STAFF REPORT FOR HEARINGS BODY REVIEW

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

REQUEST: To site a dwelling within the Beaches and Dunes Limited Suitability for Development area and a variance to the 50 foot riparian vegetation setback.

STAFF CONTACT: Jill Rolfe, Planning Director

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)

<table>
<thead>
<tr>
<th>LDO</th>
<th>§4.2.400, Table 4.2c</th>
<th>Rural Residential Zoning Districts including Rural Unincorporated Communities</th>
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<tr>
<td>LDO</td>
<td>§4.4.400</td>
<td>General Standards for Rural Residential Zoning Districts</td>
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<td>LDO</td>
<td>Article 4.7, Table 4.7a (4a), Appendix 1 Policy 5.10 (2)</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;</td>
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<tr>
<td>LDO</td>
<td>Article 5.3, §5.3.150; §5.3.350</td>
<td>Variances: Self-inflicted Hardships; Criteria for Approval of Variances</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 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 and a subsequent 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 Forest Mixed Use; however, the development will remain in the RR-2 portion of the property with the exception of the septic and/or drain field.

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.

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 mixed 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 tend 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 cf of an acre. There are approximately 0.35 of an acre within the RR-2 zoning district and approximately 0.31 of an acre within the FMU zone. 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. The zone map 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 was removed by the owner while leveling the property.

D. **Background:**
- 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.
- 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.
- July 18, 2013, the applicant submitted a multi part application request for the following: a dwelling on less than one acre in a rural residential platted subdivision; a dwelling within the
Costal Shoreland Boundary; a dwelling in the Beach and Dune with limited development suitability; and a variance to the riparian area. The applications were deemed complete on July 30, 2013.

- September 4, 2013, a request was sent to Pam Blake of the local Department of Environmental Quality (DEQ) office and to Chris Clair of the local Department of Fish & Wildlife office requesting comments on the variance to the riparian setbacks on Saunders Lake. Mr. Clair offered to contact the property owner and make a site visit. This was arranged for the end of September. Both Ms. Blake and Mr. Clair have sent comments.
- After reviewing the comments the Planning Director made the decision to send the Beaches and Dunes Limited Suitability for Development area and Variance requests to the Planning Commission for review.
- The other two applications received conditional approval on October 30, 2013. The applications were conditioned on approval of the Beach and Dunes application.

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## II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

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<td>ZONE DISTRICT</td>
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<td>RURAL RESIDENTIAL USE</td>
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<td>Residential:</td>
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<td>Single family dwelling</td>
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**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 dwelling was approved for being in a subdivision of less than one acre under ACU-13-18, provided the Planning Commission approved this application for a dwelling within the Beaches and Dunes Limited Suitability for Development Area.

<table>
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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 estuarine 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, would qualify for a dwelling but there are special considerations that apply. The property is located in a Beaches and Dunes Limited Suitability for Development Area, the Coastal Shorelands and less than an acre in a rural platted subdivision. The applicant submitted a multi-part application to address all of the criteria including the variance request. Staff reviewed two parts of the application administratively and the Planning Director has sent the other two portions to the Planning Commission. The staff could not approve the entire application as it was submitted.

Staff was able to determine that the property meets the development requirements for a dwelling on less than acre; however, the applicant has requested a variance to the riparian vegetation protection setbacks. As a condition of approval of file numbers ACU-13-18 and ACU-13-19, the applicant must obtain approval for development in the limited suitability and the variance in order to site the dwelling within the riparian area.

The request for a variance to the riparian vegetation protection is being reviewed separately below. If the request for the variance is denied, the applicant will have to change his plot plan to accommodate the setbacks.
This property is in an area that receives moderate movement, thus categorized as a limited suitability area for development. The property was almost completely forested prior to the application which helped to stabilize the property. The applicant has removed trees and vegetation to create a dwelling site.

Christopher Claire, Habitat Protection Biologist, Oregon Department of Fish and Wildlife, made a site visit, to provide feedback on the riparian variance. While he was on site he made the observation that the property had mechanically, cleared areas. This area seems not to have drainage or safeguards in place currently to stabilize the property and keep it from adversely effecting the site or adjacent areas.

The applicant also submitted pictures of the site to show where he had created the dwelling site. The applicant should have waited until he obtained all approvals prior to clearing any property. He should have all ensured that stabilization measures were taken to prevent erosion. Below is a picture of the site prior to the development.

The soil on this property is (43D) Netarts loamy fine sand with 2 to 30 percent slopes. Staff has included a topographical map for the Planning Commission to view the slopes on the property. Netarts soil is a dune soil that drains well with a water table of more than 80 inches. This soil is associated with older stabilized sand dunes. The native vegetation is mainly conifers, shrubs, grasses and forbs. This soil unit is used mainly for timber production and wildlife habitat. It is also used for recreation and homesite development. The main
limitation for management for timber is hazard of erosion, the hazard of wind, seedling mortality, and plant competition.

According the soil information if this unit is used for homesite development, the main limitation is the hazard of ground water pollution and slope. The moderately rapid permeability of the substratum may permit untreated effluent to enter the ground water. Special designs may be needed to prevent contamination of water supplies. Some area is too steep for installation of absorption fields.

