



NOTICE OF LAND USE DECISION

You may have received this because you are an adjacent property owner, and this notice is required to be provided pursuant to ORS 215.416. The proposal is identified in this decision and will be located on the subject property.

Coos County Planning
60 E. Second
Coquille, OR 97423
<http://www.co.coos.or.us/>
Phone: 541-396-7770
planning@co.coos.or.us

This decision notice is required to be sent to the property owner(s), applicant(s), adjacent property owners (distance of notice is determined by zone area – Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, agencies with interest, or person that has requested notice. Please read all information carefully as this decision. (See attached vicinity map for the location of the subject property).

Date of Notice: **Tuesday, January 10, 2023**
File No: ACU-22-035

Proposal: Request for Single Family Dwelling in the Forest Zone.

Applicant(s): MULDERY FAMILY TRUST
MULDERY, WILLIAM H., TRUSTEE; ETAL
10768 TABEAU RD
PINE GROVE, CA 95665-9749

Staff Planner: Jill Rolfe, Planning Director

Decision: **Approved with Conditions.** All decisions are based on the record. This decision is final and effective at close of the appeal period unless a complete application with the fee is submitted by the Planning Department at 5 p.m. on **Wednesday, January 25, 2023**. Appeals are based on the applicable land use criteria. *Coos County Zoning and Land Development Ordinance (CCZLDO) General Compliance with Sections 1.1.300 Compliance with Comprehensive Plan and Ordinance Provisions and Article 6.1 Lawfully Created Lots or Parcels. The Dwelling Review is subject to Article 4.6 Resource Zoning District, Section 4.6.100 Forest and Forest Mixed Use, Use Table 1 in Section 4.6.110.63 Template Dwelling (Alternative forestland dwellings ORS 215.750) to Section 4.6.120 Review Standards (9)(B)(II). Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. **Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information please contact the staff planner listed in this notice.***

Subject Property Information

Account Number: 587305
Map Number: 26S143200-00112

Property Owner: MULDERY FAMILY TRUST
MULDERY, WILLIAM H., TRUSTEE; ETAL
10768 TABEAU RD
PINE GROVE, CA 95665-9749

Situs Address: 88891 SACCHI LN BANDON, OR 97411

Acreage: 1.80 Acres

Zoning: FOREST (F)

Special Development Considerations and Overlays: ARCHAEOLOGICAL AREAS OF INTEREST (ARC)
FOREST MIXED USE (MU)

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance. **NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.**

The application, staff report and any conditions can be found at the following link: <https://www.co.coos.or.us/community-dev>. The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 60 E. Second, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact is Jill Rolfe, Planning Director and the telephone number where more information can be obtained is (541) 396-7770.

Failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements of evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes raising the issue in an appeal to the Land Use Board of Appeals.

Reviewed by: *Jill Rolfe*
Jill Rolfe, Planning Director

Date: Tuesday, January 10, 2023

This decision is authorized by the Coos County Planning Director, Jill Rolfe based on the staff's analysis of the Findings of Fact, Conclusions, Conditions of approval, application and all evidenced associated as listed in the exhibits.

EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map & Template Map

The following exhibits are on file at the Coos County Planning Department and may be accessed by contacting the department. All noticeable decisions are posted on the website for viewing when possible.

Exhibit C: Staff Report -Findings of Fact and Conclusions

Exhibit D: Comments Received

EXHIBIT "A"

The applicant shall comply with the following conditions of approval with the understanding that all costs associated with complying with the conditions are the responsibility of the applicant(s) and that the applicant(s) are not acting as an agent of the county. If the applicant fails to comply or maintain compliance with the conditions of approval the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval and if you have any questions contact planning staff.

CONDITIONS OF APPROVAL

1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If comments from any other agency were provided as part of this review, it is the responsibility of the property owner to comply.
2. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the commencement of construction of the proposed dwelling. This authorization is based on conditions of approval and the conditions that are required to be completed prior obtaining the ZCL are defined in this section. Pursuant to CCZLDO § 4.6.110, § 4.6.130 and § 4.6.140. To show compliance with this section the applicant shall submit a letter with the following items to request that staff find the following conditions have been satisfied:
 - a. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title. The statement needs to include language that the purchaser of the property has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization. The recorded deed convent shall be recorded with the County Clerk and copy provided to the Planning Department.
 - b. Section 4.6.140(2) Setbacks: All Development, with the exception of fences, shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way line, whichever is greater. This should be shown on the plot plan.
 - c. Section 4.6.140(5) Minimizing Impacts: In order to minimize the impact of dwellings in forest lands, all applicants requesting a single-family dwelling shall acknowledge and file in the deed record of Coos County, a Forest Management Covenant. The Forest Management Covenant shall be filed prior to any final County approval for a single family dwelling.
 - d. Section 4.6.140(6) Riparian Vegetation Protection. Riparian vegetation within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained. If there are no wetlands, streams, lakes or rivers then this is not applicable.
 - e. Section 5.2.700 Development Transferability - Unless otherwise provided in the approval, a land use approval that was obtained through a conditional use process shall be transferable provided the transferor files a statement with the Planning Director signed by the transferee. This document shall be recorded in the chain of title of the property, indicating that the transferee has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title to alert a purchaser that development was approved subject to conditions and possible restrictions.
3. The following shall be confirmed by the County Plans Examiner prior to issuance of a Building Permit:
 - a. Section 4.6.140(7)(a) & Section 4.6.140(9) All new and replacement structures shall use non-combustible or fire-resistant roofing materials.

- b. Section 4.6.140(14) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
- 4. The applicant is responsible to comply and maintain the following:
 - a. Section 4.6.140(7)(b) The dwelling shall not be sited on a slope of greater than 40 percent. This shall be shown on the plot plan.
 - b. Section 4.6.140(7)(e) & Section 4.6.140(8)(a)(b)(c)(d) Firebreak: a. This firebreak will be a primary safety zone around all structures. Vegetation within this primary safety zone may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. b. Sufficient Garden Hose to reach the perimeter of the primary safety zone (as identified in staff report) shall be available at all times. c. The owners of the dwelling shall maintain a primary fuel-free break (as identified in staff report) area surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads” dated March 1, 1991, and published by Oregon Department of Forestry and shall demonstrate compliance with Table 1. Table one is addressed in the staff report based on down slope. This can be shown on a plot plan.

EXHIBIT "B"
Vicinity Map



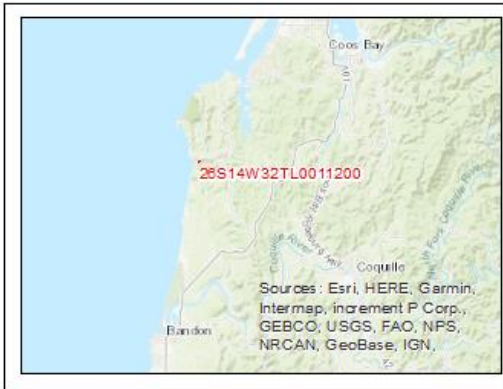
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 225 N. Adams, Coquille, Oregon 97423

