



**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: March 28, 2019  
File No: ACU-19-004  
RE: Request for a Forest Template Dwelling  
Applicant(s): Cathy Hall  
68136 North Bay Rd  
North Bend, OR 97459

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: 178402  
Map Number: 24S1323AB-01002  
Property Owner: HALL, CATHY E.  
68136 NORTH BAY RD  
NORTH BEND, OR 97459-8515  
Situs Address: 68142 NORTH BAY RD NORTH BEND, OR 97459  
Acreage: 2.23 Acres  
Zoning: FOREST (F)  
Special Considerations: ARCHAEOLOGICAL SITES (ARC)  
BIRD SITE MEETS GOAL 5C REQRMT (B5C)  
FOREST MIXED USE (MU)  
RURAL UNINCORPORATED COMMUNITY (RUC)  
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 (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 5 P.M. on April 12, 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:** Crystal Orr **Date:** March 28, 2019  
Crystal Orr, Planning Specialist

**Authorized by:** Jill Rolfe **Date:** March 28, 2019  
Jill Rolfe, Planning Director

**EXHIBITS**

Exhibit A: Conditions of Approval  
Exhibit B: Vicinity Map

**The Exhibits below are mailed/mailed 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 D: Comments Received

## **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.
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. A scaled detailed plot plan must be submitted prior to receiving a Zoning Clearance Letter; this plot plan must show that the required 30 foot setbacks are met for all property lines.
6. Must comply with the recommendations provided by Oregon Department of Fish & Wildlife.
7. Must comply with any recommendations received from Coquille and Confederated Indian Tribe.
8. 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**

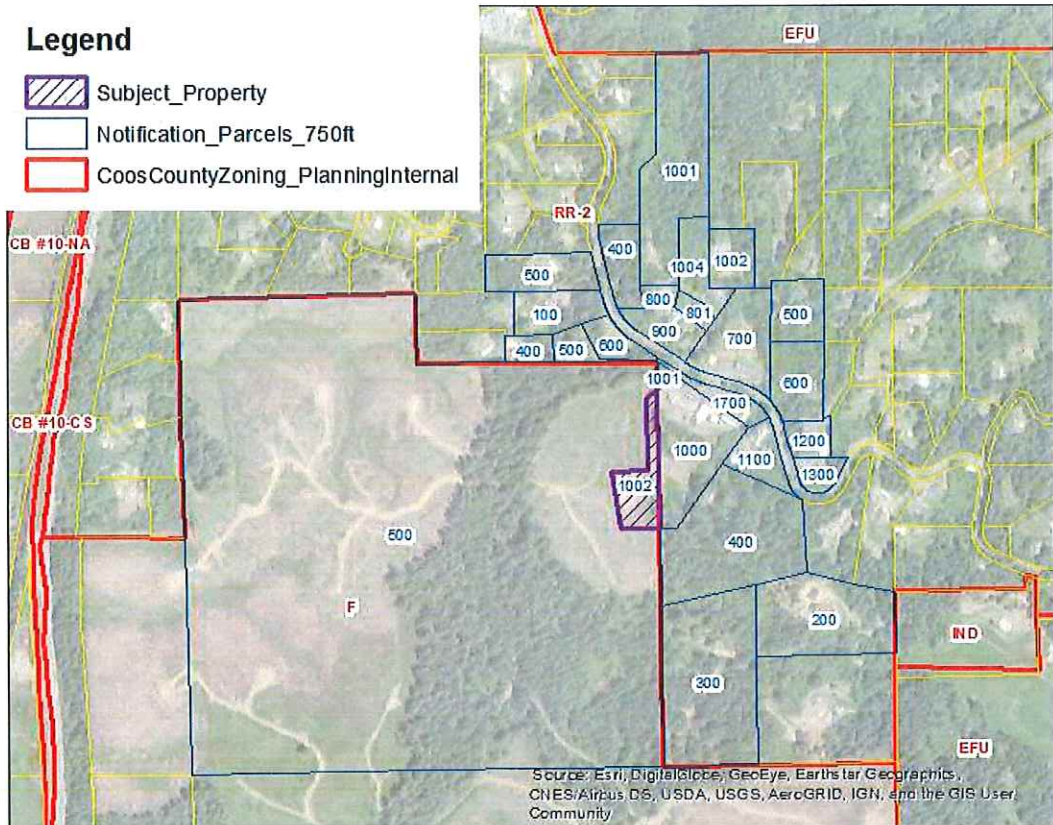
Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423  
Physical Address: 225 N. Adams, Coquille Oregon  
Phone: (541) 396-7770  
Fax: (541) 396-1022/TDD (800) 735-2900



