



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
planning@co.coos.or.us

This decision notice is required to be sent to the property owner(s), applicant(s), adjacent property owners (distance of notice is determined by zone area – Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, agencies with interest, or person that has requested notice. The development is contained within the identified property owners land. Notice is required to be provided pursuant to ORS 215.416. Please read all information carefully as this decision. (See attached vicinity map for the location of the subject property).

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.

Date of Notice: Tuesday, October 24, 2023
File No: ACU-23-034
Proposal: Request for a Lot of Record Dwelling
Applicant(s): Kevin & Therese Kent
Staff Planner: Crystal Orr, Planner I

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 **Wednesday, November 08, 2023**. Appeals are based on the applicable land use criteria. The proposal is subject to the following criteria: Lot of Record Dwelling criteria in the Exclusive Farm Use Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.6.200.15 One Single-Family Dwelling on a Lawfully Created Lot or Parcel (Lot of Record) subject to: § 4.6.200 (3) Lot of Record Dwelling, (5) Approval Criteria, and (30) Deed Declaration; and §4.6.210 Development and Siting Criteria. **Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information, please contact the staff planner listed in this notice.**

Subject Property Information

Account Number: 3125700, 99915778, 99920446, 99920447
Map Number: 28S1420BB-01100, 01101, 01103, 01104
Property Owner: KENT, KEVIN R & THERESE M
12222 N PARADISE VILLAGE PKWY S 301
PHOENIX, AZ 85032-7677
Situs Address: 56020 SPRING CRK RD BANDON, OR 97411
Acreage: 4.01 Acres
Zoning: EXCLUSIVE FARM USE (EFU)
Special Development Considerations and overlays: BANDON AREA OF MUTUAL INTEREST (BMI)
NATIONAL WETLAND INVENTORY (NWI)
NH TSUNAMI (NHTHO)

This notice shall be posted from October 24, 2023 to November 8, 2023

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 60 E. Second St, 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.

The application, staff report and any conditions may be found 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 60 E. Second Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page; however, if you need to view the record, please contact the department to make arrangements. 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:** Tuesday, October 24, 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 Exhibits below are mailed/emailed 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**

Exhibit D: Comments Received

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 may only be transferred to the following: the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.
3. 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. Tax lots 1100, 1101, 1103 & 1104 shall be consolidated. Please contact the Assessor's Office for the consolidation form, fee and process questions. We will need a copy of the acceptance from the Assessor's Office prior to the issuance of the Zoning Compliance Letter. The actual consolidation request may take some time to be processed by the Assessor's Office based on workload and calendar.

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-23-034

Applicant/ Owner: Kevin & Therese Kent

Date: October 18, 2023

Location: Township 28S Range 14W
 Section 20BB TL 1100, 1101,
 1103, & 1104

Proposal: Lot of Record Dwelling



**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 in the Exclusive Farm Use through the Lot of Record process.

B. BACKGROUND/PROEPRTY HISTORY:

On January 19, 2010 a Measure 49 claim was approved by the State of Oregon. Under a Measure 49, there is no time limit for the actual claimant to carry out the development of the property. However, if the claimant sells or transfers title of the property, the claim will transfer but the purchaser only has ten (10) years to complete the development. The division of the property, and any dwellings, approved under Measure 49 are treated as permitted uses even if they would not otherwise be allowed under the zoning for the property. This property was in the ownership of Paul & Rosetta Kent since at least 1967 and then in the deed ownership was modified 2011 Rosetta was removed and replaced with Kevin Then a subsequent deed was recorded that removing Kent from the property. His name was added back but the removal for the short period of time did start the 10-year clock for the purpose of a Measure 49 claim.

On July 1, 2020 the current property owner applied to site the dwelling. Upon completing all the requirements include driveway installation, the approval was issued, on February 24, 2021, in the form of a Zoning Compliance Letter to allow a Single-Family Dwelling to be sited, this was an approval was based on a Measure 49 claim that waived the provisions to site a dwelling in the Exclusive Farm Use Zone. However, the approval was not implemented, and the Measure 49 Claim expired, so the approval could not be extended. Upon reviewing options with planning Staff the applicants chose to apply for a dwelling through the “lot of record process”.

II. BASIC FINDINGS:

A. LOCATION: The subject property is situated northeast of the City of Bandon off of a private road, Spring Creek Road. Spring Creek Road is accessed off of public maintained road, Prosper Junction Road.

B. ZONING: - This property is zoned Exclusive Farm Use.

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.

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.

RESPONSE: The subject property is subject to the following Overlays and Special Development Considerations: National Wetland Inventory and Natural Hazard Tsunami Special Development Considerations. County Staff forwarded a request for comments to the Oregon Department of State Lands (DSL), and we have received a response. The applicant is obligated to adhere to any recommendations or comments provided by DSL.

It's important to note that residential development does not trigger any additional requirements under the Natural Hazard Tsunami regulations. As a result, no further review is needed.

E. COMMENTS:

- a. **PUBLIC AGENCY:** This property did require request for comments from the Oregon Department of State Lands prior to the release of the decision. DSL responded on June 29, 2023 that based on available information there does not appear to be wetlands on the property.
- b. **PUBLIC COMMENTS:** This property did not require any request for comments prior to the release of the decision.
- c. **LOCAL TRIBE COMMENTS:** The subject property did not require any request for comments from the Tribes prior to the release of the decision.

