STAFF REPORT FOR ADMINISTRATIVE REVIEW

APPLICANT: Bruce Anderson
135 Parfait Way
Bainbridge Island, WA 98110

OWNER: John & Susan Mueller
PO Box 510
Park City UT 84060-0510

REQUEST: Site a Dwelling within the Beaches and Dunes Limited Suitability for Development Area and within the Coastal Shoreland Boundary

STAFF CONTACT: Jill Rolfe, Planning Director

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 29S Range 15W Section 01CB Tax Lot 2805

PROPERTY LOCATION

The subject property is located south of the City of Bandon, within the Bandon Urban Growth Boundary. It is accessed off of Vesta Lane.

APPLICABLE CRITERIA
Coos County Zoning and Land Development Ordinance (LDO) and Coos County Comprehensive Plan (CCCP)

| LDO | §4.2.800, Table 4.2g | Uses for Commercial-Industrial zoning within the Urban Unincorporated Communities. |
| LDO | §4.4.600, Table 4.4-c | Property Development Standards |
| LDO | §4.6.300(3) | Airport Surfaces – Height limitations |
| LDO | §4.7. Table 4.7a (3), (4), (5), (8) Appendix I, Policies 5.7(3); 5.10(2), (7); 5.19(11). | Special Considerations: Historical/Archaeological Sites and Structures; Beaches and Dunes; Non-Estuarine Shoreland Boundary; Airport Surfaces |
| LDO | Chapter 7, Table 7.2 | Minimum Standards for Driveway |
| LDO | Chapter 10, §10.1.400 | Required Number of Parking Spaces for Type of Use |

1. BASIC FINDINGS

A. **Lawfully Created Parcel:** The subject property was lawfully created as required by LDO §3.3.800, Lawfully Created Lots and Parcels. This lot is a subdivision lot within the Sunset City Subdivision, created in 1907. In 2013, the end of Vesta Lane was vacated, creating the current configuration of the property.

B. **Zoning:** The zoning is Controlled Development-10 (CD-10)
The purpose of the “CD-10” district is to recognize the scenic and unique quality of selected areas within Urban Growth Boundaries, to enhance and protect the unique “village atmosphere”, to permit a mix of residential, commercial and recreational uses and to exclude those uses which would be inconsistent with the purpose of this district, recognizing tourism as a major component of the County’s economy.

C. Site Description: The property contains approximately 0.41 of an acre. The western boundary is the bluff that overlooks the Pacific Ocean. The eastern and southern boundaries are private properties with residences. The northern boundary is the vacated portion of Vesta, now part of that neighbor’s residential property, which is vacant. The subject property is a vacant lot covered by what appears to be grasses and scrub plants. The subject property is a lot in the Sunset City Subdivision.

D. Surrounding Properties: Properties to the north, east and south are all zoned CD-10. The western property is the beach and Pacific Ocean.

E. Background: The property is zoned CD-10 and there is currently no development on the property.

- November 22, 2000, a conditional use permit (ACU-00-49) for a dwelling within the Beaches and Dunes Limited Suitability for Development area was submitted. It was approved on January 4, 2001. This permit was allowed to expire without being implemented; thereby, requiring the current property owners reapply for the permit.
- January 22, 2013, a vacation request (VAC-13-02) was submitted requesting the end of Vesta Lane to be vacated.
- The current application was submitted on November 14, 2013. It was deemed incomplete on November 18 and the applicants were notified. The requested information was supplied to the Planning Department on November 21 and November 25, 2013 and it was deemed complete as of that date.

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
<thead>
<tr>
<th>LDO §4.2.800, Table 4.2g</th>
<th>Uses for Commercial-Industrial zoning within the Urban Unincorporated Communities.</th>
</tr>
</thead>
<tbody>
<tr>
<td>URBAN UNINCORPORATED COMMUNITIES COMMERCIAL-INDUSTRIAL USE</td>
<td>CD-5/CD-10</td>
</tr>
<tr>
<td>single family dwelling (conventional)</td>
<td>P</td>
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</tbody>
</table>

FINDING: A residential single family dwelling is outright allowed in the CD-10 zoning district; however, there are special circumstances in this case because the property lies within the Beaches and Dunes Limited Suitability for Development area and within the Coastal Shoreland Boundary, both of which require a conditional use permit to address criteria. Staff finds this criteria has been met because the dwelling is allowed except for the special considerations and the applicants have submitted this application to address those issues.

