



Mailing Date:
Thursday, March 14, 2024

Coos County Community Development

PLANNING COMMISSION NOTICE OF DECISION

FILE NUMBER(S): AP-24-002 of ACU-23-046

APPLICANT(s): Gilbert Duran ETAL

APPELLANT(S): Carol Deadman, Trustee of the Carol Deadman Trust

STAFF CONTACT: Jill Rolfe, Planning Director
Phone: 541-396-7770
Email: planning@co.coos.or.us

HEARINGS BODY: Planning Commission
Diana Schab, Chair
Joe Aguirre, Vice Chair
Charlie Waterman, Commissioner
Joann Hansen, Commissioner
Todd Buchholz, Commissioner
Todd Goergen, Commissioner
Matthew Vonderstrasse, Commissioner

RECORD: Record items can be viewed online at:
[AP-24-002 – Appeal File](#)
[ACU-23-046 – Application File](#)

SUMMARY/REQUEST: The request was an appeal of a request for an conditional use to allow the use of an existing Single Family Dwelling as Vacation/Short Term Rental.

HEARINGS BODY DECISION: The Planning Commission convened for a public hearing on March 7, 2024, to review this matter. Following deliberation, they voted unanimously to uphold the Planning Director’s decision and deny the appeal. During the hearing, testimony and evidence were presented in opposition of the staff’s approval. However, upon evaluation, they were not deemed relevant to determining whether the applicable criteria had been met or was found to be addressed by the applicant. The findings and conditions are found in Attachment A.

APPEAL RIGHTS: 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 15 fifteen days from the date of the notice was mailed as indicated in the top corner of this document, Friday, March 29, 2024 Appeals are subject 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. Failure of an appeal to be received in the office by 5:00 pm of the appeal date with the proper fee will result in a determination that an appeal was not properly filed.

Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

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 60 E Second St., 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.

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.

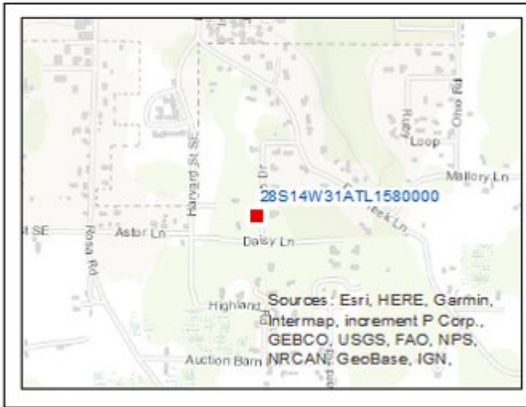
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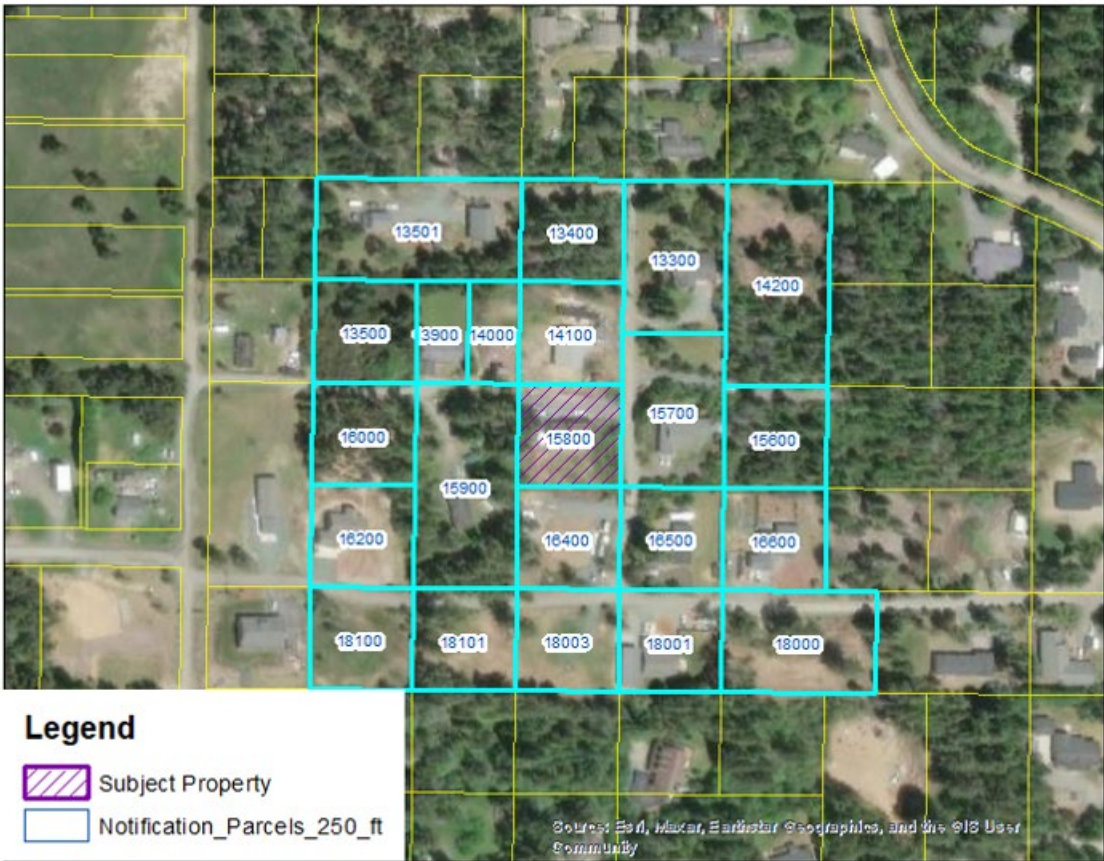
File: ACU-23-046

