

## NOTICE OF DECISION

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



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

## DECISION OF THE HEARINGS OFFICER

**CONDITIONAL USE / CLASS 3 SITE PLAN REVIEW / CLASS 2 ADJUSTMENT  
CASE NO.: CU-SPR-ADJ18-08**

**APPLICATION NO. : 18-112263-ZO, 18-112264-ZO & 18-112265-RP**

**NOTICE OF DECISION DATE: SEPTEMBER 12, 2018**

**SUMMARY:** An application to convert part of an existing building to a motor vehicle sales use and reconfigure part of an existing vehicle use area for parking and vehicle display.

**REQUEST:** A consolidated Conditional Use, Class 3 Site Plan Review, and Class 2 Adjustment application to convert 18,121 square feet of an existing building to a motor vehicle sales use and reconfigure part of an existing vehicle use area for parking and vehicle display, for a property approximately 4.17 acres in size, zoned CR (Retail Commercial), within the Northgate Mixed-Use Overlay Zone, and located at 3700 Portland Road NE - 97301 (Marion County Assessor's Map and Tax lot number: 073W12CA / 03500 and 03700). The Adjustment is requested because the proposal would result in development site landscaping of 4.4 percent where 15 percent is required.

**APPLICANT:** Eric Freeman, Freeman Motor Company, Inc.

**LOCATION:** 3700 Portland Road NE

**CRITERIA:** Conditional Use: SRC Chapter 240.005(d)  
Class 3 Site Plan Review: SRC Chapter 220.005(f)(3)  
Class 2 Adjustment: SRC Chapter 250.005(d)(2)

**FINDINGS:** The findings are in the attached Order dated September 12, 2018.

**DECISION:** The Hearings Officer **APPROVED** Conditional Use / Class 3 Site Plan Review / Class 2 Adjustment Case No.CU-SPR-ADJ18-08 subject to the following conditions of approval:

**Condition 1:** The proposed development shall be in substantial conformance with the approved site plan included as Attachment C of the staff report, as modified by the conditions of approval.

**Condition 2:** The location and width of the proposed landscaping areas shall be in substantial conformance with the landscape plan included as Attachment D of the staff report.

**Condition 3:** All proposed landscape areas, including those in the public right-of-way, shall be planted with a minimum of 1 plant unit per 20 square feet of landscape area and shall be irrigated. A minimum of 40 percent of the required number of plant

units shall be a combination of shade trees, evergreen/conifer trees, or ornamental trees.

**Condition 4:** Fencing and landscaping in the vision clearance triangles at the northwest corner, on both sides of the driveways on Wayside Terrace NE, and the northeast corner must meet the requirements of SRC Chapter 805.

**Condition 5:** Prior to building permit issuance, the applicant shall provide plans to the City demonstrating that the proposed solid waste service area complies with the standards of SRC 800.055.

**Condition 6:** The Applicant shall close the existing driveway abutting Portland Road NE.

**Condition 7:** The reduced landscape requirements, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to the minimum landscaping requirements for the site, unless authorized under a future applicable land use action.

The rights granted by the attached Order for Conditional Use Case No. CU-SPR-ADJ -18-08 must be exercised, or an extension granted, by **September 28, 2020** or this approval shall be null and void.

The rights granted by the attached Order for Class 3 Site Plan Review Case No. CU-SPR-DAP -18-08 must be exercised, or an extension granted, by **September 28, 2022** or this approval shall be null and void.

The rights granted by the attached Order for Class 2 Adjustment Case No. CU-SPR-ADJ18-08 must be exercised, or an extension granted, by **September 28, 2020** or this approval shall be null and void. A copy of the Order is attached.

|                                  |                           |
|----------------------------------|---------------------------|
| Application Deemed Complete:     | <u>July 31, 2018</u>      |
| Public Hearing Date:             | <u>August 22, 2018</u>    |
| Notice of Decision Mailing Date: | <u>September 12, 2018</u> |
| Decision Effective Date:         | <u>September 28, 2018</u> |
| State Mandate Date:              | <u>November 28, 2018</u>  |

**Case Manager:** Pamela Cole, [pcole@cityofsalem.net](mailto:pcole@cityofsalem.net); 503.540.2309

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., Thursday, September 27, 2018.**

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 Chapters 220, 240, and 250. The appeal must be filed in duplicate with the City of

Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected.

The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

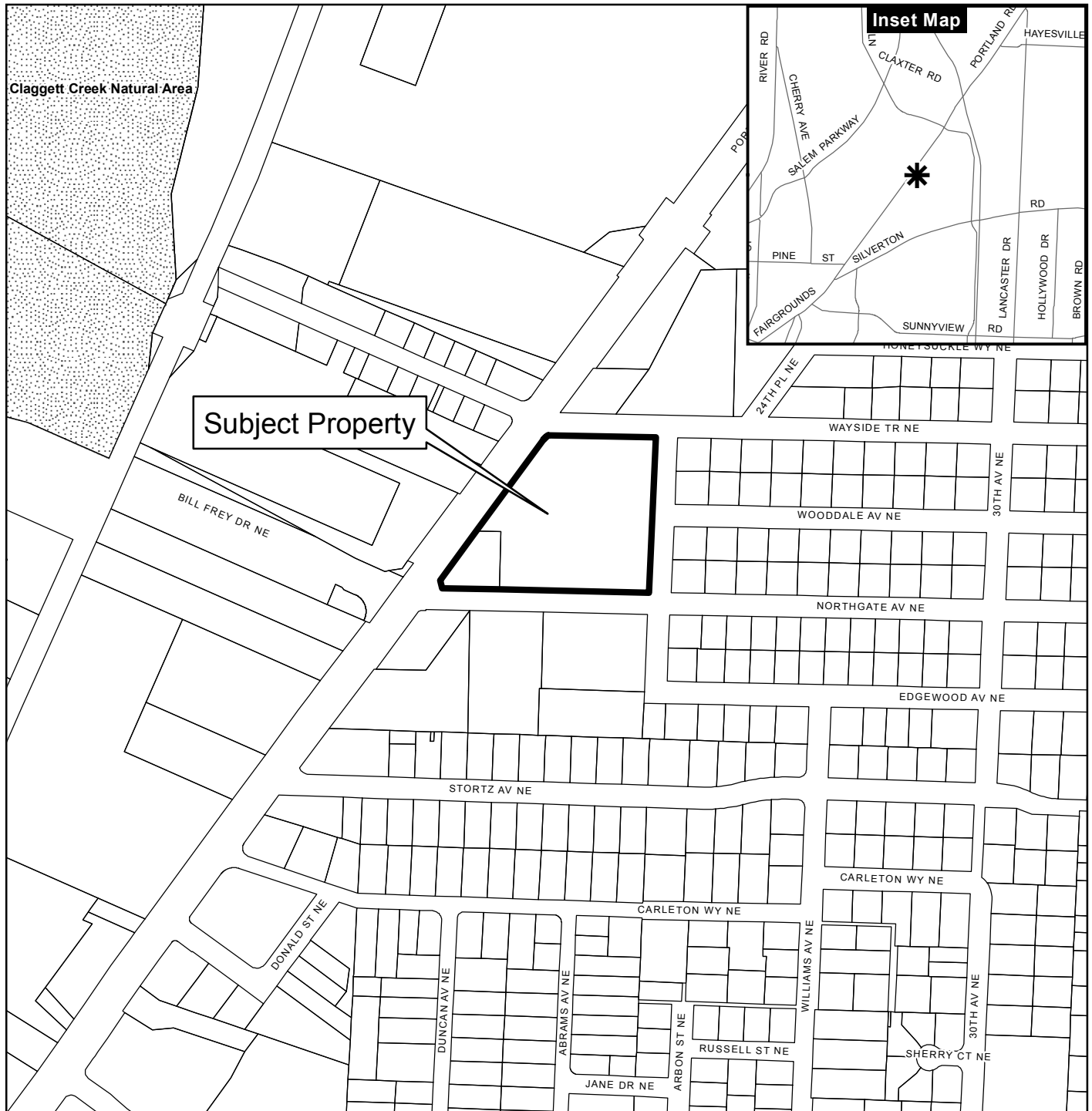
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

