



ANALYSIS AND FINDINGS
AAA OF OREGON/IDAHO BATTERY TEST AND SERVICE (CUP 24-0001)

April 17, 2024

Case #:	CUP 24-0001
Project:	AAA of Oregon/Idaho Vehicle Battery Service/Replacement
Location:	18155 SW Teton Ave, Tax Lot: 2S123BB00701
Applicant:	Willis DeWitt, Woofter Bolch Architecture
Owner:	AAA of Oregon/Idaho

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Arrangements can be made to provide these materials in alternative formats such as large type or audio recording. Please contact the Planning Division at 503.691.3026 and allow as much lead time as possible.

I. INTRODUCTION

A. Applicable Criteria

The following Chapters of the Tualatin Development Code (TDC) are applicable to the subject proposal:

- TDC 32: Procedures
- TDC 33.040: Conditional Use Permits
- TDC 39.365: Vehicle Repair
- TDC 60: Light Manufacturing (ML)
- TDC 63: Industrial Uses and Manufacturing Zones – Environmental Regulations
- TDC 74: Public Improvement Requirements

B. Site Description

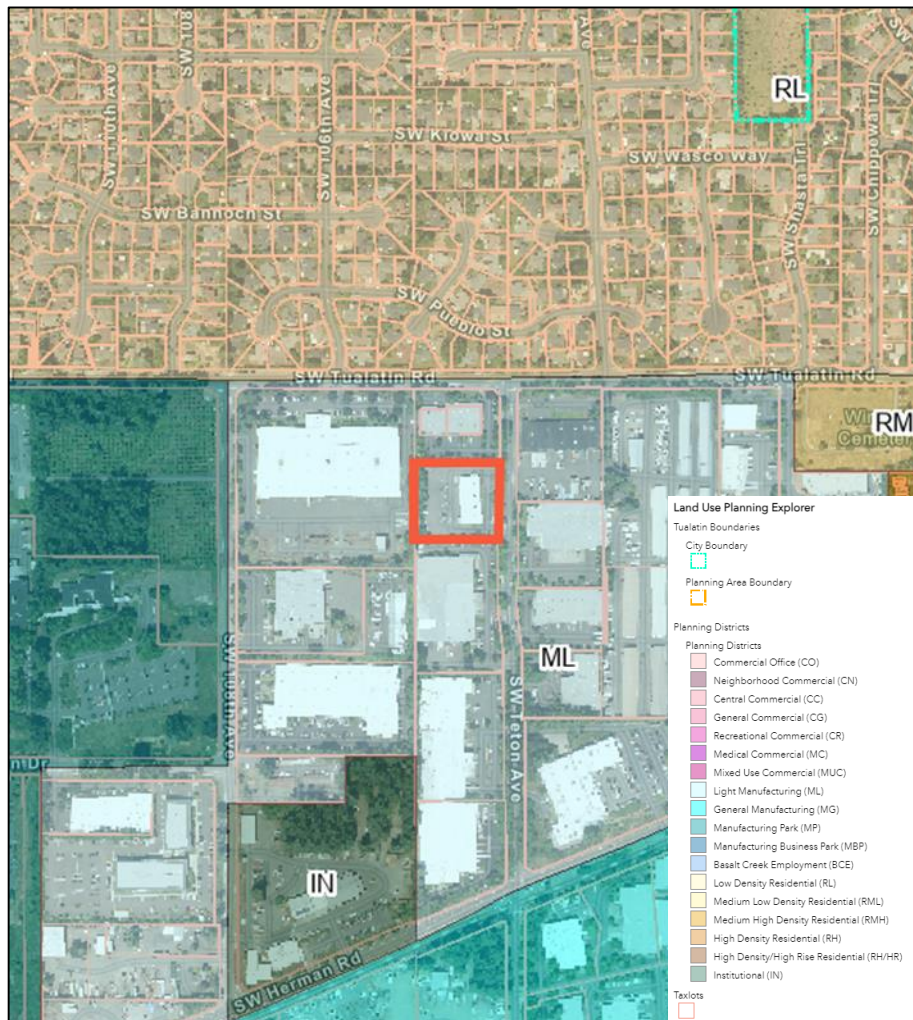


Figure 1 Aerial view of site with zoning (TualGIS)

The site at 18155 SW Teton Avenue (Tax Lot: 2S123BB00701) is approximately 1.87 acres and zoned Light Manufacturing (ML). There is a building of 19,032 square foot located on the site. The property takes access from SW Teton Avenue via two existing driveways. The subject site has the existing AAA of Oregon/Idaho Fleet West facility operating on the property. An existing fence restricts access to the west side of the property. The main office is accessed from the east side of the building and there is one overhead door on this face of the building.

C. Proposed Project

Woofter Bolch Architecture, on behalf of AAA of Oregon/Idaho, is requesting approval of a Conditional Use Permit for “Vehicle Repair” limited to vehicle battery service/replacement. All vehicle work will take place within AAA’s existing building. The applicant’s site plan, Figure 2, illustrates how the battery check and service will function on the site. Only AAA Members will be allowed to use the service. Customers will arrive on site and park their vehicles in the front parking lot while they check in within the building. An employee of AAA will then drive the vehicle into the “existing garage, check the condition of the car battery and replace it if necessary.” After the battery check is complete and any needed battery service provided, an employee of AAA will drive the vehicle out of the garage to the front parking lot where they will drop off the vehicle to the owner. The vehicle will then exit the site.

