



City of Manzanita

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**BEFORE THE PLANNING COMMISSION
OF THE CITY OF MANZANITA
ORDER AND NOTICE OF DECISION ON REMAND**

APPLICANT: Vito Cerelli
LOCATION: 698 Dorcas Lane (31029D - 2100; 31029DA- 2600).
ZONING: Special Residential/Recreation Zone (SR-R).
REQUEST: Planned Unit Development Application to create a 34-unit Hotel.

The above-named applicant SUBMITTED a remand for a Planned Unit Development application to the City to establish a 34-unit hotel. Public hearings on the above request were held before the Planning Commission on May 30, 2023, and June 16, 2023.

THE PLANNING COMMISSION OF THE CITY OF MANZANITA HEREBY ORDERS that the application request be DENIED and adopts the findings of fact and conclusions in the ORDER, attached hereto and by this reference incorporated herein, in support of the decision.

This ORDER may be appealed to the City Council by an affected party by filing an appeal with the City Manager within 20 days of the date specified below. A request for appeal, either as a de novo review or review on the record, must contain the items listed in City Ordinance 95-4, Section 10.160 and may only be filed concerning criteria that were addressed during the remand hearings. The complete case is available for review at the office of the City Recorder, 543 Laneda Avenue, Manzanita, Oregon, or online at [Planning Commission – City Of Manzanita](#)

Date: 06-20-2023

City of Manzanita Planning Commission

Karen Reddick-Yurka, Chair

BEFORE THE MANZANITA PLANNING COMMISSION

In the Matter of the)
Application of)
Vito Cerelli))
) Order on Remand re Manzanita Lofts
) Planned Unit Development
)

ORDER

I. NATURE OF THE APPLICATION

This matter comes before the Manzanita Planning Commission on remand from the Land Use Board of Appeals, after Vito Cerelli’s appeal of the City’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. APPLICANT: Vito Cerelli.
- B. PROPERTY 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.
- C. MAPPED AREA: Tax Lot #2100 - 3.42 acres; Tax Lot #2600 - 0.41 acres for 3.81 total acres.
- D. EXISTING DEVELOPMENT: The vacant subject area fronts two public streets and public services are available.
- E. ZONING: The property is zoned Special Residential/Recreation Zone (SR-R) and located within the Dune Overlay.
- F. 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.
- G. REQUEST: The applicant is requesting approval of a Planned Unit Development to construct a hotel complex upon remand from the Land Use Board of Appeals.
- H. DECISION CRITERIA: The review criteria for this application on remand are MZO 3.030(4)(a) and MZO 4.136(3)(c)(2), (3), and (5).

- I. REMAND ISSUES: The Planning Commission will review the application in accordance with the Oregon Land Use Board of Appeals' Final Opinion and Order dated February 27, 2023, and the City's Notice of a Public Hearing on the Remand of a Land Use Board of Appeals Decision published on February 27, 2023, issued May 8, 2023, which noticed the Planning Commission Hearing for May 30, 2023.

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 will be developed over three phases:
 1. Phase 1 is located at the north end of the site and will total 19 studio hotel rooms. There will be a total of 11 buildings with eight designed to contain two units and three single units. Each unit will be approximately 350 square feet in area. This Phase also includes a gathering space with a kitchen. This building will not contain a restaurant.
 2. Phase 2 will be located to the south of Phase 1, containing 9 hotel cabins, each approximately 1,000 square feet in area. These will be unattached and run perpendicular to the adjacent roadway.
 3. Phase 3 will be at the south end of the site and contain 6 small cottages, each approximately 350 square feet in area.
 4. A private roadway will run along the east side of the site, serving all three Phases. Required public facilities will also be located within this roadway. Appropriate levels of parking will be included for each Phase for a total of 53 parking spaces.
- B. Section 3.030(2)(h) permits a "motel, hotels, including an eating and drinking establishment therewith" in the Special Residential/Recreation Zone. In addition, Subsection (4)(c) requires the Planning Commission to use the Planned Development procedures in Section 4.136 when evaluating an application.
- C. This application and review are only considering the planned development layout, and not the individual buildings. While the applicant submitted photos and schematics identifying potential designs, this application does not include a design review for any

structure. However, the layout does contain proposed building locations, and if approved, 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. Two items for clarification:

1. 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.
2. Phase 2 includes the 1,000 square foot cottages. The submitted plan partitioning of the property is not under consideration with the current proposal. Again, the request is to develop the site for a hotel complex.

IV. PROCEDURAL HISTORY

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.

The City Council elected to conduct the appeal review on the record, and held a hearing on July 19, 2022. After the July 19, 2022, hearing, during which the City Council heard argument from the applicant and those opposed to the application, the City Council adopted the Planning Commission's findings, and denied the application.

