



# NOTICE OF LAND USE DECISION

**You may have received this because you are an adjacent property owner, and this notice is required to be provided pursuant to ORS 215.416. The proposal is identified in this decision and will be located on the subject property.**

Coos County Planning  
60 E. Second  
Coquille, OR 97423  
<http://www.co.coos.or.us/>  
Phone: 541-396-7770  
[planning@co.coos.or.us](mailto:planning@co.coos.or.us)

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. Please read all information carefully as this decision. (See attached vicinity map for the location of the subject property).

Date of Notice: **Thursday, December 08, 2022**  
File No: ACU-22-027

Proposal: Request to Modify 160-Acre Single Family Dwelling in the Forest Zone.

Applicant(s): Larry Wallace  
370 E 7<sup>th</sup> St.  
Coquille, OR 97423

Staff Planner: Chris MacWhorter, Principal Planner

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 5 p.m. on **Friday, December 23, 2022**. Appeals are based on the applicable land use criteria. *Coos County Zoning and Land Development Ordinance (CCZLDO) General Compliance with Sections 1.1.300 Compliance with Comprehensive Plan and Ordinance Provisions and Article 6.1 Lawfully Created Lots or Parcels. The Dwelling Review is subject to Article 4.6 Resource Zoning District, Section 4.6.100 Forest and Forest Mixed Use, Use Table 1 in Section 4.6.110.62 Large Tract forestland dwelling (ORS 215.740) to Section 4.6.120 Review Standards (9)(B)(I). Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. 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: 1342900  
Map Number: 30S133500-00400  
  
Property Owner: CALLEY, JONATHAN D  
PO BOX 625  
BANDON, OR 97411-0625  
  
Situs Address: None  
  
Acreage: 165.01 Acres  
  
Zoning: FOREST (F)  
  
Special Development Considerations and Overlays: FOREST MIXED USE (MU)  
NATURAL HAZARD - LANDSLIDE (NHLND)

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

The application, staff report and any conditions can be found at the following link: <https://www.co.coos.or.us/planning/page/2022-administrative-conditional-use>. 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 60 E. Second, 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 Chris MacWhorter, Principal Planner 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:**

Chris MacWhorter, Principal Planner

**Date: Thursday, December 08, 2022 .**

**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

The following exhibits are on file at the Coos County Planning Department and may be accessed by contacting the department. All noticeable decisions are posted on the website for viewing when possible.

Exhibit C: Staff Report -Findings of Fact and Conclusions

## **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 applicant(s) and that the applicant(s) 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 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 prior to the commencement of construction of the proposed dwelling. This authorization is based on conditions of approval and the conditions that are required to be completed prior obtaining the ZCL are defined in this section. Pursuant to CCZLDO § 4.6.110, § 4.6.130 and § 4.6.140. To show compliance with this section the applicant shall submit a letter with the following items to request that staff find the following conditions have been satisfied:
  - a. 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. The recorded deed convent shall be recorded with the County Clerk and copy provided to the Planning Department.
  - b. CCZLDO Section 4.6.130(5) Approval of a dwelling shall be subject to the following requirements: (a) Approval of a dwelling requires the owner of the tract 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 in western Oregon or more than 30 acres in eastern Oregon, 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; (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 that department determines that the tract does not meet those requirements, that department will notify the owner and the 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; and (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. An email from the Assessor's Office that states you have complied is acceptable
  - c. Section 4.6.140(2) Setbacks: All Development, 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. This should be shown on the plot plan.
  - d. Section 4.6.140(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. If there are no wetlands, streams, lakes or rivers then this is not applicable.

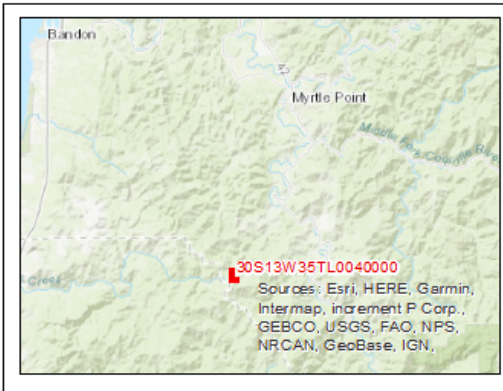
- e. Section 4.6.140(7)(a) & Section 4.6.140(9) All new and replacement structures shall use non-combustible or fire resistant roofing materials, as may be approved by the certified official responsible for the building permit. If they are not available yet then this will be a condition of approval on the ZCL.
- f. Section 4.6.140(7)(c) & (d) All new dwellings and permanent structures and replacement dwellings and structures shall, at a minimum, meet the following standards. If it is not possible to be annexed into a fire district or contract for fire protection, then the Planning Director will allow the alternative forms to be used. This means that proof that the property owners (or representative) has install a minimum of two (2) 2500-gallon water storage tanks for fire protection with a maintained road access to the tanks for fire-fighting equipment.
- g. Section 4.6.140(7)(e) & Section 4.6.140(8)(a)(b)(c)(d) Firebreak: a. 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. b. Sufficient Garden Hose to reach the perimeter of the primary safety zone (as identified in staff report) shall be available at all times. c. The owners of the dwelling shall maintain a primary fuel-free break (as identified in staff report) 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 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 one is addressed in the staff report based on down slope. This can be shown on a plot plan.
- h. Section 5.2.700 Development Transferability - Unless otherwise provided in the approval, a land use approval that was obtained through a conditional use process shall be transferable provided the transferor files a statement with the Planning Director signed by the transferee. This document shall be recorded in the chain of title of the property, indicating that the transferee 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 shall remain recorded in the chain of title to alert a purchaser that development was approved subject to conditions and possible restrictions.

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

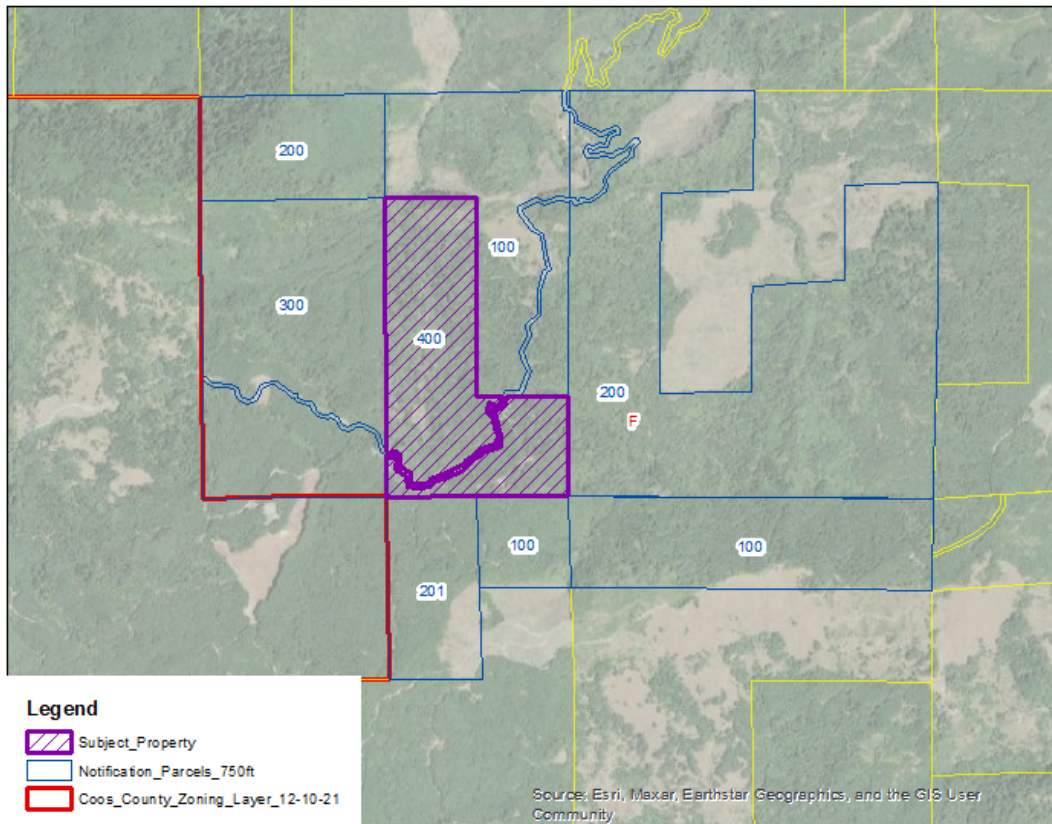


**COOS COUNTY PLANNING DEPARTMENT**

Mailing Address: 225 N. Adams, Coquille, Oregon 97423  
Physical Address: 60 E. Second, Coquille Oregon  
Phone: (541) 396-7770  
TDD (800) 735-2900



File: ACU-22-027  
Applicant/ Owner: Larry Wallace  
Date: September 8, 2022  
Location: Township 30S Range 13W  
Section 35 TL 400  
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:** According to the application the property owner is seeking approval to modify the previously approved ACU-94-47 to allow an after-the-fact authorization of the dwelling that was sited in an alternative location. There is no indication that any other development is proposed at this time.

