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503-588-6173*

DECISION OF THE HEARINGS OFFICER

**CONDITIONAL USE PERMIT / CLASS 3 SITE PLAN REVIEW / CLASS 2
ADJUSTMENT / CLASS 2 DRIVEWAY APPROACH PERMIT / PROPERTY LINE
ADJUSTMENT CASE NO.: CU-SPR-ADJ-DAP-PLA23-05PLA23-11**

APPLICATION NO.: 23-107226-PLN

NOTICE OF DECISION DATE: June 29, 2023

SUMMARY: Redevelopment of an existing automotive dealership, including demolition of the existing sales building, construction of a new approximate 25,256 square-foot vehicle dealership, and redevelopment of the existing off-street parking and vehicle sales/display areas.

REQUEST: A consolidated application for the proposed redevelopment of an existing automotive dealership, including demolition of the existing sales building, construction of a new approximate 25,256 square-foot vehicle dealership, and redevelopment of the existing off-street parking and vehicle sales/display areas. The application includes:

- 1) A Conditional Use Permit for the proposed motor vehicle sales and service use in the MU-III (Mixed-Use-III) zone;
- 2) A Class 3 Site Plan Review for the proposed development;
- 3) A Class 2 Adjustment to:
 - a) Allow the proposed new vehicle dealership building to be located more than the maximum allowed 30-foot setback from Market Street NE and Park Avenue NE (SRC 535.015(c));
 - b) Allow the ground building faade of the proposed new vehicle dealership building facing Park Avenue NE to include less then the minimum required 50 percent transparent windows (SRC 535.015(g)(5));
 - c) Allow the proposed pedestrian connection from the primary entrance of the new vehicle dealership building to Market Street NE to be located more than the maximum allowed 20 feet from the proposed new transit stop on Market Street (SRC 800.065(a)(1)(B));
 - d) Allow a driveway approach for the proposed development onto Market Street NE (a major arterial street) although the property abuts a collector street (SRC 804.035(a)(2));
 - e) Allow the proposed development, which is located on a corner lot abutting a collector street, to take access to Market Street NE (the street with the higher street classification) rather than solely to Park Avenue NE (the street with the lower street classification) (SRC 804.035(c)(2)); and
 - f) Allow the proposed driveway approach onto Market Street NE to be located less than the minimum required 370-foot spacing from the nearest driveway to the east of the subject property on Market Street (SRC 804.035(d)).
- 4) A Class 2 Driveway Approach Permit for the proposed driveway approaches serving the development onto Market Street NE and Park Avenue NE; and

NOTICE OF DECISION

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

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- 5) Two Property Line Adjustments to eliminate the interior property lines between three individual units of land included in the subject property (Marion County Tax Numbers: 073W24BD08800, 073W24BD08900, and 073W24AC02700) and consolidate them into one lot to accommodate the proposed development.

The subject property totals approximately 3.35 acres in size, is zoned MU-III (Mixed-Use-III), and located at 2908 Market Street NE (Marion County Assessor Map and Tax Lot Numbers: 073W24BD08800, 073W24BD08900, 073W24AC02700, and 073W24AC04701).

APPLICANT: Salem N RE LLC (Tim Moody, Mike Sims)

LOCATION: 2908 Market St NE, Salem OR 97301

CRITERIA: Salem Revised Code (SRC) Chapters 240.005(d) – Conditional Use; 220.005(f)(3) – Class 3 Site Plan Review; 250.005(d)(2) – Class 2 Adjustment; 804.025(d) – Class 2 Driveway Approach Permit; 205.055(d) – Property Line Adjustment

FINDINGS: The findings are in the attached Decision dated June 26, 2023.

DECISION: The **Hearings Officer APPROVED** Conditional Use / Class 3 Site Plan Review / Class 2 Adjustment / Class 2 Driveway Approach Permit / Property Line Adjustment Case No. CU-SPR-ADJ-DAP-PLA23-05PLA23-11 subject to the following conditions of approval:

CONDITIONAL USE:

Condition 1: The vehicle service and parts, and accessory sales components of the proposed use, must be operated as part of the auto dealership.

SITE PLAN REVIEW:

Condition 2: Prior to approval of final occupancy for the proposed development, the property line adjustment deeds and record of surveys for both property line adjustments must be recorded with the County.

Condition 3: At the time of building permit review, the applicant will provide a full landscaping plan in conformance with the minimum plant unit density requirements of SRC Chapter 535 and SRC Chapter 807.

Condition 4: The proposed trash enclosure/collection area must conform to the solid waste service area standards of SRC 800.055.

Condition 5: Convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of Market Street NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.

Condition 6: Convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Park Avenue NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.

- Condition 7:** Install street trees to the maximum extent feasible along Market Street NE and Park Avenue NE.
- Condition 8:** The applicant will coordinate with the Salem Area Mass Transit District (Cherriots) to locate and construct a transit stop conforming to applicable Salem Area Mass Transit District standards on Market Street NE.
- Condition 9:** Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and the Public Works Design Standards (PWDS).

CLASS 2 ADJUSTMENT:

- Condition 10:** The existing sidewalk along the Market Street NE frontage of the property must be removed and replaced with a new property line sidewalk as shown on the approved site plan.
- Condition 11:** The vehicle display area located between the new vehicle dealership building and Market Street NE is limited to the display of ten (10) vehicles, and the vehicles must only be displayed in the locations identified on the approved site plan.
- Condition 12:** The adjusted development standards shall only apply to the specific development proposal shown in the approved site plan. Any future development, beyond what is shown in the approved site plan, must conform to all applicable development standards of the Unified Development Code, unless adjusted through a future land use action.

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

Conditional Use:	<u>July 15, 2025</u>
Class 3 Site Plan Review:	<u>July 15, 2027</u>
Class 2 Adjustment:	<u>July 15, 2027</u>
Class 2 Driveway Approach Permit:	<u>July 15, 2027</u>
Property Line Adjustment:	<u>July 15, 2025</u>
Application Deemed Complete:	<u>May 23, 2023</u>
Public Hearing Date:	<u>June 14, 2023</u>
Notice of Decision Mailing Date:	<u>June 29, 2023</u>
Decision Effective Date:	<u>July 15, 2023</u>
State Mandate Date:	<u>September 20, 2023</u>

Case Manager: Bryce Bishop, bbishop@cityofsalem.net, 503-540-2399

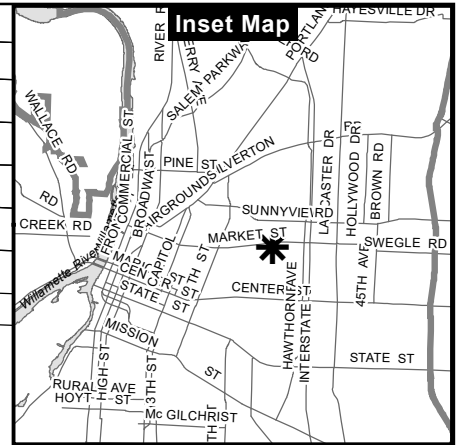
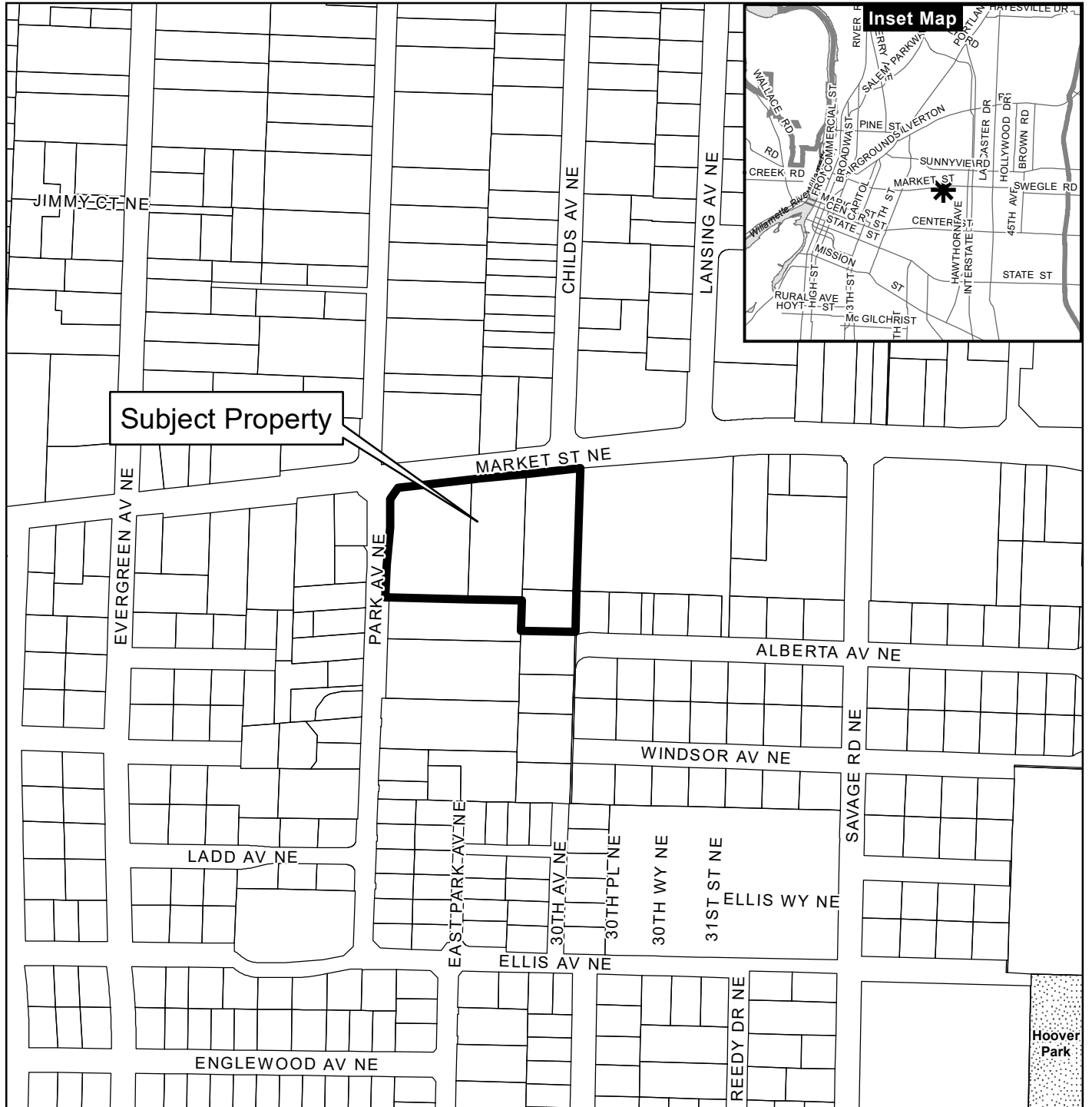
This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m. Friday, July 14, 2023. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240,

220, 250, 804, 205. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

Vicinity Map 2908 Market Street NE



Subject Property

Legend

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

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Community Development Dept.

