

**MEETING NOTICE FOR THE
CITY OF HUBBARD**

TUESDAY

DECEMBER 27, 2016

.....
CITY COUNCIL: YONALLY, KENNEDY, WHEATCROFT, SCHMIDT
.....

The Hubbard City Council will meet for a special council meeting at the Hubbard City Hall at 7:00 p.m.

The City will, upon request, endeavor to arrange for the following services to be provided. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 4:00 p.m. on the Monday the week preceding the meeting date.

- X Qualified sign language interpreters for persons with speech or hearing impairments; and
- X Qualified bilingual interpreters; and
- X Assisting listening devices for persons with impaired hearing.

Additional agenda items may be accepted until 4:00 p.m. on the Monday the week preceding the meeting date. Please contact the Director of Administration/City Recorder Vickie Nogle at 503-981-9633. (TTY / Voice 1-800-735-2900) If you would also like to purchase an Agenda packet, please contact the number mentioned above or you may view it online @ www.cityofhubbard.org.

SEE ATTACHED AGENDA

Posted 12/14/2016
4:00 p.m.

Vickie L. Nogle, MMC
Director of Administration/City Recorder

**CITY OF HUBBARD
CITY COUNCIL
SPECIAL MEETING AGENDA**

**DECEMBER 27, 2016 AT 7:00 PM
LOCATION: HUBBARD CITY HALL
3720 2ND STREET**

1) CALL TO ORDER.

2) PUBLIC HEARINGS.

A. APPEAL #2016-01 – Matt Kennedy – [3500 3rd Street (041W33AD07600)] – An appeal of the Planning Commission’s decision on application for a Similar Use (file number SU #2016-01), a determination the proposed self-service storage use is authorized in the Commercial (C) District.

B. APPEAL #2016-02 – Matt Kennedy – [3500 3rd Street (041W33AD07600)] – An appeal of the Planning Commission’s decision on application for Site Development Review (file number DR #2016-06), approval of a Site Development Review for the placement of twelve (12) portable shipping containers to be used as self-service storage units upon an approval of a Similar Use (SU) determination that a proposed self-service storage use is permitted in the Commercial (C) District.

3) ADJOURNMENT. (Next City Council meeting January 10, 2017, at 7:00 PM)

City Council's Review of an Appeal

Appeal requests do not occur often, so the following is provided so that you may be aware of the two application review options that you have before you when hearing an appeal from the Planning Commission.

Per Section 3.204.03 of the Hubbard Development Code, City Council has two options for review of an appeal on an action by the Planning Commission – a hearing “on the record” or a “de novo” hearing.

A hearing on the record is limited to information that was presented to the Planning Commission. Parties may offer testimony regarding alleged errors in the Planning Commission action, but they may not introduce new evidence. The record from the Planning Commission must include:

- a. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission as evidence;
- b. All materials submitted by City Staff with respect to the application;
- c. The transcript of the hearing; and
- d. The findings and actions of the Planning Commission and the notice of decision.

Conversely, a de novo hearing is a hearing in which the Council may admit additional testimony and other evidence beyond what was presented to the Planning Commission. If the Council determines to hold a de novo hearing, the hearing will be conducted in the same manner as it was before the Planning Commission. In other words, it is basically a re-hearing opportunity in which all parties may present whatever evidence they so desire.

Because it is up to the sole discretion of the Council to determine how it would like to conduct an appeal from the Planning Commission, the first action Council should take is to decide upon whether to hold a hearing on the record or a de novo hearing. Once that decision is made, Council, with assistance from staff, will conduct the appeal hearing in accordance with applicable procedures. Once the hearing and deliberations are complete, the City Council may affirm, rescind or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the Comprehensive Plan and as provided for in Section 3.201.02 of the City's Development Code. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day review period specified in Subsection 3.201.02 (G).

CITY OF HUBBARD
LAND USE HEARING PROCEDURES
December 27, 2016

MAYOR OPENS HEARING:

The public hearing before the Hubbard City Council is now open for application file number [read option 1 or 2 below]

1. *Appeal 2016-01: An appeal of the Planning Commission's decision on application for a Similar Use (file number SU 2016-01), a determination that the proposed self-service storage use is authorized in the Commercial (C) District.*
2. *Appeal 2016-02: An appeal of the Planning Commission's decision on application for Site Development Review (file number DR 2016-06), approval of a Site Development Review for the placement of twelve (12) portable shipping containers to be used as self-service storage units upon an approval of a Similar Use (SU) determination that a proposed self-service storage use is permitted in the Commercial (C) District. .*

Does any member of the City Council have any conflict of interest, bias, or ex-parte contact to declare, or a site visit to describe?

Does anyone in the audience wish to object to:

- The notice sent in this case?
- The jurisdiction of this body to hear and consider this case?
- Legal objections to this procedure?

Oregon land use law requires several items be read into the record at the beginning of each public hearing.

PLANNER READS FOLLOWING LEGAL STATEMENT FOR THE RECORD:

The applicable substantive criteria upon which the application will be decided are as follows:

Hubbard Development Code (HDC)
Section 2.106 Commercial District (C)
Section 2.200 General Development Standards
Section 3.109 Similar Uses
Section 3.105 Site Development Review
Section 3.205 Appeal Provisions

These criteria are addressed in the staff report and are summarized by staff during the presentation of the staff report. All public testimony, arguments, and evidence must be

directed toward these criteria or other criteria in the Hubbard Comprehensive Plan or Hubbard Municipal Code which you believe apply to the decision.

Failure to raise an issue accompanied by statements or evidence sufficient to afford this commission and the parties an opportunity to respond to the issue precludes an appeal to the city council and the Oregon Land Use Board of Appeals (LUBA) based on that issue.

An issue which may be the basis for an appeal to the Oregon Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the local government. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the commission and the parties an adequate opportunity to respond to the issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this commission to respond to the issue precludes an action for damages in circuit court.

Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The commission shall then continue the public hearing to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

PLANNER PRESENTS STAFF REPORT

MAYOR CONDUCTS PUBLIC HEARING

Mayor: Are there any questions or staff before we continue and hear from the applicant and accept testimony?

Mayor: Is the applicant or applicant's representative present? If so, would applicant/applicant's representative like to address the Commission?

Mayor: I will now accept public testimony regarding this case.

- Is there anyone who would like to speak in support of the application?
- Is there anyone who would like to speak in opposition the application?
- Is there anyone who would like to speak neither for nor against the application (neutral)?
- Would the applicant like to address (rebut) any of the testimony?

Mayor: Before I close or continue the public hearing is there any additional questions from the Commissioners or staff or anyone? As a reminder, once I close the hearing only Commissioners or staff may speak.

MAYOR CLOSSES PUBLIC HEARING FOR DELIBERATION AND MOTION

Public testimony is now over. I will close the public hearing at ____ P.M. (state the time).

CITY OF HUBBARD CITY COUNCIL STAFF REPORT

REPORT DATE: December 13, 2016

FILE NUMBER(S): APPEAL 2016-01 (#APP 2016-01)

HEARING DATE: December 27, 2016

APPELLANT: Matt Kennedy 3635 5th Street, Hubbard, OR 97032

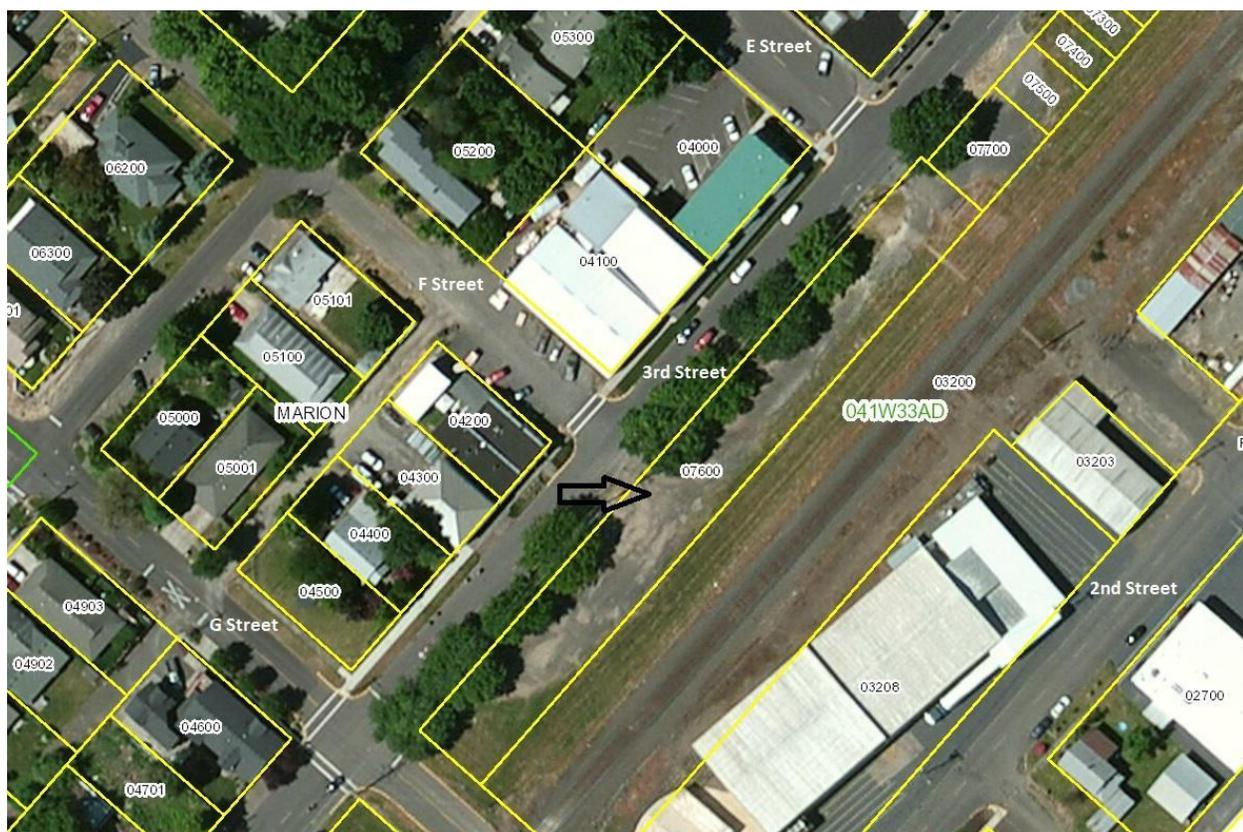
OWNER: Matt Kennedy 3635 5th Street, Hubbard, OR 97032

REQUEST: An appeal of the Planning Commission's decision on application for a Similar Use (file number SU 2016-01), a determination that the proposed self-service storage use is authorized in the Commercial (C) District.

PROPERTY: The subject property is a single tax lot located on 3rd Street at the intersections of 'F' Street and 'E' Street, north of the railroad tracks. More specifically described as:

<u>Taxlot</u>	<u>Acct</u>	<u>Acres</u>	<u>Zoning</u>
041W33AD07600	R344431	0.62	Commercial (C)

3500 3rd Street, Hubbard, OR 97032



(Tax lot lines are off-set against aerial imagery and are not precise)

CRITERIA: **Hubbard Development Code (HDC)**
Section 2.106 Commercial District (C)
Section 2.200 General Development Standards
Section 3.109 Similar Uses
Section 3.205 Appeal Provisions

ATTACHMENTS: Exhibit A: Application, file no. APP 2016-01, dated 11/30/2016
Exhibit B: Application, file no. SU 2016-01, dated 10/13/2016
Exhibit C: Staff Report, file no. SU 2016-01, dated 11/4/2016
Exhibit D: Draft Planning Commission Meeting (11/15/16) Minutes
Exhibit E: Notice of Decision, file no. SU 2016-01, dated 11/18/2016

I. SUMMARY OF PROPOSAL

The request is to appeal the decision made by the Planning Commission following a public hearing conducted on November 15, 2016. The Planning Commission denied similar use application file number SU 2016-01, a request finding that a self-storage use is not similar to other permitted uses in the zone and is not authorized in the Commercial (C) District.

The appellant requests that the Council reverse the decision of the Planning Commission and, therefore, find that a self-storage use is similar to other permitted uses and is authorized in the Commercial (C) District.

II. PROCEDURE

HDC Section 3.109 outlines the review procedures and criteria for review of similar use applications. Review of a similar use application is a Type II Action requiring a public hearing before the Hubbard Planning Commission as stated in HDC Section 3.201.02. Written notice of the initial public hearing was mailed on October 25, 2016 (at least 20 days prior to the hearing) to the applicant and owners of property within 100' of the subject property, in compliance with HDC Section 3.202.02.

In accordance with HDC Section 3.205, an appellant may file an appeal of the Planning Commission's decision in writing within twelve (12) days of the Commission's final written notice. The appellant submitted an appeal application on November 30, 2016.

III. APPEAL

The City Council's decision may be appealed to the State Land Use Board of Appeals (LUBA) as provided in the State statutes. A written notice of intent to appeal must be filed with LUBA within twenty-one (21) days of the Council's written decision.

IV. BACKGROUND

The subject property is relatively flat and narrow (54 feet wide) with no vegetation. The

property is currently unimproved and is currently being used as a private parking lot.

The applicant proposes establishment of a self-service storage use on the subject property (see Exhibit B). The applicant proposes the placement of up to twelve (12) conex shipping containers on the property to be used as individual self-service storage units that can be rented out to the general public for the storage of personal property. The conex shipping containers are proposed to be portable in nature (not affixed to a foundation).

Conex shipping containers are described as prefabricated metal structures designed to contain or carry freight. Applicant proposes to use two different sized containers; six (6) containers that are 40 feet in length, eight (8) feet in width, and nine (9) foot six (6) inches in height; and six (6) containers that are 20 feet in length, eight (8) feet in width, and eight (8) foot six (6) inches in height. The exterior color of the conex shipping containers is not listed in the application. The color of these containers can vary.

Applicant states that the conex shipping containers are self-locking and can be accessed 24-hour a day.

Self-storage use, defined as “warehouse” in the HDC Section 1.200, are not listed as a permitted or conditional use in the C District. The applicant applied for a Similar Use determination that the proposed self-storage use is authorized in the C District. The Planning Commission conducted a public hearing on November 18, 2016, and denied the Similar Use application.

V. REVIEW CRITERIA AND FINDING OF FACT

HDC Section 3.109.03, states that the Planning Commission may review Similar Use applications after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence substantiating all of the required criteria.

The Planning Commission denied the Similar Use request because the applicant did not satisfy the criteria, as stated in the HDC Section 3.109.04, based upon the Findings of Fact as stated in the staff report, Exhibit C, dated November 4, 2016. (The draft meeting minutes of the Planning Commission meeting November 15, 2016, are attached as Exhibit D)

The appellant’s basis for an appeal are presented in Exhibit A.

The City Council reviews the decision using the required criteria listed as follows:

Criterion A: The use is consistent with the purpose of the underlying zoning district and is similar in character, scale, and performance to permitted uses specified in the underlying district.

Criterion B: The use conforms with the applicable standards and limitations of the underlying zoning district.

VI. CONCLUSION AND RECOMMENDATION

The Planning Commission reviewed and discussed the similar use criteria and listened to testimony from the applicant and public. It was the Planning Commission's decision that the applicant did not demonstrate that the proposed use was similar in character, scale, and performance to the permitted uses specified in the Commercial (C) District and thus did not satisfied the review criteria.

Staff recommends that the City Council uphold the decision of the Planning Commission decision to deny the similar use request determining that a self-service storage use is authorized in the Commercial (C) District.

VII. CITY COUNCIL ACTION

The decision on the appeal request requires a motion and vote by the City Council. Council choices of action on the appeal request are as follows:

- A. Affirm the decision of the Planning Commission to deny SU 16-01 based upon the Findings of Fact as stated in the staff report, presented as Exhibit C.

If the Council wishes to make any changes to the Findings of Fact or state their basis for denying the similar use, the revisions or additions need to be stated in the motion.

- B. Amend the decision of the Planning Commission and grant the similar use as requested by the appellant, and, therefore, determine that a self-service storage use is authorized in the Commercial (C) District.

If the Council wishes to make any changes to the Findings of Fact or state their basis for amending or reversing the similar use, the revisions or additions need to be stated in the motion.

