



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: July 10 , 2019

File No: ACU-19-014

RE: Request for approval to change the residential use to a vacation rental.

Applicant(s): Mary Wheeler Joseph & Louis Leberti
PO Box 5506 PO Box 5695
Charleston, OR 97420 Charleston, OR 97420

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. The decision is based on findings and facts represented in the staff report.

SUBJECT PROPERTY INFORMATION

Account Number: 1531600
Map Number: 26S1402DC-05200

Property Owner: LEBERTI, JOSEPH J; & LEBERTI, LOUIS
PO BOX 5695
CHARLESTON, OR 97420-0643

Situs Address: 63229 ROOSEVELT RD COOS BAY, OR 97420
63225 ROOSEVELT RD COOS BAY, OR 97420

Acreage: 0.32 Acres

Zoning: COOS BAY ESTUARY MNGMT PLAN (CBEMP)
URBAN DEVELOPMENT (65-UD)
URBAN RESIDENTIAL-2 (UR-2)

Special Development ARCHAEOLOGICAL SITES (ARC)

Notice shall be posted July 10, 2019 to July 25, 2019 at 5PM

Considerations: FLOODPLAIN (FP)
NATIONAL WETLAND INVENTORY SITE (NWI)
NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)
NATURAL HAZARD - TSUNAMI (NHTHO)
URBAN UNINCORPORATED COMMUNITY (UUC)

Proposal: Request for Planning Director Approval for a Vacation Rental in the Urban Residential-2 and Coos Bay Estuary Management Plan 65-UD Zones pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.3.200 #64 Vacation Rental subject to Review Standard 87, § 4.3.220 Additional Conditional Use Review Standards, § Section 4.3.225 General Siting Standards, § Section 4.3.230 Additional Siting Standards, and § Section 3.2.791 Uses, Activities and Special Conditions.

Decision: This request meets the criteria subject to conditions of approval found at Exhibit A. Approval is based on findings and facts represented in the staff report.

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/PlanningDepartment--Applications2019.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 July 25, 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: July 10, 2019
Crystal Orr, Planning Specialist

ACU-19-014

Authorized by:  Date: July 10, 2019
Jill Rolfe, Planning Director

EXHIBITS

Exhibit A: Conditions of Approval
Exhibit B: Vicinity Map

The Exhibits below are mailed to the Applicant only. Copies are available upon request or at the following website: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment--Applications2019.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

The applicant has met the criteria for a Vacation Rental, with the following conditions:

1. The applicant shall submit evidence that they have developed noise restriction on the use of the vacation rental to ensure that use remains compatible with the residential neighborhood.
2. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the use of the dwelling as a vacation rental on the property.
3. Proof that the Dwellings have been deeded out on their own lots must be received prior to a Zoning Compliance Letter being issued.
4. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity.
5. Pursuant to CCZLDO § 4.3.110.10(a) the applicant shall obtain a license from the Coos County Health Department in accordance with ORS 446.310-350.

EXHIBIT "B"

