

Site Plan Review and Adjustments

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Submitted To: City of Salem

Project Location: 1443 45th Ave NE Salem, OR 97301

Applicant(s): Glenn Peters
Nature's Kick Corporation

Applicant's Representative: Lindsey King of BRAND Land Use
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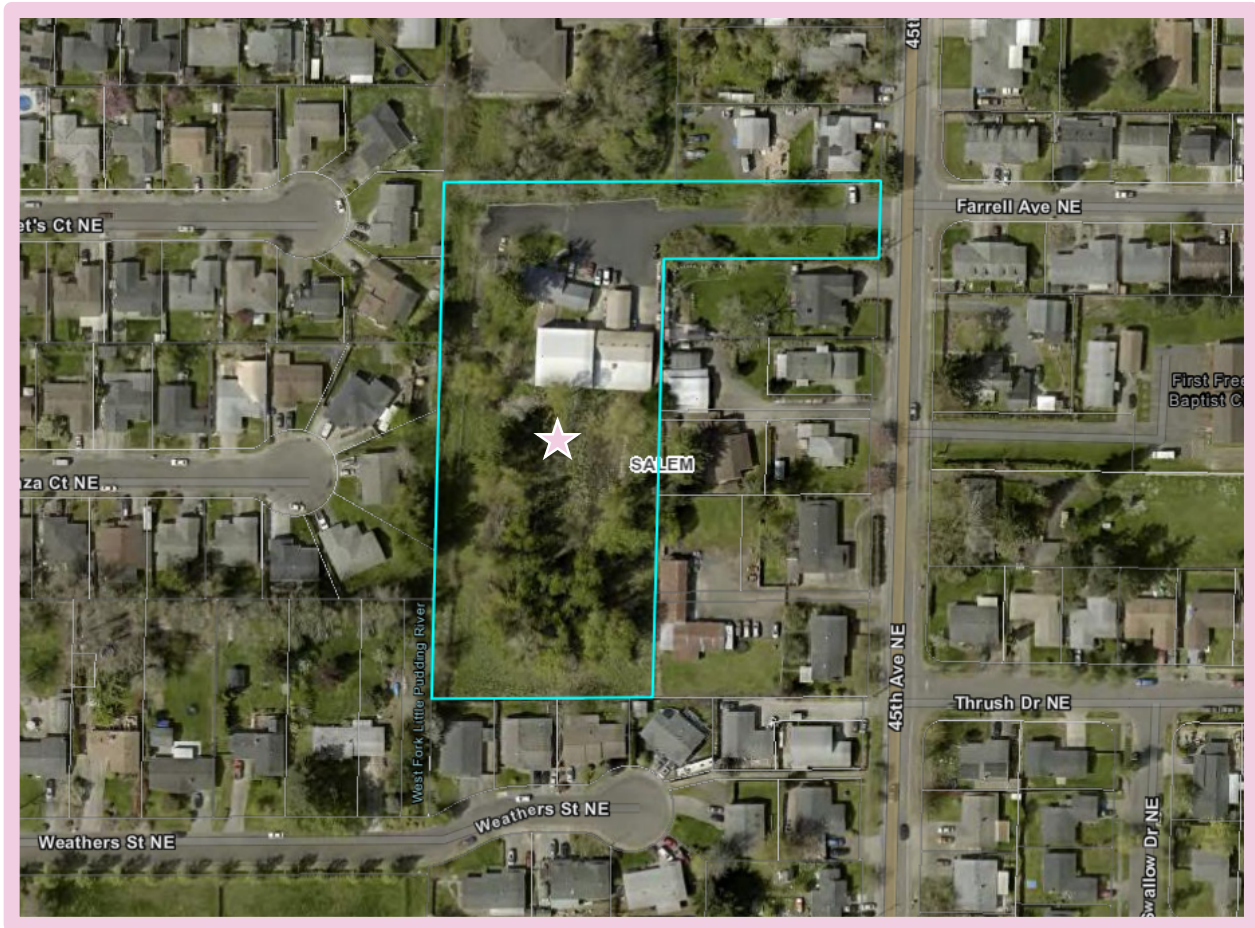
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Arial View of Subject Property and Existing Development



Section 1: Property Background and Request

The applicant, Nature's Kick Original Honeystix, is presenting a site plan review application for the enlargement of a structure and adjustments to the interior front setback requirement, reducing the setback to 11.5 feet where 30 feet is required and to eliminate the required landscaping as the area is currently paved.

The applicant's proposal is to enlarge an accessory structure onsite utilized for the commercial business. The applicant is also requesting two adjustments. One, to the accessory structure's setback to the residential zone, from 30-feet to 11.5-feet. Two, to remove the landscape buffer requirements for the 36 +/- feet along the enlargement site. This is the minimum necessary to allow the enlargement of the accessory structure. As the site exists, the impacts on the neighboring property are minimized by the existing fencing and distance of dwellings to the common property line. As shown in the findings below, the applicant has demonstrated the burden of proof is met and the proposal meets all applicable criteria.

Section 2: Existing Conditions

The parcel is approximately 3.25 acres in size and is described as Marion County Assessor Map and Tax Lots 072W19DB00100, a Marion County Tax Map is included within the exhibits list identifying the subject property.

The site is located within the corporate city limits of the City of Salem. The Salem Area Comprehensive Plan (SACP) map has designated the parcel as Industrial Commercial (IC). The properties are located within the City's Urban Service Area (USA). The property is a honey processing and wholesale facility and has been in such operations since 1982. The structure that is proposed to be enlarged has also been in place since at least 1989, which was permitted as a general-purpose farm building. The structure, as it was permitted, does not meet the current zoning setbacks of the IC zone. The structure is considered non-conforming. The parcel has maintained the use of the non-conforming structure for the entirety of the operation.

