



# 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, April 08, 2020

File No: ACU-19-049

Proposal:  
Dwelling Request for Single Family Dwelling in the Forest Zone – Forest Template

Applicant(s): Chris Hood, Stuntzner Engineering & Forestry (on behalf of the property owner)  
PO Box 118  
Coos Bay, OR 97420

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 23, 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. This proposal is not subject to review under Floodplain. **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: 219104  
Map Number: 25S110500-00504

Property Owner: MESSERLE, BLAINE R  
66151 CHURCH RD  
COOS BAY, OR 97420-9557

Situs Address: No Situs Address  
Acreage: 2.58 Acres

Zoning: COOS BAY ESTUARY MNGMT PLAN (CBEMP)  
FOREST (F)  
RURAL SHORELANDS (20-RS)

Notice shall be posted from April 8, 2020 until 5 PM April 23, 2020

Special Development      ARCHAEOLOGICAL SITES (ARC)  
Considerations and      FLOODPLAIN (FP)  
overlays:                      FOREST MIXED USE (MU)

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: Wednesday, April 08, 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/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> . **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”, 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.
  - c. A Water Supply Requirement form shall be submitted and signed off by the Watermaster.
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. Evidence shall be provided illustrating that the down slope is 9 percent or less so that the correct additional primary safety zone can be determined.
  - c. The dwelling shall not be sited on a slope of greater than 40 percent.
  - d. The applicant shall provide a statement that if the dwelling has a chimney or chimneys; each chimney shall have a spark arrester.
  - e. The applicant shall provide evidence of a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient garden hose to reach the perimeter of the primary fire break.
5. Shall complete all conditions of approval set forth in Property Line Adjustment PLA-19-026.
6. Shall comply with received from the Coquille Indian Tribe, and shall comply with comments once they are received from the Confederated Tribes of the Coos Lower Umpqua, and Siuslaw Indians. Comments received can be found at Exhibit D.
7. A Driveway/ Access / Parking Verification Permit shall be submitted and 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**



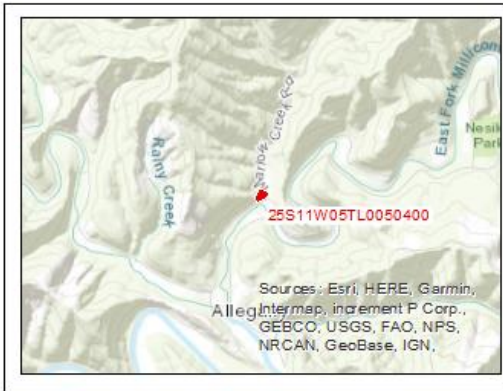
**COOS COUNTY PLANNING DEPARTMENT**

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

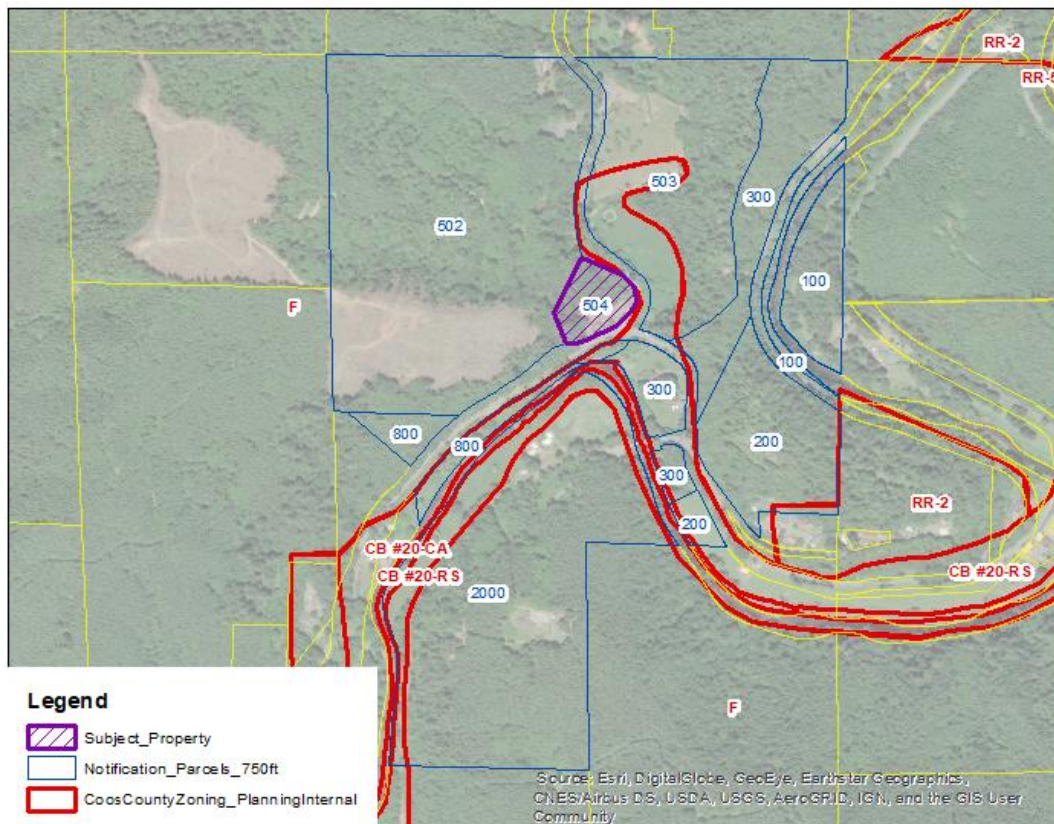
Physical Address: 225 N. Adams, Coquille Oregon

