



KELLINGTON  
LAW GROUP, PC



Sarah C. Mitchell  
P.O. Box 159  
Lake Oswego, OR 97034

Phone: (503) 636-0069  
Fax: (503) 636-0102  
Email: [sm@klgpc.com](mailto:sm@klgpc.com)

February 7, 2022

Via Certified First Class U.S. Mail  
And via Email

Amy Dibble  
Coos County Planning  
60 E. Second St.  
Coquille, OR 97423  
[planning@co.coos.or.us](mailto:planning@co.coos.or.us)

RE: Local File No. ACU-21-092 Incompleteness Submittal

Dear Amy:

Below are the Applicant's responses to the County's Notice of Completeness letter dated January 27, 2022.

**I. Incompleteness Items and Responses:**

- A. "Requires an additional ACU for development within the Coastal Shoreland Boundary, a new application does not have to be submitted; however, there is an additional fee of \$450.00."**

**Applicant's Response:** The Applicant has paid the additional \$450.00 fee associated with review of development within the Coastal Shoreland Boundary on the County Planning Department's online payment portal.

- B. "The Coastal Shoreland Boundary criteria needs to be addressed."**

**Applicant's Response:** The Coastal Shoreland Boundary criteria and the Applicant's Responses to each of those criteria are provided below.

*4.11.130 Non-Estuarine Shoreland Boundary (Balance of County Policy 5.10)*

*The Coastal Shoreland Boundary map has inventoried the following:*

- *Coastal Shoreland Boundary*
- *Beach Erosion*
- *Coastal Recreation Areas*
- *Area of Water-Dependent Uses*
- *Riparian Vegetation*



- *Fore Dunes*
- *Head of Tide*
- *Steep Bluffs over 50% Slope*
- *Significant wetland wildlife habitats*
- *Wetlands under agricultural use*
- *Areas of Exceptional Aesthetic or Scenic Quality and Coastal Headlands*
- *Headland Erosion*

***Purpose Statement:***

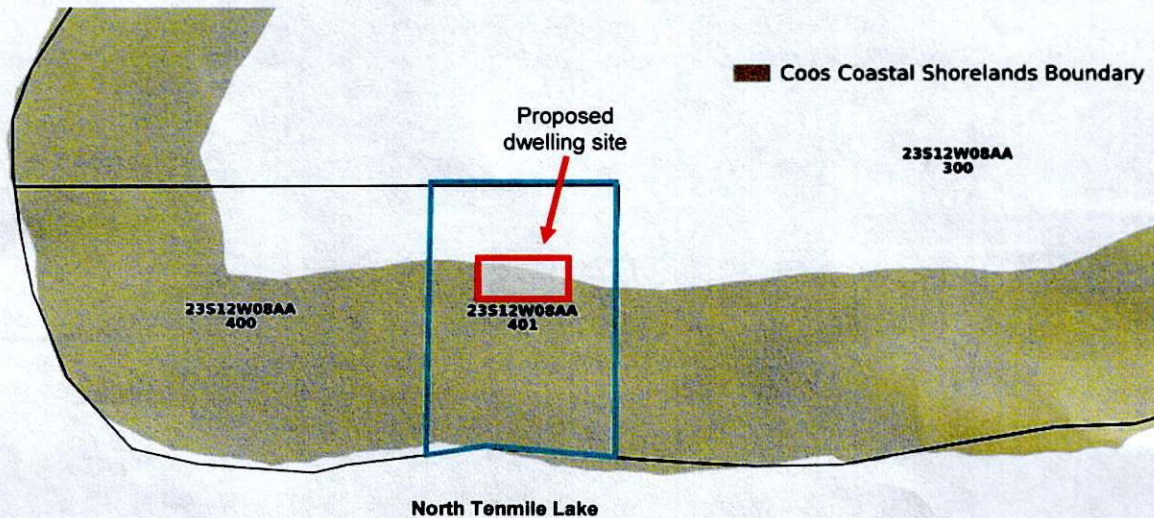
*Protection of major marshes (wetlands), habitats, headlands, aesthetics, historical and archaeological sites: Coos County shall provide special protection to major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources, and historic and archaeological sites located within the Coastal Shorelands Boundary of the ocean, coastal lakes and minor estuaries. This strategy shall be implemented through plan designations and ordinance measures that limit uses in these special areas to those uses that are consistent with protection of natural values, such as propagation and selective harvesting of forest products, grazing, harvesting wild crops, and low intensity water-dependent recreation. This strategy recognizes that special protective consideration must be given to key resources in coastal shorelands over and above the protection afforded such resources elsewhere in this plan.*

***Coos County shall consider:***

- i. *“Major marshes” to include certain extensive marshes associated with dune lakes in the Oregon Dunes National Recreation Area and wetlands associated with New River as identified in the Inventory text and maps, and on the Special Considerations Map;*
- ii. *“Significant wildlife habitat” to include “sensitive big-game range”, Snowy Plover nesting areas, Bald Eagle, and Osprey nesting areas, Salmonid spawning and rearing areas, and wetlands;*
- iii. *“Coastal headlands” to include Yoakum Point, Gregory Point, Shore Acres, Cape Arago south to Three-Mile Creek, Five Mile Point, and Coquille Point;*
- iv. *“Exceptional resources Aesthetic or Scenic Quality” to include the coastal headlands identified above, and other areas identified in the Coastal Shorelands Inventory Map; and*
- v. *“Historical, cultural and archaeological sites” to include those identified in the Historical, Cultural and Archaeological Sites Inventory and Assessment.*



**Applicant's Response:** The Coastal Shoreland Boundary covers a portion of the subject site (tax lot 401 of map 23S12W08AA) and extends approximately 100 feet from the ordinary high water mark (OHWM) of North Tenmile Lake:



The dwelling is proposed to be sited approximately 70 feet from the OHWM of the lake and so will be partially within the Coastal Shoreland Boundary.

- a. *Uses allowed within the Coastal Shoreland Boundary: This strategy recognizes: (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration; and (2) that Statewide Planning Goal #17 places strict limitations on land divisions within coastal shorelands.*
  - i. *Uses within the Coastal Shoreland Boundary: Coos County shall manage its rural areas within the "Coastal Shorelands Boundary" of the ocean, coastal lakes and minor estuaries through implementing ordinance measures that allow the following uses:*
    - a) *Farm uses as provided in ORS 215;*
    - b) *Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act.*
    - c) *private and public water dependent recreation developments;*
    - d) *aquaculture;*
    - e) *water-dependent commercial and industrial uses and water-related uses are allowed only upon finding by the Board of Commissioners that such*



*uses satisfy a need, which cannot otherwise be accommodated on shorelands in urban and urbanizable areas;*

- f) single family residences on existing lots, parcels, or units of land when compatible with the objectives and implementation standards of the Coastal Shorelands goal, and as otherwise permitted by the underlying zone; or*
- g) any other uses, provided that the Board of Commissioners determines that such uses:
  - a. Satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas;*
  - b. Are compatible with the objectives of Statewide Planning Goal #17 to protect riparian vegetation and wildlife habitat;*
  - c. The "other" use complies with the implementation standard of the underlying zone designation; and*
  - d. In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this plan.**

**Applicant's Response:** The proposal is for a single-family residence on an existing lot (tax lot 401 of map 23S12W08AA), which is an allowed use within the Coastal Shoreland Boundary under CCZLDO § 4.11.130(a)(i)(f) and allowed in the underlying Forest zone as a forest template dwelling under CCZLDO § 4.6.120(9)(B)(II).

- ii. A site plan and design review is only necessary when required in Coos County Comprehensive Plan Volume I Part 3 § 3.5: Structures associated with the above uses, with the exception of farm and forest uses, shall only be permitted after an Administrative Conditional Use Review or higher review addressing the criteria and requirements of this subsection below and upon a finding that such uses do not otherwise conflict with the Special Development Considerations and Overlay Zones found in this Ordinance.*

**Applicant's Response:** The Applicant was unable to locate "Comprehensive Plan Volume I Part 3 § 3.5" referenced in the above criterion, because it does not exist. If that reference is meant to refer to Comprehensive Plan Volume I, Part 2 § 3.5: Historical & Archaeological Resources, Natural Areas and Wilderness, then that section says that a site plan *could* be required for development in Significant Botanical Areas, archaeological or historical sites. The development proposed in this application is not in any of those areas. Accordingly, if the reference to the plan section in the above criterion is meant to refer to Volume I, Part 2 § 3.5, then a site plan and design review is not necessary for this application. Nevertheless, the Applicant's have provided a site plan (Exhibit 3 to Application) and provide responses to the Site Review and Approval Criteria below.



a) *Site Review and Approval Criteria.*

*Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents as approved.*

*Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and replacement of any part of the building or landscaping which does not involve a substantial change from the purpose and objectives of this section. Proposed "substantial changes" shall be submitted to the Planning Director for approval.*

*All variances from the site development criteria which are deemed necessary by the applicant shall be requested pursuant to ARTICLE 5.3.*

