



# 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: **Tuesday, September 13, 2022**  
File No: ACU-22-004

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

Applicant(s): David & Kay Rully  
12870 Piper Hill Dr  
Penn Valley, CA 95946

Staff Planner: Chris MacWhorter, Planning Staff

Decision: **Approved with Conditions.** All decisions are based on the record. This decision is final and effective at close of the appeal period unless a complete application with the fee is submitted by the Planning Department at 5 p.m. on **Wednesday, September 28, 2022**. Appeals are based on the applicable land use criteria. *Coos County Zoning and Land Development Ordinance (CCZLDO) General Compliance with Sections 1.1.300 Compliance with Comprehensive Plan and Ordinance Provisions and Article 6.1 Lawfully Created Lots or Parcels. The Dwelling Review is subject to Article 4.6 Resource Zoning District, Section 4.6.100 Forest and Forest Mixed Use, Use Table 1 in Section 4.6.110.63 Template Dwelling (Alternative forestland dwellings ORS 215.750) to Section 4.6.120 Review Standards (9)(B)(II). Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. **Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information please contact the staff planner listed in this notice.***

**Subject Property Information**

Account Number: 507301  
Map Number: 26S1304DD-02600

Property Owner: RULLY, DAVID & KAY  
12870 PIPER HILL DR  
PENN VALLEY, CA 95946-9706

Situs Address: 92616 LIBBY LN COOS BAY, OR 97420

Acreage: 3.38 Acres

Zoning: FOREST (F)

Special Development Considerations and Overlays: NATIONAL WETLAND INVENTORY SITE (NWI)  
NATURAL HAZARD - TSUNAMI (NHTHO)

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/planning/page/2022-administrative-conditional-use>. 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 Chris MacWhorter, Planning Staff 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: Chris MacWhorter  
Chris MacWhorter, Planning Staff

Date: Tuesday, September 13, 2022 .

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

#### EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map & Template Map

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

Exhibit C: Staff Report -Findings of Fact and Conclusions

Exhibit D: Application

## **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 are defined in this section. Pursuant to CCZLDO § 4.6.110, § 4.6.130 and § 4.6.140. To show compliance with this section the applicant shall submit a letter with the following items to request that staff find the following conditions have been satisfied:
  - a. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title. The statement needs to include language that the purchaser of the property has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization. The recorded deed convent shall be recorded with the County Clerk and copy provided to the Planning Department.
  - b. CCZLDO Section 4.6.130(3) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means: (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; (b) A water use permit issued by the Water Resources Department for the use described in the application; or (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.
  - c. Section 4.6.140(2) Setbacks: All Development, with the exception of fences, shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way line, whichever is greater. This should be shown on the plot plan.
  - d. Section 4.6.140(5) Minimizing Impacts: In order to minimize the impact of dwellings in forest lands, all applicants requesting a single-family dwelling shall acknowledge and file in the deed record of Coos County, a Forest Management Covenant. The Forest Management Covenant shall be filed prior to any final County approval for a single family dwelling.
  - e. Section 4.6.140(6) Riparian Vegetation Protection. Riparian vegetation within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained. If there are no wetlands, streams, lakes or rives then this is not applicable.
  - f. Section 4.6.140(7)(a) & Section 4.6.140(9) All new and replacement structures shall use non-combustible or fire resistant roofing materials, as may be approved by the certified official responsible for the building permit. If they are not available yet then this will be a condition of approval on the ZCL.

- g. Section 4.6.140(7)(b) The dwelling shall not be sited on a slope of greater than 40 percent. This shall be shown on the plot plan.
- h. Section 4.6.140(7)(e) & Section 4.6.140(8)(a)(b)(c)(d) Firebreak: a. This firebreak will be a primary safety zone around all structures. Vegetation within this primary safety zone may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. b. Sufficient Garden Hose to reach the perimeter of the primary safety zone (as identified in staff report) shall be available at all times. c. The owners of the dwelling shall maintain a primary fuel-free break (as identified in staff report) area surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads” dated March 1, 1991, and published by Oregon Department of Forestry and shall demonstrate compliance with Table 1. Table one is addressed in the staff report based on down slope. This can be shown on a plot plan.
- i. Section 4.6.140 (10) Except for private roads and bridges accessing only commercial forest uses, public roads, bridges, private roads and driveways shall be constructed so as to provide adequate access for firefighting equipment. If the property is within a fire protection district (Coos Forest Protective Agency or Rural Fire Department) a sign off from the fire department is required or proof that the road has been constructed to meet the requirements of the “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads” dated March 1, 1991. 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.
- j. Only one dwelling allowed on this parcel.
- k. Proof that the accessory structure is no longer habitable.
- l. 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.

