



NOTICE OF LAND USE DECISION BY THE COOS COUNTY PLANNING DIRECTOR

Coos County Planning
225 N. Adams St.
Coquille, OR 97423
<http://www.co.coos.or.us/>
Phone: 541-396-7770
Fax: 541-396-1022

Date of Notice: August 6, 2019
File No: ACU-19-012
RE: Request for approval to site a vacation rental in an existing dwelling.
Applicant(s): Michael Gaudette
440 14th Ave
Coos Bay OR 97420

This decision notice serves as public notice to all participants, adjacent property owners, special districts, agency with interests, or person with interests. If you are an adjacent property owner, this notice is being mailed to you because the applicant has applied for a use or activity on their property that requires that you receive notice pursuant to ORS 197.763. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.”

The requested proposal has been Approved Denied subject to the findings to the criteria found in Exhibit A. The decision is based on findings and facts represented in the staff report.

SUBJECT PROPERTY INFORMATION

Account Number: 568818
Map Number: 26S1404DC-02200
Property Owner: GAUDETTE, MICHAEL J & NICKLYN R
440 14TH AVE
COOS BAY, OR 97420-4412
Situs Address: 90011 CAPE ARAGO HY COOS BAY, OR 97420
Acreage: 0.84 Acres
Zoning: RURAL RESIDENTIAL-2 (RR-2)
Special Development Consideration: AIRPORT - NORTH BEND - TRANSITION ZONE (NBTZ)
COASTAL SHORELAND BOUNDARY (CSB)
FLOODPLAIN (FP)
NATIONAL WETLAND INVENTORY SITE (NWI)

NATURAL HAZARD - EROSION - COASTAL EROSION (NHERC)
NATURAL HAZARD - TSUNAMI (NHTHO)

Proposal: Request for Planning Director Approval for a Vacation Rental in the Rural Residential-2 Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.3.200 #64 Vacation Rental subject to Review Standard 87, § 4.3.220 Additional Conditional Use Review Standards, § Section 4.3.225 General Siting Standards, and § Section 4.3.230 Additional Siting Standards.

Decision: This request meets the criteria subject to conditions of approval found at Exhibit A. Approval is based on findings and facts represented in the staff report.

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

The application, staff report and any conditions can be found at the following link: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment--Applications2019.aspx>. The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, 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. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact Crystal Orr, Planning Specialist and the telephone number where more information can be obtained is (541) 396-7770.

This decision will become final at 5 P.M. on August 21, 2019 unless before this time a completed **APPLICATION FOR AN APPEAL OF A DECISION BY THE PLANNING DIRECTOR** form is submitted to and received by the Coos County Planning Department.

Failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements of evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes raising the issue in an appeal to the Land Use Board of Appeals.

Prepared by: *Amy Dibble* Date: August 6, 2019
Amy, Dibble, Planner II

Authorized by: *Jill Rolfe* Date: August 6, 2019
Jill Rolfe, Planning Director

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EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map

The Exhibits below are mailed to the Applicant only. Copies are available upon request or at the following website: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment--Applications2019.aspx> or by visiting the Planning Department at 225 N. Baxter, Coquille OR 97423. If you have any questions please contact staff at (541) 396-7770.

Exhibit C: Staff Report

EXHIBIT "A"

The applicant shall comply with the following conditions of approval with the understanding that all costs associated with complying with the conditions are the responsibility of the applicants and that the applicants are not acting as an agent of the county. If the applicant fails to comply or maintain compliance with the conditions of approval the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval and if you have any questions contact planning staff.

CONDITIONS OF APPROVAL

The applicant has met the criteria for a Vacation Rental, with the following conditions:

1. The applicant shall submit evidence that they have developed noise restriction on the use of the vacation rental to ensure that use remains compatible with the residential neighborhood.
2. An approved parking plan shall be obtained prior to issuance of a Zoning Compliance Letter.
3. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the use of the dwelling as a vacation rental on the property.
4. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity.
5. Pursuant to CCZLDO § 4.3.110.10(a) the applicant shall obtain a license from the Coos County Health Department in accordance with ORS 446.310-350.