*These standards are intended to provide a frame of reference for the applicant to the development of a site and building plans as well as a method of review. These standards shall not be regarded as inflexible requirements, nor do they advocate any particular architectural style, for they are intended to encourage creativity, invention and innovation. The following standards shall be utilized in reviewing the plans, drawings, sketches and other documents required under for this review:*

**Applicant's Response:** The Applicant notes that several of the standards in this subsection are not "clear and objective" and so cannot be applied to this application for a forest template dwelling, which is an application for housing. ORS 197.307(4) provides that the standards, conditions, and procedures regulating the development of housing must be "clear and objective." LUBA has said that the term "clear" means "easily understood without obscurity or ambiguity" and the term "objective" means "existing independent of mind." *Nieto v. City of Talent*, \_\_ Or LUBA \_\_ \*10, n 6 (LUBA No. 2020-100, March 10, 2021). If the standards "involve subjective, value-laden analyses that are designed to balance or mitigate impacts of the development" they are not clear and objective. *Rogue Valley Ass'n of Realtors v. City of Ashland*, 35 Or LUBA 139, 158 (1998), *aff'd*, 158 Or App 1, 970 P2d 685 (1999). See also *Legacy Development Group, Inc. v. City of the Dalles*, \_\_ Or LUBA \_\_ \*19 (LUBA No. 2020-099) (phrases like "strive to minimize," "to the greatest extent practicable," "reasonably free from," and "interfere with or discourage" are not clear and objective). The Applicant has noted in its responses to the following standards which standards are not clear and objective and so cannot be applied to this application for housing. Nevertheless, the Applicant is willing to work with the County to comply with the following standards as much as reasonably practicable.

1. *Landscaping*

- a. *The landscape shall be such to minimize soil erosion and lessen the visual impact;*



- b. *Any grade changes shall be in keeping with the general appearance of neighboring developed areas.*

**Applicant's Response:** Standards that the landscaping “lessen the visual impact” and grade changes shall be “in keeping with the general appearance of neighboring developed areas” are not clear and objective and so cannot apply to this application for housing. Nevertheless, the Applicant is willing to work with the County to comply with this standard as much as reasonably practicable.

2. *Structures*

- a. *Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings;*
- b. *The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.*

**Applicant's Response:** Standards that the proposed structures be “related harmoniously to the terrain and existing buildings in the vicinity that have a visual relationship to the proposed buildings” are not clear and objective and cannot be applied to this application. As stated in its responses to the other standards in this section, the Applicant is willing to work with the County to comply with this standard as much as reasonably practicable.

3. *Drives, Parking and Circulation*

*With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to the location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and must comply with the standards found in Chapter VII. The Roadmaster is responsible for determining compliance with this subsection.*

**Applicant's Response:** This application does not propose vehicular access or parking areas. The subject property is accessible by boat only. This standard and the standards in Chapter VII do not apply.

4. *Surface Water Drainage*

*Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties, the public storm drainage system, or create environmental problems.*



**Applicant's Response:** The Applicant is willing to work with the County to ensure that surface drainage will not adversely affect neighboring properties or create environmental problems.

5. *Utility Service*

- a. *Whenever feasible, electric, telephone and other utility lines shall be underground;*
- b. *Any utility installations remaining above ground shall be located so as to have an harmonious relation to neighboring properties and the site;*
- c. *The proposed method of sanitary sewage disposal from all buildings shall be indicated.*

**Applicant's Response:** The standard that utilities have a "harmonious relation to neighboring properties and the site" is not clear and objective and cannot be applied to this application. Nevertheless, the Applicant is willing to work with the County to comply with this standard as much as reasonably practicable. The application explains that the subject property contains an existing septic system, which is shown on the Applicant's Site Plan (Exhibit 3 to Application).

b) *Application Submittal and Review Procedure.*

1. *Submission of Documents - A prospective applicant for a building or other permit who is subject to site design review shall submit the following to the County Planning Director:*
  - a. *A site plan, drawn to scale, shows the proposed layout of all structures and other improvements;*
  - b. *A landscape plan, drawn to scale, showing the location of existing trees proposed to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials;*
  - c. *Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction;*
  - d. *Specifications as to type, color and texture of exterior surfaces of proposed structures including reflective surfaces of solar collectors;*
  - e. *An application request which shall include:*
    - 1) *Name and address of applicant;*
    - 2) *Statement of applicant's legal interest in the property (owner, contract purchaser, lessee, renter, etc.) and a description of that interest, and in case the applicant is not the owner, verification of the owner's consent;*
    - 3) *Address and legal description of the property;*



- 4) *Statement explaining the intended request;*
- 5) *The required fee; and*
- 6) *Any other materials or information as may be deemed necessary to assist in evaluation of the request. The request will be made prior to deeming the application complete. However, if this review is before the hearings body they may request for additional information to ensure compliance.*

2. *Threshold Standard. The Planning Director has the discretion to waive part or all of the site plan requirements if, in the Director's judgment, the proposed development is "de minimis" in extent to the existing development.*

**Applicant's Response:** In 2020, the County approved a different application for forest template dwelling on another Tenmile Lake property that was also subject to the Coastal Shoreland Boundary standards, despite the applicant having not submitted the plans required by the above section, but requiring that those plans be submitted as a condition of approval. See Exhibit 1 (County approval ACU-19-033), p. 4 (Condition of Approval #5). There is no reason the same condition of approval cannot be imposed here. The Applicant requests that the County impose the same condition of approval, allowing those more detailed plans required by the above section to be submitted at a later date.

- b. *Land Divisions within the Coastal Shoreland Boundary: This strategy recognizes that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration under Statewide Planning Goal #17. Coos County shall permit subdivisions and partitions within the "Coastal Shorelands Boundary" of the ocean, coastal lakes or minor estuaries in rural areas only upon finding by the governing body:*
  - i. *That such land divisions will not conflict with agriculture and forest policies and ordinance provisions of the Coos County Comprehensive Plan and would be compatible with the objectives of Statewide Planning Goal #17 to protect riparian vegetation and wildlife and either;*
  - ii. *That the new land divisions fulfill a need that cannot otherwise be accommodated in other uplands or in urban and urbanizable areas;*
  - iii. *That the new land divisions are in a documented area, "committed" area; or*
  - iv. *That the new land divisions have been justified through a goal exception.*

**Applicant's Response:** The Applicant does not propose a land division within the Coastal Shoreland Boundary. Accordingly, CCZLDO § 4.11.130(b) is inapplicable.



- c. *Coastal Lakes and Minor Estuary Coastal Shorelands: Coos County shall consider the following general priorities for the overall use of ocean, coastal lake or minor estuary coastal shorelands (from highest to lowest):*
- i. *promote uses, which maintain the integrity of estuaries and coastal waters;*
  - ii. *provide for water-dependent uses;*
  - iii. *provide for water-related uses;*
  - iv. *provide for nondependent, nonrelated uses, which retain flexibility of future use and do not prematurely or inalterably commit shorelands to more intensive uses;*
  - v. *provide for development, including nondependent, nonrelated uses, in urban areas compatible with existing or committed uses;*
  - vi. *permit nondependent, nonrelated uses, which cause a permanent or long-term change in the features of coastal shorelands only upon a demonstration of public need.*

*In addition, priority uses for flood hazard and floodplain areas shall include agriculture, forestry, recreation and open space uses, which are water-dependent. This strategy shall serve as a guide when evaluating discretionary zoning and land development actions. This strategy recognizes Statewide Planning Goal #17 requirements.*

**Applicant's Response:** The subject property has an existing dock and the proposed single-family dwelling will promote the continual use of water-dependent and water-related recreational activities of Tenmile Lake. No development is proposed in the floodplain.

- d. *Non-structural solutions for erosion control: Coos County shall prefer non-structural solutions to problems of erosion and flooding to structural solutions in ocean, coastal lake or minor estuary shorelands. Where shown to be necessary, water and erosion control structures, such as jetties, bulkheads, seawalls, and similar protective structures and fill shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns. Implementation of this strategy shall occur through county review of and comment on state and federal permit applications for such projects. This strategy is based on the recognition that non-structural solutions are often more cost-effective as corrective measures but that carefully designed structural solutions are occasionally necessary.*

**Applicant's Response:** The proposed dwelling will be sited 70 feet from the OHWM of the lake and does not propose any plans for erosion control. This criterion is not applicable.



