



STAFF REPORT

CITY OF BANDON
PLANNING DEPARTMENT
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Planning Action: Conditional Use

Application File Name (Number): Seabird Apartments– 21-059

Request: Approval of a conditional user permit to construct a 48-unit apartment complex within (4) two-story buildings in the C-2, General Commercial Zone.

Applicant: David E. Waldron, Architect

Property Owner: Bently, LLC, Jim M. Murray Jr.

Lead City Staff: Dana Nichols, Planning Manager

Hearing Date: June 24th, 2021

Subject Property/Location/Size: The subject property is located on Seabird Drive near the intersection of Highway 101, in the C-2, General Commercial Zone in the City of Bandon. The property is tax lot 1420 of map 28S-15W-36 and is 3.16 acres.

Current Zone Designation: General Commercial (C-2) Zone

Relevant Dates:

- Application Received: May 6th, 2021
- Deemed Complete: June 2nd, 2021
- Notice of Public Hearing sent: June 3rd, 2021
- 120 Day: September 30th, 2021

Purpose of Staff Report:

Staff reports provide the reviewing body and community members with information regarding current land use requests and staff analysis of the application. The staff report provides only preliminary information and recommendations. The reviewing body will consider public testimony and other materials submitted to the City in writing, when making decisions on the application.

Ordinances Referenced:

17.44 General Commercial (C-2) Zone

17.92 Conditional Uses

17.94 Commercial Design Standards

17.96 Off-Street Parking and Loading

I. Relevant Facts

Background – History of Application

Lot 1420 was created through the partition of a parent parcel into three lots in 2007. The partitioned lots were intended to be for a specified commercial use. At the time, the parent parcel abutted Highway 101, so the Oregon Department of Transportation provided a comment on the partition requesting certain conditions of approval:

1. *The Final Partition Plat shall show that Parcel 3 does not have access to US 101;*
2. *The Final Partition Plat shall show reciprocal access easements allowing Parcels 1, 2, and 3 to share accesses to Seabird Drive. The reciprocal access easements shall align with the Conceptual Site Plan driveways to Seabird Drive and aisle ways connecting the shopping center to the commercial retail building parking areas; and*
3. *Future developers shall submit a Traffic Impact Study (TIS) to ODOT for review and comment prior to City approval of a Site Plan Review. The TIS shall be scoped by ODOT Traffic and meet state standards for a state highway.*

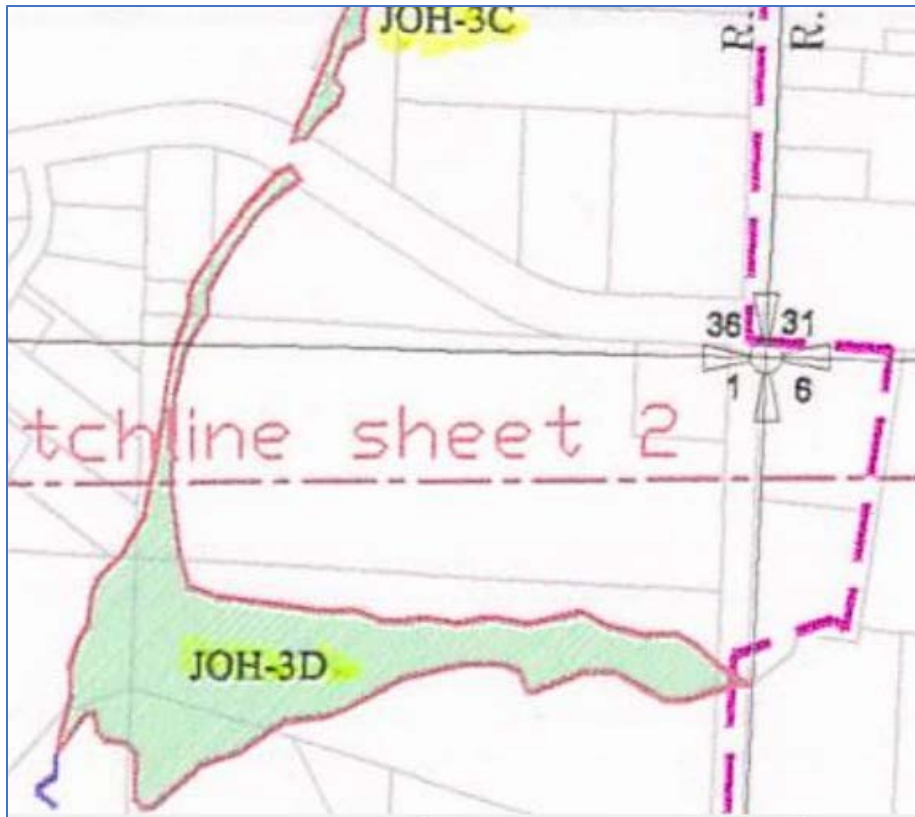
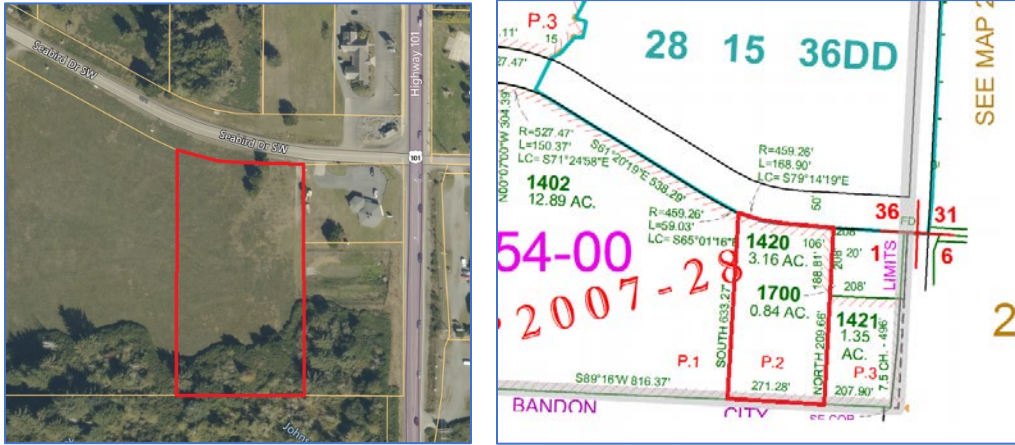
The City issued Findings approving this partition with the above requested conditions in mind. The parcel subject to this Conditional Use Permit is Parcel 2. The conditions of approval are listed below and shown on Partition Plat P2007 #28:

