

**FOR MEETING OF: AUGUST 10, 2022**  
**CASE NO.: APPEAL OF DR-SPR-DAP18-04MOD1**

**TO: HEARINGS OFFICER**

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

**SUBJECT: APPEAL OF MODIFICATION TO A CLASS 3 SITE PLAN REVIEW FOR  
CASE NO. DR-SPR-DAP18-04MOD1; 1233 RIVER BEND ROAD NW -  
97301; AMANDA NOS. 22-102265-RP (DR-SPR-DAP18-04MOD1).**

**APPELLANT:** Deborah Bjornson represented by David Keys

**APPLICANT/OWNER:** Scott Martin Construction LLC (Scott Martin)

**ISSUE:**

Shall the Hearings Officer affirm the decision, affirm the decision with additional conditions or modifications, remand the decision to the Planning Administrator for further action, or reverse the decision?

**RECOMMENDATION**

Based upon the Facts and Findings contained in this staff report, staff recommends that the Hearings Officer AFFIRM the Planning Administrator's decision approving the modification to a previously approved site plan review which adds a new plaza to be used for a temporary use (Mobile Food Units) and reduces the size of a previously approved retail building, subject to conditions of approval.

**BACKGROUND**

The subject property is located at 1233 River Bend Road NW. A vicinity map showing the subject property is included as **Attachment 1**.

During the comment period, comments were received from two members of the public, which are summarized in the Planning Administrator's decision (**Attachment 2**).

On June 22, 2022, the Planning Administrator issued a decision approving a Modification to the Class 3 Site Plan Review of Case DR-SPR-DAP18-04.

On July 6, 2022, a timely notice of appeal was filed by David Keys of Norris Stevens representing Deborah Bjornson. The appeal challenges that the proposal fails to meet the criteria and does not address nuisances caused by the change in the site plan. The notice of appeal is included as **Attachment 3**.

On July 6, 2022, the applicant granted an extension to the 120-day deadline to September 13, 2022.

The public hearing before the City of Salem Hearings Officer is scheduled for August 10, 2022, at 5:30 p.m.. Notice of public hearing was sent by mail to surrounding property

owners pursuant to Salem Revised Code (SRC) requirements on July 21, 2022. Public hearing notice was also posted on the property pursuant to SRC requirements.

## **SUMMARY OF RECORD**

The following items are submitted to the record and are available: 1) all materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports; and 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 22 102265.

## **FACTS AND FINDINGS**

The Planning Administrator's decision dated June 22, 2022, establishes findings related to the proposed approval of the Modification to the Class 3 Site Plan Review, application (DR-SPR-DAP18-04MOD1) for the subject site development.

The following is a summary of the items raised by the appellant in the notice of appeal memo letter dated July 7, 2022, followed by a staff response.

- 1) *The proposal is not the original plan approved by the Planning Administrator. There was to be only two buildings with retail space.*

**Staff Response:** The applicant requested to modify an existing site plan review decision, which is authorized by Salem Revised Code 220.010. The modification included adding approximately 6,400 square feet of land to the overall proposal in order to create a plaza in front of a slightly smaller retail building, which was approved in the original decision.

The original site plan review, approved in 2018, included a design review for multi-family (now the neighboring property), parking areas, two retail buildings (6,250 square feet and 5,000 square feet) and development of a new driveway to serve the entire development. The decision indicated that 117 parking spaces were required between the multi-family development and retail use and that the development was providing 135 parking spaces.

The modification to the site plan review adds a Plaza on the newly included land and reduces the overall size of one retail building. The modification to the application is only for the review of the new land area and plaza. Otherwise, the proposal is substantially conforming to the original 2018 decision with the addition of mobile food units (food carts/trucks) to the approved plaza area. The use of the retail use building is allowed to be occupied by an eating and drinking use, regardless of if the structure is used as restaurant without mobile food units.

Mobile food units are not considered a permanent structure. The use of a mobile food unit must be allowed in the zone which it is being operated (SRC 30.410(a) &(d)) and

must be located on an approved parking lot or other hard surface (SRC 30.405(c)). The criterion for a modification of a site plan review does not include review of the location of vehicles themselves, but only the parking area or hard surface being constructed.

The criterion and standards applicable are those to review the pedestrian plaza, drive-aisle and parking area. As detailed in the Planning Administrator's decision (**Attachment B**), the development meets the standards and decision criterion.

*2) Food carts/trucks will contribute rodents and garbage to the appellants neighboring property and was not addressed in the decision.*

**Staff Response:** The appellant argues that rodents and garbage were not addressed in the Planning Administrator's decision. The original 2018 decision reviewed two trash enclosures, which have been constructed. The decision criteria for a site plan review does not review property maintenance.

Solid waste management is regulated under SRC Chapter 47, which includes offensive littering and violations of the Code. Public nuisances, which can include the accumulation of solid waste, is regulated by SRC Chapter 50.

There is no code requirement to provide a certain number of trash receptacles for development. It is the responsibility of the applicant to work with the solid waste handler to determine the number of receptacles and schedule to provide adequate servicing for the complex. Solid waste issues are address by Salem Revised Code Chapter 50 and enforced by the City's Compliance Services Division.

*3) Traffic from the Food carts/trucks will affect the shared driveway.*

**Staff Response:** The development being reviewed is a plaza which does not generate additional traffic. The original decision in 2018, reviewed the proposed development and driveway location. The City Assistant Traffic Engineer determined the driveway provides for safe turning movements in and out of the property and that after conditions of approval are met that the transportation system will remain safe, orderly, and effective.

The shared driveway is approved for both properties under the previous decision and is not in review as part of this application.

*4) There is not adequate parking for the customers and employees of retail buildings.*

**Staff Response:** The original site plan review, approved in 2018, included a design review for multi-family (now the neighboring property), parking areas, two retail buildings (6,250 square feet and 5,000 square feet) and development of a new driveway to serve the entire development. The decision indicated that 117 parking spaces were required between the multi-family development and retail use and that the development was providing 135 parking spaces.

The original decision required 117 parking spaces for the development site and proposed 135 spaces, exceeding the required amount. The proposed modification adds

a plaza and reduces the parking to 130 spaces, which meets the required parking. The proposal also reduces the size of the retail building from 6,250 square feet to approximately 5,000 square feet. The reduction of proposed building would reduce the overall parking required by five spaces. The proposed development meets the standard of SRC 806 and does not exceed the maximum parking of 196 spaces.

Mobile food units are not considered permanent structures, and therefore, do not require additional parking. Generally, each mobile food unit is 120 to 200 square feet in size. The applicant has provided information that 16 mobile food units may be located in the plaza. If the square footage was added to the overall retail sales use, the site would still have an excess of parking to serve the entire development.

The proposed development meets the standards.

5) *Outdoor seating will increase noise affecting the neighboring properties. Hours of operation were not addressed in the Planning Administrator's decision.*

**Staff Response:** SRC Chapter 51 regulates noise levels, and the proposed development is subject to these regulations. Specifically, SRC 51.015 provides maximum sound levels based on the source and receiver of the sound. It is unlawful to exceed the maximum sound levels without an event sound permit. The Neighborhood Enhancement division of the Community Development Department enforces these noise regulations.

The subject property is located within an already developed area within the corporate limits of the City of Salem, and noise impacts from retail uses and restaurants (mobile food units) are not expected to exceed what would occur from the presumed development of land within the City zoned for commercial development. Approval criteria for a site plan review do not specifically address noise levels, and no evidence has been provided that would indicate that the proposed development in the vicinity would interfere with the safe and healthful use of neighboring properties. No evidence has been submitted showing that the proposed food carts will create more noise or odor than any other allowed use in the zone. The City has no record of excess noise or odors associated with other food cart pods located in the city.

