



NOTICE OF LAND USE DECISION BY THE COOS COUNTY PLANNING DIRECTOR

Coos County Planning
225 N. Adams St.
Coquille, OR 97423
<http://www.co.coos.or.us/>
Phone: 541-396-7770
Fax: 541-396-1022

Date: December 17, 2019

File No: ACU-19-034

RE: Request for a non conforming use to use three (3) grandfathered dwellings as Vacation Rentals.

Applicant(s): Michael Smith
74799 Crannog Rd
North Bend, OR 97459

This decision notice serves as public notice to all participants, adjacent property owners, special districts, agency with interests, or person with interests. If you are an adjacent property owner, this notice is being mailed to you because the applicant has applied for a use or activity on their property that requires that you receive notice pursuant to ORS 197.763. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER."

The requested proposal has been Approved Denied subject to the findings to the criteria found in Exhibit A. Approval is based on findings and facts represented in the staff report.

Subject Property Information

File Number: ACU-19-034

Applicant: Michael Smith

Account Number: 69805
Map Number: 23S1335BC-01800

Property Owner: SMITH, MICHAEL J.
74799 CRANNOG RD
NORTH BEND, OR 97459-8794

Situs Addresses: 74751 CRANNOG RD NORTH BEND, OR 97459
74755 CRANNOG RD NORTH BEND, OR 97459
74753 CRANNOG RD NORTH BEND, OR 97459

Acreage: 0.60 Acres

Notice shall be posted from December 17, 2019 until 12 PM January 2, 2019

Zoning: RURAL RESIDENTIAL-2 (RR-2)

Special Considerations: BEACHES/DUNES - LIMITED (BDL)
COASTAL SHORELAND BOUNDARY (CSB)
FLOODPLAIN (FP)
NATIONAL WETLAND INVENTORY SITE (NWI)
NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)
NATURAL HAZARD - EROSION - WIND EROSION (NHERW)
NATURAL HAZARD - TSUNAMI (NHTHO)

Proposal: Request for Planning Director Approval for an Alteration of a Nonconforming Use within the Rural Residential - 2 (RR-2) zone as provided by Coos County Zoning and Land Development Ordinance (CCZLDO) §5.6.120 Alterations, Repairs or Verification of a Nonconforming Use § 5.6.125 Criteria For Decisions, and § 4.11.125 Special Development Considerations.

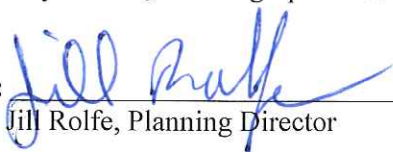
Decision: This request meets the criteria subject to conditions of approval found at Exhibit A. **Approval** is based on findings and facts represented in the staff report.

The application, staff report and any conditions can be found at the following link: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment--Applications2019.aspx>. The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 225 North Adams Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact Crystal Orr, Planning Specialist and the telephone number where more information can be obtained is (541) 396-7770.

This decision will become final at 12 P.M. on January 2, 2019 unless before this time a completed **APPLICATION FOR AN APPEAL OF A DECISION BY THE PLANNING DIRECTOR** form is submitted to and received by the Coos County Planning Department.

Failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements of evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes raising the issue in an appeal to the Land Use Board of Appeals.

Prepared by:  Date: December 17, 2019
Crystal Orr, Planning Specialist

Authorized by:  Date: December 17, 2019
Jill Rolfe, Planning Director

ACU-19-034

EXHIBITS

Exhibit A: Conditions of Approval
Exhibit B: Vicinity Map

The Exhibits below are mailed to the Applicant only. Copies are available upon request or at the following website: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment--Applications2019.aspx> or by visiting the Planning Department at 225 N. Baxter, Coquille OR 97423. If you have any questions please contact staff at (541) 396-7770.

Exhibit C: Staff Report

EXHIBIT "A"

The applicant shall comply with the following conditions of approval with the understanding that all costs associated with complying with the conditions are the responsibility of the applicants and that the applicants are not acting as an agent of the county. If the applicant fails to comply or maintain compliance with the conditions of approval the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval and if you have any questions contact planning staff.

CONDITIONS OF APPROVAL

The applicant has met the applicable criteria, with the following conditions:

1. Conditions are only allowed to be placed on nonconforming use when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.
 - a. The applicant shall obtain appropriate license from the Environmental Health; and
 - b. A letter from the Road Department addressing the access point and safe parking.
2. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title. The statement needs to include language that the purchaser of the property has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization.