**B. BACKGROUND/PROPERTY HISTORY:**

On December 10, 1992, a Hearings Body Conditional Use (HBCU-92-38) for a forest related dwelling.

On August 30, 1993, a Verification Letter (VL-93-499) was issued.

On August 18, 1994, an Administrative Conditional Use (ACU-94-47) was approved with conditions for a first forest dwelling.

On August 18, 1997, extension granted for ACU-94-47.

On August 20, 1999, extension granted for ACU-94-47.

On August 8, 2002 extension granted for ACU-94-47.

On September 3, 2002, a Zoning Compliance Letter (ZCL-02-437) was issued to site single family dwelling or manufactured home, septic, accessory structure per ACU-94-47.

On August 8, 2003, extension granted for ACU-94-47.

On August 9, 2004, extension granted for ACU-94-47.

On August 24, 2004, extension granted for ACU-94-47.

On May 8, 2006, a Zoning Compliance Letter (ZCL-06-248) was issued to site single family dwelling or manufactured home, septic, accessory structure per ACU-94-47.

On July 19, 2007, a Zoning Compliance Letter (ZCL-07-335) was issued to site single family dwelling or manufactured home, septic, accessory structure per ACU-94-47.

On December 8, 2009, a Zoning Compliance Letter (ZCL-09-334) to site an accessory structure.

**C. LOCATION:** The subject property is located 7 miles southwest of the rural community of Broadbent accessing directly off Dement Creek Road.

**D. ZONING:** - This property is zoned Forest with a Mixed-Use Overlay.

**ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

**SECTION 4.2.500 RESOURCE ZONES**

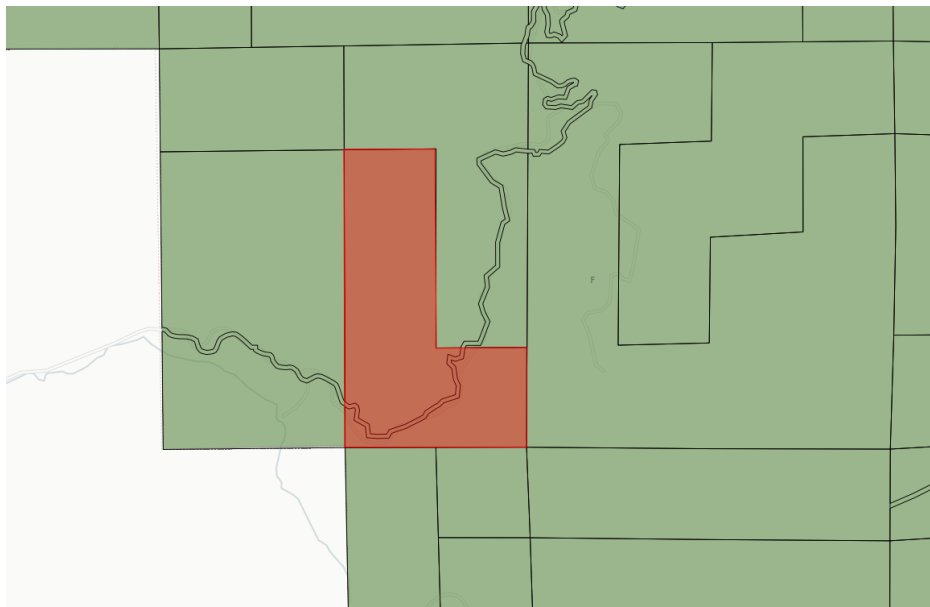
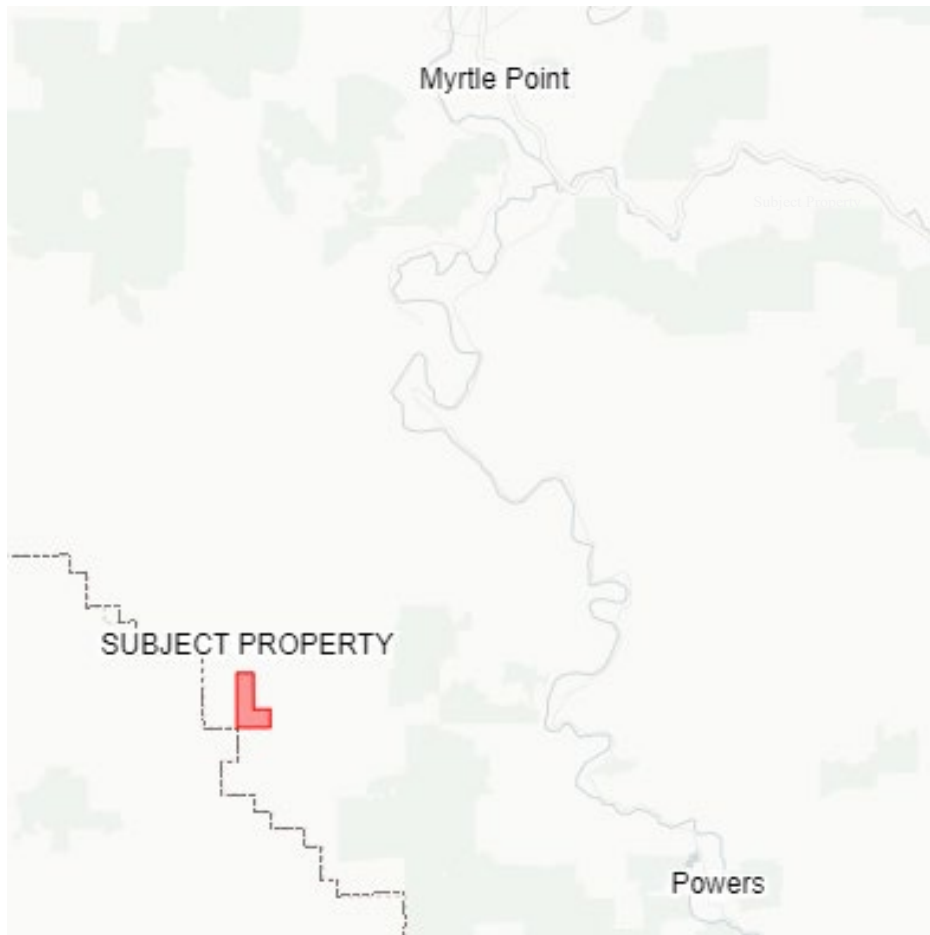
*Forest (F): The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.*

*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.*

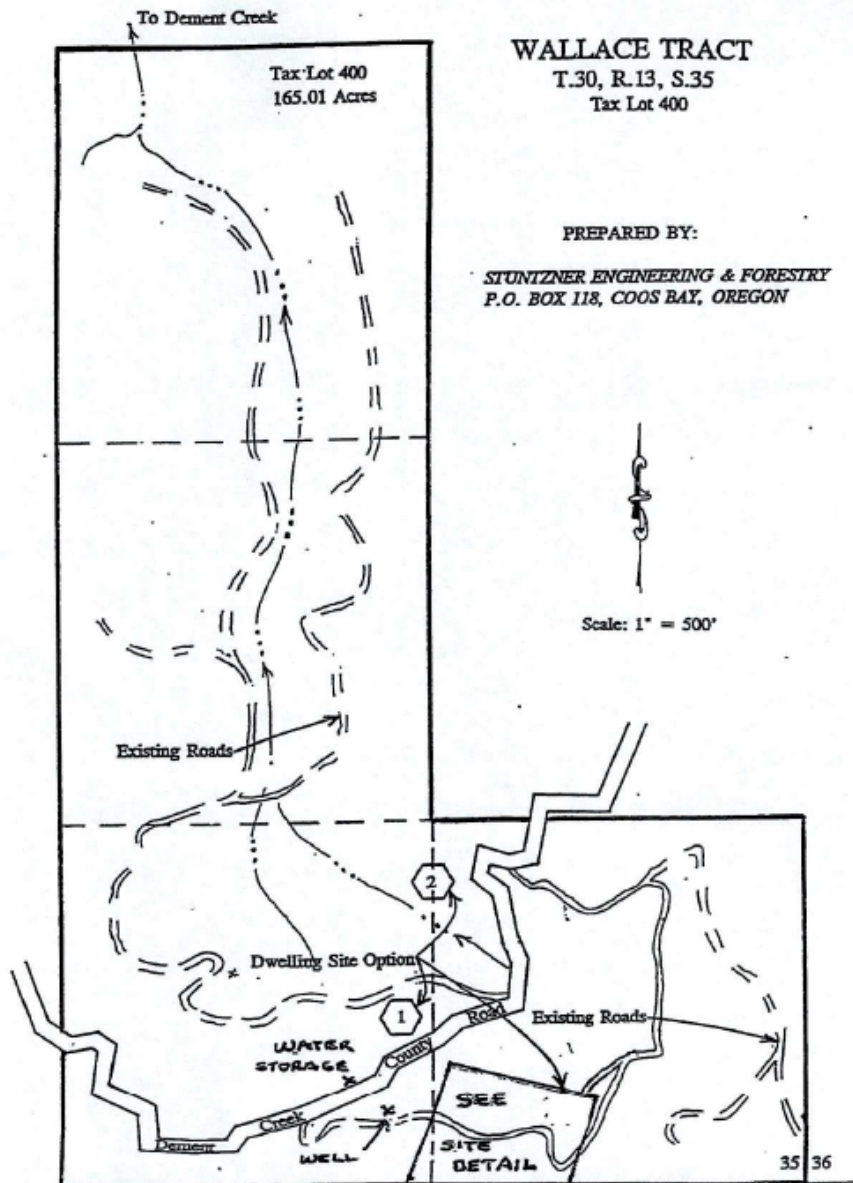
*Forest Mixed Use (FMU): The purpose of the Forest Mixed Farm-Forest Areas ("MU" areas) is to include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest 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.*

