

**VENETA PLANNING STAFF REPORT &
FINAL ORDER**

Temporary Use Permit – Tony’s BBQ (Temp-1-08)

FILE COPY

Application Date: February 21, 2008
Notice Posted: February 22, 2008
Notice Mailed: February 22, 2008
Staff Report Date: March 11, 2008
Referrals Sent: Lane County Fire District #1
Veneta Public Works
Veneta City Engineer

BASIC DATA

Applicant: Tony Brown

Property Owner: Nina Wiersma

Property Location: 88345 Territorial Hwy
Veneta, Oregon 97487

Assessors Map &
Tax Lot: 17-06-36-11 Tax Lot 300

Area: .36 acres (15,682 sq ft.)

Plan Designation: Commercial (C)

Zoning Designation: Community Commercial (CC)

REQUEST

The request before the Veneta Planning Staff is for approval of a temporary use permit to allow the operation of a mobile food stand as a retail business.

BACKGROUND

The applicant, Tony Brown, submitted an application to operate a mobile food stand as a retail business. Assessor's map 17-06-36-11 tax lot 300 is a .36-acre lot, which is currently occupied by a single espresso coffee stand.

The existing ordinance for mobile food and flower vendors (ORD 461, 7.04(2) (a) states that:

- (a) *Persons conducting business with a permit issued under this section may transport and display food or flowers upon any pushcart or mobile device, provided that such device shall occupy no more than sixteen (16) square feet of ground area and shall not exceed three feet in width; six (6) feet in length, including any handle; and not more than five (5) feet in height, excluding any canopies, umbrellas or transparent enclosure.*

This regulation was clearly intended to apply to vendors using hand pushed carts such as those used to sell ice cream. There is no provision in the existing ordinance that specifically pertains to larger mobile food retail operations such as the one proposed by the applicant.

On September 7, 2004, the planning commission met to discuss a similar case (TOM TEMP-5-04) involving a concession van that also exceeded the size limitations imposed on mobile food and flower vendors by the current regulations. The planning commission set precedent by approving, for application processing purposes, the consideration of such mobile food operations as espresso/coffee stands. Thus the current applicant's business will be considered as an espresso/coffee stand for the purposes of reviewing applicable criteria as the uses are similar.

Article 7 of the Veneta Land Development Ordinance 461 regulates temporary uses. The purpose of a temporary use is *"to allow the establishment of specified uses on a short-term basis in certain, specified land use zoning districts. No temporary use permit can be granted which would have the effect of permanently rezoning or granting a privilege not shared by other property in the same zone."*

APPROVAL CRITERIA:

Section 7.03 of the Land Development Ordinance 461 lists the general approval criteria for temporary uses. Criteria applicable specifically to stationary food vending and espresso stands are listed in item Section 7.04, Subsection (3). These criteria are listed below in italics. The findings showing compliance with the criteria follow in bold type.

Section 7.03

- (1) *The temporary use is not inconsistent with the purpose of the zoning district in which it is placed.*

A temporary mobile food stand in the Commercial Zoning district is consistent with Veneta's Land Development Ordinance in commercial areas.

- (2) *The temporary use will not have a significant adverse impact on the surrounding uses.*

The applicant's property is zoned Community Commercial (CC). The purpose of the (CC) zone is to "To provide areas suitable and desirable for a wide range of small commercial and business facilities to serve the Fern Ridge community". The temporary mobile food stand is consistent with the nature of the Community Commercial zone. The proposed use – mobile food stand (vendor) – is a permitted use in the Community Commercial zone (see Section 4.05 (2) (q) of Veneta Land Development Ordinance No. 461). The use will not grant the applicant a privilege not shared by other property in the same zone. The temporary use will not have a significant adverse impact on the surrounding vacant or developed properties. Compliance with the sign code will be required and enforced by the City and Oregon Department of Transportation (ODOT).

- (3) *The temporary use shall comply with any applicable criteria listed in Section 7.04.*

The applicable criterion for this section has been identified by the Planning Commission in past applications as Espresso/Coffee stands. Therefore, the temporary use must meet the criteria for Stationary food vending and espresso/coffee stands, which is listed in Section 7.04, Subsection (3) as follows:

Section 7.04

- (3) *Stationary food vending and espresso/coffee stands. Stationary food vending and espresso/coffee stands may be permitted in all commercial zones for a period not to exceed one (1) year.*

The property is located in the Community Commercial zone and the proposed use is temporary, not to exceed (1) year unless renewed.

