

**NOTICE OF DECISION
TYPE I TEMPORARY USE PERMIT**

DATE: October 21, 2022

FILE NO.: 22-045 TEMP - Christmas Tree Lot at Bigfoot Growlers

APPLICANT: Bigfoot Growlers (Wilberth Us Tun)

OWNER: Angelo & Victoria Turra

LOCATION: 39261 Proctor Blvd.

TAX MAP & LOT: 24E13AC02200

FINDINGS OF FACT

1. The applicant submitted a Temporary Use Permit application on October 18, 2022, requesting temporary use permit approval to sell Christmas trees at 39261 Proctor Blvd. (Bigfoot Growlers) from November 19, 2022, through December 24, 2022.
2. 39261 Proctor Blvd. is located on the north side of Proctor Blvd. and has frontage on both Proctor Blvd. and Hoffman Avenue. The site is zoned C-1, Central Business District.
3. The applicant proposes Christmas tree sales between 11am to 8pm Tuesday's, Wednesday's, Thursday's, and Sunday's, as well as from 11am to 10pm on Friday's and Saturday's.
4. The lot located at 38600 Proctor Blvd. contains a building that currently holds three different businesses. Bigfoot Growlers leases the restaurant space on the main floor. The applicant plans to display the Christmas trees on the front patio that faces Proctor Blvd. The patio has an open roof and only framed around the edge for an open-air space.
5. The applicant provided a letter from property owners, Angelo & Vicki Turra, giving permission for the applicant to use the front patio for Christmas tree sales during the holiday season.
6. On October 13 and October 20, 2022, City staff received the following comments from the Sandy Fire District No. 72 Fire Marshall, Gary Boyles:
 - A) The required width of the means of egress from Bigfoot Growlers to the public right-of-way shall not be obstructed.
 - B) Natural cut trees shall be checked for dryness daily and removed out from under the covered patio whenever the needles fall off readily when a tree branch is shaken or if the needles are brittle or break when bent between the thumb and index finger.
 - C) Use of unlisted electrical wiring and lighting on or near the natural cut trees shall be prohibited.

D) Natural cut trees shall be kept a minimum of 8-feet from heat vents and any open flame or heat producing devices.

E) Access to exits and exit paths from the business shall not be obstructed by the Christmas Trees.

F) No open flames or other sources of ignition are allowed in the vicinity of the Christmas trees without prior approval from the Fire Marshal.

G) Only Nationally Recognized Testing Laboratories (NRTL's) such as Underwriters Laboratories (UL) listed miniature or LED style lights shall be used in accordance with their listing.

H) Extension cords shall be listed and labeled by a NRTL and approved for exterior use.

7. According to Section 17.74.60(A), temporary uses are allowed for a period not to exceed 90 days. The applicant proposes to use the site for Christmas tree sales for 36 days, which is less than the maximum number of days for a temporary use.

DECISION

For the reasons described above, the request by Bigfoot Growlers to sell Christmas trees at 39261 Proctor Boulevard on a temporary basis is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL

1. The applicant is permitted to use the lot located at 39261 Proctor Blvd. for Christmas tree sales from November 19, 2022, through December 24, 2022.
2. The applicant shall remove all stored items from underneath the exterior staircase at the site prior to the sale of Christmas trees at 39261 Proctor Blvd. as that outdoor storage has not been permitted.
3. The applicant shall adhere to Fire Marshal requirements, including:
 - A) The required width of the means of egress from Bigfoot Growlers to the public right-of-way shall not be obstructed.
 - B) Natural cut trees shall be checked for dryness daily and removed out from under the covered patio whenever the needles fall off readily when a tree branch is shaken or if the needles are brittle or break when bent between the thumb and index finger.
 - C) Use of unlisted electrical wiring and lighting on or near the natural cut trees shall be prohibited.
 - D) Natural cut trees shall be kept a minimum of 8-feet from heat vents and any open flame or heat producing devices.
 - E) Access to exits and exit paths from the business shall not be obstructed by the Christmas Trees.
 - F) No open flames or other sources of ignition are allowed in the vicinity of the Christmas trees without prior approval from the Fire Marshal.
 - G) Only Nationally Recognized Testing Laboratories (NRTL's) such as Underwriters Laboratories (UL) listed miniature or LED style lights shall be used in accordance with their

listing.

H) Extension cords shall be listed and labeled by a NRTL and approved for exterior use.

4. The proposed activity shall not disrupt through traffic and must be monitored to ensure there is no disruption of traffic, nor adverse impacts to adjoining properties and businesses.
5. Two (2) fire extinguishers shall be onsite. "No smoking" signs shall be posted.
6. The applicant shall keep the patio free from any tents, canopies, or membrane structures.
7. The event shall comply with Section 8.20 of the Municipal Code regarding noise and amplified music.
8. The applicant shall remove the Christmas trees by December 26, 2022, unless an extension to this permit is granted.
9. The applicant is responsible for complying with Chapter 15.32 for all signage. No signage shall be allowed without first obtaining a sign permit.
10. This Temporary Use Permit may be revoked by the City if conditions of approval are not met. Approval of this Temporary Use does not grant authority for the unrestricted use of the site.
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. 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.

Rebecca Markham

10/21/22

Rebecca Markham, Executive Assistant
On behalf of 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.