

**FINDINGS OF FACT AND FINAL ORDER
TYPE I TEMPORARY USE PERMIT**

DATE: April 7, 2020

FILE NO.: 20-003 TEMP Saturday Market

APPLICANT/OWNER: Jaime DeMars / Robert and Nancy DeMars (Bright Beginnings Learning Center & Daycare)

LOCATION: 38720 Cascadia Village Drive

LEGAL DESCRIPTION: T2SR4E24BD, Tax lot 3000

APPLICANT'S EXHIBITS:

- A. Land Use Application
- B. Site Plan
- C. Narrative
- D. Mailing Labels

Additional Documents Submitted by Staff:

- E. Public Access Easement Recorded Document

Agency Comments:

- F. Sandy Fire District No. 72 (March 26, 2020)

Public Comments:

- G. Ranae Knox, 3012 SW Phyllis Drive, Gresham, OR 97080 (April 3, 2020)
- H. David Snider, 38808 Cascadia Village Drive, Sandy, OR 97055 (April 3, 2020)

FINDINGS OF FACT

1. The applicant submitted payment and a Temporary Use Permit application on January 15, 2020 with additional information submitted on March 17, 2020 requesting temporary use permit approval to hold a weekly Saturday Market located at 38720 Cascadia Village Drive. The market is proposed to be held from 9:00 am to 2:00 pm every Saturday from May 9, 2020 to September 5, 2020 in the Bright Beginnings Learning Center & Daycare parking lot. The applicant indicates set up time for this event will start at 8:00 am and end by 3:00 pm.
2. The site is zoned C-3, Village Commercial, and is located east of SE Bornstedt Road and south of Cascadia Village Drive.
3. The applicant has provided signatures from the property owners (Robert & Nancy DeMars) who have approved this event to take place at this location.

4. Staff received recorded documents from First American Title showing the two public access easements located between the applicant's property and the private drive and the crossover easement between the applicant's property and Cascadia Village Drive. The applicant has proposed to block both public access easements during the times and dates mentioned in Finding #1.
5. The applicant's submission included a mailing list and labels for property owners within 300 feet of the subject property. Notification of the proposal was mailed to the property owners within 300 feet of the subject property and to affected agencies on March 20, 2020.
6. Staff received two public comments. The following are the public comments:
 - a. Ranae Knox, owner of 38804 Cascadia Village Drive. Ms. Knox requested that the existing easements are not blocked.
 - b. David Snider, owner of 38808 Cascadia Village Drive. Mr. Snider requested that the parking in the private drive that is privately owned is not used by the patrons of the farmers market or the market vendors.
7. Staff received an agency comment from the Sandy Fire District No. 72 Fire Marshall, Mr. Gary Boyles. Mr. Boyles stated the following requirements are from the Oregon Fire Code Chapters 5, 31, and Appendix B.
 - a. Vendor and customer parking to be in designated parking areas only so as to not block fire department access on Cascadia Village Dr. or the private drive to the east of the proposed Saturday Market location.
 - b. **Before a TEMP permit is granted**, The owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory, certifying that all vendor tents, canopies and membrane structures and their appurtenances, sidewalls, drops and tarpaulins, floor coverings, bunting, combustible decorative materials and effects, including sawdust when used on floors, shall be composed of flame-resistant material or shall be treated with a flame retardant (in accordance with Test Method 1 or 2 of NFPA 701) in an approved manner and that such flame resistance is effective for the period specified by the permit.
 - c. An affidavit or affirmation shall be submitted to the fire code official and a copy retained on the premises on which the vendor tents are located. The affidavit shall attest to the following information relative to the flame resistance of the tent fabric:
 - i. Name and address of the owners of the tents.
 - ii. Date the fabric was last treated with flame-resistant solution.
 - iii. Trade name and kind of chemical used in treatment.
 - iv. Name of the person or firm testing the material.
 - v. Name of testing agency and test standard by which the fabric was tested.
 - d. Outdoor cooking that produces sparks or grease laden vapors shall not be performed within 20 feet from a tent, canopy or membrane structure.
 - e. Portable LP - gas containers with a capacity of 500 gallons or less shall have a minimum separation between the container and structure not less than 10 feet.
 - f. Tents, canopies or membrane structures and their appurtenances shall be adequately roped, braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire code official on request.
 - g. Generators and other internal combustion power sources shall be separated from tents or membrane structures by a minimum of 20 feet and shall be placed on an approved surface.

- Such equipment shall be isolated from contact with the public by fencing, enclosure or other approved means.
- h. Smoking shall not be permitted in tents, canopies or membrane structures. Approved “No Smoking” signs shall be conspicuously posted in accordance with Oregon Fire Code Section 310.
 - i. The floor surface inside tents or membrane structures and the grounds outside and within 30 feet perimeter shall be kept free of combustible waste and other combustible materials that could create a fire hazard. Such waste shall be stored in approved containers and removed from the premises at least once a day during the period the Saturday Market is occupied by the public.
 - j. At least two portable fire extinguisher rated 2-A:10BC shall be provided near the vendors and spaced to equally cover all vendor tents, but not more than 75 feet apart. A listed class K fire extinguisher shall be located within 30 feet of any commercial type cooking equipment.
8. The applicant indicates that all 18 vendors will set up their booths for the event in the parking lot located at 38720 Cascadia Village Drive with parking for the community on Cascadia Village Drive and the Private Drive located to the east of the Bright Beginnings Learning Center & Daycare.
 9. Chapter 17.10 defines a temporary use as, “a use, intended for limited duration, to be located in a zoning district not permitting such use and not constituting or continuing a nonconforming use or building.” The proposed use is determined to be a temporary use as defined. Parking lots are not designated to hold events on a year-round basis.
 10. Section 17.74.60(A) specifies that temporary uses may be permitted for a period not to exceed 90 days. As specified above the applicant proposes to have this event every Saturday from May 9 to September 5, 2020 for a total of 18 events. The Sandy Development code does not allow temporary use permits to be issued for more than 90 days.

