



NOTICE OF DECISION ON A TYPE II LAND USE PERMIT

Decision: Denied

Permit Type: Nonconforming Use Verification and Alteration

File No. Z0406-23

Applicant's Proposal: 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.

Decision Date: July 8, 2024

Deadline for Filing Appeal: July 22, 2024, at 4:00 pm.

Issued By : Joy Fields, Principal Planner, jfields@clackamas.us, 503-742-4510

Applicant: SANCTUARY INN

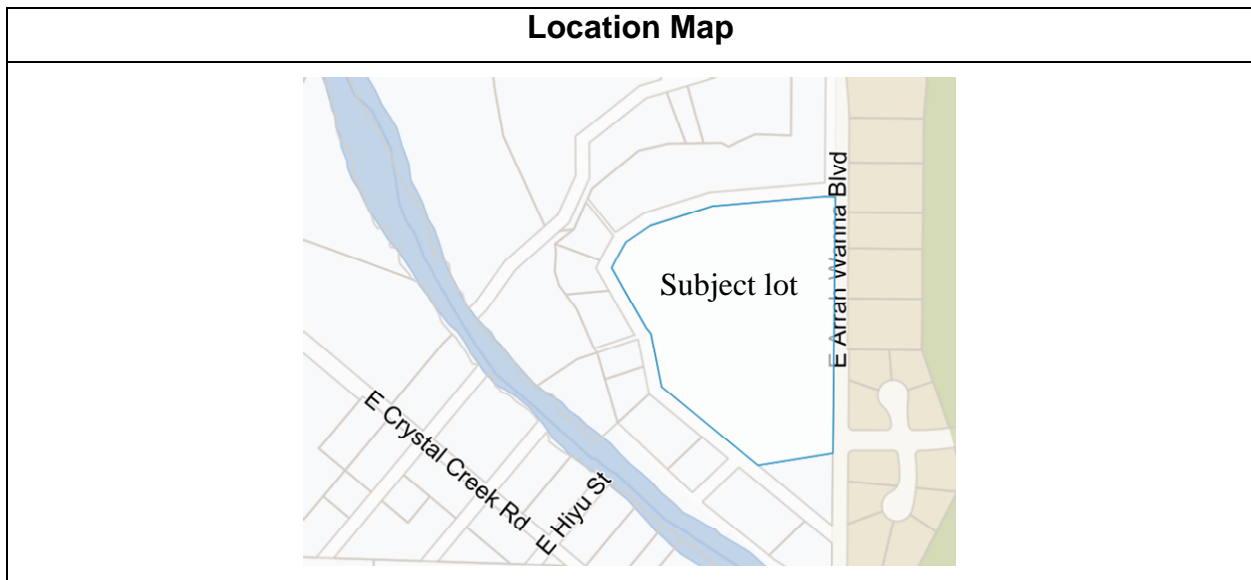
Owner of Property: Sanctuary Inn

Zoning: Recreational Residential (RR) District

Assessor's Map & Tax Lot(s): T3S R7E Section 05BD Taxlot(s) 0900 & 01000

Site Address: 25315 E ARRAH WANNA BLVD,

Location Map



Community Planning Organization (CPO) for Area:

Hoodland CPO: Ryan Tercek; hoodlandcpo@gmail.com; 503.679.5313

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations or file appeals. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact Clackamas County Community Engagement at 503-655-8751.

Opportunity to Review the Record and Decision: The complete decision, including findings and conditions of approval, and the submitted application are available for review online at <https://accela.clackamas.us/citizenaccess/>. Select the **Planning** tab and enter the file number to search. Select **Record Info** and then select **Attachments** from the dropdown list, where you will find the submitted application. A copy of the decision, application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost by contacting the Planner listed above. Copies of all documents may be purchased at a cost established by the County fee schedule.

Appeal Rights: **This decision will not become final or effective until the period for filing an appeal with the County has expired without the filing of an appeal.** Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision pursuant to Subsection 1307.09(C) of the Clackamas County Zoning and Development Ordinance may appeal this decision to the Clackamas County Land Use Hearings Officer by filing a written appeal. An appeal must include a completed Appeal Form available at www.clackamas.us/planning/supplemental.html and a \$250.00 filing fee and must be **received** by the Planning and Zoning Division by the appeal deadline identified above.

