



STAFF REPORT FOR BOARD OF COMMISSIONERS

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

FILE # AM-23-002/RZ-23-002/ACU-23-033 (ORDINANCE NUMBER 23-07-007PL)

HEARING TIME AND PLACE: **AUGUST 24, 2023 @ 10:30 AM**
OWEN BUILDING
201 N. ADAMS ST.
COQUILLE, OR 97423

REPORT DATE: August 17, 2023

APPLICANT(S): Larry Paul & Bonnie Riley

CONSULTANTS: Hailey Sheldon, Sheldon Planning

SUMMARY PROPOSAL: The proposal is for an Amendment/Rezone of a parcel of land from Exclusive Farm Use to Forest Mixed Use

STAFF CONTACT: Jill Rolfe, Coos County Community Development Director

REVIEW CRITERIA: The application will need to comply with:

- Coos County Zoning and Land Development Ordinance, Article 5.1 Plan Amendments and Rezones,
- Coos County Comprehensive Plan Volume I, Part I
 - Section 3.2 Agricultural/Forest/Natural Resources,
 - Section 5.3 Agricultural Lands, and
 - 5.4 Forest Lands
- Volume I, Part II
 - Section 3.1 Agricultural Lands, and
 - Section 3.2 Forest Lands.
- Coos County Zoning and Land Development Ordinance
 - Section 4.6.100 Forest and Forest Mixed Uses – Tables, Table 1 Use 63.
 - Section 4.6.110 Dwellings on Forest and Forest Mixed Uses (9)(B)(II) Template Dwelling
 - Section 4.6.130 Siting Standards
 - Section 4.6.140 Development and Siting Standards
 - Chapter VII
 - Section 7.1.425 Access Connection and Driveway Design
 - Section 7.1.250 Materials Required for an Application
 - Article 7.5 Parking Standards

PROPERTY DETAILS:

Account Number 3089701
Map Number 29S140700-02500

Property Owner PAUL, LARRY; ET AL
13830 LITTLE RIVER RD
GLIDE, OR 97443-9770

Situs Address 88018 NAPIER LN BANDON, OR 97411
Acreage 5.01 Acres

Zoning EXCLUSIVE FARM USE (EFU)

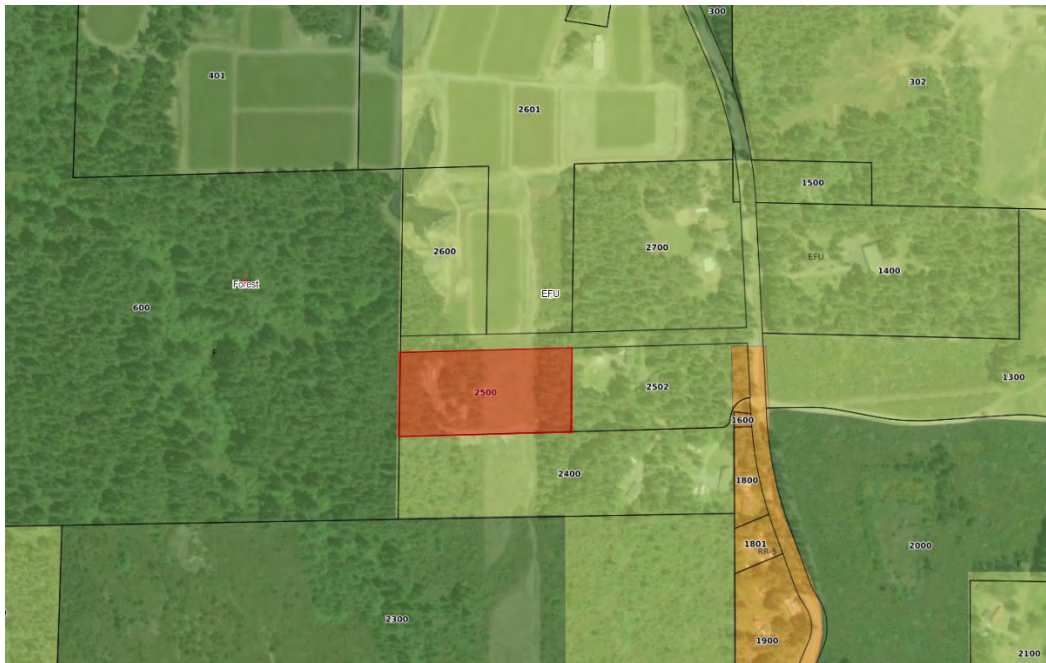
Special Development Considerations and Overlays: BANDON AREA OF MUTUAL INTEREST (BMI)
BANDON CONICAL ZONE (ABC)

I.I STAFF REPORT – WITH RECOMMENDATIONS AND PROPOSED FINDINGS

A. DETAILS AND BACKGROUND:

- i. PROPOSAL:** According to the application, the applicants are proposing to amend the plan designation of the subject property from Agriculture to Forest and rezone it from Exclusive Farm Use (EFU) to Forest with a Mixed-Use overlay. Alongside the proposal, a conditional use to site a Template Dwelling was submitted (File Number ACU-23-033). This report is divided into two sections. The first section addresses the criteria for the re-zone, and the second section addresses the criteria for the template dwelling.

- ii. LOCATION AND SURROUNDING USES:** The subject property is located south of the City of Bandon, off Napier Lane, which is a privately maintained road. The property has a situs address of 88018 Napier Lane, Bandon, OR 97411. It is zoned Exclusive Farm Use (EFU) and comprises approximately 5.01 acres. This property lies west of Rosa Road, also accessible from Napier Lane, and is situated south of the City of Bandon. The parcel is predominantly vegetated, except for the power line easement and the old homesite. Surrounding properties are zoned Exclusive Farm Use (EFU) and Forest (F), serving purposes such as farming, forestry, and residential use. The aerial image below highlights the subject property in red. Properties to the north, south, and east are zoned EFU, while the property to the west is designated as Forest with a Mixed-Use overlay.



- iii. **PROPERTY HISTORY:** On May 23, 1984, a Zoning Clearance Letter (ZCL-84-233) was issued to allow the construction of a Conventional Dwelling and a septic system. Records from the Department of Environmental Quality (DEQ) indicate that the septic system application was submitted on May 25, 1984, and expired on June 20, 1985. DEQ accepted a new septic application as a renewal on June 19, 1985, but the application stated that there was no Zoning Compliance Letter. This was signed by the property owner

STATE OF OREGON
Department of Environmental Quality

FOR OFFICE USE ONLY: Date Rec'd: 6-17-85
Date Completed: 8-15-85
Required Fee: \$15.00
Receipt No: 31371
Control No: 615-132

APPLICATION FOR:

Site Evaluation Report
 Permit to Construct On-Site Sewage Disposal System
 Permit to Repair On-Site Sewage Disposal System
 Permit for Alteration of On-Site Sewage Disposal System
 Permit Renewal: SPD
 Authorization Notice
 Other (Specify) _____

(Required fee and land use compatibility statement must accompany application)

FOR OFFICE USE ONLY:

PLOT PLAN REQUIRED YES NO ATTACHED YES NO
VICINITY OR TAX LOT MAP REQUIRED YES NO ATTACHED YES NO
TEST HOLES REQUIRED YES NO
ZONING COMPLIANCE LETTER YES NO ATTACHED YES NO

ADDITIONAL ITEMS REQUIRED: _____

PLEASE COMPLETE BELOW THIS LINE

For Applicant's Use - (Please Print)

Property Owner's Name: Harris, Robert & Faye
Township: 29 Range: 14 Section: 07 Tax Lot/Sec. No.: 2500/30897.01 County: Coos
Subdivision Name: _____ Plat No.: _____ Block No.: _____ Lot Size: 5.01
Public Water Supply: _____ Private Water Supply, Specify Type: WELL

Single Family Residence - Number of Bedrooms: _____ (Other - Specify) _____

Directions to Property: Second right hand driveway, past 3-mile marker off Road Rd, so of Bendon. On driveway take second

By my signature, I certify that the information I have furnished is correct, and hereby grant the Department of Environmental Quality and its authorized agent permission to enter into the above described property for the purpose of this application.

Signature: Faye Harris Date: 6/19/85 Owner
 Authorized Representative
 S.D.S. License No. _____

While the staff agrees that DEQ should not have processed the application without a valid Zoning Compliance Letter, it is up to the applicants/property owners to ensure that all necessary permits are obtained. There was never an approval obtained for the Mobile Home. DEQ did provide a satisfactory completion on March 19, 1986, for the Septic System. The regulations and zoning changed from the time the Zoning Compliance Letter was issued. Several amendments occurred from 1984 through the end of 1986 (date of acknowledgments). When the County was acknowledged, with an effective date of July 1, 1986, this property was zoned Exclusive Farm Use-10. A dwelling would have required a conditional use process at that time for a farm dwelling, and a public hearing would have been necessary if it was to be considered a non-farm dwelling. At any time between the date of the Zoning Compliance Letter and July 1, 1986, the applicants could have requested a new Zoning Compliance Letter and reconsideration of allowance for a Mobile Home, but that was not requested. The reason this explanation is important is that a dwelling had to be lawful before it could be requested for replacement. This will be further elaborated upon in the criteria section.

Based on the provided information, it appears that the property owners were involved in unlawful actions during their ownership. Specifically, an Alleged Violation (AV-86-22) was reported to Coos County Planning Staff on November 12, 1986. This violation involved two

travel trailers and a shed being used as dwellings on the property, which likely violated local zoning or building regulations.

On December 24, 1986, DEQ staff conducted a follow-up inspection of the property and confirmed that the violation had been resolved. Based on this information, Planning Staff closed the illegal RV-as-a-dwelling violation, but there is no indication that any site visits were conducted by County Staff.

On April 9, 2021, an email was received from the property owner inquiring about information to set up a metal building for residency. Within the email, they explained that the property had a mobile home, but it had been removed. Staff emailed back, requesting the property's situs address, as the permitting process is site-specific. The property owner provided the address and stated that the mobile home had been gone for a while. Staff replied, stating that the property is zoned Exclusive Farm Use, and there are only two ways to replace a lawfully established dwelling. The first option would be a replacement within a year of removal, but this property would not qualify, as aerial photos indicated that the dwelling had been removed for over a year. The other option would be to apply for a deferred replacement, but staff could not determine whether the property would meet the criteria. Staff provided the criteria.

On August 18, 2021, Coos County Planning Staff was notified of a potential violation (AV-21-017) by a neighboring property owner. The neighbor alleged that a structure had been built over the property line. Staff sent a letter on August 18, 2021, to Larry Paul regarding the structure. Larry Paul responded on November 20, 2021, stating that he would move the building onto his property within 90 days. On March 4, 2022, Larry Paul sent an email to Coos County Planning, explaining that the construction company was behind schedule, and the new date given for moving the structure was March 10, 2022. On March 11, 2022, Coos County Staff sent a Notice of Decision for the Alleged Violation. Within this decision, staff explained that any proposed structure to be built requires land use authorization, and the property had no land use approvals. It may not qualify for any type of dwelling due to zoning. On March 12, 2022, an email was received from the property owner with pictures showing that the structure had been removed.

On May 3, 2022, an email was received from the property owner with an incomplete application. Staff responded, informing him that the application was not completely filled out, and no plot plan or addressed criteria were included. Larry Paul responded with a plot plan that did not meet county standards, along with property intentions. However, this did not address the previously emailed required criteria.

On May 4, 2022, staff responded, stating that if the intention was to build a dwelling, he would need to submit a conditional use application and address the applicable criteria. Staff attached the criteria and application to the email, along with the fee amount.

On May 12, 2022, staff sent an email to Mr. Paul, explaining that after further research on the property, the dwelling that was removed would need to be proven to have been lawfully sited. The 1986 violation, AV-86-22, was closed in December 1986 with no notes of other development. The dwelling approval listed a conventional dwelling, while the dwelling that was sited was a mobile home. Mr. Paul responded, expressing that he had no idea what to do now and assumed that the single-wide was permitted when he bought the property in 2011. He asked staff to provide him with guidance on building a dwelling on the property. The options from the Ordinance were provided.

On October 12, 2022, a Conditional Use (ACU-22-048) was received to apply for the replacement of the mobile home. The application was denied, but alternatives were provided to offer guidance for a successful application.

iv. ZONING:

Current zoning is EFU and proposed is Forest with a Mixed-Use Overlay.

Exclusive Farm Use (EFU)

These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.

The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.

According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the "Agricultural Lands Inventory" was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:

1. Committed rural residential areas and urban growth areas.
2. Proposed rural residential areas as per the Exception to Goals #3 and #4.
3. Proposed industrial/commercial sites.
4. Existing recreation areas (e.g., golf courses) [Recreation designation]
5. Isolated parcels of Class I-IV soils in upland areas, which are under forest cover. (Forestlands designation).
6. Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].

The secondary criterion for establishing the "Agricultural Lands Inventory" was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.

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.

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.

If a use is only allowed in the mixed use zone it will be explained in the text. Otherwise the uses listed are allowed in both the Forest and Forest Mixed Use zones.

Overview Map

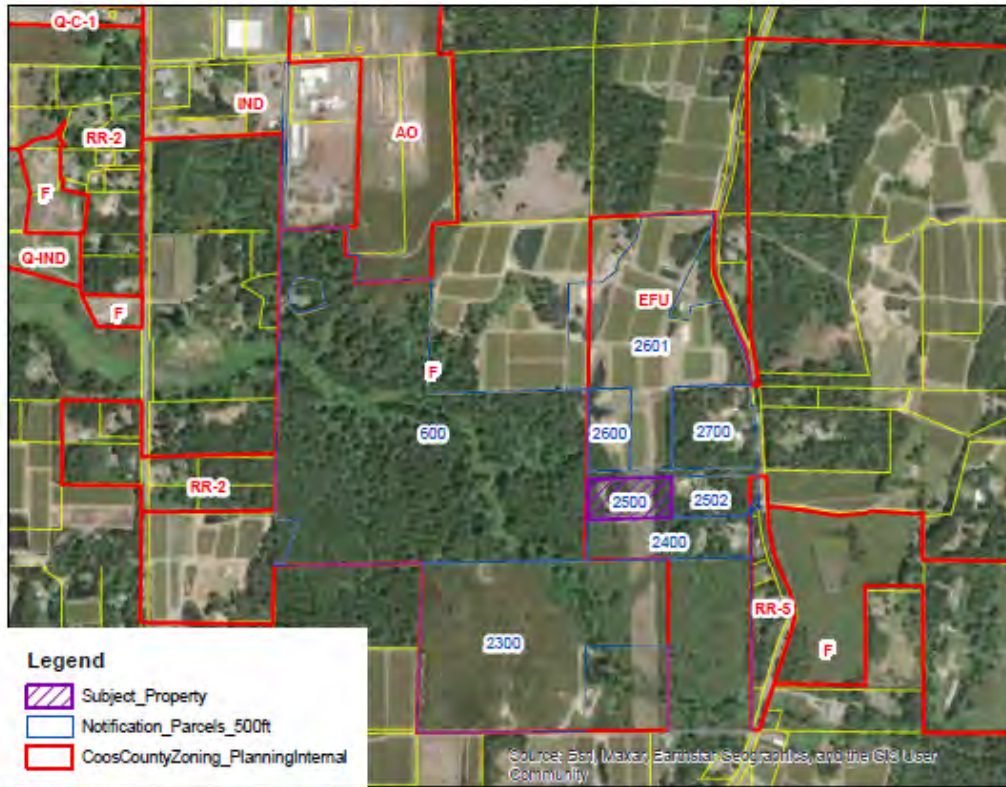


COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 225 N. Adams, Coquille, Oregon 97423
 Physical Address: 60 E. Second, Coquille Oregon
 Phone: (541) 396-7770
 TDD (800) 735-2900



File: AM-23-002/RZ-23-002/ACU-23-033
 Applicant/ Owner: Larry Paul & Bonnie Riley
 Date: July 14, 2023
 Location: Township 29S Range 14W Section 07 TL 2500
 Proposal: Amendment Rezone & Administrative Conditional Use



B. COMMENTS RECEIVED: There have been no comments received on this proposal as of the date of this report.

C. ADMINISTRATIVE PROCEDURES: ARTICLE 5.0 ADMINISTRATION AND APPLICATION REVIEW PROVISIONS

• **SECTION 5.0.100 PRE-APPLICATION CONFERENCE:**

The purpose of a pre-application conference is to familiarize the applicant with the provisions of this Ordinance and other land use laws and regulations applicable to the proposed development.

A pre-application is strongly recommended prior to submission of plan or ordinance amendment application or rezone application. For other types of applications an applicant may request a pre-application conference under this Ordinance.

A pre-application conference shall be requested by filing a written request along with the applicable fee to the Planning Department. The written request should identify the development proposal, provide a description of the character, location and magnitude of the proposed development and include any other supporting documents such as maps, drawings, or models.

The Planning Department will schedule a pre-application conference after receipt of a written request and the appropriate fee. The Planning Department will notify agencies and persons deemed appropriate to attend to discuss the proposal. Following the conference, the Planning Department will prepare a written summary of the discussion and send it to the applicant.

FINDINGS: A pre-application is always encouraged to gain a better understanding of all potential issues from an agency perspective. The property owner did not engage in a pre-application meeting for this property, but considering that this is a resource-to-resource rezone, there was no need to solicit comments from other agencies

• **SECTION 5.0.150 APPLICATION REQUIREMENTS:**

Applications for development or land use action shall be filed on forms prescribed by the County and shall include sufficient information and evidence necessary to demonstrate compliance with the applicable criteria and standards of this Ordinance and be accompanied by the appropriate fee. An application shall not be considered to have been filed until all application fees have been paid. All applications shall include the following:

- 1. Applications shall be submitted by the property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign.*
- 2. An application for a variance to the requirements of the Airport Surfaces Overlay zone may not be considered unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within twenty (20) days after receipt, the Planning Director may act to grant or deny said application.*

3. *One original and one exact unbound copy of the application or an electronic copy shall be provided at the time of submittal for all applications.*

An application may be deemed incomplete for failure to comply with this section.

The burden of proof in showing that an application complies with all applicable criteria and standards lies with the applicant.

- **SECTION 7.1.250 MATERIALS REQUIRED FOR AN APPLICATION:**

A traffic plan (item 1) will be required for all rezones, recreational vehicle parks, campgrounds, mobile home parks, land divisions, industrial developments, commercial developments and high intensity development plans. The Roadmaster in consultation with the Planning Director will have discretion to waive items 2 through 4 based on the findings that the increase in development is diminimus to the existing development.

1. *Traffic Plan - A parking/traffic plan shall be submitted to address all of the following:*
 - a. *Property boundaries;*
 - b. *Location of all structures on the subject property;*
 - c. *Required parking spaces;*
 - d. *Current utilities and proposed utilities;*
 - e. *Roadmaster may require drawings and specs from the Oregon Standards Specification Manual (OSSC) (current edition);*
 - f. *The location and design of bicycle and pedestrian facilities shall be indicated on the site plan if applicable;*
 - g. *Pedestrian access and circulation will be required if applicable. Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of walkways, landscaping, accessways, or similar techniques;*
 - h. *All plans (industrial and commercial) shall clearly show how the internal pedestrian and bicycle facilities of the site connect with external existing or planned facilities or systems;*
 - i. *Location of existing and proposed access point(s) on both sides of the road where applicable;*
 - j. *Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;*
 - k. *Number and direction of lanes to be constructed on the road plus striping plans;*
 - l. *All planned transportation features (such as sidewalks, bikeways, auxiliary lanes, signals, etc.); and*
 - m. *Parking and internal circulation plans including walkways and bikeways, in UGB's and UUC's.*
2. *Traffic Study completed by a registered traffic engineer.*
3. *Access Analysis completed by a registered traffic engineer*
4. *Sight Distance Certification from a registered traffic engineer.*

FINDING: The application includes a site plan that outlines the appropriate traffic flow, parking, and access. However, the applicants did not request a waiver for the additional

traffic requirements. Nevertheless, considering the limited traffic expected for this zone and the proposed use, it seems reasonable not to require items two through four.

- **SECTION 5.0.300 FINDINGS REQUIRED [ORS 215.416(9)-(10)]:**

Approval or denial of an application shall be in writing, based upon compliance with the criteria and standards relevant to the decision, and include a statement of the findings of fact and conclusions related to the criteria relied upon in rendering the decision.

- **SECTION 5.0.350 CONDITIONS OF APPROVAL:**

1. *Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both the extent and amount to the anticipated impacts of the proposed use or development.*
2. *An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions of Section 1.3.300.*
3. *At an applicant's request, the County may modify or amend one or more conditions of approval for an application previously approved and final. Decisions to modify or amend final conditions of approval will be made by the review authority with the initial jurisdiction over the original application using the same type of review procedure in the original review.*

- **SECTION 5.0.900 NOTICE REQUIREMENTS (ORS 197.763):**

All applications that receive a notice shall follow this section except for land divisions within the urban growth boundary or lands designated as Regionally Significant Industrial Areas (RSIA). See Article 5.12 for processing and time tables.

1. **Notice Public Hearing :**

- a. *The Planning Department shall forward a copy of the application to any affected city or special district pursuant to applicable provisions of this Ordinance;*
- b. *The Planning Department shall mail a copy of the staff report to the city, special district, applicant and Hearings Body at least seven (7) days prior to the scheduled public hearing.*
- c. *Notice shall be mailed at least twenty days prior to the hearing, or ten before the first evidentiary hearing if there will be two or more hearings. Notice shall:*
 - i. *Describe the nature of the application and the proposed use or uses that could be authorized;*
 - ii. *Set forth the address or other easily understood geographical reference to the subject property;*
 - iii. *Include the name of the local government representative to contact and a telephone number where additional information may be obtained;*
 - iv. *State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost, and will be provided at reasonable cost;*

- v. *List the applicable criteria that apply to the application;*
 - vi. *State the date, time, and location of the hearing;*
 - vii. *State that failure of an issue to be raised, in person or in writing, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;*
 - viii. *State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and*
 - ix. *Include a general explanation of the requirements of submission of testimony and the procedure for the conduct of the hearings.*
 - x. *The Planning Director shall cause notice of the hearing to be mailed to, the applicant and to all neighborhood or community organizations recognized by the County and whose boundaries include the site and to the owners of record of property on the most recent property tax assessment roll where such property is located:*
 - 1) *Within 100 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is wholly or in part within an urban growth boundary;*
 - 2) *Within 250 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is outside an urban growth boundary and not within a farm or forest zone;*
 - 3) *Within 500 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is within a farm or forest zone*
- d. *Notice of the decision shall be afforded to the applicant and those persons participating in the public hearing. ****

3. *Plan Map Amendment/Rezone*

- a. *If the application includes an exception to a goal, notice shall comply with ORS 197.732. The notice shall be published at least 20 days prior to the date of the hearing. All notice requirements in "1" of this Section shall apply.*
- b. *At least 35 days prior to the initial hearing, notice shall be provided as required by ORS 197.610. [OR 04 12 013PL 2/09/05]*
- c. *Notice of decision shall be afforded to the applicant and those participating in the process. Notice of the decision shall also be afforded to any witness participating in the public hearing and requesting such notification.*
- d. *Requirements for hearings on a rezone of property containing a mobile home park shall be provided pursuant to ORS 215.223(7).*
- e. *Special notice requirements for zone changes within the environs of public use airports shall be provided pursuant to ORS 215.223(4), (5), and (6).*

FINDINGS: This application involves a Plan Map Amendment governed by CCZLDO Section 5.0.900. A notice of Post Acknowledge Plan Amendment was issued 35 days before the Planning Commission meeting, adhering to the requirements of ORS 197.610. The hearing notice was published following ORS 197.732 guidelines. The hearing notice was distributed according to the relevant section.

While this concerns a Plan Map Amendment/Rezone, it does not encompass a new exception as part of the request. A 35-day notice was provided to the Department of Land Conservation and Development on June 29, 2023 (Coos County 005-23). The draft findings have been included in the staff report. The mandatory notice will be posted in The World Newspaper. All notices are available at the Department and can be reviewed upon request during regular business hours.

The applicants have successfully submitted all required applications, and the staff has completed the necessary notices for the progression of this proposal through the formal hearing process.

D. ARTICLE 5.1 REZONES

- **SECTION 5.1.100 LEGISLATIVE AMENDMENT OF TEXT ONLY:**

An amendment to the text of this ordinance or the comprehensive plan is a legislative act within the authority of the Board of Commissioners. [OR 04 12 013PL 2/09/05]

FINDING: The application is not for a text amendment. Therefore, this criterion is not applicable.

- **SECTION 5.1.110 WHO MAY SEEK CHANGE:**

Coos County shall consider the appropriateness of legislative plan text and map amendment proposals upon:

1. *A motion by the Board of Commissioners; or*
2. *A motion of the Planning Commission; or*
3. *The submission of formal request made by either:*
 - a. *The Citizen Advisory Committee; or*
 - b. *An application filed by a citizen or organization, accompanied by a prescribed filing fee. If a Measure 56 notice is required the applicant shall be responsible for the payment of all cost associated with that service.*

FINDING: The application was submitted by Larry Paul and Bonnie Riley, who are both the property owners and citizens, as permitted under Subsection 3.b. The necessary forms were properly filed, and this application does not require a Measure 56 notice to be issued. There for these criteria has been addressed.

- **SECTION 5.1.115 ALTERATION OF A RECOMMENDED AMENDMENT BY THE PLANNING DIRECTOR:**

The Planning Director may recommend an alteration of a proposed amendment if, in the director's judgment, such an alteration would result in better conformity with any applicable criteria. The Planning Director shall submit such recommendations for an alteration to the Hearings Body prior to the scheduled public hearing for a determination whether the proposed amendment should be so altered.

FINDING: The Planning Director does not request to amend the proposal.

- **SECTION 5.1.120 PROCEDURE FOR LEGISLATIVE AMENDMENT:**

The Board of Commissioners shall conduct one or more public hearings with 10 days advance published notice of each of the hearings. The public notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration. (ORS 215.060 &

ORS 215.223). Notice to DLCD shall be provided 35 days prior to the initial hearing per ORS 197.610. Notice of adoption is subject to ORS 197.615. [OR 04 12 013PL 2/09/05]

FINDING: Staff has met the requirement of publishing and mailing notices. All pertinent documentation has been filed with the Coos County Community Development, Planning Department and available for inspection. The preliminary hearing was scheduled before the Planning Commission on August 3, 2023, during which the decision to recommend approval for this proposal was made. The property has restrictions that limit reasonable and practical farm operations. The soil is suitable for growth and management as forestland, as elaborated in more detail ahead. The Planning Commission has issued a recommendation to the Coos County Board of Commissioners; however, this recommendation does not alter the Comprehensive Plan or the Implementing Ordinance. Consequently, a meeting is scheduled for August 24, 2023, to deliberate on the application. A published notice was furnished more than 10 days prior to this hearing, ensuring compliance with this criterion.

- **SECTION 5.1.125 MINOR TEXT CORRECTIONS:**

The Director may correct this ordinance or the Comprehensive Plan without prior notice or hearing, so long as the correction does not alter the sense, meaning, effect, or substance of any adopted ordinance. [OR 04 12 013PL 2/09/05]

FINDING: This is not applicable to this request.

- **SECTION 5.1.130 NEED FOR STUDIES:**

The Board of Commissioners, Hearings Body, or Citizen Advisory Committee may direct the Planning Director to make such studies as are necessary to determine the need for amending the text of the Plan and/or this Ordinance. When the amendment is initiated by application, such studies, justification and documentation are a burden of the initiator.

FINDING: This is not a text amendment. Staff prepared a comprehensive staff report that addresses all relevant criteria by utilizing information from the Coos County Comprehensive Plan, as well as evidence and written testimony provided by the applicants.

- **SECTION 5.1.135 STATUS OF HEARINGS BODY RECOMMENDATIONS TO THE BOARD OF COMMISSIONERS:**

A Hearings Body recommendation for approval or approval with conditions shall not in itself amend this Ordinance or constitute a final decision.

FINDING: The preliminary hearing was scheduled before the Planning Commission on August 3, 2023, during which the decision to recommend approval for this proposal was made. It's important to note that this recommendation does not have the authority to amend the ordinance, nor does it constitute a final decision regarding this matter.

- **SECTION 5.1.200 REZONES:**

Rezoning constitutes a change in the permissible use of a specific piece of property after it has been previously zoned. Rezoning is therefore distinguished from original zoning and amendments to the text of the Ordinance in that it entails the application of a pre-existing zone classification to a specific piece of

property, whereas both original zoning and amendments to the text of the Ordinance are general in scope and apply more broadly.

FINDING: This proposal will change the zoning from Exclusive Farm Use to Forest as well as amend the plan map from Agriculture to Forest which requires a Post Acknowledgement Plan Amendment. This rezone from Exclusive Farm Use will not significantly change the permissible uses of the subject property to align with Forest.

- **SECTION 5.1.210 RECOMMENDATION OF REZONE EXPANSION BY THE PLANNING DIRECTOR:**

The Planning Director may recommend an expansion of the geographic limits set forth in the application if, in the Planning Director's judgment, such an expansion would result in better conformity with the criteria set forth in this Ordinance for the rezoning of property. The Planning Director shall submit a recommendation for expansion to the Hearings Body prior to the scheduled public hearing for a determination whether the application should be so extended.

FINDING: The Planning Director has not recommended an expansion of the geographic limits set forth in the application. This change in zoning designation will change the designation to be consistent with the properties to the west.

- **SECTION 5.1.215 ZONING FOR APPROPRIATE NON-FARM USE:**

Consistent with ORS 215.215(2) and 215.243, Coos County may zone for the appropriate non-farm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the non-farm use prior to the establishment of the exclusive farm use zone.

FINDING: This does not apply to this request.

- **SECTION 5.1.220 PROCESS FOR REZONES:**

1. *Valid application must be filed with the Planning Department at least 35 days prior to a public hearing on the matter.*
2. *The Planning Director shall cause an investigation and report to be made to determine compatibility with this Ordinance and any other findings required.*
3. *The Hearings Body shall hold a public hearing pursuant to hearing procedures at Section 5.7.300.*
4. *The Hearings Body shall make a decision on the application pursuant to Section 5.1.225.*
5. *The Board of Commissioners shall review and take appropriate action on any rezone recommendation by the Hearings Body pursuant to Section 5.1.235.*
6. *A decision by the Hearings Body that a proposed rezone is not justified may be appealed pursuant to Article 5.8.*

FINDING: The application was filed on May 26, 2023, and the 35-day notice was provided to DLCD on June 29, 2023. The application was found to be valid for the purpose of a public hearing.

This matter is scheduled before the Planning Commission (Hearings Body) on August 3, 2023, during which the Planning Commission will make a recommendation to the Board of Commissioners. The Board of Commissioners will review the record and take any testimony on August 24, 2023, before making a final decision. Once a final decision is made and reduced to writing, an appeal process will be available. Detailed information regarding the appeal process will be provided to all participants in this matter. After the appeal period has passed, without any appeals being received, the decision will become final, and staff will proceed with the required plan changes. Therefore, this section has been addressed.