1. *Meet all of ODOT’s Recommendations:*
 - a. *Parcel 3 does not have access to Highway 101.*
 - b. *Parcels 1, 2, & 3 shall contain reciprocal access rights over and across all driveways and parking areas.*
 - c. *All future development will involve the submittal of an update to the Traffic Impact Study.*
2. *Parcel 1 shall dedicate a 30’ wide public recreation/access easement, location to be determined at a later date.*
3. *The removal or modification of the detention pond drainage pond drainage area will require city approval.*
4. *Future development will require an update of the Traffic Impact Study.*
5. *Prior to any future development, a left turn lane on Seabird Drive onto US Highway 101 will be required.*
6. *Subject to ODOT’s approval, any future development on Parcels 1 or 2 will require participation and fair share contribution in the placing of a traffic signal at said intersection.*

The applicant met with Staff through informal pre-application meetings prior to submitting this application. Because this is an application for a residential use in a commercial zone, Staff required the applicant to meet certain commercial design standards as part of their proposal. Also, staff and the applicant team have engaged with the Oregon Department of Transportation regarding certain requirements on the partition plat, which is discussed in more detail below.

Detailed Description of the Site and Proposal

The property is located near the intersection of Highway 101 and Seabird Drive, as tax lots 1420 of Map 28S-15W-36.



The property is part of the Johnson Creek watershed and may have wetlands on or near to the property. The applicant submitted a Wetlands and Waters Determination request to the Department of State Lands, which concluded that there may be wetlands on the property that are subject to the state Removal-Fill Law, however permits are not required if no work is conducted on the south end of the parcel. DSL provided the following comments:

It appears that this parcel has changed very little since 2007. Be aware that a 2007 delineation has expired and cannot be used for site planning. Most of the site was fill almost 30 years ago, but the

southern end was not filled completely, and the fill terrace drops off abruptly on the south and southeast boundaries. If the proposed apartment building requires leveling or pushing fill beyond the current ground elevation at the top of the fill terrace, a wetland delineation is advised. Johnson Creek and floodplain border to the south and are designated Essential Salmonid Habitat; therefore, any amount of fill material inadvertently pushed over the edge and into any wetland below may require a permit. The development should allow space on top of the terrace for all ground impacts and overburden and use best management practices to avoid erosion of loose fill material into the creek. The tax lot data DSL has in house shows this parcel as tax lot 1420—it may have since been subdivided and renumbered. See enclosed site map of area checked.

Should the applicant be successful in receiving approval for their Conditional Use Permit, Staff will require further information about the wetlands as part of the Zoning Compliance application.

II. Procedural – Required Burden of Proof

The development standards within the General Commercial (C-2) Zone are contained in Chapter 17.44 and the Conditional Use Standards are listed in Chapter 17.92 of the Zoning Code. Also listed are the city’s Commercial Design Standards and Off-Street Parking & Loading. Bandon Code standards will appear in italics.

Chapter 17.44 – GENERAL COMMERCIAL (C-2) ZONE

17.44.010 Purpose.

The purpose of the C-2 Zone is to provide sufficient and appropriate space for the general shopping, business and commercial needs of the city and surrounding areas, and to encourage the development of such space in a pleasant and desirable manner. These areas are intended to encourage the continuing quality of business retail services and to protect these uses from uses which would break up such continuity.

FINDING: This application is for a residential use, which is a conditional use in this zone.

17.44.030 Conditional uses.

In the C-2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 16.12 and the provisions of this title:

- A. *Drive-up uses, in accordance with Section 16.12;*
- B. *Museums, tourist information centers, parks and recreational facilities;*
- C. *Food or dairy products processing;*
- D. *Single-family, two-family, or multiple housing, including mobile or manufactured home;*
- E. *Recreational vehicle park, overnight trailer parking;*
- F. *Public utility or services building;*
- G. *Residential care home or facility;*
- H. *Governmental buildings or uses;*
- I. *Churches;*
- J. *Any fuel dispensing of fuel storage facilities.*
- K. *Medical / Recreational Marijuana Facilities.*

FINDING: The application is for a residential use, which is conditional use in the Zone.

17.44.040 Limitations on use.

In the C-2 zone, the following conditions and limitations shall apply:

- A. *The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.*
- B. *The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or the effects of vehicular traffic.*
- C. *Limitations on use may be waived as a conditional use, subject to the provisions of Chapter 17.92.*

FINDING: No additional street width is required for this development. The proposed use of apartment building is not objectionable due to any of the effects listed above. Standards in the Conditional Use chapter will be addressed in this Staff Report.

17.44.060 **Lot size.**

In the C-2 Zone, lot size shall have no requirements.

FINDING: The property meets this criterion.

17.44.070 **Yards.**

Except as provided in Section 17.104.060, yards in the C-2 zone shall be as follows:

- A. *In the event of a common property line, a side yard abutting a residential zone shall be at least fifteen (15) feet plus one foot for each two feet by which the height of the building exceeds twenty-eight (28) feet.*
- B. *The rear yard shall meet the same requirements as a side yard.*

FINDING: This property does not abut a residential zone.

