



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 the proposal be solely located on the subject property.

Coos County Planning
60 E Second St.
Coquille, OR 97423
<http://www.co.coos.or.us/>
Phone: 541-396-7770
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. (See attached vicinity map for the location of the subject property).

Date of Notice: **Wednesday, December 21, 2022**
File No(s): ACU-22-038
Proposal: Request for a Land Use Approval of an “Additional Forest Dwelling” through an Administrative Conditional Use.

Applicant(s): Dave Reed
PO Box 1808
Bandon, OR 97411

Staff Planner: Crystal Orr, Associate 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 **Thursday, January 05, 2023**. Appeals are based on the applicable land use criteria found in the *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 4.6.110.68 Additional Forest Dwelling (Alternative forestland dwellings ORS 215.750) to Section 4.6.120 Review Standards (9)(B)(VII). 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.

Property Information

Account Numbers	763407
Map Numbers	27S1421B0-00200
Property Owners	REED, DAVID W & KATHLEEN M PO BOX 1808 BANDON, OR 97411-1808
Situs Addresses	59049 SEVEN DEVILS RD BANDON, OR 97411
Acreages	80.84 Acres
Zoning(s)	FOREST (F)
Special Development Considerations and Overlays	FLOODPLAIN (FP) FOREST MIXED USE (MU) NATIONAL WETLAND INVENTORY SITE (NWI) NATURAL HAZARD - WILDFIRE (NHWF)

This notice shall be posted from December 21, 2022 to January 5, 2023

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.

Staff tries to post all applications on the website at the following link: <https://www.co.coos.or.us/community-dev> The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 225 North Adams Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page. If you would like to view the record in this matter, please make an appointment. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact is Crystal Orr, Associate 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: _____ **Date:** Wednesday, December 21, 2022 .
Crystal Orr, Associate Planner

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

CONDITIONS OF APPROVAL

1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If there were comments from 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(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.
 - 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(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.
 - e. 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.
 - f. 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.

- g. Section 4.6.140(14) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester. A copy of the building plans shall be submitted. If they are not available, then this will be a condition of approval on the ZCL.
- h. Section 4.6.140(7)(b) The dwelling shall not be sited on a slope of greater than 40 percent. This shall be shown on the plot plan.
- i. 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.
- j. Section 4.6.140 (16) Except for private roads and bridges accessing only commercial forest uses, public roads, bridges, private roads and driveways shall be constructed so as to provide adequate access for firefighting equipment. If the property is within a fire protection district (Coos Forest Protective Agency or Rural Fire Department) a sign off from the fire department is required or proof that the road has been constructed to meet the requirements of the “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads” dated March 1, 1991.
- k. Section 4.6.140(17) Access to new dwellings shall meet road and driveway standards in Chapter VII. Driveway/ Access Parking/Access permit application shall be signed off by the Coos County Road Department prior to issuance of a Zoning Compliance Letter.
- l. The Single-Family Dwelling (authorized through ZCL-21-370) must receive a final occupancy permit prior to receiving a Zoning Clearance Letter to build the Additional Forest Dwelling.
- m. A Road Name Application is required as this approval will be the third dwelling located on the private access road off of Seven Devils Road.

EXHIBIT "B"
Vicinity Map & Plot Plan



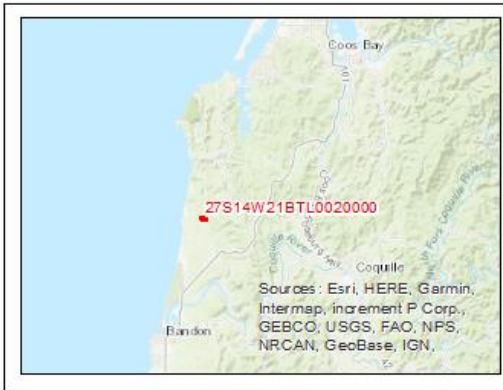
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 225 N. Adams, Coquille, Oregon 97423

