



Curry County Community Development

94235 MOORE STREET, SUITE 113

GOLD BEACH, OREGON 97444

Phone (541) 247-3304

Administrative Staff Report and Decision

Application: AD-2125

February 16, 2022

I. LAND USE REVIEW:

Applicant requests Conditional Use approval to construct a single-family dwelling on a 16.33-acre property within the Forestry Grazing (FG) zone using the Template Test.

Applicant/
Property Owner:

Brian and Diane Andersen

Agent:

John Bischoff
96333 Wildwood Rd
Brookings, OR 97415

Property Description:

Township 40 South, Range 13 West W.M., Section 18
Tax Lot (TL) 1100 and TL 1200

Location:

Rural address has not yet been assigned. This parcel is about one mile northeast of the Timeus Ranch Rd's intersection with Carpenterville Rd. This property is outside the City of Brookings Urban Growth Boundary.

Land Use Zone:

Forestry Grazing (FG)

Property Size:

16.33 acres

Current Land Use:

Mixed conifer and hardwood timber have expanded across grassy areas on this parcel over the last 25+ years. Bonneville Power Authority Transmission Lines and Timeus Ranch Road cross the eastern portion of the parcel.

Surrounding Land Use:

Properties surrounding the subject also have FG zoning. Many of the less than 10 acre rural properties to the north, south and west have been developed with residences. Larger tracts to the east zoned for FG and Timber (T) are under commercial timber production.

II. BACKGROUND

TL 1100 and TL 1200 on Assessors Map 4013-18 were created as separate parcels (originally as on Assessor's Map 4013-00, tax lots 3538 and 3536, respectively) in 1979. A Property Line Adjustment

(LL-0202) from TL 1100 to TL 400 on Assessor's Map 4013-18BC was approved in 2002 to correct an encroachment (accessory structure on TL 400 spanned property line). Prior conditional use requests (AD-0422 and AD-0423) for single-family dwellings were approved on TL 1100 and TL 1200 in 2004, but both approvals have expired. In 2004, the Applicants purchased both TL 1100 and TL 1200, and a request (LLV-2109) to vacate the common lot line between the two parcels was approved in 2021.

With this application the Applicant seeks approval to establish a single-family dwelling on an FG zoned property using the Template test. A parcel in the FG zone may be approved for the siting of a dwelling under any one of the three tests allowed in the Curry County Zoning Ordinance (CCZO). 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. Areas of geological hazard are identified on the parcel per the Provisional Maps of Rapidly Moving Landslides (recognized by the CCZO under Section 3.252), so a geology report attesting to the adequacy of the proposed home site for residential use was required for this review. Narrow wetland areas along streams per the National Wetlands Inventory are also identified on the parcel, but the Applicant's proposed home site is some distance from the wetlands area, so no wetlands report was required for this application.

The Community Development Department has duly accepted the application filed in accordance with CCZO Section 7.020 for an application requesting conditional use approval 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:

Curry County Zoning Ordinance

Section 3.050. Forest Grazing Zone

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

Oregon Revised Statutes

ORS 215.750 Alternative Forestland Dwelling Criteria

ORS 215.730 Additional Criteria for Forestland Dwelling Under ORS 215.705

Curry County Zoning Ordinance

Section 3.053. Standards for the Approval of Dwellings

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 Hazards

Section 4.011. Riparian Vegetation Set-Back

Section 7.040. Standards Governing Conditional Uses

Section 7.050. Time Limit on a Permit for Conditional Uses

IV. FINDINGS

CCZO 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;

- (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 on an FG-zoned parcel. The FG zone allows this use 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 16.33-acre FG zoned parcel. The application is consistent with the purpose of the FG zone, so this requirement is met.

CCZO 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, 2, 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 residential use as being allowed through a conditional use review. This requirement is met.

ORS 215.750. Alternative Forestland Dwelling.