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# Vicinity Map

## 3700 and 3710 Portland Road NE



### Legend

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

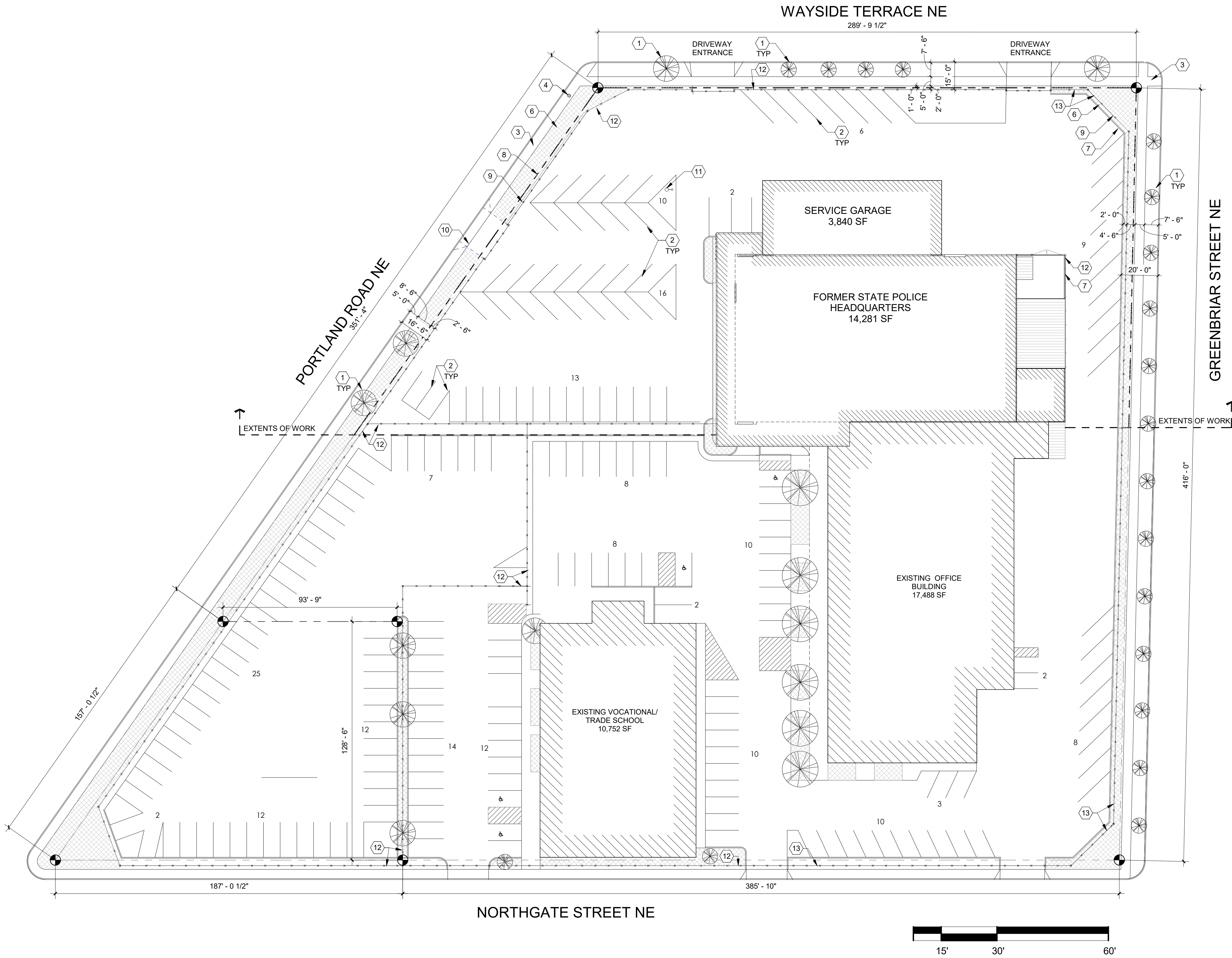
Parks

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

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0 100 200 400 Feet





EXISTING CONDITIONS PLAN  
KEYNOTES

- 1 EXISTING TREE
- 2 EXISTING PARKING STRIPING TO BE REMOVED
- 3 EXISTING SIDEWALK
- 4 EXISTING POWER POLE
- 6 EXISTING LANDSCAPE AREAS
- 7 EXISTING CURB
- 8 R.O.W. - PER CITY ENGINEERS
- 9 EXISTING 5' CHAINLINK FENCE - PER CITY ENGINEERS
- 10 EXISTING DRIVEWAY TO BE REMOVED
- 11 EXISTING POLE LIGHT
- 12 EXISTING 6' CHAINLINK FENCE
- 13 EXISTING 6' CHAINLINK FENCE WITH SLATS INSTALLED

LEGEND

EXISTING LANDSCAPE AREAS

PROJECT INFO / ZONING

BUILDING ADDRESS: 3700 PORTLAND RD NE  
SALEM, OR 97302

COUNTY: MARION COUNTY

PROPERTY ID: R83983, R83984

JURISDICTION: CITY OF SALEM, OR

ZONING DESIGNATION: CR - RETAIL COMMERCIAL

|               |                                |
|---------------|--------------------------------|
| LOT SIZE:     |                                |
| R83983:       | 3.74 ACRES / 163,092 SF        |
| R83984:       | 0.43 ACRES / 18,852 SF         |
| <b>TOTAL:</b> | <b>4.17 ACRES / 181,944 SF</b> |

|                             |                  |
|-----------------------------|------------------|
| LANDSCAPE AREA:(INSIDE P/L) | 7,876 SF / 4%    |
| PAVED AREA:                 | 127,527 SF / 70% |

|                      |                  |
|----------------------|------------------|
| EXTENT OF WORK AREA: | 65,540 SF / 100% |
|----------------------|------------------|

|                             |                 |
|-----------------------------|-----------------|
| LANDSCAPE AREA:(INSIDE P/L) | 1,954 SF / 3%   |
| PAVED AREA:                 | 45,465 SF / 70% |

|                      |                   |
|----------------------|-------------------|
| EXISTING SOUTH AREA: | 116,105 SF / 100% |
|----------------------|-------------------|

|                             |                 |
|-----------------------------|-----------------|
| LANDSCAPE AREA:(INSIDE P/L) | 5,922 SF / 5%   |
| PAVED AREA:                 | 81,943 SF / 70% |

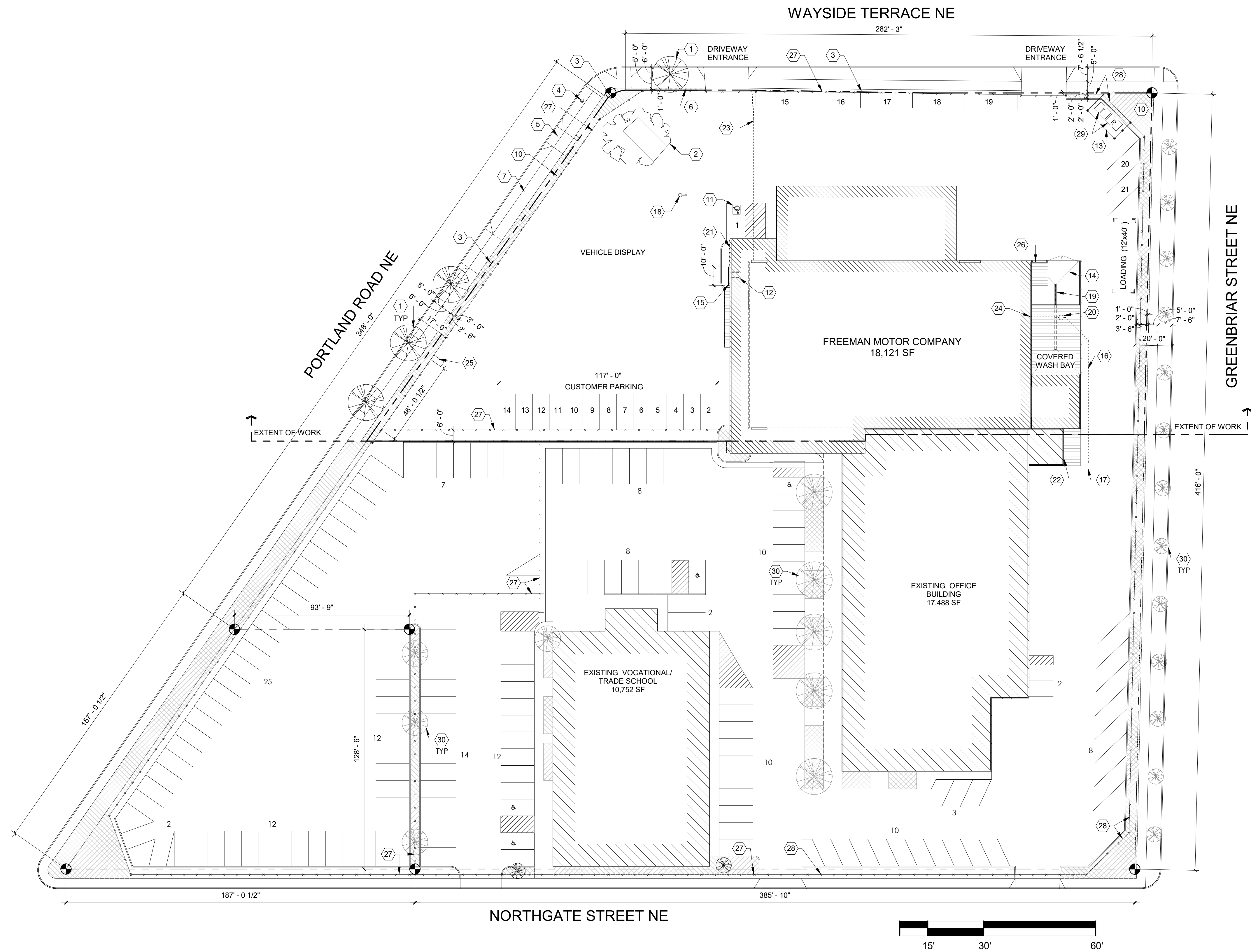
|                |                  |
|----------------|------------------|
| BUILDING AREA: | 31,769 SF        |
|                | 3,840 SF         |
|                | 10,752 SF        |
|                | <b>46,361 SF</b> |

|                  |     |
|------------------|-----|
| BUILDING HEIGHT: | 23' |
|------------------|-----|

|                    |     |
|--------------------|-----|
| CONSTRUCTION TYPE: | V-B |
|--------------------|-----|

|                        |                                |
|------------------------|--------------------------------|
| PARKING:               |                                |
| EMERGENCY SERVICE AREA | 72 STALLS REQ'D @ 1:500 SF     |
| BLDG AREA - 35,609 SF  | 152 STANDARD STALLS PROVIDED   |
|                        | 1 ACCESSIBLE STALL(S) PROVIDED |

|                          |                                |
|--------------------------|--------------------------------|
| EDUCATIONAL SERVICE AREA | 31 STALLS REQ'D @ 1:350 SF     |
| BLDG AREA - 10,752 SF    | 43 STANDARD STALLS PROVIDED    |
|                          | 3 ACCESSIBLE STALL(S) PROVIDED |



