



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

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: Monday, June 05, 2023
File No: ACU-23-005
Proposal: Request for replacement of a Non-Conforming Use (dwelling).
Applicant(s): Croft Lake Association
c/o President Joe Slack
333 S. 4th St
Coos Bay, OR 97420

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 **Monday, June 19, 2023**. Appeals are based on the applicable land use criteria. The proposal is subject to the following criteria: Alteration of a Non-conforming use in the Rural Residential-5 (RR-5) Zone pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.6 Nonconforming and Article 4.11 Special Development Considerations and Overlays. This proposal is not subject to review under Natural Hazards. **Civil matters including property or road disputes are 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: 1363400/1364100/1367400
Map Number: 30S151000-00400/30S151100-01300/30S151400-00300
Property Owner: CROFT LAKE CLUB
CASHMAN, LINDA L TTEE
12915 FOXGLOVE DR NW
GIG HARBOR, WA 98332-7883
Situs Address: 86438 CROFT LAKE LN BANDON, OR 97411
Acreage: 74.16/84.00/29.27 Acres
Zoning: FOREST (F)
MINOR ESTUARY & SHORELANDS (MES)
RURAL RESIDENTIAL - 5 (RR-5)
Special Development Considerations and overlays: ARCHAEOLOGICAL AREAS OF INTEREST (ARC)
BEACHES/DUNES COMBINATION L/NS (BDC)
BIRD SITE MEETS GOAL 5C REQRMT (B5C)

This notice shall be posted from June 5, 2023 to June 20, 2023

COASTAL SHORELAND BOUNDARY (CSB)
FLOODPLAIN (FP)
FOREST MIXED USE (MU)
NAT. HAZARDS WIND EROSION (HZW)
NATIONAL WETLAND INVENTORY SITE (NWI)
WETLANDS (WET)NAT HAZARDS EARTHFLOW & SLUMP (HZE)
NATIONAL WETLAND INVENTORY SITE (NWI)
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.

Staff tries to post all applications on the website at the following link:
<https://www.co.coos.or.us/community-dev/page/planning-department>

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 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*
Chris MacWhorter, Principal Planner

Date: Monday, June 05, 2023

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 & Plot Plan

The Exhibits below are mailed/mailed to the Applicant, Board of Commissioners and Planning Commission only. Copies are available upon request or at the following website:
<https://www.co.coos.or.us/community-dev/page/planning-department> or by contacting the Planning Department at (541) 396-7770.

Exhibit C: Staff Report -**Findings of Fact and Conclusions**

All comments and the application can be found on file with the Planning Department.

EXHIBIT "A"

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

CONDITIONS OF APPROVAL

1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If there were comments from 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 replacement 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. 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. Section 4.3.225(1) Agricultural and Forest Covenant: In order to minimize the impact of dwellings adjacent to agricultural and 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 Manufactured Dwelling.
 - c. Section 4.3.225(5) Parking: 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. At this time a Driveway/ Access Parking/Access permit application has not been paid for nor submitted, the fee will need to be submitted with the application prior to the County Road Department sign off.
 - d. Section 4.3.225(7)(b) Firebreak Setback: New or replacement dwellings on lots, parcels or tracts abutting the "Forest" zone shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions. Vegetation within this firebreak 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.
 - e. 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



