



# NOTICE OF LAND USE DECISION

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

This decision notice is required to be sent to the property owner(s), applicant(s), adjacent property owners (distance of notice is determined by zone area – Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, agencies with interest, or person that has requested notice. The development is contained within the identified property owners land. Notice is required to be provided pursuant to ORS 215.416. Please read all information carefully as this decision. (See attached vicinity map for the location of the subject property).

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.

Date of Notice: Friday, March 20, 2020

File No: ACU-19-048

Proposal: Request for approval to change the residential use to a vacation rental.

Applicant(s): Rhonda Holtby  
PO Box 891  
Burns, OR 97720

Staff Planner: Amy Dibble, Planner II

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Decision: **Approved with Conditions.** All decisions are based on the record. This decision is final and effective at close of the appeal period unless a complete application with the fee is submitted by the Planning Department at 12 p.m. on **Monday, April 06, 2020**. Appeals are based on the applicable land use criteria. The proposal is subject to the following criteria: Template Dwelling in the Forest Mixed Use Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.6.110.3.b Template Dwelling, §4.6.130 Additional Criteria for All Administrative and Hearings Body Application Review, § 4.6.140 Development and Siting Criteria, § 4.11.125 Special Development Considerations § 4.11.300 Bandon, Lakeside, Powers Airports – Purpose; § 4.11.305 Designation of Airport Surfaces; § 4.11.310 Airport Sub-Zones; § 4.11.315 Airport Surfaces Height Limitations; § 4.11.320 Permitted Uses; § 4.11.325 Conditional Uses; § 4.11.330 Use Restrictions; and § 4.11.345 Conformance requirements. This proposal is not subject to review under Floodplain or Natural Hazards. **Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information please contact the staff planner listed in this notice.**

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### Subject Property Information

Account Number: 563414

Map Number: 26S1401DB-00300

Property Owner: HOLTBY, BENJAMIN R & RHONDA J  
PO BOX 891  
BURNS, OR 97720-0891

Situs Address: 63433 SEA SPRAY DR COOS BAY, OR 97420

Acreage: 0.83 Acres

Notice shall be posted from March 20, 2020 until 5 PM April 6, 2020

Zoning: URBAN RESIDENTIAL-2 (UR-2)  
Special Development ARCHAEOLOGICAL SITES (ARC)  
Considerations and BIRD SITE MEETS GOAL 5C REQRMT (B5C)  
overlays: NATURAL HAZARD - TSUNAMI (NHTHO)  
URBAN UNINCORPORATED COMMUNITY (UUC)

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.

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 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.

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 is Amy Dibble, Planner II and the telephone number where more information can be obtained is (541) 396-7770.

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.

Reviewed by: Amy Dibble Date: Friday, March 20, 2020 .  
Amy Dibble, Planner II

**This decision is authorized by the Coos County Planning Director, Jill Rolfe based on the staff's analysis of the Findings of Fact, Conclusions, Conditions of approval, application and all evidenced associated as listed in the exhibits.**

EXHIBITS

Exhibit A: Conditions of Approval  
Exhibit B: Vicinity Map

**The Exhibits below are mailed/emailed to the Applicant and Planning Commission only. Copies are available upon request or at the following website:** <http://www.co.coos.or.us/Departments/Planning/PlanningDepartmentApplications-2019.aspx> .

The 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 -**Findings of Fact and Conclusions**

Exhibit D: Comments Received (No Comments Received)

Exhibit E: Submitted Application

### **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. 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.
3. A plot plan shall be submitted which shall include the property boundaries, existing development (including septic and well if applicable), the distances between the development and the property lines, and parking spaces clearly marked.
4. 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.
5. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity.
6. 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.



