

TO: HEARINGS OFFICER

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

SUBJECT: NONCONFORMING USE / SITE PLAN REVIEW CASE 20-01
650 2ND STREET NW
AMANDA NO. 19-122191- ZO, 19-122018-RP

REQUEST

Consolidated Nonconforming Use and Class 3 Site Plan Review applications to substitute self-service storage for the existing nonconforming use of warehousing and distribution in a building within a 3.87 acre development site in the ESMU (Edgewater/Second Street Mixed-Use Corridor) zone at 650 2nd Street NW, 809, 811, 901, 903, and 975 Edgewater Street NW, and 150 Patterson Street NW 97304 (Polk County Assessor Map and Tax Lots 073W21DD / 02500, 02600, 02700, 02800, 02900, and 03000 and 073W21DD01100).

OWNER: Edgewater Opportunity Zone LLC

APPLICANT: Chris Blackburn

REPRESENTATIVE: Gene Bolante, Studio 3 Architecture

RECOMMENDATION

Based on the Facts and Findings contained in this staff report, staff recommends that the Hearings Officer APPROVE the applicant's request subject to the following conditions of approval:

- Condition 1:** Outside storage shall not be permitted in association with the proposed self-service storage use.
- Condition 2:** No driveway access, off-street parking and vehicle use areas, or loading areas on the development site shall be made available to employees or customers of the proposed self-service storage use at this time, and any future proposals for driveways, off-street parking and vehicle use areas, and loading areas will be subject to site plan review and development standards applicable at the time of development.
- Condition 3:** Hours of operation for the proposed self-service storage use are limited to 7:00 am to 9:00 pm, seven days a week.

- Condition 4:** Prior to removal of encroachments into the 2nd Street NW right-of-way, an application for a building permit shall be submitted, and an application for site plan review shall be submitted, if required, and the application(s) shall demonstrate compliance with all applicable development standards of SRC Chapter 535 and all other applicable development standards.
- Condition 5:** Any future proposals for development on the exterior of the building shall be subject to the pedestrian access standards applicable at the time of development.
- Condition 6:** If the existing driveway onto Murlark Avenue NW is to be relocated to the north to comply with vision clearance standards, a Class 2 Driveway Approach Permit (if required by Public Works) and Site Plan Review application shall be submitted for approval, subject to all applicable driveway development standards of SRC 806.040, and all other applicable development standards.
- Condition 7:** Any future proposals for development on the development site will be subject to landscaping standards applicable at the time of development.
- Condition 8:** Remove the portions of the building encroaching into the right-of-way along the 2nd Street NW frontage or obtain a license to encroach pursuant to SRC 76.160.
- Condition 9:** Mitigate the non-conforming condition of the existing driveway approach along the Patterson Street NW frontage by either:
- a. Closing the driveway; or
 - b. Reconfiguring the driveway to be ingress only with signage as specified in PWDS, and locating gates obstructing vehicular access to be no closer than 60 feet from the Patterson Street NW right-of-way in order to allow vehicles to queue outside of the right-of-way.
- Condition 10:** Relocate the existing driveway along the Murlark Avenue NW frontage, or modify the existing building to meet Vision Clearance requirements of SRC Chapter 805.
- Condition 11:** Prior to final occupancy for the self-service storage use, a pedestrian connection a minimum of five feet in width shall be provided from Murlark Avenue NW to the building entrance and shall conform to the following standards: (a) The walkway shall be paved with a hard-surface material meeting the Public Works Design Standards; (b) Where the walkway crosses the driveway, the walkway shall be visually differentiated from the driveway through the use of elevation changes, a physical separation, speed bumps, a different paving material, or other similar method, and striping does not meet this requirement; (c) Where the

walkway is located adjacent to an auto travel lane, the walkway shall be raised above the auto travel lane or separated from it by a raised curb, bollards, landscaping or other physical separation. If the walkway is raised above the auto travel lane it must be raised a minimum of four inches in height and the ends of the raised portions must be equipped with curb ramps. If the walkway is separated from the auto travel lane with bollards, bollard spacing must be no further than five feet on center.

BACKGROUND

On October 18, 2019, an application for a Class 3 Site Plan Review was submitted to change the use of an existing building from warehousing and distribution to self-service storage. Staff notified the applicant that a nonconforming use substitution application was also required. On October 22, 2019, an application for a Nonconforming Use was submitted. After additional information was submitted, the applications were deemed complete for processing on March 12, 2020. Due to the COVID-19 emergency and delay of public hearings, the applicant has granted a 30-day extension to the State mandated decision deadline. The extended deadline for this case is August 1, 2020.

A vicinity map of the subject property is included as **Attachment A**.

The public hearing before the Hearings Officer is scheduled for May 13, 2020 at 5:30 p.m. Due to social distancing measures put in place to help stop the spread of the COVID-19 virus, the hearing will be a virtual hearing. The Hearings Officer will accept only written testimony. The record will be held open for additional written comments after the hearing. Notice of public hearing was sent by mail to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) requirements on April 23, 2020. Public hearing notice was posted on the property on May 1, 2020 pursuant to SRC requirements.

PROPOSAL

The applicant has submitted a Nonconforming Use Substitution and Class 3 Site Plan Review, application to change the use of an existing 60,523-square foot building at 650 2nd Street NW 97304 (Polk County Assessor Map and Tax Lot 073W21DD01100) from warehousing and distribution to self-service. The building is within a 3.87-acre development site in the ESMU (Edgewater/Second Street Mixed-Use Corridor) zone that includes 650 2nd Street NW, 809, 811, 901, 903, and 975 Edgewater Street NW, and 150 Patterson Street NW 97304 (Polk County Assessor Map and Tax Lots 073W21DD / 02500, 02600, 02700, 02800, 02900, and 03000 and 073W21DD01100).

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 STATEMENT AND SITE PLANS

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

FACTS AND FINDINGS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Mixed Use." 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: Across 2nd Street NW, IND ("Industrial")
South: Across Edgewater Street NW, MU ("Mixed Use") and POS ("Parks, Open Space, and Outdoor Recreation")
East: Across Murlark Avenue NW, MU ("Mixed Use")
West: Across Patterson Street NW, MU ("Mixed Use")

2. Zoning and Surrounding Land Uses

The subject property is zoned ESMU (Edgewater/Second Street Mixed-Use Corridor). The zoning and uses of surrounding properties include:

North: Across 2nd Street NW, SCI (Second Street Craft Industrial Corridor)
South: Across Edgewater Street NW, ESMU (Edgewater/Second Street Mixed-Use Corridor) and PA (Public Amusement)
East: Across Murlark Avenue NW, ESMU (Edgewater/Second Street Mixed-Use Corridor)
West: Across Patterson Street NW, ESMU (Edgewater/Second Street Mixed-Use Corridor)

3. Natural Features

Preservation of Trees and Vegetation (SRC 808): 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.

Finding: There are no trees on the subject property.

Wetlands (SRC 809):

Finding: According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas or hydric soils.

Floodplain (SRC 601):

Finding: Public Works staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no regulated floodplain or floodway areas exist on the subject property.

Landslide Hazards (SRC 810):

Finding: According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas on the subject property..

4. **Neighborhood and Citizen Comments**

The subject property is located within the West Salem Neighborhood Association (WSNA), which submitted comments (**Attachment D**).

- Include a condition that defines and delineates how requirements for structures along Second Street will be complied with and how it conforms to the uses defined in the new zone.

Staff Response: The land use within the building existed prior to June 13, 2018 and is continued development within the ESMU according to SRC 535.005(c). At this time, the applicant is proposing a change of use and construction of self-service storage units within the building, but is proposing no changes to the exterior of the building that would trigger compliance with the development standards or design review standards or guidelines of SRC Chapter 535. Any future proposed changes to the exterior of the building would be evaluated according to applicable standards and guidelines. The proposed nonconforming use of self-service storage is a substitution for the existing nonconforming use. Future changes of use within the building at 650 2nd Street NW must conform to the uses allowed in the ESMU zone or would be subject to the nonconforming use provisions of SRC Chapter 270.

- Include a condition that preserves adjacent Craft Industrial zone uses including, but not limited to, the viability, attractiveness, and future development therein.

Staff Response: With the recommended conditions of approval, staff finds that the proposed substitution of nonconforming use would have minimal impacts on the adjacent uses in the Second Street Craft Industrial Corridor.

- Review project conditions with the Urban Renewal Department and West Salem Urban Renewal Advisory Committee to ensure that the proposed uses do not detract from the future Second Street crossing project alternatives.

