

BEFORE THE MANZANITA CITY COUNCIL

In the Matter of the)
Application of) Order Re Manzanita Lofts Planned Unit
Vito Cerelli) Development

ORDER

I. NATURE OF THE APPLICATION

This matter comes before the Manzanita City Council on the appeal of Vito Cerelli of the Planning Commission’s denial of Planned Unit Development application to establish a 34-unit hotel on property zoned Special Residential/Recreation Zone (SR-R).

II. GENERAL INFORMATION

A. Location

The property is located at the approximate southwest corner of Dorcas Lane and Classic Street. Classic Street borders the property along the east. The site address is 698 Dorcas Lane and the County Assessor places the property within Township 3 North; Range 10 West; Section 29D; Tax Lot #2100; and, Township 3 North; Range 10 West; Section 29DA; Tax Lot #2600.

B. Existing Development and Zoning

The subject 3.83-acre vacant property fronts two public streets and public services are available to serve the site. The property is zoned Special Residential/Recreation Zone (SR-R).

C. Adjacent Zoning and Land Use

Property to the north is zoned High Density Residential (R-3) and contains a mix of single-family homes. All remaining adjacent land is zoned SR-R and includes a golf course and residences to the west and south, and residential development to the east.

D. Background Information

The Planning Commission denied the applicant’s request for a Planned Unit Development to construct a 34-unit hotel complex. The applicant appealed this decision to the City Council.

III. PUBLIC HEARING

A. Planning Commission Action

On March 21, 2022, the Planning Commission conducted a hearing on the application. The Commissioners were familiar with the site's location. Otherwise, no *ex parte* contacts, bias or conflicts of interest were declared. At the conclusion of the meeting, the Commission voted to continue the matter until the April 18, 2022, meeting, allowing the applicant to provide additional information regarding, traffic, wetlands and open space.

The Commission reconvened on April 18, 2022. The applicant was unable to submit the requested information to City staff to meet the April hearing deadline. To ensure a complete and proper review of the material, the applicant requested the Commission continue the matter to the May 16, 2022, Commission meeting. The Commission approved the continuation.

The Commission reconvened on May 16, 2022. At the May 16 meeting, the Commission reviewed the additional material, including traffic reports from the applicant and the City's review of said report, additional building details and landscaping information. At the conclusion of the meeting the Commission voted to continue the matter until the June 20 hearing to address the hotel's operations and vehicle parking.

The Commission reconvened on June 20, 2022. Prior to the June hearing, area property owners submitted written comments to the City and Planning Commission. Although the record was left open at that time only to review materials submitted by the applicant, the City agreed to comprehensively reopen the record to allow additional evidence, argument and testimony. As a result, a new notice was mailed prior to the June 20 meeting indicating that public testimony will be accepted.

At their conclusion of the June 20 hearing, the Planning Commission voted to deny the application based on previous testimony and the submitted comments. The Commission found the proposal failed to comply with all applicable decision criteria for a Planned Unit Development contained in Manzanita Ordinance 95-4. Further, the Commission directed staff to prepare an Order for the Chair's signature. Notice of the decision was provided, and the applicant submitted a timely appeal to the City Council.

B. City Council Action

On July 19, 2022, the City Council conducted an *on the record* review of the applicant's appeal. The Councilors had an opportunity to review all the previous documents and Planning Commission recordings related to the case and were familiar with the site's location. The Councilors declared no *ex parte* contacts, bias or conflicts of interest. The applicant raised an objection to the notice of the City Council appeal review, arguing that the City was required to provide 20 days' notice before conducting the hearing and that

the applicant had not had adequate time to prepare. The City Council elected to proceed with the appeal review notwithstanding the objection.

The City Council then heard from Staff, the applicant, and parties to the Planning Commission proceedings below. The City Council gave applicant an opportunity to rebut arguments presented by the other parties.

At the conclusion of the appeal review, the City Council deliberated on the matter and voted to uphold the Planning Commission's decision, denying the Planned Unit Development, and adopting the findings and conclusions in the Planning Commission Order. The Council directed staff to prepare an Order for the Mayor's signature.

