



NOTICE OF LAND USE DECISION BY THE COOS COUNTY PLANNING DIRECTOR

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

Date of Notice: May 16, 2019
File No: EXT-19-005
RE: Request for an extension to an approved Administrative Conditional Use (ACU-15-01) to site a Forest Template Dwelling.
Applicant: Casey Wirt

This decision notice serves as public notice to all participants, adjacent property owners, special districts, agency with interests, or person with interests. If you are an adjacent property owner, this notice is being mailed to you because the applicant has applied for a use or activity on their property that requires that you receive notice pursuant to ORS 197.763. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.”

The requested proposal has been Approved Denied subject to the findings to the criteria found in Exhibit A. The decision is based on findings and facts represented in the staff report.

SUBJECT PROPERTY INFORMATION

Account Number: 711100
Map Number: 27S132000-00800
Property Owner: WIRT, CASEY & DANIELLE
957 S 8TH ST
COOS BAY, OR 97420-1209
Situs Address: 91749 INDIAN PLUM LN COQUILLE, OR 97423
Acreage: 9.67 Acres
Zoning: FOREST (F)

Special Considerations: COLEDO DISTRICT AREA (CDA)
FOREST MIXED USE (MU)

Proposal: Request for Planning Director Approval for an extension to a conditional use approval pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) § 5.2.600 Expiration and Extension of Conditional Uses.

Decision: This request meets the criteria and is subject to the conditions of the original application. Approval is based on findings and facts represented in the staff report.

This notice is to serve as public notice and decision notice and if you have received this notice by mail it is because you are a participant, adjacent property owner, special district, agency with interest, or person with interest in regard to the following land use application. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

Notice to mortgagee, lien holder, vendor or seller: ORS Chapter 215 requires that if you receive this notice, it must be forwarded to the purchaser.

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

The application, staff report and any conditions can be found at the following link: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment--Applications2019.aspx>. The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 225 North Adams Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact Sierra Brown, Planning Specialist and the telephone number where more information can be obtained is (541) 396-7770.

This decision will become final at 5 P.M. on May 31, 2019 unless before this time a completed **APPLICATION FOR AN APPEAL OF A DECISION BY THE PLANNING DIRECTOR** form is submitted to and received by the Coos County Planning Department.

Failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements of evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes raising the issue in an appeal to the Land Use Board of Appeals.

Prepared by: Sierra Brown Date: May 16, 2019
Sierra Brown, Planning Specialist

Authorized by: Jill Rolfe Date: May 16, 2019
Jill Rolfe, Planning Director

EXHIBITS

Exhibit A: Vicinity Map

The Exhibits below are mailed to the Applicant only. Copies are available upon request or at the following website: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment--Applications2019.aspx> or by visiting the Planning Department at 225 N. Baxter, Coquille OR 97423. If you have any questions please contact staff at (541) 396-7770.