0 100 200 400 Feet



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consultants:

project:
SALEM NISSAN
2908 MARKET STREET NE
SALEM, OR 97301

revisions:
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▲

date:
project: 01722
dwg file: A-100-X-01722
drawn by: NW
checked by:

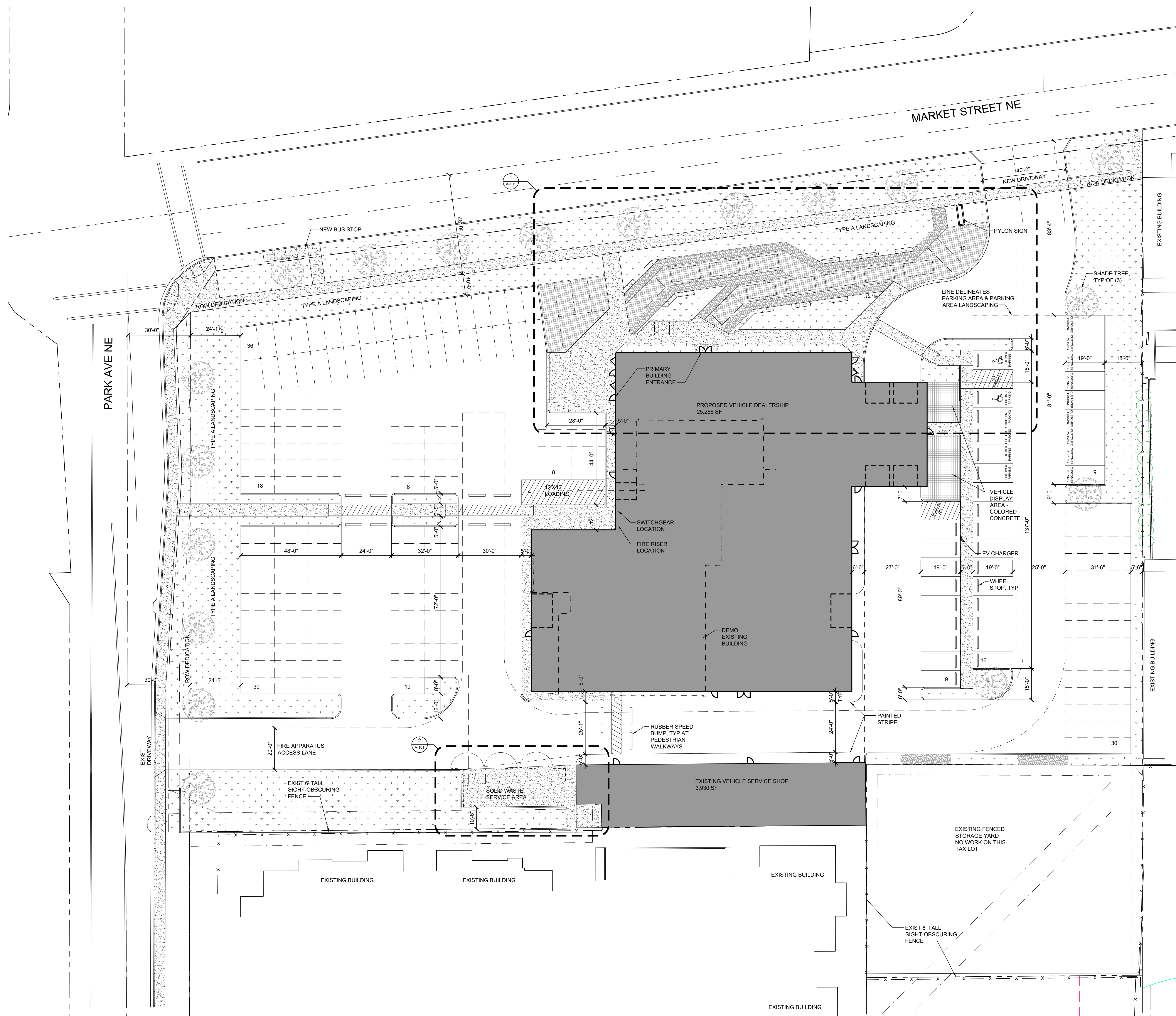
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Carlson Veit Junge Architects PC

SITE PLAN

sheet:
A-100
of:

ZONING CODE SUMMARY

ZONE:	MU-III
TAX LOT(S):	073W24BD 08800 073W24BD 08900 073W24AC 02700 073W24AC 04701
EXISTING AREA:	3.35 AC (145,926 SF)
PROJECT AREA:	3.13 AC (136,388 SF) - AFTER R.O.W. DEDICATIONS
LOT COVERAGE	EXIST PROPOSED
BUILDINGS	13,615 SF 27,259 SF
CONCRETE & ASPHALT	130,878 SF 86,596 SF
LANDSCAPING	1,433 SF 22,534 SF (16.6%)
* SEE GRADING PLAN FOR GSI COMPLIANCE	
USE: MOTOR VEHICLE SALES & SERVICE	29,088 SF
BUILDING HEIGHT	= 28 FT
PARKING:	
REQUIRED (1 PER 900 SF):	= 30
MAXIMUM ALLOWED (x 1.75):	= 53
PROPOSED:	
STANDARD	32
COMPACT	0
ACCESSIBLE	2 (1 VAN ACCESSIBLE)
TOTAL PROPOSED:	34
LOADING:	
REQUIRED:	= 1
PROPOSED:	= 1
BIKE PARKING:	
REQUIRED:	= 4
PROPOSED:	= 4
TOTAL INTERIOR OFF-STREET PARKING AREA:	15,549 SF
PARKING LANDSCAPE AREA:	1,960 SF (12.6%)
SHADE TREES	
REQUIRED (1 PER 12 PARKING SPACES):	= 3
PROPOSED:	= 3
DISPLAY & INVENTORY SPACES:	221



**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONDITIONAL USE / CLASS 3 SITE PALN REVIEW / CLASS 2 ADJUSTMENT / CLASS 2 DRIVEWAY APPROACH PERMIT / PROPERTY LINE ADJUSTMENT CASE NO. CU-SPR-ADJ-DAP- PLA23-05-PLA23-11 (AMANDA APPLICATION NO. 23-107226-PLN)) } } } } } } }	CU-SPR-ADJ-DAP-PLA23-05-PLA23-11 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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DATE AND PLACE OF HEARING:

On June 14th, 2023, at 5:30 p.m., a properly noticed hearing was held before the City of Salem Hearings Officer at Salem City Council Chambers, Room 240, Civic Center, 555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

Staff: Bryce Bishop, Planner III

Neighborhood Association: No appearance

Proponents: Brittany Randall, Applicant’s representative; Michael Junge, Applicant’s Architect

Opponents: None

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on June 14th, 2023, regarding a request for a consolidated application for the proposed redevelopment of an existing automotive dealership, including demolition of the existing sales building, construction of a new, approximately 25,256 square-foot vehicle dealership, and redevelopment of the existing off-street parking and vehicle sales/display areas.

During the hearing, Bryce Bishop requested that the Staff Report be entered into the Record, and the Hearings Officer granted the request. Prior to the close of

the public hearing, the applicant waived the additional 7-day period for written argument.

The written staff report and staff and applicant presentations stated, observed, noted, and alleged the following:

FINDINGS OF FACT AND CONCLUSIONS

1. Procedural Findings

On March 29, 2023, Britany Randall, of Brand Land Use, on behalf of the applicant and property owner Salem N RE, LLC, filed an application for a Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and two Property Line Adjustments for the proposed redevelopment of an existing automotive dealership located at 2908 Market Street NE.

Because multiple land use applications are required in connection with the proposed development, the applicant chose to consolidate and process them together as one pursuant to SRC 300.120(c). When multiple applications are consolidated, the review process for the application follows the highest numbered procedure type required for the land use applications involved, and the Review Authority is the highest applicable Review Authority under the highest numbered procedure type. Based on these requirements, the consolidated Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Property Line Adjustments are required to be reviewed by the Hearings Officer and processed as a Type III land use application under SRC Chapter 300.

After additional requested information was provided by the applicant, the application was deemed complete for processing on May 23, 2023, and notice of the public hearing on the proposal was subsequently sent, pursuant to SRC requirements, on May 25, 2023. Notice of the proposal was also posted on the subject property by the applicant's representative pursuant to SRC requirements on June 1, 2023.

Other than the City and the applicant, no other party participated in or provided testimony related to the proposed consolidated application.

2. Salem Area Comprehensive Plan (SACP)

Comprehensive Plan Map: The subject property is designated "Mixed-Use" on the Salem Area Comprehensive Plan (SACP) map.

The Comprehensive Plan designations of surrounding properties include:

Comprehensive Plan Designation of Surrounding Properties	
North	Across Market Street NE - Mixed-Use
South	Multiple Family Residential; Single Family Residential
East	Mixed-Use; Single Family Residential
West	Across Park Avenue NE - Mixed-Use; Single Family Residential
	Multiple Family Residential

Relationship to Urban Service Area: The subject property lies inside the City's Urban Service Area. The Urban Service Area is that territory within the City where all required public facilities necessary to serve development are already in place or are fully committed to being extended.

Pursuant to the urban growth management requirements contained under SRC Chapter 200 (Urban Growth Management), properties located outside the Urban Service Area are required to obtain an Urban Growth Preliminary Declaration if development will proceed prior to the necessary public facilities being extended to the property and the Urban Service Area being expanded to incorporate the property. Because the property is located inside the Urban Service Area, an Urban Growth Preliminary Declaration is not required for development of the property.

3. Zoning

The subject property is zoned MU-III (Mixed-Use-III). Zoning of surrounding properties includes the following:

Zoning of Surrounding Properties	
North	Across Market Street NE - MU-III (Mixed-Use-III)
South	RM-II (Multiple Family Residential); RS (Single Family Residential)
East	MU-III (Multiple Family Residential); RS (Single Family Residential)
West	Across Park Avenue NE - MU-III (Mixed-Use-III); RS (Single Family Residential)
	RM-II (Multiple Family Residential)

4. Neighborhood Association and Public Comments

The subject property is located within the boundaries of the Northeast Salem Community Association (NESCA) neighborhood association and is located adjacent to the North Lancaster Neighborhood Association (NOLA).

Neighborhood Association Contact: SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), Conditional Use Permits and Class 3 Site Plan Review applications require neighborhood association contact. On March 9, 2023, the applicant contacted both the Northeast Salem Community Association and the North Lancaster Neighborhood Association to provide details about the proposal; thereby satisfying the requirements of SRC 300.310.

Neighborhood Association Comments: Notice of the application was provided to both the Northeast Salem Community Association and the North Lancaster Neighborhood Association pursuant to SRC 300.620(b)(2)(B)(vii), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. No member or representative appeared in person or submitted written comments, and none were received by the Hearings Officer.

Public Comments: In addition to providing notice to the neighborhood associations, notice was also provided, pursuant to SRC 300.620(b)(2)(B)(ii), (iii), (viii), & (ix), to property owners and tenants within 250 feet of the subject property. No person appeared in person or provided written testimony at the hearing, and none was received by the Hearings Officer.

Homeowners' Association: Pursuant to SRC 300.620(b)(2)(B)(vi), notice is required to be provided to any active and duly incorporated Homeowners' Association (HOA) applicable to the property. The Hearings Officer finds that the subject property is not located within an area subject to a Homeowner's Association.

5. City Department Comments

- A. The City of Salem Building and Safety Division reviewed the proposal and indicated that they have no comments.
- B. The City of Salem Fire Department reviewed the proposal and indicated no objections.
- C. The City of Salem Public Works Department reviewed the proposal and provided comments pertaining to City infrastructure required to serve the proposed development.

