and this section.

***Applicant's Findings:*** *The applicant has retained a professional land surveyor to complete the final recording and monumentation required. These criteria will be met.*

(g) *Expiration.*

- (1) Property line adjustment approval shall expire as provided in SRC 300.850, unless the approved property line adjustment deed and record of survey map are recorded with the county.
- (2) Multiple property line adjustments processed according to subsection (e) of this section shall expire as provided in SRC 300.850 according to the expiration period specified for the required application.
- (3) Evidence demonstrating that the approved property line adjustment deed and record of survey map, when required under subsection (f) of this section, have been recorded with the county shall be provided to the Director.

***Applicant's Findings:*** *The applicant understands the provisions surrounding expiration of any approval granted by the city. If applicable, these criteria will be met.*

## Section 7: Findings Applicable to Class 3 Site Plan Review

### Chapter 220 – Site Plan Review

#### Section 220.001 – Purpose

The purpose of this chapter is to provide a unified, consistent and efficient means to conduct site plan review for development activity that requires a building permit, to ensure that such development meets all applicable standards of the UDC, including, but not limited to, standards related to access, pedestrian connectivity, setbacks, parking areas, external refuse storage areas, open areas, landscaping, and transportation and utility infrastructure.

## Section 220.005 – Site Plan Review

### (a) *Applicability.*

(1) Except as provided in subsection (a)(2) of this section, site plan review approval is required:

- (A) Prior to issuance of a building permit, for any development that requires a building permit;
- (B) Prior to a change of use, when a building permit is not otherwise required; and
- (C) Prior to commencement of work, for any of the following when a building permit is not otherwise required:
  - (i) Development of a new off-street parking or vehicle use areas;
  - (ii) Expansion of an existing off-street parking or vehicle use areas, when additional paved surface is added;
  - (iii) Alteration of an existing off-street parking or vehicle use areas, when the existing paved surface is replaced with a new paved surface;
  - (iv) Paving of an unpaved area; and
  - (v) Restriping of an off-street parking or vehicular use areas, when the layout will be reconfigured.

***Applicant's Findings:*** *Site plan review, class 3, is applicable to this submittal as the applicant is seeking a building permit to construct a new building for Nissan of Salem on the subject property.*

### (2) Exemptions.

- (A) The following development that requires a building permit is exempt from site plan review:
  - (i) Development of a single-family use, two family use, three family use, four family use, or cottage cluster on an individual lot, including the construction of accessory structures and paving associated with such uses.
  - (ii) Sign installation.
  - (iii) Ordinary maintenance or repair of existing buildings, structures, utilities, landscaping, and impervious surfaces, and the installation or replacement of operational equipment or fixtures.

- (iv) The alteration to the facade of a building except in the Mixed Use-I (MU-I) and Mixed Use-II (MU-II) zones.
  - (v) Interior construction or tenant improvements that involve no change of use or occupancy.
  - (vi) Demolition permit.
  - (vii) Construction of a fence.
- (B) Any of the activities identified under subsection (a)(1)(C) of this section are exempt from site plan review if they are for a single-family use, two family use, three family use, four family use, or cottage cluster on an individual lot.

***Applicant's Findings:*** *The application, as proposed, is not exempt from Site Plan Review. This section is not applicable.*

(b) *Classes.* The three classes of site plan review are:

- (1) *Class 1 site plan review.* Class 1 site plan review is site plan review for any development under subsection (a)(1) of this section that does not involve a land use decision or limited land use decision, as those terms are defined in ORS 197.015, and that involves either:
  - (A) A change of use or change of occupancy where only construction or improvements to the interior of the building or structure are required; or
  - (B) A change of use when a building permit is not otherwise required.
- (2) *Class 2 site plan review.* Class 2 site plan review is site plan review for any development under subsection (a)(1) of this section, other than development subject to Class 1 site plan review, that does not involve a land use decision or limited land use decision, as those terms are defined in ORS 197.015.
- (3) *Class 3 site plan review.* Class 3 site plan review is site plan review for any development under subsection (a)(1) of this section that involves a land use decision or limited land use decision, as those terms are defined in ORS 197.015. As used in this subsection, land use decisions and limited land use decisions include, but are not limited to, any development application that:
  - (A) Requires a Transportation Impact Analysis pursuant to SRC chapter 803;
  - (B) Requires a geotechnical report or geologic assessment under SRC chapter 810, except where a geotechnical report or geologic assessment has already been approved for the property subject to the development application;



- (C) Requires deviation from clear and objective development standards of the UDC relating to streets, driveways or vision clearance areas;
- (D) Proposes dedication of right-of-way which is less than the requirements of the Salem Transportation System Plan;
- (E) Requires deviation from the clear and objective standards of the UDC and where the Review Authority is granted the authority to use limited discretion in deviating from the standard; or
- (F) Involves the imposition of conditions of approval; or
- (G) Requires a variance, adjustment, or conditional use permit.

***Applicant's Findings:*** *This proposal triggers a class 3 site plan review as it is consolidated with a conditional use permit, class 2 driveway approach permits, and adjustments.*

(c) *Procedure type.*

- (1) Class 1 site plan review is processed as a Type I procedure under SRC chapter 300.
- (2) Class 2 site plan review is processed as a Type I procedure under SRC chapter 300.
- (3) Class 3 site plan review is processed as a Type II procedure under SRC chapter 300.
- (4) An application for site plan review may be processed concurrently with an application for a building permit; provided, however, the building permit shall not be issued until site plan review approval has been granted.

***Applicant's Findings:*** *This application is consolidated with a conditional use permit which requires a Type III review as outlined under SRC Chapter 300.120.*

(d) *Submittal requirements for Class 1 site plan review.* In lieu of the application submittal requirements under SRC chapter 300, an application for a Class 1 site plan review shall include a completed application form that shall contain the following information:

- (1) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
- (2) The address or location of the subject property and its assessor's map and tax lot number;
- (3) The size of the subject property;
- (4) The comprehensive plan designation and zoning of the subject property;
- (5) The type of application(s);
- (6) A brief description of the proposal; and
- (7) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).

(e) *Submittal requirements for Class 2 and Class 3 site plan review.*

(1) *Class 2 site plan review.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for Class 2 site plan review shall include the following:

(A) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

- (i) The total site area, dimensions, and orientation relative to north;
- (ii) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveways, indicating distance from the structures and improvements to all property lines and adjacent on-site structures;
- (iii) Loading areas, if included in the proposed development;
- (iv) The size and location of solid waste and recyclables storage and collection areas, and amount of overhead clearance above such enclosures, if included in the proposed development;
- (v) An indication of future phases of development on the site, if applicable;
- (vi) All proposed landscape areas on the site, with an indication of square footage and their percentage of the total site area;
- (vii) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;
- (viii) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808;
- (ix) The location of all street trees, if applicable, or proposed location of street trees required to be planted at time of development pursuant to SRC chapter 86; and
- (x) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.

- (B) An existing conditions plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
    - (i) The total site area, dimensions, and orientation relative to north;
    - (ii) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines; and
    - (iii) The location of the 100-year floodplain, if applicable.
  - (C) A grading plan depicting proposed site conditions following completion of the proposed development, when grading of the subject property will be necessary to accommodate the proposed development.
  - (D) A completed trip generation estimate for the proposed development, on forms provided by the City.
  - (E) Building elevation drawings for any proposed new buildings and any exterior additions or alterations to existing buildings when the height of the building, or a portion of the building is changed.
  - (F) For development in the Mixed Use-I (MU-I) and Mixed Use-II (MU-II) zones, architectural drawings, renderings, or sketches showing all elevations of the existing buildings and the proposed buildings as they will appear on completion.
- (2) *Class 3 site plan review.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for Class 3 site plan review shall include the following:
- (A) All submittal requirements for a Class 2 site plan review under subsection (e)(1) of this section;
  - (B) The zoning district, comprehensive plan designation, and land uses for all properties abutting the site;
  - (C) Driveway locations, public and private streets, bike paths, transit stops, sidewalks, and other bike and pedestrian pathways, curbs, and easements;
  - (D) The elevation of the site at two-foot contour intervals, with specific identification of slopes in excess of 15 percent;
  - (E) The location of drainage patterns and drainage courses, if applicable;

- (F) A preliminary utility plan showing capacity needs for municipal water, stormwater facilities, and sewer service, and schematic location of connection points to existing municipal water and sewer services;
- (G) Summary table which includes site zoning designation; total site area; gross floor area by use (e.g., manufacturing, office, retail, storage); building height; itemized number of full size compact and handicapped parking stalls, and the collective total number; total lot coverage proposed, including areas to be paved for parking and sidewalks;
- (H) A geological assessment or geotechnical report, if required by SRC chapter 810, or a certification from an engineering geologist or a geotechnical engineer that landslide risk on the site is low, and that there is no need for further landslide risk assessment; and
- (I) A Transportation Impact Analysis, if required by SRC chapter 803.

***Applicant's Findings:*** *This application is for a class 3 site plan review and includes all of the required information outlined above.*

(f) *Criteria.*

- (1) *Class 3 site plan review.* An application for Class 3 site plan review shall be granted if:

- (A) The application meets all applicable standards of the UDC;

***Applicant's Findings:*** *The applicant has compiled a complete list of applicable standards and criteria and has provided a response to each within this narrative. If there is an instance where the proposal is unable to meet the standard, the applicant will seek an adjustment with mitigation where possible. This criterion is met.*

- (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;

***Applicant's Findings:*** *The development site is abutting Market Street NE to the north and Park Avenue NE to the west. For this development, the applicant is proposing to provide access to the renovated dealership from Market Street NE byway of a private driveway. The proposed traffic circulation pattern into, through, and out of the development site is cohesive with the street systems already in place. The proposed driveway along Market Street NE triggers a class 2 driveway approach permit, as does the driveway proposed to Park Avenue NE. In Section 9 of this narrative the applicant has addressed all of the applicable criteria within SRC Chapters 804 and 805 demonstrating compliance with the approval criteria. Additionally, the applicant is*

*proposing dedication and frontage improvements to Market Street NE. The transportation system in the surrounding area is built up and has a complete network of streets providing for the safe, orderly, and efficient circulation of traffic into and out of the development site. Because the proposed circulation plan accommodates all modes of transportation and meets safety standards for vision clearance areas, this criterion is met.*

- (C) Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians; and

***Applicant's Findings:*** *The applicant is proposing a traffic circulation pattern into the development site that will be cohesive with the street systems already in place. Additionally, the applicant has provided a complete onsite network of safe pedestrian crossings throughout the development which leads to vehicle parking areas, bicycle parking, and to the public sidewalk. The applicant has provided additional information in response to SRC Chapter 800 and SRC Chapter 806 below in this section demonstrating compliance with vehicular, bicycle, and pedestrian circulation standards. This criterion is met.*

- (D) The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

***Applicant's Findings:*** *This application is for the redevelopment of an existing car dealership which is already served by city infrastructure, as demonstrated by the existing conditions plans provided with this application submittal. At the time of building permit submittal, the applicant's engineer will provide additional information demonstrating how the proposal is meeting the Public Works Design standards to the public works department for the directors review and approval. This criterion will be met.*

#### Chapter 535 – MUIII – Mixed Use III

##### Section 535.001 – Purpose

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.

##### Section 535.010 – Uses

- (a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the MU-III zone are set forth in Table 535-1.

***Applicant's Findings:*** *The applicant is proposing to redevelop the site and continue the current use of motor vehicle sales. This use is conditionally permitted within the MU-III zone.*

(b) Continued uses. Existing, legally established uses established prior to August 24, 2022, but which would otherwise be made nonconforming by this chapter, are hereby deemed continued uses.

(1) Building or structures housing a continued use may be structurally altered or enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding complies with the standards set forth in SRC 535.015(f).

(2) Cease of occupancy of a building or structure for a continued use shall not preclude future use of the building or structure for that use; provided, however, conversion of the building or structure to a conforming use shall thereafter prevent conversion back to the former continued use or any other continued use.

***Applicant's Findings:*** *The site is currently developed with a motor vehicle sales use. With the application of the MU-III zone on this site, the existing use became a use which requires a conditional use permit. Additionally, many aspects of the existing site design became nonconforming to the updated standards. The intent of this application is to bring the site more into conformance with the new development requirements of the MU-III zone. The applicant will need to seek exceptions to some of the standards as demonstrated within this narrative. When an exception is being sought, the applicant is demonstrating how the intent of the standard is equally met by the proposal.*

#### Section 535.015 – Development Standards

Development within the MU-III zone must comply with the development standards set forth in this section.

(a) *Lot standards.* Lots within the MU-III zone shall conform to the standards set forth in Table 535-2.

***Applicant's Findings:*** *Within the MU-III zone, there is no standard for lot area, lot width, or lot depth. The minimum street frontage required is 16-feet. As demonstrated by the site plan provided, the subject property will have approximately 250 feet of frontage onto Park Avenue NE and 460 feet of frontage onto Market Street NE after the required dedication of right-of-way. This criterion is met.*

(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.

***Applicant's Findings:*** *None of the structures located on the development site are residential. This criterion is not applicable.*

(c) *Setbacks.* Setbacks within the MJU-III zone shall be provided as set forth in Tables 535-3 and 535-4.

***Applicant's Findings:*** *Within the MU-III zone the following setbacks apply to the subject site:*

*Buildings abutting a street: 5-foot minimum, 30-foot maximum. Qualifications: The maximum setback of up to 30 feet is applicable to all new buildings and is permitted, provided the setback area is used for a combination of landscaping and pedestrian amenities and meets the following standards: Up to the first 10 ft of the setback area can be used exclusively for pedestrian amenities, and At least 50 percent of the remaining setback area must be landscaped. The maximum setback does not apply to a new building if another building exists between a minimum of 50 percent of the street-facing façade of the new building and the street.*

*Accessory structures abutting a street: 5-foot minimum.*

*Vehicle uses abutting a street: setbacks are pursuant to the provisions of SRC Chapter 806. The applicant has provided findings to all applicable criteria later in this section.*

*The interior side and interior rear property lines are subject to zone-to-zone setbacks listed in Table 535-4 for zone-to-zone setbacks.*

*The southern interior rear property line abuts RM2 zoned property and MU-III zoned property. In accordance with Table 535-4, abutting residentially zoned property, vehicle use areas require a 5-foot setback and Type C landscape standards. Buildings and accessory structures require a minimum 10-foot setback plus 1.5-feet for each 1 foot of building height above 15-feet, but in no case more than a 50-foot setback and Type C landscaping is required.*

*The eastern interior side property line abuts MU-III zoned property. In accordance with Table 535-4, buildings have no setback requirements and vehicle use areas require a minimum 5-foot setback and Type A landscaping.*

*As demonstrated by the site plan provided, the applicant is seeking an adjustment to the maximum building setback abutting the street. Within the adjustments section of this narrative, the applicant will demonstrate how the proposal meets or better meets the intent of the underlying standard. Additionally, the applicant will demonstrate how the newly proposed development will be more conforming to standards than the previous development and what steps were taking to mitigate the request. With the approval of the class 2 adjustment, these standards are met by the proposal.*

(d) *Lot coverage; height.* Buildings and accessory structures within the MU-III zone shall conform to the lot coverage and height standards set forth in Table 535-5.

***Applicant's Findings:*** *Within the MU-III zone, there is not a maximum for lot coverage. As demonstrated by the plans provided, the newly proposed building will not exceed 28-feet in*

height. Within the MUIII zone, the maximum building height allowed is 70 feet. This criterion is met.

(e) *Landscaping.*

(1) *Setbacks.* Setbacks, except setback areas abutting a street that provide pedestrian amenities, shall be landscaped to conform to the following standards:

(A) The required setback abutting a street for development that is exclusively residential shall meet the standard of a minimum of one plant unit per 16 square feet of landscaped area. Landscaping shall conform to the standards set forth in SRC chapter 807.

***Applicant's Findings:*** *The proposal is for the redevelopment of the Nissan of Salem car dealership. This criterion is not applicable.*

(B) For all other uses, landscaping shall conform to the standards set forth in SRC chapter 807.

***Applicant's Findings:*** *The applicant includes findings for all applicable criteria from SRC Chapter 807 demonstrating compliance with the landscaping requirements. This criterion is met.*

(2) *Vehicle use areas.* Vehicle use areas shall be landscaped as provided under SRC chapters 806 and 807.

***Applicant's Findings:*** *The applicant has included findings for SRC Chapters 806 and 807 demonstrating compliance with the landscape standards in each chapter. This criterion is met.*

(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 vehicle use areas, may count towards meeting this requirement.

***Applicant's Findings:*** *The site plan includes calculations for existing and proposed site landscaping. As demonstrated, the site currently includes 1,433 square feet of landscaped area. The redevelopment includes 25,555 square feet of landscaped area, or 18.7 percent of the site. This criterion is met.*

(4) *Gasoline stations.* In addition to the landscaping requirements set forth in this section, 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.

***Applicant's Findings:*** *The proposal does not include a gasoline station. This criterion is not applicable.*

(f) *Development standards for continued uses.*



- (1) *Buildings.* 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; or
- (2) *Option to rebuild in same location.* Any building or structure rebuilt shall be located on the same location on the lot as the original building or structure and may be enlarged, provided the enlargement does not increase the building or structure's nonconformity to development standards set forth in this chapter and all other applicable provisions of the UDC.

***Applicant's Findings:*** *The applicant is proposing to rebuild the Nissan of Salem building in the same location. As demonstrated by the proposal, the applicant is decreasing the amount of nonconformity with the newly adopted development standards for the MU-III zone. This criterion is met.*

- (g) *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. Any development requiring historic design review shall only be subject to design review according to the historic design review standards or the historic design review guidelines set forth in SRC chapter 230.

- (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.

***Applicant's Findings:*** *As demonstrated on the site plan provided, the newly proposed off-street parking area is proposed beside the new building along the east side. The vehicle use areas to the north and west of the newly proposed building are vehicle display areas not intended for off-street parking. This criterion is met.*

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

***Applicant's Findings:*** *Drive through uses are not proposed. This criterion is not applicable.*

- (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.

***Applicant's Findings:*** *Salem Revised Code, Chapter 111 does not define outdoor storage. However, vehicle display, and vehicle use areas are defined as follows. 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. Vehicle use area means an area of a development site used for parking, storage, display, loading, maneuvering, access, or circulation of vehicles. A vehicle use area includes off-street parking areas, vehicle storage areas, vehicle display areas, loading areas, driveways, and drive-through lanes. Based on these definitions, the applicant asserts that the vehicle display area is not considered to be outdoor storage and this screening requirement is not applicable.

- (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.

**Applicant's Findings:** As demonstrated by the site plan and elevation drawings provided, the redeveloped building will have entrances facing both Market Street NE and Park Avenue NE. This criterion is met.

- (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.

**Applicant's Findings:** The applicant has provided elevations demonstrating which portions of the proposed building will include transparent windows. As demonstrated, the building façade facing Market Street NE is 5,127 square feet in area, requiring 2,563.5 square feet of transparent windows. This façade includes 2,341 square feet of transparent windows. The applicant will be seeking a class 1 adjustment to this standard. The building façade facing Park Avenue NE is 4,923 square feet in area, requiring 2,461.5 square feet of transparent windows. This façade includes 809 square feet of transparent windows. The applicant will be seeking a class 2 adjustment to this standard. Within the adjustment section of this narrative, the applicant will demonstrate how the approval criteria is met. With the approval of the requested class 1 and class 2 adjustments, this criterion will be met.

## Chapter 602 – Airport Overlay Zone

### Section 602.001 – Purpose

The purpose of the Airport Overlay Zone is to establish standards to promote air navigational safety and prevent hazards and obstructions to air navigation and flight.

***Applicant's Findings:*** *The applicant understands the provisions set forth in this chapter are to eliminate or prevent any hazards or obstructions to air navigation and flight. It is understood any development within these areas is subject to the standards of this section.*

#### Section 602.010 – Airport Overlay Zone Boundary

The boundaries of the Airport Overlay Zone are shown in Figure 602-1. The Airport Overlay Zone is divided into the following areas that apply to land beneath, upon, and above the approach surface, transitional surfaces, horizontal surface, and conical surfaces of McNary Field:

- (a) *Approach area.* The approach area consists of the following:
  - (1) *Runway other than utility runway with only visual approach area.* The inner boundary of the runway other than utility runway with only visual approach area lies along the end of the primary surface and is 500 feet wide. The area expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. The centerline of the area is the continuation of the centerline of Runway 16/34.
  - (2) *Non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-quarter mile area.* The inner boundary of the non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-quarter mile area lies along the end of the primary surface and is 1,000 feet wide. The area expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. The centerline of the area is the continuation of the centerline of Runway 13.
  - (3) *Precision instrument runway approach area.* The inner boundary of the precision instrument runway approach area lies along the end of the primary surface and is 1,000 feet wide. The area expands outward uniformly to a width of 16,000 feet at a horizontal distance of 10,000 feet from the primary surface and thereafter to a horizontal distance of 50,000 feet from the primary surface. The centerline of the area is the continuation of the centerline of Runway 31.
- (b) *Transitional areas.* The transitional areas are those areas that lie beneath the transitional surfaces of each runway.
- (c) *Horizontal area.* The boundary of the horizontal area is established by swinging arcs with 5,000 feet radii, for all utility or visual runways, and 10,000 feet radii, for all other runways, from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal area does not include the approach and transitional areas.
- (d) *Conical surface area.* The conical surface area commences at the periphery of the horizontal area and extends outward a horizontal distance of 4,000 feet.

***Applicant's Findings:*** *The development site is subject to the restrictions of the conical surface area as it is within this boundary of the overlay zone.*

#### Section 602.015 – Uses

Any use that is a permitted, special, conditional, or prohibited use in the underlying zone is a permitted, special, conditional, or prohibited use in the Airport Overlay Zone.

***Applicant's Findings:*** *The applicant understands the uses permitted are reliant on the underlying zoning and overlay zoning, not the airport overlay zone itself. The sale of motor vehicles is a conditionally permitted use within the underlying MU-III (Mixed Use-III) zone.*

#### Section 602.020 – Development Standards

Development within the Airport Overlay Zone must comply with the development standards applicable in the underlying zone and the development standards set forth in this section. The development standards in this section are in addition to, and not in lieu of, all other applicable development standards in the underlying zone. Where the development standards in this section conflict with the development standards applicable in the underlying zone or any other overlay zone, the more restrictive development standards shall be the applicable development standard.

- (a) *Height.* Except as otherwise provided in this chapter, no building, structure, or object shall be erected or increased in height, and no vegetation shall be allowed to grow, to a height in excess of the height limitations set forth in this subsection. If all or part of a lot is located in more than one Airport Overlay Zone area, the applicable height limitation shall be the most restrictive height limitation.
  - (1) *Runway other than a utility runway with only visual approaches.* No building, structure, object, or vegetative growth shall have a height greater than that established by a plane sloping 20 feet outward for each one foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended centerline of Runway 16-34.
  - (2) *Non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-quarter mile.* No building, structure, object, or vegetative growth shall have a height greater than that established by a plane sloping 34 feet outward for each one foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 10,000 feet along the extended centerline of Runway 13.
  - (3) *Precision instrument runway approach.* No building, structure, object, or vegetative growth shall have a height greater than that established by a plane sloping 50 feet outward for each one foot upward beginning at the end of, and

at the same elevation as, the primary surface and extending to a horizontal distance of 10,000 feet along the extended centerline of Runway 31; thence sloping 40 feet outward for each one foot upward to an additional horizontal distance of 40,000 feet along the extended centerline of Runway 31.

- (4) *Transitional surface.* In the transitional surface, no building, structure, object, or vegetative growth shall have a height greater than that established by a plane sloping seven feet outward for each one foot upward beginning at the sides of, and at the same elevation as, the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition, in the transitional surface there are established height limits sloping seven feet outward for each one foot upward beginning at the sides of, and the same elevation as, the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach area projects beyond the conical area, there are established height limits sloping seven feet outward for each one foot upward beginning at the sides of, and the same elevation as, the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.
- (5) *Horizontal surface.* In the horizontal surface, no building, structure, object, or vegetative growth shall have a height greater than that established by a horizontal plane 150 feet above the airport elevation.

***Applicant's Findings:*** *The development site falls within the conical surface area, criteria (1)-(5) are not applicable to the proposed development.*

- (6) *Conical surface.* In the conical surface, no building, structure, object, or vegetative growth shall have a height greater than that established by a plane sloping 20 feet outward for each one foot upward beginning at the periphery of the horizontal surface, 150 feet above the airport elevation, and extending to a height of 350 feet above the airport elevation.

***Applicant's Findings:*** *The development site sits at approximately 240-feet above sea level. This provision provides a maximum height of 250-feet for buildings, structures, objects, and vegetation. However, the MU-III zone limits building and accessory structure height to 70-feet. Furthermore, the tallest point of the proposed car dealership is proposed to be 28-feet in height, far less than the maximum. At the time site signage is proposed, it will also be reviewed, and findings will show it to meet the applicable restrictions. This criterion is met.*

- (b) *Development compatibility.* Uses within the Airport Overlay Zone shall not be developed, conducted, or maintained in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights,

result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, attract wildlife, or endanger or interfere in any other manner with landing, takeoff, or maneuvering of aircraft using or intending to use McNary Field.

***Applicant's Findings:*** Staff will review this proposal at the time of submittal and determine development compatibility. It is the assertion of the applicant and their representatives that a car dealership will not cause any electrical interference with navigational signals or radio communications between the airport and aircraft. This criterion is met.