**E. SITE DESCRIPTION AND SURROUNDING USES:**

The subject parcel is located seven miles southwest of the rural community of Broadbent. The subject property accesses directly off of Dement Creek Road. The parcel was created by deed or land sales contract prior to planning regulations, as described in Coos County Deed Volume 280, Book 614.







Maps are not to scale

**F. COMMENTS:**

- a. **PUBLIC AGENCY:** This property did not require any request for comments prior to the release of the decision and none were received.
- b. **PUBLIC COMMENTS:** This property did not require any request for comments prior to the release of the decision and none were received.
- c. **LOCAL TRIBE COMMENTS:** This property did not require any request for comments from the Tribes prior to the release of the decision and none were received.

**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 the County files at the time of this report; the property is not in compliance. Final approval of this request for modification to ACU-94-47 will bring this property into compliance. This does not mean that there is not additional information that was unavailable during this review that would make the properties non-complaint.**

**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: The unit of land was created pursuant to 6.1.125.1e, by deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations that 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 Modification to ACU-94-047 allowing a Large Tract Forestland Dwelling in the Forest Mixed Use Zone. The application did not specify any additional development requests; therefore, no other development proposals were reviewed.

The applicable review criteria are found in Coos County Zoning and Land Development (CCZLDO) 4.6.100 Table 1 identifies the uses and activities in the Forest (F) and Forest/Mixed Use (FMU) zone. The tables describe the use, type of review, applicable review standards. Table 1 of CCZLDO Section 4.6.110.62 defines the relevant criteria for large tract forestland dwelling (ORS 215.740) subject to an ACU, Section 4.6.120 Review Standards (9)(B)(I). Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found

in Section 4.6.130. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. This proposal is subject to review under Natural Hazards Section 4.11.

**B. KEY DEFINITIONS:**

- *ACTIVITY: Any action taken either in conjunction with a use or to make a use possible. Activities do not in and of themselves result in a specific use. Several activities such as dredging, piling and fill may be undertaken for a single use such as a port facility. Most activities may take place in conjunction with a variety of uses.*
- *DEVELOP: To bring about growth or availability; to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights to access.*
- *DEVELOPMENT: The act, process or result of developing.*
- *USE: The end to which a land or water area is ultimately employed. A use often involves the placement of structures or facilities for industry, commerce, habitation, or recreation.*
- *ZONING DISTRICT: A zoning designation in this Ordinance text and delineated on the zoning maps, in which requirements for the use of land or buildings and development standards are prescribed.*
- *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.*

**C. LARGE TRACT FORESTLAND DWELLING CRITERIA AND FOREST SITING STANDARDS**

*Large Tract Forestland Dwelling Supplemental Application:  
Coos County Zoning and Land Development Ordinance (CCZLDO)*

*SECTION 4.6.100 FOREST AND FOREST MIXED USE – USE TABLES Table 1 identifies the uses and activities in the Forest (F) and Forest/Mixed Use (FMU) zone. The tables describe the use, type of review, applicable review standards. Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Exceptions to minimum lot and parcel sizes for the purpose of land division may apply as set out in Section 4.6.145 Land Division for Open Space and Special Assessment, and Section 4.6.145 Exceptions to Minimum Parcel Size. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.*

*If a use specifically states Forest Mixed Use only it is not permitted in the Forest Zone. 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.*

*SECTION 4.6.110 (OAR 660-006-0025) Uses Authorized in Forest Zones (1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are: (a) Uses related to and in support of forest operations; (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.; (d) Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.*

Use	TR	Subject to
<i>Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.</i>		
62.	<i>Large tract forestland dwelling (ORS 215.740)</i>	<i>ACU (9)(B)(I)</i>

- o *SECTION 4.6.120 Review Standards (9)(B) DWELLING ON FOREST AND FOREST MIXED USE ZONES -(I) LARGE TRACT FORESTLAND DWELLING - Other Forestland dwellings 215.740; Large tract forest dwellings; Criteria; rules:*
  - (1) If a dwelling is not allowed under ORS 215.720 (1), a dwelling may be allowed on land zoned for forest use under a goal protecting forestland if it complies with other provisions of law and is sited on a tract:
    - (a) Not applicable to Coos County;
    - (b) In western Oregon of at least 160 contiguous acres except as provided in subsection (3) of this section.
  - (2) For purposes of subsection (1) of this section, a tract shall not be considered to consist of less than 240 acres or 160 acres because it is crossed by a public road or a waterway.
  - (3)(a) An owner of tracts that are not contiguous but are in the same county or adjacent counties and zoned for forest use may add together the acreage of two or more tracts to total 320 acres or more in eastern Oregon or 200 acres or more in western Oregon to qualify for a dwelling under subsection (1) of this section.
    - (b) If an owner totals 320 or 200 acres, as appropriate, under paragraph (a) of this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records for the tracts in the 320 or 200 acres, as appropriate. The deed restrictions shall preclude all future rights to construct a dwelling on the tracts or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural lands or forestlands.
    - (c) The Land Conservation and Development Commission shall adopt rules that prescribe the language of the deed restriction, the procedures for recording, the procedures under which counties shall keep records of lots or parcels used to create the total, the mechanisms for providing notice to subsequent purchasers of the limitations under paragraph (b) of this subsection and other rules to implement this section. [1993 c.792 §4(2),(3),(5)]

**FINDING: For the purposes of section (1), Coos County is completely within western Oregon. The subject property is one single parcel of land. There is a publicly dedicated right-of-way (non-County maintained) that crosses the subject property. According to the Coos County Assessor department records, the subject property is 165.01 acres in size even without the right-of-way area. Staff finds that the unit of land being 165.01 acres in size is larger than the required 160 acres.**

*SECTION 4.6.130 ADDITIONAL CRITERIA FOR ALL new and REPLACEMENT dwellings and structures in forest*

*The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. 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. A governing body shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 to identify the building site:*

