



CURRY COUNTY PLANNING DEPARTMENT

ADMINISTRATIVE STAFF REPORT AND DECISION

File: AD-2111

August 3, 2021

Land Use Action: Request for approval of a home occupation for the purpose of establishing a business to buy and sell firearms.

Applicant: Gerald A. Karrle

Property Owner: Gerald A. Karrle and Joan K. Karrle

Map Description: Township:40S, Range: 14W W.M., Section: 14B, Tax Lot: 1202

Location: 18696 Cornett Rd, Brookings, OR 97415
This property is at the end of Cornett Rd, about 1/2 mile south of Cornett Rd's intersection with Cape Ferrelo Rd.

Background Information:

Parcel Size: 5.25 acres
Zoning: Rural Residential (RR)
Zoning Overlays: None
Fire District: Cape Ferrelo Rural Fire Protection District

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

Section 3.080 Rural Residential Zone (RR),
Section 3.082 Conditional Uses Subject to Administrative Approval by the Planning Director,
Section 3.082(1) Home Occupations as defined in the CCZO,
Section 7.010 Authorization to Grant or Deny Conditional Uses,
Section 7.040(7) Home Occupation,

Findings of Fact:

Section 3.080 – Rural Residential Zone (RR).

Purpose of Classification. The Rural Residential Zone is designed to allow for low density residential development outside urban growth boundaries and rural communities defined by the Comprehensive Plan.

Finding: The proposed home occupation use is for the purpose of buying and selling firearms within an existing accessory building on-site. The primary land use on the parcel is residential with accessory shop or storage buildings. The established home site is private, surrounded by mature coastal forest vegetation. The primary activities on site are consistent with those set forth in the RR zoning district. The proposed use will not change or disrupt any existing residential use on the parcel. The home occupation will be accommodated entirely within an existing accessory building currently used for personal storage and therefore will not interfere with the existing low density residential use protected by the RR zone.

Section 3.082 (1) – Conditional Uses Subject to Administrative Approval by the Director.

A Home Occupation is allowed within the RR Zoning District subject to Administrative Approval by the Planning 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 buy and sell firearms. 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. Applicable conditional use standards and criteria will be addressed in subsequent sections of this report. If applicable standards and criteria are met the proposed use may be approved.

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: As a condition of approval, this home occupation for buying and selling firearms will require permit compliance with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). This condition will provide additional protection to the surrounding properties to ensure 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 if the business is not in compliance with ATF.

This property is improved with the single-family residence and two accessory shops or storage buildings. The home occupation is to reside in the larger accessory shop/storage. Per the county assessor's records, the larger shop (1750sf) was constructed in 2005 and the smaller shop (576sf) was constructed in 2006. Neither planning nor building records were found for the two structures. A condition requiring submittal of Planning Clearance Applications for both accessory structures is also made to bring these two structures into compliance with Curry County Planning and Building Requirements.

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 Applicant proposes that the business will be subordinate to the residential use and located totally within an existing accessory building on the Applicant's property. No outdoor storage or business activities are planned outside of an enclosed building. This requirement is met.

- 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 Applicant proposes that the shop building is 2450sf total. According to the county assessor's records, the total gross floor area of the dwelling (2016sf) and accessory buildings (1750sf and 576sf) is 4342sf. Twenty-five percent of the total gross floor area equates to 1086sf. Since 1000sf is the lesser amount, the home occupation may not exceed 1000sf. The Applicant has proposed that the home occupation will be within an enclosed storage building not exceeding 1000sf. This requirement is met

- 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 Applicant / Property Owner occupies the property and intends to run the business himself. No non-residential employees are anticipated. The applicant estimates one or two customers at a time, but most likely less than one customer per month on average. This requirement is met.

- 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 proposed business is expected to receive small deliveries on a regular basis. The Applicant anticipates less than one delivery per month on average. This number would not be unusual for rural residences in this area. 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 or Oak Harbor Freight or similar carriers. These delivery businesses typically do not deliver packages between the hours of 7pm - 7am on coastal routes. This requirement is met.

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 Applicant states that there is concrete parking in front of the shop sufficient for 1 or 2 customers at a time. No non-resident employees are anticipated, so employee parking is not needed. The proposed business is not expected to need or use vehicles that weigh 11,000 pounds or more. This requirement is met.

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 Applicant has stated that there will be no signage for the proposed business. This requirement is met.

g.) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. This standard does not apply to vehicles entering or exiting the premises but does apply to idling vehicles. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

Finding: The proposed business will take place entirely within an existing accessory building located on a 5.25-acre parcel, and there will be no discharging of firearms on the property. The proposed use is not expected to have any off-site nuisance issues and does not require storage, use or disposal of chemicals. This requirement is met.

h.) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including automobiles, motorcycles, scooters, snow- mobiles, outboard marine engines, lawn mowers, and chain saws.

Finding: This home occupation proposal is not related to and does not include any use like that of repair or assembly of motor vehicles. This requirement is met.

