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503-588-6173*

## DECISION OF THE HEARINGS OFFICER

**CONDITIONAL USE / CLASS 3 SITE PLAN REVIEW CASE NO.: CU-SPR23-01**

**APPLICATION NO.: 22-124807-PLN**

**NOTICE OF DECISION DATE:** March 16, 2023

**SUMMARY:** Conversion of an existing building to a marijuana production use.

**REQUEST:** A Conditional Use Permit and Class 3 Site Plan Review request for a change of use within an existing building from a motor vehicle repair and retail sales use to a marijuana production facility, for property approximately 0.25 acres in size, zoned IC (Industrial Commercial), and located at 1290 12th Street SE - 97302 (Marion County Assessor Map and Tax Lot number: 073W35BB / 09900).

**APPLICANT:** Danny Kim, YAK, Inc.

**LOCATION:** 1290 12th St SE, Salem OR 97302

**CRITERIA:** Salem Revised Code (SRC) Chapters 240.005(d) – Conditional Use; and 220.005(f)(3) – Class 3 Site Plan Review

**FINDINGS:** The findings are in the attached Decision dated March 15, 2023.

**DECISION:** The **Hearings Officer Planning Administrator APPROVED** Conditional Use / Class 3 Site Plan Review Case No. CU-SPR23-01 subject to the following conditions of approval:

### CONDITIONAL USE:

**Condition 1:** Marijuana production shall be conducted indoors.

**Condition 2:** The marijuana production facility shall utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.

### SITE PLAN REVIEW:

**Condition 3:** As determined at the time of building permit, if the project meets the definition of a substantial improvement, obtain a Floodplain Development Permit for development within the regulatory floodplain and floodway pursuant to SRC Chapter 601.

**Condition 4:** The proposed development is subject to a special setback equal to 34-feet from centerline on the development side of 12th Street SE.

# NOTICE OF DECISION

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



**Condition 5:** Install wheel stops on the subject property in a location that will prohibit any portion of a vehicle parking in parking spaces on the property from entering the pedestrian space within the 12th Street right-of-way.

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>April 1, 2025</u>
Class 3 Site Plan Review:	<u>April 1, 2027</u>
Application Deemed Complete:	<u>February 14, 2023</u>
Public Hearing Date:	<u>March 8, 2023</u>
Notice of Decision Mailing Date:	<u>March 16, 2023</u>
Decision Effective Date:	<u>April 1, 2023</u>
State Mandate Date:	<u>June 14, 2023</u>

Case Manager: Aaron Panko, [APanko@cityofsalem.net](mailto:APanko@cityofsalem.net), 503-5402356

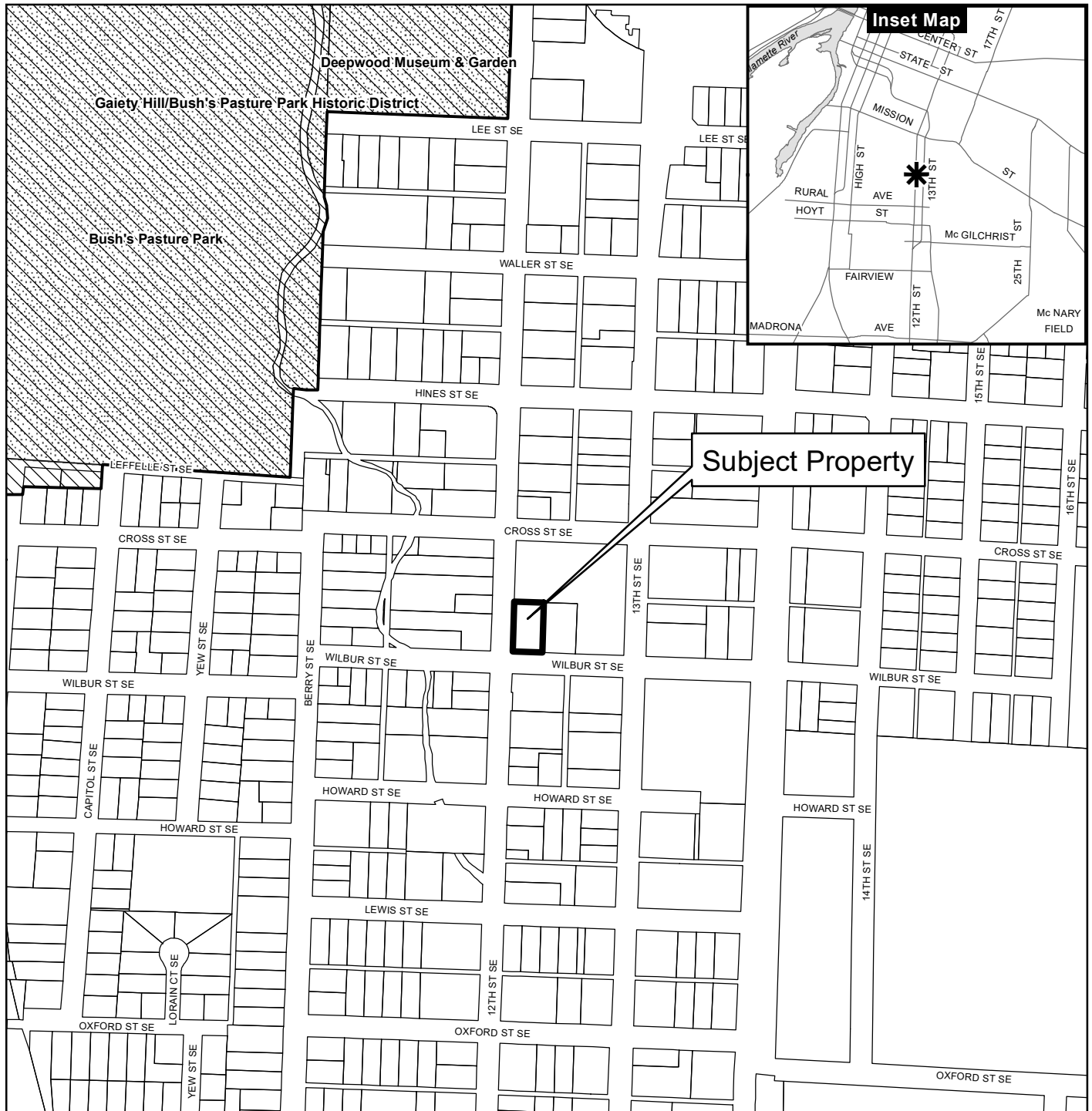
This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m. Friday, March 31, 2023. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240, 220. 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