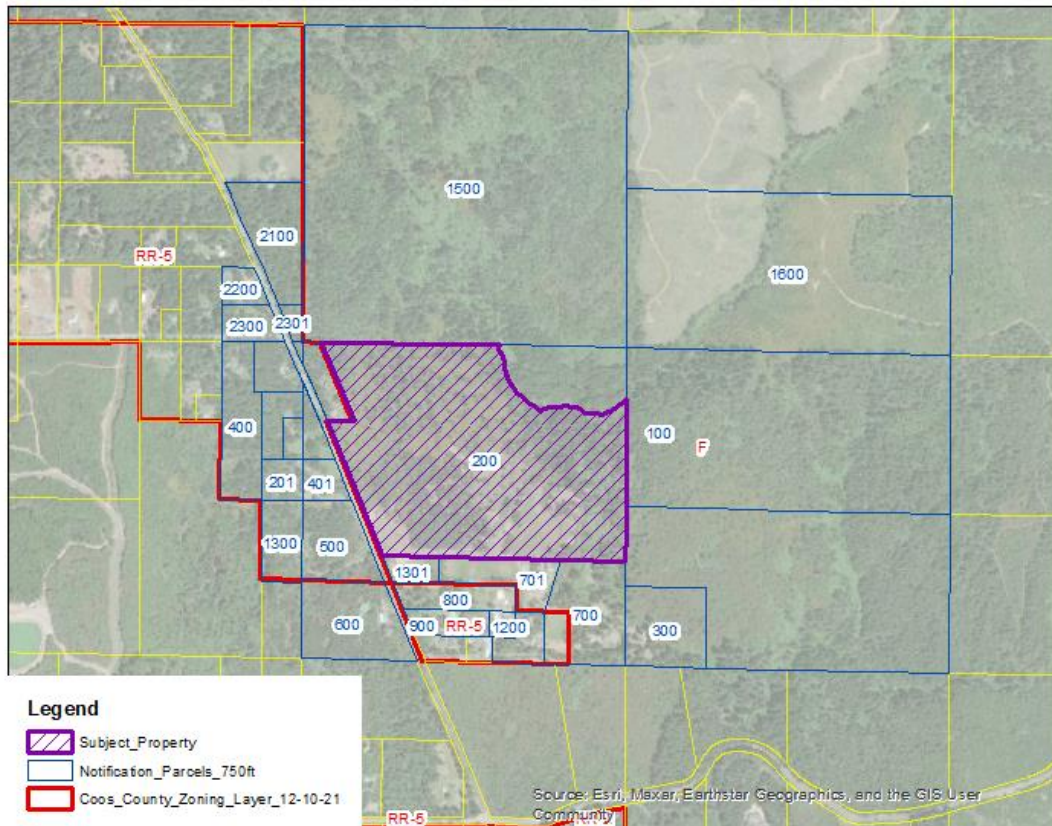
Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

TDD (800) 735-2900



File: ACU-22-038
 Owner: David & Kathy Reed
 Date: October 19, 2022
 Location: Township 27S Range 14W
 Section 21B TL 200
 Proposal: Administrative Conditional Use



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

I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION:

- A. PROPOSAL:** Request for a Land Use Approval through an Administrative Conditional Use for an Additional Forest Dwelling.
- B. BACKGROUND/PROPERTY HISTORY:** The following information is the permitting history for the property. For clarification HBCU is a Hearings Body Conditional Use means the application was reviewed by the Planning Commission. VL and ZCL are Verification and Zoning Compliance Letter and means a ministerial decision issued by staff to show the use is compliant. The Amendment/Rezone (AM/RZ) is a Plan Amendment to Amend the Zone Map and Rezone the property which is approved by the Board of Commissioners. A Remand (REM) means the decision was reviewed by the Land Use Board of Appeals and remanded back to the county for insufficient findings. This type of action requires the applicant request the matter be reconsidered by the Board of Commissioners and new findings addressed or the decision becomes void.

Property prior to development



- HBCU-89-09, July 6, 1989 – Application for a Forest Land Division Denied
- VL-85-342 7-22-85- Site additional dwelling. May have second dwelling while constructing new dwelling but once completed second dwelling will be rendered uninhabitable. Only one dwelling permitted.
- VL-90-113, 3-16-90 - Existing Dwelling will be removed or rendered uninhabitable prior to habitation of the new dwelling. Applicant is constructing a barn with a shower-toilet facility not to be used for residential purposes or RV Hookup.
- VR-93-02 - vested right for dwelling allowed and closed per Planning Director.
- VL-93-526, September 8, 1993 – Site manufactured home not completed in 1990. Only one dwelling allowed.
- VL-95-468, October 6, 1995 – Site manufactured home only one dwelling allowed.