Appeals may be submitted in person during office hours (8:00 am to 4:00 pm Monday through Thursday, closed Friday and holidays). Appeals may also be submitted by email or US mail.

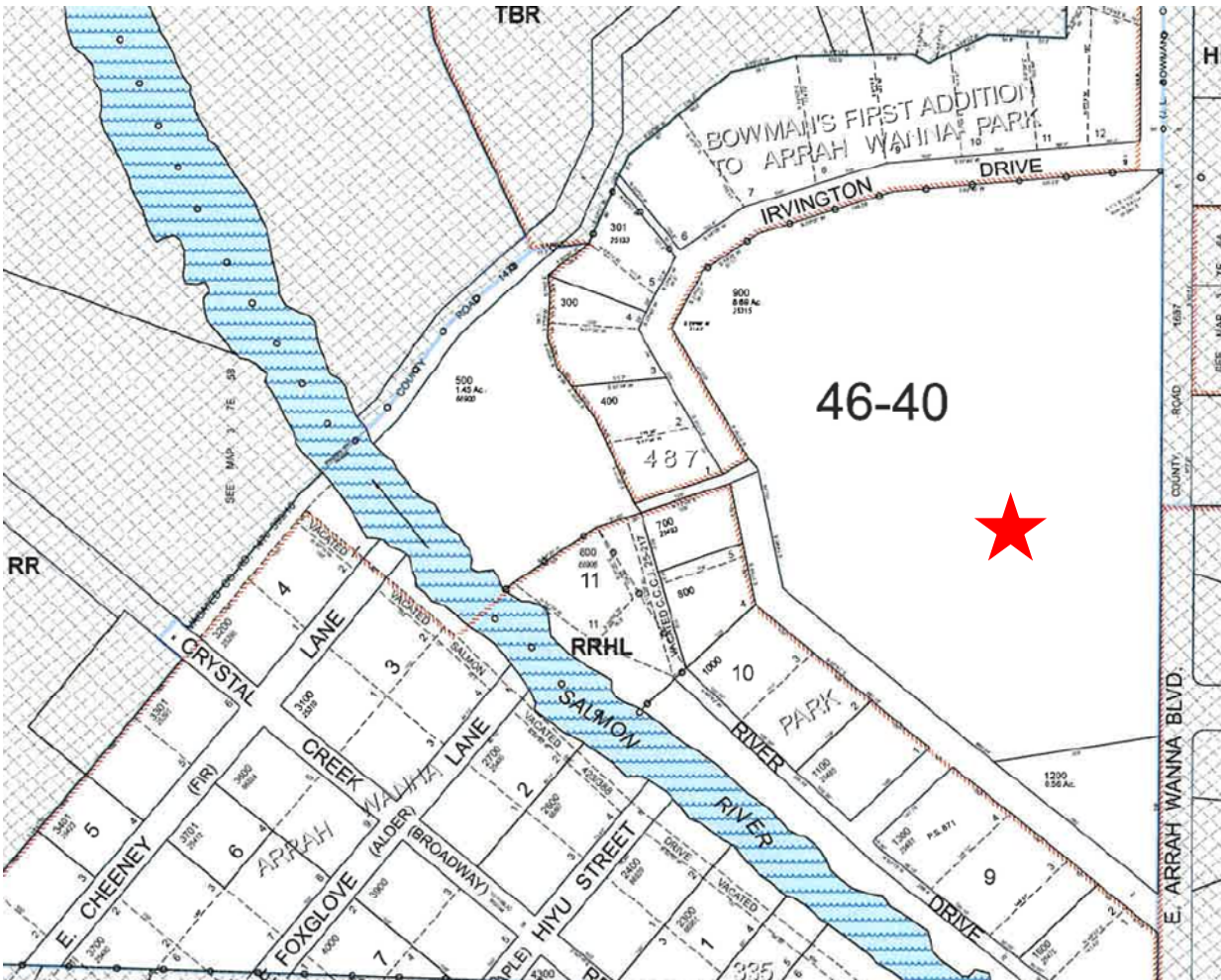
A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

