



Staff Report

To: Planning Commission

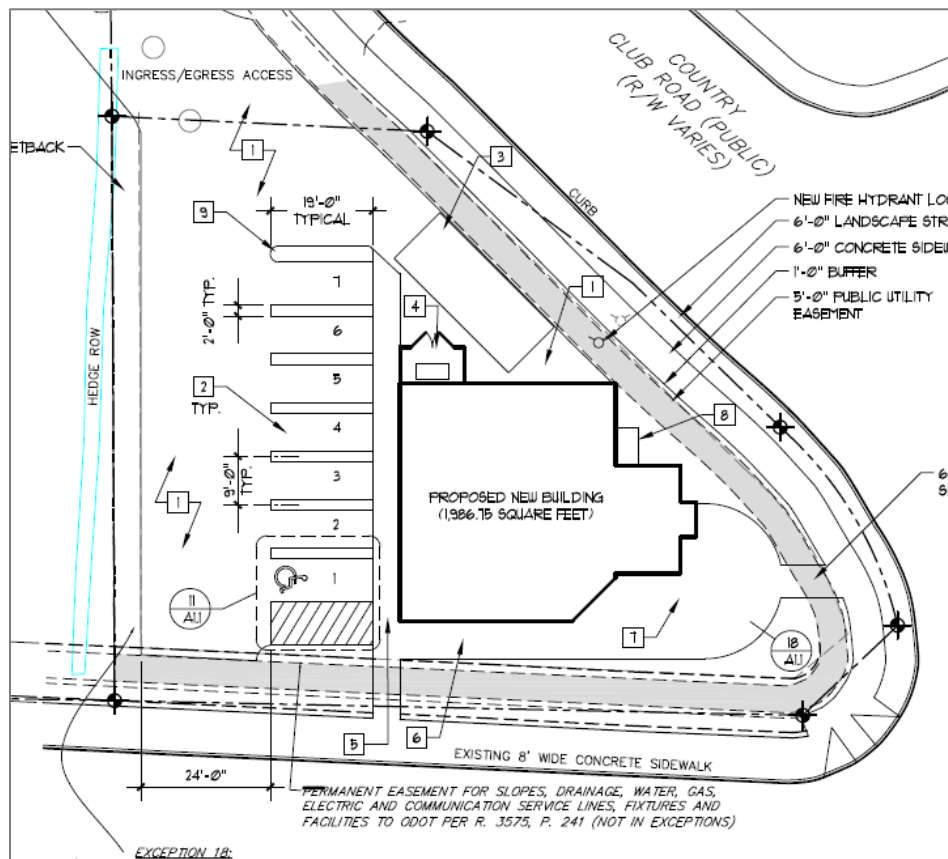
Through: Chris Kerr, Community Development Director *C.K.*

From: Dan Handel, AICP, Planner

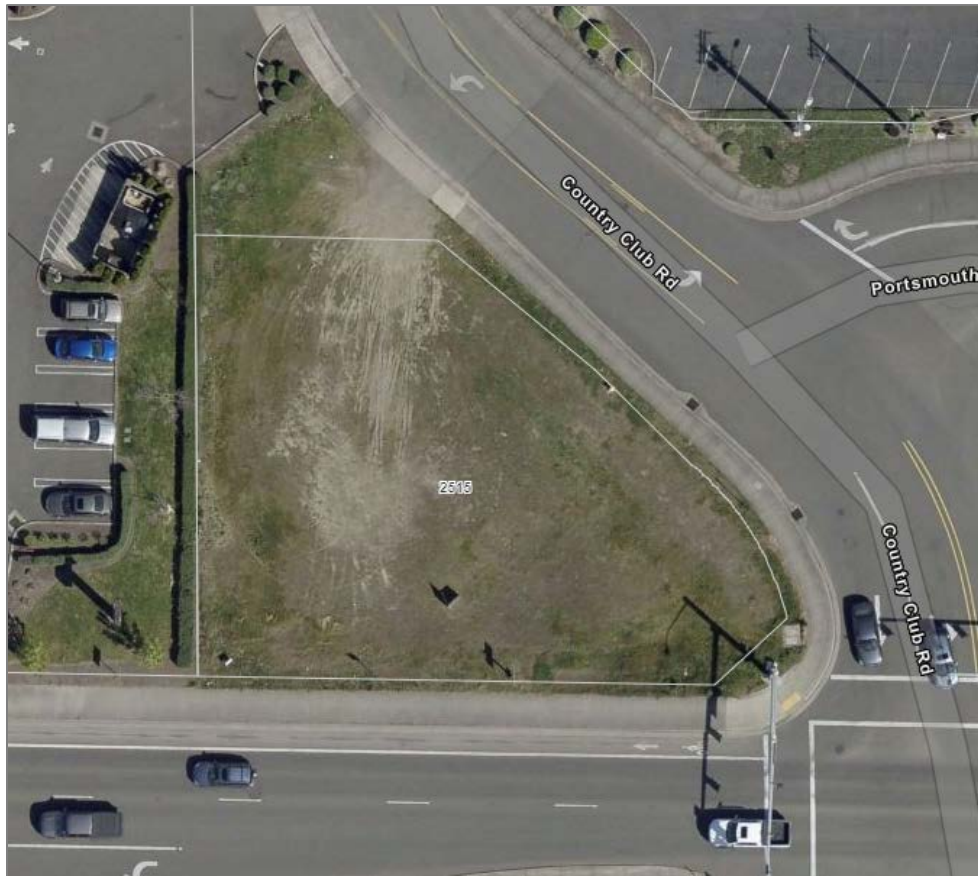
Meeting Date: July 28, 2022 (Prepared July 21, 2022)

