



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

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Land of Cheese, Trees and Ocean Breeze

**RIPARIAN RESOURCE ZONE EXCEPTION #851-22-000261-PLNG: MACKIN**

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

January 25, 2023

Dear Property Owner:

This is to confirm that the Tillamook County Department of Community Development **APPROVED WITH CONDITIONS** the above-cited Resource Zone Exception Request on January 25, 2023.

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 **4:00 PM on February 6, 2023.**

**Request:** An exception request to reduce the required 25-foot riparian setback from the South Fork Trask River 1-foot and establish a 24-foot riparian setback together with a request to reduce the required 100-foot setback from the Small Farm and Woodlot 20-Acre resource zone boundary to 24-feet to allow for the construction of a single-family dwelling. *The original notice of this request mis-identified the riparian setback from the South Fork Trask River as 50-feet, when it should have been 25-feet.*

**Location:** The subject property is accessed via Trask River Road, a County road, is located east of the City of Tillamook and is designated as Tax Lot 300 in Section 36AC of Township 1 South, Range 8 West of the Willamette Meridian, Tillamook County, Oregon.

**Zone:** Rural Residential 2-Acre (RR-2) Zone

**Applicant & Property Owner:** Chris Mackin, 5437 SE Frances Ct, Hillsboro, OR 97123

## 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. The applicant/property owner shall obtain an approved consolidated Building/Zoning Permit from the Tillamook County Department of Community Development prior to siting the proposed dwelling.
3. Development shall be as shown on the approved site plan and shall maintain the approved reduced resource zone setback of a 24-foot setback from the southerly property line, each as indicated on the proposed site plan.
4. A minimum 24-foot riparian setback from the South Fork Trask 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.
5. The applicant/property owner shall submit a site plan, drawn to scale and indicating all required yard setbacks, reduced riparian setbacks and reduced resource zone setbacks, at the time of consolidated Building/Zoning 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.
7. 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, should any vegetation removal be proposed as part of the construction activity. The plan submittal shall include written confirmation from ODFW that the plan is acceptable. No trees within the 30-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.
8. Development shall otherwise comply with the applicable standards and requirements of TCLUO Section 4.140: Requirements for Protection of Water Quality and Streambank Stabilization.
9. In accepting this approval, the property owner understands intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use. The property owner hereby acknowledges that practices may involve but are not limited to the application of herbicides or fertilizers (including aerial spraying), road construction, changes in view, noise, dust, odor, traffic, and other impacts related to a farm zone. The property owner acknowledges the residential use of this property may be impacted by such activities and is accepting of that fact. In the event of conflict, the property owner understands preference will be given to farm and forest practices.  
A covenant to the deed shall be required, informing that intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use and limiting pursuance of a claim for relief or cause of action of alleging injury from farming or forest practices. A copy of the recorded covenant included as 'Exhibit D' shall be provided at the time of applying for Building and Zoning Permits.
10. 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

  
Sarah Absher, CBO, CFM, Director

Enc.: Vicinity, Assessor's and Zoning maps



*Land of Cheese, Trees and Ocean Breeze*

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**Resource Zone Exception #851-22-000261-PLNG: Mackin  
Administrative Decision & Staff Report**

**Decision:** Approved with Conditions  
**Decision Date:** **January 25, 2023**  
**Report Prepared By:** **Melissa Jenck, CFM, Senior Planner**

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**I. GENERAL INFORMATION:**

**Request:** An exception request to reduce the required 25-foot riparian setback from the South Fork Trask River 1-foot and establish a 24-foot riparian setback together with a request to reduce the required 100-foot setback from the Small Farm and Woodlot 20-Acre resource zone boundary to 24-feet to allow for the construction of a single-family dwelling. *The original notice of this request mis-identified the riparian setback from the South Fork Trask River as 50-feet, when it should have been 25-feet.*

**Location:** The subject property is accessed via Trask River Road, a County road, is located east of the City of Tillamook and is designated as Tax Lot 300 in Section 36AC of Township 1 South, Range 8 West of the Willamette Meridian, Tillamook County, Oregon.

**Zone:** Rural Residential 2-Acre (RR-2) Zone

**Applicant &  
Property Owner:** Chris Mackin, 5437 SE Frances Ct, Hillsboro, OR 97123

**Description of Site and Vicinity:** Assessor records indicate the subject property encompasses approximately 0.45-acres, has variable topography with a steep decline towards the South Fork Trask River on the southerly end, is vegetated with grasses and trees, and vacant of improvements. Wetlands and riparian features are mapped along the southerly boundary where the property abuts South Fork Trask River. The subject property is accessed via Trask River Road, a County road. The property is within an area of geologic hazard, with, with areas of shallow landslide susceptibility and rapidly moving landslides (Exhibit A).

The area is a pocket of RR-2 zoned properties which primarily appear along/abutting Trask River Road, generally improved with single-family dwellings and their accessory structures. Properties to the south zoned Small Farm Woodlot (SFW-20) and Forest (F) and appears to be in Forest use. FEMA Flood Insurance Rate Map 41057C0630F dated September 28, 2018 confirms the subject property is not located an area of the Special Flood Hazard Area (SFHA) (Exhibit A).

Applicant is proposing to reduce the 100-foot setback required from a resource zone boundary to 24-feet to, along with a reduction of the 25-foot riparian setback to 24-feet, to allow for the placement of a single-family dwelling (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 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 October 9, 2022. Comments were received from Oregon Water Resources Department (OWRD), Oregon Department of Fish and Wildlife (ODFW), and Oregon Department of State Lands (DSL) (Exhibit C).

OWRD states they have concerns regarding the ability of the subject property to drill a well (Exhibit C). Staff find this is not criteria of this review and will require the Applicant/Property Owner demonstrate compliance with water availability at time of the Consolidated Zoning/Building permit application for a dwelling.

DSL provided comments that the proposed development is located outside jurisdictional wetlands, waterways or other waters (Exhibit C). DSL confirms that no state fill/removal permit is required for the proposed activities as they've been sited on the Applicants site plan (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 Oregon Department of Fish and Wildlife (ODFW), are discussed in Section B below. Concerns related to protection of the riparian corridor are also addressed below and reflected in the Conditions of Approval. ODFW provided comments as part of the Applicants submittal materials, contained in 'Exhibit B'. ODFW also provided clarifying comments regarding the required riparian setback of 25-feet, as they misidentified the original riparian setback requirement of 50-feet (Exhibit C). Staff will assess the riparian exception based upon the required 25-foot setback prescribed in TCLUO Section 4.140.