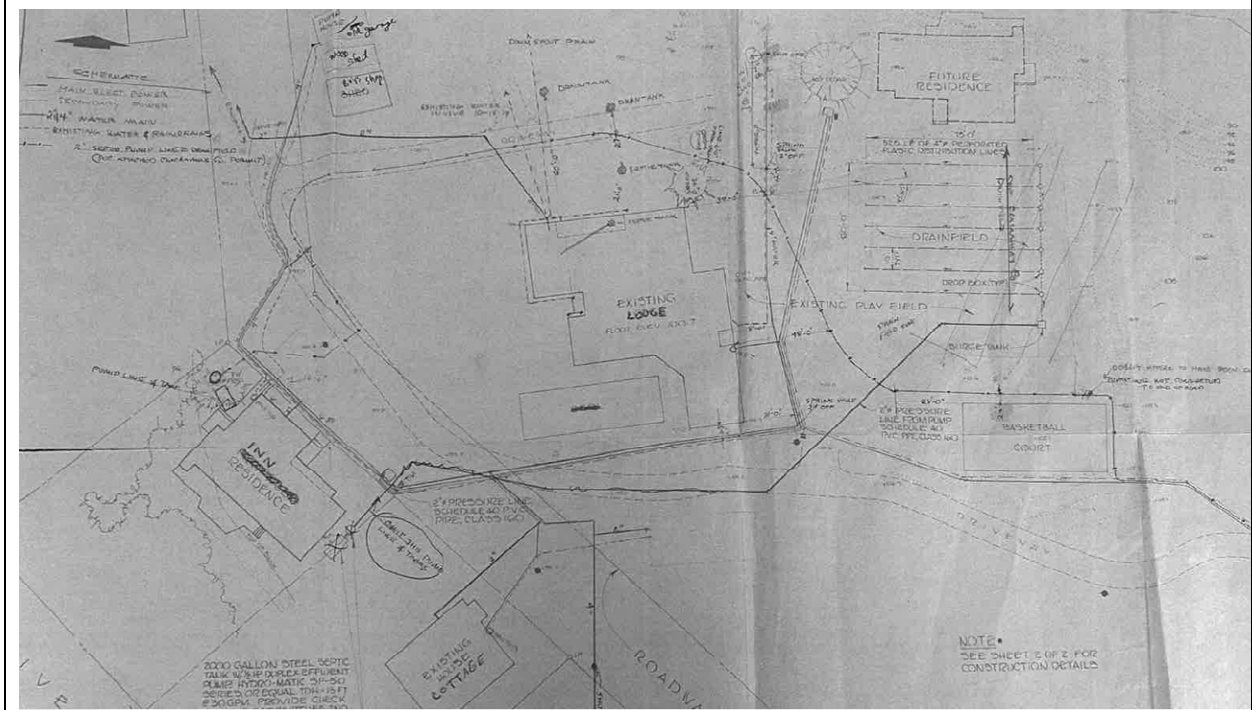
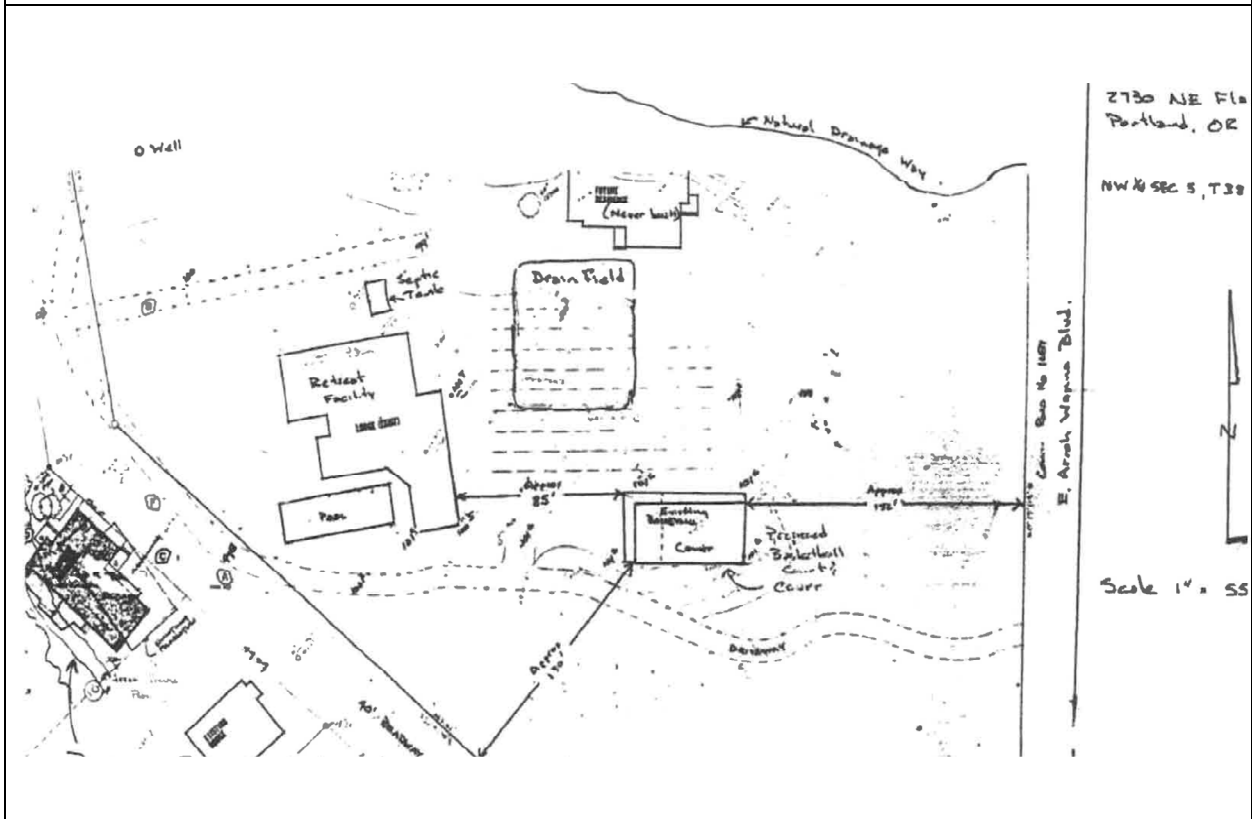
Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email DRenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통?

