

BEFORE THE CITY COUNCIL OF THE CITY OF SALEM

IN THE MATTER OF APPROVAL OF)	ORDER NO. 2024-4 CU24-05
CONDITIONAL USE PERMIT)	
CASE NO. CU24-05)	CASE NO. CU24-05
3393 SILVERTON ROAD NE)	

This matter coming regularly for hearing before the City Council, at its November 12, 2024 meeting, and the City Council, having received evidence and heard testimony, makes the following findings, and adopts the following order modifying the decision of the Hearings Officer in Conditional Use Permit, Case No. CU24-05, and approving the application.

PROCEDURAL FINDINGS:

- (a) On March 6, 2024, an application for a Conditional Use Permit was submitted by Britany Randall of BRAND Land Use, on behalf of the applicant, Giovanna Reyes, and the property owner, Oregon Alliance LLC, located at the 3393 Silverton Road NE.
- (b) On May 29, 2024, the application was deemed complete for processing at the request of the applicant's representative. After meeting with staff and additional information was received, notice of the public hearing was sent, pursuant to SRC requirements, on July 25, 2024, and posted on the property by the applicant on July 31, 2024.
- (c) On August 14, 2024, the Hearings Officer held a public hearing for the proposed application. Subsequent to receiving public testimony and asking questions of the applicant and staff, the Hearings Officer closed the hearing and left the record open for the following periods: August 28, 2024 for any new testimony; September 4, 2024 for any rebuttal testimony; and September 11, 2024 for the applicant's final written rebuttal.
- (d) On September 20, 2024, the Hearings Officer issued a decision approving the request for a Conditional Use Permit, subject to conditions of approval (**Exhibit 1**).
- (e) On October 14, 2024, a motion was passed that City Council review the Hearing Officer's decision pursuant to SRC 300.1060. A hearing was scheduled before the City Council on November 12, 2024.
- (f) On November 12, 2024, City Council held a public hearing and received additional testimony in consideration of the Hearing Officer's decision. Subsequent to receiving testimony, the Council closed the public hearing, deliberated, and voted to modify the Hearing Officer's decision by modifying Condition of Approval No. 4, regarding the hours of operation; and modifying Condition of Approval No. 2 to clarify what work may be done outside of the building.
- (g) The 120-day state mandated decision deadline for the application was extended at the request of the applicant by a total 120 days to January 24, 2025.

SUBSTANTIVE FINDINGS:

The City Council adopts the following as findings for this decision:

- (a) The applicable criteria for approval of a Conditional Use Permit is SRC 240.005(d). As conditioned, the requested Conditional Use Permit to allow a motor vehicle services use in the MU-III zone, meets the approval criteria set forth in 240.005(d).
- (b) The September 20, 2024 decision of the Hearings Officer (**Exhibit 1**) established nine conditions of approval to ensure compatibility and minimize the reasonably likely adverse impacts of the proposed use on the immediate neighborhood in conformance with SRC 240.005(d).
- (c) During the course of the proceedings before the City Council on review of the Hearing Officer's decision, staff recommended a modification to Condition of Approval No. 4 in response to concerns over the hours of operation the business is open to the public. However, the applicant provided testimony that the modified hours of operation proposed by staff were still too limiting for the way the business would like to operate, but could not provide a specific range of time that would work for the business. After a discussion regarding the applicant's desire to meet customers dropping off or picking up cars outside of the City's typical quiet hours, pursuant to the City's noise ordinance of SRC Chapter 93, City Council deliberated, and a motion was passed to allow the hours of operation the business is open to the public to be between 6 AM and 8 PM. Vehicle repair would still be limited to the City's noise ordinance, which prohibits noise disturbances between the hours of 10 PM and 7 AM of the following day, but to allow the business to open to the public an hour earlier provides the applicant the opportunity to meet customers dropping off cars prior to beginning any vehicle repair; no vehicle repair should be conducted between 6 AM and 7 AM.
- (d) Additionally, the applicant's testimony indicated concerns over all of the conditions of approval imposed by the Hearings Officer, including a concern as to what would qualify as "vehicle repair" for Condition of Approval No. 2. Staff provided testimony pertaining to how each of the conditions of approval imposed will either help to minimize adverse impacts of the proposed use, or ensure compatibility with the appropriate development of the surrounding area, as required by SRC 240.005(d) and addressed in the Hearing Officer's decision. After a discussion as to what kind of vehicle repair would, or would not be allowed outside of the building, and the applicant's concerns over conducting simple diagnostics in the outside parking area, City Council deliberated, and a motion was passed to add a clarification that allows diagnostic service to be conducted outside of the building.
- (e) The modified conditions either provide further clarification, or a compromise between meeting the needs of the business while still mitigating likely adverse impacts. Nothing in the modified conditions supersedes the findings found in the Hearing Officer's decision as to why the conditions are necessary. Therefore, the September 20, 2024 decision of the Hearings Officer, attached hereto as **Exhibit 1**, except for the specific information as modified herein, is adopted as the City Council's decision and incorporated into this decision as if set forth herein.

- (f) The City Council therefore APPROVES the application for a Conditional Use Permit, subject to modified conditions of approval from the September 20, 2024 decision of the Hearings Officer.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF SALEM, OREGON:

Section 1. The City Council modifies the Hearing Officer's decision for Conditional Use Permit Case No. CU24-05, subject to the revisions of Condition of Approval No. 4 and No. 2 as outlined below; showing language removed in ~~strike through~~, together with new language underlined:

- Condition 4:** Normal hours of operation where the business is open to the public shall be between ~~10 AM~~ 6 AM and 8 PM. All repairs and work done on vehicles may only be conducted between the hours of 7 AM and 10 PM.
- Condition 2:** All vehicle repair shall be conducted entirely within the building and there shall be no outdoor storage of vehicle parts or equipment on site. Diagnostic service outside of the building would be allowed during normal business hours.

Section 2. This order constitutes the final land use decision and any appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal.

Exhibit 1: Decision of the Hearings Officer Case No. CU24-05

ADOPTED by the City Council this 25th day of November 2024.

ATTEST:

City Recorder

Checked by: Jamie Donaldson