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EXHIBIT "B"

Vicinity Map



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: ACU-19-012

Applicant/
Owner: Michael Gaudette

Date: May 13, 2019

Location: Township 26S Range 14W
Section 04DC TL 2200

Proposal: Administrative Conditional Use



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EXHIBIT "C"
Staff Report

File Number: ACU-19-012

Applicant: MICHAEL GAUDETTE

Account Number: 568818
Map Number: 26S1404DC-02200

Property Owner: GAUDETTE, MICHAEL J & NICKLYN R
440 14TH AVE
COOS BAY, OR 97420-4412

Situs Address: 90011 CAPE ARAGO HWY COOS BAY, OR 97420

Acreage: 0.84 Acres

Zoning: RURAL RESIDENTIAL-2 (RR-2)

Special Development Considerations AIRPORT - NORTH BEND - TRANSITION ZONE (NBTZ)
COASTAL SHORELAND BOUNDARY (CSB)
FLOODPLAIN (FP)
NATIONAL WETLAND INVENTORY SITE (NWI)
NATURAL HAZARD - EROSION - COASTAL EROSION (NHERC)
NATURAL HAZARD - TSUNAMI (NHTHO)

Reviewing Staff: Amy Dibble, Planner II
Date of Report: August 6, 2019

I. PROPOSAL

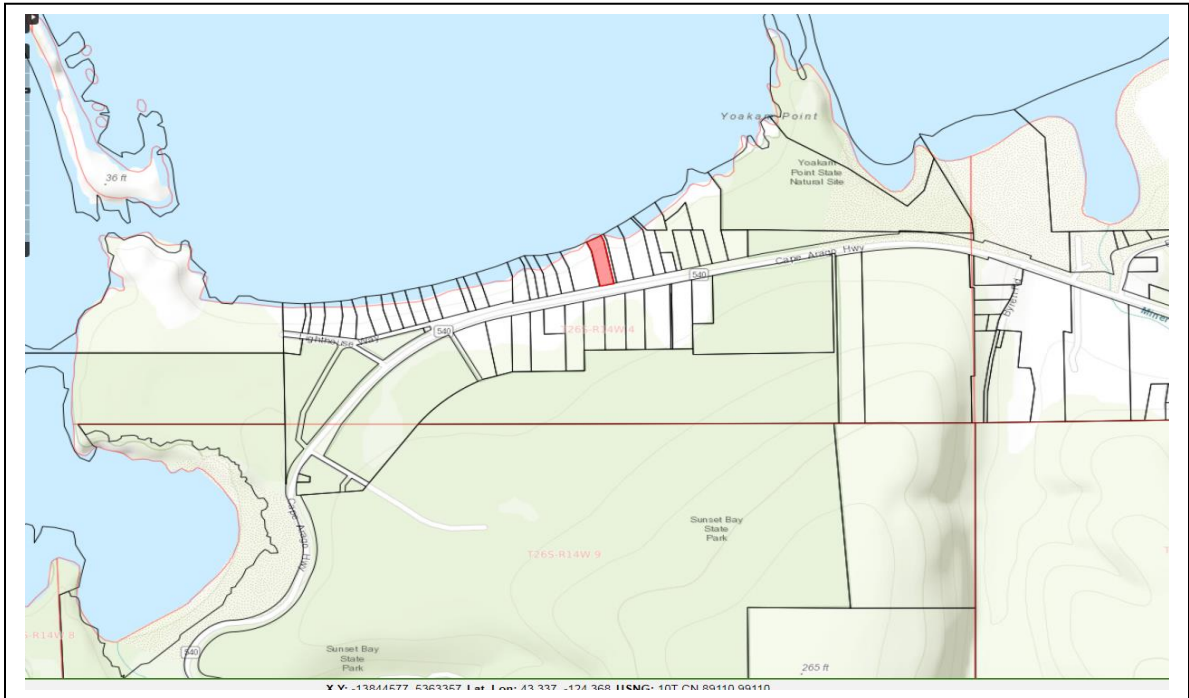
Request for Planning Director Approval to utilize an existing residence as a Vacation Rental in the Rural Residential-2 Zone pursuant to Coos County Zoning and Land Development (CCZLDO) §4.3.200 #64 Vacation Rental subject to Review Standard 87, § 4.3.220 Additional Conditional Use Review Standards, § Section 4.3.225 General Siting Standards, and § Section 4.3.230 Additional Siting Standards..

