STAFF REPORT

Date of Report: Thursday, August 21, 2014  
Appeal Deadline Friday, September 05, 2014

Type of Application: ADMINISTRATIVE CONDITIONAL USE APPLICATION

Decision: APPROVED WITH CONDITIONS

File Number: ACU-14-15  
Reviewed by: Jill Rolfe, Planning Director

<table>
<thead>
<tr>
<th>II. Property Information</th>
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</thead>
<tbody>
<tr>
<td>Account No.</td>
</tr>
<tr>
<td>Map Numbers</td>
</tr>
</tbody>
</table>
| Property Owners          | JAMES BEAGHAN REVOCABLE TRUST  
                           | BEAGHAN, JAMES, TRUSTEE  
                           | 055-A ALKI AVE SW  
                           | SEATTLE, WA 98116-2672 |
| Situs Address            | There is no address assigned to this parcel. |
| Acreage                  | 4.04 Acres |
| Zoning                   | RURAL RESIDENTIAL - 5 (RR-5) |
| Development Considerations: | ARCHAEOLOGICAL SITES (ARC)  
                           | COASTAL SHORELAND BOUNDARY (CSB)  
                           | AREAS OF EXCEPTIONAL SCENIC QUALITY AND COASTAL HEADLANDS  
                           | STEEP BLUFFS OVER 50% SLOPE |
| Property Location:       | This property is located north of the City of Bandon adjacent to the Pacific Ocean. Access is off of Wickizer Lane via Seven Devils Road. The property lies east of Agate Beach. |
| Proposal:                | Site a dwelling within the Coastal Shoreland Boundary. |
| Lawfully Created Parcel/Lot: | The applicant submitted a 1989 deed document # 89-01-1788 to show ownership and creation of this property. This property is described as Parcel II of the Wickizer Partition of Lot 3 which was recorded in Book 299, Page 483, Deed Records of Coos County. Therefore, this is a lawfully created parcel pursuant to § 6.1.125(1) of the CCZLDO. |
| Prior Application Restrictions: | There are no prior application restrictions that apply to this request. |
III. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
<thead>
<tr>
<th>APPLICABLE CRITERIA</th>
</tr>
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<tbody>
<tr>
<td>Coos County Zoning and Land Development Ordinance (CCZLDO) and Coos County Comprehensive Plan (CCCP)</td>
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<tr>
<th>CCZLDO</th>
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<th>Uses</th>
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<td>Table 4.2c</td>
<td>Single Family Dwelling</td>
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Note: criteria are shown below with findings in **bold**.

**DEFINITION**

**Rural Residential-5 (RR-5):** The purpose of the “RR-5” district is to provide for acreage homesites outside of Urban Growth Boundaries (UGB), where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available. The “RR-5” district provides for the orderly development of rural land so as to encourage the continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural or forestry uses.

**COASTAL SHORELAND BOUNDARY (CSB):** The Coastal Shoreland Boundary is based on requirements of Statewide Planning Goal #17 (Coastal Shorelands). Coastal Shorelands are defined as “those areas immediately adjacent to the ocean…” The coastal zone extends to the crest of the coast range. The seven criteria of Goal 17 were applied to determine where the CSB should be located.

**COASTAL SHORELAND AREA:** The lands lying between the Coastal Shorelands Boundary set forth elsewhere in this Plan and the line of non-aquatic vegetation, which is also known as the Section 404 Line.

**HEADLAND:** Bluffs, promontories or points of high shoreland jutting out into the ocean, generally sloping abruptly into the water. The Coos Head bluff near Charleston, as identified in the inventory document accompanying this Plan.

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1 Coos County Comprehensive Plan Volume I, Part 2, Inventories and Factual Base
CCZLDO | Article 4.2 | Uses
---|---|---
CCZLDO | Table 4.2c | Single Family Dwelling

1. Article 4.6, "Overlay Zones"
2. Article 4.7, "Special Considerations"
3. Chapter V, "Administration" (Procedural requirements)
4. Article 4.4, "General Development Standards" ***

D. Setbacks:
   a. All buildings or structures with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from the right-of-way line, whichever is greater.
   b. Firebreak: New or replacement dwellings on lots, parcels or tracts abutting the “Forest” zone shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions. Vegetation within this firebreak may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. [ORD 95-05-006PL 11/29/95]

E. Structure Height: No requirement.

F. Fences, Hedges, and Walls: No requirement, but vision clearance provisions of SECTION 7.1.525 apply.

G. Offstreet Parking and Loading: See Chapter X.

H. Minimum Road Frontage/Lot Width: outside UGB’s – 20 feet

I. Compatibility with Forest and Agricultural Management Practices and Production: Any applicant for a rural residential dwelling building or septic permit adjacent to a forest or agriculture zone, shall sign a statement on the Zoning Clearance Letter acknowledging that: “the normal intensive management practices occurring on adjacent resource land will not conflict with the rural residential landowner’s enjoyment of his or her property”.

