



**Clatsop County**  
Community Development – Planning

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**NOTICE OF DECISION**

Date: January 23, 2020

Applicants/Owners: Bruce Bessey and Ronald Kachel

Property Description: T4N, R10W, Section 30CB, Tax Lots 01400 and 01402

Request: Conditional Use Permit – Expansion of Use: Bed and Breakfast in the AC-RCR Zone – Permit #2019000042

Action: **APPROVAL – With Conditions**

Dear Mr. Bessey and Mr. Kachel,

The Community Development Department has completed review of the request cited above. This decision includes findings and conditions of approval, attached.

If you, or a party with standing, wish to appeal this decision, you may do so, up to the date and time appearing at the bottom of this letter. The appeal must comply with Section 2.230 of the Clatsop County Land and Water Development and Use Ordinance #80-14 (procedure for an appeal). This department will not issue development permits for any activities or structures until the 12-day appeal period has expired.

If you have any questions regarding this decision, appeal procedures or any of the conditions of approval, please contact Julia Decker at (503) 325-8611.

Sincerely,

A handwritten signature in blue ink that reads "Gail Henrikson".

Gail Henrikson, Director  
Community Development Department

Attachments: Staff Report and Conditions of Approval

**LAST DAY TO APPEAL: 4:00 PM – February 5, 2020**



**REQUEST FOR CONDITIONAL USE APPROVAL**  
**Conditional Use Permit for Expansion of Use:**  
**Bed and Breakfast in the AC-RCR Zone**  
**Bruce Bessey and Ronald Kachel**  
**CONDITIONS OF APPROVAL, Permit No. 2019-000042**

***Previously approved conditions under which the bed and breakfast currently is operating. Number 1 is amended by number 18:***

1. The Conditional Use Permit is limited to use of the site as a two-unit bed & breakfast. Any future expansion of the number of units would require submission and approval of an additional Conditional Use Permit request.
2. Required parking spaces for the bed & breakfast clients, owner/operators, and employees shall be clearly marked and defined.
3. Parking, turnaround, and driveway access to the bed & breakfast will be as indicated on the site plan submitted by the applicant in conjunction with this Conditional Use Permit application. Any changes in the parking, turnaround, and driveway access must be approved by the Planning Department to ensure continued compliance with access and road standard requirements.
4. Parking shall not be allowed on the private road at any time. All parking shall be contained within the areas designated on the plot plan submitted with the request.
5. The applicant will comply with applicable state and local health, building and fire code requirements in the use of the dwelling as a bed & breakfast.
6. Per Section S3.462 (7B): "A complaint from neighbors shall be cause for review of any Home Occupation conducted as a retail business. The review may be a Type II County enforcement proceeding. In such proceeding, the Compliance Order may impose any of the conditions described in S5.025 of the Clatsop County Land and Water Development and Use Ordinance."
7. Applicant will submit a letter from the Cannon Beach RFPD noting no code deficiencies.
8. All materials, parts, tools and other equipment used in the operation of the Home Occupation shall be stored entirely within the dwelling or accessory building.
9. The Home Occupation will not involve operations or use of equipment or processes which would produce or cause the emission of gasses, dust, odors, vibration, electrical interference, smoke, noise or light in a manner likely to cause offense or irritation to neighboring residences. The Home Occupation complies with the applicable federal, state and local regulations.
12. No more than one unlighted sign with a combined area on all surfaces of 6 square feet shall be used to identify the Home Occupation. No other form of identification or advertisement shall be used. A sign permit from Community Development shall be reviewed and approved.
13. A Complaint from neighbors shall be cause for review of any Home Occupation conducted as a retail business. The review may be a Type II County enforcement proceeding. In such

proceeding, the Compliance Order may impose any of the conditions described in 5.025 of the Clatsop County Land and Water Development and Use Ordinance.

14. Any deliveries or pick-ups of supplies or products, associated with the Home Occupation, will occur between 8am and 6pm.
15. No outside storage, display of goods or merchandise, or external evidence of a home occupation shall occur except as otherwise permitted in this section.
16. The premise upon which the Home Occupation is conducted is the residence of the person conducting the Home Occupation.
17. There will be no non-resident employees or vehicles on the premises in conjunction with the Home Occupation.

***New conditions recommended:***

18. Having been expanded through a conditional use permit application, as required in the original conditions of approval, the bed and breakfast establishment shall have no more than three guest rental units. This amends the original condition of approval, in 1, above, for a two-unit facility.
19. All development activities shall be in compliance with L4.000 Flood Hazard Overlay District.
20. A final commercial site plan shall be required, depicting a minimum of five parking spaces and their measurements.
21. Ocean Point Road and property and parking access shall be depicted on the final commercial site plan, with distances and internal circulation depicted that meet applicable standards found in S5.033 and S6.160.
22. The bed and breakfast establishment shall continue to meet the requirements of S3.464 (2)(A-D); (3)(A-C); (4); (5); (6); (7)(A); (8); (9); and (10).
23. The establishment shall continue to comply with all state and federal regulations, environmental, or otherwise, as part of its operating characteristics.