- C. Remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day period specified in HDC Section 3.201.02(G)

Exhibit A

APPEAL APPLICATION

CITY OF HUBBARD

FILE: App 2016-01 / App 2016-02
DATE: 11/30/2016
FEE: \$750.00
RECEIPT NO: 1003966

APPLICANT: Matt Kennedy PHONE: 503-314-7086

ADDRESS: 3635 5th St, Hubbard OR 97032

OWNER(S): same PHONE: _____
(If different from above)

ADDRESS: _____

REQUEST: To appeal decision on SU 2016-01 and DR 2016-06.

PROPERTY DESCRIPTION:

ADDRESS: 3500 3rd St

MAP PAGE AND TAX LOT NO: 041W33AD07600 ZONE: COM

CURRENT USE/STRUCTURES: none SQUARE FOOTAGE OF SITE: 27,094

IS THE SITE OF HISTORIC SIGNIFICANCE? No

LAND USE FILE INFORMATION:

LAND USE FILE NUMBER(S): SU 2016-01 and DR 2016-06

DATE OF PLANNING COMMISSION HEARING: November 15th, 2016

DATE OF NOTICE OF DECISION: November 18th, 2016

APPEAL PERIOD: 12 days

SUBMITTAL REQUIREMENTS:

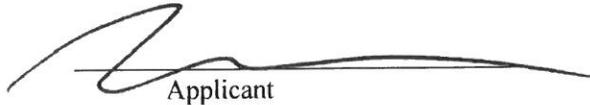
1. State the alleged errors of the City staff decision or in the Planning Commission action based upon the approval criteria or any other local, state, or federal regulations that applied to the application.

See attached Exhibit "A"

NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.

12/01/2016

Date



Applicant

Date

Owner(s)

Date

Owner(s)

Appeal Application
Exhibit "A"

Staff finding in SU 2016-01 interprets that this use does not fit in "commercial operations and services". Applicant finds that it does, and that while these portable units are not specifically addressed in the development code, that it does meet the intent of the district which is "to provide areas for the broad range of commercial operations and services required in the central business district and other areas to meet the economic needs of the city of Hubbard." Applicant finds this use consistent with the intent of the zone and that staff has misinterpreted the intent of the zone.

Further, staff findings identify this temporary and portable container placement as the establishment of a warehouse facility. Staff has a consistent premise throughout these applications and reports that equates this use to permanent development far beyond the scale of this proposal.

DR 2016-06 Staff has again applied an unreasonable and onerous criteria to a small temporary use at the site. The second part of the finding in Supreme Court decision in Dolan vs City of Tigard rules that a test of "whether or not the degree of the exactions required by the permit condition bears the required relationship to the projected impact of the proposed development." The staff report grossly overreaches in any reasonable test of such. The proposed use of this site greatly reduces the prior use as a public parking area. Design review was triggered by the similar use application, however when reducing impact on a site the opposite is applied per the development code. Increases in traffic and use trigger site development, showing the code intent is to review higher impact uses to see if a site's current standards support that higher use.

Exhibit B

SIMILAR USE APPLICATION

CITY OF HUBBARD

3720 2nd Street (P.O. Box 380)

Hubbard, OR 97032

Phone: (503) 981-9633; Fax: (503) 981-8743

<http://www.cityofhubbard.org>

To Be Filled Out by Staff:

FILE: SU #2016-01

DATE: 10/13/16

FEE: MAINT SEE DEC 2016 VCL

RECEIPT NO: 1003552

APPLICANT: Matt Kennedy

PHONE: 503-314-7086

EMAIL ADDRESS: homes@mattkennedy.com

ADDRESS: 3635 5th St Hubbard OR 97032

OWNER(S): _____

(If different from above)

PHONE: _____

EMAIL ADDRESS: _____

ADDRESS: _____

REQUEST: To place self contained portable shipping containers on site

to be used as storage pods for rent

PROPERTY DESCRIPTION: ~~3500 E ST~~ 3500 3rd Street

ADDRESS: 3rd St lot between G St and E St, and between 3rd and UP railroad

MAP PAGE AND TAX LOT NO: 041W33AD07600R344431

ZONE: COM

CURRENT USE/STRUCTURES: Parking- no structures SQUARE FOOTAGE OF SITE: 27,094 sf

IS THE SITE OF HISTORIC SIGNIFICANCE? No

FINDINGS:

The Planning Commission may authorize a similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

1. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to permitted uses specified in the underlying district.

This use is placement of containers that resembles parking or other
allowed uses in the zone such as sale of vehicles or general parking uses.

The parking of trucks is common on this site and in this zone.

2. The use conforms with the applicable standards and limitations of the underlying zoning district.

The placement of these containers is of a portable nature and resembles
other uses such as sales lots or delivery trucks.

DATE: 9/19/08

ATTACHMENTS:

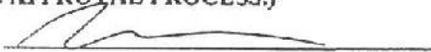
Please submit one paper copy and one (1) electronic copy (PDF format preferred) of the following application materials:

1. A legible **site plan** drawn to scale on 8 1/2 x 11 or 11 x 17 inch paper, or eight (8) full size copies (typically 18 x 24 inches or larger) that shows the following information:
 - existing and proposed structures,
 - driveways and vehicular circulation,
 - parking,
 - landscaping, and
 - significant natural features.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT; AND THAT THE REQUEST DOES NOT VIOLATE ANY DEED RESTRICTIONS THAT MAY BE ATTACHED OR IMPOSED UPON THE SUBJECT PROPERTY. (NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.)

10/13/2016

Date



Applicant

Date

Owner(s)

Date

Owner(s)

SIMILAR USE INFORMATION SHEET

A similar use is a use which is not specifically listed in a particular zoning district but which is similar in character, scale, and performance to the permitted uses specified in the district.

SIMILAR USE REGULATION

Prior to the issuance of a Building Permit for any approved similar use in any zone, the applicant shall be subject to the Site Development Review procedures set forth in Section 3.105 of the Hubbard Development Code.

APPLICATION PROCESSING

Once an application is submitted, along with all pertinent filing information, City staff will review it for completeness, and if additional material is necessary, you will be contacted. Once the application is determined to be complete, staff will prepare a report for Planning Commission review. The staff report is available seven days prior to the Planning Commission meeting. You will have the opportunity to testify on behalf of your application at the Planning Commission meeting. The Planning Commission decision can be appealed to the City Council.

CIRCUMSTANCES FOR AUTHORIZING SIMILAR USES

The Planning Commission may impose limitations or conditions on the similar use. Any reduction or change of the requirements of the ordinance will be considered as varying the ordinance and must be requested and viewed as such. The Planning Commission shall impose conditions only after it has determined that such conditions are necessary for the public health, safety, and general welfare, or to protect persons or improvements in the area. The Planning Commission may prescribe such conditions it deems appropriate to fulfill the intent of the ordinance.

EFFECTIVE DATE OF APPROVAL

The similar use authorization shall be effective ten (10) days after the date of the notice of the decision.

ADDITIONAL INFORMATION

For additional information on similar uses, call Hubbard City Hall at (503) 981-9633.

Exhibit C

CITY OF HUBBARD PLANNING COMMISSION STAFF REPORT

REPORT DATE: November 4, 2016

FILE NUMBER(S): SU 2016-01

HEARING DATE: November 15, 2016

APPLICANT: Matt Kennedy 3635 5th Street, Hubbard, OR 97032

OWNER: Matt Kennedy 3635 5th Street, Hubbard, OR 97032

REQUEST: Approval of a Similar Use (SU) determination that a proposed self-service storage use is permitted in the Commercial (C) District.

PROPERTY: The subject property is a single tax lot located on 3rd Street at the intersections of 'F' Street and 'E' Street, north of the railroad tracks. More specifically described as:

<u>Taxlot</u>	<u>Acct</u>	<u>Acres</u>	<u>Zoning</u>
041W33AD07600	R344431	0.62	Commercial (C)

3500 3rd Street, Hubbard, OR 97032

CRITERIA: **Hubbard Development Code (HDC)**
Section 2.106 Commercial District (C)
Section 2.200 General Development Standards
Section 3.109 Similar Uses

ATTACHMENTS: Exhibit A: Similar Use Application & Supplemental Narrative
Exhibit B: Public Works Superintendent Comments (October 31, 2016)
Exhibit C: AKS Engineering Comments (October 31, 2016)
Exhibit D: HDC Section 2.106 Commercial District

I. PROCEDURE

HDC Section 3.109 outlines the review procedures and criteria for review of Similar Uses. Review of Similar Uses is a Type II Action requiring a public hearing before the Hubbard Planning Commission as stated in HDC Section 3.201.02. written notice of the initial public hearing was mailed on October 25, 2016 (at least 20 days prior to the hearing) to the applicant and owners of property within 100' of the subject property, in compliance with HDC Section 3.202.02.

II. APPEAL

In accordance with HDC Section 3.205, an appeal of the Commission's decision shall be made in writing, to the City Council within twelve (12) days of the Commission's final written decision.

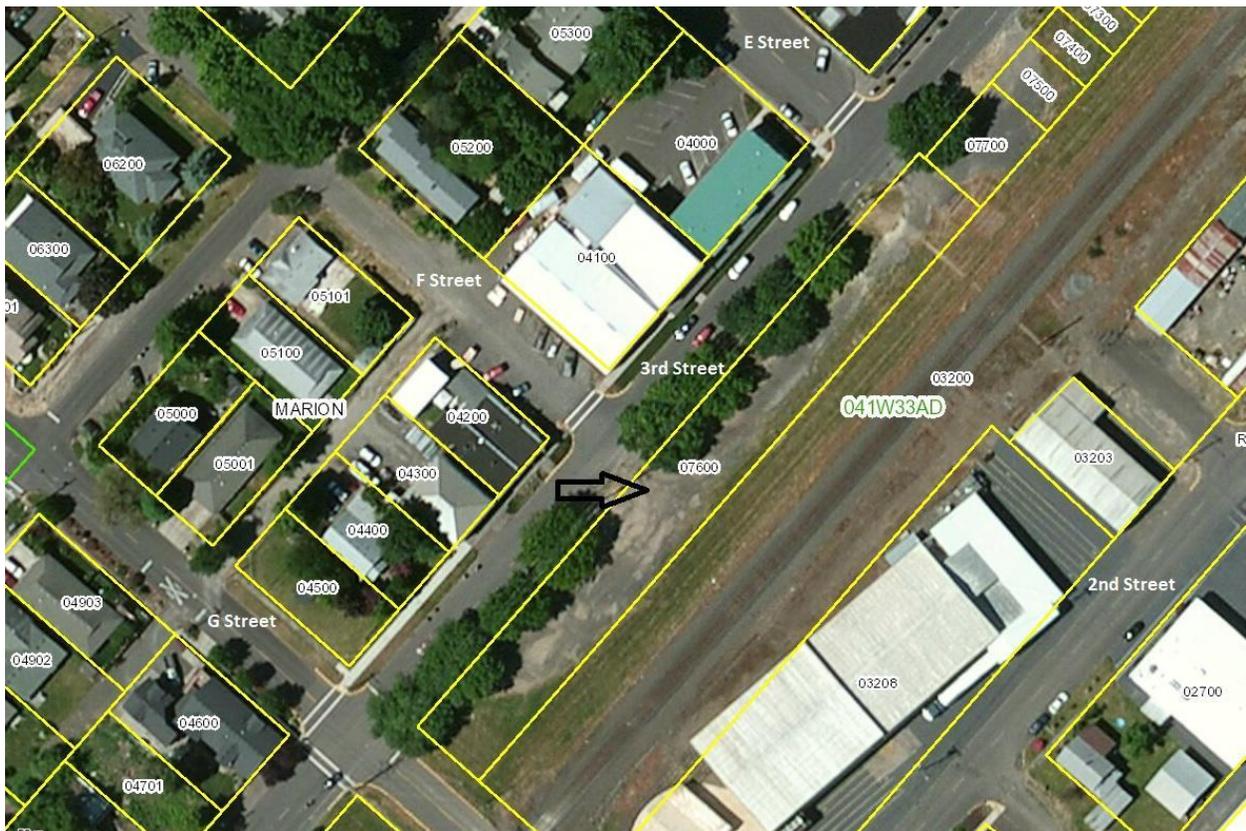
III. BACKGROUND

The applicant proposes establishment of a self-service storage use/facility on the subject property, which is zoned C District. The subject property is relatively flat and narrow (54 feet wide) with no vegetation. The property is currently unimproved and being used as a private parking lot.

The applicant proposes the placement of up to twelve (12) conex shipping containers on the property to be used as individual self-service storage units that can be rented out to the general public for the storage of personal property. The conex shipping containers are proposed to be portable in nature (not affixed to a foundation) so that they can be moved either on and off the property or around the property.

Conex shipping containers are described as prefabricated metal structures designed to contain or carry freight. Applicant proposes to use two different sized containers; six (6) containers that are 40 feet in length, eight (8) feet in width, and nine (9) foot six (6) inches in height; and six (6) containers that are 20 feet in length, eight (8) feet in width, and eight (8) foot six (6) inches in height. The exterior color of the conex shipping containers is not listed in the application. The color of these containers can vary.

Applicant states that the conex shipping containers are self-locking and can be accessed 24-hour a day.



(Taxlot lines are off-set against aerial imagery and are not precise)

IV. REVIEW CRITERIA

SECTION 3.109 SIMILAR USES

3.109.04 Review Criteria

A similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

- A. *The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to permitted uses specified in the underlying district.*

FINDING: The purpose of similar use requests/applications is to provide an interpretation regarding whether or not uses not specifically listed in a particular zone but which are similar in character, scale and performance to outright permitted uses specified therein are allowed in the zone.

The subject property is located in the Commercial (C) District. According to HDC Section 2.106, the purpose of the C District is to provide areas for the broad range of commercial operations and services required in the central business district and other areas to meet the economic needs of the city of Hubbard. HDC Sections 2.106.02 and 2.106.03 (Exhibit D) list the uses that are permitted outright or upon conditional use approval in the C District.

The Hubbard Development Code does not define “commercial operations and services,” but Staff interprets this term to include retail trade and service establishments, business service establishments, offices and clinics, and automobile sales, which are permitted uses in the C District, described in HDC Section 2.106.02, and discussed below.

***Retail trade establishments** engaged in selling goods or merchandise to the general public for personal or household consumption such as retail groceries, hardware stores, department stores, gas stations and sporting goods stores.*

***Retail service establishments** offering services and entertainment to the general public for personal or household consumption such as eating and drinking establishments, motels, hotels, banks, real estate and financial services.*

***Business service establishments** engaged in rendering services to other businesses on a fee or contract basis such as building maintenance, employment services and consulting services.*

***Offices and clinics** such as doctor and dentist offices, veterinary clinics and law offices.*

***Automobile sales**, both new and used, recreational vehicles, recreational unit, and light trailer sales.*

Storage facilities are designed to allow private access by tenants for storing or removing personal property. The proposed use does not: involve the selling of goods or merchandise, offer services to the general public for personal or household consumption, engage in rendering

services to other businesses, or offer a room or rooms for conducting the affairs relating to business profession.

The use defined as warehouse in HDC Section 1.200 best describes the type of use that the applicant is proposing. Warehouse activities are not permitted in the C District but are permitted in the Industrial (I) District and Industrial Commercial (IC) District.

Warehouse: A place for the safekeeping of goods and materials necessary for the proper functioning of an industrial or commercial enterprise. Also a facility designed and intended to be used for the rental of storage units to individuals for the safekeeping of personal items.

The proposed use, as described, is not similar to permitted uses in the C District and is therefore is not consistent with the concept of “commercial operations and services.”

The applicant states that the placement of conex shipping containers is similar in nature to an automotive sales lot. The sale of both new and used automobiles, recreational vehicles, recreational unit, and light trailers is permitted in the C District. Applicant has not proposed the sale of new or used conex shipping containers. Applicant has proposed the placement of conex shipping containers to be used as a self-service storage, for rent. Staff finds that the proposed use as described by the applicant as a self-service storage does not involve the sale of conex shipping containers.

Due to the portable nature of the structures they could be compared to portable accessory structures, which are allowed in the C District, and are defined in HDC Section 1.200 as follows:

Accessory Building or Use: A structure or use which is clearly incidental and subordinate to the main building or use on the same lot.

Portable Accessory Structure: A structure intended for the shelter or storage of self-propelled vehicles, which is comprised of a self-supporting assemblage of material and is not permanently attached to a footing and foundation in compliance with the Uniform Building Code.

HDC Section 2.401.13 states that in an industrial or commercial zone, portable accessory structures may be located on any portion of the lot or parcel, subject to applicable setback and Building Code requirements. HDC Section 4.401.13 further states that a portable accessory structure shall be structurally sound and shall be anchored.