Applicant/
Owner: Gilbert Duran ETAL

Date: 12/6/2023

Location: Township 28S Range 14W
Section 31A TL 15800

Proposal: Vacation Rental



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I. APPLICABLE CRITERIA

COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE (CCZLDO)

CHAPTER IV - BALANCE OF COUNTY ZONES, OVERLAYS & SPECIAL CONSIDERATION

SECTIONS

- 4.3.200(64) – Use Table – Vacation Rentals
- 4.3.210(87) – Categories and Review Standards – Vacation Rentals
- 4.3.220(2) – Additional Conditional Use Requirements – Rural Residential (RR)

CHAPTER V – Administration

ARTICLE 5.8 APPEAL REQUIREMENTS

SECTIONS

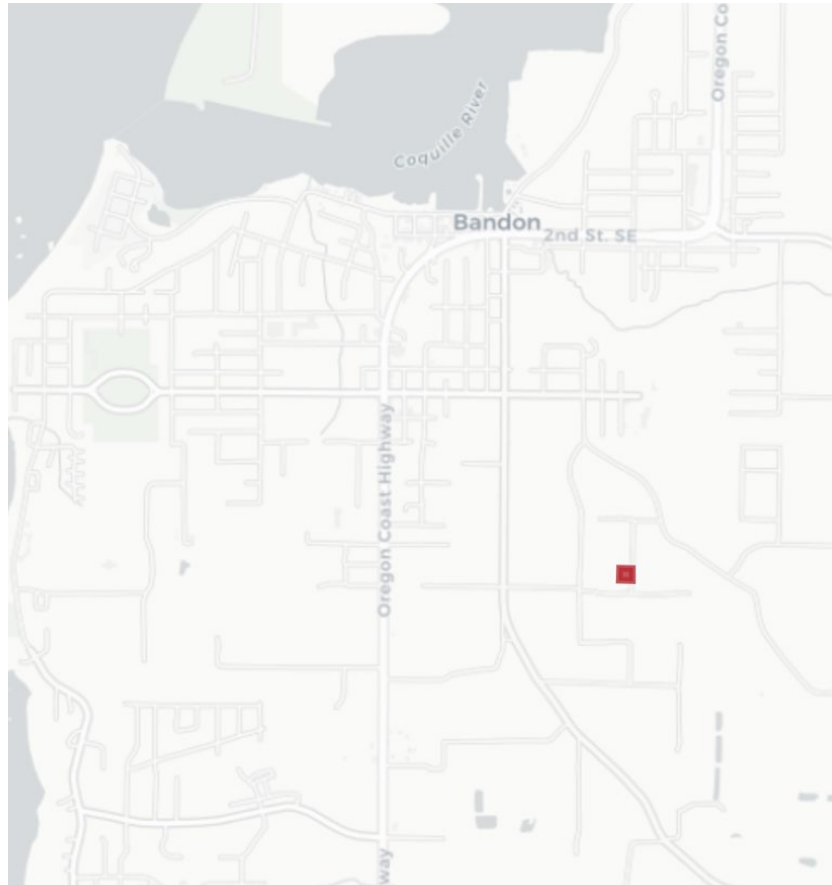
- 5.8.100 Appeals General
- 5.8.150 Standing to Appeal a Planning Director’s Decision
- 5.8.170 Appeal Procedures
- 5.8.300 Record Presented to Hearings Body or Board of Commissioners

