



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, February 21, 2023**
File No(s): ACU-22-047

Proposal: Request for a Land Use Approval through an Administrative Conditional Use to change the use of a Single Family Dwelling to a Vacation/Short Term Rental.

Applicant(s): Scott and Kelly Kennelly

Staff Planner: Chris MacWhorter, Principal 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, March 08, 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*. 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 (3)(a) Controlled Development*. *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	2948000
Map Numbers	29S1501CC-04400
Property Owners	KENNELLY, SCOTT & KELLY 9761 LOTT RD DURHAM, CA 95938-9742
Situs Addresses	87158 JUPITER LN BANDON, OR 97411
Acreages	0.21 Acres
Zoning(s)	CONTROLLED DEVELOPMENT-10 (CD-10)
Special Development Considerations and Overlays	ARCHAEOLOGICAL AREAS OF INTEREST (ARC) BANDON AIRPORT CONICAL ZONE (ABC) BANDON URBAN GROWTH BOUNDARY (BGB) NATURAL HAZARD - TSUNAMI (NHTHO) NATURAL HAZARD - WILDFIRE (NHWF)NATURAL HAZARD - TSUNAMI (NHTHO) NATURAL HAZARD - WILDFIRE (NHWF)

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance. **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/applications-2022>

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. The name of the Coos County Planning Department representative to contact is Chris MacWhorter, Principal 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: Chris MacWhorter Date: Tuesday, February 21, 2023.
Chris MacWhorter, Principal 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 contains two (2) bedrooms and maximum capacity should be limited to four (4) 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. If located within Urban Growth Boundary further restrictions may be required based on comments from the City.
 - c. The parking and access shall be reviewed and signed off by the Coos County Road Department prior to receiving a Zoning Clearance Letter from staff. There will be a limit on how many vehicles can park onsite to two (2) vehicles and one (1) vehicle for employees.
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.
4. Shall provide a legal document for the water use or an exemption. Staff cannot confirm that the current water source meets the required health requirements for this type of use.

EXHIBIT "B"
VICINITY MAP



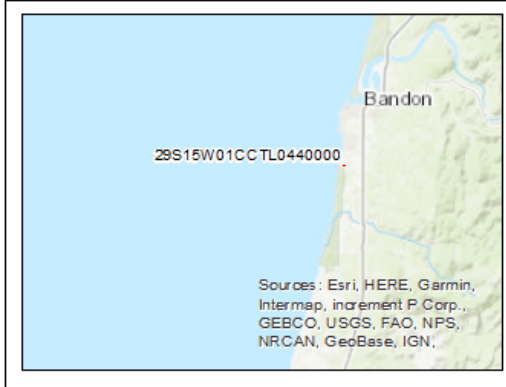
COOS COUNTY PLANNING DEPARTMENT

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-21-047
Owner: Scott and Kennelly
Date: January 31, 2023
Location: Township 29S Range 15W
Section 1CC TL 4400
Proposal: Administrative Conditional Use



- Legend**
- Subject_Property
 - Notification_Parcel_100 ft
 - CoosCountyZoning_PlanningInternal

**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 change the use of a Dwelling - Manufactured Single Dwelling to a Vacation/Short Term Rental.

B. BACKGROUND/PROPERTY HISTORY:

On August 27, 2019, a Zoning Compliance Letter (ZCL-19-277) was issued for septic site evaluation only. This does not authorize any type of development or second septic system. This letter does not guarantee compliance with any land use standards but allows existing septic systems to be maintained in compliance with DEQ requirements. This property is located within an Archaeological Notification Area; therefore, it is the applicant(s), property owner(s), and/or contractor(s) responsibility to contact the Coquille Indian Tribe (Kassandra Rippee 541-756-0904 ext. 1216) and to comply with their recommendations.

On March 8, 2021, a Zoning Compliance Letter (ZCL-19-277) was issued for septic site evaluation only. This does not authorize any type of development or second septic system. This letter does not guarantee compliance with any land use standards but allows existing septic systems to be maintained in compliance with DEQ requirements. This property is located within an Archaeological Notification Area; therefore, it is the applicant(s), property owner(s), and/or contractor(s) responsibility to contact the Coquille Indian Tribe (Kassandra Rippee 541-756-0904 ext. 1216) and to comply with their recommendations.

