Staff Report
Site Plan Review
Temporary Food Cart

SP-20-19
February 21, 2020

Application Information

Proposal: Site plan review to operate a food cart on the subject property for up to 120 calendar days per year.

Review Body: Staff (Type I-L review)

Property Owner: Callejas Santos; 1322 Geary Street SE, Albany, OR 97322

Applicant: Isabel Lorenzo; 704 Oak Court, Jefferson, OR 97352

Address/Location: 1322 Geary Street SE.

Map/Tax Lot: Linn County Assessor’s Map No. 11S03W08CB; Tax Lot 101

Zoning: Community Commercial (CC) Zoning District

Overlay: Airport Approach District

Total Land Area: .67 acres

Existing Land Use: Retail and Residential

Neighborhood: Jackson Hill

Surrounding Zoning:
- North: Community Commercial (CC)
- East: Regional Commercial (RC)
- South: Residential Medium Density Attached (RMA)
- West: Residential Medium Density Attached (RMA)

Surrounding Uses:
- North: Panda Express
- East: Geary Street/Multi-tenant retail and office
- South: Latitude 44 Apartments
- West: Latitude 44 Apartments

Prior History: SP-10-07: Site Plan Review for construction of a 5,190 square foot parking lot.
Summary

The applicant submitted a Site Plan Review application on July 11, 2019, to operate a food cart on the subject property for up to 120 calendar days per year. Additional information was provided on January 3, 2020, and the application was deemed complete the same day.

The subject property is zoned CC, which permits commercial uses, including temporary food carts, through site plan review. The proposed food cart is 98 square feet with a maximum length of 14 feet and maximum width of seven feet. (Attachment B). The applicant proposes a small outdoor seating area and will utilize the existing parking lot for parking.

Site Plan Review criteria found in section 2.450 of the Albany Development Code (ADC/development code) are addressed in this report. Because the proposed use is temporary and the structure 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 January 15, 2020. Property owners were given 14 days to respond to the notice. No written comments were received during this 14-day window.

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 eight-inch public sanitary sewer main in Geary Street.

1.2 Because this is a temporary use on the property, no connection to the public sanitary sewer system is required.

Water

1.3 City utility maps show a 12-inch public water main on the east side of Geary Street.

1.4 Because this is a temporary use on the property, no connection to the public water system is required.

Storm Drainage

1.5 City utility maps show a 15-inch public storm drainage main in Geary Street.

1.6 The proposed temporary use will not measurably impact runoff from the site.
Conclusions
1.1 Public utility connections are not proposed for this temporary use.
1.2 This criterion is not applicable.

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 that 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 cart will be located on a 0.67-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 satisfied without conditions.

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

Findings of Fact
3.1 The subject property is located on the west side of Geary Street SE just north of 14th Avenue SE.
3.2 Geary Street is classified as a minor arterial and is constructed to City standards. There are two existing driveway approaches for this property that provide access.
3.3 No changes to the driveway approaches are proposed.

Conclusions
3.1 Geary Street is improved to City standards.
3.2 No changes are proposed to the existing driveway approaches.
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 proposed food cart is located at the west end of the existing parking lot. Parking is provided via the existing parking lot. The proposed location of the food cart does not interfere with or hinder site circulation.
4.2 The food cart will utilize the existing parking lot. Per ADC 9.020(9) temporary uses of less than 120 days are not required to meet parking standards.
4.3 The site currently serves multiple retail uses, including used car sales. There must be enough parking to accommodate the two uses, independent of any parking spaces that are utilized for vehicle sales.

4.4 The parking lot was previously approved through a site plan review, file SP-10-07. The configuration of the existing parking lot no longer conforms with the previously approved configuration. The current configuration of the parking lot does not meet ADA accessibility standards.

Conclusions

4.1 The proposed location of the food cart does not interfere with the existing parking lot or hinder site circulation.

4.2 Temporary uses are not required to provide parking.

4.3 The current parking lot is not in conformance with the previously approved parking lot configuration and does not meet ADA accessibility standards. The applicant shall demonstrate conformance with ADA accessibility standards. This includes an ADA-compliant parking space, as well as an accessible pathway to the existing building, food cart, and outdoor seating area.

4.4 This criterion is met with the following condition.

Conditions of Approval

Condition 1 Prior to placement of the food cart, the applicant shall provide an ADA-compliant parking space and an accessible pathway to the existing building, food cart, and outdoor seating area through a Parking Lot Permit from the Building Division.

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 a food cart for up to 120 days per calendar year. The subject property is a developed site that is currently used for auto and retail sales. The applicant proposes using approximately 200 square feet of the property for the food cart and outdoor seating area. A site plan of the proposed development is presented in Attachment B.

5.3 Surrounding Development and Land Use. The subject property is surround by both commercial and residential uses. To the north is a Panda Express and Aspen Dental. To the east, across Geary Street, is a multi-tenant commercial building that is part of the Heritage Mall complex. To the west and south is a multi-family apartment complex known as Latitude 44. The location of the food cart is approximately 150 feet from the closest residential building on the adjoining property.

