



CURRY COUNTY COMMUNITY DEVELOPMENT PLANNING DIVISION
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Administrative Staff Report and Decision
November 9, 2020

Application AD-2014 is a request for Conditional Use Approval to place a single family dwelling on a 2.75 acre parcel zoned Forestry Grazing (FG) and a Variance from setback requirements to the fire safety prevention standard.

I. BACKGROUND INFORMATION:

Applicant/Property Owner:	George and Gail Flynn
Agent:	John Bischoff
Land Use Review:	The siting of a single family dwelling in a Forestry Grazing Zone and Variance to the fire safety setback requirements
Property Description:	Township 38 South, Range 14 West W.M., Section 19D; Tax Lot 901 Curry County, Oregon
Location:	The Subject Property is located on Pistol River Loop on the north side of the road adjacent to the west side of Pistol River, just before the bridge.
Proposed Development:	To place a single family dwelling in a Forestry Grazing (FG) Zone
Zone:	Forestry Grazing (FG) Zone
Size:	2.75 acres
Current Land Use:	Vacant except for a small pump house
Surrounding Land Use:	Large lot Rural Residential and the Pistol River.

II. NATURE OF REQUEST

The applicant seeks approval to establish a single family dwelling on a Forestry Grazing zoned property using the “grid test.” The subject parcel is approximately 2.75 acres in size and was legally created through a lot line adjustment in 2014 (LL-1411). The parcel includes areas that are identified as Floodplain and Geologic Hazard. The request includes a variance to the fire safety setback requirements.

A parcel in the FG Zone may be approved for the siting of a dwelling under any one of the basic processes or “grid test.” However, any structure within the FG Zone must meet certain general standards and requirements, as well as specific fire safety criteria found under CCZO Sections 3.055 and 3.056. The applicant has stated that the proposed dwelling will not be sited in either the Floodplain or Geologic Hazard areas identified on the property. Therefore, a geologic hazards assessment and a Floodplain development permit are not required. The approval of this application will include conditions that prohibit the siting of a dwelling in these hazards areas.

The Community Development Department has duly accepted the application filed in accordance with CCZO Section 7.020 for an application for a conditional use and has given notice of this matter to affected property owners as set forth in CCZO Section 2.070(2).

III. APPLICABLE REVIEW CRITERIA

The proposed application for Conditional Use Approval of a single family dwelling on a FG zoned parcel and a variance to the fire safety setback requirements is an Administrative Decision under CCZO Section 2.060(1) and is subject to the following review requirements:

Section 3.050 Forest Grazing Zone

Section 3.052 Conditional Uses Subject to Administrative Approval by the Director

16. Dwellings subject to Section 3.053

Section 3.053 Standards for the Approval of Dwellings

3. Requirements for siting of a single family dwelling on forest land

4. Additional Requirements for approval of a dwelling under CCZO

Section 3.055 Fire Fighting Standards for Dwellings and Structures

Section 3.056 Fire Safety Standards for Roads

Section 3.251 Floodplain

Section 3.252 Development in Areas of Geologic Hazard

Section 7.040 Standards Governing Conditional Uses

1. Conditional Uses Generally

2. Dwelling not served by community water or sewer

16. Uses on resource land

Section 7.050 Time Limit on a Permit for Condition Uses

Article VIII Variances

IV. FINDINGS

Section 3.050. Forestry Grazing Zone (FG).

Purpose of Classification: The Forestry Grazing 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 Statewide Planning Goal 4 with respect to forest lands in the county.*
- (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 forestland in the county.*

If the subject tract was predominantly in agricultural (farm) use on January 1, 1993, then uses as specified under Sections 3.070 to 3.078 of this ordinance are applicable.

Finding: The applicant is proposing to site a single family dwelling in the Forestry Grazing (FG) zoning district with a variance to the fire safety setback requirements. This is a use that can be allowed in the zone through a conditional use review. The applicant has submitted a complete conditional use application with findings to address the applicable CCZO criteria for siting a single family dwelling in the FG zone. The application is consistent with the purpose of the Forestry Grazing therefore this finding is met.

Section 3.052. Conditional Uses Subject to Administrative Approval by the Director.

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. 16. Dwellings subject to Section 3.053 (1,16 – Note Code Error. The correct reference is Section 3.053(1, 17).

Finding The applicant has submitted a complete conditional use application for review by the Planning Director under the provisions of CCZO Section 2.060. The CCZO Section 3.052 identifies the proposed use as being allowed through a conditional use review. This criterion has been met.

