



DEPARTMENT OF PLANNING AND ZONING

PLANNING DIVISION

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March 10, 2025

Jason Morphet
Nations Roofing & Construction
15421 Bellamy Brothers Blvd
Dade City, FL 33523

RE: 1487658 Emerson Road – Nonconforming Use Determination

Dear Applicant and/or Representative:

This letter is in response to a request for a determination of use on parcel (key #381722) located on Emerson Road, Hernando County. Thank you for your patience as staff reviewed the request. It is the understanding of staff that the subject site existed as a nonconforming seven (7) unit mobile home park for several decades and only recently (last 2 to 3 years) has sought to upgrade the mobile homes that were considered inhabitable and/or required replacement. As you are aware, the property is zoned Agricultural, which under current rules would only permit one (1) dwelling unit. A recent request by your team was made to reinstate or replace the units that have been demolished over the last several years, however, the release of the permits for those replacement units is pending due to final determination of the nonconforming status and the legality of the mobile home park as a whole. Based on the history of the parcel, permit records and recent activities, it has been determined that the parcel has forgone its nonconforming status. This determination is based on both the fact that the mobile homes that were removed failed to be replaced within the year of their demolition permits and the plans to expand the use beyond its original status (*see code references below*).

Additionally, it was indicated that an email from Jennifer Soch, a previous employee, granted the rights to replace the mobile homes regardless of the time that lapsed between the demolition of the mobile homes and the attempt to replace the units. In an effort to assist in reviewing and possibly granting Ms. Soch's decision, staff requested the email be provided; however, to date, no email has been provided, despite a "Public Records Request". Furthermore, it is the determination of the Administrative Official, that Ms. Soch's assessment of the use was incorrect. A nonconforming use cannot be extended beyond the Code of Ordinance timeframes/limits and regulations (*see code reference below*). Unfortunately, at this time, your project is considered nonconforming and would be required to meet the minimum and current requirements of the County Code of Ordinance.

It is suggested that a rezoning to AR-2 (Agricultural Residential 2) be requested in order to bring the subject site into zoning conformance. The AR-2 (Agricultural Residential 2) zoning district allows parcels as small as one (1) acre and would allow for the parcel to be split into a maximum of ten (10) legal parcels or lot size configuration within those perimeters.

If the zoning is approved, then a Class C subdivision would be required. Class C and Class B subdivisions splits are considered rural subdivisions with a minimum size of 2.5 acres; therefore, you would need to appeal this request to formally create a subdivision with 1.0 acre lots. The appeal is a formality and would be determined by the Board of County Commissioners, at which time the justification could be made that the parcel has had higher densities in the past and the current request is intended to bring the parcel into conformance. Please be advised that additional requirements from other departments may be necessary during the development process. Our staff would be more than happy to assist you.

Hernando County Code of Ordinance

Appendix A – Zoning

Article II General Regulations, Section 2. - General Regulations for Structures And Uses.

- (2) Any use which is lawfully existing on the effective date of this ordinance, or any amendment thereto, and which does not conform with all the provisions of this ordinance may be continued subject to the following regulations:
- (a) The use shall not be expanded without the approval of the Planning and Zoning Commission. Approval to expand or to extend a use shall not be granted if such expansion or extension will be detrimental to the overall character or appearance of the general area. Expanded uses shall be confined within the boundaries of that parcel of land upon which the use occupied on the date the use became nonconforming. The determination by the Planning and Zoning Commission of whether the expansion of a nonconforming use is detrimental to the overall character or appearance of the general area includes, but is not limited to, the following factors:
 - (i) Whether the expansion of the nonconforming use is incompatible with the surrounding land uses.
 - (ii) Whether the expansion of the nonconforming use changes the scope, volume, intensity, or extends the useful life of the nonconforming use.
 - (iii) Whether the expansion of the nonconforming use requires a significant investment in additional infrastructure to allow the use to continue.
 - (iv) Whether the expansion of the nonconforming use constitutes a change of use, including the requirement of additional types of use permits that are necessary to accommodate the proposed expansion.
 - (v) Whether the expansion increases residential density.
 - (vi) Whether the expansion is contrary to the public interest.
 - (b) Shall not be changed to or expanded to include another nonconforming use.
 - (c) May be changed to a conforming use.
 - (d) Whenever a nonconforming use has been discontinued for a period of one year, no nonconforming use may be reestablished on those premises.
 - (1) A use shall be considered discontinued once the activities and commerce, essential to the continuation of the use, have ceased.
 - (2) Proof of the discontinuation of a nonconforming use for the required time period creates a rebuttable presumption of intent to discontinue. The presumption does not apply when a nonconforming use is discontinued involuntarily by compulsion of government action.
 - (3) Where a nonconforming use has been deemed or presumed to have been discontinued under the provisions of this Section, the owner of the property or operator of the use may rebut the presumption of discontinuance by establishing, by clear and convincing objective evidence, that the use has continued or existed beyond the date of presumed discontinuance. In all cases, the party attempting to rebut the presumption of discontinuance shall have the burden of establishing the continuation or existence of the use beyond that date of presumed discontinuance, as well as the burden of establishing the existence or continued operation of the use at any particular time.

- (e) Shall be discontinued ten (10) years after reasonable notice from the Administrative Official to the owner of the parcel upon which the use exists that the use is nonconforming. The Governing Body may, upon application by the owner of the parcel upon which the nonconforming use exists and after a quasi-judicial hearing, modify the time for the amortization of the nonconforming use to allow the owner of the parcel upon which the nonconforming use exists to realize a return on his or her investment.
- (f) Shall be discontinued where the factual circumstances relating to the use of the premises shows an intentional and voluntary act to discontinue the nonconforming use on the premises.
- (g) Notwithstanding the foregoing, the termination of a nonconforming use does not require a decision by the property owner to discontinue the use. A nonconforming use may be lost through negligence or inadvertence. A use may also be lost if a person engages in civil or criminal misconduct that the property owner knows or should know could lead to involuntary closure and indeed does lead to closure.
- (h) Changes in ownership, tenancy, or management of a nonconforming use, building, or structure are permitted.

This letter summarizes the applicable regulations, laws, and provisions in effect at this time, and should not be construed to grant any rights inconsistent with any regulations in effect at this time and does not purport to state what regulations may be in effect at some future date. If we can be of any further assistance, please let us know.

Sincerely,



Omar DePablo
Planning and Zoning Administrator
Administrative Official
Planning and Zoning Division
Development Services Department

