STAFF REPORT

Date of Report: Wednesday, November 19, 2014  Appeal Deadline Thursday, December 04, 2014

Type of Application: ADMINISTRATIVE CONDITIONAL USE APPLICATION

Decision: APPROVED

File Number: ACU-14-25

II. Property Information

<table>
<thead>
<tr>
<th>Account No.</th>
<th>757511</th>
</tr>
</thead>
<tbody>
<tr>
<td>Map Numbers</td>
<td>27S140800-02601</td>
</tr>
<tr>
<td>Property Owners</td>
<td>MASSEY BEACH, LLC</td>
</tr>
<tr>
<td>Situs Address</td>
<td>91213 CAPE ARAGO HWY COOS BAY, OR 97420-7638</td>
</tr>
<tr>
<td>Acreage</td>
<td>13.92 Acres</td>
</tr>
<tr>
<td>Zoning</td>
<td>FOREST (F)</td>
</tr>
<tr>
<td>Development Considerations:</td>
<td>ARCHAEOLOGICAL SITES (ARC) COASTAL SHORELAND BOUNDARY (CSB) FLOOD PLAIN (FP) FOREST MIXED USE (MU)</td>
</tr>
<tr>
<td>Property Location:</td>
<td>The property is located north of the City of Bandon. The subject property is identified as Tax Lot 2601 in Township 27, Range 14, Section 08, on the Coos County assessment map. The property is accessed via a private easement off of Seven Devils Road.</td>
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<tr>
<td>Proposal:</td>
<td>The applicant is proposing to site a template dwelling within a Forest Mixed Use zone.</td>
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<tr>
<td>Lawfully Created Parcel/Lot:</td>
<td>This tax lot was determined to exist by a discrete parcel application in January 2007.</td>
</tr>
<tr>
<td>Prior Application Restrictions:</td>
<td>This is a reauthorization of a template dwelling that was completed in 2007. There were conditions of approval related to that application that will be carried forward to this approval. There are no other restrictions that apply.</td>
</tr>
</tbody>
</table>

Special Districts/Agencies:

| Bandon RFPD | Southern Coos Health District | Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians |

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III. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

APPLICABLE CRITERIA

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

<table>
<thead>
<tr>
<th>CCZLDO</th>
<th>§ 4.6.200</th>
<th>Floodplain</th>
</tr>
</thead>
<tbody>
<tr>
<td>CCZLDO</td>
<td>§ 4.8.525(B)</td>
<td>Forest Dwellings (Template Dwelling)</td>
</tr>
<tr>
<td>CCZLDO</td>
<td>§ 4.8.600</td>
<td>Mandatory siting standards for dwellings and structures within the Forest zone</td>
</tr>
<tr>
<td>CCZLDO</td>
<td>§ 4.8.700</td>
<td>Fire Sittings and Safety Standards</td>
</tr>
<tr>
<td>CCZLDO</td>
<td>§ 4.8.750 (B) &amp; (I)</td>
<td>Development Standards (setbacks)</td>
</tr>
<tr>
<td>CCZLDO</td>
<td>Appendix I, Policy 5.10 (7)</td>
<td>Dunes, Ocean, and Coastal Lake Shorelands</td>
</tr>
</tbody>
</table>

Note: criteria are shown below with findings in **bold**.

**DEFINITION**

The purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the “F” zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.

If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.

| CCZLDO       | § 4.6.200            | Floodplain               |

SECTION 4.6.200 FLOODPLAIN: It is the purpose of this section of the ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designated:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
6. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
7. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**Finding:** The proposed dwelling will be outside of the flood plain. Therefore, this criterion has been met.
CCZLDO § 4.8.525(B) Forest Dwellings (Template Dwelling)

SECTION 4.8.525. Forest Dwellings. A dwelling in the Forest zone may be allowed as a conditional use.

B. TEMPLATE DWELLING. A single-family dwelling on a lot or parcel located within a forest zone may be allowed as a conditional use if:

1. There are no other dwellings on the tract on which the dwelling will be sited.

Finding: The subject property contains 13.92 acres. Current assessment records and aerial photographs confirm there are no other dwellings on the subject tract. Therefore, this criterion has been met.

2. There are no deed restrictions established on the lots or parcels that make up the tract which do not allow a dwelling.

Finding: The deed for the subject property, recorded on March 28, 2008 (2008-3104) does not have any dwelling restrictions. Therefore, this criterion has been met.

3. The lot or parcel on which the dwelling is to be located is predominantly composed of soils that are capable of producing the following cubic feet per acre per year:

<table>
<thead>
<tr>
<th>CF/AC/Yr of Growth</th>
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</thead>
<tbody>
<tr>
<td>0-49</td>
</tr>
<tr>
<td>50-85</td>
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<tr>
<td>85+</td>
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</tbody>
</table>

Required minimum number of lots or parcels or portions thereof existing on January 1, 1993, within a 160-acre square centered on the subject tract.

