



# NOTICE OF LAND USE DECISION

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

This decision notice is required to be sent to the property owner(s), applicant(s), adjacent property owners (distance of notice is determined by zone area – Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, agencies with interest, or person that has requested notice. The development is contained within the identified property owners land. Notice is required to be provided pursuant to ORS 215.416. Please read all information carefully as this decision. (See attached vicinity map for the location of the subject property).

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.

Date of Notice: Wednesday, March 18, 2020

File No: ACU-19-041

Proposal: Request for Single Family Dwelling and an Accessory Structure in the Forest Zone – Forest Template Dwelling

Applicant(s): Smith River Land & Cattle Co.  
19678 Lower Smith River Rd.  
Reedsport, OR 97467

Staff Planner: Amy Dibble, Planner II

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Decision: **Approved with Conditions.** All decisions are based on the record. This decision is final and effective at close of the appeal period unless a complete application with the fee is submitted by the Planning Department at 12 p.m. on **Thursday, April 02, 2020**. Appeals are based on the applicable land use criteria. The proposal is subject to the following criteria: 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, § 4.11.125 Special Development Considerations § 4.11.300 Bandon, Lakeside, Powers Airports – Purpose; § 4.11.305 Designation of Airport Surfaces; § 4.11.310 Airport Sub-Zones; § 4.11.315 Airport Surfaces Height Limitations; § 4.11.320 Permitted Uses; § 4.11.325 Conditional Uses; § 4.11.330 Use Restrictions; and § 4.11.345 Conformance requirements. This proposal is not subject to review under Floodplain or Natural Hazards. **Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information please contact the staff planner listed in this notice.**

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## **Subject Property Information**

Account Number: 34800  
Map Number: 23S1222B0-00300

Property Owner: SMITH RIVER LAND & CATTLE CO.  
19678 LOWER S UMPQUA RIVER RD  
REEDSPORT, OR 97467-9766

Situs Address: 3969 S TEN MILE LAKE LAKESIDE, OR 97449  
71399 HEAVY HORSE RD LAKESIDE, OR 97449

Notice shall be posted from March 18, 2020 until 5 PM April 2, 2020

Acreage: 11.33 Acres  
 Zoning: FOREST (F)  
 Special Development Considerations and overlays: ARCHAEOLOGICAL SITES (ARC)  
 BIRD SITE MEETS GOAL 5C REQ RMT (B5C)  
 FOREST MIXED USE (MU)  
 NATIONAL WETLAND INVENTORY SITE (NWI)  
 WETLANDS (WET)

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.

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 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.

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 is Amy Dibble, Planner II and the telephone number where more information can be obtained is (541) 396-7770.

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.

Reviewed by: Amy Dibble Date: Friday, February 21, 2020.  
 Amy Dibble, Planner II

**This decision is authorized by the Coos County Planning Director, Jill Rolfe based on the staff's analysis of the Findings of Fact, Conclusions, Conditions of approval, application and all evidenced associated as listed in the exhibits.**

EXHIBITS

- Exhibit A: Conditions of Approval
- Exhibit B: Vicinity Map& Template 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-2019.aspx> .  
**The 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 -**Findings of Fact and Conclusions**

Exhibit D: Comments Received

Exhibit E: Submitted Application

## **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. A Forest Management Covenant must be recorded prior to receiving a Zoning Clearance Letter.
  - c. A Water Supply Requirement form shall be submitted and signed off by the Watermaster.
  - d. Proof of a long-term road access use permit or agreement.
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.
  - e. 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.
5. Pursuant to CCZLDO § 4.11.130.b).1
  - a. A site plan, drawn to scale, shows the proposed layout of all structures and other improvements.
  - b. A landscape plan, drawn to scale, showing the location of existing trees proposed to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials.
  - c. Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction.
  - d. Specifications as to type, color and texture of exterior surfaces of proposed structures including reflective surfaces of solar collectors.
6. Must comply with any comments received from Oregon Department of State, Confederated Tribes of the Coos, Lower Umpqua, and the Siuslaw Indians, the Coquille Indian Tribe, and the Oregon Department of Fish and Wildlife. Comments that have been received can be found at Exhibit D.
7. Must submit a Driveway/ Access Parking application, and driveway will need to be signed off prior to receiving a Zoning Clearance Letter.
8. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the commencement of construction of the proposed dwelling. 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

