



CURRY COUNTY COMMUNITY DEVELOPMENT PLANNING DIVISION

94235 MOORE STREET, SUITE 113

GOLD BEACH, OREGON 97444

(541) 247-3304

Administrative Staff Report and Decision

Application: AD-2112

September 21, 2021

I. LAND USE REVIEW:

Applicant requests Conditional Use approval to construct a single-family dwelling on a 160-acre property with Forestry Grazing (FG) and Timber (T) zoning (split zoned).

Property Owner /
Applicant: Charity Hanif

Property Description: Township 38 South, Range 13 West W.M., Tax Lot 700 and
Township 38 South, Range 14 West W.M., Tax Lot 3800

Situs Address: 97123 North Bank Pistol River Rd
Gold Beach, OR 97444

Location: This property is about 8 miles up the N Bank Pistol River Rd, or
about 17 miles southwest of Gold Beach and it is outside the Gold
Beach Urban Growth Boundary.

Land Use Zone: TL 700 (40.7 acres) is zoned Timber (T)
TL 3800 (120.0 acres) is zoned Forestry Grazing (FG).

Property Size: 160.7 acres

Current Land Use: This property is under conifer and hardwood timber production.
TL 700 has been improved with a greenhouse and temporary
equipment sheds, but TL 3800 is unimproved.

Surrounding Land Use: Properties to the north and east mostly have T zoning, whereas
parcels to the south and west mostly have FG zoning. Two
parcels to the southeast (Assessor's Map 3813-00, TL 1500 and
TL 1505) are improved with single-family residences.

II. BACKGROUND

The Applicant seeks approval to establish a single-family dwelling on a 160.7-acre property using the large tract test. The County Assessor's Official Record of Descriptions shows that TL 700 and TL 3800 were established as a legal tract prior to 1959 (Deed Record 32, page 437). The County Assessor assigned two tax lot numbers since the property spans a range line, but the property is only one legal parcel. The lot size (160.7 acres) has not changed since 1959.

Properties in the T and FG land use zones may be approved for the siting of a dwelling under any one of the three tests allowed in the Curry County Zoning Ordinance (CCZO). However, any structure within these resource zones must meet certain general standards and requirements, as well as specific fire safety criteria. The subject property has split zoning, with TL 700 in the T zoning district and TL 3800 in the FG zoning district. The requirements for siting a dwelling in the T or FG are basically the same. Since the proposed home site is on the T zoned parcel, the focus of this application will be on the requirements of the T land use zone. Parcels surrounding this property have T and FG zoning and larger tracts are mostly under timber production, but there are two residences on the tracts southeast of the subject.

Curry County Planning issued a Conditional Use Permit (AD-9715) in 1997 for a dwelling on Tax Lot 700 to a previous property owner. In June of 1999, an extension for the CUP was granted until 7/8/2000. Construction permits were obtained in 2000 and 2001, but both expired without approved inspections. Although the County Assessor shows a deleted record for a manufactured home (MH) on TL 700, the Applicant notes that it was a travel trailer that has been removed.

This property has areas identified as having wetlands (per the National Wetlands Inventory maps) along some streams and drainages, as well as some areas of geological hazard (per the Provisional Maps of Rapidly Moving Landslides). Since the Applicant has specified a home site some distance from the identified wetlands and geological hazard areas, no wetland or geology 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 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 CRITERIA

The following criteria of the Curry County Zoning Ordinance (CCZO) will be addressed reviewing this application:

Section 3.040.	Timber Zone
Section 3.042.	Conditional Uses Subject to Administrative Approval by the Director
Section 3.043.	Standards for the Approval of Dwellings
Section 3.045.	Fire Fighting Standards for Dwellings and Structures
Section 3.046.	Fire Safety Standards for Roads
Section 3.250.	Natural Hazard Overlay Zone
Section 4.011.	Riparian Vegetation Setback

Section 7.010.	Authorization to Grant or Deny Conditional Uses
Section 7.040.	Standards Governing Conditional Uses
Section 7.050.	Time Limit on a Permit for Conditional Uses