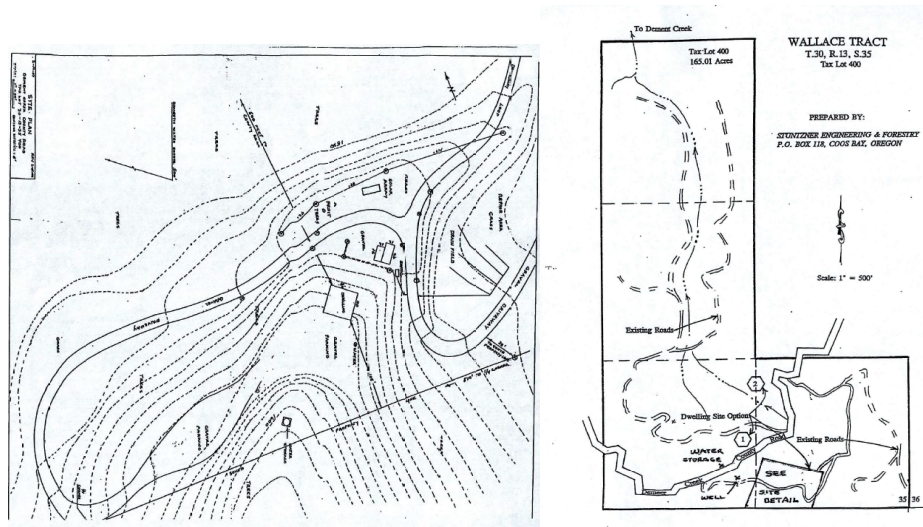
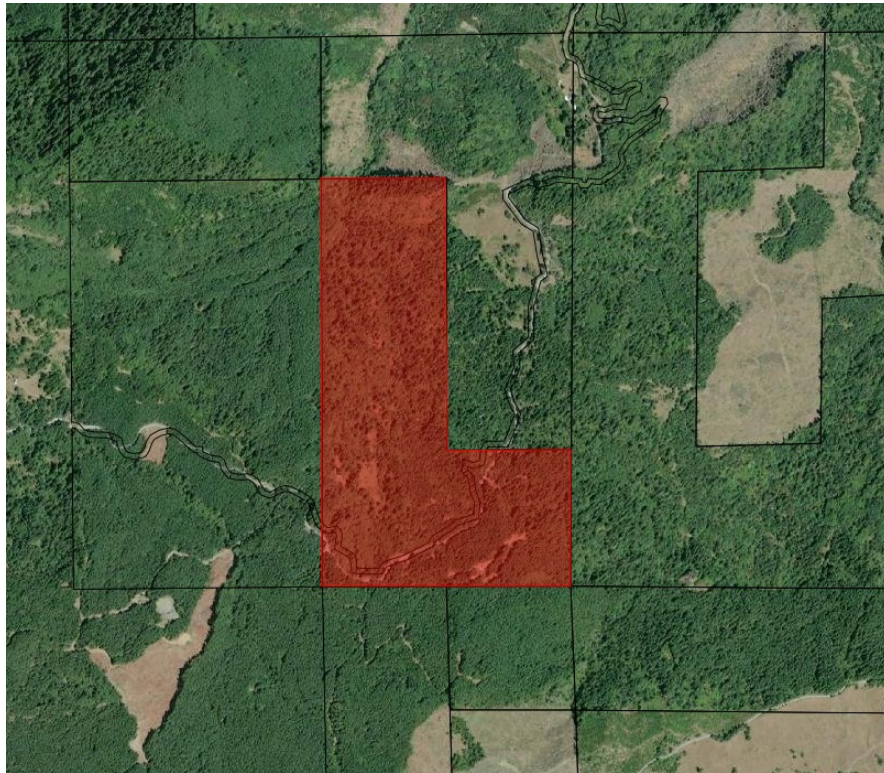
1. *Dwellings and structures shall be sited on the parcel so that:*

- (a) *They have the least impact on nearby<sup>1</sup> or adjoining forest or agricultural lands;*
  - (b) *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*
  - (c) *The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and*
  - (d) *The risks associated with wildfire are minimized.*
2. *Siting criteria satisfying section (1) of this section 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.*
  3. *The applicant shall provide evidence to the governing body 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 (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:*
    - a) *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;*
    - b) *A water use permit issued by the Water Resources Department for the use described in the application; or*
    - c) *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.*
  4. *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 U.S. Bureau of Land Management, or the U.S. 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.*
  5. *Approval of a dwelling shall be subject to the following requirements:*
    - (a) *Approval of a dwelling requires the owner of the tract 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 in western Oregon or more than 30 acres in eastern Oregon, 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;*
    - (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 that department determines that the tract does not meet those requirements, that department will notify the owner and the 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; and*
    - (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.*

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<sup>1</sup>*For the purpose of this section "Nearby" is defined as within the decision notification area as defined in Section 5.0.900(2) for farm zoned property.*

**FINDING:** Section 4.6.130(1)(a) and Section 4.6.130(1)(b) require proof of minimizing adverse impacts to the subject property and nearby Farm and Forest operations. Based on the submitted plot plan, Staff estimates that dwelling location will be 105 feet north of the southern property line.



The above map shows the properties nearby. The subject property is located approximately 7 miles southwest of the rural community of Broadbent. Staff must review the proposed use's impact on nearby farm and forest operations. The applicant stated the following information *“Much of this tract of land is subject to unstable soil conditions. The dwelling was sited on the most stable ground to be found on this 165-acre parcel. The ground is primarily weathered sandstone with no evidence of recent movement. The risk of soil movement, slumps or debris flows as a result of forest operations on this or that adjacent property to the south has been minimized by this location. Topography was also considered in siting this dwelling. The site is*

*on a relatively flat and narrow Rocky Ridge where the tract abuts the adjacent forest land and for this reason should have a minimal negative impact on that land. The immediate site is also below the adjacent industrial land and should be minimally impacted by harvesting and slash burning. Burning on other adjacent parcels has not been a problem. The site is a minimum of 1/4 mile from other adjacent parcels to the west, north, and east and should have no impact on their forest lands. The dwelling site is located in the southern part of the 40 acres of forest land south of the County Road. Its location is removed from the majority of the forest land and any required force management activities. The topography of these 40 acres south of the road will allow tractor harvesting that should not be negatively impacted by the dwelling site. Due to its location the site will have a minimal negative impact on the site prep after harvesting, including any aerial application of chemicals. Portions of the 125 acres of forest land to the north of the County Road consist of moderately steep slopes that will most likely require a combination of tractor and cable harvesting. This area is at a minimum of 600 feet from the dwelling site. No negative impact from the dwelling location is expected on forest management activities, including thinning, harvesting and site prep".* The County has defined nearby lands as within a 750 feet distance. 750 feet is also the distance required for land use notices, so the notification map above identifies the lands that need to be analyzed.

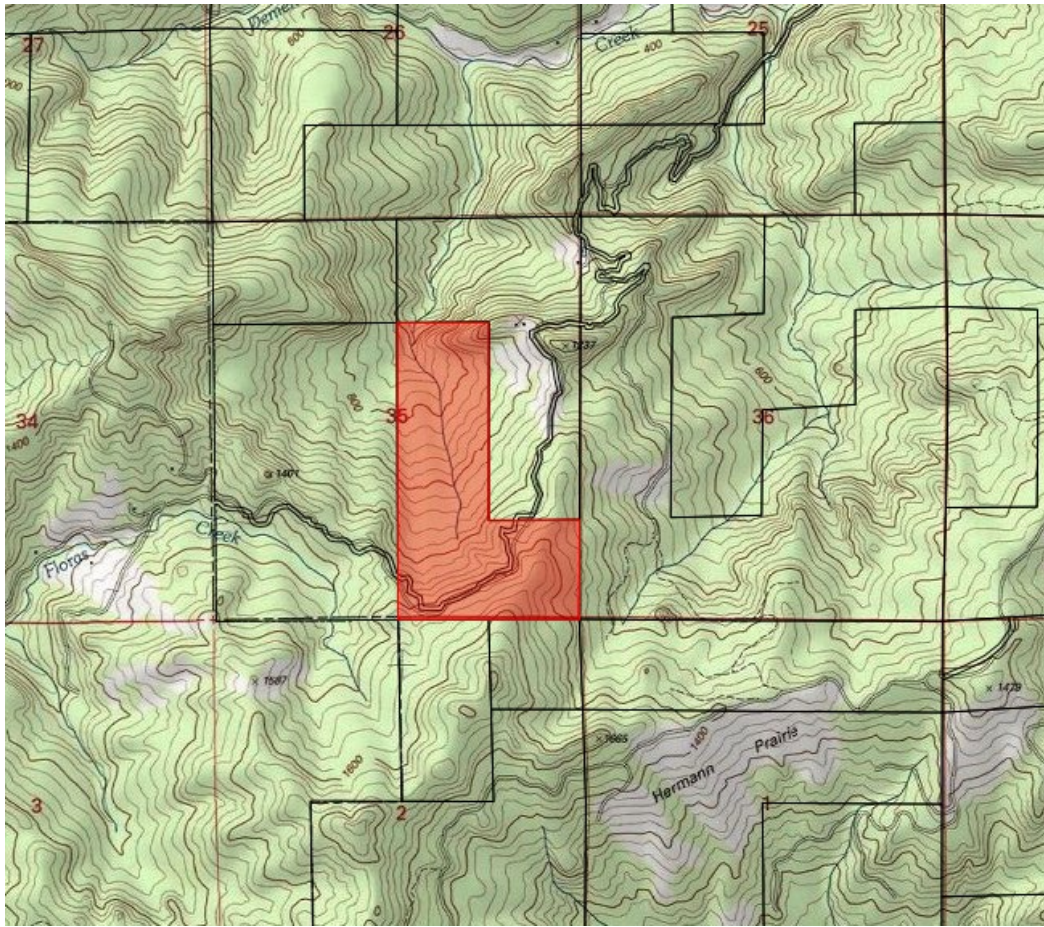
The subject property is currently covered in commercial timber and surrounded by the adjacent timberlands. There are commercial timberlands, greater than 80 acres, located in all directions surrounding the subject property.

