

1510 - B Third Street
Tillamook, Oregon 97141
www.tillamook.or.us

Building (503) 842-3407
Planning (503) 842-3408
On-Site Sanitation (503) 842-3409
FAX (503) 842-1819
Toll Free 1 (800) 488-8280



Land of Cheese, Trees and Ocean Breeze

**RIPARIAN EXCEPTION REQUEST #851-22-000152-PLNG:
HIETER**

*NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:
ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE,
IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER*

September 23, 2022

Dear Property Owner:

This is to confirm that the Tillamook County Department of Community Development **APPROVED WITH CONDITIONS** the above-cited requests on September 23, 2022. A copy of the application, along with a map of the request area and the applicable criteria for review are available for inspection on the Tillamook County Department of Community Development website: <https://www.co.tillamook.or.us/commdev/landuseapps> and is also available for inspection at the Department of Community Development office located at 1510-B Third Street, Tillamook, Oregon 97141.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. Forms and fees must be filed in the office of this Department before **4:00pm on October 5, 2022**. This decision will become final on October 5, 2022 after 4:00pm unless an appeal is filed in accordance with Tillamook County Land Use Ordinance Article X.

Request: An exception request to reduce the required 50-foot riparian setback from the Miami River to 25-feet, to allow for the replacement of a retaining wall.

Location: The subject property is accessed via Miami Foley Road, a County road, is designated as Tax Lot 503 in Section 14 of Township 1 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon.

Zone: Rural Residential 2-Ace and Farm (F-1)

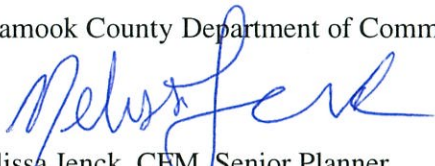
**Applicant/
Property Owner:** Jason Hieter, 14955 Miami Foley Road, Bay City, OR 97107

CONDITIONS OF APPROVAL

1. The applicant/property owner shall obtain all Federal, State, and Local permits, as applicable.
2. All applicable permits, including a consolidated Zoning and Building Permit from the Tillamook County Department of Community Development shall be obtained prior to construction the proposed development.
3. A minimum 25-foot riparian setback from the Miami River, determined by the Oregon Department of Fish and Wildlife (ODFW) and measured in accordance with TCLUO Section 4.140, shall be maintained on the subject property.
4. The applicant/property owner shall develop in coordination with ODFW a riparian vegetation enhancement (planting) plan and a copy of the plan shall be submitted to the Department at the time of consolidated Zoning and Building Permit application submittal. The plan submittal shall include written confirmation from ODFW that the plan is acceptable. Any trees to be removed and any mitigation action for each tree shall also be indicated on the riparian vegetation enhancement plan.
5. The applicant/property owner shall submit a site plan drawn to scale that confirms all required setbacks, including the 25-foot riparian setback, are met. The site plan shall be submitted to the Department of Community Development at the time of consolidated Zoning and Building Permit application submittal.
6. Development shall otherwise comply with the applicable standards and requirements of TCLUO Section 3.010: Rural Residential 2-Acre (RR-2) Zone and TCLUO Section 3.106: Estuary Conservation One (EC-1) zone.
7. A Floodplain Development Permit is required for development within the Area of Special Flood Hazard. Applicant shall obtain an approved Floodplain Development Permit demonstrating compliance with the requirements of TCLUO Section 3.510 prior to or at the time of consolidated Zoning and Building Permit application submittal.
8. This approval expires if a Building Permit is not applied for within two (2) years of issuance of this approval.

Sincerely,

Tillamook County Department of Community Development



Melissa Jenck, CFM, Senior Planner
503-842-3408 x 3301 or mjenck@co.tillamook.or.us



Sarah Absher, CFM, Director

Enc.: Vicinity, Assessor's and Zoning maps



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RIPARIAN EXCEPTION #851-22-000152-PLNG: HIETER

ADMINISTRATIVE DECISION AND STAFF REPORT

DECISION: Approved with Conditions

DECISION DATE: September 23, 2022

REPORT PREPARED BY: Melissa Jenck, CFM, Senior Planner

I. GENERAL INFORMATION:

Request: An exception request to reduce the required 50-foot riparian setback from the Miami River to 25-feet, to allow for the replacement of a retaining wall.

Location: The subject property is accessed via Miami Foley Road, a County road, is designated as Tax Lot 503 in Section 14 of Township 1 North, Range 10 West of the Willamette Meridian, Tillamook County, Oregon.

Zone: Rural Residential 2-Ace and Farm (F-1)

**Applicant/
Property Owner:** Jason Hieter, 14955 Miami Foley Road, Bay City, OR 97107

Description of Site and Vicinity: The subject property is an irregular rectangular shape, encompasses 1.73 acres and is located east of the City of Garibaldi (Exhibit A). The property is currently improved with a residential dwelling and several outbuildings. The property is vegetated with grasses and trees throughout. The Miami River traverses in an east/west direction abutting the southerly property line (Exhibits A & B). The topography at the location proposed for development consists of a moderately flat area with slopes in the southerly portion of the property down towards the Miami River (Exhibits A and B).

Riparian habitat values are discussed further in this report. No wetland or natural features are mapped on the subject property outside of the Miami River (Exhibit A). 'Exhibit B' contains a site plan which depicts the location of the proposed riparian setback from the existing and proposed retaining wall locations (Exhibit B). The subject property is within the AE Area of Special Flood Hazard as depicted on FEMA FIRM 41057C0384F dated September 28, 2018 (Exhibit A).