## 1290 and 1292 12th Street SE



### Legend

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

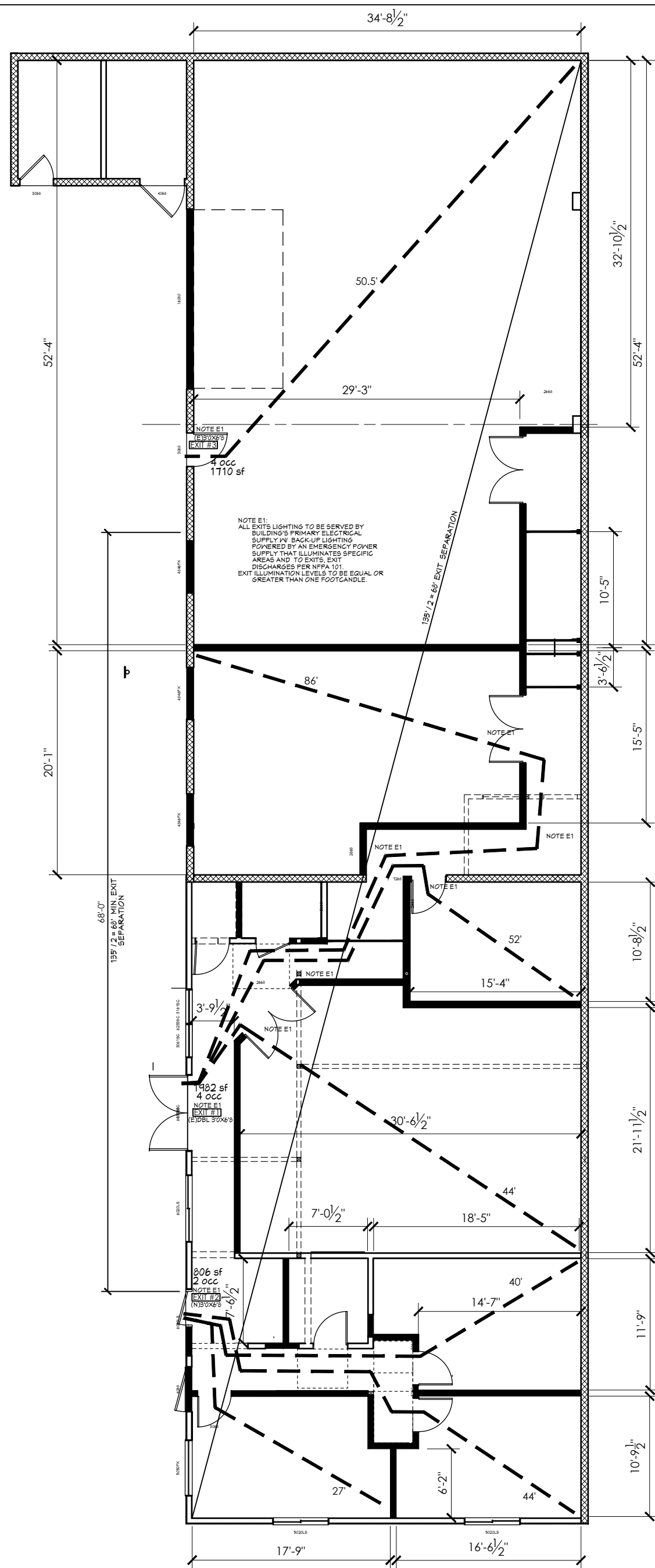
Parks

**CITY OF Salem**  
AT YOUR SERVICE  
Community Development Dept.

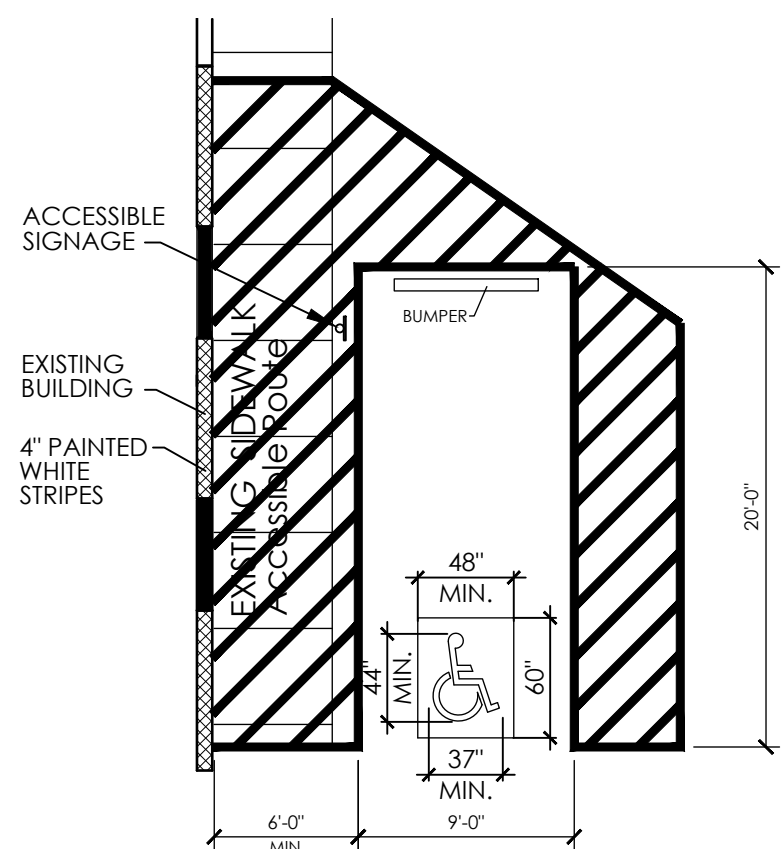
This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

0 100 200 400 Feet

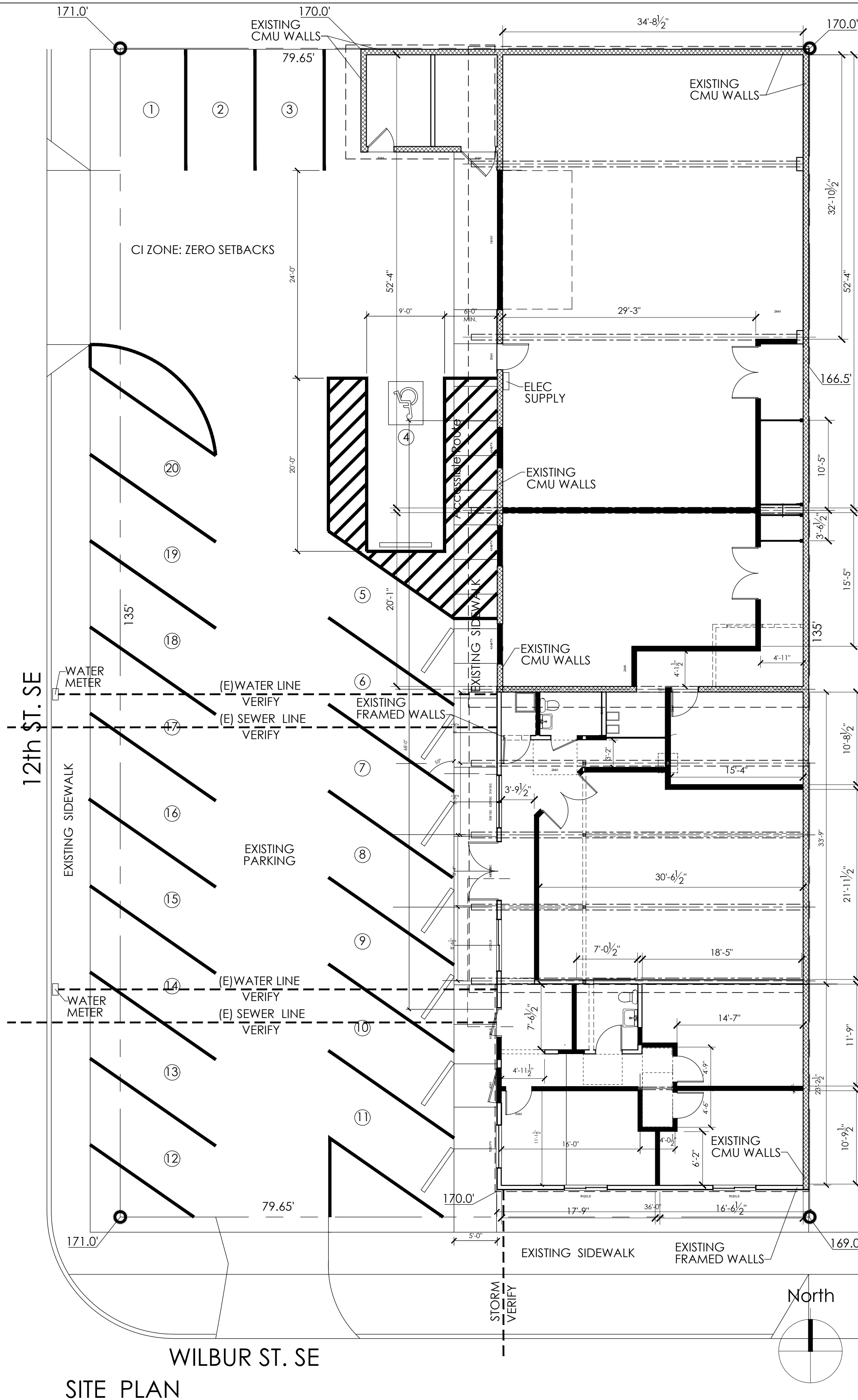




EXISTING PLAN  
SCALE: 1" = 10' 0"



1  
A0 ACCESSIBLE PARKING SPACE  
SCALE: 1/8" = 1' 0"



SITE PLAN  
SCALE: 1/8" = 1' 0"

EXISTING PLAN  
SCALE: 1" = 10' 0"

## GENERAL BUILDING INFORMATION

BUILDING 10 YEAR LEASE:

PROPERTY OWNER: MJLEISTEN LLC  
MIKE LEISTEN, 5914 BALLEymeade ST SE, SALEM, OR 97306  
503-585-4759

PERMIT APPLICANT: CSK CONSTRUCTION  
17799 SW SHASTA TRAIL,  
TUALATIN, OR 97062

ATTN: Seung (KC) Choi  
503-888-8498

ARCHITECT: Clinton Pearson Mobile: 971-570-1606  
11076 SW Eschman Way, Tigard, OR 97223  
by Architect

STRUCTURAL: by Architect

PROJECT ADDRESS: 1290 12TH St. SE Salem, OR 97302  
LEGAL DESCRIPTION: Taxlot # 073W35BB09900, Tax Account: 596807, Acres: 0.25 AC  
ZONING: IC COMMERCIAL, CMLSE LAT: 44.92510 LONG: -123.03030

## APPLICABLE CODES

2022 OREGON STRUCTURAL SPECIALTY CODE (OSSC)  
(BASED ON 2021 IBC)

2021 OREGON ENERGY EFFICIENCY SPECIALTY CODE  
(OEEESC)(BASED ON ASHRAE Standard 90.1-2019)

2022 OREGON FIRE CODE (OFC)

2022 OREGON MECHANICAL SPECIALTY CODE (OMSC)

2021 OREGON PLUMBING SPECIALTY CODE (OPSC)

2021 OREGON ELECTRICAL SPECIALTY CODE (OESC)

2017 ICC A117.1-2017 ACCESSIBLE & USABLE BUILDINGS...

NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)

## PROPERTY & BUILDING NARRATIVE & INFO + FLS CODE SUMMARY

CONVERT EXISTING AUTOMOTIVE REPAIR CENTER TO A CANNABIS GROWING OPERATION (NOT DISPENSARY OR PROCESSING). SITE AREA = 10,752.75 SF;  
BUILDING FOOTPRINT 4,925 SF, INTERIOR 4540 SF.,  
OCCUPANCY & USE (chapter 3): Marijuana Grow Facilities (Greenhouse) F-1 Occupancy  
per 306.2.

