



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

RESOURCE ZONE EXCEPTION #851-23-000025-PLNG: NISBET
NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:
ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE,
IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER

May 24, 2023

Dear Property Owner:

This is to confirm that the Tillamook County Department of Community Development **APPROVED WITH CONDITIONS** the above-cited Resource Zone Exception Request on May 24, 2023.

A copy of the application, along with a map of the request area and the applicable criteria for review are available for inspection on the Tillamook County Department of Community Development website: <https://www.co.tillamook.or.us/commdev/landuseapps> and is also available for inspection at the Department of Community Development office located at 1510-B Third Street, Tillamook, Oregon 97141.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. Forms and fees must be filed in the office of this Department before **4:00 PM on June 5, 2023.**

Request: An exception request to reduce the required 100-foot resource zone setback from the Small Farm and Woodlot (SFW-20) zone boundary by 30-feet to establish a 70-foot setback from the easterly (rear) property line.

Location: The subject property is located southeast of the Unincorporated Community of Neskowin and is designated as Tax Lot 3800 in Section 9CD of Township 6 South, Range 10 West of the Willamette Meridian, Tillamook County, Oregon.

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

Applicant & Property Owner: Josepha Nisbet, 54615 Cascade Trce, Neskowin, OR 97149

Applicant is proposing to reduce the 100-foot setback from the Small Farm and Woodlot (SFW-20) zone boundary by 30-feet to establish a 70-foot setback from the easterly (rear) property line to allow for the siting of a residence (Exhibit B).

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. TCLUO Section 3.010: Rural Residential 2-Acre (RR-2) Zone
- B. TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas

III. ANALYSIS:

Notice of the request was mailed to property owners within 250 feet of the subject property and other agencies on April 5, 2023. Notice was provided to the Department of State Lands (DSL) and the Oregon Department of Forestry. One comment was received from the adjacent property owner of the SFW-20 zoned parcel, which stated they supported the proposed exception request (Exhibit C).

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

Section 3.010(4) Standards: *Land divisions and development in the RR-2 and RR-10 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:*

...(k) No residential structure shall be located within 100 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an equally effective barrier to conflicts between resource and residential used; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone shall still apply.

Findings: The easterly (rear) property boundary abuts the Small Farm and Woodlot (SFW-20) zone (Exhibit A). With a 100-foot setback from the resource zone from the rear property boundary, the result would be an approximately 12-foot depth for construction of a dwelling due to the depth of a 132-foot lot and meeting the required 20-foot front yard setback (Exhibit A & B). The Applicants site plan shall establish a 70-foot setback from the easterly (rear) property line (Exhibit B).

Staff finds that a residential structure could not otherwise be placed on the subject property without requiring a variance to the 100-ft setback due to the location of the Small Farm Woodlot (SFW-20) zone boundaries surrounding the subject property, for a residential structure reasonably expected to be sited on the subject property while maintaining other required setbacks (Exhibit A & B). The resource zone setback reductions shall result in a 70-ft rear yard setback, with an 30-foot exception to the resource zone setback along the easterly property boundary (Exhibit B).

The resource zone setback reductions shall result in a 70-foot setback to the resource zone boundary, with all other rear, side and front yard setbacks being maintained (Exhibit B). Staff find this standard is met.

B. **TCLUO Section 4.130: Development requirements for Geologic Hazard Areas**

TCLUO Section 4.130(2)(b) identifies the area maintaining debris flow fan and rapidly moving landslides as identified in DOGAMI Open File Report O-20-13.

Staff finds a Geologic Hazard Report prepared in conformance with the standards of TCLUO 4.130 shall be submitted to this Department for review and approval prior to applying for Zoning and Building Permits

if the average existing slopes are equal to or greater than 19% measured from the highest to lowest point of the property. Staff find that a condition of approval can be made to ensure compliance with this standard at the time of Consolidated Zoning/Building permit submittal.

IV. DECISION: APPROVED WITH CONDITIONS

Staff concludes that the applicant has satisfied the review criteria and can meet all applicable ordinance requirements at the time of application. Therefore, Staff approves this request for an exception to the Small Farm and Woodlot (SFW-20) zone setback subject to the Conditions of Approval in Section V of this report. This approval does not address any additional development of the subject property.

By accepting this approval the applicant and property owner agrees to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval, including construction under a Building Permit approved subject to this approval. The applicant /property owner shall obtain all of the necessary local, state, and federal permits and comply with all applicable regulations for the proposed construction.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. In such cases, forms and fees must be filed in the office of this Department before **4:00 PM on June 5, 2023.**

V. CONDITIONS OF APPROVAL:

Failure to comply with the Conditions of Approval and ordinance provisions could result in nullification of this approval.