Staff finds the subject property is split zoned Rural Residential 2-Acre (RR-2) and Farm (F-1), with a predominate portion of the subject property maintained within the RR-2 zone. Staff’s findings and compliance with underlying zone standards shall demonstrate compliance with the RR-2 zone, as the existing primary single-family dwelling and its outbuildings are primarily maintained in the RR-2 zone (Exhibit A).

Applicant is proposing to replace an existing retaining wall and extend the wall both easterly and westerly on the subject property and is requesting to establish a 25-foot riparian setback, a 25-foot reduction to the required 50-foot riparian setback from the Miami River (Exhibit B).

II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:

The desired use is governed through the following sections of the Tillamook County Land Use Ordinance (TCLUO). The suitability of the proposed use, in light of these criteria, is discussed in Section III of this report:

- A. TCLUO Section 3.010: Rural Residential 2-Acre (RR-2) zone
- B. TCLUO Section 3.106: Estuary Conservation 1(EC1) Zone
- C. TCLUO Section 3.510: Flood Hazard Overlay (FH) zone
- D. TCLUO Section 4.140: Requirements for Protection of Water Quality and Streambank Stabilization

III. ANALYSIS:

Notice of the request was mailed to property owners within 250 feet of the subject property and other agencies on June 3, 2022. One comment was received and is included in “Exhibit C” of this report.

Findings: Notice of this application was sent to the Oregon Department of Fish & Wildlife (ODFW) as well as the Oregon Department of State Lands (DSL), who has jurisdiction over all waterways in the State of Oregon. No comments were received from DSL during the public comment period. ODFW concluded that the proposed replacement and extension of the retaining wall would have minor biological loss. ODFW recommended mitigation of habitat through planting native conifers and/or shrubs (Exhibit C).

Analysis of the request in relation to the criteria that are the basis for the decision to grant or deny an exception request, including the requirement for a riparian habitat value assessment by ODFW, are discussed in Section C below. Concerns related to protection of the riparian corridor are also addressed below and reflected in the Conditions of Approval.

A. Section 3.010: Rural Residential 2-Acre (RR-2) Zone

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.

- 1. **Section 3.010 (2)(A)** states that “Single-family dwelling” and their accessory uses are permitted outright in the Rural Residential 2 Acre Zone.

Findings: Staff finds the proposed retaining wall is accessory to the single-family dwelling use.

- 2. **Section 3.010 (4) Standards:** *Land divisions and development in the RR-2 and RR-10 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:*

...

- (f) *The minimum front yard shall be 20 feet.*
- (g) *The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be no less than 15 feet.*
- (h) *The minimum rear yard shall be 20 feet; on a corner lot, it shall be no less than 5 feet.*

(i) *The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.*

...

Findings: Applicant's submittal confirms the setbacks of the RR-2 zone can be met for replacement and expansion of the retaining wall as applicable (Exhibit B). Staff finds a Condition of Approval has been made to require demonstration that the applicable development standards of the RR-2 zone are met at the time of consolidated Zoning and Building Permit application submittal.

B. TCLUO Section 3.106, 'Estuary Conservation 1 (EC1) Zone'

The estuary boundary and zones are defined in TCLUO Section 3.100 as "*ESTUARY ZONES shall be applied to all estuarine waters, intertidal areas, submerged and submersible lands and tidal wetlands up to the line of non-aquatic vegetation or the Mean Higher High Water (MHHW) line, whichever is most landward.*"

Findings: Applicant is proposing to replace an existing retaining wall and extend the wall both easterly and westerly on the subject property (Exhibit B). A site plan was included in 'Exhibit B', which demonstrates that the proposed siting location is at its closest point 25-feet from the riparian setback line. A letter was included from Robert Bradley, Oregon Department of Fish and Wildlife, recommending a 25-foot setback from the high-water line (Exhibit B). The site plan indicates that the proposed siting location of the retaining wall is landward of the Mean Higher High water (MHHW) and the line of non-aquatic vegetation.

Staff finds that the proposed development is located outside the Estuary Conservation 1 (EC1) zone, as it is located landward of the estuary boundary. Staff find the Applicant will be required to demonstrate compliance with such standards for any future development on the site subject to the EC1 boundary at time of consolidated zoning/building permit approval.

C. Findings for TCLUO Section 3.510 Flood Hazard Overlay (FH) zone

The subject property is within an AE Area of Special Flood Hazard as depicted on FEMA FIRM 41057C0384F dated September 28, 2018 (Exhibit A). Staff finds a Floodplain Development Permit, #851-22-000153-PLNG is in review by this Department for consideration of the retaining wall replacement and expansion. Staff finds that as a Condition of Approval, Applicant shall obtain an approved Floodplain Development Permit demonstrating compliance with the requirements of TCLUO Section 3.510. Confirmation shall be demonstrated at the time of consolidated Zoning/Building Permit application submittal.

D. Findings for TCLUO Section 4.140: Requirements for Protection of Water Quality and Streambank Stabilization

TCLUO Section 4.140 identifies as areas of riparian vegetation that area within 50 feet of the Miami River measured from the more landward of the line of non-aquatic vegetation or the mean high-water line. TCLUO Section 4.140 also limits removal of vegetation and development within those areas of riparian vegetation.

TCLUO 4.140(2) requires all development to be located outside of riparia areas with some exceptions. Exceptions include the following:

...

(c) *Because of natural features such as topography, a narrower riparian area protects equivalent habitat values; or*

(d) *A minimal amount of riparian vegetation is present and dense development in the general vicinity significantly degrades riparian habitat values.*

TCLUO 4.140(2) also provides for an Exception process for certain types of development based on a determination to be made by ODFW that a narrower riparian area provides equivalent protection value or minimal vegetation is present and existing development degrades riparian values.

Applicant's Site Plan anticipates that the closest point of the proposed development will be twenty (25) feet from the line of non-aquatic vegetation with the majority of the to-be-replaced and expanded areas of the retaining wall to demonstrate an increase in the riparian setback (Exhibit B).

