



NOTICE OF LAND USE DECISION BY THE COOS COUNTY PLANNING DIRECTOR

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

Date of Notice: August 30, 2019

File No: D-19-005

RE: Request for a land use authorization for a Lawfully Created Unit of Land Application

Applicant(s): Michael Lovas
219 Brannan St Unit 11D
San Francisco, CA 94107

This decision notice serves as public notice to all participants, adjacent property owners, special districts, agency with interests, or person with interests. If you are an adjacent property owner, this notice is being mailed to you because the applicant has applied for a use or activity on their property that requires that you receive notice pursuant to ORS 197.763. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

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 a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.”

The request for a lawfully created unit of land determination has been reviewed and found to meet the applicable criteria. Therefore, staff concurs with the applicant that tax lot 500 and 602 are separate discrete lawfully created units of land. Approval is based on findings and facts represented in the staff report.

Property Information

Account Numbers	1367200
Map Numbers	30S151400-00500
Property Owners	BANDON BLACK MOON FARMS, LLC 219 BRANNAN ST #UNIT 11D SAN FRANCISCO, CA 94107-4037
Situs Addresses	86814 SYDNAM LN BANDON, OR 97411
Acreages	67.63 Acres
Zonings	EXCLUSIVE FARM USE (EFU) FOREST (F)
Special Considerations	FLOODPLAIN (FP)

Notice shall be posted from August 30, 2019 until 5 pm on September 11, 2019

FOREST MIXED USE (MU)
NATIONAL WETLAND INVENTORY SITE (NWI)
NATURAL HAZARD - TSUNAMI (NHTHO)
WETLANDS (WET)

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.

PROPOSAL: Request for Planning Director Approval of a Lawfully Created Parcel D-19-005

The application, staff report and any conditions can be found at the following link: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment-Applications2019.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. 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, Planning Specialist and the telephone number where more information can be obtained is (541) 396-7770.

This decision will become final at 5 p.m. on September 11, 2019 unless before this time a completed **APPLICATION FOR AN APPEAL OF A DECISION BY THE PLANNING DIRECTOR** form is submitted to and received by the Coos County Planning Department.

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.

Prepared by:  **Date:** August 30, 2019
Crystal Orr, Planning Specialist

Authorized by:  **Date:** August 30, 2019
Jill Rolfe, Planning Director

EXHIBITS

Exhibit A: Vicinity Map
Exhibit B: Discrete Parcel Map

The Exhibits below are mailed to the Applicant only. Copies are available upon request or at the following website: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment-Applications2019.aspx> or by visiting the Planning Department at 225 N. Baxter, Coquille OR 97423. If you have any questions please contact staff at (541) 396-7770.