Phone: (541) 396-7770

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



File:	ACU_19_049
Applicant/ Owner:	Blaine Messerle
Date:	March 14, 2020
Location:	Township 25S Range 11W Section 05 TL 504
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

# Template Map



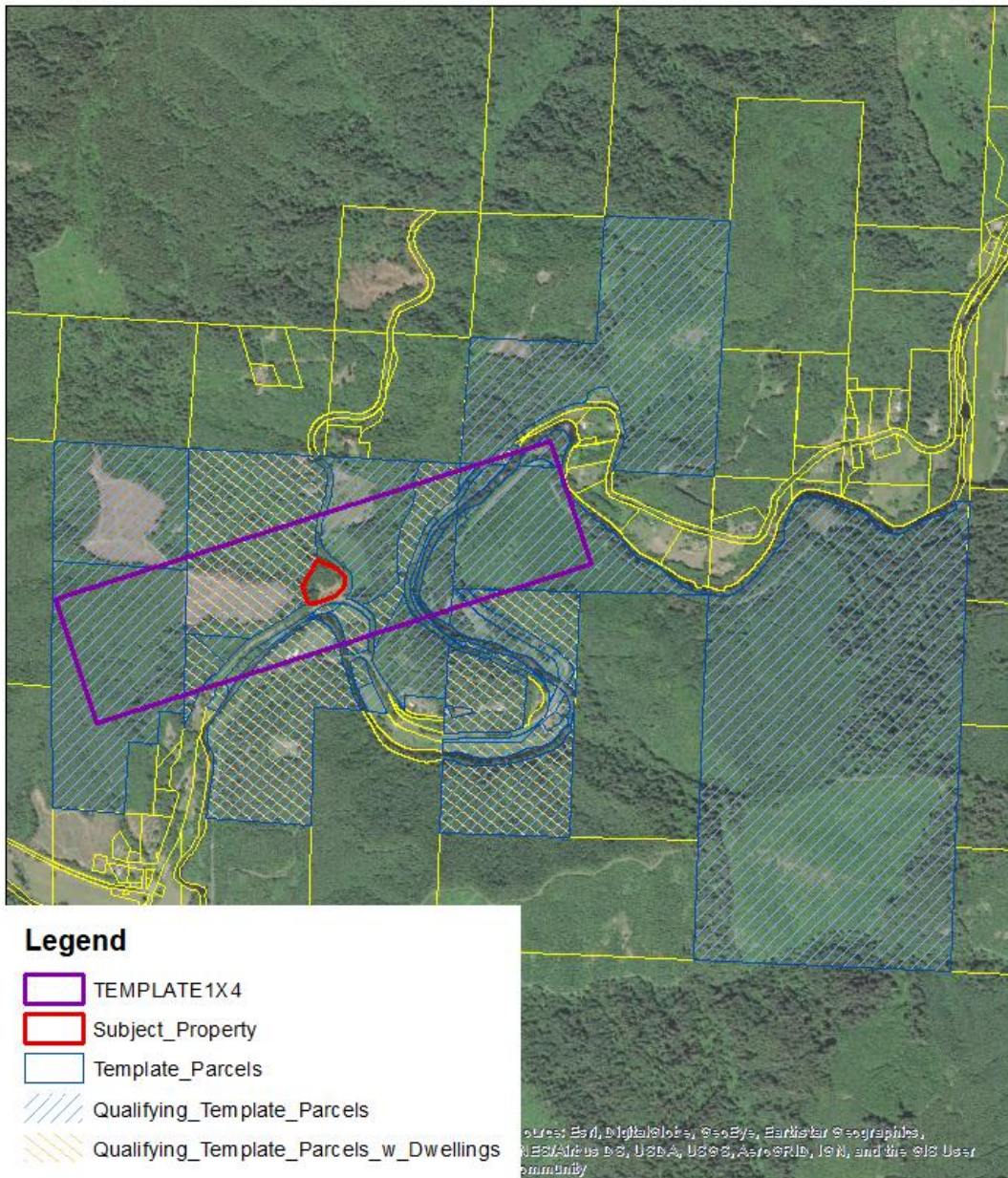
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**EXHIBIT “C”  
STAFF REPORT  
FINDINGS OF FACT AND CONCLUSIONS**

**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:** The subject property is lawfully created unit of land was created pursuant to 6.1.125.1.b “*Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals*” (Discrete Parcel Certification prepared by Fidelity National Title 3/10/05). The properties current configuration was due to Property Line Adjustment PLA-19-026.

