

**BEFORE THE PLANNING COMMISSION
CITY OF BANDON, OREGON
July 22nd, 2021**

IN THE MATTER OF PLANNING ACTION #21-059,
A REQUEST FOR THE APPROVAL OF A CONDITIONAL
USE PERMIT TO CONSTRUCT A 48-UNIT APARTMENT
COMPLEX WITHIN (4) TWO-STORY BUILDINGS ON
PROPERTY ZONED GENERAL COMMERCIAL IN
BANDON, OREGON

) **FINDINGS,
) CONCLUSIONS
) & ORDERS**

OWNER: BENTLY, LLC, JIM M. MURRAY JR.

APPLICANT: DAVID E. WALDRON

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RECITALS:

- 1) Tax lot #1420 of Map 28S-15W-36 is located on the south side of Seabird Drive near the intersection of Highway 101 and is zoned C-2 (General Commercial).
- 2) The applicant is requesting approval of a conditional use permit to construct a 48-unit apartment complex. Bandon Municipal Code 17.44.030 states that residential uses are conditional uses in the C-2 Zone.
- 3) The applicant met with Staff through informal pre-application meetings prior to submitting this application. The applicant then submitted a Planning Permit Application for a Conditional Use Permit on May 6th, 2021 and the application was deemed complete on June 2nd, 2021. A Notice of Public Hearing was mailed out on June 3rd, 2021 for a June 24th, 2021 meeting of the City of Bandon Planning Commission.
- 4) Lot 1420 was created through the partition of a parent parcel into three lots in 2007. This lot is Parcel 2. The partitioned lots were recorded on Partition Plat P2007 #28 and included the following conditions of approval:
 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 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.
- 5) The criteria for approval of a Conditional Use Permit are described in Bandon Municipal Code (BMC) 17.92.040 as follows:

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.*
- 6) Chapter 17.92.090 of the Bandon Municipal Code describes standards for governing conditional uses. For multi-family housing, it states that: *When considering a conditional use for multi-family 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.*

- 7) Because this is an application for a residential use in a commercial zone, Staff required the applicant to meet Chapter 17.94 Commercial Design Standards as part of their proposal.
- 8) The Planning Commission, following proper public notice, held a public hearing on June 24th, 2021 at which time testimony was received and exhibits were presented. Subsequent to the closing of the hearing, the Planning Commission unanimously approved the request for a conditional use permit to construct a 48-unit apartment complex located at tax lot 1420 of Map 28S-15W-36 in the General Commercial (C-2) Zone.

Now, therefore, the Planning Commission of the City of Bandon finds and concludes as follows:

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

- Partition Plat P2007 #28
- Application 21-059
- Noticing affidavits
- Public comments, both written and oral testimony
- Emails from the Oregon Department of Transportation
- Conditional Use Staff Report dated June 24th, 2021
- Minutes from the June 24th, 2021 meeting of the Planning Commission

SECTION 2. CONCLUSORY FINDINGS

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the staff reports, public hearing testimony and the exhibits contained within the whole record.

2.2 The Planning Commission finds that the proposal for a conditional user permit to construct a 48-unit apartment complex in the C-2, General Commercial Zone has met all applicable criteria as described in BMC 17.44, 17.92, and 17.94.

SECTION 3. DECISION

3.1 With regard to Application 21-059, a request for a conditional use permit to construct a 48-unit apartment complex in the General Commercial (C-2) Zone, the Planning Commission finds that the application meets all the criteria as found in BMC 17.44, 17.92, and 17.94.

The Planning Commission voted to approve the request for a Conditional Use Permit with the following conditions:

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.
24. All residents shall be notified that parking, stopping or standing on or near the access easement is prohibited, except for a stop of not more than thirty (30) consecutive minutes for loading or unloading persons or material, as allowed per Bandon Municipal Code 10.12.020(B).

Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the decision to **APPROVE** the conditional use permit for a 48-unit apartment complex at tax lot 1420 of map 28S-15W-36 in the General Commercial (C-2) zone, is supported by evidence contained within the whole record.

Paul Fisher, *Chair*
City of Bandon

Date