# Staff Report

**Site Plan Review**

**Temporary Food Trucks**

SP-18-20  
November 2, 2020

## Application Information

<table>
<thead>
<tr>
<th><strong>Proposal</strong></th>
<th>Site plan review to place three temporary food trucks on the property with outdoor seating area.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Review Body</strong></td>
<td>Staff (Type I-L review)</td>
</tr>
<tr>
<td><strong>Property Owner</strong></td>
<td>Younger Family Enterprises, LLC; P.O. Box 87, Albany, OR 97324</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>NW Mobile Cuisine; Norene Collins; 820 Columbus Street SE, Albany, OR 97322</td>
</tr>
<tr>
<td><strong>Address/Location</strong></td>
<td>Unaddressed. North of 520 Pacific Boulevard SW</td>
</tr>
<tr>
<td><strong>Map/Tax Lot</strong></td>
<td>Linn County Assessor’s Map No. 11S-03W-07CB; Tax Lot 4200</td>
</tr>
<tr>
<td><strong>Zoning District</strong></td>
<td>Pacific Boulevard (PB)</td>
</tr>
<tr>
<td><strong>Overlay</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Total Land Area</strong></td>
<td>0.66 acres</td>
</tr>
<tr>
<td><strong>Existing Land Use</strong></td>
<td>Temporary Food Carts</td>
</tr>
<tr>
<td><strong>Neighborhood</strong></td>
<td>Central Albany</td>
</tr>
</tbody>
</table>
| **Surrounding Zoning** | North: PB  
East: Light Industrial (LI)  
South: PB  
West: PB |
| **Surrounding Uses** | North: Commercial/Jiffy Lube  
East: Railroad Right-of-Way  
South: ARCO Gas Station  
West: Shell Gas Station |
| **Prior History** | LA-09-02. Lot Line Adjustment to reconfigure three tax lots.  
RL-06-03. Tentative Replat related to various easements on the property. |

<https://cd.cityofalbany.net>
Summary

The applicant submitted a Site Plan Review application on August 28, 2020, to operate three temporary food trucks on the property for up to 120 calendar days per year. The application was deemed complete on September 25, 2020.

The subject property is zoned Pacific Boulevard (PB), which permits commercial uses, including temporary food trucks, through site plan review. The three food trucks consist of the following sizes: 72-square-feet (8’ x 9’), 300-square-feet (30’ x 10’), and 40-square-feet (5’ x 8’). In addition to the three food trucks, the applicant proposes an outdoor seating area. The applicant’s site plan (Attachment B) indicates that parking will be accommodated onsite.

Site Plan Review criteria found in section 2.450 of the Albany Development Code (ADC) are addressed in this report. Because the proposed use is temporary and the structures will not be permanently affixed to the ground, relief has been granted for some of the standards, including commercial design standards found in ADC 8.330-8.390.

Staff Decision

The application for a Site Plan Review and land division application referenced above is approved with conditions as described in this staff report.

Notice Information

A Notice of Filing was mailed to property owners located within 300 feet of the subject property on September 25, 2020. Property owners were given 14 days to respond to the notice. The City received one written comment from David Brown of Ion Enterprises, LLC. Mr. Brown owns the abutting property to the north of the subject property. He asked that the refuse and graywater containers, as well as the porta-potty, be screened from view. Screening of the refuse, graywater, and oil collection containers is addressed below in Criterion 5. Portable toilets are not permitted at this location. The applicant has been served notice to remove the referenced porta-potty. Additionally, Mr. Brown asked that we try to prevent the applicant’s customers from parking on his lot. Parking disputes are a civil matter and are not regulated through the ADC or the Site Plan Review process. The entirety of Mr. Brown’s comment can be found in Attachment C of this report.

Analysis of Development Code Criteria

Section 2.450 of the ADC includes the following review criteria, which must be met for this application to be approved. Development code criteria are written in bold followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

Criterion 1

Public utilities can accommodate the proposed development.

Findings of Fact

Sanitary Sewer

1.1 City utility maps show an 8-inch sanitary sewer main along the perimeter of the site (portion of the south boundary, east boundary, and portion of the north boundary).