IV. FINDINGS OF FACT

CCZO Section 3.040. Timber Zone (T)

Purpose of Classification: The Timber Zone is applied to resource areas of the county where the primary land use is commercial forestry. The purpose of the Timber Zone is:

1. *to implement the forest land policies of the Curry County Comprehensive Plan; and*
2. *to implement Statewide Planning Goal 4 with respect to forest lands in the county.*

Finding: The Applicant states that this property is under timber production and requests approval to site a single-family dwelling in a T zoning district. The T 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 160.7-acre property with split-zoning. The application is consistent with the purpose of the T zone, so this requirement is met.

Section 3.042. 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.

15. *Dwellings subject to Section 3.043 (1,16)*
– Note CCZO Error: The correct reference is Section 3.043(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 3.042 identifies the proposed use as being allowed through a conditional use review. This requirement is met.

Section 3.043. 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;*
 - a) *it will be located on a tract of land of at least 160 contiguous acres; or*

NOTE: For purposes of this subsection a tract shall not be considered to consist of less than 160 acres because it is crossed by a public road or waterway

Finding: TL 700 (40.7 acres) and TL 3800 (120.0 acres) are contiguous lots, one legal property totaling 160.7 acres. The requirements of the large tract test are 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:*

(1) they have the least impact on nearby or adjoining forest or agricultural lands;

Finding: The Applicant's site plan proposes a home site in the middle of the T-shaped parcel, TL 700. Per the Applicant, this flat area previously served as a staging area for logging and is at an intersection of well-established gravel access roads. This placement maximizes the setback from property lines, providing good separation from adjacent tracts under commercial timber production, and minimizes impact on adjoining forest and agricultural lands. This requirement is met.

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

Finding: Per the Applicant, the east portion of TL 700 is a natural south-facing oak savannah, and the proposed home site is west of that area. Areas to the south and west of the proposed site on TL 700 will remain under timber production, as will the larger lot TL 3800. The proposed site will minimize any adverse impacts on forest operations on the southerly and western portions of the property. This requirement is met.

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

Finding: Access from the property line to the proposed home site will be via an existing road, so no new roads are needed. Since the proposed site was previously used as a staging area for logging, the Applicant states only some clearing (no more than 50 ft) is needed to enlarge the home site, but no tree removal or grading will be necessary. Forest lands used for access and home site development will be minimized. This requirement is met.

(4) the risks associated with wildfire are minimized.

Finding: Per the Advanced Oregon Wildfire Risk Explorer (AOWRE), a mapping tool designed in collaboration with OR Dept of Forestry and US Forest Service, this property is within the Crook Creek – Pistol River Sub Watershed. The proposed home site on this property (roughly latitude 42.29464 N, longitude 124.29703 W) has Low Benefit rating for Overall Wildfire Risk. This measurement "considers the likelihood of wildfire greater than 250 acres (likelihood of burning), the susceptibility of resources and assets to wildfire of different intensities and the likelihood of those

intensities.” The Low Benefit rating means that “Wildfire risk is slightly beneficial for mapped resources and assets combined (for example, forest health/vegetation condition, wildlife habitat), producing a “fuel treatment effect” at very low flame lengths. Benefit represents 14.5 to 29th percentile of positive values on the landscape.”

Nevertheless, the proposed site has High (1-in-500 to 1-in-100) Burn Probability (indicating a 1-in-500 to 1-in-100 chance of a wildfire larger than 250 acres in a single year) and High Hazard to Potential Structures (indicating that if a wildfire ignites in this area the potential for loss to the structure is high).