Section 3.053 Standards for the Approval of Dwellings.

One single-family dwelling may be approved on a forest land parcel if the dwelling meets any of the tests set forth in (1), (2) or (3) below. Neither of the first two tests applies to this property, so the subject application has been made under test 3a as

follows:

3. *A single family dwelling may be sited on forest land if the lot or parcel is predominantly composed of soils that are:*
 - a) *capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:*
 - (i) *all or part of at least three other lots or parcels that existed on January 1, 1993 are within a 160 acre square centered on the center of the subject tract; and*
 - (ii) *at least three dwellings existed on January 1, 1993 on the other lots or parcels.*

Finding: Related to 3.053 (3a), the applicant states *"The soils on the property are the Gaudy-Willancch complex 0-3% slope. Pursuant to the Curry County office of the Soil Conservation District, these soils will not support the production of timber, to any great extent."*

Evidence is submitted with the application showing the location of existing parcels and dwellings in response to the appropriate standards found in CCZO Section 3.053. Using a 160-acre rectangle 1 mile long, ¼ mile wide parallel to the road, the applicant has shown based on the county assessor's records that there are 18 lots within the 160 acre grid, and at least 3 of those lots were created prior to January 1, 1993. Further, the County Assessor verified that at least 3 of the houses were built prior to January 1, 1993. Based on the documentation provided in the application and verified with the County Assessor, this criteria is met.

4. *The approval of a dwelling under subsections 1, 2, or 3 above shall be subject to the following additional requirements.*
 - a) *Dwellings and structures shall be sited on the parcel so that:*
 - i) *they have the least impact on nearby or adjoining forest or agricultural lands;*

Finding: The proposed dwelling site is on a parcel that does not contain merchantable timber or commercial agricultural activities. Adjacent parcels include large lot residential areas that are not engaged in commercial timber or agriculture production. The siting of a dwelling on this small acreage will not impact either forest or agricultural lands. This finding is met.

- ii) *the siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*

Finding: As stated above, the 2.75 acre parcel does not contain forest or farming practices. Therefore there will not be any adverse impacts to those types of uses. This finding is met.

- iii) *the amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and*

Finding: There are no forest lands on the 2.75 acre parcel therefore this criteria is not applicable.

- iv) *the risks associated with wildfire are minimized.*

Finding: The risks associated with wildfire are addressed in later sections of this report (CCZO Sections 3.055 and 3.056) and must be minimized in accordance with those standards. A variance is requested to the 130 foot fire safety setback requirement which is addressed below. If the applicable standards of CCZO Sections 3.055 and 3.056 are met and the variance to Section 3.055 is granted, then the risks associated with wildfire are minimized, thereby meeting the criteria of CCZO Section 3.053 (4)(a)(iv).

b) the siting criteria to (a) above may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

Finding: The 2.75 acre parcel is not suited for growing trees based on the soil types notes above. Further, the proposed location for the siting of a structure is limited by the existing site constraints of the floodplain, geologic hazards and the location of the well on the site. This finding is met.

- c) *The applicant shall provide evidence that the domestic water supply is from a source authorized by the Oregon Water Resources Department's administrative rules for the appropriation of ground water or surface water and is not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629). For purposes of this subsection, evidence of a domestic water supply means:*
 - i) *verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water, or*
 - ii) *a water use permit issued by the Oregon Water Resources Department for the use described in the application; or*
 - iii) *verification from the Oregon Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.*

Finding: The Applicant has proposed that the domestic water supply for the dwelling will be from a drilled well. The Applicant has submitted evidence in the form of the Department of Water Resources well log from the existing on site well (OWR Well

Identification # 119732. This finding is met.

- d) *As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.*

Finding: The access to the property is via a recorded private easement from Pistol River Loop Road. The access does not cross ODF or US BLM lands, so this standard is not applicable.

- e) *Approval of a dwelling shall be subject to the following requirements:*
 - i) *the applicant shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules;*
- f) *The Director shall notify the county Assessor of the above condition at the time the dwelling is approved.*
- g) *the property owner shall submit a stocking survey report to the Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;*
- g) *the Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;*
- h) *upon notification by the Assessor the Department of Forestry shall determine whether the tract meets the minimum stocking requirements of the Forest Practices Act, if the Department of Forestry determines that the tract does not meet those requirements then the Department shall notify the owner and the Assessor that the land is not being managed as forest land, the Assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372."*

Finding: There is currently no commercial timber production on the 2.75 acre parcel. The existing soil types on the property are not conducive to timber production. The above criteria e)-h) are therefore not applicable to this application.

