



Land of Cheese, Trees and Ocean Breeze

CONDITIONAL USE REQUEST 851-21-000223-PLNG: SEARS

ADMINISTRATIVE DECISION & STAFF REPORT

Decision Date: December 3, 2021

Decision: APPROVED WITH CONDITIONS
(This is not Building or Placement Permit Approval)

Report Prepared by: Christopher S. Laws, Planner II

I. GENERAL INFORMATION:

- Request:** A Conditional Use request for a dock and storage shed in the Rural Residential 2 Acre (RR-2), Shoreland Overlay (SH) zone and the Beach & Dune Overlay Zone (BD) (Exhibit B)
- Location:** Subject property is located within the Tierra Del Mar Community north of the Unincorporated Community of Pacific City/Woods and accessed via Sandlake Road, a county road. The subject property is designated as Tax Lot 3401 in Section 1DD of Township 4 South, Range 11 West of the Willamette Meridian, Tillamook County, Oregon (Exhibit A).
- Zone:** The subject property is zoned Rural Residential 2 Acre (RR-2), Shoreland Overlay (SH) Zone, Beach & Dune Overlay (BD), and the Freshwater Wetlands Overlay (FW).
- Applicant & Property Owner:** The applicant and property owner is David Sears.

Description of Site and Vicinity: County records indicate the subject property is 4.15 acres in size abutting Sears Lake to the east and bordered by Sandlake Road to the west. Subject property is zoned Rural Residential 2 Acres (RR-2), as is all adjoining properties; to the west & northwest, across Sandlake Road, most are developed with single-family dwellings on small beach-front properties; and larger parcels to the east and south.

The subject property is unimproved and is classified as a Wet Deflation Plain, a dune complex inventoried in the U.S.D.A. Soil Conservation Service “Beaches and Dunes of the Oregon Coast” (Exhibits A & B).

The subject property is mostly sand with sparsely vegetated patchy areas of grasses and shrubs commonly identified on foredunes and wet deflation plains, and the Sears Lake riparian area is dominated by reeds.

II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:

The following Sections of the Tillamook County Land Use Ordinance (TCLUO) govern the proposed use. The suitability of the proposed use in light of these criteria is discussed in Section III of this report:

- A. Section 3.010: Rural Residential 2 Acres (RR-2)
- B. Section 3.530: Beach and Dune Hazard Overlay Zone (BD)
- C. Section 3.545: Shoreland Overlay Zone (SH)
- D. Section 3.550: Freshwater Wetlands Overlay (FW)
- E. Article IV Development Standards
- F. Article VI Conditional Use Procedures and Criteria

FACILITIES: A group or combination of structures that is built, installed or established to serve a particular purpose. (Goal 17 Coastal Shorelands Element)

III. ANALYSIS:

A. Section 3.010 Rural Residential 2 Acres (RR-2) Zone: *PURPOSE: The purpose of the RR zone is to provide for the creation and use of small acreage residential homesites. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes.*

Findings: The subject property is a relatively flat 4.15-acre property abutting Sears lake that is predominately pasture on sandy soil with little to no trees, some brush, and a shoreline dominated by reeds. The subject property could accommodate a homesite and the proposed dock is considered an accessory structure. There are no adjacent resource zoned properties.

Section 3.010(3)(g) allows for the placement of an accessory structure prior to a primary structure with an approved Conditional Use Permit. Correspondence received from adjoining properties raised the point that a “dock” is not listed specifically in Section 3.010(2) or (3) however, Article XI defines an accessory structure as: **ACCESSORY STRUCTURE-ACCESSORY USE:** *A detached structure or a land use that is incidental and subordinate to the established primary use of a piece of property, and which is located on the same property as is the primary use, except as provided in Section 4.040.* The proposed dock is detached and as there is no “primary” structure established on the subject property the applicant has requested a Conditional Use Permit as allowed pursuant to Section 3.010(3) and Section 4.040(2).

B. Section 3.530: Beach and Dune Hazard (BD) Overlay Zone: *The purpose of the Beach and Dune Overlay Zone is to regulate development and other activities in a manner that conserves, protects and, where appropriate, restores the natural resources, benefits, and values of coastal beach and dune areas, and reduces the hazard to human life and property from natural events or human-induced actions associated with these areas. The Overlay Zone establishes guidelines and criteria for the assessment of hazards resulting from beach and dune processes and development activities in beach and dune areas.*

Findings: The BD overlay zone is based on information contained in the inventory of beach and dune landforms of Tillamook County, prepared by the Soil Conservation Service (SCS, now known as the Natural Resource Conservation Service) and published in their 1975 report, *Beaches and Dunes of the Oregon Coast*. The dune areas mapped in the inventory are identified in the Goal 18 (Beaches and Dunes) Element of the Comprehensive Plan and include those areas identified as a Wet Deflation Plain (WDP). The inventory is summarized in four Beach and Dune categories within this overlay zone: Developed Beachfront Areas, Fore-dune Management Areas, Resource Protection Areas, and Stabilized Beach and Dune Areas.

As stated previously in this report, the subject property is categorized as a Wet Deflation Plain in the Soil Conservation Service (SCS, now known as the Natural Resource Conservation Service) 1975 report, *Beaches and Dunes of the Oregon Coast* (Exhibit A). Wet Deflation Plains (Deflation Plains) are listed as a Category 3: Resource Protection Areas, beach and dune areas committed to resource protection or recreational use.

Uses within the BD zone are subject to the provisions and standards of the underlying zone and of this Section. The administrative provisions of this section state that where the provisions of this zone and the underlying zone conflict, the more restrictive provisions shall apply. Pursuant to Section 3.530(4)(A)(1)(a) residential, commercial, and industrial development may be permitted only in areas classified as stabilized fore-dune or conditionally stable fore-dune not subject to ocean undercutting or wave overtopping, or in areas where an exception has been taken to the prohibitions contained in Goal 18. The subject property lies within the Tierra Del Mar Community that has an exception pursuant to Goal 18, 6.1 Exception to Goal 18 Implementation Requirement 2 *et seq.*

Staff finds that the proposed development will not require a Dune Hazard Report pursuant to the exemption found in Section 3.530(5)(B)(1)(a) however, the relevant site development requirements of this section shall be adhered to.

C. Section 3.545: Shoreland (SH) Overlay Zone: *The purpose of the Shoreland Overlay zone is to provide for development, restoration, conservation of protection of coastal shorelands in a manner which is compatible with the resources and benefits of coastal shorelands and adjacent coastal water bodies and protect identified priority dredged material disposal and mitigation sites from uses which would prevent their ultimate use for dredged material disposal or mitigation.*

Findings: Pursuant to TCLUO Article III Section 3.500 the Shoreland Overlay zone applicable to the subject property includes lands contiguous with ocean estuaries and coastal lakes that contain the features shown in the Coastal Shoreland Element (Goal 17) of the Comprehensive Plan, including areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or a coastal lake, adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body, riparian vegetation or other natural or man-made riparian resources necessary for shoreline stabilization or water quality maintenance, significant shoreland and wetland biological habitats, areas necessary for water-dependent and water-related uses, shoreland areas of exceptional aesthetic or scenic quality, coastal headlands.

The Applicant proposes to place a dock that extends approximately 30 feet into Sears Lake and will be anchored above the Ordinary High Water Mark. Pursuant to Section 3.545(1), (3) & (4) the project area lies within the Shoreland Overlay zone which is comprised of two categories of Coastal Shorelands. The subject property is categorized as the second category, as those shorelands identified in the Estuarine Element and Coastal Shorelands Element of the Comprehensive Plan as: significant shoreland and wetland biological habitat; Sears Lake is in the Nestucca Estuary Shorelands and specifically identified as a significant wildlife habitat (Goal 17, 3.2e). Additionally, a public comment suggests that Sears Lake is not in fact within the Nestucca Estuary

Shorelands however, as cited previously, Sears Lake is *specifically* identified by the Comprehensive Plan (Goal 17, 3.2e) as being within the Nestucca Estuary Shorelands.

Low intensity uses and developments such as hiking trails and platforms for wildlife viewing or similar types of educational, scientific or recreational uses may be permitted provided that such uses and developments will not act as a barrier to or result in major disturbances or displacement of fish or wildlife species.

In significant wetland biological habitats, no development is allowed except for the placement of a floating or pile supported dock or a boat ramp using less than 50 cubic yards of fill to allow boat access to a coastal lake providing that such developments are placed to minimize impacts on wetland habitats.

If the proposed project exceeds fifty (50) cubic yards of removal, fill, or other alteration within waters of the state a Department of State Lands will be required.

Buildings may be allowed only if they and the land preparation which precedes them preserves the natural topography and unique scenic features and does not substantially alter the scenic character or the natural vegetative cover of the area.

The proposed dock is similar to that of a floating platform, is for recreational use, and has been reviewed by the Oregon Department of Fish and Wildlife who expressed no concerns related to the placement of the dock. The shed is of a size and the placement such that no deleterious effects to the scenic character or natural vegetative cover is anticipated.

D. Section 3.550: Freshwater Wetlands Overlay (FW) Purpose and Areas Included: *The purpose of this zone is to protect significant areas of freshwater wetlands, marshes and swamps from filling, drainage or other alteration which would destroy or reduce their biological value.*

Findings: The subject property is a Notification Wetland pursuant to Section 3.550(1)(b); when required, the verification of zone boundaries shall be carried out in conjunction with the property owner and the Oregon Division of State Lands. The owner/applicant included an approved Wetland Delineation Report for Sears Lake – WD # 2021-0100 (Exhibit A & C).

Section 3.550(2) Uses Permitted subsection (b) Notification Wetlands (1) states: *uses permitted outright or conditionally in the underlying zone shall be permitted subject to approval by the Oregon Division of State Lands.* Additionally, Tillamook County Comprehensive Plan Goal 5, 1.1c Relationship of Goal #5 to the Estuarine Resources Goal #16, and The Coastal Shoreland Goal #17 states: *“...when one of the Goal #5 resources is located in either an estuarine or coastal shoreland area, the appropriate resource inventory and protection requirements of the Estuarine Goal or the Coastal Shorelands Goal is applied.”*; two Goal #5 resources, 1. Riparian areas & 2. Wetlands, are discussed in Analysis A & B above.

E. Article IV - Supplementary Regulations:

- 1. Section 4.040: General Provisions regarding Accessory Uses**
- 2. Section 4.140: Requirements for Protection of Water Quality and Streambank Stabilization**

Findings: The supplemental standards outlined in Article IV of the Tillamook County Land Use Ordinance outline specific development standards applicable to this request.