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<td><strong>TABLE 4.7a SPECIAL REGULATORY CONSIDERATIONS PRESCRIBED BY THE COOS COUNTY COMPREHENSIVE PLAN</strong></td>
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<td><strong>PHENOMENON</strong></td>
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<td>4, Beaches &amp; Dunes</td>
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Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" on the Special Considerations Map only upon the establishment of findings that consider at least:

a. the type of use proposed and the adverse effects it might have on the site and adjacent areas;

FINDING: The applicant has stated there will be no adverse effects with the exception of erosion. The applicant stated in his written evidence that the cleared area is well compacted and slightly sloped to the North and west to avoid direct drainage toward the lake to the east. However, all drainage needs to be avoided from the development into Saunders Lake. The applicant needs to show how he will either stop or mitigate any adverse effects to the site or adjacent properties.

The applicant will need to use measures during construction to keep the soil stabilized. Afterwards, plantings of native grass and shrubs should be done. Rainwater drainage should be planned for as well. Mr. Claire suggested that special consideration should be given to any yard that is constructed surrounding structures at this site so as to prevent rainwater transport of yard wastes and fertilizer that might be used into the lake. These are adverse effects that need to be taken into consideration because the lake is an adjacent area.

Staff had concerns about the soils and that the moderately rapid permeability of the substratum may permit untreated effluent to enter the ground water. The applicant has not completed a site evaluation through Department of Environmental Quality to find out about the type of system that would be required or to talk discuss appropriate storm water treatment.

Staff has made some suggested conditions to help minimize the impacts to the site and adjacent areas later on in this report.

b. the need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

FINDING: The applicant stated that the western dune is partially vegetated and this existing vegetation is well established. The applicant would need to take care if removing any more of the vegetation while developing the site. Any areas that are disturbed during building process shall be replanted with native grasses and shrubs. Mr. Claire has listed some of the plantings that should be used.

The applicant has stated the main drainage area will be sloped to the north, away from the lake and native and ornamental vegetation will be planted to help control any erosion. Again staff is concerned about the lack of stabilization during the construction.
c. the need for methods for protecting the surrounding area from any adverse effects of the development; and

FINDING: The site is partially vegetated, except for the flat cleared area of the proposed building site. The properties to the north are owned by the US Forest Service and consist of the Dunes National Recreation Area. There are partially vegetated dunes to the west. The south has a few neighbors, but there are trees between the two properties. Any disturbing of the western dune could be detrimental to the neighborhood, as it helps protect the area from wind and blowing sand damage. The applicant has expressed concern about disturbing this dune for those reasons. Any removal of sand from the western dunes should be mitigated by replanting and possible addition structural stabilization such as a retaining wall.

Staff appreciates that the applicant has been monitoring the site and it has yet to show any erosion issues. Staff has also, reviewed the pictures but it is hard to determine if the correct stabilization has been preformed to keep this cleared area from impacting the lake. Staff would have preferred to see this development occur in the dry part of the year to help keep any runoff from the lake; however, staff does not have the ability to enforce such a requirement. Staff would have also liked to have had an actual storm water plan approved by DEQ. However, the applicant seems confident that he will be able to control runoff or wind erosion on the site or surrounding areas.

d. hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

FINDING: The applicant has created a site for dwelling taking into consideration the slope. He has already impacted the subject property by doing so but the question is will this development create a hazard to life, public and private property, and the natural environment. Staff does not find that there would be hazard to life as the soils indicate that this is older stabilized dune but it is still subject to hazards that need to be considered. Staff is concerned about the natural environment of Saunders Lake.

The applicant has also request a variance to the riparian setback which staff cannot support. The applicant should not have removed the vegetation before submitting plans for approval. This is an area of concerns and the reason applications are required.

Staff has made suggested conditions below to help insure there will be no hazards.

Further Coos County shall cooperate with affected local, state and federal agencies to protect the groundwater from drawdown, which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies.

FINDING: The applicant should stabilize the dunes, if any sand removal occurs. Ms. Blake, of the DEQ, has stated that no permits or requests for septic evaluations have come through their office at this time. The applicant has referred to a pressurized seepage bed; however Ms. Blake recommends an evaluation to determine what type of system will work best for this area. The applicant plans to site a well to the north of the property and the septic system to the south. Again staff has made some suggested conditions to help with the draw down issues. There is no indication from the soils that saltwater will be an issue.
V-13-03, Variance to the Riparian Vegetation

The development standards require that all riparian vegetation within 50 feet of an estuarine wetland, stream, lake, or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained. Saunders Lake is a lake identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps.

Mr. Claire and Ms. Blake both provided comments on this issue. While they have no direct control over the denial or approval of this standard their opinions are valuable in considering the criteria.

Protections of the lake are crucial and after taking into consideration the hazards on this property; Staff cannot not support a request for riparian variance because it is a conflict with the Beach and Dune criteria.

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Section 5.3.100 – General: Practical difficulty and unnecessary physical hardship may result from the size, shape, or dimensions of a site or the location of existing structures thereon, geographic, topographic or other physical conditions on the site or in the immediate vicinity, or, from population density, street location, or traffic conditions in the immediate vicinity. Variances may be granted to overcome unnecessary physical hardships or practical difficulties. The authority to grant variances does not extend to use regulations.

FINDING: The applicant claims that the shape, size and topography of the subject property create a practical difficulty in siting a dwelling in any other portion of the property. He is requesting a variance to the 50 foot riparian vegetation setback, moving it to 25-30 feet from the ordinary mean high water mark.

The northern border of the property is owned by the Federal Government and managed as the Dunes National Recreation Area. It is a large dune. The western portion of the property also consists of fairly large dunes, which have some trees and shrubs. To remove this dune would be detrimental to the neighborhood, as it would no longer act as a wind and erosion buffer, allowing greater movement of sand towards Saunders Lake. The eastern boundary of the property is Saunders Lake. The southern portion of the property abuts another residential property.

