



## NOTICE OF LAND USE DECISION BY THE COOS COUNTY PLANNING DIRECTOR

Coos County Planning  
225 N. Adams St.  
Coquille, OR 97423  
<http://www.co.coos.or.us/>  
Phone: 541-396-7770  
Fax: 541-396-1022

Date of Notice: April 5, 2019  
File No: ACU-19-001  
RE: Request for a Forest Template Dwelling  
Applicant(s): Walter & Melissa DeMiller  
11406 Fairhollow Dr  
San Antonio, TX 78249

This decision notice serves as public notice to all participants, adjacent property owners, special districts, agency with interests, or person with interests. If you are an adjacent property owner, this notice is being mailed to you because the applicant has applied for a use or activity on their property that requires that you receive notice pursuant to ORS 197.763. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER."**

The requested proposal has been  Approved  Denied subject to the findings to the criteria found in Exhibit A. Approval is based on findings and facts represented in the staff report.

### Subject Property Information

Account Number: 3122500  
Map Number: 28S1420BB-00600  
Property Owner: DEMILLER, WALTER & MELISSA  
11406 FAIR HOLLOW DR  
SAN ANTONIO, TX 78249-3834  
Situs Address: No Situs Issued  
Acreage: 0.86 Acres  
Zoning: FOREST (F)  
Special Considerations: BANDON AREA OF MUTUAL INTEREST (BMI)  
FOREST MIXED USE (MU)  
NATURAL HAZARD - TSUNAMI (NHTHO)  
Proposal/Criteria: Request for Planning Director Approval for a Template Dwelling in the Forest Mixed Use Zone pursuant to Coos County Zoning and Land Development

Notice shall be posted from April 5, 2019 until 12:00PM April 22, 2019

(CCZLDO) § 4.6.110.3.b Template Dwelling, §4.6.130 Additional Criteria for All Administrative and Hearings Body Application Review, § 4.6.140 Development and Siting Criteria, and § 4.11.125 Special Development Considerations .

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

The application, staff report and any conditions can be found at the following link: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartmentApplications-2019.aspx> . The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 225 North Adams Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact Crystal Orr, Planning Specialist and the telephone number where more information can be obtained is (541) 396-7770.

This decision will become final at 12 P.M. on April 22, 2019 unless before this time a completed **APPLICATION FOR AN APPEAL OF A DECISION BY THE PLANNING DIRECTOR** form is submitted to and received by the Coos County Planning Department.

Failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements of evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes raising the issue in an appeal to the Land Use Board of Appeals.

Prepared by:  Date: April 5, 2019  
Crystal Orr, Planning Specialist

Authorized by:  Date: April 5, 2019  
Jill Rolfe, Planning Director

**EXHIBITS**

Exhibit A: Conditions of Approval  
Exhibit B: Vicinity Map

**The Exhibits below are mailed/emailed to the Applicant and Planning Commission only. Copies are available upon request or at the following website:** <http://www.co.coos.or.us/Departments/Planning/PlanningDepartmentApplications-2018.aspx> or by visiting the Planning Department at 225 N. Baxter, Coquille OR 97423. If you have any questions please contact staff at (541) 396-7770.

Exhibit C: Staff Report

## **EXHIBIT "A"**

The applicant shall comply with the following conditions of approval with the understanding that all costs associated with complying with the conditions are the responsibility of the applicants and that the applicants are not acting as an agent of the county. If the applicant fails to comply or maintain compliance with the conditions of approval the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval and if you have any questions contact planning staff.

### **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. 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.
  - a. All uses must comply with applicable development standards and fire siting and safety standards.
  - b. As a condition of approval a Forest Management Covenant will need to be recorded.
4. Pursuant to CCZLDO § 4.6.140 the following conditions will need to be complied with prior to issuance of a zoning compliance letter:
  - a. All Firebreak criteria found in § 4.6.140.10 shall be complied with.
  - b. The dwelling shall not be sited on a slope of greater than 40 percent.
  - c. The applicant shall provide a statement that if the dwelling has a chimney or chimneys; each chimney shall have a spark arrester.
  - d. 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. An Access/Driveway Road/ Parking Verification Permit application must be submitted to the Planning Department and signed off by the Coos County Road Department prior to the issuance of a Zoning Clearance Letter.
6. An Address application must be submitted to the Planning Department prior to the issuance of a Zoning Clearance Letter.
7. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the commencement of construction of the proposed dwelling and accessory structures on the property. This will be issued after all conditions have been satisfied.