BUILDING HEIGHT & AREAS (chapter 5): Type Vb 15'<40' allow per Table 504.3;  
F-1 NS 8,500 Type Vb 4,925 sf < 8,500 sf OK per Table 506.2; No Sprinklers req'd.  
One Story.

CONSTRUCTION (chapter 6): Type Vb= 0 Hours all elements. Section 602 fire separation  
based on distance. x<5' = 2 hrs. See 706.1.1 Party walls.

FIRE & SMOKE PROTECTION FEATURES & LIFE SAFETY FEATURES (chapter 7):

Existing to remain, except where door & windows are removed.

Safety glazing at new door Exit # 2.

INTERIOR FINISHES (chapter 8)

NonSprinklered Wall & Ceiling finishes: Exit passage ways Class B finishes  
Enclosed Rooms & Spaces, Class C finishes.

MEANS OF EGRESS (chapter 10)

OCCUPANT LOAD (chapter 10) SUM TABLE 1004.1.2

WAREHOUSES 500 SF GROSS / OCC 4540 sf / 500 sf per occ = 10 OCCUPANTS;  
Per Section 1008 Provide exit illumination. Illumination powered by building electrical  
system at Exit passageways, Vestibules, and Exit landings. Per 1008.3.3 Electrical  
equipment rooms, Generator rooms, Public Restrooms to automatically illuminated for  
not less than 90 minutes with emergency power.

ACCESSIBILITY (chapter 11)

Per 1102.1.2.5 Door opening force 8.5 lbs exit doors, 5 lbs interior doors.

Per 1104 Accessible route provided except per 1104.4 exception 7.

Per 1106 Provide 1 accessible stall w/ Surface identification and signage as req'd.

Per 1109 Provide at least 1 accessible drinking fountain.

INTERIOR ENVIRONMENT (chapter 12)

Per 1202 provide natural or mechanical ventilation equivalent to 4% of floor area  
including restrooms.

Per 1204 provide artificial lighting of 10 footcandles min. at 30" above except where  
cannabis and tissue culture requirements require otherwise.

Per 1209 provide restroom compartment door requirements & fixture clearances.

ENERGY EFFICIENCY & EXTERIOR WALLS (chapterS 13 & 14)

Provide insulation r-21 min. & wall assembly materials & flashing at new infill window  
& door wall infill locations. HVAC system as required separate permit.

New door U-0.20, New windows U-0.30 (0.65 max).

Per 1405.1.3 Provide fireblocking at 10' max. distance in tall walls.

STRUCTURAL DESIGN (chapter 16-23):

See attached structural calculations.

GLASS & GLAZING (chapter 24)

Per 2406 provide safety glazing at new doors and at windows if adjacent.

ELECTRICAL, MECHANICAL, PLUMBING (chapters 27, 28, & 29) under separte permit.

### PAGES

A0 SITE PLAN & PROJECT INFORMATION & CODE SUMMARY  
A1 FLOOR PLAN  
A2 ELEVATIONS  
A3 SECTIONS  
STRUCTURAL CALCULATIONS

CLINTON  
PEARSON  
ARCHITECT

STREET ADDRESS :  
11076 SW ESCHMAN WAY  
TIGARD, OREGON 97223

PHONE: 971 - 570 - 1606

Cannabis Growing Facility  
1290 12th St. SE, Salem, OR 97302

PERMIT SET: 30 NOV 2022

DRAWN BY: CAL

SCALE:

FILE NAME:

REGISTERED ARCHITECT  
3216  
CLINTON A.L. PEARSON  
TIGARD, OREGON  
STATE OF OREGON

22412  
SHEET NO.

OF



12th ST. SE

EXISTING SIDEWALK

CI ZONE: ZERO SETBACKS

WILBUR ST. SE

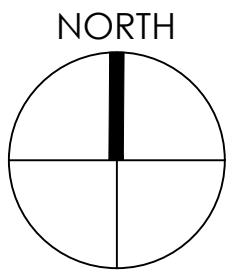
FLOOR PLAN SCALE: 3/16" = 1' - 0"

NOTE: ARCHITECT IS NOT RESPONSIBLE FOR ANY AGREEMENT BETWEEN LEASEE AND OWNER, OR RESULTS OF THIS REMODEL PER THAT AGREEMENT, OR FOR ANY WORK HEREIN, OR FOR EXISTING OR NEW CONDITIONS, OR ASSUMPTIONS REGARDING EXISTING CONDITIONS.

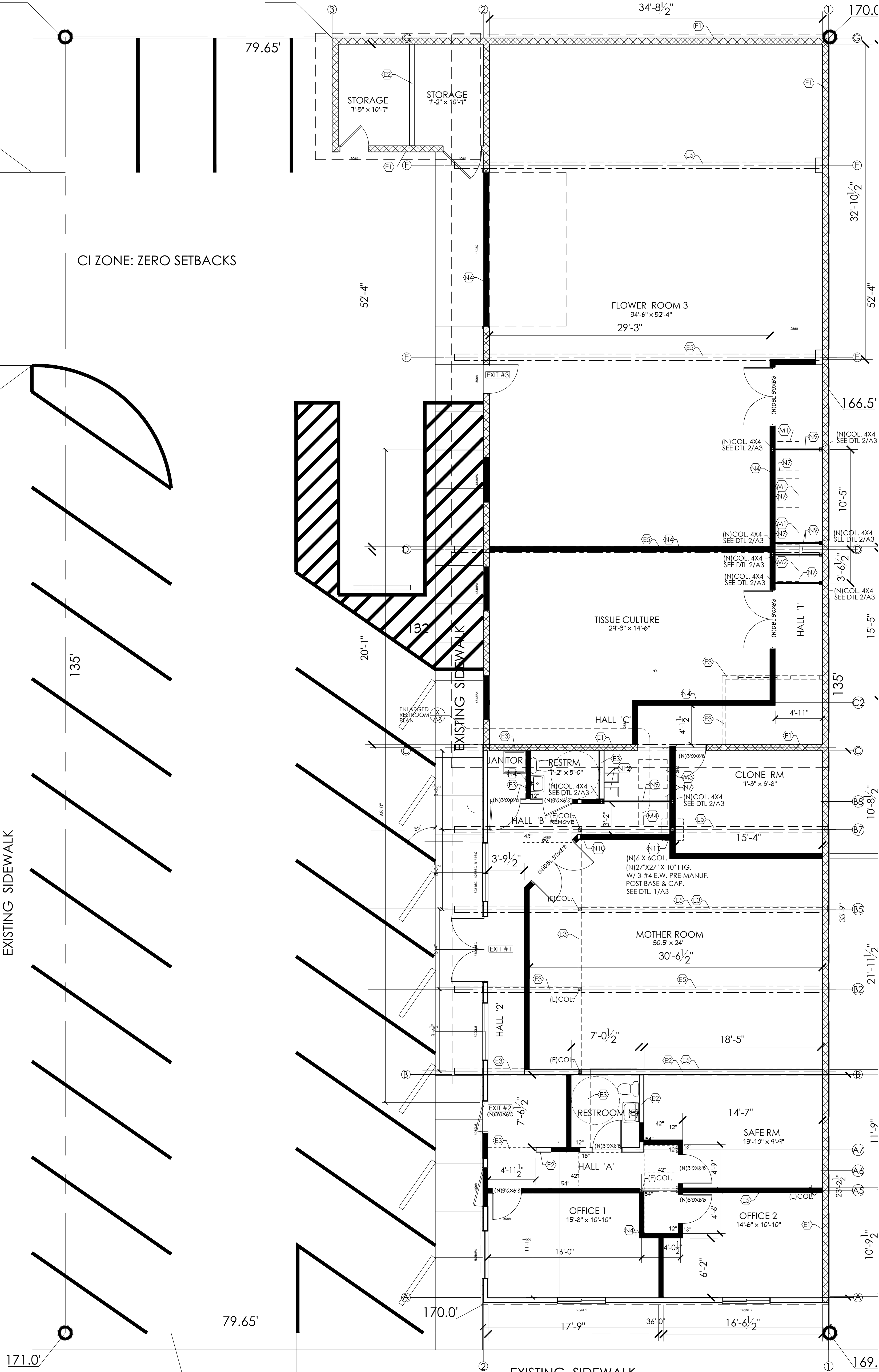
**MECHANICAL NOTES**  
M1 3 UNITS X 10 TONS EA. @ FLOWER RM.  
M2 1 UNIT X 6 TONS @ TISSUE CULTURE RM.  
M3 1 UNIT X 3 TONS @ CLONE RM.  
M4 1 UNIT X 10 TONS @ MOTHER RM.  
M5 1 UNIT X 3 TONS @ SAFE RM.  
NOTE: SEE DETAIL X/X FOR STRUCTURAL SUPPORT TYP. PROVIDE MANUFACTURER CLEARANCES.

