



COOS COUNTY
PLANNING COMMISSION

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IN THE MATTER OF AN APPEAL OF AN
EXTENSION REQUEST FOR A PRIOR LAND
USE APPROVAL

) File No.: AP-19-003
) Planning Commission Final Decision

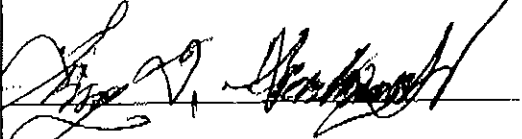
WHEREAS, on April 12, 2019 Staff issued an approval for an Extension (EXT-19-001) to an approved Administrative Conditional Use (ACU-14-032) to site a dwelling (forest template dwelling) on property zoned Forest Mixed Use (FMU). The property is located in Township 23S Range 13W Section 35BB Tax Lot 100.

WHEREAS, on April 29, 2019 Beverly Segner appealed the application. The appeal was timely and properly filed as required in Section 5.8 of the Coos County Zoning and Land Development Ordinance. The hearing was scheduled and notice was mailed and posted on May 17, 2019.

WHEREAS, on May 30, 2019 the staff report was mailed to the Planning Commission, Applicant, Appellant, and Other Parties.

WHEREAS, on June 6, 2019 the Planning Commission held a public hearing to consider this matter taking public testimony. The Planning Commission voted to uphold staff's decision to grant the extension based on the testimony and evidence.

NOW, THEREFORE, the Planning Commission adopted the Findings of Fact attached as Exhibit "A" and incorporated into this order herein. This application was approved on the 6th Day of June.



Planning Commission Chair



Findings of Facts

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

Report Date: June 11, 2019
Appeal File Number: AP-19-003
Conditional Use Number: ACU-14-32

Applicant: South Coast Trail Riders / Mike Smith

Appellant(s): Beverly Segner

Hearing Date & Time: June 6, 2019 at 7:00 p.m.
Hearing Location: Owen Building, 201 N. Adams, Coquille OR 97423

Staff Contact: Jill Rolfe, Planning Director
Amy Dibble, Planner II

Property Information

Account Number 69808
Map Number 23S1335BB-00100

Property Owner SOUTH COAST TRAIL RIDERS
74799 CRANNOG RD
NORTH BEND, OR 97459-8794

Situs Address No Situs Address

Acreage 13.86 Acres

Zoning FOREST (F)

Special Considerations BEACHES/DUNES COMBINATION L/NS (BDC)
FOREST MIXED USE (MU)
NAT. HAZARDS WIND EROSION (HZW)
NATIONAL WETLAND INVENTORY SITE (NWI)
NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)
NATURAL HAZARD - EROSION - WIND EROSION (NHERW)
NATURAL HAZARD - TSUNAMI (NHTHO)

PROPOSAL AND BACKGROUND INFORMATION

- January 10, 2002 – A Pre-Eligibility (PE-01-11) for a lot of record dwelling was submitted and met the criteria.
- February 10, 2002 – An Administrative Conditional Use (ACU-02-05) was submitted for a lot of record dwelling and was approved.
- October 23, 2012 – A vacation for a portion of Crannog Road was received (no hearing required).
- March 5, 2013 – Signed order granting vacation.
- May 24, 2013 – A property line adjustment (PLA-13-15) was submitted and approved.
- June 26, 2013 – A property line adjustment (PLA-13-16) was submitted and approved.

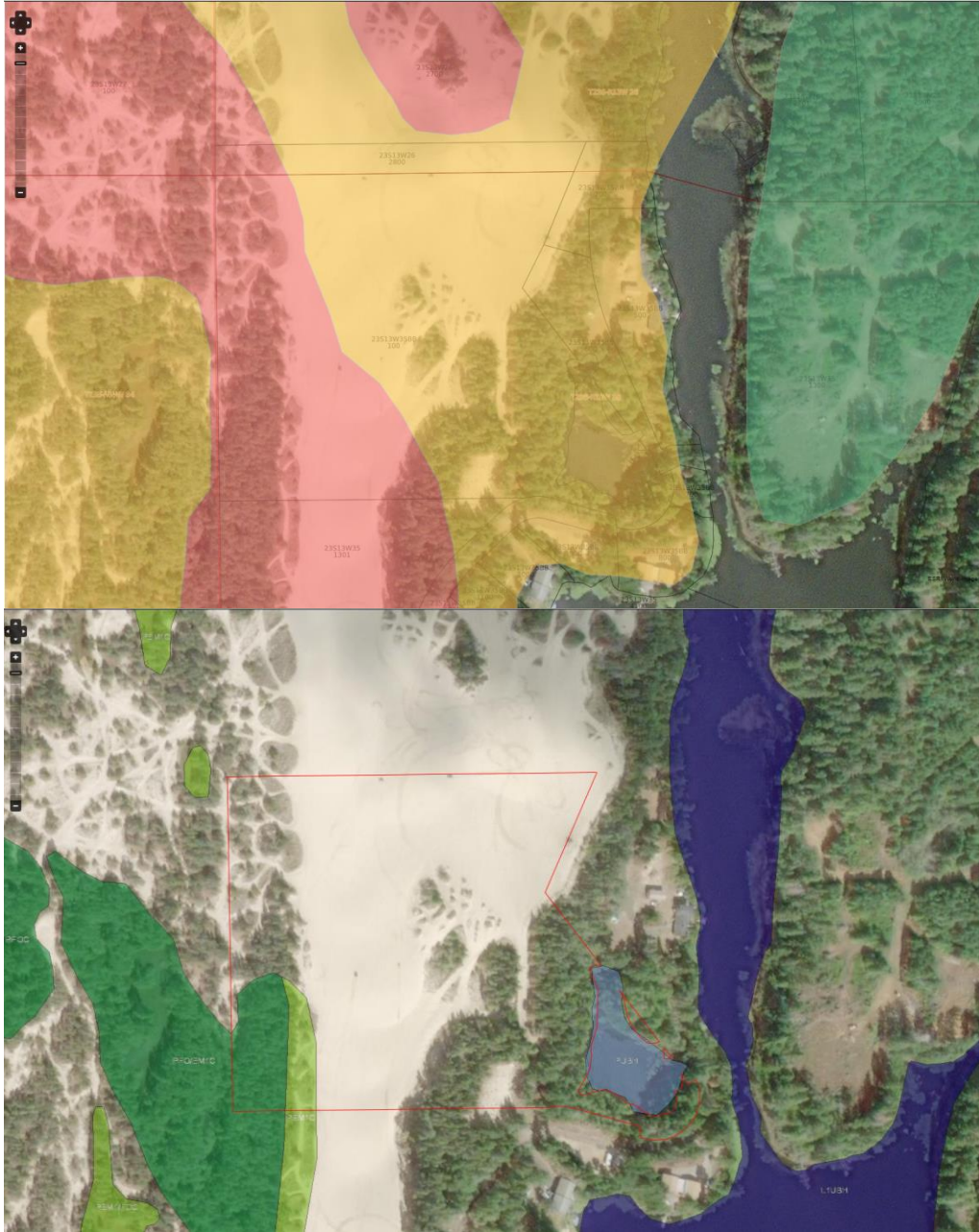
- October 31, 2014 – An Administrative Conditional Use (ACU-14-32) was submitted for a Forest Template Dwelling and Beaches and Dunes.
- January 17, 2019 – An Extension (EXT-19-001) was submitted for ACU-14-32.
- April 29, 2019 – An appeal was filed for EXT-19-001.