SUMMARY

The request for the Saturday Market from 9:00 am to 2:00 pm, May 9, 2020 to September 5, 2020 at 38720 Cascadia Village Drive is hereby **approved** as modified by the conditions of approval listed below.

CONDITIONS OF APPROVAL

1. The applicant is permitted to use the lot located at 38720 Cascadia Village Drive for a weekly Saturday market event every Saturday from 9:00 am to 2:00 pm, May 9, 2020 to September 5, 2020. The subject property shall be returned to pre-event condition each Saturday by 3:00 pm and access to the easements shall be open.
2. The applicant shall not allow vendors or patrons to use the private parking in the private drive to the east of the subject site.
3. If the Saturday Market is held while Governor Brown's COVID-19 declaration is effective it shall follow all guidelines as outlined by the Governor.

4. Any proposed tents shall be secured at all corners to prevent being blown by the wind. The securing system used shall not penetrate into the parking lot surface.
5. The following requirements are from the Oregon Fire Code Chapters 5, 31, and Appendix B:
 - a. Vendors and customer parking to be in designated parking areas only so as to not block fire department access on Cascadia Village Dr. or the private drive to the east of the proposed Saturday Market Location.
 - b. Before a TEMP permit is granted, the owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory, **certifying that all vendor** tents, canopies and membrane structures and their appurtenances, sidewalls, drops and tarpaulins, floor coverings, bunting, combustible decorative materials and effects, including sawdust when used on floors, shall be composed of flame-resistant material or shall be treated with a flame retardant (in accordance with Test Method 1 or 2 of NFPA 701) in an approved manner and that such flame resistance is effective for the period specified by the permit.
 - c. An affidavit or affirmation shall be submitted to the fire code official and a copy retained on the premises on which the vendor tents are located. The affidavit shall attest to the following information relative to the flame resistance of the tent fabric:
 - i. Name and address of the owners of the tents.
 - ii. Date the fabric was last treated with flame-resistant solution.
 - iii. Trade name and kind of chemical used in treatment.
 - iv. Name of the person or firm testing the material.
 - v. Name of testing agency and test standard by which the fabric was tested.
 - d. Outdoor cooking that produces sparks or grease laden vapors shall not be performed within 20 feet from a tent, canopy or membrane structure.
 - e. Portable LP - gas containers with a capacity of 500 gallons or less shall have a minimum separation between the container and structure not less than 10 feet.
 - f. Tents, canopies or membrane structures and their appurtenances shall be adequately roped, braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire code official upon request.
 - g. Generators and other internal combustion power sources shall be separated from tents or membrane structures by a minimum of 20 feet and shall be placed on an approved surface. Such equipment shall be isolated from contact with the public by fencing, enclosure or other approved means.
 - h. Smoking shall not be permitted in tents, canopies or membrane structures. Approved "No Smoking" signs shall be conspicuously posted in accordance with Oregon Fire Code Section 310.
 - i. The floor surface inside tents or membrane structures and the grounds outside and within 30 feet perimeter shall be kept free of combustible waste and other combustible materials that could create a fire hazard. Such waste shall be stored in approved containers and removed from the premises at least once a day during the period the Saturday Market is occupied by the public.
 - j. At least two portable fire extinguisher rated 2-A:10BC shall be provided near the vendors and spaced to equally cover all vendor tents, but not more than 75 feet apart. A listed class K fire extinguisher shall be located within 30 feet of any commercial type cooking equipment.
6. No parking of vehicles is allowed on unimproved surfaces, such as grass.
7. The applicant shall maintain the striping of the parking area and maintain the designation of at least one van accessible ADA compliant parking space.

8. The proposed use shall be monitored to ensure there is no disruption of traffic or adverse impacts to adjoining properties, and that it is in compliance with sanitation requirements.
9. The event shall comply with Section 8.20 of the Municipal Code regarding noise and amplified music.
10. The applicant is responsible for complying with Chapter 15.32 for all signage. No signage shall be allowed without first obtaining a sign permit.
11. An extension of the temporary use permit shall require a Type II process as specified by Section 17.74.60 (A) of the Sandy Development Code
12. This Temporary Permit may be revoked by the City if conditions of approval are not met. Approval of this Temporary Permit does not grant authority for the unrestricted use of the site.
13. Any other conditions or regulations required by Clackamas County, Fire District No. 72, and the Oregon Department of Transportation, or County, State or Federal agencies are hereby made a part of this permit and any violation of the conditions of this approval will result in the review of this permit and/or revocation.



Kelly O'Neill Jr.
Development Services Director

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within 12 days of notice of the decision. The notice of appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and
5. Payment of required filing fees.