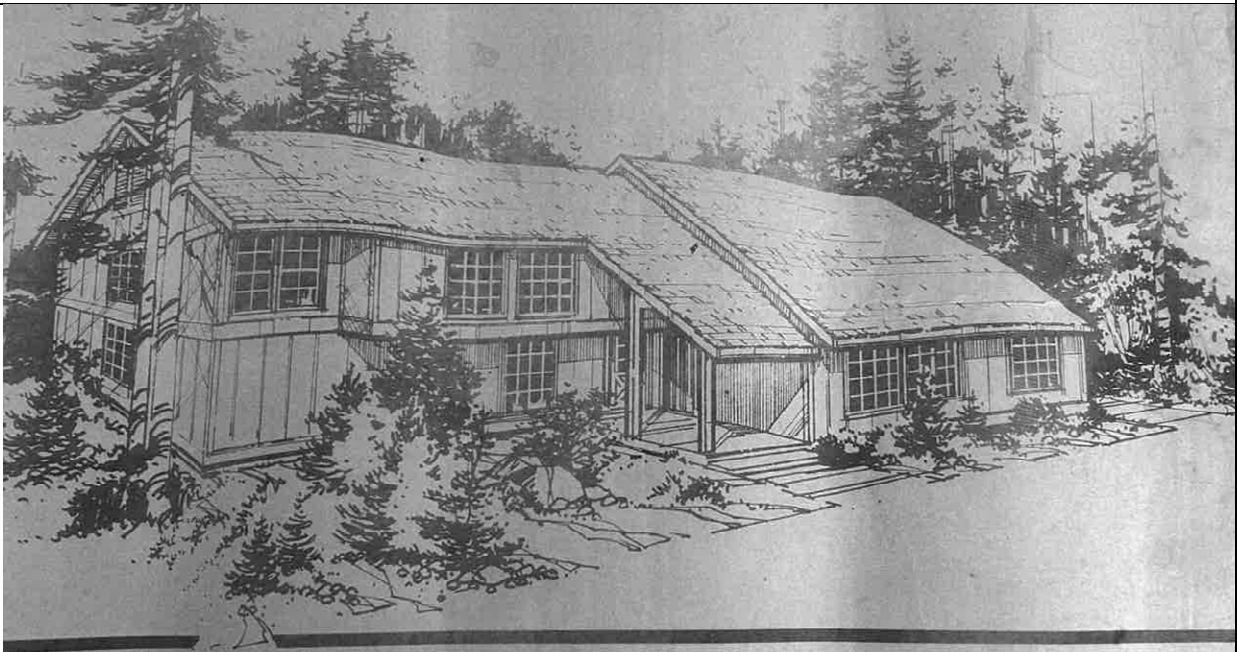
Subject Property Tax Map



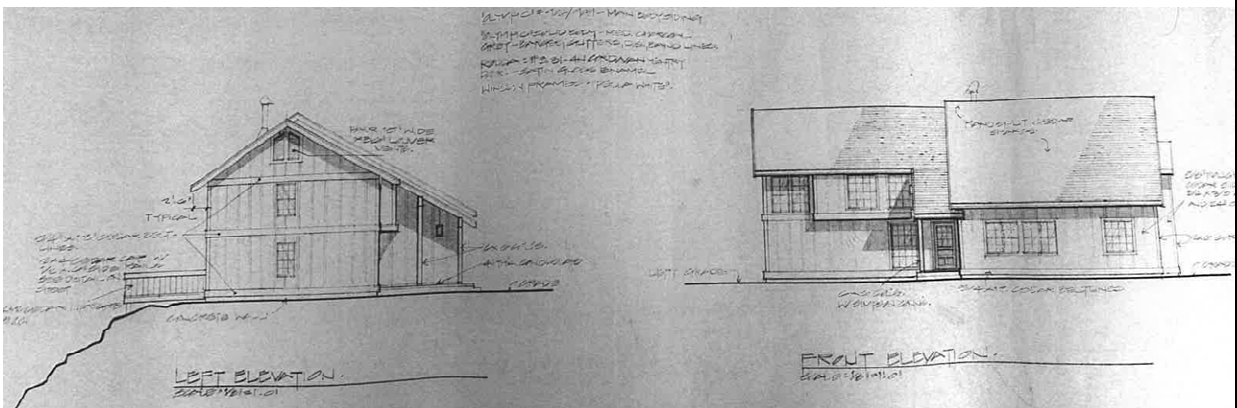
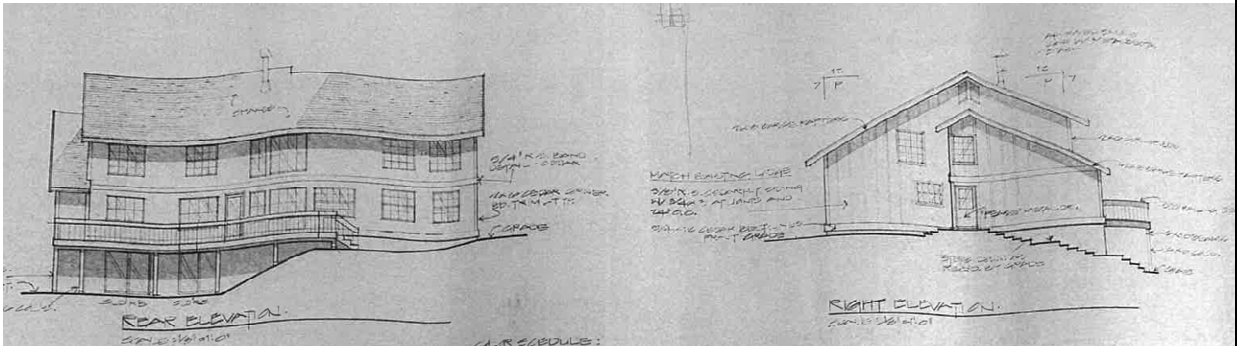
Site Plan Submitted by Applicant