The Comprehensive Plan designations of surrounding properties include:

North: MF "Multifamily Residential" and SF "Single Family Residential"

South: SF "Single Family Residential"

East: SF "Single Family Residential"

West: SF "Single Family Residential"

The subject property is zoned IC (Industrial Commercial)

Surrounding properties are zoned as follow:

North: RM (Multiple Family Residential 2)

South: RS (Single Family Residential)

East: RA (Residential Agriculture)

West: RS (Single Family Residential)

Section 3: Applicable Zoning Codes

Salem Revised Code Chapter 220 – Site Plan Review

Section 220.001 – Purpose

Section 220.005 – Site plan review

Section 220.010 – Modification of site plan review approval

Salem Revised Code Chapter 250 – Adjustments

Section 250.001 – Purpose

Section 250.005 – Adjustments

Section 250.010 – Modification of adjustment approval

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 300.310 – Neighborhood Association Contact

Section 300.500 – General Description

Section 300.510 – Type II Applications

Section 300.520 – Type II Procedure

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 300.870 – Resubmission following denial

Section 300.900 – Public hearings, generally

Section 300.910 – Responsibilities of the Planning Administrator

Section 300.920 – Rules of procedure

Section 300.930 – Conflicts of interest; ex parte contact; challenges to impartiality; and abstention or disqualification

Section 300.940 – Burden of proof

Section 300.950 – Evidence; witnesses; site visits; official notice

Section 300.960 – Order of proceedings

Section 300.970 – Continued hearing; extension of the record

Section 300.980 – Record of proceedings

Section 300.1000 – General

Section 300.1010 – Appeal filing

Section 300.1020 – Notice of appeal

Section 300.1030 – Proper filing of notice of appeal to be jurisdictional

Section 300.1040 – Appeal procedures; scope

Section 300.1045 – Withdrawal of appeal

Section 300.1050 – Review by the Council

Section 300.1060 – Effect of appeal or review by Council

Section 300.1070 – Effect of judicial or administrative review

Section 300.1080 – Remand from the land use board of appeals

Section 300.1100 – General description

Section 300.1110 – Legislative procedure

Salem Revised Code Chapter 551-IC-Industrial Commercial

Section 551.001 – Purpose

Section 551.005 – Use

Section 551.010 – Development Standards

Section 551.015 – Design Review

Section 551.020 – Other provisions

Salem Revised Code Chapter 602 – Airport Overlay Zone

Section 602.001 – Purpose

Section 602.005 - Definitions

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 800.010 – Definitions

Section 800.015 – Lot Standards, Generally

Section 800.020 – Designation of Lot Lines

Section 800.025 – Flag Lots

Section 800.030 – Hillside lots

Section 800.031 – Maintenance easements for dwelling units

Section 800.035 – Setbacks

Section 800.040 – Special Setbacks

Section 800.045 – Height

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 806 – Off-Street Parking, Loading and Driveways

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

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 understands Table 300-1 sets forth the four procedure types for land use actions within the City of Salem. This application will be reviewed using Type II procedures. Type II applications are administrative, and the decision authority is the planning administrator. "Type II procedure is used when the standards and criteria require limited discretion or legal judgment in their application. Decisions on Type II applications are made by staff. Public notice and the opportunity to comment prior to issuance of a decision is provided. A public hearing is not required unless the decision is appealed."*

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

- (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 as Type II. 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 identify this application for a replat as a Type II Application. Therefore, all type procedures are applicable to this application.

- (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 review type for the applications submitted are identified in Table 300-2 as Type II. This criterion is not applicable.

- (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 is not choosing to process the application with a different procedure type. The application will be processed using Type II procedures as indicated in Table 300-2. This criterion is not applicable.

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 II 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 property is not historic. Therefore, the Historic Landmarks Commission (HLC) does not have review authority in this case. This criterion is not applicable.*

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 Class 3 site plan review and adjustments. This application requires a Type II 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.*

- (b) *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. Therefore, this criterion is not applicable.*

- (c) *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: *This application includes a Class 2 Site Plan review and adjustments. All required information and supporting documentation have been included with this consolidated application. The applicant understands this application will be reviewed utilizing the strictest review procedures, which in this case is a Type II 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: The application is Type II. This criterion is not applicable.

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

Applicant's Findings: The application is Type II. 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 not required.*

- (5) 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 and adjustments. The letter sent to the neighborhood association and supplemental exhibits are included with this submittal package. This criterion is met.*

- (6) 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.*

- (7) 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.*

- (8) 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: Communication with Salem-Keizer Transit District is not required for this application. Therefore, this criterion is not applicable.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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 300.310 – 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. This criterion is met.*

- (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 this 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. This criterion is met.*

Section 300.500 – General description

Type II applications are administrative in nature, and involve land use actions governed by approval criteria and standards which require the exercise of limited discretion. Impacts on

nearby properties associated with the land use action may require imposition of conditions of approval to minimize those impacts or to ensure compliance with the UDC. A Type II application is an administrative review process where the Review Authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision. The Type II process is illustrated in Figure 300-2.

Applicant's Findings: *The applicant understands Type II applications follow an administrative review process. The applicant believes they have fulfilled all the requirements in this application and the review authority will be able to move forward with a favorable decision.*

Section 300.510 – Type II Applications

The following land use actions are Type II applications:

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

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

Section 300.520 – Type II Procedure

- (a) *Application requirements.*
 - (1) *Application form.* Type II applications shall be made on forms provided by the Planning Administrator.
 - (2) *Submittal requirements.* Type II applications shall include the information required under SRC 300.210.

