STAFF REPORT FOR HEARINGS BODY REVIEW

APPLICANT/OWNER: Mike Smith
74799 Crannog Road
North Bend OR 97459

REQUEST: ACU-13-18: Site a dwelling within the Coastal Shoreland Boundary,
ACU-13-19: Site a dwelling on less than an acre in a rural residential platted subdivision,

STAFF CONTACT: Debby Darling, Planner II

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 23S Range 13W Section 35BB Tax Lot 200

PROPERTY LOCATION
The subject property is located in the Hauser area, between the cities of North Bend and Lakeside. It lies within the Deal Park Subdivision. Subject property is accessed by Crannog Road.

APPLICABLE CRITERIA
Coos County Zoning and Land Development Ordinance (LDO) and Coos County Comprehensive Plan (CCCP)

| LDO | § 3.3.100(4)(B)(2)(b) | Lot Standards, Exceptions to minimum lot standards, Subdivisions Approved Prior to this Ordinance and Not Located in a Resource Zone, for Plats approved before February, 1975 and on less than one acre. |
| LDO | §4.2.400, Table 4.2c | Rural Residential Zoning Districts including Rural Unincorporated Communities |
| LDO | §4.4.400 | General Standards for Rural Residential Zoning Districts |
| LDO | Article 4.7, Table 4.7a (5b), Appendix 1 Policy 5.10 (7); | Non-Estuarine Shoreland Boundary - Specific Uses Allowed within the CSB; |

1. BASIC FINDINGS

A. Lawfully Created Parcel: The subject property was lawfully created as required by Section 3.3.800, Lawfully Created Lots and Parcels. The subject property consists of a portion of Lot 9 of the Deal Park Subdivision, which was established in 1965. In 2013 a portion of Crannog Road was vacated and added to the subject property. In 2013, a property line adjustment was authorized between the subject property and a neighboring property, creating the current configuration. Therefore, the subject property meets the criteria in 3.3.800 and is a lawfully created lot.

B. Zoning: The zoning is Rural Residential-2 (RR-2) and the purpose of the “RR-2” district is to provide for small acreage homsites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary. The “RR-2” district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.
A portion of the property is zoned Forest. The purpose of the “F” zone is to designate forest lands and protect them for forest uses, except where findings establish that certain limited non-forest uses may be allowed. Some of the areas covered by the “F” zone are exclusive forest lands, while other areas include a combination of missed farm and forest uses.

Mixed farm-Forest Areas “MU” areas include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tent to form a buffer between more remote uplands and populated valleys. In addition, these “mixed use” areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

In certain areas of the County, these “mixed use” areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in “prime forest areas”, and grazing is in many places a co-dominant use. There are typically mixtures of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

C. **Site Description:** The subject property contains approximately 0.66 acres. There are approximately 0.35 acres within the RR-2 zoning district and approximately 0.31 acres within the F zoning district. The eastern portion of the property is bordered by Saunders Lake, the northern portion of the property is bordered by the Oregon Dunes National Recreation Area, the western and southern portions of the property are bordered by private property, zoned F to the west and RR-2 to the south. The aerial photograph shows there is no current development, although the applicant has submitted photos showing that a portion of the property has been cleared and leveled in anticipation of development. The photographs show that most of the trees and vegetation has been removed in this leveling. The remainder of the property appears to be sand dune.

D. **Background:** On April 1, 2013, a road vacation (VAC-12-03) was approved by the Board of Commissioners, vacating the last 200 feet of Crannog Road, which was absorbed into the subject property. On July 11, 2013, a property line adjustment (PLA-13-16) was authorized between the subject property and tax lot 100 in Township 23S, Range 13W, Section 35BB, which created the current configuration. The applicant submitted multiple applications in July 2013 and staff has requested additional information prior to the review. After receiving all the information including comments from ODFW staff has decided to review two parts of the request in this report. Due to the type of the other two requests they will be heard by the Planning Commission in December.

