

- (1) *The site plan amendment does not involve any interpretation of submission requirements or required findings that would set a precedent for other site plans or site plan amendments.*

The proposal involves the approval of a mobile food cart as part of a permanent site plan. Veneta Land Development Ordinance (VLDO) Section 4.05 permits retail stores or shops provided that “all operations except off-street parking and temporary activities associated with an established business shall be conducted entirely within an enclosed building”. VLDO defines the term “building” as follows:

BUILDING Any structure used or intended for supporting or sheltering any use or occupancy.

Structure is defined as follows:

STRUCTURE That which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

The Planning Commission finds that the mobile concession trailer is a “structure”, and can be considered as a “building” under this definition.

- (2) *The site plan amendment will not change the impacts (such as traffic generation, emissions or drainage) on surrounding properties.*

The proposed site plan includes the food cart which has been approved only as a temporary use. The inclusion of the food cart in the approved site plan constitutes an increase in the intensity of development on the site. The proposed addition of a food cart to the site plan will change the impacts of the approved site plan, including traffic, on surrounding properties.

Section 6.04 REQUIRED FINDINGS

After examination of the site and prior to approval of plans, the Commission or Building and Planning Official must make the following findings:

- (1) *That all provisions of city ordinances are complied with.*

Veneta Land Development Ordinance No. 461

Section 4.05 COMMUNITY COMMERCIAL (CC)

In the CC zone, the following regulations shall apply:

- (1) *Purpose: To provide areas suitable and desirable for a wide range of small commercial and business facilities to serve the Fern Ridge community.*

The proposal is consistent with this zoning purpose because the flower shop and food stand are small businesses and add variety to the commercial zone in the Fern Ridge area.

- (2) *Permitted Uses: In a CC zone, the following uses and their accessory uses are permitted subject to the site plan review provisions of Article 6, provided, all operations except off-street parking and temporary activities associated with an established business shall be conducted entirely within an enclosed building:*

- (a) *Retail stores or shops under 10,000 square feet*

The proposal is consistent with this criterion because the retail business is less than 10,000 square feet.

- (4) *Yards: Except as provided in Articles 5, 6, and 8, in a CC zone, no yards are required except as follows:*

- (b) *Back and side yards abutting a residential zone (not including the RC zone) shall be ten (10) feet.*

The proposal is consistent with this requirement because the flower stand and food cart are located further than the required ten (10) feet from the east property line which abuts a residential zone.

- (5) *Building Orientation. All new or remodeled commercial or public buildings shall have their main entrance facing the street.*

The proposal is consistent with this criteria. The proposed building does not have a public “main entrance” and is intended to serve walk-up traffic only.

- (6) *Pedestrian Access. A sidewalk shall provide safe, convenient pedestrian access from the street to the building entrance. If the sidewalk crosses the driveway, it shall be raised or marked in a manner that calls attention to the sidewalk.*

The proposal is consistent with this requirement because the submitted site plan (Exhibit A) includes a walkway that will run

from the sidewalk on Territorial Highway to the main entrance of the structure on site, which will allow pedestrians safe access to the entrances of the retail structures on-site without crossing the driveway or parking lot. Access to the food cart is provided from the sidewalk on Territorial without crossing the paved parking area.

(7) *For additional requirements see Article 5 – Supplementary Provisions*

Article 5 **SUPPLEMENTARY PROVISIONS**

Section 5.04 **DISTANCE FROM PROPERTY LINE**

In commercial or industrial zones where a back or side yard is not required and a structure is not to be erected at the property line, it shall be set back at least three (3) feet from the property line.

The proposal is consistent with this requirement because the flower stand and food cart are set back ten (10) feet from the south property line and further than the minimum three (3) feet from the east property line.

Section 5.11 **PROJECTIONS FROM BUILDINGS**

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues may not project into required yards or public easements. Eaves may extend up to two (2) feet into a required side and/or rear yard and up to six (6) feet into a required front yard. The building setback shall be measured from the foundation of the structure.

The proposal is consistent with this requirement because there are no cornices, eaves, canopies, sunshades, gutters, chimneys and flues proposed to project from the building in this application.

Section 5.12 **LANDSCAPING**

All yards and parking areas shall be landscaped in accordance with the following requirements:

(1) *Provisions for landscaping, screening and maintenance are a continuing obligation of the property owner.*

The proposal is consistent with this requirement the applicant has previously signed, which includes responsibility for continued maintenance of landscaping.

- (3) *Existing trees, plant material and special site features shall be preserved within a project site to the fullest extent possible. Particular attention shall be focused on preserving native and heritage trees.*

The proposal is consistent with this requirement because the applicant is not proposing the removal of any existing trees, plant material or special site features.