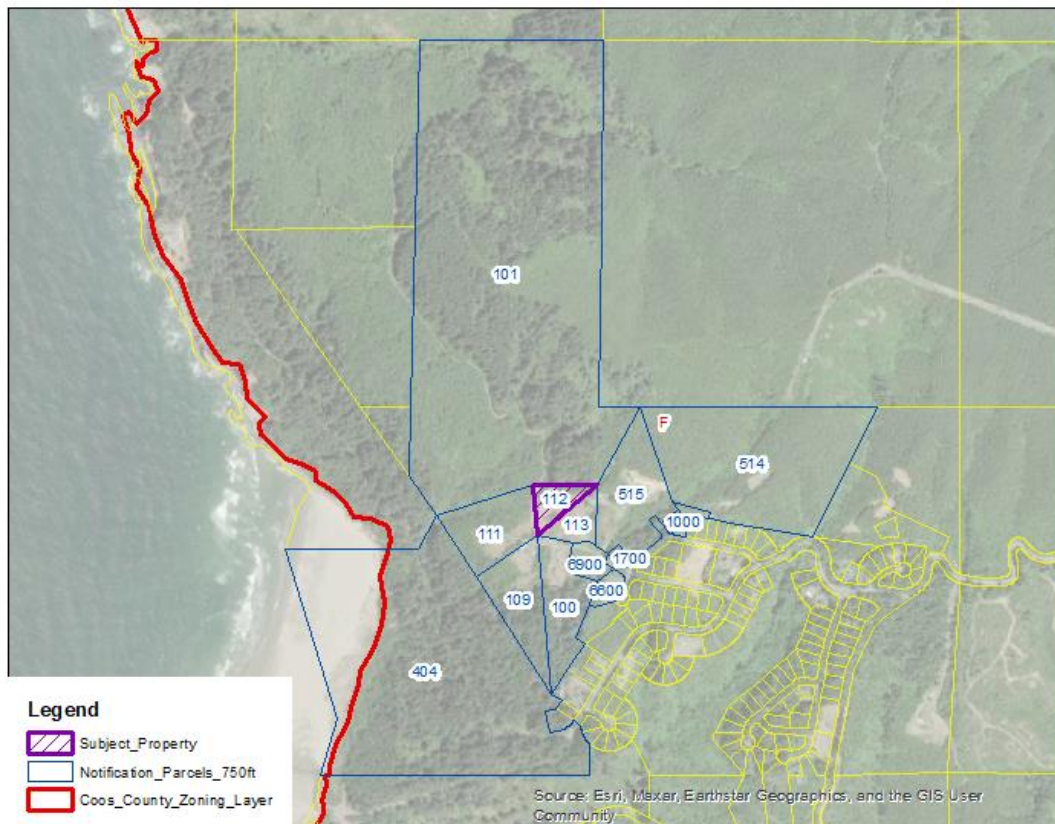
Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

TDD (800) 735-2900



File: ACU-22-035
Applicant/
Owner: Muldery Family Trust
Date: December 29, 2022
Location: Township 26S Range 14W
Section 32 TL 112
Proposal: Administrative Conditional Use



Template Map



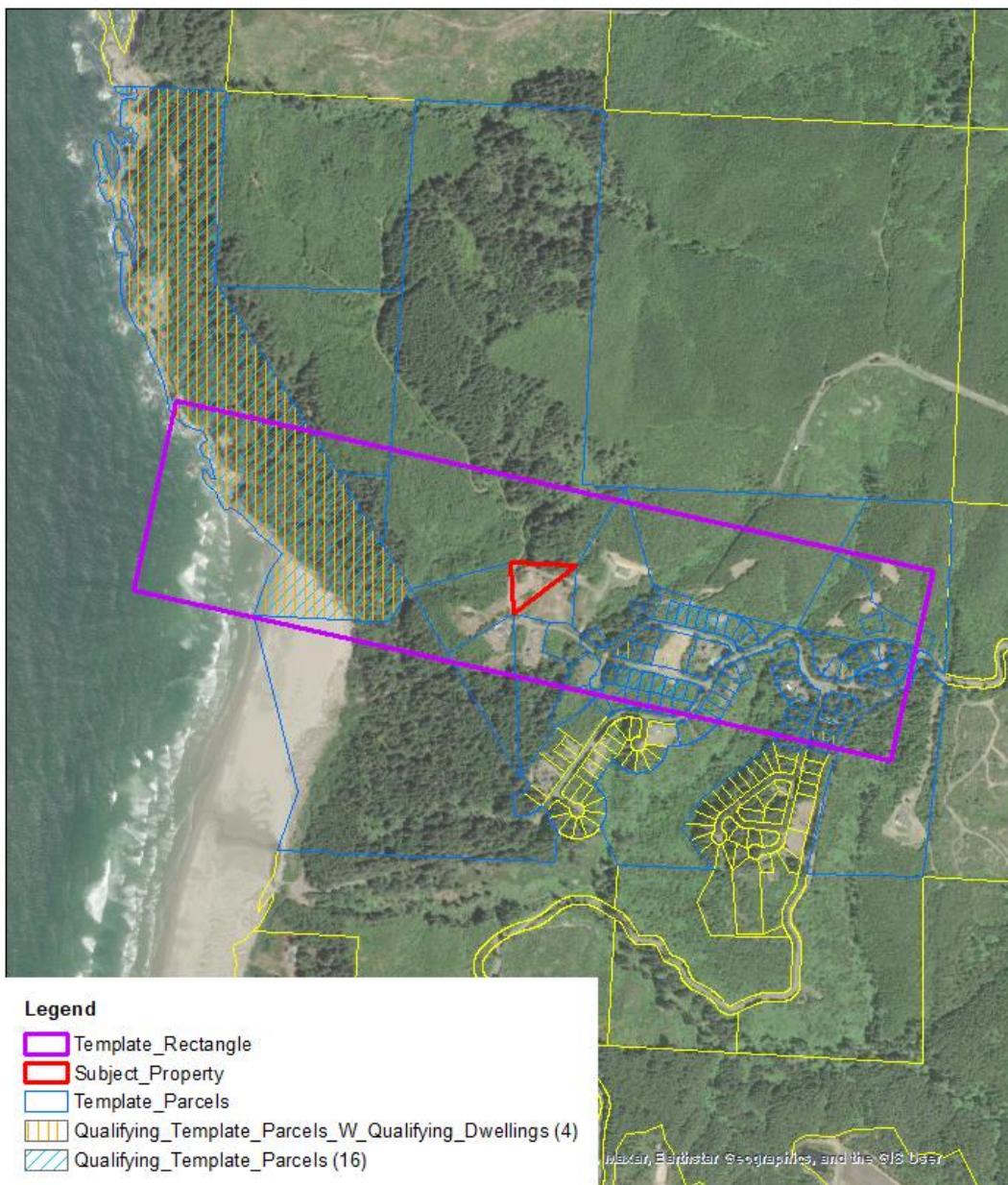
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 225 N. Adams, Coquille, Oregon 97423

Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

TDD (800) 735-2900



**EXHIBIT “C”
STAFF REPORT
FINDINGS OF FACT AND CONCLUSIONS**

I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION AND PRIOR COMPLIANCE:

A. PROPOSAL: According to the application the property owner is seeking approval for a new *Single-Family Dwelling*, an *Accessory Structures* (shop, greenhouse and pump house) in the Forest Mixed Use Zone. There is no indication that any other development is proposed at this time

