

September 28, 2023

To: Bandon Planning Commission
Bandon Planning Department

From: Mary Woolley and Catherine Mills and many of the residents of
Lincoln Ave., Carter, and 3 Wood Dr.

(I have a voice problem today so please bear with me. Fortunately I am not going to sing!!!)

We **like** the idea of an upscale Resort in Bandon. Some residents disagree.

We do think, however, that some very important aspects of the Gravel Point project **must be corrected for it to become an asset to the community.**

First **the landscape.** Why not consult with a local person who has years of knowledge about native plants and their required environments? All the plans submitted show many non-natives and invasive plants as well as a very boring landscape. This is so easily fixed that I don't understand the Gravel Point **reluctance** to do it as is indicated by their latest inappropriate landscape submission. This may not be a code violation but it shows a chasm between what they say they want to do in their objectives and what they are actually planning to do. This is concerning.

Second, and most important, is the poorly **planned traffic approach** to the resort. The **short term planning by both the resort and the City planning department shown by using Seabird, Lincoln, Carter and or Beach Loop as their entry** will only cost much more to fix later with increased construction, land, and repair costs to the local streets which will be damaged by the heavy construction and resort traffic. A direct entry off Highway 101 built prior to the construction of the resort will give the Resort more visibility and **avoid wrecking formerly quiet family neighborhoods . Why would a Premier resort (which I hope they want to be) allow their major traffic flow through residential neighborhoods?** It demeans the project and makes it feel as if they don't have the **funding to do it right.** Since most people use their **GPS to locate their destination, all the incoming traffic will be sent**

down Seabird to Lincoln and onto Carter right through formerly quiet family neighborhoods.

Bandon code 16.12.010 clearly discusses “the creation of traffic hazards or parking problems or other adverse conditions” which the proposed traffic plan creates and allows for the planning committee to make conditions to correct the problem. Requiring a direct street off 101 would correct the hazards.

Code 16.12.020 Further emphasizes the ability of the planning committee to correct this potential traffic nightmare. Also 16.12.040 number 3 states the city should protect the local street network etc.

Third: **Lighting.** None of the premium resorts I have lived in or near required the overhead lighting planned by this resort. The proposed lighting impacts the night sky we have retained so well in most of Bandon and **does not fit in with Bandon** or the dark night sky **neighborhoods it will impact.** This proposed lighting does not even fit in with the stated goals of the Resort. This is another reason which causes us concern about the sincerity of their stated goals.

Fourth: **Sign.** No sign 10.5 feet long or of any size is needed at the intersection of Carter and Lincoln Ave as this should not be an assigned entrance or exit.

We also submitted written comments earlier; however, with the new information provided by the planning department and the resort, we wanted to make the above points as well.

We want this resort to be of premium character and hope that will prevail with the planning commission requiring conditions to the resort's plans as submitted. Let's avoid endless appeals and do it right to get this resort started.

3:42 PM
9/28/23 JH

Michael J. Scalici

525 Bluff Ave SW. Bandon, OR 97411
Bus. 541-290-1520 migs97411@frontier.com

*New Millennium: Natural Resources Consulting & Management
Oregon Coast Wild Harvest*

September 28, 2023

Bandon Planning Commission
Bandon, OR 97411

RE: In Support of the Gravel Point Project

Dear Commissioners,

I would like to express my support for Perk Development's conceptual plan for the Gravel Point Project. I have been retained as their Natural Resources Consultant to complete a wetland delineation on tax lots 2500, 2600, 2700, 100 and 200 in T28, R15, Sec. 26.

Perk Development is the sixth client going back to 2001 for whom I've done wetland delineations on these tax lots. Most of these former clients had ideas for constructing residential lots and one, the Bandon Community Pool wanted to construct a public pool on one of the tax lots. While they were big on ideas, they were short of financing. As a result, they all sold their lots, which allowed them to go fallow and gorse to re-invade.

Without any development, the project site will revert back to gorse thickets, making it inaccessible and a fire threat.

This project is a great opportunity to develop much needed workforce housing, additional lodging, the long-sought community pool, other recreation opportunities and walking trails that connect otherwise disconnected communities in SW Bandon.

There are considerable wetland areas across the site, most of which have been ditched in an attempt to drain them or filled to bury them: only to become invaded with extremely dense gorse thickets. As a result, these wetlands rank low on both function and values.

With respect to the inevitable wetland impacts that will occur, with well-thought mitigation plans, wetland areas could provide greater ecological functions and values and provide effective stormwater management, thus minimizing hydrological additions to the City's stormwater sewer system.

Sincerely,



Michael (Migs) Scalici

If I missed any discussion of funding at last Thursday's planning commission hearing, I apologize.

I have a daughter in Utah who worked for the county planning department. She tried getting through on Zoom Thursday but, of course, didn't make it.

She was wondering about the funding for the Gravel Point project. A somewhat similar proposal was presented in her neighborhood - many years ago. That developer had promised much of the same things that the Gravel Point developers are offering.

Their funding was presented in phases. Phase 1, Phase 2, etc. Right after phase 1, the developers lost the financing. They were left with a few scattered townhouses and a large pond that has since then grown stagnant. I've walked through this area and it is really an eyesore.

I'd hate to see this happening in Bandon.