- AM-00-02/RZ-00-02, June 29, 2000 – Rezone from F/MU to RR-5 was approved. This decision was appealed to the Land Use Board of Appeals and remanded to the County for additional findings.
- February 8, 2001 – Remand of AM-00-02/RZ-00-02 was denied by county order 01-03-012PL on April 4, 2001, as it could not meet the criteria base on the LUBA remand.
- March 6, 2006, Address Application received and processed.
- ZCL-10-192; August 16, 2010 – Replace manufactured home with new manufactured home. Only one dwelling allowed.
- ZCL-20-265; September 15, 2020 – Replace manufactured home with new Single-Family Dwelling. Only one dwelling allowed.
- ZCL-21-370; October 14, 2021 – Replace manufactured home with new Single-Family Dwelling, only one dwelling allowed.

Most current aerial image of property and development.



Proposed plot plan showing existing and new development.

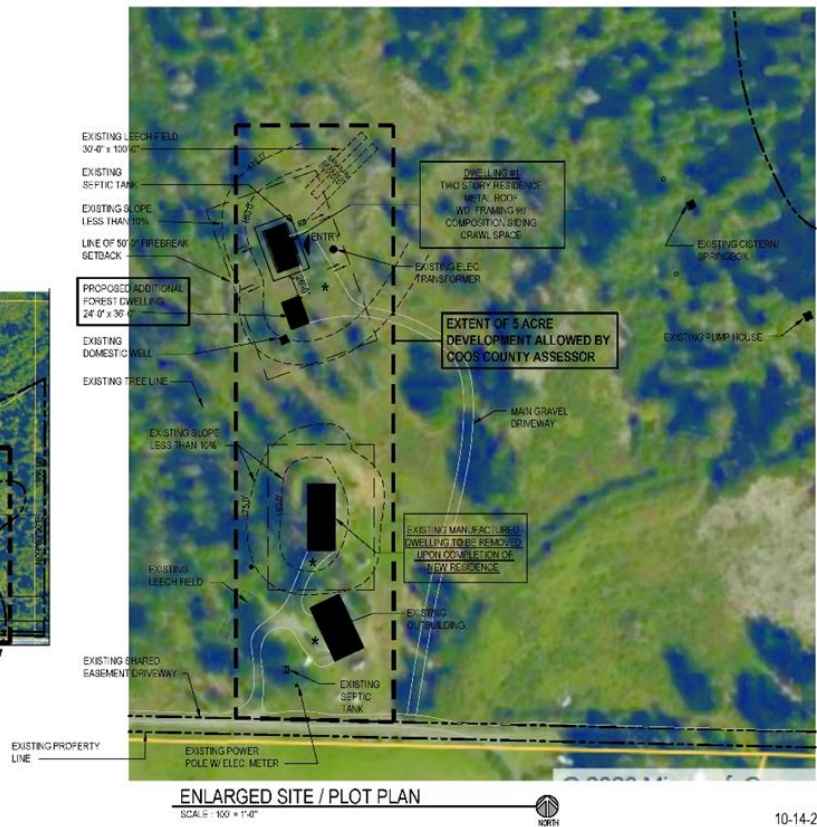
DAVID & KATHLEEN REED
 59049 SEVEN DEVILS ROAD
 BANDON OR, 97411
 541-551-0057
ADDITIONAL FOREST DWELLING APPLICATION - REVISED 10-14-22

SUMMARY TABLE	
SITE DATA	
MMP AND TAX LOT:	27514W21B - 200
ZONING DISTRICT:	F FOREST
LOT SIZE:	83.84 ACRES

LEGEND	
PARKING AREAS	★
ADDITIONAL INFORMATION	
1. DISTANCE OF WATER SOURCE FROM PROPERTY LINE =	832'-0"±



THE WAYWARD R STUDIO
 BANDON OREGON
 DAVID REED / 541-551-0057



10-14-22

- C. **LOCATION:** This property is located north of the City of Bandon. The property is accessed via Seven Devils Road onto a private road. It appears the road will serve more than three dwellings and a road name will be required as a condition of approval or evidence that the road will not contain more than three dwellings.
- D. **ZONING:** The subject property is zoned Forest (F).