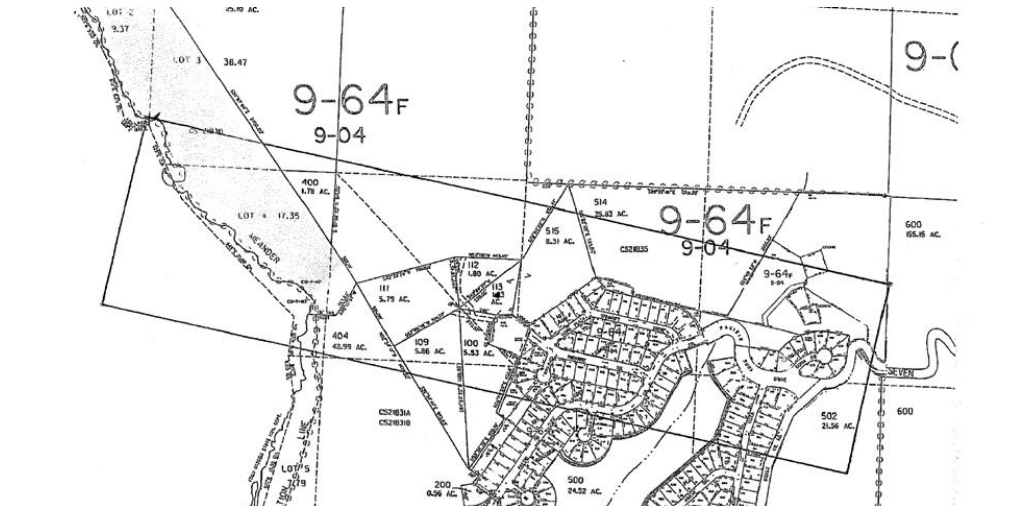
B. BACKGROUND/PROPERTY HISTORY: The subject property was originally approved using the rectangle template with HBCU-04-005. The Planning Commission reviewed this application and during that review process there was discussion regarding the road. If the road was not found to be a qualifying road, then a rectangle would not be able to be applied and that application would be denied. At the time County Counsel provided a memo that stated he did not find any legal justification to classify the road as a qualifying road but the Planning Commission would be the final decision maker on the matter after considering all of the evidence. There was additional testimony submitted by the applicant at the time and the Planning Commission accepted the testimony and evidence of the applicant to support the decision the road was a qualifying road and the rectangle could be placed in a manner that would allow the property to qualify. Unfortunately, this decision was not implemented and the approval expired.

In 2015 a new application for Forest Template Dwelling on the subject property through File No. HBCU-15-02. The applicant had a prior conditional use that had expired and when staff applied the template it was discovered that one of properties that was used to qualify the property originally through the prior application no longer contained residential development. Therefore, staff was recommending denial because they could not find an additional dwelling that was sited and still in existence since 1993. Further research showed that this was an error in the assessment data and the tax lot should have never been considered as having the appropriate residential dwelling. Therefore, the Planning Commissioners weighed all the evidence they were presented and ultimately in a split decision voted to deny the application. The Planning Commission encouraged Planning Staff to look at this matter again to see if there was any assistance that could be offered to the property owners. The decision was appealed to the Board of Commissioners.

Staff worked with the applicant’s consultant to find a solution. Staff reviewed all approvals for this area and has found a map layout that appeared to work for this property. Staff requested that the Board of Commissioners not only find that the property met the criteria and allowed staff to refund the appeal fee. The applicant would still be liable for the fee incurred from the review of the original application. Staff encouraged the applicant not to let the template dwelling authorization lapse in case the pattern of development changes to the point that the property cannot be reauthorized.

The Board of Commissioners accepted the recommendation from Staff and approved the application. The Board of Commissioners found that in a previous application, HBCU-04-05, the property qualified using a rectangle template running generally east-west along an

easement through the property. The same number of parcels and dwellings required by CCZLDO § 4.6.110(3)(b)(iii) for the square template applied to the rectangle template [11 parcels and 3 dwellings in existence prior to January 1, 1993 and still in existence today]. A rectangle template test completed by Planning Staff shows a 160-acre rectangle running east-west contains 58 eligible parcels and 3 eligible dwellings.



The applicant completed the conditions of approval and moved forward with siting the dwelling but only installed the septic system and did not finish with the building process. The application was extended to April 5, 2022 but could not be extended beyond that time frame as the statute changed the way Template Dwellings were applied on November 1, 2022. The County approval is operating the authority of ORS 215.750. ORS 215.750 was amended upon the passage of House Bill 2225. Therefore, the applicant was required to reapply under the new rules and regulations of HB 2225.

A research request (R-22-003) was submitted and staff analyzed all possibilities for applications include a new Template Dwelling application. Staff did find the changes to the template dwelling test did not change the result of the number of qualifying units of lands and dwellings. The applicant would have to justify all of the criteria under the current forest dwelling criteria. The applicant submitted a request with findings with the current application.

- C. LOCATION:** The subject property is located north of the City Limits of Bandon. The property is accessed via Sacchi Lane.
- D. ZONING:** - This property is zoned Forest with a Mixed-Use Overlay.

ARTICLE 4.2 – ZONING PURPOSE AND INTENT
SECTION 4.2.500 RESOURCE ZONES

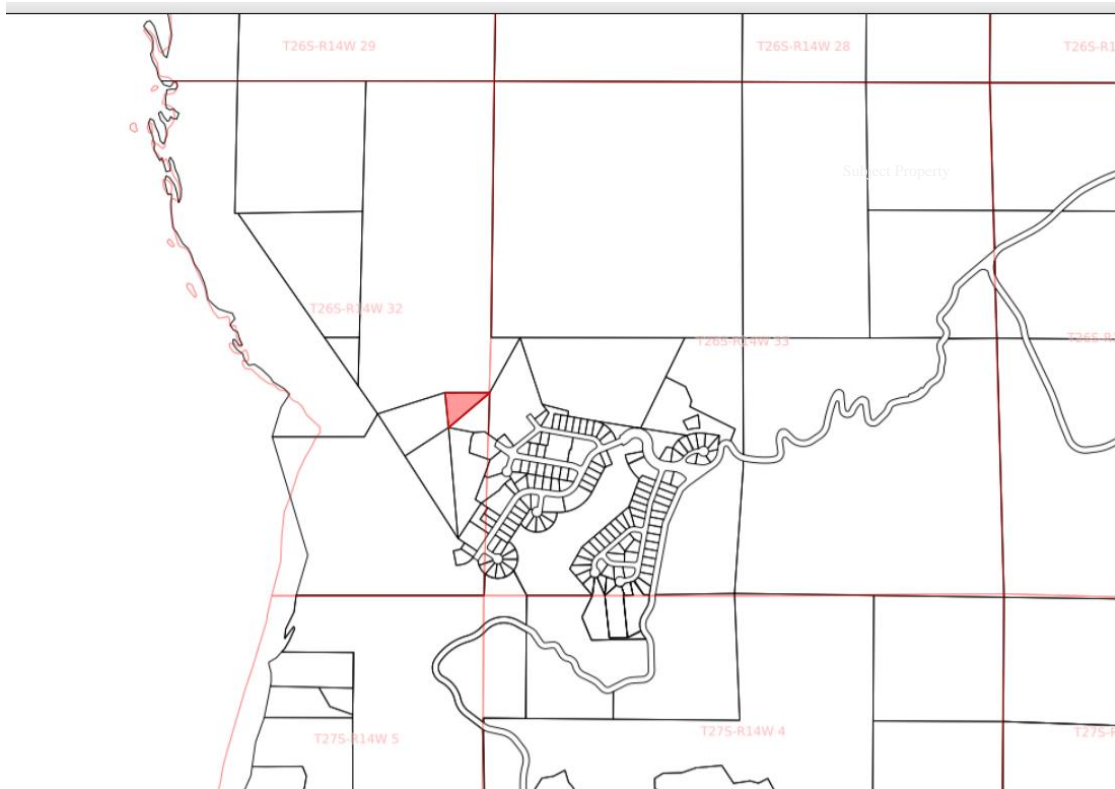
Forest (F): The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.

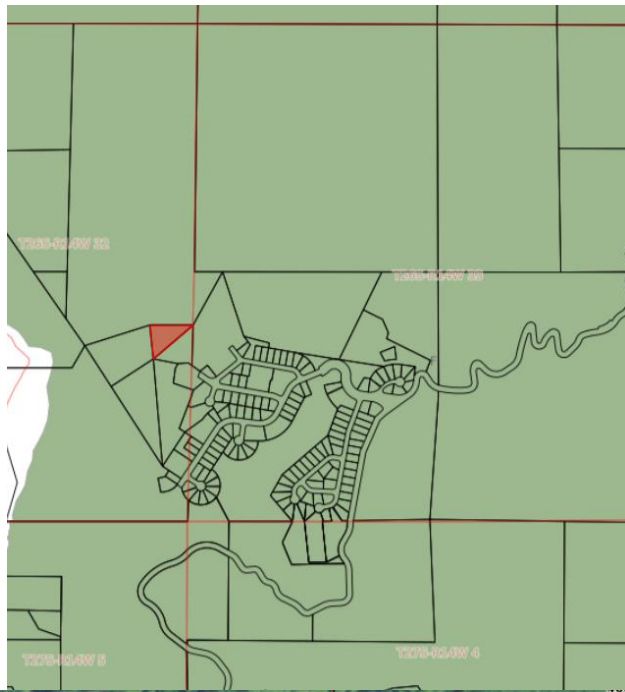
The purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the "F" zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.