Item: 2515 Newberg Hwy "Flower Shop Variance" (VAR 22-08)

Tax Lot: 052W12AD18600



Approved Site Plan for Valley Pacific Floral (DR 21-09 & EXCP 21-06)



Aerial image of the subject property.

Issue before the Planning Commission

Action on a land use application, Variance VAR 22-08 (Type III), for the minimum parking requirement associated with a retail flower shop.

Executive Summary

The subject property, 2515 Newberg Hwy, is within the Commercial General (CG) zoning district and the Interchange Management Area (IMA) overlay district. It is currently undeveloped however City staff reviewed and approved a land use application package on December 3, 2021 for a proposed retail flower shop development. The approved development is required to provide eight parking spaces. Because the approved site plan only shows seven parking spaces, a condition of approval was applied to have the applicant obtain a shared parking agreement with a neighboring property to provide the eighth space. The applicant has attempted to obtain this agreement but has not had any success with the neighboring property owners.

Through this Variance application, the applicant is requesting to modify the minimum parking requirement from eight spaces down to seven. Approval of the request would nullify the condition of approval requiring the shared parking agreement.

Recommendation

Approval with conditions: Staff recommends that the Planning Commission consider the staff report and its attachments and approve the application with the condition recommended by staff in Attachment 101.

Actions

The Planning Commission may instead act on the land use application to:

1. Approve per staff recommendations,
2. Approve with modified conditions, or
3. Deny, based on WDO criteria or other City provisions.

If the Planning Commission were to act upon the recommendation, staff would prepare a final decision document for signature by the Chair.

Attachments:

101. Recommended Conditions of Approval
102. Analyses & Findings
103. Applicant's Narrative Letter
104. Approved Site Plan (DR 21-09 & EXCP 21-06)

Recommended Condition of Approval

1. Substantial Conformance: The applicant or successor shall develop the property in substantial conformance with the approved plans associated with DR 21-09 and EXCP 21-06, approved on December 3, 2021.

Notes to the Applicant

The following are not planning / land use / zoning conditions of approval, but are notes for the applicant to be aware of and follow:

1. Permits: Permits are applied for using the [Oregon ePermitting](#) online permit system. The City Building Division administers building and mechanical permits; Marion County Public Works administers plumbing and electrical permits.
2. Records: Staff recommends that the applicant retain a copy of the subject approval.
3. Fences, fencing, & free-standing walls: The approval excludes any new fences, fencing, & free-standing walls, which are subject to WDO 2.06 and the permit process of 5.01.03.
4. Signage: The approval excludes any signage, which is subject to WDO 3.10 and the permit process of 5.01.10.
5. Other Agencies: The applicant, not the City, is responsible for obtaining permits from any county, state and/or federal agencies, which may require approval or permit, and must obtain all applicable City and County permits for work prior to the start of work and that the work meets the satisfaction of the permit-issuing jurisdiction. The Oregon Department of Transportation (ODOT) might require highway access, storm drainage, and other right-of-way (ROW) permits. All work within the public ROW or easements within City jurisdiction must conform to plans approved by the Public Works Department and must comply with a Public Works Right-of-Way permit issued by said department. Marion County plumbing permits must be issued for all waterline, sanitary sewer, and storm sewer work installed beyond the Public Right-of-Way, on private property.
6. Inspection: The applicant shall construct, install, or plant all improvements, including landscaping, prior to City staff verification. Contact Planning Division staff at least three (3) City business days prior to a desired date of planning and zoning inspection of site improvements. This is required and separate from and in addition to the usual building code and fire and life safety inspections. Note that Planning staff are not primarily inspectors, do not have the nearly immediate availability of building inspectors, and are not bound by any building inspector's schedule or general contractor convenience.
7. Stormwater management: The storm sewer system and any required on-site detention for the development must comply with the City Storm Water Management Plan, Public Works storm water practices and the Storm Drainage Master Plan.

