

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Application for Verification
and/or Alteration/Change of a
Nonconforming Use

FINAL ORDER

Case File No: Z0406-23
(Sanctuary Inn)

A. SUMMARY

1. The applicant is Sanctuary Inn, Inc., a 501(c)(3) non-profit organization referred to as "Sanctuary Inn." The appellant is Steve Price, President of Sanctuary Inn. The applicant requests approval to modify nonconforming use resort accommodations to include three fully separated living quarters to facilitate the use of the accommodations for families.
2. The subject property is an approximately 8.69 acre parcel owned by Sanctuary Inn, located at 25315 E. Arrah Wanna Blvd., Welches, OR 97067, located on the west side of the intersection of E Arrah Wanna Blvd. and E Fairway Ave., also known as T3S, R7E, Section 05BD, Tax lots 0900 & 01000. The subject property is zoned Recreational Residential (RR) District and is improved with a Residence Inn, Lodge and Cottage in addition to other structures, with the Residence Inn the site of the proposed alteration. The property is located within the Hoodland CPO.
3. The original application was submitted October 16, 2023, but was deemed incomplete. The applicant submitted additional materials on various dates from February 2024 through May 2024, before requesting that the County make a decision based on the submitted materials, rather than withdraw the application.
4. On July 8, 2024, County Principal Planner Joy Fields denied the application due to a lack of evidence that the nonconforming use was not discontinued for a period of more than 24 consecutive months, pointing specifically to the period between 2014 and 2017, prior to the purchase of the property by Sanctuary Inn. The previous owner of the property, Youth Guidance, had previously operated Son Village on the property but Ms. Field found that the application did not include evidence that Youth Guidance were operating on the property during this 2014-2017 period before selling the property. On July 16, 2024, the applicant submitted this appeal, asserting: "Planning erred in finding discontinuation of nonconforming use." The applicant submitted requests to "toll the clock" to request a later hearing date for this appeal, and for additional time to submit new evidence during an open record period.
5. On October 17, 2024, the Hearings Officer conducted a public hearing to receive testimony and evidence about the applicant's proposal for verification and/or alteration/change of a nonconforming use. Following an additional open-record period requested by the applicant, and additional request by the applicant to extend the timeline in this matter in order to submit evidence in support of the application, the Hearings Officer approved the application, subject to Conditions of Approval.

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B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony and evidence at the October 17, 2024 public hearing about this application and during a subsequent open record period, including submittals identified as Exhibits 1-11. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually over the Zoom platform. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the County's staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. This application was submitted on October 16, 2023, but was deemed incomplete. The applicant submitted additional materials on various dates in February 2024 and April 2024, and the County deemed the application complete April 2, 2024. However, County staff advised the applicant concerning certain gaps in information, and on May 3 and May 28 of 2024 the applicant submitted additional materials. The subject property is not located within an urban growth boundary.
3. Notice of the application was sent to applicable agencies and owners of property within 2,640 feet. Comments received relating to the applicable approval criteria were addressed by staff in the July 8, 2024 Staff Report and Notice of Decision on a Type II Land Use Permit. The comments received consisted of members of the public, including Mr. Van Weigel and Mike and Barbara Mulligan, who submitted email comments in support of approval of the application.
4. At the hearing, County Principal Planner Joy Fields discussed the July 8, 2024 staff report submitted in this matter and related exhibits, providing a presentation and discussion of the application, history of the nonconforming use of the property, and reasons for the denial. Ms. Fields noted that the applicant is requesting verification of and approval for an alteration of a nonconforming use, seeking approval to make alterations to the existing buildings to better serve clients with families by providing three apartment units with kitchenettes and bathrooms in each of the units.
5. Ms. Fields provided a slide with a picture of the existing residence, discussing how Sanctuary Inn bought the property in 2017, and that the property consists of two tax lots improved with a Residence Inn, Lodge and Cottage in addition to other structures, with the Residence Inn the site of the proposed alteration. Ms. Fields provided a slide and discussion stating uses of the RR Zoning District allowed in 1967 included Guest ranch, lodge, motel and similar resort operation as a primary use. She also noted that the resort operation began in 1968 after initial zoning and in line with the allowed primary uses at that time. Ms. Fields then discussed how the previous owners of the property, Youth Guidance, received approval to alter the nonconforming use through County file Z0313-06.
6. Ms. Fields provided slides of existing and proposed first and second story floor plans indicating the changes the applicant was seeking to make to the Residence Inn structure, essentially splitting the communal living space into three apartments with its own kitchen and bathroom, and several shared spaces including a utility room with laundry facilities, and a half-bathroom.