- 1) As used in this section, “center of the subject tract” means the mathematical centroid of the tract.*
- (2) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:*
 - (c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:*
 - (A) All or part of at least 11 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*
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.*
- (4) Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under subsection (2) or (3) of this section.*

Finding: The centroid of this irregularly shaped parcel was calculated by using mathematical concepts and equations since the parcel consists of two rectangular areas. The soils of this parcel are identified as Skookumhouse-Hazel Camp- Averlande Complex (0-15% slopes) according to the Curry County GIS

maps. Under the Soil Survey of Curry County (issued 2005), the major use of SHCA Complex (238D) land is timber production, homesite development and livestock grazing. Table 9 of the Soil Survey of Curry County reports Forestland Productivity. The SHCA Complex can produce an annual growth of 160-178 cu ft/acre of Douglas fir (under the 50-year Site Index) or an annual growth of 158-171 cu ft/acre (under the 100-year Site Index). Since this soil type potentially exceeds the 85-cu ft/acre/year production potential, test (3)(c) standards must be met to approve a dwelling.

The Applicant identified 19 parcels at least partially within the 160-acre square centered on the subject tract created before January 1, 1993. Of those 19 parcels, the Applicant identified 9 parcels with residences established prior to January 1, 1993.

Upon review and using the centroid of the parcel, only 11 of the Applicant identified parcels were determined to be lawfully created parcels and 5 of the lawfully created parcels had dwellings sited prior to January 1, 1993. Although the Applicant did not provide documentation, lawfully created parcels were verified with Planning Records and County Assessor's Tax Lot Cards (Official Record of Descriptions of Real Properties) and construction dates were verified with the County Assessor's records. No parcels used to satisfy the eligibility requirements for the template test were within urban growth boundaries. Therefore, the requirements of this template test are met.

(5) A proposed dwelling under this section is allowed only if:

(a) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations and other provisions of law;

Finding: The Applicant requests approval to site a single-family dwelling on an FG-zoned parcel. The FG zone allows this use through a conditional use review. Conditional use review confirms that the proposed use meets the requirements of the Curry County comprehensive plan, acknowledge land use regulations and other provisions of the law.

(b) It complies with the requirements of [ORS 215.730 \(Additional criteria for forestland dwelling under ORS 215.705\)](#);

Finding: Additional criteria for forestland dwellings is reviewed later in this report under section ORS 215.730.

(c) No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under [ORS 215.740 \(Large tract forestland dwelling\)](#) (3) for the other lots or parcels that make up the tract are met;

(d) The tract on which the dwelling will be sited does not include a dwelling;

Finding: This tract (*defined under ORS 215.010 as one or more contiguous lots or parcels under the same ownership*) consist of one parcel, created by the vacation of a lot line between two adjacent tax lots (TL 1100 and TL 1200). There are no existing dwellings on the tract and no deed restrictions for dwellings were found. The Applicant requests approval for only one single-family dwelling. This requirement is met.

(c) The lot or parcel on which the dwelling will be sited was lawfully established;

Finding: As described a under a prior section of this report (II. **Background**), the subject property's history is reviewed and it was determined that the subject is a lawfully created parcel. This requirement is met.

- (f) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in [ORS 92.192 \(Property line adjustment\)](#);*
- (g) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and*

Finding: A lot line vacation application combining TL 1100 and TL 1200 under common ownership was approved in 2021. These property line adjustments complied with ORS 92.192. This requirement is met.

- (h) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.*

Finding: The parcel on which the dwelling will be sited was not part of another tract on January 1, 2019. This requirement is not applicable.

- (6) Except as described in subsection (7) of this section, if the tract under subsection (2) or (3) of this section abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.*

Finding: Timeus Ranch Rd crosses the parcel, so the measurement may be made using the 160-acre rectangle. The Applicant choose to support this template test using the 160-acre square grid rather than the 160-acre rectangle. This requirement is met.