Staff Response: Planning staff conveyed the WSNA comments to Tory Banford, the Project Manager for the West Salem Urban Renewal Area and contact for the West Salem Redevelopment Advisory Board, who responded:

The Urban Development Department will work with the property owners and the Public Works Department to ensure that any existing right of way encroachments do not conflict with the construction of 2nd Street NW and that uses and future redevelopment enhance the corridor.

Staff's recommended conditions of approval include removal or a removal agreement to ensure that portions of the building encroaching into the 2nd Street NW right-of-way are removed in preparation for the construction of 2nd St NW.

As of the date of writing this staff report, no comments have been received from surrounding property owners or tenants.

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

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

The Salem Fire Department commented that Fire has no concerns with the Nonconforming Use. Fire department access shall be maintained to the existing building. Items including fire department access and water supply will be evaluated at the time of building permit plan review.

The Public Works Department has reviewed the proposal and provided a memo included as **Attachment E**.

Salem Electric reviewed the proposal and commented that they would provide electric service according to the rates and policies at the time of construction.

6. **Analysis of Nonconforming Situations Criteria (SRC 270.005)**

Under SRC 270.005(a), a nonconforming use is any use on real property that was lawfully established under the applicable City or county land use regulations at the time the use was established, but which is no longer allowed due to the adoption of, or amendment to, the City's land use regulations, or annexation of the property into the City. A nonconforming use is a lawful use and may be continued on the real property until terminated as provided in SRC 270.005(e).

Finding: The proposal would change the use of the building at 650 2nd Street NW from warehousing and distribution to self-service storage. The existing use was lawfully established and has existed on the property for many years, but it is now

listed as a prohibited use in the ESMU zone, which became effective in June 2018 (Ordinance No. 3-18). Therefore, the existing use is a nonconforming use. The proposed use of self-service storage is also a prohibited use in the ESMU zone.

Under SRC 270.005(e), Termination of Nonconforming Use, a nonconforming use shall terminate if the building, structure, or land ceases to be occupied for the nonconforming use, or a use approved under SRC 270.005(d), for any reason for a continuous period of one year.

Finding: The applicant provided evidence that the warehousing and distribution use occupied the building until November 2018. The applicant submitted the application for substitution of nonconforming use in October 2019, less than one year after the warehousing and distribution use ceased.

Under SRC 270.005 (c)(3), if approved pursuant to SRC 270.005(d), one nonconforming use may be substituted for another nonconforming use.

Finding: The proposed nonconforming use of self-service storage would be substituted for the existing nonconforming use of warehousing and distribution.

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.

Applicant's Statement: The proposed use is consistent with the general development character of the surrounding areas. Existing portions of the building are used for

commercial storage. The surrounding neighborhood is similar in nature: industrial use to the north of the site across 2nd Street, retail use to the east, a variety of uses across Edgewater Street that include vacant, commercial, and retail uses. To the west is vacant land and parking. The character of the neighboring buildings is older, average maintained and do not include any major recent upgrades.

Finding: Effective June 13, 2018, Ordinance No. 3-18 implemented Code Amendment 18-01, which included Comprehensive Plan Map amendments, Neighborhood Plan Map amendments, Zoning Map amendments, and Salem Revised Code amendments that streamline zone code provisions, allow a broader range of commercial and residential land uses, and apply more consistent design standards to enhance the character of the area generally along portions of Wallace Road NW, Edgewater Street NW, and Second Street NW.

As a result of Ordinance No. 3-18, the following Comprehensive Plan and zoning changes were applied to the subject property and surrounding properties:

- Subject property: "Industrial" to "Mixed Use"; IG (General Industrial) to ESMU (Edgewater/Second Street Mixed-Use Corridor)
- North of 2nd Street NW: IG (General Industrial) to SCI (Second Street Craft Industrial Corridor)
- East of Murlark Avenue NW: "Commercial" to "Mixed Use"; IG (General Industrial) and CR (Retail Commercial) to ESMU (Edgewater/Second Street Mixed-Use Corridor)
- South of Edgewater Street NW: "Commercial" to "Mixed Use"; CR (Retail Commercial) to ESMU (Edgewater/Second Street Mixed-Use Corridor)
- West of Patterson Street NW: "Commercial" to "Mixed Use"; CR (Retail Commercial) to ESMU (Edgewater/Second Street Mixed-Use Corridor).

The purpose of the Edgewater/Second Street Mixed-Use Corridor (ESMU) zone is to implement the mixed-use comprehensive plan map designation, identify allowed uses, and establish development standards that promote pedestrian-oriented mixed-use development in keeping with a "main street" character along both Edgewater Street and Second Street NW.

The purpose of the Second Street Craft Industrial Corridor (SCI) zone is to implement the Industrial comprehensive plan map designation by allowing industrial uses and some complementary commercial uses, and orienting new development toward Second Street NW to activate the Second Street corridor between Patterson Street and Wallace Road NW.

As the properties in the ESMU and SCI zones are developed and redeveloped, the general development character of the surrounding area will change. However, the criterion requires that the proposed substitution of use must be consistent with the existing general development character.

The proposed substitution of use at this site would change the use of an existing building at 650 2nd Street NW from warehousing and distribution of industrial products to

self-service storage of personal belongings. Both warehousing and distribution and self-service storage fall under the more general classification of Wholesale Sales, Storage, and Distribution. The proposal would involve no changes to the street-facing exterior walls of the building and very minimal changes to the appearance of the property.

The existing uses of the subject property and surrounding properties are:

- Subject property: Warehousing and distribution, general manufacturing, offices
- North of 2nd Street NW: Industrial with outdoor storage
- East of Murlark Avenue NW: Industrial with outdoor storage, vacant commercial
- South of Edgewater Street NW: Retail, personal services, open space
- West of Patterson Street NW: Outpatient medical services, parking

The nearest building, north of 2nd Street NW, is a large industrial building similar in character to the building at 650 2nd Street NW. The proposed access to the self-service storage use would be by a pedestrian connection from Murlark Avenue NW to a door on the south side of the building, facing other industrial buildings within the development site. Customer parking would be on-street on Murlark Avenue NW. Adjacent properties near the proposed pedestrian access and on-street parking area are industrial and commercial.

The proposed substitution of use would remain consistent with the existing development character of the surrounding area, which is industrial and commercial.

As proposed, 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.

Applicant's Statement: There is no proposed noise, dust, vibration, fumes, glare, or smoke for the proposed storage use.

Finding: City staff anticipates that any noise, dust, vibration, fumes, glare, and smoke associated with customer use of the building for self-service storage will be generally consistent with, or far less than levels generated by the previous and current uses on the property and the development site. The proposed access to the self-service storage use would be by a pedestrian connection from Murlark Avenue NW to a door on the south side of the building, facing other industrial buildings within the development site. Customer parking would be on-street on Murlark Avenue NW, where employee, customer, and public parking is currently allowed.

Staff concurs with the applicant's statement that the substitution of uses will not significantly increase any adverse impacts to the site or cause adverse impacts to the immediate neighborhood.

As proposed, 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.

Applicant's Statement: A trip generation memo is included from DKS.

Finding: The applicant submitted a Trip Generation Assessment memo from DKS Associates and dated March 4, 2020. The Assistant City Traffic Engineer has reviewed trip generation information and determined that the proposed use will generate fewer trips than the pre-existing use or uses allowed by the ESMU zone.

Based on this information, staff 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 the 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.

Applicant's Statement: The existing building is not being altered, the same amount of area is being used for storage, simply changing from commercial use to personal use.

Finding: The proposal includes no additional outside storage, loading, or parking on the development site and no changes to existing outside storage, loading, or parking on the development site. With this application, no site improvements such as a parking lot and landscaped areas were proposed. Parking is permitted on-street in the same areas as employee and customer parking for the previous and existing uses and public parking. Staff recommends the following conditions to ensure that the amount and nature of outside storage, loading, and parking will not be increased or altered so as to cause further impacts:

Condition 1: Outside storage shall not be permitted in association with the proposed self-service storage use.

Condition 2: No driveway access, off-street parking and vehicle use areas, or loading areas on the development site shall be made available to employees or customers of the proposed self-service storage use at this time, and any future proposals for driveways, off-street parking and vehicle use areas, and loading areas will be subject to site plan review and development standards applicable at the time of development.

With the recommended conditions of approval, staff finds that the proposed substitution of nonconforming use will not cause further impacts than those of the existing uses.

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.

Applicant's Statement: The hours of operation are proposed seven days a week with access to the units between 6:00 am and 9:00 pm. The previous use was canning of vegetables, this use existed for over 20 years with basic hours of operation from 7:00 am to 9:00 pm. We were told an occasional second shift might have been included from 4:00 pm to 12 midnight.

