

**Addendum:
Additional Written Comments Received**

(Appeal #22-0085)

Keith Cleveland

From: Tucker, Roy (POR) <RTucker@perkinscoie.com>
Sent: Monday, June 20, 2022 7:53 AM
To: Keith Cleveland
Cc: tucker314@comcast.net
Subject: Cooper Spur B&B

Keith -- We understand that Mount Hood Meadows' application for a bed and breakfast in the log cabin opposite the Cooper Spur Inn has been approved, subject to appeal. As a neighboring land owner, we would like to express our concern about the approval of the bed and breakfast and Meadows' related development plans. Based upon our observations over the years, the log cabin has been used solely in connection with the hospitality and wedding venue business that Mount Hood Meadows conducts at Cooper Spur. We have no objection to the use of the log cabin in isolation as a bed and breakfast facility, but believe that Meadows' intention is to continue to use it in conjunction with its broader business at Cooper Spur, either as it is now conducted or as expanded through future development. As we understand it, the applicable ordinance requires that the bed and breakfast not have any "characteristics of a business". We believe that the intent will be to operate it as part of the hospitality business at Cooper Spur. In addition, the staff report refers to an assumption that the bed and breakfast not be used as a justification for a plan and zone change to commercial use. The staff report says that no change is "being requested at this time". If the approval is predicated on this observation, we think it makes sense to build that assumption into the approval as a condition, if it is ultimately upheld.

We are aware that Meadows continues to keep its options open to further develop the Cooper Spur property, which is particularly relevant if it is successful in retaining the larger acreage currently anticipated by the USFS land swap. We are aware of a camping and RV park that was contemplated by Meadows in 2019, which may still be under consideration by them. The potential for developing their acreage in those or other ways would be a significant change in Meadows' business at Cooper Spur, one which none of the neighboring property owners would be supportive of, and would be inconsistent with the current uses and values on the north side of Mt. Hood. We are hopeful that the staff will ensure that the bed and breakfast, if it is approved, does not become a link to further development at Cooper Spur.

Thanks for your consideration of our comments. – Roy and Roz Tucker

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June 21, 2022

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VIA EMAIL

PLANNING@HOODRIVERCOUNTY.GOV;
KEITH.CLEVELAND@HOODRIVERCOUNTY.GOV)

Hood River Planning Commission
c/o Keith Cleveland, Principal Planner
Hood River County Community Development
601 State St.
Hood River, OR 97031

**Re: Response to Issues Raised in Appeal #22-0085 of Conditional Use Permit
Application #21-0258 (Bed and Breakfast Facility)**

Dear Commissioners:

This office represents Meadows North, LLC, the applicant (“Applicant”) in the above-referenced conditional use permit application (“Application”). This letter provides the Applicant’s response to the issues raised by Thrive Hood River (“Thrive”) in its Petition for Appeal (“Petition”).

I. BACKGROUND

A. Application and Property

The Applicant is seeking approval from Hood River County (“County”) to establish and operate a bed and breakfast facility as a home occupation within an existing single-family dwelling on Cooper Spur Road, approximately two miles from its intersection with Highway 35. The property is zoned Forest (F-1). Within the F-1 zone, home occupations involving bed and breakfast facilities are allowable as conditional uses.

B. Thrive’s Appeal

In the Petition, Thrive contends that the proposed bed and breakfast facility does not comply with the standards that apply to the review of bed and breakfast facilities as home occupations and therefore the Planning Director erred by approving the Application. Specifically, Thrive claims that the “Planning Director incorrectly found compliance with Articles 4, 53, and 56” of the Hood River County Zoning Ordinance (“HRCZO”) and that the decision “contains other deficiencies.” Unfortunately, Thrive has not provided further analysis under these standards, so the below response focuses on the specific issues raised in Thrive’s January 4, 2022 comment letter. In that letter, Thrive argues that the Application does not meet the HRCZO 56.50(C) requirement that the bed and breakfast facility be operated by an “owner or lessee” because the

bed and breakfast caretaker will be an employee of the Applicant. Thrive also argues that the Application does not meet the HRCZO 56.60(D) requirement that the bed and breakfast facility operator “must reside within the single-family dwelling in which the bed and breakfast facility is located” because the Applicant, a corporate entity, is the operator and will not reside within the single-family dwelling.