Forest Mixed Use (FMU): The purpose of the Forest Mixed Farm-Forest Areas (“MU” areas) is to include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these “mixed use” areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

E. SITE DESCRIPTION AND SURROUNDING USES:

The lot is located north of the City of Bandon. The property is within the Forest zoning district and is 1.8 acres in size. The property has been cleared at the building site with a built gravel driveway, the property has a septic system, well and electricity. The property address is 88891 Sacchi Lane, Bandon OR 97411. The property is not being used for farm or forestry purposes. The property is accessed via Sacchi Lane, a gravel road in a series of turns off of Seven Devils Road. From Seven Devils Road, Pacific Surf Lane is taken to Paradise Drive which leads to Sacchi Lane. Vegetation mostly consists of grasses and weeds with a few trees under 15’ in two locations and one stand of taller trees to be removed for the primary fire safety area.





F. COMMENTS:

- a. PUBLIC AGENCY:** This property did not require any request for comments prior to the release of the decision and none were received.
- b. PUBLIC COMMENTS:** This property did not require any request for comments prior to the release of the decision and none were received.
- c. LOCAL TRIBE COMMENTS:** A request for comments was sent to the local tribes. The comments can be found in Exhibit D.

II. GENERAL PROPERTY COMPLIANCE:

A. COMPLIANCE PURSUANT TO SECTION 1.1.300:

It shall be unlawful for any person, firm, or corporation to cause, develop, permit, erect, construct, alter or use any building, structure or parcel of land contrary to the provisions of the district in which it is located. No permit for construction or alteration of any structure shall be issued unless the plans, specifications, and intended use of any structure or land conform in all respects with the provisions of this Ordinance, unless approval has been granted by the Hearings Body.

FINDING: Staff has reviewed the property history and the county finds at the time of this report; the property is compliant with the Coos County Zoning and Land Development Ordinance. This does not mean that there is not additional information that was unavailable during this review that would make the properties non-complaint.

B. SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:

“Lawfully established unit of land” means:

1. The unit of land was created:

- a. Through an approved or pre-ordinance plat;*
- b. Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals;*
- c. In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created.*
- d. By a public dedicated road that was held in fee simple creating an interviewing ownership prior to January 1, 1986;*
- e. By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation.*
- f. By the claim of intervening state or federal ownership of navigable streams, meandered lakes or tidewaters. “Navigable-for-title” or “title-navigable” means that ownership of the waterway, including its bed, was passed from the federal government to the state at statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.*

FINDING: The unit of land was created pursuant to Section 6.1.125.1.b, through a prior land use decision (HBCU-04-05).

Therefore, staff concludes the property is a lawfully created lot.

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Planning Director Approval of a Template Dwelling (*Single Family Dwelling* in the Forest Mixed Use Zone) in the Forest Mixed Use Zone pursuant. The application did not specify any additional development requests; therefore, no other development proposals were reviewed.

The applicable review criteria are found in Coos County Zoning and Land Development (CCZLDO) 4.6.100 Table 1 identifies the uses and activities in the Forest (F) and Forest/Mixed Use (FMU) zone. The tables describe the use, type of review, applicable review standards. Table 1 of CCZLDO Section 4.6.110.63 defines the relevant criteria for Template Dwellings (Alternative forestland dwellings ORS 215.750) subject to an ACU, Section 4.6.120 Review Standards (9)(B)(II). Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject

to the siting standards found in Section 4.6.130. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. This proposal is subject to review under Natural Hazards Section 4.11.

B. KEY DEFINITIONS:

- *ACTIVITY: Any action taken either in conjunction with a use or to make a use possible. Activities do not in and of themselves result in a specific use. Several activities such as dredging, piling and fill may be undertaken for a single use such as a port facility. Most activities may take place in conjunction with a variety of uses.*
- *DEVELOP: To bring about growth or availability; to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights to access.*
- *DEVELOPMENT: The act, process or result of developing.*
- *USE: The end to which a land or water area is ultimately employed. A use often involves the placement of structures or facilities for industry, commerce, habitation, or recreation.*
- *ZONING DISTRICT: A zoning designation in this Ordinance text and delineated on the zoning maps, in which requirements for the use of land or buildings and development standards are prescribed.*
- *DWELLING: Any building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.*

C. TEMPLATE DWELLING CRITERIA AND FOREST SITING STANDARDS

*Forest Template Dwelling Supplemental Application:
Coos County Zoning and Land Development Ordinance (CCZLDO)*

SECTION 4.6.100 FOREST AND FOREST MIXED USE – USE TABLES Table 1 identifies the uses and activities in the Forest (F) and Forest/Mixed Use (FMU) zone. The tables describe the use, type of review, applicable review standards. Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Exceptions to minimum lot and parcel sizes for the purpose of land division may apply as set out in Section 4.6.145 Land Division for Open Space and Special Assessment, and Section 4.6.145 Exceptions to Minimum Parcel Size. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.

If a use specifically states Forest Mixed Use only it is not permitted in the Forest Zone. If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.

SECTION 4.6.110 (OAR 660-006-0025) Uses Authorized in Forest Zones (1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are: (a) Uses related to and in support of forest operations; (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.; (d) Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.

Use	TR	Subject to
Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.		
63.	Template Dwelling (Alternative forestland dwellings ORS 215.750)	ACU (9)(B)(II)

(9) DWELLINGS AUTHORIZED BY ORS 215.705 TO 215.755; AND (E) OTHER DWELLINGS UNDER PRESCRIBED CONDITIONS.

(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -

(II) TEMPLATE DWELLING - 215.750 Alternative forestland dwellings; criteria.

- (1) *In western Oregon, a governing body of a county or its designate may allow the establishment of a single family “template” dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:*
 - (a) *Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:*
 - (A) *All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and*
 - (B) *At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.*
 - (b) *Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:*
 - (A) *All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and*
 - (B) *At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.*
 - (c) *Capable of producing more than 85 cubic feet per acre per year of wood fiber if:*
 - (A) *All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and*
 - (B) *At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.*
 - (d) *As used in this section, “center of the subject tract” means the mathematical centroid of the tract.*
- (2) *The following review standards apply to “template” dwellings approved under this rule:*
 - (a) *Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under this rule.*
 - (b) *Except as provided by subsection (c) of this section, if the tract under section (1) of this rule abuts a road¹ that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.*
 - (c) *If the:*
 - (A) *Tract 60 acres or larger described under section (1) of this rule abuts a road or perennial stream, the measurement shall be made in accordance with subsection (b)*

¹ The statutory definition of “public road” at ORS 368.001(5) is not applicable to approval of a forest template dwelling required by ORS 215.750(5) to be located on a tract that abuts a “road.” Interpretation of a local code requirement that such dwellings be located on a “public road” is controlled by local legislative intent rather than by statute. *Petersen v. Yamhill County*, 33 Or LUBA 584 (1997). The road may be public or private as long as it has been existence and continued to be in existence since January 1, 1993 and meets the following local definition: A public or private way created or intended to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land. A road does not include: (a) driveway located exclusively on the same lot, parcel or tract of land as the use it serves; (b) a private way that is created or intended to provide ingress or egress to such land in conjunction with the use of such land exclusively for forestry, mining, or agricultural purposes.

of this section. However, one of the three required dwellings must be on the same side of the road or stream as the tract, and:

- (i) *Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or*
- (ii) *Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.*

(B) Road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

- (d) *Notwithstanding subsection (6)(a) of this rule, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in sections (3) and (4) of this rule or subsections (b) or (c) of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle.*

FINDING: The criteria provides for the type of template test that shall be applied to the property based on the predominantly composition of soils. The Natural Resource Conservation (NRCS) Web Soil Survey report indicates the soils on the property are Templeton silt loam (54D), which has a capability of producing more than 85 cubic feet per acre per year of wood fiber, requires the property to comply with 1(c). Subsection 1(c) requires a minimum of all or part of at least 11 parcels, with 3 dwellings, created and sited prior to January 1, 1993 within the 160-acre template.

