STAFF REPORT FOR HEARINGS BODY REVIEW

APPLICANT: Timothy Baimbridge/Baimbridge Scrap Metal, LLC
OWNER: 63753 Ellen Road
Coos Bay OR 97420

REQUEST: Site a dwelling on less than an acre in a rural residential platted subdivision

STAFF CONTACT: Debby Darling, Planner II

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 25S Range 13W Section 24AA  Tax Lot 2900

PROPERTY LOCATION
The subject property is located east of the City of North Bend, on the east side of the Coos Bay, and is accessed off of East Bay Road.

APPLICABLE CRITERIA
Coos County Zoning and Land Development Ordinance (LDO) and Coos County Comprehensive Plan (CCCP)

LDO § 3.3.100(4)(B)(2)(b) Lot Standards, Exceptions to minimum lot standards, Subdivisions Approved Prior to this Ordinance and Not Located in a Resource Zone, for Plats approved before February, 1975 and on less than one acre.

LDO §4.2.400, Table 4.2c Rural Residential Zoning Districts including Rural Unincorporated Communities

LDO §4.4.400 General Standards for Rural Residential Zoning Districts

LDO Article 4.7, Table 4.7a Special Regulatory Considerations Prescribed by the Coos County Comprehensive Plan.

1. BASIC FINDINGS
A. Lawfully Created Parcel: The subject property was lawfully created as required by Section 3.3.800 (1), Lawfully Created Lots and Parcels. Pursuant to the 1982 Assessment records; this property was owned under deed reference 79-25442 by John H. & J. Burgess. In addition, the property is further described as Lots 29-32 of Block 24 of the Crawford Point Subdivision, created in 1907. Therefore, this was a lawfully created lot, pursuant to Section 3.3.800(1) of the LDO.

B. Zoning: The zoning is Rural Residential-2 (RR-2) and the purpose of the “RR-2” district is to provide for small acreage homesites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary. The “RR-2” district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.

C. Site Description: The property has 0.14 acres. The property has been cleared and was the previous site of a dwelling that has been removed for more than two years and therefore, does not qualify under the replacement
dwelling criteria.

D. **Background:** The property is zoned RR-2 and there is currently no development on the property. In 1977 through 1978, there were several zoning compliance letters obtained for septic evaluation and approval for a septic connection. At that time, there were two foundations, but no other homes on the property. On January 8, 1979, a compliance letter was issued to rebuild. On April 26, 1979, a compliance letter was issued to site a single mobile home. There is no indication if any of these compliance letters had been implements. In 1996, a compliance letter was issued for a shop to be sited. At that time, it did not appear there was a dwelling on the property. On August 21, 1997, a conditional use permit was approved to site a dwelling on less than an acre in a rural residential subdivision and on September 4, a zoning compliance letter was issued to site a manufactured dwelling subject to the conditions of approval of ACU-97-051. In 2009, an alleged violation compliant was submitted with evidence that there were abandoned trailers and RV’s, on the property. Photographic evidence showed there were 2 abandoned mobile homes and at least one RV. The property owners were notified and they requested some time to clean up the property. Current aerial photographs aren’t clear enough to determine if the site has been complete cleaned up; therefore, as a condition of approval the applicants must bring picture of the site prior to obtaining a zoning compliance letter. The current owners are requesting a permit to build a dwelling on less than an acre in a rural residential subdivision.

### II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
<thead>
<tr>
<th>LDO</th>
<th>§ 3.3.100(4)(B)(2)(b)</th>
<th>Lot Standards, Exceptions to minimum lot standards, Subdivisions Approved Prior to this Ordinance and Not Located in a Resource Zone, for Plats approved before February, 1975 and on less than one acre.</th>
</tr>
</thead>
<tbody>
<tr>
<td>LDO</td>
<td>§4.2.400, Table 4.2c</td>
<td>Rural Residential Zoning Districts including Rural Unincorporated Communities</td>
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</tbody>
</table>

**SECTION 3.3.100. Lot Standards.** Except as provided in (4) below no buildings or structures shall be located on a lot, parcel or tract unless the lot, parcel or tract conforms with the requirements of the district in which it is located.

