

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Study Session Worksheet

Presentation Date: March 22, 2011 Time: 10:¹⁵~~00~~ a.m. Length: 15 minutes
Presentation Title: Interpretation request regarding ZDO 1206 – Nonconforming Uses
Department: County Counsel
Presenters: Dan Chandler, Scott Ciecko

POLICY QUESTION

Should the planning director issue a code interpretation addressing the question whether a nonconforming use is considered discontinued where the use is temporarily affected by road construction activities?

ISSUE & BACKGROUND

A property owner has a manufactured home park adjacent to and below the Carver Bridge. During the construction of improvements to the bridge, up to three manufactured homes will need to be moved temporarily. Those manufactured homes are a preexisting nonconforming use that would not be allowed under the present zoning of the property.

While the property is in the City of Damascus, the county administers development review through an Intergovernmental Agreement with the city, and applies the Clackamas County Zoning and Development Ordinance ("ZDO"). Section 1206 of the ZDO regulates nonconforming uses, and generally provides that the right to continue the nonconforming use is lost if the use is "discontinued" for more than a year.

In this case, the mobile home pads and electrical connections will remain in place during the construction period. In order to clarify the status of the mobile homes at the end of the construction period, it would be helpful to make a formal interpretation of the ZDO establishing whether in those limited circumstances, the owner would be deemed to have discontinued the use.

Under the ZDO, such interpretations may only be initiated by the property owner, the planning commission or the Board of County Commissioners.

QUESTIONS PRESENTED FOR CONSIDERATION

Should the planning director make an interpretation of the term "discontinued" under the circumstances mentioned above?

OPTIONS AVAILABLE

1. Direct the Planning Director to initiate a formal code interpretation.
2. Not direct the Planning Director to initiate a formal code interpretation

STAFF RECOMMENDATION

Direct the Planning Director to initiate a formal code interpretation for the subject property.

SUBMITTED BY:

Division Director/Head Approval _____
Department Director/Head Approval *SWM*