STAFF REPORT FOR ADMINISTRATIVE REVIEW

APPLICANT: Doug Reiner
33910 View Crest Drive
Albany OR 97322

OWNER: Pamela A. Reiner Revocable Trust, and Nancy S. Lane
Douglas and Pamela Reiner, Trustees
33910 View Crest Drive
Albany OR 97322

REQUEST: Site a first dwelling (Template) in Forest Zone

STAFF CONTACT: Debby Darling, Planner II

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 28S Range 13W Section 10 Tax Lot 2900

PROPERTY LOCATION

The subject property is located off of Fat Elk Road, south of the city of Coquille.

APPLICABLE CRITERIA

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

<table>
<thead>
<tr>
<th>LDO</th>
<th>§4.8.525(B)</th>
<th>Template Dwelling</th>
</tr>
</thead>
<tbody>
<tr>
<td>LDO</td>
<td>§4.8.600</td>
<td>Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone</td>
</tr>
<tr>
<td>LDO</td>
<td>§4.8.700</td>
<td>Fire Siting and Safety Standards</td>
</tr>
<tr>
<td>LDO</td>
<td>§4.8.750</td>
<td>Development Standards</td>
</tr>
<tr>
<td>LDO</td>
<td>Chapter 7, Table 7.2</td>
<td>Roads and Streets, Minimum Standards for new Roads, Streets and Driveways.</td>
</tr>
<tr>
<td>LDO</td>
<td>Chapter 10, §10.1.400</td>
<td>Off Street Parking, Number of spaces per type of use</td>
</tr>
</tbody>
</table>

1. BASIC FINDINGS

A. Lawfully Created Parcel: The subject property was lawfully created as required by LDO §3.3.800(1), Lawfully Created Lots and Parcels. The subject property was conveyed to Donald T. and Ann H. Smith as recorded in Book 211, Page 104 of the Coos County Deed Records, Coos County Clerk’s office.
B. **Zoning:** The zoning is Forest/Mixed Use

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 missed 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 tent 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 2.43 acres and is mainly a well-treed knob above the Coquille River Valley. The northwestern corner of the property as it slopes down to the Valley is considered a wet meadow wetland. The property is accessed off of Fat Elk Road

D. **Background:** The property is zoned F/MU and there is currently no development on the property.

- June 20, 1995, in a meeting with her staff, the Planning Director determined that the left side of the property was considered to be out of the floodplain for the purpose of siting a dwelling.
- April 17, 2003, an Amendment/Rezone was submitted to rezone the property from Exclusive Farm Use (EFU) to Forest/Mixed Use (F/MU).
- August 23, 2006, the Amendment/Rezone is adopted and the zoning is changed.
- June 14, 2013, the current application for a first dwelling in the Forest zone was submitted and deemed complete on June 18, 2013.

### II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
<thead>
<tr>
<th>LDO</th>
<th>§4.8.525 (B)</th>
<th>Forest Dwellings Template Dwelling</th>
</tr>
</thead>
</table>

**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.**

   **FINDING:** There are no other dwellings on the tract.

2. **There are no deed restrictions established on the lots or parcels that make up the tract which do not allow a dwelling.**
FINDING: There are no deed restrictions established on the tract which do not allow a dwelling.

3. The lot or parcel on which the dwelling is to be located is predominantly 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>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required minimum number of lots or parcels or portions thereof existing on January 1, 1993, within a 160-acre square centered on the subject tract.</strong></td>
<td>3</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td><strong>Required minimum number of dwellings existing on January 1, 1993, on the lots or parcels</strong></td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

NOTE: Lots or parcels within urban growth boundaries shall not be used to satisfy the above requirements.

FINDING: The soils in the vicinity of the proposed home site consist of Wintley silt loam. In this type of soil the following trees thrive: bigleaf maple, Douglas fir, grand fir, Oregon myrtle, Port Orford cedar, red alder, thnoak, western hemlock and western redcedar. The growth index for Douglas fir is 200 cubic feet per acre per year. As noted above this requires a minimum of 11 parcels with three dwellings which were in existence on January 1, 1993. The historical assessment data shows there are 14 dwellings and 27 properties existing on January 1, 1993 within the template; thereby qualifying the property for a dwelling. This criterion has been met.

4. If the tract on which the dwelling is to be sited is 60 acres or larger and abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to maximum extent possible, aligned with the road or stream. If a 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. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:
   a. Be located within a 160-acre rectangle that is one mile long and one-fourth 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
   b. 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.