1 / PROPOSED SITE PLAN

- ### SITE PLAN KEYNOTES
- NEW TREE - PER CITY ENGINEER
  - NEW ROCK VEHICLE RAMP
  - R.O.W. LINE PER CITY ENGINEER
  - EXISTING POWER POLE
  - NEW PEDESTRIAN CROSSING
  - NEW PROPOSED 5' CHAINLINK FENCE - PER CITY ENGINEERS
  - NEW 6' WIDE SIDEWALK
  - PROPOSED LANDSCAPED AREA
  - ACCESSIBLE PARKING STALL WITH AISLE
  - NEW SHORT TERM BIKE PARKING (4 SPACES)
  - PROPOSED LOCATION FOR TRASH COLLECTION. ENCASED BY 6'-0" SLATTED CHAINLINK FENCE
  - NEW SLOPED ASPHALT TO DRAIN INTO A OIL/WATER SEPARATOR
  - NEW WOOD SLAT SCREEN TO MATCH HEIGHT OF BUILDING
  - NEW 4" DRAIN FROM TRENCH TO BE DUG TO REACH SEWER
  - SEWER ACCESS 6'-6"
  - EXISTING POLE LIGHT
  - CAST IN PLACE TRENCH DRAIN WITH GRATE (SEE DETAIL AND ATTACHMENTS) SLOPE TO CENTER
  - NEW OIL / WATER INTERCEPTOR
  - NEW WALL MOUNT SIGN LOCATION, BY SEPARATE PERMIT
  - EXISTING WATER METER LOCATION
  - ACCESSIBLE ROUTE OF TRAVEL
  - NEW 2" VENT FOR INTERCEPTOR
  - NEW MONUMENT SIGN LOCATION. BY SEPARATE PERMIT
  - NEW ROOM FOR COMPRESSOR
  - EXISTING 6' CHAINLINK FENCE
  - EXISTING 6' CHAINLINK FENCE WITH SLATS INSTALLED
  - NEW 8' x 5' SOLID WASTE AND RECYCLING BINS
  - EXISTING TREES

### LEGEND

EXISTING LANDSCAPE AREAS

### PROJECT INFO / ZONING

BUILDING ADDRESS: 3700 PORTLAND RD NE  
SALEM, OR 97302

COUNTY: MARION COUNTY

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|  |  |
|--|--|
| LOT SIZE:  | R83983: 3.74 ACRES / 163,092 SF<br>R83984: 0.43 ACRES / 18,852 SF<br><b>TOTAL: 4.17 ACRES / 181,944 SF</b> |
| LANDSCAPE ARE/(INSIDE P/L)<br>PAVED AREA:                    | 8,057 SF / 5%<br>127,527 SF / 70%  |
| EXTENT OF WORK AREA:   | 65,540 SF / 100%   |
| LANDSCAPE ARE/(INSIDE P/L)<br>PAVED AREA:                    | 2,135 SF / 3%<br>45,465 SF / 70%   |
| EXISTING SOUTH AREA:   | 116,105 SF / 100%  |
| LANDSCAPE ARE/(INSIDE P/L)<br>PAVED AREA:                    | 5,922 SF / 5%<br>81,943 SF / 70%   |
| BUILDING AREA:   | 31,769 SF<br>3,840 SF<br>10,752 SF<br><b>46,361 SF</b>   |
| BUILDING HEIGHT:   | 23'  |
| CONSTRUCTION TYPE:   | V-B  |
| PARKING:<br>AUTOMOBILE SERVICE AREA<br>BLDG AREA - 18,121 SF | 21 STALLS REQ'D @ 1:900 SF<br>20 STANDARD STALLS PROVIDED<br>1 ACCESSIBLE STALL(S) PROVIDED                |
| EMERGENCY SERVICE AREA<br>BLDG AREA - 17,488 SF              | 35 STALLS REQ'D @ 1:500 SF<br>99 STANDARD STALLS PROVIDED<br>1 ACCESSIBLE STALL(S) PROVIDED                |
| EDUCATIONAL SERVICE AREA<br>BLDG AREA - 10,752 SF            | 31 STALLS REQ'D @ 1:350 SF<br>43 STANDARD STALLS PROVIDED<br>3 ACCESSIBLE STALL(S) PROVIDED                |

/kōbiə/CREATIVE

FREEMAN MOTOR COMPANY

DATE: 7/5/2018  
DRAWN BY: TJK  
JOB NO: 10-2018  
REV NO: 1  
LUR 7/26/18

PROPOSED SITE PLAN

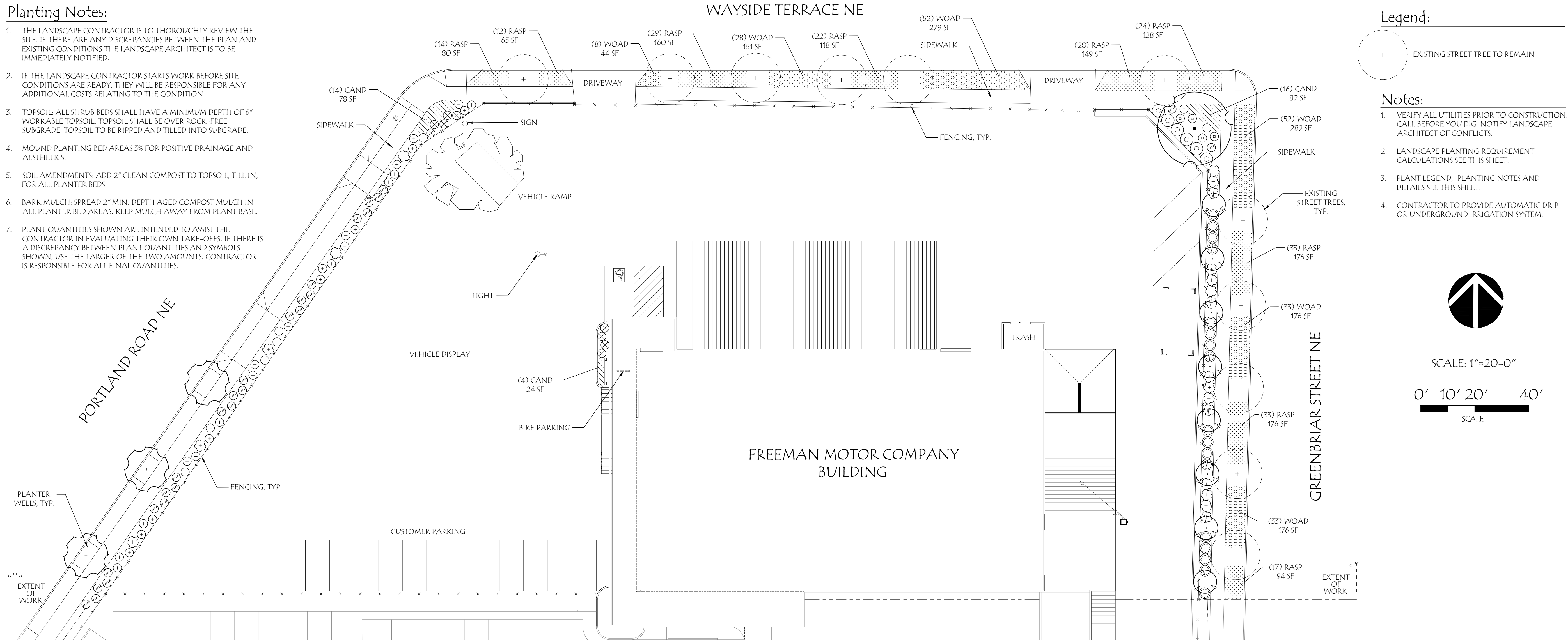
A101

LUR

Koble Creative Architecture LLC  
Portland, Oregon / koblecreative.com

3700 PORTLAND RD NE  
SALEM, OR 97301

1. THE LANDSCAPE CONTRACTOR IS TO THOROUGHLY REVIEW THE SITE. IF THERE ARE ANY DISCREPANCIES BETWEEN THE PLAN AND EXISTING CONDITIONS THE LANDSCAPE ARCHITECT IS TO BE IMMEDIATELY NOTIFIED.
2. IF THE LANDSCAPE CONTRACTOR STARTS WORK BEFORE SITE CONDITIONS ARE READY, THEY WILL BE RESPONSIBLE FOR ANY ADDITIONAL COSTS RELATING TO THE CONDITION.
3. TOPSOIL: ALL SHRUB BEDS SHALL HAVE A MINIMUM DEPTH OF 6" WORKABLE TOPSOIL. TOPSOIL SHALL BE OVER ROCK-FREE SUBGRADE. TOPSOIL TO BE RIPPED AND TILLED INTO SUBGRADE.
4. MOUND PLANTING BED AREAS 3% FOR POSITIVE DRAINAGE AND AESTHETICS.
5. SOIL AMENDMENTS: ADD 2" CLEAN COMPOST TO TOPSOIL, TILL IN, FOR ALL PLANTER BEDS.
6. BARK MULCH: SPREAD 2" MIN. DEPTH AGED COMPOST MULCH IN ALL PLANTER BED AREAS. KEEP MULCH AWAY FROM PLANT BASE.
7. PLANT QUANTITIES SHOWN ARE INTENDED TO ASSIST THE CONTRACTOR IN EVALUATING THEIR OWN TAKE-OFFS. IF THERE IS A DISCREPANCY BETWEEN PLANT QUANTITIES AND SYMBOLS SHOWN, USE THE LARGER OF THE TWO AMOUNTS. CONTRACTOR IS RESPONSIBLE FOR ALL FINAL QUANTITIES.



