



CURRY COUNTY COMMUNITY DEVELOPMENT
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**Curry County Community Development Department
Staff Report**

Application AD-2013 is a request for Conditional Use approval for Dragonfly Farms to operate a retail nursery, including occasional promotional events of up to 200 guests per day in the Forestry Grazing (FG) zoning district.

I. Background Information

Owner: Pamela James

Applicant: Pamela James

Land Use Review: Conditional Use Review for retail nursery sales and Occasional Promotional Events.

Property Description: Assessor's Maps 30-15-26, Tax Lots 100, 102 & 103; And Assessor's Maps 30-15-00, Tax Lots 200 & 300

Location Subject property is located at 49295 Highway 101, approximately 1.5 miles north of Langlois.

Existing Development: Property includes forestry, commercial greenhouses, outdoor growing areas, owner's residence and retail nursery.

Proposed Development: Retail nursery associated with farm use.

Access: Access is a private driveway from Highway 101.

Adjacent Land Uses: North – Forestry
East – Forestry
West – Highway 101, large lot residential & Forestry
South – Large lot residential & Forestry

Zone: Forestry Grazing (FG)

Acreage: Total ownership is 89.14 acres; approximately 8.6 acres includes the owner’s residence, existing greenhouses, outside nursery stock production, retail nursery and parking.

II. Applicable Review Criteria

The proposed application to operate a retail nursery including occasional promotional events must be found in compliance with the following sections of the Curry County Zoning Ordinance (CCZO):

Section 2.090	Procedure for Conditional and Permitted Use Permits
Section 3.050	Forestry Grazing
Section 3.052	Conditional Uses Subject to Administrative Approval by the Director
	15. Commercial activities associated with farm use.
Section 4.020	Off-Street Parking
Section 4.021	Off-Street Loading
Section 4.022	General Provisions – Off Street Parking and Loading
	8.) Design Requirements for Parking Lots
Section 4.050	Access Management
Section 7.040	Standards Governing Conditional Uses
	1. Conditional and Permitted Uses Generally
	17. Uses on Resource Land
Section 7.050	Time Limit on a Permit for Conditional Uses

II. Request Summary



Dragonfly Farms is an existing retail nursery business established in about 2017. The business has been the subject of county notifications and requests for Conditional Use review since that time. Some confusion was had by the county regarding whether or not Conditional Use review was required due to the nature of the agricultural business. The onsite sale of agricultural commodities grown on the farm does not require a Conditional Use permit. However, the retail sale of agricultural products that are not grown on the premises does require a Conditional Use permit. Dragonfly Farms may have initially started their business by selling nursery stock grown on site and found a successful local market. As their market grew, they began to bring nursery products, related gifts and accessories from outside the area to sell on site.

Dragonfly is licensed by the Oregon Department of Agriculture as a Greenhouse Grower of Herbaceous Plants. The business raises and sells berries, vegetables, herbs, shrubs, trees, flowers, houseplants, and native plants as well as gift items. Their customer base is primarily local but they also have a strong base of customers from out of the area, including tourists. The business is continuing to grow and currently has seven permanent employees and three seasonal employees.

Normal business hours are 10 am until 5 pm every day of the week. Peak attendance (40 people) is in the early afternoon and customers typically stay ½ hour. There are approximately 60 customers and 4 employees total on site each day. Most customers come in small groups (2 people) resulting in a parking estimate of 30 customer vehicles per normal business day.

The applicant has submitted a graphic illustration of the business (see attached application). It includes a gift shop, outside retail greenhouse, inside retail greenhouse, growing greenhouses, storage areas, maintenance shop, office, event space, event meadow, customer parking and pick-up areas as well as event parking areas. The business is especially attractive to customers. It is well maintained and provides a sense of adventure derived from its organization and aesthetic forest surroundings.

IV. Findings

Section 2.090 - Procedure for Conditional and Permitted Use Permits - *After accepting a completed application for Administrative Action pursuant to Section 2.060, the Director shall act on or cause a hearing to be held on the application pursuant to Section 2.062.*

Finding: The applicant submitted an application for an Administrative Conditional Use permit on August 31, 2020. At that time, the Planning Director determined that it was probable that there would be interest in the project by surrounding property owners and interested persons who have been to the business or heard about it, and that these persons would desire to have a public hearing. Therefore, the Planning Director is referring the proposed project to the Planning Commission for a public hearing and subsequent consideration of a decision. This finding is met.