Section 3.251 Floodplain. *Portions of zones may be subject to flooding. Restrictions, conditions and regulations for the construction of buildings and uses of land lying in the flood plain zone are subject to the Flood Damage Prevention Ordinance of Curry County. The flood plain zones, as indicated on Flood Plain Maps, are an official part of the County Zoning Maps. Flood Hazard Development Permits under the Flood Damage Prevention Ordinance are subject to an administrative approval by the Director.*

Finding: At least half of the property is subject to flood hazards as identified on the FEMA Flood Plain maps. Any future construction that includes development in the area of flood risk as identified on the FEMA maps will require a Flood Hazard Development Permit. Further, any development on the property will require an Elevation Certificate to verify that it is to be located outside of the Flood Hazard area. This finding is met with the above stated condition for this application regarding the Flood Plain.

Section 3.252 Development in Areas of Geological Hazards. *Those areas identified as geologic hazard areas shall be subject to the following requirements at such time as a development activity is submitted to the Director.*

- 1. The applicant shall present a geologic hazard assessment prepared by a geologist at the applicant's expense that identifies site specific geologic hazards, associated levels of risk and the suitability of the site for the development activity in view of such hazards.*

Finding: A portion of the property is identified as having a geologic hazard area. Any proposed development in this area of geologic hazard shall be subject to a geologic hazard assessment at the time a development permit is requested. This finding is met with the above stated condition for this application regarding the geological hazard.

Section 7.010 Authorization to Grant or Deny Conditional Uses:

Uses designated in this ordinance as conditional uses may be permitted, enlarged or altered in accordance with the requirements of Sections 7.020 through 7.050. In permitting a conditional use the County may impose conditions in addition to the provisions set for uses within each zone in order to protect the best interests of the surrounding property, the neighborhood, or the County as a whole. A change in use, the size of the site area of use, or a structure that is classified as conditional and in existence prior to the effective date of this ordinance shall conform to all provisions of this ordinance pertaining to conditional uses.

Finding: The authority stated above gives the County the ability, if warranted by findings of fact, to impose some or all of the conditions set forth in Section 7.040(1) below, or other conditions that may be necessary to protect the best interests of the area or the County as a whole. There are conditions applicable to this application that will be required to be satisfied at the time a development permit is requested to establish the residential dwelling on the property. This finding is met.

Section 7.040 Standards Governing Conditional Uses:

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.*
- 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.*
- 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: Based on evaluation of this application, the County is not requiring additional conditions of approval related to items a.) – c.) in order to find the proposed use of establishing a dwelling on the property to be compatible with adjacent land uses. This finding is met.

- 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 applicants' proposed plans. These statements shall explicitly set forth the utilities' requirements, terms and conditions for 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: The proposed dwelling is located outside the utility service areas for water and sewer. Fire service is to be provided by the Pistol River Fire District and electrical power is to be supplied by the Coos Curry Electric Co-op. The applicant has provided service provider letters from the two service agencies that will be providing services to the property. This finding is met.

2. *Dwelling not served by community water or sewer service.*

- a.) *A dwelling not served by community sewer may be authorized as a conditional use only after the individual sewage disposal system site has been approved in writing by the County Sanitarian or other agent authorized to regulate sewage disposal systems in the county. If the Board, Commission or Director has been informed as to a possible environmental hazard if the conditional use permit were approved, or if records show past environmental violations on the part of the applicant; the Board, Commission or Director shall request that this conditional use be reviewed by the Department of Environmental Quality and that a sewage disposal system plan shall be approved for this conditional use before the permit is granted.*

Finding: A copy of a Residential Septic Site Evaluation (dated 3/17/2016) and prepared by Sean Rochette, Onsite Wastewater Specialist, Coos County DEQ) for use of an onsite sewage disposal system on the subject property was submitted by the Applicant. The required individual site evaluation has been approved in writing by the Coos County DEQ, the appropriate authority for the task. This criteria for Section 7.040 (2) (a) has been met.

