



Staff Report

City of Bandon Planning Department

Bandon, Oregon 97411

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FILE NUMBER: 21-063
APPLICATION TYPE: **Quasi-Judicial (Conditional Use Permit)**
REQUEST: To designate an existing single-family dwelling as a Vacation Rental Dwelling on property zoned CD-1 in the City of Bandon.

STAFF LEAD: Megan Lawrence, City Planner

**PROPERTY OWNER:
AND APPLICANT** Reed and Stacie Block
11633 N. Carson Way
Gold River, CA 95670

LOCATION: 3085 Beach Loop Drive SW
28S-15W-36CC / TL 3100

ZONE: CD-1 (Controlled Development 1)

HEARING DATE: June 17, 2021

An application requesting approval of a Conditional Use Permit was received by the Bandon Planning Department on May 24, 2021. The application was deemed complete on May 24, 2021, and noticed in accordance with the requirements of Section 17.120.060 of the Bandon Municipal Code.

AUTHORITY:

The Planning Commission of the City of Bandon has the authority to act as decision makers on Conditional Use permit and consolidation land use applications pursuant to Chapter 2.24.080 of the Bandon Municipal Code.

APPEAL PROCEDURE:

Pursuant to Chapter 17.124, any Applicant or any other person with standing may, within ten days after the Notice of Decision of the Planning Commission has been mailed, file a written request with the City Recorder appealing the decision to the City Council. The written request appealing the decision of the Planning Commission shall state specific reasons for the appeal based upon the substantive, applicable criteria of the application, subject to the appeal requirements contained in Chapter 17.124. The Conditional Use fee is billed at the actual cost of the application with a \$ 1,000.00 deposit. The fee for appeal of this decision will be the actual cost of the appeal, with a \$ 1,000.00 deposit.

I. **REQUEST:** Approval of a Conditional Use Permit to designate an existing single-family dwelling as a Vacation Rental Dwelling (VRD) on property zoned CD-1 (Controlled Development 1) in the City of Bandon.

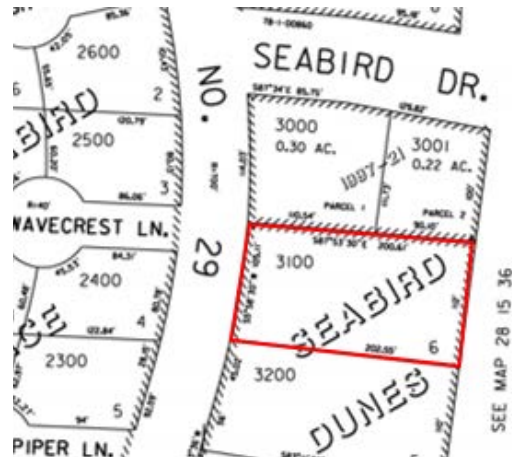
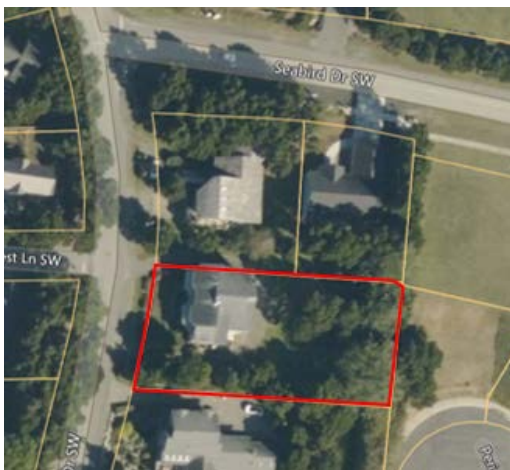
II. **BACKGROUND**

A. **General**

A 2,768 square foot, two-story, single-family dwelling, with attached garage exists on the property with date of construction listed as 1982 by the Coos County Assessor's Office. The subject property has been used as a primary residence since its original date of construction.

B. **Characteristics of the Property**

The subject property consists of one parcel, tax lot 3100, lot 6 of the Seabird Dunes Subdivision. The property fronts Beach Loop Drive SW to the west, and is surrounded on all other sides by residential lots developed with single-family dwellings.



1. **Location:** The subject property is located on the east side of Beach Loop Drive SW, south of Seabird Drive.
2. **Zoning and Plan Designation:** The subject property is zoned Controlled Development 1 (CD-1).
3. **Size:** The combined subject property is approximately 0.46 acres in size.
4. **Access:** Access to the subject property is from Beach Loop Drive SW.
5. **Public Utilities:** City water, sewer and electric are currently connected to the subject property.
6. **Natural Hazards:** N/A

7. Existing Land Use:

- a. **On Site:** The property has been used as a primary residence since its construction in 1982.
- b. **Surrounding:** The subject property is surrounded by CD-1 zoned properties of mixed residential and commercial use.