J. Riparian Vegetation Protection:
   i. Riparian vegetation within 50 feet of a estuarine wetland, stream, lake, or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained except that:
      a. Trees certified by the Coos Soil and Water Conservation District, a port district, or U.S. Soil Conservation Service posing an erosion or safety hazard may be removed to minimize said hazard; or
      b. Riparian vegetation may be removed to provide direct access for a water-dependent use; or
      c. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or
      d. Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan; or
      e. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways, provided that the vegetation to be removed is the minimum necessary to accomplish the purpose; or
      f. Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further...
into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps.

ii. The 50’ riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure’s “footprint”. (ORD 92-05-009PL)

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

FINDING: The property is zoned Rural Residential-5 (RR-5) and a dwelling is permitted on the property so long as the special development considerations have been addressed. There are no overlays that apply to this property. The Coastal Shoreland Boundary (CSB) is located on the property bisects this property by almost half, with the western portion of the property located within the CSB. Upon review of the CSB plan inventory map this property is also subject to coastal headlands, aesthetics and archaeological sites.

The applicant has filed an administrative conditional use to address the dwelling within the CSB.

The property must meet all of the general development standards for setbacks. The property owner has already addressed the driveway and parking requirements by obtaining a permit from the County Road Department.

Therefore, all of the criteria in this section has been addressed.

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5. Coos County shall provide special protection to major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources, and historic and archaeological sites located within the coastal Shorelands boundary of the ocean, coastal lakes and minor estuaries. Coos County shall consider: (a) "major marshes" to include certain extensive marshes associated with dune lakes in the Oregon Dunes National Recreation Area and wetlands associated with New River as identified in the Inventory text and maps, and on the Special Considerations Map; (b) "significant wildlife habitat" to include "sensitive big-game range", Snowy Plover nesting areas, Bald Eagle, and Osprey nesting areas, Salmonid spawning and rearing areas, and wetlands; (c) "coastal headlands" to include Yoakum Point, Gregory Point, Shore Acres, Cape Arago south to Three-Mile Creek, Five Mile Point, and Coquille Point; (d) "exceptional aesthetic resources" to include the coastal headlands identified above, and other areas identified in the Coastal Shorelands Inventory; and (e) "historical, cultural and archaeological sites" to include those identified in the Historical, Cultural and Archaeological Sites Inventory and Assessment.

This strategy shall be implemented through plan designations and ordinance measures that limit uses in these special areas to those uses that are consistent with protection of natural values, such as propagation and selective harvesting of forest products, grazing, harvesting wild crops, and low intensity water-dependent recreation.

This strategy recognizes that special protective consideration must be given to key resources in coastal shorelands over and above the protection afforded such resources elsewhere in this plan.

FINDINGS: The applicant’s plot map shows that the development will be located outside of the exceptional aesthetic resource which is located between the area identified as having steep bluffs and the ocean. The
The applicant is siting the dwelling just inside of the CSB. The area where the house will be located is the start of the gentle slope. The property starts to become steeper about 100 feet from the edge of the home site. The dwelling will not impact the resources value. The applicant has proposed a setback of more than 100 feet from the area where it becomes really steep. He will create a fire break and ensure that drainage flows away from the dwelling protecting the site from erosion. The property is within an archaeological sensitive area and the tribe has been notified to allow for comments.

The application has addressed this criterion.

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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:

- farm uses as provided in ORS 215;
- propagation and harvesting of forest products consistent with the Oregon Forest Practices Act.
- private and public water dependent recreation developments;
- aquaculture;
- water-dependent commercial and industrial uses and water-related uses only upon finding by the Board of Commissioners that such uses satisfy a need, which cannot otherwise be accommodated on shorelands in urban and urbanizable areas;
- 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;
- any other uses, provided that the Board of Commissioners determines that such uses: (1) satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas; (2) are compatible with the objectives of Statewide Planning Goal #17 to protect riparian vegetation and wildlife habitat; and (3) the "other" use complies with the implementation standard of the underlying zone designation.

