



1510 – B Third Street  
Tillamook, Oregon 97141  
www.tillamook.or.us

Building (503) 842-3407  
Planning (503) 842-3408  
On-Site Sanitation (503) 842-3409  
FAX (503) 842-1819  
Toll Free 1 (800) 488-8280

*Land of Cheese, Trees and Ocean Breeze*

**CONDITIONAL USE PERMIT #851-22-000384-PLNG: KUNERT  
ADMINISTRATIVE DECISION & STAFF REPORT**

**Decision Date: December 19, 2022**

**Decision: APPROVED WITH CONDITIONS**

**Report Prepared by: Sarah Absher, CFM, Director**

**I. GENERAL INFORMATION:**

**Request:** Conditional Use Request to establish a learning/tutoring center (private school) not to exceed 12 students at any given time (Exhibit B).

**Location:** The subject property is located at 8500 Burbank Road, a County road, and is designated as Tax Lot 102 in Section 10CC of Township 2 South, Range 9 West of the Willamette Meridian, Tillamook County, Oregon (Exhibit A).

**Zone:** Rural Residential 2-Acre zone (RR-2)

**Applicant/  
Property Owner:** David & Angie Kunert, 8500 Burbank Road, Tillamook, OR 97141

**Property Description:** The subject property is rectangular in shape; improved with a single-family dwelling and accessory structure; encompasses 3.72 acres of moderately flat with gentle slope features; is modestly vegetated with grasses, trees and shrubs; and is accessed via Burbank Road, a County road (Exhibit A).

There is a small, mapped wetland feature in the southwestern region of the subject property (Exhibit A). The subject property is located in Flood Zone X, 'Areas of minimal flood hazard' as depicted on FEMA FIRM 41057C0595F dated September 28, 2018 (Exhibit A). The subject property is zoned Rural Residential 2-Acre (RR-2) as is the surrounding area to the north, south, and west. The area to the east is zoned Forest (F) (Exhibit A). Predominant uses in the area include residential, agricultural and forest

management activities. The subject property is also within close proximity to the Port of Tillamook Bay where a diverse range of industrial, recreation and natural resource industry activities take place (Exhibit A).

The subject property is located in a mapped area of moderate susceptibility of geologic hazard (Exhibit A).

## II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:

The desired use is governed through the following Sections of the Tillamook County Land Use Ordinance (TCLUO). The suitability of the proposed use, in light of these criteria, is discussed in Section III of this report:

- A. Article III Section 3.010 Rural Residential 2-Acre Zone (RR-2)
- B. Article VI: Conditional Use Procedures and Criteria

## III. ANALYSIS:

### A. Section 3.010 Rural Residential 2-Acre Zone (RR-2)

*PURPOSE: The purpose of the RR zone is to provide for the creation and use of small acreage residential homesites. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes.*

...  
*USES PERMITTED CONDITIONALLY: In the RR zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all other applicable supplementary regulations contained in this Ordinance.*

...  
*(f) Churches and schools.*

**Findings:** Applicant is proposing a learning/tutoring center (private school) within an existing structure on the subject property (Exhibit B). Staff finds that the proposed use is listed as a use permitted conditionally in the Rural Residential 2-Acre zone subject to the Conditional Use Review Criteria contained in Article VI and all other applicable standards. Analysis of the request in relation to the criteria outlined in TCLUO Section 6.040 are provided in this report.

### B. Article VI Conditional Use Procedures and Criteria

Article VI of the Tillamook County Land Use Ordinance contains the procedures and review criteria for processing a Conditional Use request. These criteria, along with Staff's findings and conclusions, are indicated below.

**Section 6.020 Procedure** requires public notice in accordance with TCLUO Section 10.070 which requires notification of the request to be mailed to landowners within 250 feet of the subject property, to allow at least 14 days for written comment, and requires staff to consider comments received in making the decision.

**Findings:** Notice of the request was mailed to property owners and agencies on October 10, 2022. Comments from the Tillamook County Public Works are included here in 'Exhibit C'. Comments reflect approval of the proposed project in relation to the permitted road approach and subject to Conditions of Approval (Exhibit C).

## Section 6.040 Review Criteria

1. *The use is listed as a conditional use in the underlying zone, or in an applicable overlying zone.*

**Findings:** As discussed above, Staff finds that the proposed private school is a use permitted conditionally in the Rural Residential 2-Acre (RR-2) zone. Staff concludes that this criterion has been met.

2. *The use is consistent with the applicable goals and policies of the comprehensive plan.*

**Findings:** Applicant's response to this criterion is included in "Exhibit B". Applicant's response focuses largely on transportation uses and mitigation of concerns related to the condition and travel width of Burbank Road. Staff finds Applicant's coordination with the Tillamook County Public Works Department to address any transportation concerns have been adequately addressed as reflected in the record (Exhibit C).

Staff finds that the proposed use is permitted conditionally in the Tillamook County Land Use Ordinance. The TCLUO is an implementing document of the Comprehensive Plan. In the absence of evidence to the contrary, uses allowed conditionally in the Land Use Ordinance are presumed to be consistent with the Comprehensive Plan. Relevant Comprehensive Plan Goal elements in relation to this request are further discussed below:

- Tillamook County Comprehensive Plan Goal 1 Element: The Planning Process  
*Summary: Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.*
- Tillamook County Comprehensive Plan Goal 2 Element: THE LAND USE PLAN  
*Summary: Goal 2 outlines the basic procedures of Oregon's statewide planning program and describes the development of Tillamook County's Comprehensive Plan including justification for identifying exception areas.*
- Tillamook County Comprehensive Plan Goal 3 Element: AGRICULTURAL LANDS  
*Summary: Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.*
- Tillamook County Comprehensive Plan Goal 4 Element: FOREST LANDS  
*Summary: This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."*
- Tillamook County Comprehensive Plan Goal 5 Element: NATURAL RESOURCES  
*Summary: The purpose of Goal 5 is to protect natural resources, and conserve scenic and historic areas and open space. Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.*

This conditional use request for operation of a private school is subject to the Type II application procedures contained within Article 10 of the TCLUO. These procedures include notification to adjacent landowners within 250-feet of the subject property and affected local, state and federal agencies. The provisions contained within Article 10 have been met and demonstrate compliance with Comprehensive Plan Goal Elements 1 and 2.

The subject property is adjacent to resource zoned lands to the east (Exhibit A). In review of County records and with use of GIS, Staff finds the location of the proposed private school is more than 100-feet from adjacent Forest (F) zoned lands where natural resource activities may occur. Applicant's site plan confirms all school uses will take place within the boundaries of the subject property (Exhibit B). Given the location of the proposed private school, the small scale of operation (no more than 12 students at any given time) and confirmation that all uses will take place within the boundaries of the subject property, Staff finds the proposed private school is not in conflict with the goals and policies contained within Comprehensive Plan elements 3 and 4.

Staff also finds the subject property is not included in the natural resource inventories contained within the Goal 5 Natural Resources Element of the Tillamook County Comprehensive Plan.

- **Tillamook County Comprehensive Plan Goal 10 Element: HOUSING**  
*Summary: This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types. This Goal element within the Tillamook County Comprehensive Plan focuses on the separation of housing needs and opportunities in both rural and urban areas. There is a strong tie to the Goal 11: Public Facilities and Goal 14: Urbanization elements of the Comprehensive Plan in this section.*

The subject property is located within the Rural Residential 2-Acre (RR-2) zone. The subject property is improved with a single-family dwelling. The proposed use of a private school is not in conflict with the policies contained within the Goal 10 element of the Tillamook County Comprehensive Plan as residential uses can continue to occur on the subject property (Exhibit B).