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 and comment.* Public notice is required for Type II applications. Public notice shall be by first class mail. Posted notice on the subject property is required for subdivisions, Class 2 wireless communications facilities siting, manufactured dwelling park permits, and Class 1 greenway development permits. All Type II applications include a comment period of 14 days from the date notice is mailed.
 - (1) *Mailed notice.* Mailed notice shall be provided as follows:
 - (A) The City shall mail notice of the application within ten days after the application is deemed complete. An affidavit of mailing shall be prepared and made part of the file.
 - (B) Notice of the application shall be mailed to:

- (i) The applicant(s) and/or the applicant's 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) 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;
- (v) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (vi) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (vii) Addresses, based on the City's current addressing records, within 250 feet of the subject property.
- (viii) The Salem Area Mass Transit District
- (ix) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City; and
- (x) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City.

(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 land use action;
- (iii) The proposed site plan;

- (iv) The street address, or other easily understood geographical reference, for 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 approval criteria by name and code section;
- (vii) 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;
- (viii) A brief summary of the decision making process for the application;
- (ix) The place, date, and time that written comments are due, and the person to whom the comments should be addressed;
- (x) A statement that comments received after the close of the public comment period will not be considered;
- (xi) A statement that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and Review Authority to respond to the issue;
- (xii) A statement that subsequent to the closing of the public comment period a decision will be issued and mailed to the applicant, property owner, everyone entitled to the initial notice of the application, anyone who submitted written comments on the application, and to any other persons otherwise legally entitled to notice of the decision; and
- (xiii) The name and contact information for the staff case manager.

(2) *Posted notice.* Posted notice shall be provided, when required, as follows:

- (A) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the end of the 14 day comment period. The notice shall remain in place through the end

of the comment period. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made a part of the file.

- (B) 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.
- (C) Posted notice shall be provided on signs as prescribed by the Planning Administrator.
- (D) The applicant shall remove and return the signs within seven days after the end of the comment period.

Applicant's Findings: *The applicant understands the noticing procedures required under this section.*

- (c) *Application review.* The Review Authority shall review the application, all written comments submitted during the public comment period, and the applicant's response to the comments, if any. Written comments received after the expiration of the public comment period shall not be considered by the Review Authority.

Applicant's Findings: *The applicant's representative, BRAND Land Use, will respond to any written comments received during the comment period. No comments received after the close of the comment period should be included in the official record or responded to.*

- (d) *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 of the Review Authority shall be a written order containing findings that explain the criteria and standards applicable to the decision, stating the facts relied upon in rendering the decision, and explaining the justification for the decision.

Applicant's Findings: *The applicant understands the review authority's options to approve, conditionally approve, or deny the application. Based on the information submitted, it is anticipated the decision will be approved with minimal conditions.*

- (e) *Notice of decision.* Notice of the decision shall be mailed within five days after the decision is signed. An affidavit of mailing shall be prepared and made part of the file.
 - (1) Notice of the 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) The address of the subject property, based on the City's current addressing records;
- (D) 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;
- (E) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (F) Any group or individual who submitted written comments during the comment period;
- (G) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (H) Addresses, based on the City's current addressing records, within 250 feet of the subject property;
- (I) The Salem Area Mass Transit District;
- (J) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted written comments during the comment period; and
- (K) Any community organizations, agencies, or individuals who have submitted written requests to the City for notice of the decision.

(2) Notice of the 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 and time 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 entitled to notice of the decision 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 procedures surrounding notice of decision.

(f) *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 II application shall be the final decision of the City.
- (2) Only the applicant, persons who provided comments during the public comment period, and persons entitled to notice of the decision have standing to appeal the decision.
- (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 site plan review or modification of a Class 3 site plan review is not eligible for Council review unless appealed. Upon receipt of an appeal of a decision on a Class 3 site plan review or modification of a Class 3 site plan review, notice of the appeal shall be provided to the Council at its next regular meeting. The Council may, pursuant to SRC 300.1050, assume jurisdiction for review pursuant to SRC 300.1040. If the Council does not assume jurisdiction, then the decision of the Review Authority on the appeal is the final decision of the City.
 - (B) The decision on a Class 1 adjustment, modification of a Class 1 adjustment, Class 2 adjustment, modification of a Class 2 adjustment, Class 2 design review, modification of a Class 2 design review, Class 2 driveway approach permit, Class 2 minor historic design review, Class 2 temporary use permit, PUD final plan, modification of a PUD final plan, or sign adjustment is not subject to Council review.
- (5) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

Applicant's Findings: The applicant acknowledges and understands the rules surrounding an appeal and review of an appeal.

- (g) *Expiration of approval.* Approval of a Type II application expires automatically as provided by SRC 300.850(a).

Applicant's Findings: *The applicant has reviewed and understands the provisions surrounding an expiration of approval. Additionally, the applicant understands that although the application is consolidated, each requested application will have its own expiration date.*

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. Therefore, this criterion 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 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 300.870 – Resubmission Following Denial

Denial of an application shall bar refiling of the same or substantially similar application for a period of one year from the date of the decision. An exception may be granted by the original Review Authority if, upon a showing of good cause, the application is so amended that the substantive basis for denial no longer exists; the proposal has been so mitigated that a new application should be given consideration; or there has been a substantial change in the facts or a change in City policy which would change the outcome.

Applicant's Findings: *The applicant understands the timeline for resubmission in the case of denial. This criterion is met.*

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.

Applicant's Findings: *The applicant understands the above provisions.*

Section 300.910 – Responsibilities of the Planning Administrator

For all public hearings held pursuant to this chapter, the Planning Administrator shall:

- (a) Schedule the public hearing before the applicable Review Authority.
- (b) Provide public notice of the hearing.

- (c) Prepare and make available to the public a staff report summarizing the proposal, the relevant issues, and any comments received as of the date of the report; and making recommendation based upon the proposal's conformance, or lack thereof, with the standards and criteria.
- (d) Mail notice of the decision to those entitled to notice under this chapter.
- (e) Maintain and prepare the record of the proceedings as required under SRC 300.980.