The applicant has said there is enough room to site a septic system to the southwest, where the dune is not as steep. DEQ has reported that there has not been a septic evaluation and therefore, there is no evidence that there is actually room for a septic system. The size and shape of the property and the fact that the western portion of the property is dunal does limit where a dwelling can be built. A smaller dwelling footprint may be used. It appears from the site plan the applicant is proposing a 1950 square foot dwelling. There are other options. The applicant could build a two story dwelling with a shrinking the footprint to fall within the setbacks.

Mr. Claire visited the site and measured the areas with Mr. Smith to find out what the proposed footprint of the ordinary high water mark was located. He does note that the data may vary. He explained that he riparian area has already been modified by removal of vegetation to make way for the dwelling. Staff does not find the applicant has reviewed all option such as a different type of septic system to save space.
The site plan shows distances but does not show how close the dwelling would be from the bottom of the slope. Staff understands this is a split property and the applicant is worried about meeting the forest setback. The firebreak language reads as follows: 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.

It appears from the site plan that the dwelling could be manipulated or reduced in size to comply with the riparian setback. The applicant may present testimony and/or evidence at the hearing to show otherwise but staff is only reviewing the information in the file.

Section 5.3.150 – Self-inflicted hardships. A variance shall not be granted when the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner or previous owners, including but not limited to

- Self-created hardship
- Willful or accidental violations
- Manufactured hardships.

This does not mean a variance cannot be granted for other reasons.

FINDING: The property is a lot in Deal Subdivision. This rural residential subdivision was created with the intention of siting dwellings along Saunders Lake. The applicant states he purchased the property with the intention of siting a dwelling. He has supplied evidence of other residences within the subdivision, some of which are well within the 50 foot riparian vegetation protection area; however, they are "grandfathered" dwellings that were sited before there were restrictions to help protect the riparian vegetation or requirements for siting away from the Lake itself. Under today’s Ordinance requirements, these homes would not be allowed to be built within the riparian vegetation protection area. The reason standards were placed on riparian areas is to protect the water resources. It should also be noted that the applicant cleared a development site prior to any approval and that this clearing has already encroached into the riparian vegetation protection area. A variance should not be granted and the willful or accidental violation should be corrected.

Section 5.3.350 Criteria for Approval of Variances. No variance may be granted by the Planning Director unless, on the basis of the application, investigation, and evidence submitted that both findings “A” and “B” below are made:

A. i. that a strict or literal interpretation and enforcement of the specified requirement would result in unnecessary physical hardship and would be inconsistent with the objectives of this Ordinance; or

ii. that there are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply to other properties in the same zoning district; or

iii. that strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges legally enjoyed by the owners of other properties or classified in the same zoning district;

FINDING: Staff finds that a strict or literal interpretation and enforcement of the riparian vegetation setbacks would not deprive the applicant of privileges legally enjoyed by owners of other properties or classified in the
same zoning district; however, other properties in the area which encroach on the riparian vegetation setback are grandfathered and were sited prior to any riparian vegetation protection. Other property owners in the area who have requested a variance to the riparian setbacks since they have been adopted into the LDO have been denied that variance in order to protect the water quality of Saunders Lake. This is a unique situation because there are two areas of concern, the stabilization of the dune and the health of the Saunders Lake. The applicant should understand these issues because he lives near this site. Staff believes with adequate protections for the dune in place the site could be reconfigured so that both issues are addressed. The applicant should work with the state agencies and maybe hire a professional engineer to help develop the site appropriately.

B. that the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity.

FINDING: Staff requested comments from both DEQ and ODF&W concerning removal of riparian vegetation and the encroachment of building within this area.

Ms. Blake of the DEQ has noted that “Riparian variances would only seem appropriate for consideration after all other options are explored. Maintaining riparian areas around any lake is a needed line of defense between the lake and rural activity...Lakeshore vegetation can be carefully managed but removal should be avoided.” She noted that the submitted photos appeared to show fill material in close proximity to the lake without any visible erosion control methods. Ms. Blake also noted that there was very little water quality data available for Saunders Lake; although her Department has been receiving more calls from concerned citizens about the lake’s water quality.

Mr. Clair visited the site at the end of September, 2013. He noted the mechanically cleared area and measured from the ordinary high water mark (OHW) of Saunders Lake to the edges of that cleared area. He found the distance from the southeast corner cleared to the OHW of Saunders Lake to be 35 feet. The distance from the center edge of the site to the OHW measured 40 feet and the distance from the northwest corner to the OHW measured 35 feet. He observed there was already an impact to Saunders Lake from the removal of Douglas fir trees, pacific madrone, the clearing of shrubs and the leveling of the slope adjacent to the lake to the distances noted above.

Staff recommends that the variance not be granted because it has not been shown that there are no other alternatives.

### III. NOTIFICATION/COMMENTS

Notification was provided as consistent with LDO Section 5.7.300. Notification was also provided on July 12, 2013, to subject property owners, property owners within 250’ feet from the subject property and the applicant’s consultant. The notice was also provided to the following: Board of Commissioners; Dave Perry, DLCD; ODF&W; DEQ; Hauser RFPD; Coos Bay School District #9; Oregon International Port of Coos Bay. The only comments received on this application were by Christopher Claire, ODFW and Pam Blake, DEQ. Those comments have been included as attachments to this report.

### 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 several conditional use permit applications: those being that the property is less than an acre in a rural residential platted 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.

Staff has already approved with conditions the applications for a dwelling on less than one acre and lying within the Coastal Shoreland Boundary. Conditions of these approvals included obtaining approval from the Planning Commission to site the dwelling within the Beaches and Dunes Limited Suitability for Development area and the Variance to the Riparian Setbacks.