The applicant then submitted a timely petition for review to the Oregon Land Use Board of Appeals ("LUBA") on August 8, 2022. Before LUBA, the applicant asserted eight assignments of error against the City's denial. LUBA resolved the petition in a Final Opinion and Order dated February 27, 2023 (the "Remand Order"), remanding the decision to the City for further consideration with respect to three of the assignments of error. Specifically, LUBA agreed with the applicant's arguments that:

1. "[T]he [C]ity erred in relying on [Manzanita Comprehensive Plan] provisions as a basis for the limited land use decision, and in particular as a basis to deny the application for failure to satisfy MZO 4.136(3)(c)(2)." Remand Order at p. 23.
2. "[R]emand is appropriate for the city council to adopt a reviewable interpretation of all of the relevant MZO provisions" MZO 1.030 and MZO 3.030(4)(a), and to determine "whether the Density Standard applies to the proposal." Remand Order at p. 25.
3. The City's decision was not supported by substantial evidence in the record with respect to MZO 4.136(3)(c)(5) in that the record did not support the Planning Commission's conclusions that "the project will generate 'more than 309 vehicle trips'" and that "many of the trips would be directed to downtown." Remand Order at p. 28.

On March 30, 2023, the applicant requested that the City begin remand proceedings to address the three issues on remand. This request started a 120-day time clock for the City to issue its final decision.

The City Council held a special meeting on April 12, 2023 at which it remanded these proceedings to the Planning Commission.

On April 14, 2023 the City issued a Notice of Remand Hearing in accordance with the City Council's decision outlining the remand issues to be resolved at a public hearing before the Planning Commission on May 15, 2023. On May 8, 2023, the City issued a new Notice of Remand Hearing postponing the Remand Hearing to May 30, 2023. On May 22, 2023, the City issued a Staff Report for the May 30, 2023 hearing.

On May 30, 2023, the Planning Commission met to consider evidence, testimony, and argument regarding the remand issues. The materials on review before the Planning Commission included the existing record as was submitted to LUBA, including previous Staff Reports dated March 10, 2022 and June 10, 2022, finding that applicant's proposal complied with the applicable Planned Development criteria and recommending that the Planning Commission approve the application. The record also includes the Remand Order, applicant's request for a remand hearing, Notices of Remand Hearing, and Applicant's letter dated May 5, 2023, public comments received prior to the May 30, 2023 hearing and during the open record period from May 31, 2023 to June 7, 2023. The record is available at <https://ci.manzanita.or.us/planning-c>

[ommission/](#). After considering comments and submitted materials from the applicant, the Oregon Coast Alliance, which was the intervenor in the LUBA proceedings, and members of the public, the Planning Commission made preliminary findings with respect to the remand issues relating to MZO 4.136(c)(2), (3), and (5) as discussed in the June 9, 2023 Staff Report. The Planning Commission then continued the hearing to June 16, 2023 to address the remand issue relating to MZO 3.030(4)(a). The Planning Commission left the record open for a period of seven days for the parties to present new evidence and argument as described in the City's Notice continuing the hearing to June 16, 2023.

On June 16, 2023, the Planning Commission reconvened to consider evidence and testimony raised during the open record period, written responses received before the hearing, and additional oral argument regarding the remand issues as described in the City's Notice continuing the hearing to June 16, 2023. As a result of this hearing, the Planning Commission issues a written decision below.

The City's remand decision must be made in writing, with no further appeals available within the City's process, on or before July 28, 2023. The Commission Decision may be appealed to the City Council and the Council must render a final decision, in writing, by July 28, 2023. A decision after review by the Council may again be appealed to LUBA.

V. PLANNED UNIT DEVELOPMENT PROVISIONS AT ISSUE ON REMAND

As reflected in the City's Notices of Remand Hearing of May 8, 2023 and May 31, 2023, the following issues were remanded for the Planning Commission's review and decision.

The Planning Commission adopts the findings of the Staff Report dated June 9, 2023, with respect to MZO 4.136(3)(c)(2) and (3), and further makes its findings of fact and conclusions as follows.

A. MZO 3.030(4) addresses density standards for development in the Special Residential/Recreational Zone, SR-R. In the SR-R zone the following standards shall apply:

MZO 3.030(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.

DISCUSSION: LUBA accepted that the proposed use is a "hotel" and that the proposed use is therefore a permitted use in the City's SR-R zone.

LUBA found that the City's initial denial of the application "adopted an equivocal finding that [this] Density Standard could apply *if* the [hotel's] units are 'dwelling units' as defined in MZO 1.030, without deciding whether the units are in fact dwelling units." LUBA remanded this portion of the decision to the City to provide further interpretation, and determine whether the Density Standard in MZO 3.030(4)(a) applies to the application.