- **Tillamook County Comprehensive Plan Goal 11 Element: PUBLIC FACILITIES**  
*Summary: Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should to be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs. This Element of the Comprehensive Plan outlines types and levels of urban and rural facilities and services, with guidance to ensure timely, orderly and efficient arrangement of public facilities and services in Tillamook County.*
- **Tillamook County Comprehensive Plan Goal 12 Element: TRANSPORTATION**  
*Summary: The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged." Policies outlined in this Goal element of the Tillamook County Comprehensive Plan require the County to protect the function, operation and safety of existing and planned roadways as identified in the County's Transportation Plan, consider land use impacts on existing or planned transportation facilities in all land use decisions, plan for multi-modal networks, and coordinate transportation planning efforts with other jurisdictions to assure adequate connections to streets and transportation systems between incorporated and unincorporated areas.*
- **Tillamook County Comprehensive Plan Goal 13 Element: ENERGY CONSERVATION**

*Summary: Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles." Planning for energy conservation and opportunities to promote the installation of renewable energy systems are discussed in this Goal element of the Tillamook County Comprehensive Plan.*

- **Tillamook County Comprehensive Plan Goal 14 Element: URBANIZATION**

*Summary: This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses. This Goal element of the Tillamook County Comprehensive Plan focuses largely on development within unincorporated communities, public facility limitations to rural areas, and impacts of urban sprawl on resource lands.*

The Goal 11 element of the Tillamook County Comprehensive Plan specifically states, "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served." The request is for operation of a private school for up to 12 students at any given time (Exhibit B). The subject property is improved, and services are already existing to the subject property.

Public facilities and services to the site include emergency response, electric, onsite sanitation, water and transportation (Exhibit B). Comments from the Tillamook County Public Works Department have been received and are included as "Exhibit C", confirming the transportation system in this vicinity is adequate to serve the proposed private school provided the conditions of approval are met. Evaluation of the existing onsite wastewater treatment system has been completed by the Department. The subject property is already served by the Long Prairie Water District.

The private school as proposed to be developed on the subject property does not in and of itself prevent promotion of installation of renewable energy systems in the area. The proposed private school to allow for up to 12 students at any given time is not considered to be an urban use and will not result in urbanization of the subject property or surrounding area.

Staff finds the proposed use of a private school is not in conflict with the policies contained within the Tillamook County Comprehensive Plan Goal elements listed above.

Staff concludes this criterion is met.

3. *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.*

**Findings:** The subject property is rectangular in shape, improved with a single-family dwelling and accessory structure, encompasses 3.72 acres of moderately flat and modestly vegetated area and is accessed via Burbank Road, a County road (Exhibit A). Applicant states school activities will largely take place within the existing accessory structure and that outside activities will take place in various areas of the subject property- boundary lines of which are clearly defined with fences, trees and shrubbery (Exhibit B). The site plan illustrates the addition of two parking spaces which satisfies the requirements of Section 4.030(13)(e) (Exhibit B).

As noted above the subject property is not located in an Area of Special Flood Hazard (Exhibit A). Applicant's site plan confirms all uses are to take place within the existing accessory structure and that any improvements to the subject property to accommodate the use of a private school are outside of any mapped wetland area (Exhibit B). Tillamook County Public Works Department has confirmed there is adequate area on the subject property for operation of a private school, and comments reflecting improvements are captured within their letter (Exhibit C).

Staff concludes that this criterion has been met in part and can be met through compliance with Conditions of Approval.

4. *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.*

**Findings:** As stated previously in this report, Applicant states school activities will largely take place within the existing accessory structure and that outside activities will take place in various areas of the subject property- boundary lines of which are clearly defined with fences, trees and shrubbery (Exhibit B). Applicant adds there are many trees, field areas, and a great deal of natural vegetation that exists between all of our surrounding neighbors (Exhibit B).

In relation to traffic, Applicant states the private school will not cause a noticeable change in the neighborhood as students will not leave the property during learning time with the exception of planned field trips (Exhibit B). Applicant adds the learning center will follow the same holiday schedule and daytime hours as public schools (Exhibit B).

As illustrated in 'Exhibit A', the subject property is located in a residentially zoned area generally developed with residential uses, including farm and forest activities within close proximity to the subject property (Exhibit A). Properties in close proximity are primarily used for residential purposes and are improved with a single-family dwelling. Natural resource uses established on the adjacent property to the east are more than 100-feet from the location of the proposed private school (Exhibit A).

The proposed use of the private school will be located within the existing accessory structure on the subject property (Exhibit B). Mitigation of noise and traffic concerns can be mitigated through conditions of approval that require maintenance of vegetative and fencing buffers, application of lighting standards and limiting hours of operation.

The purpose of requirements for off-street parking and loading areas is to relieve traffic congestion; to ensure customer convenience and safety; to provide safe access to parked vehicles; and to help ensure safe and timely response of emergency vehicles.

Staff finds that a review of the site plan submitted illustrates there is adequate area available for the required off-street parking spaces for both the residential use and the private school pursuant to the requirement of Section 4.030(13)(e). In review of the site plan, staff also finds there is adequate space for loading areas and adequate areas for maneuvering vehicles for safe access to common roads.

Staff finds that the request will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

Staff concludes that this criterion has been met in part and can be met through compliance with the Conditions of Approval.

5. *The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills.*

**Findings:** Staff does not find any record of such facilities in the area. Applicant states that the proposed private school will not have any effect on any such facilities and do not propose any such facilities (Exhibit B). Staff concludes this criterion met.

6. *The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.*

**Findings:** Applicant states the request for operation of a private school is timely, considering the need expressed by many families with elementary aged children in the community (Exhibit B). Applicant adds the private school will not create measurable increase demand on any of these public facilities or require additional services (Exhibit B).

Staff finds that the subject property is served by existing water, septic, fire patrol, electricity, and county sheriff patrol. As stated previously in this report, evaluation of the existing onsite wastewater treatment system has already been completed by the Department. Transportation facility review has been completed by the Tillamook County Public Works Department as reflected in comments received in “Exhibit C” of this report. Staff finds updated fire and water letters can be provided at the time of consolidated zoning and building permit application submittal to confirm continued service to the property with the inclusion of the proposed private school.

Staff concludes this criterion met has been met in part and can be met through the Conditions of Approval.

#### **IV. DECISION: APPROVED WITH CONDITIONS**

Based on the findings shown above, Staff concludes that the applicant has satisfied the review criteria and can meet all applicable ordinance requirements at the time of application. Therefore, the Department approves this request subject to the Conditions of Approval in section V of this report.

**Appeal of this decision.** This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. The forms and fees must be filed in the office of this Department before **4:00 PM on January 3, 2023.**

#### **V. CONDITIONS OF APPROVAL:**

Sections 6.070: COMPLIANCE WITH CONDITIONS, and 6.080: TIME LIMIT requires compliance with approved plans and conditions of this decision, and all other ordinance provisions. Failure to comply with the Conditions of Approval and ordinance provisions could result in nullification of this approval.

1. Prior to operation of the private school, the applicant/property owner shall obtain all Federal, State, and Local permits, including licensing from Tillamook County Community Health, and others as applicable.
2. Prior to operation of the private school, the applicant/property owner shall obtain an approved consolidated Zoning and Building Permit from the Tillamook County Department of Community Development.

