



# 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  
225 N. Adams St.  
Coquille, OR 97423  
<http://www.co.coos.or.us/>  
Phone: 541-396-7770  
Fax: 541-396-1022

This decision notice is required to be sent to the property owner(s), applicant(s), adjacent property owners (distance of notice is determined by zone area – Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, agencies with interest, or person that has requested notice. (See attached vicinity map for the location of the subject property).

Date of Notice: Wednesday, November 22, 2023  
File No: ACU-23-041  
Proposal: Request for Deferred Replacement of a Lawfully Established Dwelling  
Applicant(s): ARD Services, LLC  
Staff Planner: Crystal Orr, Associated 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, December 07, 2023**. Appeals are based on the applicable land use criteria. The proposal is subject to the following criteria: Deferred Replacement dwelling criteria in the Exclusive Farm Use Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.6.200.21.b Deferred Replacement of a Lawfully Established Dwelling subject to: § 4.6.200(21. b) Alteration, Restoration, or Replacement of a Lawfully Established Dwelling (Deferred Replacement), Subject to a Conditional Use and Review Standards (8), (30) and §4.6.210 Development and Siting Criteria. This proposal is not subject to review under Natural Hazards. **Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information, please contact the staff planner listed in this notice**

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### **Subject Property Information**

Account Number: 1106901  
Map Number: 29S113600-00300  
Property Owner: ARD SERVICES LLC  
37385 JASPER LOWELL RD  
JASPER, OR 97431-9758  
Situs Address: 20191 HIGHWAY 42 MYRTLE POINT, OR 97458  
Acreage: 110.28 Acres  
Zoning: EXCLUSIVE FARM USE (EFU)  
FOREST (F)  
Special Development Considerations and overlays: ARCHAEOLOGICAL AREAS (ARC)  
BIRD SITE MEETS GOAL 5C REQRMT (B5C)  
FOREST MIXED USE (MU)

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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

This notice shall be posted from November 22, 2023 to December 7, 2023

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 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: *Crystal Orr* Date: Wednesday, November 22, 2023  
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 D: Comments

## **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**

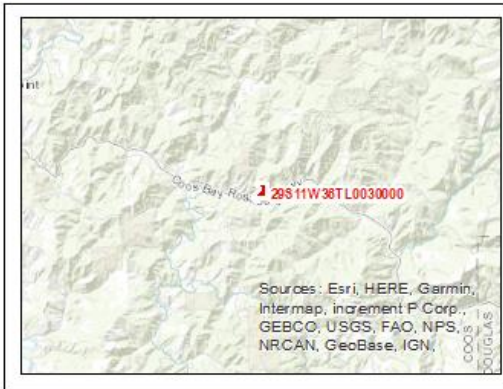
1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If there were comments from any other agency were provided as part of this review, it is the responsibility of the property owner to comply.
2. This approval cannot be transferred by sale or otherwise, except by the applicant (property owners) to the spouse or a child of the applicant. However, once the dwelling is constructed then the permit is considered completed and can be sold.
3. Must comply with any comments received by the local tribes or Oregon Department of Fish & Wildlife.
4. Pursuant to CCZLDO § 5.9.100, a Zoning Compliance Letter shall be required prior to the commencement of construction of the proposed dwelling. This will be issued after all the following conditions have been satisfied.
  - a. Shall acknowledge and file in the deed records of Coos County, a Farm Practices Management Easement.
  - b. 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.
  - c. A Road/Driveway application shall be submitted and paid for; the driveway confirmation is required to be signed off by the Coos County Road Department is required prior to siting a new dwelling to ensure compliance with Chapter VII of the CCZLDO.