Applicant's Findings: *The applicant understands the responsibilities of the planning administrator for all public hearings.*

Section 300.1000 - General

SRC 300.1000—300.1090 apply to all appeals, and to review by Council, of land use actions under this chapter. Table 300-2 identifies those land use actions that may be appealed and the applicable Review Authority for appeals. SRC 300.1050 identifies those land use actions subject to review by the Council.

Applicant's Findings: *The applicant understands this provision.*

Section 300.1010 – Appeal Filing

A decision on a land use action may be appealed by a person or entity with standing to appeal by filing a notice of appeal with the Planning Administrator within 15 days of the date notice of the decision is mailed.

Applicant's Findings: *The applicant understands the appeal period timeline. This criterion is met.*

Section 300.1020 – Notice of Appeal

Notice of appeal shall be made on forms provided by the Planning Administrator and shall be accompanied by the appeal fee. The notice of appeal shall contain:

- (a) Identification of the decision sought to be appealed, including its assigned case number, the title or caption of the decision, and the decision date.
- (b) The name and mailing address of the appellant and a statement establishing the appellant's standing to appeal the decision as provided under SRC 300.1010.

Applicant's Findings: *The applicant understands the notice of appeal provisions.*

Section 300.1030 – Proper Filing of Notice of Appeal to be Jurisdictional

The timely and complete filing of the notice of appeal and payment of the appeal fee are jurisdictional, and the Planning Administrator shall not accept a notice of appeal that does not comply with this section. The Planning Administrator's determination that an appellant has failed to comply with this section shall be final.

Applicant's Findings: *The applicant understands the proper filing procedure for an appeal.*

Section 5: 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: *The applicant is proposing to increase the size of a nonconforming structure, which falls under (A) of the above criterion.*

(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), Mixed Use-III (MU-III), Mixed Use-Riverfront (MU-R) 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 proposal does not fall under any of the above exemptions. This criterion 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: *The proposal is for a Class 3 site plan review and two adjustments to applicable standards. This application falls under (G) of the above criterion.*

(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: *Since the application falls under a Class 3 site plan review, the proposal will be processed utilizing Type II procedures.*

(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).

Applicant's Findings: *The application is for a Class 3 site plan review. This criterion is not applicable.*

(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) Mixed Use-III (MU-III), and Mixed Use-Riverfront (MU-R) zones,

architectural drawings, renderings, or sketches showing all elevations of the existing buildings and the proposed buildings as they will appear on completion.

Applicant's Findings: *The applicant has attached all the required items listed above. This criterion is met.*

(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: *The applicant has attached all the required items listed above. This criterion is met.*

(f) *Criteria.*

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

- (A) The application involves only a change of use or a change of occupancy, and there is no pending application for an associated land use decision or limited land use decision;
- (B) Only construction or improvements to the interior of the building or structure will be made;
- (C) The new use or occupancy will not require exterior improvements to the building or structure or alteration to existing parking, landscaping, or bufferyards;
- (D) Only clear and objective standards which do not require the exercise of discretion or legal judgment are applicable to the site plan review application; and
- (E) The application meets all applicable standards of the UDC.

Applicant's Findings: *The application is for a Class 3 site plan review. These criteria are not applicable.*

(2) *Class 2 site plan review.* An application for a Class 2 site plan review shall be granted if:

- (A) Only clear and objective standards which do not require the exercise of discretion or legal judgment are applicable to the application.
- (B) The application meets all the applicable standards of the UDC.

Applicant's Findings: *The application is for a Class 3 site plan review. These criteria are not applicable.*

(3) *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. Where the proposal is unable to meet the standard, the applicant is requesting adjustments with mitigation where needed and 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 transportation system within the 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. The applicant's proposal of a small addition to their existing building will not alter the manner in which vehicles enter or exit the site, nor does the addition result in additional trips being added to the transportation system. 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: As demonstrated by the site plan provided, the proposal does not include any alterations to parking, driveways, or vehicle use areas. The applicant has provided findings related to SRC Chapter 806, where applicable, demonstrating the proposed bicycle parking areas will be provided in accordance with the applicable provisions. 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: The site is currently served by city services. The small expansion does not require any additional connections to city services. This criterion is met.

Chapter 551 – IC – Industrial Commercial

Section 551.001 – Purpose

The purpose of the Industrial Commercial (IC) Zone is to implement the industrial commercial designation of the Salem Area Comprehensive Plan through the identification of allowed uses and the establishment of development standards. The IC zone generally allows a wide variety of retail, office, heavy commercial, light manufacturing, and warehousing activities.

Section 551.005 – Uses

- (a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the IC zone are set forth in Table 551-1.

Applicant's Findings: The proposed enlargement of the structure will allow for the expansion of the food manufacturing area as well as the ability to store materials indoors, out of the elements which may negatively affect them.

- (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 551.010(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 another use shall thereafter prevent conversion back to that use.

Applicant's Findings: *The proposal is for the enlargement of an existing structure which houses the use on the property. The existing structure was legally established prior to August 24, 2022; therefore the proposal meets (b)(1).*

Section 551.010 – Development Standards

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

- (a) *Lot standards.* Lots within the IC zone shall conform to the standards set forth in Table 551-2.

Applicant's Findings: *The existing parcel meets the applicable lot standards found in Table 551-2. This criterion is met.*

- (b) *Setbacks.* Setbacks within the IC zone shall be provided as set forth in Tables 551-3 and 551-4.

Applicant's Findings: *The proposal is for the enlargement of a nonconforming structure setback. The existing structure does not meet the current interior front 30-foot setback for IC parcels that abut a residential zone. The existing structure is 12-feet from the residentially zoned property line, and has existed as that since the structure was built. The applicant is seeking approval to an adjustment for this standard.*

- (c) *Lot coverage; height.* Buildings and accessory structures within the IC zone shall conform to the lot coverage and height standards set forth in Table 551-5.