8. Land Use Designation:

- a. **Comprehensive Plan:** Controlled Development 1
- b. **Zone District:** CD-1
- c. **Overlay:** VRD

9. Notification: All related public parties have been duly notified in accordance with Section 17.120.090 of the Bandon Municipal Code.

10. Comments: At the writing of this report there were no comments submitted.

III. CONFORMANCE WITH APPLICABLE CRITERIA AND REQUIRED BURDEN OF PROOF

THE FOLLOWING ARE THE CRITERIA WHICH ARE APPLICABLE TO THIS APPLICATION:		
1. TITLE 17 – CHAPTER 17.24 – CONTROLLED DEVELOPMENT 1 (CD-1) ZONE		
1.1	17.20.030	Conditional Uses
2. TITLE 17 - CHAPTER 17.92 - CONDITIONAL USES		
2.1	17.92.010	Authorization to grant or deny conditional uses.
2.2	17.92.020	Authorization to impose conditions.
2.3	17.92.040	Approval standards for conditional uses
2.4	17.92.090 (K)	Standards governing conditional uses; Vacation Rental Dwellings

1.1 BMC 17.20.030; Conditional Uses

Vacation Rental Dwellings are conditional uses in the CD-1 Zone and require Planning Commission approval through a Public Hearing.

Finding: A Conditional Use Application was submitted to the City on May 24, 2021.

2.1 BMC 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 Planning Commission has the authority to grant, deny, or condition Conditional Uses.

2.2 BMC 17.92.020; Authorization to impose conditions

The City of Bandon may impose additional discretionary conditions, if the City considers the additional conditions necessary to assure that the requested conditional use is compatible with other uses in the

vicinity, and to protect the city as a whole. Additional conditions may include (but are not limited to): changes in required lot size or yard dimensions; building height limitations, controlling the location and number of vehicle access points; requiring additional right-of-way areas or changing the street width; requiring public improvements such as street, sidewalks, water/sewer line extensions and/or bike paths; changing the number of off-street parking and loading spaces required; limiting the number, size and location of signs; requiring diking, fencing, screening or landscaping to protect adjacent or nearby property; requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust; limiting the hours, days, place and manner of operations; limiting or setting standards for the location and intensity of outdoor lighting; setting requirements on the number, size, location, height and lighting of signs; requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.

Finding: In approving an application for a conditional use, the Planning Commission may impose additional conditions necessary to assure that the use is compatible with other uses in the vicinity and to protect the community.

2.3 BMC Chapter 17.92.040; Approval standards for conditional uses

A. The comprehensive plan;

The applicant states, "To the best of our knowledge, this home and the site is consistent with the comprehensive plan."

Finding: Staff finds this criteria met.

B. The purpose and dimensional standards of the zone except as those dimensional standards have been modified in authorizing the conditional use permit;

The applicant states, "This home is located within the CD-1 zone and to the best of our knowledge the dimensional standards are consistent for a conditional use permit."

Finding: Staff finds this criteria to be met.

C. That the site size and dimensions provide adequate area for the needs of the proposed use;

The applicant states "The lot size is .46 acres and has a wrap-around driveway plus a two-car garage and a separate RV garage. Plenty of room for parking and ease of getting in and out of the lot. The house itself 2768 SF with 2 bedrooms, 2 baths, large kitchen, living, dining, laundry, and sunroom upstairs and 1 bedroom (possibly 2), 1 full bath, and a full living space downstairs. This should provide adequate area for use as a VRD for 9 guests."

Finding: Staff finds this criteria to be met.

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;

The applicant states, “We are not planning to make any major changes to the architecture or design of the exterior of the home or lot, unless required to do so to get approval for a VRD, in which case we will work with planning to comply. The only design feature of the building that we want to do right away is to modify the railings on the balcony so that it can be a bit safer for small children and pets. We believe that the size and dimensions should provide adequate area for use as a VRD without many modifications.”

Finding: Staff finds this criteria to be met.

E. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features;

The applicant states, “To the best of our knowledge the current characteristics of the site are suitable for use as VRD without any major changes.”

Finding: The site is similar in size, shape, location, topography, and natural features to surrounding properties which are a mixture of residential dwellings and VRDs. Staff finds this criteria to be met.

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;

Finding: No new services have been proposed. Staff finds this criteria to be met.

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;

The applicant states, “Since we are not making any major changes to the design, lot layout, driveways, etc. this should have no adverse effects on the surrounding area, nor should it limit the uses listed in this zone by other properties. Parking will all be off street.”

Finding: Staff finds this criteria to be met.

H. All other requirements of this title that apply.

Finding: Staff finds this criteria to be conditionally met.