**EXHIBIT "B"**  
**Vicinity Map & Plot Plan**



**COOS COUNTY PLANNING DEPARTMENT**

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



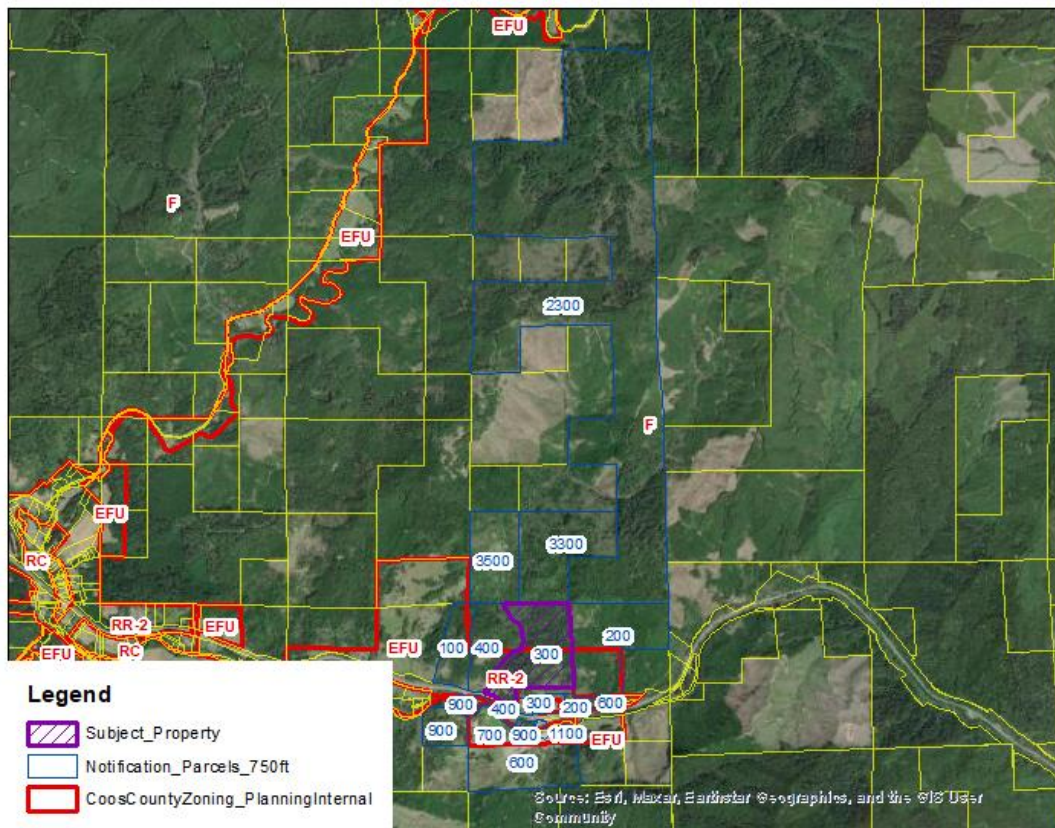
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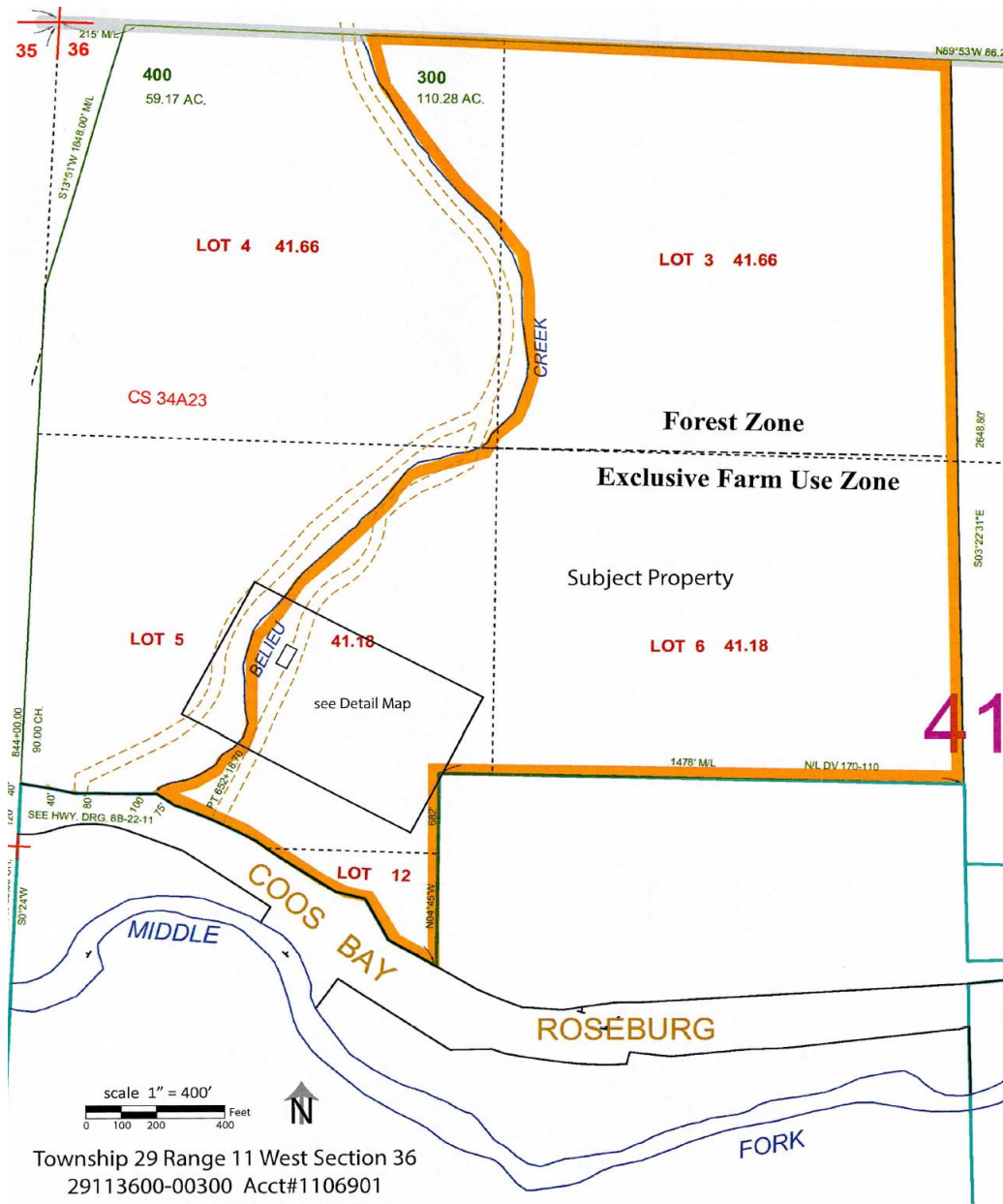
Applicant/  
 Owner: ARD Services LLC