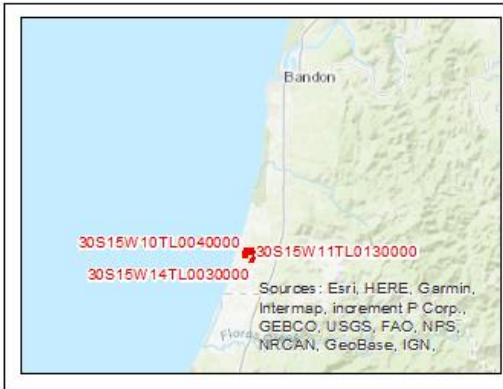
COOS COUNTY PLANNING DEPARTMENT

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

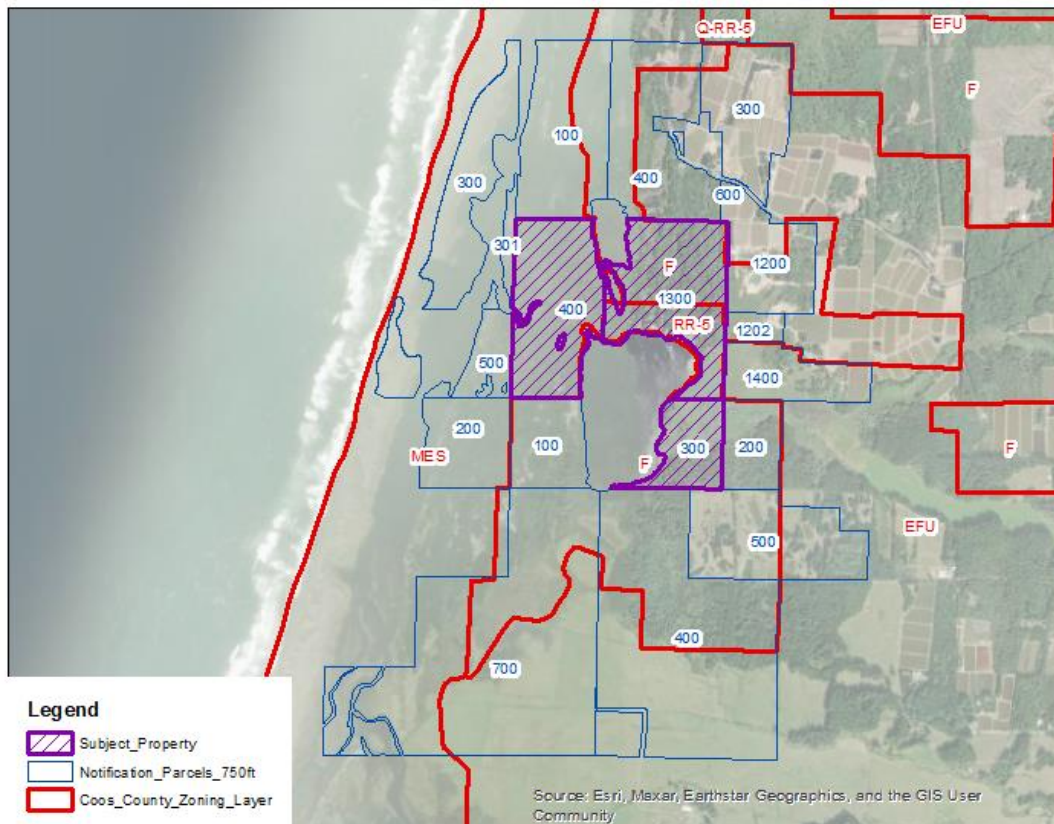
Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

TDD (800) 735-2900



File: ACU-23-005
Owner: Croft Lake Association
Date: May 2, 2023
Location: Township 30S Range 15W
Section 10/11/14 TL 400/1300/300
Proposal: Administrative Conditional Use



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

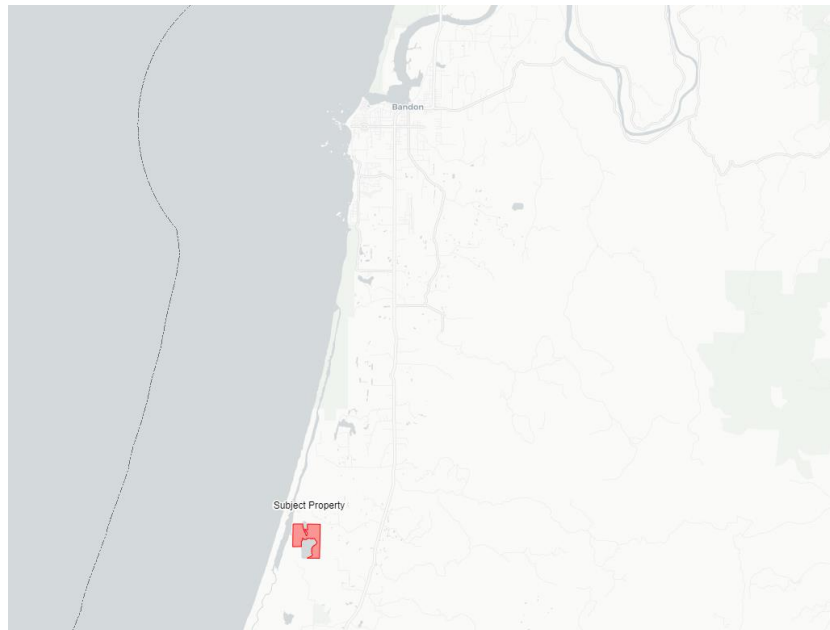
I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION:

- A. PROPOSAL:** The applicant is requesting to alteration (replacement) of a Nonconforming Use. The nonconforming use in this case is an existing Manufactured Dwelling.
- B. 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.*