When looking for the effects of new forest dwellings on nearby pesticide practices, the parcel size is more important than whether the land is classified as non-industrial or industrial timberlands. Senate Bill 1602 increased the helicopter spray distance buffer from 60 feet to 300 feet of an inhabitable dwelling starting January 1, 2021. The Anderson v. Coos County, 51 Or LUBA 454 (2006) case established an important factor. According to the LUBA case, a reasonable assumption could conclude that herbicides would be applied to land less than 40 acres using ground application methods. Spraying herbicides using ground spraying applications is permitted up to the property line. Herbicide application by aerial spraying is preferred for lands over 40 acres.

The parcel located to the west and southwest of the subject property appears to be utilized for commercial timber. Staff estimated that the timber stands are over 200 acres in size. There are private non-industrial lands located east and north of the subject property. This parcel has the potential for aerial herbicide treatments. However, Staff estimates these timber stands are located over 325 ft from the location the dwelling is sited at.

The parcels located to the northwest and southeast of the subject property appears to have the potential for timber harvesting. This parcel is being managed by the United States Bureau of Land Management (BLM). Based on aerial imagery, Staff estimated that this parcel is fully covered acres with timber reproduction plantations. While over 40 acres in size, the BLM has not recently been utilizing aerial herbicide for site preparation. Therefore, Staff does not find potential that the proposed dwelling location will interfere with nearby forestry practices.

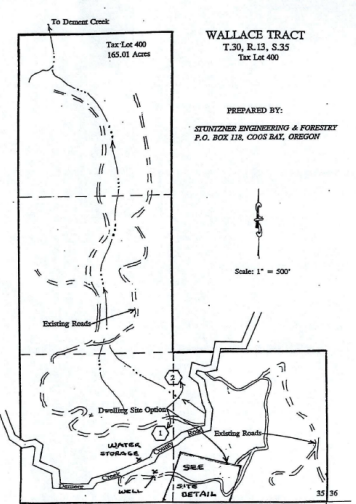
According to the topographic map below, the adjacent parcels appear to have slopes over 35%, cable methods would be preferred. Based on Oregon Department of Forestry (ODF) Land Use Notes, the preferred safety distance from groundside harvesting to dwellings is a 500 feet buffer. The dwelling is located in the center of the subject property and located approximately 100 feet north of the southern property line. However, Staff does not find the location of the dwelling will adversely affect commercial timber harvesting on the nearby parcel located towards the south, given the land, appears, is owned and managed by US BLM which has different guidelines than ODF.



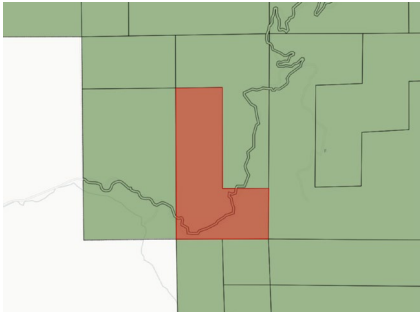
Based on reviewing aerial photos, Staff did identify a ranching operation on nearby lands towards the southeast. However, this parcel is located over 8500 feet north of the dwelling location. Given this distance, Staff finds there will not be a significant impact from the dwelling on this nearby ranching operation.

Therefore, Staff finds the applicant’s proposed location minimizes the effects of the proposed dwelling on farming practices on the adjacent property.

Section 4.6.130(1)(c) requires the minimum forest lands be removed for access roads, service corridors and structures. The subject property is “L” shaped, and the applicant indicated they will utilize the existing driveway as their access. The applicant stated the following information *“Access to the dwelling was developed over an existing roadway that was providing force management access to the 40 acres of forest land south of the County Roadway. This driveway serves a dual purpose of site access and forest management, minimizing the amount of forest used for roads. The roadway was constructed by a contractor knowledgeable in road construction and has proved to be suitable for construction vehicles, including concrete delivery year-round. The area taken out of forest used by the dwelling and support structures has been kept to a minimum. The area used for fire zones and*



*parking area has been kept to the minimum required. The dwelling is served by solar power, eliminating any need for a service corridor, all power lines are below ground and on site.”*



The applicant utilized an existing forest resource road for accessing the dwelling. The applicant stated the dwelling is powered by onsite solar power and there are no additional power or service corridors. Therefore, Staff finds that this will minimize the amount of land being removed.

Section 4.6.130(1)(d) requires that risk associated with wildfires are minimized. Staff must analyze the topography, vegetation fuels, and length of the proposed driveway. While it is not economically feasible to change the large-scale topography of the building site. There are a few reasonable choices to favor over other poorer choices. Avoiding ridgeline, chimneys, and funnels are practical recommendations. The third factor to address is the vegetative fuels on the subject property. The applicant indicated the *“The driveway access to the dwelling allows better access for fire protection for the 40 acres of forest land south of the County Road. The driveway loop near the dwelling provides easy in and out for vehicles and equipment. There is no service corridor or overhead lines that could risk sparking a fire. A 3600-gallon water storage tank with a two-inch line supplies water two within 30 feet of the dwelling for protection. The two-inch line will be extended down slope to a location near the outbuildings. Added fire protection is provided by 7200 gallons of water storage in tanks adjacent to the county road near the water source. All locations provide vehicle access within 5 to 15 feet of the supply source. Fire zones will be established and maintained as follows: 30 feet primary and 100 feet secondary down slope. All structures have fire retardant asphalt shingles or metal roofs.”*

The applicant did submit a detail contour survey as part of the plot plan. Staff estimates the slopes of the area surrounding the dwelling to be less than 10% for the purposes of the primary and secondary fuel breaks. The applicant will be required to install a 30 ft primary fuel free break, with a 100 ft secondary fuel break, around all structures on the subject property. The plot plan indicates a proposed structure only 105 feet north of the southern property line. The applicant is only responsible for primary and secondary fuel free breaks on land either owned or controlled by the landowner. As a result of installation of these fuel-free breaks and numerous other factors discussed above, staff finds that risks associated with wildfire effects will be minimized.

Section 4.6.130(3) requires the applicants to provide evidence to the governing body 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 (OAR chapter 629). The applicant did not submit a response to this criterion. However, the County's files for the original application include a copy of the Oregon Water Resources Department's file number S-80555.

STATE OF OREGON  
COUNTY OF COOS  
PERMIT TO APPROPRIATE THE PUBLIC WATERS

**COPY**

THIS PERMIT IS HEREBY ISSUED TO  
LARRY WALLACE  
372 E 7TH ST  
COQUITLIE, OREGON 97423

The specific limits and conditions for the use are listed below.

APPLICATION FILE NUMBER: 8-80555

SOURCE OF WATER: FOUR SPRINGS, TRIBUTARIES OF DEMENT CREEK

PURPOSE OR USE: DOMESTIC USE FOR ONE HOMEHOLD AND LIVESTOCK USE

MEASUREMENTS: MEASUREMENTS ALLOWED: 0.02 CUBIC FOOT PER SECOND (CFS), BEING NOT MORE THAN 0.045 CFS FOR DOMESTIC OR RUMOR CONSUMPTION USE AND 1.385 CFS FOR LIVESTOCK WATERING; AND BEING FURTHER LIMITED TO 0.012 CFS FROM SPRING A, 0.022 CFS FROM SPRING B, 0.022 CFS FROM SPRING C, AND 0.024 CFS FROM SPRING D

PERIOD OF ALLOWED USE: FEBRUARY AND APRIL 1 THROUGH NOVEMBER 30 FOR DOMESTIC USE; MARCH 1 THROUGH MARCH 31 AND DECEMBER 1 THROUGH JANUARY 31 FOR RUMOR CONSUMPTION USE; AND YEAR ROUND FOR LIVESTOCK USE

DATE OF EXPIRITY: AUGUST 1, 1999

POINT OF DIVERSION LOCATION: SW 1/4 NE 1/4, SW 1/4 SE 1/4, SECTION 29, T18S, R13W, N.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS:  
SW 1/4 SE 1/4  
SE 1/4 SE 1/4  
SECTION 29,  
TOWNSHIP 18 NORTH, RANGE 13 WEST, N.M.

Measurement recording and reporting conditions:  
A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device.

