



STAFF REPORT

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MATTER DETAILS – AGENDA ITEM IV. A

FILE NUMBERS: AM-20-003/RZ-20-003/ACU-20-010/ACU-20-011

APPLICANT: Joshua Lillie
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CONSULTANTS: Troy Rambo
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SUMMARY PROPOSAL: Rezone from Exclusive Farm Use (EFU) to Forest / Mixed Use (F/MU)

STAFF CONTACT: Amy Dibble, Planner II
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PUBLIC HEARING DATE: June 4, 2020 at 6:00 P.M.

HEARINGS BODY: Coos County Planning Commission
THIS MEETING MAY BE ATTENDED THROUGH THE GOTOMEETING PLAT FORM.
AM-20-003/RZ-20-003 - Lillie
Thu, Jun 4, 2020 6:00 PM - 8:00 PM (PDT)

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Submission of Written Evidence

- a. Petitions: Any party may submit a petition into the record as evidence. The petition shall be considered as written testimony of the party who submitted the petition. A petition shall not be considered to be written testimony of any individual signer. To have standing, a person must participate orally at the hearing or submit other individual written comments. Anonymous petitions or petitions that do not otherwise identify the party submitting the petition shall not be accepted as evidence.
- b. Required Number of Copies: Submission of written materials for consideration shall be provided in the form one original hard copy and one exact copy or one original hard copy and one electronic copy. The County may, at its sole discretion, reject any materials that do not contain the requisite number of copies. It may be requested that the County make the requisite number of copies subject to the submitter paying the applicable copy charges.
- c. E-mail testimony may be submitted; however, it is the responsibility of the person submitting the testimony to verify it has been received by Planning Staff by the applicable Deadline.
- d. All written testimony must contain the name of the person(s) submitting it and current mailing address for mailing of notice.

- e. The applicant bears the burden of proof that all of the applicable criteria have been met; however, in the case of an appeal, the appellant bears the burden of proving the basis for the appeal, such as procedural error or that applicable criteria have not in fact been met. [Amended OR 08-09-009PL 5/13/09]

Testimony shall be submitted by the deadline provided at the hearing or the close of the record.

**STAFF REPORT
FINDINGS OF FACT AND RECOMMENDATIONS**

I. APPLICABLE CRITERIA:

The proposal is for an Amendment to the Coos County Comprehensive Plan Map and the Coos County Official Zoning Map by Rezoning the subject property from its current zoning designation of Urban Residential - 2 to Industrial subject to Coos County Zoning and Land Development (CCZLDO) Article 5.1 Plan Amendments and Rezones; Coos County Comprehensive Plan (CCCP) Volume I, Part I - Policy 5.4 Plan Implementation Strategies; Volume I, Part II, 3.2(5) Forest Lands, Implementation Strategies; Oregon's Statewide Planning Goals & Guidelines - Goal 3 - Agricultural Lands; and Goal 4 - Forest Lands.

Key definitions:

ZONING DISTRICT: A zoning designation in this Ordinance text and delineated on the zoning maps, in which requirements for the use of land or buildings and development standards are prescribed.

HIGH-VALUE FARMLAND: "High-value farmland" means land in a tract composed predominantly of soils that are:

- A. Irrigated and classified prime, unique, Class I or Class II; or
- B. Not irrigated and classified prime, unique, Class I or Class II.

A and B, above, include the following soils: 2C, 5A, 5B, 33, 17B, 25 and 36C.

In addition, high-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.

Also, high-value farmland, used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in A or B above and the following soils: Meda (37C), Nehalem (40) and Coquille (12).

FOREST LAND: Those lands designated in the Coos County Comprehensive Plan (Volume I- "Balance of County") for inclusion in a Forest Lands zone. These areas include: (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses, (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation, (3) lands where extreme conditions of climate, soil and topography require the

maintenance of vegetative cover irrespective of use, and (4) other forested lands which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.

II. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION:

- A. PROPOSAL:** According to the application the property owner is seeking approval to rezone the subject property from Exclusive Farm Use (EFU) to Forest with a Mixed Use Overlay (FMU). This will change the plan designation for Agriculture to Forest and amend the Plan Maps from Exclusive Farm Use to Forest with a Mixed Use Overlay.
- B. BACKGROUND/PROPERTY HISTORY:** The property owner is proposing to rezone the subject properties which are unimproved properties zoned Exclusive Farm Use (EFU). The property owner would like to site a *Single Family Dwelling* on each tax lot. With the current zoning the property cannot be utilized in this manner. Therefore, the only option was to pursue a zone change.

Tax Lot 100:

On October 13, 1976 a Verification Letter (Zoning Compliance Letter) was issued provided authorization to site a mobile home and connect the mobile home to the existing septic. The mobile home was removed or did not meet replacement criteria requiring the current zoning requirements to apply. Unfortunately, the property does not appear that it would qualify for a method under the current EFU zoning rules. The property has not been used for agricultural purposes.

- C. LAND TOPOGRAPHY AND SOIL TYPE:** Although the subject properties are zoned Exclusive Farm Use (EFU) they are both tree covered. The slopes on Tax Lot 100 are less than 10 percent. According to the Natural Resource Conservation Service (NRCS) soil map, the majority (90%) of this tax lot contains soil type 2C (Bandon Blacklock complex) and the remaining (10%) being 8E (Bullards sandy loam).

The slopes on Tax Lot 101 are less than 15 percent. According to the NRCS this entirety of this tax lot consists of soil type 2C (Bandon Blacklock complex).

Based on the soil survey, the Bandon Blacklock complex is a mix of 60 percent Bandon sandy loam and 40 percent Blacklock soil. Based on the 100 year site curve, the mean index for Douglas fir on the Bandon sandy loam, is 137 and has a growth rate of 140 cubic feet per acre per year which is a class III soil. The mean index for Shorepine on the Blacklock soil is 90 and has growth rate of 79 cubic feet per acre per year, which is a class IV soil. The mean index for Douglas fir on Bullards sandy loam soil is 132 and has a growth rate of 133 cubic feet per acre per year, which is a class III soil.

Because of the growth rates, these will support both agriculture and forest production which would comply with the Forest Mixed Use classification.

Special Development Considerations and overlays: MUNICIPAL WATERSHED (WTR) NATIONAL WETLAND INVENTORY SITE (NWI)

B. LOCATION: The subject property is located southeast of the City of Bandon accessed off Morrison Road. Tax Lot 100 has a situs address of 53498 Morrison Road and no situs address has been assigned to Tax Lot 101.

C. LAWFULLY CREATED UNIT OF LAND The unit of land, identified as Tax Lot 100, was created pursuant to 6.1.125.1.e by deed or land sales contract, if there were no applicable planning, zoning, or subdivision or partition ordinances or regulations that prohibited the creation. Prior to 1986 properties were allowed to be created by deed or sale agreement and this property was created prior to 1986, see Deed Document 73-93031. This property’s current configuration was adjusted on November 14, 1975 by Deed Document 75-11-121313.

The unit of land, identified as Tax Lot 101, was created pursuant to 6.1.125.1.d by a public dedicated road that was held in fee simple creating intervening ownership prior to January 1, 1986, see Deed Document 75-11-12313. This deed separated Tax Lot 101 from Tax Lot 100.

D.

E. ZONING: - This property is zoned Exclusive Farm Use (EFU).

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

FOREST (F)

The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.

The purpose of the Forest zone is to conserve and protect forest land for forest uses. 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.

FOREST MIXED USE (FMU)

The purpose of the Forest Mixed Farm-Forest Areas ("MU" areas) is to 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.

If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.

If a use is only allowed in the mixed use zone it will be explained in the text. Otherwise the uses listed are allowed in both the Forest and Forest Mixed Use zones.

EXCLUSIVE FARM USE (EFU)

These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.

The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.

According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the "Agricultural Lands Inventory" was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:

- 1. Committed rural residential areas and urban growth areas.*
- 2. Proposed rural residential areas as per the Exception to Goals #3 and #4.*
- 3. Proposed industrial/commercial sites.*
- 4. Existing recreation areas (e.g., golf courses) [Recreation designation]*
- 5. Isolated parcels of Class I-IV soils in upland areas, which are under, forest cover. (Forestlands designation).*
- 6. Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].*

The secondary criterion for establishing the "Agricultural Lands Inventory" was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.

F. SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS:

SECTION 4.11.125 Special Development Considerations: The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed In the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site

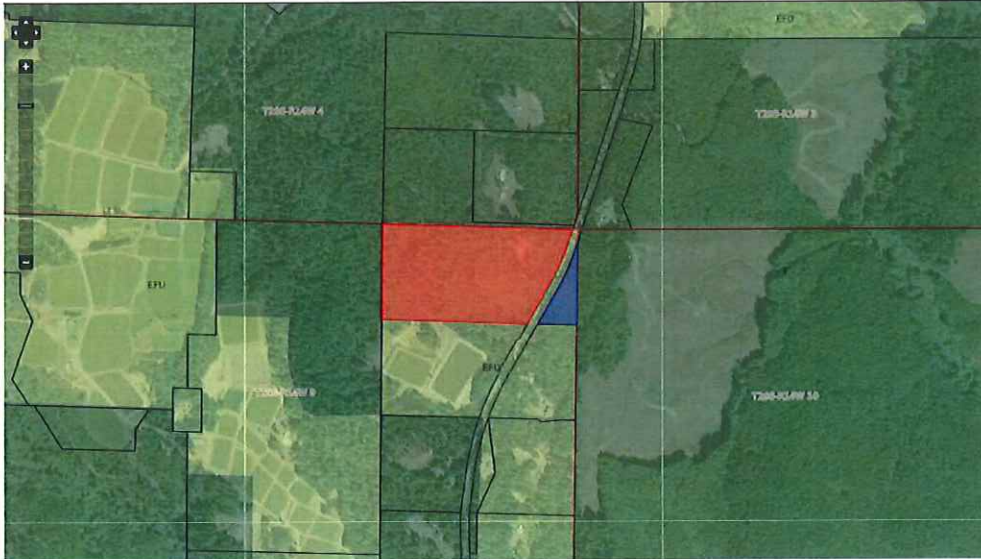
SECTION 4.11.200 Purpose: Overlay zones may be super-imposed over the primary zoning district and will either add further requirements or replace certain requirements of the underlying zoning district. The requirements of an overlay zone are fully described in the text of the overlay zone designations. An overlay zone is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary Management Plans when the Estuary Policies directly reference this section.

This property does include inventoried Special Development Consideration and/or Overlay for wetlands. A wetland notice has been submitted to the Oregon Department of State Lands and comments were received referencing Tax Lot 101, these comments can be found attached to this report. There are no other considerations or overlays that apply to the development.

- G. SITE DESCRIPTION AND SURROUNDING USES:** The subject properties are zoned Exclusive Farm Use (EFU). Tax Lot 100 contains approximately 17.46 acres, contains an

accessory structure, and has been recently logged. Tax lot 101 contains approximately 1.65 acres and is undeveloped.

The adjacent properties to the north are zoned Forest (F) and are treed with one being undeveloped and the other consists of residential development with cleared areas around the development. The adjacent property to the south is zoned EFU and contains cranberry bogs. To the west the property is split zoned between EFU and F and contains tree coverage, cranberry bogs, agricultural structures, and residential development. To the east is zoned F is a larger piece of property and is utilized for timber production.



H. NOTICE REQUIREMENT: This application is a Plan Map Amendment/Rezone governed by CCZLDO Section 5.0.900.3. The notice of Post Acknowledge Plan Amendment notice was provided 35 days prior to the Planning Commission meeting to meet the requirements of ORS 197.610. The hearing notice was published in accordance with ORS 197.732. Notice was mailed to property owners in compliance with CCZLDO Section 5.0.900.1 Notice of Public Hearings.

I. REVIEW PERIOD: This application was submitted on April 7, 2020. Pursuant to ORS 215.427 this application is not subject timelines as it is application for a zone change filed concurrently and considered jointly with a plan amendment.

J. COMMENTS:

a. PUBLIC AGENCY : A wetland notification was submitted to the Oregon Department of State Lands (DSL); and a response was received stating, based on the submitted plot plan, it does not appear that the home project in the southeast corner of current tax lot 101 will impact wetlands or other waters of the state.

A 35-day notice was provided to Department of Land Conservation and Development but no comments were received.

b. PUBLIC COMMENTS: A notice of hearing was mailed to properties owners within 500 feet on May 8, 2020 and published in the *World News Paper* on May 25, 2020. No comments have been received as of the date of this report.

- c. **LOCAL TRIBE COMMENTS:** These properties did not require any request for comments to be sent to the tribes.

IV. FINDINGS AND CONCLUSIONS:

AMENDMENT / REZONE CRITERIA

Coos County Zoning and Land Development Ordinance (Ordinance)

- **ARTICLE 5.1 REZONES**

- **SECTION 5.1.200 REZONES:**

Rezoning constitutes a change in the permissible use of a specific piece of property after it has been previously zoned. Rezoning is therefore distinguished from original zoning and amendments to the text of the Ordinance in that it entails the application of a pre-existing zone classification to a specific piece of property, whereas both original zoning and amendments to the text of the Ordinance are general in scope and apply more broadly.

- **SECTION 5.1.210 RECOMMENDATION OF REZONE EXPANSION BY THE PLANNING DIRECTOR:**

The Planning Director may recommend an expansion of the geographic limits set forth in the application if, in the Planning Director's judgment, such an expansion would result in better conformity with the criteria set forth in this Ordinance for the rezoning of property. The Planning Director shall submit a recommendation for expansion to the Hearings Body prior to the scheduled public hearing for a determination whether the application should be so extended.

- **SECTION 5.1.215 ZONING FOR APPROPRIATE NON-FARM USE:**

Consistent with ORS 215.215(2) and 215.243, Coos County may zone for the appropriate non-farm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the non-farm use prior to the establishment of the exclusive farm use zone.

- **SECTION 5.1.220 PROCESS FOR REZONES:**

- 1. Valid application must be filed with the Planning Department at least 35 days prior to a public hearing on the matter.*
- 2. The Planning Director shall cause an investigation and report to be made to determine compatibility with this Ordinance and any other findings required.*
- 3. The Hearings Body shall hold a public hearing pursuant to hearing procedures at Section 5.7.300.*
- 4. The Hearings Body shall make a decision on the application pursuant to Section 5.1.225.*
- 5. The Board of Commissioners shall review and take appropriate action on any rezone recommendation by the Hearings Body pursuant to Section 5.1.235.*
- 6. A decision by the Hearings Body that a proposed rezone is not justified may be appealed pursuant to Article 5.8.*

- **SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE:**

The Hearings Body shall, after a public hearing on any rezone application, either:

- 1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:*

- a. *The rezoning will conform with the Comprehensive Plan or Section 5.1.215; and*
 - b. *The rezoning will not seriously interfere with permitted uses on other nearby parcels; and*
 - c. *The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.*
2. *Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:*
- a. *The property may not be utilized for all the uses ordinarily permitted in a particular zone;*
 - b. *The development of the site must conform to certain specified standards; or*
 - c. *Any combination of the above.*

A qualified rezone shall be dependent on findings of fact including but not limited to the following:

- i. *Such limitations as are deemed necessary to protect the best interests of the surrounding property or neighborhood;*
 - ii. *Such limitations as are deemed necessary to assure compatibility with the surrounding property or neighborhood;*
 - iii. *Such limitations as are deemed necessary to secure an appropriate development in harmony with the objectives of the Comprehensive Plan; or*
 - iv. *Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects of the zone change.*
3. *Deny the rezone if the findings of 1 or 2 above cannot be made. Denial of a rezone by the Hearings Body is a final decision not requiring review by the Board of Commissioners unless appealed.*

• ***SECTION 5.1.230 STATUS OF HEARINGS BODY RECOMMENDATION OF APPROVAL:***

The recommendation of the Hearings Body made pursuant to 5.1.225(1) or (2) shall not in itself amend the zoning maps.

