

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

NONCONFORMING USE / SITE PLAN REVIEW / ADJUSTMENT CASE NO.: NC-SPR-ADJ19-01

APPLICATION NO. : 19-106402-ZO / 19-106403-RP / 19-106405-ZO

NOTICE OF DECISION DATE: JUNE 7, 2019

REQUEST: Consolidated Nonconforming Use, Class 3 Site Plan Review, and Class 2 Adjustment applications to expand the nonconforming uses allowed on an existing private 30-foot-wide access easement through property zoned RM2 (Multiple Family Residential 2); to construct a new multi-tenant building with parking lot, landscaping, and other site improvements; and two class two adjustments to 1) reduce the required 30-foot setback to the west property line to approximately 20-feet 8-inches and 2) reduce the required 30-foot setback to the south property line to approximately 17-feet 6-inches on a property approximately 1.05 acres in size, zoned IP (Industrial Park), located at the 3000 Block of Pringle Road SE, adjacent to the west of 3224 Pringle Road SE 97302 (Marion County Assessor's Map 083W02BA / 1805).

APPLICANT: Jeff Tross of Tross Consulting, Inc. on behalf of Dean and Jennifer Stockwell

LOCATION: 3000 Block of Pringle Road SE

CRITERIA: Salem Revised Code (SRC) Chapters 270.005(d)(4), 220.005(f)(3), and 250.005(d)(2)

FINDINGS: The findings are in the attached Decision dated June 6, 2019.

DECISION: The **Hearings Officer APPROVED** Nonconforming Use / Class 2 Site Plan Review / Adjustment Case No. NC-SPR-ADJ19-01 subject to the following conditions of approval:

Condition 1: The applicant shall provide an existing conditions plan which identifies the species of trees on the subject site for the record.

Condition 2: At the time of building permit application, a revised site plan shall be submitted which identifies trees to be preserved. A tree removal permit is required for any significant tree proposed for removal.

Condition 3: At the time of building permit application, the applicant shall provide evidence that the proposed solid waste service area will comply with the standards of SRC 800.055.

Condition 4: At the time of building permit application, the applicant shall provide a revised site plan depicting no more than the maximum off-street parking allowance of 10

spaces -OR- prior to building permit application, the applicant shall apply for and obtain approval for a Class 2 Adjustment to the maximum allowed parking.

Condition 5: At the time of building permit application, the applicant shall provide a revised site plan providing 4 bicycle parking spaces which meet the development standards of SRC Chapter 806.060.

Condition 6: Provide a water pipeline easement along the southwest corner of the subject property in a width and alignment in conformance with the Public Works Design Standards (PWDS).

Condition 7: Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and PWDS.

The rights granted by the attached Nonconforming Use and Adjustment decision must be exercised, or an extension granted, by June 25, 2021 or this approval shall be null and void. The rights granted by the attached Site Plan Review decision must be exercised, or an extension granted, by June 25, 2023 or this approval shall be null and void.

Application Deemed Complete:	<u>April 11, 2019</u>
Public Hearing Date:	<u>May 9, 2019</u>
Notice of Decision Mailing Date:	<u>June 7, 2019</u>
Decision Effective Date:	<u>June 25, 2019</u>
State Mandate Date:	<u>August 9, 2019</u>

Case Manager: Pamela Cole, on behalf of Britany Randall, pcole@cityofsalem.net, 503-540-2309

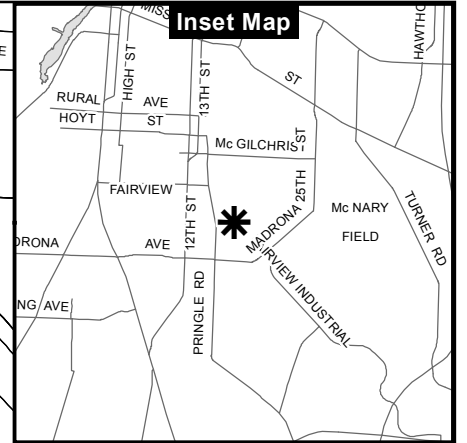
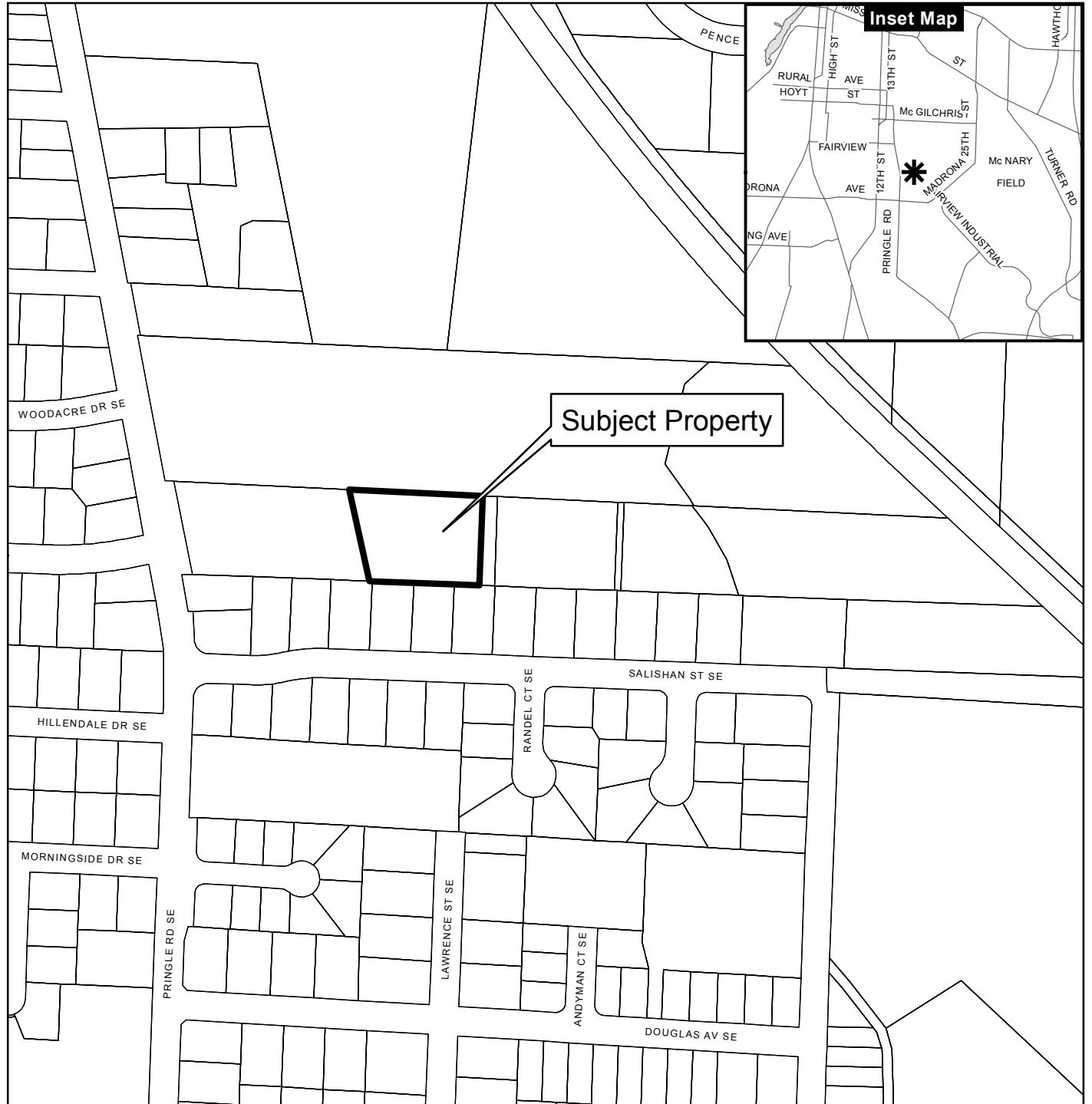
This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than 5:00 p.m., Monday, June 24, 2019. Any person who presented evidence or testimony at the hearing may appeal the decision. 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 270, 220, 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>