7. Ms. Fields discussed ZDO code requirements related to review of the application, pointing to ZDO 1206.04 Discontinuation of Use and the potential based on staff review of the application that there was a discontinuation of retreat use of the property between the last verification of the nonconforming use in 2006, and this application in 2023. Ms. Field explained that this ordinance provides that if a nonconforming use is discontinued for more than 24 consecutive months, then the use cannot be resumed unless it conforms to current zoning and applicable regulations. Ms. Fields stated that the application contained no evidence that the former owner of the Property, Youth Guidance, continued use of the site for treatment or retreat use between 2006 and 2017. Ms. Fields explained that the existence, continuity, nature, and extent of the nonconforming use must be proven for the 10-year period immediately preceding the date of the application, or in this case the period between 2014 and 2023. Ms. Fields asserted that the applicant only provided evidence of the continuation of the use from 2016 through 2023, meaning there could have been a discontinuation of the use for more than 24 consecutive months within this time period.
8. With respect to the requested alteration itself, Ms. Fields discussed the findings in the staff report that creating three separate dwellings in one structure would have no greater adverse impact to the neighborhood than the existing use. However, she also pointed out that continuation of the existing use was not verified. Thus, staff denied the application for alteration of the use, because staff were unable to verify that the nonconforming use was not discontinued for more than 24 consecutive months within the 10-year period preceding the application.
9. Gary Linkous, attorney for Sanctuary Inn, offered to provide evidence of the continuation of the use for 2014, 2015, and up until the property was sold to Sanctuary Inn in 2016. Mr. Linkous referred to witness testimony of a former employee who worked for Son Village, the prior name for the retreat located on the property, introducing Mr. Dan Rogers. Mr. Rogers testified that he worked for Son Village from 1982 until June 30, 2016 (his last day of employment) and was the Program Director for Son Village. Mr. Rogers stated that he oversaw in-take of residents, screening of youth, and provided staff supervision. Mr. Rogers stated there were boys staying at the facility the entire time he worked there, sometimes as many as 17, noting that the program had contracts with Oregon's CSD, DHS and the Oregon Youth Authority, and provided services continuously between the period between August 1982 and June 2016 that he was employed there. Mr. Rogers described his efforts to reduce the number of youth, and relocate the youth from the facility, after realizing the program was closing. Mr. Rogers referred to notes he kept, including a personal calendar, and also described the monthly reports he provided to the Oregon Youth Association. Mr. Linkous requested that the record remain open to provide the applicant an opportunity to locate these records and submit copies as evidence.
10. Mr. Linkous also introduced Mr. Larry Van Guisinger as a witness. Mr. Van Guisinger testified that he also worked on the property for Son Village, beginning in 1975 and continuing until the property was sold to Sanctuary Inn, with the last date of operation of Son Village ending June 28, 2016. Mr. Van Guisinger explained that he worked for Son Village as property and facilities manager, lived on the property, and was a "house parent" who provided a role model for the boys in the treatment program. Mr. Van Linkous stated there were typical 15 boys in the program. Mr. Van Linkous testified that after Son Village ended its program in June 2016, he continued working on the