RECOMMENDED FINDING: Staff has followed the procedures and has reviewed the proposal. This is the investigation report referred to as the Staff Report. Staff recommends that the Planning Commission finds that the proposed rezone will conform to the comprehensive plan as the soils support Forest with a Mixed Use overlay. The rezone will have no effect on the conformity of the parcel. The majority of the soils support forest production. However, prime forestland in Coos County is usually reserved for large track lands and all others contain the Mixed Use overlay to allow for both farm and forest. It would be consistent to apply the Mixed Use Overlay. The applicant has submitted findings to address these criteria.

COOS COUNTY COMPREHENSIVE PLAN

Volume I Part I

• ***Policy 5.4 PLAN IMPLEMENTATION STRATEGIES (8) states:***

Coos County shall consider, and approve where appropriately justified, changes from forestry to agriculture zoning districts, and vice-versa, upon findings which establish:

- a. *That the proposed rezone would be at least as effective at conserving the resource as the existing zone,*
- b. *That the proposed rezone would not create a non-conforming use,*
- c. *That the applicant for the proposed rezone has certified that he/she understands that the rezone, if granted, could have significant tax consequences. Furthermore, Coos County shall, upon a finding to approve the rezone under consideration, amend the "Agricultural Land" or "Forest Land": Comprehensive Plan Map designation so as to*

correspond to the new zone, as approved.

Implementation of this policy shall include conducting a "rezone public hearing".

This strategy recognizes:

- a. That agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest use and activities;*
- b. That this simplified plan revision process for agriculture and forest plan designations is necessary to help support the existing commercial agricultural and forest enterprises because it enables individual management decisions to be made in a timely manner as a response to changing market conditions.*

RECOMMENDED FINDING: The rezone will still preserve the resource but will allow for both farm and forest uses which are consistent with the soils. The subject properties are forest land by use and definition and are currently vacant. The properties to the north and south have dwellings that were established or approved 1997 and 1987 respectively. The applicant has acknowledged that they are aware the approval of a rezone could have significant tax consequences.

The application request complies with these criteria.

Volume I Part II

- **3.2 Forest Lands, Implementation Strategies - 5**

There are basically two different types of forest areas in Coos County. These are (i) prime forest areas, and (ii) mixed farm-forest areas. Certain non-farm uses not allowed in the former may be allowed as conditional uses in the latter. The two types of forest land are described in greater detail, as follows:

(i) "Prime Forest Area". These areas or parcels are typically large contiguous blocks of undeveloped land which are managed exclusively for timber production with some ancillary forest uses. Intensive forest management is practiced within this classification. A parcel or area subject to this classification will be preserved primarily for forest uses.

(ii) "Mixed Farm-Forest Area". These 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 ownerships 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.

The mixed use areas are identified at a scale of 1"=2 miles on the "Mixed Agricultural-Forest Use Areas" Comprehensive Plan inventory map. A change in the boundary of the "mixed use" inventory map will require a comprehensive plan amendment. Criteria used to designate these areas are as follows:

- 1) Mixed use areas are those areas with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agricultural uses.
- 2) Mixed use areas are those areas generally managed to maintain enough upland acreage to sustain livestock during the winter months due to flooding of lowland areas.
- 3) Mixed use areas are those areas predominantly co-managed for both farm and forest uses.

RECOMMENDED FINDING: According to the Natural Resource Conservation Service (NRCS) survey map, the subject properties are a mix of Bandon Blacklock complex and Bullards sandy loam. For forestry purposes, on the basis of a 100 year site curve, the mean site index for Douglas fir is 135 and has a growth rate of 136 cubic feet per acre per year which is a class III soil.

The subject property is currently zoned Exclusive Farm Use (EFU) and has been acknowledged by the State as being in compliance with Statewide Planning Goal 3. The surrounding properties are a mix of Exclusive Farm Use and Forest zoned properties that are being utilized for timber production, agriculture and residential.

- Oregon Administrative Rule 660-006-0057 Rezoning Land to an Agriculture/Forest Zone

Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or re-planned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.

RECOMMENDED FINDING: According to the Natural Resource Conservation Service (NRCS) survey map, the soil type for the subject properties is Bandon Blacklock complex and Bullards sandy loam. For forestry purposes, on the basis of a 100 year site curve, the mean site index for Douglas fir is 135 and has a growth rate of 136 cubic feet per acre per year which is a class III soil.

The subject properties are currently zoned Exclusive Farm Use (EFU) and have been acknowledged by the State as being in compliance with Statewide Planning Goal 3. The subject properties and the surrounding properties have been managed for forest uses and cranberry farms with homes sited on the EFU portions of the properties.

Pursuant to Statewide Planning Goal 4 (Forest Land), where a plan amendment is proposed, forest lands shall include lands that are suitable for commercial forest uses. Based on the site index and volume growth rate for the soil types "Bandon Blacklock complex" and "Bullards sandy loam", the subject properties are forestland by both use and definition.

The soil type is also suitable for agricultural uses pursuant to Statewide Planning Goal 3 (Agricultural Lands) Statewide Planning Goal 4 (Forest), therefore it appears that a more appropriate zone for the subject property would be Forest (F) with a Mixed Use (MU) overlay. The proposed zone change will better support the predominant forest use and the subordinate agricultural traits of the subject property.

ADMINISTRATIVE CONDITIONAL USE - FOREST TEMPLATE CRITERIA

SECTION 4.6.120 Review Standards

- **(9) DWELLINGS AUTHORIZED BY ORS 215.705 TO 215.755; AND (E) OTHER DWELLINGS UNDER PRESCRIBED CONDITIONS.**
- (II) TEMPLATE DWELLING - 215.750 Alternative forestland dwellings; criteria.
- (1) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
 - (a) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels continue to exist on the other lots or parcels;
 - (b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
 - (c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
 - (2) (Reserved)
 - (3) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsection (1) or (2) of this section.
 - (4) A proposed dwelling under this section is not allowed:
 - (a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan and acknowledged land use regulations or other provisions of law.
 - (b) Unless it complies with the requirements of ORS 215.730.
 - (c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met.
 - (d) If the tract on which the dwelling will be sited includes a dwelling.
 - (5) Except as described in subsection (6) of this section, if the tract under subsection (1) or (2) of this section 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.
 - (6)(a) If a tract 60 acres or larger described under subsection (1) or (2) of this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (5) of this section. 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.
 - (b) 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.
 - (7) Notwithstanding subsection (4)(a) of this section, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in subsection (1), (2), (5) or (6) of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle. [1993 c.792 §4(6),(7),(8); 1999 c.59 §58; 2005 c.289 §1]

RECOMMENDED FINDING: According to the applicant's findings the subject properties are capable of producing more than 85 cubic feet per acre per year; therefore requiring seven (7) lots or parcels and three (3) dwellings that existed prior to January 1, 1993. Staff applied the 160 acre rectangle template with the subject property located in the center. The template results yielded that twenty (20) parcels with three (3) dwellings located on those parcels to satisfied the requirements for Tax Lot 100 and Twenty-two (22) parcels with four (4) dwellings located on those parcels to satisfy the requirements for Tax Lot 101.

The proposed template dwellings will only be permitted if the rezone is approved. There are no other dwellings located on this property and there are no deed restrictions that would prohibit a dwelling to be sited. By allowing a dwelling to be sited on this property the property would conform with the development that exists in the area. Due to the fact that both properties are recorded in the same ownership, prior to being able to site the dwellings the ownership of one of the properties will need to be changed; therefore, staff recommends that this be made a condition of approval.

- ***(C) ADDITIONAL CRITERIA FOR ALL DWELLINGS ALLOWED IN THE FOREST AND FOREST MIXED USE ZONES.***
 - (1) A local government shall require as a condition of approval of a single-family dwelling allowed on lands zoned forestland:*
 - (a) If the lot or parcel is more than 10 acres in western Oregon as defined in ORS 321.257, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.*

RECOMMENDED FINDING: Tax Lot 100 is 17.46 acres; therefore, a stocking survey report is required to be submitted to the Coos County Assessor's Office.

Tax Lot 101 is 1.65 acres; therefore, a stocking survey report is not required to be submitted to the Coos County Assessor's Office.

- (b) The dwelling meets the following requirements:*
 - (A) The dwelling has a fire retardant roof.*

RECOMMENDED FINDING: The applicant states that both of the proposed dwellings will have a fire retardant roof. As a condition of approval, the property owner shall be required to submit evidence certifying the roofing materials meet this requirement.

Therefore, this criterion has been addressed.

- (B) The dwelling will not be sited on a slope of greater than 40 percent.*

RECOMMENDED FINDING: The applicant states that the both of the subject properties are relatively flat with little to no slope.

Therefore, this criterion has been addressed.

- (C) Evidence is provided that the 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.*

RECOMMENDED FINDING: The applicant states that the water source for the subject properties will be from a well and not a Class II stream. As a condition of approval the applicant shall receive a sign off from Oregon Water Resources to verify the water source.

Therefore, this criterion has been addressed.

(D) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.

(E) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.

RECOMMENDED FINDING: The applicant states that the subject properties are located within the Bandon Rural Fire Protection District.

Therefore, this criterion is satisfied.

(F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.

RECOMMENDED FINDING: As a condition of approval, the property owner shall supply information certifying that all chimneys have a spark arrester for both proposed dwellings.

Therefore, this criterion has been addressed.

(G) The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner.

RECOMMENDED FINDING: The applicant states that the primary fuel-free break and secondary break areas will be maintained surrounding the both proposed Single Family Dwellings.

Therefore, this criterion has been addressed.

(2)(a) If a governing body determines that meeting the requirement of subsection (1)(b)(D) of this section would be impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. The applicant shall request and provide alternatives to be considered.

(b) If a water supply is required under this subsection, it shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. [1993 c.792 §5; 1995 c.812 §6; 1997 c.293 §1; 2003 c.621 §103]

RECOMMENDED FINDING: The applicant states that the subject properties are within a fire district and there is no need for alternative fire protections or additional water supply.

These criteria have been addressed.

• **SECTION 4.6.130 ADDITIONAL CRITERIA FOR ALL NEW AND REPLACEMENT DWELLINGS AND STRUCTURES IN FOREST**

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest 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 governing body shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 to identify the building site:

- (1) *Dwellings and structures shall be sited on the parcel so that:*
 - (a) *They have the least impact on nearby¹ or adjoining forest or agricultural lands;*
 - (b) *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*
 - (c) *The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and*
 - (d) *The risks associated with wildfire are minimized.*

RECOMMENDED FINDING: The applicant states that the proposal is to utilize the existing home site on Tax Lot 100 and create a homesite on Tax Lot 101. Both properties are accessed off of Morrison Road, which is a county road, via a private driveway. Both properties will be required to obtain a driveway sign off and tax lot 101 will need to obtain an address.

Tax Lot 100 contained a mobile home that had been removed and not replaced within the time allowed, thus requiring a new application to be submitted. Currently, the development consists of an accessory structure. The area is cleared and a road is already constructed. The site is located in the northeast portion of the property. This location is closer to Morrison Road and ensures the least impact to nearby or adjoining forest or agriculture lands. Utilizing the existing cleared area ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized. The use of the former homesite will minimize the amount of forest lands used to site access roads, service corridors, and the dwelling. The fuel free setbacks will ensure risks associated with wildfire are minimized.

On Tax Lot 101 the proposed homesite is located in the southern portion of the property, this will ensure the least impact to the nearby or adjoining forest or agricultural lands. The fuel free setbacks will ensure risks associated with wildfire are minimized.

- (2) *Siting criteria satisfying section (1) of this section 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.*

RECOMMENDED FINDING: According to the plot plan provided it appears that the proposed *Single Family Dwelling* on Tax Lot 100 will be sited towards the northeastern portion of the property closer to Morrison Road.

According to the plot plan provided the proposed *Single Family Dwelling* on Tax Lot 101 will be sited towards the southeastern portion of the property, which is approximately 175 feet from Morrison Road.

¹ For the purpose of this section "Nearby" is defined as within the decision notification area as defined in Section 5.0.900(2) for farm zoned property.

- (3) *The applicant shall provide evidence to the governing body 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 (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:*
- (a) *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;*
 - (b) *A water use permit issued by the Water Resources Department for the use described in the application; or*
 - (c) *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.*

RECOMMENDED FINDING: **The applicant acknowledges and will provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules prior to obtaining a zoning compliance letter to construct both Single Family Dwellings. Under ORS 537.545(b)&(d) no permit is required to take water for single or group purposes in the amount not to exceed 15,000 gallons per day.**

- (4) *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 U.S. Bureau of Land Management, or the U.S. 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.*
- (5) *Approval of a dwelling shall be subject to the following requirements:*
- (a) *Approval of a dwelling requires the owner of the tract 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;*
 - (b) *The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;*
 - (c) *If the lot or parcel is more than 10 acres in western Oregon or more than 30 acres in eastern Oregon, 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;*
 - (d) *Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the 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; and*
 - (e) *The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

SECTION 4.6.140 DEVELOPMENT AND SITING CRITERIA:

This section contain all of the development standards for uses (unless otherwise accepted out by a use review) and all of the siting standards for development.

1. *Minimum Lot Size for the creation of new parcels shall be at least 80 acres. Minimum lot size will not affect approval for development unless specified in use. The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.*

RECOMMENDED FINDING: There are no new parcels being created through this request; therefore, this criterion is not applicable.

2. *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.*

RECOMMENDED FINDING: Based on the submitted Plot Plans the proposed Single Family Dwellings will meet the minimum road setback.

Therefore, this criterion has been met.

3. *Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 7.1.525.*

RECOMMENDED FINDING: There is no indication that the applicant is proposing any fences, hedges or walls. As a condition of approval if any of the above is proposed at a later date they shall meet the requirements for the vision clearance in Section 7.1.525.

Therefore, this criterion has been addressed.

4. *Off-Street Parking and Loading: See Chapter VII.*

RECOMMENDED FINDING: A Road/ Driveway Access Verification Permit shall be submitted for both subject properties. These will need to be signed off by the Coos County Road Department prior to receiving a Zoning Clearance Letter.

Therefore, this criterion has been addressed.

5. *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.*

RECOMMENDED FINDING: The applicant has acknowledged and will file in the deed of records of Coos County a Forest Management Covenant for both subject properties prior to receiving a Zoning Compliance Letter. The covenant covers both accepted farm and forest practices.

Therefore, this criterion has been addressed.

6. *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 except that:*
 - a. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
 - b. *Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
 - c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
 - d. *Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;*
 - e. *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;*
 - 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; or*
 - g. *The 50 foot 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 estuarine 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".*
 - h. *Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.*
 - i. *The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.*

RECOMMENDED FINDING: According to the National Wetland Inventory the only identified wetlands are on Tax Lot 100 and the proposed development will occur more than 50 feet away. Notification was sent to the Oregon Department of State Lands and their response can be found attached to this report.

Therefore, this criterion has been met.

7. *All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. 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 they have contacted the Coos Forest Protective Association of the proposed development.*

RECOMMENDED FINDING: The subject properties are located within the boundaries of the Bandon Rural Fire Protection District.

Therefore, this criterion has been met.