| Trees   |          |  |                  |
|---|----------|--|------------------|
| Symbol  | Quantity | Common Name / Scientific Name                    | Size and Notes   |
|  | 9        | Bowhall Red Maple / <i>Acer rubrum</i> 'Bowhall' | 1 1/2" Cal., B&B |
|   | 1        | Raywood Ash / <i>Fraxinus oxycarpa</i>           | 1 1/2" Cal., B&B |
|   | 3        | Future Portland Road Improvement Plan Tree       | N/A              |

| Symbol | Quantity | Common Name / Scientific Name   | Size and Notes |
|--------|----------|---|----------------|
| ⊕      | 33       | Kaleidoscope Fragrant Abelia / Abelia x grandiflora 'Kaleidoscope'                            | 1 Gal.         |
| ⊙      | 6        | Dwarf Crimson Pygmy Japanese Barberry / Berberis thunbergii var. atropurpurea 'Crimson Pygmy' | 1 Gal.         |
| ⊗      | 17       | Japanese Euonymus / Euonymus japonicus  | 1 Gal.         |
| ⊗      | 9        | Eleanor Taber Indian Hawthorn / Rhaphiolepis indica 'Conor'                                   | 1 Gal.         |
| ⊖      | 6        | Limemound Spirea / Spirea japonica 'Limemound'  | 1 Gal.         |
| ⊗      | 27       | David Viburnum / Viburnum davidii   | 1 Gal.         |
| ⊕      | 20       | Spring Bouquet Laurustinus Viburnum / Viburnum tinus 'Spring Bouquet'                         | 3 Gal.         |

| Symbol  | Quantity | Common Name / Scientific Name | Size and Notes                                   |                   |
|---|----------|-------------------------------|--|-------------------|
|  | CAND     | 34                            | Evergreen Candytuft / <i>Iberis sempervirens</i> | 4" Pot @ 30" O.C. |
|  | WOAD     | 206                           | Woadwaxen / <i>Genista lydia</i>                 | 4" Pot @ 30" O.C. |
|  | RASP     | 212                           | Creeping Raspberry / <i>Rubus calycinoides</i>   | 4" Pot @ 30" O.C. |

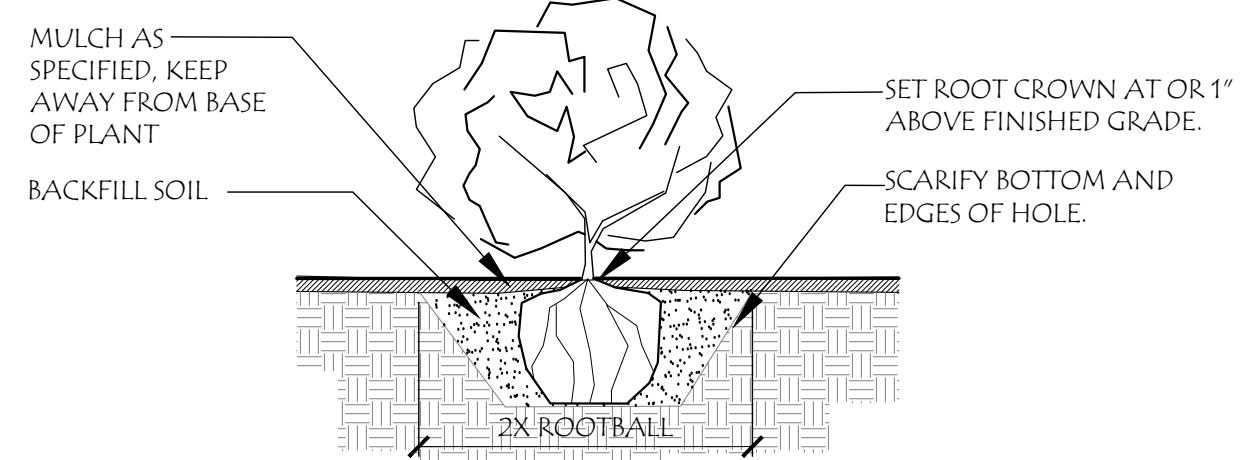
REQUIRED PLANTS : 1 PLANT PER 20 SQUARE FEET = 1 PLANT UNIT (PU)

1 MATURE TREE = 15 PU  
 1 SHADE TREE = 10 PU  
 1 EVERGREEN TREE = 5 PU  
 1 ORNAMENTAL TREE = 2 PU  
 1 LARGE DECIDUOUS OR EVERGREEN SHRUB = 2 PU  
 1 SMALL TO MEDIUM SHRUB = 1 PU  
 LAWN AND GROUND COVER = 1 PU PER 50 SF

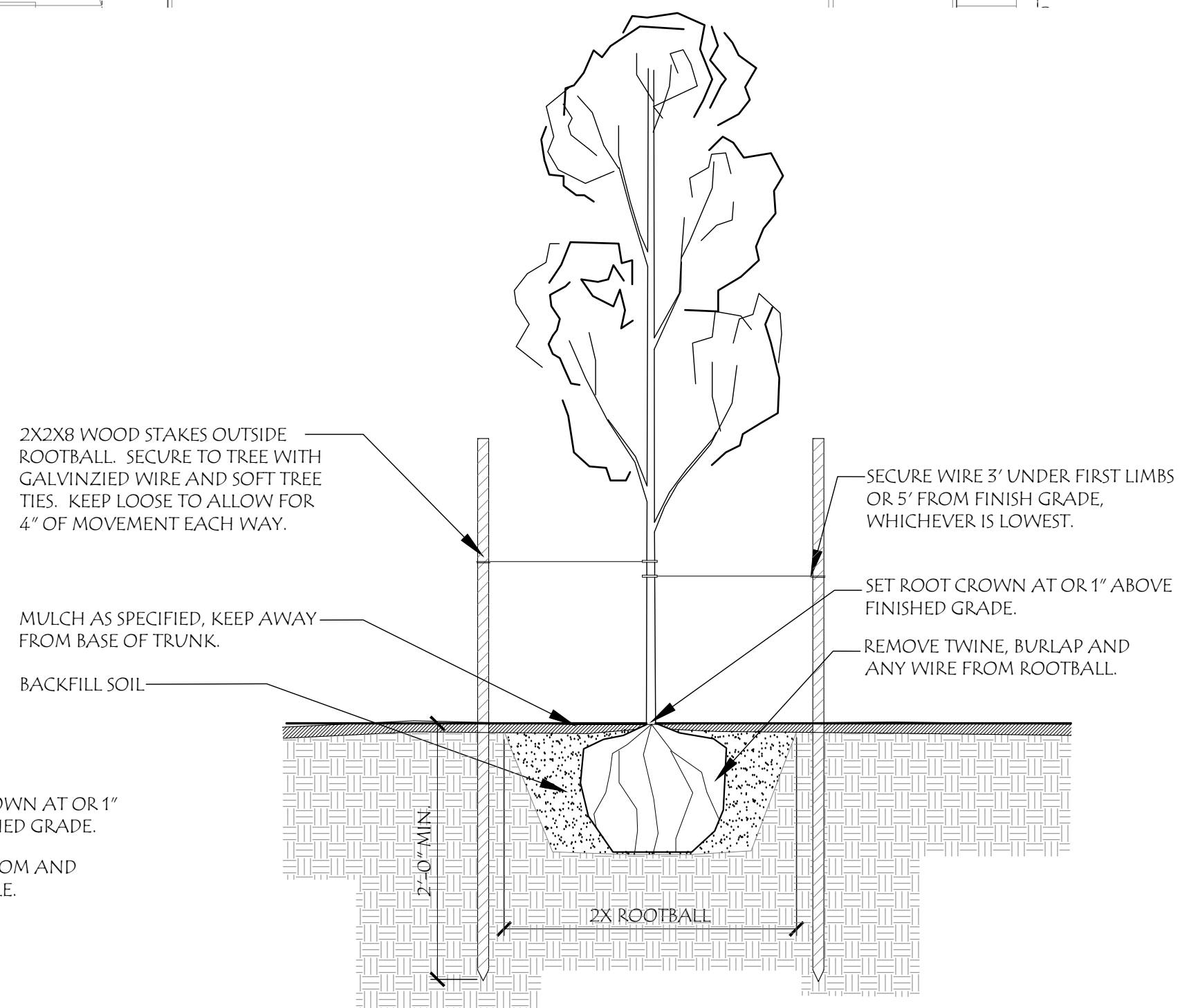
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LANDSCAPE SQUARE FOOTAGE = 5945 SF  
 NUMBER OF REQUIRED PUs = 297 PU  
 40% PU REQUIRED AS TREES = 119 PU