On April 15, 2021, a Zoning Compliance Letter (ZCL-21-111) was issued to site a manufactured dwelling with stairs and decks and install a septic as approved through CD-21-042 and as depicted on the attached plot plan. Notification was provided to the Coquille Indian Tribe and the Oregon Department of Avia-tion, their comments are attached and the applicant, property owners and/or contractor(s) shall comply with the recommenda-tions set forth in these comments. The property is located within the City of Bandon’s Urban Growth Boundary attached is the City of Bandon’s conditions of approval that the applicant, property owner and/or contractor(s) shall comply with. A consolidation request has been submitted to the Assessor’s office and this shall be completed prior to construction. No other develop-ment or construction is authorized at this time. Only one dwelling and septic is permitted on this property.

C. LOCATION: The subject property is located southwest of the City of Bandon. The property is accessed from Beach Loop Road.

D. ZONING: The subject property is zoned Controlled Development (CD-10).

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

**SECTION 4.2.200 MIXED COMMERCIAL-RESIDENTIAL
Controlled Development (CD)**

The intent of the Controlled Development is to reserve areas that are experiencing or are projected to experience limited conversion of residential areas to commercial uses. Urban Growth Areas include Urban Growth Boundaries (UGB) and Urban Unincorporated Communities (UUC) that were

developed to urban levels of development and could be included in an Urban Growth Boundary expansion in the future. This designation is applied to specific portions of the following Urban Growth Areas: Bandon, Charleston, Barview and Bunker Hill.

There are two different controlled development zoning districts: Controlled Development-5 (CD-5) and Controlled Development-10 (CD-10).

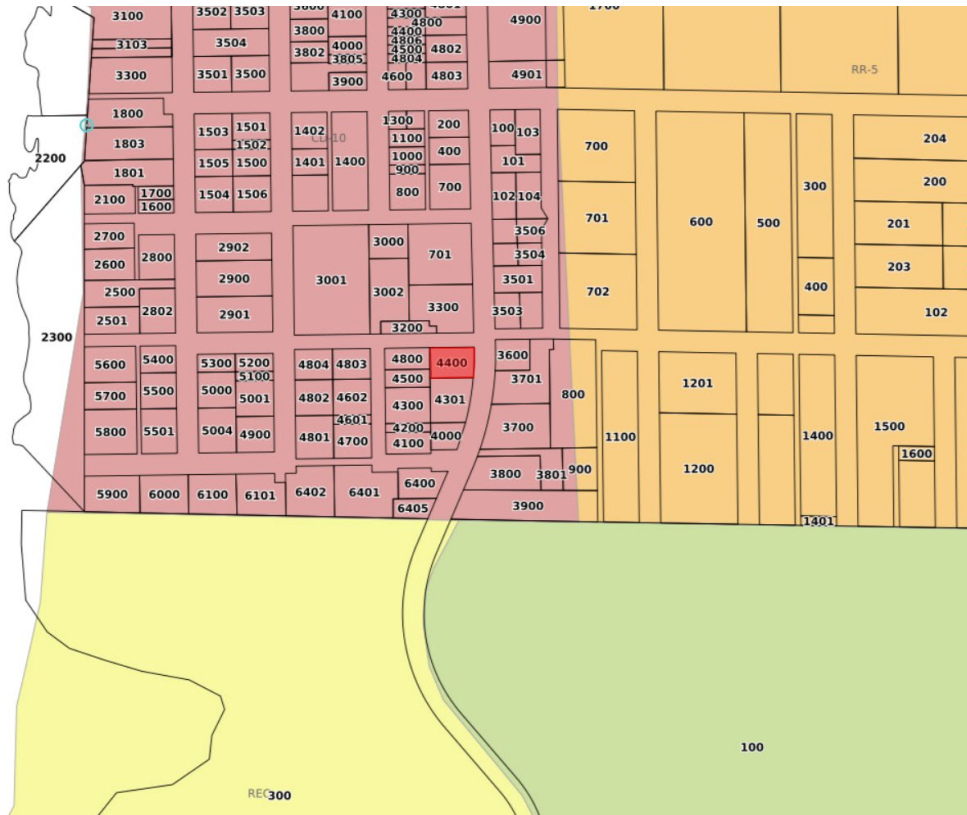
The purpose of the “CD-5” and “CD-10” district is to recognize the scenic and unique quality of selected areas within Urban Growth Boundaries, to enhance and protect the unique “village atmosphere,” to permit a mix of residential, commercial, and recreational uses and to exclude those uses which would be inconsistent with the purpose of this district, recognizing tourism as a major component of the County’s economy.

