



NOTICE OF LAND USE DECISION

You may have received this because you are an adjacent property owner, and this notice is required to be provided pursuant to ORS 215.416. The proposal is identified in this decision and the proposal be solely located on the subject property.

Coos County Planning
60 E Second St.
Coquille, OR 97423
<http://www.co.coos.or.us/>
Phone: 541-396-7770
planning@co.coos.or.us

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. (See attached vicinity map for the location of the subject property).

Date of Notice: **Thursday, December 08, 2022**
File No(s): ACU-22-042

Proposal: Request for a Land Use Approval through an Administrative Conditional Use for an alteration of a Nonconforming Use.

Applicant(s): Sheri McGrath
PO Box 1548
Bandon, OR 97411

Staff Planner: Crystal Orr, Associate Planner

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 5 p.m. on **Friday, December 23, 2022**. Appeals are based on the applicable land use criteria found in the Coos County Zoning and Land Development Ordinance (CCZLDO) General Compliance with *Sections 1.1.300 Compliance with Comprehensive Plan and Ordinance Provisions and 6.1.125 Lawfully Created Lots or Parcels. Nonconforming Use is subject to the following Sections: 5.6.125 Alterations, Repairs or Verification, Section 4.2.230 Additional Conditional Use Review Standards (6) Industrial, and 4.3.225 General Siting Standards.*

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.

Property Information

Account Numbers	2675100
Map Numbers	28S1431BC-00200
Property Owners	LACKEY FAMILY TRUST LACKEY, RANDY JO & REBECCA SUE CO TTEE PO BOX 1802 BANDON, OR 97411-1802
Situs Addresses	55244 ROSA RD BANDON, OR 97411
Acreages	0.35 Acres
Zoning(s)	INDUSTRIAL (IND)
Special Development Considerations and Overlays	BANDON AIRPORT CONICAL ZONE (ABC) BANDON URBAN GROWTH BOUNDARY (BGB)

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,

This notice shall be posted from December 8, 2022 to December 23, 2022

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.

Staff tries to post all applications on the website at the following link:

<https://www.co.coos.or.us/community-dev> 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. If you would like to view the record in this matter, please make an appointment. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact is Crystal Orr, Associate Planner 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: _____ **Date:** Thursday, December 08, 2022 .
Crystal Orr, Associate Planner

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 evidence associated as listed in the exhibits.

EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map

The following exhibits are on file at the Coos County Planning Department and may be accessed by contacting the department. All noticeable decisions are posted on the website for viewing when possible.

Exhibit C: Staff Report -Findings of Fact and Conclusions

EXHIBIT "A"

The applicant (applicant includes property owner and any successor) 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 an Accessory Structure with the following conditions:

1. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title. The statement needs to include language that the purchaser of the property has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization. The recorded deed convent shall be recorded with the County Clerk and copy provided to the Planning Department.
2. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity.

EXHIBIT "B"
Vicinity Map & Plot Plan



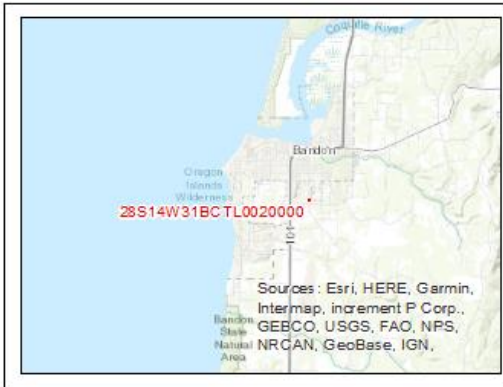
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 225 N. Adams, Coquille, Oregon 97423