<table>
<thead>
<tr>
<th>LDO §4.4.600, Table 4.4-c Property Development Standards</th>
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</thead>
<tbody>
<tr>
<td>Zone</td>
</tr>
<tr>
<td>Minimum Lot Size</td>
</tr>
</tbody>
</table>
Minimum Street frontage 50’
Minimum Lot Width 50’
Minimum Lot Depth 50’
Front set-back 20’
Side set-back 5’, unless a corner lot, in which case, the set-back is 15’ from the secondary street
Rear set-back 5’
Maximum building height 35’
Off-street parking Off-street parking and loading requirements per Chapter X apply

FINDING: The subject property is a lot in a 1907 subdivision. It does not meet the current minimum lot standards, being less than one acre; however, it is a recognized legally created lot in a pre-existing subdivision. Therefore, it may be developed. It has a minimum street frontage of 50 feet, as well as the lot depth and width. The setbacks will be applied when a compliance letter is issued for development, as well as the building height and off street parking. Staff finds these criteria have been met or will be met prior to construction.

LDO §4.6.300(3) Airport Surfaces – Height limitations
Notwithstanding other provisions of this Ordinance, no structure shall be created or altered to a height in excess of the applicable height limits herein established. Such applicable height limitations are hereby established:
3. Horizontal Conical Zone – Maximum allowable height = 35 feet.
FINDING: When the zoning compliance letter is issued for development, it will state the dwelling cannot be over the maximum allowable height of 35 feet. A copy of this report will be sent to Oregon Department of Aviation (ODA) and Federal Aviation Administration (FAA).

LDO §4.7. Table 4.7a (3), (4), (5), (8)
Appendix I, Policies 5.7(3); 5.10(2), (7); 5.19(11).

Special Considerations: Historical/Archaeological Sites and Structures; Beaches and Dunes; Non-Estuarine Shoreland Boundary; Airport Surfaces

Table 4.7a (3) Historical/Archaeological Sites and Structures.
Appendix 1, Policy 5.7 (3) Coos County shall continue to refrain from wide-spread dissemination site-specific inventory information concerning identified archaeological sites. Rather, Coos County shall manage development in these areas so as to preserve their value as archaeological resources.

This strategy shall be implemented by requiring development proposals to be accompanied by documentation that the proposed project would not adversely impact the historical and archaeological values of the project's
"Sufficient documentation" shall be a letter from a qualified archaeologist/historian and/or a duly authorized representative of a local Indian tribe(s). The Coos County Planning Department shall develop and maintain a list of qualified archaeologists and historians. In cases where adverse impacts have been identified, then development shall only proceed if appropriate measures are taken to preserve the archaeological value of the site. "Appropriate measures" are deemed to be those, which do not compromise the integrity of remains, such as: (1) paving over the sites; (2) incorporating cluster-type housing design to avoid the sensitive areas; or (3) contracting with a qualified archaeologist to remove and re-inter the cultural remains or burial(s) at the developer's expense. If an archaeological site is encountered in the process of development, which previously had been unknown to exist, then, these three appropriate measures shall still apply. Land development activities found to violate the intent of this strategy shall be subject to penalties prescribed by ORS 97.745 (Source: Coos Bay Plan).

This strategy is based on the recognition that preservation of such archaeologically sensitive areas is not only a community's social responsibility but is also a legal responsibility pursuant to Goal #5 and ORS 97.745. It also recognizes that historical and archaeological sites are non-renewable, cultural resources (Source: Coos Bay Plan).

FINDING: The property lies within an area of archaeological interest to the Coquille Indian Tribe (CIT) CIT will be notified of the impending development and allowed a comment period prior to issuing zoning compliance for development. A copy of this staff report will serve as notification.

Table 4.7a (4) Beaches and Dunes
Appendix 1, Policy 5.10 (2)
Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" on the Special Considerations Map only upon the establishment of findings that consider at least:

   a. the type of use proposed and the adverse effects it might have on the site and adjacent areas;
   b. the need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;
   c. the need for methods for protecting the surrounding area from any adverse effects of the development; and
   d. hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

Further Coos County shall cooperate with affected local, state and federal agencies to protect the groundwater from drawdown, which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies.

Implementation shall occur through an Administrative Conditional Use process, which shall include submission of a site investigation report by the developer that addresses the five considerations above.