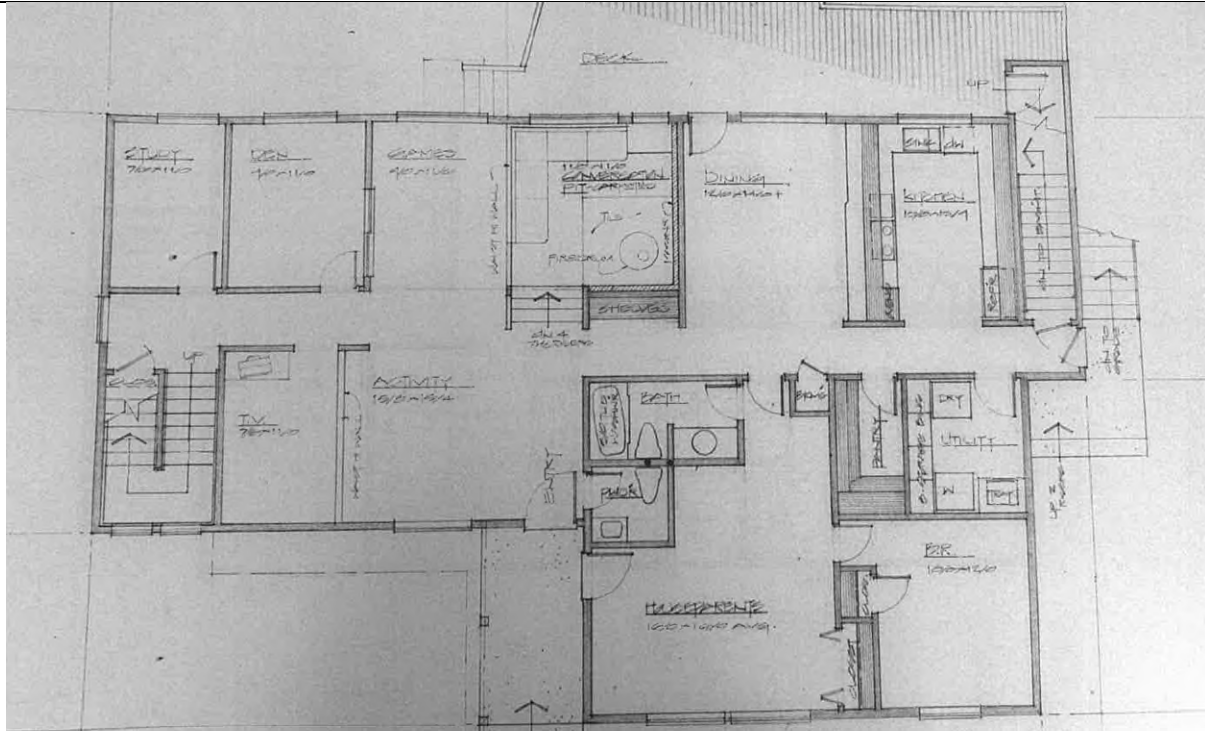
Exterior View of Inn



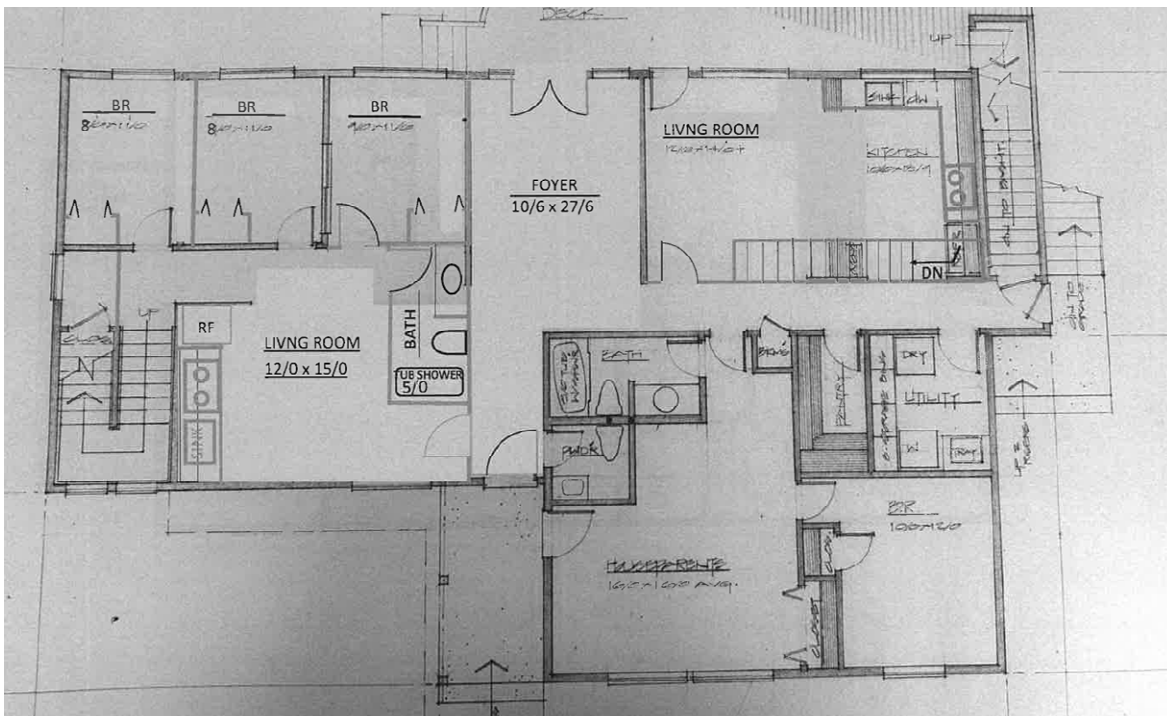
EXTERIOR VIEW OF RESIDENCE (INN)