**STAFF REPORT**  
**Conditional Use Permit #2019-000042**

**STAFF REPORT DATE:** January 23, 2020

**REQUEST:** Conditional Use Permit for Expansion of Use: Bed and Breakfast

**OWNERS/APPLICANTS:** Bruce Bessey and Ronald Kachel  
P.O. Box 832  
Cannon Beach, OR 97110

**DEEMED COMPLETE:** December 5, 2019 (150 Days: May 3, 2020)

**PROPERTY DESCRIPTION:** T4N, R10W, Section 30CB, Tax Lots 01400 and 01402

**PROPERTY LOCATION:** 79819 Ocean Point Road, Arch Cape

**PROPERTY ZONING:** Arch Cape – Rural Community Residential (AC-RCR)  
**Overlay:** Flood Hazard Overlay (FHO), Zone AE

**PROPERTY SIZE:** TL 01400: 0.18 acres (~7,840 sq. ft.), with dwelling  
TL 01402: 0.27 acres (~11,760 sq. ft.), west side of road

**IMPROVEMENTS:** Assessor records indicate a circa 1951 dwelling, located on TL 01400.

**COUNTY STAFF REVIEWER:** Julia Decker, Planning Manager *jud*

**STAFF RECOMMENDATION:** Approval, subject to conditions.

**COMMENTS:** No public or agency comments were received

**EXHIBITS:** 1 Application and Supporting Documents  
2 Public Notice

***I. SUMMARY***

On November 20, 2019, Bruce Bessey submitted a land use application to expand a bed and breakfast operation from two units to three within an existing structure, with no physical expansion of the structure. The original two-unit approval, R&O #06-01-04, was approved January 26, 2006. The original approval and application materials are attached in Exhibit 1. The additional bed and breakfast unit would come from the conversion of an existing room within the dwelling. The bed and breakfast is located at 79819 Ocean Point Road, Arch Cape, also known as T4N, R10W, Section 30CB, Tax Lot 01400, in the Arch Cape – Rural Community Residential (AC-RCR) Zone. The subject TL 01400, at more than 7,800 square feet, exceeds the 7,500 square-foot minimum lot size for the AC-RCR Zone. The tax lot across Ocean Point Road, T4N, R10W, Section 30CB, Tax Lot 01402, in the same ownership, is contiguous and is used in conjunction with the bed and breakfast for beach access and parking. Ocean Point Road is a private road.



2016 Aerial, Clatsop County GIS

A bed and breakfast establishment is evaluated as a Type II conditional use in the AC-RCR Zone per L3.066(10) under county conditional use standards L5.000 and S3.460 (Home Occupation and Bed and Breakfast Standards). No employees are proposed and the business would be operated by family members only.

**PROPERTY STATUS**

The subject TL 01400 was created as Lot 13, Block 43, Cannon Beach Park Extension, recorded with the Clatsop County Clerk on October 11, 1926 (Clatsop County Book of Deed Records, Book 8, Page 43). TL 01400 meets the county’s definition of “lot of record”. LWDUO §1.030. TL 01402, to the west, lies mostly to the west of the Statutory Vegetation Line. It was created by accretion and acquired as a “frontage lot” to TL 01400, Assessor’s Copy #74-102. It is not considered a buildable lot but is accessory to TL 01400.

**PROPERTY CONDITIONS**

The subject property is served by the Arch Cape Sewer District and the Arch Cape Water District. The property is located at the south end of Arch Cape, in a neighborhood of similar homes and vacation rentals. The neighborhood is relatively flat and within the Flood Hazard Overlay and subject to tsunami inundation.

**I. APPLICABLE CRITERIA**

The applicable criteria for this land use application are contained in the following documents and sources:

LWDUO 80-14

- 1.010-1.050 Article 1 Introductory Provisions
- 2.020 Type II Procedure
- 2.115 Procedure for Mailed Notice
- 3.060 Arch Cape Rural Community Residential Zone
- 4.000 Flood Hazard Overlay District
- 5.000-5.030 Conditional Development and Use
- 5.300 Site Plan Review

Clatsop County Comprehensive Plan:

- Goal 1 Citizen Involvement
- Goal 2 Land Use Planning
- Goal 7 Natural Hazards
- Goal 11 Public Facilities and Services

Southwest Coastal Community Plan.

Standards Document

Chapters 2 and 3

## II. APPLICATION EVALUATION

### A. LWDUO 80-14

#### ARTICLE 2. PROCEDURES FOR LAND USE APPLICATIONS

##### Section 2.115 Mailed Notice for a Type II procedure

##### Section 2.120 Procedure for Mailed Notice

**STAFF FINDING:** Public notice was sent to adjacent property owners and to public agencies per L2.115 on November 13, 2019. (See Exhibit 2.)

All requirements of the mailed notice to affected property owners and government agencies for the Type II Conditional Use Permit application (L2.115-2.120) have been met.

#### SECTION 3.060. ARCH CAPE RURAL COMMUNITY RESIDENTIAL ZONE (AC- RCR).

##### Section 3.066. Conditional Development and Use.

10) Bed and Breakfast establishment subject to the standards in Clatsop County Standards Document, Section S3.464 - S3.468.

**STAFF FINDING and CONCLUSION:** The subject property is zoned AC-RCR, Arch Cape Rural Community Residential. Conditional uses for the zone are listed in LWDUO 3.060. The Applicant proposes a "Bed & Breakfast." LWDUO 3.066 (10) allows a " Bed and breakfast establishment subject to the standards in Clatsop County Standards Document, Section S3.464-S3.468."