EXHIBIT "B"  
Vicinity Map



**COOS COUNTY PLANNING DEPARTMENT**

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

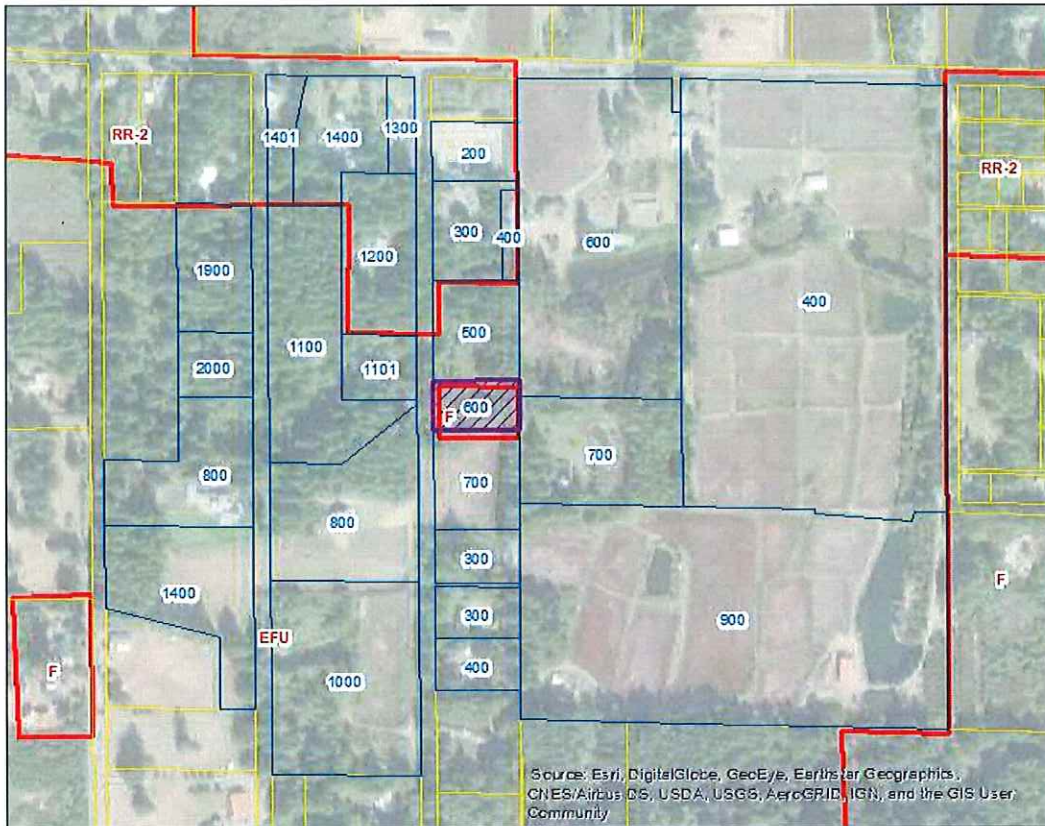
Physical Address: 225 N. Adams, Coquille Oregon

Phone: (541) 396-7770

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



File: ACU-19-001  
Applicant/  
Owner: Walter & Melissa DeMiller  
Date: March 26, 2019  
Location: Township 28S Range 14W  
Section 20BB TL 600  
Proposal: Administrative Conditional Use



**EXHIBIT "C"**  
**Staff Report**

File Number: ACU-19-001

Applicant: Walter & Melissa DeMiller

Account Number: 3122500  
Map Number: 28S1420BB-00600

Property Owner: DEMILLER, WALTER & MELISSA  
11406 FAIR HOLLOW DR  
SAN ANTONIO, TX 78249-3834

Situs Address: No Situs Address

Acreage: 0.86 Acres

Zoning: FOREST (F)

Special Considerations: BANDON AREA OF MUTUAL INTEREST (BMI)  
FOREST MIXED USE (MU)  
NATURAL HAZARD - TSUNAMI (NHTHO)

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**Reviewing Staff:** Crystal Orr, Planning Specialist

**Date of Report:** April 5, 2019

**I. PROPOSAL**

Request for Planning Director Approval for a Template Dwelling in the Forest Mixed Use Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.6.110.3.b Template Dwelling, §4.6.130 Additional Criteria for All Administrative and Hearings Body Application Review, § 4.6.140 Development and Siting Criteria, and § 4.11.125 Special Development Considerations.