Janet McCarty

2 October 2023

Kathleen J. Friedland, 2705 Spinnaker Drive, Bandon, OR 97411

To: The City of Bandon Planning Commission

During the 28 September 2023 Commission hearing the presenters on behalf of the Gravel Point resort made statements that raised a number of questions.

They stated that the resort is designed to be a wellness center. Exactly what is being proposed? What type of therapeutic services will be provided? Will physical therapy, medical attention, mental health services, or drug and alcohol rehabilitation be involved?

They stated that only after the project is permitted, will they hold open houses for the community to ask questions and present their concerns. That's backwards. The entire Bandon community should be involved before it is permitted. The Commission meetings are helpful, but with citizen comments limited to 3 minutes, there has not been a robust conversation about this resort.

The \$1 million they estimated to be accrued from the TOT only happens if the 110-room hotel is built. With the Marriott building an 84-room hotel and the other motels being built or expanded on Beach Loop Drive, it is unclear that another 100+ rooms are needed. Where is the business plan that justifies building the hotel at Gravel Point?

Ruining the neighborhood represented on Carter Street, Lincoln Avenue, and Spinnaker Drive to provide access for the heavy construction vehicles, guest traffic, and delivery trucks will require needlessly costly road repairs to streets built for light residential use. The disruption to the character, property values, and homeowner access to this neighborhood is unacceptable. The permits for Gravel Point should not be issued until a proper access road to the east is constructed connecting it directly with 101. Building that road will take time and will be expensive, but it is the correct solution. A first-class resort like Gravel Point should not hesitate to partner with the City of Bandon to ensure its long-term viability. In short, it is not necessary to ruin a quiet neighborhood in order to pursue this development.

Thank you for your time and consideration.



Kathleen J. Friedland

September 30, 2023

To:
City Planning Director Dana Nichols
City Planning Commissioners

RE: App # 23-045 Bandon Beach Venture, LLC; Gravel Point Resort

As fulltime residents of Bandon for 7 years - and visitors for many years prior to that - we have mixed feelings about the proposed Gravel Point Resort. On the one hand, it is a better alternative than shoehorning 200 single-family dwellings into those 25 acres, although we like many others worry about the loss of Bandon's small-town feel as development increases. We don't want to see Bandon become another Cannon Beach. Our primary concern is the proposed traffic routing for the proposed Gravel Point development.

We attended the Planning Commission meeting via Zoom on September 28, 2023, and heard Gravel Point developer Brett Perkins mention that it was "the city" that told him to use Carter Street as the primary access road for the construction of the resort. Knowing now that the use of Carter, and all of the feeder streets to Carter, for the primary public access to the future location of Gravel Point was at the suggestion of the city government is extremely disconcerting to us and likely many other residents of Bandon. It strongly indicates that our city government is willing to expose hundreds of residents along the Seabird Drive "corridor", as well as 11th Street and Beach Loop, to the negative effects and lower quality of life the construction and ongoing traffic a sizable resort will bring. Due to the current heavy commercial truck traffic in the Seabird vicinity, where much of Bandon's new home construction is taking place, a quick inspection will show the pavement on Seabird, Lincoln, and other streets is literally crumbling and, in places, sinking.

The Ocean Trails subdivision that includes Carter is modestly sized residential homes with a vast majority of those occupied by year-round residents. In fact, the entire presumed route that the Gravel Point construction vehicles and major construction supplies will use our quiet residential neighborhoods occupied by full time residents. These include not only Seabird and Carter, but also Spinnaker Drive and Lincoln Avenue. Spinnaker and Lincoln are already used for all access to the rest of Ocean Trails, including Carter. Once Carter is opened to the resort, anyone using GPS to navigate to the that destination will be directed from Seabird to Lincoln or Spinnaker to Carter since it is the shortest route. That's simply how GPS systems work.

There is only one logical resolution to the road access for this proposed development, a main access point from the Hwy 101, even if it takes some time and red tape. I do not see that there is an urgency to approve this application. 24th Street (referred to as Edna Lane on some maps) should be given serious consideration to be used as the main entrance from Hwy 101 to the resort. After studying the online Coos County ArcGIS plat map of the area (<https://www.arcgis.com/home/webmap/viewer.html?webmap=1be7dbc77f8745d78fc5f3e8e85fc05e&extent=-124.579,42.7858,-122.9709,43.5022>), 24th Street seems like a logical choice, for there is a clear right-of-way all the way from Hwy 101 to the eastern side of the Saw Jacques LLC property. It would appear from the ArcGIS plat map that the only area where 24th Street doesn't have a right-of-way corridor is crossing the 60 acres owned by Jacques, who has

evidently partnered with Brett Perkins. From what we understand, Saw Jacques intends to develop that area to provide workforce housing, so it would seem like they should be able to extend that street to the resort, thus providing access to the resort to visitors as well as the resort's workforce.

Nothing was mentioned as far as the need to accommodate an emergency evacuation in the event of a fire or tsunami, which in our opinion could create a significant safety problem for the residents and visitors of this area to escape a major event. Everyone would out of necessity be required to egress on Seabird Drive as a collector street, which would in all likelihood become a bottleneck. Looking to the future, another exit directly to Hwy 101 would seem to be a smart investment that could save lives in an emergency.

Another benefit to the resort from direct street access to Hwy 101 is the visibility gained from signage placed at that location.