- property provided security and maintenance until the property sold to Sanctuary Inn approximately the first quarter of 2017, at which time his employment was terminated.
11. Mr. Linkous testified that he helped facilitate the sale of the property and facility to Sanctuary Inn in 2017, and assisted Sanctuary Inn with obtaining its tax-exempt status, also referring to cases CV09010475 and CV10020281 showing his representation. Mr. Linkous testified that there was only the gap between June 2016 and February 2017 when there were no boys and no activities on the property.
 12. Mr. Van Weigel is a concerned citizen residing on nearby property. Mr. Van Weigel provided public input in support of approving the application, describing Sanctuary Inn as “wonderful neighbors” that he appreciates having. Mr. Van Weigel corroborated testimony that Son Village actively operated its program on the property through the summer of 2016, describing a brief period of “limbo” while the property was for sale.
 13. At the conclusion of the public hearing, the Hearings Officer asked whether any party or member of the audience wanted an opportunity to provide additional evidence, arguments, or testimony, and the applicant requested that the record remain open as follows: an additional two-week period (until 4:00 p.m. October 31, 2024) for submission of new evidence, an additional one-week period (until 4:00 p.m. November 7, 2024) for submission of rebuttal argument and evidence, and a one-week period (until 4:00 p.m. November 14, 2024) for the applicant to submit a final written argument, or “last word”, with no new evidence. The applicant agreed to extend the timeline for a final decision in this matter by an additional two weeks to accommodate this request.
 14. Ms. Fields submitted her hearing presentation (Exhibit 10). Mr. Linkous submitted the additional evidence he referenced at the hearing in support of the application (Exhibit 11). Exhibit 11 submitted by Mr. Linkous on behalf of the applicant consists of the signed declaration of Mr. Dan Rogers with attached true copies of the last page of his handwritten notes regarding the boys living at Son Village (names redacted) and his personal desk calendar for the weeks of June 27 and July 3, of 2016. The desk calendar indicates Son Village continued to use property through June 2016, with a calendar note for a June 28, 2016 graduation and an entry on June 30, 2016 for “Last day of work.” Mr. Roger’s handwritten notes include for the period starting September 29, 2014 include a number of intake and exit notes with the boys’ names redacted, such as “Intake 9/29/14 Exit 6/29/2015” next to a redacted name. The list contains 29 different redacted names, with the first intake dated 9/29/14 and the last exit dated 6/28/16, with brief entries concerning the exits. No one submitted rebuttal, and the applicant did not submit an additional final written argument.

C. DISCUSSION

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. This application was processed as a Type II Permit, pursuant to Clackamas County Zoning and Development Ordinance (ZDO) Section 1307, denied by the Planning Director’s designee, Principal Planner Joy Fields, and this appeal was filed. Table 1307-01 authorizes the hearings officer to hear appeals of planning director decisions. Pursuant to ORS 215.416(11)(a), an appeal of an administrative decision is reviewed as a *de novo* matter. The hearings officer is required to conduct an independent review of the record, is not bound by the prior decision of the planning director, and does not defer to that decision in any way. New evidence may be introduced in an appeal, and new

issues may be raised. The applicants must carry the burden of proof that the application complies with all applicable approval criteria in light of all relevant substantial evidence in the whole record, including any new evidence.

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections 202, 316, 1206 and 1307; and the Comprehensive Plan. Clackamas County Planning and Zoning Staff have reviewed these Sections of the ZDO and Comprehensive Plan in conjunction with this proposal and make the following findings and conclusions, adopted and/or modified by the Hearings Officer as denoted by boldface type in italics:

Property History and Proposal:

The property was initially zoned Recreational Residential on December 14, 1967. The property is still zoned Recreational Residential (RR) and is subject to Section 316 of the Zoning and Development Ordinance.

The uses of the RR Zoning District allowed in 1967 included Guest ranch, lodge, motel and similar resort operation as a primary use. The applicant indicates that the two residential homers were built in 1933, and the use of the property as a resort operation began in 1968 after initial zoning and in line with the allowed primary uses.

The retreat use became non-conforming in 1971 when Court Order 71-514 was approved by the Board of County Commissioners adopting a new Zoning Ordinance that required a conditional use review by the Planning Commission for guest ranch, lodge, and similar resort operations.

In 2006 Clackamas County approved a non-conforming use alteration for the prior owners. In 2017 Youth Guidance Properties sold the property to Sanctuary Inn.

While the original resort use and camp use started between 1933 and 1968 subsequent alterations and expansions of the buildings and the use of the property were reviewed and approved through the following land use application:

- Z0313-06 – Approval to alter the nonconforming use by expanding basketball courts near the lodge structure on tax lot 900 that was found to be used for retreats.

The applicant requests verification of the retreat center use to enable the continuation and alteration of this nonconforming use on the subject property. The applicant is requesting to alter the nonconforming use on the property by altering the interior of the Residence Inn to include three separate living spaces to accommodate families and provide more privacy for traveling missionaries.

ZDO Section 202, Definitions:

This section of the ZDO provides definitions to terms used elsewhere in the ZDO. Section 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 regulation, is now prohibited in the zone.”

Staff Findings: The application materials represent, and this decision concludes with the findings below, meets the Section 202 definition of a “nonconforming use.”

