



CURRY COUNTY COMMUNITY DEVELOPMENT PLANNING DIVISION
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Administrative Staff Report and Decision
January 6, 2021

Application AD-2018 is a request for Conditional Use Approval to place a single-family dwelling on a 33.67 ac parcel zoned Forestry Grazing (FG).

I. BACKGROUND INFORMATION:

Applicant/Property Owner: Tremont Timber, LLC

Agent: Chris Hood
Stuntzner Engineering
705 South 4th Street
Coos Bay, OR 97420

Land Use Review: Conditional use review of a single-family dwelling on an FG zoned parcel using the large tract test (200+ ac deed restriction).

Property Description: Township 36 South, Range 14 West W.M., Index; Tax Lot 8400, Curry County, OR

Location: This property is about ¾ of a mile up Libby Creek Rd from its intersection with N. Bank Rogue River Rd.

Proposed Development: To build a single-family dwelling on a 33.67 ac FG zoned parcel.

Zone: Forestry Grazing (FG) Zone

Size: 33.67 acres

Current Land Use: This property is under commercial timber production. Most of the timber was harvested from this property in the last few years. Reforestation activities have commenced.

Surrounding Land Use: A large tract adjoining the subject to the east, previously improved with a Rod & Gun Club (now vacant), is also under conditional use review for a single-family dwelling on an FG zoned parcel using the large tract (>160 ac) test. Nearby

properties along the Rogue River are within Kimball Bar and Canfield Bar Rural Exception Areas. Large properties to the north and west are mostly under timber production.

II. NATURE OF REQUEST

The Applicant requests approval of a conditional use for a single-family dwelling on an FG zoned property. A prior conditional use application (AD-0827) was approved in 2009, extended in 2013, but the approval expired in January 2015. The prior approval was based on the large tract test, and deed restrictions were recorded against the prior applicant's other non-contiguous lots which, combined with the subject's lot, came to 200 acres. The Applicant has submitted findings from AD-0827 with this application. Code provisions have not changed since the prior approval. The County, therefore, finds that it would be inconsistent with prior approvals to find a different conclusion for this application.

This subject parcel is approximately 33.67 acres and was legally created through a lot line adjustment in 2008 (LL-0814). Properties surrounding this parcel are large FG zoned acreages. This property includes areas that are identified as Geologic Hazard. The applicant's proposed dwelling site is in an area identified as having Geologic Hazard by the DOGAMI Provisional Maps of Rapidly Moving Slides area. The Applicant does not address this element as part of the current application, but it is considered in this review and addressed by condition, consistent with AD-0827.

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 an FG zoned parcel is an Administrative Decision under CCZO Section 2.060(1), 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 3.0534.

Section 3.053 Standards for the Approval of Dwellings

2. Requirements for siting of a single-family dwelling on large tract forest land

4. Additional requirements for approval of a dwelling

Section 3.055 Fire Fighting Standards for Dwellings and Structures

Section 3.056 Fire Safety Standards for Roads

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

17. Uses on resource land

Section 7.050 Time Limit on a Permit for Conditional Uses

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.*

Finding: The Applicant requests approval to site a single-family dwelling in the FG zoning district. This use 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 on a 33.67 ac FG zoned parcel using the large tract test (non-contiguous 200+ acres). The application is consistent with the purpose of the FG zone, so this requirement 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 CCZO 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 requirement is 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.

This application has been made under test (2) as follows:

- 2. A single-family dwelling may be sited on forest land if it complies with other provisions of law and;*

b) the applicant is the owner of tracts that are not contiguous but are in the same county or adjacent counties and the tracts are zoned for forest use and the acreage of two or more tracts total 200 acres or more; under such circumstances a dwelling may be placed on one of the tracts providing the owner submits proof of a nonrevocable deed restriction that precludes all future rights to construct a dwelling on the tracts or to use the tracts to total acreage for other future dwellings unless the tract is no longer subject to protection under goals for agricultural lands or forest lands. The covenants, conditions and restrictions shall be on a form provided by the county and has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions are subject to the following:

- (1) the covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;*
- (2) enforcement of the covenant, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;*
- (3) the failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;*
- (4) the Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under covenants, conditions and restrictions filed in the county deed records pursuant to this section. This map or other record shall be readily available to the public at the county planning office.*

Section 1.030 Definitions #149

Tract: One or more contiguous lots or parcels under the same ownership whose boundaries have been established by some legal instrument, which is recognized as a separate legal entity for purposes of transfer of title, which typically has frontage upon a public or private street and complies with the dimensional standards of this ordinance unless pre-existing on the date the ordinance was adopted. A tract shall not be considered of less than the required acreage because it is crossed by a public road or waterway.