Date: November 21, 2023

Location: Township 29S Range 11W  
 Section 36 TL 300

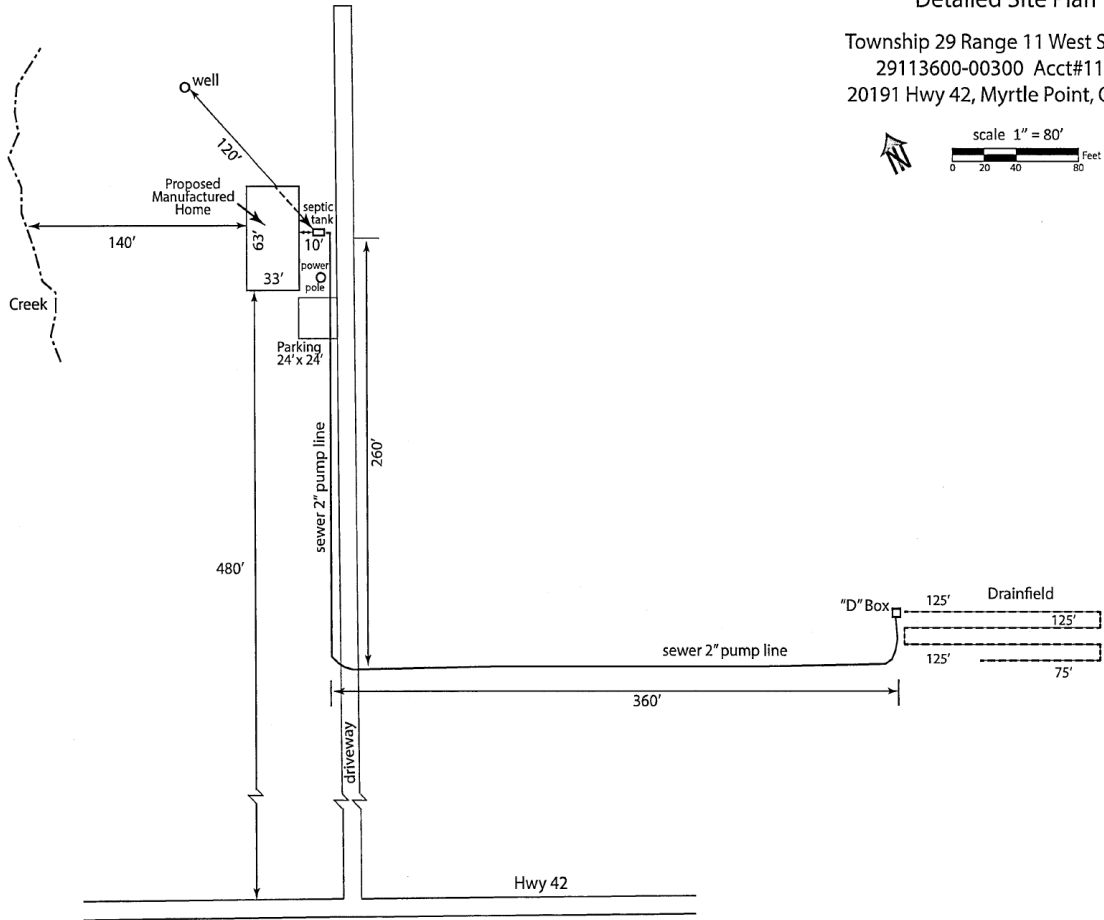
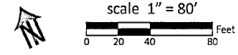
Proposal: Administrative Conditional Use





Detailed Site Plan

Township 29 Range 11 West Section 36  
29113600-00300 Acct#1106901  
20191 Hwy 42, Myrtle Point, OR 97458



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

**I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION:**

- A. PROPOSAL:** The applicants propose to site a Single-Family Dwelling through the Deferred Replacement process.
- B. BACKGROUND/PROEPRTY HISTORY:** The property had an existing dwelling that was destroyed by fire in 1994. On April 25, 1994 a Zoning Compliance Letter (ZCL-94-279) was issued to allow a Manufactured Dwelling to be sited to replace the burned dwelling. On September 3, 2014 a Zoning Compliance Letter was issued (ZCL-14-233) to allow the Manufactured Dwelling to be replaced with a new Manufactured Dwelling. A Manufactured Dwelling was sited and received a Final Occupancy Permit from the Building Department.

**II. BASIC FINDINGS:**

- A. LOCATION:** The subject property is located southeast of the City of Myrtle Point off of Oregon State Highway 42. The property has a situs address of 20191 Highway 42.
- B. ZONING:** - This property is split zoned Exclusive Farm Use (EFU) and Forest (F).

**ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

**SECTION 4.2.500 RESOURCE ZONES**

*Exclusive Farm Use (EFU)*

*These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.*

*The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.*

*According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the “Agricultural Lands Inventory” was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:*

*Committed rural residential areas and urban growth areas.*

*Proposed rural residential areas as per the Exception to Goals #3 and #4.*

*Proposed industrial/commercial sites.*

*Existing recreation areas (e.g., golf courses) [Recreation designation]*

*Isolated parcels of Class I-IV soils in upland areas, which are under, forest cover. (Forestlands designation).*

*Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].*

*The secondary criterion for establishing the “Agricultural Lands Inventory” was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed-Use Overlay.*

*Forest (F): The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to beneeded (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.*

**C. SPEICAL DEVELOPMENT CONSIDERATIONS AND OVERALYS:**

*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 has Archaeological Areas of Interest and Bird Site 5C as Special Development Considerations. Archaeological Areas of Interest requires Staff to send a request for comments to the local tribes. Request for comments were sent to both agencies, a response was received from the Coquille Indian Tribe and can be found within Exhibit D. If comments are received from Oregon Department of Fish & Wildlife the recommendations must be followed.