TCLUO Section 4.040: General Provisions regarding Accessory Uses allows for the storage of boats in accessory structures pursuant to subsection (1)(c) and allows for the construction of an accessory structure on a property without a primary structure upon approval of a Conditional Use permit according to the provisions of TCLUO Article VI. The Applicant is satisfying this requirement through this application and report.

TCLUO Section 4.140: Requirements for the Protection of Water Quality and Streambank Stabilization defines areas of riparian vegetation and coastal lakes and requires that development activities maintain a 50-foot setback

from the mean high-water line or the line of non-aquatic vegetation, whichever is most landward, unless direct water access is required in conjunction with a water dependent use (Subsections 1(a) & 2(b)). The Applicant's site plan appears to locate the shed outside the wetland delineation and greater than fifty feet from the riparian area and, upon submittal for construction, the Applicant shall be required to provide a site plan that clearly illustrates adherence to this requirement.

F. Article VI Conditional Use Procedures and Criteria: Article VI of the Tillamook County Land Use Ordinance contains the procedures and review criteria for processing a conditional use request. These criteria, along with Staff's findings and conclusions are indicated below.

Section 6.020 Procedure requires public notice in accordance with TCLUO Article X, Section 10.070 which requires notification of the request to be mailed to landowners within 250 feet of the subject property, to allow at least 14 days for written comment, and requires staff to consider comments received in making the decision.

Findings: Notice of the request was mailed to property owners and agencies on August 10, 2021. Comments received are included here in 'Exhibit C'

2. Section 6.040 Review Criteria

(1) *The use is listed as a conditional use in the underlying zone, or in an applicable overlying zone;*

Findings: The applicant/property owner's property is zoned Rural Residential 2 Acres (RR-2).

The Applicant is seeking approval to establish two accessory structures, a storage shed and a dock, on a property without a primary structure which may be permitted upon receiving an approved Conditional Use Permit pursuant to TCLUO Section 3.010.

Specifically, TCLUO Section 3.010(3) states: "*USES PERMITTED CONDITIONALLY: In the RR zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all other applicable supplementary regulations contained in this Ordinance.*" and Section 3.010(3)(g): *Accessory structures or accessory uses without an on-site primary structure.*

Staff finds that the proposed accessory structures are allowed in some the Rural Residential 2-Acre zone subject to satisfaction of the Conditional Use Review Criteria which are discussed below, and all other applicable standards and compliance with the Conditions of Approval.

(2) *The use is consistent with the applicable goals and policies of the comprehensive plan;*

Findings: The applicant/property owner is seeking approval to establish two accessory structures, a storage shed and a dock, on a property without a primary structure, which may be permitted upon receiving an approved Conditional Use Permit pursuant to TCLUO Section 3.010. The proposal is located on a Wet Deflation Plain according to the provisions of the Tillamook County Comprehensive Plan Goals 17 & 18, TCLUO Section 3.530: Beach and Dune Overlay (BD) zone, and is subject to TCLUO Section 3.545 Shoreland Overlay (SH), and Section 3.550: Freshwater Wetlands Overlay (FW) Zone (Exhibits A & B).

The Tillamook County Comprehensive Plan Goal 17, 4. General Policies for Coastal Shorelands 4.1 Policy states: *New Shoreland development, expansion, maintenance or restoration of existing development and restoration of historic waterfront areas shall conform to the following general priorities for the overall use of coastal shorelands (in order of priority): (2) Water-dependent uses (See Section 5.1).* Section 5. Findings and Policies for Water-Dependent and Water-Related Uses; 5.1 Water-Dependent Uses defines a water dependent use as "A use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production or source of water" and establishes the a policy that

specifies docks as being water-dependent (subsection 1.) and additionally 6. “*Other uses which can only be carried out on, in, or adjacent to water areas because the use requires access to a water body for: (b) Recreation.*” (Emphasis added). Applicant states “*The purpose of the project is to have a dock to give my family and friends easier and safer access to the lake...*”.

TCLUO Section 3.530(4)(A)(1)(a) states “*residential... development may be permitted only in areas classified as stabilized foredune or conditionally stable foredune not subject to ocean undercutting or wave overtopping, or in areas where an exception has been taken to the prohibitions contained in Goal 18*”. The subject property lies within the Tierra Del Mar Community that has an exception pursuant to Goal 18, 6.1 Exception to Goal 18 Implementation Requirement 2 *et seq.* (Emphasis added); additionally, the proposed development will not require a Dune Hazard Report pursuant to the exemption found in Section 3.530(5)(B)(1)(a) however, the relevant site development requirements of this section shall be adhered to (Emphasis added).

Pursuant to TCLUO Section 3.545(4)(a)(1)(d) water-dependent recreational uses authorized by the underlying zone as outright or conditional uses are permitted on properties located in the Shoreland Overlay Zone TCLUO Section 3.545(2) and identified as a significant shoreland and wetland biological habitat Section 3.545(3)(b)(1).

Section 3.550(2)(b)(1) allows uses that are permitted outright or conditionally in the underlying zone subject to approval by the Oregon Department of State Lands; the proposed accessory structures are allowed as discussed above however, in addition to those requirements the applicant/owner will be required to notify the Department of State Lands and will only be allowed upon compliance with any requirements of that agency and the Applicant shall be responsible for obtaining approval from the Department of State Lands for activities on Notification Wetlands.

Staff finds that the applicant’s request to construct an accessory (storage shed) structure and a dock consistent with the provisions cited above and that this criterion is met.

(3) ***The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;***

Findings: The applicant/property owner’s submittal states that “*The dock (will) not be more than 200 square feet in size and a floating 30’ ramp from the shore to the dock will have low impact to the area... (in) an existing break in the reeds approximately 20’ wide that has been maintained in this location for at least 50 years. The dock and shed is to be put on a 4-acre field. “The land is relatively flat and accessible now even with a passenger car. It is and has been maintained as a pasture.”*

The property is 4.15 acres and relatively rectangular in shape with wide and open spaces of pasture abutting Sears Lake with approximately three hundred ninety (390) feet of shoreline that has a thick riparian buffer of reeds. The general location of the parcel is the southern portion of the Tierra Del Mar community that has fewer single-family dwellings shore-side (approximately four across Sandlake Road from the subject property) and single-family residences on larger parcels to the north-east, east, and unimproved properties to the south. The access drive to Sandlake Road is approximately 37 feet wide and the approach both north-east and southwest is straight and greater than 600 feet in length.

Staff finds that due to the proposed dock being just over 200 square feet in total area with access being placed at an existing break in the reeds, and typical residential use of a small dock in consideration of the size of the parcel and surrounding properties, that the applicant’s parcel is suitable for the proposed shed and dock.

- (4) ***The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.***

Findings: The applicant/property owner states: *“The dock will be located on the side of the reeds...so it will not be visible from Sandlake Rd. The proposed shed will be visible, but it will be a one story structure consistent with existing buildings in the area... Both the dock and shed will not be hampering or interfering with their day to day routines in any way... This area of south Tillamook county is a multi use recreational area...This proposed dock and shed is consistent with the recreational activities in the area.”* (Exhibit B).

The applicant/property owner has obtained a delineated wetland report that has been reviewed and approved by the Oregon Department of State Lands and has applied to the Army Corps of Engineers (Corps) for a Department of the Army (DA) permit to place a dock, gangway, and two wood posts in Sears Lake (application No. NWP-2020-368). The Corps concludes that pursuant to the Section 404 of the Clean Water Act a Section 404 DA Permit is not required. Furthermore, the Oregon Department of Fish and Wildlife (ODFW) communicated to Staff that *“ODFW has no biological concerns at the site.”* and that the development of the dock at this site does not rise to the level of necessitating the owner following ODFW’s typical guidelines. (Exhibit B & C).

The road approach to the established access drive to the property is Sandlake Road and the sight lines from the access road are straight for over 600 feet running both north-east and south-west so that typical residential use with the addition of the dock should not affect or alter the current access nor that of neighboring properties.

The Applicant states that *“The purpose of the project is to have a dock to give my family and friends (an) easier and safer way to access the lake.”* The Applicant also states that the current area proposed for the dock has been used for access to the lake for water-related activities, such as kayaking, for over fifty (50) years. (Exhibit B).

Correspondence from neighboring and near-by properties raise a concern regarding the applicant’s possible intent of establishing a “primitive campground” and possible impacts from fire, traffic, animals, and liability arising from such activity however, staff is only considering those requirements, allowances, conditions, and possible impacts that may apply to the Applicant’s proposed dock. The proposed dock will be placed near Ordinary Highwater Mark and stretch approximately thirty (30) feet into the lake and therefore presents minimal risk for fire. The dock is proposed to be placed in an area that is surrounded by reeds so that minimal visual impact can be expected from surrounding properties and, according to the Applicant, will be a continuation of residential recreational activity that occurs on the property presently so that it is expected that animal attraction and traffic impact will remain unchanged.

Furthermore, comments received raise ownership and access issues regarding Sears Lake however, staff finds that those issues are civil matters and not subject to County oversight.

Staff finds this criterion met.

- (5) ***The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills;***

Findings: The applicant/property owner’s submittal states: *“There are currently no solar energy, wind energy conversion systems or wind mills in the area that I am aware of.”* (Exhibit B)

Staff does not find any record of such facilities in the area and concludes this criterion met.

- (6) *The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use;*

Findings: The applicant/property owner's submittal states, "*The proposed project is located on the southern end of Tierra Del Mar. It is accessible from Sandlake Rd. Approximately 4 miles north of Pacific City where there's a fire station. It is approximately 20 miles south of Tillamook.*" (Exhibit A & B).

The most pertinent public services for this proposal are fire and police which, due to its proximity to an established fire station and easy access via Sandlake Rd, and the limited scope of the proposal, Staff finds this criterion met.

IV. DECISION: APPROVED WITH CONDITIONS

Based on the findings above, Staff concludes that the applicant has satisfied the review criteria, and can meet all applicable ordinance requirements at the time of application. Therefore, the Department approves this request subject to the Conditions of Approval in section V of this report.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. The forms and fees must be filed in the office of this Department before **4:00 PM on December 16, 2021.**

Unless appealed, the **Effective Date of Decision shall be no sooner than December 17, 2021.**

V. CONDITIONS OF APPROVAL:

Sections 6.070: COMPLIANCE WITH CONDITIONS, and 6.080: TIME LIMIT requires compliance with approved plans and conditions of this decision, and all other ordinance provisions. Failure to comply with the Conditions of Approval and ordinance provisions could result in nullification of this approval.