- (c) ***Marking and lighting.*** Marking and lighting necessary to indicate the presence of buildings, structures, or vegetation to operators of aircraft in the vicinity of the airport shall be provided as required by the FAA.

***Applicant's Findings:*** If additional markings or lighting is determined to be required by the FAA to indicate the presence of buildings, structures, or vegetation, the applicant will comply with all reasonable requests to ensure the standards are met.

#### Section 602.025 – Airport Overlay Zone Height Variance

- (a) ***Applicability.*** No building, structure, or object shall be erected or increased in height, and no vegetation shall be allowed to grow, to a height in excess of the height limitations set forth in this chapter unless a variance has been granted pursuant to this section.

***Applicant's Findings:*** The applicant is meeting the standards for height restrictions within the conical surface area of the airport overlay zone and no variance is being sought. These criteria are not applicable.

- (b) ***Procedure type.*** An Airport Overlay Zone height variance is processed as a Type I procedure under SRC chapter 300.

#### Chapter 800 – General Development Standards

##### Section 800.001 – Purpose

The purpose of this chapter is to establish certain standards that apply generally to development throughout the City, regardless of zone.

##### Section 800.005 – Applicability

The standards set forth in this chapter apply to all development in every zone unless otherwise exempted by the UDC. In the event of a conflict between the standards set forth in this chapter and any other provision of the UDC, the more restrictive provision shall apply.

***Applicant's Findings:*** The provisions of Chapter 800 are triggered because the applicant is applying for a class 3 site plan review to redevelop a car dealership. The applicant understands

*if there is a conflict of standards within the UDC, the more restrictive provisions will be applicable.*

#### Section 800.050 – Fences, Walls, Hedges, Gates, and Retaining Walls

Unless otherwise provided under the UDC, the standards set forth in this section shall apply to fences, walls, hedges, gates, and retaining walls in all zones. Where screening is required under the UDC in the form of a fence, wall, or hedge, it shall meet the standards set forth in SRC chapter 807, in addition to the standards set forth in this section. For purposes of this section, the term "front yard" means that portion of a lot located between the front property line and a line parallel to the front property line extended from the wall of the main building lying at the greatest distance from the front property line.

- (a) *Location, height, and density.* Fences, walls, hedges, gates, and retaining walls shall comply with the location, height, and density standards set forth in this subsection.

- (1) *Fences and walls.*

- (A) Residential zones and property used for uses falling under household living in other zones. Fences and walls within residential zones, or on property used for uses falling under household living in other zones, shall not exceed a maximum height of eight feet; provided, however:

- (i) *Front yard abutting street.* Fences and walls within a front yard abutting a street shall not exceed a maximum height of four feet when located within 20 feet of the property line abutting the street; provided, however, within ten feet of the property line abutting the street any portion of the fence or wall above 30 inches in height shall be less than 25 percent opaque when viewed at any angle at a point 25 feet away from the fence or wall.
      - (ii) *Side and rear yards abutting street.* Fences and walls within a side or rear yard abutting a street shall not exceed a maximum height of six feet when located within ten feet of a property line abutting a street.

***Applicant's Findings:*** *The site is abutting multiple family residential property to the south. In accordance with the development standards of the MUIII zone, Type C landscaping is applicable where the subject property zone is abutting a residential zone. Type C landscaping requires a denser landscape planting and screening. To meet the screening standard, the applicant is proposing to install a fence which will meet the criteria of this section.*

(B) Nonresidential zones. Except for fences and walls on property used for uses falling under household living, fences and walls within nonresidential zones shall not exceed a maximum height of 12 feet; provided, however:

- (i) Front, side, and rear yards abutting street. Fences and walls within a front, side, or rear yard abutting a street shall not exceed a maximum height of eight feet when located within ten feet of a property line abutting a street; provided, however, any portion of the fence or wall above 30 inches in height shall be less than 25 percent opaque when viewed at any angle at a point 25 feet away from the fence or wall.

***Applicant's Findings:*** *The site is abutting multiple family residential property to the south. In accordance with the development standards of the MUIII zone, Type C landscaping is applicable where the subject property zone is abutting a residential zone. Type C landscaping requires a denser landscape planting and screening. To meet the screening standard, the applicant is proposing to install a fence which will meet the criteria of this section.*

- (2) *Hedges.* There is no maximum height limitation for hedges; provided, however, where a hedge is located within ten feet of a property line abutting a street, any portion of the hedge more than 30 inches in height shall be less than 25 percent opaque when viewed at any angle at a point 25 feet away from the hedge.

***Applicant's Findings:*** *All planting materials will be specified on the landscape future plan. No hedge is currently in existence nor is one proposed within the new landscaped areas. This criterion is not applicable.*

- (3) *Gates.* Where a gate is part of a fence, wall, or hedge it shall conform to the height limitations applicable to fences and walls set forth under SRC 800.050(a)(1). Gates shall not swing open onto a public right-of-way or vehicle or pedestrian easement.

***Applicant's Findings:*** *Gates are not proposed with the development under review. This criterion is not applicable.*

- (4) *Retaining walls.* Retaining walls shall not exceed a maximum height of four feet when located at the property line abutting a street. Retaining walls not located at the property line abutting a street may exceed four feet in height.

***Applicant's Findings:*** *The development area of the site is relatively flat and retaining walls in excess of four feet in height are not needed. This criterion is not applicable.*



- (b) *Vision clearance.* Notwithstanding any other provision of this section, fence, walls, hedges, gates, and retaining walls shall conform to the vision clearance requirements of SRC chapter 805.

***Applicant's Findings:*** This application includes class 2 driveway approach permits. The applicant addresses all criteria of SRC Chapters 804 and 805 in Section 7 of this narrative. The applicable criteria for vision clearance are met by the proposal.

#### Section 800.055 – Solid Waste Service Areas

Solid waste service areas shall provide for the safe and convenient collection of solid waste and recyclable and compostable materials by the local solid waste collection franchisee.

***Applicant's Findings:*** The trash enclosure is shown on the site plan provided. As shown, the placement is proposed on the south side of the development site and abutting the existing vehicle service shop within close proximity of staff, maintaining easy accessibility. Additionally, there is plenty of maneuvering space for the collection franchisee to be able to collect the solid waste from the receptacle area. This criterion is met.

- (a) *Applicability.* Solid waste service area design standards shall apply to:
- (1) All new solid waste, recycling, and compostable service areas, where use of a solid waste, recycling, and compostable receptacle of one cubic yard or larger is proposed; and
  - (2) Any change to an existing solid waste service area for receptacles of one cubic yard or larger that requires a building permit.

***Applicant's Findings:*** The applicant is proposing a new solid waste area along with the redevelopment of the car dealership, triggering the applicability of this section.

- (b) *Solid waste receptacle placement standards.* All solid waste receptacles shall be placed at grade on a concrete pad that is a minimum of four inches thick, or on an asphalt pad that is a minimum of six inches thick. The pad shall have a slope of no more than a three percent and shall be designed to discharge stormwater runoff consistent with the overall stormwater management plan for the site approved by the Director.

***Applicant's Findings:*** As shown on the civil plans provided with this application submittal, the new trash enclosure will be placed at grade on a concrete pad. At the time of building permit, the applicant will supply construction details demonstrating compliance with these design standards, including slope and runoff discharge. This criterion will be met.

- (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 one foot beyond the sides and rear of the receptacle; and

- (B) The pad area shall extend a minimum three 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.

***Applicant's Findings:*** *The proposed concrete pad will extend a minimum of one foot beyond the sides and rear of the receptacle area, as shown on the site plan included with this application submittal. In this case, two receptacles are able to have more than six feet of pad area between them as separation. As applicable, these criteria are demonstrated to have been met.*

(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 five feet shall be provided between the receptacle and any combustible walls, combustible roof eave lines, or building or structure openings.

***Applicant's Findings:*** *As demonstrated, there will be more than 1.5-feet of clearance along the sides. The enclosure's location on the development abuts the existing vehicle service shop, but the receptacles have room to be placed more than 5 feet from the building, meeting the five-foot separation criterion. These criteria are met.*

(3) *Vertical clearance.*

- (A) *Receptacles two cubic yards or less.* Receptacles two cubic yards or less in size shall be provided with a minimum of eight feet of unobstructed overhead or vertical clearance for servicing.
- (B) *Receptacles greater than two cubic yards.* Receptacles greater than two cubic yards in size shall be provided with a minimum of 14 feet of unobstructed overhead or vertical clearance for servicing; provided, however, overhead or vertical clearance may be reduced to eight feet:
  - (i) For enclosures covered by partial roofs, where the partial roof over the enclosure does not cover more than the rear eight feet of the enclosure, as measured from the inside of the rear wall of the enclosure (see Figure 800-6); or
  - (ii) Where a physical barrier is installed within, and a maximum of eight feet from the front opening of, the enclosure preventing the backward movement of the receptacle (see Figure 800-7).

***Applicant's Findings:*** *At the time of building permit, the applicant will identify the receptacle size and demonstrate adequate vertical clearance. This criterion will be met.*

(c) *Permanent drop box and compactor placement standards.*

- (1) All permanent drop boxes shall be placed on a concrete pad that is a minimum of six inches thick. The pad shall have a slope of no more than one percent and shall be designed to discharge stormwater runoff consistent with the overall stormwater management plan for the site approved by the Director.
- (2) All permanent compactors shall be placed on a concrete pad that is structurally engineered or in compliance with the manufacturer specifications. The pad shall have a slope of no more than three percent and shall be designed to discharge stormwater runoff consistent with the overall stormwater management plan for the site approved by the Director.
- (3) Pad area. The pad area shall be a minimum of 12 feet in width. The pad area shall extend a minimum of five feet beyond the rear of the permanent drop box or compactor.
- (4) Minimum separation. A minimum separation of five feet shall be provided between the permanent drop box or compactor and any combustible walls, combustible roof eave lines, or building or structure openings.

***Applicant's Findings:*** *These criteria are not applicable; the applicant is not proposing a drop box or compactor for this site.*

(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.

***Applicant's Findings:*** *The trash enclosure walls will be a minimum of 6-feet in height providing screening from the streets and the residentially zoned property to the south. There will be an additional screening at the southern property line. This criterion is met.*

- (e) *Solid waste service area enclosure standards.* When enclosures are used for required screening or aesthetics, such enclosures shall conform to the standards set forth in this subsection. The overall dimensions of an enclosure are dependent upon the number and size of receptacles the enclosure is designed to accommodate.

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

***Applicant's Findings:*** *The trash enclosure area, as demonstrated by the site plan provided, has been designed to have two openings. Both openings to the trash enclosure areas are proposed to be 16-feet in width, exceeding the minimum 12-foot requirement. The criterion is met.*

- (2) *Measures to prevent damage to enclosure.*

- (A) Enclosures constructed of wood or chain link fencing 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 to prevent damage from receptacle impacts.
- (B) 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.
- (C) The requirements under subsections (e)(2)(A) and (B) of this section shall not apply if the enclosure is designed to be separated:
  - (i) A minimum distance of two feet from the sides of the container or receptacles; and
  - (ii) A minimum of three feet from the rear of the container or receptacles.

***Applicant's Findings:*** *Enclosure details will be provided at the time of building permit submittal. As applicable, these criteria will be met.*

- (3) *Enclosure gates.* Any gate across the front opening of an enclosure shall swing freely without obstructions. For any enclosure opening with an unobstructed width of less than 15 feet, the gates shall open a minimum of 120 degrees. For any enclosure 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.

***Applicant's Findings:*** *The gate swings are demonstrated on the site plan provided and meet the standards of this provision. Further details regarding the design of the trash enclosure, including the manner in which the enclosure doors will be secured in both the open and closed positions will be shown. This criterion will be met.*

- (4) *Prohibited enclosures.* Receptacles shall not be stored in buildings or entirely enclosed structures unless the receptacles are:
- (A) Stored in areas protected by an automatic sprinkler system approved by the City Fire Marshal; or
  - (B) Stored in a building or structure of a fire resistive Type I or Type IIA construction that is located not less than ten feet from other buildings and used exclusively for solid waste receptacle storage.

***Applicant's Findings:*** *The receptacles are not proposed to be located in a building or entirely enclosed structure. This criterion is met.*

(f) *Solid waste service area vehicle access.*

(1) Vehicle operation area.

- (A) A vehicle operation area shall be provided for solid waste collection service vehicles that is free of obstructions and no less than 45 feet in length and 15 feet in width; provided, however, where the front opening of an enclosure is wider than 15 feet, the width of the vehicle operation area shall be increased to equal the width of the front opening of the enclosure. Vehicle operation areas shall be made available perpendicular to the front of every receptacle, or, in the case of multiple receptacles within an enclosure, perpendicular to every enclosure opening.

***Applicant's Findings:*** *The applicant is proposing a vehicle clearance area with 45 feet in length and 15 feet in width. These measurements were taken perpendicular to the trash enclosure in accordance with this section. This is demonstrated by a dashed rectangle on the site plan provided. This criterion is met.*

- (B) For solid waste service areas having receptacles of two cubic yards or less, the vehicle operation area may be located:
  - (i) Perpendicular to the permanent location of the receptacle or the enclosure opening (see Figure 800-8);
  - (ii) Parallel to the permanent location of the receptacle or the enclosure opening (see Figure 800-9); or
  - (iii) In a location where the receptacle can be safely maneuvered manually not more than 45 feet into a position at one end of the vehicle operation area for receptacle servicing.

***Applicant's Findings:*** The applicant is proposing a vehicle clearance area of 45 feet in length and 15 feet in width. These measurements were taken perpendicular to the trash enclosure in accordance with subsection (ii) above. This criterion is met.

- (C) The vehicle operation area may be coincident with a parking lot drive aisle, driveway, or alley provided that such area is kept free of parked vehicles and other obstructions at all times except for the normal ingress and egress of vehicles.

***Applicant's Findings:*** The applicant is proposing a vehicle clearance area with more than 45 feet in length and 20 feet in width. There will be no parked vehicles or other obstructions within this area with the exception of normal ingress and egress of vehicles, allowable by this section. This criterion is met.

- (D) Vertical clearance. Vehicle operation areas shall have a minimum vertical clearance of 14 feet.

***Applicant's Findings:*** There are no proposed overhead obstructions. The collection franchise will have at least 14 feet of overhead clearance. This criterion is met.

- (E) In the event that access to the vehicle operation area is not a direct approach into position for operation of the service vehicle, a turnaround, in conformance with the minimum dimension and turning radius requirements shown in Figure 800-10, shall be required to allow safe and convenient access for collection service.

***Applicant's Findings:*** The vehicle operation area is a direct approach into position for operation of the service vehicle and no turnaround is needed. This criterion is not applicable.

- (2) Vehicle operation areas shall be designed so that waste collection service vehicles are not required to back onto a public street or leave the premises.

***Applicant's Findings:*** In no case will the collection vehicle be forced to back onto a public street. As shown on the site plan provided, maneuvering without utilizing a public right-of-way is easily achievable. This criterion is met.

- (3) Vehicle operation areas shall be paved with asphalt, concrete, or other hard surfacing approved by the Director, and shall be adequately designed, graded, and drained to the approval of the Director.

***Applicant's Findings:*** The civil plans provided with this application submittal demonstrate compliance with this standard. Additional information, as needed, will be provided at the time of building permit for review and approval of the Director. This criterion is met.

- (4) Signs. "No Parking" signs shall be placed in a prominent location on the enclosure or painted on the pavement in front of the enclosure or receptacle, to ensure unobstructed and safe access for the servicing of receptacles.

***Applicant's Findings:*** As required, "No Parking" signs will be placed in compliance with this section. This criterion will be met.

#### Section 800.060 – Exterior Lighting

- (a) Exterior lighting shall not shine or reflect onto adjacent properties or cast glare onto the public right-of-way.

***Applicant's Findings:*** All proposed lighting will be designed in a manner as to not shine or reflect onto adjacent properties or cast any glare onto the public right-of-way. This criterion will be met.

- (b) Exterior light fixtures shall be located and designed so that the light source, when viewed at a height of five feet above the ground at a distance of five feet outside the boundary of the lot, shall be either:
  - (1) Completely shielded from direct view; or
  - (2) No greater than five foot-candles in illumination.

***Applicant's Findings:*** Where necessary, lighting will be shielded from direct view. Fixtures are chosen and placed in compliance with these criteria. Because the applicant's proposal meets criterion (a), criterion (b) is also met.

#### Section 800.065 – Pedestrian Access

Except where pedestrian access standards are provided elsewhere under the UDC, and unless otherwise provided in this section, all developments, other than development of single family, two family, three family, four family, and multiple family uses, 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.

- (a) *Pedestrian connections required.* The on-site pedestrian circulation system shall provide pedestrian connectivity throughout the development site as follows:
  - (1) *Connection between building entrances and streets.*
    - (A) Except as otherwise provided in this subsection, a pedestrian connection shall be provided between the primary building 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 (see Figure 800-11).

***Applicant's Findings:*** Direct pedestrian connections are proposed to Market Street NE and Park Avenue NE, as demonstrated by the site plan provided. In addition to the pedestrian connections being provided, a pedestrian plaza and featured vehicle plaza is proposed at the entrance of the new building facing Market Street NE. This criterion 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 (see Figure 800-12).

***Applicant's Findings:*** As demonstrated by the site plan provided, the applicant is proposing to extend the pedestrian connection directly to the newly proposed sidewalk along Market Street NE. There is an existing transit stop near the corner of Park Avenue NE and Market Street NE. The pedestrian connection from the site is approximately 131-feet from the transit stop. The applicant is seeking a class 2 adjustment to this standard. Within the adjustment section of this narrative, the applicant will demonstrate how the approval criteria is met. With approval of the requested adjustment, this criterion is met.

- (C) A pedestrian connection is not required between the primary building entrance of a building and each adjacent street if:
  - (i) The development site is a corner lot and the building has a primary building entrance that is located within 20 feet of, and has a pedestrian connection to, the property line abutting one of the adjacent streets; or
  - (ii) The building is a service, storage, maintenance, or similar type building not primarily intended for human occupancy.

***Applicant's Findings:*** As demonstrated by the site plan provided, a pedestrian connection will be provided leading to Park Avenue NE in addition to the connection provided to Market Street NE. This criterion is not applicable as the applicant is proposing pedestrian connections leading to both streets that the property fronts.

- (2) Connection between buildings on the same development site.



- (A) Except as otherwise provided in this subsection, where there is more than one building on a development site, a pedestrian connection, or pedestrian connections, shall be provided to connect the primary building entrances of all of the buildings.
- (B) A pedestrian connection, or pedestrian connections, is not required between buildings on the same development site if:
  - (i) The buildings have a primary building entrance that is located within 20 feet of, and has a pedestrian connection to, the property line abutting a street; and
  - (ii) A public sidewalk within the adjacent street right-of-way provides pedestrian access between the primary building entrances; or
  - (iii) The buildings are service, storage, maintenance, or similar type buildings not primarily intended for human occupancy.

***Applicant's Findings:*** *The redeveloped site includes a complete pedestrian connection that leads between all buildings on site. All pedestrian connections, and the protection measures proposed, are demonstrated on the site plan provided. This criterion is met.*

(3) *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 or where there is no building, through the parking area as provided in this subsection.

***Applicant's Findings:*** *The proposed parking area is 17,185 square feet in size and does not contain four or more consecutive drive aisles. The applicant is not required to provide a pedestrian connection through the parking area. This criterion 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.

***Applicant's Findings:*** *The site does not include parking structures or garages. This criterion is not applicable.*

- (4) *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.

***Applicant's Findings:*** *There are no existing or planned paths or trails abutting the development site. This criterion is not applicable.*

- (5) *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. A pedestrian connection is not required, however:
- (A) To abutting properties used for activities falling within the following use classifications, use categories, and uses under SRC Chapter 400:
    - (i) Single family;
    - (ii) Two family;
    - (iii) Group living;
    - (iv) Industrial;
    - (v) Infrastructure and utilities; and
    - (vi) Natural resources.
  - (B) Where the use of an abutting property has specific security needs that make providing a connection impractical or undesirable;
  - (C) Where on-site activities on abutting properties, such as the operation of trucks, forklifts, and other equipment and machinery would present safety conflicts with pedestrians;
  - (D) Where buildings or other improvements on abutting properties physically preclude a connection now or in the future; or
  - (E) Where physical conditions of the land, such as topography or existing natural resource areas, including, but not limited to, wetlands, ponds, lakes, streams, or rivers, make providing a connection impractical.

***Applicant's Findings:*** *No vehicular connections to abutting properties are proposed. This criterion is not applicable.*

- (b) *Design and materials.* Required pedestrian connections shall be in the form of a walkway or may be in the form of a plaza. Where a path or trail identified in the Salem Transportation System Plan (TSP) or Salem Comprehensive Parks System Master Plan is required, the path or trail shall conform to the applicable standards of the TSP or Salem Comprehensive Parks System Master Plan in-lieu of the standards in this subsection.

(1) Walkways shall conform to the following:

- (A) Material and width. 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.

***Applicant's Findings:*** All required pedestrian connections will be 5-feet in width and will be constructed with a material meeting the Public Works Design Standards. This criterion is met.

- (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.

***Applicant's Findings:*** Four different pedestrian connections cross a drive aisle or parking area. The applicant has chosen to differentiate one of these pedestrian connections with a different material. The connection is marked on the site plan as concrete. The other three connections are separated from the drive aisle by speed bumps on either side. This criterion is met.

- (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.

***Applicant's Findings:*** Pedestrian paths adjacent to auto travel lanes will be elevated at least 6 inches above the vehicle use area. This criterion is met.

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

***Applicant's Findings:*** As shown on the site plan included, all parking stalls on the westerly side of the parking area where they abut a pedestrian walkway, will be equipped with wheel stops to prevent encroachment into the pedestrian walkway. This criterion is met.

- (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.

***Applicant's Findings:*** The site lighting will be detailed on the architectural electrical drawings. At the time of building permit submittal, the applicant will supply drawings and documentation demonstrating compliance with this section. This criterion will be met.

- (d) *Applicability of standards to development sites comprised of lots under separate ownership.*

- (1) When a development site is comprised of lots under separate ownership, the pedestrian access standards set forth in this section shall 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.
- (2) Where the pedestrian access standards of this section would otherwise require additional pedestrian connections throughout the development site beyond just the lot, or lots, proposed for development and any contiguous lots under the same ownership, the required pedestrian connections shall be extended to the boundaries of the lot, or lots, proposed for development and any contiguous lots under the same ownership in order to allow for future extension of required pedestrian connections through the other lots within the development site in conformance with the standards in this section.

***Applicant's Findings:*** The applicant has ownership of all properties the development site occupies. Therefore, this criterion is not applicable.

## Chapter 802 – Public Improvements

### Section 802.001 – Purpose

The purpose of this chapter is to establish the means and standards whereby public improvements are provided for development within the City.

***Applicant's Findings:*** The applicant understands the purpose of Chapter 802 is to establish the standards for public improvements as they correlate to development within the city. The applicant has provided findings for each applicable criterion listed below.

### Section 802.010 – Design Standards and Specifications

The Director shall prepare and adopt by administrative rule design standards and specifications consistent with sound engineering principles for the construction, reconstruction, or repair of

public improvements within areas under the City's jurisdiction. The design standards and specifications shall be kept on file in the office of the Director. All public improvements shall conform to the adopted design standards and specifications, and with any other adopted plans and policies adopted by the City.

***Applicant's Findings:*** Design standards for public improvements within the City of Salem have been adopted. The proposed improvements meet the requirements of the Public Works Design Standards. At time of design review to permit the proposed improvements, construction documents will be prepared and provided by the applicant's civil engineer. Preliminary drawings for the purpose of land use approval are provided with this submittal for initial review.

#### Section 802.015 – Development to be Served by City Utilities

Except as provided under SRC 802.035 and 802.040, all development shall be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and the Public Works Design Standards.

***Applicant's Findings:*** SRC 802.015 requires development to be served by city utilities designed and constructed according to all applicable provisions of the Salem Revised Code and Public Works Design Standards (PWDS). The Schematic Utility Plan included in the proposal demonstrates the redeveloped site can continue to be served by city utilities designed and constructed according to the applicable provisions of the SRC and PWDS. This criterion is met.

#### Section 802.020 – Easements

Subject to any constitutional limitations, the conveyance or dedication of easements for city utilities may be required as conditions of development approval. Easements may be required that are necessary for the development of adjacent properties. Easements shall, where possible, be centered on, or abut property lines, and shall be not less than ten feet in width. No building, structure, tree, or other obstruction other than landscaping shall be located within an easement required by this section.

***Applicant's Findings:*** The applicant understands Public Utility Easements (PUEs) are required along all public streets. It is anticipated the franchise utility provider in the area (PGE) will require a 10-foot-wide PUE on all street front lots. This will ensure adequate access to electrical services and other utilities. The applicant understands landscaping and structures must remain outside of the PUE. Right-of-way dedication is proposed along both frontages and reconstruction and relocation of the public sidewalk is proposed along Market Street NE. The applicant will ensure all required easements are in place. This criterion will be met.

#### Section 802.025 – Utilities to be Placed Underground

- (a) Except as otherwise provided in this section, all utility service shall be provided by underground facilities.

- (b) In industrial and employment and commercial zones, electrical service may be provided by overhead wires where underground utility service is unavailable.
- (c) Stormwater management shall be provided by above ground and below ground facilities.