17.44.080 **Height of Building.**

In the C-2 zone, no building shall exceed a height of forty-five (45) feet.

FINDING: The proposed maximum height for the new structures is 33' 2 3/8".

17.44.090 **Lot coverage.**

In the C-2 zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

FINDING: The applicant has listed the lot coverage as 24.58%, which meets this criterion.

17.44.100 **Outside sales area.**

In the C-2 zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

FINDING: No outside sales areas have been proposed as part of this application.

Chapter 17.92 – CONDITIONAL USES

17.92.010 Authorization to grant or deny conditional uses.

Conditional uses are those which may be appropriate, desirable, convenient or necessary in the zoning district in which they are allowed, but which by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed. Applications for uses designated in this title as conditional uses may be granted, granted with modifications or denied by the Planning Commission in accordance with the standards and procedures set forth in this chapter.)

FINDING: The applicant has requested conditional use permit approval for a 48-unit apartment building. Residential uses are conditional uses in the C-2 Zone.

17.92.020 Authorization to impose conditions.

In approving an application for a conditional use or the modification an existing and functioning conditional use, the city may impose, in addition to those standards and requirements expressly specified by this title, any additional conditions which the city considers necessary to assure that the use is compatible with other uses in the vicinity and to protect the city as a whole. These conditions may include but are not limited to:

- A. *Changing the required lot size or yard dimensions;*
- B. *Limiting the height of the building(s);*
- C. *Controlling the location and number of vehicle access points;*
- D. *Requiring additional right-of-way areas or changing the street width;*
- E. *Requiring public improvements, including, but not limited to streets, sidewalks, sewer and water line extensions, and bike paths;*
- F. *Changing the number of off-street parking and loading spaces required;*
- G. *Limiting the number, size and location of signs;*
- H. *Requiring diking, fencing, screening or landscaping to protect adjacent or nearby property;*
- I. *Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;*
- J. *Limiting the hours, days, place and manner of operations;*
- K. *Limiting or setting standards for the location and intensity of outdoor lighting;*
- L. *Setting requirements on the number, size, location, height and lighting of signs;*
- M. *Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.*

FINDING: The Planning Commission may approve, approve with conditions, or deny the application. If additional conditions are needed to ensure this use fits in with the surrounding neighborhood, the Planning Commission may reference this list to impose such conditions.

17.92.040 Approval standards for conditional uses.

The approval of all conditional uses shall be consistent with:

- A. *The comprehensive plan;*
- B. *The purpose and dimensional standards of the zone except as those dimensional standards have been modified in authorizing the conditional use permit;*
- C. *That the site size and dimensions provide adequate area for the needs of the proposed use;*

- D. *That the site size and dimensions provide adequate area for aesthetic design treatment to mitigate possible adverse effect from the use of surrounding properties and uses;*
- E. *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features;*
- F. *All required public facilities and services have adequate capacity to serve the proposal, and are available or can be made available by the applicant;*
- G. *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the permitted uses listed in the underlying zoning district;*
- H. *All other requirements of this title that apply.*

FINDING: The Comprehensive Plan lists General Commercial as an area *suitable for the continuance or expansion of full range commercial activities to meet the overall shopping needs of Bandon’s residents and visitors.* It also states that *availability of public utilities, accessibility to large volumes of traffic, adequate parking, and access for pedestrians are important considerations in making these areas ideal for continued commercial development.* Housing is an integral component to facilitating future commercial development in the area. Utilities and infrastructure are available at this site, including sidewalks along Highway 101.

Staff finds that the purpose and dimensional standards of the zone have been met by the applicant’s proposal. In their provided narrative, and as shown on their site plan, the applicant describes conformance with the required standards of the General Commercial Zone and Commercial Design Standards. They have also included site treatments such as a play area and dog park to take advantage of the existing topography and provide additional amenities for residents.

The applicant has provided plans that show required public utilities are available to the site, including sewer, water, and electric. The site does not currently have sidewalks, which Staff recommends that the Planning Commission require as a condition of approval to meet the requirements of the Transportation System Plan. Section 7.010 of the TSP addresses Conditional Uses and reiterates the allowances listed in 17.92.020. The City’s Plan states that *development proposals shall be reviewed to assure the continuity of sidewalks, trails, bicycles paths, and pedestrian ways.* The City’s street standards list that on Collectors, sidewalks are required on both sides at 5 or 6 feet.

17.92.050 Conditional use cannot grant variances.

A conditional use permit shall not grant variances to the regulations otherwise prescribed by this title. A variance application may be filed in conjunction with the conditional use permit by filing an application with the city using forms prescribed for that purpose.

FINDING: The applicant has not requested a variance as part of their conditional use permit application.

17.92.060 Application for a conditional use.

The applicant for a conditional use proposal shall be the recorded owner of the property or an agent authorized in writing by the owner. They may initiate a request for a conditional use permit or the modification of an existing, functioning conditional use permit by filing an application with the city using forms prescribed for that purpose.

In addition, the following shall be supplied by the applicant:

- A. *Twelve (12) copies of the site development plan(s) drawn to scale and necessary data or narrative which explains how the development conforms to the standards;*
- B. *The required fee;*

- C. *The conditional use plan, data and narrative shall include the following:*
 - 1. *Existing site conditions,*
 - 2. *A site plan for all proposed improvements,*
 - 3. *A grading plan,*
 - 4. *A landscape plan,*
 - 5. *Architectural elevations of all structures,*
 - 6. *A sign plan,*
 - 7. *A copy of all existing and proposed restrictions or covenants;*
- D. *In the case where any or all of the above are unnecessary, as in the case of a change of use in an existing structure, the planning director shall determine which items in subsection (C)(1) through (7) of this section will not be required for application. The Planning Commission may request additional items if they determine that these additional items are necessary to understand and make a decision on the application.*

FINDING: The applicant has signed permission from the property owner to apply for this Conditional Use Permit. The required application materials have been supplied to the Planning Department for review and upon a completeness check, were found to meet the City's requirements.