A request for an administrative conditional use application (ACU-14-32) was approved for a forest template dwelling on February 4, 2015. The applicant submitted a request for an extension (EXT-19-001) stating that financing issues had been the reason as to why the dwelling was unable to be built; however, Mr. Smith stated that he is now ready to begin siting the dwelling. A notice of decision for the extension was mailed and appeal was received within the fifteen (15) day appeal period from a neighboring property owner.

This property was acknowledged as a lawfully created unit pursuant to the Coos County 1982 microfiche records (Deed Doc # 79-66093). The current configuration of the property was made through a vacation (VAC-12-03) and two (2) property line adjustments.

This property is located off of Saunders Lake, accessed via Crannog Road, and is southwest of the City of Lakeside. The majority of the subject property appears to be dunes with small portions along the western property boundary and northeast near Saunders Lake. The aerial images below show you the property configuration, vegetative cover, beaches and dunes development suitability, and mapped wetlands.





The lines are approximate based on the tax lot information available.

The appellant in this case has raised concerns that the applicant's current plan for the property does not match what was approved through the original conditional use application. The applicant's original proposal was to site a Forest Template Dwelling on the subject property and was approved (File No. ACU-14-032). The appellant is within the 750' notification area and was entitled of Notice of Decision on the extension (File No. EXT-19-001). Upon receipt of the notice she called the Planning Department to inquire about the application and what was approved. She then reached out to the applicant for information regarding the intended development of the property. According to the appeal information

File Number: AP-19-003

provided the applicant's plan, as he explained it to her, was to site a Quonset Hut to be used as a club facility on the property for the South Coast Trail Riders and site the dwelling for a resident caretaker.

Staff recognizes the concerns brought forth by the appellant, however, the extension application was to extend ACU-14-032 which granted approval for a Forest Template Dwelling, any other development, use, or activity will require additional land use approval.

CRITERIA & RESPONSE

SECTION 5.2.600 EXPIRATION AND EXTENSION OF CONDITIONAL USES

1. Permit Expiration Dates for all Conditional Use Approvals and Extensions :
 - a. On lands zoned Exclusive Farm, Forest and Forest Mixed Use:
 - (1) Except as provided for in section (5) of this rule, a discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.
 - (2) A county may grant one extension period of up to 12 months if:
 - (a) An applicant makes a written request for an extension of the development approval period;
 - (b) The request is submitted to the county prior to the expiration of the approval period;
 - (c) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - (d) The county determines that the applicant was unable to begin or continue development during the approval period¹ for reasons for which the applicant was not responsible.
 - (3) Approval of an extension granted under this rule is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
 - (4) Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.
 - (5) (a) If a permit is approved for a proposed residential development on agricultural or forest land outside of an urban growth boundary, the permit shall be valid for four years.
(b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two years.
 - (6) For the purposes of section (5) of this rule, "residential development" only includes the dwellings provided for under ORS 215.213(3) and (4), 215.284, 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755(1) and (3).
 - (7) There are no limit on the number of extensions that can be applied for unless this ordinance otherwise allows.

¹ The approval period is the time period the original application was valid or the extension is valid. If multiple extensions have been filed the decision maker may only consider the time period that the current extension is valid. Prior approval periods shall not be considered. For example, if this is the third extension request up for review the information provided during the period within last extension time frame shall be considered and not the overall time the application has been approved. This prevents a collateral attack on the original authorization.

Coos County has and will continue to accept reasons for which the applicant was not responsible as, but limited too, financial hardship, death or owner, transfer of property, unable to complete conditions of approval and projects that require additional permits. The County's Ordinance does not control other permitting agency processes and the County shall only consider if the applicant has requested other permits as a valid reason and to show they are attempting to satisfy conditions of approval. This is a different standard than actually showing compliance with conditions of approval. This also, does not account for other permits that may be required outside of the land use process.

FINDING: The applicant in this matter submitted an Administrative Conditional Use for a Single Family Dwelling in the Forest Mixed Use Zone and within the Beaches and Dunes Area with Limited Development Suitability. Application ACU-14-32 was set to expire on February 4, 2019, the applicant submitted an extension application along with the fee on January 17, 2019 stating that the dwelling was unable to be sited due to financial reasons. The criteria for an extension are very limited and the applicant has satisfied these criteria. The original approval cannot be changed through an extension to allow other development beyond what was approved. In order to amend the conditional use a formal application would be required. Accessory structures and other uses may be applied for outside of the conditional use. If the applicant fails to comply with the approval he may be found to be in violation and could either be cited or the application be revoked.

Conclusion

The Planning Commission made the unanimous decision to deny the appeal and uphold the Planning Director's decision to grant an extension (EXT-19-001) of an approved Administrative Conditional Use (ACU-14-032) to site a dwelling (forest template dwelling) within the Forest Mixed Use (FMU) zoning district with the conditions as follows:

- 1. All costs associated with complying with the conditions are the responsibility of the applicant and that the applicant is not acting as an agent of the county.**
- 2. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity.**
- 3. All conditions of approval set forth in ACU-14-32 shall be satisfied prior to issuance of a zoning compliance letter.**

Attachment B
EXT-19-001 Staff Report & Notice of Decision



**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 of Notice: April 12, 2019

File No: EXT-19-001

RE: Request for an extension to an approved Administrative Conditional Use (ACU-14-032) for a Forest Template Dwelling.