- D. SITE DESCRIPTION AND SURROUNDING USES:** The subject property is split zoned Exclusive Farm Use (EFU) and Forest (F) and contains approximately 110.28 acres. The proposed replacement dwelling is located with the Exclusive Farm Use (EFU) portion of the property. The property abuts Oregon State Highway 42 to the south. The north portion of the property is zoned Forest (F) and the south portion of the property is zoned Exclusive Farm Use (EFU). The applying parcel appears to be using the property for forest production. The surrounding parcels appear to be using their properties for small farm residential and forest production.
- E. COMMENTS:** This property requires a request for comments from the local tribe, the Coquille Indian Tribe commented that due to the close proximity of known cultural resources they request a cultural resource monitor be present during all ground disturbing activities. The full comments can be found in Exhibit D.
- F. LAWFULLY CREATED UNIT OF LAND:** The unit of land was created pursuant to 6.1.125.1.e by deed or land sales contract, if there were no applicable planning, zoning,

or subdivision or partition ordinances or regulations that prohibited the creation. Prior to 1986 properties were allowed to be created by deed or sale agreement and this property was created prior to 1986, *see* Deed Document 79-66181.

### **III. STAFF FINDINGS AND CONCLUSIONS:**

#### **a. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:**

Deferred Replacement dwelling criteria in the Exclusive Farm Use Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.6.200.21.b Deferred Replacement of a Lawfully Established Dwelling subject to: § 4.6.200(21. b) Alteration, Restoration, or Replacement of a Lawfully Established Dwelling (Deferred Replacement), Subject to a Conditional Use and Review Standards (8) and (30) and §4.6.210 Development and Siting Criteria.

#### **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.*

#### **• SECTION 4.6.200 PERMITTED OR USES SUBJECT TO CONDITIONAL USE: THE FOLLOWING USES MAY BE ALLOWED WITH CONDITIONS OF APPROVAL ON EXCLUSIVE FARM USE LANDS SUBJECT TO THE REVIEW IDENTIFIED IN THE USE TABLE FOR EXCLUSIVE FARM USE ARE LISTED AS PART OF THE USE:**

*21.b Alteration, Restoration, or Replacement of a Lawfully Established Dwelling (Deferred Replacement).*

*(8) Replacement Dwelling - Dwelling that no longer meets replacement criteria as described in subsection (8)(a)(A)(i) through (iv) of this section. This determination meets the requirements for a land use decision and shall reviewed as an Administrative Conditional Use (ACU).*

*(b) For replacement of a lawfully established dwelling under this section:*

*(A) or replaced under ORS 215.283 if the county determines that:*

*(i) The dwelling to be altered, restored or replaced has, or formerly had:*

*(1) Intact exterior walls and roof structure;*

*(2) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;*

- (3) *Interior wiring for interior lights; and*
  - (4) *A heating system; and*
- (ii)(1) *If the dwelling was removed, destroyed or demolished:*
- (a) *The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and*
  - (b) *Any removal, destruction or demolition occurred on or after January 1, 1973;*
- (2) *If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or*
- (3) *A dwelling not described in subparagraph (A)(i)(1) or (A)(i)(2) of this subsection was assessed as a dwelling for purposes of ad valorem taxation:*
- (i) *For the previous five property tax years; or*
  - (ii) *From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.*
- (B) *For deferred replacement of a lawfully established dwelling under this section:*
- (i) *The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:*
    - (a) *Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or*
    - (b) *If the dwelling to be replaced is, in the discretion of the county, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the county that is not less than 90 days after the replacement permit is issued.*
  - (ii) *The replacement dwelling:*
    - (a) *May be sited on any part of the same lot or parcel.*
    - (b) *Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.*
  - (iii) *As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.*
  - (iv) *Notwithstanding subsection (B)(ii)(a) of this section, a replacement dwelling:*
    - (a) *Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and*
    - (b) *If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.*
  - (v) *The county planning director, or the director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection (B) of this section, including a copy of the deed restrictions filed under subsection (B)(iii) of this section.*
  - (vi) *If an applicant is granted a deferred replacement permit under this section:*

