



# NOTICE OF LAND USE DECISION

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

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

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

Date of Notice: **Monday, October 30, 2023**  
File No: ACU-23-048

Proposal: Request for approval for a Single Family Dwelling in the Rural Residential Zone subject Special Development Considerations and Overlays that require an Administrative Conditional Use Review.

Applicant(s): Robert Wallace, Member  
Del Rio Vineyards, LLC  
52 North River Rd.  
Gold Hill OR 97525

Staff Planner: Jill Rolfe, Planning Director

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Decision: **Approved with Conditions.** All decisions are based on the record. This decision is final and effective at close of the appeal period unless a complete application with the fee is submitted by the Planning Department at 5 p.m. on **Tuesday, November 21, 2023**. Appeals are based on the applicable land use criteria. *Coos County Zoning and Land Development Ordinance (CCZLDO) General Compliance with Sections 1.1.300 Compliance with Comprehensive Plan and Ordinance Provisions and Article 6.1 Lawfully Created Lots or Parcels. The Dwelling Review is subject to CCZLDO Section 4.3.200 Zoning Tables (including Rural Residential), Section 4.3.210 Categories and Review Standards, (30) Dwelling – Single Family Conventional, Section 4.3.225 General Siting Standards and Section 4.3.230 Additional Siting Standards (2) Rural Residential.* This property is also subject to *Special Development Consideration and/or overlays located in Article 4.11.*

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**Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information please contact the staff planner listed in this notice.**

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### Subject Property Information

Account Number: 568704  
Map Number: 26S140400-00201

Property Owner: RUTHERFORD FAMILY TRUST  
PO BOX 2390  
SISTERS, OR 97759-2390

Situs Address: 90083 CAPE ARAGO HWY COOS BAY, OR 97420

Acreage: 0921 1.62 Acres

Zoning: RURAL RESIDENTIAL-2 (RR-2)

Special Development Considerations and Overlays: ARCHAEOLOGICAL AREAS (ARC)  
COASTAL SHORELAND BOUNDARY (CSB)

This notice shall be posted from October 30, 2023 to November 14, 2023

FLOODPLAIN (FP)  
HEADLAND EROSION /OCEAN WAVES (HZH)  
NATIONAL WETLAND INVENTORY (NWI)  
NH EROSION COASTAL (NHERC)  
NH TSUNAMI (NHTHO)  
NORTH BEND TRANSITION ZONE (NBTZ)

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The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 225 N. Adams, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

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

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

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

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

**Date:** Monday, October 30, 2023

EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map

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

Exhibit C: Staff Report -Findings of Fact and Conclusions

Exhibit D: Comments Received

## **EXHIBIT "A"**

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

### **CONDITIONS OF APPROVAL**

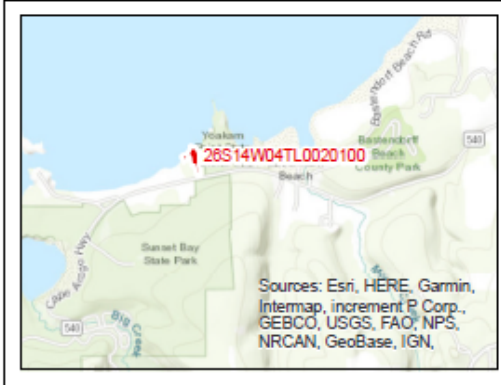
1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If there were comments from any other agency were provided as part of this review, it is the responsibility of the property owner to comply.
2. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the commencement of construction of the proposed dwelling. This authorization is based on conditions of approval and the conditions that are required to be completed prior obtaining the ZCL 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. Setbacks: All Development, with the exception of fences, shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way line, whichever is greater. This should be shown on the plot plan.
  - c. Riparian Vegetation Protection. Riparian vegetation within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained. If there are no wetlands, streams, lakes or rivers then this is not applicable.
  - d. 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 Zoning Compliance Letter
  - e. Section 5.2.700 Development Transferability - Unless otherwise provided in the approval, a land use approval that was obtained through a conditional use process shall be transferable provided the transferor files a statement with the Planning Director signed by the transferee. This document shall be recorded in the chain of title of the property, indicating that the transferee has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title to alert a purchaser that development was approved subject to conditions and possible restrictions.
  - f. The applicant shall comply with the Airport Overlay Zone.
  - g. The applicant shall submit a revised plot plan showing the detailed placement of the dwelling and where the driveway and parking will be located. This property is located off a State Highway (Cape Arago) and a valid access permit shall be provided for county records.

**EXHIBIT "B"**  
**Vicinity Map/Overlays/Hazard Maps**  
*Not to Scale*



**COOS COUNTY PLANNING DEPARTMENT**

Mailing Address: 250 N. Baxter, Coquille, Oregon 97423  
 Physical Address: 60 E. Second, Coquille Oregon  
 Phone: (541) 396-7770  
 TDD (800) 735-2900



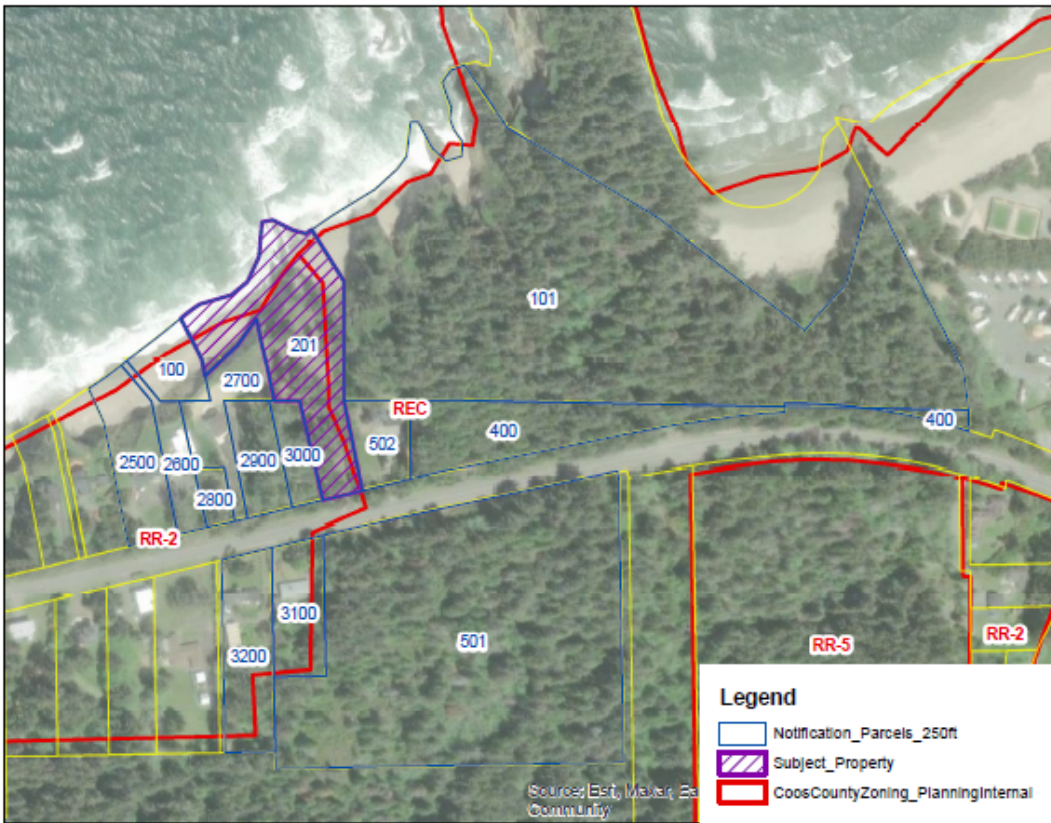
File: ACU-23-048

Applicant/  
Owner: Del Rio Vineyards, LLC/  
Rutherford Family Trust

Date: October 26, 2023

Location: Township 26S Range 14W  
Section 04 TL 201

Proposal: Administrative Conditional Use



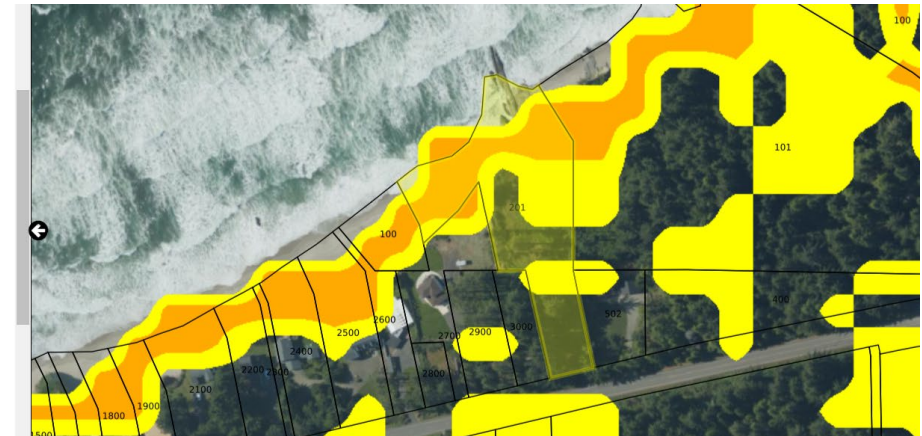
## Flood Hazard Map:

- ▼ Beaches and Dunes - Goal 18
  - ☆ Development Suitability
- ▼ Natural Hazards
  - ▼ Flood
    - ☆ FEMA Flood Maps, FEMA
      - Base Flood Elevation
      - Floodway
      - 500-year Floodplain
      - 100-year Floodplain
  - ▶ Sea Level Rise
  - ▶ Tsunami
  - ▶ Landslide
  - ▶ Liquefaction
  - ▶ Active Earthquake Faults
- ▼ Estuary Maps
  - ☆ Estuary Mgmt Units, OCOMP, 1987
  - ☆ Coos Coastal Shorelands Boundary
  - ☆ Coos County LWI, 2014
  - ▶ National Wetland Inventory
- ▼ Administrative Boundaries
  - ☆ Statutory Vegetation Line, OPRD, 1967
  - ☆ Coos Tax lots, 2023



## Landslide Susceptibility

- ☆ Dune Classifications, USDA, 1975
- ▼ Beaches and Dunes - Goal 18
  - ☆ Development Suitability
- ▼ Natural Hazards
  - ▼ Flood
    - ☆ FEMA Flood Maps, FEMA
  - ▶ Sea Level Rise
  - ▶ Tsunami
  - ▼ Landslide
    - ☆ Landslide Susceptibility, DOGAMI, 2016
      - Low - Landsliding Unlikely
      - Moderate - Landsliding Possible
      - High - Landsliding Likely
      - Very High - Existing Landslide
  - ▶ Liquefaction
  - ▶ Active Earthquake Faults



## Liquefaction Susceptibility

- ▼ Beaches and Dunes - Goal 18
  - ☆ Development Suitability
- ▼ Natural Hazards
  - ▼ Flood
    - ☆ FEMA Flood Maps, FEMA
  - ▶ Sea Level Rise
  - ▶ Tsunami
  - ▼ Landslide
    - ☆ Landslide Susceptibility, DOGAMI, 2016
  - ▼ Liquefaction
    - ☆ Liquefaction Susceptibility, DOGAMI, 2013
      - None
      - Very Low
      - Low
      - Moderate
      - High
      - Very High

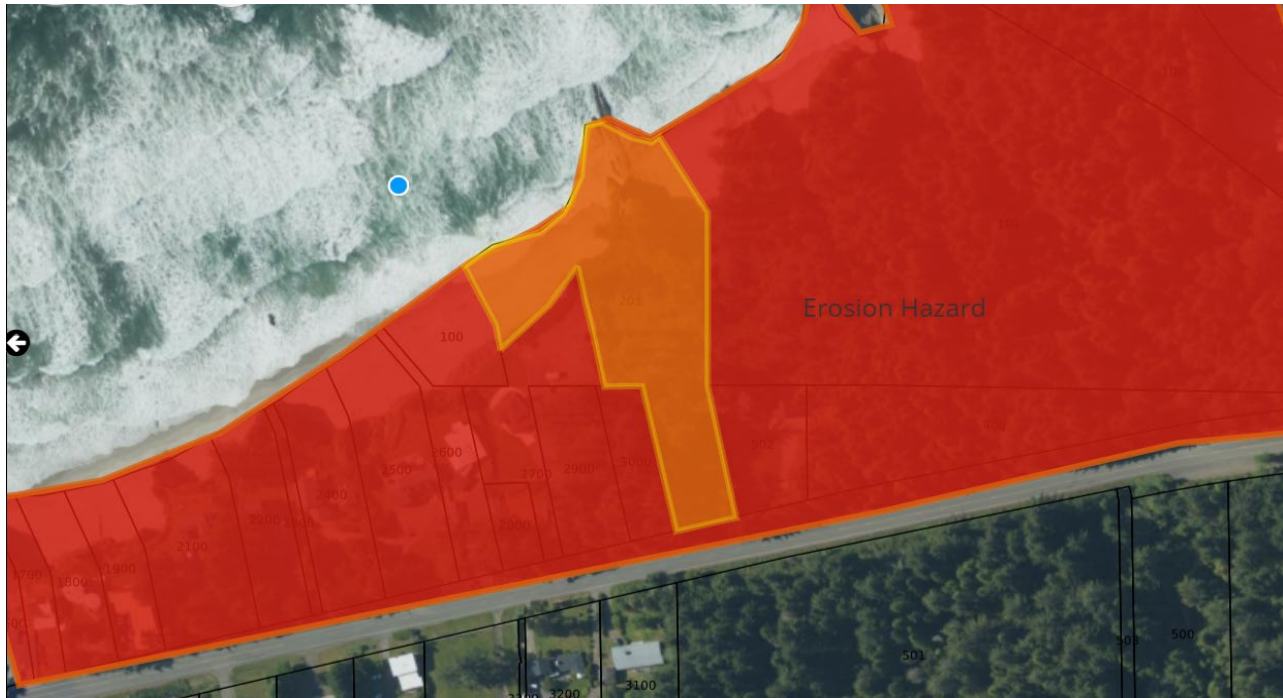


### Coastal Shoreline Boundary

- ★ Landslide Susceptibility, DOGAMI, 2016
- ★ Liquefaction Susceptibility, DOGAMI, 2013
- ★ Active Earthquake Faults
- Estuary Maps**
- ★ Estuary Mgmt Units, OCMP, 1987
- ★ Coos Coastal Shorelands Boundary
- ★ Coos County LWI, 2014
- National Wetland Inventory**
- Administrative Boundaries**
- ★ Statutory Vegetation Line, OPRD, 1967
- ★ Coos Tax lots, 2023



### Coastal Erosion Hazard



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

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

**A. PROPOSAL:** The applicant has described the proposal as follows:

Rutherford Family Trust is the owner of certain real property located in Coos County, Oregon and commonly known as Township 26 South, Range 14 West, Section 04, Tax Lot 201 ("the subject property"). Del Rio Vineyards, LLC is the prospective purchaser of the subject property, and is hereinafter identified as "the Applicant". The purpose of this land use application ("the Application") is to request approval from Coos County to establish a single-family dwelling and associated improvements (e.g., septic system, detached garage) on the subject property, which is ~ 1.62 acres in size and zoned Rural Residential (RR-2).

**B. BACKGROUND/PROPERTY HISTORY:**

In 1996, it was noted that a property line adjustment and the lawful creation of a unit of land(discrete parcel determination) had been completed for this property. It was also noted at that time that the property would not qualify for a future land division, as it was smaller than the minimum parcel size of two acres. There were also mentions of a prior cabin that may have been on the property, but no confirmations were found in the assessment, land use, or onsite septic records to determine its age, location, or removal date. The property is currently vacant, and the development history is not a factor in the current proposal.

In December 2022, a Zoning Compliance Letter was issued for septic feasibility. In 2023, a letter regarding the development process was provided to the property owner and subsequently shared with the attorney representing the future buyer.

The subject property is zoned Rural Residential-2 and is buildable once the special development considerations have been addressed. The property is mainly subject to erosion given the location to the ocean. The property is partially located within the Coastal Shoreland Boundary, Airport Overlay and Area of Archaeological Concern. The subject property is approximately 1.62 acres, according to assessment records. The property is accessed off of Cape Arago Hwy which is a State Highway. An access permit from Oregon Department of Transportation is required as a condition of approval.

The Coastal Shoreland Boundary (CSB) varies on this property, ranging from 150 to 240 feet from the statutory vegetation line, and it appears to be situated within the area earmarked for proposed development. The dark green line represents the vegetation line, while the shaded green area corresponds to the CSB. The CSB commences at a minimum distance of 100 feet and is adjusted to account for hazards and protected habitats. Any development occurring within the CSB, whether in entirety or partially, will necessitate an administrative conditional use permit. The criteria for this permit will be provided at the conclusion of this report.



This property is subject to headland erosion and coastal erosion. The erosion layer does cover the potential for erosion on the entire property; therefore, a Geotech Report will be required to address the hazards. The report is reviewed through an Administrative Conditional Use process. The report is required to be completed by an Engineering Geologist, and the report will inform the County (Planning and Building) if special recommendations are needed for the engineering of any structures, as well as any mitigating measures that will need to be taken to protect the property from erosion.

This property is subject to notice by the Oregon Department of Aviation due to its proximity to the airport, the Oregon Department of State Lands for wetlands (located on the sand), and an Archaeological Area of Interest for the local Indian Tribes, including the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, and Coquille Indians.

The current application was submitted on September 6, 2023, and requests for comments were made. A "deemed incomplete" letter was provided to the applicant and owner on October 5, 2023, because the geo-technical report was missing from the application. The report was submitted on October 25, 2023, along with a request for an exemption. Therefore, the application was considered complete on that day for the purpose of the review.

- C. LOCATION:** The subject property is located adjacent to Lighthouse Beach which is southwest of the City of Coos Bay and Urban Unincorporated Community of Charleston. The property has been issued an address of 90083 Cape Arago Hwy.