Applicant: South Coast Trail Riders

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. The decision is based on findings and facts represented in the staff report.

SUBJECT PROPERTY INFORMATION

Account Number: 69808
Map Number: 23S1335BB-00100

Property Owner: SOUTH COAST TRAIL RIDERS
74799 CRANNOG RD
NORTH BEND, OR 97459-8794

Situs Address: No situs address at this time.

Acreage: 13.86 Acres

Zoning: FOREST (F)

Special Considerations: BEACHES/DUNES COMBINATION L/NS (BDC)
FOREST MIXED USE (MU)
NAT. HAZARDS WIND EROSION (HZW)
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 extension to a conditional use approval pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) § 5.2.600 Expiration and Extension of Conditional Uses.

Decision: This request meets the criteria and is subject to the conditions of the original application. Approval is based on findings and facts represented in the staff report.

This notice is to serve as public notice and decision notice and if you have received this notice by mail it is because you are a participant, adjacent property owner, special district, agency with interest, or person with interest in regard to the following land use application. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

Notice to mortgagee, lien holder, vendor or seller: ORS Chapter 215 requires that if you receive this notice, it must be forwarded to the purchaser.

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

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 Sierra Brown, 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 April 29, 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.

File Number: EXT-19-001

Prepared by: Sierra Brown Date: April 12, 2019
Sierra Brown, Planning Specialist

Authorized by: Jill Rolfe Date: April 12, 2019
Jill Rolfe, Planning Director

EXHIBITS

Exhibit A: 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 B: Staff Report

File Number: EXT-19-001

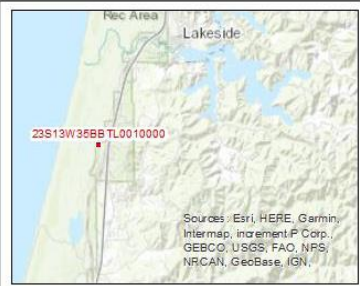
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EXHIBIT "A"
VICINITY MAP



OREGON
Coos County
EST. 1853

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



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN.

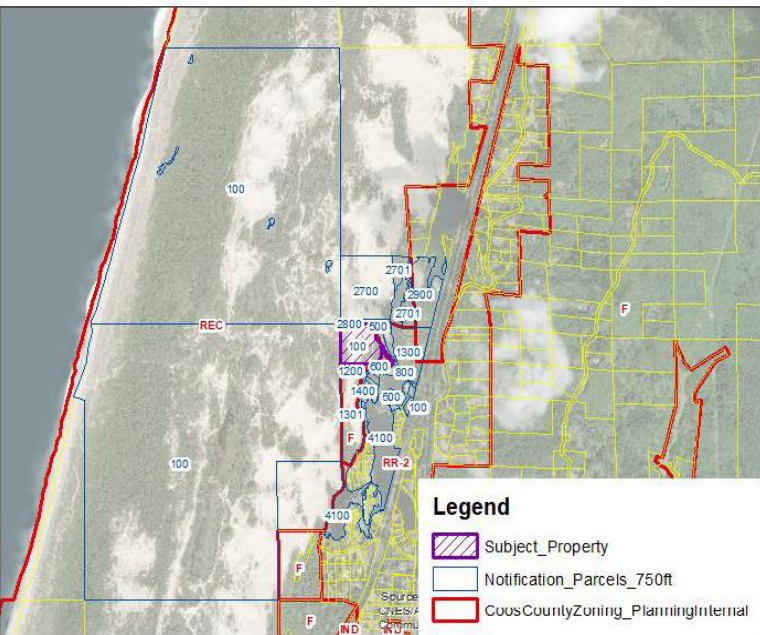
File: EXT-19-001

Applicant/
Owner: South Coast Trail Riders

Date: May 11, 2019

Location: Township 23S Range 13W
Section 35BB TL 100

Proposal: Extension of a Prior Land Use Approval



Legend

- Subject_Property
- Notification_Parcels_750ft
- CoosCountyZoning_PlanningInternal

File Number: EXT-19-001

EXHIBIT "B"
Staff Report

File Number: EXT-19-001
Applicant: South Coast Trail Riders
Account Number: 69808
Map Number: 23S1335BB-00100

Property Owner: SOUTH COAST TRAIL RIDERS
74799 CRANNOG RD
NORTH BEND, OR 97459-8794

Situs Address: No situs address at this time.

Acreage: 13.86 Acres

Zoning: FOREST (F)

Special Considerations: BEACHES/DUNES COMBINATION L/NS (BDC)
FOREST MIXED USE (MU)
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NATIONAL WETLAND INVENTORY SITE (NWI)
NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)
NATURAL HAZARD - EROSION - WIND EROSION (NHERW)
NATURAL HAZARD - TSUNAMI (NHITHO)

Reviewing Staff: Sierra Brown
Date of Report: April 12, 2019

I. PROPOSAL

Request for Planning Director Approval for an extension to an Administrative Conditional Use (ACU-14-32) approval pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) § 5.2.600 Expiration and Extension of Conditional Uses.

The prior conditional use was approved for a Forest Template Dwelling.

III. APPROVAL CRITERIA & FINDINGS OF FACT

- **SECTION 5.2.600 Expiration and Extension of Conditional Uses**
- 1. *Permit Expiration Dates for all Conditional Use Approvals and Extensions :*
 - a. *On lands zoned Exclusive Farm, Forest and Forest Mixed Use:*
 - (1) *Except as provided for in section (5) of this rule, a discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or*

File Number: EXT-19-001

regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.

- (2) A county may grant one extension period of up to 12 months if:
- (a) An applicant makes a written request for an extension of the development approval period;
 - (b) The request is submitted to the county prior to the expiration of the approval period;
 - (c) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - (d) The county determines that the applicant was unable to begin or continue development during the approval period¹ for reasons for which the applicant was not responsible.

