



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

Date of Notice: **Thursday, May 18, 2023**  
File No(s): ACU-23-014

Proposal: Request for Verification & Alteration of a Non-Conforming Use (Replacement Dwelling)

Property Owner(s): Verl & Joanna Rand

Staff Planner: Crystal Orr, Associate Planner

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Decision: **Approved with Conditions.** All decisions are based on the record. This decision is final and effective at close of the appeal period unless a complete application with the fee is submitted by the Planning Department at 5 p.m. on **Friday, June 02, 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 6.1.125 Lawfully Created Lots or Parcels*. Alteration & Verification of a Nonconforming Use is subject to Coos County Zoning and Land Development (CCZLDO) § *Article 5.6 Nonconforming*. **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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### Property Information

File Number: ACU-23-014

Applicant: Verl & Joanna Rand

Account Number: 513411  
Map Number: 26S1310AB-00100

Property Owner: RAND, VERL A. & JOANNA L.  
63461 SHINGLEHOUSE RD  
COOS BAY, OR 97420-7299

Situs Address: 63459 SHINGLEHOUSE RD COOS BAY, OR 97420  
63461 SHINGLEHOUSE RD COOS BAY, OR 97420

Acreage: 3.07 Acres

Zoning: RURAL RESIDENTIAL-2 (RR-2)

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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 may appeal the decision by filing a written appeal in the manner and within the time period as provided

**Notice shall be posted from May 18, 2023 until 5:00 PM June 2, 2023**

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:** \_\_\_\_\_ **Date:** Thursday, May 18, 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 "A"**

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

#### **CONDITIONS OF APPROVAL**

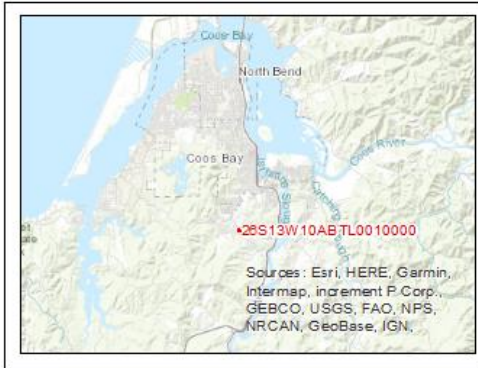
1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If there were comments from any other agency were provided as part of this review, it is the responsibility of the property owner to comply.
2. The property owner is responsible 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.
3. After the appeal period the property owners must submit a letter requesting the Zoning Clearance Letter addressing how they have met the "Conditions of Approval".
4. The Manufactured Dwelling must be sited by March 4, 2024 (one year from the removal) or this approval is void per Coos County Zoning and Land Development Ordinance Section 5.6.110.