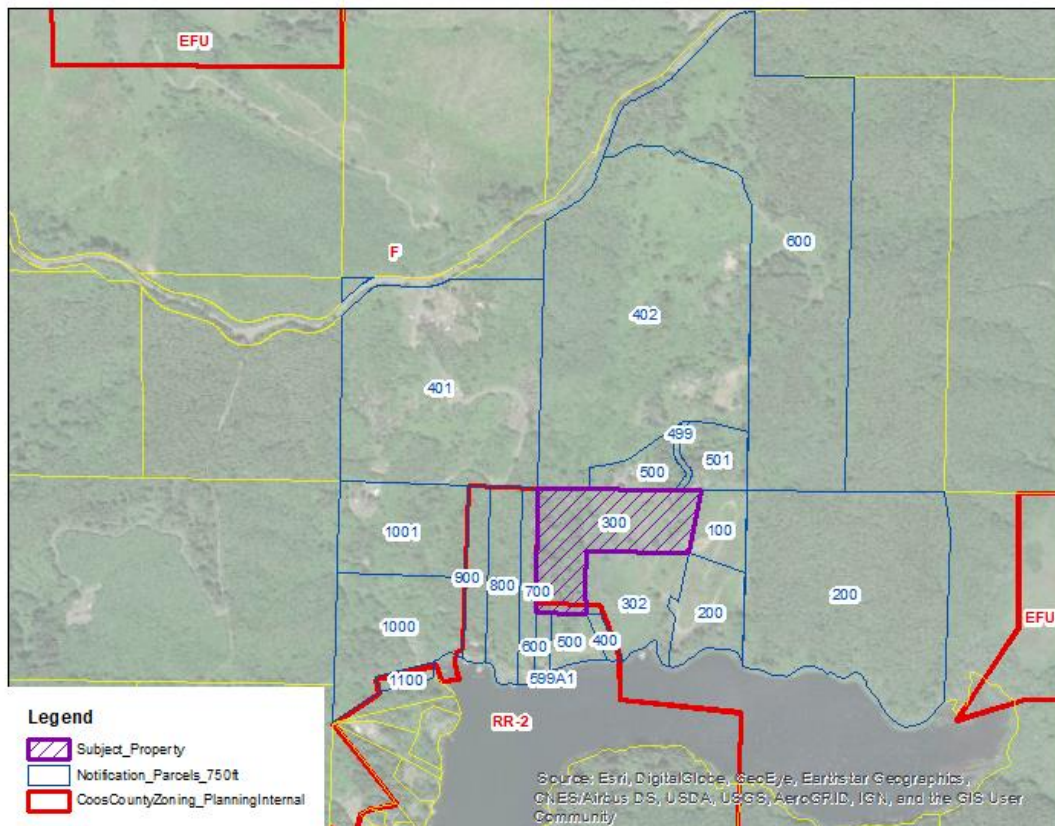
Physical Address: 225 N. Adams, Coquille Oregon

Phone: (541) 396-7770

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



File:	ACU-19-041
Applicant/ Owner:	Smith River Land & Cattle Co.
Date:	February 21, 2020
Location:	Township 23S Range 12W Section 22B TL 300
Proposal:	Administrative Conditional Use





