

TO: HEARINGS OFFICER

FROM: LISA ANDERSON-OGILVIE, AICP, DEPUTY COMMUNITY
DEVELOPMENT DIRECTOR AND PLANNING ADMINISTRATOR

SUBJECT: **CONDITIONAL USE CASE NO. CU21-04**
3323 MARKET STREET NE
AMANDA NO. 21-113057-ZO

REQUEST

Summary: A proposal to allow car sales at an existing parking lot.

Request: A conditional use permit application to allow motor vehicle sales on an existing parking lot. The subject property is approximately 0.23 acres in size, zoned CR (Retail Commercial), and located at 3323 Market Street NE (Marion County Assessor map and tax lot number(s): 073W24AD / 803).

A vicinity map illustrating the location of the property is attached hereto and made a part of this staff report (**Attachment A**).

APPLICANT/OWNER: KSD Properties, LLC

FILER: Ronald Ped

RECOMMENDATION

Based upon the Facts and Findings contained in this staff report, Staff recommends the Hearings Officer **APPROVE** the request for a conditional use permit to allow motor vehicle sales at the subject property, subject to the following conditions of approval:

Condition 1: At the time of site plan review application, provide a landscape plan showing perimeter setbacks landscaped to the Type A standard.

Condition 2: At the time of site plan review application, provide a site plan showing the proposal will maintain the parking lot and vehicle use area configuration approved under application no. 17-122596-RP, or obtain the necessary approval to reconfigure the area.

APPLICATION PROCESSING

On July 15, 2021, a Conditional Use Permit application was submitted to allow motor vehicle sales on the subject property. The application was deemed complete for processing on September 8, 2021.

The public hearing before the City of Salem Hearings Officer is scheduled for October 13, 2021, at 5:30 p.m. Notice of public hearing was sent by mail to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) requirements on

September 23, 2021. Public hearing notice was also posted on the property on September 29, 2021 pursuant to SRC requirements.

PROPOSAL

The applicant requests conditional use approval to allow motor vehicle sales on an existing parking lot, on property previously used as a coffee kiosk. Except for a change of occupancy and associated permits, no changes to the site are proposed.

SUMMARY OF RECORD

The following items are submitted to the record and are available upon request: All materials submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports; any materials and comments from public agencies, City departments, neighborhood associations, and the public; and all documents referenced in this report.

APPLICANT'S MATERIALS

The applicant's existing site plan is included as **Attachment B**, and the applicant's statement addressing the applicable approval criteria is included as **Attachment C**.

FACTS AND FINDINGS

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 within the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned CR (Retail Commercial). The proposal would allow a motor vehicle sales lot on a property which previously contained a drive-through coffee kiosk and associated site improvements. Motor vehicle and manufactured dwelling and trailer sales require a conditional use permit within the CR zone, pursuant to SRC 522.005(a).

The zoning of surrounding properties is as follows:

North: CR (Retail Commercial)

South: Across Market Street NE - CR (Retail Commercial)

East: CR (Retail Commercial)

West: CR (Retail Commercial)

3. Site Analysis

The subject property consists of one tax lot with an area of 0.23 acres and street frontage of 65 feet along Market Street NE. In the Salem Transportation System Plan (TSP), Market Street NE is designated as a Major Arterial street.

4. Neighborhood Association, Citizen, and Homeowners Association Information

The subject property is located within the boundaries of the Lansing Neighborhood Association, and adjacent to North East Salem Community Association (NESCA).

Applicant Neighborhood Association Contact

SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), land use applications included in this request require neighborhood association contact. On July 13, 2021, the applicant's representative contacted both applicable neighborhood associations to provide details about the proposal in accordance with the requirements of the SRC.

Neighborhood Association Comment

Notice of the application was provided to applicable both neighborhood associations pursuant to SRC 300.620(b)(2)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. As of the date of the writing of this staff report, one comment was received from NESCA, who indicated opposition against the application, citing concerns over creation of additional traffic and the effects traffic may have on the adjacent hotel which grants vehicular access to the subject property, and proximity to other motor vehicle sales lots.

Staff Response: The application was reviewed by Public Works Staff, including the City's traffic engineers, who indicated the existing street system is adequate to serve the proposed development and had no concerns over the amount of traffic produced by the proposed use.