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

**Section 3.011(4) Standards:** *Land divisions and development in the CSFR zone shall conform to the following standards, unless more restrictive supplemental regulations apply:*

- ...(k) *No residential structure shall be located within 100 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an equally*

*effective barrier to conflicts between resource and residential uses; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone shall still apply.*

**Findings:** The southerly property boundary of the parcel abuts the Small Farm and Woodlot (SFW-20) zone boundary. The subject property lies within 100-feet of the Small Farm and Woodlot (SFW-20) Zone along the southerly property line (Exhibit A & B). The Applicants site plan indicates that the structure shall maintain approximately 24-feet from the southerly property line at the proposed structures closet point (Exhibit B).

Staff finds that a residential structure could not otherwise be placed on the subject property without requiring a variance to the 100-ft resource setback due to the location of the SFW-20 zone boundary near the southerly boundary of the subject property, the proximity of the South Fork Trask River, required zone setbacks and the location which an onsite sanitation system would need to be placed to service a residence (Exhibit B). Additionally, the South Fork Trask River provides an effective barrier to separate the proposed residential structure and the resource zone, as it creates a physical separation (Exhibit B). The riparian area shall be maintained with appropriate vegetation as required by TCLUO Section 4.140 which will add vegetation to further increase physical and visual separations between the residential and resource uses (Exhibit A & B). The proposal would reduce the 100-foot resource zone setback 76-feet, which would result in a 24-foot resource zone setback (Exhibit B). The resource zone setback reductions shall result in a 24-foot setback to the resource zone boundary, with all other rear, side and front yard setbacks being maintained (Exhibit B). Staff finds this standard is met.

#### **B. 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 25-feet of rivers and streams with a channel width greater than 15-feet, as 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 of a dwelling will be twenty-four (24) feet from the line of non-aquatic vegetation (Exhibit B).

Comments from Michael Sinnott, ODFW District Assistant Fish Biologist, were included in the Applicant's submittal along with comments received on the record (Exhibit B & C). Michael Sinnott confirmed in his October 21, 2022 emailed that the original determination of a 50-ft riparian area was inappropriate, given the South Fork Trask River is not a main stem of Trask River. Therefore, the required riparian area setback shall be 25-feet (Exhibit C). Staff will review compliance this request to reduce the riparian area setback in accordance with this finding.

Staff finds that ODFW has provided a determination that a minimal amount of biological habitat loss would occur as part of the proposed dwelling (Exhibit C). ODFW recommended that potential riparian habitat loss be mitigated through an approved planting plan with their agency, to include planting native conifers within the riparian area for any lost during development (Exhibit C).

Staff finds that the determination by Mr. Sinnott 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 25-feet to 24-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 requirements at the time of application. Therefore, Staff approves this request for an exception to the Small Farm and Woodlot (SFW-20) zone setback and exception to the riparian setback subject to the Conditions of Approval in Section V of this report. 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 of 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 February 6, 2023**.

#### **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. The applicant/property owner shall obtain an approved consolidated Building/Zoning Permit from the Tillamook County Department of Community Development prior to siting the proposed dwelling.
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A covenant to the deed shall be required, informing that intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use and limiting pursuance of a claim for relief or cause of action of alleging injury from farming or forest practices. A copy of the recorded covenant included as 'Exhibit D' shall be provided at the time of applying for Building and Zoning Permits.

10. This approval expires if a Building Permit is not applied for within two (2) years of issuance of this approval.

## **VI. EXHIBITS**

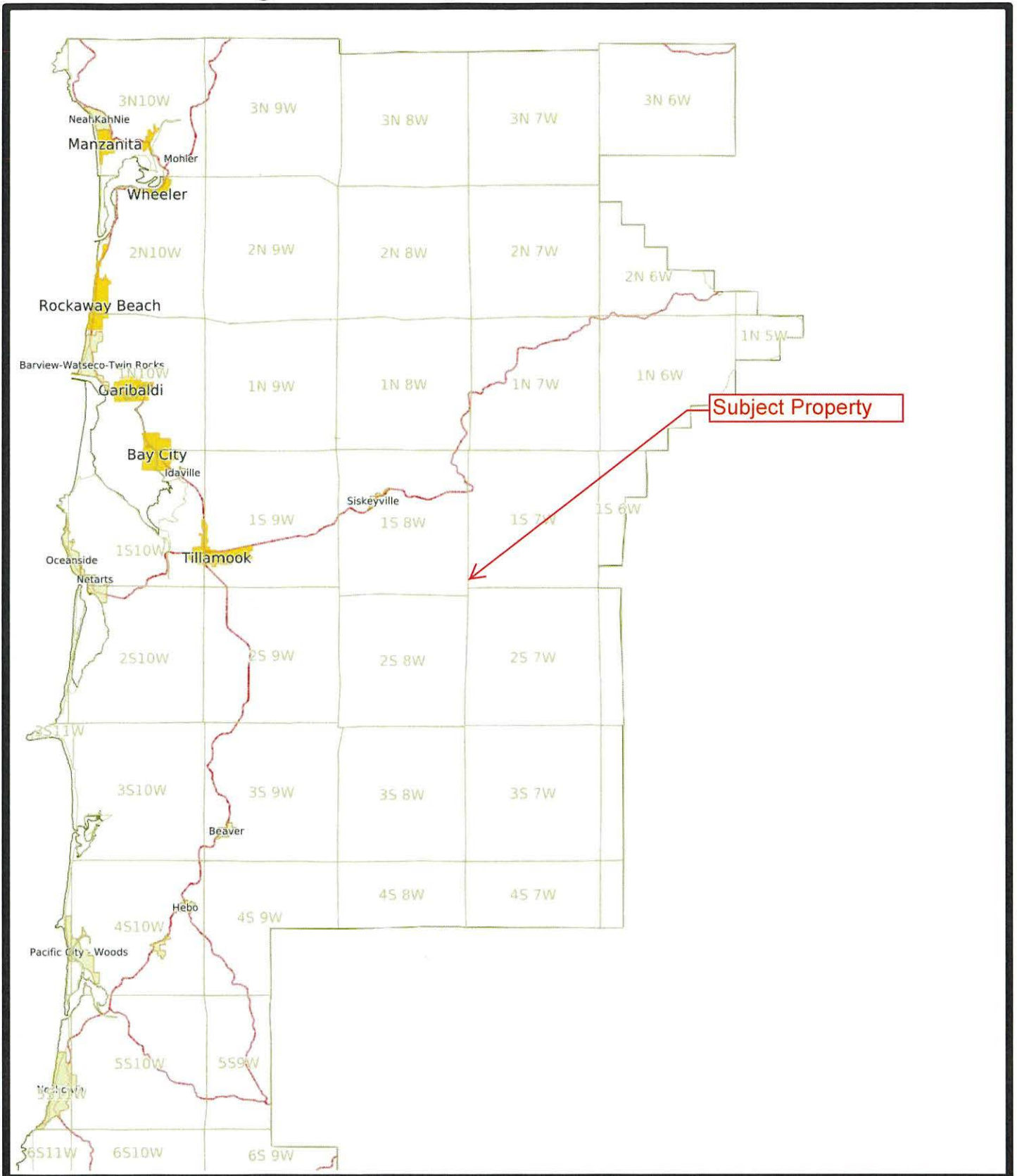
All Exhibits referenced herein are, by this reference, made a part hereof:

- A. Vicinity map, Assessor map, Zoning map, Assessor's Summary Report
- B. Applicant's submittal
- C. Public Comments
- D. Required Restrictive Covenant: Farm Forest Practices

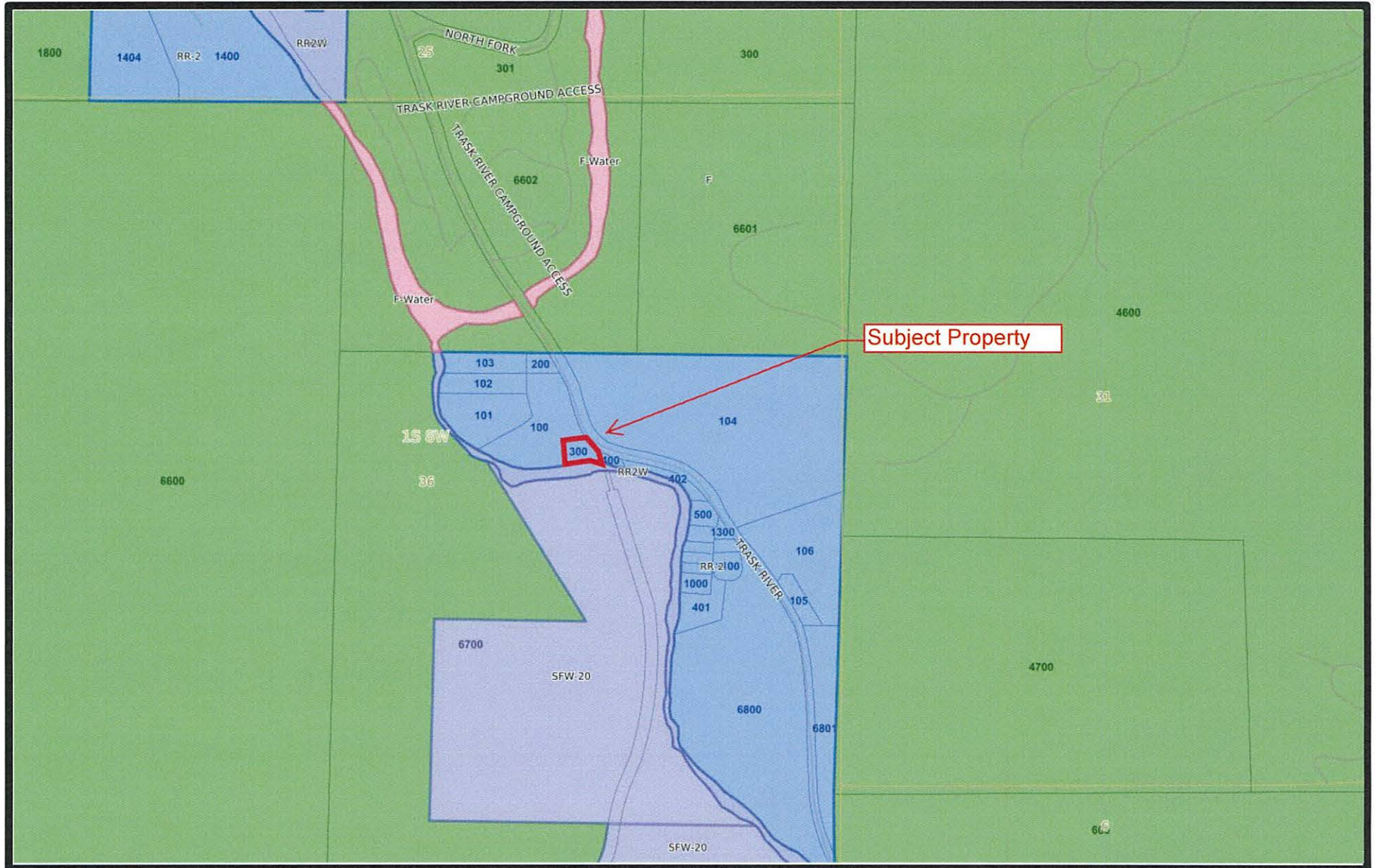
# EXHIBIT A



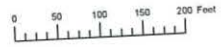
# Vicinity Map



# Zoning Map



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



S.W.1/4 N.E.1/4 SEC.36 T.1S. R.8W. W.M.