6) *Venting for kitchens and grills will produce smoke and other odors which were not addressed in the Planning Administrator's decision.*

**Staff Response:** The proposal is to develop a plaza; the applicant has indicated mobile food units use the area. Mobile food units, which is an eating and drinking use, is an allowed use in the CR (Retail Commercial) zone. The operational characteristics of an allowed use in the zone is not a decision criterion. Public Nuisance issues are address by Salem Revised Code Chapter 50 and enforced by the City's Compliance Services Division.

## **RECOMMENDATION**

Based upon the Facts and Findings contained in this staff report, staff recommends that the Hearings Officer AFFIRM the Planning Administrator's decision approving the modification to the previous site plan review, subject to conditions of approval in the DR-SPR-DAP18-04MOD1 decision (**Attachment 2**).

Prepared by Olivia Dias, Current Planning Manager

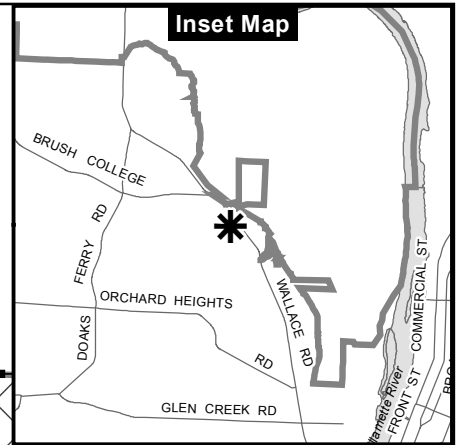
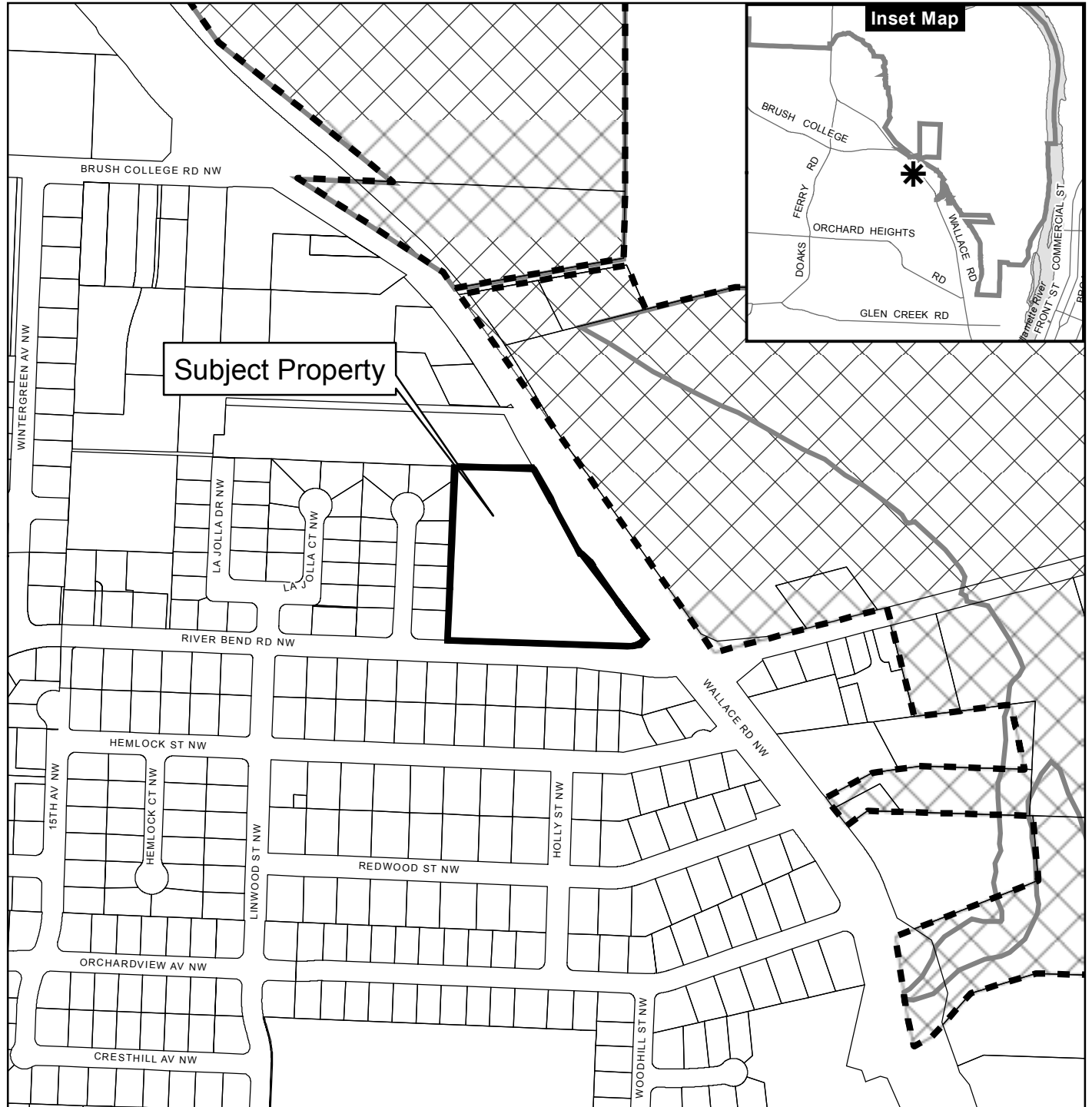
Application Deemed Complete Date: April 22, 2022  
State Mandated Decision Date: September 13, 2022

Attachments:           1. Vicinity Map and Site Plan  
                              2. Notice of Appeal  
                              3. DR-SPR-DAP22-18MOD1 Decision

