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Wednesday, February 10, 2020

Virginia Gustafson Lucker, Hearings Officer
Dana Nichols, Planning Manager
c/o City of Bandon
P. O. Box 67, Bandon, Oregon 97411

re: *Bandon Beach Hotel Plan Review Meeting – Application #20-078*

Dear Hon. Virginia Gustafson Lucker and Ms. Nichols,

I continue to represent Steere Bandon Associates, L.L.C., the project sponsor. This is a reply to the various last-minute comments. If any more last-minute comments tumble in after 4:30pm today we will respond tomorrow in the meeting.

Mary Lou Gillam. We thank Ms. Gillam for her respectful request for us to help guard against transient, unauthorized users in the project's parking lot. We agree with the principle, and we will invite the City of Bandon to help us with civil enforcement where we cannot adequately privately enforce, and we will invite the federal USF+W to curb any abuses which may occur in the USF+W parking lot.

Nancy Evans. On June 3, 2019, the City of Bandon found that the project will not adversely affect the function of the Refuge (see pages 21–24), and on April 28, 2020 the Land Use Board of Appeals (LUBA) affirmed this finding (see pages 8–11). Ms. Evans contributed testimony in the Bandon hearings and the newest submissions of today are consistent with the concerns and values she had expressed and alluded to earlier. We commend Ms. Evans for her continuing strong advocacy for the Oregon Coast National Wildlife Refuge Complex.

Bill Russell. We have always been fond of Vivian Connolly account shared by the Oregon Historical Quarterly (OHQ), and we enthusiastically endorsed its submission into the record during the underlying Conditional Use Permit (CUP) process. We agree that Coquille Point's assemblage into the National Refuge system is a great success story for this resource and for the City of Bandon.

Robert Jones. On June 3, 2019 the City of Bandon adopted findings (see pages 8 and 9) regarding the native grade and height calculation and approving the project dimensions. The City's findings were affirmed by LUBA on April 28, 2020. Our neighbor Mr. Jones may be reassured that we are following code. I'd be happy to send him the drawings and walk him through the local topology.

Robert Fischer. Dr. Fischer's comments are essentially a restatement of his views expressed in earlier proceedings years before. On June 3, 2019, the City of Bandon

declined to accept his views about conflicts with the Refuge, the definition of native grade and height, the geotechnical suitability of the site, and the various water and bluff and drainage issues. On April 28, 2020 LUBA rejected his appeal and affirmed the City's findings. With respect to Dr. Fischer's worries about City infrastructure, I direct attention to the City Engineer-approved Drainage Report. Dr. Fischer seems to be confusing the concepts of *volume* and *flow rate* in his personal analysis of storm drain runoff. The detention system won't be adding in any additional storm drainage flows into the system. Downstream flows are not being increased so there will be no impact on the existing capacity of the downstream system.

Kelly Moroney, Project Leader, USF+W Oregon Coast National Wildlife Refuge Complex. We appreciate Mr. Moroney's statement that USF+W continues to be neutral with respect to this application and does not oppose issuance of this permit. USF+W participated and contributed testimony in the underlying conditional use permit (CUP) approval hearings, and on June 3, 2019, the City of Bandon found that the project will not adversely affect the function of the National Wildlife Refuge (see pages 21–24) and specifically found the opinions of the project sponsor's professionals more credible than Dr. Fischer's consultant Dr. Gunnar Schlieder (see pages 29–33). On April 28, 2020 the Land Use Board of Appeals (LUBA) affirmed the City's findings (see in particular pages 8–11).