Coos County has and will continue to accept reasons for which the applicant was not responsible as, but limited too, financial hardship, death or owner, transfer of property, unable to complete conditions of approval and projects that require additional permits. The County's Ordinance does not control other permitting agency processes and the County shall only consider if the applicant has requested other permits as a valid reason and to show they are attempting to satisfy conditions of approval. This is a different standard than actually showing compliance with conditions of approval. This also, does not account for other permits that may be required outside of the land use process.

FINDING: The applicant has submitted a written request for an extension prior to the expiration date (February 4, 2019) of the Administrative Conditional Use (ACU) to site a Forest (Template) Dwelling within the Beaches and Dunes hazard.

The criteria for an extension is very straight forward. It requires the county to review the application and determine the following:

- i. An applicant makes a written request for an extension of the development approval period;**
- ii. The request is submitted to the county prior to the expiration of the approval period;**
- iii. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and**
- iv. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.**

The applicant in this case made a written request for an extension of the development prior to the expiration date and provided a reason as to why the development was not able to be completed during the allowed time.

¹ The approval period is the time period the original application was valid or the extension is valid. If multiple extensions have been filed the decision maker may only consider the time period that the current extension is valid. Prior approval periods shall not be considered. For example, if this is the third extension request up for review the information provided during the period within last extension time frame shall be considered and not the overall time the application has been approved. This prevents a collateral attack on the original authorization.

File Number: EXT-19-001

The only potential discretionary standard in this matter is the requirement for the County to determine, for any given extension request, that the applicant was not “responsible” for the reasons that caused the delay. The Webster’s Third New International Dictionary (1993) defines the term “responsible” as “answerable as the primary, cause, motive, or agent whether of evil or good.” In a prior land use approval the Board of Commissioners accepted an hearings officer’s interprets of the word “responsible” as to be the same as “beyond the applicant’s control.” Stated another way, the question is whether the applicant is “at fault” for not exercising its permit rights in a timely manner. The aim of the criterion is to not reward applicants that do not actively pursue their development, while at the same time providing some measure of sympathy and assistance to applicants who are diligently trying to effectuate their permit but who run into unexpected problems that they are not in full control to correct or fix.

The applicant in this matter submitted an Administrative Conditional Use for a Single Family Dwelling in the Forest Mixed Use Zone and within the Beaches and Dunes hazard. The application had conditions of approval and the applicant was not able to complete the conditions at this time and has requested additional time. The applicant was unable to complete the project due to financial circumstances.

Staff finds that the applicant addressed the relevant critiera in this matter.

- (3) Approval of an extension granted under this rule is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
- (4) Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.
- (5) (a) If a permit is approved for a proposed residential development on agricultural or forest land outside of an urban growth boundary, the permit shall be valid for four years.
(b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two years.
- (6) For the purposes of section (5) of this rule, "residential development" only includes the dwellings provided for under ORS 215.213(3) and (4), 215.284, 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755(1) and (3).
- (7) There are no limit on the number of extensions that can be applied for unless this ordinance otherwise allows.

FINDING: The initial conditional use was valid for (4) four years. The applicant was unable to complete the project and has applied for an extension as allowed by this subsection. There is no criterion for the applicant to address.

- b. On lands not zoned Exclusive Farm, Forest and Forest Mixed Use:
 - (1) All conditional uses for residential development including overlays shall not expire once they have received approval.
 - (2) All conditional uses for non residential development including overlays shall be valid for period of four (4) years from the date of final approval.

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- (3) *Extension Requests:*
 - a. *For all conditional uses subject to an expiration date of four (4) years are eligible for extensions so long as the property has not been:*
 - i. *Reconfigured through a property line adjustment or land division; and*
 - ii. *Rezoned to another zoning district.*
- (4) *An extension shall be applied for on an official Coos County Planning Department Extension Request Form with the fee.*
- (5) *An extension shall be received prior the expiration date of the conditional use or the prior extension.*

FINDING: This criterion is not applicable because the requested dwelling is located within a resource zone.

- 2. *Changes or amendments to areas subject to natural hazards² do not void the original authorization for a use or uses, as they do not determine if a use can or cannot be sited, but how it can be sited with the least amount of risk possible. Overlays and Special Development Considerations may have to be addressed to ensure the use can be sited with an acceptable level risk as established by Coos County.*

FINDING: The original application addressed the natural hazard identified as Beaches and Dunes Areas with Limited Development Suitability. Since the original application was approved Coos County has amended the Coos County Zoning and Land Development Ordinance and added language and maps for natural hazards which occur on the subject property. These hazards include wind erosion, earthquake – liquefaction, and tsunami. These hazards will need to be addressed prior to issuance of a zoning compliance letter.

IV. DECISION:

There is evidence to support the request for an extension in the Forest Mixed Use zone. There for extension of the approval timeline has been granted until **April 29, 2021**.

² Natural hazards are: floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires.

File Number: EXT-19-001

Attachment C Appeal Application



APPEAL OF A DIRECTOR'S DECISION

**SUBMIT TO COOS COUNTY PLANNING DEPT. AT 225 N. ADAMS STREET OR
MAIL TO: COOS COUNTY PLANNING 250 N. BAXTER, COQUILLE OR 97423.
EMAIL PLANNING@CO.COOS.OR.US PHONE: 541-396-7770**

Planning Director Appeal Fee \$250.00 / Hearings Body or Officer Appeal Fee \$2500.00

Date Received: 4/29/19 Fee Received: \$ 250.00 FILE # AP- 19-003

If the correct fee is not with the appeal it will not be processed.

List the names and signatures of each petitioner and a statement of the interest of each petitioner to determine party status. Multiple parties shall join in filing a single petition for review, but each petitioner shall designate a single Contact Representative for all contact with the Planning Department. All communications regarding the petition, including correspondence, shall be with the Contact Representative. This can be attached to this form marked as Attachment "A".

Appellant: Beverly Segner
 Mailing address: PO Box 191 COOS BAY OR 97420
 Phone: 541-266-0464 Email: bsegner22@gmail.com
 Signature: Beverly Segner

Appellant's Representative: N/A
 Mailing address: _____
 Phone: _____ Email: _____
 Signature: _____

The name of the applicant: _____
 County application file number being appealed: EXT-19-001/ACU-14-32
 Planning Director's Decision Hearings Body or Hearings Officer Decision

The appellant must explain how they have achieved party status pursuant to the applicable sections of 5.8.150 or 5.8.160:
I have interests adversely affected by The decision and have achieved party status as an adjacent property owner and was notified as a person of interest pursuant to OR.S 197.763. Date of notice April 12, 2019

The appeal deadline, as stated in the Director's Decision: April 29, 2019 12 p.m.