# Template Map



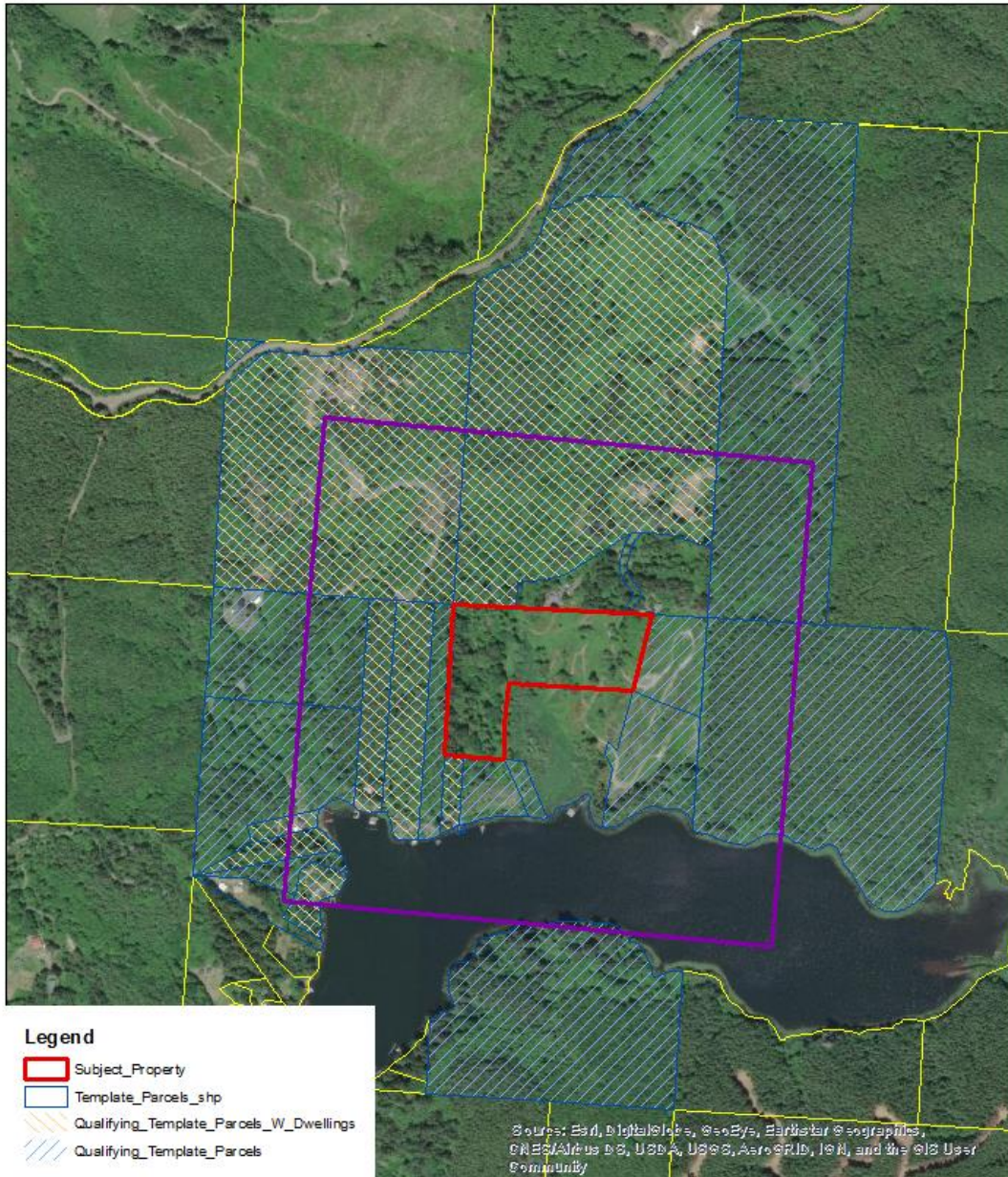
## COOS COUNTY PLANNING DEPARTMENT

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**EXHIBIT “C”  
STAFF REPORT  
FINDINGS OF FACT AND CONCLUSIONS**

**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, and § 4.6.140 Development and Siting Criteria.

**II. PROPERTY DESCRIPTION AND PROPOSAL**

**LAWFULLY CREATED:** Tax lot 300 is lawfully created unit of land was created pursuant to 6.1.125.1.e “*by deed or land sales contract, if there were no applicable planning, zoning, or subdivision or partition ordinances or regulations that prohibited the creation*” (Deed Document 81-13417).The property’s current configuration was achieved through an approved Property Line Adjustment.