**Staff finds the proposed bed and breakfast is an allowed conditional use in AC-RCR Zone, subject to all applicable criteria, standards and site plan review. The criterion of Section 3.066 is met.**

#### SECTION 4.000. FLOOD HAZARD OVERLAY DISTRICT (/FHO). (Ord. 18-03)

##### Section 4.011. Definitions

"**SUBSTANTIAL IMPROVEMENT**" means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

- (1) the appraised value of the structure prior to the start of the initial repair or improvement, or
- (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual amount of repair work performed. The term does not include either:
  - (a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
  - (b) Alteration of an Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

##### Section 4.023 Substantial Damage and Substantial Improvement Determination

For applications for permits to improve buildings and structures, including additions, repairs, renovations, and alterations, the Floodplain Administrator, shall:

- 1) Estimate the market value, or require the applicant to obtain a professional appraisal of the market value, of the building or structure before the proposed work is performed; when repair of damage is proposed, the market value of the building or structure shall be the market value before the damage occurred;
- 2) Compare the cost of improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

- (A) Except as indicated in subsections (D) and (E) below, all costs to repair substantial damage, including emergency repairs, must be included;
  - (B) The costs associated with the correction of pre-existing violations of state or local health, sanitary, or safety code specifications that were identified by the building official, the director of environmental health, or any other local code enforcement official prior to the improvement or repair and that are the minimum necessary to ensure safe living conditions shall not be included;
  - (C) Except as indicated in subsections (d) and (e) below, the costs of complying with any county, state, or federal regulation other than those described in subsection (b) must be included;
  - (D) Costs associated with the following items are not included:
    - 1) The preparation and approval of all required plans, calculations, certifications, and specifications;
    - 2) The performance of surveys or other geotechnical or engineering studies and resulting reports;
    - 3) Permit and review fees;
    - 4) The construction, demolition, repair, or modification of outdoor improvements, including landscaping, fences, swimming pools, detached garages and sheds, etc.;
  - (E) Proposed alterations of a designated historic building or structure is not to be considered substantial improvement unless the alteration causes a loss of said designation.
- 3) The Floodplain Administrator shall make the final determination of whether the proposed improvement and/or repair constitutes a substantial improvement or substantial damage;
  - 4) The Floodplain Administrator shall notify the applicant of the results of the determination by letter;
  - 5) Applicant has the right to appeal the determination pursuant to Section 4.021.

**Section 4.025 Development Standards**

**1. General Standards**

In all areas of special flood hazards as presented on the FIRM, the following standards shall apply for all new construction and substantial improvements:

**C) Residential Construction:**

- 1) New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

**D) Non-Residential Construction:**

New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall: . . .

**STAFF FINDING and CONCLUSION:** Part of TL 01400 and most of the dwelling on it are within Zone AE of the Flood Hazard Overlay. Zone AE is identified as the 100-year flood area. Improvements are capped at 50% of the market value of the structure before the start of construction of the improvement, after which the entire structure must be brought up to current code. Because of this, restrictions, described above, require improvements and alterations to existing structures to undergo Flood Hazard Review and Substantial Improvement Determination.

**A condition of approval shall ensure that all development shall occur in accordance with Clatsop County's flood hazard ordinance.**

**The criteria will be met with a condition of approval. (See Condition 19, page 16.)**

**SECTION 5.000. CONDITIONAL DEVELOPMENT AND USE.**

**Section 5.015. Authorization of a Conditional Development and Use.**

- (1) If a development and use is classified as conditional in a zone, it is subject to approval under Sections 5.000 to 5.030. An applicant for a proposed conditional development and use shall provide facts and evidence and a site plan in compliance with Section 5.300 sufficient to enable the Community Development Director or hearing body to make a determination.

**STAFF FINDING and CONCLUSION:** The applicant provided the materials from the original application, stating the original materials are still applicable. The only change is the addition of one-bedroom unit to the original two. The proposed three-unit bed and breakfast, replacing a two-unit facility, is listed in the AC-RCR Zone as a use that may be permitted under a Type II procedure. L3.066 (10). Therefore, this application is evaluated under the Type II conditional use review criteria found in L5.000-5.030.

(2) In addition to the other applicable standards of this ordinance, the hearing body must determine that the development will comply with the following criteria to approve a conditional development and use.

(A) The proposed use does not conflict with any provision, goal, or policy of the Comprehensive Plan.

(B) The proposed use meets the requirements and standards of the Clatsop County Land and Water Development and Use Ordinance (Ordinance 80-14).

**STAFF FINDINGS and CONCLUSION:** Establishment of a bed and breakfast in a lawful dwelling is identified in the AC-RCR Zone as a conditional use, per L3.066 (10), indicating the use was examined when the provisions, goals, and policies of the Comprehensive Plan were developed, and standards were devised at the time to ensure the use could be made consistent with the Comprehensive Plan. These standards were then adopted into the zoning ordinance, ensuring the use could be made to be consistent with the plan and meet the requirements of the zone.

Similarly, given that the use is listed among those that may be conditionally approved by the director, the use was reviewed in general previously and it was determined the use could meet the Land and Water Development and Use Ordinance requirements and standards with appropriate conditions. The standards will be addressed elsewhere in this report, and with conditions of approval, the development will be found to meet the requirements and standards of the ordinance.

**County regulations and conditions of approval shall ensure these criteria are satisfied. (Refer to original and new conditions 1 through 23, pages 15-16.)**

(C) The site under consideration is suitable for the proposed use considering:

1) The size, design, and operating characteristics of the use, including but not limited to off-street parking, fencing/buffering, lighting, signage, and building location.

**APPLICANT RESPONSE (from previous application, resubmitted):** The site under consideration is suitable for the property use. The size, design and operating characteristics of the use are suitable for the site, including adequate off-street parking, fencing/buffering, lighting and building location. Signing will be added within the guidelines of S3.464 (4) upon acceptance of the application.