While Staff was reviewing the initial applications, it was determined that the applicant had not submitted enough information and evidence to show how building the dwelling would have impacted the beaches and dunes and how he planned to mitigate or lessen that impact. Rather than outright deny his application, the Planning Director chose to refer this matter to the Planning Commission. The applicant was notified and he has supplied additional requested information. If approved, Staff recommends the conditions listed below.

However, staff finds that there has already been an impact to the dune from the applicant developing a site for the potential dwelling. Staff request that if this portion of the application be approved that the Planning Commission place conditions of approval. Staff has made suggested conditions of approval below.

Staff does not support approving the variance to the riparian setbacks. The LDO is very clear that a variance cannot be granted due to a willful or accidental violation. The applicant cleared and leveled his building site before obtaining any permits. The applicant admitted he lives in this area and is familiar with the constraints that exist on this property. Part of site lies within the riparian vegetation protection setbacks. He has pushed fill into this area to level it. There are no visible erosion control measures that were put into place to prevent contamination of Saunders Lake, although the applicant stated that he sloped the land to the north so that any direct runoff would not go into the lake. Both Pam Blake of the Department of Environmental Quality and Chris Claire of ODFW have offered comments on the riparian protection. (see attached letters).

Ms. Blake stated that a variance to the riparian setbacks should only be granted as a last resort. Regardless of legacy management, the LDO riparian vegetation rules should be adhered to guide new development to maintain a health of the lake. Ms. Blake notes that there are not any water studies of Saunders Lake; however, her office has been receiving complaints about the water quality.

Mr. Claire visited the site and measured from the ordinary high water mark of Saunders Lake to the edge of the development site, confirming that the development site is within the riparian protection area. He noted there was room for a modest structure in the cleared area, but if a larger home were to be built, it would likely impact the western dune. Measures would need to be taken to prevent the dune from eroding into the lake. He recommended building a retaining wall if sand removal is required.

The applicant, as part of his evidence, supplied photographs and maps showing where other property owners had encroached into the riparian setbacks. However, the majority of these homes were built prior to any requirements concerning the riparian setbacks. As noted by both Ms. Blake and Mr. Claire, past management practices should not be allowed to effect the current regulations. The current regulations were put into place to prevent exactly this type of development and encroachment into the riparian vegetation area. Current violations and grandfathered uses cannot be used to justify allowing further encroachment into the riparian area.

Mr. Smith has stated in the past that he would be able to build a long narrow home on the property. It appears
that there is no real justification to grant the variance to the riparian vegetation protection setbacks.

VI. PROPOSED CONDITIONS OF APPROVAL

1. The riparian vegetation area should be replanted with native trees, including Douglas fir or Sitka spruce (Picea sitchensis) and red alder (Alnus rubra) should be planted on 10ft. spacing to a reasonable distance from any new structure(s) built the site. No other riparian vegetation may be removed.
2. Special consideration should be given to sloping of any yard that is constructed so as to prevent rainwater transport of yard wastes and fertilizers that might be used from contaminating Saunders Lake.
3. If the western dune area is disturbed, it must be stabilized with plantings and/or a retaining wall.
4. The disturbed area (yard) should be replanted as soon as possible with native grasses and/or shrubs to help stabilize the ground.
5. Obtain a zoning compliance letter (ZCL) from the Planning Department in order to obtain State DEQ and Building Code permits.
6. The Planning Commission may add any additional conditions of approval that directly relate to this application.

If you have any questions please contact staff.

COOS COUNTY PLANNING DEPARTMENT

Jill Rolfe, Planning Director

EC: Chris Claire, ODFW
    Pam Blake, DEQ
    Dave Perry, DLCD

Attachments: Application and supplemental information
Topographical Aerial Photo
Christopher Claire’s letter
Pam Blake’s email
Coos County Planning Department
Land Use Application

Please place a check mark on the appropriate type of review that has been requested.

Administrative Review
Site Plan Review

Hearings Body Review

\[ \text{Variance} \quad \text{permitVARBAC} \]

An incomplete application will not be processed. Applicant is responsible for completing the form and addressing all criteria. Attach additional sheets to answer questions if needed. Please indicate not applicable on any portion of the application that does not apply to your request.

A. Applicant:
Name: MIKE SMITH
Telephone: 541-759-3601
Address: 74799 CRAWNOO RD.
City: NORTH BEND State: OR Zip Code: 97459

B. Owner:
Name: MIKE SMITH
Telephone: 541-759-3601
Address: 74799 CRAWNOO RD.
City: NORTH BEND State: OR Zip Code: 97459

C. As applicant, I am (check one): Please provide documentation.

\[ \checkmark \text{The owner of the property (shown on deed of record);} \]

The purchaser of the property under a duly executed written contract who has the written consent of the vendor to make such application (consent form attached).

A lessee in possession of the property who has written consent of the owner to make such application (consent form attached).

The agent of any of the foregoing who states on the application that he/she is the duly authorized agent and who submits evidence of being duly authorized in writing by his principal (consent form attached).

D. Description of Property:

Township 23 S Range 13 Section 358B Tax Lot 200
Tax Account 7455800 + 7455890 Lot Size: .29 acres Zoning District RR-2

+ Vacation .06
+ PLA .35 acres
+ Total .60 acres

Updated 2013
E. Information (please check off as you complete)

✓ 1. Existing Use __UNDERTAKEN__ R.R.Z.

