



NOTICE OF LAND USE DECISION

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. 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: Thursday, July 16, 2020
File No: ACU-20-012
Proposal: Request for Deferred Replacement of a lawfully established dwelling
Applicant(s): Debra & Cory Grant
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 **Friday, July 31, 2020**. 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 Deferred replacement of a lawfully established dwelling subject to: § 4.6.200(21) (8) Replacement Dwellings, (30) Deed Declaration; 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**

Subject Property Information

Account Number: 964800
Map Number: 28S1420B0-00700
Property Owner: KOMAX LLC
5913 FOLEY LN
CENTRAL POINT, OR 97502-9664
Situs Address: 55957 SPRING CRK RD BANDON, OR 97411
Acreage: 3.64 Acres
Zoning: EXCLUSIVE FARM USE (EFU)
Special Development Considerations and overlays: BANDON AREA OF MUTUAL INTEREST (BMI)
NATURAL HAZARD - TSUNAMI (NHTHO)
WETLAND IN CRANBERRY BOGS (WC)

This notice shall be posted from July 16, 2020 to July 31, 2020

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

The application, staff report and any conditions may be found at the following link: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment-Applications2020.aspx> . 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; 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, Planner I 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:** Thursday, July 16, 2020 .
Crystal Orr, Planner I

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/mailed to the Applicant, Board of Commissioners and Planning Commission only. Copies are available upon request or at the following website:<http://www.co.coos.or.us/Departments/Planning/PlanningDepartmentApplications-2020.aspx> .
or by contacting the Planning Department at (541) 396-7770.

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

Exhibit D: Comments Received (No Comments Received)

Exhibit E: Submitted Application

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 of otherwise, except by the application to the spouse or a child of the applicant.
3. Must comply with any comments from Department of State Lands (DSL). A request for comments was sent July 14, 2020; Coos County Planning must give 30 days for a response. Any comments received by August 14, 2020 must be adhered to.
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.