FINDING: A geotech report was filed with the application. The report was filed by Ron Sonnevil of Terra Firma Geologic Services. The report shows that there are three hazard areas. A low hazard area which is located 30 feet back from the top of the seaciff; the moderate hazard area, which is located between 10 and 30 feet from the top of the sea cliff; and the high hazard area, which includes the dunefield on the beach, the seaciff slope and that portion of the upper part of the property located within 10 feet from the top of the seaciff slope. For structures in the low hazard area, a standard foundation is all that is required. The report states that dwellings can be built within the moderate hazard area with mitigation to include: cantilevering seaward of the moderate/low hazard boundary; founding the structure on a deep foundation engineered to stabilize the site; or utilizing a daylight basement. Following these recommendations will help to stabilize the structure and avoid hazards to life and property. Foundation footings
should extend through any loose topsoils and bear on the cemented sand (hardpan), expected to be located 3 to 5 feet beneath the ground surface. A well graded, granular fill with a maximum grain size of 5 inches and less than 5% fines (silt and clay) is recommended for use as structural fill. Native soils should not be used as fill. Fill from grading the home site should not be placed near the top of the seaciff. Runoff should be contained in a drain line and discarded at the toe of the cliff. Surface water collects along the vacated Vesta Lane right of way and should be collected into the drainage system to avoid erosion at this site. There is no indication of salt water intrusion in this area. Staff finds that if the suggestions in the geotech report are followed, these criteria can be met and this will be a condition of approval.

Table 4.7a (5) Nonestuarine Coastal Shorelands.
Appendix 1, Policy 5.10 (7)
Coos County shall manage its rural areas within the "Coastal Shorelands Boundary" of the ocean, coastal lakes and minor estuaries through implementing ordinance measures that allow the following uses:
***
  f. single family residences on existing lots, parcels, or units of land when compatible with the objectives and implementation standards of the Coastal Shorelands goal, and as otherwise permitted by the underlying zone.
***

In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this plan.

This strategy recognizes: (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration; and (2) that Statewide Planning Goal #17 places strict limitations on land divisions within coastal shorelands.

FINDING: The subject property is a legal lot lying within the 1907 Sunset City Subdivision. This subdivision was approved with the intent of siting dwellings. In addition, the zoning district, CD-10, outright permits residential dwellings. There are many other homes in the area located on properties that are within the Coastal Shoreland Boundary. Since this property is almost entirely within the Coastal Shoreland Boundary, there is no other upland area for a dwelling to be built. Staff finds that this use does not otherwise conflict with the resource preservation and protection policies of the Comprehensive Plan or its implementing ordinance. Therefore, this criterion has been met.

Table 4.7a (8) Airport Surfaces
Appendix 1, Policy 5.19 (11)
11. Coos County shall cooperate with the Oregon State Aeronautics Division and the Federal Aviation Administration by developing an Airport Surfaces Overlay Zoning District to prevent the creation or establishment of hazards to air navigation. The Overlay Zoning district shall apply to the Bandon, Lakeside and Powers State Airports and shall encompass the primary surface, approach surface, transitional surfaces, horizontal surface and conical surface as identified in Volume VI, Airport Compatibility Guidelines as formulated by the Oregon Department of Transportation - Aeronautics Division, dated 1981.

FINDING: The subject property lies within the Airport Surfaces Overlay Zoning District, more specifically the Bandon Airport Conical Horizontal Surface. As noted above, the height restrictions are 35 feet and this will be noted on any zoning compliance letter issued at the time of development. No buildings shall be built over this height limit.

| LDO | Chapter 7, Table 7.2 | Minimum Standards for Driveway |

FINDING: The driveway will be approved by the Coos County Road Department. It will be a condition of approval
that it is adequately constructed to provide access for fire suppression equipment.

H. Access to new dwellings shall meet road and driveway standards in Chapter VII.

FINDING: Before issuance of a zoning compliance letter to site the proposed dwelling, the driveway shall meet standards in Chapter VII. A driveway confirmation from the Coos County Road Department will be required as a condition of approval.

<table>
<thead>
<tr>
<th>LDO Chapter 7, Table 7.2.</th>
<th>Minimum Standards for New Roads, Streets, and Driveways</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRIVEWAYS(^{10})</td>
<td></td>
</tr>
<tr>
<td>Typical Cross-Section Figure</td>
<td>Average Daily Traffic(^{1})</td>
</tr>
<tr>
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</tr>
</tbody>
</table>

FINDING: The County Roadmaster will review the criteria and approve the driveway by signing a driveway confirmation. This is a condition of approval.

<table>
<thead>
<tr>
<th>LDO</th>
<th>Chapter 10 §10.1.400</th>
<th>Required number of parking spaces for type of use</th>
</tr>
</thead>
<tbody>
<tr>
<td>USE</td>
<td>STANDARD</td>
<td></td>
</tr>
<tr>
<td>6. Residential</td>
<td>2 spaces per dwelling unit.</td>
<td></td>
</tr>
<tr>
<td>a. single-family dwelling.</td>
<td>2 spaces per dwelling unit.</td>
<td></td>
</tr>
</tbody>
</table>

FINDING: The County Roadmaster will need to approve the parking spaces when he signs the driveway confirmation. This is a condition of approval.