II. BASIC FINDINGS

LEGALLY CREATED UNITS OF LAND STATUS: The Coos County Zoning and Land Development Ordinances requires that property is legally created pursuant to Article 6.1 Lawfully Created Lots and Parcels ORS 92. Staff found that this unit of land was lawfully created through (e), prior to applicable partition ordinances that would have prohibited the creation (deed document Book 194 Page 396).

SITE DESCRIPTION AND LAND USE HISTORY: This property has an existing Single Family Dwelling with an attached Accessory Structure that was sited in 2017 according to Coos County Assessment information (sited with Coos County Approval per Zoning Compliance Letter ZCL-16-165). The Zoning Compliance Letter allowed a mobile home to be placed temporarily until the dwelling was built, in September of 2020 County Staff received a complaint from Oregon Department of Environmental Quality (DEQ) regarding the mobile home still existing on the property. In May of 2020 Staff received verification from DEQ that the mobile home had been removed and the violation was cleared. August 14, 2023 a Zoning Compliance Letter (ZCL-23-284) was issued to allow the existing septic system to be replaced.

The subject property is located southeast of the City of Bandon. The subject property is located on privately maintained private road, Sadie Drive. The subject property contains .62 of an acre and has a Single-Family Dwelling with an attached Accessory Structure (Garage). The surrounding parcels are approximately the same size and mostly appear to be using their properties for the same use (residential).



- State Parks, OPRD
- Coos County Zoning, 2022
- Commercial
- Controlled Development 10
- Controlled Development 5
- City Zoning
- City Estuary Plan - Aquatic
- City Estuary Plan - Shoreland
- Coos Bay Estuary Plan - Aquatic
- Coos Bay Estuary Plan - Shoreland
- Coquille River Estuary Plan - Aquatic
- Coquille River Estuary Plan - Shoreland
- Exclusive Farm Use
- Forest
- Industrial
- Minor Estuary and Shorelands
- Rural Center
- Recreation
- Rural Residential 2
- Rural Residential 5
- South Slough
- Urban Residential 1
- Urban Residential 2
- Urban Residential M
- Aerial Photos**
- OSIP 2022 (1-foot)
- OSIP 2018 (1-foot)
- NAIP 2016 (1-meter)
- ESRI World Imagery
- Lidar Hillshades**
- Bare Earth, OLC, 2009
- Highest Hit, OLC, 2009
- Data Map**



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APPEAL: The decision to allow the Vacation Rental within the existing Single Family Dwelling was appealed by an abutting property owner, Carol Deadman. Ms. Deadman explained that the access to the property is through a private easement through multiple property owners' land. She further commented that the approval of a Vacation Rental would change the use of the community. Rural Residential is not intended for vacation/ short term rental use and is intended to provide rural home sites in an open space environment to encourage existence of rural family life. Ms. Deadman is also concerned about the applicants giving out the single use gate code.

PUBLIC AGENCY COMMENTS: No public agency comments were required for this proposal as no development is proposed.

PUBLIC COMMENTS: The Planning Department mailed notice of the conditional use application to all property owners within 500 feet of the subject property on December 28, 2023. The applicant also complied with the posted notice requirements of Section 5.0.900. Public comments were received and are referenced and summarized below. The full comments can be found at Attachment B.