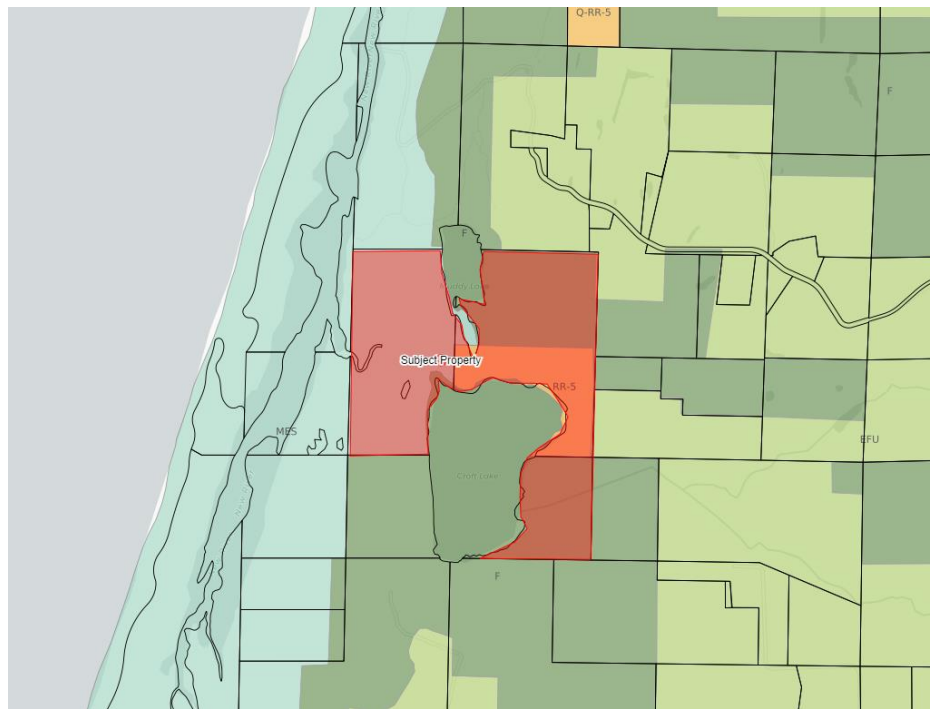
Staff has reviewed the property history and the County files to determine at the time of this report this property is compliant. This does not mean that there is not additional information that was unavailable during this review that would make the properties non-complaint

II. BASIC FINDINGS:

- A. LOCATION:** The subject property is located approximately 9 miles south of the City of Bandon at 86438 Croft Lake Lane. The map below (not to scale) is a visual of the property location.



- B. ZONING:** This property is zoned Forest Mixed Use, Minor Estuary and Shorelands, and Rural Residential-5. The replacement dwelling is located within the Rural Residential-5 (RR-5) portion of the property.



SECTION 4.2.100 RESIDENTIAL

Rural Residential (RR)

There are two RR zonings: Rural Residential-5 (RR-5) and Rural Residential-2 (RR-2). The intent of the Rural Residential Districts includes justified sites plus "committed" areas. The County's plan prescribes and allocates a finite number of rural dwelling/units/acreage. The zoning ordinance will specify permitted uses and minimum lot sizes.

The purpose of the "RR-2" and "RR-5" districts are to provide for small to medium acreage dwelling sites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary.

The "RR-2" district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.

The "RR-5" district provides for the orderly development of rural land so as to encourage the continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural or forestry uses.

SECTION 4.2.400 OPEN SPACE AND NATURAL RESOURCE ZONING DISTRICTS

Open Space and Natural Resource Districts are intended for especially sensitive areas where wildlife habitat or special scenic values have been identified or where natural hazards totally preclude any development.

Minor Estuary and Shorelands (MES)

The purpose of the "MES" district is to regulate uses within the inventoried minor estuaries and adjacent shorelands within unincorporated Coos County. The estuaries within the district are treated as "natural management units" per LCDC Goal 16. There are no hearings body

applications or development standards with the exception of road standards found in Chapter VII.

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 use, 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.

C. 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

SECTION 4.11.200 Purpose: Overlay zones may be super-imposed over the primary zoning district and will either add further requirements or replace certain requirements of the underlying zoning district. The requirements of an overlay zone are fully described in the text of the overlay zone designations. An overlay zone is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary Management Plans when the Estuary Policies directly reference this section.

This property does have special development considerations and overlays. Those will be addressed below.

D. SITE DESCRIPTION AND SURROUNDING USES:

The property is developed with recreational cabins surrounding Croft Lake. It consists of twelve (12) cabins, six (6) recreational docks, a caretaker's residence (Manufactured Dwelling), and a few small accessory structures (shops) around the caretaker's residence. The subject property spans 187.43 acres, and the landowner also owns a separate contiguous 32.56-acre parcel. Based on aerial imagery and zoning maps, the development is located in the Rural Residential-5 zoning area of the property. The development is considered non-conforming as it does not comply with

one or more of the current zoning requirements and was established prior to the current effective zoning. Changes or replacements for these developments are authorized through non-conforming applications. Access to the property is from the north via Croft Lake Lane, using a parcel owned by the BLM for access.



E. COMMENTS:

a. PUBLIC AGENCY: This property did require any request for comments from the Oregon Department of State Lands prior to the release of the decision. DSL responded with the following comments: *“The proposed new dwelling occupies a smaller area of a footprint that is already developed. No state wetland permit is required.”*

b. PUBLIC COMMENTS: These properties did not require any request for comments prior to the release of the decision and none were received.

c. LOCAL TRIBE COMMENTS: These properties did require any request for comments from the Tribes prior to the release of the decision. The Coquille Indian Tribe submitted the following comments: *“Due to the close proximity to known cultural resources, we request a cultural resources monitor to be present during all ground disturbance. Please contact our office at (541) 808-5554 to schedule a Cultural Resource Monitor to be on site during all ground-disturbing activities. Please schedule the monitor a **minimum of 72 hours** in advance of anticipated project start time.”*

F. LAWFULLY CREATED UNIT OF LAND: The unit of land was created by deed document 70-03-47164 which consists the three tax lots. The parcel is assigned three different tax lots since the parcel is crosses three different sections. Therefore, it was lawfully created prior to 1986 as provided for by Article 6.