- **SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE:**

The Hearings Body shall, after a public hearing on any rezone application, either:

- 1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:*
 - a. The rezoning will conform with the Comprehensive Plan or Section 5.1.215; and*
 - b. The rezoning will not seriously interfere with permitted uses on other nearby parcels; and*
 - c. The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.*
- 2. Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:*
 - a. The property may not be utilized for all the uses ordinarily permitted in a particular zone;*
 - b. The development of the site must conform to certain specified standards; or*
 - c. Any combination of the above.*

A qualified rezone shall be dependent on findings of fact including but not limited to the following:

- i. Such limitations as are deemed necessary to protect the best interests of the surrounding property or neighborhood;*
 - ii. Such limitations as are deemed necessary to assure compatibility with the surrounding property or neighborhood;*
 - iii. Such limitations as are deemed necessary to secure an appropriate development in harmony with the objectives of the Comprehensive Plan; or*
 - iv. Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects of the zone change.*
- 3. Deny the rezone if the findings of 1 or 2 above cannot be made. Denial of a rezone by the Hearings Body is a final decision not requiring review by the Board of Commissioners unless appealed.*

FINDING: The application is required to conform to the Comprehensive Plan. The Planning Commission can recommend to the Board of Commissioners whether the proposal conforms to the Coos County Comprehensive Plan, conforms with conditions (qualifiers), or does not conform and should be denied.

The Coos County Comprehensive Plan Volume 1, Balance of County, is the relevant portion of the comprehensive plan that pertains to this property, as the property is not located within one of the estuary plans. To assess compliance, the county will need to follow the same process that was conducted during the initial determination of the appropriate zoning. The sections identified are

Volume I Part I Section 3.2 Agricultural/Forest/Natural Resources, Section 5.3 Agricultural Lands, and Section 5.4 Forest Lands. Also applicable are the following Sections in Volume I, Part II Section 3.1 Agricultural Lands, and Section 3.2 Forest Lands.

To understand the process a bit better it is helpful to understand what Oregon Statewide Planning Goals apply. Oregon Statewide Planning Goals are a set of 19 goals established by the state government to guide land use planning and decision-making throughout the state. These goals provide a framework for local governments, land use planning agencies, and other stakeholders to shape the physical, social, and economic development of their communities.

The Oregon Statewide Planning Goals cover a broad range of topics and aim to address various aspects of land use planning, conservation, and development.

- Oregon’s Statewide Planning Goals & Guidelines Goals**
 - 3 Agricultural Lands**
 - 4 Forest Lands**
 - 5 Natural Resources, Scenic and Historic Areas, and Open Spaces**
 - 6 Air, Water and Land Resource Quality**
 - 7 Areas Subject to Natural Hazards**
 - 8 Recreational Needs**
 - 9 Economic Development**
 - 10 Housing**
 - 11 Public Facilities and Services**
 - 12 Transportation**
 - 13 Energy Conservation**
 - 14 Urbanization**

Each goal includes specific policies and guidelines to guide land use planning and development decisions.

Local jurisdictions in Oregon are required to incorporate these goals into their comprehensive plans and land use regulations, ensuring consistency with the statewide planning framework. However, there is flexibility for local communities to adapt and interpret the goals based on their unique characteristics, needs, and priorities while still meeting the overarching objectives of sustainable development and resource conservation. The flexibility is accomplished through an exception process.

In most of Coos County Goals 3 and 4 apply. In more detail, Statewide Planning Goals 3 and 4 are part of the statewide planning framework that guides land use planning and development across the state.

Goal 3, also known as Agricultural Lands, focuses on the preservation and protection of agricultural lands and their long-term viability for farming activities. It aims to ensure that agricultural lands are conserved for current and future agricultural uses, promoting sustainable agriculture and protecting the state's agricultural economy.

Goal 4, referred to as Forest Lands, aims to preserve and manage forest lands for the production of timber, protection of forest resources, and enhancement of forest-related industries. It recognizes the importance of maintaining forested areas for their ecological, economic, and social benefits, including timber production, wildlife habitat, recreation, and clean water.

The application proposal would redesignate land that was originally designated as Agricultural Lands (Goal 3) and to Forest (Goal 4). Section 3.2 of Volume I Part I of the CCCP explains how the lands were inventoried and background information on why the number of acres were reserved for Agriculture, Forest, and Natural Resources¹. The proposal does not have any effect on this section and is consistent.

Sections 5.3 and 5.4 of the CCCP explains that *Coos County shall conserve those resources designated as "agricultural lands" on the Comprehensive Plan map by regulating uses and activities in such areas through requirements stipulated in the following Exclusive Farm Use (EFU) zone. The delineation of these zones shall be generally consistent with the locational criteria developed on the Agricultural Lands Inventory and Assessment. Land Divisions shall comply with criteria set forth in the Coos County Zoning and Land Development Ordinance. Implementation of this strategy shall be based on application of the statutory provisions governing uses in EFU zones. The CCCP further explains that Coos County shall conserve forestlands, by retaining them for the production of wood fiber and other forest uses, except where legitimate needs for non-forest uses are justified.*

The main criteria set forth in Section 5.4 (8) states that *Coos County shall consider, and approve where appropriately justified, changes from forestry to agriculture zoning districts, and vice-versa, upon findings which establish:*

- i. *That the proposed rezone would be at least as effective at conserving the resource as the existing zone,*
- ii. *That the proposed rezone would not create a nonconforming use,*
- iii. *That the applicants for the proposed rezone has certified that he/she understands that the rezone, if granted, could have significant tax consequences.*

Furthermore, Coos County shall, upon a finding to approve the rezone under consideration, amend the "Agricultural Land" or "Forest Land" Comprehensive Plan Map designation so as to correspond to the new zone, as approved.

Implementation of this policy shall include conducting a "rezone public hearing."

- iv. *This strategy recognizes:*
 - a) *That agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest use and activities;*
 - b) *That this simplified plan revision process for agriculture and forest plan designations is necessary to help support the existing commercial agricultural and forest enterprises because it enables individual management decisions to be made in a timely manner as a response to changing market conditions.*

The applicants have explained within the application that evidence has been submitted throughout this application to address Appendix I CCCP Volume 1, Policy 5.4(8,) which allows changes in zoning districts from Agriculture to Forest and vice versa, provided that adequate findings are made supporting the request. The policy recognizes that "agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest uses and activities. The intent of this application is to rezone the subject property from Exclusive Farm Use to Forest be more compatible with adjacent Forest

¹ Natural Resources includes Minor Estuarine Shorelands

zoning based on the soils. The intent of this application is to adopt an appropriate zone designation for the subject property pursuant to Oregon Statewide Planning Goals 3 and 4, based upon existing Based on the information submitted and the surrounding zoning, staff agrees with the applicants' findings.

The applicants acknowledge in the record that there may be tax consequences by changing the zoning.

Volume I, Part II Section 3.1 Agricultural Lands, and Section 3.2 Forest Lands provide inventories and factual base for all inventoried Agricultural Lands and Forest Lands.

"AGRICULTURAL LAND" as defined in Goal #3 includes: (a) Lands classified by the U.S. Soil Conservation Service (SCS) as predominantly Class IIV Soils in Western Oregon and I-IV soils in Eastern Oregon; (b) Other lands in different soil classes which are suitable for farm use as defined in ORS 215.203 (2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and (c) land which is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands. In addition, counties may designate agricultural land as marginal land and allow those uses and land divisions on the designated marginal land as allowed by ORS 197.247.

1.5 Criteria used to distinguish Agriculture and Forest Lands designations in Plan Map where overlap occurs.

The principal test for deciding which designation a particular area should be placed in is whether the primary use is agriculture or forestry. The nature of the vegetative ground cover is one key indication of the primary use of the land. There are three basic types of situations to be examined:

(i) Where non-Class II-IV soils are used for upland grazing.

These lands are identified in the Plan from the County Assessor's records of land classified as agricultural lands for "Exclusive Farm Use" taxation purposes. These lands are separately identified as "grazing lands" in the Agricultural Lands inventory. Air photographs are used to check these areas to ensure that they are currently predominantly open rangelands with only scattered tree growth. On this basis the area indicated by tax records may be increased or decreased. These lands are then designated as agricultural lands on the Plan map on the basis of the following factors: suitability for grazing, existing land use patterns, and accepted farming practices. Site-specific consideration is given each area, to ensure that the ground cover indicates grazing as the primary use. The plan recognizes that the hill grazing land is of great importance to the economy and is accepted as the predominant farming practice in certain areas of Coos County.

(ii) Where soils of the Blacklock Series (Class VIIw) occur

These soils are naturally suited to cranberry bogs and are separately identified in the agricultural lands inventory. Such areas may or may not be currently used for cranberry bogs. This depends largely on three factors: (i) the availability of irrigation water, (ii) the growth of the market for the product and (iii) availability of capital. Blacklock soils tend to be intermingled with other agricultural soils. However, entire areas within this soil association may be under forest cover. Cranberry bogs tend to occur in localized clusters, due to their

heavy dependence upon surface water supplies and the need to protect operators from intrusion or conflicting uses.

These localized areas are identified from air photographs and are designated as agricultural lands based on the following factors: irrigation potential, existing land use patterns, technological and energy inputs and accepted farming practices. The Plan recognizes the importance of cranberry growing to the local economy and that it is the predominant farming practice in certain local areas of the County. Other areas in the Blacklock soil series are placed in the forest land designation on the basis of their forest cover.

(iii) Where Class II-IV soils are in use as forest lands.

Extensive areas of land on the flat, coastal plain have Class III or IV soils where no current agricultural use is occurring and the land is under forest cover. In addition, in upland areas in the interior of the County, level ridge tops and benches generally have Class III or IV soils. However, they are generally under unbroken forest cover. In each of these typical cases, there is assumed to be little probability of future clearing and conversion to agricultural use. The cool and windy climate of the coastal plain, coupled with the naturally low fertility of the sandy soils make this area poorly adapted to agricultural crops other than cranberries. This is vital to the future economic health of the County. Due to these facts and the existence of forest cover, it is considered appropriate to designate these lands as "forest lands" in the Plan. Certain exceptions occur to this general rule. In some narrow inland valleys, forest cover may alternate with open farmland, while the entire valley floor has Class II-IV soils. In such a situation, it is considered that due to the intermixture of such uses, the flat topography and accessibility of these lands, future conversion to agriculture is a distinct possibility. Thus, an agricultural designation is applied to the entire valley floor. However, ownership patterns must also be considered. In certain cases, narrow valleys with Class II-IV soils, especially in their upper reaches, may be owned by major lumber companies, and no agricultural use is occurring. With such site-specific situations, a 'forest land' designation is considered more appropriate, consistent with surrounding lands in the same ownership.

Thus, different types of cases can be distinguished where land may be identified as either agricultural and forest land. The most appropriate designation is based on the primary use of the land taking into account the factors used in the Goal to identify "other lands suitable for farm use," and to define "forest lands" and considering site specific situations. A plan policy is presented in the "Policy" section of the Plan to ensure the appropriate level of protection for these "overlapping" lands and to ensure that either forest or agricultural practices can occur without interference.

The applicants have provided a soil report for the property. Staff agrees with the conclusionary statement made in the report, which indicates that the Natural Resources and Conservation Service (NRCS) soil report for the subject property:

1. It is composed of existing and potential forest lands which are suitable for commercial forest uses.
 - a. The approximately 51% of subject property composed of Bullards sandy loam of increasing slopes (8B, 8C, and 8D):
 - i. In addition to the information above, the Coos County Soil Survey describes this soil type as "suited to the production of Douglas Fir [...] On the basis of a 100-year site curve, the mean site index for Douglas fir is 132. At the culmination of

the mean annual increment (CMAI), the production of 60 year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 133 cubic feet per acre per year. On the basis of a 50 year site curve, the mean site index for Douglas fir is 105.

- b. The approximately 49% of subject property composed of Blacklock fine sandy loam (5B):
 - i. In addition to the information above, the Coos County Soil Survey describes this soil type as “suitable to the production of shore pine. Among the other species that grow on this unit are Sitka spruce, western hemlock, and Port Orford cedar. [...] On the bases of a 100-year site curve, the mean site index for shore pine is 90. At the culmination of the mean annual increment (CMAI), the production of 60-year-old shore pine trees is 1.5 inches in diameter or more at breast height is 79 cubic feet per acre per year.”

The fact this property is suitable for either farm or forest use and; therefore, neither Statewide Planning Goals 3 or 4 can be applied alone.

The Coos County Comprehensive Plan (CCCP) provides flexibility to the County to consider each site on a case-by-case basis while also offering guidance on property zoning. In this particular case, the property is partially zoned for Agriculture, and it is surrounded by the same zoning district. Based on the site-specific information and the evidence provided by the applicants, staff did recommend to the Planning Commission to accept the findings presented by the applicants in this case. The Planning Commission reached a unanimous decision to recommend the approval of the application by the Board of Commissioners, adopting the findings in this report to support the case.

- **SECTION 5.1.230 STATUS OF HEARINGS BODY RECOMMENDATION OF APPROVAL:**

The recommendation of the Hearings Body made pursuant to 5.1.225(1) or (2) shall not in itself amend the zoning maps.

FINDING: The Hearings Body recommendation was to the Board of Commissioners and did not have an effect of amending the zoning maps. The Board of Commissioners has the ability to amend the maps through this process.

- **SECTION 5.1.235 BOARD OF COMMISSIONERS ACTION ON HEARINGS BODY RECOMMENDATION:**

Not earlier than 15 days following the mailing of written notice of the Hearings Body recommendation pursuant to Section 5.1. 225, the Board of Commissioners shall either:

1. *adopt the Hearings Body recommendation for approval or approval with conditions;*
2. *reject the Hearings Body recommendation for approval or approval with conditions and dismiss the application;*
3. *accept the Hearings Body recommendation with such modifications as deemed appropriate by the Board of Commissioners; or*

4. *if an appeal has been filed pursuant to Article 5.8, the Hearings Body recommendation shall become a part of the appeal hearing record, and no further action is required to dispense with the Hearings Body recommendation.*

FINDING: The hearing before the Board of Commissioners was scheduled twenty days after the Planning Commission hearing. The Board of Commissioners will make findings based on the totality of the record including the recommendation of the Planning Commission.

- **SECTION 5.1.240 REQUIREMENTS FOR “Q” QUALIFIED CLASSIFICATION:**

Where limitations are deemed necessary, Board of Commissioners may place the property in a “Q” Qualified rezoning classification. Said “Q” Qualified Classification shall be indicated by the symbol “Q” preceding the proposed zoning designation (for example: Q C-1).

FINDINGS: The Planning Commission did not recommend a qualifier be placed on this proposal. There are standard conditions placed on the conditional use but that has no effect on the plan amendment/rezone request. Therefore, this criterion is not relevant.

- **SECTION 5.1.250 PERMITS AND APPLICATIONS MORATORIUM:**

1. *After a proposed rezoning has been set for public hearing, no building or sewage disposal system permits shall be issued until final action has been taken. Final action constitutes either:
 - a. *Withdrawal of the application by the applicant;*
 - b. *Expiration of the County’s appeal period without an appeal having been filed; or*
 - c. *Final order of Board of Commissioners upon hearing the appeal.**
2. *Following final action on the proposed rezoning, the issuance of a verification letter shall be in conformance with the application approval.*

FINDING: There have been no building or sewage disposal system permits issued on this matter. Therefore, this criterion has been addressed.

- **SECTION 5.1.275 STANDARDS FOR COMPREHENSIVE PLAN AND REZONE FOR NONRESOURCE LAND:**

- A. *The subject property does not meet the definition of Agricultural Land under Statewide Planning Goal 3 and /or Forest Land under Statewide Planning Goal 4.*

NOTE: If the subject property is predominantly Class 1-IV soils or if it predominantly consists of soils capable of producing 5000 cubic feet of commercial tree species it is not considered to be nonresource land.

- B. *The subject property does not contain any natural resources defined in Statewide Planning Goal 5 which are identified in the Coos County Comprehensive Plan;*
- C. *The subject property has been proven to be generally unsuitable for production of farm crops and livestock or merchantable tree species, considering terrain adverse soil conditions, drainage and flooding, vegetation, location and size of the tract.*
- D. *The subject property is not considered to be nonresource land simply because it is too small to be farmed or forest managed profitably by itself. If the subject property can be sold, leased, rented*

or otherwise managed as part of a commercial farm, ranch or other forestland it is not considered to be nonresource land.

- E. The subject property is not considered to be nonresource land if it has been given a special tax assessment for farm use or as designated forestland at any time in the past five years.*
- F. If the subject property is found to meet all of the standards above to be considered nonresource land the county shall also determine that rezoning the property to a nonresource zone will not materially alter the stability of the overall land use pattern in the area and lead to the rezoning of other lands to nonresource use to the detriment of the resource uses in the area.*
- G. The subject property shall be at least 10 acre in area unless it is contiguous to an area that is zoned for nonresource use. Any proposal of at least 2 acres but less than 10 acres requires approval of a Goal 14 exception pursuant to OAR 660-00-0040.*
- H. Rezoning of land that is found to be nonresource land shall be to a “rural” zone that is appropriate for the type of land and its intended use. Rural commercial or industrial development must comply with standards for small-scale, low impact commercial and industrial use. Development of property rezoned from Forest or Forest Mixed use to a nonresource zone shall comply with the resource development and siting standards. (ORD NO. 04-01-001PL February 10, 2004)*

FINDING: This is not a non-resource rezone request as the applicants are requesting to have Forest zoning applied to the property which is consistent with Statewide Planning Goal 4; therefore, this section is not applicable.

B. 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)

- SECTION 4.6.120 Review Standards (9)(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 dwelling 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 0 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, on the other lots or parcels 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, on the other lots or parcels; or
 - (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, on the other lots or parcels.

FINDING: Soil information is utilized to determine whether the subject property can yield 0-49, 50-85, or over 85 cubic feet per year of wood fiber. This determination establishes the relevant criteria for the number of qualifying lots or parcels. According to the Soil Survey of Coos County, as provided by the applicants and verified by staff through the NRCS National Soil Information System, the property is capable of producing over 85 cubic feet per year of wood fiber. This volume requires the presence of at least 11 other lots, or lots that existed on January 1, 1993, and within those qualifying lots and parcels, at least three dwellings existed on January 1, 1993

Therefore, 4.6.120 Review Standards (9)(B)(II)(1)(c) applies to the template test.

- SECTION 4.6.120 Review Standards (9)(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -(II) TEMPLATE DWELLING - 215.750 Alternative forestland dwellings; ***
 - (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 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.*
- c. *If the:*
 - i. *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) 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:*
 - 1. *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*
 - 2. *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.*
 - ii. *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: None of the lots or parcels used to satisfy the test were within the Urban Growth Boundary. The template employed was a 160-acre rectangle, one mile in length and one-quarter mile in width, centered on the subject tract. This template was aligned with the platted road to the greatest extent possible. The analysis indicated that the number of parcels with homes has been exceeded, thereby satisfying the criteria.

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.



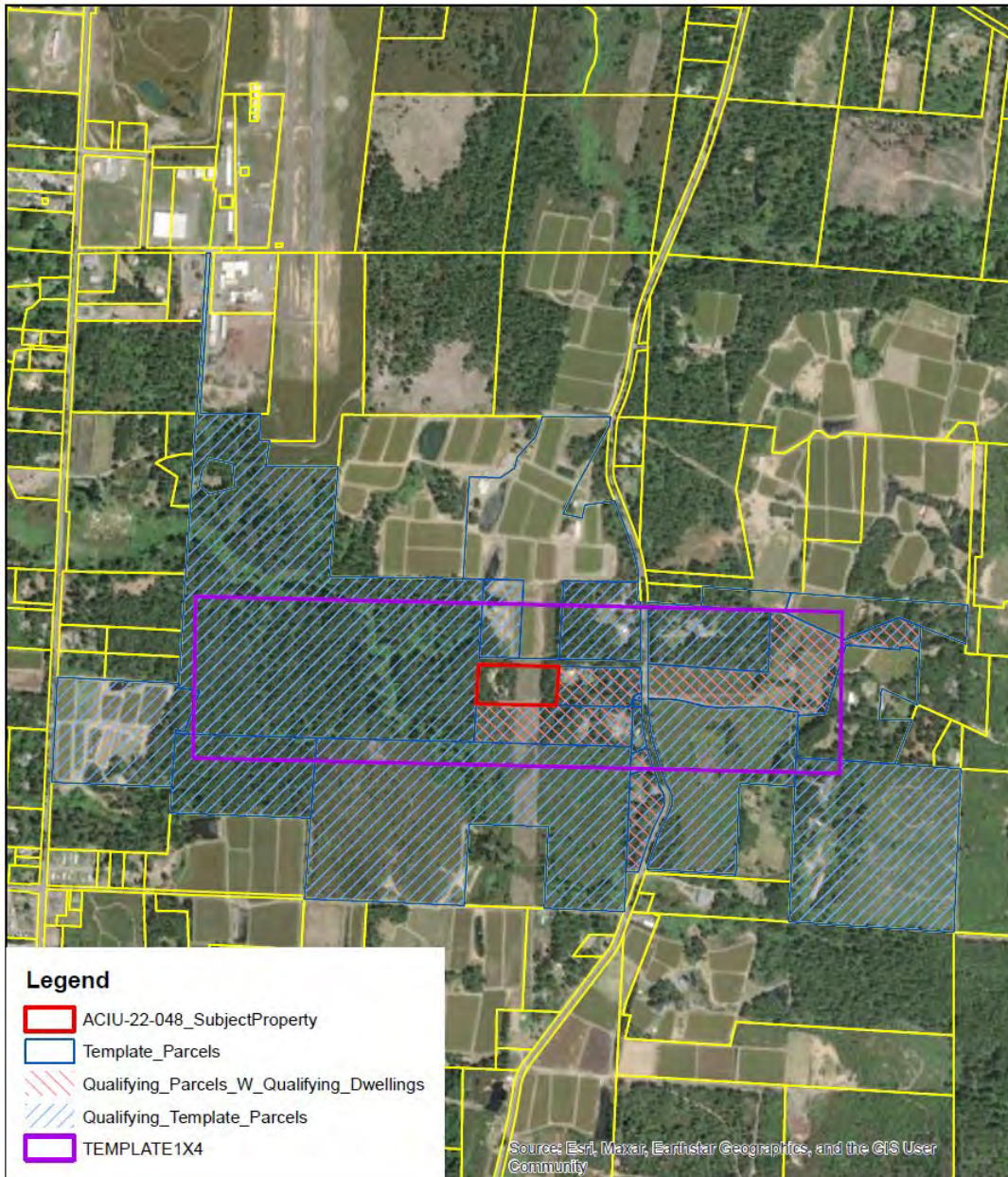
COOS COUNTY PLANNING DEPARTMENT

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

Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

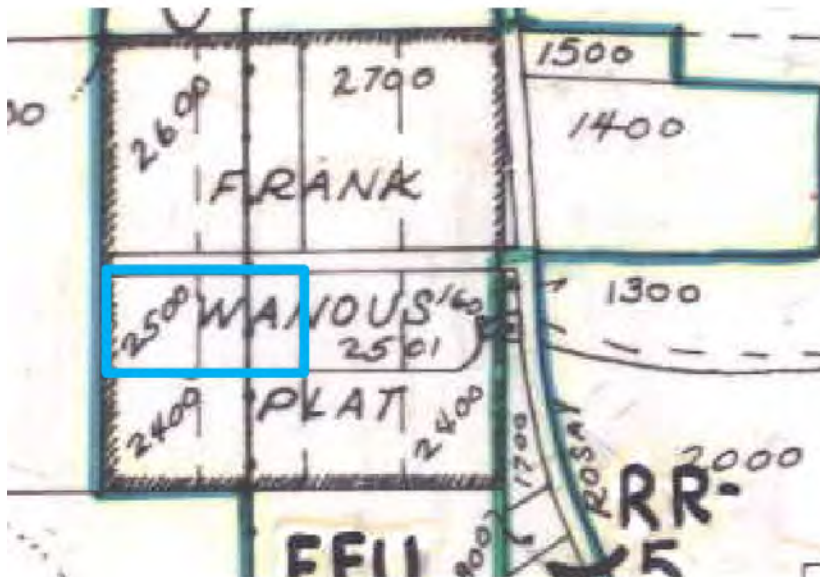
TDD (800) 735-2900

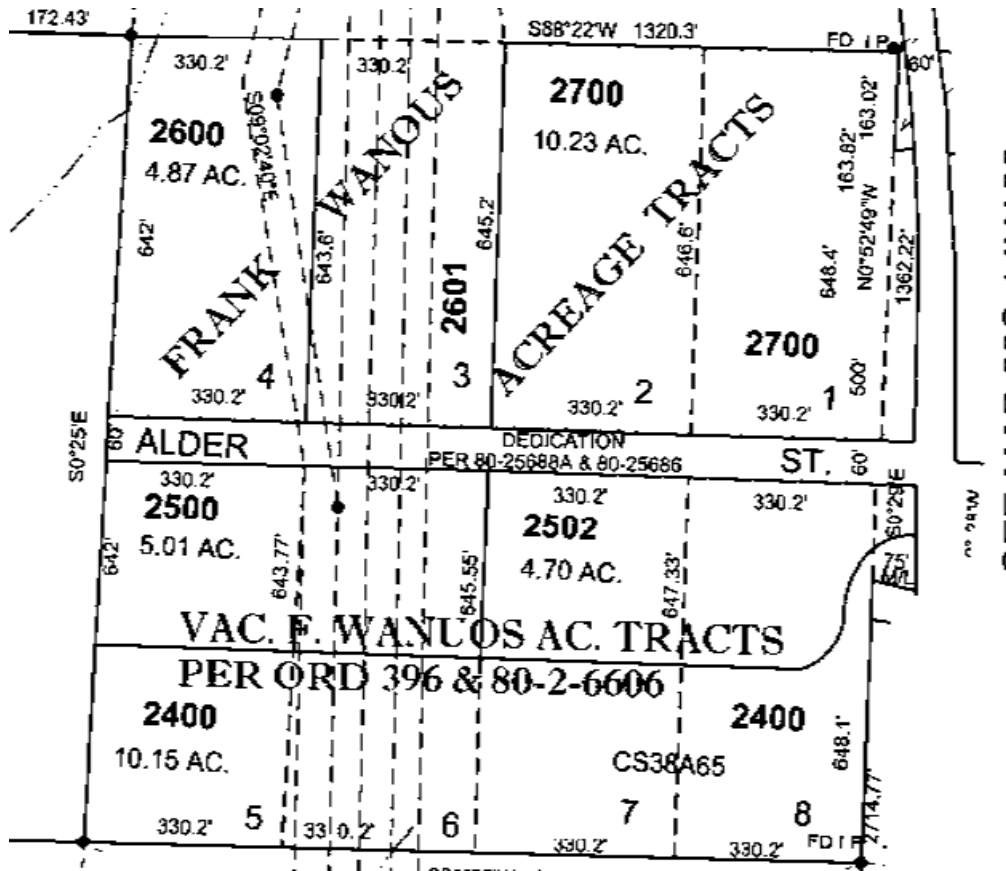


- (3) A proposed “template” dwelling under this rule is allowed only if:
- It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law;
 - It complies with the requirements of OAR 660-006-0029 and 660-006-0035;
 - No dwellings 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;
 - The tract on which the dwelling will be sited does not include a dwelling.
 - The lot or parcel on which the dwelling will be sited was lawfully established.
 - Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
 - 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
 - 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 in compliance with the Comprehensive Plan once the property is recognized as Forest Zoned. Upon rezoning and fulfillment of all suggested conditions, the proposal would adhere to OAR 660-006-0029 (siting standards for dwellings and structures in the Forest Zone) and 660-006-0035 (Fire Siting Standards for Dwellings and Structures). No other dwellings are present on the lot, parcel, or tract that constitutes the lot or parcels.

The property was initially part of a 1912 subdivision plat (Frank Wanous Acreage Tracts 1912). However, in 1980, it appears that the lots within tax lots 2500, 2501, and 2400 were vacated. Despite this, the street remained, and the lots were reconfigured through a deed at that time. The property has remained unchanged since 1981 (as documented in Deed Document 81-3-0590) and is regarded as lawfully created.





This property's boundary lines have not been adjusted since 1981.

Therefore, the proposal complies with subsection (3).

- (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:
 - i. 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;
 - 1. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and
 - 2. The lot or parcel qualifies, notwithstanding subsection (3)(h), for a dwelling under section (1) of this rule.

FINDING: This property is not part of a tract that has a dwelling. Therefore, this section is not applicable.

- (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: This property is not part of a tract. Therefore, this section is not applicable.

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. *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*

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.*

- 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.*
- 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.*
- 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 applicants provided the following site analysis to address alternative dwelling and accessory structure sites.



By utilizing the area that is already cleared and has developed infrastructure it appears that the proposed green dwelling site would have the least impact on nearby or adjoining lands and minimizes the amount of land used to site access roads, service corridors, and structures. The site plan below show all the existing infrastructure and proposed development. The plan is very detailed.

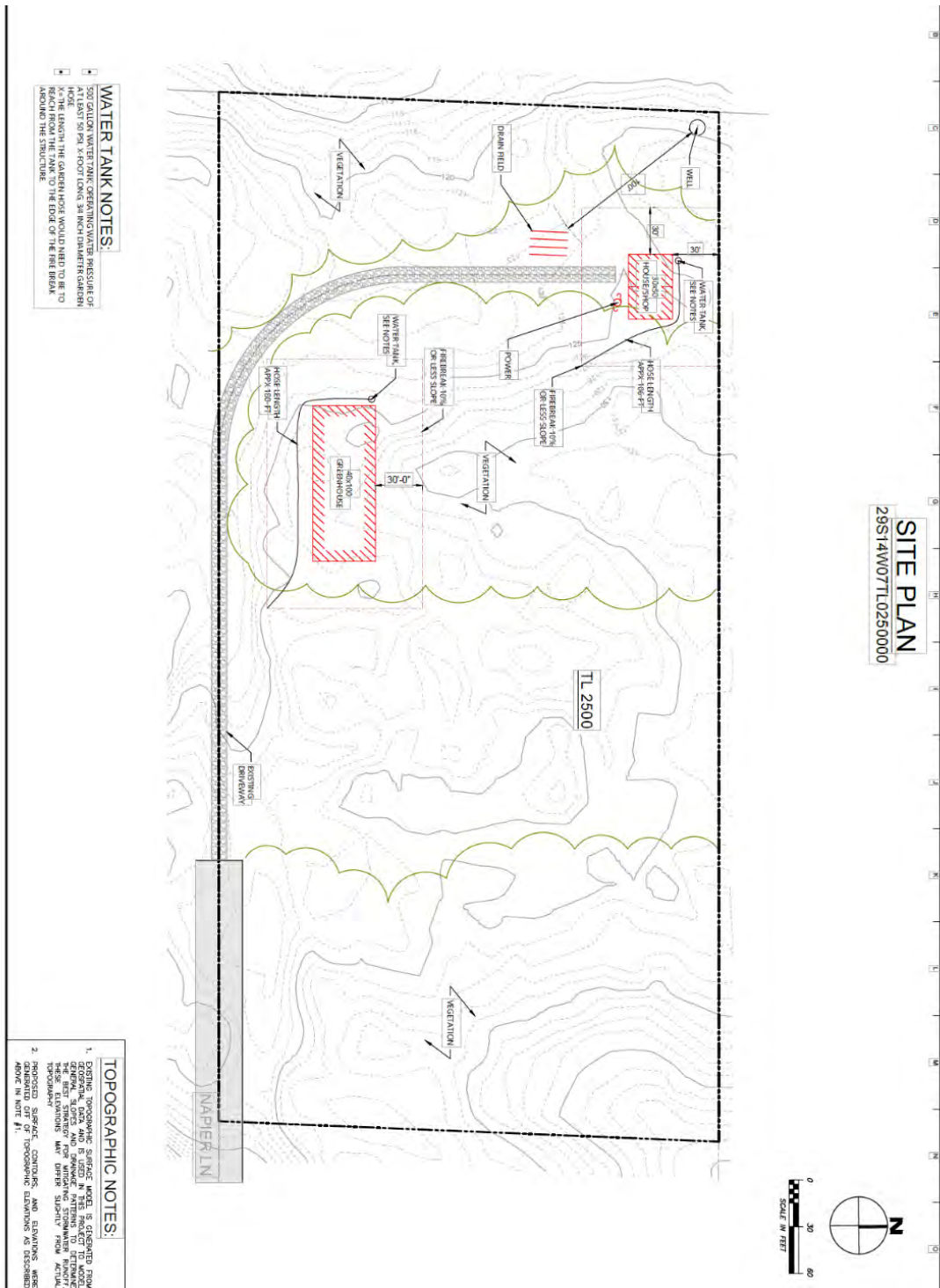
The applicants provide more details in their Attachment 7 to provide an overview of all of the surrounding properties uses to demonstrate compliance with the least amount of impacts. The application states that the proposal will comply with the applicable setbacks:

- a) 30' defensible space setbacks;
- b) 35' setback from the centerline of Napier Ln;
- c) Setbacks from the 100' powerline right of way; and
- d) Septic system setback from neighboring wells.