The subject property maintains vehicular access via an easement with the abutting property to the north and west, which contains the hotel in question. The applicant has stated they have the necessary legal access through the hotel's property, and any potential conflicts which arise from shared access is a civil matter and separate from the land use process.

SRC 240.005(d)(3) states that a conditional use permit shall be granted if, among other criteria, the proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property. In this case, proximity to other motor vehicle sales lots suggests compatibility between the proposed use and the surrounding development. Staff finds that, with the

recommended conditions of approval, the proposal would meet the approval criteria, and the reasonably likely adverse impacts of the use on the immediate neighborhood would be minimized.

Public Comment

Notice was also provided, pursuant to SRC 300.620(b)(2)(B)(vi) and (vii), to all property owners and tenants within 250 feet of the subject property.

Prior to the end of the public comment period, one comment from an individual was received, who indicated opposition to the proposal due to the presence of other nearby car sales lots and stated another one is unnecessary for the neighborhood.

Staff Response: While Staff can consider nearby uses and development when recommending approval or denial of a conditional use application, proximity to other similar uses does not prohibit approval. SRC 240.005(d)(3) states that a conditional use permit shall be granted if, among other criteria, the proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property. In this case, proximity to other car sales lots suggests compatibility between the proposed use and the surrounding development. Staff finds that, with the recommended conditions of approval, the proposal would meet the approval criteria, and the reasonably likely adverse impacts of the use on the immediate neighborhood would be minimized.

Homeowners Association

The subject property is not located within a homeowners association.

5. City Department and Public Agency Comments

The City of Salem Public Works Department reviewed the proposal and had no comments.

The City of Salem Building and Safety Division reviewed the proposal and indicated no concerns.

The City of Salem Fire Department reviewed the proposal and stated that approved Fire Department access and water supply will be required for any structures.

6. Analysis of Conditional Use Criteria

SRC Chapter 240.005(a)(1) provides that:

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

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

Criterion 1:

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

Finding: The subject property is zoned CR (Retail Commercial). Pursuant to SRC 522.005(a), motor vehicle and manufactured dwelling and trailer sales is allowed as a conditional use in the CR zone.

The proposal meets the criterion.

Criterion 2:

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

Applicant's Statement: The applicant notes the surrounding development is largely oriented toward automobile traffic, including a park-and-ride facility to the east and a hotel with a large parking lot to the north and west. Market Street NE, a Major Arterial street which carries high levels of traffic, abuts the property to the south. The applicant states the proposed motor vehicle sales would create little in the way of noise or odor impacts on the immediate neighborhood, except for incidental noise and odor from the vehicles which would visit or be stored on site. Display lighting will be "cut-off" type, meaning the lights will shine downward and not cast significant glare horizontally, and will be oriented toward the display vehicles.

Finding: While the subject property maintains high visibility to Market Street and the abutting commercial areas, it is screened from surrounding residential areas by the adjacent hotel building and other non-residential developments. The applicant's existing site plan (**Attachment B**) shows existing landscaped setbacks which offer a buffer between the proposed use and the immediate vicinity; however, no landscaping plan was required to be provided to show adherence with the landscaping requirements of the SRC. Additionally, pursuant to SRC 220.005(b)(1), the proposed development will only require a Class 1 Site Plan Review application to change the use of the property to motor vehicle sales, since the proposal involves a change of use or change of occupancy where only construction or improvements to the interior of the building or structure are required, so no landscape review is required through either land use application associated with the proposed development.

To ensure the proposed development includes landscaping which adheres to the standards of the CR zone and minimizes the reasonable likely adverse impacts of the proposal on the immediate neighborhood, Staff recommends the following condition of approval:

Condition 1: At the time of site plan review application, provide a landscape plan showing perimeter setbacks landscaped to the Type A standard.