EXHIBIT "B"
Vicinity Map



COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423

Physical Address: 225 N. Adams, Coquille Oregon

Phone: (541) 396-7770

Fax: (541) 396-1022/TDD (800) 735-2900



File: ACU-20-012

Applicant/
Owner: Grant & Deborah Cory/
Komax, LLC

Date: June 9, 2020

Location: Township 28S Range 14W
Section 20B TL 700

Proposal: Administrative Conditional Use

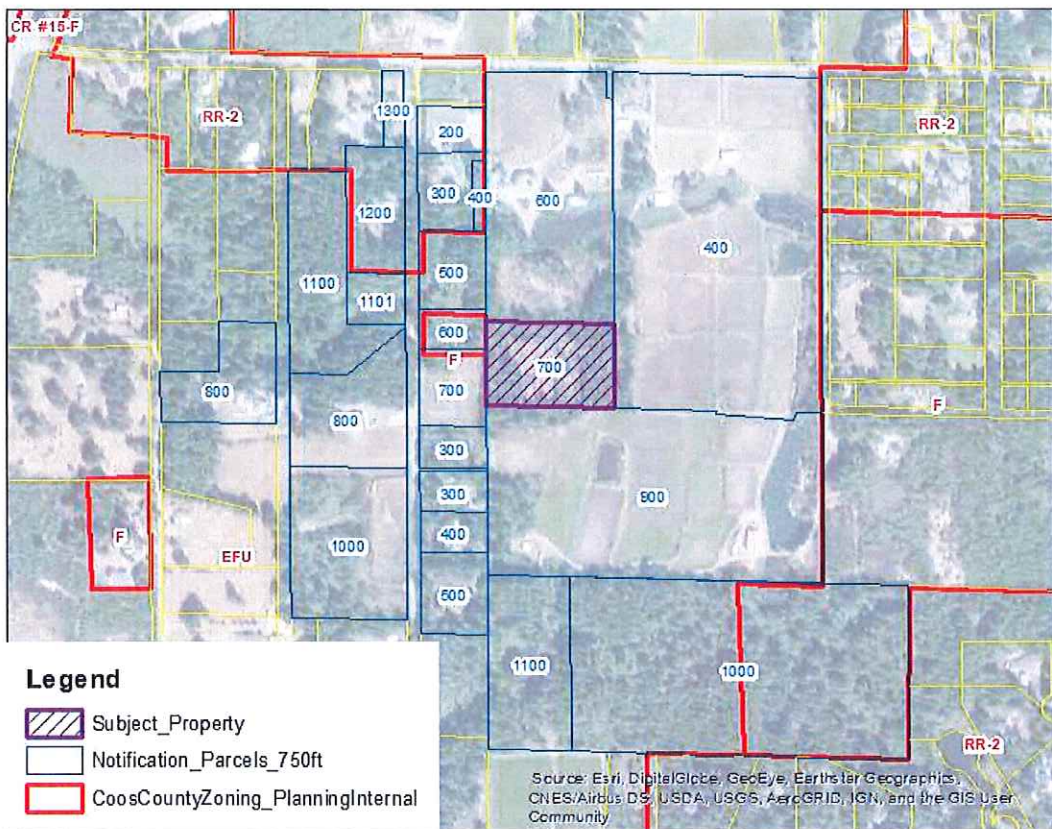


EXHIBIT "C"
STAFF REPORT
FINDINGS OF FACT AND CONCLUSIONS

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 on May 5, 2019. At that time the property owners turned in a Compliance Determination to replace the dwelling. They were given clearance (ZCL-19-329) to replace the home with an expiration date of May 5, 2020, as the dwelling must be replaced within one year unless a Conditional Use was submitted for Deferred Replacement (which cannot be transferred to subsequent property owners). The property owners at the time had decided to move from the area and sell the parcel with the clearance to site a dwelling. On April 27, 2020 staff received a Conditional Use (ACU-20-012) for deferred replacement from the new property owners, Grant & Debra Cory.

II. BASIC FINDINGS:

- A. LOCATION:** The subject property is located north of the City of Bandon near Spring Creek Road, which is a privately maintained public road. The property has a situs address of 55957 Spring Creek 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.

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 does contain Wetland in Cranberry Bogs and Natural Hazard Tsunami. None of the development will be located in the wetland Special Development Consideration or Overlay according to wetland maps available to Coos County Planning. Staff did send a request for comments, but they were not available at the time of approval. Any future comments shall be complied with. The Natural Hazard Tsunami does not require any additional requirements for residential development. Therefore, additional review was not required.

- D. SITE DESCRIPTION AND SURROUNDING USES:** The subject property is zoned Exclusive Farm Use (EFU) and contains approximately 3.64 acres. This property is located near Spring Creek Road north of the City of Bandon and accesses through an easement from Spring Creek Road. The properties center is bare with a small pond, outside of the center is treed. There is some residential development scattered along Spring Creek Road near the subject property. There appears to be some forest and farming operations (cranberry production) surrounding the property. The properties within the 750-foot notification range in size of .86 acres to 24.53 acres. The smaller parcels seem to be used mostly for residential purposes. The larger tax lots are in Exclusive Farm Use and Forest productions.

E. COMMENTS:

- a. **PUBLIC AGENCY:** This property required a wetland notice to Oregon Department of State Lands. Request was sent July 14, 2020. Any comments received in the future will need to be adhered to by applicant.
- b. **PUBLIC COMMENTS:** This property did not require any request for comments prior to the release of the decision.
- c. **LOCAL TRIBE COMMENTS:** This property did not require any request for comments 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.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 81-4-2212.

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 Deferred replacement of a lawfully established dwelling subject to: § 4.6.200(21) (8) Replacement Dwellings, (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(21) 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:**

(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 be reviewed as an Administrative Conditional Use (ACU).

(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:

- (c) May be sited on any part of the same lot or parcel.*
- (d) 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.**

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 previous dwelling was destroyed in a fire on May 5, 2019. The property was issued a Zoning Clearance Letter to allow replacement with an expiration date of May 5, 2020. The dwelling could not be sited by that date, so the property owners turned in a Conditional Use for deferred replacement on April 27, 2020, prior to the expiration. The dwelling will be sited in the vicinity of the destroyed dwelling.

This permit does not expire. This approval cannot be transferred by sale of otherwise, except by the application to the spouse or a child of the applicant.

• **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 received and signed off by the Coos County Road Department.

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 received and signed off by the Coos County Road Department.