Finding: The applicant is proposing to extend the hours of operation, which have generally been 7:00 am to 9:00 pm, to allow access between 6:00 am and 7:00 am. With the following condition of approval, the proposed substitution of uses within the building will not alter or increase the hours of operation historically allowed within the building.

Condition 3: Hours of operation for the proposed self-service storage use are limited to 7:00 am to 9:00 pm, seven days a week.

As conditioned, 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.

Applicant's Statement: The alterations to the existing building include creating individual storage units. The addition of the units will require a building permit.

Finding: The proposed development includes interior alterations within the existing building to create individual storage units, but no exterior alterations or enlargements of the building. Section 7 of this staff report reviews the applicable criteria of the UDC. The City will review the building plans and issue permits upon determining that all standards and requirements are met.

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

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)(E) requires Class 3 Site Plan Review for any development that requires a building permit and that requires deviation from the clear and objective standards of the UDC and where the Review Authority is granted the authority to use limited discretion in deviating from the standard. Class 3 Site Plan Review is required because the applicant is requesting a building permit to make interior improvements to create self-service storage units and a Nonconforming Use Substitution for the change of use.

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.

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

Criterion 1:

The application meets all applicable standards of the UDC.

Finding: The proposal includes a request to change the use of an existing building to self-service storage and create individual self-service storage units within the building. The following is a summary of the use and development standards of the ESMU zone (SRC Chapter 535).

Uses – ESMU Zone:

SRC 535.005 - Uses:

Except as otherwise provided in Chapter 535, the permitted, special, conditional and prohibited uses in the ESMU zone are set forth in Table 535-1.

Finding: The existing use of warehousing and distribution and the proposed use of self-service storage are prohibited uses in the ESMU zone under Table 535-1. SRC 535.005(c) includes a provision for Continued uses. Land uses existing within the ESMU zone prior to June 13, 2018, which would otherwise be made non-conforming by chapter 535 are hereby deemed continued uses.

- (1) Buildings or structures housing a continued use may be structurally altered, enlarged, or rebuilt following damage or destruction, provided:
 - (A) Such alteration, enlargement, or rebuilding of a conforming development complies with the standards in this chapter; or
 - (B) Such alteration, enlargement, or rebuilding of a continued development complies with the standards set forth in SRC 535.010(a).

- (2) Conversion of the building or structure to a conforming use shall thereafter prevent conversion back to the former continued use or any other continued use.
- (3) A determination by the Building Official that the building or structure housing a continued use is derelict or dangerous, as defined in SRC 50.600 and 56.230, shall terminate the continued use status conferred by this subsection and the property may thereafter only be used for uses allowed in the ESMU zone.

The existing use of warehousing and distribution is a continued use and also a nonconforming use. Because the applicant seeks to change the use to another use that is prohibited in the ESMU zone, rather than retain the continued use or convert it to a conforming use, the applicant has requested a Nonconforming Use Substitution. The criteria for the Nonconforming Use Substitution are addressed in Section 6 of this report.

Development Standards – ESMU Zone:

Development within the ESMU zone must comply with the development standards set forth in SRC 535.101.

SRC 535.010(a) – Continued development:

Buildings and structures existing within the ESMU zone on June 13, 2018, but which would otherwise be made non-conforming development by this chapter, are hereby deemed continued development.

(2) *All other uses.* Continued development housing a use other than a single family use may be structurally altered, enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding conforms to the following standards:

(A) *Minor alterations.* Exterior alterations to buildings that alter an existing building façade area facing a public street right-of-way by less than 20 percent are exempt from all of the development standards in this chapter. Such alterations shall not increase the building façade's nonconformity to the design standards of SRC 535.020.

(B) *Minor additions.* Additions to buildings that expand or alter an existing building façade area facing a public street right-of-way by less than 20 percent are exempt from all of the development standards in this chapter except for street frontage, interior setbacks, parking for existing buildings, number of spaces required, landscaping, and maximum height standards. Such additions shall not increase the building façade's nonconformity to the design standards of SRC 535.020.

(C) *Major alterations.* Exterior alterations to buildings that alter an existing building façade area facing a public street right-of-way by between 20 percent and 60 percent shall decrease that building façade's nonconformity to all design standards of SRC 535.020. Such alterations are exempt from all other development standards in this chapter.

(D) *Major additions.* Additions to buildings that enlarge an existing building façade area facing a public street right-of-way by between 20 percent and 60 percent shall comply with all applicable design review guidelines or standards of

SRC 535.020, including the alternative standards for existing buildings if applicable, and all applicable development standards in this chapter except for setback abutting a street, building frontage, and the location of parking standards.

(E) *Substantial alterations*. Exterior alterations to buildings that alter an existing building façade area facing a public street right-of-way by more than 60 percent shall meet all applicable design review guidelines or standards of this chapter. Such alterations are exempt from all other development standards in this chapter.

(F) *Substantial additions or redevelopment*. Additions to buildings that enlarge an existing building façade area facing a public street right-of-way by more than 60 percent shall meet all applicable development standards and design review guidelines or standards in this chapter. Continued development that is rebuilt following damage or destruction shall meet all applicable development standards and design review guidelines or standards in this chapter.

Finding: The proposal qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building. Therefore, the proposal is exempt from all of the development standards of chapter 535 at this time.

The existing building currently encroaches into the existing 2nd Street NW right-of-way. The existing condition of 2nd Street NW is an unimproved right-of-way that contains portions of the building encroaching into the right-of-way. The design and construction of 2nd Street NW between Gerth Avenue NW and Wallace Road NW is included as an upcoming Capital Improvement Project. In order to construct the street improvement, portions of the building must be removed from the right-of-way. The conditions of approval recommended by Public Works in Section 7 of this report require that the applicant shall remove the portions of the building encroaching into the right-of-way along the 2nd Street NW frontage or obtain a license to encroach pursuant to SRC 76.160.

Removal of the encroachments will involve alterations to the façade area facing 2nd Street NW and will be subject to the applicable development standards as specified in SRC 535.010(a)(2).

Any alteration to the façade of the building at 650 2nd Street NW would require a building permit. SRC exempts the alteration to the façade of a building from site plan review, except in the Mixed Use-I (MU-I) and Mixed Use-II (MU-II) zones. Therefore, if work required to remove the encroachments involves only façade alterations that qualify as minor alterations (535.010(a)(2)(A)), major alterations (535.010(a)(2)(C)), or substantial alterations (535.010(a)(2)(E)), it would be exempt from site plan review. If work required to remove the encroachments involves minor additions (535.010(a)(2)(B)), major additions (535.010(a)(2)(D)), or substantial additions or redevelopment (535.010(a)(2)(F)), it would not be exempt from site plan review.

In order to ensure compliance with applicable development standards prior to the construction of the 2nd Street NW improvements, the following conditions are recommended:

Condition 4: Prior to removal of encroachments into the 2nd Street NW right-of-way, an application for a building permit shall be submitted, and an application for site plan review shall be submitted, if required, and the application(s) shall demonstrate compliance with all applicable development standards of SRC Chapter 535 and all other applicable development standards.

SRC 535.010(b) – Grade separated street frontage:

Portions of property street frontage that are separated from the grade of the street with a road ramp above the grade of the property line abutting the street are exempt from setbacks abutting a street, building frontage standards, off-street parking location standards, and design review guidelines and standards for building location, orientation, and design.

Finding: This standard is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

SRC 535.010(c) -- Lot Standards:

There is no minimum lot area, lot width, or lot depth. The minimum street frontage requirement is 16 feet.

Finding: This standard is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

SRC 535.010(d) – Setbacks:

North (abutting street): Adjacent to the north is the right-of-way for Second Street NW. For a use other than single family, two family, or multiple family, there is a minimum building setback of 0 feet; a setback greater than 0 feet, up to a maximum setback of up to 10 feet, is permitted if the space is used for pedestrian amenities. The minimum setback to a parking and vehicle use area is six to 10 feet per SRC Chapter 806.

South (interior side or rear property line): Adjacent to the south is an interior rear or side property line. For a use other than single family, two family, or multiple family, there is a minimum building setback of 0 feet. The minimum setback to a parking and vehicle use area is 5 feet with Type A landscaping.

East (abutting street): Adjacent to the east is the right-of-way for Murlark Avenue NW. For a use other than single family, two family, or multiple family, there is a minimum building setback of 0 feet; a setback greater than 0 feet, up to a maximum setback of up to 10 feet, is permitted if the space is used for pedestrian amenities. The minimum setback to a parking and vehicle use area is six to 10 feet per SRC Chapter 806.

