DATE:    February 4, 2015

TO:   Board of Commissioners
      Josh Soper, County Counsel

FROM:    Jill Rolfe, Planning Director

RE:  City of Bandon Appeal, File # AP-14-05

Please find the Staff Report and attachments, with the exception of Attachment B – The Record. The Record was provided to you on December 31, 2015. However, if you are unable to find the copy of the record please let me know and I will provide you a new copy.

Thank you and if you have any questions please let me know.
Staff Report for Board of Commissioners Review

Date of Report: Thursday, February 05, 2015

Hearing Date: Thursday, February 12, 2015

Type of Application: APPEAL

File Number: AP-14-05

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Special Districts/Agencies:

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<th>Bandon RFPD</th>
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<th>Bandon State Airport</th>
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<tr>
<td>Department of Environmental Quality</td>
<td>Southern Coos Hospital District</td>
<td>Dave Perry, DLCD</td>
</tr>
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II. APPLICABLE REVIEW CRITERIA

APPLICABLE CRITERIA

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

| CCZLDO | § 5.0.600 | Board of Commissioners Review of Applications and Appeals |
III. BACKGROUND FOR THE APPEAL

<table>
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<th>CCZLDO</th>
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<td>CCZLDO</td>
<td>Article 5.8</td>
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This matter came before the Planning Commission on November 6, 2014. The Planning Commission found the application met the criteria for the use with the imposition of conditions. The Planning Commission included a condition of approval (Condition #5) that the City of Bandon would create an agreement between adjacent property owners on Ohio and Cardinal Lane. The agreement required the City of Bandon to address maintenance of the road directly related to the impacts caused by the project with oversight by Coos County Road Department Personnel.

The City of Bandon appealed the decision of the Planning Commission citing that condition No. 5, which states that the City of Bandon shall create an agreement “between adjacent property owners on Ohio Street and Cardinal Lane and the City of Bandon to address maintenance of the road directly related to the impacts caused by the project with oversight by Coos County Road Department Personnel.” The reasons for appealing this condition were:

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 St. 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.
For clarification no one appeared at the hearing to oppose the project but Mr. and Mrs. Shorts provided written testimony.

Once the appeal was received staff brought the matter before the Board of Commissioners to decide if the appeal would be limited to the issues raised by the appellant. The Board of Commissioners decided pursuant to CCZLDO § 5.8.223(3)(b) to conduct a hearing limited specific to the issues raised in the appeal which is condition No. 5 of the Planning Commission's final order and decision.

It appears after looking at the appeal and researching the matter further that the City of Bandon does have an easement for the use of Cardinal Lane as found in Attachment A. The easement is a permanent, non-exclusive easement for ingress and egress that serves the properties that abut the described road. There is a maintenance clause that states the right of easement carries with it a duty to contribute to maintenance of the roadway; "Each such owner's share of the 20% shall be equal to the footage of his parcel abutting the roadway easement divided by the total footage of all parcels abutting the roadway easement whose owners use the roadway."

The City of Bandon is not objecting restoring Cardinal Lane back to the state it was prior to construction or the maintenance during the construction, but they are objecting to being the solo source for continued maintenance. The other objection is the actual agreement with the abutting property owners on Cardinal Lane and Ohio Street. Ohio Street is located within the city limits and not within the county's jurisdiction. During the hearing staff cautioned the Planning Commission, that requiring a road maintenance agreement may be outside of the land use requirements. The City of Bandon did include this statement as justification in their appeal. However, staff was trying to explain there are procedures for developing road maintenance agreements and local improvement district for roads has a process that is beyond land use.

After reviewing the court case that established the easement and maintenance agreement, staff suggests removing condition 5 as it is written for the following reasons:

1. There is a legal document that (Court Case) sets out where, when and how the easement is used and maintained that the County has no authority to change;
2. The County has no jurisdiction over Ohio Street; and
3. The County has limited requirements for requiring road improvements as explained below.

For clarification, relevant requirements for road improvements can be found in CCZLDO § 7.1.300.

**SECTION 7.1.300 CIRCUMSTANCES REQUIRING ROAD IMPROVEMENTS; EXTENT OF REQUIRED ROAD IMPROVEMENTS:**

Public and private road and street improvements may be required by this ordinance when new development is proposed. The road standards are found in Article 7.2. The County Roadmaster has the authority to require road improvements to meet the road standards and requirements of local fire and ambulance districts.

If and when public or private road improvements are required, then such improvements will be required to extend to the nearest intersection of an open road.
If the proposed action may affect a state transportation facility, notice shall be given to the Oregon Department of Transportation (ODOT). ODOT conditions of approval shall be incorporated into the permit conditions of approval, and ODOT shall be notified if the conditions of approval are changed.

Roads and Streets within an Urban Growth Boundary (UGB) or Urban Unincorporated Community (UUC) shall comply with the standards in Section 7.2, Table 7.2B at the minimum. When the development is proposed in a city’s UGB that city shall be consulted with as they may have higher requirements.

The road is a private easement that would be classified as a local road, and the properties are located outside of the UGB; therefore, Table 7.2A would apply if private road improvements are required. However, Table 7.2A only applies to new roads and this is not a new road. A road maintenance agreement for new private roads may be made with the County but staff does not find language that would allow a road maintenance agreement for private roads between abutting property owners that are not part of the application request. The maintenance agreement has to be proportional to the impacts from the project. Therefore, condition 1 could be amended as follows:

1. The applicant shall enter into a maintenance agreement with the County to restore the road to the condition it was prior to any development. Furthermore, the road shall be maintained during the project as to allow the current users of the road to not be impacted by the project. Cardinal Lane, a private road, to be used to access to the site shall be restored to the condition it was found after construction. Maintenance shall be done to the road while the construction is happening to ensure that the users of the road are not impacted. The access manager of the Road Department shall be provided documentation to show that the road has been restored. There will be a fee in the sum of $150.00 to cover the final inspection (driveway fee).

IV. FINDINGS MADE BY THE PLANNING COMMISSION

BASIC FINDINGS

A. LAWFULLY CREATED PARCELS: The property was lawfully created in accordance with LDO § 6.1.125(8) as both units of land were created by a legal description through recorded deeds prior to 1986.

B. ZONING: The property is currently zoned Forest Mixed Use.

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.

Mixed Farm-Forest Area
These areas include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

In certain areas of the County, these "mixed use" areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in "prime forest areas", and grazing is in many places a co-dominant use. There are typically mixtures of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

C. PROJECT BACKGROUND: The City of Bandon has requested this reservoir (municipal water impoundment) to provide raw water storage for municipal use by the city. The upland storage site would be used for placement of dredging spoils. The proposed site is close in proximity to the City’s existing water treatment plant. According to the application there is an easement that follows the boundary of the adjacent property that allows for the installation of a water supply line from the City’s point of diversion on Ferry Creek to the proposed reservoir. Water will then be transported from the reservoir to the treatment plant and then disbursed out to the end users. The reservoir would be covered to prevent evaporation loss and to prevent waterfowl and mosquito use.

D. SPECIAL CONSIDERATIONS: Bandon Airport Conical Zone, Mixed Use, Municipal Watershed and Bandon Area of Mutual Interest. None of the special considerations has any effect on the current request.

<table>
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<th>FINDINGS TO THE APPLICABLE REVIEW CRITERIA</th>
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<td>LDO § 4.8.350(Q)</td>
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<td>LDO § 4.8.400</td>
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**SECTION 4.8.350** Hearings Body Conditional Uses. The following uses and their accessory uses may be allowed as hearings body conditional uses in the Forest zone subject to the applicable requirements in Section 4.8.400 and applicable siting criteria set forth in this Article and elsewhere in this Ordinance. **Q. Reservoirs and Water Impoundments for municipal**

**FINDING:** The City of Bandon has applied to site a reservoir and water impoundment for municipal use in the Forest Mixed Use (FMU) zone. The project also encompasses site preparation for construction including placement of dredging and dredge spoils on the site which
are permitted uses in the FMU zone. However, the dredge portion of the project is permitted outright and does not require additional review.

SECTION 4.8.400 Review Criteria for Conditional Uses in Section 4.8.300 and Section 4.8.350. A use authorized by Section 4.8.300 and Section 4.8.350 may be allowed provided the following requirements are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and

B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

C. All uses must comply with Section 4.8.600, Section 4.8.700 and Section 4.8.750.

D. A "Forest Management Covenant", which recognized the right of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules, shall be recorded in the deed records of the County prior to any final County approval for uses authorized in Section 4.8.300 H, J, and Q and Section 4.8.350 D, J, and Q.

FINDING: The proposed site will be cleared in the area in which the reservoir will be sited but after construction there will be minimal activity as it only requires the City to do annual maintenance. During construction there will be tree removal and brush clearing. The brush will be piled and burned causing some smoke but these are accepted forest practices. The temporary construction and annual maintenance will not significantly change, or significantly increase the cost of accepted farming or forest practices on adjoining properties. The properties immediately adjacent appear to have trees, grass and brush. Cardinal Lane is a private road that serves about fifteen (15) properties and ten (10) existing dwellings and one (1) proposed dwelling. The properties off of Cardinal lane range from one (1) acre to fifteen (15) acres. The smaller properties are zoned Rural Residential-2 (RR-2) and the larger ones (10 to 15 acres) are zone FMU.

There does not appear to be any farming going on the adjacent parcels but further south and southeast there are cranberry bogs. The City will only use the water which they are permitted to use under their water right. There will be no significant increase to fire hazard or fire suppression cost. Once the site is cleared and cleaned for the new reservoir it will pose less of a fire danger.

The applicant has acknowledged they will sign a Forest Management Covenant and record at the Clerk’s Office. The covenant was submitted with the application.

Mr. and Mrs. Shorts raised some concerns regarding the impacts to the road. The Planning Commission has conditioned the approval to ensure that the road is returned to the same state as it was prior to the project. There will be no permanent impacts to Cardinal Lane.

§ 4.8.750 will be addressed through the zoning compliance letter.
SECTION 4.8.600 Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone. ***
FINDING: There will be no structures on site. Therefore, this criterion does not apply.

SECTION 4.8.700 Fire Siting and Safety Standards. All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. ***
FINDING: There will be no structures on site. Therefore, this criterion does not apply.

V. COMMENTS

Mr. and Mrs. Shorts provided comments on, January 20, 2015. The testimony is requesting that the road be paved and be maintained by Coos County or City of Bandon. In order for Cardinal Lane to be included in the County Maintenance it would have to be a public dedicated road, and it is not. The Board of Commissioners has no legal authority to require Cardinal Lane to be included in the City’s maintenance system. Staff has provided the court case that explains who is legally responsible for the road maintenance. The neighbors could form a special road district pursuant to ORS 371.055, but that process is separate from this application.

Mr. Diaz provided comments on this appeal on February 2, 2015. He states that the City of Bandon has already started the preliminary work on the project without providing any road maintenance. The city has a legal obligation to help maintain the road and if they violate this
agreement Mr. Diaz could pursue damages in civil court. Staff has suggested a condition to address the impacts to the Cardinal Lane as explained in this report.

VI. SUMMARY

The application was found to meet the criteria with the imposition of conditions. The conditions that are listed as follows:

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. Maintenance shall be done to the road while the construction is happening to ensure that the users of the road are not impacted.
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.
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. The City of Bandon shall create an agreement between adjacent property owners on
5. The City of Bandon shall create an agreement between adjacent property owners on Ohio and Cardinal Lane and the City of Bandon to address maintenance of the road directly related to the impacts caused by the project with oversight by Coos County Road Department Personnel.

Staff has made the suggestion to delete condition No. 5 and replace condition No. 1 with the following:

1. The applicant shall enter into a maintenance agreement with the County to restore the road to the condition it was prior to any development. Furthermore, the road shall be maintained during the project so as to allow the current users of the road to not be impacted by the project. The access manager of the Road Department shall be provided documentation to show that the road has been restored. There will be a fee in the sum of $150.00 to cover the final inspection (driveway fee).

The Board of Commissioners decided to hear this matter pursuant to § 5.8.223(3)(4); therefore, they will accepted testimony and evidence limited to the specific issues raised in the appeal. The issue is if condition No. 5 should be removed or modified. The applicant has also stated that condition No. 1 is adequate to address road impacts. The Board of Commissioners will not take testimony any other issues as they were satisfied with the findings made by the Planning Commission in the prior decision.

If you have any questions please contact staff.

Jill Rolfe
Coos County Planning Director
Attached: Attachment A – Court Case, Attachment B- Record, Attachment C- Comments, Attachment D – Draft minutes from Planning Commission meeting.
EC: Dave Perry, DLCD
CC: City of Bandon Attorney, Mr. & Mrs. Shorts, Mr. Diaz
IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF COOS

EUGENE LEVRETS AND
NORMA R. LEVRETS,

Petitioners,

vs.

DAISY M. MALLORY, also known
as DAISY M. TURNER,

Defendant.

This matter came before the court on plaintiff's complaint. Defendants have filed an answer which admits each allegation of the complaint. Accordingly,

IT IS ORDERED, ADJUDGED AND DECREED:

(1) There exists by prescription a permanent, non-exclusive easement on and across that real property located in Coos County, Oregon, described as follows:

The South half of the southwest quarter of the southwest quarter of section 29, township 28 south, Range 14 West of the Willamette Meridian, Coos County, Oregon, excepting therefrom 30 feet off from the North side of the above described property which has been heretofore reserved as a public road. Also excepting from the above described premises that portion heretofore sold to J.M. Baker on November 18, 1922 and being described as follows: Beginning at the corner common to sections 29, 30, 31, and 32 in Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon: Thence North 88° 40' East along the section line 451 feet; thence North 313 feet; thence North 317 feet; thence North 339 feet; thence South 317 feet; thence South 313 feet; thence South 40° East, parallel to the section line, 790 feet; thence South along the section line 630 feet to the place of beginning.

(2) The boundaries of the easement referred to in paragraph (1) of this decree are described as follows:

Beginning at the corner common to Section 29, 30, 31 and 32 in Township 28, S. W. of Range 14, West of the Willamette Meridian, in Coos County, Oregon, and from
said point thence North 88° 40' East along the section line 441 feet; thence North 31° 47' East 40' East 339 feet; thence South 88° 40' West parallel to Section line 790 feet to the true place of beginning of the easement, the said point being on the easterly boundary of Ohio Street; thence North 88° 40' East parallel to Section line 790 feet; thence North 30° 35' East, thence South 88° 40' West parallel to Section line 790 feet, more or less, to the easterly boundary of Ohio Street; thence Southerly along the easterly boundary of Ohio Street 30 feet, more or less, to the true place of beginning of the easement.