**EXHIBIT "B"**  
**Vicinity Map**



**COOS COUNTY PLANNING DEPARTMENT**

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

Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

TDD (800) 735-2900



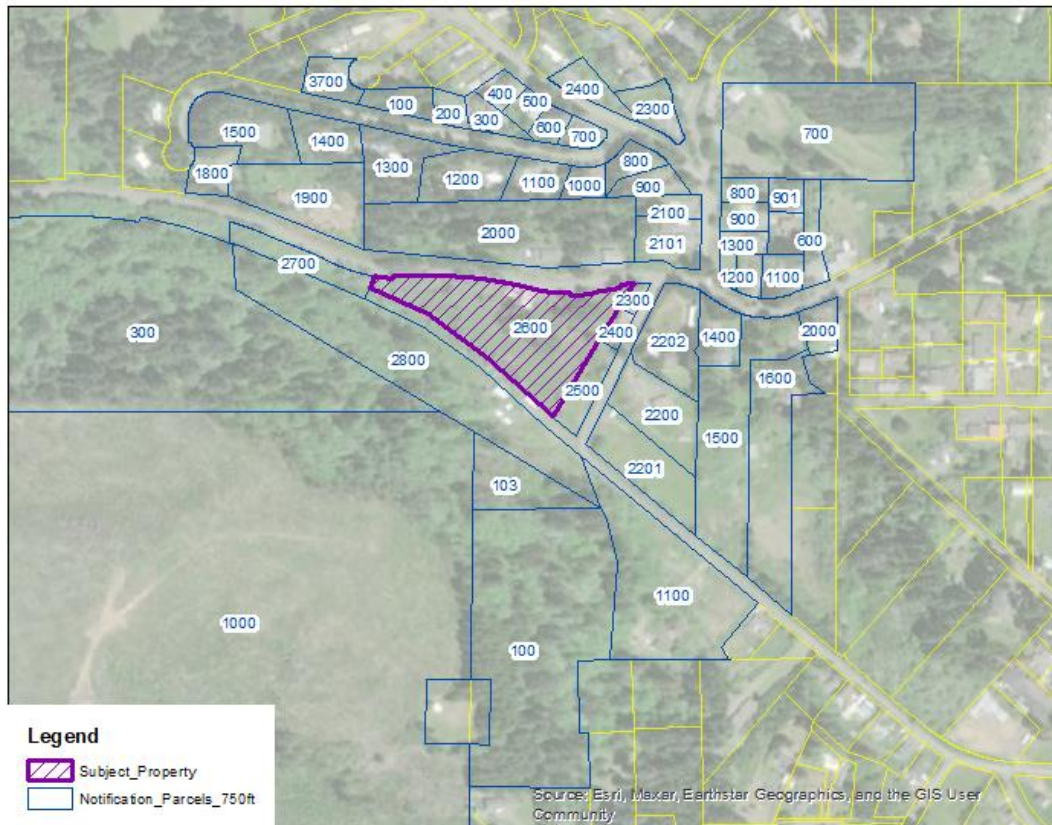
File: ACU-22-004

Applicant/ Owner: David & Kay Rully

Date: August 10, 2022

Location: Township 26S Range 13W  
Section 4DD TL 2600

Proposal: Administrative Conditional Use





# Template Map



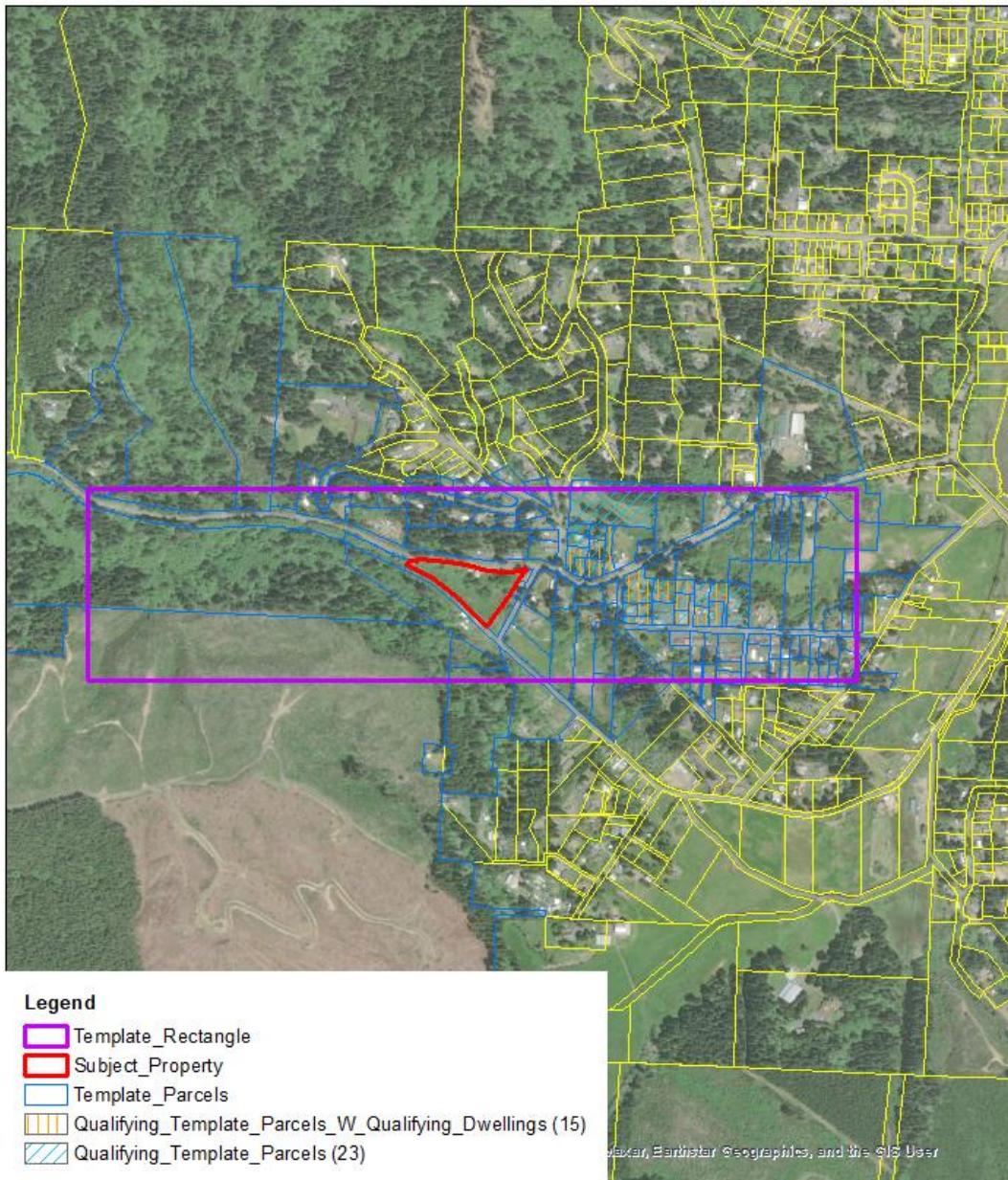
## COOS COUNTY PLANNING DEPARTMENT

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

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

**A. PROPOSAL:** According to the application the property owner is seeking approval for a new Single Family Dwelling in the Forest Mixed Use Zone. There is no indication that any other development is proposed at this time.

**B. BACKGROUND/PROPERTY HISTORY:**

On September 20, 1984, a verification letter (VL-84-488) was issued to replace a mobile home destroyed by fire.

On December 14, 1992, a verification letter (VL-92-589) was issued to site a manufactured dwelling.

On November 5, 2007, Coos County Planning Department was notified of a potential wetland fill violation by Oregon Department of State Lands.

On April 22, 2008, Coos County Planning Department was notified of an alleged violation by Oregon Department of Environmental Quality.

**C. LOCATION:** The subject property is located one mile southwest of the City of Coos Bay accessing directly off Libby Ln.

**D. ZONING:** The subject property is zoned Forest with a Mixed-Use Overlay.

**ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

**SECTION 4.2.500 RESOURCE ZONES**

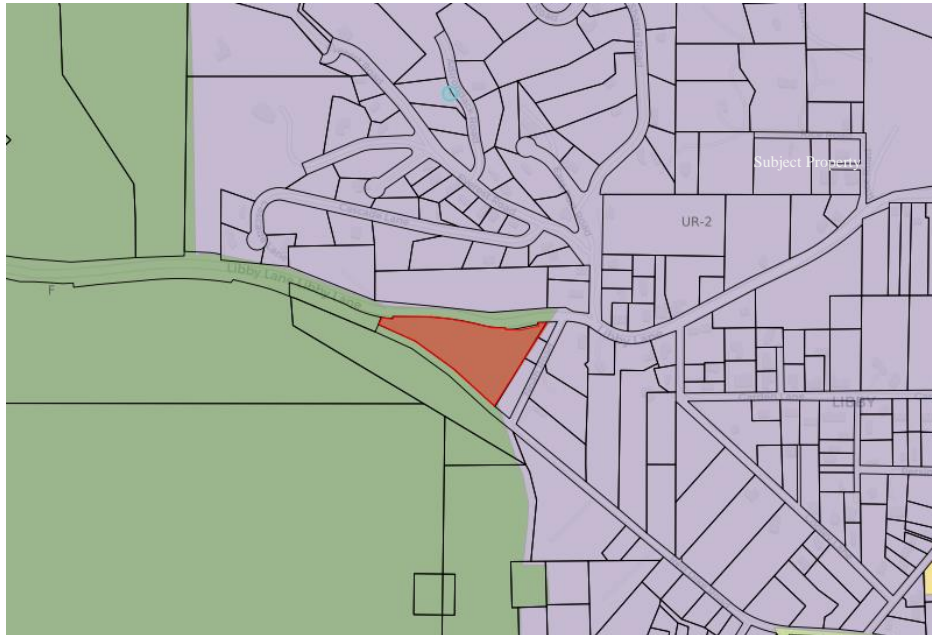
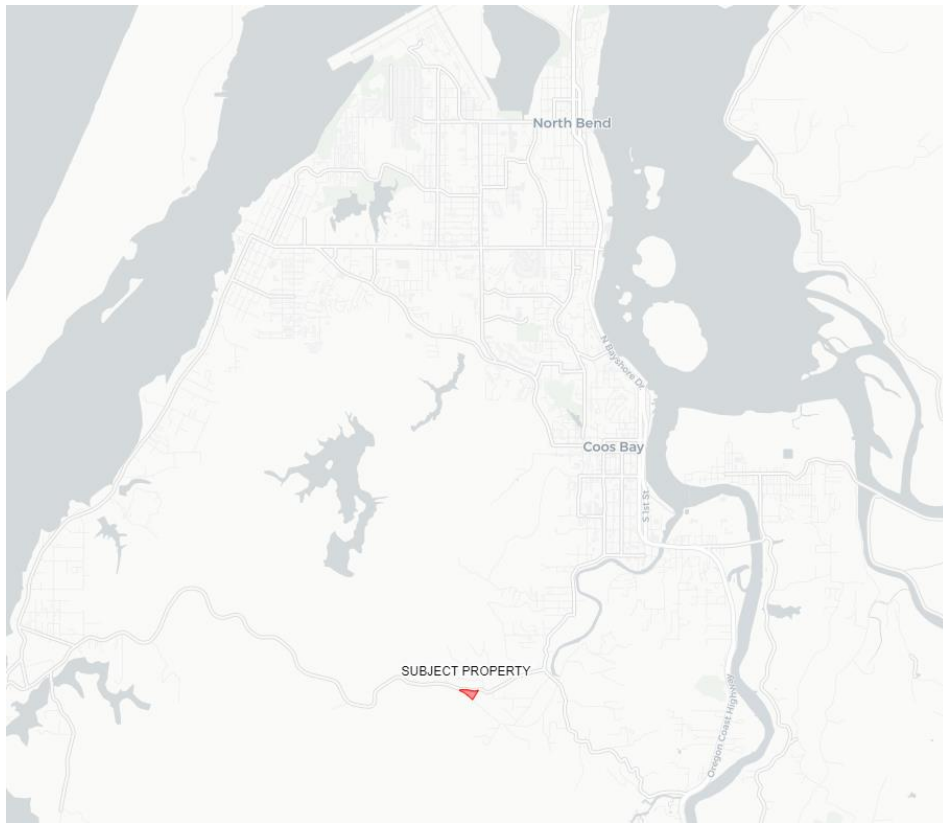
*Forest (F): The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.*