1. The applicant/property owner shall obtain all Federal, State, and Local permits, as applicable.
2. The applicant/property owner shall obtain an approved consolidated Building/Zoning Permit from the Tillamook County Department of Community Development prior to siting the proposed dwelling.
3. Development shall be as shown on the approved site plan and shall maintain the approved reduced resource zone setback of an 70-foot setback from the easterly (rear) property line, as indicated on the proposed site plan.
4. The applicant/property owner shall submit a site plan, drawn to scale and indicating all required yard setbacks and reduced resource zone setbacks, at the time of consolidated Building/Zoning Permit application submittal.
5. Development shall otherwise comply with the applicable standards and requirements of TCLUO Section 3.010: Rural Residential 2-Acre (RR-2) Zone.
6. Development shall comply with the applicable standards and requirements of TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas.
7. In accepting this approval, the property owner understands intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use. The property owner hereby acknowledges that practices may involve but are not limited to the application of herbicides or fertilizers (including aerial spraying), road construction, changes in view, noise, dust, odor, traffic, and other impacts related to a farm zone. The property owner acknowledges the residential use of this

property may be impacted by such activities and is accepting of that fact. In the event of conflict, the property owner understands preference will be given to farm and forest practices.

8. This approval expires if a Building Permit is not applied for within two (2) years of issuance of this approval.

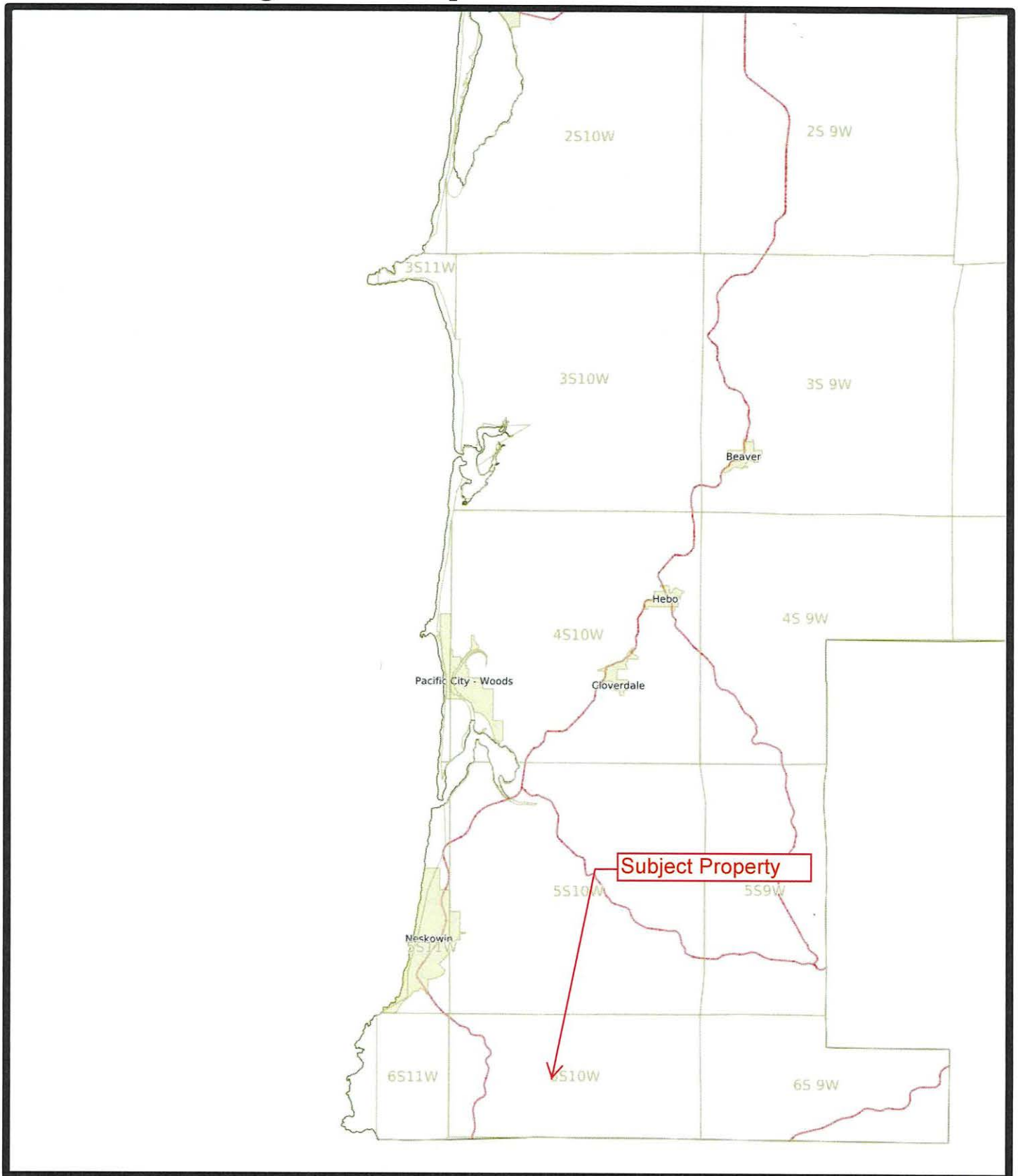
VI. EXHIBITS

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

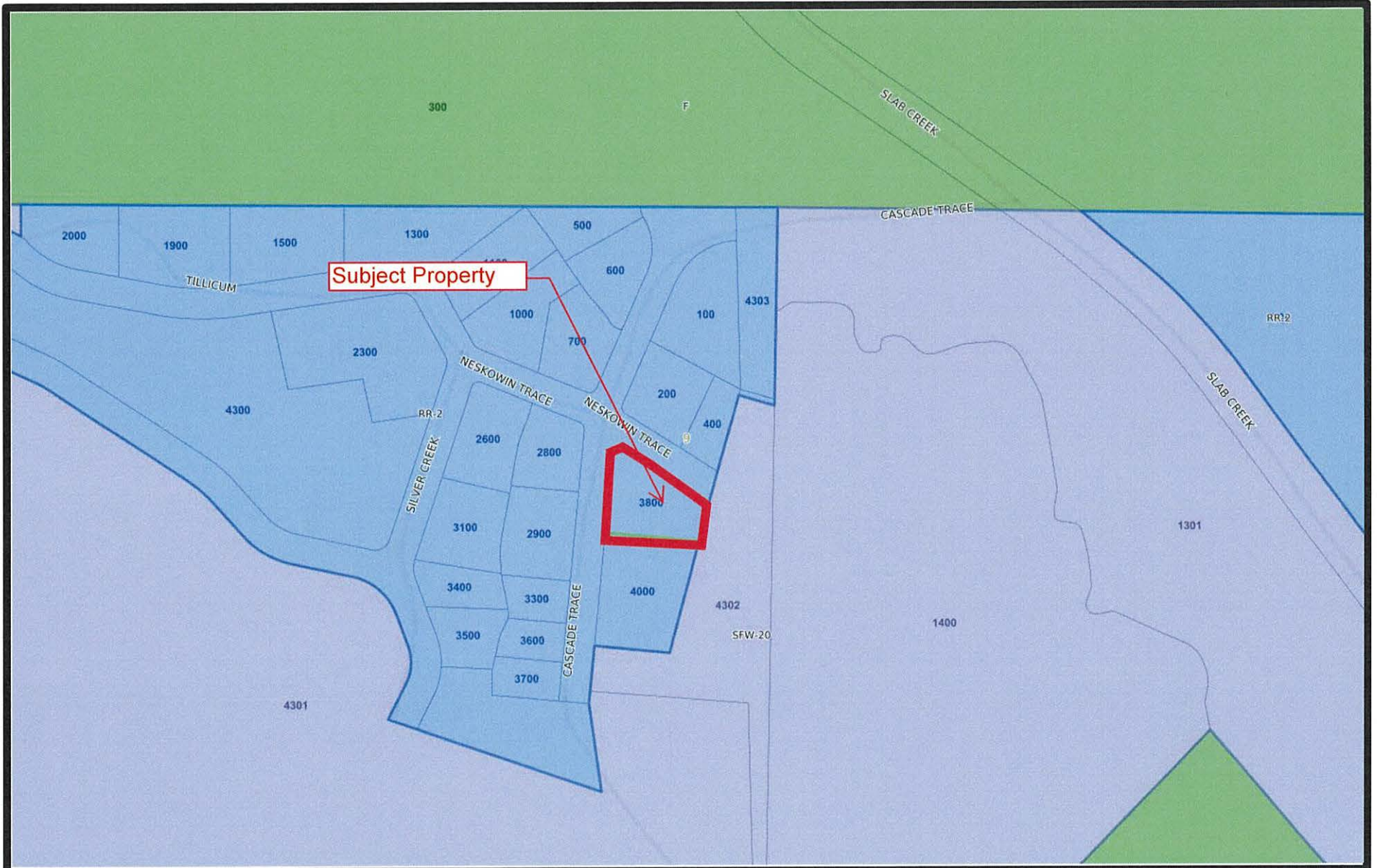
- A. Vicinity map, Assessor map, Zoning map, Assessor's Summary Report
- B. Applicant's submittal
- C. Public Comments

