

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

DECISION OF THE PLANNING ADMINISTRATOR

MODIFICATION OF CLASS 3 DESIGN REVIEW / MODIFICATION OF CLASS 3 SITE PLAN REVIEW / CLASS 2 ADJUSTMENT CASE NO. DR-SPR-ADJ17-02MOD1

APPLICATION NO. : 18-119825-DR, 18-119828-RP, 18-119829-ZO

NOTICE OF DECISION DATE: December 20, 2018

SUMMARY: A proposed modification to the approved single-story commercial building included in the approval of Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02.

REQUEST: A consolidated application consisting of:

- 1) A modification of the Class 3 Design Review and Class 3 Site Plan Review approvals of Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02 in order to modify the size, configuration, and exterior appearance of the approved single-story commercial building within the development, along with corresponding changes to the plaza area, landscaping, and parking adjacent to the building; and
- 2) A Class 2 Adjustment to allow a portion of the modified single-story commercial building to exceed the 0 ft. or 10 ft. setback abutting Court Street as required under the CB zone pursuant to SRC 524.010(b), Table 524-3.

The subject property is approximately 0.53 acres in size, zoned CB (Central Business District) within the Front Street Overlay Zone, and located at 231 Court Street NE (Marion County Assessor's Map and Tax Lot No.: 073W22DC09100)

APPLICANT: M Parkside Living, LLC (Paul Gehlar, Daphne Gehlar Schneider)

LOCATION: 231 Court Street NE / 97301

CRITERIA: Modification of Class 3 Design Review Approval: SRC 225.010(d)(2)
Modification of Class 3 Site Plan Review: SRC 220.010(d)(2)
Class 2 Adjustment: 250.005(d)(2)

FINDINGS: The facts and findings are in the attached exhibit dated December 20, 2018.

DECISION: The Planning Administrator **APPROVED** the application subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings and conditions adopted in the original approval of Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02, except as amended by this decision as follows:

NOTICE OF DECISION

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

CITY OF Salem
AT YOUR SERVICE

Class 2 Adjustment:

Condition 1: ~~The 40 off-street parking spaces located within the secure surface parking area and the ground floor parking garage of the development shall be assigned to the residential units within the development.~~

The 40 off-street parking spaces located on the subject property shall be assigned to the residential units within the development.

The rights granted by the attached decision must be exercised, or an extension granted by the following, or this approval shall be null and void:

New Expiration Periods:

- Class 3 Design Review: May 19, 2020
- Class 3 Site Plan Review: May 19, 2021
- Class 2 Adjustment: January 5, 2021

Application Deemed Complete: November 28, 2018
Notice of Decision Mailing Date: December 20, 2018
Decision Effective Date: January 5, 2019
State Mandate Date: March 28, 2019

Case Manager: Bryce Bishop, BBishop@cityofsalem.net

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **Friday, January 4, 2019, 5:00 p.m.** The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 220, 225 and 250. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

**BEFORE THE PLANNING ADMINISTRATOR
OF THE CITY OF SALEM
(CASE NO. DR-SPR-ADJ17-02MOD1)**

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

| | |
|----------------------------------------------|---------------------------|
| IN THE MATTER OF THE MODIFICATION) | FINDINGS AND ORDER |
| OF DESIGN REVIEW, SITE PLAN REVIEW,) | |
| AND ADJUSTMENT CASE NO.) | |
| DR-SPR-ADJ17-02MOD1; 231 COURT) | DECEMBER 20, 2018 |
| STREET NE) | |

REQUEST

A modification of the Class 3 Design Review and Class 3 Site Plan Review approvals of Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02 in order to modify the size, configuration, and exterior appearance of the approved single-story commercial building within the development, along with corresponding changes to the plaza area, landscaping, and parking adjacent to the building; together with a Class 2 Adjustment to allow a portion of the modified single-story commercial building to exceed the 0 ft. or 10 ft. setback abutting Court Street as required under the CB zone pursuant to SRC 524.010(b), Table 524-3.

The subject property is approximately 0.53 acres in size, zoned CB (Central Business District) within the Front Street Overlay Zone, and located at 231 Court Street NE (Marion County Assessor's Map and Tax Lot No.: 073W22DC09100).

DECISION

The requested modification of the Class 3 Design Review and Class 3 Site Plan Review approvals, and the requested Class 2 Adjustment, are **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings and conditions adopted in the original approval for Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02, except as amended by this decision as follows:

Class 2 Adjustment:

- Condition 1:** ~~The 40 off-street parking spaces located within the secure surface parking area and the ground floor parking garage of the development shall be assigned to the residential units within the development.~~
The 40 off-street parking spaces located on the subject property shall be assigned to the residential units within the development.

PROCEDURAL FINDINGS

1. An application for a modification of the approval of Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02, along with a Class 2 Adjustment, was submitted by CB Two Architects, on behalf of the applicant and property owner M Parkside Living, LLC.

Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02 proposed a mixed-use development consisting of a five-story building with 40 multiple-family residential dwelling units above ground floor non-residential space and parking, together with a separate approximate 3,307 square-foot single-story commercial building, on property located at the northeast corner of Court Street NE and Front Street NE (**Attachment A**).

2. After additional requested information was provided by the applicant, the application was deemed complete for processing on November 28, 2018, and notice was mailed, pursuant to SRC requirements, on November 29, 2018. The state-mandated 120-day local decision deadline for the application is March 28, 2019.

SUBSTANTIVE FINDINGS

1. Salem Area Comprehensive Plan (SACP)

The subject property is designated “Central Business District” on the Salem Area Comprehensive Plan map.

2. Zoning

The subject property is zoned CB (Central Business District) and is located within the Front Street Overlay Zone. The zoning of surrounding properties is as follows:

- North: CB (Central Business District) with Front Street Overlay
- South: Across Court Street NE, CB (Central Business District) with Front Street Overlay
- East: CB (Central Business District) within the Salem Downtown Historic District
- West: Across Front Street NE, CB (Central Business District)

3. Natural Features

Trees: The City’s tree preservation ordinance (SRC Chapter 808) protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet. The tree preservation ordinance defines “tree” as, “any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves.”

There are no trees located on the subject property, but there are, however, street trees located adjacent to the subject property within the rights-of-way of Court Street NE and Front Street NE. Because there are no trees located on the subject property, the tree preservation requirements of SRC Chapter 808 are not applicable to the proposed development. Removal of any trees from within the right-of-way of public streets is subject to the requirements of SRC Chapter 86 (Trees on City Owned Property).

Wetlands: According to the Salem-Keizer Local Wetlands Inventory (LWI), the subject property does not contain any mapped wetlands or waterways.

Landslide Hazards: According to the City's adopted landslide hazard susceptibility maps, the subject property does not contain any areas of mapped landslide hazard susceptibility points. Pursuant to the City's landslide hazard ordinance (SRC Chapter 810), a geologic assessment is therefore not required in conjunction with the proposed development.

4. Proposal

On May 3, 2017, approval was issued for Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02 (**Attachment B**) for the development of a proposed a mixed-use development consisting of a five-story building with 40 multiple-family residential dwelling units above ground floor non-residential space and parking, together with a separate approximate 3,307 square-foot single-story commercial building, on property located at the northeast corner of Court Street NE and Front Street NE (**Attachment A**).

The requested modification seeks to modify the size, configuration, and exterior appearance of the approved single-story commercial building within the development, along with corresponding proposed changes to the plaza area, landscaping, and parking adjacent to the building.

In addition to the proposed modification, the application also includes a Class 2 Adjustment to allow a portion of the modified single-story commercial building to exceed the 0 ft. or 10 ft. setback abutting Court Street as required under the CB zone pursuant to SRC 524.010(b), Table 524-3.

5. Applicant's Plans and Statement.

Land use applications must include a statement addressing the applicable approval criteria and be supported by proof they conform to all applicable standards and criteria of the Salem Revised Code. The plans submitted by the applicant depicting the proposed development, and in support of the proposal, are attached to this report as follows:

- Site Plan: **Attachment C**
- Building Elevations and Illustrative Rendering: **Attachment D**

The written statement provided by the applicant addressing the applicable approval criteria associated with the proposal is included as **Attachment E**.

Staff utilized the information from the applicant to evaluate the proposal and to compose the facts and findings included within this decision.

6. Neighborhood Association Comments

The subject property is located within the boundaries of the Central Area Neighborhood Development Organization (CANDO) neighborhood association. No comments were received from the neighborhood association.

7. Public Comments

Notice of the proposal was mailed to property owners and tenants within 250 feet of the subject property. No comments were received from area property owners or tenants.

8. City Department Comments

- A. The Salem Fire Department and the Building and Safety Division reviewed the proposed modification and indicated they have no objections to it.
- B. The Public Works Department reviewed the proposal and indicated that they have no comments on the application because the proposed modification to the building pad area does not have an affect on the originally approved alley way, frontage improvements, or storm facility serving the overall development.

9. Public Agency & Private Service Provider Comments.

Notice of the proposal was provided to public agencies and to public & private service providers. No comments were received from any public agencies or public and private service providers.

10. Class 3 Design Review Modification Approval Criteria.

Pursuant to SRC 225.010(a), a design review approval may be modified after its effective date if the proposed modification meets the criteria set forth in SRC 225.010(d). Proposed modifications that do not meet the applicable criteria require submittal of a new application for design review.

The original design review application approved by the Planning Commission was a Class 3 Design Review based on the applicable design review guidelines of the Front Street Overlay Zone. Pursuant to SRC 225.010(d)(2), modification of a Class 3 Design Review approval shall be granted if the following criteria are met:

- (A) *The proposed modification is not substantially inconsistent with the conditions of the original approval; and*

- (B) *The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.*

The following subsections are organized with the approval criteria shown in ***bold italic***, followed by findings evaluating the proposed modification for conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the modification, or for the issuance of certain conditions to ensure the criteria are met.

