



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 will be 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: **Tuesday, June 13, 2023**
File No(s): ACU-23-011

Proposal: Request for a Land Use Approval to alter a Nonconforming Use through an Administrative Conditional Use to use the existing Single Family Dwelling as a Vacation/Short Term Rental accessory to the Residential Use.

Applicant(s): Toneata Leona Martocchio

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 **Wednesday, June 28, 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. Nonconforming Use reviews are subject to CCZLDO Article 5.6 Nonconforming. Siting standards do not apply to this type of review because there are no new structures proposed with this review. 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	402044
Map Numbers	25S1436AC-01600
Property Owners	MARTOCCHIO, TONEATA LEONA 91699 CAPE ARAGO HWY COOS BAY, OR 97420-8739
Situs Addresses	91699 CAPE ARAGO HWY COOS BAY, OR 97420
Acreages	0.40 Acres
Zoning(s)	COOS BAY ESTUARY MNGMT PLAN (CBEMP) URBAN DEVELOPMENT (58-UD) URBAN RESIDENTIAL-1 (UR-1)

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.

This notice shall be posted from June 13, 2023 to June 28, 2023

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. **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.**

Staff tries to post all applications on the website at the following link:
<https://www.co.coos.or.us/community-dev/page/planning-department>

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: Tuesday, June 13, 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

1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity.
2. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter (ZCL) shall be required prior to the use of the dwelling as a *Vacation Rental* on the property; however, the following conditions need to be submitted with a request for your ZCL:
 - a. The applicant shall complete the following to ensure compatibility:
 - i. Submit a plan to cover nuisance issues to ensure the use is compatible with the neighborhood. The plan shall consist of contacts for the property manager to report problems to, noise restriction and emergency contact information. The advertisement for the rental shall include a property manager name and contact information.
 - ii. A contract that will be used for the rental shall contain all this information and shall be filed with the Planning Department.
 - iii. If the property is receiving public services for water or sewer a letter from those utility companies is required that there is no limitation on service.
 - iv. The number of overnight occupants is limited by the number of bedrooms. The Dwelling to be used as a Vacation Rental contains five (5) bedrooms and maximum capacity should be limited to ten (10) overnight guests.
 - v. Vendors shall be limited to cleaning and maintenance on a regular basis. If a special event is planned by a guest, it shall occur during the day and there may be vendors to serve that specific event.
 - b. 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. Under the Coos County Zoning and Land Development Ordinance Vacation Rentals are permitted with a deed restriction acknowledging that this is an accessory use to the approved residential use. Due to the fact that the residential use is the primary use there is no reason to request a change of use for occupancy under the building code.
 - c. Shall meet parking access, driveway and parking standards as identified in Chapter VII. Driveway Confirmation DR-23-028 shall be signed by the Road Department.
3. 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. Renewals of your license shall be provided to the Planning Department to show the use remains in compliance.