The nature of the decision and the specific grounds for appeal, citing specific criteria from the Coos County Zoning and Land Development Ordinance, Comprehensive Plan, Statute or Rule. (This can be attached to this form marked as Attachment "B".)

Please see attachments

The appellant must explain in detail, on the appeal form or attached to the appeal form, how the application did not meet the criteria in the case of an approval or why the criteria should or should not apply; or, in the case of a denial the appellant shall explain why the application did meet the criteria or why certain criteria did not apply to the application. (This can be attached to this form marked as Attachment "C".)

Please see attachments

Attachments: Appeal of
Director's Decision
Re: EXT-19-001

I am a relatively recent property owner (September 2018) of a home on Saunders Lake and currently have party status regarding the request for extension EXT-19-001 on Application ACU-14-032. I was not a party to the original application in 2014. Upon receiving the notice of land use decision, I contacted the Planning Department and spoke with Sierra Brown who answered my query regarding the appropriateness of contacting the applicant directly in the affirmative. She provided me the applicant's telephone number.

I spoke with Mr. Mike Smith regarding his plans for the parcel and noted that South Coast Trail Riders was listed as the property owner. Mr Smith indicated that he was the president of the organization he described as a recreational group with interest in ATV's and Dune Buggy related activities. He explained that they planned to build a quonset hut on the property as a club facility with a place for a resident caretaker. He advised that the organization has 160 members with 5 members current on dues.

After reviewing the original application, I learned that the Planning Director approved the conditional use based on a request to build a single family dwelling with the necessary mitigation and reports relative to that specific use. Specifically CCZLD) 4.8.525 (B) Forest Dwellings (Template Dwelling) and CCZLDO 4.8.600. CCZLDO addresses the importance of minimizing wildfire hazards and risks among other factors on this parcel, including erosion and natural hazards. The Planning Director's findings were based on a request to build a single family dwelling and refer to the plot plan describing the home site.

I am assuming that Mr. Smith and the South Coast Trail Riders have changed their plans since the original Administrative Conditional Use for a Forest Template Dwelling was granted. Accordingly, I request that the request for extension be denied and that the applicant submit a revision to his original application or a new application so that the Planning Director can make a discretionary decision based on the change in intended use and that the adjacent property owners and others with interest are allowed an opportunity to comment on the new or revised application. I would anticipate that the new application will provide information about the quonset hut and club house for an ATV/Dune Buggy Club along with caretaker dwelling v.s. a single family home.

SECTION 1.3.300 REVOCATION:1.Any permit or verification letter (also referred to as zoning compliance letter or zoning clearance letter) may be subject to revocation by the Planning Director if it is determined the application included false information, or if the standards or conditions governing the approval have not been met or maintained.

ATTACHMENT B

The Director's decision to permit conditional use for a Forest Template Dwelling on this property was based on the applicant's original application for a single family dwelling. All findings in the staff report were based on this assumption leading to approval. Additionally, the soil assessments and findings by the engineer were based on this assumption as well, "only one residential dwelling will be sited on the subject parcel. Extreme care must be taken due to the erodibility of the soil and tendency of excavations to slump".

Two weeks ago, the applicant indicated in a telephone conversation with the appellant that the intended use for the property was to build a quonset hut as a club facility for the South Coast Trail Riders with a place for a resident caretaker onsite.

Section 1.3.300 Revocation Coos County Zoning and Land Development Ordinance provides that 1. Any permit or verification letter (also referred to as zoning compliance letter or zoning clearance letter) may be subject to revocation by the Planning Director if it is determined the application included false information, or if the standards or conditions governing the approval have not been met or maintained.

Based on the changes the applicant proposes to his original plan and application, the conditions governing the approval have not been maintained. Accordingly, the Director's past findings may need revision due to relevancy. The adjacent land owners and other interested parties deserve the opportunity to comment on the actual and current plan. Under these circumstances the application for extension should be denied and a revised plan/application submitted for approval by the applicant, South Coast Trail Riders/Mike Smith.

Section 5.2.600 Expiration and Extension of Conditional Uses

It is implied that an extension of a previously approved application assumes no significant changes are made to the original plan. In this case, the applicant does not plan to build a single family dwelling for which he received the initial conditional use permit ACU-14-32.

ATTACHMENT C

The criteria used in the original application were based on siting a single family home.

RE: Staff Report for File No. ACU-14-32Page 2 III.FINDINGS TO THE APPLICABLE REVIEW CRITERIA-APPLICABLE CRITERIA Coos County Zoning and Land Development Ordinance (CCZLDO) and Coos County Comprehensive Plan (CCCP)CCZLDO§ 4.8.525(B)Forest Dwellings (Template Dwelling)CCZLDO§ 4.8.600Mandatory siting standards for dwellings and structures within the Forest ZoneCCZLDO§ 4.8.700 Fire Siting and Safety Standards CCZLDO§ 4.8.750Development Standards CCZLDOTable 4.7a(4)(a)Special Regulatory Considerations Prescribed by the Coos County Comprehensive Plan (Beached & Dunes)CCZLDOAppendix I5.10(2) Dunes, Oceans and Coastal Lake Shorelands, (2) Beaches and Dune Areas with Limited Development Suitability

Based on conversation with Mr. Smith, President of the South Coast Trail Riders, the plan for the parcel is to develop a quonset hut with caretaker dwelling as a clubhouse for ATV enthusiasts. None of the aforementioned criteria used to assess the application include discussion of the impact on the parcel or surrounding neighborhood of such use including but not limited to increased traffic: automobiles, trucks, and ATV's.

The report by Stuntzner Engineering dated 2002 included in Mr. Smith's original application with expressed concern regarding septic system drainage and erosion was based on a proposed single family dwelling. There is no mention in the engineering report or findings relevant to increased ATV access and traffic in the area nor on the parcel itself. Aesthetic impacts were assessed on the same assumption. Impact of noise from increased ATV use may also be relevant consideration for residential home owners in the vicinity.