3. Prior to operation of the private school, the applicant/property owner shall provide an updated water service letter from the Long Prairie Water District and an updated fire letter from the Tillamook Fire District. The letters shall be submitted to the Department in conjunction with the consolidated Zoning and Building Permit at the time of permit application submittal.
4. Prior to operation of the private school, the applicant/property owner shall provide a letter from the Tillamook County Public Works Department confirming the Conditions of Approval outlined in the letter dated October 20, 2022, have been met. A copy of the letter shall be submitted to the Department in conjunction with the consolidated Zoning and Building Permit at the time of permit application submittal.
5. A site plan, drawn to scale, illustrating compliance with the requirements of TCLUO 4.030: Off-Street Parking & Off-Street Loading Requirements shall be provided at the time of consolidated Zoning and Building Permit submittal that clearly identifies the two (2) additional parking spaces for operation of the private school.
6. Existing vegetative buffers shall be maintained along the boundary lines of the subject property to separate adjacent residential uses from the operation of the private school. These buffers shall be identified on the site plan submitted in conjunction with the consolidated Zoning and Building Permit at the time of permit application submittal.
7. Approval for the operation of the private school is based upon a maximum number of twelve (12) students in attendance at any one time. Expansion of the school operation is subject to land use review and review by the Tillamook County Public Works Department and the Tillamook Fire District.
8. School operation hours shall be between the hours of 7:00am to 8:00pm.
9. Any artificial lighting for the school operation shall be installed in a manner that does not create or reflect substantial glare onto adjacent residential properties.
10. Signage shall comply with the standards of Tillamook County Land Use Ordinance Section 4.020: Signs.
11. This approval shall be void on December 19, 2024, unless construction of approved plans has begun, or an extension is requested from, and approved by this Department.

**VI. EXHIBITS**

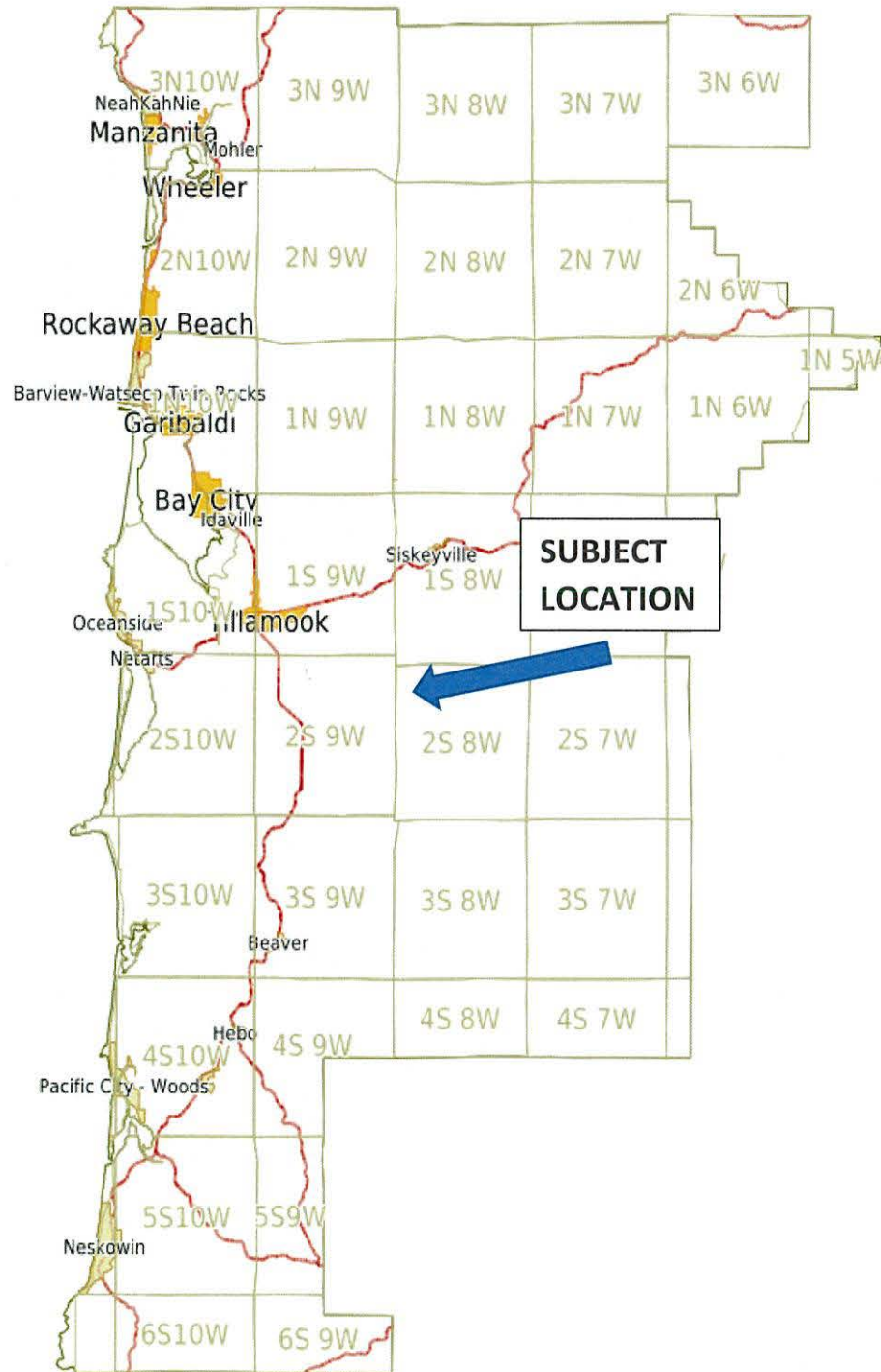
All Exhibits referred to herein are, by this reference, made a part hereof:

- A. Location map, Assessor/Zoning map, FEMA FIRM, NWI Map, Coastal Atlas Map
- B. Applicant's submittal
- C. Agency comments