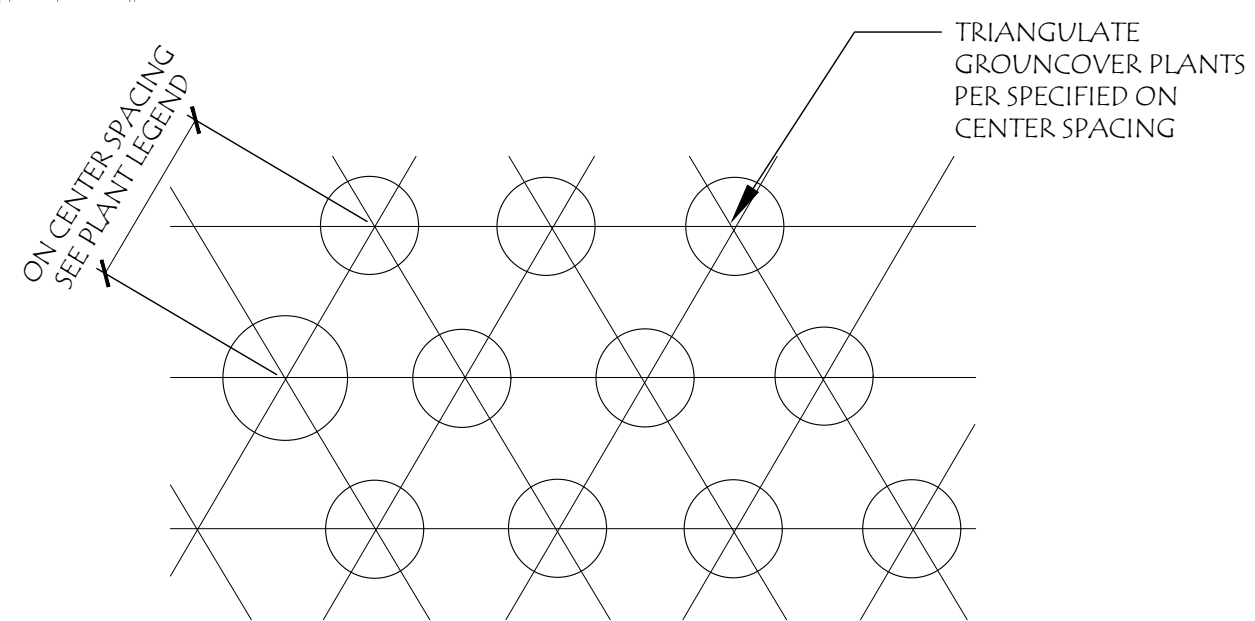
| Plants                   | # of Plants | Plant Units |
|--------------------------|-------------|-------------|
| Shade Trees              | 12          | 120         |
| Large Shrubs             | 20          | 40          |
| Small / Medium Shrubs    | 98          | 98          |
| Lawn / Groundcover       | 2447 SF     | 49          |
| <b>Total Plant Units</b> |             | <b>307</b>  |



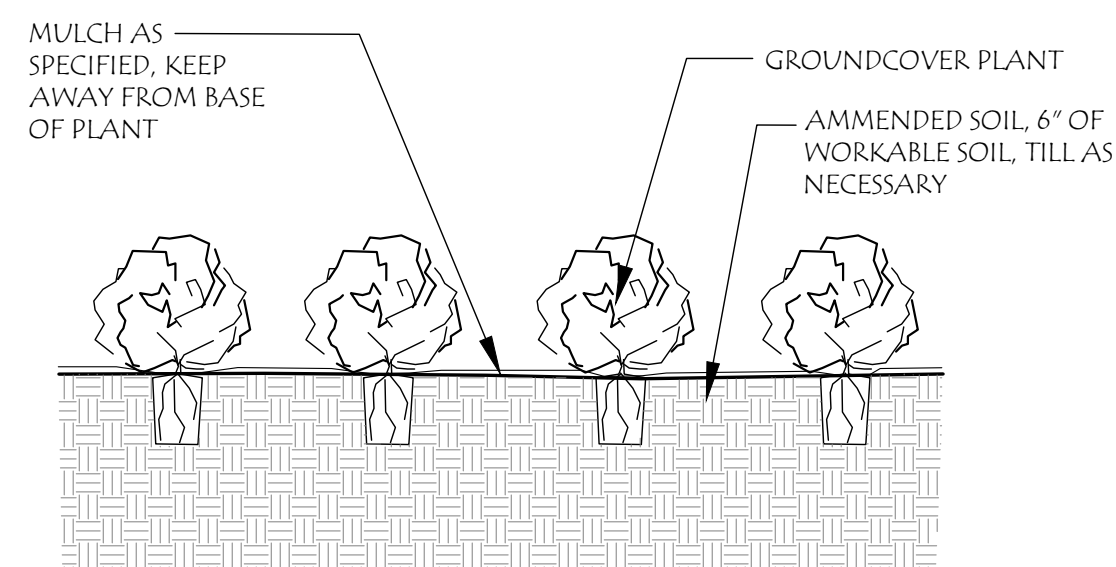
1 SHRUB PLANTING DETAIL  
L1.1 SCALE: NTS



2 TREE PLANTING DETAIL  
L1.1 SCALE: NTS



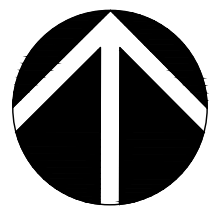
### 3 GROUND COVER SPACING DETAIL



4 GROUND COVER PLANTING DETAIL  
L1.1 SCALE: NTS

 EXISTING STREET TREE TO REMAIN

1. VERIFY ALL UTILITIES PRIOR TO CONSTRUCTION. CALL BEFORE YOU DIG. NOTIFY LANDSCAPE ARCHITECT OF CONFLICTS.
2. LANDSCAPE PLANTING REQUIREMENT CALCULATIONS SEE THIS SHEET.
3. PLANT LEGEND, PLANTING NOTES AND DETAILS SEE THIS SHEET.
4. CONTRACTOR TO PROVIDE AUTOMATIC DRIP OR UNDERGROUND IRRIGATION SYSTEM.



SCALE: 1"=20'-0"



/köblə/CREATIVE

REGISTERED  
643  
preliminary  
not for  
LAURA A. ANTONSON  
PROFESSIONAL  
construction  
11/16/2007  
LANDSCAPE ARCHITECT

consultants:  
Laurus Designs, LLC  
1012 Pine Street  
Silverton, Oregon  
503.784.6494  
Laura@LaurusDesignsllc.com

FREEMAN MOTOR COMPANY

3784 B PORTLAND RD NE  
SALEM, OR 97302

DATE: 6/6/2018  
DRAWN BY: LAA  
JOB NO: 1199C  
REV NO:

## PLANTING PLAN

## L1.1

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CONDITIONAL USE  
AGREEMENT

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**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

|  |  |  |
|--|--|--|
| A REQUEST TO CONVERT 18,121 SQUARE FEET OF AN EXISTING BUILDING TO A MOTOR VEHICLE SALES USE AND RECONFIGURE PART OF AN EXISTING VEHICLE USE AREA FOR PARKING AND VEHICLE DISPLAY, FOR A PROPERTY APPROXIMATELY 4.17 ACRES IN SIZE, ZONED CR (RETAIL COMMERCIAL), WITHIN THE NORTHGATE MIXED-USE OVERLAY ZONE, AND LOCATED AT 3700 PORTLAND ROAD NE - 97301 (MARION COUNTY ASSESSOR'S MAP AND TAX LOT NUMBER: 073W12CA / 03500 AND 03700). | }<br>}<br>}<br>}<br>}<br>}<br>}<br>}<br>}<br>}<br>}<br>} | CU-SPR-ADJ18-08<br><br>FINDINGS OF FACT, CONCLUSIONS, AND DECISION |
|--|--|--|

**DATE AND PLACE OF HEARING:**

August 22, 2018, Salem City Council Chambers, Room 240, Civic Center, 555 Liberty Street SE, Salem, Oregon.

**APPEARANCES:**

|                                  |   |
|----------------------------------|---|
| <u>Staff:</u>                    | Pamela Cole, Planner II                                       |
| <u>Neighborhood Association:</u> | None  |
| <u>Proponents:</u>               | Eric Freeman, Applicant, Mark Ferris, Agent for the Applicant |
| <u>Opponents:</u>                | None  |

**SUMMARY OF THE APPLICATION AND HEARING**

**BACKGROUND**

The City of Salem held a duly authorized and noticed public hearing on August 22, 2018, regarding a request to convert part of an existing building to a motor vehicle sales use and reconfigure part of an existing vehicle use area for parking and vehicle display. At the commencement of the hearing, the Hearings Officer identified the applicable criteria and outlined the procedures. The Hearings Officer noted the

absence of *ex parte* communications and conflicts of interest and provided opportunity for rebuttal. No rebuttals were advanced.

Planner II, Ms. Cole presented the case and offered into the Record, the August 22, 2018 Staff Report. No objections followed, and the Hearings Officer received the Staff Report into the Record. Following the City's and Applicant's presentation and questions by the Hearings Officer, the evidentiary portion of the hearing was closed. No opponent testimony was presented and thus no challenge raising any failure to meet any criterion-advanced. No party requested the hearing be continued or held open and the applicant waived the additional 7-day period for additional testimony. The following facts are based on the written record and parties' hearing presentations.

