STAFF REPORT FOR ADMINISTRATIVE REVIEW

APPLICANT/: Manoocher Olyaee
OWNER PO Box 687
Coos Bay OR 97420

REQUEST: The applicant has requested a “Grandfather Determination”, to determine if the second dwelling on the subject property is a legal, nonconforming use.

STAFF CONTACT: Debby Darling, Planner II

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSSESSOR’S MAPS: Township 24S Range 13W Section 02DC Tax Lot 402

PROPERTY LOCATION
The subject property is located off of Nabb Lane, north of the City of North Bend.

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

<table>
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<tr>
<th>LDO</th>
<th>Article 3.4, Section 3.4.400</th>
<th>Grandfather Provisions; Process for Determining a Grandfathered Use</th>
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1. BASIC FINDINGS

A. Lawfully Created Parcel: The subject property was lawfully created as required by LDO §3.3.800(2), Lawfully Created Lots and Parcels. The subject property was created in 2000 as Lot 4 of the Nabb Subdivision.

B. Zoning: The zoning is Rural Residential-2 (RR-2). 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 a transition of densities between urban development and exclusive agricultural and forestry uses.

C. Site Description: The subject property is zoned RR-2. Properties to the north, south and east are also zoned RR-2. Properties to the west are zoned Rural Center (RC). The property abuts, but is not included in the unincorporated community of Hauser. The property contains 2.38 acres and, in the aerial photograph, appears well treed, with some clearing around the home sites. The property is accessed off of Nabb Lane.

D. Background: The property is zoned RR-2 and there are a dwelling and a cabin on the property.

♦ Prior 2000, the subject property was part of tax lot 400. The 1951 Coos County Tax Assessment records show that there was a cabin and a residential dwelling on the property.
♦ January 11, 2000, a subdivision request (SUB-00-01) was submitted and approved for a 4 lot subdivision (Nabb Subdivision), with tentative approval given on June 8, 2000 by the Planning Department; and final approval given by the Coos County Board of Commissioners on December 19, 2000. The subject...
property is Lot 4 in the subdivision. At the time of the subdivision, the maps show both the residential dwelling and the cabin. These buildings were original to tax lot 400 and remained on tax lot 402 following the recordation of the subdivision plats.

♦ June 19, 2000, a property line adjustment was submitted between the subject property and Hauser Community Church (24-13-02CD-400), creating the current configuration.
♦ The current application was submitted on February 21, 2014. At the time it was submitted, the applicant was asked to supply more evidence of “grandfathering”. This additional evidence was submitted on March 7, 2014. The application was deemed complete on March 17, 2014.

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

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Section 4.4.400  Process for Determining a Grandfathered Use - When a grandfathered use is not known to exist and must be established, an application may be submitted. The Planning Director shall determine the validity of a Grandfathered use, based on documentation submitted by the applicant. **

For the purposes of verification, an applicant must prove the existence, continuity, nature and extent of the use for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable Ordinance was adopted and has continued uninterrupted until the date of application. (OR-98-01-002PL 5/4/98)

FINDING: The applicant has submitted an electrical use statement that shows electrical service to the property from 2000 to 2008. There is also an affidavit from Edward Shellabarger, who lived on the property during that time, stating there were two residential dwellings on the property. In addition, an affidavit from Leesa M. Long was submitted stating she had lived in the area since 2003, and the residential dwellings were both on this property during this time. Therefore, the existence of the second dwelling is confirmed by at least two sources for the past 10 years.

The intent of this section was for the property owner to show that the dwelling was originally sited prior to July 1, 1975, when the Interim Zoning Ordinance was first adopted, as well as showing continuity of use during the following years. To that end, the applicant also submitted an affidavit from Bill Hastings, who states he has lived in the area since 1982 and that the 2 residences have been on the subject property since he has lived there. Staff has confirmed the existence of the two dwellings by obtaining historical assessment records from 1951 showing that the property was assessed for a dwelling and a cabin.

Staff has determined the subject property has had the two residences since at least 1951 and both homes may continue to be occupied. The applicant has submitted photographs showing that, while the cabin is not currently occupied, there is still intact roof and walls, a bathroom with plumbing, a kitchen with plumbing, a lighting source, and a heating source. Therefore, even though this cabin is not currently being inhabited, it is a replaceable dwelling under Table 3.4 of the LDO.

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, Hauser RFPD, Coos Bay- North Bend Water Board, the 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 23, 2014**.

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 May 8, 2014**, 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 was to determine if the cabin located on the subject property is a legal nonconforming use, that being a second dwelling on the subject property. Enough evidence has been submitted to show that the use was established in 1951, as shown by historical Coos County Assessment records and that the cabin was being used as a residence as late as 2008. Even though the cabin remains empty at this point, evidence has been submitted to show that it is a replaceable dwelling. Therefore, the Planning Director has determined that this is a “grandfathered” use and may continue.

### 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 dwelling may be replaced or repaired; however the applicants/owners must obtain a zoning compliance letter (ZCL) from the Planning Department prior to any replacement or repair. A plot plan will be required at the time of ZCL issuance.

4. In the case of replacement, all current County requirements must be met, including, but not limited to setbacks, and driveway and parking standards.

If you have any questions please contact staff.

**COOS COUNTY PLANNING DEPARTMENT**

*Debby Darling*, Planner II