



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, May 18, 2023**
File No(s): ACU-23-019

Proposal: Request for a Land Use Approval through an Administrative Conditional Use to convert the existing Accessory Structure to a Guest House.

Applicant(s): AVERY, JUDAH A & GABRIELA M ET AL
PO BOX 1663
BANDON, OR 97411-1663

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, June 02, 2023**. 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. Guest Houses are subject to the following Sections: 4.3.200 Use # 22 Guest House, Section 4.3.210 Categories and Review Standards (27)(d), Section 4.2.220 Additional Conditional Use Review Standards (2) Rural Residential, and 4.3.225 General Siting Standards. Accessory Structures are subject to Sections: 4.3.200 Use #18 Accessory Uses and Structures to permitted Residential subject to Section 4.3.210 Categories and Review Standards (1), and to Section 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	989111
Map Numbers	28S1429C0-01202
Property Owners	AVERY, JUDAH A & GABRIELA M ET AL PO BOX 1663 BANDON, OR 97411-1663
Situs Addresses	88216 HWY 42 S BANDON, OR 97411
Acreages	5.94 Acres
Zoning(s)	RURAL RESIDENTIAL-2 (RR-2)
Special Development Considerations and Overlays	BANDON AREA OF MUTUAL INTEREST (BMI) FLOODPLAIN (FP) NATIONAL WETLAND INVENTORY SITE (NWI) NATURAL HAZARD - TSUNAMI (NHTHO)

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

This notice shall be posted from May 18, 2023 to June 2, 2023

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.

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, May 18, 2023 .
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 After the Fact Guest House, and 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 covenant shall be recorded with the County Clerk and copy provided to the Planning Department. The deed covenant shall contain the following statement: We, the property owners, declare that the guest house approved through ACU-23-019 shall not be rented.
2. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity.
3. Once the Zoning Compliance Letter has been received the applicant shall contact Department of Environmental Quality and Oregon State Building Codes to obtain any permits for the conversion to ensure all regulations have been complied with.
4. Only the following habitable structures are permitted on this property: one (1) Single Family Dwelling and one (1) Guest House.