Section 3.050 – Forestry Grazing (FG) Zone - *The Forestry Grazing (FG) zone is applied to resource areas of the county where the primary land use is commercial forestry with some intermixed agricultural uses for livestock uses. The purpose of the Forestry Grazing Zone is:*

- a. to implement the forest land policies of the Curry County Comprehensive Plan; and*
- b. to implement the Statewide Planning Goal 4 with respect to forest lands in the county; and*

- c. *to implement the agricultural land policies of the Curry County Comprehensive Plan with respect to livestock grazing and related farm uses which are intermixed with forest land in some parts of the county; and*
- d. *to implement Statewide Planning Goal 3 with respect to intermixed farm and forest land in the county.*

Finding: This section of the CCZO states the purpose of the Forestry Grazing zoning district. The primary uses currently established on the site are forestry and agriculture (nursery production). The Forestry Grazing zone provides for a mix of both forestry and agricultural uses. Agricultural use includes the production and sale of nursery products. The applicant has submitted a Conditional Use application for a proposed use that is consistent with the purpose and the identified uses allowed in the Forestry Grazing zoning district. This criterion has been met.

Section 3.052 – Conditional Uses Subject to Administrative Approval by the Director 15 – Commercial Activities Associated with Farm Use - This section of the Curry County Zoning Ordinance states: *The following uses may be allowed provided a land use application is submitted pursuant to Section 2.060 of the Curry County Zoning Ordinance and the Planning Director approves the proposed use based upon relevant standards for review in this Ordinance. Numbers in parenthesis following the uses indicate the standards described in Section 7.040 that must be met to approve the use.* Item 15 of Section 3.052 states: *“Commercial activities associated with farm use where the subject property is predominantly agriculture or grazing land and is currently in farm use as defined in ORS 215.203(2)(a)”*. ORS 215.203(2)(a) states *“As used in this section. “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use.”*

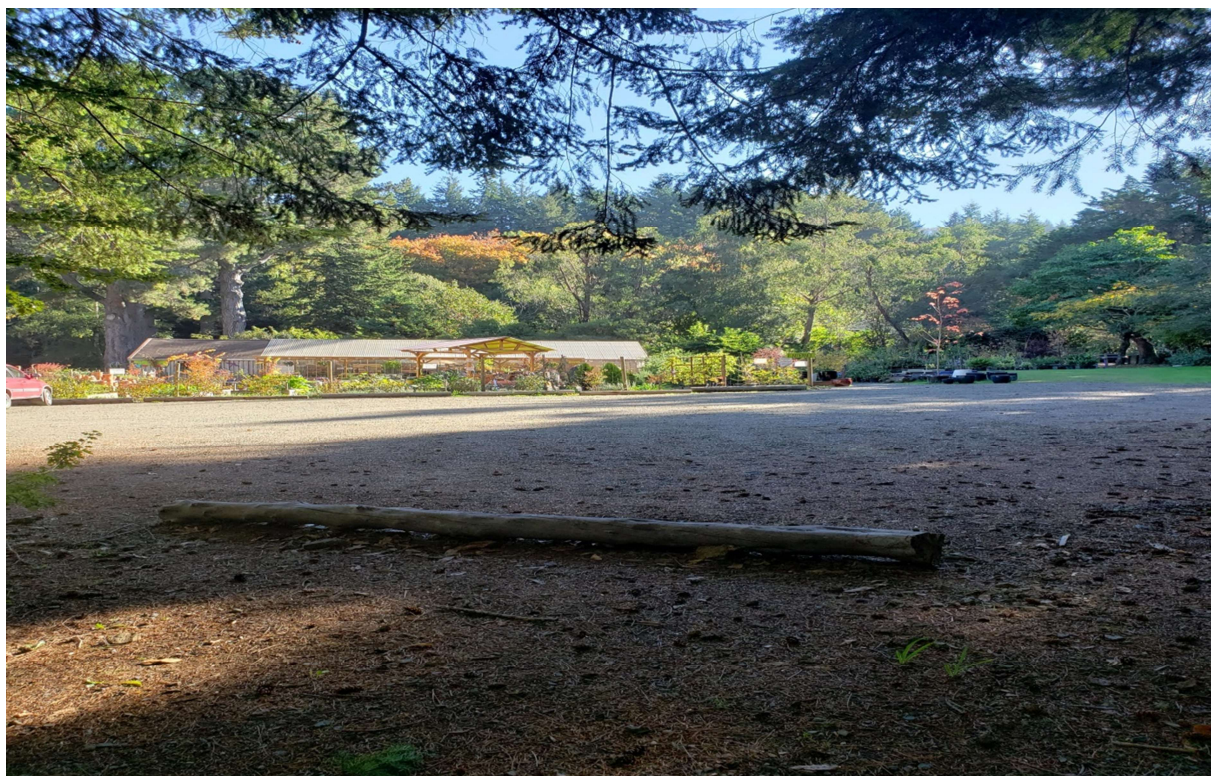
Finding: A portion of the subject property has a long history of horticulture production consistent with the purpose of the mixed farm and forestry use of the zoning district. The property operated as a rare plant nursery from the 1940s to the 1960s. Many of the rare specimens planted at that time still exist today. The horticultural farm use portion of the site can be defined as a commercial activity in conjunction with farm use which is a use allowed through a conditional use review pursuant to the purpose set forth for the county’s agricultural zoning districts. The CCZO defines a commercial activity in conjunction with farm use as *“retail or wholesale activities conducted on the property to dispose of farm products produced on the property”*. The applicant has submitted a