We also suggest that if this project is approved and moves forward, all structures be limited to just two floors and/or 28 feet, with parking remaining underground. That will enable the applicant to comply with 17.20.90(B), and also somewhat lower several other impacts such as traffic, congestion, utility usage, parking spots, overall disruption to the area, sticking out from the neighbors, and so forth. In our opinion, the Gravel Point developer shouldn't be given special treatment for a height variance, especially when Mike Kaiser requested one for his hotel at Coquille Point and was denied. Rules should be applied fairly.

In summary, we don't have a problem with the proposed Gravel Point Resort as a whole. Development in one form or another will come to Bandon eventually, yet it is best done intelligently, with a light hand on the land, and with the support of residents rather than over their objections. We believe the developers have some good ideas overall, and looking at the plans, appears to be done in good taste. Our primary concerns are stated above.

Thank you for the opportunity to comment.

Sincerely,
Nancy Bailey
Bruce Williams
601 Seabird Drive SW

Dana Nichols

From: denise frazier <dfrazr@yahoo.com> on behalf of denise frazier
Sent: Tuesday, October 3, 2023 11:59 AM
To: Dana Nichols
Subject: Gravel Point

Follow Up Flag: Follow up
Flag Status: Flagged

I am in favor of the Gravel Point Development. It's design and intention makes a minimal footprint on the 24 or so acres, is flora, fauna, dark sky and community friendly. I commiserate with the folks on Lincoln and Spinnaker regarding traffic. Perhaps a compromise to use Edna through the construction phase might be suggested.

Regards,

Denise Frazier
1259 Wavecrest Ln SW

[Sent from Yahoo Mail on Android](#)

Dana Nichols

From: Teri Spencer <tbowspen@gmail.com> on behalf of Teri Spencer
Sent: Friday, September 29, 2023 12:40 PM
To: planning@cityofbandon.org
Subject: Gravel Point Application 23-045

Follow Up Flag: Follow up
Flag Status: Flagged

As a full time resident of Bandon for 10 years, I am writing today to express my concerns after attending the Planning Commission meeting via Zoom last night, September 28, 2023. My husband and I live in the area bordered by Seabird and Carter (S/N) and Lincoln and Spinnaker (W/E). My signature was included in the public comments titled "Wooley 9-21-23". Although I am very concerned about the traffic issue with the proposed Gravel Point development, I do think it could bring some good things to our lovely Bandon, once the application/plan is acceptable to the residents and the city government.

During the meeting last night the Gravel Point developer briefly mentioned that it was "The city" that told the applicant to use Carter as the primary access road for the construction of the resort. Hearing that stunned me, and I've been thinking it about it since. This morning I have verified that this was, in fact, said last night, and has been reaffirmed today.

The Ocean Trails subdivision that includes Carter is strictly smaller residential homes with a vast majority of those occupied by year round residents. In fact the entire presumed route that the Gravel Point construction vehicles and major construction supplies will use are quiet residential neighborhoods occupied by full time residents. These include not only Seabird and Carter, but also Spinnaker and Lincoln. Spinnaker and Lincoln are already used for all access to the rest of Ocean Trails, including Carter. Once Carter is opened, GPS **will** give the shortest route, and send vehicles from Seabird to Lincoln to Carter.

Review of all the documents included in the Public Hearing packet lacked evidence that any consideration was given by our city government to the impact the immense increase in traffic, not to mention the heavy equipment traffic would have on this well populated section of Bandon. In fact, searching the documents in the packet, including the "Staff Report" for the words "Spinnaker" and "Lincoln" brings up just one reference related to a possible installation of a sewer line at Lincoln. Nothing about the traffic flow.

Knowing now that the use of Carter, and all of the feeder streets to Carter, for the primary public access to the future location of Gravel Point was at the suggestion of the city government, is extremely disconcerting to me and likely many other residents of Bandon. It strongly indicates that our city government is willing to expose hundreds of residents along the Seabird "corridor", as well as 11th St. and Beach Loop, to the negative effects and lower quality of life the construction and ongoing traffic of a sizable resort will bring.

There is only one logical resolution to the road access for this proposed development, a main access point from the 101, even if it takes some time and a lot of red tape. I do not see that there is an urgency to approve this application.

Thank you for the opportunity to comment.

Teri B.Spencer
1051 Roger's Place
Bandon

Dana Nichols

From: kim consol <staroseranch@jps.net> on behalf of kim consol
Sent: Thursday, October 5, 2023 3:59 PM
To: planning@cityofbandon.org
Subject: Public Comment to Public Hearing for Gravel Point Oct. 5

I'm writing in opposition to the Gravel Point project. It is an impressive design slated for the wrong location in Bandon.

Regardless of the plan for the main entrance on Beach Loop being the route for traffic, there will still be added traffic on the residential roads in Ocean Trails subdivision. This traffic will include commercial trucks servicing the hotel, spa, restaurant, etc. Something no one has mentioned is the potential for drunk drivers leaving the establishment and driving through neighborhoods. I know that the developer will say that bar patrons will be hotel guests. Taking a look at the high end design, I doubt that every bar visitor will be able to afford what will likely be expensive lodging.