EXHIBIT A

Vicinity Map



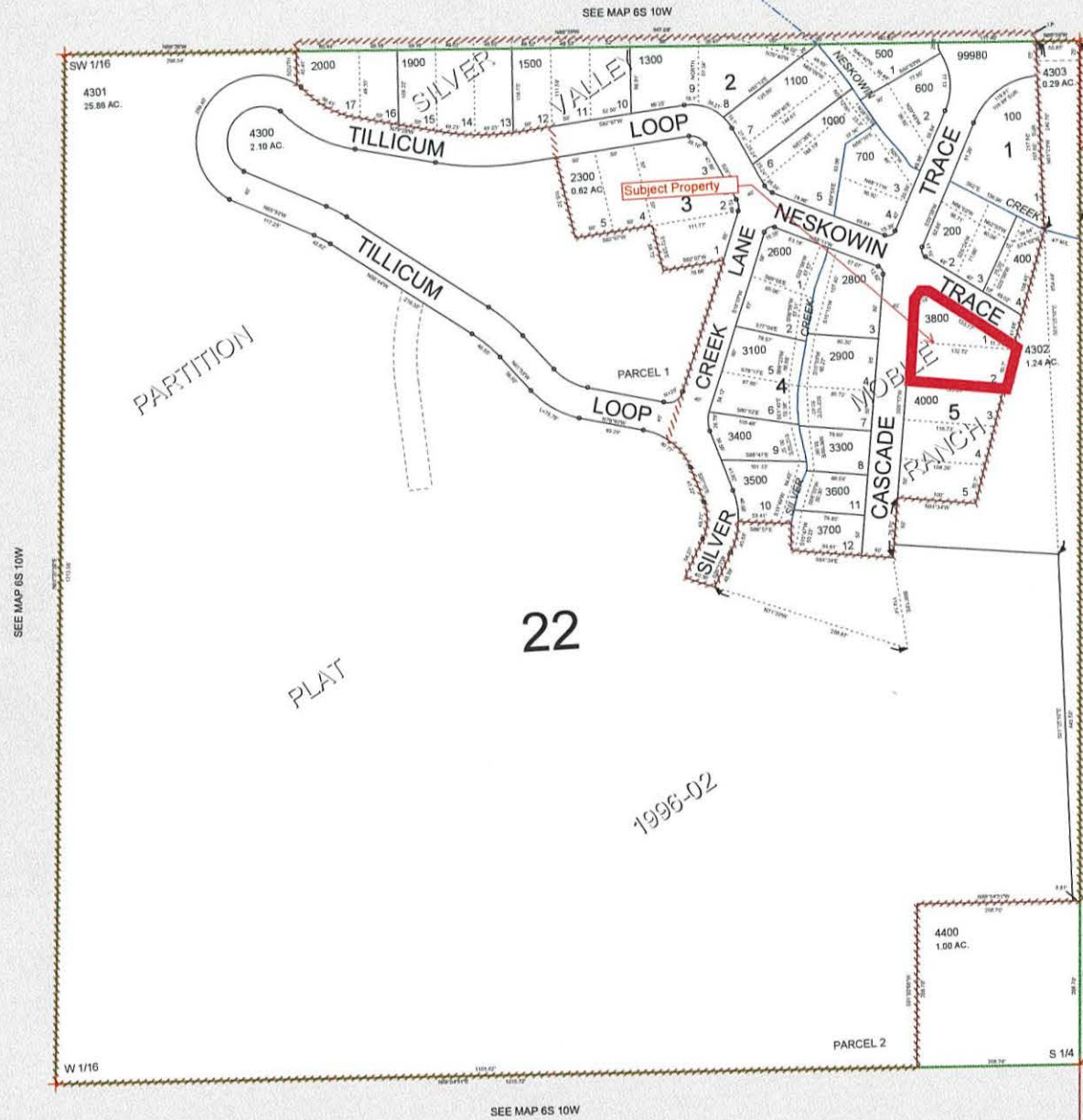
Zoning Map



FOR ASSESSMENT AND TAXATION ONLY. NOT SUITABLE FOR
LEGAL, ENGINEERING, OR SURVEY PURPOSES

S.E. 1/4 S.W. 1/4 SEC. 9 T.6S. R.10W. W.M.
Tillamook County
1" = 100'

06S10W09CD



- CANCELLED:
- 300
- 800
- 900
- 1200
- 1400
- 1700
- 1800
- 2100
- 2200
- 2400
- 2500
- 2700
- 3000
- 3900
- 4100
- 4200
- 3200
- 1600

22

PLAT

1996-02

06S10W09CD
REVISED 03/02/18, WS

Tillamook County
2022 Real Property Assessment Report
 Account 220237

Map 6S1009CD03800
 Code - Tax ID 2200 - 220237

Tax Status Assessable
 Account Status Active
 Subtype NORMAL

Legal Descr Multiple Lots - See legal report for full description

Mailing NISBET, JOSEPHA A
 PO BOX 1023
 NESKOWIN OR 97149

Deed Reference # 2022-6401
 Sales Date/Price 10-18-2022 / \$58,500
 Appraiser RANDY WILSON

Property Class 101 MA SA NH
 RMV Class 101 06 ST 601

Site	Situs Address	City
	54615 CASCADE TRCE	COUNTY

Value Summary					
Code Area	RMV	MAV	AV	RMV Exception	CPR %
2200	Land	66,830		Land	0
	Impr	4,410		Impr	0
Code Area Total		71,240	55,210		0
Grand Total		71,240	55,210		0

Land Breakdown									
Code Area	ID #	RFPD	Ex	Plan Zone	Value Source	Trend %	Size	Land Class	Trended RMV
2200					LANDSCAPE - FAIR	100			500
	0			RR-2	Market	125	0.25 AC		53,830
					OSD - AVERAGE	100			12,500
Code Area Total								0.25	66,830

Improvement Breakdown									
Code Area	ID #	Year Built	Stat Class	Description	Trend %	Total Sqft	Ex%	MS Acct	Trended RMV
2200	2	1955	354	HAY COVER	173	744			2,220
	3	1955	110	Residential Other Improvements	173	0			2,190
Code Area Total						744			4,410