Requirements to reduce the risks associated with wildfire are addressed later in this report (CCZO Sections 3.045 and 3.046) and must be minimized in accordance with those standards. If the applicable standards of CCZO Sections 3.045 and 3.046 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 Applicant states that the proposed home site is in the center of the 40-acre, T-shaped, TL 700. The proposed site is well separated (minimum distance to an adjacent property is 360 ft), so setbacks from adjoining properties are unnecessary. The proposed site has been cleared as a staging area for past logging activity and is accessible by existing roads. Per the property owner, there are two storage sheds and a vacant chicken coop on the property. One shed, at the proposed home site, will be removed. Upon application of a development permit, setbacks for Fire Safety Areas (under CCZO Section 3.045) and Riparian Vegetation Buffers (Section 4.011) will be required and reviewed for compliance. No other setbacks are needed. 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:*

- 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: A water source for the proposed home site has not yet been developed, but the Applicant intends to drill a well for the domestic water supply. The property has multiple drainages, and the GIS map indicates that there is a stream about 700 ft from the proposed home site. Per OR Water Resources Department, new drilled wells for domestic use do not require a water right but the well must be registered by the driller. The approval of this request is conditioned on installation of a drilled well 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: USFS Road 1703-100 provides access to the property from North Bank Pistol River Road, and the Applicant has provided a copy of a Private Road Special Use Permit (Authorization ID GOB615, Expiration Date 12/31/2035) for use and maintenance of the road. 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: Applicant states that the property was clear-cut about 25 years ago. Since purchasing the property in 2011, the applicant has completed three timber management projects under the guidance of the local State Stewardship Forester (Stacy Savona): 1) a small conifer thinning to reduce encroachment on oak savannah, 2) a small cut to improve fire mitigation, and 3) a hack/replant to improve species transition from tan oak to Douglas fir.

If 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)) will be reviewed for compliance upon application to construct a dwelling if timber has been harvested from this property. (Condition #3)

Section 3.045. 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 Timber (T) 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 firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.*

Finding: Per the Advanced Oregon Wildfire Risk Explorer, this property's Burn Probability and Hazard to Potential Structures have "high" ratings. Coos Forest Protective Association would provide forest protection. The proposed home site is not within a structural fire protection district; however, the fire chief of the Pistol River Rural Fire Protection District has signed that they will provide residential fire protection.

Nevertheless, given the AWORE high ratings, the Applicant will be required to provide an alternative means (water storage, fire sprinkling system, onsite fire suppression equipment, etc) of protecting the dwelling from fire hazards upon application for a development permit (Condition #4). With this condition, 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 nearest property line is over 300 ft from the proposed home site, so the proposed site has ample separation from the property lines to meet the distance requirements for both the primary and secondary Fire Safety Areas. No impediments to the standard for Fire Safety Areas are anticipated for this property, so compliance with the Fire Safety Areas (CCZO Section 3.045 (2)) is expected and will be reviewed upon application to construct a dwelling. (Condition #5)

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 yet specified the roof cover or whether there will be chimneys. Per the Applicant, the property has 25-40% slopes and, based on GIS elevation maps, the proposed home site has a slope of about 30%. Compliance with these construction standards (CCZO Section 3.045 (3), (4) and (5)) is anticipated and will be reviewed upon application to construct a dwelling. (Condition #6)

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 3.045(6) authorizes the County to impose additional standards and conditions on a dwelling constructed in an T 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 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 3.046.

Finding: Road access standards (Section 3.046) are addressed under the next section.

Section 3.046. Fire Safety Standards for Roads. *The following special road standards shall apply within the Timber (T) 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: The Applicant intends to use an existing drive to the proposed home site. Incorporation of these Fire Safety Road Standards into the development of a drive does not

appear insurmountable for this property. Compliance with the road access standards (Section 3.046) is expected and will be reviewed upon application to construct a dwelling. (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 the Provision Maps of Rapidly Moving Landslides, portions of this property are identified as having geological hazard areas. The proposed home site is some distance from any of the identified geological hazard areas, so no geology report was required. Nevertheless, compliance with natural hazard requirements will be reviewed upon application of a development permit. (Condition #8)

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, portions of this property are identified as having stream and wetlands areas. The proposed home site is some distance from any of the identified stream or wetland area, so no wetlands report was required. Nevertheless, compliance with riparian setbacks is required and will be reviewed upon application of a development permit. (Condition #9)

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 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 and Permitted Uses Generally.