It has been mentioned that some additional routes may be utilized for traffic. First of all, does that mean annexing the Donut Hole? Please answer that question. As a Donut Hole resident, I oppose annexation. The majority of Donut Hole residents feel the same.

Edna/24th St. is very narrow, one car width. It's also a long established neighborhood with some houses right up against the road. There is NO room for widening the street without removing houses. Is the City or County going to enforce eminent domain in order to tear down those houses?

I live along the right of way for (undeveloped) 20th St. which is proposed as being the connection to Face Rock Rd. and 101 in the 2010 TSP and by the developer. I have asked the Planning Dept. if the new, updated TSP is public and have been told "not yet". So, why does the developer have that in his plans?

From what I see, the width for 20th St. is slightly wider than Edna, but there is no way that it can be as wide as Seabird without taking private property from property owners.

None of the platted road right of ways in the Donut Hole are as wide as Seabird. They were never intended for commercial traffic.

Does the City care more about money and development than from it's property tax paying residents?

Sincerely,

Kim Consol
54914 Harrison Road
Bandon

05 Oct 2023

City of Bandon Planning Commission

Scotty & Deborah Freeman

2651 Lincoln Ave SW

Bandon, OR 97411

Planning Commission Testimony/Concerns

1. Will the ISO (Insurance Service Office) Rating be changed by this massive project?
2. Assuming the resort and new residences will be fully fire sprinklered, will the current water system provide the needed water supply? If not, who pays for the upgrades?
3. Will the existing fire department be able to provide necessary protections with the staffing and equipment on hand or will additional resources (personnel and equipment be needed)?
4. We currently have a shortage of police officers and difficulty filling positions. Will this resort overtax the existing force?
5. The response time for fire, police, and ambulances is already strained. This resort will increase the number of responses for all the above. Has this been addressed?
6. Are any of the migratory bird nesting areas harmed by this project?
7. Are any of the designated wetlands harmed by this resort project?
8. Most businesses (retail, service industry, construction) in Bandon are already short staffed, Where will the resort staffing come from?
9. Bandon is already experiencing a shortage of lower income housing, Where will the resort employees reside?
10. As this resort reaches completion, Will our school system be ready to meet the needs of the employees and their families? Will additional training for our teachers be provided...special needs children, multi lingual students?
11. Has the damage to the streets caused by heavy equipment been addressed?
12. Has the increased traffic (during and after construction) been addressed?
13. Has the increased traffic and commercial vehicle usage of residential streets been addressed?
14. Bandon has two gas stations that frequently run out of fuel. Has then been addressed?

15. The additional noise during construction and after completion needs to be addressed.
16. What upgrades to the current City of Bandon infrastructure will be needed (water, sewer, electric)?
17. Additional City of Bandon staffing will be needed (admin, engineers, inspectors). Who pays this bill?

Respectfully Submitted

Scotty L. & Deborah K. Freeman

5 October 2023

215 – 13th Street SW
Bandon OR 97411
jane@jeffnjane.com

Planning Commission
CITY OF BANDON
55 Highway 101
Bandon OR 97411

RE: Application #23-045
by Brett Perkins, PERK Development et al for the project known as GRAVEL POINT

Dear Members of the City of Bandon Planning Commission,

Kindly accept this letter as my testimony in favor of Brett Perkins' application to minimally develop the site described in the application.

I have reviewed the proposed project and had conversations with the developer; I conclude this project offers a sensitive approach to minimally developing property that could easily be approved for 150 – 200 homes under the current zoning. Unlike typical projects of this type, the developer has included workforce housing units and proposes to be involved with the installation of a long-envisioned public swimming facility.

Having served on the Planning Commission from 1995 to 2000, I understand the knowledge, understanding and temperament required to serve the public – applicants and residents alike – when controversial projects come before Commissioners, City Planner and City Manager. I am proud to say I earned a solid reputation for being fair and reasonable applying requisite requirements and conditions to any and all applicants equally, for not having my own vision and/or agenda for Bandon and for not confusing my personal opinion with the simple premise of “does the proposed project meet the requirements of the zone?”.

Information on zoning and the application process is readily available at the City of Bandon offices or website; a few simple questions is all it takes, in person, on social media or via email, to obtain this type of information. Once an application has been filed, it becomes part of the City's public record, and is available for review by anyone.

That said, I am very concerned – in fact, I'm appalled – at the rumors and unsubstantiated information flying around on social media over this project. The anger, indignation and plain ignorance is disturbing. Simply put, if this project meets and requirements and conditions of the zone, the Planning Commission is OBLIGATED to approve it.

Please don't let histrionics, inaccurate information or personal opinion – yours or that of the citizenry – cloud your judgment in the role you hold as neutral public officials and the duty you must exercise to ascertain if this application meets/fulfills the requirements and conditions of the zone.

Thank you for your time and consideration.

Jane Ujhazi
City of Bandon Planning Commissioner
1995 - 2000

Sean T. Malone
Attorney at Law

PO Box 1499
Eugene, OR 97440

Tel. (303) 859-0403
Fax (650) 471-7366
seanmalone8@hotmail.com

October 5, 2023

Via Email

City of Bandon Bandon
Planning Commission
555 Highway 101
Bandon OR 97411
(541) 347-2437
planning@cityofbandon.org

Re: Oregon Coast Alliance Testimony for the Gravel Point Consolidated Request,
23-045 (Bandon Beach Veanture)

Dear Planning Commission,

On behalf of Oregon Coast Alliance (ORCA), please accept this supplemental testimony on the Gravel Point Consolidated Request. ORCA respectfully requests that the Planning Commission deny the application for the reasons provided below. The Planning Commission must also impose conditions requiring the satisfaction of criteria that the applicant has not yet attempted to satisfy.