- (7) (a) If a tract 60 acres or larger described under subsection (2) or (3) of this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (6) of this section. However, one of the three required dwellings must be on the same side of the road or stream as the tract and:*

- (A) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream; or*

- (B) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.*

Finding: This tract is 16.33 acres, so this requirement for a 60 acre or greater tract is not applicable.

- (b) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings must be on the same side of the road as the proposed dwelling.*

Finding: Timeus Ranch Rd crosses the subject tract. The Applicant's proposed home site is on the west side of Timeus Ranch Rd. Of the five dwellings that qualified under the template test, the dwellings at 18668 Ranch Rd, 18671 Ranch Rd, 18561 Ranch Rd, and 18515 Ranch Rd are on the west side of Timeus Ranch Rd, like the proposed home site. This requirement is met.

ORS 215.730. Additional criteria for forestland dwelling.

- (1) A local government shall require as a condition of approval of a single-family dwelling allowed under [ORS 215.705 \(Dwellings in farm or forest zone\)](#) on lands zoned forestland that:*

(a) (B) If the lot or parcel is more than 10 acres in western Oregon as defined in [ORS 321.257 \(Definitions for ORS 321.257 to 321.390\)](#), the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under [ORS 527.610 \(Short title\)](#) to [527.770 \(Good faith compliance with best management practices not violation of water quality standards\)](#) have been met.

Finding: The Applicant's parcel is 16.33 acres and is in the area defined as Western Oregon (per ORS 321.257 #8). Based on the reported soil types (per 2005 Soil Survey of Curry County), this property has good potential for timber production. Based on a review of Google Earth's historical aerial maps, the parcel appears to have mixed conifer and coastal hardwoods, but it does not appear that timber has been cut from since before the early 1990s. The property is not specially assessed as timber land and does not appear to be managed as commercial forest land. Since the property is not managed as commercial forest land, this requirement is not applicable.

(b) The dwelling meets the following requirements:

- (A) The dwelling has a fire retardant roof.*
- (B) The dwelling will not be sited on a slope of greater than 40 percent.*
- (C) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.*
- (D) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.*
- (E) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.*
- (F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.*
- (G) The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner.*

Finding: As a condition of approval, the property owner must comply with the above construction requirements. These requirements are incorporated within the CCZO. These requirements are addressed later in this report under Fire Safety for Dwellings (Sections 3.055 #1-5) and Standards Governing Conditional Uses (Sections 7.040 #2).

(2) (a) If a governing body determines that meeting the requirement of subsection (1)(b)(D) of this section would be impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.

Finding: The Applicant's property is within the Cape Ferrelo Rural Fire Protection District. This requirement is not applicable.

CCZO Section 3.053. Standards for the Approval of Dwellings.

4. *The approval of a dwelling under subsections 1, 2, or 3 above shall be subject to the following additional requirements. (Note: Subsection 3 refers to the Template Test adopted in the CCZO, which has been superseded by ORS 215.750, reviewed above.)*

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 Applicant proposes placing the home site in an existing cleared area just west of Timeus Ranch Rd. Adjoining rural parcels to the west, north and east are developed with residences. The adjoining 20-acre tract to the south is under private ownership and, based on

historic photos from Google Earth, timber has not been cut on this property in over 25 years. The proposed home site is more than 300 ft distant of that tract, providing good separation and sufficient distance to maintain the required Fire Safety Areas. No negative impacts are anticipated from the proposed home site for the mixed forestry/grazing uses on the adjoining lots. 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: There are currently no established farming practices on this tract, and the small acreage limits forest operations. Timeus Ranch Rd and an easement for BPA power transmissions lines cut across this parcel, further limiting available site area. The proposed home site is in an existing cleared area just west of Timeus Ranch Rd. The proposed site will not force a significant change on forest operations or accepted farming practices on this tract. 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: The proposed home site area has been cleared of brush and was placed near the existing access road, so no further significant tree removal is anticipated to develop a home site. The amount of forest lands used for access and home site development will be minimized. This requirement is met.

iv) the risks associated with wildfire are minimized.