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.

If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.

If a use is only allowed in the mixed-use zone, it will be explained in the text. Otherwise, the uses listed are allowed in both the Forest and Forest Mixed Use zones.

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

The subject property consists of 80.84 acres (assessment records) with Seven Devils Road running along the western boundary and contains a Single-Family Dwelling and one (2) Accessory Structures. The access is from a private road off of Seven Devils Road.

The adjacent properties to the west are zoned Rural Residential-5, and consists of lots ranging from one (1) to nine (9) acres in size. The adjacent properties to the north and east are zoned Forest, and part of the Coos County Forest. The adjacent property to the south is also zoned Forest, this property is residentially developed with cleared areas and tree coverage.



F. COMMENTS:

- a. **PUBLIC AGENCY:** This application request did not require any request for public comments prior to the release of the decision.
- b. **PUBLIC COMMENTS:** This application request did not require any request for public comments prior to the release of the decision.
- c. **LOCAL TRIBE COMMENTS:** This application request did not require any request for public comments prior to the release of the decision.

II. 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: Based on the details of the record, land use permits on file and aerial images it appears the property is in compliance. However, this does not mean there isn't other information that staff does not have access that would dispute the compliance of the property.

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 tax lot was lawfully created pursuant 6.1.125.e, by deed prior to applicable planning, zoning or partition ordinance that prohibited the creation (deed document 75-119832). A land division was proposed in 1989 and denied and there no other documents in the record to show the property has changed in configuration or acreage.

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

B. Key definitions:

Compatibility: Compatibility means that the proposed use is capable of existing together with the surrounding uses without discord or disharmony. The test is where the proposed use is compatible with the existing surrounding uses, and not potential or future uses in the surround area. The surrounding area consists of the notification area for the project as set out in § 5.0.900.

Section 4.6.110 – Uses Authorized in Forest Zones

(9) Dwellings authorized by ORS 215.705 to 215.755; and (e) Other dwellings under prescribed conditions.

Use #68 Additional Forest Dwelling, which requires a Conditional Use subject to review standards (9)(B)(VII)

ADDITIONAL FOREST DWELLING (Adopted pursuant to HB 2469 2019)

- (1) *As used in this section, "owner or a relative" means the owner of the lot or parcel, or a relative of the owner or the owner's spouse, including a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of either.*
- (2) *A county may approve a new single-family dwelling unit on a lot or parcel zoned for forest use provided:*
 - (a) *The new single-family dwelling unit will be on a lot or parcel no smaller than the minimum size allowed under ORS 215.780;*
 - (b) *The new single-family dwelling unit will be on a lot or parcel that contains exactly one existing single-family dwelling unit that was lawfully:*
 - (A) *In existence before November 4, 1993; or*

(B) Approved under ORS 215.130 (6), 215.705, 215.720, 215.740, 215.750 or 215.755;

FINDING: The parcel is designated for Forest Use and meets the minimum parcel size allowed under ORS 215.780 which is 80 acres. The subject property contains 80.84 acres based on assessment records.

The criteria requires a justification that new proposed Single Family Dwelling be located on a lot or parcel that contains exactly one existing Single Family Dwelling unit that was in existence before November 4, 1993 or approved under ORS 215.130(6), 215.705, 215.720, 215.740, 215.750 or 215.755. The applicant replied and stated the existing dwelling was approved under ORS 215.705 but that is not a true statement.

Dwellings under ORS 215.705 were added to the Statute and Rule in 1993 as part of HB 3661. HB 3661 was adopted which changed most if not all uses in the Exclusive Farm Use and Forest zones. OAR 660, Division 6 was revised on March 1, 1994.

In the background section of the report staff has explained the history of the property development.

