



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 this Decision: December 20, 2019

File Number: EXT-19-007

Applicants: Oregon Department of Transportation

Account Number(s): 539300, 539301
Map Number(s): 26S132700-01200, 26S132700-01300

Property Owner(s): OREGON DEPARTMENT OF TRANSPORTATION
C/O RIGHT OF WAY HEADQUARTERS
4040 FAIRVIEW INDUSTRIAL DR SE #MS#2
SALEM, OR 97302-1142

GLENN, JOAN T. & FRANK A.
93474 HIGHWAY 42
COOS BAY, OR 97420-8400

Situs Address: No situs address, 93474 HIGHWAY 42 COOS BAY, OR 97420

Acreage: 74.69 Acres, 8.11 Acres

Zoning: FOREST (F)

Special Considerations: ARCHAEOLOGICAL SITES (ARC)
FLOODPLAIN (FP)
FOREST MIXED USE (MU)
NATIONAL WETLAND INVENTORY SITE (NWI)

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.

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 telephone number where more information can be obtained is (541) 396-7770.

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.

Criteria and Findings:

SECTION 5.2.600 EXPIRATION AND EXTENSION OF CONDITIONAL USES

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

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

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

- 1. The applicant shall submit an application requesting an extension to the County Planning Department prior to expiration of the final decision. See Section 5.0.250 for time lines for final decisions. Untimely extension requests will not be processed.*
- 2. Upon the Planning Department receiving the applicable application and fee, staff shall verify that the application was received within the deadline and if so issue an extension.*
- 3. An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*

ii. Additional Extensions - A county may approve no more than five additional one-year extensions of a permit if:

- 1. The applicant submits an application requesting the additional extension prior to the expiration of a previous extension;*
- 2. The applicable residential development statute has not been amended following the approval of the permit; and*
- 3. An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.*
- 4. An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*

(2) Permits approved under ORS 215.416, except for a land division and permits described in Subsection (1)(a) of this section, for 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, are void two years from the date of the final decision if the development action is not initiated in that period.

a. Extensions for Non-Residential Development as described in Subsection (2) above may be granted if:

- i. *The applicant submits 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.*
 - ii. *The Planning Department receives the applicable application and fee, and staff verifies that it has been submitted within the deadline;*
 - 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.*
 - b. *An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*
 - c. *Additional one-year extensions may be authorized where applicable criteria for the original decision have not changed, unless otherwise permitted by the local government.*
- (3) *On lands not zoned Exclusive Farm, Forest and Forest Mixed Use:*
- a. *All conditional uses for residential development including overlays shall not expire once they have received approval.*
 - b. *All conditional uses for nonresidential development including overlays shall be valid for period of five (5) years from the date of final approval.*
 - c. *Extension Requests:*
 - i. *All conditional uses subject to an expiration date of five (5) years are eligible for extensions so long as the subject property has not been:*
 - 1. *Reconfigured through a property line adjustment that reduces the size of the property or land division; or*
 - 2. *Rezoned to another zoning district in which the use is no longer allowed.*
 - d. *Extensions shall be applied for on an official Coos County Planning Department Extension Request Form with the fee.*
 - e. *There shall be no limit on the number of extensions that may be applied for and approved pursuant to this section.*
 - f. *An extension application shall be received prior the expiration date of the conditional use or the prior extension. See section 5.0.250 for calculation of time.*
- (4) *Changes or amendments to areas subject to natural hazards^[2] 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.*

FINDINGS: The original application was for a Conditional Use Request was for the Planning Director's Approval for a highway related facility in the Forest Mixed Use Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.6.110.1.j public road and highway projects,

^[2] Natural hazards are: floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires.

§4.6.130 Additional Criteria for All Administrative and Hearings Body Application Review, and § 4.6.140 Development and Siting Criteria.

Extensions for Non-Residential Development as described in Subsection (2) above may be granted if the applicant submits 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. The application was final on October 6, 2017 and the request for extension was received on July 29, 2019. The permit was set to expire two years from the final permit date. Therefore, the applicant was required to submit an extension by October 6, 2019. The applicant has complied with these criteria.

Extensions are required to be submitted to the Planning Department on the applicable application with the fee, and staff verifies that it has been submitted within the deadline. The applicant submitted the correct applications, fee and submitted the request well before the deadline.

The applicant is required to state reasons that prevented the applicant from beginning or continuing development within the approval period. The applicant has explained they are still trying to get through the development stage and explained they have to work with the architects. The application activity log explaining they expect to be in construction by 2023. Therefore, the applicant has provided the reasons as required by the criteria.

The county has determined that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015. This means a notice of decision and opportunity for an appeal is not required.

Therefore, staff grants an additional one-year extension as the applicable criteria have not changed, the applicant submitted the correct form with the fee, and provided the reason why the activity could not be completed.

*Therefore, this permit has been extended until **October 6, 2020** at which time another extension is required or permits shall be secured.*

Authorized by: *Jill Rolfe* Date: December 20, 2019.
Jill Rolfe, Planning Director