1. The applicant/property owner shall obtain all Federal, State, and Local permits, as applicable.
2. Any removal, fill, or other alteration within the lake that exceeds 50 cubic yards requires a "Remove-Fill" Permit by the Department of State Lands pursuant to ORS 196.795-990.
3. The applicant/property owner shall obtain an approved Zoning Permit from the Tillamook County Department of Community Development.
4. A site plan, drawn to scale, illustrating the proposed development and required setbacks shall be provided at the time of Zoning Permit submittal.
5. Any proposed development and/or removal of vegetation within riparian areas on the subject property is subject to the requirements of TCLUO 4.140
6. The applicant/property owner shall adhere to applicable development standards in TCLUO Section 3.010 Rural Residential 2 Acre (RR-2) Zone.
7. This approval shall be void on December 3, 2023, unless construction of approved plans has begun, or an extension is requested from, and approved by this Department.

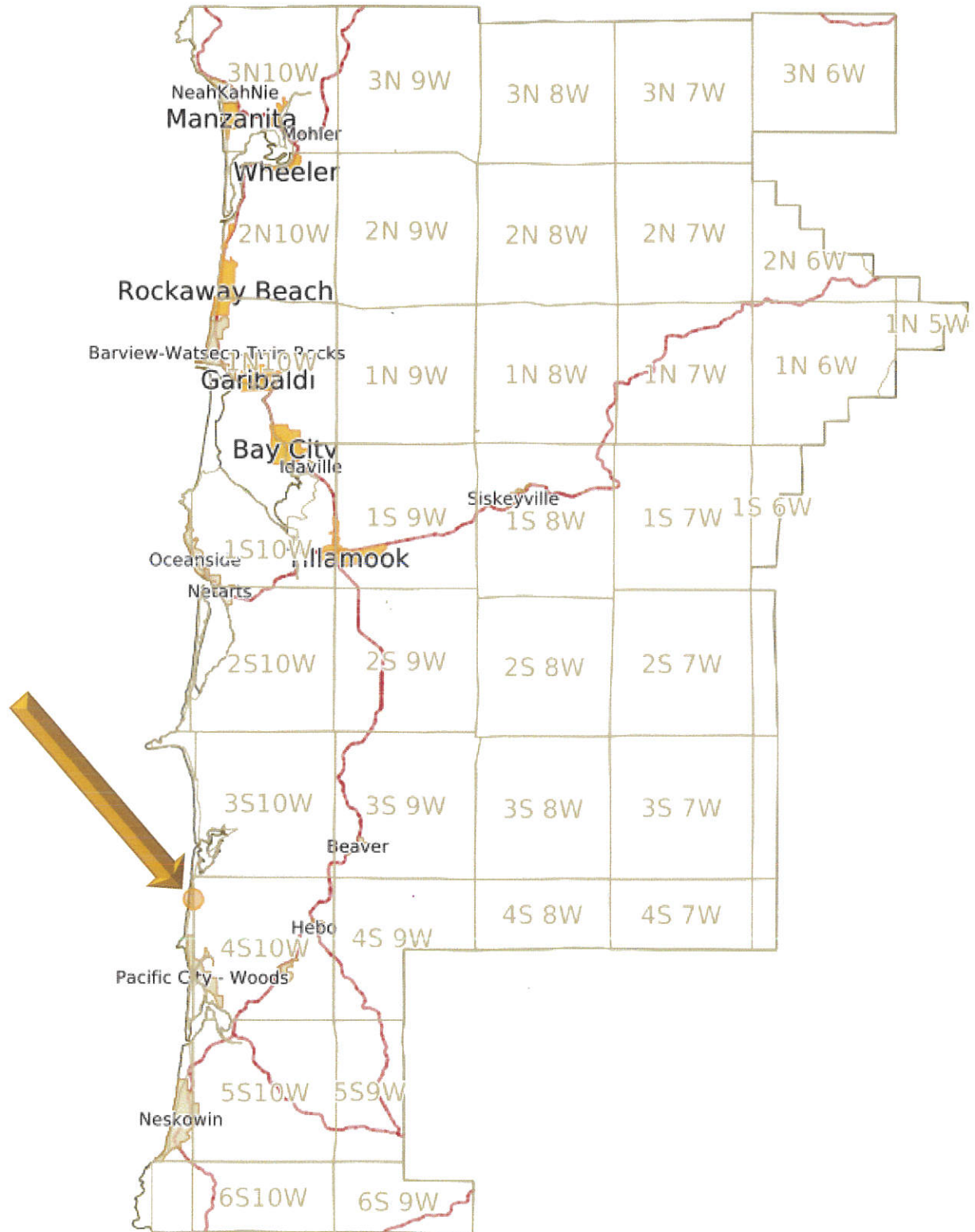
VI. EXHIBITS

All Exhibits referred to herein are, by this reference, made a part hereof:

- A. Location map, Assessor map, Zoning map, Assessor's Summary Report
- B. Applicant's submittal
- C. Agency comments

EXHIBIT A

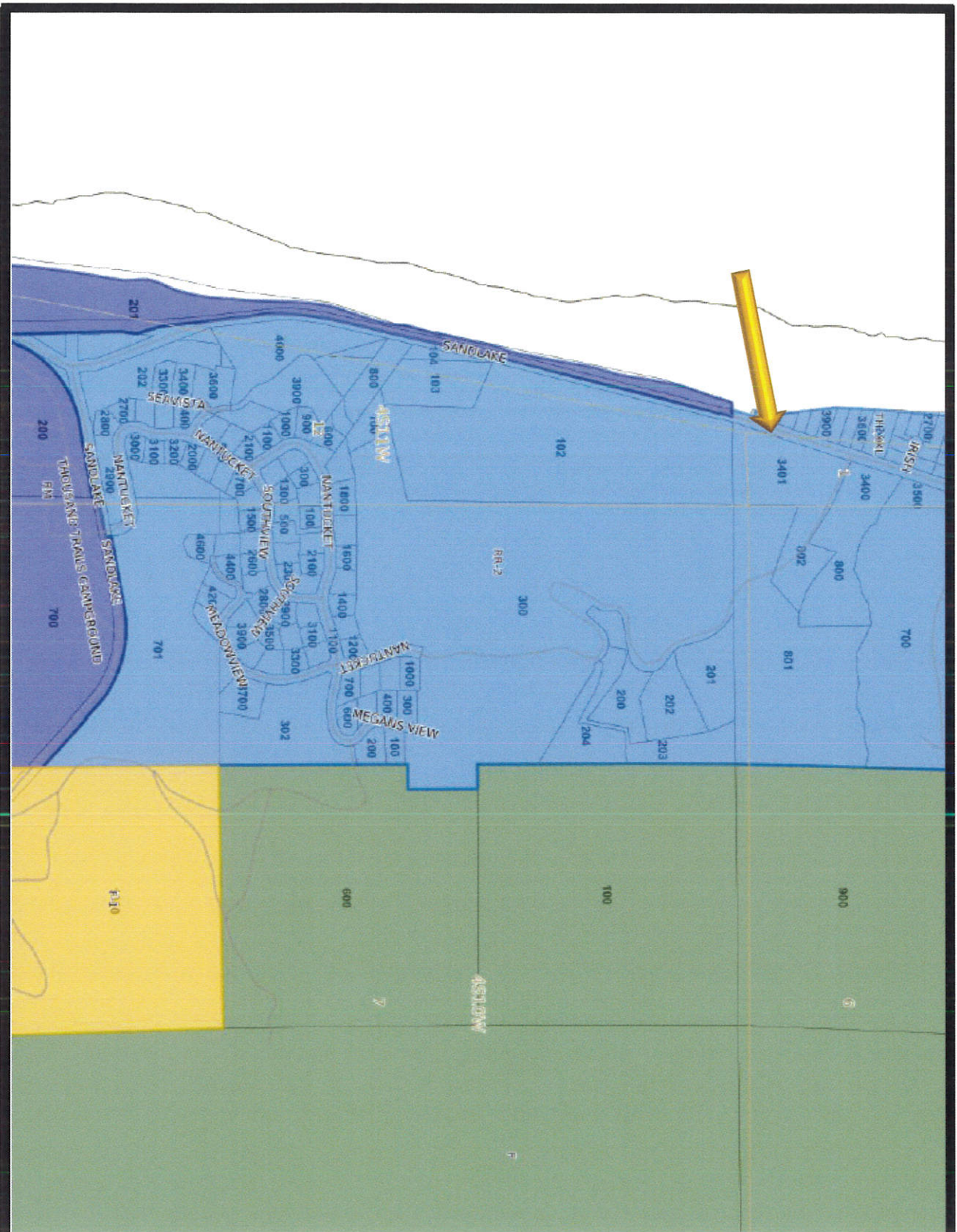
VICINITY MAP



PERMIT #851-21-000223 SEARS

4S11-01DD-03401

Map



THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



S.E. 1/4 S.E. 1/4 SEC. 1 T.4S. R.11W. W.M.
TILLAMOOK COUNTY

04S11W01DD
LAKESEA



CANCELLED
1100

SEE MAP 43 10W 6

SEE MAP 43 10W 6 C3

SEE MAP 43 11W 12

04S11W01DD
LAKESEA

Revised 05/19/21, WBS

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2021

November 4, 2021 3:04:38 pm

Account # 376006
 Map # 4S1101DD03401
 Code - Tax # 0802-376006

Tax Status ASSESSABLE
 Acct Status ACTIVE
 Subtype NORMAL

Legal Descr PARTITION PLAT 2019-12
 Lot - PARCEL 1

Mailing Name SEARS, DAVID G & LISA C

Deed Reference # 2019-5220
 Sales Date/Price 08-30-2019 / \$175,000.00
 Appraiser RANDY WILSON

Agent

In Care Of

Mailing Address 28805 SANDLAKE RD
 CLOVERDALE, OR 97112

Prop Class 400 MA SA NH Unit
 RMV Class 400 09 OV 919 413263-1

Situs Address(s)	Situs City
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		Value Summary				
Code Area		RMV	MAV	AV	RMV Exception	CPR %
0802	Land	166,610			Land	0
	Impr.	0			Impr.	0
Code Area Total		166,610	114,600	114,600		0
Grand Total		166,610	114,600	114,600		0