8. *The Planning Director may authorize alternative forms of fire protection when it is determined that these standards are impractical that shall comply with the following:*
 - a. *The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;*
 - b. *If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;*
 - c. *The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and*
 - d. *Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.*

RECOMMENDED FINDING: The applicant shall meet the minimum fire protection standards. However, if these standards are impractical the applicant shall comply with alternative forms of fire protection.

Therefore, this criterion has been addressed.

9. *Fire Siting Standards for New Dwellings:*
 - a. *The property owner shall provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient 3/4 inch garden hose to reach the perimeter of the primary fuel-free building setback.*
 - b. *If another water supply (such as a swimming pool, pond, stream, or lake) is nearby, available, and suitable for fire protection, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.*

RECOMMENDED FINDING: Proof shall provided that a water supply of at least 500 gallons with operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter prior to the issuance of a zoning clearance letter. This shall be provided for both of the subject properties.

Therefore, this requirement has been addressed.

10. Firebreak:

- a. *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.*
- b. *Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.*
- c. *The owners of the dwelling shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by Oregon Department of Forestry and shall demonstrate compliance with Table 1.*

Table 1 – Minimum Primary Safety Zone

<i>Slope</i>	<i>Feet of Primary Safety Zone</i>	<i>Feet of Additional Primary Safety Zone Down Slope</i>
<i>0%</i>	<i>30</i>	<i>0</i>
<i>10%</i>	<i>30</i>	<i>50</i>
<i>20%</i>	<i>30</i>	<i>75</i>
<i>25%</i>	<i>30</i>	<i>100</i>
<i>40%</i>	<i>30</i>	<i>150</i>

RECOMMENDED FINDING: According to the soils on these properties the proposed location of the dwellings will be located within an area identified as having soils that are comprised of 2C Bandon Blacklock complex association that typically have percent 0 to 12 percent slopes. However, given this is a general slope staff has concurred with the applicants' assessment that property has little to no slope. The applicant states that the slope where the homesites are to be located is less than 10 percent (between 0 percent to 9 percent). According to the provided Plot Plans both of the Single Family Dwellings will be site in locations that will allow for the 30 foot primary safety zone to be met.

Therefore, this criterion has been addressed.

- 11. *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.*

RECOMMENDED FINDING: As a condition of approval, the property owner shall be required to submit evidence certifying the roofing materials for both dwellings meet this requirement.

Therefore, this criterion has been addressed.

- 12. 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).*

RECOMMENDED FINDING: Neither of the subject properties have a water supply exceeding 4,000 gallons available within 100 feet of the driveway or road for fire suppression.

Therefore, this criterion is not applicable.

- 13. The dwelling shall not be sited on a slope of greater than 40 percent.*

RECOMMENDED FINDING: Neither of the proposed dwellings shall not be sited on a slope of greater than 40%.

Therefore, this criterion has been addressed.

- 14. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*

RECOMMENDED FINDING: As a condition of approval, the property owner shall supply information certifying that all chimneys have a spark arrester.

Therefore, this criterion has been addressed.

- 15. 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.*

RECOMMENDED FINDING: The subject properties are located within the Bandon Rural Fire Protection District.

Therefore, this criterion has been met.

- 16. 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.*

RECOMMENDED FINDING: A Road/ Driveway Access Verification Permit shall be submitted for both of the subject properties. These shall be signed off by the Road Department prior to receiving a Zoning Clearance Letter for development. The regulations established in Chapter VII for driveways and accesses are adequate for firefighting. As a condition of approval the applicant shall provide an approved Access/Driveway/Road Verification permit from the County Road Department to show compliance with this criteria.

With the proposed condition of approval this criteria has been satisfied.

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

RECOMMENDED FINDING: A Road/ Driveway Access Verification Permit shall be submitted for both of the subject properties. These shall be signed off by the Road Department prior to receiving a Zoning Clearance Letter for development.

Therefore, with the condition of approval this criteria has been addressed.

RECOMMENDED CONDITIONS OF APPROVAL

1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If there were comments from Department of State Lands it is the responsibility of the property owner to comply.
2. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title for both Tax Lot 100 and Tax Lot 101. The statement needs to include language that the purchaser of the property has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization.
3. Pursuant to CCZLDO § 4.6.130 the following conditions will need to be complied with prior to issuance of a zoning compliance letter for both Tax Lot 100 and 101.
 - a. All uses must comply with applicable development standards and fire siting and safety standards.
 - b. A “Forest Management Covenant”, which recognized the right of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules, shall be recorded in the deed records of the County prior to any final County approval for uses authorizing any type of residential use in the Forest and Forest Mixed Use zones.
 - c. A Water Supply Requirement form shall be submitted and signed off by the Watermaster.
4. Pursuant to CCZLDO § 4.6.140 the following conditions will need to be complied with prior to issuance of a zoning compliance letter for both Tax Lot 100 and 101:
 - a. All Firebreak criteria found in § 4.6.140.10 shall be complied with.
 - b. Evidence shall be provided illustrating that the down slope is 9 percent or less so that the correct additional primary safety zone can be determined.
 - c. The dwelling shall not be sited on a slope of greater than 40 percent.
 - d. The applicant shall provide a statement that if the dwelling has a chimney or chimneys; each chimney shall have a spark arrester.
 - e. The applicant shall provide evidence of a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient garden hose to reach the perimeter of the primary fire break.
5. Shall comply with comments/recommendations from Oregon Department of State Lands.
6. A Driveway/ Access / Parking Verification Permit shall be submitted for both Tax Lot 100 and Tax Lot 101 and will need to be signed off prior to receiving a Zoning Clearance Letter.
7. An Address shall be obtained for tax lot 101 prior to issuance of a Zoning Compliance Letter.
8. A “Farm Management Covenant”, to cover the mixed use, which recognized the right of adjacent and nearby landowners to conduct agricultural uses/practices shall be recorded in the deed

records of the County prior to any final County approval for uses authorizing any type of residential use.

9. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the commencement of construction of the proposed dwellings. This will be issued after all conditions have been satisfied.

Exhibit “A”

Template Maps



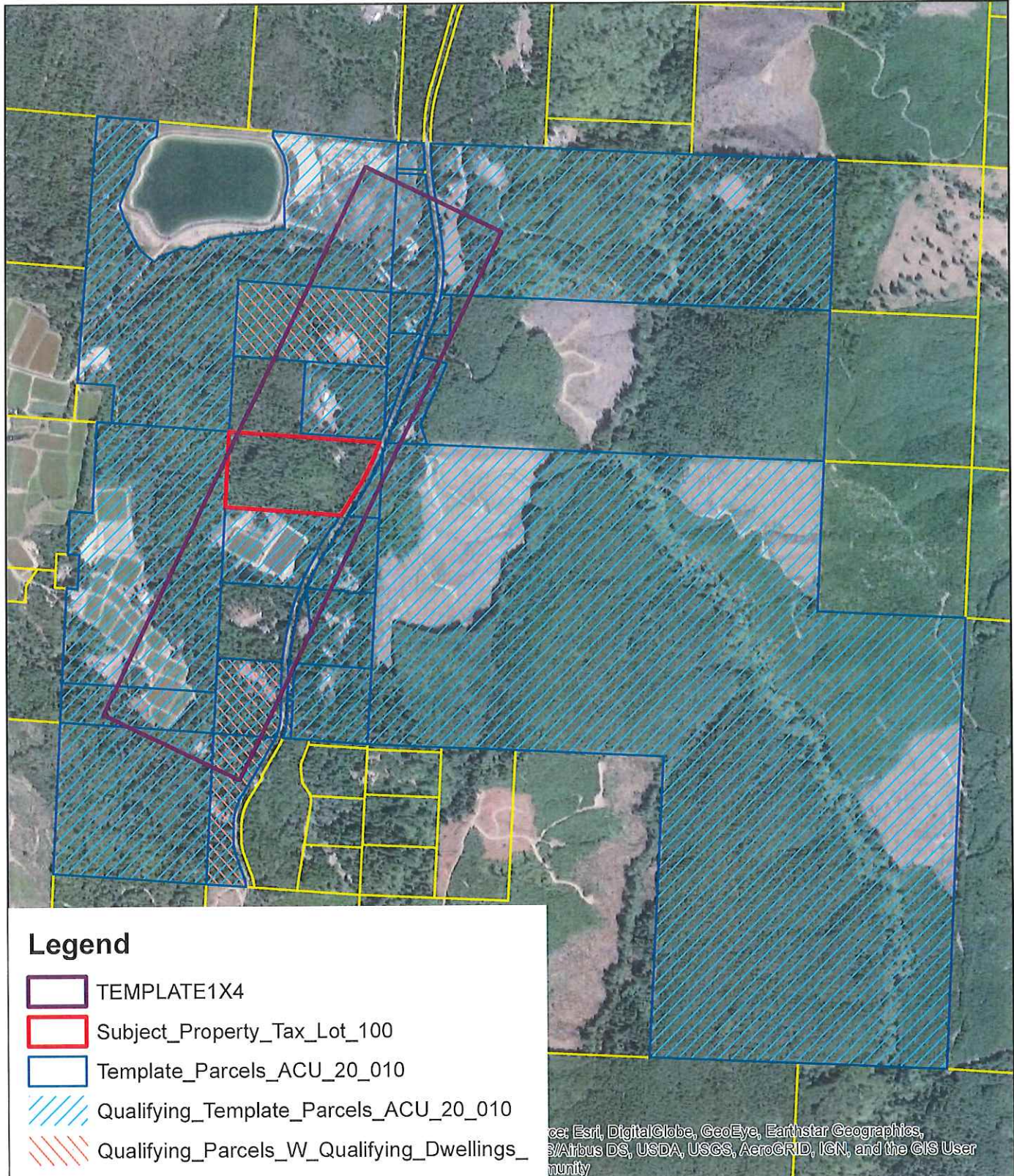
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423

Physical Address: 225 N. Adams, Coquille Oregon

Phone: (541) 396-7770

Fax: (541) 396-1022/TDD (800) 735-2900





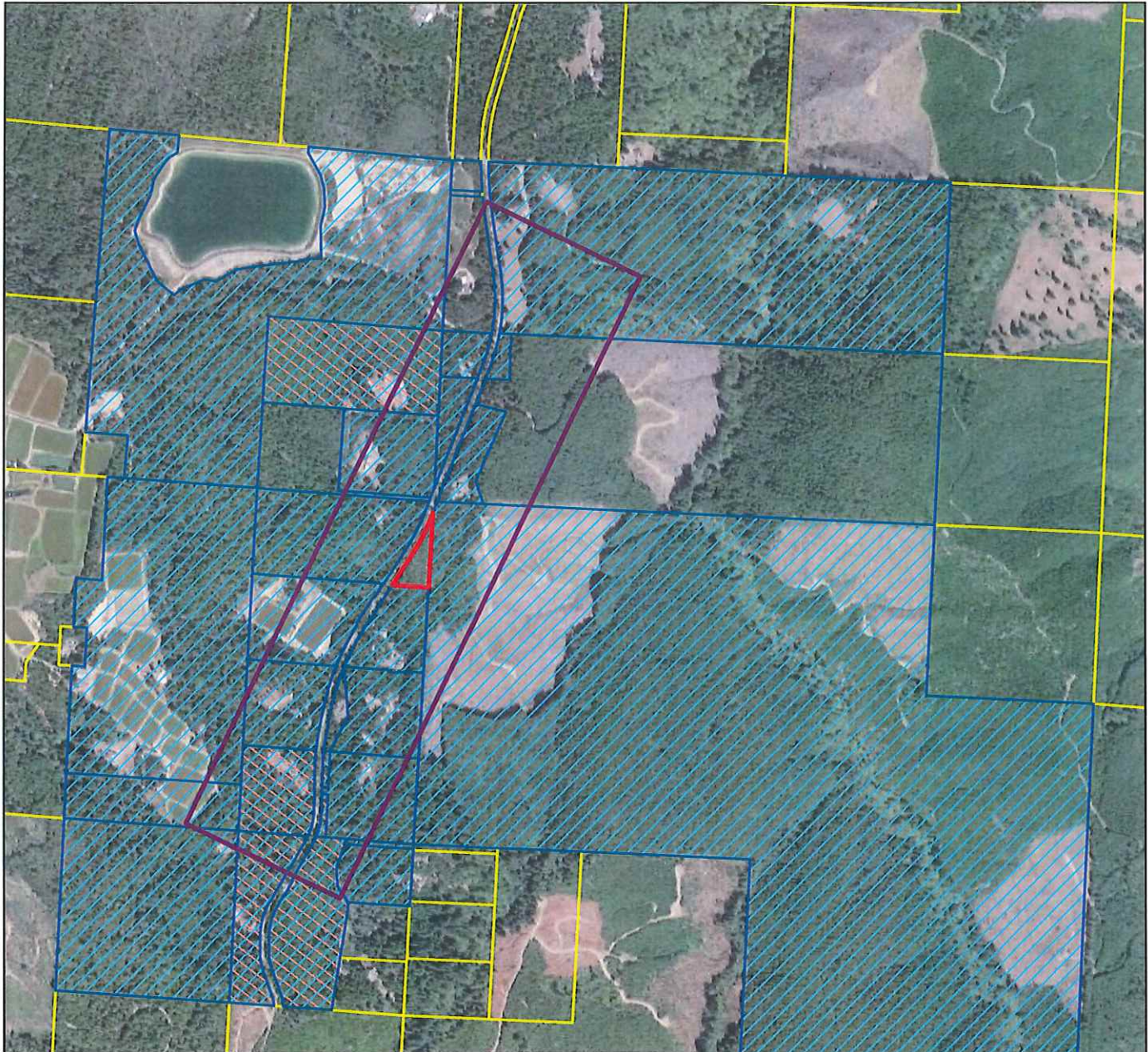
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423



Physical Address: 225 N. Adams, Coquille Oregon

Phone: (541) 396-7770

Fax: (541) 396-1022/TDD (800) 735-2900



Legend

-  TEMPLATE1X4
-  Subject_Property_Tax_Lot_101
-  Template_Parcels_ACU_20_011
-  Qualifying_Template_Pacels_ACU_20_011____
-  Qualifying_Parcels_W_Qualifying_Dwellings_ACU_20_011

igitalGlobe, GeoEye, Earthstar Geographics,
S, USDA, USGS, AeroGRID, IGN, and the GIS User

Exhibit “B” Applications



Coos County Planning Department
 Coos County Courthouse Annex, Coquille, Oregon 97423
 Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, OR 97423
 Physical Address: 225 N. Adams, Coquille, Oregon
 (541) 396-7770
 FAX (541) 396-1022 / TDD (800) 735-2900
planning@co.coos.or.us

Official Use Only
FEE: <u>2600</u>
Receipt No. <u>214600</u>
Check No. / Cash <u>1904</u>
Date <u>4/7/20</u>
Received By <u>LMB</u>
File No. <u>RZ-20-003</u>

AMENDMENT/REZONE APPLICATION
 PLEASE SUBMIT 2 COMPLETE UNBOUND COPIES OF THIS APPLICATION
 OR 1 ELECTRONIC AND ONE UNBOUND COPY

The following questions are to be completed in full. An application **will not** be accepted for an Amendment/Rezone without this information. The applicant should contact the Planning Department prior to filing, in order to determine a valid basis for the request.

The Board of Commissioners and Hearings Body will use these answers in their analysis of the merits of the request.