EXHIBIT "B"
Vicinity Map

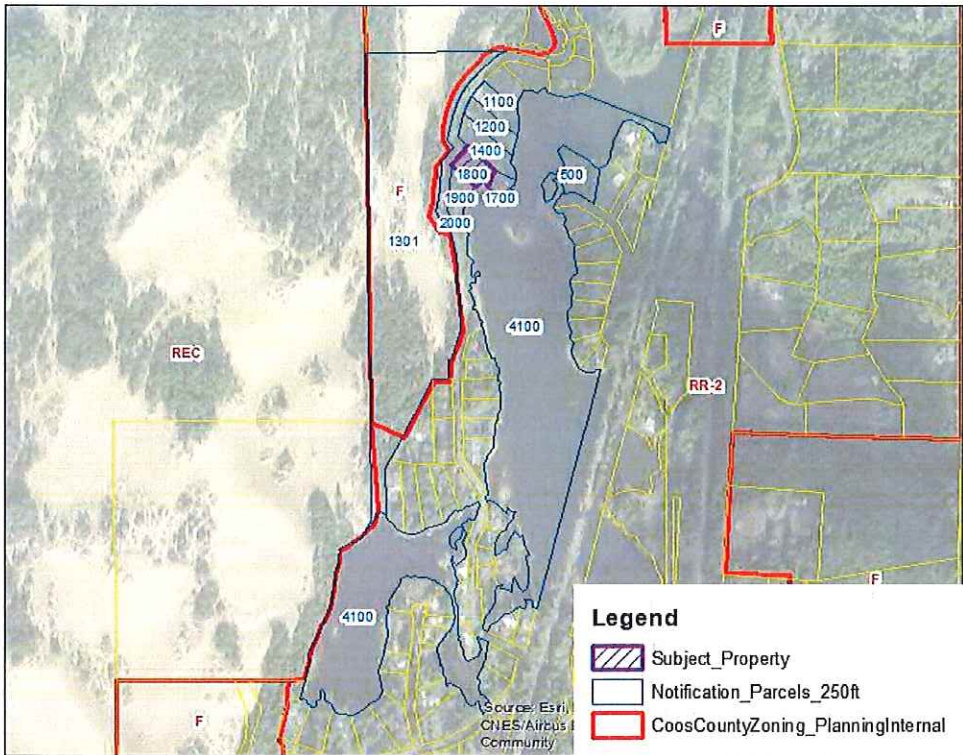


COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423
Physical Address: 225 N. Adams, Coquille Oregon
Phone: (541) 396-7770
Fax: (541) 396-1022/TDD (800) 735-2900



File: ACU-19-034
Applicant/
Owner: Michael Smith
Date: December 12, 2019
Location: Township 23S Range 13W
Section 35BC TL 1800
Proposal: Administrative Conditional Use



ACU-19-034

EXHIBIT "C"
Staff Report

File Number: ACU-19-034
Applicant: Michael Smith
Account Number: 69805
Map Number: 23S1335BC-01800

Property Owner: SMITH, MICHAEL J.
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NORTH BEND, OR 97459-8794

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NATURAL HAZARD - TSUNAMI (NHTHO)

Reviewing Staff: Crystal Orr, Planning Specialist

Date of Report: December 17, 2019

I. PROPOSAL

Request for Planning Director Approval of an alteration of a Nonconforming Use within the Rural Residential – 2 (RR-2) zone as provided by Coos County Zoning and Land Development Ordinance (CCZLDO) § 5.6.125 Criteria For Decisions.

II. PROPERTY DESCRIPTION AND PROPOSAL

LAWFULLY CREATED: This property was acknowledged as a Lawfully Created Unit of land pursuant to CCZLDO § 6.1.125.1.e as it was created by deed when there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation (deed document number 71-56701).

LOCATION: The subject property is located south of the City of North Bend. Off of Crannog Rd and contains three situs addresses as listed above.

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SITE DESCRIPTION AND SURROUNDING USES:

- a. **SITE DESCRIPTION AND SURROUNDING USES:** This property is developed with three grandfathered dwellings and one small accessory structure. This property is surrounded by residential development. The property has lake access to Saunders Lake.
- b. **PROPOSAL:** The applicant requests Planning Director review and approval of a Conditional Use Application for an Alteration of a Nonconforming Use. The applicant proposes to alter the existing nonconforming residential use of three grandfathered dwellings to include vacation rental use of those three dwellings.