Finding: Per the Advanced Oregon Wildfire Risk Explorer (AOWRE, Exhibit D), a mapping tool designed in collaboration with OR Dept of Forestry and US Forest Service, this property is within the Thomas Creek-Frontal Cape Ferrello Sub Watershed, extending inland from the ocean and covering 23,073 acres (36 sq miles). According to the AOWRE Homeowner's Report (for Lat/Long: 42.11538 N and 124.29345 W),

Burn Probability

Humans are the most common cause of fires in Oregon. There are an average of 3 fire starts each year in your area, caused by both people and lightning. The average probability of a large wildfire (>250 acres) is **High**, meaning the chances of an ignition that spreads to a large size are generally between 1 in 5,000 to 1 in 1,000. Some areas may experience a burn probability of **Moderate**.

Fire Intensity and Flame Length

The intensity of a fire indicates how difficult it will be to control and can be measured by expected flame lengths. Under high fire intensities, a fire is more difficult to control and will likely have higher impacts to property and risk to lives. Average flame lengths in your area are expected to be **> 11-feet**, but flame lengths may be much higher in some places and under severe weather.

Hazard to Potential Structures

Hazard to potential structures depicts the hazard to a hypothetical structure anywhere on the landscape (not just existing structures) if a wildfire were to occur. If a fire were to occur in your area, the average hazard to a potential structure is **Low**, with some areas experiencing **High**. Note that this rating reflects the broader fire environment around the home and not building materials of your home (see next page).

According to the AOWRE Sub Watershed Report, the Thomas Creek – Frontal Cape Ferrelo Watershed included the following information:

Largest Existing Vegetation Type:	Conifer (80%)
Fire History:	14 acres / 29 fires / from 2008-2019 (86.2% human-caused)
Burn Probability (annual chance of a large fire):	Moderate high
Hazard to Potential Structures:	High
Average Flame Lengths:	>11 ft
Overall Potential Impact:	Very High
Potential Impact to Timber Resources:	Benefit (beneficial with a cumulative positive impact on timber resources)

Requirements to reduce the risks associated with wildfire are addressed later in 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: Per the Curry County GIS (Exhibit A), the proposed home site is about 60 ft from Timeus Ranch Rd, which crosses the parcel. From the site, the property lines are about 575 ft (east), 300 ft (north), 350 ft (south) and 200 ft (east). A minimum of 130 ft distance to the property lines is required to meet the Setbacks for Fire Safety Areas (under CCZO Section 3.055). This requirement 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:*

- (1) 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*
- (2) a water use permit issued by the Oregon Water Resources Department for the use described in the application; or*
- (3) 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 states that either surface water from an onsite stream or a dug well (locally called a “cistern well”) will be used as a domestic water source. No entry was found for the Applicant’s parcel in the OR WRD well log or the water rights mapping system. Approval of this request is conditioned on provision of verification from OR WRD identifying a water source with sufficient yield for domestic use prior to application for home site development permits (Condition #2). As conditioned, this requirement will be 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: Access to the home site does not cross ODF, US BLM, or US FS roads. Timeus Ranch Rd is a local access road (not county owned or maintained) off Carpenterville Rd (paved public road). ORS 105.175 provides for shared costs in the absence of a formal recorded maintenance agreement. 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;*
- h) 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;*
- i) 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: Based on the reported soil types from the 2005 Soil Survey of Curry County, this property has good potential for timber production, primarily Douglas fir. However, based on a review of Google Earth's historical aerial maps, it does not appear that timber has been cut from this property since before the early 1990s. Per the GIS aerial maps, the property appears to be mixed conifer and coastal hardwoods. The property is not currently specially assessed as timber land.

