STAFF REPORT

Date of Report: Monday, January 12, 2015
Appeal Deadline: Tuesday, January 27, 2015

Type of Application: ADMINISTRATIVE CONDITIONAL USE APPLICATION

Decision: APPROVED WITH CONDITIONS

File Number: ACU-14-29/ACU-14-30
Reviewed by: Amy Dibble, Planner I

II. Property Information

| Account No. | 176900 |
| Map Numbers | 24S132200-01900 |

Property Owners
SAND HILLS GUN CLUB, INC.
@ DAY, CHARLES
PO BOX 1196
COOS BAY, OR 97420-0314

Situs Address
No situs address

Acreage
245.60 Acres

Zoning
FOREST (F)

Development Considerations:
ARCHAEOLOGICAL SITES (ARC)
BEACHES/DUNES - LIMITED (BDL)
BIRD SITE MEETS GOAL 5C REQRMNT (B5C)
COASTAL SHORELAND BOUNDARY (CSB)
FLOOD PLAIN (FP)
FOREST MIXED USE (MU)
WETLANDS (WET)

Property Location:
The property is accessed off of Sandy Way Road north of the City of North Bend.

Proposal:
The applicant is proposing to replace the existing single family dwelling in a different location on the subject property.

Lawfully Created Parcel/Lot:
This property was created prior to 1986 pursuant to the Coos County 1982 microfiche records, showing a deed reference of book 97, page 498; therefore, meeting the criteria set forth in CCZLDO § 6.1.125(8).

Prior Application Restrictions:
There are no prior conditions that apply to this property.
III. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

APPLICABLE CRITERIA

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

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

DEFINITION

Forest (F): The purpose of the "F" district is to designate forest lands and protect them for forest uses, except where findings establish that certain limited non-forest uses may be allowed. 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.

Replacement dwelling: alteration, restoration or replacement of a lawfully established dwelling that: (i) has intact exterior walls and roof structure; (ii) has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system; (iii) has interior wiring for interior lights; (iv) has a heating system; and (v) in the case of replacement, is removed, demolished or converted to an allowable non-residential use within three months of the completion of the replacement dwelling. [OR 93-12-017PL 2/23/94]

Floodplain: The area adjoining a stream, tidal estuary or coast that is subject to regional flooding.
**Wetlands:** Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

| CCZLDO | § 4.8.200(S) | Uses Permitted Outright (Alteration, restoration or replacement of a lawfully established dwelling) |

**SECTION 4.8.200. Uses Permitted Outright.** The following uses and activities and their accessory uses shall be permitted outright in the Forest zone, subject to applicable siting criteria set forth in this Article and elsewhere in this Ordinance.

S. Alteration, restoration or replacement of a lawfully established dwelling.

A lawfully established dwelling is a single-family dwelling that:

1. Has intact exterior walls and roof structure; and

2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system; and

3. Has interior wiring for interior lights; and

4. Has a heating system; and

In the case of replacement, the dwelling to be replaced is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. Coos County does not allow conversion of mobile homes into accessory storage buildings or uses.

These conditions must comply with Coastal Boundary conditional use criteria in CREMP F.

**FINDING:** There is currently a single family dwelling located on the property. The property owners will be replacing this dwelling. After completion of the replacement dwelling the original dwelling will be removed or rendered uninhabitable. This is a permitted use, however, because it lies within the Coastal Shoreland Boundary and the Beaches and Dunes with limited suitability for development areas a conditional use was required. Staff has determined that this criteria has been met.

| CCZLDO | Table 4.7a(4)(a) | Special Regulatory Consideration Prescribed by the Coos County Comprehensive Plan (Beaches & Dunes) |
| CCZLDO | Appendix 1 | CCCP Volume I, Policies 5.10(2) Dunes, Ocean and Coastal Lake Shorelands |

2. Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" on the Special Considerations Map only upon the establishment of findings that consider at least:

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

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

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

This policy recognizes that:

a. The Special Considerations Map Category of "Beach and Dune Areas with Limited Development Suitability" includes all dune forms except older stabilized dunes, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding.

b. The measures prescribed in this policy are specifically required by Statewide Planning Goal #18 for the above-referenced dune forms; and that this strategy recognizes that potential mitigation sites must be protected from pre-emptory uses.

FINDING: The applicant states that the home site and driveway extension have been planned to fit into the existing terrain and the ground cover that must be removed during construction will be replanted to insure site stability. According to the United States Department of Agriculture Soils Conservation Service Soil Survey of Coos County the proposed home site is located on soils identified as 61D - Waldport-Heceta fine sands, 0 to 30 percent slopes, which is mainly on stabilized sand dunes and in depressional areas between sand dunes. The State of Oregon's Department of Geology and Mineral Industries Environmental Geology of Western Coos and Douglas Counties has the area listed as stable sand: Unconsolidated fine to medium grained dune sand protected from wind erosion by natural or artificially introduced vegetation. The applicant has satisfied this criteria.