II. PROPERTY DESCRIPTION AND PROPOSAL

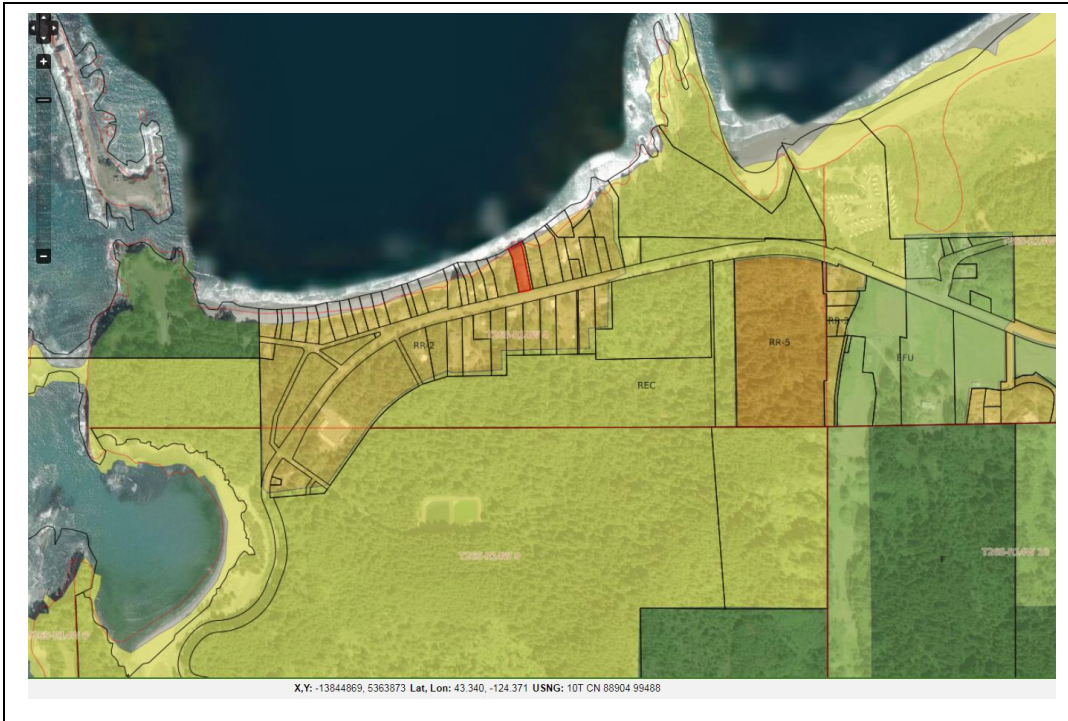
LAWFULLY CREATED: This property was acknowledged as a lawfully created parcel pursuant to CCZLDO § 6.1.125 as it was created by deed #72-4-70795 Coos County Planning Department. This unit of land was combined with some of the ocean shore area pursuant to the Department of Revenue and the acreage was increased from 0.64 to 0.84. This is a lawfully created unit of land.

LOCATION: The subject property is located southwest of the city of Coos Bay. The property is located at 90011 CAPE ARAGO HWY.

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SITE DESCRIPTION AND SURROUNDING USES:

a. SITE DESCRIPTION AND SURROUNDING USES: The property is zoned Rural Residential-2 (RR-2) and is residentially developed. The dwelling was constructed in 1996. At some time it was modified to a duplex. The current property owner removed the second kitchen and returned the dwelling to the approved single family dwelling status removing the potential violation. This property is accessed with 0.84 acres and is surrounded by Rural Residential-2 (RR-2) zoned properties. The property is on a long narrow property that abuts the Light House Beach to the north and Cape Arago Highway to the south.

IV. APPROVAL CRITERIA & FINDINGS OF FACT

- **Rural Residential (RR)**

There are two RR zonings: Rural Residential-5 (RR-5) and Rural Residential-2 (RR-2). The intent of the Rural Residential Districts includes justified sites plus "committed" areas. The County's plan prescribes and allocates a finite number of rural dwelling/units/acreage. The zoning ordinance will specify permitted uses and minimum lot sizes.

The purpose of the "RR-2" and "RR-5" districts are to provide for small to medium acreage dwelling sites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary.