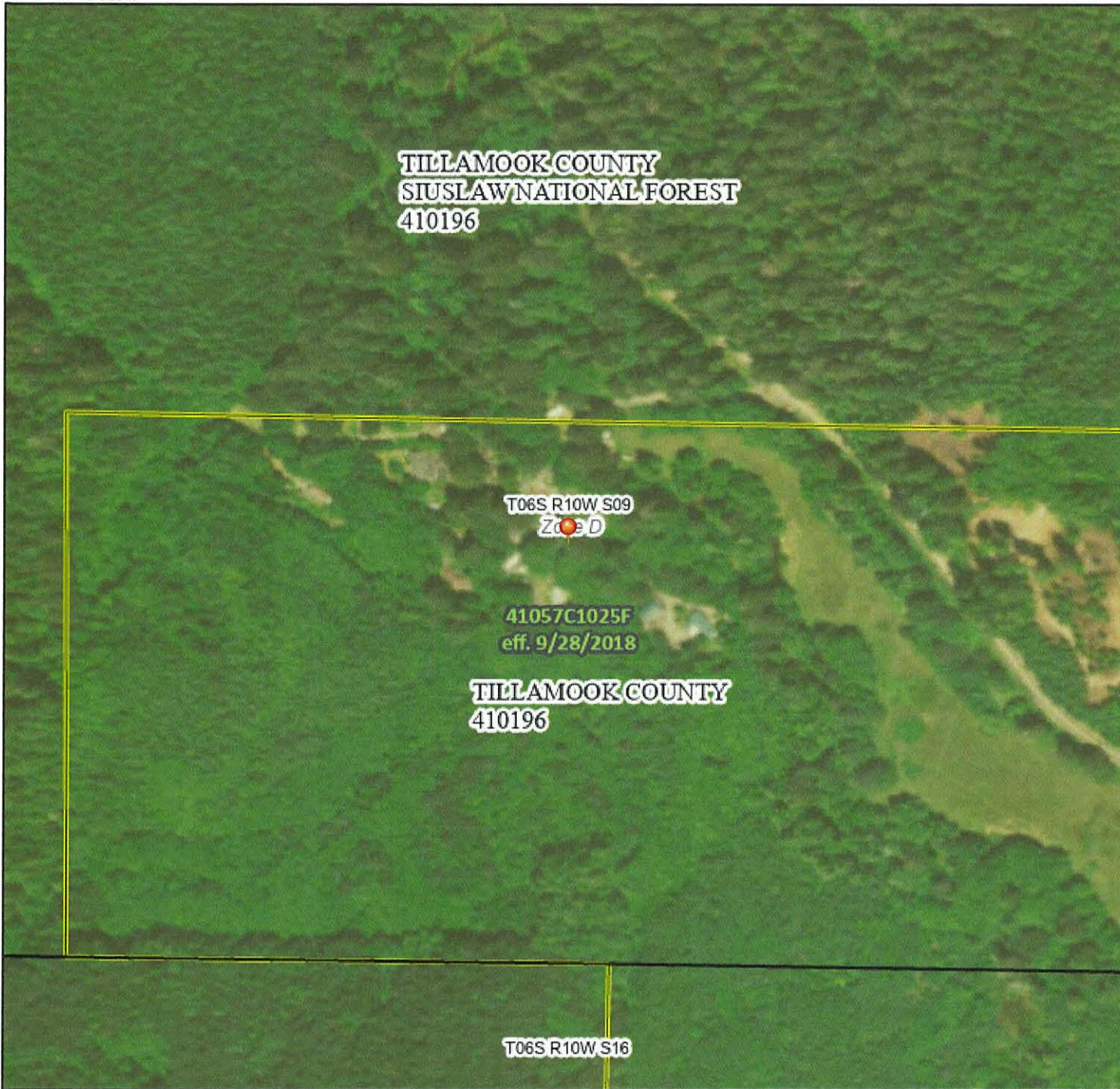
Exemptions / Special Assessments / Notations				
Code Area	2200		Amount	Year Used
Special Assessments				
		■ SOLID WASTE	12.00	2022
Fire Patrol				
		■ FIRE PATROL SURCHARGE	47.50	2022
		■ FIRE PATROL NORTHWEST	18.75	2022

Comments 12/18/08 - Input inventory, KL. of land w/abled values. RCW 07/18/11 Reappraisal, updated inventory, tabled values.ef 7/2017 Reapp.

National Flood Hazard Layer FIRMette



123°55'12"W 45°3'58"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
Area of Undetermined Flood Hazard Zone |
| GENERAL STRUCTURES | Channel, Culvert, or Storm Sewer
Levee, Dike, or Floodwall |
| OTHER FEATURES | Cross Sections with 1% Annual Chance Water Surface Elevation
Water Surface Elevation
Coastal Transect
Base Flood Elevation Line (BFE)
Limit of Study
Jurisdiction Boundary
Coastal Transect Baseline
Profile Baseline
Hydrographic Feature |
| 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 4/1/2023 at 12:28 AM 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 unmapped areas cannot be used for regulatory purposes.