In his request for a remand hearing, applicant noted that he disagrees that the Density Standard applies to the hotel project. The applicant was willing however, to accept a condition of approval requiring the development to meet the Density standard by reserving or dedicating 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.

On June 6, 2023, applicant submitted a proposed site plan depicting the physical characteristics of the dedicated open space. That document is available at the link provided above.

FINDINGS: In accordance with LUBA’s Remand Order, the proposed use is a hotel, which is a permitted use in the SR-R zone. With respect to the requirement in MZO 3.030(4)(a) that “[t]he open space shall be so indicated on the Plan and zoning map, and deed restrictions to that effect shall be filed with the City,” the Commission finds that “Plan” refers to the proposed use as a planned development (for context, see MZO 3.030(4)(c) requiring that proposals in the SR-R zone be assessed under the Planned Development procedures).

The hotel’s units are “dwelling units” for purposes of MZO 1.030, and therefore the Density Standard in MZO 3.030(4)(a) applies to the proposed use. With a total project area of 3.42 acres and 34 proposed units, the proposed use does not meet the typical requirement of 6.5 dwelling units or less per gross acre.

The Planning Commission requested additional information from the applicant to demonstrate whether the proposed use could qualify for the alternative maximum of 13 dwelling units per gross acre by dedicating or reserving 40% of the total lot or parcel area as permanent open space as a public or private park area.

The applicant provided a proposed site plan for a private park area and public walking trail on June 6, 2023. The MZO does not define “park,” but the applicant did not demonstrate that the full portion of the property purportedly dedicated to park uses would meet the plain-meaning definition of a park. Specifically, the section of the site plan marked for park uses between Classic Street and the hotel’s driveway and parking lots is a thin strip of land and is too close to the Classic Street roadway to be suitable for recreation or maintaining in a natural space. With that section removed from the open space designation, the applicant cannot show that the site plan meets the 40% minimum designated area. Therefore, the applicant’s proposal does not demonstrate that at least 40% of the total lot or parcel area will be dedicated as permanent open space as a private park.

CONCLUSION: The Planning Commission finds that the Density Standard described in MZO 3.030(4)(a) applies to the proposed use and is not met. This criterion is not met.

C. MZO 4.136(3), addresses the Planned Unit Development Procedure. With respect to the issues on remand, the following

procedures shall be observed in applying for and acting on a planned development:

MZO 4.136(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:

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

DISCUSSION: LUBA determined that the City's denial was not supported by substantial evidence in the record with respect to MZO 4.136(3)(c)(5) in that the record did not support two of the Planning Commission's conclusions. First, LUBA noted that both the applicant's and the opponent's traffic engineers "estimated that the project would generate 'up to' 309 vehicle trips on the peak day, a Saturday in the summer," which did not support a finding that the project would generate "more than" 309 trips per day. Remand Order at 28. Second, LUBA found that there was no evidence in the record to support the City's conclusion that many of the trips would be directed to downtown. LUBA remanded this portion of the decision to the City.

The City of Manzanita's Transportation Engineer provided a scoping letter to the Applicant on April 13, 2023 to provide an updated Transportation Impact Study (TIS) to address the issues raised in the Remand Order. This letter is posted as part of the packet for the May 30th hearing and is available at the web address above.

On May 4, 2023 applicant submitted Transportation Impact Study Conducted by Mackenzie for Manzanita Lofts Hotel Dated May 3, 2023

On May 4, 2023 Lancaster Mobley, the City's Contract Traffic Engineer reviewed the findings from the Mackenzie Transportation Impact Analysis.

These materials are available and included in the Planning Commission Packet which can be found on the City's website at the link provided above.

FINDINGS: There will be a single private driveway servicing the site. Neither Ordinance 95-4 or Ordinance 95-5 (Land Divisions) contains minimum driveway width and improvement requirements.

On May 30, 2023, the Planning Commission made a preliminary determination that this criterion was met if applicant's proposed trail through the site could provide safe access for pedestrians and bicyclists.

On June 16, 2023, after reviewing the applicant's proposal for a trail through the site, the Planning Commission determined that it would not provide safe access for pedestrians and bicyclists. According to the applicant, the trail would

not be suitable for bicycle traffic. The proposed trail would also involve areas that the Planning Commission finds are not suitable for pedestrian traffic—steep switchbacks and a section that traverses a parking lot.

After further deliberations, the Planning Commission also determined the traffic expected to be generated by this development at peak times will overload the adjoining roadways and that traffic concerns will not be alleviated by a pedestrian walkway as depicted on the site map.

CONCLUSION: The Planning Commission finds that this criterion is not met.

VI. CONCLUSION

Because the Planning Commission finds that the application does not meet the requirements of MZO 3.030(4)(a) and MZO 4.136(3)(c)(5) the application is denied.