File: ACU-19-004  
Applicant/  
Owner: Cathy Hall  
Date: March 26, 2019  
Location: Township 24 S Range 13 W  
Section 23 AB TL 1002  
Proposal: Administrative Conditional Use

**Legend**

-  Subject\_Property
-  Notification\_Parcels\_750ft
-  CoosCountyZoning\_PlanningInternal



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

File Number: ACU-19-004

Applicant: Cathy Hall

Account Number: 178402  
Map Number: 24S1323AB-01002

Property Owner: HALL, CATHY E.  
68136 NORTH BAY RD  
NORTH BEND, OR 97459-8515

Situs Address: 68142 NORTH BAY RD NORTH BEND, OR 97459

Acreage: 2.23 Acres

Zoning: FOREST (F)

Special Considerations: ARCHAEOLOGICAL SITES (ARC)  
BIRD SITE MEETS GOAL 5C REQRMT (B5C)  
FOREST MIXED USE (MU)  
RURAL UNINCORPORATED COMMUNITY (RUC)

---

**Reviewing Staff:** Crystal Orr, Planning Specialist  
**Date of Report:** March 28, 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.b through a prior land use decision. On June 7, 2006 a Lawfully Created Unit of Land (Discrete Parcel) Determination was submitted certifying the unit of land as discrete under deed reference found in book 240, page 520 located in the Deed of Records of Coos County. The property was originally part Sunny Hill School.

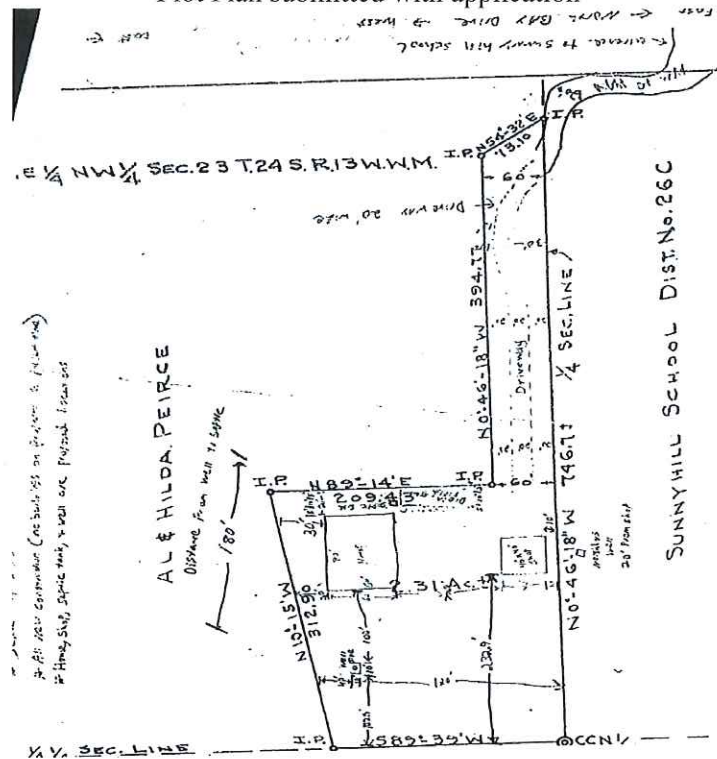
**LOCATION:** The subject property is located northeast of the City of North Bend and accessed off of Sunny Hill Road.