✓ 2. Site Address __NONE__

✓ 3. Access Road __CREEK RD. TO EASEMENTS THRU PRIVATE ROAD__

✓ 4. Is the Property on Farm/Forest Tax Deferral __NO__

✓ 5. Current Land Use (timber, farming, residential, etc.) __RESIDENTIAL, R.R.Z__

✓ 6. Major Topography Features (streams, ditches, slopes, etc.) __LAKE FRONT, SAND DUNES__

✓ 7. Letter from Natural Resource Conservation Service (for Forest/Farm dwellings only).

✓ 8. List all lots or parcels that the current owner owns, co-owns or is purchasing which have a common boundary with the subject property on an assessment map. SEE EXHIBIT B

✓ 9. Identify any homes or development that exists on properties identified in #8. __NONE__

✓ 10. A copy of the current deed of record. SEE EXHIBIT A

✓ 11. Covenants or deed restrictions on the property, if unknown contact title company. __NONE__

✓ 12. A detailed parcel map of the subject property illustrating the size and location of existing and proposed uses, structures and roads on an 8½” x 11” paper to scale. Applicable distances must be noted on the parcel map along with slopes. (See example plot map) ATTACHED EXHIBIT C

F. Proposed use and Justification

Please attach an explanation of the requested proposed use and findings (or reasons) regarding how your application and proposed use comply with the following the Coos County Zoning and Land Development Ordinance (LDO). Pursuant to the LDO, this application may be approved only if it is found to comply with the applicable criteria for the proposed use. Staff will provide you with the criteria; however, staff cannot provide you with any legal information concerning the adequacy of the submitted findings, there is no guarantee of approval and the burden rests on the applicant. (You may request examples of a finding)

Applicable Criteria: LEGALLY CREATED R.R-Z. LOT IN DEEDED PARK SUBDIVISION. PROPOSED DEVELOPMENT IS TYPICAL OF ESTABLISHED EXISTING DEVELOPMENT AROUND SIUWERS LAKE

Updated 2013
G. Authorization:
All areas must be initialed by all applicant(s) prior to the Planning Department accepting any application unless the statement is not applicable. If one of the statements, below is not applicable to your request indicated by writing N/A.

---

I hereby attest that I am authorized to make the application for a conditional use and the statements within this application are true and correct to the best of my knowledge and belief. I affirm that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

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ORS 215.416 Permit application; fees; consolidated procedures; hearings; notice; approval criteria; decision without hearing. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service. The Coos County Board of Commissioners adopt a schedule of fees which reflect the average review cost of processing and set-forth that the Planning Department shall charge the actual cost of processing an application. Therefore, upon completion of review of your submitted application/permit a cost evaluation will be done and any balance owed will be billed to the applicant(s) and is due at that time. By signing this form you acknowledge that you are response to pay any debt caused by the processing of this application. Furthermore, the Coos County Planning Department reserves the right to determine the appropriate amount of time required to thoroughly complete any type of request and, by signing this page as the applicant and/or owner of the subject property, you agree to pay the amount owed as a result of this review. If the amount is not paid within 30 days of the invoice, or other arrangements have not been made, the Planning Department may chose to revoke this permit or send this debt to a collection agency at your expense.

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I understand it is the function of the planning office to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree I bare the burden of proof. I understand that approval is not guaranteed and the applicant(s) bear the burden of proof to demonstrate compliance with the applicable review criteria.

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As applicant(s) I/we acknowledge that is in my/our desire to submit this application and staff has not encouraged or discouraged the submittal of this application.

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[Signatures]

Applicant(s) Original Signature

Applicant(s) Original Signature

Updated 2013
Beach and Dune Limited Suitability

This parcel is an older stabilized dune with trees over 100 years old. The original bearing trees from a 1857 survey of the section line which runs through the property still exist. There is a mix of older fir, shore pine and cedar as well as wax myrtle, rhody and huckleberry. A small flat area has been cleared and leveled by the owner which would be the obvious building site for this parcel. The soils are typical of the area, fine loamy sand, consistent with the soil type listed in the Soil Survey of Coos County, Oregon published by the Soil and Water Conservation Service. This soil type is listed as 43D, the Netarts loamy sand. This soil type is suited for residential development but care must be taken due to the erodability of the soil and the tendency for excavations to slump. The cleared area is well compacted and slightly sloped to the north and west to avoid direct drainage toward the lake to the east. There is an existing gravel road on the property that meets County driveway standards.

The parcel has recently been expanded in size through a property line adjustment in to a neighboring property zoned forest. This adjustment will allow a suitable area for a 600sqft pressurized seepage bed drain field that will meet all current DEQ set back requirements. The sandy soil should easily satisfy the perk requirements. Placement of this drain field in the southern portion of the parcel (see exhibit C) allows for a well site on the north east portion of the lot with 200’ separation between the two. This drain field location is also over 150’ from the lake to the east, and the neighboring resident’s water supply.

The subject parcel is bordered by open sand dunes to the west. There is a 60 to 80 foot well established forest buffer that serves to protect the parcel from prevailing wind and dune movement. This vegetation buffer should be maintained. The vegetation can be trimmed to meet fire buffer requirements but should in no case be completely removed.

Central Lincon PUD has been out to evaluate expanding utilities to the parcel and has tentatively approved the approximant 275’ line to the lot either below or above ground along the existing road way.

