

## *Bandon* WESTERN WORLD

SOUTH JETTY

### **Bandon commission approves house for South Jetty**

Residents vow to appeal



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BANDON WESTERN WORLD

**BANDON** — Despite objections by residents, the Bandon planning commission voted 6-1 Thursday to approve a permit to allow a house to be built on the South Jetty, saying the plan meets the city's requirements for development in that area.

The residents opposed to the project have vowed to appeal the decision to the City Council.

Commissioner Nancy Post voted against the motion, saying there were “too many caveats” to the proposal. Commissioners David Kimes, Harv Schubothe, Daniel Graham, Sheryl Bremmer, Blythe Tiffany and David Reed voted for the motion, saying they agreed that the conditions had been met by the property owner, Jeff McElrath.

While voting in favor of the project, at least two commissioners expressed doubts regarding the advisability of building a house in the South Jetty area, which is subject to erosion and flooding.

“From a personal standpoint, I wouldn't want to build this structure, but ... what we're really asking is have they met all the requirements, and they have,” Schubothe said. “Whether I personally would want to build there is not a criteria.”

The lot is located just east of the Boatworks Restaurant with views of the ocean, Coquille River and the lighthouse. It is located in a controlled development zone, meaning any buildings in that zone must be approved by the city's planning commission before the project can move forward.

According to the city planning department and City Planner Michelle Hampton, if the plan meets the conditions of that zone, the commission should approve the permit.

Neither McElrath nor the project's applicant, Sheri McGrath, were present at the special meeting, which was a continuation of a hearing two weeks prior. The original hearing was extended to allow additional written testimony after several South Jetty residents claimed they had not been notified in enough time to respond to the proposal. No public input was allowed at Thursday's meeting.

McGrath sent a memo to the commission on behalf of her client and the design team involved, saying they felt no new evidence had been submitted but that they wished to

clarify the three main topics of concern, including site suitability for a septic system, rip-rap maintenance and the house foundation design.

McGrath said the septic system is under the jurisdiction of the Oregon Department of Environmental Quality and that the owner has permission to connect to the existing system. A rip-rap maintenance agreement also is part of the conditions placed on the project because of continued erosion in the area.

"The rip-rap maintenance agreement submitted in our original application is between the owner and a professional engineer," McGrath wrote. "Five years is considered a long-term maintenance agreement between a property owner and a business."

McGrath agreed, at the request of the commission, to submit a revised maintenance agreement with inspections scheduled for all of the rip-rap on the property.

Further, McGrath said, the state building codes division is the agency that will review the foundation design and the geotechnical report, along with the engineered drawings to determine whether the foundation design complies.

"The building codes division will not issue a building permit without considering the recommendation of the geotechnical report as well as compliance with FEMA floodplain criteria," McGrath said.

Commissioner Tiffany said she had "concerns and questions" about the application. In the 1990s, the property owners in the area agreed to pay to have the city's sewer system put into the area. At that time, there were meetings to determine which properties could be buildable in the future, and those were included in the sewer district.

The property in question, however, was not included, because at the time it was part of the Boatworks Restaurant lot, which has since been divided.

The septic for the Boatworks Restaurant was kept in place, but hasn't been used. The DEQ has issued a permit for the proposed house to connect to that septic system, as long as repairs are made.

"When the Boatworks connected to the sewer, it should have been capped or closed and it was not," Tiffany said. "I guess it's a moot point, but I guess it made it easier for DEQ to come in and say, 'Do this and that and here's your permit.'"

Tiffany said the sewer district was formed in part because the septic systems along the South Jetty were failing.

"I guess I just don't understand how DEQ can approve a septic on an heretofore unbuildable lot and render it buildable," she said. "Don't we have any say?"

City Attorney Fred Carleton said the commission doesn't have to accept the reports from agencies that approved or provided opinions on the project.

"You don't have to be an expert to reject an expert," Carleton said. "You're allowed to use your brains and decide what's believable and what's not. But to approve, you have to say

there's substantial evidence that supports that the criteria has been met. It doesn't have to be all of it. There's a judgment call with this type of application."

Carleton added that if the commission did challenge aspects of the application, they would need to also be able to support why they disagreed.

Commissioner Graham said he felt the city's planning staff had done their job to make sure the project conformed to Bandon's municipal codes and that the proper construction methods were being sought to address geological concerns.

A letter from Dave Perry of the Oregon Department of Land Conservation and Development saying he thought it ill-advised to build on the lot because it is subject to chronic and catastrophic events, was in reference to the entire jetty area, Graham said.

"If you want to begin to restrict uses in the jetty, you will find a lot of support, but it will not end without your home becoming subject to possible removal," Graham said.

Graham said he hopes in the future the council will spend time working on what is acceptable to build in the South Jetty area and provide guidance for the planning commission to conduct public hearings to help zone the area accordingly.

"But the rules that exist now allow for this use (and) the applicant has demonstrated the necessary compliance and I see no basis for denying this permit," Graham said.

An appeal can be filed within 10 days after the findings of fact are adopted at the planning commission's Feb. 26 meeting.