Application 8-80555 Water Resources Department PERMIT 52773

PAGE 2

The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee may be required in the future to install, maintain, and operate fish screening devices to prevent fish from entering the proposed diversion.

The use of water allowed herein may be made only at times when waters from the four springs would not otherwise flow into a tributary of Dement Creek, or sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flow.

**STANDARD CONDITIONS**

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land use goals and any local acknowledged land-use plan.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not appear to be detrimental to the public interest.

SEE NEXT PAGE

Application 8-80555 Water Resources Department PERMIT 52773

PAGE 3

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1999. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued September 11, 1996

*Harold D. Pugh*  
Harold D. Pugh, Director  
Water Resources Department

Application 8-80555 Water Resources Department PERMIT 52773  
Basin 17 Volume 2A & 2B COQUITLIE RIV & MISC District 19

Therefore, this criterion has been addressed.

Section 4.6.130(4) requires that if road access to the dwelling is by a road owned and maintained by a private party, ODF or BLM, a long-term access use permit or agreement be submitted. The application stated the dwelling is accessed directly off Dement Creek County Road. Therefore, this criterion has been addressed.

Section 4.6.130(5) requires a stocking survey if property is larger than ten (10) acres. There is greater than 10 acres on the subject property; therefore, a stocking survey is required. The Assessor's Office will be notified of this proposed development by the Planning Department. The applicant will be responsible for submitting a stocking survey to the Assessor office and ensure this criterion is completed by the County Assessor.

All The criteria found in SECTION 4.6.130 have 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. *Except as provided in subsection 4.6.145 of this ordinance, the following minimum lot or parcel sizes apply for land designated forestland, is 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.*

2. *Setbacks: All Development 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.*
3. *Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 7.1.525.*
4. *Off-Street Parking and Loading: See Chapter VII.*

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.
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 to site or properly maintain public utilities and road rights-of-way;
  - 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.
7. All new and replacement dwellings and permanent structures shall, at a minimum, meet the following standards.
  - a. The dwelling has a fire retardant roof.
  - b. The dwelling will not be sited on a slope of greater than 40 percent. Slope<sup>2</sup> will also determine additional firebreak in Section 8 Firebreak. Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.
  - c. The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract. If the dwelling is not within a fire protection district,

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<sup>2</sup> Slope calculations must include the primary and additional fuel-free breaks. Staff will use the slopes from the soil data found in the Soil Survey of Coos County Oregon<sup>2</sup> published by United States Department of Agriculture, Soil Conservation Service, in cooperation with Oregon Agricultural Experiment Station. Staff will accept an on ground study for slope from an Registered Surveyor or other Registered Professional that is able to make calculations based on the profession licensing requirements.

*the applicant provides evidence that the applicant has asked to be included in the nearest such district or contract with a private fire protection company.*

- d. For dwellings and structures outside of a fire protection district alternative forms of fire protections will apply to the develop including fire sprinkling system, on-site equipment and water storage.
 
  - i. Water storage 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 minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water’s edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. The access to the water source shall be marked with signs for fire water sources.**
- e. If the dwelling has a chimney or chimneys, each chimney has a spark arrester.*
- f. The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner and complies with Section 8 Firebreak.*

**8. Firebreak:**

- a. The property owner shall maintain a primary firebreak 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.*
- b. Sufficient garden hose to reach the perimeter of the primary safety zone shall be available at all times.*
- c. 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.*
- d. Proof that all of these items will be met includes proof of the slope to determine additional firebreak setbacks is required.*

*Table 1 – Minimum Primary Safety Zone*

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

- 9. 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.*
- 10. Access to new dwellings shall meet road and driveway standards in Chapter VII.*

**FINDING: Section 4.6.140(1) is only applicable in the creation of new parcels and that is not part of this request; therefore, it is not applicable.**

Section 4.6.140(2) requires a setback from any road right-of-way. The provided plot plan illustrated that all setbacks for the proposed dwelling will be more than satisfied.

Section 4.6.140(3) applies to fences, hedges and walls. The proposal does not include any new fences, hedges, or wall. Therefore, this criterion does not apply.

Sections 4.6.140(4) require parking, loading, access and road standards be addressed. Driveway/Access/Parking Verification Permit application must be signed off prior to issuance of a Zoning Compliance Letter. The applicant submitted Driveway Confirmation DR-22-067 as part of this application. The applicant will need to coordinate a driveway inspection from the Road Department prior to requesting the final zoning compliance letter. Therefore, this criterion has been satisfied.

Section 4.6.140(5) requires that the property owners sign and record in the deed of records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing 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. The previous landowner recorded, #94-10-0446, the following waiver on the subject property.

LARRY WALLACE  
370 E 7th  
COQUILLE OR 97423

OWNER OF RIGHT TO OBJECT  
FOREST MANAGEMENT EASEMENT

94 10 0446

LARRY L. WALLACE  
(Property Owner's Name) herein called the Grantors  
are the owners of real property described as follows:

Microform Reel # 92-01-0097  
Township 30 S., Range 13 W.M.M. Section 35 Tax Lot 400

In accordance with the conditions set forth in the decision of the Coos County Planning Department, dated 8-18-94, approving a FMST FOREST DWELLING for the above described property, and in consideration of such approval, Grantors hereby grant to Coos County on behalf of the owners of all property adjacent to the above described property, a perpetual non-exclusive forest practices management easement as follows:

1. The Grantors, their heirs, successors and assigns hereby acknowledge by granting of this easement that the above described property is situated in a forest zone in Coos County, Oregon, and may be subjected to conditions resulting from commercial forest operations on adjacent lands. Such operations include management and harvesting of timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, and other accepted and customary forest management activities conducted in accordance with Federal and State laws. Said forest management activities ordinarily and necessarily produce noise, dust, smoke, and other conditions, which may conflict with Grantors' use of Grantors' property for residential purposes. Grantors hereby waive all common law rights to object to normal, necessary and non-negligent forest management activities legally conducted on adjacent lands which may conflict with grantors' use of grantors' property for residential purposes and grantors hereby give an easement to Coos County for the benefit of the adjacent property owners for the resultant impact on Grantor's property caused by the forest management activities on adjacent lands.
2. Grantors shall comply with all restrictions and conditions for maintaining residences in forest zones that may be required by State, Federal and local land use laws and regulations. Grantors will comply with all fire safety regulations developed by the Oregon Department of Forestry for residential development within a forest zone.

This easement is appurtenant to all property adjacent to the above described property and shall bind the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjacent landowners, their heirs, successors and assigns. The adjacent landowners, their heirs, successors and assigns are hereby expressly granted the right of third party enforcement of this easement.

IN WITNESS WHEREOF, the Grantors have executed this easement on  
October 10, 1994 Larry L. Wallace  
(Titleholder's signature)  
(Titleholder's signature)

STATE OF OREGON )  
COUNTY OF COOS )

Personally appeared the above named Larry L. Wallace  
and Is above voluntary, free and deed. and acknowledged the above easement to be

Estelene A. Ford  
Notary Public for Oregon  
My Commission expires 3-14-97

This easement is hereby accepted for the benefit of adjacent property owners this  
11th day of Oct 1994

RECORDING # 94100446  
I, Mary Ann Wilson,  
Coos County Clerk, certify  
the within instrument  
was filed for record at

By J. WILSON Deputy  
1:35 ON 10/12/1994  
# pages 1 Fee \$ 13.00

COOS COUNTY  
BOARD OF COMMISSIONERS  
By William P. Grille  
WILLIAM P. GRILLE  
Planning Director