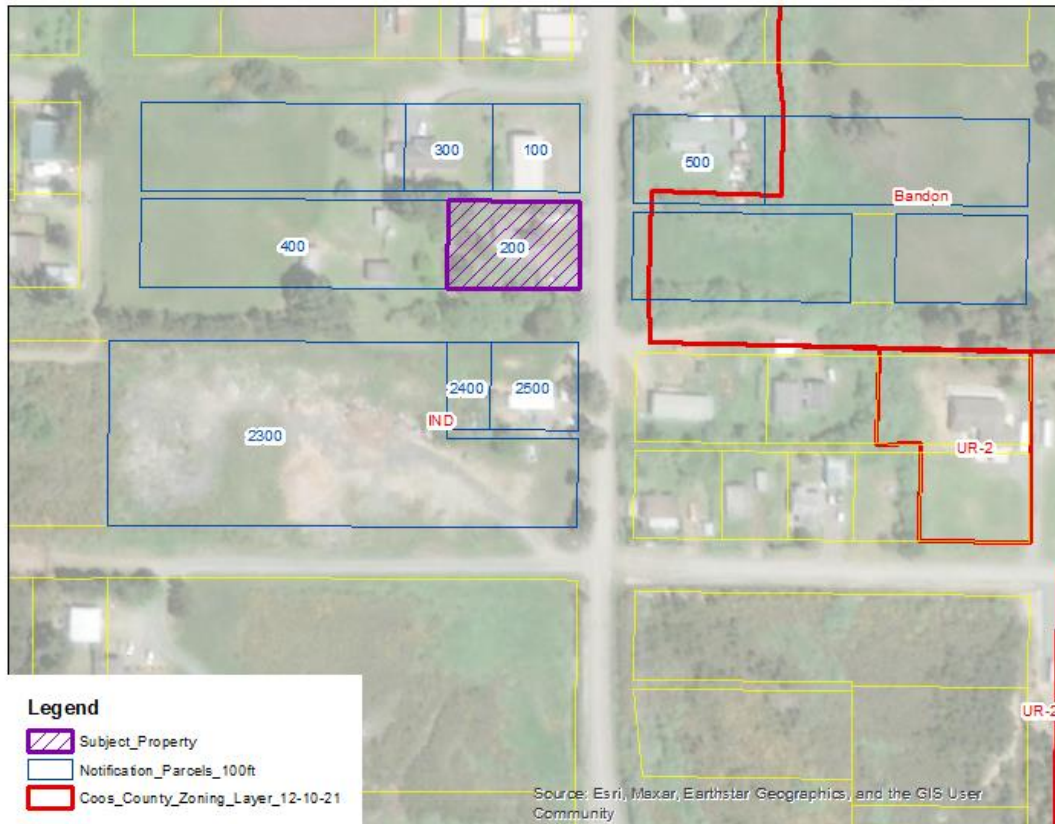
Physical Address: 60 E. Second, Coquille Oregon

