

FINDINGS OF FACT and FINAL ORDER
TYPE I DECISION

DATE: April 7, 2022

FILE NO.: 22-009 DR

PROJECT NAME: Smoky Hearth Covered Structure

APPLICANT: City of Sandy Economic Development Office

OWNERS: Bonnie and Mark Gritsch

LEGAL DESCRIPTION: T2S R4E Section 15A, Tax Lot 215

The above-referenced proposal was reviewed as a Type I Design Review. The following Findings of Fact are adopted supporting approval of the plan in accordance with Chapter 17 of the Sandy Municipal Code.

EXHIBITS:

Applicant's Submittals:

- A. Land Use Application
- B. Site Plan
- C. Elevations
 - Sheet A-1.1 – Southwest Elevation
 - Sheet A-1.2 – Northwest Elevation
 - Sheet A-1.3 – Southeast Elevation
 - Sheet A-2.1 – Floor Plan
 - Sheet S-1.0a – Structural Notes
 - Sheet S-1.0b – Structural Notes
 - Sheet S-2.1 – Foundation Plan
 - Sheet S-2.2 – Roof Framing Plan
 - Sheet S-3.1 – Foundation Detail
 - Sheets S-3.2 – S-35 – Roof Details
- D. Declaration of Covenants, Conditions, and Restrictions for Pioneer Corporate Park
- E. Email from Elie Kassab (February 23, 2022)
- F. Lighting Information from Bid
- G. Parking Information from File No. 03-029 DR
- H. Partition Plat 2004-063
- I. Parking Analysis and Setback Information
- J. JAS Engineering Notes (March 21, 2021)

FINDINGS OF FACT

General

1. These findings are based on the applicant's submittal received on March 4, 2022, and additional information received on March 22, 2022, and April 1, 2022.
2. This final order is based upon the Exhibits listed above.
3. The subject site is approximately 0.79 acres. The site is located southwest of Industrial Way and northwest of Champion Way.
4. The parcel has a Comprehensive Plan Map designation of Light Industrial and a Zoning Map designation of I-1, Industrial Park.
5. The City of Sandy Economic Development Office submitted an application on behalf of Bonnie and Mark Gritsch to build a covered structure for outdoor dining at the Smoky Hearth Restaurant. The proposed structure will be 31.5 feet by 30 feet and L-shaped and will connect to the building at the primary entrance to the restaurant. Structural elements will include a 6:12 pitched metal roof, heavy timber construction with metal bracketing, stone wrapping at the base of the supports, at least one light fixture, and multiple electrical outlets. The structure will replace four (4) non-ADA parking spaces.

17.48 – I-1 Industrial Park

6. Section 17.48.10 lists primary uses, and accessory uses permitted outright in the I-1 zone. The existing Smoky Hearth restaurant is located in a building with less than 60,000 square feet, which is a primary use permitted outright per Section 17.48.10(A.3e). The proposed covered structure for outdoor dining is a use customarily incidental and subordinate to a use permitted outright, which is an accessory use permitted outright per Section 17.48.10(B.1).
7. Section 17.48.30(A) contains development standards for buildings in the I-1 zone. For the purposes of this review, Champion Way is considered the front yard. Based on the submitted Site Plan (Exhibit B), the proposed covered structure is approximately 44 feet from the front lot line in conformance with the setback standards in Section 17.48.30(A). The maximum height of the covered structure is 14.25 feet, which is less than the 45 feet allowed by this section.

17.84 – Improvements Required with Development

8. The submitted land use application (Exhibit A) states that the applicant is proposing at least one light fixture and multiple electrical outlets. Per Section 17.84.90(E), **all utilities shall be placed underground.**
9. The proposed covered structure will occupy the area of four (4) existing paved parking spaces, with an extension over the walkway that connects to the existing restaurant entrance. Thus, no additional impervious surface will be added. The elevations (Exhibit C) detail gutters and downspouts, but it is unclear where the downspouts are proposed to drain. **Stormwater management shall conform to the requirements in the City of Portland**

Stormwater Management Manual and the requirements in Sections 13.18 and 13.20 of the Sandy Municipal Code.