- e. *Riparian vegetation in Coastal Shoreland Boundary: Maintain, restore or enhancing riparian vegetation as consistent with water dependent uses requires a conditional use. Coos County shall maintain riparian vegetation within the shorelands of the ocean, coastal lakes, and minor estuaries, and when appropriate, restore or enhance it, as consistent with water-dependent uses. Variances to riparian vegetation setback shall not be permitted within the CSB unless it is to allow for a water dependent use as permitted by the zoning. If a property owner would like to remove vegetation in the Coastal Shoreland Boundary then a conditional use is required. The Planning Department will request comments from ODFW and DEQ regarding water quality and fish habitat. An applicant may provide reports from a qualified biologist.*

*Timber harvest, if permitted in the zoning ordinance, shall be regulated by the Oregon Forest Practices Act. Where the County's Comprehensive Plan identifies riparian vegetation on lands in the coastal shorelands subject to forest operations governed by the FPA, the Act and Forest Practices Rules administered by the Department of Forestry will be used in such a manner as to maintain, and where appropriate, restore and enhance riparian vegetation. This strategy shall be implemented by County review of and comment on state permit applications for waterfront development.*

*This strategy is based on the recognition that prohibiting excessive removal of vegetative cover is necessary to stabilize the shoreline and, for coastal lakes and minor estuaries, to maintain water quality and temperature necessary for the maintenance of fish habitat.*

**Applicant's Response:** As stated in the Application, and required by CCZLDO § 4.6.140(6), the Applicant will maintain the riparian vegetation within 50 feet of the lake. The Applicant is willing to accept a condition of approval to this effect. This criterion can be met.

The Applicant does not propose to harvest timber on the subject property. This criterion does not apply.

- C. **Unchecked box for "All road, driveway, access, parking plan or traffic impact analysis has been submitted as required by the Coos County Zoning and Land Development Ordinance."**

**Applicant's Response:** The subject property is accessible by boat only. The application does not propose any road, driveway, access or parking. No traffic impact analysis is required for this application. Accordingly, nothing is required to be submitted for this item.



**Conclusion**

The Applicant has provided all of the information required by the County's Notice of Completeness letter dated January 27, 2022. The County should deem the application complete and approve the application.

Very truly yours,

*Sarah Mitchell*

Sarah C. Mitchell

SCM:scm

CC: Client

**Exhibits**

Exhibit 1 – ACU-19-033 Notice of Land Use Decision





# NOTICE OF LAND USE DECISION

EXHIBIT 1  
Page 1 of 29  
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: Friday, February 21, 2020  
File No: ACU-19-033  
Proposal: Request for Single Family Dwelling in the Forest Zone – Forest Template Dwelling  
Applicant(s): Zyta Construction  
C/O Sheri McGrath  
PO Box 1548  
Bandon, OR 97411  
Staff Planner: Amy Dibble, Planner II

---

Decision: **Approved with Conditions.** All decisions are based on the record. This decision is final and effective at close of the appeal period unless a complete application with the fee is submitted by the Planning Department at 12 p.m. on **Monday, March 09, 2020**. Appeals are based on the applicable land use criteria. The proposal is subject to the following criteria: Template Dwelling in the Forest Mixed Use Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.6.110.3.b Template Dwelling, §4.6.130 Additional Criteria for All Administrative and Hearings Body Application Review, § 4.6.140 Development and Siting Criteria, § 4.11.125 Special Development Considerations § 4.11.300 Bandon, Lakeside, Powers Airports – Purpose; § 4.11.305 Designation of Airport Surfaces; § 4.11.310 Airport Sub-Zones; § 4.11.315 Airport Surfaces Height Limitations; § 4.11.320 Permitted Uses; § 4.11.325 Conditional Uses; § 4.11.330 Use Restrictions; and § 4.11.345 Conformance requirements. This proposal is not subject to review under Floodplain or Natural Hazards. **Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information please contact the staff planner listed in this notice.**

---

### Subject Property Information

Account Number: 7593900  
Map Number: 23S120800-00800  
Property Owner: EWING FAMILY TRUST  
EWING, ELIZABETH B & GERALD L TTEE  
17720 PONA DEROSA LN  
PRUNDALE, CA 93907-9053

Notice shall be posted from February 21, 2020 until 12 PM March 9, 2020



Situs Address: 135 N TENMILE LAKE LAKESIDE, OR 97449  
72312 POTLATCH RD LAKESIDE, OR 97449

Acreage: 5.44 Acres

Zoning: FOREST (F)  
RURAL RESIDENTIAL-2 (RR-2)

Special Development Considerations and overlays: BIRD SITE MEETS GOAL 5C REQRMT (B5C)  
COASTAL SHORELAND BOUNDARY (CSB)  
FLOODPLAIN (FP)  
FOREST MIXED USE (MU)  
LAKESIDE AIRPORT CONICAL ZONE (ALC)  
NATURAL HAZARD - TSUNAMI (NHTHO)

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

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

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

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

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

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



**EXHIBITS**

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map & Template Map

**The Exhibits below are mailed/mailed to the Applicant and Planning Commission only. Copies are available upon request or at the following website:**

**<http://www.co.coos.or.us/Departments/Planning/PlanningDepartmentApplications-2019.aspx> . The or by visiting the Planning Department at 225 N. Baxter, Coquille OR 97423. If you have any questions please contact staff at (541) 396-7770.**

Exhibit C: Staff Report - Findings of Fact and Conclusions

Exhibit D: Comments Received

Exhibit E: Submitted Application



**EXHIBIT "A"**

The applicant shall comply with the following conditions of approval with the understanding that all costs associated with complying with the conditions are the responsibility of the applicants and that the applicants are not acting as an agent of the county. If the applicant fails to comply or maintain compliance with the conditions of approval the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval and if you have any questions contact planning staff.

**CONDITIONS OF APPROVAL**

1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If there were comments from Department of State Lands it is the responsibility of the property owner to comply.
2. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title. The statement needs to include language that the purchaser of the property has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization.
3. Pursuant to CCZLDO § 4.6.130 the following conditions will need to be complied with prior to issuance of a zoning compliance letter.
  - a. All uses must comply with applicable development standards and fire siting and safety standards.
  - b. A Forest Management Covenant must be recorded prior to receiving a Zoning Clearance Letter.
  - c. A Water Supply Requirement form shall be submitted and signed off by the Watermaster.
  - d. Proof of a long-term road access use permit or agreement.
  - e. Shall comply with Oregon Department of Aviation, Oregon Department of State Lands, and Oregon Department of Fish and Wildlife comments once received.
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. Shall provide the percentage of down slope in order for staff to assure that the additional feet of primary fuel free firebreak will be satisfied or provide 150 additional feet of primary fuel free firebreak.
  - b. All Firebreak criteria found in § 4.6.140.10 shall be complied with.
  - 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. Pursuant to CCZLDO § 4.11.130.b).1
  - a. A site plan, drawn to scale, shows the proposed layout of all structures and other improvements.
  - b. A landscape plan, drawn to scale, showing the location of existing trees proposed to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials.
  - c. Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction.
  - d. Specifications as to type, color and texture of exterior surfaces of proposed structures including reflective surfaces of solar collectors.
6. Must comply with any comments received from Oregon Department of State Lands, Oregon Department of Aviation, and the Oregon Department of Fish and Wildlife.
7. Must submit a Driveway/ Access Parking application, and driveway will need to be signed off prior to receiving a Zoning Clearance Letter.
8. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the commencement of construction of the proposed dwelling. This will be issued after all conditions have been satisfied.

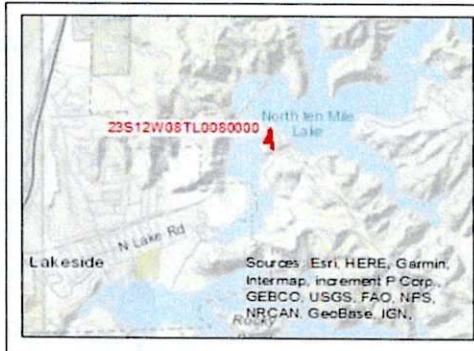


**EXHIBIT "B"**  
**Vicinity Map**

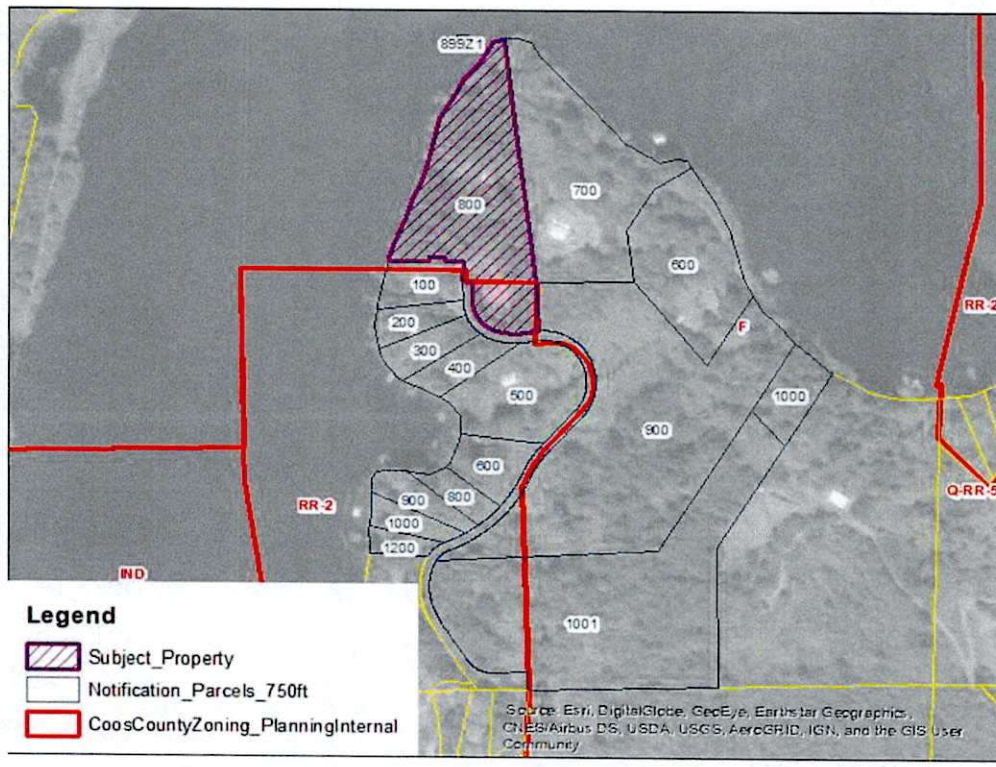


**COOS COUNTY PLANNING DEPARTMENT**

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423  
Physical Address: 225 N. Adams, Coquille Oregon  
Phone: (541) 396-7770  
Fax: (541) 396-1022/TDD (800) 735-2900

