



Coos County Community Development
Mailing Address: 250 N. Baxter, Coquille, Oregon
Office Location: 60 E. Second St., Coquille OR 97423
Planning, Building and Enforcement
Phone: 541-396-7770

NOTICE OF LAND USE DECISION

You have received this notice because you are an adjacent property owner or an interested party, and this notice is required to be provided pursuant to ORS 215.416. The proposal identified in this decision will be located on the subject property. Notice to Mortgagee, Lienholder, Vendor, or Seller: ORS Chapter 215 (ORS 215.513) requires that if you receive this notice, you must promptly forward it to the purchaser.

Dear Recipient,

This variance notice is being sent to property owner(s), applicant(s), adjacent property owners (with notice distances from the subject property determined by zone area: Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, interested agencies, and any person who has requested notice. It informs any interested party about a decision or proposed action related to the use or development of land within the specified area, as identified under the subject property information.

The purpose of this notice is to inform you about the proposal and decision, provide information on where you can obtain further details, and outline the requirements if you wish to appeal the Director's decision to the Coos County Hearings Body. Any person who is adversely affected, aggrieved, or entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period 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.

Please read all information carefully as this decision is important. (See the attached vicinity map for the location of the subject property.) This notice ensures that all affected or interested parties are aware of the decision and have an opportunity to review the details and provide any input or appeal as necessary.

Subject Property Information

Account Number:	1169800
Map Number:	29S123200-00600
Property Owner:	GRAHAM, NICOLE PO BOX 486 MYRTLE POINT, OR 97458-0486
Situs Address:	51620 OLD BROADBENT RD MYRTLE POINT, OR 97458
Acreage:	5.59 Acres
Zoning:	RURAL RESIDENTIAL-2 (RR-2)
Special Development Considerations and Overlays:	ARCHAEOLOGICAL AREAS (ARC) NH LANDSLIDE (NHLND)

Decision: **Approved with Conditions**. All decisions are based on the record. This decision is based on the existing record and will become final and effective at the close of the appeal period unless a complete application, along with the required fee, is submitted to the Planning Department by 5 p.m. on **Tuesday, September 10, 2024**. Appeals are based on the applicable land use criteria.

This notice shall be posted from August 26, 2024 to September 10, 2024

This decision complies with the Coos County Zoning and Land Development Ordinance (CCZLDO), specifically:

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- **General Compliance:** Section 1.1.300 - Compliance with Comprehensive Plan and Ordinance Provisions, and Article 6.1 - Lawfully Created Lots or Parcels.
 - **Development Compliance:** Dwelling in Rural Residential Section 4.3.200(30), 4.3.210 (27)(k), Section 4.3.225 General Siting Standards, and Section 4.3.230(2) Rural Residential Development Standards.
 - **Variance of Road Standards:** Section 7.3 Variance to Road Standards
 - **Special Development Considerations:** Properties within Special Development Considerations and/or overlays must comply with the applicable review process outlined in Article 4.11.
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Please note that civil matters, including property disputes that fall outside the criteria listed in this notice, will not be considered. The 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. 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.

The application, staff report, and any conditions can be found at the following link:

<https://www.co.coos.or.us/community-dev>. The application and all documents and evidence in the record, including the staff report and applicable criteria, are available for inspection at no cost in the Planning Department, located at 60 E. Second, Coquille, Oregon. Copies may be purchased for 50 cents per page. The decision is based on the application submittal and information on record.

For more information, please contact Staff at (541) 396-7770.

Reviewed by: 
Jill Rolfe, Planning Director

Date: Tuesday, August 27, 2024

This decision is authorized by the Coos County Planning Director, Jill Rolfe based on the staff's analysis of the Findings of Fact, Conclusions, Conditions of approval, application and all evidenced associated as listed in the exhibits.

EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map

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, understanding that all costs associated with meeting these 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 with or maintain compliance with these conditions, the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval carefully. If you have any questions, contact the 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 applicant shall complete the form and submit it to the Road Department staff to be presented to the Board of Commissioners for signatures. Once signed, it shall be recorded in the Coos County Clerk's Office, and a copy shall be provided to Community Development. This process must be completed before receiving a final occupancy permit from the Building Department.
3. A demo permit is required to be submitted prior to any building permits for the current structures on the property.
4. All conditions of CD-23-129 shall remain in effect. Section 5.2.700 Development Transferability - Unless otherwise provided in the approval, a land use approval that was obtained through a conditional use process shall be transferable provided the transferor files a statement with the Planning Director signed by the transferee. This document shall be recorded in the chain of title of the property, indicating that the transferee has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title to alert a purchaser that development was approved subject to conditions and possible restrictions.
5. Once conditions 2 through 4 have been completed a new ZCL will be issued to show compliance has been completed. This shall be completed prior to a final building occupancy permits.