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

The Parties' advanced, the Record supports, and the Hearings Officer finds the following circumstances to exist:

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

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "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 CR (Retail Commercial). Motor vehicle sales uses are allowed in the CR zone as a conditional use. SRC Chapter 240 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.

A new conditional use permit is required for a change of use for a motor vehicle sales use in the CR zone.

The zoning of surrounding properties includes:

**North:** Across Wayside Terrace NE, CR (Retail Commercial) -- convenience store and gas station; RM2 (Multiple Family Residential 2) – apartments

**East:** Across Northgate Avenue NE, RD (Duplex Residential) -- duplexes

**South:** Across Greenbriar Street NE, CR (Retail Commercial) – motor vehicle sales, apartments, bowling alley

**West:** Across Portland Road NE, IC (Industrial Commercial) – retail, eating and drinking establishment, offices

### **3. Site Analysis**

The subject property is approximately 4.17 acres in size and is developed with two buildings. The larger building was previously occupied by the Oregon State Police headquarters and is now vacant. The smaller building is occupied by a vocational/trade school. The site is completely developed with buildings, pavement, and landscaping.

The subject property abuts Portland Road NE to the west, Wayside Terrace to the north, Greenbriar Street NE to the east, and Northgate Avenue NE to the south. Portland Road NE is designated as a major arterial within the Salem TSP (Transportation System Plan), and the other streets are designated as local streets.

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

The subject property is located within the Northgate Neighborhood Association (Northgate). Notice was provided to Northgate and surrounding property owners within 250 feet of the subject property. No citizen or neighborhood written comments were submitted into the record.

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

The Building and Safety Division reviewed the proposal and commented that the applicant shall apply for all required building permits prior to any work being done.

The Fire Department reviewed the proposal and commented that they have no concerns with the zoning; Fire Department access and water supply are required to be provided; Fire Department access is required to be provided to within 150 feet of all portions of the buildings, and the addition of the fences appears to be eliminating existing Fire Department access. Fire will review items including access and water supply at the time of building permit plan review.

The Hearings Officer notes that the applicant provided clarification of the use of the existing gates and proposed fencing. The Fire Department will review plans for access at the time of building permit review.

The Public Works Department has reviewed the proposal and provided a memo included as Attachment G of the staff report.

Salem Electric will provide Electric Service according to the rates and policies at the time of construction.

## **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.

The Hearings Officer notes that the motor vehicle sales uses are allowed as a conditional use in the CR (Retail Commercial) zone.

### Criterion 2:

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

The Record reflects, and the Hearings Officer finds that the proposed change of use to motor vehicle sales and service will generate approximately 183 additional average daily trips. Most of the traffic will be entering from the driveways on the north side of the building, and the existing building will provide a barrier between the traffic and the duplexes and single-family dwellings on the east side of Greenbriar Street NE. However, the covered wash bay and loading zone are on the east side of the building and may increase noise impacts for the duplexes and single-family dwellings on the east side of Greenbriar Street NE.

Landscaping is proposed outside a non-sight-obscuring fence along the property line abutting Portland Road NE to mitigate the visual impacts while allowing the applicant to display vehicles. The city is improving Portland Road NE and will be making improvements including installing street trees in the planter strip.

On the northeast corner and east sides of the project area, new landscape plantings are proposed outside the existing sight-obscuring fence and inside the eastern property line to minimize the visual impact and potential noise generated by the car washing activity and loading.

A sight-obscuring fence is proposed adjacent to Wayside Terrace NE. While a sight-obscuring fence would help to mitigate the visual impacts, it would also likely create vision-related issues. The vision clearance requirements of SRC Chapter 805 do not allow obstructions to vision from a height of 30 inches to a height of 8.5 feet above curb level, except as provided in SRC 805.010. Vision clearance regulations apply within the 10-foot by 50-foot vision clearance triangles on both sides of each driveway, the 10-foot by 50-foot vision clearance triangle at the corner of Portland Road NE / Wayside Terrace NE, or the 30-foot by 30-foot vision clearance triangle at the uncontrolled intersection of Wayside Terrace NE / Greenbriar Street NE. These vision clearance regulations prohibit a sight-obscuring fence and sight-obscuring landscaping taller than 30 inches in height at the northeast corner of the subject property and along the property line abutting Wayside Terrace NE, except a sight-obscuring fence section would be allowed within a short length at the center of the lot adjacent to proposed parking spaces 16-18. Because almost all of the fence along Wayside Terrace NE cannot be sight-obscuring, the fence would provide little mitigation of visual impacts. Of note, this side of the site is located across the street from a property occupied by a convenience store and gas station and by a parking lot, and the need to mitigate visual impacts is likely less critical than on the east side adjacent to residential neighborhoods.

Low-growing landscaping is proposed around existing street trees in the planter strips within the right-of-way adjacent to Greenbriar Street NE and Wayside Terrace NE, providing some mitigation of visual impacts and noise and improving the appearance of the site.

The Hearings Officer concludes that the proposed development, with the imposition of the conditions below, will minimize reasonably likely and identified adverse impacts of the use on the immediate neighborhood and, thus complies with vision clearance standards:

**Condition 1: The proposed development shall be in substantial conformance with the approved site plan included as Attachment C of the staff report, as modified by the conditions of approval.**

**Condition 2: The location and width of the proposed landscaping areas shall be in substantial conformance with the landscape plan included as Attachment D of the staff report.**

**Condition 3: All proposed landscape areas, including those in the public right-of-way, shall be planted with a minimum of 1 plant unit per 20 square feet of landscape area and shall be**

**irrigated. A minimum of 40 percent of the required number of plant units shall be a combination of shade trees, evergreen/conifer trees, or ornamental trees.**

**Condition 4: Fencing and landscaping in the vision clearance triangles at the northwest corner, on both sides of the driveways on Wayside Terrace NE, and the northeast corner must meet the requirements of SRC Chapter 805.**

Criterion 3:

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

The Record reflects, and the Hearings Officer finds, that the proposed use will have similar impacts to the previous use, which included offices in the building, vehicle storage areas west of the building, parking areas west, north, and east of the building, and vehicle service areas on the north side of the building. The addition of a covered wash bay on the east side of the building will be mitigated by the proposed landscaping. The proposed change of use will not likely result in a significant change in the impacts on surrounding properties.

Given the location of the existing building, the presence of the surrounding streets, and the additional landscaping and sight-obscuring fencing that will be installed as part of the development, the Hearings Officer finds that the proposed development will have a minimal impact on the livability of the surrounding property and thus concludes that this criterion is met.

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

SRC 220.005(f)(3) states:

An application for Class 3 Site Plan Review shall be granted if:

- (1) The application meets all applicable standards of the UDC;
- (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;
- (3) Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians; and
- (4) The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

Criterion 1:

The application meets all applicable standards of the UDC.

The Record reflects, and the Hearings Officer finds, that the applicant is proposing to convert 18,121 square feet of an existing building to a motor vehicle sales use and reconfigure part of an existing vehicle use area for parking and vehicle display. The existing development site, including the remainder of the 4.17-acre property under common ownership, does not comply with the current minimum landscaping standards which require a minimum of 15 percent of the site to be landscaped. The applicant requested, and as this Order reflects, the Hearings Officer approved, an adjustment to reduce the landscaping standard. The proposed development otherwise complies with all applicable development standards of the Salem Revised Code.

**Northgate Mixed-Use Overlay Zone**

**Uses:** Within the Northgate Mixed-Use Overlay zone, SRC Chapter 605, Table 605-1 provides that motor vehicle sales is allowed with a conditional use permit.

**Development Standards:** Development within the Northgate Mixed-Use Overlay Zone must comply with the development standards applicable in the underlying zone and the development standards set forth in this section. The development standards in this section are in addition to, and not in lieu of, all other applicable development standards in the underlying zone.

Buildings and structures existing within the Northgate Mixed-Use Overlay Zone that conformed to the development standards existing on October 1, 2001, but which would otherwise be made non-conforming development by this Chapter, are hereby deemed continued development.

Continued development may be enlarged, rebuilt, or the exterior altered, provided such enlargement, rebuilding, or exterior alteration complies with all applicable standards in the underlying zone.

The Record reflects, and the Hearings Officer finds, that the subject property was developed prior to 2001, and thus the development standards of the Northgate Mixed-Use Overlay Zone do not apply to the proposed development.

## **Development Standards – CR Zone:**

### *SRC 522.005(a) - Uses:*

Except as otherwise provided in Chapter 522, the permitted, special, conditional and prohibited uses in the CR zone are set forth in Table 522-1.

As noted earlier, the Hearings Officer found the proposed development requires a conditional use permit for the change of use.

### *SRC 522.010(a) – Lot Standards:*

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

The Record reflects, and the Hearings Officer finds, that the subject property has frontage along four streets – Portland Road NE, Wayside Terrace NE, Greenbriar Street NE, and Northgate Avenue NE -- which exceeds the minimum frontage requirement.

### *SRC 522.010(b) – CR Zone Setbacks:*

**North:** Adjacent to the north is the right-of-way for Wayside Terrace NE. There is a minimum 5- foot setback for buildings adjacent to a street and a minimum 10-foot setback for vehicle use areas adjacent to a street. The existing building is located approximately 50-feet from the property line. The existing parking and vehicle use area is legally nonconforming with respect to the standard.