III. NOTIFICATION AND APPEAL RIGHTS

The Planning Department mailed individual written notice of the decision to the owners of record of all property located within 250 feet of the subject property. Notice of Decision with a copy of the staff report was forwarded to Applicant(s)/Owner(s), Dave Perry, DLCD, Oregon Department of Aviation, Federal Aviation Administration and Coquille Indian Tribe. Notice of Decision will be provided to Coos County Assessor, Coos County Roadmaster, Oregon Department of Water Resources, Bandon RFPD, Southern Coos Health District, the City of Bandon, Coos County Board of Commissioners and the Coos County Planning Commission and the Oregon Department of Aviation and the FAA. In addition, notice of the decision was posted at the Coos County Courthouse, Coquille Annex and North Bend Annex. All notices were mailed and posted on December 5, 2013.

This decision may be appealed to the Coos County Hearings Body pursuant to Article 5.8 of the Coos County Zoning and Land Development Ordinance within 15 days from the date of written notice. This means that

\(^{10}\) “Driveway”, pursuant to Section 2.1.200, means "a private vehicular travel surface accessing a single residence."
appeals must be received in the Planning Department by 5 p.m. on December 20, 2013, in order to be considered. This decision will not be final until the period for filing an appeal has expired. Detailed information about the appeal process, filing fees and additional information will be provided by the Planning Department upon request. The decision is based upon the submitted application, supporting evidence, facts, and findings to the criteria.

IV. SUMMARY

The request is to site a dwelling in the Coastal Shoreland Boundary and within the Beaches and Dunes Limited Suitability for Development Area. The applicants have submitted a geotech report showing there is an area of low hazard 30 feet from the seacilliff top in which standard foundation may be used; and a moderate area 10-30 feet from the seacilliff top, in which some care must be given when setting a foundation. The geotech report has several recommendations to stabilize the area, which will be set as conditions of approval. There is an area of soft young soils underlying the vacated portion of Vesta Road and if this area is used for building, special care must be given for the foundation footings. Runoff should be contained in a drain line and discharged at the toe of the cliff. Surface water collects along the vacated portion of Vesta Lane and this water should also be collected into the drainage system. Staff finds the criteria has been satisfied or can be satisfied with the imposition of conditions.

VI. CONDITIONS OF APPROVAL

1. Pursuant to ORS 215.416(1), the fees charged by the Planning Department for permit applications represent the average cost of processing the application. If the actual cost of processing the application exceeds the average cost, then the applicant shall be responsible for paying the full amount. If such an amount is due, it must be paid before a zoning compliance letter can be issued.

2. The permit shall run with the land and may be transferred to a new landowner when the property is conveyed. However, the “seller” or “grantor” shall, by acting upon this permit, agree to notify the “buyer” or “grantee” of the terms and conditions of the permit. Pursuant to CCZLDO Section 5.0.700, this permit shall remain valid for the period set forth in ORS 215.417.

3. The dwelling shall be built in accordance with the geotechnical report that states that dwellings can be built within the moderate hazard area with mitigation to include: cantilevering seaward of the moderate/low hazard boundary; founding the structure on a deep foundation engineered to stabilize the site; or utilizing a daylight basement. Following these recommendations will help to stabilize the structure and avoid hazards to life and property. Foundation footings should extend through any loose topsoils and bear on the cemented sand (hardpan), expected to be located 3 to 5 feet beneath the ground surface. A well graded, granular fill with a maximum grain size of 5 inches and less than 5% fines (silt and clay) is recommended for use as structural fill. Native soils should not be used as fill. Fill from grading the home site should not be placed near the top of the seacilliff. Runoff should be contained in a drain line and discarded at the toe of the cliff. Surface water collects along the vacated Vesta Lane right of way and should be collected into the drainage system to avoid erosion at this site.

4. The CIT has 30 days to comment and a compliance letter shall not be issued until that time has expired.

5. The development shall not exceed 35 feet in height. The applicant must comply with requirements from ODA and FAA.

6. The applicant must comply with all requirements in Chapters 7 and 10, as noted above and obtain an access permit and a driveway confirmation form from the Coos County Road Department.

7. Obtain a zoning compliance letter (ZCL) from the Planning Department in order to obtain State DEQ and Building Code permits.