(3) The easement is for the purposes of ingress to and egress from, and is appurtenant to that real property located in Coos County, Oregon, described as follows:

Beginning at the corner common to Sections 29, 30, 31, and 32 in Township 28, South of Range 44, West of the Willamette Meridian, in Coos County, Oregon, and from said point thence North 88° 40' East along the section line 441 feet; thence North 31° 47' East 40' East 339 feet; thence North 31° 47' East 40' East 339 feet; thence South 88° 40' West parallel to Section line 790 feet; thence South along the section line 630 feet to the place of beginning.

(4) The right of easement carries with it a duty to contribute to maintenance of the roadway described in paragraph (2), above, in proportion to the use made of such roadway.

(5) The duty described in paragraph (4), above, shall be as follows:

(a) Defendant and successive owners of defendant's real property described in paragraph (1) of this decree and plaintiffs and successive owners of plaintiffs' real property abutting and using the roadway described in paragraph (2) of this decree agree to join a statutory road district if and when it is formed.

(b) Until a road district is formed, plaintiffs and successive owners of the real property described in paragraph (3) of this decree or any part thereof, and using the roadway described in paragraph (2) of this decree, shall pay a total of 20% of any reasonable costs of necessary maintenance performed upon the said roadway by defendant or successive owners of defendant's real property described in paragraph (1) of this decree.

In the event that more than one person shall own a portion of the real property described in paragraph 3 of this decree, then the following shall be the duties of those who own such portions:

Decree - 2
[1] An owner whose parcel fronts on the easement roadway but does not use the roadway shall not be required to contribute to the costs of maintenance of the roadway.

[2] The remaining owner or owners whose parcels front on the easement roadway and who use the roadway shall pay the 20% above identified. If there is more than one such, the 20% contribution to the costs of maintenance shall be prorated between and among them as follows:

Each such owner's share of the 20% shall be equal to the footage of his parcel abutting the roadway easement divided by the total footage of all parcels abutting the roadway easement whose owners use the roadway.

The payment of contribution to the costs of roadway maintenance shall be due upon presentation by defendant or defendant's successive owners of an itemized bill therefor.

(c) Subparagraph (b), immediately above, shall be of no further effect once a road district is formed.

(d) In the event of litigation arising out of this fifth paragraph or to enforce its terms, the prevailing party shall be entitled to recover attorney fees, including any on appeal.

(6) There shall be no award of costs, disbursements, or attorney fees.

DATED this 3rd day of April, 1938.

[Signature]
Circuit Court Judge

Decree - 3 (Final)
Attachment B

Record
SECTION 5.8.900. Notice of Appeal.

NOTICE OF APPEAL (NOA)

Appellant: City of Bandon

Mailing address: P.O. Box 67 Bandon, OR 97411

Phone: 541-347-2437 Email: citymanager@ci.bandon.or.us

Appellant's Representative: Shala McKenzie Kudlac, Deputy City Attorney

Mailing address: P.O. Box 38, Bandon, OR 97411

Phone: (541)347-2468 Email: carllaw@mycomspan.com

The appellant hereby requests consideration of the following decision:

File Number: HBCU-14-06 Nature of Application: Conditional Use

Decision: Planning Commission Final Decision Decision Date: 11-6-14

1. State the reasons for the appeal, citing the specific Comprehensive Plan or CCZLDO provisions which are alleged to be violated:

Please see attached letter.

2. A statement of the standing of the appeal: Please see attached letter.

I, Shala McKenzie Kudlac on behalf of the City of Bandon, have filed an appeal application with the Coos County Planning Department to be reviewed and processed according to state and county requirements. I acknowledge the following disclosures:

_X_ I understand I may ask questions and receive input from planning staff, but acknowledge that I am ultimately responsible for all information and documentation submitted with this NOA. I further understand planning staff cannot legally bind the county to any fact or circumstance that conflicts with state or local laws, and in the event a conflict occurs, all such statements or agreements are void.

_X_ I understand that I have the burden of demonstrating my appeal is supported by the applicable criteria. The criteria for approving or denying my request have been furnished to me as a part of this application and I acknowledge receipt.
X I understand the Hearings Body will dismiss an appeal for failure to follow the requirements of Article 5.8.

Signed: ____________________________ Date: 1/26/14

FOR STAFF USE ONLY

NOA Fee: $2500.00

Received By: Alex Murphy Date: 11/24/14

Case File: HBC11-14-10
November 25, 2014

Coos County Planning Department
250 N. Baxter, Coos County Courthouse
Coquille, OR 97423

Re: Coos County Planning Department File No. HBCU-14-06
City of Bandon
NOTICE OF APPEAL

REASONS FOR APPEAL:

The City of Bandon appeals the condition of approval No. 5, which states that the City shall create an agreement “between adjacent property owners on Ohio and Cardinal Lane and the City of Bandon to address maintenance of the road directly related to the impacts caused by the project with oversight by Coos County Road Department Personnel.” The City appeals 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 (1) making Condition (5) irrelevant.

2: Neither the City or County has the authority; legal or otherwise, to require those property owners on Cardinal Lane or Ohio St. 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 the 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.
STANDING FOR APPEAL:

Pursuant to Section 5.8.150 the Petitioner is the applicant and appeared below at the Planning Commission meeting as well as being entitled notice of the decision.

Enclosed is a check in the sum of $2,500.00 for the Appeal fee. Thank you for attending to this matter. If you have further questions regarding this Notice of Appeal please address them to my office.

Very truly yours,

[Signature]

Shala McKenzie Kudlac
Deputy City Attorney

Enc.
Cc: Matt Winkel, City Manager
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<td>Application submitted by The Dyer Partnership Engineers &amp; Planners, Inc. on behalf of the City of Bandon</td>
<td>48</td>
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</tbody>
</table>

Other Items submitted with the record
NOTICE OF APPEAL (NOA)

Appellant: City of Bandon

Mailing address: P.O. Box 67 Bandon, OR 97411

Phone: 541-347-2437 Email: citymanager@ci.bandon.or.us

Appellant’s Representative: Shala McKenzie Kudlac, Deputy City Attorney

Mailing address: P.O. Box 38, Bandon, OR 97411

Phone: (541)347-2468 Email: carllaw@mycomspan.com

The appellant hereby requests consideration of the following decision:

File Number: HBCU-14-06 Nature of Application: Conditional Use

Decision: Planning Commission Final Decision Decision Date: 11-6-14

1. State the reasons for the appeal, citing the specific Comprehensive Plan or CCZLDO provisions which are alleged to be violated:
Please see attached letter.

2. A statement of the standing of the appeal: Please see attached letter.

I ______ Shala McKenzie Kudlac on behalf of the City of Bandon _______ have filed an appeal application with the Coos County Planning Department to be reviewed and processed according to state and county requirements. I acknowledge the following disclosures:

____X____ I understand I may ask questions and receive input from planning staff, but acknowledge that I am ultimately responsible for all information and documentation submitted with this NOA. I further understand planning staff cannot legally bind the county to any fact or circumstance that conflicts with state or local laws, and in the event a conflict occurs, all such statements or agreements are void.

____X____ I understand that I have the burden of demonstrating my appeal is supported by the applicable criteria. The criteria for approving or denying my request have been furnished to me as a part of this application and I acknowledge receipt.
X I understand the Hearings Body will dismiss an appeal for failure to follow the requirements of Article 5.8.

Signed: ___________________________ Date: 4/25/14

FOR STAFF USE ONLY

NOA Fee: $500.00

Received By: Max Murphy Date: 11/20/14

Case File: HBCU.14.00
November 25, 2014

Coos County Planning Department
250 N. Baxter, Coos County Courthouse
Coquille, OR 97423

Re: Coos County Planning Department File No. HBCU-14-06
City of Bandon
NOTICE OF APPEAL

REASONS FOR APPEAL:

The City of Bandon appeals the condition of approval No. 5, which states that the City shall create an agreement “between adjacent property owners on Ohio and Cardinal Lane and the City of Bandon to address maintenance of the road directly related to the impacts caused by the project with oversight by Coos County Road Department Personnel.” The City appeals 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 (1) making Condition (5) irrelevant.

2: Neither the City or County has the authority; legal or otherwise, to require those property owners on Cardinal Lane or Ohio St. 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 the 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.
STANDING FOR APPEAL:

Pursuant to Section 5.8.150 the Petitioner is the applicant and appeared below at the Planning Commission meeting as well as being entitled notice of the decision.

Enclosed is a check in the sum of $2,500.00 for the Appeal fee. Thank you for attending to this matter. If you have further questions regarding this Notice of Appeal please address them to my office.

Very truly yours,

[Signature]

Shala McKenzie Kudlac
Deputy City Attorney

Enc.
Cc: Matt Winkel, City Manager
Notice of Planning Commission Decision

November 13, 2014

Matt Winkel, City of Bandon
PO Box 67
Bandon OR 97414

Re: Coos County Planning Department File No. HBCU-14-06
   City of Bandon

This is an official Coos County Planning Commission Notice of Decision. On November 6, 2014 the Coos County Planning Commission unanimously voted to conditionally approve File No. HBCU-14-06 submitted by the City of Bandon on property described as Township 28S Range 14W Section 29C Tax Lots 2300 and 2400.

The final decision made by the Planning Commission is attached which outlines the conditions of approval. The Planning Commission’s decision is final unless appealed in writing to the Board of Commissioners within 15 days from the Date of Mailing; however, due to holiday closure the appeal date is bumped to December 1, 2014. This means appeals must be received in the Planning Department by 5:00 p.m. on the date of the identified appeal deadline in order to be considered. The Notice of Appeal (NOA) shall be filed pursuant to CCZLDO Section 5.8.223, and shall be accompanied by a written statement of the grounds for the appeal and the required filing fee. Appeals before the Board of Commissioners may be limited to the record with no additional testimony or evidence considered.

All documents related to this file are available for inspection, at no cost, in the Planning Department located at 225 North Adams Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page.

If you have any questions pertaining to this notice or the adopted ordinance, please contact the Planning Department by telephone at (541) 396-7770, or visit the Planning Department at 225 North Adams Street, Coquille, Oregon, Monday through Friday, 8:00 AM - 5:00 PM (closed Noon - 1:00 PM).

COOS COUNTY PLANNING DEPARTMENT

Jill Rolfe, Planning Director

EC: Dave Perry, DLCD
    Jeff Caines, ODA
    Barbara Negherbon, Dyer Partnership

CC: Mr. & Mrs. Shorts
    Planning Commission
COOS COUNTY

PLANNING COMMISSION

IN THE MATTER OF A CONDITIONAL USE APPLICATION FOR A WATER RESERVOIR/WATER IMPOUNDMENT FOR MUNICIPAL USE FILED BY THE CITY OF BANDON.

WHEREAS, on October 6, 2014, the City of Bandon applied to for a Hearings Body Conditional Use (HBCU) approval to site a reservoir/water impoundment for municipal use on properties described as Township 28S Range 14W Section 29C Tax Lots 2300 and 2400.

WHEREAS, on October 10, 2014 the application was determined to be complete and a hearing notice on the matter was mailed out to all property owners within 500 feet of the subject properties. On the same day all special districts and agencies were provided notice.

WHEREAS, on October 30, 2014 staff provided a staff report to the Planning Commission recommending that approval based on the criteria.

WHEREAS, on November 6, 2014 the Planning Commission held a public hearing to consider this matter. The Planning Commissioners voted to accept the Planning Director’s draft findings as provided.

NOW, THEREFORE, the Planning Commission adopted the Findings of Fact attached as Exhibit “A” and incorporated into this order herein.

Adopted this 6th Day of November 2014.

Planning Commission Chair

Planning Commission Final Decision - 1
Exhibit "A"

APPLICANT/OWNER: City of Bandon

REQUEST: A request to site a reservoir and water impoundment for municipal use in the Forest Mixed Use (FMU) zone.

STAFF CONTACT: Jill Rolfe, Planning Director

REVIEWING BODY: Coos County Planning Commission

MAP NUMBER(S)/LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 28S Range 14W Section 29C Tax Lots 2300 and 2400

PROPERTY LOCATION

The property is located southeast of the City of Bandon with access off of Cardinal Lane.

APPLICABLE CRITERIA

| Coos County Zoning and Land Development Ordinance (LDO), Coos County Comprehensive Plan (CCCP), Oregon Administrative Rule (OAR) |
|---|---|
| LDO | § 4.8.350(Q) | Hearings Body Conditional Uses (Forest Zone) |
| LDO | § 4.8.400 | Review Criteria for Conditional Uses (Forest Zone) |
| LDO | § 4.8.600 | Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone. |
| LDO | § 4.8.700 | Fire Siting and Safety Standards |

1. BASIC FINDINGS

A. LAWFULLY CREATED PARCELS: The property was lawfully created in accordance with LDO § 6.1.125(8) as both units of land were created by a legal description through recorded deeds prior to 1986.

B. ZONING: The property is currently zoned Forest Mixed Use.

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.

Mixed Farm-Forest Area

These areas include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.
In certain areas of the County, these "mixed use" areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in "prime forest areas", and grazing is in many places a co-dominant use. There are typically mixtures of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

C. PROJECT BACKGROUND: The City of Bandon has requested this reservoir (municipal water impoundment) to provide raw water storage for municipal use by the city. The upland storage site would be used for placement of dredging spoils. The proposed site is close in proximity to the City's existing water treatment plant. According to the application there is an easement that follows the boundary of the adjacent property that allows for the installation of a water supply line from the City's point of diversion on Ferry Creek to the proposed reservoir. Water will then be transported from the reservoir to the treatment plant and then disbursed out to the end users. The reservoir would be covered to prevent evaporation loss and to prevent waterfowl and mosquito use.

D. SPECIAL CONSIDERATIONS: Bandon Airport Conical Zone, Mixed Use, Municipal Watershed and Bandon Area of Mutual Interest. None of the special considerations has any effect on the current request.