5.4 Lot Size, Dimensional Requirements and Lot Coverage. Per ADC 4.090, Table 4-2, the CC zoning district does not require a minimum lot size, width, or depth. The maximum lot coverage is 90 percent. The subject property is 0.67 acres (29,185 square feet). Of that, approximately 13,000 square feet is covered by existing impervious area. The food cart is 14-feet-by-7-feet for a total of 98 square feet. Therefore, less than 50 percent of the lot is covered by impervious surface area.
5.5 **Setbacks.** Per ADC 4.090, Table 4-2, the CC zoning district requires a minimum front setback of 10 feet. The proposed food cart will be set back approximately 80 feet from Geary Street. Therefore, the front setback standard is met. The CC zoning district requires a minimum setback of 10 feet when the property abuts a residential district. As noted above, the subject property abuts the Residential Medium zoning district to the west and south. The proposed food cart will be located approximately 90 feet from the west and south property line. This standard is met.

5.6 **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 cart are comparable to other commercial operations in the immediate vicinity therefore, no adverse environmental impacts are anticipated. Additionally, a Notice of Filing was mailed to property owners located within 300 feet of the subject property on January 15, 2020. No written comments regarding environmental concerns—or any other concern, for that matter—were received during the 14-day comment period. The development shall comply with all other applicable codes and ordinances, including municipal code regulations related to wastewater discharge.

5.7 **Refuse Containers.** ADC 4.300 requires that 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. A refuse container is not proposed as part of this application. If the applicant later decides to utilize a refuse container, it shall be screened in accordance with the development code.

5.8 **Operating Days:** The applicant did not provide a schedule for the months or days they plan to be in operation. Because the food cart can only operate up to 120 days in a calendar year, the applicant shall provide the Community Development Department with a schedule of operation prior to placement of the food cart.

5.9 **Yearly License Renewal:** Section 5.10.050(2) of the municipal code states that “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.”

5.10 **Design Standards:** Due to the temporary nature of the proposed operation, the food cart is not subject to design standards found in ADC 8.310 - 8.390.

**Conclusions**

5.1 The subject property is zoned CC. The proposed use is allowed through site plan review approval.

5.2 The proposal meets the standards for building height, lot coverage, and setbacks.

5.3 The proposal conforms with the applicable environmental standards.

5.4 A Site Plan Review for the placement of a food cart shall not exceed 120 days per calendar year. Any business operating for more than 120 days shall meet all development code requirements. Prior to placement of the food cart, the applicant shall provide the Community Development Department with a schedule of operation.

5.5 Site Plan Review approval for placement of a food cart at this location shall be valid until February 21, 2023, provided that annual license renewal fee of $100 is paid to the City upon a finding that there have not been changes in site usage or operations.

5.6 The development shall comply with all other applicable codes and ordinances, including municipal code regulations related to wastewater discharge.
5.7 This criterion is met with the following conditions.

**Conditions of Approval**

Condition 2  Site Plan Review approval for placement of a food cart at this location shall be valid until February 21, 2023, provided the annual license renewal fee of $100 is paid to the City upon a finding that there have not been changes in site usage or operations. The food cart shall not operate for more than 120 days in a calendar year.

Condition 3  The development shall comply with all other applicable codes and ordinances, including municipal code regulations related to wastewater discharge.

Condition 4  Prior to placement of the food cart, the applicant shall provide the Community Development Department with a schedule of operation.

**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 development code, the subject property is located within the Airport Approach District. The proposed food cart is shorter than the existing buildings on the property and, therefore, does not pose any additional impact. This standard is met.

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. 41043C0214H, 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 located in the Airport Approach District. The food cart is shorter than the existing buildings on the subject property.

6.2 Aside from the Airport Approach District, the subject property is not located in a special purpose district.

6.3 This review criterion is met without conditions.

**Criterion 7**

The site is in compliance with prior land use approvals.

**Findings of Fact and Conclusions**

7.1 As noted in Criterion 4, the subject property received site plan approval for a parking lot in 2007 (file SP-10-07). The existing parking lot configuration is no longer in conformance with the approved
plan. Findings and conclusions related to the parking lot and ADA compliance are addressed in Criterion 4 and incorporated here by reference.

7.2 The site is in compliance with all other aspects of the prior land use approval. 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.
8.2 This criterion is not applicable.

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

Conditions of Approval
Condition 1 Prior to placement of the food cart, the applicant shall provide an ADA-compliant parking space and an accessible pathway to the existing building, food cart, and outdoor seating area through a Parking Lot Permit from the Building Division.

Condition 2 Site Plan Review approval for placement of a food cart at this location shall be valid until February 21, 2023, provided that annual license renewal fee of $100 is paid to the City upon a finding that there have not been changes in site usage or operations. The food cart shall not operate for more than 120 days in a calendar year.

Condition 3 The development shall comply with all other applicable codes and ordinances, including municipal code regulations related to wastewater discharge.

Attachments
A. Location Map
B. Site Plan

Acronyms
ADA American Disabilities Act (Accessible Parking Standards)
ADC Albany Development Code
AMC Albany Municipal Code
CC Community Commercial (Zoning District)
DEQ Oregon Department of Environmental Quality
FEMA Federal Emergency Management Agency
FIRM Flood Insurance Rate Map
SP Site Plan Review (File Designation)