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 applicant has stated that the proposal is a single family residence and it is compatible with the objectives and implementation standards of the Coastal Shoreland goal and is permitted in the RR-5 zoning district. The applicant has addressed the resources protections above and will not conflict with any of the preservation and protection policies listed elsewhere in the plan. The property owner is not requesting a land division. The property has requested to site only a minimum amount in the CSB. This will allow for property development of the site given the topography, shape of the parcel and road constraints. Therefore, the applicant has adequately addressed this criterion.
III. AGENCY COMMENTS

There have been no agency comments received as of the date of this report.

IV. NOTIFICATION

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) and Dave Perry, DLCD. Notice of Decision was also provided to the following: Coos County Planning Commission, The Coos County Board of Commissioners, the special districts as noted above. 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 August 21, 2014.

V. NOTICE OF APPEAL RIGHTS

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 Friday, September 05, 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.

VI. CONCLUSION AND CONDITIONS

The applicant has met the criteria for a template dwelling. The following conditions shall apply:

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.

2. A Zoning Compliance Letter (ZCL) shall be obtained from the Planning Department in order to continue with any required development permits from the Department of Environmental Quality (DEQ) or State Building Codes Agency.

3. 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 5.2.900, this permit shall remain valid for the period set forth in ORS 215.417.

4. The proposed dwelling must be located as shown on the applicants’ submitted plot plan and will conform to all setback requirements.

Attachments: Applicant’s submittal
Coos County Planning Department
Conditional Use Application

Please place a check mark on the appropriate type of review that has been requested.

☑ Administrative Conditional Use  ☐ Hearings Body Conditional Use
☐ Site Plan Review  ☐ Variance

An incomplete application will not be processed. Applicant is responsible for completing the form. Attach additional sheets to answer questions if needed.

A. Applicant:

Name: James P. Beachan
Address: 3055-A Allist Ave SW
City: Seattle
State: WA
Zip Code: 98116
Telephone: (206) 822-8084

B. Owner:

Name: Same
Address: 
City: 
State: 
Zip Code: 
Telephone: 

C. As applicant, I am (check one):

☒ The owner of the property;
☐ The purchaser of the property under a duly executed written contract who has the written consent of the vendor to make such application (consent form attached).
☐ A lessee in possession of the property who has written consent of the owner to make such application (consent form attached).
☐ The agent of any of the foregoing who states on the application that he/she is the duly authorized agent and who submits evidence of being duly authorized in writing by his principal (consent form attached).

D. Description of Property:

Township 27  Range 14  Section 8  Tax Lot 1101
Tax Account 7573.00  Lot Size 4.04  Zoning District P-5

RECEIVED
JUN 12 2014

COOS COUNTY PLANNING DEPARTMENT

Updated 11/09
E. **Supplemental Information**

1. Existing Use ____________________________
2. Site Address ________________________ Access Road ________________________
3. Is the Property on Farm/Forest Tax Deferral ________________________
4. Current Land Use (timber, farming, residential, etc.) ________________________
5. Major Topography Features (streams, ditches, slopes, etc.) ________________________
6. Letter from Oregon Department of Forestry (for Forest dwellings only)
7. Letter from Natural Resource Conservation Service (for Forest/Farm dwellings only).
8. Is there a dwelling on the subject property or tract? ________________________
9. List all lots or parcels that the current owner owns or is purchasing which have a common boundary with the subject property. ________________________

F. **Explain Specific Use Requested**

THIS CONDITIONAL USE APPLICATION IS TO REQUEST A VARIANCE TO BUILD/STRAND THE CSB WITH THE DECK/PORCH OF MY NEW HOME, BY APPROXIMATELY 10'-20'. PLEASE NOTE THAT MY NEIGHBOR (TAX LOT 700) RECEIVED A CONDITIONAL USE APPROVAL TO BUILD WELL WITHIN THE CSB AS REFERENCED BY THE ATTACHED CONDITIONAL USE APPROVAL DECISIONS.