***Applicant's Findings:*** *The utilities and their locations have been designed by professionals in accordance with the provisions of this section. As applicable, this criterion will be met.*

## Chapter 806 – Off-Street Parking, Loading, and Driveways

### Section 806.001 – Purpose

The purpose of this chapter is to establish standards for off-street parking and vehicle use areas, bicycle parking, loading areas, and driveways.

### Section 806.005 – Off-Street Parking; When Required

- (a) ***General applicability.*** Except as otherwise provided in this section, off-street parking shall be provided and maintained as required under this chapter for:
  - (1) Each proposed new use or activity.
  - (2) Any change of use or activity, when such change of use or activity results in a parking ratio requiring a greater number of spaces than the previous use or activity.
  - (3) Any intensification, expansion, or enlargement of a use or activity.

***Applicant's Findings:*** *The newly developed off-street parking area triggers the applicability of SRC Chapter 806.*

- (b) ***Applicability to Downtown Parking District.*** Within the Downtown Parking District, off-street parking shall only be required and maintained for uses or activities falling under household living.

***Applicant's Findings:*** *The development site is not within the downtown parking district. This criterion is not applicable.*

- (c) ***Applicability to nonconforming off-street parking areas.***
  - (1) When off-street parking is required to be added to an existing off-street parking area that has a nonconforming number of spaces, the number of spaces required under this chapter for any new use or activity, any change of use or activity, or any intensification, expansion, or enlargement of a use or activity shall be provided, in addition to the number of spaces required to remedy the existing deficiency.
  - (2) Notwithstanding subsection (1) of this section, when a property is changed in use to any of the following uses or activities, or any of the following uses or activities are added to a property, any existing deficiency in the number of off-

street parking spaces shall not be required to be remedied and only those additional spaces required for the change of use or addition of the new use shall be required:

(A) Accessory dwelling unit.

***Applicant's Findings:*** *The development site includes new off-street parking and does not include any existing nonconforming off-street parking areas. These criteria are not applicable.*

#### Section 806.010 – Proximity of Off-Street Parking to use of Activity Served

Required off-street parking shall be located on the same development site as the use or activity it serves or in the following locations:

- (a) *Residential zones.* Within residential zones, required off-street parking may be located within 200 feet of the development site containing the use or activity it serves.

***Applicant's Findings:*** *The development site is not within a residential zone. This criterion is not applicable.*

- (b) *Nonresidential zones.* Within commercial, mixed-use, public, and industrial and employment zones, other than the CB, WSCB, and SWMU zones, required off-street parking may be located within 500 feet of the development site containing the use or activity it serves.
- (c) *Central business district zone.* Within the Central Business (CB) Zone:
  - (1) Off-street parking for customers may be located within 800 feet of the development site containing the use or activity it serves; and
  - (2) Off-street parking for employees or residents may be located within 2,000 feet of the development site containing the use or activity it serves.
- (d) *South waterfront mixed-use zone.* Within the South Waterfront Mixed Use (SWMU) Zone, required off-street parking may be located anywhere within the South Waterfront Mixed Use (SWMU) Zone. Required off-street parking shall not be located in a different zone.
- (e) *Broadway/High Street Retail Overlay Zone, Broadway/High Street Housing Overlay Zone and Broadway/High Street Transition Overlay Zone.* Within the Broadway/High Street Retail Overlay Zone, Broadway/High Street Housing Overlay Zone and Broadway/High Street Transition Zone, required off-street parking may be located within 800 feet of the development site containing the use or activity it serves.
- (f) *West Salem Central Business District Zone.* Within the West Salem Central Business (WSCB) Zone, required off-street parking may be located within 800 feet of the development site containing the use or activity it serves.

- (g) *Mixed Use-I (MU-I) and Mixed Use-II (MU-II).* Within the Mixed Use-I (MU-I) and Mixed Use-II (MU-II) zones, required off-street parking may be located within 800 feet of the development site containing the use or activity it serves.
- (h) *Exception.* Notwithstanding subsections (a) through (g) of this section, where required off-street parking for non-residential uses is to be located off-site from the use or activity it serves, it shall only be located within a non-residential zone or in a zone where the use or activity it serves is allowed. Parking located off-site from the use or activity it serves cannot be used to exceed maximum parking requirements set forth under SRC 806.015(d).

***Applicant's Findings:*** *These exceptions are not applicable to the proposed development as the off-street parking is located on the same site as the development it will serve.*

#### Section 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.

***Applicant's Findings:*** *The applicant's proposal falls under motor vehicle sales. As measured on the site plan, the car dealership buildings are approximately 29,100 square feet. The required off-street parking for this development is 1 space per 900 square feet. Therefore, the minimum required off-street parking spaces for this site is 32 spaces (29100/900=32.33). As demonstrated by the site plan provided, 35 parking spaces are proposed for this development, the criterion is met.*

- (b) *Compact parking.* Up to 75 percent of the minimum off-street parking spaces required under this chapter may be compact parking spaces.

***Applicant's Findings:*** *The minimum required off-street parking for the proposed development is 32 spaces, 75 percent of the minimum off-street parking for this development is 24 parking stalls. As shown on the plans provide,. 4 compact parking spaces are proposed which is less than the maximum 24 spaces allowed. This criterion is met.*

- (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 five percent of their total off-street parking spaces for carpool or vanpool parking.

***Applicant's Findings:*** *The development site is not proposed to have more than 60 off-street parking spaces. The criterion is not applicable.*

- (d) *Maximum off-street parking.*

- (1) Maximum off-street parking is based upon the minimum number of required off-street parking spaces. Except as otherwise provided in this section, and unless



otherwise provided under the UDC, off-street parking shall not exceed the amounts set forth in Table 806-2A.

(2) *Maximum off-street parking where no minimum off-street parking is required.*

Where an activity does not require a minimum number of off-street parking spaces based on the requirements of Table 806-1, or because it is located in an area where no minimum off-street parking is required for the activity, off-street parking shall not exceed the amounts set forth in Table 806-2B. Parks and open space are exempt from maximum off-street parking standards.

***Applicant's Findings:*** *In accordance with Table 806-2A, the maximum number of off-street parking spaces is 1.75 times the minimum number of spaces required when more than 20 spaces are required. In this case, the maximum off-street parking allowed is  $32 \times 1.75 = 56$ . As shown on the site plan, 35 spaces are provided. This criterion is met.*

(e) *Reductions to required off-street parking through alternative modes of transportation.*

(1) Construction of transit related improvements. When adjacent to transit service, minimum required off-street parking may be reduced by up to ten percent for redevelopment of an existing off-street parking area for transit-related improvements, including transit stops, pullouts and shelters, park and ride lots, transit-oriented developments, and similar facilities.

(2) Satisfaction of off-street parking through implementation of a plan for alternative modes of transportation. Minimum required off-street parking for uses or activities other than household living may be reduced through implementation of a plan providing for the use of alternative modes of transportation to decrease the need for off-street parking. The plan shall be reviewed as a Class 2 Adjustment under SRC chapter 250.

(f) *Reductions to required off-street parking for multiple family developments.*

(1) For multiple family developments, the minimum number of required off-street parking spaces may be reduced through one or more of the following options, provided that the total number of off-street parking spaces reduced shall not exceed 25 percent:

(A) *Transit access.* The minimum number of required off-street parking spaces may be reduced by:

- (i) 10 percent where developments are located within one-quarter mile of a transit stop as measured along a route utilizing public or private streets that are existing or will be constructed with the development; or
- (ii) 20 percent where developments are located within one-quarter mile of a transit stop that has 15-

minute transit service as measured along a route utilizing public or private streets that are existing or will be constructed with the development.

- (B) *Covered bicycle parking.* The minimum number of required off-street parking spaces may be reduced by one space for every four covered bicycle parking spaces provided in addition to the minimum number of bicycle parking spaces required as set forth in SRC 806.055. The additional covered bicycle parking spaces must meet the standards of SRC 806.060 and must be located on site either outdoors or in a bike storage room that is accessible to all residents of the multiple family development.
- (C) *Shared car or van.* The minimum number of required off-street parking spaces may be reduced by four spaces for every shared car or shuttle van that is provided on site and available for use by all residents.

***Applicant's Findings:*** *The applicant is not seeking a reduction to the typical minimum required parking for the existing use of motor vehicle sales and service. These criteria are not applicable.*

#### Section 806.020 – Method of Providing Off-Street Parking

- (a) *General.* Off-street parking shall be provided through one or more of the following methods:
  - (1) *Ownership.* Ownership in fee by the owner of the property served by the parking;

***Applicant's Findings:*** *The applicant is providing the off-street parking through method (1) ownership. As shown on the site plan included with this application submittal, the off-street parking area is on the same site as the development it serves. This criterion is met.*

- (b) *Review and filing of agreement.* Prior to execution of any lease, rental, or joint parking agreement set forth in this section, the form of such agreement shall be reviewed by the City Attorney. An executed copy of the approved agreement shall be filed with the Planning Administrator.
- (c) *Effect of expiration or termination of agreement.* Upon expiration or termination of any lease, rental, or joint parking agreement set forth in this section, the parking requirements set forth in this chapter shall be fully met within 60 days of the date of such expiration or termination or the use or activity discontinued until the parking requirements are met.

***Applicant's Findings:*** *Subsections (b) and (c) are not applicable as the applicant is utilizing method (1) for providing parking which is ownership.*

## Section 806.035 – Off-Street Parking and Vehicle Use Area Development Standards for Uses of Activities Other Than Single-Family, Two-Family, Three-Family, and Four-Family

Unless otherwise provided under the UDC, off-street parking and vehicle use areas, other than driveways and loading areas, for uses or activities other than single family, two family, three family, and four family shall be developed and maintained as provided in this section.

(a) *General applicability.* The off-street parking and vehicle use area development standards set forth in this section shall apply to:

- (1) The development of new off-street parking and vehicle use areas;
- (2) The expansion of existing off-street parking and vehicle use areas, where additional paved surface is added;
- (3) The alteration of existing off-street parking and vehicle use areas, where the existing paved surface is replaced with a new paved surface; and
- (4) The paving of an unpaved area.

***Applicant's Findings:*** *The applicant is proposing to redevelop the existing Nissan of Salem dealership including the redevelopment and relocation of off-street parking areas, triggering the applicability of this section.*

(b) *Location.*

- (1) *Generally.* Off-street parking and vehicle use areas shall not be located within required setbacks.

***Applicant's Findings:*** *Off-street parking and vehicle use areas on site do not encroach into any setbacks. This criterion is met.*

- (2) *Carpool and vanpool parking.* Carpool and vanpool parking shall be located so it is the closest employee parking to the building entrance normally used by employees; provided, however, it shall not be located closer than any parking designated for disabled parking.

***Applicant's Findings:*** *Carpool and vanpool parking is not required or provided for this development. This criterion is not applicable.*

- (3) *Underground parking.* Off-street parking may be located underground in all zones, except the RA and RS zones. Such underground parking may be located beneath required setbacks; provided, however, no portion of the structure enclosing the underground parking shall project into the required setback, and all required setbacks located above the underground parking structure shall be landscaped as otherwise required under the UDC.

***Applicant's Findings:*** *Underground parking is not proposed with this development. This criterion is not applicable.*

(c) *Perimeter setbacks and landscaping.*

(1) *Perimeter setbacks and landscaping, generally.*

(A) *Perimeter setbacks.* Perimeter setbacks, as set forth in this subsection, 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. Perimeter setbacks for parking garages are set forth under subsection (c)(5) of this section. Perimeter setbacks are not required for:

- (i) Off-street parking and vehicle use areas abutting an alley.
- (ii) Vehicle storage areas within the IG zone.
- (iii) Temporary and seasonal gravel off-street parking areas, approved pursuant to SRC chapter 701, abutting nonresidential zones, uses or activities other than household living, or local streets.
- (iv) Gravel off-street parking areas, approved through a conditional use permit, abutting nonresidential zones, uses or activities other than household living, or local streets.
- (v) Underground parking.

(B) *Perimeter landscaping.* Required perimeter setbacks for off-street parking and vehicle use areas shall be landscaped as set forth in this subsection.

***Applicant's Findings:*** *The proposal has been designed in a manner to comply with vehicle use area and perimeter parking area setbacks. All setbacks will be landscaped in accordance with the requirements of this sections and applicable provisions of other chapters within the UDC. The applicant will provide landscape plans at the time of building permit submittal to demonstrate the proposal meets the applicable criteria.*

(2) *Perimeter setbacks and landscaping abutting streets.* Unless a greater setback is required elsewhere within the UDC, off-street parking and vehicle use areas abutting a street shall be setback and landscaped according to one the methods set forth in this subsection. Street trees located along an arterial street may be counted towards meeting the minimum required number of plant units.

(A) *Method A.* The off-street parking and vehicle use area shall be setback a minimum of ten feet (see Figure 806-1). The setback shall be landscaped according to the Type A standard set forth in SRC chapter 807.

- (B) *Method B.* The off-street parking and vehicle use area shall be setback to accommodate a berm, the top of which shall be a minimum of 2.5 feet higher than the elevation of the abutting off-street parking or vehicle use area (see Figure 806-2). The berm shall have a slope no steeper than a 3:1 on all sides and shall be landscaped according to the Type A standard set forth in SRC chapter 807 with plant materials to prevent erosion. The berm shall not alter natural drainage flows from abutting properties. Any portion of the berm that encroaches into a vision clearance area set forth in SRC chapter 805 shall have a height no greater than the maximum allowed under SRC 805.010.
- (C) *Method C.* The off-street parking and vehicle use area shall be setback a minimum six feet to accommodate a minimum three-foot drop in grade from the elevation at the right-of-way line to the elevation of the abutting off-street parking or vehicular use area (see Figure 806-3). The setback shall be landscaped according to the Type A standard set forth in SRC chapter 807.
- (D) *Method D.* The off-street parking and vehicle use area shall be setback a minimum six feet in conjunction with a minimum three-foot-tall brick, stone, or finished concrete wall (see Figure 806-4). The wall shall be located adjacent to, but entirely outside, the required setback. The setback shall be landscaped according to the Type A standard set forth in SRC chapter 807. Any portion of the wall that encroaches into a vision clearance area set forth in SRC chapter 805 shall have a height no greater than the maximum allowed under SRC 805.010.
- (E) *Method E.* The off-street parking and vehicle use area shall be setback a minimum of six feet to accommodate green stormwater infrastructure meeting the Public Works Design Standards.

***Applicant's Findings:*** *The proposal meets method A providing a 10-foot setback abutting the streets (Market Street NE and Park Avenue NE) and landscaped to Type A standards. This criterion is met.*

- (3) *Perimeter setbacks and landscaping abutting interior front, side, and rear property lines.* Unless a greater setback is required elsewhere within the UDC, off-street parking and vehicle use areas abutting an interior front, side, or rear property line shall be setback a minimum of five feet (see Figure 806-5). The setback shall be landscaped according to the Type A standard set forth in SRC chapter 807.

***Applicant's Findings:*** The subject property is zoned MUIII and abuts residentially zoned property to the south. Though a larger setback is not required, a more intensive landscape standard, Type C, is required with screening. The applicant's proposal is meeting these provisions without exception. This criterion is met.

- (4) *Setback adjacent to buildings and structures.* Except for drive-through lanes, where an off-street parking or vehicular use area is located adjacent to a building or structure, the off-street parking or vehicular use area shall be setback from the exterior wall of the building or structure by a minimum five-foot-wide landscape strip, planted to the Type A standard set forth in SRC chapter 807, or by a minimum five-foot-wide paved pedestrian walkway (see Figure 806-6). A landscape strip or paved pedestrian walkway is not required for drive-through lanes located adjacent to a building or structure.

***Applicant's Findings:*** With the exception of where there are roll-up doors proposed along the building, there is a 5-foot setback abutting the building and a complete network of protected pedestrian paths connecting throughout the site. This criterion is met.

- (5) *Perimeter setbacks and landscaping for parking garages.* Perimeter setbacks and landscaping as set forth in subsection (c) of this section shall be required for parking garages; provided, however, perimeter setbacks and landscaping are not required for:
  - (A) Any portion of a parking garage with frontage on a street and containing ground floor uses or activities other than parking.
  - (B) Any parking garage within an industrial zone, public zone, or commercial zone, other than a CO zone, that abuts an interior front, side, or rear property line where there is no required building setback.
  - (C) Any parking garage abutting an alley.

***Applicant's Findings:*** The proposal does not include a parking garage; this criterion is not applicable.

(d) *Interior landscaping.*

- (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:
  - (A) Vehicle storage areas.
  - (B) Vehicle display areas.
  - (C) Temporary and seasonal gravel off-street parking areas approved pursuant to SRC chapter 701.

- (D) Gravel off-street parking areas, approved through a conditional use permit.
- (E) Underground parking.
- (F) Parking garages.

***Applicant's Findings:*** As demonstrated by the site plan provided, the off-street parking area proposed is approximately 17,185 square feet in size, triggering the applicability of this provision.

- (2) *Minimum percentage of interior landscaping required.* Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. For purposes of this subsection, the total interior area of an off-street parking area is the sum of all areas within the perimeter of the off-street parking area, including parking spaces, aisles, planting islands, corner areas, and curbed areas, but not including interior driveways. Perimeter landscaped setbacks and required landscape strips separating off-street parking areas from buildings and structures shall not count towards satisfying minimum interior landscaping requirements.

***Applicant's Findings:*** In accordance with Table 806-5, off-street parking areas which are less than 50,000 square feet in size, require a minimum of 5 percent to be occupied by interior landscaping. The off-street parking area is 17,185 square feet which requires a minimum of 859 square feet ( $17,185 \times .05 = 859.25$ ). The proposal includes 1,471 square feet, or 8.6 percent of interior landscape which exceeds the minimum requirement. This criterion is met.

- (3) *Trees.* A minimum of one deciduous shade tree shall be planted for every 12 parking spaces within an off-street parking area. Trees may be clustered within landscape islands or planter bays and shall be distributed throughout the off-street parking area to create a canopy effect and to break up expanses of paving and long rows of parking spaces.

***Applicant's Findings:*** The proposal includes 32 off-street parking stalls. In accordance with this provision, a minimum of 3 deciduous shade trees ( $32 / 12 = 2.66$ ) are required. The site plan included with this proposal includes the locations of the proposed shade trees which meets the requirements of this section. This criterion is met.

- (4) *Landscape islands and planter bays.* Landscape islands and planter bays shall have a minimum planting area of 25 square feet and shall have a minimum width of five feet (see Figure 806-7).

***Applicant's Findings:*** The site plan demonstrates that each planer bay provided with include square footages of far greater than the minimum 25 square feet. Additionally, each planter bay has a minimum width of 5-feet exclusive of the 6-inch curb. This criterion is met.

(e) *Off-street parking area dimensions.* Off-street parking areas shall conform to the minimum dimensions set forth in Table 806-6; provided, however, minimum off-street parking area dimensions shall not apply to:

- (1) Vehicle storage areas.
- (2) Vehicle display areas.

***Applicant's Findings:*** *The parking stalls provided are all 90-degree standard spaces meeting the dimensional requirements set forth in Table 806-6. There are four compact parking stalls which meet the compact dimensions. This criterion is met.*

(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.

***Applicant's Findings:*** *In no case will any vehicles be forced to back into the public street. A complete vehicular circulation pattern is provided on site. This criterion is met.*

(g) *Grade.* Off-street parking and vehicle use areas shall not exceed a maximum grade of ten percent. Ramps shall not exceed a maximum grade of 15 percent.

***Applicant's Findings:*** *Civil drawings are provided with the application submittal, including a grading and drainage plan, which demonstrates the developed portion of the site is nearly flat. In no case will any portion of the subject site exceed the maximum grade of ten percent and no ramps will exceed the maximum grade of 15 percent. This criterion is met.*

(h) *Surfacing.* Off-street parking and vehicle use areas shall be paved with a hard surface material meeting the Public Works Design Standards; provided, however, up to two feet of the front of a parking space may be landscaped with ground cover plants (see Figure 806-10). Such two-foot landscaped area counts towards meeting interior off-street parking area landscaping requirements but shall not count towards meeting perimeter setbacks and landscaping requirements. Paving is not required for:

- (1) Vehicle storage areas within the IG zone.
- (2) Temporary and seasonal gravel off-street parking areas approved pursuant to SRC chapter 701.
- (3) Gravel off-street parking areas, approved through a conditional use permit.

***Applicant's Findings:*** *The parking area is planned to be paved with hard surface material which meets Public Works Design Standards. These details are provided on the complete civil plans included with this application submittal. This criterion is met.*



- (i) *Drainage.* Off-street parking and vehicle use areas shall be adequately designed, graded, and drained according to the Public Works Design Standards, or to the approval of the Director.

***Applicant's Findings:*** A drainage plan is provided. Drainage infrastructure will be provided in accordance with the Public Works Design Standards. This criterion is met.

- (j) *Bumper guards or wheel barriers.* Off-street parking and vehicle use areas shall include bumper guards or wheel barriers so that no portion of a vehicle will overhang or project into required setbacks and landscaped areas, pedestrian accessways, streets or alleys, or abutting property; provided, however, bumper guards or wheel barriers are not required for:
  - (1) Vehicle storage areas.
  - (2) Vehicle sales display areas.

***Applicant's Findings:*** Every parking stall, which is abutting a pedestrian connection, is proposed to be equipped with wheel barriers to prevent encroachment into landscaped areas and pedestrian paths. This criterion is met.

- (k) *Off-street parking area striping.* Off-street parking areas shall be striped in conformance with the off-street parking area dimension standards set forth in Table 806-6; provided, however, off-street parking area striping shall not be required for:
  - (1) Vehicle storage areas.
  - (2) Vehicle sales display areas.
  - (3) Temporary and seasonal gravel off-street parking areas approved pursuant to SRC chapter 701.
  - (4) Gravel off-street parking areas, approved through a conditional use permit.

***Applicant's Findings:*** The striping proposed is provided on the site plan. The striping delineates each parking stall and meets the dimensional requirements for 90-degree standard parking stalls. This criterion is met.

- (l) *Marking and signage.*
  - (1) *Off-street parking and vehicle use area circulation.* Where directional signs and pavement markings are included within an off-street parking or vehicle use area to control vehicle movement, such signs and marking shall conform to the Manual of Uniform Traffic Control Devices.
  - (2) *Compact parking.* Compact parking spaces shall be clearly marked indicating the spaces are reserved for compact parking only.
  - (3) *Carpool and vanpool parking.* Carpool and vanpool parking spaces shall be posted with signs indicating the spaces are reserved for carpool or vanpool use only before 9:00 a.m. on weekdays.

***Applicant's Findings:*** *The off-street parking area of the development site provides safe and efficient maneuvering of vehicles throughout the site without the use of marking or signage. However, if during the review of materials, a hazard is discovered public works may condition the decision.*

- (m) ***Lighting.*** Lighting for off-street parking and vehicle use areas shall not shine or reflect onto adjacent residentially zoned property, or property used for uses or activities falling under household living or cast glare onto the street.

***Applicant's Findings:*** *None of the exterior lighting will cast a glare onto the abutting residentially zoned land or rights-of-way. As applicable, this criterion is met.*

- (n) ***Off-street parking area screening.*** Off-street parking areas with more than six spaces shall be screened from abutting residentially zoned property, or property used for uses or activities falling under household living, by a minimum six-foot-tall sight-obscuring fence, wall, or hedge; provided, however, screening is not required for vehicle storage areas within the IG zone.

***Applicant's Findings:*** *Fencing is proposed where an off-street parking area abuts residentially zoned laned and that fencing will be decorative and sight obscuring. This criterion will be met.*

#### **Section 806.040 – Driveway Development Standards for Uses of Activities Other Than Single-Family, Two-Family, Three-Family, and Four-Family**

Unless otherwise provided under the UDC, driveways for uses or activities other than single family, two family, three family, or four family shall be developed and maintained as provided in this section.

- (a) ***Access.*** Off-street parking and vehicle use areas shall have either separate driveways for ingress and egress, a single driveway for ingress and egress with an adequate turnaround that is always available, or a loop to the single point of access. The driveway approaches to the driveways shall conform to SRC chapter 804.

***Applicant's Findings:*** *The applicant is seeking approval of two class 2 driveway approach permits and has provided findings in response to SRC Chapters 804 and 805. As demonstrated on the site plan included with this submittal, the two driveways proposed lead to a complete vehicle use area and driveway system which circulates back to the two points of access allowing vehicles to enter and exit the site in a forward motion. This criterion is met.*

- (b) ***Location.*** Driveways shall not be located within required setbacks except where:
  - (1) The driveway provides direct access to the street, alley, or abutting property.
  - (2) The driveway is a shared driveway located over the common lot line and providing access to two or more uses.

***Applicant's Findings:*** *The proposed driveways fall within the setback areas but provide direct access to Market Street NE and Park Avenue NE rights-of-way where they are abutting the site. This criterion is met.*

(c) *Setbacks and landscaping.*

- (1) *Perimeter setbacks and landscaping, generally.* Perimeter setbacks and landscaping as set forth in this subsection shall be required for driveways abutting streets and abutting interior front, side, and rear property lines; provided, however, perimeter setbacks and landscaping are not required where:
  - (A) The driveway provides direct access to the street, alley, or abutting property.
  - (B) The driveway is a shared driveway located over the common lot line and providing access to two or more uses.
- (2) *Perimeter setbacks and landscaping abutting streets.* Unless a greater setback is required elsewhere within the UDC, driveways abutting a street shall be setback and landscaped according to the off-street parking and vehicle use area perimeter setbacks and landscaping standards set forth under SRC 806.035(c)(2).
- (3) *Perimeter setbacks and landscaping abutting interior front, side, and rear property lines.* Unless a greater setback is required elsewhere within the UDC, driveways abutting an interior front, side, or rear property line shall be setback a minimum of five feet. The setback shall be landscaped according to the Type A standard set forth in SRC chapter 807.