If commercial timber is taken or removed from this property, the Department of Forestry must be notified, and the property owner will be required to follow Department of Forestry restocking requirements. Timber restocking requirements (CCZO Section 3.053 (4) (e-i)) and ORS 215.730 (1B)) will be reviewed for compliance upon application to construct a dwelling if timber has been harvested from this property. (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 always 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: Coos Forest Protective Association would provide forest protection for this property. Cape Ferrelo Rural Fire Protection District would provide protection for the dwelling and a signed service provider letter was provided. This requirement will be 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 so no impediments to the standard for Fire Safety Areas are anticipated for this parcel. Compliance with the Fire Safety Areas (CCZO Section 3.055 (2) and ORS 215.730(1)(b)(G)) is anticipated and will be reviewed upon application of a development permit. As conditioned, this requirement will be met. (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: The Applicant has not specified construction details for the proposed dwelling. Compliance with these construction standards (ORS 215.730(1)(b)(A,B,F)) is a condition of approval and will be reviewed by the building inspector to obtain a retrospective building permit for the existing 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: This requirement permits 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. Per the AOWRE homeowner's report, the home site (for Lat/Long: 42.11538 N 124.29345 W) has:

Burn Probability:	High (1-in-500 to 1-in-100 average probability for a >250 acre wildfire)
Fire Intensity and Flame Length:	> 11 ft (average flame lengths)
Hazard to Potential Structures:	Low (average hazard to potential structure)

Although there is forest and structural protection for the property, the Applicant will be required to provide an alternative means of protecting the dwelling from fire hazards given the AOWRE homeowner's ratings (Condition #6). As conditioned, this requirement will be met.

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 more than 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: Road access standards (Section 3.056) are addressed under the next section.

Section 3.056. Fire Safety Standards for Roads. *The following special road standards shall apply within the Forestry Grazing (FG) zoning designation. These special road standards shall not apply to private roads accessing only commercial forest uses that do not include permanent dwellings or structures. The purpose of the rule is to provide adequate access for fire-fighting equipment.*

1. *Roads and driveways shall have a drivable surface width of sixteen (16) feet.*
2. *Roads and driveways shall have an all-weather drivable surface of gravel or rock.*
3. *Roads and driveways shall have an unobstructed horizontal clearance of not less than sixteen (16) feet and an unobstructed vertical clearance of not less than twelve (12) feet.*
4. *Average grade for a road or driveway shall not exceed thirteen and one-half (13.5%) percent for any one mile of road length; or exceed twenty (20%) percent for any four hundred (400) consecutive feet of road length.*
5. *Roads and driveways shall have a drivable surfaced turnaround which has either a thirty-five (35) foot radius cul-de-sac, or a sixty (60) foot "T-shaped" design for the turning of fire-fighting equipment.*
6. *Roads, driveways, bridges, and culverts shall be designed and maintained to support a minimum gross weight (GVW) of 50,000 pounds for the passage of fire fighting vehicles or equipment.*
7. *Bridges or culverts which are part of the construction of the road or driveway to the dwelling or structure shall have written verification from a Professional Engineer, licensed in the State of Oregon, that the structure can meet the 50,000-pound construction standard.*

8. All bridges shall be inspected and certified as to compliance with the 50,000-pound construction standard at an interval not greater than once every two years from the date of this ordinance. The inspection report shall be filed with the Curry County Road Department.

9. Variations from these standards may be granted through the provisions of Article VIII of this ordinance. The applicant shall provide a written statement from the governing board of the fire protection district having responsibility for structural fire protection in the area where the new dwelling or structure is to be located which states that their fire-fighting vehicles and equipment can negotiate the proposed road and driveway.

Finding: There is an existing drive to the proposed home site, about 60 ft in length from Timeus Ranch Rd (per rough GIS measurements). Incorporation of the Fire Safety Road Standards into the existing drive does not appear insurmountable for this property. Compliance with the road access standards (Section 3.056) is anticipated and will be reviewed at the time an application is made for a retrospective building permit. (Condition #7)

Section 3.252. Development in Areas of Geologic Hazards.