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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.

**FINDING:** Notification was provided to Oregon Department State Lands on December 23, 2014; however, to date staff has not received a response. The applicant will have to comply with the state's requirements as a condition of approval. Therefore, this criteria has been addressed.

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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 proposed dwelling shall be located 50 feet from Sandpoint Lake. This dwelling will be located at a higher elevation than the existing dwelling and due to the topography, locations of wetland areas and the soils; this location is the most suitable for a single family dwelling. The proposed dwelling will be near existing development, thus keeping the development clustered and making less impact to the property. Staff provided a request for comments to Christopher Claire from Oregon Department of Fish and Wildlife (ODFW) on December 24, 2014. Mr. Claire replied on December 24, 2014 with the following recommendations: 1) Retention of all trees within the 50ft. area from the construction site to the Ordinary High water mark of both the wetland and lake; 2) If view of the lake is desired it is reasonable for the landowner to limb tree to allow more open conditions, while retaining trees. These will be conditions of approval, therefore, the criteria has been addressed.

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1. Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property. Coos County considers natural disasters and hazards to include stream and ocean flooding, wind hazards, wind erosion and deposition, "critical streambank erosion, mass movement (earthflow and slump topography), earthquakes and weak foundation soils.

This strategy shall be implemented by enacting special protective measures through zoning and other implementing devices, designed to minimize risks to like and property.

This strategy recognizes that it is Coos County's responsibility: (1) to inform its citizens of potential risks associated with development in known hazard areas; and (2) to provide appropriate safeguards to minimize such potential risks.

2. Coos County shall continue to participate in the National Flood Insurance Program (Public Law 90-448), recognizing that participation in this program substantially insures the health and safety of county residents and allows property owners to benefit from subsidized insurance rates. Further, this strategy also recognizes that failure to participate in this program would prohibit affected property owners from receiving construction and permanent mortgage loans by federally insured lending institutions.

2a. The areas of special flood hazard, identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Coos County" dated March 17, 2014, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps is hereby adopted by reference and declared to be a part of the Coos County Comprehensive Plan Inventory.

3. Coos County shall comply with the requirements of the Federal Insurance Administration Regulation 1910.3(b). This strategy recognizes that the above identified safeguards are appropriate to minimize adverse life and property risks.

4. Coos County shall support the policy of State Building Codes Division requiring new mobile home sitings to be secured to the ground, recognizing that "tie-downs" are appropriate safeguard against Coos County's wind hazards.

FINDING: The proposed dwelling site will be located outside of the floodplain. Therefore, these criteria do not apply.

III. AGENCY COMMENTS

Christopher Claire from Oregon Department of Fish and Wildlife stated that the home will be sufficiently distant from the lake edge to meet the County Riparian Ordinance. He further recommended that the retention of all trees within the 50ft. area from the construction site to the ordinary high water mark of both the wetland and lake be kept and if the land owner would desire a view of the lake then it is reasonable for the land owner to limb the trees to allow more open conditions, while retaining the trees.

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),

* These hazards are addressed under policies for "Dunes and Ocean and Lake Shorelands."
Owner(s) and Dave Perry, DLCD, and John Rowe, County Roadmaster, Mike Dado, County Surveyor. 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 January 12, 2015.

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 Tuesday, January 27, 2015, 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 three (3) parcel partition with the exception of the conditions of approval listed:

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. All necessary federal, state, and local permits must be obtained prior to commencement of construction.
3. All development requires an approved driveway and access from the Coos County Roadmaster. In order to obtain approval a driveway confirmation is required. The fee for this permit is $150.00, and the form can be obtained from the Coos County Planning Department. Once the driveway has been completed to the standards prescribed in the permit or a bond has been completed the Roadmaster will complete the form and provide a copy to the Planning Department (per CCZLDO Chapter VII).
4. Acquire a zoning compliance letter from the Coos County Planning Department.
5. Adhere to the requirements and conditions set forth by the Oregon Department of Fish and Wildlife.
   a. Retention of all trees within the 50ft. area from the construction site to the Ordinary High water mark of both the wetland and lake;
   b. If view of the lake is desired reasonable for the landowner to limb tree to allow more open conditions, while retaining trees.
6. Construct the replacement single family dwelling as depicted on the plot plan provided in the application.

Attachments: Applicant’s submittal
             Response from ODFW