Finding: TL 8400 is identified on a Map of Survey (by Stuntzner Engineering, dated 1/15/2007) for the 2008 Lot Line Adjustment as totaling 33.67 acres. With the prior application for conditional use approval (AD-0827), deed restrictions via Declaration of

Covenants, Conditions and Restrictions were recorded against portions of two other properties owned by the prior applicant. A 159.0 ac portion of Assessor's Index Map 3514, TL 1400 was restricted from development upon recording of Inst #2014-4131 (attachment A, recorded 12/31/2014). A 7.5 ac portion of Assessor's Index Map 3314, TL 400 was also restricted from development upon recording of Inst #2014-4133 (attachment B, recorded 12/31/2014). The two deed restricted areas, combined with the subject's 33.67 acres, creates a non-contiguous 200 ac tract. This requirement has been 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 home site is in the northern half of the lot, roughly centered to the north, west and east property boundaries (each about 400 to 500 ft distant). The proposed site will be more than 900 ft distant of the south property boundary. This placement allows ample area for the 130ft Fire Safety Areas and provides good separation from adjacent large parcels under commercial timber production. The proposed home site will have little impact on nearby or adjoining forest lands. This requirement is met.

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

Finding: The property has several moderately sloped ridges and the proposed home site is a leveled area between the ridges. There is an existing drive to the home site, extending about 500ft from West Libby Creek Rd. Based on GIS aerial maps, the proposed site is already cleared, meets the 130ft Fire Safety Area setbacks, meets 50ft stream setbacks and would not require significant additional clearing for the home site or the drive access. Timber has been harvested from most of the property to the west and south of the proposed site and replanted. The remainder of the property is available for continued timber production. This proposed site minimizes adverse impacts to forest operations. This requirement is met.

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

Finding: There is an existing drive from West Libby Creek Rd providing access to the proposed home site, so no new roads are needed to develop the home site. From the GIS and SLIDO maps, the site already appears cleared and leveled, so only minimal additional clearing and grading would be necessary to develop the site. The amount of forest lands used to develop the site would be minimized. This requirement is met.

- 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. If the applicable standards of CCZO Sections 3.055 and 3.056 are met, then the risks associated with wildfire are minimized, thereby meeting this requirement.

- 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 proposed home site is cleared and level, with an access drive already developed. Setbacks for Fire Safety Areas (under CCZO Section 3.055) and riparian buffers (50ft) will be required. No other setbacks are needed. 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 proposes a drilled well water source for domestic use. Per OR Water Resources Dept (OR WRD), new drilled wells for domestic use do not require a water right but must be registered by the driller. Well log entries from OR Water Resources Dept, included in the original 2008 application, were provided. However, review of current online records from OR WRD identified a drilled well on the subject property from 2007. Per the subject property's well log entry (CURR_51439) the new well yielded 7 GPM over a 1 hour period when the well was drilled (1/19/2007). This requirement 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 does not cross ODF, US BLM lands or USFS roads, so this requirement is not applicable. Access to the subject property from N Bank Rogue River Rd, a county road, is from Libby Creek Rd and West Libby Creek Rd. Libby Creek Rd is a private road by recorded easement (BR 51, pg 273, dated 5/23/1977). West Libby Creek Rd is a private road identified on the Map of Survey done for the 2008 Lot Line Adjustment (LL-0827). Approval is conditioned (Condition #2) on verification of a recorded access easement across West Libby Creek Rd. As conditioned, this requirement is met.

- e) *Approval of a dwelling shall be subject to the following requirements:*
- (1) *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: Most of the subject property was logged within the last few years. As a condition of approval, the applicant shall submit a stocking report to the Curry County Assessor stating that the minimum stocking requirements have been met and the Applicant shall provide verification to the Curry County Planning Department that the standards have been met. (Condition #3).

Section 3.055. Fire Fighting Standards for Dwellings and Structures

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 property is within the Cedar Valley Rural Fire Protection District. A service letter from the RFPD verifies that the subject is located within their district. The property would also receive forest protection from the Coos Curry Protective District. This requirement is 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.

Finding: The proposed home site has sufficient separation from the property lines to meet the distance requirements for both the primary and secondary Fire Safety Areas. The property owner will be required to clear and maintain the primary and secondary Fire Safety Areas around all structures. These Fire Safety Areas will be reviewed for compliance upon request of a development or building permit. (Condition #4)

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: These dwelling construction requirements (CCZO Section 3.055 3, 4 and 5) will be reviewed for compliance at the time an application is made to construct a dwelling. (Condition #5)

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 an FG Zone if the County believes it is necessary to protect the public. The County has not imposed any conditions pursuant to this subsection other than those set forth in the review 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 approve a single-family dwelling home site. 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. (Condition #6)

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: Portions of this property, including the proposed home site area, are identified as having a geologic hazard area per the DOGAMI Provisional Maps of Rapidly Moving Landslides. Consistent with the prior approval, approval of this request is conditioned (Condition #7) on submittal of an approved site-specific geologic hazard assessment prepared by a licensed geologist as required under CCZO Section 3.252 prior to the issuance of any building or construction permits. If the assessment provides a statement that there is an elevated risk posed to the subject property or to adjacent properties by geologic hazards, then the applicant must apply for and receive an Administrative Decision prior to any disturbance of the soils or construction.