Those areas identified as geologic hazard areas shall be subject to the following requirements at such time as a development activity application 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. The geologic hazard assessment shall include an analysis of the risk of geologic hazards on the subject property, on contiguous and adjacent property and on upslope and downslope properties that may be at risk from, or pose a risk to, the development activity. The geologic hazard assessment shall also assess erosion and any increase in storm water runoff and any diversion or alteration of natural storm water runoff patterns resulting from the development activity. The geologic hazard assessment shall include one of the following:*
 - a) *A certification that the development activity can be accomplished without measures to mitigate or control the risk of geologic hazard to the subject property or to adjacent properties resulting from the proposed development activity.*
 - b) *A statement that there is an elevated risk posed to the subject property or to adjacent properties by geologic hazards that requires mitigation measures in order for the development activity to be undertaken safely and within the purposes of Section 3.250.*
2. *If the assessment provides a certification pursuant to Section 3.252(1)(a), the development activity may proceed without further requirements of this Section*
3. *If the assessment provides a statement pursuant to Section 3.252(1)(b), the applicant must apply for and receive an Administrative Decision prior to any disturbance of the soils or construction.*

Finding: Per DOGAMI Landslide Maps, there is no geology hazard on this parcel. However, per the Provisional Maps of Rapidly Moving Landslides (Exhibit B), the proposed home site is very close to an area identified as having geological hazard, so a geology report was required for this application. A geology report was provided by Busch Geotechnical Consultants, dated 5/21/2021. According to Engineering Geologist Bob Busch's limited scope assessment, the proposed home site is adequate for residential development and no recommendations were made to mitigate or control the risk of geologic hazard. Nevertheless, compliance with natural hazard requirements will be reviewed upon application of a development permit.

Section 4.011 Riparian Vegetation Setback

The following setbacks shall be required from waterbodies for the protection of riparian vegetation:

- 1. Notwithstanding any yard or other setback requirement in any zone, all structural development located along a stream, river, or lake shall maintain the requirements of the Riparian Corridor Buffer Overlay (RB) zone, if applicable, or if not applicable then a minimum fifty (50) foot setback from the top of the bank of that water body.*
- 2. The county shall provide notice to the Oregon Division of State Lands (DSL) for all development permits that are requested which affect wetlands identified on the Statewide Wetlands Inventory (OAR 660-023-0100(7)).*

Finding: Per the National Wetlands Inventory mapping (Exhibit C), portions of this property are identified as having stream and wetland areas. The proposed home site is some distance (more than 100ft) from any identified wetland areas, so no wetland report was required. Nevertheless, compliance with riparian setbacks is anticipated and will be reviewed upon application of a development permit.

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 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 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 on this property. This finding is met.

Section 7.040 Standards Governing Conditional Uses:

- 1. Conditional Uses Generally.*
 - a) The County may require property line setbacks or building height restrictions other than those specified in Article IV 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 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 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) 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 supplied by the Coos Curry Electric Co-Op and structural fire protection is available from Cape Ferrelo RFPD. The Applicant has provided service provider letters from CCEC and Cape Ferrelo RFPD. 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 online OR Records Management System (ORMS) has a Residential Septic Site Evaluation for both TL 1100 (08-210-03, dated 10/07/2003) and TL 1200 (08-76-83SE, dated 7/11/1983), both approving feasibility of an onsite sand filter sewage disposal systems. The Applicant states that the septic system will be placed on TL 1200 since the proposed home site is on TL 1100. Upon application for development, provision of a septic system construction permit will be required prior to issuance of a building permit. 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 states proposed home site will use a stream or a dug well (locally called a "cistern") as a water source. No water rights certificates or permits were found surface water sources on or near the subject parcel using the online OR WRD Water Rights Information Query. The OR WRD well log does not have an entry for either a drilled or dug well on the subject parcel. OR WRD well log has records of three drilled wells within a ¼ mile of the subject parcel, as listed below:

<u>Parcel</u>	<u>Well Log Entry</u>	<u>Dated Drilled</u>	<u>Depth</u>	<u>Yield</u>
TL 4013-18BC-100	CURR_51476	7/18/2007	99 ft	10.0 gpm
TL 4013-18BC-300	CURR_100	10/19/1988	100 ft	2.0 gpm
TL 4013-3513	CURR_50489	05/19/1999	303 ft	10.0 gpm

Nevertheless, the approval of this request is conditioned on provision of verification from OR WRD identifying a water source with sufficient yield for domestic use prior to application for home site development permits (Condition #2).