**II. PROPERTY DESCRIPTION AND PROPOSAL**

**LAWFULLY CREATED:** The unit of land was created pursuant to 6.1.125.1.c, the subject lot is Lot 7 of the Wheeler Subdivision which was created in 1907.

**LOCATION:** The subject property is located northeast of the City of Bandon and accessed off of Spring Creek Road via Prosper Junction Road.

**BACKGROUND:** On December 27, 2006 the Board of Commissioners approved an Amendment/Rezone and Forest Template Dwelling Application. The Template Dwelling was not sited and an extension to the application was not requested. Conditional Use authorizations in the Forest Zone for residential uses are only valid for (4) four years. Therefore, a new application was required.

### Aerial View



Plot Plan submitted with application

Planned use for: Township 28S Range 14 Section 20 Tax lot 00600

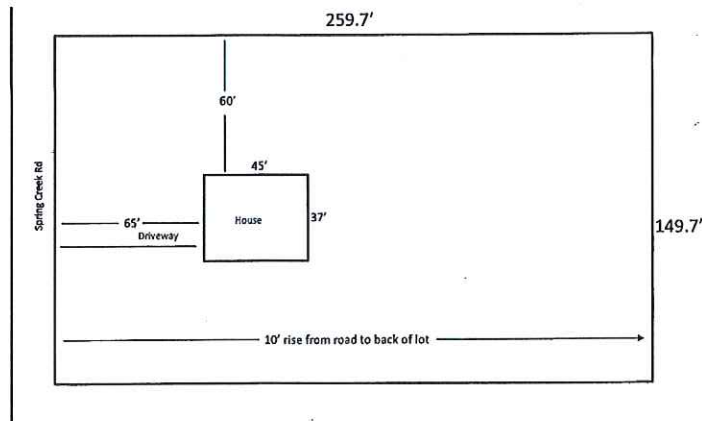


Exhibit A

Scale 3" = 100'

### SITE DESCRIPTION AND SURROUNDING USES:

- a. **SITE DESCRIPTION AND SURROUNDING USES:** The property is zoned Forest Mixed Use (FMU) and is approximately .86 of an acre. The property is flat and moderately forested with some brush. The property is buffered by thick vegetation that exists on the south side of the property, where there is a small cranberry bog. To the west there are two parcels with dwellings that appear to be using their properties for Forest or Farm uses. On the east there are forested areas, and further east there are large cranberry bogs. To the north is mostly forested. The predominate zone surrounding the property is Exclusive Farm Use, but a few hundred feet to the north there is a large area zoned rural residential 2, with quite a few residentially developed lots.
- b. **PROPOSAL:** The applicant is requesting approval of a Single Family Dwelling in the Forest Mixed Use zone. No other improvements have been applied for at this time.

### IV. APPROVAL CRITERIA & FINDINGS OF FACT

- **Forest (F)**  
*Purpose and Intent: 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)**
- *Mixed Farm-Forest Areas ("MU" areas) include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and 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.*

- **Dwelling**  
*Any building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.*

**TEMPLATE DWELLING**

- **SECTION 4.6.110(3)(b) RESIDENTIAL USES [IN THE FOREST ZONE]- TEMPLATE DWELLING**

***b. Template Dwelling***

*A single-family dwelling on a lot or parcel located within a forest zone may be allowed as a conditional use if:*

- i. There are no other dwellings on the tract on which the dwelling will be sited.*

**FINDING:** **The subject property contains approximately .86 acres. There are no other dwellings within the tract.**

**Therefore, this criterion has been met.**

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

**FINDING:** **There is no deed restrictions listed in the current recorded deed of records regarding establishing a dwelling on the subject property.**

**Therefore, this criterion has been met.**

- iii. The lot or parcel on which the dwelling is to be located is predominantly composed of soils that are capable of producing the following cubic feet per acre per year*