		Land Breakdown								
Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
0802	0	<input checked="" type="checkbox"/>		RR-2	Market	104	A	4.14		166,610
Grand Total								4.14		166,610

		Improvement Breakdown									
Code Area	ID#	Yr Built	Stat Class	Description		TD%	Total Sq. Ft.	Ex%	MS Acct #	Trended RMV	
Grand Total								0			0

Comments: 02/27/14 Reappraised land, tabled values. RCW 8/2020 Parcel involved in Partition P. 2019-12 with size correction and valued on its new size and location. RCW

EXHIBIT B



PLANNING APPLICATION

OFFICE USE ONLY	
Date Stamp	
RECEIVED	
JUN 16 2021	
BY:	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by: <i>BOX</i>	
Receipt #:	
Fees: <i>\$1,089⁰⁰</i>	
Permit No: 851- <i>2</i> - <i>00023</i> PLNG	

Applicant (Check Box if Same as Property Owner)

Name: *David Sears* Phone: *503 965 5071*
 Address: *28805 Sandlake Rd*
 City: *Cloverdale* State: *OR* Zip: *97112*
 Email: *dgs@sears@hotmail.com*

Property Owner

Name: _____ Phone: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Email: _____

Request: *See attached*

Type II

- Farm/Forest Review
- Conditional Use Review
- Variance
- Exception to Resource or Riparian Setback
- Nonconforming Review (Major or Minor)
- Development Permit Review for Estuary Development
- Non-farm dwelling in Farm Zone
- Fore-dune Grading Permit Review
- Neskowin Coastal Hazards Area

Type III

- Appeal of Director's Decision
- Extension of Time
- Detailed Hazard Report
- Conditional Use (As deemed by Director)
- Ordinance Amendment
- Map Amendment
- Goal Exception

Type IV

- Appeal of Planning Commission Decision
- Ordinance Amendment
- Large-Scale Zoning Map Amendment
- Plan and/or Code Text Amendment

Location:

Site Address: _____
 Map Number: *45 1101 DD 03 401*

Township Range Section Tax Lot(s)

Clerk's Instrument #: _____

Authorization

This permit application does not assure permit approval. The applicant and/or property owner shall be responsible for obtaining any other necessary federal, state, and local permits. The applicant verifies that the information submitted is complete, accurate, and consistent with other information submitted with this application.

David Sears
 Property Owner Signature (Required)

6/15/2021
 Date

Applicant Signature

Date

Conditional Use Request in reference to
Dock on Sears Lake

I am submitting this Conditional Use Request to put a dock and storage shed on my property located on the south end of Tierra Del Mar. The following are the attachments enclosed:

- Map of area and details of dock proposal sent to Army Corp of Engineers.
- Letter from Army Corp of Engineer dated November 20, 2020
- Wet Land Delineation map
- Response to criteria needed from goal 17

The purpose of the project is to have a dock to give my family and friends easier and safer access to the lake. The existing access to the lake we want to use has been in use by us for the last 50 years. This is an upgrade for what we are currently using. The request for the storage shed is both for convenience and security. It would be easier to have the chairs, barbecues, and kayaks there at all times instead of hauling them back and forth. This stuff needs to be secured as we have had an issue with theft. Last summer we had two kayaks go missing.

Submitted by,



David Sears

Conditional Use Criteria in reference to
Dock on Sears Lake

- (1) The property for the location of the dock is Rural Residential. Under Goal 17 it is listed as Significant Habitat. On page 63, 5.1, under Water Dependent Uses it states that docks are allowed.
- (2) The dock not to be more than 200 square feet in size and a floating 30' ramp from the shore to the dock will have a low impact on the area. It will allow our family and friends to safely access the water. There is an existing break in the reeds approximately 20 wide that has been maintained in this location for at least the last 50 years. The ramp will be positioned along this existing break. No reeds or other vegetation will be cut back or removed for the placement of the floating ramp or dock itself. We are also requesting to put in a storage shed not larger than 20' x 20' to store small personal watercraft, safety gear like life jackets, and comfort items like chairs. The site is visible from Sandlake Rd and there have been issues with theft in the past. The shed will be positioned outside of the wetland boundary as shown on the delineation map.
- (3) The dock and shed is to be put on a 4 acre field. There are two access points to this property. One is located across from the Tierra Del Mar beach access on the southern part of the field. The other is located on the north end. There is a service road that goes around the north end of Sears lake that goes up to Nantucket Shores. Approximately 65' in from Sandlake Rd on that service road is another gated access that is what we primarily use to access the pasture. No alterations need to be completed on the field for the dock or even the shed. The land is relatively flat and accessible now even with a passenger car. It is and has been maintained as a pasture.
- (4) The dock will be located on the lake side of the reeds of course so it will not be visible from Sandlake Rd. The proposed shed will be visible but it will be a one story structure and consistent with existing buildings in the area. The current and future residents of Nantucket Shores will and may see the dock from their property. Both the dock and shed will not be hampering or interfering with their day to day routines in any way. Again, they may be able to see the dock and shed but it will not be blocking their view of the beach or ocean. This area of south Tillamook county is a multi use recreational area. Tierra Del Mar and the beach is directly across from the pasture. Tierra Del Mar has a combination of full time residents, weekend cabins and quite a few short term rentals. The beach itself is enjoyed by people with jet skis, motorized kites, and the public in general. It is available for driving on and becomes quite busy in the summertime. This proposed dock and shed is consistent with the recreational activities in the area.
- (5) There are currently no solar energy, wind energy conversion systems or wind mills in the area that I am aware of.

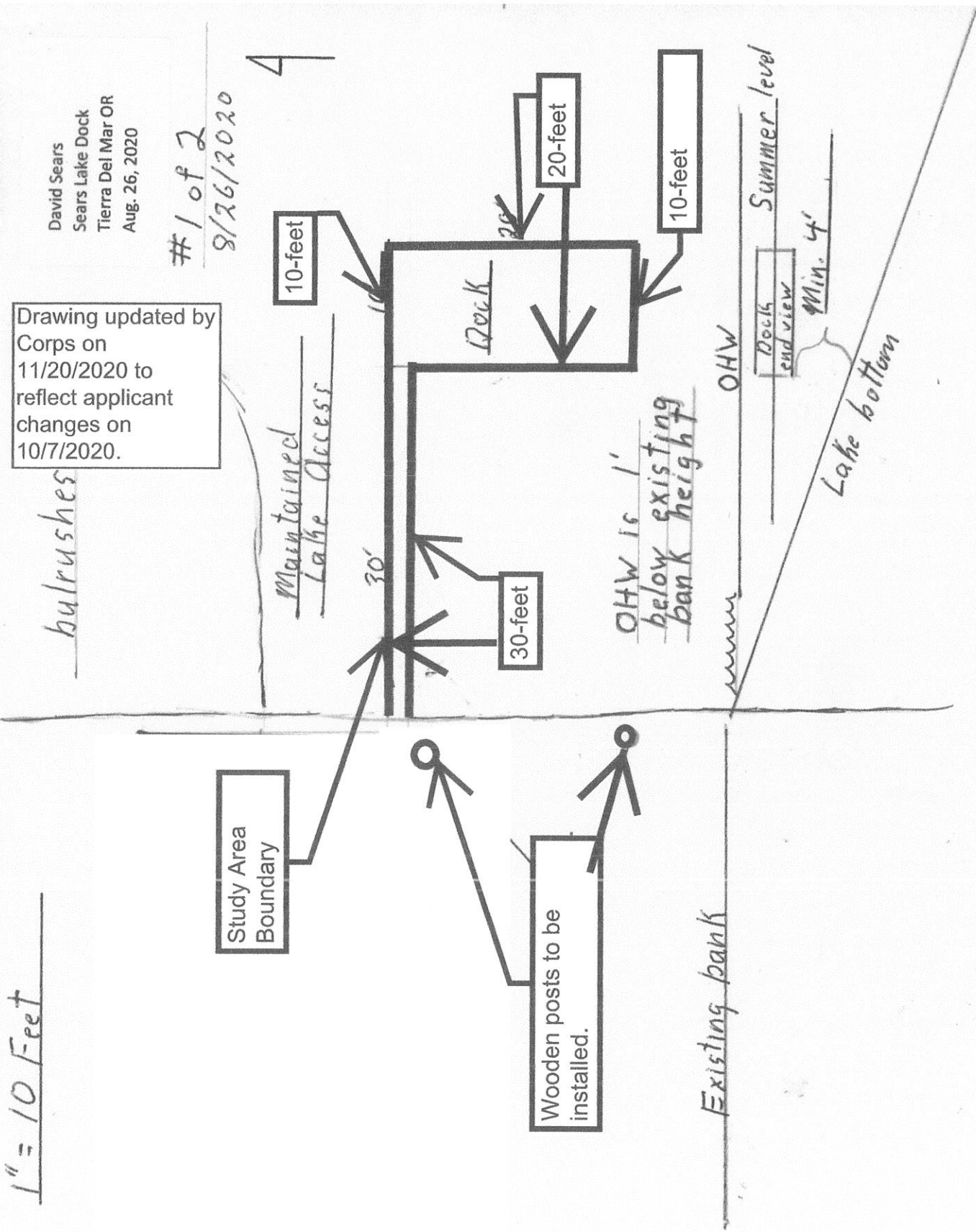
Conditional Use Criteria in reference to
Dock on Sears Lake
(cont).

(6) The proposed project is located on the southern end of Tierra Del Mar. It is accessible from Sandlake Rd. Approximately 4 miles north of Pacific City where there's a fire station. It is approximately 20 miles south of Tillamook. The exact location of the project is accessible year round despite heavy rains due to the soil mainly being sand it never gets muddy. It currently has two access points to the location, one on Sandlake Rd and the other on an access road north of the lake.

David Sears
Sears Lake Dock
Tierra Del Mar OR
Aug. 26, 2020

#1 of 2
8/26/2020

Drawing updated by
Corps on
11/20/2020 to
reflect applicant
changes on
10/7/2020.



David Sears
Sears Lake Dock
Tierra Del Mar OR
Aug. 26, 2020
#2 of 2
8/26/2020

Drawing updated
by Corps on
11/20/2020 to
reflect applicant
changes on
10/7/2020.