The proposal has considered the following:

- a) Clustering of the structures near or among existing structures: between Crooked Creek and Rosa Road, along with six other dwellings within approximately a quarter-mile of each other;
- b) Structures are close to the existing Napier Ln and Rosa Rd; and

- c) The structures will be sited on the portion of the parcel least suited for growing trees: the portion of the property which has been developed for residential use.



As a condition of approval the applicants will be required to 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 applicants shall submit the well constructor's report to the county upon completion of the well.

The property has an easement in place for Napier Lane to access the property.

As a condition of approval the applicants shall comply with the following:

- (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.*

Therefore, this section has been addressed.

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

This section contains 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.*
 - c. *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.*
 - d. *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.*
 - e. *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.*
 - 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.*
 - f. *If the dwelling has a chimney or chimneys, each chimney has a spark arrester.*
 - g. *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*

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 the ground study for slope from a Registered Surveyor or other Registered Professional that is able to make calculations based on the profession licensing requirements.*

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: The applicants have addressed all of the siting standards. The down slope is less than 10% and will not require additional primary fire safety setbacks.

All criteria has been addressed.

- **RECOMMENDATION**

The rezone is consistent with the Comprehensive Plan and compatible with the surrounding uses. The Template Dwelling is dependent on the zone change but once zoned Forest the dwelling will meet the criteria with the following conditions of approval:

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 applicants 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. **CCZLDO Section 4.6.130(3) The applicants 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 applicants shall submit the well constructor's report to the county upon completion of the well.

- c. **Covenant and Deed Restriction Requirement:**
 - i. **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.
 - ii. **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.
- d. **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, as may be approved by the certified official responsible for the building permit. If they are not available yet then this will be a condition of approval on the ZCL.
- e. **Section 4.6.140(14)** If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester. A copy of the building plans shall be submitted. If they are not available, then this will be a condition of approval on the ZCL.
- f. **Section 4.6.140 (16)** Except for private roads and bridges accessing only commercial forest uses, public roads, bridges, private roads and driveways shall be constructed so as to provide adequate access for firefighting equipment. If the property is within a fire protection district (Coos Forest Protective Agency or Rural Fire Department) a sign off from the fire department is required or proof that the road has been constructed to meet the requirements of the "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991.
- g. **Section 4.6.140(17)** Access to new dwellings shall meet road and driveway standards in Chapter VII. Driveway/ Access Parking/Access permit application shall be signed off by the Coos County Road Department prior to issuance of a final occupancy certificate.

ATTACHMENT: Ordinance 23-07-007PL

1 BOARD OF COMMISSIONERS

2 COOS COUNTY

3 STATE OF OREGON

4 In the Matter of Amending the Coos County
5 Comprehensive Plan Designation and Zone Map from
6 Agriculture to Forest with a Mixed-Use Overlay and the
7 Official Zone Map from Exclusive Farm Use to Forest.
8 This request includes an approval for Forest Template
9 Dwelling. File Nos. AM-23-002/RZ-23-002/ACU-23-
10 033 – Paul and Riley

ORDINANCE No.: 23-07-007PL

11
12 SECTION 1. TITLE

13 This Ordinance shall be known as the “Coos County Ordinance No. 23-07-007PL”.

14 SECTION 2. AUTHORITY

15 This ordinance is enacted pursuant to the provisions of ORS 203.035 and Chapter 215;

16 SECTION 3. PURPOSE

17 The purpose of this Ordinance is to amend Ordinance 85-12-020L that adopted Coos County
18 Comprehensive Plan Volume I (Balance of County) Plan Zone Map and Ordinance 85-03-004L that adopted
19 Coos County Zoning & Land Development Ordinance which implements Volume I of the Coos County
20 Comprehensive Plan;

21 SECTION 4. FINDINGS AND ORDER

22 WHEREAS the property owners Coos County applied on properties described as map number: Township
23 29S, Range 14W, Section 07, Tax Lot 2500. Tax lot 2500 is currently zoned Exclusive Farm Use. The Coos
24 County Comprehensive Plan (CCCP) designation for the property is Agricultural. The request is to amend the
25 CCCP designation from Agricultural to Forest with a Mixed Use Overlay and change the official zoning map from
26 Exclusive Farm Use to Forest as presented by in the application found at Attachment B;

27 WHEREAS Staff reviewed the proposal and made findings in the July 27, 2023, staff report
28 to the Planning Commission that the applicant met the required criteria and recommended that the Planning
29 Commission (Hearings Body) find that the application complied with the Coos County Zoning and Land
30 Development Ordinance (CCZLDO) Article 5.1 Plan Amendments and Rezones.

1
2 WHEREAS the Hearings Body held a public hearing on August 3, 2023 for the purpose of reviewing all
3 the evidence and testimony in this matter. The Planning Commission found that the plan amendment and rezone
4 would meet the criteria and recommended to the Coos County Board of Commissioners (BOC) approval;

5 AND IT APPEARING to the Coos County Board of Commissioners acknowledges that the Planning
6 Commission thoroughly reviewed all testimony and evidence pertaining to the matter. Furthermore, the
7 Planning Commission conducted an additional public hearing on August 24, 2023, to address any
8 supplementary testimony and evidence, including the updated August 17, 2023 staff report.

9 NOW, THEREFORE, IT IS HEREBY ORDERED that the Coos County Board of Commissioners has
10 reviewed the recommendations from the Hearings Body and found that the proposal meets the objectives of the
11 comprehensive plan. The evidence and testimony in the record support the plan map amendment, rezone and
12 conditional use for a Forest Template Dwelling. The Board of Commissioners carefully considered the evidence
13 and determined that the proposal is in compliance with other policies and ordinances adopted by the Board of
14 Commissioners. The findings regarding this matter can be found in Attachment A.

15 SECTION 5. SEVERANCE CLAUSE

16 If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or
17 declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect
18 the validity of the remaining portions of this ordinance; and it is hereby expressly declared that every other
19 section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or
20 validity of the portion thereof declared to be unconstitutional or invalid, is valid.

21 SECTION 6. REPEAL OF INCONSISTENT ORDINANCES

22 Coos County Ordinances 85-12-020L, 85-03-004L and any subsequent amendments thereto are
23 repealed to the extent that they are in conflict with this ordinance. Coos County Ordinances 85-12-020L and
24 85-03-004L shall remain in full force and effect in all other respects.

25 SECTION 7. EMERGENCY CLAUSE

26 The Board of Commissioners for the County of Coos deems this Ordinance necessary for the
27 immediate preservation and protection of the public peace, safety, health and general welfare for Coos County
28 and declares an emergency exists, and this Ordinance shall be in full force and effective upon its passage.

29 Adopted this Dated this 24th day of August 2023.

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BOARD OF COMMISSIONERS

ATTEST

Recording Secretary

Chair

Approved as to form:

Office of Legal Counsel

Vice Chair

Planning Commission Reading: August 3, 2023
Board of Commissioner Reading: August 24, 2023
Effective Date of Adoption: August 24, 2023

Commissioner

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ATTACHMENT A – FINDINGS AND CONCLUSION
FILE # AM-23-002/RZ-23-002/ACU-23-033 (ORDINANCE NUMBER 23-07-007PL)

APPLICANT(S): Larry Paul & Bonnie Riley

CONSULTANTS: Hailey Sheldon, Sheldon Planning

SUMMARY PROPOSAL: The proposal is for an Amendment/Rezone of a parcel of land from Exclusive Farm Use to Forest Mixed Use

STAFF CONTACT: Jill Rolfe, Coos County Community Development Director

REVIEW CRITERIA: The application will need to comply with:

- Coos County Zoning and Land Development Ordinance, Article 5.1 Plan Amendments and Rezones,
- Coos County Comprehensive Plan Volume I, Part I
 - Section 3.2 Agricultural/Forest/Natural Resources,
 - Section 5.3 Agricultural Lands, and
 - 5.4 Forest Lands
- Volume I, Part II
 - Section 3.1 Agricultural Lands, and
 - Section 3.2 Forest Lands.
- Coos County Zoning and Land Development Ordinance
 - Section 4.6.100 Forest and Forest Mixed Uses – Tables, Table 1 Use 63.
 - Section 4.6.110 Dwellings on Forest and Forest Mixed Uses (9)(B)(II) Template Dwelling
 - Section 4.6.130 Siting Standards
 - Section 4.6.140 Development and Siting Standards
 - Chapter VII
 - Section 7.1.425 Access Connection and Driveway Design
 - Section 7.1.250 Materials Required for an Application
 - Article 7.5 Parking Standards

PROPERTY DETAILS:

Account Number 3089701
Map Number 29S140700-02500

Property Owner PAUL, LARRY; ET AL
13830 LITTLE RIVER RD
GLIDE, OR 97443-9770

Situs Address 88018 NAPIER LN BANDON, OR 97411

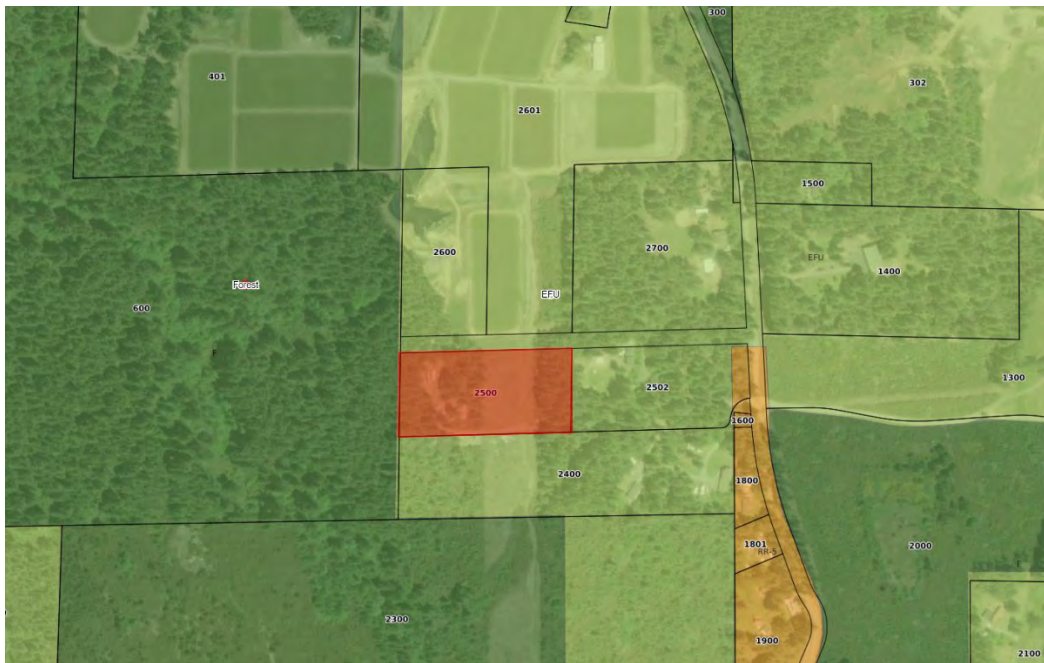
Acreage 5.01 Acres

Zoning EXCLUSIVE FARM USE (EFU)

Special Development BANDON AREA OF MUTUAL INTEREST (BMI)
Considerations and BANDON CONICAL ZONE (ABC)
Overlays:

A. DETAILS AND BACKGROUND:

- i. **PROPOSAL:** According to the application, the applicants are proposing to amend the plan designation of the subject property from Agriculture to Forest and rezone it from Exclusive Farm Use (EFU) to Forest with a Mixed-Use overlay. Alongside the proposal, a conditional use to site a Template Dwelling was submitted (File Number ACU-23-033). This report is divided into two sections. The first section addresses the criteria for the re-zone, and the second section addresses the criteria for the template dwelling.
- ii. **LOCATION AND SURROUNDING USES:** The subject property is located south of the City of Bandon, off Napier Lane, which is a privately maintained road. The property has a situs address of 88018 Napier Lane, Bandon, OR 97411. It is zoned Exclusive Farm Use (EFU) and comprises approximately 5.01 acres. This property lies west of Rosa Road, also accessible from Napier Lane, and is situated south of the City of Bandon. The parcel is predominantly vegetated, except for the power line easement and the old homesite. Surrounding properties are zoned Exclusive Farm Use (EFU) and Forest (F), serving purposes such as farming, forestry, and residential use. The aerial image below highlights the subject property in red. Properties to the north, south, and east are zoned EFU, while the property to the west is designated as Forest with a Mixed-Use overlay.



- iii. **PROPERTY HISTORY:** On May 23, 1984, a Zoning Clearance Letter (ZCL-84-233) was issued to allow the construction of a Conventional Dwelling and a septic system. Records from the Department of Environmental Quality (DEQ) indicate that the septic system application was submitted on May 25, 1984, and expired on June 20, 1985. DEQ accepted a new septic application as a renewal on June 19, 1985, but the application stated that there was no Zoning Compliance Letter. This was signed by the property owner

STATE OF OREGON
Department of Environmental Quality

FOR OFFICE USE ONLY

Date Test Holes Ready _____

FOR OFFICE USE ONLY

Date Rec'd. 6-19-85

Date Completed _____

Required Fee \$15.00

Receipt No. 81371

Control No. 615-132

APPLICATION FOR:

Site Evaluation Report
 Permit to Construct On-Site Sewage Disposal System
 Permit to Repair On-Site Sewage Disposal System
 Permit for Alteration of On-Site Sewage Disposal System
 Permit Renewal STD
 Authorization Notice
 Other (Specify) _____

(Required fee and land use compatibility statement must accompany application)

FOR OFFICE USE ONLY:

PLOT PLAN REQUIRED _____ YES NO ATTACHED ... YES NO
 VICINITY OR TAX LOT MAP REQUIRED _____ YES NO ATTACHED ... YES NO
 TEST HOLES REQUIRED _____ YES NO
 ZONING COMPLIANCE LETTER _____ YES NO ATTACHED ... YES NO
 ADDITIONAL ITEMS REQUIRED _____

PLEASE COMPLETE BELOW THIS LINE

For Applicant's Use — (Please Print)

Property Owner's Name: Harris, Robert & Faye
 Township: 29 Range: 14 Section: 07 Tax Lot/sect. No.: 2500/30897.01 County: Coos
 Subdivision Name: _____ Map No.: _____ Block No.: _____ Lot Size: 5.01
 Public Water Supply: _____ (Other — Specify) WELL (Private Water Supply, Specify Type)

(Single Family Residence — Number of Bedrooms) _____ (Other — Specify) _____
 Directions to Property: Second right hand driveway, past 3-mile marker off Road Rd., so. of Dunder. On driveway take second

By my signature, I certify that the information I have furnished is correct, and hereby grant the Department of Environmental Quality and its authorized agent permission to enter into the above described property for the purpose of this application.

Signature: Faye Harris Date: 6/19/85
 Owner
 Authorized Representative
 S.D.S. License No. _____

While the staff agrees that DEQ should not have processed the application without a valid Zoning Compliance Letter, it is up to the applicants/property owners to ensure that all necessary permits are obtained. There was never an approval obtained for the Mobile Home. DEQ did provide a satisfactory completion on March 19, 1986, for the Septic System. The regulations and zoning changed from the time the Zoning Compliance Letter was issued. Several amendments occurred from 1984 through the end of 1986 (date of acknowledgments). When the County was acknowledged, with an effective date of July 1, 1986, this property was zoned Exclusive Farm Use-10. A dwelling would have required a conditional use process at that time for a farm dwelling, and a public hearing would have been necessary if it was to be considered a non-farm dwelling. At any time between the date of the Zoning Compliance Letter and July 1, 1986, the applicants could have requested a new Zoning Compliance Letter and reconsideration of allowance for a Mobile Home, but that was not requested. The reason this explanation is important is that a dwelling had to be lawful before it could be requested for replacement. This will be further elaborated upon in the criteria section.

Based on the provided information, it appears that the property owners were involved in unlawful actions during their ownership. Specifically, an Alleged Violation (AV-86-22) was reported to Coos County Planning Staff on November 12, 1986. This violation involved two travel trailers and a shed being used as dwellings on the property, which likely violated local zoning or building regulations.

On December 24, 1986, DEQ staff conducted a follow-up inspection of the property and confirmed that the violation had been resolved. Based on this information, Planning Staff closed the illegal RV-as-a-dwelling violation, but there is no indication that any site visits were conducted by County Staff.

On April 9, 2021, an email was received from the property owner inquiring about information to set up a metal building for residency. Within the email, they explained that the property had a mobile home, but it had been removed. Staff emailed back, requesting the property's

situs address, as the permitting process is site-specific. The property owner provided the address and stated that the mobile home had been gone for a while. Staff replied, stating that the property is zoned Exclusive Farm Use, and there are only two ways to replace a lawfully established dwelling. The first option would be a replacement within a year of removal, but this property would not qualify, as aerial photos indicated that the dwelling had been removed for over a year. The other option would be to apply for a deferred replacement, but staff could not determine whether the property would meet the criteria. Staff provided the criteria.

On August 18, 2021, Coos County Planning Staff was notified of a potential violation (AV-21-017) by a neighboring property owner. The neighbor alleged that a structure had been built over the property line. Staff sent a letter on August 18, 2021, to Larry Paul regarding the structure. Larry Paul responded on November 20, 2021, stating that he would move the building onto his property within 90 days. On March 4, 2022, Larry Paul sent an email to Coos County Planning, explaining that the construction company was behind schedule, and the new date given for moving the structure was March 10, 2022. On March 11, 2022, Coos County Staff sent a Notice of Decision for the Alleged Violation. Within this decision, staff explained that any proposed structure to be built requires land use authorization, and the property had no land use approvals. It may not qualify for any type of dwelling due to zoning. On March 12, 2022, an email was received from the property owner with pictures showing that the structure had been removed.

On May 3, 2022, an email was received from the property owner with an incomplete application. Staff responded, informing him that the application was not completely filled out, and no plot plan or addressed criteria were included. Larry Paul responded with a plot plan that did not meet county standards, along with property intentions. However, this did not address the previously emailed required criteria.

On May 4, 2022, staff responded, stating that if the intention was to build a dwelling, he would need to submit a conditional use application and address the applicable criteria. Staff attached the criteria and application to the email, along with the fee amount.

On May 12, 2022, staff sent an email to Mr. Paul, explaining that after further research on the property, the dwelling that was removed would need to be proven to have been lawfully sited. The 1986 violation, AV-86-22, was closed in December 1986 with no notes of other development. The dwelling approval listed a conventional dwelling, while the dwelling that was sited was a mobile home. Mr. Paul responded, expressing that he had no idea what to do now and assumed that the single-wide was permitted when he bought the property in 2011. He asked staff to provide him with guidance on building a dwelling on the property. The options from the Ordinance were provided.

On October 12, 2022, a Conditional Use (ACU-22-048) was received to apply for the replacement of the mobile home. The application was denied, but alternatives were provided to offer guidance for a successful application.

iv. ZONING:

Current zoning is EFU and proposed is Forest with a Mixed-Use Overlay.

Exclusive Farm Use (EFU)

These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.

The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.

According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the “Agricultural Lands Inventory” was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:

1. Committed rural residential areas and urban growth areas.
2. Proposed rural residential areas as per the Exception to Goals #3 and #4.
3. Proposed industrial/commercial sites.
4. Existing recreation areas (e.g., golf courses) [Recreation designation]
5. Isolated parcels of Class I-IV soils in upland areas, which are under forest cover. (Forestlands designation).
6. Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].

The secondary criterion for establishing the “Agricultural Lands Inventory” was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.

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)

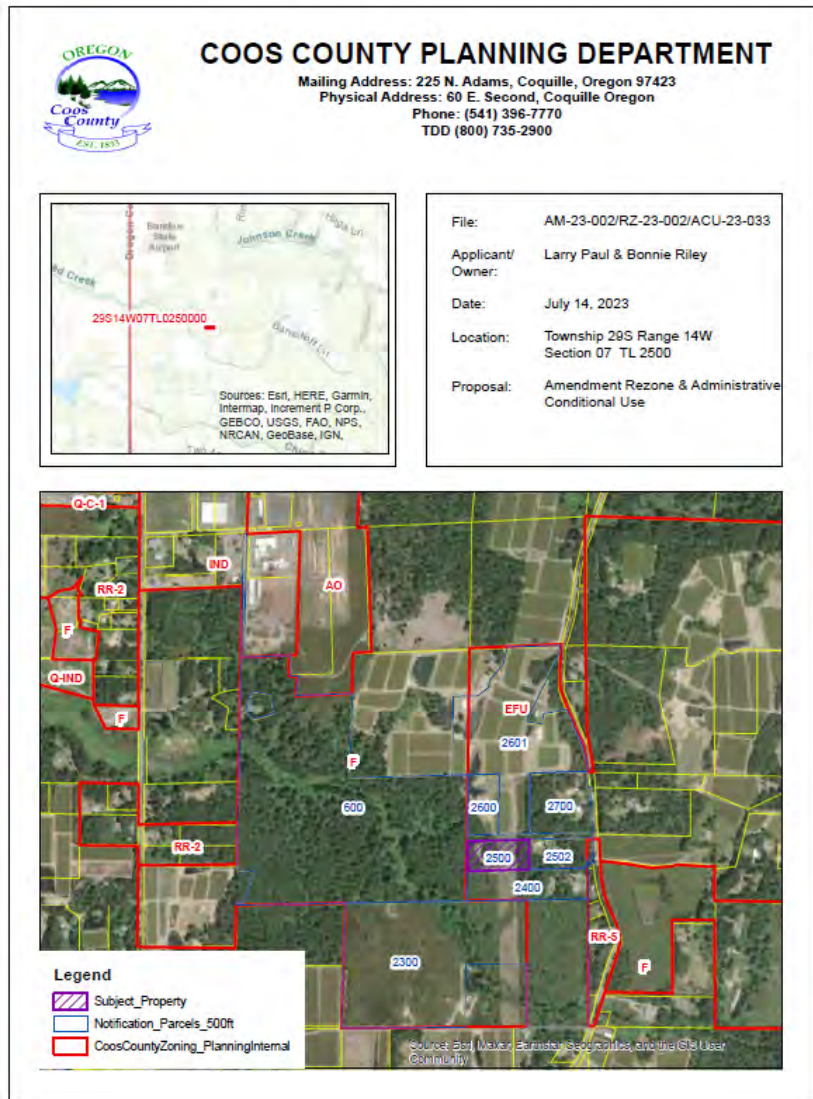
The purpose of the Forest Mixed Farm-Forest Areas (“MU” areas) is to include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The 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.

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.

If a use is only allowed in the mixed use zone it will be explained in the text. Otherwise the uses listed are allowed in both the Forest and Forest Mixed Use zones.

Overview Map



AM-23-002/RZ-23-002/ACU-23-033 – Paul and Riley
Attachment A – Ordinance No: 23-07-007PL

B. COMMENTS RECEIVED: No comments were received for this application.

C. ADMINISTRATIVE PROCEDURES: ARTICLE 5.0 ADMINISTRATION AND APPLICATION REVIEW PROVISIONS

• **SECTION 5.0.100 PRE-APPLICATION CONFERENCE:**

The purpose of a pre-application conference is to familiarize the applicant with the provisions of this Ordinance and other land use laws and regulations applicable to the proposed development.

A pre-application is strongly recommended prior to submission of plan or ordinance amendment application or rezone application. For other types of applications an applicant may request a pre-application conference under this Ordinance.

A pre-application conference shall be requested by filing a written request along with the applicable fee to the Planning Department. The written request should identify the development proposal, provide a description of the character, location and magnitude of the proposed development and include any other supporting documents such as maps, drawings, or models.

The Planning Department will schedule a pre-application conference after receipt of a written request and the appropriate fee. The Planning Department will notify agencies and persons deemed appropriate to attend to discuss the proposal. Following the conference, the Planning Department will prepare a written summary of the discussion and send it to the applicant.

FINDINGS: A pre-application is always encouraged to gain a better understanding of all potential issues from an agency perspective. The property owner did not engage in a pre-application meeting for this property, but considering that this is a resource-to-resource rezone, there was no need to solicit comments from other agencies

• **SECTION 5.0.150 APPLICATION REQUIREMENTS:**

Applications for development or land use action shall be filed on forms prescribed by the County and shall include sufficient information and evidence necessary to demonstrate compliance with the applicable criteria and standards of this Ordinance and be accompanied by the appropriate fee. An application shall not be considered to have been filed until all application fees have been paid. All applications shall include the following:

- 1. Applications shall be submitted by the property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign.*
- 2. An application for a variance to the requirements of the Airport Surfaces Overlay zone may not be considered unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within twenty (20) days after receipt, the Planning Director may act to grant or deny said application.*
- 3. One original and one exact unbound copy of the application or an electronic copy shall be provided at the time of submittal for all applications.*

An application may be deemed incomplete for failure to comply with this section.

The burden of proof in showing that an application complies with all applicable criteria and standards lies with the applicant.

• **SECTION 7.1.250 MATERIALS REQUIRED FOR AN APPLICATION:**

A traffic plan (item 1) will be required for all rezones, recreational vehicle parks, campgrounds, mobile home parks, land divisions, industrial developments, commercial developments and high intensity development plans. The Roadmaster in consultation with the Planning Director will have discretion to waive items 2 through 4 based on the findings that the increase in development is diminimus to the existing development.

1. *Traffic Plan - A parking/traffic plan shall be submitted to address all of the following:*
 - a. *Property boundaries;*
 - b. *Location of all structures on the subject property;*
 - c. *Required parking spaces;*
 - d. *Current utilities and proposed utilities;*
 - e. *Roadmaster may require drawings and specs from the Oregon Standards Specification Manual (OSSC) (current edition);*
 - f. *The location and design of bicycle and pedestrian facilities shall be indicated on the site plan if applicable;*
 - g. *Pedestrian access and circulation will be required if applicable. Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of walkways, landscaping, accessways, or similar techniques;*
 - h. *All plans (industrial and commercial) shall clearly show how the internal pedestrian and bicycle facilities of the site connect with external existing or planned facilities or systems;*
 - i. *Location of existing and proposed access point(s) on both sides of the road where applicable;*
 - j. *Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;*
 - k. *Number and direction of lanes to be constructed on the road plus striping plans;*
 - l. *All planned transportation features (such as sidewalks, bikeways, auxiliary lanes, signals, etc.); and*
 - m. *Parking and internal circulation plans including walkways and bikeways, in UGB's and UUC's.*
2. *Traffic Study completed by a registered traffic engineer.*
3. *Access Analysis completed by a registered traffic engineer*
4. *Sight Distance Certification from a registered traffic engineer.*

FINDING: The application includes a site plan that outlines the appropriate traffic flow, parking, and access. However, the applicants did not request a waiver for the additional traffic requirements. Nevertheless, considering the limited traffic expected for this zone and the proposed use, it seems reasonable not to require items two through four.

• **SECTION 5.0.300 FINDINGS REQUIRED [ORS 215.416(9)-(10)]:**

Approval or denial of an application shall be in writing, based upon compliance with the criteria and standards relevant to the decision, and include a statement of the findings of fact and conclusions related to the criteria relied upon in rendering the decision.

• **SECTION 5.0.350 CONDITIONS OF APPROVAL:**

1. *Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both the extent and amount to the anticipated impacts of the proposed use or development.*
2. *An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions of Section 1.3.300.*
3. *At an applicant's request, the County may modify or amend one or more conditions of approval for an application previously approved and final. Decisions to modify or amend final conditions of approval will be made by the review authority with the initial jurisdiction over the original application using the same type of review procedure in the original review.*

• **SECTION 5.0.900 NOTICE REQUIREMENTS (ORS 197.763):**

All applications that receive a notice shall follow this section except for land divisions within the urban growth boundary or lands designated as Regionally Significant Industrial Areas (RSIA). See Article 5.12 for processing and time tables.

1. *Notice Public Hearing :*

- a. *The Planning Department shall forward a copy of the application to any affected city or special district pursuant to applicable provisions of this Ordinance;*
- b. *The Planning Department shall mail a copy of the staff report to the city, special district, applicant and Hearings Body at least seven (7) days prior to the scheduled public hearing.*
- c. *Notice shall be mailed at least twenty days prior to the hearing, or ten before the first evidentiary hearing if there will be two or more hearings. Notice shall:*
 - i. *Describe the nature of the application and the proposed use or uses that could be authorized;*
 - ii. *Set forth the address or other easily understood geographical reference to the subject property;*
 - iii. *Include the name of the local government representative to contact and a telephone number where additional information may be obtained;*
 - iv. *State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost, and will be provided at reasonable cost;*
 - v. *List the applicable criteria that apply to the application;*
 - vi. *State the date, time, and location of the hearing;*
 - vii. *State that failure of an issue to be raised, in person or in writing, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;*

- viii. *State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and*
 - ix. *Include a general explanation of the requirements of submission of testimony and the procedure for the conduct of the hearings.*
 - x. *The Planning Director shall cause notice of the hearing to be mailed to, the applicant and to all neighborhood or community organizations recognized by the County and whose boundaries include the site and to the owners of record of property on the most recent property tax assessment roll where such property is located:*
 - 1) *Within 100 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is wholly or in part within an urban growth boundary;*
 - 2) *Within 250 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is outside an urban growth boundary and not within a farm or forest zone;*
 - 3) *Within 500 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is within a farm or forest zone*
- d. *Notice of the decision shall be afforded to the applicant and those persons participating in the public hearing. ****

3. *Plan Map Amendment/Rezone*

- a. *If the application includes an exception to a goal, notice shall comply with ORS 197.732. The notice shall be published at least 20 days prior to the date of the hearing. All notice requirements in "1" of this Section shall apply.*
- b. *At least 35 days prior to the initial hearing, notice shall be provided as required by ORS 197.610. [OR 04 12 013PL 2/09/05]*
- c. *Notice of decision shall be afforded to the applicant and those participating in the process. Notice of the decision shall also be afforded to any witness participating in the public hearing and requesting such notification.*
- d. *Requirements for hearings on a rezone of property containing a mobile home park shall be provided pursuant to ORS 215.223(7).*
- e. *Special notice requirements for zone changes within the environs of public use airports shall be provided pursuant to ORS 215.223(4), (5), and (6).*

FINDINGS: This application involves a Plan Map Amendment governed by CCZLDO Section 5.0.900. A notice of Post Acknowledge Plan Amendment was issued 35 days before the Planning Commission meeting, adhering to the requirements of ORS 197.610. The hearing notice was published following ORS 197.732 guidelines. The hearing notice was distributed according to the relevant section.