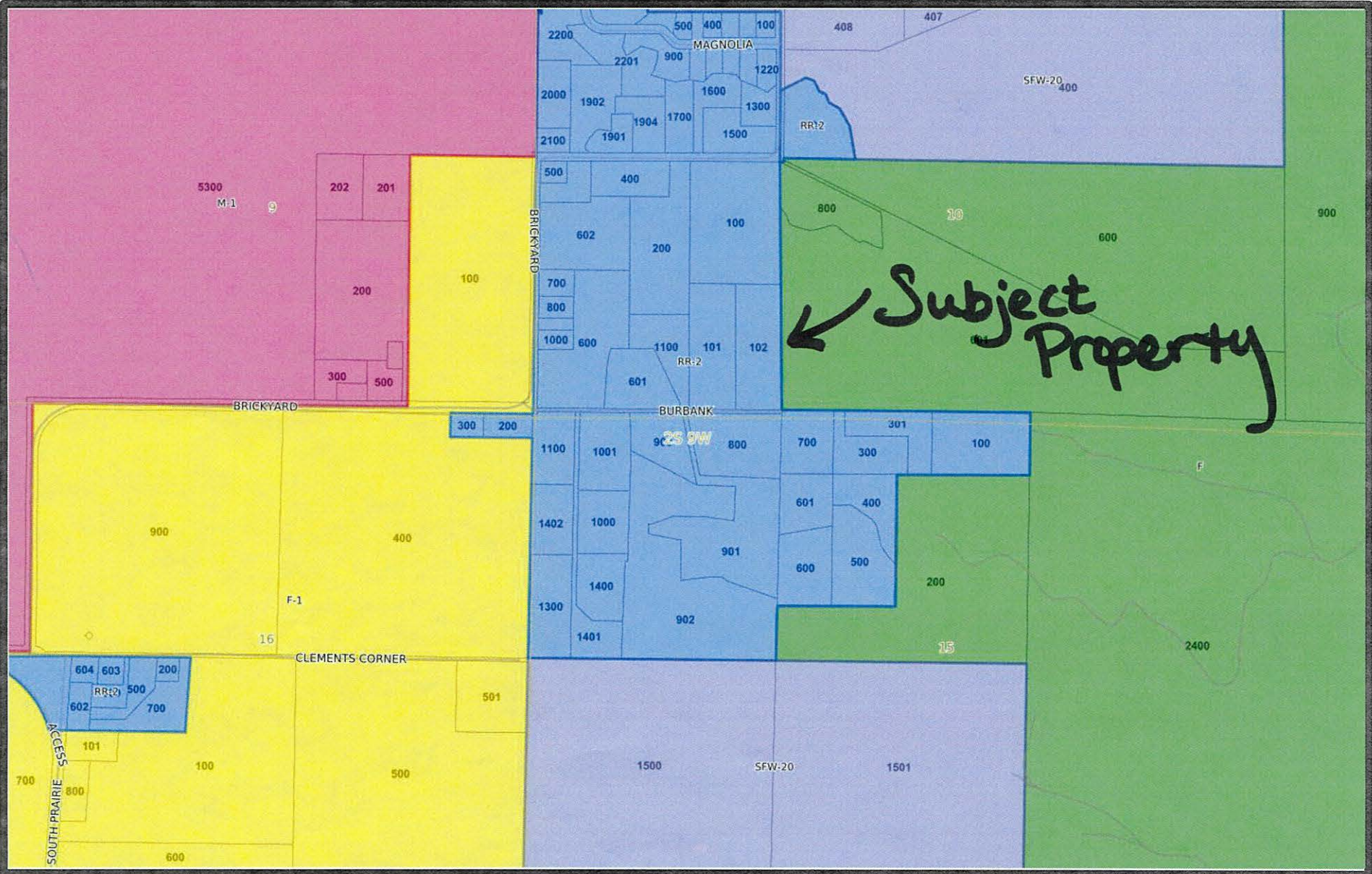
# EXHIBIT A

# VICINITY MAP



#851-22-00384-PLNG: KUNERT

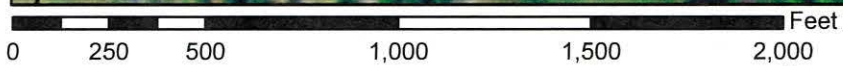
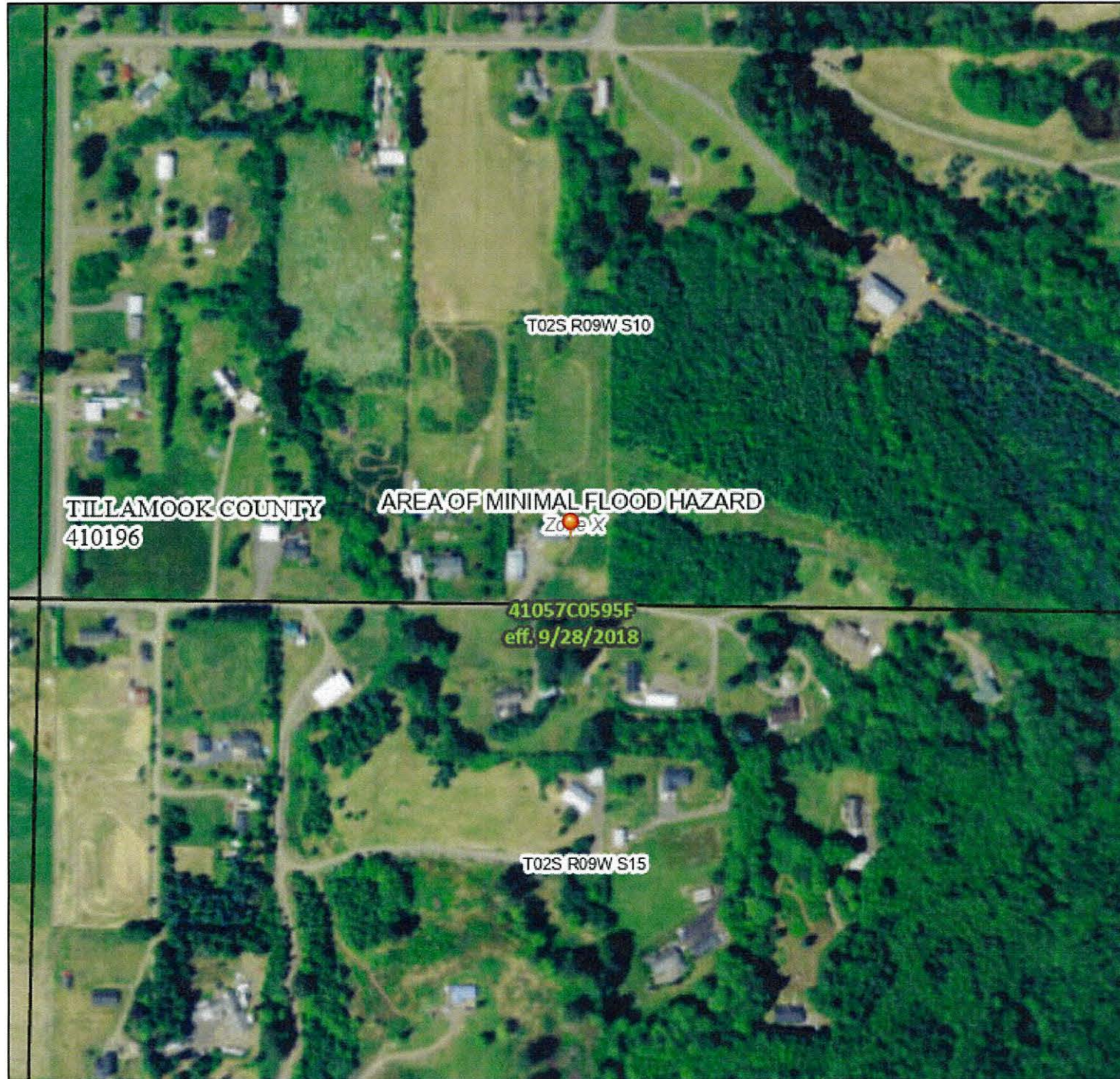
# Map