The term accessory means that these structures are subordinate to a main building or use on the same lot. The applicant is proposing to place portable accessory structures on a property without a primary use. Portable accessory structures are not permitted without a primary structure or use on the same property.

B. *The use conforms with the applicable standards and limitations of the underlying zoning district.*

FINDING: The property is located in the C District. Standards for the C District are found in HDC Section 2.106 (Exhibit D). A review of the C District standards as they apply to the proposed use is provided as follows:

Off-Street Parking. For warehousing uses permitted in the I and IC zone, HDC Section 2.203.05 requires a minimum of one (1) off-street parking space per 2,000 square feet of gross floor area for warehouse uses. Per this requirement, a minimum of one (1) off-street parking spaces is required for the proposed use (2,880 sq. ft. container space). The applicant's site plan proposes two (2) off-street parking spaces for customers near the access near the intersection of 3rd Street and E Street. Any modifications to the parking area shall conform with the parking requirements found in HDC Section 2.203.

Signs. The application did not indicate any signage for the proposed use. Any signs installed on the subject property shall comply with city sign requirements found in Development Code HDC Section 2.206.

Landscaping. HDC Section 2.207 contains landscaping requirements for new developments, expansions of existing developments and developments subject to the Site Development Review process.

To comply with the screening requirements found in HDC Section 2.207, a landscape plan prepared by a landscape professional that shows street trees pursuant to HDC Section 2.207.07, buffering pursuant to HDC Section 2.207.05 along the front and side yards, and the proposed method of irrigation, shall be submitted within 180 days of written approval of the application for review and approval by city staff. The applicant shall install landscaping in compliance with landscape plan approved by staff within one (1) year. Landscape planting and maintenance shall comply with the requirements found in HDC Section 2.207.06.

Design Review. HDC Section 3.109.06 states that any approved similar use in any zone shall be subject to Site Development Review procedures of HDC Section 3.105.

Outdoor Display. The applicant did not indicate any outdoor display. Outdoor display is only permitted between the hours of 7am and 10pm unless the display items are screened pursuant to HDC Section 2.207.

Access. Based upon a review of the applicant's submittal, the proposed business would continue to use the existing private driveway accesses located at the intersection of 3rd Street and E Street and the intersection of 3rd Street and F Street. The applicant's submittal did not indicate any changes to the existing site access.

The Public Works Superintendent and City Engineer submitted comments and recommendations for conditions to ensure that the use conforms with current standards and limitations for commercial properties. Those comments are included as Exhibits B and C. HDC

Section 3.109.05 provides that the Planning Commission may impose such conditions *if it* deems appropriate to ensure that the intent of this Section is carried out. If the Planning Commission votes to approve the application, Staff recommends that the requirements listed in Exhibits B and C be adopted as conditions of approval.

Staff finds the proposed use can comply with the standards of the Commercial District, *if* the Planning Commission determines the proposed is a similar use to those listed as permitted uses in the Commercial zone, and upon compliance with the proposed conditions of approval.

V. SUMMARY AND RECOMMENDATION

Based on the findings contained in this report, Staff concludes that the application (File #SU-2016-01) fails to comply with all of the applicable criteria. Consequently, Staff recommends denial of the application.

VI. PLANNING COMMISSION OPTIONS

- A. Deny the request and adopt the findings contained in the Staff Report.
- B. Deny the request with findings amended by the Planning Commission.
- C. Approve the request with amended findings (and applicable conditions) that the request meets the applicable approval criteria.
- D. Continue the hearing, to a date and time certain, if additional information is needed to determine whether applicable standards and criteria are sufficiently addressed (considering the 120-day limit on applications).

- Identification of areas exceeding 10% slopes;
- Site drainage, areas of potential flooding;
- Areas with significant natural vegetation;
- Classification of soil types;
- Existing structures, roadway access and utilities; and
- Existing and proposed streets, bikeways, and pedestrian facilities within 200 feet.

2. Site Plan

- Proposed grading and topographical changes;
- All proposed structures including finished floor elevations and setbacks;
- Vehicular and pedestrian circulation patterns, parking, loading and service areas;
- Proposed access to public roads and highways, railroads or other commercial or industrial transportation systems;
- Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
- Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks; and
- A schedule of expected development.

EVALUATION CRITERIA

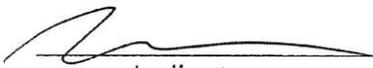
In addition to compliance with the standards of the Development Code, the review of a Site Development Plan shall be based upon consideration of the following:

1. Characteristics of adjoining and surrounding uses;
2. Drainage and erosion control needs;
3. Public health factors;
4. Traffic safety, internal circulation and parking;
5. Provision for adequate noise and/or visual buffering from non-compatible uses;
6. Retention of existing natural features on site; and
7. Problems that may arise due to development within potential hazard areas.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT; AND THAT THE REQUEST DOES NOT VIOLATE ANY DEED RESTRICTIONS THAT MAY BE ATTACHED OR IMPOSED UPON THE SUBJECT PROPERTY. (NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.)

10/13/2016

Date



Applicant

Date

Owner(s)

Date

Owner(s)

Date

Owner(s)

SITE DEVELOPMENT REVIEW INFORMATION SHEET

The purpose of the site development review process is to guide future growth and development in accordance with the Hubbard Comprehensive Plan and Development Code, provide an efficient process and framework to review development proposals, and resolve potential conflicts that may arise between proposed developments and adjacent uses.

SITE DEVELOPMENT REVIEW REGULATION

Site development review is required for all new developments, major remodeling of existing developments, and change of occupancy, as defined by the Uniform Building Code, and/or change of use for commercial and industrial developments, except:

- 1) single-family detached dwellings;
- 2) a duplex;
- 3) any commercial or industrial remodel that does not exceed 25% of the total square footage of the existing structure, or
- 4) any new development, change of occupancy, or commercial or industrial remodel, that does not intensify the use of the property by increasing the number of customers, vehicle or pedestrian traffic to the site, parking requirements, etc.

Site development review procedures are listed in Section 3.105 of the Development Code.

APPLICATION PROCESSING

Once an application is submitted, along with all pertinent filing information, City staff will review it for completeness, and if additional material is necessary, you will be contacted. Once the application is determined to be complete, a public hearing at the Planning Commission will be scheduled. Staff will prepare a report for Planning Commission review. The staff report is available seven days prior to the Planning Commission meeting. You will have the opportunity to testify on behalf of your application at the Planning Commission meeting. The Planning Commission decision can be appealed to the City Council.

EFFECTIVE DATE OF APPROVAL

The site development review shall be effective 12 days after the date of the notice of the decision by the Planning Commission unless the decision is appealed to the City Council.

ADDITIONAL INFORMATION

For additional information, call Hubbard City Hall at (503) 981-9633.

SIMILAR USE APPLICATION

CITY OF HUBBARD

3720 2nd Street (P.O. Box 380)
Hubbard, OR 97032
Phone: (503) 981-9633; Fax: (503) 981-8743
http://www.cityofhubbard.org

To Be Filled Out by Staff:

FILE: SU #2016-01
DATE: 10/13/16
FEE: MARSU SEU DE #2016-01
RECEIPT NO: 1003552

APPLICANT: Matt Kennedy
PHONE: 503-314-7086 EMAIL ADDRESS: homes@mattkennedy.com
ADDRESS: 3635 5th St Hubbard OR 97032
OWNER(S): (If different from above)
PHONE: EMAIL ADDRESS:
ADDRESS:
REQUEST: To place self contained portable shipping containers on site
to be used as storage pods for rent

PROPERTY DESCRIPTION: 3500 3rd ST
ADDRESS: 3rd St lot between G St and E St, and between 3rd and UP railroad
MAP PAGE AND TAX LOT NO: 041W33AD07600R344431 ZONE: COM
CURRENT USE/STRUCTURES: Parking- no structures SQUARE FOOTAGE OF SITE: 27,094 sf
IS THE SITE OF HISTORIC SIGNIFICANCE? No

FINDINGS:

The Planning Commission may authorize a similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:
1. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to permitted uses specified in the underlying zoning district.
This use is placement of containers that resembles parking or other allowed uses in the zone such as sale of vehicles or general parking uses.
The parking of trucks is common on this site and in this zone.
2. The use conforms with the applicable standards and limitations of the underlying zoning district.
The placement of these containers is of a portable nature and resembles other uses such as sales lots or delivery trucks.

EXHIBIT A

LAND USE FEE SCHEDULE ACKNOWLEDGMENT

as of 10/14/2008 (attachment to Resolution No. 470-2008)

Resolution No. 398-2005 requires a deposit for land use applications as required in section 3.206.03 in the Hubbard Development Code. Staff collects the deposit at the time of application.

Costs and time are paid out of the deposit. If it appears the costs exceed the initial deposit, the City Recorder / Planning Secretary may require an additional deposit for cost that may be incurred to complete the project. At the end of the project a final bill will be prepared and either request additional funds or issue a refund check.

The following are types of charges and amounts per hour. *The Contracted Service provider fees are subject to change, and may also include their hired staff time.*

City Planner \$74.00
(The City Planner prepares staff reports, final actions, and makes presentations at Planning Commission and Council meetings.)

City Engineer \$70.00
(The City Engineer may be requested to investigate or review plans submitted by the applicant, and may make presentations at required meetings)

Planning Secretary \$57.00 Admin Assistant \$26
(The Planning Secretary prepares applicants files, prepares comments for other departments, prepares public hearing notices, posts and mails notices, answers applicants questions and attends all meetings)

Public Works Director/Superintendent \$68.00 Admin Assistant \$39
Utility Worker I \$36.00
Utility Worker II \$48.00
(The Public Works personnel reviews applications and comments regarding water, sewer, streets, backflow devices, and storm drain issues)

Police Chief \$65.00
(The Police Chief reviews plans and looks into safety concerns such as lighting and addressing issues)

City Attorney \$240.00
(Review of documents, negotiation of conflicts, litigation and enforcement issues)

Office Copies (Black & White 8 1/2 X 11) .25 per page Color .35 per page
(Black & White 11X 17) .50 per page Color .70 per page
Long Distance Phone Calls 3.00 per call
Fax 2.00 per fax + .50 per page

I have read this information and understand that the land use fee is a deposit and the application may cost more or less.

Applicants Signature

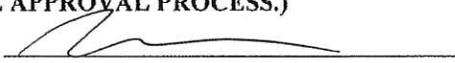
10/13/2016
Date

ATTACHMENTS:

Please submit one paper copy and one (1) electronic copy (PDF format preferred of the following application materials:

- 1. A legible **site plan** drawn to scale on 8 ½ x 11 or 11 x 17 inch paper, or eight (8) full size copies (typically 18 x 24 inches or larger) that shows the following information:
 - existing and proposed structures,
 - driveways and vehicular circulation,
 - parking,
 - landscaping, and
 - significant natural features.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT; AND THAT THE REQUEST DOES NOT VIOLATE ANY DEED RESTRICTIONS THAT MAY BE ATTACHED OR IMPOSED UPON THE SUBJECT PROPERTY. (NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.)

10/13/2016	
_____	_____
Date	Applicant
_____	_____
Date	Owner(s)
_____	_____
Date	Owner(s)

SIMILAR USE INFORMATION SHEET

A similar use is a use which is not specifically listed in a particular zoning district but which is similar in character, scale, and performance to the permitted uses specified in the district.

SIMILAR USE REGULATION

Prior to the issuance of a Building Permit for any approved similar use in any zone, the applicant shall be subject to the Site Development Review procedures set forth in Section 3.105 of the Hubbard Development Code.

APPLICATION PROCESSING

Once an application is submitted, along with all pertinent filing information, City staff will review it for completeness, and if additional material is necessary, you will be contacted. Once the application is determined to be complete, staff will prepare a report for Planning Commission review. The staff report is available seven days prior to the Planning Commission meeting. You will have the opportunity to testify on behalf of your application at the Planning Commission meeting. The Planning Commission decision can be appealed to the City Council.

CIRCUMSTANCES FOR AUTHORIZING SIMILAR USES

The Planning Commission may impose limitations or conditions on the similar use. Any reduction or change of the requirements of the ordinance will be considered as varying the ordinance and must be requested and viewed as such. The Planning Commission shall impose conditions only after it has determined that such conditions are necessary for the public health, safety, and general welfare, or to protect persons or improvements in the area. The Planning Commission may prescribe such conditions it deems appropriate to fulfill the intent of the ordinance.

EFFECTIVE DATE OF APPROVAL

The similar use authorization shall be effective ten (10) days after the date of the notice of the decision.

ADDITIONAL INFORMATION

For additional information on similar uses, call Hubbard City Hall at (503) 981-9633.

LaRoque, Laura

From: mattkennedyhomes@gmail.com on behalf of Matt Kennedy <homes@mattkennedy.com>
Sent: Wednesday, September 28, 2016 10:01 AM
To: LaRoque, Laura
Subject: Re: Storage Containers
Attachments: 20-foot-ground-storage-and-shipping-container-20ft-one-trip-single-use-container.jpg; Railroad lot plat.pdf

Laura,

I'll try to cover what I can in a note here. First, I'm attaching a photo to clarify what these units are. They are ocean shipping containers that are used for overseas shipping of goods, primarily from China. They are often utilized for land based storage, and also converted to offices, homes, and other building uses, both portable and permanent. In this form, they are likely more equipment than a "structure". They are moved to and from the site by semi trucks with large tilt trailers, and moved around on site by crane. They are also often used as "Pod" units for on site storage at peoples homes. Some companies deliver these to homes and charge a monthly rent for them being there. I only plan to store these on my site and there will not be continual placement and removal from this site.

I have improved my current lot from E St to F St with a base and cover of compacted crushed concrete at a thickness of 12". I plan to place an aesthetic layer of rock over the top as well. There are two existing driveway accesses at both E St and F St locations. The E St access is the old abandoned E St railroad crossing, and there are two paved parking spaces there. I think that all access will only be to drive up to a unit and place or remove belongings. As such, I'm certain there will be many days with no traffic, and maybe a visit or two on others. The units will be nicely arranged near the rear of the lot, leaving an access area of over 20 ft on the frontage to come and go, and allow equipment to come in and move units when needed.

As mentioned prior and is the case to this day, this has been a public parking area for decades. I've allowed this over my 10 years or so as owner. The lot was partially graveled with many pot holes and puddles. It's now very clean and level. There are still approx 15 trips and parking per day by my count, and were at least double that prior to me giving notice to other businesses that general parking was no longer allowed there. I'm closing off all access this week. So this is now basically to be a storage area for these container units. I may plan to place structures or develop the property in the future, but that's a long time off at this point. Let me know if you have other questions.

Have a great day!

Matt Kennedy
Principal Broker
RE/MAX equity group
503.314.7086
homes@mattkennedy.com
www.mattkennedy.com



On Tue, Sep 27, 2016 at 5:58 PM, Matt Kennedy <mattkennedyhomes@gmail.com> wrote:
Got this after the other message. Will put something together soon.



Y0IU 100076 0

1927

MAX GROSS
TARE

NET
GROSS

GT

22G1 8T

Y0IU 100076 0

LaRoque, Laura

From: mattkennedyhomes@gmail.com on behalf of Matt Kennedy <homes@mattkennedy.com>
Sent: Wednesday, September 28, 2016 12:44 PM
To: LaRoque, Laura
Subject: Re: Storage Containers

Sorry, I'd meant to mention the number. I'm planning to place 12. And as they're self lock and self access, I guess they'd be accessible 24 hours. I may do something in the contracts to limit that though.

thx again

Matt Kennedy
Principal Broker
RE/MAX equity group
503.314.7086
homes@mattkennedy.com
www.mattkennedy.com



On Wed, Sep 28, 2016 at 12:39 PM, LaRoque, Laura <LLaRoque@mwvcog.org> wrote:

Matt,

Thank you so much for the information. I have just a few additional questions. How many storage structures will be placed on the property? Will they be accessible 24-hours a day?