The Hearings Officer concurs with the above analysis and Staff Findings.

1) ZDO SECTION 316, RECREATIONAL RESIDENTIAL DISTRICT

Staff Findings: ZDO Table 316-1, *Permitted Uses in the RR District*, of ZDO 316 lists the land uses that are allowable in the RR District. The table identifies that Guest Ranches and Lodges are a Conditional Use. However, as discussed above, the use of tax lot 900 for a church and associated retreat uses was established after initial RR zoning requirements that allowed retreat centers as a primary use and prior to the effective date of Court Order 71-514. Court Order 71-514 required churches, guest ranches, lodges and similar recreational operations to be reviewed by the Planning Commission through a Conditional Use process to ensure the conditions in 22.3.B were met. Therefore, this proposal is being reviewed as a nonconforming use subject to ZDO Section 1206.

The Hearings Officer concurs with the above analysis and Staff Findings.

2) ZDO SECTION 1206, NONCONFORMING USES AND VESTED RIGHTS

This section of the ZDO provides standards, criteria, and procedures under which a nonconforming use may be continued, maintained, verified, restored, replaced, and altered and under which a vested right may be determined. The Applicant's request for verification and alteration of a nonconforming use is therefore subject to the criteria and standards of Section 1206 that are outlined and responded to with findings below:

1206.02 STATUS

A nonconforming use may be continued although not in conformity with the regulations for the zoning district in which the use is located. Nonconforming use status applies to the lot(s) of record on which the nonconforming use is located and may not be expanded onto another lot of record, except as provided under Subsection 1206.07(B)(3)(a) and (b) or, in the case of nonconforming premises for marijuana production, with an alteration approved pursuant to Subsection 1206.07(C). A change in ownership or operator of a nonconforming use is permitted.

Staff Findings: The applicant does not propose to expand a nonconforming use onto another lot of record. The proposed new structural design will convert single room occupancy accommodations that share a single kitchen into three separate living spaces, each with a kitchen and doors that can be closed. Therefore, the use of the structure will continue to be associated with resort accommodations on lot 900 and 1000. Sanctuary Inn became the owners of the property in 2017 through contract recorded as document # 2017-023034 and the applicant states that the facility has continued to be operated and used in the same manner as a retreat center since the 2006 land use application verified the use as non-conforming. There is no proposal to expand the use by hosting missionaries or expanding the retreat accommodations onto another lot of record. **This criterion is met.**

The Hearings Officer concurs with the above analysis and Staff Findings.

1206.03 MAINTENANCE

Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations. Normal maintenance may include painting; roofing; siding; interior remodeling; re-paving

of access roads, parking areas, or loading areas; replacement of landscaping elements; and similar actions.

Staff Findings: This proposal does not involve normal maintenance necessary to maintain an existing nonconforming use in good repair. **This criterion is not applicable.**

The Hearings Officer concurs with the above analysis and Staff Findings.

1206.04 DISCONTINUATION OF USE

A. *If a nonconforming use is discontinued for a period or more than 24 consecutive months, the use shall not be resumed unless the resumed use conforms to the requirements of this Ordinance and other regulations applicable at the time of the proposed resumption.*

Staff Findings: The applicant provided a letter claiming the retreat center use and lodging has continued without interruption since they acquired the property in 2017 with over 300 missionary guests staying 3 days – years on site, and state that the use has continued to exist without a gap of 24 consecutive months in the last ten years. No evidence beyond the statements of use were provided. May 28, 2024 the applicant provided records of the guest books and calendars showing the use of the site for a retreat center and events continued uninterrupted since they became owners in 2017. The applicant also provided annual reports that Youth Guidance Association filed in 2014, 2015, and 2016 indicating that they were still registered with the state and still in operation. However, there is no indication that the Youth Guidance Association activities were still occurring on the subject site between 2014 and 2017. The annual reports indicate that the Youth Guidance Association was located in Portland. **This criterion is NOT met.**