**NOTES: (X)**  
E1. EXISTING CMU WALL TO REMAIN.  
E2. EXISTING FRAMED WALL TO REMAIN.  
E3. EXISTING WALL TO BE REMOVED.  
N4a. NEW WALL W/ DEFLECTION ATTACHMENT ABOVE TYP.  
12" = 12" MIN. DIM. ON PUSH SIDE /18" ON PULL SIDE AT DOORS.  
N4b. PROVIDE ACCESSIBLE FLOOR CLEARANCES SHOWN.  
E5. EXISTING STRUCTURAL BEAM TO REMAIN.  
E(COL) = EXISTING STRUCTURAL COLUMN TO REMAIN.  
EXIT = EXIT W/ ILLUMINATION & HARDWARE AS REQ'D.  
R6. REMOVE EXISTING FIXTURES.  
(N)3'0"x6'9" = NEW DOOR PER SIZE SHOWN.  
N7. NEW ROOFTOP EQUIPMENT LOCATION, SEE NOTE N9 & STRUCTURAL CALCULATIONS.  
N8. CONVERT WINDOW IN TO DOORWAY.  
N9. NEW 4X8 BEAM UNDER EXISTING JOISTS TO SUPPORT ROOF-TOP MECH UNITS W/ 4X4 COLUMNS EACH END, W/ 12" X 12" X 8' CONCRETE FOOTING PIN TO SLAB, SAWCUT CONTROL JOINT IN SLAB, PRE-MANF. POST BASES CAPS. SEE DETAIL 2/A3.

N10. VERIFY IF EXISTING BEAM IS CONTINUOUS, REPORT TO ARCHITECT. IF CONTINUOUS MAY REPLACE HALL COLUMN TO LOCATION AT NOTE N11, WITH NEW COLUMN & FOOTING.  
N11. NEW COLUMN & FOOTING 6X6 COL. W/ 27X27X10" FOOTING W/ 3- #4 BAR EA. WAY, W/ PRE-MANUF. POST CAP & BASE. SEE DETAIL 1/A3.



EXISTING SIDEWALK



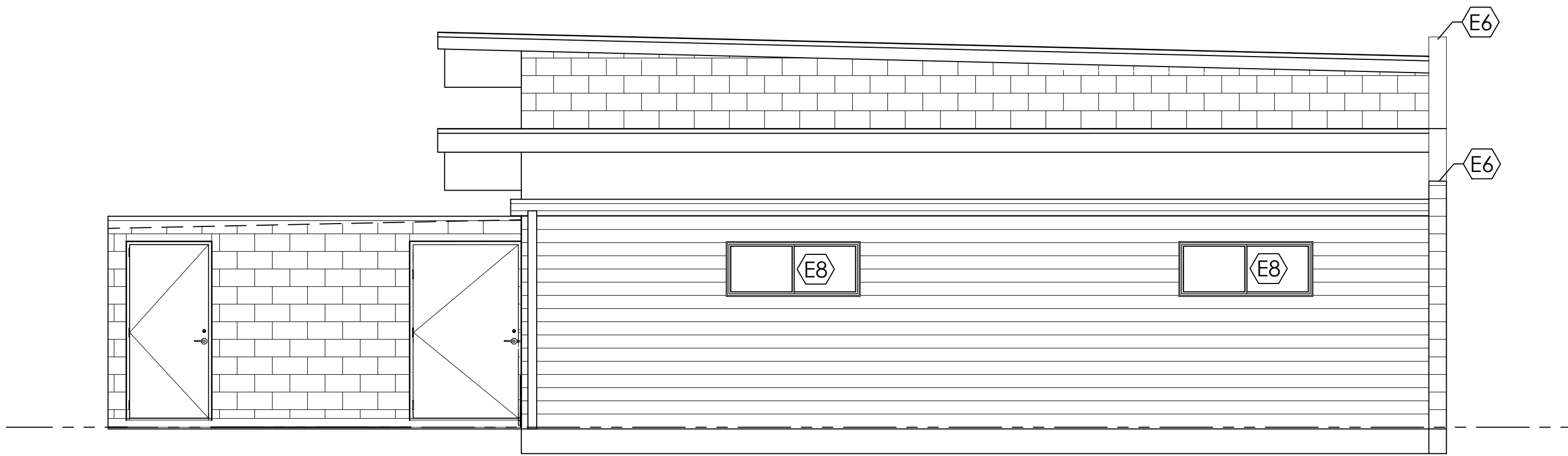
OF  
SHEET NO. 22412  
A1

REGISTERED ARCHITECT  
CLINTON PEARSON  
STATE OF OREGON  
3216  
CLINTON PEARSON  
TIGARD, OREGON

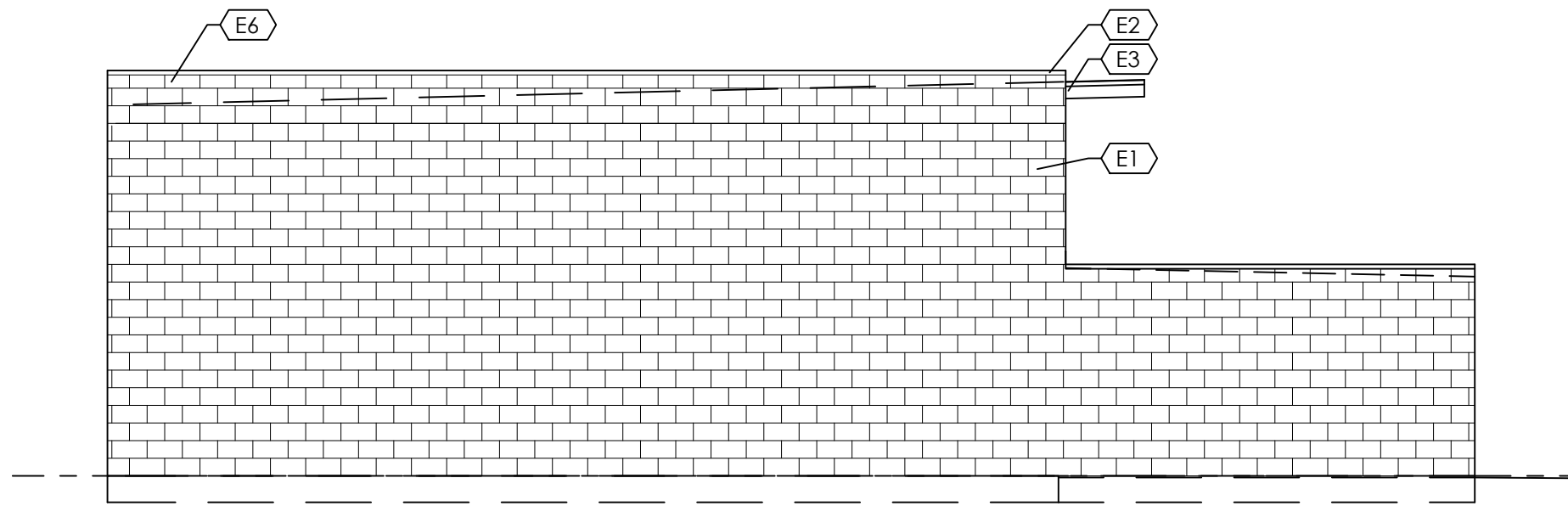
DATE: 30 NOV 2022  
DRAWN BY: CAL  
SCALE: 3/16" = 1' - 0"  
REVISIONS:

Cannabis Growing Facility  
1290 12th St. SE, Salem, OR 97302

CLINTON PEARSON ARCHITECT  
STREET ADDRESS :  
11076 SW ECHMAN WAY  
TIGARD, OREGON 97223  
PHONE: 971 - 570 - 1606

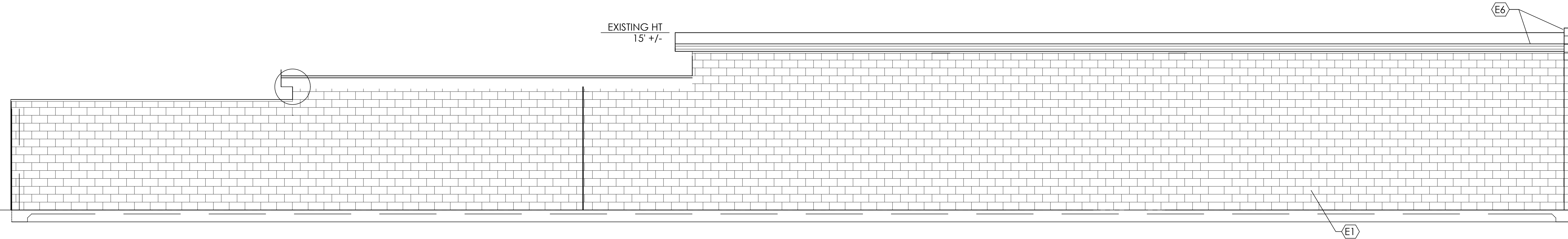


SOUTH ELEVATION  
SCALE 1/4" = 1'-0"