**LOCATION:** The subject property is located east of the City of North Bend and accessed off of Oregon State Highway 241, also known as Coos River Highway 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 2.58 acres, is treed with cleared areas, and contains an accessory structure with Oregon State Highway 241 (also known as Coos River Highway) running along the southern boundary and Marlow Creek Road running along the eastern boundary. The adjacent properties to the north, east, and west are split zoned between Forest Mixed Use (F/MU) and Coos Bay Estuary Management Plan (CBEMP) segment 20 – Rural Shorelands (20-RS), are treed with cleared areas surrounding the residential development. The properties to the south, beyond Oregon State Highway 241 are zoned FMU and CBEMP 20-RS, both contain residential development, the larger parcel (zoned FMU) consist of pastureland and tree coverage while the other has minimal tree coverage
- 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 2.58 acres, is undeveloped, and is not part of a tract.**

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

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

**FINDING: The applicant submitted a copy of the current deed of record and there no deed restrictions are listed regarding establishing a dwelling on the subject property.**

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

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

	<i>CF/Ac/Yr of Growth</i>		
	<i>0-49</i>	<i>50-85</i>	<i>+85</i>
<i>Required minimum number of lots or parcels or portions thereof existing on January 1, 1993, within a 160-acre square centered on the subject tract.</i>	<i>3</i>	<i>7</i>	<i>11</i>
<i>Required minimum number of dwellings existing on January 1, 1993, on the lots or parcels</i>	<i>3</i>	<i>3</i>	<i>3</i>

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

- iv. If the tract on which the dwelling is to be sited is 60 acres or larger and abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to maximum extent possible, aligned with the road or stream. If a road crosses the tract on which the dwelling will be located, at least one of the three required*

*dwellings shall be on the same side of the road as the proposed dwelling. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:*

- 1) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream. or*
  - 2) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.*
- v. If a tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road. Road, as used in this subsection, means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land. This excludes a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.*
- vi. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan and its implementing measures.*

**FINDING:** Evidence in the record indicates there are no deed restrictions that would prohibit a dwelling on the subject property. Based on soil types and cubic foot per acre per year growth, this criterion requires a demonstration of 11 parcels and 3 dwellings within 160 acre rectangle centered on the subject tract. Staff applied the 160-acre rectangle 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 off of Oregon State Highway 241, which is a highly traveled State maintained road. There are several driveways to homes in the vicinity of the vacant land coming off of Oregon State Highway 241. The subject property borders Highway 241 and Marlow Creek Road and, according to the plot plan, the dwelling will be located towards the center of the property. The plot plan illustrates that the setbacks will be met. The applicant stated that the dwelling will be sited on less than 10 percent slopes and 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 applicant is 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 forestlands. The applicant stated that he will keep 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 applicant has 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.**

**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 shall be recorded with the Coos County Clerk's office.**

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

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).**

**The applicant stated that the water source will be from a well; therefore is exempt from permitting requirements under ORS 537.545. The applicant shall submit the well constructor's report upon completion of the well.**

**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 via a private driveway accessed off of Oregon State Highway 241. Oregon State Highway, also known as Coos River Highway is a State maintained road. Therefore, proof of a long-term road access use permit or agreement will not be required.**

**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 2.58 acres; therefore, stocking surveys will not be required.**

**Therefore, this criterion is not applicable.**

- **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 Verification Permit shall be submitted. This 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.

**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 outside the boundaries of the Timber Park Rural Fire Protection District. Furthermore, the applicant submitted a letter, dated November 13, 2019, from the Timber Park Fire Department's Fire Chief, Mark Anderson stating that the property is located too far outside of the district to be considered for annexation.**

**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.

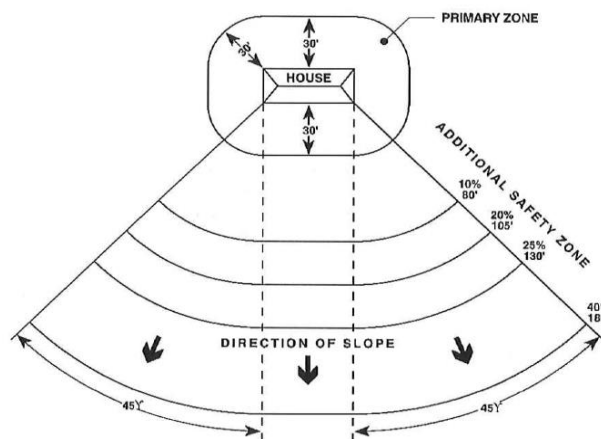
10. Firebreak:

- 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
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

EXAMPLE OF SAFETY ZONE SHAPE



**FINDING:** According to the soils on this property the proposed location of the dwelling will be located within an area identified as having soils that are comprised of Milbury-Bohannon-Umpcoos association that typically have percent 50 to 80 percent slopes. However, given

**this is a general slope staff has concurred with the applicants' assessment that the building site is a benched area that is generally flat; however, there was no mention of the percentage of the down slope; therefore, evidence shall be provided proving that the down slope is nine (9) percentage or less so that the correct additional primary safety zone can be determined.**

