



Coos County Community Development
Mailing Address: 250 N. Baxter, Coquille, Oregon
Office Location: 60 E. Second St., Coquille OR 97423
Planning, Building and Enforcement
Phone: 541-396-7770

NOTICE OF LAND USE DECISION

You have received this notice because you are an adjacent property owner or an interested party, and this notice is required to be provided pursuant to ORS 215.416. The proposal identified in this decision will be located on the subject property. Notice to Mortgagee, Lienholder, Vendor, or Seller: ORS Chapter 215 (ORS 215.513) requires that if you receive this notice, you must promptly forward it to the purchaser.

September 20, 2024

Dear Recipient,

This land use notice is being sent to property owner(s), applicant(s), adjacent property owners (with notice distances from the subject property determined by zone area: Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, interested agencies, and any person who has requested notice. It informs any interested party about a decision or proposed action related to the use or development of land within the specified area, as identified under the subject property information.

The purpose of this notice is to inform you about the proposal and decision, provide information on where you can obtain further details, and outline the requirements if you wish to appeal the Director's decision to the Coos County Hearings Body. Any person who is adversely affected, aggrieved, or entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period 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.

Please read all information carefully as this decision is important. (See the attached vicinity map for the location of the subject property.) This notice ensures that all affected or interested parties are aware of the decision and have an opportunity to review the details and provide any input or appeal as necessary.

Application and Subject Property Details

File Number: ACU-24-050/V-24-003

Account Number: 514500
Map Number: 26S1310BA-00600

Property Owner: LOCKE, KELLY LEE ET AL
63072 FRUITDALE RD
COOS BAY, OR 97420-7240

Situs Address: 63072 FRUITDALE RD COOS BAY, OR 97420

Acreage: 1.05 Acres

Zoning: URBAN RESIDENTIAL-2 (UR-2)

Special Development Considerations and Overlays: WITHIN URBAN GROWTH BOUNDARY (UGB)

This notice shall be posted from September 20, 2024 to October 7, 2024

Decision: **Approved with Conditions**. All decisions are based on the record. This decision is based on the existing record and will become final and effective at the close of the appeal period unless a complete application, along with the required fee, is submitted to the Planning Department by 12 p.m. on **Monday, October 07, 2024**. Appeals are based on the applicable land use criteria.

This decision complies with the Coos County Zoning and Land Development Ordinance (CCZLDO), specifically:

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- **General Compliance:** Section 1.1.300 - Compliance with Comprehensive Plan and Ordinance Provisions, and Article 6.1 - Lawfully Created Lots or Parcels.
 - **Commercial Review:** The zoning table sets out Uses, Developments and Activities that may be listed in a zone and the type of review that is required within that zone. If there is a conflict between uses the more restrictive shall apply. Section 4.3.210 provides an explanation of the use category and the specific criteria that shall apply and if the use is identified as requiring a conditional use. Section 4.3.225 General Siting Standards apply to all regulated Uses, Developments, or Activities, but these are clear and objective standards that do not, in themselves, require a land use notice. Section 4.3.230 Specific Standards list specific siting standards by zones and 4.2.200 Additional Conditional Use Review and Standards for table 4.3.200 contains any additional criteria that applied to a Use, Development or Activity that has been identified by the following table as requiring.
 - **Special Development Considerations:** Properties within Special Development Considerations and/or overlays must comply with the applicable review process outlined in Article 4.11.
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Please note that civil matters, including property disputes that fall outside the criteria listed in this notice, will not be considered. The 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. 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.

The application, staff report, and any conditions can be found at the following link: <https://www.co.coos.or.us/community-dev>. The application and all documents and evidence in the record, including the staff report and applicable criteria, are available for inspection at no cost in the Planning Department, located at 60 E. Second, Coquille, Oregon. Copies may be purchased for 50 cents per page. The decision is based on the application submittal and information on record.

For more information, please contact Staff at (541) 396-7770.

Reviewed by: **Jill Rolfe**
Jill Rolfe, Planning Director

Date: **Friday, September 20, 2024**

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.

EXHIBIT "A"

The applicant shall comply with the following conditions of approval, understanding that all costs associated with meeting these conditions are the responsibility of the applicant(s), and that the applicant(s) are not acting as an agent of the county. If the applicant fails to comply with or maintain compliance with these conditions, the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval carefully. If you have any questions, contact the 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 any other agency were provided as part of this review, it is the responsibility of the property owner to comply.
2. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required for the guest house to be hooked to the same sewage disposal system and to obtain any building permits.