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<th>II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA</th>
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SECTION 4.8.350 Hearings Body Conditional Uses. The following uses and their accessory uses may be allowed as hearings body conditional uses in the Forest zone subject to the applicable requirements in Section 4.8.400 and applicable siting criteria set forth in this Article and elsewhere in this Ordinance. **Q. Reservoirs and Water Impoundments for municipal use. In order to minimize impacts to forest lands, the landowner shall acknowledge and file in the deed records of the County, a Forest Management Covenant prior to final County approval.

FINDING: The City of Bandon has applied to site a reservoir and water impoundment for municipal use in the Forest Mixed Use (FMU) zone. The project also encompasses site preparation for construction including placement of dredging and dredge spoils on the site which are permitted uses in the FMU zone. However, the dredge portion of the project is permitted outright and does not require additional review.

SECTION 4.8.400 Review Criteria for Conditional Uses in Section 4.8.300 and Section 4.8.350. A use authorized by Section 4.8.300 and Section 4.8.350 may be allowed provided the following requirements are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.
A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and
B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
C. All uses must comply with Section 4.8.600, Section 4.8.700 and Section 4.8.750.

D. A “Forest Management Covenant”, which recognized the right of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules, shall be recorded in the deed records of the County prior to any final County approval for uses authorized in Section 4.8.300 H, J, and Q and Section 4.8.350 D, J, and Q.

FINDING: The proposed site will be cleared in the area in which the reservoir will be sited but after construction there will be minimal activity as it only requires the City to do annual maintenance. During construction there will be tree removal and brush clearing. The brush will be piled and burned causing some smoke but these are accepted forest practices. The temporary construction and annual maintenance will not significantly change, or significantly increase the cost of accepted farming or forest practices on adjoining properties. The properties immediately adjacent appear to have trees, grass and brush. Cardinal Lane is a private road that serves about fifteen (15) properties and ten (10) existing dwellings and one (1) proposed dwelling. The properties off of Cardinal land range from one (1) acre to fifteen (15) acres. The smaller properties are zoned Rural Residential-2 (RR-2) and the larger ones (10 to 15 acres) are zone FMU.

There does not appear to be any farming going on the adjacent parcels but further south and southeast there are cranberry bogs. The City will only use the water which they are permitted to use under their water right. There will be no significant increase to fire hazard or fire suppression cost. Once the site is cleared and cleaned for the new reservoir it will pose less of a fire danger.

The applicant has acknowledged they will sign a Forest Management Covenant and record at the Clerk’s Office. The covenant was submitted with the application.

Mr. and Mrs. Shorts raised some concerns with the impacts to the road. The Planning Commission has conditioned the approval to ensure that the road is returned to the same state as it was prior to the project. There will be no permanent impacts to the Cardinal Lane.

§ 4.8.750 will be addressed through the zoning compliance letter.
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<th>LDO</th>
<th>§ 4.8.600</th>
<th>Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone.</th>
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**SECTION 4.8.600 Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone.***

**FINDING:** There will be no structures on site. Therefore, this criterion does not apply.

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**SECTION 4.8.700 Fire Siting and Safety Standards.** All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. ***

**FINDING:** There will be no structures on site. Therefore, this criterion does not apply.

**CONDITIONS OF APPROVAL:**

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. Maintenance shall be done to the road while the construction is happening to ensure that the users of the road are not impacted.
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.
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 on Ohio and Cardinal Lane and the City of Bandon to address maintenance of the road directly related to the impacts caused by the project with oversight by Coos County Road Department Personnel.
DATE: October 31, 2014

TO: Planning Commission

FROM: Jill Rolfe, Planning Director

RE: Draft Order

Please find a draft order to consider for adoption. This is a draft so please read and bring any changes with you to the meeting to discuss. If the decision is a denial a new order and finding will be drafted after the discussion.

It was brought to my attentions that the Planning Commission should be reviewing the draft findings and documents before they are completed by Staff. We will talk more about it at the meeting.

Please feel free to contact me if you have any questions.
COOS COUNTY
PLANNING COMMISSION

IN THE MATTER OF A CONDITIONAL USE APPLICATION FOR A WATER RESERVOIR/WATER IMPOUNDMENT FOR MUNICIPAL USE FILED BY THE CITY OF BANDON.

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NOW, THEREFORE, the Planning Commission adopted the Findings of Fact attached as Exhibit “A” and incorporated into this order herein.

Adopted this 6th Day of November 2014.

Planning Commission Chair
Exhibit “A”

APPLICANT/OWNER: City of Bandon

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### Exhibit Log

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We are writing with questions concerning statements made in application regarding limited use of Cardinal Lane for construction of this storage facility. To say no major trucking for construction of this facility is completely underestimating what really needs to be done with the project. Materials for lining of 6 acre pond, materials for 6 acre floating cover, materials for 3000 foot fencing project. Materials for gravel road. Materials for 2000 ft plus of 12 inch or larger piping to pump water around our property. Pump system for pumping back to Bandon reservoir. I am just asking for a complete analysis of the project. My main concern is to protect our property and Cardinal Lane. In addition if the project is approved to make sure that the construction of piping through our property that all remedies to plant grass to irradiate any new gorse or scotch broom is to be performed during and after installation to be sure a complete base for keeping these evasive plants away is done. Thanks Norm and Karen Shorts tax lot 2200, 88325 Cardinal Lane, Po box 762 Ketchum, Id 83340
November 3, 2014

Ms. Jill Rolf  
Planning Director – Coos County  
250 N. Baxter  
Coos County Courthouse  
Coquille, OR 97423

Re: File # HBCU-14-06 – Reservoir and Water Impoundment

Dear Ms. Rolf:

The Oregon Department of Aviation (ODA) appreciates the opportunity to comment on the proposed reservoir and water impoundment for municipal use project located in the Forest Mixed Use (FMU) zone (File # HBCU-14-06). Upon a review of the application the Department of Aviation finds the proposed reservoir and water impoundment project, as proposed, does not appear to pose a direct negative impact on aviation in the immediate area.

The Department would like to recommend this project not significantly “increase the hazardous movements of birds feeding, watering or roosting” to become a hazard to air navigation. ODA recommends measures are taken to discourage large gathering of birds.

Thank you for this opportunity to comment on this land use action. If you have any questions or need further information please feel free to contact me at Jeff.Caines@aviation.state.or.us or (503) 378-2529.

Sincerely,

Jeff Caines, AICP  
Aviation Planner

cc: Heather Peck  
Project Manager – Dept. of Aviation

Exhibit 2  
Date: 11-3-14
Coos County Planning

We are writing in regards to File# HBCU-14-06. We are not opposed to this project but we have some major concerns. Cardinal Lane is not under Coos counties road maintenance, it is just maintained by residences. If this nearly $5,000,000.00 project is to proceed it is our contention that either Coos county put Cardinal Lane on its road maintenance or the City of Bandon. The primary use of the City of Bandon’s property is to become a public utility water storage and as such we believe that when the project is complete that Cardinal Lane should be paved and maintained by either City of Bandon or Coos County. The traffic that will be generated by this project will be significant and the wear and tear of Cardinal Lane is to be protected from damages completely during and after any heavy equipment hauling and transportation of dredging spoils and the construction of water storage facility.

We noticed that when we built our roadway through to our property and driveway from the previous end of Cardinal Lane that there a few large trees from the beginning of Cardinal Lane from Ohio Ave and all the way to the tax lot 2100 that should be felled in order for larger hauling equipment to safely access the City of Bandon property. Thank You

Norman and Karen Shorts are owners of Tax lot 2200, 88325 Cardinal Lane. We will be the most impacted by this project as both City of Bandon properties adjoin ours on the south.

Exhibit 3
Date: 11-5-14
What is a land use compatibility statement?
A LUCS is a form developed by DEQ to determine whether a DEQ permit or approval will be consistent with local government comprehensive plans and land use regulations.

Why is a LUCS required?
DEQ and other state agencies with permitting or approval activities that affect land use are required by Oregon law to be consistent with local comprehensive plans and have a process for determining consistency. DEQ activities affecting land use and the requirement for a LUCS may be found in Oregon Administrative Rules (OAR) Chapter 340, Division 18.

When is a LUCS required?
A LUCS is required for nearly all DEQ permits and certain approvals of plans or related activities that affect land use prior to issuance of a DEQ permit or approval. These permits and activities are listed in section 1.D on p. 2 of this form. A single LUCS can be used if more than one DEQ permit or approval is being applied for concurrently.

Permit modifications or renewals also require a LUCS when any of the following applies:
1. Physical expansion on the property or proposed use of additional land;
2. Alterations, expansions, improvements or changes in method or type of disposal at a solid waste disposal site as described in OAR 340-093-0070(4)(b);
3. A significant increase in discharges to water;
4. A relocation of an outfall outside of the source property; or
5. Any physical change or change of operation of an air pollutant source that results in a net significant emission rate increase as defined in OAR 340-200-0020.

How to complete a LUCS:

<table>
<thead>
<tr>
<th>Step</th>
<th>Who Does It?</th>
<th>What Happens?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Applicant</td>
<td>Applicant completes Section 1 of the LUCS and submits it to the appropriate city or county planning office.</td>
</tr>
<tr>
<td>2</td>
<td>City or County Planning Office</td>
<td>City or county planning office completes Section 2 of the LUCS to indicate whether the activity or use is compatible with the acknowledged comprehensive plan and land use regulations, attaches written findings supporting the decision of compatibility, and returns the signed and dated LUCS to the applicant.</td>
</tr>
<tr>
<td>3</td>
<td>Applicant</td>
<td>Applicant submits the completed LUCS and any supporting information provided by the city or county to DEQ along with the DEQ permit application or approval request.</td>
</tr>
</tbody>
</table>

Where to get help:
For questions about the LUCS process, contact the DEQ staff responsible for processing the permit or approval. DEQ staff may be reached at 1-800-452-4011 (toll-free, inside Oregon) or 503-229-5630. For general questions, please contact DEQ land use staff listed at: www.deq.state.or.us/pubs/permithandbook/lucs.htm.

CULTURAL RESOURCES PROTECTION LAWS: Applicants involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction, or alteration of an archaeological site or object or removal of archaeological objects from public and private lands without an archaeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking, to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, ext. 232.
### SECTION 1 - TO BE COMPLETED BY APPLICANT

<table>
<thead>
<tr>
<th>1A. Applicant Name:</th>
<th>City of Bandon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Name:</td>
<td>Matt Winkel</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>PO Box 67</td>
</tr>
<tr>
<td>City, State, Zip:</td>
<td>Bandon, OR 97411</td>
</tr>
<tr>
<td>Telephone:</td>
<td>(541) 347-2437</td>
</tr>
<tr>
<td>Tax Account #:</td>
<td>A. 989700</td>
</tr>
<tr>
<td></td>
<td>B. 989800</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1B. Project Name:</th>
<th>Off-channel Water Storage Reservoir</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Address:</td>
<td>Cardinal Lane</td>
</tr>
<tr>
<td>City, State, Zip:</td>
<td>Bandon, OR 97411</td>
</tr>
<tr>
<td>Tax Lot #:</td>
<td>A. 2400 B. 2300</td>
</tr>
<tr>
<td>Township:</td>
<td>283</td>
</tr>
<tr>
<td>Range:</td>
<td>14W</td>
</tr>
<tr>
<td>Section:</td>
<td>29</td>
</tr>
<tr>
<td>Latitude:</td>
<td>43.112296</td>
</tr>
<tr>
<td>Longitude:</td>
<td>-124.388593</td>
</tr>
</tbody>
</table>

1C. Describe the project, include the type of development, business, or facility and services or products provided (attach additional information if necessary):

This project is to clear trees, brush and other vegetation so that the site can be studied to determine whether it is a suitable site for an off-channel raw water reservoir. The site will be cleared to expose the soil and topography and pits will be excavated to evaluate subsurface geological and geotechnical conditions.

1D. Check the type of DEQ permit(s) or approval(s) being applied for at this time.

- [ ] Air Quality Notice of Construction
- [ ] Air Contaminant Discharge Permit (excludes portable facility permits)
- [ ] Air Quality Title V Permit
- [ ] Air Quality Indirect Source Permit
- [ ] Parking/Traffic Circulation Plan
- [ ] Solid Waste Land Disposal Site Permit
- [ ] Solid Waste Treatment Facility Permit
- [ ] Solid Waste Composting Facility Permit (includes Anaerobic Digester)
- [ ] Conversion Technology Facility Permit
- [ ] Solid Waste Letter Authorization Permit
- [ ] Solid Waste Material Recovery Facility Permit
- [ ] Solid Waste Energy Recovery Facility Permit
- [ ] Solid Waste Transfer Station Permit
- [ ] Waste Tire Storage Site Permit
- [ ] Pollution Control Bond Request
- [ ] Hazardous Waste Treatment, Storage, or Disposal Permit
- [ ] Clean Water State Revolving Fund Loan Request
- [ ] Wastewater/Sewer Construction Plan/Specifications (includes review of plans changes that require use of new land)
- [ ] Water Quality NPDES Individual Permit
- [ ] Water Quality WPCF Individual Permit (for onsite construction-installation permits use the DEQ Onsite LUCS form)
- [ ] Water Quality NPDES Stormwater General Permit (1200-A, 1200-C, 1200-CA, 1200-COLS, and 1200-Z)
- [ ] Water Quality General Permit (all general permits, except 600, 700-PM, 1700-A, and 1700-B when they are mobile)
- [ ] Water Quality 401 Certification for federal permit or license

1E. This application is for: [ ] Permit Renewal [ ] New Permit [ ] Permit Modification [ ] Other:

### SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL

Instructions: Written findings of fact for all local decisions are required; written findings from previous actions are acceptable. For uses allowed outright by the acknowledged comprehensive plan, DEQ will accept written findings in the form of a reference to the specific plan policies, criteria, or standards that were relied upon in rendering the decision with an indication of why the decision is justified based on the plan policies, criteria, or standards.