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 of otherwise, except by the application 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:

Bandon RFPD
Southern Coos General Health Department

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

Department of Land Conservation and Development
Planning Commission
Board of Commissioner

LAND USE PERMIT APPLICATION – BALANCE OF COUNTY
COOS COUNTY PLANNING DEPARTMENT

COMPLETED BY STAFF	
Received By: <u>A. Dibble</u>	<input type="checkbox"/> COMP PLAN AMENDMENT
Date Submitted: <u>4/27/20</u>	<input type="checkbox"/> ZONE CHANGE
Application No.: <u>ACU-20-012</u>	<input type="checkbox"/> TEXT AMENEDMENT
Fee: <u>41480.00</u>	CONDITIONAL USE REVIEW
Fee Paid: <u>41480.00</u>	<input type="checkbox"/> HEARINGS BODY
Receipt No.: <u>219220</u>	<input type="checkbox"/> ADMINISTRATIVE
	<input type="checkbox"/> VARIANCE
	<input type="checkbox"/> LAND DIVISION *
	<input type="checkbox"/> HAZARD REVIEW *
	<input type="checkbox"/> FARM OR FOREST REVIEW *
	<input type="checkbox"/> FAMILY/MEDICAL HARDSHIP*
	<input type="checkbox"/> HOME OCCUPATION/COTTAGE INDUSTRY
	*Supplemental Application required
	STAFF NOTES: <u>Deferred Replacement</u>



Please type or clearly print all of the requested information below. Please be sure to include any supplemental application for if required.

I. APPLICANT Owners

Name:

Mailing Address:

City State Zip

Daytime Phone

Email:

II. OWNER(S)

Name: Komax LLC Grant + Debra Cory

Mailing Address:

5913 Foley Lane
City State Zip

Central Point OR 97501

Daytime Phone

(541) 941-1533

Email:

tricory@gmail.com

III. PROPERTY - If multiple properties are part of this review please check here and attached a separate sheet with property information.

Location or Address: 55957 Spring Creek Road
Bandon, OR 97411

No. Acreage

3.64

Tax Acct.

964800

Township: Range: Section: ¼ Section: 1/16 Section: Tax lot:

28S1420B0-00700

Zone:

EFU

Sewage Disposal Type:

Septic

School District:

Water Service Type:

Well

Fire District:

IV. REQUEST SUMMARY (Example: "To establish a template dwelling in the Forest Zoning District.")

Deferred replacement

V. ATTACHED WRITTEN STATEMENT. With all land use applications, the “burden of proof” is on the applicant. It is important that you provide information that clearly describes the nature of the request and indicates how the proposal complies with all of the applicable criteria within the Coos County Zoning and Land Development Ordinance (CCZLDO). You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete. A planner will explain which sections of the Ordinance pertain to your specific request. The information described below is required at the time you submit your application. The processing of your application does not begin until the application is determined to be complete. An incomplete application will postpone the decision, or may result in denial of the request. Please mark the items below to ensure your submittal is complete.

Application Check List: Please make off all steps as you complete them.

- A. A written statement of intent, attached to this application, with necessary supporting evidence which fully and factually describes the following:
1. A complete explanation of how the request complies with the applicable provisions and criteria in the Zoning Ordinance. A planner will explain which sections of the Ordinance pertain to your specific request. You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete.
 2. A description of the property in question, including, but not limited to the following: size, vegetation, crops grown, access, existing buildings, topography, etc.
 3. A complete description of the request, including any new structures proposed.
 4. If applicable, documentation from sewer and water district showing availability for connection.
- B. A plot plan (map) of the property. Please indicate the following on your plot plan:
1. Location of all existing and proposed buildings and structures
 2. Existing County Road, public right-of-way or other means of legal access
 3. Location of any existing septic systems and designated repair areas
 4. Limits of 100-year floodplain elevation (if applicable)
 5. Vegetation on the property
 6. Location of any outstanding physical features
 7. Location and description (paved, gravel, etc.) of vehicular access to the dwelling location
- C. A copy of the current deed, including the legal description, of the subject property. Copies may be obtained at the Coos County Clerk's Office.

I certify that this application and its related documents are accurate to the best of my knowledge. I am aware that there is an appeal period following the date of the Planning Director’s decision on this land use action. I understand that the signature on this application authorizes representatives of the Coos County Planning Department to enter upon the subject property to gather information pertinent to this request. If the application is signed by an agent, the owner's written authorization must be attached.

