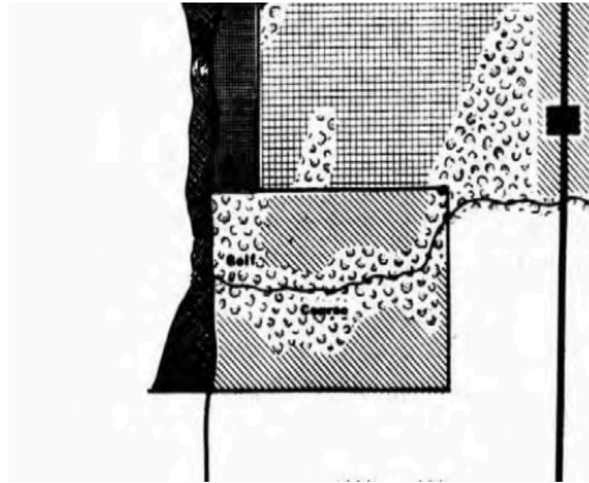


Both proposals also include the same argument in favor of fewer homes on larger lots even though this distinction is not relevant to the 15-home version. Despite the obvious design differences, each proposal maintains that any impact on the environment and utility resources will be minimal. A true revision perhaps requires more effort than just using the search and replace function.

The Staff Report correctly identifies that the zoning history for this property is incomplete at best. The report states: “According to sales records on the Coos County Assessor’s website, the property was purchased by the current owner in September of 1989. When purchased, it appears the property was zoned Controlled Development 1.”

The 1990 Bandon Comprehensive Plan Map included in the Staff report shows the property in question zoned CD-1 and Open Space. However, I believe this may represent a revision of the Comprehensive Plan Map from the June 1991 updated Comprehensive Plan. A previous version of the 1990 Comprehensive Plan dated July 1974 shows the property zoned Rural Residential and Open Space. There is a distinct possibility that when the property was purchased in 1989 that the zone change from Rural Residential to CD-1 occurred after the property was purchased.

There are obvious differences in development potential between zoning “where residential development would best [be] limited to single-family dwellings on relatively large lots at low densities” and an area where much greater variety and density of construction is permitted even when “development is to be controlled in order to enhance and protect the area’s unique qualities,” i.e., CD-1.



The zoning history of the parcel up to date is no less vague. The Staff Report notes an inability to locate any records that explain the current mixed R1 and NR zoning shown on the City’s official zoning map. This is the most accessible public reference to zoning in Bandon and has existed in its current form since 2009. The 2025 Coos County Tax map conflicts with Bandon’s Zoning Map, showing the property still zoned CD-1, in common with much of the surrounding area including Ocean Terrace phases II and III. In a previous communication with the City, I was informed that they could offer no explanation for a portion of the property being zoned as Natural Resources “aside from its proximity to Johnson Creek”. Oftentimes, the simplest explanation is also the best explanation.

In 2003 Bandon City Council commissioned a Riparian Corridor Inventory prepared by Pacific Habitat Services, Inc. Subsequently, in December 2009 the City adopted **Ordinance Number 1573**, amending the Bandon Comprehensive Plan to include the Local Significant Riparian Inventory and Assessment.

An ordinance of the Mayor and Council of the City of Bandon amending the comprehensive plan, to include the Bandon local significant riparian inventory and assessment, and amending policies in the natural resources section of the comprehensive plan.

This amendment was deemed consistent with **Oregon Statewide Goal 5**, To protect natural resources and conserve scenic and historic areas and open spaces. It included changes to the **Bandon Municipal Code 17.116.010** authorizing amendments to both the zoning map and the comprehensive plan. The Staff Report does not mention this ordinance nor discuss its possible role in shaping the current zoning map.

There are several Oregon Administrative Rules (OAR) that directly impact the protection of Riparian Corridors which are not addressed in the Staff Report. These rules are referenced in comments submitted prior to the 4/24/25 hearing.

**OAR 660-023-0090**, Riparian Corridors, is applicable in this case, i.e., where the riparian corridor includes all or portions of a significant wetland, the standard distance to the riparian corridor boundary shall be measured from and include the upland edge of the wetland and special consideration should be given to riparian corridor boundaries in areas where the top of each bank is not clearly defined, or where the predominant terrain consists of steep cliffs. The NR zone as currently configured appears to follow this rule and, in line with **OAR 350-081-0600**, extends the riparian buffer to include the bluff top.

Aspects of the Bandon Comprehensive Plan are also relevant and similarly not addressed in the Staff Report:

### **Natural Resources - Wetlands, Goal 5. Ordinance 1512, 10-06-2003**

#### **Policies**

- A. Protect, maintain, enhance, and restore the natural functions and values of wetlands including enhancement of water quality, flood protection, fish and wildlife habitat, open space, and natural areas.
- D. Require the review of any development proposal that could impact a wetland with the appropriate local, state, and federal agencies.