8. Public Works Review: Staff performs final review of the civil plans during the building permit stage. Public infrastructure must be constructed in accordance with plans approved by the City, as well as current Public Works construction specifications, Standard Drawings, Standard Details, and General Conditions.
9. Franchises: The applicant provides for the installation of all franchised utilities and any required easements.
10. Water: All water mains and appurtenances must comply with Public Works, Building Division, and Woodburn Fire District requirements. Existing water services lines that are not going to be use with this new development must be abandoned at the main line. The City performs required abandonment of existing water facilities at the water main with payment by the property owner. All taps to existing water mains must be done by a “Hot Tap” method and by approved City of Woodburn Contractors. The applicant shall install the proper type of backflow preventer for all domestic, lawn irrigation and fire sprinkler services. The backflow devices and meters shall be located near the city water main within an easement, unless approved otherwise by Public Works. Contact Byron Brooks, City of Woodburn Water Superintendent, for proper type and installation requirements of the backflow device at (503) 982-5380.
11. Grease Interceptor/Trap: If applicable, a grease trap would need to be installed on the sanitary service, either as a central unit or in the communal kitchen/food preparation area. Contact Marion County Plumbing Department for permit and installation requirements, (503) 588-5147.
12. Fire: Fire protection requirements must comply with the Woodburn Fire District standards and requirements. Place fire hydrants within the public ROW or public utility easement and construct them in accordance with Public Works Department requirements, specifications, standards, and permit requirements. Fire protection access, fire hydrant locations and fire protection issues must comply with current fire codes and Woodburn Fire District standards. See City of Woodburn Standard Detail No. 5070-2 Fire Vault. The fire vault must be placed within the public right-of-way or public utility easement.
13. SDCs: The developer pays System Development Charges prior to building permit issuance.

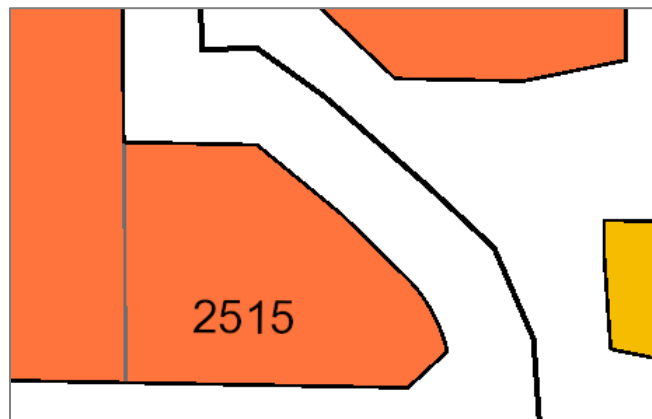
Analyses & Findings

This final decision analyzes the application materials and finds through statements how the application materials relate to and meet applicable provisions such as criteria, requirements, and standards. They confirm that a given standard is met or if not met, they call attention to it, suggest a remedy, and have a corresponding recommended condition of approval. Symbols aid locating and understanding categories of findings:

<i>Symbol</i>	<i>Category</i>	<i>Indication</i>
✓	Requirement (or guideline) met	No action needed
✗	Requirement (or guideline) not met	Correction needed
⊖	Requirement (or guideline) not applicable	No action needed
▲	<ul style="list-style-type: none"> Requirement (or guideline) met with condition of approval Other special circumstance benefitting from attention 	Modification or condition of approval required
■	Deviation from code: Variance	Request to modify, adjust, or vary from a requirement

Land Use & Zoning

<i>Comprehensive Plan Land Use Designation</i>	Commercial
<i>Zoning District(s)</i>	Commercial General (CG)
<i>Overlay District(s)</i>	Interchange Management Area (IMA)
<i>Existing Use(s)</i>	Undeveloped, approved for retail flower shop



Excerpt from the City zoning map.

<i>Cardinal Direction</i>	<i>Adjacent Zoning</i>
North	CG
East	Retirement Community Single-Family Residential (R1S)
South	CG
West	CG

Marion County Assessor Records provides a legal description for the subject property as "WOODBURN SENIOR ESTATES NO 6 IN WOODBURN BLOCK 55 LOT FR 1"; staff surmises it is a legal lot of record. The applicable provisions appear in bold below and on the following pages.

Applicable Provisions

5.03.12 Variance

A. Purpose: The purpose of this Type III Variance is to allow use of a property in a way that would otherwise be prohibited by this Ordinance. Uses not allowed in a particular zone are not subject to the variance process. Standards set by statute relating to siting of manufactured homes on individual lots; siding and roof of manufactured homes; and manufactured home and dwelling park improvements are non-variable.