EXHIBIT "B"
VICINITY MAP & PLOT PLAN



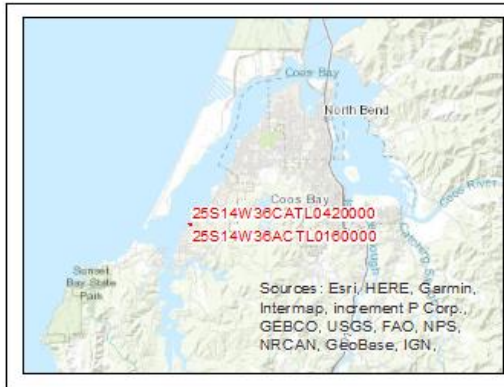
COOS COUNTY PLANNING DEPARTMENT

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

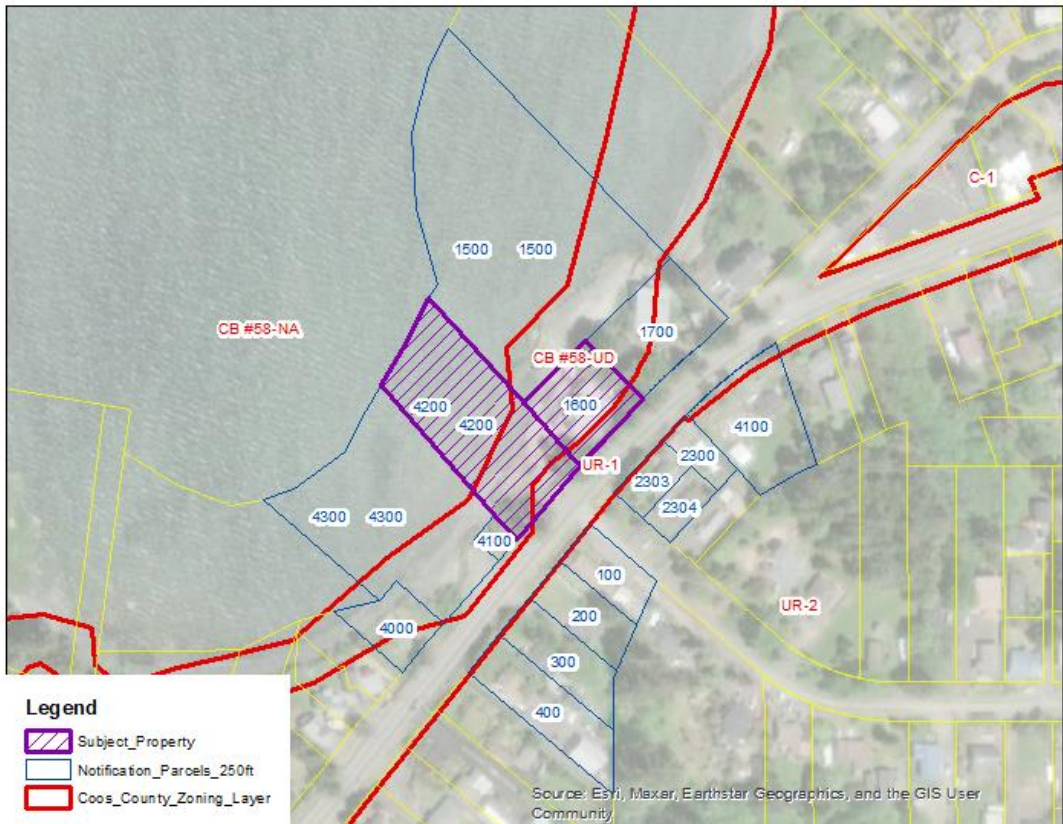
Physical Address: 60 E. Second, Coquille Oregon