ACU-19-014

Vicinity Map



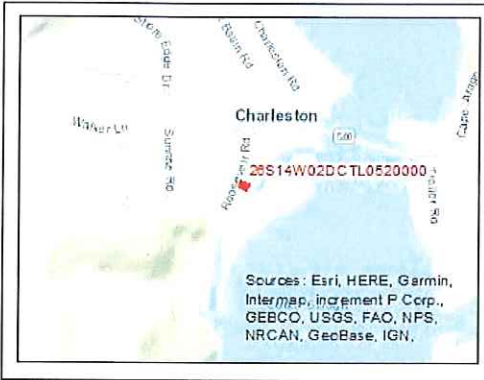
COOS COUNTY PLANNING DEPARTMENT

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

Physical Address: 225 N. Adams, Coquille Oregon

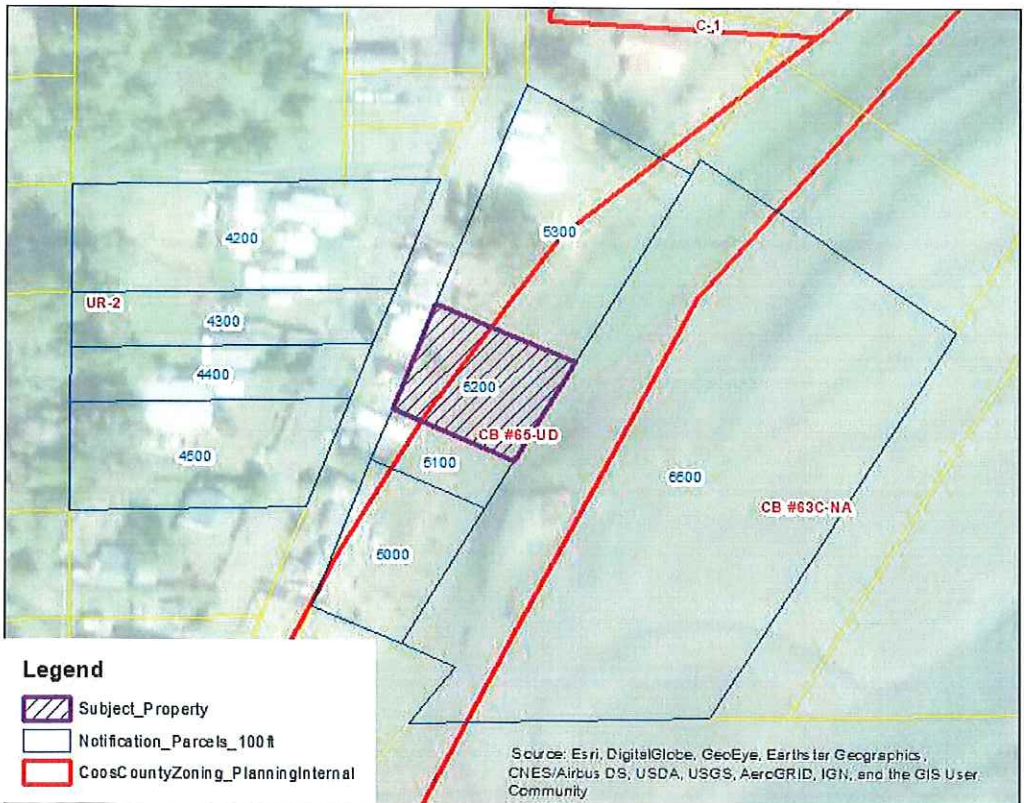
Phone: (541) 396-7770

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



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN,

File:	ACU-19-014
Applicant/ Owner:	Mary Wheeler/ Joseph Leberti & Louis Leberti
Date:	May 29, 2019
Location:	Township 26S Range 14W Section 02DC TL 5200
Proposal:	Administrative Conditional Use



Legend

- Subject_Property
- Notification_Parcel_100ft
- CoosCountyZoning_PlanningInternal

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXHIBIT "C"

ACU-19-014

Staff Report

File Number: ACU-19-014
Applicant: Mary Wheeler
Account Number: 1531600
Map Number: 26S1402DC-05200
Property Owner: LEBERTI, JOSEPH J; & LEBERTI, LOUIS
PO BOX 5695
CHARLESTON, OR 97420-0643
Situs Address: 63229 ROOSEVELT RD COOS BAY, OR 97420
63225 ROOSEVELT RD COOS BAY, OR 97420
Acreage: 0.32 Acres
Zoning: COOS BAY ESTUARY MNGMT PLAN (CBEMP)
URBAN DEVELOPMENT (65-UD)
URBAN RESIDENTIAL-2 (UR-2)

Reviewing Staff: Crystal Orr, Planning Specialist

Date of Report: July 10, 2019

I. PROPOSAL

Request for Planning Director Approval to utilize an existing residence as a Vacation Rental in the Urban Residential-2 & Coos Bay Estuary Management Plan 65-UD Zones pursuant to Coos County Zoning and Land Development (CCZLDO) §4.3.200 #64 Vacation Rental subject to Review Standard 87, § 4.3.220 Additional Conditional Use Review Standards, § Section 4.3.225 General Siting Standards, § Section 4.3.230 Additional Siting Standards, and § Section 3.2.791. Uses, Activities and Special Conditions.

II. PROPERTY DESCRIPTION AND PROPOSAL

LAWFULLY CREATED: This property was acknowledged as a lawfully created parcel pursuant to CCZLDO § 6.1.125.a as it was created through a 1923 Plat (Charleston Subdivision lots 6 and 7 block 2.

LOCATION: The subject property is located southwest of the City of Coos Bay in the Urban Unincorporated Community of Charleston. This property contains two dwellings but this application is only to authorize 63225 Roosevelt Road to be converted to a vacation rental.

SITE DESCRIPTION AND SURROUNDING USES:

- a. **SITE DESCRIPTION AND SURROUNDING USES:** The property is split zoned Urban Residential-2 (UR-2) and Coos Bay Estuary Management Plan (CBEMO) 65-UD. It is residentially

ACU-19-014

developed with two Single Family Dwellings. According to the current assessment records the dwellings were built in 1930; however, the pictures show that the dwelling has been remodeled. The property is .45 acres and is surrounded by like zoned properties. The Dwellings are each sited on their own lot within Block 2 of the Charleston Subdivision, prior to the issuance of a Zoning Clearance Letter lot six (6) and Seven (7) must be deeded out separately.

