STAFF REPORT FOR ADMINISTRATIVE REVIEW

APPLICANT: Donald J. Stastny, Owner’s Representative
2309 SW 1st #1145
Portland, OR 97201

OWNER: Bandon Dunes L.P., A Delaware Limited Partnership
Michael Keiser, Managing Partner
5774 Round Lake Road
Bandon, OR 97411

REQUEST: Final Development Phase 11 which will consist of a new facility for use by the Wild Rivers Coast Alliance (WRCA) and storage building. The proposal is to site both buildings within the Resort Village Center (RVC) subzone; however, the WRCA building may be encroaching into the Special Residential Subzone (SR-2). The proposed WRCA facility will be used as an educational-oriented facility related to the history, culture, economy and preservation of natural resources on the Oregon South Coast. The proposed storage structure is needed to meet the current and future storage needs.

STAFF CONTACT: Jill Rolfe, Planning Director

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 27S Range 14W Section 32 Tax Lot 406

PROPERTY LOCATION
The property is located north of the City of Bandon off of Round Lake Drive.

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

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1. BASIC FINDINGS

A. Lawfully Created Parcel: The subject property was lawfully created as required by LDO §3.3.800(1).

B. Zoning: The subject property is zoned Bandon Dunes Resort (BDR). This designation is applied to a 2,140-acre area located north of the City of Bandon for which an exception to applicable statewide planning goals to permit a destination resort has been adopted as an amendment to the comprehensive plan. The purpose of the BDR zone is to implement an exception to the Statewide Planning Goals and a Master Plan for a destination resort.
that have been adopted as part of the Coos County Comprehensive Plan.

The Bandon Dune Resort (BDR) zone is divided into thirteen natural resource subzones (designated NR-1 through NR-13), four golf course/residential subzones (designated GR-1 through GR-4), four special residential subzones (designated SR-1 through SR-4), the Resort Village Center subzone (designated RVC), and three mixed use center subzones (designated MXC-1 through MXC-3), as identified on the BDR Use Subzones Map.

Coos County Zoning and Land Development Ordinance (LDO) § 4.10.010 – Purpose - The purpose of the Bandon Dunes Resort zone is to establish a zoning district to implement the adopted Bandon Coastal Dunelands Conservation, Resort and Recreation Development Master Plan, consistent with the adopted Bandon Coastal Dunelands Goal Exception Statement.

C. Site Description: The property consists of 2,140 acres which is currently developed with four 18-hole golf courses, a 13-hole golf course, a driving range, a golf training and practice area, a trail system, several clubhouses and restaurants, a main lodge, an inn, overnight lodging, storage and maintenance buildings along with support facilities. The property has areas that have been cleared and landscaped, wooded areas, natural dune areas, cliffs and areas that have been or are intended to be developed consistent with the Master Plan. Tax lot 406 contains 100.97 acres and the current proposal will be located primarily within the RVC.

D. Background: In 1996, the County rezoned approximately 1,215 acres to Bandon Dunes Resort (BDR) through the goal exception process. In 2003 the County rezoned an additional 925+ acres for inclusion in the BDR zone. In 2009 and 2014 there were amendments and new exceptions completed.

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

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LDO § 4.10.030 – Standards

A. Development shall be located on a tract that contains a site of at least 160 acres.
B. The site must have direct access onto a state or county roadway, as designated by the County or the Oregon Department of Transportation. Internal roads, streets, paths, and trails may be private.
C. Development shall include meeting rooms, restaurants with seating for at least 100 persons, and at least 150 separate rentable units of overnight lodging, oriented toward the needs of visitors rather than area residents.***

FINDING: The tract that the proposed development will be located on is more than 160 acres. The buildings will have direct access through internal roads. The proposed WRCA facility will be used as an educational-oriented facility related to the history, culture, economy and preservation of natural resources on the Oregon South Coast. The proposed storage structure is needed to meet the current and future storage needs. These buildings will be support buildings for the already developed golf resort which exceeds the development listed in Subsection C above.

G. Riparian Corridor and Wetland Protection

1. For the purposes of this section, the following definitions apply:
   a. "Fish habitat" means those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.
   b. “Lawn” means an area planted with ornamental grass species, such as Kentucky bluegrass or perennial rye grass, which is maintained year-round with a vibrant green color through the use of fertilizers and irrigation, for the purpose of low-level recreational use, such as walking, picnicking, and casual sporting activities.
   c. "Riparian area" is the area adjacent to a river, lake, or stream, consisting of the area of
transition from an aquatic ecosystem to a terrestrial ecosystem.

d. "Riparian corridor" is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

e. "Riparian corridor boundary" is an imaginary line that is a certain distance upland from the top bank, for example, as specified in paragraph (2) of this subsection.

f. "Stream" is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

g. "Structure" is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances.

h. "Top of bank" shall have the same meaning as "bankfull stage," which is defined as the stage or elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage.

i. "Water area" is the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding man-made farm ponds.

j. "Wetland" is an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

2. "Riparian area" is the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

a. "Riparian corridor" is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

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h. 50 feet from the top of bank of Cut Creek, Fahy Creek, Whiskey Run Creek, and their tributaries;

i. 50 feet from the upland edge of significant wetlands, as identified on the comprehensive plan Fish and Wildlife Habitat II special considerations map; and

j. The Coastal Shorelands Boundary around Chrome, Round and Fahy Lakes, as identified in the Dunes and Non-Estuarine Coastal Shorelands section of the comprehensive plan, Volume I, Part 2, Section 3.8, as amended by Ordinance 96-03-003PL, Section 4, Exhibit A.