If this application is refereed directly to a hearings officer or hearings body I understand that I am obligated to pay the additional fees incurred as part of the conditions of approval. I understand that I/we are not acting on the county’s behalf and any fee that is a result of complying with any conditions of approval is the applicants/property owner responsibility. I understand that conditions of approval are required to be complied with at all time and an violation of such conditions may result in a revocation of this permit.


Applicant/Owner Signature


Applicant/Owner Signature

Written Statement regarding deferred replacement of dwelling on 55957 Spring Creek-

#8 Replacement Dwelling

A. For replacement of a lawfully established dwelling (approved in October 2019):

- The previous dwelling was destroyed in a fire.
- The remains of the previous dwelling were removed in 2019.
- The destroyed dwelling had intact exterior walls, roof structure, indoor plumbing, interior electrical system, heat system, and was connected to a functioning septic tank system.
- There are no liens against the property.

B. **For deferred replacement of a lawfully established dwelling.**

- i The replacement dwelling will be sited on the parcel and will comply with applicable siting standards.

The previous dwelling was destroyed in a fire in 2019.

The remains of the previous dwelling were removed in 2019.

- ii. The replacement dwelling will be sited on the same parcel and will comply with applicable siting standards.
- iii. The parcel is zoned EFU.
- iv. The replacement dwelling will be sited near septic, well, and driveway (see attachment #1).
- v. Parcel received approval for replacement dwelling on 10/08/19 (see attachment #2).
- vi. Applicants understand that a deferred replacement permit requires removal of dwelling to be replaced (completed in 2019) and the permit may not be transferred, except to the spouse or child of applicant.

The replacement dwelling will comply with applicable building, plumbing, and sanitation codes.

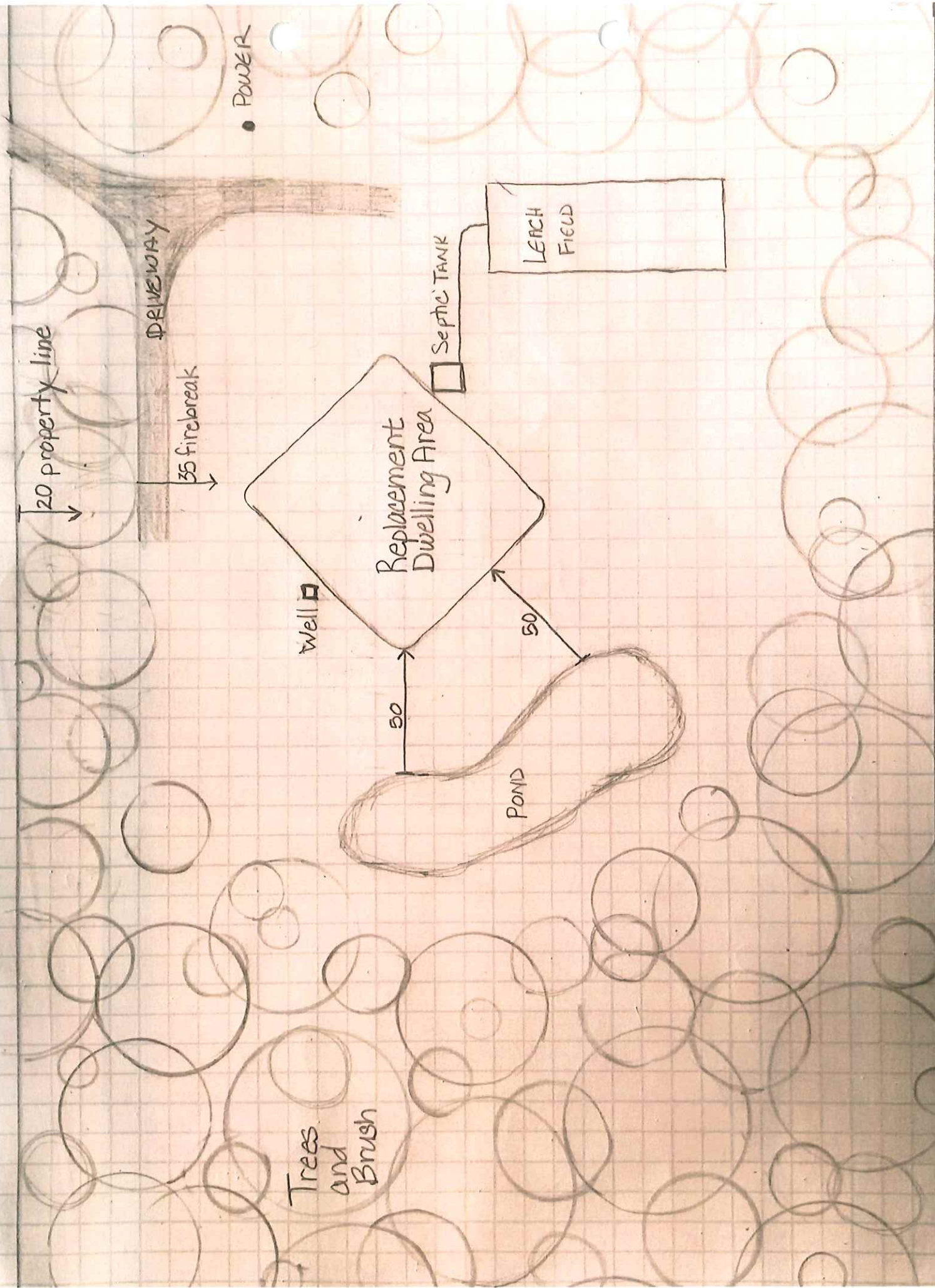
#30 Landowner will not pursue a claim of relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under 30.936 or 30.937.