- (5) *All other site areas and unused property shall be maintained in suitable ground cover or kept in a clean, weed-free manner.*

The proposal is consistent with this requirement with the recorded Development Agreement signed by the applicant, which includes responsible for keeping the unused property to the north, south, east and west of the existing structure maintained in suitable ground cover and kept in a clean weed-free manner.

- (6) *Multiple family sites and parking lots shall be screened from abutting single-family land uses by a combination of sight-obscuring fences, walls and landscaping adequate to provide privacy and separation for the abutting land use.*

The proposal is consistent with this requirement because the parking lot is currently blocked from view of the abutting single-family lot by the existing structure and a fence on the east property line.

- (7) *Garbage collection areas, service facilities and air conditioning facilities located outside the building shall have sight-obscuring screening. Mechanical equipment, lights, emissions, shipping/receiving areas and garbage collection areas for industrial, commercial, and public facility uses shall be located away from residential areas, schools and parks.*

The proposal is consistent with this requirement because the applicant will not have any garbage collection areas located outside the buildings and is responsible for disposing of any garbage generated by the retail business. There is no mechanical equipment, lighting, emissions or shipping/receiving areas proposed for this site.

- (8) *All commercial and industrial uses shall provide landscaping as part of the development plan. Landscaping shall cover all required yards and the entire open space of the property and shall be permanently maintained by the property owner. Landscaping shall primarily consist of ground cover, trees, shrubs and other living plants.*

Minimum number of trees and shrubs acceptable per 1,000 square feet of yard and open-space area is as follows:

- (a) One tree at least six (6) feet in height.*
- (b) Four 1-gallon shrubs or accent plants.*

The proposal is consistent with this requirement because there is approximately 1200 square feet of yard and open space on the subject property the applicant has previously been required to plant and has planted (1) tree at least six (6) feet in height and four 1-gallon shrubs or accent plants. There is a recorded, signed Development Agreement that the applicant is responsible for all landscape maintenance on the property.

- (10) *When adjacent land uses are of a different type and the proposed use may impact the adjacent land uses, the Building and Planning Official or Planning Commission may require sight-obscuring fencing, walls, and/or landscaping. In order to provide appropriate buffering and screening, the Building and Planning Official or Planning Commission may increase the required yard dimensions.*

This criterion is not applicable because the residential use to the east is blocked from the parking lot by the existing structure and fencing and therefore, a sight-obscuring fence, wall or landscaping is not required. Increased yard dimensions are not required.

Section 5.15 SIGNS

- (7) Permitted Signs. *The following tables (Table A and Table B) list the types of signs, which are allowed within the three designated sign districts. In addition to the conditions listed in these tables, all signs must comply with all other applicable sections of the Veneta Sign Code. Any box marked with an "X" indicates a sign is permitted in the zone with no restrictions on size, height, or number. A shaded box indicates that the particular sign listed is not permitted in a particular sign district.*

The proposal is consistent with this requirement because the existing 24 sqft freestanding sign that was built with a permit and no additional signs are proposed as part of this application.

Section 5.20 **OFF STREET PARKING REQUIREMENTS**

For each new structure or use, each structure or use increased in the area and each change in the use of an existing structure, there shall be provided and maintained off-street parking areas in conformance with the provisions of this section.

(2) *Design and improvement requirements for parking lots (not including single two-family dwellings)*

- (a) *All parking lots and driveway approaches shall be surfaced with two (2) inches of asphaltic concrete or six (6) inches Portland cement concrete over approved base or other materials approved by the City Engineer. All parking lots shall be graded so as not to drain storm water over the sidewalk or onto any abutting property.*

The proposal is consistent with this requirement. The entire driveway and parking lot area has been paved to meet previous conditions of approval.

- (b) *Service drives and parking spaces on surfaced parking lots shall be clearly and permanently marked. Parking spaces, except for handicap spaces, shall have a minimum dimension of eighteen (18)' x nine (9)' exclusive of maneuvering and access area. The dimension includes the area in front of the curb stop over which the front of a vehicle would extend. Handicap spaces shall be provided as required by the Oregon State Structural Specialty Code.*

The proposal is consistent with this criterion because all spaces have a minimum dimension of 18' x 9' and all parking spaces are clearly and permanently marked .

- (c) *Parking lots shall be served by a service driveway so that no backing movements or other maneuvering within a street other than an alley shall be required. Design for parking arrangements and turning movements shall be approved by the Building and*

Planning Official. Two way driveways shall have a minimum width of twenty (20) feet and a maximum width of 30 feet. One-way driveways shall have a minimum width of twelve (12) feet and a maximum width of sixteen (16) feet.