Laura LaRoque

Associate Planner

Mid-Willamette Valley Council of Governments

100 High Street SE, Suite 200

Salem, OR 97301

(ph) [503-540-1617](tel:503-540-1617)

(fx) [503-588-6094](tel:503-588-6094)

LaRoque, Laura

From: mattkennedyhomes@gmail.com on behalf of Matt Kennedy <homes@mattkennedy.com>
Sent: Tuesday, October 18, 2016 4:02 PM
To: LaRoque, Laura
Subject: Re: SU 2016-01; DR 2016-06 - Application Not Complete

Laura,

The site plan is to scale and shows at least the E St access point. I'll revisit it for the other access. There are fence posts along the rear and south of the property, but no fencing is installed at this time. I did this primarily to delineate what is Union Pacific property and what is mine. I did speak of 12 containers and would likely want to have that amount. What my site plan shows is an area where the units would be placed, thus leaving the balance for ingress, egress, and internal movement. The only parking that would occur would be when a vehicle pulled up to access a unit at it's doors. And as these container are totally mobile and could be placed or moved around the site as needed, I showed essentially a container parking area, rather than location. I can show you proposed placement if that is useful. All placement is in the defined area and would not intrude into the open access area. The gravel lot has no landscaping or natural features, and none are proposed. The entire site is now approx 12" of compacted crushed concrete. I may top with 3/4" minus gravel for aesthetics, but this is built to a road base standard to accommodate both vehicle and heavy equipment without the large puddles and general bumpiness of the parking area prior.

Let me know what questions this answers, and what you need in addition.

Thx much!

Matt Kennedy
Principal Broker
RE/MAX equity group
503.314.7086
homes@mattkennedy.com
www.mattkennedy.com



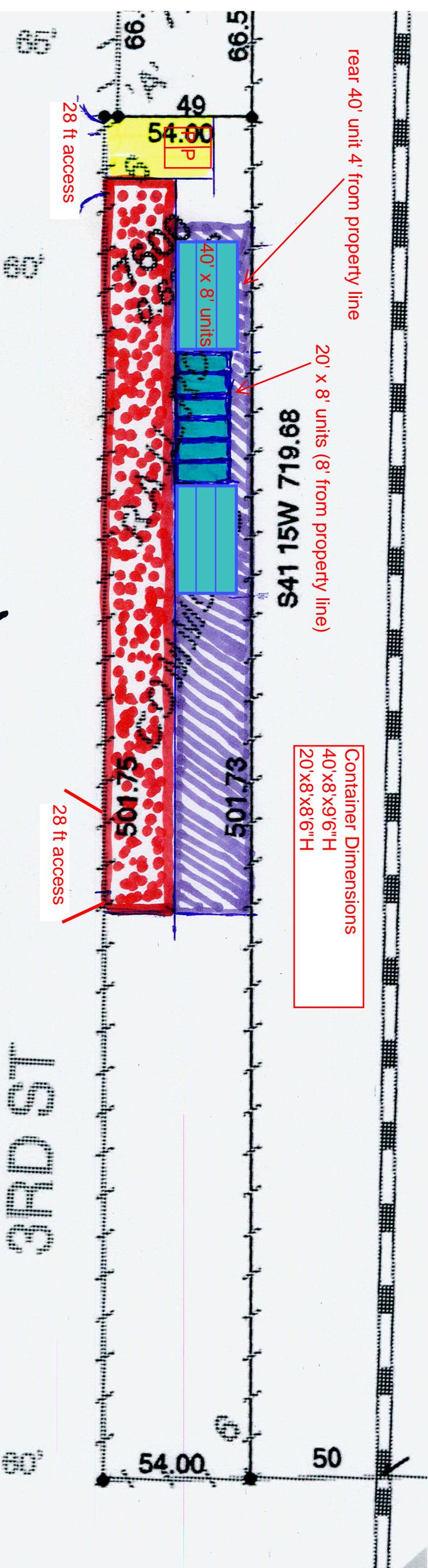
On Tue, Oct 18, 2016 at 2:11 PM, LaRoque, Laura <LLaRoque@mwvcog.org> wrote:

Hello Matt,

Thank you for submitting the Similar Use (SU 2016-01) and Site Developer Review (DR 2016-06) applications. There are just a few items that are needed in order to deem your application complete.

The missing or incomplete items are as follows;

1mm = 1.65ft



rear 40' unit 4' from property line

20' x 8' units (8' from property line)

S41 15W 719.68

Container Dimensions
40'x8'x9'6" H
20'x8'x8'6" H

 - Blacktop (former E St.)
2 parking spaces

+ 359.1 = width

 - Area for containers
approx. 28ft x 280ft +
 - Drive thru + Access area
approx 26ft x 280ft

15043

15046

SUBMITTED BY: Jaime Estrada
DATE: October 31, 2016
RE: 3500 3rd Street
SU #2016-01 & DR #2016-06

1. Landscape plan must be provided for review;
2. Surveying benchmarks must be used in the city of Hubbard;
3. Must contact Marion County for possible location of monuments;
4. Must obtain permits from Marion County;
5. The applicant shall be responsible for all costs associated with the improvements.
6. It is the responsibility of the applicant to obtain copies of and be familiar with all applicable codes and standards, including, but not limited to required bonds;
7. All utility work must be in accordance with Hubbard Public Works construction standards;
8. Reconstruct driveway approaches on 3rd Street south, close to "G" Street;
9. 3rd Street is classified as a minor arterial and should be reconstructed to meet the Transportation System Plan standards (May 2012);
10. Require the replacement of the catch basin at the N.E. corner of "E" Street; and
11. Shipping containers should meet setbacks.

pc: Bill Peterson, AKS Engineering & Forestry petersonb@aks-eng.com
John Kennedy, AKS Engineering & Forestry kennedyj@aks-eng.com
Vickie Nogle, City Recorder vnogle@cityofhubbard.org
Laura LaRoque, COG LLaRoque@mwvcog.org
Steve Brewer, Fire Chief sbrewman@gmail.com
Melinda Olinger, Public Works molinger@cityofhubbard.org
Jaime Estrada, Public Works jestrada@cityofhubbard.org

October 31, 2016

Vickie L. Nogle, Director of Administration/City Recorder
City of Hubbard
P.O. Box 380
Hubbard, Or 97032

**RE: DR #2016-06, SU #2016-01– Kennedy
3500 3rd St.**

Sent by Email Attachment

Dear Vickie:

We reviewed the details attached to the e-mail dated October 25, 2016 for DR #2016-06 and SU #2016-01, 3500 3rd St., Kennedy. Based on our review we have the following comments:

1. Applicant shall modify the site entrances at the intersections of 3rd & E St. and 3rd F St. with private driveways that comply with the City of Hubbard Design Standards for private driveways on arterial streets.
2. Applicant shall modify existing storm drain inlets at the above mentioned private driveways so they comply with the City of Hubbard Design Standards for storm drainage inlets and catch basins.
3. Applicant shall coordinate the relocation of power poles as needed to remove the physical obstruction caused by a guide wire currently located at the site entrance on F St.
4. If the applicant paves the site where storage containers are proposed to be staged, the storm drainage collection system must comply with the City of Hubbard design standards. The grading and pavement plan, including details of the storm drainage conveyance and detention system with calculations prepared and sealed by a Registered Engineer, shall be submitted to the City Engineer and Public Works Director for review and approval.
5. Provide documentation that the Hubbard Fire District is satisfied with the proposed improvements.

Please contact me if you have any question regarding this review.

Sincerely,

AKS ENGINEERING & FORESTRY, LLC



John Kennedy, PE

Cc: Jaime Estrada, Public Works Superintendent,
Laura LaRoque, MWVCOG
William I. Peterson, P.E., City Engineer

2.106 COMMERCIAL DISTRICT (C)

2.106.01 Purpose

The purpose of the Commercial District is to provide areas for the broad range of commercial operations and services required in the central business district and other areas to meet the economic needs of the City of Hubbard. The Commercial District is consistent with the Commercial Comprehensive Plan designation.

2.106.02 Permitted Uses

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the C District:

- A. Retail trade establishments engaged in selling goods or merchandise to the general public for personal or household consumption such as retail groceries, hardware stores, department stores, gas stations and sporting goods stores
- B. Retail service establishments offering services and entertainment to the general public for personal or household consumption such as eating and drinking establishments, motels, hotels, banks, real estate and financial services
- C. Business service establishments engaged in rendering services to other businesses on a fee or contract basis such as building maintenance, employment services and consulting services
- D. Offices and clinics such as doctor and dentist offices, veterinary clinics and law offices
- E. Dwelling units accessory to a permitted use or above a permitted use
- F. Group day care homes and centers
- G. Residential care home and residential care facility
- H. Amusement and recreational services
- I. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications antennas or towers
- J. Church
- K. Automobile sales, both new and used, recreational vehicles, recreational unit, and light trailer sales.

2.106.03 Conditional Uses

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

- A. Church
- B. Except as provided in Section 2.304, any commercial service or business activity otherwise permitted, involving the processing of materials which is essential to the permitted use and which processing of materials is conducted wholly within an enclosed building
- C. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications towers and/or antennas
- D. Automotive repair

2.106.04 Dimensional Standards

The following minimum dimensional standards, with the exception of modifications permitted under Section 2.402, shall be required for all development in the Commercial District.

- A. Minimum lot area: No limitation
- B. Minimum yard setbacks:
 - 1. Front Yard None*
* - Abutting Highway 99E 20 feet
 - 2. Rear Yard
-Abutting a non-residential district None
-Abutting a residential district 15 feet
 - 3. Side Yard
-Abutting a non-residential district None
-Abutting a residential district 15 feet
- C. Maximum structure height: 45 feet

2.106.05 Development Standards

All developments in the Commercial District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-Street Parking. Off-street parking shall be as specified in Section 2.203.
- B. Signs. Signs in the Commercial District shall be subject to the provisions of Section 2.206.
- C. Landscaping. All development is subject to the landscaping provisions in Section 2.207.
- D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Section 2.208.
- E. Design Review. All new development and expansion of an existing structure or use in the Commercial District shall be subject to the Site Development Review procedures of Section 3.105.
- F. Outdoor Display. There shall be no outdoor display or storage of materials or merchandise within a designated alleyway, roadway or sidewalk that would impede pedestrian or vehicular traffic except during community retail sales events. Safety precautions shall be observed at all times. Outdoor display shall only be permitted between the hours of 7am and 10pm unless the display items are screened pursuant to Section 2.207.
- G. Access. Approaches and driveways shall be subject to provisions of Section 2.202.

Exhibit D

CITY OF HUBBARD PLANNING COMMISSION MINUTES NOVEMBER 15, 2016

CALL TO ORDER. The Hubbard Planning Commission meeting was called to order at 6:31 p.m. by the Planning Commission Chairman Dan Estes at the City Hall, 3720 2nd Street, Hubbard.

Planning Commission Present: Dan Estes, Glenn Holum, Kevin Nelson, Byron Nichols.

Staff Present: Director of Administration/City Recorder Vickie Nogle; Administrative Assistant Lucy Astorga; City Planner Laura LaRoque, MWVCOG.

FLAG SALUTE. Planning Commission Chairman Dan Estes led the group in reciting the Pledge of Allegiance.

APPROVAL OF THE OCTOBER 18, 2016, PLANNING COMMISSION MEETING MINUTES. MSA/Planning Commissioner Kevin Nelson/Planning Commissioner Glenn Holum moved to approve the minutes. Planning Commissioners Dan Estes, Kevin Nelson, Glenn Holum, and Byron Nichols were in favor. Motion passed.

PUBLIC HEARING.

SU #2016-01 – MATT KENNEDY – [3500 3RD STREET (041W33AD07600)] – SIMILAR USE DETERMINATION THAT A PROPOSED SELF-SERVICE STORAGE USE IS PERMITTED IN THE COMMERCIAL (C) DISTRICT. Planning Commission Chairman Dan Estes opened the public hearing. D. Estes asked if any of the Planning Commissioners had declarations of bias, conflict, or ex parte contact in regard to this application.

Planning Commissioner Byron Nichols said he is the owner of an adjacent property, which is located across the street from the applicant's property. He said he is unbiased on the application. He left it up to the applicant and audience to determine if he should make decisions on the application. There were no objections.

D. Estes declared ex parte contact. He said he has known the applicant for years and he spoke with surrounding property owners regarding the project as well as researched uses.

D. Estes asked if anyone had objections to the notice that was sent out or the Planning Commission overseeing the proceedings. There were none.

City Planner Laura LaRoque read the legislative hearing statement.

L. LaRoque noted the late correspondence submission from Union Pacific Railroad regarding the application. She summarized the staff report pages 1 through 6, saying the Planning Commission needs to determine if the proposed use in the application is consistent with the underlying zone, and if the proposed use is similar to uses specified and permitted. L. LaRoque reported staff did not find the proposed use is consistent with the zone. She stated the proposed use is similar to a warehouse, which is allowed in an Industrial zone, not Commercial zone. She added the applicant can do a zone change. L. LaRoque stated accessory structures are only allowed if the primary

structure is in place, which it is not in this case. She said if the application for Similar Use is approved, the Planning Commission will proceed with the Site Development Review application, but will not if the application for Similar Use is denied. She reported staff recommends denial of the application for Similar Use #2016-01 based on Criteria A not being met.

D. Estes opened the meeting to the applicant.

Matt Kennedy, 3635 5th Street, Hubbard, applicant, commented he has one month left on the City Council. He said he has owned the site for about ten years and for many years, it has been used as public parking. M. Kennedy said there has been public access to the property. He added he has cleaned up a junk yard in Hubbard, as well as helped with other public improvements and right of ways. M. Kennedy reported his plan was to clean up the site and was going to work with three businesses on 3rd Street to improve the parking for a modest fee for them to park on his property. He said all three of the businesses said no to pay for parking on the site. M. Kennedy stated in order to off-set the cost and taxes, he thought of ways to better use the property. He said he looked into storage containers for personal use, and potentially for others to rent. M. Kennedy commented the staff's proposal is over-reaching and offensive as he is being asked to widen 3rd Street. He said he isn't developing or building on the property, but the proposal is to put 12 units on the site, which will decrease the use of the property. M. Kennedy said he changed the zone from Industrial to Commercial and changing it again for temporary use is ridiculous. M. Kennedy stated in public forums, the idea of food carts and portable uses were suggested. He said he doesn't understand the requirement for a building permit for a temporary structure. M. Kennedy said the containers in place are brand new and he is not trying to avoid requirements, but he has a different definition of development and temporary structures than staff does. M. Kennedy stated he is looking to rent out structures to re-coup some of the cost for the improvements.

D. Estes asked if there were any proponents or opponents. There were none.

Brad Williams, 3780 2nd Street, Hubbard, said he is glad M. Kennedy explained his side of things and he can understand his frustration. He said the Planning Commission could be strict on the rules, or rely on M. Kennedy's word the structures are temporary.

M. Kennedy said his site will not benefit from the widening improvements on 3rd Street because his proposed use does not create such an impact to necessitate the improvements. He said he will not benefit from it, but the other businesses on 3rd Street will.

D. Estes closed the public comment portion of the meeting.

Planning Commissioner Glenn Holum said he has reservations with approving the application. He noted that "temporary" in Hubbard can be a long time, and added it doesn't fit in that spot.

B. Nichols said M. Kennedy had some very good points and believes he has the best interest at heart. He said anything on that site will have safety issues with the railroad, no matter what it is. B. Nichols added the applicant does have an appeal process.

Planning Commissioner Kevin Nelson said he agrees with B. Nichols and doesn't believe changing the zoning is in the best interest of the City.

D. Estes commented the applicant is right when he suggested looking at the City's Development Code and putting in language about newer and trending structures. He said he believes M. Kennedy is trying to better downtown Hubbard, but temporary can last a long time. D. Estes said he doesn't want people to be asking five years down the road why the shipping containers are still there.

L. LaRoque reported that accessory structures are permitted and they are not limited in number, but the self-storage use is not allowed in that zone.

MSA/Planning Commissioner Glenn Holum/Planning Commissioner Byron Nichols moved to deny SU 2016-01 based on the findings contained in the staff report. Planning Commissioners Dan Estes, Kevin Nelson, Byron Nichols, and Glenn Holum were in favor. Motion passed.

DR #2016-06 – MATT KENNEDY – [3500 3RD STREET (041W33AD07600)] – DEVELOPMENT REVIEW FOR THE PLACEMENT OF TWELVE (12) PORTABLE SHIPPING CONTAINERS TO BE USED AS SELF-SERVICE STORAGE UNITS. City Planner Laura LaRoque stated the application for Development Review only needed to be heard if the application for Similar Use was approved, which it was not.

ADJOURNMENT. (The next scheduled Planning Commission Meeting will be January 17, 2017, at 6:30 p.m.) MSA/Planning Commissioner Kevin Nelson/Planning Commissioner Glenn Holum moved to adjourn the meeting. Planning Commissioners Dan Estes, Kevin Nelson, Byron Nichols, and Glenn Holum were in favor. Motion passed. Meeting was adjourned at 7:08 p.m.