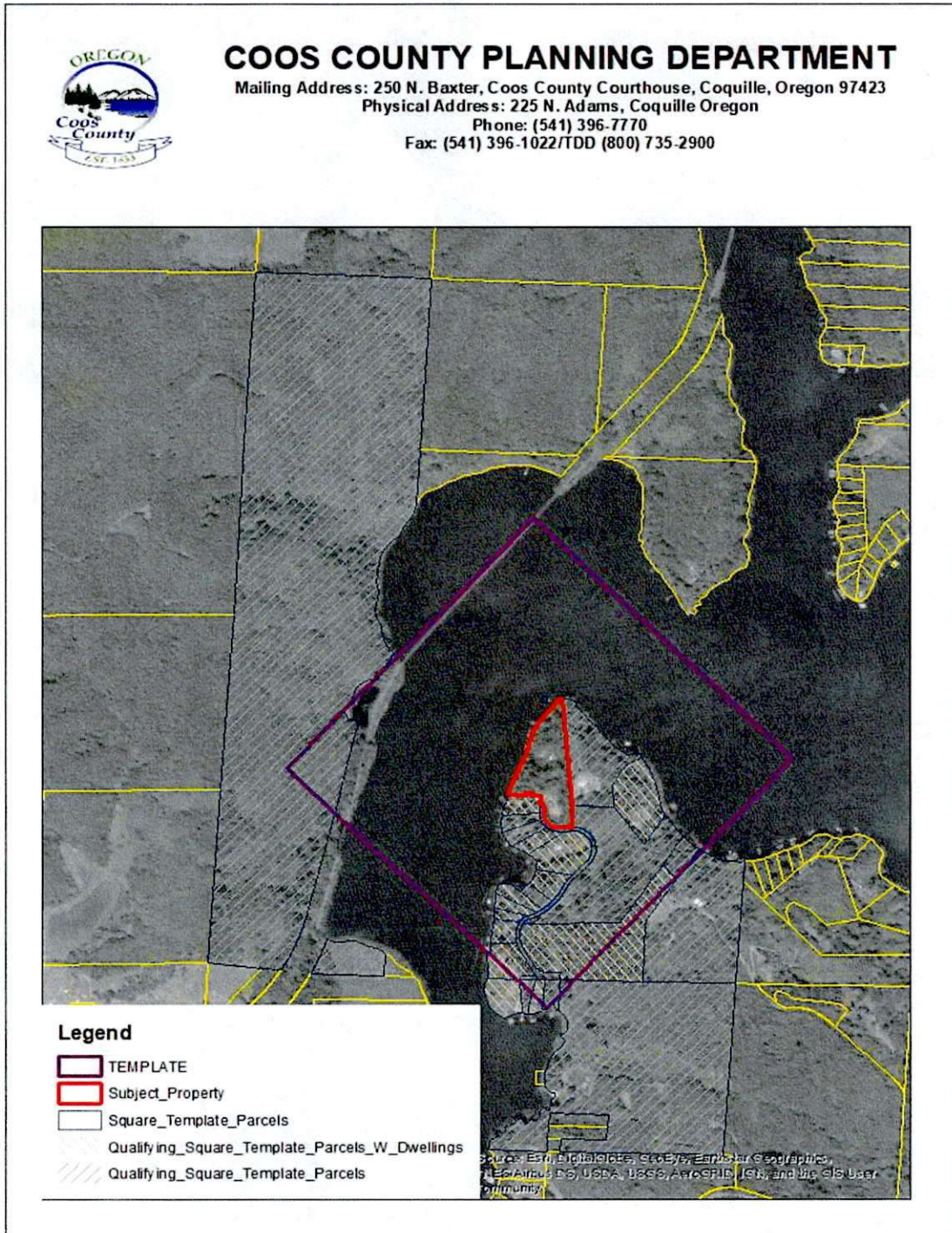


File: ACU-19-033  
Applicant/ Owner: Zyta Construction C/O Sheri McGrath/  
Ewing Family Trust  
Date: January 27, 2020  
Location: Township 23S Range 12W  
Section 08 TL 800  
Proposal: Administrative Conditional Use





Template Map





**EXHIBIT "C"**  
**STAFF REPORT**  
**FINDINGS OF FACT AND CONCLUSIONS**

**I. PROPOSAL**

Request for Planning Director Approval for re-authorization of an expired Conditional Use Application 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, § 4.6.140 Development and Siting Criteria, § 4.11.125 Special Development Considerations; and § 4.11.130 Non-Estuarine Shoreland Boundary (Balance of County Policy 5.10).

**II. PROPERTY DESCRIPTION AND PROPOSAL**

**LAWFULLY CREATED:** The unit of land was created pursuant to 6.1.125.1.e by deed or land sales contract, if there were no applicable planning, zoning, or subdivision or partition ordinances or regulations that prohibited the creation (Deed Document 78-47643).

**LOCATION:** The subject property is located east of the City of Lakeside and accessed off of Potlatch Road, which is a public road that turns into a private road at address 72304.

**III. BACKGROUND**

- July 3, 2001 - A Zoning Compliance Letter is issued (ZCL-01-260) granting authorization for a site evaluation to be completed and power connected to an existing shed.
- October 4, 2001 - An Administrative Conditional Use Permit for a Forest Template Dwelling (ACU-01-33) is approved with conditions.
- October 4, 2001 - Zoning Compliance Letter ZCL-01-260 is updated to grant authorization to install a septic system and single family dwelling, pursuant to ACU-01-33.
- October 11, 2001 - A copy of a "Waiver of Right to Object Forest and Farm Practices Management Covenant" is received in an attempt to fulfill Requirement of Approval #1 of ACU-01-33. However, the document was not recorded with the Coos County Clerk's office, so the Requirement was not fulfilled and remains in effect.
- October 18, 2001 - Driveway Confirmation #199 is received from the Coos County Road Department, fulfilling Requirement of Approval #3 of ACU-01-33.
- June 23, 2003 - A request to extend the expiration date of ACU-01-33 is received from James E. Micinski and Dolores M. Taggart, stating they had recently purchased the property.
- June 23, 2003 - Zoning Compliance Letter ZCL-01-260 is updated to authorize a single family dwelling and accessory building (shop), pursuant to ACU-01-33.
  - July 2, 2003 - The extension request is approved and the expiration date of the Conditional Use Permit is moved to October 19, 2004.
- August 23, 2004 - A request to extend the expiration date of ACU-01-33 is received from James Micinski, stating construction is expected to begin the following spring.
  - August 30, 2004 - The extension request is approved and the expiration date of the Conditional Use Permit is moved to October 19, 2005.
- October 8, 2004 - A Zoning Compliance Letter is issued (ZCL-04-578) granting after-the-fact authorization to site a dock on the property.
- October 11, 2005 - A request to extend the expiration date of ACU-01-33 is received from James Micinski, stating he had been unable to begin construction.



- October 13, 2005 - The extension request is approved and the expiration date of the Conditional Use Permit is moved to October 19, 2007.
- September 18, 2006 - A Zoning Compliance Letter is issued (ZCL-06-548) granting authorization to site a pole building on the property for use during construction of the dwelling approved under ACU-01-33.
- October 5, 2007 - A request to extend the expiration date of ACU-01-33 is received from James E. Micinski and Dolores M. Taggart, stating they had made some progress on construction on the property.
  - October 9, 2007 - The extension request is approved and the expiration date of the Conditional Use Permit is moved to October 19, 2009.
- July 13, 2009 - A request to extend the expiration date of ACU-01-33 is received from Dolores M. Taggart, stating financial hardship had prevented construction from occurring.
  - July 16, 2009 - The extension request is approved and the expiration date of the Conditional Use Permit is moved to October 19, 2011.
- September 30, 2011 - A request to extend the expiration date of ACU-01-33 is received from Dolores M. Taggart, stating financial hardship had prevented construction from occurring.
  - October 7, 2011 - The extension request is approved and the expiration date of the Conditional Use Permit is moved to October 19, 2013.
- September 20, 2013 - A request to extend the expiration date of ACU-01-33 is received from Jim Lake.
  - November 15, 2013 - The extension request is approved and the expiration date of the Conditional Use Permit is moved to October 19, 2015.
- October 14, 2015 – An extension request (ACU-15-37) was received stating financial hardship had prevented construction from occurring.
  - November 03, 2015 a decision to approve the extension request was rendered.
    - November 18, 2015 – No appeals were received regarding the appeal and the decision was rendered final making the expiration date October 19, 2017.