# National Flood Hazard Layer FIRMette



123°47'W 45°24'32"N



1:6,000

123°46'23"W 45°24'6"N

### Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

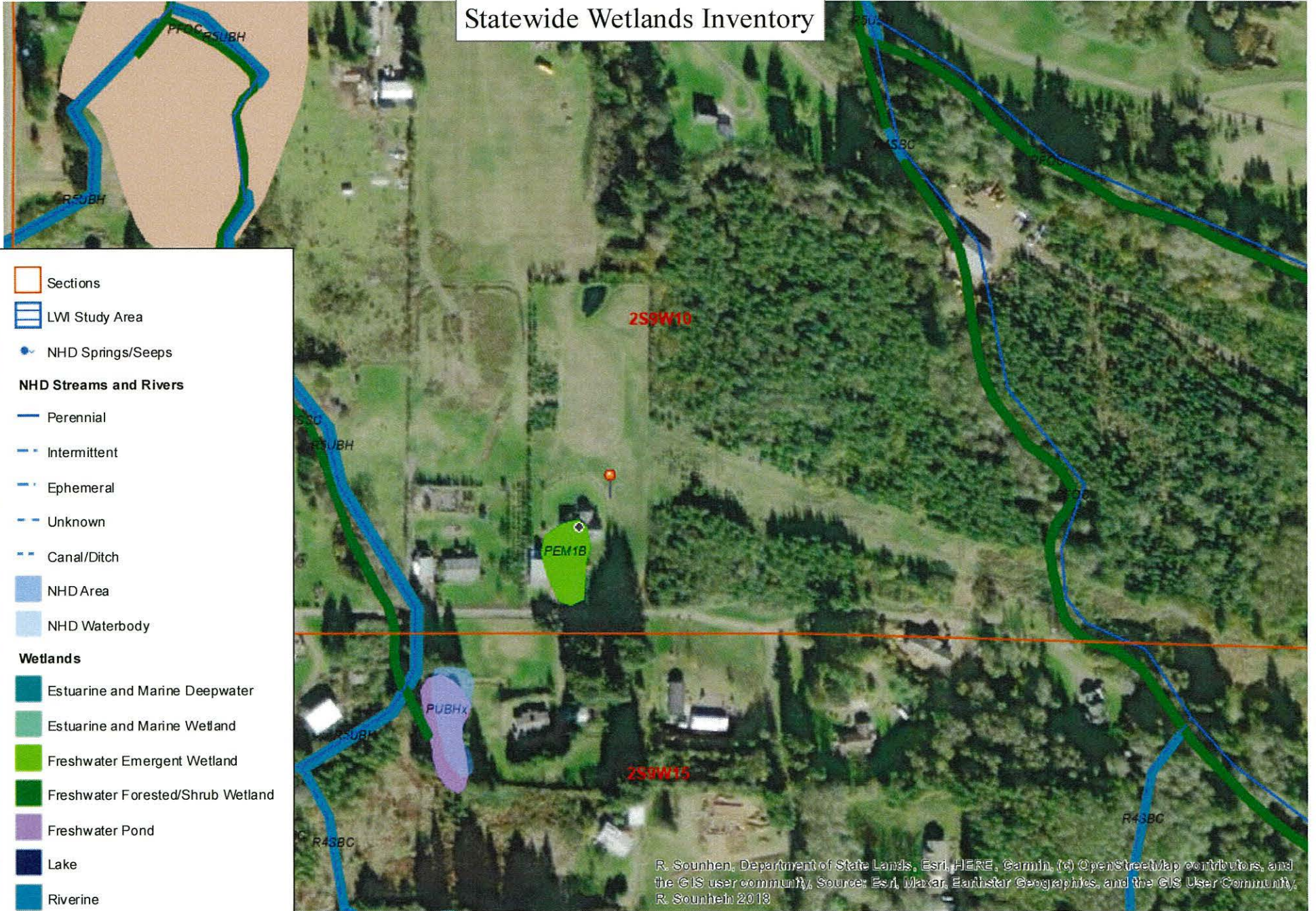
The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 12/14/2022 at 5:37 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

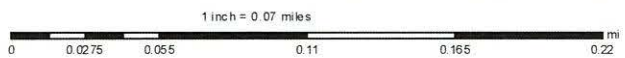
This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

# Statewide Wetlands Inventory



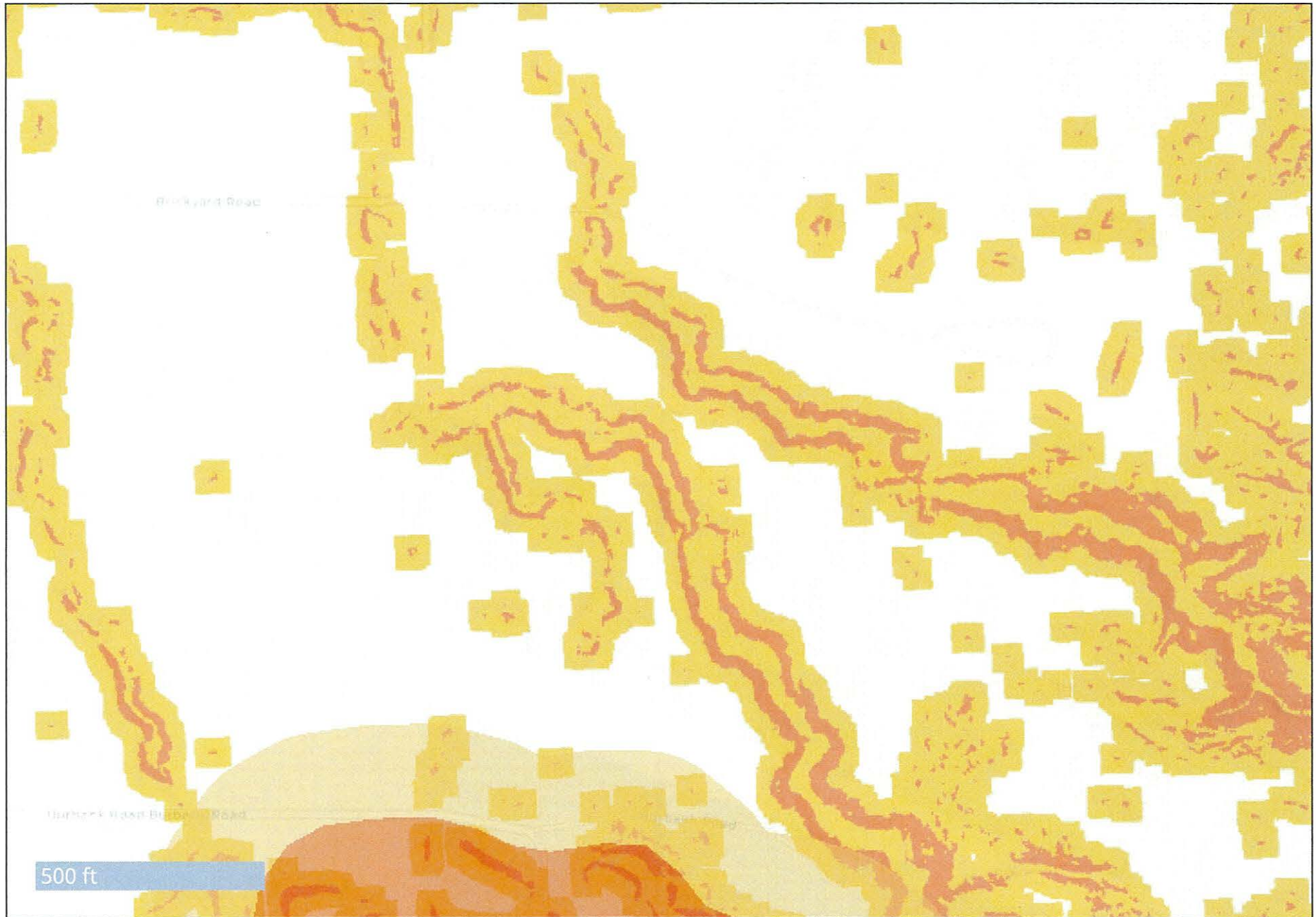
- Sections
- LWI Study Area
- NHD Springs/Seeps
- NHD Streams and Rivers**
- Perennial
- Intermittent
- Ephemeral
- Unknown
- Canal/Ditch
- NHD Area
- NHD Waterbody
- Wetlands**
- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine
- SWIPredominantlyHydricSoilMU
- SWIAGateWinlo

R. Sounhen, Department of State Lands, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, R. Sounhein 2013



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# EXHIBIT B



Tillamook County Department of Community Development  
 1510-B Third Street, Tillamook, OR 97141 | Tel: 503-842-3408  
[www.co.tillamook.or.us](http://www.co.tillamook.or.us)



## PLANNING APPLICATION

**Applicant**  (Check Box if Same as Property Owner)

Name: David & Angie Kunert Phone: (503) 842 1776  
 Address: 8500 Burbank Road  
 City: Tillamook State: OR Zip: 97141  
 Email: Kunertsfam@gmail.com

**Property Owner**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Email: \_\_\_\_\_

OFFICE USE ONLY	
Date Stamp	<del>RECEIVED SEP 28 2022 BY: _____</del>
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by: _____	
Receipt #: _____	
Fees: <u>1300.-</u>	
Permit No: <u>851-22-000384PLNG</u>	

Request: Learning/tutoring center not to exceed 12 students at any given time. The hours of operation will coincide with public school.