IV. FINDINGS OF FACT-GENERAL

The Manzanita City Council, after careful consideration of the testimony and evidence in the record, adopts the following general Findings of Fact:

- A. The applicant is Vito Cerelli.
- B. The property is located at the approximate southwest corner of Dorcas Lane and Classic Street. Classic Street borders the property along the east. The site address is 698 Dorcas Lane, and the County Assessor places the property within Township 3 North; Range 10 West; Section 29D; Tax Lot #2100; and, Township 3 North; Range 10 West; Section 29DA; Tax Lot #2600.
- C. The subject area includes Tax Lot #2100 – 3.42 acres; Tax Lot #2600 – 0.41 acres for 3.83 total acres.
- D. The vacant subject area fronts two public streets and public services are available.
- E. The property is zoned Special Residential/Recreation Zone (SR-R).
- F. Property to the north is zoned High Density Residential (R-3) and contains a mix of single-family homes. All remaining adjacent land is zoned SR-R and includes a golf course and residences to the west and south, and residential development to the east.
- G. The Planning Commission denied the applicant's request for a Planned Unit Development to construct a 34-unit hotel complex. The applicant appealed this decision to the City Council.
- H. This application will be evaluated against the Planned Unit Development criteria listed in Ordinance 95-4 Section 4.136; and the Special Residential/Recreational Zone standards in Ordinance 95-4 Section 3.030.

III. APPLICATION SUMMARY

- A. The applicant wishes to create a 34-unit hotel complex on the subject property that will feature a combination of loft units, and large and small cabins. The project includes the following:
1. The north end of the site will contain 19 studio hotel rooms, each designed to contain approximately 350 square feet in area. There will be a total of 11 buildings with eight designed to contain two units and three single units.
 2. The second component is an approximate 2,963 square foot community building for meetings or gatherings. Of this total, approximately 1,300 square feet will be under cover and include a kitchen and identified "bar" area. The outdoor patio includes a fire pit. This building is located directly south of the 19 hotel units. For the record, this building will not contain a restaurant.
 3. South of the community building are nine additional rental units. These are one- and two-story structures, each containing approximately 1,000 square feet.
 4. As the south end of the site are six, single-story cabins, identified as micro-cabins. These A-frame cabins surround a shared open space.
 5. The site plan identifies 53 parking spaces: 12 spaces near the 19-unit hotel; 8 spaces next to the community building; 12 spaces opposite the nine large cabins; two spaces each adjacent to seven of the nine cabins and, 7 spaces adjacent to the six mini-cabins. The plan includes 14,800 square feet of open space.
 6. A private roadway will run along the east side of the site, serving the entire development. The roadway will also include required public facilities.
- B. Section 3.030(2)(h) permits a "motel, hotels, including an eating and drinking establishment therewith" in the Special Residential/Recreation Zone. The proposed hotel complex is therefore an allowed use. In addition, Subsection (4)(c) requires the Planning Commission to use the Planned Unit Development procedures in Section 4.136 when evaluating a development application.
- C. This review is considering the planned development layout, specifically the building and open space locations, roadway, and parking provisions. The application does not include a design review for any of the structures. While Section 4.150 requires a design review for all new construction, this requirement is limited only to the C-1, LC and R-4 zones. Design review therefore does not apply to SR-R zone. Regardless, the Commission has the authority to condition their decision on the

final layout substantially conforming to the proposal, including the relative size, position, and design of the buildings.

- D. The zoning map on the City's website identifies a right-of-way where the subject property is located. This is in error. The County Assessor maps clearly show the two tax lots without an intervening right-of-way.

IV. PLANNED UNIT DEVELOPMENT PROVISIONS

- A. Planned unit development procedures in Section 4.136 are used to evaluate development proposals in the SR-R zone. Applicable provisions are reviewed in the following subsections:

1. Section 4.136.1., reviews the purpose of a planned development. Briefly, a "planned development" permits the application of greater freedom of design in land development than may be possible under a strict interpretation of the provisions of this Ordinance.