#### **SITE DESCRIPTION AND SURROUNDING USES:**

- a. **SITE DESCRIPTION AND SURROUNDING USES:** The majority of the subject property is zoned Forest Mixed Use (FMU) with approximately 0.7 acres zoned Rural Residential -2 (RR-2) which is located at the lower southern portion. The property is approximately 5.44 acres and is treed with a few cleared areas. The development on the property consists of two structures, identified as being a shop and storage building, a septic tank and drain field, driveway, and a dock. North Ten Mile Lake borders the property to the west and north. The adjacent properties to the east are zoned FMU and are treed with a cleared area around the residential development and the other is undeveloped. The properties to the south are zoned RR-2 and are treed and residentially developed
- 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 5.44 acres. There is no dwelling on the property and the property 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:** **There is no deed restrictions listed in the current recorded deed of records regarding establishing a dwelling on the subject property.**

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

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

	<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>	3	7	11
<i>Required minimum number of dwellings existing on January 1, 1993,</i>	3	3	3



on the lots or parcels			
------------------------	--	--	--

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

- iv. *If the tract on which the dwelling is to be sited is 60 acres or larger and abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to maximum extent possible, aligned with the road or stream. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:*
  - 1) *Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream. or*
  - 2) *Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.*
- v. *If a tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road. Road, as used in this subsection, means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land. This excludes a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.*
- vi. *The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan and its implementing measures.*

**FINDING:** Evidence in the record indicates there are no deed restrictions that would prohibit a dwelling on the subject property. Based on soil types and cubic foot per acre per year growth, this criterion requires a demonstration of 11 parcels and 3 dwellings within 160 acre square centered on the subject tract. Staff applied the 160-acre square centered on the center of the subject tract. After applying the template to the subject property it exceeds the number of parcels and dwellings.

Therefore, the criteria listed in Section 4.6.110.3.b have been complied with.

• **SECTION 4.6.130 CRITERIA AND REVIEW STANDARDS FOR CONDITIONAL USE PERMITS (BOTH ADMINISTRATIVE AND HEARINGS BODY):**

*All Conditional Use Applications (Administrative and Hearings Body) are subject to requirements that are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands as follows:*

1. *The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.*
2. *The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*



**FINDING:** The property will be accessed off of Potlatch Road, which is a public road that turns to private. The subject property is located towards the end of Potlatch Road and there are several dwellings located along Potlatch Road, with no properties being used for agriculture or timber production. The Plot Plan shows that setback requirements will be satisfied and the proposed dwelling will be sited on flat ground. Staff is unable to determine the down slope of the property; however, the applicant states that the fire safety setbacks will be met and this will minimize the risk for wildfires and have the least impact on farming and forest practices on agricultural land.

In this case the applicants are required to show that by constructing a single family dwelling and infrastructure to support the development it will not force a significant change in or increase the cost of accepted farming or forest practices on agricultural or forest lands. The applicant stated that they will keep all vegetation mowed, trimmed and spaced to maintain the firebreak setbacks. The road will be required to be maintained to allow fire suppression in the event that there is a fire.

The applicant have provided sufficient evidence within the plot plan to ensure the development will not impact forest practice and have stated that the fuel free firebreak setbacks will be met. The applicant shows that proposed dwelling will be located near the western boundary of the property (closest to North Tenmile Lake), and centered within the northern and southern boundaries.

Therefore, staff finds that the proposed use will not force a significant change in or significantly increase the cost of accepted farming or forest practices or fire suppression cost.

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

**FINDING:** This criterion is addressed in CCZLDO 4.6.140. Therefore, this criterion has been addressed.

4. *A "Forest Management Covenant", which recognized the right of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules, shall be recorded in the deed records of the County prior to any final County approval for uses authorizing any type of residential use in the Forest and Forest Mixed Use zones. There may be other criteria listed that applies to individual uses.*

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

Therefore, this criterion has been addressed.

5. *The following siting criteria shall apply to all dwellings, including replacement dwellings, and structures in the Forest and Forest Mixed Use zones. Replacement dwellings may be sited in close proximity to the existing developed homesite. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. These criteria may include setbacks from adjoining*



*properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.*

- a. *Dwellings and structures shall be sited on the parcel so that:*
  - i. *They have the least impact on nearby or adjoining forest or agricultural lands.*
  - ii. *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.*
  - iii. *The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized. And*
  - iv. *The risks associated with wildfires are minimized.*
  
- b. *The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules. For the purposed of this Section, evidence of a domestic water supply means:*
  - i. *Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water.*
  - ii. *A water use permit issued by the Water Resources Department for the use described in the application. Or*
  - iii. *Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.*

**FINDING:** **Some of these criteria have been addressed as part of other provisions within this staff report. Impacts to nearby resource land is addressed in § 4.6.130(1). Impacts to forest operations and accepted farming practices are addressed in § 4.6.130(4). The amount of forest land used for the proposed use is addressed in § 4.6.130(1). The risk from wildfires is addressed § 4.6.140(7-17).**

**A Water Supply Requirement form shall be submitted and signed off by the Watermaster which will satisfy 4.6.130(5)b.**

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

6. *As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.*

**FINDING:** **Access to the subject property is through Potlatch Road. Potlatch Road is a public road that turns into a private road at address 72304. Therefore, proof of a long-term road access use permit or agreement will be required, this may include accepting responsibility for road maintenance.**

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



7. *Approval of a dwelling shall be subject to the following additional requirements:*

- a. *Approval of a dwelling requires the owner to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.*
- b. *The Planning Department shall notify the County Assessor of the above condition at the time the dwelling is approved.*
- c. *If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report of where the survey report indicates that minimum stocking requirements have not been met.*
- d. *Upon notification by the Assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, it will notify the owner and Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.*
- e. *The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

**FINDING:** The subject property is 5.44 acres; therefore, a stocking survey will not be required.

Therefore, this criterion has been addressed.

• **SECTION 4.6.140 DEVELOPMENT AND SITING CRITERIA:**

*This section contain all of the development standards for uses (unless otherwise accepted out by a use review) and all of the siting standards for development.*

1. *Minimum Lot Size for the creation of new parcels shall be at least 80 acres. Minimum lot size will not affect approval for development unless specified in use. The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.*

**FINDING:** There is no new parcels created through this request; therefore, this criterion is not applicable.

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



**FINDING:** Based on the submitted Plot Plan the proposed structures will meet the minimum road setback.

Therefore, this criterion has been met.

3. *Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 7.1.525.*

**FINDING:** There is no indication that the applicant is proposing any fences, hedges or walls. As a condition of approval if any of the above is proposed at a later date they shall meet the requirements for the vision clearance in Section 7.1.525.

Therefore, this criterion has been addressed.

4. *Off-Street Parking and Loading: See Chapter VII.*

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

Therefore, this criterion has been addressed.

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

**FINDING:** This requirement has been addressed.

6. *Riparian Vegetation Protection. Riparian vegetation within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained except that:*

- a. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
- b. *Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
- c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
- d. *Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;*
- e. *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;*
- f. *Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps; or*
- g. *The 50 foot riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said*



*structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure's "footprint".*

- h. Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.*
- i. The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.*

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

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

- 7. All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. The dwelling shall be located within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the applicant is outside the rural fire protection district, the applicant shall provide evidence that they have contacted the Department of Forestry of the proposed development.*

**FINDING:** The subject property is located within the boundaries of the Lakeside Rural Fire Protection District.

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

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

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

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

- 9. Fire Siting Standards for New Dwellings:*



- a. *The property owner shall provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter of the primary fuel-free building setback.*
- b. *If another water supply (such as a swimming pool, pond, stream, or lake) is nearby, available, and suitable for fire protection, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.*

**FINDING:** **The property owner shall provide proof that a water supply of at least 500 gallons with an 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:*

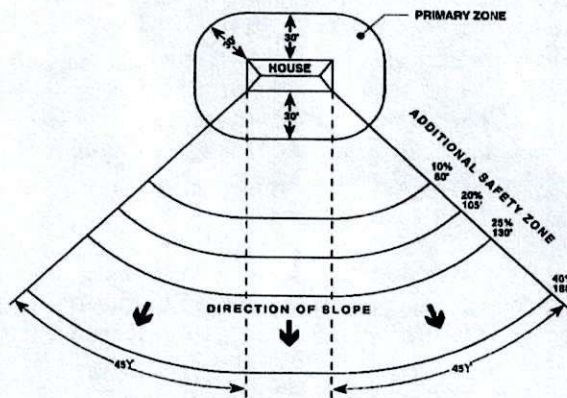
- a. *A firebreak shall be established and maintained around all structures, including decks, for a distance of at least 30 feet in all directions.*
- b. *This firebreak will be a primary safety zone around all structures. Vegetation within this primary safety zone may include mowed grasses, low shrubs (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 Millicoma-Templeton complex that typically have 50 to 75 percent slopes. However, given this is a general slope staff has determined that the building site is fairly flat but it appears to have a down slope of greater than 10 percent; therefore, the applicant shall determine and provide the percentage of down slope in order for staff to assure that the additional feet of primary fuel free firebreak will be satisfied, or provide 150 additional feet of primary fuel free firebreak.