Vicinity Map

3000 Block of Pringle Road 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.

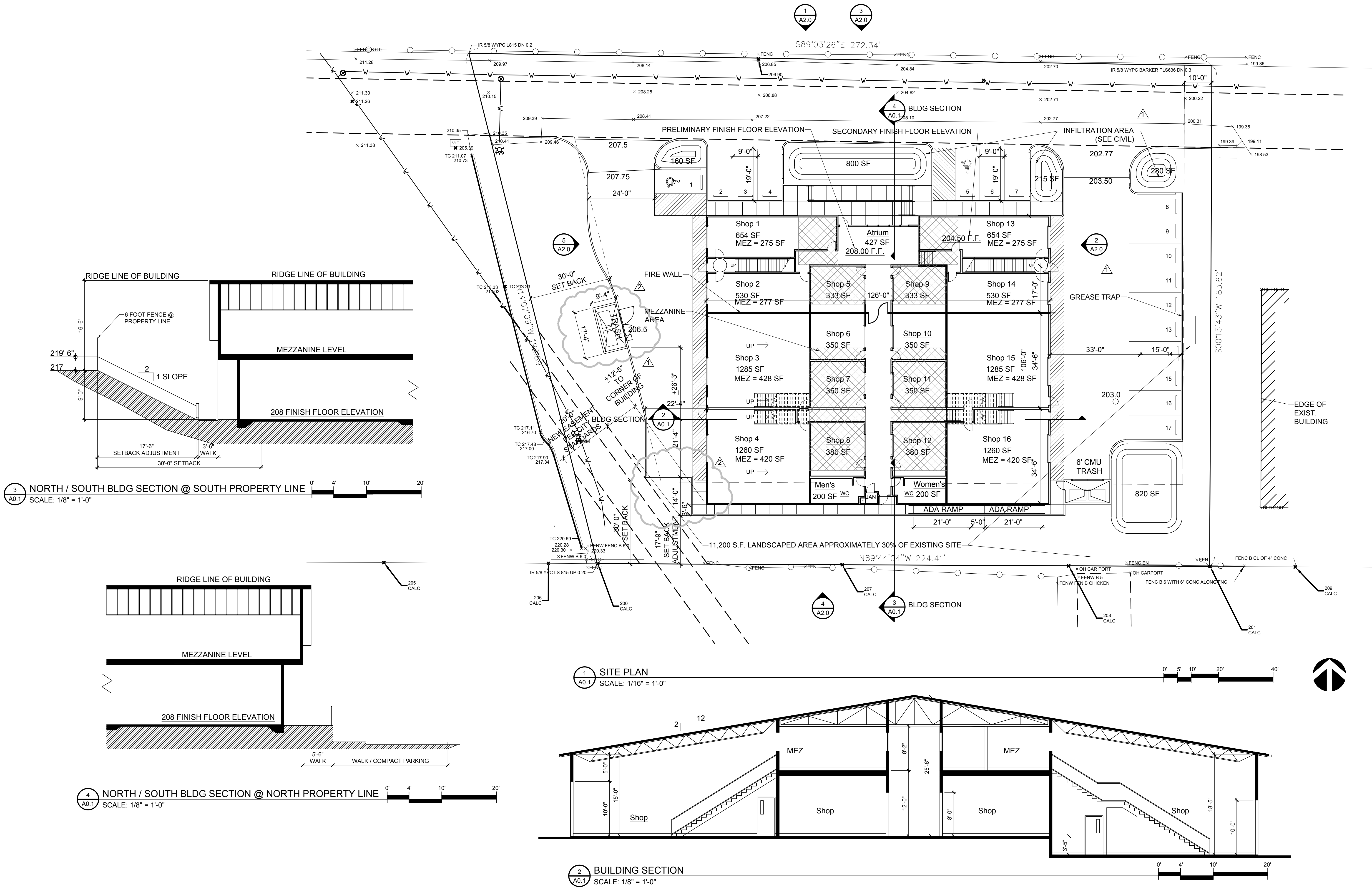
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0 100 200 400 Feet



STOCKWELL RENTALS NEW CONSTRUCTION

3224 PRINGLE RD SE #120 SALEM, OR 97302



695 COMMERCIAL SE
SUITE 5
SALEM, OR 97301
V: 503.371.1140
F: 503.364.6751

ANDERSON
SHIRLEY
ARCHITECTS
INC.