2A. The project proposal is located: [ ] Inside city limits [ ] Inside UGB [ ] Outside UGB

2B. Name of the city or county that has land use jurisdiction (the legal entity responsible for land use decisions for the subject property or land use): Coos
### SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL

<table>
<thead>
<tr>
<th>Applicant Name: City of Bandon</th>
<th>Project Name: Off-Channel Water Storage Reservoir</th>
</tr>
</thead>
</table>

2C. Is the activity allowed under Measure 49 (2007)?
- □ No, Measure 49 is not applicable
- □ Yes; if yes, then check one:
  - □ Express; approved by DLCD order #:
  - □ Conditional; approved by DLCD order #:
  - □ Vested; approved by local government decision or court judgment docket or order #:

2D. Is the activity a composting facility?
- □ No
- □ Yes; Senate Bill 462 (2013) notification requirements have been met.

2E. Is the activity or use compatible with your acknowledged comprehensive plan as required by OAR 660-031?

Please complete this form to address the activity or use for which the applicant is seeking approval (see 1.C on the previous page). If the activity or use is to occur in multiple phases, please ensure that your approval addresses the phases described in 1.C. For example, if the applicant’s project is described in 1.C as a subdivision and the LUCS indicates that only clearing and grading are allowed outright but does not indicate whether the subdivision is approved, DEQ will delay permit issuance until approval for the subdivision is obtained from the local planning official.

- □ The activity or use is specifically exempt by the acknowledged comprehensive plan; explain:
  - YES, the activity or use is pre-existing nonconforming use allowed outright by (provide reference for local ordinance):
  - YES, the activity or use is allowed outright by (provide reference for local ordinance):
  - CGVLO Section 4.8.200(C) allows for alterations of the property (clearing) outright in conjunction with siting a reservoir.
  - YES, the activity or use received preliminary approval that includes requirements to fully comply with local requirements; findings are attached.
  - YES, the activity or use is allowed; findings are attached.
  - NO, see 2.C above, activity or use allowed under Measure 49; findings are attached.
  - NO, (complete below or attach findings for noncompliance and identify requirements the applicant must comply with before compatibility can be determined):
    - Relevant specific plan policies, criteria, or standards:
      - Provide the reasons for the decision:

Additional comments (attach additional information as needed):
This portion of the project consists of clearing the site for development.

Planning Official Signature: [Signature]
Title: Planning Director
Print Name: Jill Rolfo
Telephone #: 541-396-7770
Date: 9/29/14

If necessary, depending upon city/county agreement on jurisdiction outside city limits but within UGB:

Planning Official Signature: [Signature]
Title: [Title]
Print Name: [Name]
Telephone #: [Number]
Date: [Date]
STAFF REPORT FOR HEARINGS BODY REVIEW

APPLICANT/OWNER: City of Bandon

REQUEST: A request to site a reservoir and water impoundment for municipal use in the Forest Mixed Use (FMU) zone.

STAFF CONTACT: Jill Rolfe, Planning Director

REVIEWING BODY: Coos County Planning Commission

MAP NUMBER(S)/LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 28S Range 14W Section 29C Tax Lots 2300 and 2400

PROPERTY LOCATION

The property is located southeast of the City of Bandon with access off of Cardinal Lane.

APPLICABLE CRITERIA

Coos County Zoning and Land Development Ordinance (LDO), Coos County Comprehensive Plan (CCCP), Oregon Administrative Rule (OAR)

<table>
<thead>
<tr>
<th>LDO</th>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>LDO § 4.8.350(Q)</td>
<td></td>
<td>Hearings Body Conditional Uses (Forest Zone)</td>
</tr>
<tr>
<td>LDO § 4.8.400</td>
<td></td>
<td>Review Criteria for Conditional Uses (Forest Zone)</td>
</tr>
<tr>
<td>LDO § 4.8.600</td>
<td></td>
<td>Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone.</td>
</tr>
<tr>
<td>LDO § 4.8.700</td>
<td></td>
<td>Fire Siting and Safety Standards</td>
</tr>
</tbody>
</table>

I. BASIC FINDINGS

A. LAWFULLY CREATED PARCELS: The property was lawfully created in accordance with LDO § 6.1.125(8) as both units of land were created by a legal description through recorded deeds prior to 1986.

B. ZONING: The property is currently zoned Forest Mixed Use.

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.
Mixed Farm-Forest Area

These areas include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

In certain areas of the County, these "mixed use" areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in "prime forest areas", and grazing is in many places a co-dominant use. There are typically mixtures of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

C. PROJECT BACKGROUND: The City of Bandon has requested this reservoir (municipal water impoundment) to provide raw water storage for municipal use by the city. The upland storage site would be used for placement of dredging spoils. The proposed site is close in proximity to the City’s existing water treatment plant. According to the application there is an easement that follows the boundary of the adjacent property that allows for the installation of a water supply line from the City’s point of diversion on Ferry Creek to the proposed reservoir. Water will then be transported from the reservoir to the treatment plant and then disbursed to the end users. The reservoir would be covered to prevent evaporation loss and to prevent waterfowl and mosquito use. The applicant has provided a detailed narrative of the project along with the application found at Attachment “A” of this report.

D. SPECIAL CONSIDERATIONS: Bandon Airport Conical Zone, Mixed Use, Municipal Watershed and Bandon Area of Mutual Interest. None of the special considerations has any effect on the current request.

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
<thead>
<tr>
<th>LDO</th>
<th>§ 4.8.350(Q)</th>
<th>Hearings Body Conditional Uses (Forest Zone)</th>
</tr>
</thead>
<tbody>
<tr>
<td>LDO</td>
<td>§ 4.8.400</td>
<td>Review Criteria for Conditional Uses (Forest Zone)</td>
</tr>
</tbody>
</table>

SECTION 4.8.350 Hearings Body Conditional Uses. The following uses and their accessory uses may be allowed as hearings body conditional uses in the Forest zone subject to the applicable requirements in Section 4.8.400 and applicable siting criteria set forth in this Article and elsewhere in this Ordinance. *** Q. Reservoirs and Water Impoundments for municipal use. In order to minimize impacts to forest lands, the landowner shall acknowledge and file in the deed records of the County, a Forest Management Covenant prior to final County approval.
FINDING: The City of Bandon has applied to site a reservoir and water impoundment for municipal use in the Forest Mixed Use (FMU) zone. The project also encompasses site preparation for construction including placement of dredging and dredge spoils on the site which are permitted uses in the FMU zone. However, the dredge portion of the project is permitted outright and does not require additional review.

SECTION 4.8.400 Review Criteria for Conditional Uses in Section 4.8.300 and Section 4.8.350. A use authorized by Section 4.8.300 and Section 4.8.350 may be allowed provided the following requirements are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.
A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and
B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
C. All uses must comply with Section 4.8.600, Section 4.8.700 and Section 4.8.750.
D. A “Forest Management Covenant”, which recognized the right of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules, shall be recorded in the deed records of the County prior to any final County approval for uses authorized in Section 4.8.300 H, J, and Q and Section 4.8.350 D, J. and Q.

FINDING: The proposed site will be cleared in the area in which the reservoir will be sited but after construction there will be minimal activity as it only requires the City to do annual maintenance. During construction there will be tree removal and brush clearing. The brush will be piled and burned causing some smoke but these are accepted forest practices. The temporary construction and annual maintenance will not significantly change, or significantly increase the cost of, accepted farming or forest practices on adjoining properties. The properties immediately adjacent appear to have trees, grass and brush. Cardinal Lane is a private road that serves about fifteen (15) properties and ten (10) existing dwellings and one (1) proposed dwelling. The properties off of Cardinal land range from one (1) acre to fifteen (15) acres. The smaller properties are zoned Rural Residential-2 (RR-2) and the larger ones (10 to 15 acres) are zone FMU.

There does not appear to be any farming going on the adjacent parcels but further south and southeast there are cranberry bogs. The City will only use the water which they are permitted to use under their water right. There will be no significant increase to fire hazard or fire suppression cost. Once the site is cleared and cleaned for the new reservoir it will pose less of a fire danger.

§ 4.8.600, 4.8.700 and 4.8.750 will be addressed later in this report.

The applicant has acknowledged they will sign a Forest Management Covenant and record at the Clerk’s Office. The covenant was submitted with the application.

Staff recommends that the Planning Commission find the criteria have been met.
LDO § 4.8.600  |  Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone

SECTION 4.8.600 Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone. ***

FINDING: There will be no structures on site. Therefore, this criterion does not apply.

LDO § 4.8.700  |  Fire Siting and Safety Standards

SECTION 4.8.700 Fire Siting and Safety Standards. All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. ***

FINDING: There will be no structures on site. Therefore, this criterion does not apply.

**COMMENTS**

The only comments received on the proposal were from Mr. and Mrs. Shorts. The comments were related to Cardinal Lane. They had questions about the dredge soil site and volume of materials to be trucked to the site. The information has been forwarded to the applicant’s consultant.

Cardinal Lane is a private road and the Planning Commission does not have the authority to condition the approval requiring the County to include the road into the maintenance system. The Planning Commission
can include a condition that Cardinal Lane be restored to the condition it was found after construction. The Planning Commission also may require that maintenance be done to the road while the construction is happening to ensure that the users of the road are not impacted.

The City may enter into a road maintenance agreement with the other parties that use the road but again that is beyond the scope of the Planning Commission’s authority.

According to the application the dredge material will be taken from Geiger Creek Reservoir to the upland site shown on the applicant’s plot plan. This is activity is internal and no trucks will be leaving the site. Dredge material disposal is a permitted use in the FMU zone.

**SUMMARY / CONCLUSIONS**

Staff recommends that the Planning Commission approve the application with the condition that the road be maintained during construction and returned to the same condition as it was prior to any construction activities. Pictures should be provided of the state of the current road and thereafter pictures to ensure that the condition has been complied with.

If you have any questions, please contact any Planning Staff member.

**COOS COUNTY PLANNING DEPARTMENT**

_Jill Rolfe, Planning Director_

Attachment:  
A – Application  
B – Maps  
C – Email and letter from Mr. & Mrs. Shorts

C: Applicant  
Parties

EC: Counsel  
Roadmaster  
Dave Perry, DLCD
Please place a check mark on the appropriate type of review that has been requested.

- [ ] Administrative Review
- [ ] Final Development Plan (BDP)
- [x] Hearings Body Review
- [ ] Variance

An **incomplete** application will **not** be processed. Applicant is responsible for completing the form and addressing all criteria. Attach additional sheets to answer questions if needed. Please indicated not applicable on any portion of the application that does not apply to your request.

**A. Applicant:**

Name: City of Bandon
Address: PO Box 67
City: Bandon
State: OR
Zip Code: 97411

**Telephone:** (541) 947-52437

**B. Owner:**

Name: City of Bandon
Address: PO Box 67
City: Bandon
State: OR
Zip Code: 97411

**Telephone:** (541) 947-52437

**C. As applicant, I am (check one): Please provide documentation.**

- [x] The owner of the property (shown on deed of record);
- [ ] The purchaser of the property under a duly executed written contract who has the written consent of the vendor to make such application (consent form attached).
- [ ] A lessee in possession of the property who has written consent of the owner to make such application (consent form attached).
- [ ] The agent of any of the foregoing who states on the application that he/she is the duly authorized agent and who submits evidence of being duly authorized in writing by his principal (consent form attached).

**D. Description of Property:**

Township 26S  Range 14W  Section 29C  Tax Lot 2300 & 2400

Tax Account 989800 & 989700  Lot Size 20.00ac total  Zoning District Forest/Mixed Use

Updated 2013
E. Information (please check off as you complete)

✓ 1. Existing Use: Forest
✓ 2. Site Address: No situs address for this account
✓ 3. Access Road: Cardinal Drive
✓ 4. Is the Property on Farm/Forest Tax Deferred: Exempt
✓ 5. Current Land Use (timber, farming, residential, etc.): Forest
✓ 6. Major Topography Features (streams, ditches, slopes, etc.): Fairly flat, stream east property line
✓ 7. List all lots or parcels that the current owner owns, co-owns or is purchasing which have a common boundary with the subject property on an assessment map. None
✓ 8. Identify any homes or development that exists on properties identified in #7. None
✓ 9. A copy of the current deed of record.
✓ 10. Covenants or deed restrictions on the property, if unknown contact title company.
✓ 11. A detailed parcel map of the subject property illustrating the size and location of existing and proposed uses, structures and roads on an 8½” x 11” paper to scale. Applicable distances must be noted on the parcel map along with slopes. (See example plot map)

F. Proposed use and Justification

Please attach an explanation of the requested proposed use and findings (or reasons) regarding how your application and proposed use comply with the following the Coos County Zoning and Land Development Ordinance (LDO). Pursuant to the LDO, this application may be approved only if it is found to comply with the applicable criteria for the proposed use. Staff will provide you with the criteria; however, staff cannot provide you with any legal information concerning the adequacy of the submitted findings, there is no guarantee of approval and the burden rests on the applicant. (You may request examples of a finding)

Applicable Criteria: 4.8.400 Review Criteria for Conditional Uses in Section 4.8.300 and Section 4.8.350. See attached narrative for findings to the criteria.

These properties lie within the Bandon Airport Conical Zone; however, the reservoir is approximately 8’ tall which is below the 35’ height restriction.
G. Authorization:
All areas must be initialed by all applicant(s) prior to the Planning Department accepting any application unless the statement is not applicable. If one of the statements, below is not applicable to your request indicated by writing N/A.

I hereby attest that I am authorized to make the application for a conditional use and the statements within this application are true and correct to the best of my knowledge and belief. I affirm that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

ORS 215.416 Permit application; fees; consolidated procedures; hearings; notice; approval criteria; decision without hearing. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service. The Coos County Board of Commissioners adopt a schedule of fees which reflect the average review cost of processing and set-forth that the Planning Department shall charge the actual cost of processing an application. Therefore, upon completion of review of your submitted application/permit a cost evaluation will be done and any balance owed will be billed to the applicant(s) and is due at that time. By signing this form you acknowledge that you are response to pay any debt caused by the processing of this application. Furthermore, the Coos County Planning Department reserves the right to determine the appropriate amount of time required to thoroughly complete any type of request and, by signing this page as the applicant and/or owner of the subject property, you agree to pay the amount owed as a result of this review. If the amount is not paid within 30 days of the invoice, or other arrangements have not been made, the Planning Department may chose to revoke this permit or send this debt to a collection agency at your expense.

I understand it is the function of the planning office to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree I bear the burden of proof. I understand that approval is not guaranteed and the applicant(s) bear the burden of proof to demonstrate compliance with the applicable review criteria.