6. Public Agency Comments

- A. The Salem Area Mass Transit District (Cherriots) reviewed the proposal and provided comments. Cherriots indicates, in summary, that a transit stop has

been identified as being needed in connection with the proposed development and, as such, requests construction of a transit stop conforming to the applicable standards of the Salem Area Mass Transit District as part of the street improvements for the development. Cherriots explains that on-street parking is restricted in the area of the transit stop in order to ensure unobstructed access by transit, and that the type and location of the transit stop must be as depicted in Sheet A-100 of the site plan for the development.

Pursuant to SRC 803.035(r), transit stops conforming to the applicable standards of the Salem Area Mass Transit District are required to be constructed when a transit stop is identified as being needed by the Transit District in connection with a proposed development. Because Cherriots has identified the need for a transit stop on Market Street along the frontage of the property, construction of a transit stop is required per SRC 803.035(r). The site plan submitted by the applicant identifies a proposed new transit stop located approximately 28 feet east of the intersection of Park Avenue on the south side of Market Street.

A condition of approval has been recommended by staff to be established for the proposed development requiring the transit stop to be constructed in conformance with the requirements of SRC 803.035(r) and Cherriots' applicable standards.

The Hearings Officer concurs with staff and finds the staff-recommended Condition of Approval necessary to meet this criterion.

DECISION CRITERIA FINDINGS

7. Analysis of Conditional Use Permit Approval Criteria

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

Salem Revised Code (SRC) 240.005(d) sets forth the following criteria that must be met before approval can be granted to an application for a Conditional Use Permit.

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

Finding: City staff notes that the proposed development includes the redevelopment of an existing automotive dealership, including demolition of the existing sales building, construction of a new approximate 25,256-square-foot vehicle dealership, and redevelopment of the existing off-street parking and vehicle sales/display areas. The existing vehicle service shop building, which is

located along the southern property line of the property, is proposed to remain, and will serve the proposed dealership.

Pursuant to SRC 400 (Use Classifications), auto sales is classified as a Motor Vehicle and Manufactured Dwelling and Trailer Sales use under SRC 400.055(a), and vehicle repair and service is classified as Motor Vehicle Services under SRC 400.055(b).

The subject property is zoned MU-III (Mixed-Use-III). The MU-III zoning of the property was established with the City Council's adoption of the ordinance for the Our Salem project, which became effective on August 24, 2022. Prior to that, the zoning of the subject property was CR (Retail Commercial). Under both the property's prior CR zoning and its new applicable MU-III zone, Motor Vehicle and Manufactured Dwelling and Trailer Sales and Motor Vehicle Services are allowed as Conditional Uses in the zone.

The Hearings Officer finds the staff analysis uncontradicted and concludes that this approval criterion is met.

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

Finding: City staff note that the written statement provided by the applicant indicates, in summary, that the subject property abuts Market Street NE to the north, Park Avenue NE to the west, MU-III zoned property to the east, and RM2/MU-III zoned property to the south. The area includes a mix of development types, including commercial and multiple family uses. The development requirements for zone-to-zone setbacks, landscaping, and screening help to buffer the differing uses. Table 535-1 (Uses) within the MUIII zone demonstrates that commercial and residential uses can be compatible, as they are both allowed within the zone. Though the uses in the area are varied, the proposed development is compatible with the mix of uses and the live/work intent of the MU-III zone and the Mixed-Use comprehensive plan designation.

The applicant explains that the development standards implemented by the code, including required setbacks, landscaping requirements, and screening, are put into place to mitigate the impacts of certain uses on other uses— and that by meeting the standards, or meeting the intent of the standards through an adjustment, the impacts of the proposed development on surrounding uses will be mitigated. Based on the size, scale, orientation, and site enhancements being proposed, the applicant indicates that it is not anticipated that additional conditions need to be imposed on the proposal to minimize impacts on surrounding properties.

The use of the subject property for motor vehicle sales dates back to its first

establishment as a legal use in Marion County prior to being annexed into the City in 1965. In 1980 the car dealership area was expanded to include adjacent property on the corner of Market Street and Park Avenue (Conditional Use 80-18). In 1987-1988, the dealership expanded the building on the property by adding approximately 7,000 square feet (Conditional Use 87-18), which connected the sales office and parts building on the property to the service building located along the south property line. In 2015, a 930-square-foot accessory structure was approved to provide protection for the washing of vehicles (Conditional Use, Class 3 Site Plan Review, and Class 2 Adjustment 15-04). Because the subject property has historically been approved and utilized for automotive sales and service, the proposed redeveloped auto dealership will accommodate a long-standing use of the property that over its history has not proven to adversely impact the immediate neighborhood.

In addition, the proposed redevelopment will include the provision of additional landscaping throughout the development site and abutting property lines; thereby enhancing the appearance of the property and reducing the amount of site area dedicated to paved impervious surface. The proposed redevelopment will also improve pedestrian connectivity throughout the site, with the provision of pedestrian paths for connectivity between the sidewalks along the streets abutting the property and the entrances to the building.

Past conditional use permits approved for the property (Conditional Use Permit Case Nos. CU80-18 & CU87-18) included a condition of approval requiring that the proposed parts and accessory sales component of the use be operated as part of the car dealership. In order to ensure that the proposed redeveloped dealership maintains consistency with this past condition of approval, staff recommends:

Condition 1: The vehicle service and parts, and accessory sales components of the proposed use must be operated as part of the auto dealership.

The Hearings Officer concurs with the staff's proposed findings summarized above and concludes that the proposed condition of approval 1 is necessary.

As conditioned, the Hearings Officer finds this approval criterion met.

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

Finding: City staff note: The written statement provided by the applicant indicates that the subject site is currently developed with the use proposed in this conditional use permit. The motor vehicle sales use has existed for decades cohesively with the surrounding developments, demonstrating through practice that the proposed use is reasonably compatible with and will have minimal

impact on the livability or appropriate development of surrounding property. Additionally, the existence of this development meets the comprehensive plan policy for providing employment opportunities where people are able to earn a livable wage. Through setbacks, screening, and landscaping, the proposed development will be cohesive with the surrounding development and will enhance and beautify the area along Market Street NE.

The proposed auto sales use of the property is a long-standing use that has demonstrated over its years of operation at the site that it can be conducted in a manner that does not pose unreasonable impacts on the livability or development of surrounding property. The proposed landscaping and screening included with the redevelopment to conform to the requirements of the MU-III zone will enhance the appearance of the site and ensure that the proposed development is operated in greater compatibility with surrounding property.

The Hearings Officer concurs with the staff's summary and proposed findings and concludes that this approval criterion is met.

8. Analysis of Class 3 Site Plan Review Approval Criteria

Salem Revised Code (SRC) 220.005(f)(3) sets forth the following criteria that must be met before approval can be granted to an application for Class 3 Site Plan Review.

SRC 220.005(f)(3)(A):

Finding: City staff explain and propose that the proposal includes the redevelopment of an existing automotive dealership, including demolition of the existing sales building, construction of a new approximate 25,256-square-foot vehicle dealership, and redevelopment of the existing off-street parking and vehicle sales/display areas.

The subject property is designated "Mixed-Use" on the Salem Area Comprehensive Plan (SACP) Map and zoned MU-III (Mixed-Use-III). The proposed development conforms to SRC Chapter 535 and all other applicable development standards of the Salem Revised Code as follows:

SRC Chapter 535 (MU-III Zone)

SRC 535.010(a) – Allowed Uses:

Allowed uses within the MU-III zone are identified under SRC 535.010(a), Table 535-1. Pursuant to the City's Use Classification Chapter (SRC 400), motor vehicle sales is classified as a Motor Vehicle and Manufactured Dwelling and Trailer Sales use. and motor vehicle repair is classified as a Motor Vehicle Services use.

As identified under Table 535-1, both Motor Vehicle and Manufactured Dwelling and Trailer Sales and Motor Vehicle Services are allowed as conditional uses within the MU-III zone, and therefore, a Conditional Use Permit for the proposed motor vehicle sales and service use has been requested by the applicant with this application. The staff's analysis of the requested conditional use permit for conformance with the applicable conditional use permit approval criteria is included under Section 7 of this report.

SRC 535.015(a) – Lot Standards:

Within the MU-III zone, there are no minimum lot size or dimension requirements other than a minimum street frontage requirement of 16 feet for all uses other than Single Family. The subject property is currently comprised of four tax lots (Marion County Assessor Map and Tax Lot Numbers: 073W24BD08800, 073W24BD08900, 073W24AC02700, and 073W24AC04701).

In order to accommodate the proposed redevelopment, three of the four tax lots that make up the subject property (Tax Lot Numbers: 073W24BD08800, 073W24BD08900, and 073W24AC02700) are proposed to be consolidated into one lot. In order to consolidate the three existing properties, the applicant has requested two property line adjustments with this application. The staff's analysis of the requested property line adjustments for conformance with the applicable property line adjustment approval criteria is included under Section 11 of this report.

As identified on the property line adjustment site plan for the second of the two proposed property line adjustments, the resulting consolidated lot will be approximately 3.06 acres in size. The size and dimensions of the consolidated lot exceed the minimum lot size and dimension standards of the MU-III zone.

As identified on the site plan submitted by the applicant, the fourth tax lot that makes up the subject property (Tax Lot No. 073W24AC04701) is an existing fenced storage yard where no work is proposed. As such, this lot will remain in its existing configuration and will not be altered by the proposed development.

SRC 535.015(b) – Dwelling Unit Density:

Within the MU-III zone, pursuant to SRC 535.015(b), development that is exclusively residential is required to have a minimum dwelling unit density of 15 dwelling units per acre. Because the proposal does not include the redevelopment of the property for a development that is exclusively residential, this standard is not applicable. The Hearings Officer concurs.

SRC 535.015(c) – Setbacks:

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

and Table 535-4. A summary of required MU-III zone setbacks is provided as follows:

MU-III Zone Non-Residential Use Setbacks		
Abutting Street		
Buildings	Min. 5 ft. / Max. 30 ft.	Max. 30 ft. setback applies to new buildings when the setback area is developed with landscaping and pedestrian amenities meeting the following standards: <ul style="list-style-type: none"> ▪ Up to the first 10 ft of the setback area can be used exclusively for pedestrian amenities, and ▪ At least 50 percent of the remaining setback area must be landscaped.
Accessory Structures	Min. 5 ft.	
Parking and Vehicle Use Areas	Min. 6 ft. to 10 ft.	Per alternative setback methods under SRC 806.035(c)(2)
Interior Side & Interior Rear ⁽¹⁾		
Buildings and Accessory Structures	None	Applicable zone-to-zone setback abutting a Mixed-Use Zone
	Min. 10 ft., plus 1.5 feet for each 1 foot of building height above 15 feet, but in no case more than 50 ft. with Type C Landscaping & Screening ⁽¹⁾	Applicable zone-to-zone setback abutting a Residential Zone
Parking and Vehicle Use Areas	Min 5 ft. with Type A Landscaping ⁽²⁾	Applicable zone-to-zone setback abutting a Mixed-Use Zone
	Min 5 ft. with Type C Landscaping and Screening ⁽¹⁾	Applicable zone-to-zone setback abutting a Residential Zone
Notes		
(1) <u>Type C Landscaping & Screening</u> : Pursuant to SRC 807.015(a), Table 807-1, Type C Landscaping & Screening requires a minimum planting density of 1 plant unit per 20 square feet of landscaped area together with a minimum 6-foot-tall sight-obscuring fence or wall.		
(2) <u>Type A Landscaping</u> : Pursuant to SRC 807.015(a), Table 807-1, Type A		

Landscaping requires a minimum planting density of 1 plant unit per 20 square feet of landscaped area.