CONSULTANTS

REVISIONS
REVISION 3-3-19
REVISION 4-8-19

PRELIMINARY
NOT FOR
CONSTRUCTION
PRELIMINARY

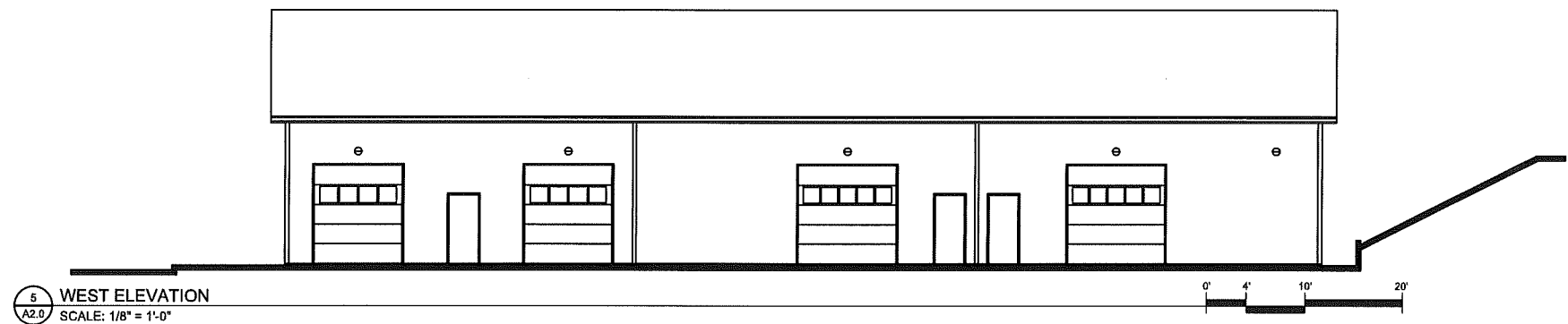
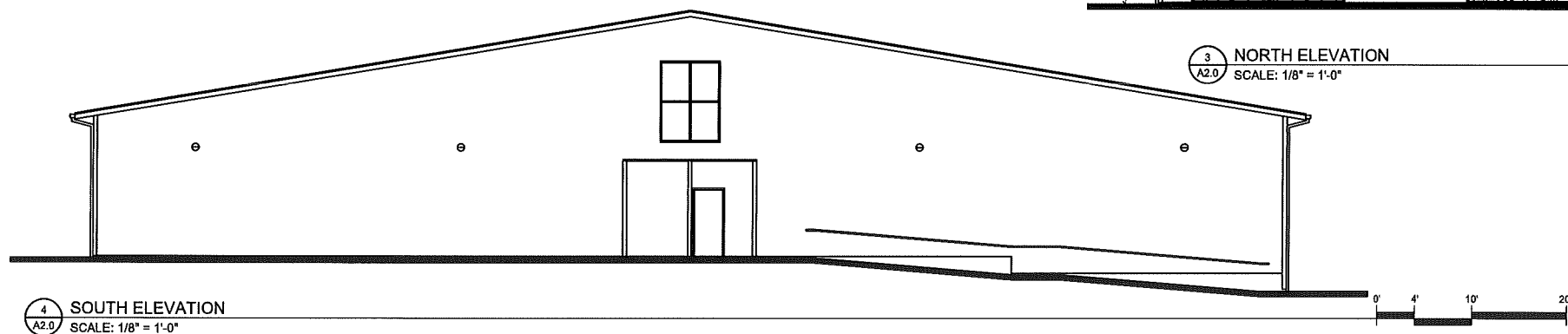
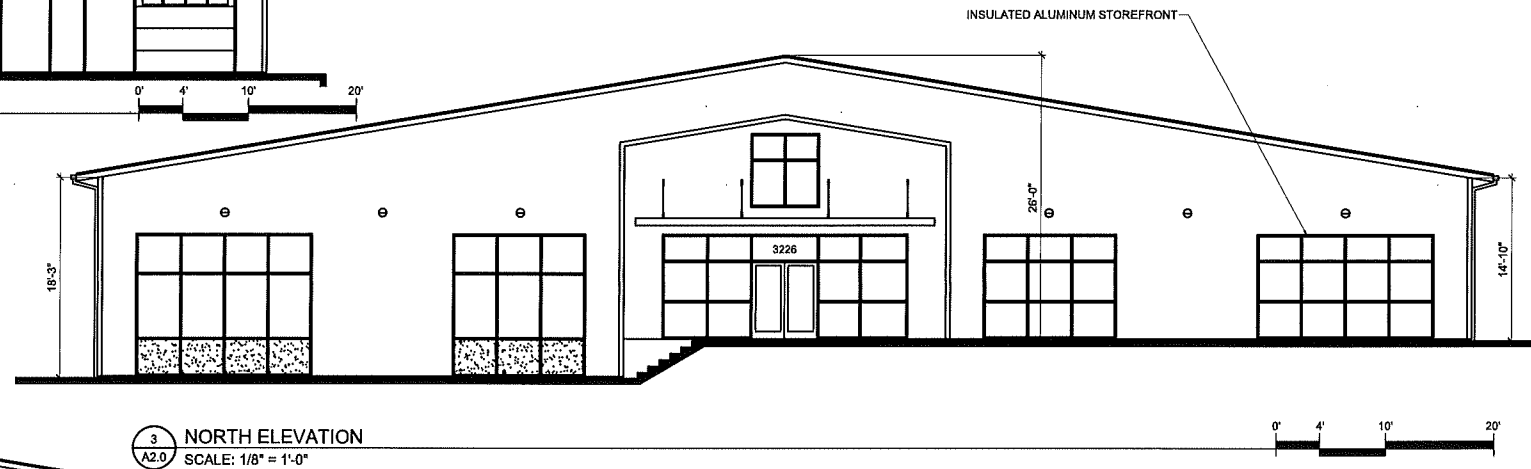
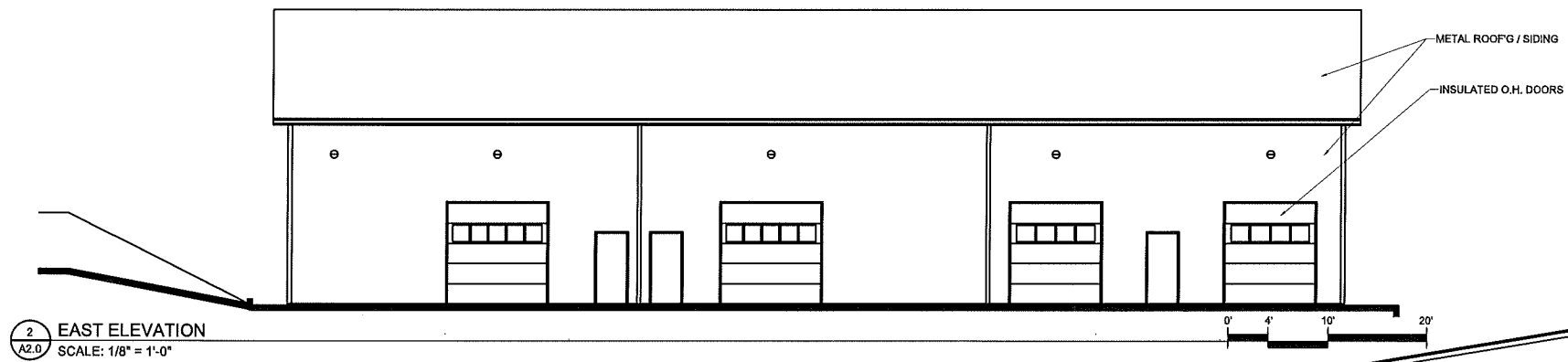
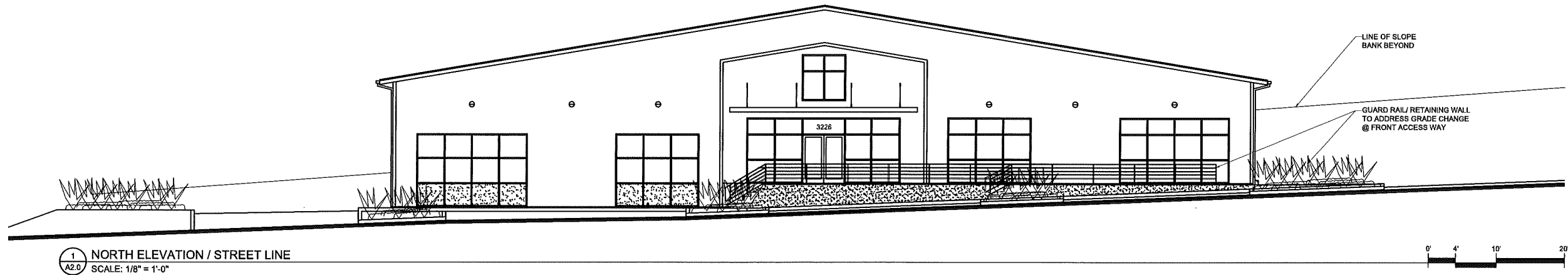
KEY PLAN

