



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: Monday, March 23, 2020

File No: ACU-19-046

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

Applicant(s): Tim Hurlbut
95433 Nordloch Lane
Lakeside, OR 97449

Staff Planner: Amy Dibble, Planner II

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 5 p.m. on **Tuesday, April 07, 2020**. Appeals are based on the applicable land use criteria. The proposal is subject to the following criteria: Coos County Zoning and Land Development (CCZLDO) § 4.3.210(87) Vacation Rental, §4.6.130 Additional Criteria for All Administrative and Hearings Body Application Review, and § 4.6.140 Development and Siting Criteria. **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.**

Subject Property Information

Account Number: 7594101
Map Number: 23S120800-01001
Property Owner: HURLBUT, TIMOTHY
95433 NORDLOCH LN
LAKESIDE, OR 97449
Situs Address: 95433 NORDLOCH LN LAKESIDE, OR 97449
Acreage: 10.11 Acres
Zoning: FOREST (F)
RURAL RESIDENTIAL-2 (RR-2)
Special Development BIRD SITE MEETS GOAL 5C REQRMT (B5C)

Notice shall be posted from March 23, 2020 until 5 PM April 7, 2020

Considerations and
overlays:

FOREST MIXED USE (MU)
LAKESIDE AIRPORT CONICAL ZONE (ALC)
NATURAL HAZARD - TSUNAMI (NHTHO)

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:** Monday, March 23, 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

The Exhibits below are mailed/emailed to the Applicant and Planning Commission only. Copies are available upon request or at the following website:<http://www.co.coos.or.us/Departments/Planning/PlanningDepartmentApplications-2019.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 -**Findings of Fact and Conclusions**

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. 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.
3. 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.
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"
Vicinity Map



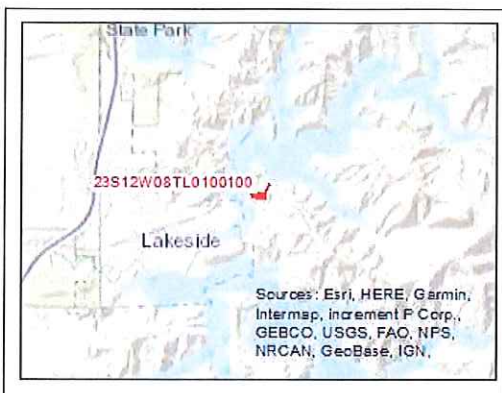
COOS COUNTY PLANNING DEPARTMENT

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



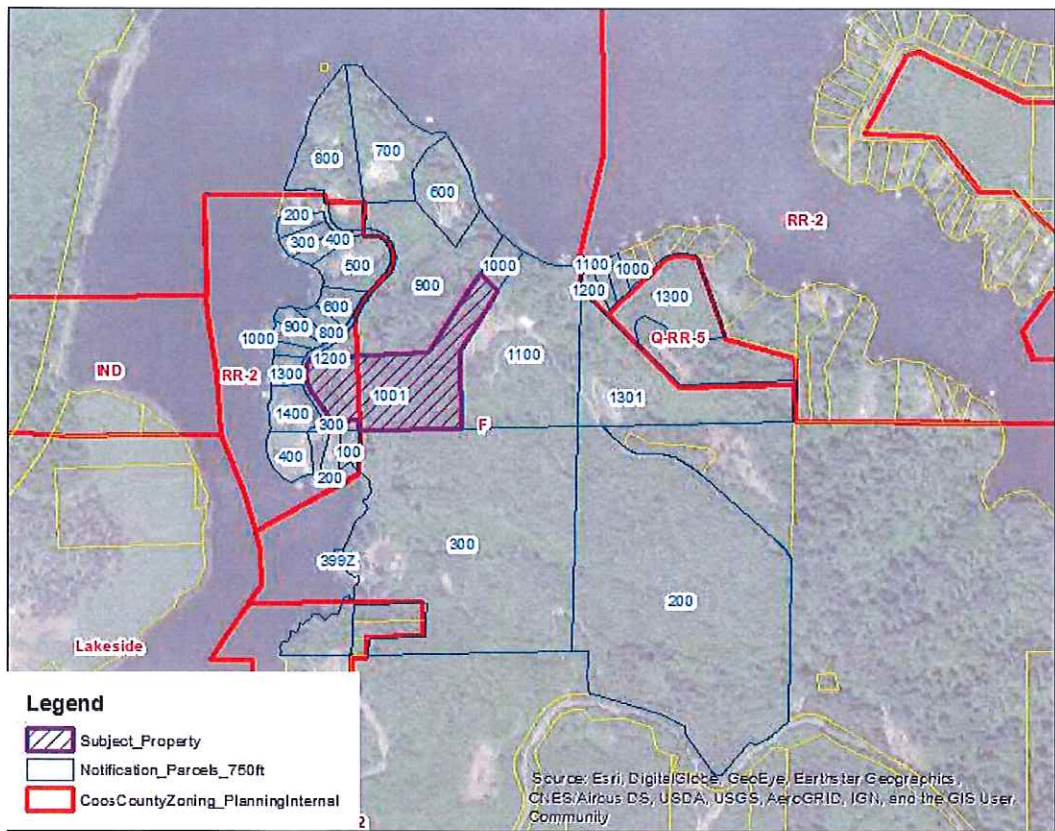
File: ACU-19-046

Applicant/
Owner: Tim Hurlbut

Date: March 14, 2020

Location: Township 23S Range 12W
Section 08 TL 1001

Proposal: Administrative Conditional Use



Legend

- Subject_Property
- Notification_Parcel_750ft
- CoosCountyZoning_PlanningInternal

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

EXHIBIT "C"
STAFF REPORT
FINDINGS OF FACT AND CONCLUSIONS

I. PROPOSAL

Request for Planning Director Approval for to the residential use to a vacation rental pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.3.210(87) Vacation Rental, §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: The 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 No. 79-27410).