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 requirement 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 public water and sewer service. Electrical service is available through Coos Curry Electric Co-Op. Structural fire protection is available through Cedar Valley Rural Fire Protection District. The Applicant provided a service provider letters from CCEC and Cedar Valley RPPD from the original CUP application, but updated service provider letters will be required upon application for site development or building permits. This requirement 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: The propose dwelling site does not have public sewer service. The Applicant proposes use of an onsite sewage disposal system. A Residential Septic Site Evaluation (08-036-05, dated 4/1/2005) for use of an onsite sewage disposal system on the subject property was submitted by the Applicant. The required individual site evaluation was approved by Sara Polensky, Curry County Environmental Health Specialist, the appropriate authority for the task at that

time. This requirement is 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: The Applicant proposes use of a drilled well as a domestic water source for the requested dwelling site and included documentation of drilled wells from OR WRD from the original CUP application in 2008. The 17 wells listed were up to 2 miles distant of the proposed dwelling site, so many of the wells listed exceed the specified ¼ mile requirement. Upon review of the OWRD's current online well log, an entry was found for a well (CURR_51439, drilled 450 ft deep on 1/19/2007, yielding 7 GPM over 1 hr) on the subject property, plus 3 other wells within ¼ of a mile (6.4 GPM average). This requirement 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: This request is for a single-family dwelling plus the implementation of associated residential activities. The applicant has submitted evidence and has proposed to comply with provisions intended to alleviate any conflicts associated with nearby forest or farming uses. The impact of a dwelling has been found to have minimal impact on adjacent forest or farming uses; therefore, the proposed use should not significantly deter those uses. This requirement is met.

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

Finding: This requirement has been addressed in prior sections of this review. The conclusion was reached that if all conditions of approval were met for the stated requirements and standards, danger from wildfire would be minimized. If danger from wildfire is minimized, the use should not pose a significant risk to personal involved in fire suppression, nor significantly increase the associated costs. The requirements for Fire Fighting Standards for Dwellings and Structures

(Section 3.055) and Fire Safety Standards for Roads (Section 3.056) will be reviewed for compliance at the time an application is made to construct a dwelling.

- 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.*

Finding: A written statement recognizing 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 (Condition #8). As conditioned, this requirement 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 (Condition #9) 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. As conditioned, this requirement is met.

V. PUBLIC COMMENTS/CONCERNS

A Notice of Application was issued to nearby property owners regarding this request for Conditional Use Approval on November 23, 2020.

ODOT emailed a statement on 12/4/2020 that the application would not significantly affect their facilities.

Oregon Shores Conservation Coalition (OSCC) emailed comments to be included in the application file. OSCC offered concern over whether the application materials provided sufficient information to analyze consistency with the applicable criteria and whether there were any potential adverse impacts to Libby Creek Pond and the Rogue River Estuary. Upon review, most issues posed by OSCC seemed to be focused on potential environmental impacts of a dwelling being located adjacent to the Rogue River. The proposed dwelling is not near the river and therefore the potential environmental impacts noted by OSCC are not applicable. Geological hazard issues have been addressed by a condition, which is consistent with the original conditional use application (AD-0827).

VI ADMINISTRATIVE DECISION AND CONDITIONS OF APPROVAL

Application AD-2018 for a Conditional Use Approval to establish a dwelling on a 33.76 ac parcel zoned Forestry Grazing (FG) located on Assessor's Index Map 36-14, Tax Lot 8400 is **APPROVED** with conditions on this date of January 6, 2021. The Applicant has demonstrated that this request, with the imposition of the conditions listed below, will meet all applicable requirements and standards for a dwelling in the FG zone.

1. One single-family dwelling may be developed on this tract and this approval has been secured by recorded deed restrictions. The 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 in this application. No change in the location of the approved area is authorized without amendment of this conditional use approval.
2. Verification of a recorded access easement across West Libby Creek Rd must be provided upon application for home site development permits.
3. The applicant shall submit a stocking report to the Curry County Assessor stating that the minimum stocking requirements have been met and the Applicant shall provide verification to the Curry County Planning Department that the standards have been met.
4. Fire Safety Areas shall be cleared and maintained around all structures, consistent with CCZO Section 3.055 (2a) and (2b). Fire Safety Areas are defined as:

The primary fire safety area (30ft around structure) is 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.


The secondary fire safety area (additional 100ft around structure) is 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.

5. The proposed 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%. Compliance with these standards will be inspected and certified by the building inspector at the time of construction.
6. Road access to the dwelling must meet Fire Safety Standards (CCZO Section 3.056). 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.

7. Submittal of an approved site-specific geologic hazard assessment prepared by a licensed geologist as required under CCZO Section 3.252 prior to the issuance of any building or construction permits. If the assessment provides a statement that there is an elevated risk posed to the subject property or to adjacent properties by geologic hazards, then the applicant must apply for and receive an Administrative Decision prior to any disturbance of the soils or construction.
8. A written statement shall be recorded by the Applicant recognizing the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules.
9. 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.

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


Date