STAFF REPORT FOR HEARINGS BODY REVIEW

APPLICANT/ OWNER: Dan Jensen
2729 Alder Ridge Drive
North Bend OR 97459

REQUEST: Site a dwelling within the Coastal Shoreland Boundary.

STAFF CONTACT: Debby Darling, Planner II

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 23S  Range 12W  Section 04D  Tax Lot 800

PROPERTY LOCATION

The subject property is located on North Ten Mile Lake, north of the city of Lakeside. The subject property is accessed by boat.

APPLICABLE CRITERIA

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

<table>
<thead>
<tr>
<th>LDO</th>
<th>Section/Article/Policy</th>
<th>Description</th>
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<tbody>
<tr>
<td>§4.2.400, Table 4.2c</td>
<td>Rural Residential Zoning Districts including Rural Unincorporated Communities</td>
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<tr>
<td>§4.4.400</td>
<td>General Standards for Rural Residential Zoning Districts</td>
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<tr>
<td>Article 4.7, Table 4.7a (5b) Appendix 1 Policy 5.10 (7);</td>
<td>Non-Estuarine Shoreland Boundary - Specific Uses Allowed within the CSB;</td>
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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 was owned in 1972 by Clarence Jensen under deed reference number 72-71154. 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 homesites 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.

C. Site Description: The subject property contains approximately 1.48 acres. The entire property is forested except for the a beach area on the lake front. There is an unnamed road that traverses the property from the southeast corner traveling northwest to the middle of the western property line, where it crosses to the neighboring property. There is a dock and a deck located on the south side at the lake’s edge. According to the plot plan, the property rises steeply on the north side of the roadway.

D. Background:
   - November 10, 2004, an after the fact zoning compliance letter (ZCL-04-637) was issued to site the dock, ramps, decks, and outbuilding. It was noted there was no dwelling on the property at this time. This was done to help property owners comply with Department of State Land’s (DSL) updating of all dock permits.
• November 10, 2004 DSL dock permit is noted. (RG17789)
• February 25, 2010, DSL dock renewal noted.
• August 15, 2012, a zoning compliance letter (ZCL-12-139) is issued to have a septic site evaluation only.
• November 4, 2013, notice is sent to ODF&W concerning impending developments. There was no reply.
• January 10, 2014, the current application was submitted to site a dwelling within the Coastal Shoreland Boundary (CSB) of Ten Mile Lake.
• January 23, 2014, a deemed incomplete letter was sent to the applicant, requesting missing information.
• February 11, 2014, notice is sent to ODF&W concerning impending developments.
• February 26, 2014, applicant’s further submission is received.
• March 3, 2014, response is received from ODF&W with no objections to the proposed development.
• March 3, 2014, the application is deemed complete and the applicant is notified.

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

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<td>RURAL RESIDENTIAL USE</td>
<td>RR-5</td>
<td>RR-2</td>
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<tr>
<td>partition</td>
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FINDING: Pursuant to the use table (Table 4.2c) noted above, a single family dwelling is an outright permitted use. However, the site of the dwelling has a special consideration of Coastal Shoreland Boundary (CSB) of Ten Mile Lake. LDO Section 4.2.100 requires special considerations listed in Article 4.7 to be addressed. Even though the use is permitted outright the special consideration requires an administrative conditional use (ACU) to address the CSB.

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. The property exceeds the minimum lot size. There will be only one dwelling on the property, thereby, complying with the dwelling density requirements. There is an unnamed roadway that traverses the property. There is more than 20 feet of frontage; however, the access is from the lake and by boat only. At this time, there will be no parking on the property. The proposed dwelling will be at least 50 feet from the Ordinary High Water Mark and therefore, meets the Riparian Vegetation Protection setbacks. Since the property is accessed by boat only, road and driveway standards are not applicable. These criteria have been met.
#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:

- 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. The subject property lies within the RR-2 zoning district. A dwelling is an outright permitted use in this zoning district. The portion of the property that is uplands is steep and unsuitable for a dwelling. There are other homes in the vicinity, located within the Coastal Shoreland Boundary. Staff finds this request for a single family dwelling will not adversely affect the resource of the lake. ODF&W has been notified of the development and has no objections.

Statewide Planning Goal 17 states that the goal is to “conserve, protect, where appropriate, develop, and where appropriate, restore the resources and benefits of all coastal Shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses economic resources and recreation. The management of these Shoreland areas shall be compatible with characteristics of adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal Shoreland.”

The only suitable place to build on the subject property is within the CSB because the rest of the property is too steep. ODF&W was notified of the proposed development and they found that the development would not adversely affect fish and wildlife habitat; therefore, they had no objections to the development. The development will be compatible
with other uses in the vicinity, as there are already established homes surrounding the subject property. There is an approved dock on the property, which has been used for recreation purposes, as well as access to the property. This use will continue. Therefore, staff finds siting of a dwelling on this property will be compatible with the Coastal Shorelands goal and LDO Appendix I Policy 5.10(7).

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, and Chris Claire, ODF&W. Notice of Decision will be provided to Coos County Assessor, Coos County Roadmaster, Lakeside RFPD, Coos County Board of Commissioners, the Coos County Planning Commission. 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 March 13, 2014.

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 March 28, 2014, 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 a conditional use permit application; that being that the dwelling would be within the Coastal Shoreland Boundary of Ten Mile Lakes.

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. The dwelling must be sited as shown on the approved plot plan.
4. The riparian vegetation must be protected and none may be removed except for uses as noted in LDO Section 4.4.400(1)(J).
5. A Zoning Compliance Letter must be obtained prior to applying for permits to the DEQ to install the septic system and to State Building Codes for a building permit.

If you have any questions please contact staff.

COOS COUNTY PLANNING DEPARTMENT

Debby Darling, Planner 2