3.05 Off-Street Parking and Loading

3.05.03 Off-Street Parking

A. Number of Required Off-Street Parking Spaces

1. Off-street vehicle parking spaces shall be provided in amounts not less than those set forth in this Section (Table 3.05A).

Off-Street Parking Ratio Standards Table 3.05A	
Use^{1, 2}	Parking Ratio - spaces per activity unit or square feet of gross floor area
7. General retail sales (such as food and beverages, clothing, sporting goods, health and personal care items, and motor vehicle parts)	1/ 250 square feet
<p>1. The Director may authorize parking for any use not specifically listed in this table. The applicant shall submit an analysis that identifies the parking needs, and a description of how the proposed use is similar to other uses permitted in the zone. The Director may require additional information, as needed, to document the parking needs of the proposed use.</p> <p>2. There is no required parking ratio for non-residential uses and residential units above first floor commercial uses in the DDC zone (See Section 3.07.07.C.12).</p>	

The applicant applied for and obtained approval of a Design Review and Street Exception land use application package on December 3, 2021 for a retail flower shop (DR 21-09 & EXCP 21-06). The approved plans note the building is 1,986.75 square feet therefore the minimum parking requirement is 8 parking spaces per Table 3.05A. Plans only illustrate seven parking spaces provided. A condition of approval was applied to have the applicant obtain a shared parking agreement with a neighboring property to provide the eighth space. Through this Variance application, the applicant is requesting to modify the minimum parking requirement from eight spaces down to seven, thereby nullifying the condition of approval.

B. Criteria: A variance may be granted to allow a deviation from development standard of this ordinance where the following criteria are met:

- 1. Strict adherence to the standards of this ordinance is not possible or imposes an excessive burden on the property owner, and**
- 2. Variance to the standards will not unreasonably impact existing or potential uses or development on the subject property or adjacent properties.**

C. Factors to Consider: A determination of whether the criteria are satisfied involves balancing competing and conflicting interests. The factors that are listed below are not criteria and are not intended to be an exclusive list and are used as a guide in determining whether the criteria are met.

- 1. The variance is necessary to prevent unnecessary hardship relating to the land or structure, which would cause the property to be unbuildable by application of this Ordinance. Factors to consider in determining whether hardship exists, include:**
 - a. Physical circumstances over which the applicant has no control related to the piece of property involved that distinguish it from other land in the zone, including but not limited to, lot size, shape, and topography.**
 - b. Whether reasonable use similar to other properties can be made of the property without the variance.**
 - c. Whether the hardship was created by the person requesting the variance.**
- 2. Development consistent with the request will not be materially injurious to adjacent properties. Factors to be considered in determining whether development consistent with the variance materially injurious include, but are not limited to:**
 - a. Physical impacts such development will have because of the variance, such as visual, noise, traffic and drainage, erosion and landslide hazards.**
 - b. Incremental impacts occurring as a result of the proposed variance.**
- 3. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms or parks will not be adversely affected because of the variance.**
- 4. Whether the variance is the minimum deviation necessary to make reasonable economic use of the property;**
- 5. Whether the variance conflicts with the Woodburn Comprehensive Plan.**

The subject property is a challenging site to develop. It is a remnant parcel created when Country Club Road was realigned to create a four-way intersection with Oregon Way, which appears to have occurred between 1995 and 2000 based on historical aerial imagery. There are public water and sewer lines running through the property, with easements covering them that significantly limit where a building could be constructed. Additionally, there is only one option for site access – the shared driveway with KFC next door. The applicant did not cause any of these issues; they largely result from the street configuration and public utilities in the vicinity.

This variance request is not expected to negatively impact the development of the subject property. The applicant's narrative states that the flower shop rarely has more than three drive-in customers at a time, so the seven spaces will be more than adequate for most days. Considering the surrounding area, the property is one of several that make up a commercial area with shared access throughout. Parking is effectively shared between these businesses, even if no legal agreements exist. Approval of this variance request would not unreasonably impact adjacent properties.

The request is the minimum deviation necessary and does not conflict with the Comprehensive Plan. Staff considers the variance review criteria to be met and recommends approval of the request.

✓ The provisions are met.

May 31,2022

I am applying for a variance regarding the nine parking stalls required by the city for my new flower shop building at 2515 Newberg Hwy, Woodburn. I have requested an easement for one parking stall from all neighboring business, those being, US Bank, Kristi Olsen (Brice Investment Properties), KFC, and The Quan's (Yun Wah Restaurant). All the neighboring business were OK with us using a parking stall however, none of them wanted to have a lifetime easement for one parking stall written for their property.

My flower shop business rarely has more than the three drive in clients at one time. The exception would be at the Holidays or for a funeral booking when multiple family members meet to discuss funeral arrangements for a loved one. If in the rare circumstance the parking lot is full customers will park where they want to, not knowing where the designated stall is located making it difficult to enforce. Several of the business owners already gave us permission to park without the easement. During the Holidays, I will have my employees park in those areas freeing up several stalls in my parking lot.