We agree that the USF+W Coquille Point Staircase is an aging structure and complex engineering challenge, complicated by the design choice to locate it on a beach bluff near a natural drainage basin. We support USF+W's decision to not re-locate the structure to a less challenging location, but to investigate how best to rehabilitate the existing structure in the context of its pre-existing natural site challenges and the challenge of its immediately adjacent hardscaped parking lot. To be solicitous of Mr. Moroney's concerns received just today (February 10, 2021) I asked Eric Oberbeck, RG, CEG to re-visit the site, re-review the latest water level findings, and produce a new and updated engineering-stamped report dated today. Mr. Oberbeck reassuringly concludes:

Finally, as was successfully argued to the Bandon City Planning Commission, Bandon City Council and to the State Land Use Board of Appeals, by draining near surface groundwater away from the structure and redirecting it either into the city's storm drain system or into an onsite infiltration system, water will be removed from the slope. We know that groundwater is the catalyst for slope failure and that when soil slopes become saturated and groundwater levels rise, it causes slope instability resulting in wasting and erosion. Conversely, we know that by dewatering slopes, we decrease the density (weight) of soil, the hydrostatic pressure and seepage pressures while simultaneously

increasing the shear strength of the soil thus helping to stabilize the slope.

In conclusion, we see no evidence of geologically recent erosion of the sea cliff west of the hotel site. No fresh earthen scarps, no areas of settlement and no wasting of the slope. It is our opinion that the slope is stable and will remain stable for the life of the project. Our slope stability analysis performed during our site evaluation confirms this. And we believe based on our GW monitoring that groundwater, even after historically high periods of rainfall will be below our lowest excavated grade. And that surface and near surface GW will be intercepted by our drainage system and rerouted away from the sea cliff thus improving stability of the slope.

We re-emphasize that value USF+W and the Refuge resource land and we will be working mindfully and in close consultation with USF+W in all aspects of development and operation.

Eric Schroeter. As a neighbor, we care about Mr. Schroeter and this paragraph should be understood in that spirit. We believe we have fulfilled the requirements of the municipal code, and the conditions of conditional use proposal, but we are amenable to adopting subsequent policies to address Mr. Schroeter's specific neighborly concerns, including concerns which may develop in the future and which none of us can know about yet. We believe that Mr. Schroeter's analysis of the Bandon Municipal Code with respect to signage regulations is incorrect, but we are amenable to listening to him and the City of Bandon if a slightly relocated sign at Beach Loop & 11th Street would somehow be more optimal. We observe that the only reason we are improving the sidewalks and ramps near the hotel is to help the City meet ADA standards. Beach Loop Drive is not adjacent to any of the proposed development, does not provide ADA access from the parking lot to the hotel and has nothing to do with this development. Installing sidewalks on Beach Loop Drive would have no impact on Hotel guests parking or not parking in the new parking lot. We agree with current values that vehicle headlights should not directly shine onto Wildlife Refuge land, but we observe that USF+W's own parking lot provides at least *seven spaces* for cars to front-in park and shine their headlights directly onto the offshore rock formations. As USF+W evolves its own policies with respect to the resource we will adopt compatible policies, and at all times we strive to be a good neighbor and partner with USF+W for achievement of Refuge policies.

Rose Hart. Ms. Hart is a neighbor and we appreciate learning of her concerns. It is standard construction practice to not allow construction material and "personnel litter" to blow onto neighboring lands and the Wildlife Refuge. We believe the existing

set of conditions, as well as pre-existing City ordinances on nuisances and the like, adequately protect against her expressed concerns.

Sean Malone. The landscape plan was developed in consultation with Sherri Laier, a naturalist with Oregon State Parks, and with Kate Iaquinto, Director of the Bandon Marsh National Wildlife Refuge (including Coquille Point). We are unable to imagine a more qualified set of consulting partners and we have not received any objections from them. It is important to remember that “native” plants are not required; “native” is not a filter or qualifier for all selections; the concept of “native” is one of many touchpoints in assembling the plan. The landscape plan should therefore not be thought of as a disparate list of plants, but as an integrated, holistic plan to extend the character and function of the existing ecosystem, to ensure cover of ground to prevent erosion, and to provide successful growth in the localized micro-climate of the Coquille Point area, all while meeting the requirements of the City of Bandon and the restated conditions of approval. We believe we have accomplished this beautifully and creditably.

Vickie Crowley. We agree that the Newport, Oregon landslide, which dated back to the 1980s, continues as a cautionary tale for all coastal development. Please see the discussion by Eric Oberbeck, RG, CEG, dated and submitted today (February 10, 2021) which is relevant to this site and plan review.

Sincerely,



Robert S. Miller III
Attorney at Law