As applicant(s) I/we acknowledge that is in my/our desire to submit this application and staff has not encouraged or discouraged the submittal of this application.

Applicant(s) Original Signature

Applicant(s) Original Signature

Updated 2013

ATTACHMENT A
City of Bandon

Off-Channel Raw Water Storage Reservoir and Upland Dredging Spoils Site

Project No. 101.74

Logging, Site Preparation for Construction, and Construction of Reservoir and Upland Dredging Spoils Site

Coos County Planning Department Land Use Application

Page 2

F. Proposed use and Justification

a. Explanation of requested proposed use

General

This site is has two proposed uses. The first is for the construction of a 50 acre-foot off-channel reservoir, and the second is for an upland storage site which would be constructed adjacent to the reservoir. The reservoir would provide raw water storage for municipal use by the City of Bandon. The upland storage site would be used for the placement of dredging spoils.

Background

The City of Bandon owns two reservoirs to store raw water. One reservoir is on Ferry Creek and the other is on Geiger Creek. At present Ferry Creek Reservoir can only store about 5 acre-feet of its 20-5/8 acre-feet permitted water right and Geiger Creek Reservoir can only store about 3 acre-feet of its 90 acre-feet of permitted water right. Expanding storage for these two reservoirs would be very expensive, problematic due to permitting issues, difficult to get through the dam safety approval process, and challenging because both dams are not owned by the City.

This site is on two parcels, one of which was logged sometime prior to 1994 and doesn't appear to have been reforested, and the other, which is currently timberland. The site is fairly flat with a slope ranging from 0.5% to a maximum of 5.0%. This topography is favorable for constructing a reservoir that would be approximately 6 acres in size, 4 to 8 feet higher than the average base elevation, and approximately 6 feet deep.

This site is close to the City's Water Treatment Plant. There is an easement that follows the boundary of the adjacent property that allows for the installation of a transmission line. This transmission line would supply the reservoir with water from the City's point of diversion on Ferry Creek and allow transportation of water from the reservoir to the treatment plant. In addition, the average base elevation of the site is 123 feet, which is close to the elevation of the water treatment plant and would allow utilization of the same equipment currently used.

The reservoir would be surrounded by a vegetative buffer a minimum of 50 feet wide, and would be enclosed by a security fence. The reservoir would be lined to prevent
water loss and intrusion from nearby surface and groundwater sources. The reservoir would be covered to prevent evaporation loss and to prevent waterfowl and mosquito use.

The City needs to dredge the Geiger Creek Reservoir for routine maintenance purposes. The site is within close proximity of Geiger Creek Reservoir, which would allow pumping of the dredging spoils to an upland spoils site to be constructed on the east side of the reservoir. The site is adequate in size to construct settling ponds and is far away from any streams or riparian areas.

b. Findings

General

The purpose of the proposed reservoir and upland storage site is to provide the City of Bandon with a means to store and maintain water quality for municipal use.

This site is not located within a flood hazard area.

Construction of a reservoir at this site will not alter any water courses.

This site is within the Airport Surfaces Overlay zone for the Bandon Airport; however, the reservoir's highest elevation point, an antenna, should be far shorter than the height of the existing timber.

Access to the proposed reservoir is via a private road for which the City has both utility and access easements.

Section 4.8.400

A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands:

The proposed construction of a reservoir and upland storage site is on two parcels located on Cardinal Lane outside of Bandon city limits. Lot 2300 is zoned F (Forest) and is timbered. It currently has no road access. Approximately a third of the reservoir footprint and the entire upland storage site would be located on this lot. Lot 2400 is also zoned F (Forest) and is mostly brush with some small trees. This lot has access to Cardinal Lane and a 20-foot wide graveled access driveway would be constructed. Approximately two-thirds of the reservoir would be located on the entire lot.

Prior to construction activities, timber and brush will be cleared from the site and this activity will subject property owners in the nearby area to noise and smoke for a limited time. Cardinal Lane will be impacted by the log trucks transporting the timber offsite. Property owners will be notified prior to these activities being conducted and Cardinal Lane will be maintained during this work and returned to as good or better condition.

A reservoir is a permitted use in a Forest zone.

The impact to Cardinal Lane during construction of the reservoir and upland storage site is expected to be minimal. It is anticipated that most of the on-site material will be suitable for use in the construction of the reservoir and upland storage site.
Cardinal Lane will be maintained during construction and returned to as good or better condition when the work is complete. Once constructed, the reservoir and upland storage site will not emit any sound. A 50-foot vegetated buffer will be constructed around the perimeter so the reservoir will not be visible from adjacent properties. Trees within this buffer will be removed as needed to prevent wind-thrown trees from damaging the reservoir. A security fence will be constructed around the perimeter of the reservoir to prevent wildlife from entering the reservoir. The reservoir will need little regular maintenance, so use of the access road will be limited to annual reservoir cleaning and brushing and mowing.

The upland storage site is expected to have very little use. Dredge spoils will be pumped from Geiger Creek Reservoir to the site so no trucks will be using Cardinal Road to haul spoils. Maintenance of this site will be coordinated with reservoir maintenance, so no additional traffic on Cardinal Lane is anticipated.

Section 4.8.400
B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel:

The reservoir will be used to store water. The site will have a brushed perimeter and vehicular access around the bottom of the reservoir toe and top of dike. The site will be security fenced.

Section 4.8.400
C. All uses must comply with Section 4.8.600, Section 4.8.700 and Section 4.8.750. IV-530:

Section 4.8.600 Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone

No dwellings or other structures shall be constructed on this site and no domestic water will be required.

The water stored in the reservoir will be procured from the City's point of diversion on Ferry Creek in accordance with Oregon Water Resources Department's requirements. A permit amendment will be filed to transfer storage rights from the Ferry Creek and Geiger Creek reservoirs.

Access to the site will be on Cardinal Lane, a privately-owned road, to which the City of Bandon has both access and utility easements. The City of Bandon will return Cardinal Lane to as good or better condition once construction activities are complete.

No reforestation activities will be done once construction is complete. Regularly scheduled tree removal will be conducted to minimize damage to the reservoir.

Section 4.8.700 Fire Siting and Safety Standards

No dwellings or other structures shall be constructed on this site. A firebreak, as well as vehicular access, will be established around the reservoir. The vehicular access will allow firefighting equipment access.
Section 4.8.750   Development Standards

A. No buildings or structures shall be constructed on this site.
B. N/A
C. N/A
D. N/A
E. The fence will be inside the vegetated buffer and not visible from the road.
F. There will be off-street parking for maintenance vehicles.
G. The minimum 20-foot road frontage is met.
H. A Forest Management Covenant will be filed for both lots prior to final County approval for this project.
I. A 50-foot minimum buffer from riparian area will be maintained, unless there are any trees identified that may damage the reservoir.

Section 4.8.400

D. A "Forest Management Covenant", which recognized the right of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules, shall be recorded in the deed records of the County prior to any final County approval for uses authorized in Section 4.8.300 H, J, and Q and Section 4.8.350 D, J, and Q.

A Forest Management Covenant will be filed for both lots prior to final County approval for this project.
AUG 3 2 1974

74-8-1631187

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS that MEDAL OF HONOR POST 23440, Veterans of Foreign Wars of the United States, Grantor, for true and actual consideration in the sum of THREE THOUSAND ($3,000) DOLLARS does hereby grant and convey unto the CITY OF DANBURY, a municipal corporation of the State of Oregon, Grantee, all of the following described real property, to-wit:

The Southeast quarter of the Southeast quarter of the Southwest quarter (SW 1/4 SE 1/4 SW 1/4) of Section 29, Township 20 South, Range 14 West, of the Williamette Meridian, in Cowlitz County, Oregon.

TO HAVE AND TO HOLD the above described premises unto the Grantee, its successors and assigns, forever.

DATED this 26 day of June, 1974.

MEDAL OF HONOR POST A 23440 Veterans of Foreign Wars of the United States

By: Charles Alley

Leslie C. McLeod

Joseph R. Harris

Trustees

STATE OF OREGON

County of Cowlitz

On the 26 day of June, 1974, there appeared before me Leslie C. McLeod, and Charles Alley, each of whom personally acknowledged that he is a Trustee of Medal of Honor Post No. 23440, Veterans of Foreign Wars of the United States and that the foregoing instrument was executed freely and voluntarily on behalf of said Medal of Honor Post No. 23440 by the authority of its membership.

Notary Public for Oregon
By Commission expires: Oct. 2, 1976

[Seal]

[Stamp]

Aug 9 1974

ATTACHMENT A
STATUTORY WARRANTY DEED

Jon C. Dodson, Grantor, conveys and warrants to City of Bandon, an Oregon Municipal Corporation, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

LEGAL DESCRIPTION: Real property in the County of Coos, State of Oregon, described as follows:

The Southwest quarter of the Southeast quarter of the Southwest quarter of Section 29, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon. APN 9897.00

Together with easements for road purposes along the Northerly line of said property as disclosed by Instrument recorded October 3, 1911 in Volume 61, Page 64, and by Instrument recorded December 6, 1932 in Volume 118, page 198, Deed Records of Coos County, Oregon.

Subject to:
1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is $145,581.58. (Here comply with requirements of ORS 93.039)
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING Fee TITLE SHOULD
INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO
195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17,
CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS
INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN
VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING
THIS INSTRUMENT, THE PERSON ACQUIRING Fee TITLE TO THE PROPERTY SHOULD CHECK WITH THE
APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING
TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010,
TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS
AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE
RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305
TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17,
CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 19th day of August, 2014.

[Signature]

Jon C. Dodson

STATE OF Arizona
County of Maricopa

This instrument was acknowledged before me on this 19th day of August, 2014
by Jon C. Dodson.

[Signature]

Notary Public for Oregon, Arizona
My commission expires January 24, 2018

Page 2 of 2

ATTACHMENT A
WAIVER OF RIGHT TO OBJECT FOREST AND FARM PRACTICES MANAGEMENT COVENANT

City of Bandon, (herein called grantor(s) are the owners of the real property

(Ownership’s Name)

described as follow: Microfilm Reel No.

Township 28S Range 14W W., W.M. Section 29 Tax Lot 2300 & 2400

In accordance with the conditions set forth in the decision of the Coos County Planning Department

dated ___________________________, approving a ___________________________, for the above described property and in consideration of each approval, grantor(s) hereby grant to Coos County a perpetual non-exclusive forest and farm management covenant as follows:

1. Grantor(s), their heirs, successors and assigns hereby acknowledge that the above described property is situated within a forest or farm zone, or adjacent or near a forest or farm zone in Coos County, Oregon, and may be subjected to conditions resulting from commercial forest or agricultural operations being undertaken on adjacent lands. Such operations include, but are not limited to, management and harvesting of timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, management of farm and animals and farm lands and other accepted and customary forest and farm management activities conducted in accordance with state laws. Said forest and farm management activities ordinarily and necessarily produce noise, dust, smoke, odor, and other conditions that may conflict with management. Grantor(s) hereby waive all common law rights to object to normal, necessary, and non-negligent forest or farm management activities legally conducted on adjacent lands that may conflict with grantor(s) use of grantor(s) property for residential or other land uses not related to commercial forestry or farm management purposes and for the benefit of adjacent property owners for the resultant impact on grantor(s) property that may be caused by non-negligent forest and farm management activities occurring on adjacent lands.

2. Grantor(s) shall comply with all restrictions and conditions for maintaining residences on rural lands that may be required by state and local land use laws and regulations. Grantor(s) shall comply with all fire safety regulations set forth in the Coos County Zoning and Land Development Ordinance, which are applicable to the subject property.

3. Grantor(s) shall comply with all restrictions and conditions for maintaining residences in farm zones pursuant to state and local laws and regulations if a farm-use dwelling has been approved for the subject property.

This covenant is appurtenant to all property adjacent to the above described property and shall bind the heirs, successors and assigns of grantor(s) and shall endure for the benefit of the adjacent landowners, their heirs, successors and assigns. Adjacent landowners, their heirs, successors and assigns are hereby expressly granted the right of third party enforcement of this covenant.

IN WITNESS WHEREOF, the grantor(s) have executed this covenant on ___________________________.

(Titleholder’s signature)

STATE OF OREGON) COUNTY OF COOS )

Personally appeared the above named ___________________________ and acknowledged the above covenant to be their voluntary act and deed.

______________________________
Michelle Hampton
Notary Public for Oregon Commission Expires: 02-29-2016

This covenant is hereby accepted this day of ___________________________, 20___.

COOS COUNTY BOARD OF COMMISSIONERS

By ___________________________, County Planning Director

RESERVED FOR RECORDER

ATTACHMENT A
File: HBCU-14-06
Applicant/Owner: City of Bandon
Date: October 9, 2014
Location: Township 28S Range 14W
Section 29C TL 2300, 2400
Proposal: Off-Chanel Raw Water Storage Reservoir and Upland Dredge Spoils Site
We would like to thank you in advance for taking time to read our letter regarding Bandon City off channel water storage reservoir. I really don't understand the dredge soils site and the volume of materials to be trucked to the site. Thank Norm and Karen Shorts.
Coos County Planning

We are writing in regards to File# HBCU-14-06. We are not opposed to this project but we have some major concerns. Cardinal Lane is not under Coos county’s road maintenance, it is just maintained by residences. If this nearly $5,000,000.00 project is to proceed it is our contention that either Coos county put Cardinal Lane on its road maintenance or the City of Bandon. The primary use of the City of Bandon’s property is to become a public utility water storage and as such we believe that when the project is complete that Cardinal Lane should be paved and maintained by either City of Bandon or Coos County. The traffic that will be generated by this project will be significant and the wear and tear of Cardinal Lane is to be protected from damages completely during and after any heavy equipment hauling and transportation of dredging spoils and the construction of water storage facility.

We noticed that when we built our roadway through to our property and driveway from the previous end of Cardinal Lane that there a few large trees from the beginning of Cardinal Lane from Ohio Ave and all the way to the tax lot 2100 that should be felled in order for larger hauling equipment to safely access the City of Bandon property. Thank You

Norman and Karen Shorts are owners of Tax lot 2200, 88325 Cardinal Lane. We will be the most impacted by this project as both City of Bandon properties adjoin ours on the south.
NOTICE OF PLANNING COMMISSION HEARING

This notice is to serve as public notice and if you have received this notice by mail it is because you are a participant, adjacent property owner, special district, agency with interest, or person with interest in regard to the following land use application. Please read all information carefully as this decision may affect you. (See the vicinity map on the reverse side for the location of the subject property).

