



**PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT**

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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

P20CU00002

HALLEN — N. LAK A YUCCA ROAD

Type I Conditional Use – Sanatorium & Campground

Background & Authority

Chapter 18.97, in accordance with Section 18.13.030 of the Pima County Zoning Code, requires a Type I conditional use permit (CUP) for a sanatorium and campground (considered an “other use which is similar in type, scale, and intensity as other listed conditional uses”) on property zoned RH (Rural Homestead) within the Buffer Overlay Zone (BZ).

Particulars of the Request

This particular request pertains to a proposed sanatorium and campground on property that has already operated this same use in the past, but did so without the appropriate conditional use permit approvals in place. It is important to note that classifying this request as a “campground” is technically correct, but can also be misleading. The individuals residing on this property have historically done so on a long-term basis, so there is no nightly or weekly change-over of visitors coming and going from the property. The “sanatorium” aspect of the request stems from the fact that prayer and healing ceremonies have routinely been conducted on the property for the benefit of those residing there.

While upwards of seven leased residential units have been on the property in the recent past, this request is to authorize a maximum of four (4) units on the property going forward, together with passive activities for the residents such as the aforementioned prayer and healing ceremonies, sweat-lodge ceremonies, private special events, and socializing in a central community space. These activities are intended for on-site residents only and will not be open to nor advertised to the general public.

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on June 29, 2020. The hearing was conducted telephonically due to the prevailing Covid-19 pandemic. The applicant made a brief presentation and answered the Hearing Administrator's questions. Four (4) members of the public spoke on the matter, all of which expressed concerns in opposition.

Issues raised during the public testimony included: 1) the past operations on the property having featured far more than four units, to the point of resembling an RV park; 2) the belief that a campground and sanatorium comprised a commercial use that was inappropriate within the established residential surroundings; 3) the potential for additional traffic on the neighborhood roadways and the need for additional maintenance; 4) the belief that strangers residing in the neighborhood comprised a safety and security threat; 5) concerns as to the potential for large parties and attendant noise violations; and 6) the potential for selling or transferring the entire operation to a new owner who might not honor or respect their surrounding neighbors.

Staff reported that a significant amount of written public comment was received on the case, being comprised of seventeen (17) letters of support, together with a protest petition and cover letter representing twenty-nine (29) protests by nearby property owners. Three (3) phone calls were also received seeking additional information on the case.

After hearing all of the above and having been provided with all the aforementioned correspondence, the Hearing Administrator took case under advisement.

Hearing Administrator's Comments

The Hearing Administrator finds that the testimony given at public hearing raises valid points regarding the need to respect and preserve the established residential character of the area, its quiet and peaceful nature, and the safety and security of the surrounding neighborhood and its residents.

That being said, I find that paring the proposed use down to a maximum of four (4) residential units for lease, together with allowing only passive activities and gatherings for prayer, healing, sweat-lodge ceremonies, and small private gatherings, comprises an overall complement of uses that can co-exist peacefully with the present residential context and be operated in a way that fully honors and respects the surrounding residents.

In order to ensure that this is the case, a series of special conditions are being applied to the property going forward. These special conditions have the same force and effect as the Pima County Zoning Code, such that any violation of them is subject to the full enforcement authority of the Pima County Code Enforcement Division. The proposed special conditions also include a stipulation that, if the current owner (Mr. Hallen) sells the property, this conditional use permit approval and the rights it grants shall be terminated.

It was a common sentiment, even amongst those who spoke in opposition to this case, that the current owner is a good and respectful neighbor. While he had obviously expanded his use to a point where it was beyond appropriate for its surroundings, the Hearing Administrator finds that now capping the number of leasable residences on the property, together with limiting the private activities that can occur thereon, will ensure its proper operation in a manner that is respectful to the surrounding property owners.

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 Comprehensive Plan designates the subject site as *Resource Sensitive (RS)*, the purpose of which is to identify land holdings with environmentally sensitive characteristics within close proximity to public preserves (such as national parks) and to help ensure uses which are compatible with same.