EXHIBIT "B"
Vicinity Map & Plot Plan



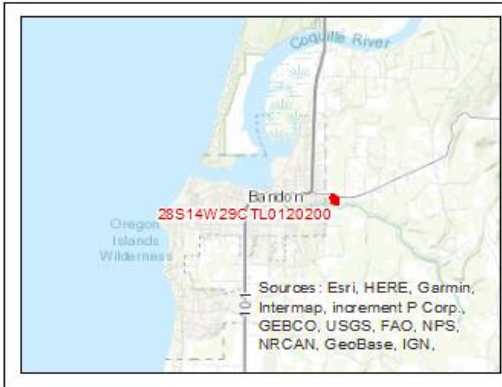
COOS COUNTY PLANNING DEPARTMENT

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

Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

TDD (800) 735-2900



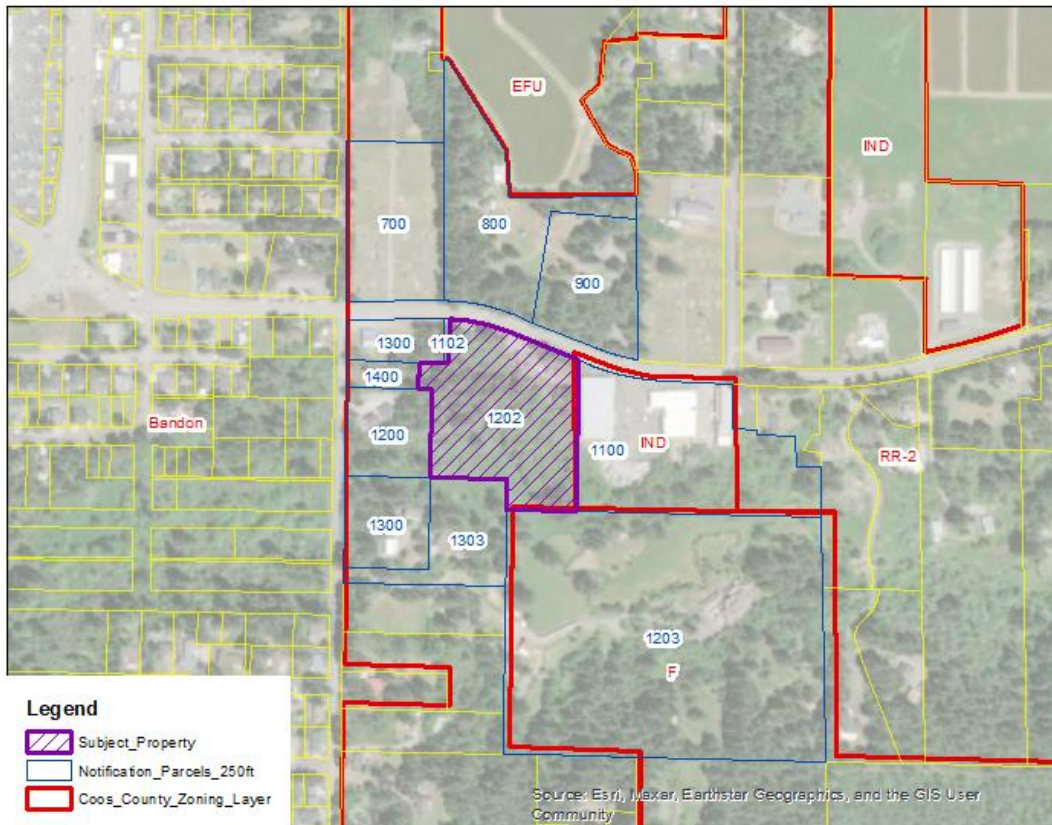
File: ACU-23-019

Owner: Judah & Gabriela Avery
Gideon & Opal Wilke
Chace & Laura Miller

Date: May 9, 2023

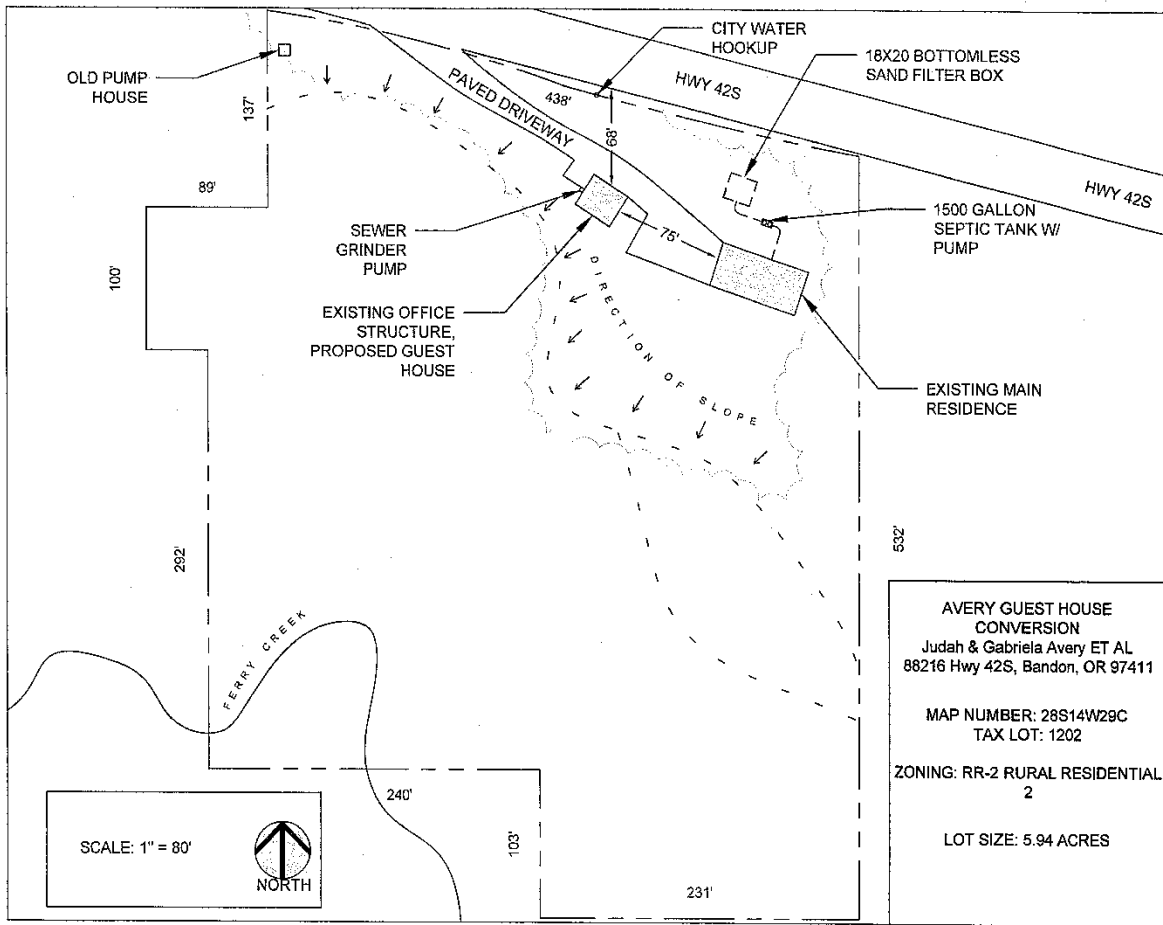
Location: Township 28S Range 14W
Section 29C TL 1202

Proposal: Administrative Conditional Use



Legend

- Subject_Property
- Notification_Parcel_250ft
- Coos_County_Zoning_Layer



**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 modify the existing Accessory Structure Use to a Guest House.
- B. BACKGROUND/PROPERTY HISTORY:**
On June 3, 2004 a Zoning Compliance Letter (ZCL-04-304) was issued that allowed clearance to site a Single-Family Dwelling, and to install a Septic System. On September 23, 2004 the Zoning Compliance Letter was updated to allow a Cottage Industry per a Conditional Use (ACU-04-39) that was approved on September 9, 2004. Within the Conditional Use approval one of the conditions states that the applicant must notify the Planning Department every 12 months following the date the permit was issued and may continue the permit if the use complies with the requirements of the Ordinance. Coos County Planning has no permitting information to show that the requirements pertaining to notifying that the use was continuing. At this time the property was recently sold to the applicants and the structure is not being used for the purpose of a business (Cottage Industry).
- C. LOCATION:** This property is located east of the City of Bandon. The property is accessed via Oregon State Highway 42 South.
- D. ZONING:** The subject property is zoned Rural Residential-2 (RR-2).

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

SECTION 4.2.100 RESIDENTIAL

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/acreages. 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-5” district provides for the orderly development of rural land so as to encourage the continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural or forestry uses.

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

The subject property is 5.94 acres and appears to be mostly vegetated. The surrounding properties are zoned Rural Residential-2 (RR-2), Industrial (IND), and Forest (F). The existing Single-Family Dwelling and Accessory Structure (proposed Guest House) are located near Highway 42 South in the northern portion of the parcel. The Single-Family Dwelling is listed within assessment information as being 2,536 square feet and the proposed Accessory Structure to be converted to a Guest House contains 720 square feet.