The "RR-2" district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.

- **Compatibility**

Compatibility means that the proposed use is capable of existing together with the surrounding uses without discord or disharmony. The test is where the proposed use is compatible with the

existing surrounding uses, and not potential or future uses in the surround area. The surrounding area consists of the notification area for the project as set out in § 5.0.900.

Section 4.3.200 Zoning Tables for Urban and Rural Residential, mixed Commercial-Residential, Commercial, Industrial, Minor Estuary and South Slough

The table indicates the type of review process that is required. Remember that CU is an conditional use review and the letter prior explain what level of conditional use is required (A = administrative and H=Hearing)

As used in the zoning tables the following abbreviations are defined as:

- “P” Permitted and requires no review from the Planning Department. No review is required but other agencies may have requirements.
- “CD” Compliance Determination review (permitted with standards) with clear and objective standards (Staff review usually referred to as Type I process or ministerial action). These uses are subject to development standards in sections 4.3.22, 4.3.230 and notices requesting comments may be provided to other agencies as result. The process takes a minimum of 30 days to complete. Industrial zones may require additional review. All structures and uses shall meet the applicable Development and Siting Criteria or Special Development Considerations and Overlays for the zoning district in which the structure will be sited.
- “ACU” Administrative Conditional Use (Planning Director’s Decision usually referred to as a Type II Process)
- “HBCU” Hearing Body Conditional Use (Planning Commission, Board of Commissioner or Hearings Officer Decision usually referred to as a Type III Process)
- “PLA” Property Line Adjustments subject to standards found in Chapter 6.
- “P”, “SUB”, “PUD” = Partition, Subdivision, Planned Unit Development that require Land Division Applications subject to standards found in Chapter 6.
- The “Subject To” column identifies any specific provisions of Section 4.3.210 to which the use is subject.
- “N” means the use is not allowed.

The zoning table sets out Uses, Developments and Activities that may be listed in a zone and the type of review that is required within that zone. If there is a conflict between uses the more restrictive shall apply. Section 4.3.210 provides an explanation of the use category and the specific criteria that shall apply and if the use is identified as requiring a conditional use. Section 4.3.225 General Siting Standards apply to all regulated Uses, Developments, or Activities, but these are clear and objective standards that do not, in themselves, require a land use notice. Section 4.3.230 Specific Standards list specific siting standards by zones and 4.2.220 Additional Conditional Use Review and Standards for table 4.3.200 contains any additional criteria that applied to a Use, Development or Activity that has been identified by the following table as requiring.

#	Use	Zones														Subject To
		Section 4.3.210 CATEGORIES & Review Standards - 4.3.220 Additional Conditional Use Review - Section 4.3.225 General Siting Standards - Section 4.3.230 Specific Standards														
		UR-1	UR-2	UR-M	RR-2	RR-5	CD	RC	C-1	IND	AO	REC	SS	MES		
63.	Retail Business	N	N	N	N	N	ACU	HBCU	CD	N	N	HBCU	N	N	(75)	
64.	Vacation Rentals (in an existing dwelling)	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	N	N	(87)	

Section 4.3.210 – CATEGORIES and review standards

The following categories provide a definition and specific standards that will regulate the Development, Use or Activity identified in the table above.

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(87.) Vacation rental/short term rental - Subject to the following criteria:

- (a) Shall be found to be compatible with the surrounding area.
- (b) Shall be licensed by the Coos Health & Wellness (CHW) in accordance with ORS 446.310-350;
- (c) Shall meet parking access, driveway and parking standards as identified in Chapter VII;
- (d) Shall not be conveyed or otherwise transferred to a subsequent landowner without a the new property owner submitting a Compliance Determination Application showing compliance with this section; and
- (e) A deed restriction shall be recorded with the Coos County Clerk's Office acknowledging that this is an accessory use to the approved residential use. If located within Urban Growth Boundary further restrictions may be required based on comments from the City.

FINDING: The primary criterion for this application is compatibility. As explained above; compatibility means that the proposed use is capable of existing together with the surrounding uses without discord or disharmony. The test is where the proposed use is compatible with the existing surrounding uses, and not potential or future uses in the surrounding area. The map below shows the properties calculated to be included in the area in which the dwelling has to prove compatibility.