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

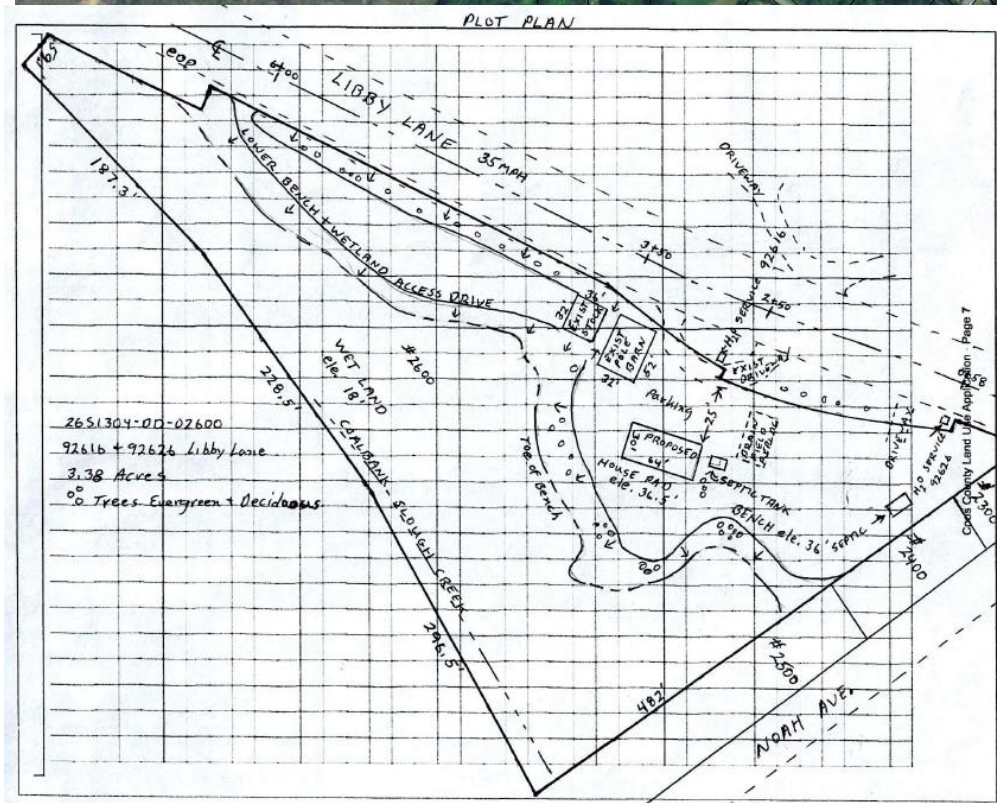
*Forest Mixed Use (FMU): The purpose of the Forest Mixed Farm-Forest Areas (“MU” areas) is to include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest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

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

The subject property is located one mile southwest of the City of Coos Bay accessing directly off Libby Lane. The parcel was created by deed or land sales contract prior to planning regulations, as described in Coos County Deed #74-3-97394.







Maps are not to scale

**F. COMMENTS:**

- a. **PUBLIC AGENCY:** This property required request for comments the Oregon Department of State Lands prior to the release of the decision. DSL has not responded with comments at the time of writing this report.
- b. **PUBLIC COMMENTS:** This property did not require any request for comments prior to the release of the decision and none were received.

- c. **LOCAL TRIBE COMMENTS:** This property did not require any request for comments from the Tribes prior to the release of the decision and none were received.

## **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 available records on this property and finds, at the time of this report, the property appears to in compliance. There are currently no permitted dwellings on this parcel. This does not mean that there is not additional information that was unavailable during this review that would make the properties non-complaint.

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

*“Lawfully established unit of land” means:*

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

**FINDING:** The unit of land was created pursuant to 6.1.125.1e, by deed or land sales contract when there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation. Therefore, it is a legally created unit of land.

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

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

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

The applicable review criteria are found in Coos County Zoning and Land Development (CCZLDO) 4.6.100 Table 1 identifies the uses and activities in the Forest (F) and Forest/Mixed Use (FMU) zone. The tables describe the use, type of review, applicable review standards. Table 1 of CCZLDO Section 4.6.110.63 defines the relevant criteria for Template Dwellings (Alternative forestland dwellings ORS 215.750) subject to an ACU, Section 4.6.120 Review Standards (9)(B)(II). Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. This proposal is subject to review under Natural Hazards Section 4.11.

**B. KEY DEFINITIONS:**

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

**C. TEMPLATE DWELLING CRITERIA AND FOREST SITING STANDARDS**

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

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

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

*SECTION 4.6.110 (OAR 660-006-0025) Uses Authorized in Forest Zones (1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types*

of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are: (a) Uses related to and in support of forest operations; (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.; (d) Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.

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

- SECTION 4.6.120 Review Standards (9)(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -(II) TEMPLATE DWELLING - 215.750 Alternative forestland dwellings; criteria.
  - (1) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
    - (a) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:
      - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
      - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels continue to exist on the other lots or parcels;
    - (b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
      - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
      - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
    - (c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
      - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
      - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.

**FINDING:** Soil information is used to determine if the subject property is capable of producing 0-49, 50-85 or 85+ cubic feet per year of wood fiber, which determines the applicable criteria for the number of parcels.

## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
9	Chetco silty clay loam	2.4	65.0%
54D	Templeton silt loam, 7 to 30 percent slopes	0.3	9.3%
63C	Wintley silt loam, 8 to 15 percent slopes	0.9	25.8%
<b>Totals for Area of Interest</b>		<b>3.6</b>	<b>100.0%</b>





### Report—Forestland Productivity

Forestland Productivity—Coos County, Oregon				
Map unit symbol and soil name	Potential productivity			Trees to manage
	Common trees	Site Index	Volume of wood fiber <i>Cu ft/ac/yr</i>	
9—Chetco silty clay loam				
Chetco	—	—	—	—
54D—Templeton silt loam, 7 to 30 percent slopes				
Templeton	Douglas-fir	125	186.00	Douglas-fir, Sitka spruce, Western hemlock
	Red alder	94	114.00	
	Sitka spruce	169	257.00	
	Western hemlock	161	257.00	
	Western redcedar	—	—	
63C—Wintley silt loam, 8 to 15 percent slopes				
Wintley	Bigleaf maple	—	—	Douglas-fir
	Douglas-fir	131	200.00	
	Grand fir	—	—	
	Oregon myrtle	—	—	
	Port orford cedar	—	—	
	Red alder	—	—	
	Tanoak	—	—	
	Western hemlock	—	—	
	Western redcedar	—	—	

### **9-Chetco silty clay loam.**

*This deep, very poorly drained soil is on flood plains and deltas. It formed in alluvium. Slope is 0 to 3 percent. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 0 to 40 feet. The average annual precipitation is 60 to 80 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.*

*Typically, the surface layer is very dark grayish brown silty clay loam 10 inches thick. The subsoil is mottled, dark gray silty clay 14 inches thick. The substratum to a depth of 60 inches or more is mottled, dark gray clay.*