**STAFF FINDINGS and CONCLUSION:** The applicant has submitted an off-street parking plan that uses the adjacent TL 01402 for parking. The use requires five spaces, two for the residential use and three for the three bed and breakfast units. The applicant depicts six spaces, two on TL 01400 and four on TL 01402, which exceeds the number required; however, measurements are not provided for the spaces on TL 01402. **A condition of approval shall require the measurements are provided and an updated site plan shall document the minimum of the required five parking spaces.**

No changes are proposed to existing signage, fencing or buffering, lighting, and the building is not being expanded. There are no complaints on record regarding the existing bed and breakfast, suggesting the use has not conflicted with the neighborhood. In addition, no public comments were received regarding the proposal, also indicating no conflicts with the use as it now operates.



**A final commercial site plan shall be required, depicting a minimum of five parking spaces and their measurements. The criteria of L5.015 (2)(C)1 will be satisfied through a condition of approval. (See Condition 20, page 16.)**

- 2) The adequacy of transportation access to the site, including street capacity and ingress and egress to adjoining streets.

**APPLICANT RESPONSE (from previous application, resubmitted):** There is adequate transportation access to the site, including street capacity and ingress and egress to the adjoining streets.

**STAFF FINDINGS and CONCLUSION:** Ocean Point Road is a flat, straight private road that serves this dwelling and one other. Originally a platted road, it was vacated in 1975, Book 421, Page 130, Clatsop County Book of Deed Records, by the Board of Clatsop County Commissioners at the request of the adjacent property owners. Staff was unable to find a road maintenance agreement. There may be potential for one more property to be developed. As currently developed, Ocean Point appears to be a driveway for two dwellings and is about 12 feet wide at its narrowest and about 50 feet long at that width, widening to about 15 feet after that for the next 50 feet, at which point it narrows to serve only one dwelling. Table 2- Minimum Road Standards for Private Roads directs lane widths for private roads to be a minimum of ten feet, with turnouts at 800-foot intervals or intervensibly, whichever is less.

Ocean Point intersects with Leech Lane, a county road that ends at the beach access another 50 feet to the west, beyond its intersection with Ocean Point.

The addition of one room to the bed and breakfast would be assumed to add one vehicle to the private road. There has been no reason to find the ingress and egress are inadequate for the current use, and there is no evidence an additional vehicle would change the situation. Staff finds access is adequate, but recommends **the Ocean Point Road and property and parking access be depicted on the final commercial site plan, with distances and internal circulation depicted.** This shall be a condition of approval.

**A condition of approval shall require Ocean Point Road and property and parking access be depicted on the final commercial site plan, with distances and internal circulation depicted that meet applicable standards found in S5.033 and S6.160. With this condition, criteria of L5.015 (2)(C)2 will be satisfied. (See Condition 21, page 16.)**

- 3) The adequacy of public facilities and services necessary to serve the use.

**APPLICANT RESPONSE (from previous application, resubmitted):** There are adequate public facilities and services necessary to serve the use.

**STAFF FINDINGS and CONCLUSION:** The subject property is served by the Arch Cape Water District and the Arch Cape Sewer District, both of which received notice of the proposed additional unit. The site is within the Cannon Beach Rural Fire Protection District. None of the agencies provided comment or expressed concern about being able to serve the expansion.

Transportation was addressed above.

**Staff finds L5.015 (2)(C)3 to be satisfied.**



*Left: Image from Google Earth, June 22, 2017; insert: front of existing structure from Ocean Point Road, facing east.*

- 4) The natural and physical features of the site such as topography, natural hazards, natural resource values, and other features.

**APPLICANT RESPONSE (from previous application, resubmitted):** The natural and physical features of the site such as the topography, natural resource values and other features are suitable for the proposed use.

**STAFF FINDINGS and CONCLUSION:** The dwelling is on the east side of Ocean Point Road, outside the Velocity Zone, but still partially within the AE Flood Hazard Overlay Zone, consistent with other dwellings in the neighborhood. The topography is flat and surrounding uses are other dwellings in an oceanfront community. The natural resource value of the ocean beach is high, but the dwelling is developed, as is the rest of the neighborhood, within a rural community, an area accepted for development, and in a manner that does not conflict with the beach or access to it. The house, developed in 1951, was constructed prior to the adoption of FEMA maps in 1978. No exterior expansion is planned, only conversion of existing interior space. Any new improvements would need to comply with current regulations, which will be addressed by a condition of approval.

**Staff finds the site is suitable for the development when considering L5.015 (2)(C)4. (Refer to Condition 19, page 16.)**

- (D) The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in (C) above.

**APPLICANT RESPONSE (from previous application, resubmitted):** The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in (C) above.

**STAFF FINDINGS and CONCLUSION:** The uses on surrounding properties, residential and vacation rental, are similar in nature to the use of the subject property and no changes in use are anticipated.

**Staff finds the site is suitable for the development when considering L5.015 (2)(C) 1-4), addressed above.**

- (E) The proposed use will not interfere with normal use of coastal shorelands.  
(F) The proposed use will cause no unreasonably adverse effects to aquatic or coastal shoreland areas, and

**APPLICANT RESPONSE (from previous application, resubmitted):** The proposed use does not interfere with normal use of coastal shore lands.