EXHIBIT "B"
Vicinity Map
(not to scale)

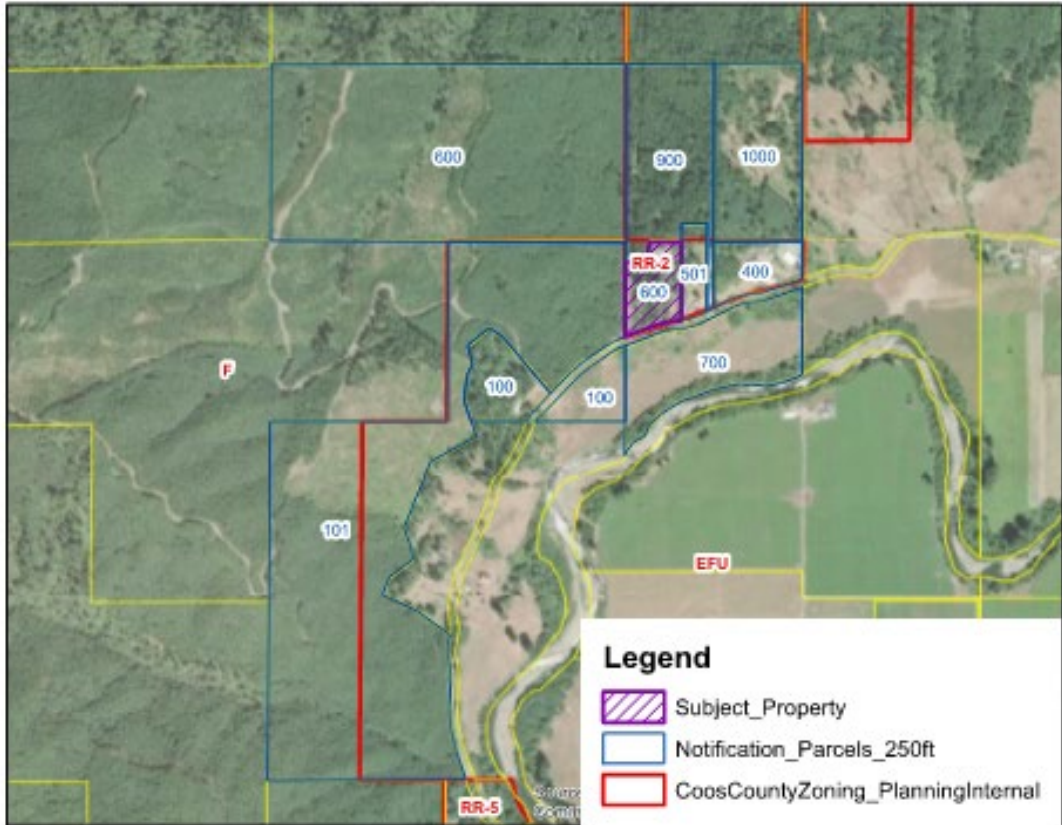


COOS COUNTY PLANNING DEPARTMENT

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



File: V-24-001
Applicant/
Owner: Nicole Graham
Date: August 14, 2024
Location: Township 29S Range 12W
Section 32 TL 600
Proposal: Variance



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

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

A. PROPOSAL: The proposal involves removing an old dwelling and siting a new Single-Family Dwelling in a different location. The current location is where the farm structure was permitted in 1998. The proposal includes installing a new septic system as approved by CD-23-129, as depicted on the plot plan. A Geological Hazard Evaluation was conducted by Giovanni A. Vadurro, a Certified Engineering Geologist from SHN Consulting Engineers & Geologists LLC, confirming that no high or very high geological hazards are present.

To comply with all standards for siting a Single-Family Dwelling, a driveway permit must be obtained. However, the proposed road for the driveway exceeds the slope requirements specified in Chapter VII of the Coos County Zoning and Land Development Ordinance. As a result, Jason Vinyard, Access Manager from the Coos County Road Department, cannot issue the driveway permit until a variance is granted.