Comments from Robert Bradley, ODFW District Fish Biologist, were included in the Applicant's submittal and are also included in "Exhibit C". Staff finds that ODFW has provided a determination that a minimal amount of biological habitat loss would occur as part of the proposed retaining wall expansion. ODFW recommended that potential riparian habitat loss be mitigated through an approved planting plan of native conifers and/or shrubs with their agency (Exhibit B).

Staff finds that the determination by Mr. Bradley meets the criterion of TCLUO Section 4.140(2)(d). To ensure that the threat of erosion will not increase as a result of the proposed activities, a Condition of Approval has been made to require the Applicant to incorporate a vegetation maintenance plan for the riparian area to promote bank stabilization. Staff finds that an exception to allow the reduction of the riparian setback from 50 feet to 25 feet can be granted subject to Conditions of Approval requiring that the applicant/property owner to adhere to the recommendations stated by ODFW.

IV. DECISION: APPROVED WITH CONDITIONS

Staff concludes that the applicant has satisfied the review criteria and can meet all applicable ordinance. Therefore, Staff approves this request for an exception to the riparian setback subject to the Conditions of Approval in Section V of this report. No further development shall occur on the subject property without prior land use approval. This approval does not address any additional development of the subject property.

By accepting this approval, the applicant and property owner agrees to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval, including construction under a Building Permit approved subject to this approval. The applicant/property owner shall obtain all the necessary local, state, and federal permits and comply with all applicable regulations for the proposed construction.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. In such cases, forms and fees must be filed in the office of this Department before **4:00 PM on October 5, 2022.**

V. CONDITIONS OF APPROVAL:

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. All applicable permits, including a consolidated Zoning and Building Permit from the Tillamook County Department of Community Development shall be obtained prior to construction the proposed development.
3. A minimum 25-foot riparian setback from the Miami River, determined by the Oregon Department of Fish and Wildlife (ODFW) and measured in accordance with TCLUO Section 4.140, shall be maintained on the subject property.
4. The applicant/property owner shall develop in coordination with ODFW a riparian vegetation enhancement (planting) plan and a copy of the plan shall be submitted to the Department at the time of consolidated Zoning and Building Permit application submittal. The plan submittal shall include written confirmation from ODFW that the plan is acceptable. No trees within the 25-foot riparian corridor shall be removed without written consent from ODFW. Any trees to be removed and any mitigation action for each tree shall also be indicated on the riparian vegetation enhancement plan.

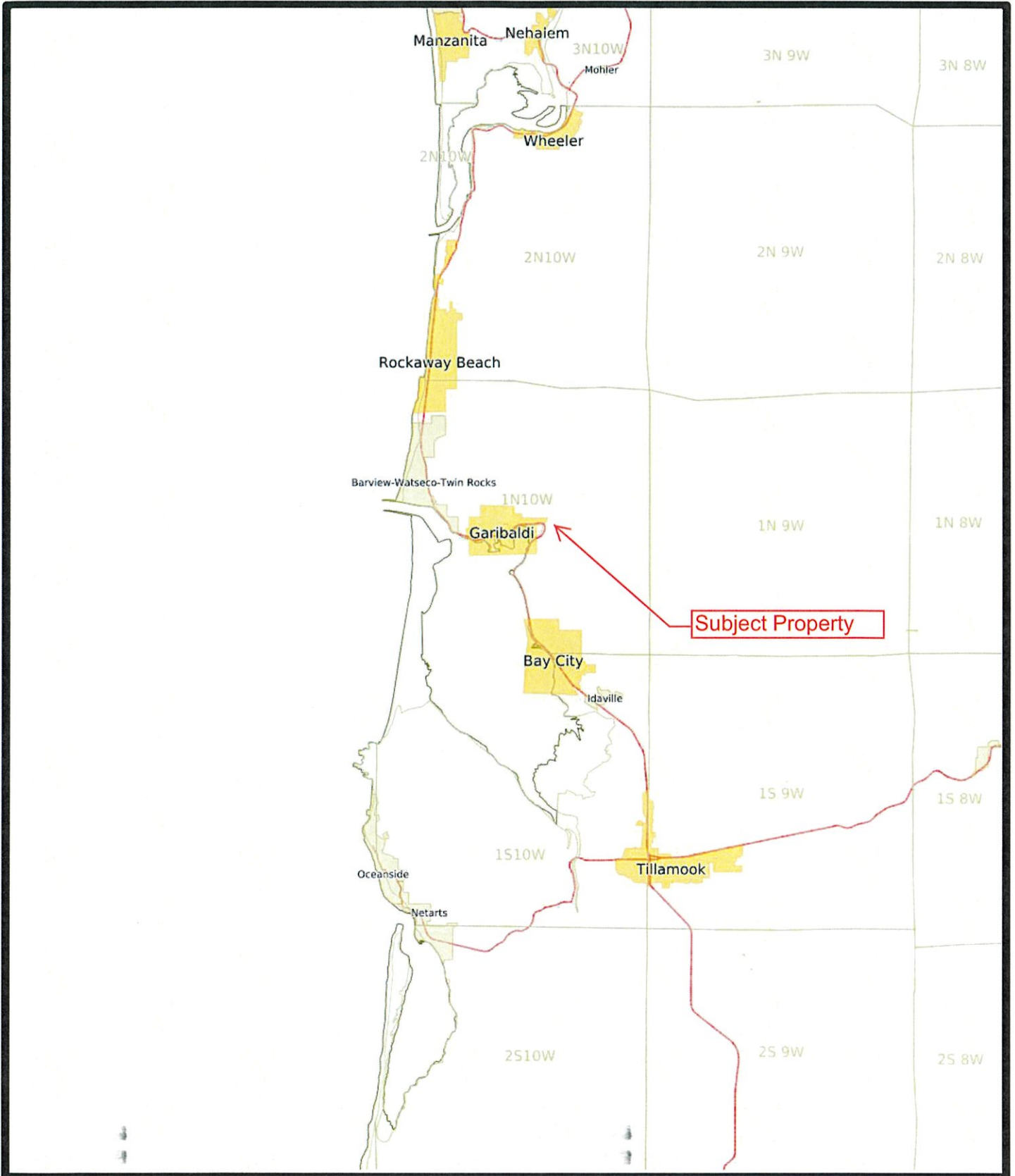
5. The applicant/property owner shall submit a site plan drawn to scale that confirms all required setbacks, including the 25-foot riparian setback, are met. The site plan shall be submitted to the Department of Community Development at the time of consolidated Zoning and Building Permit application submittal.
6. Development shall otherwise comply with the applicable standards and requirements of TCLUO Section 3.010: Rural Residential 2-Acre (RR-2) Zone and TCLUO Section 3.106: Estuary Conservation One (EC-1) zone.
7. A Floodplain Development Permit is required for development within the Area of Special Flood Hazard. Applicant shall obtain an approved Floodplain Development Permit demonstrating compliance with the requirements of TCLUO Section 3.510 prior to or at the time of consolidated Zoning and Building Permit application submittal.
8. This approval expires if a Building Permit is not applied for within two (2) years of issuance of this approval.