A. SRC 205.070(d)(1): *The proposed modification is not substantially inconsistent with the conditions of the original approval; and*

Finding: The original decision approving the proposed development was issued on May 3, 2017 (**Attachment B**). The Class 3 Design Review component of the application did not include any conditions of approval. Because there are no conditions of approval applicable to the design review approval this criterion is not applicable to the proposed modification.

B. SRC 205.070(d)(2): *The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.*

Finding: The written statement provided by the applicant (**Attachment E**) indicates that the proposed changes to the building design are minimal and do not change the planned uses within the structure. The applicant explains that the location and height of the proposed building does not change and that the varied building setback is limited to about half of the façade and provides future tenants increased outdoor space that will not encroach into the public way. The applicant indicates that the proposed exterior finish materials are different than the original proposal but are consistent with the multi-family structure under construction and will complement the overall development. The applicant indicates that the loss of one off-street non-required standard parking space will not change the amount of street parking that is currently available causing no change to existing conditions along Court Street. It is explained that the overall development still provides the mix of uses proposed and approved and meets all, but a single development standard in the CB zoning district; nor will it impact adjustments that were approved in the original land use approvals. Revisions to this limited area of the overall site plan will not increase demand on public services or negatively impact surrounding properties. The applicant explains that the overall development remains consistent with existing approvals with improved pedestrian benefit.

Staff concurs with the findings included in the applicant's written statement. The proposed modification reduces the size of the single-story commercial building from approximately 3,307 square feet in size to approximately 2,359 square feet; reconfigures the building's footprint and placement on the site; alters the building's exterior appearance by changing proposed exterior finish materials building entry and

window locations; and correspondingly alters the plaza area, landscaping, and parking adjacent to the building.

The proposed modification will not result in a change to the uses that will occur on the site. The original approval anticipated commercial uses within the single-story building. The proposed modifications to the building and the reduction in its size will not prevent it from being used for commercial uses as anticipated in the original decision.

The proposed modification will also not result in significant changes to impacts on surrounding properties because vehicle access points to the proposed development have not changed, the traffic generated by the proposed development will not change, and the overall building height and orientation of the building to the public right-of-way generally remain the same.

Though the exterior appearance of the building is proposed to be changed as a result of the proposed modification, the change is not of a magnitude that makes it non-compliant with the applicable design review requirements of the Front Street Overlay Zone.

The Front Street Overlay Zone establishes the following design review guidelines:

- Buildings shall be located to reinforce pedestrian orientation.
- Buildings adjacent to Front Street shall take advantage of views to Riverfront Park and the Willamette River by providing building facades with windows. Bay windows are preferred on upper floors.
- The height of the ground floor of a building shall be greater than the height of any upper floors (see Figure 633-1).
- Architectural detailing shall be provided that horizontally divides the ground floor and second floor facades of a building.
- Weather protection, in the form of awnings, canopies, or arcades appropriate to the design of the building, shall be provided along ground floor building facades adjacent to a street in order to create a comfortable and inviting pedestrian environment.
- Buildings adjacent to Front Street shall take advantage of views to Riverfront Park and the Willamette River by providing private open space for residential units on upper building floors.
- Off-street parking areas shall be located to reinforce pedestrian orientation.

Several of the above identified design review guidelines are not applicable to the proposed building because it is not located adjacent to Front Street and it is not more than one-story in height. Of the design review guidelines that are applicable to the proposed modified building, the proposal meets them by maintaining the building in a location close to Court Street, providing a larger more usable outdoor use area in front

of the western half of the building that flows into the courtyard between the two buildings, maintaining weather protection in the form of canopies along the building's façade adjacent to Court Street, and maintaining the location of the proposed parking area behind the building.

As indicated in the applicant's written statement, the proposed modification to the building also includes a change of materials used in the building's front façade facing Court Street. The majority of the front façade of the building under the original approval included brick, with a small area of horizontal metal siding. Under the proposed modification, the front façade of the building facing Court Street is proposed to consist of vertical metal siding with no brick. Though materials utilized in the façade of the building are proposed to be changed, there isn't a standard within the CB zone or a design review guideline within the Front Street Overlay Zone which regulates the types of materials that may be used in the façade of a building. As such there is no applicable standard which would preclude the change of materials from brick to metal.

Because the proposed modification does not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties, the proposed development meets this approval criterion.

11. Class 3 Site Plan Review Modification Approval Criteria.

Pursuant to SRC 220.010(a), a site plan review approval may be modified after its effective date if the proposed modification meets the criteria set forth in SRC 220.010(d)(2). Proposed modifications that do not meet the applicable criteria require submittal of a new application for site plan review.

The original site plan review application approved by the Planning Commission was a Class 3 Site Plan Review. Pursuant to SRC 220.010(d)(2), modification of a Class 3 Design Review approval shall be granted if the following criteria are met:

- (A) *The proposed modification is not substantially inconsistent with the conditions of the original approval; and*
- (B) *The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.*

The following subsections are organized with the approval criteria shown in ***bold italic***, followed by findings evaluating the proposed modification for conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the modification.

A. SRC 205.070(d)(1): *The proposed modification is not substantially inconsistent with the conditions of the original approval; and*

Finding: The original decision approving the proposed development was issued on May 3, 2017 (**Attachment B**). The Class 3 Site Plan Review component of the

application included three conditions of approval and the Class 2 Adjustment component of the application included one condition of approval. The conditions associated within the Class 3 Site Plan Review approval required the trash recycling area serving the development to conform to the standards of SRC 800.055 and the applicant to obtain a revocable permit to allow the proposed balconies of the apartments to encroach into the right-of-way and replace existing public sidewalks and curb ramps that do not meet the Public Works Design Standards and close all unused driveways. The condition of approval associated with the Class 2 Adjustment required the 40 off-street parking spaces located within the secure surface parking area and the ground floor parking garage of the development to be assigned to the residential uses within the development.

The proposed modification to the single-story commercial building, and the landscaping and parking around it, does not affect the development's conformance with the conditions of approval of the site plan review approval. The modification does, however, affect conformance with the condition of approval of the Class 2 Adjustment concerning the assignment of parking spaces because, as shown on the proposed site plan, one of the two off-street parking spaces originally proposed behind the single-story commercial building is proposed for removal and the remaining parking space is now required to meet the minimum off-street parking requirement for the multi-family portion of the development.

Because not only the parking spaces located within the secure surface parking area and the ground floor parking garage of the development, but also now the remaining parking space located behind the single-story commercial building, are needed to satisfy the minimum 40-space off-street parking requirement for the proposed multiple family portion of the development, Condition 1 of the Class 2 Adjustment approval shall be modified as follows:

Condition 1: ~~The 40 off-street parking spaces located within the secure surface parking area and the ground floor parking garage of the development shall be assigned to the residential units within the development.~~
The 40 off-street parking spaces located on the subject property shall be assigned to the residential units within the development.

As evidenced by the findings above, only one of the original conditions of approval are in need of revision in connection with the proposed modification. The revision to the condition is necessary to ensure that the minimum off-street parking requirements for the proposed development are met. Because the remaining applicable original conditions of approval will continue to apply, and because the proposed revision to the identified condition of approval is substantially consistent with the original condition, the proposed modification is not substantially inconsistent with the conditions of the original approval. The proposed modification meets this approval criterion.

B. SRC 205.070(d)(2): *The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.*

Finding: The written statement provided by the applicant (**Attachment E**) indicates that the proposed changes to the building design are minimal and do not change the planned uses within the structure. The applicant explains that the location and height of the proposed building does not change and that the varied building setback is limited to about half of the façade and provides future tenants increased outdoor space that will not encroach into the public way. The applicant indicates that the proposed exterior finish materials are different than the original proposal but are consistent with the multi-family structure under construction and will complement the overall development. The applicant indicates that the loss of one off-street non-required standard parking space will not change the amount of street parking that is currently available causing no change to existing conditions along Court Street. It is explained that the overall development still provides the mix of uses proposed and approved and meets all, but a single development standard in the CB zoning district; nor will it impact adjustments that were approved in the original land use approvals. Revisions to this limited area of the overall site plan will not increase demand on public services or negatively impact surrounding properties. The applicant explains that the overall development remains consistent with existing approvals with improved pedestrian benefit.

Staff concurs with the applicant's written statement. As with the findings demonstrating the requested Class 3 Design Review modification's conformance with the modification approval criteria, the requested Class 3 Site Plan Review modification conforms to the modification approval criteria for the same reasons.

The proposed modification will not result in a change to the uses that will occur on the site. The original approval anticipated commercial uses within the single-story building. The proposed modifications to the building and the reduction in its size will not prevent it from being used for commercial uses as anticipated in the original decision.

The proposed modification will also not result in significant changes to impacts on surrounding properties because vehicle access points to the proposed development have not changed, the traffic generated by the proposed development will not change, and the overall building height and orientation of the building to the public right-of-way generally remain the same.

Though the exterior appearance of the building is proposed to be changed as a result of the proposed modification, the change is not of a magnitude that makes it non-compliant with the applicable design review requirements of the Front Street Overlay Zone.

As indicated in the applicant's written statement, the proposed modification to the building also includes a change of materials used in the building's front façade facing Court Street. The majority of the front façade of the building under the original approval

included brick, with a small area of horizontal metal siding. Under the proposed modification, the front façade of the building facing Court Street is proposed to consist of vertical metal siding with no brick. Though materials utilized in the façade of the building are proposed to be changed, there isn't a standard within the CB zone or a design review guideline within the Front Street Overlay Zone which regulates the types of materials that may be used in the façade of a building. As such there is no applicable standard which would preclude the change of materials from brick to metal.