# Vicinity Map

## 1200 Block of River Bend Road NW

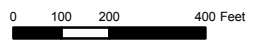
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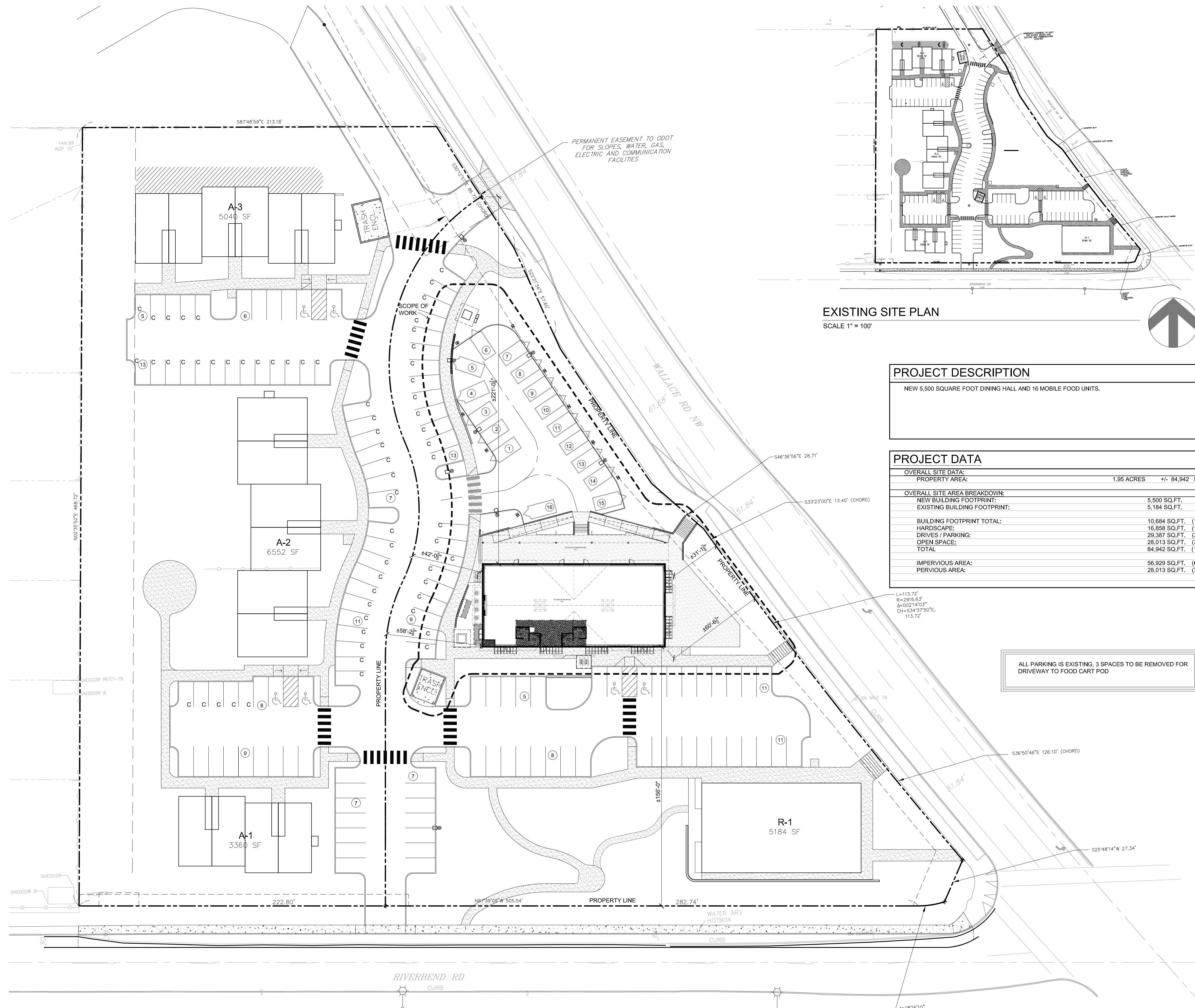
Subject Property

**Legend**

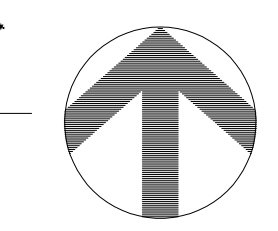
- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks



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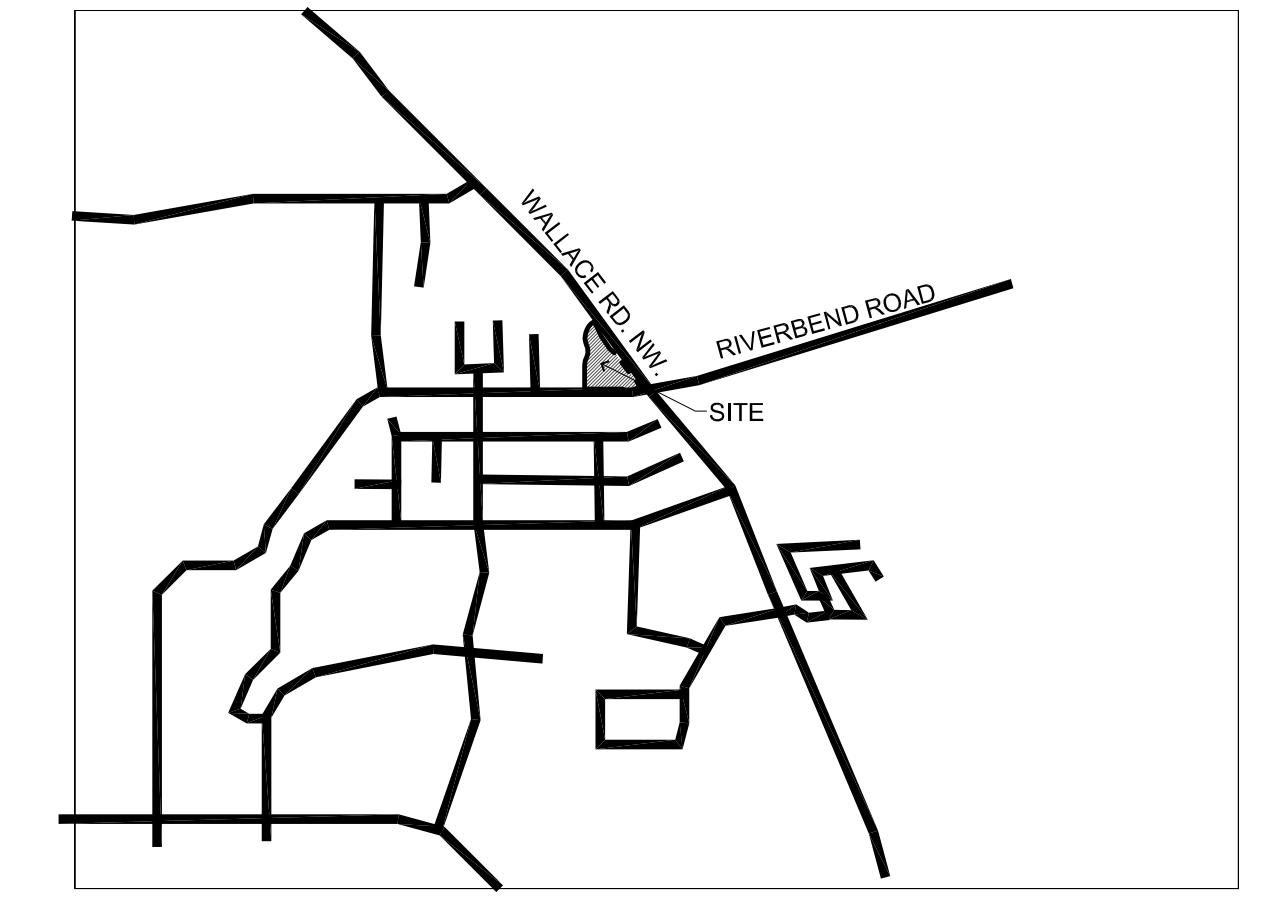
**EXISTING SITE PLAN**  
SCALE 1" = 100'



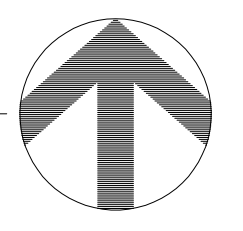
PROJECT DESCRIPTION	
NEW 5,500 SQUARE FOOT DINING HALL AND 16 MOBILE FOOD UNITS.	

PROJECT DATA	
<b>OVERALL SITE DATA:</b>	
PROPERTY AREA:	1.95 ACRES +/- 84,942 SQ. FT.
<b>OVERALL SITE AREA BREAKDOWN:</b>	
NEW BUILDING FOOTPRINT:	5,500 SQ. FT.
EXISTING BUILDING FOOTPRINT:	5,184 SQ. FT.
BUILDING FOOTPRINT TOTAL:	10,684 SQ. FT. (12.5%)
HARDSCAPE:	16,858 SQ. FT. (19.9%)
DRIVES / PARKING:	29,387 SQ. FT. (34.6%)
OPEN SPACE:	28,013 SQ. FT. (33.0%)
TOTAL:	84,942 SQ. FT. (100%)
IMPERVIOUS AREA:	56,929 SQ. FT. (67.0%)
PERVIOUS AREA:	28,013 SQ. FT. (33.0%)