2.4 BMC 17.92.090 (K) Vacation Rental Dwellings

Vacation Rental Dwellings. Vacation rental dwellings (VRDs) are a conditional use in the CD-1 and CD-2 and CD-3 zones, and are subject to the requirements of this chapter. Conditional use permits are a discretionary decision by the City subject to review by the Planning Commission. VRD's are not an outright permitted use in the CD-zones. All vacation rental dwelling shall comply with the following provisions.

1. The single-family detached dwelling proposed for the VRD shall be at least three years old, calculated from the date of issuance of a certificate of occupancy;

The applicant states that the property was built in 1982.

Finding: Staff finds this criteria to be met.

2. Less than 30% of the single-family detached dwellings within 250 feet of the subject property, and located in a zone where VRD's are allowed, are VRD's;

The applicant states that the saturation calculation is well below the maximum allowed 30%.

Finding: The existing VRD saturation is 23%, with 3 VRDs and 13 Single-family dwellings located within 250 feet of the subject property. Staff finds this criteria to be met.

3. In the CD-1 zone, single-family detached dwellings proposed for VRD status may be located only in the VRD-overlay zone as indicated on the attached map. VRD's are allowed as a conditional use in all areas of the CD-2 and CD-3 zones;

The property is located in the CD-1 Zone and is located in the VRD Overlay Zone.

Finding: Staff finds this criteria to be met.

4. The VRD Conditional Use Permit is valid for the named applicant of record and is not transferable to a new applicant. Upon change in named applicant due to sale, transfer, or other reason, the CUP shall become null and void. A new applicant shall apply for a new conditional use permit;

The applicant states that they are the property owners of the subject property.

Finding: Staff finds this criteria to be met.

5. Tsunami Preparedness – all VRD's shall post the Bandon Tsunami Evacuation Route map in a conspicuous location within the dwelling;

The applicant states that tsunami evacuation signage will be posted inside the VRD.

Finding: Staff finds this criteria to be met.

6. No more objectionable traffic, on-street parking, noise, smoke, light, dust, litter or odor is emitted from the VRD than a normal neighborhood dwelling;

The applicant states, "There is no reason that this home should cause any additional traffic, noise, on-street parking, smoke, light, dust litter or odor. It is located in an area that is already close to other VRD units, hotels, beach houses, etc. There is plenty of on-site parking to accommodate all occupants."

Finding: Staff finds this criteria to be met.

7. VRD's without private beach access shall provide written permission from all persons with an interest in a private beach access to be used by the VRD or positive action to notify renters of the location and required use of public beach access points shall be taken;

The applicant states, "There is a public beach access just a bit more than one block to the north of this property. It is a very short walk taking only a few minutes. There is no need for any private beach access. It is also a very short ride to Face Rock State Beach access."

Finding: Staff finds this criteria to be met.

8. VRD's using a joint access driveway shall provide evidence that all other owners of property utilizing the private access agree to the proposed vacation rental dwelling using the private access;

The applicant states that no joint driveway access is required or proposed.

Finding: Staff finds this criteria to be met.

9. VRD's will be maintained at or above the level of surrounding dwellings in the neighborhood, including landscaping, signage and exterior maintenance;

The applicant states, "This home will be very well cared for, inside and out on a daily/weekly basis by our manager. We are planning to refresh the outside paint immediately. We have already made arrangements for weekly landscape service to make sure that all sprinklers are fully operational, all landscaping is green, lush, and manicured. We have not decided exactly what landscape improvements we will be doing but we both have very high standards and anything that we do will only enhance the beauty of this home. After all, this will be our vacation home as well."

Finding: Staff finds this criteria to be met.

10. VRD's shall have one off-street parking space for each bedroom in the VRD, but in no case have less than two off-street parking spaces. A bedroom is defined as an enclosed sleeping area with a built-in closet. Approved off-street parking areas shall be available to accommodate full occupancy of the VRD without the use of on-street parking;

The applicant states, "There is plenty of off-street parking for this home. The driveway is a wrap-around type that could easily fit appx 6 cars in addition to the two-car garage that will always be available for the guests/renters. Lastly, there is a large RV garage that could also be used for additional parking."

Finding: A minimum of three off-street parking spaces is required for a three bedroom VRD. Staff finds this criteria to be met and exceeded.

11. Evidence shall be provided ensuring that there is regular garbage removal from the premises;

The applicant states that garbage removal will be handled by the property manager on a daily basis and upon departure of each guest.

Finding: Staff finds this criteria to be met.

12. There shall be an owner or designated local management person immediately available to handle complaints and problems on a 24-hour basis. The name and contact information of the designated local management person shall be kept on file in the Police Department and Planning Department. The owner or management person shall be available by phone and physically able to respond to the VRD within a reasonable time period;

The applicant states they will provide the property manager's 24-hour contact information to all appropriate parties.

Finding: Staff finds this criteria to be met.