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 does abut North Tenmile Lake, however it appears that the topography of the property does not make this a suitable source of water for fire suppression. The applicant states that they are aware that additional water storage may be required, stating that the amount is determined by the Fire Code Appendix B.

Therefore, this criterion has been addressed.

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

**FINDING:** The dwelling shall not be sited on a slope of greater than 40%.



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

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

**FINDING: As a condition of approval, the property owner shall supply information certifying that all chimneys have a spark arrester.**

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

*15. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.*

**FINDING: The subject property is located within the boundaries of the Lakeside Rural Fire Protection District.**

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

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

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

**Therefore, staff finds that the road and driveway will provide adequate access for firefighting equipment.**

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

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

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

• **4.11.130 NON-ESTUARINE SHORELAND BOUNDARY (BALANCE OF COUNTY POLICY 5.10)**

*The Coastal Shoreland Boundary map has inventoried the following:*

- *Coastal Shoreland Boundary*
- *Beach Erosion*
- *Coastal Recreation Areas*
- *Area of Water-Dependent Uses*
- *Riparian Vegetation*
- *Fore Dunes*
- *Head of Tide*
- *Steep Bluffs over 50% Slope*
- *Significant wetland wildlife habitats*
- *Wetlands under agricultural use*
- *Areas of Exceptional Aesthetic or Scenic Quality and Coastal Headlands*



- *Headland Erosion*

***Purpose Statement:***

*Protection of major marshes (wetlands), habitats, headlands, aesthetics, historical and archaeological sites: Coos County shall provide special protection to major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources, and historic and archaeological sites located within the Coastal Shorelands Boundary of the ocean, coastal lakes and minor estuaries. This strategy shall be implemented through plan designations and ordinance measures that limit uses in these special areas to those uses that are consistent with protection of natural values, such as propagation and selective harvesting of forest products, grazing, harvesting wild crops, and low intensity water-dependent recreation. This strategy recognizes that special protective consideration must be given to key resources in coastal shorelands over and above the protection afforded such resources elsewhere in this plan.*

*Coos County shall consider:*

- i. "Major marshes" to include certain extensive marshes associated with dune lakes in the Oregon Dunes National Recreation Area and wetlands associated with New River as identified in the Inventory text and maps, and on the Special Considerations Map;*
- ii. "Significant wildlife habitat" to include "sensitive big-game range", Snowy Plover nesting areas, Bald Eagle, and Osprey nesting areas, Salmonid spawning and rearing areas, and wetlands;*
- iii. "Coastal headlands" to include Yoakum Point, Gregory Point, Shore Acres, Cape Arago south to Three-Mile Creek, Five Mile Point, and Coquille Point;*
- iv. "Exceptional resources Aesthetic or Scenic Quality" to include the coastal headlands identified above, and other areas identified in the Coastal Shorelands Inventory Map; and*
- v. "Historical, cultural and archaeological sites" to include those identified in the Historical, Cultural and Archaeological Sites Inventory and Assessment.*

**Finding:** Staff has reviewed the inventory maps to confirm there are no major marshes, coastal headlands, archaeological sites identified that require protections. There is a bird site in the vicinity and a notice was provided to Oregon Department of State Lands and the Oregon Department of Fish and Wildlife; however, comments had not been received as of the date of this review. The applicant/contractor(s)/property owner(s) should contact ODF&W to verify they are not impacting a protected site.

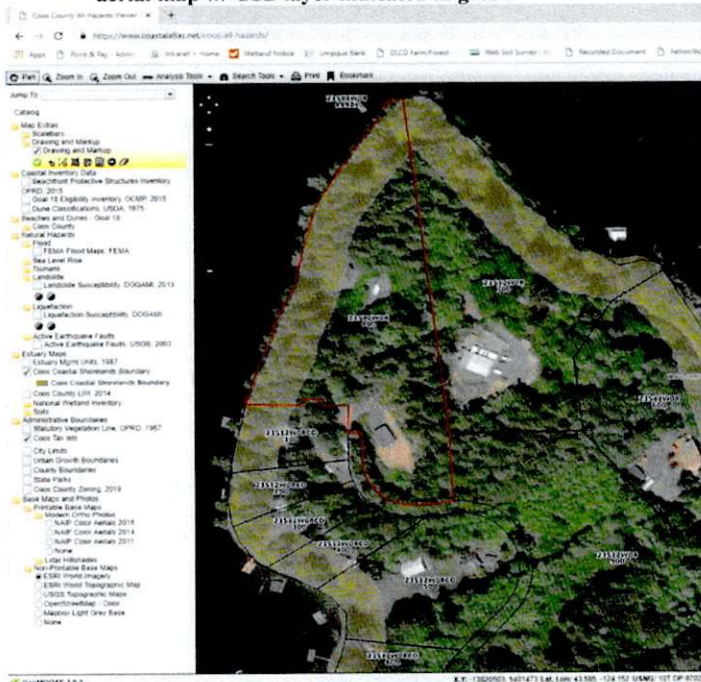
- a. Uses allowed within the Coastal Shoreland Boundary: This strategy recognizes: (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration; and (2) that Statewide Planning Goal #17 places strict limitations on land divisions within coastal shorelands.*
  - i. Uses within the Coastal Shoreland Boundary: Coos County shall manage its rural areas within the "Coastal Shorelands Boundary" of the ocean, coastal lakes and minor estuaries through implementing ordinance measures that allow the following uses:*
    - a) Farm uses as provided in ORS 215;*
    - b) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act.*
    - c) private and public water dependent recreation developments;*
    - d) aquaculture;*
    - e) water-dependent commercial and industrial uses and water-related uses are allowed only upon finding by the Board of Commissioners that such uses satisfy a need, which cannot otherwise be accommodated on shorelands in urban and urbanizable areas;*



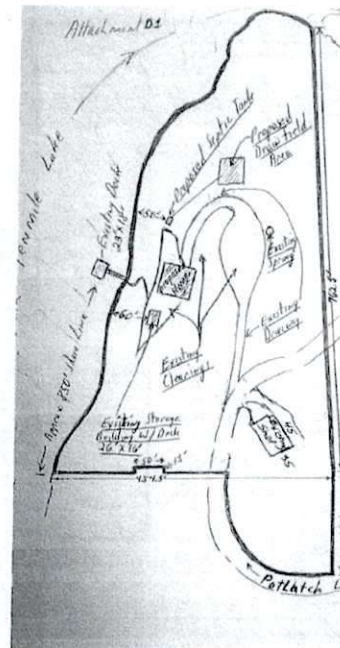
- f) single family residences on existing lots, parcels, or units of land when compatible with the objectives and implementation standards of the Coastal Shorelands goal, and as otherwise permitted by the underlying zone; or
- g) any other uses, provided that the Board of Commissioners determines that such uses:
  - a. Satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas;
  - b. Are compatible with the objectives of Statewide Planning Goal #17 to protect riparian vegetation and wildlife habitat;
  - c. The "other" use complies with the implementation standard of the underlying zone designation; and
  - d. In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this plan.