TILLAMOOK COUNTY

1" = 100'

01S08W36AC



Subject Property

9-1

01S08W36AC

Revised 05/14/20, WS

# TILLAMOOK County Assessor's Summary Report

## Real Property Assessment Report

FOR ASSESSMENT YEAR 2021

January 25, 2023 10:09:55 am

Account # 133643  
 Map # 1S0836AC00300  
 Code - Tax # 0901-133643

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Legal Descr See Record

Mailing Name MACKIN, SHANNON M & CHRISTOPHER B

Deed Reference # 2013-4307

Agent  
 In Care Of

Sales Date/Price 07-11-2013 / \$36,000.00

Appraiser RANDY WILSON

Mailing Address 5437 SE FRANCES CT  
 HILLSBORO, OR 97123

Prop Class 100 MA SA NH Unit  
 RMV Class 100 01 WF 103 11001-1

Situs Address(s)	Situs City
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Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
0901 Land	47,160			Land	0
Impr.	0			Impr.	0
<b>Code Area Total</b>	<b>47,160</b>	<b>48,140</b>	<b>47,160</b>		<b>0</b>
<b>Grand Total</b>	<b>47,160</b>	<b>48,140</b>	<b>47,160</b>		<b>0</b>

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
0901	0	<input checked="" type="checkbox"/>		RR-2	Market	104	A	0.45		47,160
<b>Grand Total</b>										<b>47,160</b>

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

Comments: 11/13/07 - Reduced RMV to sales price. LM  
 07/08/14 - Increased RMV to sales price. RBB  
 01/20/16 - Reapp. of land w/abled values/Size chge. per GIS. RCW

# National Flood Hazard Layer FIRMette



123°36'52"W 45°26'30"N

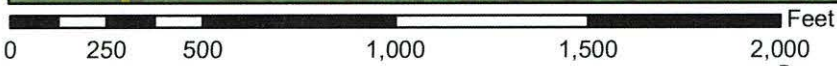


## Legend

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

<b>SPECIAL FLOOD HAZARD AREAS</b>		Without Base Flood Elevation (BFE) <i>Zone A, V, A99</i>
		With BFE or Depth <i>Zone AE, AO, AH, VE, AR</i>
		Regulatory Floodway
<b>OTHER AREAS OF FLOOD HAZARD</b>		0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile <i>Zone X</i>
		Future Conditions 1% Annual Chance Flood Hazard <i>Zone X</i>
		Area with Reduced Flood Risk due to Levee. See Notes. <i>Zone X</i>
		Area with Flood Risk due to Levee <i>Zone D</i>
<b>OTHER AREAS</b>		NO SCREEN Area of Minimal Flood Hazard <i>Zone X</i>
		Effective LOMRs
<b>GENERAL STRUCTURES</b>		Area of Undetermined Flood Hazard <i>Zone</i>
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
<b>OTHER FEATURES</b>		<b>20.2</b> Cross Sections with 1% Annual Chance Water Surface Elevation
		<b>17.5</b> Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
<b>MAP PANELS</b>		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.



1:6,000

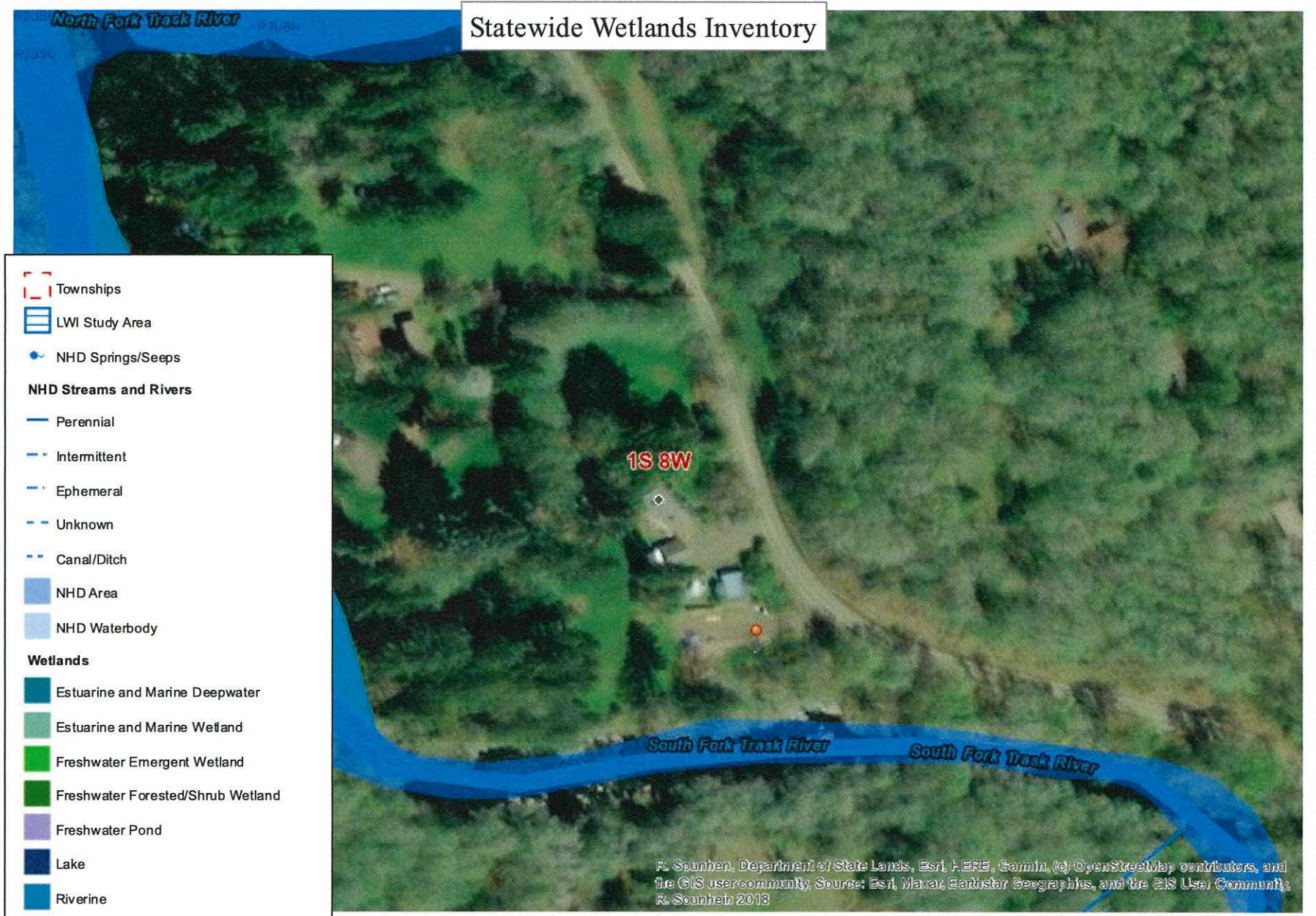
123°36'15"W 45°26'4"N

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 **1/25/2023 at 1:16 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.