#Section 4.6.210 Development and Use Standards for EFU Zone

1. Minimum lot size: Dwelling to replace destroyed dwelling that existed prior to 1995.
2. Setbacks: Road (35) and firebreak (30) setbacks for replacement dwelling are demonstrated on attachment #1.

3. Farm related structures are exempt from height limits.
4. No lot coverage requirements.
5. No requirements for fences, hedges, or walls.
6. Off street parking is available on parcel.
7. Replacement dwelling is sited in excess of 20 feet from property lines.
8. Access to replacement dwelling is from existing Spring Creek road.
9. Replacement of previous dwelling on EFU parcel.
10. Replacement dwelling is sited over 50 feet from pond, as shown on attachment #1.
The parcel does not border a river or stream.

Attachment #1



• POWER

20 property line

DRIVEWAY

35 firebreak

Well

Replacement Dwelling Area

Septic Tank

LEACH FIELD

POND

Trees and Brush

50

50



COOS COUNTY PLANNING DEPARTMENT
 225 N. Adams, Coquille, Oregon 97423
 Mailing Address: 250 N. Baxter, Coquille, Oregon 97423
 (541) 396-7770/ TDD (800) 735-2900
 FAX: (541) 396-1022

ZCL-19-329
Approval Date: 10/8/19
Expiration Date: 5/5/20

**COOS COUNTY ZONING COMPLIANCE LETTER
 FOR DEVELOPMENT IN THE EXCLUSIVE FARM USE ZONE**

APPLICANT :	Dutch & Marjory Hausler
APPLICANT ADDRESS:	55957 Spring Creek Road
CITY/STATE/ZIP:	Bandon, OR 97411
PHONE NUMBER OF APPLICANT:	310-291-2437
EMAIL:	Marjory_hausler@yahoo.com
REQUESTED DEVELOPMENT APPROVED: Clearance to replace the dwelling that was destroyed by fire on May 5, 2019. Clearance to connect the dwelling to the existing septic and replace repair septic if needed. Only one dwelling and septic is permitted through this zoning compliance letter. <u>This zoning compliance letter is only valid until May 5, 2020.</u>	
ACCOUNT #'S	964800
MAP DESCRIPTION:	
TOWNSHIP RANGE SECTION TAX LOT	28S1420B0-00700
PROPERTY OWNER(S)	HAUSLER, DUTCH R. & MARJORY R. 55957 SPRING CRK RD BANDON, OR 97411-8330
SITUS ADDRESS	55957 SPRING CRK RD BANDON, OR 97411
ACREAGE	3.64 Acres
PROPERTY ZONING	EXCLUSIVE FARM USE (EFU)
SPECIAL CONSIDERATIONS	BANDON AREA OF MUTUAL INTEREST (BMI) NATURAL HAZARD - TSUNAMI (NHTHO) WETLAND IN CRANBERRY BOGS (WC)
SET BACK AND SPECIAL SITING REQUIREMENTS	
MANDATORY SETBACK REQUIREMENTS	
50 FT RIPARIAN VEGETATION – All structures and development shall maintain a 50 FT. Minimum setback from all estuarine wetlands, streams, lakes or rivers.	
35 FT Road Setback – All structures shall be set back a minimum of 35 ft. from any road right-of-way centerline or a minimum of 5 FT from any road-right-of-way line whichever is the greater distance.	
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.	
SPECIAL SITING REQUIREMENTS THAT APPLY TO YOUR PROPERTY	
<input type="checkbox"/> RESIDENTIAL NEW OR REPLACEMENT DWELLINGS ON LOTS, PARCELS OR TRACTS ABUTTING THE "FOREST" ZONE Shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions. Vegetation within the 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.	
<input type="checkbox"/> 35 FT Height Restrictions	<input type="checkbox"/> SLOPE (shall not exceed 40%)