### II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

**ACU-13-19, Residential Dwelling on less than an acre in a Rural Residential Subdivision**

<table>
<thead>
<tr>
<th>LDO</th>
<th>§ 3.3.100(4)(B)(2)(b)</th>
<th>Lot Standards, Exceptions to minimum lot standards, Subdivisions Approved Prior to this Ordinance and Not Located in a Resource Zone, for Plats approved before February, 1975 and on less than one acre.</th>
</tr>
</thead>
<tbody>
<tr>
<td>LDO</td>
<td>§4.2.400, Table 4.2c</td>
<td>Rural Residential Zoning Districts including Rural Unincorporated Communities</td>
</tr>
</tbody>
</table>

**SECTION 3.3.100. Lot Standards.** Except as provided in (4) below no buildings or structures shall be located on a lot, parcel or tract unless the lot, parcel or tract conforms with the requirements of the district in which it is located.
4. **Exceptions to Minimum Lot Standards** [This only applies if the use is permitted outright by the subject zoning district (except if the use is a conditional use, the conditional use provisions shall govern); and if the lot or parcel is “landlocked” without access, access must be created prior to approval or issuance of any land development zoning clearance letter or permit. Further, this subsection is subject to resource protection limitations as provided elsewhere in the Comprehensive Plan.]***

B. **Subdivisions, Approved Prior to this Ordinance and Not Located in a Resource Zone:** A residential dwelling may be permitted outright or may be subject to an administrative conditional use (provided the dwelling is permitted by the parent district) per the following table:

<table>
<thead>
<tr>
<th>PERMITTED OUTRIGHT*</th>
<th>SUBJECT TO ADMINISTRATIVE CONDITIONAL USE #</th>
</tr>
</thead>
</table>

Rural

***

2. For plats approved before February, 1975

b. lots (or combination of contiguous lots in the same ownership) less than one acre XX +

The proposed dwelling must be found compatible with surrounding uses or may be made compatible through the imposition of conditions.

**FINDING:** The property is made up of portion of lot 9 of the Deal Park Subdivision, which was platted and recorded in 1965. This is a subdivision that was created prior to the development of the Coos County Zoning and Land Development Ordinance (LDO). The portion of the property which lies within the subdivision is approximately 0.35 of an acre and is considered an exception to the minimum lot standards because it was created prior to the existence of the LDO. This portion of the property is zoned RR-2 and LDO §4.2.400, Table 4.2c outright permits a dwelling in the RR-2 zoning district. However, due to the size of the property and the fact that it is in a rural subdivision, a conditional use permit is required and the applicant must provide evidence that the property is compatible with surrounding uses. The applicant has provided justification for this use by showing that the subdivision was created with the purpose of siting dwellings. There are other small similar sized properties in this subdivision that are already developed for residential use.

Other properties in the subdivision are sized from 0.18 to 2.68 acres. There are homes on properties that are as small as .23 acre. Staff finds that the subdivision was platted prior to 1975 and was intended for residential use. There are numerous homes in the subdivision on properties that are less than one acre. The property is zoned rural residential and a residential dwelling is an outright allowed use in the zoning district. Therefore, this property also qualifies for a dwelling; however, the property also lies within the Beaches and Dunes Limited Suitability for Development area, lies within the Coastal Shoreland Boundary of Saunders Lake, and the applicant has requested a variance to the 50 foot riparian protection setback. The applicant will have to meet the criteria listed for the aforementioned. The Coastal Shoreland Boundary issue will be discussed below. The Beaches and Dunes Limited Suitability for Development Area issues are being referred to the Planning Commission for public hearing.

<table>
<thead>
<tr>
<th>LDO</th>
<th>§4.4.400</th>
<th>General Standards for Rural Residential Zoning Districts</th>
</tr>
</thead>
</table>

**SECTION 4.4.400. General Standards for Rural Residential Zoning Districts.**
The general standards set forth in this section shall apply to the zoning districts and uses addressed in Table 4.2-c.

1. **RR-5, RR-2, RC, CREMP RURAL RESIDENTIAL, AND CREMP RC ZONING DISTRICTS.**
A. **Minimum Lot Size:** - 2 acres in the RR-2 district

Except:

i. Pre-existing legal lots of record shall be entitled to a use, subject to the findings and special standards on Table 4.2-c.

ii. Smaller parcels may be permitted in an approved residential planned unit development, provided the allowable density of the parent parcel is not exceeded; or

iii. As provided by Section 3.3.100(E); or

iv. As provided by Section 3.3.100 (B).