**LOCATION:** The subject property is located southeast of the City of Lakeside and accessed off of Heavy Horse Road via a private driveway.

**SITE DESCRIPTION AND SURROUNDING USES:**

- a. **SITE DESCRIPTION AND SURROUNDING USES:** The subject property is zoned Forest Mixed Use (FMU) contains 11.33 acres and is undeveloped. The property is mainly cleared with some tree coverage. The properties to the north are zoned Forest Mixed Use (F/MU), are tree covered and contain residential development. The properties to the east are zoned F/MU, are cleared with trees bordering the lake and are undeveloped. The properties to the south are zoned F/MU and Rural Residential – 2 (RR-2). The property to the south that is zoned F/MU is mostly cleared with some tree coverage and contains a dock and a boathouse. The properties to the north that are zoned RR-2 and include three (3) parcels. One is undeveloped and has some tree coverage. Another is treed with cleared areas and has no development on land but does have a dock. The last of the southern properties are mostly treed with residential development, dock, and boat house. The property to the west is zoned RR-2, is mostly treed with a cleared area around the residential development, which is located on the southern portion of the property, and a dock with a boat house.
- b. **PROPOSAL:** The applicant is requesting approval of a Single Family Dwelling 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 11.33 acres. The property is part of a tract; however, none of the properties contain single family dwellings.

**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 are 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

	CF/Ac/Yr of Growth		
	0-49	50-85	+85
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.	3	7	11
Required minimum number of dwellings existing on January 1, 1993, on the lots or parcels	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 square centered on the subject tract. Staff applied the 160-acre square 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 is located on the Coleman Arm portion of Tenmile Lake. Tenmile Lake is used for recreation and has residential development along the majority of

the lake. Siting a dwelling on the subject property would not significantly increase the cost of accepted farm or forest practices on agricultural or forest lands as the subject property is not adjacent to properties that are being used for agriculture or forest practices.

The property will be accessed off of Heavy Horse Road, which is an existing gravel road that is private and privately maintained. The subject property is located towards the end of Heavy Horse Road and there are several dwellings located along Heavy Horse Road. The Plot Plan shows that setback requirements will be satisfied and the proposed dwelling will be sited on flat ground. The applicant states that the fire safety setbacks will be met and this will minimize the risk for wildfires and have the least impact on farming and forest practices on agricultural land.

In this case the applicants are required to show that by constructing a single family dwelling 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 applicants stated that they will keep all vegetation mowed, trimmed and spaced to maintain the firebreak setbacks. The road will be required to be maintained to allow fire suppression in the event that there is a fire.

The applicants have provided sufficient evidence within the plot plan to ensure the development will not impact forest practice and have stated that the fuel free firebreak setbacks will be met. The property's configuration is that of a "L" turned east to west. The applicants show that proposed dwelling will be located near the southeastern boundary of the property.

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 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:** As a condition of approval a Forest Management Covenant must be recorded prior to receiving a Zoning Clearance Letter.

**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 were 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 Requirement form shall be submitted and signed off by the Watermaster which will satisfy 4.6.130.5.b.**

**Therefore, this criterion 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 Heavy Horse Road. Heavy Horse Road is a private maintained road. Therefore, proof of a long-term road access use permit or agreement will be required; this may include accepting responsibility for road maintenance.**

**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 11.33 acres; therefore, a stocking survey will 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: There is no new parcels created through this request; therefore, this criterion is not applicable.**

2. *Setbacks: All buildings or structures with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way line, whichever is greater.*

**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:** A Road/ Driveway Access will need to be submitted and will need to be signed off by the Coos County Road Department prior to receiving a Zoning Clearance Letter.