17.92.090 Standards governing conditional uses.

A conditional use shall comply with the standards and purpose of the zone in which it is located except as these standards may have been modified in authorizing the conditional use or as otherwise provided as follows:

- A. *Yards. In any zone, additional yard requirements may be imposed.*
- C. *Limitation on Access to Property. The Planning Commission may limit vehicle access from a conditional use to a street.*
- D. *Signs. See Chapter 17.90 Signs*
- H. *Multifamily Housing. When considering a conditional use for multifamily housing, conditions shall not be placed which would exclude needed housing, unnecessarily decrease density, or allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delays.*

FINDING: The Planning Commission may impose conditions on this application, but also must keep in mind 17.92.090(H), which states that conditions may not be placed which would exclude needed housing. The State of Oregon defines all housing as needed housing. This criterion will be discussed in greater detail in the staff report below.

17.92.100 Time limitation.

- A. *A conditional use permit shall become void one (1) year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permit activity is being regularly conducted on the premises.*
- B. *The Planning Commission may extend a use permit for an additional period of one (1) year, subject to the requirements of this title.*
- C. *A conditional use permit shall become void if the use is discontinued for a period of one year.*

FINDING: Since the applicant has not requested an extension to their conditional use permit approval, Staff recommends that the permit become void after one (1) year.

Chapter 17.94 – COMMERCIAL DESIGN STANDARDS

17.94.60 Landscaping

A. General:

1. *All landscaping plans shall be approved by the approving authority and installed and subsequently maintained in good condition and in perpetuity by the owner of the property. Maintenance shall include, but not be limited to, watering, pruning, trimming, mowing, debris and weed removal, and if necessary replanting or replacement of failed landscape elements. Failure to maintain the landscaping in good condition shall be considered a nuisance and subject to citation to Municipal Court under Section 8.08 of the Bandon Municipal Code.*

FINDING: The applicant has provided a landscaping plan that is included as an attachment to this Staff Report. The site includes a mixture of trees, shrubs, ground cover, and rocked areas that shall be maintained by the property owner. A condition of approval has been added to ensure compliance.

2. *Building facades which face a street or sidewalk, shall have a four-foot-wide landscaping strip separating the building from the street and/or sidewalk. This section shall not apply to building facades separated from a street or sidewalk by a parking lot.*

FINDING: The applicant has proposed landscaping in all of their required setbacks that exceed the four-foot-wide landscaping strip described in the chapter.

3. *Landscape density shall be uniform throughout the site and include site amenities such as focal points, public trash receptacles, low wattage lighting, and water features, for areas around a building over 2,500 square feet.*

FINDING: Landscaping density is uniform throughout the site as shown on the landscaping plan provided by the applicant.

4. *Trees and shrubs used shall be selected from varieties compatible with the Southern Oregon Coast climate and which do not have destructive root systems which could damage either buildings or paved surfaces.*

FINDING: Planting has been selected from the Parks & Recreation 2008 Tree Standards & Specification Manual, restoration plant list, and/or native plant list, which are all compatible with the Southern Oregon Coast climate.

5. *Trees shall be planted in landscaped areas such that the tree trunk is at least 3 ft. from any curb or paved area.*

FINDING: The preliminary landscaping plan shows that all trees are at least 3 ft from any curb planting area. This has also been added as a condition of approval to ensure compliance.

6. *The landscaped area shall be planted with shrubs and/or living ground cover to assure 50% coverage within 1 year and 90% coverage within 5 years. (Landscaped area is either covered with low lying plants or overhung by the branches of shrubbery).*

FINDING: Plant spacing will conform to 50% coverage within a year, and 90% within 5 years. This has also been added as a condition of approval to ensure compliance.

7. *All bare earth shall be covered with bark, mulch, landscape rock, or other similar landscaping material to prevent dust and soil erosion.*

FINDING: The applicant's landscape plan indicates the applicant can reasonably meet the standards that are provided above in that all bare earth shall be covered with bark, mulch, landscape rock, or other similar landscaping material to prevent erosion. Criterion met.

8. *Landscaping shall conform to the vision clearance standards of the underlying zone.*

FINDING: Vision clearance standards will be maintained at the driveway entrance. A condition of approval has been added to ensure compliance.

B. Screening

1. *Dense landscaping and/or architectural treatment shall be provided to screen features such as storage areas, trash enclosures, transformers, generators, propane tanks, and other appurtenant structures.*

FINDING: The proposed trash/recycling area is screened with landscaping.

2. *Features used to screen electrical equipment shall be approved by the electric department.*

FINDING: This will be included as a condition of approval to ensure compliance.

3. *Where property abuts a residential zone, a fence, a minimum of six feet in height shall be installed on the property line to minimize adverse effects of the development on neighboring residences.*

FINDING: The subject properties do not abut a residential zone. Criterion not applicable.

4. *Perimeter fencing, security fencing, or gateways shall be constructed of materials which are compatible with the design and materials used throughout the project.*

FINDING: The applicant has not proposed any perimeter or security fencing. Not applicable.

5. *Razor wire and electric fencing, are prohibited.*

FINDING: No razor wire or electric fencing is proposed. Not applicable.

6. *Chain link fencing, with slats, may be allowed provided it is used as a screening element and the slats are a material consistent with the main building.*

FINDING: No chain link fencing is proposed. Not applicable.

7. *All rooftop mechanical equipment, including satellite or other telecommunications equipment, shall be screened from public view at building grade.*

FINDING: No rooftop units are proposed.