West (abutting street): Adjacent to the west is the right-of-way for Patterson Street NW. For a use other than single family, two family, or multiple family, there is a minimum building setback of 0 feet; a setback greater than 0 feet, up to a maximum setback of up to 10 feet, is permitted if the space is used for pedestrian amenities. The minimum setback to a parking and vehicle use area is six to 10 feet per SRC Chapter 806.

Finding: This standard is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

SRC 535.010(e) - Lot Coverage, Height, Building Frontage:

There is no maximum lot coverage allowance. The maximum building height allowance and accessory structure height allowance for the proposed use is 50 feet. There is a minimum building frontage of 50 percent applicable to development sites along Second Street, except that where a development site has frontage on Edgewater Street or Second Street and a side street, the minimum building frontage requirement does not apply to the side street frontage.

Finding: This standard is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

SRC 535.010(f) - Landscaping:

Landscaping within the ESMU zone shall be provided as set forth in this subsection.

- (1) **Setbacks.** Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.
- (2) **Vehicle Use Areas.** Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.
- (3) **Development Site.** A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC Chapter 807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicle use areas, may count towards meeting this requirement.

Finding: This standard is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

SRC 535.010(g) – Pedestrian Access:

All development in the ESMU zone, other than development of single family and two family uses, shall comply with the following pedestrian access standards:

- (1) A pedestrian connection shall be provided from the public sidewalk to the primary building entrance.

- (2) A pedestrian connection through the parking area to the primary building entrance shall be provided when that parking area contains more than 12 parking spaces.
- (3) On development sites with multiple buildings, pedestrian connections shall be provided to connect the buildings. Pedestrian connections shall be the most practical, direct route.
- (4) Pedestrian connections shall be paved, a minimum of five feet in width, and defined by visual contrast or tactile finish texture.
- (5) Wheel stops or extended curbs shall be provided along required pedestrian connections to prevent the encroachment of vehicles onto pedestrian connections.

Finding: This standard is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

SRC 535.010(h) – Project Enhancements:

All development in the ESMU zone, other than development of single family and two family uses, shall include four or more of the following project enhancements:

- (1) Closure of one driveway approach on Edgewater Street;
- (2) Joint parking agreement under SRC 806.020(a)(5) or implementation of a plan to satisfy off-street parking requirements through alternative modes of transportation under SRC 806.015(e)(2);
- (3) Cast iron or wrought iron fencing adjacent to Edgewater Street or Second Street;
- (4) Pedestrian connections that are:
 - (A) Constructed with pavers, scored or colored cement, and/or stamped asphalt;
 - (B) Elevated above the parking area and driveway; or
 - (C) Defined with landscaping or building features such as canopies, awnings, or arcades;
- (5) Replacement of existing surface parking areas with new development of buildings or structures;
- (6) Provision of one or more of the following pedestrian-oriented design features on property adjacent to Edgewater Street or Second Street:
 - (A) Pedestrian scale lighting not more than 16 feet in height; or
 - (B) Plazas or other outdoor spaces open to the public;
- (7) A minimum of seven percent interior landscaping within parking areas not more than 50,000 square feet in size; or a minimum of ten percent interior landscaping within parking areas greater than 50,000 square feet in size;
- (8) Installation of landscaping and irrigation using a plan designed by an Oregon landscape architect;
- (9) Development of a mixed-use building;
- (10) Construction of a building where at least 75 percent of the building frontage is constructed contiguous to the minimum building setback line;
- (11) Provision of underground, structured, or tuck-under parking. For purposes of this paragraph, "tuck-under parking" means parking placed at grade with a building constructed above it;

- (12) Construction of one or more buildings at least two stories in height;
- (13) Construction of planter bays, each a minimum of 50 square feet in size, to meet minimum interior parking area landscaping requirements;
- (14) Construction of planter bays below the surface grade of parking areas to accommodate surface water runoff; or
- (15) Use of native plant materials to meet minimum landscaping requirements.

Finding: This standard is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

SRC 535.010(j) – Off-Street Parking:

- (1) *Locations of parking.* Off-street surface parking areas and vehicle maneuvering areas shall be located behind or beside buildings and structures. Off-street surface parking areas and vehicle maneuvering areas shall not be located between a building or structure and a street.
- (2) *Parking for existing buildings.* Except for new single family, two family, or multiple family uses, there is no minimum off-street parking requirement for development sites with buildings in existence as of June 13, 2018, and located between Rosemont Avenue and Wallace Road, provided there is no increase in building square footage and any existing parking is not reduced, except as necessary to comply with state and federal law, including the Americans with Disabilities Act.
- (3) *Minimum number of spaces required.* Within the ESMU zone, the minimum number of off-street parking spaces required for dwelling units in a multiple family development shall be one per dwelling unit.

Finding: The standards for locations of parking and minimum number of spaces required are not applicable for the proposal that qualifies as continued development and involves no alterations to the building, parking, or vehicle use area. There is no minimum off-street parking requirement for this development site because it has buildings in existence as of June 13, 2018, it is located between Rosemont Avenue and Wallace Road, there is no proposed increase in building square footage, and no existing parking is proposed to be reduced.

SRC 535.010(k) – Screening:

Concertina or barbed wire fencing shall not be located within 60 feet of the street right-of-way, unless such fencing is obstructed by a building or structure.

Finding: This standard is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

Design Review:

SRC 535.015 provides that developments with the ESMU zone, other than single family uses, two family uses, and multiple family development not in a mixed-use building, shall comply with all of the applicable design review guidelines or design review standards set forth in SRC 535.020.

Finding: Design Review is not applicable for the proposal that qualifies as continued development and includes no alterations to the building facades facing a public street right-of-way and no other alterations to the building.

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, or any change to an existing solid waste service area for receptacles of one cubic yard or larger that requires a building permit.

Finding: No new solid waste service area or change to a solid waste service area is proposed. These standards are not applicable.

Pedestrian Access SRC 800.065

Except where pedestrian access standards are provided elsewhere under the UDC, all developments, other than single family, two family, and multiple family developments, shall include an on-site pedestrian circulation system developed in conformance with the standards in this section.

Finding: The proposed change of use within the existing building, with no exterior building modifications, does not require the connection to be brought up to current standards for pedestrian access. The conditions below require a pedestrian connection from the building entrance to the on-street parking area. In order to ensure that any future development provides pedestrian connections, the following condition is recommended:

Condition 5: Any future proposals for development on the exterior of the building shall be subject to the pedestrian access standards applicable at the time of development.

Off-Street Parking, Loading, and Driveways SRC 806

SRC 806.005 - Off-Street Parking; When Required.

Off-street parking shall be provided and maintained as required under this chapter for each proposed new use or activity; any change of use or activity, when such change of use or activity results in a parking ratio requiring a greater number of spaces than the previous use or activity; or 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 commercial, mixed-use, public, and industrial and employment zones, other than the CB, WSCB, and SWMU zones, 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 off-street parking requirement for self-service storage uses from 50,000 to 100,000 square feet is one space per 10,000 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) *Maximum Off-Street Parking.* Unless otherwise provided in the SRC, off-street parking shall not exceed the amounts set forth in Table 806-2.

Finding: SRC 535.010(j), Parking for existing buildings in the ESMU zone, states that, except for new single family, two family, or multiple family uses, there is no minimum off-street parking requirement for development sites with buildings in existence as of June 13, 2018, and located between Rosemont Avenue and Wallace Road, provided there is no increase in building square footage and any existing parking is not reduced, except as necessary to comply with state and federal law, including the Americans with Disabilities Act. There is no minimum off-street parking requirement for this development site because it has buildings in existence as of June 13, 2018, it is located between Rosemont Avenue and Wallace Road, there is no proposed increase in building square footage, and no existing parking is proposed to be reduced. No off-street parking is proposed or required.

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; the expansion of existing off-street parking and vehicle use areas, where additional paved surface is added; the alteration of existing off-street parking and vehicle use areas, where the existing paved surface is replaced with a new paved surface; and the paving of an unpaved area.

Finding: The current proposal does not include a new off-street parking and vehicle use area; expansion of existing off-street parking and vehicle use areas, where additional paved surface is added; alteration of existing off-street parking and vehicle use areas, where the existing paved surface is replaced with a new paved surface; or the paving of an unpaved area. The off-street parking and vehicle use area development standards are not applicable to the current proposal. The recommended conditions above require that any future proposals for parking and vehicle use areas will be subject to site plan review and development standards applicable at the time of development.

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).