Applicant's Findings: *The proposal conforms with the applicable criteria in Table 551-5. This criterion is met.*

- (d) *Landscaping.*

- (1) *Setbacks.* Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC chapter 807.

Applicant's Findings: *The proposal shall be landscaped as required by Table 551-5, as a Type C. The applicant is seeking an adjustment to this requirement along the interior front property line where the expansion is being requested. While the fencing is in place, the setback area has existing pavement not proposed to be removed.*

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

Applicant's Findings: *There is no additional vehicle use area being proposed. The area where the proposed area where the expansion is intended is paved with either asphalt or concrete and will not be used for parking. This criterion is not applicable.*

- (3) *Development site.* A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC chapter 807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicular use areas, may count towards meeting this requirement.

Applicant's Findings: *Within the 3.25-acre parcel slightly more than 2.0 acres are either landscaped or utilizing the native vegetation. More than 15% of the site is landscaped. This criterion is met.*

- (e) *Industrial performance standards.* Within the IC zone, no land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality (DEQ), including the holding of all licenses and permits required by DEQ regulations, local ordinance, and state and federal law.

Applicant's Findings: *The applicant understands this requirement and will continue to maintain and operate in compliance with DEQ as applicable to their operation. This criterion is met.*

- (f) *Development standards for continued uses.*

- (1) *Buildings.* Buildings housing a continued use may be structurally altered or enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding conforms to development standards set forth in this chapter and to all other applicable provisions of the UDC.

Applicant's Findings: *With the proposed enlargement of the structure and the continued allowable use, this criterion is not applicable.*

- (2) *Accessory structures.* Existing accessory structures to a continued use may be structurally altered or enlarged, or rebuilt following damage or destruction, and new accessory structures to a continued use may be constructed, provided such alteration, enlargement, rebuilding, or new accessory structure construction conforms to development standards set forth in this chapter and to all other applicable provisions of the UDC.

Applicant's Findings: *With the proposed enlargement of the structure and the continued allowable use, this criterion is not applicable.*

- (3) *Option to rebuild in same location.* Notwithstanding SRC 551.010(g)(1) and (2), any building or accessory structure rebuilt following damage or destruction may either be located on the same location on the lot as the original building or structure, or 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 structure is not proposed to be rebuilt from damage or destruction. This criterion is not applicable.*

Section 551.015 – Design Review

Design review under SRC chapter 225 is required for development within the IC as follows:

- (a) Residential care with five or more self-contained dwelling units shall be subject to design review according to the multiple family design review standards set forth in SRC chapter 702.

Applicant's Findings: *The proposal is not for residential care. This criterion is not applicable.*

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 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.*

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.

Applicant's Findings: *The entire subject site falls within the horizontal area of the airport overlay zone. The above criteria are not applicable.*

- (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.

Applicant's Findings: *The entire subject site falls within the horizontal area of the airport overlay zone. Any restrictions on development will be reviewed at the time development of the site is proposed.*

- (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 entire subject site falls within the horizontal area of the airport overlay zone. This criterion is not applicable.*

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

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 806-8.

Applicant's Findings: *The proposed enlargement is not more than 3,000 square feet; thus the following is applicable: The greater of the following: 4 spaces; or: 1 per 10,000 sq. ft. for first 50,000 sq. ft. The applicant will install 4 spaces per Table 806-8.*

- (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: *There is no long-term bicycle parking proposed. 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 applicant understands the provision for the location of bicycle parking. 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: *There is no long-term bicycle parking proposed. This criterion is 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 access area to the public right of way is paved with no barriers or obstructions. 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 806-9.
- (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: *The applicant understands the required space dimensions for bicycle parking. At the time of building permit submittal, bicycle parking details will be provided for review and approval demonstrating this criterion are 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: The applicant understands the surfacing standards for bicycle parking. The area where bicycle parking will be added is already paved with a hard surface material meeting the PWDS, this criterion is 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: The applicant will provide details regarding the bicycle parking at the time of building permit submittal. Vertical racks meeting the standards of this provision will be provided. 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 806-9.

(2) Lockers shall be served by an access aisle conforming to the minimum width set forth in Table 806-9 in front of each locker opening.

(3) Lockers shall be securely anchored.

Applicant's Findings: Bicycle lockers are not proposed. This criterion is not applicable.

Section 6: 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 one Class 2 adjustment, 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 adjustment being sought is 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 adjustment proposed is consolidated with other applications. The consolidated application submittal will be processed using Type II 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: *The applicant is seeking a Class 2 adjustment to SRC 551.010, Table 551-4 Zone to Zone Setbacks that exceeds 20%. This section is 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.
- (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 applicant is seeking two (2) adjustments to standards. In both cases, the applicant offers mitigation to equally meet the purpose of the underlying specific development standard proposed for adjustment.*

Adjustment 1: SRC 551.010, Table 551-4 Zone to Zone Setbacks - *The applicant is seeking a Class 2 adjustment to SRC 551.010, Table 551-4 Zone to Zone Setbacks which states that the proposal requires a 30' interior front setback to a residential zone. The applicant is requesting an 11.5-foot setback for the easterly property line for the proposed enlargement of a building with existing nonconforming setbacks. The area that the applicant is requesting the adjustment for is approximately 36.00 feet in length, which is the length of the proposed enlargement. There are no other areas where the expansion can take place due to other site constraints that would have a much greater impact on the site, including the removal of trees and landscaping. The expansion of the nonconforming structure does not increase the nonconformity as it is not proposed to be placed any closer to the common property line than the existing structure. Additionally, the proposed placement reduces the impacts on the neighboring residential use by enclosing operations taking place on this portion of the site within a building, reducing any noise impacts. The proposal area abuts one parcel where the nearest residential structure is more than 130 feet away from the common property line and buffered by an existing 8-foot-tall fence. The next closest residential property (to the south) that abuts the existing nonconforming structure is more than 120 feet away and is separated by an existing 10-foot-tall sight obscuring fence. The fences and distances from residential structures mitigate any conflicts between the uses. The proposed expansion and reduced setback will not unreasonably impact the surrounding uses, and may offer mitigation by enclosing a portion of the site which currently has some outdoor operations. The 11.5-foot setback is the minimum necessary to allow for the enlargement of the nonconforming structure. The above criterion is met.*