VI. EXHIBITS

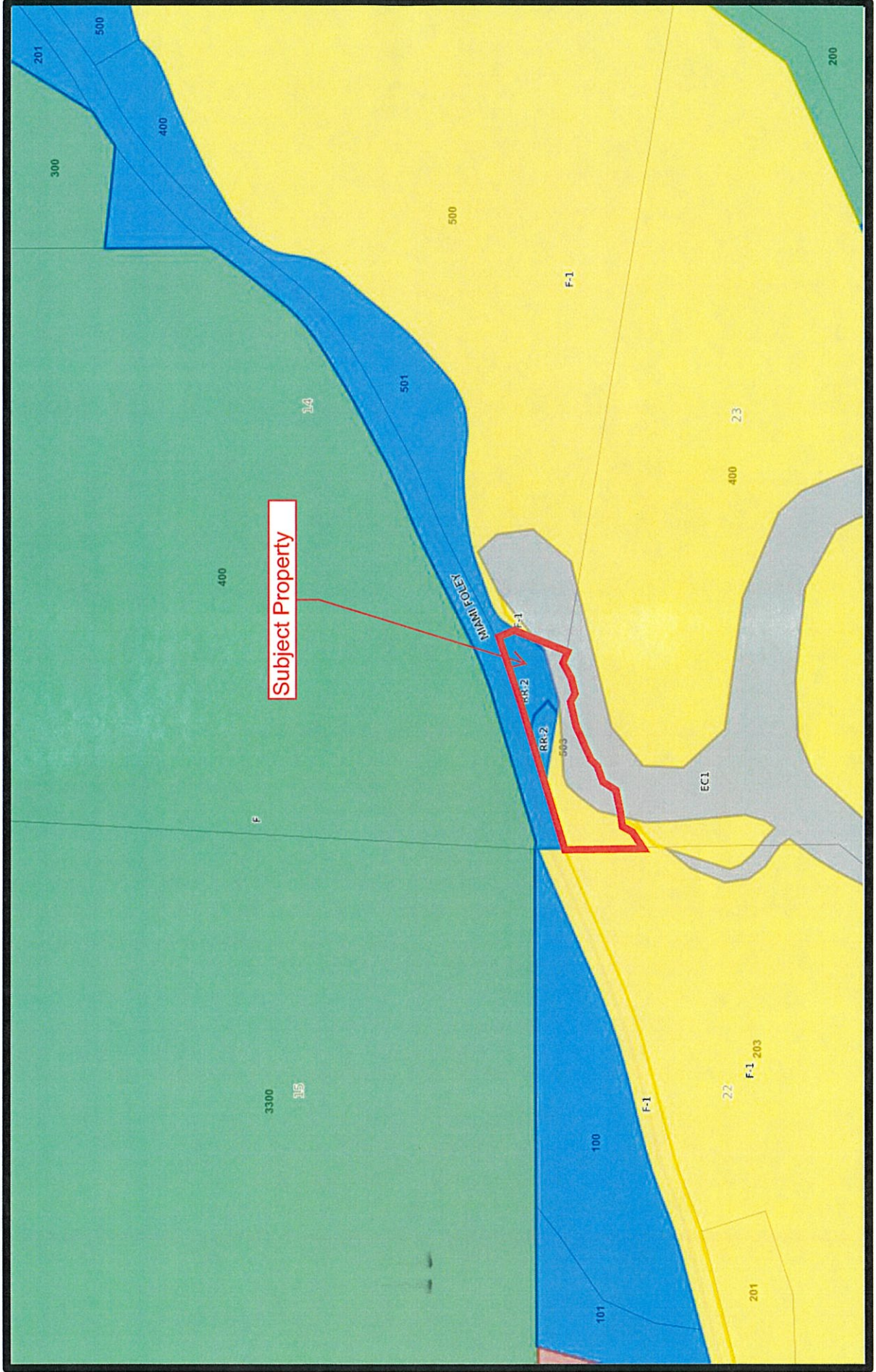
- A. Vicinity map, Assessor's map, Zoning map, Tax Assessor's Summary Report
- B. Applicant's Submittal
- C. Public Comments