F. COMMENTS:

- a. **PUBLIC AGENCY:** This application did not require any request for comments prior to the release of the decision.
- 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 did not require any request for 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 finds at the time of this report; the property is compliant with the Coos County Zoning and Land Development Ordinance. This does not mean that there is not additional information that was unavailable during this review that would make the properties non-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 intervening 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: The subject property was lawfully created pursuant 6.1.125.a, through an approved Partition (P-94-14). The parcel is described as Parcel 2 of Partition Plat 1994-45.

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.

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	
		UR-1	UR-2	UR-M	RR-2	RR-5	CD	RC	C-1	IND	AO	REC	SS		MES
Residential Uses – This category is for uses and structure for human occupancy as living quarters															
22.	Dwelling – Guest House	ACU	ACU	ACU	ACU	ACU	ACU	ACU	N	N	N	N	N	N	(27)(d)

FINDING: Guest House reviews are subject to CCZLDO Use Table found in Section 4.3.200(22) and are subject to an Administrative Conditional Use (ACU). The applicable criteria is found in Section 4.3.210(27)(d) Categories and Review Standards, Section 4.3.220 Additional Conditional Use Review (2) Rural Residential.

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.

(27)(d) Guest House - An auxiliary residence shall be constructed on property when the following conditions are met:

- (i) The parcel on which the guest house is placed contains two (2) acres;
- (ii) Only one guest house per lawfully created unit of land;
- (iii) The guest house shall not exceed either 500 square feet in size or 75% of the total square footage of the primary dwelling, whichever is less, on properties that contains at least two (2) acres in size;

- (iv) *The guest house shall not exceed either 800 square feet in size or 75% of the total square footage of the primary dwelling, whichever is less, on properties that are served by water and sewer or contains a minimum of (5) acres;*
- (v) *The guest house can be a manufactured structure (park model) or conventional built. Manufactured structures are prohibited in an Urban Residential-1 (UR-1) zone;*
- (vi) *Cannot be used as a rental unit;*
- (vii) *Is attached to or within 100 feet of the main residence but no closer than seven (7) feet;*
- (viii) *Is served by the same domestic water system, sewage system and utility meters as the main residence, unless it is located in an area served by a public sewer system;*
- (ix) *Guest houses that existed prior to July 1, 2018 may be converted to an accessory dwelling unit if they comply with the standards. This will require a Compliance Determination review.*
- (x) *A deed covenant recorded with the county stating that this is a guest house that is not to be rented. If converted to another use the covenant will be removed.*

FINDING: The proposal is to allow the Accessory Structure to be converted to a Guest House, which would be auxiliary to the primary dwelling. There are no other dwellings on the subject property. The guest house meets the size requirement, as the property contains five (5) acres and the dwelling contains 720 square feet of livable space. The Guest House may not be used as a rental unit, a deed covenant will be required to be recorded as a condition of approval. The Guest House is within 100 (identified as 75 feet on plot plan) feet of the main residence and connected to the same utility meter, water (Bandon City) and septic system as the main residence.

- *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:

- (2) *Rural Residential (RR) – The following conditional use review standards apply to all USES, activities and development in the RR zoning districts:*
 - a) *Conditional Use Review Criteria - The following criteria only apply to conditional uses in the RR zoning districts:*
 - i. *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.*

FINDING: The property is within an area that contains a variety of uses. Directly east is Hennick’s Home Center, which is a Commercial (C-1) use, directly west are two properties (tax lot 1300 and 1200) tax lot 1300 is owned by Bandon Lodge #133, which is a Fraternal Orders Organization and tax lot 1200 is owned by Pacific Pregnancy Clinic, which is approved as a Community Center, to the north and south are Single-Family residential developed properties. Within the notification area there are other uses such as: cemetery, bar, dance studio, among other uses.

The Guest House is small in size, and is located 75 feet from the primary dwelling. The Guest House utilizes the same driveway access, septic and water. Therefore, staff can find this use is capable of existing together with the surrounding uses without discord or disharmony.

IV. DECISION:

The proposed conversion of the Accessory Structure to a Guest House in the Rural Residential-2 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 250 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.