PLEASE PRINT OR TYPE:

A. APPLICANT:

Name: JOSHUA LILLIE Telephone: 541-260-7011
 Address: 51280 HWY 242
BROADBENT, OR 97414

As applicant, I am (check one):

- Property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign;
- A person or persons that have written consent of the property owner to make an application. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign. In the case of an attorney a statement of representation shall accompany the application;
- Transportation agency, utility or entity that meets the criteria in Section 5.0.175 of the Coos County Zoning and Land Use Development Ordinance (CCZLDO)

If other than the owner, please give the owner's name and address:

B. DESCRIPTION OF PROPERTY:

Township 29S Range 14W Section 9 Tax Lot 100 : 101
 Account No. 1209400 : 99920225 Lot Size 17.46 : 1.65 ac. Zoning District EFU
 Existing Use T.L. 100 - VACANT W/ 1 SHOP / GARAGE - T.L. 100 - VACANT / TIMBER

C. STATE SPECIFIC ZONE DISTRICT REQUESTED: REZONE FROM EFU TO FMU

D. JUSTIFICATION:

(1) If the purpose of this rezone request is to rezone one or more lots or parcels in the interior of an exclusive farm use zone for non-farm uses, the following question must be answered:
Were the lots or parcels for which a rezone request is made, physically developed for a non-farm use prior to February 16, 1983? SEE ATTACHED
Explain and provide documentation: _____

(2) If the purpose of this rezone request is for other than (1) above the following questions must be answered:

a. Will the rezone conform with the comprehensive plan? _____
Explain: _____

b. Will the rezone seriously interfere with the permitted uses on other nearby parcels? _____
Explain: _____

c. Will the rezone comply with other adopted plan policies and ordinances? _____
Explain: _____

(3) If a Goal Exception is required please review and address this section.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The Coos County Comprehensive Plan (CCCP) and Implementing Zoning Land Development Ordinance (CCZLDO) was acknowledged¹ as having all necessary components of a comprehensive plan as defined in ORS 197.015(5) after the Coos County adopted the documents on April 4, 1985. The date of the effective plan and ordinance is January 1, 1986. Coos County did go through a periodic review exercise in the 1990's but due to lack of gain in population, economic growth and public request plan zones were not altered. Changes to the comprehensive plan and implementing ordinance have been done to ensure that any required statutory or rules requirements have been complied with. However, sometimes it is necessary for property owners or applicants to make a request to have certain properties or situations such as text amendments considered to reflect a current condition or conditions. These applications are reviewed on a case by case basis with the Board of Commissioners making a final determination. This type application and process is way to ensure that process is available to ensure changing needs are considered and met. The process for plan amendments and rezones are set out in CCZLDO Article 5.1.

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that; (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general

¹ "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals. In Coos County's case the commission refers to the Land Conservation and Development Commission.

applicability; (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and (c) Complies with standards for an exception.

NOTE: This information outlines standards at OAR 660-004-0025, 660-004-0028 and 660-04-0022 for goal exceptions, but is NOT to be considered a substitute for specific language of the OARs. Consult the specific Oregon Administrative Rule for the detailed legal requirements.

A local government may adopt an exception to a goal when one of the following exception process is justified:

- (a) The land subject to the exception is "physically developed" to the extent that it is no longer available for uses allowed by the applicable goal;
- (b) The land subject to the exception is "irrevocably committed" to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or
- (c) A "reasons exception" addressing the following standards is met:
 - (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
 - (2) Areas which do not require a new exception cannot reasonably accommodate the use;
 - (3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the

Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards for an exception have or have not been met.

PART III -- USE OF GUIDELINES Governmental units shall review the guidelines set forth for the goals and either utilize the guidelines or develop alternative means that will achieve the

E. REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

1. A legal description of the subject property (deed);
2. Covenants or deed restrictions on property, if any;
3. A general location map of the property;
4. A detailed parcel map of the property illustrating the size and location of existing and proposed uses and structures on 8 1/2" x 11" paper. If proposed structures are not known then the plot plan will need to include only existing with a note that no new structures are proposed at this time;
5. If applicant is not the owner, documentation of consent of the owner, including:
 - a. A description of the property;
 - b. Date of consent
 - c. Signature of owner
 - d. Party to whom consent is given
6. The applicant must supply a minimum of 2 copies of the entire application or one paper copy and electronic copy (email is acceptable), including all exhibits and color photocopies, or as directed by the Planning Staff.

G. Authorization:

All areas must be initialed by all applicants, if this application pertains to a certain property all property owners² must either sign or provide consent for application unless otherwise allowed by Section 5.0.175 of the CCZLDO. As an applicant by initializing each statement I am accepting or agreeing to the statements next to each area designated for my initials and/or signature. All property owners shall sign and initial the designated areas of the application or provide consent from another party to sign on their behalf. If another party is signing as part of a consent that does not release that party that gave consent from complying with requirements listed below or any conditions that may be placed on an application. In the case of a text amendment the procedures for set out in Section 5.1.110 WHO SEEK CHANGE applies and an applicant may not be a property owner.

JL

I hereby attest that I am authorized to make the application and the statements within this application are true and correct to the best of my knowledge. I affirm to the best of my knowledge that the property is in compliance with or will become in compliance with CCCP and CCZLDO. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

JL

I understand it is the function of the planning staff to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree, as applicant I have the burden of proof. I understand that approval is not guaranteed and the applicant(s) has the burden of proof to demonstrate compliance with the applicable review criteria.

JL

As the applicant(s) I acknowledge that it is in my desire to submit this application of free will and staff has not encouraged or discouraged the submittal of this application.

JL

I understand as applicant I am responsible for actual cost of that review if the Board of Commissioners appoints a hearings officer to hear the application I have submitted. As applicant I will be billed for actual time of planning services, materials and hearings officer cost and if not paid the application maybe become void.

Joshua Lillie
Applicant(s) Original Signature

Joshua Lillie
Applicant(s) Original Signature

3/27/2020
Date

² Property owner² means the owner of record, including a contract purchaser

APPLICANT'S EXHIBIT "A"

JOSHUA LILLIE FARM TO FOREST PLAN AMENDMENT AND REZONE Tax Lot's 100 & 101 – 29S 14W 9

INTRODUCTION

Overview

The landowner, Joshua Lillie, is requesting a rezone of a 17.46 and 1.65 acre tract of land located approximately 2.6 miles Southeast of the City of Bandon, Oregon. The subject property is zoned EFU.

The landowner wishes to change the zone designation Exclusive Farm Use (EFU) to Forest (F) with a "Mixed Use" (Agriculture) overlay. The subject properties abut Morrison County Road No. 162 which is owned in fee title by the county.

Surrounding Properties

The adjacent lands to the East, West and North are zoned F. The land the South is Zoned EFU.

Land Topography and Soil Type

The subject properties, while zoned EFU, are timberland. The slopes of Tax Lot 101 are less than 10%. The slopes of Tax Lot 101 are less than 15%. Based on the Natural Resource Conservation Service (NRCS) soil survey map, Tax Lot 100 contains 90% soil type 2C (Bandon Blacklock Complex) and 10% 8E (Bullards sandy loam). Tax Lot 101 contains 100% soil type 2C (Bandon Blacklock Complex). Based on the Soil Survey, the Bandon Blacklock complex is a mix of 60% Bandon sandy loam and 40% Blacklock soil.

Based on the 100 year site curve, the mean index for Douglas fir on the Bandon sandy loam, 137 and has a growth rate of 140 cu. ft./ac./yr. which is a class III soil.

Based on the 100 year site curve, the mean index for Shorepine on the Blacklock soil is 90 and has a growth rate of 79 cu. ft./ac./yr. which is a class IV soil.

Based on the 100 year site curve, the mean index for Douglas fir on the Bullards sandy loam soil is 132 and has a growth rate of 133 cu. ft./ac./yr. which is a class III-soil.

Based on these growth rate, these soils will support both agricultural and forest production which would comply with the Forest Mixed Use classification.

Current Property Use:

The subject properties have been used for timber production and residential uses. There was a mobile home on Tax Lot 100 but was removed some years ago. The garage/shop is still in place.

State Wide Planning Goals

Pursuant to State Wide Land Planning Goal 4 (Forest Land), where a plan amendment is proposed, forest lands shall include lands that are suitable for commercial forest uses. Based on the site index and volume growth rate for the soil type "Bandon Blacklock complex" and "Bullards Sandy Loam", the subject properties are forestland by both use and definition.

The soil type also is suitable for agricultural uses pursuant to State Wide Planning Goal 3, therefore it appears that a more appropriate zone for the subject property would be Forest (F) with a Mixed Use (MU) overlay.

Pursuant to Appendix 1, Volume 1 Policy 5.4(8) of the Coos County Comprehensive Plan, State Wide Planning Goals 3 and 4, the applicable Oregon Administrative Rule 660-006-0057, the applicant hereby requests a change of the current zone designation from Exclusive Farm Use (EFU) to Forest (F) with a mixed use agricultural overlay. The proposed zone change will better support the predominant forest use and the subordinate agricultural traits of the subject property.

FINDING OF FACTS AND CONCLUSIONS

OREGON ADMINISTRATIVE RULES

OAR 660-06-057 - Rezoning Land to an Agricultural/Forest Zone

Any rezoning or plan amendment of lands from an acknowledged zone or plan designation to an Agriculture/Forest zone require a demonstration that each area being rezoned or re-planned contains such a mixture of agriculture and forest uses that neither Goal 3 or 4 can be applied alone.

According to the Natural Resource Conservation Service (NRCS) survey map, the soil type for the subject property is a mix of Bandon Blacklock complex and Bullards sandy loam. For forestry purposes, on the basis of a 100 year site curve, the mean site index for Douglas fir on this property is 135 which produces 136 cubic feet of fiber per acre per year and therefore is a class III soil.

The subject property is currently zoned Exclusive Farm Use (EFU) and has been acknowledged by the State as being in compliance with State Wide Planning Goal 3. The subject properties and the surrounding properties have predominantly been

managed for forest uses and cranberry farms with homes sited on the EFU portions of the properties.

Based on the predominant forest use and soil characteristics of the subject property and adjacent properties, a conclusion can be made that the area contains a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.

Volume I, Part I, Policy 5.4(8) FOREST LANDS

5.4(8) Coos County shall consider, and approve where appropriately justified, changes from forestry to agriculture zoning districts, and vice versa, upon findings which establish:

- a. That the proposed rezone would be at least as effective at conserving the resource as the existing zone;**

The subject properties are forest land by use and definition.

- b. That the proposed rezone would not create a non-conforming use;**

The subject properties are currently vacant. The properties to the North and South have dwellings that were established or approved in 1997 and 1987 respectively. If rezoned, the subject properties either side of the county road would meet the template dwelling criteria under the Forest designation zoning rules.

- c. That the applicant for the proposed rezone has certified the he/she understands that the rezone, if granted, could have significant tax consequences;**

The applicant is aware that if the rezone is granted, there could be significant tax consequences.

MIXED AGRICULTURAL-FOREST USE AREAS

Volume I, Part II, 3.2(5) Implementation Strategies (Appendix 1)

- 1. Mixed-use areas are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agriculture uses.**
- 2. Mixed-use areas are those areas generally managed to maintain enough upland acreage to sustain livestock during the winter months due to flooding of lowland areas.**
- 3. Mixed-use areas are those areas predominantly co-managed for both farm and forest uses.**

Response: According to the Natural Resource Conservation Service (NRCS) survey map, the soil type for the subject properties are a mix of Bandon Blacklock complex and Bullards sandy loam. For forestry purposes, on the basis of a 100 year site curve, the mean site index for Douglas fir on this property is 135 which produces 136 cubic feet of fiber per acre per year and therefore is a class III soil.

The subject properties are currently zoned Exclusive Farm Use (EFU) and has been acknowledged by the State as being in compliance with State Wide Planning Goal 3. The subject property and the surrounding properties have predominantly been managed for forest uses with homes sited on the EFU portions of the properties.

CONCLUSION

Based on the soil type and topography and the fact that the surrounding area is predominantly managed for forestry uses, a mixed-use overlay is appropriate based on the Coos County Comprehensive Plan.

FINAL CONCLUSION

Based on the submitted evidence addressing the applicable criteria for a rezone from EFU zone to F zone, a conclusion can be made that the criteria have been satisfied and that a Forest (F) zone designation with a Mixed-use overlay is appropriate for the subject properties.

D. JUSTIFICATION:

(1) If the purpose of this rezone request is to rezone one or more lots or parcels in the interior of an exclusive farm use zone for non-farm uses, the following question must be answered:

Were the lots or parcels for which a rezone request is made, physically developed for a non-farm use prior to February 16, 1983? NO

Explain and provide documentation:

The purpose of this proposed rezone application is to change the resource zone designation of the subject property from Exclusive Farm Use (EFU) to Forest (F) with a Mixed-use overlay to reflect the suitability and predominant forest characteristics. A physically developed or irrevocably committed exception pursuant to Goal 2 is not required for changes from one resource zone designation to another resource zone designation, provided it can be documented that the requested zone designation satisfies the definitions prescribed by the pertaining Goal (See OAR 660-33-030(4)). Furthermore, standard farm practices are allowed outright in the Forest zone districts.

(2) If the purpose of this rezone request is for other than (1) above the following questions must be answered:

a. Will the rezone conform with the comprehensive plan? YES

Explain:

Evidence has been submitted addressing Appendix 1 CCCP Volume 1, Policy 5.4(8) which allows changes in zoning districts from Forestry to Agriculture and vice versa, provided adequate findings are made supporting the request. The policy recognizes "That agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest uses and activities."

b. Will the rezone seriously interfere with the permitted uses on other nearby parcels? NO

Explain:

This request is to rezone the subject properties to reflect the existing forest use and subordinate agricultural characteristics. The lands surrounding the subject property are zoned Forest and EFU. Because agriculture and forestry are closely related, changing the resource designation will not seriously interfere with the permitted uses on nearby parcels.

c. Will the rezone comply with other adopted plan policies and ordinances? YES

The intent of this application is to adopt an appropriate zone designation for the subject properties pursuant to Oregon Statewide Planning Goal 4 (Forestry) and those portions of the Coos County Comprehensive Plan and Zoning Ordinance that have been acknowledged to be in compliance with Goal 4. Substantial evidence has been submitted in this application showing compliance with both the Comprehensive Plan and Implemented Ordinance.

RECORDING REQUESTED BY:



300 W Anderson, PO Box 1075
Coos Bay, OR 97420

GRANTOR'S NAME:
Rice Family Living Trust

GRANTEE'S NAME:
Joshua Lillie

AFTER RECORDING RETURN TO:
Order No.: 360619026790-LS
Joshua Lillie
51280 Hwy 242
Broadbent, OR 97414

SEND TAX STATEMENTS TO:
Joshua Lillie
51280 Hwy 242
Broadbent, OR 97414

APN: 1001209400
Map: 12094.00
53498 Morrison Road, Bandon, OR 97411

COOS COUNTY, OREGON 2019-03023
\$96.00 04/15/2019 12:04:00 PM
DEBBIE HELLER, CCC, COOS COUNTY CLERK Pgs=3

AFTER RECORDING
RETURN TO
Ticor Title Company
300 West Anderson Ave. - Box 1075
Coos Bay, OR 97420-0233

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Kenneth P. Rice, Surviving Trustee of the Rice Family Living Trust

, Grantor, conveys and warrants to Joshua Lillie, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Coos, State of Oregon:

See attached Exhibit "A"

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$180,000.00). (See ORS 93.030).

Subject to:

1. The Land has been classified as Forest and Farm Land, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.
2. Rights of the public to any portion of the Land lying within the area commonly known as public roads, streets and highways.
3. Any interest in any oil, gas and/or minerals, as disclosed by document

Entitled: Deed
Recording Date: December 11, 1962
Recording No: Book 297 Page 617 Deed Records

The present ownership or any other matters affecting said oil, gas and/or minerals are not shown herein.