- Carol Deadman commented that she wished to appeal the decision based on the fact that the road is private, with no easement.
- Mr. and Mrs. Sheets commented that they were in opposition to allowing a vacation rental within their community. They explained that the homes in the community are single family dwellings, not hotels. Most residents are senior citizens enjoying peace and tranquility, rather than a carnival atmosphere of excitement and partying.
- The Duren Family, provided a letter to the appellants on February 26, 2024 that address the concerns raised by the appellants. Ms. Deadman stated at the hearing the concerns were addressed.

III. FINDINGS & CONCLUSIONS

Vacation Rentals


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 a 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.*

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- “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		
		UR-1	UR-2	UR-M	RR-2	RR-5	CD	RC	C-1	IND	AO	REC	SS	MES			
64.	Vacation Rentals (in an existing dwelling)	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	N	N	(87)

FINDING: Vacation Rental reviews are subject to CCZLDO Use Table found in Section 4.3.200(64) Vacation Rentals (in an existing dwelling) subject to an Administrative Conditional Use (ACU) subject to Section 4.3.210(87) Categories and Review Standards – Vacation Rental/short term rental and Section 4.3.220 Additional Conditional Use Review (2) Rural Residential. Siting standards with the exception of parking do not apply to this type of review because there are no new structures proposed with this review.

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 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.

SECTION 4.3.220 ADDITIONAL CONDITIONAL USE REVIEW STANDARDS for uses, development and activities listed in table 4.3.200

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

(3) Controlled Development (CD) - The following conditional use review standards apply to all USES, activities and development within the CD zoning district.

- (a) COMPATIBILITY: The proposed USE, ACTIVITY OR DEVELOPMENT is required to demonstrate compatibility with the surrounding properties or compatibility may be made through the imposition of conditions. 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.
- (b) Within a City Urban Growth Boundary:
 - i. Signage –
- (c) All parks (Recreational or Residential) shall comply with the following design criteria:

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- i. *The landscape shall minimize soil erosion. The exterior portion of the property shall provide an ornamental, sight-obscuring fence, wall, evergreen or other suitable screening/planting along all boundaries of the site abutting public roads or property lines that are common to other owners of property that are zoned for residential, except for points of ingress and egress;*
- ii. *Lighting: Any lights provided to illuminate any public or private parking area shall be so arranged as to reflect the light away from any abutting or adjacent residential district or use.*
- iii. *Exposed storage areas, service areas, utility buildings and structures and similar accessory areas and structures shall be subject to the setbacks of the this zoning designation, screen plantings or other screening methods;*
- iv. *Trash service shall be provided to the facility and the area for trash receptacle or receptacles shall be identified on the plot plan; and*
- v. *Hours of operation may be required in areas predominantly surrounded by residential zones.*


FINDING: A Vacation Rental can only be established in an existing dwelling; the subject property contains an existing Single-Family Dwelling with an effective year built of 2017. The property is within a zoning district that allows for a Vacation Rental if it meets the discretionary criteria through an Administrative Conditional Use (ACU) process.

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 purpose of this zoning district is to provide for residential uses. Vacation Rentals are a limited commercial use considered accessory to the residential use. Vacation Rentals are only permit to be operated within an existing Dwelling; therefore, the use must show they can be compatible with existing residential uses occurring within the surrounding area without discord or disharmony. This type of use has the possibility to increase traffic and nuisance issues.

In order to examine the compatibility issue, it is important to understand the study area in which this applies. The county has applied the notification boundary as adequate to justify the compatibility criteria. Within the notification area included eleven (11) vacant residential properties, seven (7) primary dwellings, and three (3) secondary dwellings.