Therefore, this criterion has been addressed.

5. *Minimizing Impacts: In order to minimize the impact of dwellings in forest lands, all applicants requesting a single family dwelling shall acknowledge and file in the deed record of Coos County, a Forest Management Covenant. The Forest Management Covenant shall be filed prior to any final County approval for a single family dwelling.*

**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 will be located at least 50 feet from any identified wetland, stream, lake or river. The riparian vegetation will be protected within the required 50 feet of North Tenmile Lake.**

**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 Lakeside Rural Fire Protection District.**

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

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

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

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

- 9. Fire Siting Standards for New Dwellings:*

- a. *The property owner shall provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient 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 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.**

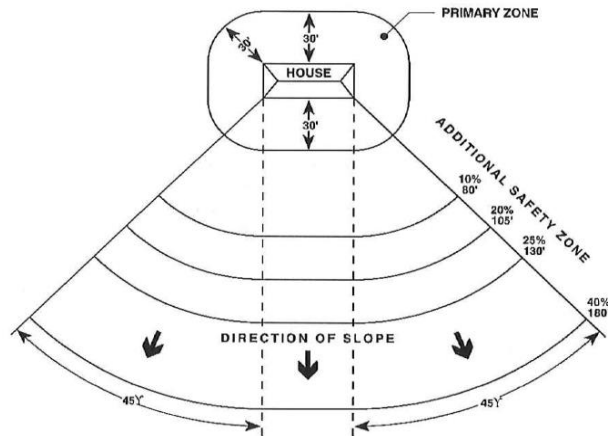
*10. Firebreak:*

- 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
<b>0%</b>	<b>30</b>	<b>0</b>
<b>10%</b>	<b>30</b>	<b>50</b>
<b>20%</b>	<b>30</b>	<b>75</b>
<b>25%</b>	<b>30</b>	<b>100</b>
<b>40%</b>	<b>30</b>	<b>150</b>

**EXAMPLE OF SAFETY ZONE SHAPE**



**FINDING:** According to the soils on this property the proposed location of the dwelling will be located within an area identified as having soils that are comprised of Nestucca-Willanch complex that typically have 0 to 3 percent slopes. However, given this is a general slope staff has concurred with the applicants' assessment that the building site is fairly flat and appears to have a down slope of less than 10 percent; therefore, the fire break set back is 30 feet and according to the plot plan this setback will be satisfied.

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 property has no water supply exceeding 4,000 gallons available within 100 feet of the driveway or road for fire suppression.

Therefore, this criterion is not applicable.

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

**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 Lakeside Rural Fire Protection District.

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

*16. Except for private roads and bridges accessing only commercial forest uses, public roads, bridges, private roads and driveways shall be constructed so as to provide adequate access for firefighting equipment.*

**FINDING:** A Road/ Driveway Access shall be submitted and signed off prior to receiving a Zoning Clearance Letter for development.

**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:** A Road/ Driveway Access shall be submitted and signed off prior to receiving a Zoning Clearance Letter for development.

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

## **VI. DECISION:**

There is evidence to adequately address the criteria for a Forest Template Dwelling and an accessory structure, 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:**

*(1) Permits approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit is valid for four years.*

*a. Extensions for Residential Development as provided for under ORS 215.213 (3) and (4), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3) shall be granted as follows:*

*i. First Extension - An extension of a permit for "residential development" as described in Subsection (1) above is valid for two (2) years.*

*1. The applicant shall submit an application requesting an extension to the County Planning Department prior to expiration of the final*