Exhibit B: Staff Report

EXHIBIT "A" VICINITY MAP



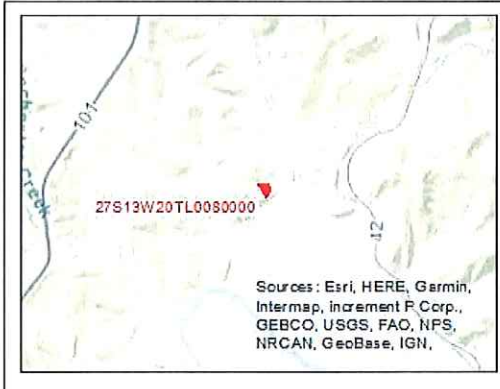
COOS COUNTY PLANNING DEPARTMENT

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: EXT-19-005

Applicant/
Owner: Casey Wirt

Date: May 5, 2019

Location: Township 27S Range 13W
Section 20 TL 800

Proposal: Extension of a Prior Land
Use Decision

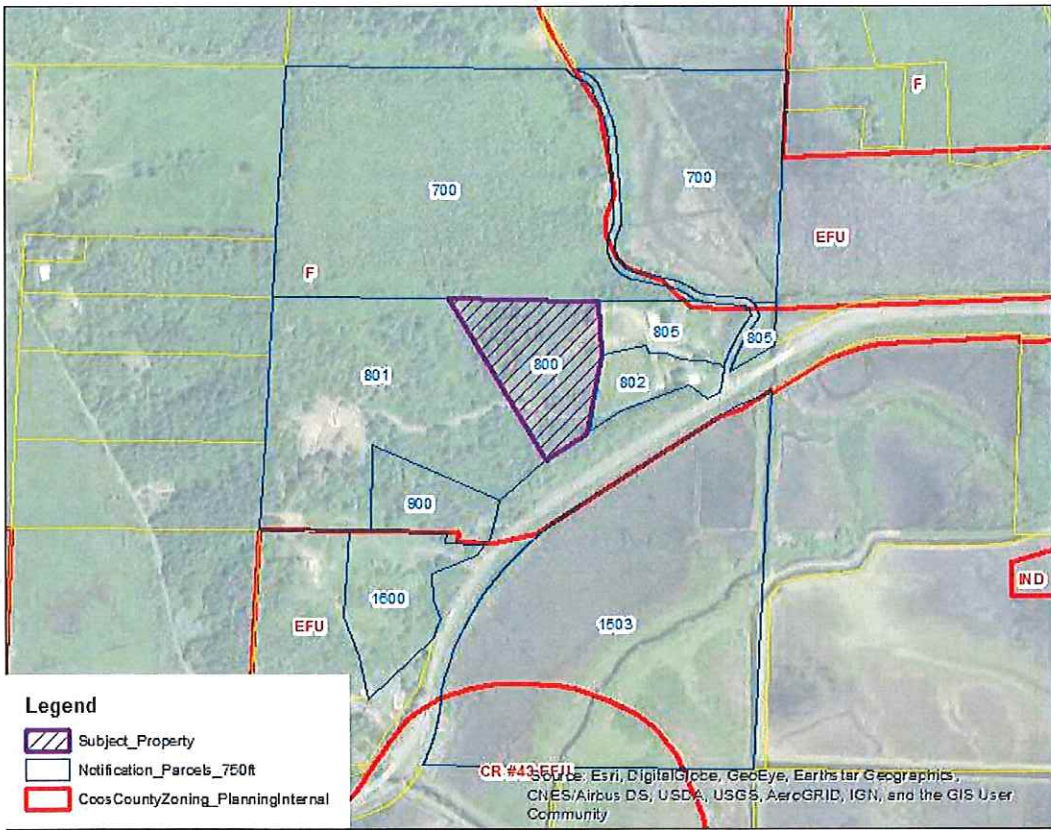


EXHIBIT "B"
Staff Report

File Number: EXT-19-005
Applicant: Casey Wirt
Account Number: 711100
Map Number: 27S132000-00800

Property Owner: WIRT, CASEY & DANIELLE
957 S 8TH ST
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Situs Address: 91749 INDIAN PLUM LN COQUILLE, OR 97423

Acreage: 9.67 Acres

Zoning: FOREST (F)

Special Considerations: COLEDO DISTRICT AREA (CDA)
FOREST MIXED USE (MU)

Reviewing Staff: Sierra Brown
Date of Report: May 16, 2019

I. PROPOSAL

Request for Planning Director Approval for an extension to an Administrative Conditional Use (ACU-92-30) approval pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) § 5.2.600 Expiration and Extension of Conditional Uses.

The prior conditional use was approved for a Forest Template Dwelling.

III. APPROVAL CRITERIA & FINDINGS OF FACT

• 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;*

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- (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.

FINDING: **The applicant has submitted a written request for an extension prior to the expiration date (April 17, 2019) of the Administrative Conditional Use (ACU) for a Forest Template Dwelling.**

The criteria for an extension is straight forward. It requires the county to review the application and determine the following:

- i. An applicant makes a written request for an extension of the development approval period;**
- ii. The request is submitted to the county prior to the expiration of the approval period;**
- iii. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and**
- iv. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.**

The applicant in this case made a written request for an extension of the development prior to the expiration date and provided a reason as to why the development was not able to be completed during the allowed time.

The only potential discretionary standard in this matter is the requirement for the County to determine, for any given extension request, that the applicant was not “responsible” for the reasons that caused the delay. The Webster’s Third New International Dictionary (1993) defines the term “responsible” as “answerable as the primary, cause, motive, or agent whether of evil or good.” In a prior land use approval the Board of

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.

Commissioners accepted an hearings officer's interprets of the word "responsible" as to be the same as "beyond the applicant's control." Stated another way, the question is whether the applicant is "at fault" for not exercising its permit rights in a timely manner. The aim of the criterion is to not reward applicants that do not actively pursue their development, while at the same time providing some measure of sympathy and assistance to applicants who are diligently trying to effectuate their permit but who run into unexpected problems that they are not in full control to correct or fix.

The applicant in this matter submitted an Administrative Conditional Use for a Forest Template Dwelling. The application had conditions of approval and the applicant was not able to complete the conditions at this time and has requested additional time. The applicant was unable to complete the project due to financial circumstances.

Staff finds that the applicant addressed the relevant critiera in this matter.

- (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.*

FINDING: The initial conditional use was valid for (4) four years. The applicant was unable to complete the project and has applied for an extension as allowed by this subsection. There is no criterion for the applicant to address.

- 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.*
 - (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.

FINDING: This criteria does not apply as it is zoned Forest (F).

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.

FINDING: This criteria does not apply as there are no natural hazards listed on this property.

IV. DECISION:

There is evidence to support the request for an extension in the Forest Mixed Use zone. There for extension of the approval timeline has been granted until **April 17, 2021**.