Map_No	Parcel No	Structure	Type	Zone
28S14W31A	13300	Dwelling	Secondary	RR-2
28S14W31A	13400	Vacant	Vacant	RR-2
28S14W31A	13500	Vacant	Vacant	RR-2
28S14W31A	13501	Dwelling	Primary	RR-2
28S14W31A	13900	Dwelling	Primary	RR-2
28S14W31A	14000	Vacant	Vacant	RR-2
28S14W31A	14100	Vacant	Vacant	RR-2
28S14W31A	14200	Vacant	Vacant	RR-2
28S14W31A	15600	Vacant	Vacant	RR-2
28S14W31A	15700	Dwelling	Primary	RR-2
28S14W31A	15800	Dwelling	Applicants Parcel	RR-2
28S14W31A	15900	Dwelling	Secondary	RR-2
28S14W31A	16000	Vacant	Vacant	RR-2
28S14W31A	16200	Dwelling	Primary	RR-2
28S14W31A	16400	Vacant	Vacant	RR-2
28S14W31A	16500	Dwelling	Primary	RR-2
28S14W31A	16600	Dwelling	Primary	RR-2
28S14W31A	18000	Vacant	Vacant	RR-2

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28S14W31A	18001	Dwelling	Primary	RR-2
28S14W31A	18003	Dwelling	Secondary	RR-2
28S14W31A	18100	Vacant	Vacant	RR-2
28S14W31A	18101	Vacant	Vacant	RR-2

According to the application, the property manager (currently to be determined) will be located in Bandon. As a condition of approval, contact information for a property manager must be provided to Coos County before requesting the zoning compliance letter. The property manager will be required to be available 24/7 for the responsibilities stated above.

A Single-Family Dwelling unit provides complete independent living facilities for one or more persons, intended for permanent living (more than 30 days). The requested use of the dwelling for transient occupancy for vacation purposes increases traffic, parking, and related nuisance issues. Various measures could be applied to ensure compatibility. One approach is to limit the number of guests to the number of bedrooms within the dwelling at the time of approval, aligning with the traffic, parking, and nuisance levels expected for a Single-Family Dwelling.

In determining overnight accommodation limits, the calculation is based on bedrooms within the Single-Family Dwelling. A bedroom (ORS 90.262) has a minimum average of two occupants per bedroom. The existing dwelling has four bedrooms according to available Coos County Assessment information; therefore, Staff will condition this approval to limit overnight guests to eight. Vehicles on site for guests shall be no more than two. This does not account for cleaning service, other related maintenance services, or when the property owner is using the dwelling. The applicant supplied a plot plan showing ample parking space, and the parking has been approved by the Coos County Road Department.

There shall be quiet times, and a clear sign posted with contact information for neighbors to address complaints. These signs shall be posted on the exterior of the property and inside the dwelling for guests. The property owner shall work to meet any fire, life, and safety regulations that apply to vacation rentals (transit lodging) and register with the Oregon Department of Revenue.


Typically, traffic counts for a Single-Family Dwelling are based on two vehicles; therefore, the Vacation Rental will be limited to two vehicles on-site for guests when the Dwelling is used as a Vacation Rental. If the property is receiving public services for water or sewer, a letter from those utility companies is required to confirm no limitation on service. Vendors shall be limited to cleaning and maintenance. If a special event is planned by a guest, it shall occur during the day, and vendors may serve that specific event. The applicant has stated that the Vacation Rental will be maintained regularly, and all restrictions will be enforced. The parking access, driveway, and parking standards were reviewed and approved by the Coos County Road Department.

The applicant has acknowledged that a license and inspections will be completed by Coos Health & Wellness in compliance with ORS 446.310 through 446.350. As a suggestion, the property owner should consider placing fire extinguishers on each floor and posting a fire evacuation plan for guests to use in the event of an emergency.

The Vacation Rental approval will not transfer to a subsequent owner without a Compliance Determination. 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 of the Single-Family Dwelling. This will be made a condition of approval. All conditions shall be complied with for final approval.

With the conditions of approval, the proposal meets the criteria.

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The appellant party, Carol Deadman submitted an appeal based on four (4) factors:

- *There are no public roads, this is a private community, and the roads are actually part of each landowners' property, and are easements maintained by the property owners.*

Staff Response: The criteria for a Vacation Rental does not address what type of road the Single family Dwelling is located on (private, public, etc). This is not relevant to the criteria.

- *Approval of a Vacation Rental would change the use of the community. According to Article 9 of the Rural Residential-2 (RR-2) our community is not intended for vacation/short term rental use and is intended to provide for rural home site in an open space environment in order to encourage the continued existence of rural family life.*

Staff Response: This is not applicable as there is not an Article 9 within the Coos County Zoning and Land Development Ordinance nor within the Coos County Comprehensive Plan.