A zoning authorization (VL-85-342 7-22-85) was issued for a replacement dwelling. According to the records this was not completed prior to 1993. Due to the fact the dwelling was not completed a Vested Right was submitted and approved by the Planning Director due to the change in 1993 law. The original dwelling was sited prior to November 4, 1993. The current dwelling met replacement criteria that would be consistent with ORS 215.755(1) "Alteration, restoration or replacement of a lawfully established dwelling", which is a listed approval method. Therefore, staff is able to confirm it meets the criteria even if the applicant referenced the incorrect statute.

- (c) The shortest distance between the new single-family dwelling unit and the existing single-family dwelling unit is no greater than 200 feet;*
- (d) The lot or parcel is within a rural fire protection district organized under ORS chapter 478;*
- (e) The new single-family dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation;*

FINDING: Staff contacted the Building Department to confirm that the dwelling approved in 2021 has been constructed. Therefore, based on the plot plan the proposed Additional Forest dwelling is shown about 26 feet from the primary dwelling. This meets the requirement that the dwelling be less than 200 feet from the primary dwelling. The parcel is within the Bandon Rural Fire Protection District.

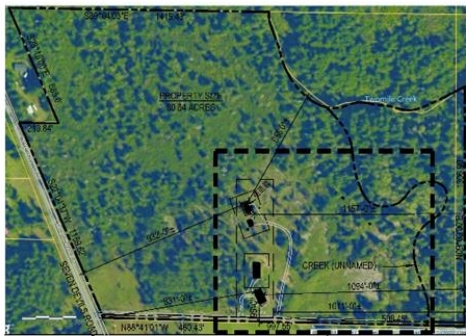
The applicant will need provide something from the Building Department showing the New Single-Family Dwelling will comply with the Oregon residential specialty code related to wildfire hazard mitigation to ensure compliance.

Therefore, this criterion has been addressed.

DAVID & KATHLEEN REED
 59049 SEVEN DEVILS ROAD
 BANDON OR. 97411
 541-551-0057
 ADDITIONAL FOREST DWELLING APPLICATION - REVISED 10-14-22

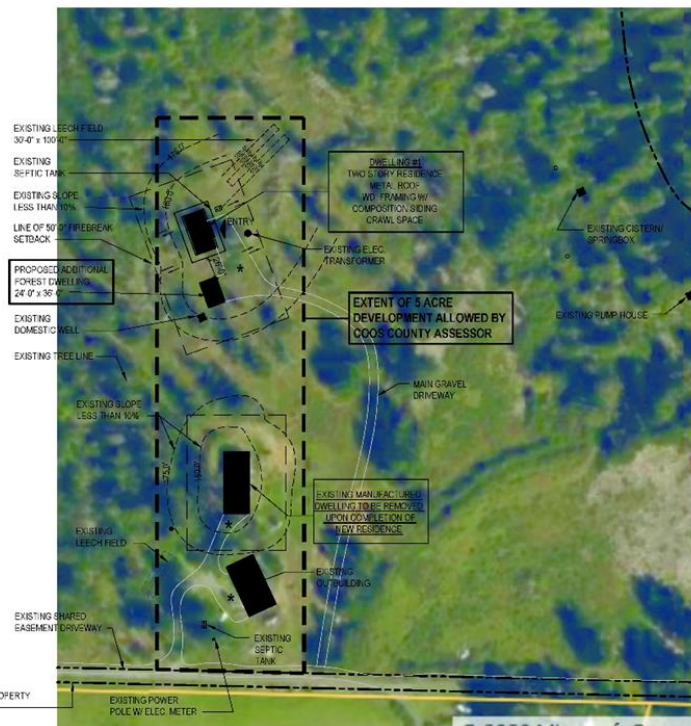
SUMMARY TABLE	
SITE DATA	
MAP AND TAX LOT:	27514W21B - 200
ZONING DISTRICT:	F FOREST
LOT SIZE:	80.84 ACRES

LEGEND	
PARKING AREAS	*
ADDITIONAL INFORMATION	
1. DISTANCE OF WATER SOURCE FROM PROPERTY LINE =	832'-0"±



OVERALL SITE / PLOT PLAN
 SCALE: 400' = 1" 0"

THE WAYWARD R. STUDIO
 BANDON OREGON
 DAVID REED / 541-551-0057



ENLARGED SITE / PLOT PLAN
 SCALE: 100' = 1" 0"