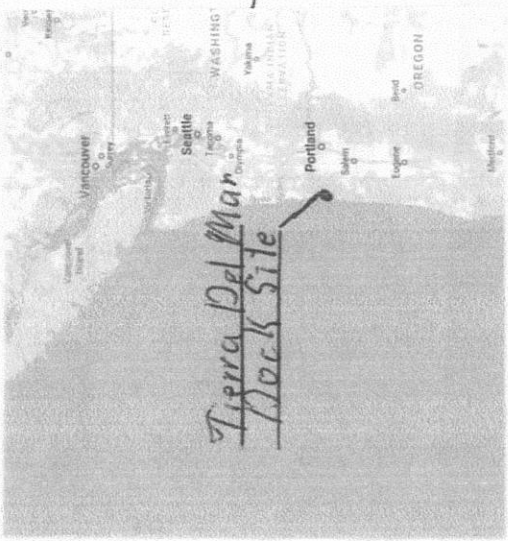
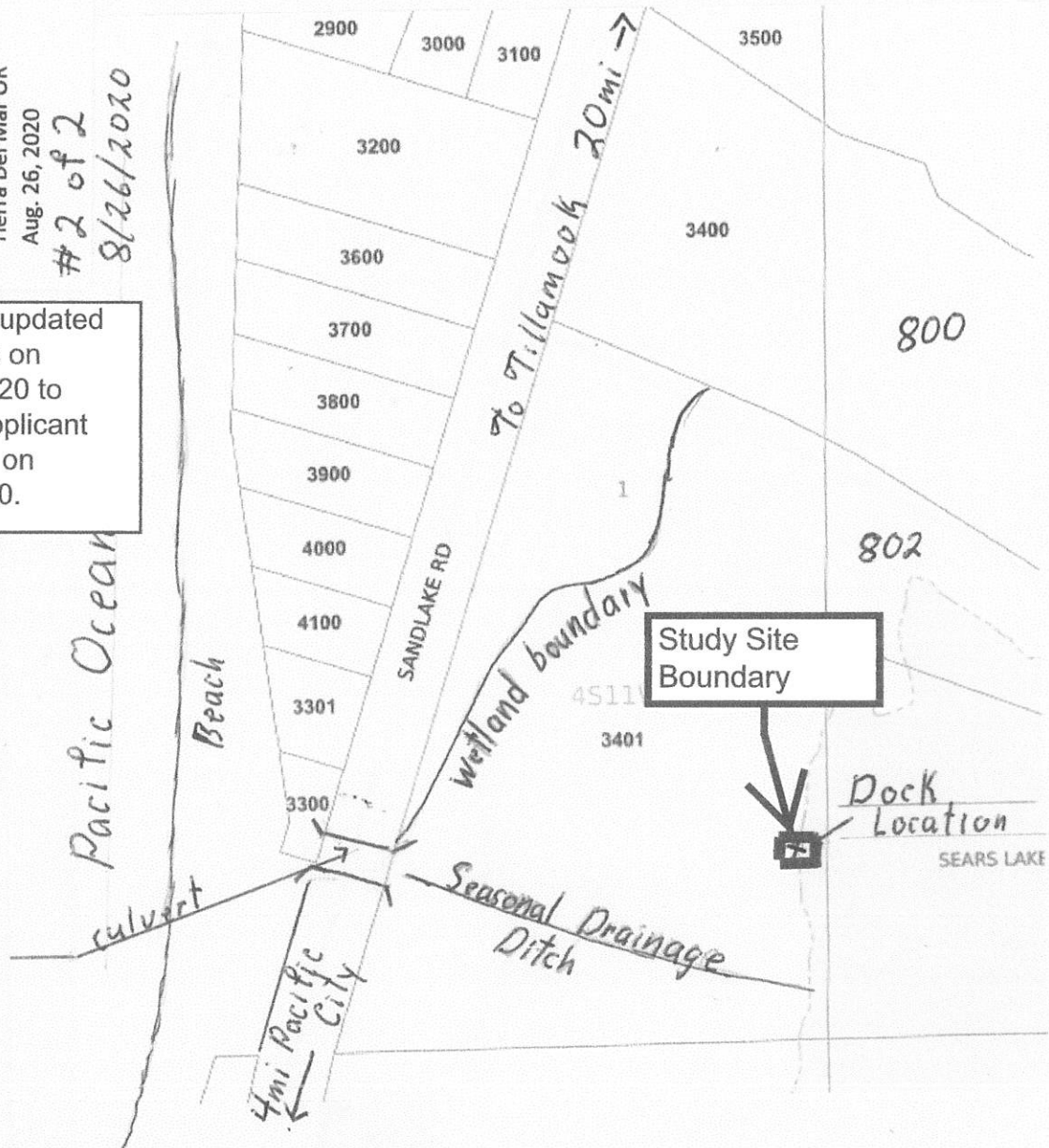
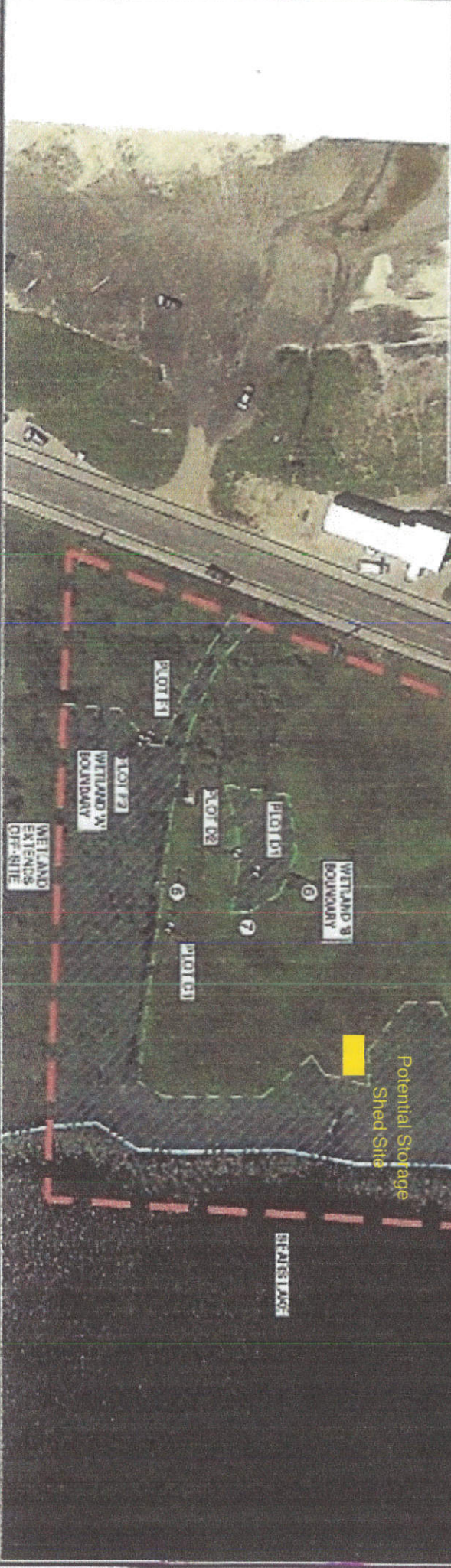


FIGURE 5 WETLAND MAP

GRAPHIC SCALE
SCALE: 1" = 100'-0"



Symbol	Classification
[Red dashed line]	STUDY AREA
[Red dashed line]	ON-SITE DELINEATED WETLAND AREA 'A' 61,485 SF (1.18 AC.)
[Blue hatched box]	ON-SITE DELINEATED WETLAND AREA 'B' 2,593 SF (0.06 AC.)
[Green hatched box]	ON-SITE DELINEATED WETLAND AREA 'C' 8,995 SF (0.18 AC.)
[Green dashed line]	WETLAND DELINEATION BOUNDARY
[Blue dashed line]	ORDINARY HIGH WATER MARK (OHW)
[Circle with dot]	SAMPLE POINT LOCATION
[Circle with arrow]	PHOTO POINT AND DIRECTION



DESIGNED BY: ACS
DRAWN BY: TAM
CHECKED BY: ACS
APPROVED BY: ACS

Westbrook
Science & Design, LLC

* SAMPLE POINT LOCATIONS AND SUBSECTION BOUNDARIES WERE OBTAINED BY UTILIZING A TRIMBLE SCIENTIFIC SYSTEMS DEVICE, ACCURACY +/- 1 FOOT.

SEARS PROPERTY
TILLAMOOK COUNTY
T 4S, R 11W, SECTION 1, TAX LOT 3401

DATE: 2021

WETLAND DELINEATION



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT
P.O. BOX 2946
PORTLAND, OR 97208-2946

November 25, 2020

Regulatory Branch
Corps No.: NWP-2020-368

Mr. David Sears
28805 Sandlake Road
Cloverdale, OR 97112
dgsears@hotmail.com

Dear Mr. Sears:

The U.S. Army Corps of Engineers (Corps) has received your application for a Department of the Army (DA) permit to place a dock, gangway and two wood posts in a freshwater lake known as Sears Lake. Sears Lake is located at 28805 Sandlake Road in Cloverdale, Tillamook County, Oregon at Latitude/Longitude: 45.24634°, -123.96585°. Your application has been assigned Corps No.: NWP-2020-368. Please refer to this number in all correspondence. We have reviewed the application you provided to us pursuant to Section 404 of the Clean Water Act (CWA).

Under Section 404 of the CWA, a DA permit is generally required for the discharge of dredged or fill material into waters of the U.S. The proposed project does not involve a discharge of dredged or fill material regulated under Section 404, therefore a Section 404 DA permit is not required. The project would place two 8-inch diameter wood posts within Sears Lake for placement of a 10-foot by 20-foot dock with a 30-foot gangway as documented on the enclosed document figures (Enclosure 1).

Our determination regarding the proposed work is based on the project description and construction methods provided in your permit application. You are cautioned that any change in the location or plans of the work may result in activities that require a DA permit.

We would like to hear about your experience working with the Portland District, Regulatory Branch. Please complete a customer service survey form at the following address: https://corpsmapu.usace.army.mil/cm_apex/f?p=136:4.

- 2 -

If you have any questions regarding our regulatory authority, please contact Mr. Jason Pietroski by telephone at (503) 530-0118 or e-mail at: Jason.P.Pietroski@usace.army.mil.