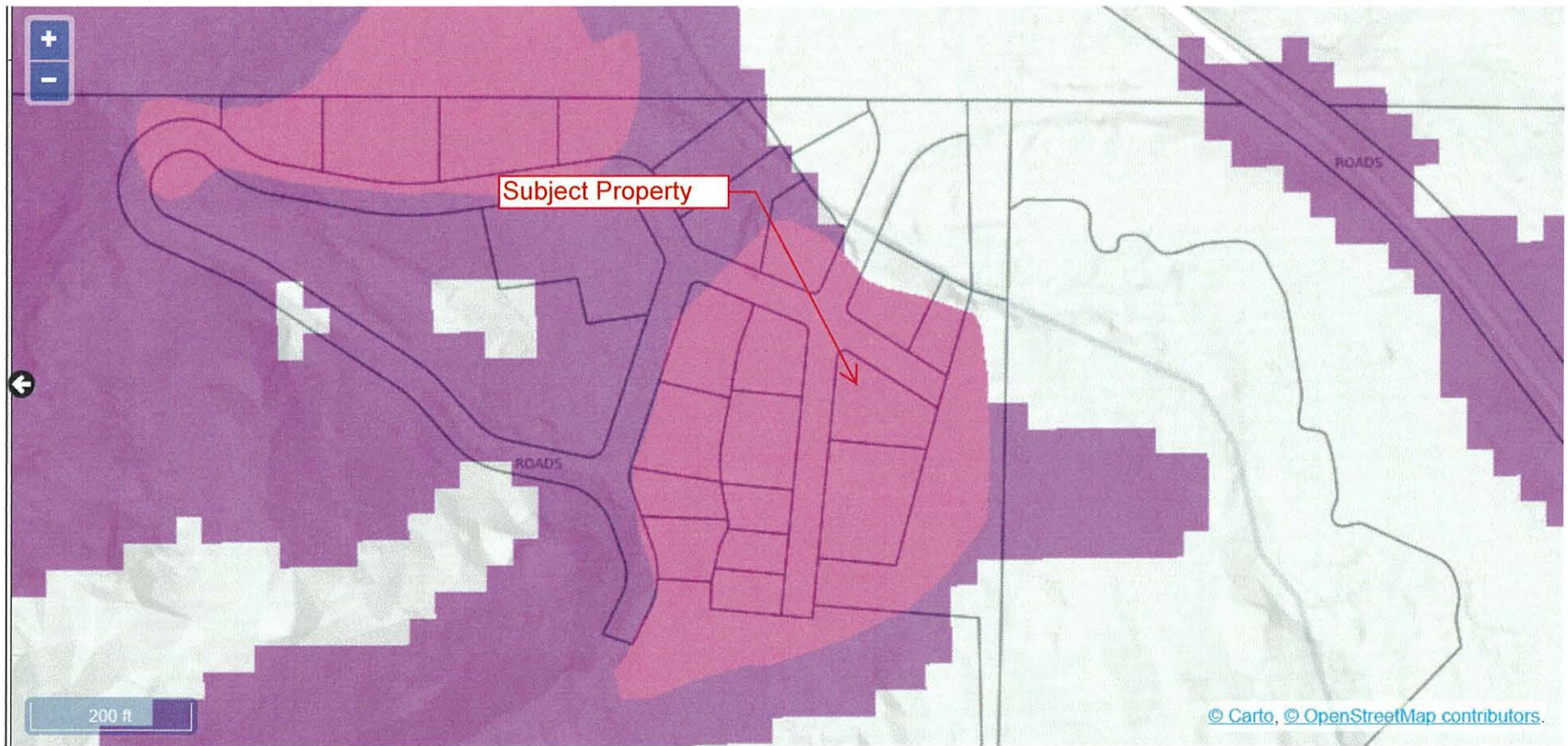
1:6,000

123°54'34"W 45°3'33"N

Nisbet Hazard Map













▼ Physical

- ★ Debris Flow fans
■ Debris Flow Fans
- ★ Deep Landslide Susceptibility
- ★ Shallow Landslide Susceptibility
- ★ Rapidly Moving Landslides
■ Rapidly Moving Landslides



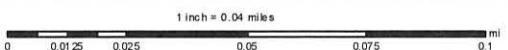
Disclaimer: The spatial information hosted at this website was derived from a variety of sources. Care was taken in the creation of these themes, but they are provided "as is". The state of Oregon, or any of the data providers cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or underlying records. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying any of these products. However, notification of any errors would be appreciated. The data are clearly not intended to indicate the authoritative location of property boundaries, the precise shape or contour of the earth or the precise location of fixed works of humans.