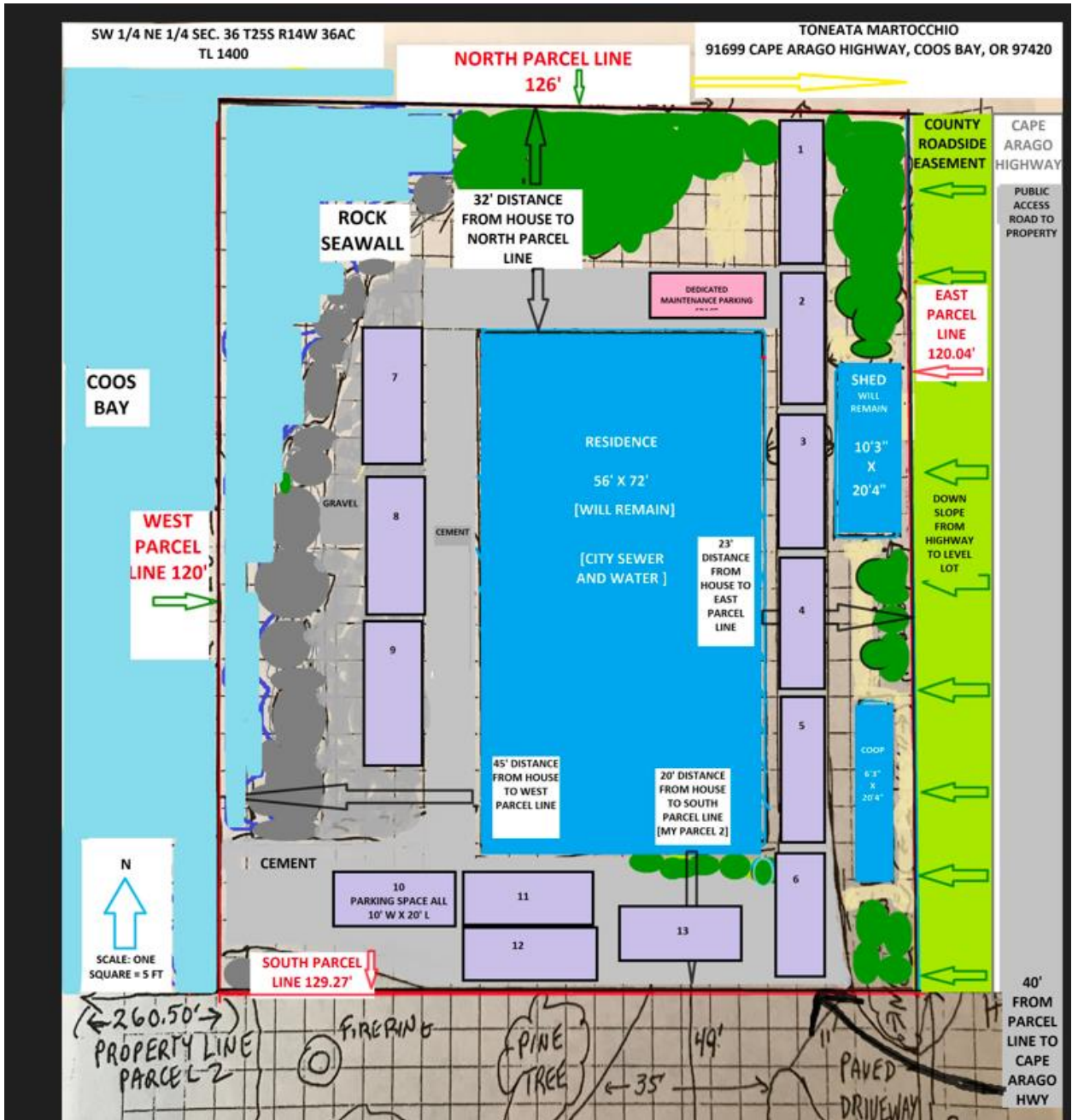
Phone: (541) 396-7770

TDD (800) 735-2900



File: ACU-23-011
Owner: Toneata Leona Martocchio
Date: May 9, 2023
Location: Township 25S Range 14W
Section 36CA/36AC TL 4200/1600
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 allow for a Vacation Rental within an existing Dwelling.
- B. BACKGROUND/PROPERTY HISTORY:**
This property contains a 2,022 square foot Single-Family Manufactured Dwelling that has an assessed year built of 1955. The property also contains an Accessory Structure (identified as shed) and a Chicken Coop.
- C. LOCATION:** The subject property is located southwest of the City of Coos Bay. The property is accessed via Oregon State Highway, Cape Arago Highway.
- D. ZONING:** The subject property is zoned Urban Residential-1 (UR-1) and Coos Bay Estuary Management Plan 58-Urban Development (58-UD). The dwelling is located within the Coos Bay Estuary Management Plan (58-UD) zoning district, so Staff will only address this zoning.

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

SECTION 4.2.100 RESIDENTIAL

Coos Bay Estuary Management Plan 58-UD

This district shall be managed so as to allow continuation and expansion of the area's scenic, archaeological and residential values, which exist in harmony with each other. If the Army Corps of Engineers should reconstruct the groin in this area, provision or an associated public fishing pier should be considered. This district contains a designated mitigation site (M-1a, "medium" priority) which must be protected from pre-emptive uses, as consistent with Policy #22.

SITE DESCRIPTION AND SURROUNDING USES: The subject property is located southwest of the City of Coos Bay, and accessed by and off of Cape Arago Highway. The property has a Single-Family Dwelling, Shed, and Chicken Coop according to the Plot Plan. The surrounding properties are being used for Commercial, Residential and Recreational. The properties to the north and west are tidelands.



- E. **COMMENTS:** Comments were not required for this use as there is no development occurring. There is no structural development proposed as part of this request.

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 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 finds at the time of this report the property is in compliance 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-complaint.

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 through (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 79-33547).

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Planning Director Approval to alter the existing Nonconforming Use to allow a Vacation Rental accessory to the Residential Use.

B. Key definitions:

VACATION RENTALS: A furnished apartment or house rented out on a temporary basis to tourists or guests as an alternative to a hotel/motel or group cottage. The definition includes dwelling(s) or dwelling unit(s) for the purpose of being rented or occupied on a daily or weekly basis, or is available for use, rent, or occupancy on a daily or weekly basis, or is advertised, or listed by an agent, as available for use, rent, or occupancy on a daily or weekly basis and are predominately rented out less than 30 days.