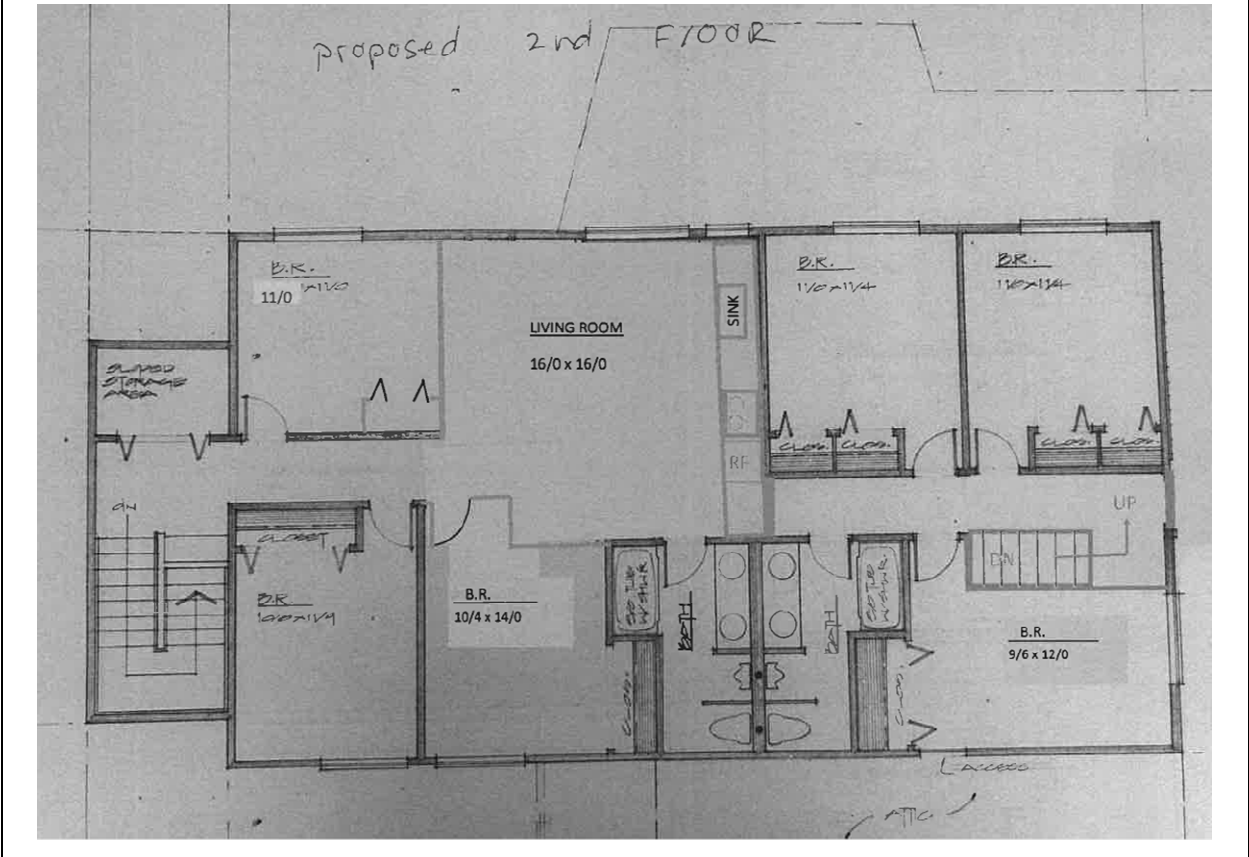