***Applicant's Findings:*** *Because the driveways provide direct access to the street, there is no setback required. This criterion is not applicable.*

(d) *Dimensions.* Driveways shall conform to the minimum width set forth in Table 806-8.

***Applicant's Findings:*** *In accordance with Table 806-8, the minimum driveway width for two-way traffic is 22-feet in width. The existing driveway leading to Park Avenue NE is just under 25-feet in width and the newly proposed driveway leading to Market Street NE is proposed to be 40-feet in width, as demonstrated by the site plan included with this submittal. This criterion is met.*

- (e) *Surfacing.* All driveways, other than access roads required by the Public Works Design Standards to provide access to City utilities, shall be paved with a hard surface material meeting the Public Works Design Standards. Access roads required by the Public Works Design Standards to provide access to City utilities shall be an all-weather surface material meeting the Public Works Design Standards; provided, however, the first ten feet of the access road leading into the property, as measured from the property line, shall be paved with a hard surface material.

***Applicant's Findings:*** The driveways are proposed to be paved with a hard surface material meeting the Public Works Design Standards. Details regarding the construction will be provided at the time of building permit for the director's review and approval. This criterion will be met.

- (f) *Drainage.* Driveways shall be adequately designed, graded, and drained according to the Public Works Design Standards, or to the approval of the Director.

***Applicant's Findings:*** As shown on the civil plans provided, the driveways have been designed, graded, and drained according to the Public Works Design Standards, or to the approval of the director. Additional details regarding the construction will be provided at the time of building permit for the director's review and approval. This criterion will be met.

- (g) *"No Parking" signs.* Driveways shall be posted with one "no parking" sign for every 60 feet of driveway length, but in no event shall less than two signs be posted.

***Applicant's Findings:*** The driveway leading to Park Avenue NE exceeds 60-feet in length. No parking signs may need to be posted along the north and south sides where the driveway does not lead to any off-street parking stalls. As applicable, this criterion will be met.

#### Section 806.045 – Bicycle Parking; When Required

- (a) *General applicability.* Bicycle parking shall be provided as required under this chapter for:
  - (1) Each proposed new use or activity.
  - (2) Any change of use or activity.
  - (3) Any intensification, expansion, or enlargement of a use or activity.
- (b) *Applicability to change of use of existing building in Central Business District (CB) zone.* Notwithstanding any other provision of this chapter, the bicycle parking requirements for a change of use of an existing building within the CB zone shall be met if there are a minimum of eight bicycle parking spaces located within the public right-of-way of the block face adjacent to the primary entrance of the building. If the minimum number of required bicycle parking spaces are not present within the block face, the applicant shall be required to obtain a permit to have the required number of spaces installed. For purposes of this subsection, "block face" means the area within the public street right-of-way located along one side of a block, from intersecting street to intersecting street.
- (c) *Applicability to nonconforming bicycle parking area.* When bicycle parking is required to be added to an existing bicycle parking area that has a nonconforming number of spaces, the number of spaces required under this chapter for any new use or activity, any change of use or activity, or any intensification, expansion, or enlargement of a use or activity shall be provided, in addition to the number of spaces required to remedy the existing deficiency.

***Applicant's Findings:*** The applicant is proposing redevelopment of the existing site, triggering the applicability of this section.

#### Section 806.050 – Proximity of Bicycle Parking to Use or Activity Served

Except as otherwise provided in this chapter, bicycle parking shall be located on the same development site as the use or activity it serves.

***Applicant's Findings:*** Bicycle parking stalls are proposed to be located within 17-feet of the main entrance of the new building facing Market Street NE. This criterion is met.

#### Section 806.055 – Amount of Bicycle Parking

- (a) *Minimum required 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.

***Applicant's Findings:*** The redeveloped building is proposed to be 27,047 square feet in size. In accordance with Table 806-9, motor vehicle sales and service uses require 1 bicycle parking space per 9,000 square feet of building area. The proposal requires 3 bicycle parking spaces ( $27,047 / 9,000 = 3.005$ ). As demonstrated by the site plan provided, 4 bicycle parking spaces are provided. This criterion is met.

- (b) *Long-term bicycle parking.* Long-term bicycle parking may be provided to satisfy a percentage of the minimum bicycle parking spaces required under this chapter. Such long-term bicycle parking shall not exceed the amounts set forth in Table 806-8. The maximum percentage of long-term bicycle parking allowed is based solely on the minimum number of bicycle parking spaces required. This standard shall not be construed to prohibit the provision of additional long-term bicycle parking spaces provided the minimum number of required spaces is met. (Example: A restaurant requiring a minimum of four bicycle parking spaces may, but is not required to, designate one of the required spaces as a long-term space. Additional short-term and long-term spaces may be provided as long as the minimum required three short-term spaces are maintained).

***Applicant's Findings:*** Long-term bicycle parking is not proposed or required. This criterion is not applicable.

#### Section 806.060 – Bicycle Parking Development Standards

Unless otherwise provided under the UDC, bicycle parking shall be developed and maintained as set forth in this section. The standards set forth in this section shall not apply to City approved bike share stations which utilize bike docking stations.

- (a) *Location.*

- (1) *Short-term bicycle parking.* Short-term bicycle parking shall be located outside a building within a convenient distance of, and clearly visible from, the primary building entrance. In no event shall bicycle parking be located more than 50 feet from the primary building entrance, as measured along a direct pedestrian access route.

***Applicant's Findings:*** *The bicycle parking is proposed to be 17-feet from the main entrance of the building facing Market Street NE. This criterion is met.*

- (2) *Long-term bicycle parking.*

(A) *Generally.* Long-term bicycle parking shall be located:

- (i) Within a building, on the ground floor or on upper floors when the bicycle parking areas are easily accessible by an elevator; or
- (ii) On-site, outside of a building, in a well-lighted secure location that is sheltered from precipitation and within a convenient distance of the primary entrance.

(B) *Long-term bicycle parking for residential uses.* Long-term bicycle parking spaces for residential uses shall be located within:

- (i) A residential dwelling unit;
- (ii) A lockable garage;
- (iii) A restricted access lockable room serving an individual dwelling unit or multiple dwelling units;
- (iv) A lockable bicycle enclosure; or
- (v) A bicycle locker.

(C) *Long-term bicycle parking for non-residential uses.* Long-term bicycle parking spaces for non-residential uses shall be located within:

- (i) A restricted access lockable room;
- (ii) A lockable bicycle enclosure; or
- (iii) A bicycle locker.

***Applicant's Findings:*** *Long-term bicycle parking is not proposed or required. These provisions are not applicable.*

- (b) *Access.* All 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.

***Applicant's Findings:*** *The bicycle parking area has direct access to the pedestrian network on site. The pedestrian network provides access to the primary building entrances and to the public sidewalk along Market Street NE. This criterion is met.*

(c) *Dimensions.* All bicycle parking areas shall meet the following dimension requirements:

- (1) *Bicycle parking spaces.* Bicycle parking spaces shall conform to the minimum dimensions set forth in Table 806-10.
- (2) *Access aisles.* Bicycle parking spaces shall be served by access aisles conforming to the minimum widths set forth in Table 806-10. Access aisles serving bicycle parking spaces may be located within the public right-of-way.

***Applicant's Findings:*** *As shown on the site plan provided, the applicant is proposing staple bicycle racks meeting the dimensions of a horizontal side-by-side parking space and meeting the dimensional requirements detailed in Table 806-10. This criterion is met.*

(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.

***Applicant's Findings:*** *As shown on the site plan provided, the bicycle parking area will consist of a hard surface material, such as concrete, asphalt pavement, pavers, or similar material, meeting the Public Works Design Standards. This criterion will be met.*

(e) *Bicycle racks.* Where bicycle parking is provided in racks, the racks may be horizontal or vertical racks mounted to the ground, floor, or wall. Bicycle racks shall meet the following standards:

- (1) Racks must support the bicycle in a stable position.
  - (A) For horizontal racks, the rack must support the bicycle frame in a stable position in two or more places a minimum of six inches horizontally apart without damage to the wheels, frame, or components.
  - (B) For vertical racks, the rack must support the bicycle in a stable vertical position in two or more places without damage to the 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 806-11.

***Applicant's Findings:*** As stated previously, the applicant will be providing horizontal side-by-side bicycle parking spaces which will be secured to the ground and meet all development standards provided within this section. This criterion will be met.

- (f) *Bicycle lockers.* Where bicycle parking is provided in lockers, the lockers shall meet the following standards:
  - (1) Lockers shall conform to the minimum dimensions set forth in Table 806-10.
  - (2) Lockers shall be served by an access aisle conforming to the minimum width set forth in Table 806-10 in front of each locker opening.
  - (3) Lockers shall be securely anchored.

***Applicant's Findings:*** Bicycle lockers are not proposed. These criteria are not applicable.

#### Section 806.065 – Off-Street Loading Areas; When Required

- (a) *General applicability.* Off-street loading shall be provided and maintained as required under this chapter for:
  - (1) Each proposed new use or activity.
  - (2) Any change of use or activity, when such change of use or activity results in a greater number of required off-street loading spaces than the previous use or activity.
  - (3) Any intensification, expansion, or enlargement of a use or activity.

***Applicant's Findings:*** The proposed redevelopment requires one off-street loading space, triggering the applicability of this section.

- (b) *Applicability to nonconforming off-street loading area.* When off-street loading is required to be added to an existing off-street loading area that has a nonconforming number of spaces, the number of spaces required under this chapter for any new use or activity, any change of use or activity, or any intensification, expansion, or enlargement of a use or activity shall be provided, in addition to the number of spaces required to remedy the existing deficiency.

***Applicant's Findings:*** The entire site is being redeveloped and will not leave any nonconforming off-street loading areas on site. This criterion is not applicable.

#### Section 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.

***Applicant's Findings:*** A 12 x 40-foot off-street loading space is proposed to be provided along the westerly portion of the newly developed building, on the same site it is intended to serve. This criterion is met.



### Section 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.

- (a) *Off-street parking used for loading.* An off-street parking area meeting the requirements of this chapter may be used in place of a required off-street loading space when the use or activity does not require a delivery vehicle which exceeds a maximum combined vehicle and load rating of 8,000 pounds and the off-street parking area is located within 25 feet of the building or the use or activity that it serves.

***Applicant's Findings:*** Motor vehicle sales and service buildings, up to 100,000 square feet, require one off-street loading space with the minimum dimensions of 12-feet by 40-feet. The proposed loading space meeting these standards is shown along the western side of the newly developed building. This criterion is met.

### Section 806.080 – Off-Street Loading Development Standards

Unless otherwise provided under the UDC, off-street loading shall be developed and maintained as set forth in this section.

- (a) *Location.* Off-street loading areas shall not be located within required setbacks.

***Applicant's Findings:*** The proposed loading space does not encroach upon any required setbacks. This criterion is met.

- (b) *Perimeter setbacks and landscaping.* Perimeter setbacks and landscaping, as set forth in this subsection, shall be required for off-street loading areas abutting streets and abutting interior front, side, and rear property lines. Perimeter setbacks and landscaping are not required for off-street loading areas abutting an alley.

- (1) *Perimeter setbacks and landscaping abutting streets.* Unless a greater setback is required elsewhere within the UDC, off-street loading areas abutting a street shall be setback and landscaped according to the off-street parking and vehicle use area perimeter setback and landscaping standards set forth under SRC 806.035(c)(2).

- (2) *Perimeter setbacks and landscaping abutting interior front, side, and rear property lines.* Unless a greater setback is required elsewhere within the UDC, off-street loading areas abutting an interior front, side, or rear property line shall be setback a minimum of five feet. The setback shall be landscaped according to the Type A landscaping standard of SRC chapter 807.

***Applicant's Findings:*** The proposed loading space will abut the newly developed building, not streets, or interior property lines. These criteria are not applicable.

- (c) *Dimensions.* Loading areas shall conform to the minimum dimensions set forth in Table 806-9.

***Applicant's Findings:*** *The minimum dimensions required by Table 806-9 is 12-feet by 40-feet. The applicant is proposing an off-street loading space which meets the minimum dimensional standards. This criterion is met.*

- (d) *Maneuvering.* Off-street loading areas shall be of sufficient size, and all curves and corners of sufficient radius, to accommodate the safe operation of a delivery vehicle.

***Applicant's Findings:*** *Safe maneuvering of the delivery vehicles is a top priority for the applicant. The location of the proposed loading space is designed to be both safe and convenient to access for loading vehicles. This criterion is met.*

- (e) *Surfacing.* All loading areas shall be paved with a hard surface material meeting the Public Works Design Standards; provided, however, paving is not required for:

- (1) Temporary and seasonal gravel loading areas, approved pursuant to SRC chapter 701.
- (2) Gravel loading areas, approved through a conditional use permit.

***Applicant's Findings:*** *The off-street loading space is proposed to be paved with a hard surface material meeting the Public Works Design Standards. Details regarding the construction will be provided at the time of building permit for the director's review and approval. This criterion will be met.*

- (f) *Drainage.* Loading areas shall be adequately designed, graded, and drained according to the Public Works Design Standards, or to the approval of the Director.

***Applicant's Findings:*** *As shown on the civil plans provided, the off-street parking stall has been designed, graded, and drained according to the Public Works Design Standards, or to the approval of the director. Additional details regarding the construction will be provided at the time of building permit submittal for the director's review and approval. This criterion will be met.*

- (g) *Lighting.* Lighting for off-street loading areas shall not shine or reflect onto adjacent residentially zoned property, or property used for uses or activities falling under household living or cast glare onto the street.

***Applicant's Findings:*** *None of the exterior lighting will cast a glare onto the abutting residentially zoned land or rights-of-way. As applicable, this criterion is met.*

## Chapter 807 – Landscaping and Screening

### Section 807.001 – Purpose

The purpose of this chapter is to establish standards for required landscaping and screening under the UDC to improve the appearance and visual character of the community, promote compatibility between land uses, encourage the retention and utilization of existing vegetation, and preserve and enhance the livability of the City.

### Section 807.010 – Applicability

The provisions of this chapter apply to all required landscaping and screening under the UDC.

***Applicant's Findings:*** *The development triggers the landscaping requirements of Chapter 807. Below the applicant provides findings regarding how the proposal meets the applicable criteria.*

### Section 807.015 – Landscaping and Screening

Unless otherwise provided under the UDC, required landscaping and screening shall conform to the standards set forth in this section.

- (a) ***Landscaping types.*** Required landscaping shall be provided according to one of the landscaping types set forth in Table 807-1. Where landscaping is required under the UDC without a reference to a specific landscaping type, the required landscaping shall meet the Type A standard.

***Applicant's Findings:*** *The landscape types required for the development site are Type A: one plant unit per 20 square feet, and Type C: one plant unit per 16 square feet with screening. The southern interior property line requires Type C landscaping and screening. The landscape plan will be provided at the time of building permit submittal for review and approval. The landscape plan will demonstrate the plant units proposed will correlate to the required landscape types within the designated areas. This criterion will be met.*

- (b) ***Plant materials and corresponding plant unit values.*** Plant materials, their corresponding minimum plant unit values, and minimum plant material size at time of planting for landscaping within required landscaped areas are set forth in Table 807-2. 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 shall provide for a minimum 75 percent coverage of required landscaped areas within five years.

***Applicant's Findings:*** *The applicant's landscape architect will prepare a preliminary plan meeting the landscape requirements of this chapter and Chapter 806. A plant unit breakdown, including how the site meets each special requirement (shade trees within the off-street parking areas), will be provided. This criterion will be met.*

- (c) *Preservation of existing trees and vegetation.* The preservation of existing trees and vegetation is encouraged. If preserved, existing trees as defined under SRC chapter 808, existing trees less than ten inches dbh, and existing vegetation may be utilized to satisfy required landscaping if they conform to the minimum plant unit requirements specified in this chapter.

***Applicant's Findings:*** *The site is void of existing trees or vegetation. This criterion is not applicable.*

- (d) *Tree replanting requirements.* In addition to the landscaping required under this chapter, when existing trees, as defined under SRC chapter 808, are proposed for removal from within required setbacks or from a development site, replanting shall be required as provided in this subsection. The provisions of this subsection do not apply to lots used for single family uses, two family uses, three family uses, four family uses, or cottage clusters.

- (1) *Removal of trees within required setbacks.* When an existing tree or trees, as defined under SRC chapter 808, within a required setback are proposed for removal, 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.

***Applicant's Findings:*** *The site is void of existing trees or vegetation. This criterion is not applicable.*

- (2) *Removal of trees from development site.* When more than 75 percent of the existing trees, as defined under SRC chapter 808, on a development site are proposed for removal, two new trees shall be planted for each tree removed in excess of 75 percent. Replanted trees shall be of either a shade or evergreen variety with a minimum 1.5-inch caliper. For purposes of this section, existing trees within vision clearance areas, or within areas to be cleared for required roads, utilities, sidewalks, trails, or stormwater facilities, shall not be counted in the total percentage of trees removed from the development site.

***Applicant's Findings:*** *The site is void of existing trees or vegetation. This criterion is not applicable.*

- (e) *Screening standards.* Unless otherwise provided under the UDC, where screening is required in the form of a fence, wall, or landscaping, it shall conform to the following standards:

- (1) *Height.* Fences and walls shall be a minimum of six feet in height. Landscaping shall be of a species that will attain a height of at least six feet within three years after planting.

- (2) *Opacity.* Screening shall be sight-obscuring. Fences, walls, and landscaping shall be at least 75 percent opaque when viewed from any angle at a point 25 feet away from the fence, wall, or landscaping. Landscaping shall be of an evergreen species that will attain required opacity within three years after planting.
- (3) *Maintenance.* Fences and walls shall be maintained in safe condition and shall be maintained as opaque. Landscaping shall be replaced within six months after dying or becoming diseased to the point that required opacity can no longer be maintained.

***Applicant's Findings:*** *The applicant is proposing a 6-foot sight obscuring cedar fence along the interior rear (south) property line to meet the screening requirement of the Type C landscape standard. It is not anticipated plantings will be utilized as screening materials in this case. The proposed fence alone will meet the opacity standards of this section. The applicant understands they are responsible for maintaining the fence in safe condition and any dead or dying landscape will need to be replaced within six months of dying or becoming diseased. This criterion will be met.*

- (f) *Berm.* Unless otherwise provided under the UDC, where screening is required in the form a berm, the berm shall be an earthen mound no less than three feet in height above the existing grade and shall be constructed with a slope no steeper than 3:1 on all sides. The berm shall be planted with plant materials to prevent erosion. The berm shall not alter natural drainage flows from abutting properties.

***Applicant's Findings:*** *Berms are not being utilized in this development. This criterion is not applicable.*

- (g) *Street trees.* Development adjacent to public streets shall provide street trees that meet the standards and specifications set forth in SRC chapter 86.

***Applicant's Findings:*** *The applicant is dedicating right-of-way and relocating the public sidewalk to abut the property line, rather than the curb. The redevelopment of the frontage may require replacement of street trees. The applicant will install street trees along both street frontages to the maximum extent feasible. This criterion will be met.*

#### **Section 807.020 – Landscaping Plan and Landscaping Permit**

- (a) *Landscaping plan.* A landscaping plan is required for all building permit applications for development subject to the landscaping requirements of this chapter and all landscaping permit applications required under subsection (b) of this section.

***Applicant's Findings:*** *The applicant has retained a landscape architect to design a preliminary landscape plan for the redeveloped site. The plan prepared will be provided at the time of building permit submittal for review and approval. This criterion will be met.*

Landscaping plans shall be of a size and form established by the Planning Administrator, and shall include the following:

- (1) Scale and north arrow.
- (2) Lot dimensions and footprint of structure(s).
- (3) A legend indicating the linear footage of perimeter setbacks abutting a street or right-of-way; the linear footage of perimeter setbacks not abutting a street or right-of-way; total building square footage; total square footage of the interior area of the off-street parking area, calculated per SRC 806.035(d)(2); and total number of parking spaces.
- (4) The location and size of plant materials, identified by common and botanical names, and their expected coverage within five years.
- (5) The type and location of landscaping features other than plant materials, including, but not limited to, wetlands, creeks, ponds, sculpture, and benches.
- (6) Fence or wall materials, when screening is required under the UDC.
- (7) Abutting land uses.
- (8) The type, size, and location of:
  - (A) Existing trees, as defined under SRC chapter 808, existing trees less than ten inches dbh, and vegetation that will be retained to satisfy landscaping requirements of this chapter.
  - (B) Existing trees, as defined under SRC chapter 808, proposed for removal.
- (9) Notwithstanding subsection (b)(8) of this section, where the development site is heavily wooded, only those trees that will be affected by the proposed development need to be sited accurately. The remaining trees may be shown on the plan in the general area of their distribution.
- (10) An irrigation plan identifying the materials, size, and location of all components of the irrigation system.
- (11) A two-year plant establishment schedule for:
  - (A) Landscaped areas where a permanent underground or drip irrigation system is not required because of the use of drought resistant vegetation; or
  - (B) New vegetation located within stormwater facilities.

***Applicant's Findings:*** *The preliminary landscape plan will include all of the above required elements. This criterion will be met.*

#### Section 807.025 – Plant Material Standards

All plant materials shall be, upon installation, vigorous and well-branched, with healthy and well-furnished root systems free of disease, insects, pests, and injuries.

***Applicant's Findings:*** The landscape architect and applicant will work together to source acceptable and healthy plant materials for the development site meeting the standards of this section. This criterion will be met.

#### Section 807.030 – Tree Protection Measures During Construction

Trees used to meet the landscaping requirements set forth in this chapter shall be protected during construction as provided under SRC chapter 808.

***Applicant's Findings:*** There are no trees existing on the development site. This criterion is not applicable.

#### Section 807.035 – Installation

- (a) Landscaping shall be installed at the time of construction, unless seasonal conditions or temporary site conditions make installation impractical; in which case, an acceptable performance guarantee to ensure installation of the landscaping shall be provided as set forth in SRC 807.050.

***Applicant's Findings:*** The applicant anticipates being able to install the landscaping at the time of construction. If weather or site conditions make installation impractical, the applicant will submit a performance guarantee meeting the requirements of SRC 807.050. If applicable, this criterion will be met.

- (b) Landscaping shall be installed in a manner that conforms to the standards of the American Association of Nurserymen, Inc.

***Applicant's Findings:*** The applicant retained a landscape architect to design the landscaped areas on the development site. The landscape architect hired for the project uses the industry best standards and practices which conforms with the American Association of Nurserymen, Inc. The installation of each plant material will follow the industry best standards and practices and conform with the American Association of Nurserymen, Inc, as well. This criterion will be met.

#### Section 807.040 – Irrigation

- (a) A permanent underground or drip irrigation system with an approved backflow prevention device shall be provided for all landscaped areas required under the UDC; provided, however, a permanent underground or drip irrigation system is not required for:
  - (1) Existing healthy vegetation that has been established for at least two years and that is being preserved to meet the landscaping requirements under this chapter;
  - (2) New vegetation that is drought resistant, in which case a two-year plant establishment schedule shall be provided with the landscaping plan describing

the amount of water to be applied over a two-year time period and how that water will be distributed to the plant material; and

- (3) New vegetation located within stormwater facilities as required by the Public Works Design Standards, in which case a two-year plant establishment schedule shall be provided with the landscaping plan describing the amount of water to be applied over a two-year time period and how that water will be distributed to the plant material.

***Applicant's Findings:*** *The landscaped areas are planned to be irrigated where necessary. Some of the landscape bays are planned to be subterranean to accommodate stormwater runoff, in which case method 3 listed above may be utilized to irrigate the landscaping within those bays. Details regarding irrigation will be provided in detail on the landscape plan submitted during the building permit review. This criterion will be met.*

- (b) Wherever feasible, sprinkler heads irrigating lawns or other high-water-demand landscape areas shall be circuited so that they are on a separate zone or zones from those irrigating trees, shrubbery, or other reduced-water-requirement areas.

***Applicant's Findings:*** *The landscape architect will design the irrigation systems to appropriately distribute water to the plant materials as they require. This criterion will be met.*

#### Section 807.045 – Maintenance

- (a) The owner and tenant shall be jointly and severally responsible for maintaining all landscaping material in good condition so as to present a healthy, neat, and orderly appearance.

***Applicant's Findings:*** *The owner understands that jointly with their tenants they are responsible for maintaining all landscaping material in good condition. This criterion will be met.*

- (b) Unhealthy or dead plant materials shall be replaced in conformance with the approved landscape plan.

***Applicant's Findings:*** *If any of the plant materials die or become unhealthy, the applicant understands they must be replaced in conformance with the approved landscape plan. If applicable, this criterion will be met.*

#### Chapter 808 – Preservation of Trees and Vegetation

##### Section 808.001 – Purpose

The purpose of this chapter is to provide for the protection of heritage trees, significant trees, and trees and native vegetation in riparian corridors, as natural resources for the City, and to increase tree canopy over time by requiring tree preservation and planting of trees in all areas of the City.