Because the proposed modification does not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties, the proposed development meets this approval criterion.

12. Class 2 Adjustment Approval Criteria.

Salem Revised Code (SRC) 250.005(d)(2) sets forth the following criteria that must be met before approval can be granted to an application for a Class 2 Adjustment. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposed development's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the Class 2 Adjustment application, or for the issuance of certain conditions to ensure the 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.***

Finding: In conjunction with the modification requests to the Class 3 Design Review and Class 3 Site Plan Review approvals, the applicant has also requested an adjustment to allow the proposed modified single-story commercial building to exceed the 0 ft. or 10 ft. setback required abutting a street within the CB (Central Business District) zone per SRC 524.010(b), Table 524-3.

The written statement provided by the applicant (**Attachment E**) indicates that since the original land use approval the layout of the proposed building has changed and that this change has triggered the need for an adjustment to the required CB zone setback standard.

The applicant explains that the 0 ft. or 10 ft. building setback standard for buildings abutting streets limits building design and reduces the ability for building articulation and façade texture. The applicant indicates that the proposed modification shows an alternate design that has about 50% of the retail building's street facing façade at the property line with the other 50% having a varying setback that ranges from 2 to 11 feet where the tenant space entries are located and where space is provided for outdoor seating that is within the development site as.

The applicant explains that recessed entries are required by code to allow for door swings that do not encroach into the pedestrian path and are excluded from the

standard as a result, the revised design allows the building to provide a single recess for a more efficient design. The angled recess opens the retail building up to the multi-family structure that shares its site and provides greater ability for pedestrian interaction with the developments larger plaza area. Additionally, the applicant indicates that the proposed design permits more covered outdoor seating adjacent to the sidewalk which adds a pedestrian benefit consistent with the goals of the Front Street Overlay. The applicant explains that the alternate design allows for a more interesting façade, increased outdoor use areas, and additional landscaping for the development site which has added benefit to the surrounding area. The applicant indicates that the proposal meets the overall intent of the development standards and the goals of the overlay while maintaining the feel and uses of the previous approvals.

Staff concurs with the findings included in the applicant's written statement. The underlying purpose of the required 0-foot or 10-foot building setback abutting a street within the CB zone is to promote an urban, pedestrian-oriented development pattern where the public right-of-way is framed and enclosed by buildings rather than large setbacks and parking. Where a building is not placed contiguous to a property line abutting a street, the CB zone requires it to be setback 10 feet with the intent of the 10-foot setback area being utilized for outdoor open space/plaza area, seating, or similar uses.

With the proposed modified design of the single-story commercial building, roughly fifty percent of the building's Court Street facing façade is located contiguous to the property line abutting Court Street, and the remaining 50 percent of the façade, as measured on the site plan, is setback between approximately four feet to 12 feet from the property line abutting Court Street.

The four-foot to 12-foot setback proposed for the building's western façade equally meets the underlying purpose of the required 0-foot or 10-foot CB zone setback abutting a street because it is limited to only a portion of the proposed building and the degree of setback deviation beyond the required 0 feet or 10 feet is limited, thereby ensuring the building is still located within close proximity to the street to promote the intended urban aesthetic. The proposed setback also, as the applicant indicates, allows for more covered outdoor seating adjacent to the sidewalk that is better designed to integrate with the shared courtyard/open space area between the buildings.

Because the proposed building setback equally meets the underlying purpose of the standard. This criterion is met.

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

Finding: The written statement provided by the applicant (**Attachment E**) indicates that the revisions to the proposed building layout and the proposed offset setback for a portion of the buildings street façade will have no impact to existing or future uses or developments in the area. The applicant explains that the change is minimal and provides a larger patio space adjacent to the public sidewalk and the development site's

multi-family structure providing improvements to the overall development plan. The applicant indicates that the juxtaposition of the building with the public sidewalk provides improved pedestrian experience with added visual interest and better visibility to the intersection of Court and Front Streets which is also desired. It is explained that the majority of the site maintains building facades that are adjacent to the property line along Court Street.

Staff concurs with the findings included in the applicant's written statement. The proposed revisions to the building layout and the offset setback will not impact existing or future uses or detract from the livability or appearance of the area. However, because the subject property is zoned CB (Central Business District) with Front Street Overlay and is located in the downtown, the subject property is not located within a residential zone or a residential area. This approval criterion is therefore not applicable to the proposed development.

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

Finding: Pursuant to SRC 524.001, the CB (Central Business District) zone serves Salem and the region as a principal center of business and commerce and allows a compact arrangement of retail and commercial enterprises together with office, financial, cultural, entertainment, governmental, and residential uses designed and situated to afford convenient access by pedestrians. The Front Street Overlay Zone furthers the purposes of the CB zone by promoting an active and inviting urban and pedestrian-oriented district within the core of the downtown that takes advantage of its proximity to Riverfront Park and the Willamette River.

The original application included an adjustment to four standards. The additional adjustment requested as part of this application brings to total number of adjusted standards to five.

Though a total of five adjustments have been requested in conjunction with the proposed development, the adjustments do not cumulatively result in a project that is inconsistent with the overall purposes of the CB zone or the Front Street Overlay Zone.

The requested adjustment is the minimum necessary and will provide a consistent and cohesive development that will benefit the downtown area and provide an improved pedestrian environment along Court Street. The proposed adjustment conforms to this approval criterion.

13. Effect on Expiration Period of Original Approval:

The final decision on Class 3 Design Review/Class 3 Site Plan Review/Class 2 Adjustment Case No. DR-SPR-ADJ17-02 was issued on May 3, 2017. Pursuant to SRC 300.850, Table 300-3, the various components of the original application are set to expire on the following dates:

Original Expiration Periods:

- Class 3 Design Review: May 19, 2019
- Class 3 Site Plan Review: May 19, 2021
- Class 2 Adjustment: May 19, 2019

Pursuant to SRC 225.010(e) and SRC 220.010(e), when a class 3 design review or class 3 site plan review decision is modified, the effect of the modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

Because the five-story multi-family portion of the development has received building permit approval, the project has commenced, and it is nearing completion, the original Class 2 Adjustment application needed for that portion of the development is vested.

Because the single-story portion of the proposed development has not yet commenced, the original Class 3 Design Review and Class 3 Site Plan Review approvals are still set to expire on the dates identified above for that portion of the proposed development.

Because building permits for this remaining portion of the development have been submitted, but have not yet been approved, and because there is only approximately five months remaining until the approval of the Class 3 Design Review expires, but nearly 2.5 years until the approval of the Class 3 Site Plan review expires, the expiration date of the Class 3 Design Review approval is hereby extended by one-year. As such, the expiration dates for the modified Class 3 Design Review and Class 3 Site Plan Review approvals and the new Class 2 Adjustment are as follows:

New Expiration Periods:

- Class 3 Design Review: May 19, 2020
- Class 3 Site Plan Review: May 19, 2021
- Class 2 Adjustment: January 5, 2021

IT IS HEREBY ORDERED

The requested modification of the Class 3 Design Review and Class 3 Site Plan Review approvals of Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02 and the Class 2 Adjustment to allow a portion of the modified single-story commercial building to exceed the 0 ft. or 10 ft. setback abutting Court Street as required under the CB zone pursuant to SRC 524.010(b), Table 524-3; affecting property approximately 0.53 acres in size, zoned CB (Central Business District) within the Front Street Overlay Zone, and located at 231 Court Street NE (Marion County Assessor's Map and Tax Lot No.: 073W22DC09100), is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings and conditions adopted in the original approval of Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02, except as amended by this decision as follows:

Class 2 Adjustment:

Condition 1: ~~The 40 off-street parking spaces located within the secure surface parking area and the ground floor parking garage of the development shall be assigned to the residential units within the development.~~
The 40 off-street parking spaces located on the subject property shall be assigned to the residential units within the development.



Bryce Bishop, Planner II
Planning Administrator Designee

- Attachments:
- A. Vicinity Map
 - B. Decision Approving Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case No. DR-SPR-ADJ17-02
 - C. Modified Site Plan
 - D. Modified Building Elevations and Illustrative Rendering
 - E. Applicant's Written Statement