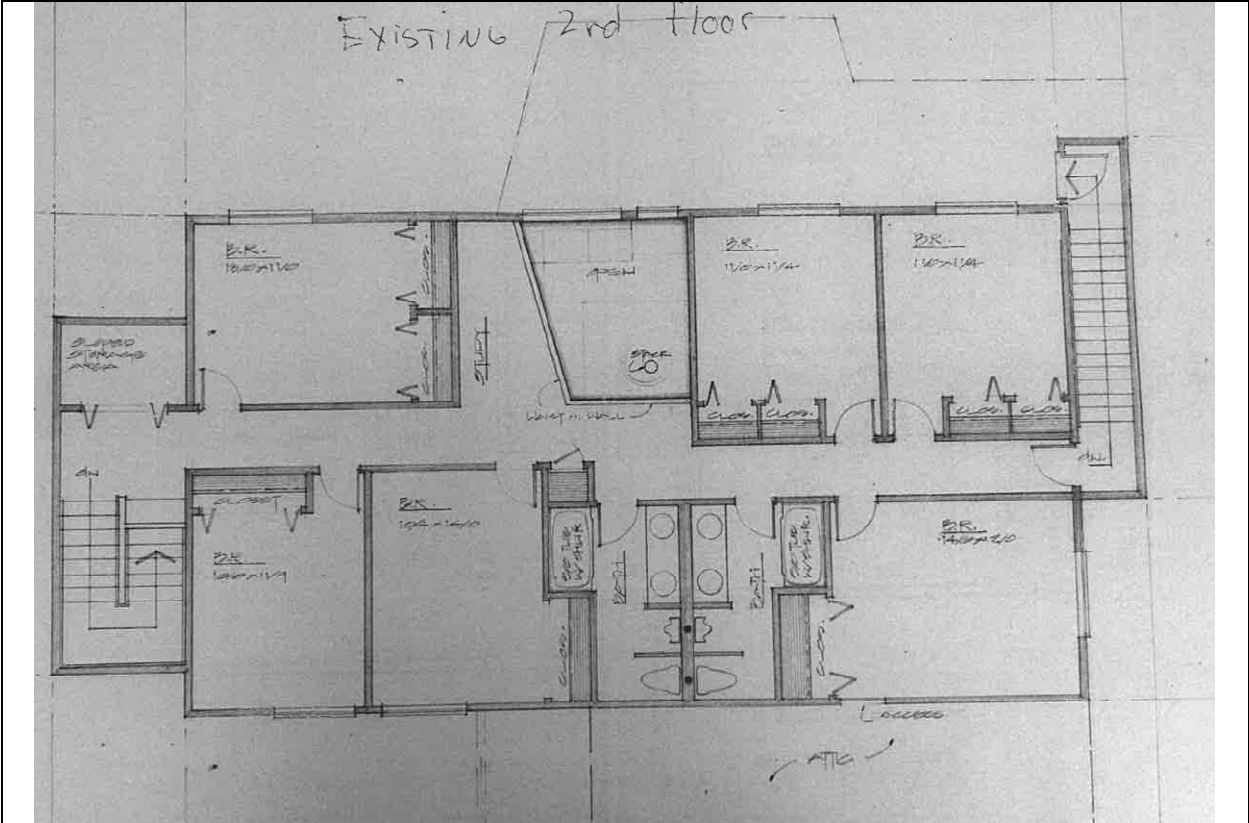
Building Floor Plan