**Finding:** Single family dwellings are a permitted use within the Coastal Shoreland Boundary; however, an administrative conditional use is required to site a dwelling within the Forest Mixed Use zoning district and within the Coastal Shoreland Boundary (CSB). The applicant submitted an administrative conditional use application. The property had prior land use authorization for a forest template dwelling and had filed for several extensions the last expiring on October 19, 2017. In reviewing the aerial with the CSB layer and the plot plan provided staff can not determine whether the dwelling will be located outside of the CSB; therefore, they shall comply with the criteria required for siting a residence within the CSB.

aerial map w/ CSB layer indicated in green



plot plan provided with application



- ii. A site plan and design review is only necessary when required in Coos County Comprehensive Plan Volume I Part 3 § 3.5: Structures associated with the above uses, with the exception of farm and forest uses, shall only be permitted after an Administrative



*Conditional Use Review or higher review addressing the criteria and requirements of this subsection below and upon a finding that such uses do not otherwise conflict with the Special Development Considerations and Overlay Zones found in this Ordinance.*

*a) Site Review and Approval Criteria.*

***Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents as approved.***

*Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and replacement of any part of the building or landscaping which does not involve a substantial change from the purpose and objectives of this section. Proposed "substantial changes" shall be submitted to the Planning Director for approval.*

*All variances from the site development criteria which are deemed necessary by the applicant shall be requested pursuant to ARTICLE 5.3.*

*These standards are intended to provide a frame of reference for the applicant to the development of a site and building plans as well as a method of review. These standards shall not be regarded as inflexible requirements, nor do they advocate any particular architectural style, for they are intended to encourage creativity, invention and innovation. The following standards shall be utilized in reviewing the plans, drawings, sketches and other documents required under for this review:*

***1. Landscaping***

- a. The landscape shall be such to minimize soil erosion and lessen the visual impact;*
- b. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.*

***2. Structures***

- a. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings;*
- b. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.*

***3. Drives, Parking and Circulation***

*With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to the location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and must comply with the standards found in Chapter VII. The Roadmaster is responsible for determining compliance with this subsection.*

***4. Surface Water Drainage***

*Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties, the public storm drainage system, or create environmental problems.*

***5. Utility Service***

- a. Whenever feasible, electric, telephone and other utility lines shall be underground;*
- b. Any utility installations remaining above ground shall be located so as to*



- have an harmonious relation to neighboring properties and the site;
- c. The proposed method of sanitary sewage disposal from all buildings shall be indicated.
- b) *Application Submittal and Review Procedure.*
1. *Submission of Documents - A prospective applicant for a building or other permit who is subject to site design review shall submit the following to the County Planning Director:*
    - a. *A site plan, drawn to scale, shows the proposed layout of all structures and other improvements;*
    - b. *A landscape plan, drawn to scale, showing the location of existing trees proposed to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials;*
    - c. *Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction;*
    - d. *Specifications as to type, color and texture of exterior surfaces of proposed structures including reflective surfaces of solar collectors;*
    - e. *An application request which shall include:*
      - 1) *Name and address of applicant;*
      - 2) *Statement of applicant's legal interest in the property (owner, contract purchaser, lessee, renter, etc.) and a description of that interest, and in case the applicant is not the owner, verification of the owner's consent;*
      - 3) *Address and legal description of the property;*
      - 4) *Statement explaining the intended request;*
      - 5) *The required fee; and*
      - 6) *Any other materials or information as may be deemed necessary to assist in evaluation of the request. The request will be made prior to deeming the application complete. However, if this review is before the hearings body they may request for additional information to ensure compliance.*
  2. *Threshold Standard. The Planning Director has the discretion to waive part or all of the site plan requirements if, in the Director's judgment, the proposed development is "de minimis" in extent to the existing development.*

**Finding:** This proposal is a reauthorization of an expired conditional use application in which the property owner was unable to finish construction of the dwelling due to financial reasons. The proposed location of the dwelling remains unchanged. Improvements to the property have been made in regards to the proposed location, which include installation of a septic, driveway, and cleared area where the dwelling is to be sited. **The applicant submitted the plot plan as provided in the prior application, this plot plan does not seem to be to scale or include all the requirements set forth in subsection b).1 above; therefore, this will be made a condition of approval.**

- b. *Land Divisions within the Coastal Shoreland Boundary: This strategy recognizes that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration under Statewide Planning Goal #17. Coos County shall permit subdivisions and partitions within*



*the "Coastal Shorelands Boundary" of the ocean, coastal lakes or minor estuaries in rural areas only upon finding by the governing body:*

- i. That such land divisions will not conflict with agriculture and forest policies and ordinance provisions of the Coos County Comprehensive Plan and would be compatible with the objectives of Statewide Planning Goal #17 to protect riparian vegetation and wildlife and either;*
- ii. That the new land divisions fulfill a need that cannot otherwise be accommodated in other uplands or in urban and urbanizable areas;*
- iii. That the new land divisions are in a documented area, "committed" area; or*
- iv. That the new land divisions have been justified through a goal exception.*

**Finding: This proposal does not include a land division; therefore, this criterion does not apply.**

- c. Coastal Lakes and Minor Estuary Coastal Shorelands: Coos County shall consider the following general priorities for the overall use of ocean, coastal lake or minor estuary coastal shorelands (from highest to lowest):*
  - i. promote uses, which maintain the integrity of estuaries and coastal waters;*
  - ii. provide for water-dependent uses;*
  - iii. provide for water-related uses;*
  - iv. provide for nondependent, nonrelated uses, which retain flexibility of future use and do not prematurely or inalterably commit shorelands to more intensive uses;*
  - v. provide for development, including nondependent, nonrelated uses, in urban areas compatible with existing or committed uses;*
  - vi. permit nondependent, nonrelated uses, which cause a permanent or long-term change in the features of coastal shorelands only upon a demonstration of public need.*

*In addition, priority uses for flood hazard and floodplain areas shall include agriculture, forestry, recreation and open space uses, which are water-dependent. This strategy shall serve as a guide when evaluating discretionary zoning and land development actions. This strategy recognizes Statewide Planning Goal #17 requirements.*

**Finding: The subject property has an existing dock and the proposed single family dwelling will promote the continual use of recreational activities both water related and dependent off of Tenmile Lake. No development will occur in the floodplain at this time.**

- d. Non-structural solutions for erosion control: Coos County shall prefer non-structural solutions to problems of erosion and flooding to structural solutions in ocean, coastal lake or minor estuary shorelands. Where shown to be necessary, water and erosion control structures, such as jetties, bulkheads, seawalls, and similar protective structures and fill shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns. Implementation of this strategy shall occur through county review of and comment on state and federal permit applications for such projects. This strategy is based on the recognition that non-structural solutions are often more cost-effective as corrective measures but that carefully designed structural solutions are occasionally necessary.*

**Finding: The proposed dwelling will be sited at least 60 feet from the waters edge and does not include any plans for erosion control.**



- e. *Riparian vegetation in Coastal Shoreland Boundary: Maintain, restore or enhancing riparian vegetation as consistent with water dependent uses requires a conditional use. Coos County shall maintain riparian vegetation within the shorelands of the ocean, coastal lakes, and minor estuaries, and when appropriate, restore or enhance it, as consistent with water-dependent uses. Variances to riparian vegetation setback shall not be permitted within the CSB unless it is to allow for a water dependent use as permitted by the zoning. If a property owner would like to remove vegetation in the Coastal Shoreland Boundary then a conditional use is required. The Planning Department will request comments from ODFW and DEQ regarding water quality and fish habitat. An applicant may provide reports from a qualified biologist.*

*Timber harvest, if permitted in the zoning ordinance, shall be regulated by the Oregon Forest Practices Act. Where the County's Comprehensive Plan identifies riparian vegetation on lands in the coastal shorelands subject to forest operations governed by the FPA, the Act and Forest Practices Rules administered by the Department of Forestry will be used in such a manner as to maintain, and where appropriate, restore and enhance riparian vegetation. This strategy shall be implemented by County review of and comment on state permit applications for waterfront development.*

*This strategy is based on the recognition that prohibiting excessive removal of vegetative cover is necessary to stabilize the shoreline and, for coastal lakes and minor estuaries, to maintain water quality and temperature necessary for the maintenance of fish habitat.*

**Finding: The applicant states that the riparian vegetation will be protected within 50 feet of the lake.**

**FLOATING ZONE: AIRPORT SURFACES**

**DESIGNATION: /AS**

**Bandon, Lakeside and Powers Airports**

- **SECTION 4.11.300 PURPOSE:**

*The purpose of the Airport Surface Floating zone is to protect public health, safety and welfare. It is recognized that obstructions to aviation have potential for endangering the lives and property of users of selected airports, and property of occupancy of land in the airport's vicinity. An obstruction may affect future instrument approach minimums and obstructions may reduce the area available for the landing, take-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein.*

- **SECTION 4.11.305 DESIGNATION OF AIRPORT SURFACES:**

*Those lands lying beneath the approach surfaces, transition surfaces, horizontal surfaces and conical surfaces as they apply to the "Bandon, Lakeside and Powers Airports Approach and Clear Zone Inventory Map" shall be subject to the requirements of this floating zone. Southwest Regional Airport Surfaces (AKA North Bend Municipal Airport) regulations can be found in Sections 4.11.400 through 4.11.460.*

- **SECTION 4.11.310 AIRPORT SUB-ZONES:**

*Sub-zones are hereby established and defined as follows:*

1. *Approach zone—The inner edge of the approach zone coincides with the primary surface of the runway:*

