



## *Planning and Community Development*

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### **ADMINISTRATIVE ORDER#PLN24-0101 Site-Specific Determination – 16716 Aurora Avenue N**

#### **Code Section: SMC 20.30.280(C)(2) Discontinuance of Non-Conforming Use**

##### **I. Code Provisions**

Gambling use are those activities regulated by the Washington State Horse Racing Commission and the Washington State Gambling Commission as set forth in SMC 20.20.022G.

Gambling uses within the City are prohibited. SMC 20.40.372.

SMC 20.30.280(C)(2) states that a nonconforming use that has been discontinued for a period of 12 consecutive months shall not be resumed.

##### **II. Issue**

Was the nonconforming gambling use at 16716 Aurora Avenue N discontinued for a period of 12 consecutive months so as to be prohibited from resuming?

##### **III. Findings and Conclusions**

As provided in chapter 9.46 RCW, the City of Shoreline adopted Ordinance 41 in 1995 enacting chapter 3.30 SMC, imposing a tax on gambling activities at the rate of between two to ten percent.

Subsequently, with the passage of Ordinance 247 on September 18, 2000, the Shoreline City Council prohibited gambling uses within the City but provided that establishments that existed prior to that time were permitted to continue as non-conforming use. SMC 20.40.372; SMC 20.30.280(C).

In 2000, gambling use was occurring at 16716 Aurora Avenue N and, therefore, it obtained nonconforming use status. SMC 20.30.280(C)(2) permits a nonconformance to be continued except that a nonconforming use shall not resumed when the period of discontinue extends for 12 consecutive months.

Due to the COVID-19 pandemic and the Washington State Governor's Stay Home Stay Health Proclamation (Proclamation 20-25), all non-essential businesses were to cease operations as of March 25, 2020. Subsequently, in May 2020 the Washington State Governor issued a multi-phase approach to the re-opening of such businesses – the Healthy WA: Roadmap to Recovery. As part of this multi-phase approach, non-tribal gambling activities could commence starting in Phase 1, although in limited capacity and subject to health restrictions (e.g. physical distancing, outdoor use) with a broader scope of operation permitted by Phase 3. Thus, even with COVID restrictions,

gambling activity was occurring even when other non-essential businesses were restricted. By June 30, 2021, the Governor's phased approach permitted all of Washington's business to fully re-open.

During the 2020-2021 time period, gambling activities were operated under Club Hollywood's State Gambling License #67-00303; a license that expired June 30, 2021. City of Shoreline quarterly gambling tax returns were filed in each quarter of 2020 by NG Washinton II LLC (Maverick Gaming), City ID#3264, UBI 602-990-936, under the business name of Club Hollywood Casino. City records denote that in July 2020, Club Hollywood registered for an Outdoor Seating, a registration that the City was requiring to allow establishments to provide outdoor dining at their facility to satisfy COVID-19 restrictions.

According to Club Hollywood's social media page, January 1, 2021, was its last day of operation. Thus, SMC 20.30.280(C)'s 12 months began on January 1, 2021. The City does not have record of a 2021 business license for any organization operating a business at 16716 Aurora Avenue N, specifically gambling, nor were any gambling tax returns filed for 2021. In Washington State Gambling Commission Reports starting in January 2021 to May 2022, Club Hollywood at 16716 Aurora Avenue N is shown as "Licensed but not currently operating."

While evidence shows no gambling use occurred during 2021, to allow for adequate time to resume business operations based on COVID-related reasons, then-City Manager Debbie Tarry advised the owner of the property, William Hubbell, that for gambling activities to maintain nonconforming status they must commence such activities no later than July 24, 2022. The City denotes a City business license for SK23 Investments, ID#7571, issued July 6, 2022. In the Washington State Gambling Commission's August 2022 report, Hollywood Cardroom, at 16716 Aurora Avenue was showing as a new application under License #65-07522 for Social and Public Card Room activity. While there was licensing activity in 2022 for 16716 Aurora Avenue N, there is no evidence that gambling actually resumed at this location on or prior to July 24, 2022. Dispositive evidence of no operations includes the fact that no City of Shoreline quarterly gambling tax returns were filed in 2022.

SMC 20.30.280(C)(2) states that when a nonconforming use has been discontinued for a period of twelve (12) consecutive months it shall not be resumed. Based on gambling tax reports and reports of the Washington State Gambling Commission, along with social media and other information, gambling use at 16716 Aurora Avenue N did not occur in 2021 or in 2022. This discontinuance of the gambling use exceeded the time period set forth in SMC 20.30.280(C)(2) and, therefore, the right to continue the nonconforming gambling use has been forfeited and shall not resume.

#### **IV. Decision**

Gambling uses within the City of Shoreline have been prohibited since 2000. Non-conforming uses are disfavored in Washington State and the City is permitted to terminate such uses subject to reasonable provisions.

The use of 16716 Aurora Avenue N for gambling predated the passage of Ordinance 247 in September 2000, thereby granting it nonconforming use status. The nonconforming gambling use that was occurring at 16716 Aurora Avenue N was discontinued on/about January 1, 2021, and was

not resumed in 2021 or 2022. Thus, pursuant to SMC 20.30.280(C)(2) the right to continue the nonconforming gambling use has been forfeited. No gambling use, as that term is defined in SMC 20.20.022(G), shall resume at 16716 Aurora Avenue N. Any resumption of such gambling use(s) will be an illegal use.



August 21, 2024

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Andrew Bauer  
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Date