STAFF REPORT

Date of Report: Wednesday, December 03, 2014  
Appeal Deadline Thursday, December 18, 2014

Type of Application: ADMINISTRATIVE CONDITIONAL USE APPLICATION

Decision: APPROVED WITH CONDITIONS

File Number: ACU-14-33  
Reviewed by: Alex Murphy, Planning Technician

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<th>II. Property Information</th>
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<tr>
<td>Account No.</td>
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<td>Map Numbers</td>
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</table>
| Property Owners | HOEGER, GEORGEANN M.  
270 N MALENA DR  
ORANGE, CA 92869-3215 |
| Situs Address | None |
| Acreage | 0.94 Acres |
| Zoning | EXCLUSIVE FARM USE (EFU) |
| Development Considerations: | FLOOD PLAIN (FP) |

Property Location: The property is located south of the City of Coos Bay. The subject property is identified as Tax Lot 3900 in Township 26, Range 13, Section 03AC, on the Coos County assessment map. The property is accessed via Southwest Boulevard.

Proposal: The applicant is proposing to site a Lot-of-Record dwelling in the Exclusive Farm Use (EFU) zone.

Lawfully Created Parcel/Lot: Pursuant to the Coos County Zoning and Land Development Ordinance (CCZLDO) Section 6.1.125(8), all lots or parcels created prior to January 1, 1986 are legal lots or parcels, unless the lot of parcels lines have changed.

Pursuant to the 2014 Coos County Assessment records, the subject property is located within the 1st Addition to Marshfield, completed in 1911.

Therefore, the subject property was legally created pursuant to CCZLDO Section 6.1.125(8).

Prior Application Restrictions: This is a reauthorization of a Lot-of-Record dwelling that was completed in 2010. There were conditions of approval related to that application that will be carried forward to this approval. There are no other restrictions that apply.

Special Districts/Agencies: Libby RFPD  
Coos Forest Protective Association  
Coos Bay-North Bend Water Board

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### III. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

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<td>CCZLDO § 4.9.500 Lot of Record Dwelling</td>
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<td>CCZLDO § 4.9.600 Siting Standards for Dwellings and Structures in the EFU Zone</td>
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<td>CCZLDO § 4.9.700 Development Standards (B) &amp; (J)</td>
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Note: criteria are shown below with findings in **bold**.

### DEFINITION

The purpose of the agriculture zone is to implement the requirements of ORS 215 and OAR 660, Division 33, which implement the requirements for agricultural land as defined by Statewide Planning Goal 3.

| Coz County Zoning and Land Development Ordinance (CCZLDO)                           | § 4.6.200 Floodplain                                                                            |

SECTION 4.6.200 FLOODPLAIN: It is the purpose of this section of the ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designated:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
6. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
7. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**Finding:** The subject parcel lies within the 100 year floodplain boundary and requires a floodplain certificate and application to be submitted. As a condition of approval, either a floodplain application and certificate or a revision of the plot plan to site the dwelling outside the floodplain will be required. A map of the floodplain has been included. This will be a condition of approval.
SECTION 4.9.500. “Lot-of-Record” Dwelling:

A. “Lot-of-record” dwelling on land not identified as high-value farmland. A single family dwelling may be allowed as an administrative conditional use if:

   a. The lot or parcel on which the dwelling will be sited was, prior to January 1, 1985:
      i. lawfully created; and
      ii. acquired by the present owner; or
      iii. inherited from a person who acquired the lot or parcel prior to January 1, 1985; and

      (For the purposes of this section “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.)

Finding: On January 7, 2010, a conditional use permit application and subsequent documents were submitted to determine if the parcel complied with this criterion. The following was submitted and the Planning Department determined the family had owned the property continuously prior to January 1, 1985:

1. August 2, 1962: the property was purchased by Gary Herbert and Norma Lee Hoeger under deed reference #295/58.

2. October 31, 1995: the property was granted to Georgeann Marie Hoeger under deed reference #95-10-1149. Ms. Hoeger is the daughter of Gary Herbert and Norma Lee Hoeger.

Therefore, pursuant to the information provided, it appears this property has remained in the ownership of the Hoeger family since 1962, which predates the required date of January 1, 1985. Therefore, this criterion has been met.

b. The tract¹ on which the dwelling will be sited does not include a dwelling; and

Finding: Pursuant to the 2014 Coos County Assessor’s office and Planning Department records, no dwelling is currently sited on this tract. Therefore, this criterion has been met.

c. A lot, parcel or tract cannot have been reconfigured (any change in the boundary of the lot, parcel or tract) after November 4, 1993, the effect of which is to qualify for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence.

Finding: Pursuant to the 2014 Coos County Assessment records, this property is part of a tract of five (5) parcels under the same ownership. No adjustments have been performed on this lot or tract to qualify a dwelling. Therefore, this criterion has been met.