- *There was no condition set forth for the use of private land easement access. Usage was listed for only parking and driveway approval.*

Staff Response: Staff addressed the relevant criteria for a Vacation Rental. A Vacation Rental does not require the Road Access Manager to review anything other than the parking, access and emergency vehicle turnaround. There is nothing within the Coos County Zoning and Land Development Ordinance pertaining to allowed uses for dwellings that are accessed via private roads verses allowed uses for dwellings accessed via public roads.

- *Nothing was listed within the conditions of approval pertaining to the gate code. This is a private gated community with a single use gate code that should not be given out arbitrarily. We in the community have interests adversely affected by this decision.*

Staff Response: The criteria for a Vacation Rental does not contain anything regarding gate codes, nor does it require anything further for a gated community.

ARTICLE 5.8 APPEAL REQUIREMENTS

SECTION 5.8.100 APPEALS GENERAL

Coos County has established an appeal period of fifteen (15) days from the date written notice of administrative or Planning Commission decision is mailed with the exception of Property Line Adjustments and lawfully created parcel determinations, which are subject to a twelve (12) day appeal period.


The Board of Commissioners or Hearings Body shall dismiss an appeal for failure to follow the requirements of this article. [OR 04 12 013PL 2/09/05]

SECTION 5.8.150 STANDING TO APPEAL A PLANNING DIRECTOR'S DECISION:

A decision by the Planning Director to approve or deny an application shall be appealed as identified in the Sections below. The appeal must be filed within the appeal period and meet one of the following criteria:

1. *In the case of a decision by the Planning Director, the appellant was entitled to notice of the decision; or*

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2. *The person is aggrieved or has interests adversely affected by the decision.*

FINDING: The appellant submitted the appeal within the allowed timeframe. The appellant was entitled to, and received a notice of decision.


SECTION 5.8.170 APPEAL PROCEDURES:

An appellant shall file the appeal for review on the appropriate county form and the form shall be completely filled out as required by this section. If an appellant fails to correctly fill out the form, and there has already been a public hearing on the matter, the Board of Commissioners may deny the appeal based on failure to comply with this section. In the event the appeal is denied based on a failure to comply with this section, a refund of unexpended fees shall be returned to the appellant.

The appeal form shall contain the following:

1. *The name of the applicant and the County application file number;*
2. *The name and signature of each petitioner and a statement of the interest of each petitioner to determine party status. Multiple parties shall join in filing a single petition for review, but each petitioner shall designate a single Contact Representative for all contact with the Planning Department. All communications regarding the petition, including correspondence, shall be with the Contact Representative;*
3. *The appellant must explain how they have achieved party status pursuant to the applicable sections of 5.8.150 or 5.8.160;*
4. *The date that the notice of the decision was mailed as written in the notice of decision;*
5. *The nature of the decision and the specific grounds for appeal citing specific criteria from the Coos County Zoning and Land Development Ordinance, Comprehensive Plan, Statute or Rule.*
6. *The appellant must explain in detail, on the appeal form or attached to the appeal form, how the application did not meet the criteria in the case of an approval or why the criteria should or should not apply; or, in the case of a denial the appellant shall explain why the application did meet the criteria or why certain criteria did not apply to the application.*
7. *Appeals of Planning Director's decision will be de novo;*
8. *Appeals of Planning Commission's or appointed Hearings Officer(s) decision shall be reviewed by the Board of Commissioners or Hearings Officer if the Board of Commissioners so chooses. The Board of Commissioners shall, provided there has been an initial evidentiary hearing:*
 - a. Decline to hear the matter and enter an order affirming the lower decision; or*
 - b. Accept the appeal and:*
 - i. Make a decision on the record without argument;*
 - ii. Make a decision on the record with argument;*
 - iii. Conduct a hearing de novo; or*
 - iv. Conduct a hearing limited to specific issues.*

