

Jenks | PC Staff Report



To Planning Commission
Hearing Date June 03, 2021
Case Number TUP 21-48 | TNT Fireworks
Request *Temporary Use Permit* | Sales of Class "C" Fireworks
Location 424 W Main
Applicant TNT Fireworks (American Promotional Events)

Staff Report

Preparer | Marcaé Hilton

Attachments

- CASE MAP
- SITE PLAN
- APPLICATION, INSURANCE CERTIFICATE,
LETTER OF AGREEMENT

Preparer

INCOG
APPLICANT
APPLICANT

Background Information

STAFF COMMENTARY | TNT Fireworks plans to sell fireworks on a commercially zoned lot. Some Planning Commission and City Council members have expressed concerns about fireworks stands and the display of fireworks within City limits. Following last year's fourth of July season, staff began zoning (Fireworks) conversations in January between staff and Houseal and Lavigne. Planning Staff sent out a memo March 19, 2021 outlining conversations, questions and information received which had been gathered during the last year concerning the sale and display of Fireworks. Staff has met with Councilor Lynn and Planning Commissioner Brown about issues related to "fireworks stands and the display of fireworks." Last year, staff anticipated the new UDO would be adopted by May, establishing new/additional requirements. At this time, staff believes the UDO will not be adopted before late summer. This applicant was approved last year to sell fireworks in Jenks city limits.

Selling fireworks in Jenks since 2003 | Varying locations

2020 Dates of Operation | June 30-July 4

- *Sales of Class "C" Fireworks*
- *Set up | After June 15*
- *Tear down | By July 6*

PLANNING DATA

Public Comment None | Notice mailed out and posted online
Zoning CG | Commercial General
General Location East of Date Street and South of Main | Lots 7-12 of Block 44

Parcel ID	6052-583-190-4210
Property Address	W MAIN ST
Legal	LTS 10 11 12 BLK 44
Gross Acres	0.24
Parcel ID	6052-583-190-4200
Property Address	418 W MAIN ST S
Legal	LTS 7 8 9 BLK 44
Gross Acres	0.24
Surrounding Zoning	North CS & RS-3 (Undeveloped) West Office Medium South, East CH (Commercial Heavy) and RS-3 (Single-family)

Staff Evaluation & Recommendation

Evaluation The request must meet the code requirements for an Intensive Temporary Use Permit and comply with the standards established in 1902. 2. Temporary Use Minimum Zoning Regulations or seek a waiver. Staff has received a site plan for a permanent structure/business on these lots and recognizes the fireworks stand will be open to the public for 4 days; with that in mind staff is asking for a conditional waiver of the dust free all-weather surface. Please see conditions below.

Approving this request as submitted will:

1. Allow TNT Fireworks to sell Class "C" fireworks during the requested timeframe.
(June 30, 2021-July 4, 2021)
2. Conditionally waive the *dust free all-weather surface* and allow the business to be conducted on existing grass.
 - a. Conditions of waiver
 - i. City Staff can enforce erosion control methods, if seen as necessary, due to inclement weather conditions including but not limited to mud or dust caused by excessive rain
 1. Erosion control may include the placement of washed gravel or some type of asphalt.
 - ii. All customers must park onsite, not in the street
3. No Access along Main Street | provide barriers to automobile traffic

CHAPTER 19 - TEMPORARY USE PERMITS | Sec. 1900. - Purposes.

1900. 1. General. | Temporary Use Permits are required for a range of different uses that are temporary in nature and are required to be removed following the expiration of the permit. A Temporary Use cannot be applied for on a residentially zoned property or within a residential subdivision except as specifically outlined within this section for the marketing of a new residential subdivision or for public infrastructure projects. Temporary Use Permits are required for uses such as special events on private lands, carnivals, seasonal businesses (including Christmas Tree Lots and Firework Stands). Temporary Uses considered as open air

sales not associated with sales from a principal building must comply with Appearance Review Guidelines. A temporary use can be specified for a single event time up to 45 days, up to a 180-day period, or for one year. Temporary uses are identified by two categories, Temporary Uses—Intensive and Non Intensive. A Temporary Uses—Intensive requires process as outlined under Section 1901 Application—Intensive.

Temporary Uses—Intensive.

1. The following uses can be applied for up to 45 days.

A. Special Events on private lands.

B. Carnivals.

C. Annual, Seasonal (Holiday), or Recurring Uses (Including Christmas Tree Lots and Fireworks Stands).

The City Council may, after a public hearing and recommendation by the Planning Commission and after conducting a public hearing as is required in accordance with the provisions of this section, authorize for specific parcels of land, the issuance of a Temporary Use Permit—Intensive.

The designation of a Temporary Use Permit as possible does not constitute an authorization or an assurance that such use will be permitted. Rather, each Temporary Use Permit—Intensive application shall be valued as to its probable effect on the adjacent property and community welfare and may be approved or denied as the findings indicate appropriate.

