FOR BOARD OF SUPERVISORS APRIL XX, 2022 PUBLIC HEARING

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Jim Portner, Hearing Administrator

DATE: March 14, 2022

DOCUMENT: P22CU00001

CONDITIONAL USE PERMIT REQUEST FOR PUBLIC HEARING:

Request of Diana Osborne, representing Forest Investments, LLC (owner), on property located at 12849 & 12857 N. Sabino Canyon Park, in the RVC (Rural Village Center) Zone, for an expansion of the Mount Lemmon Lodge (for an outdoor garden), in accordance with Section 18.41.040 of the Pima County Zoning Code. (District 4)

CASE BACKGROUND AND PARTICULARS

This is a request to construct a new outdoor garden adjacent to the (presently under construction) Mount Lemmon Lodge within the Summerhaven community on Mount Lemmon. The conditional use permit for the Lodge was approved by the Board of Supervisors in February, 2020 (Case No. P19CU00014). The Lodge is designed in the “chalet” style” and the proposed garden will provide a unique outdoor amenity for its guests, including intimate spaces for relaxation, as well as a day spa and exercise facility. The original Lodge proposal enjoyed overwhelming support from the Mt. Lemmon community; the same is true with the proposed garden expansion, as is evidenced by the more than twenty (20) letters and emails of support that have been received by staff in this case, and zero (0) in opposition.

SUMMARY OF THE HEARING ADMINISTRATOR MEETING

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on March 9, 2022. Due to prevailing Covid-19 conditions, the hearing was held telephonically. The applicant (Diana Osborne) presented the case to the hearing administrator and answered all of his questions. She expressed her acceptance of the special conditions recommended by staff, particularly the one pertaining to the use of the garden by hotel guests only, together with capping its maximum occupancy at forty (40) people.
While numerous members of the public attended the hearing and were on the conference call, none (0) elected to speak on the matter. The Hearing Administrator took this silence as tacit support consistent with the many letters received. These letters are part of the case record and have been included in the Board of Supervisors packet on this item.

After hearing all of the above, the Hearing Administrator thanked the applicant for their contribution to the revitalization of Summerhaven, and then closed the public hearing.

HEARING ADMINISTRATOR’S COMMENTS

The Hearing Administrator is in full support of this application and is gratified that the support of the Mt. Lemmon community is substantial.

The submitted materials illustrate a very creative and innovative concept that will clearly be a valuable addition to Mount Lemmon and Summerhaven. Given the design particulars and detail provided, the Hearing Administrator sees no need to articulate a lengthy set of special conditions, other than the following: 1) requiring that the garden adhere to the site plan and conceptual drawings which accompanied this conditional use permit application; and 2) incorporating the recommended special conditions put forth by the Development Services Department (DSD), the Regional Flood Control District (RFCD), and the Department of Transportation (DOT).

HEARING ADMINISTRATOR’S RECOMMENDATION

After visiting the subject property and considering the facts of this case, together with the design materials submitted by the applicant and the strong neighbor support expressed, the Hearing Administrator recommends an APPROVAL of this request for a Type II conditional use permit for an expansion of the Mount Lemmon Lodge for an outdoor garden. The applicant is advised that this is a recommendation to the Board of Supervisors, who will make the ultimate and final decision on this CUP request.

Should the Board of Supervisors agree with the Hearing Administrator’s recommendation for approval, it is suggested that this approval be granted subject to the following standard and special conditions:

**Standard Conditions & Requirements per the Pima County Zoning Code**

1. A hotel/lodge (and this outdoor garden expansion) is allowed in the RVC Zone as a conditional use per Section 18.41.040.A.36.

**Special Conditions – Hearing Administrator**

1. The outdoor garden shall be developed in substantial conformance with the design materials and drawings provided in this conditional use permit application.