Sincerely,

A handwritten signature in cursive script that reads "Jaimee W. Davis". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Jaimee W. Davis
Chief, Portland Permits Section, Regulatory

cc:

Oregon Department of State Lands (Daniel Evans, Daniel.Evans@dsl.state.or.us; Dan Cary, dan.cary@dsl.state.or.us)
Oregon Department of Environmental Quality (401applications@deq.state.or.us)
Oregon Department of Land Conservation and Development (Patty Snow, patty.snow@state.or.us; Deanna Caracciolo, deanna.caracciolo@state.or.us)



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

July 22, 2021

David Sears
28805 Sandlake Road
Cloverdale, OR 97112

Kate Brown
Governor

Re: **WD # 2021-0100 Approved with Revisions**
Wetland Delineation Report for Sears Lake
Tillamook County; T4S R11W S1DD TL3401

Shemia Fagan
Secretary of State

Tobias Read
State Treasurer

Dear Mr. Sears:

The Department of State Lands has reviewed the wetland delineation report prepared by Westbrook Science & Design for the site referenced above. Based upon the information presented in the report, a site visit on June 24, 2021, and additional information submitted upon request, we concur with the wetland and waterway boundaries as mapped in revised Figure 5 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, 3 wetlands (Wetland A, B and C, totaling approximately 1.63 acres) and one water (Sears Lake) were identified. They are subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined).

This concurrence is for purposes of the state Removal-Fill Law only. We recommend that you attach a copy of this concurrence letter to any subsequent state permit application to speed application review. Federal or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. If you have any questions, please contact the Jurisdiction Coordinator for Tillamook County, Daniel Evans, PWS, at (503) 986-5271.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Ryan".

Peter Ryan, SPWS
Aquatic Resource Specialist

Enclosures

ec: Anita Cate Smyth, SPWS, Westbrook Science & Design, Inc
Tillamook County Planning Department
Kinsey Friesen, Corps of Engineers
Dan Cary, SPWS, DSL
Oregon Coastal Management Program (coast.permits@state.or.us)

WETLAND DELINEATION / DETERMINATION REPORT COVER FORM

Fully completed and signed report cover forms and applicable fees are required before report review timelines are initiated by the Department of State Lands. Make checks payable to the Oregon Department of State Lands. To pay fees by credit card, go online at: https://apps.oregon.gov/DSL/EPS/program?key=4.

Attach this completed and signed form to the front of an unbound report or include a hard copy with a digital version (single PDF file of the report cover form and report, minimum 300 dpi resolution) and submit to: Oregon Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279. A single PDF of the completed cover form and report may be e-mailed to: Wetland_Delineation@dsl.state.or.us. For submittal of PDF files larger than 10 MB, e-mail DSL instructions on how to access the file from your ftp or other file sharing website.

Contact and Authorization Information
Applicant David Sears, 28805 Sandlake Road, Cloverdale, OR 97112. Business phone #, Mobile phone # (503) 965-5071, E-mail: dgsears@hotmail.com.
Project and Site Information
Project Name: Sears Lake. Latitude: 45.2456, Longitude: -123.9629. Proposed Use: Current: pasture. Due diligence to identify other opportunities. Tax Map #, Tax Lot(s) 3401. Project Street Address: South of Tierra del Mar. Between Sears Lake and beach access. Township 4S, Range 11W, Section 1, QQ DD. Use separate sheet for additional tax & location information. Waterway: Sears Lake, River Mile: N/A.
Wetland Delineation Information
Wetland Consultant Name, Firm and Address: Westbrook Science & Design, LLC, Anita Cate Smyth, 13700 SW Ascension Drive, Tigard, OR 97223. Phone #, Mobile phone # (503) 869-7897, E-mail: info@westbrookscience.com.
Primary Contact for report review and site access is [X] Consultant [] Applicant/Owner [] Authorized Agent. Wetland/Waters Present? [X] Yes [] No. Study Area size: 4.2 ac. Total Wetland Acreage: 1.63.
Check Applicable Boxes Below
[] R-F permit application submitted. [X] Fee payment submitted \$ 475. [] Mitigation bank site. [] Resubmittal of rejected report (\$100). [] EFSC/ODOE Proj. Mgr. [] Request for Reissuance. See eligibility criteria. (no fee). [] Wetland restoration/enhancement project (not mitigation). DSL #, Expiration date. [] Previous delineation/application on parcel. [] LWI shows wetlands or waters on parcel. If known, previous DSL #, Wetland ID code.
For Office Use Only
DSL Reviewer: DE. Fee Paid Date: / / . DSL WD # 2021-0100. Date Delineation Received: 2 / 28 / 21. Scanned: [] Electronic: [X]. DSL App.#



FIGURE 5 WETLAND MAP

GRAPHIC SCALE

SCALE: 1" = 100'-0"

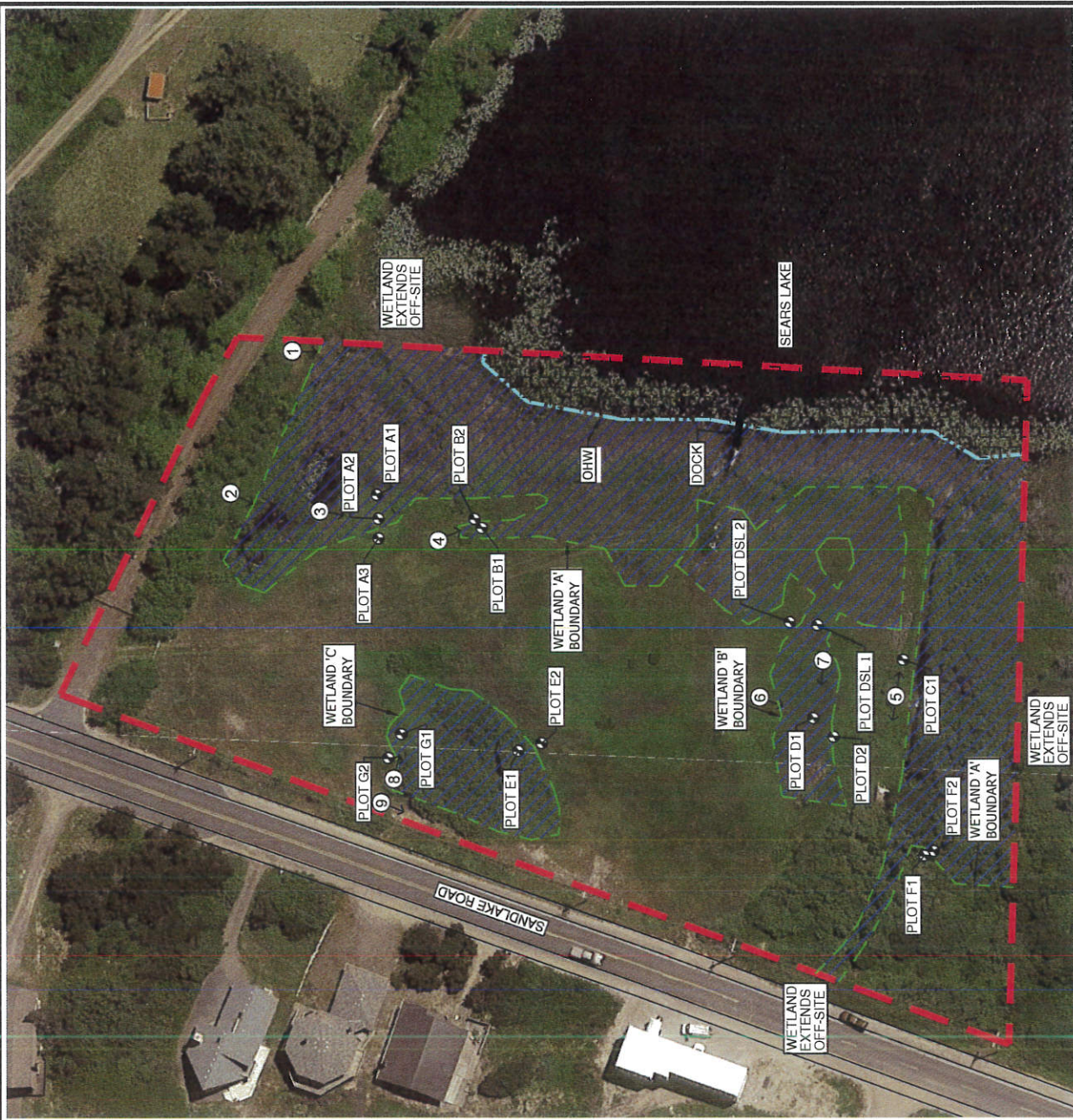


LEGEND

Symbol	Classification
[Red dashed line]	STUDY AREA
[Blue diagonal lines /]	ON-SITE DELINEATED WETLAND AREA 'A' 51,485 SF (1.18 AC.)
[Blue diagonal lines \]	ON-SITE DELINEATED WETLAND AREA 'B' 12,731 SF (0.29 AC.)
[Blue diagonal lines -]	ON-SITE DELINEATED WETLAND AREA 'C' 6,986 SF (0.16 AC.)
[Black wavy line]	ON-SITE SEARS LAKE (BELOW OHW) 12,415 SF (0.16 AC.)
[Green dashed line]	WETLAND DELINEATION BOUNDARY
[Blue dashed line]	ORDINARY HIGH WATER MARK (OHW)
[Black circle with dot]	SAMPLE POINT LOCATION
[Circle with arrow]	PHOTO POINT AND DIRECTION

	Acreage	Cowardin/HGM
Wetland 'A'	51,485 SF	PEMB/Depressional Outflow
Wetland 'B'	12,731 SF	PEMB/Depressional Outflow
Wetland 'C'	6,986 SF	PEMTC/Depressional Impounding
Sears Lake (below OHW)	12,415 SF	PUBH/Lacustrine Fringe

DSL WD # 2021-0100
 Approval Issued 7/22/2021
 Approval Expires 7/22/2026



DESIGNED BY: ACS
 DRAWN BY: TAM
 CHECKED BY: ACS
 APPROVED BY: ACS

**Westbrook
Science & Design, LLC**

• SAMPLE PLOT LOCATIONS AND JURISDICTIONAL BOUNDARY WERE OBTAIN BY UTILIZING A TRIMBLE GEOXH 6000 GPS DEVICE. ACCURACY +/- 1 FOOT.
 • PLAN SHOWN PROPERTY LINES ARE DEVELOPED FROM THE PROPERTY TAX LOT MAP. THEY ARE NOT PROVIDED BY A LAND SURVEY. FOR REFERENCE PURPOSES ONLY.