10-14-22

(f) As a condition of approval of the new single-family dwelling unit, in addition to the requirements of ORS 215.293, the property owner agrees to acknowledge and record in the deed records for the county in which the lot or parcel is located, one or more instruments containing irrevocable deed restrictions that:

- (A) Prohibit the owner and the owner's successors from partitioning the property to separate the new single-family dwelling unit from the lot or parcel containing the existing single-family dwelling unit; and
- (B) Require that the owner and the owner's successors manage the lot or parcel as a working forest under a written forest management plan, as defined in ORS 526.455, that is attached to the instrument;

- (g) The existing single-family dwelling unit is occupied by the owner or a relative;
- (h) The new single-family dwelling unit will be occupied by the owner or a relative; and
- (i) The owner or a relative occupies the new single-family dwelling unit to allow the relative to assist in the harvesting, processing or replanting of forest products or in the management, operation, planning, acquisition or supervision of forest lots or parcels of the owner.

(3) If a new single-family dwelling unit is constructed under this section, a county may not allow the new or existing dwelling unit to be used for vacation occupancy as defined in ORS 90.100.

FINDING: The applicant stated that the owners will record in the deed of records that the parcel will not be partitioned from the original size and will manage the parcel as a working forest parcel under a written forest management plan. The existing Single-Family Dwelling will be occupied by the property owners, and the new single-family dwelling will be occupied by a relative. The property owner will be required to record a deed convent that explains the conditions of this dwelling and a written forest management plan, as defined in ORS 526.455¹ showing this will

¹ "Approved forest management practice" means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management or such other young

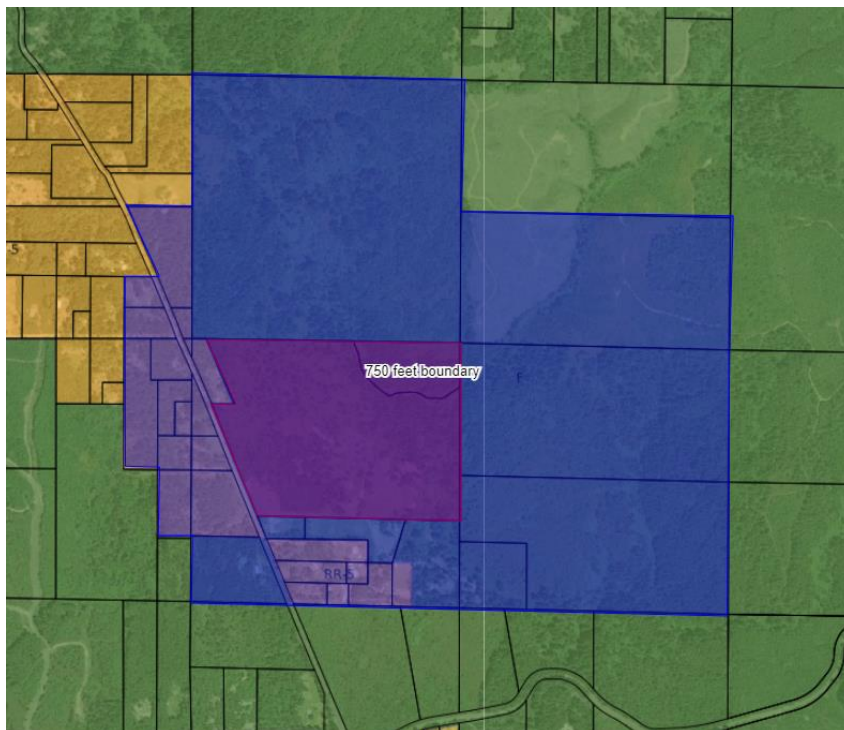
remain a working forest. The new dwelling shall not be used for a vacation occupancy as defined in ORS 90.100 and this will also be a condition of approval. Therefore, all of the conditions of have been met.