1902. 2. Temporary Use Minimum Zoning Regulations.

1. Any temporary or portable structure used for such sales or services shall meet the applicable provision as specified by the City of Jenks building codes and comply with the Appearance Review District Guidelines. Temporary Structures must comply with all Fire Safety Codes.

2. Customer Parking shall be on an improved surface recognized as a dust free all weather surface such as asphalt or concrete. The City Council may authorize the use of different parking standards for Temporary Uses utilizing larger tracts of lands for a specific amount of time not warranting the need for full compliance of the required parking standards.

3. Temporary uses and associated activities shall not be conducted within the required minimum setback areas or within unobstructed open space areas adjacent to public rights-of-way.

4. Adequate sanitary facilities for customers and employees shall be provided.

5. Storage areas and trash containers shall be screened from view from adjacent residential property and public rights-of-way.

6. A cash bond shall be deposited with the City by the operator of the proposed temporary use in the amount of \$2,500.00. Said bond shall be for the purpose of ensuring the prompt repair, by the operator, of any damage to public improvements, including, but not limited to, streets, sidewalks, curbs, gutters, and landscaping

which may occur as a result of the operation of the temporary use. Also, this cash bond may be applied if the operator fails to promptly repair damage to adjacent property caused by the temporary use, or to remove debris, litter, trash, mud or dirt permitted to remain on the site or on public property by the operator of such temporary use for any unreasonable amount of time. Such bond shall be released or returned to the operator upon certification by the Zoning Official that all of the requirements of this zoning code have been met.

7. All temporary uses providing the sale of merchandise must have a Sales Tax Permit with the State of Oklahoma specifying the City of Jenks as the point of sale.

1902. 3. Planning Commission Requirements.

The Planning Commission may recommend to the City Council that certain safeguards and conditions concerning setbacks, ingress and egress, off-street parking and loading arrangements and location or construction of buildings and uses and operation are required. If the Planning Commission fails to review and make a recommendation within 45 days from the date the application is accepted for processing, the City Council can take action on the application.

1902. 4. City Council Requirements.

The City Council may, in the interest of the public welfare and to assure compliance with the intent of this ordinance and the Jenks Comprehensive Plan, deny a specific request, or require such development standards and operational conditions and safeguards as are indicated to be important to the welfare and protection of adjacent property and the community as a whole and be compatible with the natural environment and the planned capacities of public services and facilities affected by the land use. The City Council may impose conditions including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, lighting, noise levels, signage, landscaping, parking and loading, compatibility, and land use density as may be indicated depending upon the proposed use and its potential effect on adjacent areas or the community.

The City Council shall consider the following criteria in granting a temporary use permit:

- 1. That the temporary use permit is compatible with the various provisions of chapter 19;*
- 2. That the temporary use is a reasonable use of land compatible with the general plan land use designation and zoning classification;*
- 3. That the temporary use will not impede the reasonable use of land, or the orderly development of land in the immediate vicinity;*
- 4. The temporary use will not adversely affect the adjacent uses, buildings or other structures;*

5. That the temporary use will not endanger the public health, safety or general welfare;
6. Provisions for adequate traffic access/circulation, off-street parking and pedestrian safety have been provided and will be maintained during the operation of the use or activity; and
7. That the granting of the temporary use permit is made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.

Recommendation | Staff recommends conditional approval of the Temporary Use Permit-Intensive to allow for the sale of fireworks, prohibiting auto access from Main St., no on street parking and meeting the requirements of 1902. 2. Temporary Use Minimum Zoning Regulations including but not limited to someone being present 24 hours a day with access to restroom facilities and provide screening from public view for trash receptacles and storage.