Exhibit C: Documentation of Discrete Parcel
Exhibit D: D-19-005 Staff Report

**EXHIBIT "A"
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-19-011

Applicant/ Owner: Michael Lovas/
Bandon Black Moon Farms, LLC

Date: July 31, 2019

Location: Township 30S Range 15W
Section 14 TL 500

Proposal: Administrative Conditional Use

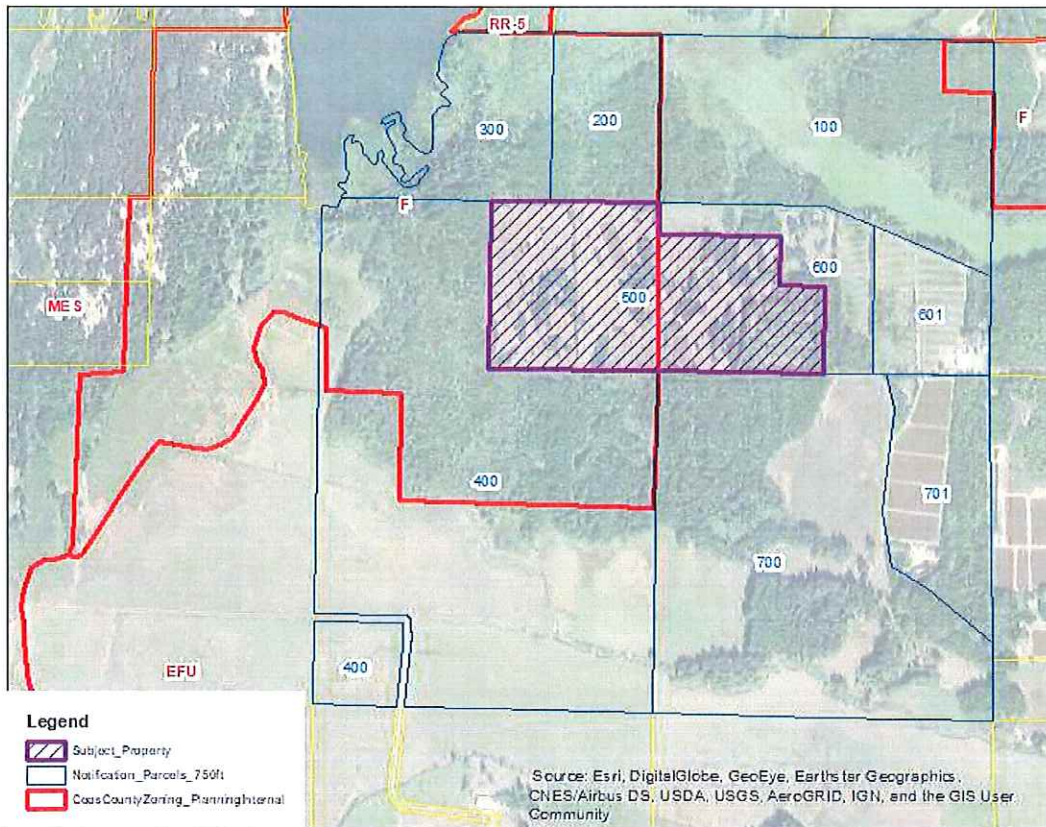


EXHIBIT "B"

Discrete Parcel Map

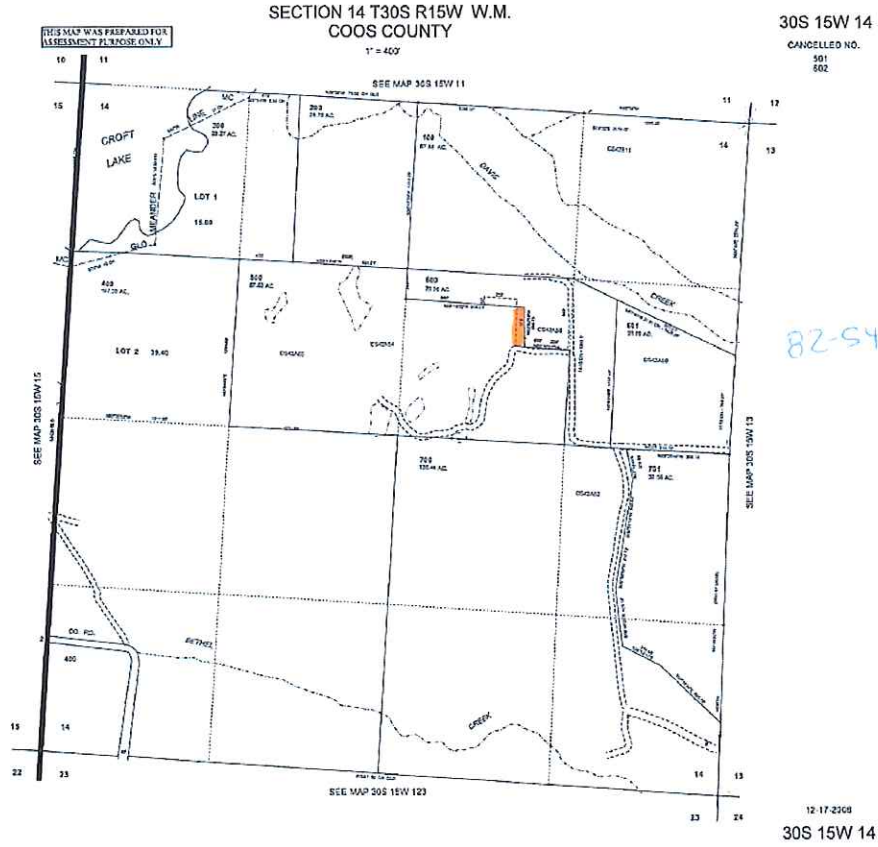


EXHIBIT "C"
Documentation of Lawfully Established Parcel

82 5 4200

BOUNDARY LINE AGREEMENT AND QUIT CLAIM DEED

WHEREAS, Thomas C. Forgestach and Virginia R. Forgestach, husband and wife, by virtue of a land sales contract, memorandum of which is recorded at 79-4-5340 and a warranty deed which is recorded at 81-2-4675, records of Coos County, Oregon, are the owners of certain real property in Coos County, Oregon, and Kenneth William Daoust and Earla J. Daoust, husband and wife, by virtue of a warranty deed recorded at 80-1-1039 and a warranty deed recorded at 80-1-1040, records of Coos County, Oregon, are the owners of real property in Coos County, Oregon, and

WHEREAS, both the Forgestachs and the Daousts trace their title to Glade H. Krawson, their common grantor, and

WHEREAS, certain differences have arisen between the legal description of the real property and the land actually intended to be conveyed by the parties common grantor, Glade H. Krawson, and

WHEREAS, the parties desire to enter into a boundary line agreement more particularly defining the common boundary between them, and providing for the maintenance of fencing on that common boundary.

