

Before the Planning Commission

Planning Department File No. 2024-03-021

**CONDITIONAL USE APPLICATION
FOR
SHORT TERM RENTAL**

Planning Commission Meeting Date: April 25, 2024

- 1. APPLICANT:** Sanchez Family Trust
1145 Lucky Lane
Ontario, Oregon 97914
- 2. OWNER OF RECORD:** Sanchez Family Trust
8124 N Pennsylvania Ave
Fruitland, ID 83619
- 3. PROPOSED ACTION:** Conditional Use approval for a short-term rental.
- 4. PROPERTY IDENTIFICATION:** Tax Lot 900, T18S, R47E, Sec. 4BA; Assessor's Map 18S47E4BA; Malheur County Reference #7943.
- 5. PROPERTY LOCATION AND DIRECTIONS:** The property is located at 1145 Lucky Ln, in Ontario, OR.
- 6. ZONING:** Residential with the Urban Growth Area of the city of Ontario. (O-RS+UGA).
- 7. PARCEL SIZE:** The parcel is 2.92 acres.
- 8. PARCEL USE:** The primary use of the property is for a single-family dwelling with a few miscellaneous residential improvements.
- 9. SURROUNDING USE:** All the adjacent properties are used for single family dwellings.
- 10. ACCESS:** Access is off Lucky Lane and through privately owned tax lot 801 on map 18S47E4BA (Exhibit 2)
- 11. SANITATION REQUIREMENTS:** No new sanitation system will be required as there is an existing permitted system.
- 12. FIRE PROTECTION:** The parcel is located within the Ontario Rural Fire Protection District.
- 13. NATURAL HAZARDS:** No natural hazards have been identified.

14. WATER RIGHTS: The property is within Owyhee Irrigation District boundaries.

15. SOIL TYPE: The entire property is covered in soils of class I and VI.

16. ZONING HISTORY: The existing stick-built home was constructed in 1997. In 2007 there was a Property Line Adjustment (#2007- 02-013)

In 2016 there was an addition to the existing garage (#2016-05-011) and another Property Line Adjustment was done in 2023(#2023-10-015).

There is no other known zoning history.

CITY OF ONTARIO AND MALHEUR COUNTY URBAN GROWTH AREA JOINT MANAGEMENT AGREEMENT (“Agreement”)

Per Agreement (recorded instrument #96-2129), Section 2.3:

The county shall have full decision-making authority to review all land use permits in the UGA.

The City shall have automatic standing to appeal any County decision in the UGA.

The Joint Technical Review Committee shall be established by the City and the County to coordinate land use decisions in the UGA.

The Joint Technical Review Committee met on April 17, 2024.

ONTARIO URBAN GROWTH AREA USE CRITERIA

HOME BUSINESS: A home business shall comply with the following standards:

1. Location:

Finding: Per city of Ontario instructions at the April 17, 2024 meeting this use shall be allowed while the property is in the Urban Growth Area and it shall be discontinued when/if an annexation occurs.

2. Scale: A home business must fit within the dwelling and must be incidental to the use of the dwelling as a residence. If there is no existing accessory building, one may be built, provided the side walls are no higher than ten feet (10') from the elevation of the floor and the building covers no more than two thousand five hundred (2,500) square feet in area.

Finding: Short term rental will be operated entirely within the confines of the residence and the corresponding grounds.

3. Participants: Family members living on the property and a combination of no more than ten (10) full time employees are the only persons that may be employed in a home business.

Finding: The only participant in the business will be the owners of the property. This criterion is met.

4. Character: The property upon which a home business exists shall be and kept in a clean, neat, orderly fashion.

Finding: The operation of a short-term rental or vacation rental will not alter the character or visual appearance of the property with the exception of general residential upgrades. This criterion is met.

5. Storage: All materials associated with home business shall be screened from view or contained within the allowed dwelling or accessory structures of the home business.

Finding: The operation of the short-term rental or vacation rental does not require storage. This criterion is met.

6. Display: There shall be no display of products visible from outside the allowed dwelling or accessory structures of the home business.

Finding: The operation of the short-term rental or vacation rental will not require any display of signs to advertise the business on the exterior of the residential structure. This criterion is met.

7. Traffic: Customer, client and/or business traffic shall not exceed fifteen (15) trips per day. Business delivery vehicles shall not exceed gross vehicle weight of eleven thousand (11,000) pounds. U.S. postal service deliveries are exempt from this requirement.

Finding: The traffic flow to the short-term rental or vacation rental shall not be anymore than the normal traffic for a residence in the Ontario, Oregon area. Per Rural Road District #3 no negative traffic impact is expected (Exhibit#2). This criterion is met.

8. Parking: Vehicles owned, leased or operated by the participants of a home business shall not be parked or stored on the street or in the public right of way.