Statewide Wetlands Inventory

-  Townships
-  LW 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
-  SWI Predominantly Hydric Soil Map Units
-  SWI Agate-Winlo Soils



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



The Statewide Wetlands Inventory (SWI) represents the best data available at the time this map was published and is updated as new data becomes available. In all cases, actual field conditions determine the presence, absence and boundaries of wetlands and waters (such as creeks and ponds). An onsite investigation by a wetland professional can verify actual field conditions.



Date: 3/31/2023



State of Oregon
Department of State Lands
775 Summer Street, NE, Ste 1100
Salem, OR 97301-1279
(503) 986-5200

EXHIBIT B

#1
Approved
150 days
Riparian
Setback



Tillamook County Department of Community Development
1510-B Third Street, Tillamook, OR 97141 | Tel: 503-842-3408 Fax: 503-842-1819
www.co.tillamook.or.us

10A Wed
Shelia
Feb 1

PLANNING APPLICATION

Applicant (Check Box if Same as Property Owner)
Name: Jo Sepha Nisbet Phone: 503 883 1288
Address: P.O. Box 1023
City: Neskowin State: OR Zip: 97149
Email: sephanisbet@gmail.com

Property Owner
Name: _____ Phone: _____
Address: _____
City: _____ State: _____ Zip: _____
Email: _____

OFFICE USE ONLY

Date Stamp
RECEIVED
FEB - 1 2023
BY: At Cantor appt.

Approved Denied

Received by: S

Receipt #: _____

Fees: 1,300.00

Permit No:
851-23-00025 -PLNG

Request: AF 20 setback Exception/Variance
of 70'

- | | | |
|---|---|--|
| <p>Type II</p> <ul style="list-style-type: none"> <input type="checkbox"/> Farm/Forest Review <input type="checkbox"/> Conditional Use Review <input type="checkbox"/> Variance <input checked="" type="checkbox"/> Exception to Resource or Riparian Setback <input type="checkbox"/> Nonconforming Review (Major or Minor) <input type="checkbox"/> Development Permit Review for Estuary Development <input type="checkbox"/> Non-farm dwelling in Farm Zone <input type="checkbox"/> Fore-dune Grading Permit Review <input type="checkbox"/> Neskowin Coastal Hazards Area | <p>Type III</p> <ul style="list-style-type: none"> <input type="checkbox"/> Appeal of Director's Decision <input type="checkbox"/> Extension of Time <input type="checkbox"/> Detailed Hazard Report <input type="checkbox"/> Conditional Use (As deemed by Director) <input type="checkbox"/> Ordinance Amendment <input type="checkbox"/> Map Amendment <input type="checkbox"/> Goal Exception | <p>Type IV</p> <ul style="list-style-type: none"> <input type="checkbox"/> Appeal of Planning Commission Decision <input type="checkbox"/> Ordinance Amendment <input type="checkbox"/> Large-Scale Zoning Map Amendment <input type="checkbox"/> Plan and/or Code Text Amendment |
|---|---|--|

\$
\$ 1300

Application to Site Plan

GDFW Riparian Setback
Mike Sinnott 503 842 2741
25' setback 1/31 2:30pm

Location:
Site Address: 6S 10 09 CD 3800
Map Number: 6S 10 09CD 3800
Township Range Section Tax Lot(s)