G. **Justification**

Pursuant to the Zoning and Land Development Ordinance, this application may be approved only if it is found to comply with the “Review Standards and Special Considerations” applicable to the proposed use. Therefore, please attach a page or pages with your findings (or reasons) regarding how your application and proposed use comply with the following “Review Standards and Special Considerations” from Chapter IV of the Coos County Zoning and Land Development Ordinance.

Appendix | Volume I | Policy 5.10.

H. **Required Supplemental Information to Submit with Application**

1. A copy of the current deed of record;
2. Covenants or deed restrictions on the property, if unknown contact title company;
3. A detailed parcel map of the property illustrating the size and location of existing and proposed uses, structures and roads on a 8½" x 11" paper to scale. **Applicable distances must be noted on the parcel map**; (see attached)
4. If applicant is not the owner, documentation of consent of the owner including:
   a. A description of the property;
   b. Date of consent;
   c. Original consent of property owner;
   d. Party to whom consent is given.
I. Authorization:
All areas must be initialed by all applicant(s) prior to the Planning Department accepting any application.

I hereby attest that I am authorized to make the application for a conditional use and the statements within this application are true and correct to the best of my knowledge and belief. I affirm that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

ORS 215.416 Permit application; fees; consolidated procedures; hearings; notice; approval criteria; decision without hearing. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service. The Coos County Board of Commissioners adopt a schedule of fees which reflect the average review cost of processing and set-forth that the Planning Department shall charge the actual cost of processing an application. Therefore, upon completion of review of your submitted application/permit a cost evaluation will be done and any balance owed will be billed to the applicant(s) and is due at that time. By signing this form you acknowledge that you are response to pay any debt caused by the processing of this application. Furthermore, the Coos County Planning Department reserves the right to determine the appropriate amount of time required to thoroughly complete any type of request and, by signing this page as the applicant and/or owner of the subject property, you agree to pay the amount owed as a result of this review. If the amount is not paid within 30 days of the invoice, or other arrangements have not been made, the Planning Department may chose to revoke this permit or send this debt to a collection agency at your expense.

I understand it is the function of the planning office to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree I bare the burden of proof. I understand that approval is not guaranteed and the applicant(s) bear the burden of proof to demonstrate compliance with the applicable review criteria.

As applicant(s) I/we acknowledge that is in my/our desire to submit this application and staff has not encouraged or discouraged the submittal of this application.

Applicant(s) Original Signature

Applicant(s) Original Signature

Date

6-10-14
KNOW ALL MEN BY THESE PRESENTS, MICHELLE C. FANNING, hereinafter called grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto JAMES P. BEAGHAN, hereinafter called grantee, and unto grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Coos, State of Oregon described as follows:

Parcel II of the Wickizer Partition of Lot 3, Section 8, Township 27 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, together with the Easement rights recorded in Book 299 Page 483, Deed Records of Coos County.

(also known as the South 210 feet of the North 637 feet of lot 3, Section 8, Township 27 South, Range 14 West of the Willamette Meridian, Coos County, Oregon).

The intent of this deed is to assign and convey all of grantor's interest in the above realty and in the contract wherein Gene D. and Carole A. Wickizer are sellers and James P. Beagham and Michele C. Fanning, then husband and wife, were buyers, dated October 2, 1980.

To Have and To Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is $NONE. However, the actual consideration consists of or includes other property or value given or promised which is the whole of the consideration.

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.
SITE PLAN

DISTANCES ARE CRITICAL. Please provide (as close to scale as possible) location of the initial sewage disposal system within the approved area (using one-half of the area for a new system or the entire area for a repair system). Also show the existing or proposed homesite, accessory buildings, driveways, and all water sources (wells, springs, etc.) including those on neighboring properties.

Dot to dot = 20 feet.
COOS COUNTY PLANNING DEPARTMENT
PLANNING STAFF REPORT FOR ADMINISTRATIVE DECISION

PREPARED BY: Patty Evernden, Director
APPLICANTS/OWNERS: Holmes, Frederick L. & Sue K. C.
Patty Evernden, Director
572 Beacon Highlands
Stevenson, WA 98648

MAP NUMBER(S)/LEGAL DESCRIPTION
Township 27 Range 14 Section 8 Tax Lot 700

PROPERTY LOCATION
The property lies approximately 12 miles north of the City of Bandon adjacent to
the Pacific Ocean. Access is off of by way of Wickizer Lane (easement) off of
Seven Devils Road. Generally, the property lies east of Agate Beach.