IV. APPROVAL CRITERIA & FINDINGS OF FACT

- ***Rural Residential (RR)***

There are two RR zonings: Rural Residential-5 (RR-5) and Rural Residential-2 (RR-2). The intent of the Rural Residential Districts includes justified sites plus "committed" areas. The County's plan prescribes and allocates a finite number of rural dwelling/units/acreage. The zoning ordinance will specify permitted uses and minimum lot sizes.

The purpose of the "RR-2" and "RR-5" districts are to provide for small to medium acreage dwelling sites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary.

The "RR-2" district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.

- ***Compatibility***

Compatibility means that the proposed use is capable of existing together with the surrounding uses without discord or disharmony. The test is where the proposed use is compatible with the existing surrounding uses, and not potential or future uses in the surround area. The surrounding area consists of the notification area for the project as set out in § 5.0.900.

Section 4.3.200 Zoning Tables for Urban and Rural Residential, mixed Commercial-Residential, Commercial, Industrial, Minor Estuary and South Slough

The table indicates the type of review process that is required. Remember that CU is an conditional use review and the letter prior explain what level of conditional use is required (A = administrative and H=Hearing)

As used in the zoning tables the following abbreviations are defined as:

- "P" Permitted and requires no review from the Planning Department. No review is required but other agencies may have requirements.
- "CD" Compliance Determination review (permitted with standards) with clear and objective standards (Staff review usually referred to as Type I process or ministerial action). These uses are subject to development standards in sections 4.3.22, 4.3.230 and notices requesting comments may be provided to other agencies as result. The process takes a minimum of 30 days to complete. Industrial zones may require additional review. All structures and uses shall meet the applicable Development and Siting Criteria or Special Development Considerations and Overlays for the zoning district in which the structure will be sited.
- "ACU" Administrative Conditional Use (Planning Director's Decision usually referred to as a Type II Process)
- "HBCU" Hearing Body Conditional Use (Planning Commission, Board of Commissioner or Hearings Officer Decision usually referred to as a Type III Process)
- "PLA" Property Line Adjustments subject to standards found in Chapter 6.

ACU-19-014

- “P”, “SUB”, “PUD” = Partition, Subdivision, Planned Unit Development that require Land Division Applications subject to standards found in Chapter 6.
- The “Subject To” column identifies any specific provisions of Section 4.3.210 to which the use is subject.
- “N” means the use is not allowed.

The zoning table sets out Uses, Developments and Activities that may be listed in a zone and the type of review that is required within that zone. If there is a conflict between uses the more restrictive shall apply. Section 4.3.210 provides an explanation of the use category and the specific criteria that shall apply and if the use is identified as requiring a conditional use. Section 4.3.225 General Siting Standards apply to all regulated Uses, Developments, or Activities, but these are clear and objective standards that do not, in themselves, require a land use notice. Section 4.3.230 Specific Standards list specific siting standards by zones and 4.2.220 Additional Conditional Use Review and Standards for table 4.3.200 contains any additional criteria that applied to a Use, Development or Activity that has been identified by the following table as requiring.

#	Use	Zones												Subject To	
		Section 4.3.210 CATEGORIES & Review Standards - 4.3.220 Additional Conditional Use Review - Section 4.3.225 General Siting Standards - Section 4.3.230 Specific Standards													
		UR-1	UR-2	UR-M	RR-2	RR-5	CD	RC	C-1	IND	AO	REC	SS		MES
63.	Retail Business	N	N	N	N	N	ACU	HBCU	CD	N	N	HBCU	N	N	(75)
64.	Vacation Rentals (in an existing dwelling)	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	ACU	N	N	(87)

Section 4.3.210 – CATEGORIES and review standards

The following categories provide a definition and specific standards that will regulate the Development, Use or Activity identified in the table above.

- (87.) Vacation rental/short term rental - Subject to the following criteria:
- Shall be found to be compatible with the surrounding area.
 - Shall be licensed by the Coos Health & Wellness (CHW) in accordance with ORS 446.310-350;
 - Shall meet parking access, driveway and parking standards as identified in Chapter VII;
 - Shall not be conveyed or otherwise transferred to a subsequent landowner without a the new property owner submitting a Compliance Determination Application showing compliance with this section; and
 - A deed restriction shall be recorded with the Coos County Clerk’s Office acknowledging that this is an accessory use to the approved residential use. If located within Urban Growth Boundary further restrictions may be required based on comments from the City.