ORIGINAL RETURNED SAME DAY

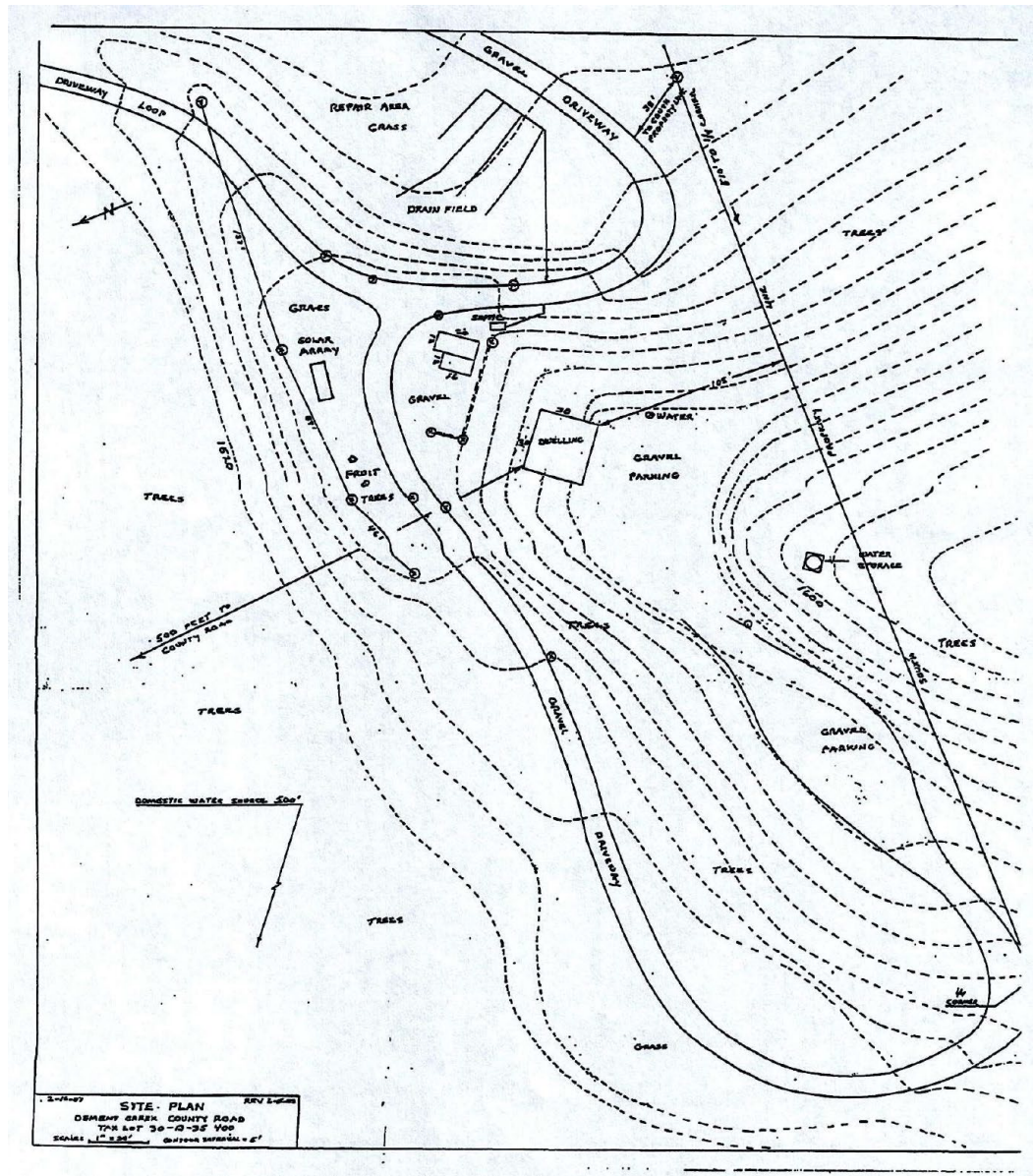
Therefore, this criterion has been addressed.

Section 4.6.140(6) requires a setback from any wetland. There are no mapped wetlands or water bodies requiring protection on, or adjacent to the subject property. Therefore, this criterion is not applicable.

Section 4.6.140(7)

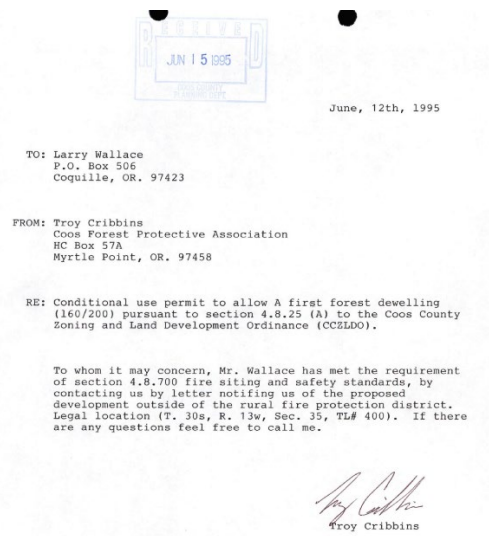
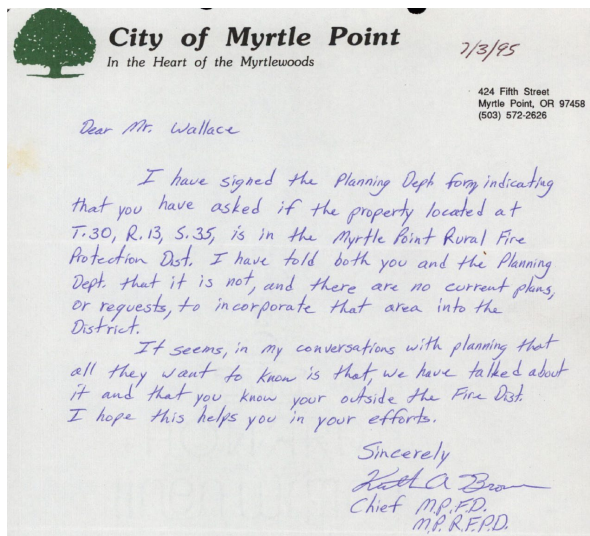
(a) Requires the roofing material to be non-combustible or fire resistance. The applicant stated that “*All structures have fire retardant asphalt shingles or metal roofs*”. As a condition of approval, the property owner shall be required to submit evidence certifying the roofing materials meet this requirement. Therefore, this criterion has been addressed.

(b) Requires that a dwelling not be located on a slope of greater than 40%. Based on the slope information from the applicant’s plot plan, the subject property has less than 10 percent slope in the vicinity of the homesite. Therefore, this criterion has been addressed.



(c) Requires the dwelling shall be located within a fire protection district or shall be provided with residential fire protection by contract. The subject property is not located within any fire protection district. The nearest fire protection district is the Myrtle Point Rural Fire Protection District. The original approved application, ACU-97-047, included a response from the Myrtle Point Rural Fire

Department stating the MPRFD has no interest annexing the subject property into their district. Coos Forest Protective Association submitted a letter notifying the County they received notification by the former landowner of the dwelling.



Therefore, this criterion has been satisfied.

(d) The applicant shall meet the minimum fire protection standards. However, if these standards are impractical the applicants shall comply with alternative forms of fire protection. The subject property is outside of any fire protection district. The applicant submitted the following information: *“There is presently a 3600 gallon water storage tank with a two inch supply line to within 30 feet of the dwelling for fire protection. Room has been provided for an additional 3600 gallon tank. The two inch line will be extended down slope to a location near the outbuildings. For added fire protection, there is 7200 gallons of water storage in tanks adjacent to the county road below the water source”*. As a condition of approval, the applicant will be required to install, and provide proof of, water storage that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. The applicant shall provide road access to within 15 feet of the water’s edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. The access to the water source shall be marked with signs for fire water sources. Therefore, this criterion has been addressed.

(e) States that if a dwelling has a chimney it shall have a spark arrester. The applicant did not indicate whether, or not, the dwelling has a chimney. As a condition of approval, the property owner shall supply information certifying that all chimneys have a spark arrester by providing a copy of the building plans or visual proof that there is no chimney on the structure. Therefore, this criterion has been addressed.

(f) Determines the primary and secondary fire safety setbacks. The applicant submitted a detail contour map of the dwelling’s location. The applicants will need to maintain 30 feet of primary fuel-free break to the standards identified above, in addition to the 100 feet secondary fuel break. The applicants are only responsible to maintain the fuel-free breaks on land they own or control. This criterion will be made a condition of approval.

**Section 4.6.140(8)**

(a) Determines the primary and secondary fire safety setbacks. The applicant submitted a detail contour map of the dwelling’s location. The applicants will need to maintain 30 feet of primary fuel-free break to the standards identified above, in addition to the 100 feet secondary fuel break. The applicants are only

responsible to maintain the fuel-free breaks on land they own or control. This criterion will be made a condition of approval.

(b) Requires sufficient ¾ inch hose for the perimeter of the primary fire break. The applicant submitted a detail contour map of the dwelling’s location. The applicants will need to maintain 30 feet of primary fuel-free break to the standards identified above, in addition to the 100 feet of secondary fuel break. The applicants are only responsible to maintain the fuel-free breaks on land they own or control. This criterion will be made a condition of approval.

Section 4.6.140 (9) Requires the roofing material to be non-combustible or fire resistance. The applicant stated that “All structures have fire retardant asphalt shingles or metal roofs.”. 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.

Section 4.6.140 (10) requires adequate access for firefighting equipment. The subject property is accessed off of Dement Creek County Road. At the time of road inspection, prior to receiving a zoning compliance letter, the Roadmaster or his designee will confirm that all road standards have been met to provide adequate access for firefighting/emergency equipment. Therefore, this criterion has been addressed.