As to the variance, they are “generally approved only in extraordinary circumstances and should not be used in place of the normal legislative process of amending zoning regulations.” *Lovell v. Planning Com of Independence*, 37 Or App 3, 7 (1978). If the City wants to address the issue of impervious surfaces or green roofs or height limitations, it must do so through the legislative process, not the piecemeal process of granting variances.

The applicant admits in its additional testimony that “[i]t is the desire of the developer to maintain a natural environment and reduce the need for impervious surfaces.” A variance is not granted for a “desire.” Instead, a variance is based upon a

necessity. Impervious surfaces are always present with development, especially development of this scale. Impervious surfaces are not “unique” or “special” (BCC 16.36.040(B)(1)). Granting a variance for impervious surfaces would set a precedent wherein all development would be granted the variance because all development entails impervious surfaces. The Planning Commission would be effectively legislating if it were to grant this variance.

The variance is not the minimum necessary because it is not necessary at all. Moreover, the applicant cannot eliminate impervious surface areas from the development because it is inevitable in a development. The applicant’s generalized notion of addressing *some* impervious surface area demonstrates that it is neither unique nor necessary.

Moreover, if the variance is tied to the generalized notion of protecting wetlands, which are already protected under the code¹, then the wetlands delineation and DSL review needs to be completed prior to addressing the variance criteria. The Planning Commission, therefore, cannot make a decision on the variance at this time.

As to the RV parking, the code requires 8 RV parking spaces. The applicant alleges that: “It is a rare occasion when an RV will visit a Hotel, and the applicant believes that the parking requirement is specific to a tourist area of town where shopping, dining and beach-going is relevant.” Whether the applicant believes it is a “rare occasion” is irrelevant. 8 RV parking spaces are required and there is no allowance in the code for those to be provided anywhere but the subject property. Even assuming the applicant could provide for off-site parking through a lease, that would require an additional application.

The applicant’s contention that it can obtain a variance through BCC 16.12.020(B) is unavailing. The plain language of BCC 16.12.020(B) provides that conditions may include “[l]imiting the height of the building(s).” This does not indicate or imply that it can be “expanded.” A condition limits a proposal, it does not expand it. What the applicant asks for is contrary to what is permitted by the code in BCC 16.12.020(B). The applicant also cites to BCC 16.12.020(I), which provides for conditions “[r]equiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust[.]” Where a variance is necessary, the applicant cannot obviate that process through conditions. Moreover, the applicant has not demonstrated

¹ Notably, the applicant has not demonstrated why the code is inadequate in its protection of wetlands.

how increased height would minimize “noise, vibration, air pollution, glare, odor, and dust.” The applicant is well-capable of using a roof that does not create noise, vibrations, air pollution, glare, odor, or dust. The applicant’s proposal is conclusory as to how it allegedly satisfies that provision. The applicant cannot obtain a variance through alleged conditions.

Testimony has been submitted that indicates that the increased height will negatively impact views from surrounding, residential properties. *See* BCC 17.20.090(B)(1)(a)(1). Moreover, the requirement that “[a]ll portions of any roofs above 28ft. shall be sloped at a minimum of 3:12 and must slope down and away from the highest point of the structure.” The slope is intended to ameliorate the impacts to views of surrounding properties and avoid a box-like building. Such a building would “result in foreseeable harm to adjacent property owners and the public” because of its box-like shape that the code was intended to avoid. BCC 16.36.040(B)(5). If the applicant wants a green roof, the applicant may do so in accordance with the height requirements, not contrary to them. The applicant’s allegation that “[t]he height exception will improve the views of the surrounding properties by providing Green Roofs” is not based on substantial evidence. And, indeed, not complying with the code will do the opposite by detracting from views.

The applicant’s allegation that not allowing a green roof “would eliminate an important component of our sustainable approach of being good environmental stewards” is illusory. Not only does this also demonstrate that the applicant is seeking a variance based on its desire – which makes the requested variance self-created – but the applicant can use a green roof in compliance with the height standard. The applicant simply refuses to do so because the applicant refuses to scale back its development accordingly. The applicant is not entitled to a variance simply because the applicant wants a particular development. The applicant has presented a choice between a metal roof and a green roof when the applicant can very well use a green roof without changing the height standard.

The notion that the applicant is proposing to be a good environmental steward is also without merit. The applicant is proposing significant construction on wetlands. The applicant cannot develop wetlands and laud itself as an environmental steward by proposing a green roof in order to maximize its development. The applicant is capable of scaling back its development proposal to avoid wetlands and use a green roof in compliance with the height standard.

The staff report notes that the “site does contain an area of high landslide susceptibility, which will require either an exemption request or a Geologic Assessment Review. The applicant has chosen to submit a separate application for review.”² As noted in prior testimony, under *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992), the current application cannot be approved until the separate application is approved. The City must impose a condition that requires the separate application review, and that process must provide all of the substantive and procedural steps provided here. Moreover, various criteria here cannot be determined until the geologic assessment is available for review.