Subsection (2) provides additional guidelines for the template dwellings to determine if the template is required to be a square if a rectangle can be used. The first part of subsection 2a excludes any lots or parcels within an urban growth boundary. None of the lots are near an urban growth boundary. Subsection 2b provides an exception to Subsection 1 as it states if the lot or parcel *abuts a road² that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.*

In this case there was a discussion in prior approvals if the subject lot has a road that was in existence on January 1, 1993. In 2004 (County File Number HBCU-04-005) the Planning Commission found that there was a qualifying road. The question is, has there been any change in circumstances that would lead to a different conclusion. Upon a review of the land use records and assessment tax lot book records there have been no property line changes or easement changes. Law changes are required to be addressed as well. There have not been statutory or rule changes to the language of road. This is a local discretionary term. The CCZLDO does have language adopted that explains:

The statutory definition of “public road” at ORS 368.001(5) is not applicable to approval of a forest template dwelling required by ORS 215.750(5) to be located on a tract that abuts a “road.” Interpretation of a local code requirement that such

² The statutory definition of “public road” at ORS 368.001(5) is not applicable to approval of a forest template dwelling required by ORS 215.750(5) to be located on a tract that abuts a “road.” Interpretation of a local code requirement that such dwellings be located on a “public road” is controlled by local legislative intent rather than by statute. *Petersen v. Yamhill County*, 33 Or LUBA 584 (1997). The road may be public or private as long as it has been existence and continued to be in existence since January 1, 1993 and meets the following local definition: A public or private way created or intended to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land. A road does not include: (a) driveway located exclusively on the same lot, parcel or tract of land as the use it serves; (b) a private way that is created or intended to provide ingress or egress to such land in conjunction with the use of such land exclusively for forestry, mining, or agricultural purposes.

dwelling be located on a “public road” is controlled by local legislative intent rather than by statute. Petersen v. Yamhill County, 33 Or LUBA 584 (1997). The road may be public or private as long as it has been existence and continued to be in existence since January 1, 1993 and meets the following local definition: A public or private way created or intended to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land. A road does not include: (a) driveway located exclusively on the same lot, parcel or tract of land as the use it serves; (b) a private way that is created or intended to provide ingress or egress to such land in conjunction with the use of such land exclusively for forestry, mining, or agricultural purposes.

This criterion has to be looked at for each individual property that applies. Staff has to be able to state that a road that is not for the sole purpose of serving one lot or parcel. The road has to be in place to serve multiple properties (units of land).

Therefore, it seems that the same road could be used to qualify the template application. The applicant answers the question of the road by relying on Sacchi Lane which is not the applicable easement for the purpose of a template dwelling. The extension of Sacchi Lane was created through easements in 2000 and 2001. The easement has to be created prior to 1993 in order to qualify.

In 2004 there were several letters and exhibits entered into the record and a lengthy discussion with the Planning Commission to find out if one of the pre 1993 easements would qualify this property to use the easement as a qualifying “road”. On March 30, 2004 County Counsel David Koch explained how the power-line maintenance road would qualify as a “road”. Below is a excerpt from the letter.

“For the reasons set forth below, it is my legal opinion that in order to determine whether the power-line maintenance road is a ‘road’ as that term is defined in CCZLDO Section 4.8.525(B)(5), and in addition to making all necessary findings of fact, the following issues must be determined as a matter of policy:

- Whether the CCZLDO definition for the term ‘road’ may be applied to the template dwelling criteria, or alternatively, whether it is plainly clear from the context that a different meaning is intended.
- Whether the template dwelling applicant must be the holder of the private easement that established the private way.
- Whether a utility right-of-way is an ‘area’.”

County Counsel explained his legal advice and made it clear it was up to the Planning Commission to make an interpretation if the specific easements pertaining to this case would meet the definition of a “road” and comply with the comprehensive plan. The Planning Commission took all of the evidenced presented in the matter and made a decision that the road presented (utility easement) meets the definition of a road and the rectangle should be applied. To staff’s knowledge there has not been an adopted policy on the definition of road that would change the outcome of this ruling. This does not mean there may not be other possibilities but staff is limited to the record before them to consider. The 2004 set of minutes, memo from County Counsel, and final decision of the Planning Commission will be included in this record as evidence to support this conclusion. This information along with the fact that the property has not been reconfigured through a property line adjustment or other approvals that would change this original interpretation is part of Staff’s reasoning for finding the rectangle can be applied.

- (3) A proposed "template" dwelling under this rule is allowed only if:
- (a) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law;
 - (b) It complies with the requirements of OAR 660-006-0029 and 660-006-0035;
 - (c) No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under section (5) of this rule for the other lots or parcels that make up the tract are met;
 - (d) The tract on which the dwelling will be sited does not include a dwelling.
 - (e) The lot or parcel on which the dwelling will be sited was lawfully established.
 - (f) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
 - (g) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - (h) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.

FINDING: The proposal is required to comply with the requirements of the acknowledged comprehensive plan, land use regulations and other provisions of the law. The Comprehensive Plan recognizes dwellings sited on forest zoned parcels when they meet the implementing ordinance language and all other requirements such as Special Development Considerations and Overlays. The property does have Special Development Considerations for an area that is of Archaeological Interest which requires a notice the local Tribe and a Mixed Use overlay.

The purpose of the Forest Mixed Farm-Forest Areas ("MU" areas) is to include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean. This appears to be the correct overlay applied to this property. The area is not prime forestland but marginal in terms of any forest productivity and given the location near the ocean it adds an additional resource disadvantage. The property is small in size and located near other development properties. This proposed development is consistent with the intent of mixed use zoning.

The areas of Archaeological Interest which are subject to Section 4.11.128(B) Historical, Cultural and Archaeological Resources, Natural Areas and Wildness.

This strategy shall be implemented by requiring development proposals to be accompanied by documentation that the proposed project would not adversely impact the historical and archaeological values of the project's site. "Sufficient documentation" shall be a letter from a qualified archaeologist/historian and/or a duly authorized representative of a local Indian tribe(s).

ii. Properties which have been determined to have an "archaeological site" location must comply with the following steps prior to issuance of a "Zoning compliance Letter" for building and/or septic permits.

1) The County Planning Department shall make initial contact with the Tribe(s) for determination of an archaeological site(s). The following

information shall be provided by the property owner/agent: a) Plot plan showing exact location of excavation, clearing, and development, and where the access to the property is located; b) Township, range, section and tax lot(s) numbers; and c) Specific directions to the property.

2) The Planning Department will forward the above information including a request for response to the appropriate tribe(s).

3) The Tribe(s) will review the proposal and respond in writing within 30 days to the Planning Department with a copy to the property owner/agent. 4) It is the responsibility of the property owner/agent to contact the Planning Department in order to proceed in obtaining a "Zoning Compliance Letter" (ZCL) or to obtain further instruction on other issues pertaining to their request.

While it was determined that there was not a specific identified site on this property it is close to an inventoried site. A notice was provided to the tribe and comments were received. The applicant shall comply with these comments. This will be a condition of approval. Therefore, staff is making the finding that the use is compliant with the comprehensive plan.

