



David J. Petersen
david.petersen@tonkon.com
Admitted to Practice in Oregon and California

503.802.2054 direct
503.221.1440 main

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VIA U.S. MAIL AND E-MAIL - laman@ci.manzanita.or.us

Manzanita City Council
Attn: Leila Aman, City Manager
PO Box 129
167 S. 5th Street
Manzanita, OR 97130

Re: *Cerelli v. City of Manzanita* – initiation of remand
698 Dorcas Lane application for 34-unit hotel

Dear Councilors:

In its order of February 27, 2023 (the "Order") in the above-referenced matter, the Land Use Board of Appeals (LUBA) sustained three assignments of error raised by the applicant:

- First, LUBA ruled that a hotel is a permitted use in the SRR zone. Accordingly, the provisions of MZO 3.030(4) and 4.136(3)(c) are standards "designed to regulate the physical characteristics of the outright permitted use," and the decision before the Council on remand is a limited land use decision to determine if those standards are met. Order, p. 20. Comprehensive plan provisions may not be relied upon to determine compliance with applicable criteria. Order, pp. 23, 26.
- Second, LUBA ruled that the City failed to make a reviewable determination as to whether MZO 3.030(4)(a) applied to the proposal and, if so, whether it was met. Order, pp. 24-25.
- Third, LUBA ruled that the City's findings in response to MZO 4.136(3)(c)(5) were not supported by substantial evidence in the record. Order, p. 28.

This letter constitutes the applicant's request pursuant to ORS 227.181(2) to initiate remand proceedings to address the errors identified by LUBA.

We are not aware of any provisions of the MZO governing the procedure for this remand. The applicant recommends, however, that on remand the record should be reopened for the limited purpose of receiving evidence in response to the third error. The first error is purely a legal issue requiring the City's compliance on remand, and

the second error poses a combination of legal and factual issues that can be resolved by evaluating the existing record. Specifically, the applicant contends that MZO 3.030(4)(a) does not apply because hotel rooms are not dwelling units, but even if they are, the density standard in MZO 3.030(4)(a) is met. The existing record shows that the site is 3.83 acres, which at 6.5 dwelling units per acre permits a maximum density of 24 units. However, the applicant is willing to reserve or dedicate 40% of the site for open space or public or private park area or a golf course, thereby increasing maximum density to 13 units per acre, or 49 units. This is more than enough to accommodate the proposed 34 hotel rooms in the project.

Regardless of what procedures the City adopts, the applicant requests that the City provide adequate advance notice of its intended procedures with sufficient time for the applicant and other interested parties to fully prepare an appropriate response.

Thank you for your prompt attention to this matter. If you have any questions, please contact Mick Harris or me.

Best regards,



David J. Petersen

DJP/rkb

cc (via e-mail): Vito Cerelli
Souvanny Miller
Mick Harris