The properties that are within the notification area are shown below:

Map No	Tax Lot	Dwelling	Use
26S14W04DC	1600	1989 Single family Dwelling	Primary Residential
26S14W04DC	1700	1948 single family Dwelling	Primary Residential
26S14W04DC	1800	1968 Single family Dwelling	Second Dwelling
26S14W04DC	1900	1975 Single family Dwelling	Primary Residential
26S14W04DC	2100	1948 Single family Dwelling	Second Dwelling
26S14W04DC	2400	1987 Single family Dwelling	Approved Vacation Rental

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26S14W04DC	2500	1994 Single family Dwelling	Primary Residential
26S14W04DC	2600	1948 Single family Dwelling	Primary Residential
26S14W04DC	3400	1950 Single family Dwelling	Primary Residential
26S14W04DC	3500	1965 Single family Dwelling	Primary Residential
26S14W04DC	3600	2007 Single family Dwelling	Approved Vacation Rental
26S14W04DC	3700	1970 Single family Dwelling	Approved Vacation Rental
26S14W04DC	3800	Vacant	Vacant
26S14W04DC	3900	1946 Single family Dwelling	Approved Vacation Rental



The compatibility area for this zoning district is 250 feet. Within that distance there are several residential developments. There are fourteen (14) tax lots excluding the subject property within the buffer. Staff researched the assessment records and if the mailing address and the situs address were the same assumed the dwelling was owner occupied. If the mailing address was different and no permits were given staff assumes this is a second home or a long term residential rental which is treated the same as a single family dwelling. Staff researched land use authorizations to find out which ones have been approved for vacation rentals. The red dots indicate properties that second dwellings, vacation rentals or long term rentals are located. There are four (4) dwellings that have been approved for vacation rentals and two (2) dwellings that have out of area owners.

The applicant states in this stretch of Lighthouse Beach there are three homes advertised as vacation rentals on Homeaway.com (between Bastendorff Beach and Point Gregory): 1) a three bedroom/3 bath home that sleeps 10 people immediately adjacent to the subject property, 2) a studio apartment that sleeps two people and 3) a studio apartment that sleeps two people (these two studios appear to be in the same residence). VRBO.com lists five vacation rentals in the same section of Lighthouse Beach: 1) a two bedroom/2 bath residence that sleeps 6; 2) another two bedroom/2 bath residence that sleeps 6 and 3) the three listed above. AirBnB.com lists one vacation rental on Lighthouse Beach: 1) a 4 bedroom/ 1.5 bath home that sleeps 8. Another property (three homes away from the subject property) was a vacation rental until the owners had to move into it themselves when their home was destroyed by fire. Based on this information, other nearby homes are operating as vacation rentals, including the residence immediately north of the subject property.

He explains that all guests will be required to accept the short term vacation rental agreement which delineates the responsibilities and rights of the guests. Additionally, guests will receive a comprehensive package of information prior to arrival (repeated in a notebook prominently displayed in the unit) which describes the home, accessing the home, the house rules, allowable parking, quiet hours, garbage, cleaning, maintenance, emergencies, beach access, beach safety, amenities, tourist attractions, shopping, restaurants and other useful information.

The vacation rental adjacent to the north of the subject property is approximately 50 feet away with no fence or shrubbery separating the two properties. The home adjacent to the south is approximately 50 feet away and is separated by 30 feet of mature pine trees and salal shrubs.

The subject property has three bedrooms, four baths, two living rooms, two dining rooms, a large family room and three-car garage. Because of the configuration of the house (two living rooms and a family room), there is the possibility of having three hide-a-beds and three bedrooms for a total of 12 guests. The owners are experienced vacation rental owners who manage four other vacation rental properties. They evaluate every inquiry and reservation request prior to accepting a reservation to assure that the property and neighbors are not abused by guests.

The applicant shall continue to comply with parking standards and should develop a noise policy as part of the renters' agreement to ensure it remains compatible. Also, the property owner shall obtain and maintain a license from the Coos County Health Department in accordance with ORS 446.310-350.

Section 4.3.220 Additional Conditional Use Review Standards for uses, development and activities listed in table 4.3.200

(2) **RURAL RESIDENTIAL (RR)** – The following conditional use review standards apply to all USES, ACTIVITIES and DEVELOPMENT in the RR zoning districts:

FINDING: The criterion listed under 4.3.220.2 that applies to this use was addressed within the Vacation Rental criteria above.