- b) *A dwelling not served by community water may be authorized as a conditional use only after the description of the proposed method of supplying domestic water to the proposed dwelling have been approved by the decision maker. If the proposed method involves the creation of a community water system; the plans, approved by a licensed engineer, and other related documents including water rights, water quality test(s), water quantity test(s), and letters of approval from the appropriate agency shall be provided to the decision maker. If the proposed method involves the extension of an existing water supply system a statement from the agency that controls the system indicating that it can and will supply water to the proposed dwelling shall be provided to the decision maker. If the proposed water source is an individual on-site source a description of the water source and quantity of flow shall be provided to the decision maker. If the water source is to be a proposed well the applicant shall provide evidence that there is ground water available based on the well records from existing wells within 1/4 mile of the proposed well site.*

Finding: A domestic well has been developed on the property with documentation that indicates the well identification number as established through the Oregon Water Resources Department. Further, testing of the water from the well has been documented and accepted by the Oregon Health Authority. This finding is met.

17. *Uses on resource land.*

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

Finding: The proposed use will have minimal impact on farm or forest uses on adjacent lands and on the subject parcel itself as the area surrounding the parcel is already developed as large lot residential uses and does not have commercial farm or forest uses. The request is for single family dwelling and the implementation of associated residential activities. The impact of the dwelling has been found to have minimal impact on adjacent forest or farming uses; therefore, the use should not significantly deter those uses. The criteria is met.

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

Finding: The parcel is located within the Pistol River Fire Protection District. It is within an area that is already developed with large lot residential uses that are also within the Fire District. Access from Pistol River Loop is well developed and provides readily accessible access for fire suppression vehicles to be responsive to fire suppression on site.

However, the applicant will be required to show compliance with Section 3.056 Fire Safety Standards for Roads prior to obtaining a Planning Clearance or Building Permit for the proposed dwelling. This finding is met with this condition.

- c) *A written statement be recorded with the deed or written contract with the county or its equivalent shall be obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules for uses authorized in Section 3.043 of the Timber (T) zone where indicated and Section 3.053 of the Forestry-Grazing (FG) where indicated.*

Finding: A written statement that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules shall be recorded as a condition of approval. Once a signed written document has been recorded, this criteria will be met.

Section 7.050 Time Limit on a Permit for Conditional Uses – Authorization of a conditional Use permit to establish a single family dwelling in the FG zone, outside the urban growth boundary, shall become null and void after four years unless substantial construction has taken place or an extension has been granted. The county may grant an extension period of up to 12 months if the applicant makes a written request for an extension and the request is submitted to the County prior to the expiration of the approval period.

Finding: In order to comply with Section 7.050 of the CCZO, the conditional use approval for the single family dwelling will include a condition that the approval expires if construction does not commence within four years and if an extension is not requested by the applicant and granted by the Planning Director.

Variance Request to Section 3.055 Fire Fighting Standards for Dwellings and Structures

Section 3.055 provides firefighting standards for dwellings and structures and states: *The following fire siting standards shall apply to all new dwellings or permanent structures constructed or placed on lands within the Forestry Grazing (FG) Zoning designation.*

- 1) *The dwelling shall be located on a parcel that is located within a structural fire protection district or the owner has contracted with a structural fire protection district for residential fire protection. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the Director may provide an alternative means for protecting the dwelling from fire hazards. The alternative means for providing fire protection may include a fire sprinkling system, onsite fire suppression equipment and water storage or other methods that are*

reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for fire fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

Finding: The subject parcel is located within the Pistol River Rural Fire Protection District. A service letter from the District verifies that the subject parcel is located within their district. The area also receives forest protection from the Coos Curry Protective District. This criteria is been met.

2) *Fire Safety Area.*

Owners of new dwellings and structures shall comply with the following requirements.

- a) *A primary fire safety area of at least thirty (30) feet width shall be maintained around all structures;*

NOTE: For purposes of this ordinance a primary fire safety area shall be defined as follows:

An area in which the vegetation shall be limited to mowed grasses, low shrubs (less than two (2) feet high, and trees that are spaced with more than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath the trees.

- b) *A secondary fire safety area of at least one hundred (100) feet width shall be cleared and maintained around the primary fire safety area.*

NOTE: For purposes of this ordinance a secondary fire safety area shall be defined as follows:

An area in which the vegetation shall be limited to mowed grasses, low shrubs (less than two (2) feet high, and trees that are spaced with more than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet from the ground) branches.