FINDINGS: This Section is not directly applicable to the request as this is a commercial project that does not include a request to modify the development standards. The planned unit development approach is a requirement, but not a necessity, to achieve the project's objective.

2. Section 4.136.2., establishes the following standards and requirements:
- (a) A planned development may include any uses and conditional uses permitted in any underlying zone. Standards governing area, density, yards, off-street parking, or other requirements shall be guided by the standards that most nearly portray the character of the zone in which the greatest percentage of the planned development is proposed.
 - (b) The developer may aggregate the dwellings in this zone in "cluster" or multiple- dwelling structures so long as it does not exceed the density limits of the Comprehensive Plan.
 - (c) Assurances such as a bond or work agreement with the City may be required to ensure that a development proposal as submitted is completed within the agreed upon time limit by the developer and the Commission.

FINDINGS: In compliance with item "(a)" above, the proposal would establish a 34-unit hotel, a previously identified allowed use in the zone. The developer aggregated the hotel buildings in clusters (b), but the potential density limits (per item D.1., below), were not addressed. Bonding,

per item "(c)" is an option available to the City to ensure development of the site.

B. Section 4.136.3, addresses the Planned Unit Development Procedure. The following procedures shall be observed in applying for and acting on a planned development:

1. 3.(a) - An applicant shall submit 10 copies of a preliminary development plan to the Planning Commission and notify all property owners within 250 feet of the proposed development by mail.

FINDINGS: The material submitted as part of the application complies with the provisions in this Section. Notice was also provided to area property owners per provisions in this Section for both the initial hearing and the June 20 meeting.

2. 3.(b) - Prior to discussion of the plan at a public hearing, the City Manager shall distribute copies of the proposal to appropriate City agencies or staff for study and comment.

FINDINGS: Per this item, said plans were distributed prior to the meeting and available to the public to review.

3. 3.(c) - The Planning Commission shall consider the preliminary development plan at a meeting, at which time the comments of persons receiving the plan for study shall be reviewed. In considering the plan, the Planning Commission shall seek to determine that:

- (a) 3.(c)(1) - There are special physical conditions of objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.

FINDINGS: While steep slopes border the east side of the site, the applicant is not departing from the requirements of the SR-R zone. Compliance with these requirements is reviewed in item "D" below.

- (b) 3.(c)(2) - Resulting development will not be inconsistent with the Comprehensive Plan provisions or zoning objectives of the area, particularly with regard to dune stabilization, geologic hazards and storm drainage.

FINDINGS: Planning Commission members specifically noted under "Comprehensive Plan Policies" item #2: *The plan overrides other city ordinances, such as zoning, subdivision or other ordinances when there is a conflict.*

In this regard, the Commission finds the goals, objective and policies contained in the Plan apply to this development.

The Goal provisions in "Land Use" states the following: *To guide the development of land so that land use is orderly, convenient, and suitable related to the natural environment. The uses must fulfill the needs of residents and property owners, and be adequately provided with improvements and facilities.*

Objective #1 states the City will: *Designate separate land use areas within which optimum conditions can be established for compatible activities and uses.*

While Objective #3 notes the following: *Protect the character and quality of existing residential areas and neighborhoods from incompatible new development.*

Based on testimony and presented evidence, the Commission finds the proposed hotel incompatible with area activities that are dominated by recreational (golf course) and residential uses. This conclusion is based on the amount of traffic generated by the site and potential traffic impacts on the local street system. Further, the Commission heard testimony indicating the size of the hotel (accordingly the largest in the city) is incompatible with area development. On balance, the Commission found the proposal did not comply with the applicable Comprehensive Plan Policies.

- (c) 3.(c)(3) - The area around the development can be planned to be in substantial harmony with the proposed plan.