SHEET TITLE

NEW CONSTRUCTION
STOCKWELL RENTALS
3224 PRINGLE RD SE #120
SALEM, OREGON 97302

SHEET TITLE
SITE PLAN

DRAWN JKS	SHEET A0.1
JOB NO.	1 OF 2
DATE 2/05/19	



685 COMMERCIAL SE
SUITE 200
SALEM, OR 97301
V: 503.371.1140
F: 503.364.6751

ANDERSON
SHIRLEY
ARCHITECTS
INC.

CONSULTANTS

REVISIONS

PRELIMINARY · PRELIMINARY
NOT FOR
CONSTRUCTION
PRELIMINARY · PRELIMINARY

KEY PLAN

SHEET TITLE

NEW CONSTRUCTION
STOCKWELL RENTALS
3224 PRINGLE RD SE #120
SALEM, OREGON 97302

SHEET TITLE
ELEVATIONS

DRAWN JKS	SHEET A2.0
JOB NO.	2 OF 2
DATE 2/05/19	

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONSOLIDATED NONCONFORMING USE, CLASS 3 SITE PLAN REVIEW, AND CLASS 2 ADJUSTMENT APPLICATIONS FOR PROPERTY APPROXIMATELY 1.05 ACRES IN SIZE, ZONED IP (INDUSTRIAL PARK), LOCATED AT THE 3000 BLOCK OF PRINGLE ROAD SE, ADJACENT TO THE WEST OF 3224 PRINGLE ROAD SE 97302 (MARION COUNTY ASSESSOR'S MAP 083W02BA / 1805).	} } } } } } } } } }	NC-SPR-ADJ19-01 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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DATE AND PLACE OF HEARING:

May 9, 2019, Salem City Council Chambers, Room 240, Civic Center, 555
Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Pamela Cole, Planner II, for Britany Randall, Planner II
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	Dean and Jennifer Stockwell, Applicant, and Jeffrey Tross of Tross Consulting, Inc.
<u>Opponents:</u>	None

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on May 9, 2019, regarding the applications for a Consolidated Nonconforming Use, Class 3 Site Plan Review, and Class 2 Adjustment. It would expand the nonconforming uses that are allowed on an existing private 30-foot-wide access easement through property zoned RM2 (Multiple Family Residential 2), to construct a new multi-tenant building with parking lot, landscaping, and other site improvements, and two Class 2 adjustments to property located at the 3000 Block of Pringle Road SE, Adjacent to the West of 3224 Pringle Road SE.

During the hearing, Pamela Cole, appearing for the City, requested the Staff Report and Staff Presentation 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, stated, observed, noted and alleged the following:

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Industrial." The subject property is located within the Urban Growth Boundary. The subject property is located inside the Urban Service Area (USA). Therefore, an Urban Growth Area Development Permit is not required.

The comprehensive plan designations of the surrounding properties include:

North: IND ("Industrial")

South: IND ("Industrial")

MF ("Multi-Family Residential")

East: Across Railroad Right-of-way: IND ("Industrial")

West: IND ("Industrial")

2. Zoning and Surrounding Land Use

The subject property is zoned IP (Industrial Park). The zoning and uses of surrounding properties include:

North: CO (Commercial Office) and IP (Industrial Park) – Morrow Equipment and other industrial uses

South: RM2 (Multiple Family Residential) – apartments

East: IP (Industrial Park) – warehouses

West: RM2 (Multiple Family Residential) – apartments

3. Natural Features

Trees: 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 Hearings Officer notes that the applicant did not submit an existing conditions plan identifying the trees or vegetation present on the subject property. To ensure this requirement is met, the following conditions of approval will be imposed:

Condition 1: The applicant shall provide an existing conditions plan which identifies the species of trees on the subject site for the record.

Condition 2: At the time of building permit application, a revised site plan shall be submitted which identifies trees to be preserved. A tree removal permit is required for any significant tree proposed for removal.

Wetlands: The Salem-Keizer Local Wetland Inventory (LWI) identifies mapped wetlands and hydric soils on the subject property. The applicant should contact the Oregon Department of State Lands to verify if permits are required for development or construction in the vicinity of the mapped wetland area(s).

The Hearings Officer notes that according to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas.

Landslide Hazards: According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are mapped 3-point landslide hazard areas on the subject property.