While this concerns a Plan Map Amendment/Rezone, it does not encompass a new exception as part of the request. A 35-day notice was provided to the Department of Land Conservation and Development on June 29, 2023 (Coos County 005-23). The draft findings have been included in the staff report. The mandatory notice will be posted in The World Newspaper. All notices are available at the Department and can be reviewed upon request during regular business hours.

The applicants have successfully submitted all required applications, and the staff has completed the necessary notices for the progression of this proposal through the formal hearing process.

D. ARTICLE 5.1 REZONES

• SECTION 5.1.100 LEGISLATIVE AMENDMENT OF TEXT ONLY:

An amendment to the text of this ordinance or the comprehensive plan is a legislative act within the authority of the Board of Commissioners. [OR 04 12 013PL 2/09/05]

FINDING: The application is not for a text amendment. Therefore, this criterion is not applicable.

• SECTION 5.1.110 WHO MAY SEEK CHANGE:

Coos County shall consider the appropriateness of legislative plan text and map amendment proposals upon:

- 1. A motion by the Board of Commissioners; or*
- 2. A motion of the Planning Commission; or*
- 3. The submission of formal request made by either:*
 - a. The Citizen Advisory Committee; or*
 - b. An application filed by a citizen or organization, accompanied by a prescribed filing fee. If a Measure 56 notice is required the applicant shall be responsible for the payment of all cost associated with that service.*

FINDING: The application was submitted by Larry Paul and Bonnie Riley, who are both the property owners and citizens, as permitted under Subsection 3.b. The necessary forms were properly filed, and this application does not require a Measure 56 notice to be issued. There for these criteria has been addressed.

• SECTION 5.1.115 ALTERATION OF A RECOMMENDED AMENDMENT BY THE PLANNING DIRECTOR:

The Planning Director may recommend an alteration of a proposed amendment if, in the director's judgment, such an alteration would result in better conformity with any applicable criteria. The Planning Director shall submit such recommendations for an alteration to the Hearings Body prior to the scheduled public hearing for a determination whether the proposed amendment should be so altered.

FINDING: The Planning Director does not request to amend the proposal.

• SECTION 5.1.120 PROCEDURE FOR LEGISLATIVE AMENDMENT:

The Board of Commissioners shall conduct one or more public hearings with 10 days advance published notice of each of the hearings. The public notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration. (ORS 215.060 & ORS 215.223). Notice to DLCDC shall be provided 35 days prior to the initial hearing per ORS 197.610. Notice of adoption is subject to ORS 197.615. [OR 04 12 013PL 2/09/05]

FINDING: Staff has met the requirement of publishing and mailing notices. All pertinent documentation has been filed with the Coos County Community Development, Planning Department and available for inspection. The preliminary hearing was scheduled before the Planning Commission on August 3, 2023, during which the decision to recommend approval for this proposal was made. The property has restrictions that limit reasonable and practical farm operations. The soil is suitable for growth and management as forestland, as elaborated in more

detail ahead. The Planning Commission has issued a recommendation to the Coos County Board of Commissioners; however, this recommendation does not alter the Comprehensive Plan or the Implementing Ordinance. Consequently, a meeting is scheduled for August 24, 2023, to deliberate on the application. A published notice was furnished more than 10 days prior to this hearing, ensuring compliance with this criterion.

- **SECTION 5.1.125 MINOR TEXT CORRECTIONS:**

The Director may correct this ordinance or the Comprehensive Plan without prior notice or hearing, so long as the correction does not alter the sense, meaning, effect, or substance of any adopted ordinance. [OR 04 12 013PL 2/09/05]

FINDING: This is not applicable to this request.

- **SECTION 5.1.130 NEED FOR STUDIES:**

The Board of Commissioners, Hearings Body, or Citizen Advisory Committee may direct the Planning Director to make such studies as are necessary to determine the need for amending the text of the Plan and/or this Ordinance. When the amendment is initiated by application, such studies, justification and documentation are a burden of the initiator.

FINDING: This is not a text amendment. Staff prepared a comprehensive staff report that addresses all relevant criteria by utilizing information from the Coos County Comprehensive Plan, as well as evidence and written testimony provided by the applicants.

- **SECTION 5.1.135 STATUS OF HEARINGS BODY RECOMMENDATIONS TO THE BOARD OF COMMISSIONERS:**

A Hearings Body recommendation for approval or approval with conditions shall not in itself amend this Ordinance or constitute a final decision.

FINDING: The preliminary hearing was scheduled before the Planning Commission on August 3, 2023, during which the decision to recommend approval for this proposal was made. It's important to note that this recommendation does not have the authority to amend the ordinance, nor does it constitute a final decision regarding this matter.

- **SECTION 5.1.200 REZONES:**

Rezoning constitutes a change in the permissible use of a specific piece of property after it has been previously zoned. Rezoning is therefore distinguished from original zoning and amendments to the text of the Ordinance in that it entails the application of a pre-existing zone classification to a specific piece of property, whereas both original zoning and amendments to the text of the Ordinance are general in scope and apply more broadly.

FINDING: This proposal will change the zoning from Exclusive Farm Use to Forest as well as amend the plan map from Agriculture to Forest which requires a Post Acknowledgement Plan Amendment. This rezone from Exclusive Farm Use will not significantly change the permissible uses of the subject property to align with Forest.

- **SECTION 5.1.210 RECOMMENDATION OF REZONE EXPANSION BY THE PLANNING DIRECTOR:**

The Planning Director may recommend an expansion of the geographic limits set forth in the application if, in the Planning Director's judgment, such an expansion would result in better conformity with the criteria set forth in this Ordinance for the rezoning of property. The Planning Director shall submit a recommendation for expansion to the Hearings Body prior to the scheduled public hearing for a determination whether the application should be so extended.

FINDING: The Planning Director has not recommended an expansion of the geographic limits set forth in the application. This change in zoning designation will change the designation to be consistent with the properties to the west.

- **SECTION 5.1.215 ZONING FOR APPROPRIATE NON-FARM USE:**

Consistent with ORS 215.215(2) and 215.243, Coos County may zone for the appropriate non-farm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the non-farm use prior to the establishment of the exclusive farm use zone.

FINDING: This does not apply to this request.

- **SECTION 5.1.220 PROCESS FOR REZONES:**

1. *Valid application must be filed with the Planning Department at least 35 days prior to a public hearing on the matter.*
2. *The Planning Director shall cause an investigation and report to be made to determine compatibility with this Ordinance and any other findings required.*
3. *The Hearings Body shall hold a public hearing pursuant to hearing procedures at Section 5.7.300.*
4. *The Hearings Body shall make a decision on the application pursuant to Section 5.1.225.*
5. *The Board of Commissioners shall review and take appropriate action on any rezone recommendation by the Hearings Body pursuant to Section 5.1.235.*
6. *A decision by the Hearings Body that a proposed rezone is not justified may be appealed pursuant to Article 5.8.*

FINDING: The application was filed on May 26, 2023, and the 35-day notice was provided to DLCD on June 29, 2023. The application was found to be valid for the purpose of a public hearing. This matter is scheduled before the Planning Commission (Hearings Body) on August 3, 2023, during which the Planning Commission will make a recommendation to the Board of Commissioners. The Board of Commissioners will review the record and take any testimony on August 24, 2023, before making a final decision. Once a final decision is made and reduced to writing, an appeal process will be available. Detailed information regarding the appeal process will be provided to all participants in this matter. After the appeal period has passed, without any appeals being received, the decision will become final, and staff will proceed with the required plan changes. Therefore, this section has been addressed.

- **SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE:**

The Hearings Body shall, after a public hearing on any rezone application, either:

1. *Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:*
 - a. *The rezoning will conform with the Comprehensive Plan or Section 5.1.215; and*
 - b. *The rezoning will not seriously interfere with permitted uses on other nearby parcels; and*
 - c. *The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.*

2. *Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:*
 - a. *The property may not be utilized for all the uses ordinarily permitted in a particular zone;*
 - b. *The development of the site must conform to certain specified standards; or*
 - c. *Any combination of the above.*

A qualified rezone shall be dependent on findings of fact including but not limited to the following:

- i. *Such limitations as are deemed necessary to protect the best interests of the surrounding property or neighborhood;*
 - ii. *Such limitations as are deemed necessary to assure compatibility with the surrounding property or neighborhood;*
 - iii. *Such limitations as are deemed necessary to secure an appropriate development in harmony with the objectives of the Comprehensive Plan; or*
 - iv. *Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects of the zone change.*
3. *Deny the rezone if the findings of 1 or 2 above cannot be made. Denial of a rezone by the Hearings Body is a final decision not requiring review by the Board of Commissioners unless appealed.*

FINDING: The application is required to conform to the Comprehensive Plan. The Planning and Board of Commissioners found the application request conformed to the Coos County Comprehensive Plan, without conditions (qualifiers). The findings and conclusion have been explained in this document.

The Coos County Comprehensive Plan Volume 1, Balance of County, is the relevant portion of the comprehensive plan that pertains to this property, as the property is not located within one of the estuary plans. To assess compliance, the county will need to follow the same process that was conducted during the initial determination of the appropriate zoning. The sections identified are Volume I Part I Section 3.2 Agricultural/Forest/Natural Resources, Section 5.3 Agricultural Lands, and Section 5.4 Forest Lands. Also applicable are the following Sections in Volume I, Part II Section 3.1 Agricultural Lands, and Section 3.2 Forest Lands.

Local jurisdictions in Oregon are required to incorporate relevant Statewide Planning Goals into their comprehensive plans and land use regulations, ensuring consistency with the statewide planning framework. However, there is flexibility for local communities to adapt and interpret the goals based on their unique characteristics, needs, and priorities while still meeting the overarching objectives of sustainable development and resource conservation. The flexibility is accomplished through an exception process.

In most of Coos County Goals 3 and 4 apply. In more detail, Statewide Planning Goals 3 and 4 are part of the statewide planning framework that guides land use planning and development across the state.

Goal 3, also known as Agricultural Lands, focuses on the preservation and protection of agricultural lands and their long-term viability for farming activities. It aims to ensure that agricultural lands are conserved for current and future agricultural uses, promoting sustainable agriculture and protecting the state's agricultural economy.

Goal 4, referred to as Forest Lands, aims to preserve and manage forest lands for the production of timber, protection of forest resources, and enhancement of forest-related industries. It recognizes the importance of maintaining forested areas for their ecological, economic, and social benefits, including timber production, wildlife habitat, recreation, and clean water.

The application proposal would redesignate land that was originally designated as Agricultural Lands (Goal 3) and to Forest (Goal 4). Section 3.2 of Volume I Part I of the CCCP explains how the lands were inventoried and background information on why the number of acres were reserved for Agriculture, Forest, and Natural Resources¹. The proposal does not have any effect on this section and is consistent.

Sections 5.3 and 5.4 of the CCCP explains that *Coos County shall conserve those resources designated as "agricultural lands" on the Comprehensive Plan map by regulating uses and activities in such areas through requirements stipulated in the following Exclusive Farm Use (EFU) zone. The delineation of these zones shall be generally consistent with the locational criteria developed on the Agricultural Lands Inventory and Assessment. Land Divisions shall comply with criteria set forth in the Coos County Zoning and Land Development Ordinance. Implementation of this strategy shall be based on application of the statutory provisions governing uses in EFU zones. The CCCP further explains that Coos County shall conserve forestlands, by retaining them for the production of wood fiber and other forest uses, except where legitimate needs for non-forest uses are justified.*

The main criteria set forth in Section 5.4 (8) states that *Coos County shall consider, and approve where appropriately justified, changes from forestry to agriculture zoning districts, and vice-versa, upon findings which establish:*

- i. *That the proposed rezone would be at least as effective at conserving the resource as the existing zone,*
- ii. *That the proposed rezone would not create a nonconforming use,*
- iii. *That the applicants for the proposed rezone has certified that he/she understands that the rezone, if granted, could have significant tax consequences.*

Furthermore, Coos County shall, upon a finding to approve the rezone under consideration, amend the "Agricultural Land" or "Forest Land" Comprehensive Plan Map designation so as to correspond to the new zone, as approved.

Implementation of this policy shall include conducting a "rezone public hearing."

- iv. *This strategy recognizes:*
 - a) *That agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest use and activities;*

¹ Natural Resources includes Minor Estuarine Shorelands

- b) *That this simplified plan revision process for agriculture and forest plan designations is necessary to help support the existing commercial agricultural and forest enterprises because it enables individual management decisions to be made in a timely manner as a response to changing market conditions.*

The applicants have explained within the application that evidence has been submitted throughout this application to address Appendix I CCCP Volume 1, Policy 5.4(8,) which allows changes in zoning districts from Agriculture to Forest and vice versa, provided that adequate findings are made supporting the request. The policy recognizes that "agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest uses and activities. The intent of this application is to rezone the subject property from Exclusive Farm Use to Forest be more compatible with adjacent Forest zoning based on the soils. The intent of this application is to adopt an appropriate zone designation for the subject property pursuant to Oregon Statewide Planning Goals 3 and 4, based upon existing Based on the information submitted and the surrounding zoning, staff agrees with the applicants' findings.

The applicants acknowledge in the record that there may be tax consequences by changing the zoning.

Volume I, Part II Section 3.1 Agricultural Lands, and Section 3.2 Forest Lands provide inventories and factual base for all inventoried Agricultural Lands and Forest Lands.

"AGRICULTURAL LAND" as defined in Goal #3 includes: (a) Lands classified by the U.S. Soil Conservation Service (SCS) as predominantly Class IIV Soils in Western Oregon and I-IV soils in Eastern Oregon; (b) Other lands in different soil classes which are suitable for farm use as defined in ORS 215.203 (2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and (c) land which is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands. In addition, counties may designate agricultural land as marginal land and allow those uses and land divisions on the designated marginal land as allowed by ORS 197.247.

1.5 *Criteria used to distinguish Agriculture and Forest Lands designations in Plan Map where overlap occurs.*

The principal test for deciding which designation a particular area should be placed in is whether the primary use is agriculture or forestry. The nature of the vegetative ground cover is one key indication of the primary use of the land. There are three basic types of situations to be examined:

(i) *Where non-Class II-IV soils are used for upland grazing.*

These lands are identified in the Plan from the County Assessor's records of land classified as agricultural lands for "Exclusive Farm Use" taxation purposes. These lands are separately identified as "grazing lands" in the Agricultural Lands inventory. Air photographs are used to check these areas to ensure that they are currently predominantly open rangelands with only scattered tree growth. On this basis the area indicated by tax records may be increased or decreased. These lands are then designated as agricultural lands on the Plan map on the basis of the following factors: suitability for grazing, existing land use patterns, and accepted farming practices. Site-specific consideration is given each area, to ensure that the ground cover indicates grazing as the primary use. The plan recognizes that the hill grazing land is of

great importance to the economy and is accepted as the predominant farming practice in certain areas of Coos County.

(ii) Where soils of the Blacklock Series (Class VIIw) occur

These soils are naturally suited to cranberry bogs and are separately identified in the agricultural lands inventory. Such areas may or may not be currently used for cranberry bogs. This depends largely on three factors: (i) the availability of irrigation water, (ii) the growth of the market for the product and (iii) availability of capital. Blacklock soils tend to be intermingled with other agricultural soils. However, entire areas within this soil association may be under forest cover. Cranberry bogs tend to occur in localized clusters, due to their heavy dependence upon surface water supplies and the need to protect operators from intrusion or conflicting uses.

These localized areas are identified from air photographs and are designated as agricultural lands based on the following factors: irrigation potential, existing land use patterns, technological and energy inputs and accepted farming practices. The Plan recognizes the importance of cranberry growing to the local economy and that it is the predominant farming practice in certain local areas of the County. Other areas in the Blacklock soil series are placed in the forest land designation on the basis of their forest cover.

(iii) Where Class II-IV soils are in use as forest lands.

Extensive areas of land on the flat, coastal plain have Class III or IV soils where no current agricultural use is occurring and the land is under forest cover. In addition, in upland areas in the interior of the County, level ridge tops and benches generally have Class III or IV soils. However, they are generally under unbroken forest cover. In each of these typical cases, there is assumed to be little probability of future clearing and conversion to agricultural use. The cool and windy climate of the coastal plain, coupled with the naturally low fertility of the sandy soils make this area poorly adapted to agricultural crops other than cranberries. This is vital to the future economic health of the County. Due to these facts and the existence of forest cover, it is considered appropriate to designate these lands as "forest lands" in the Plan. Certain exceptions occur to this general rule. In some narrow inland valleys, forest cover may alternate with open farmland, while the entire valley floor has Class II-IV soils. In such a situation, it is considered that due to the intermixture of such uses, the flat topography and accessibility of these lands, future conversion to agriculture is a distinct possibility. Thus, an agricultural designation is applied to the entire valley floor. However, ownership patterns must also be considered. In certain cases, narrow valleys with Class II-IV soils, especially in their upper reaches, may be owned by major lumber companies, and no agricultural use is occurring. With such site-specific situations, a 'forest land' designation is considered more appropriate, consistent with surrounding lands in the same ownership.

Thus, different types of cases can be distinguished where land may be identified as either agricultural and forest land. The most appropriate designation is based on the primary use of the land taking into account the factors used in the Goal to identify "other lands suitable for farm use," and to define "forest lands" and considering site specific situations. A plan policy is presented in the "Policy" section of the Plan to ensure the appropriate level of protection for these "overlapping" lands and to ensure that either forest or agricultural practices can occur without interference.

The applicants have provided a soil report for the property. Staff agrees with the conclusionary statement made in the report, which indicates that the Natural Resources and Conservation Service (NRCS) soil report for the subject property:

1. It is composed of existing and potential forest lands which are suitable for commercial forest uses.
 - a. The approximately 51% of subject property composed of Bullards sandy loam of increasing slopes (8B, 8C, and 8D):
 - i. In addition to the information above, the Coos County Soil Survey describes this soil type as “suited to the production of Douglas Fir [...] On the basis of a 100-year site curve, the mean site index for Douglas fir is 132. At the culmination of the mean annual increment (CMAI), the production of 60 year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 133 cubic feet per acre per year. On the basis of a 50 year site curve, the mean site index for Douglas fir is 105.
 - b. The approximately 49% of subject property composed of Blacklock fine sandy loam (5B):
 - i. In addition to the information above, the Coos County Soil Survey describes this soil type as “suitable to the production of shore pine. Among the other species that grow on this unit are Sitka spruce, western hemlock, and Port Orford cedar. [...] On the bases of a 100-year site curve, the mean site index for shore pine is 90. At the culmination of the mean annual increment (CMAI), the production of 60-year-old shore pine trees is 1.5 inches in diameter or more at breast height is 79 cubic feet per acre per year.”

The fact this property is suitable for either farm or forest use and; therefore, neither Statewide Planning Goals 3 or 4 can be applied alone.

The Coos County Comprehensive Plan (CCCP) provides flexibility to the County to consider each site on a case-by-case basis while also offering guidance on property zoning. In this particular case, the property is partially zoned for Agriculture, and it is surrounded by the same zoning district. Based on the site-specific information and the evidence provided by the applicants, staff did recommend to the Planning Commission to accept the findings presented by the applicants in this case. The Planning Commission reached a unanimous decision to recommend the approval of the application by the Board of Commissioners, adopting the findings in this report to support the case.

- ***SECTION 5.1.230 STATUS OF HEARINGS BODY RECOMMENDATION OF APPROVAL:***

The recommendation of the Hearings Body made pursuant to 5.1.225(1) or (2) shall not in itself amend the zoning maps.

FINDING: The Hearings Body recommendation was to the Board of Commissioners and did not have an effect of amending the zoning maps. The Board of Commissioners made a decision to amend the maps as they are the authoritative decision makers.

- ***SECTION 5.1.235 BOARD OF COMMISSIONERS ACTION ON HEARINGS BODY RECOMMENDATION:***

Not earlier than 15 days following the mailing of written notice of the Hearings Body recommendation pursuant to Section 5.1. 225, the Board of Commissioners shall either:

1. adopt the Hearings Body recommendation for approval or approval with conditions;
2. reject the Hearings Body recommendation for approval or approval with conditions and dismiss the application;
3. accept the Hearings Body recommendation with such modifications as deemed appropriate by the Board of Commissioners; or
4. if an appeal has been filed pursuant to Article 5.8, the Hearings Body recommendation shall become a part of the appeal hearing record, and no further action is required to dispense with the Hearings Body recommendation.

FINDING: The hearing before the Board of Commissioners was scheduled twenty days after the Planning Commission hearing. The Board of Commissioners has made findings based on the totality of the record including the recommendation of the Planning Commission.

- **SECTION 5.1.240 REQUIREMENTS FOR “Q” QUALIFIED CLASSIFICATION:**

Where limitations are deemed necessary, Board of Commissioners may place the property in a “Q” Qualified rezoning classification. Said “Q” Qualified Classification shall be indicated by the symbol “Q” preceding the proposed zoning designation (for example: Q C-1).

FINDINGS: The Planning Commission did not recommend a qualifier be placed on this proposal. There are standard conditions placed on the conditional use but that has no effect on the plan amendment/rezone request. Therefore, this criterion is not relevant.

- **SECTION 5.1.250 PERMITS AND APPLICATIONS MORATORIUM:**

1. After a proposed rezoning has been set for public hearing, no building or sewage disposal system permits shall be issued until final action has been taken. Final action constitutes either:
 - a. Withdrawal of the application by the applicant;
 - b. Expiration of the County’s appeal period without an appeal having been filed; or
 - c. Final order of Board of Commissioners upon hearing the appeal.
2. Following final action on the proposed rezoning, the issuance of a verification letter shall be in conformance with the application approval.

FINDING: There have been no building or sewage disposal system permits issued on this matter. Therefore, this criterion has been addressed.

- **SECTION 5.1.275 STANDARDS FOR COMPREHENSIVE PLAN AND REZONE FOR NONRESOURCE LAND:**

- A. The subject property does not meet the definition of Agricultural Land under Statewide Planning Goal 3 and /or Forest Land under Statewide Planning Goal 4.

NOTE: If the subject property is predominantly Class I-IV soils or if it predominantly consists of soils capable of producing 5000 cubic feet of commercial tree species it is not considered to be nonresource land.

- B. The subject property does not contain any natural resources defined in Statewide Planning Goal 5 which are identified in the Coos County Comprehensive Plan;*
- C. The subject property has been proven to be generally unsuitable for production of farm crops and livestock or merchantable tree species, considering terrain adverse soil conditions, drainage and flooding, vegetation, location and size of the tract.*
- D. The subject property is not considered to be nonresource land simply because it is too small to be farmed or forest managed profitably by itself. If the subject property can be sold, leased, rented or otherwise managed as part of a commercial farm, ranch or other forestland it is not considered to be nonresource land.*
- E. The subject property is not considered to be nonresource land if it has been given a special tax assessment for farm use or as designated forestland at any time in the past five years.*
- F. If the subject property is found to meet all of the standards above to be considered nonresource land the county shall also determine that rezoning the property to a nonresource zone will not materially alter the stability of the overall land use pattern in the area and lead to the rezoning of other lands to nonresource use to the detriment of the resource uses in the area.*
- G. The subject property shall be at least 10 acre in area unless it is contiguous to an area that is zoned for nonresource use. Any proposal of at least 2 acres but less than 10 acres requires approval of a Goal 14 exception pursuant to OAR 660-00-0040.*
- H. Rezoning of land that is found to be nonresource land shall be to a “rural” zone that is appropriate for the type of land and its intended use. Rural commercial or industrial development must comply with standards for small-scale, low impact commercial and industrial use. Development of property rezoned from Forest or Forest Mixed use to a nonresource zone shall comply with the resource development and siting standards. (ORD NO. 04-01-001PL February 10, 2004)*

FINDING: This is not a non-resource rezone request as the applicants are requesting to have Forest zoning applied to the property which is consistent with Statewide Planning Goal 4; therefore, this section is not applicable.

B. 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)

- o SECTION 4.6.120 Review Standards (9)(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 dwelling 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 0 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, on the other lots or parcels 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, on the other lots or parcels; or
 - (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, on the other lots or parcels.

FINDING: Soil information is utilized to determine whether the subject property can yield 0-49, 50-85, or over 85 cubic feet per year of wood fiber. This determination establishes the relevant criteria for the number of qualifying lots or parcels. According to the Soil Survey of Coos County, as provided by the applicants and verified by staff through the NRCS National Soil Information System, the property is capable of producing over 85 cubic feet per year of wood fiber. This volume requires the presence of at least 11 other lots, or lots that existed on January 1, 1993, and within those qualifying lots and parcels, at least three dwellings existed on January 1, 1993

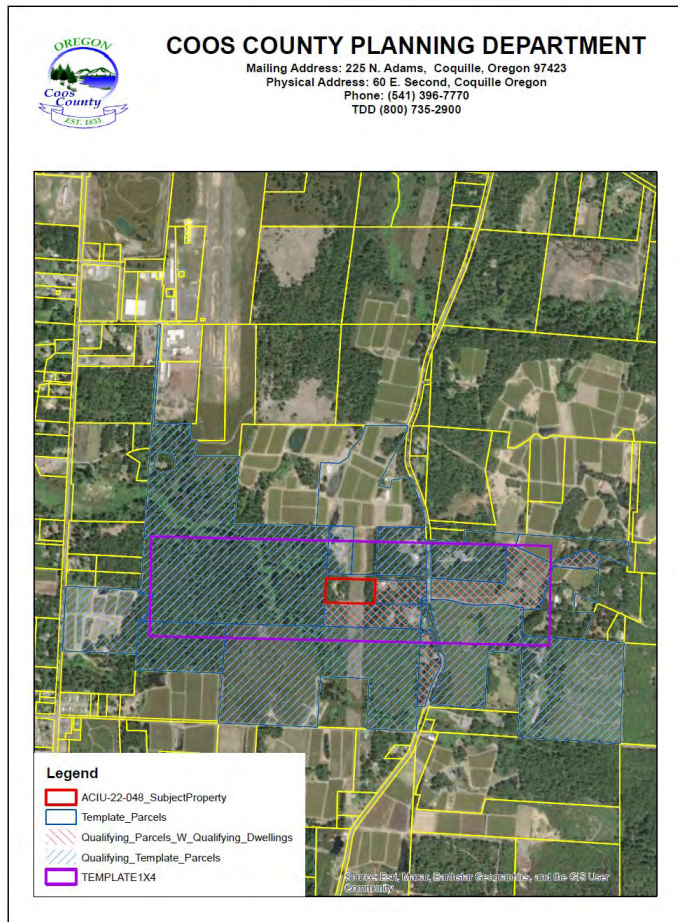
Therefore, 4.6.120 Review Standards (9)(B)(II)(1)(c) applies to the template test.

- *SECTION 4.6.120 Review Standards (9)(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -(II) TEMPLATE DWELLING - 215.750 Alternative forestland dwellings; ****

- (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 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.*
 - c. *If the:*
 - i. *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) 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:*
 - 1. *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*
 - 2. *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.*
 - ii. *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: None of the lots or parcels used to satisfy the test were within the Urban Growth Boundary. The template employed was a 160-acre rectangle, one mile in length and one-quarter mile in width, centered on the subject tract. This template was aligned with the platted road to the greatest extent possible. The analysis indicated that the number of parcels with homes has been exceeded, thereby satisfying the criteria. Screenshot of map below for reference.

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.

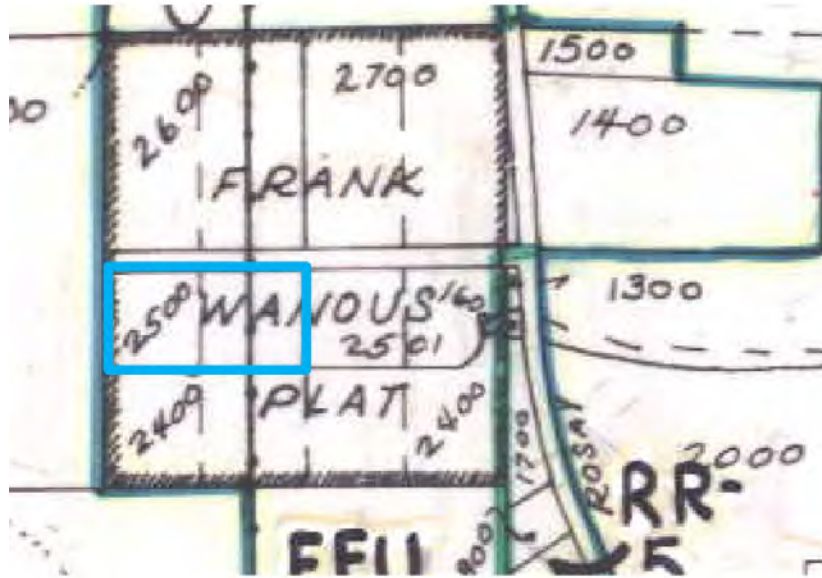


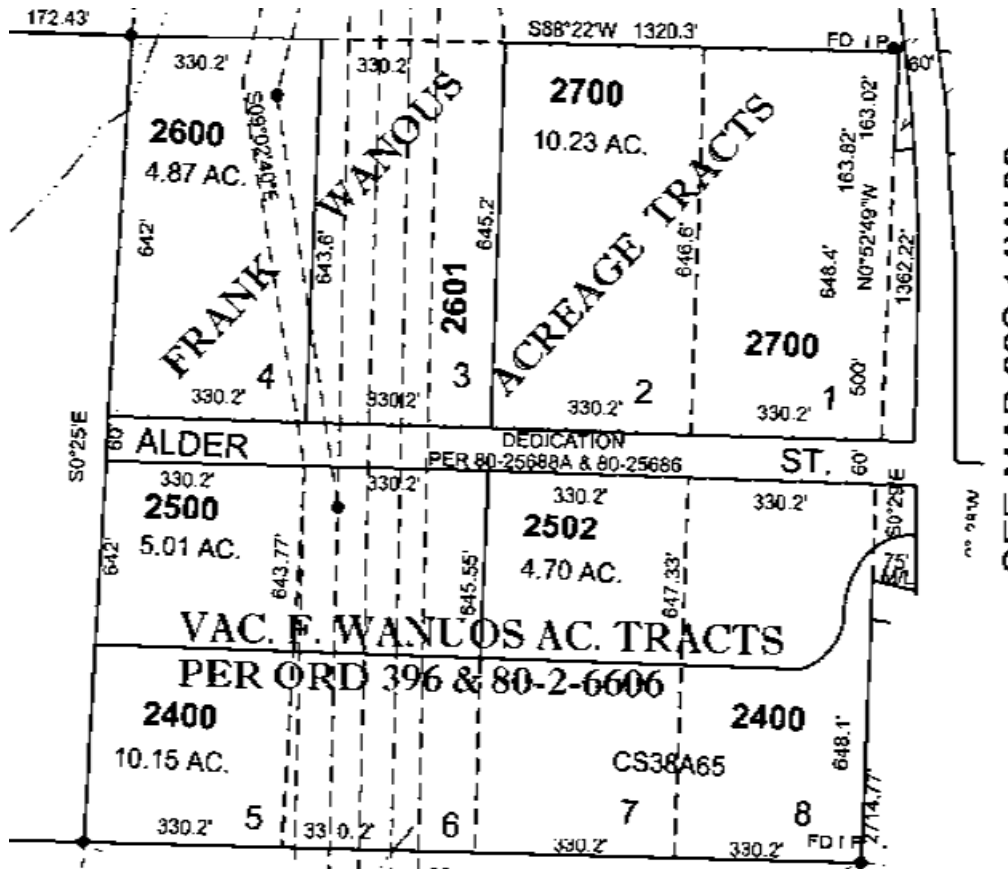
- (3) A proposed “template” dwelling under this rule is allowed only if:
- a. It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law;
 - b. It complies with the requirements of OAR 660-006-0029 and 660-006-0035;
 - c. 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 in compliance with the Comprehensive Plan once the property is recognized as Forest. Upon rezoning and fulfillment of all suggested conditions, the proposal would adhere to OAR 660-006-0029 (siting standards for dwellings and structures in the Forest Zone) and

660-006-0035 (Fire Siting Standards for Dwellings and Structures). No other dwellings are present on the lot, parcel, or tract that constitutes the lot or parcels.

