



1510 - B Third Street  
Tillamook, Oregon 97141  
www.tillamookcounty.gov

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 #851-24-000331-PLNG: MARTIN**  
*NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:  
ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE,  
IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER*

October 4, 2024

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 October 4, 2024.

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.tillamookcounty.gov/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 October 16, 2024**. Unless appealed, the effective date of decision shall be October 16, 2024.

**Request:** An exception request to reduce the required 100-foot resource zone setback from the Forest (F) zone boundary and establish a 20-foot setback from the north (side) property line to allow for the placement of a residential structure (single-family dwelling).

**Location:** The subject property is located east of the unincorporated community of Beaver, accessed via a private easement off of Upper Nestucca River RD, a County Road and designated as Tax Lot 301 in Section 01 of Township 4 South, Range 8 West of the Willamette Meridian, Tillamook County, Oregon. The property is zoned Rural Residential 2-Acre (RR-2). The applicant and property owner is James P. Martin.

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

**Applicant:** James Martin, 8985 Mill Creek Rd. Tillamook, OR 97141

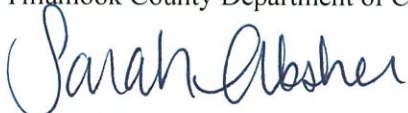
**Property Owner:** James Martin, 8985 Mill Creek Rd. Tillamook, OR 97141

**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. Residential structures shall maintain a minimum 20-foot resource zone setback from the north (side yard) property line adjacent to the Forest (F) zone as shown on the submitted site plan included in "Exhibit B" of the staff report dated October 4, 2024, for approved Exception Request #851-24-000331-PLNG.
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. The vegetative buffer serving as the buffer between the residential and resource uses shall be maintained and shall be clearly identified on the site plan submitted with the Consolidated Building/Zoning Permit.
6. The 20-foot gravel driveway acting a fuel break and man-made barrier between the residential and resource uses shall be maintained and shall be clearly identified on the site plan submitted with the Consolidated Building/Zoning Permit.
7. Development shall comply with the applicable standards and requirements of TCLUO Section 3.010: Rural Residential 2-Acre (RR-2) Zone.
8. Applicant/Property Owner shall comply with the applicable standards and requirements of TCLUO Section 4.130. A Geologic Hazard Assessment review is required if average existing slopes are equal to or greater than 29 percent within area to be disturbed. The average existing slope of the area proposed for development shall be clearly identified on the site plan submitted with the Consolidated Building/Zoning Permit.
9. 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.  
  
A covenant to the deed shall be required, informing that intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use and limiting pursuance of a claim for relief or cause of action of alleging injury from farming or forest practices. A copy of the recorded covenant included as 'Exhibit C' shall be provided at the time of applying for Consolidated Zoning/Building Permit.
10. This approval expires if a Building Permit is not applied for within two (2) years of issuance of this approval.