- (a) *The deferred replacement permit:*
  - 1. *Does not expire but, notwithstanding subsection (B)(i)(1) of this section, the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and*
  - 2. *May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.*
- (b) *The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.*

*(30)The County governing body or its designate shall require as a condition of approval of a single-family dwelling under 215.283 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 30.936 or 30.937.*

**FINDING:** **The property contained a Lawfully Established Dwelling that was sited in 2014 (Planning Zoning Compliance ZCL-14-233 & Building Codes permit file number 194-MH14CO0028) that was removed from the property between 2015 and 2021. The aerial photos from 2015 show a dwelling, and in 2021 the aerial photos show that the dwelling was no longer located on the property.**

**The dwelling formerly had intact exterior walls and roof, indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a septic system, interior wiring and a heating system according to the applicant. Staff concurs with this statement as the dwelling received a final occupancy permit.**

**The dwellings tax lot does not have a lien for delinquent taxes and the dwelling was removed between 2015 and 2021, which is after the January 1, 1973 date required for approval.**

**The dwelling will be sited in the vicinity of the destroyed dwelling according to the plot plan, which is within the Exclusive Farm Use (EFU) portion of the property.**

**This permit does not expire. This approval cannot be transferred by sale or otherwise, except by the applicant (property owners) to the spouse or a child of the applicant. However, once the dwelling is constructed then the permit is considered completed and can be sold.**

**This approval has been conditioned to require the property owners 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. Therefore, once the conditions of approval have been completed the request will meet the criteria.**

- **SECTION 4.6.210 DEVELOPMENT AND SITING CRITERIA:**

*Development Standards All dwellings and structures approved shall be sited in accordance with this section.*

1. *Minimum Lot Size: The minimum parcel size shall be at least 80 acres. Land divisions involving a house that existed prior to June 1, 1995 see § 4.6.210(5)(a). For land divisions where all resulting parcels are at least 80 acres, a conditional use is not required. However, the applicable standards in Chapter VI must be met. [OR96-06-007PL 9/4/96]*

*New lots or parcels for dwellings not in conjunction with farm use may be allowed when the requirements of §4.6.210(3), §4.6.210(4)(a or b) and § 4.6.210(5) are met. In addition, the creation of new parcels for nonfarm uses may be allowed only when such new parcel is the minimum size needed to accommodate the use in a manner consistent with other provisions of the Ordinance.*

*The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.*

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

1. *Setbacks*

- a. *Road: All buildings or structures with the exception of fences shall be setback 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.*
- b. *Firebreak: 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 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.*

**FINDING: The submitted plot plan is very detailed and shows all setbacks will be met.**

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

3. *Structure Height: Farm-related structures are exempt from height limits unless subject to Airport Overlay zone or Urban Growth Boundary requirements.*

4. *Lot Coverage: No requirements.*

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

5. *Fences, Hedges and Walls: No requirement except for vision clearance provisions of §7.1.525 apply.*

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

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

6. *Off-street parking and Loading: See Chapter VII.*

**FINDING:** A Road/ Driveway Access application was not received, as a condition of approval a driveway application must be submitted and signed off by the Coos County Road Department prior to issuance of a Zoning Compliance Letter for development.

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

7. *Minimum Road Frontage/Lot Width unless waived by the Planning Director in consultation with the County Surveyor due to creating an unsafe or irregular configuration:*

- a. *Within UGB's – 50 feet*
- b. *Outside UGB's – 20 feet*

8. *Access: Access to new dwellings shall meet road design standards in Chapter VII.*

**FINDING:** A Road/ Driveway Access application was not received, as a condition of approval a driveway application must be submitted and signed off by the Coos County Road Department prior to issuance of a Zoning Compliance Letter for development.