SECTION 4.6.130 SITING STANDARDS FOR DWELLING AND STRUCTURES IN FOREST ZONES

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:

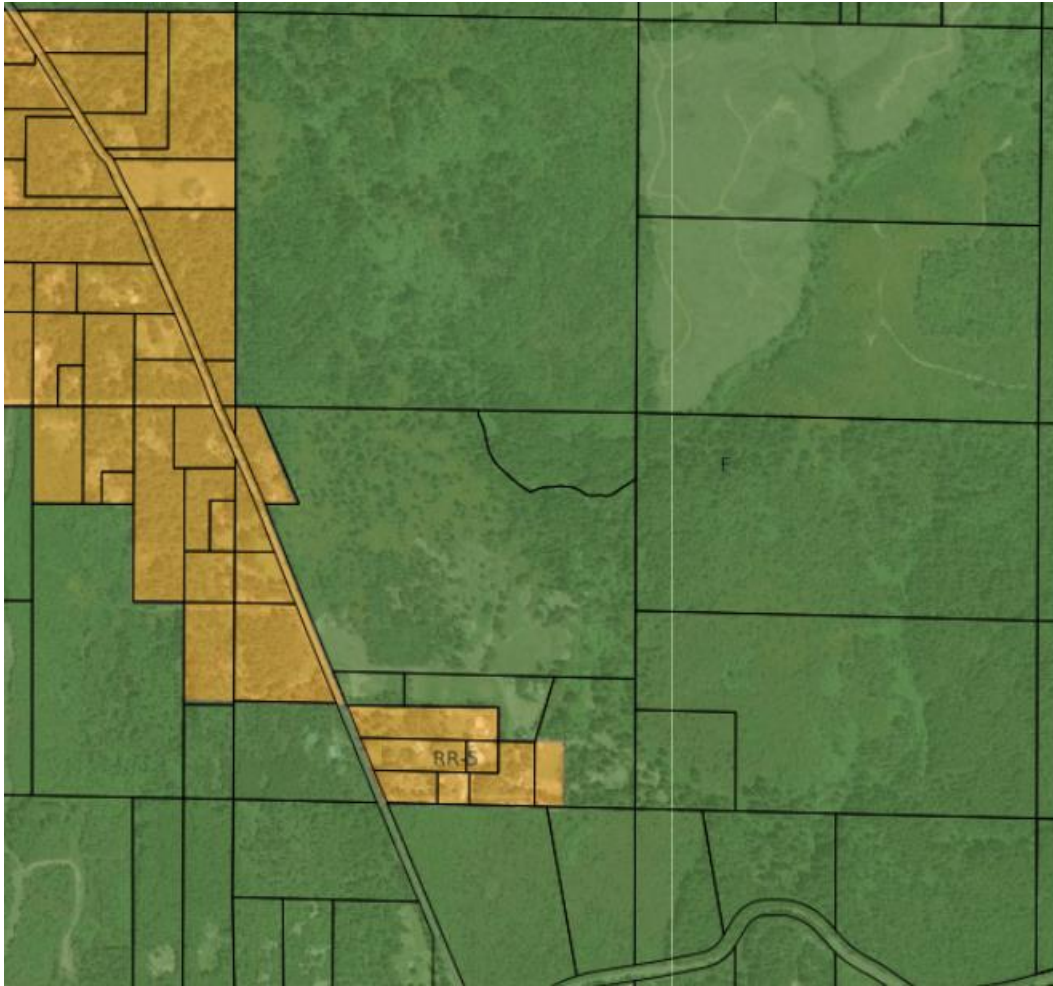
- (1) *Dwellings and structures shall be sited on the parcel so that:*
 - (a) *They have the least impact on nearby² or adjoining forest or agricultural lands;*
 - (b) *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*
 - (c) *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.*

FINDING: In order to evaluate the impacts to nearby or adjoining forest or agricultural lands staff has to look within 750 for the exterior boundary of the subject property to find out what is zoned for forest or agricultural lands. The properties to the south, east and north are zoned Forest. The property west and further south are zoned Rural Residential-5.



growth management practices that increase wood growth as the State Forester shall approve or determine proper generally with regard to any particular applicant.”

² 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.