**STAFF FINDINGS and CONCLUSION:** There is no evidence that adding a bedroom unit to the bed and breakfast that has been in use since it was approved in 2006, in a dwelling that has been developed since 1951, would have any effect on the use of coastal shoreland or cause adverse effects to aquatic or shoreland areas.

**Staff finds the use does not interfere with normal use of coastal shorelands, nor will it cause unreasonably adverse effects to aquatic or coastal shoreland areas. These two criteria are met.**

- (G) The use is consistent with the maintenance of peripheral and major big game habitat on lands identified in the Comprehensive Plan as Agricultural Lands or Conservation Forest Lands. In making this determination, consideration shall be given to the cumulative effects of the proposed action and other development in the area on big game habitat.

**STAFF FINDINGS and CONCLUSION: The subject property is not within big game habitat or peripheral big game habitat.**

(3) In addition to compliance with the criteria as determined by the hearing body and with the requirements of Sections 1.040 and 1.050, the applicant must accept those conditions listed in Section 5.025 that the hearing body finds are appropriate to obtain compliance with the criteria.

**Section 5.025. Requirements for Conditional Development and Use.**

In permitting a conditional development and use, the hearing body may impose any of the following conditions as provided by Section 5.015:

- (1) Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- (2) Establish a special yard or other open space or lot area or dimension.
- (3) Limit the height, size or location of a building or other structure.
- (4) Designate the size, number, location or nature of vehicle access points.
- (5) Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
- (6) Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.
- (7) Limit or otherwise designate the number, size, location, height of or lighting of signs.
- (8) Limit the location and intensity of outdoor lighting or require its shielding.
- (9) Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
- (10) Designate the size, height, location or materials for a fence.
- (11) Require the protection of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- (12) Require provisions for public access (physical and visual) to natural, scenic and recreational resources.
- (13) Specify other conditions to permit the development of the County in conformity with the intent and purpose of the classification of development.

**STAFF FINDINGS and CONCLUSION: The conditions of approval from 2006 remain in effect. Other than changing the approval from two units to three and updating the site plan, staff finds only six additional conditions necessary. The original conditions are found in Exhibit 1, and both the original and the updated conditions are included at the end of this staff report.**

**These criteria will be met through the conditions of approval. (See conditions 1-23, pages 15-16.)**

**SECTION 5.300. SITE PLAN REVIEW.**

**Section 5.302. Site Plan Review Requirements.**

Before a permit can be issued for development in a special purpose district or for a conditional development and use or a development and use permitted with review, a site plan for the total parcel and development must be approved by the Community Development Director or Planning Commission. Information on the proposed development shall include sketches or other explanatory information the Director may require or the applicant may offer that present facts and evidence sufficient to establish compliance with Sections 1.040, 1.050 and the requirements of this Section.

**STAFF FINDINGS and CONCLUSION: Site plan review approval is required prior to the issuance of a development permit. Staff finds the information submitted by the applicant is sufficient to conduct preliminary site plan review for the purpose of preparing this report; however, a final commercial site plan shall be required prior is issuance a development permit for conversion of the existing space.**

**This criterion will be met by Condition 20, page 16.**

## **B. STANDARDS DOCUMENT**

### **S2.200. Off-Street Parking Required.**

Off-street parking and loading shall be provided for all development requiring a development permit according to S2.200 to S2.212.

### **S2.202. Minimum Off-Street Parking Space Requirements.**

### **S2.300. Sign Requirements.**

**STAFF FINDINGS and CONCLUSION:** No new signage is being proposed. However, all signage must continue to conform to S2.300 requirements.

**This criterion will continue to be met by an original condition of approval. (See Condition 12, page 15.)**

### **S3.464. Bed & Breakfast Establishment Standards.**

The following standards shall apply to all bed & breakfast establishments in order to preserve the character of the neighborhood or area in which it is to be located. Bed and breakfast establishments shall be allowed in the zones as permitted by this section and as defined by ORS 215.448 (Home Occupations). The regulations have been established to provide an alternative form of lodging for visitors who prefer a residential setting.

- (2) Establishment shall be operated substantially in:
  - (A) The dwelling unit, and historical resource buildings; and
  - (B) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located; and
  - (C) Will employ not more than three full or part-time persons; and
  - (D) The premises upon which the bed and breakfast establishment is conducted shall be the residence of the person conducting the establishment.

**APPLICANT RESPONSE (from previous application, resubmitted):** The establishment is operated in a dwelling unit; it does not unreasonably interfere with other uses in the zone in which the property is located; it will not employ more than three full or part-time employees; and the premise upon which the Bed & Breakfast is conducted is the residence of the person(s) conducting the establishment.

**STAFF FINDINGS and CONCLUSION:** The bed and breakfast will be conducted in the existing dwelling of the owners/operators. It will not interfere with the residential and short-term vacation rental uses in the surrounding neighborhood. The business does not have any employees and does not plan to hire any, according to the current application. **A condition of approval shall require the establishment to continue to meet the requirements of S3.464 (2)(A-D).**

**This criterion will be met through a condition of approval. (Refer to Condition 22, page 16.)**

- (3)
  - (A) One off-street parking space shall be provided for each rental unit plus the 2 required spaces for the residence of the person conducting the establishment. Off-street parking requirements are subject to the standards in Section S2.200-S2.212 (Off-Street Parking Required).
  - (B) Additional parking shall be provided for employees subject to the standards in Section S2.200-S2.212 (Off-Street Parking Required).
  - (C) A reduction in the number of rental units may be required if the impacts of the parking area cannot be mitigated.