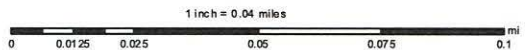
This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory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

# Statewide Wetlands Inventory



- Townships
- LWI Study Area
- NHD Springs/Seeps
- NHD Streams and Rivers**
- Perennial
- Intermittent
- Ephemeral
- Unknown
- Canal/Ditch
- NHD Area
- NHD Waterbody
- Wetlands**
- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine
- SWI Predominantly Hydric Soil Map Units
- SWI Agate-Winlo Soils

R. Sounhen, Department of State Lands, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, R. Sounhen 2013

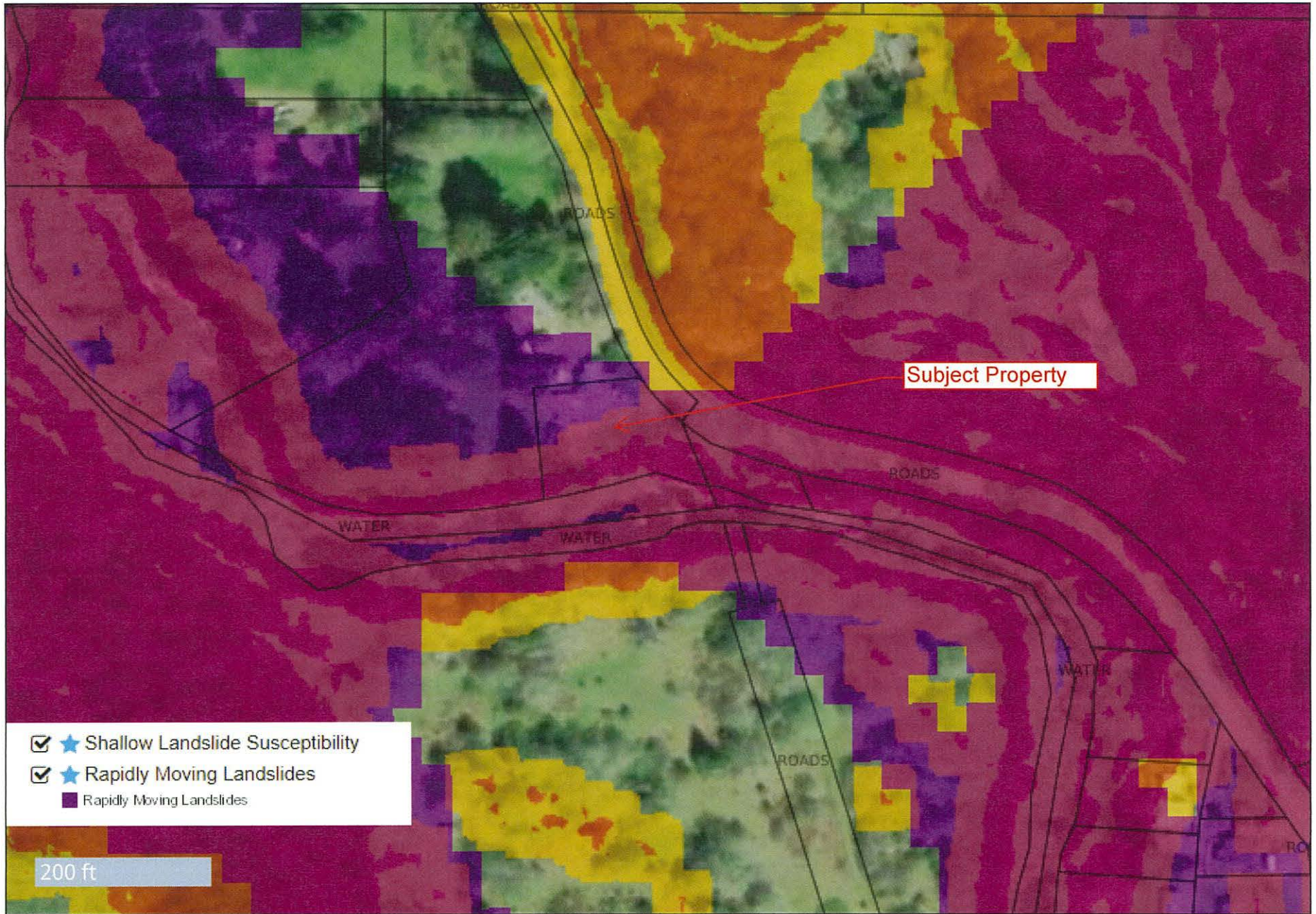


Date: 1/25/2023



State of Oregon  
 Department of State Lands  
 775 Summer Street, NE, S.B. 100  
 Salem, OR 97301-1279  
 (503) 986-5200

The Statewide Wetlands Inventory (SWI) represents the best data available at the time this map was published and is updated as new data becomes available. In all cases, actual field conditions determine the presence, absence and boundaries of wetlands and waters (such as creeks and ponds). An onsite investigation by a wetland professional can verify actual field conditions.



**Disclaimer:** The spatial information hosted at this website was derived from a variety of sources. Care was taken in the creation of these themes, but they are provided "as is". The state of Oregon, or any of the data providers cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or underlying records. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying any of these products. However, notification of any errors would be appreciated. The data are clearly not intended to indicate the authoritative location of property boundaries, the precise shape or contour of the earth or the precise location of fixed works of humans.

# EXHIBIT B





## PLANNING APPLICATION

OFFICE USE ONLY	
Date Stamp	RECEIVED JUL 01 2022 Email
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by:	MT
Receipt #:	
Fees:	615.-
Permit No:	851-22-000261-PLNG

**Applicant**  (Check Box if Same as Property Owner)

Name: CHRIS MACKIN Phone: 503-619-9012  
 Address: 5437 SE FRANCES CT  
 City: HILLSBORO State: OR Zip: 97123  
 Email: MACKINEMAIL@GMAIL.COM

### Property Owner

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Email: \_\_\_\_\_

Request: EXCEPTION TO RIPARIAN SETBACK

### 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

- 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: MILE MARKER 12 - TRASK RIVER RD.  
 Map Number: TO1S RO8W Sec. 36AC LOT # 300  
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.