Section 4.3.225 General Siting Standards

All new USES, ACTIVITIES and DEVELOPMENT are subject to the following siting standards:

6. Parking - Off-street access, parking and loading requirements per Chapter VII apply.

FINDING: The only criteria listed under Section 4.3.225 that applies to this application is the Parking standards. The applicant submitted a driveway/ access/ parking plan, staff emailed this to the Road Department. Staff has not received a response to date; therefore, an approved parking plan shall be obtained prior to issuance of a zoning compliance letter.

Section 4.3.230 ADDITIONAL SITING STANDARDS

This section has specific siting standards and criteria set by the zoning district for USES, ACTIVITIES and DEVELOPMENT:

FINDING: None of the criteria listed under 4.3.230 applies to the Vacation Rental Use.

With the exceptions of the conditions of approval this use meets the criteria.

VI. DECISION:

There is evidence to adequately address the criteria for a Vacation Rental in the Rural Residential-2 zone; therefore, this request has been approved. There are conditions that apply to this use that can be found at Exhibit "A".

SECTION 5.2.600 EXPIRATION AND EXTENSION OF CONDITIONAL USES

1. Permit Expiration Dates for all Conditional Use Approvals and Extensions :
 - a. On lands zoned Exclusive Farm, Forest and Forest Mixed Use:
 - (1) Except as provided for in section (5) of this rule, a discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.
 - (2) A county may grant one extension period of up to 12 months if:
 - (a) An applicant makes a written request for an extension of the development approval period;
 - (b) The request is submitted to the county prior to the expiration of the approval period;
 - (c) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - (d) The county determines that the applicant was unable to begin or continue development during the approval period¹ for reasons for which the applicant was not responsible.

Coos County has and will continue to accept reasons for which the applicant was not responsible as, but limited too, financial hardship, death or owner, transfer of property, unable to complete conditions of approval and projects that require additional permits. The County's Ordinance does not control other permitting agency processes and the County shall only consider if the applicant has requested other permits as a valid reason and to show they are attempting to satisfy conditions of approval. This is a different standard than actually showing compliance with conditions of approval. This also, does not account for other permits that may be required outside of the land use process.
 - (3) Approval of an extension granted under this rule is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
 - (4) Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.
 - (5) (a) If a permit is approved for a proposed residential development on agricultural or forest land outside of an urban growth boundary, the permit shall be valid for four years.
(b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two years.

¹ The approval period is the time period the original application was valid or the extension is valid. If multiple extensions have been filed the decision maker may only consider the time period that the current extension is valid. Prior approval periods shall not be considered. For example, if this is the third extension request up for review the information provided during the period within last extension time frame shall be considered and not the overall time the application has been approved. This prevents a collateral attack on the original authorization.

- (6) For the purposes of section (5) of this rule, "residential development" only includes the dwellings provided for under ORS 215.213(3) and (4), 215.284, 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755(1) and (3).
 - (7) There are no limit on the number of extensions that can be applied for unless this ordinance otherwise allows.
- b. On lands not zoned Exclusive Farm, Forest and Forest Mixed Use:
- (1) All conditional uses for residential development including overlays shall not expire once they have received approval.
 - (2) All conditional uses for non residential development including overlays shall be valid for period of four (4) years from the date of final approval.
 - (3) Extension Requests:
 - a. For all conditional uses subject to an expiration date of four (4) years are eligible for extensions so long as the property has not been:
 - i. Reconfigured through a property line adjustment or land division; and
 - ii. Rezoned to another zoning district.
 - (4) An extension shall be applied for on an official Coos County Planning Department Extension Request Form with the fee.
 - (5) An extension shall be received prior the expiration date of the conditional use or the prior extension.
2. Changes or amendments to areas subject to natural hazards² do not void the original authorization for a use or uses, as they do not determine if a use can or cannot be sited, but how it can be sited with the least amount of risk possible. Overlays and Special Development Considerations may have to be addressed to ensure the use can be sited with an acceptable level risk as established by Coos County.

This conditional use request is within a non-resource zone and is valid for four years for the date of final approval (**August 6, 2023**).