NOTICE IS HEREBY GIVEN THAT THE COOS COUNTY PLANNING COMMISSION WILL HOLD A PUBLIC HEARING ON THURSDAY, NOVEMBER 6, 2014 7:00 P.M., IN THE PLANNING DEPARTMENT CONFERENCE ROOM OF THE COOS COUNTY COURTHOUSE ANNEX, 201 N. ADAMS, COQUILLE, OREGON, REGARDING THE FOLLOWING LAND USE APPLICATION(S):

FILE# HBCU-14-06 — A request to site a reservoir and water impoundment for municipal use in the Forest Mixed Use (FMU) zone. The request consists of site preparation for construction and will require placement of dredging and dredge spoils on the site. The applicant and owner of the property is City of Bandon. The property identified as Township 28S, Range 14W, Section 29C, Tax Lots 2300 & 2400 and is located southeast of the City of Bandon, accessed off of Cardinal Lane and the total acreage of the properties is approximately 20.00 acres.

<table>
<thead>
<tr>
<th>APPLICABLE CRITERIA</th>
<th>Coos County Zoning and Land Development Ordinance (LDO) and Coos County Comprehensive Plan (CCCP)</th>
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<td>LDO</td>
<td>§ 4.8.350(Q) Hearings Body Conditional Uses (Forest Zone)</td>
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<td>LDO</td>
<td>§ 4.8.400 Review Criteria for Conditional Uses (Forest Zone)</td>
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<td>§ 4.8.700 Fire Siting and Safety Standards</td>
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The application(s), all documents and evidence in the record and a list of the applicable criteria are available for inspection at the Planning Department. The Staff Report will be available for inspection at the Planning Department at least seven (7) days prior to the scheduled Planning Commission hearing. Copies may be obtained at a cost of 50 cents per page.

All parties and witnesses shall have an opportunity to present and rebut relevant evidence. All testimony must be directed toward the criteria identified in this notice, or other criteria contained in the CCZLDO, Coos County Comprehensive Plan (CCCP), or other legal standards believed to apply to the subject application. Detailed information pertaining to the conduct of the public hearing and submission of evidence is set out in CCZLDO Section 5.7.300.

Please note that any person presenting testimony on behalf of a group, company or organization must enter evidence into the record that the group, company or organization has authorized the party to present testimony on their behalf.

HBCU-14-06 Page 1
The Planning Commission would appreciate all written testimony and evidence be submitted 10 days prior to the hearing date (by October 27, 2014). Your signature and mailing address must be included in the written testimony. Please submit one (1) original and fourteen (14) copies either mailed to the Planning Department, Coos County Courthouse, 250 N. Baxter, Coquille, Oregon 97423, or delivered to the Planning Department at 225 N. Adams., Coquille, Oregon. If copies are not provided, the Planning Department will make the copies at a cost of 50 cents a page. All written evidence or testimony received prior to the close of the evidentiary record will be included in the evidentiary record.

Upon request, the Planning Commission may consider granting a continuance of the hearing, or may leave the record open to allow submission of additional written evidence and rebuttal. Please be aware that failure to raise an issue prior to the close of the evidentiary record, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals based on that issue.

Within ten (10) days of any final action taken by the Hearings Body, written notice of the decision shall be provided to the applicant(s) and any others who participated either orally or in writing at the hearing. **Anyone entering a signed petition(s) into the record is responsible for providing individual notice of the decision to the signee(s) of the petition(s).**

Any appeal of a Hearings Body decision shall be made pursuant to Article 5.8 of the CCZLDO. The application can be found on the webpage by searching for the file number at: [http://www.co.coos.or.us/Departments/Planning/PendingApplications.aspx](http://www.co.coos.or.us/Departments/Planning/PendingApplications.aspx)

Further explanation concerning any information contained in this notice can be obtained by contacting the Planning Department staff as follows: Jill Rolfe, Planning Director or Amy Dibble, Planner I (541) 396-7770, or by visiting the Planning Department between the hours of 8:00 AM – 5:00 PM (closed noon – 1:00 PM), Monday through Friday.

COOS COUNTY PLANNING DEPARTMENT

**Jill Rolfe, Planning Director**

Coos County Staff Members
Jill Rolfe, Planning Director
Amy Dibble, Planner I
Troy May, Planning Assistant

POSTED & MAILED ON: October 10, 2014

POST THROUGH: November 6, 2014
COOS COUNTY PLANNING DEPARTMENT
Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423
Physical Address: 225 N. Adams, Coquille Oregon
Phone: (541) 396-7770
Fax: (541) 396-1022/TDD (800) 735-2900

File: HBCU-14-06
Applicant/Owner: City of Bandon
Date: October 9, 2014
Location: Township 28S Range 14W
Section 29C TL 2300, 2400
Proposal: Off-Chanel Raw Water Storage
Reservoir and Upland Dredge Spoils Site
**DATE**
October 2, 2014

**TO**
Jill Rolfe  
Planning Director  
250 N. Baxter  
Coquille, Oregon 97423

**FROM**
Barbara Negherbon, PE

**PROJECT NAME**
Off-Channel Reservoir

**PROJECT NO.**
101.84

**INCLUDED**
- [ ] Agreement  
- [ ] Product submittal data  
- [x] Specifications  
- [ ] Copy of letter  
- [ ] Supplies  
- [ ] CD / Diskette  
- [ ] Plans / Drawings  
- [ ] Catalog cuts  
- [x] Other

**COPIES**

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**TRANSMITTED**
- [x] For review and comment

**COMMENTS**

*Jill,*

Please let me know if further information is needed.

*Thanks,*

*Barbara*
Coos County Planning Department
Land Use Application

OCT 06 2014

Please place a check mark on the appropriate type of review that has been requested.

- Administrative Review
- Final Development Plan (BDR)
- Hearings Body Review
- Variance

An incomplete application will not be processed. Applicant is responsible for completing the form and addressing all criteria. Attach additional sheets to answer questions if needed. Please indicate not applicable on any portion of the application that does not apply to your request.

A. Applicant:

Name: City of Bandon
Address: PO Box 67
City: Bandon
Telephone: (541) 347-2437
State: OR
Zip Code: 97411

B. Owner:

Name: City of Bandon
Address: PO Box 67
City: Bandon
Telephone: (541) 347-2437
State: OR
Zip Code: 97411

C. As applicant, I am (check one): Please provide documentation.

- The owner of the property (shown on deed of record);
- The purchaser of the property under a duly executed written contract who has the written consent of the vendor to make such application (consent form attached);
- A lessee in possession of the property who has written consent of the owner to make such application (consent form attached);
- The agent of any of the foregoing who states on the application that he/she is the duly authorized agent and who submits evidence of being duly authorized in writing by his principal (consent form attached).

D. Description of Property:

Township 28S Range 14W Section 29C Tax Lot 2300 & 2400

Tax Account 989800 & 989700 Lot Size 20.00ac total Zoning District Forest/Mixed Use

Updated 2013
E. Information (please check off as you complete)

1. Existing Use: Forest
2. Site Address: No situs address for this account
3. Access Road: Cardinal Drive
4. Is the Property on Farm/Forest Tax Deferral: Exempt
5. Current Land Use (timber, farming, residential, etc.): Forest
6. Major Topography Features (streams, ditches, slopes, etc.): Fairly flat, stream east property line
7. List all lots or parcels that the current owner owns, co-owns or is purchasing which have a common boundary with the subject property on an assessment map: None
8. Identify any homes or development that exists on properties identified in #7: None
9. A copy of the current deed of record: None
10. Covenants or deed restrictions on the property, if unknown contact title company: None
11. A detailed parcel map of the subject property illustrating the size and location of existing and proposed uses, structures and roads on an 8½” x 11” paper to scale. Applicable distances must be noted on the parcel map along with slopes. (See example plot map)

F. Proposed use and Justification

Please attach an explanation of the requested proposed use and findings (or reasons) regarding how your application and proposed use comply with the following the Coos County Zoning and Land Development Ordinance (LDO). Pursuant to the LDO, this application may be approved only if it is found to comply with the applicable criteria for the proposed use.

Staff will provide you with the criteria; however, staff cannot provide you with any legal information concerning the adequacy of the submitted findings, there is no guarantee of approval and the burden rests on the applicant. (You may request examples of a finding)

Applicable Criteria: 4.8.400 Review Criteria for Conditional Uses in Section 4.8.300 and Section 4.8.350. See attached narrative for findings to the criteria.

These properties lie within the Bandon Airport Conical Zone; however, the reservoir is approximately 8’ tall which is below the 35’ height restriction.
G. Authorization:
All areas must be initialed by all applicant(s) prior to the Planning Department accepting any application unless the statement is not applicable. If one of the statements, below is not applicable to your request indicated by writing N/A.

[Signature]
I hereby attest that I am authorized to make the application for a conditional use and the statements within this application are true and correct to the best of my knowledge and belief. I affirm that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

ORS 215.416 Permit application; fees; consolidated procedures; hearings; notice; approval criteria; decision without hearing. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service. The Coos County Board of Commissioners adopt a schedule of fees which reflect the average review cost of processing and set-forth that the Planning Department shall charge the actual cost of processing an application. Therefore, upon completion of review of your submitted application/permit a cost evaluation will be done and any balance owed will be billed to the applicant(s) and is due at that time. By signing this form you acknowledge that you are responsible to pay any debt caused by the processing of this application. Furthermore, the Coos County Planning Department reserves the right to determine the appropriate amount of time required to thoroughly complete any type of request and, by signing this page as the applicant and/or owner of the subject property, you agree to pay the amount owed as a result of this review. If the amount is not paid within 30 days of the invoice, or other arrangements have not been made, the Planning Department may choose to revoke this permit or send this debt to a collection agency at your expense.

[Signature]
I understand it is the function of the planning office to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree I bear the burden of proof. I understand that approval is not guaranteed and the applicant(s) bear the burden of proof to demonstrate compliance with the applicable review criteria.

[Signature]
As applicant(s) I/we acknowledge that is in my/our desire to submit this application and staff has not encouraged or discouraged the submittal of this application.

[Signature]  [Signature]
Applicant(s) Original Signature  Applicant(s) Original Signature

Updated 2013
Coos County Planning Department Land Use Application

Page 2

F. Proposed use and Justification

a. Explanation of requested proposed use

General

This site is has two proposed uses. The first is for the construction of a 50 acre-foot off-channel reservoir, and the second is for an upland storage site which would be constructed adjacent to the reservoir. The reservoir would provide raw water storage for municipal use by the City of Bandon. The upland storage site would be used for the placement of dredging spoils.

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This site is on two parcels, one of which was logged sometime prior to 1994 and doesn't appear to have been reforested, and the other, which is currently timberland. The site is fairly flat with a slope ranging from 0.5% to a maximum of 5.0%. This topography is favorable for constructing a reservoir that would be approximately 6 acres in size, 4 to 8 feet higher than the average base elevation, and approximately 6 feet deep.

This site is close to the City's Water Treatment Plant. There is an easement that follows the boundary of the adjacent property that allows for the installation of a transmission line. This transmission line would supply the reservoir with water from the City's point of diversion on Ferry Creek and allow transportation of water from the reservoir to the treatment plant. In addition, the average base elevation of the site is 123 feet, which is close to the elevation of the water treatment plant and would allow utilization of the same equipment currently used.

The reservoir would be surrounded by a vegetative buffer a minimum of 50 feet wide, and would be enclosed by a security fence. The reservoir would be lined to prevent
water loss and intrusion from nearby surface and groundwater sources. The reservoir would be covered to prevent evaporation loss and to prevent waterfowl and mosquito use.

The City needs to dredge the Geiger Creek Reservoir for routine maintenance purposes. The site is within close proximity of Geiger Creek Reservoir, which would allow pumping of the dredging spoils to an upland spoils site to be constructed on the east side of the reservoir. The site is adequate in size to construct settling ponds and is far away from any streams or riparian areas.

b. Findings

General

The purpose of the proposed reservoir and upland storage site is to provide the City of Bandon with a means to store and maintain water quality for municipal use.

This site is not located within a flood hazard area.

Construction of a reservoir at this site will not alter any water courses.

This site is within the Airport Surfaces Overlay zone for the Bandon Airport; however, the reservoir's highest elevation point, an antenna, should be far shorter than the height of the existing timber.

Access to the proposed reservoir is via a private road for which the City has both utility and access easements.

Section 4.8.400

A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands:

The proposed construction of a reservoir and upland storage site is on two parcels located on Cardinal Lane outside of Bandon city limits. Lot 2300 is zoned F (Forest) and is timbered. It currently has no road access. Approximately a third of the reservoir footprint and the entire upland storage site would be located on this lot. Lot 2400 is also zoned F (Forest) and is mostly brush with some small trees. This lot has access to Cardinal Lane and a 20-foot wide graveled access driveway would be constructed. Approximately two-thirds of the reservoir would be located on the entire lot.

Prior to construction activities, timber and brush will be cleared from the site and this activity will subject property owners in the nearby area to noise and smoke for a limited time. Cardinal Lane will be impacted by the log trucks transporting the timber offsite. Property owners will be notified prior to these activities being conducted and Cardinal Lane will be maintained during this work and returned to as good or better condition.

A reservoir is a permitted use in a Forest zone.

The impact to Cardinal Lane during construction of the reservoir and upland storage site is expected to be minimal. It is anticipated that most of the on-site material will be suitable for use in the construction of the reservoir and upland storage site.
Cardinal Lane will be maintained during construction and returned to as good or better condition when the work is complete.

Once constructed, the reservoir and upland storage site will not emit any sound. A 50-foot vegetated buffer will be constructed around the perimeter so the reservoir will not be visible from adjacent properties. Trees within this buffer will be removed as needed to prevent wind-thrown trees from damaging the reservoir. A security fence will be constructed around the perimeter of the reservoir to prevent wildlife from entering the reservoir. The reservoir will need little regular maintenance, so use of the access road will be limited to annual reservoir cleaning and brushing and mowing.