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: Per the Advance Oregon Wildfire Risk Explorer (AOWRE), this property is in the Thomas Creek-Frontal Cape Ferrelo Sub Watershed. Fire history for this watershed indicates there were 29 fires (~13.8% lightening caused and ~86.2% human caused) between 2008 and 2019, burning a total of 14 acres over those 11 years. This calculates to an average of 1.3 acres per year for an area of 23,073 acres. This watershed has high overall risk, moderate high burn probability (between 1 in 5000 and a 1 in 500 chance of a wildfire >250 acres in a single year), and very high overall potential impact.

Fire safety requirements have been addressed in prior sections of this review (Sections 3.055 and 3.056). 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 also be reviewed for compliance at the time an application is made for a building permit (Conditions #4, #5, #6 and #7).

- 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: As a condition of approval, a written statement recognizing the rights of adjacent and nearby landowners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules shall be recorded. As conditioned (Condition #8), 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: 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.

V. PUBLIC COMMENTS OR CONCERNS

A Notice of Application was issued to nearby property owners and interested parties regarding this request for Conditional Use Approval on November 30, 2021. ODOT responded that they had no comments on this application. No other written comments or concerns were received.

VI ADMINISTRATIVE DECISION AND CONDITIONS OF APPROVAL

Application AD-2125 for a Conditional Use Approval to establish a single-family dwelling on a 16.33-acre property within the Forestry Grazing (FG) zoning district, located on Assessor's Map 4013-00, Tax Lots 1100 and 1200, is **APPROVED** with conditions on this date of February 16, 2022.

With the imposition of the conditions listed below, the Applicant 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. This approval is based on siting the single-family dwelling as indicated in this application. Therefore, 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. The Applicant shall provide verification from Oregon Water Resources identifying a water source with sufficient yield for domestic use upon application for a development permit.
3. Timber restocking requirements (CCZO Section 3.053 (4) (e-i)) will be reviewed for compliance upon application to construct a dwelling if timber has been taken or removed from this property.
4. Fire Safety Areas shall be cleared and maintained around all structures, consistent with CCZO Section 3.055 (2a) and (2b) and ORS 215.730(G), and compliance will be reviewed upon application for a home site development permit. Fire Safety Areas are defined as:

The primary fire safety area (30ft from 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.

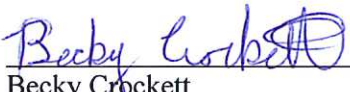
The secondary fire safety area (an additional 100ft beyond the primary area) is defined as follows: an area in which the vegetation shall be limited to mowed grasses, low shrubs (less than two (2) feet high, and trees that are spaced with more than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet from the ground) branches.

5. The dwelling must be sited on a slope less than 40 percent, shall have a fire-retardant roof and all chimneys shall have approved spark arresters installed. Compliance with these standards will be reviewed upon application for development, plus inspected and certified by the building inspector at the time of construction.

6. The Applicant shall provide an alternative means (water storage, fire sprinkling system, onsite fire suppression equipment, etc) of protecting the dwelling per Section 3.055 (1) from fire hazards upon application for a development permit.
7. Road access to the dwelling must meet Fire Safety Standards (CCZO Section 3.056). The Applicant must submit 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.
8. The Applicant shall provide a recorded statement recognizing the rights of adjacent and nearby landowners 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 toward home site development 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 will be 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

Feb. 16, 2022
Date

Exhibit A – Curry County GIS



Exhibit B – Curry County GIS – Provisional Maps of Rapidly Moving Landslides