4. **Exceptions to Minimum Lot Standards** [This only applies if the use is permitted outright by the subject zoning district (except if the use is a conditional use, the conditional use provisions shall govern); and if the lot or parcel is “landlocked” without access, access must be created prior to approval or issuance of any land development zoning clearance letter or permit. Further, this subsection is subject to resource protection limitations as provided elsewhere in the Comprehensive Plan.***

B. **Subdivisions, Approved Prior to this Ordinance and Not Located in a Resource Zone:** A residential dwelling may be permitted outright or may be subject to an administrative conditional use (provided the dwelling is permitted by the parent district) per the following table:

<table>
<thead>
<tr>
<th>PERMITTED OUTRIGHT*</th>
<th>SUBJECT TO ADMINISTRATIVE CONDITIONAL USE #</th>
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<tr>
<td>Rural ** ***</td>
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<td>2. For plats approved before February, 1975</td>
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<td>b. lots (or combination of contiguous lots in the same ownership) less than one acre</td>
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+ The proposed dwelling must be found compatible with surrounding uses or may be made compatible through the imposition of conditions.
FINDING: The property is made up of a combination of, lots 29 through 32 in block 24 of the Crawford Point subdivision which was platted and recorded in 1907. This is a subdivision that was created prior to the development of the Coos County Zoning and Land Development Ordinance (LDO). The property is approximately 0.14 of an acre and is considered an exception to the minimum lot standards because §4.2.400, Table 4.2c permits a dwelling in the RR-2 zoning district. However, due to the size of the property a conditional use is required and the applicant has to prove that the property is compatible with surrounding uses. The applicant has provided justification for this use found in Attachment A, the applicant’s application. The applicant explains that this was used previously as a residential site and there is a septic system that still exists.

The property is surrounding by residential uses on all sides and lot sizes in this area range from 0.07 of an acre up to 1.19 acres. Therefore, staff finds that the proposed residential use is compatible with the surrounding uses of this area.

However, because there have been past violation issues caused by previous owners this authorization will be conditioned that the current property owner provide evidence those violations have been cleared or will be cleared.

<table>
<thead>
<tr>
<th>LDO</th>
<th>§4.4.400</th>
<th>General Standards for Rural Residential Zoning Districts</th>
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<tbody>
<tr>
<td></td>
<td>SECTION 4.4.400. General Standards for Rural Residential Zoning Districts.</td>
<td>The general standards set forth in this section shall apply to the zoning districts and uses addressed in Table 4.2-c.</td>
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<tr>
<td>1</td>
<td>RR-5, RR-2, RC, CREMP RURAL RESIDENTIAL, AND CREMP RC ZONING DISTRICTS.</td>
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<td>A. Minimum Lot Size: - 2 acres in the RR-2 district</td>
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<td>Except:</td>
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<td>i. Pre-existing legal lots of record shall be entitled to a use, subject to the findings and special standards on Table 4.2-c.</td>
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<td>ii. Smaller parcels may be permitted in an approved residential planned unit development, provided the allowable density of the parent parcel is not exceeded; or</td>
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<td>iii. As provided by Section 3.3.100(E); or</td>
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<td>iv. As provided by Section 3.3.100 (B).</td>
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<td>B. Dwelling Unit Density: Dwellings shall be permitted on lots or parcels complying with the minimum lot size requirements of (1) A above, when the findings and special standards of Table 4.2-c have been satisfied; however, the exceptions to minimum lot size requirements of Section 3.3.100 shall apply.</td>
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<td>C. Lot Coverage: No requirement.</td>
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<td>D. Setbacks:</td>
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<td>a. 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 the right-of-way line, whichever is greater.</td>
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<td>b. Firebreak: New or replacement dwellings on lots, parcels or tracts abutting the “Forest” zone shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions. Vegetation within this firebreak may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. [ORD 95-05-006PL 11/29/95]</td>
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<td>E. Structure Height: No requirement.</td>
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<td>F. Fences, Hedges, and Walls: No requirement, but vision clearance provisions of SECTION 3.3.400 apply.</td>
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<td>G. Offstreet Parking and Loading: See Chapter X.</td>
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H. Minimum Road Frontage/Lot Width: within UGB’s – 50 feet and outside UGB’s – 20 feet

I. Compatibility with Forest and Agricultural Management Practices and Production: Any applicant for a rural residential dwelling building or septic permit adjacent to a forest or agriculture zone, shall sign a statement on the Zoning Clearance Letter acknowledging that: “the normal intensive management practices occurring on adjacent resource land will not conflict with the rural residential landowner’s enjoyment of his or her property”.