FINDING: The primary criterion for this application is compatibility. As explained above; compatibility means that the proposed use is capable of existing together with the surrounding uses without discord or disharmony. The test is where the proposed use is compatible with the existing surrounding uses, and not potential or future uses in the surrounding area.

The properties that are within the notification area are shown below:

Map No	Tax Lot	Dwelling	Use
26S14W02DC	4200	Yes	Residential
26S14W02DC	4300	Yes	Residential
26S14W02DC	4400	Yes	Residential
26S14W02DC	4500	No	Vacant
26S14W02DC	5000	Yes	Residential
26S14W02DC	5100	No	Vacant
26S14W02DC	5200	Yes	Residential
26S14W02DC	5300	Yes	Residential
26S14W02DC	6500	No	Vacant

The compatibility area for this zoning district is 100 feet. Within that distance there are several residential developments. There are four (4) tracts of land within the buffer, one of them being the applicant and one the owner of the applying parcel. It doesn't appear that any of these properties are being used as a vacation rental, but if you expand the search area it appears that there are several vacation rentals nearby. The applicant stated that the dwelling is located within walking distance of Charleston, Oregon, which is a tourist location.

The applicant shall continue to comply with parking standards and should develop a noise policy as part of the renters' agreement to ensure it remains compatible. Also, the property owner shall obtain and maintain a license from the Coos County Health Department in accordance with ORS 446.310-350.

Section 4.3.220 Additional Conditional Use Review Standards for uses, development and activities listed in table 4.3.200

(2) RURAL RESIDENTIAL (RR) – The following conditional use review standards apply to all USES, ACTIVITIES and DEVELOPMENT in the RR zoning districts:

FINDING: The criterion listed under 4.3.220.2 that applies to this use was addressed within the Vacation Rental criteria above.

Section 4.3.225 General Siting Standards

All new USES, ACTIVITIES and DEVELOPMENT are subject to the following siting standards:

- 6. Parking - Off-street access, parking and loading requirements per Chapter VII apply.

FINDING: The only criteria listed under Section 4.3.225 that applies to this application is the Parking standards. The applicant submitted a driveway/ access/ parking plan on February 4, 2019. The Coos County Road Department reviewed the parking and signed off on March 3, 2019.

Section 4.3.230 ADDITIONAL SITING STANDARDS

This section has specific siting standards and criteria set by the zoning district for USES, ACTIVITIES and DEVELOPMENT:

FINDING: None of the criteria listed under 4.3.230 applies to the Vacation Rental Use.

GENERAL LOCATION: SOUTH SLOUGH (CHARLESTON)

ZONING DESIGNATION: 65-UD

ZONING DISTRICT: 65-URBAN DEVELOPMENT

SPECIFIC BOUNDARIES: Northern Boundary - The Charleston Bridge and its continuation west as the Cape Arago Highway.
Southern Boundary - Line between Sections 2 and 11 in T.26S, R.14W.

SECTION 3.2.790. Management Objective:

This shoreland district shall be managed for continuation of residential and commercial uses and for aquaculture, as these are consistent with the adjacent natural aquatic area of South Slough.

SECTION 3.2.791. Uses, Activities and Special Conditions.

Table 65-UD sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 65-UD also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to “policy numbers” refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

4. Commercial ACU-S, G

GENERAL CONDITIONS

1. All permitted uses shall be consistent with the respective flood regulations of local governments, as required in Policy #27.
2. **All uses and activities: Inventoried resources requiring mandatory protection are subject to Policies #17 and #18.**

SPECIAL CONDITIONS

Uses:

4.,6. Commercial and industrial uses within urban unincorporated communities are subject to Policy #16a

Policy #16a: Rural, Urban, and Unincorporated Communities Use Standards

- I. Commercial and Industrial uses in Unincorporated Communities shall be consistent with OAR 660-022-0030. Commercial and industrial uses shall comply with building square footage requirements set forth in OAR 660-022-0030(10) and (11). New commercial structures authorized outside of an UCB or UGB shall not exceed 3,500 square feet of floor area. New industrial structures located outside of a UCB or UGB shall not exceed 35,000 square feet of floor area, unless:

ACU-19-014

- a. The industrial use involves the primary processing of raw material(s) produced in the area or from ocean resources; or
- b. The industrial use is located on an abandoned or diminished mill site as defined by statute; or
- c. The industrial use is located in an area where an exception to Goal 14 has been taken; or
- d. As authorized by Goals 3 and/or 4.