The following will address Coos County’s specific criteria required under policy 5.10(2):

2 a. the type of use proposed and the adverse effect it might have on the site and adjacent areas;

Based upon the proposed siting of a residence as depicted in the plot plan in EXHIBIT C there are no adverse effects other than erosion control during development to prevent run off into the lake to the east.

b. the need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

The existing trees and vegetation on the site are well established and are primarily native species. Any disturbed areas due to construction will be planted with drought tolerant grasses. The main drainage of the building site will drain to the north west away from the lake which lies to the east. The bank to the east between the building site and the lake shall be maintained with native and ornamental plantings to eliminate any erosion an enhance stability and natural integrity of the lake shore.

c. the need for methods for protecting the surrounding area from any adverse effects of the development;

This site is well vegetated and is screened from existing neighbors. There are no visible neighbors from the lake front as most of the owner ship is Forest Service or zoned forest. Substantial road improvements
have already been made accessing this parcel, thus improving neighborhood access for fire and delivery services.

d. hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

Two primary hazards exist in development for this site, which are proposed to me mitigated by careful siting and maintenance of the vegetation barriers protecting the site.

The first is the potential to open the site to sand dune movement due to wind. This will be mitigated by maintaining the existing vegetation to minimize the effects of prevailing winds.

The second is the riparian protection which will be mitigated by maintaining a healthy vegetation barrier and modifying site drainage to divert runoff.

In summary the installation of a new home on this site has no adverse long-term impacts, or short term impacts expected to exist for a maximum of six months until vegetation is well established on site. The disturbed area for home placement was held to a minimum, and the natural drainage has actually been improved upon by grading the site away from the lake. This development will be typical of existing development in the area and superior in many ways as many of the existing homes were developed and sited under lesser standards.
Less than acre in a rural residential platted subdivision.

The vast majority of lots in the same subdivision as the subject property, as well as the other subdivisions on Saunders Lake are less than one acre. This can be readily viewed on the County Assessor’s GIS mapping and also somewhat seen in EXHIBITS E&F. The proposed development of the subject lot will be very typical of the vast majority of the existing developments in the area. The owner, Mr. Smith was able to almost triple the original lot size by obtaining a property line adjustment from a neighboring parcel. This property line adjustment along with the granting of a variance of the building set back from the lake from 50’ to 25’ allows for an excellent location for a septic drain field satisfying DEQ setbacks and enough room for a home to be built (SEE EXHIBIT C) in a typical lake front setting as existing homes in the surrounding area.
Variance to riparian setback

Due to the size, shape and topography of the subject lot I would like to request that the building setback criteria be lessened from the normal 50' to 25' from the lake. As can be seen in Exhibits C&D there is a substantial wooded slope on the west end of the property that is not suitable for building because of the slope and the need to maintain the established vegetation to act as a buffer to lessen the winds and protect the site from the shifting sands of the dunes to the west. There is also a lesser sloped area on the SW portion of the lot that is the obvious location for the septic drain field. This leaves an obvious narrow flat strip between the existing road and the lake that would be suitable for building. If we use the 50' setback there will be about 20' of possible building room. The 25' setback leaves a much more realistic space for building.

This 25' setback would be comparable to most existing homes on the lake as seen in EXHIBITS E&F and more easily seen on the Coos County Assessors GIS mapping on the county website (also see photos F,G,I,J,K&L) There is currently a well-established 25 to 30 foot riparian buffer along the entire lake front that is to be left natural or replanted in disturbed areas, providing an unaltered shore line experience for aquatic organisms, great bank stability and run off protection. The cleared area of the lot has been sloped to the north so that the run off from the construction site is not directed toward the lake. The property to the north is Forest Service so there are no impacted neighbors.

There are no foreseen detriments to public health or safety and no adverse impacts to neighboring properties. This property is not visible to any one unless they happen to be in a boat so there should be no visual impacts that would concern any one. This siting with the 25' setback would result in a much more riparian friendly result than the majority of existing homes on the lake.
PLOT PLAN
T23S, R13W, S3580 TAYLOT ZOO
.66 ACRES

EXHIBIT C

OPEN SAND DUNES

216'

PROPOSED WELLSITE

PROPOSED BUILDING SITE (FLAT)

PROPOSED SEPTIC SITE

600 SQFT PRESSURIZED SEPARATE SEPTIC

TAYLOT ZOO

TAYLOT 580

EXISTING GRAVEL ROAD

TREES

N

1/2" = 16'

PROPERTY CORNERS
SIDE ELEVATION LOOKING NORTH
FROM SOUTH PROPERTY LINE
(113' LINE BETWEEN TAX LOTS 200 AND 500 ON PLAT PLAN)
Additional information addressing staff concerns in October 29 letter.
(attached)

RESPONSE TO STAFF’S CONCERN #1

I did address the slumping issue on page 4 in my application titled Beach and Dunes Limited Suitability paragraph 1 line 6; “care must be taken due to the erodability of the soil and the tendency for excavations to slump.”. To be more specific, when excavating for foundations for example it is best to have the ground wet. This allows the soil to hold together better. One can also dig the trenches a little wider than in a more clay based ground to allow for minor sluffing while placing form boards. Then after pouring concrete the foundation can be backfilled and compacted. As stated in the same paragraph “the cleared area is well compacted”. The actual building site is an excavated knoll so there is no fill, and the original natural compaction of that area has been maintained. All existing natural slopes have been maintained and the stabilization of these slopes is addressed several times throughout my application. All slopes are to be planted and maintained with appropriate vegetation to maintain the integrity of the building site. These are all very common building practices that are proven effective. No other extraordinary measures will be necessary to ensure the stability of this site.