4. Any rights incidental to the ownership and development of the mineral interest excepted or reserved in the document

Entitled: Deed
Recording Date: December 11, 1962
Recording No: Book 297 Page 617 Deed Records

5. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: Pacific Power & Light Company
Recording Date: October 15, 1976
Recording No: 76-10-15153

STATUTORY WARRANTY DEED
(continued)

6. Removal of certain lands from Reforestation Classification Order No. 77-15A

Recording Date: August 8, 1977
Recording No.: 77-08-12765-A

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 4-12-2019

Rice Family Living Trust

BY: Kenneth P. Rice
Kenneth P. Rice
Surviving Trustee

State of Washington
County of Clark

This instrument was acknowledged before me on April 12, 2019 by Kenneth P. Rice as Trustee of the Rice Family Living Trust Trust w/va October 23, 1996.

Judy F. Ross
Notary Public - State of ~~Oregon~~ Washington
My Commission Expires: 6/26/2022

NOTARY PUBLIC
STATE OF WASHINGTON
JUDY F. ROSS
MY COMMISSION EXPIRES
JUNE 26, 2022

EXHIBIT "A"

Order No.: 360619026790

The N ½ of the NE ¼ of the NE ¼ of Section 9, Township 29 South, Range 14 West, Willamette Meridian, Coos County, Oregon.

SAVE AND EXCEPT that property conveyed to Coos County by Warranty Deed recorded November 14, 1975 bearing Microfilm Reel No. 75-11-121313, Records, Coos County, Oregon.



Debbie Heller, CCC, Coos County Clerk

AFTER RECORDED RETURN TO:

Joshua Lillie
51280 Hwy 242
Broadbent, OR 97414

Until a change is requested all tax statements shall be sent to the following address:

Joshua Lillie
51280 Hwy 242
Broadbent, OR 97414

CONSIDERATION:

The true consideration for this conveyance is \$0.00

BARGAIN AND SALE DEED

Lillie

Lillie

Known all men by these presents, that Joshua ~~Lillie~~, Grantor, conveys to Joshua ~~Lillie~~, Grantee's, the following described real property situated in the County of Coos, State of Oregon:

That portion of the N1/2 of the NE1/4 of the NE1/4 of Section 9, Township 29 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, lying East of that parcel described in Instrument No. 75-11-121313 (Morrison County Road), Deed Records of Coos County, Oregon.

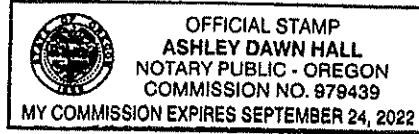
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND TO SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007 AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 10 day of December, 2019.

GRANTOR:

Joshua Lillie
Joshua Lillie

STATE OF OREGON)
County of Coos) ss.



The foregoing instrument was acknowledged before me this 10 day of
December, 2019 by Joshua Lillie.

Ashley Dawn Hall
Notary Public for Oregon

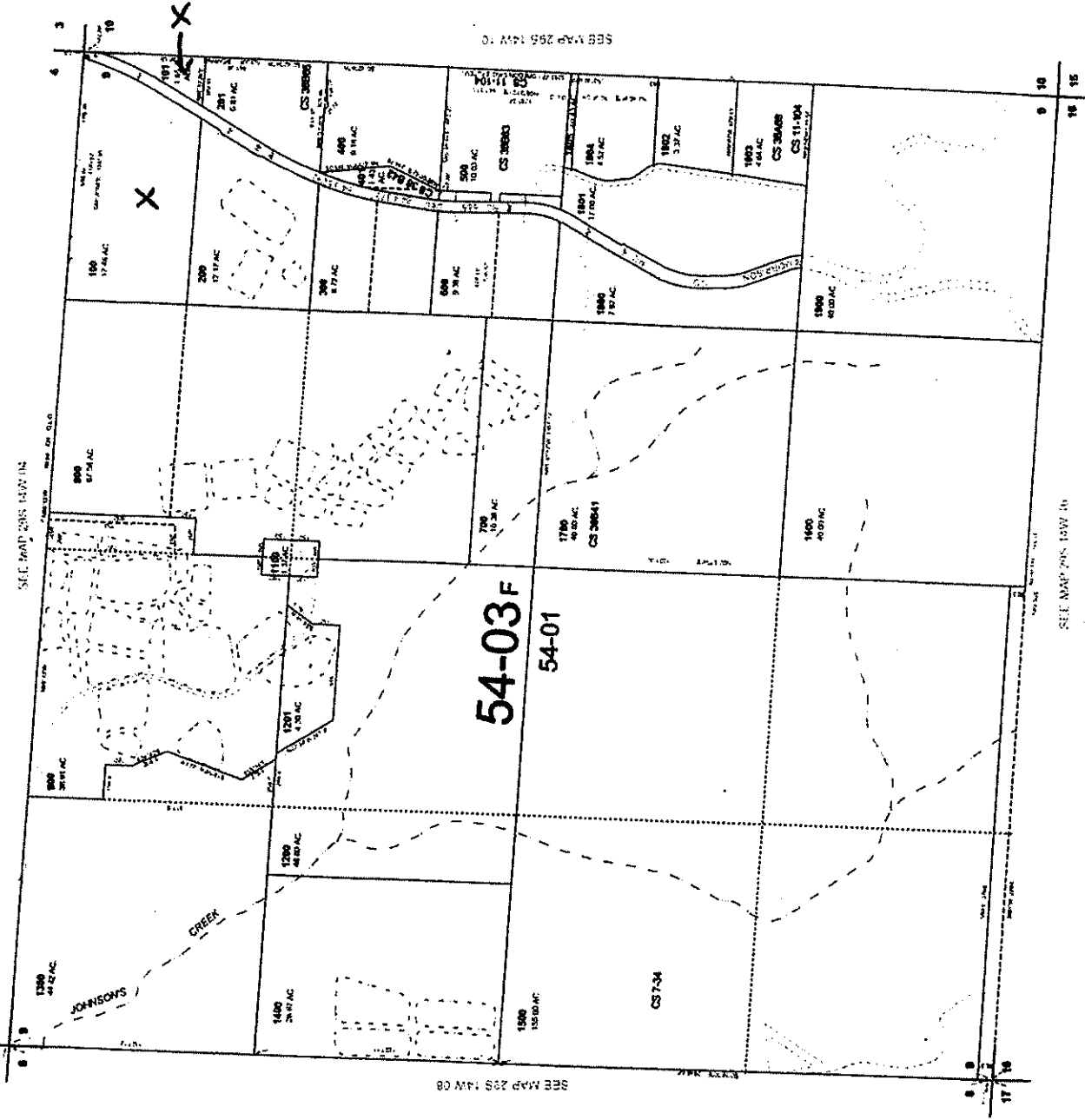
SECTION 9 T29S R14W W.M.
COOS COUNTY

29S 14W 09
CANCELLED NO.

- 301
- 302
- 1000
- 901
- 902
- 756M1
- 304
- 305
- 303
- 402
- 701
- 1301

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

1" = 400'



SEE MAP 29S 14W 08

SEE MAP 29S 14W 10

SEE MAP 29S 15W 16

02-03-2020
29S 14W 09

SECTION 9 T29S R14W W.M.
COOS COUNTY

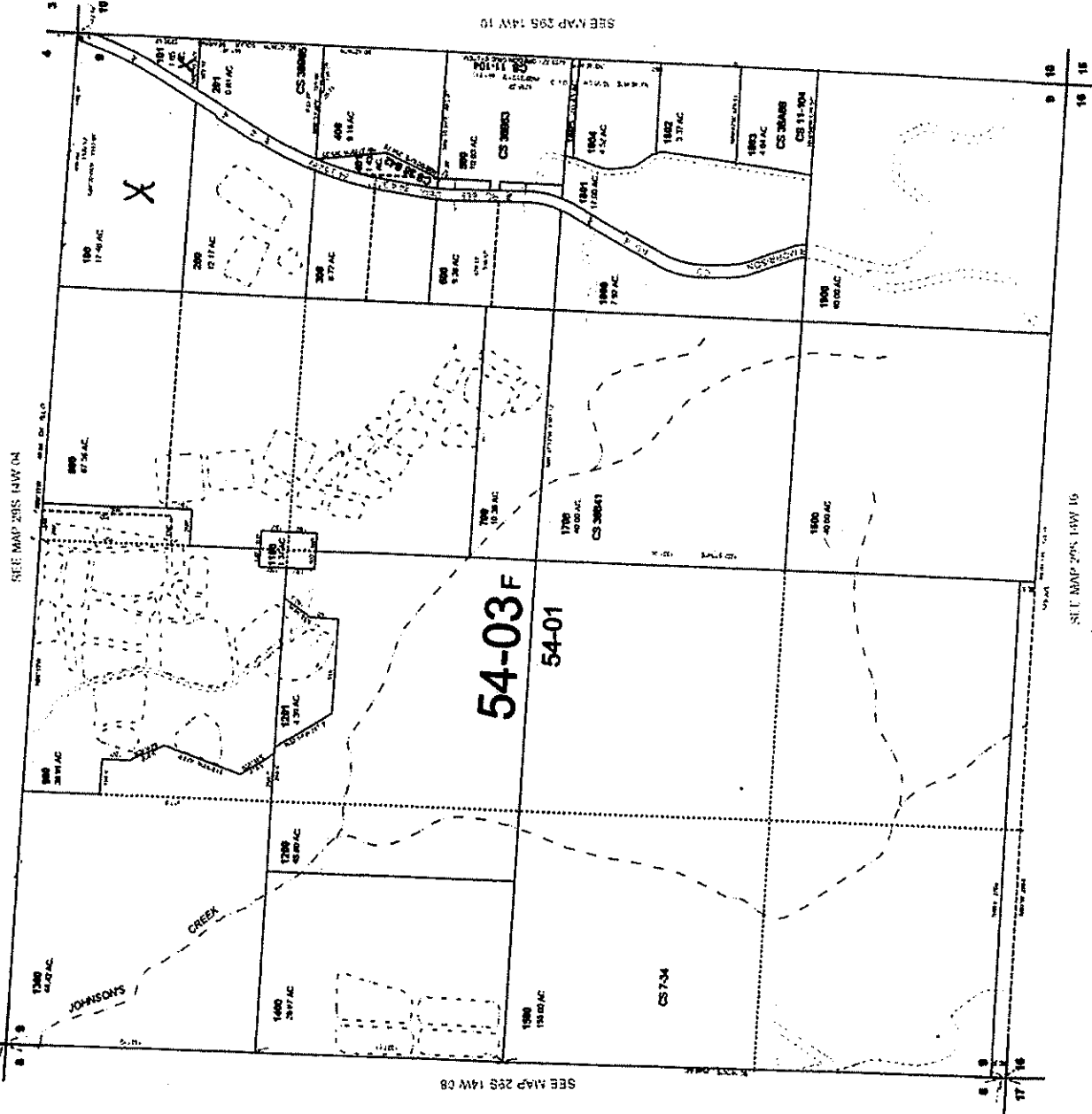
29S 14W 09

CANCELLED NO.

- 301
- 302
- 1000
- 901
- 902
- 799M1
- 304
- 305
- 903
- 402
- 701
- 1501

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY.

1" = 400'



02-03-2020
29S 14W 09

**LAND USE PERMIT APPLICATION – BALANCE OF COUNTY
COOS COUNTY PLANNING DEPARTMENT**

COMPLETED BY STAFF	
Received By: <u>MB</u> Date Submitted: <u>4/7/20</u> Application No.: <u>ACU-20-000</u> Fee: <u>780⁰⁰</u> Fee Paid: <u>780⁰⁰</u> Receipt No.: <u>214600</u>	<input type="checkbox"/> COMP PLAN AMENDMENT <input type="checkbox"/> ZONE CHANGE <input type="checkbox"/> TEXT AMENEDMENT CONDITIONAL USE REVIEW <input type="checkbox"/> HEARINGS BODY <input type="checkbox"/> ADMINISTRATIVE <input type="checkbox"/> VARIANCE <input type="checkbox"/> LAND DIVISION * <input type="checkbox"/> HAZARD REVIEW * <input type="checkbox"/> FARM OR FOREST REVIEW * <input type="checkbox"/> FAMILY/MEDICAL HARDSHIP* <input type="checkbox"/> HOME OCCUPATION/COTTAGE INDUSTRY *Supplemental Application required
STAFF NOTES:	

Please type or clearly print all of the requested information below. Please be sure to include any supplemental application for if required.

I. APPLICANT

Name: Joshua Lillie

Mailing Address: 51280 Hwy 242

City State Zip
 Broadbent, OR 97414
 Daytime Phone
 541-260-7011
 Email:

II. OWNER(S)

Name: Joshua Lillie

Mailing Address: 51280 Hwy 242

City State Zip
 Broadbent, OR 97414
 Daytime Phone
 541-260-7011
 Email:

III. PROPERTY - If multiple properties are part of this review please check here and attached a separate sheet with property information.

Location or Address: 53498 Morrison Rd., Bandon, OR 97411

No. Acreage – 17.46 acres

Tax Acct.1209400

Township: Range: Section: ¼ Section: 1/16 Section: Tax lot:
 29S 14W 9 0 0 100

Zone: Forest Mixed Use Water Service Type: On site

Sewage Disposal Type:On-site

School District: Bandon

Fire District: Bandon

IV. REQUEST SUMMARY : To establish a template dwelling in the Forest Zoning District.

V. ATTACHED WRITTEN STATEMENT. With all land use applications, the "burden of proof" is on the applicant. It is important that you provide information that clearly describes the nature of the request and indicates how the proposal complies with all of the applicable criteria within the Coos County Zoning and Land Development Ordinance (CCZLDO). You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete. A planner will explain which sections of the Ordinance pertain to your specific request. The information described below is required at the time you submit your application. The processing of your application does not begin until the application is determined to be complete. An incomplete application will postpone the decision, or may result in denial of the request. Please mark the items below to ensure your submittal is complete.

Application Check List: Please make off all steps as you complete them.

- A. A written statement of intent, attached to this application, with necessary supporting evidence which fully and factually describes the following:
1. A complete explanation of how the request complies with the applicable provisions and criteria in the Zoning Ordinance. A planner will explain which sections of the Ordinance pertain to your specific request. You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete.
 2. A description of the property in question, including, but not limited to the following: size, vegetation, crops grown, access, existing buildings, topography, etc.
 3. A complete description of the request, including any new structures proposed.
 - N/A 4. If applicable, documentation from sewer and water district showing availability for connection.
- B. A plot plan (map) of the property. Please indicate the following on your plot plan:
1. Location of all existing and proposed buildings and structures
 2. Existing County Road, public right-of-way or other means of legal access
 3. Location of any existing septic systems and designated repair areas
 - N/A 4. Limits of 100-year floodplain elevation (if applicable)
 5. Vegetation on the property
 - N/A 6. Location of any outstanding physical features
 7. Location and description (paved, gravel, etc.) of vehicular access to the dwelling location
- C. A copy of the current deed, including the legal description, of the subject property. Copies may be obtained at the Coos County Clerk's Office.

I certify that this application and its related documents are accurate to the best of my knowledge. I am aware that there is an appeal period following the date of the Planning Director's decision on this land use action. I understand that the signature on this application authorizes representatives of the Coos County Planning Department to enter upon the subject property to gather information pertinent to this request. If the application is signed by an agent, the owner's written authorization must be attached.

