STAFF REPORT FOR ADMINISTRATIVE REVIEW

APPLICANT:  Marvin Warman
OWNER:  Northwest Seafoods
PO Box 5022
Charleston OR 97420-1

REQUEST: To site three individual retail businesses within the Coos Bay Estuary Management Plan (61-UDS).

STAFF CONTACT: Jill Rolfe, Planning Director

MAP NUMBER(S)/LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 26S Range 14W Section 01CC Tax Lot 200 and 203 (299 and 204 are lease lots)

PROPERTY LOCATION

The subject property is located southwest of the City of Coos Bay and is within the urban unincorporated boundary of Barview. The property will share an access with other commercial development off of Cape Arago Hwy (91147 Cape Arago Hwy).

APPLICABLE CRITERIA

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

| LDO                  | § 4.5.739(A)(4)(b) | Non-water-dependent |

1. BASIC FINDINGS

A. **Lawfully Created Parcel:** Pursuant to information in the record tax lot 200, 299, 203 and 204 are one property. Apparently there was an incorrect deed filed which created tax lot 203. As part of this staff report conditions this must be corrected by consolidating tax lot 200 and 203 prior to issuance of any zoning compliance letters.

B. **Zoning:** The development will occur on what has been described as tax lot 203. This property’s shoreland zoning falls within the Coos Bay Estuary Management Plan as 61-Development Aquatic (61-DA), 61-Urban Development Shoreland (61-UDS) and 61-Urban Water-Dependent (61-UW). The development is proposed in the 61-UDS zone.

C. **Site Description:** The property contains a seafood plant and restaurant. There is little vegetation located along Cape Argo Hwy and within the riparian area but the property is mostly cleared and contains a large parking area for the existing businesses.

D. **Surrounding Properties:** The property abuts water on the north and west sides and Cape Arago Hwy on the south and east sides. Further northeast are some residential developed properties and further south are commercial properties.

E. **Background:** This property was originally all zoned 61-UW but in 2000 an application was approved to rezone about 4.5 acres to 61-UDS to allow for non-water dependent uses. The property contains a
seafood plant and restaurant. At one time the property had obtained land use authorization for an RV park but that permit was never implemented and has expired. The applicant is requesting to site 3 commercial retail shops on the property.

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
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<th>LDO</th>
<th>§ 4.5.739(A)(4)(b)</th>
<th>Non-water-dependent</th>
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SECTION 4.5.739 Uses, Activities and Special Conditions. Table 61-UDS sets forth the uses and activities which are permitted, which may be permitted as conditional use, or which are prohibited in this zoning district. Table 61-UDS also sets forth special conditions, which may restrict or otherwise regulate certain uses or activities or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

GENERAL CONDITIONS

1. All permitted uses shall be consistent with the respective flood regulations of local governments, as required in Policy #27.

#27 Floodplain Protection within Coastal Shorelands

The respective flood regulations of local government set forth requirements for uses and activities in identified flood areas; these shall be recognized as implementing ordinances of this Plan. This strategy recognizes the potential for property damage that could result from flooding of the estuary.

Finding: The building site will be located outside of the inventoried flood hazard area. Therefore, this policy does not apply to this request.

2. All permitted uses in dune areas shall be consistent with the requirements of Policy #30.***

Finding: This property is not within an inventoried Beaches and Dunes area. Therefore, this policy does not apply to this requested use.

3. All uses shall be consistent with Policy #16, regarding protection of areas "suitable for water-dependent uses". ***

Finding: This was addressed at the time this portion of the property was rezoned to a non-water dependent zoning. The acreage was removed from the inventory and determined not to be suitable for water-dependent uses.

4. All uses and activities: Inventoried resources requiring mandatory protection are subject to Policies #17 and #18.

#17 Protection of "Major Marshes" and "Significant Wildlife Habitat" in Coastal Shorelands
Local governments shall protect from development, major marshes and significant wildlife habitat, coastal headlands, and exceptional aesthetic resources located within the Coos Bay Coastal Shorelands Boundary, except where exceptions allow otherwise. ***

#18 Protection of Historical, Cultural and Archaeological Sites
Local government shall provide protection to historical, cultural and archaeological sites and shall continue to refrain from widespread dissemination of site-specific information about identified archaeological sites.