RESPONSE TO STAFF’S CONCERN #2

On page 4 paragraph 1 of my application on the page titled Beach and Dunes Limited Suitability On line 8 I state; “The cleared area is well compacted and slightly sloped to the North and West to avoid direct drainage toward the lake to the East.” This is designed to intercept all of the surface runoff from 95% of the property and divert it from directly entering the lake. Only the bank directly adjacent to the lake will have any potential of runoff and it has already been planted where disturbed and is closely monitored. There have been no erosion or runoff problems yet and the situation will only improve as the vegetation and duff layers mature. I live right down the road and monitor the site closely.

RESPONSE TO STAFF’S CONCERN #3

I clearly address this dune area in paragraph 3 page 4 on the page titled Beach and Dune Limited Suitability. It should not be disturbed and there are no plans for a retaining wall. The natural slope will be retained and the base of the dune which was slightly impacted by excavation is currently planted with native vegetation.

RESPONSE TO STAFF’S CONCERN #4

Adverse effects are addressed in my application;
Erosion control & screening from neighbors
RESPONSE TO STAFF’S CONCERN #5

I did not address ground water draw down in my application. The site will have a residential well which will draw from the ground water. The majority of that water will be returned to the ground via an onsite septic system. None of the proposed development is anticipated to have any effect on the intrusion of salt water into water supplies. The adjacent lake far removed from any tidal effect.

RESPONSE TO STAFF’S CONCERN #6

I submitted a plot plan exhibit c with my application. Before submitting the application the planning director reviewed it for completeness and the plot plan was specifically reviewed as adequate. I have attached another version of a plan that may be more helpful.

Mike Smith       23,13,35bb TL200
541-759-3601
October 29, 2013

Mike Smith
74799 Crannog Road
North Bend OR 97459

RE: HBCU 13-05 (Changed from ACU-13-17) – Dwelling within the Beaches & Dunes Limited Suitability for Development area & V-13-03 – Variance to the 50 foot Riparian Vegetation Protection Setbacks
Property located at: T.23S, R.13W, S35BB, TL#200

Dear Mr. Smith:

As we discussed on the telephone on October 28, 2013, the Planning Director has decided to refer the above referenced applications to the Planning Commission for public hearing.

Upon reviewing the application for the beaches and dunes dwelling, it was determined there was not enough evidence presented to warrant an approval; therefore, this will offer you an opportunity to correct that. The list below will help you understand what Staff feels was missing from your application.

1. In your application, you have mentioned that the soils are Netarts, which are conducive to residential use. This is true; however, the Netarts soils come with a caution: they tend to erode and slump upon excavation. You did not address the slumping issue. You need to address this slumping and how you plan to make sure the foundation of the dwelling will be protected from this slumping. An engineer’s report or a geotech report would be helpful, specifically addressing any measures that could be taken to prevent the slumping. You really need to show how to make the area stable enough for a building.

2. How will you address the erosion issues? In your application you stated that you will slope the property to the north. Will this be enough to keep contamination out of the lake? You might want to contact Pam Blake of the local DEQ office. She might have some erosion control measures that you can take.

3. How will you deal with the western dune area, if you have to disturb it? Will you replant it or do you have plans to install a retaining wall to help prevent further erosion of the dune? If so, how will this wall be engineered?
4. What are the methods you plan to use to protect the surrounding area from adverse effects? It is not just enough to say there will be no adverse effects. There has already been an adverse effect by the clearing and filling you have already done.

5. How will you protect ground water from drawdown, which may lead to the loss of stabilizing vegetation, loss of water quality or intrusion of saltwater into water supplies? You did not address this issue at all.

6. Finally, you did not submit a plot plan. You submitted a rough drawing of the site, but you did not show us where and how the dwelling would be sited, where the well would be, or where the proposed septic system would go. Without this drawing, it is impossible to review the project.

The Planning Commission hearing will be held on December 5, 2013 at 7:00 PM in the Owen Building Large Conference Room at 201 N. Adams, Coquille. You will receive formal notice at the proper time.

Please submit your evidence for the Planning Commission to the Planning Department at least 10 days prior to the hearing to allow time for it to be presented to them, along with our Staff Report (no later than November 25, 2013).

For your convenience, I have included both Ms. Blake’ s and Mr. Claire’ s reports with this letter.

Sincerely,

Planner 2
Coos County Planning Department

C: file
10/22/13

Coos County Planning Dept.
250 N. Baxter Street,
Coquille, OR 97423
(541) 396-7770

To Coos County Planning Department:

In the last week of September 2013, I visited the property owned by Mike Smith on the northern arm of Saunders Lake where he is planning to construct a house. Mike and I measured the setback from a small mechanically cleared opening in the riparian forest adjacent to the lake and assessed the vicinity of the cleared site in relation to the Coos County Ordinance requiring a 50ft. setback from the Mean or Ordinary High Watermark (OHW) of Saunders Lake. Setbacks assist in providing conditions for healthy riparian areas that contribute to water quality and streambank stability, resulting in greater production of fish and wildlife.

Note: Although Mean or Ordinary High Water Mark measurements may vary depending on the individual obtaining the data, variability is generally minor as the zone is defined by parameters that are repeatable between locations (permanent vegetation, channel features, etc).

The distance from the S.E. corner of the area cleared to the OHW of Saunders Lake measured 35ft. The distance from the center edge of the site to the OWH measured 40ft. and the distance from the Northwest corner measured 35ft. Observed impacts to the Riparian Management Area (RMA) included clearing of Douglas fir (Pseudotsuga menziesii), Pacific madrone (Arbutus menziesii) trees, clearing of shrubs, and leveling of the slope adjacent to the lake to the distances noted above. There is a large partially unvegetated sand dune on the western edge of the proposed building site directly opposite of the lake. The landowner has indicated concern for moving the building site to the west in order to prevent removal of additional timber resulting in destabilization or increasing the advance of this dune.

