



CURRY COUNTY PLANNING DEPARTMENT

ADMINISTRATIVE STAFF REPORT AND DECISION

Requested Land Use Action: Approval for a home occupation for the purpose of assembly of precision parts to make firearm noise suppressors.

Applicant: Steven Schwartzkopf **FILE: AD-2020**

Property Owner: Steven and Johanna Schwartzkopf
Trustees of the Schwartzkopf Living Trust

Map Description:

TWP: 36S RANGE: 14W SECTION: 20 TAX LOT: 400

Location: Subject property is located at 94510 North Bank Rogue River Rd; Property is about one mile from North Bank Rogue River Road's intersection with Hwy 101.

Background Information:

Parcel Size: 1.47 acres
Zoning: Forestry Grazing Zone (FG)
Fire District: Gold Beach Fire District

Applicable Review Criteria: The proposed application for a home occupation within the Forestry Grazing Zoning District must comply with the following sections of the Curry County Zoning Ordinance (CCZO):

Section 3.050	Forestry Grazing Zone (FG)
Section 3.052	Conditional Uses Subject to Administrative Approval by the Planning Director
Section 3.052(12)	Home Occupations as defined in ORS 215.448
Section 7.010	Authorization to Grant or Deny Conditional Uses
Section 7.040(7)	Home Occupation
Section 7.050(7)L)	Time Limit on a permit for Conditional Uses for Home Occupations

Findings of Fact:

Section 3.050 – Forestry Grazing – Purpose.

Purpose of Classification: The FG Zone is designated to implement the forest and agricultural land policies of the Comprehensive Plan with respect to livestock grazing and related farm uses which are intermixed with forest land in some parts of the County.

Finding: The proposed use is for the purpose of building custom precision firearm noise suppressors within an existing accessory building on site. The primary land use activity on the parcel is residential including a large shop. The parcel is surrounded by cattle grazing. The primary activities on site are consistent with those set forth and allowed in the FG zoning district. This proposed use will not change or disrupt any existing adjacent agricultural uses. The home occupation will commence within an existing accessory building that is currently being used for personal activities and therefore will not interfere with the existing operations protected by the surrounding FG zone.

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

A Home Occupation is allowed within the FG Zoning District subject to Administrative Approval by the Director.

Finding: The applicant has submitted the appropriate application for conditional use approval and is requesting authorization to utilize an existing accessory building on site to assemble firearm noise suppressors which is a home occupation as defined in ORS 215.448. The CCZO defines home occupation as “a secondary use of a dwelling, enclosure, or building accessory to a dwelling (but not accessory to a resource use), which constitutes an occupation carried on solely by a member or members of the family residing in the dwelling”. The proposed use meets the definition of the CCZO. The defined provisions of ORS 215.448 are addressed below. Applicable conditional use standards and criteria will be addressed in subsequent sections of this report. If applicable standards and criteria are met based on the definition of both the CCZO and ORS 215.448 the proposed use may be approved.

Section 3.052(12) – Home Occupations as Defined in ORS 215.448.

Home occupations are allowed for within the FG zone provided they meet the provisions of ORS 215.448. In an exclusive farm use zone, forest zone or a mixed farm and forest zone that allows residential uses, the following standards apply to the home occupation.

- (a) It shall be operated by a resident or employee of a resident of the property on which the business is located;*
- (b) It shall employ on the site no more than five full-time or part-time persons;*
- (c) It shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located; and it shall not unreasonably interfere with other uses permitted in the zone in which the property is located.*

Finding: The proposed assembling of firearm suppressors is proposed to be located within a mixed farm and forest zone. It will be operated by a resident of the 1.47 acre property on which the home occupation is to be located. The business is planned to provide employment only for the resident of the property. There is no indication that other full or part-time employees will be involved in the business at this time. Since the home occupation will be conducted within an existing accessory building on the property currently used for personal storage and activities it will not interfere with any of the farm (cattle production) activities on the adjacent site. The requirements of ORS 215.448 will be met with the planned home occupation as proposed.

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 forth 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 County will condition this home occupation for the assembly of custom precision firearm suppressors for the purpose of permit compliance with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). This condition will provide additional protection to the surrounding properties to insure that the business will be conducted in a safe manner. The applicant has been in contact with and is currently working with representatives from ATF. This home occupation conditional use will be null and void in the event that the business is not in compliance with ATF and maintains an active and compliant Federal Firearms License (FFL).

Section 7.040(7) – Home Occupation.

A home occupation is a permitted use and a lawful commercial activity that is conducted in a dwelling or accessory building on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

- a.) The on-site business functions of the home occupation shall take place entirely within a dwelling unit or enclosed accessory building on the premises, except for employee and customer parking and allowed signage. No outdoor storage, business activities or displays shall occur outside of an enclosed building.*

Finding: The proposed business will be located totally within an existing accessory building on the premises. No outdoor storage or business activities are planned outside of an enclosed building.