C. Approval Criteria and standards for Nonconforming Uses

ARTICLE 5.6 NONCONFORMING

- **SECTION 5.6.100 NONCONFORMING USES:**

The lawful use of any building, structure or land at the time of the enactment or amendment of this zoning ordinance may be continued. Alteration of any such use may be permitted subject to Sections 5.6.120 and 5.6.125. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215 (Reestablishment of nonfarm use), a county shall not place conditions upon the continuation or alteration of a use described under this Section when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.

As used in this Section, alteration of a nonconforming use includes:

- 1. A change in the use of no greater adverse impact to the neighborhood; and*
- 2. A change in the structure or physical improvements of no greater adverse impact to the neighborhood.*

- **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 dwelling on this property was sited in 1955 before regulations requiring a land use authorization were implemented. The first ordinance that would have regulated this type of development was adopted in July of 1975. The property is currently zoned Coos Bay Estuary Management Plan 58-Urban Development, where residential use is permitted but requires review through policies that have not been completed due to the existing dwelling being sited prior to the regulations. Therefore, a dwelling sited before the ordinance is considered a nonconforming use within the Coos Bay Estuary Management Plan.

The change in use shall not have a greater adverse impact on the neighborhood. The neighborhood in this case is utilized for residential, commercial, and recreational purposes. Dairy Queen, a fast-food restaurant, is located approximately 350 feet from the subject parcel. Staff has an application for another vacation rental dwelling located 185 feet from this property that has not been completed. There are several vacation rentals along Cape Arago Highway. This area is known for providing recreational opportunities such as clamming, fishing, boating, and beach access. Staff finds that with the multiple different uses within this area, the alteration of the nonconforming use to allow the existing dwelling to be used as a vacation rental accessory to the residential use will not adversely impact the neighborhood.

A single-family dwelling unit provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation for a single family for the purpose of permanent living, which exceeds 30 days. The requested use of the dwelling for

transient occupancy for vacation purposes does increase traffic, parking, and related nuisance issues. There are various measures that could be applied to this requested use to ensure compatibility. One option is to limit the number of guests to the number of bedrooms within the dwelling at the time of approval, limiting traffic and parking volumes to the same level as a single-family dwelling, and limiting nuisances.

In determining the number of people who can be accommodated overnight, the calculation is based on the number of bedrooms within the single-family dwelling. A bedroom (as per ORS 90.262) has a minimum average of two occupants per bedroom. According to the most recent real estate listing, this dwelling has five bedrooms. Therefore, staff will conditionally approve this request with a limit of ten (10) overnight guests on-site. The number of vehicles on-site for guests shall not exceed two. This does not account for cleaning service and other related maintenance services or when the property owner is using the dwelling. There shall be designated quiet times, and a clear sign with contact information shall be posted so that neighbors with complaints can contact the rental service managing the vacation rental. These signs shall be posted on the exterior of the property, and signs pertaining to the guests shall be posted upon entering the dwelling. The property owner shall work to meet any fire, life, and safety regulations applicable to vacation rentals (transit lodging), as well as register with the Oregon Department of Revenue.

Typically, traffic counts are conducted for a single-family dwelling based on two (2) vehicles. Therefore, the vacation rental will be limited to two vehicles on-site when the dwelling is used as a vacation rental. If the property receives public services for water or sewer, a letter from those utility companies is required to confirm that there is 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 there may be vendors to serve that specific event. The applicant has stated that the vacation rental will be regularly maintained, and all restrictions will be enforced. The parking access, driveway, and parking standards (DR-23-028) shall be reviewed and approved by the County Roadmaster or his designee.

With the proposed conditions staff finds that this alteration in use will not create an adverse impact to the neighborhood

A. SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS:

SECTION 4.11.125 Special Development Considerations: The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed in the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site

SECTION 4.11.200 Purpose: Overlay zones may be super-imposed over the primary zoning district and will either add further requirements or replace certain requirements of the underlying zoning district. The requirements of an overlay zone are fully described in the text of the overlay zone designations. An overlay zone is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary Management Plans when the Estuary Policies directly reference this section.

FINDING: No structural or earth moving development is part of this request; therefore, additional review was not required.

IV. DECISION:

The proposed Vacation Rental/Short-Term Rental in the Rural Residential-2 (RR-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: Charleston RFPD, Coos Bay North Bend Water Board, and Charleston Sanitation.

A Notice of Decision and Staff Report will be provided to the following: Applicants/Owners, Department of Land Conservation and Development, Coos Health and Wellness, Assessor's Office, 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.