FINDINGS: While there are single family homes in the vicinity, the dominant land use in the area is recreational with the existing golf course to the west. As noted above, the Commission finds the hotel to be incompatible with area uses.

- (d) 3.(c)(4) - The plan can be completed within a reasonable period of time.

FINDINGS: The Commission has the authority to place reasonable constraints on the timing of activities. It was suggested the developer submit site, engineering and building plans within two years of the final decision on this case and that all required plans for the project be submitted within five years of the final decision. At the submittal of the applicable material, a hearing would be scheduled before the Commission to review progress and to ensure the plans substantially

conform the approved project.

- (e) 3.(c)(5) - The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.

FINDINGS: While the applicant submitted a traffic impact study (subsequently reviewed by the City's traffic engineer), opponents provided a more comprehensive study. The report indicated the project would generate more than 309 vehicle trips per day. Many of these trips would be directed to downtown where most of the eating establishments are located. This creates adverse impacts on streets within the vicinity. Not only is this a safety issue with pedestrian and bicycle traffic, but the Commission also finds the use and potential traffic impacts conflict with Comprehensive Plan "Land Use" Objective #3: *Prevent the concentration of uses that would overload streets and other public facilities, or destroy living quality and natural amenities.*

Creation of the proposed 22-foot paving improvement is acceptable but recognize additional width and/or turn-outs may be necessary to meet Fire District requirements.

- (f) 3.(c)(6) - Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.

FINDINGS: The applicant submitted a site drainage plan for the entire project. Initial examination by staff indicates the improvements can comply with City Public Works standards. This can be verified when engineering plans are submitted.

- 4. The Planning Commission shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.

FINDINGS: This is a procedural requirement, whereby the decision and any conditions of approval are determined at the Commission hearing and the applicant is formally notified by the City.

- 5. Following this preliminary meeting, the applicant may proceed with his request for approval of the planned development by filing an application for an amendment to this Ordinance.

FINDINGS: It appears the purpose of this provision is to identify the site as a planned development on the City's zoning map (see item "(g)" below). In

effect, this requires an approved tentative plan to be submitted, reviewed and approved, which is the purpose of the Commission hearings. However, as previously noted, it is appropriate for the applicant to return with engineering, site, building and other required plans to ensure the project proceeds according to the proposal.

6. In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purposes of this Ordinance.

FINDINGS: Ultimately this is the Commission's decision. City staff provided a list of conditions for the Commission to consider.

7. An approved planned development shall be identified on the zoning map with the letters PD in addition to the abbreviated designation of the existing zoning.

FINDINGS: The City assumes this responsibility if the request is approved and development proceeds.

8. Building permits in a planned development shall be issued only on a basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for processing as an amendment to this Ordinance.

FINDINGS: Design review provisions in Section 4.150 do not apply to the SR-R zone. However, the submitted material identifies the location of the various hotel units, cottages, parking and open space as well as the buildings' general features. It is appropriate to require conformance with the layout and improvements, including building design. Therefore, the project must conform to this proposed layout and design unless otherwise modified by the Planning Commission.

- C. Development standards in the SR-R zone are found in Section 3.030(4). Each item is reviewed below:

1. (4)(a) - Overall density for the SR-R zone is 6.5 dwelling units per gross acre. Dwellings may be clustered on one portion of a site within the SR-R zone and achieve a maximum density of 13 dwellings per acre where at least 40% of the total lot or parcel area is reserved or dedicated as permanent open space as a public or private park area or golf course. The open space shall be so indicated on the Plan and zoning map, and deed restrictions to that effect shall be filed with the City.

FINDINGS: While submitted as a hotel project, the Commission notes a number (if not all) of units can meet the definition of a "dwelling unit"

contained in Ordinance 95-4. Therefore, application of the density requirement is appropriate. Additional information on the specific level of improvement would be needed to determine whether the development complies with the density requirements in this Section.

2. (4)(b) - Standards other than density in the SR-R zone shall conform to those established in the R-3 zone (Section 3.020) except that the Planning Commission may authorize relaxation of these standards to permit flexibility in design such as cluster development, with respect to lot size, setbacks and lot coverage, but not use.