While it can be anticipated that those inhabiting a single family dwelling may have extensive friends or family visit and regularly use ATV's, a quonset hut clubhouse for the purpose of recreational activity creates potential for more regular activity involving substantially larger numbers of participants.

In conversation with Mr. Smith in April 2019, he stated that the South Coast Trail Riders roster boasts 160 members, 5 current with dues. He also mentioned that he is the owner of significant property in the area including vacation rentals which cater to ATV enthusiasts and assured me that we didn't need to worry about potential hazards as he "runs a tight ship".

CCZLDO 5.10 Plan Implementation Strategies a. the type of use proposed and the adverse effects it might have on the site and adjacent areas ;b. the need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation; c. the need for methods for protecting the surrounding area from any adverse effects of the development; and d. hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

FINDING: The applicant is proposing to construct a single family dwelling that will have no adverse effects other than short-term erosion during construction.

Segner

CCZLDO 5.2.600 Expiration and Extension of Conditional Uses

The original application was based on development of a single family dwelling. The property owner's current plans have been significantly altered since that time and therefore an extension of the approved conditional use should be denied and a new application submitted.

Segner
Appeal of Director's
Decision

NOTE:

There is no disrespect intended toward Mr. Smith and his assurances regarding the management of his properties. It is important that recognition be given to fact that conditional uses follow the property rather than the owner.

Additionally, that I appreciated our conversation and his willingness to describe his plans for the parcel.

Attachment B Testimony Received

Date: May 21, 2019
To: Coos County Planning Department
Re: AP-19-003

My husband and I have been neighbors of Mr. Mike Smith for 7.5 years, after purchasing our owner-occupied vacation home at 76125 Crannog Rd. As such, we recently received a notice from Coos County Planning Department of an appeal made by Beverly Segner (AP-19-003) to a Planning Director's decision to approve an extension (EXT-19-001) of an Administrative Conditional Use (ACU-14-32) application.

We owned our Crannog property at the time of the original Conditional Use application as well as at the time of the request for extension, and received due notice of those actions. It falls on our shoulders, therefore, not to have attended to the details of the two aforementioned actions. Upon receiving notice of Ms. Segner's appeal, however, I contacted Ms. Segner to learn the basis of her appeal. I have since found and read on the Planning Department website all the documentation of the original application, the extension request and the appeal.

Given the due notice mentioned above, I was surprised to learn that the original request was for a single-family dwelling. In recollecting my conversations with Mr. Smith about TL 100, he has indicated that his intent was to build a Quonset hut type club house that would allow South Coast Trail Riders a gathering place for recreating on the dunes. I do not recall that there was to be a place for even a caretaker to live. I did not get any indication that the building he was intending was to be a residence for anyone... simply a club house.

I support Ms. Segner's appeal: that the request for extension be reconsidered. I suggest that Mr. Smith be asked to submit a new application that more accurately represents his intention for the property. I also echo her concern that the Stuntzner report was based on a single family residence and does not take into account the use of the property and of the neighborhood roads by potentially 160 club members. Once an inviting clubhouse exists, it is possible that many of those 160 members will want to take advantage of it. In my opinion, our neighborhood cannot absorb much more traffic safely. Since the original ACU was requested, Saunders Lake has seen an increasing number of vacation rentals, adding considerably to the number of vehicles on our roads by people who do not have a vested interest in our neighborhood.

Thank you for this opportunity to respond.

Sincerely,

Cheryl Kenney

Exhibit 1

Coos County Planning Commission,

I am Mike Smith president of the South Coast Trail Riders, the applicant for EXT-19-001 that is being appealed by Segner. She contacted me by phone prior to filing her appeal to ask questions about our organization and plans for the property. I answered all of her questions and gave her assurances that we had a great track record and no crazy plans that would in any way be detrimental to the neighborhood.

After reviewing the attachments she submitted along with her appeal, I would like to suggest some clarifications to some of her assertions. I will address them in the order of appearance in her text.

South Coast Trail Riders (SCTR) is a nonprofit corporation of motorcycle trail riders that primarily does trail work on trail systems and riding areas that are on timber lands. I would not describe us as a recreational ATV& dune buggy organization. That appears to be her assumption. We are planning on erecting a quonset that we have acquired as the residence. We have referred to ourselves as the club, and the house as a club house, but technically we are a nonprofit corporation. I am not in the practice of talking to my neighbors on the phone in strict legalese. I never envisioned the slang club or club house as a possible detriment to our activities. 99% of what we do is work, not recreational. That is why we only have 5 dues paying members. That's up from the 3 members we've had for the last 5 years. We do have approximately 160 associate members. Associate members are what might be called followers in today's lingo. At one time since 1991 these people have paid SCTR \$1 to become a life time associate member after being approved by the board. They are supporters of our efforts and wished to be on our contacts list for communications about motorcycle trail riding issues. I assume that a substantial number of those members have since passed away in the last 28 years, or no longer live in the area. I looked back at our records, and the most dues paying members that I could find, that we ever had was 21, in 1999.

Segner's assumption that we have changed our plans since the original ACU for a template dwelling is wrong. That is still our intent to establish a single family dwelling on our forest zoned property. Should our plans change, and any other conditional uses need to be sought in the future, adjacent property owners will have an opportunity to comment on the process. We stand by our original application. Any of Segner's assumptions, exaggerations or mischaracterizations are not representative of our intentions. We need a full time presence on this property to protect against theft and vandalism. This is our priority and reason for application. Any other possible scary 160 people, ATV / dune buggy, increased traffic, slumping excavation uses that may be proposed in the future can be addressed at that time if future SCTR directors ever wish to pursue that. We are just a few old trail bike guys that trim blackberry bushes out of trails for people. I have lived in this neighborhood for 35 years. If in the future I am an effected land owner, and the SCTR want to have 160 ATV /dune buggy, increased traffic, excavation slumping (1ADITES) activities that I get to comment on, I will say no thank you.

We have owned this property since 2002 and have yet to have anything approaching 1ADITES activities. We have great relations with all our neighbors,(except for maybe Cheryl Kenney who maintains connections with my recent ex-wife). We have done many improvements to the sand dune access that we offer and maintain for the public for off highway vehicle recreation. We also have maintained and

10F4

Exhibit 2

improved the County gravel road and regularly remove drifting sand from Crannog road which used to get so bad that it impeded access to residences. I am certain John Rowe would happily give us a thumbs up. Law enforcement and the local fire department use our access regularly.