B. BACKGROUND/PROPERTY HISTORY/SITE CONDITIONS: This tax lot was originally deeded in 1975 under recording number 75-02-109805. Subsequently, through a court settlement, a portion of the property was deeded off via a property line adjustment. The 1995 judgment reduced the property by 0.51 acres, as documented in recording number 95-12-0423, to settle an estate. This property can be considered lawfully created pursuant to a higher court decision, as per court case 95CV0352. This meets the requirements of Article 6 for creation of lots and parcels specifically lawfully created units of land.

Currently, the property does not have any development on it. According to the permitting records on file with Coos County Community Development, pre-eligibility (PE-05-06) for a forest template dwelling was approved on August 24, 2005. Following this, a Zoning Compliance Letter (ZCL-05-730) was issued on November 7, 2005, for a septic site evaluation. On May 22, 2006, a Property Line Adjustment (PLA-06-29 A) was approved, which involved the movement of one property line in conjunction with the abutting unit of land described as Township 26 Range 14 Section 33CC Tax Lot 6400. The change in boundary lines does void the pre-eligibility but staff preformed another test using the current criteria to confirm the template could be met.

The applicant provided some property details regarding what has been completed on the site. She stated there are two possible homesites on the property, but the chosen site is at the top, where an existing large pole building is currently located. That pole building is being dismantled and will be completely removed to make way for the home. The site has electricity, ample room for a new septic system, and a large, level area. The other homesite, with the existing dwelling, would require additional excavation and site preparation to accommodate a new dwelling. The roadway used to access the preferred homesite is 800 feet long, with one section exceeding the 18% grade. That section has a 21% grade rather than the 18% grade, but it is cost-prohibitive to attempt to change the grade or reroute the road as suggested by staff.

The Single Family Dwelling replacement was permitted with conditions through Compliance Determination CD-23-129.

- C. **LOCATION:** The subject property is located southwest of the City of Myrtle Point off of Old Broadbent Road.
- D. **ZONING:** - This property is zoned Rural Residential-5.

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

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. **COMMENTS:** The Coquille Indian Tribe and the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians have no objections to the proposed project. Please be aware that the property is in proximity to known cultural resource sites and so may contain as yet unlocated cultural resources. The tribes request that they be contacted immediately if any known or suspected cultural resources are encountered during any phase of the work.

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 finds that, at the time of this report, the property is compliant with the Coos County Zoning and Land Development Ordinance. However, this does not preclude the possibility that additional information, which was unavailable during this review, could render the property non-compliant.

B. SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:

“Lawfully established unit of land” means:

1. *The unit of land was created:*
 - a. *Through an approved or pre-ordinance plat;*
 - b. *Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals;*
 - c. *In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created.*
 - d. *By a public dedicated road that was held in fee simple creating an interviewing ownership prior to January 1, 1986;*

- e. *By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation.*
- f. *By the claim of intervening state or federal ownership of navigable streams, meandered lakes or tidewaters. "Navigable-for-title" or "title-navigable" means that ownership of the waterway, including its bed, was passed from the federal government to the state at statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.*

FINDING: This property was created prior to 1986 then in 1995 a higher court reconfigured the property. Therefore, this is lawfully created unit of land pursuant to Section (b) above.

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Planning Director Approval of a Template Dwelling (*Single Family Dwelling* in the Forest Mixed Use Zone) in the Forest Mixed Use Zone pursuant. The application did not specify any additional development requests; therefore, no other development proposals were reviewed.

The applicable review criteria are found in Coos County Zoning and Land Development (CCZLDO) 4.6.100 Table 1 identifies the uses and activities in the Forest (F) and Forest/Mixed Use (FMU) zone. The tables describe the use, type of review, applicable review standards. Table 1 of CCZLDO Section 4.6.110.63 defines the relevant criteria for Template Dwellings (Alternative forestland dwellings ORS 215.750) subject to an ACU, Section 4.6.120 Review Standards (9)(B)(II). Development shall also comply with Section 4.6.140 Development and Siting Standards. All dwellings and structures are subject to the siting standards found in Section 4.6.130. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. This proposal is subject to review under Natural Hazards Section 4.11.