In the present case, the requested land use has already been active on the property for some time. Complaints and problems arose when the owner expanded it to upwards of seven leasable units; this was clearly too many. The Hearing Administrator's approval mandates that the owner return the property to its prior operation of no more than four (4) leasable units, and further limits the private activities that can occur on the site for its residents.

Appropriate special conditions have been crafted to ensure the proper operation of the site as a sanatorium and campground going forward. When operating under the stipulated special conditions, the Hearing Administrator finds the proposed use to not be in conflict with the stated goals of the Comprehensive Plan.

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.

The Hearing Administrator finds that the proposed use can coexist peacefully and respectfully with the surrounding property owners and their legally permitted uses, as long as it is operated in accordance with the Special Conditions stipulated herein.

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

The property has access to a paved street. Due to the fact that the proposed use caters to long-term renters, it is found to be a minimal traffic generator.

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

Parking sufficiency and compliance with the Zoning Code will be verified during the review of the site plan required by the proposed Special Conditions.

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.

The proposed use will not impact the surrounding residential properties in any of the above ways, nor otherwise interfere with their routine activities. Special Conditions have been proposed to ensure the proper size and intensity of the campground and sanatorium going forward.

6. Hours of operation will not be detrimental to adjoining residents.

Hours of operation are found to not be an issue in this case. The site will serve long-term residents and provide for the type of passive, private activities that are not materially different than those which can be held on any private residential property. When operated in accordance with the proposed Special Conditions, the proposed use is found to not be detrimental to the adjoining properties.

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

Landscaping requirements, if any, are a matter that will be verified with the review of the required site plan.

Hearing Administrator's Decision

This modified application for a Type I conditional use permit for a sanatorium and campground, on property zoned RH, is hereby **approved** by the Hearing Administrator, subject to the following standard and special conditions:

Standard Conditions

The Pima County Zoning Code allows the proposed use within the RH zone, subject to the Type I conditional use permit process.

Special Conditions

1. The sanatorium and campground is limited to no more than four (4) spaces for lease. The four spaces shall be arranged on the property in general conformance with the submitted sketch plan that accompanied this conditional use permit application.
2. Any desired expansion of the campground by the applicant beyond the four (4) leasable spaces allowed will require a new CUP, public notice, and public hearing process.
3. Additional activities allowed on the property shall be for its private residents only and shall not be offered nor advertised to the public. These additional activities are limited to passive, quiet uses such as prayer & healing ceremonies, sweat-lodge ceremonies, social gatherings, and any other activities of similar passive nature and intensity. No amplified music is allowed and all group activities shall conclude no later than 9:00 PM.
4. No other non-residential or commercial uses are implied or approved for the property other than those specific ones described above.
5. No formal Development Plan or Site Construction Permit shall be required. The applicant shall submit a more formal site plan, drawn to scale, to the Pima County Chief Zoning Inspector, who is then tasked with reviewing it, coordinating as needed with other County reviewing departments, and for determining any related permits necessary to ensure compliance with all applicable codes.
6. The applicant/owner shall obtain a Floodplain Use Permit (FUP) from the Pima County Regional Flood Control District.
7. In the event that the current owner (Mr. Dale Hallen) chooses to sell the subject property, this Conditional Use Permit approval, together with all of the rights and stipulations it grants, shall become null and void.

Protest Period and Appeal Procedures

As is the case with all Type I conditional use permit applications, this decision is subject to a statutory 30-day protest period from the date of this decision. If a valid protest is received within the 30-day period from a property owner within the formal notification area, an appeal hearing will be scheduled before the Board of Supervisors, who shall then make the final decision on this conditional use permit. The 30-day protest period shall commence from the date of this written decision.

Any party interested in filing an appeal should contact Mr. Tom Nicholas Coussoulis, Senior Planner, at phone number 724.9000. Please be advised that filing fees apply to any appeal, and that these fees are payable by the party filing the appeal request.

Respectfully Submitted:



Jim Portner
Pima County Hearing Administrator

July 6, 2020
Date