**SEARS PROPERTY
TILLAMOOK COUNTY
T 4S, R 11W, SECTION 1, TAX LOT 3401**

DATE: 2021 **WETLAND DELINEATION**

FIGURE

5

EXHIBIT C

Christopher Laws

From: Sarah Absher
Sent: Wednesday, November 10, 2021 3:13 PM
To: Christopher Laws
Subject: Public Comment Tillamook County: Administrative Review/851-21-000223-PLNG

From: BRADLEY Robert * ODFW <Robert.BRADLEY@odfw.oregon.gov>
Sent: Tuesday, August 10, 2021 1:46 PM
To: Allison Hinderer <ahindere@co.tillamook.or.us>
Cc: Sarah Absher <sabsher@co.tillamook.or.us>; Melissa Jenck <mjenck@co.tillamook.or.us>
Subject: EXTERNAL: RE: Tillamook County: Administrative Review/851-21-000223-PLNG

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

ODFW has no biological concerns at this site. Typically, we would recommend following our dock guidelines, but at this particular site it is not necessary.

The applicant indicates correspondence with the US Army Corp of Engineers in the application, but I see no mention of communication with DSL. If none has occurred, I recommend to the applicant contact DSL to ensure that no permit is needed from them (including inquiring about a waterway lease for the dock).

Robert

Robert W. Bradley
District Fish Biologist
Oregon Department of Fish and Wildlife
North Coast Watershed District
4907 Third St
Tillamook, OR 97141
503-842-2741 x18613 (w)
503-842-8385 (fax)

Note new email address as of 4/26/21: Robert.Bradley@odfw.oregon.gov

From: Allison Hinderer <ahindere@co.tillamook.or.us>
Sent: Tuesday, August 10, 2021 11:54 AM
To: PHIPPS Lisa * DLCD <Lisa.PHIPPS@dlcd.oregon.gov>; BROWN Jevra * DSL <jevra.brown@dsl.state.or.us>; robert.bradley@state.or.us; JOHNSON York * DEQ <york.johnson@deq.state.or.us>; fw1ofwo@fws.gov; doryfreshfish@embarqmail.com; Tiffany Miller <tmiller@tillamook911.com>; OEDER Jim <joeder@nrfd.com>; VANDECOEVERING Denise <d Vandeco@co.tillamook.or.us>; Jaime Craig <jcraig@co.tillamook.or.us>; Ron Newton <rnewton@co.tillamook.or.us>; CHIOLA Chris <CCHIOLA@CO.TILLAMOOK.OR.US>; Isabel Gilda <igilda@co.tillamook.or.us>; buck97112@outlook.com
Cc: Sarah Absher <sabsher@co.tillamook.or.us>
Subject: Tillamook County: Administrative Review/851-21-000223-PLNG

Hello,

Please see link for Conditional Use Request:

[851-21-000223-PLNG | Tillamook County OR](#)

Thank you.



Allison Hinderer | Office Specialist 2
TILLAMOOK COUNTY | Community Development | Surveyor's Office
1510-C Third Street
Tillamook, OR 97141
Phone (503)842-3423 ext. 3423
ahindere@co.tillamook.or.us

This e-mail is a public record of Tillamook County and is subject to the State of Oregon Retention Schedule and may be subject to public disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

Christopher Laws

From: Sarah Absher
Sent: Wednesday, November 10, 2021 3:04 PM
To: Christopher Laws
Subject: Public Comment WN2021-0890 Response to Local Case File #851-21-000223-PLNG
Attachments: Wetland Land Use Notice.pdf; Wetland Land Use Notice Response.pdf

From: Daniel.Evans@dsl.state.or.us <Daniel.Evans@dsl.state.or.us>
Sent: Thursday, August 12, 2021 9:17 AM
To: Sarah Absher <sabsher@co.tillamook.or.us>
Subject: EXTERNAL: WN2021-0890 Response to Local Case File #851-21-000223-PLNG

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

We have completed our review of the Wetland Land Use Notification that was prepared for David Sears - David Sears The WLUN form was submitted to the Department for review/response and given the file number WN2021-0890

The results and conclusions from that review are explained in the attached pdf documents. If the attached documents are illegible or difficult to open, you may contact the Department and request paper copies. Otherwise, please review the attachments carefully and direct any questions or comments to Jurisdiction Coordinator, Daniel Evans at 503-986-5271 or Daniel.Evans@dsl.state.or.us. Thank you for your interest in the project.

Additional resources that may be helpful:
[DSL Coordinator List](#)

[R/F Fee Schedule](#)

Aquatic Resource Management Program
Oregon Department of State Lands
775 Summer St. NE, Ste. 100
Salem, OR 97301-1279
Fax: (503) 378-4844
www.oregon.gov/dsl

Closing Information

Additional Comments

This site has a recent delineation completed and concurred with by DSL (WD2021-0100). The location of the shed is now within wetland boundaries after the DSL site investigation. However, the shed, dock, and gangway, based on the dimensions proposed, will be less than 50 cy of total wetland removal/fill and therefore a state permit is not required. The ODFW Residential Dock Guidelines are recommended for best construction practices.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

8/12/2021

Response by:

Daniel Evans

Response Phone:

503-986-5271



Wetland Land Use Notice Response

Response Page

Department of State Lands (DSL) WN#*

WN2021-0890

Responsible Jurisdiction

Staff Contact

Sarah Absher

Jurisdiction Type

County

Municipality

Tillamook

Local case file #

851-21-000223-PLNG

County

Tillamook

Activity Location

Township	Range	Section	QQ section	Tax Lot(s)
04S	11W	01	DD	3401

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Tillamook

Latitude

45.246463

Longitude

-123.966334

Wetland/Waterway/Other Water Features

There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

The National Wetlands Inventory shows wetland, waterway or other water features on the property

The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.

Applicable Oregon Removal-Fill Permit Requirement(s)

A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Christopher Laws

From: Sarah Absher
Sent: Wednesday, November 10, 2021 3:21 PM
To: Christopher Laws
Subject: Public Comment Sears dock

From: wildflowerd0n38 <wildflowerd0n38@gmail.com>
Sent: Saturday, August 21, 2021 11:09 AM
To: Sarah Absher <sabsher@co.tillamook.or.us>
Subject: RE: Sears dock

SEARS DONNOT OWN MUCH OF THE LAKE AS THERE ARE THREE OWNERS. THE SEARS HAD TWO CAMPERS THIS LAST WEEK END AND PUT OUT A POT A POTTY...THEY HAVE HAD TWO ENCOUNTERS WITH BEARS TRYING TO GET THEIR DOG AND IN THE NORTH SIDE OF THEIR HOME LOST THEIR ANIMALS AS THEY WERE KILLED AND EATEN THEY CALLED ME EACH TIME ABOUT THEIR LOSS OF ANIMALS. THE LAKE AREA THEY OWN IS TOO SMALL TO WARRANT A DOCK AND I AM AGAINST SPPORTING THEIR DESIRE TO USE MY PORTION OF THE LAKE I OWN TAX LOT 300. I AM AFRAID OF INDIVIDUALS HAVING A ACCIDENT..DROWNING, ATTACT BY BEARS OR OTHER ANIMALS SUCH AS THE COUGERS OR BOB CATS THAT ARE ON THE PROPERTY LOOKING FOR FOOD..COOKING SMELLS ATTRACT THEM. ALSO THE FIRE THAT ONE CAMPER HAD THIS LAST WEEKEND COULD START A FORREST FIRE. I ALSO HAVE THE WATER RIGHTS FOR SEARS STREAM AND UNKOWN STREAM THAT BORDERS THE SOUTH SIDE OF THE LAKE....

WE DONOT WANT STRANGERS USING THE LAKE AND THE DOCK THEY WANT TO BUILD.
If you want maps and proof of my ownership I WILL BE HAPPY TO PROVIDE IT.
Barbara giddings..wildflower corporation
And dupont trust

Sent from my Verizon, Samsung Galaxy smartphone

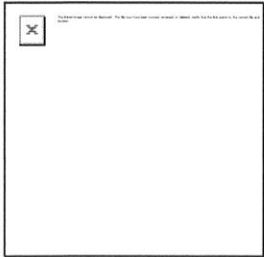
----- Original message -----

From: Sarah Absher <sabsher@co.tillamook.or.us>
Date: 8/20/21 16:50 (GMT-08:00)
To: Brenda Giddings <brendagiddings@gmail.com>
Cc: Barbara Giddings <wildflowerd0n38@gmail.com>, David Miller <dkm@miller-wagner.com>, "Dr. Frank E. Gomer" <fgomer@gomerconsulting.com>, Leslie Guterman <leslie.guter@gmail.com>, Leslie Gutterman <lesguter@comcast.net>, Mimi Texting <Wildflowerdon@aol.com>
Subject: Sears dock

Good Afternoon Everyone;

Thank you Brenda for the update. I will keep a lookout for the letters on Monday.

Sincerely,



Sarah Absher, CFM, Director

TILLAMOOK COUNTY | Community Development

1510-B Third Street

Tillamook, OR 97141

Phone (503) 842-3408 x3317

sabsher@co.tillamook.or.us

From: Brenda Giddings <brendagiddings@gmail.com>

Sent: Friday, August 20, 2021 2:33 PM

To: Sarah Absher <sabsher@co.tillamook.or.us>

Cc: Barbara Giddings <wildflowerd0n38@gmail.com>; David Miller <dkm@miller-wagner.com>; Dr. Frank E. Gomer <fgomer@gomerconsulting.com>; Leslie Guteran <leslie.guter@gmail.com>; Leslie Gutterman <lesguter@comcast.net>; Mimi Texting <Wildflowerdon@aol.com>

Subject: EXTERNAL: Sears dock

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Hello

We are putting a letter with attachment letters to me from David Sears with the intent of the primitive campground.

The Hoa is writing one as they will be the end all owners.

David Miller is writing one as owner of lot 30.

Wildflower will be writing one.

We will have them emailed to you by Monday, Tuesday at the latest before the 4pm deadline.

I'm writing to you now as I know your extremely busy so this is a FYI of letters to come and we do not want them missed.

Is there another email CC I should use as well. Barbara mentioned Jamie??

Thank you.

Brenda Giddings Johnson

--

Sent from Gmail Mobile

Christopher Laws

From: Sarah Absher
Sent: Wednesday, November 10, 2021 3:04 PM
To: Christopher Laws
Subject: Public Comment- Written Comments Re Conditional Use Request #851-21-000223-PLNG: SEARS
Attachments: Exhibits Sears Permit.pdf

From: David Miller <DKM@miller-wagner.com>
Sent: Sunday, August 22, 2021 4:36 PM
To: Sarah Absher <sabsher@co.tillamook.or.us>
Cc: Christie Miller <CLM@miller-wagner.com>
Subject: EXTERNAL: FW: Written Comments Re Conditional Use Request #851-21-000223-PLNG: SEARS

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Sarah: Attached please find my comments/objections to the above Conditional Use Request. The attached exhibits are 1-8. Number 9 is a brief video which I will send separately. Thanks.