The Hearings Officer notes that the proposed activity of a commercial building adds 2 activity points to the proposal, which results in a total of 5 points. Therefore, the proposed development is classified as a moderate landslide risk and requires a geological assessment. The Applicant submitted a Geotechnical Engineering Report, prepared by Carlson Geotechnical and dated December 26, 2018, to the City of Salem. The Hearings Officer notes that this assessment demonstrates the subject property could be developed without increasing the potential for slope hazard on the site or adjacent properties, provided the recommendations presented in the staff report are incorporated into the final design and development.

4. Neighborhood and Citizen Comments

The subject property is located within the Morningside Neighborhood Association (Morningside). As of the date of the staff report, Morningside has not submitted comments. Morningside made no comments at the hearing.

As of the date of the staff report, staff received no comments from surrounding property owners or tenants, and none appeared at the public hearing.

5. City Department and Public Agency Comments

The Building and Safety Division reviewed the proposal and indicated that they have not identified any site issues.

The Salem Fire Department commented that they have no concerns with the proposal at this time. Fire access and water supply will be verified during building permit review.

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

6. Analysis of Nonconforming Situations Criteria

The applicant is proposing to take access from an access easement that was approved through Conditional Use Case No. 76-3, pursuant to a provision of the IP zone at the time, which stated:

“Vehicle Access. Access points to property from a street shall be located to minimize traffic congestion, and maximum effort shall be made to avoid directing traffic into residential areas. Before a street, other than an arterial, which is a boundary between a residential district and an IP district, or a street which is within a residential district, is used for any vehicular access to an IP district, such use of those streets must first have been approved by the planning commission as a conditional use. Access road and access points will be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or comparable permanent surfacing.”

Approval for the access easement was granted with conditions that the access road would be surfaced with asphaltic concrete or a comparable surface, that the accessway shall be limited to the uses required for the light boat manufacturing facility constructed on the subject property, together with the joint use of tenants in the apartments (3230-3248 Pringle Road SE), and that the Conditional Use approval would cease at such time as other access to the light boat manufacturing facility should become available through the Industrial-zoned area.

For the newly proposed general manufacturing development to take place on the subject property and have access from Pringle Road SE byway of the access easement, the applicant is seeking an expansion to the nonconforming use of the accessway.

SRC 270.005(d)(4) states that an application for the extension, alteration, expansion, or substitution of a nonconforming use shall be approved if the following criteria are met:

(A) The proposed extension, alteration, enlargement, or substitution of use is consistent with the general development character of the surrounding area;

(B) The degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable at the property line will not be increased by the proposed extension, alteration, enlargement, or substitution of use;

(C) The number and kinds of vehicular trips will not exceed the maximums typical for the zoning district within which the nonconforming use is located;

(D) The amount and nature of outside storage, loading, and parking will not be increased or altered by the proposed extension, alteration, enlargement, or substitution of use, so as to cause further impacts;

(E) The hours of operation for the proposed extension, alteration, enlargement, or substitution of use will not be altered or increased beyond those of the existing nonconforming use; and

(F) If the proposal includes the alteration or enlargement of a building or structure, the alteration or enlargement complies with the applicable development standards of the UDC and all other applicable laws, ordinances, and regulations.

Criterion 1:

SRC 270.005(d)(4)(A) The proposed extension, alteration, enlargement, or substitution of use is consistent with the general development character of the surrounding area.

The Hearing Officer notes that the subject property is designated "Industrial" on the Salem Area Comprehensive Plan map. All abutting properties to the north and east are designated Industrial, zoned IP and IG, which include warehouses, shop buildings, and outdoor equipment and material storage. Though the proposal includes the development of a new multi-tenant building, the applicant has indicated the space is intended to be used as commercial kitchen space (general manufacturing use), which is consistent with the other nonconforming uses already taking access from the accessway. The proposed expansion of uses at this site optimizes the use of land within the Salem urban area by making use of a site already dedicated to industrial uses. The proposal would remain consistent with the existing development character of the surrounding area.

The Hearings Officer finds that this criterion is met.

Criterion 2:

SRC 270.005(d)(4)(B) The degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable at the property line will not be increased by the proposed extension, alteration, enlargement, or substitution of use.

The Hearings Officer notes that City Staff anticipates that any noise, vibration, dust, odors, fumes, glare, smoke, traffic, and visual impacts generated by the additional uses will be generally consistent with, or far less than levels generated by the previously approved uses on adjacent properties. The Hearings Officer notes the applicant's statement that the expansion of uses will not significantly increase any adverse impacts to the site or cause adverse impacts to the immediate neighborhood.

The Hearings Officer finds that this criterion is met.

Criterion 3:

SRC 270.005(d)(4)(C) The number and kinds of vehicular trips will not exceed the maximums typical for the zoning district within which the nonconforming use is located.

The Hearings Officer notes that the property is part of a long-standing industrial concentration. The types of industrial uses that could be allowed on the property will generate relatively low volumes of traffic. Most vehicle trips are expected to be from employees, and commercial service vehicles, such as vans, high-cube vans, step-vans, pickups, etc., and UPS/FedEx style delivery trucks. Few large semi-trailer trucks are expected and would be infrequent compared to the typical daily traffic. Most vehicle trips will be the result of employees, suppliers, and deliveries/shipments. The types of vehicles that typically access the site will be similar to those that service residential uses, such as electricians, plumbers, builders, UPS, FedEx, etc. As a result, the types of vehicles will be compatible with the RM2 zoning district that the nonconforming access crosses.

Comparing the traffic volume that could result from RM2 development vs. industrial uses in the IP zone, the types of vehicles that are typically associated with those uses, and the proposed restriction on the uses allowed on the site, the Hearings Officer notes that the number and kinds of vehicular trips will not exceed the maximums typical for the zoning district within which the nonconforming use is located.

The Hearings Officer finds that this criterion is satisfied.

The Hearings Officer notes that the Assistant City Traffic Engineer reviewed the information provided by the applicant and determined that a "General Light Industrial", which could include a commercial kitchen, would be expected to generate 99 Average Daily Trips.

If this 1.06 acres were developed as multi-family residential, the site could have a maximum of 29 units.

The traffic that would be expected from a 29-unit apartment complex would be 156 Average Daily Trips.

The Hearings Officer notes that the proposed industrial use would appear to generate less traffic than a multi-family development on the lot. It would be reasonable to prohibit uses with the potential for higher traffic generation similar to the condition placed on NC-SPR 13-01.