EXHIBIT "B"
Vicinity Map
(not to scale)

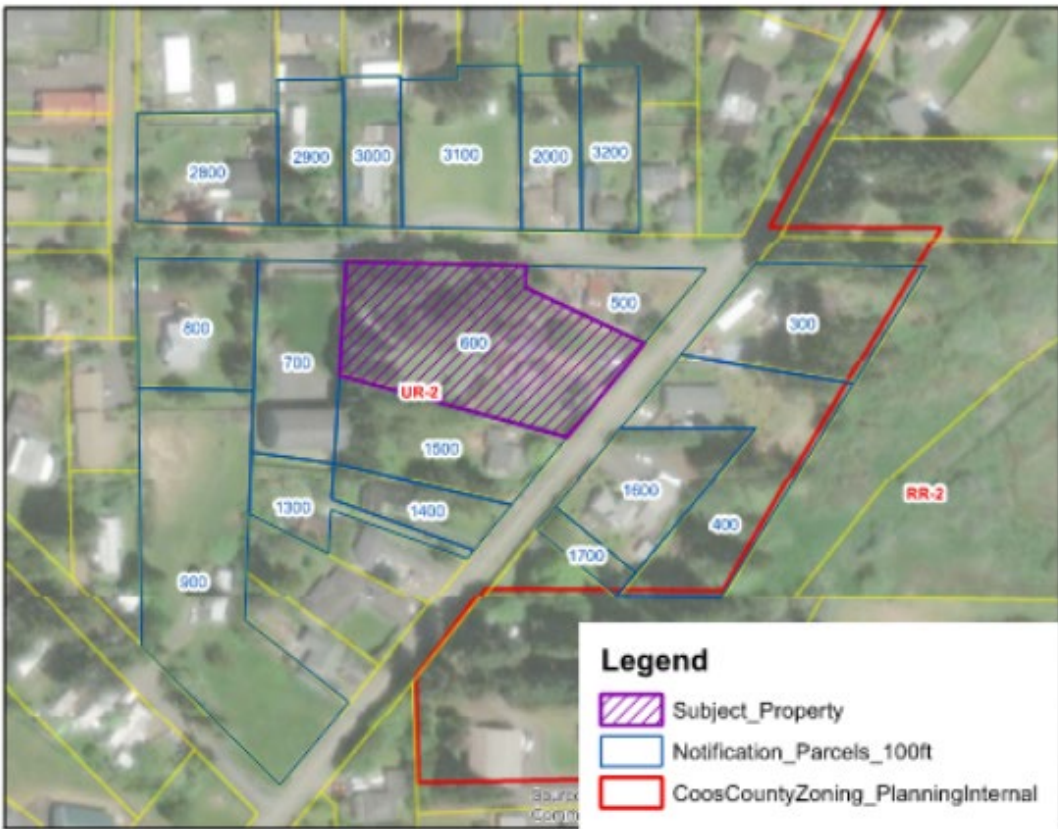


COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coquille, Oregon 97423
 Physical Address: 60 E. Second, Coquille Oregon
 Phone: (541) 396-7770
 TDD (800) 735-2900



File: ACU-24-050/V-24-003
 Applicant/
 Owner: Kelly Lee Locke, ET AL
 Date: September 19, 2024
 Location: Township 26S Range 13W
 Section 10BA TL 600
 Proposal: Administrative Conditional Use



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

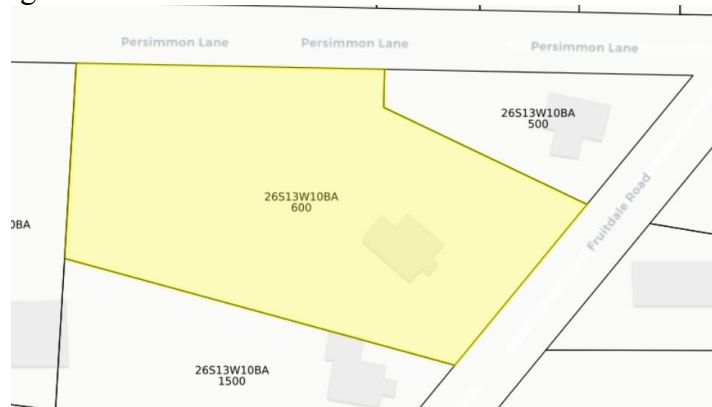
I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION AND PRIOR COMPLIANCE:

- A. PROPOSAL:** The proposal is to site a guest house with a variance to the size and location.
- B. BACKGROUND/PROPERTY HISTORY/SITE CONDITIONS** in January 2022, an application was submitted on behalf of Kelly Locke to the Coos County Community Development Planning Department for an interior remodel and two small additions to an existing home, including a garage reconstruction. The initial application faced delays due to incomplete documentation but was eventually approved, with the condition that the accessory structure (garage) would not be used for habitation or commercial purposes.