ORCA attaches hereto the landslide susceptibility map from DOGAMI, which demonstrates high landslide susceptibility. As a result, the Hazard Overlay provisions are implicated:

“17.78.020 Applicability

The following areas are considered potentially geologically hazardous and are therefore subject to the requirements of this section:

- A. All lands partially or completely within ‘high’ or ‘very high’ landslide susceptibility areas as mapped in DOGAMI Open File Report 0-16-02, ‘Landslide susceptibility overview map of Oregon[.]’”

The purpose of these provisions is to:

“protect people, lands and development in areas that have been identified as being subject to geologic hazards and to apply review standards to all proposed development activity within the areas subject to geologic hazards by:

- A. Identifying areas subject to natural hazards (Landslide, Coastal Erosion, and Liquefaction);
- B. Assessing the risks to life and property posed by new development in areas of known natural hazard susceptibility; and
- C. Applying standards to the siting and design of new development on lands subject to natural hazards that will reduce the risk to life and property from these hazards[.]”

² The staff report plainly contradicts the applicant’s narrative, which states that “[t]he site is not identified as a high landslide or high liquefaction area as identified by DOGAMI.”

BCC 17.78.010. As of now, the applicant has entirely failed to prepare a geologic review, which is necessary to an understanding of the application, its affects, and how it can satisfy relevant criteria. *See* BCC 17.78.030 (Geologic Review Assessment); BCC 17.78.040 (Geologic Report (Engineering Geologic Report and Geotechnical Engineering Report) Standards); BCC 17.78.050 (Decisions of Geological Assessment Reviews); BCC 17.78.060 (Development Standards for Uses Subject to Review). This application is premature because other criteria are contingent upon completion of the Geologic Review and Assessment.

Under BCC 17.96.040(B), the staff report notes that the “spa amenity was not considered in developing the parking requirement,” yet also states that “[t]he applicant has shown delineated parking spaces meeting the off-street parking and loading requirements.” At the very least, this is contradictory and needs to be addressed further by the Planning Commission. Either the requirements have been met or not. Therefore, the proposed parking.

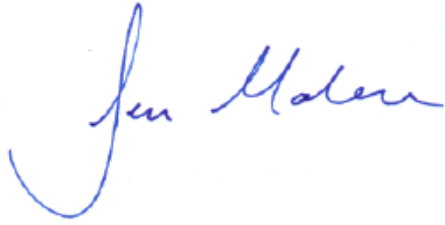
ORCA concurs with the staff report’s statement that:

“[t]he applicant states that the additional height will not negatively impact views from surrounding sites and will not cut off any sunlight but has not provided any evidence other than a statement. The applicant has stated that they own the land to the east, however there are other parcels abutting the project site that may be affected. Further, this code is intended to take into account future development, and there is no guarantee that these property owners will continue to own the abutting site after this approval. They have also stated that the views from surrounding sites will be improved as they will be looking at a green roof, however the height section specifically states that the purpose of regulating height is, “*to maximize the ocean view potential of lots.*” The applicants have not provided evidence that ocean views are not impacted.”

ORCA also agrees with staff that “[t]he applicant did not provide evidence that the setbacks have been increased to meet criterion #5.” To the extent attempts to submit new information or evidence as to these and other requirements, the Planning Commission must leave the record open for 7 days to allow a response.

For the foregoing reasons, ORCA respectfully requests that the application be denied.