The property was initially part of a 1912 subdivision plat (Frank Wanous Acreage Tracts 1912). However, in 1980, it appears that the lots within tax lots 2500, 2501, and 2400 were vacated. Despite this, the street remained, and the lots were reconfigured through a deed at that time. The property has remained unchanged since 1981 (as documented in Deed Document 81-3-0590) and is regarded as lawfully created.





This property's boundary lines have not been adjusted since 1981.

Therefore, the proposal complies with subsection (3).

- (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:
 - i. 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;
 - 1. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and
 - 2. The lot or parcel qualifies, notwithstanding subsection (3)(h), for a dwelling under section (1) of this rule.

FINDING: This property is not part of a tract that has a dwelling. Therefore, this section is not applicable.

- (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: This property is not part of a tract. Therefore, this section is not applicable.

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

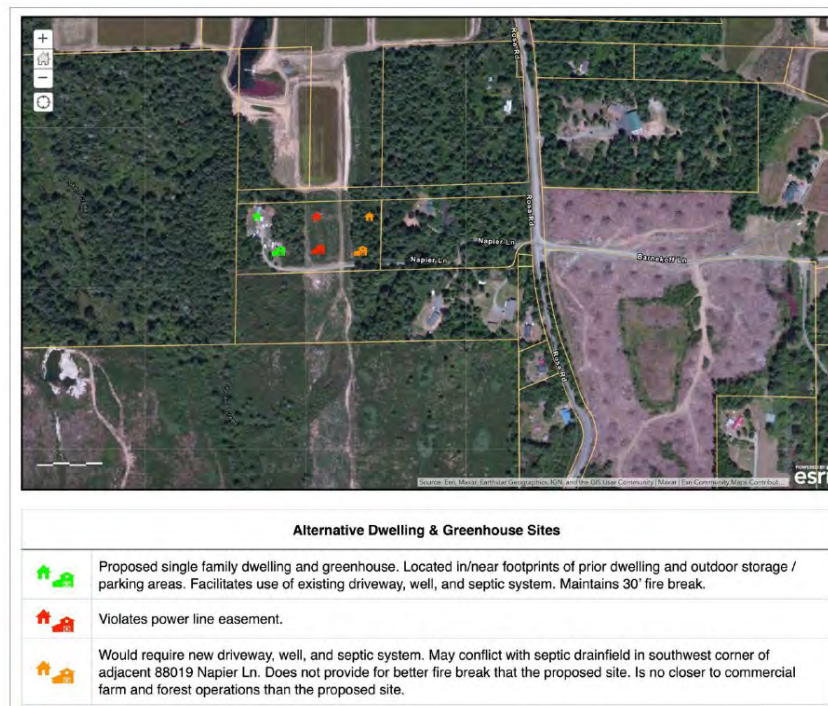
The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found 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. *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.*

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.*

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.*
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 applicants provided the following site analysis to address alternative dwelling and accessory structure sites.



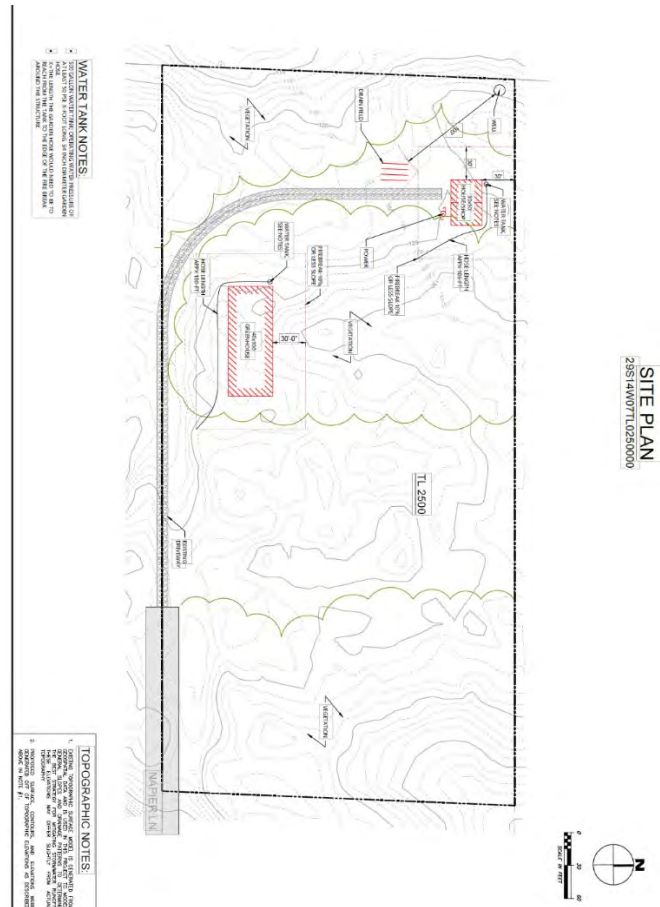
By utilizing the area that is already cleared and has developed infrastructure it appears that the proposed green dwelling site would have the least impact on nearby or adjoining lands and minimizes the amount of land used to site access roads, service corridors, and structures. The site plan below show all the existing infrastructure and proposed development. The plan is very detailed.

The applicants provide more details in their Attachment 7 to provide an overview of all of the surrounding properties uses to demonstrate compliance with the least amount of impacts. The application states that the proposal will comply with the applicable setbacks:

- a) 30' defensible space setbacks;**
- b) 35' setback from the centerline of Napier Ln;**
- c) Setbacks from the 100' powerline right of way; and**
- d) Septic system setback from neighboring wells.**

The proposal has considered the following:

- a) Clustering of the structures near or among existing structures: between Crooked Creek and Rosa Road, along with six other dwellings within approximately a quarter-mile of each other;**
- b) Structures are close to the existing Napier Ln and Rosa Rd; and**
- c) The structures will be sited on the portion of the parcel least suited for growing trees: the portion of the property which has been developed for residential use.**



As a condition of approval the applicants will be required to 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 applicants shall submit the well constructor's report to the county upon completion of the well.

The property has an easement in place for Napier Lane to access the property.

As a condition of approval the applicants shall comply with the following:

- (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.*

Therefore, this section has been addressed.

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

This section contains 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.*
 - c. *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.*
 - d. *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.*
 - e. *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.*
 - 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*

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 the ground study for slope from a Registered Surveyor or other Registered Professional that is able to make calculations based on the profession licensing requirements.*

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.

- f. If the dwelling has a chimney or chimneys, each chimney has a spark arrester.*
- g. 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: The applicants have addressed all of the siting standards. The down slope is less than 10% and will not require additional primary fire safety setbacks.

All criteria has been addressed.

- **Conclusion**

The rezone is consistent with the Comprehensive Plan and compatible with the surrounding uses; therefore, the Board of Commissioners adopted the proposed findings

and approved the application proposal. The Template Dwelling is subject to the following conditions of approval:

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 applicants 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. CCZLDO Section 4.6.130(3) The applicants 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 applicants shall submit the well constructor's report to the county upon completion of the well.
- c. Covenant and Deed Restriction Requirement:
 - i. 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.
 - ii. 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.
- d. 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, as may be approved by the certified official responsible for the building permit. If they are not available yet then this will be a condition of approval on the ZCL.

- e. **Section 4.6.140(14) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester. A copy of the building plans shall be submitted. If they are not available, then this will be a condition of approval on the ZCL.**
- f. **Section 4.6.140 (16) Except for private roads and bridges accessing only commercial forest uses, public roads, bridges, private roads and driveways shall be constructed so as to provide adequate access for firefighting equipment. If the property is within a fire protection district (Coos Forest Protective Agency or Rural Fire Department) a sign off from the fire department is required or proof that the road has been constructed to meet the requirements of the “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads” dated March 1, 1991.**
- g. **Section 4.6.140(17) Access to new dwellings shall meet road and driveway standards in Chapter VII. Driveway/ Access Parking/Access permit application shall be signed off by the Coos County Road Department prior to issuance of a final occupancy certificate.**



OVERVIEW

Applicant	Larry Paul and Bonnie Riley
Site Address	88018 Napier Ln, Bandon OR 97411
Map No.	29S14W07
Parcel No.	2500
Coos County Account No.	3089701
Size	5.01 Acres
Zoning	EFU
Special Development Considerations and Overlays	<ul style="list-style-type: none"> - Coos County Beaches and Dunes Development Suitability: Suitable for Most Uses - FEMA Flood Maps: None - DOGAMI Landslide Susceptibility: Low to Moderate - DOGAMI Liquefaction Susceptibility: Low - Coos Coastal Shorelands Boundary: N/A - National Wetland Inventory: None - Statewide Wetland Inventory: None
Proposal	Zone change: EFU to Forest Mixed Use & Forest Template Dwelling
Access	Napier Ln: Private Easement (Attachment 3)
Site Description	Mostly flat, vacant land. Was used for single-family dwelling use from 1986 to approximately 2011. Existing septic system, well, power, and driveway
Surrounding Zoning & Use	Approximately 0.4 miles southeast from the southeast corner of Bandon's UGB. On west side of Ross Road. Surrounded by EFU, Forest, and Rural Residential zoning; majority of parcels used for residential use.
Related Coos County Planning Files	ACU-22-048, ZCL-84-233

BACKGROUND

On May 23, 1984 a Zoning Clearance Letter (ZCL-84-233) was issued to Robert and Faye Harris, permitting the construction of a Conventional Dwelling and septic system on subject property. Between May 31, 1984 and March 19, 1986, the septic system was permitted by the DEQ, installed, and certified by the DEQ (permit #s 2784-108 and 685-132).¹

Unfortunately, the Harrises didn't construct a conventional dwelling. They installed a 1979 Skyline mobile home on the property. The dwelling was reported to the Assessor's office for tax purposes in 1986 and is still on the rolls today.

The dwelling was demolished between 2011 and 2013 (as evidenced by aerial photos).

The applicant applied to replace the dwelling in 2022 (ACU-22-048). That application was denied because the previous dwelling was not in fact lawfully established (because the zoning compliance issued in 1984 was for "construction of a conventional dwelling" and not "site mobile home," as described in the findings of fact of ACU-22-048.

OVERVIEW

The applicant is proposing to (1) re-zone their parcel from EFU to Forest Mixed Use and (2) permit a Forest Template Dwelling on Subject Property. This report is separated into two sections. The first addresses the criteria for the re-zone and the second addresses the criteria for the template dwelling.

ATTACHMENTS

1. Site Plan
2. NRCS Soil Report
3. Access Easement (Napier Ln) and Map
4. 2004 Existing System Evaluation Report
5. Assessor's Map
6. Deed (2011-2307)
7. Template and Notice Area Map and List
8. Title Report

Additional documentation regarding subject property, including Coos County Planning, Coos County Assessor, and DEQ records, is available here:

[https://www.dropbox.com/sh/03ae57t5z11mh1o/AADow_G0hMHXJZs\[bt-9oSRna?dl=0](https://www.dropbox.com/sh/03ae57t5z11mh1o/AADow_G0hMHXJZs[bt-9oSRna?dl=0)

¹ On May 31, 1984, the DEQ issued a permit to install the septic system (#2784-108), with an expiration date of May 31, 1985. On May 16, 1985, the DEQ attempted to inspect the system; sent a follow up letter requesting the system be uncovered for inspection within 30 days. June 17, 1985 DEQ inspects and requires modifications; states the Harrises must apply for a permit renewal and that "a new zoning clearance letter will not be required." June 19, 1985, the Harrises apply for permit DEQ permit renewal (#685-132); permit issued June 20, 1985 and completed March 19, 1986.

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ZONE CHANGE APPLICATION

ORS 660-006-0057 Rezoning Land to an Agriculture/Forest Zone

Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.

Subject property is suitable for either farm or forest use and therefore neither Goal 3 nor 4 can be applied alone.

CCZLDO Chapter II Definitions: Article 2.1 Definitions: § 2.1.200 Specific Definitions

Agricultural Lands: Those lands designated in the Coos County Comprehensive Plan (Volume 1 "Balance of County") for inclusion in Exclusive Farm Use (EFU) Zones. These lands include Soil Capability class I, II, III, and IV lands as defined by the United States Soil Conservation Service in their Soil Capability Classification system and other lands suitable for farm use.

Subject property meets Coos County's definition of Agricultural Lands for the following reasons:

1. Subject property contains soils of Soil Capability class I, II, III, and IV, as defined by the United States Soil Conservation Service in their Soil Capability Classification system.
2. Approximately 49% of subject property (the western, low, flat, grassy portion, encompassed by the powerline easement) is Blacklock fine sandy loam, 3-7% slopes (5B):
 - a. This soil type is defined by the CCZLDO as High Value Farmland.²
 - b. This type of soil is also described by the Coos County Soil Survey as "used mainly for timber production and wildlife habitat. It is also used for cranberry production and recreation. [...] Irrigation and drainage are needed if the soil in this unit is intensively managed for cranberry production."

² Chapter II Definitions: Article 2.1 Definitions: Section 2.1.200 Specific Definitions: "High-value farmland" means land in a tract composed predominantly of soils that are:

A. Irrigated and classified prime, unique, Class I or Class II; or B. Not irrigated and classified prime, unique, Class I or Class II.

A and B, above, include the following soils: 2C, 5A, 5B, 33, 17B, 25 and 36C.

In addition, high-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.

Also, high-value farmland, used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in A or B above and the following soils: Meda (37C), Nehalem (40) and Coquille (12).

3. Approximately 51% of subject property (the forested area on the eastern side, which gradually slopes upward towards a ridge on the adjacent timberland) is Bullards sandy loam of increasing slope (Bullards sandy loam 8B 0-7% slopes, 8C 7-12% slopes, and 8D 12-30% slopes)
 - a. The Coos County Soil Survey describes 8B, 8C, and 8D as: “used mainly for timber production, wildlife habitat, and homesite development. It is also used for pasture and recreation. [...] If this unit is used for pasture, the main limitation is droughtiness in summer. Supplemental irrigation is needed for maximum production.

CCZLDO Chapter II Definitions: Article 2.1 Definitions: § 2.1.200 Specific Definitions

Forest Land: Those lands designated in the Coos County Comprehensive Plan (Volume I- "Balance of County") for inclusion in a Forest Lands zone. These areas include: (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses, (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation, (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use, and (4) other forested lands which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.

Subject property also meets Coos County’s definition of “Forest Land” for the following reasons:

1. It is composed of existing and potential forest lands which are suitable for commercial forest uses.
 - a. The approximately 51% of subject property composed of Bullards sandy loam of increasing slopes (8B, 8C, and 8D):
 - i. In addition to the information above, the Coos County Soil Survey describes this soil type as “suited to the production of Douglas Fir [...] On the basis of a 100-year site curve, the mean site index for Douglas fir is 132. At the culmination of the mean annual increment (CMAI), the production of 60 year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 133 cubic feet per acre per year. On the basis of a 50 year site curve, the mean site index for Douglas fir is 105.
 - b. The approximately 49% of subject property composed of Blacklock fine sandy loam (5B):
 - i. In addition to the information above, the Coos County Soil Survey describes this soil type as “suitable to the production of shore pine. Among the other species that grow on this unit are Sitka spruce, western hemlock, and Port Orford cedar. [...] On the bases of a 100-year site curve, the mean site index for shore pine is 90. At the culmination of the mean annual increment (CMAI), the production of 60-year-old shore pine trees is 1.5 inches in diameter or more at breast height is 79 cubic feet per acre per year.”

Because property is suitable for either farm or forest use and therefore neither Goal 3 nor 4 can be applied alone.

Oregon's Statewide Planning Goals & Guidelines: Goal 3: Agricultural Land

[...]

Definitions: Agricultural Land -- in western Oregon is land of predominantly Class I, II, III and IV soils and in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event. [...] Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exceptions to Goals 3 or 4.

[...]

Oregon's Statewide Planning Goals & Guidelines: Goal 4: Forest Lands

[...]

Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

[...]

Here, a plan amendment involving forest lands is proposed.

As described above under CCZLDO 2.1.200: subject property is suitable for commercial forest uses. Based on the 100 year site curve:

- Bullards sandy loam (51% of subject property) can produce 133 cubic feet of Douglas fir wood fiber per acre, per year
- Blacklock fine sandy loam (49% of subject property) can produce 79 cubic feet of Douglas fir wood fiber per acre, per year.

Coos County Comprehensive Plan Volume 1 Part 2 § 3.2 Forest Lands: 5.
Implementation Strategies: 5.1 Proposed Forest Zone

[...]

Within the forest zone, the extent of preservation of forest lands primarily for forest uses will be established through implementation of the zoning ordinance. Specifically, standards within the ordinance are set to delineate those areas, or parcels, which have historically been managed as "mixed use" areas, including both farm and forest uses. Based on the June 24, 1983 DLCD Staff Report on Coos County, it is understood that uses in these "mixed use" areas are appropriately expanded to include additional non-forest uses that may not otherwise be allowed in a prime commercial forest zone. As stated in that report: "The Commission's decision in Allen v. Umatilla County (LUBA 83-076) supports the mixed use/predominant forest use concept and establishes separate requirements for authorizing certain non-forest uses in each forest area". (June 24, 1983 DLCD Staff Report, p. 106)

The zoning ordinance standards are used, ultimately, to determine the degree of productivity of the land for forest production vs. the productivity of the land for farm use. It is the intent of the Planning Commission to strictly preserve prime commercial timber areas in the county, while allowing for some justified non-forest uses in the areas established as "mixed-use" areas. These "mixed-use" areas are identified on the "Mixed Agriculture-Forest Use Areas" inventory map based on specific review criteria.

Standards for determining the degree of allowance for non-forest uses are based on such things as productivity of the land for forestry, historical land use (i.e. farm uses), terrain and surrounding uses. The review process will occur at the request of the applicant on a case by case basis

There are basically two different types of forest areas in Coos County. These are (i) prime forest areas, and (ii) mixed farm-forest areas. Certain non-farm uses not allowed in the former may be allowed as conditional uses in the latter. The two types of forest land are described in greater detail, as follows:

(i) "Prime Forest Area". These areas or parcels are typically large contiguous blocks of undeveloped land which are managed exclusively for timber production with some ancillary forest uses. Intensive forest management is practiced within this classification. A parcel or area subject to this classification will be preserved primarily for forest uses.

(ii) "Mixed Farm-Forest Area". These areas 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 ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

In certain areas of the County, these "mixed use" areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in "prime forest areas", and grazing is in many places a co-dominant use. There are typically a mixture of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

Section 5.1, above, describes traits of the mixed-use overlay of the Forest zone. Subject property has those same traits:

- Subject property is suitable for farm-forest use and could potentially be used for farm-forest use.
- Subject property is between commercial farm and forestlands and the residential development on Rosa Road.
 - To the north: large cranberry farms.
 - To the west and south: commercial forestlands
 - To the east: Rosa Road and small 1-5 acre parcels used for residential use
- Subject property is small (5.01 acres) and will be marginal in terms of forest and farm productivity.

Coos County Comprehensive Plan Volume 1 Part 2 § 3.2 Forest Lands: 5.
Implementation Strategies: 5.1 Proposed Forest Zone [cont..]

The mixed use areas are identified at a scale of 1" = 2 miles on the "Mixed Agricultural-Forest Use Areas" Comprehensive Plan inventory map. A change in the boundary of the "mixed use" inventory map will require a comprehensive plan amendment. Criteria used to designate these areas are as follows:

Criteria used to designate these areas are as follows:

1. Mixed-use areas are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agriculture uses.

The eastern ½ of subject property, is flat, grassy, and composed of a soil type indicative of high value farmland (5B).

This eastern area is also encumbered by the powerline easement (Book 199, Page 350 and 69-12-4473), which grants United State of America the right to clear and keep clear "of all brush, timber, structures, and fire hazards, provided however, the words "fire hazards" shall not be interpreted to include growing crops; and also the present and future right to top, limb, fell, and remove all growing trees, dead trees or snags (collectively called "danger trees") located on Grantor's land adjacent to said parcel of land, which could fall within 40 feet of the centerline or centerlines of electric transmission facilities [...]." And therefore precludes the majority of this eastern area from use as commercial farmland.

The western ½ of subject property is forested, and sits at the base of commercial farmland.

2. Mixed-use areas are those areas generally managed to maintain enough upland acreage to sustain livestock during the winter months due to flooding of lowland areas.

No floodplain exists on subject property. But the composition of subject property (eastern low-lying area and western sloped area) is conducive to managing livestock.

3. Mixed-use areas are those areas predominantly co-managed for both farm and forest uses.

The composition of subject property is conducive to co-management for both farm and forest uses.

Coos County Comprehensive Plan Volume 1 Part 1 § 5.4 Forest Lands: Plan Implementation Strategies

[...]

8. Coos County shall consider, and approve where appropriately justified, changes from forestry to agriculture zoning districts, and vice versa, upon findings which establish:

i. That the proposed rezone would be at least as effective at conserving the resource as the existing zone;

Section 5.4, above, provides standards for re-zones from farm to forest and vice versa.

The Forest zone will be at least as effective at conserving Subject Property for resource use as the EFU zone. The Forest zone will preclude further parcellation or urbanization of Subject Property (as will the EFU zone). And although the proposal will have the effect of permitting the re-establishment of a dwelling on subject property – it will not reduce or permit to be reduced the resource use of Subject Property.

ii. That the proposed rezone would not create a non-conforming use;

The proposed rezone would not create a non-conforming use.

iii. That the applicant for the proposed rezone has certified the he/she understands that the rezone, if granted, could have significant tax consequences;

The applicant understands that the rezone, if granted, could have significant tax consequences.

Furthermore, Coos County shall, upon finding to approve the rezone under consideration, amend the "Agricultural Land" or "Forest Land" Comprehensive Plan Map designation so as to correspond to the new zone, as approved.

Implementation of this policy shall include conducting a "rezone public hearing."

iv. This strategy recognizes:

a) That agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest use and activities;

b) That this simplified plan revision process for agriculture and forest plan designations is necessary to help support the existing commercial agricultural and forest enterprises because it enables individual management decisions to be made in a timely manner as a response to changing market conditions.

This forest lands implementation strategy, and the facts it recognizes, apply to the applicant's proposal.

CCZLDO Article 5.1 Plan Amendments and Rezones: § 5.1.225 Decisions of the Hearings Body for a Rezone

The Hearings Body shall, after a public hearing on any rezone application, either:

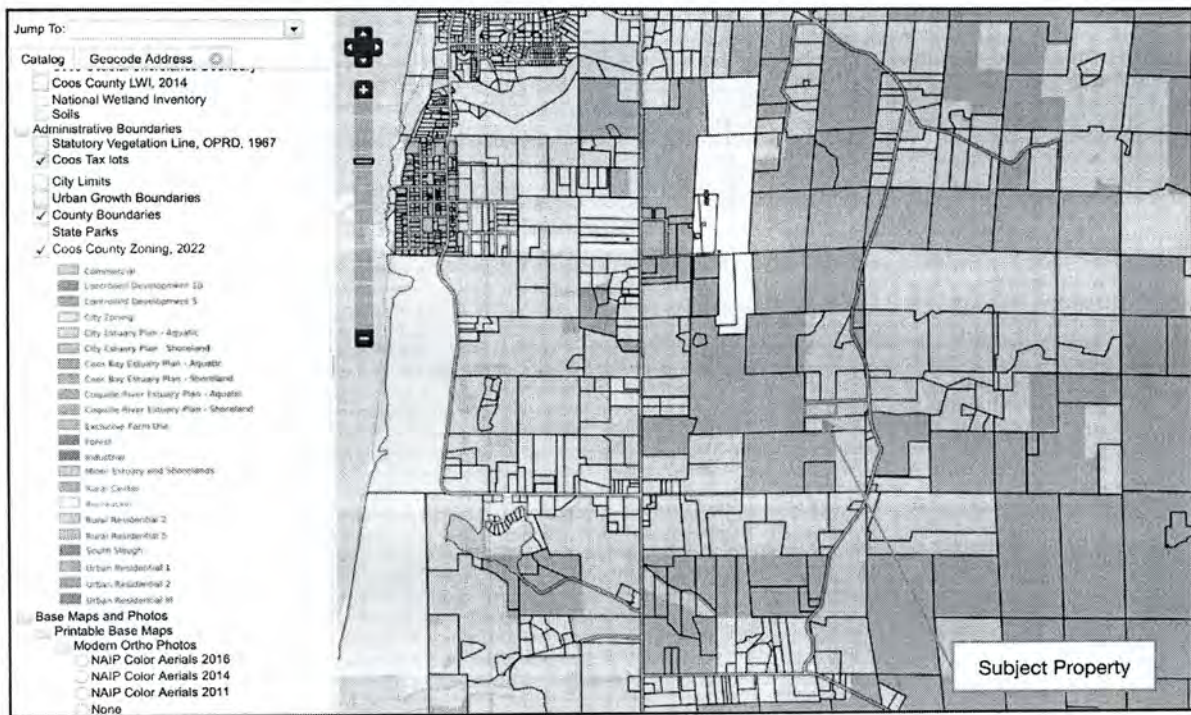
1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:

a. The rezoning will conform with the Comprehensive Plan or Section 5.1.215,³ and

The proposed rezone complies with the Comprehensive Plan, as evidenced by the narrative above under those sections.

Section 5.1.215 of the CCZLDO does not apply, because Subject Property is not located in the interior of an exclusive farm use zone; its on the western border of an EFU zone. It is 660 feet from an RR-5 zone and adjacent to the Forest zone.

³ § 5.1.215 Zoning for Appropriate Non-farm Use: Consistent with ORS 215.215(2) and 215.243, Coos County may zone for the appropriate non-farm use one or more lots or parcels in the interior of a exclusive farm use zone if the lots or parcels were physically developed for the non-farm use prior to the establishment of the exclusive farm use zone.



*b. The rezoning will not seriously interfere with permitted uses on other nearby parcels;
and*

The rezone will not interfere with permitted uses on other nearby parcels; it is consistent with the permitted uses on nearby parcels (residential, forest, and farm). See also Attachment 7, which describes the uses of nearby parcels and why siting the forest template dwelling and accessory greenhouse on the previously-developed areas of subject property will have the least impact on nearby or adjoining lands and minimizes the amount of land used to site access roads, service corridors, and structures.

c. The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.

TEMPLATE DWELLING APPLICATION

Coos County Planning Department Criteria and Guidance Sheet: Forest Template Dwelling: Applicant’s responses in blue

This is the criteria and supplemental questions designed to help address the required criteria. The applicant may provide any justification to meet the burden of proof.

**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)(C)

(9)(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 road⁴ 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) 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.

⁴ 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.

- (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.
- (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.
- (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.

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.

Response to SECTION 4.6.110(9)(B)(II)

Questions to Answer:

- 1. Has your property been involved in a property line adjustment?**

No.

- 2. Was your property part of a tract on January 1, 2019? Tract means same ownership as an abutting property.**

No.

- 3. Was your property part of a tract on January 1, 2021?**

No.

- 4. Did you own abutting property as of January 1, 2021 that contained another dwelling or dwelling authorization? Please list all properties within your ownership that were abutting.**

No.

- 5. Do you have a current template map completed?**

Yes.

- a. Which template did you apply and why? (See Section I & II)**

Which template: 160-acre square.

Why: Subject property is capable of producing greater than 85 cubic feet per acre per year of wood fiber.

- b. How many lots and/or parcels were all or part within the template prior to January 1, 1993? Please list all properties**

At least 11. See attached list and map.

- c. How many dwellings are located within lots and parcels described above that were sited prior to January 1, 1993? Please list all properties that contain the qualifying dwellings.**

At least 3. See attached list and map.

- d. Are there any covenants, conditions and restrictions on this property and if so do they specifically prohibit a dwelling? Please provide the restrictions if apply.**

No.

Additional evidence and responses to address the criteria?

SECTION 4.6.130 SITING STANDARDS FOR DWELLING AND STRUCTURES IN FOREST ZONES

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 nearby⁵ 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.

Response shall explain how or why, providing a yes or no will not satisfy the criteria and will result in an incomplete application:

Attachment 7 includes a map and table which depict and list the properties within 750' of subject property.

For each "nearby" property, the table lists (a) a description of the use of the property (as determined by aerial photos and assessor's summaries), and (b) a description how the proposed dwelling site minimizes impacts on that property.

The proposed dwelling site: is the same site upon which a previous dwelling sat from 1986 to 2011. It is proposed to utilize the existing well, septic system, and driveway.

The proposed greenhouse site: was used for parking and outdoor storage accessory to the previous dwelling.

Siting the forest template dwelling and accessory greenhouse on these already-developed areas will have the least impact on nearby or adjoining lands and minimizes the amount of land used to site access roads, service corridors, and structures.

Moreover, the proposed dwelling and greenhouse sites:

- Comply with the applicable setbacks: (a) 30' defensible space setbacks, (b) 35' setback from the centerline of Napier Ln, (c) setbacks from the 100' powerline right of way, (d) septic system setback from neighboring wells.
- Are clustered near or among existing structures: between Crooked Creek and Rosa Road, along with six other dwellings within approximately a quarter-mile of each other.
- Are close to the existing Napier Ln and Rosa Rd.
- Are sited on the portion of the parcel least suited for growing trees: the portion of the property which has been developed for residential use.

Alternative sites were considered, and the proposed site determined to

⁵ 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.

(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

As such, the applicant's proposed site plan meets all siting criteria described under 4.6.130(2), and therefore satisfies 4.6.130(1).

Moreover, per Coos County's requirements, to minimize the impact of dwellings in forest lands, the property owner will (1) file in the deed record of Coos County, a Forest Management Covenant per CCZLDO 4.6.140(5) Minimizing Impacts, (2) maintain a fire break per CCZLDO 4.6.140(10) Firebreak, and (3) maintain a water tank and hose per 4.6.140(9) Fire Siting Standards for New Dwellings.

