Date of Report: Tuesday, February 03, 2015  Appeal Deadline Wednesday, February 18, 2015

Type of Application:  ADMINISTRATIVE CONDITIONAL USE APPLICATION

Decision: APPROVED WITH CONDITIONS

File Number: ACU-14-38     Reviewed by:   Amy Dibble, Planner I

<table>
<thead>
<tr>
<th>Account No.</th>
<th>2913805</th>
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<tbody>
<tr>
<td>Map Numbers</td>
<td>29S1501CB-02805</td>
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<tr>
<td>Property Owners</td>
<td>MUELLER, JOHN M. &amp; SUSAN L.</td>
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<td></td>
<td>PO BOX 510</td>
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<td>PARK CITY, UT 84060-0510</td>
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<tr>
<td>Situs Address</td>
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<tr>
<td>Acreage</td>
<td>0.41 Acres</td>
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<tr>
<td>Zoning</td>
<td>CONTROLLED DEVELOPMENT-10 (CD-10)</td>
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<tr>
<td>Development Considerations:</td>
<td>ARCHAEOLOGICAL SITES (ARC)</td>
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<td></td>
<td>BANDON AIRPORT CONICAL ZONE (ABC)</td>
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<td></td>
<td>BANDON URBAN GROWTH BOUNDARY (BGB)</td>
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<td>BEACHES/DUNES - LIMITED (BDL)</td>
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<td></td>
<td>COASTAL SHORELAND BOUNDARY (CSB)</td>
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<td>FLOOD PLAIN (FP)</td>
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Property Location/Description: The property is located southwest of the City of Bandon and is accessed off Vesta Lane via Beach Loop Road. The subject property contains .56 of an acre. According to the current Coos County assessment records, there is no development on the subject property.

Proposal: To site a single family dwelling within the Coastal Shoreland Boundary and the Beaches and Dunes Limited Suitability for Development.

Lawfully Created Parcel/Lot: The current configuring of the property was created through a vacation in 2013 and a property line adjustments in 2014; therefore, it meets the criteria pursuant to § 6.1.125(2).

Prior Application Restrictions: There are no prior application restrictions.

Special Districts/Agencies:

| Bandon RFPD | City of Bandon | Southern Coos Health District |
### III. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

#### APPLICABLE CRITERIA

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

| CCZLDO | §4.2.800, Table 4.2g | Uses for Commercial-Industrial zoning within the Urban Unincorporated Communities. |
| CCZLDO | § 4.4.600, Table 4.4-c | Property Development Standards |
| CCZLDO | § 4.6.300(3) | Airport Surfaces – Height limitations |
| CCZLDO | §4.7. Table 4.7a (3), (4), (5), (8) Appendix I, Policies 5.7(3); 5.10(2), (7); 5.19(11). | Special Considerations: Historical/Archaeological Sites and Structures; Beaches and Dunes; Non-Estuarine Shoreland Boundary; Airport Surfaces |
| CCZLDO | Chapter 7, Table 7.2 | Minimum Standards for Driveway |
| CCZLDO | Chapter 7 §7.5.175 | Required number of parking spaces for type of use |

### DEFINITION

**Controlled Development (CD-10)**

The purpose of the “CD-10” district is to recognize the scenic and unique quality of selected areas within Urban Growth Boundaries, to enhance and protect the unique “village atmosphere”, to permit a mix of residential, commercial and recreational uses and to exclude those uses which would be inconsistent with the purpose of this district, recognizing tourism as a major component of the County’s economy.

| CCZLDO | §4.2.800, Table 4.2g | Uses for Commercial-Industrial zoning within the Urban Unincorporated Communities. |

**FINDING:** A residential single family dwelling is allowed outright in the CD-10 zoning district; however, there are special circumstances in this case because the property lies within the Beaches and Dunes Limited Suitability for Development area and within the Coastal Shoreland Boundary, both of which require a conditional use permit to address criteria. Staff finds this criterion has been met because the dwelling is allowed outright in the respective zoning district. The applicants are required to submit this application to address the special consideration that applies to this property.

| CCZLDO | §4.4.600, Table 4.4-c | Property Development Standards |

**FINDING:** The subject property is a lot in a 1907 subdivision. It does not meet the current minimum lot standards, being less than one acre; however, it is a recognized legally created lot in a pre-existing subdivision. Therefore, it may be developed. It has a minimum street frontage of 50 feet, as well as the lot depth and width. The setbacks will be applied when a compliance letter is issued for development, as well as the building height and off street parking. Staff finds these criteria have been met or will be met prior to construction. This criterion has been satisfied.
Notwithstanding other provisions of this Ordinance, no structure shall be created or altered to a height in excess of the applicable height limits herein established. Such applicable height limitations are hereby established:

3. Horizontal Conical Zone – Maximum allowable height = 35 feet.

**FINDING:** When the zoning compliance letter is issued for development, it will state the dwelling cannot be over the maximum allowable height of 35 feet. A copy of this report will be sent to Oregon Department of Aviation (ODA) and Federal Aviation Administration (FAA). The applicant may be required to file a form with ODA and FAA because the property has been identified as in the airport surfaces. The deed (95-09-0654) further restricts the height of development on this lot to 16 feet from the finished floor, which is no more than 3 feet above current ground level, to the roof top elevation. The property owner will have to comply with this deed restriction. This criterion has been addressed.

Table 4.7a (3) Historical/Archaeological Sites and Structures
Appendix 1, Policy 5.7 (3) Coos County shall continue to refrain from wide-spread dissemination site-specific inventory information concerning identified archaeological sites. Rather, Coos County shall manage development in these areas so as to preserve their value as archaeological resources.

This strategy shall be implemented by requiring development proposals to be accompanied by documentation that the proposed project would not adversely impact the historical and archaeological values of the project's site. "Sufficient documentation" shall be a letter from a qualified archaeologist/historian and/or a duly authorized representative of a local Indian tribe(s). The Coos County Planning Department shall develop and maintain a list of qualified archaeologists and historians. In cases where adverse impacts have been identified, then development shall only proceed if appropriate measures are taken to preserve the archaeological value of the site. "Appropriate measures" are deemed to be those, which do not compromise the integrity of remains, such as: (1) paving over the sites; (2) incorporating cluster-type housing design to avoid the sensitive areas; or (3) contracting with a qualified archaeologist to remove and re-inter the cultural remains or burial(s) at the developer's expense. If an archaeological site is encountered in the process of development, which previously had been unknown to exist, then, these three appropriate measures shall still apply. Land development activities found to violate the intent of this strategy shall be subject to penalties prescribed by ORS 97.745 (Source: Coos Bay Plan).

This strategy is based on the recognition that preservation of such archaeologically sensitive areas is not only a community's social responsibility but is also a legal responsibility pursuant to Goal #5 and ORS 97.745. It also recognizes that historical and archaeological sites are non-renewable, cultural resources (Source: Coos Bay Plan).

**FINDING:** The property lies within an area of archaeological interest, notice has been sent to both the Coquille Indian Tribes and the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and a response will have to be received prior to issuance of a zoning compliance letter. This criterion has been satisfied.

Table 4.7a (4) Beaches and Dunes
Appendix 1, Policy 5.10 (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 effects 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.

FINDING: A geotechnical report was filed with the application. The report was filed by Ron Sonnevil of Terra Firma Geologic Services. The report shows that there are three hazard areas. A low hazard area which is located 30 feet back from the top of the sea cliff; the moderate hazard area, which is located between 10 and 30 feet from the top of the sea cliff; and the high hazard area, which includes the dunefield on the beach, the seacliff slope and that portion of the upper part of the property located within 10 feet from the top of the seacliff slope. For structures in the low hazard area, a standard foundation is all that is required. The report states that dwellings can be built within the moderate hazard area with mitigation to include: cantilevering seaward of the moderate/low hazard boundary; founding the structure on a deep foundation engineered to stabilize the site; or utilizing a daylight basement. Following these recommendations will help to stabilize the structure and avoid hazards to life and property. Foundation footings should extend through any loose top soils and bear on the cemented sand (hardpan), expected to be located 3 to 5 feet beneath the ground surface. A well graded, granular fill with a maximum grain size of 5 inches and less than 5% fines (silt and clay) is recommended for use as structural fill. Native soils should not be used as fill. Fill from grading the home site should not be placed near the top of the seacliff. Runoff should be contained in a drain line and discarded at the toe of the cliff. Surface water collects along the vacated Vesta Lane right of way and should be collected into the drainage system to avoid erosion at this site. There is no indication of salt water intrusion in this area. Staff finds that if the suggestions in the geotechnical report are followed, these criteria can be met and this will be a condition of approval.

Table 4.7a (5) Non-estuarine Coastal Shorelands.

Appendix 1, Policy 5.10 (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:

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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.

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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 subject property is a legal lot lying within the 1907 Sunset City Subdivision. This subdivision was approved with the intent of siting dwellings. In addition, the zoning district, CD-10, outright permits residential dwellings. This policy provides for allowance of certain uses and subsection “f” allows for a single family
residences on existing lots when compatible with the objectives and implementation standards of the Coastal Shoreland goal and as otherwise permitted by the underlying zone. Staff finds that this use does not otherwise conflict with the resource preservation and protection policies of the Comprehensive Plan or its implementing ordinance. Therefore, this criterion has been met.

Table 4.7a (8) Airport Surfaces
Appendix 1, Policy 5.19 (11)
11. Coos County shall cooperate with the Oregon State Aeronautics Division and the Federal Aviation Administration by developing an Airport Surfaces Overlay Zoning District to prevent the creation or establishment of hazards to air navigation. The Overlay Zoning district shall apply to the Bandon, Lakeside and Powers State Airports and shall encompass the primary surface, approach surface, transitional surfaces, horizontal surface and conical surface as identified in Volume VI, Airport Compatibility Guidelines as formulated by the Oregon Department of Transportation - Aeronautics Division, dated 1981.

FINDING: The subject property lies within the Airport Surfaces Overlay Zoning District, more specifically the Bandon Airport Conical Horizontal Surface. As noted above, the height restrictions are 35 feet and this will be noted on any zoning compliance letter issued at the time of development. No buildings shall be built over this height limit. Furthermore, the property has a deed restriction which is more restrictive than the 35 foot height restriction and the property owners shall comply with this height restriction. This criterion has been satisfied.

FINDING: All development requires an approved access and driveway 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). This confirmation will need to be approved prior to issuance of a zoning compliance letter. This will be a condition of approval. This criterion has been addressed.

FINDING: The parking spaces will need to be approved when the Coos County Roadmaster signs off on the driveway. This will be a condition of approval. This criteria has been addressed.

III. AGENCY COMMENTS

Received comments from the Coquille Indian Tribe on January 29, 2015. They state, due to the close proximity of this projected work site to known cultural resources, they request that their office be given 72 hours' notice prior to any ground disturbing activities so that a Tribal Representative may be on site.

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) and Dave Perry, DLCD. Notice of Decision was also provided to special districts, agencies and other interested parties. 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 February 3, 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 Wednesday, February 18, 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

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. The permit shall run with the land and may be transferred to a new landowner when the property is conveyed. However, the “seller” or “grantor” shall, by acting upon this permit, agree to notify the “buyer” or “grantee” of the terms and conditions of the permit. Pursuant to CCZLDO Section 5.0.700, this permit shall remain valid for the period set forth in ORS 215.417.
4. The dwelling shall be built in accordance with the geotechnical report that states that dwellings can be built within the moderate hazard area with mitigation to include: cantilevering seaward of the moderate/low hazard boundary; founding the structure on a deep foundation engineered to stabilize the site; or utilizing a daylight basement. Following these recommendations will help to stabilize the structure and avoid hazards to life and property. Foundation footings should extend through any loose topsoils and bear on the cemented sand (hardpan), expected to be located 3 to 5 feet beneath the ground surface. A well graded, granular fill with a maximum grain size of 5 inches and less than 5% fines (silt and clay) is recommended for use as structural fill. Native soils should not be used as fill. Fill from grading the home site should not be placed near the top of the seaciff. Runoff should be contained in a drain line and discarded at the toe of the cliff. Surface water collects along the vacated Vesta Lane right of way and should be collected into the drainage system to avoid erosion at this site.
5. The Coquille Indian Tribes and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians have 30 days to comment and a compliance letter shall not be issued until that time has expired.
6. The development shall not exceed the height restriction set forth in deed number 95-09-0654. The applicant must comply with requirements from ODA and FAA.
7. The applicant must comply with all requirements in Chapters 7, as noted above and obtain an access permit and a driveway confirmation form from the Coos County Road Department.
8. Obtain a zoning compliance letter (ZCL) from the Planning Department in order to obtain State DEQ and Building Code permits.