Adjustment 2: SRC 551.010, Table 551-4 Landscaping and Screening - *The applicant is seeking a Class 2 adjustment to the landscaping standards, which is Type C. The request is to eliminate the landscape requirement for the 36 +/- feet of the impacted area. The applicant's proposal is an enlargement of an existing nonconforming structure and will be enlarged over an existing paved impervious surface. To comply with the required landscaping buffer the applicant would be required to remove existing concrete, restore soils, and plant all within the space between the proposed enlargement and the existing fence. The underlying purpose of this provision, which is beautification and to buffer uses which may be incompatible, is met by the existing sight obscuring fences which are already in place and will be maintained. The applicant's site is heavily treed and landscaped in other areas. Additionally, the neighboring parcel (Tax Lot 200 to the east) is heavily landscaped and has multiple structures and trees helping to mitigate any conflicts between the parcels. The neighboring parcel also has more than a dozen beehives along the westerly and northern borders of the parcel, further mitigating issues that arise from the proposed enlargement. The existing house on Tax Lot 200 is at a minimum of 130-feet from*

the eastern property line and there are no other residential structures in the immediate area. The applicant believes that due to existing conditions on both parcels the adjustment to remove the landscape screening standards is the minimum necessary to allow for the enlargement of the structure, while still meeting the underlying purpose of the provision. The above criterion is met.

- (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 two adjustments to standards. The applicant has demonstrated how both adjustments still allow the proposed development to meet the purpose of the standard being adjusted. This will result in a project 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 7: 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 required by the Unified Development Code and demonstrated how the proposed site plan review and Class 2 adjustments not only satisfies all applicable criteria but would also be a benefit to the community by providing a longstanding small businesses the ability to enlarge and operate among established neighborhoods.

Section 8: Exhibits

Exhibit A	Marion County Tax Map
Exhibit B	Deeds
Exhibit C	Title Report
Exhibit D	HOA Statement
Exhibit E	HCRPZ Acknowledgement
Exhibit F	TGE Form
Exhibit G	Neighborhood Association/Transit Contact
Exhibit H	Existing Conditions Plan
Exhibit I	Proposed Site Plan

Exhibit A – Marion County Tax Map

Exhibit B – Deeds



Parcel Information

Parcel #:	547814
Tax Lot:	072W19DB00100
Site Address:	1443 45th Ave NE
	Salem OR 97301 - 2006
Owner:	Peters Trust
Owner2:	Peters, Glenn K Trustee
Owner Address:	1443 45th Ave NE
	Salem OR 97301 - 2006
Twn/Range/Section:	07S / 02W / 19 / SE
Parcel Size:	3.25 Acres (141,570 SqFt)
Plat/Subdivision:	Findley Fruit & Garden Tracts
Lot:	FR 7
Block:	
Census Tract/Block:	001702 / 3000
Waterfront:	

Tax Information

Levy Code Area:	24013
Levy Rate:	19.6269
Tax Year:	2023
Annual Tax:	\$6,632.32
Exempt Desc:	N/A

Legal

FINDLEY FRUIT & GARDEN TRACTS, LOT FR 7, ACRES 3.25

Assessment Information

Market Value Land:	\$517,400.00
Market Value Impr:	\$344,930.00
Market Value Total:	\$862,330.00
Assessed Value:	\$337,920.00

Land

Zoning:	IC - Industrial Commercial	Cnty Bldg Use:	131 - Residential - One Story Only
Cnty Land Use:	491 - Tract improved, over 1 acre, inside city or urban growth boundary	Neighborhood:	
Std Land Use:	RSFR - Single Family Residence	Recreation:	
School District:	24J - Salem-Keizer	Primary School:	Swegle Elementary School
Middle School:	Waldo Middle School	High School:	McKay High School

Improvement

Year Built:	1988	Stories:	1	Finished Area:	1,200
Bedrooms:	3	Bathrooms:	1	Garage:	600 Attached Finished Garage
Basement Fin:					

Transfer Information

Rec. Date:	07/01/1998	Sale Price:		Doc Num:	07000076	Doc Type:	Deed
Owner:	Peters Trust			Grantor:			
Orig. Loan Amt:				Title Co:			
Finance Type:		Loan Type:		Lender:			

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.

BARGAIN AND SALE DEED
(Statutory Form)

REEL
700

PAGE
76

Glenn K. Peters and Kim J. Peters, Grantor, conveys to Glenn K. Peters and Kim J. Peters, as Trustee of the "Peters Trust" (a revocable grantor type trust without set expiration date) dated JUNE, 16, 1989, Grantee, all of the Grantor's interest in the following described real property situated in ^ County, Oregon:

Beginning at the Northeast corner of Lot 7, FINDLEY FRUIT and GARDEN TRACTS, Marion County, Oregon; thence South 1°48' West 80 feet; thence North 89°52' West 244.036 feet; thence South 1°48' West to the South line of lot 7; thence North 89°58' West to the Southwest corner of lot 7; thence North 138' East to the Northwest corner of lot 7; thence South 89°52' East to the place of beginning.

Grantor/Grantee certifies that said Trust is a revocable grantor type trust under the terms of which the Grantor/Grantee continues to have authority to use, possess, and dispose of the subject property to the same degree as was had prior to this conveyance during the entirety of the life of Grantor/Grantee.