**APPLICANT RESPONSE (from previous application, resubmitted):** One off-street parking space is provided for each rental unit plus the two required spaces for the residence of the person conducting the establishment, subject to the standards in section S2.200-S2.212 (Off-Street Parking Required). Additional parking shall be provided for employees subject to the standards in S2.200-S2.212 (Off-Street Parking Required).

**STAFF FINDINGS and CONCLUSION:** The applicant indicates in a current email there are no employees, nor are there plans to add any. This leaves the requirement for parking at five spaces total: two for the residential use and one for each of the three bed and breakfast units. The preliminary site plan indicates six spaces. **The final site plan shall be required to indicate the size of each parking space.**

**This criterion will be satisfied through the conditions of approval. (See conditions 20 and 22, page 16.)**

- (4) Signing is limited to a six (6) square foot nameplate, non-illuminated (replaces S3.462 (6)).

**APPLICANT RESPONSE (from previous application, resubmitted):** Signing will not exceed a six square foot nameplate, non-illuminated (replaces S3.462(6)).

**STAFF FINDINGS and CONCLUSION:** No new signage is being proposed; however, **all signage shall continue to comply with the standards of S2.300.**

**This criterion will be satisfied through the conditions of approval. (See conditions 12 and 15, page 15).**

- (5) All Bed and breakfast establishments shall comply with the applicable state and local health, building and fire code requirements.

**APPLICANT RESPONSE (from previous application, resubmitted):** The Bed & Breakfast establishment shall comply with the applicable state and local health, building and fire code requirements.

**STAFF FINDINGS and CONCLUSION:** This is an ongoing business that already meets the code requirements above. Local health, building code and fire code officials, among others, were notified of this application and no comments were received or concerns raised. **The requirement to continue to meet the above codes is ongoing.**

**This criterion will be met through the conditions of approval. (See conditions 22-23, page 16.)**

- (6) Bed and breakfast establishments shall comply with the development standards of the base zone, and overlay zone where applicable.

**APPLICANT RESPONSE (from previous application, resubmitted):** The Bed & Breakfast establishment shall comply with the development standards of the base zone and overlay zone where applicable.

**STAFF FINDINGS and CONCLUSION:** The use is allowed in the AC-RCR Zone as a conditional use.

**This criterion will be satisfied through the conditions of approval. (See Conditions 1-23, pages 15-16.)**

- (7) Any expansion of an existing building or alterations that increase the intensity of the establishment, may require, at the discretion of the Community Development Director, a Type II conditional use permit subject to Section 5.000-5.030, in the following zones:  
(A) RSA-SFR, RSA-MFR, CR, SFR-1, RA-1, RA-2, RA-5, RA-10, EFU, AF, F-80.

**APPLICANT RESPONSE (from previous application, resubmitted):** Any expansion of the existing building or alterations that increase the intensity of the establishment, may require, at the discretion of the Community Development Director, a Type II conditional use permit subject to Section 5.000-5.030 in zones RSA-SFR, RSA-MFR, Cr, SFR-1, RA-1, RA-2, RA-5, EFU, AF, F-80.

**STAFF FINDINGS and CONCLUSION:** This proposal does not include expansion of the building in any direction. It converts an interior space from private residential use to a bed and breakfast unit. It requires a Type II conditional use review, a requirement with which this application and report comply. (Side note: The above zones include RSA-SFR, which is the zoning that applied to the area currently zoned AC-RCR. The Bed & Breakfast standards will be updated as part of the Comprehensive Plan update to include the AC-RCR Zone.)

**This criterion is met.**

- (8) Residential structures may be remodeled for the development of a bed and breakfast establishment. However, structural alteration may not be made which prevent the structure from being used as a residence in the future. Internal or external changes which will make the dwelling appear less residential in nature or function are not allowed.

**APPLICANT RESPONSE (from previous application, resubmitted):** Structural alterations will not be made which prevent the structure from being used in the future. Internal or external changes will not be made which make the structure appear less residential in nature.

**STAFF FINDINGS and CONCLUSION:** No external remodeling is proposed. The dwelling is partially within the Flood Hazard Overlay, and restrictions on improvements to existing structures that do not comply with current Flood Hazard Overlay regulations apply.

**This criterion will be met through the conditions of approval. (See Condition 19, page 16).**

- (9) An establishment in or adjacent to the AF, F-80 and EFU zones shall not involve activities which might disrupt or adversely impact farm or forest use of the parcel or adjacent parcels.

**APPLICANT RESPONSE (from previous application, resubmitted):** The establishment will not involve activities which might disrupt or adversely impact farm or forest use of the parcel or adjacent parcels.

**STAFF FINDINGS and CONCLUSION:** The adjacent zoning is AC-RCR. The criterion does not apply.

- (10) Access to serve a bed and breakfast establishment shall be designed to meet the criteria within Standards Section S5.032-S5.033 (Access Control) and the applicable standards within Section S6.000 (Road Standard Specifications for Design and Construction).

**APPLICANT RESPONSE (from previous application, resubmitted):** Access to serve a Bed & Breakfast establishment is designed to meet the criteria within Standards Section S5.032-S5.033 (Access Control) and the applicable standards within Section S6.000 (Road Standard Specifications for Design and Construction).