As explained below, Thrive’s arguments are not consistent with the plain language of the HRCZO. Thus, for the reasons outlined below and consistent with the recommendation in the June 13, 2022 Staff Report (“Staff Report”), we respectfully request that you approve the Application with the proposed conditions outlined in the April 4, 2022 staff report (“Original Staff Report”).

II. APPLICANT’S RESPONSE

A. The Caretaker Is a Lessee as Required by HRCZO Section 56.50(C)

As explained in the Application and the Staff Report, the bed and breakfast caretaker will be a lessee of the single-family dwelling on the property. The text of HRCZO 56.50(C) plainly states that the single-family dwelling must be occupied by the owner *or* by a lessee. Therefore, the HRCZO is clear that the occupant of a bed and breakfast facility need not be the owner of the property to meet the applicable requirement. Additionally, nothing in the text of HRCZO 56.50(C) prohibits an employee who has signed a valid lease agreement from qualifying as a lessee. As outlined in the Staff Report, the Applicant provided a draft form of lease agreement that provides the terms and conditions under which the bed and breakfast caretaker will lease the dwelling. In addition, proposed condition no. 2 in the Planning Department’s decision requires the Applicant to submit a final, signed copy of the lease agreement.

B. The Caretaker Is a Resident of the Property as Required by HRCZO 56.60(D)

The caretaker will also reside on the property within the single-family dwelling in which the bed and breakfast facility is located. HRCZO Section 56.50(D) requires the bed and breakfast operator to “reside” within the single-family dwelling in which the bed and breakfast facility is located. Section 1.160 of the HRCZO defines a resident as “[a] person who lives somewhere permanently *or on a long-term basis.*” (Emphasis added.) As noted in the Planning Director’s decision approving the Application, according to the terms of the draft lease agreement between the caretaker and the Applicant, the onsite caretaker will occupy the property year-round, using the property as a single-family dwelling while also operating a bed and breakfast on the premises. *See* Original Staff Report at 8-9. Because the caretaker will be living on the property on a long-term basis, the caretaker meets the HRCZO residency requirement.

C. The Caretaker Qualifies as an Operator Residing in the Single-Family Dwelling as Required by HRCZO Section 56.50(D)

Although the HRCZO does not define the term “operator,” Oregon courts have included employees within the definition of “operator” for the purposes of home occupation uses. ORS 215.448(1)(a) allows for the establishment of home occupation uses by counties so long as the use is “operated by a resident or employee of a resident.” The language of HRCZO Section 56.60(D) reflects this statutory language. As noted above, the caretaker will be a resident of the property. Although Thrive argues that the caretaker does not qualify as an “operator” under HRCZO Section 56.60(D) because the caretaker is merely an employee of the property’s owner, Oregon courts have explicitly recognized that the definition of “operate” in the context of home occupation uses includes the actions of employees. *See 1000 Friends of Or. v. Clackamas Cnty.*, 309 Or. App. 499, 510, 483 P.3d 706, review denied, 368 Or. 347, 489 P.3d 543 (2021).

In *1000 Friends*, the property owner sought a permit to renovate two existing barns on the property to accommodate an event use. *Id.* at 502. Those opposed contended that because the actual event hosting would be done almost entirely by the renters and not by the property owner or his employees the application failed to meet the requirement of ORS 215.448(1)(a) that the home occupation be operated by a resident or employee of a resident. *Id.* at 510. To interpret the meaning of “operate” the court turned to the dictionary. *Id.* The court stated that “[t]he plain meaning of the term ‘operate,’ in the context of ‘operating’ a business, is to ‘manage and put or keep in operation whether with personal effort or not....’” *Id.* (quoting *Webster’s Third New Int’l Dictionary* 1581 (unabridged ed. 2002)). The court pointed to another definition in the same dictionary that defined an operator, in part, as “a person that actively operates a business ... whether as owner, lessor, or *employee.*” *Id.* (emphasis added) (quoting *Webster’s Third New Int’l Dictionary* 1581). The court determined that the property owner qualified as an operator because he was responsible for “operational matters such as maintaining the event calendar and monitoring noise and sign removal.” *Id.*