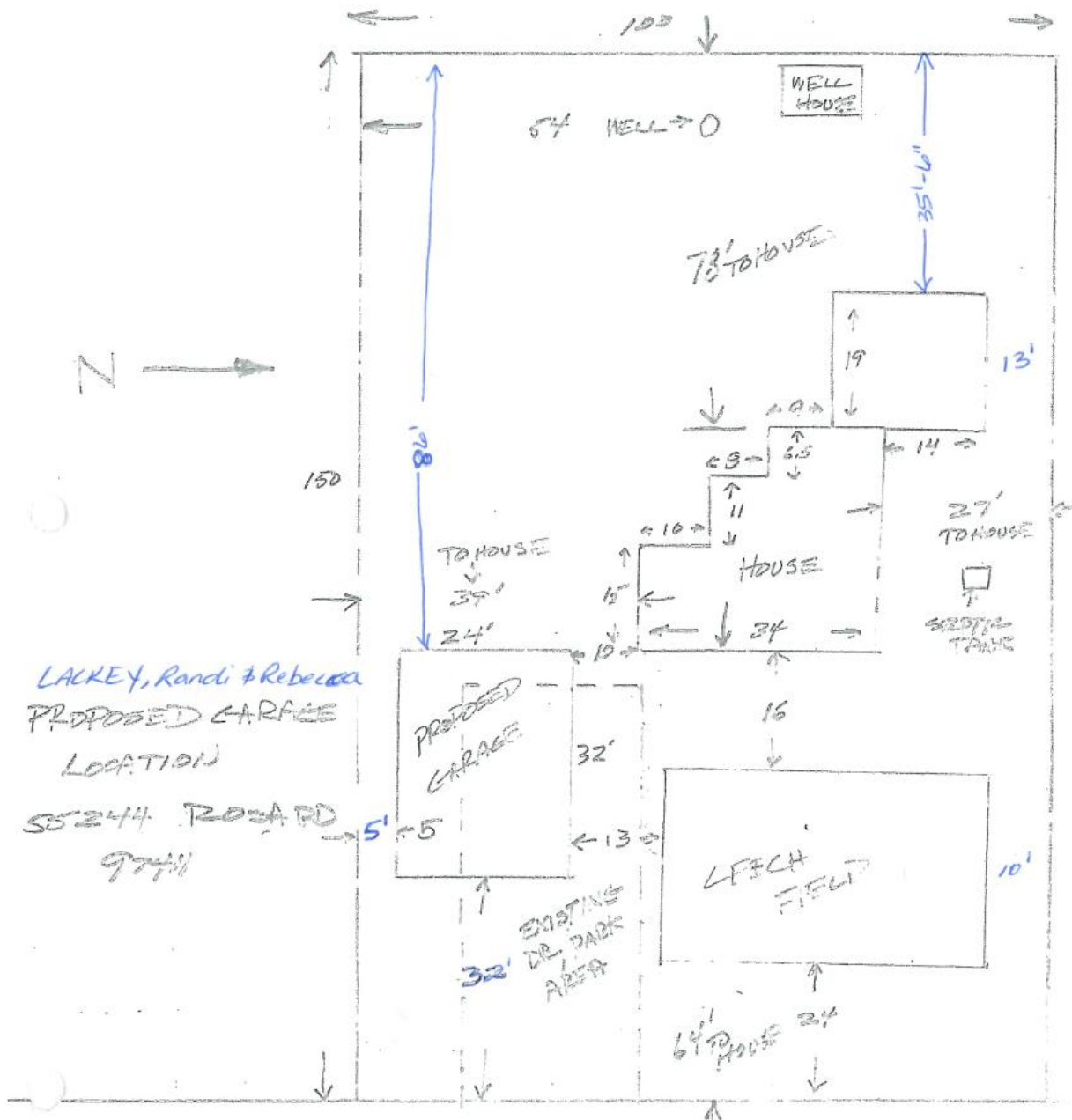
Phone: (541) 396-7770

TDD (800) 735-2900



File: ACU-22-042
Owner: Lackey Family Trust
Date: October 19, 2022
Location: Township 28S Range 14W
Section 31BC TL 200
Proposal: Administrative Conditional Use





**EXHIBIT “C”
STAFF REPORT
FINDINGS OF FACT AND CONCLUSIONS**

I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION:

- A. PROPOSAL:** Request for a Land Use Approval through an Administrative Conditional Use to alter a nonconforming use to site an Accessory Structure. The Accessory Structure requires a Conditional Use as the property is considered nonconforming due to the fact that it is zoned Industrial (IND) and contains a single family dwelling that was built prior to the Coos County Zoning and Land Development Ordinance. The Coos County Zoning and Land Development Ordinance does not allow Single Family Dwellings on parcels zoned for Industrial Use unless the property has a permitted industrial use. Since this dwelling was built prior to the ordinance the parcel is considered nonconforming.
- B. BACKGROUND/PROPERTY HISTORY:** The property consists of a Single-Family Dwelling with an effective year built of 1947. On July 28, 1992 a Zoning Compliance Letter (ZCL-92-354) was issued to allow replacement or repair of the existing septic system. On July 20, 1994 a Zoning Compliance Letter (ZCL-94-418) was issued to alter the existing Single-Family Dwelling.
- C. LOCATION:** This property is located south of the City of Bandon. The property is accessed via Rosa Road, which is off of 2nd Street Southeast.
- D. ZONING:** The subject property is zoned Industrial (IND).

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

SECTION 4.2.300 COMMERCIAL AND INDUSTRIAL

Industrial (IND)

The intent of the Industrial designation applies to sites potentially needed for industrial development. Use of the designation is not restricted to urban growth areas.

The purpose of the “IND” district is to provide an adequate land base necessary to meet industrial growth needs and to encourage diversification of the area’s economy accordingly. The “IND” district may be located without respect to Urban Growth Boundaries, as consistent with the Comprehensive Plan. The “IND” designation is appropriate for industrial parcels that are needed for development, as consistent with the Comprehensive Plan.

E. SITE DESCRIPTION AND SURROUNDING USES SITE DESCRIPTION AND SURROUNDING USES:

The subject property consists of .35 acres and appears to have vegetation along the south and west property lines The surrounding parcels are like zoned and appear to be used for residential uses. The property is within the Urban Growth Boundary of Bandon. The property is bordered by Rosa Road, to the east of Rosa Road is City of Bandon zoning.

F. COMMENTS:

- a. PUBLIC AGENCY:** A request for comments was sent to the Oregon Department of Aviation on September 19,2022. A response has not been received.
- b. PUBLIC COMMENTS:** This application request did not require any request for public comments prior to the release of the decision.
- c. LOCAL TRIBE COMMENTS:** This application request did not require any request for public comments prior to the release of the decision.