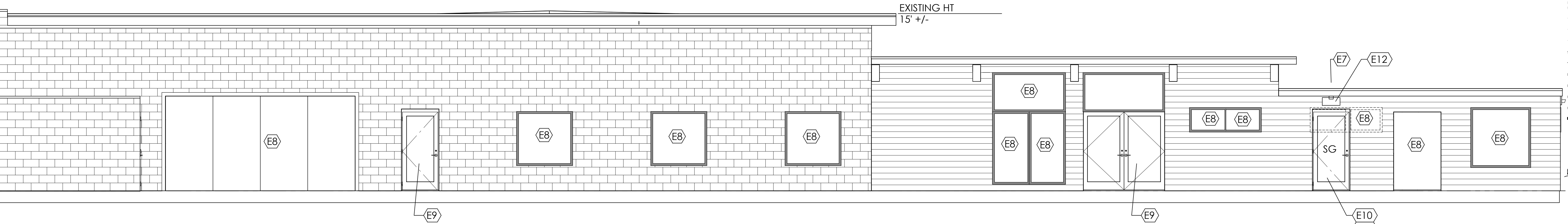


NORTH ELEVATION  
SCALE 1/4" = 1'-0"

LEGEND  
E1- EXISTING CMU WALLS.  
E2- EXISTING FLASHING.  
E3- EXISTING WOOD FASCIA PAINTED.  
E4- FIBER CEMENT SOFFIT TYP. w/ CONT. VENT.  
E5- EXISTING SIDING  
E6- EXISTING PARAPET  
E7- NEW LIGHTING AS REQ'D.  
E8- NEW INFILL WALLS W/ FIBERCEMENT FINISH.  
E9- EXISTING FIREMANUF. DOOR & WINDOW SYSTEMS TO REMAIN.  
E10- NEW FIREMANUF. DOOR & WINDOW SYSTEMS PER ENERGY  
CODE W/ SAFETY GLAZING  
E11- SG = SAFETY GLAZING  
E12- ADDRESS NUMBERS AS REQ'D.



EAST ELEVATION  
SCALE 1/4" = 1'-0"



WEST ELEVATION  
SCALE 1/4" = 1'-0"

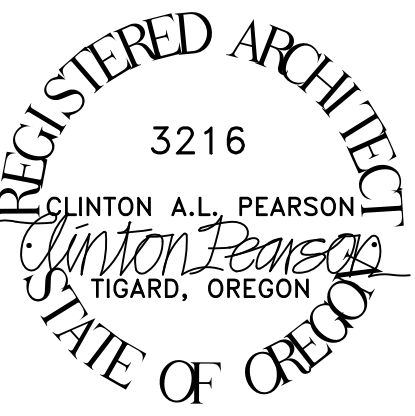
Cannabis Growing Facility  
1290 12th St. SE, Salem, OR 97302

PERMIT SET: 30 NOV 2022

DRAWN BY: CAL

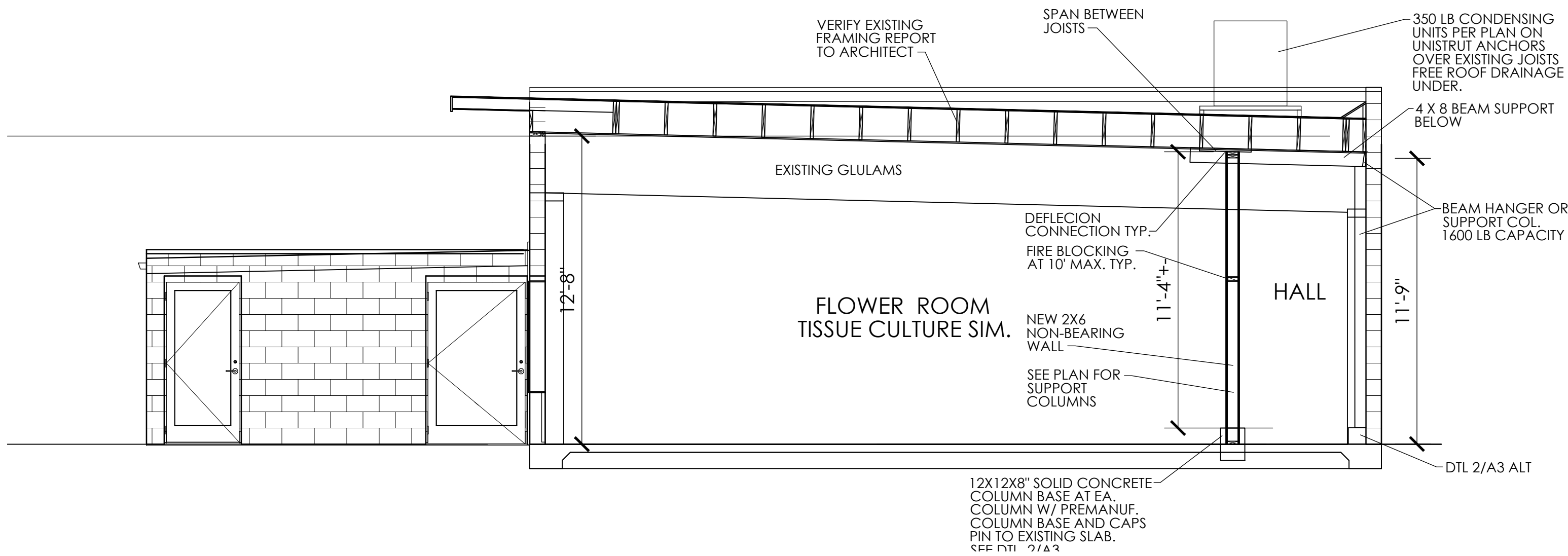
SCALE:

FILE NAME:

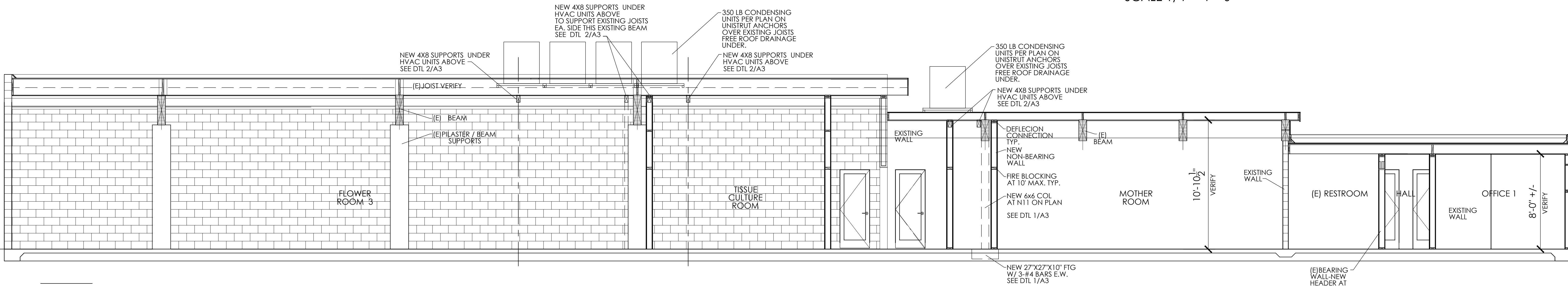


22412  
SHEET NO.

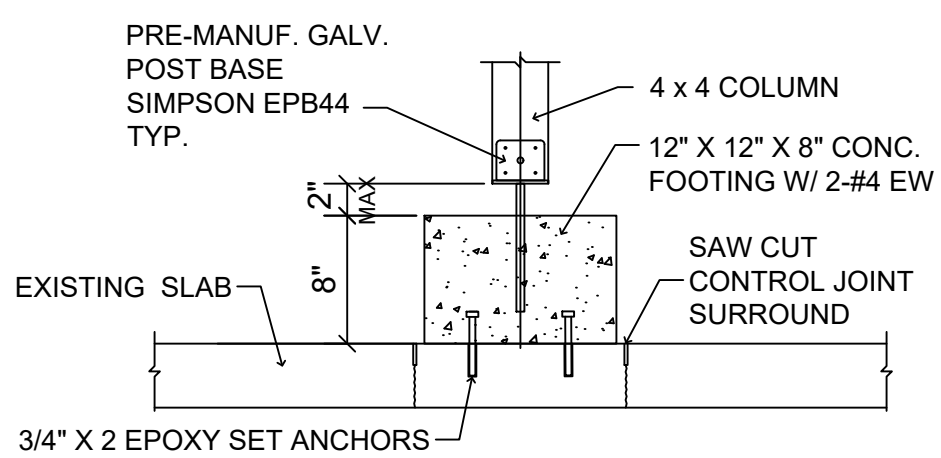
OF A2



SECTION BB  
SCALE 1/4" = 1' - 0"