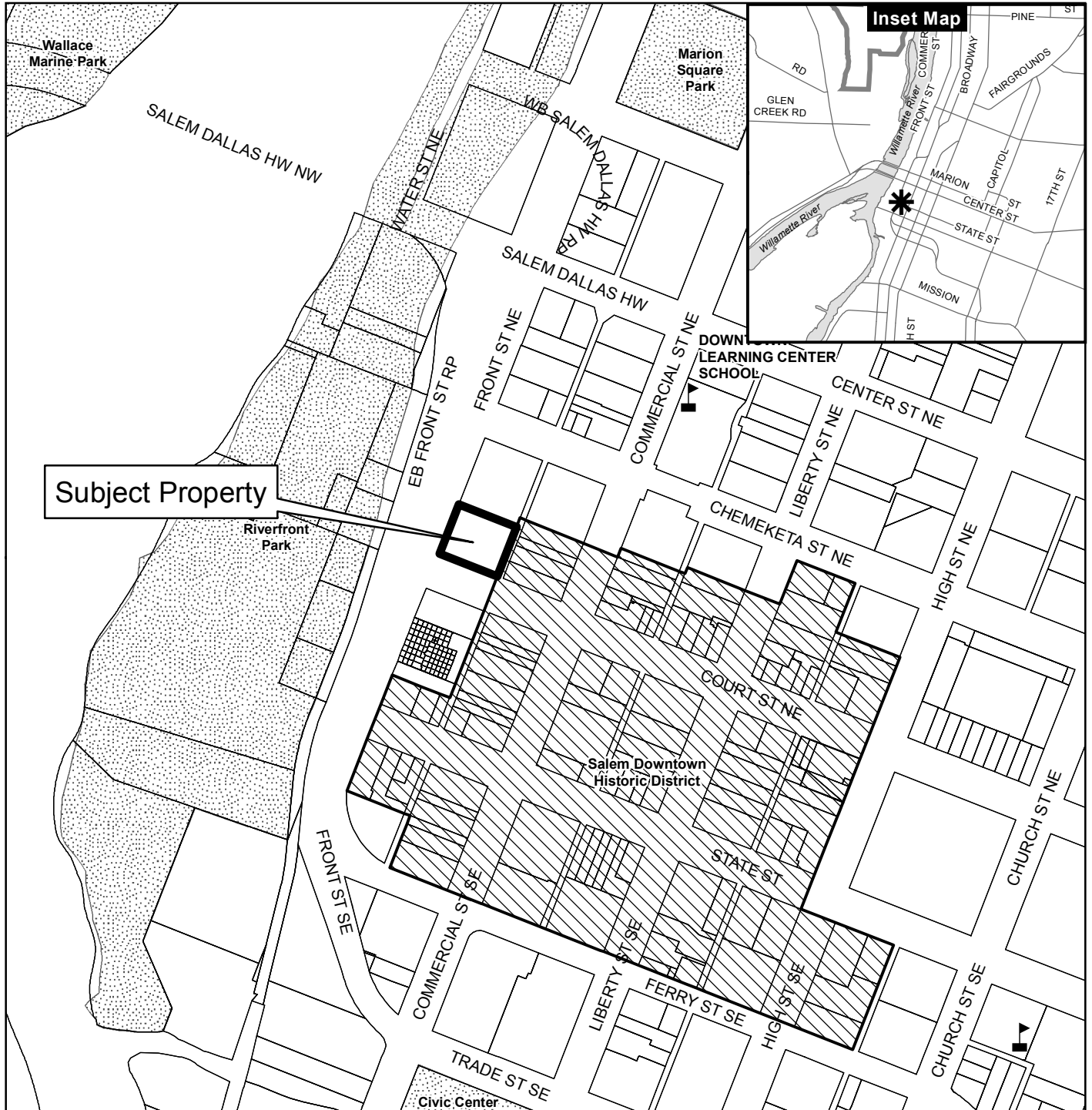
Application Deemed Complete: November 28, 2018
Notice of Decision Mailing Date: December 20, 2018
Decision Effective Date: January 5, 2019
State Mandated Decision Date: March 28, 2019

A copy of the complete Case File is available for review during regular business hours at the Planning Division office, 555 Liberty Street SE, Room 305, Salem OR 97301.








This decision is final unless written appeal from a party with standing to appeal, along with an appeal fee, is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem, Oregon 97301, no later than **Friday, January 4, 2019, 5:00 p.m.** The notice of appeal must contain the information required by SRC 300.1020. The notice of appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the notice of appeal is untimely and/or lacks the proper fee, the notice of appeal will be rejected. The Salem Planning Commission will review the appeal at a public hearing. The Planning Commission may amend, rescind, or affirm the action or refer the matter to staff for additional information.

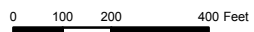
cc: Alan Kessler, GIS

Vicinity Map 231 Court Street NE



Legend

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



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*Si necesita ayuda para comprender esta informacion,
503-588-6173*

DECISION OF THE PLANNING COMMISSION

**Class 3 Design Review / Class 3 Site Plan Review / Class 2 Adjustment Case
No. DR-SPR-ADJ17-02**

APPLICATION NO. : 16-117414-DR, 16-117416-RP & 16-117418-ZO

NOTICE OF DECISION DATE: May 3, 2017

REQUEST: A consolidated application for a proposed mixed-use development consisting of a five-story building with 40 multiple-family residential dwelling units above ground floor commercial space and parking, together with an approximate 3,307 square-foot single-story commercial retail building, on property approximately 0.53 acres in size and located at 245 Court Street NE.

The application includes the following:

- 1) A Class 3 Design Review and Class 3 Site Plan review for the proposed development; and
- 2) A Class 2 Adjustment to:
 - a) Eliminate the minimum 6-foot to 10-foot parking and vehicle use area setback required, pursuant to SRC 806.035(c)(5), between the ground-floor parking garage of the five-story building and Front Street NE;
 - b) Eliminate the minimum 5-foot parking and vehicle use area setback required, pursuant to SRC 806.035(c)(3), between the proposed surface parking lot and the northern property line;
 - c) Reduce the minimum 5-foot-wide landscape strip required, pursuant to SRC 806.035(c)(4), between the proposed surface parking lot and open parking garage near the north property line; and
 - d) Allow the proposed surface parking lot and ground floor garage parking serving the proposed multiple family residential dwelling units to be developed without a turnaround as required under SRC 806.040(a).

The subject property is zoned CB (Central Business District) within the Front Street Overlay Zone and is located at 245 Court Street NE (Marion County Assessor Map and Tax Lot Number: 073W22DC09100).

APPLICANT: M Parkside Living LLC, (PDQ Investments LLC, Paul Gehlar, Daphne Schneider)

LOCATION: 245 Court Street NE / 97301

CRITERIA: Class 3 Design Review: 225.005(e)(2)
Class 3 Site Plan Review: 220.005(f)(3)
Class 2 Adjustment: 250.005(d)(2)

FINDINGS: The facts and findings are in the attached Exhibit dated May 3, 2017.

NOTICE OF DECISION

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



DECISION:

The Planning Commission **APPROVED** Class 3 Design Review, Class 3 Site Plan Review, and Class 2 Adjustment Case No. DR-SPR-ADJ17-02 subject to the following conditions of approval:

CLASS 3 SITE PLAN REVIEW

- Condition 1:** The trash/recycling area shall conform to the solid waste service area standards of SRC 800.055.
- Condition 2:** Obtain a revocable permit for the proposed balconies on Court Street NE and Front Street NE to encroach into the right-of-way.
- Condition 3:** Along all street frontages, the applicant shall replace the existing public sidewalks and curb ramps that do not meet the Public Works Design Standards and close all unused driveways.

CLASS 2 ADJUSTMENT

- Condition 1:** The 40 off-street parking spaces located within the secure surface parking area and the ground floor parking garage of the development shall be assigned to the residential units within the development.

VOTE:

Yes 8 No 0 Absent 1 (Blasi) Abstention 0



Rich Fry, President
Salem Planning Commission

The rights granted by the attached decision must be exercised, or an extension granted, as follows or this approval shall be null and void:

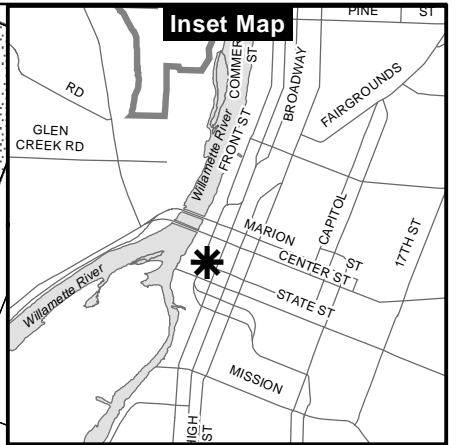
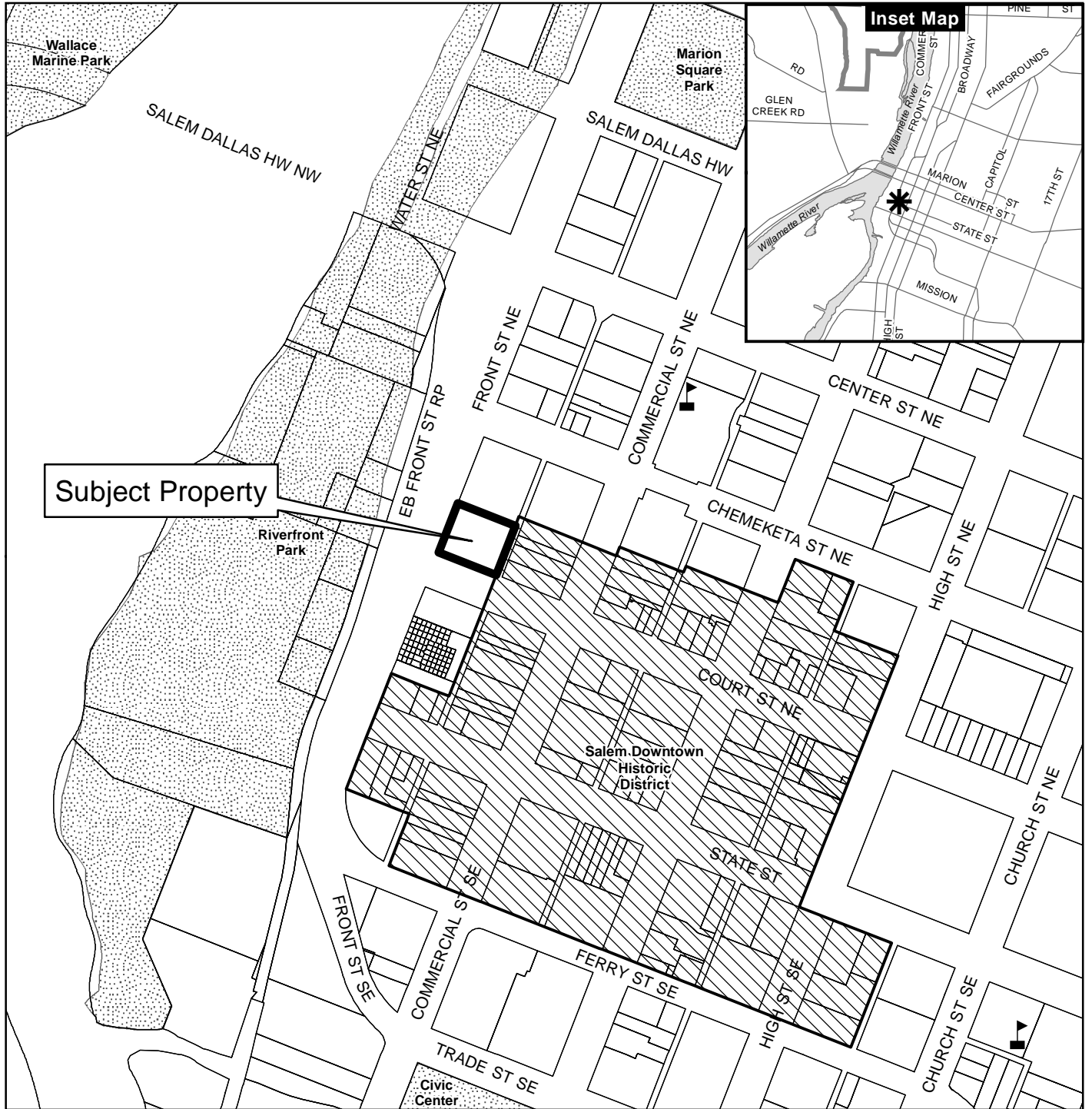
| | |
|----------------------------------|-----------------------|
| Class 3 Design Review | <u>May 19, 2019</u> |
| Class 3 Site Plan Review | <u>May 19, 2021</u> |
| Class 2 Adjustment | <u>May 19, 2019</u> |
| Application Deemed Complete: | <u>April 3, 2017</u> |
| Public Hearing Date: | <u>May 2, 2017</u> |
| Notice of Decision Mailing Date: | <u>May 3, 2017</u> |
| Decision Effective Date: | <u>May 19, 2017</u> |
| State Mandate Date: | <u>August 1, 2017</u> |