Sincerely,  
Tillamook County Department of Community Development

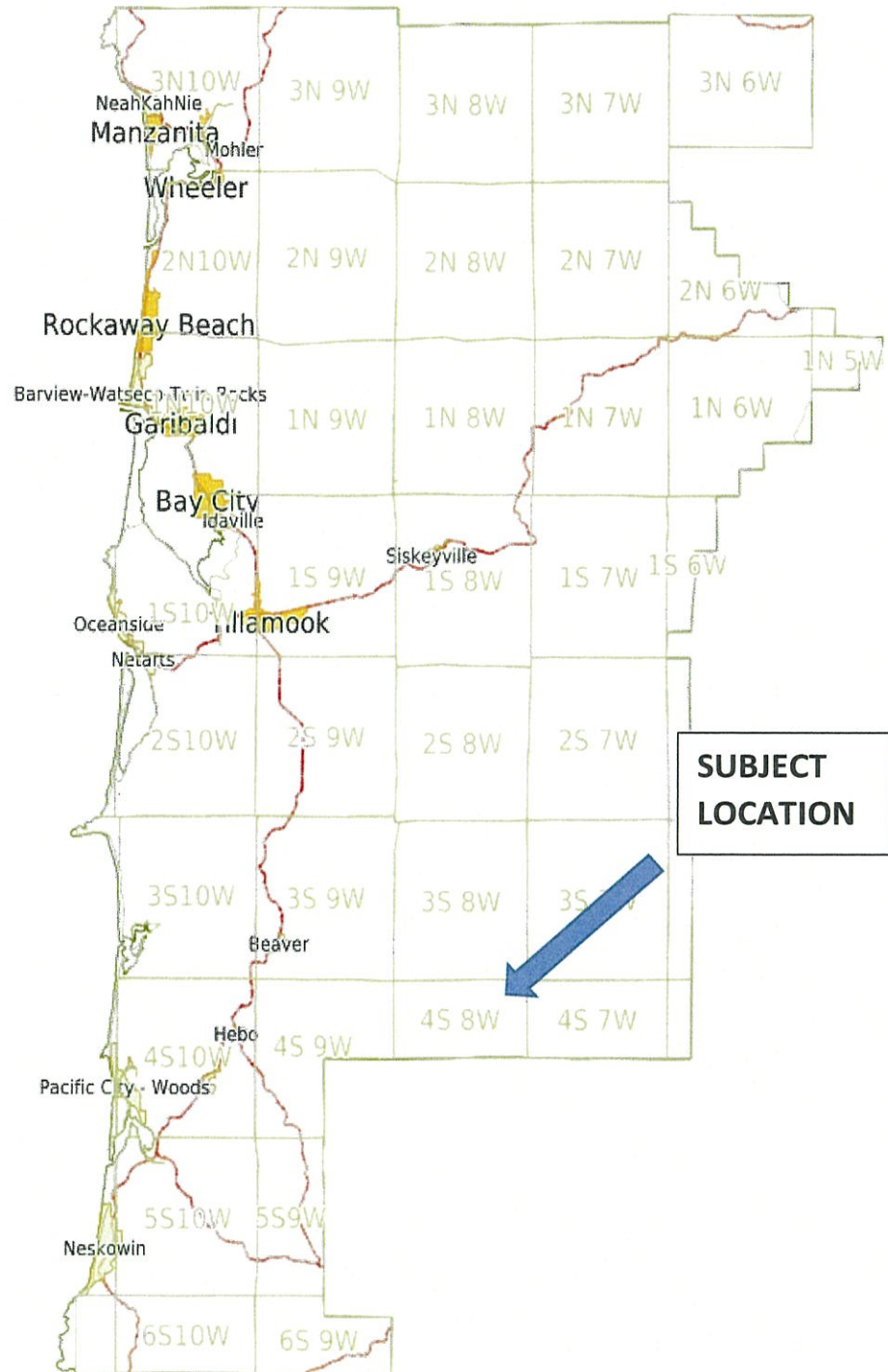


Sarah Absher, CBO, CFM, Director

Enc.: Vicinity, Assessor's and Zoning maps



# VICINITY MAP



Martin









*Land of Cheese, Trees and Ocean Breeze*

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**Resource Zone Exception #851-24-000331-PLNG: MARTIN  
Administrative Decision & Staff Report**

**Decision:** Approved with Conditions  
**Decision Date:** **October 4, 2024**  
**Report Prepared By:** **Allison Chase, Land Use Planner**  
**Sarah Absher, CFM, Director**

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**I. GENERAL INFORMATION:**

**Request:** An exception request to reduce the required 100-foot resource zone setback from the Forest (F) zone boundary and establish a 20-foot setback from the north (side) property line to allow for the placement of a residential structure (single-family dwelling).

**Location:** The subject property is located east of the unincorporated community of Beaver, accessed via a private easement off of Upper Nestucca River RD, a County Road and designated as Tax Lot 301 in Section 01 of Township 4 South, Range 8 West of the Willamette Meridian, Tillamook County, Oregon. The property is zoned Rural Residential 2-Acre (RR-2). The applicant and property owner is James P. Martin.