EXHIBIT A

Vicinity Map



Zoning Map



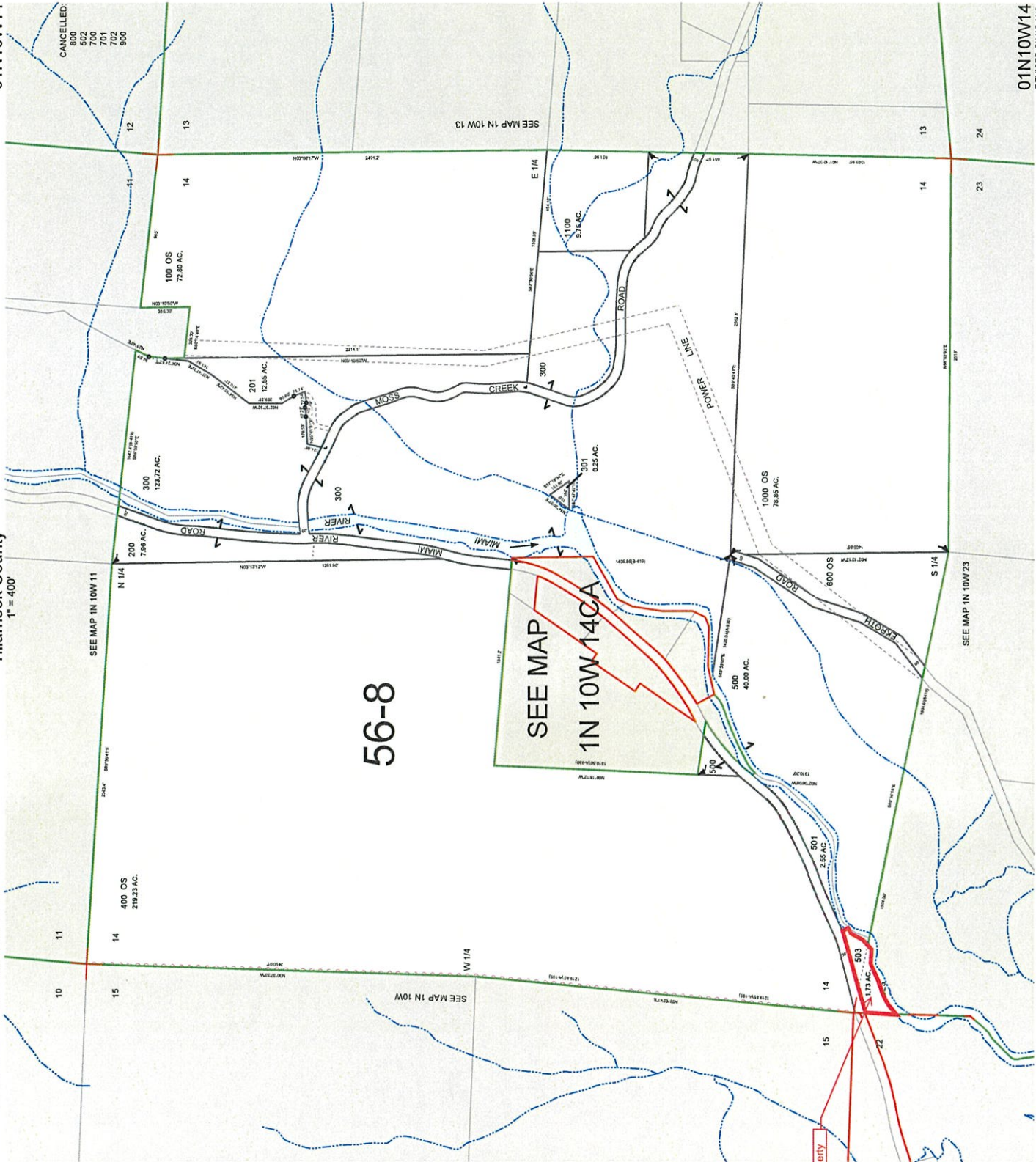
FOR ASSESSMENT AND TAXATION ONLY. NOT SUITABLE FOR LEGAL, ENGINEERING, OR SURVEY PURPOSES.

SECTION 14 T. 1N. R. 10W. WM.
Tillamook County

1" = 400'

01N10W14

01N10W14
REVISED 5/17/15, WS



CANCELLED:
800
502
700
701
702
900

56-8

SEE MAP
1N 10W 14CA

Subject Property

TILLAMOOK County Assessor's Summary Report

Real Property Assessment Report

FOR ASSESSMENT YEAR 2021

June 3, 2022 12:13:58 pm

Account # 293845 Map # 1N10140000503 Code - Tax # 5608-293845 Legal Descr See Record Mailing Name HIETER, SARA & JAYSON Agent In Care Of Mailing Address PO BOX 3114 BAY CITY, OR 97107 Prop Class 401 MA SA NH Unit RMV Class 401 02 WF 263 18622-1	Tax Status ASSESSABLE Acct Status ACTIVE Subtype NORMAL Deed Reference # 2020-5326 Sales Date/Price 08-13-2020 / \$465,000.00 Appraiser EVA FLETCHER
---	---

Situs Address(s)	Situs City
ID# 0 14955 MIAMI FOLEY RD	COUNTY

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
5608 Land	113,720			Land	0
Impr.	255,460			Impr.	11,940
Code Area Total	369,180	290,030	290,030		11,940
Grand Total	369,180	290,030	290,030		11,940

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Trended RMV
						TD%	LS	Size	
5608	0	<input checked="" type="checkbox"/>		RR-2	Market	103	A	1.73	101,220
5608					OSD - AVERAGE	100			12,500
Grand Total								1.73	113,720