III. APPROVAL CRITERIA & FINDINGS OF FACT

RURAL RESIDENTIAL (RR)

Purpose and Intent: There are two RR zonings: Rural Residential-5 (RR-5) and Rural Residential-2 (RR-2). The only difference is the density requirements found in the development and use standards.

The purpose of the “RR-2” district is to provide for small acreage dwelling sites 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.

• **SECTION 5.6.120 ALTERATIONS, REPAIRS OR VERIFICATION:**

Alterations, repairs or verification of a nonconforming use requires filing an application for a conditional use (See CCZLDO Article 5.2). All such applications shall be subject to the provisions of Section 5.6.125 of this ordinance and consistent with the intent of ORS 215.130(5)-(8). Alteration of any nonconforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. The County shall not condition an approval of a land use application when the alteration is necessary to comply with State or local health or safety requirements, or to maintain in good repair the existing structures associated with the use.

Finding: The applicant filed a Conditional Use application to alter the Nonconforming Use. The provisions of Section 5.6.125 are sited below therefore, this criteria has been satisfied.

• **SECTION 5.6.125 CRITERIA FOR DECISION:**

When evaluating a conditional use application for alteration or repair of a nonconforming use, the following criteria shall apply:

1. *The change in the use will be of no greater adverse impact to the neighborhood;*
2. *The change in a structure or physical improvements will cause no greater adverse impact to the neighborhood; and*
3. *Other provisions of this ordinance, such as property development standards, are met.*

For the purpose of verifying a nonconforming use, an applicant shall provide evidence establishing the existence, continuity, nature and extent of the nonconforming use for the 10-year period immediately preceding the date of the application, and that the nonconforming use was lawful at the time the zoning

ordinance or regulation went into effect. Such evidence shall create a rebuttable presumption that the nonconforming use lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of the application.

Finding: According to the prior land use authorizations, all structures were pre-existing and determined to be a nonconforming use or have been replaced using criteria in effect at the time to be replaced as a nonconforming use.

The applicant has requested to alter the existing nonconforming use of the three grandfathered dwellings as vacation rentals. The property has used the dwellings as vacation rentals since 1998 but has requested proper authorization to allow them to continue lawfully. The applicant states that there have been no adverse effects to the neighborhood and have had no problems. The dwellings are empty around half of the year according to the applicant so traffic is less than that of a month to month rental. The applicant lives next door to the vacation rentals and monitors the property to ensure it continues to be compatible with the neighboring properties.

The alteration must be shown to have no greater adverse impact to the neighborhood. The applicant stated that the dwellings have been used as vacation rentals since 1998. A dwelling can be used for fulltime residential purposes and could generate multiple trips per day. Vacationers typically come to the property to stay and relax. Vacationers do not typically go back and forth for work, school or everyday errands and appointments. The applicant is proposing to use the dwelling for vacation rental purposes only. The lake attracts mostly summer time use which supports the finding provided by the applicant. Staff does not disagree with the applicant's findings as there have been no adverse complaints filed on this property in the past even though the property operated without proper land use permits. The applicant will be required to seek health permits to ensure that no adverse impacts are caused. The applicant lives next to this property and it allows him to manage and address any impacts to surrounding property owners. There are other vacation rentals and second home owner around the lake. There is no request to increase the structure or parking area so the change is from a residential to semi commercial use of the property.

The applicant is not proposing any type of change to the existing structures. The structures on this property have already been addressed as nonconforming uses within a Conditional Use application (ACU-03-50) to replace one of the dwellings.

Therefore, staff agrees that the alteration of the nonconforming use will not create a greater adverse impact to the property or the neighborhood. Staff concurs with the applicant's finding and justification for the use of the three dwellings as vacation rentals.

IV. DECISION:

There is evidence to adequately address the criteria for a nonconforming use; therefore, this request has been approved. There are conditions that apply to this use that can be found at Exhibit "A".

V. EXPIRATION AND EXTENSION OF CONDITIONAL USES

This is a nonconforming use the conditional use remains valid unless the use has been discontinued for more than one (1) year. If the use has been discontinued for more than one (1) year this use will be considered abandoned and the property owner will be required to comply with the current regulations of the Coos County Zoning and Land Development Ordinance.

VIII. NOTICE REQUIREMENTS:

A notice of decision will be provided to property owners within 250 feet of the subject properties and the following agencies, special district or parties:

Dave Perry, DLCD
Department of State Lands
Planning Commission

Special Interest Parties
Board of Commissioners