**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 outside of the Timber Park Rural Fire Protection District. the applicant submitted a letter, dated November 13, 2019, from the Timber Park Fire Department's Fire Chief, Mark Anderson stating that the property is located too far outside of the district to be considered for annexation.**

**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 Verification Permit (DR-19-115) shall be submitted. This must be signed off by the Road Department 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 Verification Permit (DR-19-115) shall be submitted. This must be signed off by the Road Department 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, 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.*
- 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.*
  - 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.*
  - 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:*
- The applicant submits an application requesting the additional extension prior to the expiration of a previous extension;*
  - The applicable residential development statute has not been amended following the approval of the permit; and*
  - 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 Tuesday, April 23, 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

Coos Forest Protection Association

Planning Commission

Board of Commissioner

**EXHIBIT "D"**  
**Comments Received**

ACU-19-049



## COQUILLE INDIAN TRIBE

3050 Tremont Ave. North Bend, OR 97459  
Telephone: (541) 756-0904 ~ Fax: (541) 756-0847  
[www.coquilletribe.org](http://www.coquilletribe.org)

December 18, 2019

Coos County Planning Department  
250 N Baxter  
Coquille, Oregon 97429

Re: ACU-19-049

Project location: 10959 Highway 241 (Coos River Hwy), Coos Bay, Oregon 97420

Thank you for the opportunity to comment on the proposal to construct a forest temple dwelling at the above referenced location. Our records show known cultural resources within extremely close proximity to the project area.

Due to the close proximity to known cultural resources, we request that the landowner and/or contractor contact our office at (541) 808-5554 (Kassandra Rippee, Archaeologist/THPO) to schedule a Cultural Resource Monitor to be on site during all ground-disturbing activities. Please schedule the monitor a **minimum of 72 hours** in advance of anticipated project start time.

Please be aware that state statutes and federal law governs how archaeological sites are to be managed. 43 CFR 10 applies on tribal and federal lands, federal projects, federal agencies, as well as to federal actions and federally funded (directly or indirectly) projects. ORS 97.745 prohibits the willful removal, mutilation, defacing, injury, or destruction of any cairn, burial, human remains, funerary objects, or objects of cultural patrimony of a Native Indian. ORS 358.920 prohibits excavation, injury, destruction, or alteration of an archaeological site or object, or removal of an archaeological object from public or *private lands*. If archaeological materials are discovered, uncovered, or disturbed on the property, we will discuss the appropriate actions with all necessary parties.

Thank you again and feel free to contact me if you have any questions.

Best,

Todd Martin  
Tribal Historic Preservation Specialist

CRT19304

ACU-19-049

**EXHIBIT "E"**  
**Application Submitted**

LAND USE PERMIT APPLICATION – BALANCE OF COUNTY  
COOS COUNTY PLANNING DEPARTMENT

COMPLETED BY STAFF	
Received By: <u>MB</u>	<input type="checkbox"/> COMP PLAN AMENDMENT
Date Submitted: <u>12/5/19</u>	<input type="checkbox"/> ZONE CHANGE
Application No.: <u>ACU-19-049</u>	<input type="checkbox"/> TEXT AMENEDMENT
Fee: <u>1479<sup>00</sup></u>	<b>CONDITIONAL USE REVIEW</b>
Fee Paid: <u>1479<sup>00</sup></u>	<input type="checkbox"/> HEARINGS BODY
Receipt No.: <u>214445</u>	<input checked="" type="checkbox"/> ADMINISTRATIVE
	<input type="checkbox"/> VARIANCE
	<input type="checkbox"/> LAND DIVISION *
	<input type="checkbox"/> HAZARD REVIEW *
	<input type="checkbox"/> FARM OR FOREST REVIEW *
	<input type="checkbox"/> FAMILY/MEDICAL HARDSHIP*
	<input type="checkbox"/> HOME OCCUPATION/COTTAGE INDUSTRY
	<b>*Supplemental Application required</b>
	STAFF NOTES:

Please type or clearly print all of the requested information below. Please be sure to include any supplemental application for if required.

**I. APPLICANT**

Name: BLAINE MESSERLE

Mailing Address: 66151 CHURCH RD.

City COOS BAY State OR Zip 97420

Daytime Phone 541.269.1963

Email: ALLEGANYWD@GMAIL.COM

**II. OWNER(S)**

Name: BLAINE MESSERLE

Mailing Address: 66151 CHURCH RD.

City COOS BAY State OR Zip 97420

Daytime Phone 541.269.1963

Email: ALLEGANYWD@GMAIL.COM

**III. PROPERTY** - If multiple properties are part of this review please check here  and attached a separate sheet with property information.

Location or Address: 10959 HIGHWAY 241 (COOS RIVER HWY)

No. Acreage 2.58 AC.