*Included in this unit are small areas of Coquille and Nestucca soils. Also included are small areas of Langlois soils. Included areas make up about 25 percent of the total acreage.*

*Permeability of this Chetco soil is very slow. Available water capacity is about 5.0 to 8.5 inches. Effective rooting depth is 60 inches or more for water-tolerant plants, but it is limited by the water table for non-water-tolerant plants. Runoff is very slow, and the hazard of water erosion is slight. This soil is subject to frequent periods of flooding during prolonged periods of rainfall. Channeling and deposition are common along streambanks. The water table fluctuates between the surface and a depth of 18 inches in October to May.*

*This unit is used mainly for hay and pasture and wildlife habitat.*

*The, vegetation in areas not cultivated is mainly Sitka spruce, western redcedar, western hemlock, and red alder.*

*The understory vegetation is mainly western swordfern, evergreen huckleberry, slough sedge, soft rush, and skunkcabbage.*

*If this unit is used for hay and pasture, the main limitations are the susceptibility of the surface layer to compaction, wetness, droughtiness in summer, the hazard of flooding, and, for the curing of hay, high humidity. Grazing when the soil is moist results in compaction of the surface layer and poor tilth.*

*Compaction limits the movement of air and water in the soil and restricts the growth of roots; it can seriously reduce the productivity of the soil. Grazing should be delayed until the soil has drained sufficiently and is firm enough to withstand trampling by livestock.*

*Drainage and irrigation are needed for maximum production of crops. Water on or near the surface can be removed by use of open ditches and tide gates. Supplemental irrigation is needed in summer.*

*Wetness and flooding restrict grazing in winter. Protection from flooding during the growing season can be provided only by the use of extensive dikes. The choice of plants is limited to those that withstand periodic inundation. High humidity and frequent periods of rainfall late in spring prevent the production of high-quality hay. To improve the quality of grass for hay, increase the stocking rate in spring. Excess forage in spring can be used as silage.*

*Fertilizer is needed to ensure optimum growth of grasses. Grasses respond to nitrogen. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition. Rotation grazing increases the production of forage and helps to control weeds. Periodic mowing and clipping help to maintain uniform growth, discourage selective grazing, and reduce clumpy growth.*

*This map unit is in capability subclass IVw.*

***54D-Templeton silt loam, 7 to 30 percent slopes.***

*This deep, well drained soil is on side slopes of mountains. It formed in colluvium and residuum derived dominantly from sedimentary rock. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 50 to 800 feet. The average annual precipitation is 60 to 70 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.*

*Typically, the surface layer is very dark brown and dark brown silt loam 16 inches thick. The subsoil is reddish brown, yellowish red, and strong brown silty clay loam 26 inches thick. Soft, weathered and fractured siltstone is at a depth of 42 inches. In some areas the dark-colored surface layer is less than 10 inches thick.*

*Included in this unit are small areas of Salander soils. Included areas make up about 25 percent of the total acreage. The percentage varies from one area to another.*

*Permeability of this Templeton soil is moderate. Available water capacity is about 8.0 to 17.5 inches. Effective rooting depth is 40 to 60 inches. Runoff is medium, and the hazard of water erosion is moderate.*

*This unit is used mainly for timber production and wildlife habitat. It is also used for livestock grazing and homesite development.*

*This unit is well suited to the production of Douglas fir. Among the other species that grow on this unit are western hemlock, western redcedar, Sitka spruce, grand fir, and red alder. The understory vegetation is mainly vine maple, thimbleberry, creambush oceanspray, red huckleberry, western swordfern, and Pacific trillium.*

*On the basis of a 100-year site curve, the mean site index for Sitka spruce is 180. At the culmination of the mean annual increment (CMAI), the production of 50-year-old Sitka spruce trees 1.5 inches in diameter or more at breast height is 270 cubic feet per acre per year. On the basis of a 100-year site curve, the mean site index for Douglas fir is 170.*

*The main limitations for the management of timber on this unit are the susceptibility of the surface layer to compaction, the hazard of erosion, plant competition, and the hazard of windthrow. Using standard wheeled and tracked equipment when the soil is moist causes rutting and compaction. Displacement of the surface layer occurs most readily when the soil is dry. Puddling can occur when the soil is wet. Using low-pressure ground equipment reduces damage to the soil and helps to maintain productivity.*

*Proper design of road drainage systems and care in the placement of culverts help to control erosion. Cuts and fills are subject to erosion unless treated. Seeding, mulching, benching, and compacting the soil can reduce erosion. Unsurfaced roads and skid trails are slippery when wet or moist, and they may be impassable during rainy periods. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit. Steep yarding paths, skid trails, and firebreaks are subject to rilling and gullyng unless they are provided with adequate water bars or are protected by plant cover, or both. Sitka spruce, a shallow rooted species, commonly is subject to windthrow.*

*When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants prevent adequate natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Sitka spruce, Douglas fir, and western hemlock seedlings.*

*This unit is well suited to livestock grazing. In summer, droughtiness limits the choice of forage plants and limits production. Irrigation generally is impractical because of an inadequate water supply.*

*Fertilizer is needed to ensure optimum growth of grasses and legumes. Grass-legume pastures respond to sulfur, phosphorus, and molybdenum. Using a good fertilization program increases the production of forage in winter. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition.*

*If this unit is used for homesite development, the main limitations are slope and depth to bedrock. Absorption lines should either be placed in the more gently sloping areas of this unit or in adjoining areas of soils that are not so steep. Extensive cutting and filling generally are required to provide nearly level construction sites. Building roads in the less sloping areas of this unit reduces the amount of cutting and filling required. Roads should be provided with surface drainage. Cuts and fills are susceptible to erosion. Revegetating disturbed areas around construction sites as soon as possible helps to control erosion. In summer, supplemental irrigation is needed for lawn grasses and vegetable gardens.*

*This map unit is in capability subclass Vle.*

**63C-Wintley silt loam, 8 to 15 percent slopes.**

*This deep, well drained soil is on high terraces. It formed in alluvium. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 50 to 420 feet. The average annual precipitation is 60 to 80 inches, the average annual air temperature is 50 to 53 degrees F, and the average frost-free period is 180 to 220 days.*

*Typically, the surface is covered with a mat of undecomposed leaves, needles, and twigs 1 inch thick. The surface layer is dark brown silt loam 4 inches thick. The upper 12 inches of the subsoil is dark brown silty clay loam, and the lower 31 inches is strong brown silty clay and silty clay loam. The substratum to a depth of 60 inches or more is dark yellowish brown very gravelly loam. In some areas the dark-colored surface layer is 10 inches thick or more.*



*Included in this unit are small areas of McCurdy soils and soils on steep terrace escarpments. Also included are small areas of soils that are similar to this Wintley soil but have a gravelly subsoil and a gravelly substratum at a depth of 20 to 40 inches. Included areas make up about 20 percent of the total acreage. The percentage varies from one area to another.*

*Permeability of this Wintley soil is moderately slow. Available water capacity is about 8.0 to 9.5 inches. Effective rooting depth is 60 inches or more. Runoff is medium, and the hazard of water erosion is moderate.*

*This unit is used for hay and pasture and homesite development.*

*The vegetation in areas not cultivated is mainly Douglas fir, western hemlock, western redcedar, red alder, and Oregon myrtle. The understory vegetation is mainly evergreen huckleberry, Pacific rhododendron, trailing blackberry, western swordfern, and Oregon oxalis.*

*If this unit is used for hay and pasture, the main limitations are the susceptibility of the surface layer to compaction, droughtiness in summer, and, for the curing of hay, high humidity. Grazing when the soil is moist results in compaction of the surface layer and poor tilth. Compaction limits the movement of air and water in the soil and restricts the growth of roots; it can seriously reduce the productivity of the soil. Grazing should be delayed until the soil has drained sufficiently and is firm enough to withstand trampling by livestock.*

*Supplemental irrigation is needed for maximum production. Sprinkler irrigation is a suitable method of applying water. Use of this method permits the even, controlled application of water. Water should be applied in amounts sufficient to wet the root zone but small enough to minimize the leaching of plant nutrients. Applications of water should be adjusted to the available water capacity, the water intake rate, and the crop needs.*