The proposal will need to comply with all requirements for a template dwelling along with the development and siting criteria in Section 4.6.130 and 4.6.140. If these criteria cannot be complied with or conditions cannot be made to comply then the decision will be denied. At this point the criteria has been adequately addressed.

The proposal is required to comply with the requirements of OAR 660-006-0029 and 660-006-0035. OAR 660-006-0029 are siting standards for Dwellings and Structures in the Forest Zones and 660-006-0035 are Fire Siting Standards for Dwellings and Structures. These review criteria have been adopted in the CCZLDO as Section 4.6.130 and will be addressed under that section.

There are no other dwellings on the tract of land. The tract is a single property. Therefore, Subsection (3)(c) and (3)(d) have been complied with.

The property is a legally created unit of land. The unit of land was created pursuant to Section 6.1.125.1.b, through a prior land use decision (HBCU-04-05). There have been no property line adjustments since the decision in 2004. Therefore, Section (3)(e) through (3)(h) have been complied with.

Therefore, through staff's evaluation all of the criteria found under Section (3) above have been addressed.

- (4) Subsection (1)(d) and (3)(e) through (4) of Section (II) TEMPLATE DWELLING applies:*
- (a) On and after November 1, 2021 in Columbia, Coos, Curry, Deschutes, Douglas, Josephine, Linn, Marion, Washington, and Yamhill Counties with following limited exception:*
 - (A) Prior to November 1, 2023, the county may allow the establishment of a single-family dwelling on a lot or parcel that was part of a tract on January 1, 2021, if;*
 - (i) No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and*
 - (ii) The lot or parcel qualifies, notwithstanding subsection (3)(h), for a dwelling under section (1) of this rule.*

- (5) *When the lot or parcel on which the dwelling will be located is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel and a deed restriction using the form provided in OAR 660-06-027(6), "Exhibit A," shall be completed and recorded with Coos County Clerk. The covenants, conditions and restrictions in the deed restriction:*
- (a) *The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.*
 - (b) *Enforcement of the covenants, conditions and restrictions may be undertaken by the department or by the county or counties where the property subject to the covenants, conditions and restrictions is located.*
 - (c) *The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section.*
 - (d) *The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.*

FINDING: The current regulations have been applied to this application. The applicant did not qualify for an extension because of the new regulations; therefore, this is a re-evaluation to see if any of the changes would disqualify the dwelling. The only change to the criteria that may affect this approval is the centroid of the template. Staff has reapplied the centroid and it still qualifies. Subsections (4) and (5) are not relevant to this request as the property was not part of a prior tract. Therefore, they have been addressed.

SECTION 4.6.130 ADDITIONAL CRITERIA FOR ALL new and REPLACEMENT dwellings and structures in forest

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 to identify the building site:

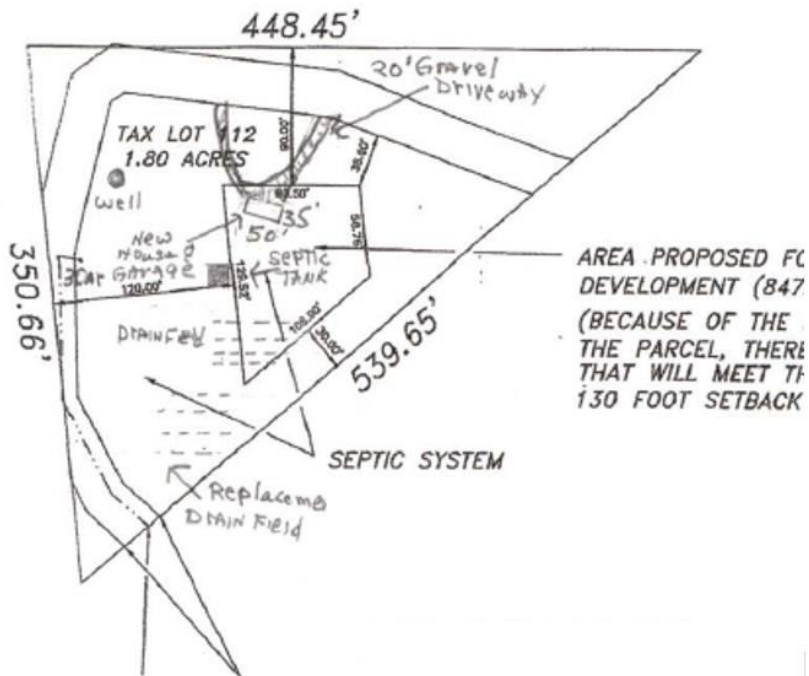
1. *Dwellings and structures shall be sited on the parcel so that:*
 - (a) *They have the least impact on nearby³ or adjoining forest or agricultural lands;*
 - (b) *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*
 - (c) *The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and*
 - (d) *The risks associated with wildfire are minimized.*
2. *Siting criteria satisfying section (1) of this section may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.*

³*For the purpose of this section "Nearby" is defined as within the decision notification area as defined in Section 5.0.900(2) for farm zoned property.*

FINDING: Section 4.6.130(l)(a) and Section 4.6.130(l)(b) require proof of adverse impacts to the subject property and nearby farm and forest operations. The proposed homesite, septic, and well are located approximately in the center of the subject property, as shown on the plot plan. The subject property is 1.8 acres and is considered legally non-conforming in regard to size.



According to the applicant, the proposed and existing development is located in the only suitable building locations on the site, therefore the proposal is considered to have the least impact on adjoining forest lands. The adjoining tax lot 101 is the larger unit of land in forestry use. The subject property is a unit of land and is zoned for forest but assessed as residential land due to the size of the property. In order to qualify for a forest designation for tax assessment purposes, it has to be a minimum of five acres. The soil on the property does show that it would be possible, if adjoined with a larger tract of forest land, to grow trees. However, given the property is mixed use and the location to the ocean, the environmental constraints along with the surrounding development make it very difficult for a property, such as this one, to have any viable forest production. This is the same for the property to the east, south, and west. The fact that this property has been approved twice before for a dwelling has allowed some of the improvements to be sited on the property, limiting the placement of the dwelling. The onsite septic system, utilities, and driveway have been established. The dwelling and garage placement appears to be located in the center of the property. There is a graveled driveway that provides a buffer from the proposed structural development to the property that is being utilized for forest purposes. The property will maintain a clear area on the property that is within their control.



Access to adjoining properties will not be restricted. The roads are existing, and no new road or driveway development is proposed. Risk associated with wildfire are minimized by providing low lying vegetation and spaced and limbed trees on the subject property. The roads create a buffer between the proposed building site and the adjoining forest property on the north side which was logged in 2021. The subject property, existing development, and existing roads did not negatively impact the logging activity and will not limit future activity on those lands. There are no agricultural lands within the vicinity. Staff finds based on the information in the record and aerial images that the applicant has address Section 4.6.130(1) and 4.6.130(2).