1.2 This temporary use is not proposing to connect to the public sanitary sewer system.

Water

1.3 City utility maps show a 4-inch public water main in Pacific Boulevard.

1.4 This temporary use is not proposing to connect to the public water system.

Storm Drainage

1.5 City utility maps show a 15-inch public storm drainage main in Pacific Boulevard just north of the subject property. This facility is under the jurisdiction of the Oregon Department of Transportation (ODOT).
1.6 This temporary use is proposing no changes to the site that would impact existing on-site drainage patterns.

Conclusions
1.1 This temporary use is proposing no connections to public utilities.
1.2 This criterion is met without conditions.

Criterion 2
The proposed post-construction stormwater quality facilities (private and/or public) can accommodate the proposed development, consistent with Title 12 of the Albany Municipal Code (AMC/municipal code).

Findings of Fact
2.1 Section 12.45.030 of the municipal code states a post-construction stormwater quality permit shall be obtained for all new development and/or redevelopment projects on a parcel(s) equal to or greater than one acre, including all phases of the development. (Ord. 5841 § 3, 2014).
2.2 The proposed food trucks will be located on a 0.66-acre lot. Because the subject property is less than one acre, no stormwater quality facilities will be required with this development.

Conclusions
2.1 Stormwater quality facilities are not required.
2.2 This review criterion is not applicable.

Criterion 3
The transportation system can safely and adequately accommodate the proposed development.

Findings of Fact
3.1 The property is located on the east side of the road on an unaddressed parcel identified as Linn County Assessor’s Map No. 11S-03W-07CB; Tax Lot 4200. The application will result in placement of three temporary food trucks on the property.
3.2 Pacific Boulevard is classified as a principal arterial, is under ODOT jurisdiction, and is constructed to City standards. Improvements along both sides of the road include curb, gutter, and sidewalk.
3.3 ODOT was notified of the application and has no comments regarding this temporary use.
3.4 The property is accessed via an existing driveway approach. No changes to the driveway approach are proposed.
3.5 Albany’s Transportation System Plan (TSP) does not identify any level of service or safety problems along the frontage of the site. The TSP was developed with the assumption that this parcel would be utilized for commercial purposes.
3.6 Based on the Institute of Transportation Engineers trip generation rates, the proposed use will add approximately nine new PM peak hour vehicle trips to the street system. These trips will only occur during the duration of the temporary use.

Conclusions
3.1 Pacific Boulevard is improved to ODOT standards
3.2 No changes are proposed to the existing driveway approach.
3.3 The transportation system can safely and adequately accommodate the proposed development.
3.4 This review criterion is met without conditions.
Criterion 4
Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.

Findings of Fact and Conclusions
4.1 The site plan indicates parking is provided to the south of the food trucks and outdoor seating area. Per ADC 9.020(9) temporary uses of less than 120 days are not required to meet parking standards.

4.2 Pursuant to Oregon Revised Statues (ORS) 447.220, an accessible route shall be provided between the customer arrival area, the customer service areas, and any proposed seating.

4.3 Pursuant to ORS 447.220, if parking is provided or required, accessible parking shall be provided in compliance with ORS 447.233 and in accordance with the ODOT “Standards for Accessible Parking Places”.

4.4 Pursuant to ORS 447.230, if seating is provided, accessible seating shall be provided in accordance with the Oregon Structural Specialty Code (OSSC) Section 1108.2.9; or to the Department of Justice’s ADA Standards for Accessible Design.

4.5 No changes are proposed to the existing driveway approach from Pacific Boulevard. The proposed location of the food trucks does not interfere with or hinder site circulation.

Conclusions
4.1 The proposed location of the food trucks, outdoor seating area, and parking area does not hinder site circulation.

4.2 Temporary uses are not required to provide parking.

4.3 The proposal shall meet all applicable OSSC and ORS standards related to accessibility and/or the Department of Justice’s ADA Standards for Accessible Design.

4.4 This criterion is met without conditions.

Criterion 5
The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.

Findings of Fact
5.1 Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. Site Plan Review is not intended to evaluate the proposed use or structural design of the proposal. Rather, the review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping. Where conflicts are identified, mitigation can be required through conditions of approval.

5.2 Design and Operating Characteristics. The proposal is to operate three food trucks with an associated outdoor seating area for up to 120 days per calendar year. The proposed use is similar to other commercial uses in the vicinity.