D. **ZONING:** - The Subject Property is zoned *Rural Residential-2 (RR-2)*

**ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

***Rural Residential (RR)***

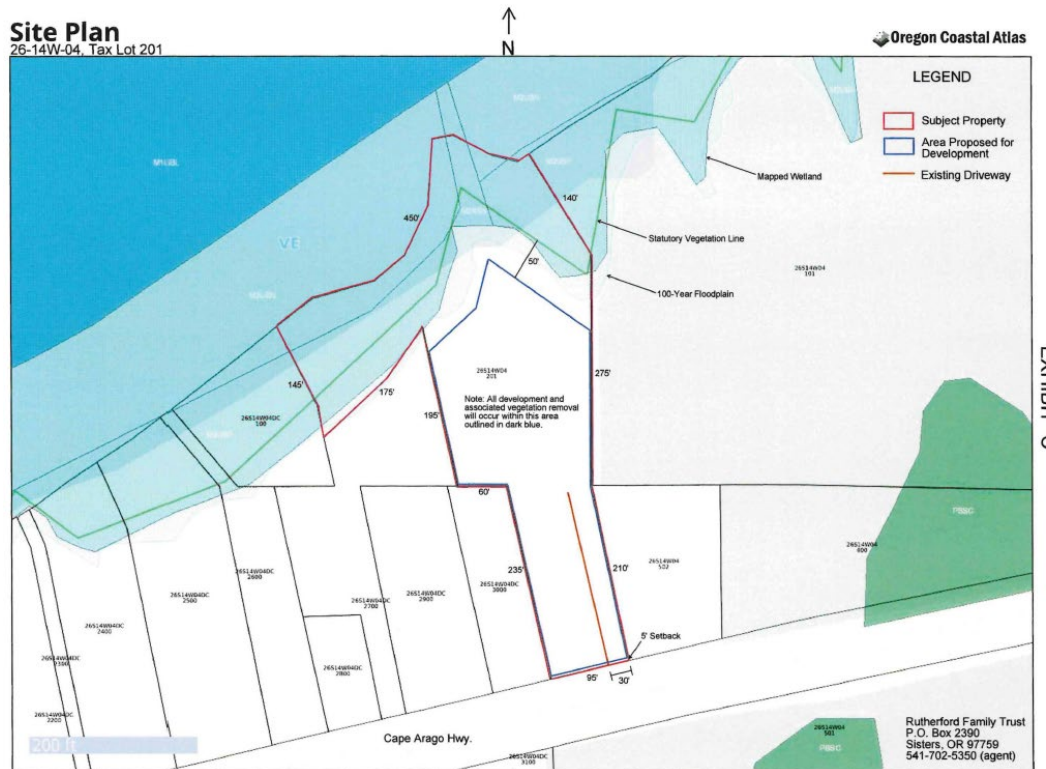
*There are two RR zonings: Rural Residential-5 (RR-5) and Rural Residential-2 (RR-2). The intent of the Rural Residential Districts includes justified sites plus "committed" areas. The County's plan prescribes and allocates a finite number of rural dwelling/units/acreage. The zoning ordinance will specify permitted uses and minimum lot sizes.*

*The purpose of the "RR-2" and "RR-5" districts are to provide for small to medium acreage dwelling sites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary.*

*The "RR-2" district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.*

**E. SITE DESCRIPTION AND SURROUNDING USES:**

The subject property is irregularly shaped and is bordered by the Pacific Ocean to the north, Cape Arago Hwy to the south, residential property to the west, and recreational (state-owned) property to the east. The property is treed with a clearing where the development is proposed to be located toward the center of the property.





**F. COMMENTS:** No comments were received prior to the release of this decision.

## **II. GENERAL PROPERTY COMPLIANCE:**

### **A. COMPLIANCE PURSUANT TO SECTION 1.1.300:**

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

**FINDING:** Staff has reviewed the property history, and the county finds that, at the time of this report, the property is compliant with the Coos County Zoning and Land Development Ordinance. However, this does not guarantee that there is no additional information, unavailable during this review, that could render the property non-compliant.

### **B. SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:**

*“Lawfully established unit of land” means:*

*1. The unit of land was created:*

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

*statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.*

**FINDING: The property was confirmed as lawfully created in 1996 and along with an acknowledged property line adjustment. Therefore, the property is lawfully created.**

### **III. STAFF FINDINGS AND CONCLUSIONS:**

#### **A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:**

The proposal is for Planning Director Approval of *Single Family Dwelling* in the Rural Residential Zone subject to Special Development Considerations and Overlays that require an Administrative Conditional Use (ACU). The application did not specify any additional development requests; therefore, no other development proposals were reviewed.

The applicable review criteria are found in Coos County Zoning and Land Development (CCZLDO) Section 4.3.200 Zoning Tables (including Rural Residential), Section 4.3.210 Categories and Review Standards, (30) Dwelling – Single Family Conventional, Section 4.3.225 General Siting Standards and Section 4.3.230 Additional Siting Standards (2) Rural Residential. This property is also subject to Special Development Consideration and/or overlays located in Article 4.11.

#### **B. KEY DEFINITIONS:**

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

#### **C. DWELLING CRITERIA**

##### **SECTION 4.3.200 ZONING TABLES FOR URBAN AND RURAL RESIDENTIAL, MIXED COMMERCIAL-RESIDENTIAL, COMMERCIAL, INDUSTRIAL, MINOR ESTUARY AND SOUTH SLOUGH**

The table indicates the type of review process that is required. Remember that CU is an conditional use review and the letter prior explain what level of conditional use is required (A = administrative and H=Hearing)  
As used in the zoning tables the following abbreviations are defined as:

- "P" permitted and requires no review from the Planning Department. No review is required but other agencies may have requirements.
- "CD" compliance determination review (permitted with standards) with clear and objective standards (Staff review usually referred to as Type I process or ministerial action). These uses are subject to development standards in sections 4.3.22, 4.3.230 and notices requesting comments may be provided to other agencies as result. The process takes a minimum of 30 days to complete. Industrial zones may require additional review. All structures and uses shall meet the applicable Development and Siting Criteria or Special Development Considerations and Overlays for the zoning district in which the structure will be sited.
- "ACU" Administrative Conditional Use (Planning Director's Decision usually referred to as a Type II Process)
- "HBCU" Hearing Body Conditional Use (Planning Commission, Board of Commissioner or Hearings Officer Decision usually referred to as a Type III Process)
- "PLA" Property Line Adjustments subject to standards found in Chapter 6.
- "P", "SUB", "PUD" = Partition, Subdivision, Planned Unit Development that require Land Division Applications subject to standards found in Chapter 6.
- The "Subject To" column identifies any specific provisions of Section 4.3.210 to which the use is subject.
- "N" means the use is not allowed.

The zoning table sets out Uses, Developments and Activities that may be listed in a zone and the type of review that is required within that zone. If there is a conflict between uses the more restrictive shall apply. Section 4.3.210 provides an explanation of the use category and the specific criteria that shall apply and if the use is identified as requiring a conditional use. Section 4.3.225 General Siting Standards apply to all regulated Uses, Developments, or Activities, but these are clear and objective standards that do not, in themselves, require a land use notice. Section 4.3.230 Specific Standards list specific siting standards by zones and 4.2.200 Additional Conditional Use Review and Standards for table 4.3.200 contains any additional criteria that applied to a Use, Development or Activity that has been identified by the following table as requiring.

#	Use	Zones													Subject To
		UR-1	UR-2	UR-M	RR-2	RR-5	CD	RC	C-1	IND	AO	REC	SS	MES	
<b>Residential Uses – This category is for uses and structure for human occupancy as living quarters</b>															
30.	Dwelling- Single Family Conventional	CD	CD	CD	CD	CD	CD	CD	N	N	N	N	N	N	(27)(k)

**SECTION 4.3.210 – CATEGORIES AND REVIEW STANDARDS**

The following categories provide a definition and specific standards that will regulate the Development, Use or Activity identified in the table above. \*\*\*

(27) Dwelling - Any building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes. A dwelling shall consist of a kitchen, bathroom(s) and living space. Dwellings do not including a RV, tent, teepee, yurt, hotels, motels, vacation rentals or boarding houses. Types of Dwellings are listed below. Long term rentals are not regulated by this ordinance.\*\*\*

(k) Single family dwelling- A single household unit. Construction is characterized by no common wall or ceiling with another unit, including a mobile home unless otherwise allowed by under this ordinance.

**FINDING:** The request is for a **Single Family Conventional Dwelling in the Rural Residential area, which is a permitted listed use pursuant to Section 4.3.210(27)(k) subject to a Compliance Determination process covering Siting Standards, Special Development Considerations, and Overlays, as outlined in Article 5. This review has been elevated to a Conditional Use requirement solely due to the presence of Special Development Considerations related to Coastal Shoreland Boundary, Natural Hazards, and Airport Overlay requirements. The Rural Residential conditional use standards do not pertain to this request. Therefore, the application complies with this criteria.**

**D. SITING STANDARDS**

**SECTION 4.3.225 GENERAL SITING STANDARDS**

All new USES, ACTIVITIES and DEVELOPMENT are subject to the following siting standards:

- (1) Agricultural and Forest Covenant - Any applicant for a dwelling permit adjacent to a Forest or Exclusive Farm Zone shall sign a statement on the Compliance Determination or Zoning Clearance Letter acknowledging that: “the normal intensive management practices occurring on adjacent resource land will not conflict with the rural residential landowner’s enjoyment of his or her property.
- (2) Fences, Hedges, and Walls: No requirement, but vision clearance provisions of Section 7.1.525 apply.
- (3) Limitation on uses of manufactured dwellings/structures for commercial purposes pursuant to ORS 466 et seq. Manufactured dwellings shall not be used for commercial purposes except:
  - (a) Where use of the manufactured dwelling for commercial purposes is authorized by the Building Codes Agency.
  - (b) Where used as a temporary sales office for manufactured structures; or
  - (c) As part of an approved home occupation. [OR-92-07-012PL]
- (4) New lots or parcels - Creation of lots or parcels, unless it meets the circumstances of § 5.6.130, shall meet the street frontage, lot width, lot depth and lot size. Minimum road frontage/lot width shall be met unless waived by the Planning Director in consultation with the County Surveyor and County Roadmaster due to creating an unsafe or irregular configuration:
  - (a) Minimum Street frontage should be at least 30 feet; and
  - (b) Minimum lot width and Minimum lot depth is 50 feet.