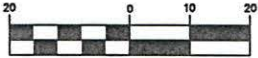
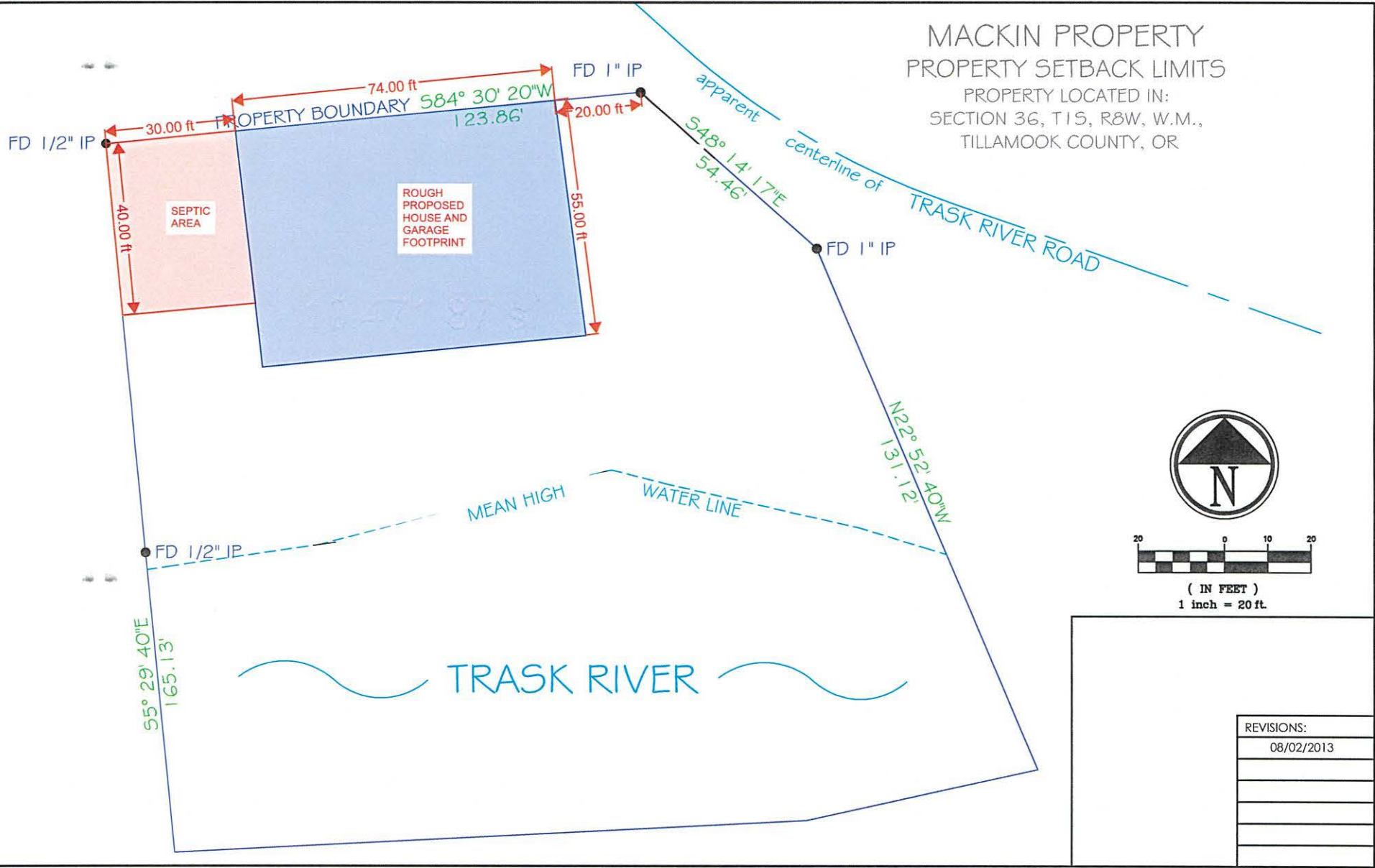
Property Owner Signature (Required)