**EXHIBIT "B"**  
**VICINITY MAP & PLOT PLAN**

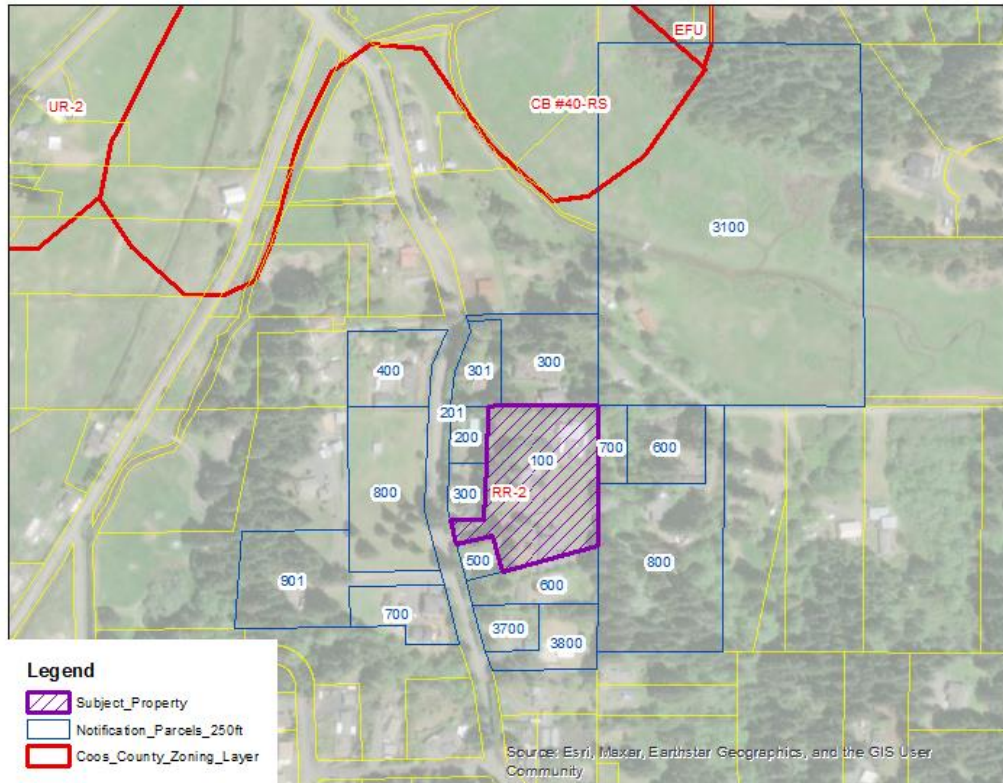


**COOS COUNTY PLANNING DEPARTMENT**

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-23-014  
 Owner: Verl and Joanna Rand  
 Date: April 27, 2023  
 Location: Township 26S Range 13W  
 Section 10AB TL 100  
 Proposal: Administrative Conditional Use





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

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

- A. PROPOSAL:** Request for Planning Director Approval for Verification & Alteration of a Nonconforming Use. The Nonconforming Use for verification is two (2) Single Family Dwellings within the Rural Residential-2 Zone. The Rural Residential zoning allows for one (1) Single Family Dwelling; therefore, this is considered a Nonconforming Use. The proposal includes replacing one (1) of the dwellings, which is considered an Alteration of a Nonconforming Use.
- B. BACKGROUND/PROPERTY HISTORY:** This property currently has a Manufactured Dwelling and two (2) Accessory Structures. The property had a Manufactured Dwelling that was destroyed by fire (Learn to Burn) on March 4, 2023.

On August 21, 1984 a Zoning Clearance Letter (VL-84-440) was issued to allow the construction of a Garage and Storage Shed. The existing improvements at that time state two (2) dwellings, two (2) wells and two (2) septic systems.

On April 15, 1986 a Zoning Clearance Letter (VL-86-98) was issued to allow an Accessory Structure to be sited. The existing improvements at the time state one (1) dwelling.

On March 26, 1990 a Zoning Clearance Letter (VL-90-140) was issued to allow the replacement of one of the existing mobile homes with a new mobile home. The old mobile home will be removed prior to occupation of the new mobile home.

On September 13, 1993 a Zoning Clearance Letter (VL-93-534) was issued to allow an Accessory Structure to be sited. The existing improvements marked on the Zoning Clearance Letter were Dwelling, Shop, Septic and Public Water.

On February 20, 1996 a letter was written to North Umpqua Realty regarding the development on the parcel at the time. The letter stated:

**The subject property is approximately 3.07 acres zoned Rural Residential Two (RR-2). The Property is not within an urban growth boundary at this time. We are currently showing three (3) mobile homes on the property.**

**To be lawfully sited grandfathered dwellings they would need to have been sited prior to July 1, 1975. Before any permits could be issued on the property, documentation would need to be submitted showing proof of a grandfathered use.**

On October 20, 1997 a Zoning Clearance Letter (ZCL-97-478) was issued giving clearance to site a new manufactured dwelling. The Zoning Clearance Letter stated that two (2) mobile homes were removed on October 5, 1997 and October 9, 1997, and that two (2) grandfathered dwellings were allowed on the submit property. The Zoning Clearance Letter conditioned that *the new*

*Manufactured Dwelling must be sited prior to October 9, 1999 or the grandfathered use expires. One dwelling is still sited on said property. This approval will allow for the second grandfathered dwelling.*

On May 8, 2002 a Zoning Clearance Letter (ZCL-02-212) was issued to allow an Accessory Structure to be sited. The notes and or conditions section stated: *Only one (1) dwelling allowed.*

**C. LOCATION:** The subject property is located south of the City of Coos Bay; the properties situs addresses are 63459 Shinglehouse Road and 63461 Shinglehouse Road.

**D. ZONING:** This property is zoned Rural Residential-2 (RR-2).

**ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

**SECTION 4.2.100 RESIDENTIAL**

***Rural Residential (RR)***

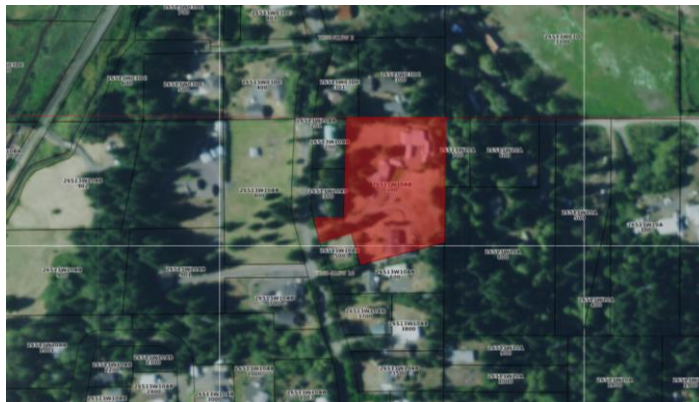
*There are two RR zonings: Rural Residential-5 (RR-5) and Rural Residential-2 (RR-2). The intent of the Rural Residential Districts includes justified sites plus "committed" areas. The County's plan prescribes and allocates a finite number of rural dwelling/units/acreage. The zoning ordinance will specify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