*Minimum parcel/lot size cannot be waived or varied unless otherwise provided by a specific zoning regulation. Tax lot creation and consolidations do not change the legally created status of a lot or parcel.*

(5) *Parking - Off-street access, parking and loading requirements per Chapter VII apply.*

(6) *Riparian -*

(a) *Riparian vegetation setback within 50 feet of a estuarine wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps, shall be maintained except:*

- i. 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.*
- ii. Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
- iii. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
- iv. 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;*
- v. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;*
- vi. 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*
- vii. 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 is not more than 100% of the size of the existing structure's "footprint".*

(b) *Riparian removal within the Coastal Shoreland Boundary requires an Administrative Conditional Use application and review. See Special Development Considerations Coastal Shoreland Boundary.*

(c) *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) *Setbacks:*

(a) *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 the right-of-way line, whichever is greater. This setback may be greater under specific zoning siting requirements.*

(b) *Firebreak Setback - New or replacement dwellings on lots, parcels or tracts abutting the "Forest" zone shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions. Vegetation within this firebreak 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.*

(8) *OUTDOOR STORAGE IN RESIDENTIAL ZONES (a) Boats and trailers, travel trailers, pick-up campers or coaches, motorized dwellings, and similar recreation equipment may be stored on a lot but not used as an accessory use; (b) Automotive vehicles or trailers of any kind or type without current license plates, where required, and which are not in mechanical working order,*

*shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings; (c) One operating truck may be stored on the lot of a truck driver provided it is accessory to the main use of the property. Additional trucks shall not be allowed.*

**FINDING:** The subject property is not adjacent to a Forest or Exclusive Farm Use zone. The proposal does not include fencing, hedges, or walls at this time, and there are no manufactured dwellings or structures proposed on the property. No new lots or parcels will be created with this application. The Applicant agrees to comply with off-street access and parking requirements outlined in Chapter VII. There will be no riparian vegetation removal or structural development within the required 50-foot setback, and the 35-foot setback will be met and maintained. The property does not abut Forest Zoned property, and the applicant has acknowledged the outdoor storage requirement.

Therefore, Staff accepts the findings made by the applicant as compliant with the criteria listed in Section 4.3.225 based on the conditions that a driveway/access/parking permit will be signed off by the County Road Department Staff, an Access permit will be obtained for ODOT, and a detailed plot plan will provided to ensure that the Dwelling will meet the required setbacks.

#### **SECTION 4.3.230 ADDITIONAL SITING STANDARDS**

*This section has specific siting standards and criteria set by the zoning district for USES, ACTIVITIES and DEVELOPMENT: \*\*\**

(2) **Rural Residential (RR)** – *The following siting standards apply to all USES, activities and development in the RR zoning districts:*

a. *Minimum Lot/Parcel Size:*

- i. *5 acres in the RR-5 district*
- ii. *2 acres in the RR-2 district*
- iii. *Exception to minimum lot sizes in Rural Residential:*
  1. *Smaller parcels may be permitted in an approved residential planned unit development, provided the allowable density of the parent parcel is not exceeded.*
  2. *Any lawfully created parcel or lot created prior to January 1, 1986 that is equal to or greater than one acre. Multiple parcels or lots may be combined to equal one acre but then a restriction shall be placed on the deed and parcels and/or lots shall be combined into one tax lot.*
  3. *Any lawfully created parcel or lot created prior to January 1, 1986 that does not equal one acre and not served by a public sewer then Department of Environmental Quality, State Building Codes and Oregon Department of Water Resources should be consulted by the developer prior to seeking a land use authorization to construct a dwelling as there may be development limitations.*
  4. *Creation of parcels less than the minimum lot size of the zoning district shall be permitted provided the following circumstances exist:*
    - a. *The subject property is not zoned for resource use;*
    - b. *An existing dwelling (lawfully established, but not for temporary purposes) was sited prior to January 1, 1986, and will remain sited on each proposed parcel; and*
    - c. *A land division is submitted and approved by Coos County pursuant to the current standards with the exception on the minimum parcels size.*

b. *Setbacks – No additional setback requirements.*

- c. *Building Height – No additional Requirements.*
- d. *Density or Size limits -*
  - i. *Dwelling density shall be no more than one dwelling per lawfully created parcel unless otherwise provided for by this ordinance.*
  - ii. *If lawfully created parcels are less than one acre in size and not served by a public sewer then Department of Environmental Quality, State Building Codes and Oregon Department of Water Resources should be consulted by the developer prior to seeking a land use authorization to construct a dwelling as there may be development limitations.*

**FINDING:** The Subject Property is a legal nonconforming unit of land, lawfully created but not meeting the minimum lot size for this zoning district. The proposal does not involve increasing dwelling density or dividing the property. The Applicant acknowledges that no additional setbacks or building height requirements will be applied to the proposed dwelling. Therefore, the applicant has complied with Section 4.3.230 Additional Siting and Development Standards.

**E. SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS**

***SECTION 4.11.100 Purpose:***

*The purpose of this Article is to prescribe special regulations for the use and development of lands situated within resource or hazard areas identified on the Plan Maps for Volume I (Balance of County<sup>1</sup>).*

***SECTION 4.11.110 Priority of Restrictions:***

*When the restrictions imposed by the provisions of an overlay or special development consideration pertaining to a property is found to be in conflict with the primary zone the more restrictive provisions shall govern.*

***SECTION 4.11.120 Goal #5 Conflict Resolution Process:***

*When in the course of implementing the Coos County Comprehensive Plan it becomes evident that a conflict exists concerning the use of land identified as a Oregon Statewide Planning Goal #5 resource that is otherwise protected pursuant to OAR 660-16-005(1), then any proposed conflicting use may only be allowed after the an Administrative Conditional Use application has been completed based on findings that address the requirements of OAR 660-16-0005(2) and OAR 660-165-0010.*

***SECTION 4.11.125 Special Development Considerations:***

*The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed In the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site.*

***4.11.126 Mineral & Aggregate Plan Implementation Strategies (Balance of County Policy 5.5)***

*The mineral & aggregate maps have inventoried the following:*

- *Coal Basins*
- *Areas of Oil & Gas Exploration Leases*
- *Metal Mines & Prospects (Removed Per Ordinance 91-09-018PL 12-18-91)*

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<sup>1</sup> Zoning is broke up by three comprehensive plan references which included 2 estuary plans (Coos Bay and Coquille) and then the rest of the zoning referred to as the Balance of County Zoning.

- *Crushed Rock Quarries*
- *Sand & Gravel Pits*
- *Other Aggregate Sites (Ordinance 92-05-008PL 3-7-92)*

**FINDING: The property is not in a mapped mineral or aggregate resource. Therefore, this is not applicable to this request.**

**4.11.127 Water Resources (Balance of County Policy 5.8)**

*The water resources maps have inventoried the following:*

- *Existing municipal watersheds;*
- *Watersheds for potential reservoir sites;*
- *Dam & Reservoir sites considered suitable by the Water Resources Department;*
- *Possible Future Reservoir sites suggested by Coos Bay-North Bend Water Board (April 4, 1985);*
- *Existing wells in the Dunes Aquifer;*
- *Approximate extent of Dunes Aquifer; and*
- *Existing Water District Withdrawal Points.*

**FINDING: The property is not in a mapped water resource area. Therefore, this is not applicable to this request.**

**4.11.128 Historical, Cultural and Archaeological Resources, Natural Areas and Wilderness (Balance of County Policy 5.7)**

*The Historical/Archeological maps have inventoried the following:*

- *Historical;*
- *Area of Archaeological Concern;*
- *Botanical; and*
- *Geological Resources.*

***Purpose Statement:***

*Coos County shall manage its historical, cultural and archaeological areas, sites, structures and objects so as to preserve their original resource value. This strategy recognizes that preservation of significant historical, cultural and archaeological resources is necessary to sustain the County's cultural heritage.*

- a. *Historical Structures: Coos County shall permit the expansion, enlargement or other modification of identified historical structures or sites provided that such expansion, enlargement or other modification is consistent with the original historical character of the structure or site:*
  - i. *This strategy shall be implemented by requiring Planning Director review of site and architectural plans. The proposed project shall be consistent with the original historical character of the site and structure.*
  - ii. *This strategy recognizes that enlargement, expansion or modification of historical structures is not inconsistent with Coos County's historic preservation goal. The Planning Director shall approve the alteration or modification if the proposal is found to be compatible with the character of the resource with respect to style, scale, texture and construction materials or it is found to enhance the historical value of the resource. Further, this strategy recognizes that the site and architectural modification may be necessary to preserve, protect or enhance the original historical character of the structure.*