III. STAFF FINDINGS AND CONCLUSIONS:

a. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The applicant is requesting to verify and alter a nonconforming use pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.6 Nonconforming, Section 4.11 Special Development Considerations and Overlays.

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. CRITERIA AND STANDARDS

• ARTICLE 5.6 NONCONFORMING

○ SECTION 5.6.100 NONCONFORMING USES:

The lawful use of any building, structure or land at the time of the enactment or amendment of this zoning ordinance may be continued. Alteration of any such use may be permitted subject to Sections 5.6.120 and 5.6.125. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215 (Reestablishment of nonfarm use), a county shall not place conditions upon the continuation or alteration of a use described under this Section when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.

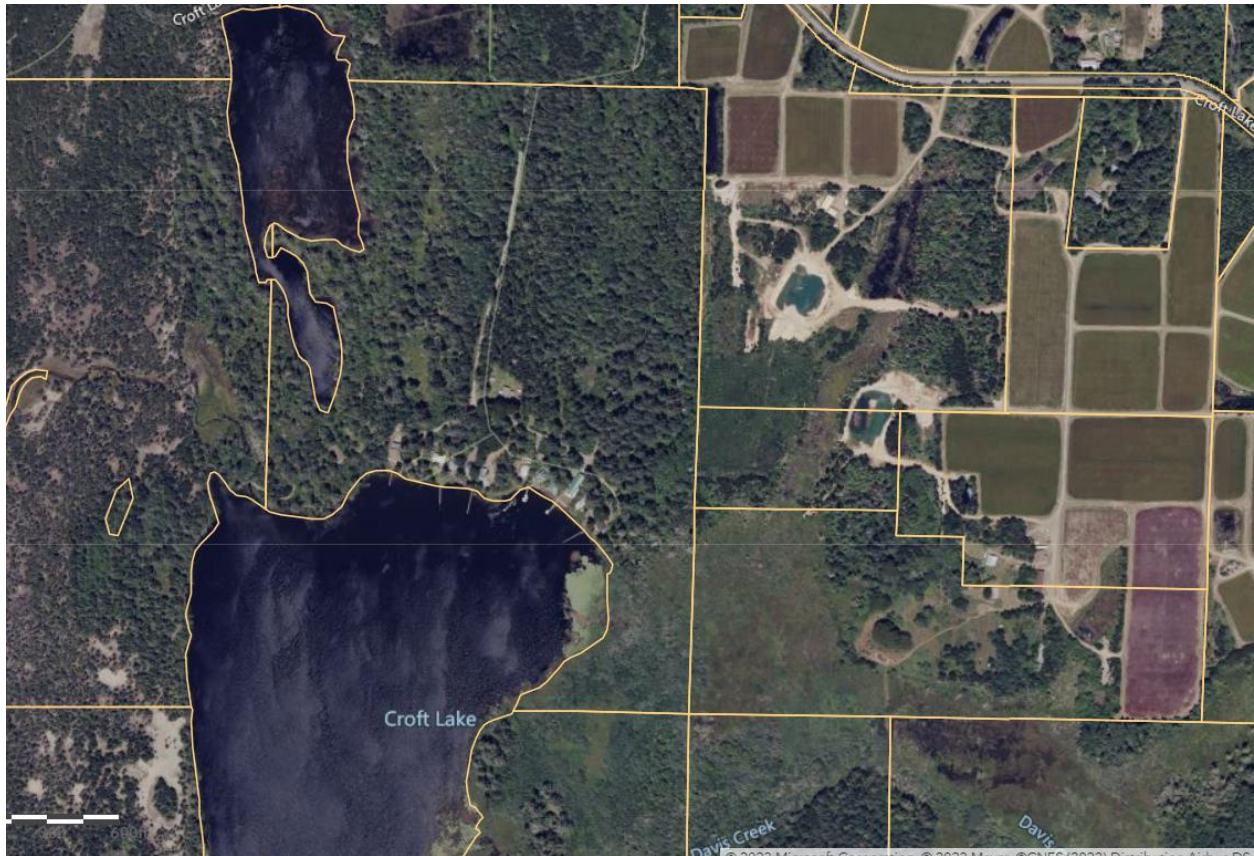
As used in this Section, alteration of a nonconforming use includes:

- 1. A change in the use of no greater adverse impact to the neighborhood; and*
- 2. A change in the structure or physical improvements of no greater adverse impact to the neighborhood.*

FINDING: The 1980 structure (Manufactured Dwelling) in question is part of the Croft Lake Club. There have been a few slight name changes throughout the decades since planning regulations were established in Coos County. There also have been individuals' names added and removed to the

property records. However, overall, the property has been operated as a private recreational lake club association since 1970. The club association consists of 12 individual cabins sited on the northeast shore of Croft Lake. There is a caretaker's residence (Manufactured Dwelling to be replaced) located directly north of these cabins. The caretaker's residence abuts the main access road to these cabins.