If this application is refereed directly to a hearings officer or hearings body I understand that I am obligated to pay the additional fees incurred as part of the conditions of approval. I understand that I/we are not acting on the county's behalf and any fee that is a result of complying with any conditions of approval is the applicants/property owner responsibility. I understand that conditions of approval are required to be complied with at all time and an violation of such conditions may result in a revocation of this permit.

Joshua Zillie 3/27/2020

**JOSHUA LILLIE'S FOREST TEMPLATE DWELLING
TAX LOT 100 IN SECTION 9, T.29S., R.14W., W.M., COOS COUNTY OREGON**

A. STATEMENT OF INTENT:

The purpose of the attached application is to request approval for a Forest Template Dwelling on the subject property providing that the Rezone application for the subject property is approved by the Coos County Planning Commission and the Board of Commissioners.

- 1. – See attached findings.**
- 2. – The subject property is 17.46 acres in size. This property was developed some time ago. A home with a shop/garage, driveway, well and septic system were built/installed. The home was removed several years ago.
A portion property was logged in 2019. Topography – relatively flat.**
- 3. – see attached plot plan**
- 4. – not applicable**

March 16, 2020

Coos County Planning Dept.

Subject Properties - T.L. 100 - 29S 14W 9

Applicant/Owner:

Joshua Lillie
51280 HWY 242
Broadbent, OR 97414

RE: Forest Dwelling (Template Dwelling) criteria and applicant's findings

Coos County Zoning and Land Development Ordinance (CCZLDO)

SECTION 4.6.100 FOREST AND FOREST MIXED USE – USE TABLES Table 1 identifies the uses and activities in the Forest (F) and Forest/Mixed Use (FMU) zone. The tables describe the use, type of review, applicable review standards. Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Exceptions to minimum lot and parcel sizes for the purpose of land division may apply as set out in Section 4.6.145 Land Division for Open Space and Special Assessment, and Section 4.6.145 Exceptions to Minimum Parcel Size. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.

If a use specifically states Forest Mixed Use only it is not permitted in the Forest Zone. If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.

SECTION 4.6.110 (OAR 660-006-0025) Uses Authorized in Forest Zones (1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are: (a) Uses related to and in support of forest operations; (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.; (d) Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.

Use	TR	Subject to
Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.		
63. Template Dwelling (Alternative forestland dwellings ORS 215.750)	ACU	(9)(B)(II), (9)(C)

(9)(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -

(II) Template Dwelling - 215.750 Alternative forestland dwellings; criteria.

- (1) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:**
 - (a) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:**
 - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and**
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels continue to exist on the other lots or parcels;**
 - (b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:**
 - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and**
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or**
 - (c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:**
 - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and**
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.**
- (3) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsection (1) or (2) of this section.**
- (4) A proposed dwelling under this section is not allowed:**
 - (a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan and acknowledged land use regulations or other provisions of law.**
 - (b) Unless it complies with the requirements of ORS 215.730.**
 - (c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met.**
 - (d) If the tract on which the dwelling will be sited includes a dwelling.**
- (5) Except as described in subsection (6) of this section, if the tract under subsection (1) or (2) of this section 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.**
- (6) (a) If a tract 60 acres or larger described under subsection (1) or (2) of this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (5) of this section. 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.

(b) 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.

(7) Notwithstanding subsection (4)(a) of this section, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in subsection (1), (2), (5) or (6) of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle. [1993 c.792 §4(6),(7),(8); 1999 c.59 §58; 2005 c.289 §1]

Response to SECTION 4.6.110(9)(B)(II)

- **The NRCS Soil report, on file, shows the property is capable of producing more than 85 cubic feet per acre per year of wood fiber and is required to meet Section 4.6.110(9)(B)(II)(1)(c).**
- **There are no parcels located within the Urban Growth Boundary.**
- **The subject property does not have a dwelling located and there are no deed or comprehensive plan restrictions that would prohibit siting a new dwelling as long as it complies with the Forest Template Dwelling criteria. The tract in this case is of tax lot 100 in Township 29S Range 14W Section 9 and consist of 19.11 acres.**
- **The template was configured based on the criteria. The template used is a 160-acre rectangle because it abuts a road. The centered on the center of the subject tract and meets or exceeds the required 11 units of land required and within those properties there are a minimum of three dwellings sited on or before January 1, 1993. There are a minimum of 20 parcels within the 160 acre rectangle ranging from 1.43 acres to 108.12 acres of which are zoned F and EFU. Five of these parcels have pre – 1993 dwellings. By allowing the siting of a dwelling on this site, the parcel would conform to what already exists within the area.**

9(C) ADDITIONAL CRITERIA FOR ALL DWELLINGS ALLOWED IN THE FOREST AND FOREST MIXED USE ZONES.

- (1) A local government shall require as a condition of approval of a single-family dwelling allowed on lands zoned forestland:
- (a) If the lot or parcel is more than 10 acres in western Oregon as defined in ORS 321.257, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
 - (b) the dwelling meets the following requirements:
 - (A) The dwelling has a fire retardant roof.
 - (B) The dwelling will not be sited on a slope of greater than 40 percent.
 - (C) Evidence is provided that the 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.
 - (D) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.

- (E) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.
- (F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
- (G) The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner.

Response to SECTION 4.6.110(9)(C)(1)

- **The property is larger than 10 acres. If the Assessor's Office requires a stocking survey the applicant will comply. Furthermore, the subject property was recently logged. It will meet the minimum stocking requirements after planting.**
 - **The dwelling will have a fire retardant roof.**
 - **The property is relatively flat with little to no slope.**
 - **The property is located within the Bandon Rural Fire Protection District.**
 - **The water source for this property is from a well and not a Class II stream. As a condition of approval the applicant will receive a sign off from Oregon Water Resources to verify the water source. Under ORS 537.545 (b) & (d) - no permit is required.**
 - **If the proposed dwelling has a chimney, a spark arrester will be installed.**
 - **The owner will provide and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner consist with the requirements of Section 4.6.140.9 and 4.6.140.10.**
- (2) (a) If a governing body determines that meeting the requirement of subsection (1)(b)(D) of this section would be impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. The applicant shall request and provide alternatives to be considered.
- (b) If a water supply is required under this subsection, it shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. [1993 c.792 §5; 1995 c.812 §6; 1997 c.293 §1; 2003 c.621 §103]

Response to SECTION 4.6.110(9)(C)(2)

- **The property is within a fire district and there is no need for alternative fire protections.**
- **There is no need for an additional water supply.**

SECTION 4.6.130 ADDITIONAL CRITERIA FOR ALL NEW AND REPLACEMENT DWELLINGS AND STRUCTURES IN FOREST

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest 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 governing body shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 to identify the building site:

- (1) Dwellings and structures shall be sited on the parcel so that:
 - (a) They have the least impact on nearby^{III} or adjoining forest or agricultural lands;
 - (b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - (c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - (d) The risks associated with wildfire are minimized.
- (2) Siting criteria satisfying section (1) of this section 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.
- (3) The applicant shall provide evidence to the governing body 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 (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:
 - (a) 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;
 - (b) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (c) 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.
- (4) 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 U.S. Bureau of Land Management, or the U.S. 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.
- (5) Approval of a dwelling shall be subject to the following requirements:
 - (a) Approval of a dwelling requires the owner of the tract 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;
 - (b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
 - (c) If the lot or parcel is more than 10 acres in western Oregon or more than 30 acres in eastern Oregon, 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;
 - (d) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the 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; and
 - (e) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document

binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Response to SECTION 4.6.130

- **The property owner is utilizing an existing home site. The dwelling was removed and past the time allotted to be replaced thus requiring a new application. There is an accessory structure located on the property. The area is cleared and a road is already constructed. The site is located in the northeast portion of the property. Give all of these factors this seems to be area to site the dwelling ensuring the least impact to the nearby or adjoining forest or agricultural lands. Utilizing the existing cleared area ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized. The applicant is using an existing site which requires little to no vegetation to be removed; therefore, the removal of forest lands used to site access roads, service corridors, the dwelling and structures has been minimized. The fuel free setbacks will ensure risks associated with wildfire are minimized.**
- **The applicant acknowledges and will provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules prior to obtaining a zoning compliance letter to constructed the dwelling. Under ORS 537.545 (b) & (d) - no permit is required to take water for single or group purposes in the amount not to exceed 15,000 gallons per day.**
- **The access is a private driveway off of Morrison Road. Morrison Road is a county road.**
- **The subject property was recently logged. It will meet the minimum stocking requirements after planting.**

SECTION 4.6.140 DEVELOPMENT AND SITING CRITERIA:

This section contain all of the development standards for uses (unless otherwise accepted out by a use review) and all of the siting standards for development.

1. **Minimum Lot Size for the creation of new parcels shall be at least 80 acres. Minimum lot size will not affect approval for development unless specified in use. The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.**
2. **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.**
3. **Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 7.1.525.**
4. **Off-Street Parking and Loading: See Chapter VII.**
5. **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.**

6. **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 except that:
 - a. Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.
 - b. Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;
 - c. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;
 - d. Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;
 - e. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;
 - 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; or
 - g. The 50 foot 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 estuarine 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".
 - h. Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.
 - i. The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.
7. All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. 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 they have contacted the Coos Forest Protective Association of the proposed development.
8. The Planning Director may authorize alternative forms of fire protection when it is determined that these standards are impractical that shall comply with the following:
 - a. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
 - b. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;
 - c. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and
 - d. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during

fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

9. Fire Siting Standards for New Dwellings:

- a. The property owner shall provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter of the primary fuel-free building setback.
- b. If another water supply (such as a swimming pool, pond, stream, or lake) is nearby, available, and suitable for fire protection, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

10. Firebreak:

- a. 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.
- b. Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.
- c. The owners of the dwelling shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by Oregon Department of Forestry and shall demonstrate compliance with Table 1.

Table 1 – Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

- 11. 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.
- 12. 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).
- 13. The dwelling shall not be sited on a slope of greater than 40 percent.
- 14. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

15. 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.
16. 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.
17. Access to new dwellings shall meet road and driveway standards in Chapter VII.

Response to SECTION 4.6.140

- **The property is a legal non-conforming unit of land and no land division is proposed.**
- **The applicant will exceed the road setback.**
- **There is no proposed fence at this time.**
- **A driveway/access/parking permit will be requested at the time of the application.**
- **The applicant has acknowledged and will file in the deed record of Coos County, a Forest Management Covenant prior to receiving a zoning compliance letter.**
- **There is no riparian vegetation on the site.**
- **The property is within the Bandon Rural Fire Protection District. No additional fire protection is required.**
- **The property owner will provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter of the primary fuel-free building setback.**
- **The slope on the property is between 0% to 9% and does not require additional primary safety zone. The applicant will meet the primary setback of 30 feet.**
- **The proposed dwelling use non-combustible or fire resistant roofing materials.**
- **There is no water supply exceeding 4,000 gallons.**
- **The dwelling will not be sited on a slope of greater than 40 percent.**
- **The new dwelling will not have a chimney and in the event one is installed it will install a spark arrester.**
- **The property is with in Bandon RFP.**
- **The access and driveway will be the minimum standards of Chapter VII which meets the requirement to allow emergency vehicles to enter the property.**

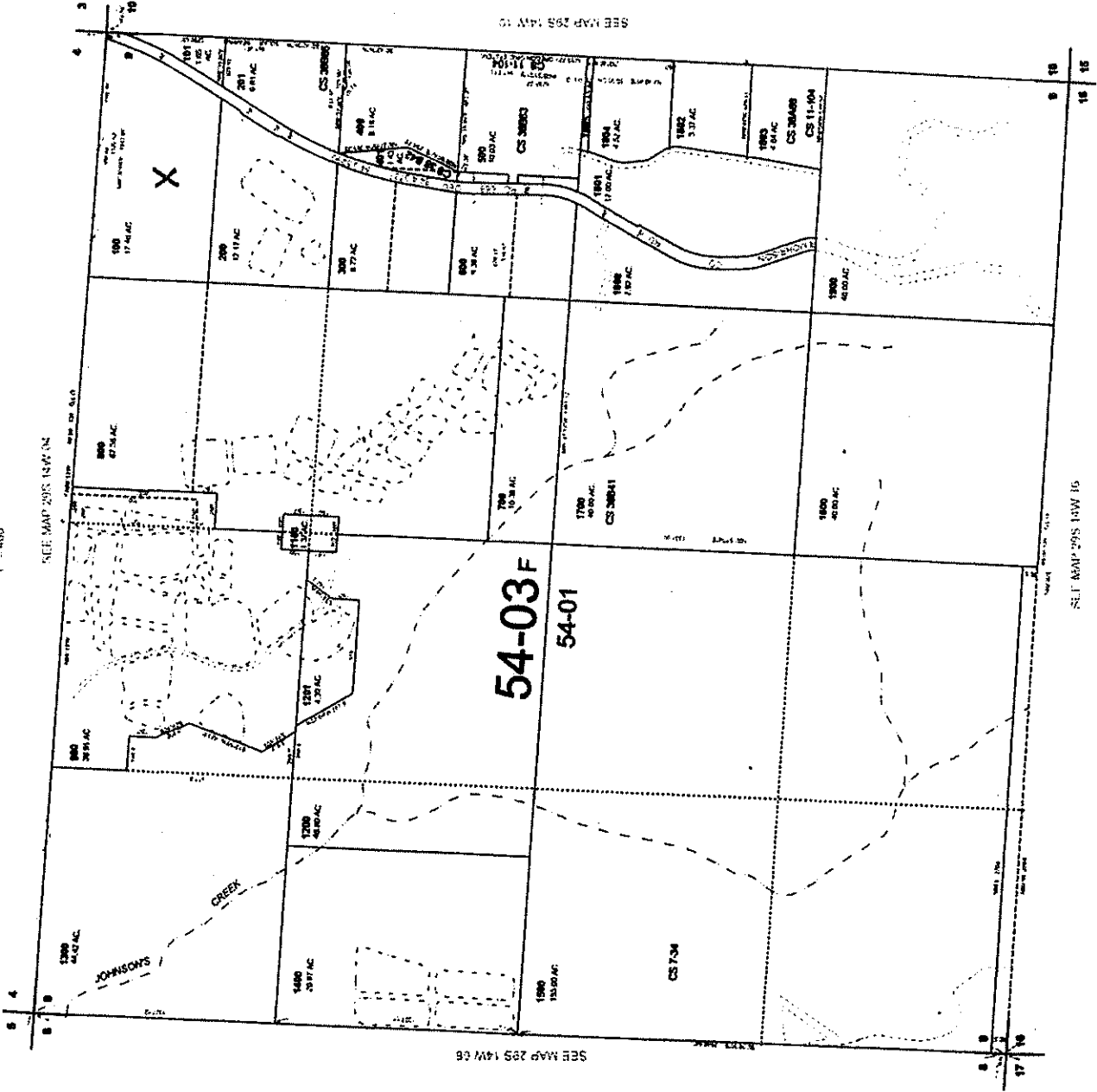
SECTION 9 T29S R14W W.M.
COOS COUNTY

29S 14W 09
CANCELLED NO.