5.3 Operating Schedule. The proposed use is limited to 120 operational days per calendar year on the subject property. An annual operating schedule was not provided. A condition of approval will require the applicant to submit an operating schedule prior to issuance of the annual license. Because less than 120 days remain in 2020, an operating schedule is not required for this year. An operation day occurs when any of the three food trucks opens to the public for any portion of the day.

5.4 Surrounding Development and Land Use. The subject property is surrounded by commercial uses to the north (commercial building) and south (ARCO gas station), Pacific Boulevard to the west, and railroad right-of-way to the east. Immediately across Pacific Boulevard is a Shell gas station.
5.5 **Lot Size, Dimensional Requirements, and Lot Coverage.** Per ADC 5.090, Table 5-2, the PB zoning district does not require a minimum lot size, width, or depth. The maximum lot coverage is 80 percent. However, given the temporary nature of the proposed use and associated structures, lot coverage standards are not applicable.

5.6 **Setbacks.** Per ADC 5.090, Table 5-2, the PB zoning district requires a minimum front setback of five feet. The site plan provided does not indicate the setback area and the food truck’s proximity to the front property line. No portion of the food trucks or associated equipment, parking, or outdoor seating area shall encroach into the front setback. Additionally, the PB zone has maximum front setback of 20 feet. This standard is not applicable to temporary uses.

5.7 **Environmental Standards.** ADC 9.440 - 9.500 includes environmental standards related to noise, visible emissions, vibrations, odors, glare, heat, insects, rodents, and hazardous waste. The design and operating characteristics of a food truck are comparable to other commercial operations in the immediate vicinity. The development shall comply with all other applicable codes and ordinances, including AMC 12.10.010, Prohibited Discharges.

5.8 **Refuse Containers.** ADC 5.370 requires any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, public facility, or any residential area must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least six feet tall. The applicant’s site plan indicates a refuse container will be placed on site along with containers for gray water and oil disposal. A condition of approval will ensure these items are screened in accordance with ADC 5.370.

5.9 **Yearly License Renewal.** Section 5.10.050(2) of the municipal code states “Site Plan Review approval shall be valid for up to three years subject to an annual fee of $100 paid to the City upon a finding that there have been no changes in site usage or operations.” An updated schedule of operation is required prior to renewal.

5.10 **Design Standards.** Due to the temporary nature of the proposed operation, the food truck is not subject to design standards found in ADC 8.310 - 8.390 or design standards for Village Centers found in ADC 8.405 – 8.475.

**Conclusions**

5.1 The subject property is zoned PB. The proposed use is allowed through Site Plan Review approval.

5.2 No portion of the food trucks or associated equipment, parking, or outdoor seating area shall encroach into the front setback.

5.3 The applicant shall provide an updated operating schedule at time of the annual license renewal.

5.4 The development shall comply with all other applicable codes and ordinances, including AMC 12.10.010, Prohibited Discharges.

5.5 Prior to operation of the food trucks, the refuse container, oil disposal, and gray water containers shall be screened in accordance with ADC 5.370.

5.6 This criterion is met with the following conditions.

**Conditions of Approval**

Condition 1 The applicant shall provide an operating schedule prior to the annual license renewal for the 2021 and 2022 calendar year. The subject property is limited to 120 operational days per calendar year for the proposed use. Because an operation day occurs when any of the three food trucks are open for any portion of the day, it is not necessary to provide a schedule for each food truck.

Condition 2 Prior to operation of the food trucks, the refuse, gray water, and oil disposal containers shall be screened in accordance with ADC 5.370.
Condition 3  Development shall occur consistent with the plans and narrative submitted by the applicant, or as modified by conditions of approval and shall comply with all applicable state, federal, and local laws, including AMC 12.10.010, Prohibited Discharges.

Criterion 6
Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.

Findings of Fact
6.1  Article 4 Airport Approach district: According to Figure 4-1 of the ADC, the subject property is not located within the Airport Approach District. This standard is not applicable.

6.2  Article 6 Steep Slopes, Comprehensive Plan Plate 7: According to Plate 7 of the Comprehensive Plan, the subject property is not located in the Hillside Development district.

6.3  Article 6 Floodplains, Comprehensive Plan Plate 5: FEMA/FIRM Community Panel No. 41043C0213H, dated December 8, 2016, shows that the entirety of the subject property is located outside the 100-year floodplain.