2. The garden space, including the spa facility, exercise facility, and toilets will be for the use of overnight paying guests only, and the occupancy shall be limited to the Lodge’s guest occupancy and shall not exceed a total number of forty (40) persons at any one time.
3. The Regional Flood Control District shall review and approve the proposed garden at the time of development permitting.

REQUIRED STANDARDS AND FINDINGS

Following are the Hearing Administrator’s findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. **It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

   The Pima County Comprehensive Plan designates this site and the surrounding private properties as *Neighborhood Activity Center (NAC)*, the purpose of which is to provide designated areas for the provision of neighborhood-level goods and services for the convenience of surrounding residents.

   It is the Hearing Administrator’s position that the approved hotel/lodge, together with this outdoor garden expansion, is wholly consistent with the purpose of the *Neighborhood Activity Center (NAC)*.

2. **It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

   It is the Hearing Administrator’s position that the proposed conditional use, if constructed in substantial conformance with the submitted concept drawings and design particulars, as well as with the *Special Conditions* prescribed above, will satisfactorily safeguard the adjacent properties and their permitted uses of same.

3. **It has adequate accessibility to the County road network.**

   The site has direct access to N. Sabino Canyon Park, which is a paved, public street and the “main street” of Summerhaven. Access is found to be adequate, especially given that there will be no separate vehicular access for the garden area.

4. **It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

   Not applicable; required parking pertains to the Lodge only; no new or separate parking is associated with the proposed outdoor garden.

5. **It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

   It is the Hearing Administrator’s finding that the new use poses no significant public threat in any of the above ways.
6. **Hours of operation will not be detrimental to adjoining residents.**

   Hours of operation are found to not be an issue in this instance.

7. **Landscaping will be fully in conformance with zoning code regulations.**

   Required landscaping, buffers, etc. shall be reviewed by staff as appropriate at the time of development permitting.

**SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES**

**Comprehensive Plan Regional Environmental Policies — Conservation Lands System**

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

1. **Important Riparian Areas** — 95% undisturbed natural open space
2. **Biological Core Management Areas** — 80% undisturbed natural open space
3. **Special Species Management Areas** — 80% undisturbed natural open space
4. **Multiple Use Management Areas** — 66-2/3% undisturbed natural open space

The subject property is **OUTSIDE OF** the MMB-CLS.

**Staff Commentary on Biological Impacts**

Staff has reviewed this application and finds that, as long as the site is developed in conformance with the submitted conceptual site plan, then: 1) its approval will not affect any resources essential to Pima County’s biological conservation priorities; and 2) it would not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update. The property was already disturbed by past terracing and outdoor construction by the prior owners. Many of these remnant elements have been incorporated into the new garden design.

**Facts Confirmed by the Pima County Geographic Information System (GIS)**

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:
**Cactus Ferruginous Pygmy Owl.** The subject property is located within an area that was not designated as former critical habitat and is not a part of draft recovery area. This site is not located within the Priority Conservation Area (PCA) for this species.

**Western Burrowing Owl.** The subject property is not located within the Priority Conservation Area for this species.

**Pima Pineapple Cactus.** The subject property is located within an area that is outside of the known range for the Pima Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

**Needle-Spined Pineapple Cactus.** The subject property is located within an area that is outside of the known range for the Needle-Spined Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

**RECOMMENDATIONS BY THE DEPARTMENT OF TRANSPORTATION (DOT) AND BY THE REGIONAL FLOOD CONTROL DISTRICT (RFCD):**

The Department of Transportation and the Regional Flood Control District have reviewed this application and provided specific comments and recommended conditions. These have been incorporated into the recommended Special Conditions put forth by the Hearing Administrator.

**attachments**

cc: Carla Blackwell, Director, Development Services  
    Dan Ice, Chief Building Official  
    Chris Poirier, Planning Official  
    Tom Drzazgowski, Chief Zoning Inspector  
    Forest Investments, LLC, Owner  
    Diana Osborne, Applicant On Behalf of Owner