MU-III Zone Setbacks Abutting Streets: The proposal includes the demolition of the existing sales building and the construction of a new, approximately 25,256-square-foot building to accommodate the new vehicle dealership. The existing vehicle service shop building located along the southern property line will remain.

As shown on the site plan submitted by the applicant, the proposed new vehicle dealership building will be setback approximately 48 feet to 82 feet from Market Street NE and approximately 164 feet to 204 feet from Park Avenue NE. Because the proposed new vehicle dealership building exceeds the maximum setback required within the MU-III zone abutting a street, the applicant has requested a Class 2 Adjustment to this standard to allow the building to be set back more than the maximum allowed 30 feet from Market Street and Park Avenue. Analysis of the Class 2 Adjustment request and findings demonstrating conformance with the Class 2 Adjustment approval criteria are included under Section 9 of this report.

The existing vehicle service shop building located along the southern property line is similarly set back more than 30 feet from both Market Street and Park Avenue. However, because this building is existing and the maximum setback applies only to new buildings, the maximum 30-foot setback from the street is not applicable to this building, and it otherwise exceeds the minimum required 5-foot setback from both Market Street and Park Avenue.

In regard to required parking and vehicle use area setbacks abutting the street, the proposed off-street parking and vehicle sales/display areas on the site are proposed to be set back 10 feet and greater from Market Street and more than 10 feet from Park Avenue, in conformance with the minimum setback requirements of the MU-III zone.

MU-III Zone Setbacks Abutting Interior Side and Rear Property Lines: As shown on the proposed site plan, the new vehicle dealership building, and the new proposed trash enclosure are set back greater than the minimum required zone-to-zone setback from all interior side and rear property lines. Similarly, the proposed off-street parking and vehicle sales/display areas included within the development are set back in conformance with the interior side and rear setback requirements of the MU-III zone. The existing vehicle service shop building is located on the southern property line of the subject property and does not currently conform to the minimum required setbacks of the MU-III zone. Because this building currently exists, it is considered a non-conforming development under SRC Chapter 270. Pursuant to SRC 270.010, non-conforming development may be repaired, maintained, altered, or enlarged, provided such new development complies with the applicable development standards of the UDC.

Because the subject property is currently comprised of four separate tax lots, the

existing property lines associated within the tax lots bisect the property, are located under the proposed building, and cross through the proposed off-street parking and vehicular use areas in a manner that does not conform to the required setbacks of the MU-III zone. In order to address this issue, the applicant has requested two property line adjustments with the application to consolidate three of the four tax lots that currently make up the property into one large lot. The consolidation of tax lots 073W24BD08800, 073W24BD08900, and 073W24AC02700 into one lot ensures that development of the subject property will comply with the applicable setback requirements of the MU-III zone. In order to ensure that the existing property lines are removed, and the proposed development will conform to the setback requirements of the MU-III zone, the following condition is required:

Condition 2: Prior to approval of final occupancy for the proposed development, the property line adjustment deeds and record of surveys for both property line adjustments must be recorded with the County.

The proposed development, as conditioned, conforms to the setback requirements of the MU-III zone.

The Hearings Officer concurs with the need for this condition.

SRC 535.015(d) – Lot Coverage; Height:

Within the MU-III zone, pursuant to SRC 535.015(d), Table 535-5, there is no maximum lot coverage requirement for buildings and accessory structures, and the maximum height for buildings and accessory structures for non-residential uses is 70 feet.

As illustrated by the proposed building elevations and indicated in the application materials provided by the applicant, the heights of the buildings and accessory structures included within the development do not exceed the maximum height of 70 feet. The proposed development therefore conforms to this standard.

SRC 551.010(e) – Landscaping:

Within the MU-III zone, landscaping is required as follows:

Setbacks. Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.

Vehicle use areas. Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.

Development site. A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC Chapter

807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicular use areas, may count toward meeting this requirement.

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

As identified on the proposed site plan, landscaping areas are provided throughout the development site for perimeter setbacks and within the proposed off-street parking and vehicle sales/display areas as required under the MU-III zone. With regards to overall development site landscaping, the site plan identifies 15.4 percent of the development site as being landscaped, which exceeds the minimum 15-percent development site landscaping requirement of the MU-III zone.

Because a detailed landscape plan was not submitted with the development identifying the specific types of plants that will be planted within the identified landscape areas, the following condition of approval is imposed to ensure that the landscape areas will be landscaped with plant units meeting the minimum planting density requirements of SRC Chapter 807 (Landscaping):

Condition 3: At the time of building permit review, the applicant will provide a full landscaping plan in conformance with the minimum plant unit density requirements of SRC Chapter 535 and SRC Chapter 807.

The Hearings Officer finds this condition necessary.

As conditioned, the Hearings Officer concludes that the proposed development conforms to the landscaping requirements of the MU-III zone.

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

City staff posit: Within the MU-III zone, buildings housing a continued use and existing accessory structures may be structurally altered or enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding conforms to the development standards in this chapter and to all other applicable provisions of the UDC.

Because the proposed use of the property for motor vehicle sales and service is an allowed within the MU-III zone, the use is not considered a “continued use,” and the development standards included under SRC 535.015(f) are therefore not applicable to the proposed development.

The Hearings Officer notes that no party challenged the staff’s interpretation of

the local code. Accordingly, the Hearings Officer is not provided with information sufficient to engage in meaningful analysis of the code provision or its historical purpose or application. Consequently, the Hearings Officer concurs with staff and finds this criterion inapplicable.

SRC 535.015(g) – Pedestrian Oriented Design:

Development within the MU-III zone, excluding development requiring historic design review and multiple family development, shall conform to the following pedestrian-oriented design standards set forth in SRC 535.015(g):

Off-street parking location. New off-street surface parking areas and vehicle maneuvering areas shall be located behind or beside buildings and structures. New off-street surface parking areas and vehicle maneuvering areas shall not be located between a building or structure and a street.

City staff explain: As identified on the site plan, the new off-street parking area on the site is proposed to be located to the side of the building along its east side. The vehicle use areas to the north and west of the new vehicle dealership building are vehicle display areas not intended for off-street parking. This approval criterion is met.

The Hearings Officer concurs.

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

City staff explain: Pursuant to SRC Chapter 111 (Definitions), a drive-through is defined as, "...a facility where goods or services are provided to a patron of a business while in their motor vehicle, and typically including queuing lanes leading to drive-up service windows or service areas. A drive-through does not include motor vehicle services, as set forth in SRC 400.055(b)."

As identified on the site plan, there are no drive-throughs included within the proposed development and this standard is therefore not applicable to the proposed development.

The Hearings Officer concurs.

Outdoor storage. Outdoor storage of merchandise located within 50 feet of the right-of-way shall be screened with landscaping or a site-obscuring fence or wall.

City staff posit: As identified on the site plan, the proposed development will include vehicle sales/display areas within 50 feet of the right-of-way of both Market Street NE and Park Avenue NE. The vehicle sales/display areas associated with the proposed development area are not classified as outdoor storage of

merchandise, because the nature of a sales/display lot is to view the vehicle inventory rather than to screen it from sight. This standard is therefore not applicable to the proposed development.

The Hearings Officer concurs.

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

City staff posit: As shown on the site plan and the elevation drawings for the proposed building, primary building entrances are included on the building's northern facade facing Market Street NE and its western facade facing Park Avenue NE. Because a primary building entrance is provided on each building facade facing a street, the proposed development conforms to this standard.

The Hearings Officer concurs and finds this criterion met.

Ground-floor windows. For buildings within the maximum setback abutting a street, ground floor building facades facing that street shall include transparent windows on a minimum of 50 percent of the ground floor facade. The windows shall not be mirrored or treated in such a way as to block visibility into the building. The windows shall have a minimum visible transmittance (VT) of 37 percent.

City staff posit: As illustrated on the building elevation drawings, approximately 52 percent of the proposed building's northern facade facing Market Street NE and approximately 12.53 percent of the building's western facade facing Park Avenue NE include transparent windows.

The building's northern facade facing Market Street exceeds the minimum 50-percent transparency requirement, but the building's western facade facing Park Avenue falls below the minimum requirement. Because the building's western facade does not meet the minimum 50-percent transparency standard, the applicant has requested a Class 2 Adjustment to this standard. Analysis of the Class 2 Adjustment request and findings demonstrating conformance with the Class 2 Adjustment approval criteria are included under Section 9 of this report.

The Hearings Officer approves the proposed adjustment and concludes that this criterion as adjusted is met.

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SRC Chapter 800 (General Development Standards)

SRC 800.055 – Solid Waste Service Areas

SRC 800.055 establishes standards that apply to all new solid waste, recycling, and compostable service areas, where use of a solid waste, recycling, and compostable receptacle of 1 cubic yard or larger is proposed.

A solid waste service area is defined under SRC 800.010 as, “An area designed and established for the purpose of satisfying the local collection franchisee service requirements for servicing receptacles, drop boxes, and compactors singularly or collectively.”

City staff explain: The proposed development includes one trash enclosure/collection area meeting the definition of a solid waste service area under SRC 800.010. The proposed trash enclosure/collection area is located to the west of the existing vehicle service shop building in the southern portion of the site.

In review of the proposed site plan, the proposed trash enclosure/collection appears to meet the solid waste service area standards of SRC 800.055. In order to ensure that the proposed development conforms to all of the applicable solid waste service area standards included under SRC 800.055, the following condition of approval is recommended:

Condition 4: The proposed trash enclosure/collection area must conform to the solid waste service area standards of SRC 800.055.

The Hearings Officer concurs with staff's recommended condition and finds it necessary.

SRC 800.065 – Pedestrian Access

SRC 800.065 establishes standards for pedestrian access to buildings and through development sites. Under this section, pedestrian connections are required:

- Between building entrances and streets;
- Between buildings on the same development site;
- Through off-street surface parking areas greater than 25,000 square feet in size or including four or more consecutive parallel drive aisles;
- Through parking structures/parking garages where an individual floor of the parking structure or garage exceeds 25,000 square feet in size;
- To existing or planned paths and trails; and
- To abutting properties when shared vehicular access is provided between them.

SRC 800.065(a)(1)(A) & (B) – Pedestrian Connection Between Entrances and Streets. A pedestrian connection is required between the primary entrance of each building on a development site and each adjacent street. Where a building has more than one primary building entrance, a single pedestrian connection from one of the building's primary entrances to each adjacent street is allowed; provided each of the building's primary entrances are connected, via a pedestrian connection, to the required connection to the street. Where an adjacent street is a transit route and there is an existing or planned transit stop along the street frontage of the development site, at least one of the required pedestrian connections shall connect to the street within 20 feet of the transit stop.