**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



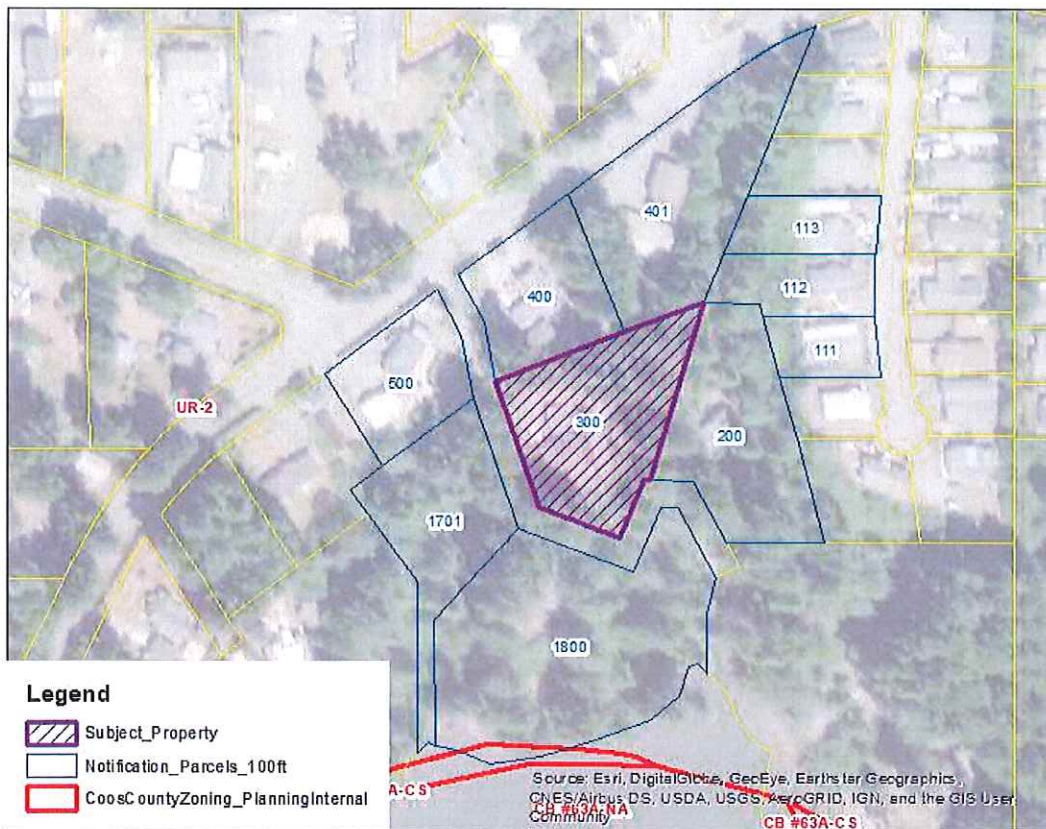
File: ACU-19-048

Applicant/  
Owner: Rhonda Holtby/  
Rhonda & Benjamin Holtby

Date: March 14, 2020

Location: Township 26S Range 14W  
Section 01DB TL 300

Proposal: Administrative Conditional Use



**EXHIBIT "C"**  
**STAFF REPORT**  
**FINDINGS OF FACT AND CONCLUSIONS**

**I. PROPOSAL**

Request for Planning Director Approval for to the residential use to a vacation rental pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.3.210(87) Vacation Rental, §4.6.130 Additional Criteria for All Administrative and Hearings Body Application Review, and§ 4.6.140 Development and Siting Criteria.

**II. PROPERTY DESCRIPTION AND PROPOSAL**

**LAWFULLY CREATED:** The unit of land was created pursuant to 6.1.125.1.e by deed or land sales contract, if there were no applicable planning, zoning, or subdivision or partition ordinances or regulations that prohibited the creation (Deed Document Book 288 Page 136).

**LOCATION:** The subject property is located west of the City of Coos Bay within the Urban Unincorporated Community of Barview and accessed off of Sea Spray Drive.

**SITE DESCRIPTION AND SURROUNDING USES:**

- a. **SITE DESCRIPTION AND SURROUNDING USES:** The subject property is zoned Urban Residential -2 (UR-2) contains approximately 0.83 acres and contains residential development, consisting of a single family dwelling. The adjacent properties to the north are zoned UR-2 and contain residential development, have trees along the southern and eastern borders with Libby Lane running along the northern property boundary. Sea Spray Drive borders the subject property to the south and the property beyond that is zoned UR-2 and contains residential development with tree coverage surrounding the dwelling. The adjacent property to the east is zoned UR-2 and contains residential development that is surrounded by tree coverage. Sea Spray Drive borders the subject property along the west and the property beyond that is zoned UR-2 is undeveloped and treed.
- b. **PROPOSAL:** The applicant is requesting approval of a Single Family Dwelling in the Forest Mixed Use zone.

**IV. APPROVAL CRITERIA & FINDINGS OF FACT**

• **Urban Residential (UR)**

*There are three Urban Residential (UR) zoning districts: Urban Residential-1 (UR-1); Urban Residential-2 (UR-2); and Urban Residential – Multi Family (UR-M). The intent of the Urban Residential Districts is to include conventional, urban density housing (single family/multi-family) plus cluster housing and planned unit developments.*

*The purpose of the "UR-2" district is to provide for urban residential areas that are designed to accommodate single family dwellings, mobile homes and two family dwellings. Clustered planned unit developments, including multi-family dwellings, are consistent with the objectives of the "UR-2" district. The "UR-2" district shall only be used within Urban Growth Boundaries and Urban Unincorporated Community boundaries.*

- **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.

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

<u>Map Number</u>	<u>Tax Lot</u>	<u>Dwelling</u>	<u>Use</u>
26S14W01DB	111	Yes	Residence
26S14W01DB	112	Yes	Residence
26S14W01DB	113	Yes	Residence
26S14W01DB	200	Yes	Not Primary Residence
26S14W01DB	300	Yes	Subject Property
26S14W01DB	400	Yes	Residence
26S14W01DB	401	Yes	Residence
26S14W01DB	500	Yes	Residence
26S14W01DB	1701	No	Bare Land
26S14W01DB	1800	Yes	Vacation Rental

The compatibility area for this zoning district is 100 feet. Within that distance there are several properties with residential development. There are ten (10) tracts of land within the buffer. There is one known vacation rentals within the buffer. While there is only one vacation rental within the buffer the property accesses off of Sea Spray Road via Libby Lane, which is a heavily traveled route that intersects with Cape Arago Highway. Cape Arago Highway is the route used to reach such destinations as Charleston and several beaches, including Bastendorf and Sunset as well as Shore Acres State Park. Based on the aerial imagery it appears the dwelling to be used as a vacation rental is surrounded by thick foliage, which give neighboring properties a buffer. The parcel has its own private driveway to the dwelling.



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.

The applicant shall record a deed restriction with the Coos County Clerk's Office acknowledging that this is an accessory use to the approved residential use, this will be made a condition of approval.

- 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:

7. *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 (DR-19-0131) that was received by staff on November 20, 2019. Staff received signed driveway / access / parking verification permit (DR-19-131) from the Coos County Road Department on December 2, 2019. The application was lacking a plot; therefore, staff has requested a plot plan with the parking spaces clearly indicated from the applicant but as of the time of this review one had not been received. This will be made a condition of approval.

- 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 Urban 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 period<sup>1</sup> 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.
- (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

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<sup>1</sup> 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.

- 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 hazards<sup>2</sup> 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 (April 6, 2024).

**VIII. NOTICE REQUIREMENTS:**

A notice of decision will be provided to property owners within 100 feet of the subject properties and the following agencies, special district or parties:

DLCD  
Charleston Rural Fire Protection District

Planning Commission  
Board of Commissioner