Hearings Officer: *As discussed at the hearing, and provided by the applicant subsequent to the hearing, the applicant located additional evidence showing the use of the property as a retreat center and lodging between 2014 and 2017 that was not submitted prior to this appeal and was not available for review by Ms. Fields or other County staff. This evidence includes the testimony by Mr. Linkous that he represented Youth Guidance during this period and the only gap in the nonconforming use of the property as a retreat center and lodging was the transition period between June 2016 when the Son Village activities ended and February 2017 when the Sanctuary Inn use began. This is consistent with the testimony, written declaration, and copies of calendar entries and handwritten intake and exit notes by former Son Village employee Mr. Dan Rogers, who provided evidence of the continued nonconforming use of the property as Son Village through June 2016. Further, Mr. Larry Van Guisinger also provided corroborating testimony that the nonconforming use of the property as Son Village continued through June 2016. Similarly, Mr. Van Weigel, a neighbor, corroborated that the Son Village activities continued on the property until the summer of 2016. I find this substantial and persuasive evidence that the Youth Guidance/Son Village activities were still occurring on the site between 2014 and the end of June 2016. I find that within the ten-year period prior to this application, the nonconforming use was discontinued only for the period June 2016 to February 2017, a period of less than 24 consecutive months. This criterion is met.*

1206.05 VERIFICATION

Verification of nonconforming use status requires review as a Type II application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. The nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use, and the nonconforming use has not been subsequently abandoned or discontinued. Once an applicant has verified that a nonconforming use was lawfully established, an applicant need not prove the existence, continuity, nature, and extent of the nonconforming use for a period exceeding 20 years immediately preceding the date of application for verification; or*
- B. The existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application is proven. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance.*

Staff Findings: The applicant's state "The subject property was built in 1933 and has been in use as a retreat center since 1968. Over the years it has served predominantly as housing for juvenile youth." In 2006 Clackamas County Planning and Zoning approved Z0313-06 to alter the nonconforming use by expanding basketball courts near the lodge structure on tax lot 900 that was found to be used for retreats and the youth treatment center.

Staff have reviewed the history of the property, and the materials provided by the applicant and agree that the retreat, guest lodge use and similar recreational operations began prior to initial zoning and that the use became nonconforming pursuant to the definition in ZDO 202, in 1971 with the passage of Order 71-514.

The extent of the lodging and resort facility nonconforming use that has taken place on tax lot 900 and 1000 has been continued uninterrupted since the purchase of the property by Sanctuary Inn. However, there is no evidence that the Youth Guidance Association continued use of the site for the treatment or retreat use between 2006 and 2017. Therefore, staff is unable to find that these uses are still nonconforming pursuant to Subsection 1206.05. **These criterion are NOT met.**

Hearings Officer: As discussed at the hearing, provided by the applicant subsequent to the hearing, and discussed in this decision, the applicant located additional evidence showing the use of the property for a retreat center and lodging between 2014 and 2017, the period in question here, that was not provided to Ms. Fields or other County staff for consideration in making the underlying staff decision. (I find the reference by staff to the period "2006 and 2017" a typo, as staff is addressing the period between 2014 and 2017). I find substantial and persuasive evidence that the Youth Guidance/Son Village activities were still occurring on the site between 2014 and the end of June 2016, including the testimony of Mr. Linkous, Mr. Rogers, Mr. Van Guisinger, and Mr. Van Weigel, and the written declarations, calendar entries, and handwritten notices by Mr. Dan Rogers. I find that within the

ten-year period prior to this application, the nonconforming use was discontinued only for the period June 2016 to February 2017, a period of less than 24 consecutive months. This criterion is met.

1206.06 RESTORATION OR REPLACEMENT FOLLOWING DAMAGE OR DESTRUCTION

If a nonconforming use is damaged or destroyed by fire , other casualty, or natural disaster, such use may be restored or replaced consistent with the nature and extent of the use or structure lawfully established at the time of loss, subject to the conditions of ZDO 1206.06 A through C.

Staff Findings: The Applicant does not propose the restoration or replacement of a nonconforming use that was damaged or destroyed by fire, other casualty, or natural disaster. **Subsection 1206.06 is not applicable.**

The Hearings Officer concurs with the above analysis and Staff Findings.

1206.07 ALTERATION

A. Alterations Required By Law

Staff Findings: The applicant is not proposing an alteration to a nonconforming use as required by law. **Subsection 1206.07(A) is not applicable.**

The Hearings Officer concurs with the above analysis and Staff Findings.