City staff report: As shown on the proposed site plan, the subject property is a corner lot with frontage on both Market Street NE and Park Avenue NE. In order to meet the pedestrian access requirements of SRC 800.065(a)(1)(A), the proposed development includes a pedestrian connection from the primary entrances of the building to both Market Street and Park Avenue.

Because Market Street NE is a transit route, and a transit stop is required to be provided along the property's Market Street frontage, SRC 800.065(a)(1)(B) requires at least one of the pedestrian connections to be located within 20 feet of the transit stop. As shown on the site plan, the proposed transit stop on Market Street is located within proximity to the intersection of Market Street and Park Avenue near the Northwest corner of the site. Due to the location of the proposed new building on the site, the pedestrian connection from the building entrance to Market Street is located more than 20 feet from the proposed new transit stop. Because the proposed pedestrian connection is located more than 20 feet from the transit stop, the applicant has requested a Class 2 Adjustment to this standard. Analysis of the Class 2 Adjustment request and findings demonstrating conformance with the Class 2 Adjustment approval criteria are included under Section 9 of this report.

The Hearings Officer approves the requested adjustment and finds this criterion, as adjusted, met.

SRC 800.065(a)(2) – Pedestrian Connection Between Buildings on the Same Development Site.

Where there is more than one building on a development site, a pedestrian connection(s) shall be provided to connect the primary building entrances of all the buildings.

The subject property includes two buildings, the proposed new vehicle dealership building and the existing vehicle service shop building. As shown on the site plan, a pedestrian connection is provided between the vehicle service shop building and the new vehicle dealership building.

The Hearings Officer finds the proposed development conforms to the pedestrian access requirements of SRC 800.065(a)(2).

SRC 800.065(a)(3) – Pedestrian Connection Through Off-Street Parking Areas.

Off-street surface parking areas greater than 25,000 square feet in size or including four or more consecutive parallel drive aisles shall include pedestrian connections through the parking area to the primary building entrance as provided in this subsection.

City staff posit: As shown on the site plan, the proposed development includes a small, off-street parking area consisting of two rows of parking stalls located to the east of the proposed new building. The remaining parking areas on the site will be dedicated to vehicle sales and display. Because the proposed off-street parking area is less than 25,000 square feet in size and the pedestrian connection requirements of this specific standard only apply to off-street parking areas and not vehicle sales and display areas, this standard is not applicable to the proposed development.

The Hearings Officer concurs.

SRC 800.065(a)(4) – Pedestrian Connection to Existing or Planned Paths and Trails. Where an existing or planned path or trail identified in the Salem Transportation System Plan (TSP) or the Salem Comprehensive Parks System Master Plan passes through a development site, the path or trail shall:

- (A) Be constructed, and a public access easement or dedication provided; or
- (B) When no abutting section of the trail or path has been constructed on adjacent property, a public access easement or dedication shall be provided for future construction of the path or trail.

City staff note: There is no planned pedestrian path or trail in proximity of the subject property. This standard is therefore not applicable to the proposed development.

The Hearings Officer concurs.

SRC 800.065(a)(5) – Pedestrian Connection to Abutting Properties. Except as provided under SRC 800.065(a)(5)(A), whenever a vehicular connection is provided from a development site to an abutting property, a pedestrian connection shall also be provided.

City staff posit: As shown on the site plan, the proposed development does not include any shared vehicular connections to abutting properties. Because no shared vehicular connections are present, a pedestrian connection is not required to any abutting properties. This standard is therefore not applicable to the

proposed development.

The Hearings Officer concurs.

SRC 800.065(b)(1) – Design and Materials. Required pedestrian connections shall be in the form of a walkway, or may be in the form of a plaza. Walkways shall conform to the following:

- (A) Materials and width. Walkways shall be paved with a hard-surface material meeting the Public Works Design Standards, and a minimum of five feet in width.
- (B) Where a walkway crosses driveways, parking areas, parking lot drive aisles, and loading areas, the walkway shall be visually differentiated from such areas through the use of elevation changes, a physical separation, speed bumps, a different paving material, or other similar method. Striping does not meet this requirement, except when used in a parking structure or parking garage.
- (C) Where a walkway is located adjacent to an auto travel lane, the walkway shall be raised above the auto travel lane or separated from it by a raised curb, bollards, landscaping or other physical separation. If the walkway is raised above the auto travel lane it must be raised a minimum of four inches in height and the ends of the raised portions must be equipped with curb ramps. If the walkway is separated from the auto travel lane with bollards, bollard spacing must be no further than five feet on center.

The Hearings Officer finds this criterion met.

SRC 800.065(b)(2) – Design and Materials. Wheel stops or extended curbs shall be provided along required pedestrian connections to prevent the encroachment of vehicles onto pedestrian connections.

City Staff explain: As shown on the site plan, all of the proposed pedestrian connections through the site meet or exceed the minimum required 5-foot width, are visually distinguished through utilization of a different paving material and speed bumps (*where crossing a parking lot drive aisle*) and will be protected from encroachment by adjacent parked vehicles through the utilization of wheel stops. The proposed development conforms to this standard.

The Hearings Officer concurs and concludes this criterion is met.

SRC Chapter 806 (Off-Street Parking, Loading, and Driveways)

SRC Chapter 806 establishes requirements for off-street parking, loading, and driveways. Included in the chapter are standards for minimum and maximum off-street vehicle parking; minimum bicycle parking; minimum loading; and parking,

bicycle parking, loading, and driveway development standards.

Off-Street Parking.

Minimum Off-Street Vehicle Parking. Minimum off-street vehicle parking requirements are generally established under SRC 806.015(a), Table 806-1.

City staff posit: SRC 806.005(d), provides that off-street parking shall not be required for any uses located within one-half mile of a transit route that has 15-minute transit service. The subject property abuts transit service provided by Cherriot's Route 2 – Market/Brown on Market Street NE. Because this route provides 15-minute transit service, there is no minimum off-street parking requirement for the proposed development.

The Hearings Officer concurs.

Maximum Off-Street Vehicle Parking. Maximum off-street vehicle parking requirements are established under SRC Chapter 806.015(e).

City staff note: When an activity does not require a minimum number of off-street parking spaces, the maximum allowed number of off-street parking spaces is established under Table 806-2B and is equal to the maximum number of off-street parking spaces that would otherwise be allowed for the use if it were located in an area where off-street parking was required. Based on this requirement, the maximum number of off-street allowed for the proposed development is 56 spaces. As shown on the site plan, the proposed development includes a total of 34 off-street parking spaces which does not exceed the maximum off-street parking requirements of SRC 806.015(d).

The Hearings Officer concurs.

Compact Parking. SRC 806.015(b) allows for the utilization of compact parking stalls to satisfy up to 75 percent of the required off-street parking spaces for a development.

City staff note: The proposed development includes a total of 34 off-street parking spaces. Of the 34 total off-street parking spaces provided, none are proposed to be compact in size. The proposed development therefore does not exceed the maximum number of compact stalls allowed under SRC 806.015(b).

The Hearings Officer concurs.

Off-Street Parking Area Dimensions. SRC 806.035(e), Table 806-6, establishes minimum dimension requirements for off-street parking stalls and the drive aisles serving them. Based on the layout of the parking spaces within the development, the proposed parking stalls and access aisles must meet the following standards:

Minimum Parking Stall & Drive Aisle Dimensions		
Stall Type	Parking Stall Dimension	Drive Aisle Width
90° Standard Stall	9 ft. x 19 ft.	24 ft.

As shown on the site plan, all of the proposed off-street parking spaces conform to the minimum required parking stall dimensions established under SRC 806.035(e), Table 806-6, and all of the parking stalls are served by parking drive aisles at least 24 feet in width.

Driveways. SRC 806.040(d) establishes minimum driveway standards. Pursuant to SRC 806.040(d), Table 806-8, one-way driveways are required to have a minimum width of 12 feet and two-way driveways are required to have a minimum width of 22 feet.

City staff posit: As shown on the site plan, vehicular access to the proposed development is provided by two two-way driveways. Each of the proposed driveways exceeds minimum driveway width standards.

Bicycle Parking.

Minimum Bicycle Parking. Minimum bicycle parking requirements are established under SRC 806.055, Table 806-9. The minimum bicycle parking requirement for the proposed development is as follows:

Minimum Bicycle Parking	
	Bike Parking Ratio
Motor Vehicle and Manufactured Dwelling and Trailer Sales	1 space per 9,000 ft. ²
Motor Vehicle Services	

Based on the above-identified minimum bicycle parking requirement, a minimum of three bike parking spaces are required for the proposed 29,186-square-foot motor vehicle sales and service use. As shown on the site plan, the proposed development includes two staple-style bike racks accommodating four bike parking spaces. The proposed development meets this standard.

Bicycle Parking Location. SRC 806.060(a)(1) requires bicycle parking areas to be located outside the building and located within a convenient distance of, and clearly visible from, the primary entrance of a building, but in no event shall the

bicycle parking area be located more than 50 feet from the primary building entrance.

As shown on the site plan, the proposed bicycle parking spaces are located within 50 feet of, and visible from, a primary entrance into the building. The proposed development meets this standard.

The Hearings Officer concurs and finds this criterion met.

Bicycle Parking Access. SRC 806.060(b) requires bicycle parking areas to have direct and accessible access to the public right-of-way and the primary building entrance that is free of barriers which would require users to lift their bikes in order to access the bicycle parking area.

City staff explain: As shown on the site plan, the proposed bike spaces are located adjacent to a building entrance and can be accessed via a barrier free route from either Market Street NE or Park Avenue NE. The proposal meets this standard.

The Hearings Officer concurs.

Bicycle Parking Dimensions. SRC 806.060(c) requires bicycle parking spaces to be a minimum of 2 feet in width (*min. 1.5 ft when spaces are located side-by-side*) by 6 feet in length and served by a minimum 4-foot-wide access aisle. When bicycle parking spaces are located adjacent to a wall, a minimum clearance of two feet is required between the bike rack and the wall.

As shown on the site plan, all of the bike parking spaces included within the development meet the minimum required bike parking dimension, access aisle, and clearance requirements of SRC 806.060(c).

Bicycle Parking Area Surfacing. SRC 806.060(d) requires bicycle parking spaces located outside a building to consist of a hard surface material meeting the Public Works Design Standards.

City staff explain: As shown on the site plan, the proposed bike parking spaces will be located on a concrete paved pad area in conformance with this standard.

Bicycle Racks. SRC 806.060(e) establishes requirements for bicycle racks. Based upon these standards, bicycle racks are required to:

- 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;
- Allow the bicycle frame and at least one wheel to be located to the rack with a high security U-shaped shackle lock;
- Be of a material that resists, cutting, rusting, and bending or deformation; and

- Be securely anchored.

As shown on the plan, staple/inverted style bike racks will be provided. The proposed bike racks conform to the design/style and material requirements of SRC 806.060(e) and will be securely anchored.

The Hearings Officer concurs with staff and concludes this criterion is met.

Off-Street Loading Areas.