*High humidity and frequent periods of rainfall late in spring prevent the production of high-quality hay. The quality of grass for hay can be maintained by increasing the stocking rate in spring. Excess forage in spring can be used as silage.*

*Fertilizer is needed to ensure optimum growth of grasses and legumes. Grasses respond to nitrogen, and legumes respond to sulfur and phosphorus. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition and to protect the soil from erosion. Periodic mowing and clipping help to maintain uniform growth, discourage selective grazing, and reduce clumpy growth.*

*If this unit is used for homesite development, the main limitation is the moderately slow permeability. Septic tank absorption fields do not function properly during rainy periods. The limitation of moderately slow permeability may be overcome by increasing the size of the septic tank absorption field. Absorption lines should be installed on the contour.*

*The risk of erosion is increased if the soil is left exposed during site development. Careful planning of road location can minimize the amount of cutting and filling required. Revegetating disturbed areas around construction sites as soon as feasible helps to control erosion. Plant cover can be established and maintained through proper fertilizing, seeding, mulching, and*

*shaping of the slopes. Topsoil can be stockpiled and used to reclaim areas disturbed during construction. In summer, supplemental irrigation is needed for lawn grasses and vegetable gardens.*

*This map unit is in capability subclass Ille.*

**According to the Soil Survey of Coos County, NRCS National Soil Information System, the property is made up 9-Chetco silty clay loam, 54D-Templeton silt loam, and 63C-Wintley silt loam soil types. Based on the plot plan, the dwelling appears to be located between 9 and 63C soil types. The volume of wood fiber per year for 63C is 200 cubic feet per acre per year for Douglas-fir species in the Wintley soil type.**

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

- *SECTION 4.6.120 Review Standards (9)(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -(II) TEMPLATE DWELLING - 215.750 Alternative forestland dwellings; criteria. Subsections (3) though (7). Subsection (2) has been removed:*

*(2) The following review standards apply to “template” dwellings approved under this rule:*

- a. Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under this rule.*
- b. Except as provided by subsection (c) of this section, if the tract under section (1) of this rule abuts a road<sup>1</sup> that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.*
- c. If the:*
  - i. Tract 60 acres or larger described under section (1) of this rule abuts a road or perennial stream, the measurement shall be made in accordance with subsection (b) of this section. However, one of the three required dwellings must be on the same side of the road or stream as the tract, and:*
    - 1. Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or*
    - 2. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.*
  - ii. Road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.*
- d. Notwithstanding subsection (6)(a) of this rule, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in sections (3) and (4) of this rule or subsections (b) or (c)*

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

*of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle.*

- (3) *A proposed “template” dwelling under this rule is allowed only if:*
- a. It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law;*
  - b. It complies with the requirements of OAR 660-006-0029 and 660-006-0035;*
  - c. No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under section (5) of this rule for the other lots or parcels that make up the tract are met;*
  - d. The tract on which the dwelling will be sited does not include a dwelling.*
  - e. The lot or parcel on which the dwelling will be sited was lawfully established.*
  - f. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.*
  - g. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and*
  - h. If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.*
- (4) *Subsection (1)(d) and (3)(e) through (4) of Section (II) TEMPLATE DWELLING applies:*
- a. On and after November 1, 2021 in Columbia, Coos, Curry, Deschutes, Douglas, Josephine, Linn, Marion, Washington, and Yamhill Counties with following limited exception:*
    - i. Prior to November 1, 2023, the county may allow the establishment of a single-family dwelling on a lot or parcel that was part of a tract on January 1, 2021, if;*
      - 1. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and*
      - 2. The lot or parcel qualifies, notwithstanding subsection (3)(h), for a dwelling under section (1) of this rule.*
- (5) *When the lot or parcel on which the dwelling will be located is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel and a deed restriction using the form provided in OAR 660-06-027(6), "Exhibit A," shall be completed and recorded with Coos County Clerk. The covenants, conditions and restrictions in the deed restriction:*
- a. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.*
  - b. Enforcement of the covenants, conditions and restrictions may be undertaken by the department or by the county or counties where the property subject to the covenants, conditions and restrictions is located.*
  - c. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section.*
  - d. The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.*

**FINDING: None of the lots or parcels are located within Urban Growth Boundaries; therefore, no Urban Growth Boundary lots or parcels are being used to satisfy the eligibility requirements under subsection (1) of this section. Subsection (2) is not applicable to this review.**

The unit of land was created pursuant to 6.1.125.1.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.

There have been no previous property line adjustments on the subject property; therefore, there was no PLA that had the effect of qualifying the subject property for a template dwelling.

Based on Coos County Clerk and Assessor records, the subject property was not part of a tract that contained one other dwelling on January 1, 2019.

There are no deed restrictions, applicable to ORS 215.750, or other dwellings on the subject parcel that would prevent a dwelling from being built. The property's previous manufactured dwelling has been removed and abandoned for greater than one year. The application noted that a "*stock barn below, now storage building above but antiquated living quarters circa 1970*" is one of the two structures on the property. However, the applicant lately states that "*No dwellings presently exist on this site*" in supplemental information supply on May 11, 2022. However, the application reads, Staff has not found any evidence a habitable space in the storage building was ever permitted. No evidence was submitted that the storage building is a non-conforming dwelling. Therefore, Staff finds that there is not an approved dwelling on the subject property at this time.

The parcel is less than 60 acres. The property does touch a road created before Jan 1, 1993, which is Libby Lane.

The applicant stated in their May 11, 2022 supplemental information that "*TEMPLATE DWELLING-215-750 Alternative forestland dwellings: NOTE: The County does not appear to have provided a definition for 'TEMPLATE.'*" Hence, Webster's Collage Dictionary 1997. *Template 1. A pattern, mold or the like serving as a gauge or guide. Given this I will surmise that a Manufactured Home floor plan will meet this requirement and has already been provided in the Application*". Staff is not sure why the applicant found the need to include a definition of template. The Template itself is defined by the criteria by describing the pattern of development and what the boundary of the of this template is based on certain factors.

The applicant also submitted the following supplemental response on July 26, 2022: "*Section 215.750. Template #1.a: (A&B). 92616/92626 Libby Lane AP #26S13W-04-DD-2600 is 3.38 acres in size. Zoned 'F' but 66% smaller than the 10 acre minimum for Forest Production. Property is located near the SE Corner of Section 26S13W-04-DD, bordered on the North and East by existing properties with dwellings Zoned UR2, (26S13W-04-D, #2800), and bordered by a parcel of open land on the West, (26S13W-04-DD-2700). Approximately 50% of the property is considered wetland, located at 18' BFE but not listed as a part of the Statewide wetlands inventory. The remaining 50% is located on a bench where the proposed home site is located at 34' BFE per FEMA data already provided. Information previously provided (County Sanitation Permits), verifies the historical existence of habitable dwellings dating back to 1973 though no such dwellings is currently on site. (B&C). Homes existing on within 160 acre square of 92616 Libby Lane: 63180 Noah Ave, 26S13W-04-DD-2300, Acct #507602, yr 1961. 92679 Libby Lane 26S13W-DD-1200, Acct #504503, yr. 1962 92617 Libby Lane 26S13W-DD-2000, Acct #507300, yr. 1952.*"

Based on soil type 63C, there will need to be 11 parcels with 3 dwellings that were created before January 1, 1993.