**BACKGROUND:** This unit of land was once part of tax lot 1000, but was deemed discrete through a Discrete Parcel Determination on June 7, 2006. A Conditional Use (ACU-06-69) was approved to allow a Forest Template Dwelling on the property on February 9, 2007. The Dwelling was not sited within the four year timeframe given for approval and therefore the applicants submitted a new Conditional Use Application.

Aerial View



Plot Plan submitted with application



**SITE DESCRIPTION AND SURROUNDING USES:**

- a. **SITE DESCRIPTION AND SURROUNDING USES:** The property is zoned Forest Mixed Use (FMU) and is approximately 2.23 acres. There is no development on the subject property and it appears to be mostly bare. The properties to the east and south are zoned Forest Mixed Use and the properties to the west and north are zoned Rural Residential-2. The property directly to the east was once Sunny Hill Elementary School.

The property is accessed off of a private easement through tax lots 1001 and 1700 to East Bay Road. The property has been zoned Forest since 1986 according to the scanned Mylar Maps.

The property is within the Rural Unincorporated Boundary of Sunny Hill and was part of the school at one time. The surrounding properties (within the notification boundary) range in approximately one acre to approximately 150 acres. The property to the west is in Shorewood Properties LLC and appears to be in commercial forest use.

- b. **PROPOSAL:** The applicant is requesting approval of a Single Family Dwelling and Accessory Structure in the Forest Mixed Use zone.

#### 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 6 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 January 1, 1993, within a 160-acre square centered on the subject tract.</i>	<i>3</i>	<i>7</i>	<i>11</i>
<i>Required minimum number of dwellings existing on January 1, 1993, on the lots or parcels</i>	<i>3</i>	<i>3</i>	<i>3</i>

*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:*

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

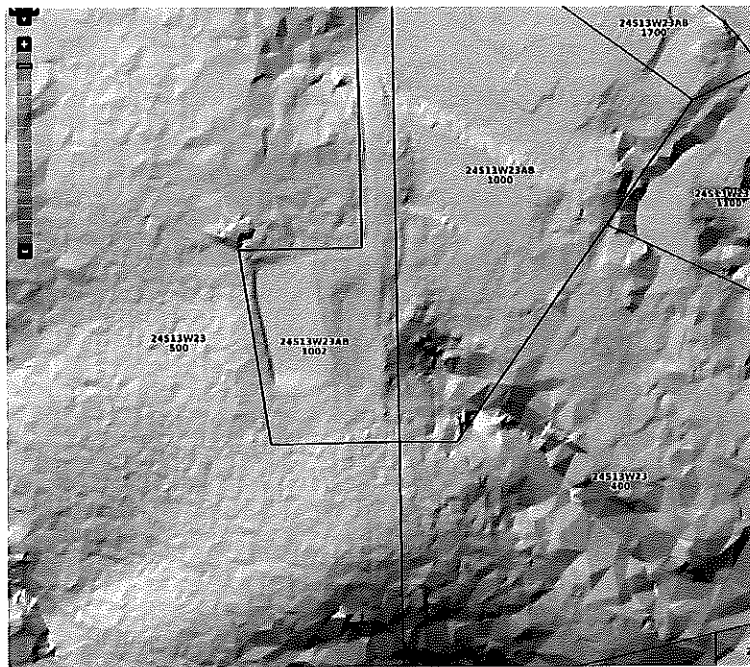
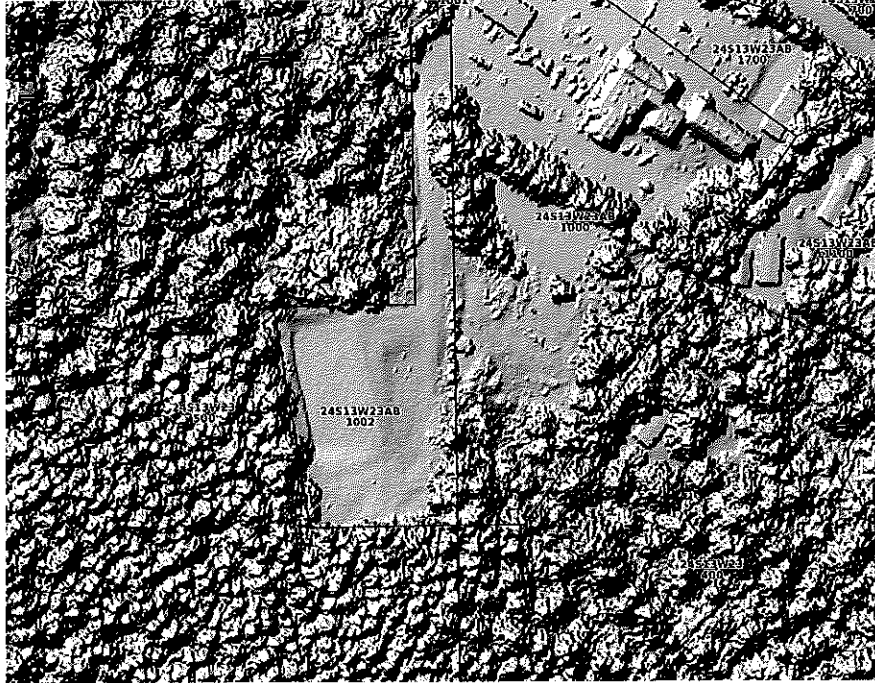
**FINDING:** The property will be accessed through North Bay Road, which is a highly traveled county road that is paved. There is only one property within the boundary that is zoned forest and it surrounds the subject property to the north, south and west. This tax lot is receiving a tax deferral for forest operations, and in looking at the aerial photos, appears to be in forest production. There seems to have been some recent harvesting and replanting.