**East:** Adjacent to the east is the right-of-way for Greenbriar Street NE. There is a minimum 5-foot setback for buildings adjacent to a street and a minimum 10-foot setback for vehicle use areas adjacent to a street. The existing building is located approximately 35 feet from the property line. The existing parking and vehicle use area is legally nonconforming with respect to the standard.

**West:** Adjacent to the west is the right-of-way for Portland Road NE. There is a minimum 5-foot setback for buildings adjacent to a street and a minimum 10-foot setback for vehicle use areas adjacent to a street. The existing building is located approximately 125-feet from the northern property line. The existing parking and vehicle use area is legally nonconforming with respect to the standard.

The Record reflects, and the Hearings Officer finds, that the proposed site plan complies with all applicable setback requirements.

*SRC 522.010(c) - Lot Coverage, Height:*

There is no maximum lot coverage standard. The maximum building height in the CR zone is 50 feet.

The Hearings Office finds that the existing building is 23 feet in height and complies with the maximum height standard.

*SRC 522.010(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 vehicular use areas, may count toward meeting this requirement.

The Hearings Office finds that the existing development site does not comply with the minimum 15 percent landscape standard for the development site, but the applicant requests, and the Hearings Officer approved, a Class 2 Adjustment reducing the standard below the 15 percent minimum.

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

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

Off-street parking shall be provided and maintained for any intensification, expansion, or enlargement of a use or activity.

*SRC 806.010 - Proximity of Off-Street Parking to Use or Activity Served.*

Required off-street parking shall be located on the same development site as the use or activity it serves; or, within the CR (Retail Commercial) zone, required off-street parking may be located within 500 feet of the development site containing the use or activity it serves.

*SRC 806.015 - Amount of Off-Street Parking.*

- a) *Minimum Required Off-Street Parking.* The minimum number of off-street parking spaces required for a motor vehicle sales use is 1 space per 900 square feet.
- b) *Compact Parking.* Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.

- c) *Carpool and Vanpool Parking.* New developments with 60 or more required off-street parking spaces shall designate a minimum of 5 percent of their total off-street parking spaces for carpool or vanpool parking.
- d) *Maximum Off-Street Parking.* Unless otherwise provided in the SRC, off-street parking shall not exceed the amounts set forth in Table 806-2.

The Hearings Officer notes that the floor area for the existing building to be converted to the motor vehicle sales and service use is approximately 18,121 square feet.

A minimum of one off-street parking space is required per 900 square feet of floor area. The floor area for the proposed development is approximately 18,121 square feet requiring a minimum of 20 off-street parking spaces ( $18,121 / 900 = 20.1$ ). The maximum off-street parking allowance for the use is 35 spaces ( $20 \times 1.75 = 35.2$ ). There are 21 off-street parking spaces proposed in the reconfigured parking area around the existing building to be converted to the motor vehicle sales and service use, with the remaining area used for vehicle display.

On the remainder of the property, the minimum parking requirement for the remaining 17,488 square feet of the former State Police building is 35 spaces ( $17,488 / 500 = 35.0$ ), and the minimum parking requirement for the 10,752 square feet of the educational services use is 31 spaces ( $10,752 / 350 = 30.7$ ).

The total parking requirement for the development site is 86 spaces. The proposed 167 off-street parking spaces are adequate for the existing and proposed development.

The proposed development does not include compact parking spaces, and carpool/vanpool spaces are not required because fewer than 60 parking spaces are required for the proposed use.

Based on the above and supported by the Record, the Hearings Officer finds this criterion met.

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

Unless otherwise provided under the UDC, off-street parking and vehicle use areas, other than driveways and loading areas, for uses or activities other than Single Family and Two Family shall be developed and maintained as provided in this section.

- a) *General Applicability.* The off-street parking and vehicle use area development standards set forth in this section apply to:
1. The development of new off-street parking and vehicle use areas.
  2. The expansion of existing off-street parking and vehicle use areas, where additional paved surface is added.
  3. The alteration of existing off-street parking and vehicle use areas, where the existing paved surface is replaced with a new paved surface; and
  4. The paving of an un-paved area.

The proposed development includes reconfiguration of an existing parking and vehicle use area. It does not include development of a new off-street parking area, expansion where additional paved surface is added, an alteration where the existing paved surface is replaced with a new paved surface, or the paving of an unpaved area. Most of the off-street parking and vehicle use area development standards of SRC 806.035, including perimeter setbacks, do not apply to the proposed development. However, the proposed dimensional standards of Table 806-6 and the 5-foot setback from the building apply. The Hearings Officer finds the reconfigured parking spaces meet these standards. This criterion is met.

### **Bicycle Parking**

#### *SRC 806.045 - General Applicability.*

Bicycle parking shall be provided and maintained for any change of use or activity, when such change of use or activity results in a bicycle parking ratio requiring a greater number of spaces than the previous use or activity.

#### *SRC 806.055 - Amount of Bicycle Parking.*

A motor vehicle sales use is required to have a minimum of 1 bicycle parking space per 9,000 square feet of floor area.

The Records reflects, and the Hearings Officer finds, that the building area proposed for conversion to the motor vehicle sales and service use is approximately 18,121 square feet in size, requiring a minimum of 2 bicycle parking spaces ( $18,121 / 9,000 = 2.0$ ) for the development. The previous emergency services use in the building required 4 bicycle parking spaces ( $18,121 / 5,000 = 3.6$ ). Consequently, the proposed change of use does not result in a greater number of bicycle parking spaces required for the development and this criterion is met.

## **Off-Street Loading Areas**

### *SRC 806.065 - General Applicability.*

Off-street loading areas shall be provided and maintained for any intensification, expansion, or enlargement of a use or activity.

### *SRC 806.075 - Amount of Off-Street Loading.*

A motor vehicle sales use is required to have a minimum of one 12-foot x 40-foot x 14-foot off-street loading space for building area between 5,000 to 100,000 square feet.

The Record reflects, and the Hearings Officer finds, that the building area proposed for conversion to the motor vehicle sales and service use is approximately 18,121 square feet in size, requiring a minimum of one off-street loading space. The site plan provides for one space. Consequently, this criterion is met.

## **Landscaping (SRC Chapter 807)**

All required setbacks shall be landscaped with a minimum of 1 plant unit per 20 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.

The Record reflects, and the Hearings Officer finds, that the required landscaped area for the entire development site under current standards is 27,292 square feet with a total of 1,365 plant units. The existing conditions plan indicates a total of 7,876 square feet of landscaping within the property lines of the development site. As proposed, the landscaping area for the development site would increase by 2.3 percent to 8,057 square feet inside the property lines, requiring a minimum of 403 plant units; the landscaped area would increase by 9.3 percent to 2,135 square feet within the project area, and 5,922 square feet of existing landscaped areas would remain within the remainder of the development site. Of the 403 minimum plant units required, at least 40 percent, or 161 of the required plant units, shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. The proposed landscape area within the right-of-way would provide an additional 2,791 square feet, and the conditions of approval would require planting those areas with at least 140 plant units, including 56 tree plant units.

Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC 807 at the time of building permit application review. Minimum Landscape requirements, as adjusted, are provided.

### **Solid Waste Service Areas**

#### *SRC 800.055(b) – Solid Waste Receptacle Placement Standards.*

All solid waste receptacles shall be placed at grade on a concrete pad that is a minimum of 4 inches thick, or on an asphalt pad that is a minimum of 6 inches thick. The pad shall have a slope of no more than 3 percent and shall be designed to discharge stormwater runoff.

- 1) Pad area. In determining the total concrete pad area for any solid waste service area:
  - a. The pad area shall extend a minimum of 1-foot beyond the sides and rear of the receptacle.
  - b. The pad area shall extend a minimum 3 feet beyond the front of the receptacle.
- 2) Minimum Separation.
  - a. A minimum separation of 1.5 feet shall be provided between the receptacle and the side wall of the enclosure.
  - b. A minimum separation of 5 feet shall be provided between the receptacle and any combustible walls, combustible roof eave lines, or building or structure openings.
- 3) Vertical Clearance.
  - a. Receptacles 2 cubic yards or less in size shall be provided with a minimum of 8 feet of unobstructed overhead or vertical clearance for servicing.
  - b. Receptacles greater than 2 cubic yards in size shall be provided with a minimum of 14 feet of unobstructed overhead or vertical clearance for servicing.

The proposed site plan does not indicate details of the solid waste receptacle area. But as conditioned above, this standard will be met.

#### *SRC 800.055(e) – Solid Waste Service Area Enclosure Standards.*

When enclosures area used for required screening or aesthetics, such enclosure shall conform to the following standards:

- 1) Front Opening of Enclosure. The front opening of the enclosure shall be unobstructed and shall be a minimum of 12 feet in width.

- 2) Measures to Prevent Damage to Enclosure. Enclosures constructed of concrete, brick, masonry block, or similar types of material shall contain a minimum 4-inch nominal high bumper curb at ground level located 12 inches inside the perimeter of the outside walls of the enclosure, or a fixed bumper rail to prevent damage from receptacles impacts.
- 3) Enclosure Gates. Any gate across the front opening of an enclosure shall swing freely without obstructions. For any opening that is less than 15 feet in width, the gates shall open a minimum of 120 degrees. All gates shall have restrainers in the open and closed positions.

