



SUPPLEMENTAL APPLICATION  
**VERIFICATION OF A NONCONFORMING USE**  
(November - 2008)

**APPLICANT INFORMATION**

Name: \_\_\_\_\_ File # \_\_\_\_\_

**WHAT IS A NONCONFORMING USE?:**

The County Zoning & Development Ordinance (ZDO), Sec. 202, defines a Nonconforming Use as “A use of any building, structure, or land allowed by right when established or that obtained a required land use approval when established but, due to a change in the zone or zoning regulations, is now prohibited in the zone.” A Nonconforming Use may be a dwelling or other structure(s), a commercial or industrial use, or any other use in a zoning district that was permitted when established, but is not now listed as a permitted use or structure in the zoning district in which it is located. The ZDO allows for the continuation of Nonconforming Uses pursuant to the Subsec. 1206.01 of the ZDO.

**WHAT IS NEEDED TO VERIFY NONCONFORMING USE STATUS?:**

For a use, structure(s), or other physical improvements to be considered a lawfully established Nonconforming Use, the applicant must submit evidence to prove that the use, structure(s), or other physical improvements were established prior to the adoption of restrictive zoning regulations, or prior to a change in zoning regulations, that had the effect of prohibiting establishment of the use, structure(s) or other physical improvements in the zoning district in which they are located. The applicant must also prove that, once lawfully established, the Nonconforming Use has not been discontinued for a period exceeding twelve (12) consecutive months pursuant to Subsec. 1206.02 of the ZDO. The County must make written findings to support the decision. The applicant is responsible for providing evidence to support the request for Nonconforming Use status.

**WHAT ARE CHANCES FOR APPROVAL?:**

Staff cannot predetermine the decision on this or any other land use application. A decision of approval or denial will only be made after the complete application is processed, comments are sought, and the application is reviewed by the Planning staff. This includes review of citizen and agency comments. The decision is based on criteria appropriate to this application as listed in Sec. 1206 of the ZDO.

**APPLICATION PROCESS:**

This permit application is subject to the Administrative Action process and public notice pursuant to Subsec. 1305.02 of the ZDO. Public comments received from the Community Planning Organizations (CPO), property owners, agencies and other interested parties may affect the decision on the application. Special conditions may be attached to any approvals to mitigate potential adverse impacts of the alteration or change. Any decision on this application can be appealed to the County Land Use Hearings Officer and to the State Land Use Board of Appeals (LUBA) by the applicant or any other interested person.

**STAFF WILL ATTACH THE FOLLOWING PERTINENT INFORMATION:**

\_\_\_\_\_ Land Use Application      \_\_\_\_\_ CPO Information  
\_\_\_\_\_ Sample Plot Plan      \_\_\_\_\_ Application Process      ZDO Sections \_\_\_\_\_ & 1206

**HOW LONG WILL IT TAKE TO GET A FINAL DECISION ON THIS APPLICATION?:**

Approximately 45 days for the initial staff decision. If the staff decision is appealed, the final County decision by the Land Use Hearings Officer may take an additional 8 to 10 weeks (approximate).



3. An alternative process requires that you prove that the use, structure(s) and/or other physical improvements have been established for at least the ten (10) year period preceding the date of filing of this application. If you can do so, you may create a "*rebuttable presumption*" that a Nonconforming Use has been lawfully established prior to the date of restrictive zoning regulations, or change in zoning regulations, that had the effect of prohibiting the use or structure in the zoning district in which they are located. The same types of information described in No. 1 above may be used to prove this. Please be advised that if rebutting evidence is found or submitted to the Planning staff proving that the use, structure(s) and/or physical improvements were not established prior to the adoption of restrictive zoning regulations or applicable change of zoning regulations, your request may be denied.

Please direct questions to Rick McIntire, Sr. Planner at 503-742-4516 or [rickm@co.clackamas.or.us](mailto:rickm@co.clackamas.or.us)