**Type II**

- Farm/Forest Review
- Conditional Use Review
- Variance
- Exception to Resource or Riparian Setback
- Nonconforming Review (Major or Minor)
- Development Permit Review for Estuary Development
- Non-farm dwelling in Farm Zone
- Foredune Grading Permit Review
- Neskowin Coastal Hazards Area

**Type III**

- Appeal of Director's Decision
- Extension of Time
- Detailed Hazard Report
- Conditional Use (As deemed by Director)
- Ordinance Amendment
- Map Amendment
- Goal Exception

**Type IV**

- Appeal of Planning Commission Decision
- Ordinance Amendment
- Large-Scale Zoning Map Amendment
- Plan and/or Code Text Amendment

**Location:**

Site Address: 8500 Burbank Road, Tillamook OR  
 Map Number: 2S 9W 10CC 102  
Township Range Section Tax Lot(s)

Clerk's Instrument #: \_\_\_\_\_

**Authorization**

This permit application does not assure permit approval. The applicant and/or property owner shall be responsible for obtaining any other necessary federal, state, and local permits. The applicant verifies that the information submitted is complete, accurate, and consistent with other information submitted with this application.

[Signature]  
 Property Owner Signature (Required)

Oct 3, 2022  
 Date

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_



**Response to Conditional Use Review Criteria**  
**David and Angie Kunert**  
**10/3/22**

**General Information:**

**Land Use:** A Conditional Use request for the operation of a learning/tutoring center, not to exceed 12 students within the Rural Residential 2-Acre (RR) zone.

**Location:** 8500 Burbank Road

**Zone:** Rural Residential 2-Acre (RR)

**Applicant:** David and Angie Kunert 8500 Burbank Road, Tillamook, OR 97141

**Property Owner:** Same as applicant

**Narrative:**

We are requesting approval for the operation of a learning/tutoring center not to exceed 12 students at our rural residential residence. (A) Student attendance will coincide with the local public school schedule and some may attend only part time, depending on individual learning needs. (B) Many students will walk, ride a bike, or carpool with other students. Adequate parking is available on our property. Traffic will be limited to personal vehicles for the transportation of students. Our current driveway width can accommodate two vehicles simultaneously (coming and going at the same time). The driveway is structured to have room for vehicles to circle for delivery/pick-up safely; while other cars are parked. (C) We do not wish to add any structures, signs or other features that would cover up or take away from our normal personal residence or anywhere in the neighborhood. (D) In conversation, the surrounding neighbors are in support of our concept for a learning center.

(1) We understand that learning/tutoring centers or alternative educational sites are permitted under a Conditional Use Permit on property such as ours. (Zoned rural residential)

(2) The Comprehensive Plan has not been updated since 2008 and the current update has been forthcoming since 2019. By our requesting approval for the operation of a learning/tutoring center not to exceed 12 students at our rural

residential residence, we understand this will fall within the goals and policies of the updated Comprehensive Plan. We believe a learning center will complement our neighborhood. The main issue is likely increased road use. Burbank Road has been in poor condition and has received no county maintenance since we've lived here (beginning in 2007) and would remain that way if left unmaintained by us and seldomly one other neighbor. In the rainy season, we diligently fill potholes and maintain the drainage ditches. The impact of a few more passenger vehicles using the road to attend the learning center would not be noticeable to users of the road. We don't anticipate the safety of the road being compromised, as all vehicles will be able to come and go as normal. Many of the students who attend will arrive and be picked-up at staggered times throughout the day. Congestions would rarely be problematic. In addition, we understand a pull out area is currently being established to increase better flow of traffic. Drivers can plan to pull over and wait for another vehicle to pass safely. This pull out area can also be used in the event of an emergency. Drivers will need to continue to be careful of children on foot or on bikes on Burbank Road. There are many children in the neighborhood who walk to and from the end of Burbank Road to ride the public school bus as well as for recreation.

**(3)** We feel our residence is suitable for a learning center not to exceed 12 students. Educational instruction will take place in a pre-existing structure. Outside activities will take place in various places around our modestly sloped 4 acre property. The property lines are clearly defined with fences, trees and shrubbery. Any activities that take place would not affect surrounding neighbors in any way. There are many trees, field areas, and a great deal of natural vegetation that exists between all of our surrounding neighbors.

**(4)** The learning center would not cause any noticeable change in the neighborhood. The students will not leave the property during learning time, except for planned field trips. Currently, there are many families with young children and/or grandchildren who play outside and use the road to bike or walk between properties. The learning center will follow the same holiday schedule and day time hours as the public schools.

**(5)** The learning center would not have any effect on existing solar energy systems, wind energy conversion systems or windmills. There are none that exist currently in our area and we do not plan to build any new structures on our property.

**(6)** Our request is timely, considering the need expressed by many families with elementary aged children in the community. We are aware of many other private