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

**Applicant:** James Martin, 8985 Mill Creek Rd. Tillamook, OR 97141

**Property Owner:** James Martin, 8985 Mill Creek Rd. Tillamook, OR 97141

**Description of Site and Vicinity:** Assessor records indicate the subject property encompasses approximately 7.58-acres. The property varies in topography and is vegetated with grasses and trees and is currently unimproved (Exhibit A). No mapped wetlands are located on the property, with a small unnamed stream cutting through the western region of the property (Exhibit A). The subject property abuts Upper Nestucca River Road, a County road and is accessed via a private easement. The property is within an area of geologic hazard, with areas of rapidly moving landslide susceptibility (Exhibit A).

The area is comprised of a cluster of Rural Residential 2-Acre (RR-2) zoned properties which are primarily abutting Upper Nestucca River Road and are generally improved with single-family dwellings and

accessory structures or are vacant. Remaining properties in the vicinity are zoned Forest (F) or Farm (F-1) and appear to be actively farmed and forested. FEMA Flood Insurance Rate Map #41057C0800F dated September 28, 2018, confirms the subject property is not located in the Special Flood Hazard Area (SFHA) (Exhibit A).

Applicant is proposing to reduce the 100-foot setback from the Forest (F) zone boundary by 80-feet and establish a 20-foot setback from the northerly (side) 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 August 2, 2024, and a correction notice was mailed August 5, 2024. No comments were received during the public comment period.

### 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 applicant is requesting to reduce the required 100-foot resource zone setback from the Forest (F) zone boundary by 80-feet and establish a 20-foot setback from the northerly (side) property line for the construction of a single-family dwelling, a use permitted outright in the Rural Residential 2-Acre (RR-2) zone (Exhibit B).

The subject property is vegetated with trees, shrubs and other types of understory vegetation (Exhibits A & B). The applicant proposes to maintain this vegetation and forested buffer to act as a natural barrier between the proposed dwelling and forest land (Exhibit B).

Applicant has also stated there will be approximately 20-feet of gravel between the proposed dwelling and forest land. The gravel will serve as a fuel break and additional man-made barrier to limit conflicts between the residential and resource use (Exhibit B).

Based upon the findings outlined above, staff finds natural and man-made features can act as an equally effective barrier between the resource and residential uses. Staff finds the applicant can be required as a Condition of Approval to demonstrate at time of the Consolidated Building/Zoning Permit Submittal to show the existing vegetation and gravel as stated in (Exhibit B).

**B. Section 4.130: Development Requirements for Geologic Hazard Areas**

*The purpose of these Development Requirements for Geologic Hazard Areas is to protect people, lands and development in areas that have been identified as being subject to geologic hazards.*

*The provisions and requirements of this section are intended to provide for identification and assessment of risk from geologic hazards, and to establish standards that limit overall risk to the community from identified hazards to a level acceptable to the community. Development in identified hazard areas is subject to increased levels of risk, and these risks must be acknowledged and accepted by present and future property owners who proceed with development in these areas.*

TCLUO Section 4.130(2)(d) identifies the subject property within an area of mapped geologic hazard, specifically within an area of rapidly moving landslide susceptibility as identified in DOGAMI IMS-22 (Exhibit A).

As per TCLUO Section 4.130(5), Staff finds a Geologic Hazard Report prepared in conformance with the standards of TCLUO 4.130(4) shall be submitted to this Department for review and approval prior to applying for Consolidated Zoning/Building Permits if average existing slopes are equal to or greater than 29 percent. 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 Forest (F) 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 October 16, 2024.**

**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.
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“Exhibit B” of the staff report dated October 4, 2024, for approved Exception Request #851-24-000331-PLNG.