- iii. *If there is evidence to show that the cost of repairs or restoration cost more than the value of the structure then the Planning Commission may authorize the structure to be removed and replaced with something of like value.*
  - iv. *Staff shall refer to the Oregon State Historical Preservation Office data for details on locations of historical structures.*
- b. *Areas of Archaeological Concern: Coos County shall continue to refrain from wide-spread dissemination of site-specific inventory information concerning identified archaeological sites. Rather, Coos County shall manage development in these areas so as to preserve their value as archaeological resources.*
- i. *This strategy shall be implemented by requiring development proposals to be accompanied by documentation that the proposed project would not adversely impact the historical and archaeological values of the project's site. "Sufficient documentation" shall be a letter from a qualified archaeologist/historian and/or a duly authorized representative of a local Indian tribe(s).*
  - ii. *Properties which have been determined to have an "archaeological site" location must comply with the following steps prior to issuance of a "Zoning compliance Letter" for building and/or septic permits.*
    - 1) *The County Planning Department shall make initial contact with the Tribe(s) for determination of an archaeological site(s). The following information shall be provided by the property owner/agent:*
      - a) *Plot plan showing exact location of excavation, clearing, and development, and where the access to the property is located;*
      - b) *Township, range, section and tax lot(s) numbers; and*
      - c) *Specific directions to the property.*
    - 2) *The Planning Department will forward the above information including a request for response to the appropriate tribe(s).*
    - 3) *The Tribe(s) will review the proposal and respond in writing within 30 days to the Planning Department with a copy to the property owner/agent.*
    - 4) *It is the responsibility of the property owner/agent to contact the Planning Department in order to proceed in obtaining a "Zoning Compliance Letter" (ZCL) or to obtain further instruction on other issues pertaining to their request.*
  - iii. *In cases where adverse impacts have been identified, then development shall only proceed if appropriate measures are taken to preserve the archaeological value of the site. "Appropriate measures" are deemed to be those, which do not compromise the integrity of remains, such as:*
    - 1) *Paving over the sites;*
    - 2) *Incorporating cluster-type housing design to avoid the sensitive areas; or*
    - 3) *Contracting with a qualified archaeologist to remove and re-inter the cultural remains or burial(s) at the developer's expense. If an archaeological site is encountered in the process of development, which previously had been unknown to exist, then, these three appropriate measures shall still apply. Land development activities found to violate the intent of this strategy shall be subject to penalties prescribed by ORS 97.745 (Source: Coos Bay Plan).*
  - iv. *This strategy is based on the recognition that preservation of such archaeologically sensitive areas is not only a community's social responsibility but is also a legal responsibility pursuant to Goal #5 and ORS 97.745. It also recognizes that historical*

*and archaeological sites are non-renewable, cultural resources (Source: Coos Bay Plan).*

**FINDING: The property does not have an inventoried site on the property but is in an area that required notice. Notice was provided but no comments have been received. Therefore, this has been addressed.**

#### **4.11.129 Beaches and Dunes (Policy 5.10)**

*The Beaches and Dunes map has inventoried the following:*

- *Beaches and Dunes*
  - *Suitable for most uses; few or no constraints (Does not require a review)*
  - *Limited Suitability; special measures required for most development*
  - *Not Suitable for Residential, commercial or Industrial Structures*

**FINDING: The property is not in a mapped Beaches and Dunes area. Therefore, this is not applicable to this request.**

#### **4.11.130 Non-Estuarine Shoreland Boundary (Balance of County Policy 5.10)**

*The Coastal Shoreland Boundary map has inventoried the following:*

- *Coastal Shoreland Boundary*
- *Beach Erosion*
- *Coastal Recreation Areas*
- *Area of Water-Dependent Uses*
- *Riparian Vegetation*
- *Fore Dunes*
- *Head of Tide*
- *Steep Bluffs over 50% Slope*
- *Significant wetland wildlife habitats*
- *Wetlands under agricultural use*
- *Areas of Exceptional Aesthetic or Scenic Quality and Coastal Headlands*
- *Headland Erosion*

#### ***Purpose Statement:***

*Protection of major marshes (wetlands), habitats, headlands, aesthetics, historical and archaeological sites: Coos County shall provide special protection to major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources, and historic and archaeological sites located within the Coastal Shorelands Boundary of the ocean, coastal lakes and minor estuaries. This strategy shall be implemented through plan designations and ordinance measures that limit uses in these special areas to those uses that are consistent with protection of natural values, such as propagation and selective harvesting of forest products, grazing, harvesting wild crops, and low intensity water-dependent recreation. This strategy recognizes that special protective consideration must be given to key resources in coastal shorelands over and above the protection afforded such resources elsewhere in this plan.*

*Coos County shall consider:*

- i. *"Major marshes" to include certain extensive marshes associated with dune lakes in the Oregon Dunes National Recreation Area and wetlands associated with New River as identified in the Inventory text and maps, and on the Special Considerations Map;*

- ii. *"Significant wildlife habitat" to include "sensitive big-game range", Snowy Plover nesting areas, Bald Eagle, and Osprey nesting areas, Salmonid spawning and rearing areas, and wetlands;*
  - iii. *"Coastal headlands" to include Yoakum Point, Gregory Point, Shore Acres, Cape Arago south to Three-Mile Creek, Five Mile Point, and Coquille Point;*
  - iv. *"Exceptional resources Aesthetic or Scenic Quality" to include the coastal headlands identified above, and other areas identified in the Coastal Shorelands Inventory Map; and*
  - v. *"Historical, cultural and archaeological sites" to include those identified in the Historical, Cultural and Archaeological Sites Inventory and Assessment.*
- a. *Uses allowed within the Coastal Shoreland Boundary: This strategy recognizes: (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration; and (2) that Statewide Planning Goal #17 places strict limitations on land divisions within coastal shorelands.*
- i. *Uses within the Coastal Shoreland Boundary: Coos County shall manage its rural areas within the "Coastal Shorelands Boundary" of the ocean, coastal lakes and minor estuaries through implementing ordinance measures that allow the following uses:*
    - a) *Farm uses as provided in ORS 215;*
    - b) *Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act.*
    - c) *private and public water dependent recreation developments;*
    - d) *aquaculture;*
    - e) *water-dependent commercial and industrial uses and water-related uses are allowed only upon finding by the Board of Commissioners that such uses satisfy a need, which cannot otherwise be accommodated on shorelands in urban and urbanizable areas;*
    - f) *single family residences on existing lots, parcels, or units of land when compatible with the objectives and implementation standards of the Coastal Shorelands goal, and as otherwise permitted by the underlying zone; or*
    - g) *any other uses, provided that the Board of Commissioners determines that such uses:*
      - a. *Satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas;*
      - b. *Are compatible with the objectives of Statewide Planning Goal #17 to protect riparian vegetation and wildlife habitat;*
      - c. *The "other" use complies with the implementation standard of the underlying zone designation; and*
      - d. *In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this plan.*
  - ii. *A site plan and design review is only necessary when required in Coos County Comprehensive Plan Volume I Part 2 § 3.5: Structures associated with the above uses, with the exception of farm and forest uses, shall only be permitted after an Administrative Conditional Use Review or higher review addressing the criteria and requirements of this subsection below and upon a finding that such uses do not otherwise conflict with the Special Development Considerations and Overlay Zones found in this Ordinance.*
    - a) *Site Review and Approval Criteria.*

*Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents as approved.*

*Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and replacement of any part of the building or landscaping which does not involve a substantial change from the purpose and objectives of this section. Proposed "substantial changes" shall be submitted to the Planning Director for approval.*

*All variances from the site development criteria which are deemed necessary by the applicant shall be requested pursuant to ARTICLE 5.3.*

*These standards are intended to provide a frame of reference for the applicant to the development of a site and building plans as well as a method of review. These standards shall not be regarded as inflexible requirements, nor do they advocate any particular architectural style, for they are intended to encourage creativity, invention and innovation. The following standards shall be utilized in reviewing the plans, drawings, sketches and other documents required under for this review:*

- 1. Landscaping*
    - a. The landscape shall be such to minimize soil erosion and lessen the visual impact;*
    - b. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.*
  - 2. Structures*
    - a. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings;*
    - b. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.*
  - 3. Drives, Parking and Circulation*

*With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to the location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and must comply with the standards found in Chapter VII. The Roadmaster is responsible for determining compliance with this subsection.*
  - 4. Surface Water Drainage*

*Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties, the public storm drainage system, or create environmental problems.*
  - 5. Utility Service*
    - a. Whenever feasible, electric, telephone and other utility lines shall be underground;*
    - b. Any utility installations remaining above ground shall be located so as to have an harmonious relation to neighboring properties and the site;*
    - c. The proposed method of sanitary sewage disposal from all buildings shall be indicated.*
- b) Application Submittal and Review Procedure.*
- 1. Submission of Documents - A prospective applicant for a building or other permit who is subject to site design review shall submit the following to the County Planning Director:*
    - a. A site plan, drawn to scale, shows the proposed layout of all structures and other improvements;*

- b. *A landscape plan, drawn to scale, showing the location of existing trees proposed to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials;*
- c. *Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction;*
- d. *Specifications as to type, color and texture of exterior surfaces of proposed structures including reflective surfaces of solar collectors;*
- e. *An application request which shall include:*
  - 1) *Name and address of applicant;*
  - 2) *Statement of applicant's legal interest in the property (owner, contract purchaser, lessee, renter, etc.) and a description of that interest, and in case the applicant is not the owner, verification of the owner's consent;*
  - 3) *Address and legal description of the property;*
  - 4) *Statement explaining the intended request;*
  - 5) *The required fee; and*
  - 6) *Any other materials or information as may be deemed necessary to assist in evaluation of the request. The request will be made prior to deeming the application complete. However, if this review is before the hearings body they may request for additional information to ensure compliance.*

2. *Threshold Standard. The Planning Director has the discretion to waive part or all of the site plan requirements if, in the Director's judgment, the proposed development is "de minimis" in extent to the existing development.\*\*\**