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- c. In the decision, the Board shall affirm, modify, or reverse the lower decision, and accept any or all of the findings and conditions in the Hearings Body decision, or modify or adopt new findings and conditions on a permit.
- d. If the Board allows argument only on the record, no new evidence shall be submitted.
- e. Any legal issues not specifically raised are considered waived for purposes of appeal to the Land Use Board of Appeals (LUBA).
- f. Where a hearing is limited to specific issues, any evidence or argument submitted must be relevant to the specific issue.
- g. All items to be submitted to the County must actually be received by the County Planning Department no later than 5:00 p.m. on the on the last day of the appeal period. If the last day of the appeal period falls on a weekend or County holiday, then the item must actually be received by the County Planning Department no later than 12:00 p.m. on the next County business day following the deadline date. All items to be mailed to another party must be postmarked no later than the end of the appeal period.
- h. The decision of the Board of Commissioners shall not be final for the purpose of appeal until reduced to writing and signed by the Board.

FINDING: The appeal application contained the necessary information listed within Section 5.8.170. This is an appeal of a Planning Director’s decision and will be processed as a de novo hearing.

SECTION 5.8.300 RECORD PRESENTED TO HEARINGS BODY OR BOARD OF COMMISSIONERS

After notice of intent to appeal has been filed pursuant to Section 5.8.200, then: [OR 96-06-007PL 9/4/96]


- 1. For appeals of administrative decisions, the Planning Director shall forward to the Hearings Body a copy of:
 - a. the application for the subject administrative permit; and
 - b. the written findings establishing the basis for his decision; and
 - c. the notice of intent to appeal.
- 2. For appeals of Hearings Body decisions, the Planning Director shall forward to the Board of Commissioners a copy of:
 - a. the application for the requested action; and
 - b. the staff report on the request; and
 - c. the public hearing record of the Hearings Body’s decision; and,
 - d. the notice of intent to appeal.

FINDING: The Hearings Body in this case is the Planning Commission. The Planning Commission was provided a copy of the application (ACU-23-046), the Staff Report, as well as the Appeal Application (AP-24-002).

SECTION 5.7.300 QUASI-JUDICIAL LAND USE HEARINGS PROCEDURES

- 1. The presiding officer shall provide an opportunity for members to announce conflicts or abstain from participating and allow challenge to any member participating as a decision maker in a quasi-judicial hearing.

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2. *At the beginning of a hearing under the Comprehensive Plan or land use regulations of Coos County, a statement shall be made to those in attendance that:*
 - a. *Lists the applicable substantive criteria;*
 - b. *States that testimony and evidence must be directed toward the criteria listed or other criteria in the Plan or implementing ordinances which the person believes to apply to the decision; and*
 - c. *States that failure to raise an issue with statements and evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals.*

3. *Presentation of Testimony (for hearings other than appeals on the record):*
 - a. *For First Evidentiary Hearing including an appeal of a Planning Director's decision:*
 - i. *Staff Report;*
 - ii. *Applicant;*
 - iii. *Additional testimony by other parties in support of the application;*
 - iv. *Testimony by opponents;*
 - v. *Neutral parties;*
 - vi. *Applicant's rebuttal arguments;*
 - vii. *Upon completion of evidence and testimony, if there has been no request to continue the hearing or leave the record open, the Chair will close the public hearing. A request for continuance or an opportunity to submit additional evidence is subject to provisions of Section 5.7.400;*
 - viii. *After closing the record, the Hearings Body will deliberate and reach a decision. The final decision will be reduced to writing and will include the findings upon which the decision is based. Notice of the decision will be mailed to all parties; and*
 - ix. *Appeals of Planning Director's decision will be de novo and processed in accordance with § 5.7.300.*

 - b. *For Appeals of a Hearings Body decision (testimony may be limited to parties only):*
 - i. *Staff Report;*
 - ii. *Applicant or, in the case of an appeal of a prior decision, appellant;*
 - iii. *Additional testimony by other parties in support of the application or appeal;*
 - iv. *Testimony by opponents or, in the case of an appeal, the applicant and others in support of the application;*
 - v. *Neutral parties;*
 - vi. *Applicant's rebuttal arguments, or in the case of an appeal of a prior decision, appellant's rebuttal arguments;*
 - vii. *Upon completion of evidence and testimony, if there has been no request to continue the hearing or leave the record open, the Chair will close the public hearing. A request for continuance or an opportunity to submit additional evidence is subject to provisions of Section 5.7.400; and*
 - viii. *After closing the record, the Hearings Body will deliberate and reach a decision. The final decision will be reduced to writing and will include the findings upon which the decision is based. Notice of the decision will be mailed to all parties.*