E. LAWFULLY CREATED UNIT OF LAND: The unit of land was created pursuant to 6.1.125.1.a “*through a pre-ordinance plat.*” The parcels are described as lots 40, 47, 48, and 49 within the Wheeler Subdivision, which was created in 1907.

III. STAFF FINDINGS AND CONCLUSIONS:

a. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

Lot of Record Dwelling criteria in the Exclusive Farm Use Zone pursuant to Coos County Zoning and Land Development (CCZLDO) § 4.6.200.15 One Single-Family Dwelling on a Lawfully Created Lot or Parcel (Lot of Record) subject to: § 4.6.200 (3) Lot of Record Dwelling, (5) Approval Criteria, and (30) Deed Declaration; 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(21B) 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:**

	Use	HV	All Other
15	One Single Family Dwelling on a lawfully created lot or parcel. (Lot of Record)	ACU (3)(5)(30)	ACU (3)(5)(30)

(3) *LOT OF RECORD DWELLING (only one single family dwelling)*

(a) *A dwelling may be approved on a pre-existing lot or parcel if:*

(A) *The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (3)(g) of this rule:*

(i) *Since prior to January 1, 1985; or*

(ii) *By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.*

(B) *The tract on which the dwelling will be sited does not include a dwelling;*

(C) *The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;*

(D) *The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;*

(E) *The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule; and*

(F) *When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.*

(b) *When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;*

(c) *Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:*

(A) *It meets the other requirements of subsections (3)(a) and (b) of this rule;*

(B) *The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);*

(C) *A hearings officer of a county determines that:*

(i) *The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;*

(ii) *The dwelling will comply with the provisions of ORS 215.296(1); and*

(iii) *The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and*

(D) *A local government shall provide notice of all applications for dwellings allowed under subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of this rule.*

- (d) *Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:*
- (A) *It meets the other requirements of subsections (3)(a) and (b) of this rule;*
 - (B) *The tract on which the dwelling will be sited is:*
 - (i) *Identified in OAR 660-033-0020(8)(c) or (d);*
 - (ii) *Not high-value farmland defined in OAR 660-033-0020(8)(a); and*
 - (iii) *Twenty-one acres or less in size; and*
 - (C) *The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or*
 - (D) *The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or*
 - (E) *The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:*
 - (i) *"Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.*
 - (ii) *"Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.*
- (e) *If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS chapter 215, a county may apply the standards for siting a dwelling under either section (3) of this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract on January 1, 1993;*
- (f) *A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under section (3) of this rule in any area where the county determines that approval of the dwelling would:*
- (A) *Exceed the facilities and service capabilities of the area;*
 - (B) *Materially alter the stability of the overall land use pattern of the area; or*
 - (C) *Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.*
- (g) *For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;*
- (h) *The county assessor shall be notified that the governing body intends to allow the dwelling.*
- (i) *When a local government approves an application for a single-family dwelling under section (3) of this rule, the application may be transferred by a person who has qualified under section (3) of this rule to any other person after the effective date of the land use decision.*

FINDING: These lots were lawfully created, as addressed previously within this report. The lots on which the dwelling will be sited has been continuously owned by the Kent family since prior to January 1, 1985. The subject property is a tract on which the dwelling will be sited. The tract is made of tax lots 1100, 1101, 1103, and 1104, and does not currently contain a dwelling, and no portion of the tract had a dwelling as of November 4, 1993. The term 'owner' includes the wife,

husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any combination of these family members.

These lots were owned by Paul and Rosetta Kent as of August 23, 1978, and remained in their name until 2011. In 2011, the lots came under the ownership of Paul and Kevin Kent. Currently, the lots are owned by Kevin and Therese Kent. Kevin is the son of Paul and Rosetta Kent, and Therese is their daughter-in-law. The lots within the tract will be required to be consolidated as a condition of approval.

The parcel does not contain high-value farmland. The soils within the tract are 8B, Bullards Sandy Loam with 0 to 7 percent slopes, and 8E, Bullards Sandy Loam with 30 to 50 percent slopes. While 8B is rated as 'farmland of statewide importance' under Farmland Classification, it does not qualify as high-value farmland. High-Value Farmland is defined as land predominantly composed of soils classified as prime, unique, class I, or class II. Generally, land that does not meet these criteria but has soils that nearly meet the requirements is considered 'farmland of statewide importance.' Soil 8E is rated as 'not prime farmland' under Farmland Classification.

Planning staff will send a Notice of Land Use Decision to the County Assessor.

This approval may only be transferred to the following: the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any combination of these family members."

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 lots or lots 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 are no structure or lot coverage requirements that pertain to this request.

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 signed off on July 27, 2020, this was completed prior to the Measure 49 claim approval.

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 signed off on July 27, 2020 this was completed prior to the Measure 49 claim approval.

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 need 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 Lot of Record 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 may only be transferred to the following: the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

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:

Bandon RFPD
Southern Coos General Health District

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

Department of Land Conservation and Development
Planning Commission
Board of Commissioner