Dave Miller

From: David Miller <DKM@miller-wagner.com> on behalf of David Miller <DKM@miller-wagner.com>
Date: Sunday, August 22, 2021 at 4:23 PM
To: Sarah Absher <sabsher@co.tillamook.or.us>
Cc: Christie Miller <CLM@miller-wagner.com>
Subject: Written Comments Re Conditional Use Request #851-21-000223-PLNG: SEARS

Ms. Absher: I received your Notice of Administrative Review dated August 10, 2021, presumably because I am an owner of property located within 250 feet of the exterior boundaries of the subject parcel for which this application has been made. Please consider these comments/objections as the Tillamook County Department of Community Development considers this Conditional Use Request.

A. A few substantive preliminary comments pertaining to the request to place a dock at the north end of Sears Lake in Tierra Del Mar:

1. Whereas the prospective shed does not directly impact Sears Lake, the lengthy (30') ramp and dock clearly do. I was surprised to learn that Sears Lake is not owned solely by Mr. Sears, rather by three parties: Mr. Sears; Barbara Giddings; and one William Wray. A map of the lake supplied by Tigor Title clearly delineates the deeded boundaries of the portions of the lake owned by each of the deeded owners. See, Attachment 1. While the dock is proposed to be placed in the portion of Sears Lake owned by Mr. Sears, nothing in his submission describes how the proposed use of the dock (personal watercraft, chairs, barbecues, kayaks) will not impact the water and the wildlife in and around the entire lake, which belongs equally to two other owners. Nor is there mention of how the potential liability of the co-owners would be mitigated if the dock was permitted over their objection and an accident associated with the dock were to occur.

Section 6.040 of Article VI (Review Criteria) specifies that the proposed use “will not alter the character of the surrounding area...in a manner which substantially ...impairs ...the use of surrounding properties...” Section 6.040(4). In this case---when three different parties share a body of water---the two who are not seeking the proposed use are not simply “surrounding” property owners; they are co-owners of the water in the lake.

I do not know if the co-owners of Sears Lake have consented to this proposed use. If their position is not known, I would think that information would be an essential pre-condition to determining whether or not to grant the conditional use.

2. As your letter/notice states, the subject property is zoned Rural Residential 2 (RR-2). The “Uses Permitted Outright” for such properties do not include docks. Section 3.020(2). The “Uses Permitted Conditionally” contain 23 listed uses. Docks are not listed as one of them. Section 3.020(3). Perhaps the County deems docks “accessory structures” or “accessory uses,” Section 3.020(3)(g), although I see no indication of such interpretation anywhere in the applicable Ordinances. ✓

Mr. Sears’ application argues that Goal 17 of the County’s Comprehensive Plan supports placing a dock in the northern end of Sears Lake because “Docks” are defined as “Water-Dependent Uses.” However, Goal 17 relates specifically to “Coastal Shorelands.” It appears Sears Lake is located adjacent to, not within, the “Nestucca Estuary Shorelands,” which is defined at p. 59 of the Goal 17 Coastal Shorelands Boundary Definitions, as follows: ✓

“3.3f. NESTUCCA ESTUARY SHORELANDS

1. From Tierra Del Mar to the intersection of Sandlake County Road with the Pacific City bridge, the boundary line follows Sandlake County Road, except at Tierra Del Mar, **where the boundary includes areas within 100 feet of the ocean shore**, and at Sears Lake, where the boundary line extends 500 feet around the southern end of the lake to include the landslide topography adjacent to the lake and 50 feet around the norther end of the lake. At Miles and Town Lakes, islands of shorelands will be created by 50 foot boundaries around each lake.” Emphasis added. ✓

Attachment 2 is a Google Earth photo of the area in question. The scale at the bottom reveals that the western edge of Sears Lake is approximately 100 meters (or 328 feet) from the ocean shore at the south end of Tierra Del Mar. It does not appear Sears Lake is, therefore, within the boundary of the Nestucca Estuary Shorelands. While “Docks” are clearly “Water-Dependent Uses” within the shoreland boundary, they are not outside of that boundary. The location of the proposed dock is outside of the boundary. ✓

3. Moreover, Mr. Sears’ property carries the Shoreland Overland (SH) Zone designation. See, Ordinance Article/Section 3.545. On its face, that designation places “special restrictions” beyond those required by the Base Zone (RR-2) for the subject property. The purpose of the SH designation is to “provide for the development, restoration, conservation of protection of coastal shorelands in a manner which is compatible with the resources and benefits of coastal shorelands and adjacent coastal water bodies.” Section 3.545(1)(a).

The property in question is presumably designated with the SH zone because it is “land contiguous with the ocean estuaries and coastal lakes that contain the following features shown in the Coastal Shoreland Element of the Comprehensive Plan:

- (1) Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or a coastal lake.

.....

- (4) Significant shoreland and wetland biological habitats.

.....

(6) Shoreland areas of exceptional aesthetic or scenic quality.” Section 3.545(2)(a)

If Mr. Sears’ property is deemed a “Rural Shoreland” property, it does not appear a dock is permitted without a finding by the County that the use sought cannot be accommodated elsewhere. Section 3.545(a)(1)(f). If his property is deemed “Significant Shoreland and Wetland Biological Habitat,” a dock might be permitted if it meets the required criteria. Section 3.545(b)(2). However, because the lake has had no dock within it for many, many years, and surrounding landowners have become accustomed to the appearance of an unblemished lake, and because it fits within an area of clearly “exceptional aesthetic or scenic quality,” permitting a dock in this location would detract from such “aesthetic or scenic quality” for all those who admire the view of the lake, such as myself and other surrounding property owners. This is particularly true in light of the comments that follow.

B. Mr. Sears signed his Planning Application for conditional use permit on June 15, 2021. More than two months prior to that date, however, on April 3, 2001, Mr. Sears communicated with another neighboring property owner, Brenda Giddings, and shared his true intent for the property at issue herein: he indicated he is **“applying for a conditional permit [to establish] a primitive campground. The plan is to have four campsites along the lake.”** See Attachment 3. After Ms. Giddings responded with obvious questions/concerns, Mr. Sears replied with additional information reflecting and underlying his intent:

- “the driving force for this project is sustainability...This is a costly piece of property to be sitting there. Our proposal is a way to enjoy the property without it becoming a financial burden.”
- “the primitive campground... doesn’t require a restroom...RV hookups...[and] the maximum number of people at any one time would be 32.”
- “For restrooms we will be using porta johns”. See, Attachment 4.

After Ms. Giddings responded with additional questions, Mr. Sears replied again on April 20, 2021. While Mr. Sears chose to focus on the great positive experiences of families while camping, he then goes on to list the serious crowding and traffic concerns that are more apparent than ever along Sandlake Road at the precise location of the subject property:

- “The Tierra Del Mar beach itself will be packed with cars, people, jet skis.”
- “Sandlake Road itself will be packed on both sides of the road with parked cars and other cars moving slowly along trying to find a parking spot.”
- “The porta-johns at the beach entrance along with the dumpster will be in plain view.”
- “The houses on the south end of Tierra Del Mar some of which are short term rentals will be busy. They advertise up to 17 guests can stay in one house and promote the jet skis on the beach.”
- “constant vehicle racing ...[and] the local police are too busy to address it.” See, Attachment 5.

Mr. Sears' "solution" to the obvious problems currently plaguing the area is to add to the existing mix of problems a primitive campground which "houses" up to 32 people at a time. A quick drive down Sandlake Road on any summer weekend reveals the very problems he lists. See, Attachment 9 (IMG/MOV), a brief video of driving north on Sandlake Road directly by the subject property, passing by the County-placed "Caution: Merging Traffic" sign.

It appears that "primitive campgrounds" are permitted in Tillamook County, subject to certain Standards. See, Section 5.040. The stated purpose of these Standards is "preserving the public safety, health, and general welfare." Such campgrounds are "unattended facilities," can have four or more campsites, and are required to provide each campsite with "a fire pit or ring." Section 5.040(3).

As a neighboring property owner who travels along Sandlake Road every day, it has become obvious that campers have already begun staying on the subject property. They may very well be family of Mr. Sears; I have no idea. But the presence of their campsite is quite obvious to any passerby, and very obvious to those of us who have property and/or reside above Sears Lake. See, Attachment 6, depicting a campsite on Lake Sears.

Mr. Sears has livestock on the property in question. See, Attachment 7. While I share his view that watching children pet livestock is a pleasing experience, I'm also mindful that just as county fairs must consider the hard truth about e-coli and other exposures to kids who come to the fair and want to simply "pet the animals," a campground without any running water supply, one porta potty, and vehicles coming/going at all hours, must consider the impact that would have on the environment and surrounding property owners.

Mr. Sears mentions in one of his emails that the Nestucca Fire and Rescue Station is located some 4 miles from his property. That is small consolation to surrounding property owners in the event a fire erupts without running water on the site. Our state is currently being ravaged by fires, just as our local coastal region was last summer. Adding unsupervised fires to an area without running water runs directly contrary to the public safety priority required for primitive campgrounds.

There is one roadway leading to a gate that Mr. Sears indicates is the likely access for the primitive campers. This roadway is largely unmarked, is "blind" to traffic on Sandlake Road, and would present a clear traffic hazard in the event vehicles were coming/going, and/or pedestrians crossing the road at an unmarked area. See, Attachment 8. The Tierra Del Mar Beach Access (#35) is just south of the roadway in question. As the video and everyday experience shows us, that access point is filled with vehicles and beachgoers standing by and moving about the roadway, going to/from the beach at that location. It is inconceivable that adding additional traffic burden to that location wouldn't create a clear and immediate increase in danger to both pedestrians and motorists.

I have not mentioned the local wildlife that would be attracted to food and other refuse a primitive campground would inherently offer. Bear roam that area and would find a primitive campground in that location very attractive to their needs.

In summary, while Mr. Sears' express intent on his application for a conditional use permit for his dock is for use by his family, his stated purpose in correspondence to others suggests a clear intent to include the dock as a key component of a primitive campground he intends to create for his own financial reasons. Respectfully, it does not appear a conditional use of Mr. Sears' property for placement of his intended dock is warranted under the law and, further, to the extent it is a pretext for creating a primitive campground, I object to such use for the reasons stated herein.

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Owner, Lot 30, Nantucket Shores