In August 2023, the contractor requested additional modifications, including adding bathrooms, a library, and a gym, raising concerns about the accessory structure's intended use. Although a modified proposal to detach the garage was submitted, it lacked details on its intended use. A zoning compliance letter was issued, reaffirming the condition that the structure remain non-habitable.

Later in the building process, it was discovered that the proposed structure's use did not align with the land use authorization. This discrepancy between the approved plans and the actual construction has led to a permit hold, with ongoing internal discussions to resolve the issue. A meeting with the property owner was held on September 11, 2024, to discuss the structure’s intent and how to proceed. The suggestion from the meeting was to connect the two structures to comply with the definition of an Accessory Use/Structure. However, the contractor analyzed the construction and found this may not be a viable solution. Therefore, the applicant has decided to pursue the guest house with a variance for the habitable square footage and the acreage limitation

- C. LOCATION:** This property is located southwest of the City of Coos Bay, off Fruitdale Road. It spans just over an acre, with tree vegetation on the western portion and the remainder cleared and developed with a single-family dwelling, garage, and other outbuildings.



D. ZONING:

SECTION 4.2.100 RESIDENTIAL

Urban Residential (UR)

There are three Urban Residential (UR) zoning districts: Urban Residential-1 (UR-1); Urban Residential-2 (UR-2); and Urban Residential – Multi Family (UR-M). The intent of the Urban Residential Districts is to include conventional, urban density housing (single family/multi-family) plus cluster housing and planned unit developments.

The purpose of the “UR-1” district is to provide for urban residential areas that are exclusively limited to conventional single family dwellings. Detached conventional single family dwellings clustered in planned unit developments are consistent with the objectives of the “UR-1” district.

This district shall only be used within Urban Growth Boundaries and Urban Unincorporated Community boundaries.

The purpose of the “UR-2” district is to provide for urban residential areas that are designed to accommodate single family dwellings, mobile homes and two family dwellings. Clustered planned unit developments, including multi-family dwellings, are consistent with the objectives of the “UR-2” district. The “UR-2” district shall only be used within Urban Growth Boundaries and Urban Unincorporated Community boundaries.

The purpose of the “UR-M” district is to provide for high density urban residential areas necessary to accommodate opportunities for the construction of multiple-family dwellings, primarily necessary to meet the needs of low and moderate income families. The “UR-M” district shall only be used within Urban Growth Boundaries and Urban Unincorporated Community boundaries.

E. COMMENTS: This property did not require comments prior to the decision.

II. GENERAL PROPERTY COMPLIANCE:

A. COMPLIANCE PURSUANT TO SECTION 1.1.300:

It shall be unlawful for any person, firm, or corporation to cause, develop, permit, erect, construct, alter or use any building, structure or parcel of land contrary to the provisions of the district in which it is located. No permit for construction or alteration of any structure shall be issued unless the plans, specifications, and intended use of any structure or land conform in all respects with the provisions of this Ordinance, unless approval has been granted by the Hearings Body.

FINDING: Staff has reviewed the property history and found a potential violation but this application clears up the violation issue. Therefore, the property is compliant with the Coos County Zoning and Land Development Ordinance. However, this does not preclude the possibility that additional information, which was unavailable during this review, could render the property non-compliant.

B. SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:

“Lawfully established unit of land” means:

1. The unit of land was created:

a. Through an approved or pre-ordinance plat;

b. Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals;

- c. In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created.
- d. By a public dedicated road that was held in fee simple creating an interviewing ownership prior to January 1, 1986;
- 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.
- f. By the claim of intervening state or federal ownership of navigable streams, meandered lakes or tidewaters. "Navigable-for-title" or "title-navigable" means that ownership of the waterway, including its bed, was passed from the federal government to the state at statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.

FINDING: This property was originally a larger property described in deed 273-94 and then deeded out further in 1969, deed reference 69-38954 as 1.05. Therefore, this is a lawfully created unit of land pursuant to Section 6.1.125.1.e by deed prior to applicable planning, zoning or subdivision or partition ordinances that would have prohibited the creation.

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Planning Director Approval of a Eating and Drinking Establishments in the Controlled Development (CD) Zone pursuant. The application did not specify any additional development requests; therefore, no other development proposals were reviewed.