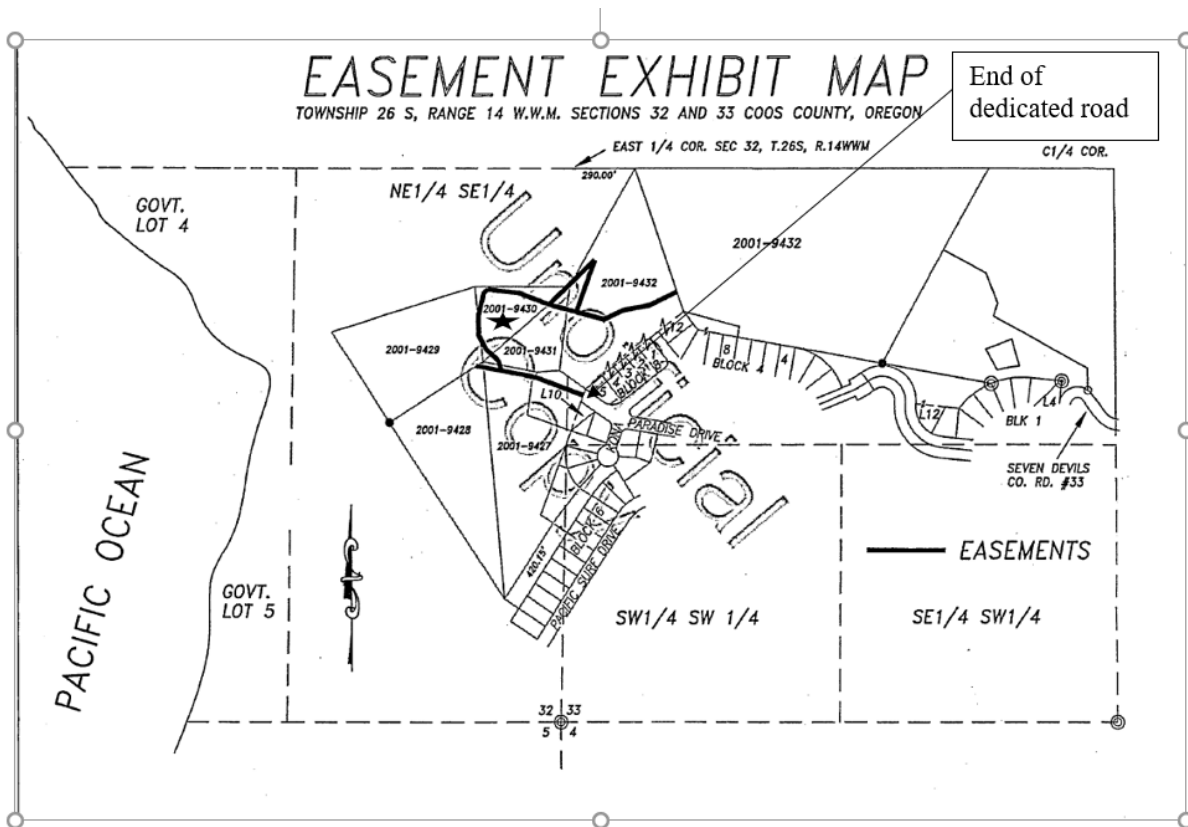
3. *The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:*
 - a) *Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;*
 - b) *A water use permit issued by the Water Resources Department for the use described in the application; or*
 - c) *Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.*

FINDING: The applicant did provide evidence of the domestic well on page 9 of the applicant's submittal. Therefore, this has been addressed.

4. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

FINDING: The applicant has stated this provision does not apply. However, the applicant is incorrect in the analysis that Sacchi Road is a public dedicated non-maintained county road.

The property is not within the subdivision in which the dedicated roads are located. The applicant provided the following easement exhibit map that contradicts the applicant's finding that this is a public dedicated road. The subject property is located below where the star is. The dedicated road system ends where arrow is pointing. All roads outside of the subdivision are private easements. This property is referencing easement 2001-9430. However, the maintenance for this road is described in the easement and staff believes this satisfies the criteria for a maintenance agreement.



5. Approval of a dwelling shall be subject to the following requirements:
 - (a) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;
 - (b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
 - (c) If the lot or parcel is more than 10 acres in western Oregon or more than 30 acres in eastern Oregon, the property owner shall submit a stocking survey report to the county assessor and the

assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;

- (d) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and*
- (e) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

FINDING: The parcel is under 10 acres in size and has not been reforested. The applicant will not be required to submit a stocking survey to the Coos County Assessor's Office; however, notice of this decision will be provided to the Assessor's Office. Therefore, Subsections (a) through (d) have been addressed.

The applicant will record a Farm Forest Management Covenant with the Coos County Clerk's office and then submit a copy of the recorded form to the Coos County Planning Department before requesting a Zoning Compliance Letter. Therefore, Subsection (e) has been addressed.

It is staff's finding that SECTION 4.6.130 has been addressed.

○ **SECTION 4.6.140 DEVELOPMENT AND SITING CRITERIA:**

This section contain all of the development standards for uses (unless otherwise accepted out by a use review) and all of the siting standards for development.

- 1. Except as provided in subsection 4.6.145 of this ordinance, the following minimum lot or parcel sizes apply for land designated forestland, is at least 80 acres.*

Minimum lot size will not affect approval for development unless specified in use. The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.

- 2. Setbacks: All Development with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way line, whichever is greater.*
- 3. Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 7.1.525.*
- 4. Off-Street Parking and Loading: See Chapter VII.*
- 5. Minimizing Impacts: In order to minimize the impact of dwellings in forest lands, all applicants requesting a single family dwelling shall acknowledge and file in the deed record of Coos County, a Forest Management Covenant. The Forest Management Covenant shall be filed prior to any final County approval for a single family dwelling.*

6. *Riparian Vegetation Protection. Riparian vegetation within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained except that:*
 - a. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
 - b. *Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
 - c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
 - d. *Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;*
 - e. *Riparian vegetation may be removed to site or properly maintain public utilities and road rights-of-way;*
 - f. *Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps; or*
 - g. *The 50 foot riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure's "footprint".*
 - h. *Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.*
 - i. *The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.*

7. *All new and replacement dwellings and permanent structures shall, at a minimum, meet the following standards.*
 - a. *The dwelling has a fire retardant roof.*
 - b. *The dwelling will not be sited on a slope of greater than 40 percent. Slope⁴ will also determine additional firebreak in Section 8 Firebreak. Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.*
 - c. *The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district or contract with a private fire protection company.*
 - d. *For dwellings and structures outside of a fire protection district alternative forms of fire protections will apply to the develop including fire sprinkling system, on-site equipment and water storage.*

⁴ Slope calculations must include the primary and additional fuel-free breaks. Staff will use the slopes from the soil data found in the Soil Survey of Coos County Oregon⁴ published by United States Department of Agriculture, Soil Conservation Service, in cooperation with Oregon Agricultural Experiment Station. Staff will accept an on ground study for slope from an Registered Surveyor or other Registered Professional that is able to make calculations based on the profession licensing requirements.

- i. *Water storage shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. The access to the water source shall be marked with signs for fire water sources.*
- e. *If the dwelling has a chimney or chimneys, each chimney has a spark arrester.*
- f. *The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner and complies with Section 8 Firebreak.*

8. *Firebreak:*

- a. *The property owner shall maintain a primary firebreak safety zone around all structures. Vegetation within this primary safety zone may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees.*
- b. *Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.*
- c. *The owners of the dwelling shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by Oregon Department of Forestry and shall demonstrate compliance with Table 1.*
- d. *Proof that all of these items will be met includes proof of the slope to determine additional firebreak setbacks is required.*

Table 1 – Minimum Primary Safety Zone

<i>Slope</i>	<i>Feet of Primary Safety Zone</i>	<i>Feet of Additional Primary Safety Zone Down Slope</i>
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

- 9. *All new and replacement structures shall use non-combustible or fire resistant roofing materials, as may be approved by the certified official responsible for the building permit.*
- 10. *Access to new dwellings shall meet road and driveway standards in Chapter VII.*

FINDING: Section 4.6.140(1) is only applicable in the creation of new parcels and that is not part of this request; therefore, it is not applicable.

Section 4.6.140(2) requires a setback from any road right-of-way. The provided plot plan illustrated that all setbacks for the proposed dwelling will be more than satisfied.

Section 4.6.140(3) applies to fences, hedges and walls. The proposal does not include any new fences, hedges, or wall. Therefore, this criterion does not apply.

Sections 4.6.140(4) require parking, loading, access and road standards be addressed. Driveway/Access/Parking Verification Permit has been completed and provided. Therefore, this criterion has been satisfied.