### **Environmental Quality of Life, Goal 6. Resource Conservation and Conflict Resolution**

It is the City of Bandon's policy to protect natural and scenic resources by encouraging the conservation of significant natural areas, open space, non-estuarine water areas, fish/wildlife habitat, and recreation trails. These resources should be protected to the maximum feasible, providing no conflicting uses are identified. When conflicting uses are identified, the City shall consider the economic, social, environmental, and energy consequences of the conflicting use and take appropriate action.

Bandon City Council have recognized the significance of Johnson Creek as an important natural resource and afforded it "riparian protection". This includes a 100-foot corridor centered on the creek. **OAR 660-023-0030** requires that for all "fish-bearing streams with average annual stream flow less than 1,000 cfs, the riparian corridor boundary shall be 50 feet from the top of bank." The Staff report indicates that the proposed zone change does not conflict with this regulation.

The Staff Report includes what appears to be a Google Earth screenshot. The measurement tool shows 50.35 feet between the Creek and bluff. This tool can be helpful for estimating rough distances on flat terrain but cannot account for perspective or discrepancies between horizontal and vertical distances on sloped terrain. Additionally, the measurement location does not coincide

with the area where the Creek directly abuts the foot of the bluff, and the slope is most severe (see below).



**Bandon Municipal Code, Title 17, Page 141.** Codified 10-31-2024 states:

Applications for plan reviews, land development permits, and zoning compliance and plans for public facilities proposed to be located on parcels containing a riparian corridor or portion thereof, shall contain a to-scale drawing that clearly delineates the riparian corridor on the entire parcel or parcels, if the City Manager or Community Development Director determines that the riparian corridor could be affected by the proposal.

Google maps should not substitute for a professional land survey and to-scale drawings.

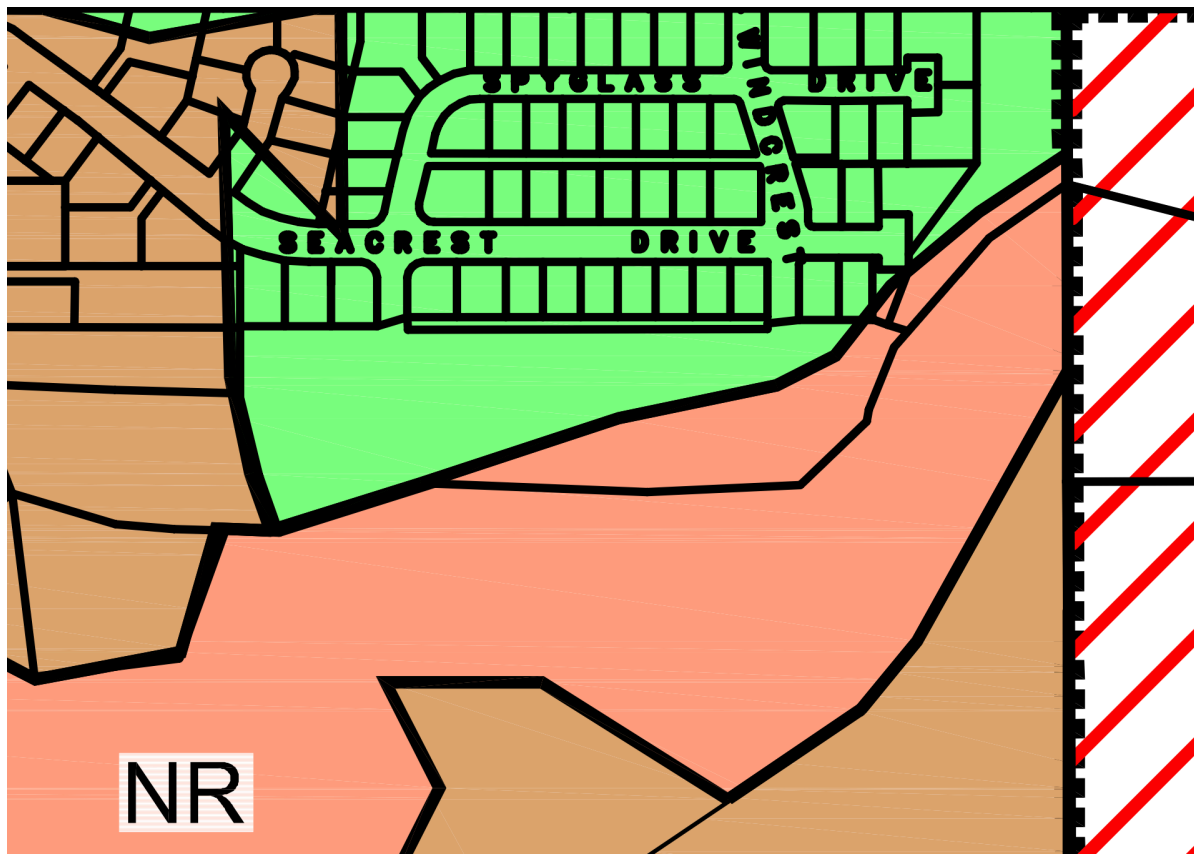
**OAR 350-081-0600** Special Management Areas Natural Resource Review Criteria