ALL PARKING IS EXISTING, 3 SPACES TO BE REMOVED FOR DRIVEWAY TO FOOD CART POD



VICINITY MAP



**PROJECT STATISTICS:**

SITE PLAN	
1221 & 1233 RIVER BEND ROAD SALEM, OR 97304 CITY OF SALEM, POLK COUNTY OREGON	
ZONE:	COMMERCIAL RETAIL (CR)
USE:	OFFICE/RETAIL (R1)
EXISTING TO REMAIN:	FOOD CART POD/DINING BUILDING (R2/R3)
PROPOSED:	
BLDG. HEIGHT (TABLE 522-5 HEIGHT):	MAX 50 FEET 34' - 11"
BLDG. SETBACK (TABLE 522-4 SETBACKS):	
STREET SIDE:	5'
INTERIOR FRONT:	NONE (ZONE TO ZONE)
SIDE:	NONE (ZONE TO ZONE)
REAR:	NONE (ZONE TO ZONE)

PARKING, SETBACK (SEC 806.035):	
STREET:	10' (METHOD A)
FRONT:	5' (ZONE TO ZONE)
SIDE:	5' (ZONE TO ZONE)
REAR:	5' (ZONE TO ZONE)
BUILDING:	5' (ZONE TO ZONE)

SITE AREA:	
TOTAL LOT COVERAGE:	1.95 AC (84,942 SQ. FT.)
TOTAL LANDSCAPE AREA:	NO MAX.
(15% SEC. 522.010)(3)	28,013 S.F. (33.0%)

**REQUIRED MINIMUM VEHICLE PARKING SPACES (TABLE 806.1 MINIMUM OFF-STREET PARKING)**

DINING HALL (1 STALL PER 250 S.F. / 5,500 SF / 250 SF = 22)	
MULTIPLE FAMILY (1 SPACE PER STUDIO/1 BED, 1.5 SPACE / 2 BED) 30 1 BEDS, 18 2 BEDS	
1 SPACE X 30 ONE BED UNITS = 30 SPACES, 1.5 SPACE X 18 2 BED UNITS = 27 SPACES	
OFFICE/NAIL SALON (1 SPACE PER 350 SQ. FT.) = 5,184 SF / 350 SF = 15 SPACES	
<b>TOTAL SPACES REQUIRED:</b>	<b>94 SPACES</b>

REQ'D. TOTAL BICYCLE SPACES:	19 SPACES
EATING AND DRINKING ESTABLISHMENTS (4 SPACES OR 1/1000 SF) = 6 SPACES	
MULTIPLE FAMILY (GREATER OF 4 SPACES OR 0.1 PER DU = 5 SPACES)	
OFFICE (4 SPACES OR 1 PER 3,500 SF FOR FIRST 50,000 SF) = 4 SPACES	
NAIL SALON (1 SPACE PER 350 SF) = 1,312 / 350 = 4 SPACES	

LOADING ZONE	N/A
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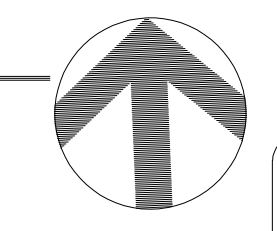
EXISTING	
EXISTING PARKING SPACES:	
STANDARD:	58 SPACES
COMPACT:	66 SPACES
ACCESSIBLE:	06 SPACES
TOTAL EXISTING:	130 SPACES

NOTE: REMOVING 3 SPACES AT FOR DRIVEWAY AT FOOD CART POD AREA

PROPOSED VEHICLE PARKING SPACES:	
TOTAL:	127 SPACES
MAXIMUM ALLOWED:	94 X 1.75 = 165 SPACES
EXISTING BICYCLE SPACES:	20 SPACES
NEW BICYCLE SPACES:	8 SPACES
NEW BICYCLE SPACES:	28 SPACES

**SITE PLAN**

DATE: 01/24/2022  
1" = 30'



A1.0



LAND USE APPEAL APPLICATION

1. GENERAL DATA REQUIRED [to be completed by the appellant]

# 22-102265 DR-SPR-DAP18-04MOD1 06/22/22
Case # Being Appealed Decision Date
1233 River Bend Rd. NW Salem OR. 97304
Address of Subject Property
22726 SW Johnson Rd. West Linn OR. 97068
Appellants Mailing Address with zip code
bjornsonbd@comcast.net 503 260-5222
Appellant's E-mail Address Day-time Phone / Cell Phone

Appellant's Representative or Professional to be contacted regarding matters on this application, if other than appellant listed above:

David Keys 900 SW 5th Ave. 17th Floor
Name Mailing Address with ZIP Code
David@DKNorris-Stevens.com 503 225-8451 Portland, OR. 97204
E-Mail Address Day-time Phone / Cell Phone

2. SIGNATURES OF ALL APPELLANTS

Signature: [Signature] Date: 7/6/22

Printed Name: Deborah Bjornson

Signature: Date:

Printed Name:

3. REASON FOR APPEAL Attach a letter, briefly summarizing the reason for the Appeal. Describe how the proposal does not meet the applicable criteria as well as verification establishing the appellants standing to appeal the decision as provided under SRC 300.1010

FOR STAFF USE ONLY
Received By: Austin Ross Date: 7/6/22 Receipt No: 10612323
Appeal Deadline: 7/7/22 Case Manager: Brandon Pike



## **Lisa Anderson-Ogilvie**

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**From:** Debbie Bjornson <bjornsonbd@comcast.net>  
**Sent:** Thursday, July 7, 2022 10:43 AM  
**To:** Salem Planning  
**Subject:** Notice of Appeal: 22-102265-RP

July 7, 2022

City of Salem Planning Division  
Room 320  
555 Liberty Street SE  
Salem, Or. 97301

RE: Notice of Appeal  
Application No.: 22-102265-RP  
Site Plan Case No.: DR-SPR-DAP 18-04MOD1

To Whom it May Concern:

I am the neighboring property owner of the Riverbend Apartment Complex situated next door to the proposed Food Cart Pod. I am appealing the Decision of the Planning Administrator dated June 22, 2022 referenced above. I feel that the decision of the Planning Administrator did not take into consideration the following burdens that will be created by this use being allowed instead of the commercial building that was previously planned and approved:

1. It was not in the original plan when I purchased the property. He was going to have two buildings with retail spaces;
2. With food carts/trucks there will be added rodents and garbage. With the added garbage around the property, this will have to be taken on by my apartment manager. Excess garbage and pest control were not addressed in this decision;
3. I have a shared driveway and with sixteen (16) food carts that will bring a lot of traffic between the retail side and the apartments;
4. There is not enough retail parking spaces for customers and the employees of the food carts and the retail building;
5. The noise level can be high with outdoor eating, especially if the hours of operation are not controlled. The hours of operation were not addressed in the decision;
6. Kitchen/grill venting will bring strong smoke and/or odors that are not addressed in the decision.

Food cart pods are generally located in dense urban areas and not in suburban locations. The parking on the site is already an issue, and will only be negatively impacted further by customers and employees having to travel to this location by vehicle.

Furthermore, trash and hours of operation were not dealt with in the approval.

Regards,

RIVERBEND VIKING, LLC

Deborah Bjornson  
Managing Member

*Si necesita ayuda para comprender esta informacion, por favor llame  
503-588-6173*

## DECISION OF THE PLANNING ADMINISTRATOR

**MODIFICATION OF CLASS 3 SITE PLAN REVIEW CASE NO.: DR-SPR-DAP18-04MOD1**

**APPLICATION NO.: 22-102265-RP**

**NOTICE OF DECISION DATE:** June 22, 2022

**SUMMARY:** A modification to a previously approved Site Plan Review application for a new 48-unit multi-family apartment complex and two new retail commercial buildings. The modification would allow a food cart pod north of the proposed commercial buildings.