Tax Acct. 219104

Township: 25 Range: 11 Section: 05¼ Section: 1/16 Section: Tax lot: 504

Zone: FOREST

Water Service Type: ON SITE WELL

Sewage Disposal Type: ON SITE SEPTIC

School District: COOS BAY

Fire District: N/A

**IV. REQUEST SUMMARY** (Example: "To establish a template dwelling in the Forest Zoning District.")

CLIENT REPRESENTATIVE: Chris Hood at Stuntzner Engineering & Forestry  
705 South 4th Street, Coos Bay, OR 97420 (541) 267-2872 chood@stuntzner.com

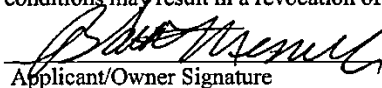
V. ATTACHED WRITTEN STATEMENT. With all land use applications, the "burden of proof" is on the applicant. It is important that you provide information that clearly describes the nature of the request and indicates how the proposal complies with all of the applicable criteria within the Coos County Zoning and Land Development Ordinance (CCZLDO). You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete. A planner will explain which sections of the Ordinance pertain to your specific request. The information described below is required at the time you submit your application. The processing of your application does not begin until the application is determined to be complete. An incomplete application will postpone the decision, or may result in denial of the request. Please mark the items below to ensure your submittal is complete.

Application Check List: Please make off all steps as you complete them.

- A.  A written statement of intent, attached to this application, with necessary supporting evidence which fully and factually describes the following:
1.  A complete explanation of how the request complies with the applicable provisions and criteria in the Zoning Ordinance. A planner will explain which sections of the Ordinance pertain to your specific request. You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete.
  2.  A description of the property in question, including, but not limited to the following: size, vegetation, crops grown, access, existing buildings, topography, etc.
  3.  A complete description of the request, including any new structures proposed.
  4.  If applicable, documentation from sewer and water district showing availability for connection.
- B.  A plot plan (map) of the property. Please indicate the following on your plot plan:
1.  Location of all existing and proposed buildings and structures
  2.  Existing County Road, public right-of-way or other means of legal access
  3.  Location of any existing septic systems and designated repair areas
  4.  Limits of 100-year floodplain elevation (if applicable)
  5.  Vegetation on the property
  6.  Location of any outstanding physical features
  7.  Location and description (paved, gravel, etc.) of vehicular access to the dwelling location
- C.  A copy of the current deed, including the legal description, of the subject property. Copies may be obtained at the Coos County Clerk's Office.

I certify that this application and its related documents are accurate to the best of my knowledge. I am aware that there is an appeal period following the date of the Planning Director's decision on this land use action. I understand that the signature on this application authorizes representatives of the Coos County Planning Department to enter upon the subject property to gather information pertinent to this request. If the application is signed by an agent, the owner's written authorization must be attached.

If this application is refereed directly to a hearings officer or hearings body I understand that I am obligated to pay the additional fees incurred as part of the conditions of approval. I understand that I/we are not acting on the county's behalf and any fee that is a result of complying with any conditions of approval is the applicants/property owner responsibility. I understand that conditions of approval are required to be complied with at all time and an violation of such conditions may result in a revocation of this permit.

  
Applicant/Owner Signature

12-2-19  
Applicant/Owner Signature

APPLICANT'S EXHIBIT "A"

MESSERLE FOREST (TEMPLATE) DWELLING

LOCATED IN TOWNSHIP 25 SOUTH, RANGE 11 WEST W.M.,  
SECTION 05, TAX LOT 504

Application Requirements

A. STATEMENT OF INTENT:

The purpose of this application is to request approval for a forest (Template) dwelling in the Forest (F) zone on property as described above. Evidence has been submitted below addressing the required criteria pursuant to the Coos County Zoning and Land Development Ordinance (CCZLDO).

The subject property consists of 2.58 acres (assessment records) with direct access from Coos River Highway #241. The land is covered with a mix of commercial and non-commercial tree species and natural coastal vegetation which is primarily situated upon sloped terrain. The proposed dwelling site consists of a benched area that is centrally located within the parcel (see dwelling site note below). There is currently an accessory structure that was originally part of a dwelling that for the most part has been removed. The prior residence was served by an existing paved driveway that will continue to serve the accessory structure and improvements located in the southerly portion of the property. Potable water will be from a drilled well source that is exempt from permitting through the Oregon Water Resources Department. Sanitary sewer will be from an onsite septic system.

NOTE ON ZONING: While the subject property is zoned for forest use, based on size alone, it more resembles a rural residential parcel than a forest parcel. In other words, it is not reasonable to consider this parcel as viable for commercial forest use. However, with that said, the criteria relating to residential impacts to forest operations can and should be applied to adjacent and surrounding lands upon which commercial forest activities are likely to occur.

NOTE ON DWELLING SITE: The subject property historically contained a dwelling that was located in the southerly portion of the property in close proximity to Coos River Highway #241. For security reasons, the applicant now wishes to move the dwelling location in a northerly direction to a bench that is centrally located within the parcel.

The property is situated in a rural location at the junction of the Coos River Highway and Marlow Creek Road. Marlow Creek Road connects to Douglas County through Loon Lake and the road is often utilized as a back door by individuals that, for various reasons, do not wish to travel on standard public roads. There has been a recent history of criminal activity at this location relating to theft, vandalizing and littering. It is no longer prudent to develop in an exposed area adjacent to the state highway. The applicant is therefore proposing to develop in a

more obscure location with access from a driveway that can be secured against trespass in several locations.