The existing conditions plan provided by the applicant (**Attachment B**) does not fully match the previously approved site plan for the property, as approved under application no. 17-122596-RP, with some of the parking lot striping omitted (see **Attachment D**). Pursuant to SRC 220.005(a)(1)(B)(v), reconfiguring the layout of an off-street parking or vehicular use area requires site plan review approval. To ensure the proposal either maintains the previously approved off-street parking and vehicle use area or obtains the necessary approval to reconfigure the area, Staff recommends the following condition of approval:

Condition 2: At the time of site plan review application, provide a site plan showing the proposal will maintain the parking lot and vehicle use area configuration approved under application no. 17-122596-RP, or obtain the necessary approval to reconfigure the area.

As conditioned, Staff finds the proposal meets this criterion.

Criterion 3:

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

Applicant's Statement: The applicant states the proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property. They note the subject property's proximity to other car sales lots, autobody shops, and to the Market Street-Interstate 5 interchange, stating that, since the development of the interstate, the automobile has been a primary organizing element of the immediate neighborhood.

Finding: Staff concurs with the applicant that the proposed use is reasonably compatible with the surrounding properties. Any impacts to the livability or appropriate development of the surrounding area will be minimal, and the recommended conditions of approval will ensure adequate buffering will be provided between the proposed development and the surrounding area.

Staff finds the proposal meets this approval criterion.

RECOMMENDATION

Based upon the Facts and Findings contained in this staff report, Staff recommends the Hearings Officer **APPROVE** the request for a conditional use permit to allow motor vehicle sales on a property approximately 0.23 acres in size and located at 3323 Market Street NE, subject to the following conditions of approval:

Condition 1: At the time of site plan review application, provide a landscape plan showing perimeter setbacks landscaped to the Type A standard.

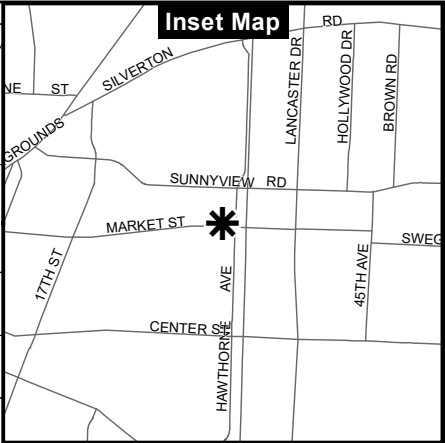
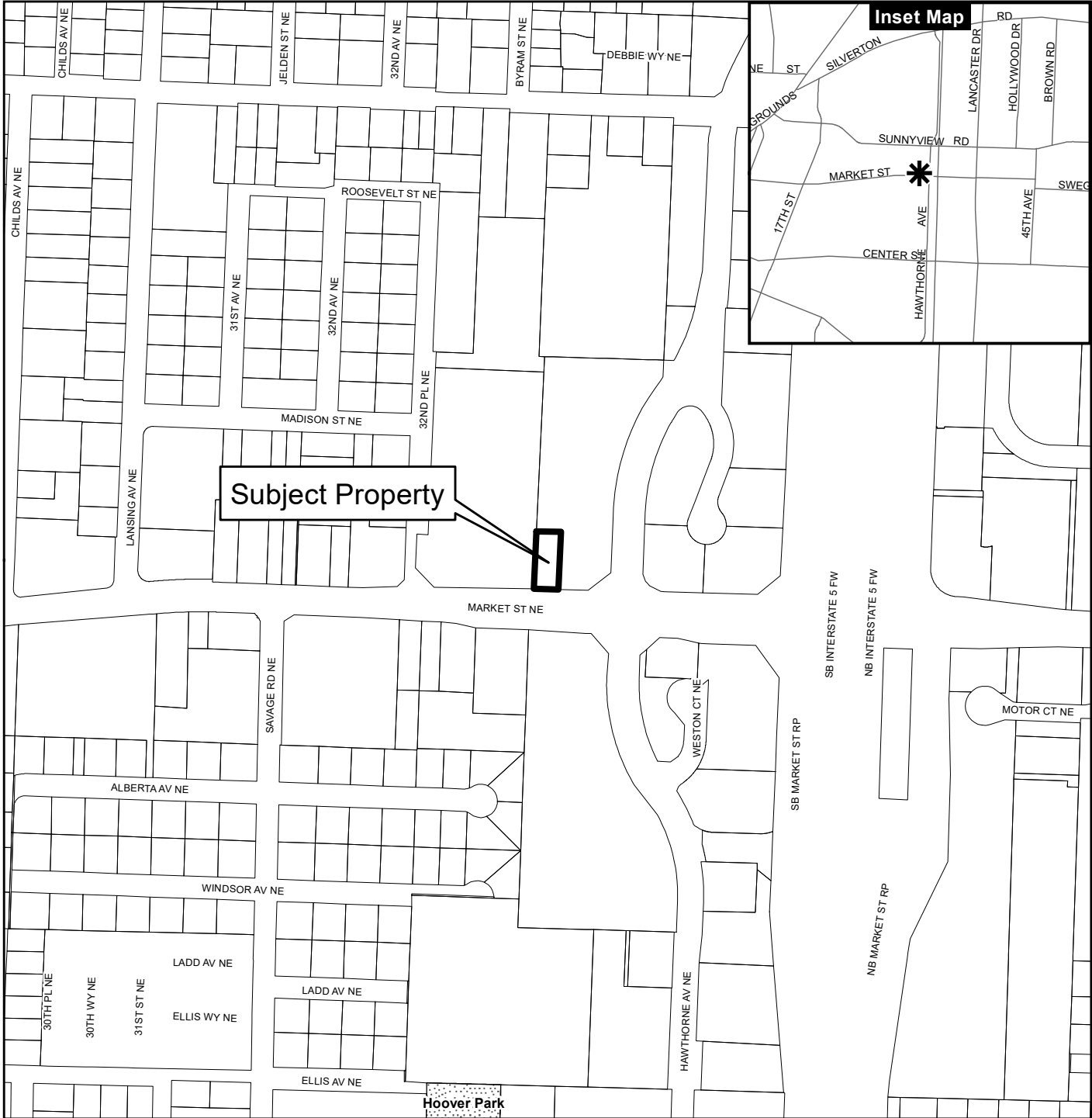
Condition 2: At the time of site plan review application, provide a site plan showing the proposal will maintain the parking lot and vehicle use area configuration approved under application no. 17-122596-RP, or obtain the necessary approval to reconfigure the area.