complete conditional use application for a public hearing and review by the Planning Commission under the provisions of CCZO Section 2.060 (1) (2). The CCZO Section 3.052 identifies the proposed use as being allowed through a conditional use review. This criterion has been met.

Section 4.020 – Off-Street Parking - Section 4.020 of the CCZO establishes the required number of parking spaces for proposed uses. There are two specific activities proposed within the Dragonfly application. One is the retail nursery business and the other is the occasional promotional events of up to 200 guests per day. The CCZO provides standards to calculate parking space requirements as follows:

Section 4.020 (6) Commercial Retail Store. One space per 200 square feet of floor area, plus one space per employee.

Finding: The applicant has calculated a total retail space of 4,620 square feet. There are a maximum of four (4) employees on site during the work day. The total parking requirement for the retail operation is 27 spaces. Planning staff reviewed the calculations on site with the applicant to verify the parking requirements and parking areas available for the retail operation. There are 30 regular customer parking spaces available on site during the regular business day. The primary parking area is shown below.



Section 4.020(5) Commercial Amusement (a) stadium, arena, theater. One space per four seats or eight feet of bench length or capacity as determined by the State Fire Marshall if no seating is provided.

Finding: This parking provision is the closest criteria in the CCZO to assess the parking requirements for the three promotional events proposed. The events include a two-day Earth Day Celebration (estimated 400 guests over two 2 days); a Pumpkin Party (estimated 200 guests over 2 days); and a Holiday Open House (estimated 60 guests over 2 days). Based on the proposed events, the parking requirement needs to be based on the largest event which is 400 people over 2 days. The applicant has stated that the customers come throughout the day from 9:00 am to 5:00 pm. The average length of stay is 2 hours. Further, most customers come to the event with family members or friends and carpooling is encouraged in Dragonfly's event promotional materials.

The applicant has contacted the State Fire Marshall for guidance on this requirement with negligible response applicable to this application. However, the limiting factor for "capacity" is the availability of safe parking on site in conjunction with safe ingress, egress and emergency vehicle access. Prior to COVID-19 restrictions, which have temporarily halted Dragonfly's large promotional events, a multi-faceted parking event strategy has been used to accommodate customers. That strategy included 50 available parking spaces on site with clear areas for ingress and egress, "event ahead" signs along Highway 101 to the north and south located 200 feet before the driveway entrance and notification to local police and fire of the upcoming event. A review by planning staff of the onsite event parking plan indicates that emergency vehicle access and turn around will require the elimination of at least 10 of the 50 proposed spaces. This leaves 40 spaces available for event parking.

As noted above, the CCZO does not provide adequate guidance for parking requirements for the proposed promotional events. While the information provided by the applicant gives us some indication of parking need based on past events, it does not fully assess the parking need for future events. The applicant has stated that the business has grown substantially over the past two years and that "*sales are up 65% this year over last year*". The estimated parking need for the Earth Day event is based on the event as it occurred in 2019 which may be significantly under estimating the parking need of a successful Earth Day event in the future. It does not appear that 40 parking spaces are adequate to accommodate the Earth Day event based on the applicant's estimates of participants. Further, there is no plan for closing the site to parking if too many vehicles pull on to the site from Highway 101 and find that there is no parking available. The applicant has not

provided an adequate parking estimate with a corresponding parking plan for large promotional events. Until this information is submitted for review and approval by the Emergency Services (police, fire and ambulance) agencies in the area, the Oregon Department of Transportation and the Planning Director, this finding cannot be met. Until such time as a detailed parking plan is approved by the Planning Director, it is recommended that promotional events be limited to smaller events such as the Holiday Open House which is expected to generate a parking need that can be accommodated with only 40 parking spaces.