Clerk's Instrument #: _____

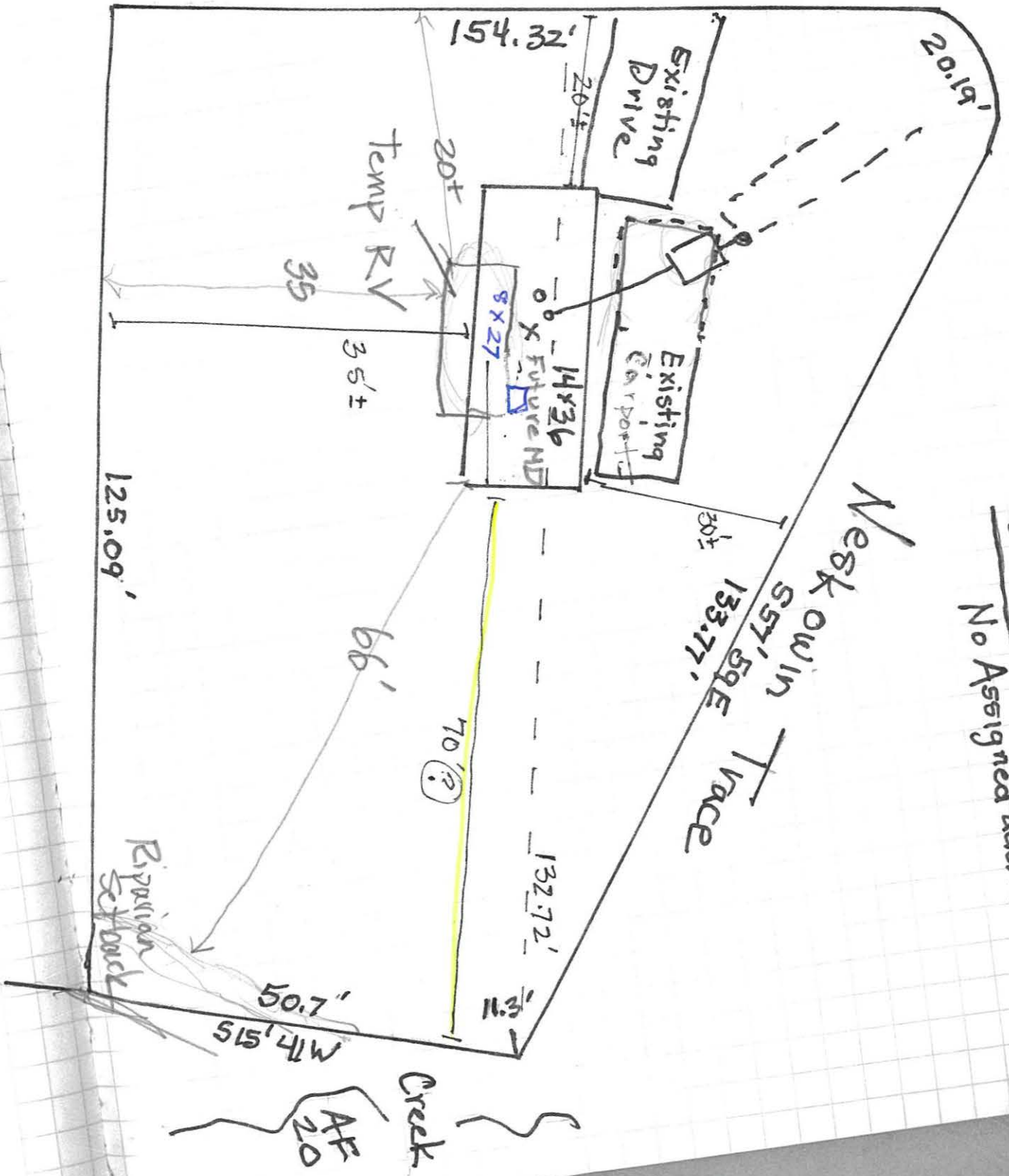
Authorization

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.

Joseph Nisbet Property Owner Signature (Required) 2/1/2023 Date

Applicant Signature Date

Cascade Trace



65 10 09 CD 3800
 No Assigned address

DEED-RC \$5.00 \$11.00 \$61.00 \$10.00 - Total = \$87.00



I hereby certify that the within instrument was received for record and recorded in the County of Tillamook, State of Oregon.

Tassi O'Neil, Tillamook County Clerk

After Recording Return To:

Joseph A Nisbet
P.O. Box 1023
Neskowin OR 97149

RESTRICTIVE COVENANT

Joseph A Nisbet
(GRANTORS) are the owners of real property described as follows:

PROPERTY LEGAL DESCRIPTION attached as Exhibit A hereto and incorporated by reference

Do hereby promise and covenant as follows: See Document 2022-6401

The property herein described is situated adjacent to a Farm or Forest resource zone such as F, F-1, or SFW-20 zones in Tillamook County, Oregon where the intent is to encourage farm and forest use and minimize conflicts with those uses. The owners/residents of this parcel understand that on the adjacent land customary and accepted farm or forest management practices, conducted in accordance with federal and state laws, ordinarily and necessarily produce noise, dust, smoke, odors, the application of manure, fertilizers, or herbicides (including aerial spraying), road construction, changes in view, and other impacts related to a resource zone.

I/We do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a structure in this area and shall not pursue a claim for relief or cause of action of alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or ORS 30.937.

This covenant shall run with the land and is intended to and hereby shall bind my/our heirs, assigns, lessees, and successors and it can not be deleted or altered without prior contact and approval by the Tillamook County Department of Community Development (GRANTEE) or its successor.

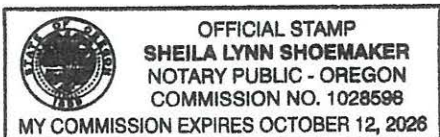
IN WITNESS WHEREOF, the said Party has executed this instrument this first day of February 2023,

Signature of Joseph A Nisbet

Print Names: Joseph A Nisbet

State of Oregon, County of Tillamook

Subscribed and sworn to before me this 7th day of February 2023



SEAL

Signature of Notary Public
Notary Public of Oregon
My Commission Expires: 10/12/26

EXHIBIT C

RECEIVED

APR 13 2023

April 10, 2023

Dept of Community Development
Attn: Melissa Jenck
Senior Planner
1510-B 3rd St
Tillamook, OR 97141

RE: 851-23-000025-PLNG

Dear Ms. Jenck:

Since I am the owner of the SFW-20 Tax lot 4302 and 1400, I have no objection to the proposed reduction in the 100ft resource setback to 70ft.

The reduction from the 100 ft setback to 70 ft will not cause any problems to my property. This will allow Josepha Nisbet to place a different structure on her property.

Sincerely,



David R. DeSau
11000 Neskowin Trace Rd
Neskowin, OR 97149

503-392-4335

ddesau@gmail.com

Zoning Map