<table>
<thead>
<tr>
<th>Required minimum number of lots or parcels or portions thereof</th>
<th>3</th>
<th>7</th>
<th>11</th>
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</thead>
</table>

Required minimum number of dwellings existing on January 1, 1993, on the lots or parcels

<table>
<thead>
<tr>
<th>Required minimum number of dwellings</th>
<th>3</th>
<th>3</th>
<th>3</th>
</tr>
</thead>
</table>

NOTE: Lots or parcels within urban growth boundaries shall not be used to satisfy the above requirements.

Finding: The Oregon Department of Forestry and Coos County Planning Staff have estimated the cubic foot per acre per year growth to be greater than 85. Based upon the above criteria, the template option requires 11 parcels and 3 dwellings, established prior to January 1, 1993, within a 160 acre square centered on the subject property. The Planning Staff’s research shows there are 19 parcels and 5 dwellings that were sited prior to January 1, 1993. Therefore, this criterion has been met.

4. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan and its implementing measures.

Finding: The proposal meets the criteria in Section 4.8.525 (B) “Template Dwelling” and the acknowledged Comprehensive Plan. The propose dwelling is not prohibited by any other provisions of the Comprehensive Plan or the Coos County Zoning and Development Ordinance. However, because the property is located within the CSB, there were additional criteria this proposal had to meet and those criteria have been address in this report. Therefore, this criterion has been met.
SECTION 4.8.600. Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone. The following siting criteria shall apply to all dwellings, including replacement dwellings, and structures in the Forest and Forest Mixed Use zones. Replacement dwellings may be sited in close proximity to the existing developed homesite. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands.

These criteria may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees, and shall be considered together with the requirements in Section 4.8.700 to identify the building site.

A. Dwellings and structures shall be sited on the parcel so that:
   a. They have the least impact on nearby or adjoining forest or agricultural lands; and
   b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized; and
   c. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
   d. The risks associated with wildfires are minimized.

Finding: The proposed dwelling is going to be sited on the western edge of the property, overlooking the Pacific Ocean. The proposed driveway will be off Seven Devils Road and will loop around the existing marketable timber on the neighboring property, past the neighboring property’s proposed house site, and then towards the subject property. This roadway will insure that there will be minimal impact on the forest practices on this and the neighboring property. The risks of wildfire will be minimized as the roadway will also be used for fire personnel and the firefighting equipment, if that should prove necessary. The roadway and home site are sited so that there will be the least impact on the marketable timber remaining on the property. Therefore, this criterion has been met.

B. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department’s administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules. For the purposes of this Section, evidence of a domestic water supply means:
   • Verification from a water purveyor that the use described in the application will be served by the purveyor’s rights to appropriate water; or
   • A water use permit issued by the Water Resources Department for the use described in the application; or
   • Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor’s report to the County upon completion of the well.

Finding: The applicant has supplied verification from the Water Resources Department that the proposed water supply is from a well and is exempt from the permitting requirements under ORS 537.545. Therefore, this criterion has been met.

C. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
Finding: The applicant has submitted photographic evidence that the driveway has been sited on the property. There is an access permit from the Coos County Highway Department and a driveway confirmation has been recorded. The applicant has stated that the driveway will be used for both residential and forest practices. The applicant shall comply with any and all road development requirements of the Coos County Highway Department. A road easement agreement will have to be submitted to the Planning Department for the easement through tax lot #2600 before this criterion will be met.

D. Approval of a dwelling shall be subject to the following additional requirements:

   a. Approval of a dwelling requires the owner to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

   b. The Planning Department shall notify the County Assessor of the above condition at the time the dwelling is approved.

   c. The property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report of where the survey report indicates that minimum stocking requirements have not been met.

   d. Upon notification by the Assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, it will notify the owner and Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.

Finding: The applicant has addressed this in the application; however, as a condition of approval the property owner will be required to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

The Assessor’s office will receive a copy of this staff report and the property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report of where the survey report indicates that minimum stocking requirements have not been met.

Once this condition of approval has been complied with, this criterion will be met.

| CCZLDO | § 4.8.700 | Fire Sitings and Safety Standards |

SECTION 4.8.700 Fire Sitings and Safety Standards. All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. The Planning Director may authorize alternative forms of fire protection when it is determined that these standards are impracticable.
The dwelling shall be located within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the applicant is outside the rural fire protection district, the applicant shall provide evidence that he has contacted the Department of Forestry of the proposed development.

Finding: The subject property is located within the Bandon Rural Fire Protection District (RFPD). The applicant has included proof that a request to be included in the RFPD has been submitted. Therefore, this criterion has been met.

A. Firebreak:
   a. A firebreak shall be established and maintained around all structures, including decks, for a distance of at least 30 feet in all directions.

      This firebreak will be a primary safety zone around all structures. Vegetation within this primary safety zone 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.

   b. Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.

   c. A secondary fire break of at least 100 feet radius around the primary safety zone shall be established and maintained. Vegetation should be pruned (to at least 8 feet in height) and spaced so that fire will not spread between the crowns of trees. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees.