E. SITE DESCRIPTION AND SURROUNDING USES

SURROUNDING USES: The subject property is located in Sunset City. Sunset City is a pre-ordinance platted subdivision within the City of Bandon Urban Growth Boundary. This area has been historically serviced with City of Bandon water and onsite septic treatment systems.

This area is zoned Controlled Development-10. Sunset City consists of a mixture of single-family primary dwellings, single family secondary dwellings or investment properties, short-term vacation rentals, and undeveloped lots. While commercial use is plausible in CD-10, there, historically, has not been much interest in developing commercial uses in this area. The City of Bandon lies directly north of Sunset City, while Devils Kitchen State Park is located south of the subdivision. To the east of the subdivision is lightly developed Rural Residential-5 properties. The Pacific Ocean and State beaches are located to the west of Sunset City. There is a public beach access point, on Mars Lane, located southwest of the subject property.





The subject property is 0.21 of an acre and is surrounded by like zone properties. The lot is at the intersection of Beach Loop Road and E Jupiter Lane. There are developed dwellings located on the north and south side of the parcel.

F. COMMENTS: Comments were not required for this use as there is no development occurring.

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 the County’s files to determine at the time of this report this property is compliant. 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 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 by through a. *Through an approved or pre-ordinance plat.* The parcel's deed history may be traced back to deed record #73-90727 in the Coos County Clerk's records. Therefore, it is a lawfully created unit of land.

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Planning Director Approval to change the existing residential use to a vacation rental.

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.

C. Criteria and standards for Vacation Rentals

I. Vacation Rentals

A. Section 4.3.200 Zoning Tables for Urban and Rural Residential, mixed Commercial-Residential, Commercial, Industrial, Minor Estuary and South Slough

The table indicates the type of review process that is required. Remember that CU is an conditional use review and the letter prior explain what level of conditional use is required (A = administrative and H=Hearing)

As used in the zoning tables the following abbreviations are defined as:

- "P" Permitted and requires no review from the Planning Department. No review is required but other agencies may have requirements.
- "CD" Compliance Determination review (permitted with standards) with clear and objective standards (Staff review usually referred to as Type I process or ministerial action). These uses are subject to development standards in sections 4.3.22, 4.3.230 and notices requesting comments may be provided to other agencies as result. The process takes a minimum of 30 days to complete. Industrial zones may require additional review. All structures and uses shall meet the applicable Development and Siting Criteria or Special Development Considerations and Overlays for the zoning district in which the structure will be sited.
- "ACU" Administrative Conditional Use (Planning Director's Decision usually referred to as a Type II Process)
- "HBCU" Hearing Body Conditional Use (Planning Commission, Board of Commissioner or Hearings Officer Decision usually referred to as a Type III Process)
- "PLA" Property Line Adjustments subject to standards found in Chapter 6.
- "P", "SUB", "PUD" = Partition, Subdivision, Planned Unit Development that require Land Division Applications subject to standards found in Chapter 6.
- The "Subject To" column identifies any specific provisions of Section 4.3.210 to which the use is subject.
- "N" means the use is not allowed.

The zoning table sets out Uses, Developments and Activities that may be listed in a zone and the type of review that is required within that zone. If there is a conflict between uses the more restrictive shall apply. Section 4.3.210 provides an explanation of the use category and the specific criteria that shall apply and if the use is identified as requiring a conditional use. Section 4.3.225 General Siting Standards apply to all regulated Uses, Developments, or Activities, but these are clear and objective standards that do not, in themselves, require a land use notice. Section 4.3.230 Specific Standards list specific siting standards by zones and 4.2.220 Additional Conditional Use Review and Standards for table 4.3.200 contains any additional criteria that applied to a Use, Development or Activity that has been identified by the following table as requiring.