17.94.080 **Parking lots**

A. *General*

1. *Perimeter landscaping strips, not less than five feet in width, shall be required for all parking lots in order to screen and/or buffer the parking lot from abutting streets or residential areas. Perimeter landscaping shall consist of plants, a minimum of two feet in height and/or trees a minimum of five feet in height and spaced no more than 40 spaces.*

FINDING: The applicant's landscaping plan shows perimeter landscaping throughout the site and around the parking lot that meet or exceed this requirement.

17.94.090 **Site Design, Building Design, Massing, Materials**

A. *Buffering*

1. *In the event of a common property line, a side or rear yard abutting a residential zone shall be at least twenty (20) feet plus one foot for each two feet by which the height of the building exceeds twenty-eight (28) feet.*

FINDING: This building is located in a commercial zone and does not share a common property line with any residential uses.

B. *Connectivity*

1. *The site design must provide direct vehicular connections and safe street crossings to abutting properties.*

FINDING: The site has one entrance off of Seabird Drive that is a direct vehicular connection.

C. *Pedestrian walkways. In addition to the section on parking lot landscaping, the following shall apply:*

1. *Continuous pedestrian walkways shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all retail buildings on the site.*
2. *Walkways shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such walkways shall be located at least 4 ft. from the facade of the building with planting beds in between facade and the walkway for foundation landscaping, except where features such as covered passageways or entryways are part of the facade.*
3. *Pedestrian walkways provided in conformance with 17.94.090, C, 2, above shall provide weather protection features such as awnings or covered passageways within 30 ft. of all customer entrances.*
4. *The site design shall provide convenient pick-up and drop-off areas for cars and transit vehicles.*

FINDING: The applicant's site plan shows continuous pedestrian walkways from the public right of way to the entrance of the buildings. A walkway is provided around the entire parking lot.

D. Building Facades

1. *Front and publicly visible building facades greater than 50 ft. in length, measured horizontally, shall incorporate architectural projections or recesses having a depth of at least three percent (3%) of the length of the facade and extending for at least 20 percent (20%) of the length of the facade. Such architectural features shall be incorporated into exterior wall design at least every 50 horizontal feet.*
2. *Facades facing a street shall have covered passageways, windows, columns, awnings or other such features along at least 60 percent (60%) of their horizontal length.*
3. *Windows, when used as a design feature:*
 - a. *The size and total area of required windows shall be determined by the facade area of the building.*
 - b. *Building facades facing a street shall incorporate window areas equal to a minimum of ten percent of the facade area.*
 - c. *When a building provides multiple storefronts or entry ways to individual businesses, each storefront space shall have window areas equal to 10% of the business facade.*
4. *Facades must include a repeating pattern that includes at least three of the following elements, one of which must repeat horizontally:*
 - a. *Color change;*
 - b. *Texture change;*
 - c. *Material change;*
 - d. *Architectural or structural bays, provided through a change in plane of at least 12 inches in width, such as an offset, reveal or projecting rib. All elements shall repeat at intervals no more than 30 feet horizontally and vertically.*

FINDING: The Planning Commission has the authority to impose conditions based on the following provision: *Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust.* In reviewing the list above, Staff does not find that the building façade requirements minimize environmental impacts, so therefore this criterion does not apply.

E. Entrances

1. *All public entrances shall be covered. The minimum width of coverings shall be the width of the entry doors and shall be a minimum of ten feet in length.*
2. *Where multiple businesses will be located within the same building, the main customer entrance to the building shall conform to the requirements of this Section.*
3. *Delivery and service bays shall be located in rear of the building, unless the approving authority determines the configuration to be impractical. Ingress and egress of service drives shall be clearly posted.*
4. *At least one facade shall feature a customer entrance. The entrance shall be on a facade that faces a street with pedestrian walkways or main parking lot. All entrances shall be architecturally prominent and clearly visible from the street.*
5. *Each establishment shall have clearly visible customer entrance areas. The design of facades with customer entrances, as well as those abutting public streets, shall be enhanced with a least one feature from a minimum of three of the following groups:*
 - a. *Group 1*

- 1) Canopies
- 2) Awnings
- 3) Porticos
- 4) Overhangs
- b. Group 2
 - 1) Recesses/projections
 - 2) Architectural details, such as tile and moldings, which are integrated into the building and design
 - 3) Windows and/or display windows
- c. Group 3
 - 1) Covered walkways
 - 2) Arches
- d. Group 4
 - 1) Raised corniced parapets over entrances
 - 2) Peaked roofs
- e. Group 5
 - 1) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting
 - 2) Public plazas

FINDING: This project does not include a public entrance and therefore these requirements do not apply.

F. Materials and Colors

- 1. *More than 75% of exterior building materials shall include brick, fire resistant cedar shakes and shingles, beveled or ship-lap or other narrow-course horizontal boards or siding, vertical board and batten siding, durable stucco, rock, stone, or tinted and textured concrete masonry units. Other materials may be permitted if approved by the approving authority.*
- 2. *Visible exterior building materials shall not include smooth-faced concrete block, smooth-faced tilt-up concrete panels, or unarticulated board siding (e.g., T1-11 siding, plain plywood, sheet pressboard) unless approved by the approving authority.*
- 3. *If approved by the approving authority, building trim and accent areas may feature primary or other bright colors.*

FINDING: The Planning Commission has the authority to impose conditions based on the following provision: *Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust.* In reviewing the list above, Staff does not find that the materials and colors requirements minimize environmental impacts, so therefore this criterion does not apply.