Based on this information, the Hearings Officer finds that the number and kinds of vehicular trips will not exceed the maximums typical for the zoning district within which the nonconforming use is located and this criterion is met.

Criterion 4

SRC 270.005(d)(4)(D) The amount and nature of outside storage, loading, and parking will not be increased or altered by the proposed extension, alteration, enlargement, or substitution of use so as to cause further impacts.

The Hearings Officer notes that the applicant is proposing a new multi-tenant building, which would be used as a commercial kitchen or for other uses permitted within the IP zone. The proposal includes site improvements, such as a parking lot and landscaped areas. The newly proposed development will be located entirely within the subject property, which has a zoning designation of IP and a comprehensive plan designation of Industrial. The proposed use is an allowed use within the zone. Staff finds that the appropriate development of the subject property will not cause further impacts to the accessway than those of adjacent uses.

The Hearings Officer finds that this criterion is met.

Criterion 5:

SRC 270.005(d)(4)(E) The hours of operation for the proposed extension, alteration, enlargement or substitution of use will not be altered or increased beyond those of the existing nonconforming use.

The Hearings Officer notes that the proposed expansion of uses within the proposed building will not alter or increase the hours of operation currently allowed within the buildings on adjacent properties or on the access easement.

The Hearings Officer finds this criterion is satisfied.

Criterion 6:

SRC 270.005(d)(4)(F) If the proposal includes the alteration or enlargement of a building or structure, the alteration or enlargement complies with the applicable development standards of the UDC and all other applicable laws, ordinances, and regulations.

The Hearings Officer notes that the proposed development includes a new building on the vacant site. Section 8 of this final decision reviews the applicable criteria of the UDC. The applicant has requested two Class 2 Adjustments, as reviewed in Section 9 of this final decision. The applicant has provided evidence and justification showing that each of the applicable criterion are met by the proposal.

This criterion is not applicable as the proposal includes new construction, rather than an expansion or alteration of an existing building or structure.

7. Class 3 Site Plan Review Applicability

The Hearings Officer notes that Site Plan Review is intended to provide a unified, consistent, and efficient means to review proposed development that requires a building permit, other than single-family, duplex residential, and installation of signs, to ensure that such development meets all applicable requirements imposed by the Salem Revised Code (SRC). SRC 220.005(b)(3) requires Class 3 Site Plan Review for any development that requires a building permit, and that involves a land use decision or limited land use decision, as those terms are defined in ORS 197.015.

8. 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 Hearings Officer notes that the project includes a proposal for a multi-tenant building approximately 20,000 square feet in size, trash enclosures, landscaping, and new vehicle use areas.

Development Standards – IP (Industrial Park) Zone:

SRC 553.005(a) - Uses:

Except as otherwise provided in Chapter 553, the permitted, special, conditional and prohibited uses in the IP zone are set forth in Table 553-1.

The Hearings Officer notes that the proposed development is for a commercial kitchen, general manufacturing use, which is listed as a permitted use in the IP zone pursuant to Table 553-1.

SRC 553.010(a) – Lot Standards:

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

The Hearings Officer notes that the subject property is approximately 1.05-acres in size. The subject property does not have street frontage, but does have rights to an existing 30-foot-wide access easement.

SRC 553.010(b) – IP Zone Setbacks:

North: Adjacent to the north are an IP (Industrial Park) Zone and a CO (Commercial Office) Zone. There is a 10-foot minimum building setback required adjacent to commercial or industrial zones; vehicle use areas are required to be setback a minimum of 10 feet from an interior lot line with Type A landscaping.

South: Adjacent to the south is an RM2 (Multiple Family Residential) Zone. There is a 30-foot minimum building setback required adjacent to a residential zone; vehicle use areas are required to be setback a minimum of 30 feet from a residential zone and Type C landscaping is required within the setback.

East: Adjacent to the east is an IP zone. There is a 10-foot minimum building setback required adjacent to industrial zones; vehicle use areas are required to be setback a minimum of 10 feet from an interior lot line with Type A landscaping.

West: Adjacent to the west is an RM2 (Multiple Family Residential) Zone. There is a 30-foot minimum building setback required adjacent to a

residential zone; vehicle use areas are required to be setback a minimum of 30 feet from a residential zone and Type C landscaping is required within the setback.

As reviewed in Section 9 of this final decision, the applicant is seeking two adjustments from setbacks abutting the RM2 zoned properties to the west and south. With the exception of the setbacks from which the applicant is seeking adjustment, the proposed development meets the setback requirements. At the time of building permit review, the landscape plan will be reviewed for conformance with Type A and Type C landscaping.

SRC 553.010(c) - Lot Coverage, Height:

There is no maximum lot coverage standard. There is a 45-foot maximum building height allowance within the IP zone.

The Hearings Officer notes that the applicant has indicated on the building elevation plan that the building will be less than 45-feet in height. The building height will be verified to be less than 45 feet at the time of building permit review.

SRC 553.010(d) – IP Zone 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 Officer notes that the applicant provided a site plan indicating approximately 11,200 square feet, or 30 percent of the development site will be landscaped. The Hearings Officer finds the proposed development exceeds the minimum 15 percent landscape standard for the development site within the IP zone.

Solid Waste Service Area 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.

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.

The Hearings Officer notes that the proposed site plan does not indicate details of the solid waste receptacle area. Therefore, the following condition is imposed:

Condition 3: At the time of building permit application, the applicant shall provide evidence that the proposed solid waste service area will comply with the standards of SRC 800.055.

- 1) 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.

The Hearing Officer notes that the proposed site plan does not indicate details of the solid waste receptacle area, but the Hearings Officer finds that as conditioned above, this standard is met.

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

When enclosures are used for required screening or aesthetics, such enclosures 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.

The Hearings Officer notes that the proposed site plan does not indicate details of the solid waste receptacle area, but the Hearings Officer finds that as conditioned above, this standard is met.

- 1) Enclosure Gates. Any gate across the front opening of an enclosure shall swing freely without obstructions. For any opening that is 15 feet or greater in width, the gates shall open a minimum of 90 degrees. All gates shall have restrainers in the open and closed positions.

The Hearings Officer notes this proposed site plan does not indicate details of the solid waste receptacle area. However, the Hearings Officer finds that as conditioned above, this standard is met.

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

- 1) Vehicle Operation Area. A vehicle operation area shall be provided for solid waste collection service vehicles that are 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.

The Hearings Officer notes that this proposed site plan does not indicate details of the solid waste receptacle area. However, the Hearings Officer finds that as conditioned above, this standard is met.