Being the only forest zoned parcel amongst the rest of the neighborhood, which is residential, this property is currently a significant nuisance. The property attracts substantial riff raff, as it is assumed to be Forest Service land. We have constant problems with transients, thieves, vandals and homeless camps. This residence is placed to transform the area into less of an opportunity zone for these activities and to ease SCTR's management work load. All of our actual adjacent neighbors welcome a decrease in these deviant activities and have never filed complaints of any of our development work on the property in the past 17 years.

(As a side note Segner actually lives in another neighborhood on the other side of Saunders Lake from us and just barley fit the criteria to be notified of our extension because her property is barley within the 750' zone. It is over a 2 mile drive to get to her house from the subject property. Evidently she moved here in September 2018).

I would like to add that, of the actions that have had the greatest impacts on our neighborhood in my last 35 years here, the number 1 would be the County making it legal to ride ATV's on the public streets in the mid-2000s, which led to an explosion of traffic and vacation rentals. There was zero land use or zoning process involved in this action. Number 2 would be a tie between the Forest Service developing dispersed camp sites in our vicinity and utilizing our sand access commercially to access them for profit, and the County development of Riley Ranch camp ground. The Forest Service action also had zero land use or zoning process and the County Parks Department dismissed substantial documented public input regarding it's campground agenda.

The SCTR have been a critical buffer in smoothing out these ill-conceived actions and lessening the adverse local impacts. Our development of this residence is a total plus for our neighborhood and will help us in our mitigation efforts. We have an excellent verifiable track record which should count for something. We would appreciate your support of our efforts.

I will assume that in resolving this matter that it may come down to definitions of words. Please let me provide some that I have researched:

corporation

- noun An entity such as a business, municipality, or organization, that involves more than one person but that has met the legal requirements to operate as a single person, so that it may enter into contracts and engage in transactions under its own identity.

DWELLING TYPES: Dwellings are separated into the following categories:

a. Single family dwelling: a single household unit of which construction is characterized by no common wall or ceiling with another unit, including a mobile home unless otherwise prohibited. b

FAMILY: An individual; or a group of two (2) or more persons related by blood, marriage, legal custody or legal adoption; or not more than five (5) handicapped persons and accompanying staff. Family shall also include residential day care facilities in residential and commercial zones providing day care to 13 or fewer children including children of the provider.

FACILITY(IES): (1) Low-intensity facilities consist of communication facilities (including power and telephone lines), sewer, water and gas lines; and (2) High-intensity facilities, which consist of stormwater and treated waste water outfalls (including industrial waste water).

FOREST LAND: Those lands designated in the Coos County Comprehensive Plan (Volume I "Balance of County") for inclusion in a Forest Lands zone. These areas include: (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses, (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation, (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use, and (4) other forested lands which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.

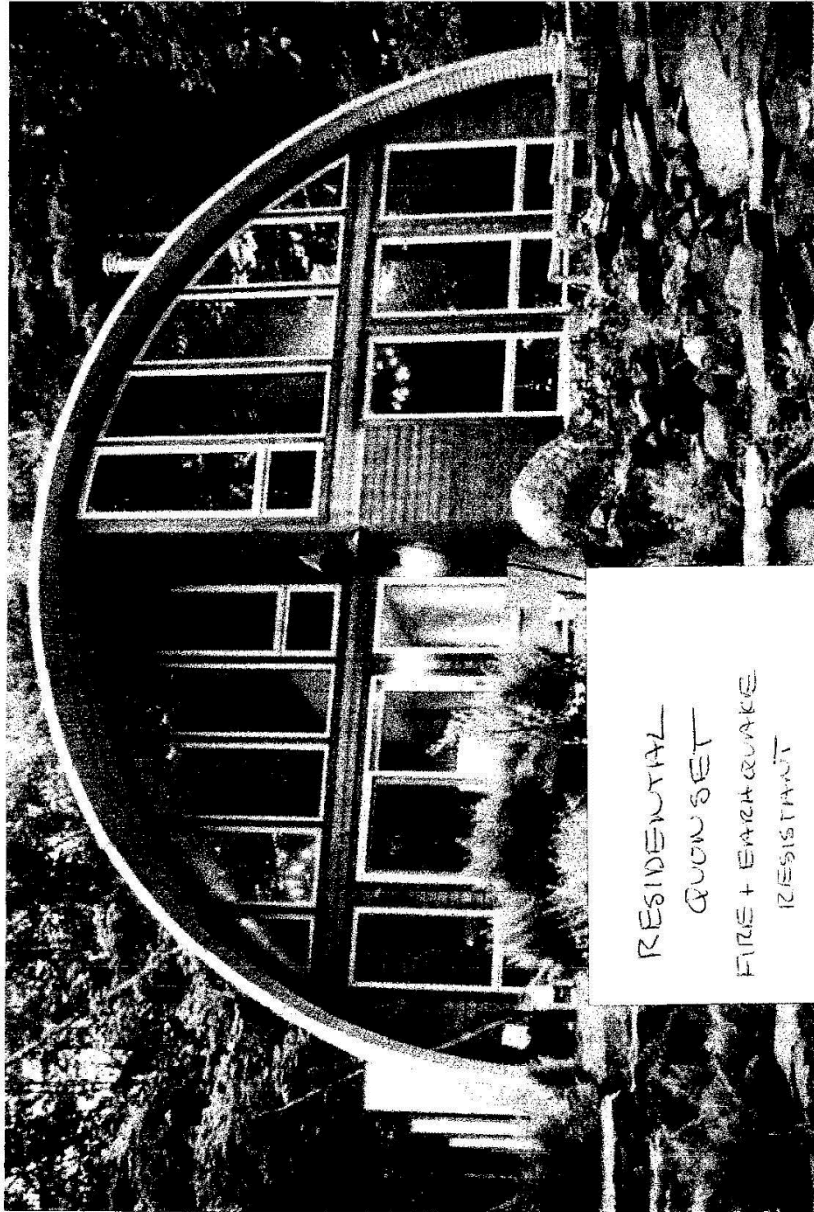
I could go on and on but will be available at the hearing for additional questions.