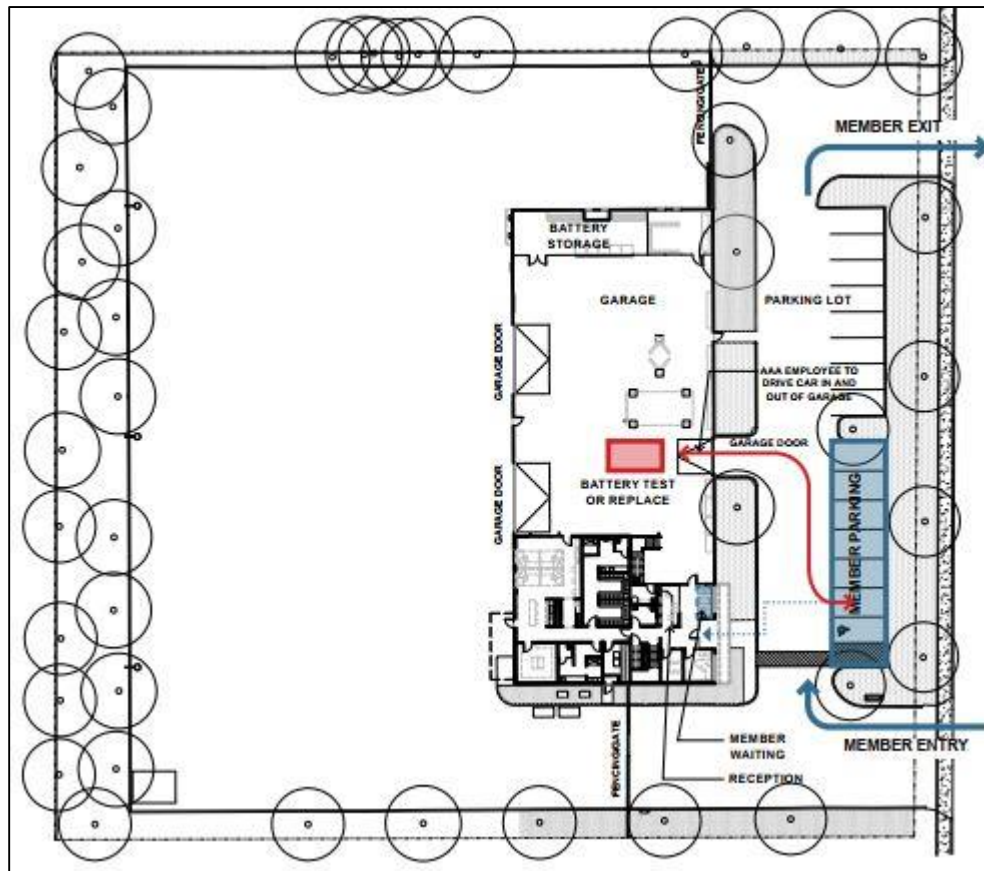


Figure 2 Site Plan Overview

D. Previous Land Use Actions

- ANN77-07: the property was annexed into the City of Tualatin.
- AR-90-13: Life-Time Gate Company gained approval to construct a manufacturing building.
- AR-93-15: Added a second driveway for Life-Time Gate Company.
- CU-93-04: Life-Time Gate Company was granted a CUP for light metal fabrication in the Light Manufacturing (ML) zone.

E. Surrounding Uses

Surrounding areas are primarily utilized for industrial uses. Adjacent land uses include:

North: Light Manufacturing (ML)

- Warehousing
- Light Industrial

South: Light Manufacturing (ML)
• Light Metal Manufacturing and related Engineering Services

West: Light Manufacturing (ML)
• Light Metal Fabrication

East: Light Manufacturing (ML)
• SW Teton Avenue
• Self-Storage
• Light Manufacturing

F. Exhibit List

- A. Applicant's Materials
 - A1. Applicant's Narrative
 - A2. Site Plan
 - A3. Supporting Documents
- B. Public Notice
- C. Agency Comment Clean Water Services
- D. Map 10-4 Design Type Boundaries
- E. Final Order

II. PLANNING FINDINGS

Findings reference the Tualatin Development Code, unless otherwise noted.

Chapter 32: Procedures

[...]

Section 32.010 – Purpose and Applicability.

[...]

(2) Applicability of Review Procedures. All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City’s land use and development applications and corresponding review procedure(s).

[...]

(c) Type III Procedure (Quasi-Judicial Review—Public Hearing). Type III procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment. Quasi-Judicial decisions involve discretion but implement established policy. Type III decisions are made by the Planning Commission or Architectural Review Board and require public notice and a public hearing, with an opportunity for appeal to the City Council.

[...]

(3) Determination of Review Type. Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

Table 32-1 – Applications Types and Review Procedures

Application / Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/Developer Mtg Required	Applicable Code Chapter
Architectural Review						
Conditional Use Permit	III	PC	CC	Yes	Yes	TDC 33.040
[...]						
* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).						

Finding:

The proposed Conditional Use Permit (CUP) application would allow for “Vehicle Repair” as described TDC 39.365, but limited to only AAA customers’ vehicle battery service/replacement. According to Table 60-1 (below), a CUP is required for the proposed use. The proposed CUP application has been processed according to the applicable code for Type III review procedures. This standard is met.

Section 32.030 – Time to Process Applications.

(1) Time Limit - 120-day Rule. The City must take final action on all Type II, Type III, and Type IV-A land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under TDC 32.160, unless the applicant provides

written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-B (Legislative Land Use) decisions.)