**STAFF FINDINGS and CONCLUSION:** The access via the private road is established and was approved with the 2006 conditional use permit. **The conditions of approval continue to apply.**

**This criterion is met.**

## C. COMPREHENSIVE PLAN

### Goal 1 - Citizen Involvement

#### Policies

7. Clatsop County shall use the news media, mailings, meetings, and other locally available means to communicate planning information to citizens and governmental agencies. Prior to public hearings regarding major plan revisions, notices shall be publicized.
8. Clatsop County shall establish and maintain effective means of communication between decision-makers and those citizens involved in the planning process. The County shall ensure that ideas and recommendations submitted during the planning process will be evaluated, synthesized, quantified, and utilized as appropriate.
9. Public notices will also be sent to affected residents concerning zone and comprehensive plan changes, conditional uses, subdivisions and planned developments.

**STAFF FINDINGS and CONCLUSION:** Appropriate measures [public notice sent to adjacent property owners (Exhibit 2)] have been taken to assure that the Type II Conditional Use Application has been processed in accordance with the applicable Citizen Involvement (Goal 1) policies of the County Comprehensive Plan (7-9) listed above.

**The proposed project does not conflict with Goal 1.**

### Goal 2 – Land Use Planning

The County's land and water have been placed in one of six (6) Plan designations including: 1. Development; 2. Rural Agricultural Lands; 3. Conservation Forest Lands; 4. Conservation Other Resources; 5. Natural; and 6. Rural Lands.

#### 1. Development

Development areas are those with a combination of physical, biological, and social/economic characteristics which make them necessary and suitable for residential, commercial, or industrial development and includes those which can be adequately served by existing or planned urban services and facilities.

In Clatsop County, the County has three types of such areas: cities and their urban growth boundaries; rural communities; and rural service areas, which are areas similar to cities (sewer and water) but lack size and a government structure.

c. Rural Communities. Clatsop County has identified and established boundaries for the following rural communities: Miles Crossing - Jeffers Gardens, Arch Cape, Svensen, Knappa, and Westport. Land use plans in these areas recognize the importance of communities in rural Clatsop County. These communities are established through a process that applies OAR 660 Division 22 requirements. Portions of land identified in the Miles Crossing and Jeffers Gardens rural community plan take an exception to Statewide Planning Goal 3 and Goal 4 for portions of land zoned EFU or AF. The exceptions documentation for a portion of the Miles Crossing and Jeffers Gardens rural community boundary is adopted as part of the Comprehensive Plan, and is located at the end of this section.

**STAFF FINDINGS and CONCLUSION:** The subject TL 01400 is within the Rural Community Boundary of Arch Cape, an area designated "Development" in the Comprehensive Plan. The proposed development is allowed as a Type II conditional use in the AC-RCR Zone as described in L3.066(10). The use has been determined to be consistent with the "Development" designation when appropriate conditions are applied.

**The proposed project does not conflict with Goal 2.**

## Goal 6 – Air, Water, and Land Resources Quality

Goal – To maintain and improve the quality of air, water, and land resources of the state.

1. The County shall encourage the maintenance of a high quality of air, water and land through the following actions:
  - (d) encouraging indigenous, clean industries such as fishing, boat building, tourism, and forest products utilization and
3. The cumulative effect of development on the County's environment should be monitored and, where appropriate, regulated. When evaluating proposals that would affect the quality of the air, water or land in the County, consideration should be given to the impact on other resources important to the County's economy such as marine resource habitat and recreational and aesthetic resources important to the tourist industry.
13. Any development of land, or change in designation of use of land, shall not occur until it is assured that such change or development complies with applicable state and federal environmental standards.

**STAFF FINDINGS and CONCLUSION:** The bed and breakfast occupation is part of the county's visitor industry, one of the indigenous clean industries identified in 1(d), above, encouraged by policy. This report considers the effect of adding the additional bedroom unit to the existing use and finds the impact to be negligible to the surrounding properties. The property is within water and sanitary districts and, while close to the beach, is not anticipated to have any effect on the aquatic shoreland. **A condition of approval shall require the establishment continues to comply with all state and federal regulations, environmental, or otherwise, as part of its operating characteristics.**

**With conditions of approval, the application does not conflict with Goal 6, policies 3, 12, and 13. (See Condition 23, page 16.)**

## Goal 7 - Natural Hazards

### Goal

To protect life and property from natural disasters and hazards.

4. The County shall limit land uses in the floodplain to those uses identified by the adopted floodplain regulations as suitable.

**STAFF FINDINGS and CONCLUSION:** The county's Flood Hazard Overlay shows part of TL 01400 and most of the structure to be within Zone AE. Zone AE is identified as the 100-year flood area. L4.000 restrictions, described in a previous section, require improvements and alterations to existing structures to undergo Flood Hazard Review and Substantial Improvement Determination.

A condition of approval shall ensure that all development shall occur in accordance with Clatsop County's flood hazard ordinance.

**A condition of approval will ensure the proposal does not conflict with Goal 7. (See Condition 19, page 16.)**

## Goal 11 - Public Facilities and Services

### Overall Policy Regarding Appropriate Levels of Public Facilities in the County

Six different Plan designations exist for lands in the County. Differing levels of public facilities and services are appropriate for the different types of development planned for the County. Certain facilities and services are available to all County residents, such as County health services, Sheriff's protection and many other social services.

1. Development - This is a Plan category for estuary and shoreland areas appropriate for commercial and industrial use. Consequently, a level of public facilities sufficient to carry on that type of use is appropriate. Public water and sewer services would be appropriate but may not be necessary depending on the type of development. Public fire protection is appropriate. Development here will not directly affect school services, although increased employment may result in increased housing in the



vicinity which would impact schools. Those impacts will be considered in terms of the residential effects, not at the point of commercial or industrial development.