Staff did calculate the template test using the 160-acre rectangle. Staff finds at least eleven (11) parcels with the 160-acre template rectangle were created before January 1, 1993. Staff found that at least three (3) of these parcels had dwellings created before January 1, 1993. A map of the



**template rectangle and qualifying parcels may be found above. Therefore, Staff is able to determine the application request complies with the requirement of ORS 215.750(2).**

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

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

1. *Dwellings and structures shall be sited on the parcel so that:*
  - (a) *They have the least impact on nearby<sup>2</sup> or adjoining forest or agricultural lands;*
  - (b) *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*
  - (c) *The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and*
  - (d) *The risks associated with wildfire are minimized.*
2. *Siting criteria satisfying section (1) of this section may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.*
3. *The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:*
  - a) *Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;*
  - b) *A water use permit issued by the Water Resources Department for the use described in the application; or*
  - c) *Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.*
4. *As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.*
5. *Approval of a dwelling shall be subject to the following requirements:*
  - (a) *Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;*
  - (b) *The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;*
  - (c) *If the lot or parcel is more than 10 acres in western Oregon or more than 30 acres in eastern Oregon, the property owner shall submit a stocking survey report to the county assessor and the*

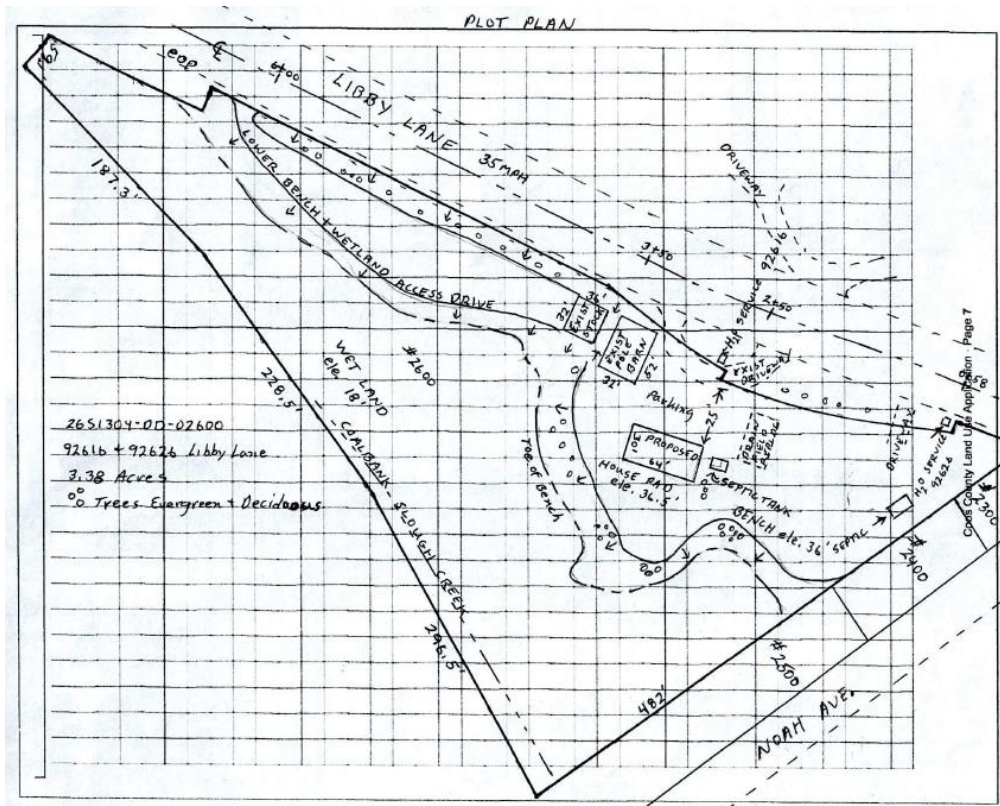
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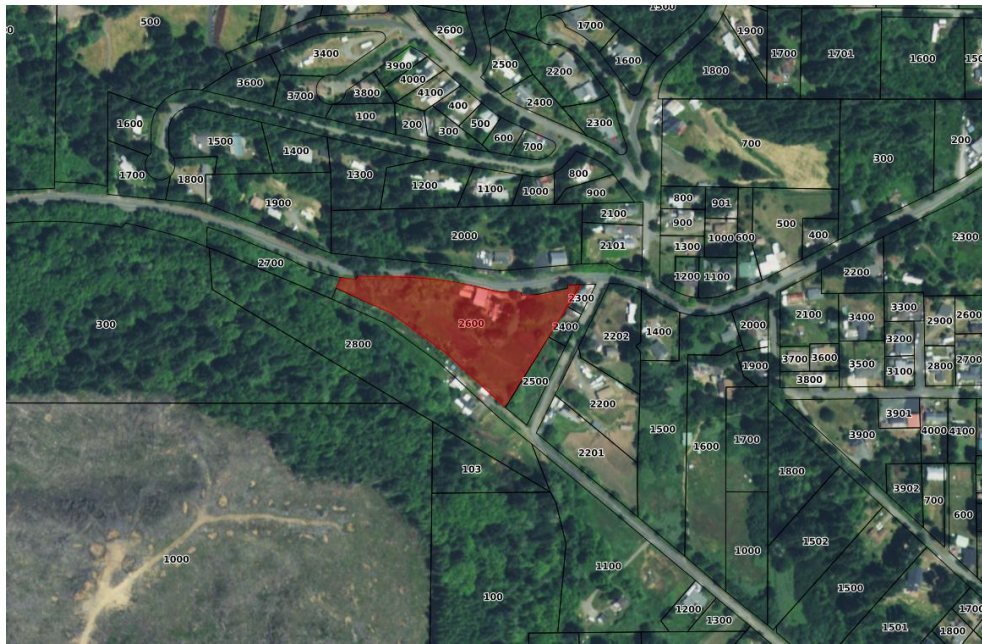
<sup>2</sup>*For the purpose of this section "Nearby" is defined as within the decision notification area as defined in Section 5.0.900(2) for farm zoned property.*

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

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

**FINDING: Section 4.6.130(1)(a) and Section 4.6.130(1)(b) require proof of adverse impacts to the subject property and nearby Farm and Forest operations. Based on the plot plan submitted with the application, the proposed homesite is located approximately 75 ft south off Libby Lane and 175 ft west of the eastern boundary.**





The above map shows the properties nearby. The subject property is located approximately one mile southwest of the City of Coos Bay. Staff must review the proposed use's impact on nearby farm and forest operations. The applicant stated the following information *"[p]arcel location is South of Libby Lane & West of Noah. Parcel orientation is South East on the North side of Boatman Gulch. There is no Agricultural land w/in 1/2 miles to the East. As of the 2016 NAIP Map the only harvestable forest tract was clear cut prior to 2016 photo, Parcel #1000 lies 700' south and is on the south side of Boatman gulch. There is no visible, noise or access impact to adjoining properties UR2 or Forest"*. The County has defined nearby lands as within a 750 feet distance. 750 feet is also the distance required for land use notices, so the notification map above identifies the lands that need to be analyzed.

Based on the aerial photos, there are forested lands on the adjacent parcel to the southwest. When looking for the effects of new forest dwellings on nearby pesticide practices, the parcel size is more important than whether the land is classified as non-industrial or industrial timberlands. Senate Bill 1602 increased the helicopter spray distance buffer from 60 feet to 300 feet of an inhabitable dwelling starting January 1, 2021. The *Anderson v. Coos County*, 51 Or LUBA 454 (2006) case established an important factor. According to the LUBA case, a reasonable assumption could conclude that herbicides would be applied to land less than 40 acres using ground application methods. Spraying herbicides using ground spraying applications is permitted up to the property line. Herbicide application by aerial spraying is preferred for lands over 40 acres.

This parcel is owned by major industrial timberland owner. The parcel is over 40 acres in size and appears to be utilizing this parcel for intensive timberland. Using GIS software, Staff estimates that the distance from the proposed dwelling to this parcel is approximately 400 feet. Therefore, Staff does not find potential that the proposed dwelling location will interfere with nearby forestry vegetation control practices.