[...]

Finding:

The application was deemed incomplete on January 31, 2024. The applicant submitted additional material resulting in the application being deemed complete on February 21, 2024. The final action on this application must take place within 120 days unless the applicant requests an extension in compliance with ORS 227.178. The 120th day will be June 20, 2024. This standard is met.

Section 32.110 – Pre-Application Conference.

(1) Purpose of Pre-Application Conferences. Pre-application conferences are intended to familiarize applicants with the requirements of the TDC; to provide applicants with an opportunity discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

(2) When Mandatory. Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 32-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.

(3) Timing of Pre-Application Conference. A pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood/Developer meeting.

(4) Application Requirements for Pre-Application Conference.

(a) Application Form. Pre-application conference requests must be made on forms provided by the City Manager.

(b) Submittal Requirements. Pre-application conference requests must include:

(i) A completed application form;

(ii) Payment of the application fee;

(iii) The information required, if any, for the specific pre-application conference sought; and

(iv) Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.

(5) Scheduling of Pre-Application Conference. Upon receipt of a complete application, the City Manager will schedule the pre-application conference. The City Manager will coordinate the involvement of city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

(6) Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences. A follow-up conference is required for those mandatory pre-application conferences that have previously been held when:

(a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within six (6) months of the pre-application conference;

(b) The proposed use, layout, and/or design of the proposal have significantly changed; or

(c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.

Finding:

A pre-application meeting is mandatory. The applicant participated in a pre-application meeting on October 4, 2023. The application for the proposed CUP was submitted January 23, 2024, within six months of the Pre-Application Conference. These standards are met.

Section 32.120 – Neighborhood/Developer Meetings.

(1) Purpose. The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

(2) When Mandatory. Neighborhood/developer meetings are mandatory for all land use actions identified in Table 32-1 as requiring a neighborhood/developer meeting. An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.

(3) Timing. A neighborhood/developer meeting must be held after a pre-application meeting with City staff, but before submittal of an application.

(4) Time and Location. Required neighborhood/developer meetings must be held within the city limits of the City of Tualatin at the following times:

(a) If scheduled on a weekday, the meeting must begin no earlier than 6:00 p.m.

(b) If scheduled on a weekend, the meeting must begin between 10:00 a.m. and 6:00 p.m.

(5) Notice Requirements.

(a) The applicant must provide notice of the meeting at least 14 calendar days and no more than 28 calendar days before the meeting. The notice must be by first class mail providing the date, time, and location of the meeting, as well as a brief description of the proposal and its location. The applicant must keep a copy of the notice to be submitted with their land use application.

(b) The applicant must mail notice of a neighborhood/developer meeting to the following persons:

(i) All property owners within 1,000 feet measured from the boundaries of the subject property;

(ii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases; and

(iii) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9.

(c) The City will provide the applicant with labels for mailing for a fee.

(d) Failure of a property owner to receive notice does not invalidate the neighborhood/developer meeting proceedings.

(6) Neighborhood/Developer Sign Posting Requirements. The applicant must provide and post on the subject property, at least 14 calendar days before the meeting. The sign must conform to the design and placement standards established by the City for signs notifying the public of land use actions in TDC 32.150.

(7) Neighborhood/Developer Meeting Requirements. The applicant must have a sign-in sheet for all attendees to provide their name, address, telephone number, and email address and keep a copy of the sign-in sheet to provide with their land use application. The applicant must prepare meeting notes identifying the persons attending, those commenting and the substance of the comments expressed, and the major points that were discussed. The applicant must keep a copy of the meeting notes for submittal with their land use application.

Finding:

The applicant provided evidence that a Neighborhood/Developer Meeting was held on December 19, 2023. The applicant has provided documentation of sign posting and mailed notification, sign-in sheet and notes from the meeting (Exhibit A3). These standards are met.

Section 32.130 – Initiation of Applications.

(1) Type I, Type II, Type III, and Type IV-A Applications. Type I, Type II, Type III, and Type IV-A applications may be submitted by one or more of the following persons:

- (a) The owner of the subject property;**
- (b) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser’s status as such and by the seller’s written consent;**
- (c) A lessee in possession of the property, when the application is accompanied by the owners’ written consent; or**
- (d) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by paragraphs (a), (b) or (c) of this subsection, and accompanied by proof of the agent’s authority.**

[...]

Finding:

The applicant has provided a title report within Exhibit A3 showing AAA of Oregon/Idaho to be the current owner of the subject site. The application has been signed by an agent of AAA of Oregon/Idaho. This standard is met.

Section 32.140 – Application Submittal.

(1) Submittal Requirements. Land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under TDC 32.160:

- (a) A completed application form. The application form must contain, at a minimum, the following information:**
 - (i) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;**
 - (ii) The address or location of the subject property and its assessor’s map and tax lot number;**
 - (iii) The size of the subject property;**
 - (iv) The comprehensive plan designation and zoning of the subject property;**
 - (v) The type of application(s);**
 - (vi) A brief description of the proposal; and**
 - (vii) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).**
- (b) A written statement addressing each applicable approval criterion and standard;**
- (c) Any additional information required under the TDC for the specific land use action sought;**
- (d) Payment of the applicable application fee(s) pursuant to the most recently adopted fee schedule;**
- (e) Recorded deed/land sales contract with legal description.**
- (f) A preliminary title report or other proof of ownership.**
- (g) For those applications requiring a neighborhood/developer meeting:**
 - (i) The mailing list for the notice;**
 - (ii) A copy of the notice;**

- (iii) An affidavit of the mailing and posting;
- (iv) The original sign-in sheet of participants; and
- (v) The meeting notes described in TDC 32.120(7).