Therefore, all criteria in Section 4.6.140 Development and Siting 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.*
- *4.11.132 Natural Hazards (Balance of County Policy 5.11)*

*Coos County has inventoried the following hazards:*

- *Flood Hazard*
  - *Riverine flooding*
  - *Coastal flooding*
- *Landslides and Earthquakes*
  - *Landslide Susceptibility*
  - *Liquefaction potential*
- *Tsunamis*
- *Erosion*
  - *Riverine streambank erosion*
  - *Coastal*
    - *Shoreline and headlands*
    - *Wind*
- *Wildfire*

*Purpose Statements:*

*Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property. Coos County considers natural disasters and hazards to include river and coastal flooding, landslides, liquefaction potential due to earthquakes, fault lines, tsunamis,*

river bank erosion, coastal erosion along shorelines and headlands, coastal erosion due to wind, and wildfires, including those areas affected by gorse.

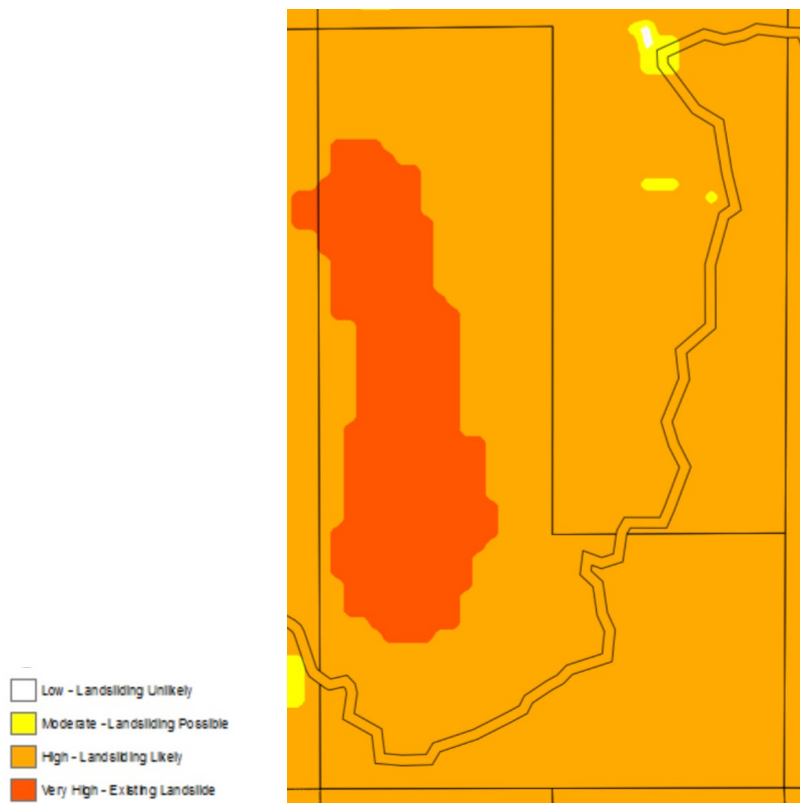
This strategy shall be implemented by enacting special protective measures through zoning and other implementing devices, designed to minimize risks to life and property associated with new development and substantial improvements. The determination of whether a property is located in one of the above referenced potentially hazardous areas shall be made by the reviewing body (Planning Director, Planning Commission, Board of Commissioners, or any designee based upon adopted inventory mapping). A specific site may not include the characteristics for which it is mapped. In these circumstances staff shall apply § 4.11.132.ii.2m.

b. Landslides and Earthquakes

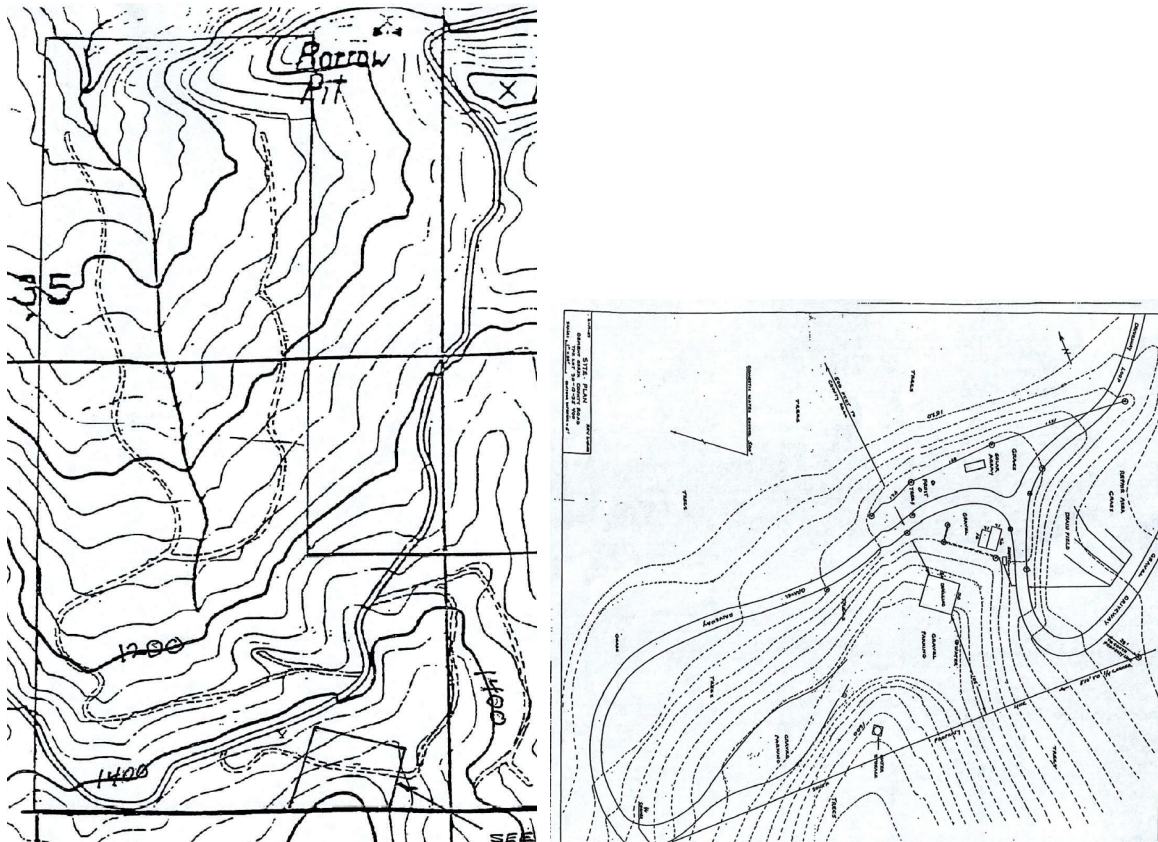
*Landslides: Coos County shall promote protection to life and property in areas potentially subject to landslides. New development or substantial improvements proposed in such areas shall be subject to geologic assessment review in accordance with section 4.11.150. Potential landslide areas subject to geologic assessment review shall include all lands partially or completely within “very high” landslide susceptibility areas as mapped in DOGAMI Open File Report O-16-02, “Landslide susceptibility map of Oregon.”*

*Coos County shall continue to support Oregon State Building Codes to enforce any structural requirements related to landslide and earthquakes. Staff will notify Oregon State Building Codes by providing a copy of the geologic assessment report with the Zoning Compliance Letter.*

**FINDING: The applicant did not address this overlay. Staff verified the property has lands partially, or completely, within “very high” landslide susceptibility areas as mapped in DOGAMI Open File Report O-16-02, “Landslide susceptibility map of Oregon.”**



Below is the applicant's plot plans.



Based on the applicant's plot plan, plus aerial imagery of the subject property, the dwelling's location is outside of the mapped Very High – Existing Landslide area. Therefore, this criterion has been addressed.

#### 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 Large Tract Forestland Dwelling meets the requirements of the Coos County Zoning and Land Development Ordinance, with conditions listed in Exhibit "A" of this report.

#### V. EXPIRATION:

*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.*

*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 Wednesday, December 23, 2026.

#### **VII. NOTICE REQUIREMENTS:**

A notice of decision will be provided to property owners within 750 feet of the subject properties.

A Notice of Decision and Staff Report will be provided to the following:

Applicants/Owners, Department of Land Conservation and Development, Coos County Assessor's Office and the Planning Commission and Board of Commissioners.

Adjacent property owners will receive a Notice of Decision and maps, but all other attachments can be found by contacting the Planning Department or visiting the website. If not found on the website the public may contact the department to view the official record.