6.4  Article 6 Wetlands, Comprehensive Plan Plate 6: Does not show any wetlands on the subject site. The National Wetland Inventory Map does not show wetlands on the property.

6.5  Article 6: The subject property is not located in the Willamette River Greenway, Open Space Zoning, Riparian, or Habitat overlay district.

6.6  Article 7 Historic Districts, Comprehensive Plan Plate 9: Shows the subject property is not in a historic district. There are no known archaeological sites on the property.

Conclusions
6.1  The subject property is not located in a special purpose district.

6.2  This review criterion is not applicable.

Criterion 7
The site is in compliance with prior land use approvals.

Findings of Fact and Conclusions
7.1  The site is in compliance with all prior land use reviews.

7.2  This criterion is met.

Criterion 8
Sites that have lost their nonconforming status must be brought into compliance and may be brought into compliance incrementally in accordance with Section 2.370.

Findings of Fact and Conclusions
8.1  The site is not considered nonconforming and section 2.370 of the ADC does not apply to temporary uses.

8.2  This criterion is not applicable.

Overall Conclusion
As proposed and conditioned, the application for Site Plan Review to operate three food trucks for up to 120 calendar days per year satisfies all applicable review criteria as outlined in this report.
Conditions of Approval

Condition 1  The applicant shall provide an operating schedule prior to the annual license renewal for the 2021 and 2022 calendar year. The subject property is limited to 120 operational days per calendar year for the proposed use. Because an operation day occurs when any of the three food trucks are open for any portion of the day, it is not necessary to provide a schedule for each food truck.

Condition 2  Prior operation of the food trucks the refuse, gray water, and oil disposal containers shall be screened in accordance with ADC 5.370.

Condition 3  Development shall occur consistent with the plans and narrative submitted by the applicant, or as modified by conditions of approval and shall comply with all applicable state, federal, and local laws, including AMC 12.10.010, Prohibited Discharges.

Attachments

A.  Location Map
B.  Site Plan
C.  Public Comment

Acronyms

ADA  American Disabilities Act (Accessible Parking Standards)
ADC  Albany Development Code
AMC  Albany Municipal Code
FEMA  Federal Emergency Management Agency
FIRM  Flood Insurance Rate Map
LI  Light Industrial (Zoning District)
PB  Pacific Boulevard (Zoning District)
ODOT  Oregon Department of Transportation
ORS  Oregon Revised Statues
OSSC  Oregon Structural Specialty Code
SP  Site Plan Review (File Designation)
Legend

- Subject Property

Map: Location / Zoning Map

Date: 9/15/2020

Map Source: City of Albany

Unaddressed Parcel. Tax Lot 4200

Legend

- Subject Property

Map: Location / Zoning Map

Date: 9/15/2020

Map Source: City of Albany

Unaddressed Parcel. Tax Lot 4200
Your floor plan must be submitted on this form.

- Use a separate Floor Plan Form for each level or floor of the building.
- The floor plan(s) must show the specific areas of your premises (e.g., dining area, bar, lounge, dance floor, video lottery room, kitchen, restrooms, outside patio and sidewalk cafe areas.)
- Include all tables and chairs (see example on back of this form). Include dimensions for each table if you are applying for a Full On-Premises Sales license.

**Floor Plan**

Area Roped Off

Physical Barrier w/ Signage

No Alcohol Beyond

This Area is Fenced Off with bambo

N'Veener's Food Cart

No Alcohol Beyond

Northwest Mobile Cuisine, LLC

 Applicant Name

Trade Name (dba):

N'Veener's/McCarthy's TapShack

City and ZIP Code:

Albany, OR 97322

1-800-452-OLCC (6522)

www.oregon.gov/olcc

Attachment B

8/27/2020

OLCC USE ONLY

MINOR POSTING ASSIGNMENT(S)

Date: ___________________________  Initials: ___________________________
Greetings Travis North, this is David Brown I own Ion Enterprises LLC, the 500 Pacific Blvd property to the north of the application for the food carts regarding SP-1820. those are good neighbors and I like them, I would like to see some kind of a trash fence/cosmetic barrier to shield their visible porta-potty and waste disposal tanks and also try to stop their customers from parking on my property. I left your voicemail a minute ago. David Brown 541-936-0366 thank you.