**E. SITE DESCRIPTION AND SURROUNDING USES:** This property is located off of Shinglehouse Road near Coalbank Slough. The surrounding uses are residential and range in size from .30 acres to 15.45 acres.



- F. **COMMENTS:** There have not been any comments received for this review as the date of the release of this report.

## II. GENERAL PROPERTY COMPLIANCE:

### A. COMPLIANCE PURSUANT TO SECTION 1.1.300:

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

**FINDING:** Staff has reviewed the property history and the county finds at the time of this report the property is complaint with the Coos County Zoning and Land Development Ordinance. This does not mean that there isn't additional information that was unavailable during this review that would make the properties non-complaint.

### B. SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:

*"Lawfully established unit of land" means:*

#### 1. *The unit of land was created:*

- a. *Through an approved or pre-ordinance plat;*
- b. *Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals;*
- c. *In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created.*
- d. *By a public dedicated road that was held in fee simple creating an interviewing ownership prior to January 1, 1986;*
- e. *By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation.*
- f. *By the claim of intervening state or federal ownership of navigable streams, meandered lakes or tidewaters. "Navigable-for-title" or "title-navigable" means that ownership of the waterway, including its bed, was passed from the federal government to the state at statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.*

**FINDING:** The unit of land was created pursuant to Section 6.1.125.1.e, by deed prior to applicable planning, zoning or subdivision ordinances that would have prohibited the creation (deed document Book 297 Page 153).

## III. STAFF FINDINGS AND CONCLUSIONS:

### IV. APPROVAL CRITERIA & FINDINGS OF FACT

- **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 ORS215.215 (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.

○ **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. There is an existing Manufactured Dwelling that was sited in 1998 and the 1968 Manufactured Dwelling was destroyed by fire on March 4, 2023. 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 verification of use and for an alteration. 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 Manufactured Dwelling (mobile home) being replaced is a 1968 Mobile Home. Previous Planning records proved that the property contained two (2) dwellings. There was a Zoning Clearance Letter that allowed a replacement dwelling as described above within the background (ZCL-97-478). There was a Zoning Clearance Letter issued on May 8, 2002 that stated only one (1) dwelling was allowed, which was signed by the property owner's builder at the time. Staff researched the Coos County Assessment records and found that in 1999 there were two (2) dwellings assessed on the property, a 1968 Manufactured Dwelling and a 1998 Manufactured Dwelling. In 2000 the assessment records indicate only one (1) dwelling, the 1998 Manufactured Dwelling. In 2003 the assessment records indicate two (2) dwellings on the property, a 1968 Manufactured Dwelling and a 1998 Manufactured Dwelling. Based on this information, Staff can conclude that the 1968 Manufactured Dwelling and 1998 Manufactured Dwelling were in place in 2002, and that the Planner at the time was using the available assessment information to determine that only one (1) dwelling existed, when in fact there were two (2).

The change in use is a replacement dwelling for a dwelling that has existed on the property since prior to the Coos County Zoning and Land Development Ordinance, as such this will not cause a greater adverse impact on the neighborhood. The property has historically contained two (2) Single Family Dwellings, the alteration of the nonconforming use is a replacement of one (1) of these dwellings. The new dwelling is proposed in the same vicinity as the dwelling that was removed, and the access for the dwelling will remain the same. A Driveway/Access Confirmation Application was submitted (DR-23-011) and bonded with the Coos County Road Department.

The property development standards that apply to residential development within the subject properties zoning district (RR-2) are the General Siting Standards found in Coos County Zoning and Land Development Ordinance Section 4.3.225. The only development standard within this section that applies to the proposal is the setbacks, which is: *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 the right-of-way line, whichever is greater. This setback may be greater under specific zoning siting requirements.* The proposed Manufactured Dwelling meets the required setbacks per the proposed plot plan. The Manufactured Dwelling must be sited by March 4, 2024 (one year from the removal) or this approval is void per Coos County Zoning and Land Development Ordinance Section 5.6.110.

## **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 districts, or parties: Libby Rural Fire Protection District, Coos Bay North Bend Water Board, Coos Bay School District and Oregon International Port of Coos Bay.

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

File Number: ACU-23-014

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

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