**REQUEST:** A Class 3 Site Plan Review Modification application for a previously approved development, case no. DR-SPR-DAP18-04, which included a new 48-unit multi-family apartment complex and two new retail commercial buildings. The modification would allow a food cart pod north of the proposed commercial buildings. The subject property is approximately four acres in size, zoned CO (Commercial Office) and CR (Retail Commercial), and located at 1233 River Bend Road NW (Polk County Assessor map and tax lot numbers: 073W16BA / 10000 and 10003).

**APPLICANT:** Sam Thomas, Lenity Architecture Inc., on behalf of Scott Martin

**LOCATION:** 1233 River Bend Rd NW, Salem OR 97304

**CRITERIA:** Salem Revised Code (SRC) Chapters 220.010(d)(2) – Modification of Class 3 Site Plan Review

**FINDINGS:** The findings are in the attached Decision dated June 22, 2022.

**DECISION:** The **Planning Administrator APPROVED** Modification of Class 3 Site Plan Review Case No. DR-SPR-DAP18-04MOD1 subject to the following conditions of approval:

- Condition 1:** All trees designated for preservation shall be marked and protected during construction. Any significant tree shall require that at least 70 percent of a circular area beneath the tree measuring one foot in radius for every one inch of dbh be protected by an above ground silt fence, or its equivalent. Protection measures shall continue until the issuance of final occupancy.
- Condition 2:** Where the existing street condition along the frontage of River Bend Road NW is underimproved, as defined in SRC 803.040(a), construct a half-street improvement to Collector street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803. The sidewalk may be located along the curb line as needed to reduce conflicts between the existing water mains and proposed street trees.

# NOTICE OF DECISION

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005



- Condition 3:** Permits shall be obtained for the removal of any street trees, and all street trees removed shall be replaced pursuant to SRC Chapter 86 and PWDS.
- Condition 4:** To comply with the requirements of SRC 73.032, the applicant shall enter into a temporary service agreement with the City to ensure the future connection to gravity sewer in Wallace Road NW when it becomes available, and pay a connection fee in lieu of assessment pursuant to SRC 21.230.
- Condition 5:** Design and construct a storm drainage system for the new and replaced impervious surfaces in compliance with SRC Chapter 71.

The rights granted by the attached decision must be exercised, or an extension granted, by July 8, 2026, or this approval shall be null and void.

Application Deemed Complete:	<u>April 22, 2022</u>
Notice of Decision Mailing Date:	<u>June 22, 2022</u>
Decision Effective Date:	<u>July 8, 2022</u>
State Mandate Date:	<u>August 20, 2022</u>

Case Manager: Brandon Pike, [bpike@cityofsalem.net](mailto:bpike@cityofsalem.net), 503-540-2326

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m. Thursday, July 7, 2022. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 220. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

*Si necesita ayuda para comprender esta informacion, por favor llame  
503-588-6173*

**BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM**

**DECISION**

**IN THE MATTER OF APPROVAL OF ) FINDINGS & ORDER  
CLASS 3 DESIGN REVIEW, CLASS 3 )  
SITE PLAN REVIEW MODIFICATION, )  
AND CLASS 2 DRIVEWAY )  
APPROACH PERMIT CASE NO. )  
DR-SPR-DAP18-04MOD1 )  
1233 RIVER BEND ROAD NW ) JUNE 22, 2022**

In the matter of the application for the Class 3 Design Review, Class 3 Site Plan Review Modification, and Class 2 Driveway Approach Permit, submitted by Sam Thomas, Lenity Architecture, on behalf of the applicant, Scott Martin Construction LLC, and property owners, Riverbend Viking LLC and 3030 Riverbend LLC, the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

**REQUEST**

Summary: A modification to a previously approved Site Plan Review application for a new 48-unit multi-family apartment complex and two new retail commercial buildings. The modification would allow a food cart pod north of the proposed commercial buildings.

Request: A Class 3 Site Plan Review Modification application for a previously approved development, case no. DR-SPR-DAP18-04, which included a new 48-unit multi-family apartment complex and two new retail commercial buildings. The modification would allow a food cart pod north of the proposed commercial buildings. The subject property is approximately four acres in size, zoned CO (Commercial Office) and CR (Retail Commercial), and located at 1233 River Bend Road NW (Polk County Assessor map and tax lot numbers: 073W16BA / 10000 and 10003).

A vicinity map illustrating the location of the property is attached hereto and made a part of this decision as **Attachment A**.

**PROCEDURAL FINDINGS**

**1. Modification of Class 3 Site Plan Review Applicability**

Site plan review is intended to provide a unified, consistent, and efficient means to review proposed development that requires a building permit, other than single-family, duplex residential, and installation of signs, to ensure that such development meets all applicable requirements imposed by the Salem Revised Code (SRC). SRC 220.005(b)(3) requires Class 3 Site Plan Review for any development that requires a building permit, and that involves a land use decision or limited land use decision, as those terms are defined in ORS 197.015. Pursuant to SRC 220.010(a), a site plan review approval may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that

do not meet the criteria in this section require submittal of a new application for site plan review. Modification of a site plan review approval is processed as a Type I procedure under SRC Chapter 300.

## 2. Background

On January 21, 2022, a Class 3 Site Plan Review Modification was filed for the proposed development. After additional information was provided, the application was deemed complete for processing on April 22, 2022, and notice of filing of the application was sent pursuant to SRC requirements on April 25, 2022. The 120-day state mandated decision deadline for this consolidated application is August 20, 2022.

The applicant's proposed modified site plan is included as **Attachment B**.

## SUBSTANTIVE FINDINGS

### 3. Summary of Record

The following items are submitted to the record and are available upon request: 1) All materials submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports; 2) any materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public; and 3) all documents referenced in this report. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You can use the search function without registering and enter the permit number listed here: 22 102265.

### 4. Neighborhood Association and Public Comments

The subject property is located within the boundaries of the West Salem Neighborhood Association.

Applicant Neighborhood Association Contact. SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to Table 300-2, the proposed Class 3 Site Plan Review modification does not require neighborhood association contact.

Neighborhood Association Comment: Notice of the application was provided to West Salem Neighborhood Association pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. Prior to the close of the comment period, no comments were received from the neighborhood association.

#### Homeowners Association

The subject property is not located within a Homeowners Association.

#### Public Comment

Notice was also provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. Two public comments were received during the comment period. Concerns can be summarized as follows:

- *Parking.* Two comments stated that allowing a food cart pod on the property would create a shortage of off-street parking.

**Staff Response:** As addressed within this decision, the applicant has demonstrated that they meet the minimum off-street parking requirements of the SRC.

- *Trash.* One comment stated that the addition of food carts at the development would lead to more trash being placed in residents' trash receptacles.

**Staff Response:** The applicant's plans call for a solid waste service area near the southwest corner of the proposed food hall building. While the UDC does regulate the design of solid waste service areas, it does not deal with management of waste created by tenants or customers, as that is a civil matter to be arranged by the property owners.

## 5. City Department Comments

The Public Works Department reviewed the proposal and indicated no concerns.

The Building and Safety Division reviewed the proposal and indicated no concerns.

The Fire Department reviewed the proposal and indicated no concerns.

## 6. Public and Private Agency Comments

No comments were received from public or private agencies.

## DECISION CRITERIA

### FINDINGS

The purpose of Site Plan Review is to provide a unified, consistent, and efficient means to review for development activity that requires a building permit, to ensure that such development meets all applicable standards of the UDC, including, but not limited to, standards related to access, pedestrian connectivity, setbacks, parking areas, external refuse storage areas, open areas, landscaping, and transportation and utility infrastructure.

Pursuant to SRC 220.010(a), a site plan review approval may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for site plan review. Modification of a Class 3 Site Plan Review approval is processed as a Type II procedure under SRC Chapter 300.