According to the topographic map below, the adjacent parcel appears to have slopes above 35%, so cable methods would be preferred. Based on Oregon Department of Forestry (ODF) Land Use Notes, the preferred safety distance from cable harvesting to dwellings is a 500 feet buffer. The dwelling is located in the center of the subject property and located approximately 75 feet south of the northern property line. The proposed dwelling is approximately 400 feet from forestland parcel. However, Staff is speculating that the adjacent landowner placed all their required wildlife trees on the additional 100 foot buffer of the



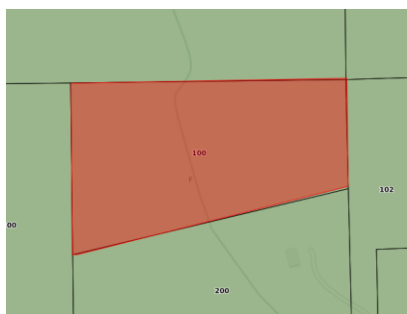
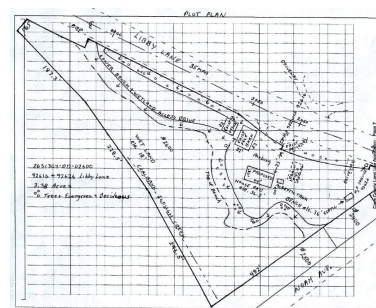
safety distance. Staff speculates the adjacent landowner did this for operational reasons. Therefore, Staff finds the proposed dwelling should not interfere with adjacent timber harvesting operations.



Based on reviewing aerial photos, Staff did identify a ranching operation on nearby lands towards the southeast. However, these parcels are located over 2000 feet southeast of the proposed homesite. Given this distance, Staff finds there will not be a significant impact of the dwelling on this nearby ranching operation.

Therefore, Staff finds the applicant's proposed location minimizes the effects of the proposed dwelling on farming practices on the adjacent property.

Section 4.6.130(1)(c) requires the minimum forest lands be removed for access roads, service corridors and structures. The subject property is triangle shaped, and the applicant indicated they will utilize the existing driveway as their access. The applicant did not indicate how exactly the proposed home site and driveway minimizes the amount of land removed from resource use.



The applicant response with "N/A". The applicant is placing the dwelling relatively close to the existing private driveway. Therefore, Staff finds at least that maybe the amount of land being removed is minimalize.

Section 4.6.130(1)(d) requires that risk associated with wildfires are minimized. Staff must analyze the topography, vegetation fuels, and length of the proposed driveway.

While it is not economically feasible to change the large-scale topography of the building site. There are a few reasonable choices to favor over other poorer choices. Avoiding ridgeline, chimneys, and funnels are practical recommendations. The applicant stated the “[t]he property has had minimal brush management for a number of years. We intend to use low impact methods of removal + control to prevent the Blackberry jungle from spreading. The existing structures and this house placement are already set as far away as possible from neighboring parcels”.

The applicant did not provide any proof of slopes on the subject property. Based on the NRCS soils data, there are steep slopes 8 to 15% slopes for the 63C soil type. Avoiding long driveways are also recommended. The applicant indicate there is an existing driveway to the proposed dwelling.

The third factor to address is the vegetive fuels on the subject property. The applicant’s will be required to install an 80 ft primary fuel free break, with a 100 ft secondary fuel break, around all structures on the subject property. The plot plan indicates a proposed structure only 75 feet south of the northern property line. The applicant is only responsible for primary and secondary fuel free breaks on land either owned or controlled by the landowner. As a result of installation of these fuel-free breaks and numerous other factors discussed above, staff finds that risks associated with wildfire effects will be minimized.

Section 4.6.130(3) requires the applicants to provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). The applicant stated that “Coos Bay North Bend Water Board” under this section. However, this requirement involves confirmation from Oregon Water Resources Department. The applicant will be required to submit a water supply requirement form signed off by Oregon Water Resources Department prior to requesting a zoning compliance letter.

Section 4.6.130(4) requires that if road access to the dwelling is by a road owned and maintained by a private party, ODF or BLM, a long-term access use permit or agreement be submitted. The subject property directly accesses Libby Lane. The applicant indicated they plan on access Libby Lane. Therefore, this criterion has been addressed.

Section 4.6.130(5) requires a stocking survey if property is larger than ten (10) acres. There is less than 10 acres on the subject property; therefore, a stocking survey is not required. Therefore, this criterion has been addressed.

All The criteria found in SECTION 4.6.130 have been addressed.

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

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

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

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

2. *Setbacks: All Development with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way line, whichever is greater.*

3. *Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 7.1.525.*
4. *Off-Street Parking and Loading: See Chapter VII.*
5. *Minimizing Impacts: In order to minimize the impact of dwellings in forest lands, all applicants requesting a single family dwelling shall acknowledge and file in the deed record of Coos County, a Forest Management Covenant. The Forest Management Covenant shall be filed prior to any final County approval for a single family dwelling.*
6. *Riparian Vegetation Protection. Riparian vegetation within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained except that:*
  - a. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
  - b. *Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
  - c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
  - d. *Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;*
  - e. *Riparian vegetation may be removed to site or properly maintain public utilities and road rights-of-way;*
  - f. *Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps; or*
  - g. *The 50 foot riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure's "footprint".*
  - h. *Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.*
  - i. *The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.*
7. *All new and replacement dwellings and permanent structures shall, at a minimum, meet the following standards.*
  - a. *The dwelling has a fire retardant roof.*
  - b. *The dwelling will not be sited on a slope of greater than 40 percent. Slope<sup>3</sup> will also determine additional firebreak in Section 8 Firebreak. Evidence is provided that the*

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<sup>3</sup> *Slope calculations must include the primary and additional fuel-free breaks. Staff will use the slopes from the soil data found in the Soil Survey of Coos County Oregon<sup>3</sup> published by United States Department of Agriculture, Soil Conservation Service, in cooperation with Oregon Agricultural Experiment Station. Staff will accept an on ground study for slope from an Registered Surveyor or other Registered Professional that is able to make calculations based on the profession licensing requirements.*



*domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.*

- c. The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district or contract with a private fire protection company.*
- d. For dwellings and structures outside of a fire protection district alternative forms of fire protections will apply to the develop including fire sprinkling system, on-site equipment and water storage.
 
  - i. Water storage shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water’s edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. The access to the water source shall be marked with signs for fire water sources.**
- e. If the dwelling has a chimney or chimneys, each chimney has a spark arrester.*
- f. The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner and complies with Section 8 Firebreak.*

**8. Firebreak:**

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

*Table 1 – Minimum Primary Safety Zone*

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

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

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

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

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

**Sections 4.6.140(4) require parking, loading, access and road standards be addressed. The applicant attached the following information that they forwarded onto the County Road Department.**

Mr. Jason Vinyard  
Coos Co. Road Dept.  
250 N. Baxter St.  
Coquille Or. 97423

RE: ACU – 22-004  
Application for 92616 Libby Lane Coos Bay  
David Rully  
12870 Piper Hill Drive  
Penn Valley Ca. 95946

Good day to you Jason,

In follow-up to our conversation regarding the driveway access to the above property, I have obtained a copy (enclosed County Recording 78-3-01070) of some pertinent information concerning the existing driveway.

Pursuant to the document the existing driveway was constructed by Coos County Road Dept in 1978 in accordance with the provisions that were agreed to as part of a property line adjustment for the construction and realignment of the County road (Libby Lane).

Since the County agreed to, instituted a Recording 78-3-01070 and constructed the driveway it can be, and will be argued that the driveway as it exists, is in compliance with and has already been accepted by the County. Had the agreement NOT been Recorded, adjusting the driveway might be a consideration. However, the County entered into a contract in 1978 and I will hold the County to the terms of that agreement.

As per the guard rail, it was constructed in 1978 as a condition of the agreement 78-3-01070 but in Section II paragraph A. it, though not specifically addressed, would appear that the Guard Rail is not the responsibility of the County which, due to the rotted timbers would indicate 40+ years of maintenance neglect by ignorance or design.

Sometime mid- summer I will have two 15' wide by 64' long manufactured home sections arriving on site. Since the guard rail at this moment is for show purposes and of little practical use I would propose to remove it temporarily to facilitate the ingress of said home sections. I intend to leave it in place until I have a firm date of delivery and if necessary will replace it when construction is completed. I would appreciate your thoughts on this matter.

Respectfully;

David Rully  Tuesday March 22, 2022  
dragonspooner@yahoo.com

Easement 78-3-01071 also includes the following statement:

II

A. The Owners agree that after the items covered under I above have been completed, the County has no obligation whatever to maintain the access road (driveway), fences or other things constructed pursuant to this agreement.

While the County as a public body might have been in an agreement of a County road in the 1970's. That is completely irrelevant to the driveway requirement. The applicant will be required to have a driveway that meets the requirements of County ordinance.