Sincerely, 

Mike Smith

74799 Crannog Rd N.Bend OR 97459

President and land manager SCTR



RESIDENTIAL
QUONSET
FIRE + EARTHQUAKE
RESISTANT

40P4

To whom this may concern.

Hi my name is Kim Rich. I live at 72759 Crannog Rd, West Bend, OR

I have been a neighbor of the South Coast Trail Riders on Crannog Rd. since 2002. They purchased their property in 2002.

The Trail Riders have been fantastic, responsible neighbors and are an asset to our neighborhood and community. They own the sand access to the dunes for our neighborhood. And have allowed us access to the sand dunes for Off Highway Vehicle (OHV) recreation. They have upgraded and maintained the access, improved the unmaintained County road leading to the access and manage their property in a clean and orderly manner.

This property is the only Forest zoned property amongst our residential neighborhood, as such it somewhat invites some transients and misfits that view it as public property. The Trail Riders do a great job of policing the problem but have determined that a more consistent presence in the area such as a residence on the property would greatly alleviate the, no man's land, attractive nuisance that currently exists.

I support their efforts. They have a great track record and really seem to care and put the neighborhood first.

Signature Kim Rich Date 5/22/2019

Exhibit 3

To Whom It May Concern:

I'm Robert Lauver & have lived in the Saunders Lake are for 19 plus years. The dune access road on the north end of Saunders Lake has been there since the 1960's, maybe earlier. For the last 18 years the Trail Riders Club has maintained the access road & have made improvements to keep it passable. Also once in awhile, have had to help people get unstuck that try to drive through. There has also been a problem with the homeless camping on the Trail Rider's property, but the club members keep them moving on. The officials of the club have been great neighbors, easy to get along with & helpful too. I support their efforts to improve the area for all. Sincerely, Rob & Susan Lauver, 5-21-2019 .

Robert Lauver
93366 Maud Llc Ln
North Bend Ore
97459

Exhibit 4

To whom this may concern.

Hi my name is BRIAN B. BOWLES. I live at 72110 CRANNOG RD.

I have been a neighbor of the South Coast Trail Riders on Crannog Rd. since 2008. They purchased their property in 2002.

The Trail Riders have been fantastic, responsible neighbors and are an asset to our neighborhood and community. They own the sand access to the dunes for our neighborhood. And have allowed us access to the sand dunes for Off Highway Vehicle (OHV) recreation. They have upgraded and maintained the access, improved the unmaintained County road leading to the access and manage their property in a clean and orderly manner.

This property is the only Forest zoned property amongst our residential neighborhood, as such it somewhat invites some transients and misfits that view it as public property. The Trail Riders do a great job of policing the problem but have determined that a more consistent presence in the area such as a residence on the property would greatly alleviate the, no man's land, attractive nuisance that currently exists.

I support their efforts. They have a great track record and really seem to care and put the neighborhood first.

Signature Brian B. Bowles Date 5-27-2019

Exhibit 5

To whom this may concern.

Hi my name is ED REUTHER. I live at 73265 CRANNOG RD.

I have been a neighbor of the South Coast Trail Riders on Crannog Rd. since 2004. They purchased their property in 2002.

The Trail Riders have been fantastic, responsible neighbors and are an asset to our neighborhood and community. They own the sand access to the dunes for our neighborhood. And have allowed us access to the sand dunes for Off Highway Vehicle (OHV) recreation. They have upgraded and maintained the access, improved the unmaintained County road leading to the access and manage their property in a clean and orderly manner.

This property is the only Forest zoned property amongst our residential neighborhood, as such it somewhat invites some transients and misfits that view it as public property. The Trail Riders do a great job of policing the problem but have determined that a more consistent presence in the area such as a residence on the property would greatly alleviate the, no man's land, attractive nuisance that currently exists.

I support their efforts. They have a great track record and really seem to care and put the neighborhood first.

Signature  Date 5/27/19

Exhibit 6

To whom this may concern.

Hi my name is MICHAEL COMEAU. I live at 92751 DUNES RD.

I have been a neighbor of the South Coast Trail Riders on Crannog Rd. since 1998. They purchased their property in 2002.

The Trail Riders have been fantastic, responsible neighbors and are an asset to our neighborhood and community. They own the sand access to the dunes for our neighborhood. And have allowed us access to the sand dunes for Off Highway Vehicle (OHV) recreation. They have upgraded and maintained the access, improved the unmaintained County road leading to the access and manage their property in a clean and orderly manner.

This property is the only Forest zoned property amongst our residential neighborhood, as such it somewhat invites some transients and misfits that view it as public property. The Trail Riders do a great job of policing the problem but have determined that a more consistent presence in the area such as a residence on the property would greatly alleviate the, no man's land, attractive nuisance that currently exists.

I support their efforts. They have a great track record and really seem to care and put the neighborhood first.

Signature  Date 5/27/19

Exhibit 7

To whom this may concern.

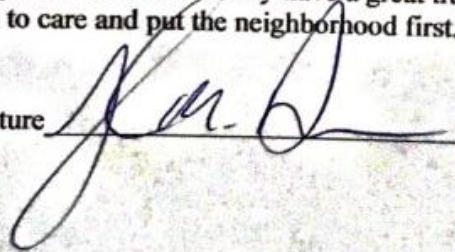
Hi my name is John Hansen. I live
at 93092 Dunes Ln 2351395 CA 94011

I have been a neighbor of the South Coast Trail Riders on
Crannog Rd. Since 2004. They purchased their property in
2002.

The Trail Riders have been fantastic, responsible neighbors and
are an asset to our neighborhood and community. They own the
sand access to the dunes for our neighborhood. And have
allowed us access to the sand dunes for Off Highway Vehicle
(OHV) recreation. They have upgraded and maintained the
access, improved the unmaintained County road leading to the
access and manage their property in a clean and orderly manner.
This property is the only Forest zoned property amongst our
residential neighborhood, as such it somewhat invites some
transients and misfits that view it as public property. The Trail
Riders do a great job of policing the problem but have
determined that a more consistent presence in the area such as a
residence on the property would greatly alleviate the, no man's
land, attractive nuisance that currently exists.

I support their efforts. They have a great track record and really
seem to care and put the neighborhood first.

Signature



Date 5/27/19

Exhibit 8