Prepared by Brandon Pike, Planner I

Attachments:








- A. Vicinity Map
- B. Applicant's Existing Site Plan
- C. Applicant's Statement Addressing Approval Criteria
- D. Site Plan Approved Under Application No. 17-122596-RP

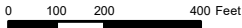
Vicinity Map 3323 Market St NE



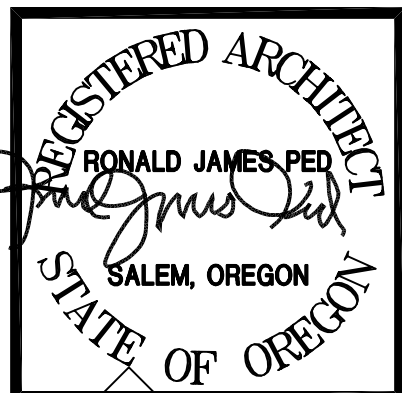
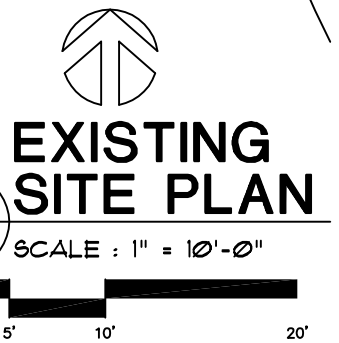
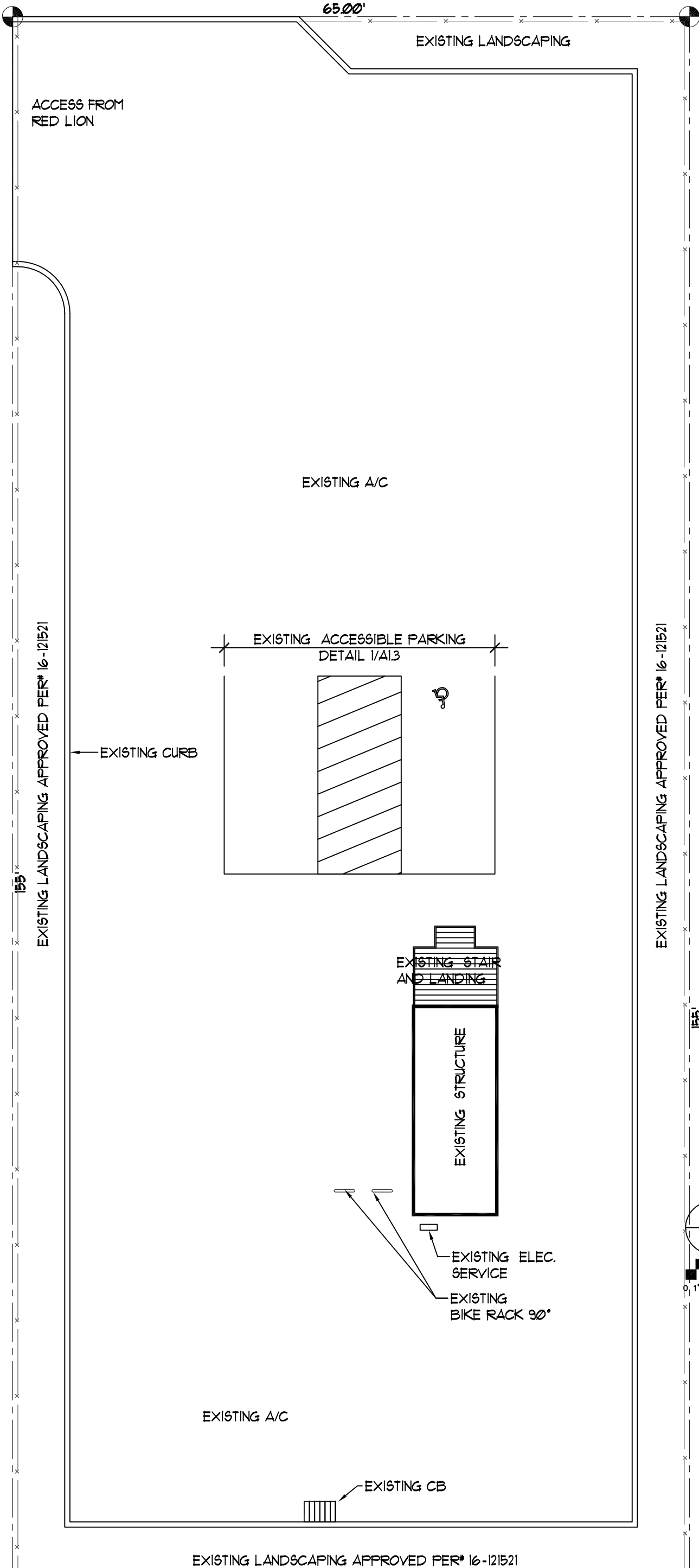
Subject Property

Legend

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



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RONALD JAMES PED ARCHITECT P.C.

DATE: 6 JULY 2021
DRAWN: glm
JOB NO.: 2151

A1.2

SPR
NIXON MOTORS
3323 Market St. NE

ATTACHMENT C

The site is located on the North side of (3323) Market Street NE just west of the park and ride at Hawthorn NE. The park and ride is on the North and East side of the subject property. The holiday inn parking lot is to the west. The hotel itself sits back from the right-of-way 200 feet. The adjacent properties are Commercial Retail zoned and comp plan designated Commercial. When the Market Street Interchange was rebuilt, this parcel became surplus. It was part of the Trachsel Buick GMC new car dealership.

Vehicular access to the property is only through the Holiday Inn parking lot to the west. Oregon Department of Transportation prohibited access to Market Street by deed when they conveyed it to the current owner of the property. This lack of access has proved to complicate development plans for over 20 years

More recently the owner sought and was approved for Coffee Kiosk. After the entitlements were granted and building permit was approved. The parking and landscape were construction, inspected and a Certificate of Occupancy was issued. The Coffee Kiosk proved to be commercial unviable.

This conditional use for operation of a used car sales business should be granted.

Commercial Use development Policy 3 encourages the redevelopment of the existing surplus realstate created by the reconstruction of the freeway interchange for commercial use. The proposed use will place an underutilized property is consistent with redevelopment .