5. If a tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

FINDING: The subject property is not 60 acres or larger; therefore, option 5 was applied to this review. Option 5 is allowed because the property abuts Fat Elk Road which existed prior to January 1, 1993. The measurement was made by creating a 160 acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and aligned to the maximum extent possible with the road. The template map has been attached to the
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 proposed dwelling is not prohibited by the Coos County Comprehensive Plan (CCCP). Once the conditions have been met, the property will comply with the CCCP and its implementing measures.

<table>
<thead>
<tr>
<th>LDO</th>
<th>§4.8.600</th>
<th>Mandatory Siting Standards Required for Dwellings and Structures in the Forest Zone</th>
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</thead>
</table>

The following siting criteria shall apply to all dwellings, including replacement dwellings, and structures in the Forest and Forest Mixed Use zones. Replacement dwellings may be sited in close proximity to the existing developed homesite. 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.

These criteria 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, and shall be considered together with the requirements in Section 4.8.700 to identify the building site.

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.

FINDING: The plot plan shows that the proposed dwelling will be located about 90 feet from the east property boundary, 110 feet from the western boundary, 250 feet from the southern boundary and approximately 200 feet from the northern boundary. The applicants have tried to site the dwelling as far as possible from the eastern and western boundary. The property consists of 2.43 acres and is mostly forested. Fat Elk Road abuts the property on the south and it is surrounded by properties zoned EFU. The subject property is a knob sitting above the valley. Siting the dwelling toward the middle of the property ensures that there will be minimal impacts to farm or forest operations. The property is mostly bordered by pastureland with some treed area on the eastern border. The applicants will have to clear some of the area for a dwelling and road. The property is surrounded by EFU lands and this dwelling is situated close to other dwellings and will not have impacts on adjacent properties. Due to the fact that the majority of this area is pastureland the risks of wildfires is very minimal. The applicants have met these criteria.

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 purposes 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;
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.

FINDING: As a condition of approval a verification from the Water Resources Department that the applicants have water rights or as noted in #3 above that a water use permit is not required.

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 subject property abuts a Fat Elk Road which is a County road. As a condition of approval and prior to issuance of a zoning compliance letter to site the dwelling, a road access permit and driveway confirmation will be required from the Coos County Road Department.

D. Approval of a dwelling shall be subject to the following additional requirements:
   1. Approval of a dwelling requires the owner 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.
   2. The Planning Department shall notify the County Assessor of the above condition at the time the dwelling is approved.
   3. The property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report of where the survey report indicates that minimum stocking requirements have not been met.
   4. Upon notification by the Assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, it will notify the owner and 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 pursuant to ORS 321.372.

FINDING: The applicant states that the property has been in forest use and is currently forested with 60 to 80 year old trees. It appears this property is receiving a tax deferral for forest; therefore, the Assessor’s office will be notified of the application approval.

<table>
<thead>
<tr>
<th>LDO</th>
<th>§4.8.700</th>
<th>Fire Siting and Safety Standards</th>
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<tbody>
<tr>
<td>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.</td>
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<tr>
<td>The dwelling shall be located 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. If the applicant is outside the rural fire protection district, the applicant shall provide evidence that he has contacted the Department of</td>
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Forestry of the proposed development.

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).

FINDING: The property consists of 2.43 acres and is only 244 feet wide. This size will not allow the property to meet the entire secondary fire safety setback to the east and west. The primary 30-foot setback can and will be met. The submitted plot plan shows the proposed dwelling centralized on the property to allow for the maximum setbacks possible to the east and west. The surrounding properties are agricultural properties, mainly grazing and grass lands. There is a creek and wet meadow wetlands along the northwestern boundary of the property. Staff finds these criteria have been met.

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).

FINDING: The dwelling shall use non-combustible or fire resistant roofing materials and must obtain Oregon State Building Codes Division approval for any buildings. There are wetlands on the northwestern side of the property, down slope from the proposed dwelling site. The applicant should provide enough space for fire suppression equipment to access his development. These will be conditions of approval.

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

FINDING: The property, in the area of the proposed development, consists of Wintley Silt soils, found on slopes of 0-30%. Therefore, the dwelling will not be sited on a slope of greater than 40%. This will be a condition of approval. This criterion has been met.

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

FINDING: When the proposed dwelling is built, it must have spark arresters if there are to be chimneys. It is the
jurisdiction of Oregon State Building Codes Division to assure this. It will be a condition of approval.

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.

FINDING: The subject property lies within the Coquille Rural Fire Protection 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 fire fighting equipment.