Section 4.6.140(5) requires that the property owners sign and record in the deed of records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. These forms shall be signed in front of a notary and recorded. This criterion was addressed above and will be made a condition of approval.

Section 4.6.140(6) requires a setback from any wetland. There are no mapped wetlands or water bodies requiring protection on, or adjacent to the subject property. Therefore, this criterion is not applicable.

Section 4.6.140(7)

(a) Requires the roofing material to be non-combustible or fire resistance. The applicant stated that "*Non-combustible or fire resistant roofing materials*". As a condition of approval, the County Plan's Examiner will verify that the material meet this requirement prior to issuance of a building permit.

(b) Requires that a dwelling not be located on a slope of greater than 40%. Based on the NRCS soil type data the property slope around the dwelling site is less than 40%. Therefore, this criterion has been addressed.

(c) Requires the dwelling shall be located within a fire protection district or shall be provided with residential fire protection by contract. The dwelling will be located within the Bandon Fire Protection District; therefore, this criterion has been satisfied.

(d) The applicant shall meet the minimum fire protection standards. However, if these standards are impractical the applicants shall comply with alternative forms of fire protection. The subject property is within the Bandon Rural Fire Protection District. Therefore, this criterion is not applicable.

(e) States that if a dwelling has a chimney, it shall have a spark arrester. The applicant stated that "*a spark arrester will be installed on the proposed dwelling*". Therefore, this criterion has been addressed.

(f) Determines the primary and secondary fire safety setbacks. Based on the NRCS soil type data, Staff finds the primary and secondary fuel break slopes surrounding the proposed dwelling are less than 10%. The applicant's will be required to install a 30 ft primary fuel free break, with a 100 ft secondary fuel break, around all structures on the subject property. The applicant is only responsible for primary and secondary fuel free breaks on land either owned or controlled by the landowner. This criterion will be made a condition of approval.

Section 4.6.140(8)

(a) Determines the primary and secondary fire safety setbacks. Based on the NRCS soil type data, Staff finds the primary and secondary fuel break slopes surrounding the proposed dwelling are less than 10%. The applicant's will be required to install a 30 ft primary fuel free break, with a 100 ft secondary fuel break, around all structures on the subject property. The applicant is only responsible for primary and secondary fuel free breaks on land either owned or controlled by the landowner. This criterion will be made a condition of approval.

(b) Requires sufficient ¾ inch hose for the perimeter of the primary fire break. The applicant stated that “The property owner agrees to provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter of the primary fuel-free (30 feet) building setback”. The property owner shall provide evidence of this prior to issuance of a Zoning Compliance Letter, this will be made a condition of approval. Therefore, this requirement has been addressed.

(c & d) Determines the primary and secondary fire safety setbacks. Based on the NRCS soil type data, Staff finds the primary and secondary fuel break slopes surrounding the proposed dwelling are between 7 to 12 percent. Therefore, there are 10-20 percent slopes in the proposed location of the dwelling for the primary and secondary fuel breaks. The requirement is for the dwellings to have at least an 80 ft primary fuel break, with a 100 ft secondary fuel break.

The applicant will maintain a ¾-inch 50 PSI garden hose with sufficient length to reach the primary safety zone.

Section 4.6.140 (9) Requires the roofing material to be non-combustible or fire resistance. The applicant stated that “non-combustible or fire resistant roofing materials”. As a condition of approval, the property owner shall be required to submit evidence certifying the roofing materials meet this requirement. Therefore, this criterion has been addressed.

Section 4.6.140 (10) requires adequate access for firefighting equipment. Table 7.2A in Section 7.2.200 identifies the minimum standards for new rural roads and driveways constructed to access new dwellings. The applicant will use the existing Sacchi Lane to access the subject property. The subject property is zoned Forest with Mixed Use Overlay. The driveway standards for Forest zoning district requires that all new driveways be a minimum of 14 ft sub-grade, 12 ft surface, 4-inch aggregate all-weather surface, with a maximum grade of 18%. If the driveway is over 1,000 ft., a pullout is required every 600 ft.

Section 7.1.400 relates to the criteria for private bridge standards; the applicant proposed driveway will not cross any private bridges.

Therefore, all criteria in Section 4.6.140 Development and Siting Criteria have been addressed.

IV. DECISION

In conclusion Staff finds that the applicant has address most of the relevant criteria and the ones that have not been address or cannot be completed until after the approval is obtained have been made conditions of approval. Therefore, the proposed Template Dwelling meets the requirements of the Coos County Zoning and Land Development Ordinance, with conditions listed in Exhibit “A” of this report.

V. EXPIRATION:

Permits approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit is valid for four years.

- a. Extensions for Residential Development as provided for under ORS 215.213 (3) and (4), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3) shall be granted as follows:*
 - i. First Extension - An extension of a permit for “residential development” as described in Subsection (1) above is valid for two (2) years.*

1. *The applicant shall submit an application requesting an extension to the County Planning Department prior to expiration of the final decision. See Section 5.0.250 for time lines for final decisions. Untimely extension requests will not be processed.*
 2. *Upon the Planning Department receiving the applicable application and fee, staff shall verify that the application was received within the deadline and if so issue an extension.*
 3. *An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*
- ii. *Additional Extensions - A county may approve no more than five additional one-year extensions of a permit if:*
1. *The applicant submits an application requesting the additional extension prior to the expiration of a previous extension;*
 2. *The applicable residential development statute has not been amended following the approval of the permit; and*
 3. *An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.*

An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.

This conditional use is for a residential development within a resource zone and is valid for four years for the date of final approval Monday, January 25, 2027.

VI. NOTICE REQUIREMENTS:

A notice of decision will be provided to property owners within 750 feet of the subject properties and the following agencies, special districts, or parties: Bandon Rural Fire Protection District, Coos Bay School District #9, and the Coos Bay – North Bend Water Board.

A Notice of Decision and Staff Report will be provided to the following: Applicants/Owners, Department of Land Conservation and Development, Coos County Assessor's Office and the Planning Commission and Board of Commissioners.

Adjacent property owners will receive a Notice of Decision and maps, but all other attachments can be found by contacting the Planning Department or visiting the website. If not found on the website the public may contact the department to view the official record.

EXHIBIT “D”
Comments Received



COQUILLE INDIAN TRIBE

3050 Tremont Ave. North Bend, OR 97459
Telephone: (541) 756-0904 ~ Fax: (541) 756-0847
www.coquilletribe.org

August 10, 2022

Coos County Planning Department
Michelle Berglund
mberglund@co.coos.or.us
Planning@co.coos.or.us

Re: ACU-22-035

Project location: 88891 Sacchi Ln, Bandon

Thank you for the opportunity to comment on the prop proposal to establish a possible template dwelling at the above referenced location. The Coquille Indian Tribe anticipates no effect to the known resources within the project area. **Extreme caution is recommended.** If any known or suspected cultural resources are encountered during the work, all work should cease and the landowner or contractor should contact our office immediately.

Please be aware that state statutes and federal law governs how archaeological sites are to be managed. 43 CFR 10 applies on tribal and federal lands, federal projects, federal agencies, as well as to federal actions and federally funded (directly or indirectly) projects. ORS 97.745 prohibits the willful removal, mutilation, defacing, injury, or destruction of any cairn, burial, human remains, funerary objects, or objects of cultural patrimony of a Native Indian. ORS 358.920 prohibits excavation, injury, destruction, or alteration of an archaeological site or object, or removal of an archaeological object from public or private lands. If archaeological materials are discovered, uncovered, or disturbed on the property, we will discuss the appropriate actions with all necessary parties.

Thank you again and feel free to contact me at (541) 808-5554 if you have any questions.

Best,

Gabrielle Bratt

Gabrielle Bratt, M.S.
Cultural Resources Technician

CRT22280