B. KEY DEFINITIONS:

- *ACTIVITY: Any action taken either in conjunction with a use or to make a use possible. Activities do not in and of themselves result in a specific use. Several activities such as dredging, piling and fill may be undertaken for a single use such as a port facility. Most activities may take place in conjunction with a variety of uses.*
- *DEVELOP: To bring about growth or availability; to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights to access.*
- *DEVELOPMENT: The act, process or result of developing.*
- *USE: The end to which a land or water area is ultimately employed. A use often involves the placement of structures or facilities for industry, commerce, habitation, or recreation.*
- *ZONING DISTRICT: A zoning designation in this Ordinance text and delineated on the zoning maps, in which requirements for the use of land or buildings and development standards are prescribed.*
- *DWELLING: Any building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.*

C. VARIANCE

• **SECTION 7.3.100 VARIANCE PROCEDURES AND CRITERIA:**

In lieu of the findings required by Article 5.3 this section shall apply to any variance to road, access, or parking standards. An application for a variance from road standards must provide proof of unique or special conditions that make strict application of the provisions impractical. Variances to the road and access standards shall be reviewed as an administrative decision; however, the Planning Director may at his/her discretion forward the application onto the Planning Commission. The Planning Director in consultation with the Roadmaster shall review any road or parking variance request. If the varied standard request is in an urban area, then the applicable city shall be consulted.

1. *Applicants shall include proof that:*
 - a. *Indirect access cannot be obtained;*
 - b. *No financially reasonable engineering or construction solutions can be applied to mitigate the condition; and*
 - c. *No alternative access is available from a street with a lower functional classification than the primary roadway.*
2. *No variance shall be granted where such hardship is self-created.*
3. *An applicant requesting an access exception must submit an access management plan. The access management plan shall explain the need for the modification and demonstrate that the modification maintains the classified function and integrity of the facility. An access management plan shall be prepared and certified by a traffic or civil engineer registered in the State of Oregon. Access connections to a state highway, are required to be coordinated through ODOT and follow state standards. An access management plan shall at minimum contain all of the following:*
 - a. *The minimum study area shall include the length of the site's frontage plus the distance of the applicable access spacing standard, measured from each property line or access point(s), whichever is greater;*
 - b. *The potential safety and operational problems associated with the proposed access point. The access management plan shall review both existing and future access for all properties within the study area as defined above;*
 - c. *A comparison of all alternatives examined. At a minimum, the access management plan shall evaluate the proposed modification to the access spacing standard and the impacts of a plan utilizing the County standard for access spacing. Specifically, the access management plan shall identify any impacts on the operations and/or safety of the various alternatives;*
 - d. *A list of improvements and recommendations necessary to implement the proposed access modification, specifically addressing all safety and operational concerns identified; and*
 - e. *All references to standards or publications used to prepare the access management plan.*

FINDING: This application was submitted to request a variation from the Road Standards due to the impossibility of meeting the standards. The existing driveway has a slope of 21%, which exceeds the county's requirement of 18% or less, as confirmed by Jason Vinyard, Access/Permit Specialist. The property owner discussed with Mr. Vinyard the possibility of altering the driveway to meet the requirements, and it was mutually agreed that the slope requirements could not be met. The property is in a landslide area and changing the access could cause destabilization of the property and surrounding properties. No other viable access alternative can be constructed to meet these standards.

This request is not for an access exception, and as such, an access management plan is not required. Therefore, the Road Department staff has accepted the justification and finds the criteria in this section has been addressed.

- *If a driveway cannot meet the maximum 18% grade then a legal agreement may be signed and recorded at the County Clerk's office releasing the County from any liability from such driveway development. This document must be referenced on the property deed to allow future purchasers to know that the driveway does not meet standard. A sign shall be placed at the bottom of the driveway to warn any users of the driveway that it is not built to standards. Proof must be filed with the Planning and Road Department that the documents have been filed and a sign has been placed. The form located on the following page must be completed, signed and recorded prior to any land use authorizations.*

FINDING: The applicant shall complete the form and submit it to the Road Department staff to be presented to the Board of Commissioners for signatures. Once signed, it shall be recorded in the Coos County Clerk's Office, and a copy shall be provided to Community Development. This process must be completed before receiving a final occupancy permit from the Building Department.

D. 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.*

FINDING: The applicant has addressed all special development considerations.

IV. DECISION

In conclusion Staff finds that the applicant has address most of the relevant criteria and the ones that have not been address or cannot be completed until after the approval is obtained have been made conditions of approval. Therefore, the proposed Template Dwelling meets the requirements of the Coos County Zoning and Land Development Ordinance, with conditions listed in Exhibit "A" of this report.

VI. 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: Myrtle Point Rural Fire Protection District.

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

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