There are several criteria below that address impacts to forest operation resulting from dwelling location and access development. However, this particular property is not suitable for commercial forest operations and therefore it is more reasonable to focus on impacts to adjacent and nearby tracts upon which commercial forest operations are viable.

**B. PLOT PLAN:**

A Plot Plan has been submitted showing all of the elements required pursuant the Coos County Land Use Permit Application.

**Application Criteria and Evidence**

**SECTION 4.6.110(3)**

**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.

*APPLICANT'S RESPONSE: There was a prior residential dwelling on the property that has been removed with the exception of a non-residential portion that is currently utilized, and will continue to be utilized, as an accessory structure for storage. There is currently no residential dwelling on the property.*

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

*APPLICANT'S RESPONSE: A copy of the current deed of record has been submitted with the application showing that there are no restrictions prohibiting residential development.*

- 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:

*APPLICANT'S RESPONSE: The property is composed of soils that are capable of producing more than 85 Cubic Feet, Per Acre, Per Year of Growth.*

*On August 20, 2019, the Coos County Planning Department issued a determination in response to a research Request by the applicant, showing that the property qualified for a Template Dwelling under the provisions of section 4.6.110(B)(3)(iii through v.) More specifically, the Department determined that there are 22 parcels and 8 dwellings that*

*were created prior to January 1, 1993 and are either within or touching a 160 acre template utilized for the test.*

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.

*APPLICANT'S RESPONSE: The subject property consists of 2.58 acres by assessment records and therefore the provisions above (iv, 1, 2, or v) do not apply.*

vi. A proposed "template" dwelling under this ordinance is not allowed if:

- 1) It is prohibited by or will not comply with the requirements of the acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;

*APPLICANT'S RESPONSE: It is believed that there are no identified special considerations or natural hazards that preclude residential development on the subject property. Because the property qualifies with the "acknowledged provisions" of the CCZLDO, the proposed use is deemed to be in compliance with all state and local provisions of law.*

- 2) Unless it complies with the requirements of Section 4.6.130.6 through 8 and Section 4.6.140.8 through 16.

*APPLICANT'S RESPONSE: Section 4.6.130 (6)(7) have been addressed below. There is no section 4.6.130(8) contained within the CCZLDO.*

**SECTION 4.6.130 ADDITIONAL CRITERIA FOR ALL ADMINISTRATIVE AND HEARINGS BODY APPLICATION REVIEW:**

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.

*APPLICANT'S RESPONSE: The evidence submitted throughout this application clearly indicate that the applicant will comply with all provisions intended to alleviate any potential conflicts associated with nearby farm or forest uses. It is therefore reasonable to conclude that the use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agricultural or forest land.*

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

*APPLICANT'S RESPONSE: The applicant has addressed the statutory development standards, and the fire siting and safety standards, and has agreed to comply with those standards. Therefore, a reasonable conclusion can be made that the proposed use will not significantly increase fire suppression costs or significantly increase the risks to fire suppression personnel.*

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

*APPLICANT'S RESPONSE: As a "Requirements of Approval" pursuant to this application, the property owner shall be responsible for implementing and maintaining all development and fire siting standards.*

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 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.

*APPLICANT'S RESPONSE: As a "Requirement of Approval" to this application, the applicant will be responsible for recording a deed covenant or written contract with the County Clerk, or its equivalent, that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules.*



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 home site. 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.

*APPLICANT'S RESPONSE: The proposed dwelling will be generally located in the center of the property so that there will be a considerable buffer from adjacent forest lands. The dwelling is intentionally being located to have the least impact on forest activities occurring on nearby or adjoining properties. There are no agricultural uses occurring on nearby or adjoining lands.*

ii. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.

*APPLICANT'S RESPONSE: The subject property contains 2.58 acres. While the subject property is zoned for forest use, based on size alone, it more resembles a rural residential parcel than a forest parcel. In other words, it is not reasonable to consider this parcel as being viable for commercial forest use (AKA Forest Operations). However, with that said, the criteria relating to residential impacts to forest operations can and should be applied to adjacent and surrounding lands upon which commercial forest operations are likely to occur.*

iii. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized. And

*APPLICANT'S RESPONSE: The subject property historically contained a dwelling that was located in the southerly portion of the property in close proximity to Coos River Highway #242. For security reasons, the applicant now wishes to move the dwelling location in a northerly direction to a bench that is centrally located within the parcel.*

*The property is situated in a rural location at the junction of the Coos River Highway and Marlow Creek Road. Marlow Creek Road connects to Douglas County through Loon Lake and the road is often utilized as a back door by individuals that, for various reasons, do not wish to travel on standard public roads. There has been a recent history of criminal activity at this location relating to theft, vandalizing and littering. It is no longer prudent to develop in an exposed area adjacent to the state highway. The applicant is therefore proposing to develop in a more obscure location with access from a driveway that can be secured against trespass in several locations.*

*With that said, there is currently no access within the parcel that can be utilized for any type of forest operations that may occur. Therefore the proposed driveway can be utilized residential for forestry access. Due to topography, the driveway is situated in the only practical location where it meets county driveway standards.*

iv. The risks associated with wildfires are minimized.