Dan Estes, Planning Commission Chairman

ATTEST:

Vickie L. Nogle, MMC
Director of Administration/City Recorder
Recording

Lucy T. Astorga, Admin Asst.
Transcribing



Exhibit E

Hubbard City Hall
3720 Second Street
P.O. Box 380
Hubbard, Oregon 97032
(503) 981-9633

CITY OF HUBBARD PLANNING COMMISSION NOTICE OF DECISION

NOTICE DATE: November 18, 2016
FILE NUMBER(S): SU 2016-01
HEARING DATE: November 15, 2016
APPLICANT: Matt Kennedy 3635 5th Street, Hubbard, OR 97032
OWNER: Matt Kennedy 3635 5th Street, Hubbard, OR 97032
PROPERTY: The subject property is a single tax lot located on 3rd Street at the intersections of 'F' Street and 'E' Street, north of the railroad tracks. More specifically described as:

<u>Taxlot</u>	<u>Acct</u>	<u>Acres</u>	<u>Zoning</u>
041W33AD07600	R344431	0.62	Commercial (C)

3500 3rd Street, Hubbard, OR 97032

REQUEST: Approval of a Similar Use (SU) determination that a proposed self-service storage use is permitted in the Commercial (C) District.

CRITERIA: **Hubbard Development Code (HDC)**
Section 2.106 Commercial District (C)
Section 2.200 General Development Standards
Section 3.109 Similar Uses

I. DECISION

After a duly noticed public hearing on November 15, 2016, the Hubbard Planning Commission denied the request and adopted the findings in the November 4, 2016 Staff Report.

The decision may be appealed to the City of Hubbard City Council as provided in HDC Section 3.205. A written notice of intent to appeal must be filed with the City within twelve (12) days from the date of this Notice of Decision. If no appeal is filed, this decision shall become final at 5:00PM on November 30, 2016. If you have questions or comments regarding this project, please contact City Hall at (503) 981-9633 for information on how to proceed.

Affirmed,



Laura LaRoque, City Planner

11/18/2016

Date

**CITY OF HUBBARD CITY COUNCIL
STAFF REPORT**

REPORT DATE: December 13, 2016

FILE NUMBER(S): APPEAL 2016-02 (APP 2016-02)

HEARING DATE: December 27, 2016

APPELLANT: Matt Kennedy 3635 5th Street, Hubbard, OR 97032

OWNER: Matt Kennedy 3635 5th Street, Hubbard, OR 97032

REQUEST: An appeal of the Planning Commission’s decision on application for Site Development Review (file number DR 2016-06), approval of a Site Development Review for the placement of twelve (12) portable shipping containers to be used as self-service storage units upon an approval of a Similar Use (SU) determination that a proposed self-service storage use is permitted in the Commercial (C) District.

PROPERTY: The subject property is a single tax lot located on 3rd Street at the intersections of ‘F’ Street and ‘E’ Street, north of the railroad tracks. More specifically described as:

<u>Taxlot</u>	<u>Acct</u>	<u>Acres</u>	<u>Zoning</u>
041W33AD07600	R344431	0.62	Commercial (C)

3500 3rd Street, Hubbard, OR 97032



(Taxlot lines are off-set against aerial imagery and are not precise)

CRITERIA: **Hubbard Development Code (HDC)**
Section 2.106 Commercial District (C)
Section 2.200 General Development Standards
Section 3.105 Site Development Review
Section 3.205 Appeal Provisions

ATTACHMENTS: Exhibit A: Application, file no. APP 2016-02, dated 11/30/2016
Exhibit B: Application, file no. DR 2016-06, dated 10/13/2016
Exhibit C: Staff Report, file no. DR 2016-06, dated 11/4/2016
Exhibit D: Draft Planning Commission Meeting (11/15/16) Minutes
Exhibit E: Notice of Decision, file no. DR 2016-06, dated 11/18/2016

I. SUMMARY OF PROPOSAL

The request is to appeal the decision made by the Planning Commission following a public hearing on November 15, 2016. The Commission did not consider Site Development Review application DR 2016-06, an approval of a Site Development Review (DR) for the placement of twelve (12) portable shipping containers to be used as self-service storage units, as the Similar Use (SU) determination (SU 2016-01) that a self-service storage use is permitted in the Commercial (C) District was denied.

The appellant has submitted a concurrent appeal requests that the Council reverse the decision of the Planning Commission and, therefore, finds that a self-storage use is authorized in the Commercial (C) District.

II. PROCEDURE

A Site Development Review, pursuant to HDC Section 3.105, is required prior to the issuance of a Building Permit for any approved similar use in any zone. HDC Section 3.105 outlines the review procedures and criteria for review of Site Development Review. Review of Site Development Review is a Type II Action requiring a public hearing before the Hubbard Planning Commission as stated in HDC Section 3.201.02. As such, written notice of the initial public hearing was mailed on October 25, 2016 (at least 20 days prior to the hearing) to the applicant and owners of property within 100 feet of the subject property, in compliance with HDC Section 3.202.02.

In accordance with HDC Section 3.205, an appellant may file an appeal of the Commission's decision in writing within twelve (12) days of the Commission's final written notice. The appellant submitted an appeal application on November 30, 2016.

III. APPEAL

The City Council's decision may be appealed to the State Land Use Board of Appeals (LUBA) as provided in the State statutes. A written notice of intent to appeal must be filed with LUBA within twenty-one (21) days of the Council's written decision.

IV. BACKGROUND

The applicant proposes establishment of a self-service storage use/facility on the subject property, which is zoned Commercial (C) District. The subject property is relatively flat and narrow (54 feet wide) with no vegetation. The property is currently unimproved and being used as a private parking lot.

The applicant proposes the placement of up to twelve (12) conex shipping containers on the property to be used as individual self-service storage units that can be rented out to the general public for the storage of personal property (see Exhibit B). The conex shipping containers are proposed to be portable in nature (not affixed to a foundation).

Conex shipping containers are described as prefabricated metal structures designed to contain or carry freight. The applicant proposes to use two different sized containers; six (6) containers that are 40 feet in length, eight (8) feet in width, and nine (9) foot six (6) inches in height; and six (6) containers that are 20 feet in length, eight (8) feet in width, and eight (8) foot six (6) inches in height. The exterior color of the conex shipping containers is not listed in the application. The color of these containers can vary.

Applicant states that the conex shipping containers are self-locking and can be accessed 24-hour a day.

Self-storage use, defined as “warehouse” in the HDC Section 1.200, is not listed as a permitted or conditional use in the C District. The applicant applied for a Similar Use determination that the proposed self-storage use is authorized in the C District. The Commission conducted a public hearing on November 18, 2016, and denied the Similar Use application.

V. REVIEW CRITERIA AND FINDING OF FACT

HDC Section 3.109.06, states that prior to the issuance of a Building Permit for any approved similar use in any zone, the applicant shall be subject to Site Development Review procedures of Section 3.105. HDC Section 3.105.04 states that Side Development Review applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.02.

The Commission did not consider Site Development Review application file number DR 2016-06, an approval of a Site Development Review (DR) for the placement of twelve (12) portable shipping containers to be used as self-service storage units as the Similar Use (SU) determination (SU 2016-01) that a self-service storage use is permitted in the Commercial (C) District was denied. (The minutes of the Commission meeting November 15, 2016, are attached as Exhibit D)

The appellant’s basis for an appeal is presented in Exhibit A.

The City Council reviews the decision using the required criteria listed as follows:

Criterion A: characteristic of adjoining and surrounding uses;

Criterion B: drainage and erosion control needs;

Criterion C: public health factors;

Criterion D: traffic safety, internal circulation and parking;

Criterion E: provision for adequate noise and/or visual buffering from non-compatible uses;

Criterion F: retention of exiting natural features on site;

Criterion G: connectivity of internal circulation to existing and proposed streets, bikeways, and pedestrian facilities; and

Criterion H: problems that may arise due to development within potential hazard areas.

VI. CONCLUSION AND RECOMMENDATION

It was the Commission's decision that application DR 2016-06 was not ripe. A determination that a proposed self-storage use is permitted in the Commercial (C) District must be made prior to the consideration of a Site Development Review.

Staff recommends that the City Council uphold the decision of the Planning Commission to not consider Site Development Review application file number DR 2016-06 until an approval of a Similar Use (SU) determination that a self-service storage use is permitted in the Commercial (C) District.

VII. CITY COUNCIL ACTION

The decision on the appeal request requires a motion and vote by the City Council. Council choices of action on the appeal request are as follows:

- A. Affirm the decision of the Planning Commission to deny SU 16-01 based upon the Findings of Fact as stated in the staff report, presented as Exhibit C.

If the Council wishes to make any changes to the Findings of Fact or state their basis for denying the similar use, the revisions or additions need to be stated in the motion.

- B. Amend Reverse the decision of the Planning Commission and grant the similar use as requested by the appellant, and, therefore, determine that a self-service storage use is authorized in the Commercial (C) District.

If the Council wishes to make any changes to the Findings of Fact or state their basis for amending or reversing the similar use, the revisions or additions need to be stated in the motion.

- C. Remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day period specified in HDC Section 3.201.02(G)

Exhibit A

APPEAL APPLICATION

CITY OF HUBBARD

FILE: App 2016-01 / App 2016-02
DATE: 11/30/2016
FEE: \$750.00
RECEIPT NO: 1003966

APPLICANT: Matt Kennedy PHONE: 503-314-7086

ADDRESS: 3635 5th St, Hubbard OR 97032

OWNER(S): same PHONE: _____
(If different from above)

ADDRESS: _____

REQUEST: To appeal decision on SU 2016-01 and DR 2016-06.

PROPERTY DESCRIPTION:

ADDRESS: 3500 3rd St

MAP PAGE AND TAX LOT NO: 041W33AD07600 ZONE: COM

CURRENT USE/STRUCTURES: none SQUARE FOOTAGE OF SITE: 27,094

IS THE SITE OF HISTORIC SIGNIFICANCE? No

LAND USE FILE INFORMATION:

LAND USE FILE NUMBER(S): SU 2016-01 and DR 2016-06

DATE OF PLANNING COMMISSION HEARING: November 15th, 2016

DATE OF NOTICE OF DECISION: November 18th, 2016

APPEAL PERIOD: 12 days

SUBMITTAL REQUIREMENTS:

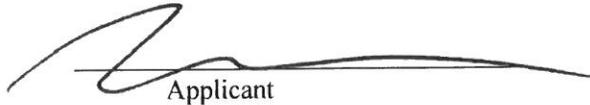
1. State the alleged errors of the City staff decision or in the Planning Commission action based upon the approval criteria or any other local, state, or federal regulations that applied to the application.

See attached Exhibit "A"

NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.

12/01/2016

Date



Applicant

Date

Owner(s)

Date

Owner(s)

Appeal Application
Exhibit "A"

Staff finding in SU 2016-01 interprets that this use does not fit in "commercial operations and services". Applicant finds that it does, and that while these portable units are not specifically addressed in the development code, that it does meet the intent of the district which is "to provide areas for the broad range of commercial operations and services required in the central business district and other areas to meet the economic needs of the city of Hubbard." Applicant finds this use consistent with the intent of the zone and that staff has misinterpreted the intent of the zone.

Further, staff findings identify this temporary and portable container placement as the establishment of a warehouse facility. Staff has a consistent premise throughout these applications and reports that equates this use to permanent development far beyond the scale of this proposal.

DR 2016-06 Staff has again applied an unreasonable and onerous criteria to a small temporary use at the site. The second part of the finding in Supreme Court decision in Dolan vs City of Tigard rules that a test of "whether or not the degree of the exactions required by the permit condition bears the required relationship to the projected impact of the proposed development." The staff report grossly overreaches in any reasonable test of such. The proposed use of this site greatly reduces the prior use as a public parking area. Design review was triggered by the similar use application, however when reducing impact on a site the opposite is applied per the development code. Increases in traffic and use trigger site development, showing the code intent is to review higher impact uses to see if a site's current standards support that higher use.

Exhibit B

SITE DEVELOPMENT REVIEW APPLICATION

CITY OF HUBBARD

3720 2nd Street (P.O. Box 380)

Hubbard, OR 97032

Phone: (503) 981-9633; Fax: (503) 981-8743

<http://www.cityofhubbard.org>

To Be Filled Out by Staff:

FILE: DR#2016-06

DATE: 10/13/16

FEE: \$1250

RECEIPT NO: 1003552

APPLICANT: Matt Kennedy

MAILING ADDRESS: 3635 5th St Hubbard

PHONE: 503-3414-7086 EMAIL ADDRESS: homes@mattkennedy.com

OWNER(S) (If different from above): _____

PHONE: _____ EMAIL ADDRESS: _____

ADDRESS: _____

PROPOSED STRUCTURE/IMPROVEMENT: Continued use a parking lot, placement of shipping containers on site

SQUARE FOOTAGE: No structure proposed

ESTIMATED VALUE OF STRUCTURE/IMPROVEMENT: \$20,000

PROPERTY DESCRIPTION: ~~3500 E STREET~~ 3500 3rd street

ADDRESS: 3rd St. Lot between 3rd St and UP railroad, from G St to E St RAILWAY COMMONS, LOT 6, ACRES 0.62

MAP PAGE AND TAX LOT NO: 041W33AD07600R344431 ZONE: COM

CURRENT USE/STRUCTURES: parking SQUARE FOOTAGE OF SITE: 27,094 sf

ZONE: _____

SUBMITTAL REQUIREMENTS:

Please submit one (1) legible copy, drawn to scale on 8 1/2 x 11 or 11 x 17 inch paper and one (1) electronic copy (PDF format preferred); OR eight (8) full-size copies (typically 18 x 24-inch or larger paper), one (1) reduced-size copy (8 1/2 x 11 or 11 x 17-inch), and one (1) electronic copy (PDF format preferred) of the following application materials:

- 1. Site Analysis
 - Existing site topography;

- Identification of areas exceeding 10% slopes;
- Site drainage, areas of potential flooding;
- Areas with significant natural vegetation;
- Classification of soil types;
- Existing structures, roadway access and utilities; and
- Existing and proposed streets, bikeways, and pedestrian facilities within 200 feet.

2. Site Plan

- Proposed grading and topographical changes;
- All proposed structures including finished floor elevations and setbacks;
- Vehicular and pedestrian circulation patterns, parking, loading and service areas;
- Proposed access to public roads and highways, railroads or other commercial or industrial transportation systems;
- Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
- Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks; and
- A schedule of expected development.

EVALUATION CRITERIA

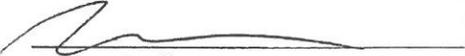
In addition to compliance with the standards of the Development Code, the review of a Site Development Plan shall be based upon consideration of the following:

1. Characteristics of adjoining and surrounding uses;
2. Drainage and erosion control needs;
3. Public health factors;
4. Traffic safety, internal circulation and parking;
5. Provision for adequate noise and/or visual buffering from non-compatible uses;
6. Retention of existing natural features on site; and
7. Problems that may arise due to development within potential hazard areas.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT; AND THAT THE REQUEST DOES NOT VIOLATE ANY DEED RESTRICTIONS THAT MAY BE ATTACHED OR IMPOSED UPON THE SUBJECT PROPERTY. (NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.)