Applicant Signature

5/25/2022  
Date  
5/25/2022  
Date

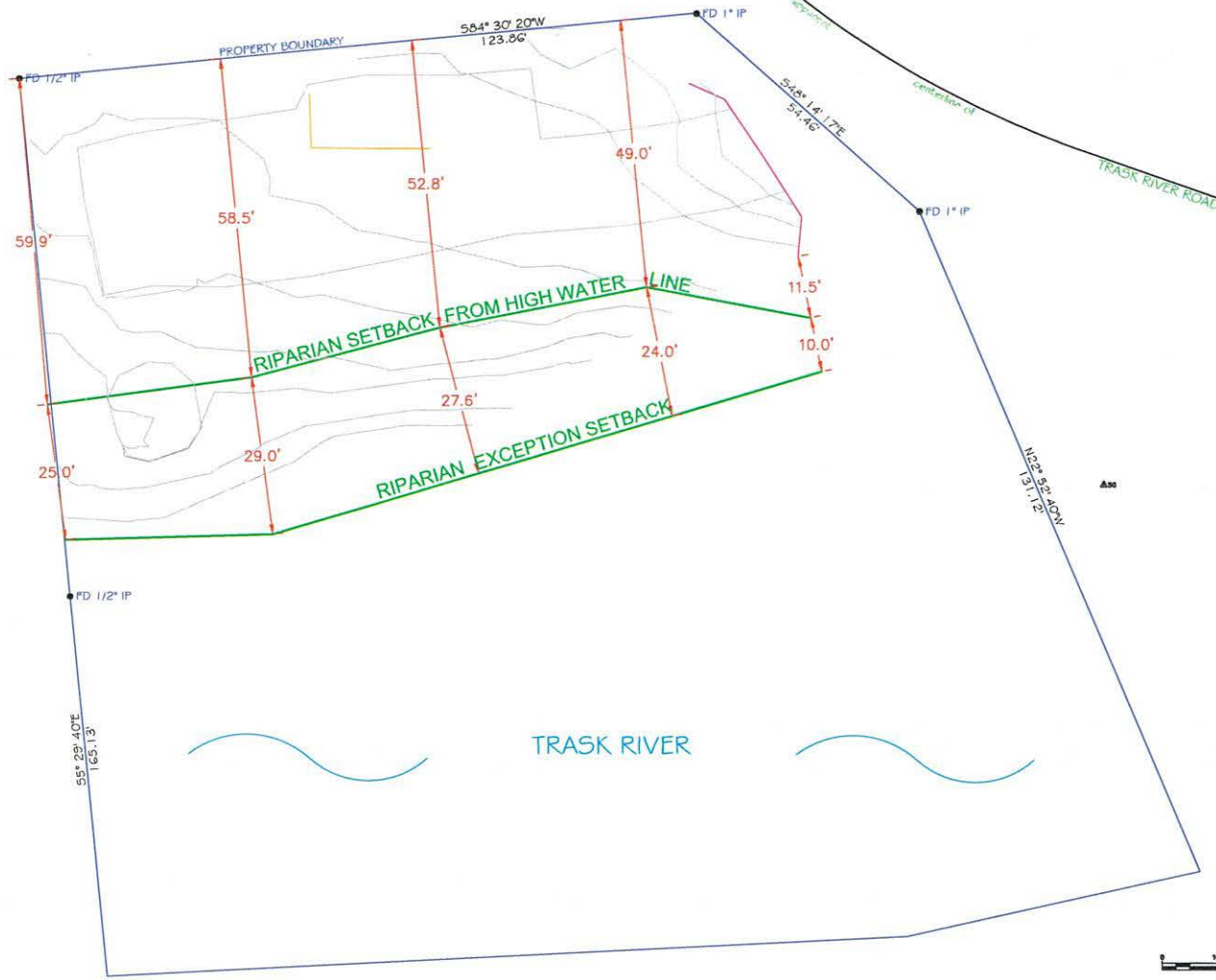
# MACKIN PROPERTY PROPERTY SETBACK LIMITS

PROPERTY LOCATED IN:  
SECTION 36, T1S, R8W, W.M.,  
TILLAMOOK COUNTY, OR



( IN FEET )  
1 inch = 20 ft.

REVISIONS:
08/02/2013



General Notes  
 NOT FOR CONSTRUCTION AS-BUILT ONLY

No.	Revision/Issue	Date

Firm Name and Address  
**Pihl** Inc.  
 41660 Sunset Hwy  
 Banks, Oregon 97106

Project Name and Address  
 MACKIN PROPERTY

Sheet Title  
**RIPARIAN SETBACK**

Date  
 06/23/2022

Scale  
 1" = 10'

## Melissa Jenck

---

**From:** SINNOTT Michael \* ODFW <Michael.SINNOTT@odfw.oregon.gov>  
**Sent:** Friday, March 18, 2022 1:49 PM  
**To:** Sarah Absher  
**Cc:** BRADLEY Robert \* ODFW; Chris Mackin  
**Subject:** FW: Riparian Set back on Trask River  
**Attachments:** Taxlot\_Mackin.PNG; Trask riparian set back\_Mackin.PNG; Trask riparian set back 2\_Mackin.PNG

Hello again Sarah,

It appears I mis typed Mr. Mackin's email address on my first attempt. I have corrected it here.

Thank you,

Mike Sinnott  
Assistant District Fish Biologist  
Oregon Department of Fish and Wildlife  
North Coast Watershed District  
4907 Third St  
Tillamook, OR 97141  
503-842-2741 Ext. 18614

**My email has recently changed to: Michael.SINNOTT@odfw.oregon.gov**

**From:** SINNOTT Michael \* ODFW  
**Sent:** Friday, March 18, 2022 1:46 PM  
**To:** Sarah Absher <sabsher@co.tillamook.or.us>  
**Cc:** BRADLEY Robert \* ODFW <Robert.BRADLEY@odfw.oregon.gov>; chris.mackin@phil-inc.com  
**Subject:** Riparian Set back on Trask River

Good afternoon Sarah,

I had the pleasure of visiting Mr. Mackin's property on the South Fork Trask River today. Mr. Mackin, whom I've Cc'd on this email, had requested the 50 foot riparian set back be measured and marked on his property which I have done and pictures of the approximate set back are attached. For this site ODFW North Coast Watershed District would recommend the retention of all trees presently within the riparian set back in concurrence with the County's riparian protection ordinance. There is a small area within the set back which is currently developed (gravel or lawn); in which ODFW would not object to a variance of the riparian set back, but would request mitigation in the form of planted and maintained conifers within the setback area on the property. Should Mr. Mackin apply for a variance to the riparian set back please share the application with me so that I may recommend appropriate mitigation tree numbers to offset impacts.

Thank you and have a good weekend,

Mike Sinnott  
Assistant District Fish Biologist  
Oregon Department of Fish and Wildlife  
North Coast Watershed District  
4907 Third St

Tillamook, OR 97141  
503-842-2741 Ext. 18614

**My email has recently changed to: [Michael.SINNOTT@odfw.oregon.gov](mailto:Michael.SINNOTT@odfw.oregon.gov)**

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- 🔍
- 📄
- 📍
- 🗺️

Print This

Search Taxlots

Select by point/area

Link to help/videos









# EXHIBIT C

## Melissa Jenck

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**From:** Melissa Jenck  
**Sent:** Monday, October 24, 2022 12:14 PM  
**To:** SINNOTT Michael \* ODFW; Sarah Absher  
**Cc:** Lynn Tone; BRADLEY Robert \* ODFW; Chris Mackin  
**Subject:** RE: EXTERNAL: 851-22-000261-PLNG

Thank you for this update, Michael!



**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](mailto: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:** SINNOTT Michael \* ODFW <Michael.SINNOTT@odfw.oregon.gov>  
**Sent:** Friday, October 21, 2022 2:38 PM  
**To:** Melissa Jenck <mjenck@co.tillamook.or.us>; Sarah Absher <sabsher@co.tillamook.or.us>  
**Cc:** Lynn Tone <ltone@co.tillamook.or.us>; BRADLEY Robert \* ODFW <Robert.BRADLEY@odfw.oregon.gov>; Chris Mackin <chris.mackin@pihl-inc.com>  
**Subject:** EXTERNAL: 851-22-000261-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.]**

Good afternoon Melissa and Sarah,

It has come to my attention that I made a mistake when measuring the riparian set back on Mr. Mackin's property (attached is my original email); the mistake is that the riparian set back for the South Fork should have been 25 feet not 50 feet. The county ordinance states a 50 foot set back for the Trask River, but this property is actually on the South Fork Trask not the mainstem. I apologize for the mistake and any confusion it may have caused.