- a) *The County may require property line setbacks 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) 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, sewer, and electrical services. It is also outside the Pistol River Fire Protection District, but a service provider letter has been signed by the fire chief of the Pistol River 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: A copy of a Residential Septic Site Evaluation (08-118-00, dated December 1, 2000) for use of an onsite sewage disposal system on the subject property was submitted by the Applicant. 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 purposes use of a drilled well as a domestic water source for the proposed home site. There are no wells registered with the OR Water Resources Department within a ¼ mile of the proposed site, but the Applicant notes that there are three year-round springs located within 1000 ft and the GIS shows a small stream within about 700 ft from the proposed home site. Per the Applicant, the OR WRD Regional Assistant Watermaster indicated that it was unlikely that a water rights certificate for a surface water system could be obtained, and the Watermaster

indicated that a drilled well would likely not be very deep since the proposed location was between two year-round springs about 175ft distant. Verification of a sufficient domestic water source will be required upon application of a home site development permit. As conditioned, this requirement is met (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 Crook Creek Pistol River Sub Watershed and has Low Benefit Overall Fire Risk. Fire history indicates there were 10 fires in this watershed during the last 10 years, burning a total of 170 acres over that time. This calculates to an average of 17 acres per year for an area of 67,331 acres in the watershed.

Fire safety requirements have been addressed in prior sections of this review (Sections 3.045 and 3.046). 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 3.045) and Fire Safety Standards for Roads (Section 3.046) will be reviewed for compliance at the time an application is made to construct a dwelling (Conditions #4, #5 and #6).

- 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 waiver recognizing the rights of adjacent and nearby landowners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules has been recorded (Inst #2000-3490) with the County Clerk. This requirement is 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 T 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 #10) 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

A Notice of Application was issued to nearby property owners and interested parties regarding this request for Conditional Use Approval on June 29, 2021. Except for notification that ODOT did not have any comments on this proposal, no written comments were received.

VI. ADMINISTRATIVE DECISION AND CONDITIONS OF APPROVAL

Application AD-2112 for Conditional Use Approval to establish a dwelling on a 160.7-acre parcel within the Timber (T) zoning district, located on Assessor's Map 3813-00, Tax Lot 700 and 3814-00, Tax Lot 3800, is **APPROVED** with the conditions on this date, September 20, 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 T zone.

1. One single-family dwelling may be developed on this tract, and this approval is based on siting the single-family dwelling as proposed in the 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 indicated in the 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 of a drilled well with sufficient yield for domestic use upon application for a home site development permit.
3. Timber restocking requirements (CCZO Section 3.043 (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. An alternative means (water storage, fire sprinkling system, onsite fire suppression equipment, etc) of protecting the dwelling from fire hazards will be required upon application for a development permit
5. Fire Safety Areas shall be cleared and maintained around all structures, consistent with CCZO Section 3.045 (2a) and (2b), 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.*

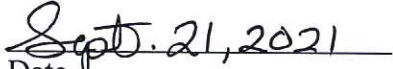
The secondary fire safety area (an additional 100ft beyond the primary area) is defined as follows: *an area in which the vegetation shall be limited to mowed grasses, low shrubs (less than two (2) feet high, and trees that are spaced with more than fifteen (15) feet between the crowns and pruned to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

6. A proposed dwelling shall not be sited on a slope greater than 40%. The proposed dwelling 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.
7. Road access to the dwelling must meet Fire Safety Standards (CCZO Section 3.046). 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 3.046.
8. Development near geological hazard areas must meet the requirements of the Natural Hazard Overlay Zone (CCZO Section 3.250). Compliance with these standards will be reviewed upon application of a development permit.
9. Development near stream and wetland areas must meet Riparian Vegetation Setbacks (CCZO Section 4.011). Compliance with these standards will be reviewed upon application of a development permit.
10. 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 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