Existing Main Floor Plan



Proposed Main Floor Plan



APPLICABLE APPROVAL CRITERIA

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 316, 1206 and 1307.

PUBLIC AND AGENCY COMMENTS

Notice was sent to applicable agencies and owners of property within 2,640 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. Comments from the following were received:

Members of the public submitted a general email in support of the application.

FINDINGS

The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

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 homes 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 regulations, is now prohibited in the zone.”

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

1. ZDO SECTION 316, RECREATIONAL RESIDENTIAL (RR):

ZDO Table 316-1, *Permitted Uses in the RR District*, of ZDO Section 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.

2. ZDO SECTION 1206, NONCONFORMING USES AND VESTED RIGHTS

This section of the ZDO provide 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.

Finding: 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 additional missionaries or expanding the retreat accommodations onto another lot of record. **This criterion is met.**

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

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

1206.04 DISCONTINUATION OF USE

A. If a nonconforming use is discontinued for a period of 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.

Finding: 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.

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.

Finding: 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.**

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.

Finding: 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.**

1206.07 ALTERATION

A. Alterations Required By Law:

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

B. Alterations Not Required By Law:

Except as provided in Subsection 1206.07(C), 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 is 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.*

Finding: 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 criterion are NOT 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.*

Finding: 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.**

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

Finding: 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**, pursuant to Section 1307. No further written findings regarding Section 1307 are warranted.