I. This strategy shall be implemented by requiring review of all development proposals involving
a cultural, archaeological or historical site, to determine whether the project as proposed would protect the cultural, archaeological and historical values of the site.

II. The development proposal, when submitted shall include a Plot Plan, showing, at a minimum, all areas proposed for excavation, clearing and construction. Within three (3) working days of receipt of the development proposal, the local government shall notify the Coquille Indian Tribe and Coos, Siuslaw, Lower Umpqua Tribe(s) in writing, together with a copy of the Plot Plan. The Tribe(s) shall have the right to submit a written statement to the local government within thirty (30) days of receipt of such notification, stating whether the project as proposed would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values. ***

Finding: There have been no identified major marshes on the property. The property is within a notification area to ODFW for significant wildlife habitat and the Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians and the Coquille Tribe for archaeological significances. A copy of this staff report and application will be supplied to the tribes and ODFW for comments.

5. In rural areas (outside UGBs) utilities, public facilities and services shall only be provided subject to Policies #49, #50, and #51.***

Finding: There are no proposed utilities, public facilities or services proposed. This property is located within the urban unincorporated community of Barview. Therefore, this criterion does not apply.

SPECIAL CONDITIONS

Uses:

4b. Commercial and industrial uses within urban unincorporated communities are subject to Policy #16b.

#16b Rural, Urban, and Unincorporated Communities Use Standards

I. Commercial and Industrial uses in Unincorporated Communities and on Rural Lands shall be consistent with OAR 660-022-0030. Commercial and industrial uses shall comply with building square footage requirements set forth in OAR 660-022-0030(10) and (11). New commercial structures authorized outside of a UCB or UGB shall not exceed 3,500 square feet of floor area. ***

This policy shall be implemented through ordinance measures. Implementation shall occur as identified under specific zoning district standards. (04-04-005PL 9/1/04)

II. It must be demonstrated through findings that the proposed use will not:
   a. adversely affect agricultural and forest operations, and
   b. interfere with the efficient functioning of urban growth boundaries.

III. The following are development standards for proposed commercial or industrial structures to be located on parcels which are abutting exclusive farm use or forest zoned properties:
   a. All structures, except fences, shall be setback a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way centerline, whichever is greater; and
   b. All structures being sited on parcels abutting exclusive farm use (EFU) or forest (F) zoned parcels, property owner(s)/applicant(s) shall acknowledge and file in the deed records of Coos County, a "Farm or Forest" Practices Management Covenant. The covenant shall be recorded in the deed records of the county prior to the County issuing a zoning compliance letter.

Finding: The project is not located near resource zoned property (Farm/Forest). The property is located in the
Urban Unincorporated Community of Barview which is primarily made up of estuary, commercial, industrial and residential zoning. There is some forest property located within the boundary but this project is far enough away it will have no effect. The proposed structures will not exceed the size limits and meet the setback requirements. A parking plan was completed and the Coos County Roadmaster reviewed the report and determined that there was adequate parking. Therefore, these criteria have been met.

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 100 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, Coos County Assessor’s Office, Coos County Road Department, ODFW, Coos Lower Umpqua & Siuslaw Indians and the Coquille Tribe. Notice of Decision will be provided to Port of Coos Bay, Coos Bay School Board, Coos Bay-North Bend Water Board, Charleston Sanitation, County Board of Commissioners and the Coos County Planning Commission. 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 **July 24, 2014**.

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 appeals must be received in the Planning Department **by 5 p.m. on August 8, 2014**, 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 proposal is to site three individual retail businesses within the Coos Bay Estuary Management Plan (61-UDS). The applicant has addressed the criteria.

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. Tax lots 200 and 203 must be consolidated back to one property.
4. Obtain an a zoning compliance letter (ZCL) from the Planning Department in order to obtain State DEQ and Building Code permits.

If you have any questions please contact staff.

Jill Rolfe, Planning Director

COOS COUNTY PLANNING DEPARTMENT