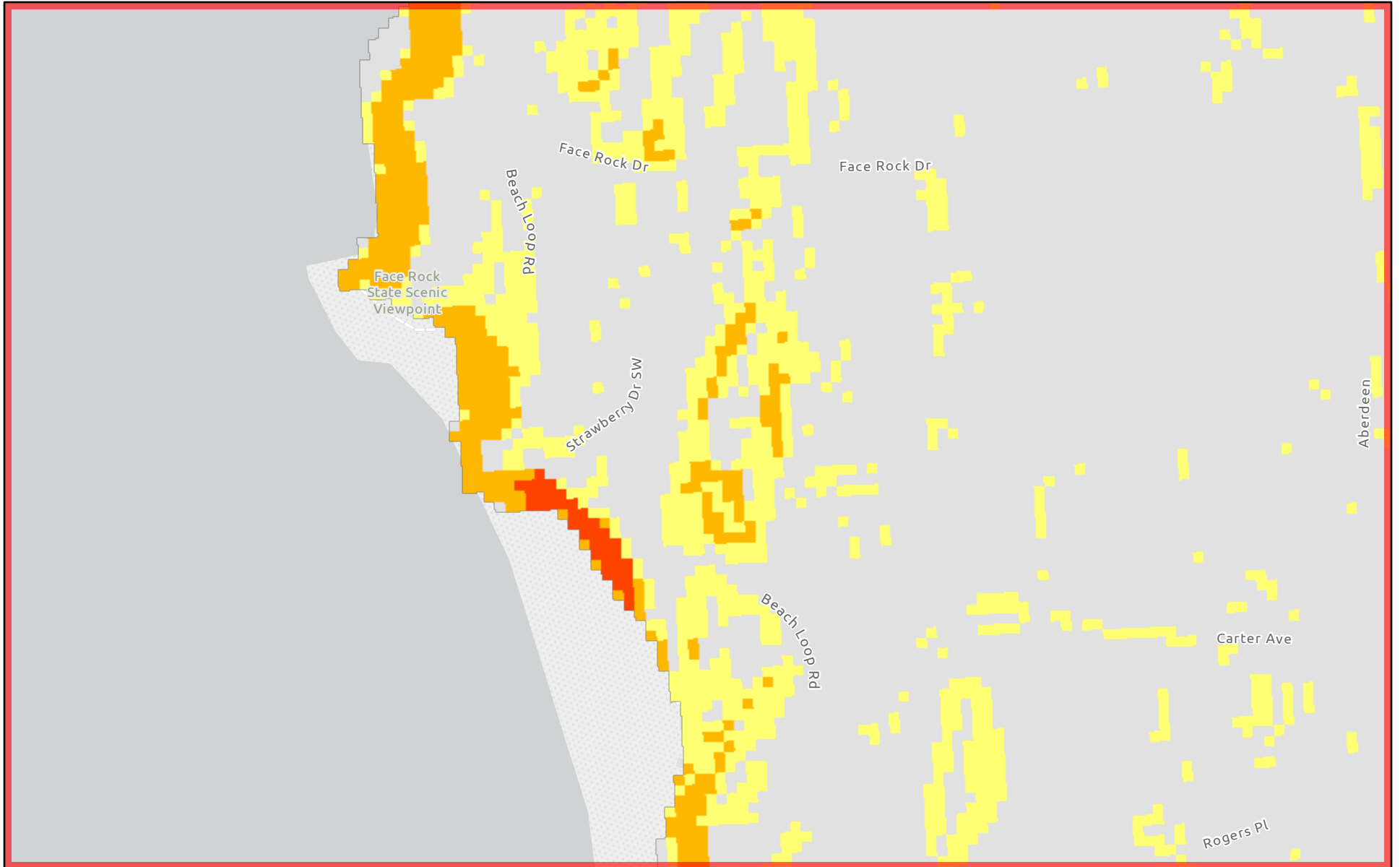
Sincerely,

A handwritten signature in blue ink that reads "Sean T. Malone". The signature is written in a cursive style with a large initial "S" and "M".


Sean T. Malone
Attorney for Oregon Coast Alliance

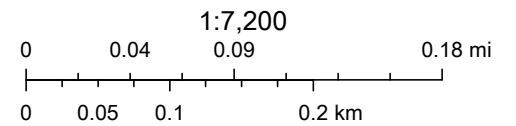
Cc:
Client

Landslide Susceptibility



October 5, 2023

 Detailed Susceptibility Reference Maps



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Bruce R. Spencer
1349 Strawberry Drive SW
Bandon, OR 97411

October 5, 2023

City of Bandon Planning Commission
555 Highway 101
Bandon, OR 97411

Re: 23-045 – Type III Consolidated Application – Gravel Point, additional testimony

Dear Sirs/Madams,

Thank you for allowing me additional written testimony to augment my initial September 21, 2023 testimony.

Regarding the applicant's submitted data supporting their proposal, I hope and trust the commission members are able to perform due diligence on the information included in the applicant's documentation. One example is the claim of \$1,673,068.75 of TOT to Bandon the first year of operation. I am not saying this is wrong, but I do believe it needs some sort of validation or further support. This figure would amount to an average daily/evening rate of \$339.79 per room, assuming *full qualified capacity of every single unit for every single day of the year*. That average room rate and occupancy requirements to meet the stated TOT obviously climbs as the TOT amount indicated in the applicant's data increases to \$2,057,663.53 in year eight. Another concern is if their TOT numbers are just the 9.5% allocable to Bandon, or whether their amounts include the full 11% TOT when added with the state TOT of 1.5%. If the former that is fine, but if the latter, then the amounts they reflect in their documents should be further clarified. Furthermore, my calculations show 61.6% of the total current Bandon TOT goes to the general fund, while 38.4% goes to tourism promotion. Statements from the development team that the completed commercial activity will generate enough TOT to pay for the additional resources (including headcount, equipment, maintenance, and beyond) a project of this magnitude will create need to be considered in this context.

Another concern I have is about both the developer and the applicant/consultant having stated multiple times they are or have been local residents. I apologize for any lack of diplomacy or tact, that is not my intention, I am just attempting to provide what I believe is fuller context. Part of the context is that they have an interest in preserving and protecting Bandon in their endeavors. However, the owner is an out of state LLC, using a Bandon name (which in some professions would be considered misleading), and that LLC is owned in whole by another out of state LLC, Saw Jacques LLC. Saw Jacques LLC appears to be a single member LLC, with that sole member's name and state being easily enough discernable. The lack of transparency, as well as the lack of local ownership, as well as a single owner when it has been communicated it is an investment group, does not give me the level of comfort the development team is trying to instill when saying they are local and have local interests in mind.