Finding: No changes to the existing driveways are proposed with the current application. The existing driveways conform to the access, location, and development requirements of SRC 806.040. The recommended conditions above require that any future proposals for driveways will be subject to site plan review and development standards applicable at the time of development.

Although no changes are proposed to the existing driveways, no parking areas are proposed for the substitution of nonconforming use, and the conditions above and later in this report would allow no driveway access, no parking, and no loading for the proposed self-service use within the development site, Public Works has indicated that the existing driveways utilized by other uses on the development site do not meet vision clearance requirements.

Vision clearance cannot be met on the north side of the existing western driveway onto Patterson Avenue NW for exiting traffic. The recommended conditions of approval from Public Works later in this report would require either closing the driveway onto Patterson Street NW or reconfiguring it to a one-way ingress with appropriate signage and relocating gates no closer than 60 feet from the right-of-way so that vehicles queueing at the entry gate do not obstruct the right-of-way. Another recommended condition of approval from Public Works later in this report would ensure vision clearance at the eastern driveway onto Murlark Avenue NW by requiring either removal of a portion of the existing building south of the driveway (809 Edgewater Street NW) or a relocation of the driveway to the north.

In order to ensure safety and compliance with the vision clearance standards, driveway development standards, and related development standards, staff recommends the following condition:

Condition 6: If the existing driveway onto Murlark Avenue NW is to be relocated to the north to comply with vision clearance standards, a Class 2 Driveway Approach Permit (if required by Public Works) and Site Plan Review application shall be submitted for approval, subject to all applicable driveway development standards of SRC 806.040, and all other applicable development standards.

Bicycle Parking

SRC 806.045 - General Applicability.

Bicycle parking shall be provided as required under this chapter for each proposed new use or activity; 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; or 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.

No bicycle parking is required for self-service storage use.

Finding: No bicycle parking is required.

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; any change of use or activity, when such change of use or activity results in a greater number of required off-street loading spaces than the previous use or activity; or any intensification, expansion, or enlargement of a use or activity.

SRC 806.075 - Amount of Off-Street Loading.

One off-street loading spaces is required for wholesale sales, storage, and distribution 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, 40 feet in length and 14 feet in height.

Finding: The existing use of warehousing and distribution and the proposed use of self-service storage both fall under the category of wholesale sales, storage, and distribution and have the same minimum loading space requirement. The change of use does not result in a greater number of required off-street loading spaces, and no additional loading spaces are required. The recommended conditions above require that any future proposals for loading spaces will be subject to site plan review and development standards applicable at the time of development.

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.

Finding: The proposed nonconforming use substitution is a continued development, involves only an interior change of use and improvements, and includes no exterior improvements. No additional landscaping is required at this time. To ensure that any future development complies with landscaping requirements, staff recommends the following condition of approval:

Condition 7: Any future proposals for development on the development site will be subject to landscaping standards applicable at the time of development.

Other Chapters of the UDC

Finding: With completion of recommended conditions, the proposed development 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, 809 – Wetlands, and 810 - Landslides.

Criterion 2:

The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.

Finding: The existing street system is adequate to serve the proposed development and the development is not proposing a building addition subject to 803.040(a); therefore, no right-of-way dedication or street improvements are required.

The existing condition of 2nd Street NW is an unimproved right-of-way that contains portions of the building encroaching into the right-of-way. The design and construction of 2nd Street NW between Gerth Avenue NW and Wallace Road NW is included as an upcoming Capital Improvement Project. In order to construct the street improvement, portions of the building must be removed from the right-of-way. As a condition of the proposed development, the applicant shall remove the portions of the building encroaching into the right-of-way along the 2nd Street NW frontage or obtain a license to encroach pursuant to SRC 76.160. The following condition is recommended to ensure that the encroaching portions of the building are removed:

Condition 8: Remove the portions of the building encroaching into the right-of-way along the 2nd Street NW frontage or obtain a license to encroach pursuant to SRC 76.160.

The existing driveway approach to Patterson Street NW shall either be reconfigured to allow for ingress only, with appropriate signage provided at the applicant's expense; or the driveway approach shall be closed pursuant to SRC 804.060(a). If the applicant chooses to reconfigure the driveway approach to ingress only, the gate shall be removed or relocated no closer than 60 feet from the Patterson Street NW right-of-way in order to allow vehicles to queue outside of the right-of-way. The following condition is recommended to ensure that the vision clearance issue is resolved:

Condition 9: Mitigate the non-conforming condition of the existing driveway approach along the Patterson Street NW frontage by either:

- a. Closing the driveway; or
- b. Reconfiguring the driveway to be ingress only with signage as specified in PWDS, and locating gates obstructing vehicular access to be no closer than 60 feet from the Patterson Street NW right-of-way in order to allow vehicles to queue outside of the right-of-way.

As conditioned, the transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development.

Criterion 3:

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

Finding: The existing driveway approach to Patterson Street NW does not comply with vision clearance standards of SRC Chapter 805. The applicant has the option of either closing the driveway pursuant to SRC 804.060(a) or reconfiguring the driveway approach to ingress only and providing the appropriate signage at their expense. As conditioned, the driveway approach to Patterson Street NW will facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

The existing driveway approach to Murlark Avenue NW does not comply the Vision Clearance standards of SRC Chapter 805, and shall be relocated to the north in order to comply with the vision clearance standards, or the applicant may alternatively modify the existing building rather than relocating the driveway. Once vision clearance standards are met, the driveway approach to Murlark Avenue NW shall provide for safe turning movements into and out of the property. The following condition is recommended to ensure safe turning movements to and from Murlark Avenue NW:

Condition 10: Relocate the existing driveway along the Murlark Avenue NW frontage, or modify the existing building to meet Vision Clearance requirements of SRC Chapter 805.

In order to ensure that safe pedestrian access is provided between the on-street parking and the entrance to the self-service storage building, the following condition is required:

Condition 11: Prior to final occupancy for the self-service storage use, a pedestrian connection a minimum of five feet in width shall be provided from Murlark Avenue NW to the building entrance and shall conform to the following standards: (a) The walkway shall be paved with a hard-surface material meeting the Public Works Design Standards; (b) Where the walkway crosses the driveway, the walkway shall be visually differentiated from the driveway through the use of elevation changes, a physical separation, speed bumps, a different paving material, or other similar method, and striping does not meet this requirement; (c) Where the walkway is located adjacent to an auto travel lane, the walkway shall be raised above the auto travel lane or separated from it by a raised curb, bollards, landscaping or other physical separation. If the walkway is raised above the auto travel lane it must be raised a minimum of four inches in height and the ends of the raised portions must be equipped with curb ramps. If the walkway is separated from the auto travel lane with bollards, bollard spacing must be no further than five feet on center.

Criterion 4:

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

Finding: The Public Works Department has reviewed the applicant's preliminary plan for this site. The water, sewer, and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development. The applicant does not show any new connections to public infrastructure.

The applicant shall be required to design and construct a storm drainage system at the time of development for areas of new and replaced impervious surface in compliance with SRC Chapter 71 and PWDS.

CONCLUSION

Based on the facts and findings contained herein, staff concludes that the proposed expansion of nonconforming use and site plan review application, as recommended to be conditioned, satisfies the applicable criteria contained under 270.005(d)(4) and SRC 220.005(f)(3) for approval.

RECOMMENDATION

Staff recommends that the Hearings Officer adopt the facts and findings of the staff report and take the following action for the subject property located at 650 2nd Street NW, 809, 811, 901, 903, and 975 Edgewater Street NW, and 150 Patterson Street NW 97304 (Polk County Assessor Map and Tax Lots 073W21DD / 02500, 02600, 02700, 02800, 02900, and 03000 and 073W21DD01100):

APPROVE the nonconforming use substitution and site plan review application to allow the substitution of a self-service storage use for a warehousing and distribution use, subject to the following conditions of approval:

- Condition 1:** Outside storage shall not be permitted in association with the proposed self-service storage use.
- Condition 2:** No driveway access, off-street parking and vehicle use areas, or loading areas on the development site shall be made available to employees or customers of the proposed self-service storage use at this time, and any future proposals for driveways, off-street parking and vehicle use areas, and loading areas will be subject to site plan review and development standards applicable at the time of development.
- Condition 3:** Hours of operation for the proposed self-service storage use are limited to 7:00 am to 9:00 pm, seven days a week.
- Condition 4:** Prior to removal of encroachments into the 2nd Street NW right-of-way, an application for a building permit shall be submitted, and an application for site plan review shall be submitted, if required, and the application(s) shall demonstrate compliance with all applicable development standards of SRC Chapter 535 and all other applicable development standards.