Minimum off-street loading requirements are established under SRC 806.075, Table 806-11. The minimum loading requirement for the proposed development is as follows:

Minimum Loading	
Motor Vehicle and Manufactured Dwelling and Trailer Sales	Min. 1 space (12 ft. W x 40 ft. L x 14 ft. H)
Motor Vehicle Services	

City staff posit: Based on the above identified minimum off-street loading requirement, a minimum of one loading space is required for the proposed 29,186 square-foot motor vehicle sales and service use. As shown on the site plan, the proposed development includes one loading space meeting the dimension requirements of SRC 806.080(c) that is located on the west side of the new proposed building. The proposed development conforms to this standard.

The Hearings Officer concurs.

SRC Chapter 601 (Floodplain Overlay Zone)

Public Works staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and determined that no floodplain or floodway areas exist on the subject property.

SRC Chapter 808 (Preservation of Trees & Vegetation)

The City’s tree preservation ordinance (SRC Chapter 808) protects:

- 1) Heritage Trees;
- 2) Significant Trees (including Oregon White Oaks with diameter-at-breast-height (*dbh*) of 20 inches or greater and any other tree with a *dbh* of 30 inches or greater, with the exception of tree of heaven, empress tree, black cottonwood, and black locust);
- 3) Trees and native vegetation in riparian corridors; and

4) Trees on lots or parcels 20,000 square feet or greater.

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.”

City staff explain: As identified in the materials submitted by the applicant, there are no trees existing on the subject property. The tree preservation requirements of SRC Chapter 808 are therefore not applicable to the proposed development.

The Hearings Officer concurs.

SRC Chapter 809 (Wetlands):

Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetland laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures.

According to the Salem-Keizer Local Wetland Inventory (LWI) there are no mapped wetlands or waterways located on the subject property.

The Hearings Officer finds this criterion inapplicable.

SRC Chapter 810 (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.

The Hearings Officer notes that no party directed the Hearings Officer to consider or challenge the Applicant’s statements, evidence or staff analysis or proposed findings related to this criterion.

Based on the proposed and adopted findings above and consistent with the submitted evidence, the Hearings Officer concludes that *SRC 220.005(f)(3)(A) is met.*

SRC 220.005(f)(3)(B): The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.

Finding: City staff note: The subject property is a corner lot with frontage on both Market Street NE and Park Avenue NE. Vehicular access to the development is proposed to be taken from a new driveway onto Market Street that consolidates two existing driveways into one and an existing driveway onto Park Avenue that is proposed to be reconfigured.

Market Street is designated as a Major Arterial Street under the City's Transportation System Plan (TSP) requiring a 68-foot-wide improvement within a 96-foot-wide right-of-way. Comments from the Public Works Department indicate that Market Street is currently improved with an approximate 46-foot-wide improvement within a 60-foot-wide right of way.

Park Avenue NE is designated as a Collector street under the City's TSP, requiring a 34-foot-wide improvement within a 60-foot-wide right of way. Comments from the Public Works Department indicate that Park Avenue is currently improved with an approximate 34-foot to 44-foot-wide improvement within a 47-foot to 57-foot-wide right-of-way.

Because the existing right-of-way widths of both Market Street NE and Park Avenue NE do not currently conform to their minimum required widths under the TSP based on their street classification, the following conditions of approval are recommended in order to provide for adequate right-of-way for future street improvements and to mitigate traffic impacts proportional to the proposed development:

Condition 5: Convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of Market Street NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.

Condition 6: Convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Park Avenue NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.

Pursuant to SRC 86.015(e), anyone undertaking development along public streets shall plant new street trees to the maximum extent feasible. In order to ensure that both Market Street and Park Avenue include street trees as required under SRC 803.035(k) and SRC Chapter 86.015(e), the following condition of approval is required:

Condition 7: Install street trees to the maximum extent feasible along Market Street NE and Park Avenue NE.

Pursuant to SRC 803.035(r), transit stops conforming to the applicable standards

of the Salem Area Mass Transit District are required to be constructed when a transit stop is identified as being needed by the Transit District in connection with a proposed development. The Salem Area Mass Transit District (Cherriots) has reviewed the proposed development and identified the need for a transit stop on Market Street along the frontage of the property. As shown on the site plan submitted by the applicant, a new transit stop is proposed to be located east of the intersection of Park Avenue NE on the south side of Market Street NE. In order to ensure that the proposed development conforms to the requirements of SRC 803.035(r), the following condition of approval is required:

Condition 8: The applicant will coordinate with Cherriots to locate and construct a transit stop conforming to applicable Salem Area Mass Transit District standards on Market Street NE.

The proposed development, as conditioned, will ensure that the street frontages on the perimeter of the property conform to the City's TSP and SRC Chapter 803, thereby ensuring that the transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development.

No party provided testimony or evidence regarding the Applicant's statements or staff summary and analysis. Accordingly, the Hearings Officer was not directed to address any alleged deficiencies in the application or presentation of evidence. The Applicant did not challenge the staff's analysis or recommendation for proposed conditions 5, 6, 7 and 8.

The Hearings Officer finds the conditions necessary and concludes that SRC 220.005(f)(3)(B) is met.

SRC 220.005(f)(3)(C): Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

Finding: City staff explain: The subject property is currently served by a total of three driveways. Two of the existing driveways are located on Market Street NE, and the remaining driveway is located on Park Avenue NE. As shown on the site plan, both existing driveways onto Market Street are proposed to be removed and replaced with one new driveway onto Market Street located near the northeast corner of the site across from Childs Avenue NE. The existing driveway onto Park Avenue is proposed to be retained but will be reconfigured.

In addition to vehicular access, pedestrian and bicycle access to and within the development will be provided via the existing network of streets in the surrounding area and through pedestrian connections proposed to be extended through the site.

The reduced number of driveways onto Market Street, the design of the internal vehicular circulation, and the pedestrian connections provided through the site

provide for the safe and efficient movement of vehicles, bicycles, and pedestrians as required by this approval criterion.

No party challenged staff's analysis or the proposed finding.

Based on the evidence presented, the Hearings Officer concludes that this criterion is met.

SRC 220.005(f)(3)(D): The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

Finding: City staff note: The Public Works Department has reviewed the applicant's preliminary utility plan for the site and indicates that water, sewer, and stormwater infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development.

With regards to stormwater facilities, the Public Works Department indicates that the proposed plan demonstrates compliance with the Public Works Design Standards (PWDS) Appendix 4E related to green stormwater infrastructure, by setting aside at least ten percent of the total new impervious surface area for installation of green stormwater infrastructure. In order to ensure the provision of adequate stormwater infrastructure to serve the proposed development, the following condition of approval is recommended:

Condition 9: Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and the Public Works Design Standards (PWDS).

No party challenged the staff's analysis or recommended the condition of approval.

The Hearings Officer finds that the proposed condition of approval is necessary to satisfy applicable criteria to ensure this criterion is met.

The Hearings Officer finds that, as conditioned, this approval criterion met.

9. Analysis of 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.

SRC 250.005(d)(2)(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: City staff notes, explains and summarizes evidence concerning the applicant's requested six Class 2 Adjustments in conjunction with the proposed development. The adjustments include:

- a) Allowing the proposed new vehicle dealership building to be located more than the maximum allowed 30-foot setback from Market Street NE and Park Avenue NE (*SRC 535.015(c)*);
- b) Allowing the ground floor building façade of the proposed new vehicle dealership building facing Park Avenue NE to include less than the minimum required 50 percent transparent windows (*SRC 535.015(g)(5)*);
- c) Allowing the proposed pedestrian connection from the primary entrance of the new vehicle dealership building to Market Street NE to be located more than the maximum allowed 20 feet from the proposed new transit stop on Market Street (*SRC 800.065(a)(1)(B)*);
- d) Allowing a driveway approach for the proposed development onto Market Street NE (a major arterial street) although the property abuts a collector street (*SRC 804.035(a)(2)*);
- e) Allowing the proposed development, which is located on a corner lot abutting a collector street, to take access to Market Street NE (the street with the higher street classification) rather than solely to Park Avenue NE (the street with the lower street classification) (*SRC 804.035(c)(2)*); and
- f) Allowing the proposed driveway approach onto Market Street NE to be located less than the minimum required 370-foot spacing from the nearest driveway to the east of the subject property on Market Street (*SRC 804.035(d)*).

Maximum Building Setbacks from Street (SRC 535.015(c)):

The applicant has requested a Class 2 Adjustment to SRC 535.015(c) in order to allow the proposed new vehicle dealership building to be set back more than 30 feet from Market Street NE and Park Avenue NE.

The written statement provided by the applicant indicates, in summary, that due to the proposed use of the site, motor vehicle sales and service, the applicant is seeking an adjustment to this requirement. The purpose of this standard is to increase the pedestrian experience along Market Street NE and Park Avenue NE. By requiring the buildings to be placed closer to the street and vehicle use areas placed behind buildings, the idea is that pedestrians coming from the public sidewalk would have easier access to buildings.

Previously, the building was placed just over 107 feet away from the right-of-way

of Market Street NE and over 165 feet from Park Avenue NE. The applicant's proposed redevelopment will be making the site more conforming than the existing development by locating the new building closer to Market Street and Park Avenue. The following items are proposed as mitigation for the applicant seeking to adjust the standard: 1) along Market Street NE, the applicant is dedicating a right-of-way and will relocate the public sidewalk to abut the new property line; 2) between Market Street NE and the entrance of the building, the applicant is proposing a pedestrian and specialized vehicle display plaza; 3) along both rights-of-way, the applicant is proposing to install significant landscaping areas, which is desirable considering that the current development is void of any landscaped areas.

The underlying purpose of the maximum required building setback from the street is to promote a more urban development pattern where buildings are located close to the street in order to frame the public street right-of-way and to promote a lively and active, pedestrian-friendly environment. The written statement provided by the applicant indicates that the underlying purpose of this standard is equally met by the proposed development through: dedication of the full half-street right-of-way widths required under the TSP for Market Street NE and Park Avenue NE along the frontage of the property; locating the new proposed vehicle dealership building closer to Market Street and Park Avenue than the existing building; removal of the existing curb-line sidewalk along Market Street and replacing it with a new property line sidewalk located at the new property line closer to the new proposed building than the existing sidewalk; and providing pedestrian amenities and landscaping in a specialized vehicle display area between the new building and Market Street.

The proposed siting of the new building closer to the street than the existing building, the construction of a new sidewalk along Market Street at the location of the new property line after right-of-way dedication which will be closer to the proposed building than the existing sidewalk, the provision of landscaped setbacks between the vehicle sales/displays areas and the abutting streets, and the inclusion of landscaping and pedestrian amenities (*including a pedestrian path and seating areas*) in the proposed vehicle display area between the building and Market Street all help to enhance the pedestrian environment between the building and the street, give the visual impression of a building that is closer to the street, and provide adequate separation and buffering between the vehicle sales/display areas and the adjacent sidewalks in a manner that otherwise equally meets the underlying purpose of the maximum building setback standard. In order to ensure that the proposed development meets the underlying purpose of this standard, the following conditions of approval are recommended:

Condition 10: The existing sidewalk along the Market Street NE frontage of the property must be removed and replaced with a new property line sidewalk as shown on the approved site plan.

Condition 11: The vehicle display area located between the new vehicle dealership building and Market Street NE must be limited to the display of no more than 10 vehicles, and the vehicles shall only be displayed in the locations identified on the approved site plan.

The Hearings Officer notes that the pedestrian experience will be enhanced by allowing the development to exceed the maximum set back as found by staff and will better meet the standard by substantially maintaining a distance from the pedestrian sidewalk due to service related activities within the proposed development.

