

**FINDINGS OF FACT and FINAL ORDER
TYPE I LAND USE DECISION**

DATE: June 3, 2021

FILE NO.: 21-030 TEMP

PROJECT NAME: Paola's Temporary Gazebo

APPLICANT: Denise Overton

PROPERTY OWNER: Joyce Paola

PROPERTY ADDRESS: 38015 Hwy 26

LEGAL DESCRIPTION: T2S R4E Section 14AD Tax Lot 01000

EXHIBITS:

Applicant's Submission

- A. Land Use Application (*received 5/27/21*)
- B. Picture of gazebo with dimensions (*received 5/27/21*)
- C. Site Plan (*received 6/3/21*)

Agency Comments

- D. Sandy Fire District No. 72 Fire Marshal Gary Boyles (*received 5/31/21*)

FINDINGS OF FACT

General

1. The applicant submitted a Temporary Use Permit application on May 27, 2021, requesting temporary use of a gazebo at 38015 Hwy 26 for special events and restaurant patrons. Additional information was received on June 3, 2021.
2. The gazebo is 12 feet by 16 feet with a total square footage of 192 feet. The applicant plans to bolt the gazebo to the ground with bolts per the manufacturer's requirements.
3. The applicant proposes the use of the gazebo from June 19, 2021, to September 1, 2021.
4. The temporary gazebo will be located 48 feet behind the main building and 12 feet from the property line at the northwest corner of the property. **The location of the gazebo will**

not affect any ADA parking spaces.

5. The applicant has provided a signature of approval from property owner Joyce Paola who approves use of the gazebo.
6. 38015 Hwy 26 is located on the north side of Hwy 26, west of Bluff Rd and east of Safeway. The site is zoned C-2, General Commercial. The applicant has a current business license (License # 3443).
7. The applicant had previously submitted and was approved for a temporary covered structure permit on December 28, 2020 due to the State of Oregon's Covid-19 restrictions. That temporary structure was a 20 foot by 20 foot tent and was approved by the Sandy Fire District No. 72 Fire Marshal, Gary Boyles on December 24, 2020. The temporary structure has been removed.
8. Staff received one comment from Sandy Fire District No. 72 Fire Marshal, Gary Boyles. The comment included the following:
 - A) Use of any portable propane appliances within the gazebo are prohibited.
 - B) Use of extension cords will require that they be rated for exterior use and that they be plugged directly into a GFCI protected outlet.
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.**
10. Section 17.74.60 contains requirements related to temporary uses and structures. 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 from June 19, 2021, to September 1, 2021, for a total of seventy-four (74) days and therefore is in general compliance with the temporary use standards.
11. The application is reviewed as a Type I Temporary Permit. Notice of the proposal is not required.
12. Section 17.74.90(E)(14) states tents, and canopies must be free of tears, mold, or broken or non-functioning supports and shall be securely anchored. **The applicant's gazebo, generators, and tables shall be properly secured at all times to prevent being blown by the wind.**
13. Signage is regulated by Chapter 15.32, Sign Code regulations. **All signage requires approval of a City sign permit in compliance with the requirements of Chapter 15.32, Sign Code. Per Section 15.32.080 roof signs are prohibited.**

DECISION

The proposed Temporary Use is in general conformance with the temporary use standards of the Sandy Development Code, Chapter 17.74.60(A). **The Temporary Use of this gazebo is hereby approved from June 19, 2021, to September 1, 2021 pending an approved inspection by the Sandy Fire District, No. 72 Fire Marshal.** The following conditions of approval shall be required in order to ensure compliance with all applicable regulations of the Sandy Municipal Code.

CONDITIONS OF APPROVAL

1. The applicant is permitted to place the 192 square foot gazebo in the parking lot located at 38015 Hwy 26 from June 19, 2021, to September 1, 2021. The gazebo shall be located in the northwest corner of the property behind the main Paola's Pizza Barn restaurant.
2. The applicant shall remove the gazebo from the site no later than Friday September 17, 2021 (i.e. 90 days after permitted date of first use).
3. The applicant shall schedule an inspection with Fire Marshal Boyles once the temporary gazebo is installed.
4. Use of any portable propane appliances within the gazebo are prohibited. Use of extension cords will require that they be rated for exterior use and that they be plugged directly into a GFCI protected outlet.
5. The applicant shall follow all COVID-19 guidelines as outlined by The State of Oregon.
6. The gazebo shall be placed on a paved surface in the back northwest corner of the lot behind the main restaurant.
7. All tents, generators, and tables shall be properly secured at all times to prevent being blown by the wind.
8. The proposed temporary use shall be monitored to ensure there is no disruption of traffic and does not have adverse impacts to adjoining properties.
9. The temporary gazebo shall meet all required setbacks.
10. The temporary gazebo shall not be located in fire lanes or drive aisles.
11. The applicant shall maintain the striping of the parking area and maintain the designation of at least one van accessible ADA compliant parking space.
12. The proposed event shall comply with Section 8.20 of the Municipal Code regarding noise and amplified music.

13. The applicant is responsible for complying with signage regulations and applying for sign permits. Obtain a sign permit for any requested signage in compliance with the requirements of Chapter 15.32, Sign Code. Per Section 15.32.080 roof signs are prohibited.
14. 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.
15. 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
16. 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.
17. Approval of this use may be revoked if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the structure or site. Any use of the site may be prohibited until such time as all required improvements are completed.

Rebecca Casey

Rebecca Casey

Administrative Assistant

(Signed on behalf of Kelly O'Neill Jr., Development Services Director)

June 3, 2021

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 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.