Like the property owner in *1000 Friends*, the bed and breakfast caretaker will be responsible for operational matters relating to the business. In fact, the caretaker will be much more involved in the operation of the bed and breakfast than the property owner in *1000 Friends* was in managing the events hosted at his property. As outlined in the Original Staff Report, the caretaker will have numerous duties and responsibilities, including managing room availability, preparing guests’ rooms, greeting guests, and coordinating breakfast for the bed and breakfast occupants. Original Staff Report at 9. Given these numerous responsibilities and the fact that ORS 215.448, as interpreted by Oregon courts, specifically includes employees in its definition of “operate” the caretaker qualifies as an “operator” under Section 56.50(D) of the HRCZO.

D. The Bed and Breakfast Facility May Be Owned by a Limited Liability Company

Although Thrive’s arguments focus primarily on the role of the onsite caretaker, Thrive’s email to County planning staff suggests a more general objection to the ownership of the proposed bed

and breakfast facility. Specifically, in its January 4, 2022 letter, Thrive argues that the Applicant, not the employee caretaker, is the operator of the facility and states that “[i]t is unclear how a Limited Liability Company [(‘LLC’)], which is a form of business structure could be a resident” of the property. Thrive provides no support for its suggestion that a bed and breakfast facility may not be owned by a corporate entity, so there is little to address. That said, it is worth noting that bed and breakfast facilities in Oregon are commonly owned by LLCs. A review of the Oregon Bed and Breakfast Guild’s website and a list of County-permitted bed and breakfast facilities reveals numerous examples of bed and breakfast facilities organized as LLC’s operating in counties across the state of Oregon. Some examples include Sakura Ridge Bed and Breakfast¹ and Mt. Hood Bed and Breakfast² located in the County, Fair Haven Bed and Breakfast located in Lane County, Edward Adams House Bed and Breakfast located in Marion County, Bella Collina Bed and Breakfast located in Yamhill County, and The Bronze Antler Bed and Breakfast located in Wallowa County.³

Although the Applicant does not believe there is any support in the HRCZO for the proposition that bed and breakfasts may not be owned by LLCs, Thrive’s interpretation, if adopted, would likely have far-reaching consequences with no tangible benefits to the County or its residents. Bed and breakfast owners commonly organize as LLCs to secure reasonable insurance coverage and isolate themselves from personal liability. Given these practical business requirements of bed and breakfast owners, if adopted, Thrive’s code interpretation could effectively prohibit a use that is expressly allowed as a conditional use in the F-1 zone.

The proposed bed and breakfast not only complies with the applicable provisions of the HRCZO but it is also consistent with the general purposes of the F-1 zone. According to HRCZO Section 4.01, the purpose of the F-1 zone is to “assure the continuous growing and harvesting of trees consistent with management of soil, air, water and fish and wildlife, and while providing for agriculture *and recreation*.” (Emphasis added.) HRCZO Section 56.00 recognizes the importance of the bed and breakfast industry in “diversifying the County’s economy” and provides that the intent behind the zoning requirements for bed and breakfast facilities “to protect the character of single-family residential neighborhoods, to ensure protection of lands zoned Residential, Rural Residential, Rural Center, Exclusive Farm Use, Forest, Primary Forest, Scenic Protection and Columbia Gorge Combining *while allowing the orderly and reasonable development of Bed and Breakfast facilities in Hood River County*.” (Emphasis added.) By offering an affordable place for guests to stay, the bed and breakfast will contribute to the local economy, promote the many natural amenities that the County has to offer, and make those

¹ Sakurambo, LLC was registered on October 4, 2001.

² Mt. Hood Bed and Breakfast, LLC was registered on February 8, 2007.

³ A full list of the Oregon Bed and Breakfast Guild’s members can be found on the Guild’s website [here](#).

natural amenities accessible to those that otherwise would not be able to afford to stay overnight on Mt. Hood.