Section 4.021 - Off-Street Loading

2. Handicap Parking. At the time of construction of a new structure or at the time of enlargement or change in use of an existing structure which would require additional parking; handicap parking spaces shall be provided in the size, configuration and number as required by ORS 447.233 and the Oregon Transportation Commission standards for disabled person parking spaces.

Finding: ORS 447.233 sets forth a requirement of 2 handicap parking spaces needed for parking areas that include 26-50 parking spaces. The parking plan submitted by the applicant does not indicate where these two spaces will be accommodated. However, the applicant has stated that they have contacted ODOT to obtain the required handicap parking signs and they plan to establish permanent handicap parking areas as required by ORS 447.233. It is recommended that the handicap parking areas be included on a parking plan to be submitted and approved by the Planning Director for this finding to be met.

3. Merchandise, materials or supplies. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.

Finding: The retail nursery includes incoming shipments of plants and supplies on a regular basis. An inventory receiving area is designated on the applicant's site plans. The receiving area is 50' x 34' and includes ample area for truck maneuvering in and out of the receiving area. This finding is met.

Section 4.022 General Provisions – Off-Street Parking and Loading 8.) Design Requirements for Parking Lots

Design requirements for parking lots:

- a. *Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use.*

Finding: The existing parking lot area has a well maintained gravel, all-weather surface. This finding is met.

- b. *Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.*

Finding: The parking area for the Dragonfly retail business is not within a residential zone or immediately adjacent to residential uses except for the residence of the owner of the nursery. The property is zoned Forestry Grazing and the business parking area is surrounded by mature fir trees and shrubs. There is minimal opportunity for activities resulting from the parking area to create a disturbance to the neighbors. This finding is met.

- c. *Access isles shall be of sufficient width for all vehicles turning and maneuvering.*

Finding: The applicant has included a parking plan which identifies access isles of 24 feet to allow vehicle turning and maneuvering. This finding is met.

- d. *Groups of more than four (4) parking spaces shall be served by a driveway so that no backing movement or other maneuvering will be required within a street.*

Finding: Parking occurs within a large lot on the business owner's property and is not associated with any adjacent streets. Maneuvering and backing movements occur within the 24 foot isles provided within the expansive parking lot therefore there are no impacts from business patron parking on any streets. This finding is met.

- e. *Lighting of the parking area shall be deflected from adjacent residential uses.*

Finding: No lighting is proposed for the parking area at this time and there are no immediately adjacent residential uses except for the owner's residence that might be impacted by parking area lighting in the future. This finding is met.

Section 4.050 - Access Management – *The purpose of this section is to manage access to land development in order to preserve the county transportation in terms of safety, capacity, and function.* The following sections of the CCZO are applicable to this proposed application.

4. Frontage Requirements. Lots in the T, FG, AFD, EFU, CON, ER and SW zones shall have access to a county, public or private roadway by driveway or easement for a distance of at least twenty-five (25) feet or of a greater width if needed to provide adequate access for firefighting and other emergency equipment.

Finding: The retail nursery has a private access which fronts onto Highway 101 (see photo below). According to the applicant, measurement of the frontage of the access point is 47 feet. This finding is met.



Dragonfly Farms Access From Highway 101

13. *Access connection and driveway design for commercial/industrial development.*

a) Driveways shall meet the following standards:

(1) If the driveway is a one-way in or one-way out drive, then the driveway shall be a minimum width of 10 feet and a maximum width of 15 feet and have appropriate signage designating the driveway as a one way connection.

(2) For two-way access, each lane shall have a minimum width of 10 feet and maximum width of 12 feet.

Finding: The existing drive-way acts both as a one-way and a two-way access. The driveway is about 250 feet in length from the Highway 101 entrance to the parking lot of Dragonfly's nursery. The applicant has stated that it functions as both a two-way and a one-way with turn outs. The limiting width of the driveway is a gate that narrows the driveway to 17 feet. The applicant has stated a willingness to expand the entire drive-way to a width of 20 feet in order to meet the standard set forth in Section 4.050 (13) a) (2) of the CCZO. This finding is met with a condition of approval for the applicant to expand the entire driveway to 20 feet in width to accommodate two-way access from Highway 101 to the retail business parking area.

b) Driveway approaches must be designed and located to provide an exiting vehicle with an adequate sight distance.