Case Manager: Bryce Bishop, bbishop@cityofsalem.net *B.B.*

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., May 18, 2017**. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the applicable provisions of the code. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.








The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

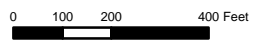
Vicinity Map 245 Court Street NE



Subject Property

Legend

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



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ATTACHMENT C



PERMIT SET

CB Two
ARCHITECTS
A LIMITED LIABILITY COMPANY
500 Liberty Street SE, Suite 100 / Salem, Oregon
Ph: 503.480.8700 / Fx: 503.480.8701

COURT STREET -
RETAIL
COURT STREET NE SALEM OREGON

Issue: PERMIT SET

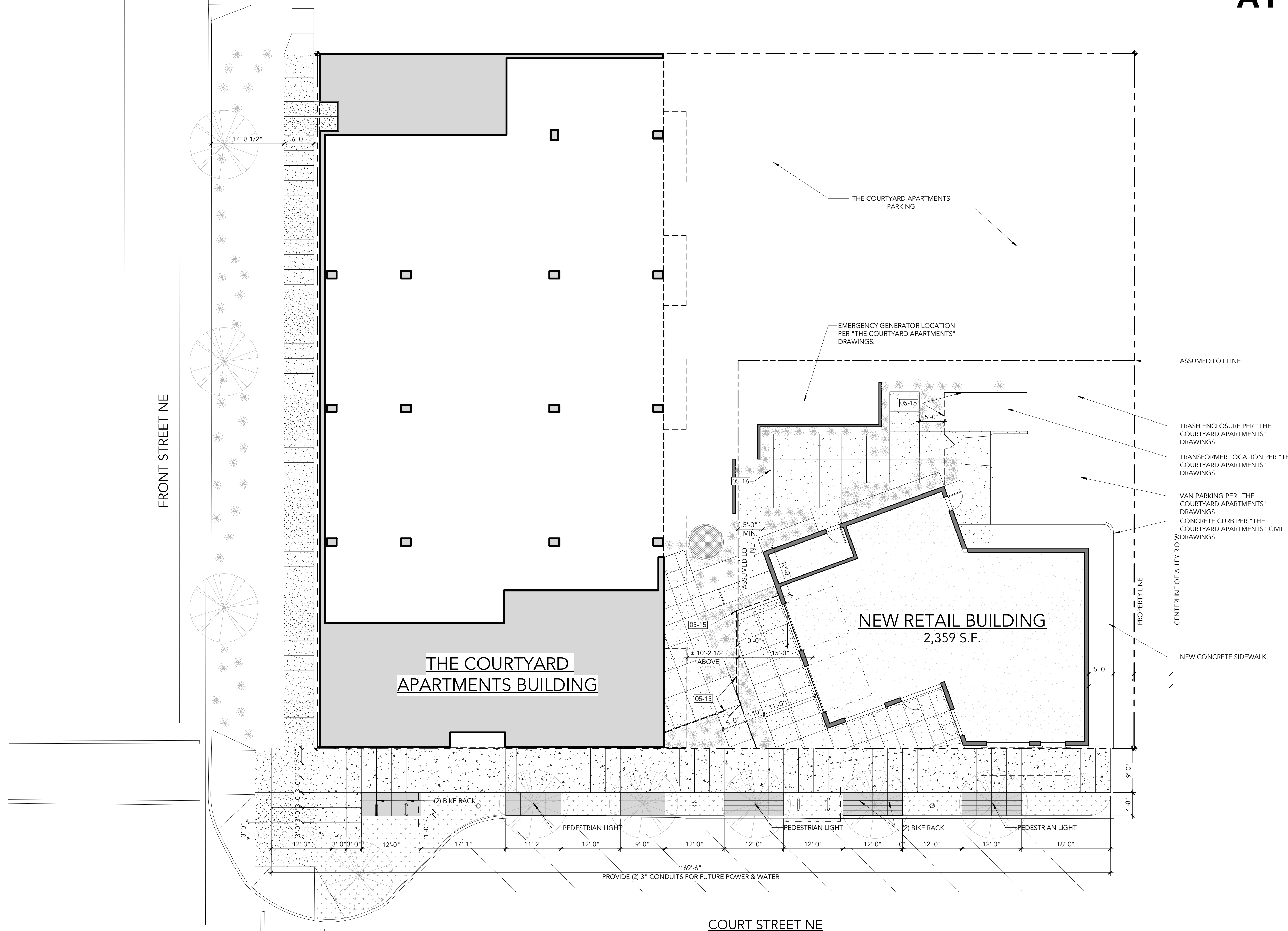
Date: 11.22.2017

Rev: Description: Date:

| Rev: | Description: | Date: |
|------|--------------|-------|
| | | |
| | | |
| | | |

S8.33

10/2/2018 2:28:03 PM



STREETScape SITE PLAN Copy 1
SCALE: 1" = 10'-0"



PERMIT SET

CB Two
ARCHITECTS
A LIMITED LIABILITY COMPANY
500 Liberty Street SE, Suite 100 / Salem, Oregon 97302
Ph: 503-480-8700 / Fx: 503-480-8701

COURT STREET - RETAIL
COURT STREET NE SALEM OREGON

| | | |
|--------|--------------------|--|
| Issue: | PERMIT SET | |
| Date: | 11.22.2017 | |
| Rev: | Description: Date: | |
| | | |
| | | |
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| | | |