Commercial Use development Policy 4. Community shopping and services shall be located adjacent to major and minor arterials. The site is on the north side Market Street, access to Market street is through the Holiday Inn parking lot and is consistent with with this policy.

Commercial Use development Policy 5 discourages strip development unless the land use pattern is already committed to that pattern. The subject property is within the existing commercial pattern long since established. This proposal will not change or affect the existing land use pattern and consistant with existing land use.

(d) Criteria. An application for conditional use permit shall be granted if all of the following criteria are met:

(1) The proposed use is allowed as a conditional use in the zone; **The site is zoned Commercial Retail and the Comprehensive Plan Designation is Commercial. Salem Revised Code(SRC) Chapter 522 table 522-1 Uses, identifies Motor Vehicle Sales as a conditional Use**

| Motor Vehicle, Trailer, and Manufactured Dwelling Sales and Service | | |
|---|---|--|
| Motor vehicle and manufactured dwelling and trailer sales | C | |

(2) The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions; and

There are no adverse impact to this use, to the extent there are impacts there are no residents or uses to be impacted by the proposed use. The site is completely surrounded by parking. The Holiday Inn at the closet point is 70' feet on the diagonal from the subject property. Because of the window orientation and the mass of the hotel, only a few of the Motel windows can see the subject property. To do so you must press your face to the window to see the site. The mass of the Holiday Inn completely screens this site from any residential property. Used car sales omit no odors, make no noise, creates no vibrations. Display lighting will be "cut off" type and will be orient toward the display vehicles and light bleed will be minimized. Used auto sales is part of the fabric neighborhood.

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

There is no place in Salem more compatible with used car sales. Because of the proximity to the Market Street interchange, land use patterns are decidedly automobile oriented. There are four brands of new cars sales and one closed truck agency in the general area. There are also 3 large used car lots and an Autobody shop nearby. The Park and Ride is next door dedicated to comings and goings of automobiles. The seven hotels and motels in proximity of the site were located there because of the freeway interchange. There are also a number of fast food and high turnover restaurant near the freeway. There are is a hand full of suburban shopping centers nearby. All of the above are use rely on the automobile

Since the arrival of the interstate the automobile has been the primary organizing element of the neighborhood. It has been developed, demolished and redeveloped but always around the automobile

RECEIVED
DEC 27 2017
PAC

ATTACHMENT D

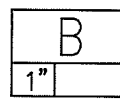
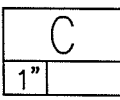
CODE SUMMARY

CODE: 2014 066C
 OCC: B
 CONST: Y-B
 AREA: 180#
 ALLOW AREA: 9000#

160# < 9000# OK
 ACTUAL ALLOWABLE

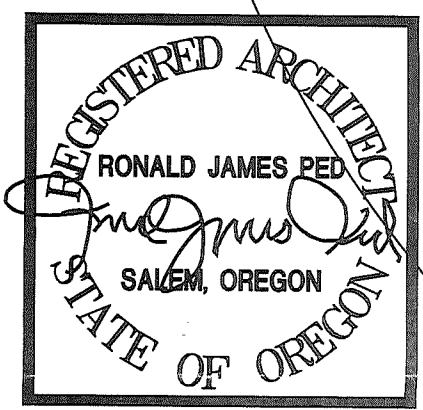
SUMMARY TABLE

TOTAL SITE AREA: 10075#
 LANDSCAPING: 2126# - 21%



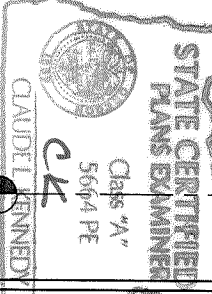
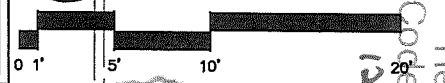
PLANNING ACTION
 APPROVED SUBJECT TO
 DEVELOPMENT REQUIREMENTS
 NOTED ON PLANS
 12/28/17
 R. Randall
 Date and Signature of Planner

Plumbing Plan
 Review Required
 For On-Site Utilities



SPR PERMIT # 16-121521
 APPROVED
PROPOSED SITE PLAN

SCALE: 1" = 10'-0"