- d. *Non-structural solutions for erosion control: Coos County shall prefer non-structural solutions to problems of erosion and flooding to structural solutions in ocean, coastal lake or minor estuary shorelands. Where shown to be necessary, water and erosion control structures, such as jetties, bulkheads, seawalls, and similar protective structures and fill shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns. Implementation of this strategy shall occur through county review of and comment on state and federal permit applications for such projects. This strategy is based on the recognition that non-structural solutions are often more cost-effective as corrective measures but that carefully designed structural solutions are occasionally necessary.*
- e. *Riparian vegetation in Coastal Shoreland Boundary: Maintain, restore or enhancing riparian vegetation as consistent with water dependent uses requires a conditional use. Coos County shall maintain riparian vegetation within the shorelands of the ocean, coastal lakes, and minor estuaries, and when appropriate, restore or enhance it, as consistent with water-dependent uses. Variances to riparian vegetation setback shall not be permitted within the CSB unless it is to allow for a water dependent use as permitted by the zoning. If a property owner would like to remove vegetation in the Coastal Shoreland Boundary then a conditional use is required. The Planning Department will request comments from ODFW and DEQ regarding water quality and fish habitat. An applicant may provide reports from a qualified biologist.*

*Timber harvest, if permitted in the zoning ordinance, shall be regulated by the Oregon Forest Practices Act. Where the County's Comprehensive Plan identifies riparian vegetation on lands in the coastal shorelands subject to forest operations governed by the FPA, the Act and Forest*

*Practices Rules administered by the Department of Forestry will be used in such a manner as to maintain, and where appropriate, restore and enhance riparian vegetation. This strategy shall be implemented by County review of and comment on state permit applications for waterfront development.*

*This strategy is based on the recognition that prohibiting excessive removal of vegetative cover is necessary to stabilize the shoreline and, for coastal lakes and minor estuaries, to maintain water quality and temperature necessary for the maintenance of fish habitat.*

**FINDING: The proposed dwelling on the subject property is an allowed use within the CSB. The property is near properties with existing residential development established in the CSB, making the proposed dwelling minimal in extent compared to the existing development. The Applicant respectfully requests a waiver of site plan and design review requirements if Planning Staff finds a full review necessary.**

**While the exact location for the dwelling has not been determined, the cleared area and likely placement considering setbacks and site conditions suggest that only a small portion of the development would fall within the CSB. Therefore, staff finds that a full review is not required.**

#### ***4.11.131 Significant Wildlife Habitat (Balance of County Policy 5.6)***

*The Fish & Wildlife Habitat Map I (1985 Ordinance 85-08-011L) has inventoried the following:*

- *Anadromous<sup>2</sup> fish distribution (Salmon, Steelhead and Cutthroat Trout)*
- *I-B Resources pursuant to OAR 660-16-000(5)(b)*
  - *Spotted Owl Habitat*
  - *Osprey Nest Site*
  - *Pigeon Spring*
- *I-C Resources pursuant to OAR 660-16-000(5)(c)*
  - *Pigeon Spring*
  - *Bald Eagle Nest Sites*
  - *Blue Heron Nest Site*

*The Fish & Wildlife Habitat Map II has inventoried the following:*

- *Big Game Range (Elk & Deer)*
  - *Impacted – Limited or no Habitat Value*
  - *Peripheral – Supports Substantial Populations but habitat value is lessened by development*
  - *Sensitive – Supports majority of Big Game*
- *Western Limit of Elk Range*
- *Wetlands*
  - *Wetlands – Lands with hydric<sup>3</sup> soils and wetland plants*
  - *Wet Meadows in current agricultural use*
  - *Cranberry Bogs*
  - *Farm Ponds, Mill Ponds and Other Man-Made Water Bodies*
  - *Wetlands Formerly in Agricultural use; Potential Reclamation*

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<sup>2</sup> An *anadromous fish*, born in fresh water, spends most of its life in the sea and returns to fresh water to spawn.

<sup>3</sup> *Hydric soil* is soil which is permanently or seasonally saturated by water, resulting in anaerobic conditions, as found in wetlands.

**FINDING: The property is not in a mapped Significant Wildlife Habitat Area. Therefore, this is not applicable to this request.**

**4.11.132 Natural Hazards (Balance of County Policy 5.11)**

*Coos County has inventoried the following hazards:*

- *Flood Hazard*
  - *Riverine flooding*
  - *Coastal flooding*
- *Landslides and Earthquakes*
  - *Landslide Susceptibility*
  - *Liquefaction potential*
- *Tsunamis*
- *Erosion*
  - *Riverine streambank erosion*
  - *Coastal*
    - *Shoreline and headlands*
    - *Wind*
- *Wildfire*

*Purpose Statements:*

*Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property. Coos County considers natural disasters and hazards to include river and coastal flooding, landslides, liquefaction potential due to earthquakes, fault lines, tsunamis, river bank erosion, coastal erosion along shorelines and headlands, coastal erosion due to wind, and wildfires, including those areas affected by gorse.*

*This strategy shall be implemented by enacting special protective measures through zoning and other implementing devices, designed to minimize risks to life and property associated with new development and substantial improvements. The determination of whether a property is located in one of the above referenced potentially hazardous areas shall be made by the reviewing body (Planning Director, Planning Commission, Board of Commissioners, or any designee based upon adopted inventory mapping). A specific site may not include the characteristics for which it is mapped. In these circumstances staff shall apply § 4.11.132.ii.2m.*

- a. *Flooding: Coos County shall promote protection of valued property from risks associated with river and coastal flooding along waterways in the County through the establishment of a floodplain overlay zone (FP) that conforms to the requirements for participation in the National Flood Insurance Program. See Sections 4.11.211-257 for the requirements of this overlay zone. See Sections 4.11.211-257 for the requirements of this overlay zone.*
- b. *Landslides and Earthquakes (Not Applicable)*
- c. *Tsunamis: Coos County shall promote increased resilience to a potentially catastrophic Cascadia Subduction Zone (CSZ) tsunami through the establishment of a Tsunami Hazard Overlay Zone (THO) in the Balance of County Zoning. See Sections 4.11.260-4.11.270 for the requirements of this overlay zone.*
- d. *Reserved.*
- e. *Erosion: Coos County shall promote protection of property from risks associated with shoreline, headland, and wind erosion and deposition hazards.*

*Coos County shall promote protection of property from risks associated with bank erosion along rivers and streams through necessary erosion-control and stabilization measures, preferring non-structural solutions when practical.*

*Any proposed structural development within a wind erosion/deposition area, within 100 feet of a designated bank erosion area, or on a parcel subject to wave attack, including all oceanfront lots, will be subject to a geologic assessment review as set out in Section 4.11.150. There is a setback of 100 feet from any rivers or streams that have been inventoried in the erosion layer. If a variance is requested, a geologic assessment will be required.*

*f. Wildfires (not applicable)*

**FINDING:** A small portion of the property is within the floodplain but there is no development proposed in that area. As a condition of approval once the final plot plan is drawn staff will verify that all development is outside of the mapped flood hazard. This property is not in a mapped landslide or earthquake hazard area so neither one of those hazards are applicable. The property is located in a mapped Tsunami zone but it does not trigger a review for a Single Family Dwelling.

The property is in a mapped coastal erosion area. Any proposed structural development within a wind erosion/deposition area, within 100 feet of a designated bank erosion area, or on a parcel subject to wave attack, including all oceanfront lots, will be subject to a geologic assessment review as set out in Section 4.11.150. This is an ocean front lot that and is also subject to wave attacks. Therefore, the applicant has supplied information to address the Geological Hazards Special Development Review Standards.

The property is not in a mapped wildfire hazard and this consideration is not applicable to this review.

Therefore, the applicant has addressed the relevant criteria.

#### ***4.11.150 Geological Hazards special development Review Standards***

*Applications for a geologic hazard review may be made concurrently with any other type of application required for the proposed use or activity. A review of the property must be conducted prior to any ground disturbance. All geologic hazard assessment reports shall include a description of the qualification of the licensed professional or professionals that prepared the assessment.*

*The applicant shall present a geologic hazard assessment report (geologic assessment) prepared by a qualified licensed professional competent in the practice of geosciences, at the applicant's expense, that identifies site specific geologic hazards, associated levels of risk, and the suitability of the site for the use and/or activity in view of such hazards. The geologic assessment shall include the required elements of this section and one of the following:*

- a. A statement that the use and/or activity can be accomplished without measures to mitigate or control the risk of geologic hazard to the subject property resulting from the proposed use and/or activity;*
- b. A statement that there is an elevated risk posed to the subject property by geologic hazards that requires mitigation measures in order for the use and/or activity to be undertaken safely sited on the property; or*
- c. A certification that there are no high or very high geological hazards present on site. If such is certified by a licensed professional then an Administrative Conditional Use application is not required. Coos County is not liable for any type of certification that a geological hazard is not present on site.*

**FINDING:** The Applicant has provided the required geologic assessment, which was prepared by Cascadia Geoservices, Inc., with this Application. Eric Oberbeck, is a professional Engineering Geologist and he prepared a report and exemption for this property stating that the



use and/or activity can be accomplished without measures to mitigate or control the risk of geologic hazard to the subject property resulting from the proposed use and/or activity . Therefore, this has been addressed consistent with Section 4.11.150(a).