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

## **VI. EXHIBITS**

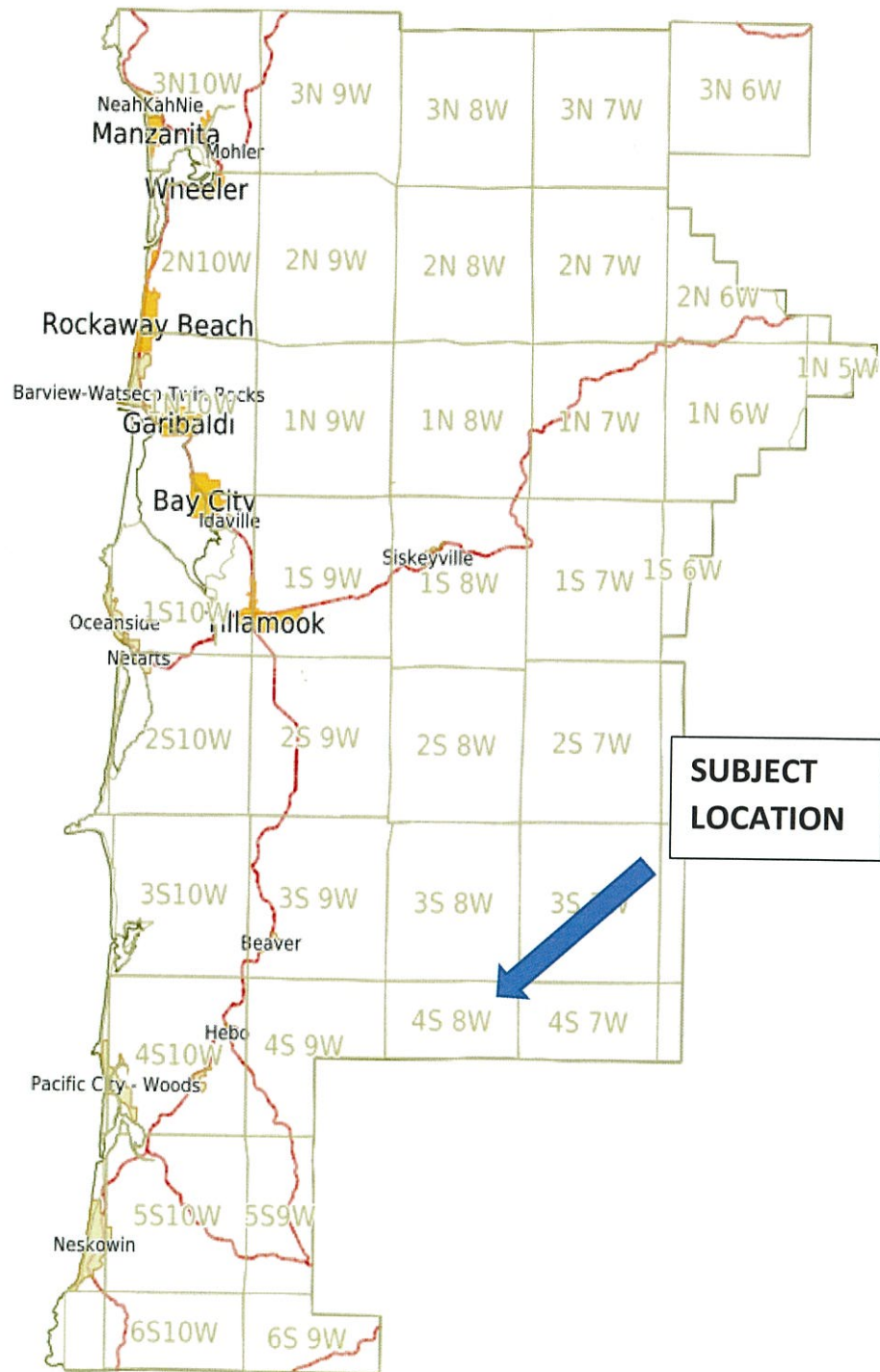
All Exhibits referenced herein are, by this reference, made a part hereof:

- A. Maps
- B. Applicant’s submittal
- C. Required Restrictive Covenant: Farm Forest Practices



# **EXHIBIT A**

# VICINITY MAP

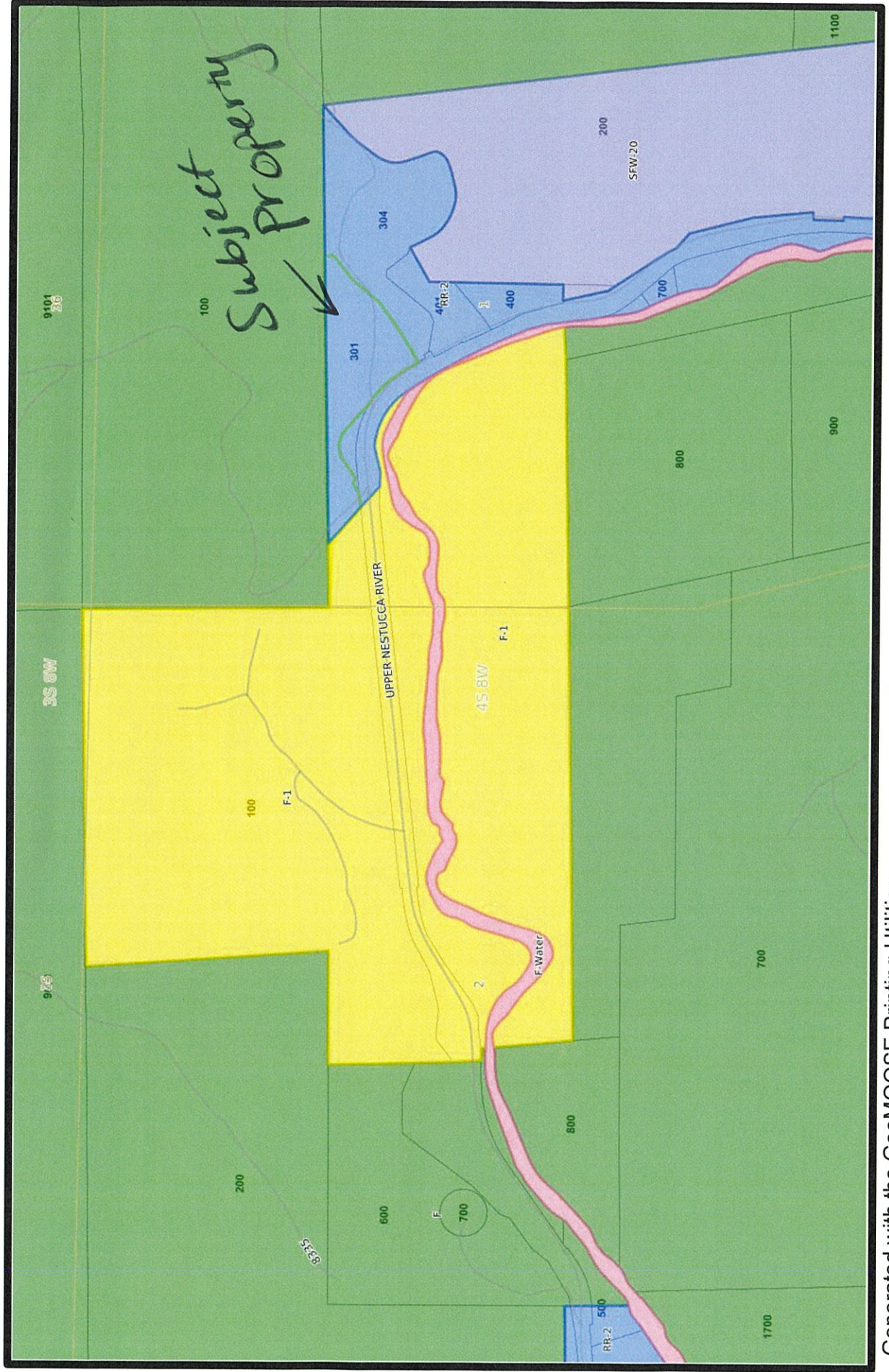


Martin



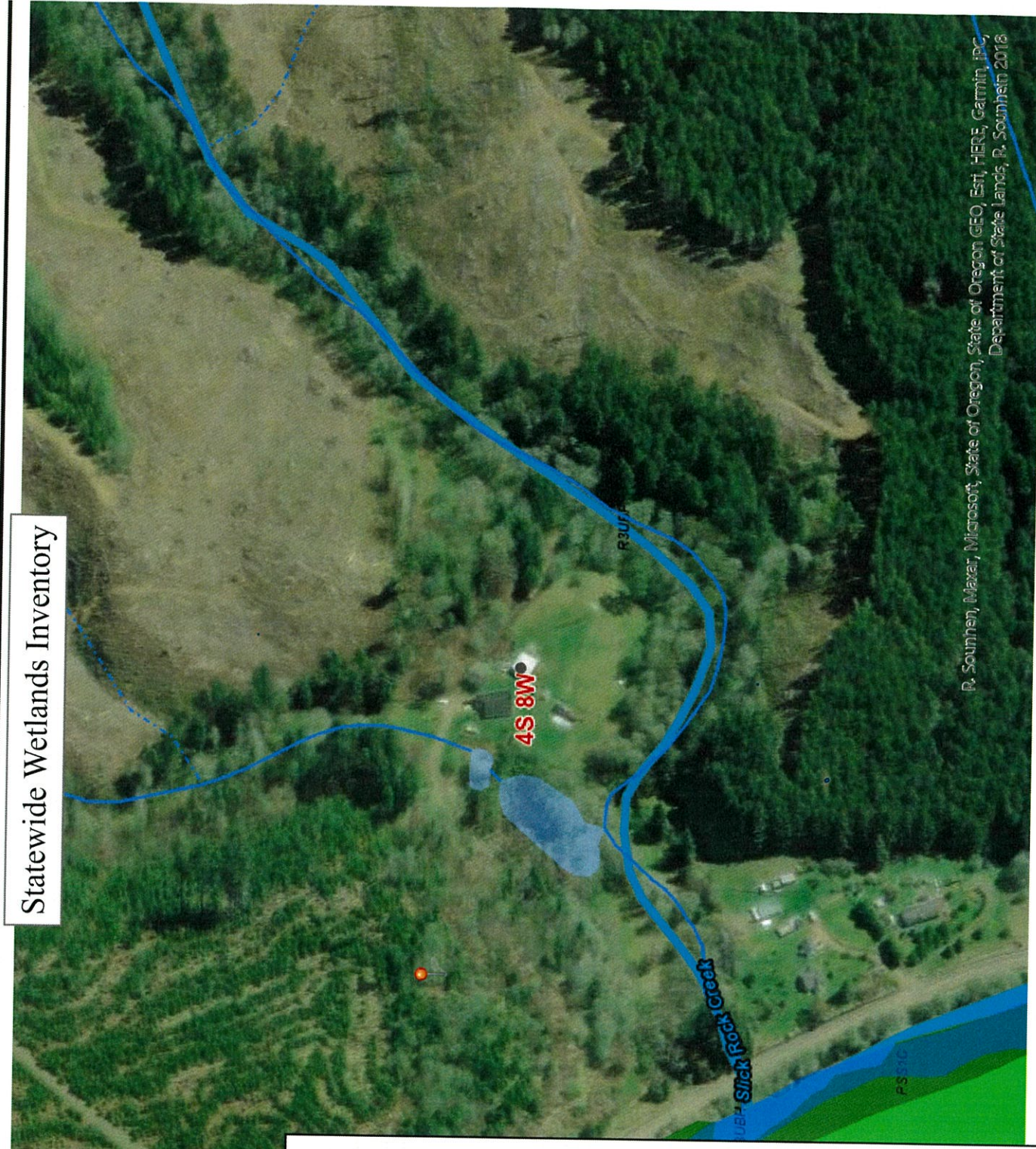


# Map





# Statewide Wetlands Inventory



	Townships
	LWI Study Area
	BASEDAT.DBO.NHDWaterbody
	BASEDAT.DBO.NHDArea
<b>BASEDAT.DBO.NHDFlowline</b>	
	Perennial
	Intermittent
	Ephemeral
	Unknown
	Canal/Ditch
	Canal/Ditch
	Canal/Ditch
	BASEDAT.DBO.NHDPoin
<b>Wetlands</b>	
	Estuarine and Marine Deepwater
	Estuarine and Marine Wetland
	Freshwater Emergent Wetland
	Freshwater Forested/Shrub Wetland
	Freshwater Pond
	Lake
	Riverine
	SWI Agate-Winnlo Soils

R. Sounnen, Mazer, Microsoft, State of Oregon, State of Oregon GEO, Est. HERE, Garmin, Inc, Department of State Lands, R. Sounnen 2018



# National Flood Hazard Layer FIRMette

123°37'31"W 45°15'31"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, A199*
- 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 A*
- 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**

- Area of Minimal Flood Hazard *Zone X*
- Effective LOMRs *Zone*
- 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
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- 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 **8/1/2024 at 4:54 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.



123°36'54"W 45°15'6"N





# Geologic Hazard Area



# **EXHIBIT B**



## PLANNING APPLICATION

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

Name: James Martin Phone: 503 812 7858  
 Address: 8985 Mill creek rd  
 City: Tillamook State: OR Zip: 97141  
 Email: \_\_\_\_\_

**Property Owner**

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

OFFICE USE ONLY	
Date Stamp	<b>RECEIVED</b>
	JUN 10 2024
	BY: <u>Cowley-SS</u>
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by:	<u>SS</u>
Receipt #:	<u>138035</u>
Fees:	<u>1,345.00</u>
Permit No:	851- <u>24-00331</u> -PLNG

**Request:**

To build a dwelling + shop space within a 100' set back zone.

**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
- Fore-dune 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: Upper Nestucca River Rd Tillamook  
 Map Number: 45 8 01 301  
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.

James Martin  
 Property Owner Signature (Required)