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Trended RMV
					TD%	Total Sq. Ft.	Ex% MS Acct #	
5608	2	1900	345	GENERAL PURPOSE BUILDING	119	769		9,600
5608	3	2017	346	GPB IN RESIDENTIAL USE	119	252		5,120
5608	4	2017	346	GPB IN RESIDENTIAL USE	119	378		6,820
5608	1	1978	145	Two story or more	119	1,709		233,920
Grand Total							3,108	255,460

Exemptions / Special Assessments / Potential Liability						
Code Area	5608					
SPECIAL ASSESSMENTS:						
<input checked="" type="checkbox"/> SOLID WASTE					Amount	12.00 Acres
					0 Year	2021

Comments: 6/3/09 Entered year built for 300 fragment, CB.
 05/16/13 Reviewed account - updated inventory. Feeder barn #2 has never been on this account - removed and adjusted MAV using last year's values. Valued land at 1.5 acres. Tabled OSD.ef
 02/03/14 Reappraised land, tabled values. Changed size per GIS calculations.ef
 06/25/15 Account review - new siding, windows, roof cover, and furnace. Increased effective age to 1988 - RMV changes only.ef
 06/22/18 Added heat pump per permit. HT
 5/14/21 - Sales review. Updated inventory - RMV changes only. Added 2 new GPB 3's and applied exception. EJ

National Flood Hazard Layer FIRMette



123°53'24"W 45°34'15"N

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE)
Zone A, V, A99
- With BFE or Depth *Zone AE, AO, AH, VE, AR*
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with draining areas of less than one square mile *Zone J*
- Future Conditions 1% Annual Chance Flood Hazard *Zone X*
- Area with Reduced Flood Risk due to Levee. See Notes. *Zone X*
- Area with Flood Risk due to Levee *Zone D*

OTHER AREAS

- NO SCREEN
- Area of Minimal Flood Hazard *Zone X*
- Effective LOMRs
- Area of Undetermined Flood Hazard *Zone X*

GENERAL STRUCTURES

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS

- Digital Data Available
- No Digital Data Available
- Unmapped

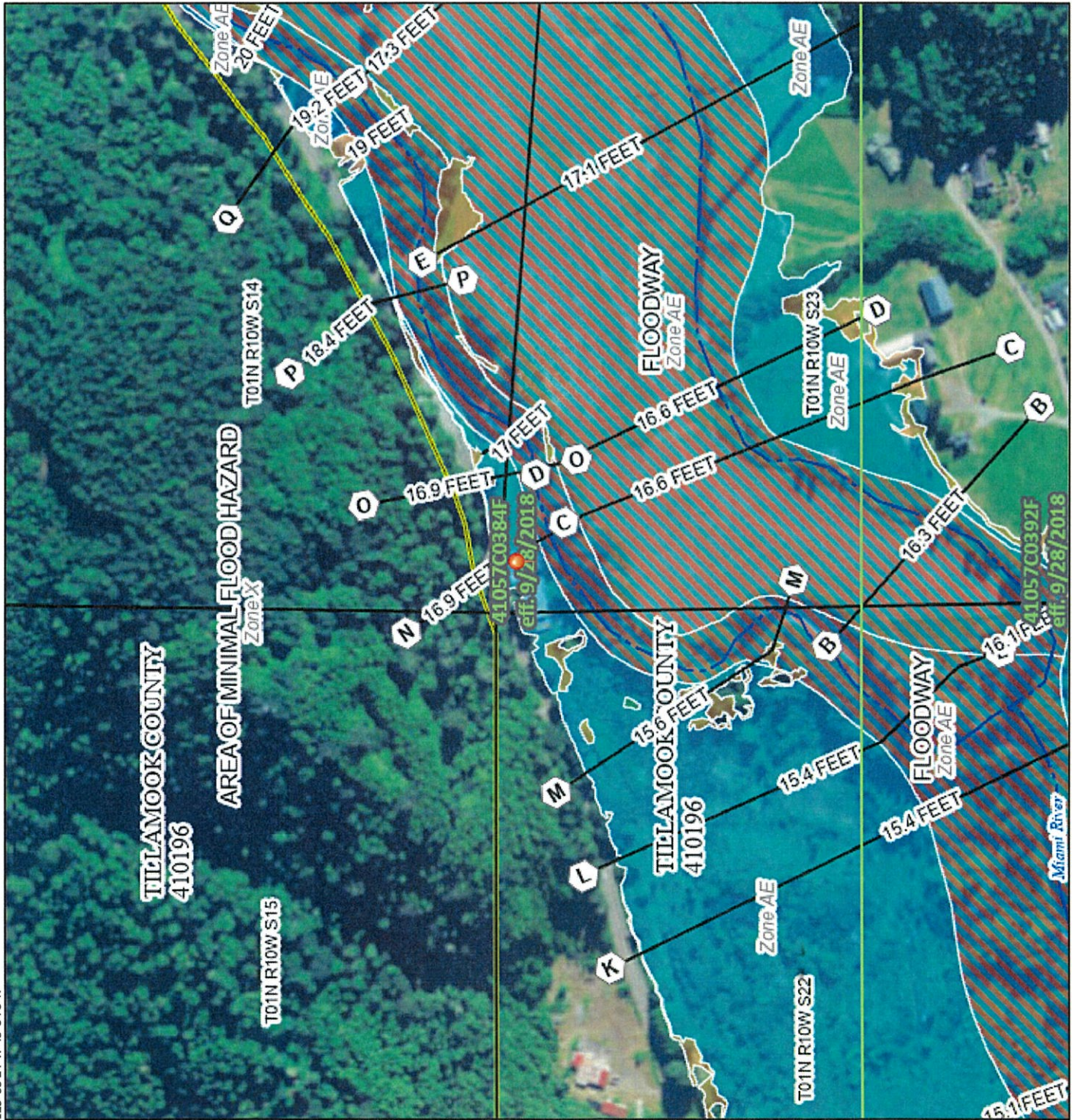


The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/3/2022 at 3:16 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