(h) A statement as to whether any City-recognized Citizen Involvement Organizations (CIOs) whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary must include the date when contact was made, the form of the contact and who it was with (e.g. phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;

(i) Any additional information, as determined by the City Manager, that may be required by another provision, or for any other permit elsewhere, in the TDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;

(2) **Application Intake.** Each application, when received, must be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.

(3) **Administrative Standards for Applications.** The City Manager is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

Finding:

The applicant submitted an application for a Conditional Use Permit on January 23, 2024, which was deemed incomplete on January 31, 2024. After the applicant submitted additional information, the application was deemed complete on February 21, 2024. The general land use and conditional use permit submittal requirements were included with this application. These standards are met.

Section 32.150 - Sign Posting.

(1) **When Signs Posted.** Signs in conformance with these standards must be posted as follows:

- (a) Signs providing notice of an upcoming neighborhood/developer meeting must be posted prior to a required neighborhood/developer meeting in accordance with Section 32.120(6); and
- (b) Signs providing notice of a pending land use application must be posted after land use application has been submitted for Type II, III and IV-A applications.

(2) **Sign Design Requirements.** The applicant must provide and post a sign(s) that conforms to the following standards:

- (a) Waterproof sign materials;
- (b) Sign face must be no less than eighteen (18) inches by twenty-four (24) inches (18" x 24"); and
- (c) Sign text must be at least two (2) inch font.

(3) **On-site Placement.** The applicant must place one sign on their property along each public street frontage of the subject property. (Example: If a property adjoins four public streets, the applicant must place a sign at each of those public street frontages for a total of four signs). The applicant cannot place the sign within public right of way.

(4) **Removal.** If a sign providing notice of a pending land use application disappears prior to the final decision date of the subject land use application, the applicant must replace the sign within forty-eight (48) hours of discovery of the disappearance or of receipt of notice from the City of its disappearance, whichever occurs first. The applicant must remove the sign no later than fourteen (14) days after:

- (a) The meeting date, in the case of signs providing notice of an upcoming neighborhood/developer meeting; or
- (b) The City makes a final decision on the subject land use application, in the case of signs providing notice of a pending land use application.

Finding:

The applicant provided certification within Exhibit A3 that signs in conformance with this section of the TDC were placed on site. These standards are met.

Section 32.160 – Completeness Review.

(1) Duration. Except as otherwise provided under ORS 227.178, the City Manager must review an application for completeness within 30 days of its receipt.

(2) Considerations. Determination of completeness will be based upon receipt of the information required under TDC 32.140 and will not be based on opinions as to quality or accuracy. Applications that do not respond to relevant code requirements or standards can be deemed incomplete. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

(3) Complete Applications. If an application is determined to be complete, review of the application will commence.

(4) Incomplete Applications. If an application is determined to be incomplete, the City Manager must provide written notice to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete must be deemed complete for purposes of this section upon receipt of:

- (a) All of the missing information;
- (b) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (c) Written notice from the applicant that none of the missing information will be provided.

(5) Vesting. If an application was complete at the time it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application must be based upon the standards and criteria that were in effect at the time the application was first submitted.

(6) Void Applications. An application is void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (4) of this section.

[...]

Finding:

The applicant submitted an application for CUP 24-0001 on January 23, 2024. The application was deemed incomplete on January 31, 2024. After the missing information was submitted, the application was deemed complete on February 21, 2024. These standards are met.

Section 32.230 – Type III Procedure (Quasi-Judicial Review – Public Hearing).

Type III decisions involve the use of discretion and judgment and are made by the Planning Commission or Architectural Review Board after a public hearing with an opportunity for appeal to the City Council. The decision body for each application type is specified in Table 32-1. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons.

(1) Submittal Requirements. Type III applications must include the submittal information required by TDC 32.140(1).

(2) Determination of Completeness. After receiving an application for filing, the City Manager will review the application will for completeness in accordance with TDC 32.160.

(3) Written Notice of Public Hearing—Type III. Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.

- (a) Recipients:**
- (i) The applicant and, the owners of the subject property;**
 - (ii) All property owners within 1,000 feet measured from the boundaries of the subject property;**
 - (iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;**
 - (iv) All recognized neighborhood associations within 1,000 feet from the boundaries of the subject property;**
 - (v) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;**
 - (vi) Any person who submits a written request to receive a notice;**
 - (vii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation; and where the project site would access a County road or otherwise be subject to review by the County, then the County; and Clean Water Services; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code;**
 - (viii) Utility companies (as applicable); and,**
 - (ix) Members of the decision body identified in Table 32-1.**
- (b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:**
- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;**
 - (ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;**
 - (iii) The type of application and a concise description of the nature of the land use action;**
 - (iv) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;**
 - (v) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;**
 - (vi) The date, time and location of the hearing;**
 - (vii) Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;**
 - (viii) The name of a City representative to contact and the telephone number where additional information may be obtained; and**
 - (ix) Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and**
 - (x) Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.**

- (c) Failure of a person or agency to receive a notice, does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.**

Finding:

After application submittal and completeness review, notice for the Type III Planning Commission hearing regarding Conditional Use Permit CUP 24-0001 was mailed by city staff on February 28, 2024, which contained the information required by this section (Exhibit B). One Agency Comment from Clean Water Services was received (Exhibit C). No public comments were received. With Condition of Approval CUP-5, these standards are met.