- Proposed single family dwelling and greenhouse. Located in/near footprints of prior dwelling and outdoor storage / parking areas. Facilitates use of existing driveway, well, and septic system. Maintains 30' fire break.
- Violates power line easement.
- Would require new driveway, well, and septic system. May conflict with septic drainfield in southwest corner of adjacent 88019 Napier Ln. Does not provide for better fire break than the proposed site. Is no closer to commercial farm and forest operations than the proposed site.

Alternative Dwelling & Greenhouse Sites



- (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.

Water Resource Department Information: <https://www.oregon.gov/owrd/pages/index.aspx>

Response shall include the source of water and how it is permitted:

Domestic water supply will be from an existing well, used for (1) single or group domestic purposes in an amount not exceeding 15,000 gallons a day and (2) watering any lawn or noncommercial garden not exceeding one-half acre in area.

The existing well on subject property was previously used for domestic purposes, but does not have a well ID affixed to it. The applicant understands they'll be required to register the well with OWRD prior to obtaining a Zoning Compliance Letter.

<https://www.oregon.gov/OWRD/programs/GWWL/WCC/WellID/Pages/default.aspx>

- (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 which could include an easement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

Response shall include what road the property is accessing, maintenance agreements and easements that pertain to the road. This information may be included in your deed.

Access via private Napier Ln access easement (76-10-14802), connecting to Coos County Rosa Road. See Attachment 3 for access easement and depiction of access easement.

- (5) Approval of a dwelling shall be subject to the following requirements:
- (d) 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;
 - (e) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
 - (f) 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;

- (g) 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
- (h) 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.

1. Will sufficient tress be replanted?

Yes

2. Is the property more than 10 acres in size? If so, the applicant shall acknowledge a stocking survey will be filed with the County Assessor's Office as a condition of approval.

No

3. Upon receiving approval, will the applicant/property owner 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 injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Yes

Additional Response Information:

SECTION 4.6.140 DEVELOPMENT AND SITING CRITERIA:

This section contains 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. Slope⁶ will also determine additional firebreak in Section 8 Firebreak.
- c. 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.
- d. 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.
- e. 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.
 - 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.
- f. If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
- g. 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.

⁶ 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 Oregon⁶ 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.

- 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 include poof of the slope to determine additional firebreak setbacks is required.

Table 1 – Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
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.

RESPONSE TO SECTION 4.6.140

1. Is the property a legal unit of land? Please provide reference to how it was created.

Yes. Subject property is comprised of the northern half of lots 5 and 6 of the Frank Wanous Acreage Tracts, created prior to January 1, 1986.

2. Will the applicant meet the road setback (shall be shown on plot plan)?

Yes. See Attachment 1 Site Plan. Development is setback at least 35' from centerline of Napier Ln.

3. Will a Fence, Hedge and/or Wall be developed at this time? If so will it comply with the vision triangle?

No.

4. Has a driveway/access/parking permit been requested at the time of the application?

Yes

5. Has the applicant acknowledged that they will file in the deed record of Coos County, a Forest Management Covenant prior to receiving a zoning compliance letter? (This shall be done after the conditional use is approved, but before a zoning clearance letter is issued. A Forest Management Covenant cannot be filed if the conditional use has not been approved but a draft may be submitted with the application.)

Yes

6. Has the applicant shown any waterways that require a 50 feet setback and if so will the setback be met?

No. No waterways that require a 50 foot setback are present.

7. Fire related questions:

a. The proposed dwelling shall use non-combustible or fire resistant roofing materials. Describe the materials that will be used.

Non-combustible or fire resistant roofing materials

b. What is the slope of the property on average and where the dwelling will be located?

The dwelling and greenhouse are proposed to be sited on flat, previously developed land.

See Attachment 1 Site Plan, which includes 1' contours and is to scale.

Subject property slopes up approximately 10 feet from the western-edge of the powerline easement, and then back down towards the property line and Crooked Creek. The steepest slope on subject property is ~16%.

c. What 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?

The dwelling will be served by an existing water well; no Class II stream water is available or proposed for use.

d. Is the property within a Fire District and if so which Fire District.

i. If the property is within a Fire District you shall explain how you have requested to be included in the Fire District with a copy of the request.

Bandon Rural Fire Protection District

ii. If the property is outside of a Fire District and cannot be served by a Fire District you are required to provide the contract with a private fire protection company.

N/A

iii. 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. Include on the plot plan water storage and access to meet the following standards:

- 1. 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.**
- 2. 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.**

N/A

e. Does the proposed dwelling have a chimney and if so will a spark arrester be installed?

A spark arrester will be installed on the proposed dwelling.

8. Firebreak Safety:

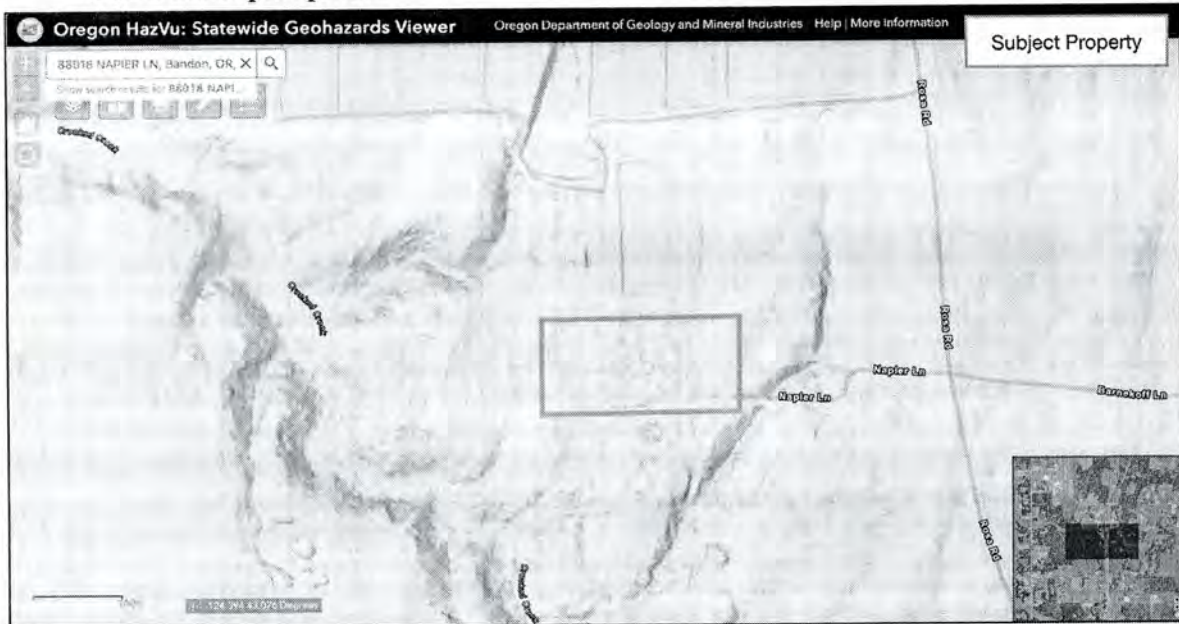
- a. **The property owner shall maintain a primary firebreak safety zone around all structures. Vegetation within this primary safety zone may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. This information shall be included on the plot plan and described how you intend to maintain this firebreak.**

The property owner will maintain a primary fire break consistent with the attached Recommended Fire Siting Standards for Dwellings and Structures.

- b. **On the plot plan provide a diagram of where the garden hose will be located and describe the length that will allow it to reach the perimeter of the primary safety zone shall be available at all times.**

See attached plot plan, which depicts the placement of this water tank and hose. 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 3/4 inch garden hose to reach the perimeter of the primary fuel-free (30 feet) building setback.

- c. **Additional Primary Safety Zone Down Slope will be required based on the slope of the property. What is the slope of the property? If the slope differs from the soil report explain and provide evidence to show how the slope was determined. If additional safety zones are required based on the slope table you will need to show them on the plot plan.**



0-30%. See Attachment 1 Site Plan for a contour map and Attachment 2 Soil Report for a soils map.

The downward slope within the 30' buffer around the proposed dwelling does not exceed 10%. The downward slope within the 30' buffer around the proposed greenhouse does not exceed 10%.

The 30' firebreaks around both structures are indicated on the site plan.

Additional evidence and responses to address the criteria?



Coos County Planning Department
 Coos County Courthouse Annex, Coquille, Oregon 97423
 Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, OR 97423
 Physical Address: 225 N. Adams, Coquille, Oregon
 (541) 396-7770
 FAX (541) 396-1022 / TDD (800) 735-2900
planning@co.coos.or.us

Official Use Only
FEE: \$3533.00
Receipt No. 239958
Check No./Cash 1106
Date 5/26/23
Received By MB
File No. AM-23-002/RZ-23-002/
ACU-23-033

AMENDMENT/REZONE APPLICATION

**PLEASE SUBMIT 2 COMPLETE UNBOUND COPIES OF THIS APPLICATION
 OR 1 ELECTRONIC AND ONE UNBOUND COPY**

The following questions are to be completed in full. An application **will not** be accepted for an Amendment/Rezone without this information. The applicant should contact the Planning Department prior to filing, in order to determine a valid basis for the request.

The Board of Commissioners and Hearings Body will use these answers in their analysis of the merits of the request.

PLEASE PRINT OR TYPE:

A. APPLICANT:

Name: Larry Paul and Bonnie Riley Telephone: (541) 733-6340
 Address: 13830 Little River Rd, Glide OR 97443

As applicant, I am (check one):

- Property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign;
- A person or persons that have written consent of the property owner to make an application. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign. In the case of an attorney a statement of representation shall accompany the application;
- Transportation agency, utility or entity that meets the criteria in Section 5.0.175 of the Coos County Zoning and Land Use Development Ordinance (CCZLDO)

If other than the owner, please give the owner's name and address:

B. DESCRIPTION OF PROPERTY:

Township 29S Range 14W Section 7 Tax Lot 2500
 Account No. 3089701 Lot Size 5.01 acres Zoning District EFU
 Existing Use Vacant with existing septic system, well, driveway

C. STATE SPECIFIC ZONE DISTRICT REQUESTED: Forest Mixed Use

D. JUSTIFICATION:

- (1) If the purpose of this rezone request is to rezone one or more lots or parcels in the interior of an exclusive farm use zone for non-farm uses, the following question must be answered:
Were the lots or parcels for which a rezone request is made, physically developed for a non-farm use prior to February 16, 1983? _____ Subject Property is not located in the interior of an
Explain and provide documentation: exclusive farm use zone; its on the western border of an
EFU zone. It is 660 feet from an RR-5 zone and adjacent
to the Forest zone.
- (2) If the purpose of this rezone request is for other than (1) above the following questions must be answered:
- a. Will the rezone conform with the comprehensive plan? _____
Explain: Yes. Specifically Volume 1 Part 2 § 3.2 Forest Lands: 5.
Implementation Strategies: 5.1 Proposed Forest Zone and
Volume 1 Part 1 § 5.4 Forest Lands: Plan Implementation
Strategies. See attached narrative.
- b. Will the rezone seriously interfere with the permitted uses on other nearby parcels? _____
Explain: No. See attached narrative.
- c. Will the rezone comply with other adopted plan policies and ordinances? _____
Explain: Yes. See attached narrative.
- (3) If a Goal Exception is required please review and address this section.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The Coos County Comprehensive Plan (CCCP) and Implementing Zoning Land Development Ordinance (CCZLDO) was acknowledge¹ as having all necessary components of a comprehensive plan as defined in ORS 197.015(5) after the Coos County adopted the documents on April 4, 1985. The date of the effective plan and ordinance is January 1, 1986. Coos County did go through a periodic review exercise in the 1990's but due to lack of gain in population, economic growth and public request plan zones were not altered. Changes to the comprehensive plan and implementing ordinance have been done to ensure that any required statutory or rules requirements have been complied with. However, sometimes it is necessary for property owners or applicants to make a request to have certain properties or situations such as text amendments considered to reflect a current condition or conditions. These applications are reviewed on a case by case basis with the Board of Commissioners making a final determination. This type application and process is way to ensure that process is available to ensure changing needs are considered and met. The process for plan amendments and rezones are set out in CCZLDO [Article 5.1](#).

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that; (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general

¹ "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals. In Coos County's case the commission refers to the Land Conservation and Development Commission.

applicability; (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and (c) Complies with standards for an exception.

NOTE: This information outlines standards at OAR 660-004-0025, 660-004-0028 and 660-04-0022 for goal exceptions, but is NOT to be considered a substitute for specific language of the OARs. Consult the specific Oregon Administrative Rule for the detailed legal requirements.

A local government may adopt an exception to a goal when one of the following exception process is justified:

- (a) The land subject to the exception is “physically developed” to the extent that it is no longer available for uses allowed by the applicable goal;
- (b) The land subject to the exception is “irrevocably committed” to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or
- (c) A “reasons exception” addressing the following standards is met:
 - (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
 - (2) Areas which do not require a new exception cannot reasonably accommodate the use;
 - (3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the

Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards for an exception have or have not been met.

PART III -- USE OF GUIDELINES Governmental units shall review the guidelines set forth for the goals and either utilize the guidelines or develop alternative means that will achieve the

E. REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

1. A legal description of the subject property (deed);
2. Covenants or deed restrictions on property, if any;
3. A general location map of the property;
4. A detailed parcel map of the property illustrating the size and location of existing and proposed uses and structures on 8 ½” x 11” paper. If proposed structures are not know then the plot plan will need to include only existing with a note that no new structures are proposed at this time;
5. If applicant is not the owner, documentation of consent of the owner, including:
 - a. A description of the property;
 - b. Date of consent
 - c. Signature of owner
 - d. Party to whom consent is given
6. The applicant must supply a minimum of 2 copies of the entire application or one paper copy and electronic copy (email is acceptable), including all exhibits and color photocopies, or as directed by the Planning Staff.

G. Authorization:

All areas must be initialed by all applicants, if this application pertains to a certain property all property owners² must either sign or provide consistent for application unless otherwise allowed by Section 5.0.175 of the CCZLDO. As an applicant by initializing each statement I am accepting or agreeing to the statements next to each area designated for my initials and/or signature. All property owners shall sign and initial the designated areas of the application or provide consent from another party to sign on their behalf. If another party is signing as part of a consent that does not release that party that gave consent from complying with requirements listed below or any conditions that may be placed on an application. In the case of a text amendment the procedures for set out in Section 5.1.110 WHO SEEK CHANGE applies and an applicant may not be a property owner.


Larry Paul
Bonnie Riley

I hereby attest that I am authorized to make the application and the statements within this application are true and correct to the best of my knowledge. I affirm to the best of my knowledge that the property is in compliance with or will become in compliance with CCCP and CCZLDO. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.


Larry Paul
Bonnie Riley

I understand it is the function of the planning staff to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree, as applicant I have the burden of proof. I understand that approval is not guaranteed and the applicant(s) has the burden of proof to demonstrate compliance with the applicable review criteria.


Larry Paul
Bonnie Riley

As the applicant(s) I acknowledge that is in my desire to submit this application of free will and staff has not encouraged or discouraged the submittal of this application.


Larry Paul
Bonnie Riley

I understand as applicant I am responsible for actual cost of that review if the Board of Commissioners appoints a hearings officer to hear the application I have submitted. As applicant I will be billed for actual time of planning services, materials and hearings officer cost and if not paid the application maybe become void.


Applicant(s) Original Signature
Larry Paul


Applicant(s) Original Signature
Bonnie Riley

5.26.23
Date

² Property owner” means the owner of record, including a contract purchaser

File Number : _____



COOS COUNTY CONDITIONAL USE LAND USE APPLICATION

**SUBMIT TO COOS COUNTY PLANNING DEPT. AT 60 E. SECOND STREET OR MAIL TO:
COOS COUNTY PLANNING 250 N. BAXTER, COQUILLE OR 97423. EMAIL
PLANNING@CO.COOS.OR.US PHONE: 541-396-7770**

If the fee is not included the application will not be processed

(If payment is received on line a file number is required prior to submittal)

Date Received: _____ Receipt #: _____ Amount: _____ Received by: _____

This application shall be filled out electronically. If you need assistance please contact staff.

Applications shall be submitted by the property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser.

The application shall include the signature of all owners of the property.

A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign.

LAND INFORMATION

A. Property Owner(s) Larry Paul and Bonnie Riley

Mailing address: 13830 Little River Rd, Glide OR 97443

Phone: (541) 733-6340 Email: werepumped@icloud.com

Township: 29S Range: 24W Section: 7 ¼ Section: _____ 1/16 Section: _____ Tax lots: 2500

Tax Account Number(s): 3089701
Tax Account Number(s): _____

Zone: Currently EFU
Proposed FMU

B. Special Districts and Services

Water On-Site (Well or Spring) Sewage Disposal On-Site Septic
School Bandon Fire District Bandon RFPD

C. Type of Application (s) please consult with staff to determine prior to submittal

- Administrative Conditional Use for Forest Template Dwelling
- Hearings Body Conditional Use for _____
- Historical, Cultural and Archaeological Resources, Natural Areas of Wilderness
- Beaches and Dunes
- Non-Estuarine Shoreland Boundary
- Significant Wildlife Habitat
- Natural Hazards
 - Flood Landslide Liquefaction Erosion Wildfires
- Airport Surfaces Overlay
- Variance to which standard _____

Include the supplemental application with all criteria addressed. If you require assistance with the criteria please contact a land use attorney or professional consultant. Property information may be obtained from a tax statement or can be found on the County Assessor's web page at the following links:

[Map Information](#) Or [Account Information](#)

D. ATTACHED WRITTEN STATEMENT. With all land use applications, the “burden of proof” is on the applicant. It is important that you provide information that clearly describes the nature of the request and indicates how the proposal complies with all of the applicable criteria within the Coos County Zoning and Land Development Ordinance (CCZLDO). You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete. A planner will explain which sections of the Ordinance pertain to your specific request. The information described below is required at the time you submit your application. The processing of your application does not begin until the application is determined to be complete. An incomplete application will postpone the decision, or may result in denial of the request. Please mark the items below to ensure your submittal is complete.

Application Check List: Please make off all steps as you complete them.

I. PROPOSAL AND CRITERIA: A written statement of intent, attached to this application, with necessary supporting evidence which fully and factually describes the following:

1. Project summary and details including time limes.
2. A complete explanation of how the request complies with the applicable provisions and criteria in the Zoning Ordinance. A planner will explain which sections of the Ordinance pertain to your specific request. You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete. This shall be addressed on the supplemental criteria page (see staff for criteria).


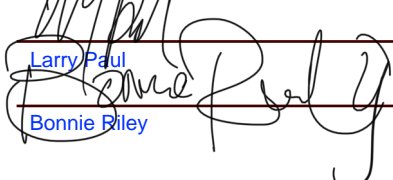
II. PLOT PLAN OR SKETCH PLAN: A detailed drawing delineating the following:

- Owner's name, address, and phone number, map and Tax lot number
- North Arrow and Scale - using standard engineering scale.
- Accurate shape and dimensions of parcel, development site, including the lengths of the all property lines.
- Any adjacent public or private roads, all easements and/or driveway locations. Include road names. Driveway location and parking areas, including the distance from at least one property line to the intersection of the driveway and the road (apron area);
- All natural features, which may include, but are not limited to water features, wetlands, ravines, slope and distances from features to structures.
- Existing and proposed structures, water sources, sewage disposal system and distances from these items to each other and the property boundaries.

III. DEED: A copy of the current deed, including the legal description, of the subject property.

IV. CERTIFICATION: I certify that this application and its related documents are accurate to the best of my knowledge. I am aware that there is an appeal period following the date of the Planning Director’s decision on this land use action. I understand that the signature on this application authorizes representatives of the Coos County Planning Department to enter upon the subject property to gather information pertinent to this request. If this application is refereed directly to a hearings officer or hearings body I understand that I am obligated to pay the additional fees incurred as part of the conditions of approval. I understand that I/we are not acting on the county’s behalf and any fee that is a result of complying with any conditions of approval is the applicants/property owner responsibility. I understand that conditions of approval are required to be complied with at all time and an violation of such conditions may result in a revocation of this permit. If the property owner would like staff to contact a legal representative or consultant please provide the contact information using a consent form.

PROPERTY OWNER SIGNATURES REQUIRED FOR PROCESSING

 Larry Paul	<u>5.26.23</u>	Date
 Bonnie Riley	<u>05.26.23</u>	Date

ACCESS INFORMATION

The Coos County Road Department will be reviewing your proposal for safe access, driveway, road, and parking standards. There is a fee for this service. If you have questions about these services please contact the Road Department at 541-396-7660.

Property Address: 88018 Napier Ln, Bandon OR 97411

Type of Access: Private Easement - Provide Easement Name of Access: Napier Ln (Private Easement)

Is this property in the Urban Growth Boundary? No

Is a new road created as part of this request? No

Required parking spaces are based on the use of the property. If this is for a residential use two spaces are required. Any other use will require a separate parking plan submitted that is required to have the following items:

- Current utilities and proposed utilities;
- Roadmaster may require drawings and specs from the Oregon Standards Specification Manual (OSSC) (current edition).
- The location and design of bicycle and pedestrian facilities shall be indicated on the site plan if this is a parking plan;
- Location of existing and proposed access point(s) on both sides of the road where applicable;
- Pedestrian access and circulation will be required if applicable. Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of walkways, landscaping, accessways, or similar techniques;
- All plans (industrial and commercial) shall clearly show how the internal pedestrian and bicycle facilities of the site connect with external existing or planned facilities or systems;
- Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;
- Number and direction of lanes to be constructed on the road plus striping plans;
- All planned transportation features (such as sidewalks, bikeways, auxiliary lanes, signals, etc.); and
- Parking and internal circulation plans including walkways and bikeways, in UGB's and UUC's.

Additional requirements that may apply depending on size of proposed development.

- a. Traffic Study completed by a registered traffic engineer.
- b. Access Analysis completed by a registered traffic engineer
- c. Sight Distance Certification from a registered traffic engineer.

Regulations regarding roads, driveways, access and parking standards can be found in Coos County Zoning and Land Development Ordinance [\(CCZLDO\) Article 7](#)

By signing the application I am authorizing Coos County Roadmaster or designee to enter the property to determine compliance with Access, Parking, driveway and Road Standards. Inspections should be made by calling the Road Department at 541-396-7660

Coos County Road Department Use Only

Roadmaster or designee: _____

Driveway Parking Access Bonded Date: Receipt # _____

File Number: DR-

SANITATION INFORMATION

If this is a request for a recreational, commercial, industrial, vacation rental, manufactured home park, mass or small gathering Coos Health and Wellness, Environmental Health Staff will be reviewing the proposal to ensure the use meets environmental health standards for sanitation and water requirements to serve the facility. If the proposal indicates that you are using a community water system a review may be required. A fee is charged for this service and shall be submitted with the application \$83.00. If you have questions about regulations regarding environmental health services please call 541-266-6720. This form is required to be signed off for any type of subdivision, recreational, commercial, industrial, vacation rental, manufactured home park, mass or small gathering.

Water Service Type: On-site Well

Sewage Disposal Type: On-site septic

Please check if this request is for industrial, commercial, recreational or home base business use and complete the following questions:

- How many employees/vendors/patrons, total, will be on site?
- Will food be offered as part of the an on-site business?
- Will overnight accommodations be offered as part of an on-site business?
- What will be the hours of operation of the business?

Please check if the request is for a land division.

Coos County Environmental Health Use Only:

Staff Reviewing Application: _____

Staff Signature: _____

- This application is found to be in compliance and will require no additional inspections
- This application is found to be in compliance but will require future inspections
- This application will require inspection prior to determining initial compliance. The applicant shall contact Coos Health and Wellness, Environmental Health Division to make an appointment.

Additional Comments:

OVERVIEW

Applicant	Larry Paul and Bonnie Riley
Site Address	88018 Napier Ln, Bandon OR 97411
Map No.	29S14W07
Parcel No.	2500
Coos County Account No.	3089701
Size	5.01 Acres
Zoning	EFU
Special Development Considerations and Overlays	<ul style="list-style-type: none"> - Coos County Beaches and Dunes Development Suitability: Suitable for Most Uses - FEMA Flood Maps: None - DOGAMI Landslide Susceptibility: Low to Moderate - DOGAMI Liquefaction Susceptibility: Low - Coos Coastal Shorelands Boundary: N/A - National Wetland Inventory: None - Statewide Wetland Inventory: None
Proposal	Zone change: EFU to Forest Mixed Use & Forest Template Dwelling
Access	Napier Ln: Private Easement (Attachment 3)
Site Description	Mostly flat, vacant land. Was used for single-family dwelling use from 1986 to approximately 2011. Existing septic system, well, power, and driveway
Surrounding Zoning & Use	Approximately 0.4 miles southeast from the southeast corner of Bandon's UGB. On west side of Ross Road. Surrounded by EFU, Forest, and Rural Residential zoning; majority of parcels used for residential use.
Related Coos County Planning Files	ACU-22-048, ZCL-84-233

BACKGROUND

On May 23, 1984 a Zoning Clearance Letter (ZCL-84-233) was issued to Robert and Faye Harris, permitting the construction of a Conventional Dwelling and septic system on subject property. Between May 31, 1984 and March 19, 1986, the septic system was permitted by the DEQ, installed, and certified by the DEQ (permit #s 2784-108 and 685-132).¹

Unfortunately, the Harrises didn't construct a conventional dwelling. They installed a 1979 Skyline mobile home on the property. The dwelling was reported to the Assessor's office for tax purposes in 1986 and is still on the rolls today.

The dwelling was demolished between 2011 and 2013 (as evidenced by aerial photos).

The applicant applied to replace the dwelling in 2022 (ACU-22-048). That application was denied because the previous dwelling was not in fact lawfully established (because the zoning compliance issued in 1984 was for "construction of a conventional dwelling" and not "site mobile home," as described in the findings of fact of ACU-22-048).

OVERVIEW

The applicant is proposing to (1) re-zone their parcel from EFU to Forest Mixed Use and (2) permit a Forest Template Dwelling on Subject Property. This report is separated into two sections. The first addresses the criteria for the re-zone and the second addresses the criteria for the template dwelling.

ATTACHMENTS

1. Site Plan
2. NRCS Soil Report
3. Access Easement (Napier Ln) and Map
4. 2004 Existing System Evaluation Report
5. Assessor's Map
6. Deed (2011-2307)
7. Template and Notice Area Map and List
8. Title Report

Additional documentation regarding subject property, including Coos County Planning, Coos County Assessor, and DEQ records, is available here:

https://www.dropbox.com/sh/03ae57t5z11mh1o/AADow_G0hMHXJZs1bt-9oSRna?dl=0

¹ On May 31, 1984, the DEQ issued a permit to install the septic system (#2784-108), with an expiration date of May 31, 1985. On May 16, 1985, the DEQ attempted to inspect the system; sent a follow up letter requesting the system be uncovered for inspection within 30 days. June 17, 1985 DEQ inspects and requires modifications; states the Harrises must apply for a permit renewal and that "a new zoning clearance letter will not be required." June 19, 1985, the Harrises apply for permit DEQ permit renewal (#685-132); permit issued June 20, 1985 and completed March 19, 1986.

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ZONE CHANGE APPLICATION

ORS 660-006-0057 Rezoning Land to an Agriculture/Forest Zone

Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.

Subject property is suitable for either farm or forest use and therefore neither Goal 3 nor 4 can be applied alone.

CCZLDO Chapter II Definitions: Article 2.1 Definitions: § 2.1.200 Specific Definitions

Agricultural Lands: Those lands designated in the Coos County Comprehensive Plan (Volume 1 "Balance of County") for inclusion in Exclusive Farm Use (EFU) Zones. These lands include Soil Capability class I, II, III, and IV lands as defined by the United States Soil Conservation Service in their Soil Capability Classification system and other lands suitable for farm use.

Subject property meets Coos County's definition of Agricultural Lands for the following reasons:

1. Subject property contains soils of Soil Capability class I, II, III, and IV, as defined by the United States Soil Conservation Service in their Soil Capability Classification system.
2. Approximately 49% of subject property (the western, low, flat, grassy portion, encompassed by the powerline easement) is Blacklock fine sandy loam, 3-7% slopes (5B):
 - a. This soil type is defined by the CCZLDO as High Value Farmland.²
 - b. This type of soil is also described by the Coos County Soil Survey as "used mainly for timber production and wildlife habitat. It is also used for cranberry production and recreation. [...] Irrigation and drainage are needed if the soil in this unit is intensively managed for cranberry production."

² Chapter II Definitions: Article 2.1 Definitions: Section 2.1.200 Specific Definitions: "High-value farmland" means land in a tract composed predominantly of soils that are:

A. Irrigated and classified prime, unique, Class I or Class II; or B. Not irrigated and classified prime, unique, Class I or Class II.

A and B, above, include the following soils: 2C, 5A, 5B, 33, 17B, 25 and 36C.

In addition, high-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.

Also, high-value farmland, used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in A or B above and the following soils: Meda (37C), Nehalem (40) and Coquille (12).

3. Approximately 51% of subject property (the forested area on the eastern side, which gradually slopes upward towards a ridge on the adjacent timberland) is Bullards sandy loam of increasing slope (Bullards sandy loam 8B 0-7% slopes, 8C 7-12% slopes, and 8D 12-30% slopes)
 - a. The Coos County Soil Survey describes 8B, 8C, and 8D as: “used mainly for timber production, wildlife habitat, and homesite development. It is also used for pasture and recreation. [...] If this unit is used for pasture, the main limitation is droughtiness in summer. Supplemental irrigation is needed for maximum production.

CCZLDO Chapter II Definitions: Article 2.1 Definitions: § 2.1.200 Specific Definitions

Forest Land: Those lands designated in the Coos County Comprehensive Plan (Volume I- "Balance of County") for inclusion in a Forest Lands zone. These areas include: (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses, (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation, (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use, and (4) other forested lands which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.

Subject property also meets Coos County’s definition of “Forest Land” for the following reasons:

1. It is composed of existing and potential forest lands which are suitable for commercial forest uses.
 - a. The approximately 51% of subject property composed of Bullards sandy loam of increasing slopes (8B, 8C, and 8D):
 - i. In addition to the information above, the Coos County Soil Survey describes this soil type as “suited to the production of Douglas Fir [...] On the basis of a 100-year site curve, the mean site index for Douglas fir is 132. At the culmination of the mean annual increment (CMAI), the production of 60 year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 133 cubic feet per acre per year. On the basis of a 50 year site curve, the mean site index for Douglas fir is 105.
 - b. The approximately 49% of subject property composed of Blacklock fine sandy loam (5B):
 - i. In addition to the information above, the Coos County Soil Survey describes this soil type as “suitable to the production of shore pine. Among the other species that grow on this unit are Sitka spruce, western hemlock, and Port Orford cedar. [...] On the bases of a 100-year site curve, the mean site index for shore pine is 90. At the culmination of the mean annual increment (CMAI), the production of 60-year-old shore pine trees is 1.5 inches in diameter or more at breast height is 79 cubic feet per acre per year.”

Because property is suitable for either farm or forest use and therefore neither Goal 3 nor 4 can be applied alone.

Oregon's Statewide Planning Goals & Guidelines: Goal 3: Agricultural Land

[...]

Definitions: Agricultural Land -- in western Oregon is land of predominantly Class I, II, III and IV soils and in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event. [...] Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exceptions to Goals 3 or 4.