The zoning table sets out Uses, Developments and Activities that may be listed in a zone and the type of review that is required within that zone. If there is a conflict between uses the more restrictive shall apply. Section 4.3.210 provides an explanation of the use category and the specific criteria that shall apply and if the use is identified as requiring a conditional use. Section 4.3.225 General Siting Standards apply to all regulated Uses, Developments, or Activities, but these are clear and objective standards that do not, in themselves, require a land use notice. Section 4.3.230 Specific Standards list specific siting standards by zones and 4.2.200 Additional Conditional Use Review and Standards for table 4.3.200 contains any additional criteria that applied to a Use, Development or Activity that has been identified by the following table as requiring.

#	Use	Zones												Subject To	
		UR-1	UR-2	UR-M	RR-2	RR-5	CD	RC	C-1	IND	AO	REC	SS		MES
22.	Dwelling – Guest House	ACU	ACU	ACU	ACU	ACU	ACU	ACU	N	N	N	N	N	N	(27)(d)

B. SECTION 4.3.210 – CATEGORIES AND REVIEW STANDARDS *

- (27)(d) Guest House - An auxiliary residence shall be constructed on property when the following conditions are met:
 - (i) The parcel on which the guest house is placed contains two (2) acres;
 - (ii) Only one guest house per lawfully created unit of land;
 - (iii) The guest house shall not exceed either 500 square feet in size or 75% of the total square footage of the primary dwelling, whichever is less, on properties that contains at least two (2) acres in size;

- (iv) The guest house shall not exceed either 800 square feet in size or 75% of the total square footage of the primary dwelling, whichever is less, on properties that are served by water and sewer or contains a minimum of (5) acres;
- (v) The guest house can be a manufactured structure (park model) or conventional built. Manufactured structures are prohibited in an Urban Residential-1 (UR-1) zone;
- (vi) Cannot be used as a rental unit;
- (vii) Is attached to or within 100 feet of the main residence but no closer than seven (7) feet;
- (viii) Is served by the same domestic water system, sewage system and utility meters as the main residence, unless it is located in an area served by a public sewer system;
- (ix) Guest houses that existed prior to July 1, 2018 may be converted to an accessory dwelling unit if they comply with the standards. This will require a Compliance Determination review.
- (x) A deed covenant recorded with the county stating that this is a guest house that is not to be rented. If converted to another use the covenant will be removed.

FINDINGS: The applicant supplied the relevant requirement and justification.

Guest House Criteria Justification

1. Parcel Size Requirement:

- **Requirement:** The parcel must be two acres.
- **Justification:** The property is over one acre but does not meet the two-acre size limit. A variance is being requested based on the fact that the dwelling density will still comply. Additionally, this guest house serves as an accessory use for a growing family, making use of existing structures, minimizing environmental impact, and reducing the need for additional land development.

2. Square Footage Exceeded:

- **Requirement:** Guest house size should not exceed 800 square feet or 75% of the total square footage of the primary dwelling (in this case, the guest house is capped at 800 square feet as the dwelling is 1,855 square feet).
- **Justification:** The proposed guest house exceeds the limit by 200 square feet due to the structural and safety requirements of the existing accessory structure. This variance can be justified on the grounds that the habitable space is primarily in the upper area (840 sq ft) due to its layout, and the lower portion area used as a utility space, weight room and bathroom, which does not significantly impact the guest house's functional living area which will be primarily upstairs. The upstairs square footage is just over the limit at 840. Therefore, a variance is minimal and should be granted.

3. No Rental Use:

- **Requirement:** The guest house cannot be rented.
- **Justification:** The property owner fully intends to comply with this rule. The guest house will be used exclusively for family purposes and not as a rental unit. The deed covenant will also be recorded to confirm this.

4. Distance from Main Residence:

- **Requirement:** The guest house must be attached or within 100 feet of the main residence and no closer than seven feet.

- **Justification:** The proposed structure meets these criteria, with the guest house being within the allowable distance and complying with setback requirements.
5. **Utilities:**
- **Requirement:** The guest house must share the same domestic water, sewage system, and utility meters as the main residence unless served by a public sewer.
 - **Justification:** The guest house will be connected to the same utilities as the primary dwelling, fulfilling this condition.

Staff agrees with the statements and finds the criteria has been addressed.

C. VARIANCE

ARTICLE 5.3. VARIANCES

SECTION 5.3.100 GENERAL:

Practical difficulty and unnecessary physical hardship may result from the size, shape, or dimensions of a site or the location of existing structures thereon, geographic, topographic or other physical conditions on the site or in the immediate vicinity, or, from population density, street location, or traffic conditions in the immediate vicinity. Variances may be granted to overcome unnecessary physical hardships or practical difficulties. The authority to grant variances does not extend to use regulations, minimum lot sizes or riparian areas within the Coastal Shoreland Boundary.