In this case the applicant is required to show that by constructing a single family dwelling, accessory structure and infrastructure to support the development it will not force a significant change in or increase the cost of accepted farming or forest practices on agricultural or forest lands. The only parcel that is required to be considered within the 750 foot notification boundary is tax lot 500 in Township 24, Range 13 Section 23. There are no other properties zoned forest or farm. However, there are some larger residential properties that may be in forest use.

The applicant has not provided sufficient evidence within the plot plan or the findings to ensure the development will not impact forest practice or how the fuel free firebreak setbacks will be met.

Upon looking at the site and the soil information it appears the site itself is relative flat with less than seven (7) percent slope. The preferred area for development would be close to the eastern boarder of the property. Below are the 2008-2009 Lidar images that appear to show some excavation that has occurred on the property, there seems to be small bank on the north and northwest boundary of the property left from the excavation. Staff must look at the forest practices that are occurring to address any significant impacts. At the widest point this property is approximately 270 feet and the average length excluding the driveway is approximately 315 feet long. Forest operations include harvesting and management practices. Setbacks are development standards in the forest zone that help ensure that a dwelling can be compatible and not significantly increase normal forest practices and fire suppression.

The applicant shows that proposed dwelling will be located at the northwest boundary of the property and accessory structure about 31 feet to the east. After reviewing all of the records and looking at the setback including any downslope and existing development on surrounding properties it seems reasonable that the structures could be placed closer to the eastern boundary next to the residential zoned area.



Staff was able to place a buffer on this tax lot, given the setbacks, slope, dedicated area for access and vegetation to establish an area where the structures could be

sited to provide the least impact on adjoining forest operations as shown below; however, given that the tax lot lines are not exact the condition of approval is going to be that a new plot plan be submitted showing that the structures are at a minimum 30 feet from the north, west and south boundary.



Therefore, with the conditions of approval staff finds that the proposed use will not force a significant change in or significantly increase the cost of accepted farming or forest practices or fire suppression cost.