<i>Bandon =</i>	<i>500 ft. wide</i>
<i>Lakeside =</i>	<i>50 ft. wide</i>

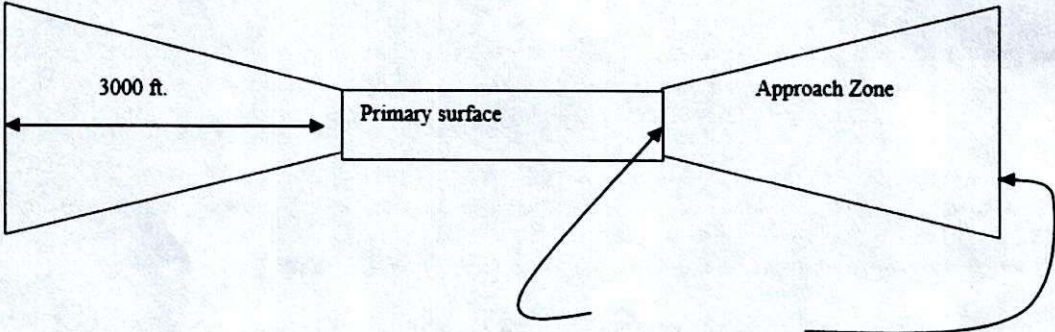


Powers = 100 ft. wide

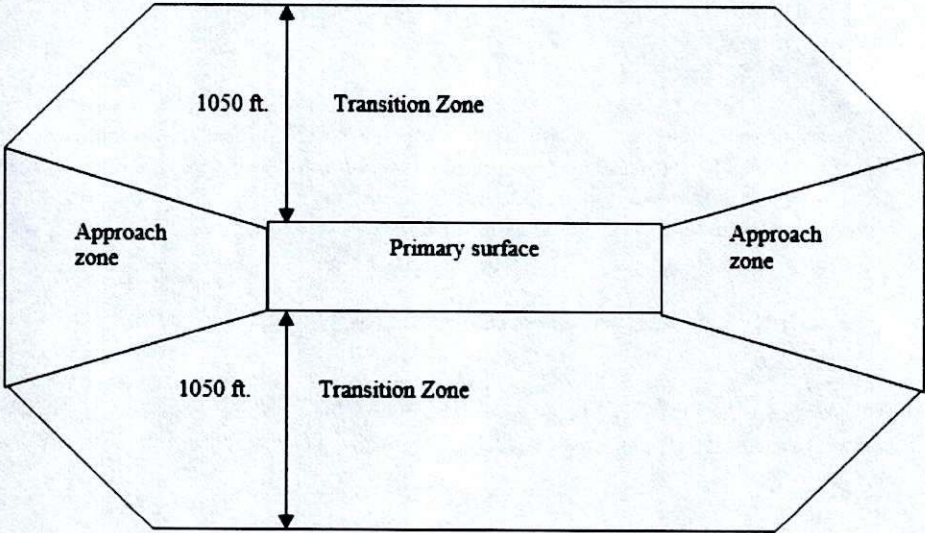
The approach zone expands outward uniformly to a width of:

Bandon = 1400 ft. wide  
Lakeside = 900 ft. wide  
Powers = 900 ft. wide

At a horizontal distance of 3000 feet for all airports from the primary surface. Its centerline is the continuation of the runway centerline.



1. *Transition Zone* – The inner edge of the transition zone coincides with the outer edges of the primary surface and approach zone. The outer edge of the transition zone parallels the primary surface and is 1050 feet wide tapering to the end of the approach zone.



3. *Horizontal Conical Zone* – The horizontal conical zone is established by swinging arcs of 9,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal conical zone does not include the approach and transitional zones.



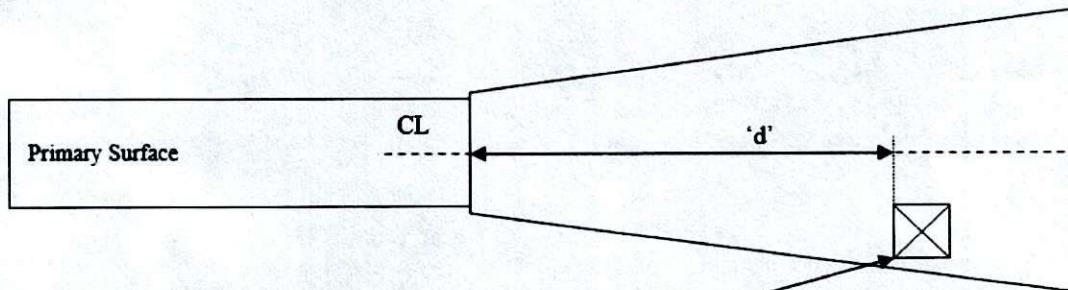
4. *Primary Surface Zone – The primary surface zone overlays the runway surface:*

*Bandon = 500 ft. wide  
Lakeside = 50 ft. wide  
Powers = 100 ft. wide*

• **SECTION 4.11.315 AIRPORT SURFACES HEIGHT LIMITATIONS:**

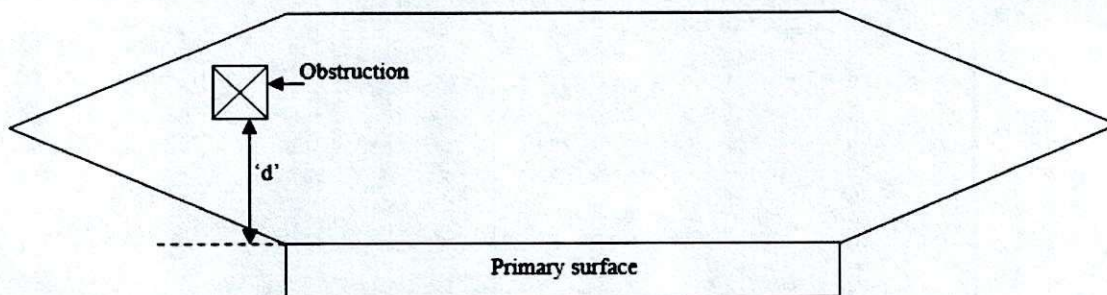
*Notwithstanding other provisions of this Ordinance, no structure shall be created or altered to a height in excess of the applicable height limits herein established. Such applicable height limitations are hereby established:*

1. *Approach zone – The maximum height allowed shall be 5% of the distance from the primary surface as measured along the centerline to a point, perpendicular to the obstruction, and shall not exceed 35 ft.*



*'d' = distance from primary surfaces allowable height = (0.05) x ('d'). and not to exceed 35 ft.*

2. *Transition Zone – The maximum height allowed shall be 14% of the distance as measured perpendicular to the outer edge of the primary surface (or an extension of the outer edge) but shall not exceed 35 feet.*



*'d' = distance from the primary surface outer edge allowable height = (0.14) x ('d') and not to exceed 35 feet.*

3. *Horizontal Conical Zone – Maximum allowable height = 35 feet.*
4. *Primary Surface – Maximum allowable building height = 0 (zero) feet for structures or other improvements. Siting of structures or improvements other than navigational aides permitted by State Aeronautics is prohibited.*



- **SECTION 4.11.320 PERMITTED USES:**

*Except as restricted by Section 4.11.330, in a District in which the /AS zone is combined, those uses permitted by the underlying district are permitted outright in the /AS FLOATING ZONE.*

- **SECTION 4.11.325 CONDITIONAL USES:**

*Except as restricted by Section 4.11.330, in a District with which the /AS is combined, those uses subject to the provisions of ARTICLE 5.2 (Conditional Uses) may be permitted in the /AS FLOATING ZONE.*

- **SECTION 4.11.330 USE RESTRICTIONS:**

*Notwithstanding any other provision of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport light and other, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.*

\*\*\*

- **SECTION 4.11.345 CONFORMANCE REQUIREMENT:**

*All structures and uses within the Airport Operations District shall conform to the requirements of Federal Aviation Agency Regulation FAR-77 or its successor, and to other Federal and State laws as supplemented by Coos County Ordinances regulating structure height, steam or dust, and other hazards to flight, air navigation or public health, safety and welfare.*

**Finding:** Due to the fact that the property is located within the Lakeside Airport Conical Zone the height restriction for any structure is 35 feet; therefore, the proposed dwelling shall not exceed 35 feet in height. Notification has been sent to the Oregon Department of Aviation and as of the date of this staff report a response has not been received; however, the applicant/contractor/property owner shall comply with their comments once received.

## **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.*

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



- ii. *Additional Extensions - A county may approve no more than five additional one-year extensions of a permit if:*
1. *The applicant submits an application requesting the additional extension prior to the expiration of a previous extension;*
  2. *The applicable residential development statute has not been amended following the approval of the permit; and*
  3. *An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.*
  4. *An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*

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

**VIII. NOTICE REQUIREMENTS:**

A notice of decision will be provided to property owners within 750 feet of the subject properties and the following agencies, special district or parties:

DLCD  
Lakeside Rural Fire Protection District

Planning Commission  
Board of Commissioner



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

**Amy Dibble**

---

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

This Message originated outside your organization.

---

Hi, Amy:

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

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

*In order to ensure protection of any nest sites, and in line with the Forest Practices Act (629-665-0020), "When (or if) a resource site (nest) is discovered by the operator, timber owner or landowner during a forest operation (construction activity), the party making the discovery shall: ... (b) Immediately notify ODFW. This notification should apply to any nesting sites within one-half mile of the property. At that time a site inspection will be completed by our agency to determine to risk associated with construction activities."*

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

*Mike Gray*

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