Looking at Mr. Mackin's variance request it does appear he will still need a variance as a few of the measurements would extend development within 25 feet of the South Fork Trask, however as previously stated there is minimal negative biological impact as the variance is within the previously developed area. ODFW's has no objection to a riparian set back variance provided the existing trees are not impacted and would ask that a few native conifers be planted within the riparian area as mitigation for the permanent lost of riparian vegetation due to development.

Please let me know if you have any questions,

Mike Sinnott  
Assistant District Fish Biologist  
Oregon Department of Fish and Wildlife  
North Coast Watershed District  
4907 Third St  
Tillamook, OR 97141  
503-842-2741 Ext. 18614

**My email has recently changed to: [Michael.SINNOTT@odfw.oregon.gov](mailto:Michael.SINNOTT@odfw.oregon.gov)**



# Wetland Land Use Notice Response

## Response Page

Department of State Lands (DSL) WN# \*  
WN2022-1025

### Responsible Jurisdiction

**Staff Contact**

Lynn Tone

**Jurisdiction Type**

County

**Municipality**

Tillamook

**Local case file #**

851-22-000261-PLNG

**County**

Tillamook

### Activity Location

**Township**

01S

**Range**

08W

**Section**

36

**QQ section**

AC

**Tax Lot(s)**

300

**Street Address**

Trask River Rd

**Address Line 2**

**City**

**State / Province / Region**

**Postal / Zip Code**

**Country**

Tillamook

**Latitude**

45.438216

**Longitude**

-123.609489

### 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 property includes or is adjacent to designated Essential Salmonid Habitat.

### Your Activity

- A state permit will not be required for the proposed project because, based on the submitted site plan, the project avoids impacts to jurisdictional wetlands, waterways, or other waters.

### 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.
- A state permit is required for any amount of fill, removal, and/or other ground alteration in Essential Salmonid Habitat and within adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to the stream.

## Closing Information



### Additional Comments

Based on review of available information and site plan submitted, proposed house, garage, and septic footprint area appear to avoid removal/fill impacts to jurisdictional wetlands or the South Fork of the Trask River. Therefore, no state removal/fill permit is needed.

**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

11/18/2022

### Response by:

Mathew Unitis

### Response Phone:

503-986-5262

## Lynn Tone

---

**From:** HENDRICKS Nikki M \* WRD <Nikki.M.HENDRICKS@water.oregon.gov>  
**Sent:** Wednesday, October 19, 2022 5:24 PM  
**To:** Lynn Tone; ESTES Brett \* DLCD  
**Subject:** EXTERNAL: RE: 851-22-000261-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.]

My only concern with this is the ability to drill a well, if needed, for water.

**From:** Lynn Tone <ltone@co.tillamook.or.us>  
**Sent:** Wednesday, October 19, 2022 4:06 PM  
**To:** ESTES Brett \* DLCD <Brett.ESTES@dlcd.oregon.gov>  
**Subject:** 851-22-000261-PLNG

Please see link for Notice of Administrative Review.

<https://www.co.tillamook.or.us/commdev/project/851-22-000261-plng>

Thank you,



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

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# EXHIBIT D

**INSTRUCTIONS FOR FILING RESTRICTIVE COVENANT  
FOR THE CREATION OF A PARCEL OR PLACEMENT OF A DWELLING  
ADJACENT TO LAND ZONED FOR FARM OR FOREST USE**

1. This acknowledgment is required when the County permits the creation of parcels or the location/placement of dwellings adjacent to an area designated by the County as farm or forest lands (F, F-1, SFW-20).
2. Obtain the legal description of the subject property as it's recorded in the Tillamook County Deed Records. This is what is referred to as Exhibit A and must accompany the affidavit/covenant.
3. The attached affidavit/covenant must be filled out showing the names of ALL current property owners who appear on the property deed or contract, and signed before a Notary Public. Community Development has Notaries that can provide the service for free.
4. Once the affidavit/covenant is signed and notarized with the attached legal description, bring these to the Tillamook County Clerk's office to be recorded. **The Clerk's will charge a recording fee.** Please contact the Clerk's office at (503)842-3402 for current fees.
5. **A copy of the recorded and notarized affidavit/covenant will be given to DCD to put on file.**
6. If you have any questions about the affidavit/covenant, or the recording procedure, please contact the Department of Community Development Staff at (503)842-3408 x3410.



After Recording Return To:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RESTRICTIVE COVENANT**

\_\_\_\_\_,  
(GRANTORS) are the owners of real property described as follows:

**PROPERTY LEGAL DESCRIPTION attached as Exhibit A hereto and incorporated by reference**

Do hereby promise and covenant as follows:

The property herein described is situated adjacent to a Farm or Forest resource zone such as F, F-1, or SFW-20 zones in Tillamook County, Oregon where the intent is to encourage farm and forest use and minimize conflicts with those uses. The owners/residents of this parcel understand that on the adjacent land customary and accepted farm or forest management practices, conducted in accordance with federal and state laws, ordinarily and necessarily produce noise, dust, smoke, odors, the application of manure, fertilizers, or herbicides (including aerial spraying), road construction, changes in view, and other impacts related to a resource zone.

I/We do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a structure in this area and shall not pursue a claim for relief or cause of action of alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or ORS 30.937.

This covenant shall run with the land and is intended to and hereby shall bind my/our heirs, assigns, lessees, and successors and it can not be deleted or altered without prior contact and approval by the Tillamook County Department of Community Development (GRANTEE) or its successor.

IN WITNESS WHEREOF, the said Party has executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Names

State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

SEAL

\_\_\_\_\_  
Notary Public of Oregon  
My Commission Expires:  
\_\_\_\_\_

STATE OF OREGON  
COUNTY OF TILLAMOOK