For this particular site I have considered the following:

- Fish and wildlife needs in relation to the impacts that have occurred to the RMA;
- Current lakeshore stability and RMA plant density/species composition;
- Distance of the proposed building site from the OHW;
- Methods to alleviate impacts of structure/dwelling encroachment on the RMA;
- Distance of the large sand dune on the western boundary of the property from the building site.

Recommendations:
Oregon Department of Fish and Wildlife (the department) has given this proposed project considerable review with specific consideration of the potential for the large sand dune to encroach on the property as well as the limited distance from the OHW. The landowner informed the department that if a structure is built at this location it will be on the small area leveled between the sand dune and the lake. There is room for a modest sized structure on the site, however, a larger structure would require moving to the west and building a retaining wall to prevent the dune from eroding into the leveled area or further encroachment on the RMA. The landowner has noted that a number of older houses around the lake are built without any substantial RMA. The department visited with the landowner concerning the importance of the RMA and
noted that properties built prior to the current planning code may have been within rules in place when they were built. The landowner also informed the department that fire restrictions would preclude moving the structure more than a limited distance towards the dune. There are relatively robust shrubs and a modest number of Douglas fir in the RMA that remains. The department offers the following recommendations if Coos County Planning allows for a variance to the 50ft. RMA ordinance.

1. The remaining trees and woody vegetation should not be removed from the RMA:

2. If a structure is built on the site it should be positioned the maximum distance from the OHW mark as is possible. The area that is currently cleared is somewhat triangular in shape allowing for some moderate flexibility in the placement of the structure.

3. Douglas fir or Sitka spruce (*Picea sitchensis*) and red alder (*Alnus rubra*) should be planted on 10ft. spacing in the area from the current RMA to a reasonable distance from any new structure(s) built the site in order to increase the RMA effectiveness to some degree (trees in the yard).

4. Special consideration should be given to sloping of any yard that is constructed surrounding structures at this site so as to prevent rainwater transport of yard wastes and fertilizers that might be used into the lake.

Thanks for your concern with conservation of Oregon's fish and wildlife resources and the habitats that support those resources.

Sincerely,

*Christopher W. Claire*

Christopher W. Claire  
Habitat Protection Biologist  
Oregon Dept. of Fish and Wildlife  
Coos-Coquille-Tenmile District

cc. Michael E. Gray (ODFW)
From: BLAKE Pam [BLAKE.Pam@deq.state.or.us]  
Sent: Monday, September 16, 2013 1:36 PM  
To: Debby Darling; CLAIRE Christopher W  
Cc: Planning Department  
Subject: RE: Riparian setbacks on Saunders Lake

Hello Debby. I apologize for the delay in getting back to you.

We do not have an on-site file for this property. I do not know where the reference to a pressurized seepage bed came from except that a consultant may have though it would be acceptable at this site. It would be best if an on-site system site evaluation was conducted to determine what type of on-site system will be required. We may be able to save some room with an alternative system and thereby help the landowner to site a home without impacting the riparian area.

Riparian variances would only seem appropriate for consideration after all other options are explored. Maintaining riparian areas around any lake is a needed line of defense between the lake and the rural activity. It will serve the landowner well through time to keep this feature in place during development. Lake shore vegetation can be carefully managed but removal should be avoided.

Regardless of the legacy management actions of others we should be doing everything that is possible to guide new development so that it occurs in a manner that maintains a healthy riparian interface. Properties that currently do not have riparian vegetation should be considering the restoration of this feature.

If the riparian zone has been impacted here I would suggest that the loss of that vegetation be mitigated at a 2:1 ratio. The photos labeled “B and H” appear to show fill material in close proximity to the lake. The landowner should be cautioned to assure that this material does not enter the lake during rainfall events. I do not see any apparent erosion controls in place.

There is very little water quality data available for Saunders Lake although I am receiving more and more calls from concerned citizens about the lakes water quality. The Tenmile Lakes Basin Partnership is seeking funding support to begin a monitoring program for Saunders Lake.

Give a call if you have any questions or would like to discuss in more detail. THANKS!

From: Debby Darling [mailto:dd Darling2@co.coos.or.us]  
Sent: Wednesday, September 04, 2013 9:36 AM  
To: CLAIRE Christopher W; Pam Blake (pam.blake@state.or.us)  
Cc: Planning Department  
Subject: Riparian setbacks on Saunders Lake

September 4, 2013

RE: 23-13-35BB-200  
Owner: Mike Smith

Dear Chris and Pam:

I am in the process of reviewing an application for a dwelling on Saunders Lake owned by Mike Smith. Mr. Smith is requesting a variance to the 50 foot riparian setback, stating that there is not enough room on the property without the variance to actually site a dwelling.

He has submitted several photographs of dwellings that are within the riparian setback; however each of these
photographs are of dwellings that were sited well before the adoption of the County zoning ordinance or any riparian setback standards.

I would like you opinion whether or not granting this variance would harm the lake. Are there the same issues around Saunders Lake as in Lakeside concerning the health of the lake?

It appears Mr. Smith has already cleared the property where he wants to site the dwelling. If this is the case, he has probably already removed some of the riparian vegetation.

I would appreciate any input I could get from you both on this issue.

Thank you for your help.

Debby Darling  
Planner II  
Coos County Planning Department  
541-396-7770  
225 N. Adams (Physical address)  
250 N. Baxter (Mailing address)  
Coquille OR 97423