COOS COUNTY PLANNING DEPARTMENT

PLANNING STAFF REPORT FOR ADMINISTRATIVE DECISION

PREPARED BY: Debby Darling, Planning Tech
OWNER /APPLICANT: Jack & Linda Fuhriman

PO Box 789
Bandon OR 97411

MAP NUMBER(S)/LEGAL DESCRIPTION
Township 29 Range 15 Section 12A Tax Lot 1000

PROPERTY LOCATION
The subject property is located south of Bandon, west of Highway 101 and is accessed via Hoopla Lane.

REQUEST
Site a first dwelling (template test) in the Forest Mixed Use (FMU) zone.

SPECIAL DISTRICTS
Bandon RFPD, Coquille Indian Tribe, Southern Coos Health District, Bandon Airport, Oregon Department of Aviation

APPLICABLE REVIEW CRITERIA
COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE (LDO)
COOS COUNTY COMPREHENSIVE PLAN (CCCP)

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I. BASIC FINDINGS

A. Lawfully Created Parcel: In August, 2006, a discrete parcel determination was submitted to the Planning Department for review. The submitted documentation showed that tax lot 1000
was a separate and discrete parcel in 1961, as recorded in Book 284, Page 427 of the Coos County Deed Records in the Coos County Clerk’s Office. In September 2006, a property line adjustment (PLA-06-69) was authorized and completed, creating the current configuration. Therefore, the subject property was created lawfully and is consistent with Section 3.3.800(2).

B. Zoning: Forest Mixed Use (FMU).

The purpose of the “F” zone is to designate forest lands and protect them for forest uses, except where findings establish that certain limited non-forest uses may be allowed. 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.

Mixed farm-Forest Areas “MU” areas include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these “mixed use” areas contain 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.

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

C. Site Description: The property contains approximately 5.38 acres and is part of an abandoned mill site. The property has been quite impacted and there are few trees left growing on the property. The northwest corner of the property has the remains of an old log pond and is considered a wetland. The aerial photograph shows no buildings on the property.

D. Surrounding Land Uses: The property abuts Forest zoned property to the south and west and Rural Residential (RR-2) to the east and south. A little farther to the west is some Exclusive Farm Use properties, some Recreational properties and the Pacific Ocean.

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

§ 4.6.315 Airport Height Limitations Notwithstanding other provisions of this Ordinance, no structure shall be created or altered to a height in excess of the applicable height limits herein established. Such applicable height limitations are hereby established:

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3. Horizontal Conical Zone – Maximum allowable height = 35 feet.

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FINDING: As a condition of approval, the maximum allowable height of the proposed dwelling will be 35 feet.
§4.8.525(B)  Forest Dwellings  TEMPLATE DWELLING

B. Template dwelling. A single family dwelling on a lot or parcel located within a forest zone may be allowed as a conditional use if:

1. There are no other dwellings on the tract on which the dwelling will be sited.
2. There are no deed restrictions established on the lots or parcels that make up the tract which do not allow a dwelling.
3. The lot or parcel on which the dwelling is to be located is predominately composed of soils that are capable of producing the following cubic feet per acre per year:

<table>
<thead>
<tr>
<th>Cf/Ac/Yr of Growth</th>
<th>0-49</th>
<th>50-85</th>
<th>+85</th>
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<tr>
<td>Required minimum number of lots or parcels or portions thereof existing on January 1, 1993, with a 160-acre square centered on the subject tract.</td>
<td>3</td>
<td>7</td>
<td>11</td>
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<tr>
<td>Required minimum number of dwellings existing on January 1, 1993 on the lots or parcels</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
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NOTE: Lots or parcels within urban growth boundaries shall not be used to satisfy the above requirements.

6. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan and its implementing measures.

FINDING: The soils on the property consist of the Blacklock fine sandy loam (3-7% slopes) and Bullards sandy loam (0-7% slopes) both with site indexes above 85, requiring 11 parcels with 3 dwellings within the 160 acre square template. There are 35 parcels with 12 dwellings within the template. The applicants own an adjacent parcel (tax lot 900). There are no dwellings on this property; therefore, there are no other dwellings on a tract owned by the applicants. This is confirmed by the Coos County Assessment records. There are no deed restrictions that would preclude a dwelling. Therefore, staff finds that the criteria have been satisfied.

§ 4.8.600 - Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone.

The following siting criteria shall apply to all dwellings, including replacement dwellings, and structures in the Forest and Forest Mixed Use 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. Dwellings and structures shall be sited on the parcel so that:
   1. They have the least impact on nearby or adjoining forest or agricultural lands; and
   2. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized; and
   3. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
   4. The risks associated with wildfires are minimized.
B. The applicant shall provide evidence 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. For the purpose of this Section, evidence of a domestic water supply means:

1. 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; or

2. A water use permit issued by the Water Resources Department for the use described in the application; or

3. 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. 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 United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

FINDING: The submitted site plan shows the proposed dwelling will be sited in the northern portion of the property. The septic system will be sited on the southern portion of the property because of the wetlands. The property is an abandoned mill site and has been impacted so that there are few trees growing on the property. The driveway access is already in place from the abandoned mill and traverses the southern portion of the property. There is a concrete slab in place, where the applicants plan to site an accessory building. The surrounding properties that are zoned forest are also part of the abandoned mill and have been so impacted that few trees are growing on these properties either, as confirmed by the aerial photograph. The proposed dwelling will be sited so as to have the least impact upon any forest practices. The applicants have stated they are clearing the land of noxious plants and replanting trees to help replenish the forest use on the property.