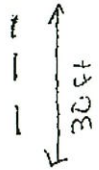
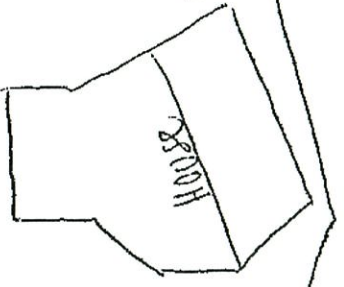
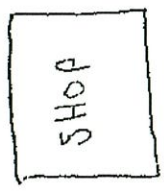
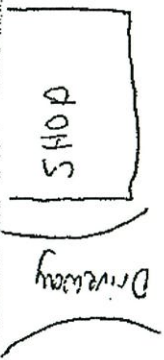
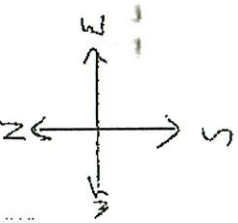
123°52'47"W 45°33'40"N

1:6,000



EXHIBIT B

Miami - Foley Rd



81.7 ft

25ft Riparian Exception Zone for New wall

Miami River

Existing wall
New wall (proposed)

Proposed New wall will lay in the existing walls blue print with a 30ft extension on the west end and 81.7ft on the NE end which 25ft will be within the riparian zone wall to include 30" footer, 8" thick with a 30" wall by 12" thick. 20 yds of backfill dirt. Total wall length 256 linear feet.



Tillamook County Department of Community Development
1510-B Third Street, Tillamook, OR 97141 | Tel: 503-842-3408 Fax: 503-842-1819
www.co.tillamook.or.us

PLANNING APPLICATION

OFFICE USE ONLY	
Date Stamp	RECEIVED APR 14 2022
BY:	Faxed
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by:	
Receipt #:	
Fees:	1015.-
Permit No:	851-22-000152 PLNG

Applicant (Check Box if Same as Property Owner)

Name: Jayson Hietter Phone: 541-610-8853
Address: 14955 Miami Foley Rd
City: Bay City State: OR Zip: 97107
Email: j.hietter@yahoo.com

Property Owner

Name: Same as above Phone: _____
Address: _____
City: _____ State: _____ Zip: _____
Email: _____

Request: Exemption request to involve 25ft section of replacement/remodeling of a retaining wall within the riparian setback. See attached ODFW report.

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
- Foredune Grading Permit Review
- Neskowin Coastal Hazards Area

Type III

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

Type IV

- Ordinance Amendment
- Large-Scale Zoning Map Amendment
- Plan and/or Code Text Amendment

Location:

Site Address: 14955 Miami Foley Rd Bay City 97107
Map Number: 1N10-1400-00503

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.

[Signature]
Property Owner Signature (Required)
[Signature]
Applicant Signature

4/14/22
Date
4/14/22
Date

Find messages, documents, photos or people

Compose

← Back ↶ ↷ → Archive Move Delete Spam

- Inbox 130
- Unread
- Starred
- Drafts
- Sent
- Archive
- Spam
- Trash
- Less
- Views Hide
- Photos
- Documents
- Subscriptions
- Deals
- Groceries
- Receipts
- Travel
- Folders Hide
- + New Folder
- medicine
- Notes
- Sent Messages

14955 MIAMI FOLEY RD

Yahoo/Inbox



Melissa Jenck <mjenck@...>
To: hieterj@yahoo.com

Fri, Mar 25 at 2:35 PM



Melissa Jenck
mjenck@co.willamook.or.us
(503) 842-3408 x3301
+ Add to contacts

Good afternoon Jayson,

Thank you for meeting with me this afternoon to discuss your property at 14955 Miami Foley Road located at 1N10-1400-00503. The subject property is located within a FEMA Floodplain (AE zone and Floodway). As discussed, the retaining walls current location appears to be only within the 'AE Zone' portion of the floodplain. A Floodplain Development Permit (attached) will be required for renovation or replacement of the retaining wall. I've attached the application form.

As discussed, the Miami River maintains a 50-ft riparian setback per TCELUO Section 4.140. I would suggest working with Robert Bradley an his team at Oregon Department of Fish and Wildlife (ODFW) to see if you can determine the existing setback of the wall from the high-water line. If indeed the existing wall (and the proposed replacement wall) were to encroach into the 50-ft setback, a Riparian Exception would be required before it could be replaced.

The Exception for the riparian setback is a public land use review, as discussed in our meeting. This will trigger a public notice requirement, allowing for comment and appeal. As this is a discretionary review, Staff cannot guarantee approval outside the application and review process. I've attached the Type II application which comes in with the submittel. The main submission requirements with the application is a detailed site plan indicating the current improvements and their setbacks from the high-water line, along with the proposed setback from the high-water line a replaced retaining wall would have.

I will speak with Director Absher regarding a requirement for a geologic hazard review. As you stated, this wall is not holding back surcharge and isn't sloped where it would be sited. As such, you may be exempt from the review - I will formally confirm.

You can reach Robert Bradley of ODFW at: robert.bradley@odfw.oregon.gov. He can be reached by phone at 503-

RE: Miami river bank set back

ODFW assessment
and report.

From: BRADLEY Robert * ODFW (robert.bradley@odfw.oregon.gov)

To: hleterj@yahoo.com; mjenck@co.tillamook.or.us

Date: Thursday, March 31, 2022, 11:13 AM PDT

Melissa,

I visited this property today with Jayson. Most of the retaining wall he wants to replace would be within the existing footprint of the current one, but there would be a couple deviations.

The retaining wall would be extended several yards on the west end. As long as the extension remains in the alignment with the current wall (as was discussed on site), this would be located outside the riparian setback from the river.