EXTERIOR ELEVATIONS

A3.00

11/27/2017 3:16:23 PM

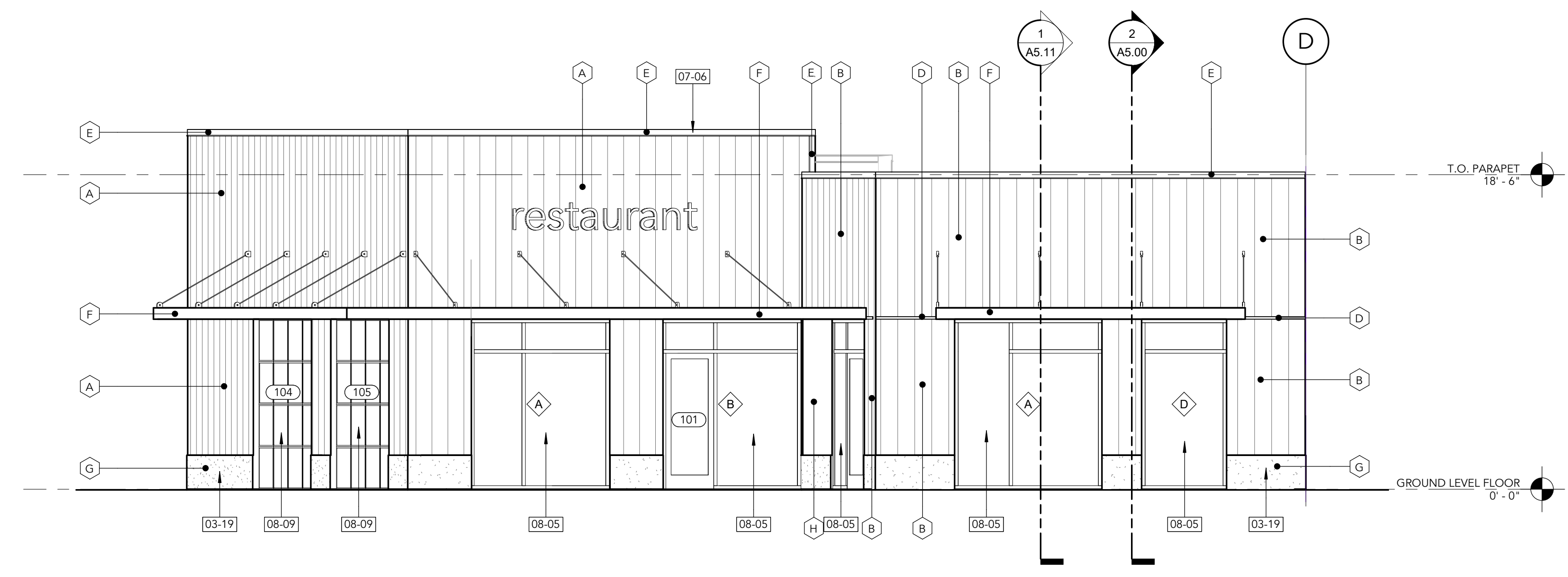
EXTERIOR ELEVATION G ATTACHMENT D

1. THERE IS NO SIDING MATERIAL OR PAINT COLOR OF THE BUILDING.
2. ALL COLOR & MATERIAL CHANGES OCCUR ON

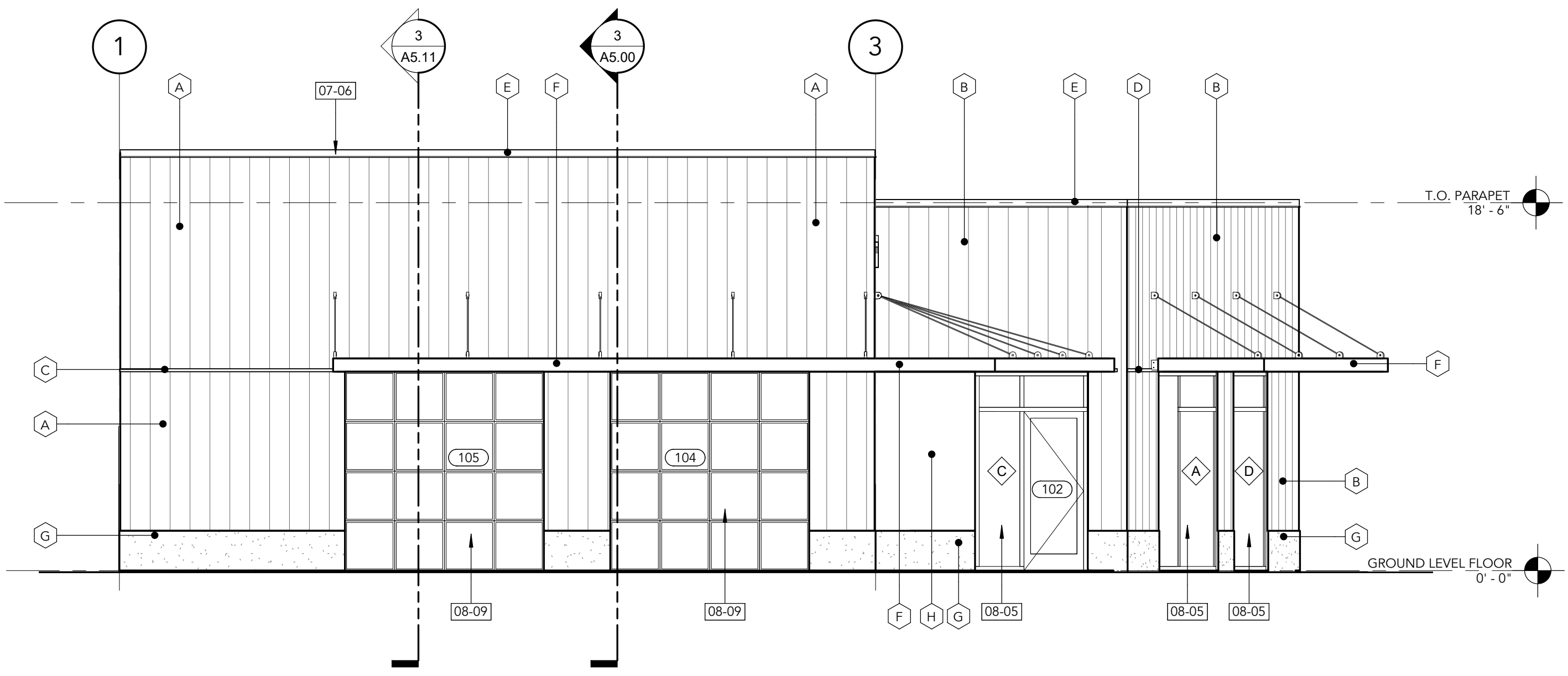
| KEYNOTE | |
|---------|-------------------------------------------------------------|
| 03-19 | CONCRETE STEM WALL, REFER TO STRUCTURAL DRAWINGS. |
| 07-06 | PRE-FINISHED CONTINUOUS METAL PARAPET CAP |
| 07-08 | PRE-FINISHED METAL SCUPPER AND DOWNSPOUT |
| 08-05 | EXTERIOR STOREFRONT WINDOW SYSTEM, REFER TO WINDOW SCHEDULE |
| 08-09 | GLASS OVERHEAD DOOR PER SCHEDULE |

EXTERIOR ELEVATION COLOR & FINISH LEGEND

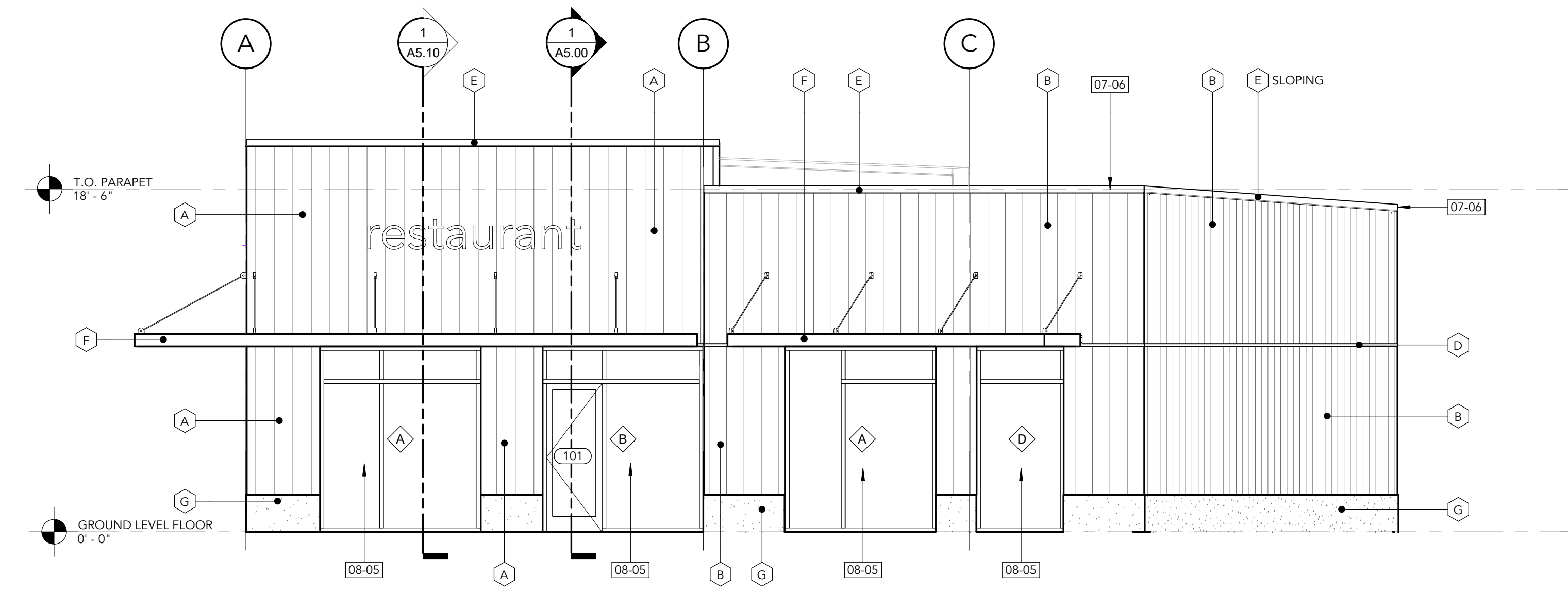
- A MATERIAL: PRE-FINISHED METAL VERTICAL SIDING
COLOR: 2 (ORANGE)
- B MATERIAL: PRE-FINISHED METAL VERTICAL SIDING
COLOR: 3 (DARK GRAY)
- C MATERIAL: PRE-FINISHED METAL SIDING TRIM
COLOR: (SAME AS 'B') (ORANGE)
- D MATERIAL: PRE-FINISHED METAL SIDING TRIM
COLOR: (SAME AS 'C') (DARK GRAY)
- E MATERIAL: PRE-FINISHED METAL PARAPET CAP
COLOR: TBD
- F MATERIAL: PRE-MANUF. ROOF CANOPY
COLOR: -
- G MATERIAL: CONCRETE STEM WALL,
COLOR: -
- H MATERIAL: WOOD PANEL SIDING
COLOR: -