WILD FIRE REGULATIONS - Fire Siting Standards for New Dwellings: The property owner shall provide and maintain a water supply of at least 500 gallons with an operating water pressure of at least 50 PSI and sufficient ¾ inch garden hose to reach the perimeter of the primary fuel-free building setback. If another water supply (such as a swimming pool, pond, stream, or lake) is nearby, available, and suitable for fire protection, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

The owners of the dwelling shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break on land surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by Oregon Department of Forestry and shall demonstrate compliance with Table 1.

Table 1 - Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

All new and replacement structures shall use non-combustible or fire resistant roofing materials, as may be approved by the certified official responsible for the building permit. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester. The dwelling shall not be sited on a slope of greater than 40 percent.

- Natural Hazards – See Attached Conditions**
 Landslide Liquefaction/Earthquake Beaches and Dunes Flood Hazard
 Other:

COOS COUNTY HAS REVIEWED THE REQUESTED USE AND DETERMINED THAT ALL APPLICATIONS AND/OR REQUIREMENTS HAVE BEEN COMPLETED FOR THE SPECIFIC REQUESTED USE. THEREFORE, THE USE IS CONSISTENT WITH THE COOS COUNTY COMPREHENSIVE PLAN AND IMPLEMENTING ORDINANCE. THIS COMPLIANCE LETTER AUTHORIZES CLEARANCE FOR THE USE AND ALLOWS THE PROPERTY OWNER/APPLICANT TO OBTAIN THE FOLLOWING AGENCY PERMITS. THIS LETTER MUST BE PRESENTED TO STATE AGENCIES AT THE TIME YOU ARE REQUESTING AN AUTHORIZATIONS OR PERMITS FOR DEVELOPMENT. THERE MAY BE ADDITIONAL CONDITIONS THAT THE APPLICANT IS REQUIRED TO COMPLETE. IF THE APPLICANT FAILS TO COMPLY ENFORCEMENT ACTION MAY BE TAKEN. COOS COUNTY MAY PROVIDE CLEARANCE TO OBTAIN PERMITS FROM OTHER AGENCIES BUT THAT DOES NOT GUARANTEE THAT AGENCY WILL APPROVE YOUR PERMIT.

DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) OR SANITATION DISTRICTS

- SITE EVALUATION ONLY INSTALL NEW /REPLACE /REPAIR SEPTIC
 CONNECT TO CHARLESTON SANITATION CONNECT TO BUNKER HILL SANITATION
 AS NEEDED FOR MEDICAL HARDSHIP * OTHER:

STATE BUILDING CODES AGENCY PERMITS TO ALLOW

- SINGLE FAMILY DWELLING or MULTI FAMILY DWELLING New Repair Alter
 MANUFACTURE DWELLING/ MOBILE (NOT MANUFACTURE STRUCTURE)
 HARDSHIP – TEMPORARY – RV, MOBILE, MANUFACTURE, PARK MODEL *
 FARM/AG BUILDING ACCESSORY STRUCTURE OTHER AS DEFINED IN NOTES

OTHER AGENCY REQUIREMENTS:

All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If comments were provided they are attached. There may be additional permits required this section only provides guidance to applicants.