## 7. Modification of Class 3 Site Plan Review Approval Criteria

SRC 220.010(d)(2) provides that an application for a modification of a Class 3 Site Plan Review approval shall be granted if all of the following criteria are met:

**SRC 220.010(d)(2)(A): The proposed modification does not substantially change the original approval.**

**Finding:** The proposed modification is consistent with the original approval. The modification proposes relatively minor changes to the site, with an area which was previously undeveloped proposed to accommodate approximately 16 mobile food units (food carts). The applicant notes this change is necessary to use the proposed building as a food hall with outdoor food carts. No further changes to the site are proposed.

The original decision contained five conditions of approval which pertained to tree preservation, street improvements, street trees, sewer connections, and stormwater drainage. The proposal does not include changes to the site which would impact or conflict with any of the original conditions of approval.

**The following is a summary of the applicable development standards for the proposal:**

**Use and Development Standards – CR (Retail Commercial) Zone:**

*SRC 522.005(a) – Uses:*

Except as otherwise provided in this section, the permitted, special, conditional, and prohibited uses in the CR zone are set forth in Table 522-1.

**Finding:** The allowed uses within the CR zone are identified under SRC 522.005, Table 522-1. The proposed food carts and food hall are classified as an *eating and drinking establishments* use, which is allowed as a permitted use in the CR zone.

*SRC 522.010(b) – Setbacks:*

Setbacks within the CR zone shall be provided as set forth in SRC Table 522-3 and Table 522-4.

*Abutting Street*

**South and East:** Adjacent to the south is right-of-way for River Bend Road, and adjacent to the east is right-of-way for Wallace Road. There is a minimum setback of five feet for buildings and accessory structures, and a minimum setback of six to ten feet for vehicle use areas, pursuant to SRC chapter 806.

**Finding:** The applicant's site plan shows a setback of 16 feet between the proposed vehicle use area and the east property line along Wallace Road, and no changes are proposed to the existing improvements adjacent to the south property line along River Bend Road. The proposal meets the standard. The applicant's development plans show required setbacks landscaped as required under SRC chapters 806 and 807.

*Interior Property Lines*

**Finding:** No changes to the existing setbacks along interior property lines are proposed under this Modification.

*SRC 522.010(d) – Landscaping:*

- (1) **Setbacks.** Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.
- (2) **Vehicle Use Areas.** Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.

- (3) **Development site.** A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC chapter 807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicle use areas, may count towards meeting this requirement.

**Finding:** The applicant's development plans indicate setbacks and vehicle use areas which are landscaped as required under the CR zone, with approximately 33 percent of the total development site set aside as landscaped area. The proposal meets the standard.

*Off-Street Parking, Loading, and Driveways (SRC Chapter 806)*

*SRC 806.015 - Amount of Off-Street Parking:*

- a) *Minimum Required Off-Street Parking.* The minimum off-street parking requirement for an *eating and drinking establishments* use is one space per 250 square feet of gross floor area.

**Finding:** The original decision applied the minimum off-street parking standard for shopping centers to the commercial buildings in the development, which is also one space per 250 square feet. The proposed modification does not include changes to the approved off-street parking area, except for the removal of three parking spaces to accommodate a driveway leading to the storage area which will include food carts. As addressed within the original decision, a minimum of 117 off-street parking spaces were required for the development site. The proposal calls for 127 spaces, thereby meeting the standard.

**SRC 220.010(d)(2)(B): The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.**

**Finding:** The previous site plan review approval was for a new 48-unit apartment complex and two commercial buildings, with associated site improvements. The modified site plan proposes the same building layout, parking areas, and landscaped areas, with an expanded vehicle use area to accommodate mobile food units (food carts). Staff finds the proposed modification is in substantial conformance with the original approval and will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

*SRC 220.010(e) – Expiration:*

The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

**Finding:** The rights granted by the attached decision for Class 3 Site Plan Review case no. DR-SPR-DAP18-04MOD1 must be exercised by July 8, 2026 or this approval shall be null and void.

## **8. Conclusion**

Based on conformance with the preceding requirements, the Planning Administrator finds the proposed site plan for property located at 1233 River Bend Road NW complies with approval criteria provided in SRC 220.010(d)(2) for a Modification of a Class 3 Site Plan Review.



## ORDER

Final approval of Class 3 Site Plan Review Modification case no. DR-SPR-DAP18-04MOD1 is hereby **APPROVED** subject to SRC Chapter 220, the applicable standards of the Salem Revised Code, conformance with the approved site plan included as **Attachment B**, and the following conditions of approval:

- Condition 1:** All trees designated for preservation shall be marked and protected during construction. Any significant tree shall require that at least 70 percent of a circular area beneath the tree measuring one foot in radius for every one inch of dbh be protected by an above ground silt fence, or its equivalent. Protection measures shall continue until the issuance of final occupancy.
- Condition 2:** Where the existing street condition along the frontage of River Bend Road NW is underimproved, as defined in SRC 803.040(a), construct a half-street improvement to Collector street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803. The sidewalk may be located along the curb line as needed to reduce conflicts between the existing water mains and proposed street trees.
- Condition 3:** Permits shall be obtained for the removal of any street trees, and all street trees removed shall be replaced pursuant to SRC Chapter 86 and PWDS.
- Condition 4:** To comply with the requirements of SRC 73.032, the applicant shall enter into a temporary service agreement with the City to ensure the future connection to gravity sewer in Wallace Road NW when it becomes available, and pay a connection fee in lieu of assessment pursuant to SRC 21.230.
- Condition 5:** Design and construct a storm drainage system for the new and replaced impervious surfaces in compliance with SRC Chapter 71.