FINDINGS: Compliance with applicable provisions in the R-3 zone is reviewed in item "E.", below. For the purpose of this criterion, the layout meets or exceeds the minimum standards.

3. (4)(c) - The Planning Commission shall use the procedure set forth in Section 4.136 of this Ordinance (Planned Development) in order to evaluate development proposals in this area.

FINDINGS: The Commission hearings comply with requirement.

4. (4)(d) - The maximum lot coverage in the SR-R zone shall not exceed 40%. Less lot coverage may be required in steeply sloping areas or areas with drainage-problems. In all cases the property owner must provide the City with a storm drainage plan which conducts storm runoff into adequately sized storm drains or approved natural drainage as approved by the Public Works Director.

FINDINGS: Based on the applicant's calculations, the lot coverage will not exceed 33% (see site drainage plans). Areas containing steep slopes are not developed but will maintain a vegetative cover.

5. (4)(e) - In areas without a high-water table, a dry well capable of absorbing the storm runoff shall be provided in accordance with City standards.

FINDINGS: Compliance with this requirement can be addressed when engineering plans are submitted. Also see findings in Section C.3.(f).

In a similar vein, comments in March raised the issue of possible wetlands on the property. A limited wetlands study was conducted in 2017 which concluded the subject area did not contain wetlands. This analysis was approved by the Department of State Lands. A subsequent survey was conducted over the site that included the entire area under consideration for development. The survey by NW Regolith found no wetlands on the proposed development or any portion of the subject property. The City

received a preliminary report from the Department of State Lands on June 9, 2022. The report indicated a wetland delineation will be required before development can occur. For the record, the applicant did submit the required application to DSL. Compliance with this requirement can be placed as a condition of approval.

D. Applicable development standards in the R-3 zone are found in Section 3.020(3). Each item is reviewed below:

1. (3)(a) - The minimum lot size shall be 5,000 square feet for single family or duplexes, plus 2,500 square feet for each additional dwelling unit.

FINDINGS: There are no minimum area requirement for non-residential uses. However, at 3.83 acres, the project greatly exceeds the identified minimum parcel size requirement. The subject area contains two parcels. While under common ownership, their consolidation is required prior to development.

2. (3)(b) - The minimum lot width shall be 40 feet, except on a corner lot it shall be 60 feet.

FINDINGS: The parcel maintains 90-feet of frontage on Dorcas Lane and in no case falls below 60-feet in width throughout.

3. (3)(c) - The minimum lot depth shall be 90 feet.

FINDINGS: The property depth exceeds 1100 feet.

4. (3)(d) - The minimum front yard shall be 20 feet, or the average setback of buildings within 100 feet of both sides of the proposed building on the same side of the street, whichever is less. For purposes of determining the average setback of buildings, vacant lots within 100 feet of both sides of the proposed building on the same side of the street shall be included and shall be assumed to have a building placed 20 feet from the front lot line to the nearest part of the building. In no case shall the front yard setbacks be less than 12 feet.

FINDINGS: The minimum front yard depth is approximately 80-feet.

5. (3)(e) - The minimum side yard setback shall be 5 feet for the portion of the building at the setback line up to 10 feet in height as measured vertically from average finished grade to the highest point of that portion of the building and shall be 8 feet for any portion of the building where this height is exceeded; except that a roof with a pitch of less than or equal to 8 in 12 may extend upward from the 5-foot setback line to the 8-foot setback line.

The street side yard setback of a corner lot shall be 12 feet.

FINDINGS: The minimum side yard setback for the hotel, community building, and cabin structures is 10-feet while the mini-cabins are at least 20-feet from the side yard. The combined property is effectively a corner lot as Dorcas Lane fronts on the north end and Classic Street along the east side. All structures exceed the minimum 12-foot corner lot setback along Classic Street.

