

**ADDENDUM STAFF REPORT  
OF THE PLANNING DEPARTMENT  
FOR THE CITY OF BANDON, OREGON**



**FILE NUMBER:** 23-045

**LOCATION:** 0 Beach Loop Drive  
Map Number: 28S-15W-36BC, TL 219 &  
Map Number: 28S-15W-36C /TL 400, 500, 600, 700, 1500

**APPLICANT:** Coos Curry Consulting Group, Sheri McGrath  
**PROPERTY OWNER:** Bandon Beach Ventures, LLC

**REQUEST:** Approval of a conditional use permit to construct 11- room hotel, two restaurant spaces, meeting rooms, and spa, as well as 32 villas/suites. Approval of a variance to design feature regulating height, and plan review for commercial design standards, parking, and signage.

**REVIEWING BODY:** City of Bandon Planning Commission

**STAFF REPORT PREPARED BY:** Dana Nichols, Planning Director & Henry Hearley, LCOG Planner

**CONTINUED HEARING DATE:** October 5<sup>th</sup>, 2023 at 7:00 PM

**NOTICING INFORMATION:** 250' Notice Mailed: September 7<sup>th</sup>, 2023  
First Evidentiary Hearing: September 28<sup>th</sup>, 2023 at 7:00 PM

**APPLICABLE CRITERIA:** BMC (Bandon Municipal Code) Chapters:  
16.12, Conditional Uses  
16.36, Adjustments & Variances  
17.20, Controlled Development 1 (CD-1)  
17.90, Signs  
17.94, Commercial Design Standards  
17.96, Off-Street parking & Loading

**I. Background**

The Planning Commission met on September 28<sup>th</sup> for the initial evidentiary hearing of a Type III request for a conditional use permit, variance and plan review for the Gravel Point project. There was a request to keep the record open for an additional seven days, which is permitted by ORS 197.797(6)(a). Because the City Hall Council Chamber was nearly full and the online Zoom option reached capacity, and because a request to leave the record open was received, the Planning Commission Chair continued the hearing to October 5<sup>th</sup>, at 7:00 PM in the City Hall Council Chamber, as required by ORS 197.797 (6)(b). The Planning Commission may hear new evidence, arguments, or testimony at this hearing.

## **II. Discussion**

At the last hearing, Staff provided an overview of the applicant's proposal and a general review of the applicable criteria. Staff recommended continuing the hearing to allow for the submittal of additional evidence by the applicant to meet the standards in the Bandon Municipal Code. After testimony from the public and the applicant, there are items that the Planning Commission may choose to discuss in further detail. These are included below.

Additionally, the applicant spoke about other development proposals that are not part of this decision. The reservoir, community pool, and workforce housing are not part of this application and should not be considered in your decision-making process. Unless the applicant would like to submit additional formal plans that tie the development of the reservoir, pool, or workforce housing to this proposal, they are irrelevant.

### **Transportation**

The applicant provided a Traffic Assessment prepared by Parametrix that looked at the impacts of the development on three intersections. The intersection that appeared to have the greatest impact is Seabird Drive SW and Highway 101. The Level-of-Service (LOS) at this intersection is a "D" currently but will move to an "E" in 2026 regardless of any development. With development of the site, the intersection reaches an "F" in 2026, which is considered failing.

Public testimony questioned the validity of the assumptions made by the Traffic Assessment, specifically concerning the data from 2021, which may have been affected by changes in traffic due to COVID-19. The contention was that traffic is currently higher than what is assumed in their report. The Oregon Department of Transportation provided information in an email dated October 3<sup>rd</sup>, 2023 stating that 2020 was the year most affected by COVID-19 and that 2021 is actually the highest traffic year in recent memory. They provided preliminary data from 2023, which trends towards being slightly lower than 2021 numbers.

The traffic impact on this already near-failing intersection is very real. The Oregon Department of Transportation (ODOT) only requires the City prepare a Significant Effect Analysis if the development request is for a zone change or a comprehensive plan amendment or annexation that would affect the ODOT right of way. The data that the applicant has provided is only to meet the city's requirement that: *All required public facilities and services have adequate capacity to serve the proposal, and are available or can be made available by the applicant.*

The Planning Commission may find that the intersection is already below an acceptable level-of-service and that the impact of the development is not sufficient to warrant any mitigation. However, a failing intersection may not be acceptable and the Planning Commission might find that we do not have adequate public facilities to serve the proposed use without some kind of mitigation or a denial.

The project site is bounded by privately owned land that does not contain existing platted rights-of-way. There is no way at this time to require a street connection to either Edna Lane or Face Rock Road out to

Highway 101. The Planning Commission may want to require that the applicant participate in the future extension of either Edna Lane or Face Rock Road by securing a bond in an amount sufficient to the city providing a guarantee for future development. A condition of approval has been added to reflect this recommendation.