FINDING: There will be no impacts to any wetlands or riparian areas. The buildings will not overall be located within the Coastal Shoreland Boundary.

3. Permanent alteration of the area within the riparian corridor by grading or the placement of
structures or impervious surfaces is prohibited, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area:

a. Streets, roads, and paths;
b. Drainage facilities, utilities, and irrigation pumps;
c. Water-related and water-dependent uses; and
d. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.

e. Placement of structures or impervious surfaces or grading within the riparian corridor where it is demonstrated that equal or better protection for identified riparian resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures. In no case shall such alterations occupy more than 50% of the width of the riparian area measured from the upland edge of the corridor.

FINDING: There will be no alteration to the riparian corridor.

4. Lawns shall be prohibited within 50 feet of a wetland, stream or lake identified on the comprehensive plan Coastal Shoreland and Fish and Wildlife Habitat inventory maps. Removal of vegetation within the riparian corridor is subject to the following controls:

a. Trees certified by the Coos Soil and Water Conservation District, a port district or U.S. Soil Conservation Service as posing an erosion or safety hazard may be removed to minimize said hazard.

b. Riparian vegetation may be removed where necessary for development of a water-dependent or water-related use.

c. Riparian vegetation may be removed to facilitate stream or streambank projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFWS stream enhancement plan.

d. Riparian vegetation may be removed in order to site or properly maintain resort utilities, paths and roads, provided that the vegetation removed is the minimum necessary to accomplish the purpose.

e. Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, etc.), provided that such vegetation removal is the minimum necessary to provide an access to the water to site or maintain irrigation pumps.

f. Riparian vegetation may be removed to facilitate a wetland or riparian edge restoration project that will increase the overall quantity and quality of riparian vegetation at the project location.

g. Non-native invasive species (e.g., scotch broom, gorse) may be removed from the riparian area and replaced with native tree, native shrub-scrub, and native grass species.

h. Non-hydrophytic vegetation in a forested portion of a riparian corridor may be removed for the purpose of maintaining a healthy stand of trees and understory conditions, using accepted forest maintenance practices, restoring or enhancing wildlife habitat, or managing hazardous forest fire conditions.

i. Woody debris may be removed from the riparian corridor where trees left as protective buffer strips along streams by prior logging operations have blown down and caused more woody debris to fall into the waterway than is desirable for healthy fish or wildlife habitat.

j. Invasive-noxious aquatic species, such as spike watermilfoil (Myriophyllum exalbescens), the existence and probable spread of which poses a serious problem for the waters of the State, may be removed from water areas within the riparian corridor.

k. Protected riparian vegetation shall not be removed solely for the purpose of providing enhanced views of Chrome, Round or Fahys Lake.

FINDING: There are no proposed lawns within the 50 feet of the any lakes or wetlands. Therefore, this project is in compliance with the criteria.
I. Development within areas of “limited development suitability,” and any beach access trail located in the “not suitable” area south of the Cut Creek delta, as shown on the comprehensive plan Development Potential within Ocean Shorelands and Dunes special considerations map, shall comply with CCZLDO Appendix 1, Policy 5.10, Plan Implementation Strategy (2), provided that compliance will be demonstrated through the final development plan approval process of Section 4.10.060, rather than the administrative conditional use process.

FINDING: The proposed development is not within a limited development suitability area; therefore, this criterion has been satisfied.

J. The minimum setback from the exterior boundaries of the BDR zone for all development (including structures, roads and site-obscuring fences over three feet in height, but excepting existing buildings and uses, entry roadways, landscaping, utilities and signs) shall be:

1. 100 feet for commercial development listed in Section 4.10.050.D and E, including all associated parking areas;
2. 100 feet for visitor-oriented accommodations other than single-family residences, including all associated parking areas;
3. 50 feet for above-grade development other than that listed in paragraphs (1) and (2);
4. 25 feet for internal roads;
5. 50 feet for golf courses and playing fields except for the special purpose, low-impact golf course authorized in the NR-3 subzone; and
6. 25 feet for jogging trails, nature trails and bike paths where they abut private developed lots, but no setback for where they abut public roads and public lands.

FINDING: The proposed development will be in the interior already established boundaries. The minimum setbacks will be met.

K. The minimum setback from the boundary of a non-BDR zoned parcel that is completely surrounded by the BDR zone, for all development (including structures, roads and site-obscuring fences over three feet in height, but excepting existing buildings and uses, entry roadways, landscaping, utilities and signs) shall be:

1. 50 feet for above-grade structures, including all associated parking areas;
2. 25 feet for internal roads;
3. 50 feet for golf courses and playing fields; and
4. 25 feet for jogging trails, nature trails and bike paths.