- b. Rural Service Area (RSA) - The RSAs in the County are Arch Cape, Fishhawk Lake Estates, Shoreline Estates and the old Naval Hospital site. All currently have public water, sewer and fire protection although the current water supply for the old Naval hospital is inadequate. Public water or sewer services and fire protection are appropriate in RSAs and further development must be based on the capacities of the systems. Development in RSAs can have significant impacts on schools. Applications for subdivisions within RSAs will be referred to the appropriate school district. The development will be allowed only if the schools are capable of handling the increased capacity expected to be generated from the proposal.

**STAFF FINDINGS and CONCLUSION:** Arch Cape's AC-RCR Zone is within a Rural Community, formerly referred to as a Rural Service Area, as described above. Public water and sewer utilities are available and the area is within the Cannon Beach Rural Fire Protection District and is served by the Clatsop County Sheriff's Office and Medix Ambulance Service. This application is not proposed to increase employment and, therefore, is not anticipated to impact schools in any way.

**This application is consistent with Goal 11.**

### **Southwest Coastal Community Plan Rural Service Area Development**

Goal: To maintain the low density, residential character of Arch Cape.

**STAFF FINDINGS and CONCLUSION:** Circled below, the subject dwelling is the fulltime residence of the owners who operate it. It is within a developed neighborhood of single-family dwellings and, other than a sign, which is a common feature in neighborhoods with vacation rentals, the dwelling gives the outward appearance of a single-family dwelling, which is its primary function.



*Google Earth photo*

A three-unit bed and breakfast in a Rural Community on the oceanfront is consistent with the Southwest Coastal Community Plan.

**The project does not conflict with the Southwest Coastal Community Plan.**

### **III. PUBLIC /AGENCY COMMENTS**

No comments were received from the public or outside agencies.

#### **IV. RECOMMENDED DECISION AND CONDITIONS OF APPROVAL**

Based on the analysis and findings of this report staff recommends **approval** subject to the following conditions:

***Previously approved conditions under which the bed and breakfast currently is operating. Number 1 is amended by number 18:***

1. The Conditional Use Permit is limited to use of the site as a two-unit bed & breakfast. Any future expansion of the number of units would require submission and approval of an additional Conditional Use Permit request.
2. Required parking spaces for the bed & breakfast clients, owner/operators, and employees shall be clearly marked and defined.
3. Parking, turnaround, and driveway access to the bed & breakfast will be as indicated on the site plan submitted by the applicant in conjunction with this Conditional Use Permit application. Any changes in the parking, turnaround, and driveway access must be approved by the Planning Department to ensure continued compliance with access and road standard requirements.
4. Parking shall not be allowed on the private road at any time. All parking shall be contained within the areas designated on the plot plan submitted with the request.
5. The applicant will comply with applicable state and local health, building and fire code requirements in the use of the dwelling as a bed & breakfast.
6. Per Section S3.462 (7B): "A complaint from neighbors shall be cause for review of any Home Occupation conducted as a retail business. The review may be a Type II County enforcement proceeding. In such proceeding, the Compliance Order may impose any of the conditions described in S5.025 of the Clatsop County Land and Water Development and Use Ordinance."
7. Applicant will submit a letter from the Cannon Beach RFPD noting no code deficiencies.
8. All materials, parts, tools and other equipment used in the operation of the Home Occupation shall be stored entirely within the dwelling or accessory building.
9. The Home Occupation will not involve operations or use of equipment or processes which would produce or cause the emission of gasses, dust, odors, vibration, electrical interference, smoke, noise or light in a manner likely to cause offense or irritation to neighboring residences. The Home Occupation complies with the applicable federal, state and local regulations.
12. No more than one unlighted sign with a combined area on all surfaces of 6 square feet shall be used to identify the Home Occupation. No other form of identification or advertisement shall be used. A sign permit from Community Development shall be reviewed and approved.
13. A Complaint from neighbors shall be cause for review of any Home Occupation conducted as a retail business. The review may be a Type II County enforcement proceeding. In such proceeding, the Compliance Order may impose any of the conditions described in 5.025 of the Clatsop County Land and Water Development and Use Ordinance.
14. Any deliveries or pick-ups of supplies or products, associated with the Home Occupation, will occur between 8am and 6pm.
15. No outside storage, display of goods or merchandise, or external evidence of a home occupation shall occur except as otherwise permitted in this section.

16. The premise upon which the Home Occupation is conducted is the residence of the person conducting the Home Occupation.
17. There will be no non-resident employees or vehicles on the premises in conjunction with the Home Occupation.

***New conditions recommended:***

18. Having been expanded through a conditional use permit application, as required in the original conditions of approval, the bed and breakfast establishment shall have no more than three guest rental units. This amends the original condition of approval, in 1, above, for a two-unit facility.
19. All development activities shall be in compliance with L4.000 Flood Hazard Overlay District.
20. A final commercial site plan shall be required, depicting a minimum of five parking spaces and their measurements.
21. Ocean Point Road and property and parking access shall be depicted on the final commercial site plan, with distances and internal circulation depicted that meet applicable standards found in S5.033 and S6.160.
22. The bed and breakfast establishment shall continue to meet the requirements of S3.464 (2)(A-D); (3)(A-C); (4); (5); (6); (7)(A); (8); (9); and (10).
23. The establishment shall continue to comply with all state and federal regulations, environmental, or otherwise, as part of its operating characteristics.