The request is replacing the existing 1800 sq ft Manufactured Dwelling with a new 1400 sq ft Manufactured Dwelling in the same development footprint.



While there isn't a specific definition of neighborhood staff has looked a adjacent land uses to answer the question if there will be any structure or physical improvements of no greater adverse impact to the neighborhood. The aerial image above shows the development on the subject property is concentrated in the northeast portion of the Croft Lake. The closest structural development to the property lines to the east are more than 350 feet away.

The overall 'neighborhood' consists cranberry (agricultural) farms towards the northeast and vacant treed cover lands to the north and northwest. These cranberry bogs are located approximately ¼ mile from the proposed replacement dwelling. There are other pasture lands (agricultural) located approximately ½ mile southeast of the proposed replacement dwelling. There are scattered timber stands located in this area. There are minor estuary shorelands located approximately ½ mile west of the proposed replacement dwelling.

The fact that the dwelling is proposed to be replaced in the same location and is smaller than the existing dwelling means that there will be no impact.

○ **SECTION 5.6.110 INTERRUPTION OR ABANDONMENT OF NONCONFORMING USES:**

A non-conforming use or activity may not be resumed if it was subject to interruption or abandonment for more than one (1) year unless the resumed use conforms to the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

FINDING: The use has not been abandoned. The overall subject property has been managed as a private recreational lake club for the past 50 years. The club consists of 12 individual cabins that abut the lake. These cabins are seasonal in use. The proposal is replacing the existing caretaker's residence (Manufactured Dwelling). According to the club, the caretaker's residence is resided in full-time to provide security and basic maintenance of the property. Therefore, this criterion has been addressed.

○ **SECTION 5.6.120 ALTERATIONS, REPAIRS OR VERIFICATION:**

Alterations, repairs or verification of a nonconforming use requires filing an application for a conditional use (See CCZLDO Article 5.2). All such applications shall be subject to the provisions of Section 5.6.125 of this ordinance and consistent with the intent of ORS 215.130(5)- (8). Alteration of any nonconforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. The County shall not condition an approval of a land use application when the alteration is necessary to comply with State or local health or safety requirements, or to maintain in good repair the existing structures associated with the use.

FINDING: This review is a conditional use request and is consistent with ORS 215.130. This is for a replacement (alteration) of an existing dwelling. The conditional was submitted to request a determination. Therefore, the criteria has been addressed.

○ **SECTION 5.6.125 CRITERIA FOR DECISION:**

When evaluating a conditional use application for alteration or repair of a nonconforming use, the following criteria shall apply:

- 1. The change in the use will be of no greater adverse impact to the neighborhood;*
- 2. The change in a structure or physical improvements will cause no greater adverse impact to the neighborhood; and*
- 3. Other provisions of this ordinance, such as property development standards, are met.*

For the purpose of verifying a nonconforming use, an applicant shall provide evidence establishing the existence, continuity, nature and extent of the nonconforming use for the 10-year period immediately preceding the date of the application, and that the nonconforming use was lawful at the time the zoning ordinance or regulation went into effect. Such evidence shall create a rebuttable presumption that the nonconforming use lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of the application.

FINDING: The 1980 structure is part of the Croft Lake Club. There have been a few slight name changes throughout the decades since planning regulations were established in Coos County. There also have been individuals' names added and removed to the property records. However, overall, the property has been an operated as private recreational lake club association since 1970. The club association consists of 12 individual cabins sited on the northeast shore of Croft Lake. There is a caretaker's residence located directly north of these cabins. The caretaker's residence abuts the main access road to these cabins.

The request is replacing the existing 1800 sq ft Manufactured Dwelling with a new 1400 sq ft Manufactured Dwelling in the same development footprint. The overall ‘neighborhood’ consists mostly of adjacent cranberry (agricultural) uses towards the northeast. These cranberry bogs are located approximately ¼ mile from the proposed replacement dwelling. There are other pasture lands (agricultural) located approximately ½ mile southeast of the proposed replacement dwelling. There are scatter timber stands located in this area. However, these stands do not appear to be part of any commercial forest operations. There is minor estuary shorelands located approximately ½ mile west of the proposed replacement dwelling.

Staff finds that replacement of this non-conforming use will not negatively impact the surrounding neighborhood given the distance from important agricultural resource production lands, the distance from any substantial commercial forest lands, and the replacement dwelling will be in the same location and of a smaller building footprint in size.

The existing dwelling is located within the Rural Residential-5 portion of the subject property. There are no additional siting standards that apply beyond the special development considerations.

- **ARTICLE 4.11 SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS**

- **SECTION 4.11.100 Purpose:**

The purpose of this Article is to prescribe special regulations for the use and development of lands situated within resource or hazard areas identified on the Plan Maps for Volume I (Balance of County¹).