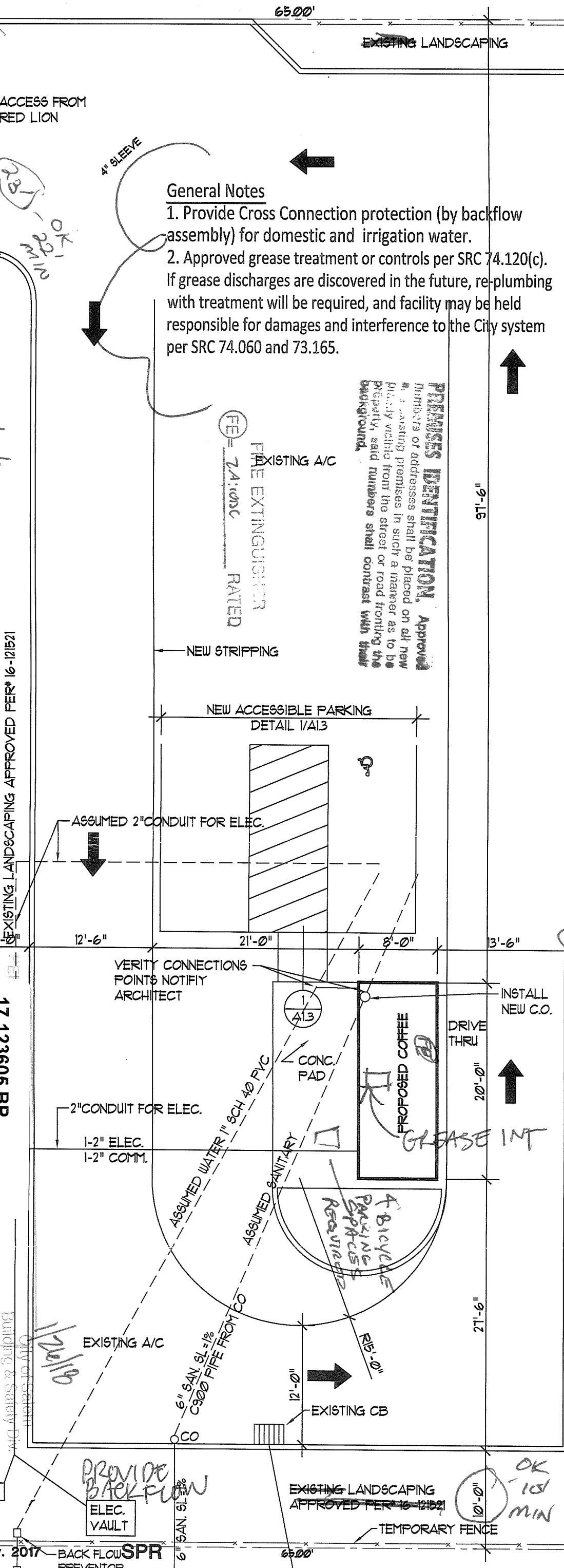
RONALD JAMES PED
 ARCHITECT P.C.

General Notes

1. Provide Cross Connection protection (by backflow assembly) for domestic and irrigation water.
2. Approved grease treatment or controls per SRC 74.120(c). If grease discharges are discovered in the future, re-plumbing with treatment will be required, and facility may be held responsible for damages and interference to the City system per SRC 74.060 and 73.165.

PREMISES IDENTIFICATION. Approved
 Numbers of addresses shall be placed on all new
 buildings or existing premises in such a manner as to be
 plainly visible from the street or road fronting the
 property, said numbers shall contrast with their
 background.

EXISTING A/C
 FIRE EXTINGUISHER
 FE = 2A:10BC RATED



DATE: 11/24/18
 REVIEWED BY: A.W.
 SALEM FIRE DEPARTMENT

17 123605 BP
 3323 MARKET ST NE
 PLACEMENT OF COFFEE KIOSK

FILE COPY
 FIRE DEPT.

DATE: 20 Nov. 2017
 DRAWN: glm
 JOB NO.: 1775

BACK FLOW PREVENTOR
 3/4" METER

Koehnke Coffee

C1.1 METER BY CITY FORCES 3323 Market St. NE