6. (3)(f) - The maximum building or structure height shall be 28 feet, 6 inches. However, if more than one-half of the roof area has a roof pitch of less than 3 in 12, the building or structure height shall not exceed 24 feet. The height of a stepped or terraced building shall be the maximum height of any segment of the building or structure.

FINDINGS: The applicant did not request a variance to modify this requirement. Compliance with this provision will be determined when building plans are submitted for the individual structures.

7. (3)(g) - The minimum rear yard setback shall be 10 feet.

FINDINGS: The rear yard setback (mini-cottages) is approximately 120-feet.

8. (3)(h) - The maximum lot coverage in the R-3 zone shall not exceed 55%. Less lot coverage may be required in steeply sloping areas or areas with drainage problems. In all cases, the property owner must provide the City with a storm drainage plan which conducts storm runoff into adequately sized storm drains or approved natural drainage as approved by the Public Works Director.

FINDINGS: Per requirements of the SR-R zone, the lot coverage limitation is 40%. Based on the applicant's calculations, the lot coverage will not exceed 33% +/- . Compliance with this provision can be continually evaluated as the site develops.

9. (3)(i) - In areas of the City without a high-water table, a dry well capable of absorbing the storm runoff of the impervious surfaces of the property shall be provided in accordance with City standards.

FINDINGS: Compliance with this requirement can be addressed when engineering plans are submitted. Also see findings in Section C.3.(f).

- E. The planned unit development provisions do not specifically address parking requirements as these are usually considered as development progresses (e.g., a residential planned development). This is a unified project, and it is appropriate to address parking at this juncture.

Hotel requirements are found in Section 4.090(3)(a) and require 1 space for each unit of 350 square feet or less if that unit has only one bedroom; 1.25 spaces per unit for all other units; and 2 spaces for the manger. The Ordinance does not establish a separate parking requirement for the community building as it is part of the hotel complex and it is reasonable to assume there will be some overlap between the guests and the use of the facility. Parking for the 19-unit hotel area is 19 spaces; 2 spaces for the manager; 11.25 spaces for the larger cabins (9x1.25 = 11.25) and 6 spaces for the mini-cabins. The site contains 53 spaces which exceeds the 34.25 spaces required by Ordinance. While specific information on the number of bedrooms for the smaller units was not provided, even if each unit contains more than one bedroom, this will only require an additional 4.75 spaces for a total of 39. Again, the proposed 53 spaces exceed this total. Compliance with parking requirements, such as space size and improvements, can be continually evaluated as building plans are reviewed.

- F. As a planned development, the Commission is granted authority to consider the entire project and not just the layout. City staff recommended any decision for final planned development approvals include the submitted building design proposals. The Commission agrees with this recommendation. However, in reviewing the various drawings and plans, the Commission finds they did not contain sufficient detail and are inadequate. This in turn complicates the ability of the Commission to determine whether the final product conforms to the submitted proposal.

V. CONCLUSION

Based on the above noted findings, the City Council concludes the application to establish a 34-unit hotel in the SR-R zone fails to comply with the applicable provisions. Therefore, the City Council upholds the Planning Commission decision to DENY the application.

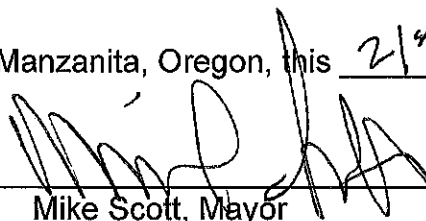
VIII. APPEAL DATES

Any appeals pertaining to this application must be made to the Land Use Board of Appeals (LUBA) within 21 days of the date a public notice of this decision is mailed.

Signatures Included on the Next Page

APPROVED BY A ~~UNANIMOUS~~ VOTE OF THE MANZANITA CITY COUNCIL ON THE 19TH DAY OF JULY 2022.

DATED at Manzanita, Oregon, this 21st day of July, 2022.

SIGNED:  7/21/22
Mike Scott, Mayor Date

ATTEST:  7/21/22
Leila Aman, City Manager Date