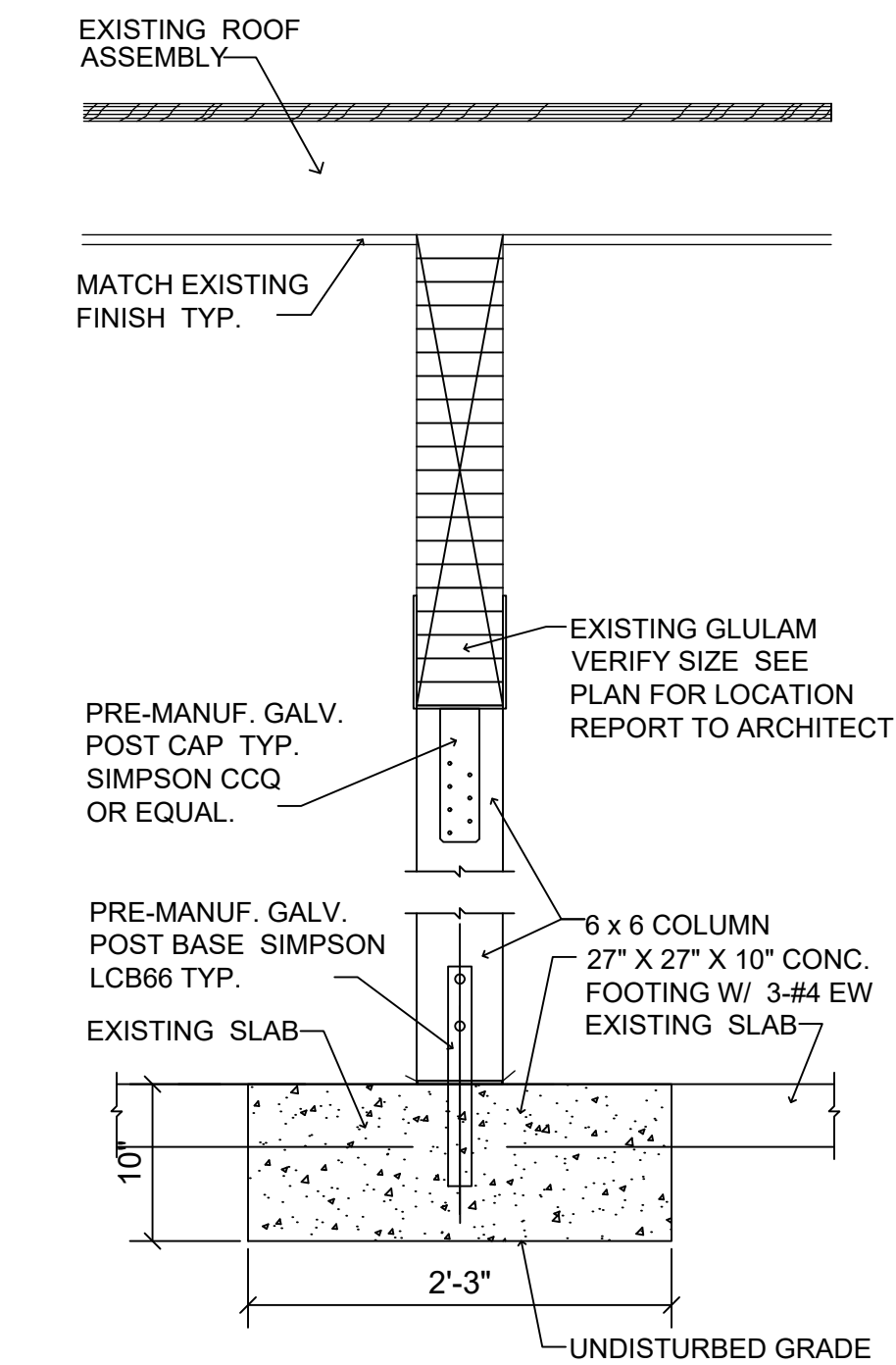
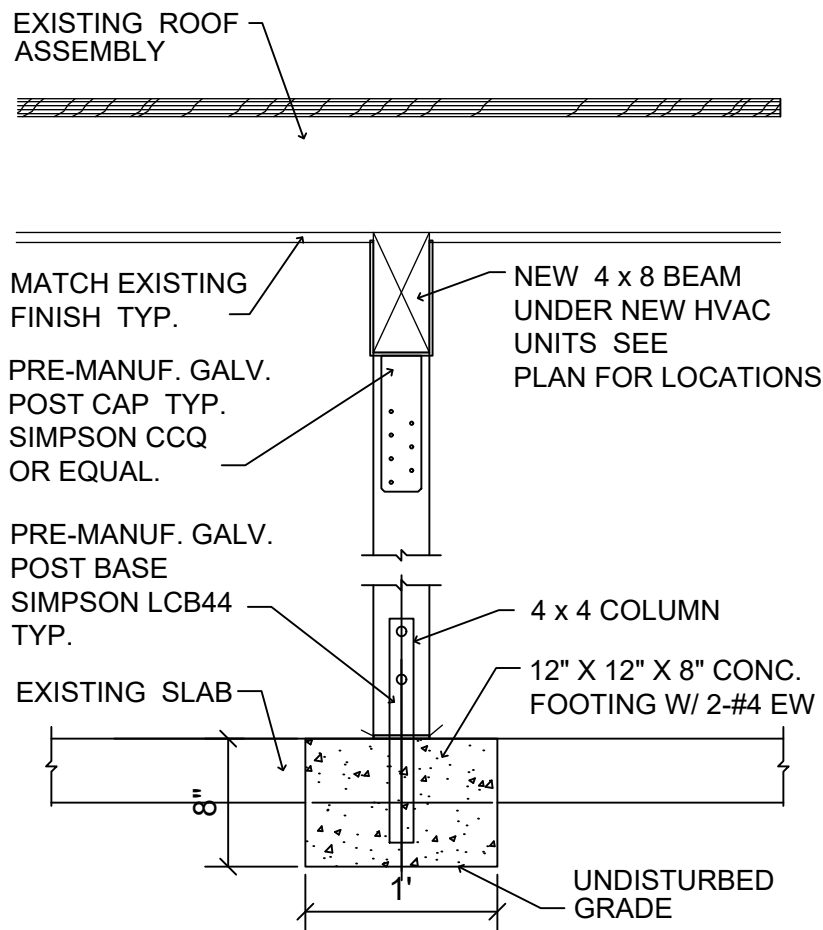


SECTION AA  
SCALE 1/4" = 1' - 0"



ALTERNATE BASE DETAIL NEAR WALLS

2  
A3 TYP. 4X4 POST & 4X8 BEAM DETAIL UNDER HVAC UNITS  
1" = 1'-0"



1  
A3 TYP. 6X6 POST @ EXIST'G BEAM DETAIL  
1" = 1'-0"



**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONDITIONAL USE /	}	
CLASS 3 SITE PLAN REVIEW	}	CU-SPR23-01
1290-1292 12th STREET SE – 97302	}	
AMANDA NO. 22-124807-PLN	}	
	}	FINDINGS OF FACT, CONCLUSIONS, AND
	}	DECISION
	}	
	}	
	}	

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**DATE AND PLACE OF HEARING:**

On March 8, 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: Peter Domine, Planner

Neighborhood Association: None

Proponents: Danny Kim, Applicant

Opponents: None

**SUMMARY OF THE APPLICATION AND HEARING**

**BACKGROUND**

The City of Salem held a duly authorized and noticed public hearing on March 8, 2023, regarding a proposed change of use within an existing building (approximately 4,540 square feet in size) previously used for motor vehicle services and retail sales, to a proposed recreational marijuana production use. The production process includes indoor planting, growing, and harvesting of marijuana plants. The applicant has provided a written statement summarizing operating protocols for the facility and addressing the approval criteria for a conditional use permit. The commercial production of recreational marijuana would also require licensing the facility with the Oregon Liquor and Cannabis Commission (“OLCC” -- formerly known as the “Oregon Liquor Control Commission”), and compliance with



regulations established by that agency for recreational marijuana production facilities.

During the hearing, Peter Domine requested 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 additional testimony.

The Staff Report, and Staff presentation, noted the following:

### **FINDINGS OF FACT AND CONCLUSIONS**

#### **1. Salem Area Comprehensive Plan (SACP) designation**

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Industrial Commercial." The subject property is within the Urban Growth Boundary and the Urban Service Area.

#### **2. Zoning and Surrounding Land Uses**

The subject property is zoned IC (Industrial Commercial). The zoning and uses of the surrounding properties include:

North:	IC (Industrial Commercial) zone; Habitat for Humanity Restore
South:	Across Wilbur Street SE, CG (General Commercial) zone; Marijuana Dispensary
East:	IC (Industrial Commercial) zone; Marijuana Production
West:	Across 12th Street SE, CG (General Commercial) zone; motor vehicle and boat repair

#### **3. Site Analysis**

The subject property is approximately 0.25 acres and has approximately 135 feet of frontage on 12th Street SE and approximately 80 feet of frontage along Wilbur Street SE. 12th Street SE is designated as a Major Arterial street in the Transportation System Plan and Wilbur Street SE is designated as a Local street.