(iii) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

The Staff Report advises that “the City may wish to consider the suitability of the site in terms of slope, geologic hazard, or impact to Johnson Creek.” It is further noted that “the landslide susceptible area is focused along the bluff-edge, on the south and east section of the property.” A



comparison between the Hazard Map and the City Zoning Map shows that the area of high landslide susceptibility extends to the edge of the NR zone in the eastern section of the property.



The requested zone change is in a location where the land initially drops about 10 feet from the mostly flat bluff top to a sloping grade break. This area extends a further 30 feet or so to a second precipitous grade change down to the base of the bluff and Johnson Creek. The current R1/NR zone line appears to follow the initial grade break (also a wildlife track). The requested R1/NR line shown on the developer's Rezone plan aligns with the second extremely steep grade break. (See below.)





**Bandon Municipal Code, Title 17, Codified 06-03-2021. Hazard Overlay Zone (HO)**

**17.78.030 Geologic Assessment Review**

A. Except for activities identified in Subsection 2 of this section as exempt, any new development or substantial improvement, as defined in Title 15, in an area subject to the provisions of this section shall require a Geologic Assessment Review.

The developer's proposal states that appropriate geological assessments will be the sole responsibility of individual homesite purchasers prior to building. Grading for homesites, building a roadway, and installation of other infrastructure, including drainage would seem to meet criteria for "substantial improvement" in a Hazard Overlay Zone. Logic suggests that concerns regarding both safety and environmental impact warrant a Geologic Assessment Review prior to any development on the property.

The developer has expressly stated their intention to protect the integrity of the bluff. This includes "a condition on the future home sites requiring all improvements to be located a distance of 50 feet northerly of the Top of Bluff Line. This would be a precaution so as not to disturb the existing soils and ensure the homes to be located a substantial dimension from the Bluff Line." This level of concern is not evident in differing proposals submitted for this development. There are sites on both the 10 and 15 plat versions that could not accommodate homes conforming to City building codes if this "self-imposed" requirement were met. There is also an earlier plan for the property tentatively with 26 homesite where at least 12 plats are located on the unbuildable slope between the bluff top and the boundary with Johnson Creek Park (see Staff Report for plan).



Local homeowner concerns about flooding have featured prominently throughout the review process for this proposed development. The current drainage structure is inadequate even under present conditions and the proposed plan to link with this system can only make things worse. Rainwater runoff flowing east on Seacrest Drive and south on Windcrest frequently overwhelms the drains and collects at the terminus of Windcrest Drive where the connection with Viewcrest Drive (as proposed) is located. For much of the rainy season this runoff forms a ‘lake’ the width of Windcrest, often above the curb height and approaching the junction with Seacrest. For the most part the proposed new road, Viewcrest Drive, appears to drain east and north with its lowest point at the junction with Windcrest which can only compound this flooding. From experience, this situation has not been limited only to periods of exceptional rainfall.



Without providing details, the developer states that “measures will be taken to avoid any surface flow of rainwater to” the steeper sloped areas of the bluff. This is inconsistent with a drainage plan for the site that utilizes an existing 15-foot-wide easement which drains directly into Johnson Creek. The Tentative Subdivision Plan also includes a note which specifies “all surface drainage will be directed generally southerly”, i.e., toward the Creek. Is it correct that dumping even more untreated surface water into the Johnson Creek watershed is permitted because the easement is “grandfathered”? (approximate location of easement pictured below).



The arguments in this case would appear to center on decisions that may or may not have been made over twenty years ago. But perhaps the more important issue is how decisions made today will affect Bandon in the present and into the future. In commemoration of Earth Month 2025, The Oregon Environmental Council issued the following statement:

As environmental regulations are rolled back at the federal level, the need for civic engagement has never been more urgent. The challenges we face – climate change, pollution, habitat loss – require bold action. Earth Month is a time to join our neighbors in protecting our planet today, and for generations to come.

Retaining the Natural Resource zone as currently configured may have economic implications for the developer, but it will not prevent the site from being developed. It **will** stop homes being built too close to the bluff-edge and afford this fragile and sensitive area at least some environmental protection.

- **The Johnson Creek Greenway is an important and environmentally sensitive Natural Resource.**
- **Ill-advised building development on the bluff area above the creek presents potentially serious environmental and safety risks.**
- **The current separation of Natural Resource and Residential zones on the bluff provides critical environmental protection for the Johnson Creek Riparian Corridor while also safeguarding the bluff's geological integrity and enhancing building safety. It is more than "simply a drafting exercise".**