The Hearings Officer concurs with staff-recommended conditions of approval 10 and 11.

The Hearings Officer concludes that this adjustment, as conditioned, meets the applicable criteria.

Ground Floor Windows (SRC 535.015(g)(5)):

The applicant has requested a Class 2 Adjustment to SRC 535.015(g)(5) to allow less than 50 percent transparent windows on the ground floor building façade of the proposed new vehicle dealership building facing Park Avenue NE.

City staff notes: The written statement provided by the applicant indicates, in summary, that because the proposed building will be set back more than 30 feet from Park Avenue NE, the underlying purpose of the ground floor building transparency standard is not applicable to the proposed development.

The underlying purpose of this standard is to ensure that buildings located adjacent to a street do not present unattractive and blank monolithic walls that discourage an inviting and pedestrian-friendly environment along the street. In the case of the proposed development, the new building's façade facing Market Street NE exceeds the minimum 50 percent transparency standard, but the building's façade facing Park Avenue NE does not. As shown on the site plan, the proposed new vehicle dealership building will be located approximately 164 feet to 204 feet from the Park Avenue right-of-way. Because Market Street is the primary street abutting the property, the proposed new building has been located closest to that street, with windows meeting the building transparency requirement.

Based on the distance the proposed new building is set back from Park Avenue and the types of activities occurring in those portions of the building facing Park Avenue, less transparent windows have been provided. As shown on the building elevation drawings, the building façade facing Park Avenue includes transparent windows in the portion of the building associated with the showroom but doesn't in the portions of the building associated with service and maintenance.

Because the proposed building will be set back 164 feet to 204 feet from Park Avenue, the need for transparent windows is reduced, but the proposed design still provides transparent windows where possible, based on the programmatic needs of the interior spaces within the building.

The applicant argued that SRC 535.015(g)(5) is not applicable. The Hearings Officer finds that the criterion is applicable. SRC 535.015 general text provides: "Development within the MU-III zone must comply with the development standards set forth in this section." The specific criterion provides: "Development within the MU-III zone, excluding development requiring historic design review and multiple family development, shall conform to the pedestrian-oriented design standards set forth in this section." Based on the plain language of the standard, in context, the Hearings Officer finds that the plain language and evidence in the Record supports a finding that this criterion does apply.

The Hearings Officer notes that it was the applicant who sought adjustment to allow a setback beyond the maximum. SRC 250.005a(2)(E) prohibits an adjustment to "[m]odify the applicability of any requirement under the UDC[.]" The Hearings Officer finds the applicant's reasoning contrary to SRC 50.005a(2)(E), and unpersuasive. Accordingly, the Hearings Officer finds SRC 535.015(g)(5) applicable.

Based on the evidence and arguments and text, the Hearings Officer finds that on balance, not providing the 50 percent transparent windows on the ground floor building façade of the proposed new vehicle dealership building facing Park Avenue NE will allow the proposed development to better meet the underlying purpose and it will not discourage an inviting and pedestrian-friendly environment which may occur if transparent windows were required. The Hearings Officer is also persuaded that allowing less windows in the service area of the structure would increase the pedestrian experience by increasing safety in the area by reducing break-in attempts to the building.

In sum, the Hearings Officer finds this criterion applicable, and met.

Pedestrian Connection Separation from Transit Stop (SRC 800.065(a)(1)(B)):

The applicant has requested a Class 2 Adjustment to SRC 800.065(a)(1)(B) to allow the proposed pedestrian connection from the primary entrance of the new vehicle dealership building to Market Street NE to be located more than the maximum allowed 20 feet from the proposed new transit stop on Market Street.

As the staff report notes: The written statement provided by the applicant indicates, in summary, that due to the use of the site, motor vehicle sales and service, the applicant has proposed to connect the pedestrian network to the

public sidewalk in the location proposed, which is approximately 130 feet from the edge of the transit stop landing. The location of the pedestrian connection is designed to correlate with the pedestrian plaza in front of the building abutting Market Street NE. To better meet the intent of the standard, the applicant is also proposing a pedestrian connection to the sidewalk along Park Avenue NE to give pedestrians multiple safe access points to the public sidewalk leading to the transit stop.

The applicant explains that the purpose of this standard is to provide safe and convenient access from development sites along transit stops to the stop itself. The increase of distance requested is mitigated by providing a second point of safe access to the public sidewalk.

The underlying purpose of this standard is to promote convenient pedestrian access from transit stops to building entrances on properties abutting transit stops. As explained by the applicant, the proposed pedestrian connection from the new building's northern entrance to Market Street is located greater than the maximum allowed 20 feet from the transit stop, due to the location of the proposed building on the site and Cherriot's requirement that the new transit stop be located in proximity to the intersection of Market Street and Park Avenue. Though the proposed pedestrian connection to Market Street is located more than 20 feet from the new transit stop, the underlying purpose of this standard is equally met, because there will not only still be a safe and convenient pedestrian connection to the transit stop along Market Street, but also a second connection to the transit stop via Park Avenue.

The Hearings Officer finds that the staff analysis, the applicant's statements and the proposed findings adequately address this criterion.

Accordingly, the Hearings Officer concludes that the approval criterion is met.

Driveway onto Arterial Street Although Property Abuts Collector Street (SRC 804.035(a)(2)):

The applicant has requested a Class 2 Adjustment to SRC 804.035(a)(2) to allow a driveway approach for the proposed development onto Market Street NE (a major arterial street) although the property abuts a collector street.

As the staff report notes: The written statement provided by the applicant indicates, in summary, that the site will encompass the sale of motor vehicles but will also provide a service area, and maintaining two access points will allow safe vehicular and pedestrian circulation. The current site has one access point to Park Avenue NE and two access points to Market Street NE. The proposal closes one access point leading to Market Street NE. Because of the reduction to access points leading to the development site, the intention of the standard is still clearly satisfied by the proposal.

The site is currently served by three driveway approaches: one on Park Avenue NE and two on Market Street NE. The proposal will consolidate the two driveway approaches on Market Street NE into one, and the driveway approach on Park Avenue NE will be reconfigured. The applicant is closing two driveway approaches onto Market Street NE that did not meet the spacing standards to the intersection of Market Street NE and Park Avenue NE. The proposed driveway approach onto Market Street NE requires an adjustment to driveway spacing from the easterly neighboring driveway, but meets the spacing standards from the street intersection of Market Street NE and Park Avenue NE.

The staff recommends finding that the proposed driveway configuration allows for turning movements and traffic safety equal to what would be otherwise be accomplished by meeting this development standard.

The Hearings Officer concurs and concludes that this approval criterion is met.

Driveway onto Arterial Street when Property is Corner Lot with Access to Collector Street (SRC 804.035(c)(2)):

The applicant has requested a Class 2 Adjustment to SRC 804.035(c)(2) to allow the proposed development, which is located on a corner lot abutting a collector street, to take access to Market Street NE (the street with the higher street classification) rather than solely to Park Avenue NE (the street with the lower street classification).

The staff report notes: The site is currently served by three driveway approaches: one on Park Avenue NE and two on Market Street NE. The proposal will consolidate the two driveway approaches on Market Street NE into one; the driveway approach on Park Avenue NE will be relocated and reconstructed. The purpose of the standard is equally met by reducing the number of driveway approaches onto the arterial street from two to one.

The Hearings Officer concurs with staff analysis and concludes that this approval criterion is met.

Driveway Spacing (SRC 804.035(d)):

The applicant has requested a Class 2 Adjustment to SRC 804.035(d) to allow the proposed driveway approach onto Market Street NE to be located less than the minimum required 370-foot spacing from the nearest driveway to the east of the subject property on Market Street.

The staff report notes: The written statement provided by the applicant indicates, in summary, that the underlying purpose of this standard is to facilitate the safe maneuvering of vehicles as they enter and exit the public right-of-way. The

driveway leading to Market Street NE, will not meet the spacing standard to the driveway for the abutting property to the east. The applicant is proposing to place the driveway in the location shown in order to better protect the safety of the intersection of Park Avenue NE and Market Street NE.

City staff argue that the proposed driveway approach meets the spacing requirement from the street intersection of Market Street NE and Park Avenue NE; however, the approach is less than 370 feet from the easterly neighboring driveway. The location of the proposed driveway onto Market Street minimizes turning conflicts with the intersection of Market Street and Park Avenue.

The Hearings Officer adopts staff analysis which finds the proposed driveway configuration to equally meet the underlying purpose of this standard by allowing for turning movements and traffic safety equal to what would otherwise be accomplished by meeting the development standard.

Accordingly, the Hearings Officer concludes that this approval criterion is met.

SRC 250.005(d)(2)(B): If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

The staff report notes: The subject property is zoned MU-III. Pursuant to SRC 110.025, Table 110-1, the MU-III zone is a mixed-use zone rather than a residential zone.

The Hearings Officer finds that the subject property is near, but not located within, a residential zone, and thus this approval criterion is inapplicable to the proposed development.

SRC 250.005(d)(2)(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.

The staff report notes: A total of six Class 2 Adjustments have been requested in conjunction with the proposed development. Pursuant to SRC 535.001, the purpose of the MU-III zone is to identify allowed uses and establish development standards that encourage infill and redevelopment in mixed-use corridors and centers and that promote pedestrian access.

The written statement provided by the applicant indicates, in summary, that because the proposal is to redevelop an existing site and bring the development closer to the standards of the newly applied MU-III zone, and where possible, mitigation is being proposed, this will result in a project which is still consistent with the overall purpose of the zone.

The proposal represents the redevelopment of a site that has a long-standing use as auto sales. The adjustments requested are the minimum needed to otherwise allow the site to be redeveloped and continue to be used for sales and service, but in a manner that improves the appearance and functionality of the site while also improving pedestrian access and connectivity consistent with the underlying purpose of the MU-III zone. Staff recommends that the Hearings Officer find this approval criterion is met.

Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action. As such, staff recommends the following condition of approval shall apply:

Condition 12: The adjusted development standards shall only apply to the specific development proposal shown in the approved site plan. Any future development, beyond what is shown in the approved site plan, shall conform to all applicable development standards of the Unified Development Code, unless adjusted through a future land use action.

The Hearings Officer concurs with staff analysis and finds proposed condition of approval number 12 necessary and proper.

The Hearings Officer finds that this criterion, as conditioned, is met.

10. Analysis of Class 2 Driveway Approach Permit Approval Criteria

Salem Revised Code (SRC) 804.025(d) provides that an application for a Class 2 Driveway Approach Permit shall be granted if the following criteria are met.

SRC 804.025(d)(1): The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards.

Finding: City staff explain: The site is currently served by three driveway approaches: one on Park Avenue NE and two on Market Street NE. The proposal will consolidate the two driveway approaches on Market Street NE into one, and the driveway approach on Park Avenue will be relocated and reconstructed.

The Public Works Department reviewed the proposed driveway approaches for conformance with the requirements of SRC Chapter 804 and provided comments indicating that the proposed driveway onto Market Street NE is located less than 370 feet from adjacent driveways; therefore, a Class 2 Adjustment is required for driveway spacing, but the driveway otherwise meets the standards for SRC 804 and Public Works Design Standards (PWDS).