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:** A Forest Management Covenant was recorded on February 13, 2007.

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 this criteria has 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, North Bay 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.

**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 structures 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.*

**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 was signed off by the Coos County Road Department on February 22, 2007. The driveway/road must maintain the standards found in Chapter VII.

**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 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.

**FINDING: The dwelling is located more than 50 feet from any identified wetland, stream, lake or river.**

**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 North Bay 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.*

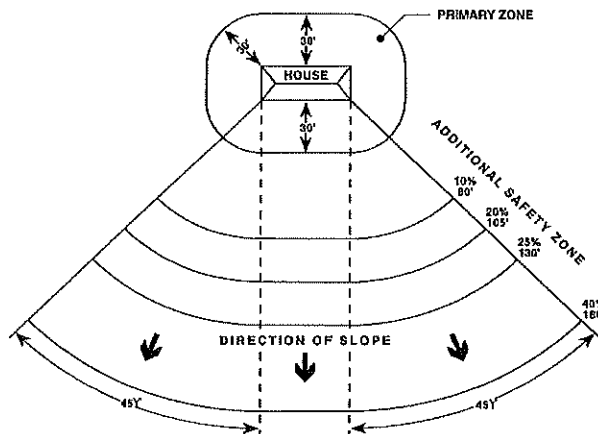
Table 1 – Minimum Primary Safety Zone

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:** According to the soils on this property the property is comprised of Templeton silt loam that typically has 30 to 50 percent slopes. However, given this is a general slope staff measure on the USGS Topographical map the calculation comes to about a 4.5% slope. Therefore, the 30 foot setback is required from the north, northwest and western boundaries of the property.

Based on the submitted plot plan it does not appear that the Dwelling is meeting the required setback. The applicant must submit an amended plot plan to show that structures are at least 30 feet from the property line to be within the managed of the property owners to ensure a fuel free setback is maintained.

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:** The applicant states that there is no water supply exceeding 4,000 gallons.

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 North Bay 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 was signed off by the Coos County Road Department on February 22, 2007. The driveway/road must maintain the standards found in Chapter VII.

**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 was signed off by the Coos County Road Department on February 22, 2007. The driveway/road must maintain the standards found in Chapter VII.

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

• **SECTION 4.11.125 SPECIAL DEVELOPMENT CONSIDERATIONS:**

**3. Historical, Cultural and Archaeological Resources, Natural Areas and WILDERNESS (Balance of County Policy 5.7)**

*The Historical/Archeological maps have inventoried the following:*

- *Historical;*
- *Area of Archaeological Concern;*
- *Botanical; and*
- *Geological Resources.*

***Purpose Statement:***

*Coos County shall manage its historical, cultural and archaeological areas, sites, structures and objects so as to preserve their original resource value. This strategy recognizes that preservation of significant historical, cultural and archaeological resources is necessary to sustain the County's cultural heritage.*

**FINDING: This parcel is within the Special Development Consideration Archaeological Sites and requires notice to be provided to the Coquille Indian Tribe and Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians. Staff sent a request for comments on March 19, 2019. Staff has not received a response. As a condition of approval any recommendations from either tribe must be adhered to.**

**6. Significant Wildlife Habitat (Balance of County Policy 5.6)**

The Fish & Wildlife Habitat Map I (1985 Ordinance 85-08-011L) has inventoried the following: The following shall be considered "5c" Goal #5 resources (pursuant to OAR 660-16-000) the following:

- "Sensitive Big-game Range"
- Salmonid Spawning and Rearing Areas
- Bird Habitat Sites (listed in the following table)

The following bird habitat areas that are considered Goal #5 "5c" resources:

	Township	Location Range	Section	Area
Bald Eagle Nests	23S	13W	23	(Tenmile)
	23S	11W	05	(Big Creek)
	23S	12W	21	(Willow Point)
	24S	12W	04	(Palouse)
	24S	13W	36	(Mettman)
	25S	11W	29	(Bessy Cr.)
	25S	11W	33	(Dellwood)
	25S	11W	22	(Rachel Cr.)
	25S	11W	32	(Morgan Ridge)
	26S	14W	14	(So. Slough)
	27S	13W	09	
	28S	10W	09	(Brewster Gorge)
	31S	12W	16	(Baker Creek)
	29S	14W	31	(Twomile Creek)
28S	14W	11	(Randolph)	
Great Blue Heron Colonies	24S	13W	27 SW <sup>1</sup> / <sub>4</sub>	
	25S	14W	24 SE <sup>1</sup> / <sub>4</sub>	
	23S	13W	26	(Saunders Lake)
	24S	13W	23	(North Bay)
	25S	11W	15	(Weyerhaeuser)
	25S	12W	31 NW <sup>1</sup> / <sub>4</sub>	(Catching Slough)
	25S	14W	24	(North Spit)
	26S	14W	11	(So. Slough)
	25S	13W	24	
	26S	14W	14NE <sup>1</sup> / <sub>4</sub> , SE <sup>1</sup> / <sub>4</sub>	
27S	14W	35 SE <sup>1</sup> / <sub>2</sub> ,NW <sup>1</sup> / <sub>4</sub>	(Sevenmile)	
26S	14W	14 NW <sup>1</sup> / <sub>4</sub>		

	30S	15W	15	(Muddy Lake)
	23S	12W	28	(Templeton Arm)
Band-Tailed Pigeon	24S	13W	24&25	(Haynes)
Mineral Springs	25S	13W	24	(Cooston)
	26S	13W	01	
	28S	14W	10	(Prosper)
	29S	11W	26	
	29S	11W	35	(Blueslide)
	29S	11W	36	(Rock Quarry)

Uses and activities deemed compatible with the objective of providing adequate protection for all identified Statewide Planning Goal 5 resources are all uses and activities allowed, or conditionally allowed by the Zoning and Land Development Ordinance, except that special care must be taken when developing property adjacent to salmonid spawning and rearing areas so as to avoid to the greatest practical extent the unnecessary destruction of riparian vegetation that may exist along stream banks. The Oregon Forest Practices Act is deemed adequate protection against adverse impacts from timber management practices.

a. 5c Bird Sites protection shall be implemented by:

- i. County reliance upon the Oregon Department of Forestry and Oregon Department of fish and Wildlife insuring adequate protection of "5c" bird sites from possible adverse impacts of timber management practices thru the Forest Practices Act;
- ii. Use of the Fish and Wildlife Plan Maps and detailed inventories above to identify "5c" bird sites subject to special protection;
- iii. For "5c" bird site protection, stipulating in the Zoning and Land Development Ordinance that conflicting uses shall be reviewed by the Oregon Department of Fish and Wildlife to determine that any proposed use is not expected to produce significant and unacceptable environmental impacts on any of the "5c" bird sites; and
- iv. Stipulating on County Zoning Clearance Letters that establishment of conflicting uses adjacent to "5c" bird sites shall be permitted only pursuant to the provisions of this policy.
- v. Coos County shall require a location map for any development activity with the exception of grazing within its regulatory scope that is determined to be within a "5c" bird habitat. The location map shall be referred to the Oregon Department of Fish and Wildlife requesting an opinion within 10 days as to whether the development is likely to produce significant and unacceptable impacts upon the "5c" resource, and what safeguards it would recommend to protect the resource. If ODFW's determinations the development will impact the "5c" bird habitat a conditional use will be required by the applicant. ODFW's and the applicants findings will be reviewed based upon sound principles of conservation and appropriate balancing of the ESEE consequences so if conflicting uses are allowed the resource site is protected to some extent. The ACU will be processed pursuant to Article 5.0. If ODFW's determination does not show any impacts then a zoning compliance letter may be issued if the use is permitted or has completed a conditional use process.