- (4) Conduct of the Hearing—Type III.** The person chairing the hearing must follow the order of proceedings set forth below. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the body. Questions concerning the propriety or the conduct of a hearing will be addressed to the chair with a request for a ruling. Rulings from the chair must, to the extent possible, carry out the stated intention of these procedures. A ruling given by the chair on such question may be modified or reversed by a majority of those members of the decision body present and eligible to vote on the application before the body. The procedures to be followed by the chair in the conduct of the hearing are as follows:
- (a) At the commencement of the hearing, the person chairing the hearing must state to those in attendance all of the following information and instructions:**
- (i) The applicable substantive criteria;**
 - (ii) That testimony, arguments and evidence must be directed toward the criteria described in paragraph (i) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision;**
 - (iii) That failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue;**
 - (iv) At the conclusion of the initial evidentiary hearing, the decision body must deliberate and make a decision based on the facts and arguments in the public record; and**
 - (v) Any participant may ask the decision body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the decision body grants the request, it will schedule a date to continue the hearing as provided in TDC 32.230(4)(e), or leave the record open for additional written evidence or testimony as provided TDC 32.230(4)(f).**
- (b) The public is entitled to an impartial decision body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the decision body must follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the decision body must not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the decision body must individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they must be excused from the proceedings.**
- (c) Presenting and receiving evidence.**
- (i) The decision body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;**

- (ii) No oral testimony will be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and
 - (iii) Members of the decision body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
- (d) The decision body, in making its decision, must consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.
- (e) If the decision body decides to continue the hearing, the hearing must be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity must be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the decision body may limit additional testimony to arguments and not accept additional evidence.
- (f) If the decision body leaves the record open for additional written testimony, the record must be left open for at least seven days after the hearing. Any participant may ask the decision body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the decision body must reopen the record, as follows:
- (i) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
 - (ii) An extension of the hearing or record granted pursuant to this section is subject to the limitations of TDC 32.030, unless the applicant waives his or her right to a final decision being made within the required timeframe; and
 - (iii) If requested by the applicant, the decision body must grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

Finding:

The Planning Commission will follow the hearing requirements set forth by this section. These standards will be met.

- (5) **Notice of Adoption of a Type III Decision.** Notice of Adoption must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type III Notice of Adoption must contain all of the following information:
- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
 - (c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
 - (d) The date the decision becomes final, unless a request for appeal is submitted; and

- (e) The notice must include an explanation of rights to appeal the decision to the City Council in accordance with TDC 32.310.
- (6) **Appeal of a Type III Decision.** Appeal of an Architectural Review Board or Planning Commission Type III Decision to the City Council may be made in accordance with TDC 32.310.
- (7) **Effective Date of a Type III Decision.**
 - (a) The written order is the final decision on the application.
 - (b) The mailing date is the date of the order certifying its approval by the decision body.
 - (c) A decision of the Architectural Review Board or Planning Commission is final unless:
 - (i) a written appeal is received at the City offices within 14 calendar days of the date notice of the final decision is mailed; or
 - (ii) The City Manager or a member of the City Council requests a review of the decision within 14 calendar days of the date notice of the final decision is mailed.

Finding:

A final decision and any appeal will follow the requirements of this section. These standards will be met.

Chapter 33: Applications and Approval Criteria

TDC 33.040. - Conditional Use Permit.

[...]

- (2) **Applicability.** A request for a conditional use, modification of an existing conditional use permit, or a review of an existing conditional use permit may be initiated by a property owner or the owner's authorized agent.

Finding:

Woofter Bolch Architects, on behalf of the property owner AAA of Oregon/Idaho, has submitted the application for a CUP. This standard is met.

- (3) **Procedure Type.** Conditional use permits are processed in accordance with the Type III review procedures in Chapter 32.

Finding:

According to Table 60-1 in TDC 60.200, "Vehicle Repair" requires a CUP and follows a Type III review procedure as described on TDC 32.230. This standard is met.

- (4) **Specific Submittal Requirements.** In addition to the general submittal requirements in TDC 32.140 (Application Submittal), the applicant must submit the following additional information and materials:
 - (a) Project title;
 - (b) The architect, landscape architect and engineer;
 - (c) A site plan, drawn to scale, showing the dimensions and arrangement of the proposed development;
 - (d) A Service Provider Letter from Clean Water Services (CWS) indicating that a "Stormwater Connection Permit Authorization Letter" will likely be issued; and
 - (e) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application and the City must notify the ODOT Rail Division and the railroad company that the application has been received.

Finding:

The proposed CUP application submittal includes the above required materials. These standards are met.

(5) Approval Criteria. The applicant must provide evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied and demonstrate that the proposed use also satisfies the following criteria:

(a) The use is listed as a conditional use in the underlying zone;

Finding:

Table 60-1 in TDC 60.200 lists “Vehicle Repair” as a conditional use in the Light Manufacturing (ML) District. The use will be limited to only AAA customers having their vehicle battery tested and serviced if needed. This criterion is met.