#### **4. Neighborhood and Citizen Comments**

The subject property is located within the Southeast Salem Neighborhood Association (SESNA). Pursuant to SRC Chapter 300, the applicant is required to contact the Neighborhood Association prior to submittal of this consolidated application. On December 20, 2022, the applicant contacted SESNA meeting the requirements of SRC 300.310(c). Notice was provided to the SESNA and to

surrounding addresses, property owners, and tenants within 250 feet of the subject property. At the time of this decision, no comments from the Neighborhood Association or public comments have been received.

#### 5. City Department and Public Agency Comments

The Public Works Department reviewed the proposal and provided a memo.

The Salem Building and Safety Division reviewed the proposal and indicated that an Architects Code Summary is required at permit application for change of use.

The Salem Fire Department reviewed the proposal and indicated no concerns.

Portland General Electric reviewed the proposal and provided comments regarding the requirements for service at the required capacity. Based on those comments as set out in the staff report, the Hearings Officer finds that it is possible for the proposed use to obtain required electrical service. The applicant is directed to coordinate with PGE to ensure the power supply to the building is adequate for the new proposed use.

#### 6. Analysis of Conditional Use Criteria

SRC Chapter 240.005(a)(1) provides 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.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit:

##### Criterion 1:

The proposed use is allowed as a conditional use in the zone.

**Finding:** SRC Chapter 551, Table 551-1 provides that Marijuana Production is allowed in the IC (Industrial Commercial) zone with a conditional use permit. The Hearings Officer finds that the proposal meets this criterion.

##### Criterion 2:

The likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

**Finding:** Several potential impacts on the immediate neighborhood could be generated by the proposal, including increased parking demand, odor, waste disposal, and criminal activity, due to the high value of the end product and prevalent use of cash in marijuana business transactions. The marijuana production process



described in the applicant's operating plan does not describe any use of heavy machinery or other indications that noise impacts would result. At the time of the hearing, no comments were received from adjacent property owners or the Southeast Salem Neighborhood Association, and therefore no additional impacts were raised as a concern by residents in the vicinity.

The Hearings Officer notes that State law requires facilities for the commercial production of recreational marijuana to obtain a license from the Oregon Liquor and Cannabis Commission (OLCC) and meet specific standards for site security, record keeping, waste disposal, inventory control, access control, and other operational requirements which address potential site impacts at a greater level of detail than the land use process for granting a conditional use. Therefore, the Hearings Officer's decisions focus on mitigating the impact of the potential use on surrounding properties and ensuring implementation of OLCC requirements where they may overlap with conditional use approval criteria.

Marijuana production facilities in General Industrial and Exclusive Farm Use zones are subject to special use standards which reflect concern for visual and odor impacts. These standards, mandating that marijuana production in these zones take place indoors, with an air filtration system to mitigate odors, also provide the basis for conditions to minimize these potential impacts in the IC (Industrial Commercial) zone. The applicant's written statement indicates that all marijuana production activities would be conducted indoors, and that an odor filtration system can be conditioned to mitigate the impact of odors from spreading beyond the premises. The Hearings Officer imposes conditions to ensure that these visual and odor control protocols are implemented by the present applicant and any subsequent operator of the proposed conditional use.

In order to ensure that visual and odor impacts from facility operations are minimized, the Hearings Officer imposes the following conditions:

Condition 1: Marijuana production must be conducted indoors.

Condition 2: The marijuana production facility must utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.

The Hearings Officer finds that with these conditions, the proposal meets this criterion.

Criterion 3:

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

**Finding:** The Hearings Officer notes that the subject property has been used as an automotive repair and retail sales use for several decades and is surrounded by other

industrial and commercial developments. The proposed recreational marijuana production facility would be located within the existing buildings. The Hearings Officer notes the staff analysis concluding that the proposal will not significantly change the appearance of the property or significantly increase traffic.

The Hearings Officer finds that the proposal meets this criterion.

#### 7. Analysis of Class 3 Site Plan Review Approval Criteria

SRC 220.005(f)(3) establishes the following approval criteria for a Class 3 Site Plan Review:

##### Criterion 1:

The application meets all applicable standards of the UDC.

**Finding:** The applicant is requesting a change of use of an existing building from automotive repair and retail sales to a marijuana production facility. The proposed site plan complies with all applicable development standards of the Unified Development Code (UDC).

Use and Development Standards – IC (Industrial Commercial) Zone:

SRC 551.005(a) – Uses:

**Finding:** The proposed development includes establishing a marijuana production facility. A marijuana production facility use is classified as an Agriculture use and is allowed in the IC zone per SRC 551.005, Table 551-1 as a conditional use. Findings for the Conditional Use are included in Section 6 of this decision. The Hearings Officer concludes that the application satisfies this standard.

SRC 551.010(a) – Lot Standards:

There are no minimum lot area or dimension requirements in the IC zone. All uses are required to have a minimum of 16 feet of street frontage.

**Finding:** The subject property is approximately 0.25 acres in size and has approximately 135 feet of frontage on 12th Street SE and approximately 80 feet of frontage along Wilbur Street SE, exceeding minimum lot standards of the IC zone. The Hearings Officer concludes that the application satisfies this standard.

SRC 551.010(b) – Setbacks:

North: Adjacent to the north is property zoned IC (Industrial Commercial). There is a minimum five-foot building setback adjacent to an IC zoned property. Vehicle use areas require a minimum five-foot setback per SRC Chapter 806.



South: Adjacent to the south is the right-of-way for Wilbur Street SE. Within the IC zone, there is a minimum five-foot building setback adjacent to a street. Vehicle use areas require a minimum 6-10 foot setback adjacent to a street per SRC Chapter 806.

East: Adjacent to the north is property zoned IC (Industrial Commercial). There is a minimum five-foot building setback adjacent to an IC zoned property. Vehicle use areas require a minimum five-foot setback per SRC Chapter 806.

West: Adjacent to the west is the right-of-way for 12th Street SE. Within the IC zone, there is a minimum five-foot building setback adjacent to a street. Vehicle use areas require a minimum 6-10 foot setback adjacent to a street per SRC Chapter 806.

**Finding:** The proposed marijuana production facility would be within an existing building; no expansion or change to the existing building footprint or setbacks is proposed. The existing off-street parking and vehicle use area is not being expanded, however, the applicant is proposing to restripe the parking area to provide an ADA accessible parking space. No change is proposed affecting existing setbacks.

The proposal complies with all applicable setback requirements of the IC zone. The Hearings Officer concludes that the application satisfies this standard.

SRC 551.010(c) – Lot Coverage, Height:

There is no maximum lot coverage standard in the IC zone; the maximum height allowance for all buildings and structures is 70 feet.

**Finding:** No changes are proposed to the height or footprint of the existing building. The Hearings Officer finds the proposed development complies with the maximum height standard.

SRC 551.010(d) – Landscaping:

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

(2) Vehicle Use Areas. Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.

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

**Finding:** The proposal does not include a change to the footprint of the existing building, or an expansion of the existing off-street parking and vehicle use area; therefore, no additional landscaping is required for the proposed development. The Hearings Officer concludes that the application satisfies this standard.



## General Development Standards SRC 800

### SRC 800.055(a) – Applicability.

Solid waste service area design standards shall apply to all new solid waste, recycling, and compostable services areas, where use of a solid waste, recycling, and compostable receptacle of 1 cubic yard or larger is proposed.

**Finding:** There are no solid waste service areas proposed on the site plan. The Hearings Officer finds that the development standards of SRC 800.055 are not applicable.

### SRC 800.065 – Pedestrian Access.

All development shall include an on-site pedestrian circulation system developed in conformance with the standards in this section. For purposes of this section development means the construction of, or addition to, a building or accessory structure or the construction of, or alteration or addition to, an off-street parking or vehicle use area.

**Finding:** Because the proposed change of use does not meet the definition of development as used in this section, the proposed change of use does not trigger compliance with the pedestrian access standards of SRC 800.065. The Hearings Officer concludes that the application satisfies this standard.

## Off-Street Parking, Loading, and Driveways SRC 806

### SRC 806.005 - Off-Street Parking; When Required.

Off-street parking shall be provided any change of use or activity, when such change of use or activity results in a parking ratio requiring a greater number of spaces than the previous use or activity.

**Finding:** Per Table 806-1, there are no off-street parking spaces required for agricultural uses when retail sales are not involved. No additional off-street parking spaces are required for the proposed change of use. The Hearings Officer concludes that the application satisfies this standard.

### SRC 806.035 - Off-Street Parking and Vehicle Use Area Development Standards.

a) General Applicability. The off-street parking and vehicle use area development standards set forth in this section apply to the development of new off-street parking and vehicle use areas.

b) Location. Off-street parking and vehicle use areas shall not be located within required setbacks.

c) Perimeter Setbacks and Landscaping. Perimeter setbacks shall be required for off-street parking and vehicle use areas abutting streets, abutting interior front, side, and rear property lines, and adjacent to buildings and structures.