Finding: The driveway exits onto Highway 101 at a location which is a straightaway section of the Highway. Observation of the traffic flow along the highway at this location indicates that most drivers are traveling at a speed in excess of the 55 mph speed limit. Since it is a straightaway along a curvy road there is also the risk of vehicles passing in this section of the highway. Sight distance is somewhat obscured looking south by a row of mail boxes. Sight distance is also somewhat obscured looking north by a berm. The photos below were taken from the driver's seat of a F350 pick-up encroaching as far out onto the highway entrance as was safe. The sight distance from a car is much less.

The applicant has stated that they have contacted the Langlois office of the US Postal Service to find out the process to move the mail boxes back from the Highway a couple of feet. If the mail boxes can be repositioned they would provide a less obscured vision of sight to the south. Further, they have been in contact with the Oregon Department of Transportation (ODOT) to discuss the potential to obtain greater visual clearance to the north by modifying the berm. This finding can be met with alterations within the visual clearance zone for access onto Highway 101 from the applicant's driveway.



Sight distance looking south



Sight distance looking north

23. a) (3) *Right-of Way and Design.* In an area outside of an Urban Growth Boundary, turnarounds shall be provided for emergency vehicle maneuvering at the end of any road over 150 feet in length; Turnarounds shall have an all-weather drivable surface identical to the road surface.

Finding: The driveway leading to the retail nursery is approximately 250 feet in length therefore an emergency vehicle turnaround is required. The applicant has stated that they have selected an area for the dedicated turnaround on site. Dragonfly Farms will need to consult with the Langlois Rural Fire Protection District (LRFPD) to verify the adequacy of the turnaround and then include it on the parking plan for event parking. This finding can be met with a parking plan for large promotional events that is reviewed and approved by the LRFPD and the Planning Director.

Section 7.040 Standards Governing Conditional Uses (1) & (17) – *In addition to the standards of the zone in which the conditional use is located and the other standards in this ordinance, conditional uses must meet the following standards:*

1.) Conditional Uses Generally

a. *The County may require property line set-backs or building height restrictions other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land use.*

Finding: No additional setbacks or building height restrictions are required; therefore, this criterion is met.

b. *The County may require access to the property, off-street parking, additional lot area, or buffering requirements other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land uses.*

Finding: Additional information and review is requested regarding the promotional event parking plan, including emergency vehicle parking. This finding can be met provided the information requested is forthcoming from the applicant.

c. *The County may require that the development be constructed to standards more restrictive than the Uniform Building Code or the general codes in order to comply with the specific standards established and conditions imposed in granting the conditional use permit for the proposed use.*

Finding: The retail nursery use will be required to meet all State and County health and safety regulations. This criterion can be met provided the applicant complies with the conditions set forth as recommended below.

d. If the proposed conditional use involves development that will use utility services; the applicant shall provide statements from the affected utilities that they have reviewed the applicant's proposed plans. These statements shall explicitly set forth the utilities' requirements, terms and conditions providing or expanding service to the proposed development and shall be adopted by the Commission or Director as part of the conditional use permit.

Finding: Utility services for the retail nursery business include electricity from the City of Bandon and fire protection from the Langlois Fire Department. Water is from a private well on site. Septic services are currently provided through South Coast Septic. This business rents and maintains bi-weekly port-a-potty services for the nursery. The applicant has submitted service provider letters from the City of Bandon, from the Langlois Rural Fire Department and from South Coast Septic.

Staff contacted the Curry County Environmental Coordinator, Kent Downs to ascertain whether or not it is acceptable to use port-a-potty services in the long term for a commercial business such as a retail nursery. Mr. Downs provided information that indicated that any permanent lodging or food service business that falls under the jurisdiction of the Oregon Health Authority does require plumbed toilet and washing facilities. However, for all other business not within the jurisdiction of the Oregon Health Authority including Dragonfly Farms, the decision regarding plumbed sanitation facilities is up to the local Building Official. Consultation with the County Building Official, Marc Bangma, indicates that *Section 309.1 of the 2019 Oregon Structural Specialty Code Mercantile Group M including Greenhouses for display and sale of plants that provide public access* do require at least one plumbed toilet and lavatory for males and females. This finding cannot be met with the continued use of port-a-potties for sanitation services.

e. If the proposed conditional use involves the development or expansion of a community or non-community public water system, the applicant shall submit a water right permit(s) or documentation that a permit is not required from the Oregon Water Resources Department which indicates that the applicant has the right to divert a sufficient quantity of water from the proposed source to meet the projected need for the proposed use for the next twenty year planning period.