The upland storage site is expected to have very little use. Dredge spoils will be pumped from Geiger Creek Reservoir to the site so no trucks will be using Cardinal Road to haul spoils. Maintenance of this site will be coordinated with reservoir maintenance, so no additional traffic on Cardinal Lane is anticipated.

Section 4.8.400
B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel:

The reservoir will be used to store water. The site will have a brushed perimeter and vehicular access around the bottom of the reservoir toe and top of dike. The site will be security fenced.

Section 4.8.400
C. All uses must comply with Section 4.8.600, Section 4.8.700 and Section 4.8.750. IV-530:

Section 4.8.600 Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone

No dwellings or other structures shall be constructed on this site and no domestic water will be required.

The water stored in the reservoir will be procured from the City's point of diversion on Ferry Creek in accordance with Oregon Water Resources Department's requirements. A permit amendment will be filed to transfer storage rights from the Ferry Creek and Geiger Creek reservoirs.

Access to the site will be on Cardinal Lane, a privately-owned road, to which the City of Bandon has both access and utility easements. The City of Bandon will return Cardinal Lane to as good or better condition once construction activities are complete.

No reforestation activities will be done once construction is complete. Regularly scheduled tree removal will be conducted to minimize damage to the reservoir.

Section 4.8.700 Fire Siting and Safety Standards

No dwellings or other structures shall be constructed on this site. A firebreak, as well as vehicular access, will be established around the reservoir. The vehicular access will allow firefighting equipment access.
Section 4.8.750  Development Standards

A. No buildings or structures shall be constructed on this site.
B. N/A
C. N/A
D. N/A
E. The fence will be inside the vegetated buffer and not visible from the road.
F. There will be off-street parking for maintenance vehicles.
G. The minimum 20-foot road frontage is met.
H. A Forest Management Covenant will be filed for both lots prior to final County approval for this project.
I. A 50-foot minimum buffer from riparian area will be maintained, unless there are any trees identified that may damage the reservoir.

Section 4.8.400
D. A "Forest Management Covenant", which recognized the right of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules, shall be recorded in the deed records of the County prior to any final County approval for uses authorized in Section 4.8.300 H, J, and Q and Section 4.8.350 D, J, and Q.

A Forest Management Covenant will be filed for both lots prior to final County approval for this project.
AUG 12 1974

74 6-168187

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS that MEDAL OF HONOR POST #3440, Veterans of Foreign Wars of the United States, Grantor, for true and actual consideration in the sum of THREE THOUSAND ($3,000) DOLLARS does hereby grant and convey unto the CITY OF BANDON, a municipal corporation of the State of Oregon, Grantee, all of the following described real property, to-wit:

The Southeast quarter of the Southeast quarter of the South-west quarter (SE 1/4 SE 1/4 SW 1/4) of Section 29, Township 28 South, Range 14 West, of the Willamette Meridian, in Coos County, Oregon.

TO HAVE AND TO HOLD the above described premises unto the Grantee, its successors and assigns, forever.

Dated this 5TH day of June, 1974.

MEDAL OF HONOR POST # 3440
Veterans of Foreign Wars
of the United States

By:

[Signature]

And:

[Signature]

And:

[Signature]

STATE OF OREGON
County of Coos

On the 5TH day of June, 1974, there appeared before me the aforesaid Joseph Harris, Leslie C. McLeod, and Charles Hiley, each of whom personally acknowledged that he is a Trustee of Medal of Honor Post #3440, Veterans of Foreign Wars of the United States and that the foregoing instrument was executed freely and voluntarily on behalf of said Medal of Honor Post #3440 by the authority of its membership.

Notary Public for Oregon

[Signature]

[Inscribed]

Notary seal

AUG 12 1974

[Inscribed]

[Inscribed]
STATUTORY WARRANTY DEED

Jon C. Dodson, Grantor, conveys and warrants to City of Bandon, an Oregon Municipal Corporation, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

LEGAL DESCRIPTION: Real property in the County of Coos, State of Oregon, described as follows:

The Southwest quarter of the Southeast quarter of the Southwest quarter of Section 29, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon. APN 9897.00

Together with easements for road purposes along the Northerly line of said property as disclosed by Instrument recorded October 3, 1911 in Volume 61, Page 84, and by Instrument recorded December 6, 1932 in Volume 118, page 198, Deed Records of Coos County, Oregon.

Subject to:
1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is $145,581.58. (Here comply with requirements of ORS 93.030)
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.311 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 14th day of August, 2014.

[Signature]

Jon C. Dodson

STATE OF Arizona

County of Maricopa

This Instrument was acknowledged before me on this 19th day of August, 2014

by Jon C. Dodson.

[Signature]

Anthony O. Luster

Notary Public for Oregon, Arizona

My commission expires: January 14, 2018
NOTICE:
Preliminary design only.
All slopes and dimensions are approximate
Elevations based off of Google Earth.

LEGEND

--- PROPERTY LINE
--- PROPOSED TOE DIKE
--- --- PROPOSED TOP DIKE
--- --- --- PROPOSED SECURITY FENCE
--- --- --- BRUSH LINE PROPOSED
--- --- --- --- MINOR CONTOUR LINES
--- --- --- --- --- MAJOR CONTOUR LINES
--- --- --- --- --- --- PROPOSED GRAVEL ACCESS DRIVEWAY
--- --- --- --- --- --- --- DRAINAGE ARROW
--- --- --- --- --- --- --- --- PROPOSED OUTLINE OF UPLAND STORAGE FACILITY

PLAN SCALE

100' 0' 200'

PROPOSED 50 ACRE-FOOT OFF-CHANNEL RAW WATER RESERVOIR

MAGAIN 100' MIN. BUFFER OFF RIPARIAN AREA.

THE DYER PARTNERSHIP ENGINEERS & PLANNERS, INC.

DATE: OCT, 2014
PROJECT NO.: 101.84

OFF-CHANNEL RAW WATER RESERVOIR CITY OF BANDON

CONTOUR MAP

FIGURE NO. 2
City of Bandon

(Property Owner's Name)
described as follow: Microfilm Reel No.

Township_28S___ Range_14W_ W.W.M. Section_29__ Tax Lot_2300 & 2400__

In accordance with the conditions set forth in the decision of the Coos County Planning Department
dated_____________________, approving a
for the above described property and in consideration of such approval, grantor(s) hereby grant to Coos County a perpetual non-exclusive forest and
farm management covenant as follows:

1. Grantors, their heirs, successors and assigns hereby acknowledge that the above described property is situated within a forest or farm zone, or
adjacent or near a forest or farm zone in Coos County, Oregon, and may be subjected to conditions resulting from commercial forest or
agricultural operations being undertaken on adjacent lands. Such operations include, but are not limited to, management and harvesting of
timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, management of farm and animals and farm
lands and other accepted and customary forest and farm management activities conducted in accordance with state laws. Said forest and farm
management activities ordinarily and necessarily produce noise, dust, smoke, odor, and other conditions that may conflict with management.

2. Grantors hereby waive all common law rights to object to normal, necessary, and non-negligent forest or farm management activities legally
conducted on adjacent lands that may conflict with grantors' use of grantors' property for residential or other land uses not related to
commercial forestry or farm management purposes and for the benefit of adjacent property owners for the resultant impact on grantors' property
that may be caused by non-negligent forest and farm management activities occurring on adjacent lands.

3. Grantors shall comply with all restrictions and conditions for maintaining residences on rural lands that may be required by state and local land
use laws and regulations. Grantors shall comply with all fire safety regulations set forth in the Coos County Zoning and Land Development
Ordinance, which are applicable to the subject property.

This covenant is appurtenant to all property adjacent to the above described property and shall bind the heirs, successors and assigns of grantors and
shall endure for the benefit of the adjacent landowners, their heirs, successors and assigns. Adjacent landowners, their heirs, successors and assigns
are hereby expressly granted the right of third party enforcement of this covenant.

IN WITNESS WHEREOF, the grantors have executed this covenant on _________________.

__________________________

(Titleholder's signature)

STATE OF OREGON
COUNTY OF COOS

Personally appeared the above named

__________________________

acknowledged the above covenant to be
their voluntary act and deed.

__________________________

Notary Public for Oregon Commission Expires: 02-29-2016

This covenant is hereby accepted this ________________

day of ________________, 20______.

COOS COUNTY BOARD OF COMMISSIONERS

By ____________________________

Jill Rolfe, County Planning Director

RESERVED FOR RECORDER
DATE: December 2, 2014

TO: Board of Commissioners

FROM: Planning Department

RE: Appeal 14-05 City of Bandon
An appeal of conditions of approval #5 in HBCU-14-06

Please see attached Notice of Appeal, appellant is the City of Bandon represented by Shala McKenzie Kudlac, Deputy City Attorney.
Hello Jill Rolfe

My wife and I are unsure of reasoning City of Bandon does not want to have an agreement with the 12 additional property owners on Cardinal with road maintenance. In one of our earlier talks you and road department told me that Cardinal Lane is a road that is maintained by all of the property owners of which 2 owners are City of Bandon. The appeal should not be approved.

Thank you Norm and Karen Shorts
88325 Cardinal Lane
PO Box 762 Ketchum, ID 83340

-----Original Message-----
From: golfskiidaho <golfskiidaho@aol.com>
To: planning <planning@co.coos.or.us>
Sent: Tue, Oct 28, 2014 6:40 am
Subject: File HBCU-14-06

We would like to thank you in advance for taking time to read our letter regarding Bandon City off channel water storage reservoir. I really don't understand the dredge soils site and the volume of materials to be trucked to the site. Thank Norm and Karen Shorts
Coos County Planning

We are writing in regards to File# HBCU-14-06. We are not opposed to this project but we have some major concerns. Cardinal Lane is not under Coos counties road maintenance, it is just maintained by residences. If this nearly $5,000,000.00 project is to proceed it is our contention that either Coos county put Cardinal Lane on its road maintenance or the City of Bandon. The primary use of the City of Bandon’s property is to become a public utility water storage and as such we believe that when the project is complete that Cardinal Lane should be paved and maintained by either City of Bandon or Coos County. The traffic that will be generated by this project will be significant and the wear and tear of Cardinal Lane is to be protected from damages completely during and after any heavy equipment hauling and transportation of dredging spoils and the construction of water storage facility.

We noticed that when we built our roadway through to our property and driveway from the previous end of Cardinal Lane that there a few large trees from the beginning of Cardinal Lane from Ohio Ave and all the way to the tax lot 2100 that should be felled in order for larger hauling equipment to safely access the City of Bandon property. Thank You.

Norman and Karen Shorts are owners of Tax lot 2200, 88325 Cardinal Lane. We will be the most impacted by this project as both City of Bandon properties adjoin ours on the south.
My concerns regarding Application No. HBCU-14-06

I live on Cardinal lane at 88247 I have lived there for over 15 years and in all that time no one from any municipal entity has taken any interest in Cardinal lane at all. We have maintained that road, fragile though it may be, on our own. Now the Municipality wants to build a reservoir and water impoundment off of that road. Since the applications have been filed and the municipality has been trying to get a permit for that sight they have been using the road. They not only have brought in surveyors and utility trucks of all kinds they have also brought in huge pieces of equipment to clear the land to see if the land was suitable for this project. They have brought in electrical trucks and electricians by the dozens and they have brought in overseers to see how things were progressing. The only thing the municipality has not brought in is any gravel for the road. They have left us who live on the road to deal with the huge damage they have already done. Now they are asking us to believe they will maintain the road after they get your approval. If they are trying to put their best foot forward on this project they are not doing a very good job. I can only surmise that if and when they get approval they will forget about their promise of taking care of the road or at least put it as their last priority.

We have to live with your decision I hope you can see our plight and hope that you will come to the conclusion that before any such permits are granted they need to take care of the road. It's the fair thing to do. We on Cardinal lane do not have city water that is going to be stored there. We are all on well water. It seems unfair that we should have to shoulder the burden of taking care of a municipal commodity when we get no benefit from it.

The road is in such bad shape now that it is going to take more than just what one man can do to fix it. If the municipality would have brought in just one dump truck with gravel and a grader none of this damage would have occurred.

We have maintained that road without any help and would have continued to do so but now it's just not practical to try and maintain it on our own. I fill the pot holes two days later they are back bigger than ever. We need your help; I hope you can find it in your hearts to do the right thing. Make them fix the road before anything is granted. We are not talking about a lot of distance here. We are only talking about a quarter mile or so. Thank you for considering my concerns.

Ray Diaz
88247 Cardinal Lane
Bandon OR. 97411
541-260-1407

RECEIVED
FEB 02 2015
COOS COUNTY
PLANNING DEPARTMENT
Attachment C
COOS COUNTY PLANNING COMMISSION
MINUTES OF MEETING
NOVEMBER 6, 2014
COOS COUNTY ANNEX CONFERENCE ROOM
COQUILLE, OREGON 97423

PLANNING COMMISSION

MEMBERS PRESENT
Steve Scheer, Chair
Hilary Baker, Vice-Chair
Jerry Phillips, Commissioner
Charlie Waterman, Commissioner
Larry Scarborough, Commissioner
Kevin Westfall, Commissioner
Debby Darling, Commissioner
Laird Bryan, Commissioner

MEMBERS ABSENT
Joann Hansen, Commissioner

STAFF PRESENT
Jill Rolfe, Planning Director
Troy May, Planning Assistant

ITEM I CALL MEETING TO ORDER—Introduction of Commissioners and Staff.
Chair Scheer called the meeting to order at 7:00 p.m. and introductions were conducted.

ITEM II CITIZEN PARTICIPATION
Chair Scheer stated this was the time for public comments concerning County zoning and planning matters not pertaining to the application before the Hearings Body. No comments were presented by the public in attendance.

ITEM III APPROVAL OF MINUTES
Commissioner Scarborough moved to approve Minutes from the October 2, 2014 with changes; motion was seconded by Commissioner Phillips. Motion approved by unanimous vote.

ITEM IV PUBLIC HEARINGS Item A- FILE# HBCU-14-06
Chair Scheer outlined the procedure for presenting testimony before the commission and requested those wishing to speak to fill out a “Request to Speak” form if they had not already done so.

Chair Scheer asked the following questions:
1. If each member of the Hearings Body received their staff reports and they all acknowledged that they had;
2. If any member of the Hearings Body needed to disclose any conflicts or bias. No commissioner disclosed any bias; and
3. If any of the commissioners needed to abstain from participating in the hearing. No commissioner abstained from participation.