B. Alterations Not Required By Law:

Except as provided in Subsection 1206.07©, an alteration of a nonconforming structure or other physical improvements, or a change in the use, requires review as a Type II application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:"

- 1. The alteration or change will, after the imposition of conditions pursuant to Subsection 1206.07(B)(4), have no greater adverse impact to the neighborhood than the existing structure, other physical improvements, or use.*
- 2. The nonconforming use status of the existing use, structure(s), and/or physical improvements is verified pursuant to Subsection 1206.05.*
- 3. The alteration or change will not expand the nonconforming use from one lot of record to another unless:
 - a. The lot of record on which expansion is proposed and the lot of record on which the nonconforming use currently established have been part of the same tract continuously since the date the nonconforming use became nonconforming; or*
 - b. The expansion would allow only for facilities necessary to support the nonconforming use, such as driveways, storm water management facilities, and on-site wastewater treatment systems.**

Staff Findings: The applicant is proposing to add two additional kitchens to create three separate living quarters to an existing lodge that currently has only one kitchen. There is no indication that the proposed alteration will expand the nonconforming use from one lot of

record to another and there is no indication that the proposed use will have any greater adverse impact than the existing improvements and use. However, the nonconforming use status of the existing use, and structures have not been verified pursuant to the findings above related to ZDO 1206.05. **These criteria are NOT met.**

Hearings Officer: *As discussed above, the applicant submitted additional evidence not provided nor available to staff in making the above findings. I find substantial and persuasive evidence that the Youth Guidance/Son Village activities were still occurring on the site between 2014 and the end of June 2016, including the testimony of Mr. Linkous, Mr. Rogers, Mr. Van Guisinger, and Mr. Van Weigel, and the written declarations, calendar entries, and handwritten notices by Mr. Dan Rogers. I find that within the ten-year period prior to this application, the nonconforming use was discontinued only for the period June 2016 to February 2017, a period of less than 24 consecutive months. I agree with the above staff findings that there is no indication that the proposed alteration will expand the nonconforming use from one lot to another and there is no indication that the proposed alteration to the use will have any greater adverse impact than the existing nonconforming improvements and use. These criteria are met.*

4. *Conditions of approval may be imposed on any alteration of a nonconforming structure or other physical improvements, or a change in the use, permitted under Subsection 1206.07(B), when deemed necessary to ensure the mitigation of any adverse impacts.*

Staff Findings: As noted above there are no adverse impacts anticipated from the addition of a covered area. Therefore, there are no conditions of approval that are necessary to mitigate any adverse impacts. **This criterion is not applicable.**

The Hearings Officer concurs with the above analysis and Staff Findings.

- C. *Alterations to Nonconforming Marijuana Production Premises Not Required By Law.*

Staff Findings: The Applicant does not propose an alteration to a nonconforming marijuana production premises. **This criterion is not applicable.**

3) ZDO Section 1307, Procedures:

This section provides standards and criteria for processing land use applications according to their type; this application is being processed as a **Type II Permit**, according to Section 1307. No further written findings regarding Section 1307 are warranted.

The Hearings Officer concurs.

D. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer APPROVES application Z0406-23 for a nonconforming use and verification seeking approval to modify nonconforming use resort accommodations to include three fully separated living quarters to facilitate the use of the accommodations for families, subject to the following conditions of approval:

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E. CONDITIONS OF APPROVAL

1. This decision is based upon the submitted application, written narrative, site plan, and other plans and depictions filed with the County on October 16, 2023 and subsequent additional materials submitted by the applicant, referenced and reviewed herein. No work shall occur under this approval other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein. Any changes to the proposal, except as required by these conditions and approved by the Planning Division, shall be reviewed by the Planning Division as a separate application.
2. Approval of this alteration of a nonconforming use, pursuant to ZDO Subsection 1206.07(B), is valid for a period of two years from the date of the final decision. If the County's decision is appealed, the approval period shall commence on the date of the final appellate decision. During this two-year period, the approval shall be implemented, or the approval will become void.
3. The applicant shall obtain a Building Permit from the County Building Codes Division for the proposed alterations to the Residence Inn structure as described in the application and related additional submitted materials. The construction shall be completed, inspected and approved by the Buildings Codes Division prior to use.
4. The proposed construction and use shall comply with all lawful requirements of the Hoodland Fire District No. 74 Fire Marshall.

Dated: November 26, 2024



Carl D. Cox
Clackamas County Hearings Officer

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision is "final" for purposes of a LUBA appeal as of the date of the decision appearing by my signature.