§4.8.700 - Fire Siting and Safety Standards

All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. The Planning Director may authorize alternative forms of fire protection when it is determined that these standards are impracticable.

A. Firebreak:

1. A firebreak shall be established and maintained around all structures, including decks, for a distance of at least 30 feet in all directions. 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.
2. Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.

3. A secondary fire break of at least 100 feet radius around the primary safety zone shall be established and maintained. Vegetation should be pruned (to at least 8 feet in height) and spaced so that fire will not spread between the crowns of trees. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. The primary fuel-free break and secondary break areas shall be provided and maintained on land surrounding the dwelling that is owned or controlled by the owner. A variance application will not be required if the parcel's configuration (shape and/or size) does not allow the primary or secondary fire break to be met. (OR-98-01-002PL)

B. 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.

C. If a water supply exceeding 4,000 gallons is suitable and available (within 100 feet of the driveway or road) for fire suppression, then road access and turning space shall be provided for fire protection pumping units to the source during fire season. This includes water supplies such as a swimming pool, tank or natural water supply (e.g. pond).

D. The dwelling shall not be sited on a slope of greater than 40 percent.

E. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

F. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.

G. 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.

H. access to new dwellings shall meet road and driveway standards in Chapter VII.

FINDING: The submitted site plan shows the dwelling will be able to meet fire safety setback standards to the maximum extent possible. The dwelling will be sited on the northern side of the property, in close proximity to other residential dwellings located off of Dahl Lane. There are old log pond/wetlands along the northern border of the property. The slopes on the property are virtually nonexistent and there is an existing driveway that serviced the abandoned mill site. Prior to issuance of a zoning compliance letter, a road/driveway confirmation from the Coos County Road Department will be required. The property is located within the Bandon Rural Fire Protection District. These criteria have been met.

§4.8.750 – Development Standards (B) & (I)

(B) Setbacks: All buildings or structures 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.

(I) 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.

FINDING: Pursuant to the submitted plot plan, the proposed dwelling will meet both the setback from the road and the riparian vegetation protection setback. These criteria have been met.

III. ANALYSIS
Evidence relied on for this conditional use approval includes aerial photographs, assessment records, Planning Department records, and the applicants’ submitted evidence. **Therefore, based on the evidence in the record the proposal conditional meets the criteria.** The conditions of the approval are outlined in section VI of this report.

Please note, all applications are subject to review of all applicable review criteria in the Coos County Comprehensive Plan (CCCP), the Coos County Zoning and Land Development Ordinance (LDO), and all land use regulations. Please be aware the burden of proof rests with the applicant.

### IV. NOTIFICATION

The Planning Department mailed individual written notice of the decision to the owners of record of all property located within 750 feet of the subject property. Notice of Decision with a copy of the staff report was forwarded to Applicant(s), Owner(s) and Dave Perry, DLCD. Notice of Decision was also provided to the following: Coos County Planning Commission and all of the special districts noted above. In addition, notice of the decision was posted at the Coos County Courthouse, Coquille Annex and North Bend Annex. All notices were mailed and posted on March 21, 2013.

### V. NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Coos County Hearings Body pursuant to Article 5.8 of the Coos County Zoning and Land Development Ordinance within 15 days from the date of written notice. This means that appeals must be received in the Planning Department by **April 5, 2013 at 5 p.m.** in order to be considered. This decision will not be final until the period for filing an appeal has expired. Detailed information about the appeal process, filing fees and additional information will be provided by the Planning Department upon request. The decision is based upon the submitted application, supporting evidence, facts, and findings to the criteria.

### VI. CONDITIONS & REQUIREMENTS OF APPROVAL

1. Pursuant to ORS 215.416(1), the fees charged by the Planning Department for permit applications represent the average cost of processing the application. If the actual cost of processing the application exceeds the average cost, then the applicant shall be responsible for paying the full amount. If such an amount is due, it must be paid before a zoning compliance letter can be issued.

2. The permit shall run with the land and may be transferred to a new landowner when the property is conveyed. However, the “seller” or “grantor” shall, by acting upon this permit, agree to notify the “buyer” or “grantee” of the terms and conditions of the permit. Pursuant to CCZLDO Section 5.0.700, this permit shall remain valid for the period set forth in ORS 215.417.

3. Prior to obtaining a zoning compliance letter (ZCL) for development, evidence shall be provided to the Planning Department that a “Forest Management Covenant” which recognizes the right of adjacent and nearby property owners to conduct forest operations consistent with the Forest Practices Act and Rules has been recorded with the Coos County Clerk.

4. Prior to obtaining a ZCL to site the dwelling, evidence shall be provided that the dwelling’s 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.

5. Prior to obtaining a ZCL, a Road/Driveway Confirmation form must be signed by the County Roadmaster that the Road/Driveway has been improved in accordance with Chapter VII of the LDO.

6. All dwellings are limited to 35 feet in height. A notice of proposed construction or alteration must be sent to Federal Aviation Agency. (form included)

7. Obtain a zoning compliance letter (ZCL) from the Planning Department in order to obtain State DEQ and Building Code permits.
8. The dwelling is required to meet all setbacks and siting standards as listed in LDO Sections 4.8.600 and 4.8.750(B)&(I). The dwelling must be placed at least 50 feet from the wetland to protect the riparian vegetation. The applicants must meet the secondary fire safety siting standards to the maximum extent possible as noted in the fire safety siting standards in LDO Section 4.7.700.

Enclosures to the applicants only:
- Waiver of Right to Object Forest and Farm Practices Management Covenant form
- Water Supply form
- FAA notice of proposed construction or alteration