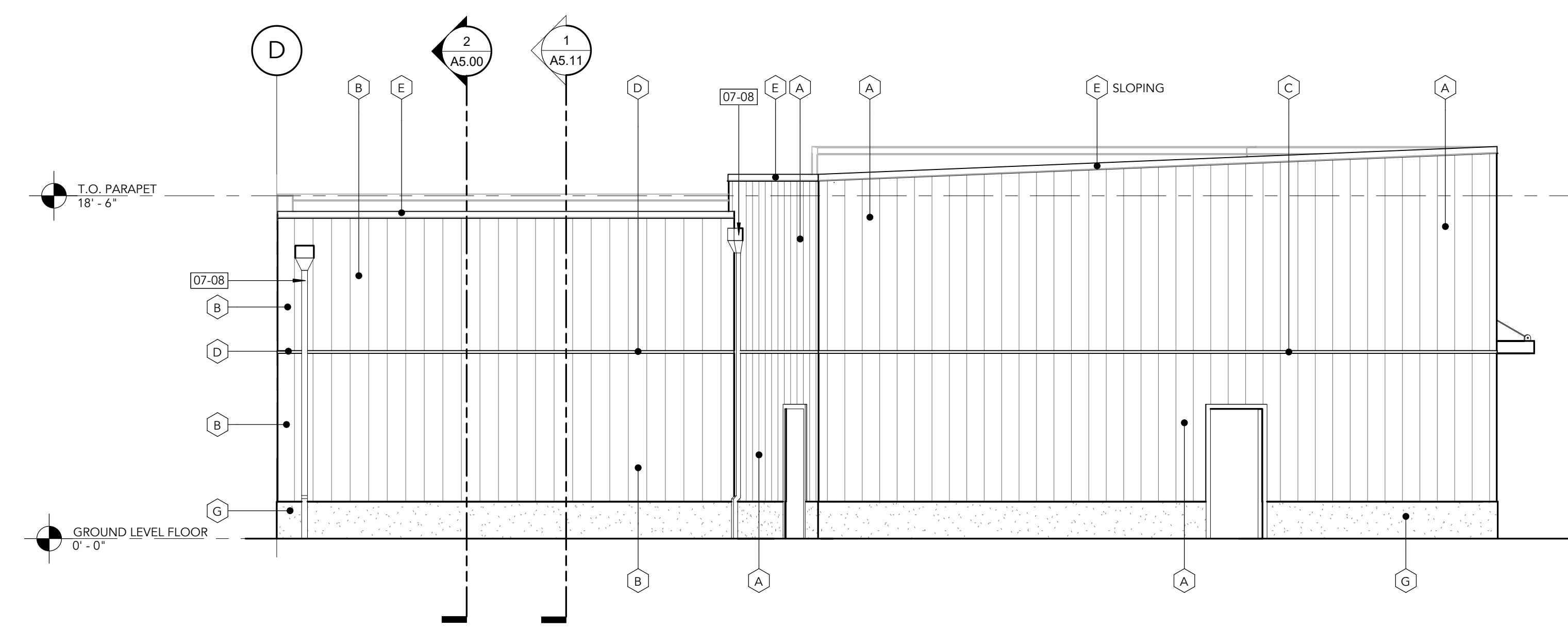
1 SOUTH ELEVATION
SCALE: 3/16" = 1'-0"



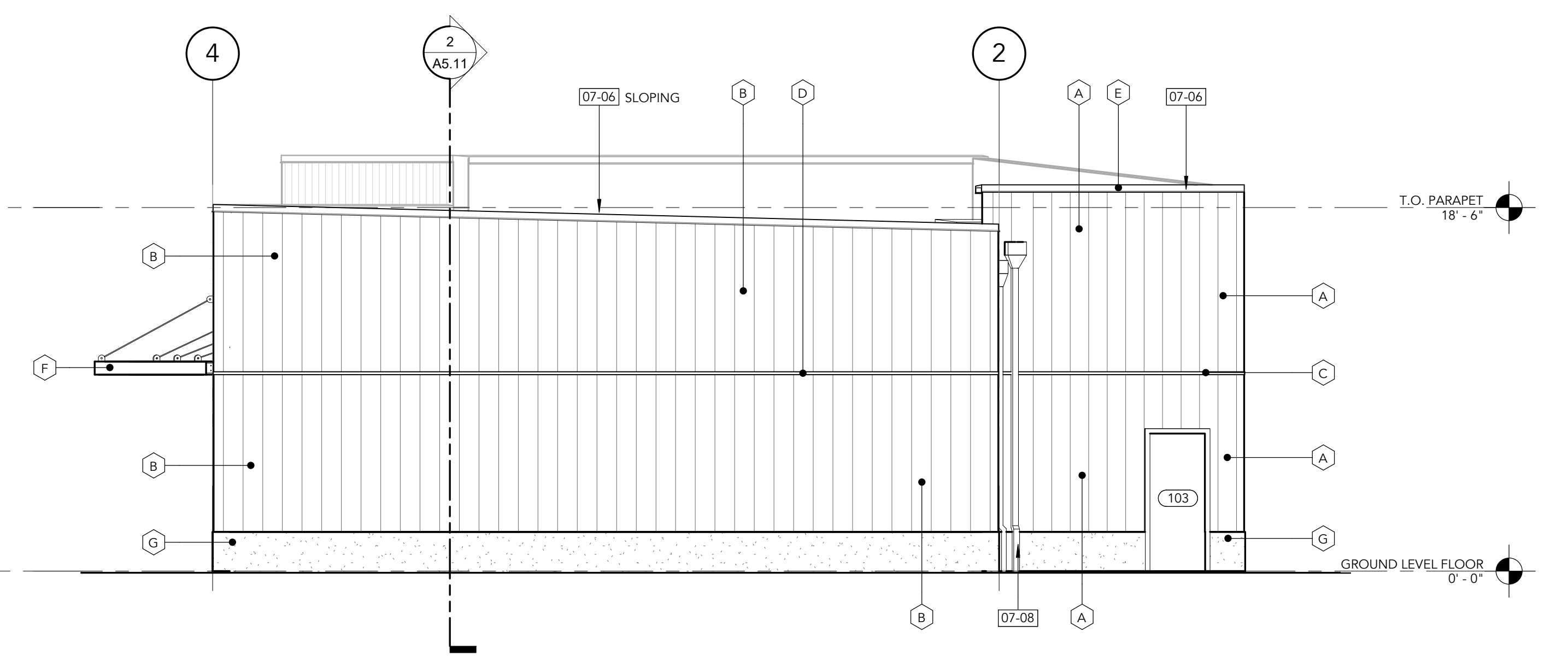
3 WEST ELEVATION
SCALE: 3/16" = 1'-0"



2 SOUTHEAST ELEVATION
SCALE: 3/16" = 1'-0"



4 NORTH ELEVATION - BUILDING A
SCALE: 3/16" = 1'-0"



5 EAST ELEVATION
SCALE: 3/16" = 1'-0"





September 26, 2018

Bryce Bishop
Community Development Division
City of Salem
555 Liberty Street SE, Room 305
Salem, OR 97301

Re: Request for a Modification to 16-117416, 16-117414-DR and approval of an Adjustment Request.

CB Two Architects representative for M Parkside Living, LLC, owner and developer of the property located at the northeast corner of Court Street NE and Front Street NE, respectfully requests a modification to 16-117416-RP, 16-117414-DR, and an adjustment request to the building setback standards in the CB Zone for the proposed retail building. The requested modification and adjustment are triggered by changes to the building footprint for the retail building that was approved as part of the aforementioned land use approvals.

As noted, changes have been made to the proposed retail building being developed as a separate construction phase of the overall site which includes a multi-floor multi-family apartment with associated parking and landscaping which is currently under construction. The latest design for the retail building shows a smaller structure of 2,359 square feet down from the approved 3,307 square feet, with a modified building footprint. Exterior materials are different than initially anticipated but will complement and are consistent to the apartment building being built to the west of this proposed retail structure. The building footprint shows the western half of the building is angled rather than maintaining a flat front façade for the entirety of the south elevation. This new design breaks up the building façade, provides visual interest, increases visibility from Front Street NE, and provides additional outdoor use areas. This change is minimal; however, will impact the developments ability to meet the building facades street setback standard for the portion of the building that is not abutting or 10' from the property line, as a result there is now the need for an adjustment to that single development standard. Changes to the site plan are limited to the retail structure and outdoor use areas immediately surrounding it, these changes include increased useable outdoor space, landscaping and loss of a non-required standard parking space accessed directly from the alley.

CLASS 1 MODIFICATION TO APPROVED CLASS 3 SITE PLAN REVIEW

Salem Revised Code (SRC) allows for the modification of an approved site plan if the proposed changes are able to meet applicable criteria. We are requesting a modification to a Class 3 site plan approval which is a Type 1 procedure under SRC chapter 300. Modification to a Class 3 site plan review approval shall be granted if all of the following criteria are met:

- (A) The proposed modification is not substantially inconsistent with the conditions of the original approval; and

Justification -

The proposed changes are not substantially inconsistent with the conditions of the original approval. The revised building layout and loss of a single non-required off-street parking space will not change how the site is being developed or its function. The reduced building foot print provides the development more useable outdoor area and increased landscaping. Reduction of a single non-required off-street parking space will not impact the development or surrounding properties. The building location and height does not change. Anticipated uses within the building, access, site servicing and the overall design remain the same as the original approval.

- (B) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impact on surrounding properties.

Justification –

Proposed changes to the building design are minimal and do not change the planned uses within the structure. As indicated above, the location and height of the proposed building does not change. The varied building setback is limited to about half of the façade and provides future tenants increased outdoor space that will not encroach into the public way. Proposed exterior finish materials are different than the original proposal but are consistent with the multi-family structure under construction and will complement the overall development. The loss of one off-street non-required standard parking space will not change the amount of street parking that is currently available causing no change to existing conditions along Court. The overall development still provides the mix of uses proposed and approved and meets all, but a single development standard in the CB zoning district; nor will it impact adjustments that were approved in the original land use approvals. Revisions to this limited area of the overall site plan will not increase demand on public services or negatively impact surrounding properties. The overall development remains consistent with existing approvals with improved pedestrian benefit.

The following information along with submitted drawings confirms that the proposed project meets all development standards found in the Salem Revised Code (SRC) Chapter 524 – CB Central Business District, with the exception of a single building setback standard. Revisions to the approved site plan are limited to changes to the retail building size and layout and the removal of one non-required off-street parking space are limited and will not impact the multi-family portion of the development which is currently under construction.

- Applicable standards of the UDC.