13. Compliance with all reporting and accounting requirements of the transient occupancy tax ordinance shall be done in accordance with the City of Bandon requirements;

The applicant agrees to comply with all reporting and accounting requirements.

Finding: Staff finds this criteria to be met.

14. If the VRD activity ceases for a period of one year, or fails to be rented for more than 10 nights within a calendar year, as determined by the transient occupancy tax receipts and rental documentation, the VRD permit becomes null and void with no further proceedings;

The applicant states they will use the VRD as a year round short-term rental.

Finding: Staff finds this criteria to be met.

15. Occupancy of any VRD shall not exceed 3 people per bedroom up to a maximum of 10 people. The Planning Commission shall determine the maximum occupancy of the VRD based upon bedrooms, parking, overall home floor plan and site plan, and other factors determined by the Commission based upon neighborhood characteristics outlined in item 6 above and others deemed significant. The occupancy determined by the Planning Commission may be less than the maximum allowed

The applicant states, "We are seeking 9 occupants based on the current bedroom count, but there is also a room that is currently used as a shop/storage. We believe this was a 4th bedroom in the past."

Finding: Staff finds this criteria to be met.

16. VRD's require a conditional use permit (CUP). All criteria for a CUP must be addressed and included as part of the application materials. The applicant shall also address the surrounding neighborhood and provide information how the proposed VRD is appropriate given the specific characteristics of the neighborhood.

The applicant submitted a complete CUP application on May 24, 2021.

Finding: Staff finds this criteria to be met.

17. The applicant shall provide an annual report to the Bandon Planning Department showing compliance with all conditions and ordinance requirements. Failure to provide such report shall result in revocation of the Conditional Use Permit.

The applicant agrees to provide the City with an annual report as required.

Finding: Staff finds this criteria to be met.

18. Smoke detectors shall be provided in all potential and actual sleeping areas, whether or not such detectors are required by the building code.

The applicant states that smoke detectors are or will be installed in each bedroom prior to approval and occupancy of the VRD.

Finding: Staff finds this criteria to be met.

IV. Discussion

1. Life Safety Inspection:

With the 2018 Vacation Rental Ordinance update, requiring VRDs be at least three years old prior to applying for a CUP, the Planning Department has seen an increase in CUP applications requesting VRD approval for older homes. Because CUPs are discretionary decisions and the Planning Commission has the authority to impose any condition deemed necessary to approve a request, Staff has recommended in past applications that property owners obtain a satisfactory “whole home inspection” for the subject property prior to final approval of the CUP, to ensure the home is safe for commercial use as a vacation rental. Due to the age and location of the subject property, Staff recommends adding this condition as a condition of approval, should the Planning Commission find the application approvable.

V. Recommendation

Staff recommends approval of Planning Permit #21-063, Conditional Use Permit for 3085 Beach Loop Drive SW with the following conditions:

Proposed Conditions of Approval:

1. Approval of the CUP shall be subject to a satisfactory whole home inspection by a certified licensed Oregon home inspector. The purpose of the inspection is to determine the conformance of the dwelling with the requirements of the Oregon State Building Code. Prior to advertisement and operation of the VRD, the property owner shall make all necessary alterations to the dwelling required by the Oregon State Building Codes Division.
2. The number of the 24-hour local contact shall be posted in a conspicuous place within the dwelling.

3. A notice shall be posted in a conspicuous place informing guests of the nearest public beach access.
4. The Bandon Tsunami Route map shall be posted in a conspicuous location within the dwelling.
5. The number of guests is restricted to 9; 3 bedrooms total, 3 guests per bedroom.
6. Trash shall be enclosed at all times.
7. Exterior lighting shall be limited to the existing fixtures, which shall be modified to point directionally downward if not currently downward facing.
8. Transient Occupancy Tax shall be paid, and annual reporting shall be completed as required; if the Transient Occupancy Tax account is not current, no rental shall be allowed while the account is in arrears.
9. Use of the dwelling for transient occupancy prior to licensure by Coos Health and Wellness and registration with the City's Finance Department shall result in revocation of the Conditional Use permit.
10. Failure to conform to the conditions of approval shall result in revocation of the Conditional Use permit.
11. All state, federal, and county permits associated with this approval shall be obtained and maintained for the life of the Vacation Rental Dwelling prior to registration of the with City Finance.
12. Prior to advertisement or operation as a Vacation Rental Dwelling, the applicant shall provide a copy of their Traveler's Accommodations License, issued by Coos Health and Wellness, to the City of Bandon.
13. Approval of the application is based on information provided by the applicant.
14. Agreements or statements of the applicant on the application materials or testimony shall become conditions of approval.

Alternatively, the Planning Commission may wish to discuss additional conditions, or make amendments to staff's proposed conditions of approval, or take additional action not listed herein.