B. The primary fuel-free break and secondary break areas shall be provided and maintained on land surrounding the dwelling that is owned or controlled by the owner. A variance application will not be required if the parcel’s configuration (shape and/or size) does not allow the primary or secondary fire break to be met. (OR-98-01-002PL)

Finding: Applicant has stated their intention to create and maintain a primary firebreak of 30’ and secondary firebreak of 100’ with garden hose access to the entire structure. The property is of such a size and shape that the primary and secondary safety setbacks can and will be met without impacting neighboring properties. Therefore, this criterion has been met.

C. All new and replacement structures shall use non-combustible or fire resistant roofing materials, as may be approved by the certified official responsible for the building permit.

Finding: Applicant has stated: “All new structures including out buildings will be constructed using non-combustible or fire resistant roofing materials, as approved by the Local Building Official.” Therefore, this criterion has been met.

D. If a water supply exceeding 4,000 gallons is suitable and available (within 100 feet of the driveway or road) for fire suppression, then road access and turning space shall be provided for fire protection pumping units to the source during fire season. This includes water supplies such as a swimming pool, tank or natural water supply (e.g. pond).
Finding: No immediate water source exceeding 4,000 gallons is available, but a fire connection to the well will be established, allowing 250 gallons per minute. The property owner will also be installing a gravel turnaround area large enough for Bandon RFPD trucks to turn around. Therefore, this criterion has been met.

E. The dwelling shall not be sited on a slope of greater than 40 percent.

Finding: There was no indication of the slopes on the submitted site plan. The property consists of the following soils: Bandon sandy loam (0-7% slopes), Blacklock fine sandy loam (0-3% slopes), Bullards sandy loam (30-50% slopes), and Templeton-Bullards complex (30-50% slopes). Applicant has stated the dwelling will be sited on a flat terrace. The dwelling must not be sited on a slope greater than 40%. Therefore, this criterion has been met.

F. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

Finding: Applicant has stated all chimneys and/or flumes will have spark arrestors installed. Therefore, this criterion has been met.

G. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.

Finding: The proposed dwelling location is within the Bandon Rural Fire Protection District and the applicant has submitted proof of their request to be included in the District. Therefore, this criterion has been met.

H. Except for private roads and bridges accessing only commercial forest uses, public roads, bridges, private roads and driveways shall be constructed so as to provide adequate access for firefighting equipment.

Finding: The access road to the proposed dwelling is a private road. Therefore, this criterion has been met.

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

Finding: The access road has been determined to meet the standards of Chapter VII. Therefore, this criterion has been met.

CCZLDO § 4.8.750 (B) & (I) Development Standards (setbacks)

SECTION 4.8.750. Development Standards. All development and structures approved pursuant to Article 4.8 shall be sited in accordance with this Section.

B. Setbacks: 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 any right-of-way line, whichever is greater.

Finding: The proposed dwelling site is located such that all roadway setbacks will be met. Therefore, this criterion has been met.

I. Riparian Vegetation Protection.
a. 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:

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

   ii. Riparian vegetation may be removed to provide direct access for a water-dependent use; or

   iii. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or

   iv. 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

   v. Riparian vegetation may be removed in order to site or properly maintain public utilities and road rights-of-way; or

   vi. 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.

   vii. 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 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”.

Finding: The subject property abuts the Pacific Ocean on the west; however, the dwelling will be built on the bluff overlooking the ocean. The site plan shows there will be a self-imposed setback of 50 feet from the edge of the bluff. There is no riparian vegetation that will be disturbed. Therefore, this criterion has been met.

| CCZLDO | Appendix I, Policy 5.10 (7) | Dunes, Ocean, and Coastal Lake Shorelands |

5. 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.
Finding: The proposed home site is entirely within the Coastal Shoreland Boundary (CSB). To site the proposed dwelling anywhere else on the property would cause a greater impact to the forest resources, causing conflict with the resource preservation of the forest. Therefore, the dwelling is compatible with the objectives and implementation standards or Policy 5.10. Therefore, this criterion has been met.

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 750 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; John Rowe, County Roadmaster; and Mike Dado, County Surveyor. Notice of Decision was also provided to the following: Coos County Planning Commission, Coos County Board of Commissioners, Coos County Assessor’s office, and the special districts and agencies 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 November 19, 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 Thursday, December 04, 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 forest template dwelling, with the following conditions:

1. A road easement agreement will need to be submitted to the Planning Department for the easement through tax lot #2600.

2. 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.

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 5.2.6900, this permit shall remain valid for the period set forth on ORS 215.417.

4. A Zoning Compliance Letter (ZCL) can 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.
5. The proposed dwelling must be located as shown on the applicant’s submitted plot plan; however, the dwelling must not be located on slopes of more than 40%.

6. Construction activities that disturb one or more acres of land are subject to Department of Environmental Quality (DEQ) review. Less than one acre may be subject to review if part of a larger common plan. Please direct all questions to DEQ.

7. The property owner will be required to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules. The Assessor’s office will receive a copy of this staff report and the property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report of where the survey report indicates that minimum stocking requirements have not been met.

8. The property owner shall comply with the applicable portions of CCZLDO Sections 4.8.700 and 4.8.750 as identified by this report.