The proposal is consistent with this requirement because the driveway on site is a two-way driveway and is currently 30 feet wide, which is the maximum width required. The parking area is served by a service driveway so no backing or other maneuvering onto Territorial Road is required.

- (d) *Parking areas along the outer boundaries of a parking area shall be contained by a curb or bumper so placed to prevent a motor vehicle from extending over the property line.*

This requirement is not applicable because the parking area is not along the property line, so a bumper or curb is not required to keep vehicles from extending over a property line.

- (e) *Service driveways to off-street parking lots shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrian and vehicular traffic on the site. The number of service driveways shall be limited to the minimum that will allow the property to accommodate and service the traffic anticipated.*

The proposal is consistent with this requirement because the parking lot and service driveway are of the required width to provide maximum safety of traffic access and egress; and there is sufficient space for maneuvering within the parking lot area, so no vehicles will be required to back into Territorial Road. There is one service driveway, which is the minimum that will allow the property to accommodate and service the minimal anticipated traffic.

- (f) *All off-street parking lots within or abutting residential districts or uses shall be provided with a sight-obscuring wall, fence or hedge as approved by the*

Building and Planning Official to minimize disturbances to adjacent residences.

This criterion is not applicable because the parking lot is currently blocked from view of the abutting residential lot by the existing structure and fence.

- (g) *A grading structure or drainage plan shall be submitted to the City Building and Planning Official and approved by the City Engineer.*

The proposal is consistent with this requirement because the applicant has submitted a drainage plan that was approved by the City Engineer.

- (h) *Parking lots shall be provided with landscaping as provided in Section 5.12 and other suitable devices in order to divide the parking lot into sub-units to provide for pedestrian safety, traffic control and to improve the appearance of the parking lot. A minimum of one shade tree per sixteen (16) parking spaces shall be provided in planter islands distributed throughout the lot. A maximum of twenty (20) spaces shall be allowed between planter islands.*

The proposal is consistent with Section 5.12 LANDSCAPING as discussed above.

This criterion is not applicable to the proposal because there are only eight (8) required parking spaces on site, which is less than the amount required to provide landscaping.

- (3) Location standards for parking lots

- (a) *Off-street parking shall be provided on the development site for all zones, except off-street parking spaces for the Commercial, Residential-Commercial, and Industrial zones may be located not farther than 400 feet from the building or use they are required to serve. Owners of two (2) or more uses, structures, or parcels of land may agree to use the same parking spaces jointly when peak demands do not occur at the same time periods, provided substantial proof is presented to the Building and Planning Official or Planning*

Commission pertaining to the cooperative use of the parking facilities.

The proposal is consistent with this criterion because the off-street parking is less than 400 feet from the buildings they are required to serve.

- (b) *Off-street parking shall not be located in a required front yard.*

This criterion is not applicable to the proposal because there is no required front yard.

- (c) *Parking lots and loading docks for new commercial, public and semi-public buildings shall be located to the side or rear of the building.*

The proposal is consistent with this criterion because the parking lot is located to the side of the new commercial building.

- (4) *Required parking spaces shall be available for the parking of operable motor vehicles for residents, customers, patrons and employees only and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or for repair and servicing.*

The proposal is consistent with this requirement with the recorded Development Agreement signed by the applicant stating that the parking area shall be used for the parking of operable motor vehicles for customers and employees only and shall not be used for storing vehicles or materials, for parking trucks when conducting business or for service or repair.

- (5) *The provision and maintenance of off-street parking spaces are continuing obligations of the property owner. No building or other permit shall be issued until plans are presented that show parking space. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking area required by this ordinance.*

The proposal is consistent with this requirement with the recorded Development Agreement outlining the applicant's responsibility for maintenance of the off-

street parking. The applicant submitted a site plan with a clearly marked parking area.

- (6) *Should the owner or occupant of a lot of building change the use of the property to a use which increases the off-street parking requirements, it shall be unlawful and a violation of this ordinance to begin to maintain such altered use until the required increase in off-street parking is provided.*

The proposal is consistent with this requirement with the condition of approval that if the owner or occupant changes the use of the property to a use that increases the off-street parking requirements, the owner or occupant shall provide the additional required parking prior to beginning to maintain such altered use.

- (11) *Space requirements for off-street parking shall be listed in this section. Fractional space requirements shall be counted as a whole space. When square feet are specified, the area measured shall be the gross floor area of the building primary to the use by shall exclude any space within a building used for off-street parking, loading or service function not primary to the use. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift peak season. A reduction in the number of required spaces is allowed if evidence is provided to show that a reduced amount of parking is sufficient and will not cause detrimental impacts to on-street parking or other parking areas.*

<u>USE-</u>	<u>SPACE</u>
<u>Commercial</u>	<u>REQUIREMENT</u>
<i>Retail store except as provided in subsection (b) of this subsection</i>	<i>One (1) space per 200 square feet of floor area designed</i>

The proposal is consistent with this requirement because the applicant is providing a total of eight (8) parking spaces which is the amount of off-street parking required for the gross floor area of retail space provided on site. The first floor of the house used for retail space is 1200 sq. feet; the concession trailer is 128 sq. feet; and the flower stand is 200 sq. feet, which equals a total of 1528 sq. ft.