B. **Dwelling Unit Density:** Dwellings shall be permitted on lots or parcels complying with the minimum lot size requirements of (1) A above, when the findings and special standards of Table 4.2-c have been satisfied; however, the exceptions to minimum lot size requirements of Section 3.3.100 shall apply.

C. **Lot Coverage:** No requirement.

D. **Setbacks:**

   a. All buildings or structures with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from the right-of-way line, whichever is greater.

   b. Firebreak: New or replacement dwellings on lots, parcels or tracts abutting the “Forest” zone shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions. Vegetation within this firebreak may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. [ORD 95-05-006PL 11/29/95]

E. **Structure Height:** No requirement.

F. **Fences, Hedges, and Walls:** No requirement, but vision clearance provisions of SECTION 3.3.400 apply.

G. **Offstreet Parking and Loading:** See Chapter X.

H. **Minimum Road Frontage/Lot Width:** within UGB’s – 50 feet and outside UGB’s – 20 feet

I. **Compatibility with Forest and Agricultural Management Practices and Production:** Any applicant for a rural residential dwelling building or septic permit adjacent to a forest or agriculture zone, shall sign a statement on the Zoning Clearance Letter acknowledging that: “the normal intensive management practices occurring on adjacent resource land will not conflict with the rural residential landowner’s enjoyment of his or her property”.

J. **Riparian Vegetation Protection:**

   i Riparian vegetation within 50 feet of a wetland, stream, lake, or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained except that:

      a. Trees certified by the Coos Soil and Water Conservation District, a port district, or U.S. Soil Conservation Service posing an erosion or safety hazard may be removed to minimize said hazard; or

      b. Riparian vegetation may be removed to provide direct access for a water-dependent use; or

      c. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or

      d. Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan; or

      e. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways, provided that the vegetation to be removed is the minimum necessary to accomplish the purpose; or

      f. Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops
customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps.

ii. The 50’ riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure’s “footprint”. (ORD 92-05-009PL)

K. Access to new dwellings shall meet road and driveway standards in Chapter VII.

FINDING: The subject property is zoned Rural Residential and therefore, qualifies for a dwelling; however, this property is being reviewed as an exception to the minimum lots size because it is located within a rural residential platted subdivision that was created prior to the existence of the LDO and subject to the provisions LDO §3.3.100(4)(B)(2)(b), which requires a conditional use review to determine if the proposed use is compatible with surrounding uses. Staff has determined that this is a compatible use and a dwelling may be sited on the property if all the conditions of approval have been met. With the exception of the riparian vegetation protection area, these criteria have been met or will be met prior to the issuance of a zoning compliance letter. The applicant has requested a variance to the riparian vegetation protection setbacks.

The request for a variance to the riparian vegetation protection is being referred to the Planning Commission. It will be a condition of approval that he must obtain approval from the Planning Commission for the riparian setback area in order to site a dwelling within it.

---

**ACU-13-18, Residential Dwelling in Coastal Shoreland Boundary**

<table>
<thead>
<tr>
<th>LDO</th>
<th>Article 4.7, Table 4.7a</th>
<th>Special Regulatory Considerations Prescribed by the Coos County Comprehensive Plan.</th>
</tr>
</thead>
<tbody>
<tr>
<td>PHENOMENON</td>
<td>SPECIAL REGULATORY CONSIDERATIONS</td>
<td>Appendix I</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Non-Estuarine Shoreland Boundary</th>
<th>b. Specifies allowed uses within C.S.B</th>
<th>1-26</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix 1 Policy 5.10 (7)(f);</td>
<td>Special Regulatory Considerations Prescribed by the Coos County Comprehensive Plan. Beaches &amp; Dunes: Permit development within “limited development suitability” only upon establishment of findings. Requires an Administrative Conditional Use Permit; Non-Estuarine Shoreland Boundary - Specific Uses Allowed within the CSB;</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#5 Non Estuarine Shoreland Boundary. Appendix 1, Policy 5.10 (7) Coos County shall manage its rural areas within the "Coastal Shorelands Boundary" of the ocean, coastal
lakes and minor estuaries through implementing ordinance measures that allow the following uses:

***

f. single family residences on existing lots, parcels, or units of land when compatible with the objectives and implementation standards of the Coastal Shorelands goal, and as otherwise permitted by the underlying zone;
***

In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this plan.

This strategy recognizes: (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration; and (2) that Statewide Planning Goal #17 places strict limitations on land divisions within coastal shorelands.