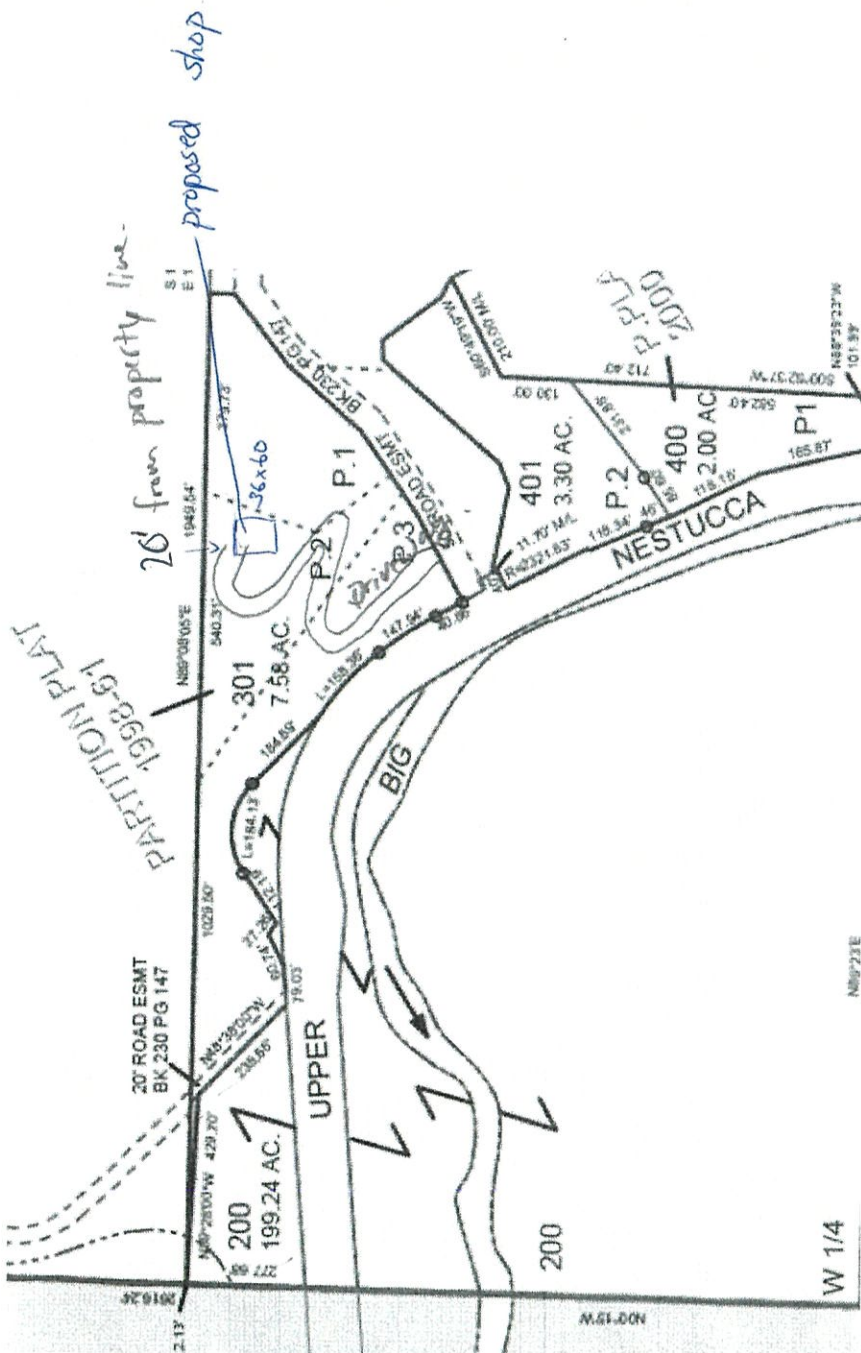
May 10, 2024  
 Date

James Martin  
 Applicant Signature

Date



- A maintained space of 20 ft of gravel between property line + building
- keep clean + maintained safety zones, and defensible space around building + along property line. maintain existing shrubs and trees.
- property corners are flagged + visible to identify property lines.



# **EXHIBIT C**



**INSTRUCTIONS FOR FILING RESTRICTIVE COVENANT  
FOR THE CREATION OF A PARCEL OR PLACEMENT OF A DWELLING  
ADJACENT TO LAND ZONED FOR FARM OR FOREST USE**

1. This acknowledgment is required when the County permits the creation of parcels or the location/placement of dwellings adjacent to an area designated by the County as farm or forest lands (F, F-1, SFW-20).
2. Obtain the legal description of the subject property as it's recorded in the Tillamook County Deed Records. This is what is referred to as Exhibit A and must accompany the affidavit/covenant.
3. The attached affidavit/covenant must be filled out (typewritten), showing the names of ALL current property owners who appear on the property deed or contract, and signed before a Notary Public. Community Development has Notaries that can provide the service for free.
4. Once the affidavit/covenant is signed and notarized with the attached legal description, bring these to the Tillamook County Clerk's office to be recorded. **The Clerk's will charge a recording fee.** Please contact the Clerk's office at (503)842-3402 for current fees.
5. **A copy of the recorded and notarized affidavit/covenant will be given to DCD to put on file.**
6. If you have any questions about the affidavit/covenant, or the recording procedure, please contact the DCD- Planning Staff at (503)842-3408.