**FINDING:** This parcel is within the Special Development Consideration Bird Site Meets Goal 5C Site and requires notice to be provided to the Oregon Department of Fish & Wildlife. Staff sent a request for comments on March 19, 2019. Chris Claire, Habitat Protection Biologist employed by Oregon Department of Fish & Wildlife responded on March 21, 2019. He responded that Best Management practices including a silt fence, minimizing disturbance of soils to the degree reasonable, and directing stormflow water from the site into vegetated areas where it will filter to reduce the potential that sediment laden water moves into nearby streams or watercourses. There are several historic raptor nesting sites within one mile of the proposed construction site along Highway 101 and likely others that we do not know about. In order to ensure protection of any nest sites, and in line with the Forest Practices Act (629-665-0020), “When (or if) a resource site (nest) is discovered by the operator, timber owner or landowner during a forests operation (construction activity), the party making the discovery shall: ... (b) Immediately notify ODFW. This notification should apply to any nesting sites within one-half mile of the property. At this time a site inspection will be completed by our agency to determine to risk associated with construction activities. His full comments can be found in Exhibit D.

## **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 12, 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  
North Bay Fire Department

Planning Commission  
Board of Commissioner

## Exhibit D Comments Received

Crystal Orr

---

**From:** Christopher Claire [Christopher.W.Claire@state.or.us]  
**Sent:** Thursday, March 21, 2019 5:14 PM  
**To:** Crystal Orr  
**Subject:** RE: Request for Comments ACU-19-004

Crystal,

The Oregon Department of Fish and Wildlife has reviewed the Cathy Hall application (ACU-19-004) to Coos County Planning. Section F of the application indicates construction of a new single family dwelling and shop, however, the Department was contacted by a contractor that indicated the project intent is for only installation of a new shop. The Department has the following Comments/Recommendations for this proposed project as guidance to reduce/minimize impacts to fish and wildlife and their habitats.

**Comments/Recommendations**

*Thanks for the opportunity to comment on this proposed project. The location historically was late seral forest that would have been high functioning Habitat Category 1 or 2 as classified under the Oregon Dept. of Fish and Wildlife (Department) Habitat Mitigation Policy; OAR 635-415. Since Euro-human development the habitats have been highly altered and currently would be considered Category 3 or 4 with reduced function for production of fish and wildlife. However, minimization of impacts due to disturbance during construction actions remains a high priority in order to prevent further reduction of habitat function and/or offset impacts due to effects such as movement of sediment laden water from the site.*

- The site appears from the map to be on a ridge top without direct potential impacts to fish bearing or perennial streams*
- The site appears to be located in a management zone previously logged from the aerial imagery and accordingly the landowner has likely asked for a zoning variance or the site is zoned mixed use, which allows for installation of a home and shop.*
- The Department recommends that standard Best Management practices including use of silt fence, minimizing disturbance of soils to the degree reasonable, and directing stormflow water from the site into vegetated areas where it will filter be incorporated to reduce the potential that sediment laden water moves into nearby streams or watercourses. Additionally it is recommended that standard precautions be incorporated to prevent leakage/spilling of fuels during operation of equipment.*
- There are several historic raptor nesting sites within one mile of the proposed construction site along Highway 101 and likely others that we do not know about. In order to ensure protection of any nest sites, and in line with the Forest Practices Act (629 665-0020), "When (or if) a resource site (nest) is discovered by the operator, timber owner or landowner during a forests operation (construction activity), the party making the discovery shall: ... (b) immediately notify ODFW. This notification should apply to any nesting sites within one-half mile of the property. At this time a site inspection will be completed by our agency to determine the risk associated with construction activities.*

Thanks for your concern with conservation of Oregon's fish and wildlife and their habitats,

Chris,

Christopher W. Claire  
Habitat Protection Biologist  
Oregon Dept. of Fish and Wildlife  
P.O. Box 5003  
Charleston, OR 97420  
541-888-5515  
Wk. cell # 541-551-1631

*"Creation of hydrologic chaos does not necessarily mean you have created habitat."*