**OVERLAY ZONE:**

**SECTION 4.11.200 Purpose:**

*Overlay zones may be super-imposed over the primary zoning district and will either add further requirements or replace certain requirements of the underlying zoning district. The requirements of an overlay zone are fully described in the text of the overlay zone designations. An overlay zone is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary Management Plans when the Estuary Policies directly reference this section.*

**OVERLAY ZONE: FLOODPLAIN**

**DESIGNATION: /FP**

**SECTION 4.11.211 AUTHORIZATION**

*The State of Oregon has been delegated the responsibility through local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Coos County does ordain as follows:*

**SECTION 4.11.231 LANDS TO WHICH THIS OVERLAY ZONE APPLIES**

*This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of Coos County that have been identified on the Flood Insurance Maps dated December 7, 2018 as described in Section 4.11.232.*

**TSUNAMI HAZARD OVERLAY ZONE:**

**4.11.260 Tsunami Hazard Overlay Zone (Background)**

*The Tsunami Hazard Overlay zone is designed to serve as the principal implementation mechanism for land use measures addressing tsunami risk. As the name indicates, it is designed to be applied in the form of an overlay zone, i.e. in combination with underlying base zones. The boundaries of the overlay would correspond to the area of the jurisdiction subject to inundation from a local source tsunami indicated in § 4.11.265 below.*

*Oregon Statewide Planning Goal 7 envisions a process whereby new hazard inventory information generated by federal and state agencies is first reviewed by the Department of Land Conservation and Development (DLCD). DLCD then notifies the County of the new information, and the County has three years to respond to the information by evaluating the risk, obtaining citizen input, and adopting or amending implementation measures to address the risk. The County has not received notice from DLCD but has taken the proactive role in working with DLCD to address tsunami hazards.*

*This section of the ordinance places restrictions and limitations on certain categories of uses. These limitations apply primarily to uses which present a high potential for life safety risk, or to uses which provide an essential function during and after a disaster event. ORS 455, which is implemented through the state building code, currently prohibits certain facilities and structures in the tsunami inundation zone as defined by the Oregon Department of Geology and Mineral Industries as indicated in Section 4.11.245 below. The overlay incorporates the requirements that can be limited through the land use program. Nothing in this ordinance is meant to conflict with the*

*State Building Code but will focus on integration of development and improvement of evacuation infrastructure into the land use and development review process.*

*Coos County does not house the building codes program and; therefore, Coos County lacks certain enforcement authority over the Oregon Structural Specialty Code as explained in OAR 632-005-0070 exemption responsibility. This section of the ordinance is not meant to obstruct the authority of the structural code.*

*These provisions establish requirements to incorporate appropriate evacuation measures and improvements in most new development, consistent with the Coos County Tsunami Evacuation Facility Improvement Plan. Coos County Planning has worked with Coos County Emergency Management in planning for emergency preparedness and developing hazard mitigation plans.*

*The maps that will be used to implement this section of the Coos County Zoning and Land Development ordinance are the 2012 [Tsunami Inundation Maps](#) produced by Oregon Department of Geology and Mineral Industries. The maps will be printed and filed as part of the Coos County Comprehensive Plan.*

*The series of maps consists of a Small (S), Medium (M), Large (L), Extra Large (XL) and Extra-Extra Large (XXL), with the XXL indicating the worst case scenario. When a size is identified in the section it includes all smaller sizes. For an example if a facility is regulated in an L tsunami inundation event then it includes all M and S tsunami inundation mapped areas.*

#### ***4.11.270 Tsunami Hazard Overlay Zone (Purpose, Applicability and Uses)***

##### ***1. Purpose***

*The purpose of the Tsunami Hazard Overlay Zone is to increase the resilience of the community to a local source (Cascadia Subduction Zone) tsunami by establishing standards, requirements, incentives, and other measures to be applied in the review and authorization of land use and development activities in are as subject to tsunami hazards. The standards established by this section are intended to limit, direct and encourage the development of land uses within are as subject to tsunami hazards in a manner that will:*

- a. Reduce loss of life;*
- b. Reduce damage to private and public property;*
- c. Reduce social, emotional, and economic disruptions; and*
- d. Increase the ability of the community to respond and recover.*

*Significant public and private investment has been made in development in areas which are now known to be subject to tsunami hazards. It is not the intent or purpose of this section to require the relocation of or otherwise regulate existing development within the Tsunami Hazard Overlay Zone. However, it is the intent of this section to control, direct and encourage new development and redevelopment such that, overtime, the community's exposure to tsunamis will be reduced.*

##### ***2. Applicability of Tsunami Hazard Overlay Zone***

*The Tsunami Hazard Overlay is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary and Coquille Estuary Management Plans when the Estuary Policies directly reference this section. Areas of inundation depicted on the Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) are subject to the requirements of this section as follows:*

- a. Except as provided in subsection (b), all lands identified as subject to inundation from the XXL magnitude local source tsunami event as set forth on the applicable Tsunami*

*Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) are subject to the requirements of this section.*

- b. Lands within the area subject to inundation from the XXL magnitude local source tsunami event as set forth on the applicable Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) that have a grade elevation, established by fill or other means, higher than the projected elevation of the XXL magnitude local source tsunami event are exempt from the requirements of this section. Grade elevations shall be established by an elevation survey performed by a Professional Land Surveyor licensed in Oregon.*

**FINDING: This property is not in an XXL magnitude local source tsunami event and Single Family Dwellings are not regulated below this event. Therefore, this not applicable to this required.**

**FLOATING ZONE: AIRPORT SURFACES**

**DESIGNATION: /AS**

**SOUTHWEST OREGON REGIONAL AIRPORT (AKA: NORTH BEND MUNICIPAL AIRPORT)**

**SECTION 4.11.400 Southwest Oregon Regional Airport:**

*The Southwest Oregon Regional Airport is located within the City of North Bend; however, portions of the Approach, Transitional, Conical and the Horizontal Surfaces span into the Coos County's jurisdiction. The City of North Bend has adopted airport standards and Coos County is adopting the portions of those standards that apply to the Approach, Transitional, Horizontal and Conical Surfaces. The provisions listed below apply only to the Southwest Oregon Regional Airport Transitional, Horizontal and Conical Surfaces do not apply to AO zoning districts or airports as identified Sections 4.11.300 through 4.11.460.*

**SECTION 4.11.405 purpose:**

*The purpose of this overlay zone is to encourage and support the continued operation and vitality of the Southwest Oregon Regional Airport by establishing compatibility and safety standards to promote air navigational safety at such airport and to reduce potential safety hazards for persons living, working or recreating near the airport.*

**SECTION 4.11.410 Permitted Uses:**

*Except as restricted by Sections 4.11.400 through 4.11.460., in a District in which the /AS zone is combined, those uses permitted by the underlying district are permitted outright in the /AS FLOATING ZONE.*

**SECTION 4.11.415 Conditional Uses:**

*Except as restricted by Sections 4.11.400 through 4.11.460, in a District with which the /AS is combined, those uses subject to the provisions of ARTICLE 5.2 (Conditional Uses) may be permitted in the /AS FLOATING ZONE.*

**SECTION 4.11.420 Definitions:**

*These definitions only apply to Sections 4.11.400 through 4.11.450, the following words and phrases shall mean:*

*“Airport” means the Southwest Oregon Regional Airport (also referred to as North Bend Municipal) Airport.*

*“Airport direct impact area” means the area located within 5,000 feet of an airport runway, excluding lands within the runway protection zone and approach surface.*

1. *“Airport elevation” The most current and approved North Bend Municipal Airport master plan, airport layout plan, defines the highest point of the airport’s usable landing area. The 2002 Airport Layout Plan has established the airport elevation as 17.1 feet above mean sea level (reference datum is NAVD 88).*
2. *“Airport imaginary surfaces” means imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.*
3. *“Airport noise impact boundary” means areas located within 1,500 feet of an airport runway or within the most current, established noise contour boundaries exceeding 55 Ldn.*
4. *“Airport secondary impact area” means the area located between 5,000 and 10,000 feet from the airport’s runways.*
5. *“Airport sponsor” means the owner, manager, or other person or entity designated to represent the interests of the airport.*
6. *“Approach surface” means a surface longitudinally centered on the extended runway center line and extending outward and upward from each end of the primary surface.*
  - a. *The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:*
    - i. *Two thousand feet for a utility runway having a nonprecision instrument approach;*
    - ii. *Three thousand five hundred feet for a nonprecision instrument runway, other than utility, having visibility minimums greater than three-quarters statute mile;*
    - iii. *Four thousand feet for a nonprecision instrument runway, other than utility, having visibility minimums at or below three-quarters statute mile;*
    - iv. *Sixteen thousand feet for precision instrument runways.*
  - b. *The approach surface extends for a horizontal distance of:*
    - i. *Five thousand feet at a slope of 20 feet outward for each foot upward (20:1) for all utility runways;*
    - ii. *Ten thousand feet at a slope of 34 feet outward for each foot upward (34:1) for all nonprecision instrument runways, other than utility; and*
    - iii. *Ten thousand feet at a slope of 50 feet outward for each foot upward (50:1), with an additional 40,000 feet at a slope of 40 feet outward for each foot upward (40:1), for precision instrument runways.*
  - c. *The outer width of an approach surface will be the width prescribed in this subsection for the most precise approach existing or planned for that runway end.*
7. *“Conical surface” means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.*
8. *“Department of Aviation” means the Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.*
9. *“FAA” means the Federal Aviation Administration.*
10. *“FAA’s technical representative” means, as used in this chapter, the federal agency providing*

*the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to, the USDA-APHIS-Wildlife Services.*

11. *“Height” means the highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level (reference datum is NAVD 88).*
12. *“Horizontal surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:*
  - a. *Five thousand feet for all runways designated as utility;*
  - b. *Ten thousand feet for all other runways;*
  - c. *The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.*
13. *“Nonprecision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach has been approved, or planned, and for which no precision approach facilities are planned or indicated on an FAA- approved airport layout plan or FAA planning document.*
14. *“Obstruction” means any structure or tree, plant or other object of natural growth that penetrates an airport imaginary surface.*
15. *“Other than utility runway” means a runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.*
16. *“Precision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities that provide both horizontal and vertical guidance, such as an instrument landing system (ILS) or precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA- approved airport layout plan or other FAA planning document.*
17. *“Primary surface” means a surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line. The width of the primary surface is:*
  - a. *Five hundred feet for utility runways having nonprecision instrument approaches;*
  - b. *Five hundred feet for other than utility runways having nonprecision instrument approaches with visibility minimums greater than three-quarters statute mile; and*
  - c. *One thousand feet for nonprecision instrument runways with visibility minimums at or below three-quarters statute mile, and for precision instrument runways.*
18. *“Public assembly facility” means a permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate*

for short periods of time such as parking lots or bus stops.