- c) *Areas subject to the Scenic Waterway Area Overlay Zone may have compliance with the primary and secondary fire safety area requirements of this section modified to comply with specific siting standards contained in any state or federal approved Scenic Waterway Management Program when such regulations conflict.*

- 3) *The dwelling shall have a fire retardant roof.*
- 4) *If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*
- 5) *The dwelling shall not be sited on a slope greater than 40 percent.*
- 6) *The County may impose standards and conditions in addition to those specified above, when it deems it necessary to protect the public health, safety and welfare.*
- 7) *Replacement or substantial improvement of legally sited existing dwellings requires compliance with the Fire Safety Area requirements of subsection 2. above. Substantial improvement constitutes an improvement which is in excess of 50% of the assessed value of the existing dwelling.*
- 8) *Road access to the dwelling shall meet the requirements set forth in Section 3.056.*

VARIANCE REQUEST TO CCZO Section 3.055

CCZO Article VIII (Sections 8.010, 8.020 and 8.030), provides criteria for the approval of a variance to standards and criteria of the CCZO.

Section 8.010 provides authorization to grant or deny a variance and states:

The Director may grant variances from the provisions of this ordinance where it has been shown that owing to unusual topographic conditions, unusual conditions such as the shape of the property or the location of a building on the property, or other conditions over which the applicant has had no control, the literal interpretation of this ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance, the Director may attach conditions which he/she finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this ordinance or the comprehensive plan.

Section 8.020 provides standards for filing an application a variance and states:

A request for a variance may be initiated by filing an application in accordance with Article II of this ordinance.

Finding: The applicant's request for variance was filed in accordance with Section 2.060 of the CCZO.

Section 8.030 provides standards for granting a variance and states:

A variance may be granted only in the event that the applicant can show that all of the following standards have been met:

- 1) *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size, shape, topography, or other circumstances over which the owner of the property has no control.*

Finding: The applicant has stated that “the exceptional circumstance that applies to this case is the location of the well and pump house on the property. In order to build in an area that will allow a buffer of 100 feet from the septic system to the well, the only area that is acceptable is the area shown as the building pad”. The building pad area is shown on Exhibit 5 of the application. The parcel is only 2.75 acres in size and is configured such that there is not adequate area to provide for the fire safety setbacks required. This criteria is met.

- 2) *The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.*

Finding: Due to the topography and shape of the parcel, and the existing site for the sewage disposal system and the well, the applicant asserts that a variance is necessary to authorize the dwelling. Allowing a dwelling on the property is a right provided by adjacent property owners in the same vicinity and the same zoning district. This finding is met.

- 3) *The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of the comprehensive plan or other county regulation.*

Finding: Placement of the dwelling will not increase or intensify the uses currently permitted on adjacent parcels. The area has developed as large lot residential uses. Approval of the requested variance is not anticipated to be materially detrimental to or otherwise in conflict with, and will allow for a use that is generally consistent with the intent of this ordinance and the comprehensive plan for the area.

- 4) *The variance requested is the minimum variance which would alleviate the hardship.*

Finding: This requested variance reduction is the minimum necessary to alleviate the hardship as set forth in the applicant’s site plan.

Section 3.055. *The following additional fire siting standards shall apply to all new dwellings or permanent structures constructed or placed on lands within the Forestry Grazing (FG) zoning designation.*

3. *The dwelling shall have a fire retardant roof.*
4. *If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*
5. *The dwelling shall not be sited on a slope greater than 40 percent.*

Finding: As a Condition of Approval, the proposed dwelling will have a fire retardant roof, each chimney will have a spark arrester, and the dwelling shall not be sited on a slope greater than 40 percent. The fire retardant roof and spark arresters shall be certified by the building inspector. According to the Applicant, the proposed (dwelling) site is on a relatively flat area as shown on the applicant's site plan. Compliance with these standards is determined at time of construction. Therefore, the criterion of Sections 3.055 (3,4, and 5) can be met as a condition of approval.

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6. *The County may impose standards and conditions in addition to those specified above, when it deems it necessary to protect the public health, safety and welfare.*

Finding: CCZO Section 3.055(6) authorizes the County to impose additional standards and conditions on a dwelling constructed in a FG Zone if the County feels it necessary to protect the public. The County has not imposed any conditions pursuant to this subsection other than those set forth above. The County may impose additional conditions in later sections of this report to enable criteria and standards to be met, or to protect the public.

7. *Replacement or substantial improvement of legally sited existing dwellings requires compliance with the Fire Safety Area requirements of subsection (2) above. Substantial improvement constitutes an improvement which is in excess of 50% of the assessed value of the existing dwelling.*

Finding: This application is a request to permit a new dwelling. This standard is not applicable.

8. *Road Access to Dwellings*
Road access to the dwelling shall meet the requirements set forth in Section 3.056.

Finding: The road access standards (Section 3.056) will be reviewed for compliance at the time an application is made to construct the dwelling.