	<i>CF/Ac/Yr of Growth</i>		
	<i>0-49</i>	<i>50-85</i>	<i>+85</i>
<i>Required minimum number of lots or parcels or portions thereof existing on</i>	<i>3</i>	<i>7</i>	<i>11</i>

<i>January 1, 1993, within a 160-acre square centered on the subject tract.</i>			
<i>Required minimum number of dwellings existing on January 1, 1993, on the lots or parcels</i>	3	3	3

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

- iv. *If the tract on which the dwelling is to be sited is 60 acres or larger and abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to maximum extent possible, aligned with the road or stream. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:*
  - 1) *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*
  - 2) *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.*
- v. *If a tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road. Road, as used in this subsection, means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land. This excludes a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.*
- vi. *The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan and its implementing measures.*

**FINDING:** Evidence in the record indicates there are no deed restrictions that would prohibit a dwelling on the subject property. Based on soil types and cubic foot per acre per year growth, this criterion requires a demonstration of 11 parcels and 3 dwellings within 160 acre rectangle centered on the subject tract. Staff applied the 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract. After applying the template to the subject property it exceeds the number of parcels and dwellings.

Therefore, the criteria listed in Section 4.6.110.3.b have been complied with.

- **SECTION 4.6.130 CRITERIA AND REVIEW STANDARDS FOR CONDITIONAL USE PERMITS (BOTH ADMINISTRATIVE AND HEARINGS BODY):**

*All Conditional Use Applications (Administrative and Hearings Body) are subject to requirements that are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands as follows:*



*All Conditional Use Applications (Administrative and Hearings Body) are subject to requirements that are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands as follows:*

- 1. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.*

**FINDING:** The property will be accessed through Spring Creek Road, which is a highly traveled platted public road that is not maintained by the county. There are numerous roads, driveways smaller parcels and homes through the vicinity of the DeMiller owned Land. The Dwelling is proposed to be sited centrally, but near the road on the parcel.

Staff finds that within the template property buffer there are a few different zones, Forest, Exclusive Farm Use, and Rural Residential. Within the notification area there are Four (4) tracts of land that are receiving tax deferrals for farm or forest operations, of the four (4), three (3) also have a single family dwelling on the parcel. There are seven (7) Residential zoned parcels, and eight (8) parcels that are zoned Farm or Forest but are not receiving a tax deferral for any farm or forest uses.

Although the applicant did not provide evidence within the findings to prove that the development will not impact farm or forest practices, they did provide a plot plan showing that the Dwelling will be centrally located and near Spring Creek Road. The Plot Plan also shows that they will meet the minimum setbacks. Therefore, staff finds that the proposed use will not force a significant change in or significantly increase the cost of accepted farming or forest practices.

- 2. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*

**FINDING:** This property is located within the Bandon Fire District.

If the property developer clears the sites and complies with the noncombustible material regulation then a single family dwelling will not significantly increase fire hazard or significantly increase fire suppression costs. Therefore, this criterion has been addressed.

- 3. All uses must comply with applicable development standards and fires siting and safety standards.*

**FINDING:** This criterion is addressed in CCZLDO 4.6.140. Therefore, this criterion has been addressed.

- 4. 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. There may be other criteria listed that applies to individual uses.*

**FINDING:** As a condition of approval a Forest Management Covenant will need to be recorded.

**Therefore, this criterion has been addressed.**

5. *The following siting criteria shall apply to all dwellings, including replacement dwellings, and structures in the Forest and Forest Mixed Use zones. Replacement dwellings may be sited in close proximity to the existing developed homesite. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. These criteria may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.*

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

- i. They have the least impact on nearby or adjoining forest or agricultural lands.*
- ii. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.*
- iii. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized. And*
- iv. The risks associated with wildfires are minimized.*

*b. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules. For the purposed of this Section, evidence of a domestic water supply means:*

- i. 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.*
- ii. A water use permit issued by the Water Resources Department for the use described in the application. Or*
- iii. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.*

**FINDING:** **Some of these criteria have been addressed as part of other provisions within this staff report. Impacts to nearby resource land is addressed in § 4.6.130(1). Impacts to forest operations and accepted farming practices are addressed in § 4.6.130(4). The amount of forest land used for the proposed use is addressed in § 4.6.130(1). The risk from wildfires is addressed § 4.6.140(7-17). A Water Supply Requirements form was signed off by the Watermaster which satisfies 4.6.130(5)b.**