The true consideration for this conveyance is \$0.

Dated this 16th day of JUNE, 1989.

Glenn K. Peters
Glenn K. Peters

Kim J. Peters
Kim J. Peters

THIS INSTRUMENT DOES NOT GUARANTEE THAT ANY PARTICULAR USE MAY BE MADE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT. A BUYER SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

STATE OF OREGON, County of Marion) ss.

Personally appeared before me this 16 day of JUNE, 1989, the above named Glenn K. Peters and Kim J. Peters and each acknowledged the foregoing instrument to be his/her voluntary act and deed.

Gary D. Friesen
GARY FRIESEN
NOTARY PUBLIC - OREGON
MY COMMISSION EXPIRES: 6/17/90

NOTARY PUBLIC - OREGON
My Commission Expires: _____

After recording return to: Gary D. Friesen, Atty at Law, 317 Court St. NE, Salem, Oregon 97301.

Until a change is requested, all tax statements shall be sent to the following address: NO CHANGE

JUL 3 1989

JUL 3 1989

STATE OF OREGON

County of Marion

I hereby certify
that the within was
received and duly
recorded by me in
Marion County
records:

Fee \$ 11.00

Hand Returned ☐

REEL PAGE
700 76

JUL 3 4 13 PM '89

ALAN H. DAVIDSON
MARION COUNTY CLERK
BY CAF JURY

Exhibit C – Title Report



Parcel Information

Parcel #:	547814
Tax Lot:	072W19DB00100
Site Address:	1443 45th Ave NE
	Salem OR 97301 - 2006
Owner:	Peters Trust
Owner2:	Peters, Glenn K Trustee
Owner Address:	1443 45th Ave NE
	Salem OR 97301 - 2006
Twn/Range/Section:	07S / 02W / 19 / SE
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Transfer Information

Rec. Date:	07/01/1998	Sale Price:		Doc Num:	07000076	Doc Type:	Deed
Owner:	Peters Trust			Grantor:			
Orig. Loan Amt:				Title Co:			
Finance Type:		Loan Type:		Lender:			

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The true consideration for this conveyance is \$0.

Dated this 16th day of JUNE, 1989.

Glenn K. Peters
Glenn K. Peters

Kim J. Peters
Kim J. Peters

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Gary D. Friesen
GARY FRIESEN
NOTARY PUBLIC - OREGON
MY COMMISSION EXPIRES 6/17/90

NOTARY PUBLIC - OREGON
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Fee \$ 11.00

Hand Returned ☐

REEL PAGE
700 76

JUL 3 4 13 PM '89

ALAN H. DAVIDSON
MARION COUNTY CLERK
BY CAF JURY

Exhibit D – HOA Statement

BRAND

Homeowners Association Information

1443 45th Avenue NE, Salem, OR – Industrial Commercial Zoning

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 E – HCRPZ Acknowledgement

BRAND

Historic and Cultural Resources Protection Zone Acknowledgement

1441 45th Ave NE, Salem – Site Plan Review and Adjustment

The applicant is aware the subject site is identified on the City of Salem's Historic and Cultural Resources Protection Zone map. The applicant's consultant has discussed properties within these areas with the city's Historic Preservation Officer, Kimberli Fitzgerald. No public funding will be utilized to develop the subject site. At the time the site is developed, the applicant's contractors will have an inadvertent discovery plan on file with the city.

Exhibit F – TGE Form

Exhibit G – Neighborhood Association/Transit Contact

Site Plan Review & Adjustment; Neighborhood Contact.


Lindsey King <lindsey@brandlanduse.com>

Tue 1/2/2024 1:07 PM

To:susann@kaltwasser.com <susann@kaltwasser.com>;nanasue03@yahoo.com <nanasue03@yahoo.com>

Cc:Cherriots Transit <planning@cherriots.org>

Bcc:Britany Randall <britany@brandlanduse.com>

 2 attachments (495 KB)

Honey Stix Site Neighborhood Association Contact.pdf; Proposed Conditions.pdf;

Hello,

Please see the attachments for information related to an application for a site plan review and adjustment for a parcel within your boundary (East Lancaster Neighborhood Association). Please feel free to contact me with any questions you have.

Thank you,

Lindsey King, CFM

BRAND

Senior Planner

Office: (503)370-8704

Cell: (503)509-4275

Place: 1720 Liberty Street SE

Salem, OR 97302

www.brandlanduse.com

BRAND

Notice of Land Use Application Submittal

January 2, 2024

East Lancaster Neighborhood Association

Susann Kaltwasser
susann@kaltwasser.com

Sue Fowler
nanasue03@yahoo.com

RE: Adjustment and Site Plan Review for property identified as Marion County Map and Tax lot Numbers 072W19DB00100

Dear East Lancaster Neighborhood Association Co-Chairs and Land Use Chair,

We are reaching out to you regarding a project within the boundaries of your Neighborhood Association.

The applicant/property owners are seeking approval of an adjustment and site plan review. The purpose of the project is for an enlargement addition to an existing industrial use/structure.

This application will be processed using Type II procedures. The neighborhood association, property owners, and tenants within 250-feet of all portions of the property will receive notice of the application and have an opportunity to provide comments.

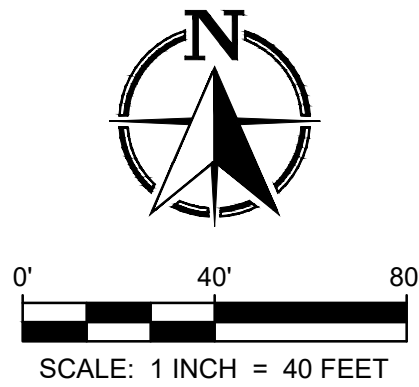
We hope that you find this letter and attached conceptual plan informative. If you have any questions regarding this notice, please contact the applicant's land use representative.

