

**VENETA PLANNING STAFF REPORT &
FINAL ORDER**

Temporary Use Permit – Tony’s BBQ (Temp-7-08)

Application Date: November 25, 2008
Notice Posted: December 3, 2008
Notice Mailed: December 3, 2008
Staff Report Date: December 31, 2008
Referrals Sent: Lane County Fire District #1
Veneta Public Works
Veneta City Engineer

BASIC DATA

Applicant: Tony Brown
Property Owner: Jeff Witty
Property Location: 25619 Hwy 126
Veneta, Oregon 97487
Assessors Map &
Tax Lot: 17-05-31-10 Tax Lot 2500
Area: .16 acres (6,970 sq ft.)
Plan Designation: Commercial (C)
Zoning Designation: Highway Commercial (HC)

REQUEST

The request before the City of Veneta Building & Planning Official 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 17-05-31-10 Tax Lot 2500 is a .16-acre lot, which is vacant.

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 (FINDINGS OF FACT):

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.*

The proposal is consistent with the provisions of this section. A temporary mobile food stand in the Highway 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 proposal is consistent with the provisions of this section. The applicant's property is zoned Highway Commercial (HC). The purpose of the (HC) zone is to "To provide services to accommodate travelers and to provide large scale commercial service needed to serve the Fern Ridge area". The temporary mobile food stand is consistent with the nature of the Highway Commercial zone. The proposed use – mobile food stand (vendor) – is a permitted use in the Highway Commercial zone (see Section 4.06(2) (n) 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 an application for an outdoor advertising permit from the Oregon Department of Transportation (ODOT) may be required.

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

The proposal is consistent with the provisions of this section. 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 proposal is consistent with the provisions of this section. The property is located in the Highway 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.*

The proposal is consistent with the provisions of this section. Commercial traffic will enter and exit the site at the existing driveway off Highway 126 and one point of ingress/egress off of Huston Road. ODOT has raised concerns with the access directly onto Highway 126 and requested the applicant or owner apply for the appropriate access or grandfather permits.

- (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 proposal is consistent with the provisions of this section. 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. Adequate parking is provided.

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

The proposal is consistent with the provisions of this section. The parcel does not front a residential zoning district; therefore there are no required setbacks in the Highway Commercial zoning district. 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.*

The proposal is consistent with the provisions of this section with the condition of approval that the applicant 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.

The food stand will be in a temporary location in an existing parking lot with water and grey water being disposed of at an approved dumping site; therefore the provisions of this section is not applicable.

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

The proposal is consistent with the provisions of this section. No extension cords are proposed for this use. The food stand will use a temporary power service on site for all power functions.

(d) Permits may be renewed annually.

The proposal is consistent with the provisions of this section with the condition of approval that permits for the use 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 may be assessed if the use is reestablished after the expiration of the approved permit.

PRIOR TO ISSUANCE OF A BUSINESS REGISTRISTRATION, 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 may 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 and remain in compliance with all state and county health rules and regulations. The applicant shall submit all such records to the City prior to the issuance of a required business registration.

EXHIBITS

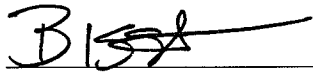
- A. Applicant's Submittals
- B. Agency Comments
 - i. Kyle Schauer, Public Works Superintendent
 - ii. Heather Hill, LCFD #1

STAFF DECISION

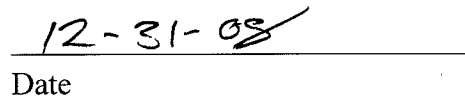
The City of Veneta Building & Planning Official finds the following:

- 1. Required notice was provided in accordance with Section 2.13 of the Veneta Land Development Ordinance 461.
- 2. The City of Veneta Building & 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 City of Veneta Building & Planning Official followed the required procedures and standards for taking action on a temporary use permit.

Based on the findings and conditions of approval found in this report, the City of Veneta Building & Planning Official grants conditional approval of the temporary use application (TEMP-7-08). This conditional approval shall become final on the date this decision is signed, below. A Building & Planning Official's decision may be appealed to the Planning Commission within 15 days after the staff report has been signed and mailed.



Brian Issa
Community Development Director



Date