[...]

Oregon's Statewide Planning Goals & Guidelines: Goal 4: Forest Lands

[...]

Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

[...]

Here, a plan amendment involving forest lands is proposed.

As described above under CCZLDO 2.1.200: subject property is suitable for commercial forest uses. Based on the 100 year site curve:

- Bullards sandy loam (51% of subject property) can produce 133 cubic feet of Douglas fir wood fiber per acre, per year
- Blacklock fine sandy loam (49% of subject property) can produce 79 cubic feet of Douglas fir wood fiber per acre, per year.

Coos County Comprehensive Plan Volume 1 Part 2 § 3.2 Forest Lands: 5.

Implementation Strategies: 5.1 Proposed Forest Zone

[...]

Within the forest zone, the extent of preservation of forest lands primarily for forest uses will be established through implementation of the zoning ordinance. Specifically, standards within the ordinance are set to delineate those areas, or parcels, which have historically been managed as "mixed use" areas, including both farm and forest uses. Based on the June 24, 1983 DLCD Staff Report on Coos County, it is understood that uses in these "mixed use" areas are appropriately expanded to include additional non-forest uses that may not otherwise be allowed in a prime commercial forest zone. As stated in that report: "The Commission's decision in Allen v. Umatilla County (LUBA 83-076) supports the mixed use/predominant forest use concept and establishes separate requirements for authorizing certain non-forest uses in each forest area". (June 24, 1983 DLCD Staff Report, p. 106)

The zoning ordinance standards are used, ultimately, to determine the degree of productivity of the land for forest production vs. the productivity of the land for farm use. It is the intent of the Planning Commission to strictly preserve prime commercial timber areas in the county, while allowing for some justified non-forest uses in the areas established as "mixed-use" areas. These "mixed-use" areas are identified on the "Mixed Agriculture-Forest Use Areas" inventory map based on specific review criteria.

Standards for determining the degree of allowance for non-forest uses are based on such things as productivity of the land for forestry, historical land use (i.e. farm uses), terrain and surrounding uses. The review process will occur at the request of the applicant on a case by case basis

There are basically two different types of forest areas in Coos County. These are (i) prime forest areas, and (ii) mixed farm-forest areas. Certain non-farm uses not allowed in the former may be allowed as conditional uses in the latter. The two types of forest land are described in greater detail, as follows:

(i) "Prime Forest Area". These areas or parcels are typically large contiguous blocks of undeveloped land which are managed exclusively for timber production with some ancillary forest uses. Intensive forest management is practiced within this classification. A parcel or area subject to this classification will be preserved primarily for forest uses.

(ii) "Mixed Farm-Forest Area". These areas 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 ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

In certain areas of the County, these "mixed use" areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in "prime forest areas", and grazing is in many places a co-dominant use. There are typically a mixture of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

Section 5.1, above, describes traits of the mixed-use overlay of the Forest zone. Subject property has those same traits:

- Subject property is suitable for farm-forest use and could potentially be used for farm-forest use.
- Subject property is between commercial farm and forestlands and the residential development on Rosa Road.
 - To the north: large cranberry farms.
 - To the west and south: commercial forestlands
 - To the east: Rosa Road and small 1-5 acre parcels used for residential use
- Subject property is small (5.01 acres) and will be marginal in terms of forest and farm productivity.

Coos County Comprehensive Plan Volume 1 Part 2 § 3.2 Forest Lands: 5.
Implementation Strategies: 5.1 Proposed Forest Zone [cont..]

The mixed use areas are identified at a scale of 1" = 2 miles on the "Mixed Agricultural-Forest Use Areas" Comprehensive Plan inventory map. A change in the boundary of the "mixed use" inventory map will require a comprehensive plan amendment. Criteria used to designate these areas are as follows:

Criteria used to designate these areas are as follows:

1. Mixed-use areas are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agriculture uses.

The eastern ½ of subject property, is flat, grassy, and composed of a soil type indicative of high value farmland (5B).

This eastern area is also encumbered by the powerline easement (Book 199, Page 350 and 69-12-4473), which grants United State of America the right to clear and keep clear “of all brush, timber, structures, and fire hazards, provided however, the words “fire hazards” shall not be interpreted to include growing crops; and also the present and future right to top, limb, fell, and remove all growing trees, dead trees or snags (collectively called “danger trees”) located on Grantor’s land adjacent to said parcel of land, which could fall within 40 feet of the centerline or centerlines of electric transmission facilities [...].” And therefore precludes the majority of this eastern area from use as commercial farmland.

The western ½ of subject property is forested, and sits at the base of commercial farmland.

2. Mixed-use areas are those areas generally managed to maintain enough upland acreage to sustain livestock during the winter months due to flooding of lowland areas.

No floodplain exists on subject property. But the composition of subject property (eastern low-lying area and western sloped area) is conducive to managing livestock.

3. Mixed-use areas are those areas predominantly co-managed for both farm and forest uses.

The composition of subject property is conducive to co-management for both farm and forest uses.

Coos County Comprehensive Plan Volume 1 Part 1 § 5.4 Forest Lands: Plan Implementation Strategies

[...]

8. Coos County shall consider, and approve where appropriately justified, changes from forestry to agriculture zoning districts, and vice versa, upon findings which establish:

i. That the proposed rezone would be at least as effective at conserving the resource as the existing zone;

Section 5.4, above, provides standards for re-zones from farm to forest and vice versa.

The Forest zone will be at least as effective at conserving Subject Property for resource use as the EFU zone. The Forest zone will preclude further parcellation or urbanization of Subject Property (as will the EFU zone). And although the proposal will have the effect of permitting the re-establishment of a dwelling on subject property – it will not reduce or permit to be reduced the resource use of Subject Property.

ii. That the proposed rezone would not create a non-conforming use;

The proposed rezone would not create a non-conforming use.

iii. That the applicant for the proposed rezone has certified the he/she understands that the rezone, if granted, could have significant tax consequences;

The applicant understands that the rezone, if granted, could have significant tax consequences.

Furthermore, Coos County shall, upon finding to approve the rezone under consideration, amend the “Agricultural Land” or “Forest Land” Comprehensive Plan Map designation so as to correspond to the new zone, as approved.

Implementation of this policy shall include conducting a "rezone public hearing."

iv. This strategy recognizes:

a) That agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest use and activities;

b) That this simplified plan revision process for agriculture and forest plan designations is necessary to help support the existing commercial agricultural and forest enterprises because it enables individual management decisions to be made in a timely manner as a response to changing market conditions.

This forest lands implementation strategy, and the facts it recognizes, apply to the applicant's proposal.

CCZLDO Article 5.1 Plan Amendments and Rezones: § 5.1.225 Decisions of the Hearings Body for a Rezone

The Hearings Body shall, after a public hearing on any rezone application, either:

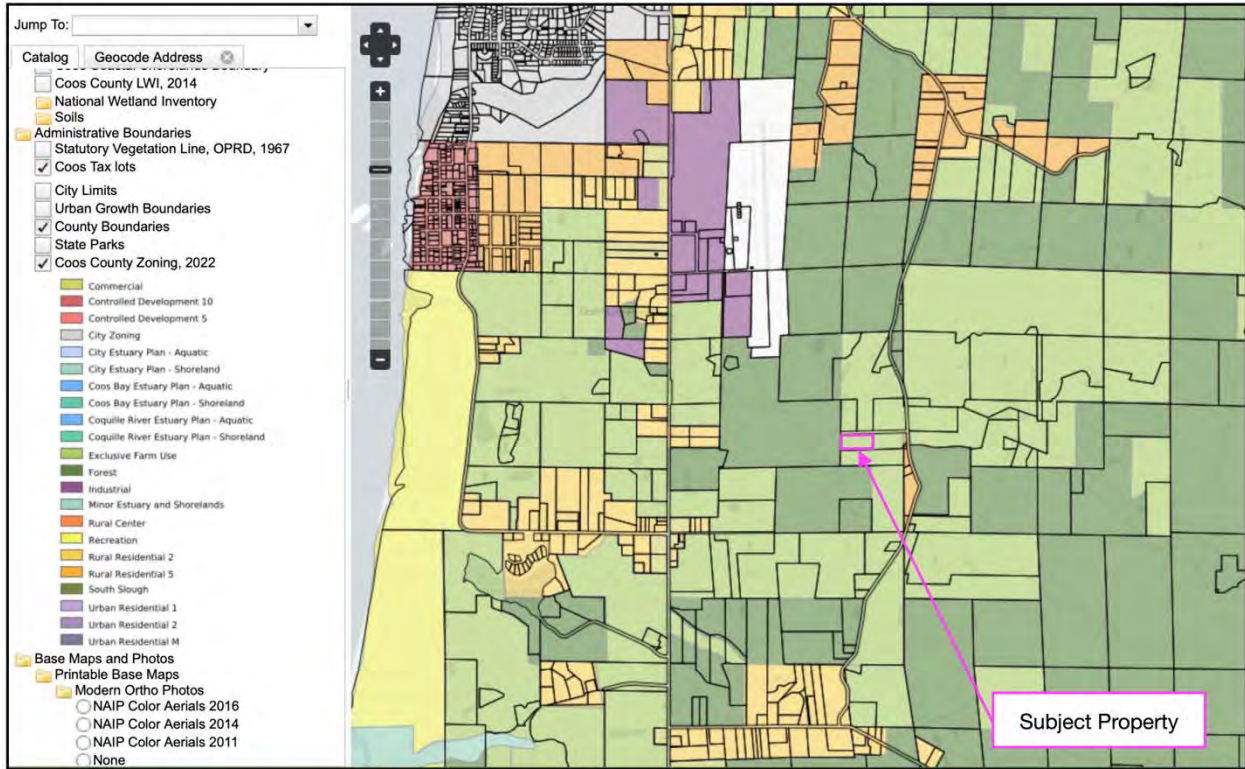
1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:

a. The rezoning will conform with the Comprehensive Plan or Section 5.1.215;³ and

The proposed rezone complies with the Comprehensive Plan, as evidenced by the narrative above under those sections.

Section 5.1.215 of the CCZLDO does not apply, because Subject Property is not located in the interior of an exclusive farm use zone; its on the western border of an EFU zone. It is 660 feet from an RR-5 zone and adjacent to the Forest zone.

³ § 5.1.215 Zoning for Appropriate Non-farm Use: Consistent with ORS 215.215(2) and 215.243, Coos County may zone for the appropriate non-farm use one or more lots or parcels in the interior of a exclusive farm use zone if the lots or parcels were physically developed for the non-farm use prior to the establishment of the exclusive farm use zone.



*b. The rezoning will not seriously interfere with permitted uses on other nearby parcels;
and*

The rezone will not interfere with permitted uses on other nearby parcels; it is consistent with the permitted uses on nearby parcels (residential, forest, and farm). See also Attachment 7, which describes the uses of nearby parcels and why sting the forest template dwelling and accessory greenhouse on the previously-developed areas of subject property will have the least impact on nearby or adjoining lands and minimizes the amount of land used to site access roads, service corridors, and structures.

c. The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.

TEMPLATE DWELLING APPLICATION

Coos County Planning Department Criteria and Guidance Sheet: Forest Template

Dwelling: Applicant's responses in **blue**

This is the criteria and supplemental questions designed to help address the required criteria. The applicant may provide any justification to meet the burden of proof.

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

(9)(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 road⁴ 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) 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.

⁴ 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.

- (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.
- (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.
- (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.

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.

Response to SECTION 4.6.110(9)(B)(II)

Questions to Answer:

- 1. Has your property been involved in a property line adjustment?**

No.

- 2. Was your property part of a tract on January 1, 2019? Tract means same ownership as an abutting property.**

No.

- 3. Was your property part of a tract on January 1, 2021?**

No.

- 4. Did you own abutting property as of January 1, 2021 that contained another dwelling or dwelling authorization? Please list all properties within your ownership that were abutting.**

No.

- 5. Do you have a current template map completed?**

Yes.

- a. Which template did you apply and why? (See Section I & II)**

Which template: 160-acre square.

Why: Subject property is capable of producing greater than 85 cubic feet per acre per year of wood fiber.

- b. How many lots and/or parcels were all or part within the template prior to January 1, 1993? Please list all properties**

At least 11. See attached list and map.

- c. How many dwellings are located within lots and parcels described above that were sited prior to January 1, 1993? Please list all properties that contain the qualifying dwellings.**

At least 3. See attached list and map.

- d. Are there any covenants, conditions and restrictions on this property and if so do they specifically prohibit a dwelling? Please provide the restrictions if apply.**

No.

Additional evidence and responses to address the criteria?

SECTION 4.6.130 SITING STANDARDS FOR DWELLING AND STRUCTURES IN FOREST ZONES

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 nearby⁵ 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.

Response shall explain how or why, providing a yes or no will not satisfy the criteria and will result in an incomplete application:

Attachment 7 includes a map and table which depict and list the properties within 750' of subject property.

For each "nearby" property, the table lists (a) a description of the use of the property (as determined by aerial photos and assessor's summaries), and (b) a description how the proposed dwelling site minimizes impacts on that property.

The proposed dwelling site: is the same site upon which a previous dwelling sat from 1986 to 2011. It is proposed to utilize the existing well, septic system, and driveway.

The proposed greenhouse site: was used for parking and outdoor storage accessory to the previous dwelling.

Siting the forest template dwelling and accessory greenhouse on these already-developed areas will have the least impact on nearby or adjoining lands and minimizes the amount of land used to site access roads, service corridors, and structures.




Moreover, the proposed dwelling and greenhouse sites:

- Comply with the applicable setbacks: (a) 30' defensible space setbacks, (b) 35' setback from the centerline of Napier Ln, (c) setbacks from the 100' powerline right of way, (d) septic system setback from neighboring wells.
- Are clustered near or among existing structures: between Crooked Creek and Rosa Road, along with six other dwellings within approximately a quarter-mile of each other.
- Are close to the existing Napier Ln and Rosa Rd.
- Are sited on the portion of the parcel least suited for growing trees: the portion of the property which has been developed for residential use.

Alternative sites were considered, and the proposed site determined to

⁵ 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.



Alternative Dwelling & Greenhouse Sites	
	Proposed single family dwelling and greenhouse. Located in/near footprints of prior dwelling and outdoor storage / parking areas. Facilitates use of existing driveway, well, and septic system. Maintains 30' fire break.
	Violates power line easement.
	Would require new driveway, well, and septic system. May conflict with septic drainfield in southwest corner of adjacent 88019 Napier Ln. Does not provide for better fire break that the proposed site. Is no closer to commercial farm and forest operations than the proposed site.

As such, the applicant’s proposed site plan meets all siting criteria described under 4.6.130(2), and therefore satisfies 4.6.130(1).

Moreover, per Coos County’s requirements, to minimize the impact of dwellings in forest lands, the property owner will (1) file in the deed record of Coos County, a Forest Management Covenant per CCZLDO 4.6.140(5) Minimizing Impacts, (2) maintain a fire break per CCZLDO 4.6.140(10) Firebreak, and (3) maintain a water tank and hose per 4.6.140(9) Fire Siting Standards for New Dwellings.

- (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.

Water Resource Department Information: <https://www.oregon.gov/owrd/pages/index.aspx>

Response shall include the source of water and how it is permitted:

Domestic water supply will be from an existing well, used for (1) single or group domestic purposes in an amount not exceeding 15,000 gallons a day and (2) watering any lawn or noncommercial garden not exceeding one-half acre in area.

The existing well on subject property was previously used for domestic purposes, but does not have a well ID affixed to it. The applicant understands they'll be required to register the well with OWRD prior to obtaining a Zoning Compliance Letter.

<https://www.oregon.gov/OWRD/programs/GWWL/WCC/WellID/Pages/default.aspx>

- (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 which could include an easement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

Response shall include what road the property is accessing, maintenance agreements and easements that pertain to the road. This information may be included in your deed.

Access via private Napier Ln access easement (76-10-14802), connecting to Coos County Rosa Road. See Attachment 3 for access easement and depiction of access easement.

- (5) Approval of a dwelling shall be subject to the following requirements:
 - (d) 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;
 - (e) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
 - (f) 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;

- (g) 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
- (h) 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.

1. Will sufficient tress be replanted?

Yes

2. Is the property more than 10 acres in size? If so, the applicant shall acknowledge a stocking survey will be filed with the County Assessor’s Office as a condition of approval.

No

3. Upon receiving approval, will the applicant/property owner 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 injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Yes

Additional Response Information:

SECTION 4.6.140 DEVELOPMENT AND SITING CRITERIA:

This section contains 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. Slope⁶ will also determine additional firebreak in Section 8 Firebreak.
- c. 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.
- d. 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.
- e. 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.
 - 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.
- f. If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
- g. 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.

⁶ 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 Oregon⁶ 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.

- 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 include poof of the slope to determine additional firebreak setbacks is required.

Table 1 – Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
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.

RESPONSE TO SECTION 4.6.140

1. Is the property a legal unit of land? Please provide reference to how it was created.

Yes. Subject property is comprised of the northern half of lots 5 and 6 of the Frank Wanous Acreage Tracts, created prior to January 1, 1986.

2. Will the applicant meet the road setback (shall be shown on plot plan)?

Yes. See Attachment 1 Site Plan. Development is setback at least 35’ from centerline of Napier Ln.

3. Will a Fence, Hedge and/or Wall be developed at this time? If so will it comply with the vision triangle?

No.

4. Has a driveway/access/parking permit been requested at the time of the application?

Yes

5. Has the applicant acknowledged that they will file in the deed record of Coos County, a Forest Management Covenant prior to receiving a zoning compliance letter? (This shall be done after the conditional use is approved, but before a zoning clearance letter is issued. A Forest Management Covenant cannot be filed if the conditional use has not been approved but a draft may be submitted with the application.)

Yes

6. **Has the applicant shown any waterways that require a 50 feet setback and if so will the setback be met?**

No. No waterways that require a 50 foot setback are present.

7. **Fire related questions:**

- a. **The proposed dwelling shall use non-combustible or fire resistant roofing materials. Describe the materials that will be used.**

Non-combustible or fire resistant roofing materials

- b. **What is the slope of the property on average and where the dwelling will be located?**

The dwelling and greenhouse are proposed to be sited on flat, previously developed land.

See Attachment 1 Site Plan, which includes 1' contours and is to scale.

Subject property slopes up approximately 10 feet from the western-edge of the powerline easement, and then back down towards the property line and Crooked Creek. The steepest slope on subject property is ~16%.

- c. **What 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?**

The dwelling will be served by an existing water well; no Class II stream water is available or proposed for use.

- d. **Is the property within a Fire District and if so which Fire District.**

- i. **If the property is within a Fire District you shall explain how you have requested to be included in the Fire District with a copy of the request.**

Bandon Rural Fire Protection District

- ii. **If the property is outside of a Fire District and cannot be served by a Fire District you are required to provide the contract with a private fire protection company.**

N/A

- iii. **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. Include on the plot plan water storage and access to meet the following standards:**

1. **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.**
2. **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.**

N/A

- e. **Does the proposed dwelling have a chimney and if so will a spark arrester be installed?**

A spark arrester will be installed on the proposed dwelling.

8. **Firebreak Safety:**

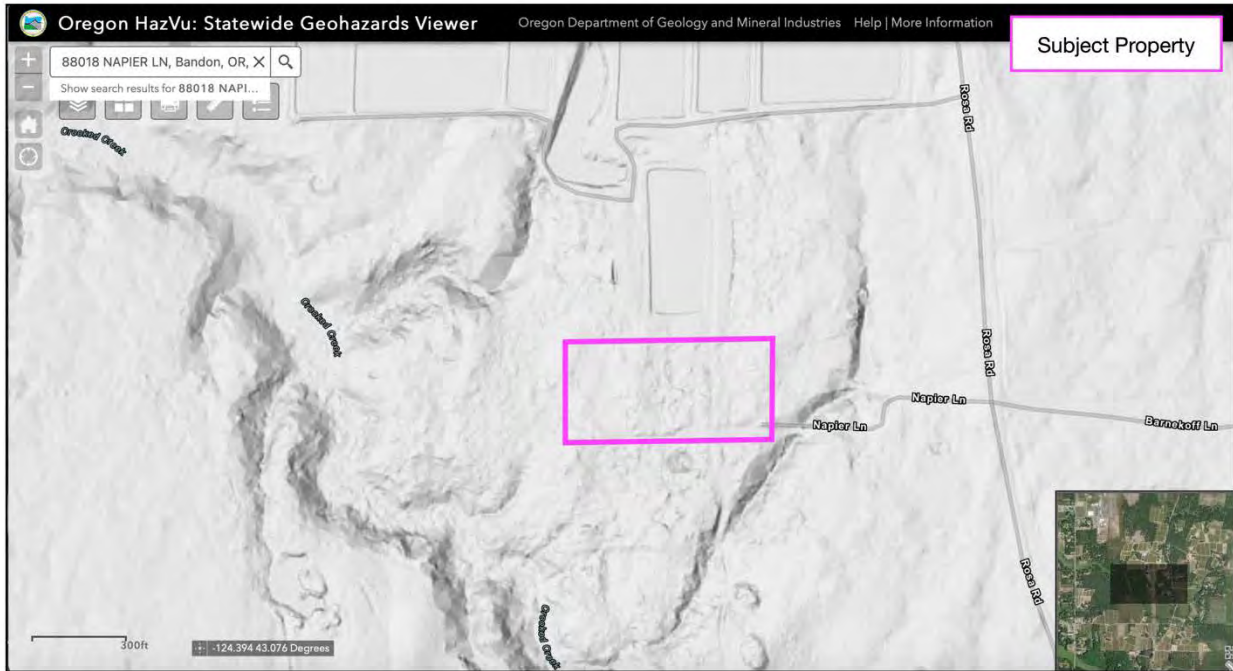
- a. **The property owner shall maintain a primary firebreak safety zone around all structures. Vegetation within this primary safety zone may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. This information shall be included on the plot plan and described how you intend to maintain this firebreak.**

The property owner will maintain a primary fire break consistent with the attached Recommended Fire Siting Standards for Dwellings and Structures.

- b. **On the plot plan provide a diagram of where the garden hose will be located and describe the length that will allow it to reach the perimeter of the primary safety zone shall be available at all times.**

See attached plot plan, which depicts the placement of this water tank and hose. 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 3/4 inch garden hose to reach the perimeter of the primary fuel-free (30 feet) building setback.

- c. **Additional Primary Safety Zone Down Slope will be required based on the slope of the property. What is the slope of the property? If the slope differs from the soil report explain and provide evidence to show how the slope was determined. If additional safety zones are required based on the slope table you will need to show them on the plot plan.**



0-30%. See Attachment 1 Site Plan for a contour map and Attachment 2 Soil Report for a soils map.

The downward slope within the 30' buffer around the proposed dwelling does not exceed 10%. The downward slope within the 30' buffer around the proposed greenhouse does not exceed 10%.

The 30' firebreaks around both structures are indicated on the site plan.

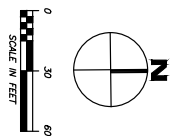
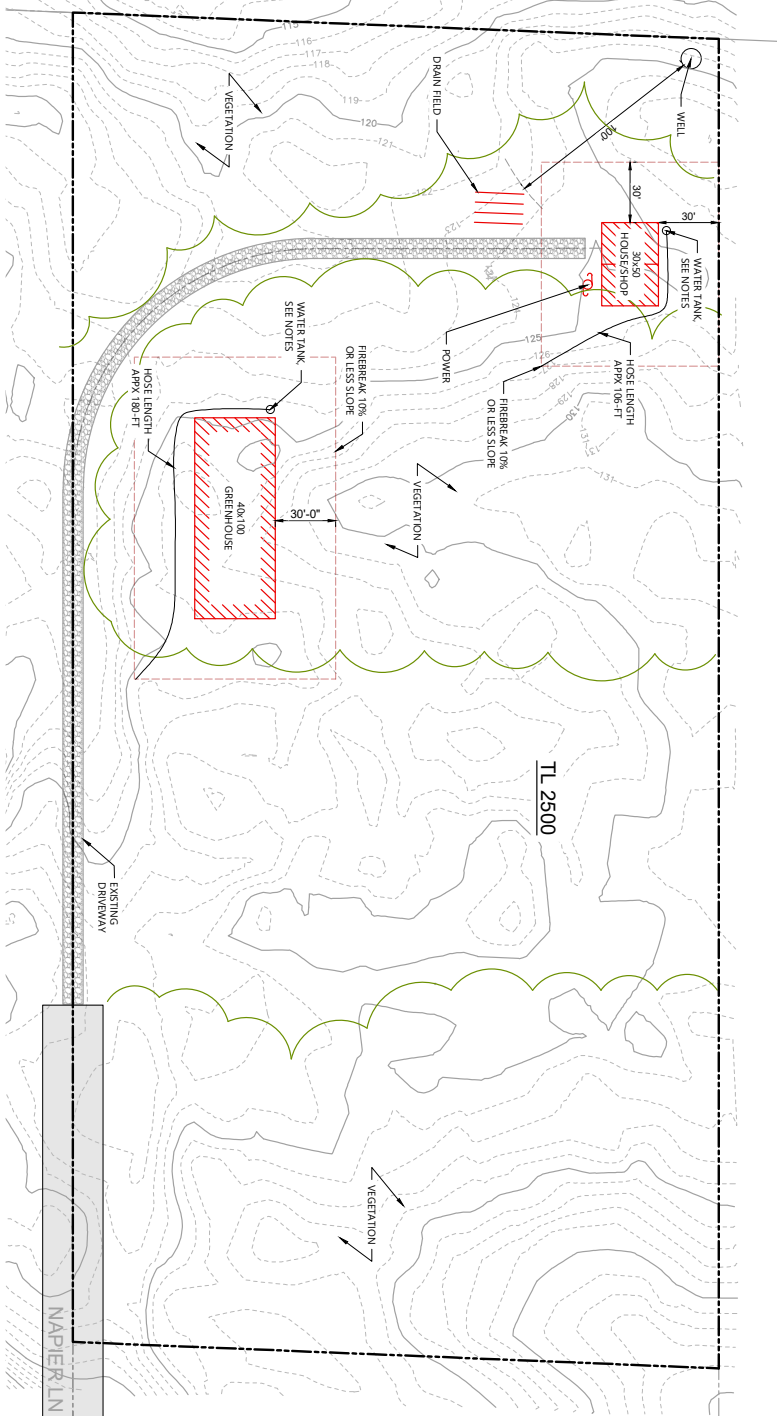
Additional evidence and responses to address the criteria?

ATTACHMENT 1

Site Plan

Application to Coos County for Zone Change and Template Dwelling
88018 Napier Ln, Bandon
May 2023

SITE PLAN
29S14W07TL0250000



- WATER TANK NOTES:**
- 500 GALLON WATER TANK OPERATING WATER PRESSURE OF AT LEAST 50 PSI X-FOOT LONG, 3/4 INCH DIAMETER GARDEN HOSE.
 - X: THE LENGTH THE GARDEN HOSE WOULD NEED TO BE TO REACH FROM THE TANK TO THE EDGE OF THE FIRE BRICK AREA TO THE STREET WE.

- TOPOGRAPHIC NOTES:**
1. ORIGINAL TOPOGRAPHIC SURFACE WORK IS GENERATED FROM GEOSPATIAL DATA AND IS USED IN THIS PROJECT TO MODEL GENERAL SLOPES AND DRAINAGE PATTERNS TO DETERMINE THESE ELEVATIONS MAY DIFFER SLIGHTLY FROM ACTUAL TOPOGRAPHY.
 2. PROPOSED SURFACE, CONTOURS, AND ELEVATIONS WERE APPROVED BY THE CITY OF BEND ON 11/14/2021.

SP

DSR DRAFTING & DESIGN, LLC
COOS BAY, OR 97420
DSRDRAFTING@GMAIL.COM
P: (541) 290-7142

SYM	REVISION	DATE	DATE: 9/26/2022 4:16 PM
			SCALE: AS SHOWN
			DESIGNED BY: DSR
			DRAWN BY: DSR
			CHECKED: X
			REVIEW: CITY

SITE PLAN
NAPIER SITE PLAN
88018 NAPIER LN, BANDON OR
LARRY PAUL

ATTACHMENT 2

NRCS Soil Report

Application to Coos County for Zone Change and Template Dwelling
88018 Napier Ln, Bandon
May 2023



United States
Department of
Agriculture

NRCS

Natural
Resources
Conservation
Service

A product of the National
Cooperative Soil Survey,
a joint effort of the United
States Department of
Agriculture and other
Federal agencies, State
agencies including the
Agricultural Experiment
Stations, and local
participants

Custom Soil Resource Report for **Coos County, Oregon**



March 6, 2023

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Soil Map

The soil map section includes the soil map for the defined area of interest, a list of soil map units on the map and extent of each map unit, and cartographic symbols displayed on the map. Also presented are various metadata about data used to produce the map, and a description of each soil map unit.

Custom Soil Resource Report
Soil Map (Larry Paul)












Soil Map may not be valid at this scale.