On the east side of the house, he would like to straighten the alignment of the wall and extend the wall further to the northeast toward Miami-Foley Road. Most of the extension would be outside of the riparian setback, however the first 25 feet of the portion to be straightened would result in a deviation from the current footprint and a net loss of approximately 50 sq. ft. of ground within the setback.

The net biological loss of this proposal is minor, but ODFW would ask for mitigation for the lost potential riparian habitat through the planting of native conifers and/or shrubs within the riparian setback area along the property. I'll reserve my final recommendation for when an actual plan or diagram is available, but based on the estimate I made today, planting of 4 conifer trees, 6 native shrubs (since these are smaller in area covered), or a combination of the two, should be sufficient (along with maintenance to ensure at least 50% survival until free to grow).

Let me know if you have any questions.

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: Jayson Hieter <hieterj@yahoo.com>
Sent: Saturday, March 26, 2022 8:19 PM
To: BRADLEY Robert * ODFW <Robert.BRADLEY@odfw.oregon.gov>
Subject: Miami river bank set back

Hello Robert,

My name is Jayson Hieter and I am looking to replace a retaining wall along my property. Our house is Miami river front. There is an existing retaining wall that we are looking to upgrade from wood to concrete. We would essentially be keeping the same border line and not progressing towards the river. Our place was grandfathered in before the 50ft set back rule so it is very close to the river. I was hoping to schedule an assessment with you to discuss a riparian exemption or clearance. Do you have time Thursday this week? I have already spoke to Melissa Jenck with the county flood plain land use, she said to reach out to you.

Let me know your availability.

Jayson Hieter

14955 Miami Foley Rd

Bay City OR 97107

Melissa Jenck

From: BRADLEY Robert * ODFW <Robert.BRADLEY@odfw.oregon.gov>
Sent: Monday, May 9, 2022 9:38 AM
To: Melissa Jenck; Jayson Hieter
Subject: RE: EXTERNAL: RE: Miami river bank set back

The proposed wall would run at an angle away from the river, so it will vary along the length. Based on my previous statement, looks like it would begin at 25 feet from the river and extend out to 50 feet (and then continue on but from that point would be outside the setback). It may be a little closer to the river than that at the starting point near the corner of the house, but will begin at the existing wall and extend inland from there.

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: Melissa Jenck <mjenck@co.tillamook.or.us>
Sent: Monday, May 09, 2022 9:12 AM
To: BRADLEY Robert * ODFW <Robert.BRADLEY@odfw.oregon.gov>; Jayson Hieter <hieterj@yahoo.com>
Subject: RE: EXTERNAL: RE: Miami river bank set back

Hello Robert,

Coming back to this one, do you happen to know the how far into the riparian area the realignment would go into the 50-ft setback? I'm wanting to prepare the Riparian Exception request, but I wasn't sure what the setback would be. I see you mention a net loss for an area that was straightened out. But, I was wondering if you had the actual setback from the high-water line that was expected based on the project?

Thank you!



Melissa Jenck (she/her) | CFM, Senior Planner
TILLAMOOK COUNTY | Community Development
1510-B Third Street
Tillamook, OR 97141
Phone (503) 842-3408 x3301
mjenck@co.tillamook.or.us

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The Department is excited to announce that we are OPEN to the public by appointment. To review the list of services provided and to schedule an appointment with us, please visit <https://www.co.tillamook.or.us/gov/ComDev/> to access the appointment scheduler portal.

From: BRADLEY Robert * ODFW <Robert.BRADLEY@odfw.oregon.gov>
Sent: Thursday, March 31, 2022 11:13 AM
To: Jayson Hieter <hieterj@yahoo.com>; Melissa Jenck <mjenck@co.tillamook.or.us>
Subject: EXTERNAL: RE: Miami river bank set back

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

Melissa,

I visited this property today with Jayson. Most of the retaining wall he wants to replace would be within the existing footprint of the current one, but there would be a couple deviations.

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Let me know if you have any questions.

Robert

Robert W. Bradley
District Fish Biologist
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503-842-2741 x18613 (w)
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Note new email address as of 4/26/21: Robert.Bradley@odfw.oregon.gov

From: Jayson Hieter <hieterj@yahoo.com>
Sent: Saturday, March 26, 2022 8:19 PM

To: BRADLEY Robert * ODFW <Robert.BRADLEY@odfw.oregon.gov>

Subject: Miami river bank set back

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Let me know your availability.

Jayson Hieter
14955 Miami Foley Rd
Bay City OR 97107

EXHIBIT C

Melissa Jenck

From: BRADLEY Robert * ODFW <Robert.BRADLEY@odfw.oregon.gov>
Sent: Friday, June 3, 2022 3:19 PM
To: Melissa Jenck
Cc: Sarah Absher
Subject: EXTERNAL: FW: 851-22-000152-PLNG: HIETER

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

Melissa,

It appears that the proposed plan follows what I discussed with the landowner on site. My original recommendation for mitigation (native trees and/or shrubs), sent in an earlier email, would be appropriate.

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: Lynn Tone <ltone@co.tillamook.or.us>
Sent: Friday, June 03, 2022 3:13 PM
To: PHIPPS Lisa * DLCD <Lisa.PHIPPS@dcd.oregon.gov>
Subject: 851-22-000152-PLNG: HIETER

Please see link for Notice of Administrative Review.

<https://www.co.tillamook.or.us/commdev/project/851-22-000152-plng>

Thank you,



Lynn Tone | Office Specialist II
TILLAMOOK COUNTY | Surveyor's Office/Community Development
1510 3rd Street Ste C
Tillamook, OR 97141
Phone (503) 842-3423
ltone@co.tillamook.or.us