REQUEST
To replace a dwelling in the Coastal Shoreland Boundary

SPECIAL DISTRICTS
Southern Coos General Health District
Bandon RFPD

APPLICABLE REVIEW CRITERIA

<table>
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<tr>
<td>LDO</td>
<td>Appendix 1, Plan Policy 5.6</td>
<td>Fish &amp; Wildlife Habitats, Plan Implementation Strategy 1</td>
</tr>
<tr>
<td></td>
<td>Appendix 1, Plan Policy 5.9</td>
<td>Unique &amp; Scenic Resources</td>
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<td>Appendix 1, Plan Policy 5.10</td>
<td>Dunes, Ocean and Coastal Lake Shorelands</td>
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Inventory Detail

| Coastal Shoreland Inventory | Steep bluffs over 50 % Slope & Areas of exceptional scenic quality and coastal headlands |
| Area of cultural concern | Coos County Comprehensive Plan Goal 5 map |
| Floodplain | FEMA |
| Wetland | National Wetland Inventory |
| Natural Hazards | DOGAMI landslide |

1. BASIC FINDINGS
A. **Lawfully Created Parcel:** The subject property is a legal lot of record created before January 1, 1986, according to deed number 77-0812867 which is consistent with LDO §3.3.800.

B. **Zoning:** The subject property is zoned RR-5 and lies within the Coastal Shoreland Boundary. The purpose of the “RR-5” district is to provide for acreage homesites outside of Urban Growth Boundaries (UGB), where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available. The “RR-5” district provides for the orderly development of rural land so as to encourage the continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural or forestry uses.

**COASTAL SHORELAND BOUNDARY (CSB):** The Coastal Shoreland Boundary is based on requirements of Statewide Planning Goal #17 (Coastal Shorelands). Coastal Shorelands are defined as “those areas immediately adjacent to the ocean...” The coastal zone extends to the crest of the coast range. The seven criteria of Goal 17 were applied to determine where the CSB should be located.

**COASTAL SHORELAND AREA:** The lands lying between the Coastal Shorelands Boundary set forth elsewhere in this Plan and the line of non-aquatic vegetation, which is also known as the Section 404 Line.

C. **Site Description:** The subject property is rectangular in shape and contains approximately 4.92 acres. Wickizer Road (private easement) runs north-south through the east end of the property. The existing driveway is approximately 400’. The east half of the property has dense vegetation. The west half is developed with the homesite, accessory structure(s) and has scattered vegetation.

D. **Surrounding Land Uses:** The Pacific Ocean lies directly west of the property. Tax lots within the 250’ notification area are zoned RR-5 to the north and south and Forest to the east of the subject property. The properties within the notification area range in size from 4.04 acres to 27.36 acres.

E. **Background:** On October 26, 1993 a Zoning Compliance Letter (ZCL-93-633) was issued authorizing a 1056 square foot forest accessory structure. 356 square feet of the structure was to be used exclusively for forest related storage.

On November 24, 1993, the subject property was rezoned from Forest to Rural Residential-5.

Assessment records identify a 1963 dwelling, 1994 garage, and a horse shed (year unknown). According to the applicants the home burned on May 25, 2011.

Replacement in the RR-5 zone is permitted outright; however, because the dwelling site is within the Coastal Shoreland Boundary, conditional use review is required.

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**II. FINDINGS TO THE REVIEW CRITERIA**

5.9 **UNIQUE SCENIC RESOURCES**

**Plan Implementation Strategies**

Coos County shall manage its "areas with potential for exceptional coastal experience" (non-estuarine shoreland areas) and it is identified outstanding scenic views and sites so as to preserve their original character. However, this strategy is not meant to affect timber management practices, as regulated by the Forest Practices Act. State and Federal agencies responsible for managing lands within these identified areas are strongly encouraged to protect and preserve the integrity of Coos County’s scenic resources, favoring multiple-use concepts.

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1 Coos County Comprehensive Plan Volume I, Part 2, Inventories and Factual Base
2 LDO Table 3.4
In addition, any development actions other than agricultural or forest practices shall be considered to conflict with the scenic characteristics of these areas, and shall only be permitted after considering the economic, social, environmental and energy consequences, of the proposal. Conflicts shall be resolved through site review considerations necessary to achieve the goal. This strategy is based on the recognition that Coos County's unique scenic areas are valuable resources and accordingly merit special management attention.