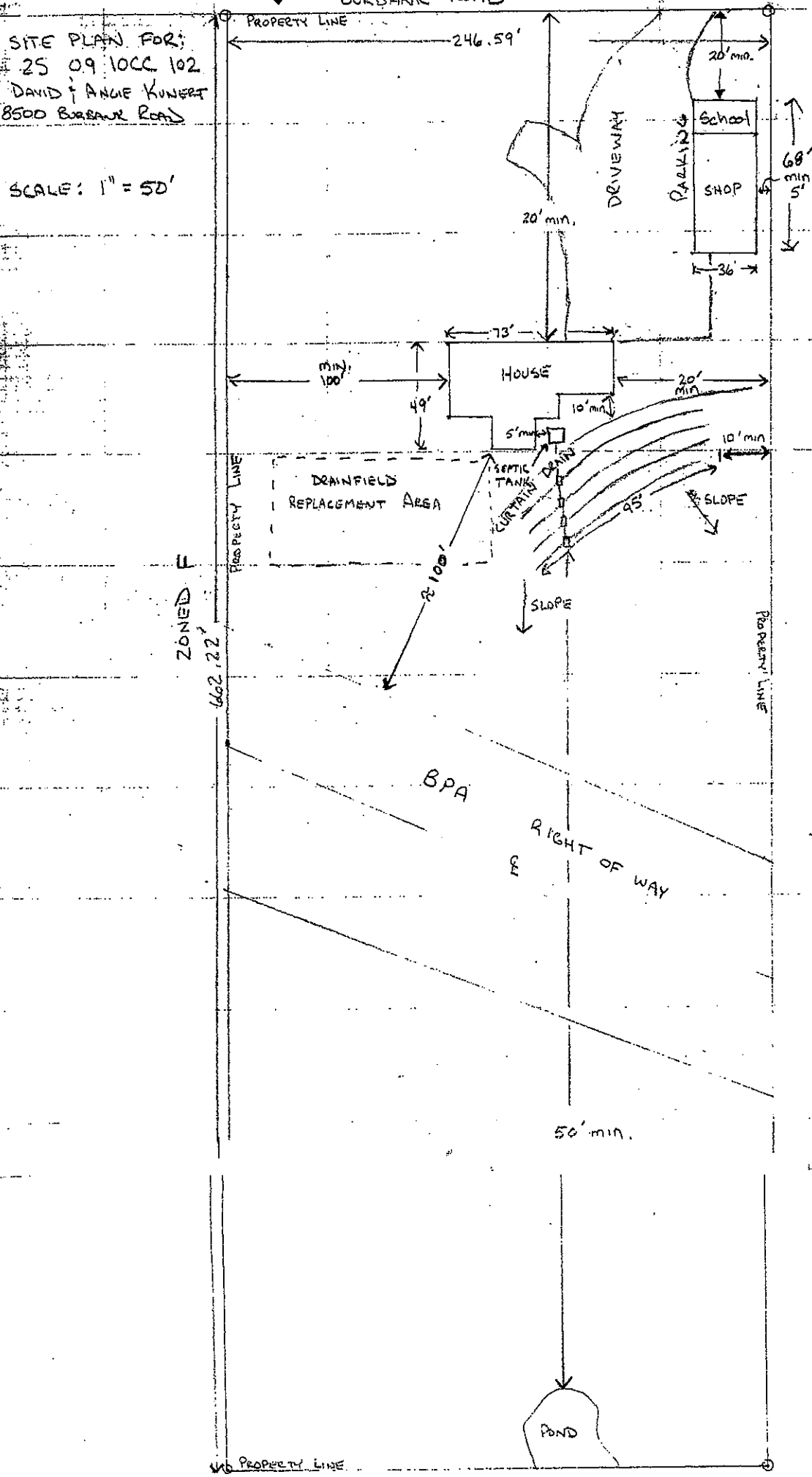
schools, learning pods, and tutoring centers that have developed over the past few years. The need continues to increase. Parents are continually seeking out educational resources such as the learning center we are proposing.

Public facilities and services needed to support the learning center include roads, power, water and garbage. With the exception of Burbank Road, roads leading to and from are maintained by the public works department. As mentioned before, we have been the primary maintainers of Burbank Road since 2007. Power is supplied by the local public utilities district. Water is supplied by Long Prairie water district who purchases it from the City of Tillamook. Garbage is managed by Tillamook County solid waste administration. The learning center will not create measurable increased demand on any of these public facilities or require additional services.

↓ N BURBANK ROAD

SITE PLAN FOR:  
25 09 10CC 102  
DAVID & ANGIE KUNERT  
8500 BURBANK ROAD

SCALE: 1" = 50'



# EXHIBIT C



## Tillamook County Public Works

503 Marolf Loop Road, Tillamook, OR 97141

County Road Phone: 503-842-3419

Solid Waste Phone: 503-815-3975

Fax: 503-842-6473

Email: [pubwks@co.tillamook.or.us](mailto:pubwks@co.tillamook.or.us)

TTY Oregon Relay Service

*Land of Trees, Cheese, and Ocean Breeze*

Oct. 20, 2022

David & Angie Kunert  
8500 Burbank Rd.  
Tillamook, OR 97141

RE: Change of Use & Widening Permit #CU-RA-5223  
Burbank Road - Tillamook; Local Access Road #3032  
T02S R09W Sec. 10CC, Tax Lot #102

Dear David & Angie:

Tillamook County Engineering staff review of your Road Approach Change of Use Application and a field site evaluation is complete with the following conclusion. This change of use is being processed in support of Land Use Planning Application #851-22-000384.

This authorization is issued as a "Road Widening" for the construction of additional road width to provide passing vehicle clearance at the easterly end of Tillamook County jurisdiction along Burbank Road. The existing access approach approved under the original RA #5223 was evaluated at the time of the field inspection and found to be in full compliance with current Ordinance #44 requirements. The existing approach measures just over 30' wide providing adequate area for two vehicles to pass as they enter and leave the subject parcel as well as providing an alternative turn out for traffic along Burbank Road.

The current widening approval has been sketched for general location on the attached aerial image.

No portion of the right of way of Burbank Road is to be used for overnight or weekend storage of materials, equipment or extended daytime staging. Generally, the road is to remain open to thru traffic during construction of the widening.

By this reference, your signed application and proposed road approach plan are incorporated into this permit.

Road Widening permit #CU-RA-5223 is **Approved** with the following conditions:

1. With the issuance of this Road Widening Approval, it is the sole responsibility of the applicant to verify and comply with all local, state, and federal land use regulations and related permit requirements. The issuing of this Road Widening Approval in no way relieves the applicant from applicable land use laws or regulations that may pertain to the lands accessed by the construction of the herein approved road widening.
2. Blocking any road under Tillamook County Jurisdiction for more than 30 minutes is considered a road closure that must be authorized by the Public Works Department preceded by appropriate residential and emergency service notification. As the permit holder you are required to receive prior authorization from public works for any road closure.

3. The intent of this approval is to create a widened road section at the easterly terminal end of Tillamook County jurisdiction. This should be accomplished by removing surface vegetation to a depth consistent with the adjacent roadway and extending the width of the existing road base and typical rock section to result in a roadway width of +/- 16' and extending westerly a distance of +/- 40'.
4. No concrete work or landscaping is allowed in the county right of way without prior approval.

**IT IS THE RESPONSIBILITY OF THE PERMIT HOLDER TO ARRANGE FOR ANY NECESSARY UTILITY LOCATES PRIOR TO EXCAVATION.**

*ATTENTION: 2007 Oregon Revised Statutes Chapter 757, requires you to follow rules adopted by the Oregon Utility Notification Center (OUNC). Those rules are set forth in Oregon Administration Rules Chapter 952, Division 1. You may obtain copies of the rules by calling 811 or logging on to the O.U.N.C. website at <http://www.digsafelyoregon.com/>*

No structures, fencing, concrete, masonry, brickwork, landscaping, nor roadside hazards are permitted within the road right-of-way. All mailboxes must meet approved "break-a-way" standards for impact by vehicles.

If you have any questions, please feel free to contact or leave a message for Tillamook County Public Works at the above number between the hours of 8:00 a.m. and 4:30 p.m. Monday thru Thursday.