The property is unique because there are so many easements' running through it, making it difficult for the design of the building and the nine required parking stalls.

Thank you for your consideration for this variance.

Sincerely,

A handwritten signature in black ink that reads "Lucinda A. Wurdnger-Kelly". The signature is written in a cursive, flowing style.

Lucinda A. Wurdnger-Kelly

President

Valley Pacific Floral, INC

NEW FLORIST BUILDING
FOR
VALLEY PACIFIC FLORAL

2515 NEWBERG HIGHWAY

WOODBURN, OREGON 97071

ARCHITECT



Randal S. Saunders Architect/President

2225 COUNTRY CLUB RD. (503) 982-1211
WOODBURN, OREGON 97071 (503) 370-7929

DRAWN BY : CNP
CHECKED BY : R55
APPROVED BY : R55
Copyright 2021

KEY NOTES:

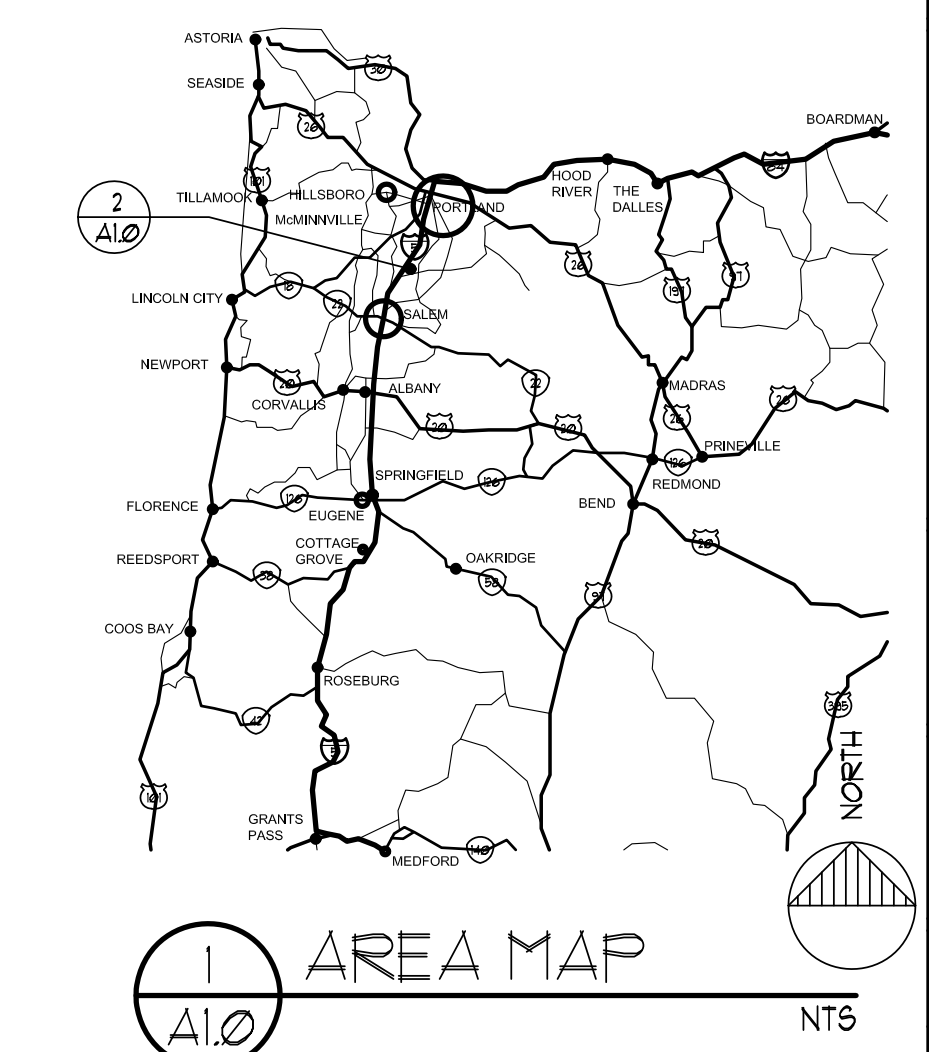