*APPLICANT'S RESPONSE: The applicant will comply with all statutory fire siting and safety requirements to assure that 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 purposes 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.

*APPLICANT'S RESPONSE: The domestic water source will be from an onsite well that is exempt under Oregon Department of Water resources regulations.*

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.

*APPLICANT'S RESPONSE: Access to the subject property is via Coos River Highway 241, a fee title State Highway. The primary access does not cross a road that is owned or maintained by ODF, BLM, or USFS.*

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.

*APPLICANT'S RESPONSE: The subject property contains 2.58 acres and therefore these criteria do not apply.*

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.

*APPLICANT'S RESPONSE: Sub Section 7(e) shall be imposed upon the property owner as "Requirements of Approval" pursuant to this application. The property owner shall be responsible for recording the required non-remonstrative deed restriction.*

**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.

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;

*APPLICANT'S RESPONSE: The property owner at the time of development shall comply with any alternative fire suppression requirements deemed necessary by the Planning Director.*

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;

*APPLICANT'S RESPONSE: The property owner at the time of development shall comply with any alternative fire suppression requirements deemed necessary by the Planning Director.*

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

*APPLICANT'S RESPONSE: There is no water diversion proposed for fire suppression other than from the applicant's domestic water source. The domestic water source is from an on-site well which is exempt from permitting under the Oregon Department of Water Resources regulations.*

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.

*APPLICANT'S RESPONSE: There is currently no body of water or stream available for fire suppression purposes.*

#### 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.

*APPLICANT'S RESPONSE: The property owner at the time of development shall construct 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.

*APPLICANT'S RESPONSE: There is no existing pond, swimming pool, stream or lake available for fire suppression.*

#### 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.

*APPLICANT'S RESPONSE: The owner at the time of development shall establish and maintain a primary firebreak as described in subsection (b) around all structures, including decks.*

c. Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.

*APPLICANT'S RESPONSE: The owner shall maintain a garden hose capable of reaching the perimeter of the primary safety zone 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.

<i>Table 1 – Minimum Primary Safety Zone Slope</i>	<i>Feet of Primary Safety Zone</i>	<i>Feet of Additional Primary Safety Zone Down Slope</i>
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

*APPLICANT'S RESPONSE: While the dwelling will be situated on the benched area that is generally flat. The owner at the time of development will be responsible for maintaining a 30 foot minimum primary fire break in perpetuity.*

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.

*APPLICANT'S RESPONSE: All new and replacement structures will use non-combustible or fire resistant roofing materials approved by the certified official responsible for the building permit.*

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).

*APPLICANT'S RESPONSE: There is currently no water source exceeding 4000 gallons existing on the subject property.*

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

*APPLICANT'S RESPONSE: The dwelling will be sited on a bench area that is relatively flat, and does not contain slopes that exceed 10 percent in any direction.*

14. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

*APPLICANT'S RESPONSE: If the proposed dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*

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.

*APPLICANT'S RESPONSE: The subject property is not located within a rural fire protection district. The fire district nearest to the subject property is the Timber Park Rural Fire Protection District which is covered by the City of Coos Bay Fire Department. The applicant has made a request to the City of Coos Bay Fire Department for inclusion to that district and a letter is attached from Coos Bay Fire Chief, Mark Anderson, in response to the applicant's request.*

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.

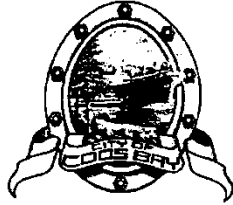
*APPLICANT'S RESPONSE: The property is accessed by State Highway #241 which is constructed to provide adequate access for firefighting equipment.*

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

*APPLICANT'S RESPONSE: The applicant will meet the road and driveway standards of Chapter VII.*

MESSERLE FOREST (TEMPLATE) DWELLING PLOT PLAN  
LOCATED IN T.25, R.11, S.05, TL 504





# City of Coos Bay Fire Department

450 Elrod Avenue Coos Bay, Oregon 97420 • (541) 269-1191

November 13, 2019

Mr. Blaine Messerle,

I have reviewed your request to have your property with the legal description of Township 25, Range 11, Section 05, Tax Lot 504 (located near the intersection of Coos River Highway and Marlow Creek Rd.) annexed into the Timber Park Rural Fire Protection District.

The Timber Park Rural Fire Protection District contracts with the City of Coos Bay for fire protection and EMS services. The district extends eastward along Coos River Highway from the Chandler Bridge to mile post 7, roughly 5 miles short of your property.

While there has been a recent interest in properties along Coos River Highway joining the Timber Park Rural Fire Protection District, unless all properties contiguous with the district boundaries petition to join the district, your property is too far outside of the district to be considered for annexation. The Timber Park Rural Fire Protection District may reconsider your petition if the district boundary is extended closer to your property.

Respectfully,

A handwritten signature in black ink, appearing to read "Mark Anderson", written over a horizontal line.