On a separate note, the applicant stated that the city required them to include an entrance to the hotel from Carter, which is not quite accurate. The city required the extension of Carter St SW to Beach Loop Drive, which is in keeping with our Transportation System Plan goals of improving connectivity on local streets.

Finally, the applicant has also stated that there is still some confusion about public and private streets in the development. The staff position is that all vehicular access streets should be dedicated as public rights-of-way, and not private streets with public easements. This would include Carter Street and the future north-south connection. If the applicant would like to have driveways to the villas and to parking

lots, those would be considered private. If it is unclear which sections of their roadways are public and which are private from the plans provided, staff recommends the Planning Commission add a condition of approval clarifying their position.

### **Height & Variance**

In the prior report, Staff recommended that the hearing be continued to allow the applicant to submit additional evidence that views and sunlight will not be negatively affected by the 35-foot height allowance. The applicant submitted a sun study showing shadows from the summer and winter solstice. They did not submit evidence regarding views.

### **Parking**

The applicant has requested only two RV parking spaces when the code requires 8. The Planning Commission does have the ability to change the number of off-street parking and loading spaces required. Staff recommends a condition of approval regarding parking spaces to make it explicitly clear what you are requiring.

### **Timing**

The applicant has repeatedly stated that one year is not sufficient to proceed with a zoning compliance application. BMC 16.12.100 *Time Limitation* states that a CUP shall become void after one year **or a greater or lesser time may be specified as a condition of approval**. The Planning Commission may choose to condition the application to allow a longer period of time than one year.

The applicant stated in their testimony dated October 5<sup>th</sup>, 2023: *“BMC 16.04.040 states the expiration date to be two years from the date of the final decision. There should not be a more strict expiration date than provided in the BMC.”* Their reading of this code provision is not correct. The code states: *Except for zoning or comprehensive plan map amendments, conditional use or master plan approvals, all Type I—IV approvals automatically become void if any of the following events occur:*

- 1. If, within two years of the date of the final decision, an application for a building permit has not been submitted. Unless the approval provides otherwise, all building permits associated with the approval shall be issued within five years of the date of the final decision.*

Generally, the applicant is given one year from the date of approval of a CUP to pursue and receive zoning compliance. After zoning compliance, the applicant must apply for a building permit within two years of the date of decision. Then, all building permits must be issued within five years of that decision. As mentioned above, the Planning Commission may condition the application to extend the length of the CUP approval, allowing additional time to pursue street vacation and construction.

Street construction on a proposed dedicated right-of-way is separate from construction approved as part of this application as it will have to be reviewed and approved by the City Engineer.

### **III. Recommendations**

Staff recommends the Commission close the hearing and continue the deliberation and decision to the October 19<sup>th</sup>, 2023 meeting at 7:00 pm in the City Council Chamber.

Should the Planning Commission choose to approve the application, Staff recommends the following conditions (additions or modifications are underlined):

1. All proposals of the applicant shall become conditions of approval.
2. Approval of the plan is based on information provided by the applicant. No other approvals are expressed or implied. Any changes to the approved plan shall be submitted, in writing, and approved by the Planning Department prior to implementation.
3. All state, federal, and city permits associated with this approval shall be obtained by the applicant prior to operation.
4. The conditional use permit shall become void two years from the date the decision is final unless a zoning compliance permit has been issued.
5. The applicant shall submit for zoning compliance approval prior to any ground disturbance.
6. Metal-sided buildings shall be prohibited anywhere on the site.
7. 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.
8. 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.
9. A standard parking space shall be eight and one-half feet by nineteen (19) feet.
10. The applicant shall provide 2 Recreational Vehicle parking spaces.
11. All parking lots will meet requirements of the Americans with Disabilities Act.
12. The applicant shall sign an anti-remonstrance agreement to the formation of an LID for the construction of a future sidewalk system along Beach Loop Drive for the section that abuts their property.
13. A final landscaping plan shall be reviewed and approved, prior to issuance of zoning compliance. Trees shall be planted such that the tree trunk is at least 3 ft. from any curb or paved area.
14. A final landscaping plan shall clearly demonstrate that planted area will cover 50% within 1 year and 90% within 5 years.
15. Prior to issuance of zoning compliance, applicant shall obtain approval of screening materials for electrical equipment from City electrical department or their designee.
16. A 6-foot-tall fence shall be required on the property lines abutting a residential zone.
17. 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 the storage of vehicles or materials or for the parking of trucks used in conducting business or use.
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. The applicant shall be required to submit a resource protection plan prior to commencement of ground-disturbing activities that may affect wetlands or riparian corridors.
21. The applicant shall be required to provide a surety bond sufficient to the city and recorded to the property for participation in the development of a future street connection to Highway 101, upon development of the abutting properties to the east.