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. Buildings or structures used as part of the home occupation shall not have or require a building code occupancy rating other than R-3 or U as determined by the County Building Official. In the Forest Grazing, Timber,

Agriculture and Exclusive Farm Use zoning districts, the home occupation will conform to Section 7.040(17).

Finding: The proposed business of buying and selling firearms will take place within an existing accessory building on-site. No building is proposed to be built to accommodate the business and no building will be modified in a manner that would otherwise be allowed in the RR zone. Since the home occupation will be contained within an existing building, it is not expected to interfere with residential use of the property. However, a condition of this approval will be for the Applicant to maintain an on-going relationship and disclosure with the volunteer Cape Ferello Fire Protection District to ensure that fire personnel are knowledgeable regarding the extent of ammunitions within the building should a building fire occur.

j.) Each approval shall be specific for the particular home occupation and reference the business operator, number of employees allowed, and the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.

Finding: A home occupation approval is specific to the proposed use and the business operator. The proposed use is a business to buy and sell firearms. The proposed business operator is the Applicant/Property Owner. No non-resident employees are anticipated. The time of operation will be typical business hours, probably between 10am and 4pm per the Applicant. This requirement is met.

k.) Approval of a home occupation does not run with the land and is not transferred with ownership of the land. Approved home occupation is personal to the business operator and specific to the authorized premises. Approval of a home occupation terminates automatically, immediately and without notification if the business owner ceases to reside full-time on the authorized premises.

Finding: The home occupation approval shall not be transferred upon sale of the property. The home occupation approval will terminate automatically upon sale of the property or if the business operator ceases to be a full-time occupant of the property.

l.) The home occupation may continue for a period of three years from 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 pursuant to the following:

- i) The home occupation has been conducted in full compliance with the permit for a preponderance of the time since the prior approval.*
- ii) Each renewal period shall be for a three-year period from the last expiration date. The home occupation may be renewed an unlimited number of times.*

- iii) *To obtain a renewal of the home occupation, the business operator shall use the forms provided by the Planning Director and shall submit the application prior to expiration of the permit. Provided the renewal application is submitted on or before the expiration date, the business operator may continue the home occupation pending the County's final decision on the renewal request.*
- iv) *Home occupation renewal shall be processed pursuant to the approval process identified in Article II.*

Finding: The approval of the conditional use permit shall include a condition that the approval is valid for three years. If an extension is requested prior to the expiration date, the extension approval will be contingent on compliance with the approved permit.

- m) *The Director may consider minor modifications to the business activities authorized for the subject site and the conditions of approval if requested by the business operator as part of a home occupation renewal application. A minor modification may be approved if it is consistent with the prior approval and does not increase the intensity of use of the premises.*

Finding: This application is the Applicant's original request for approval of a home occupation to establish a business to buy and sell firearms. This is not a renewal application, so this requirement does not apply.

n) *Permitting*

- i) *Home occupations shall be subject to a permit process, pursuant to Section 2.060, unless all of the requirements of subsection (2) can be met.*
- ii) *An in-home commercial activity is not considered a home occupation when all of the following criteria can be met. The in-home activity:*
 - (a) *Meets the criteria under 7.040(7)(b) and (h).*
 - (b) *Is conducted within a dwelling only by residents of the dwelling.*
 - (c) *Does not occupy more than [25 percent] of the combined floor area of the dwelling including attached garage and one accessory structure.*
 - (d) *Does not serve clients or customers on-site.*
 - (e) *Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage.*
 - (f) *Does not include the outside storage of materials, equipment or products.*

Finding: The proposed business of buying and selling firearms is subject to a permit process, pursuant to Section 2.060 since it does not meet the requirements of subsection (2).

COMMENTS RECEIVED ON AD-2111

A Notice of Application was issued on June 29, 2021, to nearby neighbors and other interested parties. ODOT responded that they had no comments on this proposal. No other written comments were received in response to the notice.

DECISION AND CONDITIONS


Application AD-2111 for conditional use approval of a home occupation to establish a business buying and selling firearms on property located on Assessor's Map 4014-14B Tax Lot 1202 in the Rural Residential (RR) zone is **APPROVED** on August 3, 2021, with the following conditions:

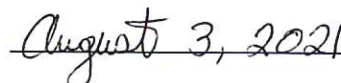
1. The applicant will comply with and maintain any required permits in accordance with requirements set forth by and through the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Failure to follow ATF requirements will subsequently null and void this Conditional Use Approval.
2. The applicant shall maintain a relationship including disclosure of on-site ammunitions with the volunteer Cape Ferrelo Rural Fire Protection District to ensure safety of firefighters in the event of a fire at the building housing the business.
3. The applicant shall submit Planning Clearance Applications for both accessory buildings to bring these structures into compliance with Curry County Planning and Building Requirements.
4. The home occupation may continue for a period of three years from the date of the final decision provided it follows 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