This strategy shall be implemented by encouraging State and Federal agencies responsible for managing land within these identified areas to protect and preserve the integrity of Coos County's scenic resources, favoring multiple-use concepts.

**FINDING:** The original dwelling was built in 1963 existed until May 25, 2011, when it was destroyed by fire. It seems reasonable to conclude that a replacement dwelling on the site will have an economic benefit. There will be no consequences by allowing the dwelling to be rebuilt on this property as it was used for residential property up until the dwelling was destroyed by fire. The dwelling superseded any development criteria when built; therefore, it is consistent with the underlying rural residential zoning and has no consequences on the economical, social, environmental and energy resources of Coos County. The area will be maintained in the same manner as it has been since 1963 which was prior to the adoption of this criterion.

**5.10 DUNES, OCEAN AND COASTAL LAKE SHORELANDS**

**Plan Implementation Strategies**

1. Coos County shall base policy decisions for dune and ocean, coastal lake, and minor estuary shorelands on the boundaries for these areas as identified on the Special Considerations Map.

   In addition, the County shall utilize the Special Considerations Map and the boundaries it delineates for the following specific areas:
   a. "Coastal Shorelands Boundary";
   b. "Coastal Lake Shorelands Boundary";
   c. "Suitable", "Limited Suitability" and "Not Suitable" areas of development potential.

This strategy recognizes that the Special Considerations Map specifically delineates the boundaries for areas identified in the Dunes and Ocean, Coastal Lakes Inventory and Assessment.

**FINDING:** The Special Considerations Map identifies areas which may have an impact on development. The Special Considerations Map is not a substitute for the detailed plan inventory maps but was intended as a guide to alert the need to review the plan inventory map. The Comprehensive Plan Coastal Shoreland inventory map identifies most of the subject property is located within the Coastal Shoreland Boundary.

The Comprehensive Plan Inventory Map "Development Potential within Ocean Shorelands and Dunes" identifies the subject property is within an area "suitable for most uses; few or no constraints."

4. Coos County shall cooperate with state and federal agencies in regulating the following actions in the beach and dune areas described in subparagraph (iii) of Policy #1: (1) destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage); (2) the exposure of stable and conditionally stable areas to erosion; (3) construction of shore structures which modify current air wave patterns leading to beach
erosion; and (4) any other development actions with potential adverse impacts.

This strategy shall be implemented through the processes described in Policies #2 and #3 above and through review and comment by the county on state and federal permits in beach and dune areas. This strategy recognizes that regulation of these actions is necessary to minimize potential erosion.

**FINDING:** There have been no comments from State or Federal agencies on this property.

5. Coos County shall provide special protection to major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources, and historic and archaeological sites located within the coastal Shorelands boundary of the ocean, coastal lakes and minor estuaries. Coos County shall consider: (a) "major marshes" to include certain extensive marshes associated with dune lakes in the Oregon Dunes National Recreation Area and wetlands associated with New River as identified in the Inventory text and maps, and on the Special Considerations Map; (b) "significant wildlife habitat" to include "sensitive big-game range", Snowy Plover nesting areas, Bald Eagle, and Osprey nesting areas, Salmonid spawning and rearing areas, and wetlands; (c) "coastal headlands" to include Yoakum Point, Gregory Point, Shore Acres, Cape Arago south to Three-Mile Creek, Five Mile Point, and Coquille Point; (d) "exceptional aesthetic resources" to include the coastal headlands identified above, and other areas identified in the Coastal Shorelands Inventory; and (e) "historical, cultural and archaeological sites" to include those identified in the Historical, Cultural and Archaeological Sites Inventory and Assessment.

This strategy shall be implemented through plan designations and ordinance measures that limit uses in these special areas to those uses that are consistent with protection of natural values, such as propagation and selective harvesting of forest products, grazing, harvesting wild crops, and low intensity water-dependent recreation.

This strategy recognizes that special protective consideration must be given to key resources in coastal shorelands over and above the protection afforded such resources elsewhere in this plan.

**FINDING:** The Comprehensive Plan Inventory map "Fish & Wildlife II" identifies the property is in an area of "Big Game Range (Elk & Deer)." The area is detailed as "Peripheral" supporting "...substantial populations but habitat is lessened by development." The subject property has existing development and the replacement dwelling should have no more of an impact than the dwelling destroyed by fire in May of this year.