Driveway/Access/Parking Verification Permit application must be signed off prior to issuance of a Zoning Compliance Letter. This will be made a condition of approval.

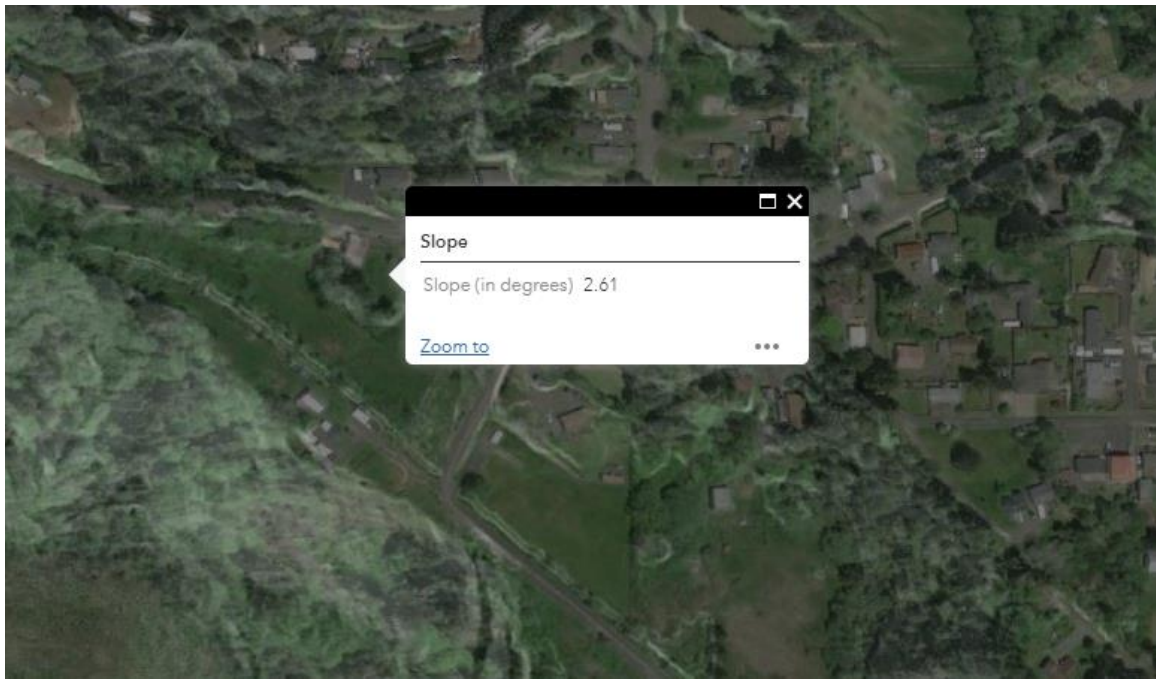
Section 4.6.140(5) requires that the property owners sign and record in the deed of records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing claim for relief or cause of action alleging injury from farming or forest practices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

Section 4.6.140(6) requires a setback from any wetland. There are mapped wetlands or water bodies requiring protection on, or adjacent to the subject property. Oregon DSL was notifying of the proposal. However, they did not respond at this time. Therefore, this criterion is not applicable.

Section 4.6.140(7)

(a) Requires the roofing material to be non-combustible or fire resistance. The applicant stated that "See attached Palm Harbor American Dream Standard Features". The attached Palm Harbor information appears to be a house plan from brochure, not a building plan. As a condition of approval, the property owner shall be required to submit evidence certifying the roofing materials meet this requirement. Therefore, this criterion may be addressed as a condition of approval.

(b) Requires that a dwelling not be located on a slope of greater than 40%. Based on the slope information from the Oregon LiDAR Viewer map, the subject property has 2.61-degree slope at the proposed dwelling site. 2.61-degree slope converts to 4.56 percent slope. Therefore, this criterion has been addressed.



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

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

**(e) States that if a dwelling has a chimney it shall have a spark arrester. The applicant indicated they plan on install at least one chimney. As a condition of approval, the property owner shall supply information certifying that all chimneys have a spark arrester by providing a copy of the building plans. Therefore, this criterion has been addressed.**

**(f) Determines the primary and secondary fire safety setbacks. The applicant states that *“location of Dwelling is 0% slope”*.**

**However, the applicant did not submit any proof of the slopes on the subject property. Staff relied on the NRCS soil type which classifies 63C soil type with 8 to 15% slopes.**

**The applicants will need to maintain 80 feet of primary fuel-free break to the standards identified above, in addition to the 100 feet secondary fuel break. The applicants are only responsible to maintain the fuel-free breaks on land they own or control. This criterion will be made a condition of approval.**

#### **Section 4.6.140(8)**

**(a) Determines the primary and secondary fire safety setbacks. The applicant states that *“location of Dwelling is 0% slope”*.**

**However, the applicant did not submit any proof of the slopes on the subject property. Staff relied on the NRCS soil type which classifies 63C soil type with 8 to 15% slopes.**



The applicants will need to maintain 80 feet of primary fuel-free break to the standards identified above, in addition to the 100 feet secondary fuel break. The applicants are only responsible to maintain the fuel-free breaks on land they own or control. This criterion will be made a condition of approval.

(b) Requires sufficient ¾ inch hose for the perimeter of the primary fire break. The applicants state that “[f]ire Hyd. Wi/in 500’ & E. Port Rd N/A Coos Bay North Bend 2 existing water services”. Staff could not determine how the applicant will meet the criteria. The property owner shall provide evidence of this prior to issuance of a Zoning Compliance Letter, this will be made a condition of approval. Therefore, this requirement has been addressed.

(c & d) Determines the primary and secondary fire safety setbacks. The applicant states that “*location of Dwelling is 0% slope*”.

However, the applicant did not submit any proof of the slopes on the subject property. Staff relied on the NRCS soil type which classifies 63C soil type with 8 to 15% slopes.

The applicants will need to maintain 80 feet of primary fuel-free break to the standards identified above, in addition to the 100 feet secondary fuel break. The applicant is only responsible to maintain the fuel-free breaks on land they own or control. This criterion will be made a condition of approval.

Section 4.6.140 (9) Requires the roofing material to be non-combustible or fire resistance. The applicant stated that “[s]ee attached Palm Harbor American Dream Standard Features”. The attached Palm Harbor information appear to be a house plan from brochure, not a building plan. As a condition of approval, the property owner shall be required to submit evidence certifying the roofing materials meet this requirement. Therefore, this criterion has been addressed.

Section 4.6.140 (10) requires adequate access for firefighting equipment. The subject property is accessed off of Libby Lane county road and the applicant did not submit a specific response to this criterion. Staff issued Findings on road access in Sections 4.6.140(4). At the time of road inspection, prior to receiving a zoning compliance letter, the Roadmaster or their designee will confirm that all road standards have been met to provide adequate access for firefighting/emergency equipment. Therefore, this criterion is not applicable.

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

#### ***D. SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS***

- *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.*
- *4.11.132 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*



- o Liquefaction potential
- Tsunamis
- Erosion
  - o Riverine streambank erosion
  - o 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.*

- 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.

**FINDING: The proposed use is not regulated by the Tsunami section of the CCZLDO. Thus, this criterion is not applicable**

**IV. DECISION**

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

**V. EXPIRATION:**

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

- A. *Extensions for Residential Development as provided for under ORS 215.213 (3) and (4), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3) shall be granted as follows:*
  - i. *First Extension - An extension of a permit for “residential development” as described in Subsection (1) above is valid for two (2) years.*
    - 1. *The applicant shall submit an application requesting an extension to the County Planning Department prior to expiration of the final decision. See Section 5.0.250 for time lines for final decisions. Untimely extension requests will not be processed.*

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

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

This conditional use is for a residential development within a resource zone and is valid for four years for the date of final approval Monday, September 28, 2026.

#### **VII. NOTICE REQUIREMENTS:**

A notice of decision will be provided to property owners within 750 feet of the subject properties and the following agencies, special districts, or parties: Libby Rural Fire Protection District

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.