17.90 – Design Standards

10. The applicant proposes construction of a covered structure for outdoor dining in association with the approved Smoky Hearth restaurant within the I-1 zoning district. As such, the application is subject to the provisions of Chapter 17.90, Design Standards.
11. Section 17.90.70 specifies that **design review approval shall be void after two (2) years from the date of the Final Order, unless the applicant has submitted plans for building permit approval.**
12. Because the subject property is located in the I-1 zoning district the application was reviewed for compliance with the provisions of Section 17.90.120. Requirements relevant to the design of the covered structure are addressed below.
13. Section 17.90.120(B.1) requires that buildings be articulated, varied, and provide visual interest. All elevations visible from a public street shall be divided into distinct planes of no more than 40 lineal feet. The proposed covered structure measures 31.5 feet by 30 feet and L-shaped; thus, there are no elevations greater than 40 feet in length.
14. Section 17.90.120(B)(2) requires that buildings incorporate pedestrian shelters over primary building entrances. Pedestrian shelters shall extend at least five feet over the pedestrian area. The proposed covered structure is an open structure; thus, the structure itself is a pedestrian shelter. In addition, the covered structure will connect to the primary entrance of the Smoky Hearth restaurant, thereby extending the pedestrian shelter area over the restaurant's primary entrance.
15. Section 17.90.120(B.3.b) requires that at least 36 inches of a buildings base contains stone on the sides of the building visible from the public street. The proposed covered structure is an open-air structure with no walls. However, the elevations (Exhibit C) detail Boral Cultured Stone at the base of each column. The elevations do not specify the color/type of cultured stone. **The applicant shall submit the proposed color/type of Cultured Stone for staff review and approval.**
16. Section 17.90.120(B.3.d) specifies approved siding materials. The proposed covered structure is an open-air structure without walls or siding.
17. Section 17.90.120(B.3.e) requires building elevations facing a public street to incorporate at least three (3) of the features from the list in Section 17.90.120(B.3.e). The southeast elevation faces Champion Way and is subject to this requirement. The submitted southeast elevation (Exhibit C, Sheet A-1.3) details exposed heavy timber posts, metal brackets, and a metal roof in compliance with Section 17.90.120(B.3.d).
18. Section 17.90.120(B.3.f) specifies that materials required on elevations visible from an abutting public street must turn the building corner and incorporate appropriate transitions onto elevations not requiring these materials for a distance of not less than four (4) feet. The proposed covered structure does not have walls; however, the columns are wrapped with

Boral Cultured Stone on all sides of the column bases in compliance with this code requirement.

19. Section 17.90.120(B.4) requires exterior building colors to include warm earth tones that conform to the Color Palette in Chapter 17.90, Appendix C. The proposed covered structure does not have walls. The posts and beams will be heavy timber. **If the applicant uses a wood stain, it shall be a natural wood color.**
20. Section 17.90.120(C.1) requires that primary roof forms on buildings with a span of 50-feet or less contain a minimum roof pitch of 6:12. The proposed building span is 31.5 feet, so the building is required to be constructed with a pitched roof. The land use application (Exhibit A) and elevations (Exhibit C, Sheet A9.1) detail a gabled roof at a 6:12 pitch in compliance with this section.
21. Section 17.90.120(C.3) states that, when practicable, buildings shall be oriented so the gable end of the roof faces the abutting street. The property that Smoky Hearth and the proposed covered structure are on does not abut any streets.
22. Section 17.90.120(C.5) states that visible roof materials must be wood shingle or architectural grade composition shingle, slate, or concrete tile. Metal with standing or batten seam may also be used conforming to the Color Palette in Appendix D. The land use application (Exhibit A) states that the proposed roof is a metal roof but does not specify a color or seam. **The applicant shall submit the proposed metal roof color and seam type for staff review and approval.**
23. Section 17.90.120(C.6) states that all roof and wall-mounted mechanical, electrical, communications, and service equipment, including satellite dishes and vent pipes, shall be screened from view from all adjacent public rights-of-way and civic spaces by parapets, walls or by other approved means. **If roof equipment is desired, it shall be screened from view from all adjacent public rights-of-way and civic spaces.**
24. Sections 17.90.120(D) and 17.90.120(E) contain standards related to building orientation and entrances, and windows, respectively. The proposed covered structure is an open-air, accessory structure without walls or a primary entrance; therefore, these sections are not applicable.