**Therefore, this criteria has been addressed.**

6. *As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land*

*Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.*

**FINDING: Access to the subject property is through a Coos County owned road, Spring Creek Road.**

**Therefore, this criterion has been addressed.**

7. *Approval of a dwelling shall be subject to the following additional requirements:*

- a. *Approval of a dwelling requires the owner to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.*
- 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, the property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report of where the survey report indicates that minimum stocking requirements have not been met.*
- 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 the Department of Forestry determines that the tract does not meet those requirements, it will notify the owner and Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.*
- 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.*

**FINDING: The subject property is less than 10 acres; therefore, a stocking survey will not be required.**

**Therefore, this criterion has been addressed.**

• **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.*

**FINDING:** No new lot is being created as a result of this application. The subject lot was lawfully created pursuant to CCZLDO §.1.125.1.c.

**Therefore, this criterion has been met.**

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.*

**FINDING:** Based on the submitted Plot Plan the proposed Dwelling meets the required setbacks.

**Therefore, this criterion has been met.**

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

**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.*

**FINDING:** The Road/ Driveway Access Application was not submitted. And therefore as a condition of approval the Driveway Access application must be submitted and 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.*

**FINDING:** This requirement will be addressed by the "Forest Management Covenant" requirement stipulated above.

**Therefore, this criterion has been met.**

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.

**FINDING:** The dwelling is located more than 50 feet from any wetland, stream, lake or river according to the plot plan and aerial photos.

**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 Department of Forestry of the proposed development.

**FINDING:** The subject property is located within the boundaries of the Bandon Fire 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.*

**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 criteria 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 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.*

**FINDING:** **The property owner shall provide proof that 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 prior to the issuance of a zoning clearance letter.**

**Therefore, this requirement has been addressed.**

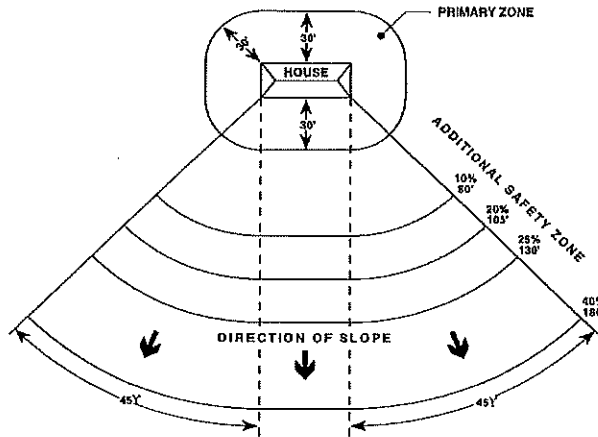
10. *Firebreak:*

- a. *A firebreak shall be established and maintained around all structures, including decks, for a distance of at least 30 feet in all directions.*
- b. *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.*
- c. *Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.*
- d. *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

EXAMPLE OF SAFETY ZONE SHAPE



**FINDING:** This property is mostly comprised of 8B, Bullards Sandy Loam loam with no to seven (7) percent slopes. This percentage of slope does not require an additional setback. The required setback is 30 feet; all distances from the dwelling to property lines exceed this setback based on the submitted plot plan.

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.

**FINDING:** 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.

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).

**FINDING:** As a condition of approval is a water supply exceeding 4,000 gallons is available for fire suppression a road access and turning space shall be required.

Therefore, this criterion has been addressed.

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

**FINDING:** The dwelling 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.*

**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.*

**FINDING:** The subject property is located within the boundaries of the Bandon 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.*

**FINDING:** The Road/ Driveway Access Application was not submitted. As a condition of approval the Driveway Access application must be submitted to the Planning Department along with the required fee (\$153). The Driveway must be signed off by the Coos County Road Department stating that it meets standards found in Chapter 7 prior to receiving a Zoning Clearance Letter.

Therefore, staff finds that the road and driveway will provide adequate access for firefighting equipment.

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

**FINDING:** The Road/ Driveway Access Application was not submitted. As a condition of approval the Driveway Access application must be submitted to the Planning Department along with the fee (\$153). The Driveway must be signed off by the Coos County Road Department stating that it meets standards found in Chapter 7 prior to receiving a Zoning Clearance Letter.