- 301
- 302
- 1000
- 901
- 902
- 798M1
- 304
- 305
- 903
- 402
- 701
- 1501

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

1" = 400'



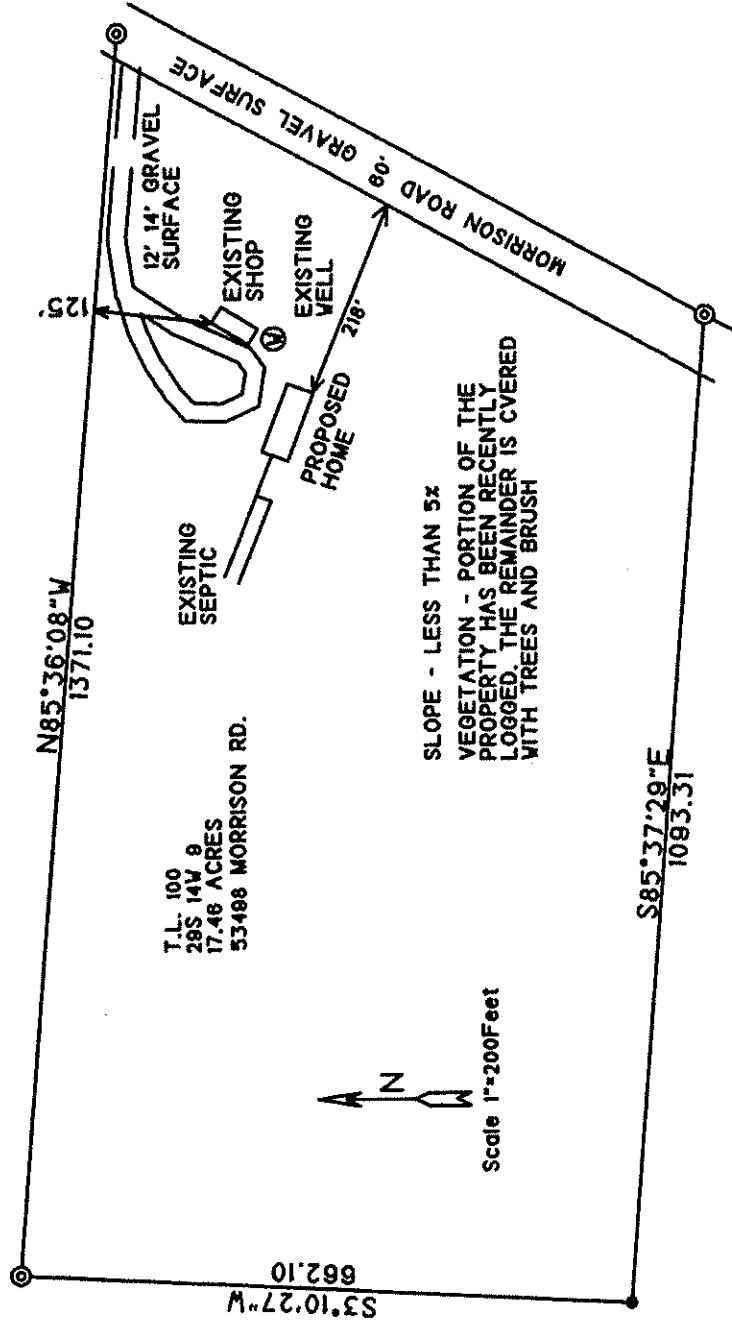
SEE MAP 29S 14W 16

02-03-2020

29S 14W 09

JOSHUA LILLIE PLOT PLAN

T.L. 100 - 29-14-9 - ACCT.# 1209400 - 17.46 AC.



RECORDING REQUESTED BY:



300 W Anderson, PO Box 1075
Coos Bay, OR 97420

GRANTOR'S NAME:
Rice Family Living Trust

GRANTEE'S NAME:
Joshua Lillie

AFTER RECORDING RETURN TO:

Order No.: 360619026790-LS
Joshua Lillie
51280 Hwy 242
Broadbent, OR 97414

SEND TAX STATEMENTS TO:

Joshua Lillie
51280 Hwy 242
Broadbent, OR 97414

APN: 1001209400
Map: 12094.00
53498 Morrison Road, Bandon, OR 97411

COOS COUNTY, OREGON 2019-03023
\$96.00 04/15/2019 12:04:00 PM
DEBBIE HELLER, CCC, COOS COUNTY CLERK Pgs=3

AFTER RECORDING
RETURN TO
Ticor Title Company
300 West Anderson Ave. - Box 1075
Coos Bay, OR 97420-0233
SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Kenneth P. Rice, Surviving Trustee of the Rice Family Living Trust
, Grantor, conveys and warrants to Joshua Lillie, Grantee, the following described real property, free and clear of
encumbrances except as specifically set forth below, situated in the County of Coos, State of Oregon:

See attached Exhibit "A"

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE HUNDRED EIGHTY
THOUSAND AND NO/100 DOLLARS (\$180,000.00). (See ORS 93.030).

Subject to:

1. The Land has been classified as Forest and Farm Land, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.
2. Rights of the public to any portion of the Land lying within the area commonly known as public roads, streets and highways.
3. Any interest in any oil, gas and/or minerals, as disclosed by document

Entitled: Deed
Recording Date: December 11, 1962
Recording No: Book 297 Page 617 Deed Records

The present ownership or any other matters affecting said oil, gas and/or minerals are not shown herein.

4. Any rights incidental to the ownership and development of the mineral interest excepted or reserved in the document

Entitled: Deed
Recording Date: December 11, 1962
Recording No: Book 297 Page 617 Deed Records

5. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: Pacific Power & Light Company
Recording Date: October 15, 1976
Recording No: 76-10-15153

STATUTORY WARRANTY DEED
(continued)

6. Removal of certain lands from Reforestation Classification Order No. 77-16A

Recording Date: August 8, 1977
Recording No.: 77-08-12765-A

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 82.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 4-12-2019

Rice Family Living Trust

BY: Kenneth P. Rice
Kenneth P. Rice
Surviving Trustee

State of Washington
County of Clark

This instrument was acknowledged before me on April 12, 2019 by Kenneth P. Rice as Trustee of the Rice Family Living Trust Trust u/w/a October 23, 1996.

Judy F. Ross
Notary Public - State of Oregon Washington
My Commission Expires: 6/26/2022

NOTARY PUBLIC
STATE OF WASHINGTON
JUDY F. ROSS
MY COMMISSION EXPIRES
JUNE 26, 2022

EXHIBIT "A"

Order No.: 360819026790

The N ½ of the NE ¼ of the NE ¼ of Section 9, Township 29 South, Range 14 West, Willamette Meridian, Coos County, Oregon.

SAVE AND EXCEPT that property conveyed to Coos County by Warranty Deed recorded November 14, 1975 bearing Microfilm Reel No. 75-11-121313, Records, Coos County, Oregon.

**LAND USE PERMIT APPLICATION – BALANCE OF COUNTY
COOS COUNTY PLANNING DEPARTMENT**

COMPLETED BY STAFF	
<p>Received By: <u> JMB </u></p> <p>Date Submitted: <u> 4/7/20 </u></p> <p>Application No.: <u> ACU-20-011 </u></p> <p>Fee: <u> 780⁰⁰ </u></p> <p>Fee Paid: <u> 780⁰⁰ </u></p> <p>Receipt No.: <u> 214600 </u></p>	<p><input type="checkbox"/> COMP PLAN AMENDMENT</p> <p><input type="checkbox"/> ZONE CHANGE</p> <p><input type="checkbox"/> TEXT AMENEDMENT</p> <p>CONDITIONAL USE REVIEW</p> <p><input type="checkbox"/> HEARINGS BODY</p> <p><input type="checkbox"/> ADMINISTRATIVE</p> <p><input type="checkbox"/> VARIANCE</p> <p><input type="checkbox"/> LAND DIVISION *</p> <p><input type="checkbox"/> HAZARD REVIEW *</p> <p><input type="checkbox"/> FARM OR FOREST REVIEW *</p> <p><input type="checkbox"/> FAMILY/MEDICAL HARDSHIP*</p> <p><input type="checkbox"/> HOME OCCUPATION/COTTAGE INDUSTRY</p> <p>*Supplemental Application required</p> <p>STAFF NOTES:</p>

Please type or clearly print all of the requested information below. Please be sure to include any supplemental application for if required.

I. APPLICANT

Name: Joshua Lillie

Mailing Address: 51280 Hwy 242

City State Zip
 Broadbent, OR 97414
 Daytime Phone
 541-260-7011
 Email:

II. OWNER(S)

Name: Joshua Lillie

Mailing Address: 51280 Hwy 242

City State Zip
 Broadbent, OR 97414
 Daytime Phone
 541-260-7011
 Email:

III. PROPERTY - If multiple properties are part of this review please check here and attached a separate sheet with property information.

Location or Address: 53498 Morrison Rd., Bandon, OR 97411

No. Acreage – 1.65 acres

Tax Acct. 99920225

Township: Range: Section: ¼ Section: 1/16 Section: Tax lot:
 29S 14W 9 0 0 101

Zone: Forest Mixed Use Water Service Type: On site

Sewage Disposal Type: On-site

School District: Bandon

Fire District: Bandon

IV. REQUEST SUMMARY : To establish a template dwelling in the Forest Zoning District.

**JOSHUA LILLIE'S FOREST TEMPLATE DWELLING
TAX LOT 101 IN SECTION 9, T.29S., R.14W., W.M., COOS COUNTY OREGON**

A. STATEMENT OF INTENT:

The purpose of the attached application is to request approval for a Forest Template Dwelling on the subject property providing that the Rezone application for the subject property is approved by the Coos County Planning Commission and the Board of Commissioners.

- 1. – See attached findings.**
- 2. – The subject property is 1.65 acres in size. This property is currently covered with trees and brush. Topography – relatively flat.**
- 3. – see attached plot plan**
- 4. – not applicable**

March 16, 2020

Coos County Planning Dept.

Subject Properties - T.L. 101 - 29S 14W 9

Applicant/Owner:

Joshua Lillie
51280 HWY 242
Broadbent, OR 97414

RE: Forest Dwelling (Template Dwelling) criteria and applicant's findings

Coos County Zoning and Land Development Ordinance (CCZLDO)

SECTION 4.6.100 FOREST AND FOREST MIXED USE – USE TABLES Table 1 identifies the uses and activities in the Forest (F) and Forest/Mixed Use (FMU) zone. The tables describe the use, type of review, applicable review standards. Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Exceptions to minimum lot and parcel sizes for the purpose of land division may apply as set out in Section 4.6.145 Land Division for Open Space and Special Assessment, and Section 4.6.145 Exceptions to Minimum Parcel Size. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.

If a use specifically states Forest Mixed Use only it is not permitted in the Forest Zone. If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.

SECTION 4.6.110 (OAR 660-006-0025) Uses Authorized in Forest Zones (1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are: (a) Uses related to and in support of forest operations; (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.; (d) Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.

Use	TR	Subject to
Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.		
63. Template Dwelling (Alternative forestland dwellings ORS 215.750)	ACU	(9)(B)(II), (9)(C)

(9)(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -

(II) Template Dwelling - 215.750 Alternative forestland dwellings; criteria.

- (1) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
 - (a) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels continue to exist on the other lots or parcels;
 - (b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
 - (c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
- (3) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsection (1) or (2) of this section.
- (4) A proposed dwelling under this section is not allowed:
 - (a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan and acknowledged land use regulations or other provisions of law.
 - (b) Unless it complies with the requirements of ORS 215.730.
 - (c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met.
 - (d) If the tract on which the dwelling will be sited includes a dwelling.
- (5) Except as described in subsection (6) of this section, if the tract under subsection (1) or (2) of this section 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.
- (6) (a) If a tract 60 acres or larger described under subsection (1) or (2) of this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (5) of this section. 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.
- (b) 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.
- (7) Notwithstanding subsection (4)(a) of this section, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in subsection (1), (2), (5) or (6) of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle. [1993 c.792 §4(6),(7),(8); 1999 c.59 §58; 2005 c.289 §1]

Response to SECTION 4.6.110(9)(B)(II)

- **The NRCS Soil report, on file, shows the property is capable of producing more than 85 cubic feet per acre per year of wood fiber and is required to meet Section 4.6.110(9)(B)(II)(1)(c).**
- **There are no parcels located within the Urban Growth Boundary.**
- **The subject property does not have a dwelling located and there are no deed or comprehensive plan restrictions that would prohibit siting a new dwelling as long as it complies with the Forest Template Dwelling criteria. The tract in this case is tax lots 101 in Township 29S Range 14W Section 9 and consist of 1.65 acres.**
- **The template was configured based on the criteria. The template used is a 160-acre rectangle because it abuts a road. The centered on the center of the subject tract and meets or exceeds the required 11 units of land required and within those properties there are a minimum of three dwellings sited on or before January 1, 1993. There are a minimum of 20 parcels within the 160 acre rectangle ranging from 1.43 acres to 108.12 acres of which are zoned F and EFU. Five of these parcels have pre – 1993 dwellings. By allowing the siting of a dwelling on this site, the parcel would conform to what already exists within the area.**

9(C) ADDITIONAL CRITERIA FOR ALL DWELLINGS ALLOWED IN THE FOREST AND FOREST MIXED USE ZONES.

- (1) A local government shall require as a condition of approval of a single-family dwelling allowed on lands zoned forestland:
- (a) If the lot or parcel is more than 10 acres in western Oregon as defined in ORS 321.257, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
- (b) the dwelling meets the following requirements:
- (A) The dwelling has a fire retardant roof.
- (B) The dwelling will not be sited on a slope of greater than 40 percent.
- (C) Evidence is provided that the 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.
- (D) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.

- (E) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.
- (F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
- (G) The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner.

Response to SECTION 4.6.110(9)(C)(1)

- The property is less than 10 acres, therefore a stocking survey is not required.
 - The dwelling will have a fire retardant roof.
 - The property is relatively flat with little to no slope.
 - The property is located within the Bandon Rural Fire Protection District.
 - The water source for this property is from a well and not a Class II stream. As a condition of approval the applicant will receive a sign off from Oregon Water Resources to verify the water source. Under ORS 537.545 (b) & (d) - no permit is required.
 - If the proposed dwelling has a chimney, a spark arrester will be required.
 - The owner will provide and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner consist with the requirements of Section 4.6.140.9 and 4.6.140.10.
- (2) (a) If a governing body determines that meeting the requirement of subsection (1)(b)(D) of this section would be impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. The applicant shall request and provide alternatives to be considered.

(b) If a water supply is required under this subsection, it shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. [1993 c.792 §5; 1995 c.812 §6; 1997 c.293 §1; 2003 c.621 §103]

Response to SECTION 4.6.110(9)(C)(2)

- The property is within a fire district and there is no need for alternative fire protections.
- There is no need for an additional water supply.

SECTION 4.6.130 ADDITIONAL CRITERIA FOR ALL NEW AND REPLACEMENT DWELLINGS AND STRUCTURES IN FOREST

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest 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 governing body shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 to identify the building site:

- (1) Dwellings and structures shall be sited on the parcel so that:

- (a) They have the least impact on nearby¹¹ or adjoining forest or agricultural lands;
 - (b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - (c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - (d) The risks associated with wildfire are minimized.
- (2) Siting criteria satisfying section (1) of this section 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.
- (3) The applicant shall provide evidence to the governing body 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 (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:
- (a) 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;
 - (b) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (c) 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.
- (4) 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 U.S. Bureau of Land Management, or the U.S. 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.
- (5) Approval of a dwelling shall be subject to the following requirements:
- (a) Approval of a dwelling requires the owner of the tract 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;
 - (b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
 - (c) If the lot or parcel is more than 10 acres in western Oregon or more than 30 acres in eastern Oregon, 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;
 - (d) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the 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; and
 - (e) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing

a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Response to SECTION 4.6.130

- **The property owner will be creating a home site. The proposed site is located in the Southern portion of the property. The proposed dwelling site will ensure the least impact to the nearby or adjoining forest or agricultural lands.**
- **The fuel free setbacks will ensure risks associated with wildfire are minimized.**
- **The applicant acknowledges and will provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules prior to obtaining a zoning compliance letter to constructed the dwelling. Under ORS 537.545 (b) & (d) - no permit is required to take water for single or group purposes in the amount not to exceed 15,000 gallons per day.**
- **The access will be a private driveway off of Morrison Road. Morrison Road is a county road.**
- **The subject property will meet the minimum stocking requirements after the home site is developed.**

SECTION 4.6.140 DEVELOPMENT AND SITING CRITERIA:

This section contain all of the development standards for uses (unless otherwise accepted out by a use review) and all of the siting standards for development.