(b) The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features;

Finding:

The site characteristics are suitable for the proposed use. The site is zoned for Light Manufacturing and limited commercial use. “Vehicle Repair” is considered an appropriate use with an approved CUP. The property is rectangular in shape and has the approximate dimensions of 272’ x 299’ for a total area of approximately 1.87 acres. TDC 60.210 (7) requires that conditional uses be located no closer than 300 feet to any residential planning district. As noted in the previous CUP approval, CUP-93-04, and measured with the City’s GIS, the residentially zoned properties to the north are located over 300 feet away. The topography is generally flat with some sloping along the north, south and west property lines. The site is fully serviced by utilities. This criterion is met.

(c) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;

Finding:

This area of Tualatin is fully developed with utilities and transportation system. The public facilities are adequate to service the proposed use of “Vehicle Repair” limited to vehicle battery service/replacement service. This criterion is met.

(d) The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying zone; and

Finding:

There is no expected change to the site that would alter the character of the surrounding area in any manner. The proposed use will only be offered to AAA members with an estimate provided by the applicant of 2-3 customers utilizing the service per day (Exhibit A1). There will be no changes to the site or building and all battery work and storage will take place within the existing fully enclosed building. This criterion is met.

(e) The proposal satisfies those objectives and policies of the Tualatin Comprehensive Plan that are applicable to the proposed use.

Finding:

There are several goals, objectives and policies that are relative to the proposed CUP application including the following:

Community Involvement

GOAL 1.1 Implement community involvement practices in line with Statewide Planning Goal 1.

POLICY 1.1.3 Conduct the planning process with adequate input and feedback from citizens in each affected neighborhood.

Economy, Commercial & Industrial Development

GOAL 4.2 - Support business retention, growth, and attraction in ways that strengthen the local tax base and support Tualatin's industrial lands as a major local and regional employment center.

POLICY 4.2.4 Support growth of existing businesses, including growth and retention of entrepreneurial businesses, in Tualatin.

Transportation

GOAL 8.5 ECONOMY. Support local employment, local businesses, and a prosperous community while recognizing Tualatin's role in the regional economy.

Objective - Consider positive and negative effects of alternatives on adjacent residential and business areas.

Light Manufacturing Planning District (ML)

Suitable for warehousing, wholesaling and light manufacturing processes that are not hazardous and that do not create undue amounts of noise, dust, odor, vibration, or smoke. Also suitable, with appropriate restrictions, are the retail sale of products not allowed for sale in General Commercial areas, subject to applicable zoning overlay standards. . Also suitable are accessory commercial uses subject to area limitations for the sale of products manufactured, assembled, packaged or wholesaled on the site.

The purpose of this district is to provide sites for manufacturing uses that are more compatible with adjacent commercial and residential uses and would serve to buffer heavy manufacturing uses. The purpose is also to allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site subject to area limitations. Certain heavier manufacturing uses may be allowed as conditional uses.

This criterion is met.

- (6) *Conditions of Approval.*** The Hearing Body may impose, in addition to the regulations and standards expressly specified in this chapter, other conditions found necessary to protect the best interests of the surrounding property or neighborhood or the City as a whole. In no event will this Chapter be used as a means to exclude multi-family housing from the City.
- (7) *Compliance with Conditions and Revocations.***
 - (a)** Any previously granted conditional use permit may be revoked by the Planning Commission, after a hearing conducted in the manner required for approval of a conditional use permit initially, upon the following grounds:
 - (i)** Failure to comply with the conditions of approval;
 - (ii)** Discontinuance of the use for a period in excess of two years;
 - (iii)** Failure to comply with other applicable provisions of the Tualatin Comprehensive Plan regarding design, dimensional or use requirements; or
 - (iv)** A change in the Tualatin Comprehensive Plan or Zone Standards of the zone within which the use is located that have the effect of no longer allowing a new conditional use permit application to be considered in such zone.
 - (b)** Revocations initiated under TDC 33.040(7)(a)(i) or (ii) above must not be initiated for at least six months after approval of the conditional use permit. Revocations initiated under

TDC 33.040(7)(a)(i), (ii) and (iii) above has the effect of making the previously granted conditional use permit void until a new application is submitted and granted. Revocations initiated under TDC 33.040(7)(a)(iv) above has the effect of making the previously granted conditional use a nonconforming use.

(8) Automatic Termination of Conditional Use; Request for Extension.

(a) Unless otherwise provided by the Planning Commission in the written decision granting approval of the conditional use permit, a conditional use permit automatically is null and void two years after the effective date upon which it was granted, unless the applicant, or successor in interest, has done one of the following within two years of the effective date of the conditional use permit:

- (i) Secured a building permit and commenced construction of the building or structure in conformance of the building permit and conditional use permit.
- (ii) Commenced the activity or installation of the facility or structure authorized by the conditional use permit.
- (iii) Submitted a request for an extension of time on the conditional use permit to avoid the permit's becoming null and void.

(b) A request for an extension must be submitted prior to the expiration date of the conditional use permit, as established by the Planning Commission in granting the conditional use permit.

(c) Upon receipt of the request for an extension of time, the Planning Commission will hear the matter under the quasi-judicial procedures in TDC 32.230. The Planning Commission may grant or deny the extension of time, provided the extension of time does not exceed two years.

Finding:

Staff have recommended Conditions of Approval that are found in Section III of this report. The Planning Commission will make a final decision on any recommended conditions, may add or delete conditions and will make a final decision on this application. Any approved CUP must abide by this section. These standards are met and will be abided by.

CHAPTER 39 - USE CATEGORIES

TDC 39.365 - Vehicle Repair.

(1) Characteristics. Vehicle Repair provides vehicle repair and servicing to passenger vehicles, light and medium trucks, motorcycles, boats, recreational vehicles, and other consumer motor vehicles.