- b.) The home occupation shall not exceed 25 percent of the total gross floor area of the dwelling, attached garage and accessory buildings or 1,000 sq. ft., whichever is less.*

Finding: The proposed business which will be within an enclosed utility building will not exceed 25 percent of the total gross floor area of the accessory building.

c.) The home occupation shall not employ more than one non-resident employee. There shall be no more than two customers on the premises at any one time.

Finding: The employee will be the on-site resident. There will not be any customers on site. The applicant has stated that that “there will be no retail or on-site purchasing, so there will be no requirement for customer parking”.

d.) No more than 20 trips per day may be authorized. No deliveries or pick-ups associated with the home occupation between the hours of 7 p.m.-7 a.m. are permitted. The road serving the premises may not be used for loading or unloading purposes. No more than two pick-ups or deliveries shall occur on any given day.

Finding: The business is expected to receive small deliveries of precision firearms suppressor parts on a regular basis. However, it is not expected than any more deliveries than two per week will occur. The road will not be used for loading or unloading as it is expected that the parcel sizes will be relatively small and the accessory building in which the business will be located is not directly adjacent to the access road. Deliveries most likely will be made by UPS, Fedex, the US Postal Service or similar carriers. These delivery businesses typically do not deliver packages between the hours of 7 p.m.- 7 a.m. on coastal routes.

e.) The premises shall have on-site parking to accommodate the total number of employees and customers proposed to be on the premises at any one time. The use, parking or storing of any vehicle in excess of a gross vehicle weight of 11,000 pounds is prohibited.

Finding: The proposed business is not expected to need or use a vehicle that weighs 11,000 pounds or more.

f.) Only one, non-illuminated, identification sign not to exceed two square feet in area may be attached to a building used for the business.

Finding: The proposed business is not expected to require signage that exceeds two square feet.

g.) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line.

Finding: The proposed business will take place within an existing accessory building located on the 1.47 acre residential parcel. It is therefore not expected that the proposed use will result in off-site nuisance issues.

h.) No repair or assembly of any motor or motorized vehicles.

Finding: The proposed assembly firearms suppressor business is not related to or including any use similar to that of repair or assembly of motor vehicles.

i.) No building or structure is proposed to be constructed or modified in a manner that would not otherwise be allowed in the zoning district. In the Forest Grazing, Timber, Agriculture and Exclusive Farm Use zoning districts, the home occupation will conform to Section 7.040(17). Section 7.040(17) Uses on Resource Lands requires 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 forest land; and b.) the proposed use will not significantly increase fire suppression costs or significantly increase the risks to fire suppression personnel.

Finding: The proposed firearms suppressor business will take place within an existing accessory building on site. No building is proposed to be built to accommodate the business. Since the use will be contained within an existing building it is not expected to interfere with agricultural or forestry uses on adjacent properties. Further, it is not expected to increase the risks to fire suppression personnel.

Section 7.050 (7) L.) Time Limit on a Permit for Conditional Uses For Home Occupation

The home occupation may continue for a period of three years from the date of the final decision provided it is in compliance with the approved permit. At the end of the three year period, the right to operate the home occupation from the property expires automatically unless the permit is renewed for an additional three year period.

Finding: To comply with CCZO Section 7.050 (7)L.), the approval of the conditional use permit shall include a condition that it is valid for three years.

DECISION AND CONDITIONS

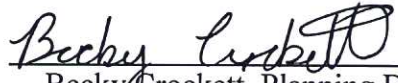
Application AD-2020 for conditional use approval for a home occupation for the purpose of assembling precision suppressors for firearms on property located on Assessor's Map 36-14-20 Tax Lot 400 in the Forestry Grazing (FG) zone is **APPROVED** with the following conditions given this date of January 12, 2021.

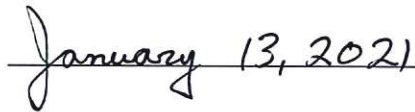
1. The applicant will comply with and maintain any required permits in accordance with requirements set forth by and through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Failure to be in compliance with ATF requirements, specifically the required FFL will subsequently result in this Conditional Use Approval to be null and void.
2. The home occupation may continue for a period of three years from the date of the final decision provided it is in compliance with the approved permit. At the end of the three year period, the right to operate the home occupation from the property expires automatically unless the permit is renewed for an additional three year period.

This decision is limited to the Planning Director's review of 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.

Appeal Rights

The Planning Director's decision on this matter will be final unless appealed to the Curry County Planning Commission within 15 days following the date of the mailing of the notice of appeal (postmarked date). Any appeal must meet the provisions of CCZO Sections 2.120, 2.170; and 2.180.


Becky Crockett, Planning Director
Curry County Planning Department


Date