G. Roofs

- 1. *Roofs shall have no less than two of the following features:*
 - a. *Parapets, the average height of which shall not exceed 15 percent (15%) of the height of the supporting wall, unless greater heights are necessary to screen HVAC equipment. Parapets shall not at any point exceed one third of the height of the supporting wall. Parapets shall feature three dimensional cornice treatment and shall not be of a constant height for a distance greater than 150 ft.*
 - b. *Overhanging eaves or cornices, extending at least 3 ft. past the supporting walls.*
 - c. *Sloping roofs with three or more slope planes. Sloping roofs shall:*

- 1) not exceed the average height of the supporting walls; and
- 2) have an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run; and
- 3) have a vertical rise less than or equal to one foot for every one foot of horizontal run.

FINDING: The Planning Commission has the authority to impose conditions based on the following provision: *Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust.* In reviewing the list above, Staff does not find that the roofing requirements minimize environmental impacts, so therefore this criterion does not apply.

Chapter 17.96 OFF-STREET PARKING AND LOADING

17.95.020 Off-street parking.

At the time a new structure is erected or enlarged or the use of an existing structure is changed, off-street parking spaces shall be provided as set forth in this section unless greater requirements are otherwise established. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if it would result in less space than is required by this title. When square feet are specified, the area measured shall be the gross floor area of the building but shall exclude any space within a building devoted to off-street parking or loading. When the number of employees is specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space. Parking requirements for specific uses are shown in the following table:

Table 17.96.020

PARKING REQUIREMENTS FOR SPECIFIC USES

| A. Residential Uses | |
|--|--|
| 1. Single-family dwelling | Two spaces. |
| 2. Two- or multifamily dwelling units | Spaces equal to 1.5 times the number of dwelling units. |
| 3. Apartment house, rooming house or boarding house | Spaces for eighty (80) percent of the guest accommodations plus one additional space. |

FINDING: The applicant is required 1.5 spaces per dwelling unit. With 48 units proposed, this is equal to 72 required parking space. The applicant has proposed to provide 84 standard parking spaces and 4 ADA space with van unloading, for a total of 88 parking spaces.

17.96.040 General provisions for off-street parking and loading.

- A. *The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented which show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional*

upon the unqualified continuance and availability of the amount of parking and loading space required by this title. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this title to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.

FINDING: The proposed development will require a defined number of parking spaces based on Table 17.96.020 of the Bandon Municipal Code. This approval is based on the uses outlined in this application, and any increase in intensity of use will require additional parking. Since the applicant has prepared a parking plan that meets the number of parking spaces required by code, Staff finds this criterion has been met.

F. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

FINDING: This will be included as a condition of approval to ensure compliance.

H. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met shall accompany any application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being met, including the following:

- 1. Delineation of individual parking and loading spaces;*
- 2. Circulation area necessary to serve space;*
- 3. Access to streets and property to be served;*
- 4. Curb cuts;*
- 5. Dimensions, continuity and substance of screening;*
- 6. Grading, drainage, surfacing and subgrading details;*
- 7. Delineation of obstacles to parking and circulation in finished parking areas;*
- 8. Specifications as to signs and bumper guards;*
- 9. Other pertinent details. (Amended during 2000 codification.)*

FINDING: This will be required as a condition of approval to ensure compliance.

17.96.050 Design requirements for parking lots.

A. Areas used for parking vehicles and for maneuvering shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.

FINDING: The applicant has proposed to pave the parking lot, which is a durable and dustless surface. Parking lot drainage will be connected to the City's existing storm drainage system.

B. Except for parking in connection with dwellings, parking and loading areas adjacent to or within residential zones or adjacent to dwellings shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence or not less than five nor more than six feet in height, except where vision clearance is required.

FINDING: The subject property is not zoned a residential district, therefore this criterion does not apply.

C. Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb which is at least four inches high and which is set back a minimum of four and one-half feet from the property line.

FINDING: The applicant will be required to submit a parking plan with their Zoning Compliance application. This requirement will be included as a condition of approval to ensure compliance.

D. Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.

FINDING: The applicant has not submitted a lighting plan as part of their application. This requirement will be included as a condition of approval to ensure compliance.

E. A standard parking space shall be eight and one-half feet by nineteen (19) feet.

FINDING: The applicant will be required to submit a parking plan with their Zoning Compliance application. This requirement will be included as a condition of approval to ensure compliance.

F. Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.

FINDING: The parking lot layout and flow is designed in such a manner that vehicles will not have to back out to or maneuver within a right-of-way.

G. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of traffic and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service anticipated traffic. In no case shall access point of service drives to a street be less than one hundred (100) feet apart, measured from center to center. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers on street frontage not occupied by service drives.

FINDING: There is only one access to their property from Seabird Drive.

H. Driveways shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and straight line joining said lines through points thirty (3) feet from their intersection.

FINDING: The applicant will be required to submit a parking plan with their Zoning Compliance application. This requirement will be included as a condition of approval to ensure compliance.

I. All parking lots will meet requirements of the Americans with Disabilities Act.

FINDING: The applicant will be required to submit a parking plan with their Zoning Compliance

application. This requirement will be included as a condition of approval to ensure compliance.

J. For standards not specifically cited in this title, additional dimensional standards for parking lot features shall be consistent with the most recent edition of Architectural Graphic Standards.

FINDING: The applicant will be required to submit a parking plan with their Zoning Compliance application. This requirement will be included as a condition of approval to ensure compliance.

K. For uses other than residential uses, one third of the required spaces may be compact spaces. Compact spaces shall be eight feet by sixteen (16) feet.

FINDING: The applicant has not proposed any compact parking spaces.

L. For parking lots for motels, restaurants or retail businesses of more than twenty (20) spaces, five percent of the total number of spaces will be R.V. spaces at least ten (10) feet wide by thirty (30) feet long.

FINDING: This application is for a residential use, therefore this criterion does not apply.

17.96.060 **Completion time for parking lots.**

Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the building inspector. If the parking space is not required for immediate use, an extension of time may be granted by the building inspector, providing a performance bond or its equivalent is posted equaling the cost to complete the improvements as estimated by the building inspector. If the improvements are not completed within one year's time, the bond or its equivalent shall be forfeited and the improvements constructed under the direction of the city.