17.98 – Parking, Loading, and Access Requirements

25. Section 17.98.20 contains off-street parking requirements. The submitted parking analysis (Exhibit I) states that the proposed covered structure will replace four (4) existing parking spaces. The applicant submitted a Declaration of Covenants, Conditions, and Restrictions for Pioneer Corporate Park (Exhibit D) that contains specific information regarding easements over Common Area Facilities and parking ratios for the entire Pioneer Corporate Park site. The original development proposal for Pioneer Corporate Park provided 321 shared parking spaces and used a ratio of one parking space per six theater seats plus one parking space for each 300 square feet of the area of the remaining buildings (see Parking Info from File No. 03-029 DR; Exhibit G). The calculation was based on an anticipated 1,226 theater seats. An email from theater owner Elie Kassab dated February 23, 2022 (Exhibit E) stated that only 826

seats were actually built. Based on the existing number of theater seats and the existing square footage of the developed buildings, the applicant determined that the Pioneer Corporate Park as a whole requires a minimum of approximately 208 parking spaces as follows:

- 1 parking space per 6 theater seats
 - $826 \text{ seats} / 6 = 137.67$
- 1 parking space per 300 SF of building area (minus restrooms and utility closets)
 - Building 1 (retail, tanning, Smoky Hearth): total SF = 5,600
 - Building 2 (salon, physical therapy): total SF = 5,000
 - Building 3 (church): total SF = 10,600
 - 3 Building Total: 21,200 SF
 - $21,000 \text{ SF} / 300 = 70.67$
- Total parking required for theater and 3 buildings = $137.67 + 70.67 = \sim 208$

26. Pioneer Corporate Park has 260 existing off-street parking spaces. The proposed covered structure will remove four (4) of the parking spaces reducing the number of off-street parking spaces to 256 spaces, which exceeds the 208 parking space requirement based on the existing uses on site. **Prior to any future development of the site, the applicant shall be required to submit an updated parking analysis.**

15.30 – Dark Sky Ordinance

27. Chapter 15.30 regulates outdoor lighting in order to reduce or prevent light pollution. The Dark Sky ordinance requires that all new exterior lighting be full-cutoff and downward facing. The submitted land use application (Exhibit A) states that there will be at least one light fixture. The lighting info sheet (Exhibit F) states that one dimmable hanging central light fixture that does not exceed 4,125 Kelvins will be installed at the center of the structure. **Chapter 15.30, Dark Sky Ordinance, recommends 3,000 Kelvins or less, but in no circumstance shall the lighting exceed 4,125 Kelvins. Exterior lighting fixtures shall be downward facing and full cutoff. The applicant shall submit lighting cut-sheets for staff review and approval.**

DECISION

For the reasons described above, the request by the City of Sandy Economic Development Office on behalf of Bonnie and Mark Gritsch to construct a covered structure for outdoor dining as an accessory structure to the Smoky Hearth restaurant is hereby **approved as modified by the conditions listed below.**

CONDITIONS OF APPROVAL

A. Prior to all construction activities, except grading and/or excavation, the applicant shall submit additional information with the Building Permit plans and complete required items during construction as identified below:

1. Submit the proposed color/type of Cultured Stone for staff review and approval.
2. Submit the proposed metal roof color and seam type for staff review and approval.

3. Submit lighting cut-sheets. Exterior lighting fixtures shall be downward facing, full cutoff, and not exceed 4,125 Kelvins.

B. Prior to occupancy (temporary or final) of the covered structure, the applicant shall complete the following or provide assurance for their completion:

1. All required improvements shall be installed or financially guaranteed prior to final occupancy of the covered structure.

C. General Conditions:

1. Design review approval shall be void after two (2) years from the date of the Final Order, unless the applicant has submitted plans for building permit approval.
2. All utilities including franchise utilities shall be installed underground to City standards.
3. If the applicant uses a wood stain, it shall be a natural wood color.
4. If roof equipment is desired, it shall be screened from view from all adjacent public rights-of-way and civic spaces.
5. Prior to any future development of the site, the applicant shall be required to submit an updated parking analysis.
6. Stormwater management shall conform to the requirements in the City of Portland Stormwater Management Manual and the requirements in Sections 13.18 and 13.20 of the Sandy Municipal Code.
7. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
8. Comply with all other conditions or regulations imposed by Clackamas County, Fire District No. 72, or state and federal agencies. Compliance is made a part of this approval and any violations of these conditions and/or regulations may result in the review of this approval and/or revocation of approval.



04/07/22

Emily Meharg
Senior Planner

Date

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 twelve (12) calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, "*Notice of Appeal*," and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an 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.