SECTION 5.3.150 SELF-INFLICTED HARDSHIPS:

A variance shall not be granted when the special circumstances upon which the applicant relies are a result of the actions of the applicant, current owner(s) or previous owner(s) willful violation.

This does not mean that a variance cannot be granted for other reasons.

SECTION 5.3.200 VARIANCE:

The Planning Director shall consider all formal requests for variances for zoning and land development variances.

SECTION 5.3.350 CRITERIA FOR APPROVAL OF VARIANCES:

No variance may be granted by the Planning Director unless, on the basis of the application, investigation, and evidence submitted;

1. Both findings “a” and “b” below are made:
 - a. One of the following circumstances shall apply:
 - i. That a strict or literal interpretation and enforcement of the specified requirement would result in unnecessary physical hardship and would be inconsistent with the objectives of this Ordinance;
 - ii. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply to other properties in the same zoning district; or
 - iii. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges legally enjoyed by the owners of other properties or classified in the same zoning district;
 - b. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity.

2. *That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity.*
3. *In addition to the criteria in (1) above, no application for a variance to the Airport Surfaces Floating Zone may be granted by the Planning Director unless the following additional finding is made: "the variance will not create a hazard to air navigation".*
4. *In lieu of the criteria in (1) above, an application for a variance to the /FP zone requirements shall comply with Section 4.6.227.*
5. *Variance regulations in CCZLDO Article 5.3 shall not apply to Sections 4.11.400 through 4.11.460, Chapter VII and Chapter VIII.*

SECTION 5.3.360 EXPIRATION AND EXTENSION OF VARIANCES:

Variances are not subject to expiration dates.

FINDINGS: The application provided the following justification:

Variance Criteria Justification

1. Finding "a" Circumstances:

- **Literal enforcement creates hardship: A strict interpretation of the size requirements would create unnecessary hardship, as the guest house is already designed within an existing accessory structure, making it difficult to reduce its size further without compromising the structural integrity or usefulness of the space.**
- **Exceptional circumstances: Give the existing infrastructure and current structure's layout and design limits the possibility of reducing the habitable square footage, and this limitation is not common to other properties in the area. The following improvements are already in place:**
 - **Water, Sewer, and Power: The property is already served by established water, sewer, and power systems, which are integrated into the existing structure. This setup reduces the environmental impact and development costs that would otherwise be necessary for creating new connections for a guest house.**
 - **Driveway: The current driveway provides adequate access to both the primary residence and the guest house, avoiding any need for additional construction or alteration to the property. Utilizing the existing structure near the primary dwelling ensures that access remains convenient and compliant with county regulations.**
 - **Use of Existing Structure: The guest house will make use of an existing accessory structure, preserving the integrity of the property and avoiding unnecessary new construction. Modifying this structure to meet guest house standards represents an efficient and sustainable use of resources.**
- **Similar privileges for other owners: Granting this variance would align with privileges that may have been granted to similar properties in the Urban Growth Boundary zone, where accessory structures are common and encouraged for residential family use.**

2. Finding "b" Public Health, Safety, and Welfare:

- **Not detrimental:** The guest house does not pose any threat to public health, safety, or welfare. It is well within proximity to the primary residence and will not cause any material injury to neighboring properties. The property is large enough to accommodate the additional living space without overcrowding or significantly altering the character of the neighborhood.

3. No Negative Impact on Nearby Properties:

- **No material injury:** The variance will not negatively impact nearby properties. The guest house is designed in a way that maintains the rural residential character of the area, and its size, while slightly larger than allowed, is still much smaller than the primary dwelling.

Staff finds by focusing on these points and emphasizing how the guest house will fit into the existing landscape without creating any undue burden or impact on the surrounding community the applicant has justified a variance request.

Therefore, the criteria has been addressed.

D. SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS

- *SECTION 4.11.125 Special Development Considerations: The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed In the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site.*

FINDING: The property is not located within any special development considerations or overlays; therefore, these criteria do not apply.

IV. DECISION

In conclusion Staff finds that the applicant has address most of the relevant criteria and the ones that have not been address or cannot be completed until after the approval is obtained have been made conditions of approval. Therefore, the proposed eating establishment meets the requirements of the Coos County Zoning and Land Development Ordinance, with conditions listed in Exhibit "A" of this report.

VII. NOTICE REQUIREMENTS:

A notice has been mailed to all relevant parties and special districts as required by the Section 5.0.900 of the Coos County Zoning and Land Development Ordinance.