- Condition 5:** Any future proposals for development on the exterior of the building shall be subject to the pedestrian access standards applicable at the time of development.
- Condition 6:** If the existing driveway onto Murlark Avenue NW is to be relocated to the north to comply with vision clearance standards, a Class 2 Driveway Approach Permit (if required by Public Works) and Site Plan Review application shall be submitted for approval, subject to all applicable driveway development standards of SRC 806.040, and all other applicable development standards.
- Condition 7:** Any future proposals for development on the development site will be subject to landscaping standards applicable at the time of development.
- Condition 8:** Remove the portions of the building encroaching into the right-of-way along the 2nd Street NW frontage or obtain a license to encroach pursuant to SRC 76.160.
- Condition 9:** Mitigate the non-conforming condition of the existing driveway approach along the Patterson Street NW frontage by either:
- a. Closing the driveway; or
 - b. Reconfiguring the driveway to be ingress only with signage as specified in PWDS, and locating gates obstructing vehicular access to be no closer than 60 feet from the Patterson Street NW right-of-way in order to allow vehicles to queue outside of the right-of-way.
- Condition 10:** Relocate the existing driveway along the Murlark Avenue NW frontage, or modify the existing building to meet Vision Clearance requirements of SRC Chapter 805.
- Condition 11:** Prior to final occupancy for the self-service storage use, a pedestrian connection a minimum of five feet in width shall be provided from Murlark Avenue NW to the building entrance and shall conform to the following standards: (a) The walkway shall be paved with a hard-surface material meeting the Public Works Design Standards; (b) Where the walkway crosses the driveway, the walkway shall be visually differentiated from the driveway through the use of elevation changes, a physical separation, speed bumps, a different paving material, or other similar method, and striping does not meet this requirement; (c) Where the walkway is located adjacent to an auto travel lane, the walkway shall be raised above the auto travel lane or separated from it by a raised curb, bollards, landscaping or other physical separation. If the walkway is raised above the auto travel lane it must be raised a minimum of four inches in height and the ends of the raised portions must be equipped

with curb ramps. If the walkway is separated from the auto travel lane with bollards, bollard spacing must be no further than five feet on center.

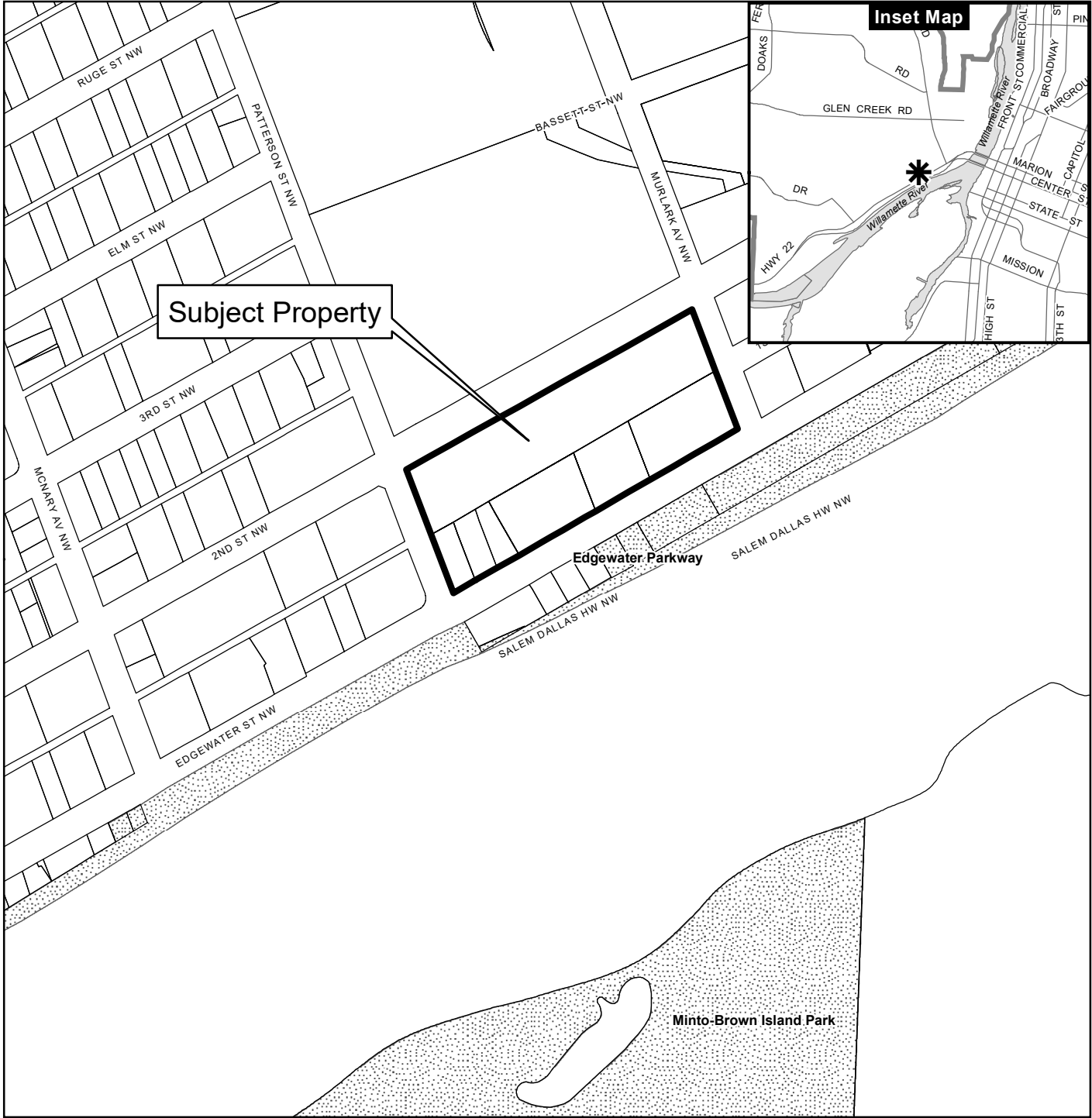
Prepared by Pamela Cole, Planner II

Application Deemed Complete Date: March 12, 2020
State Mandated Decision Date: August 1, 2020

Attachments: A. Vicinity Map
B. Proposed Development Plans
C. Applicant's Written Statement
D. Comments of West Salem Neighborhood Association
E. Public Works Memo

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Vicinity Map 650 2nd Street NW