NOW, THEREFORE, Thomas C. Forgestach and Virginia R. Forgestach, husband and wife grant, bargain, sell, quitclaim and convey unto Kenneth William Daoust and Earla J. Daoust, all of that certain real property located North and East of the line described in Exhibit A attached hereto and incorporated herein, and Kenneth William Daoust and Earla J. Daoust, husband and wife, grant, bargain, sell and

82 5 4201

quitclaim and convey unto Thomas C. Forgatsch and Virginia R. Forgatsch, husband and wife, all of that certain real property located South and West of the line described in Exhibit A attached hereto and incorporated herein.

FURTHER, Forgatches and Daunts grant to each other an easement five feet in width on either side of the line described in Exhibit A for the purposes of constructing and maintaining boundary line fences.

To Have and To Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

The actual consideration consists of or includes other property or value given or promised which is the whole consideration.

In construing this agreement and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the parties have executed this agreement this 15th day of November, 1982.

Thomas C. Forgatsch
Thomas C. Forgatsch
Virginia R. Forgatsch
Virginia R. Forgatsch

STATE OF OREGON }
COUNTY OF COOS } ss.

Aug 25, 1982.



Personally appeared the above named Thomas C. Forgatsch and Virginia R. Forgatsch and acknowledged the foregoing instrument to be their voluntary act and deed.

Robert J. Doherty
Notary Public for Oregon
My Commission Expires 8/7/85

82 5 4202

Kenneth William Daoust
Kenneth William Daoust

Earla J. Daoust
Earla J. Daoust

STATE OF OREGON)
COUNTY OF COOS) ss.

November 15, 1982.

Personally appeared the above named Kenneth William Daoust and Earla J. Daoust, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:



Audrey E. Blake
Notary Public for Oregon
My Commission Expires 2-28-84

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EXHIBIT A
DESCRIPTION OF A COMMON BOUNDARY LINE

Beginning at the NE corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 14, Township 30 South, Range 15 East of the Hillanette Meridian, Coos County, Oregon; thence South along the East line of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, 1332.27 feet, more or less, to an existing fence line and the true point of beginning; thence North 6° 39' 33" East 755.27 feet, more or less, to a 3/4 inch rebar; thence North 89° 18' 32" West 326 feet, to a 3/4 inch rebar; thence North 2° 52' 39" West 335.72 feet, more or less, to a 3/4 inch rebar; thence North 89° 18' 32" West 943.29 feet, more or less, to a 3/4 inch rebar set on a North-South centerline of Section 14; thence North 0° 45' 9" East 241 feet to a 3/4 inch rebar and the terminus of the common boundary.

Kenneth W. Williams Deaout Thomas C. Forgytsch
Kenneth William Deaout Thomas C. Forgytsch
Earla J. Deaout Virginia H. Forgytsch
Earla J. Deaout Virginia H. Forgytsch

STATE OF OREGON,

County of Coos

FORM NO. 23 - ACKNOWLEDGMENT
(REVISED 1955) LAW PUB. CO. - PORTLAND, OR.

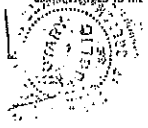
BE IT REMEMBERED, That on this 29th day of November, 1922, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Kenneth William Deaout and Earla J. Deaout

known to me to be the identical individuals described in and who executed the within instrument and who declared to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal this day and year last above written.

Charles B. Lohde
Notary Public for Oregon

My Commission expires 2-28-26



RECORDED DEC 20 1922 BY 7012/
W. W. WILSON, COUNTY CLERK

Forgytsch
Exhibit A

and Earla J. Daoust, husband and wife, grant, bargain, sell and

82 5 4201

quitclaim and convey unto Thomas C. Forgatsch and Virginia R. Forgatsch husband and wife, all of that certain real property located South and West of the line described in Exhibit A attached hereto and incorporated herein.

FURTHER, Forgatsches and Daousts grant to each...