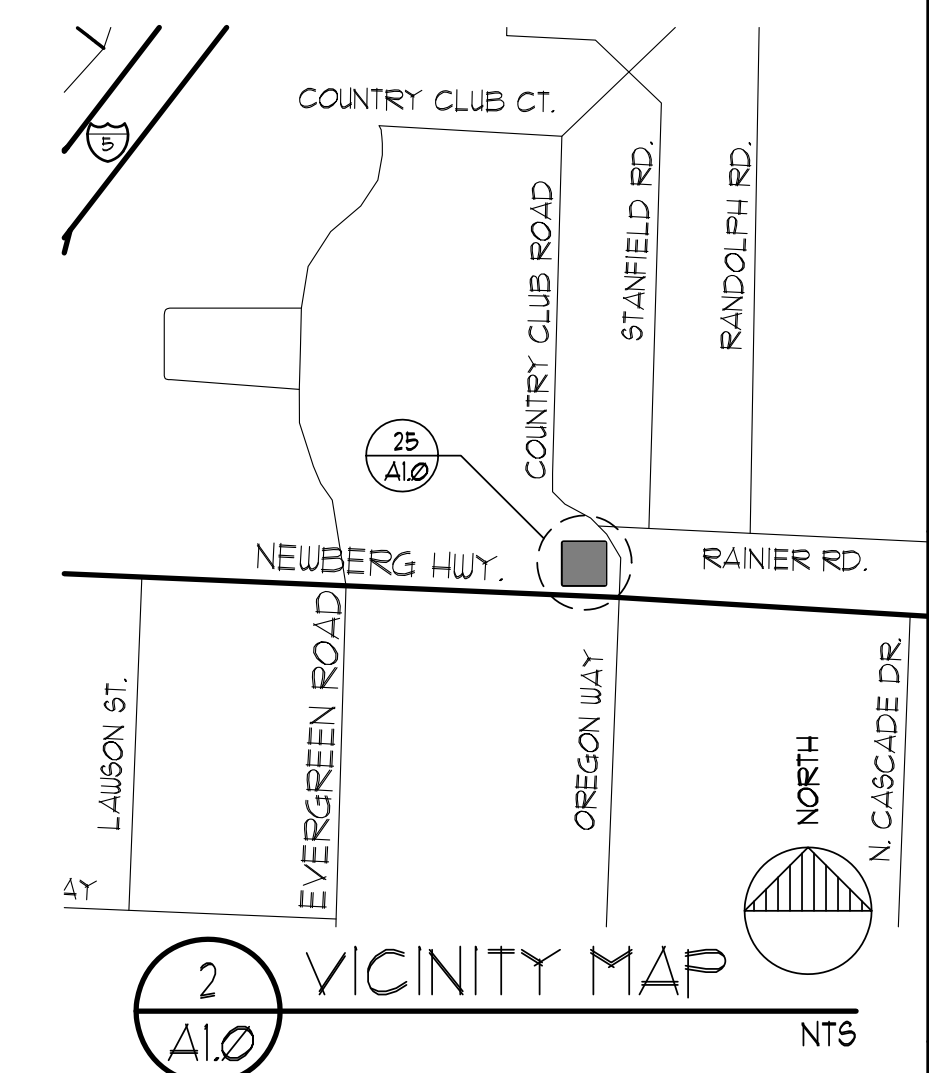
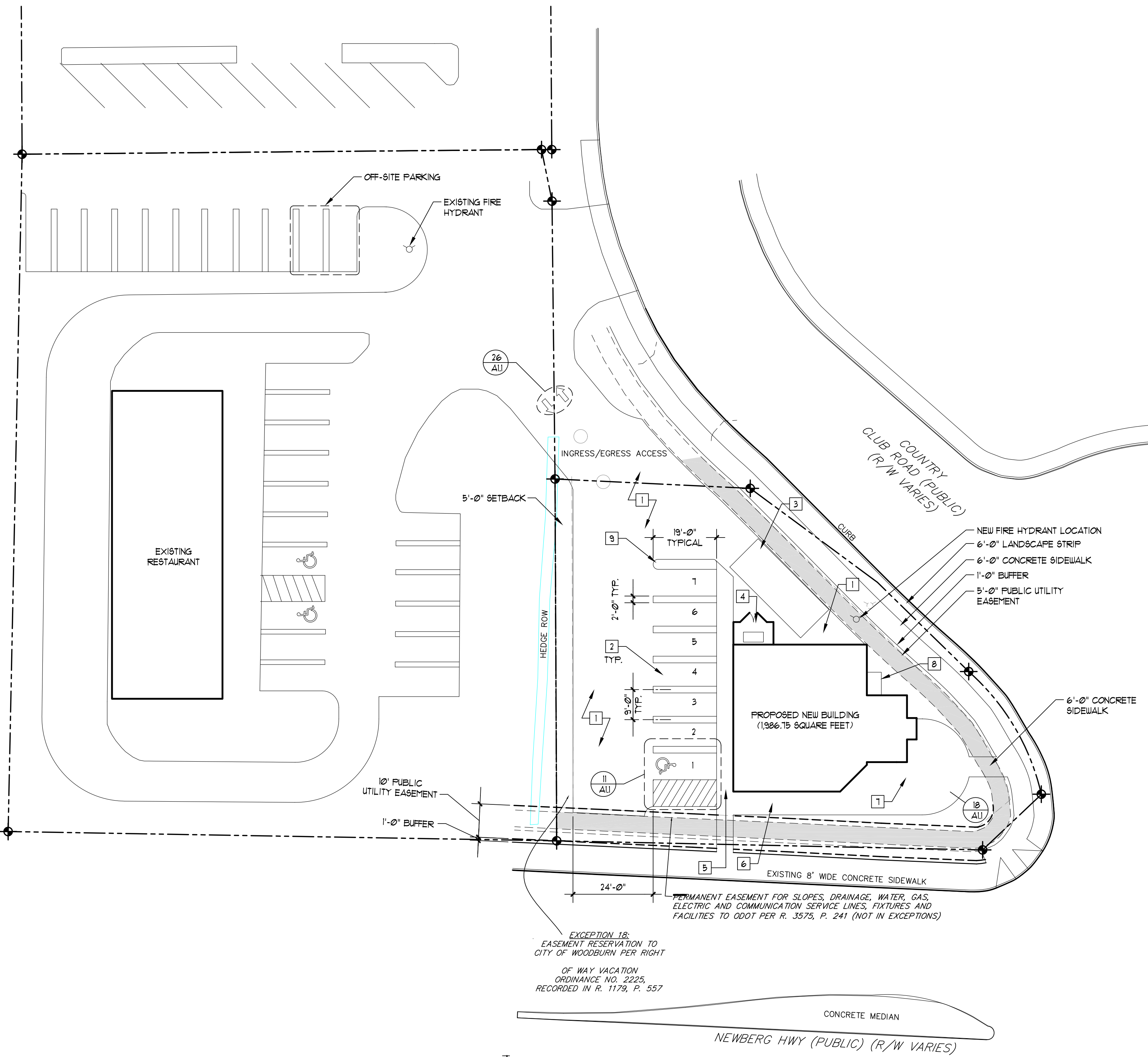
- 1 PAVED AREA SEE (14) A1.0
- 2 9'-0" x 15'-0" PARKING SPACE SEE (3) A1.0
- 3 12'-0" x 30'-0" LOADING AREA
- 4 GARBAGE DUMPSTER ENCLOSURE SEE (9) A1.0
- 5 5'-0" WIDE SIDEWALK SEE (18) A1.0
- 6 1'-0" WIDE SIDEWALK SEE (18) A1.0
- 7 CONCRETE PATIO
- 8 CONCRETE EQUIPMENT PAD SEE (22) A1.0
- 9 LANDSCAPE ISLAND