FINDING: The required parking spaces will be made available for use before a Certificate of Occupancy is granted by the City.

17.96.070 **Vehicle access points.**

To promote public safety, the number of vehicle access points to arterial roads and highways shall be kept to a minimum. In reviewing applications for land divisions and discretionary permits, the planning commission shall limit the number of vehicular access points by requiring shared access, reserve strips, eliminating circle drives (with two access points) and taking other actions consistent with the directives of this chapter.

FINDING: The applicant has only proposed one access point

III. Discussion

The City's Commercial Design Standards lean heavily towards retail uses and do not provide the same context for a residential use. Staff recommended that the applicant supply a plan that meets the city's commercial design standards because it is a use in a commercial zone, however not all requirements translate well to a multi-family apartment building. The proposed design meets the City's basic requirements, providing a design

that fits in well with the existing neighborhood and provides continuity throughout the site. While the Planning Commission might choose to have a discussion with the applicant about whether the proposed style of the building fits in well with the Bandon style, please remember that there is a provision in our Conditional Use chapter that prevents conditions being placed on this application which would discourage needed housing through unreasonable costs or delays.

As part of the application, a Transportation Impact Analysis (TIA) was submitted to meet the requirements of the partition, approved in Plat P2007 #28. The report details the purpose of the project, the origin of the ODOT requirements on the partition, and the impact that this project will have on our transportation system. When the property was being partitioned, the uses purposed were large-scale commercial, expected to generate a significant number of peak hour trips, which would then ostensibly affect the traffic along our ODOT controlled right-of-way, Highway 101. The applicant's Transportation Engineer states that the proposed multi-family project will generate about 5-percent of the peak-hour trips that were previously expected for retail/commercial uses.

The TIA goes on to provide further detail about the impact, showing the estimated trip generation during weekday, as well as distribution along the abutting and nearby streets. The proposed development is estimated to generate 351 new weekday daily trips, of which 27 will occur during the weekday pm peak hour. Of those trips that occur during the weekday pm peak hour, 24 are expected at the US101/Seabird Drive intersection, versus 540 weekday pm peak hour trips with the prior retail use that was proposed as part of the partition.

Since the available previous traffic count information was from 2008, the Engineer provides an operational analysis based on 2021 existing conditions and forecasts out to 2023, the expected construction date for the multi-family project. The report also takes into account changes in traffic patterns that may be occurring presently due to Covid-19, based on information provided by ODOT. Future volume forecasts are based on local growth patterns and the Automatic Traffic Recorder on Highway 101. This work was conducted in an effort to provide an analysis of the build/no-build scenarios.

The report's comparison of the no-build or with site conditions signal warrant review used the Manual on Uniform Traffic Control Devices (MUTCD) traffic signal warrants for both 100-percent and 70-percent warrant factors to determine if the site conditions affect the need for a signalized intersection. The comparison shows that with or without the proposed project, the warrant for the signal is met in certain categories and not met in others. Therefore the project does not impact or change the need for a signal.

The report makes the following conclusions:

- *The proposed 3.13-acre site is planned to include 48 multifamily residential units within four separate two-story structures. The existing access will be closed, and a new access is proposed via a single access onto Seabird Drive located midway along the frontage.*
- *The site is zoned as C-2, General Commercial, which allows the development as a conditional use.*
- *The development is estimated to generate 351 weekday daily trips of which 27 trips (17 in, 10 out) are expected to occur during the weekday p.m. peak hour.*
- *Traffic operations show that all study intersections are expected to meet City operation standards with build out of the site in the year 2023.*

The report makes the following recommendations:

- *The project will be required to construct sidewalks along the site frontage on Seabird Drive as well as an accessible pedestrian access to the buildings from the sidewalks.*
- *The project will be required to maintain clear vision triangles as well as intersection sight distance at the new proposed access on Seabird Drive.*

- The new driveway should be constructed with concrete “dust pan” apron rather than curb returns to distinguish between the public and private access connections and maintain pedestrian priority along the sidewalk system.
- The traffic volumes at the Highway 101/Seabird Drive intersection should continue to be monitored as the surrounding area builds out to ensure adequate operations and the need and the timing for signalization.
- The project will contribute to the City’s long-range transportation needs through the payment of Transportation System Development Charges.

As part of their application, and as listed in the Traffic report, the applicant is proposing to move the access from the current “shared access” easement shown on the partition plat, to the center of the property with access still available to Parcel 3 through the southern edge of the easement. Parcel 3 is owned by the City of Bandon and is used for drainage retention. Parcel 3 is not permitted access to Highway 101 and is required to use the shared access with Parcel 2. The Applicant should provide clarification about whether they are proposing to move the shared access easement to the driveway entrance, or if the access easement will remain as is, should Parcel 3 need to be accessed in the future.

The application is subject to the requirements of the Hazards Overlay Zone because it is located in “high” or landslide susceptibility area. The image below is copied from the Coos County Coastal Atlas, the document used to make a determination. The applicant’s property also contains a known wetland. If the applicant is successful in receiving a Conditional Use Permit, staff will review a Geologic Assessment Review and a wetlands delineation report prior to the applicant receiving zoning compliance approval.