¹ Tract means one or more contiguous lots or parcels in the same ownership
d. When the lot or parcel on which the dwelling will be sited lies within an area designated as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and

**Finding:** The subject parcel does not lie within a Sensitive Big Game area. Therefore, this criterion has been met.

e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan and its implementing measures. More specifically, if the subject property is affected by an overlay zone (e.g., flood hazard environs areas, etc.), a “lot-of-record” dwelling may be sited only after satisfying the applicable provisions of the overlay zone; and

**Finding:** The subject parcel lies within the 100 year floodplain boundary and requires a floodplain certificate and application to be submitted. As a condition of approval, either a floodplain application and certificate or a revision of the plot plan to site the dwelling outside the floodplain will be required. A map of the floodplain has been included. This is the only provision that is required to be addressed and it can be as a condition of approval. Therefore it will comply with the comprehensive plan prior to obtaining a zoning compliance letter.

f. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when zoning approval for the dwelling is granted. The applicant shall provide evidence that the covenants, conditions and restrictions form at Section 4.9.925 has been recorded with the deed records of the county; and

**Finding:** As a condition of approval, the applicant must submit proof that the tract has been consolidated in a single parcel.

g. The lot or parcel on which the dwelling will be sited is not high-value farmland; and

**Finding:** The applicant has submitted a soil report identifying the soils on the property to be 34 (Langlois Silty Clay Loam) and 54D (Templeton Silt Loam), neither of which are classified as high-value farmland. Therefore, this criterion has been met.

h. The Assessor shall be notified of the intention to allow a dwelling.

**Finding:** The Planning Department shall notify the Assessor of the intention to allow a dwelling by providing a notice of decision and staff report. Therefore, this criterion has been met.

In CREMP EFU, CREMP Policies 14, 18, 19, 22, 23, and 27 may also be applicable.

**Finding:** The subject parcel is not located with the CREMP zone. Therefore, this criterion has been met.

<table>
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<tr>
<th>CCZLDO</th>
<th>§ 4.9.600</th>
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SECTION 4.9.600 Siting Standards for Dwellings and Structures in the EFU Zone: The following siting criteria shall apply to all dwellings, including replacement dwellings, and structures in the Exclusive Farm Use zone. Replacement dwellings may be sited in close proximity to the existing developed homsite. 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 agricultural 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 agricultural uses, and shall be considered together with the requirements in Section 4.9.700 to identify the building site.

A. Dwellings and structures shall be sited on the parcel so that:

   a. They have the least impact on nearby or adjoining forest or agricultural lands; and
   b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized; and
   c. The amount of agricultural lands used to site access roads, service corridors, the dwelling and structures is minimized; and
   d. the risks associated with wildfires are minimized.

Finding: The property is accessed from Southwest Boulevard via a proposed driveway. The proposed dwelling site is located in such a way as to minimize impacts to any adjacent farm operations and the existing uses of the tract. By maintaining the required setbacks, the risks associated with the proposed dwelling are minimized. The proposed dwelling must be sited as close as possible to the submitted plot plan to ensure it will have the least impact on nearby resource land. Therefore, this criterion has been met.

<table>
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SECTION 4.9.700 Development Standards: All dwellings and structures approved pursuant to Article 4.9 shall be sited in accordance with this Section.

B. Setbacks:

1. All building or structures with the exception of fences shall be setback 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.

2. 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.

Finding: The proposed dwelling is located in such a way that all setbacks identified above will be met. Therefore, this criterion has been met.

J. Riparian Vegetation Protection:

3. 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:

4. 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
5. Riparian vegetation may be removed to provide direct access for a water-dependent use; or

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

7. 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

8. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-way; or

9. 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.

10. 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)

Finding: The proposed dwelling will not be sited within the identified riparian vegetation area. Therefore, this criterion has been met.

III. AGENCY COMMENTS

There have been no agency comments received as of the date of this report.

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), Dave Perry, DLCD, and Coos County Assessor’s office. Notice of Decision was also provided to the following: Coos County Planning Commission, Coos County Board of Commissioners, and the special districts and agencies as 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 December 3, 2014.

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 5 p.m. on Thursday, December 18, 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.
VI. CONCLUSION AND CONDITIONS

The applicant has met the criteria for a Lot of Record dwelling, with the following conditions:

1. A floodplain application and certificate OR a revised plot plan showing the proposed dwelling outside the floodplain must be submitted.

2. Proof that the tract has been consolidated into a single lot must be submitted.

3. A driveway confirmation form, signed by the Coos County Roadmaster, must be submitted indicating that the driveway has been improved in accordance with Chapter VII of the CCZLDO.

4. A Zoning Compliance Letter (ZCL) shall be obtained from the Planning Department in order to continue with any required development permits from the Department of Environmental Quality (DEQ) or State Building Codes Agency once these conditions have been satisfied.

5. 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.

Attachments:  
Floodplain Map  
Prior application evidence