Adjacent to Buildings and Structures: The off-street parking or vehicle use area shall be setback from the exterior wall of the building or structure by a minimum 5-foot-wide landscape strip or by a minimum 5-foot wide paved pedestrian walkway.

**Finding:** The only change proposed to the existing off-street parking and vehicle use area is the striping of one ADA accessible parking space. The new space is located six feet from the exterior wall of the existing building, in compliance with the applicable standards of this section. The Hearings Officer concludes that the application satisfies this standard.

d) Interior Landscaping. Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. There is no interior landscaping requirement for parking areas less than 5,000 square feet in size.

**Finding:** Interior landscaping is not required to be added to the existing off-street parking and vehicle use area. The Hearings Officer concludes that the application satisfies this standard.

e) Off-Street Parking Area Dimensions. Off-street parking areas shall conform to the minimum dimensions set forth in Table 806-6.

**Finding:** The proposed parking spaces, driveway and drive aisle for the off-street parking area meet the minimum dimensional requirements of SRC Chapter 806. The Hearings Officer concludes that the application satisfies this standard.

f) Off-street parking area access and maneuvering. In order to ensure safe and convenient vehicular access and maneuvering, off-street parking areas shall:

- (1) Be designed so that vehicles enter and exit the street in a forward motion with no backing or maneuvering within the street; and
- (2) Where a drive aisle terminates at a dead-end, include a turnaround area as shown in Figure 806-9. The turnaround shall conform to the minimum dimensions set forth in Table 806-7.

**Finding:** The proposed vehicle use area allows vehicles to enter and exit the site in a forward motion. The proposed off-street parking area does not include drive aisles that terminate in a dead-end. The Hearings Officer concludes that the application satisfies this standard.

g) Additional Off-Street Parking Development Standards 806.035(g)-(n).

**Finding:** The proposed off-street parking area is developed consistent with the additional development standards for maneuvering, grade, surfacing, and drainage. Bumper guards and wheel barriers are not required for the proposed vehicle use area. The parking area striping, marking, signage and lighting shall comply with the standards of SRC Chapter 806. Off-street parking area lighting and screening



standards per SRC 806.035(m-n) are not required for the proposed off-street parking area because the subject property does not abut residentially zoned property. The Hearings Officer concludes that the application satisfies this standard.

### Bicycle Parking

SRC 806.045 - General Applicability.

Bicycle parking shall be provided for any change of use or activity.

SRC 806.050 – Proximity of Bicycle Parking to use or Activity Served.

Bicycle parking shall be located on the same development site as the use or activity it serves.

SRC 806.055 - Amount of Bicycle Parking.

Per SRC Chapter 806, Table 806-8, for agriculture uses, a minimum of two bicycle parking spaces are required when retail sales are involved.

**Finding:** The proposed marijuana production use does not involve retail sales; therefore, no bicycle parking spaces are required for the proposed change of use. The Hearings Officer concludes that the application satisfies this standard.

### Off-Street Loading Areas

SRC 806.065 - General Applicability.

Off-street loading areas shall be provided and maintained for any change of use or activity, when such change of use or activity results in a greater number of required off-street loading spaces than the previous use or activity.

SRC 806.075 - Amount of Off-Street Loading.

No off-street loading spaces are required for uses in the agriculture classification.

**Finding:** No off-street loading spaces are required for the proposed development. The Hearings Officer concludes that the application satisfies this standard.

### Landscaping

All required setbacks shall be landscaped with a minimum of one plant unit per twenty square feet of landscaped area. A minimum of 40 percent of the required number of plant units shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. Plant materials and minimum plant unit values are defined in SRC Chapter 807, Table 807-2.

All building permit applications for development subject to landscaping requirements shall include landscape and irrigation plans meeting the requirements of SRC Chapter 807.

**Finding:** The proposal includes a change of use within an existing building, and no exterior changes to the development site are proposed that would trigger the requirement for additional site landscaping; therefore, landscape and irrigation plans are not required for the proposed scope of work. The Hearings Officer concludes that the application satisfies this standard.

## Natural Resources

**SRC 601 – Floodplain Overlay Zone:** The subject property is designated on the Federal Emergency Management Agency (FEMA) floodplain maps as a Zone “AE” floodplain. Development within the floodplain requires a floodplain development permit and is subject to the requirements of SRC Chapter 601.

**Finding:** No new structures are proposed in the floodplain. The existing building is located within the regulatory floodplain. If the proposed development meets the definition of a substantial improvement, as defined in SRC 601.005(ff), the building must be brought into compliance with the current floodplain overlay zone regulations in SRC Chapter 601. At time of building permit application, the applicant shall describe the methods of building construction in sufficient detail to determine if the project meets the definition of substantial improvement.

**Condition 3:** As determined at the time of building permit, if the project meets the definition of a substantial improvement, obtain a Floodplain Development Permit for development within the regulatory floodplain and floodway pursuant to SRC Chapter 601.

The Hearings Officer concludes that that with this condition, the application satisfies the requirements of the Floodplain Overlay Zone.

**SRC 808 - Preservation of Trees and Vegetation:** The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove a significant tree (an Oregon White Oak greater than 20 inches in diameter at breast height (dbh), or any other tree with a dbh of 30 inches or greater, excluding Tree of Heaven, Empress Tree, Black Cottonwood, and Black Locust) (SRC 808.015) or a tree or native vegetation in a riparian corridor (SRC 808.020), unless the removal is excepted under SRC 808.030(a)(2), undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045.

**Finding:** There are no protected trees located on the subject property and no trees are proposed for removal. The Hearings Officer concludes that the application satisfies this standard.

**SRC 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.

**Finding:** According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas or hydric soils. The Hearings Officer concludes that the application satisfies this standard.

**SRC 810 - Landslide Hazards:** A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas on the subject property. The development proposal includes a change of use within an existing building, no activity points are assigned to the proposed development. Therefore, the proposed development is a low landslide hazard risk and does not require a geological assessment or geotechnical report.

The Hearings Officer finds that with Condition 3, the application satisfies this criterion.

#### Criterion 2:

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:** Wilbur Street SE meets the minimum improvement width and right-of-way width required for its classification according to the Salem TSP.

12th Street SE does not meet the minimum improvement width or right-of-way-width required for its classification according to Appendix G of the Salem TSP. The existing street system is adequate to serve the proposed development, and the development is not proposing a building addition subject to 803.040(a); therefore, no right-of-way dedication or street improvements are required.

**Condition 4:** The proposed development is subject to a special setback equal to 34-feet from centerline on the development side of 12th Street SE.

The Hearings Officer finds that with this condition, the application satisfies this criterion.

#### Criterion 3:

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



**Finding:** The property has an existing access on 12th Street SE and Wilbur Street SE. The existing driveway accesses provide for safe turning movements into and out of the property.

There are existing parking spaces that extend into the public right-of-way of 12th Street SE, as shown on the applicant's site plan. There are no barriers or wheel stops that would restrict vehicles from traversing onto the sidewalk, causing a potentially dangerous situation for pedestrians. The Hearings Officer directs that these parking spaces be removed, or wheel stops be installed on the private property that will prohibit vehicles from entering the pedestrian space.

Condition 5: Install wheel stops on the subject property in a location that will prohibit any portion of a vehicle parking in parking spaces on the property from entering the pedestrian space within the 12th Street right-of-way.

The Hearings Officer finds that with this condition, the application satisfies this criterion.

Criterion 4:

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

**Finding:** The subject property is located inside the Urban Service Area and adequate facilities are available. No Urban Growth Area permit is required. The Public Works Department has reviewed the applicant's preliminary plan for this site. The water, sewer, and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development.

The applicant shall be required to design and construct a storm drainage system at the time of development. The application shall provide an evaluation of the connection to the approved point of discharge for new areas of impervious surface per SRC 71.075.

The applicant shall design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director.

## DECISION

The Hearings Officer **APPROVES** the request for a conditional use and site plan review collective applications for the proposed development of a marijuana production use within an existing building located at 1290-1292 12th Street SE, subject to the following conditions of approval:

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CONDITIONAL USE:

- Condition 1: Marijuana production shall be conducted indoors.
- Condition 2: The marijuana production facility shall utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.

SITE PLAN REVIEW:

- Condition 3: As determined at the time of building permit, if the project meets the definition of a substantial improvement, obtain a Floodplain Development Permit for development within the regulatory floodplain and floodway pursuant to SRC Chapter 601.
- Condition 4: The proposed development is subject to a special setback equal to 34-feet from centerline on the development side of 12th Street SE.
- Condition 5: Install wheel stops on the subject property in a location that will prohibit any portion of a vehicle parking in parking spaces on the property from entering the pedestrian space within the 12th Street right-of-way.

DATED: March 15, 2023



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Jim K. Brewer, Hearings Officer