- **SECTION 4.11.110 Priority of Restrictions:**

When the restrictions imposed by the provisions of an overlay or special development consideration pertaining to a property is found to be in conflict with the primary zone the more restrictive provisions shall govern.

- **SECTION 4.11.125 Special Development Considerations:**

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

FINDING: This property has a list of Special Development Considerations and Overlays list. The list includes Archaeological Resources, Coast Shoreland Boundary, Brid Site (Goal 5c), Beaches and Dunes with Limited Development Suitability, Wind Erosion, Wetlands, Landslide and Floodplain. In order to determine what development consideration and overlays applies the inventory maps are required to be reviewed.

- **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

¹ Zoning is broke up by three comprehensive plan references which included 2 estuary plans (Coos Bay and Coquille) and then the rest of the zoning referred to as the Balance of County Zoning.

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.

4.11.128 Historical, Cultural and Archaeological Resources, Natural Areas and Wilderness (Balance of County Policy 5.7)

The Historical/Archeological maps have inventoried the following:

- Historical;
- Area of Archaeological Concern;
- Botanical; and
- Geological Resources.

Purpose Statement:

Coos County shall manage its historical, cultural and archaeological areas, sites, structures and objects so as to preserve their original resource value. This strategy recognizes that preservation of significant historical, cultural and archaeological resources is necessary to sustain the County's cultural heritage.

- a. Historical Structures: ***** There are no Historical Structures Identified.
- b. Areas of Archaeological Concern: Coos County shall continue to refrain from wide-spread dissemination of site-specific inventory information concerning identified archaeological sites. Rather, Coos County shall manage development in these areas so as to preserve their value as archaeological resources.
 - i. This strategy shall be implemented by requiring development proposals to be accompanied by documentation that the proposed project would not adversely impact the historical and archaeological values of the project's site. "Sufficient documentation" shall be a letter from a qualified archaeologist/historian and/or a duly authorized representative of a local Indian tribe(s).
 - ii. Properties which have been determined to have an "archaeological site" location must comply with the following steps prior to issuance of a "Zoning compliance Letter" for building and/or septic permits.
 - 1) The County Planning Department shall make initial contact with the Tribe(s) for determination of an archaeological site(s). The following information shall be provided by the property owner/agent:
 - a) Plot plan showing exact location of excavation, clearing, and development, and where the access to the property is located;
 - b) Township, range, section and tax lot(s) numbers; and
 - c) Specific directions to the property.

- 2) The Planning Department will forward the above information including a request for response to the appropriate tribe(s).
- 3) The Tribe(s) will review the proposal and respond in writing within 30 days to the Planning Department with a copy to the property owner/agent.
- 4) It is the responsibility of the property owner/agent to contact the Planning Department in order to proceed in obtaining a "Zoning Compliance Letter" (ZCL) or to obtain further instruction on other issues pertaining to their request.

FINDING: Notice was provided to local tribe and the response was received. The response will be made a condition of approval:

*“ Due to the close proximity to known cultural resources, we request a cultural resources monitor to be present during all ground disturbance. Please contact our office at (541) 808-5554 to schedule a Cultural Resource Monitor to be on site during all ground-disturbing activities. Please schedule the monitor a **minimum of 72 hours** in advance of anticipated project start time.”*

Therefore, this criterion has been addressed.

- **4.11.129 Beaches and Dunes (Policy 5.10)**



The golden/yellow color indicates Beaches and Dunes with Limited Development Suitability

The Beaches and Dunes map has inventoried the following:

- *Beaches and Dunes*

- Suitable for most uses; few or no constraints (Does not require a review)
- Limited Suitability; special measures required for most development
- Not Suitable for Residential, commercial or Industrial Structures

Purpose Statement:

Coos County shall base policy decisions for dunes on the boundaries for these areas as identified on the plan map titled “Development Potential within Ocean Shorelands and Dunes” and the boundaries delineates following specific areas "Suitable", "Limited Suitability" and "Not Suitable" areas of development potential.

- a. *Limited Suitability: “Beach and Dune Areas with Limited Development Suitability” includes all dune forms except older stabilized dunes, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding.*

The measures prescribed in this policy are specifically required by Statewide Planning Goal #18 for the above-referenced dune forms; and that this strategy recognizes that designated mitigation sites must be protected from other uses.

Implementation shall occur through an Administrative Conditional Use process, which shall include submission of a site investigation report that addresses this subsection, by a qualified registered and licensed geologist or engineer.

- i. *Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" only upon the establishment of findings that consider at least:*
 - a) *The type of use proposed and the adverse effects it might have on the site and adjacent areas;*

FINDING: The applicant submitted a geological report, signed and stamped by CEG Eric Oberbeck, and produced by Cascadia Geoservices. The report addresses the site and found that the existing home which was lawfully sited as a non-conforming use and has not had an adverse effect on the site show to date and based on the fact that the proposal is to replace in the same footprint using the same services with a smaller dwelling there be no adversely affect to the site. The existing mobile home was sited with other small cabins on the north bank of Croft Lake for seasonal recreational use.