The Hearings Officer finds that the proposed site plan does not indicate details of the solid waste receptacle area. But as conditioned below, this standard will be met.

**Condition 5: Prior to building permit issuance, the applicant shall provide plans to the City demonstrating that the proposed solid waste service area complies with the standards of SRC 800.055.**

*SRC 800.055(f) – Solid Waste Service Area Vehicle Access.*

- 1) Vehicle Operation Area.
  - (A) A vehicle operation area shall be provided for solid waste collection service vehicles that is free of obstructions and no less than 45 feet in length and 12 feet in width. Vehicle operation areas shall be made available in front of every receptacle, or, in the case of multiple receptacles within an enclosure, in front of every enclosure opening.
  - (B) For solid waste service areas having receptacles of 2 cubic yards or less, the vehicle operation area may be located:
    - (i) Directly in front of the permanent location of the receptacle; or
    - (ii) In a location where the receptacle can be safely maneuvered manually not more than 45 feet into a position at one end of the vehicle operation area for receptacle servicing.
  - (C) The vehicle operation area may be coincident with a parking lot drive aisle or driveway, provided that such area is kept free of parked vehicles and other obstructions at all times except for the normal ingress and egress of vehicles.
  - (D) In the event that access to the vehicle operation area is not a direct approach into position for operation of the service vehicle, a turnaround, designed and constructed pursuant to the Public Works

Design Standards, shall be required to allow safe and convenient access for collection service.

- 2) Vehicle operation areas shall be designed so that waste collection service vehicles are not required to back onto a public street or leave the premises.
- 3) Vehicle operation areas shall be paved with asphalt, concrete, or other hard surfacing approved by the Public Works Director, and shall be adequately designed, graded, and drained to the approval of the Public Works Director.

The Hearings Officer finds the proposed site plan does not indicate details of the solid waste receptacle area. With the imposition of Condition 5, this standard is met.

### **Natural Resources**

*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 (Oregon White Oak greater than 24 inches in diameter at breast height) (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.

The Record reflects, and the Hearings Officer finds, the proposed development would not cause removal of protected trees or vegetation and would not occur in wetlands or landslide hazard areas.

*SRC 809 - Wetlands:* The Salem-Keizer Local Wetland Inventory (LWI) does not show any wetland or hydric soil areas mapped on the property.

The Record reflects, and the Hearings Officer finds, the subject property meets all applicable standards.

*SRC 810 - Landslide Hazards:* A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. The applicant's proposal does not appear to disturb any portion of a mapped landslide hazard area with regulated activities; therefore, a geological assessment is not required.

The Record reflects, and the Hearings Officer finds, that the subject property meets all applicable standards.

## Other Standards

The Hearings Officer finds that the subject property meets all applicable standards of the following chapters of the UDC: 601 – Floodplain, 802 – Public Improvements, 803 – Streets and Right-of-Way Improvements, 804 – Driveway Approaches, 805 – Vision Clearance.

### 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.

The Record reflects that the Portland Road NE is designated as a Major Arterial street in the Salem TSP. The standard for this street classification is a 68-foot-wide improvement within a 96-foot-wide right-of-way. This street has an approximate 64-foot improvement within a 96-foot-wide right-of-way abutting the subject property. Portland Road NE is currently being re-developed by a publicly funded capital improvement project.

Wayside Terrace NE is designated as a Local street in the Salem TSP. The standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way. This street has an approximate 34-foot improvement within a 62-foot-wide right-of-way abutting the subject property.

Greenbriar Street NE is designated as a Local street in the Salem TSP. The standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way. This street has an approximate 30-foot improvement within a 60-foot-wide right-of-way abutting the subject property.

The development is not proposing a building addition pursuant to 803.040(a), therefore no boundary street improvements are required.

No party raised any issues alleging negative impacts or challenging the proposal's plan to mitigate impacts.

Based on the above, the Hearings Officer finds this criterion met.

### Criterion 3:

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

The Record reflects, and the Hearings Officer finds, that the capital improvement project along Portland Road NE includes the replacement of sidewalks along the western frontage of the property and the permanent removal of the driveway access to the major arterial. Driveway closure is warranted pursuant to SRC 804.060(a) because the existing driveway does not conform to current standards. The capital improvement project also includes the replacement of the western driveway on Wayside Terrace NE. The driveway accesses onto Wayside Terrace NE provide for safe turning movements into and out of the property.

To ensure safe movement of vehicles, bicycles and pedestrians, the following condition is imposed:

**Condition 6: The Applicant shall close the existing driveway abutting Portland Road NE.**

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.

The Record reflects, and the Hearings Officer finds, that the Public Works Department has reviewed the applicant's preliminary utility plan for this site and water, sewer, and storm infrastructure are available within surrounding streets/areas and appear to be adequate to serve the proposed development.

**8. Analysis of Class 2 Adjustment Approval Criteria**

SRC 250.005(d)(2) states:

An application for a Class 2 Adjustment shall be granted if all of the following criteria are met:

- (A) The purpose underlying the specific development standard proposed for adjustment is:
  - i. Clearly inapplicable to the proposed development; or
  - ii. Equally or better met by the proposed development.
- (B) If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.
- (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.

Criterion 1:

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.

The Record reflects that the applicant is requesting an adjustment to reduce the minimum landscaping lot coverage requirement. The existing site does not comply with the current landscape coverage standard for the CR zone which requires a minimum of 15 percent of the development site be landscaped.

The required landscaped area for the entire development site under current standards is 27,292 square feet with a total of 1,365 plant units. The existing conditions plan indicates a total of 7,876 square feet of landscaping within the property lines of the development site.

Nonconforming development may be altered or enlarged provided such new development complies with all applicable development standards. New development in the CR zone, including expansion or intensification of an existing use, is required to meet the minimum landscape coverage standard. The applicant has requested the adjustment to obtain approval for the reduced landscaping that currently exists.

The proposed landscape plan for the project area surrounding the part of the building that will be converted to the proposed motor vehicle sales use indicates that new landscape area will be established along the frontages on Portland Road NE and Greenbriar Street SE and that additional trees and low-growing plants will be planted within existing planting strips within public right-of-way.

As proposed, the landscaping area for the development site would increase by 2.3 percent to 8,057 square feet inside the property lines, requiring a minimum of 403 plant units; the landscaped area would increase by 9.3 percent to 2,135 square feet within the project area, and 5,922 square feet of existing landscaped areas would remain within the remainder of the development site. Of the 403 minimum plant units required, at least 40 percent, or 161 of the required plant units, shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. The proposed landscape area within the right-of-way would provide an additional 2,791 square feet, and the conditions of approval would require planting those areas with at least 140 plant units, including 56 tree plant units.

The City and Applicant assert that the proposed landscape plan will bring the nonconforming site into greater conformance with the landscaping requirements by providing new landscape area where no landscaping currently exists. The Hearings Officer understands the Applicant to reason that the minimum landscape standard, although not meeting the letter of this section, does better meet the standard under this proposal, than leaving the legally non-conforming landscaping provided under the prior development as is. No party, citizen or opponent challenged this reasoning or provided any contrary evidence or theory to consider.

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

Although not a condition of approval, the Hearings Officer notes the City's development related concern that the applicant should consult with the Public Works Urban Forester regarding allowable street trees in the public right-of-way and any additional trees that may be required on the landscape plan to meet the landscaping requirements of Condition 3.

**Condition 7: The reduced landscape requirements, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to the minimum landscaping requirements for the site, unless authorized under a future applicable land use action.**

Criterion 2:

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

The Hearings Officer finds that the subject property is not located within a residential zone.

Criterion 3:

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.

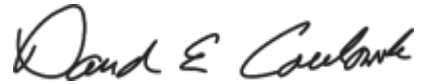
The Hearings Officer finds that the only one adjustment has been requested to reduce the required landscape area for the development site below 15 percent.

## DECISION

The Hearings Officer APPROVES the requests for a conditional use, site plan review, and adjustment to convert 18,121 square feet of an existing building to a motor vehicle sales use and reconfigure part of an existing vehicle use area for parking and vehicle display on property located at 3700 Portland Road NE subject to the following conditions of approval:

- Condition 1:** The proposed development shall be in substantial conformance with the approved site plan included as Attachment C of the staff report, as modified by the conditions of approval.
- Condition 2:** The location and width of the proposed landscaping areas shall be in substantial conformance with the landscape plan included as Attachment D of the staff report.
- Condition 3:** All proposed landscape areas, including those in the public right-of-way, shall be planted with a minimum of 1 plant unit per 20 square feet of landscape area and shall be irrigated. A minimum of 40 percent of the required number of plant units shall be a combination of shade trees, evergreen/conifer trees, or ornamental trees.
- Condition 4:** Fencing and landscaping in the vision clearance triangles at the northwest corner, on both sides of the driveways on Wayside Terrace NE, and the northeast corner must meet the requirements of SRC Chapter 805.
- Condition 5:** Prior to building permit issuance, the applicant shall provide plans to the City demonstrating that the proposed solid waste service area complies with the standards of SRC 800.055.
- Condition 6:** The Applicant shall close the existing driveway abutting Portland Road NE.
- Condition 7:** The reduced landscape requirements, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to the minimum landscaping requirements for the site, unless authorized under a future applicable land use action.

DATED: September 12, 2018

A handwritten signature in black ink, reading "David E. Coulombe". The signature is written in a cursive style with a large initial "D".

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David E. Coulombe, Hearings Officer