Mark Anderson, Fire Chief  
City of Coos Bay



RECORDING REQUESTED BY:



300 W Anderson, PO Box 1075  
Coos Bay, OR 97420

GRANTOR'S NAME:  
John Knutson and Judy Knutson

GRANTEE'S NAME:  
Blaine R. Messerle

AFTER RECORDING RETURN TO:  
Order No.: 380619027707-SL  
Blaine R. Messerle  
66161 Church Rd  
Coos Bay, OR 97420

SEND TAX STATEMENTS TO:  
Blaine R. Messerle  
66151 Church Rd  
Coos Bay, OR 97420

APN: 219104  
Map: 26S 11W 05 TL 504  
V/L 25S 11W 05 TL 504, Coos Bay, OR 97420

Coos County, Oregon      2019-06316  
\$106.00    Pgs=6    07/19/2019 03:43 PM  
eRecorded by: TICOR TITLE COOS BAY  
Debbie Heller, CCC, Coos County Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**STATUTORY WARRANTY DEED**

John Knutson and Judy Knutson, as their interests may appear, Grantor, conveys and warrants to Blaine R. Messerle, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Coos, State of Oregon:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$65,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.338 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.338 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

**STATUTORY WARRANTY DEED**  
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: July 17, 2019

[Signature]  
John Knutson

[Signature]  
Judy Knutson

State of Oregon

County of COOS

This instrument was acknowledged before me on July 17, 2019  
by John Knutson and Judy Knutson.

[Signature]  
Notary Public - State of Oregon

My Commission Expires: July 15, 2022



**EXHIBIT "A"**  
Legal Description

A parcel of land located in Section 5, Township 25 South, Range 11 West of the Willamette Meridian, Coos County, Oregon and lying West of the Marlow Creek Road Right-of-way, North of the Coos River Highway Right-of-way and East of the following described line:

Beginning at the Northeast corner of the NW 1/4 of the NE 1/4 of Section 5, Township 25 South, Range 11 West of the Willamette Meridian, Coos County, Oregon; thence South 4° 33' 40" West 1055.21 feet to the true point of beginning, said point being a point on the Westerly right-of-way line of Marlow Creek Road which is South 49° 24' 26" West 95.00 feet and North 01° 23' 30" East 17.22 feet from right-of-way centerline Station 10+60.70; thence South 26° 12' 35" West 331.03 feet; thence; South 22° 37' 01" East 175.22 feet to a point on the Westerly right-of-way line of Coos River Highway which is North 32° 54' 36" West 125.00 feet and North 75° 23' 59" East 43.31 feet from right-of-way centerline Station 136+50.00 and the terminus of the adjusted line.

EXCEPTING THEREFROM ANY PORTION lying within that parcel conveyed to the State of Oregon by and through its State Highway Commission by deed recorded December 16, 1969 as Instrument no. 69-12-44628, Records of Coos County, Oregon.

ALSO EXCEPTING THEREFROM ANY PORTION lying within that parcel conveyed to the State of Oregon, State Board of Forestry by deed recorded May 31, 1983 as instrument no. 83-2-3546, Records of Coos County, Oregon.

**EXHIBIT "B"**  
Exceptions

**Subject to:**

1. Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2019-2020.
2. Rights of the public to any portion of the Land lying within the area commonly known as streets, roads, alley and highways.
3. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Granted to: William Vincamp  
Recording Date: August 16, 1881  
Recording No: Book 6, Page 340
4. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Granted to: Buehner Lumber Company, an Oregon corporation  
Recording Date: February 5, 1917  
Recording No: Book 74, Page 511
5. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Granted to: State of Oregon, State Board of Forestry  
Recording Date: September 10, 1958  
Recording No: Book 253, Page 374  
And modification recorded 09051858 in Book 267, Page 310
6. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Granted to: Oscar Lundberg and Signa Lundberg, husband and wife  
Recording Date: May 24, 1957  
Recording No: Book 258, Page 350
7. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document; and  
  
Limited access to and from the Land as set forth in Deed shown below, which provides that there shall be no right of easement or right of access to, from or across the State Highway other than as expressly provided for in said Deed:  
  
Recording Date: December 16, 1969  
Recording No: 69-12-44628
8. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Granted to: General Telephone Company  
Recording Date: August 22, 1972  
Recording No: 72-8-75242
9. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Granted to: Pacific Power & Light Company  
Recording Date: November 16, 1972  
Recording No: 72-11-78961
10. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Granted to: Pacific Power & Light Company  
Recording Date: June 16, 1980  
Recording No: 80-2-7684
11. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Recording Date: May 31, 1983  
Recording No: 83-2-3646
12. A lease and assignment, with certain terms, covenants, conditions and provisions set forth therein.  
Recording Date: May 3, 1985  
Recording No: 85-2-5842  
And  
Recording Date: July 7, 1986  
Recording No: 86-3-2408
13. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document:  
Reserved by: Lyle L. McGuire and Maxine McGuire  
Recording Date: February 27, 1987  
Recording No: 87-2-0547
14. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Recording Date: October 10, 1989  
Recording No: 89-10-0562

**EXHIBIT "B"**  
Exceptions

15. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Recording Date: July 11, 2003  
Recording No: 2003-10254