Generally, the customer does not wait at the site while the service or repair is being performed.

(2) Examples of Uses.

- Alignment shop.
- Auto body and/or paint shop.
- Auto detailing.
- Auto upholstery shop.
- Tire sales and mounting.
- Transmission or muffler shop.
- Vehicle repair.

(3) Exceptions.

- Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage are classified as Light Manufacturing.
- Outdoor storage or sale of automobiles is not permitted in any zone.

Finding:

AAA will only provide limited service for AAA Members to have their vehicle battery checked and, if needed, the battery could be serviced or replaced. No other "Vehicle Repair" activity will take place. In this case the customer will have a short wait while an employee for AAA will drive the vehicle into the

building where the battery will be tested. The AAA employee will perform any needed services then drive the vehicle out of the garage and deliver it to the owner. The proposed service is not one of the listed “exceptions”. The proposed use meets the description of “Vehicle Repair”.

Chapter 60: Light Manufacturing (ML) Zone

Section 60.200 - Use Categories.

(1) Use Categories. Table 60-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the ML zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 60-1 and restrictions identified in TDC 60.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

[...]

Table 60-1: Use Categories in the ML Zone		
USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
COMMERCIAL USE CATEGORIES		
Vehicle Repair	C (L)	Subject to TDC 60.210(3).

Finding:

The project area is within the Light Manufacturing (ML) Planning District. The applicant’s narrative, Exhibit A1, states that AAA Members will only be allowed to utilize the service with an estimated 2-3 customers using the service each day. A Conditional Use Permit would be required for the “Vehicle Repair” and is further limited by TDC 60.210(3) and 60.210(7). Both TDC 60.210(3) and 60.210(7) are met as further discussed below. Only battery service/replacement will be provided to AAA customers. With recommended Condition of Approval CUP-1, this standard is met.

TDC 60.210. - Additional Limitations on Uses.

[...]

(3) Size Limitation on Commercial Uses. Commercial uses permitted outright or as a Conditional Use as the primary use of a site, as specified in Table 60-1, are subject to the following size limitations.

[...]

(b) Industrial Areas. Commercial uses on land designated as an Industrial Area Design Type on Map 9-4 must not exceed 5,000 square feet for any individual use or a total of 20,000 square feet of all commercial uses on the site. Commercial uses permitted in the Limited Commercial Setback are exempt from this requirement.

[...]

Finding:

According to Map 10-4 Design Type Boundaries (Exhibit D), the site is located within the Industrial Area (IA). The applicant’s narrative states that a total of 2,315 square feet on the site and building will be utilized for battery servicing. This standard is met.

(7) Spacing Requirement for Conditional Uses. A conditional use must not be located closer than 300 feet to any residential planning district boundary. This requirement does not apply to schools or transportation facilities and improvements.

(a) Measurement. The spacing standard is measured from the closest point on the building to the residential planning district boundary and does not include setbacks, parking areas, circulation areas and landscaping.

- (b) Modification of Existing Uses.** New buildings, expansions, or additions to existing buildings, except for office uses related to on-site operations, must be sited in the following locations, in order of priority, as site conditions permit:
- (i) Must be greater than 300 feet from any residential district;
 - (ii) Must be the opposite side of existing buildings from any residential district; and
 - (iii) Must not be closer than existing buildings to any residential district.
- (c) Definition of Existing Uses.** For purposes of this section, buildings approved through the Architectural Review process as of September 24, 1990, in accordance with Ordinance 812-90, are considered existing buildings.

[...]

Finding:

According to Tualatin's GIS, the building is setback approximately 330 feet from the centerline of Tualatin Road which is where the RL District to the North is located. The east face of the building will be utilized for entering the office and garage which faces toward ML zoned property. The use will be closer to the existing building on the subject site than the RL zone to the north. These standards are met.

Section 60.300 – Development Standards.

Development standards in the ML zone are listed in Table 60-2. Additional standards may apply to some uses and situations, see TDC 60.310.

Finding:

All vehicle battery service/replacement activity will take place on the existing site and within the existing fully enclosed building. No new construction is proposed and no changes to setbacks or other development standards are proposed. The standards listed in Table 60-2 do not apply to this application and Section 60.310 is discussed below.

Section 60.310 - Additional Development Standards.

(1) Outdoor Uses. All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities and outdoor play areas of child day care centers as required by state day care certification standards.

[...]

Finding:

The application did not propose outdoor uses. With recommended Condition of Approval CUP-2, this standard is met.

Chapter 63: Industrial Uses and Utilities and Manufacturing Zones – Environmental Regulations

[...]

Section 63.020 – Applicability.

The regulations of this Chapter apply to:

- (1) All industrial uses and utilities, regardless of the Planning District in which they are located, and
- (2) All Manufacturing Planning Districts, regardless of the use category.

TDC 63.051. - Noise.

All uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in, TMC 6-14.

TDC 63.052. - Vibration.