This policy shall be implemented through ordinance measures. Implementation shall occur as identified under specific zoning district standards. (04-04-005PL 9/1/04)

II. It must be demonstrated through findings that the proposed use will not:

- a. adversely affect agricultural and forest operations, and
- b. interfere with the efficient functioning of urban growth boundaries.

III. The following are development standards for proposed commercial or industrial structures to be located on parcels, which are abutting exclusive farm use or forest zoned properties:

- a. all structures, except fences, shall be setback a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way centerline, whichever is greater; and
- b. all structures being sited on parcels abutting exclusive farm use (EFU) or forest (F) zoned parcels, property owners(s)/applicant(s) shall acknowledge and file in the deed records of Coos County, a "Farm and forest" Practices Management Covenant. The covenant shall be recorded in the deed records of the county prior to the County issuing a zoning compliance letter.

FINDING: The Vacation Rental will be occurring in a Single Family Dwelling that is less than 500 square feet. There are no agricultural or forest operations in the vicinity. The property is not within the urban growth boundary. Policy 17, 18 and 27 do not apply to this use because they are not proposing any development.

With the exceptions of the conditions of approval this use meets the criteria.

VI. DECISION:

There is evidence to adequately address the criteria for a Vacation Rental in the Rural Residential-2 & Coos Bay Estuary Management Plan #65-UD zones; therefore, this request has been approved. There are conditions that apply to this use that can be found at Exhibit "A".

SECTION 5.2.600 EXPIRATION AND EXTENSION OF CONDITIONAL USES

- 1. Permit Expiration Dates for all Conditional Use Approvals and Extensions :
 - a. On lands zoned Exclusive Farm, Forest and Forest Mixed Use:

ACU-19-014

- (1) Except as provided for in section (5) of this rule, a discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.
- (2) A county may grant one extension period of up to 12 months if:
 - (a) An applicant makes a written request for an extension of the development approval period;
 - (b) The request is submitted to the county prior to the expiration of the approval period;
 - (c) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - (d) The county determines that the applicant was unable to begin or continue development during the approval period¹ for reasons for which the applicant was not responsible.

Coos County has and will continue to accept reasons for which the applicant was not responsible as, but limited too, financial hardship, death or owner, transfer of property, unable to complete conditions of approval and projects that require additional permits. The County's Ordinance does not control other permitting agency processes and the County shall only consider if the applicant has requested other permits as a valid reason and to show they are attempting to satisfy conditions of approval. This is a different standard than actually showing compliance with conditions of approval. This also, does not account for other permits that may be required outside of the land use process.

- (3) Approval of an extension granted under this rule is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
- (4) Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.
- (5) (a) If a permit is approved for a proposed residential development on agricultural or forest land outside of an urban growth boundary, the permit shall be valid for four years.
 (b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two years.
- (6) For the purposes of section (5) of this rule, "residential development" only includes the dwellings provided for under ORS 215.213(3) and (4), 215.284, 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755(1) and (3).
- (7) There are no limit on the number of extensions that can be applied for unless this ordinance otherwise allows.

b. On lands not zoned Exclusive Farm, Forest and Forest Mixed Use:

¹ The approval period is the time period the original application was valid or the extension is valid. If multiple extensions have been filed the decision maker may only consider the time period that the current extension is valid. Prior approval periods shall not be considered. For example, if this is the third extension request up for review the information provided during the period within last extension time frame shall be considered and not the overall time the application has been approved. This prevents a collateral attack on the original authorization.

- (1) All conditional uses for residential development including overlays shall not expire once they have received approval.
 - (2) All conditional uses for non residential development including overlays shall be valid for period of four (4) years from the date of final approval.
 - (3) Extension Requests:
 - a. For all conditional uses subject to an expiration date of four (4) years are eligible for extensions so long as the property has not been:
 - i. Reconfigured through a property line adjustment or land division; and
 - ii. Rezoned to another zoning district.
 - (4) An extension shall be applied for on an official Coos County Planning Department Extension Request Form with the fee.
 - (5) An extension shall be received prior the expiration date of the conditional use or the prior extension.
2. Changes or amendments to areas subject to natural hazards² do not void the original authorization for a use or uses, as they do not determine if a use can or cannot be sited, but how it can be sited with the least amount of risk possible. Overlays and Special Development Considerations may have to be addressed to ensure the use can be sited with an acceptable level risk as established by Coos County.

This conditional use request is within a non-resource zone and is valid for four years for the date of final approval (**July 25, 2023**).