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

9. *Minimizing Impacts: in order to minimize the impacts of dwellings in agricultural lands, all applicants requesting a nonfarm dwelling shall acknowledge and file in the deed records of Coos County, a Farm Practices Management Easement. The Farm Practices Easement shall be recorded in the deed records of the county prior to any final county approval for a single-family dwelling. [OR96-06-007PL 9/4/96]*

**FINDING:** This requirement has been made a condition of approval.

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

- a. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
- b. *Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
- c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
- d. *Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;*
- e. *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;*
- f. *Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does*

*not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps; or*

- g. The 50-foot riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure's "footprint".*
- h. Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.*
- i. The 50' measurement shall be taken from the closest point of the ordinary high-water mark to the structure using a right angle from the ordinary high-water mark.*

**FINDING: The dwelling will be located at least 50 feet from any identified wetland, stream, lake or river.**

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

## **VI. DECISION:**

There is evidence to adequately address the criteria for a Deferred Replacement Dwelling; therefore, this request has been approved. There are conditions that apply to this use that can be found at Exhibit "A".

## **VII. EXPIRATION AND EXTENSION OF CONDITIONAL USES:**

- (1) Permits approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit is valid for four years.*
  - a. Extensions for Residential Development as provided for under ORS 215.213 (3) and (4), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3) shall be granted as follows:*
    - i. First Extension - An extension of a permit for "residential development" as described in Subsection (1) above is valid for two (2) years.*
      - 1. The applicant shall submit an application requesting an extension to the County Planning Department prior to expiration of the final decision. See Section 5.0.250 for time lines for final decisions. Untimely extension requests will not be processed.*
      - 2. Upon the Planning Department receiving the applicable application and fee, staff shall verify that the application was received within the deadline and if so, issue an extension.*
      - 3. An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*
    - ii. Additional Extensions-A County may approve no more than five additional one-year extensions of a permit if:*
      - 1. The applicant submits an application requesting the additional extension prior to the expiration of a previous extension;*
      - 2. The applicable residential development statute has not been amended following the approval of the permit; and*
      - 3. An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which*

*may require that the applicant comply with the amended rule or land use regulation.*

4. *An extension of a permit as described in this section is not a land use decision as defined in ORS 197.015.*

**This Conditional Use does not expire. This approval cannot be transferred by sale or otherwise, except by the applicant (property owners) to the spouse or a child of the applicant.**

#### **VIII. NOTICE REQUIREMENTS:**

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

A notice of decision and staff report will be provided to:

Department of Land Conservation and Development, Planning Commission, Board of Commissioners

## EXHIBIT "D" COMMENTS

CRT23171



## COQUILLE INDIAN TRIBE

3050 Tremont Ave. North Bend, OR 97459  
Telephone: (541) 756-0904 ~ Fax: (541) 756-0847  
[www.coquilletribe.org](http://www.coquilletribe.org)

August 14, 2023

Coos County Planning Department  
Michelle Berglund  
[mberglund@co.coos.or.us](mailto:mberglund@co.coos.or.us)

Re: ACU-23-041

Project location: **address or taxlot**

Thank you for the opportunity to comment on the proposal to build a replacement dwelling at the above referenced location. Our records show known cultural resources within extremely close proximity to the project area.

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.

Please be aware that state statutes and federal law governs how archaeological sites are to be managed. 43 CFR 10 applies on tribal and federal lands, federal projects, federal agencies, as well as to federal actions and federally funded (directly or indirectly) projects. ORS 97.745 prohibits the willful removal, mutilation, defacing, injury, or destruction of any cairn, burial, human remains, funerary objects, or objects of cultural patrimony of a Native Indian. ORS 358.920 prohibits excavation, injury, destruction, or alteration of an archaeological site or object, or removal of an archaeological object from public or *private lands*. If archaeological materials are discovered, uncovered, or disturbed on the property, we will discuss the appropriate actions with all necessary parties. Additionally, ORS 192.345(11) exempts the public disclosure of any information concerning the location of archaeological sites or objects.

Thank you again and feel free to contact me if you have any questions.

Masi (thank you),

*Gabrielle Bratt*

Gabrielle Bratt, M.S.  
Cultural Resources Technician

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ACU-23-041