***Applicant's Findings:*** *The subject site is void of trees. Therefore, the provisions of this section are not applicable.*

## Section 8: Findings Applicable to Adjustments

### Chapter 250 – Adjustments

#### Section 250.001 – Purpose

The purpose of this chapter is to provide a process to allow deviations from the development standards of the UDC for developments that, while not meeting the standards of the UDC, will continue to meet the intended purpose of those standards. Adjustments provide for an alternative way to meet the purposes of the Code and provide for flexibility to allow reasonable development of property where special conditions or unusual circumstances exist.

***Applicant's Findings:*** *The applicant understands the purpose of the adjustments chapter is to allow deviations from the development standards that will continue to meet the intended purpose of those standards. Responses to each applicable criterion are provided below.*

#### Section 250.005 – Adjustments

(a) *Applicability.*

(1) *Classes.*

- (A) A Class 1 adjustment is an adjustment to any numerical development standard in the UDC that increases or decreases the standard by not more than 20 percent.
- (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.

***Applicant's Findings:*** *The applicant understands the numerical difference between the two adjustment classes. The applicant is seeking approval of six class 2 adjustments, where the numerical standard is deviated by more than 20 percent.*

(2) *Prohibition.* Notwithstanding subsection (a)(1) of this section, an adjustment shall not be granted to:

- (A) Allow a use or activity not allowed under the UDC;
- (B) Change the status of a use or activity under the UDC;
- (C) Modify a definition or use classification;
- (D) Modify a use standard;
- (E) Modify the applicability of any requirement under the UDC;

- (F) Modify a development standard specifically identified as non-adjustable;
- (G) Modify a development standard that contains the word "prohibited";
- (H) Modify a procedural requirement under the UDC;
- (I) Modify a condition of approval placed on property through a previous planning action;
- (J) A design review guideline or design review standard, except Multiple Family Design Review Standards in SRC Chapter 702, which may be adjusted; or
- (K) The required landscaping in the Industrial Business Campus (IBC) Zone.

***Applicant's Findings:*** *The adjustments being sought are not prohibited in accordance with the list above. This criterion is not applicable.*

- (b) *Procedure type.* Class 1 and Class 2 adjustments are processed as a Type II Procedure under SRC chapter 300.

***Applicant's Findings:*** *The adjustments proposed are consolidated with other applications and will be processed using Type III procedures.*

- (c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for a Class 1 or Class 2 adjustment shall include the following:
  - (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing all information necessary to establish satisfaction with the approval criteria. By way of example, but not of limitation, such information may include the following:
    - (A) The total site area, dimensions, and orientation relative to north;
    - (B) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway locations, indicating distance to such structures from all property lines and adjacent on-site structures;
    - (C) All proposed landscape areas on the site, with an indication of square footage and as a percentage of site area;
    - (D) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;
    - (E) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808; and

- (F) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.

***Applicant's Findings:*** *The site plan provided includes all information required by this section. In conjunction with this written narrative, the review authority has all the information necessary to render a decision in this case. This criterion is met.*

- (2) An existing conditions plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
  - (A) The total site area, dimensions, and orientation relative to north;
  - (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines;
  - (C) The location of the 100-year floodplain, if applicable; and
  - (D) The location of drainage patterns and drainage courses, if applicable.

***Applicant's Findings:*** *The existing conditions plan provided includes all information required by this section. In conjunction with the site plan and this written narrative, the review authority has all the information necessary to render a decision in this case. This criterion is met.*

(d) *Criteria.*

- (1) An application for a Class 1 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) Clearly inapplicable to the proposed development;
    - or
    - (ii) Clearly satisfied by the proposed development.
  - (B) The proposed adjustment will not unreasonably impact surrounding existing or potential uses or development.

***Applicant's Findings:*** *Each of the requested adjustments is class 2. These criteria are not applicable.*

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

***Applicant's Findings:*** *The applicant is seeking a class 2 adjustment to SRC 535.015(c), Table 535-3 Setbacks. Setbacks within the MJU-III zone shall be provided as set forth in Tables 535-3 and 535-4. In accordance with Table 535-4, within the MUIII zone, the minimum setback abutting a street is 5-feet and the maximum setback abutting a street is 30-feet with the qualification that the setback area is used for a combination of landscaping and pedestrian amenities and meets the standards listed within the table.*

*Due to the proposed use of the site, motor vehicle sales and service, the applicant is seeking an adjustment to this requirement. The purpose of this standards is to increase the pedestrian experience along Market Street NE and Park Avenue NE. By requiring the buildings to be placed closer to the street and vehicle use areas placed behind buildings, the idea is pedestrians coming from the public sidewalk would have easier access to buildings.*

*Previously, the building was placed just over 107-feet away from the right-of-way of Market Street NE and over 165-feet from Park Avenue NE. The newly proposed building will be placed no further than 64-feet 3-inches from the right-of-way of Market Street NE and no further than 163-feet from Park Avenue NE. In both instances, the applicant's proposed redevelopment will be making the site more conforming than the existing development. The following items are proposed as mitigation for the applicant seeking to adjust the standard: 1) along Market Street NE, the applicant is dedicating right-of-way and will relocate the public sidewalk to abut the new property line; 2) between Market Street NE and the entrance of the building, the applicant is proposing a pedestrian and specialized vehicle display plaza; 3) along both rights-of-way, the applicant is proposing to install significant landscaping areas which is desirable considering the current development is void of any landscaped areas.*

*Having reviewed the intention of the standard, and the proposed mitigation offered by the redevelopment, the applicant's adjustment still clearly satisfies the purpose of the standard satisfying approval criterion (ii) above.*

*The applicant is seeking a class 2 adjustment to SRC 535.015(g)(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.*

*The previous adjustment proposes to move the buildings outside of the maximum setback abutting the streets. The applicant believes an adjustment to eliminate this requirement is*

necessary. Because the building is not going to be placed within the maximum setback abutting the street, this criterion is clearly inapplicable to the proposed development.

The applicant is seeking a class 2 adjustment 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 shall connect to the street within 20 feet of the transit stop (see Figure 800-12). Due to the use of the site, motor vehicle sales and service, the applicant has proposed to connect the pedestrian network to the public sidewalk in the location proposed which is approximately 130-feet from the edge of the transit stop landing. The location of the pedestrian connection is designed to correlate with the pedestrian plaza in front of the building abutting Market Street NE. To better meet the intent of the standard, the applicant is also proposing a pedestrian connection to the sidewalk along Park Avenue NE to give pedestrians multiple safe access points to the public sidewalk leading to the transit stop.

The purpose of this standard is to provide safe and convenient access from development sites along transit stops to the stop itself. The increase of distance requested is mitigated by providing a second point of safe access to the public sidewalk. Having reviewed the intention of the standard, the applicant's adjustment still clearly satisfies the purpose of the standard.

The applicant is seeking a class 2 adjustment to SRC 804.035(a)(2). Development that is not a complex, and is other than a single family, two family, three family, or four family use, is entitled to one driveway approach onto a major or minor arterial where:(A) The driveway approach provides shared access;(B) The development does not abut a local or collector street; or(C)The development cannot be feasibly served by access onto a local or collector street. The applicant is seeking an adjustment to this standard for the purposes of site circulation. The site will encompass the sale of motor vehicles but will also provide a service area and maintaining two accesses will allow safe vehicular and pedestrian circulation. The current site has one access point to Park Avenue NE and three access points to Market Street NE. The proposal closes two access points leading to Market Street NE. Because of the reduction to access points leading to the development site, the intention of the standard is still clearly satisfied by the proposal meeting criterion (ii) above.

The applicant is seeking a class 2 adjustment to SRC 804.035(c)(2). For a corner lot that abuts a local or collector street, the driveway approach shall provide access to the street with the lower street classification. With approval of the previously requested adjustment, this criterion will no longer be applicable and will meet the criterion (i) listed above.

The applicant is seeking a class 2 adjustment to SRC 804.035(d). Spacing. Except for driveway approaches providing access to a single family, two family, three family, or four family use, driveway approaches onto a major or minor arterial shall be no less than 370 feet from the nearest driveway or street intersection, measured from centerline to centerline. The applicant

*understands this criterion is intended to facilitate the safe maneuvering of vehicles as they enter and exit the public right-of-way. The driveway leading to Market Street NE, will not meet the spacing standard to the driveway for the abutting property to the east. The applicant is proposing to place the driveway in the location shown in order to better protect the safety of the intersection of Park Avenue NE and Marker Street NE to the east. Having reviewed the intention of the standard, the applicant's adjustment still clearly satisfies the purpose of the standard.*

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

***Applicant's Findings:*** *The development site is designated MUIII, this criterion is not applicable.*

- (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.

***Applicant's Findings:*** *The applicant is seeking 7 adjustments total. Because the proposal is to redevelop an existing site and bring the development closer to the standards of the newly applied MUIII zone, and where possible, mitigation is being proposed, this will result in a project which is still consistent with the overall purpose of the zone. This criterion is met.*

- (e) *Transfer of adjustments.* Unless otherwise provided in the final decision granting the adjustment, an adjustment shall run with the land.

***Applicant's Findings:*** *The applicant understands should the development site transfer ownership, the adjustments will run with the land and the rights granted will transfer to the new owner.*

## Section 9: Findings Applicable to Driveway Approach Permit

### Chapter 804 – Driveway Approaches

#### Section 804.001 – Purpose

The purpose of this chapter is to establish development standards for safe and efficient access to public streets.

#### Section 804.010 – Applicability

This chapter applies to the design, construction, relocation, reconstruction, enlargement, or alteration of any driveway approach.

***Applicant's Findings:*** *The applicant is proposing two new driveways, triggering the applicability of this section.*

## Section 804.015 – Driveway Approach Permit Required

- (a) Except as otherwise provided in this chapter, a driveway approach permit shall be obtained prior to constructing, relocating, reconstructing, enlarging, or altering any driveway approach.

***Applicant's Findings:*** *The applicant understands they must obtain a driveway approach permit for each new proposed driveway prior to commencing construction. This criterion will be met.*

- (b) Exceptions. A driveway approach permit is not required for:
  - (1) The construction, relocation, reconstruction, enlargement, or alteration of any driveway approach that requires a state highway access permit; or
  - (2) The construction, relocation, reconstruction, enlargement or alteration of any driveway approach that is part of the construction of a publicly or privately engineered public improvement project.

***Applicant's Findings:*** *The applicant is proposing two new driveways and none of the exceptions listed above are applicable.*

## Section 804.025 – Class 2 Driveway Approach Permit

- (a) *Required.* A Class 2 driveway approach permit is required for:
  - (1) A driveway approach onto a local, collector, minor arterial, major arterial, or parkway street providing access to a use other than single family, two family, three family, or four family;
  - (2) Maintenance, repair, or replacement of an existing permitted driveway approach, which is part of, or needed for, redevelopment of commercial or industrially zoned property.

***Applicant's Findings:*** *Subsection (1) listed above, a driveway approach onto a collector and major arterial street providing access to a use other than single-family, two-family, three-family, or four-family uses triggers the applicability of the Class 2 Driveway Approach Permit in this case.*

- (b) *Procedure type.* A Class 2 driveway approach permit is processed as a Type II procedure under SRC chapter 300.

***Applicant's Findings:*** *This application is consolidated with a conditional use permit which requires a Type III review as outlined under SRC Chapter 300.120.*

- (c) *Submittal requirements.* In lieu of the application submittal requirements under SRC chapter 300, an application for a Class 2 driveway approach permit shall include the following:
  - (1) A completed application form.

- (2) A site plan, of a size and form and in the number of copies meeting the standards established by the Director, containing the following information:
  - (A) The location and dimensions of the proposed driveway approach;
  - (B) The relationship to nearest street intersection and adjacent driveway approaches;
  - (C) Topographic conditions;
  - (D) The location of all utilities;
  - (E) The location of any existing or proposed buildings, structures, or vehicular use areas;
  - (F) The location of any trees and vegetation adjacent to the location of the proposed driveway approach that are required to be protected pursuant to SRC chapter 808; and
  - (G) The location of any street trees adjacent to the location of the proposed driveway approach.
- (3) Identification of the uses or activities served, or proposed to be served, by the driveway approach.
- (4) Any other information, as determined by the Director, which may be required to adequately review and analyze the proposed driveway approach for conformance with the applicable criteria.

***Applicant's Findings:*** *The applicant has provided all of the required materials listed above. The review authority has all of the information necessary to issue a decision in this case. This criterion is met.*

- (d) **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;
  - (2) No site conditions prevent placing the driveway approach in the required location;
  - (3) The number of driveway approaches onto an arterial are minimized;
  - (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;
  - (5) The proposed driveway approach meets vision clearance standards;
  - (6) The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access;
  - (7) The proposed driveway approach does not result in significant adverse impacts to the vicinity;



- (8) The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections; and
- (9) The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.

***Applicant's Findings:*** *The two driveway approaches meet the standards of this chapter and the Public Works Design Standards for driveway approaches leading to collector and major arterial streets, as classified in the Salem Transportation System Plan. Additional construction details will be provided at the time of building permit application, as necessary.*

#### Section 804.030 – Access onto Local and Collector Streets

- (a) *Number of driveway approaches.* Except as otherwise provided in this chapter, a lot or parcel is entitled to one driveway approach onto a local or collector street. Additional driveway approaches from a single family, two family, three family, or four family use onto a local or collector street may be allowed through Class 1 driveway permit approval.

***Applicant's Findings:*** *The applicant is seeking one new driveway approach onto Park Avenue NE which is a collector street in accordance with the City of Salem's Transportation System Plan. The driveways allow complete vehicular and pedestrian circulation throughout the site, which will need to accommodate large trucks at times.*

- (b) *Permitted access.*

- (1) Driveway approaches onto local and collector streets shall only provide access to a permitted parking or vehicular use area, except where the driveway approach will provide access to a site controlled by a franchised utility service provider or a governmental entity.
- (2) No access shall be provided onto a local or collector street from a proposed new single family, two family, three family, or four family use on an existing lot abutting an alley.

***Applicant's Findings:*** *The driveway approaches will provide access to a parking area under review with this application submittal. With the approval of the Class 3 Site Plan Review, this criterion will be met.*

- (c) *Spacing.* Driveway approaches providing direct access to a collector street shall be located no less than 200 feet from intersections with major arterials or minor arterials, measured from centerline to centerline.

***Applicant's Findings:*** *As demonstrated by the site plan included with this application submittal, the proposed driveway leading to Park Avenue NE is more than 200 feet from the intersection with Market Street NE. This criterion is met.*

- (d) *Vision clearance.* Driveway approaches onto local and collector streets shall comply with the vision clearance requirements set forth in SRC chapter 805.

***Applicant's Findings:*** *The vision clearance requirement for the driveways serving this development are as follows: ten-foot legs along the driveway and 50-foot legs along the intersecting street or alley. The applicant understands these vision clearance triangles must be kept free of any obstruction exceeding 30-inches above curb level. This has been carefully considered when taking into account planting materials within these areas. This criterion is met.*

#### Section 804.035 – Access onto major and minor arterials

- (a) *Number of driveway approaches.*

- (1) Except as otherwise provided in this chapter, a complex is entitled to one driveway approach onto a major or minor arterial. Additional driveway approaches for a complex may be allowed where:
- (A) A complex has more than 370 feet of frontage abutting a major or minor arterial;
  - (B) There is a shared access agreement between two or more complexes; or
  - (C) It is impracticable to serve the complex with only one driveway approach.

***Applicant's Findings:*** *The applicant is seeking approval of only one driveway approach leading to Market Street NE. This criterion is met.*

- (2) Development that is not a complex, and is other than a single family, two family, three family, or four family use, is entitled to one driveway approach onto a major or minor arterial where:
- (A) The driveway approach provides shared access;
  - (B) The development does not abut a local or collector street; or
  - (C) The development cannot be feasibly served by access onto a local or collector street.

***Applicant's Findings:*** *The applicant is seeking an adjustment to this standard. With approval of the proposed adjustment, this criterion is met.*

- (3) A single family, two family, three family, or four family use is entitled to one driveway approach onto a major or minor arterial where:
- (A) The driveway approach provides access to an existing single family, two family, three family, or four family use; or
  - (B) The driveway approach provides access to a proposed single family, two family, three family, or four family use on a lot created prior to March 16, 2022.

***Applicant's Findings:*** *The proposed development is not for the uses listed in this section. This criterion is not applicable.*

- (b) *Traffic volume threshold.* No driveway approach onto a major or minor arterial shall be allowed unless the development generates 30 or more vehicle trips per day or the driveway approach provides access to a city park or a single family, two family, three family, or four family use.

***Applicant's Findings:*** *The applicant has included a TGE form with this application for the City's Traffic Engineer to review and confirm the development will generate 30 or more vehicle trips per day as required by this section. This criterion will be met.*

- (c) *Permitted access.*

- (1) Driveway approaches onto major and minor arterials shall only provide access to a permitted parking or vehicular use area, except where the driveway approach will provide access to a site controlled by a franchised utility service provider or a governmental entity.

***Applicant's Findings:*** *The parking and vehicular use area the proposed driveway approach will lead to is under review with this application. Upon approval of the class 3 site plan review, this criterion will be met.*

- (2) For a corner lot that abuts a local or collector street, the driveway approach shall provide access to the street with the lower street classification.

***Applicant's Findings:*** *The applicant is seeking an adjustment to this standard. With approval of the proposed adjustment, this criterion is met.*

- (3) No access shall be provided onto a major or minor arterial from a proposed new single family, two family, three family, or four family use on an existing lot abutting an alley.

***Applicant's Findings:*** *The proposed use does not fall into the categories listed in this section. This criterion is not applicable.*

- (4) No access shall be provided onto a major or minor arterial from a single family, two family, three family, or four family use constructed as part of a subdivision or partition.

***Applicant's Findings:*** *The proposed use does not fall into the categories listed in this section. This criterion is not applicable.*

- (5) Only forward in/forward out access shall be allowed onto a major or minor arterial.

**Applicant's Findings:** *The site has been designed in a manner that will not cause any backing movements into the right of way. All vehicles will have forward in/forward out access. This criterion is met.*

- (d) *Spacing.* Except for driveway approaches providing access to a single family, two family, three family, or four family use, driveway approaches onto a major or minor arterial shall be no less than 370 feet from the nearest driveway or street intersection, measured from centerline to centerline.

**Applicant's Findings:** *The applicant is seeking an adjustment to this standard. With approval of the proposed adjustment, this criterion is met.*

- (e) *Vision clearance.* Driveway approaches onto major and minor arterials shall comply with the vision clearance requirements set forth in SRC chapter 805.

**Applicant's Findings:** *The vision clearance requirements for the driveway serving this development are as follows: ten-foot legs along the driveway and 50-foot legs along the intersecting street or alley. The applicant understands these vision clearance triangles must be kept free of any obstruction exceeding 30-inches above curb level. This has been carefully considered when taking into account planting materials within these areas. This criterion is met.*

#### Section 804.045 – Shared access

- a) Shared access may be required to serve two or more abutting lots or parcels, when necessary to mitigate or eliminate traffic impacts or safety concerns. Shared access may be provided at the request of an applicant; provided, however, that once the applicant's request has been approved, shared access shall not be eliminated without first obtaining a Class 2 driveway permit.

**Applicant's Findings:** *The new driveway approach will only serve the new car dealership. This criterion is met.*

#### Section 804.050 – Driveway Approach Development Standards

Driveway approaches shall conform to the following development standards:

- (a) *Design and construction.* Driveway approaches shall be designed and constructed in conformance with this chapter and the Public Works Design Standards.

**Applicant's Findings:** *The driveway approach meets the standards of this chapter and the Public Works Design Standards for a driveway approach leading to Market Street NE, which is classified as a major arterial street in the Salem Transportation System Plan. Additional construction details will be provided at the time of building permit application, as necessary. This criterion is met.*

(b) *Width.*

- (1) *Driveway approach width for single family, two family, three family, and four family uses.* Driveway approaches serving single family, two family, three family, and four family uses shall conform to the minimum and maximum widths set forth in Table 804-1.
- (2) *Driveway approach width for uses other than single family, two family, three family, and four family.* Driveway approaches serving uses other than single family, two family, three family, and four family shall conform to the minimum and maximum widths set forth in Table 804-2.
- (3) *Measurement.* For purposes of this subsection, driveway approach width shall be determined by measurement of the paved surface of the driveway at the property line.

***Applicant's Findings:*** *The minimum and maximum driveway widths set forth in Table 804-2 are applicable to this request. For a two-way driveway approach the minimum width is 22-feet and the maximum is 40-feet. As measured at the property line, in accordance with this section, the proposed width of the new driveway approach is 40-feet. This criterion is met.*

- (c) *Marking and signage.* Where required by the Public Works Design Standards, driveway approaches shall be clearly marked or signed and maintained in conformance with the Public Works Design Standards.

***Applicant's Findings:*** *It is not anticipated any signage will be required for the proposed driveway approach permit. However, the applicant will install signage as required by the City's Traffic Engineer. If applicable, this criterion will be met.*

## Chapter 805 – Vision Clearance

### Section 805.001 – Purpose

The purpose of this chapter is to ensure visibility for vehicular, bicycle, and pedestrian traffic at the intersections of streets, alleys, flag lot accessways, and driveways.

***Applicant's Findings:*** *The applicant understands the purpose of the vision clearance standards. The proposal meets all requirements as demonstrated below.*

### Section 805.005 – Vision Clearance Areas

Vision clearance areas that comply with this section shall be provided at the corners of all intersections; provided, however, vision clearance areas are not required in the Central Business (CB) Zone.

- (a) *Street intersections.* Vision clearance areas at street intersections shall comply with the following:

- (1) *Uncontrolled intersections.* At uncontrolled intersections, the vision clearance area shall have 30-foot legs along each street (see Figure 805-1).
- (2) *Controlled intersections.* At controlled intersections, the vision clearance area shall have a ten-foot leg along the controlled street and a 50-foot leg along the uncontrolled street (see Figure 805-2).
- (3) *One-way streets.* Notwithstanding subsections (a)(1) and (2) of this section, at an uncontrolled or controlled intersection of a one-way street, no vision clearance area is required on the corners of the intersection located downstream from the flow of traffic (see Figure 805-3).

***Applicant's Findings:*** *The proposal does not include a new intersection or street. This criterion is not applicable.*

- (b) *Intersections with driveways, flag lot accessways, and alleys.* Vision clearance areas at intersections of streets and driveways, streets and flag lot accessways, streets and alleys, and alleys and driveways shall comply with the following:

- (1) *Driveways.*

- (A) Driveways serving single family and two family uses. Driveways serving single family and two-family uses shall have a vision clearance area on each side of the driveway. The vision clearance area shall have ten-foot legs along each side of the driveway, and ten-foot legs along the intersecting street or alley (see Figure 805-4).
- (B) Driveways serving uses other than single family and two family. Driveways serving uses other than single family and two family shall have a vision clearance area on each side of the driveway. The vision clearance area shall have ten-foot legs along the driveway and 50-foot legs along the intersecting street or alley (see Figure 805-5).

***Applicant's Findings:*** *Subsection A, above is not applicable to the proposal. The vision clearance requirement for the driveways serving this development are as follows: ten-foot legs along the driveway and 50-foot legs along the intersecting street or alley. The applicant understands these vision clearance triangles must be kept free of any obstruction exceeding 30-inches above curb level. This has been carefully considered when taking into account planting materials within these areas. This criterion is met.*

- (2) *Flag lot accessways.*

- (A) Flag lot accessways serving single family and two family uses. Flag lot accessways serving single family and two-family uses shall have a vision clearance area on each side of the flag lot

accessway. The vision clearance area shall have ten-foot legs along each side of the flag lot accessway, and ten-foot legs along the intersecting street (see Figure 805-6).

- (B) Flag lot accessways serving uses other than single family and two family. Flag lot accessways serving uses other than single family and two family shall have a vision clearance area on each side of the flag lot accessway. The vision clearance area shall have ten-foot legs along the flag lot accessway and 50-foot legs along the intersecting street (see Figure 805-7).

***Applicant's Findings:*** *The development is not served by a flag lot accessway; this criterion is not applicable.*

- (3) *Alleys.* Alleys shall have a vision clearance area on each side of the alley. The vision clearance area shall have ten-foot legs along the alley and ten-foot legs along the intersecting street (see Figure 805-8).

***Applicant's Findings:*** *The development is not served by an alley; this criterion is not applicable.*

- (4) *Measurement.* The legs of a vision clearance area shall be measured along the right-of-way line and along the intersecting driveway, flag lot accessway, or alley.

***Applicant's Findings:*** *The vision clearance areas have been measured as set forth in this section. The criterion is met.*

#### Section 805.010 – Obstructions to Vision Prohibited

Except as otherwise provided in this section, vision clearance areas shall be kept free of temporary or permanent obstructions to vision from 30 inches above curb level to 8.5 feet above curb level; provided, however, where there is no curb, the height shall be measured from the street shoulder. As used in this section, temporary or permanent obstruction includes any obstruction located in the right-of-way adjacent to the vision clearance area.

- (a) The following obstructions may be placed in a vision clearance area, unless the cumulative impact of the placement results in an obstruction to vision:
  - (1) A column or post, so long as the column or post does not create a visual obstruction greater than 12 inches side-to-side.
  - (2) Utility poles and posts, poles, or supporting members of street signs, streetlights, and traffic control signs or devices installed by, or at the direction of, the Public Works Department or any other public agency having jurisdiction over the installation.
  - (3) On-street parking.