The applicant is proposing to site the dwelling in a central location in a area that is already cleared of vegetation. The new structure will be clustered with the current dwelling. The manufactured dwelling will be removed from the site. There are some forest operations occurring to the north and east of this property. The Dwelling will be more than 1000 feet from the northern and eastern boundary line. This will reduce any restriction on harvesting and pesticide application that the adjoining property owner would incur from the proposed development. Two Mile Creek crosses the northeaster boundary of the property providing a natural boundary from adjoining forest lands. Seven Devils Road follows the western boundary of the property. There is no farmland abutting or within 750 feet of the subject property. The existing driveway access located on the site will be improved and reused to minimize the amount of forest land used for site access roads, service corridors, the dwelling and structures.

The owner will adhere to the Coos County Comprehensive Plan Part I (March 1985) specific to 3.1 Agricultural Lands- Inventory and Assessment; Section #4 Forest Management and Practices and the Oregon Forest Practices Act per the provided Forest Management Plan.

- **Road Construction and Maintenance**
Easement access is provided through the subject property to adjacent properties to the south, and is maintained by the owner
- **Harvesting**
- **Site Preparation by Treating Slash**
- **Reforestation**

Proposed development on the subject property does not inhibit the harvest production of neighboring properties as private access is available to those properties and a substantial distance is provided from the proposed/ existing development on the subject property.

- **Use of Pesticides or Fertilizers**

The operations on the subject property shall not interfere with the application of pesticides or fertilizers on abutting properties, all development is sited more than 300 feet from abutting property lines per Senate Bill 1602.

The existing maintained road and maintained firebreak will aid in fire suppression by allowing ease of access in the event of a fire. The subject property is served by Bandon Rural Fire Protection District. The property owner will provide and maintain a water supply of at least 2500 gallons with an operating water pressure of at least 50 psi and sufficient garden hose to reach the perimeter fuel free building setback. A firebreak shall be established and maintained around the proposed structure for a distance of 50 feet in all directions. The proposed structure will have noncombustible or fire-resistant roofing.

Therefore, the proposal will meet the criteria.

- (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.*

Finding: The Additional Forest Dwelling has been proposed to be clustered with the main dwelling minimizing adverse effects on forest operations. The structures are located in entry and central locations to allow for enhanced planting and management of the property. The site was already cleared from trees and has been cleared prior to 1993 as shown in the historical aerial images. The siting utilizes existing vehicular paths required to access and maintain the property and connects to proposed existing irrigation locations within the parcel. Maintenance on the parcel to remove old and new growth gorse is ongoing in conjunction with the forest management plan to control risks associated with wildfires.

- (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 which could include an easement. 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.*

Finding: Water source for the new and existing dwelling are supplied from authorized sources in accordance with the Oregon Water Resources Department. Additional water rights for irrigation and fire control on site have been applied for and are being processed by Oregon Water Resources Department. The access road to the property is a county road, and all roads on the property are maintained by the property owner. The property owner shall submit a stocking survey report as the parcel is larger than 10 acres in size.

SECTION 4.6.140 DEVELOPMENT AND SITING CRITERIA:

This section contains 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. Slope³ 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, 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.*

³ 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 Oregon³ 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.

- 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

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

- 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: The development setback standards will be met. None of the proposed development is within 50 feet of a wetland, stream, lake or river identified on any of the inventory maps. The additional Forest Dwelling will have a fire retardant, metal roof. The additional Forest Dwelling is not located on a slope greater than ten percent. The applicant stated that the max slope is 10% but did not provide any information to show the exact slope. Therefore, a primary fire break of 30 feet will be maintained in addition to a secondary firebreak of 50 feet (80 feet in total) of clear space shall be maintained. The parcel is located within Bandon Rural Fire Protection District. The driveway access and parking for the additional forest dwelling will meet the road and driveway standards within Chapter VII of the Coos County Zoning and Land Development Ordinance (CCZLDO).

IV. DECISION:

The proposed Additional Forest Dwelling within the Forest Zoning District meets the requirements of the Coos County Zoning and Land Development Ordinance, with conditions listed in Exhibit “A” of this report.

V. NOTICE REQUIREMENTS:

A notice of decision will be provided to property owners within 750 feet of the subject properties and the following agencies, special districts, or parties: Bandon Rural Fire Protection District and Southern Coos General Health District.

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

Applicants/Owners, Department of Land Conservation and Development, Coos County Assessors Department, 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.