LOCATION: The subject property is located east of the City of Lakeside and accessed off of Nordloch Lane.

SITE DESCRIPTION AND SURROUNDING USES:

- a. **SITE DESCRIPTION AND SURROUNDING USES:** The subject property is split zoned Rural Residential (RR-2) and Forest Mixed Use (FMU), the property consists of approximately 10.11 acres and contains a single family dwelling and accessory structure. The single family dwelling is located within the RR-2 zoning district. The properties to the north are zoned RR-2 and FMU, they are tree covered with cleared areas around the development, with the majority of them consisting of residential development. The property to the east is zoned FMU is tree covered with cleared areas surrounding the residential development. The properties to the south are zoned RR-2 and FMU with the majority having tree coverage, the development consists of residential, an RV park, and recreation. The properties to the west are zoned RR-2 are treed with clearing around the residential development. The adjacent properties to the north are zoned UR-2 and contain residential development, have trees along the southern and eastern borders with Libby Lane running along the northern property boundary. Sea Spray Drive borders the subject property to the south and the property beyond that is zoned UR-2 and contains residential development with tree coverage surrounding the dwelling. The adjacent property to the east is zoned UR-2 and contains residential development that is surrounded by tree coverage. Sea Spray Drive borders the subject property along the west and the property beyond that is zoned UR-2 is undeveloped and treed.
- b. **PROPOSAL:** The applicant is requesting approval to operate a vacation rental within the existing single family dwelling.

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.

- **Forest (F)**

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

The purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the "F" zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.

- **Forest Mixed Use (FMU)**

The purpose of the Forest Mixed Farm-Forest Areas ("MU" areas) is to include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

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

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

- **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.
- “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	Parcel No	Dwelling	Use
23S12W08CD	200	No	Recreation
23S12W08CD	300	Yes	Not Primary Residence
23S12W08CD	400	Yes	Residence
23S12W08CD	500	Yes	Not Primary Residence
23S12W08CD	600	Yes	Not Primary Residence
23S12W08CD	800	No	Recreation
23S12W08CD	900	Yes	Not Primary Residence
23S12W08CD	1000	Yes	Residence
23S12W08CD	1200	Yes	Residence
23S12W08CD	1300	Yes	Residence
23S12W08CD	1400	Yes	Residence
23S12W08CD	1401	No	Bare land
23S12W08DD	1000	No	Recreation
23S12W08DD	1100	No	Recreation
23S12W08DD	1200	No	Recreation
23S12W08DD	1300	No	Bare Land
23S12W08DD	1301	Yes	Residence
23S12W08	600	Yes	Residence
23S12W08	700	No	Recreation (has approval for a template dwelling)
23S12W08	800	No	Recreation (has approval for a template dwelling)
23S12W08	900	No	Recreation
23S12W08	1000	No	Bare Land
23S12W08	1001	Yes	Subject Property
23S12W08	1100	Yes	Not Primary Residence
23S12W17B	100	Yes	Not Primary Residence
23S12W17B	200	Yes	Residence
23S12W17B	300	Yes	Residence
23S12W17B	400	Yes	Residence
23S12W17	200	No	Bare Land
23S12W17	300	Yes	RV Park

The compatibility area for the Rural Residential - 2 zoning district is 250 feet; however, since the property is split zoned with the zones being Rural Residential – 2 and Forest Mixed Use staff took the conservative approach and applied a 750 foot compatibility area. Within that distance there are several properties with residential development. There are thirty (30) tracts of land within the buffer. Although there are no vacation rentals within the buffer area Lakeside is a popular recreation location. There are several dwellings that are not the primary residence of the property owner, several properties being utilized for recreation as they have boat dock and no dwellings, and an RV Park. The property is accessed off of Nordloch Lane, which is a public dedicated road. The subject property is located towards the end of Nordloch Lane and there are several dwellings located along this road. Based on the aerial imagery it appears the dwelling to be used as a vacation rental is surrounded by thick foliage, which give neighboring properties a buffer. The parcel has its own private driveway to the dwelling.

The applicant shall submit a Parking Verification Permit, once approved, shall continue to comply with the 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.

The applicant shall record a deed restriction with the Coos County Clerk's Office acknowledging that this is an accessory use to the approved residential use, this will be made a condition of approval.

- 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 did not submit a Parking Verification Permit; therefore, this will be made a condition of approval.

- 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.

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 Urban Residential - 2 zone; 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:
 - (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) 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.

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.

- (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 (April 7, 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