***Applicant's Findings:*** *The applicant understands the provisions for obstructions placed in vision clearance triangles. This criterion will be met.*

- (b) Trees. Trees may be planted within a vision clearance area provided they are a species listed on the parks approved street tree list, and they comply with the following:
  - (1) The planting area is sufficient to support the tree when mature.
  - (2) The tree will not interfere with overhead utilities.
  - (3) The tree is a species that can be trimmed/pruned to provide necessary visibility.

***Applicant's Findings:*** *The applicant understands the provisions for obstructions placed in vision clearance triangles. This criterion will be met.*

- (c) Nothing in this chapter shall be deemed to waive or alter any requirements relating to setbacks or landscaping in the UDC. In the event of a conflict between the standards of this chapter and another chapter of the UDC, the standards in this chapter shall control.

***Applicant's Findings:*** *The applicant understands the provisions for obstructions placed in vision clearance triangles. This criterion will be met.*

#### Section 805.015 – Alternative Standards

Alternative vision clearance standards that satisfy the purpose of this chapter, and that are consistent with recognized traffic engineering standards, may be approved where a vision clearance area conforming to the standards of this chapter cannot be provided because of the physical characteristics of the property or street, including, but not limited to, grade embankments, walls, buildings, structures, or irregular lot shape, or where the property has historic neighborhood characteristics, including, but not limited to, established plantings or mature trees, or buildings or structures constructed before 1950. Alternative vision clearance standards shall be approved through a Class 2 Adjustment under SRC chapter 250.

***Applicant's Findings:*** *The applicant is not seeking alternatives to any vision clearance standards set forth in this section or any other applicable section of the UDC. This criterion is not applicable.*

## Section 10 Conclusion

Based on the facts and findings presented by the applicant within this detailed written narrative, the applicant believes they have satisfied the burden of proof and demonstrated how the proposed Conditional Use Permit, Site Plan Review, Adjustments, and Driveway Approach Permits not only satisfy all applicable criteria but would also be a benefit to the community by providing a needed improvement this site and bringing it closer to conformance with the newly applied MUIII zone.

## Section 11: Exhibits

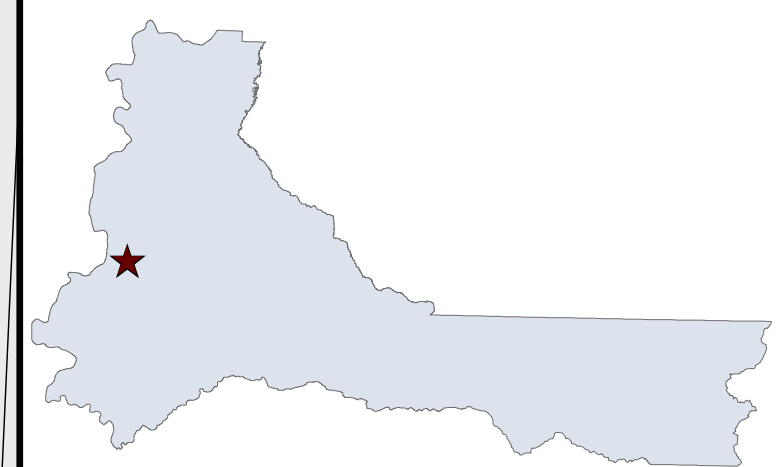


## Exhibit A – Marion County Tax Map

07 3W 24AC

SEE MAP  
073W24BA

07 3W 24AC  
SALEM



MARION COUNTY, OREGON  
SW1/4 NE1/4 SEC24 T7S R3W W.M.  
SCALE 1" = 100'

LEGEND

- LINE TYPES
- |                          |                       |
|--------------------------|-----------------------|
| Taxlot Boundary          | Historical Boundary   |
| Road Right-of-Way        | Easement              |
| Railroad Right-of-Way    | Railroad Centerline   |
| Private Road ROW         | Taxcode Line          |
| Subdivision/Plat Bndry   | Map Boundary          |
| Waterline - Taxlot Bndry | Waterline - Non Bndry |

- CORNER TYPES
- |                       |                  |
|-----------------------|------------------|
| + 1/16TH Section Cor. | 1/4 Section Cor. |
| ⊙ DLC Corner          | Section Corner   |

NUMBERS

Tax Code Number  
**00 00 0**

Acreage  
**0.25 AC**

All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

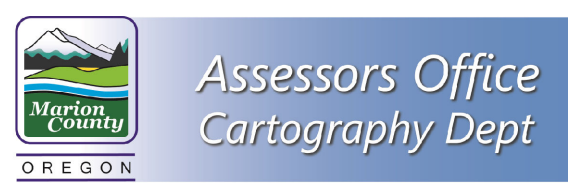
NOTES

Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW

200.00  
175.00

CANCELLED NUMBERS			
201			
1000S1			
1100A1			
1501			
1601			
1700			
1800			
3301			
3401			
7300			

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT  
[www.co.marion.or.us](http://www.co.marion.or.us)

PLOT DATE: 10/16/2020

SALEM  
07 3W 24AC



## Exhibit B – Neighborhood Association Contact

## Britany Randall

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**From:** Tyler Vinson  
**Sent:** Thursday, March 9, 2023 2:57 PM  
**To:** salem\_pilot@aol.com; winkie4043@aol.com; NESCA\_Salem@gmail.com; dg.boardstuff@gmail.com; dougrodgersfororegon@outlook.com; Elephant2@comcast.net  
**Cc:** planning@cherriots.org; Britany Randall  
**Subject:** Notice of Land Use Application  
**Attachments:** Nissan of Salem Neighborhood Contact.pdf; Nissan of Salem - Preliminary Site Plan.pdf

Dear NESCA and NOLA Chairs, Co-Chairs, and Land Use Chairs,

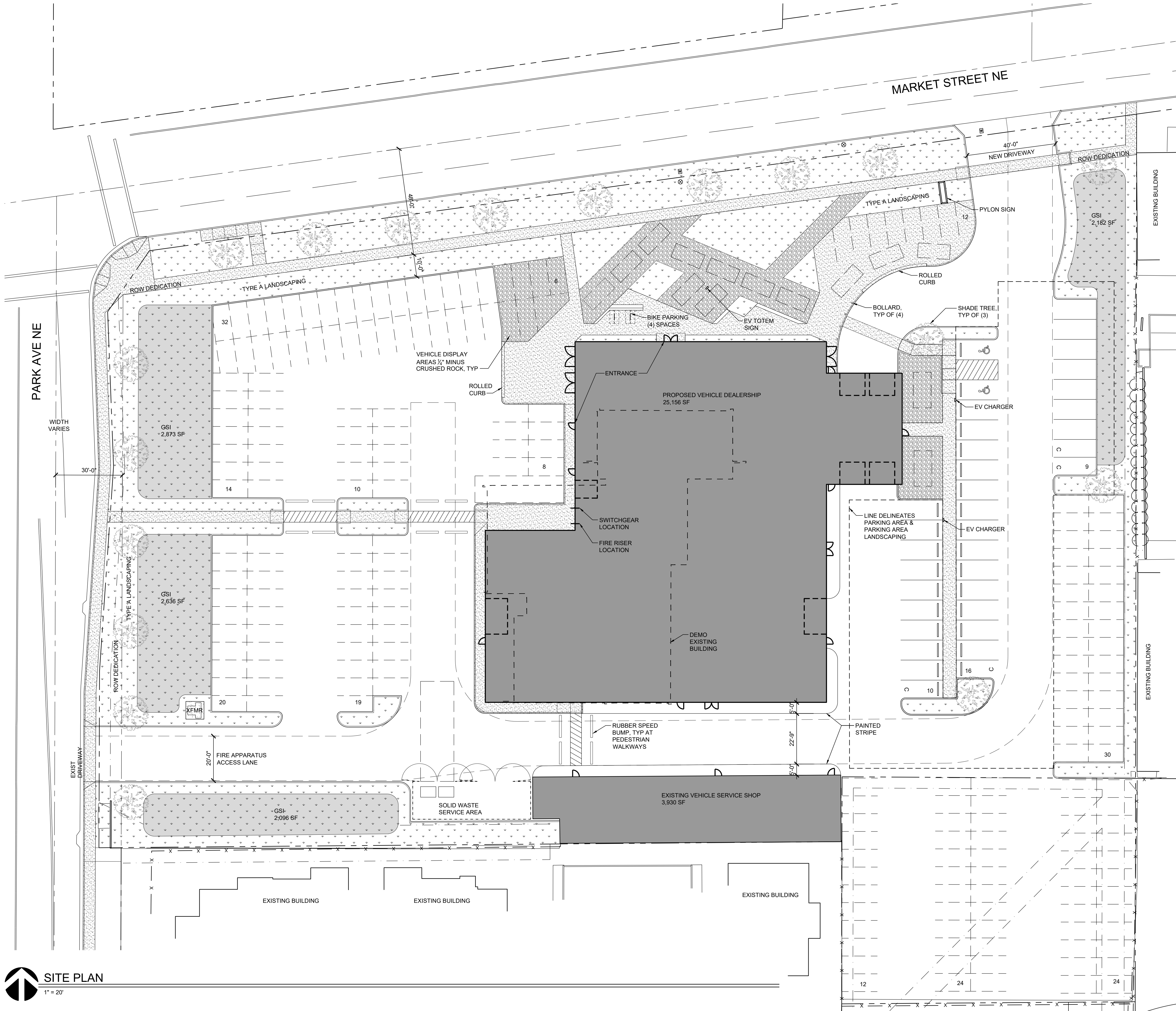
We are reaching out to you regarding a project within the boundaries of NESCA and abutting the boundaries of NOLA. The property owners are seeking approval of their conditional use permit, class 3 site plan review, class 2 driveway approach permit, property line adjustments, and class 1 or class 2 adjustments for the redevelopment of the Nissan of Salem dealership. If you have any questions, please feel free to contact either myself or Britany.

Thanks,

Britany Randall  
Principal Planner  
Phone : (503)680-0949  
Place : Salem, OR  
Web : brandlanduse.com

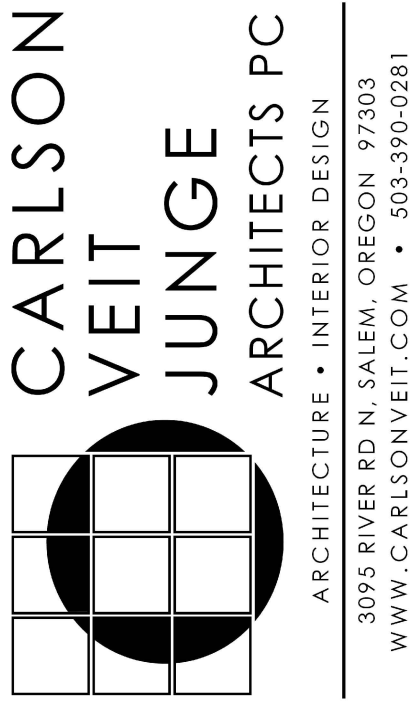
Tyler Vinson  
  
Associate Planner  
Place : Salem, OR  
Web : brandlanduse.com





ZONING CODE SUMMARY

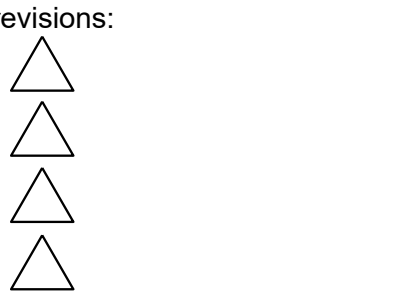
ZONE:	MU-III	
TAX LOT(S):	073W24BD 08800 073W24BD 08900 073W24AC 02700 073W24AC 04701	
EXISTING AREA:	3.35 AC (145,926 SF)	
PROJECT AREA:	3.13 AC (136,388 SF) - AFTER R.O.W. DEDICATIONS	
LOT COVERAGE	EXIST	PROPOSED
BUILDINGS	13,615 SF	27,047 SF
CONCRETE & ASPHALT	130,878 SF	83,786 SF
LANDSCAPING	1,433 SF	25,555 SF (18.7%)
USE: MOTOR VEHICLE SALES & SERVICE		29,088 SF
BUILDING HEIGHT		= 28 FT
PARKING:		
REQUIRED (1 PER 900 SF):		= 32
MAXIMUM ALLOWED ( x 1.75)		= 56
PROPOSED:		
STANDARD	29	
COMPACT	4	
ACCESSIBLE	2	(1 VAN ACCESSIBLE)
TOTAL PROPOSED:	35	
LOADING:		
REQUIRED:		= 1
PROPOSED:		= 1
BIKE PARKING:		
REQUIRED:		= 4
PROPOSED:		= 4
TOTAL INTERIOR OFF-STREET PARKING AREA:		17,185 SF
PARKING LANDSCAPE AREA:		1,471 SF (8.6%)
SHADE TREES		
REQUIRED (1 PER 12 PARKING SPACES)		= 3
PROPOSED:		= 3
DISPLAY & INVENTORY SPACES:	220	



PRELIMINARY  
NOT FOR CONSTRUCTION

PRELIMINARY DATE:  
**03-06-2023**

project:  
**NISSAN OF SALEM**  
2908 MARKET STREET NE  
SALEM, OR 97301  
consultants:



date:  
project: 01722  
dwg file: A-FP-01722  
drawn by: NW  
checked by:  
copyright © 2023  
Carlson Veit Junge Architects PC

SITE PLAN

sheet:  
**A-101**  
of:

# BRAND

## Notice of Land Use Application Submittal

March 9, 2023

### **North East Salem Community Association (NESCA)**

Michael Beringer, Chair

[salempilot@aol.com](mailto:salempilot@aol.com)

Marilyn Moritz, Co-Chair

[winkie4043@aol.com](mailto:winkie4043@aol.com)

Ian Johnson, Land Use Chair

[NESCASalem@gmail.com](mailto:NESCASalem@gmail.com)

### **North Lancaster Neighborhood Association (NOLA)**

Deanna Garcia, Chair

[dg.boardstuff@gmail.com](mailto:dg.boardstuff@gmail.com)

Doug Rodgers, Co-Chair

[dougradgersfororegon@outlook.com](mailto:dougradgersfororegon@outlook.com)

Dennis Will, Land Use Chair

[Elephant2@comcast.net](mailto:Elephant2@comcast.net)

**RE: Conditional Use Permit, Class 3 Site Plan Review, Class 2 Driveway Approach Permit, Property Line Adjustments, and Class 1 and or 2 Adjustments – 2908 Market Street NE, Salem, OR, 97301**

Dear NESCA and NOLA Chairs, Co-Chairs, and Land Use Chairs,

We are reaching out to you regarding a project within the boundaries of NESCA and abutting the boundaries of NOLA. The property owners are seeking approval of their conditional use permit, class 3 site plan review, class 2 driveway approach permit, property line adjustments, and class 1 or class 2 adjustments for the redevelopment of the Nissan of Salem dealership. The property is currently addressed as 2908 Market Street NE Salem and is identified as Marion County Map and Tax Lot Numbers 073W24BD08800, 073W24BD08900, 073W24AC02700, and 073W24AC04701.

The property is zoned MU-III (Mixed Use-III), and the proposed use of motor vehicle sales development is conditionally permitted within this zone. Because the application is consolidated, it will be processed using Type III procedures. Type III procedures require the property to have posted notice and a public hearing will be held before the City of Salem Hearings Officer. Notice of the applications and hearing will be sent to all property owners and tenants within 250 feet of all portions of the development site and the neighborhood association.

We hope that you find this letter and attached tentative plan informative. If you have any questions regarding this notice, please feel free to contact the applicant's land use representative.

Thank you.

**Applicant Information**

SALEM N RE LLC  
PO Box 12969  
Salem, OR 97309

**Applicant Representative Information**

BRAND Land Use, LLC | Brittany Randall  
[Britany@brandlanduse.com](mailto:Britany@brandlanduse.com)  
503-680-0949

Exhibit C – Deed





### Parcel Information

<b>Parcel #:</b>	526930
<b>Tax Lot:</b>	073W24AC04701
<b>Site Address:</b>	2908 Market St NE
	Salem OR 97301 - 1645
<b>Owner:</b>	Salem N Re LLC
<b>Owner2:</b>	
<b>Owner Address:</b>	PO Box 12969
	Salem OR 97309
<b>Twtn/Range/Section:</b>	07S / 03W / 24 / NE
<b>Parcel Size:</b>	0.31 Acres (13,363 SqFt)
<b>Plat/Subdivision:</b>	
<b>Lot:</b>	3
<b>Block:</b>	4
<b>Census Tract/Block:</b>	000701 / 1011
<b>Waterfront:</b>	

### Tax Information

<b>Levy Code Area:</b>	24010
<b>Levy Rate:</b>	19.6499
<b>Tax Year:</b>	2022
<b>Annual Tax:</b>	\$2,813.67
<b>Exempt Desc:</b>	

### Legal

ACRES 0.31

### Assessment Information

<b>Market Value Land:</b>	\$116,930.00
<b>Market Value Impr:</b>	\$34,240.00
<b>Market Value Total:</b>	\$151,170.00
<b>Assessed Value:</b>	\$143,190.00

### Land

<b>Zoning:</b>	MU-III - Mixed Use-III	<b>Cnty Bldg Use:</b>	531 - Commercial Cmlse Commercial Secondary - Dealership
<b>Cnty Land Use:</b>	201 - Commercial improved	<b>Neighborhood:</b>	
<b>Std Land Use:</b>	CAUT - Auto Sales Service	<b>Recreation:</b>	
<b>School District:</b>	24J - Salem-Keizer	<b>Primary School:</b>	HOOVER ELEMENTARY SCHOOL
<b>Middle School:</b>	PARRISH MIDDLE SCHOOL	<b>High School:</b>	NORTH SALEM HIGH SCHOOL

### Improvement

<b>Year Built:</b>		<b>Stories:</b>		<b>Finished Area:</b>	
<b>Bedrooms:</b>		<b>Bathrooms:</b>		<b>Garage:</b>	
<b>Basement Fin:</b>					

### Transfer Information

<b>Rec. Date:</b>	07/29/2022	<b>Sale Price:</b>		<b>Doc Num:</b>	46460467	<b>Doc Type:</b>	Deed
<b>Owner:</b>	Salem N Re LLC			<b>Grantor:</b>	SIAMAKS CAR CO LLC		
<b>Orig. Loan Amt:</b>	\$3,860,000.00			<b>Title Co:</b>	AMERITITLE		
<b>Finance Type:</b>		<b>Loan Type:</b>	Conventional	<b>Lender:</b>	NISSAN MOTOR ACCEPTANCE		

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.



After recording return to:

Salem N RE, LLC  
PO Box 12969  
Salem, OR 97309

Until a change is requested all tax statements shall be sent to the following address:

Salem N RE, LLC  
PO Box 12969  
Salem, OR 97309  
File No. 539732AM

REEL 4646 PAGE 467  
MARION COUNTY  
BILL BURGESS, COUNTY CLERK  
07-29-2022 03:37 pm.  
Control Number 714181 \$ 91.00  
Instrument 2022 00033102

### STATUTORY WARRANTY DEED

**Siamak's Car Company, LLC, an Oregon Limited Liability Company,**

Grantor(s), hereby convey and warrant to

**Salem N RE, LLC, an Oregon limited liability company,**

Grantee(s), the following described real property in the County of Marion and State of Oregon free of encumbrances except as specifically set forth herein:

#### PARCEL 1:

Beginning at a point in the center of Park Avenue which is recorded as being 14.00 chains East and 13.24 chains North from the Southwest corner of the L.N. Gilbert and wife Donation Land Claim in Section 24, Township 7 South, Range 3 West of the Willamette Meridian, Marion County, Oregon, said beginning point being the Southwest corner of that tract of land described in Volume 392, Page 486, Deed Records, Marion County; thence North 89°38'19" East, along the South line of said tract of land, a distance of 20.00 feet to an iron pipe on the Easterly right of way line of said Park Avenue, and being the true point of beginning; thence North 00°20' East, along said East right of way line, a distance of 265.54 feet to an iron pipe on the Southerly right of way line of Market Street; thence North 82°14'38" East, along said Southerly right of way line, a distance of 203.31 feet to an iron pipe on the East line of said tract of land described in Volume 392, Page 486; thence South 00°03'13" West, along said East line, a distance of 291.70 feet to an iron rod marking the Southeast corner thereof; thence South 89°38'19" West, along said South line, a distance of 202.72 feet to the point of beginning.

SAVE AND EXCEPT that portion conveyed to the City of Salem for public right of way purposes by deed recorded April 21, 2004, Reel 2305, Page 220, Marion County Records.

#### PARCEL 2:

Beginning at the Northwest corner of Lot 3, Block 4, DON-RAE VILLAGE NO. 2, in Township 7 South, Range 3 West of the Willamette Meridian, City of Salem, Marion County, Oregon, which point marks the Northeast corner of that tract of land conveyed to First Assembly of God of Salem by deed recorded in Volume 744, Page 329, Deed Records for Marion County, Oregon; thence South 0°14'02" West, along the East line of said tract, 100.39 feet; thence South 89°38'19" West, parallel with the South line of said Tract, 131.96 feet to a point on the West line of said Tract; thence North 0°15'25" East, along the West line, 102.18 feet to an iron pipe marking the Northwest corner thereof; thence South 89°34'58" East, along the North line of said Tract, 131.91 feet to the point of beginning.

#### PARCEL 3:

Beginning at the Northwest corner of Lot 3, Block 4, DON-RAE VILLAGE NO. 2, in Township 7 South, Range 3 West of the Willamette Meridian, in the City of Salem, Marion County, Oregon; thence North 89°48' West 132.00 feet to a point on the West line of a tract of land conveyed to Lelace H. Ellis by deed recorded in Volume 387, Page 483, Deed Records for said County and State; thence North 0°01' East, along the West line of said tract, 279.85 feet to a point on the Southerly line of Market Street; thence North 82°03' East, along the Southerly line of said Market Street, 132.28 feet to a point on the East line of the said Ellis tract; thence South 0°01' West 298.75 feet to the place of beginning.

#### PARCEL 4:

Beginning at a point 19.47 chains East and North 0°07' West 13.27 chains from the Southwest corner of the Donation Land Claim of L.N. Gilbert and wife in Township 7 South, Range 3 West of the Willamette Meridian, in the City of Salem, Marion County, Oregon; thence South 89°37' West 2.005 chains; thence North 0°07' West 4.86 chains to the middle of the County Road (known as the Garden Road); thence North 82°15' East 2.025 chains along said County Road; thence South 0°07' East 5.12 chains to the place of beginning.

The consideration paid for the transfer is PURSUANT TO AN IRC 1031 TAX DEFERRED EXCHANGE ON BEHALF OF GRANTOR/GRANTEE.

The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

**2022-2023 Real Property Taxes, a lien not yet due and payable**

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 28 day of July, 22.

Siamak's Car Company, LLC

By: \_\_\_\_\_

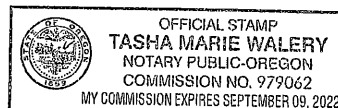
Siamak Lofti, Member

State of Oregon} ss  
County of Marion}

On this 28 day of July, 2022, before me, Tasha Walery a Notary Public in and for said state, personally appeared Siamak Lofti known or identified to me to be the Managing Member in the Limited Liability Company known as Siamak's Car Company, LLC who executed the foregoing instrument, and acknowledged to me that he/she executed the same in said LLC name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for the State of Oregon  
Residing at: Keizer, Oregon  
Commission Expires: 9/9/2022



**REEL: 4646**

**PAGE: 467**

**July 29, 2022, 03:37 pm.**

CONTROL #: 714181

State of Oregon  
County of Marion

I hereby certify that the attached  
instrument was received and duly  
recorded by me in Marion County  
records:

FEE: \$ 91.00

BILL BURGESS  
COUNTY CLERK

THIS IS NOT AN INVOICE.



### Parcel Information

<b>Parcel #:</b>	526944
<b>Tax Lot:</b>	073W24BD08900
<b>Site Address:</b>	2908 Market St NE
	Salem OR 97301 - 1645
<b>Owner:</b>	Salem N Re LLC
<b>Owner2:</b>	
<b>Owner Address:</b>	PO Box 12969
	Salem OR 97309
<b>Twtn/Range/Section:</b>	07S / 03W / 24 / NW
<b>Parcel Size:</b>	0.91 Acres (39,674 SqFt)
<b>Plat/Subdivision:</b>	
<b>Lot:</b>	3
<b>Block:</b>	4
<b>Census Tract/Block:</b>	000701 / 1011
<b>Waterfront:</b>	

### Tax Information

<b>Levy Code Area:</b>	24010
<b>Levy Rate:</b>	19.6499
<b>Tax Year:</b>	2022
<b>Annual Tax:</b>	\$19,243.69
<b>Exempt Desc:</b>	

### Legal

ACRES 0.91

### Assessment Information

<b>Market Value Land:</b>	\$471,130.00
<b>Market Value Impr:</b>	\$534,130.00
<b>Market Value Total:</b>	\$1,005,260.00
<b>Assessed Value:</b>	\$1,005,260.00

### Land

<b>Zoning:</b> MU-III - Mixed Use-III	<b>Cnty Bldg Use:</b> 531 - Commercial Cmlse Commercial Secondary - Dealership
<b>Cnty Land Use:</b> 201 - Commercial improved	<b>Neighborhood:</b>
<b>Std Land Use:</b> CAUT - Auto Sales Service	<b>Recreation:</b>
<b>School District:</b> 24J - Salem-Keizer	<b>Primary School:</b> HOOVER ELEMENTARY SCHOOL
<b>Middle School:</b> PARRISH MIDDLE SCHOOL	<b>High School:</b> NORTH SALEM HIGH SCHOOL

### Improvement

<b>Year Built:</b> 1968	<b>Stories:</b> 1	<b>Finished Area:</b> 12,877
<b>Bedrooms:</b>	<b>Bathrooms:</b>	<b>Garage:</b>
<b>Basement Fin:</b>		

### Transfer Information

<b>Rec. Date:</b> 07/29/2022	<b>Sale Price:</b>	<b>Doc Num:</b> 46460467	<b>Doc Type:</b> Deed
<b>Owner:</b> Salem N Re LLC		<b>Grantor:</b> SIAMAKS CAR CO LLC	
<b>Orig. Loan Amt:</b> \$3,860,000.00		<b>Title Co:</b> AMERITITLE	
<b>Finance Type:</b>	<b>Loan Type:</b> Conventional	<b>Lender:</b> NISSAN MOTOR ACCEPTANCE	

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.