Finding: The operation of the short-term rental or vacation rental will only require parking for a single family. If additional parking is required, there is ample room to park more than one vehicle. This criterion is met.

9. Noise and Other Nuisance Factors:
 - a. Noise: Noise shall be kept to a minimum at all times, especially between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. Equipment that creates a shrill or penetrating sound shall, at all times, be operated only within an enclosure that effectively prevents noise measured at the nearest dwelling exceeding the otherwise ambient noise level of the neighborhood. Where a question arises regarding noise levels, the planning director's determination shall be final.

Finding: The operation of short-term rental or vacation rental at the times where it is occupied by short term tenants This criterion is met.

- b. Odors: Odors shall not be detectable from any boundary of a home business property at any time.

Finding: There will be no odors to mitigate. This criterion is met.

- c. Electrical Interference: A home business shall not create visual or audible electrical interference in any radio, television, or other electrical device off the subject property or cause fluctuations in line voltage off the subject property.

Finding: The electrical consumption will be no greater than the historical electrical use of the property. This criterion is met.

OTHER FINDINGS OF FACT

The applicant has submitted additional Findings of fact in the conditional use application.

CONDITIONS OF APPROVAL

1. PREREQUISITE:

- a. All aspects of the proposed short term rental must stay confined within the boundaries of the subject property.

2. PERFORMANCE STANDARDS:

- a. Any deviation from this proposal, including but not limited to additions of new structures, shall void this permit and a new permit must be obtained. This permit is not transferable – it is personal to the Applicant and shall not run with the land. New owners of the property will need to obtain a permit.
- b. The proposed change of use for lodging house must comply with Malheur County Building Department’s and Oregon Building Codes requirements and NO OCCUPANCY or USE of the single family dwelling shall be allowed until the certificate of occupancy has been issued (Exhibit #3).
- c. Lighting shall not project off the property. Use of glaring lighting is prohibited.
- d. Occupancy shall be limited to 10 participants (two occupants per bedroom).
- e. Noise levels must not be unreasonable – ORS 166.025.
- f. Off-site parking is not allowed. An ingress/egress easement and road maintenance agreements must be entered into the chain of title of reference number 7943 for the benefit of Tax Lot 900, to allow for adequate access to Lucky Ln through the adjacent Tax Lot 801.
- g. All fire apparatus accesses must meet the 2022 Oregon Fire Code. Driveways or fire apparatus access lanes more than 150’ in length will require a turnaround area large enough for fire apparatus. Fire department access roads are required to be a minimum of 20’ in width, 13’6” vertical clearance, and be constructed of an all-weather driving surface, capable of supporting a minimum of 75,000 pounds. Signage may be required to preserve fire department access. If the property is secured by a locking

gate(s), provisions for fire department emergency access is required. Additionally, minimum gate(s) openings size is 20' in clear width. The first arriving fire apparatus will have 750 gallons of water available. Additional water supply will be delivered via water tenders, which may take up to 20 minutes after a fire incident report (per Fire Department letter – Exhibit #4).

- h. Pool safety guidelines shall be in place and compliant with Building Codes pool safety regulations.
- i. Approved signs shall be posted to direct traffic to and from property.
- j. This permit shall become void upon annexation into the city of Ontario.

EXHIBITS

- 1. Application
- 2. Letter from Road Assessment District #3
- 3. Email from Malheur County Building Department
- 4. Letter from Ontario Rural Fire Protection District

CONCLUSION

Based upon the foregoing finding of fact, the Malheur County Planning Commission makes the following conclusion and decision:

Substantial evidence exists in the record to support the conclusion that the application meets the general and specific criteria established in the Malheur County Code and Oregon Revised Statutes for a short term rental in an residential zone in the Urban Growth Area.

ORDER

This application for a short term rental in an residential zone in the Urban Growth Area is approved.

APPEALS

The appellate body for appeals from the final decision of the Planning Commission is the County Court. To file an appeal an appellant must file a completed notice of appeal on a form prescribed by the Planning Department with a \$200.00 appeal fee with the Planning Department not later than 5:00 pm on the tenth day following the mailing of written notice of the decision. Notice of appeals may not be received by fax or email. The notice must include a statement raising any issue relied upon for the appeal with sufficient specificity to afford the County Court an adequate opportunity to respond to and resolve each issue. All appeals from the Planning Commission's final decision shall be based on the record of the hearing made before the Commission.

Therefore, no additional information or testimony not included in the record of the hearing before the Planning Commission may be brought before the appellate body. The appellant must pay for the transcription of the hearing appealed from and submit the transcript to the Planning Department within ten (10) days after the date of notice of appeal is filed or ten days after the hearing tape is mailed or given to the appellant, whichever is later.

Kathy Clarich

Planning Commission Chair
Kathy Clarich

4-26-2024

Date