- (12) Accessible Parking Spaces. Parking shall be provided for disabled persons in accordance with the Americans with Disabilities Act. Accessible parking is included in the minimum number of required parking spaces listed above.

Minimum Number of Accessible Parking Spaces

<u>Total Number of Parking Spaces Provided (per lot) (60" and 96" aisles)</u>	<u>Total Minimum Number of Accessible Parking Spaces</u>
1-25	1

The proposal is consistent with this requirement because the applicant is providing eight (8) parking spaces of which one (1) shall be ADA accessible as required.

Section 5.21 BICYCLE PARKING

Bicycle parking requirements shall apply to all developments that require a site plan or amended site plan for new development, changes of use, and building expansions and remodels. Bicycle parking spaces provide a convenient place to lock a bicycle and shall be at least six (6) feet long, two (2) feet wide and seven (7) feet high. Bicycle parking shall not interfere with pedestrian circulation.

- (2) Non-Residential Parking. There shall be a minimum of one bicycle parking space for every seven motor vehicle spaces. At least ten percent of all bicycle parking spaces shall be sheltered. Bicycle parking provided in outdoor areas shall be located near the building entrance, similar to vehicle parking spaces, unless existing development on site precludes that option. Fractions shall be rounded to the nearest whole number.

The proposal is consistent with this requirement because the applicant is providing one (1) bicycle parking space, six (6) feet long and two (2) feet wide and located near the entrances of the retail stores.

Section 5.22 PEDESTRIAN ACCESS AND CIRCULATION

- (2) *Internal pedestrian and bicycle systems shall connect with external existing or planned systems. Pedestrian access from public sidewalks to the main entrances of public, semi-public,*

commercial, and multi-family buildings shall not cross driveways or parking lots.

The proposal is consistent with this requirement because the applicant has provided a walkway that extends from the public sidewalk on Territorial Road to the entrance of the structure so that pedestrians do not have to cross the driveway and parking lot to reach the main entrance of the flower shop. Pedestrians can access the food cart from the sidewalk on Territorial Hwy. without crossing the parking area.

- (3) *That traffic congestion is avoided, pedestrian, bicycle and vehicular safety are protected and future street right-of-way are protected.*

The proposal is consistent with this requirement because the parking lot width and design provides for safe traffic flow, ingress and egress and does not require vehicles to back out onto Territorial Road. There is a walkway that runs from the sidewalk on Territorial Rd., past the entrance of the flower stand, to the entrance of the main commercial building, which allows pedestrians to access the retail stores and food cart without crossing the parking lot or driveway.

- (4) *That proposed signs or lighting will not, by size, location or color, interfere with traffic or limit visibility.*

The proposal is consistent with this requirement because there are no proposed signs for this property and with the condition of approval that the applicant obtain a sign permit from the City before any signs are placed on the subject property. There is no proposed outdoor lighting.

- (5) *That adequate water, sewer and utilities for the proposed use are available.*

The proposal is consistent with this requirement because there is adequate water, sewer and utility services available. The site is served with City services and all utilities. The nature of the food cart does not require that it be connected to sewer and water as it has a potable tank, and restroom facilities are available within the retail structure. The applicant has utilized this arrangement successfully without complaints for more than a year as a temporary use.

- (6) *That drainageways are protected and drainage facilities provided.*

The proposal is consistent with this requirement because the applicant has submitted a drainage plan that was approved by the City Engineer.

The concession trailer is 128 sq ft. This additional impervious area is surrounded by gravel which is adequate to infiltrate and control runoff.

- (7) *That the extent of emissions and potential nuisance characteristics are reasonably compatible with the land use district, adjacent land uses and the standards of all applicable regulatory agencies having jurisdiction.*

The proposal is consistent with this requirement because there are no emissions or potential nuisance characteristics associated with the proposed use. The food cart has been operating for over a year as a temporary use with no complaints.

- C. This approval shall become final on the sate this decision and supporting findings of fact are signed. A Planning Commission decision may be appealed to the City Council within 15 days after the final order has been signed and mailed. An appeal of the City Council’s decision must be submitted to the Land Use Board of Appeals within 21 days of the Council’s decision becoming final. Failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.**

**James Eagle Eye, Chairperson
Planning Commission Chairperson**

Date