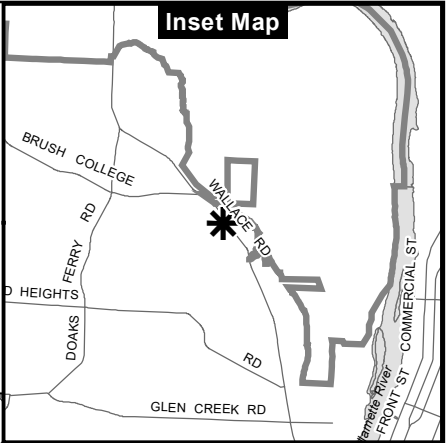
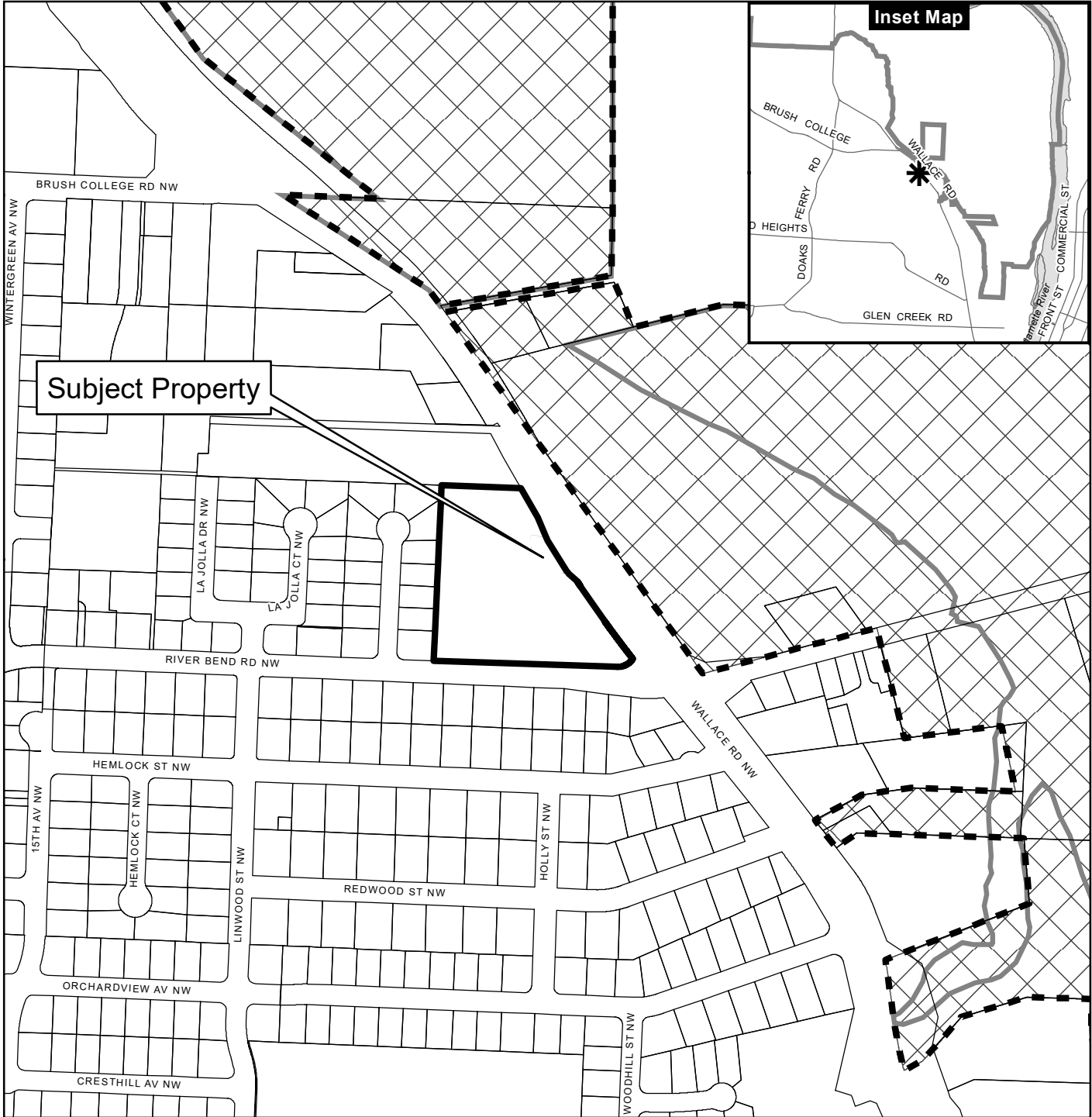
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Brandon Pike, Planner I, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