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 IC zone, off-street parking for customers may be located within 800 feet of the development site containing the use or activity it serves; off-street parking for employees may be located within 2,000 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 off-street parking requirement for general manufacturing uses is the greater of the following: 0.75 per employee; or 1 per 5,000 sq. ft. (Less than 50,000 sq. ft.)

- b) Compact Parking. Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.
- c) 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 proposed building is approximately 20,000 square feet in size. According to the applicant, the commercial kitchen space will be leasable to different organizations to prepare foods. Because of this, using an employee count to determine parking is not appropriate. General manufacturing uses require 1 off-street parking space per 5,000 square feet of floor area. The proposed building requires a minimum of 4 off-street parking spaces ($20,000 / 5,000 = 4$). In accordance with the site plan provided, none of the parking spaces are planned to be compact spaces. For parking areas with 20 off-street parking spaces or less, the maximum allowed parking is 2.5 times the number of spaces required for the proposed use. In this case, the maximum allowed parking is 10 spaces, however, the applicant's site plan proposed 17 off-street parking spaces, which exceeds the maximum allowed, pursuant to SRC Chapter 806, Table 806-2. Because the proposal does not meet this requirement, the following condition shall be imposed:

Condition 4: At the time of building permit application, the applicant shall provide a revised site plan depicting no more than the maximum off-street parking allowance of 10 spaces -OR- prior to building permit application, the applicant shall apply for and obtain approval for a Class 2 Adjustment to the maximum allowed parking.

As conditioned, the Hearings Officer finds that this standard is met.

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.

The Hearings Officer notes that the proposed vehicle use areas complies with the minimum perimeter setback standards of SRC Chapter 806. The Hearings Officer finds that the proposal meets the setback requirements adjacent to a building or structure.

- d) *Interior Landscaping.* Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. For parking 5,000 square feet in size or greater, a minimum of 5 percent of the interior parking area shall be landscaped.

The Hearings Officer notes that the proposed site plan shows the parking area will be approximately 12,707 square feet in size. The minimum interior landscape required is 635 square feet ($12,707 * 0.05 = 635.35$). The applicant's site plan shows approximately 2,275 square feet of interior landscaping which exceeds the minimum required.

The Hearings Officer finds the interior landscaping requirements are met.

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

The Hearings Officer notes 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 finds the off-street parking area dimension requirements are met.

- f) *Additional Off-Street Parking Development Standards 806.035(f)-(m).*

The Hearings Officer notes that the proposed off-street parking area is developed consistent with the additional development standards for grade, surfacing, and drainage. Bumper guards and wheel barriers are not required for the parking area. The parking area striping, marking, signage and lighting shall be consistent with SRC Chapter 806.

SRC 806.040 - Driveway Development Standards.

- a) *Access.* Off-street parking and vehicle use areas shall have either separate driveways for ingress and egress, a single driveway for ingress and egress with an adequate turnaround that is always available, or a loop to the single point of access.

- b) Location. Driveways shall not be located within required setbacks.
- c) Additional Development Standards 806.040(c)-(g).

The Hearings Officer notes that the interior driveways proposed for the off-street parking area conform to the driveway location and dimensional requirements of SRC 806.040.

Bicycle Parking

SRC 806.045 - General Applicability.

Bicycle parking shall be provided and maintained for any intensification, expansion, or enlargement of a 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.

The minimum bicycle parking requirement for general manufacturing uses is the greater of 4 spaces or 1 space per 10,000 square feet for the first 50,000 square feet.

The Hearings Officer notes that the proposed buildings are approximately 20,000 square feet in size, which requires a minimum of 4 bicycle parking spaces. Neither the applicant's written statement nor the proposed site plan depicts the location of the four required bicycle parking spaces for the proposed use.

To ensure bicycle parking requirements are met, the Hearings Officer imposes the following condition of approval:

Condition 5: At the time of building permit application, the applicant shall provide a revised site plan providing 4 bicycle parking spaces which meet the development standards of SRC Chapter 806.060.

Off-Street Loading Areas

SRC 806.065 - General Applicability.

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

SRC 806.075 - Amount of Off-Street Loading.

One off-street loading space is required for manufacturing uses in buildings between 5,000 to 100,000 square feet in floor area. The minimum dimensions for the off-street loading spaces are 12 feet in width, 19 feet in length and 12 feet in height.

The Hearings Officer notes that the proposed building is approximately 20,000 square feet in size. The proposal requires one off-street loading space. The proposed site plan indicates that a total of one off-street loading space will be placed along the westerly portion of the subject property and will be provided in a manner which is consistent with the requirements of SRC Chapter 806.

The Hearings Officer finds that the off-street loading area requirements are satisfied.

Landscaping

The Hearings Officer notes the requirement that 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. There is required screening along the eastern and northern property lines of a 6-foot tall fence or wall.

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

The Hearings Officer notes that the applicant's site plan indicates that approximately 11,200 square feet of landscaping will be provided requiring a minimum of 560 plant units ($11,200 / 20 = 560$). At least 40 percent of the plant units, or 244 ($560 \times 0.4 = 244$) shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees.

Landscape and irrigation plans will be reviewed for conformance with the requirements of SRC 807 at the time of building permit application review. The Hearings Officer finds that the proposal satisfies the landscaping requirements.

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 Hearings Officer finds that the existing street system is adequate to serve the proposed development, and the development does not abut public right-of-way; therefore, no right-of-way dedication or boundary street improvements are required.

Criterion 3:

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

The subject property takes access from an existing private driveway. The driveway access onto Pringle Road SE provides for safe turning movements into and out of the property.

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 Hearings Officer notes that the Public Works Department has reviewed the applicant's preliminary utility plan for this site. The water, sewer, and storm infrastructures are available within surrounding property and appear to be adequate to serve the proposed development. 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. Staff is recommending as a condition of constructing sewer and storm services on the adjacent properties to the east, the applicant shall be required to acquire a private utility easement across tax lots 083W02BA01801, 083W02BA01802, 083W02BA01803, and 083W02BA01804 pursuant to Oregon State Plumbing Specialty Code.

Pursuant to Public Works Design Standards Section 1.8, the proposed development is subject to a water main easement dedication along the southwest corner of the subject property. The existing 10-foot-wide easement does not meet current standards or provide adequate easement width to encompass the existing 36-inch water main and 6-inch water main that feeds a public fire hydrant on the adjacent property. The easement width shall be pursuant to PWDS 1.8, Table 1-1.