### Parcel Information

<b>Parcel #:</b>	526945
<b>Tax Lot:</b>	073W24BD08800
<b>Site Address:</b>	2908 Market St NE
	Salem OR 97301 - 1645
<b>Owner:</b>	Salem N Re LLC
<b>Owner2:</b>	
<b>Owner Address:</b>	PO Box 12969
	Salem OR 97309
<b>Twtn/Range/Section:</b>	07S / 03W / 24 / NW
<b>Parcel Size:</b>	1.28 Acres (55,663 SqFt)
<b>Plat/Subdivision:</b>	
<b>Lot:</b>	3
<b>Block:</b>	4
<b>Census Tract/Block:</b>	000701 / 1011
<b>Waterfront:</b>	

### Tax Information

<b>Levy Code Area:</b>	24010
<b>Levy Rate:</b>	19.6499
<b>Tax Year:</b>	2022
<b>Annual Tax:</b>	\$14,236.94
<b>Exempt Desc:</b>	

### Legal

ACRES 1.28

### Assessment Information

<b>Market Value Land:</b>	\$751,450.00
<b>Market Value Impr:</b>	\$122,110.00
<b>Market Value Total:</b>	\$873,560.00
<b>Assessed Value:</b>	\$724,530.00

### Land

<b>Zoning:</b> MU-III - Mixed Use-III	<b>Cnty Bldg Use:</b> 531 - Commercial Cmlse Commercial Secondary - Dealership
<b>Cnty Land Use:</b> 201 - Commercial improved	<b>Neighborhood:</b>
<b>Std Land Use:</b> CAUT - Auto Sales Service	<b>Recreation:</b>
<b>School District:</b> 24J - Salem-Keizer	<b>Primary School:</b> HOOVER ELEMENTARY SCHOOL
<b>Middle School:</b> PARRISH MIDDLE SCHOOL	<b>High School:</b> NORTH SALEM HIGH SCHOOL

### Improvement

<b>Year Built:</b>	<b>Stories:</b>	<b>Finished Area:</b>
<b>Bedrooms:</b>	<b>Bathrooms:</b>	<b>Garage:</b>
<b>Basement Fin:</b>		

### Transfer Information

<b>Rec. Date:</b> 07/29/2022	<b>Sale Price:</b>	<b>Doc Num:</b> 46460467	<b>Doc Type:</b> Deed
<b>Owner:</b> Salem N Re LLC		<b>Grantor:</b> SIAMAKS CAR CO LLC	
<b>Orig. Loan Amt:</b> \$3,860,000.00		<b>Title Co:</b> AMERITITLE	
<b>Finance Type:</b>	<b>Loan Type:</b> Conventional	<b>Lender:</b> NISSAN MOTOR ACCEPTANCE	

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**Parcel Information**

<b>Parcel #:</b>	526947
<b>Tax Lot:</b>	073W24AC02700
<b>Site Address:</b>	2908 Market St NE
	Salem OR 97301 - 1645
<b>Owner:</b>	Salem N Re LLC
<b>Owner2:</b>	
<b>Owner Address:</b>	PO Box 12969
	Salem OR 97309
<b>Twtn/Range/Section:</b>	07S / 03W / 24 / NE
<b>Parcel Size:</b>	0.85 Acres (37,026 SqFt)
<b>Plat/Subdivision:</b>	
<b>Lot:</b>	3
<b>Block:</b>	4
<b>Census Tract/Block:</b>	000701 / 1011
<b>Waterfront:</b>	

**Tax Information**

<b>Levy Code Area:</b>	24010
<b>Levy Rate:</b>	19.6499
<b>Tax Year:</b>	2022
<b>Annual Tax:</b>	\$9,367.12
<b>Exempt Desc:</b>	

**Legal**

073W24AC02700

**Assessment Information**

<b>Market Value Land:</b>	\$462,830.00
<b>Market Value Impr:</b>	\$104,580.00
<b>Market Value Total:</b>	\$567,410.00
<b>Assessed Value:</b>	\$476,700.00

**Land**

<b>Zoning:</b>	MU-III - Mixed Use-III	<b>Cnty Bldg Use:</b>	531 - Commercial Cmlse Commercial Secondary - Dealership
<b>Cnty Land Use:</b>	201 - Commercial improved	<b>Neighborhood:</b>	
<b>Std Land Use:</b>	CAUT - Auto Sales Service	<b>Recreation:</b>	
<b>School District:</b>	24J - Salem-Keizer	<b>Primary School:</b>	HOOVER ELEMENTARY SCHOOL
<b>Middle School:</b>	PARRISH MIDDLE SCHOOL	<b>High School:</b>	NORTH SALEM HIGH SCHOOL

**Improvement**

<b>Year Built:</b>		<b>Stories:</b>		<b>Finished Area:</b>	
<b>Bedrooms:</b>		<b>Bathrooms:</b>		<b>Garage:</b>	
<b>Basement Fin:</b>					

**Transfer Information**

<b>Rec. Date:</b>	07/29/2022	<b>Sale Price:</b>		<b>Doc Num:</b>	46460467	<b>Doc Type:</b>	Deed
<b>Owner:</b>	Salem N Re LLC			<b>Grantor:</b>	SIAMAKS CAR CO LLC		
<b>Orig. Loan Amt:</b>	\$3,860,000.00			<b>Title Co:</b>	AMERITITLE		
<b>Finance Type:</b>		<b>Loan Type:</b>	Conventional	<b>Lender:</b>	NISSAN MOTOR ACCEPTANCE		

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After recording return to:

Salem N RE, LLC  
PO Box 12969  
Salem, OR 97309

Until a change is requested all tax statements shall be sent to the following address:

Salem N RE, LLC  
PO Box 12969  
Salem, OR 97309  
File No. 539732AM

REEL 4646 PAGE 467  
MARION COUNTY  
BILL BURGESS, COUNTY CLERK  
07-29-2022 03:37 pm.  
Control Number 714181 \$ 91.00  
Instrument 2022 00033102

### STATUTORY WARRANTY DEED

**Siamak's Car Company, LLC, an Oregon Limited Liability Company,**

Grantor(s), hereby convey and warrant to

**Salem N RE, LLC, an Oregon limited liability company,**

Grantee(s), the following described real property in the County of Marion and State of Oregon free of encumbrances except as specifically set forth herein:

#### PARCEL 1:

Beginning at a point in the center of Park Avenue which is recorded as being 14.00 chains East and 13.24 chains North from the Southwest corner of the L.N. Gilbert and wife Donation Land Claim in Section 24, Township 7 South, Range 3 West of the Willamette Meridian, Marion County, Oregon, said beginning point being the Southwest corner of that tract of land described in Volume 392, Page 486, Deed Records, Marion County; thence North 89°38'19" East, along the South line of said tract of land, a distance of 20.00 feet to an iron pipe on the Easterly right of way line of said Park Avenue, and being the true point of beginning; thence North 00°20' East, along said East right of way line, a distance of 265.54 feet to an iron pipe on the Southerly right of way line of Market Street; thence North 82°14'38" East, along said Southerly right of way line, a distance of 203.31 feet to an iron pipe on the East line of said tract of land described in Volume 392, Page 486; thence South 00°03'13" West, along said East line, a distance of 291.70 feet to an iron rod marking the Southeast corner thereof; thence South 89°38'19" West, along said South line, a distance of 202.72 feet to the point of beginning.

SAVE AND EXCEPT that portion conveyed to the City of Salem for public right of way purposes by deed recorded April 21, 2004, Reel 2305, Page 220, Marion County Records.

#### PARCEL 2:

Beginning at the Northwest corner of Lot 3, Block 4, DON-RAE VILLAGE NO. 2, in Township 7 South, Range 3 West of the Willamette Meridian, City of Salem, Marion County, Oregon, which point marks the Northeast corner of that tract of land conveyed to First Assembly of God of Salem by deed recorded in Volume 744, Page 329, Deed Records for Marion County, Oregon; thence South 0°14'02" West, along the East line of said tract, 100.39 feet; thence South 89°38'19" West, parallel with the South line of said Tract, 131.96 feet to a point on the West line of said Tract; thence North 0°15'25" East, along the West line, 102.18 feet to an iron pipe marking the Northwest corner thereof; thence South 89°34'58" East, along the North line of said Tract, 131.91 feet to the point of beginning.

#### PARCEL 3:

Beginning at the Northwest corner of Lot 3, Block 4, DON-RAE VILLAGE NO. 2, in Township 7 South, Range 3 West of the Willamette Meridian, in the City of Salem, Marion County, Oregon; thence North 89°48' West 132.00 feet to a point on the West line of a tract of land conveyed to Lelace H. Ellis by deed recorded in Volume 387, Page 483, Deed Records for said County and State; thence North 0°01' East, along the West line of said tract, 279.85 feet to a point on the Southerly line of Market Street; thence North 82°03' East, along the Southerly line of said Market Street, 132.28 feet to a point on the East line of the said Ellis tract; thence South 0°01' West 298.75 feet to the place of beginning.

#### PARCEL 4:

Beginning at a point 19.47 chains East and North 0°07' West 13.27 chains from the Southwest corner of the Donation Land Claim of L.N. Gilbert and wife in Township 7 South, Range 3 West of the Willamette Meridian, in the City of Salem, Marion County, Oregon; thence South 89°37' West 2.005 chains; thence North 0°07' West 4.86 chains to the middle of the County Road (known as the Garden Road); thence North 82°15' East 2.025 chains along said County Road; thence South 0°07' East 5.12 chains to the place of beginning.

The consideration paid for the transfer is PURSUANT TO AN IRC 1031 TAX DEFERRED EXCHANGE ON BEHALF OF GRANTOR/GRANTEE.



The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

**2022-2023 Real Property Taxes, a lien not yet due and payable**

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 28 day of July, 22.

Siamak's Car Company, LLC

By: \_\_\_\_\_

Siamak Lofti, Member

State of Oregon} ss  
County of Marion}

On this 28 day of July, 2022, before me, Tasha Walery a Notary Public in and for said state, personally appeared Siamak Lofti known or identified to me to be the Managing Member in the Limited Liability Company known as Siamak's Car Company, LLC who executed the foregoing instrument, and acknowledged to me that he/she executed the same in said LLC name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for the State of Oregon  
Residing at: Keizer, Oregon  
Commission Expires: 9/9/2022



**REEL: 4646**

**PAGE: 467**

**July 29, 2022, 03:37 pm.**

CONTROL #: 714181

State of Oregon  
County of Marion

I hereby certify that the attached  
instrument was received and duly  
recorded by me in Marion County  
records:

FEE: \$ 91.00

BILL BURGESS  
COUNTY CLERK

THIS IS NOT AN INVOICE.

## Exhibit D – Articles of Organization



# Articles of Organization - Limited Liability Company

Secretary of State - Corporation Division - 255 Capitol St. NE, Suite 151 - Salem, OR 97310-1327 - sos.oregon.gov/business - Phone: (503) 986-2200

FILED

SEP 03 2019

REGISTRY NUMBER: 159163790

In accordance with Oregon Revised Statute 192.410-192.490, the information on this application is public record. We must release this information to all parties upon request and it will be posted on our website.

OREGON  
SECRETARY OF STATE For office use only

Please Type or Print Legibly in Black Ink. Attach Additional Sheet if Necessary.

1. NAME OF LIMITED LIABILITY COMPANY: (Must contain the words "Limited Liability Company" or the abbreviations "LLC" or "L.L.C.")

Salem N RE, LLC

2. DURATION: (Please check one.)

☒ Duration shall be perpetual.

☐ Latest date upon which the Limited Liability Company is to dissolve is \_\_\_\_\_

3. PRINCIPAL OFFICE: (Must be a physical street address)

5 Cowboys Way, Suite 300-N

Frisco, TX 75034

4. REGISTERED AGENT: (Individual or entity that will accept legal service for this business)

Corporation Service Company

5. REGISTERED AGENT'S PUBLICLY AVAILABLE ADDRESS: (Must be an Oregon Street Address, which is identical to the registered agent's office.)

1127 Broadway Street NE, Suite 310

Salem, OR 97301

6. ADDRESS WHERE THE DIVISION MAY MAIL NOTICES:

1127 Broadway Street NE, Suite 310

Salem, OR 97301

7. HOW WILL THIS LIMITED LIABILITY COMPANY BE MANAGED?

☐ This LLC will be member-managed by one or more members.

☒ This LLC will be manager-managed by one or more managers.

8. IF RENDERING A LICENSED PROFESSIONAL SERVICE OR SERVICES, DESCRIBE THE SERVICE(S) BEING RENDERED: ORS 58.015(5)(m)

9. OPTIONAL PROVISIONS: (Attach a separate sheet if necessary.)

☐ BENEFIT COMPANY: The Limited Liability Company is a benefit company subject to sections 1 to 11 of chapter 269, Oregon Laws 2013. (additional requirements apply)

☐ INDEMNIFICATION: The company elects to indemnify its members, managers, employees, agents for liability and related expenses under ORS 63.160 - 63.170.

☐ SEE ATTACHED.

10. NAME AND ADDRESS OF EACH PERSON WHO IS FORMING THIS BUSINESS: (ORGANIZER)

Mike Sims and Tim Moody

5 Cowboys Way, Suite 300-N

Frisco, TX 75034

LIST MEMBERS AND/OR MANAGERS NAMES AND ADDRESSES (MAY BE REQUIRED BY YOUR BANK)

11. OWNERS: (MEMBERS) (Names and Addresses)

Mike Sims and Tim Moody

5 Cowboys Way, Suite 300-N

Frisco, TX 75034

12. MANAGERS: (MANAGERS) (Names and Addresses)

Mike Sims and Tim Moody

5 Cowboys Way, Suite 300-N

Frisco, TX 75034

13. INDIVIDUAL WITH DIRECT KNOWLEDGE (Name and Address)

List the name and address of at least one individual who is a member or manager of the LLC or an authorized representative with direct knowledge of the operations and business activities of the LLC.

Mike Sims

Tim Moody

14. EXECUTION/SIGNATURE OF EACH PERSON WHO IS FORMING THIS BUSINESS: (Organizer)

I declare as an authorized signer, under penalty of perjury, that this document does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise misrepresent the identity of the person or any members, managers, employees or agents of the limited liability company. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment or both.

SIGNATURE:

*Michael Sims*  
*Tim Moody*

PRINTED NAME:

Mike Sims

Tim Moody

TITLE:

Manager

Manager

CONTACT NAME: (to resolve questions with this filing)

Brian H. Nolen

PHONE NUMBER: (Include area code)

704-531-9355

SALEM N RE, LLC



159163790-20344283

NEWORG

## Exhibit E— HOA Statement

# BRAND

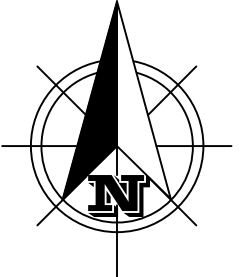
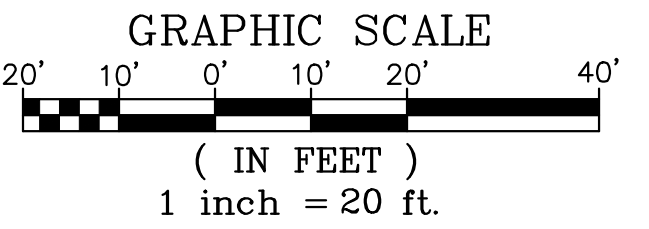
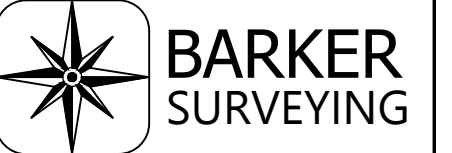
## **Homeowners Association Information**

Market Street NE Salem Oregon – Development for Motor Vehicle Sales

The applicant is submitting this statement to confirm there is no homeowners association (HOA) which is active or registered with the Oregon Secretary of State which impacts the subject property.

## Exhibit F – Existing Conditions Plan

# TOPOGRAPHIC SURVEY



## ABBREVIATIONS

ASPH	ASPHALT	IRR	IRRIGATION
AD	AREA DRAIN	IE	INVERT ELEVATION
ASSY	ASSEMBLY	JB	JUNCTION BOX
BLDG, BLD	BUILDING	LP	LIGHT POLE
BM	BOTTOM OF WALL	M	METER, MAIN
CB	CATCH BASIN	MB	MAILBOX
CO	CLEAN-OUT	MH	MANHOLE
CONC	CONCRETE	OL	OVER-HEAD
CP	CENTERLINE	P/L	PROPERTY LINE
DIP	DUCTILE IRON PIPE	PP	POWER POLE
ES	EDGE OF GRAVEL	PVC	POLYVINYL CHLORIDE
EOP, EP	EDGE OF PAVEMENT	PWR	POWER
ELEV	ELEVATION	R, RAD	RADIUS
EX, EXIST	EXISTING	ROW, R/W	RIGHT-OF-WAY
FDC	FIRE DEPT. CONNECTOR	SS	SANITARY SEWER
FT	FEET	SD	STORM DRAIN
FF	FINISH FLOOR	SVC	SERVICE
FG	FINISH GRADE	SWK, S/W	SIDEWALK
FM	FIELD INLET	TC	TOP OF CURB
FM	FORCE MAIN	TEL	TELEPHONE
GRAV	GRAVEL	TR	TRANSFORMER
GM	GAS METER	TS	TRAFFIC SIGNAL
GP	GATE POST	TW	TOP OF WALL
GS	GROUND SHOT	TYP	TYPICAL
GV	GAS VALVE	UG, U/G	UNDER GROUND
HC	HANDICAP	UTIL	UTILITY
HDPE	HIGH-DENSITY POLYETHYLENE	VAL	VAULT
HYD	HYDRANT	W	WITH
IR	IRON ROD	WM	WATER METER
IP	IRON PIPE	WLM	WETLANDS MARKER
		YPC	YELLOW PLASTIC CAP

## SYMBOLS

AD	AREA DRAIN	SP	SIGN POST
CB	CATCH BASIN	PE	PEDESTAL
CO	CLEANOUT	MB	MAIL BOX
EH	FIRE HYDRANT	IR	IRRIGATION VALVE
GV	GAS VALVE	LP	LIGHT POLE
WV	WATER VALVE	UP	UTILITY/POWER POLES
GPW	GAS/POWER/WATER METER	TP	TEST PIT
DSO	DOWN SPOUT	MF	MONUMENT FOUND
MH	MANHOLE TELEPHONE		
MS	MANHOLE STORM DRAIN		
MS	MANHOLE SANITARY SEWER		

## LINE TYPES

CATV LINE	CATV
COMMUNICATION LINE	COM
EASEMENT LINE	EAS
FENCE LINE	FEN
FIBER OPTIC LINE	FOC
GAS LINE	GAS
EDGE OF GRAVEL LINE	EG
OVERHEAD LINE	OH
PHONE LINE	PH
POWER LINE	ELEC
SANITARY SEWER LINE	SS
STORM DRAIN LINE	SD
WATER LINE	W

DISCLAIMER: UTILITIES DEPICTED ARE BASED ON EVIDENCE FOUND IN THE FIELD, MUNICIPALITY AND/OR OTHER GOVERNMENT ENTITY AS-BUILT PLANS, CONTRACTOR PLANS AND OTHER DOCUMENTS OF RECORD. BARKER SURVEYING ASSUMES NO RESPONSIBILITY FOR UTILITIES THAT ARE NO LONGER IN USE, INSTALLED AFTER THE DATE OF ACTUAL SURVEY, NOT IDENTIFIED OR NOT LOCATED, INCLUDING UTILITIES UPON PUBLIC OR PRIVATE PROPERTY.

SPECIFIC UTILITY POSITIONS INDICATED ON THE GROUND SURFACE PROVIDED BY LOCATION SERVICES MAY VARY DUE TO UNDERGROUND DETECTION CAPABILITIES.

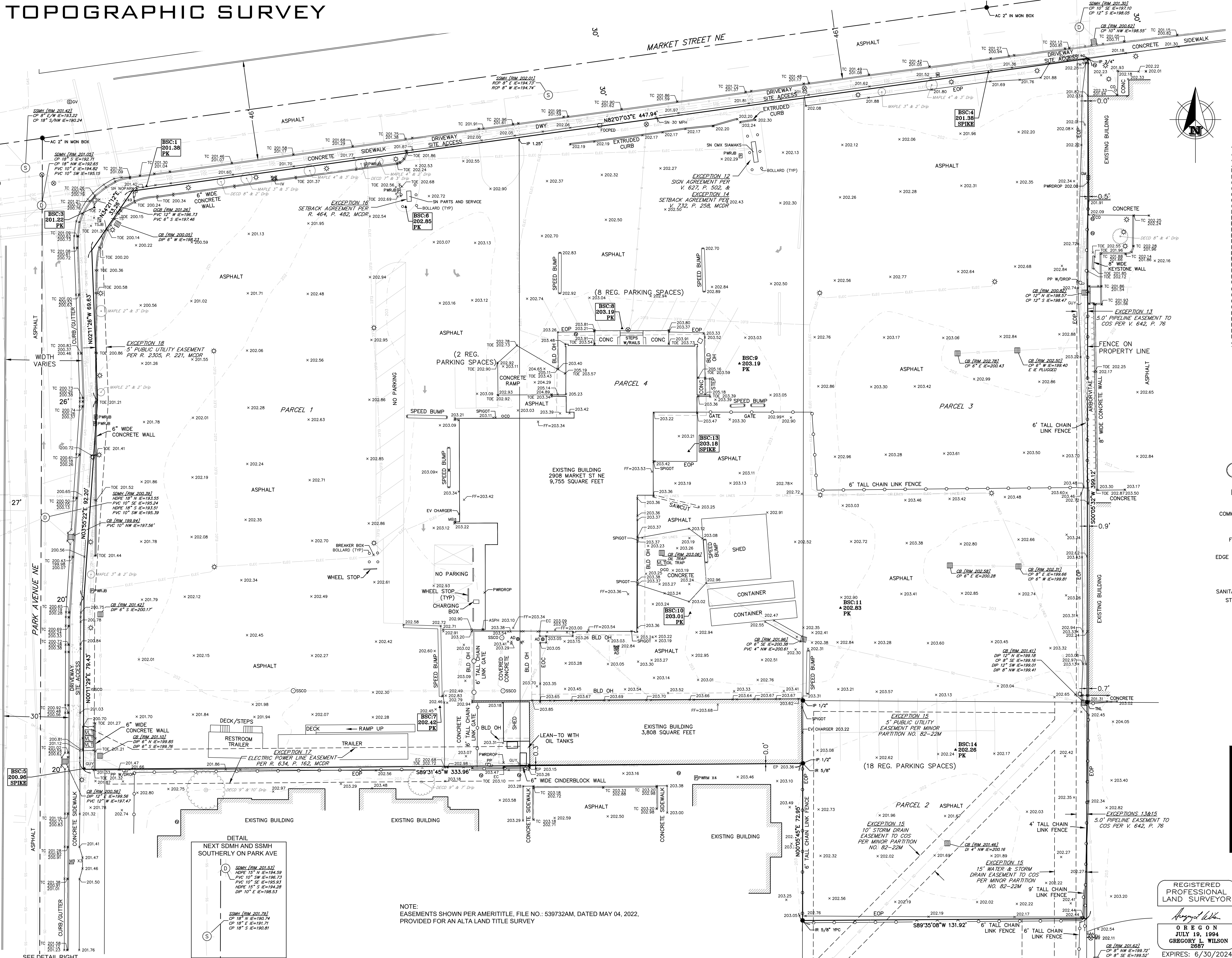
BENCHMARK UTILIZED:  
CITY OF SALEM #6030  
  
ELEV: 203.97' NGVD 29  
2" ALUMINUM DISK IN CURB LOCATED AT THE SW CORNER OF LANCASTER DR & SUNNYVIEW RD NE, IN NW CURB LANCASTER, 0.7' N OF END RADIUS, 3.2' SW OF A CATCH BASIN.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

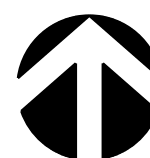
GREGORY L. WILSON  
JULY 19, 1994  
2687  
EXPIRES: 6/30/2024

SURVEY FOR	CARLSON VEIT JUNGE ARCHITECTS
LOCATION:	2908 MARKET ST
NW 1/4 SECTION 24	CITY OF SALEM
T7S, R3W, W.M.	MARION COUNTY, OREGON
SCALE: 1"=20'	BARKER SURVEYING
DATE: 9/1/2022	3657 KASHMIR WAY SE
DRAWN BY: R.J.C.	SALEM, OREGON 97317
	PHONE (503) 588-8800
	FAX (503) 363-2469
	EMAIL: GREG@BARKERWILSON.COM
	JOB NUMBER: 42184