- (1) All uses and development must not cause or permit ground vibration into the property of another person that exceeds the limits set forth below in this section.**
 - (a) Ground vibration as measured at the boundary of a residential planning district and an industrial planning district must not exceed 0.01 inches per second (0.00025 meters per second) RMS velocity.**
 - (b) Ground vibration as measured at a common property boundary of any two properties within any industrial planning district must not exceed 0.1 inches per second (0.0025 meters per second) RMS velocity.**
- (2) *Method of Measurement.* Vibration measurement procedures must conform to the methods described in this section and to procedures approved by the Oregon Department of Environmental Quality.**
 - (a) Instrumentation must be capable of measuring RMS value of the vibration velocity over the frequency range of ten to 1,000 hertz.**
 - (b) Measurement values must be recorded for a sufficient period of observation to provide a representative sample.**
 - (c) Attachment of the vibration transducer to the ground must be by magnetic or screw attachment to a steel bar of a minimum of nine inches (22.9 cm.) in length, driven flush with the ground surface.**
- (3) *Exemptions.* The requirements of TDC 63.052(1) do not apply to:**
 - (a) Vibration resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad;**
 - (b) Vibration resulting from the operation of any road vehicle;**
 - (c) Vibration resulting from construction activities and use of construction equipment; and**
 - (d) Vibration resulting from roadway maintenance and repair equipment.**

TDC 63.053 - Air Quality.

- (1) Restrictions. All uses and development must comply with the most recent air quality standards adopted by the Oregon Department of Environmental Quality. Plans of construction and operations must comply with the recommendations and regulations of the State Department of Environmental Quality.**
- (2) Method of Measurement. All measurements of air pollution must be by the procedures and with equipment approved by the State Department of Environmental Quality or equivalent and acceptable methods or measurement approved by the City. Upon request of the City, persons responsible for a suspected source of air pollution must provide quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions.**

TDC 63.054. - Odors.

All uses and development must not emit odors in such quantities as to create a nuisance condition at any point beyond the subject property line of the emitting use.

TDC 63.055. - Heat and Glare.

- (1) All uses and development must conduct all operations producing heat or glare entirely within an enclosed building.(2)All uses and development may utilize exterior lighting, but the exterior lighting must be screened, baffled or directed away from residential planning districts.**

TDC 63.056. - Storage and Stored Materials.

- (1) All uses and development must store all materials, including wastes, in a manner that will not attract or aid the propagation of insects or rodents, or in any other way create a health or safety hazard.
- (2) All uses and development that utilize open storage that would otherwise be visible at the property line must conceal it from view at the abutting property line by a sight obscuring fence not less than six feet high and not accessible to the general public to protect public safety.

TDC 63.057. - Liquid or Solid Waste Materials.

All uses and development are prohibited from disposing waste onto the site or into adjacent drainage ditches, creeks or other natural waterways in violation of State of Oregon DEQ standards, Clean Water Services Standards, City Standards, or in a manner that causes harm to wildlife.

TDC 63.058. - Dangerous Substances.

All uses and development are prohibited from the storage, transfer, or processing of hazardous, toxic, or radioactive waste.

Finding:

The site is located in the Light Manufacturing (ML) Planning District. The applicant has stated that “all of the required regulations will be met”. With recommended Conditions of Approval CUP-3 and CUP-5, these standards are met.

Chapter 74: Public Improvement Requirements

[...]

Section 74.440 - Streets, Traffic Study Required.

- (1) The City Manager may require a traffic study to be provided by the applicant and furnished to the City as part of the development approval process as provided by this Code, when the City Manager determines that such a study is necessary in connection with a proposed development project in order to:
 - (a) Assure that the existing or proposed transportation facilities in the vicinity of the proposed development are capable of accommodating the amount of traffic that is expected to be generated by the proposed development, and/or
 - (b) Assure that the internal traffic circulation of the proposed development will not result in conflicts between on-site parking movements and/or on-site loading movements and/or on-site traffic movements, or impact traffic on the adjacent streets.
- (2) The required traffic study must be completed prior to the approval of the development application.
- (3) The traffic study must include, at a minimum:
 - (a) An analysis of the existing situation, including the level of service on adjacent and impacted facilities.
 - (b) An analysis of any existing safety deficiencies.
 - (c) Proposed trip generation and distribution for the proposed development.
 - (d) Projected levels of service on adjacent and impacted facilities.
 - (e) Recommendation of necessary improvements to ensure an acceptable level of service for roadways and a level of service of at least D and E for signalized and unsignalized intersections respectively, after the future traffic impacts are considered.
 - (f) The City Manager will determine which facilities are impacted and need to be included in the study.
 - (g) The study must be conducted by a registered engineer.

(4) The applicant must implement all or a portion of the improvements called for in the traffic study as determined by the City Manager.

[...]

Finding:

AAA of Oregon/Idaho will allow only AAA Members to utilize vehicle battery service/replacement service. The applicant's narrative stated that 2-3 customers per day are projected to utilize the service. As described there will be no noticeable increase in vehicle traffic to the site. With recommended Condition of Approval CUP-4 the number of customers will be limited. This standard is met.

III. RECOMMENDATION

Based on the application materials and analysis and findings presented above, staff finds that the applicable criteria have been met relative to CUP24-0001, and therefore recommend approval of this application with the following Conditions of Approval:

- CUP – 1** Vehicle Service, as described in TDC 39.365 and listed in TDC Table 60-1, is limited to vehicle battery service/replacement.
- CUP – 2** All Vehicle Service activities must be conducted within a fully enclosed existing building in compliance with TDC 60.310 (1).
- CUP – 3** The proposed development must comply with the Environmental Regulations of TDC 63.
- CUP – 4** Only AAA Members will be allowed to use the vehicle battery service/replacement service.
- CUP – 5** AAA of Oregon/Idaho or their representative must coordinate with Clean Water Services Environmental Services Division for battery storage and disposal activities.