Legend

Taxlots

Urban Growth Boundary

City Limits

Outside Salem City Limits

Historic District

Schools

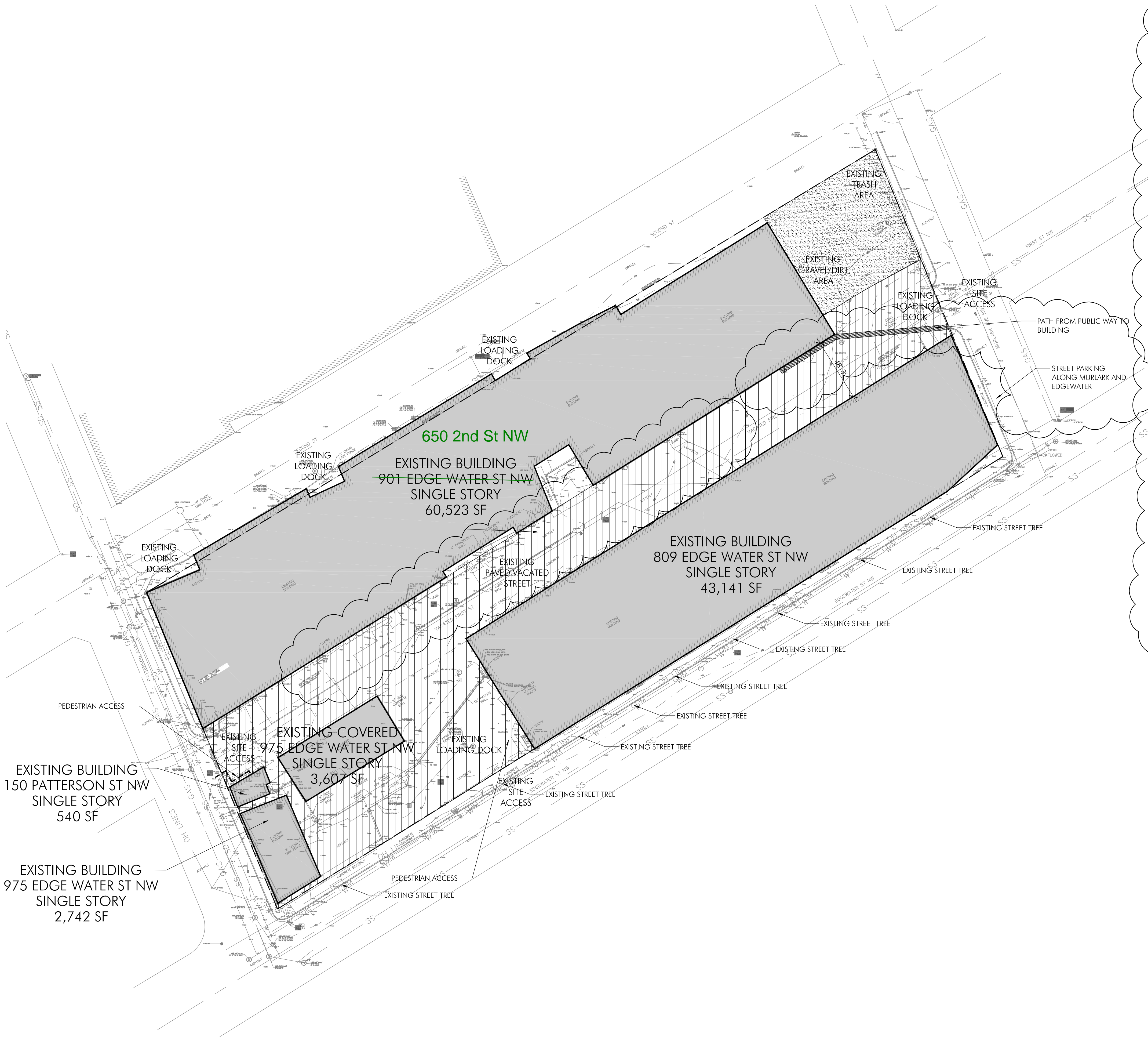
Parks

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Community Development Dept.

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0 100 200 400 Feet





SITE SUMMARY:

809,901 AND 975 EDGE WATER STREET NW AND 150 PATTERSON STREET NW


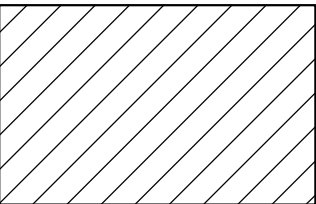
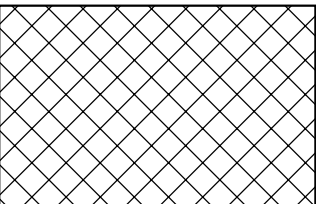
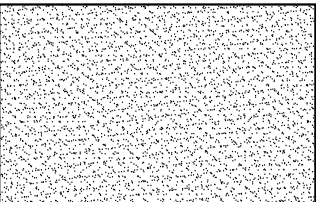
ZONE: ESMU

SITE AREA: 3.87 ACRES

AREAS:		
BUILDING	110,553 SF	
PAVEMENT	49,996 SF	
GRAVEL	8,028 SF	
LANDSCAPE	0 SF	
TOTAL	168,577 SF	

BUILDING USES:

901 EDGE WATER - PROPOSE AS MINI STORAGE, PREVIOUS USE BULK STORAGE
809 EDGE WATER - PREVIOUS USE STORAGE AND MANUFACTURING
975 EDGE WATER - PREVIOUS USE OFFICE AND STORAGE
150 PATTERSON - PREVIOUS USE OFFICE

	EXISTING BUILDING AREA
	EXISTING PAVEMENT AREA
	EXISTING LANDSCAPED AREA
	EXISTING GRAVEL AREA



2 October 2019

Revised October 21, 2019

Revised December 26, 2019

Revised February 7, 2020

Revised March 4, 2020

Narrative

650 2nd Street NW, Salem, OR

Site Plan Review Type III

PROPOSAL:

The existing vacant building and land was previously used for processing/cannery/storage and office. The existing business vacated Nov 2018 leaving the property vacant. New owners would like to maintain storage use previously occupied on site, however the storage would be public storage, or mini storage. The mini storage would be located at 650 2nd Street NW. The remaining buildings would remain as is in their current state. A building permit would be applied for to convert portions of the existing property to this use. The long term goal is to financially stabilize the property and prepare for future tenants and improvements.

The old use of storage/warehouse become non conforming when the ESMU zone was adopted. The proposed use of self storage is not allowed, therefore the proposal includes applying for a substitution of one non conforming use for the previous non conforming use.

Standards of the UDC:

The proposed use of self-storage is currently not allowed under the zoning code, however the pre-existing use of storage shall be maintained for 650 2nd Street. There are no adverse conditions created by the use of self-storage, the number of users and frequency will be much less than the previous storage use. It is anticipated that most users will utilize passenger vehicles rather than large trucks.

Parking is not proposed for the project.

Landscaping, there are several areas of dirt, but no distinctive landscaping. Street trees occur along Edgewater Street NW.

The existing egress and access to and from the site will remain. No negative impacts are expected on the proposed use.

The proposed use and existing uses are adequately served by water, sewer and storm.

Non conforming uses criteria:

- A. The proposed use is consistent with the general development character of the surrounding areas. Existing portions of the building are used for commercial storage. The surrounding neighborhood is similar in nature, industrial use to the north of the site across 2nd Street, retail use to the east, a variety of uses across Edgewater Street that include vacant, commercial and retail uses. To the west is vacant land and parking. The character of the neighboring buildings is older, average maintained and do not include any major recent upgrades.
- B. There is no proposed noise, dust, vibration, fumes glare or smoke for the proposed storage use.
- C. A revised trip generation memo is included from DKS.
- D. The existing building is not being altered, the same amount of area is being used for storage, simply changing from commercial use to personal use.
- E. The hours of operation are proposed 7 days a week with access to the units between 6AM and 9PM. The previous use was canning of vegetables, this use existed for over 20 years with a basic hours of operation from 7 to 4 PM. We were told an occasional second shift might have been included from 4PM to 12AM.
- F. The alterations to the existing building include creating individual storage units. The addition of the units will require a building permit.

30 April 2020

TO: Pamela Cole, CASE MANAGER, pcole@cityofsalem.net 503-540-2309

RE: Request for Comments for Case No. NC-SPR20-01 for 650 2nd St NW

FR: Steven A. Anderson, West Salem Neighborhood Association Land Use Chair

Pam:

This is probably one of the first cases in the Edgewater/Second Street Mixed-Use Corridor and the Craft Industrial Zone for the Edgewater neighborhood. This said, the West Salem Neighborhood Association (WSNA) and Edgewater Partners supported these zone changes and wants to work with staff and applicants to move forward projects in the Edgewater Neighborhood that further the vision of the zone change. Upon creation, the City Planning Department made promises to the community and city council offering assurance that all efforts would be directed to ensure that the principles and designs envisioned for this area would be advanced versus allowing nonconforming uses that did not advance the vision for this area. The community is especially interested in seeing that the Craft Industrial Zone be successful, and all efforts made in the planning process to advance this are a priority; not allowing exceptions.

Based upon the below code language and so long as there are no major exterior alternations, the WSNA does not oppose this project. We do not see the request as contrary to the goal of the ESMU zone. Storage units seem a natural fit and a reasonable application of an existing building so long as the building is just the only one on tax lot 7.32.11. The WSNA asks that the following be included as conditions for the project:

1. Given the requirements associated with structures along Second Street¹, which must be addressed, even though the applicant appears to be showing an alley access to the proposed storage unit build raises issues that must be carefully addressed during the approval process. Therefore, the WSNA requests that the Second Street facade be addressed specifically in staff's analysis and report including a condition that defines, and clearly delineates, how this is to be complied with and how it conforms to the uses defined in the new zone.
2. The WSNA request a condition be included that preserves adjacent Craft Industrial Zone uses including, but not limited to, the viability, attractiveness, and future development therein.
3. The WSNA request the staff review project conditions with the Urban Renewal Department and West Salem Urban Renewal Advisory Committee to ensure the proposed uses do not detract from the future Second Street crossing project alternatives. Please include this as part of the findings in the final report.

¹ Sec. 535.020. - Design review guidelines and design review standards.

(i) Alternative standard for existing buildings. Notwithstanding subsection (a)(2)(D) of this section, where a building existing on June 13, 2018, does not include weather protection, in the form of awnings or canopies, along a minimum of 90 percent of the length of the ground floor facade adjacent to sidewalks or pedestrian connections, the percentage of weather protection along the ground floor facade shall not be reduced. Additional weather protection meeting the sidewalk clearance requirements in subsection (a)(2)(D) of this section may be added without meeting the minimum weather protection standard of 90 percent.