- Attachments: A. Vicinity Map  
B. Proposed Modified Site Plan








<http://www.cityofsalem.net/planning>

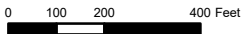
# Vicinity Map 1233 River Bend Road NW



**Subject Property**

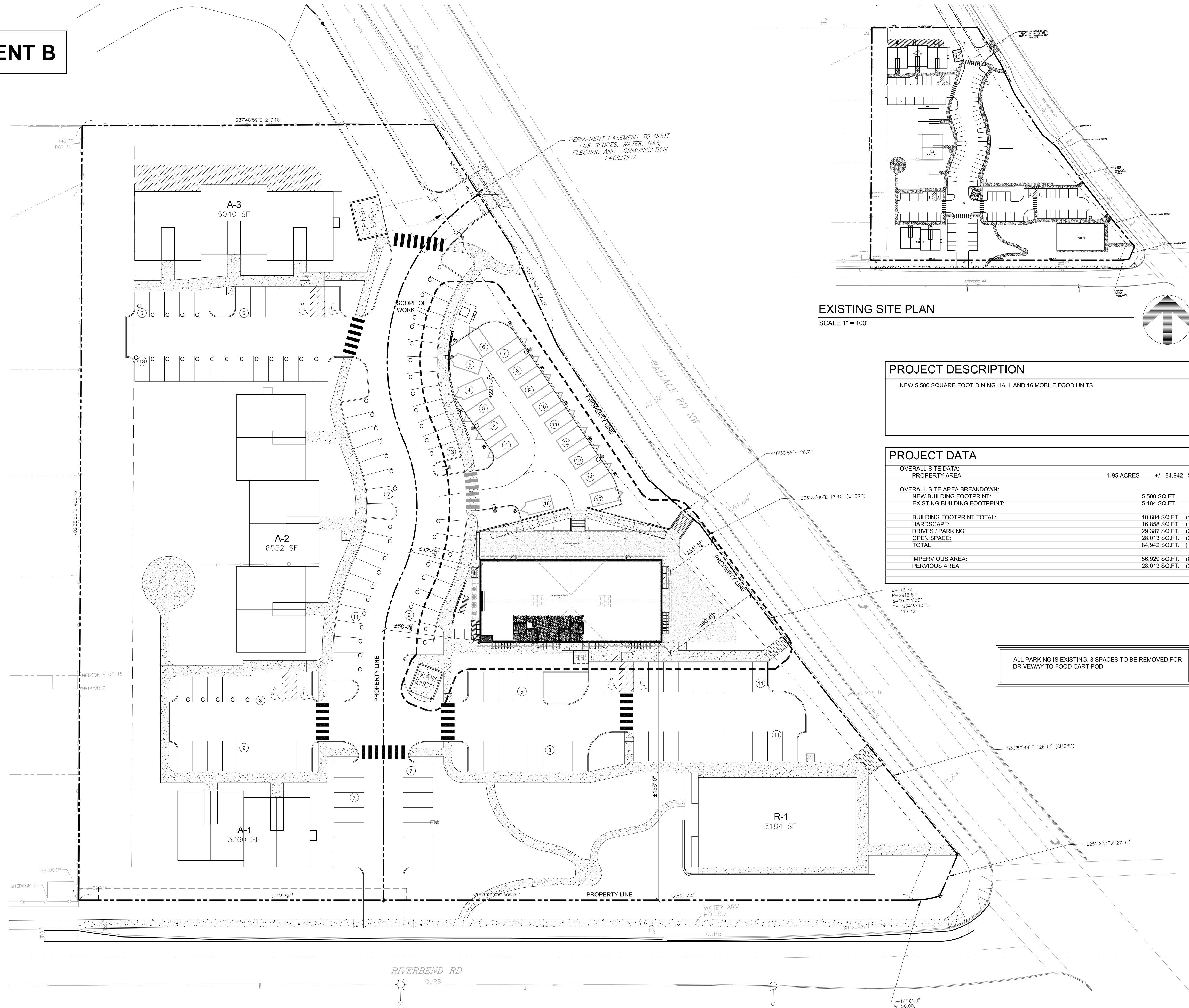
**Legend**

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks

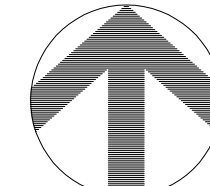


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**ATTACHMENT B**



**EXISTING SITE PLAN**  
SCALE 1" = 100'

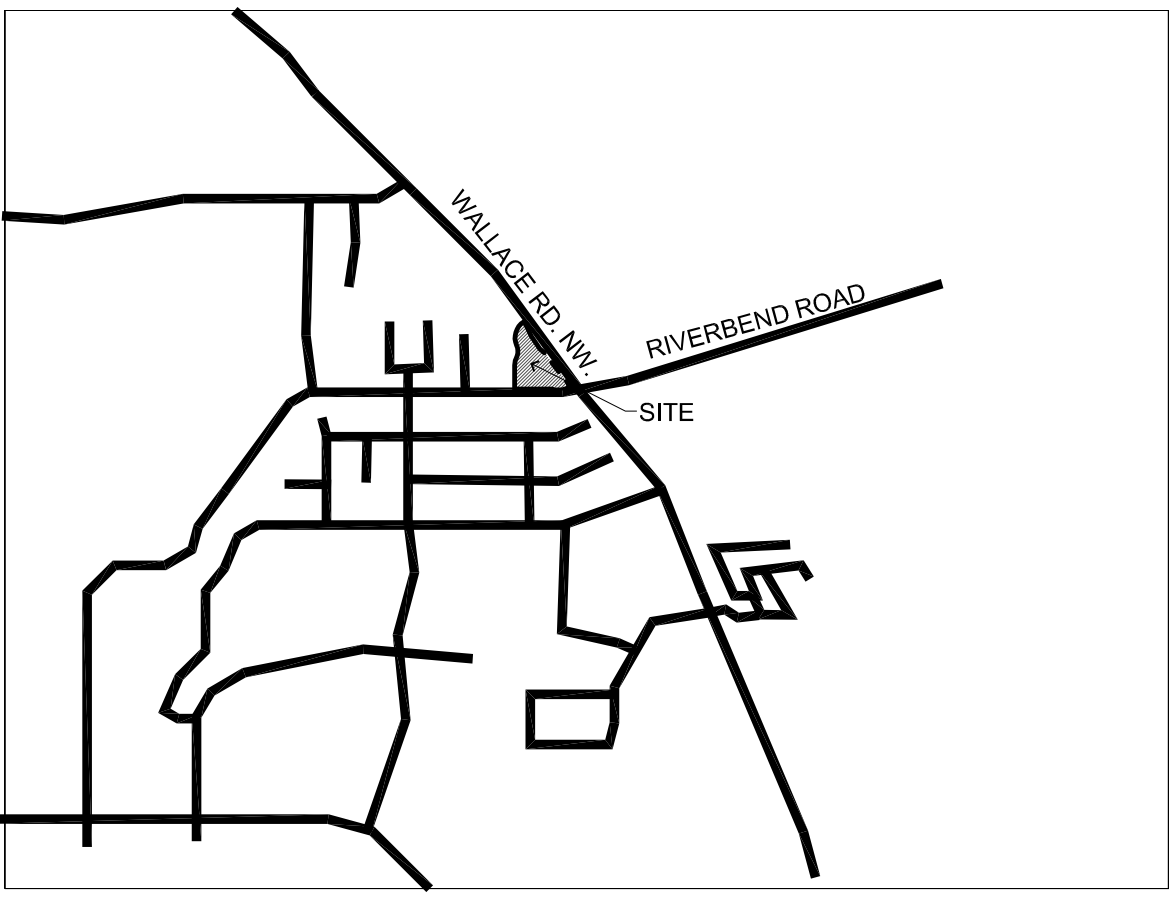


**PROJECT DESCRIPTION**

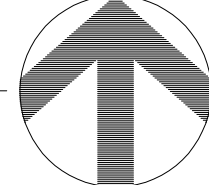
NEW 5,500 SQUARE FOOT DINING HALL AND 16 MOBILE FOOD UNITS.

**PROJECT DATA**

<b>OVERALL SITE DATA:</b>	
PROPERTY AREA:	1.95 ACRES +/- 84,942 SQ. FT.
<b>OVERALL SITE AREA BREAKDOWN:</b>	
NEW BUILDING FOOTPRINT:	5,500 SQ. FT.
EXISTING BUILDING FOOTPRINT:	5,184 SQ. FT.
BUILDING FOOTPRINT TOTAL:	10,684 SQ. FT. (12.5%)
HARDSCAPE:	16,858 SQ. FT. (19.9%)
DRIVES / PARKING:	29,387 SQ. FT. (34.6%)
OPEN SPACE:	28,013 SQ. FT. (33.0%)
TOTAL:	84,942 SQ. FT. (100%)
IMPERVIOUS AREA:	56,929 SQ. FT. (67.0%)
PERVIOUS AREA:	28,013 SQ. FT. (33.0%)



**VICINITY MAP**



**PROJECT STATISTICS:**

**SITE PLAN**

1221 & 1233 RIVER BEND ROAD  
SALEM, OR 97304  
CITY OF SALEM, POLK COUNTY  
OREGON

ZONE:	COMMERCIAL RETAIL (CR)
USE:	OFFICE/RETAIL (R1)
EXISTING TO REMAIN:	FOOD CART POD/DINING BUILDING (R2/R3)
PROPOSED:	

BLDG. HEIGHT (TABLE 522-5 HEIGHT): MAX 50 FEET 34' - 11"  
 BLDG. SETBACK (TABLE 522-4 SETBACKS):  
 STREET SIDE: 5'  
 INTERIOR FRONT: NONE (ZONE TO ZONE)  
 SIDE: NONE (ZONE TO ZONE)  
 REAR: NONE (ZONE TO ZONE)

**PARKING, SETBACK (SEC 806.035):**

STREET:	10' (METHOD A)
FRONT:	5' (ZONE TO ZONE)
SIDE:	5' (ZONE TO ZONE)
REAR:	5' (ZONE TO ZONE)
BUILDING:	5' (ZONE TO ZONE)

**SITE AREA:** 1.95 AC (84,942 SQ. FT.)  
**TOTAL LOT COVERAGE:** NO MAX.  
**TOTAL LANDSCAPE AREA:** 28,013 S.F. (33.0%)  
 (15% SEC. 522.010(j)(3))

**REQUIRED MINIMUM VEHICLE PARKING SPACES (TABLE 806.1 MINIMUM OFF-STREET PARKING)**

DINING HALL (1 STALL PER 250 S.F. / 5,500 SF / 250 SF = 22)	
MULTIPLE FAMILY (1 SPACE PER STUDIO/1 BED, 1.5 SPACE / 2 BED) 30 1 BEDS, 18 2 BEDS	
1 SPACE X 30 ONE BED UNITS = 30 SPACES, 1.5 SPACE X 18 2 BED UNITS = 27 SPACES	
OFFICE/NAIL SALON (1 SPACE PER 350 SQ. FT.) = 5,184 SF / 350 SF = 15 SPACES	
<b>TOTAL SPACES REQUIRED:</b>	<b>94 SPACES</b>

REQ'D. TOTAL BICYCLE SPACES: 19 SPACES  
 EATING AND DRINKING ESTABLISHMENTS (4 SPACES OR 1/1000 SF) = 6 SPACES  
 MULTIPLE FAMILY (GREATER OF 4 SPACES OR 0.1 PER DU) = 5 SPACES  
 OFFICE (4 SPACES OR 1 PER 3,500 SF FOR FIRST 50,000 SF) = 4 SPACES  
 NAIL SALON (1 SPACE PER 350 SF) = 1,312 / 350 = 4 SPACES

**LOADING ZONE**

LOADING ZONE	N/A
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**EXISTING PARKING SPACES:**

STANDARD:	58 SPACES
COMPACT:	66 SPACES
ACCESSIBLE:	06 SPACES
TOTAL EXISTING:	130 SPACES

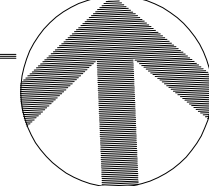
NOTE: REMOVING 3 SPACES AT FOR DRIVEWAY AT FOOD CART POD AREA

**PROPOSED VEHICLE PARKING SPACES:**

TOTAL:	127 SPACES
MAXIMUM ALLOWED:	94 X 1.75 = 165 SPACES
EXISTING BICYCLE SPACES:	20 SPACES
NEW BICYCLE SPACES:	8 SPACES
NEW BICYCLE SPACES:	28 SPACES

**SITE PLAN**

DATE: 01/24/2022  
1" = 30'



A1.0



**1233 RIVERBEND RD. NW - RETAIL**

SALEM, OREGON

