BOARD OF COMMISSIONERS
COUNTY OF COOS
STATE OF OREGON

In the matter of an appeal of a land use application, File number HRCU-14-06 on property owned by the City of Bandon, appellants in the matter.

WHEREAS, On October 6, 2014 the Coos County Planning Department received an application from the City of Bandon to site a reservoir and water impoundment for municipal use in the Forest Mixed Use (FMU) zone.

WHEREAS, the application was deemed complete on and hearing notice was sent on October 10, 2014,

WHEREAS, on November 6, 2014, the matter was heard by the Planning Commission. The Planning Commission approved the request with the following conditions:

1. Cardinal Lane, a private road, to be used to access to the site shall be restored to the condition it was found after construction.

2. The Forest Management Covent shall be recorded at the Clerk’s office once the 15 day appeal period has expired.

3. Any outstanding fees shall be paid to the Planning Department prior to obtaining a zoning compliance letter.

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4. A zoning compliance letter for any permits shall be obtained once pictures of the current road conditions are submitted to the Planning Department Staff.

5. The City of Bandon Shall create an agreement between adjacent property owners or Ohio Street and Cardinal Lane and the City of Bandon to address maintenance of the road directly related to the impact caused by the project with oversight by Coos County Road Department Personnel.

WHEREAS, on November 26, 2014, the City of Bandon appealed the Planning Commission’s decision, specifically Condition No. 5. The City appealed this condition for the following reasons:

1. The Condition is not relevant to any approval criteria set out in the County’s findings. Property owners were noticed and only one appeared at the hearing with any comments. Concerns appeared to be maintenance during construction, which is addressed in Condition No. 1 (of the final order) making Condition No. 5 irrelevant.

2. Neither the City or County has the authority; legal or otherwise, to require those property owners on Cardinal Lane or Ohio Street to enter into an agreement with the City requiring the parties to proportionally maintain the roads in question. The Planning Director stated on the record that forming a road district is outside the parameters of the criteria of the project. Additionally, the City of Bandon does have an easement over Cardinal Lane, which contains a maintenance clause for the road.

3. There is already a condition and agreement with the City that they maintain the road during construction of the project and return it to its pre-construction condition. The City will be making limited visits to inspect the site post-construction. To require the City to fully maintain the road with such minimal visits constitutes a disproportionate exaction to the project.
WHEREAS, on January 6, 2015 the Board of Commissioners reviewed the
matter and decided to accept the appeal and schedule a hearing limited to the
issues identified by the appeal pursuant to Coos County Zoning and Land
Development Ordinance (CCZLODO) § 5.8.223(3)(b).

WHEREAS, on February 12, 2015, the Board of Commissioners reviewed the
merits of the matter and took testimony limited to the appeal issue and
closed the record.

NOW, THEREFORE, the Board of Commissioner unanimously voted to approve
the use, adopt the Planning Commission findings but modify the conditions by
deleting No. 5 and rewording No. 1 as follows:

The applicant shall restore the road to the same or better condition
as existed prior to this project. Further, the road shall be maintained
throughout the duration of the project to ensure the current users of the
road will not be impacted by the project. The Access Manager of the Coos
County Road Department shall be provided documentation by the applicant to
show that the road has been restored to as good or better condition than
currently exists as of February 12, 2015. The Access Manager will make a
final inspection, and the applicant will pay a fee of $150.00 to the Road
Department to cover the costs of the final inspection

Dated this 17th of March

[Signatures]

Final Decision and Order For
AP-14-05, City of Bandon
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