

**VENETA PLANNING STAFF REPORT
and FINAL ORDER
Temporary Use Permit - Fireworks Stand Temp-2-08 (R)**

Application Date: May 1, 2008
Notice Posted: May 6, 2008
Notice Mailed: May 6, 2008
Staff Report Date: May 23, 2008
Referrals Sent: Kyle Schauer – Veneta Public Works
Lane County Fire District #1

BASIC DATA

Applicant: Bethan Youth Ministries dba TNT Fireworks
P. O. Box 836
Clackamas, OR 97015

Property Owner: Arlie and Co.

Property Location: 24985 Hwy 126

Assessors map & lot: 17-06-36-11, tax lot 900

Area: 11 acres

Plan Designation: Commercial (C)

Zoning Designation: Highway Commercial (HC)

REQUEST

The request before the Planning staff is for approval of a temporary use permit for the retail sales of common fireworks in the parking lot of the West Lane Center. The sales will be conducted from a 20' x 30' framed temporary structure located on the southern edge of the property along Highway 126.

BACKGROUND

The property has access onto Territorial Hwy on the west and Highway 126 on the south. Territorial Highway is a state highway of district importance classified as a principal arterial. Surrounding properties are also zoned Highway Commercial with Cash Connection to the east, and vacant properties to the north, west, and south.

APPROVAL CRITERIA

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.*

SECTION 7.03 of the Land Development Ordinance 461 lists the general approval criteria for temporary uses. Criteria applicable specifically to temporary displays, sales, and/or events are listed as item (1) in Section 7.04. These criteria are listed below in italics. Findings showing compliance with these criteria follow in regular type.

Section 7.03

(1) *The temporary use is not inconsistent with the Veneta Comprehensive Plan.*

The purpose of the Commercial land use designation is to provide areas suitable and desirable for all types of commercial development intended to meet the business needs of area residents and highway travelers and ensure that sufficient lands are available to encourage commercial development in Veneta.

The temporary retail sale of fireworks from a wooden stand on the above-described property is consistent with Veneta's Comprehensive Plan policy for commercial areas.

(2) *The temporary use is not inconsistent with the nature of the zoning district in which it is placed.*

The property is zoned Highway Commercial. The purpose of the zoning district is to provide services to accommodate travelers and to provide large scale commercial services needed to serve the Fern Ridge area. The permitted uses include (a) retail stores or shops.

The temporary activity of selling fireworks is an allowed use that provides a useful service for area residents.

(3) *The temporary use will not have a significant adverse impact on the surrounding neighborhood.*

The proposed use is consistent with the commercial designation. The City has received no comments from the public or neighboring property owners with regard to the request for the proposed use. The Fire District has provided comments. The Fire District comments have been included as conditions of approval to assure the temporary use will not have a significant adverse impact on the surrounding neighborhood. Compliance with the sign code and Veneta noise ordinance will be required. Adequate parking is available.

(4) *The temporary use shall comply with any applicable criteria listed below.*

The temporary use must meet the criteria listed for temporary displays, sales, and/or events which are listed in Section 7.04, Subsection (1) as follows:

Section 7.04

(1) Temporary displays, sales, and events. *Temporary displays, sales and events may be permitted in all commercial and public facilities and park zones. They are also allowed in the rural residential zone for horticulturally-related activities. All activities must meet the following criteria:*

(a) *The temporary activity is located on the same lot for no more than 90 days in any calendar year.*

The fireworks stand will operate no longer than two weeks, beginning June 23, 2008 and ending July 5, 2008 and; therefore, will not exceed 90 days in the calendar year.

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

The site plan maintains the same circulation pattern on site. The proposed use will occupy several parking spaces but does not reduce the parking available for the shopping center to the level of noncompliance. Entering or exiting the parking area does not require maneuvering in a public street. Highway 126 currently has a good level of service and can handle additional traffic. There have been no concerns raised regarding vehicular traffic congestion.

Pedestrians and bicycles can access the fireworks stand via sidewalks on Territorial Road and within the parking lot of the shopping center.

(b) *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.*

There are currently 445 parking spaces at the shopping center. Current uses require 300 spaces. The proposed use will occupy several parking spaces but does not reduce the parking available for the shopping center to the level of noncompliance.

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

The property does not abut a residential zone so no setbacks are required.

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

There have been no concerns raised about this issue. The applicant has submitted a State Fire Marshal permit and land use lease authorizing sales at the above location.

(f) *Annual events require a new permit each year.*

This is the third year that TNT has operated at the West Lane Center.

(g) *Temporary activities involving tents, tarps, or sales out of vehicles will last no more than two (2) consecutive days.*

The proposed use meets this requirement. “Tent” is defined in the dictionary as a collapsible movable shelter consisting of a tough fabric or plastic cover held up by poles and kept in place by ropes and pegs. The proposed use is to be conducted within a framed temporary structure.

CONDITIONS OF APPROVAL:

1. The fireworks tent shall be placed at least 20 feet away from combustibles including vegetation.
2. No Smoking signs need to be displayed in prominent locations both inside and outside of sales area.
3. No parking of vehicles will be allowed within 20 feet of the structure. This area shall be marked in a clear manner.
4. Fire extinguishes needs to be displayed in visible locations inside the booth.
5. Removal of all garbage at the end of everyday, making sure that there is no storage of combustibles outside of the stand.
6. Any generator on site shall be placed minimum of 20 feet from the structure and have a 40BC extinguisher on site.
7. Any generator fuel is stored in a U.L. listed fuel container and stored at least 20 feet of the stand.
8. All exits shall be clearly marked and unobstructed.
9. Any other site requirements as required by Lane County Fire District #1.
10. Post a copy of Oregon laws regarding firework use in a location visible to patrons. Specific laws include ORS 480.110-Definitions for Oregon fireworks laws, 480.120-Prohibited uses for fireworks, 480.158-Liability of parents for the costs incurred in suppressing fires caused by use of fireworks by minors, and 480.165-Civil penalty for fireworks law violations.
11. A certificate of flame resistance shall be on site for the tent in use. The certificate shall show a current application. A copy of the manufacturer’s instructions for allocation shall be on site for comparison
12. Obtain a sign permit for a portable sign if it will be displayed more than 30 days in this calendar year. The total sign area for all building signs and portable signs shall not exceed 6% of the building's ground floor footprint. If the sign will be displayed less than or equal

to 30 days in this calendar year, then the applicant must notify the Building and Planning Official for tracking purposes. Portable and temporary signs are not permitted within the public right-of-way.

13. Prior to conducting business, call the Lane County Fire District #1 at 935-2226 for site inspections.
14. When the temporary use is closed on July 5, 2008, all materials shall be removed and the site cleaned.

EXHIBITS

- A. Applicants Submittals
- B. Memorandum from the Lane County Fire District #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-2-08). 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,
Veneta Planning Official

Date