Map Scale: 1:1,240 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 10N WGS84

MAP LEGEND

	Area of Interest (AOI)		Spill Area
	Area of Interest (AOI)		Stony Spot
Soils			
	Soil Map Unit Polygons		Very Stony Spot
	Soil Map Unit Lines		Wet Spot
	Soil Map Unit Points		Other
Special Point Features			
	Blowout		Special Line Features
	Borrow Pit	Water Features	
	Clay Spot		Streams and Canals
	Closed Depression	Transportation	
	Gravel Pit		Rails
	Gravelly Spot		Interstate Highways
	Landfill		US Routes
	Lava Flow		Major Roads
	Marsh or swamp		Local Roads
	Mine or Quarry		Background
	Miscellaneous Water		Aerial Photography
	Perennial Water		
	Rock Outcrop		
	Saline Spot		
	Sandy Spot		
	Severely Eroded Spot		
	Sinkhole		
	Slide or Slip		
	Sodic Spot		

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
 Web Soil Survey URL:
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Coos County, Oregon
 Survey Area Data: Version 18, Sep 8, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Oct 5, 2019—Oct 10, 2019

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend (Larry Paul)

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
5B	Blacklock fine sandy loam, 3 to 7 percent slopes	2.6	48.6%
8B	Bullards sandy loam, 0 to 7 percent slopes	1.9	35.7%
8C	Bullards sandy loam, 7 to 12 percent slopes	0.1	2.6%
8D	Bullards sandy loam, 12 to 30 percent slopes	0.7	13.0%
Totals for Area of Interest		5.4	100.0%

Map Unit Descriptions (Larry Paul)

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

Custom Soil Resource Report

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Coos County, Oregon

5B—Blacklock fine sandy loam, 3 to 7 percent slopes

Map Unit Setting

National map unit symbol: 21qc
Elevation: 0 to 350 feet
Mean annual precipitation: 50 to 75 inches
Mean annual air temperature: 52 to 54 degrees F
Frost-free period: 200 to 240 days
Farmland classification: Farmland of unique importance

Map Unit Composition

Blacklock and similar soils: 75 percent
Minor components: 8 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Blacklock

Setting

Landform: Depressions on marine terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Sandy marine deposits

Typical profile

Oi - 0 to 1 inches: slightly decomposed plant material
H1 - 1 to 4 inches: fine sandy loam
H2 - 4 to 16 inches: loamy fine sand
H3 - 16 to 53 inches: cemented
H4 - 53 to 76 inches: sand

Properties and qualities

Slope: 3 to 7 percent
Depth to restrictive feature: 12 to 20 inches to ortstein
Drainage class: Poorly drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high
(0.57 to 1.98 in/hr)
Depth to water table: About 0 to 18 inches
Frequency of flooding: None
Frequency of ponding: None
Available water supply, 0 to 60 inches: Very low (about 2.6 inches)

Interpretive groups

Land capability classification (irrigated): 4w
Land capability classification (nonirrigated): 6w
Hydrologic Soil Group: C/D
Ecological site: F004AC015OR - Aquic Forest
Hydric soil rating: Yes

Minor Components

Heceta

Percent of map unit: 8 percent
Landform: Deflation basins on dunes

Custom Soil Resource Report

Down-slope shape: Linear
Across-slope shape: Linear
Other vegetative classification: Poorly Drained (G004AY018OR)
Hydric soil rating: Yes

8B—Bullards sandy loam, 0 to 7 percent slopes

Map Unit Setting

National map unit symbol: 21rc
Elevation: 30 to 600 feet
Mean annual precipitation: 55 to 75 inches
Mean annual air temperature: 52 to 54 degrees F
Frost-free period: 200 to 240 days
Farmland classification: Farmland of statewide importance

Map Unit Composition

Bullards and similar soils: 75 percent
Minor components: 9 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Bullards

Setting

Landform: Marine terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Mixed eolian and marine deposits

Typical profile

O_i - 0 to 3 inches: slightly decomposed plant material
H₁ - 3 to 10 inches: sandy loam
H₂ - 10 to 44 inches: gravelly sandy loam
H₃ - 44 to 63 inches: sand

Properties and qualities

Slope: 0 to 7 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Capacity of the most limiting layer to transmit water (K_{sat}): Moderately high to high
(0.57 to 1.98 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water supply, 0 to 60 inches: Low (about 5.9 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3e
Hydrologic Soil Group: B
Ecological site: F004AC410OR - Coastal Upland Warm Forest

Custom Soil Resource Report

Forage suitability group: Well Drained <15% Slopes (G004AY014OR)
Other vegetative classification: Well Drained <15% Slopes (G004AY014OR)
Hydric soil rating: No

Minor Components

Blacklock

Percent of map unit: 9 percent
Landform: Depressions on marine terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Hydric soil rating: Yes

8C—Bullards sandy loam, 7 to 12 percent slopes

Map Unit Setting

National map unit symbol: 21rd
Elevation: 30 to 600 feet
Mean annual precipitation: 55 to 75 inches
Mean annual air temperature: 52 to 54 degrees F
Frost-free period: 200 to 240 days
Farmland classification: Farmland of statewide importance

Map Unit Composition

Bullards and similar soils: 75 percent
Minor components: 8 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Bullards

Setting

Landform: Marine terraces
Landform position (three-dimensional): Riser
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Mixed eolian and marine deposits

Typical profile

Oi - 0 to 3 inches: slightly decomposed plant material
H1 - 3 to 10 inches: sandy loam
H2 - 10 to 44 inches: gravelly sandy loam
H3 - 44 to 63 inches: sand

Properties and qualities

Slope: 7 to 12 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high
(0.57 to 1.98 in/hr)
Depth to water table: More than 80 inches

Custom Soil Resource Report

Frequency of flooding: None
Frequency of ponding: None
Available water supply, 0 to 60 inches: Low (about 5.9 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3e
Hydrologic Soil Group: B
Ecological site: F004AC410OR - Coastal Upland Warm Forest
Forage suitability group: Well Drained <15% Slopes (G004AY014OR)
Other vegetative classification: Well Drained <15% Slopes (G004AY014OR)
Hydric soil rating: No

Minor Components

Blacklock

Percent of map unit: 8 percent
Landform: Depressions on marine terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Hydric soil rating: Yes

8D—Bullards sandy loam, 12 to 30 percent slopes

Map Unit Setting

National map unit symbol: 21rf
Elevation: 30 to 600 feet
Mean annual precipitation: 55 to 75 inches
Mean annual air temperature: 52 to 54 degrees F
Frost-free period: 200 to 240 days
Farmland classification: Farmland of statewide importance

Map Unit Composition

Bullards and similar soils: 75 percent
Minor components: 8 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Bullards

Setting

Landform: Marine terraces
Landform position (three-dimensional): Riser
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Mixed eolian and marine deposits

Typical profile

Oi - 0 to 3 inches: slightly decomposed plant material
H1 - 3 to 10 inches: sandy loam
H2 - 10 to 44 inches: gravelly sandy loam

Custom Soil Resource Report

H3 - 44 to 63 inches: sand

Properties and qualities

Slope: 12 to 30 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Well drained

*Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high
(0.57 to 1.98 in/hr)*

Depth to water table: More than 80 inches

Frequency of flooding: None

Frequency of ponding: None

Available water supply, 0 to 60 inches: Low (about 5.9 inches)

Interpretive groups

Land capability classification (irrigated): None specified

Land capability classification (nonirrigated): 4e

Hydrologic Soil Group: B

Ecological site: F004AC410OR - Coastal Upland Warm Forest

Forage suitability group: Well Drained >15% Slopes (G004AY013OR)

Other vegetative classification: Well Drained >15% Slopes (G004AY013OR)

Hydric soil rating: No

Minor Components

Blacklock

Percent of map unit: 8 percent

Landform: Depressions on marine terraces

Landform position (three-dimensional): Tread

Down-slope shape: Linear

Across-slope shape: Linear

Hydric soil rating: Yes

References

- American Association of State Highway and Transportation Officials (AASHTO). 2004. Standard specifications for transportation materials and methods of sampling and testing. 24th edition.
- American Society for Testing and Materials (ASTM). 2005. Standard classification of soils for engineering purposes. ASTM Standard D2487-00.
- Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deep-water habitats of the United States. U.S. Fish and Wildlife Service FWS/OBS-79/31.
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- Federal Register. September 18, 2002. Hydric soils of the United States.
- Hurt, G.W., and L.M. Vasilas, editors. Version 6.0, 2006. Field indicators of hydric soils in the United States.
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- Soil Survey Division Staff. 1993. Soil survey manual. Soil Conservation Service. U.S. Department of Agriculture Handbook 18. http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/soils/?cid=nrcs142p2_054262
- Soil Survey Staff. 1999. Soil taxonomy: A basic system of soil classification for making and interpreting soil surveys. 2nd edition. Natural Resources Conservation Service, U.S. Department of Agriculture Handbook 436. http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/soils/?cid=nrcs142p2_053577
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- United States Army Corps of Engineers, Environmental Laboratory. 1987. Corps of Engineers wetlands delineation manual. Waterways Experiment Station Technical Report Y-87-1.
- United States Department of Agriculture, Natural Resources Conservation Service. National forestry manual. http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/home/?cid=nrcs142p2_053374
- United States Department of Agriculture, Natural Resources Conservation Service. National range and pasture handbook. <http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/landuse/rangepasture/?cid=stelprdb1043084>

Custom Soil Resource Report

United States Department of Agriculture, Natural Resources Conservation Service. National soil survey handbook, title 430-VI. http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/scientists/?cid=nrcs142p2_054242

United States Department of Agriculture, Natural Resources Conservation Service. 2006. Land resource regions and major land resource areas of the United States, the Caribbean, and the Pacific Basin. U.S. Department of Agriculture Handbook 296. http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/soils/?cid=nrcs142p2_053624

United States Department of Agriculture, Soil Conservation Service. 1961. Land capability classification. U.S. Department of Agriculture Handbook 210. http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_052290.pdf

ATTACHMENT 3

Access Easement (Napier Ln) & Map

Application to Coos County for Zone Change and Template Dwelling
88018 Napier Ln, Bandon
May 2023

EASEMENT

We, Norman C. Bolduc, Linda R. Bolduc, Joseph J. Bolduc and Dixie J. Bolduc, grant and creat a perpetual easement for ingress, egress and utilties attaching and appurtenant to all parts of Lots Five (5), Six (6), Seven (7) and Eight (8), Frank Wanous Acreage Tracts, Coos County, Oregon, over and across a strip 15 feet on either side of the line down the middle of Lots Five (5), Six (6), Seven (7) and Eight (8).

Witness our hands this 6th day of October ~~September~~, 1976.

Norman C Bolduc
Norman C. Bolduc

Joseph J Bolduc
Joseph J. Bolduc

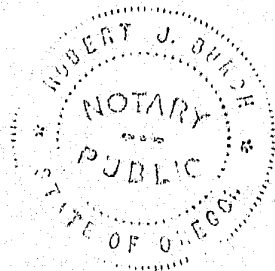
Linda R. Bolduc
Linda R. Bolduc

Dixie J. Bolduc
Dixie J. Bolduc

STATE OF OREGON)
)ss
County of Coos)

On the 6th day of October ~~September~~, 1976, there appeared before me the aforementioned Norman C. Bolduc, Linda R. Bolduc, Joseph J. Bolduc and Dixie J. Bolduc who personally acknowledged to me that they executed the foregoing instrument freely and voluntarily for the uses and purposes therein set forth.

WITNESS my hand and official seal the day and year last above written.



Robert J. Rhr
Notary Public for Oregon
My Commission expires: 1-15-80

76 10 } 14802
State of Oregon } ss
County of Coos }
I hereby certify that the within instrument was filed for record

OCT 7 1 39 PM '76
8175 ✓ 8175 ✓

and recorded in Book of Records
Microfilm Reel No.

of said County.
WITNESS my hand and Seal of County affixed.

Evelyn M. Elliott, Coos County Clerk
By [Signature] Deputy

Return to Myron Spady

Fee 3.00

ATTACHMENT 4

2004 Existing System Evaluation Report

Application to Coos County for Zone Change and Template Dwelling
88018 Napier Ln, Bandon
May 2023

EXISTING SYSTEM EVALUATION REPORT

Napier
(Property Owner's Name)

88018 Napier Lane
(Property Address) Bandan

Legal Description of property 29 14 07 2500 COOS
(Township) (Range) (Section) (Tax Lot) (County)
30897.01
.91

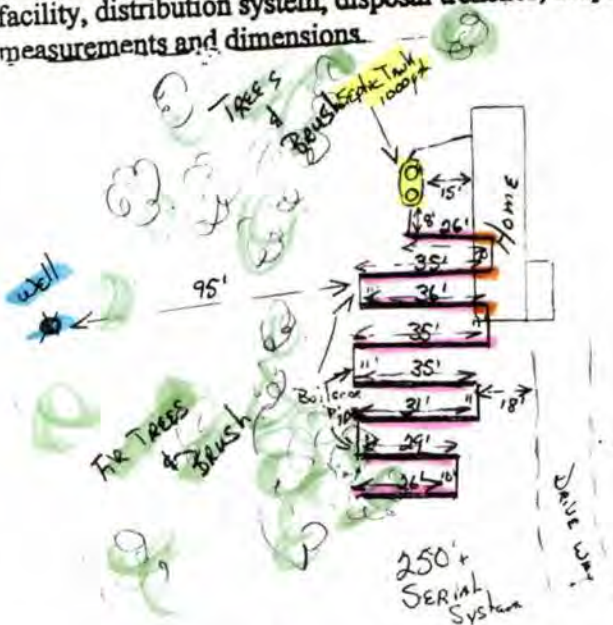
The Existing sewage disposal system consists of (check one):

Septic Tank Disposal Trenches Seepage Bed Cesspool or Pit

Other (explain) Septic Tank 1000gal Plastic

Disposal Trenches CONVENTIONAL stone and pipe SERIAL 250+

Sketch of on-site sewage disposal system. Show system components (septic tank, treatment facility, distribution system, disposal trenches, seepage bed etc.) and corresponding measurements and dimensions.



RECEIVED

MAR 31 2004

COOS BAY OFFICE

Brown & Son
Septic Systems Installed
Septic Systems Inspected
30 Years Experience
Tom Brown Lic #37354

This on-site system [] is [] is not discharging sewage onto the ground surface on this date and [] appears [] does not appear to be functioning satisfactorily at the time of inspection.

Remarks Septic Tank doesn't need pumped at this time 3-27-04 Scum level 2-3'
Disposal Trenches appear to be functioning satisfactorily at time of
inspection - END of 1-2-3 lines under Home

This report does not guarantee continuous satisfactory operation of the on-site sewage disposal system identified herein nor does it certify the exact location of the on-site sewage disposal system.

Thomas Brown
(Signature)

3-27-04
(Date of inspection)

ATTACHMENT 5

Assessor's Map

Application to Coos County for Zone Change and Template Dwelling
88018 Napier Ln, Bandon
May 2023

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.

SECTION 7 T29S R14W W.M.
COOS COUNTY

1" = 400'
SEE MAP 29S 14W 06

29S 14W 07
CANCELLED NO.

- 2501
- 600A1
- 1402
- 1403
- 500
- 501
- 402
- 403



6-8-2010
29S 14W 07

ATTACHMENT 6

Deed (2011-2307)

Application to Coos County for Zone Change and Template Dwelling
88018 Napier Ln, Bandon
May 2023



After recording return to:
Larry Paul and Bonnie Riley
13830 Little River Road
Glide, OR 97443

Until a change is requested all tax statements
shall be sent to the following address:
Larry Paul and Bonnie Riley
13830 Little River Road
Glide, OR 97443

File No.: 7132-1693536 (kad)
Date: March 18, 2011

THIS SPACE RESERVED FOR RECORDER'S USE

RECORDED BY
FIRST AMERICAN TITLE

STATUTORY WARRANTY DEED

Karsten Just Salin and Yiena L. Salin, as Trustees of The Karsten Just Salin and Yiena L. Salin Joint Living Trust dated April 01, 2003, Grantor, conveys and warrants to Larry Paul as to an undivided 50% and Bonnie Riley as to an undivided 50% as tenants in common, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Subject to:

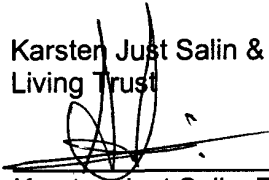
1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$112,500.00**. (Here comply with requirements of ORS 93.030)


BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, OF CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, OF CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

Dated this 23 day of March, 2011

Karsten Just Salin & Yiena L. Salin Joint Living Trust




TRUSTEE
Karsten Just Salin, Trustee



Yiena L. Salin, Trustee

STATE OF Oregon)
)ss.
County of Coos)

This instrument was acknowledged before me on this 23 day of March, 2011 by Karsten Just Salin and Yiena L. Salin as Trustees of Karsten Just Salin & Yiena L. Salin Joint Living Trust, on behalf of the Trust.



Notary Public for Oregon
My commission expires: 8-21-2011

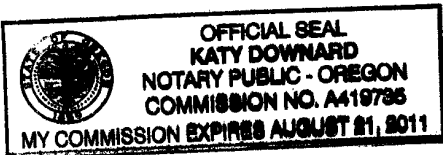


EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Coos, State of Oregon, described as follows:

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 29 SOUTH, RANGE 14 WEST OF THE WILLAMETTE MERIDIAN, COOS COUNTY, OREGON:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT OF WAY BOUNDARY OF ALDER STREET, POINT BEING NORTH 0° 28" WEST A DISTANCE OF 651.91 FEET AND SOUTH 88° 59' WEST A DISTANCE OF 682 FEET FROM THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 7; THENCE SOUTH 0° 24' EAST A DISTANCE OF 340 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF A PARCEL DEEDED TO JOE BOLDOC AND IS SHOWN ON A MINOR PARTITIONING MAP (DATED MARCH 21, 1980) AS PARCEL NO. 1; THENCE SOUTH 88° 16' WEST A DISTANCE OF 638.8 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 0° 25' WEST A DISTANCE OF 348 FEET ALONG SAID WEST LINE TO THE SOUTH BOUNDARY OF ALDER STREET; THENCE NORTH 88° 59' EAST A DISTANCE OF 638.8 FEET ALONG SAID SOUTH BOUNDARY TO THE POINT OF BEGINNING.

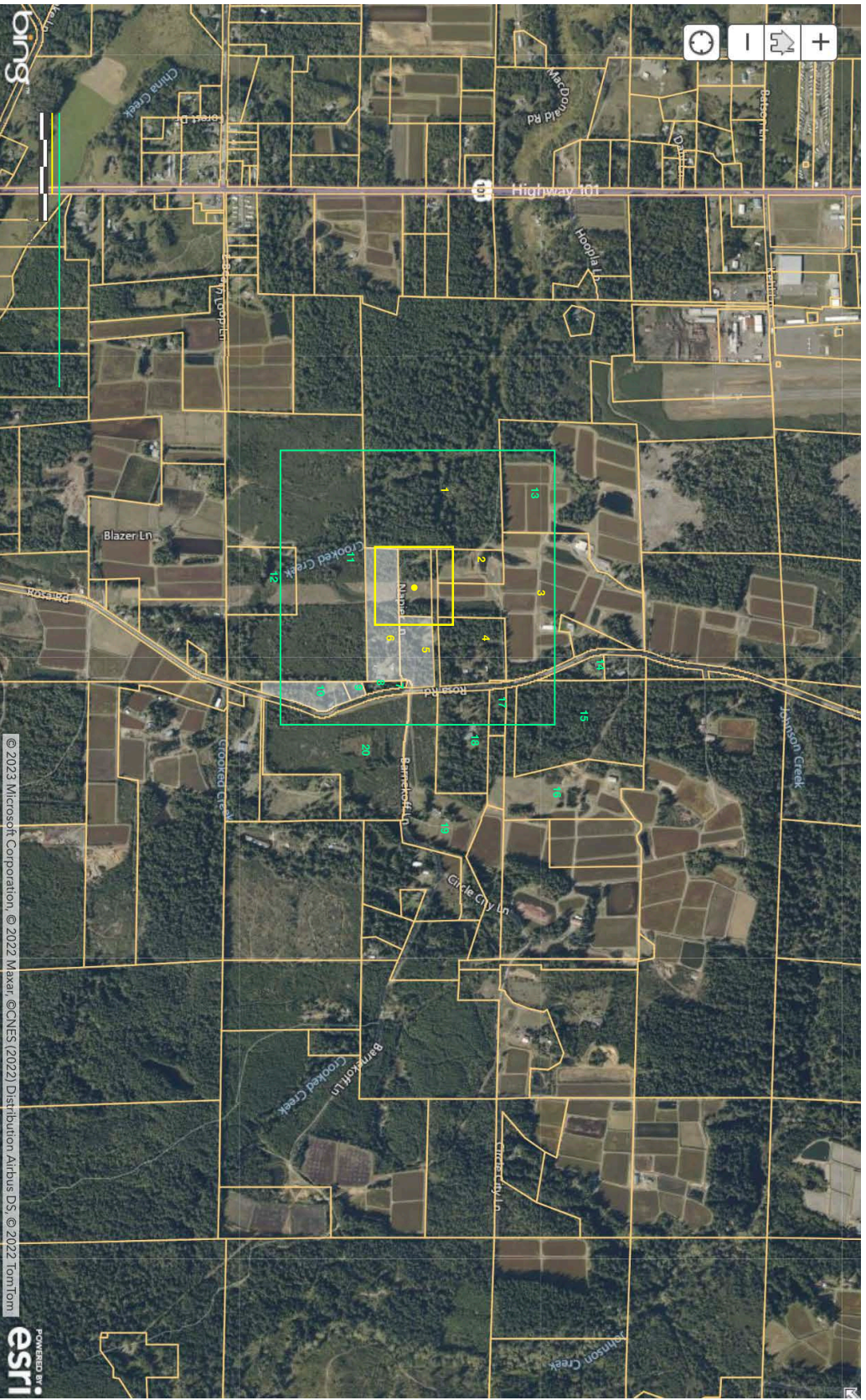
EXCEPTING A 30 FOOT BY 100 FOOT EASEMENT TO BE GRANTED TO SAID PARCEL NO. 1, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF ABOVE DESCRIBED PROPERTY; THENCE SOUTH 88° 16' WEST ALONG THE SOUTH LINE OF SAID PROPERTY A DISTANCE OF 100 FEET; THENCE NORTH 0° 24' WEST A DISTANCE OF 30 FEET; THENCE NORTH 88° 16' EAST PARALLEL AND 30 FEET FROM SAID SOUTH LINE A DISTANCE OF 100 FEET TO THE EAST LINE OF SAID PROPERTY; THENCE SOUTH 0° 24' EAST A DISTANCE OF 30 FEET TO THE POINT OF BEGINNING.

ATTACHMENT 7

Template and Notice Area Map and List

Application to Coos County for Zone Change and Template Dwelling
88018 Napier Ln, Bandon
May 2023



Parcels Within 160-Acre Rectangle	Account #	Owner	Dwelling Sited Prior to 1/1/93?	Coos County Property Class	Zone	Acres	Applicant's Description of Use	Applicable Siting Criteria Minimizing Impact	
0	29S14W07 2500	3089701	PAUL, LARRY; ET AL	No	RESIDENTIAL - IMPROVED	EFU	5.01	Subject property	
1	29S14W07 600	1206511	LINDSAY FAMILY TRUST		HIGH AND BEST USE FOREST LAND	F	117.57	Commercial forestland surrounding Crooked Creek	The proposed dwelling site: is the same site upon which a previous dwelling sat from 1986 to 2011. It is proposed to utilize the existing well, septic system, and driveway.
2	29S14W07 2600	3089500	ROBISON LOVING TRUST		HIGH AND BEST USE FARM LAND	EFU	4.87	Part of Robison cranberry farm: cranberry bog, road, pond	The proposed greenhouse site: was used for parking and outdoor storage accessory to the previous dwelling.
3	29S14W07 2601	3089501			HIGH AND BEST USE FARM LAND	EFU	37.80	Part of Robison cranberry farm: cranberry bogs, road, structures	Siting the forest template dwelling and accessory greenhouse on these already-developed areas will have the least impact on nearby or adjoining lands and minimizes the amount of land used to site access roads, service corridors, and structures.
4	29S14W07 2700	3089300	TODD AND DENISA POWERS TRUST		RESIDENTIAL - IMPROVED	EFU	10.19	Residential and forest	Moreover, these sites: - Comply with the applicable setbacks: (a) 30' defensible space setbacks, (b) 35' setback from the centerline of Napier Ln, (c) setbacks from the 100' powerline right of way, (d) septic system setback from neighboring wells.
5	29S14W07 2502	3089702	ODONOGHUE, JAMES D. & GABRIELLE M.	Yes: 1976	RESIDENTIAL - IMPROVED	EFU	4.7	Residential	- Are clustered near or among existing structures: between Crooked Creek and Rosa Road, along with six other dwellings within approximately a quarter-mile of each other.
6	29S14W07 2400	3089700	DUGAN, RONALD T. & DEBRA E.	Yes: 1976	RESIDENTIAL - IMPROVED	EFU	10.15	Residential	- Are close to the existing Napier Ln and Rosa Rd. - Are sited on the portion of the parcel least suited for growing trees: the portion of the property which has been developed for residential use.
7	29S14W08 1600	1208703	BOLDUC, NORMAN C. & LINDA R.		RESIDENTIAL - UNIMPROVED	RR-5	0.05	Unimproved	

Parcels Within 160-Acre Rectangle	Account #	Owner	Dwelling Sited Prior to 1/1/93?	Coos County Property Class	Zone	Acres	Applicant's Description of Use	Applicable Siting Criteria Minimizing Impact	
8	29S14W08 1800	1208801	JUDITH L JOHNSON REVOCABLE TRUST 1998		RESIDENTIAL - IMPROVED	RR-5	0.96	Residential	
9	29S14W08 1801	1208804	GERMAN, ROBERT & SUE M	Yes: 1954	RESIDENTIAL - IMPROVED	RR-5	0.76	Residential	
10	29S14W08 1900	1208803	FOX, FARRELL C. & JANICE D.L.	Yes, 1936	RESIDENTIAL - IMPROVED	RR-5	3.92	Residential	
11	29S14W07 2300	1207500	RONALD & MARY A. PUHL TRUST		HIGH AND BEST USE FARM LAND	F, EFU	69.83	Commercial forestland surrounding Crooked Creek	
12	29S14W07 2301	1207501	RONALD & MARY A. PUHL TRUST		HIGH AND BEST USE FARM LAND	F, EFU	10.17	Commercial forestland surrounding Crooked Creek	
13	29S14W07 401	1206403	ROBISON LOVING TRUST		HIGH AND BEST USE FARM LAND	EFU	40	Part of Robison cranberry farm: cranberry bogs, road, structures	
14	29S14W07 300	1206400	MACK, ERNEST G. & MEREDITH, JANICE L.		RESIDENTIAL - IMPROVED	F	2.39	Residential	
15	29S14W08 307	99920830	KASPER, JEREMIAH D ET AL		HIGH AND BEST USE FOREST LAND	EFU	24.01	Part of Kasper cranberry farm: forested land and road between Rosa Rd and cranberry bogs	

Parcels Within 160-Acre Rectangle	Account #	Owner	Dwelling Sited Prior to 1/1/93?	Coos County Property Class	Zone	Acres	Applicant's Description of Use	Applicable Siting Criteria Minimizing Impact
16 29S14W08 306	99920828	KASPER, JEREMIAH D ET AL		HIGH AND BEST USE FOREST LAND	EFU	17.04	Part of Kasper cranberry farm; cranberry bogs, road, pond, structure	
17 29S14W08 1500	1208705	DAVENPORT, ROLAND & CHARLENE		RESIDENTIAL - IMPROVED	EFU	1.77	Residential	
18 29S14W08 1400	1208707	CARPENTER, DENNIS R.		HIGH/BEST USE FOREST W/IMPROV	EFU	10.52	Residential	
19 29S14W08 1300	1208504	WINTERS, BARRY K.		HIGH AND BEST USE FARM LAND	EFU	19.25	Part of Winters farm (Bandon Family LLC), Dwelling; road, structure(s), farmland	

ATTACHMENT 8

Title Report

Application to Coos County for Zone Change and Template Dwelling
88018 Napier Ln, Bandon
May 2023



201 Central Avenue
(541)269-5127

OWNERSHIP AND ENCUMBRANCES REPORT WITH GENERAL INDEX LIENS
Informational Report of Ownership and Monetary and Non-Monetary Encumbrances

To ("Customer"): Sheldon Planning
444 N 4th Street
Coos Bay, OR 97420

Customer Ref.: _____
Order No.: 360622041054
Effective Date: September 21, 2022 at 08:00 AM
Charge: \$300.00

The information contained in this report is furnished by Ticor Title Company of Oregon (the "Company") as a real property information service based on the records and indices maintained by the Company for the county identified below. THIS IS NOT TITLE INSURANCE OR A PRELIMINARY TITLE REPORT FOR, OR COMMITMENT FOR, TITLE INSURANCE. No examination has been made of the title to the herein described property, other than as specifically set forth herein. Liability for any loss arising from errors and/or omissions is limited to the lesser of the charge or the actual loss, and the Company will have no greater liability by reason of this report. THIS REPORT IS SUBJECT TO THE LIMITATIONS OF LIABILITY STATED BELOW, WHICH LIMITATIONS OF LIABILITY ARE A PART OF THIS REPORT.

THIS REPORT INCLUDES MONETARY AND NON-MONETARY ENCUMBRANCES.

Part One - Ownership and Property Description

Owner. The apparent vested owner of property ("the Property") as of the Effective Date is:

Larry Paul, as to an undivided 50% interest, and Bonnie Riley, as to an undivided 50% interest, as tenants in common

Premises. The Property is:

(a) Street Address:

88018 Napier Lane, Bandon, OR 97411

(b) Legal Description:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Part Two - Encumbrances

Encumbrances. As of the Effective Date, the Property appears subject to the following monetary and non-monetary encumbrances of record, not necessarily listed in order of priority, including liens specific to the subject property and general index liens (liens that are not property specific but affect any real property of the named person in the same county):

EXCEPTIONS

1. Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2022-2023.
2. A manufactured home situated on the subject land is classified as personal property, as disclosed by the ownership records of the Building Codes Division. Unless a manufactured home is reclassified from personal to real property, a manufactured housing endorsement (ALTA End. 7-06, 7.1-06 or 7.2-06) is not available until reclassification is completed and an appropriate approval is recorded. NOTE: Depending on circumstances, a manufactured home may be classified as personal property but assessed as real property under ORS 308.875.
3. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: United States of America
Recording Date: May 21, 1950
Recording No: [Book 199, Page 350](#)
4. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: United States of America
Recording Date: December 3, 1969
[Recording No: 69-12-44273](#) Microfilm
5. Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in Easement

Recording Date: October 7, 1976
[Recording No.: 76-10-14802](#) Microfilm
6. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Coos-Curry Electric
Recording Date: May 12, 1977
[Recording No: 77-05-07321](#) Microfilm
7. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Coos-Curry Electric Cooperative, Inc.
Recording Date: August 2, 1982
[Recording No: 82-3-6805](#) Microfilm
8. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$102,500.00
Dated: March 18, 2011
Trustor/Grantor: Larry Paul and Bonnie Riley
Trustee: First American Title Insurance Company of Oregon

Beneficiary: Karsten Just Salin and Yiena I. Salin as Trustees of the Karsten Just Salin and Yiena L. Salin Joint Living Trust
Recording Date: March 25, 2011
[Recording No.:](#) [2011-2308](#)

9. A judgment, for the amount shown below, and any other amounts due:

Amount: \$2,146.78
Debtor: Larry Godfrey Paul
Creditor: Western Mercantile Agency Inc.
Date entered: July 19, 2011
County: Coos
Court: Circuit
Case No.: 11CV0350

Note: An Extension of Judgment was filed July 1, 2021.

Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year: 2021-2022
Amount: \$919.64 (includes special assessments)
Levy Code: 5403
[Account No.:](#) [3089701](#)
Map No.: 29S140700 02500

Please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

End of Reported Information

There will be additional charges for additional information or copies. For questions or additional requests, contact:

Coos Bay Title

coosbaytitle@ticortitle.com

Ticor Title Company of Oregon
201 Central Avenue
Coos Bay, OR 97420

EXHIBIT "A"
[Legal Description](#)

A tract of land located in the Northeast quarter of the Southeast quarter of Section 7, Township 29 South, Range 14 West of the Willamette Meridian, Coos County, Oregon:

Beginning at a point on the Southerly right of way boundary of Alder Street, point being North 0°28' West a distance of 651.91 feet and South 88°59' West a distance of 682 feet from the Southeast corner of said Northeast quarter of the Southeast quarter of Section 7; thence South 0°24' East a distance of 340 feet, more or less, to the Northerly line of a parcel deeded to Joe Bolduc and is shown on a Minor Partitioning Map (dated March 21, 1980) as Parcel No. 1; thence South 88°16' West a distance of 638.8 feet to the West line of said Northeast quarter; thence North 0°25' West a distance of 348 feet along said West line to the South boundary of Alder Street; thence North 88°59' East a distance of 638.8 feet along said South boundary to the point of beginning.

EXCEPTING a 30 foot by 100 foot easement to be granted to said Parcel No. 1, described as follows:

Beginning at the Southeast corner of above described property; thence South 88°16' West along the South line of said property a distance of 100 feet; thence North 0°24' West a distance of 30 feet; thence North 88°16' East parallel and 30 feet from said South line a distance of 100 feet to the East line of said property; thence South 0°24' East a distance of 30 feet to the point of beginning.