FINDING: The proposed development will be internal and complies with all setbacks. Therefore, this criteria has been met.

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4.10.050 - Uses Permitted Under Approved Final Development Plan

The following uses may be permitted in the BDR subzones identified in brackets following each listed use, pursuant to a final development plan approved under Sections 4.10.060 to 4.10.070. If a particular subzone is not noted in brackets following the listed use, the use is prohibited in that subzone, except as may be authorized by antidiscrimination laws.

C. Special Residential Subzones

D. Resort Village Center Subzone
11. Native American cultural facilities, art studios, and educational facilities. [RVC]
15. Maintenance shops and facilities, and equipment and materials storage structures and areas. [RVC]

FINDING: The proposed WRCA facility will be used as an educational-oriented facility related to the history, culture, economy and preservation of natural resources on the Oregon South Coast. The proposed storage structure is needed to meet the current and future storage needs. Therefore, these uses are clearly allowed uses subject to final development plan approval.

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<th>LDO</th>
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<td><strong>4.10.070 - Final Development Plan Approval Criteria</strong></td>
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<td>A.</td>
<td>Before submitting an application for final development plan review for any phase or element of the destination resort, the applicant shall participate in a pre-application conference with the Planning Department to obtain general information, guidelines, procedural requirements, advisory opinions, and technical assistance for the project concept.</td>
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<td>B.</td>
<td>Following a pre-application conference, the applicant shall submit an application final development plan review by the Planning Director. One (1) electronic copy and two (2) hard copies of the final development plan on a Coos County Land Use Application shall be submitted to the Planning Department along with a filing fee set by the Board of County Commissioners to defray costs incidental to the review process.</td>
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<td>C.</td>
<td>Applications for final development plan review shall be processed in accordance with Sections 5.0.200 Application completeness (ORS215.427), 5.0.250 Timetable for Final Decisions (ORS 215.427), 5.0.300 Findings Required and application for final development plan review shall be deemed complete if it satisfies the requirements of Section 4.10.065.</td>
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<td>D.</td>
<td>If the final development plan includes areas identified as wetlands on the Statewide Wetlands Inventory, as shown in Exhibit A to this Ordinance, the Planning Department shall submit a Wetland Land Use Notification Form to the Division of State Lands within five working days after acceptance of a complete application for final development plan review.</td>
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<td>E.</td>
<td>The Planning Director shall approve an application for final development plan review if the final development plan meets the approval standards of Section 4.10.070. If significant interpretation or policy issues are raised by the initial development plan application, the Planning Director may submit the application to the Planning Commission for its review pursuant to applicable provisions of Article 5.7 and the approval standards of Section 4.10.70.</td>
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<td>F.</td>
<td>The Approval Authority may impose conditions that are necessary to enable it to approve the final development plan under the approval standards of Section 4.10.070.</td>
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<td>G.</td>
<td>The Approval Authority shall issue a final order setting out its decision on the application for final development plan review and shall give notice of that decision as provided in Article 5.0.</td>
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<td>H.</td>
<td>The decision of the Approval Authority may be appealed as provided in Article 5.8.</td>
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FINDING: The applicant has submitted the required documents and staff is following the procedure in this article. Therefore, the requirements of this section have been met.
4.10.075 – Final Development Plan Modification

A. Following approval of a final development plan for any phase or element of the destination resort, the original applicant for final development plan approval, or its designee, may submit for review a proposed modified final development plan that addresses all changes or conditions required by the Approval Authority.

B. The Approval Authority shall review an application for modification of a final development plan as provided in Section 4.10.060 except as provided in subsection C of this section. The Approval Authority shall approve the requested modification if the final development plan as modified continues to conform to the Master Plan and Sections 4.10.030, 4.10.040, and 4.10.050.

C. If the Approval Authority finds that the modifications render the final development plan materially inconsistent with the Master Plan or Sections 4.10.030, 4.10.040 or 4.10.050, the Approval Authority shall:
   1. If practicable, impose such reasonable conditions and adjustments as necessary to bring the final development plan into compliance; or
   2. If the inconsistency cannot be so resolved, the Approval Authority shall deny the application.

FINDING: The development is consistent with the Exception Statement, all parts of the Master Plan, and the development needs established in LDO Section 4.10.030. The proposed uses comply with Article 4.10 and the Coos County Comprehensive Plan. This proposal meets the criteria of this section and does not require any conditions 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. Department of Land Conservation and Development (DLCD); Oregon Department of Transportation (ODOT); Oregon State Parks; Department of State Lands (DSL); Department of Environmental Quality (DEQ); Oregon Department of Fish and Wildlife (ODFW); Coquille Indian Tribe, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians; U.S. Department of Fish and Wildlife (USFW); Bureau of Land Management (BLM); Southern Coos General Hospital District; and Cut Creek Irrigation District. 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 June 16, 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 July 1, 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.

If you have any questions please contact staff.

COOS COUNTY PLANNING DEPARTMENT

Jill Rolfe, Planning Director

C: File

EC: Dave Perry, DLCD