- b) *The need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;*

FINDING: The applicant’s geological report states the following: *“It is further our opinion that, because the area is level and the site around the structure is covered in dense grass, the need for permanent vegetative stabilization is not necessary. We further understand that replacing the existing structure will not involve any leveling or filling of the site. We note that the site is 400 feet north of Croft Lake and that the first 200 feet south of the site are level. In the event that there is a need for temporary stabilization during siting of the new structure, erosion and sediment control measures will be implemented in accordance with DEQ’s Best Management Practices.”* Staff finds that the area is already vegetated with maintained grass and the proposal is to replace the dwelling in the same building footprint location. The grass will need to be maintained as part of the fuel break requirements.

- c) *The need for methods for protecting the surrounding area from any adverse effects of the development; and*

FINDING: The applicant's geological report states the following: *"Further, we see no adverse effects from the development that would require the need to implement methods for protecting the surrounding area. As stated, the surrounding area is densely vegetated. The adjoining area to the east has been identified by National Wetland Inventory mapping as Palustrine System (PFOB), or forested, where soils are saturated at or near the surface for extended periods during the growing season. We note that there are no plans to develop or to disturb this area."*

Staff finds the area is historically developed. The applicant did not indicate a specific plan for removal of the manufactured home and replacement. The dwelling is required to be removed or demolished within 90 days of occupancy of the new Dwelling. If the access road needs to be brushed or widened in order transport a manufactured home, then Staff finds that the removal of vegetation or road improvement will have a greater positive effect in reducing/minimizes fire danger in a Forest zone over having a negative effect by removing vegetation in a Beaches and Dunes special development consideration zone.

- d) *Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.*

FINDING: The applicant's geological report states the following: *"[a]nd we see no hazards to life, public and private property, and the natural environment which may be caused by the proposed use. ***residential developments such as this, are beneficial in that the occupants control the spread of noxious weeds, provide monitoring, and implement proactive fire-control measures."*

Staff accepts the finding that there will be no hazards to live, public or private property from the replacement of this dwelling with a smaller dwelling.

- ii. *Further, Coos County shall cooperate with affected local, state and federal agencies to protect the groundwater from drawdown, which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies. Coos County shall cooperate with state and federal agencies in regulating the following actions in the beach and dune areas with limited development potential:*
- a) *Destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage);*
 - b) *The exposure of stable and conditionally stable areas to erosion;*
 - c) *Construction of shore structures which modify current air wave patterns leading to beach erosion; and*

Any other development actions with potential adverse impacts.

FINDING: Coos County, throughout the land use ordinance and other coordination, cooperates with other affected local, state, and federal agencies regarding protection of desirable vegetation and protection of maintaining stabilize dunes to prevent erosion. Therefore, these criteria have been addressed.


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

FINDING: Based on the map below, the proposed replacement dwelling is outside the Coastal Shoreland Boundary. Therefore, this criterion is not applicable.



Base map provided by: ESRI

Prepared for Coos County Planning Department

	Project: 22083	Site Map 86438 Croft Lake LN Bandon OR 97411 30S15W11N Parcel No 1300	Figure 2
	January, 2023		

- **4.11.131 Significant Wildlife Habitat (Balance of County Policy 5.6)**

The Fish & Wildlife Habitat Map I (1985 Ordinance 85-08-011L) has inventoried the following:

*The Fish & Wildlife Habitat Map II has inventoried the following:****

- Wetlands

The following shall be considered "5c" Goal #5 resources (pursuant to OAR 660-16-000) the following:

- "Sensitive Big-game Range"
- Salmonid Spawning and Rearing Areas
- Bird Habitat Sites (listed in the following table)

*The following bird habitat areas that are considered Goal #5 "5c" resources:****

Uses and activities deemed compatible with the objective of providing adequate protection for all identified Statewide Planning Goal 5 resources are all uses and activities allowed, or conditionally allowed by the Zoning and Land Development Ordinance, except that special care must be taken when developing property adjacent to salmonid spawning and rearing areas so as to avoid to the greatest practical extent the unnecessary destruction of riparian vegetation that may exist along stream banks. The Oregon Forest Practices Act is deemed adequate protection against adverse impacts from timber management practices.

a. 5c Bird Sites protection shall be implemented by:

- i. County reliance upon the Oregon Department of Forestry and Oregon Department of fish and Wildlife insuring adequate protection of "5c" bird sites from possible adverse impacts of timber management practices thru the Forest Practices Act;*
- ii. Use of the Fish and Wildlife Plan Maps and detailed inventories above to identify "5c" bird sites subject to special protection;*
- iii. For "5c" bird site protection, stipulating in the Zoning and Land Development Ordinance that conflicting uses shall be reviewed by the Oregon Department of Fish and Wildlife to determine that any proposed use is not expected to produce significant and unacceptable environmental impacts on any of the "5c" bird sites; and*
- iv. Stipulating on County Zoning Clearance Letters that establishment of conflicting uses adjacent to "5c" bird sites shall be permitted only pursuant to the provisions of this policy.*
- v. Coos County shall require a location map for any development activity with the exception of grazing within its regulatory scope that is determined to be within a "5c" bird habitat. The location map shall be referred to the Oregon Department of Fish and Wildlife requesting an opinion within 10 days as to whether the*