4. The WSNA would challenge any similar use for the tax lots along Edgewater.

The following is our rationale:

Sec. 535.001. - Purpose.

The purpose of the Edgewater/Second Street Mixed-Use Corridor (ESMU) zone is to implement the mixed-use comprehensive plan map designation, identify allowed uses, and establish development standards that promote pedestrian-oriented mixed-use development in keeping with a "main street" character along both Edgewater Street and Second Street NW.

Sec. 535.010. - Development standards.

Development within the ESMU zone must comply with the development standards set forth in this section.

(a) **Continued development.** Buildings and structures existing within the ESMU zone on June 13, 2018, but which would otherwise be made non-conforming development by this chapter, are hereby deemed continued development.


(2) All other uses. Continued development housing a use other than a single-family use may be structurally altered, enlarged, or rebuilt following damage or destruction, provided such alteration, enlargement, or rebuilding conforms to the following standards:

(A) Minor alterations. Exterior alterations to buildings that alter an existing building façade area facing a public street right-of-way by less than 20 percent are exempt from all of the development standards in this chapter. Such alterations shall not increase the building façade's nonconformity to the design standards of SRC 535.020.



MEMO

TO: Pamela Cole, Planner II
Community Development Department

FROM: Glenn J. Davis, PE, CFM, Chief Development Engineer 
Public Works Department

DATE: May 5, 2020

**SUBJECT: PUBLIC WORKS RECOMMENDATIONS
NC-SPR20-01 (19-122018)
650 2ND STREET NW
REUSE EXISTING BUILDING FOR SELF-STORAGE**

PROPOSAL

Consolidated Non-conforming Use and Class 3 Site Plan Review applications to substitute self-service storage for the existing non-conforming use of warehousing and distribution in a building within a 3.87 acre development site in the ESMU (Edgewater/Second Street Mixed-Use Corridor) zone at 650 2nd Street NW, 809, 811, 901, 903, and 975 Edgewater Street NW, and 150 Patterson Street NW 97304 (Polk County Assessor Map and Tax Lots 073W21DD / 02500, 02600, 02700, 02800, 02900, and 03000 and 073W21DD01100).

RECOMMENDED CONDITIONS OF APPROVAL

1. Remove the portions of the building encroaching into the right-of-way along the 2nd Street NW frontage or obtain a license to encroach pursuant to SRC 76.160.
2. Mitigate the non-conforming condition of the existing driveway approach along the Patterson Street NW frontage by either:
 - a. Closing the driveway; or
 - b. Reconfiguring the driveway to be ingress only with signage as specified in PWDS, and locating gates obstructing vehicular access to be no closer than 60 feet from the Patterson Street NW right-of-way in order to allow vehicles to queue outside of the right-of-way.
3. Relocate the existing driveway along the Murlark Avenue NW frontage, or modify the existing building to meet Vision Clearance requirements of SRC Chapter 805.

Code authority references are abbreviated in this document as follows: *Salem Revised Code* (SRC); *Public Works Design Standards* (PWDS); *Salem Transportation System Plan* (Salem TSP); and *Stormwater Management Plan* (SMP).

FACTS

Streets

1. Edgewater Street NW

- a. Standard—This street is designated as a Minor Arterial street in the Salem TSP. The standard for this street classification is a 46-foot-wide improvement within a 72-foot-wide right-of-way.
- b. Existing Conditions—This street has an approximate 47-foot improvement within a 62-foot-wide right-of-way abutting the subject property.

2. Murlark Avenue NW

- a. Standard—This street 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.
- b. Existing Conditions—This street has an approximate 36-foot improvement within a 50-foot-wide right-of-way abutting the subject property.

3. Patterson Street NW

- a. Standard—This street 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.
- b. Existing Conditions—This street has an approximate 30-foot improvement within a 54-foot-wide right-of-way abutting the subject property.

4. 2nd Street NW

- a. Standard—This street 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.
- b. Existing Conditions—This street is unimproved within a 70-foot-wide right-of-way abutting the subject property. The building encroaches into the existing right-of-way.

Storm Drainage

1. Existing Conditions

- a. A 27-inch storm main is located in Patterson Street NW.
- b. A 12-inch storm main is located in Murlark Avenue NW.
- c. A 10-inch storm main is located in Edgewater Street NW.

Water

1. Existing Conditions

- a. The subject property is located in the G-0 water service level.
- b. A 6-inch water main is located in Edgewater Street NW. Mains of this size generally convey flows of 500 to 1,200 gallons per minute.
- c. An 8-inch water main is located in Patterson Street NW. Mains of this size generally convey flows of 900 to 2,200 gallons per minute.
- d. An 8-inch water main is located in Murlark Avenue NW. Mains of this size generally convey flows of 900 to 2,200 gallons per minute.

Sanitary Sewer

1. Existing Conditions

- a. An 18-inch sewer main is located in Patterson Street NW.
- b. A 30-inch sewer main is located in Edgewater Street NW.
- c. A 6-inch sewer main is located on the eastern portion of the subject property.

CRITERIA AND FINDINGS

SITE PLAN REVIEW

Analysis of the development based on relevant criteria in SRC 220.005(f)(3) is as follows:

Criteria: SRC 220.005(f)(3)(A) The application meets all applicable standards of the UDC (*Unified Development Code*)

Finding—With completion of the conditions above, the proposed development 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, 809 – Wetlands, and 810 - Landslides.

Public Works staff has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no regulated floodplain or floodway areas exist on the subject property.

According to the Salem-Keizer Local Wetland Inventory (LWI) the subject property does not contain any wetland areas or hydric soils.

According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are no mapped landslide hazard areas or hydric soils on the subject property.

Criteria: SRC 220.005(f)(3)(B) The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately

Finding—The existing street system is adequate to serve the proposed development and the development is not proposing a building addition subject to 803.040(a); therefore, no right-of-way dedication or street improvements are required.

The existing condition of 2nd Street NW is an unimproved right-of-way that contains portions of the building encroaching into the right-of-way. The design and construction of 2nd Street NW between Gerth Avenue NW and Wallace Road NW is included as an upcoming Capital Improvement Project. In order to construct the street improvement, portions of the building must be removed from the right-of-way. As a condition of the proposed development, the applicant shall remove the portions of the building encroaching into the right-of-way along the 2nd Street NW frontage or obtain a license to encroach pursuant to SRC 76.160.

The existing driveway approach to Patterson Street NW shall either be reconfigured to allow for ingress only, with appropriate signage provided at the applicant's expense; or the driveway approach shall be closed pursuant to SRC 804.060(a). If the applicant chooses to reconfigure the driveway approach to ingress only, the gate shall be removed or relocated no closer than 60 feet from the Patterson Street NW right-of-way in order to allow vehicles to queue outside of the right-of-way.

As conditioned, the transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development.

Criteria: SRC 220.005(f)(3)(C) Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians

Finding—The existing driveway approach to Murlark Avenue NW does not comply the Vision Clearance standards of SRC Chapter 805, and shall be relocated to the north in order to comply with the vision clearance standards, or the applicant may alternatively modify the existing building rather than relocating the driveway. Once vision clearance standards are met, the driveway approach to Murlark Avenue NW shall provide for safe turning movements into and out of the property.

The existing driveway approach to Patterson Street NW does not comply with vision clearance standards of SRC Chapter 805. The applicant has the option of either closing the driveway pursuant to SRC 804.060(a) or reconfiguring the driveway approach to ingress only and providing the appropriate signage at their expense. As conditioned, the driveway approach to Patterson Street NW will facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

Criteria: SRC 220.005(f)(3)(D) The proposed development will be adequately served with City water, sewer, storm drainage, and other utilities appropriate to the nature of the development

Finding—The Public Works Department has reviewed the applicant's preliminary plan for this site. The water, sewer, and storm infrastructure are available within surrounding streets/areas and are adequate to serve the proposed development. The applicant does not show any new connections to public infrastructure.

The applicant shall be required to design and construct a storm drainage system at the time of development for areas of new and replaced impervious surface in compliance with SRC Chapter 71 and PWDS.

NON-CONFORMING USE SUBSTITUTION

Analysis of the development based on relevant criteria in SRC 270.005(d)(4) is as follows:

Criteria: 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 non-conforming use is located

Finding—The applicant submitted a Trip Generation Assessment memo from DKS Associates and dated March 4, 2020. The Assistant City Traffic Engineer has reviewed trip generation information and determined that the proposed use will generate fewer trips than the pre-existing use or uses allowed by the ESMU zone.

Prepared by: Jennifer Scott, Program Manager
cc: File