Finding: The proposed development of the subject property does not involve the development or expansion of a community or non-community public water system. Therefore, this standard is not applicable.

f. If the proposed conditional use involves the development or expansion of a community or non-community public water system, the applicant shall install a raw water supply flow monitoring device (flow meter) on the water system and shall record the quantity of water used in the system on a monthly basis. The monthly record of water usage shall be reported to the Curry County Department of Public Services-Planning Division and Health Department Sanitarian on an annual basis.

Finding: The proposed development of the subject property does not involve the development or expansion of a community or non-community public water system. Therefore, this standard is not applicable.

g. If the proposed conditional use included the development or expansion of a community or non-community public water system and the use is located within the service area of a city or special district water system the applicant shall utilize the city or special district water system rather than developing an independent public water system. An independent community or non-community public water system can be developed for the use if the applicant can prove that it would be physically or economically not feasible to connect to the city or special district water system. The city or special district must concur in the conclusion that connection of the proposed use is not feasible.

Finding: The proposed development of the subject property does not involve the development or expansion of a community or non-community public water system. Therefore, this standard is not applicable.

17.) Uses on Resource Lands

a.) The proposed use will not force a significant change in, or significant increase the cost of, accepted farming or forest practices on agricultural or forest land.

Finding: The proposed use is a retail nursery business that is dependent on growing nursery products on site. The retail function is an agricultural related use which is not expected to change the agriculture use of the property. It is likely that the proposed use will enhance and grow the existing agricultural use on site. This finding is met.

b.) *The proposed use will not significantly increase fire suppression costs or significantly increase the risks to fire suppression personnel.*

Finding: The increased use of the site for nursery production and retail business will result in an increased presence on site and thus an increase in alertness to the potential hazards associated with fire dangers in the area. It will also provide early detection and potential elimination of fire starts on and near the site. Access and maneuvering of fire suppression vehicles and personnel to the site will be enhanced by the widening of the driveway and the designated turnaround for emergency vehicles. This finding is met.

Section 7.050 Time Limit on a Permit for Conditional Uses – *Authorization of a conditional use shall become null and void after one year unless substantial construction has taken place or an extension has been granted.*

Finding: In order to comply with Section 7.050 of the CCZO, the conditional use for the Dragonfly Farms retail nursery business will include a condition that the approval expires if the recommended conditions of approval are not fulfilled within one year and if an extension is not requested by the applicant and granted by the Planning Director.

VI. Staff Recommendation

Application **AD-2013** for Conditional Use approval to authorize a retail nursery business, including promotional events on property zoned Forestry Grazing (FG) located on Assessor's Map 30-15 Section 26, Tax Lots 100, 102, & 103 and Assessor's Map 30-15-00, Tax Lots 200 & 300 is recommended for **APPROVAL** with the following conditions:

1. This Conditional Use Permit shall be valid for a period of one (1) years unless there is a failure of the applicant to comply with all the conditions of approval. Failure to comply with all conditions of approval, or violations concerning the use approved herein, may result in nullification of this approval by the County.
2. A detailed parking plan for large events (over 100 guests per day) shall be developed and submitted for review and approval by Emergency Services (police, fire and ambulance) agencies in the area, the Oregon Department of Transportation and the Planning Director. The parking plan shall include a provision to address handicap parking, emergency vehicle maneuvering and a plan for vehicle ingress/egress when the parking area is at capacity.
3. The entire length of the private driveway shall be expanded to a width of 20 feet in order to meet the standard set forth in Section 4.050(13) a) (2) for two-way access and allowance of each lane to have a minimum of 10 feet.

4. The applicant shall work with the US Postal Service to move the mail boxes located within the south sight clearance onto Highway 101 a couple of feet east to minimize the obstruction caused by the mail boxes.
5. The applicant shall work with the Oregon Department of Transportation to modify the berm located in the north sight clearance onto Highway 101 to obtain greater visual clearance.
6. The applicant shall develop an on-site septic system and plumbed toilet and lavatory facilities as required by Section 309.1 of the 2019 Oregon Structural Specialty Code.
7. Promotional events of more than 100 people per day shall not be allowed until a detailed parking plan has been approved by the Planning Director.