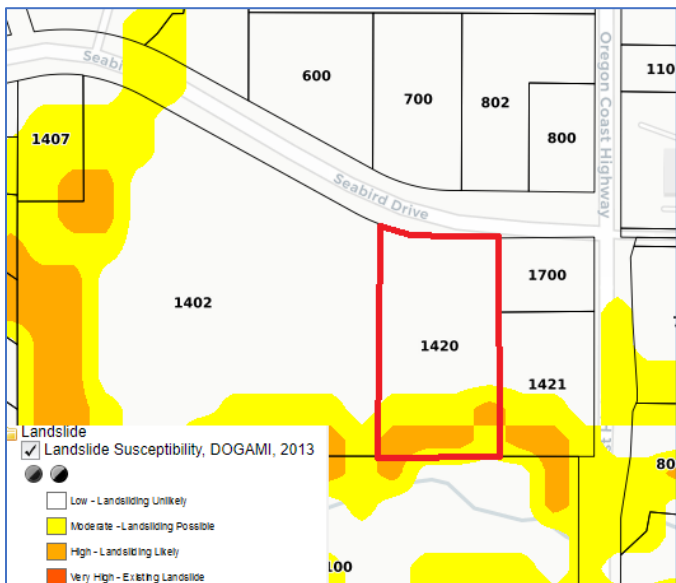


Figure 1 Landslide Susceptibility

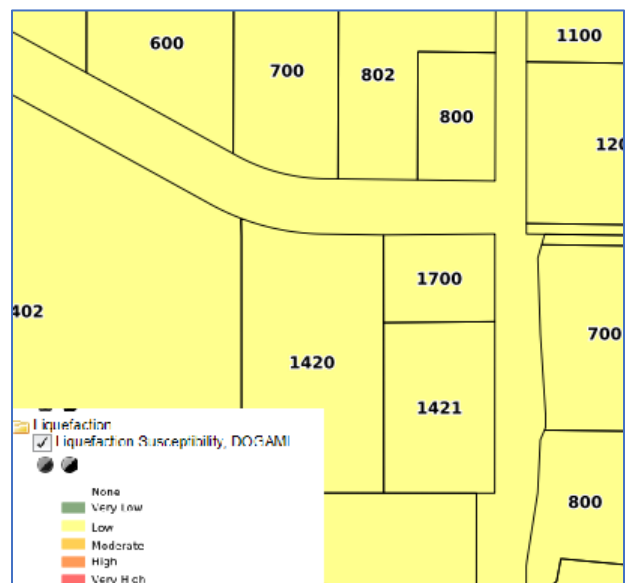


Figure 2 Liquefaction Susceptibility

IV. Recommendations

If approved, the applicant will submit final building plans to the City adhering to the requirements of Bandon Municipal Code and the conditions set forth in this application. The applicant has provided preliminary plans to show what the proposed building site will look like. Staff will review these plans for conformance and assess System Development Charges based on these plans prior to issuing zoning compliance.

Based on the information provided by the applicant and the requirements of the Bandon Municipal Code, Staff recommends approval with the following conditions added:

1. That the plans submitted in this Conditional Use application shall be in substantial conformance with plans submitted as part of a future Zoning Compliance application.
2. All proposals of the applicant shall become conditions of approval unless otherwise modified by Staff.
3. All applicable permits shall be obtained from Federal, State or Local governmental agencies.
4. The applicant shall pay all required System Development Charges upon receipt of zoning compliance.
5. The applicant shall submit final plans for landscaping, lighting, parking lots, and otherwise prior to receiving zoning compliance.
6. The applicant shall be required to either provide sidewalks, curbs and gutters to City standards for the property along Seabird Drive or sign an anti-remonstrance agreement for a future Local Improvement District for such work.
7. All plans shall be reviewed and approved by the City Engineer prior to the issuance of Zoning Compliance.
8. All vision clearance requirements as listed in Bandon Municipal Code 17.104.090 shall be followed and included on plans required for Zoning Compliance.
9. Any damage to City streets resulting from construction of use of the street during construction shall be repaired.
10. The property is subject to Chapters 17.78 (Hazards Overlay) and 17.102 (Wetland Protection Standards) of the Bandon Municipal Code and shall submit the required paperwork to determine applicability prior to receiving zoning compliance.
11. All landscaping plans shall be approved by the approving authority and installed and subsequently maintained in good condition and in perpetuity by the owner of the property. Maintenance shall include, but not be limited to, watering, pruning, trimming, mowing, debris and weed removal, and if necessary replanting or replacement of failed landscape elements. Failure to maintain the landscaping in good condition shall be considered a nuisance and subject to citation to Municipal Court under Section 8.08 of the Bandon Municipal Code.
12. Trees shall be planted in landscaped areas such that the tree trunk is at least 3 ft. from any curb or paved area.
13. The landscaped area shall be planted with shrubs and/or living ground cover to assure 50% coverage within 1 year and 90% coverage within 5 years. (Landscaped area is either covered with low lying plants or overhung by the branches of shrubbery).
14. All parking lots will meet requirements of the Americans with Disabilities Act.
15. Features used to screen electrical equipment shall be approved by the electric department.
16. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
17. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met shall accompany any application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being met, including the following:
 - a. Delineation of individual parking and loading spaces;
 - b. Circulation area necessary to serve space;
 - c. Access to streets and property to be served;
 - d. Curb cuts;
 - e. Dimensions, continuity and substance of screening;
 - f. Grading, drainage, surfacing and subgrading details;
 - g. Delineation of obstacles to parking and circulation in finished parking areas;

- h. Specifications as to signs and bumper guards;
 - i. Other pertinent details. (Amended during 2000 codification.)
- 18. Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb which is at least four inches high, and which is set back a minimum of four and one-half feet from the property line.
- 19. Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.
- 20. A standard parking space shall be eight and one-half feet by nineteen (19) feet.
- 21. Driveways shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and straight line joining said lines through points thirty (3) feet from their intersection.
- 22. For standards not specifically cited in the Bandon Municipal Code, additional dimensional standards for parking lot features shall be consistent with the most recent edition of Architectural Graphic Standards.
- 23. The new driveway shall be constructed with concrete “dust pan” apron, as proposed by the Transportation Impact Analysis provided by the applicant.