NOTE:  
EASEMENTS SHOWN PER AMERITITLE, FILE NO.: 539732AM, DATED MAY 04, 2022,  
PROVIDED FOR AN ALTA LAND TITLE SURVEY

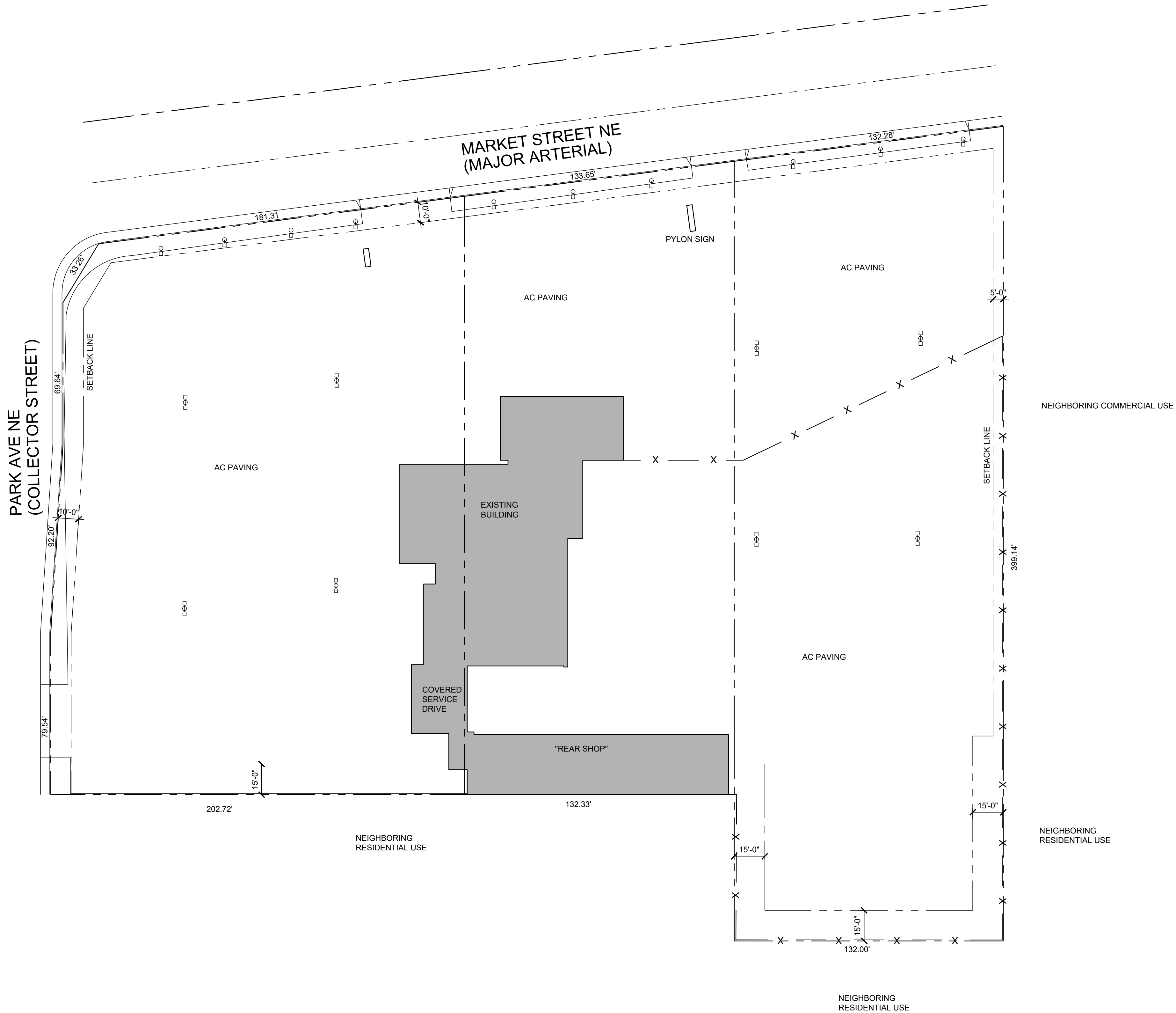






SITE PLAN - EXISTING CONDITIONS

1" = 30'



PRELIMINARY  
NOT FOR CONSTRUCTION

PRELIMINARY DATE:  
08-09-2022

project:  
NISSAN OF SALEM  
2908 MARKET ST NE  
SALEM, OR 97301  
consultants:

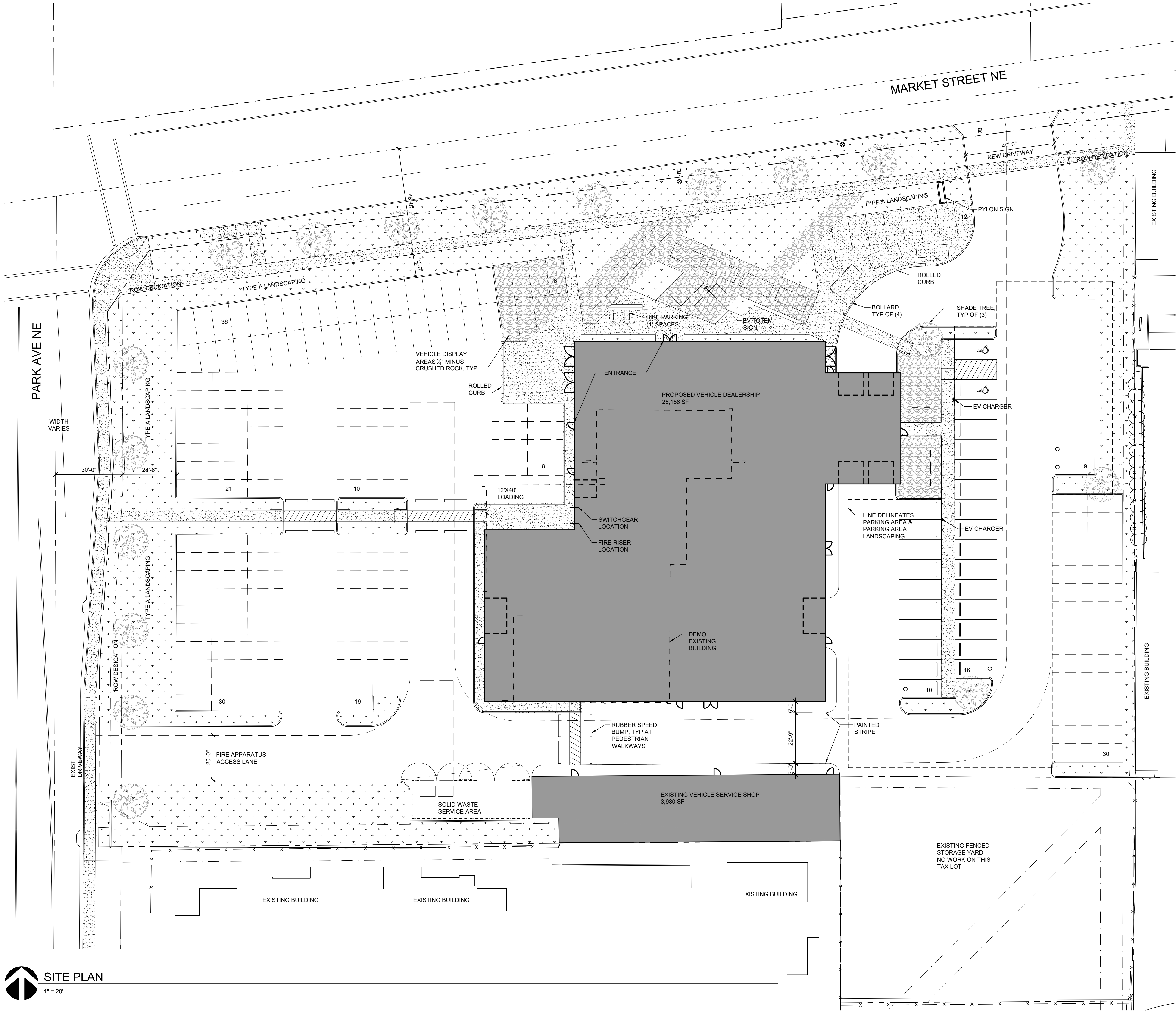
revisions:  
△  
△  
△  
△

date:  
project: 01722  
dwg file: A-SP-01722  
drawn by: NW  
checked by:  
copyright © 2022  
Carlson Veit Junge Architects PC

SITE PLAN

sheet:  
A-101  
of:

## Exhibit G – Site Plan



ZONING CODE SUMMARY

ZONE:	MU-III	
TAX LOT(S):	073W24BD 08800 073W24BD 08900 073W24AC 02700 073W24AC 04701	
EXISTING AREA:	3.35 AC (145,926 SF)	
PROJECT AREA:	3.13 AC (136,388 SF) - AFTER R.O.W. DEDICATIONS	
LOT COVERAGE	EXIST	PROPOSED
BUILDINGS	13,615 SF	27,047 SF
CONCRETE & ASPHALT	130,878 SF	83,786 SF
LANDSCAPING	1,433 SF	23,055 SF (16.9%)
* SEE GRADING PLAN FOR GSI COMPLIANCE		
USE: MOTOR VEHICLE SALES & SERVICE	29,088 SF	
BUILDING HEIGHT	= 28 FT	
PARKING:		
REQUIRED (1 PER 900 SF):	= 32	
MAXIMUM ALLOWED (x 1.75)	= 56	
PROPOSED:		
STANDARD	29	
COMPACT	4	
ACCESSIBLE	2	(1 VAN ACCESSIBLE)
TOTAL PROPOSED:	35	
LOADING:		
REQUIRED:	= 1	
PROPOSED:	= 1	
BIKE PARKING:		
REQUIRED:	= 4	
PROPOSED:	= 4	
TOTAL INTERIOR OFF-STREET PARKING AREA:	17,185 SF	
PARKING LANDSCAPE AREA:	1,471 SF (8.6%)	
SHADE TREES		
REQUIRED (1 PER 12 PARKING SPACES)	= 3	
PROPOSED:	= 3	
DISPLAY & INVENTORY SPACES:	241	

CARLSON  
VEIT  
JUNGE  
ARCHITECTS PC

ARCHITECTURE • INTERIOR DESIGN  
3095 RIVER RD N. SALEM, OREGON 97303  
WWW.CARLSONVEIT.COM • 503-390-0281

PRELIMINARY  
NOT FOR CONSTRUCTION

PRELIMINARY DATE:  
**03-24-2023**

project:  
**NISSAN OF SALEM**  
2908 MARKET STREET NE  
SALEM, OR 97301  
consultants:

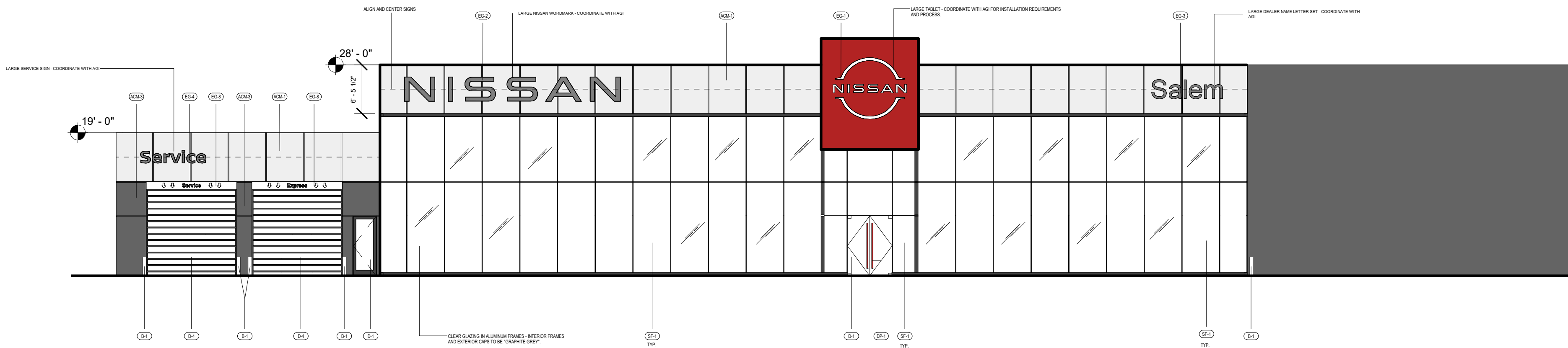
revisions:  
  
date:  
project: 01722  
dwg file: A-SP-01722  
drawn by: NW  
checked by:  
copyright © 2023  
Carlson Veit Junge Architects PC

SITE PLAN

sheet:  
**A-101**  
of:

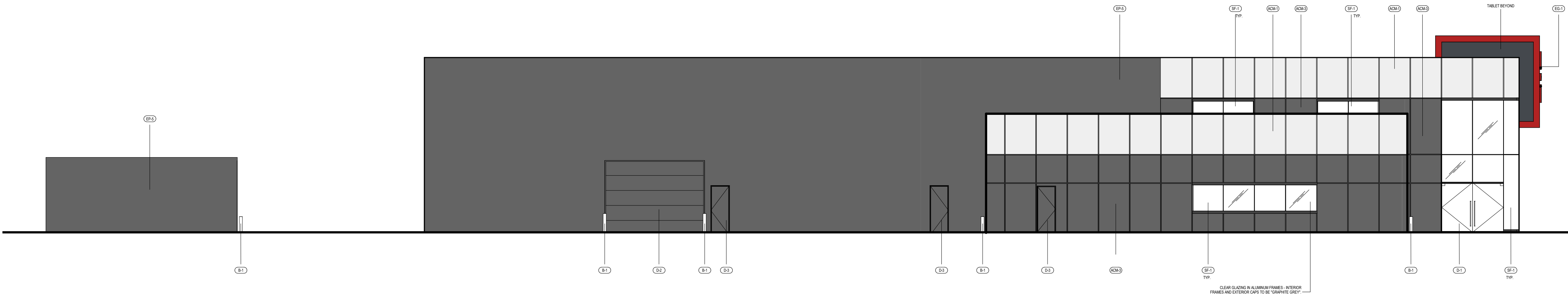
## Exhibit H – Architectural Plans

FACING MARKET STREET



FRONT ELEVATION

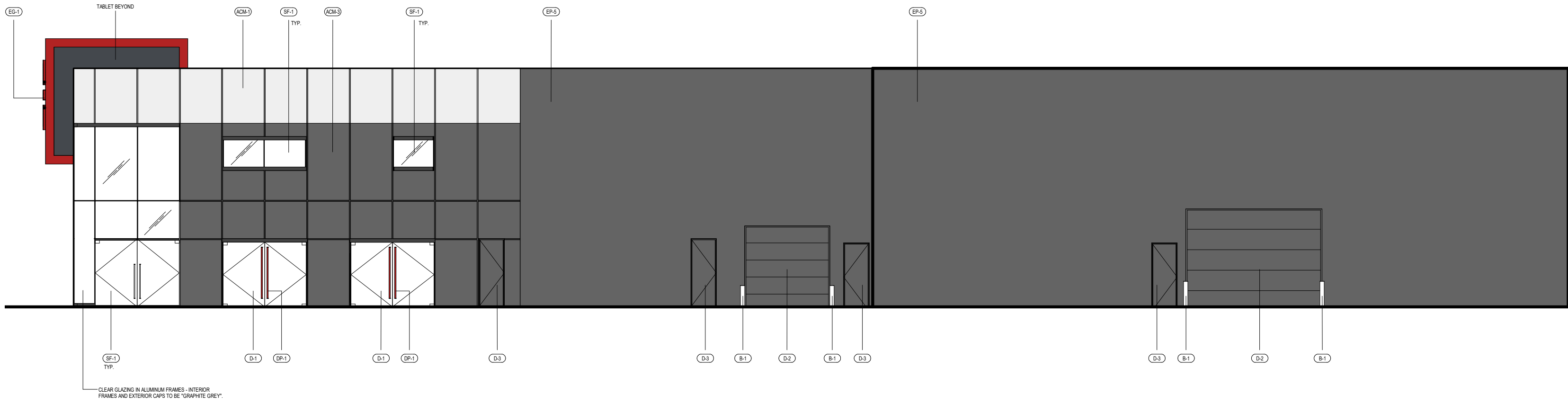
1



RIGHT ELEVATION

2

FACING PARK AVE



LEFT ELEVATION

3



Gensler

150 West Jefferson  
Suite 1700  
Detroit, MI 48226  
United States  
Tel 313.965.1600  
Fax 313.965.8060

Date	Description
1 10/26/2022	ISSUED FOR DEALER REVIEW
2 12/02/2022	DRAFT FP
3 12/13/2022	FINAL FP

NOT FOR CONSTRUCTION

Seal / Signature

These drawings are for communication of design intent only. These drawings are not suited or intended for construction or fabrication.

Project Name

Nissan Salem  
P0738-5833

Project Address

Salem, OR

Project Number

010.1899.072

Description

Elevations

Scale

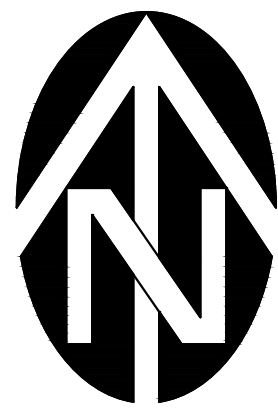
3/32" = 1'-0"  
0 4 8 16

A4.1

© 2022 Gensler

## Exhibit I – Civil Plans





0 10 20 40  
FEET

PARK AVENUE NE

MARKET STREET NE

- STORM KEY CALLOUTS**
- ① 6" RD, S=1.0% MIN, SEE PLAN FOR LENGTH.
  - ② 8" SD, S=0.6% MIN, SEE PLAN FOR LENGTH.

**GSI SUMMARY**  
**NEW IMPERVIOUS AREA = 65,650.39 SF**  
**NEW GSI AREA = 26,447.09 SF (40.3%)**

**CARLSON VEIT JUNGE ARCHITECTS PC**  
ARCHITECTURE • INTERIOR DESIGN  
3095 RIVER RD N SALEM, OREGON 97303  
WWW.CARLSONVEIT.COM • 503-390-0281

**REGISTERED PROFESSIONAL ENGINEER**  
**REVIEW**  
NOV 12, 2008  
WILLIAM J. WELLS  
RENEWS: 6/30/2024

**project:** NISSAN OF SALEM  
2908 MARKET STREET NE  
SALEM, OR 97301  
consultants:

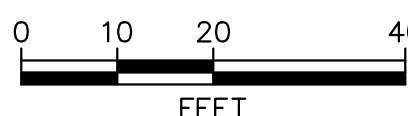
**revisions:**

**date:**  
**project:** 01722  
**dwg file:** A-FP-01722  
**drawn by:** JH  
**checked by:** JW  
**copyright ©** 2023  
Carlson Veit Junge Architects PC

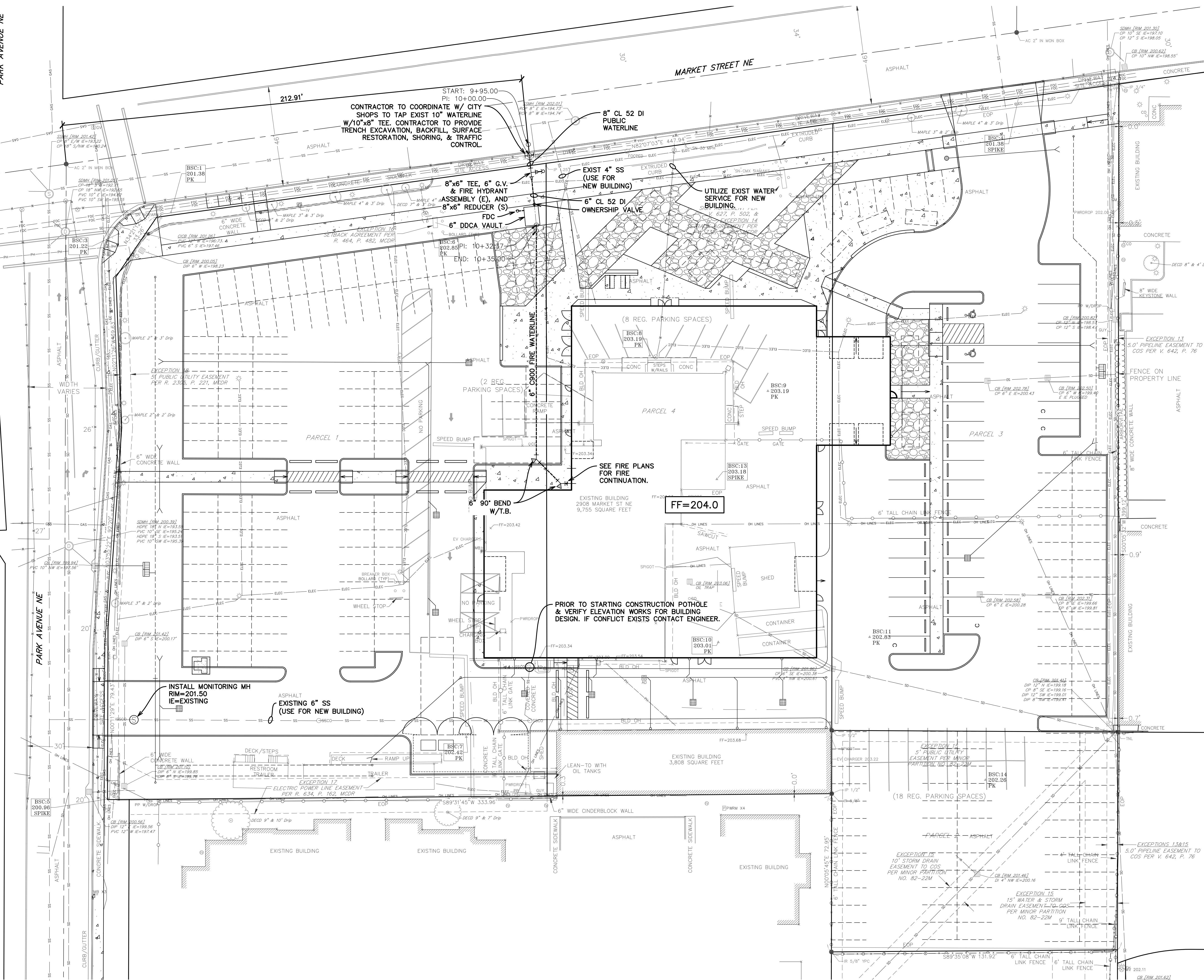
**GRADING AND DRAINAGE PLAN**

**sheet:** C2.0  
**of:**


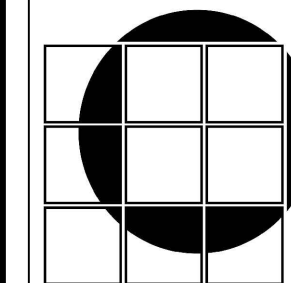




PARK AVENUE NE



CARLSON  
VEIT  
JUNGE  
ARCHITECTS PC

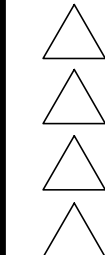


**REVIEW**

RENEWES: 6/30/2024

project: **NISSAN OF SALEM**  
22908 MARKET STREET NE  
SALEM, OR 97301  
consultants:

revisions:



date:

project: 01722

dwg file: A-FP-01722

drawn by: IH

checked by: JW

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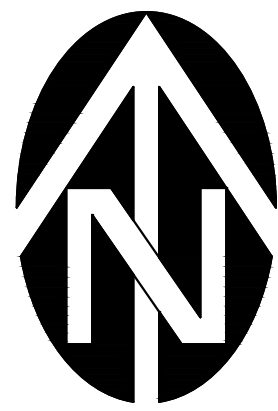
## UTILITY PLAN

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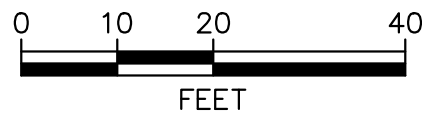
## C3.0

of:





PARK AVENUE NE



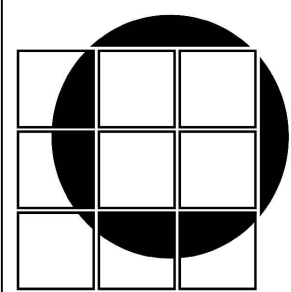
SURFACING LEGEND

- AC OVERLAY
- NEW AC PAVEMENT
- CONCRETE PEDESTRIAN CROSSING  
SEE DTL #2641.
- SIDEWALK
- DECORATIVE ROCK
- TYPE "C" CURB
- DRIVEWAY PER CITY DTL #302
- DRIVEWAY PER CITY DTL #301B
- WHEELSTOP
- MOUNTABLE CURB SEE DTL #

PARK AVENUE NE

MARKET STREET NE

CARLSON  
VEIT  
JUNGE  
ARCHITECTS PC

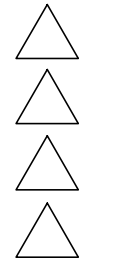


ARCHITECTURE • INTERIOR DESIGN  
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WWW.CARLSONVEIT.COM • 503-390-0281



project:  
NISSAN OF SALEM  
2908 MARKET STREET NE  
SALEM, OR 97301  
consultants:

revisions:



date:

project: 01722

dwg file: A-FP-01722

drawn by: IH

checked by: JW

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SURFACING PLAN

sheet:

C4.0

of: