October 15, 2014

Via electronic mail to jrofe@co.coos.or.us

Coos County Board of Commissioners  
c/o Jill Rolfe, Planning Director  
Coos County Planning Department  
250 N. Baxter, Coos County Courthouse  
Coquille, Oregon 97423  

Re: Proposed Amendment Applications; Files AM-14-11 & AM-14-10.

Dear Coos County Commissioners:

On behalf of the Oregon Shores Conservation Coalition and its members living in Coos County (collectively “Oregon Shores”), I submit these comments regarding the proposed amendments to the Coos County Zoning Ordinance. Oregon Shores is a nonprofit organization whose mission is to conserve Oregon’s public coastal resources, provide assistance and support to Oregonians in participating in land use and other public processes relating to the coast and their communities, and to protect public access to and along Oregon’s coast. Oregon Shores uses legal oversight, field monitoring, and public education to help protect Oregon coastal communities from the impacts of pollution and inappropriate development. Please include this letter and its attachments in the records for each file and notify me of any decisions made regarding this matter. Oregon Shores requests that the record be left open to respond to new evidence.

Introduction

The Staff Report explains that these amendments have been in process for some time, pursuant to grants received and updates needed to comply with state law. Many of the proposed amendments indeed appear to be a matter of housekeeping, reorganizing and including additional definitions needed. However, some of the amendments appear geared at making public participation in land use decisions more difficult, while making approvals for development easier. These changes undermine Statewide Planning Goal 1 and contribute to an existing feeling of frustration by citizens who feel that the land use process is already not as open as it should be.

Sec. 5.7.300(4) - Representation

Standing to appeal to the Land Use Board of Appeals (LUBA) is established by LUBA’s rules, not by county ordinance. Thus, the requirement proposed for organizations in this section is problematic and unnecessary. If a person or organization "appeared" at local hearings in a manner that suffices for LUBA’s rules and state law, that person or organization will have standing, regardless of whether the court refused to allow them to appear at a subsequent hearing. See South Gateway Partners v. City of Medford, 53 Or LUBA 593 (2006).

Exhibit: 7  
Date: 10-15-14
The organization itself is the entity principally concerned with being properly represented at a hearing. It is the organization that would object to having an individual representing it, not the local government. If an individual submits a letter on behalf of an organization, it is reasonable to assume that the individual is authorized to do so, and LUBA will consider it as an appearance for the organization, unless there is some reason to question it. See *Neighbors 4 Responsible Growth v. City of Veneta*, 51 Or LUBA 363 (2006).

**Sec. 5.7.300(5) – Written Materials**

In this day of electronic information, Oregon Shores supports the amendments reducing the requirement for the number of paper copies to be submitted to the Planning Commission and Board of Commissioners. Oregon Shores suggests that an electronic copy alone should be sufficient, provided that the submission is confirmed as received by Planning Staff.

**Sec. 5.8.100 – Appeals**

The proposed revisions reduce the time for filing local appeals from 15 days to 12 days. This timeline is already very difficult for community members, and Oregon Shores requests that the County not reduce the time for filing an appeal.

**Sec. 5.8.170 – Appeal Procedures**

The revisions to the appeal procedures place a more onerous burden on the appellant. For example, requiring the appellant to "explain in detail, on the appeal form or attached to the appeal form, how the application did not meet the criteria," while reducing the appeal period to a mere 12 days from the mailing of the decision notice, places an extremely high burden on any citizen filing an appeal. Not even an appeal to the Land Use Board of Appeals requires a detailed statement of the reasons for appeal to be filed with the initial Notice of Intent to Appeal. Requiring a citizen to review a decision file, including the relevant documents, and file a notice that includes detailed statements of the reasons for appeal, all within 12 days, places an undue burden on citizen involvement. The current requirement to include in the appeal a statement of the specific ordinance provisions or criteria that form the basis of the appeal is sufficient to put the county and applicant on notice of the focus of the appeal. During the appeal process, the appellant provides a much more detailed statement of the issues, which is required in order to preserve any issues that may be raised on appeal to LUBA. To deny an appeal on the basis that the complete and detailed explanation of issues is not set forth in the form document prevents any comprehensive review of those issues and could have the effect of actually increasing the county's workload as there are likely to be more appeals of county denials of appeals on the basis that they do not provide the required information.

The proposed amendments also include a statement that issues not specifically raised are considered waived for purposes of appeal to LUBA. Whether an issue is waived for purposes of an appeal to LUBA is a decision to be made by that appeal body, not by the County. The wording of this section should be revised to serve as a notice to citizens that they must raise issues in order to preserve them for appeal.
Sec. 5.8.200 – Administrative Decision Appeals

Oregon Shores questions the removal of this section from the ordinance. If the intention is to have the appeal of administrative decisions process to be included as part of the new Section 5.8.170 Appeal procedures, it should be clarified that administrative appeals are processed pursuant to that section. Section 5.0.550 states that administrative decisions may be appealed pursuant to Article 5.7, but does not set forth the appeal procedures for getting to the quasi-judicial review set forth in 5.7.

Sec. 5.0.700 – Expiration and Extension of Conditional Uses

The current provisions for extension of conditional use permits require that before approval of an extension, the Planning Director must find that there “have been no substantial changes in the land use patterns of the area or other circumstances sufficient to cause a new conditional use application to be sought for the same use;” but the proposed new Section 5.2.600 eliminates this requirement. Instead, the new extension criteria require only that the applicant “state reasons that prevented the applicant from beginning or continuing development within the approval period.” Oregon Shores believes that the existing requirement serves an important function to ensure that reasons continue to justify the allowance of the conditional use.

Thank you for the opportunity to provide these comments.

Sincerely,

[Signature]

Phillip Johnson, Executive Director

In Oregon, the beaches belong to the people
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