III. CONCLUSION

As demonstrated above and in the materials previously provided by the Applicant, the Applicant's proposed bed and breakfast facility complies with all the requirements of the HRCZO. Thrive's arguments regarding HRCZO Article 56 are not consistent with the language of the HRCZO. For these reasons, the Applicant urges the Commission to adopt the findings in the Staff Report and approve the Application.

Thank you in advance for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Sarah Stauffer Curtiss', with a long horizontal flourish extending to the right.

Sarah Stauffer Curtiss

Revd
6/21/22

I hope you will reject this application for the precedent it sets. In resort and recreational towns nationwide, there is a tendency toward corporate ownership of housing stock. These houses are then turned into lucrative STRs and B&Bs and become unavailable as long-term housing for residents. Think Aspen.¹

Hood River County has the highest land prices, the highest percentage of out-of-state buyers, and the highest percentage of corporate buyers in Oregon.²

Corporations can and will pay commercial prices for residential housing where they can turn those properties into commercial mini-hotels. Approving this application paves the way. Simply install an employee, just as in a hotel where the on-site manager is given a room, and call it their home occupation. That is not the intent of the STR, B&B, and home occupation codes. If this application is approved, it will be the result.

Please reject this application.

Chris Robuck
4380 Barrett Drive
Hood River, OR 97031

¹ Powder Days: Ski Burns, Ski Towns, and the Future of Chasing Snow, Heather Hansman, 2021

² 2019 study by Megan Horst of PSU at <https://www.mdpi.com/2073-445X/8/3/39>

Keith Cleveland

From: Sue Hartford <shartford@embarqmail.com>
Sent: Tuesday, June 28, 2022 2:23 PM
To: Keith Cleveland
Subject: Testimony for Appeal #22-0085 of a CUP #21-0258 for a Bed and Breakfast Facility, applicant Meadows North, LLC

6-28-22

As a landowner in the Cooper Spur area, we have questions related to the approval of the B&B application by Mt. Hood Meadows:

- 1) Will the County be able to assure that the B&B regulations are being adhered to by MHM?
If not, we oppose the approval of the application.

- 2) Will approval of the B&B application serve as a springboard for MHM to eventually receive a zone change to commercial use?
If so, we oppose the approval of the application. We do not need commercial expansion in the area.

Thanks for considering our comments.

Sue and Pat Hartford
3580 Thomsen Rd.
Hood River, OR 97031



June 10th, 2022

Hood River County Planning Department
601 State Street
Hood River, OR 97031

Re: Cooper Spur Mountain Resort's Bed and Breakfast application

Dear County Planning Commissioners,

My name is Aidee Farwig and I have spent most of my life in the Hood River Valley. I lived in the Parkdale area for many years beginning in the 1970s. I worked at Diamond Fruit Company and my late husband Bill Farwig worked at Luhr Jensen.

In all these years I have noticed how certain privileged groups have been against others outside their groups.

I am familiar with the longstanding ill will by Hood River Valley Resident's Committee (now Thrive) toward Mt. Hood Meadows, Cooper Spur, and other businesses in Hood River County.

It seems that they will stop at nothing to find ways to negatively impact the profitability of these businesses. Businesses who employ hundreds of community members and provide opportunities for enrichment, outdoor recreation, and wellness. Yet they are threatened by the constant obstructive harassment Thrive poses to them and Hood River County.

The importance of bed and breakfast facilities in the upper Hood River Valley includes community vibrancy, employment opportunities, and recreation access for guests and residents. It is a well-known fact that the longer these guests and tourists stay in the community, the more money they spend.

Please don't be misled by Thrive's misguided and selfish actions that obstruct local businesses and our Hood River Valley community from evolving and thriving during these challenging economic times.

Having a first-class bed and breakfast facility in the upper valley would help the struggling local businesses in Parkdale and Odell with new visitors that otherwise wouldn't stop there.

Respectfully,

A handwritten signature in black ink, appearing to read "Aidee Farwig". The signature is fluid and cursive.

Aidee Farwig
729 Henderson Rd, Hood River, OR 97031

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