Thank you.

Applicant Information
Nature's Kick

Applicant Representative Information
BRAND Land Use, LLC | Lindsey King, CFM
Ph: 503-509-4275
Lindsey@BRANDlanduse.com

Exhibit H – Existing Conditions Plan



LEGEND

- FOUND MONUMENT
- ⊞ STORM JUNCTION BOX
- > CULVERT
- ⊙ SANITARY SEWER MANHOLE
- CLEANOUT
- ⊞ WATER METER
- ⊞ ELECTRICAL BOX
- ⊞ POWER METER
- ⊞ ELECTRICAL TRANSFORMER
- ⊞ UTILITY POLE
- ⊞ GUY WIRE
- ⊞ UTILITY STUB UP
- ⊞ UTILITY VAULT
- ⊞ AIR CONDITIONING UNIT
- ⊞ COMMUNICATION RISER
- ⊞ MISC. POST
- ⊞ GATE POST
- ⊞ GAS LINE MARKER
- ⊞ CONCRETE
- ⊞ GRAVEL
- ⊞ ASPHALT
- # ○ DECIDUOUS TREE & TRUNK SIZE
- # ○ CONIFEROUS TREE & TRUNK SIZE

- SD --- STORM LINE UNDERGROUND
- G --- GAS LINE UNDERGROUND
- E --- ELECTRICAL LINE UNDERGROUND
- OH --- OVERHEAD POWER LINE
- X --- FENCE LINE
- SDA --- STORM LINE ASBUILT DATA
- SSA --- SEWER LINE ASBUILT DATA

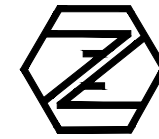
- C&G CURB & GUTTER
- CONC CONCRETE
- BDO BUILDING OVERHANG



NOTES

1. BASIS OF BEARINGS AND COORDINATE SYSTEM IS BASED ON OREGON STATE PLANE NORTH ZONE 3601, NAD83(2011), EPOCH 2010.00. ALL DISTANCES SHOWN HEREON ARE GROUND DISTANCES.
2. THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED VISIBLE EVIDENCE OF ABOVE GROUND APPURTENANCES ALONG WITH SURFACE UTILITY MARKINGS BY OTHERS. ALL UNDERGROUND UTILITIES SHOWN WERE MARKED ON THE SURFACE BY AN "OREGON ONE-CALL NOTIFICATION CENTER" REQUEST. SURVEYOR MAKES NO GUARANTEE AS TO THE ACCURACY OF SAID MARKINGS, HOWEVER, THEY ARE LOCATED AS ACCURATELY AS THEY ARE MARKED ON THE GROUND.
3. PER ORS 209.150, ANY SURVEY MONUMENT REMOVED, DISTURBED OR DESTROYED SHALL BE REPLACED BY A PROFESSIONAL LAND SURVEYOR WITHIN 90 DAYS AT THE EXPENSE OF THE PERSON OR PUBLIC AGENCY RESPONSIBLE FOR SAID REMOVAL, DISTURBANCE OR DESTRUCTION.
4. FIELD SURVEYED OCTOBER, 2023.

FFN SURVEYING



7230 3rd Street SE #145, Turner, OR 97392
P: (503) 558-3330 E: info@ffnsurveying.com

EXISTING CONDITIONS SURVEY
FOR: NATURE'S KICK CORP.

IN THE SE 1/4 OF SECTION 19, T.7S., R.2W., W.M.
CITY OF SALEM, MARION COUNTY, OREGON

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON 2017
SEPTEMBER 12, HOWELL
STEVEN 91569

RENEWS: 6-30-2025

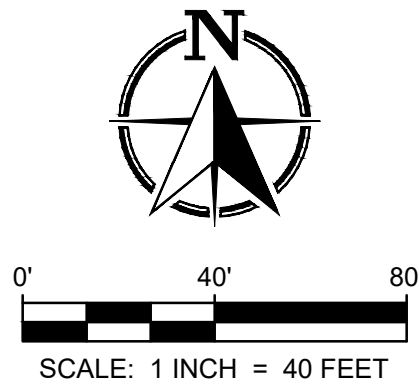
REVISIONS

NO.	DATE	DESCRIPTION
0	22NOV23	INITIAL RELEASE

JOB NO. 23-460

SHEET 1/1

Exhibit I – Proposed Site Plan



LEGEND

- FOUND MONUMENT
- SBX STORM JUNCTION BOX
- > CULVERT
- CS SANITARY SEWER MANHOLE
- CO CLEANOUT
- WM WATER METER
- EB ELECTRICAL BOX
- PM POWER METER
- TFM ELECTRICAL TRANSFORMER
- UTILITY POLE
- GUY WIRE
- UTILITY STUB UP
- UVT UTILITY VAULT
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- SDA STORM LINE ASBUILT DATA
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EXISTING CONDITIONS NOTES

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4. FIELD SURVEYED OCTOBER, 2023.

PROPOSED CONDITIONS NOTES

EXISTING BUILDING AREA: 9,861 SF
NEW BUILDING AREA: 2,472 SF
APPROXIMATE LANDSCAPING: 11,662 SF

FFN SURVEYING



7230 3rd Street SE #145, Turner, OR 97392
P: (503) 558-3330 E: info@ffnsurveying.com

PROPOSED IMPROVEMENTS
FOR: NATURE'S KICK CORP.
IN THE SE 1/4 OF SECTION 19, T.7S., R.2W., W.M.
CITY OF SALEM, MARION COUNTY, OREGON

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
SEPTEMBER 12, 2017
STEVEN J. HOWELL
91569

RENEWS: 6-30-2025

REVISIONS

NO.	DATE	DESCRIPTION
0	22NOV23	INITIAL RELEASE

JOB NO. 23-460

SHEET 1/1