- (a) *The use must comply with Section 7.04(1) (b), (c), (d), (e), and all other applicable standards in this section.*

Section 7.04(1)

- (b) *The proposed temporary activity does not result in vehicular traffic congestion and adequate pedestrian and bicycle access is provided.*

Commercial traffic will enter and exit the site at the existing driveway off Territorial Road and one point of ingress/egress off of Jeans Rd. ODOT has raised no concerns with the previous temporary use permit provided that no signs are placed in the ODOT right-of-way. No configuration change has occurred in the site and therefore there are no concerns from Planning Staff.

Adequate pedestrian and bicycle access to the site from the adjacent West Lane Shopping Center is provided via a signaled crosswalk at the intersection of Territorial and Highway 126. A short segment of sidewalk leads from this intersection to Jeans Road.

- (c) *Adequate parking facilities are available. The temporary activity does not eliminate parking spaces required by the applicable city ordinances unless the business or businesses using such required spaces are closed for business on the day(s) of the temporary activity.*

The food stand is required to provide “one space per 100 square feet of floor area.” There are approximately 128 sq. ft. of floor area. Therefore the kiosk is required to provide 2 parking spaces. When looked at in combination with the other approved uses on the lot, there is a need for 3 parking spaces. Adequate parking is provided.

- (d) *The temporary activity does not encroach on the required setbacks of the lot.*

The parcel does not front a residential zoning district; therefore there are no required setbacks in the Community Commercial. The proposal is for temporary use and therefore does not inhibit the eventual widening of streets.

- (e) *The temporary activity meets all state and county health rules and regulations and all necessary permits have been obtained from other agencies.*

As a condition of approval, the applicant shall maintain all necessary permits from all state and county health departments as well as remain in compliance with all state and county health rules and regulations. The applicant shall submit all such records prior to the issuance of a business registration for the City of Veneta.

(b) The use may be required to connect to sewer and water if and when available.

Not applicable. The food stand will be in a temporary location in an existing parking lot.

(c) No extension cords shall be used to provide electricity.

No extension cords are proposed for this use. The food stand will use a generator for all power functions.

(d) Permits may be renewed annually.

As a condition of approval, the permit must be renewed on a yearly basis in accordance with the Veneta Land Development Ordinance. No SDC charges will be assessed on the initial temporary use permit because the use is not connected to any utilities. SDC charges will be assessed if the use is reestablished after the expiration of the approved permit.

PRIOR TO ISSUANCE OF A BUSINESS REGISTRATION, THE APPLICANT SHALL:

- (1) The conditions from Lane County Fire District #1 shall be met and verification from the Fire Prevention Coordinator shall be returned to the Planning Department prior to issuance of a Business Registration (**See Exhibit B for requirement**).
- (2) As a condition of approval, the permit must be renewed on a yearly basis in accordance with the Veneta Land Development Ordinance. SDC charges will be assessed if the use is reestablished after the expiration of the approved permit.
- (3) The applicant shall maintain all necessary permits from all state and county health departments as well as remain in compliance with all state and county health rules and regulations. The applicant shall submit all such records prior to the issuance of a required business registration for the City of Veneta.

EXHIBITS

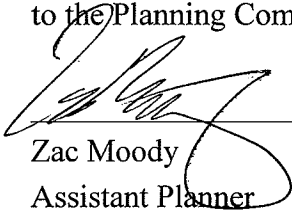
- A. Applicants Submittals
- B. Agency Comments
 - i. Kyle Schauer, Public Works Superintendent
 - ii. Heather Hill, LCFD #1

STAFF DECISION

The Veneta Planning Official finds the following:

1. Required notice was provided in accordance with Section 2.13 of the Veneta Land Development Ordinance 461.
2. The Veneta Planning Official reviewed all material relevant to the temporary use which has been submitted by the applicant, staff, and general public regarding this matter.
3. The Planning Official followed the required procedures and standards for taking action on a temporary use permit.

Based on the findings and conditions of approval, the Veneta Planning Official grants conditional approval of the temporary use application (TEMP-1-08). This conditional approval of the plans shall become final on the date this decision is signed, below. A Planning Official's decision may be appealed to the Planning Commission within 15 days after the staff report has been signed and mailed.


Zac Moody
Assistant Planner

3/11/08
Date