development is likely to produce significant and unacceptable impacts upon the "5c" resource, and what safeguards it would recommend to protect the resource. If ODFW's determinations the development will impact the "5c" bird habitat a conditional use will be required by the applicant. ODFW's and the applicants findings will be reviewed based upon sound principles of conservation and appropriate balancing of the ESEE consequences so if conflicting uses are allowed the resource site is protected to some extent. The ACU will be processed pursuant to Article 5.0. If ODFW's determination does not show any impacts then a zoning compliance letter may be issued if the use is permitted or has completed a conditional use process.

FINDING: The wetlands were only those found on the National Wetland Maps and notice was provided to Department of State Lands. A notice of potential bird site request for comments was also provided to Oregon Department of Fish and Wildlife. This addresses the policy and not changes to the plans were required.

- **4.11.132 Natural Hazards (Balance of County Policy 5.11)**

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.

- Flooding: Coos County shall promote protection of valued property from risks associated with river and coastal flooding along waterways in the County through the establishment of a floodplain overlay zone (/FP) that conforms to the requirements for participation in the National Flood Insurance Program. See Sections 4.11.211-257 for the requirements of this overlay zone. See Sections 4.11.211-257 for the requirements of this overlay zone.*

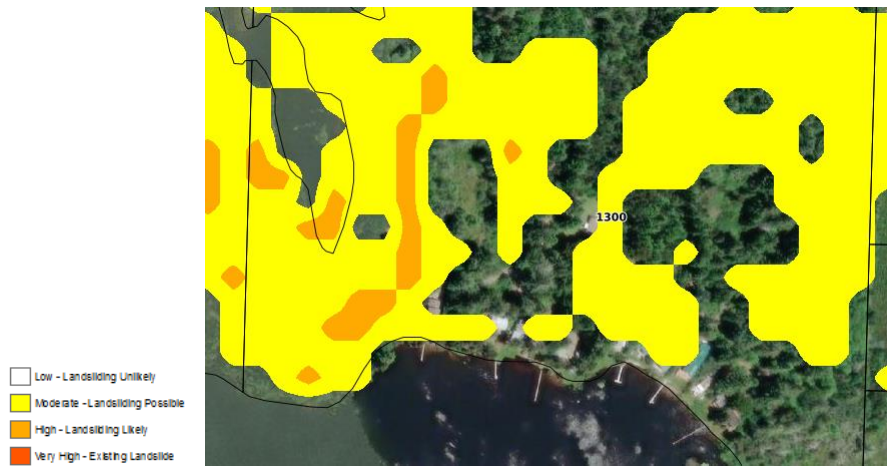
FINDING: This is addressed after this section but the dwelling is outside of the mapped flooding hazard.

- 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.”

FINDING: Based on the map below, the proposed replacement dwelling is outside the Landslides. Therefore, this criterion is not applicable.



b. *Tsunamis: Coos County shall promote increased resilience to a potentially catastrophic Cascadia Subduction Zone (CSZ) tsunami through the establishment of a Tsunami Hazard Overlay Zone (THO) in the Balance of County Zoning. See Sections 4.11.260-4.11.270 for the requirements of this overlay zone.*

FINDING: Single family dwellings are not subject to review under the Tsunamis polices.

c. *Reserved.*

d. *Erosion: Coos County shall promote protection of property from risks associated with shoreline, headland, and wind erosion and deposition hazards.*

Coos County shall promote protection of property from risks associated with bank erosion along rivers and streams through necessary erosion-control and stabilization measures, preferring non-structural solutions when practical.

Any proposed structural development within a wind erosion/deposition area, within 100 feet of a designated bank erosion area, or on a parcel subject to wave attack, including all oceanfront lots, will be subject to a geologic assessment review as set out in Section 4.11.150. There is a setback of 100 feet from any rivers or streams that have been inventoried in the erosion layer. If a variance is requested, a geologic assessment will be required.

FINDING: This area is not in the mapped erosion area and is more than 100 feet away from any waterway.

- *OVERLAY ZONE: FLOODPLAIN*
- *DESIGNATION: /FP*
- *SECTION 4.11.211 AUTHORIZATION*

The State of Oregon has been delegated the responsibility through local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Coos County does ordain as follows:

FINDING: Based on the map below, the proposed replacement dwelling is located outside of the mapped Floodplain. Therefore, this criterion is not applicable.



VI. DECISION:

There is evidence to adequately address the criteria for an alteration of the nonconforming use, therefore, this request has been approved. There are conditions that apply to this use that can be found at Exhibit “A”.

VII. NOTICE REQUIREMENTS:

A notice of decision will be provided to property owners within 250 feet of the subject properties and the following agencies, special district or parties:

DLCD
Bandon Rural Fire Protection District

Planning Commission
Board of Commissioner