PROJECT DESCRIPTION

CONSTRUCTION OF A NEW 1986.75 SQUARE FEET SINGLE STORY FLORIST BUILDING ON A VACANT 21 ACRE LOT.

GENERAL NOTES:

1. ALL DIMENSIONS ARE TO FACE OF STUD UNLESS OTHERWISE NOTED.
2. ANY CHANGES OR DEVIATIONS FROM THESE PLANS NEED TO BE APPROVED BY THE ARCHITECT.
3. IF DIMENSIONS ARE MISSING OR IN QUESTION CALL THE ARCHITECT. DO NOT SCALE OFF OF PLANS.
4. GENERAL CONTRACTOR SHALL VISIT THE SITE TO CHECK EXISTING CONDITIONS. SHOULD CONTRACTOR FIND CONDITIONS WHICH THEY BELIEVE WOULD IMPED THE WORK OR FIND DISCREPANCIES BETWEEN THE PLANS AND EXISTING SITE CONDITIONS, SUCH CONDITIONS MUST BE REPORTED IMMEDIATELY TO THE ARCHITECT PRIOR TO START OF THE WORK ON SITE. FAILURE TO ADVISE WILL CONSTITUTE NOTICE THAT CONTRACTOR IS FULLY SATISFIED WITH THE EXISTING CONDITIONS AND THAT THEY INTEND TO PERFORM THEIR OBLIGATIONS WITH NO IMPEDIMENTS TO THEIR WORK.
5. ITEMS NOT INDICATED IN THESE DOCUMENTS THAT CAN BE LEGITIMATELY AND REASONABLY INFERRED TO COMPLETE THE WORK SHALL BE FURNISHED BY THE CONTRACTOR AS THOUGH IT WERE DETAILED HEREIN.
6. PORTABLE FIRE EXTINGUISHERS SHALL BE PER NFPA #10, 2-A, 10-BC RATED MINIMUM UNLESS NOTED OTHERWISE. KITCHEN EXTINGUISHERS SHALL BE TYPE K, IF ANY.
7. EXIT WAYS SHALL BE ILLUMINATED BY BACK-UP POWER. THE CONTRACTOR SHALL PROVIDE EMERGENCY LIGHTING TESTING PRIOR TO INSPECTION BY DISCONNECTING THE MAIN.
8. THE UNLATCHING OF ANY LEAF OF ANY EXIT DOOR SHALL NOT REQUIRE MORE THAN ONE OPERATION.
9. HANDLES, PULLS, LATCHES AND LOCKS SHALL HAVE A SHAPE THAT IS EASY TO GRASP WITH ONE HAND AND DOES NOT REQUIRE TIGHT GRASPING, TIGHT FINCHING, OR TWISTING OF THE WRIST TO OPERATE.
10. THE FORCE REQUIRED TO ACTIVATE DOOR HARDWARE NOTED ABOVE, OTHER THAN EXTERIOR DOORS, SHALL NOT BE GREATER THAN FIVE (5) POUNDS FORCE.
11. ALL WORK SHALL COMPLY WITH ALL APPLICABLE CODES AND ORDINANCES.
12. ALL MANUFACTURED ARTICLES, MATERIALS AND EQUIPMENT SHALL BE APPLIED, INSTALLED, CONNECTED, ERECTED, USED, CLEANED AND CONDITIONED IN ACCORDANCE WITH THE MANUFACTURERS' WRITTEN SPECIFICATIONS OR INSTRUCTIONS UNLESS HEREINAFTER SPECIFIED TO THE CONTRARY.
13. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK USING THEIR BEST SKILL AND ATTENTION. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION AND/OR INSTALLATION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURE AND FOR COORDINATION ALL PORTIONS OF THE WORK UNDER THE CONTRACT.
14. DIMENSIONS TAKE PRECEDENCE OVER SCALE ON CONSTRUCTION DOCUMENTS.
15. ALL WORK SHALL BE EXECUTED IN A NEAT AND WORKMANLIKE MANNER, ACCEPTABLE TO OWNER.
16. WHEN WORK NOT SPECIFICALLY CALLED OUT IS REQUIRED TO COMPLETE THE PROJECT, IT SHALL BE PROVIDED AND BE OF THE BEST MATERIALS AND WORKMANSHIP.
17. CONTRACTOR SHALL GUARANTEE ALL WORKMANSHIP AND MATERIALS FOR A PERIOD OF ONE YEAR FROM THE DATE OF SUBSTANTIAL COMPLETION (IN WRITING).
18. UNLESS OTHERWISE SPECIFICALLY NOTED, THE CONTRACTOR SHALL PROVIDE AND PAY FOR ALL LABOR, MATERIALS, EQUIPMENT, TOOLS, CONSTRUCTION EQUIPMENT AND MACHINERY, TRANSPORTATION, AND OTHER FACILITIES AND SERVICES NECESSARY FOR PROPER EXECUTION AND COMPLETION OF THE WORK.
19. THE CONTRACTOR WARRANTS TO THE OWNER AND THE ARCHITECT ALL MATERIALS AND EQUIPMENT FURNISHED UNDER THIS CONTRACT WILL BE NEW UNLESS OTHERWISE SPECIFIED, AND ALL WORK WILL BE GOOD QUALITY, FREE FROM FAILTS AND DEFECTS AND IN CONFORMANCE WITH THE CONSTRUCTION DOCUMENTS. ALL WORK NOT SO CONFORMING TO THESE STANDARDS MAY BE CONSIDERED DEFECTIVE. IT IS UNDERSTOOD NO INTERIOR OR NON-CONFORMING WORK OR MATERIALS WILL BE ACCEPTED WHETHER DISCOVERED AT THE TIME THEY ARE INCORPORATED IN THE WORK OR AT ANY TIME BEFORE OR AFTER THE FINAL ACCEPTANCE. IF REQUIRED BY THE ARCHITECT, THE CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE AS TO THE KIND AND QUALITY OF MATERIALS AND EQUIPMENT.
20. THE WARRANTIES AND GUARANTEES PROVIDED IN THE CONSTRUCTION DOCUMENTS SHALL BE IN ADDITION TO AND NOT IN LIMITATION OF ANY OTHER WARRANTY OR GUARANTY OR REMEDY REQUIRED BY LAW OR BY THE CONSTRUCTION DOCUMENTS.



25 SITE PLAN
A1.0 OPTION 2
1"=20'-0"

NEW FLORIST BUILDING
FOR
VALLEY PACIFIC FLORAL

REVISIONS

Attachment 104

A PROFESSIONAL CORPORATION

2225 COUNTRY CLUB ROAD
WOODBURN, OREGON 97071
(503) 982-1211

PROJECT NO.: 21.11
DATE: AUG. 2021
DRAWING NO.: A1.0

PLOT DATE/TIME: DATE: 10/22/2021 TIME: 09:01 FILE: COVER SHEET