The Hearings Officer notes that the applicant's engineer submitted a statement demonstrating future design plans will comply with Stormwater PWDS Appendix 004-E(4)(b) and SRC Chapter 71. The preliminary stormwater design demonstrates the use of green stormwater infrastructure to the maximum extent feasible.

To ensure these requirements are met, the Hearings Officer will impose the following conditions of approval:

Condition 6: Provide a water pipeline easement along the southwest corner of the subject property in a width and alignment in conformance with the Public Works Design Standards (PWDS).

Condition 7: Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and PWDS.

9. Analysis of Class 2 Adjustment Approval Criteria

SRC Chapter 250.005(d)(2) provides that an applicant for a Class 2 Adjustment shall be granted if all of the following criteria are met:

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 Hearings Officer notes that the applicant is proposing two class-two adjustments to:

- 1) Reduce the required 30-foot setback to the west property line to approximately 20-feet 8-inches and
- 2) Reduce the required 30-foot setback to the south property line to approximately 17-feet 6-inches

The Hearings Officer notes the applicant is seeking an adjustment to the required setback of 30-feet down to 20-feet 8-inches abutting the westerly property line where it meets an RM2 zone and an existing multiple family development on the abutting property. The reduced setback is requested to allow a trash enclosure to be placed within the setback area. The applicant is proposing to encroach into the setback with an enclosure that is proposed to be 9-feet 4 -inches in depth and 17-feet 4-inches in width. The applicant's statement provides the following justification for how the proposed development equally or better meets the intent of the development standard: An adjustment is also requested to allow the trash enclosure to the west of the building to intrude into the 30' setback on that side yard by 9'4", reducing that portion of the setback to 20'8" for its 17'4" length. The full 30' setback will be maintained along the west side of the property except for the 17'4" length of the trash enclosure. The trash enclosure encompasses ±162 square feet,

which amounts to about 3% of the setback area (193" long x 30' wide = 5790 square feet). The small intrusion into the setback does not substantially detract from its purpose or its effectiveness. The trash disposal area will be fully enclosed.

The Hearings Officer finds that the location of the trash enclosure and the small area that it will intrude into the setback will not detract from the purpose of the setback, and the purpose underlying this development standard is equally met by the proposed development.

The Hearings Officer notes that the property to the south is zoned RM2, which requires a 30-foot building setback where the applicant is proposing a setback of 17-feet and 6-inches. The applicant's statement provides the following justification for the how the proposed development equally or better meets the intent of the development standard: This will allow better placement of the building within the parcel with regards to spacing the front of the building back from the access easement, and to allow for parking along the front of the building rather than along its west side closer to the bordering residential area. The reduction in the rear yard setback is mitigated by the slope on the south side of the property. The south end rises from east to west an average of 9' along a 2/1 gradient to the adjacent residential land. The difference between the building's finished floor elevation and the property to the south decreases the appearance and effect of the building's height, as the maximum height at the ridge line of the roof will be approximately 16'-6" above the ground elevation of the land to the south, and the eaves will be at or below the top of the grade. This height is approximately equivalent to a single-story home. The difference in the grade reduces the relative effect of the building height so that the reduction in the setback will have minimal impact on the property to the south. The Hearings Officer finds that because the slope mitigates for the setback, the purpose underlying this development standard is equally met by the proposed development.

The Hearings Officer notes that the City Staff agree with the applicant's statement that the impacts of placing parking and vehicle use areas closer to the RM2 zoned properties would be greater than placing the building within the special setback line. Additionally, the topography of the subject site in comparison to the abutting property to the south provides for a natural buffer. The new building will sit much lower than the existing multiple family development to the south. Staff also agrees with the applicant's statement regarding the proposed location of the trash enclosure. Additionally, because many multiple family developments include trash enclosures, the placement of the enclosure within the setback will not have a great impact on the abutting multiple family development to the west. The Hearings Officer finds that as proposed, the purpose underlying the specific development standards proposed for adjustment is equally or better met by the proposed development.

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 notes that the subject property is not located within a residential zone but does abut RM2 zones on the west and south. The Hearings Officer finds that the impacts of the proposed development will be minimal and will not detract from the livability or appearance of the surrounding residential areas.

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 notes that the applicant's written statement states that the site plan demonstrates the two adjustments, taken together, maintain the overall purpose of the zone by accommodating the development of a high-quality design for an industrial facility that is consistent with the surrounding land use pattern. The proposal will provide a needed facility for small-scale food preparation, processing and production operations, which will serve to create opportunities for existing and new small food service businesses. The proposal represents investment in the city's industrial economy and helps to renew and improve an inner-city industrial center. The two adjustments make the use of the site attractive and the overall design more efficient. For these reasons, the cumulative effect of the adjustments enhance the use of the property and result in a project that is still consistent with the overall purpose of the zone.

The Hearings Officer finds that the Applicant has demonstrated that although two adjustments are requested, the entirety of the project is still consistent with the overall purpose of the zone.

No participant objected to or challenged the testimony or evidence. Based on the Record and testimony, the Hearings Officer finds this criterion met.

DECISION

The Hearings Officer APPROVES the expansion of nonconforming use, site plan review, and adjustment applications to allow the construction of a new building, approximately 20,000 square feet in size for future general manufacturing uses for the subject property located at the 3000 Block of Pringle Road SE, subject to the following conditions of approval:

- Condition 1:** The applicant shall provide an existing conditions plan which identifies the species of trees on the subject site for the record.
- Condition 2:** At the time of building permit application, a revised site plan shall be submitted which identifies trees to be preserved. A tree removal permit is required for any significant tree proposed for removal.
- Condition 3:** At the time of building permit application, the applicant shall provide evidence that the proposed solid waste service area will comply with the standards of SRC 800.055.
- Condition 4:** At the time of building permit application, the applicant shall provide a revised site plan depicting no more than the maximum off-street parking allowance of 10 spaces -OR- prior to building permit application, the applicant shall apply for and obtain approval for a Class 2 Adjustment to the maximum allowed parking.
- Condition 5:** At the time of building permit application, the applicant shall provide a revised site plan providing 4 bicycle parking spaces which meet the development standards of SRC Chapter 806.060.
- Condition 6:** Provide a water pipeline easement along the southwest corner of the subject property in a width and alignment in conformance with the Public Works Design Standards (PWDS).
- Condition 7:** Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and PWDS.

DATED: June 6, 2019.



James K. Brewer, Hearings Officer