4. *Representatives*

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- a. *A party may represent themselves or be represented by an attorney. Consultants and other non-attorney professionals may appear as fact witnesses for any party, but may not appear as a legal representative.*
 - i. *Any person presenting written testimony on behalf of a group, company or any other organization, except an attorney, consultant, owner, officer, or employee of that group, company, or organization must enter written evidence into the record establishing that the person is authorized to appear on behalf of the organization. Such written authorization must:*
 - ii. *Be written on the group, company, or organization's official letterhead;*
 - iii. *Name the person authorized to appear on behalf of the group, company, or organization;*
 - iv. *Specify the scope of the authorization; and*
 - v. *Contain the signature of a person with authority to grant the authorization.*

Failure of a person to submit such written authorization shall cause the group, company, or organization to not achieve party status for the purposes of the proceeding and shall preclude the group, company, or organization from having standing to file an appeal.

- b. *Any person presenting oral testimony on behalf of a group, company or any other organization, with the exception of an attorney, shall present a letter of authorization at that time to show that the person testifying does in fact represent that group, company or organization. If the letter is not presented at the time the hearings body or designee shall in its discretion, allow the person to submit that authorization prior to the close of the record.*

Failure to provide written proof of authorization to represent a group, company or organization shall result in the group, company or organization not having standing in the event of an appeal. The person who provided the testimony shall be the only one to achieve party status in the event of an appeal. The hearings body or designee has discretion to not consider the testimony as part of the record if a person presenting testimony on behalf of a group, company, or organization fails to comply with the rules of Section 4. If this is the decision of the hearings body or designee then it will be made part of the final order and decision. If the determination is made that testimony was disqualified under this subsection then standing has not been achieved. That party may not appeal the matter unless other forms of testimony accepted forms of testimony was received and granted them standing under CCZLDO Section 5.8.160.


5. *Submission of Written Evidence*

- a. *Petitions: Any party may submit a petition into the record as evidence. The petition shall be considered as written testimony of the party who submitted the petition. A petition shall not be considered to be written testimony of any individual signer. To have standing, a person must participate orally at the hearing or submit other individual written comments. Anonymous petitions or petitions that do not otherwise identify the party submitting the petition shall not be accepted as evidence.*
- b. *Required Number of Copies: Submission of written materials for consideration shall be provided in the form one original hard copy and one exact copy or one original hard copy and one electronic copy.*

The County may, at its sole discretion, reject any materials that do not contain the requisite number of copies. It may be requested that the County make the requisite number of copies subject to the submitter paying the applicable copy charges.

- c. *E-mail testimony may be submitted; however, it is the responsibility of the person submitting the testimony to verify it has been received by Planning Staff by the applicable Deadline.*

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- d. *All written testimony must contain the name of the person(s) submitting it and current mailing address for mailing of notice.*
- e. *The applicant bears the burden of proof that all of the applicable criteria have been met; however, in the case of an appeal, the appellant bears the burden of proving the basis for the appeal, such as procedural error or that applicable criteria have not in fact been met. [Amended OR 08-09-009PL 5/13/09]*

6. *Definitions: As used in this Article the following definitions shall apply:*

- a. *“Party” means any person, organization or agency who has established standing under the provisions of this Article 5.8.*
- b. *“Witness” means any person who appears and is heard at a hearing and is not a “party”. A witness shall not be considered a “party” unless the Board of Commissioners determines that the person is a party in accordance with Article 5.8.*

Staff recommended and the Planning Commission agreed uphold the decision to approve the Vacation Rental within the existing Single-Family Dwelling with the conditions of approval listed within the Staff Report of ACU-23-046. The appeal is not valid as the findings addressed by the appellant are not applicable to the proposed use of a Vacation Rental per the Coos County Zoning and Land Development Ordinance. All conditions from the Planning Director shall remain in effect.

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