10/13/2016

Date



Applicant

Date

Owner(s)

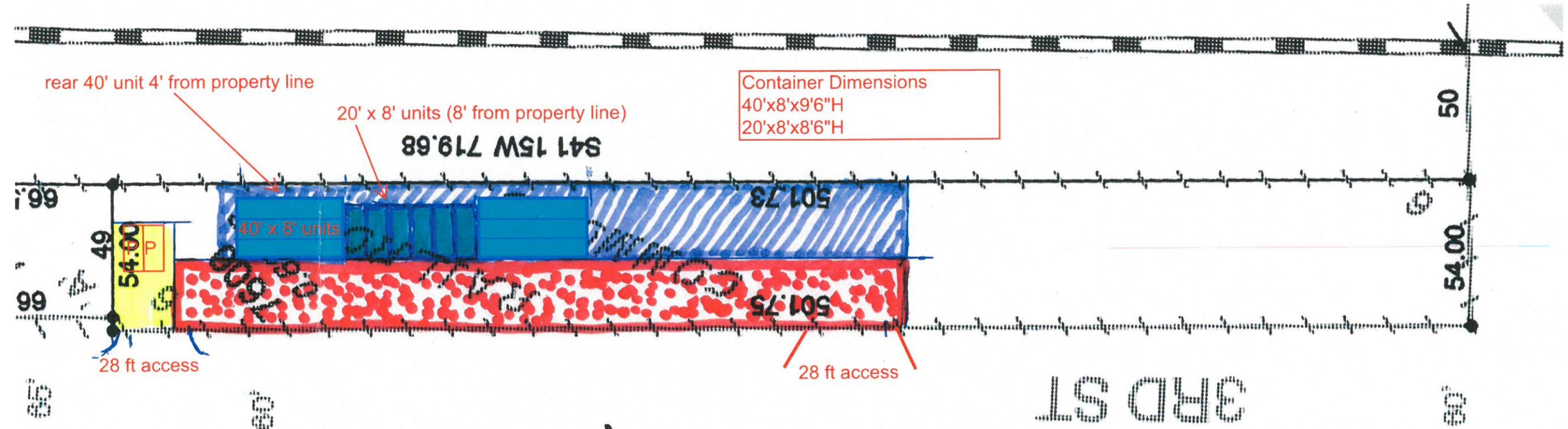
Date

Owner(s)

Date

Owner(s)

1mm = 1.65ft



□ - Blacktop (former E St.)
2 parking spaces

▨ - Area for containers
approx. 28ft x 280ft

▩ - Drive thru + Access area
approx 26ft x 280ft

+ 59.1 = width

CITY OF HUBBARD PLANNING COMMISSION
STAFF REPORT

REPORT DATE: November 4, 2016
FILE NUMBER(S): DR 2016-06
HEARING DATE: November 15, 2016
APPLICANT: Matt Kennedy 3635 5th Street, Hubbard, OR 97032
OWNER: Matt Kennedy 3635 5th Street, Hubbard, OR 97032
REQUEST: Approval of a Site Development Review (DR) for the placement of twelve (12) portable shipping containers to be used as self-service storage units.
PROPERTY: The subject property is a single tax lot located on 3rd Street at the intersections of 'F' Street and 'E' Street, north of the railroad tracks. More specifically described as:

<u>Taxlot</u>	<u>Acct</u>	<u>Acres</u>	<u>Zoning</u>
041W33AD07600	R344431	0.62	Commercial (C)

3500 3rd Street, Hubbard, OR 97032

CRITERIA: **Hubbard Development Code (HDC)**
Section 2.106 Commercial District (C)
Section 2.200 General Development Standards
Section 3.105 Site Development Review

ATTACHMENTS: Exhibit A: Site Development Review Application & Supplemental Narrative
Exhibit B: Public Works Superintendent Comments (October 31, 2016)
Exhibit C: AKS Engineering Comments (October 31, 2016)

I. PROCEDURE

A Site Development Review, pursuant to HDC Section 3.105, is required prior to the issuance of a Building Permit for any approved similar use in any zone. The applicant has requested that the Similar Use application (File #SU 2016-01) and Site Development Review application (File #DR 2016-06) be processed concurrently. Site Development Review application (File #DR 2016-06) will only be considered upon approval of Similar Use application (File #SU 2016-01).

HDC Section 3.105 outlines the review procedures and criteria for review of Site Development Review. Review of Site Development Review is a Type II Action requiring a public hearing before the Hubbard Planning Commission as stated in HDC Section 3.201.02. As such, written notice of the initial public hearing was mailed on October 25, 2016 (at least 20 days prior to the hearing) to the applicant and owners of property within 100 feet of the subject property, in compliance with HDC Section 3.202.02.

II. APPEAL

In accordance with HDC Section 3.205, an appeal of the Commission’s decision shall be made in writing, to the City Council within twelve (12) days of the Commission’s final written decision.

III. BACKGROUND

The applicant proposes establishment of a self-service storage use/facility on the subject property, which is zoned C District. The subject property is relatively flat and narrow (54 feet wide) with no vegetation. The property is currently unimproved and being used as a private parking lot.

The applicant proposes the placement of up to twelve (12) conex shipping containers on the property to be used as individual self-service storage units that can be rented out to the general public for the storage of personal property. The conex shipping containers are proposed to be portable in nature (not affixed to a foundation) so that they can be moved either on and off the property or around the property.

Conex shipping containers are described as prefabricated metal structures designed to contain or carry freight. The applicant proposes to use two different sized containers; six (6) containers that are 40 feet in length, eight (8) feet in width, and nine (9) foot six (6) inches in height; and six (6) containers that are 20 feet in length, eight (8) feet in width, and eight (8) foot six (6) inches in height. The exterior color of the conex shipping containers is not listed in the application. The color of these containers can vary.

Applicant states that the conex shipping containers are self-locking and can be accessed 24-hour a day.



(Taxlot lines are off-set against aerial imagery and are not precise)

To minimize confusion regarding directions, “plan north” (for purposes of this review) is considered to be parallel with 3rd Street. The zoning and current uses surrounding the subject property are as follows:

- NORTH: Undeveloped property zoned Commercial
- SOUTH: Undeveloped property zoned Residential Commercial
- EAST: Union Pacific Railroad, and developed property zoned Commercial
- WEST: Developed property zoned Commercial and Residential Commercial

IV. REVIEW STANDARDS/CRITERIA

SECTION 3.105.06 EVALUATION OF SITE DEVELOPMENT PLAN

A. *Characteristics of adjoining and surrounding uses.*

Finding: The property is located in an area characterized by residential and commercial uses. Property to the north consists of undeveloped property that is zone Commercial. To the west, across 3rd Street, there is a mix of commercial and residential uses. To the east, is the Union Pacific Railroad, and developed commercial property.

Twelve (12) proposed conex shipping containers are proposed to be rented as self-service storage containers. The applicant proposes to use two different sized containers; six (6) containers that are 40 feet in length, eight (8) feet in width, and nine (9) foot six (6) inches in height; and six (6) containers that are 20 feet in length, eight (8) feet in width, and eight (8) foot six (6) inches in height. The total combined square footage of the twelve (12) conex shipping containers is 2,880 square feet.

There is no existing vegetation on the property and no landscaping is shown on the site plan. Landscaping requirements are outlined in HDC Section 2.207. For commercial development, at least ten (10) percent of the gross land area shall be devoted to landscaping. Based on the approximately 0.62-acre (27,007 square feet) site, at least 2,701 square feet must be landscaped.

HDC Section 2.207.05(A) requires that screening shall be used for services areas, outdoor storage and outdoor display areas, parking for thirty (30) or more vehicles for commercial or industrial uses, and at and above-grade electrical and mechanical equipment. Service areas and facilities, including garbage and waste disposal containers, recycling bins and loading areas are not shown on the preliminary site plans. The two proposed vehicle parking spaces will not exceed thirty (30), thus no screening of parking areas is necessary. At and above-grade electrical and mechanical equipment is also not shown on the preliminary site plan. A revised site plan is needed to evaluate these elements.

HDC Section 2.207.05(C) states that buffering shall be used to mitigate adverse visual impacts and to provide for compatibility between dissimilar adjoining uses. The applicant is proposing the placement of prefabricated metal conex shipping containers of unknown color. To the west, across 3rd Street, structures are constructed with neutral siding materials that include wood, hardie plank, vinyl, and stucco. To the east, across the railroad tracks, structures are constructed of neutral siding material of metal and wood. Staff recommends a **condition of approval** for buffering pursuant to HDC Section 2.207.05(C) along the front and side yards to mitigate adverse visual impacts.

HDC Section 2.207.07 states that street trees shall be planted for all developments that are subject to Site Development Review, unless otherwise waived by the Public Works Superintendent for utility purposes. Staff recommends a **condition of approval** requiring the planting of street trees pursuant to HDC Section 2.207.07 along 3rd Street and G Street.

Staff recommends a **condition of approval** that the applicant submits a final landscape plan, prepared by a licensed landscape architect, which complies with HDC Section 2.207 and shows the total area landscaped, the location and type of proposed planting, and the location and water source of automated irrigation systems for

landscaped areas larger than 400 SF. If the public water source is used for irrigation, then a backflow prevention device shall be required. In lieu of irrigation, Xeriscaping may be used. The applicant shall provide the City a written guarantee for all landscape materials extending one (1) year from the date of installation. The size of any new plant materials installed shall comply with the minimum standards of HDC Section 2.207.06.

Property or building signs impact the visual appearance of the property. The applicant has not provided information on proposed signage for the business as part of the Site Development Review application. The applicant must obtain a sign permit from the City prior to installation of any sign. All signs must comply with Development Code Section 2.206.

Based on the proposed development and the existing uses in the area, and upon submittal of a landscape plan that meets City standards and compliance with the City's signage requirements, staff concludes that the proposed use is compatible with other uses in the vicinity.

B. Drainage and erosion control needs.

Finding: HDC Section 2.203.07 states that all parking and loading areas in commercial areas shall have either three (3) inches of asphalt over a six (6) inch aggregate base or five (5) inches of Portland cement concrete. The applicant has proposed gravel for both driveways, parking, maneuvering, and loading areas. Due to the portable nature of the structures it may not be necessary to require a durable, hard surfacing parking and loading areas. Staff recommends a **condition of approval** to waive the parking and loading area development requirements of HDC Section 2.203.07(A). If hard surfacing is required, then a **condition of approval** should include the submittal of a drainage and detention plan prepared by a licensed engineer for Public Works and City Engineer approval. The drainage plan shall show erosion and sediment control, full storm drainage calculations, and detention facilities.

Public Works Supervisor comments, dated October 31, 2016, are attached as Exhibit B. City Engineer comments, dated October 31, 2016, are attached as Exhibit C.

C. Public health factors.

Finding: The applicant has not proposed any connections to water and sewer mains. However, irrigation for landscaping may necessitate a connect to water mains. Connections to water mains for the subject property must be installed according to City standards. Based on the City's Public Works Superintendent and City Engineer comments, a **condition of approval** requires submittal of detailed information regarding proposed utilities and an estimate of water usage be provided. Additional details are provided in Exhibits B, Public Works Department comments, and C, City Engineer comments.

The applicant shall provide specific information, including but not limited to, the location and size of the existing and proposed utilities, size of the water meter, the location and size of all water lines, Uniform Plumbing Code calculations, and the extent of landscape irrigation. The details will be used to assess Systems Development Charges (SDCs).

HDC Section 2.401.14, requires a minimum six-inch high reflective address numbers at the front of a main building and near the main entrance. A **condition of approval** requires such address numbers to be placed at the front of a main building and near the main entrance, prior to the issuance of an occupancy permit.

It is advisable that perimeter lighting be installed on the property to aid nighttime police patrols. A **condition of approval** requires a lighting plan for the property be submitted for Public Works and City Engineer approval.

No comments were provided by the Hubbard Fire District Chief. A **condition of approval** requires the applicant to meet with Hubbard Fire District personnel and contact the State Fire Marshall prior to initiating development to discuss and identify the applicable requirements from the Oregon Fire Code and other applicable fire codes. A **condition of approval** requires the applicant to provide documentation from the Hubbard Fire District regarding the adequacy of existing hydrant coverage prior to issuance of a building permit. A **condition of approval** requires the applicant to install one or more fire hydrants in a location(s) if required by the Fire Marshal and that such installation shall conform to City standards. For any hydrant location on private property a **condition of approval** requires a fire line public easement be recorded prior to the issuance of a building permit.

A **condition of approval** requires conformance to City of Hubbard Design and Construction standards. Applicant/owner/developer shall be responsible for the cost of public or private infrastructure improvements associated with the development. Compliance with Conditions of Approval shall be the sole responsibility of the Applicant.

Based upon compliance with the conditions of approval, Criterion C is met.

D. Traffic safety, internal circulation and parking.

Finding: The applicant's site plan shows that the property is accessed at the intersections of 3rd and E Street and 3rd and F Street. These accesses do not meet current development standards. Staff recommends a **condition of approval** requiring private driveways at the intersections of 3rd and E Street and 3rd and F Street to comply with the City of Hubbard Design Standards for private driveways on arterial streets.

For *warehousing uses permitted in the I and IC zone*, HDC Section 2.203.05 requires a minimum of one (1) off-street parking space per 2,000 square feet of gross floor area for warehouse uses. Per this requirement, a minimum of one (1) off-street parking spaces is required for the proposed use (2,880 sq. ft. container space). The applicant's site plan proposes two (2) off-street parking spaces for customers near the access near the intersection of 3rd Street and E Street. Any modifications to the parking area shall conform with the parking requirements found in HDC Section 2.203. Staff recommends a **condition of approval** for a minimum of one (1) parking space pursuant to HDC Section 2.203.07.

HDC Section 2.203.09 requires, a minimum of two (2) bicycle parking spaces for warehouse uses. It is unlikely that the proposed use would be accessed by bicycle. The Planning Commission could consider waiving the recommended **condition of approval**, for the applicant to provide a minimum of two (2) bicycle parking space to be constructed pursuant to HDC Section 2.203.09.

E. Provision for adequate noise and/or visual buffering from non-compatible uses.

Finding: HDC Section 2.207.05(C) states that buffering shall be used to mitigate adverse visual impacts and to provide for compatibility between dissimilar adjoining uses. The applicant is proposing the placement of twelve (12) prefabricated metal conex shipping containers of unknown color on the property. To the west, across 3rd Street, structures are constructed with neutral siding materials that include wood, hardie plank,

vinyl, and stucco. To the east, across the railroad tracks, structures are constructed of neutral siding material of metal and wood. As stated above, Staff recommends a **condition of approval** for buffering pursuant to Section 2.207.05(C) along the front and side yards to mitigate adverse visual impacts.

The movement of the structures to and from the site and within the site will increase noise levels both on and off the property. The loading and unloading of personal property into and out of the containers will also increase noise levels on and off the property. Staff recommends a **condition of approval** restricting the hours of operation so that the movement of the conex shipping containers and personal property in and out of the conex shipping containers will not taking place outside of the hours of 8:00am to 5:00pm on Sunday and 7:00am to 7:00pm Monday through Saturday.

F. Retention of existing natural features on site.

Finding: The development should not significantly change the topography of the site, and no significant grading has been proposed. There no existing vegetation on-site. To comply with the buffering requirements found in Section 2.207, staff recommends a **condition of approval**, for the applicant submit a landscape plan prepared by a landscape professional that shows street trees pursuant to Section 2.207.07, buffering pursuant to Section 2.207.05 along the front and side yards, and the proposed method of irrigation, within 180 days for review and approval by city staff. The applicant shall install landscaping in compliance with landscape plan approved by staff within one (1) year. Landscape planting and maintenance shall comply with the requirements found in Development Code Section 2.207.06.

G. Connectivity of internal circulation to existing and proposed streets, bikeways, and pedestrian facilities.

Finding: The subject property has approximately 501.75 feet of frontage on 3rd Street, which is classified as a minor arterial in as a local road in the 2012 Hubbard Transportation System Plan (TSP). The current Hubbard design standard for minor arterials includes a two (2) lane cross section, six (6) foot parkway strip (east side), and twelve (12) foot sidewalk (west side). This standard requires a forty-two (42) foot paved width and sixty (60) foot right-of-way (ROW). Based on Marion County Assessor maps, the existing ROW is sixty (60) feet along the subject property. Staff recommends a **condition of approval**, for the applicant to improve the 3rd Street frontage to meet the minor arterial standards of the TSP and Hubbard Design Standards.

H. Problems that may arise due to development within potential hazard areas.

Finding: No hazard areas are identified, although drainage is always a concern with hydric soils in the area. Poor area drainage increases the importance of an engineered and functional drainage plan.

V. SUMMARY AND RECOMMENDATION

Based on the findings contained in this report and **upon approval of file #SU 2016-01**, Staff concludes that the application (File #DR 2016-06) complies with the applicable criteria, subject to the following conditions. Marion County Building Inspection and the Hubbard Fire District will be responsible for building permits, construction standards, and adequate fire protection.