The property is also in an area of "exceptional scenic quality" and "coastal headlands. The underlying zone of the property is rural residential, therefore, this use was found to be consistent with the protection of the natural values of the area.

The property is in an area of archeological concern; therefore, the Tribe was provided notice of the proposal and an opportunity to comment. Agnes Castronuevo, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians commented that there was objection. However, the proposed development is within a culturally sensitive area there may be undiscovered cultural resources; therefore, 72 hour notice must be provided to the tribe prior to any ground disturbing activities to allow for a staff person or designated member of the tribe may be present during any ground disturbing activities.
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:
   a. farm uses as provided in ORS 215;
   b. propagation and harvesting of forest products consistent with the Oregon Forest Practices Act.
   c. private and public water dependent recreation developments;
   d. aquaculture;
   e. water-dependent commercial and industrial uses and water-related uses only upon finding by the Board of Commissioners that such uses satisfy a need, which cannot otherwise be accommodated on shorelands in urban and urbanizable areas;
   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;
   g. any other uses, provided that the Board of Commissioners determines that such uses: (1) satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas; (2) are compatible with the objectives of Statewide Planning Goal #17 to protect riparian vegetation and wildlife habitat; and (3) the "other" use complies with the implementation standard of the underlying zone designation.

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 replacement dwelling will be sited on an existing unit of land. The purpose of Coastal Shoreland Goal #17 is to:

"To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

The County's acknowledged plan identifies this property as appropriate for development consistent with the objective of Goal #17.

**III. ANALYSIS**

Evidence relied on for this conditional use approval includes aerial photographs, assessment records, Planning Department records, and the applicants' submitted evidence. Therefore, based on the evidence in the record the proposal meets the criteria required for the placement of a dwelling in the C38.

Please note, all applications are subject to review of all applicable review criteria in the Coos County Comprehensive Plan (CCCP), the Coos County Zoning and Land Development Ordinance (LDO), and all land use regulations. Please be aware the burden of proof rests with the applicant.
IV. NOTIFICATION

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) and Dave Perry, DLCD. Notice of Decision was also provided to the following: Coos County Planning Commission, Southern Coos General Health District, Bandon RFPD and Confederated Tribes. 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 August 4, 2011.

V. NOTICE OF APPEAL RIGHTS

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 19, 2011, 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.

VI. CONDITIONS & REQUIREMENTS 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 5.2.900, this permit shall remain valid for the period set forth in ORS 215.417.

3. The proposed work area is located within a “culturally sensitive area” and within close proximity of known cultural resource sites, and so may contain as yet undiscovered cultural resources. The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribe) must be contacted immediately if any known or suspected cultural resources are encountered during any phase of the work. Further, the Tribe shall be given 72 hours notice prior to any ground disturbing activities, and a staff person or designated member be present during any ground disturbing activities.

4. Obtain a zoning compliance letter (ZCL) from the Planning Department in order to obtain DEQ and State Building Code permits.
In reference to the Coos County Planning Department letter of July 11, 2014 the following additional information is submitted in support of the Beaghen Application for Conditional Use (ACU-14-015) on property located in Township 27, Range 14, Section 08, Tax Lot 1011. This information includes specific steps proposed to not conflict with resource preservation and protection as listed in Coos County Land Development Ordinance Table 4.7a and Appendix 1, under Section 5.10 (7), and consistent with the purpose of Coastal Shoreline Goal #17.

1. The Beaghen Application for Conditional Use is for a single family residence on an existing lot.

2. Drainage will be provided that will direct water runoff to the slopped hillside approximately 90' – 100' west of the proposed build site as illustrated on the enclosed supplemental site plan.

3. A fire break of cleared brush and dense vegetation will be provided in an area 90'-100' between the build site and slopped hillside west of the proposed build site as illustrated on the enclosed supplemental site plan.
DISTANCES ARE CRITICAL. Please provide (as close to scale as possible) location of the initial sewage disposal system within the approved area (using one-half of the area for a new system or the entire area for a repair system). Also show the existing or proposed home-site, accessory buildings, driveways, and all water sources (wells, springs, etc.) including those on neighboring properties.

Dot to dot = 20 feet.