#	Use	Zones												Subject To	
		Section 4.3.210 CATEGORIES & Review Standards - 4.3.220 Additional Conditional Use Review - Section 4.3.225 General Siting Standards - Section 4.3.230 Specific Standards													
		UR-1	UR-2	UR-M	BR-2	BR-5	CD	RC	C-1	IND	AG	REC	SS		MES
63.	Retail Business	N	N	N	N	N	ACU	HBCU	CD	N	N	HBCU	N	N	(75)
64.	Vacation Rentals (in an existing dwelling)	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	N	N	(87)

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 (3)(a) Controlled Development. 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.

B. Section 4.3.210 – CATEGORIES AND REVIEW STANDARDS

The following categories provide a definition and specific standards that will regulate the Development, Use or Activity identified in the table above.

(87.) Vacation rental/short term rental - Subject to the following criteria:

- (a) Shall be found to be compatible with the surrounding area.
- (b) Shall be licensed by the Coos Health & Wellness (CHW) in accordance with ORS 446.310-350;
- (c) Shall meet parking access, driveway and parking standards as identified in Chapter VII;
- (d) Shall not be conveyed or otherwise transferred to a subsequent landowner without a the new property owner submitting a Compliance Determination Application showing compliance with this section; and
- (e) A deed restriction shall be recorded with the Coos County Clerk’s Office acknowledging that this is an accessory use to the approved residential use. If located within Urban Growth Boundary further restrictions may be required based on comments from the City.

FINDING: A vacation rental can only be established in an existing dwelling. The subject property contains an existing Dwelling – Manufactured Single Family that was sited in 2021. According to available records the dwelling is a two-bedroom manufactured structure. 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 to reserve areas that are experience or are projected to experience limited conversion of residential areas to commercial uses. Vacation rentals are not considered a residential use so they must show they can be compatible with the existing residential uses occurring within the surrounding area without discord or disharmony.

The notification area included a mixture of dwellings that are being used as primary dwellings, secondary dwellings, and vacation rentals in the nearby vicinity. There are also vacant undeveloped parcels in the nearby vicinity.

Map No	Parcel No	Structures	Use
29S15W01CC	3200	Dwelling	Secondary
29S15W01CC	3300	Dwelling	Primary
29S15W01CC	3600	Dwelling	Vacation Rental
29S15W01CC	3701	Multi-family	Vacation Rental
29S15W01CC	4300	None	Vacant
29S15W01CC	4301	None	Vacant
29S15W01CC	4500	None	Vacant
29S15W01CC	4800	Dwelling	Secondary

Recreational opportunities within a ¼ mile of the subject property includes Devils Kitchen State Park with public beach access. Devils Kitchen State Park is the northern end of the Bandon State Natural Area. That natural area consists of public beaches and proceeds south for approximately 5 miles. The known public access points, with public parking lots, are located in the northern portion of the Bandon State Natural Area. The nearest agricultural operation is approximately 1/3 mile east of the subject property.

A Single-Family Dwelling unit providing complete independent living facilities for one or more persons, including permanent provision for living, sleeping, eating, cooking and sanitation. The applicant submitted information, from Institute of Transportation Engineers, regarding vacation homes generating less traffic than a traditional single family dwelling. However, that is a secondary vacation home, not a commercial vacation rental. A request to use the dwelling for transient occupancy for vacation purposes does increase traffic, parking and related nuisance issues. Therefore, to make the use compatible limitations on occupancy based on the number of bedrooms that are located within the dwelling, limiting traffic and parking volumes to the same level as a Single-Family Dwelling and limiting nuisances will insure the use is compatible.

In determining how many people can be accommodated overnight the calculation is made based on bedrooms within the Single Family Dwelling. A bedroom (ORS 90.262) has a minimum average of two occupants per bedroom. This dwelling is a two-bedroom dwelling; therefore, staff will condition this approval that only four (4) overnight guests shall be onsite. Vehicles on site for the guest shall be no more than two vehicles. This does not account for cleaning service and other related maintenance service or when the property owner is using the dwelling. There shall be quiet times and a clear sign posted with the contact information so neighbors that have complaints may contact the rental service that is managing the vacation rental.

Typically, traffic counts are conducted for a Single-Family Dwelling based on two (2) vehicles so at this time the Vacation Rental will be limited to two vehicles on site when the Dwelling used as a Vacation Rental. 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. 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 Vacation Rental will be maintained regularly, and all restrictions will be enforced.

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.

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, this will be made a condition of approval. All conditions shall be complied with as final approval.

C. 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 Controlled Development-10 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 RFPD.

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.