Staff recommends approval of the application, subject to the following conditions of approval:

- A. Conformance to City of Hubbard Design and Construction standards is required. Applicant shall be responsible for the cost of public or private infrastructure improvements associated with the development. Compliance with Conditions of Approval shall be the sole responsibility of the Applicant.
- B. The subject development shall comply with all requirements of the Hubbard City Engineer found in Exhibit C of the Planning Staff Report dated October 31, 2016. Where the requirements of the City Engineer, the requirements of the Public Works Superintendent and a condition of approval, below, are different, the more stringent requirement shall be followed.
- C. **EXPIRATION OF APPROVAL:** Site Development Review approvals shall be effective for a period of two (2) years from the date of approval. If substantial construction of the approved plan has not begun within the two (2) year period, the approval shall expire. The approval shall be voided immediately if construction is a departure from the approved plan.
- D. **HOURS OF OPERATION:** Hours of operation will be restricted to the hours of 8:00am to 5:00pm on Sunday and 7:00am to 7:00pm Monday through Saturday. The movement of the conex shipping containers both on and off site and the movement of personal property into and out of the conex shipping containers will not taking place outside of the hours of 8:00am to 5:00pm on Sunday and 7:00am to 7:00pm Monday through Saturday
- E. **3RD STREET RIGHT OF WAY: Prior to the issuance of a building permit,** Applicant submit final development plans for the 3rd Street frontage improvements that meet the minor arterial standards of the 2012 Hubbard Transportation System Plan and Hubbard Design Standards for approval by the Public Works Superintendent and City Engineer.
 - 1. **Prior to issuance of a building permit,** Applicant shall submit a final development plans for private driveway accesses that meet the Hubbard Design Standards for approval by the Public Works Superintendent and City Engineer.
- F. **LANDSCAPING: Prior to issuance of a building permit,** Applicant shall submit a final landscaping plan, prepared by a licensed landscape architect, which complies with Section 2.207 and shows at least 10% of the gross area landscaped, the location and type of proposed planting, and the location and water source of automated irrigation systems for landscaped areas larger than 400 SF. In lieu of irrigation, Xeriscaping may be used.
 - 1. **Backflow Prevention:** If the public water source is used for irrigation, then a backflow prevention device shall be required and installed prior to occupancy.
 - 2. **Prior to occupancy of the structure,** landscaping, street trees, and buffering (along the front and side yards) shall be installed and Applicant shall provide the City a written guarantee for all landscape materials extending one (1) year from the date of installation. The size of all plant materials installed shall comply with the minimum standards of Section 2.207.06.
- G. **BICYCLE PARKING:** Prior to the issuance of a building permit, the applicant shall submit a bicycle parking plan for review and approval by Public Works.

1. **Prior to occupancy of the structure**, bicycle parking spaces shall be installed.

H. **LIGHTING: Prior to issuance of a building permit**, the applicant shall submit a lighting plan for review and approval by Public Works.

1. **Prior to occupancy of the structure**, perimeter lighting shall be installed.

I. **ADDRESS: Prior to occupancy of the structure**, the applicant shall post the address (minimum six inch numbers) on front of a main building and near the main entrance facing 3rd Street.

J. **STORM WATER: Prior to issuance of a building permit**, Applicant shall submit a drainage plan prepared by a licensed engineer for Public Works and City Engineer approval. The drainage plan shall show erosion and sediment control, full storm drainage calculations, and detention facilities. Surveying benchmarks shall be used to establish elevations in the City of Hubbard.

1. **Prior to occupancy of the structure**, catch basins shall be outfitted with approved turndowns and sumps for oil water separation and sedimentation control.

2. **Prior to occupancy of the structure**, storm water quality manholes shall be installed in all proposed storm drains outletting into existing drainage facilities.

K. **UTILITIES: Prior to issuance of a building permit**, Applicant shall submit detailed drawings for all utilities and a written estimate of water consumption. Applicant shall provide specific information, including but not limited to, the location and size of the existing and proposed utilities, size of the water meter, the location and size of all water lines, Uniform Plumbing Code calculations, and the extent of landscape irrigation.

1. **Prior to occupancy of the structure**, three (3) hard copies and one electronic copy in ArcView/ArcGIS 9 format shall be provided of as-built plans.

L. **FIRE SAFETY: Prior to issuance of a building permit**, Applicant shall submit a fire safety plan approved by the Hubbard Fire District or State Fire Marshal, showing the location and performance specifications of fire hydrants, fire alarm systems, and/or fire sprinkler systems.

1. **Prior to occupancy of the structure**, fire safety improvements shall be constructed and a fire line public easement shall be recorded for any hydrant location on private property.

VI. PLANNING COMMISSION OPTIONS

A. Deny the request and adopt the findings contained in the Staff Report.

B. Deny the request with findings amended by the Planning Commission.

C. Approve the request with amended findings (and applicable conditions) that the request meets the applicable approval criteria.

D. Continue the hearing, to a date and time certain, if additional information is needed to determine whether applicable standards and criteria are sufficiently addressed (considering the 120 day limit on applications).

EXHIBIT A

LAND USE FEE SCHEDULE ACKNOWLEDGMENT

as of 10/14/2008 (attachment to Resolution No. 470-2008)

Resolution No. 398-2005 requires a deposit for land use applications as required in section 3.206.03 in the Hubbard Development Code. Staff collects the deposit at the time of application.

Costs and time are paid out of the deposit. If it appears the costs exceed the initial deposit, the City Recorder / Planning Secretary may require an additional deposit for cost that may be incurred to complete the project. At the end of the project a final bill will be prepared and either request additional funds or issue a refund check.

The following are types of charges and amounts per hour. *The Contracted Service provider fees are subject to change, and may also include their hired staff time.*

City Planner **\$74.00**
(The City Planner prepares staff reports, final actions, and makes presentations at Planning Commission and Council meetings.)

City Engineer **\$70.00**
(The City Engineer may be requested to investigate or review plans submitted by the applicant, and may make presentations at required meetings)

Planning Secretary **\$57.00** **Admin Assistant** **\$26**
(The Planning Secretary prepares applicants files, prepares comments for other departments, prepares public hearing notices, posts and mails notices, answers applicants questions and attends all meetings)

Public Works Director/Superintendent **\$68.00** **Admin Assistant** **\$39**
Utility Worker I **\$36.00**
Utility Worker II **\$48.00**
(The Public Works personnel reviews applications and comments regarding water, sewer, streets, backflow devices, and storm drain issues)

Police Chief **\$65.00**
(The Police Chief reviews plans and looks into safety concerns such as lighting and addressing issues)

City Attorney **\$240.00**
(Review of documents, negotiation of conflicts, litigation and enforcement issues)

Office Copies (Black & White 8 ½ X 11) **.25 per page** **Color** **.35 per page**
(Black & White 11X 17) **.50 per page** **Color** **.70 per page**
Long Distance Phone Calls **3.00 per call**
Fax **2.00 per fax + .50 per page**

I have read this information and understand that the land use fee is a deposit and the application may cost more or less.



Applicants Signature

10/13/2016

Date

- Identification of areas exceeding 10% slopes;
- Site drainage, areas of potential flooding;
- Areas with significant natural vegetation;
- Classification of soil types;
- Existing structures, roadway access and utilities; and
- Existing and proposed streets, bikeways, and pedestrian facilities within 200 feet.

2. Site Plan

- Proposed grading and topographical changes;
- All proposed structures including finished floor elevations and setbacks;
- Vehicular and pedestrian circulation patterns, parking, loading and service areas;
- Proposed access to public roads and highways, railroads or other commercial or industrial transportation systems;
- Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
- Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks; and
- A schedule of expected development.

EVALUATION CRITERIA

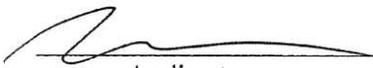
In addition to compliance with the standards of the Development Code, the review of a Site Development Plan shall be based upon consideration of the following:

1. Characteristics of adjoining and surrounding uses;
2. Drainage and erosion control needs;
3. Public health factors;
4. Traffic safety, internal circulation and parking;
5. Provision for adequate noise and/or visual buffering from non-compatible uses;
6. Retention of existing natural features on site; and
7. Problems that may arise due to development within potential hazard areas.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT; AND THAT THE REQUEST DOES NOT VIOLATE ANY DEED RESTRICTIONS THAT MAY BE ATTACHED OR IMPOSED UPON THE SUBJECT PROPERTY. (NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.)

10/13/2016

Date



Applicant

Date

Owner(s)

Date

Owner(s)

Date

Owner(s)

SITE DEVELOPMENT REVIEW INFORMATION SHEET

The purpose of the site development review process is to guide future growth and development in accordance with the Hubbard Comprehensive Plan and Development Code, provide an efficient process and framework to review development proposals, and resolve potential conflicts that may arise between proposed developments and adjacent uses.

SITE DEVELOPMENT REVIEW REGULATION

Site development review is required for all new developments, major remodeling of existing developments, and change of occupancy, as defined by the Uniform Building Code, and/or change of use for commercial and industrial developments, except:

- 1) single-family detached dwellings;
- 2) a duplex;
- 3) any commercial or industrial remodel that does not exceed 25% of the total square footage of the existing structure, or
- 4) any new development, change of occupancy, or commercial or industrial remodel, that does not intensify the use of the property by increasing the number of customers, vehicle or pedestrian traffic to the site, parking requirements, etc.

Site development review procedures are listed in Section 3.105 of the Development Code.

APPLICATION PROCESSING

Once an application is submitted, along with all pertinent filing information, City staff will review it for completeness, and if additional material is necessary, you will be contacted. Once the application is determined to be complete, a public hearing at the Planning Commission will be scheduled. Staff will prepare a report for Planning Commission review. The staff report is available seven days prior to the Planning Commission meeting. You will have the opportunity to testify on behalf of your application at the Planning Commission meeting. The Planning Commission decision can be appealed to the City Council.

EFFECTIVE DATE OF APPROVAL

The site development review shall be effective 12 days after the date of the notice of the decision by the Planning Commission unless the decision is appealed to the City Council.

ADDITIONAL INFORMATION

For additional information, call Hubbard City Hall at (503) 981-9633.

SIMILAR USE APPLICATION

CITY OF HUBBARD

3720 2nd Street (P.O. Box 380)
Hubbard, OR 97032
Phone: (503) 981-9633; Fax: (503) 981-8743
http://www.cityofhubbard.org

To Be Filled Out by Staff:

FILE: SU #2016-01
DATE: 10/13/16
FEE: MARRIAGE & SEED #2016-01
RECEIPT NO: 1003552

APPLICANT: Matt Kennedy
PHONE: 503-314-7086 EMAIL ADDRESS: homes@mattkennedy.com
ADDRESS: 3635 5th St Hubbard OR 97032
OWNER(S): (If different from above)
PHONE: EMAIL ADDRESS:
ADDRESS:
REQUEST: To place self contained portable shipping containers on site
to be used as storage pods for rent

PROPERTY DESCRIPTION: 3500 3rd ST
ADDRESS: 3rd St lot between G St and E St, and between 3rd and UP railroad
MAP PAGE AND TAX LOT NO: 041W33AD07600R344431 ZONE: COM
CURRENT USE/STRUCTURES: Parking- no structures SQUARE FOOTAGE OF SITE: 27,094 sf
IS THE SITE OF HISTORIC SIGNIFICANCE? No

FINDINGS:

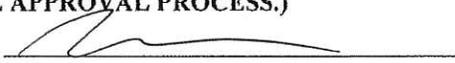
The Planning Commission may authorize a similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:
1. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to permitted uses specified in the underlying zoning district.
This use is placement of containers that resembles parking or other allowed uses in the zone such as sale of vehicles or general parking uses.
The parking of trucks is common on this site and in this zone.
2. The use conforms with the applicable standards and limitations of the underlying zoning district.
The placement of these containers is of a portable nature and resembles other uses such as sales lots or delivery trucks.

ATTACHMENTS:

Please submit one paper copy and one (1) electronic copy (PDF format preferred of the following application materials:

- 1. A legible **site plan** drawn to scale on 8 ½ x 11 or 11 x 17 inch paper, or eight (8) full size copies (typically 18 x 24 inches or larger) that shows the following information:
 - existing and proposed structures,
 - driveways and vehicular circulation,
 - parking,
 - landscaping, and
 - significant natural features.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT; AND THAT THE REQUEST DOES NOT VIOLATE ANY DEED RESTRICTIONS THAT MAY BE ATTACHED OR IMPOSED UPON THE SUBJECT PROPERTY. (NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.)

10/13/2016	
_____	_____
Date	Applicant
_____	_____
Date	Owner(s)
_____	_____
Date	Owner(s)

SIMILAR USE INFORMATION SHEET

A similar use is a use which is not specifically listed in a particular zoning district but which is similar in character, scale, and performance to the permitted uses specified in the district.

SIMILAR USE REGULATION

Prior to the issuance of a Building Permit for any approved similar use in any zone, the applicant shall be subject to the Site Development Review procedures set forth in Section 3.105 of the Hubbard Development Code.

APPLICATION PROCESSING

Once an application is submitted, along with all pertinent filing information, City staff will review it for completeness, and if additional material is necessary, you will be contacted. Once the application is determined to be complete, staff will prepare a report for Planning Commission review. The staff report is available seven days prior to the Planning Commission meeting. You will have the opportunity to testify on behalf of your application at the Planning Commission meeting. The Planning Commission decision can be appealed to the City Council.

CIRCUMSTANCES FOR AUTHORIZING SIMILAR USES

The Planning Commission may impose limitations or conditions on the similar use. Any reduction or change of the requirements of the ordinance will be considered as varying the ordinance and must be requested and viewed as such. The Planning Commission shall impose conditions only after it has determined that such conditions are necessary for the public health, safety, and general welfare, or to protect persons or improvements in the area. The Planning Commission may prescribe such conditions it deems appropriate to fulfill the intent of the ordinance.

EFFECTIVE DATE OF APPROVAL

The similar use authorization shall be effective ten (10) days after the date of the notice of the decision.

ADDITIONAL INFORMATION

For additional information on similar uses, call Hubbard City Hall at (503) 981-9633.

LaRoque, Laura

From: mattkennedyhomes@gmail.com on behalf of Matt Kennedy <homes@mattkennedy.com>
Sent: Wednesday, September 28, 2016 10:01 AM
To: LaRoque, Laura
Subject: Re: Storage Containers
Attachments: 20-foot-ground-storage-and-shipping-container-20ft-one-trip-single-use-container.jpg; Railroad lot plat.pdf

Laura,

I'll try to cover what I can in a note here. First, I'm attaching a photo to clarify what these units are. They are ocean shipping containers that are used for overseas shipping of goods, primarily from China. They are often utilized for land based storage, and also converted to offices, homes, and other building uses, both portable and permanent. In this form, they are likely more equipment than a "structure". They are moved to and from the site by semi trucks with large tilt trailers, and moved around on site by crane. They are also often used as "Pod" units for on site storage at peoples homes. Some companies deliver these to homes and charge a monthly rent for them being there. I only plan to store these on my site and there will not be continual placement and removal from this site.

I have improved my current lot from E St to F St with a base and cover of compacted crushed concrete at a thickness of 12". I plan to place an aesthetic layer of rock over the top as well. There are two existing driveway accesses at both E St and F St locations. The E St access is the old abandoned E St railroad crossing, and there are two paved parking spaces there. I think that all access will only be to drive up to a unit and place or remove belongings. As such, I'm certain there will be many days with no traffic, and maybe a visit or two on others. The units will be nicely arranged near the rear of the lot, leaving an access area of over 20 ft on the frontage to come and go, and allow equipment to come in and move units when needed.

As mentioned prior and is the case to this day, this has been a public parking area for decades. I've allowed this over my 10 years or so as owner. The lot was partially graveled with many pot holes and puddles. It's now very clean and level. There are still approx 15 trips and parking per day by my count, and were at least double that prior to me giving notice to other businesses that general parking was no longer allowed there. I'm closing off all access this week. So this is now basically to be a storage area for these container units. I may plan to place structures or develop the property in the future, but that's a long time off at this point. Let me know if you have other questions.

Have a great day!

Matt Kennedy
Principal Broker
RE/MAX equity group
503.314.7086
homes@mattkennedy.com
www.mattkennedy.com



On Tue, Sep 27, 2016 at 5:58 PM, Matt Kennedy <mattkennedyhomes@gmail.com> wrote:
Got this after the other message. Will put something together soon.



Y0IU 100076 0
1927



MAX GROSS
TARE
NET
G. CAP.

10480 KG
17200 LBS
22100 KG
48550 LBS

10480 KG
17200 LBS
22100 KG
48550 LBS

2261 8T

Y0IU 100076 0

LaRoque, Laura

From: mattkennedyhomes@gmail.com on behalf of Matt Kennedy <homes@mattkennedy.com>
Sent: Wednesday, September 28, 2016 12:44 PM
To: LaRoque, Laura
Subject: Re: Storage Containers

Sorry, I'd meant to mention the number. I'm planning to place 12. And as they're self lock and self access, I guess they'd be accessible 24 hours. I may do something in the contracts to limit that though.

thx again

Matt Kennedy
Principal Broker
RE/MAX equity group
503.314.7086
homes@mattkennedy.com
www.mattkennedy.com



On Wed, Sep 28, 2016 at 12:39 PM, LaRoque, Laura <LLaRoque@mwvcog.org> wrote:

Matt,

Thank you so much for the information. I have just a few additional questions. How many storage structures will be placed on the property? Will they be accessible 24-hours a day?