1. **Minimum Lot Size for the creation of new parcels shall be at least 80 acres. Minimum lot size will not affect approval for development unless specified in use. The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.**
2. **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.**
3. **Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 7.1.525.**
4. **Off-Street Parking and Loading: See Chapter VII.**
5. **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.**
6. **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 except that:**
 - a. **Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.**
 - b. **Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;**

- c. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;
 - d. Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;
 - e. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;
 - 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; or
 - g. The 50 foot 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 estuarine 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".
 - h. Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.
 - i. The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.
7. All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. 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 they have contacted the Coos Forest Protective Association of the proposed development.
8. The Planning Director may authorize alternative forms of fire protection when it is determined that these standards are impractical that shall comply with the following:
- a. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
 - b. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;
 - c. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and
 - d. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
9. Fire Siting Standards for New Dwellings:
- a. The property owner shall provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter of the primary fuel-free building setback.

- b. If another water supply (such as a swimming pool, pond, stream, or lake) is nearby, available, and suitable for fire protection, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

10. Firebreak:

- a. 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.
- b. Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.
- c. The owners of the dwelling shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by Oregon Department of Forestry and shall demonstrate compliance with Table 1.

Table 1 – Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

- 11. 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.
- 12. 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).
- 13. The dwelling shall not be sited on a slope of greater than 40 percent.
- 14. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
- 15. 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.

16. 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.
17. Access to new dwellings shall meet road and driveway standards in Chapter VII.

Response to SECTION 4.6.140

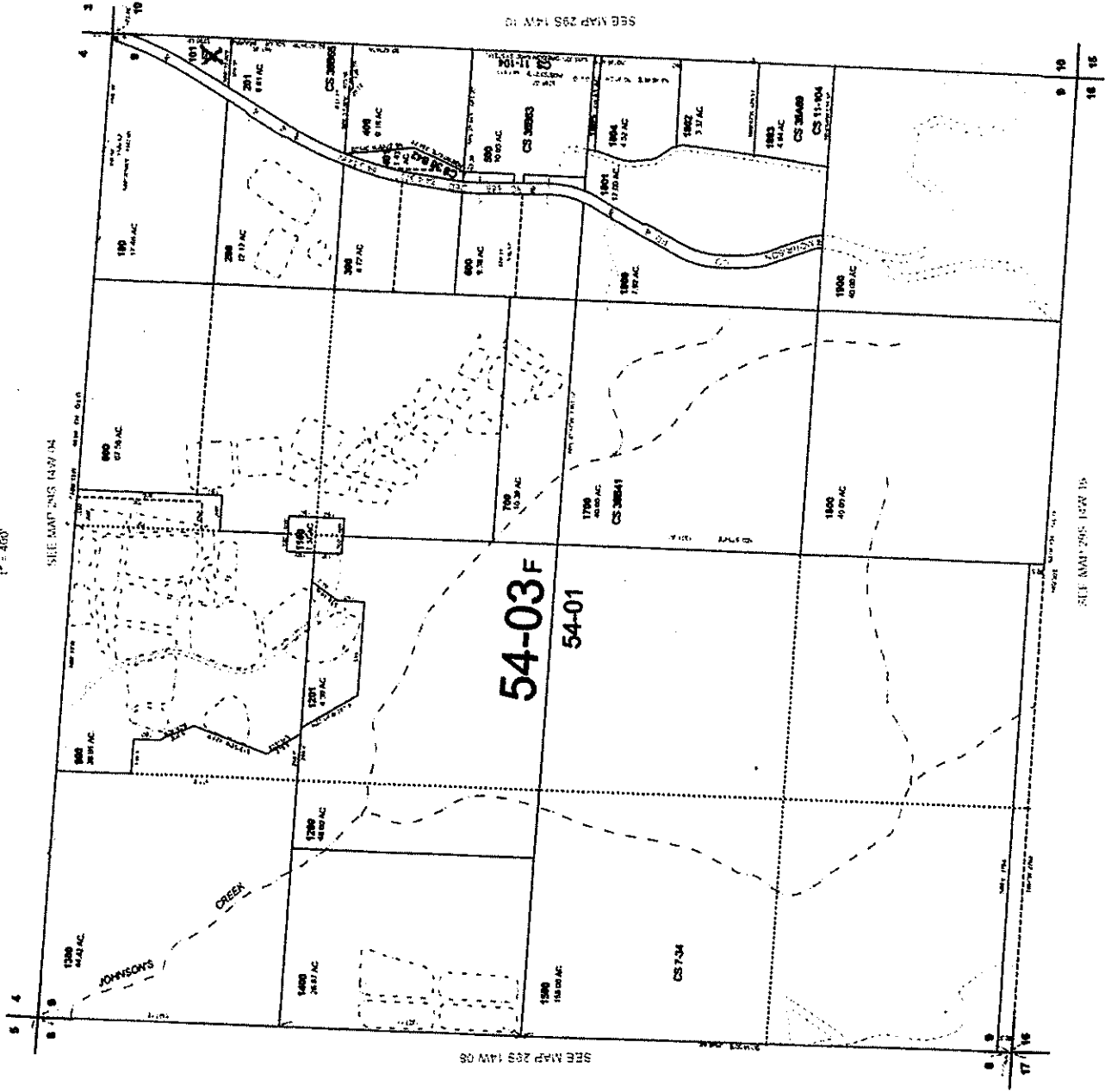
- **The property is a legal non-conforming unit of land and no land division is proposed.**
- **The applicant will exceed the road setback.**
- **There is no proposed fence at this time.**
- **A driveway/access/parking permit will be requested at the time of the application.**
- **An applicant has acknowledged and will file in the deed record of Coos County, a Forest Management Covenant prior to receiving a zoning compliance letter.**
- **There is no riparian vegetation on the site.**
- **The property is within the Bandon Rural Fire Protection District. No additional fire protection is required.**
- **The property owner will provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter of the primary fuel-free building setback.**
- **The slope on the proposed home site is between 0% to 9% and does not require additional primary safety zone. The applicant will meet the primary setback of 30 feet.**
- **The proposed dwelling will use non-combustible or fire resistant roofing materials.**
- **There is no water supply exceeding 4,000 gallons.**
- **The dwelling will not be sited on a slope of greater than 40 percent.**
- **The new dwelling will not have a chimney and in the event one is installed it will install a spark arrester.**
- **The property is with in Bandon RFP.**
- **The access and driveway will be the minimum standards of Chapter VII which meets the requirement to allow emergency vehicles to enter the property.**

SECTION 9 T29S R14W W.M.
COOS COUNTY

29S 14W 09
CANCELLED NO.

- 301
- 302
- 1000
- 901
- 902
- 750M1
- 304
- 305
- 903
- 402
- 701
- 1501

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY



SEE MAP 29S 14W 10

02-05-2020
29S 14W 09



Debbie Heller, CCC, Coos County Clerk

AFTER RECORDED RETURN TO:

Joshua Lillie
51280 Hwy 242
Broadbent, OR 97414

Until a change is requested all tax statements shall be sent to the following address:

Joshua Lillie
51280 Hwy 242
Broadbent, OR 97414

CONSIDERATION:

The true consideration for this conveyance is \$0.00

BARGAIN AND SALE DEED

Lillie

Lillie

Known all men by these presents, that Joshua ~~Lillie~~, Grantor, conveys to Joshua ~~Lillie~~, Grantee's, the following described real property situated in the County of Coos, State of Oregon:

That portion of the N1/2 of the NE1/4 of the NE1/4 of Section 9, Township 29 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, lying East of that parcel described in Instrument No. 75-11-121313 (Morrison County Road), Deed Records of Coos County, Oregon.

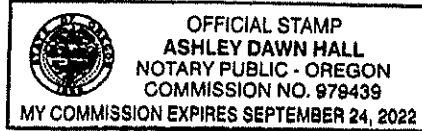
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND TO SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007 AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 10 day of December, 2019.

GRANTOR:

Joshua Lillie
Joshua Lillie

STATE OF OREGON)
) ss.
County of Coos)



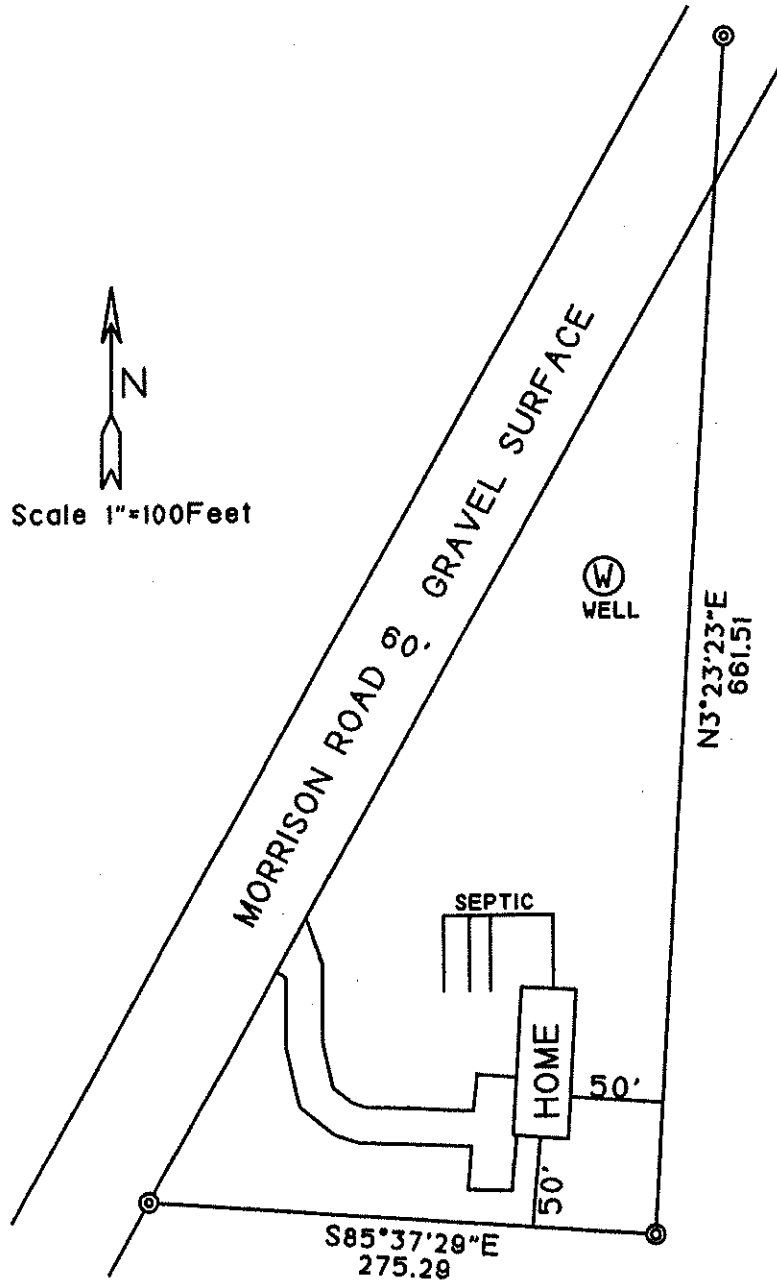
The foregoing instrument was acknowledged before me this 10 day of December, 2019 by Joshua Lillie.

Ashley Dawn Hall
Notary Public for Oregon

JOSHUA LILLIE PLOT PLAN

T.L. 101 - 29-14-9 - ACCT.# 99920225 - 1.65 AC.

PROPOSED DEVELOPMENT



HOME SITE SLOPE - LESS THAN 5%
VEGETATION - PROPERTY IS
CURRENTLY COVERED WITH
TREES AND BRUSH

V. ATTACHED WRITTEN STATEMENT. With all land use applications, the "burden of proof" is on the applicant. It is important that you provide information that clearly describes the nature of the request and indicates how the proposal complies with all of the applicable criteria within the Coos County Zoning and Land Development Ordinance (CCZLDO). You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete. A planner will explain which sections of the Ordinance pertain to your specific request. The information described below is required at the time you submit your application. The processing of your application does not begin until the application is determined to be complete. An incomplete application will postpone the decision, or may result in denial of the request. Please mark the items below to ensure your submittal is complete.

Application Check List: Please make off all steps as you complete them.

- A. A written statement of intent, attached to this application, with necessary supporting evidence which fully and factually describes the following:
1. A complete explanation of how the request complies with the applicable provisions and criteria in the Zoning Ordinance. A planner will explain which sections of the Ordinance pertain to your specific request. You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete.
 2. A description of the property in question, including, but not limited to the following: size, vegetation, crops grown, access, existing buildings, topography, etc.
 3. A complete description of the request, including any new structures proposed.
 - N/A 4. If applicable, documentation from sewer and water district showing availability for connection.
- B. A plot plan (map) of the property. Please indicate the following on your plot plan:
1. Location of all existing and proposed buildings and structures
 2. Existing County Road, public right-of-way or other means of legal access
 3. Location of any existing septic systems and designated repair areas
 - N/A 4. Limits of 100-year floodplain elevation (if applicable)
 5. Vegetation on the property
 - N/A 6. Location of any outstanding physical features
 7. Location and description (paved, gravel, etc.) of vehicular access to the dwelling location
- C. A copy of the current deed, including the legal description, of the subject property. Copies may be obtained at the Coos County Clerk's Office.

I certify that this application and its related documents are accurate to the best of my knowledge. I am aware that there is an appeal period following the date of the Planning Director's decision on this land use action. I understand that the signature on this application authorizes representatives of the Coos County Planning Department to enter upon the subject property to gather information pertinent to this request. If the application is signed by an agent, the owner's written authorization must be attached.

If this application is refereed directly to a hearings officer or hearings body I understand that I am obligated to pay the additional fees incurred as part of the conditions of approval. I understand that I/we are not acting on the county's behalf and any fee that is a result of complying with any conditions of approval is the applicants/property owner responsibility. I understand that conditions of approval are required to be complied with at all time and an violation of such conditions may result in a revocation of this permit.

Joshua Altu 3/27/2020

Exhibit “C”

Comments Received



Wetland Land Use Notice Response

Response Page

Department of State Lands (DSL) WN#*

WN2020-0268

Responsible Jurisdiction

Staff Contact

Coos County
Planning Dept NA

Jurisdiction Type

County

Municipality

Coos County

Local case file #

AM/RZ-20-003

County

Coos

Activity Location

Township

29S

Range

14W

Section

09

QQ section

Tax Lot(s)

100,101

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Coos

Latitude

43.080843

Longitude

-124.356765

Wetland/Waterway/Other Water Features ^

There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

The National Wetlands Inventory shows wetland, waterway or other water features on the property

Your Activity ^

A state permit will not be required for the proposed project because, based on the submitted site plan, the project avoids impacts to jurisdictional wetlands, waterways, or other waters.

Applicable Oregon Removal-Fill Permit Requirement(s) ^

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information



Additional Comments

Based on the submitted site plan, it does not appear that the home project in the southeast corner of current tax lot 100 (triangle on east side of road) will impact wetlands or other waters of the state.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

4/28/2020

Response by:

Lynne McAllister

Response Phone:

503-986-5300