II. Property Compliance:

A. COMPLIANCE PURSUANT TO SECTION 1.1.300:

It shall be unlawful for any person, firm, or corporation to cause, develop, permit, erect, construct, alter or use any building, structure or parcel of land contrary to the provisions of the district in which it is located. No permit for construction or alteration of any structure shall be issued unless the plans, specifications, and intended use of any structure or land conform in all respects with the provisions of this Ordinance, unless approval has been granted by the Hearings Body.

FINDING: Staff has reviewed the property history and the county files to determine at the time of this report the property is compliant.

B. SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:

“Lawfully established unit of land” means:

1. The unit of land was created:

- a. Through an approved or pre-ordinance plat;*
- b. Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals;*
- c. In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created.*
- d. By a public dedicated road that was held in fee simple creating an interviewing ownership prior to January 1, 1986;*
- 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.*
- f. By the claim of intervening state or federal ownership of navigable streams, meandered lakes or tidewaters. “Navigable-for-title” or “title-navigable” means that ownership of the waterway, including its bed, was passed from the federal government to the state at statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.*

FINDING: This tax lot was lawfully created pursuant 6.1.125.e, by deed prior to applicable planning, zoning or partition ordinance that prohibited the creation (deed document 75-119832).

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

B. Key definitions:

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 4.3.210 – 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.

(1) Accessory structures and uses – shall be subordinate to any authorized primary use. Accessory structures 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

General Siting Standards that apply to this proposal:

(7) Setbacks: (a) All Development with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from the property line, whichever is greater. This setback may be greater under specific zoning siting requirements.

FINDING: The Accessory Structure will be sited to meet the required setbacks. The Accessory structure will be subordinate to the residential use. Therefore, this criteria has been addressed.

SECTION 5.6.120 ALTERATIONS, REPAIRS OR VERIFICATION:

Alterations, repairs or verification of a nonconforming use requires filing an application for a conditional use (See CCZLDO Article 5.2). All such applications shall be subject to the provisions of Section 5.6.125 of this ordinance and consistent with the intent of ORS 215.130(5)-(8). Alteration of any nonconforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. The County shall not condition an approval of a land use application when the alteration is necessary to comply with State or local health or safety requirements, or to maintain in good repair the existing structures associated with the use.

SECTION 5.6.125 CRITERIA FOR DECISION:

When evaluating a conditional use application for alteration or repair of a nonconforming use, the following criteria shall apply:

- 1. The change in the use will be of no greater adverse impact to the neighborhood;*
- 2. The change in a structure or physical improvements will cause no greater adverse impact to the neighborhood; and*
- 3. Other provisions of this ordinance, such as property development standards, are met.*

For the purpose of verifying a nonconforming use, an applicant shall provide evidence establishing the existence, continuity, nature and extent of the nonconforming use for the 10-year period immediately preceding the date of the application, and that the nonconforming use was lawful at the time the zoning ordinance or regulation went into effect. Such evidence shall create a rebuttable presumption that the nonconforming use lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of the application.

FINDING: The proposal is to site an Accessory Structure that is accessory to the existing Single-Family Dwelling. This is considered a nonconforming use as residential uses are not allowed within the Industrial (IND) zoning district, without an industrial use. Residential can only be permitted as Manufactured Dwellings or Recreational Vehicles (temporary in nature), and would be required to be removed if the industrial use ceased to exist. The Single-Family Dwelling was legally sited in 1947 prior to any land use regulations.

The surrounding properties are being used as residential; therefore, the addition of an Accessory Structure will not cause a greater adverse impact to the neighborhood. The surrounding parcels contain single-family dwellings and detached accessory structures, so the proposal is consistent with the neighborhood. The property development standards will be met. The Accessory Structure has a 32-foot setback from the east property line abutting Rosa Road, the south setback is five (5) feet and the north setback is 71 feet. The west setback is 86 feet. The height restriction of 35 feet is being met, the height of the structure will not exceed 24 feet.

IV. DECISION:

The proposed Accessory Structure in the Industrial Zoning District meets the requirements of the Coos County Zoning and Land Development Ordinance, with conditions listed in Exhibit "A" of this report.

V. NOTICE REQUIREMENTS:

A notice of decision will be provided to property owners within 100 feet of the subject properties and the following agencies, special districts, or parties: Bandon Rural Fire Protection District and Southern Coos General Health District.

A Notice of Decision and Staff Report will be provided to the following:
Applicants/Owners, Department of Land Conservation and Development, Coos County Assessors Department, Planning Commission and Board of Commissioners.

Adjacent property owners will receive a Notice of Decision and maps, but all other attachments can be found by contacting the Planning Department or visiting the website. If not found on the website the public may contact the department to view the official record.