Along the lines of the above, there were several points during the applicant's testimony that I continue to be concerned with, not just in the context of a non-local principal, or investment group if that ends up being the case, but in responses to how other testimonies and concerns were addressed:

- At 1:00:59, in response to 'are you going to be able to fill those rooms?' (Mr. Norman?), the applicant stated 'there is a really odd thing about the opinion of small business in Bandon and it's that all small businesses are struggling to keep employment and keep their doors open, and that's not accurate'. I have two issues with this. First, the response has nothing to do with the question, appearing to be a scripted delivery to another testimony item which the applicant tried to include at this juncture. Second, the applicant may be correct that not 'all' small businesses in Bandon are struggling to keep employment and their doors open, that's a blanket statement, and I did not expressly state 'all' in my initial testimony. There are too many Bandon businesses struggling with these issues to have this concern be considered satisfactorily addressed per my initial testimony.
- At 1:05:24 the applicant stated 'the planning commission only has to review the conditional use permit for what is a listed use in the CD-1 zone'. I do not think this statement is accurate in what the commission's responsibilities are, and as further defined in this and other testimonies, nor is it fair in terms of measuring the commission's responsibilities to both the applicant and its constituents. Fortunately, one of the commission members (Mr. Frey?) responded partly to this.
- At 1:14:15 the applicant indicated that while there may be a shortage of residential contractors, there is no shortage of commercial contractors. However, the developer stated at 1:15:21, in response to the timing of construction, that labor is in fact an issue.

The issue whether the suites/villas fall under the Vacation Rental Dwelling (VRD) definition was raised in multiple testimonies. The applicant's response at 1:53:18 stated 'the VRD for commercial use, you can't do that. You can't have two opposing conditional use permits. We are applying for a commercial use, not a residential.'. However, 16.12.090(K) states VRDs are a conditional use in the CD-1 zone, and are subject to the requirements of 16.12.090. Furthermore, Bandon's FAQ VRD Information document defines a VRD. While the applicant states they are applying for hotel/motel usage, definitions and common understandings of what a VRD is vs a hotel/motel dictate this application and proposal should be required to conform to VRD codes for those 32 units.

My September 21st testimony raised a concern regarding the applicant's exclusion of master plan as outlined in 16.08.040 Pre-planning for Large Sites. The applicant's explanation of this exclusion is addressed at 57:57 of the September 28th planning commission meeting, and stated they were 'doing our best to propose what is an isolated proposal based on this 24.8 acres that's not required to go through annexation and a master plan process'. I continue to have a concern with this. 16.08.010(A) defines purpose of this chapter's rules, regulations, and standards governing the approval of not only subdivisions and partitions, but property line adjustments, and further includes any division that creates a street (see applicant's vacate requests), and modifications to lot lines or parcel boundaries including consolidation of lots. 16.08.040(B) states 'This section applies to land use applications affecting more than 40 acres of land under the same contiguous ownership, even where only a portion of the site is proposed for subdividing'. The reference to annexations in this section does not solely enable applicants to exclude the Pre-planning for Large Sites simply because specifically defined annexation is not occurring. Any land use applications where the owners have 40 or more acres of contiguous ownership and are developing less than that 40 acres are subject to this requirement.

Furthermore, 'The spirit of the law' has been brought up several times by the applicant during this process. The 'spirit of the law' is clearly stated in 16.08.040(A) 'the purpose of which is to avoid piecemeal development with inadequate public facilities'. 16.04.080 sections (A) and (B) lead into section (D). The long-term plan requires sufficient level of detail for users of the plan to gain additional understanding of the more fuller impacts on our infrastructure. We have heard much concern about the level of traffic on main roads and in residential neighborhoods, both during what is expected to be

protracted construction period and when the commercial enterprise is in operation. We have heard many concerns about the impacts of machinery and equipment on our road, the impacts of additional auto usage on our roads, as well as suggestions on alternate route options. We have heard many concerns about impacts to the walkability and bikeability of our streets from this project. We have heard much concern about resources, specifically water, in terms of burdens on existing systems, storm drainage, and overall availability in expected lower rainfall seasons. We have heard concerns about the impacts to native flora and fauna. Some of these concerns have been addressed by the applicant, although some would argue they have not been addressed to satisfaction, or only addressed per the current scale of the development. The issue is, at the full 90 acres the development is 3.6 (360%) times the space of the current proposal. That means multiply all of the voiced concerns by 3.6. 3.6 times the wear and tear on our roads, 3.6 times the traffic, 3.6 times the water issues. 3.6 times resource and facilities usage, 3.6 times the impact to the safety and security of our citizens, to our environment, to our other utilities, and so on. I understand the applicant's reluctance on the Pre-Planning for Large Sites section of the code given the timeline of this conditional use permit, and what hopefully is just a misinterpretation of the code. But the application status has to be amended to incomplete, or something else needs to be done, to ensure compliance with this requirement.

My closing point has to do with the applicant's statement at 1:08:34, 'When the roads in Bandon were paved, I believe that was in 2000, the city of Bandon at the time decided to asphalt over the existing base layer. They did not bring any of the streets up to full standard. So for an applicant to be penalized for that is not really part of the conversation.' I understand there are sentiments that perhaps Bandon's infrastructure is not conducive to this development, whereas maybe other cities might be. I not only agree with that, I would argue the infrastructure our city leaders have properly and adequately addressed as meeting the needs of its citizens and the city's visitors should not be penalized or overly burdened with having a project of this magnitude in our city, at least without the development team taking responsibility for ensuring all adequate resources are met in their project.

Thank you again for your consideration to my testimony.

Respectfully,

Bruce R. Spencer