Therefore, this criterion has been met.

• **ARTICLE 4.3 AREAS OF MUTUAL INTEREST**

Areas of mutual interest are located outside of city's urban growth boundary but may have impacts on future planning. Notices of decisions are provided to areas of mutual interest and copies of zoning compliance letters. If there is a public hearing on the matter the city will receive notice but no notice is required prior to a compliance determination.

**FINDING:** Staff will send a copy of this Notice of Decision to the City of Bandon.



- **SECTION 4.11.125 SPECIAL DEVELOPMENT CONSIDERATIONS:**

**7. Natural Hazards (Balance of County Policy 5.11)**

The Natural Hazards map has inventoried the following *hazards*:

- Flood Hazard
  - Riverine flooding
  - Coastal flooding
- Landslides
- Earthquakes
  - Liquefaction potential
  - Fault lines
- Tsunamis
- Erosion
  - Riverine streambank erosion
  - Coastal
    - Shoreline and headlands
    - □ Wind
- Wildfire
  - High wildfire hazard
  - Gorse fire

***Purpose Statements:***

Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property. Coos County considers natural disasters and hazards to include river and coastal flooding, landslides, liquefaction potential due to earthquakes, fault lines, tsunamis, river bank erosion, coastal erosion along shorelines and headlands, coastal erosion due to wind, and wildfires, including those areas affected by gorse.

This strategy shall be implemented by enacting special protective measures through zoning and other implementing devices, designed to minimize risks to life and property associated with new development. The determination of whether a property is located in one of the above referenced potentially hazardous areas shall be made by the reviewing body (Planning Director, Planning Commission, Board of Commissioners, or any designee based upon adopted inventory mapping). A specific site may not include the characteristics for which it is mapped. In these circumstances staff shall apply § 5.11.100.2.c.

Hazard review shall not be considered applicable to any application that has received approval and requesting an extension to that approval or any application that was deemed completed as of the date this ordinance effective (July 31, 2017). If a land use authorization has expired the applicant will be required to address any applicable hazards.

c. Tsunamis: Coos County shall promote increased resilience to a potentially catastrophic Cascadia Subduction Zone (CSZ) tsunami through the establishment of a Tsunami Hazard Overlay Zone (THO) in the Balance of County Zoning. See Sections 4.11.260-4.11.270 for the requirements of this overlay zone.

**FINDING: The Tsunami Hazard Overlay was adopted to increase the resilience of Coos County by establishing standards and requirements and also to bring forth the knowledge of potential loss in the areas that are subject to damage in the event of a tsunami. Certain development within the Tsunami Hazard Overlay Zone is prohibited or requires an exception to receive approval. There are no added requirements for residential development within the Tsunami Hazard Overlay.**

**Therefore this criterion has been addressed.**

**VI. DECISION:**

There is evidence to adequately address the criteria for a Forest Template Dwelling therefore, this request has been approved. There are conditions that apply to this use that can be found at Exhibit "A".

**VII. EXPIRATION AND EXTENSION OF CONDITIONAL USES:**

- e. *Time frames for conditional uses and extensions are as follows:*
  - a. *All conditional uses within non-resource zones are valid four (4) years from the date of approval; and*
  - b. *All conditional uses for dwellings within resource zones outside of the urban growth boundary or urban unincorporated community are valid four (4) years from the date of approval.*
  - c. *All non-residential conditional uses within resource zones are valid (2) years from the date of approval.*
  - d. *For purposes of this section, the date of approval is the date the appeal period has expired and no appeals have been filed, or all appeals have been exhausted and final judgments are effective.*
  - e. *Additional extensions may be applied.*
- f. *Extensions are subject to notice as described in § 5.0.900(2) and appeal requirements of 5.8 for a Planning Director's decision.*

This conditional use is for a residential conditional use within a resource zone and is valid for four years for the date of final approval (**April 22, 2023**)

**VIII. NOTICE REQUIREMENTS:**

A notice of decision will be provided to property owners within 750 feet of the subject properties and the following agencies, special district or parties:

DLCD  
Bandon Fire Department

Planning Commission  
Board of Commissioner