FINDING: The subject property lies within the Coastal Shoreland Boundary. Staff finds that a single family residence is an outright permitted use within the Rural Residential zoning districts; however, there is some concern about the riparian vegetation protection setbacks and this is being reviewed separately. The siting of a dwelling on this property will be compatible with the Coastal Shorelands goal, provided the applicant can meet the criteria for the development within the Beaches and Dunes Limited Suitability area and the variance to the riparian setbacks is approved.

### III. NOTIFICATION AND APPEAL RIGHTS

The Planning Department mailed individual written notice of the decision to the owners of record of all property located within 250 feet of the subject property. Notice of Decision with a copy of the staff report was forwarded to Applicant(s)/Owner(s), Dave Perry, DLCD; Pam Blake, DEQ; and Chris Claire and Mike Grey, ODF&W. Notice of Decision will be provided to Coos County Assessor, Coos County Roadmaster, Hauser RFPD, Coos County Board of Commissioners, the Coos County Planning Commission, and the Coos Bay North Bend Water Board. In addition, notice of the decision was posted at the Coos County Courthouse, Coquille Annex and North Bend Annex. All notices were mailed and posted on October 30, 2013.

This decision may be appealed to the Coos County Hearings Body pursuant to Article 5.8 of the Coos County Zoning and Land Development Ordinance within 15 days from the date of written notice. This means that appeals must be received in the Planning Department by 5 p.m. on November 14, 2013, in order to be considered. This decision will not be final until the period for filing an appeal has expired. Detailed information about the appeal process, filing fees and additional information will be provided by the Planning Department upon request. The decision is based upon the submitted application, supporting evidence, facts, and findings to the criteria.

### IV. SUMMARY

The subject property is zoned rural residential and thereby would qualify for a dwelling. However, there are special circumstances on this property that required the property owners to submit conditional use permit applications; those being that the property is less than an acre in a rural residential subdivision, the dwelling would be in within the Beaches and Dunes area of limited suitability for development, and the dwelling would be within the Coastal Shoreland Boundary.

This request had four parts.

- The first is to site a dwelling on less than an acre which is an exception to the development standards. Staff has found after evaluating all of the evidence that the proposal can met the criteria with the imposition of conditions, including not impacting the riparian vegetation protection setbacks. ACU-13-19 is APPROVED
- The second is to site a dwelling within the Coastal Shoreland Boundary. Staff has found, after evaluation of the evidence that the proposal meets the criteria. ACU-13-18 is APPROVED
- The third part is to site a dwelling within the Beaches and Dunes Limited Suitability for Development area.
The Planning Director has found, after evaluation of the evidence, that this application should be referred to the Planning Commission for determination.

- The fourth part is a request for a variance to the riparian vegetation setbacks. The Planning Director has found after evaluation of the evidence, that this application should be referred to the Planning Commission for determination.

### VI. CONDITIONS OF APPROVAL

1. Pursuant to ORS 215.416(1), the fees charged by the Planning Department for permit applications represent the average cost of processing the application. If the actual cost of processing the application exceeds the average cost, then the applicant shall be responsible for paying the full amount. If such an amount is due, it must be paid before a zoning compliance letter can be issued.

2. The permit shall run with the land and may be transferred to a new landowner when the property is conveyed. However, the “seller” or “grantor” shall, by acting upon this permit, agree to notify the “buyer” or “grantee” of the terms and conditions of the permit. Pursuant to CCZLDO Section 5.0.700, this permit shall remain valid for the period set forth in ORS 215.417.

3. No dwelling may be sited until the applicant has obtained approval from the Planning Commission concerning the application for a dwelling within the Beaches and Dunes Limited Suitability for Development Area.

4. No further riparian vegetation may be removed from the property unless the applicant has obtained approval from the Planning Commission to do so.

5. A driveway confirmation from the Road Department must be obtained prior to issuance of a zoning compliance letter.

If you have any questions please contact staff.

COOS COUNTY PLANNING DEPARTMENT

**Debby Darling**, Planner 2

C: Chris Clair, ODFW  
  Mike Grey, ODFW  
  Pam Blake, DEQ

EC: Dave Perry, DLCD

Attachments:
  Applicants Submittal  
  Decision Notice  
  Vicinity Map