- decision. See Section 5.0.250 for time lines for final decisions. Untimely extension requests will not be processed.*
2. *Upon the Planning Department receiving the applicable application and fee, staff shall verify that the application was received within the deadline and if so issue an extension.*
  3. *An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*
- ii. *Additional Extensions - A county may approve no more than five additional one-year extensions of a permit if:*
1. *The applicant submits an application requesting the additional extension prior to the expiration of a previous extension;*
  2. *The applicable residential development statute has not been amended following the approval of the permit; and*
  3. *An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.*
  4. *An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*

This conditional use is for a residential development within a resource zone and is valid for four years for the date of final approval Saturday, March 02, 2024

**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  
Lakeside Rural Fire Protection District

Planning Commission  
Board of Commissioner



**EXHIBIT “D”**  
**Comments Received**

**Amy Dibble**

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**From:** Michael Gray <Michael.E.Gray@state.or.us>  
**Sent:** Monday, February 10, 2020 3:05 PM  
**To:** Amy Dibble  
**Cc:** Christopher Claire; Dominic M Rocco; Michael.E.Gray@state.or.us  
**Subject:** RE: Request for Comments ACU-19-033

This Message originated outside your organization.

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Hi, Amy:

I consulted our maps of known bird sites for this area, regarding the ACU-19-033 proposed construction of a single family dwelling. ODFW has these comments to offer with regard to this review:

*There are multiple historic raptor nesting sites within one half mile of the proposed construction site at Tenmile Lake , including one at the north end of the subject property on the point which extends into the lake. The presence of these nest sites is cause for concern and our agency is cautious about any activity that may disturb nesting birds, specifically bald eagles and osprey. While we do not find acute cause to deny this permit application, we would strongly recommend that any activity related to construction occur outside of the critical nesting period for eagles and osprey as defined by the Forest Practices Act (FPA). The Oregon Department of Fish and Wildlife (ODFW) uses the FPA rules as guidelines when making any determination related to construction activities. The critical use period for bald eagles nesting sites is defined between the following dates: January 1<sup>st</sup> - August 31<sup>st</sup> (FPA 629-665-0220). The critical use period for osprey resource sites, which include nest trees, is defined between the following dates: March 1<sup>st</sup> – September 15<sup>th</sup> (FPA 629-665-0110).*

*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 forest 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 that time a site inspection will be completed by our agency to determine to risk associated with construction activities.”*

If you have any further questions, please feel free to contact Assistant District Wildlife Biologist Dominic Rocco at (541) 888-5515 ext. 236.

*Mike Gray*

**Mike Gray**  
**ODFW District Fish Biologist, Coos-Coquille-Tenmile District**  
**Charleston Field Office**  
**(541) 888-5515 [michael.e.gray@state.or.us](mailto:michael.e.gray@state.or.us)**



**Amy Dibble**

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**From:** THPO <THPO@coquilletribe.org>  
**Sent:** Friday, February 28, 2020 8:47 AM  
**To:** Amy Dibble  
**Cc:** Planning Department  
**Subject:** RE: ACU-19-041 Request for Comments

This Message originated outside your organization.

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Good morning Amy, we will defer comments to the other tribes indicated by Oregon LCIS for this project only.

Please keep us informed of significant archaeological findings, which may include ancestral human remains or funerary items. In the event that ancestral remains are observed or disturbed, follow the [State Guidelines](#). In the event that proposed mitigation measures may be developed for other cultural resources in the Project area, we would like to have the opportunity to comment.

Masi (thank you),  
Todd

Todd Martin  
Tribal Historic Preservation Specialist  
Coquille Indian Tribe  
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Coos Bay, Oregon 97420

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**From:** Amy Dibble <adibble@co.coos.or.us>  
**Sent:** Tuesday, February 25, 2020 11:32 AM  
**To:** THPO <THPO@coquilletribe.org>  
**Subject:** ACU-19-041 Request for Comments

WARNING: This email originated from outside of the organization.