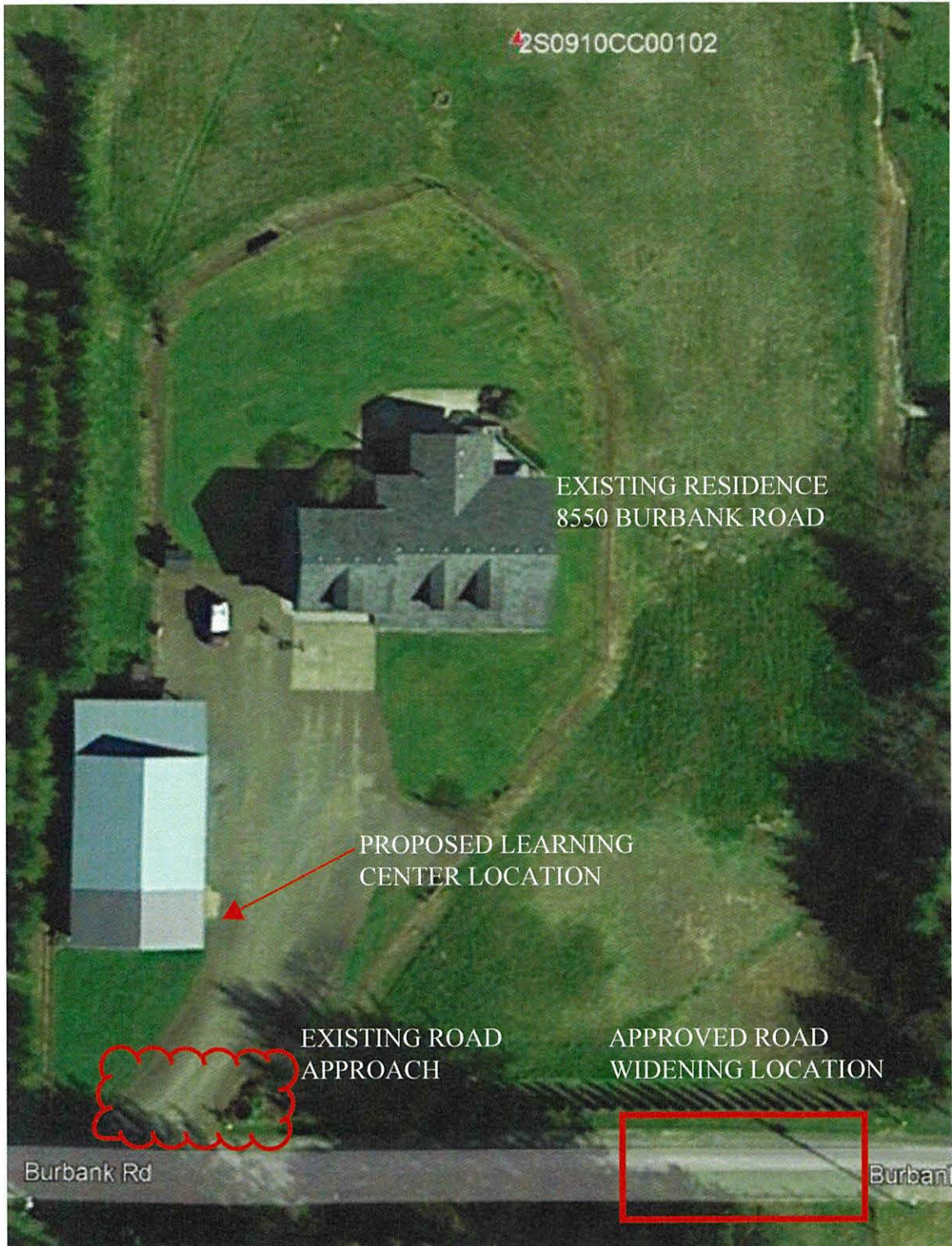
Sincerely,



Ron Newton, *LSI*  
Engineering Technician III

Cc: Lynn Tone, Department of Community Development, by email

Burbank Road Widening Approval  
Land Use Application #851-22-000384  
Road Approach #5223 Change of Use





Application Permit No. CU-RA-5223 Road No. #3032

**ROAD APPROACH APPLICATION AND CONSTRUCTION PERMIT**

NOTICE

Applicant must be the person, representative of the firm or corporation having the legal ownership of the property to apply for a Road Approach Permit. Such legal right is vested only in the owner of the property abutting the highway or the holder of an easement or similar right to construct and use an approach road upon the abutting property.

CONVERSION TO

PROPOSED USE: SINGLE FAMILY RESIDENCE COMMERCIAL X

TOWNSHIP T02S RANGE R09W WEST, W.M. SECTION 10CC TAX LOT NO. #102

DAVID & ANGIE KUNERT

(NAME OF APPLICANT/PROPERTY OWNER)

8500 BURBANK RD.

(MAILING ADDRESS AND PHONE NUMBER)

TILLAMOOK, OR -

(EMAIL ADDRESS)

kunertsfam@gmail.com

(NAME OF STREET OR ROAD TO BE ACCESSED)

**NO CONSTRUCTION SHALL BE ALLOWED ON THE APPROACH ROAD UNTIL THIS APPLICATION HAS BEEN ISSUED BY THE DEPARTMENT OF PUBLIC WORKS.**

This application is made pursuant to O.R.S. Chapter 374 and Tillamook County Ordinance #44 (see Ordinance #44 for detailed information).

The **APPLICANT SHALL PROVIDE A MAP** accompanying this application showing the following information:

- The road right-of-way lines;
- The location of the traveled road in the road right-of-way;
- All existing and proposed road approaches;
- All existing and proposed structures;
- The existing and proposed drainage ditching and culverts
- The distance from the center of the road approach to the nearest property corner.

**THE PROPOSED APPROACH ROAD LOCATION MUST BE STAKED AND FLAGGED ON THE SITE.** ~~A \$500.00~~ fee will be required at the time of application. **DOUBLE FEES SHALL BE ASSESSED FOR ANY APPLICATION RECEIVED AFTER CONSTRUCTION HAS ALREADY STARTED.** If additional trips are required because the site is not staked or flagged an additional fee of \$25.00 for each trip can be assessed.

**PRIOR TO ISSUING THE PERMIT THE PUBLIC WORKS DEPARTMENT OF THE COUNTY WILL INSPECT THE SITE for proper drainage, traffic hazards and general acceptability.**

REVISED 01/2017

PUBLIC WORKS FEE WAIVED  
TO BE INCLUDED IN LAND USE  
APPLICATION FEES  
10/11/22 - REN

THE APPROACH ROAD CONSTRUCTION SHALL COMMENCE BY THE APPLICANT AS DIRECTED BY THE COUNTY AND INSPECTED FOR COMPLETION IN THE FOLLOWING PHASES:


PHASE I: Clearing of the site, ditch excavation and subgrade of the approach. The applicant shall request an inspection for approval, prior to proceeding with Phase II construction.

PHASE II: Installing the culvert, placing all rock base. The applicant shall request an inspection for approval. PHASE II MUST BE COMPLETED PRIOR TO CONSTRUCTION ACCESS.

FINAL PHASE: Paving. After the paving, the applicant shall request a final inspection for approval.

In consideration of the applicant's agreement to comply in all respects with the regulation of Tillamook County, permission is hereby granted for construction described in the above application and in the instructions attached hereto and by this reference made a part hereof to same extent as if set forth in full. The applicant shall make all corrections as directed. Applicant agrees to save and hold harmless the County from any and all liability of whatever kind or nature arising or to arise by reason of issuance of this construction permit, the issuance thereof being for the sole benefit of applicant. Applicant is responsible to obtain all approvals or permits from other government agencies having jurisdiction affected by the proposed road approach construction site, i.e., wetlands; urban growth; riparian areas; access to county road within city.

The entire expense of maintaining said approach road shall be borne by applicant. If in the event of the reconstruction or widening of any highway, it becomes necessary to remove, alter or reconstruct the approach road constructed under authority of this permit, the cost of such removal or replacement to a like width and condition will be borne by the County. Any widening or other improvement of the approach road at the applicant's request shall be done only under authority of a new permit and at the expense of the applicant.

 10/12/2022  
APPLICANT (PROPERTY OWNER ONLY) DATE

FOR DEPARTMENT USE ONLY

APPLICATION APPROVED:  10-20-22  
PUBLIC WORKS DEPARTMENT DATE

PHASE II COMPLETION REQUIRED BY: \_\_\_\_\_ COMPLETED: \_\_\_\_\_

(Phase II must be completed prior to construction access)

FINAL COMPLETION REQUIRED BY: \_\_\_\_\_

PERMIT NUMBER: \_\_\_\_\_

FINAL COMPLETION INSPECTED AND APPROVED: \_\_\_\_\_