City staff and the applicant argue that the driveway on Park Avenue NE meets the standards in SRC 804 and PWDS. No party challenged those statements or provided the Hearings Officer with any contrary evidence.

Accordingly, the Hearings Officer finds that this approval criterion is met.

SRC 804.025(d)(2): No site conditions prevent placing the driveway approach in the required location.

Finding: City staff posit that: The Public Works Department reviewed the proposal and determined that no site conditions exist prohibiting the location of the proposed driveway approaches.

No party challenged this evidence. Accordingly, the Hearings Officer finds that this approval criterion is met.

SRC 804.025(d)(3): The number of driveway approaches onto an arterial are minimized.

Finding: City staff posit: The subject property is currently served by two driveway approaches onto Market Street NE. As shown on the site plan submitted by the applicant, the proposed redevelopment of the site will reduce the number of driveway approaches onto Market Street, a major arterial street, from two to one, thereby minimizing the number of driveway approaches onto that street.

The Hearings Officer concurs and concludes that this approval criterion is met.

SRC 804.025(d)(4): The proposed driveway approach, where possible:

(A) Is shared with an adjacent property; or

(B) Takes access from the lowest classification of street abutting the property.

Finding: City staff posit: The proposed driveway approach onto Market Street NE will consolidate two existing driveways into one driveway. The approach cannot be shared between adjacent properties due to existing development patterns. No party submitted evidence or argued that the driveway access on Park Avenue NE fails to meet subsection (B) above.

The Hearings Officer notes that had no access existed onto Park Avenue NE, the Hearings Officer would likely find this criterion unmet. However, the existence of a current driveway approach and the lack of any challenge or any proposed interpretation when faced with two access points onto two separate streets, presents an interpretative problem without staff or applicant discussion. The Code's use of "where possible" qualifies both subsections (A) and (B). Under

these circumstances, the Hearings Officer finds that it is not possible to take access only from Market Street under the applicant's proposal.

Accordingly, the Hearings Officer finds that this approval criterion is met.

SRC 804.025(d)(5): The proposed driveway approach meets vision clearance standards.

Finding: City staff posit: The proposed driveway approaches meet the PWDS vision clearance standards set forth in SRC chapter 805.

No evidence or argument provides otherwise.

Accordingly, the Hearings Officer finds that this approval criterion is met.

SRC 804.025(d)(6): The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access.

Finding: City staff posit: The Public Works Department reviewed the proposed driveway approaches for conformance with the requirements of SRC Chapter 804 and indicated that no evidence has been submitted to indicate that the proposed driveways will create traffic hazards or unsafe turning movements. Additionally, the staff analysis of the proposed driveways indicates that they will not create a traffic hazard and will provide for safe turning movements for access to the subject property.

No party challenged staff or applicant's reasoning or evidence.

The Hearings Officer finds that this approval criterion is met.

SRC 804.025(d)(7): The proposed driveway approach does not result in significant adverse impacts to the vicinity.

Finding: City staff posit: The Public Works Department reviewed the proposed driveway approaches and indicated that the staff analysis of the proposed driveway approaches and of the evidence that has been submitted indicate that the location of the proposed driveway approaches will not have any adverse impacts to the adjacent properties or streets.

No person submitted evidence challenging staff's proposed finding.

The Hearings Officer finds that this approval criterion is met.

SRC 804.025(d)(8): The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections.

Finding: City staff posit: The Public Works Department reviewed the proposed driveway approaches and provided comments indicating that they are located on a Major Arterial street and a Collector Street. Public Works indicates that the proposed driveway approaches minimize impacts to adjacent streets and intersections by meeting the spacing standards from the intersections of Park Avenue and Market Street, and by providing a T-intersection with the proposed driveway and Childs Avenue NE.

No party challenged this evidence.

The Hearings Officer finds that this approval criterion is met.

SRC 804.025(d)(9): The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.

Finding: City staff posit: The proposed development abuts residentially zoned property to the south and major arterial and collector streets. The proposed driveway approaches balance the adverse impacts to residentially zoned property and will not have an adverse effect on the functionality of the adjacent streets.

The Hearings Officer notes that no party questioned how the proposal balances adverse impacts or provided substantial evidence of adverse effects adequate for the Hearings Officer to rebalance effects.

Accordingly, the Hearings Officer finds that this criterion, and the Class 2 driveway permit criteria, is met.

11. Analysis of Property Line Adjustment Approval Criteria

Pursuant to SRC 205.055(a), a property line adjustment is required to relocate or eliminate all or a portion of a common property line between two abutting units of land that were lawfully established, as defined by ORS 92.010(3)(a). Property line adjustments shall not be used to create an additional unit of land, or to create units of land that are nonconforming.

Salem Revised Code (SRC) 205.055(d) sets forth the following criteria that must be met before approval can be granted to an application for a Property Line Adjustment.

SRC 205.055(d)(1): The property line adjustment will not create an additional unit of land[.]

Finding: City staff posit: The proposal includes two property line adjustments to consolidate three individual units of land which make up the subject property

(Tax Lot Nos. 073W24BD08800, 073W24BD08900, and 073W24AC02700) into one lot. Because the property line adjustments will not result in the creation of an additional unit of land, this approval criterion is met.

The Hearings Officer finds that this criterion is met.

SRC 205.055(d)(2): The property line adjustment will not create nonconforming units of land or nonconforming development, or increase the degree of nonconformity in existing units of land or existing development[.]

Finding: City staff posit: The two proposed property line adjustments will consolidate three existing units of land into one large lot in order to accommodate the proposed development.

The first of the two property line adjustments – Property Line Adjustment 1 of 2 – eliminates the property line between tax lots 073W24BD08800 and 073W24BD08900, thereby consolidating both properties into one 2.18-acre lot. The second of the two property line adjustments – Property line Adjustment 2 of 2 – eliminates the property line between the 2.18-acre lot resulting from Property Line Adjustment 1 of 2 and tax lot 073W24AC02700, thereby consolidating both properties into one 3.06-acre lot.

Within the MU-III zone, there are no minimum lot size or dimension requirements other than a minimum street frontage requirement of 16 feet for all uses other than Single Family. The lot areas and dimensions of the consolidated lots resulting from both proposed property line adjustments exceed the minimum lot area, dimension standards, and street frontage requirements of the MU-III zone. The proposed property line adjustments will also not result in the creation of nonconforming development, but instead will ensure that the proposed redevelopment of the site complies with the applicable setbacks and other development standards of the MU-III zone by eliminating the interior property lines between the affected lots.

No party challenged staff's reasoning or proposed finding.

The Hearings Officer finds that this criterion is met.

SRC 205.055(d)(3): The property line adjustment involves only units of land that were lawfully established, where the instruments creating the units of land have been properly recorded, or the property line adjustment involves the incorporation of excess right-of-way, acquired for street or other right-of-way purposes and subsequently sold by a public body, into a unit of land that was lawfully established[.]

Finding: City staff posit: The two proposed property line adjustments eliminate the property lines between three units of land (Tax Lot Nos. 073W24BD08800,

073W24BD08900, and 073W24AC02700) and result in the consolidation of the properties into one lot.

Each of the three units of land are discretely described in deed records dating back to a time prior to October 1979, when a unit of land could be created by sale/deed without requiring the approval of a partition to divide the lot. The units of land were therefore lawfully established.

The Hearings Officer finds the evidence adequate and concludes that this criterion is met.

SRC 205.055(d)(4): The property line adjustment is not prohibited by any existing City land use approval, or previous condition of approval, affecting one or both of the units of land[.]

Finding: City staff posit: The most recent land use approval issued for the property was Conditional Use / Class 3 Site Plan Review / Class 2 Adjustment Case No. CU-SPR-ADJ15-04, which was approved in June of 2015. The decision was for the proposed addition of a 930 square-foot accessory to the property to provide protection for washing cars. There is nothing in this past approval, or in any other past land use approval for the property, that would preclude the approval of the requested property line adjustments. The requested property line adjustments are instead needed in order to facilitate the proposed redevelopment of the property by eliminating existing interior property lines that would otherwise make the proposed development nonconforming in regard to required building and parking and vehicle use area setbacks.

Based on the evidence, the Hearings Officer finds that this criterion is met.

SRC 205.055(d)(5): The property line adjustment does not involve the relocation or elimination of any public easement or right-of-way[.]

Finding: City staff posit: The proposed property line adjustments do not relocate or eliminate any easements or public right-of-way.

Based on the evidence, the Hearings Officer finds that this criterion is met.

SRC 205.055(d)(6): The property line adjustment does not adversely affect the availability or access to public and private utilities or streets.

Finding: City staff posit: The proposed property line adjustments eliminate the common property lines between the three units of land which make up the subject property, in order to consolidate them into one lot. The consolidated lot will retain its required frontage on the public street right-of-way after the proposed property line adjustment, and public and private utilities are available to serve the property. The proposed property line adjustments will not affect

availability or access to public and private utilities or streets. The Public Works Department reviewed the proposed property line adjustments and identified no objections.

Based on the evidence, the Hearings Officer finds that this criterion, and criteria for the proposed Property Line Adjustment, are met.

DECISION

Based upon the Facts and Findings contained herein, the Hearings Officer **APPROVES** the requested Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and two Property Line Adjustments for property located at 2908 Market Street NE, subject to the following conditions of approval:

CONDITIONAL USE:

Condition 1: The vehicle service and parts, and accessory sales components of the proposed use, must be operated as part of the auto dealership.

SITE PLAN REVIEW:

Condition 2: Prior to approval of final occupancy for the proposed development, the property line adjustment deeds and record of surveys for both property line adjustments must be recorded with the County.

Condition 3: At the time of building permit review, the applicant will provide a full landscaping plan in conformance with the minimum plant unit density requirements of SRC Chapter 535 and SRC Chapter 807.

Condition 4: The proposed trash enclosure/collection area must conform to the solid waste service area standards of SRC 800.055.

Condition 5: Convey land for dedication to equal a half-width right-of-way of 48 feet on the development side of Market Street NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.

Condition 6: Convey land for dedication to equal a half-width right-of-way of 30 feet on the development side of Park Avenue NE, including sufficient right-of-way to accommodate public infrastructure at the property corners.

Condition 7: Install street trees to the maximum extent feasible along Market Street NE and Park Avenue NE.

Condition 8: The applicant will coordinate with the Salem Area Mass Transit District (Cherriots) to locate and construct a transit stop conforming to applicable Salem Area Mass Transit District standards on Market Street NE.

Condition 9: Design and construct a storm drainage system at the time of development in compliance with SRC Chapter 71 and the Public Works Design Standards (PWDS).

CLASS 2 ADJUSTMENT:

Condition 10: The existing sidewalk along the Market Street NE frontage of the property must be removed and replaced with a new property line sidewalk as shown on the approved site plan.

Condition 11: The vehicle display area located between the new vehicle dealership building and Market Street NE is limited to the display of ten (10) vehicles, and the vehicles must only be displayed in the locations identified on the approved site plan.

Condition 12: The adjusted development standards shall only apply to the specific development proposal shown in the approved site plan. Any future development, beyond what is shown in the approved site plan, must conform to all applicable development standards of the Unified Development Code, unless adjusted through a future land use action.

DATED: June 26, 2023



David E. Coulombe, Hearings Officer