19. "Runway" means a defined area on the airport prepared for landing and takeoff of aircraft.
20. "Runway protection zone (RPZ)" means an area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway center line. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of:
  - a. One thousand feet for utility runways;
  - b. One thousand seven hundred feet for other than utility runways having nonprecision instrument approaches;
  - c. Two thousand five hundred feet for precision instrument runways.
21. "Significant" as it relates to bird strike hazards, means a level of increased flight activity by birds across an approach surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.
22. "Structure" means any constructed or erected object, which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.
23. "Transitional surface" means those surfaces that extend upward and outward at 90-degree angles to the runway center line and the runway center line extended at a slope of seven feet horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces, for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90-degree angle to the extended runway center line.
24. "Utility runway" means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.
25. "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or instrument designations have been approved or planned, or are indicated on an FAA-approved airport layout plan or any other FAA planning document.
26. "Water impoundment" includes wastewater-treatment-related ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of the ordinance codified in this chapter.

**Table: Runway Type**

<b>Runway</b>	<b>Type of Runway</b>
R/W 4	Precision Instrument
R/W 22	Nonprecision Instrument
R/W 13	Visual, Other Than Utility
R/W 31	Visual, Other Than Utility
R/W 16	Utility
R/W 34	Utility

**SECTION 4.11.425 Imaginary surface and noise impact boundary delineation:**

*The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface is delineated for the airport by the most current, and approved North Bend Municipal Airport master plan and airport layout plan, the airport master plan along with the associated maps and documents are made part of the official zoning map of the city of North Bend and Southwest Oregon Regional Airport Surface (NB/AS) Inventory Map for Coos County. All lands, waters and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this overlay zone.*

**SECTION 4.11.430 Notice of land use, permit applications and overlay zone boundary or surface changes within overlay zone area:**

*Except as otherwise provided herein, written notice of applications for land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use applications found in Article 5.0.*

- 1. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use application is located within 10,000 feet of the sides or ends of a runway.*
- 2. Notice of land use and limited land use applications shall be provided within the following timelines found in Article 5.0. Notice of the decision on a land use or limited land use application shall be provided to the airport sponsor and the Department of Aviation within the same timelines that such notice is provided to parties to land use or limited land use proceeding. An application is appealable and will follow the requirements of Article 5.8.*
- 3. Notices are not required to be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application meets all of the following criteria:*
  - a. Would only allow structures of less than 35 feet in height;*
  - b. Involves property located entirely outside the approach surface;*
  - c. Does not involve industrial, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar transmission facilities or electrical transmission lines; and*
  - d. Does not involve wetland mitigation, enhancement, restoration or creation.*
- 4. Changes that affect the overlay zone boundaries or surfaces defined by this rule, which are proposed by the airport, shall be subject to Coos County review, modification and approval as part of the planning process outlined in this rule. Written notice of proposed changes that affect the overlay zone boundaries or surfaces, shall be provided to the Coos County by the airport in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications.*

**SECTION 4.11.435 Height limitations on allowed uses in underlying zones:**

*All uses permitted by the underlying zone shall comply with the height limitations in this section.*

- 1. A person may not construct an object or structure that constitutes a physical hazard to air navigation, as determined by the Oregon Department of Aviation in coordination with the governing body with land use jurisdiction over the property.*
- 2. Subsection (1) of this section does not apply:*
  - a. To construction of an object or structure that is utilized by a commercial mobile radio service provider; or*
  - b. If a person received approval or submitted an application for approval from the Federal*

*Aviation Administration or the Energy Facility Siting Council established under ORS 469.450 to construct an object or structure that constitutes a physical hazard to air navigation. A variance application will not be required if such application was made.*

**SECTION 4.11.440 Procedures:**

*An applicant seeking a land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:*

- 1. A map or drawing showing the location of the property in relation to the airport imaginary surfaces. The airport authority shall provide the applicant with appropriate base maps upon which to locate the property.*
- 2. Elevation profiles and a plot plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level (reference datum NAVD 88).*

**SECTION 4.11.445 LAND USE COMPATIBILITY REQUIREMENTS:**

*Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of this section as provided herein:*

- 1. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall be attached to any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn.*
- 2. Outdoor Lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.*
- 3. Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.*
- 4. Industrial Emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.*
- 5. Landfills. No new sanitary landfills shall be permitted within 10,000 feet of any airport runway. Expansions of existing landfill facilities within these distances shall be permitted only upon demonstration that the landfills are designed and will operate so as not to increase the likelihood of bird/aircraft collisions. Timely notice of any proposed expansion shall be provided to the airport sponsor, the Department of Aviation and the FAA, and any approval shall be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result.*
- 6. Communications Facilities and Electrical Interference. Proposals for the location of new or expanded radio, radiotelephone, television transmission facilities and electrical transmission*



*lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval.*

***SECTION 4.11.450 Water impoundments within approach surfaces and airport direct and secondary impact boundaries:***

- 1. Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of this section.*
- 2. No new or expanded water impoundments of one-quarter acre in size or larger are permitted:*
  - a. Within an approach surface and within 5,000 feet from the end of a runway; or*
  - b. On land owned by the airport sponsor that is necessary for airport operations.*

***SECTION 4.11.455 Wetland mitigation, creation, enhancement and restoration within approach surfaces and airport direct and secondary impact boundaries:***

- 1. Wetland mitigation, creation, enhancement or restoration projects located within areas regulated by the Coos County Zoning and Land Development Ordinance shall be allowed upon demonstration of compliance with the requirements of this section.*
- 2. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of the ordinance codified in this chapter and are recognized as lawfully existing uses.*
- 3. To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces and areas is encouraged.*
- 4. Applications to expand wetland mitigation projects in existence as of the effective date of the ordinance codified in this chapter, and new wetland mitigation projects, that are proposed within areas regulated by the Coos County Zoning and Land Development Ordinance shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:*
  - a. It is not practicable to provide off-site mitigation; or*
  - b. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.*
- 5. Wetland mitigation permitted under subsection (4) of this section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.*
- 6. Applications to create, enhance or restore wetlands that are proposed to be located within approach surfaces or within areas regulated by Coos County Zoning and Land Development Ordinance, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:*
  - a. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and*
  - b. The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase in hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.*
- 7. Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this section shall be coordinated with the airport sponsor, the Department of Aviation, the FAA and FAA's technical representative, the Oregon Department of Fish and Wildlife (ODFW), the Oregon Division of State Lands (DSL), the U.S. Fish and Wildlife Service*

(USFWS), and the U.S. Army Corps of Engineers (Corps) as part of the permit application.

8. A decision approving an application under this section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

**SECTION 4.11.460 Nonconforming uses that apply to the southwest Oregon regional airport overlay:**

1. These regulations shall not be construed to require the removal, lowering or alteration of any structure existing at the time the ordinance codified in this chapter is adopted and not conforming to these regulations. These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this section.
2. Notwithstanding subsection (1) of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.
3. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this overlay zone.

**FINDING:** The property falls within the North Bend Transition Zone (NBTZ). In this context, a 'Transitional surface' refers to surfaces that extend upward and outward at 90-degree angles to the runway center line, with a slope of seven feet horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces extend a distance of 5,000 feet horizontally from the edge of the approach surface and at a 90-degree angle to the extended runway center line for those portions of the precision approach surfaces projecting through and beyond the limits of the conical surface.

While there's no drawing to provide to the Oregon Department of Aviation, previous comments from ODA have stated that the property is nearly five miles away from the nearest public airport and would not impact airport operations. However, for compliance assurance, staff will send an updated plot plan as soon as the applicant provides it to ensure no impacts. Therefore, this concern has been addressed.

**IV. DECISION**

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

**V. NOTICE REQUIREMENTS:**

A notice of decision will be provided to property owners within 250 feet of the subject properties and the following agencies, special districts, or parties: Charleston RFPD, Coos Bay School District, Coos Bay – North Bend Water Board.

A Notice of Decision and Staff Report will be provided to the following:

Applicants/Owners, Department of Land Conservation and Development, Coos County Assessor's Office and the Planning Commission and Board of Commissioners.

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

**EXHIBIT “D”**  
**Comments Received**

**NONE**