- Wetland delineation or additional requirements - Department of Stelands
 Coos County Environmental Health Permit
 Oregon Department of Aviation (FAA Form 7460-1)
 DEQ Permits for Stormwater discharge or 1200-C applications for projects that disturb 5 acres or more of land
 State of Oregon Historical Preservation Office
 Local Indian Tribes
 Oregon Department of Transportation Permits is required for access off of a state highway.

ACKNOWLEDGEMENT STATEMENT: THE APPLICANT ALREADY AGREED TO THE CONDITIONS IN WHICH THIS COMPLIANCE LETTER AUTHORIZES BY SIGNING THE APPLCIATION THAT REQUESTED THE DEVELOPMENT. THE AUTHORIZATION WAS BASED ON THE INFORMATION ON FILE AT THE TIME OF APPLICATION AND THE INFORMATION PROVIDED BY THE APPLICANT. IF CONDITIONS ARE NOT FOLLOWED THEN THIS ZONING COMPLIANCE LETTER CAN BE REVOKED. IF YOU HAVE QUESTIONS ABOUT ANY OF THE REGULATIONS PLEASE CONTACT STAFF.

COOS COUNTY COMPLIANCE

The Coos County Planning Department finds that the proposed uses comply with applicable provisions of the Coos County Zoning and Land Development Ordinance. The information contained on this form reflects the status of the subject property and land use regulations that exist at the time of issue based on the information available.

AUTHORIZED SIGNATURE: *Amy W. Lee*
Title: Planner II Date: 10/8/19

<input type="checkbox"/> Scan	<input type="checkbox"/> Assessor's office	<input type="checkbox"/> logged on Helion	<input type="checkbox"/> DEQ	<input type="checkbox"/> Building Codes
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RECORDING REQUESTED BY:



1100 W. Street, Ste 213
Bandon, OR 97411

Coos County, Oregon	2019-10233
\$96.00 Pgs=3	11/08/2019 01:23 PM
eRecorded by: TICOR TITLE BANDON	
Debbie Heller, CCC, Coos County Clerk	

GRANTOR'S NAME:
Dutch Ray Hausler and Marjory Hausler

GRANTEE'S NAME:
Komax LLC, an Oregon limited liability company

AFTER RECORDING RETURN TO:
Order No.: 360619028644-JF
Grant Cory
Komax LLC, an Oregon limited liability company
5913 Foley Lane
Central Point, OR 97502

SEND TAX STATEMENTS TO:
Komax LLC, an Oregon limited liability company
5913 Foley Lane
Central Point, OR 97502

APN: 964800
Map: 28S-14-20B TL 700
55957 Spring Creek Road, Bandon, OR 97411

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Dutch Ray Hausler and Marjory Hausler, Grantor, conveys and warrants to Komax LLC, an Oregon limited liability company, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Coos, State of Oregon:

Beginning at the Southwest corner of the Northeast quarter of the Northwest quarter of Section 20, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon; running thence North 320 feet; thence East 30 rods; thence South 320 feet; thence West 30 rods to the place of beginning.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$160,000.00). (See ORS 93.030).

Subject to:

1. Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in Deed

Recording Date: December 14, 1959
Recording No.: Book 275 Page 257 Deed Records

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

STATUTORY WARRANTY DEED

(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Date: November 7, 2019

Dutch Ray Hausler

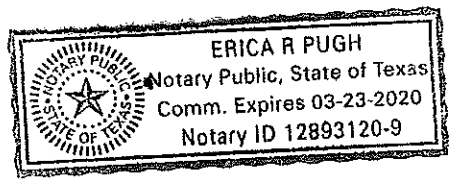
Marjory Hausler
Marjory Hausler

State of Texas
County of ~~Jefferson~~ Navarro

This instrument was acknowledged before me on Nov. 7, 2019
by Dutch Ray Hausler and Marjory Hausler.

[Signature]
Notary Public - State of Texas

My Commission Expires: 3/23/2020



STATUTORY WARRANTY DEED
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 11-6-19

Dutch Ray Hausler
Dutch Ray Hausler

Marjory Hausler

State of California
County of Los Angeles

This instrument was acknowledged before me on November 6, 2019
by Dutch Ray Hausler and ~~Marjory Hausler~~
WMB

Melanie M. Sears Notary Public
Notary Public - State of California

My Commission Expires: July 30, 2021