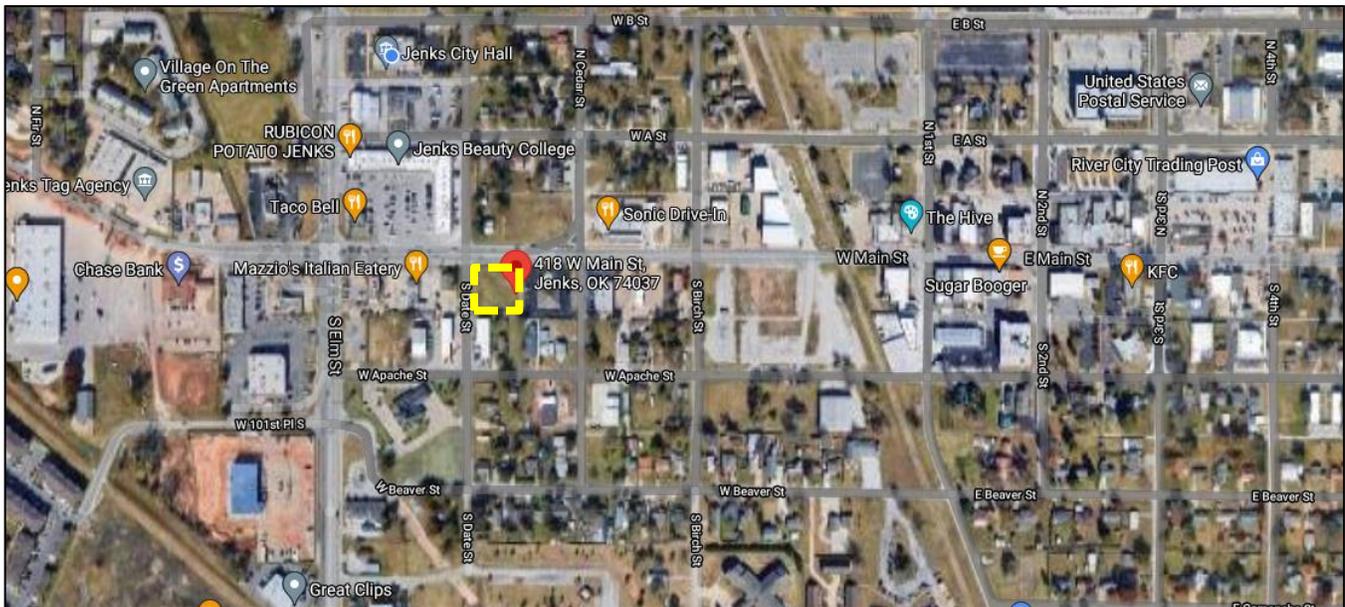


Figure 1: Aerial View of site



Figure 2: View from Date Street



Figure 3: Street view of site

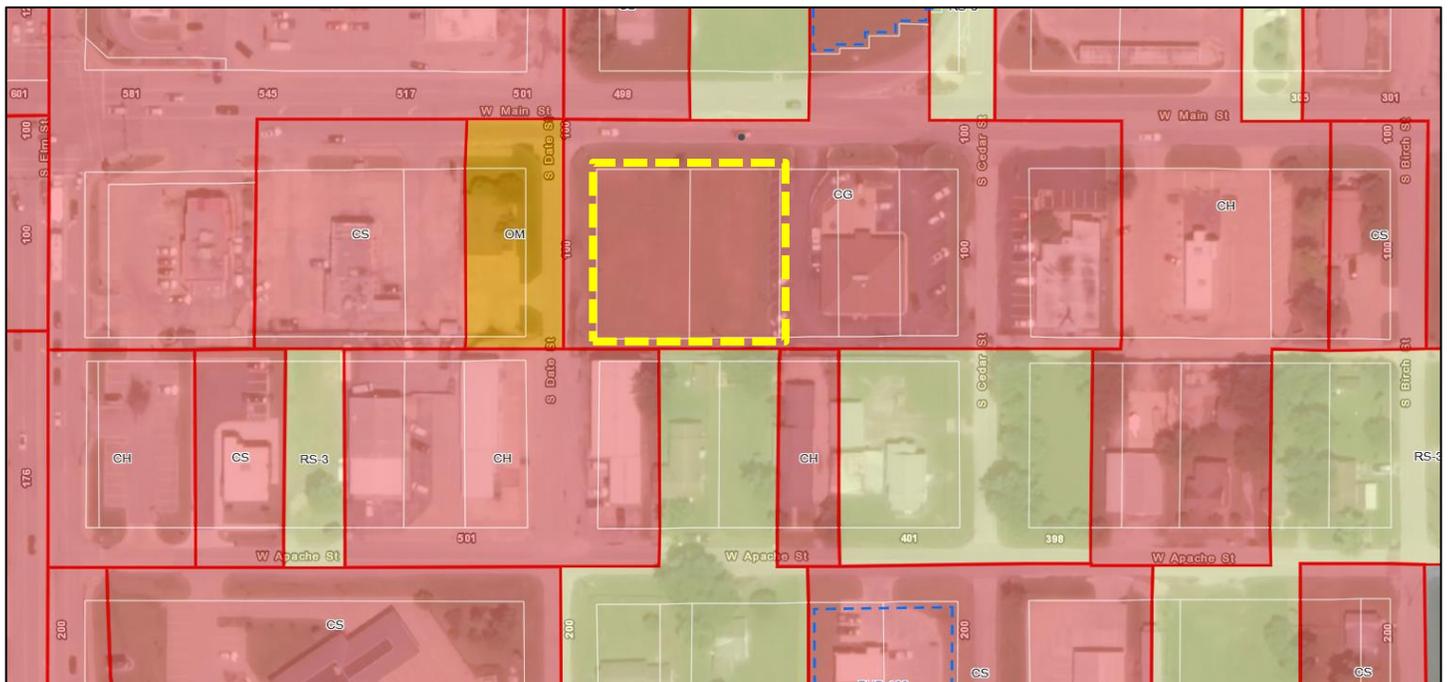


Figure 4: Zoning map of area