Laura LaRoque

Associate Planner

Mid-Willamette Valley Council of Governments

100 High Street SE, Suite 200

Salem, OR 97301

(ph) [503-540-1617](tel:503-540-1617)

(fx) [503-588-6094](tel:503-588-6094)

LaRoque, Laura

From: mattkennedyhomes@gmail.com on behalf of Matt Kennedy <homes@mattkennedy.com>
Sent: Tuesday, October 18, 2016 4:02 PM
To: LaRoque, Laura
Subject: Re: SU 2016-01; DR 2016-06 - Application Not Complete

Laura,

The site plan is to scale and shows at least the E St access point. I'll revisit it for the other access. There are fence posts along the rear and south of the property, but no fencing is installed at this time. I did this primarily to delineate what is Union Pacific property and what is mine. I did speak of 12 containers and would likely want to have that amount. What my site plan shows is an area where the units would be placed, thus leaving the balance for ingress, egress, and internal movement. The only parking that would occur would be when a vehicle pulled up to access a unit at it's doors. And as these container are totally mobile and could be placed or moved around the site as needed, I showed essentially a container parking area, rather than location. I can show you proposed placement if that is useful. All placement is in the defined area and would not intrude into the open access area. The gravel lot has no landscaping or natural features, and none are proposed. The entire site is now approx 12" of compacted crushed concrete. I may top with 3/4" minus gravel for aesthetics, but this is built to a road base standard to accommodate both vehicle and heavy equipment without the large puddles and general bumpiness of the parking area prior.

Let me know what questions this answers, and what you need in addition.

Thx much!

Matt Kennedy
Principal Broker
RE/MAX equity group
503.314.7086
homes@mattkennedy.com
www.mattkennedy.com



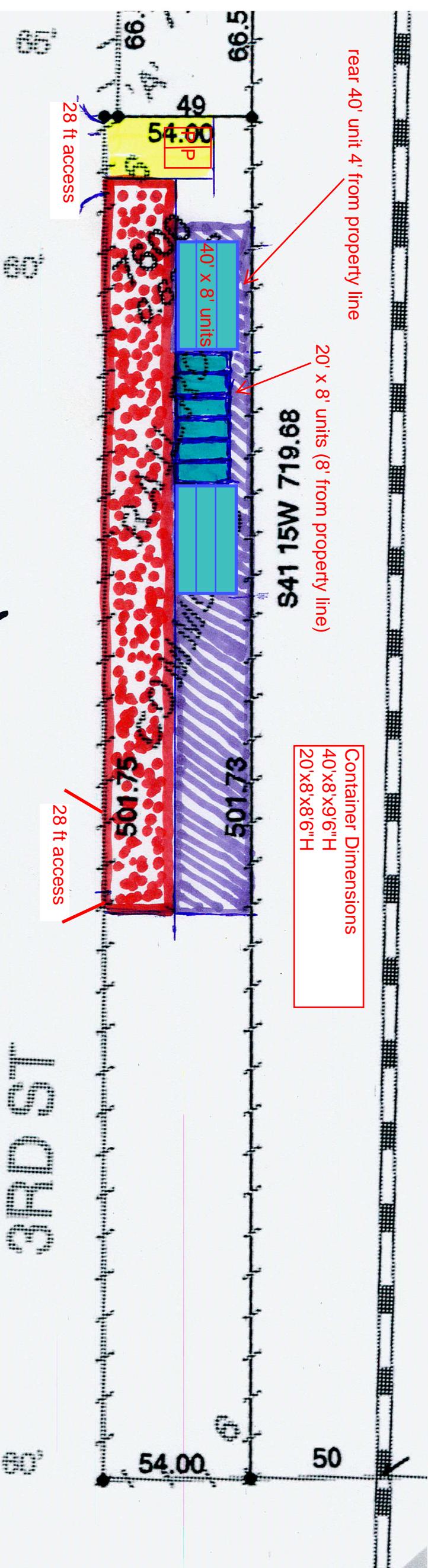
On Tue, Oct 18, 2016 at 2:11 PM, LaRoque, Laura <LLaRoque@mwvcog.org> wrote:

Hello Matt,

Thank you for submitting the Similar Use (SU 2016-01) and Site Developer Review (DR 2016-06) applications. There are just a few items that are needed in order to deem your application complete.

The missing or incomplete items are as follows;

1mm = 1.65ft



rear 40' unit 4' from property line

20' x 8' units (8' from property line)

S41 15W 719.68

Container Dimensions
40'x8'x9'6" H
20'x8'x8'6" H

 - Blacktop (former E St.)
2 parking spaces

+ 359.1 = WW

 - Area for containers
approx. 28ft x 280ft +
 - Drive thru + Access area
approx 26ft x 280ft

15043

15046

SUBMITTED BY: Jaime Estrada
DATE: October 31, 2016
RE: 3500 3rd Street
SU #2016-01 & DR #2016-06

1. Landscape plan must be provided for review;
2. Surveying benchmarks must be used in the city of Hubbard;
3. Must contact Marion County for possible location of monuments;
4. Must obtain permits from Marion County;
5. The applicant shall be responsible for all costs associated with the improvements.
6. It is the responsibility of the applicant to obtain copies of and be familiar with all applicable codes and standards, including, but not limited to required bonds;
7. All utility work must be in accordance with Hubbard Public Works construction standards;
8. Reconstruct driveway approaches on 3rd Street south, close to "G" Street;
9. 3rd Street is classified as a minor arterial and should be reconstructed to meet the Transportation System Plan standards (May 2012);
10. Require the replacement of the catch basin at the N.E. corner of "E" Street; and
11. Shipping containers should meet setbacks.

pc: Bill Peterson, AKS Engineering & Forestry peterσονb@aks-eng.com
John Kennedy, AKS Engineering & Forestry kennedyj@aks-eng.com
Vickie Nogle, City Recorder vnogle@cityofhubbard.org
Laura LaRoque, COG LLaRoque@mwvcog.org
Steve Brewer, Fire Chief sbrewman@gmail.com
Melinda Olinger, Public Works molinger@cityofhubbard.org
Jaime Estrada, Public Works jestrada@cityofhubbard.org

October 31, 2016

Vickie L. Nogle, Director of Administration/City Recorder
City of Hubbard
P.O. Box 380
Hubbard, Or 97032

**RE: DR #2016-06, SU #2016-01– Kennedy
3500 3rd St.**

Sent by Email Attachment

Dear Vickie:

We reviewed the details attached to the e-mail dated October 25, 2016 for DR #2016-06 and SU #2016-01, 3500 3rd St., Kennedy. Based on our review we have the following comments:

1. Applicant shall modify the site entrances at the intersections of 3rd & E St. and 3rd F St. with private driveways that comply with the City of Hubbard Design Standards for private driveways on arterial streets.
2. Applicant shall modify existing storm drain inlets at the above mentioned private driveways so they comply with the City of Hubbard Design Standards for storm drainage inlets and catch basins.
3. Applicant shall coordinate the relocation of power poles as needed to remove the physical obstruction caused by a guide wire currently located at the site entrance on F St.
4. If the applicant paves the site where storage containers are proposed to be staged, the storm drainage collection system must comply with the City of Hubbard design standards. The grading and pavement plan, including details of the storm drainage conveyance and detention system with calculations prepared and sealed by a Registered Engineer, shall be submitted to the City Engineer and Public Works Director for review and approval.
5. Provide documentation that the Hubbard Fire District is satisfied with the proposed improvements.

Please contact me if you have any question regarding this review.

Sincerely,

AKS ENGINEERING & FORESTRY, LLC



John Kennedy, PE

Cc: Jaime Estrada, Public Works Superintendent,
Laura LaRoque, MWVCOG
William I. Peterson, P.E., City Engineer

Exhibit D

CITY OF HUBBARD PLANNING COMMISSION MINUTES NOVEMBER 15, 2016

CALL TO ORDER. The Hubbard Planning Commission meeting was called to order at 6:31 p.m. by the Planning Commission Chairman Dan Estes at the City Hall, 3720 2nd Street, Hubbard.

Planning Commission Present: Dan Estes, Glenn Holum, Kevin Nelson, Byron Nichols.

Staff Present: Director of Administration/City Recorder Vickie Nogle; Administrative Assistant Lucy Astorga; City Planner Laura LaRoque, MWVCOG.

FLAG SALUTE. Planning Commission Chairman Dan Estes led the group in reciting the Pledge of Allegiance.

APPROVAL OF THE OCTOBER 18, 2016, PLANNING COMMISSION MEETING MINUTES. MSA/Planning Commissioner Kevin Nelson/Planning Commissioner Glenn Holum moved to approve the minutes. Planning Commissioners Dan Estes, Kevin Nelson, Glenn Holum, and Byron Nichols were in favor. Motion passed.

PUBLIC HEARING.

SU #2016-01 – MATT KENNEDY – [3500 3RD STREET (041W33AD07600)] – SIMILAR USE DETERMINATION THAT A PROPOSED SELF-SERVICE STORAGE USE IS PERMITTED IN THE COMMERCIAL (C) DISTRICT. Planning Commission Chairman Dan Estes opened the public hearing. D. Estes asked if any of the Planning Commissioners had declarations of bias, conflict, or ex parte contact in regard to this application.

Planning Commissioner Byron Nichols said he is the owner of an adjacent property, which is located across the street from the applicant's property. He said he is unbiased on the application. He left it up to the applicant and audience to determine if he should make decisions on the application. There were no objections.

D. Estes declared ex parte contact. He said he has known the applicant for years and he spoke with surrounding property owners regarding the project as well as researched uses.

D. Estes asked if anyone had objections to the notice that was sent out or the Planning Commission overseeing the proceedings. There were none.

City Planner Laura LaRoque read the legislative hearing statement.

L. LaRoque noted the late correspondence submission from Union Pacific Railroad regarding the application. She summarized the staff report pages 1 through 6, saying the Planning Commission needs to determine if the proposed use in the application is consistent with the underlying zone, and if the proposed use is similar to uses specified and permitted. L. LaRoque reported staff did not find the proposed use is consistent with the zone. She stated the proposed use is similar to a warehouse, which is allowed in an Industrial zone, not Commercial zone. She added the applicant can do a zone change. L. LaRoque stated accessory structures are only allowed if the primary

structure is in place, which it is not in this case. She said if the application for Similar Use is approved, the Planning Commission will proceed with the Site Development Review application, but will not if the application for Similar Use is denied. She reported staff recommends denial of the application for Similar Use #2016-01 based on Criteria A not being met.

D. Estes opened the meeting to the applicant.

Matt Kennedy, 3635 5th Street, Hubbard, applicant, commented he has one month left on the City Council. He said he has owned the site for about ten years and for many years, it has been used as public parking. M. Kennedy said there has been public access to the property. He added he has cleaned up a junk yard in Hubbard, as well as helped with other public improvements and right of ways. M. Kennedy reported his plan was to clean up the site and was going to work with three businesses on 3rd Street to improve the parking for a modest fee for them to park on his property. He said all three of the businesses said no to pay for parking on the site. M. Kennedy stated in order to off-set the cost and taxes, he thought of ways to better use the property. He said he looked into storage containers for personal use, and potentially for others to rent. M. Kennedy commented the staff's proposal is over-reaching and offensive as he is being asked to widen 3rd Street. He said he isn't developing or building on the property, but the proposal is to put 12 units on the site, which will decrease the use of the property. M. Kennedy said he changed the zone from Industrial to Commercial and changing it again for temporary use is ridiculous. M. Kennedy stated in public forums, the idea of food carts and portable uses were suggested. He said he doesn't understand the requirement for a building permit for a temporary structure. M. Kennedy said the containers in place are brand new and he is not trying to avoid requirements, but he has a different definition of development and temporary structures than staff does. M. Kennedy stated he is looking to rent out structures to re-coup some of the cost for the improvements.

D. Estes asked if there were any proponents or opponents. There were none.

Brad Williams, 3780 2nd Street, Hubbard, said he is glad M. Kennedy explained his side of things and he can understand his frustration. He said the Planning Commission could be strict on the rules, or rely on M. Kennedy's word the structures are temporary.

M. Kennedy said his site will not benefit from the widening improvements on 3rd Street because his proposed use does not create such an impact to necessitate the improvements. He said he will not benefit from it, but the other businesses on 3rd Street will.

D. Estes closed the public comment portion of the meeting.

Planning Commissioner Glenn Holum said he has reservations with approving the application. He noted that "temporary" in Hubbard can be a long time, and added it doesn't fit in that spot.

B. Nichols said M. Kennedy had some very good points and believes he has the best interest at heart. He said anything on that site will have safety issues with the railroad, no matter what it is. B. Nichols added the applicant does have an appeal process.

Planning Commissioner Kevin Nelson said he agrees with B. Nichols and doesn't believe changing the zoning is in the best interest of the City.

D. Estes commented the applicant is right when he suggested looking at the City's Development Code and putting in language about newer and trending structures. He said he believes M. Kennedy is trying to better downtown Hubbard, but temporary can last a long time. D. Estes said he doesn't want people to be asking five years down the road why the shipping containers are still there.

L. LaRoque reported that accessory structures are permitted and they are not limited in number, but the self-storage use is not allowed in that zone.

MSA/Planning Commissioner Glenn Holum/Planning Commissioner Byron Nichols moved to deny SU 2016-01 based on the findings contained in the staff report. Planning Commissioners Dan Estes, Kevin Nelson, Byron Nichols, and Glenn Holum were in favor. Motion passed.

DR #2016-06 – MATT KENNEDY – [3500 3RD STREET (041W33AD07600)] – DEVELOPMENT REVIEW FOR THE PLACEMENT OF TWELVE (12) PORTABLE SHIPPING CONTAINERS TO BE USED AS SELF-SERVICE STORAGE UNITS. City Planner Laura LaRoque stated the application for Development Review only needed to be heard if the application for Similar Use was approved, which it was not.

ADJOURNMENT. (The next scheduled Planning Commission Meeting will be January 17, 2017, at 6:30 p.m.) MSA/Planning Commissioner Kevin Nelson/Planning Commissioner Glenn Holum moved to adjourn the meeting. Planning Commissioners Dan Estes, Kevin Nelson, Byron Nichols, and Glenn Holum were in favor. Motion passed. Meeting was adjourned at 7:08 p.m.

Dan Estes, Planning Commission Chairman

ATTEST:

Vickie L. Nogle, MMC
Director of Administration/City Recorder
Recording

Lucy T. Astorga, Admin Asst.
Transcribing



Exhibit E

Hubbard City Hall
3720 Second Street
P.O. Box 380
Hubbard, Oregon 97032
(503) 981-9633

CITY OF HUBBARD PLANNING COMMISSION NOTICE OF DECISION

NOTICE DATE: November 18, 2016
FILE NUMBER(S): DR 2016-06
HEARING DATE: November 15, 2016
APPLICANT: Matt Kennedy 3635 5th Street, Hubbard, OR 97032
OWNER: Matt Kennedy 3635 5th Street, Hubbard, OR 97032
PROPERTY: The subject property is a single tax lot located on 3rd Street at the intersections of 'F' Street and 'E' Street, north of the railroad tracks. More specifically described as:

<u>Taxlot</u>	<u>Acct</u>	<u>Acres</u>	<u>Zoning</u>
041W33AD07600	R344431	0.62	Commercial (C)

3500 3rd Street, Hubbard, OR 97032

REQUEST: Approval of a Site Development Review (DR) for the placement of twelve (12) portable shipping containers to be used as self-service storage units upon an approval of a Similar Use (SU) determination that a proposed self-service storage use is permitted in the Commercial (C) District.

CRITERIA: **Hubbard Development Code (HDC)**
Section 2.106 Commercial District (C)
Section 2.200 General Development Standards
Section 3.105 Site Development Review

I. DECISION

Pursuant to HDC Section 3.109.06, a Site Development Review is required prior to the issuance of a building permit for any approved similar use in any zone. Similar Use File #SU 2016-01, a determination that a proposed self-storage use is permitted in the Commercial (C) District, was denied after a duly noticed public hearing on November 15, 2016. Site Development Review application (File #DR 2016-06) was not considered do to the denial of Similar Use application (File #SU 2016-01).

Affirmed,



Laura LaRoque, City Planner

11/18/2016

Date