LOT STANDARDS

| Requirement | Standard | Project Information |
|-----------------------------------|-------------|-----------------------------------------------------------------------------------|
| LOT AREA | | |
| All Uses | None | .53 acres |
| LOT WIDTH | | |
| All Uses | None | Approx. 165' |
| LOT DEPTH | | |
| All Uses other than Single Family | Min. 16 ft. | Approx. 140' |
| STREET FRONTAGE | | |
| All Uses | None | The retail building is located on Court Street which has frontage of approx. 140' |

SETBACKS

| Requirement | Standard | Project Information |
|------------------------|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ABUTTING STREET | | |
| Buildings | | |
| All uses | 0 ft. or 10 ft. | Retail has a 0 ft. setback for approx. 25 feet of the 51 plus street facade; the remainder of street façade has a varied setback that ranges from approx. 2 ft. to approx. 11 ft. triggering the adjustment request. The multi-family building remains at a 0 ft. setback |

| | | |
|--------------------------------------|------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Accessory Structures | | |
| Accessory to Residential Uses | None for structures not more than 4 ft. in height. | |
| | 0 ft. or 10 ft. for accessory structures greater than 4 ft. in height. | N/A |
| Accessory to all nonresidential uses | 0 ft. or 10 ft. | N/A |
| Vehicle Use Areas | | |
| All Uses | 10 ft. | Parking is not required for the retail use. Parking for the multi-family parking remains as approved. A single ADA space is located off the alley also tucked behind the retail building. |
| INTERIOR FRONT | | |
| Buildings | | |
| All uses | None | N/A |
| Accessory Structures | | |
| Accessory to all uses | None | N/A |
| Vehicle Use Areas | | |
| All Uses | 5 feet | N/A |
| INTERIOR SIDE | | |
| Buildings | | |
| All uses | None | 0' |
| Accessory Structures | | |
| All Uses | None | N/A |
| Vehicle Use Areas | | |
| All uses | 5 feet | |
| INTERIOR REAR | | |
| Buildings | | |
| All uses | None | 0' |
| Accessory Structures | | |
| All Uses | None | N/A |
| Vehicle Use Areas | | |
| All Uses | 5 feet | N/A for Retail. Multi-family remains as approved. |

LOT COVERAGE; HEIGHT

| | | |
|---------------------|------------------|-----------------------------|
| Requirement: | Standard: | Project Information: |
| LOT COVERAGE | | |

| | | |
|----------------------------------|---------|---------------------------------------------------------------------------------------------|
| Buildings & Accessory Structures | | |
| All uses | No Max. | |
| HEIGHT | | |
| Buildings | | |
| All uses | No Max. | Retail structure is approx. 18' to the top of parapet; Multi-family use structure is 62'6". |
| Accessory Structures | | |
| Accessory to all uses | No Max. | |

- **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.**

This project will continue to be served safely via the existing transportation system. Access for the multi-family parking and an additional ADA space will be from the alley that runs north and south adjacent eastern property line of the development site. No negative impacts to the transportation system are anticipated with the proposed plan.

- **Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.**

As indicated previously, off-street parking is not required for the retail building but the multi-family parking is designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians. The proposed plaza area provides safe pedestrian access from the parking area to both buildings and the public sidewalk on Court Street. Bike parking is also located in the plaza which can be accessed from Court Street.

- **The proposed development will be adequately served with City water, sewer, storm drainage, and other utilities appropriate to the nature of the development.**

The City of Salem Public Works has indicated that adequate water and sanitary sewer infrastructure is available to serve this development proposal. The project's civil engineer has design a storm drainage system to meet the City of Salem's green stormwater design guidelines. Other utilities are available in the area; the development team has worked with the providers to establish appropriate service connections as needed.

DESIGN REVIEW

The table that follows coupled with the submitted drawings illustrates how the revised retail building layout meets the applicable Design Review Guidelines found in SRC Chapter 633.025 for the Front Street Overlay Zone:

| (a) Building Location, Orientation and Design | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| (1). Building Location | | |
| (A) GUIDELINES | PROJECT DESCRIPTION | MEETS |
| (i) Buildings shall be located to reinforce pedestrian orientation. | The development proposal has buildings sited adjacent to the street frontage on Front Street and also Court Street NE where public sidewalks currently exist. The retail building has added a covered recessed entry area that is anticipated to be utilized by the tenant for outdoor seating. The reduced retail building size has allowed the plaza and landscape areas to grow for added pedestrian enhancement. | Meets |
| (2) Building Orientation and Design | | |
| (A) GUIDELINES | PROJECT DESCRIPTION | MEETS |
| (i) Buildings adjacent to Front Street shall take advantage of views to Riverfront Park and the Willamette River by providing building faces with windows. Bay windows are preferred. | This item is not applicable to the retail building. The multi-family provides windows and decks facing Riverfront Park and the Willamette River as desired. | N/A for retail. Multi-family meets. |
| (ii) The height of the ground floor of a building shall be greater than the height of the upper floors. | The retail building is a single story; however, generous storefront glazing system is proposed along the street façade and floor to ceiling heights can be maintained at 13 feet or more within the structure depending on tenant needs. The multi-family has a ground floor elevation of approx. 15', the upper floors are approx. 10'6". | Meets |

| (2) Building Orientation and Design Continued | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| (iii) Architectural detailing shall be provided that horizontally divides the ground floor and the second floor facades of a building. | This item is not applicable to the single story retail building; however large glazing expanses, an exposed stem wall and awnings will provide horizontal definition. The multi-family building utilizes different building materials and colors at the first floor, as well as awnings. | Meets |
| (iv) Weather protection, in the form of awnings, canopies, or arcades appropriate to the design of the building, shall be provided along ground floor building facades adjacent to a street in order to create a comfortable and inviting pedestrian environment. | Awnings are provided along ground building street facades for the retail and multi-family structures. | Meets |
| (b) Open Space | | |
| (A)GUIDELINES | PROJECT DESCRIPTION | MEETS |
| (i) Buildings adjacent to Front Street shall take advantage of views to Riverfront Park and the Willamette River by providing private open space for residential units on upper building floors. | This item does not apply to the retail building but each residential unit includes a balcony or deck including the west elevation which faces Front Street and Riverfront Park. | Meets |

Additional guidelines do not exist and the standards that are noted in SRC 633.025 related to site access for vehicles and off-street parking do not apply to the retail building. The multi-family portion of the overall site does meet the standards as approved.

ADJUSTMENT

As indicated previously, the building layout has changed since the original land use approvals and the revised layout has triggered the need for an adjustment to the building setback standard for buildings abutting a street in the CB zoning district. Table 524-3 indicates that buildings abutting streets have a setback of 0 or 10 feet which the revised design does not meet for the entirety of its street facade. The new layout has the building façade contiguous to the property line along Court Street for approximately 25 feet of its approximate 52 foot length; the 27 foot section of façade that is setback at angle has a varied setback from 2 to 11 feet. Tenant entry doors will be located within this setback (entry doors are required to be recessed to

accommodate the outward swing of the door for egress purposes) as will space for covered outdoor seating adjacent to the public sidewalk.

Salem's Revised Code anticipated that flexibility within the development code was essential and that development proposals might be able to provide alternate designs which are better, more efficient and effective meeting the spirit of the code through an adjustment process. The revised building footprint does just that, providing increases to pedestrian amenities and landscaping for an overall improved development plan. A Class 2 adjustment shall be granted if applicable criteria are met; we believe that the proposed change meets SRC250.005(d)(2) criteria as follows:

- (A) The purpose underlying the specific development standard proposed for adjustment is:*
- (ii) Equally or better met by the proposed development.*

The building setback standard for buildings abutting streets is 0 or 10 feet which limits building design, reduces the ability for building articulation and façade texture. The proposed modification shows an alternate design that has about 50 % of the retail building's street facing façade at the property line with the other 50% having a varying setback that ranges from 2 to 11 feet where the tenant space entries are located and where space is provide for outdoor seating that is within the development site as. Recessed entries are required by code to allow for door swings that do not encroach into the pedestrian path and are excluded from the standard as a result, the revised design allows the building to provide a single recess for a more efficient design. The angled recess opens the retail building up to the multi-family structure that shares its site and provides greater ability for pedestrian interaction with the developments larger plaza area. Additionally the proposed design permits more covered outdoor seating adjacent to the sidewalk which adds pedestrian benefit a goal of the Front Street Overlay. This alternate design allows for a more interesting façade, increased outdoor use areas and increases to landscaping for the development site which has added benefit to the surrounding area. This proposal meets the overall intent of the development standards and the goals of the overlay while maintaining the feel and uses of the previous approvals.

- (B) The proposed adjustment will not unreasonably impact surrounding existing or potentially uses or development.*

The revisions to the proposed building layout and the proposed offset setback for a portion of the buildings street façade will have no impact to existing or future uses or developments in the area. The change is minimal and provides a larger patio space adjacent to the public sidewalk and the development site's multi-family structure providing improvements to the overall development plan. The juxtaposition of the building with the public sidewalk provides improved pedestrian experience with added visual interest and better visibility to the intersection of Court and Front Streets which is

also desired. The majority of the site maintains building facades that are adjacent to the property line along Court. Additionally, there are examples of existing structures in the area that also provide similar recesses, such as the building on the northwest corner of Court and State Streets so the proposed revisions is not wholly inconsistent with the surrounding area. The smaller building foot print reduces impacts to public services while still providing the type of pedestrian oriented development that the City is looking for in the downtown core.

CONCLUSION

We believe the revised retail building layout is minimal and meets the intent of the overall approved site plan. The changes add amenities to the site which benefit both the development and the surrounding area while maintaining the overall design intent. Public improvements to the pedestrian environment and increased useable outdoor areas are desirable in this area. The requested adjustment will not negatively affecting the development or the surrounding area and will maintain the approved uses within the development site. The proposed modification and adjustment meets the intent of the development code and the goals of the Comprehensive Plan in this area. The proposed revision is nominal and limited to the retail structure and the immediate area surrounding it and does not provide any substantive change to the originally approved plan.