V. PUBLIC COMMENTS/CONCERNS

Written comments were received from adjacent property owners regarding this request for Conditional Use Approval. The comments include leaving the communal water system adjacent to the west boundary line near the property alone; recognize an existing water pipeline easement for the communal well that runs through the center of the subject parcel (tax lot 901);

construction on tax lot 901 should be subject to maintenance of the communal well's water quality and current water recovery standards; septic system construction would have to be a safe distance from the communal well; and access to tax lot 901 may have to be widened and lengthened to meet county standards for fire and emergency access.

Staff Response to Public Comments: The concerns raised regarding the location of the communal well and the easement for the pipeline to the well are civil issues and not within the jurisdiction of the County Planning Department. However, a condition will be included in the approval of the application for the property owner to adhere to the established legal boundaries and easements already established for the communal water system. Further, protection of the communal well is under the jurisdiction of the Oregon Water Resources Department and therefore concerns regarding protection of the well for water quality purposes will need to be addressed by that agency. The Department of Environmental Quality (DEQ) has established standards for required setback distances between a well and a septic system for the purpose of protecting water quality impacts associated with septic systems. The applicant will be required to adhere to these requirements for the development of their on site septic system. The applicant will be required to comply with **Section 3.056 of the CCZO Fire Safety Standards for Roads** at the time an application for a Planning Clearance and Building permit is requested.

VI ADMINISTRATIVE DECISION AND CONDITIONS OF APPROVAL

Application AD-2014 for a Conditional Use Approval to establish a dwelling on a 2.75 acre parcel zoned Forestry Grazing (FG) located on Assessor's Map 38-14 Section 19D, Tax Lot 901 is **APPROVED** with the following conditions on this date of November 9, 2020. The Applicant has demonstrated that this request, with the imposition of certain conditions, will meet all applicable requirements and standards for a dwelling in the FG zone including a variance to the fire safety setback requirements.

This approval is based on siting a single family dwelling on the specific location indicated in the application. Therefore, in order to comply with the applicable criteria and standards of the CCZO and the recommended conditions of approval, the dwelling and any accessory structures must be sited in the approved area proposed by the applicant in this application.


1. The dwelling and any accessory structures must be sited in the general location described by the Applicant in his application. No change in the location of the approved area is authorized without amendment of this approval.
2. The dwelling shall have a fire retardant roof, all chimneys shall have approved spark arresters installed and the dwelling shall not be sited on a slope greater than 40%; these standards shall be inspected and certified by the building inspector at the time of construction.
3. The road access must meet First Safety Standards, and the Applicant must submit, prior to building permit issuance a copy of a signed and notarized form, supplied by the County, stating that the private drive has been constructed and will be maintained to the standards in CCZO Section 3.056.
4. A written statement shall be recorded with the deed or written contract with the county or its equivalent shall be obtained from the land owner which recognizes the rights of

adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules for uses authorized in Section 3.043 of the Forestry Grazing (FG) zone where indicated and Section 3.053 of the Forestry-Grazing (FG) where indicated.

5. This approval will **expire four (4) years** from the date this decision becomes final unless substantial construction of the dwelling has taken place or an extension of time has been granted. Requests for extension of time shall be consistent with CCZO Section 7.050(5) and must be received by the Planning Department, in writing, with the appropriate fee, prior to the expiration date.
6. Any proposed development within the area of Flood Hazard will require a Flood Hazard Development Permit.
7. Any proposed development within a Geologic Hazards Area will require a Geologic Hazard Assessment.
8. The applicant shall adhere to the established legal boundaries and easements established for the communal water system.

This decision is limited to the review of Curry County applicable zoning rules and land use law, as outlined in the Curry County Comprehensive Plan and the Curry County Zoning Ordinance. Other county, state and federal agencies may have regulatory review authority for development projects. The decision rendered herein neither implies nor guarantees compliance with the requirements of any other regulatory agency. It is the property owner's responsibility to ensure that the development complies with the requirements of any other regulatory agency or provisions of law prior to initiating the development. Notice of this decision is being sent to property owners in the vicinity of this property.

Notice of this Administrative Decision is being sent to property owners within the statutory vicinity of this property. The applicants, or the noticed adjacent property owners, have the right to request an appeal hearing within 15 days of this decision. This decision will be final once the 15 day period has ended, provided an appeal has not been filed. Any appeal must meet the provisions of CCZO Sections 2.060(2) (b), 2.170; and 2.180.


Becky Crockett
Curry County Planning Director

Nov. 9, 2020
Date