82 5 4203

EXHIBIT A
DESCRIPTION OF A COMMON BOUNDARY LINE

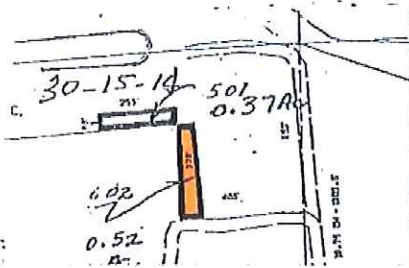
Beginning at the NE corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 14, Township 30 South, Range 15 West of the Willamette Meridian, Coos County, Oregon; thence South along the East line of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, 1332.27 feet, more or less, to an existing fence line and the true point of beginning; thence North 0° 39' 33" East 755.27 feet, more or less, to a 3/4 inch rebar; thence North 89° 18' 32" West 326 feet to a 3/4 inch rebar; thence North 2° 52' 38" West 336.73 feet, more or less, to a 3/4 inch rebar; thence North 89° 18' 32" West 943.28 feet, more or less, to a 3/4 inch rebar set on a North-South centerline of Section 14; thence North 0° 45' 9" East 241 feet to a 3/4 inch rebar and the terminus of the common boundary.

Kenneth William Daoust
Kenneth William Daoust

Thomas C. Forgatsch
Thomas C. Forgatsch

Earla J. Daoust
Earla J. Daoust

Virginia R. Forgatsch
Virginia R. Forgatsch



FORM NO. 23 - ACKNOWLEDGMENT
REPEALING LAW PUB. CO., PORTLAND, ORE.

this 29th day of November 1982,
I, the undersigned, a Notary Public in and for said County and State, personally appeared the within
and Earla J. Daoust
described in and who executed the within instrument and

EXHIBIT "D"
STAFF REPORT

File Number	D-19-005
Applicants	Michael Lovas
Account Number	1367200
Map Number	30S151400-00500
Property Owners	BANDON BLACK MOON FARMS, LLC 219 BRANNAN ST #UNIT 11D SAN FRANCISCO, CA 94107-4037
Situs Address	86814 SYDNAM LN BANDON, OR 97411
Acreage	67.63 Acres
Zonings	EXCLUSIVE FARM USE (EFU) FOREST (F)
Special Considerations	FLOODPLAIN (FP) FOREST MIXED USE (MU) NATIONAL WETLAND INVENTORY SITE (NWI) NATURAL HAZARD - TSUNAMI (NHTHO) WETLANDS (WET)

Reviewing Staff: Crystal Orr, Planning Specialist
Date of Report: August 30, 2019

I. PROPOSAL

The proposal is a request for Planning Director Approval of a lawfully created unit of land determination.

III. PROPERTY DESCRIPTION

LOCATION: The subject properties are located south of the City of Bandon near the Coos-Curry County boundary.

IV. APPLICABLE CRITERIA & FINDINGS OF FACT

LAWFULLY CREATED:

SECTION 6.1.100 WHAT IS NOT A LAWFULLY CREATED LOT OR PARCEL:

A unit of land shall not be considered a separate parcel simply because the subject tract of land;

1. Is a unit of land created solely to establish a separate tax account;
2. Includes properties that have divided interest;
3. Lies in different counties;
4. Lies in different sections or government lots;
5. Lies in different land use or zoning designations; or
6. Is dissected by a public or private road.

SECTION 6.1.125 LAWFULLY CREATED UNIT OF LAND

“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.

SECTION 6.1.150 APPLICATIONS ESTABLISHING LAWFULLY CREATED LOTS OR PARCELS:

An application to establish a lawfully created unit of land shall be submitted in the case of Section 6.1.125.1.d, e and f and Section 6.1.125.2. This is an administrative land use decision. If County Counsel is required to review information to determine legal status of the unit of land additional fees may be charged.

All notices will be provided in accordance with LDO Section 5.0.

Once it is determined that a lawfully created unit of land exists it shall be separated out on its own deed prior to any reconfiguration such as a property line adjustment. A copy of that deed needs to be provided to the Planning Department showing the process has been completed. If there are more than two lawfully created units of land (discrete parcels) found to exist a road may be required to provide access. The applicable road standards in Chapter VII will apply.

Finding: Tax lot 500 consolidated with tax lot 602 in 2008. Tax lot 602 was deeded out through quit claim deed 82-54200. Therefore, tax lot 602 is considered a lawfully discrete parcel pursuant to Section 6.1.125.e as it was deeded out when there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation. Tax lot 500 was proven to be lawfully discrete through a prior land use application approval (ACU-19-011).

Therefore, given the evidence in the record staff concurs that both tax lots are lawfully created and can be sold separately.

VI. DECISION:

The lawfully created unit of land determination is approved based on the evidence received by the applicant and information on file.