FINDING: The driveway will be approved by the Coos County Road Department. It will be a condition of approval that it is adequately constructed to provide access for fire suppression equipment.

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

FINDING: Before issuance of a zoning compliance letter to site the proposed dwelling, the driveway shall meet standards in Chapter VII. A driveway confirmation from the Coos County Road Department will be required as a condition of approval.

<table>
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<tr>
<th>LDO</th>
<th>§4.8.750</th>
<th>Development Standards</th>
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</table>

All development and structures approved pursuant to Article 4.8 shall be sited in accordance with this Section.

A. Minimum Lot Size: The minimum parcels size shall be at least 80 acres. Land divisions involving a house that existed prior to June 1, 1995 see Section 4.8.800 (C). For land divisions where all resulting parcels are at least 80 acres, a conditional use is not required. However, the standards in Article 6.1 and 6.5 must be met. [OR96-06-007PL 9/4/96]

FINDING: The subject property is less than 80 acres; however, this parcel pre-existed the adoption of the CCCP and the LDO and therefore is a lawful, nonconforming parcel. The applicant is not proposing a land division; therefore, this criteria does not apply.

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.

FINDING: The submitted plot plan shows the proposed dwelling will be set back well beyond the required 35 feet from any road right-of-way and therefore, this criterion has been met.

C. Structure Height: No requirement.

D. Lot Coverage: No requirement.

E. Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 3.3.400 and Fire Siting and Safety Standards in Section 4.8.700.

F. Off-Street Parking and Loading: See Chapter X.
FINDING: The vision triangle in LDO § 3.3.400 and off street parking will be assessed by the County Roadmaster when he signs the driveway confirmation.

G. **Minimum Road Frontage/Lot Width:** 20 feet.

FINDING: The submitted plot plan shows the subject property meets or exceeds the required 20 feet of road frontage.

H. **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.

FINDING: As a condition of approval, the applicants will be required to sign a Forest Management Covenant and record it at the County Clerk’s office prior to issuance of a zoning compliance letter to site the proposed dwelling.

I. **Riparian Vegetation Protection.**

1. Riparian vegetation within 50 feet of an estuarine 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 posting an erosion or safety hazard may be removed to minimize such 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 rights-of-way; 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.
   g. 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”.

FINDING: The submitted plot plan shows the dwelling will be set back well away from the wet meadow wetlands on the northwestern corner of the subject property. As a condition of approval the riparian criteria shall be met and maintained.

LDO Chapter 7, Table 7.2. Minimum Standards for New Roads, Streets, and Driveways
DRIVEWAYS

Typical Cross-Section Figure | Average Daily Traffic | Subgrade Width | All-Weather Travel Surface | Right-Of-Way Width | Compacted Rock Depth | Maximum Grade | Centerline Maximum Degree of Curvature | Vertical Unobstructed Clearance
---|---|---|---|---|---|---|---|---
-- | -- | -- | 12’ | -- | -- | 12% | -- | 13.5’

FINDING: The County Roadmaster will need to review the criteria and approve the driveway by signing a driveway confirmation. This is a condition of approval.

<table>
<thead>
<tr>
<th>LDO</th>
<th>Chapter 10 §10.1.400</th>
<th>Required number of parking spaces for type of use</th>
</tr>
</thead>
<tbody>
<tr>
<td>USE</td>
<td>STANDARD</td>
<td></td>
</tr>
<tr>
<td>6. Residential</td>
<td>2 spaces per dwelling unit.</td>
<td></td>
</tr>
</tbody>
</table>

FINDING: The County Roadmaster will need to approve the parking spaces when he signs the driveway confirmation. This is a condition of approval.

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. Notice of Decision will be provided to Coos County Assessor, Coos County Roadmaster, Coquille RFPD, 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 August 27, 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 September 11, 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 first dwelling in a Forest zone.

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10 "Driveway", pursuant to Section 2.1.200, means "a private vehicular travel surface accessing a single residence."
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. The proposed dwelling must be sited as shown on the proposed plot plan.

4. 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.

5. Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.

6. 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.

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

8. Applicant must provide adequate access for fire suppression equipment.

9. The applicant must comply with all requirements in Chapters 7 and 10, as noted above and obtain an access permit and a driveway confirmation form from the Coos County Road Department.

10. All riparian vegetation setbacks and criteria must be met and maintained.

11. 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

Dobby Darling, Planner II

C: File

EC: Dave Perry, DLCD

Attachments: Applicants’ Submittal
Template Map
Decision Notice
Vicinity Map