J. Riparian Vegetation Protection:

i. 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 by the Coos Soil and Water Conservation District, a port district, or U.S. Soil Conservation Service posing an erosion or safety hazard may be removed to minimize said hazard; or

b. Riparian vegetation may be removed to provide direct access for a water-dependent use; or

c. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or

d. Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan; or

e. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways, provided that the vegetation to be removed is the minimum necessary to accomplish the purpose; or

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.

ii. The 50’ 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 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”. (ORD 92-05-009PL)

K. Access to new dwellings shall meet road and driveway standards in Chapter VII.

FINDING: This property is being reviewed as an exception to minimum lots size because it is located within a rural residential platted subdivision that was created prior to the existence of the LDO and subject to the provisions LDO §3.3.100(4)(B)(2)(b) which requires a conditional use review to determine if the proposed use is compatible with surrounding uses. Staff has determined that this is a compatible use and a dwelling may be sited on the property after the conditions of approval have been met. The applicant will be required to modify his current plot plan to include a north arrow and all distances. The current plot plan does not list the distances from the proposed structures to the road and/or property lines as well as the septic and water source. The applicant will need to amend this to ensure that all setbacks will be met pursuant to the criteria list in this section. The applicant will need to obtain a driveway confirmation from and contact the road department to set up an inspection of the driveway to ensure that it meets standards of Chapter VII. These criteria have been met or will be met prior to the issuance of a zoning compliance letter.
### TABLE 4.7a
SPECIAL REGULATORY CONSIDERATIONS PRESCRIBED BY THE COOS COUNTY COMPREHENSIVE PLAN

<table>
<thead>
<tr>
<th>PHENOMENON</th>
<th>SPECIAL REGULATORY CONSIDERATIONS</th>
<th>Appendix I</th>
</tr>
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<tbody>
<tr>
<td>3. Historical/Archeological Sites &amp; Structures</td>
<td>3 b. Develop proposals in identified archaeological areas must have a “sign-off” by qualified person(s).</td>
<td>1-20 3</td>
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<tr>
<td>6. Significant Wildlife Habitat I ORD (85-08-011L)</td>
<td>6 d. Restrict conflicting uses on &quot;5c&quot; bird sites except as permitted with ESEE balancing. 300 ft. setback from Bald Eagle nests.</td>
<td>1-14 1A</td>
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</tbody>
</table>

**FINDING:** Notice of the decision will be sent to the local tribe for sign off. The tribe has been notified of previous proposed development and did not have a concern but as required a new request will be sent for comments. The tribe has 30 days to respond and generally return comments in a timely manner.

A notice of decision will be sent to Oregon Department of Fish and Wildlife as well concerning the 5c bird site protection. According to the LDO Appendix I, page 1-14, Table for bird habitat areas Township 25S, Range 13W, Section 24 have some protected Great Blue Heron Colonies and Band-Tailed Pigeon Mineral Springs. To ensure protections of these resources Coos County relies on ODFW and is required to send notification to them allowing a ten day comment period. This notice will be sent in the form a decision notice and will be accompanied by the applicants plot plan.

### III. NOTIFICATION AND APPEAL RIGHTS

The Planning Department mailed individual written notice of the decision to the owners of record of all property located within 250 feet of the subject property. Notice of Decision with a copy of the staff report was forwarded to Applicant(s)/Owner(s), Dave Perry, DLCD, Confederated Tribes and ODFW. Notice of Decision will be provided to Coos County Assessor, Coos County Roadmaster, North Bay RFPD, Coos Bay-North Bend Water Board, Coos Bay School District #9, Oregon International Port of Coos Bay, Coos County Board of Commissioners and the Coos County Planning Commission. 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 **April 2, 2013**.

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 5 p.m. on April 17, 2013, 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.

### IV. SUMMARY

The request is to site a dwelling on less than an acre which is an exception to the development standards. Staff has found after evaluating all of the evidence that the proposal can meet the criteria with the imposition of conditions. After the applicant completes the conditions then a zoning compliance letter can be obtained.
that will allow him to apply for building and septic permits.

VI. CONDITIONS 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. Obtain a driveway confirmation form and complete.
4. Provide a corrected plot plan.
5. Provide evidence that the violations no longer exist on the property.
6. Obtain a zoning compliance letter (ZCL) from the Planning Department in order to obtain State DEQ and Building Code permits.

If you have any questions please contact staff.

COOS COUNTY PLANNING DEPARTMENT

Jill Rolfe, Planning Director

C: Howard Crombie, Confederated Tribes
   Chris Clair, ODFW
   File

EC: Dave Perry, DLCD

Attachments: Applicants Submittal
   Decision Notice
   Vicinity Map