Each Hearings Body member replied that they had received their staff reports, did not need to disclose any conflicts or bias, and did not need to abstain from participating.

Chair Scheer asked if anyone wished to challenge any member of the commission from participating in the hearings. There were no challenges.
Planning Director Rolfe explained the Land Use Procedural Rights pursuant to CCZLDO § 5.7.300 and ORS 197.763.

Planning Director Rolfe read information regarding Item A- file number HBCU-14-06 as follows: A request to site a reservoir and water impoundment for municipal use in the Forest Mixed Use (FMU) zone. The request consists of site preparation for construction and will require placement of dredging and dredge spoils on the site. The applicant and owner of the property is City of Bandon. The property identified as Township 28S, Range 14W, Section 29C, Tax Lots 2300 & 2400 and is located southeast of the City of Bandon, accessed off of Cardinal Lane and the total acreage of the properties is approximately 20.00 acres.

She further read the applicable criteria related to the application and explained that notice was sent to the appropriate parties and agencies on October 10, 2014.

Planning Director Rolfe called to the Commission’s attention comments received from the Oregon Department of Aviation who requested a condition of approval that measures be taken to discourage large gatherings of birds. Director Rolfe stated that the applicant has addressed this concern and the Planning Commission could decide that the concern is addressed sufficiently or add a condition of approval to their order. Comments were also received from adjacent property owners Norm and Karen Shorts who have concerns over the condition of Cardinal Lane. Director Rolfe explained that Cardinal Lane is not a county road and mentioned that there is a process for forming a road district, but that is outside the criteria for this application. All comments received were supplied to the Planning Commission in the packet of information for the meeting.

The Planning Director stated that staff recommends approval of the application and has prepared a draft order and findings for the Commission to consider. She emphasized that the order is only a draft and will be amended as needed to conform to decision of the Commission.

Hearing no questions from the Planning Commission, Chair Scheer opened the meeting to take testimony from the applicant.

Barbara Negherbon, project engineer employed by The Dyer Partnership Engineers & Planners, Inc. the City of Bandon’s engineers for the project offered testimony on behalf of the applicant.

Ms. Negherbon outlined the need for the reservoir stating the City of Bandon is need of a site to store water. The proposed site is flat and will accommodate a 50 acre ft. reservoir. The site will use the same point of diversion utilizing existing pumps, fish screens, and existing easements. The site will be off channel and will not impede fish passage and there are no dam safety issues.

Ms. Negherbon explained the construction process of the reservoir stating that a hole will be dug in the ground, a berm will be constructed around hole, and it will be lined and covered. Lining prevents water leakage and infiltration into surrounding wells. Covering the reservoir prevents mosquito infestations, prevents waterfowl from using the reservoir, and prevents water evaporation. A security fence and buffer zones will be installed for security and visual beauty to maintain the riparian zone. The site allows for good access for equipment necessary to build and maintain the reservoir. The goal is to balance cuts and fills when creating the reservoir thereby minimizing impact to Cardinal Lane.

Ms. Negherbon explained that this is the most cost effective and safest option to create additional water storage for the City of Bandon.

Ms. Negherbon continued to explain the project stating that there will be an area for upland spoils to be used when dredging is required to this and existing reservoirs. She outlined the time line to fill the reservoir during the winter months so that it will not impact other users. The depth of the water will be about 10 feet allowing to water to stay cool. Mixers and aerators with keep oxygen in the water. Water returned to the creek will not impact fish.
Ms. Negherbon stated that Oregon Department of Fish and Wildlife (ODFW) have approved the plan. ODFW has a fish hatchery in the area and they are happy with the plan. Project engineers are working with ODFW to address issues.

Ms. Negherbon stated that project engineers have contacted Oregon Water Resources Department to pursue a permit amendment to allow water to be left in the two existing reservoirs and fill the new reservoir taking into account the needs of the fish hatchery and water rights.

Ms. Negherbon concluded her presentation and fielded questions from the Commissioners.

Commissioner Phillips questioned if the water will be taken from the diversion point to a water treatment plant. Ms. Negherbon explained the process for diversion, holding raw water, and treatment for drinking.

Commissioner Waterman asked if written documentation existed from ODFW regarding conversations between ODFW and project engineers authorizing the project. Ms. Negherbon stated that at this point they are not that far, but she has e-mails from ODFW confirming conversations about what to do to keep the water safe for wildlife. Commissioner Waterman asked if there is documentation from the Water Resources Department. Ms. Negherbon replied that there is documentation. There have been two meetings with that department. There has also been a meeting with the local residents.

Commissioner Waterman asked where the project was in the permit process with the Water Resources Department. Ms. Negherbon replied that it was still in the permit process. The permit process first requires approval from the county. Director Rolfe explained the county has to sign off on a Land Use Compatibility Statement (LUCS) before the project could progress to the next step.

Chair Scheer asked if the problem with the other two reservoirs is silting. Ms. Negherbon stated that the existing reservoirs are silting up and the reservoirs are quite small because they were not constructed to their full permitted rights. Discussion followed detailing the capacities of the reservoirs.

Chair Scheer asked if filling the reservoir would occur one time per year. Ms. Negherbon replied no. Primary pumping would be in the winter to fill the reservoir, pumping would occur in the summer for maintenance purposes as the flows allow. Filling of the reservoir would provide a cushion for the city in the event of an emergency. Reservoir will be drained periodically on a yearly, bi-yearly, or tri-yearly basis for cleaning.

Chair Scheer asked about the spoils site and asked what considerations have been taken regarding leakage or contamination. Ms. Negherbon explained the three pond settling system and discharge of effluent into the creek. She also said that there is a permitting process with DEQ and EPA and the system will be designed to meet the requirements and approvals will be obtained as required.

Chair Scheer discussed possible DEQ regulations for transporting spoils from one site to another for storage and testing for contamination. Ms. Negherbon responded that cost estimates for the project include testing for heavy metals and herbicides and it will require various permits.

Commissioner Scarborough inquired if there was any other road access to the site except Ohio and Cardinal. Ms. Negherbon responded that there is no other access. Commissioner Scarborough stated that access on Ohio is minimal for heavy equipment. Ms. Negherbon responded that access to the site has been taken into consideration and will require brushing, paving for trucks, and improvements to allow access to the site. Discussion followed regarding Cardinal Lane. Ms. Negherbon stated that Cardinal is a privately owned road, not maintained by Coos County or the City of Bandon. Care would be used to stay within the right of way, brushing, rocking and maintaining the road for construction. She stated that cuts and fills made to create to reservoir will not require a lot of trucking on the road.

Commissioner Scarborough asked if the dredging of the other two reservoirs will create continued usage of the road. Ms. Negherbon responded that there will be usage, but the last time the reservoir at the Ferry site was
dredged was in 1998. Commissioner Scarborough asked if the county would fix the road in the future. Ms. Neherbon replied that the City of Bandon would maintain the road and the cost of maintenance is figured into the project.

Discussion followed regarding the ownership and maintenance of Ohio Avenue. Commissioner Scarborough stated that he believed that one half of Ohio Avenue is owned by the county and one half is owned by the City of Bandon. John Rowe, County Roadmaster confirmed that the ownership of Ohio Avenue going down the middle of the road. Matt Winkle, Bandon City Manager stated that the city paved the road and has accepted responsibility for maintaining the pavement.

Commissioner Waterman asked if a surety bond should be posted by the city for the maintenance of Cardinal Road. Planning Director Rolfe responded because it is a private road not maintained by the county the county cannot take a bond.

Commissioner Waterman explored to possibility of a signed agreement between the city and the property owners regarding maintenance of Cardinal Lane. Ms. Neherbon replied that the city has a public utility easement and an access easement that goes through this property that addresses maintenance of the street.

Commissioner Waterman asked how long a period of time for construction. Ms. Neherbon replied approximately three months for construction with additional time for pre-construction activities for brushing and logging including the control of gorse.

Commissioner Baker asked what the cover for the reservoir would be made of. Ms. Neherbon discussed the material is a segmental hexagonal product that floats on the water and locks into position. It is easy to remove and is wind resistant. It is currently being used in California.

Commissioner Baker asked about equipment on site for pumps and aerators. Ms. Neherbon confirmed there would be pumps and aerators, stating electricity is already on site and the necessary equipment would be easily connected to a power supply. Additionally, there is telemetry monitoring. At this time there are no plans for lights on the site.

Chair Scheer discussed the potential problem of gorse and scotch broom management. Ms. Neherbon replied that the city maintenance is planning to handle the mowing and control of the weeds.

Chair Scheer asked if the reservoir will constitute an attractive public nuisance. Ms. Neherbon stated the fence and buffer zone will provide security.

Commissioner Waterman asked if there would be an objection to a Forest and Farm Covenant placed on the site. Ms. Neherbon responded that it has been done.

Chair Scheer asked if the elevation of the settling basin is higher or lower than the reservoir and if the project takes into consideration to possibility of containing escaping dredge spoils. Ms. Neherbon replied that it is about the same elevation and that possibility has been taken into consideration. She explained that the liner will be a thick plastic application with a blanket under the liner. She stated that a geo-technical engineer will make recommendations regarding the placement of the liner following manufacturer recommendations.

Chair Scheer asked what kind of wells are in the area. Ms. Neherbon stated that there are two drilled wells in the area and no hand dug wells appear on the area water rights. There is one small irrigation pond in the area and by law working with Oregon Water Resources Department the project will work to maintain distance and not affect the pond.

Questions continued with Commissioner Phillips stated that he wished that there was someone present that has experience building and maintaining a reservoir of this type. Ms. Neherbon stated that spoke with cranberry growers that have similar reservoirs, but theirs are unlined. She is consulting with a geo-technical engineer on
design. She stated that her company designs sewer lagoons that have similar concerns. Chair Scheer expressed a concern about rainfall overwhelming the system. Ms. Negherbon stated that an overflow system has been built into the design. Commissioner Waterman asked if a heavy rainfall event would be a problem to the cover on the reservoir. Ms. Negherbon replied that the cover design allows rainfall to infiltrate the cover. Commissioner Darling asked what happens to overflow water. Ms. Negherbon responded that overflow is returned to Geiger Creek.

Chair Scheer closed the public testimony portion of the hearing and moved on to deliberation.

Commissioner Westfall thanked Ms. Negherbon for her presentation. He stated that it was obvious that there has been a lot of engineering by people with expertise involved in the project. He did not see shortcomings and was in favor of the project.

Commissioner Bryan reviewed the staff report and information provided by the City of Bandon. He stated that it was well written and was in favor of the project.

Commissioner Phillips concurred with Commissioners Westfall and Bryan and likes the fact that the Dyer Company is handling the project. He stated that there is a clear need for the facility by the City of Bandon and he was supportive of the project.

Vice-Chair Baker stated that it was a through and well researched presentation and she was for the project. She stated her concern over the condition of Cardinal Lane and endorsed staff recommendation regarding the restoration of the lane.

Commissioner Scarborough recognized that the City of Bandon needs the facility. He was also concerned about the potential damage to the access roads, stating that it would not take much rain to create a problem. He liked the fact that the project will include brushing of the access roads to get heavy equipment to the site and he was in favor of the project.

Commissioner Waterman agreed with Commissioner Scarborough and had a lot of concerns regarding the condition and maintenance of the road. He agreed that the City of Bandon needs the water, but was concerned about how construction will affect the neighbors as far as access and condition of road. He stated that the only way he would approve the project would be if there was an agreement between the City and the landowners regarding the maintenance of the road. He wanted an impartial party to monitor the standards and maintenance of the road. Commissioner Waterman proposed that the county Roadmaster would monitor the road. Planning Director Rolfe told the Commissioners that Ms. Negherbon is the wife of John Rowe county Roadmaster; therefore he would not be able to monitor the road. She suggested Barry Austin, road department foreman be designated to monitor the road. Commissioner Waterman concurred.

Commissioner Darling stated that the cover of the reservoir addressed the concerns of the Department of Aviation, measures would be taken to address road concerns and deal with the neighbors, and that she agreed that the City of Bandon needs the facility, therefore, she was in favor of the project.

Chair Scheer agreed with fellow Commissioners. He thanked Ms. Negherbon for a well researched presentation. He was in favor with going forward with the project. He agreed with fellow Commissioners regarding concerns about the access road, and strongly suggested that an agreement be worked out to address those concerns.

Chair Scheer entertained a motion from Commissioner Waterman to approve Item A- FILE# HBCU-14-06 request to site a reservoir for water impoundment for Bandon municipal use subject to 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. Maintenance shall be done to the road while the construction
is happening to ensure that the users of the road are not impacted.

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.

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 on Ohio and Cardinal Lane and the City of Bandon to address maintenance of the road directly related to the impacts caused by the project with oversight by Coos County Road Department Personnel.

Motion was seconded by Commissioner Scarborough. Motion approved by unanimous vote.

Planning Director Rolfe stated that the proceedings would be reduced to writing. There would be a fifteen day appeal period.

ITEM VI OTHER BUSINESS
Director Rolfe explained the reasoning for including a draft order with the finding in the packets supplied to the Commissioners allowing for an accurate record of what the Commissioner approved at the meeting. She gave an update on activities within the Planning Department. She stated that Alex Murphy was hired to work in the Planning Department as a Planning Technician and related his background. She gave an update on AM-14-10 & AM-14-11 stating that the Board of Commissioners held the record open for comments with deliberation in December. She related that the Citizen Advisory Committee will be holding a meeting to discuss the scoping to the CREMP. The Department has received a grant to update Recreation Inventory and Parks Master Plan and Hazard mapping. The Planning Department won first place in the Halloween decoration contest sponsored by the Board of Commissioners.

Laird Bryan was welcomed and introduced to the Commission as the newest member.

No Planning Commission meeting will be held in December 2014.

ITEM VII PLANNING COMMISSION COMMENTS
Chair Scheer related that after the last Planning Commission meeting Ms. Jody McCaffree told Chair Scheer that she felt that she was heard at the meeting and that the Commission was attentive and listened to her concerns.

ITEM VIII ADJOURNMENT
Chair Scheer adjourned the meeting at 8:15 p.m.
Submitted by:

Troy May, Recording Secretary

Approved by the Planning Commission on ______________________, 2015

Chair Steve Scheer