

Application for a Permit to Use Surface Water



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant Information

NAME RICHARD TIENHAARA		PHONE (HM) (541) 398-1892	
PHONE (WK)	CELL		FAX
ADDRESS P.O. Box 547			
CITY JOSEPH	STATE OR	ZIP 97846	E-MAIL * TFI4@HOTMAIL.COM

Organization Information

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL *

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL *

Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- The Department encourages all applicants to wait for a permit to be issued before beginning construction of any proposed diversion. Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.

 I (we) affirm that the information contained in this application is true and accurate.


Applicant Signature

RICHARD TIENHAARA
Print Name and title if applicable

4/30/15
Date

Applicant Signature

Print Name and title if applicable

Date

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Revised

App. No. C-08-02

Permit No.

Date

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SECTION 2: PROPERTY OWNERSHIP

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

☒ Yes

☐ There are no encumbrances.

☐ This land is encumbered by easements, rights of way, roads or other encumbrances.

☐ No

☐ I have a recorded easement or written authorization permitting access.

☐ I do not currently have written authorization or easement permitting access.

☐ Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).

☐ Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

N/A

You must provide the legal description of: 1. The property from which the water is to be diverted, 2. Any property crossed by the proposed ditch, canal or other work, and 3. Any property on which the water is to be used as depicted on the map.

SECTION 3: SOURCE OF WATER

A. Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: Spring 1

Tributary to: Unnamamed Stream

Source 2: Spring 2

Tributary to: Jordan Creek

Source 3: _____

Tributary to: _____

Source 4: _____

Tributary to: _____

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

B. Applications to Use Stored Water

Do you, or will you, own the reservoir(s) described in item 3A above?

☐ Yes.

☐ No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

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**WATER RESOURCES DEPT
SALEM, OREGON**

If *all* sources listed in item 3A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

☐ By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:

- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
- A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

SECTION 4: WATER USE

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

SOURCE	USE	PERIOD OF USE	AMOUNT
Spring 1	Domestic	Year Round	0.01 ☒ cfs ☐ gpm ☐ af
Spring 2	Domestic	Year Round	0.01 ☒ cfs ☐ gpm ☐ af
	not to exceed 0.01 from either source		☐ cfs ☐ gpm ☐ af
			☐ cfs ☐ gpm ☐ af

For irrigation use only:

Please indicate the number of primary and supplemental acres to be irrigated.

Primary: 1/2 Acres Supplemental: _____ Acres

List the Permit or Certificate number of the underlying primary water right(s): _____

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: _____

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: 1
- If the use is **mining**, describe what is being mined and the method(s) of extraction:

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WATER RESOURCES DEPT
SALEM, OREGON

SECTION 5: WATER MANAGEMENT

A. Diversion and Conveyance

What equipment will you use to pump water from your source?

☒ Pump (give horsepower and type): One 5 hp pump at each spring source, will not divert more than 0.01 cfs from the combined sources

☐ Other means (describe): _____

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.

Water will be pumped from a spring box at the source using a 5 hp pump to a regulated holding tank via 3/4 -2 inch conduit. A larger conduit may be needed for Spring 2 due to the distance to the holding tank

B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)

Outside watering will be a small scale drip/sprinklers when needed

C. Conservation

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent damage to public uses of affected surface waters.

Will install a flow restrictor or flow meter at each diversion as needed

SECTION 6: RESOURCE PROTECTION

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

- ☒ Diversion will be screened to prevent uptake of fish and other aquatic life.
Describe planned actions: Diversion is surface water will consult with ODFW for screening requirements
- ☒ Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Describe planned actions: Some of the infrastructure is in place, will try to work in instream work window and use best management practices to minimize erosion.
- ☒ Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.
Describe: No equipment in water body will be required
- ☐ Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe: _____

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Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Applicant: RICHARD TIENHAARA
First Last

Mailing Address: P.O. BOX 547

JOSEPH
City

OR
State

97846
Zip

Daytime Phone: 541-398-1892

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	1/4 1/4	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>41S</u>	<u>13W</u>	<u>10</u>	<u>NENW</u>	<u>309</u>	<u>FG</u>	☐ Diverted	☐ Conveyed	☒ Used	<u>DOMESTIC</u>
						☐ Diverted	☐ Conveyed	☐ Used	
						☐ Diverted	☐ Conveyed	☐ Used	
						☐ Diverted	☐ Conveyed	☐ Used	

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

CURRY COUNTY

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- ☒ Permit to Use or Store Water
 ☐ Water Right Transfer
 ☐ Permit Amendment or Ground Water Registration Modification
☐ Limited Water Use License
 ☐ Allocation of Conserved Water
 ☐ Exchange of Water

Source of water: ☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water (name) #1 UNNAMED STREAM, SPRING TRIBUTARY TO JORDAN CREEK

Estimated quantity of water needed: _____ ☐ cubic feet per second ☐ gallons per minute ☐ acre-feet

Intended use of water: ☐ Irrigation ☒ Commercial ☐ Industrial ☒ Domestic for 1 household(s)
☐ Municipal ☐ Quasi-Municipal ☐ Instream ☐ Other _____

Briefly describe:

DOMESTIC USE FOR 1 HOUSE

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Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- ☐ Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): _____.
- ☐ Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
<i>Conditional Use Permit</i>	<i>AD-1021 (Attached)</i>	☒ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

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Name: David J. Pratt Title: Interim Planning Director

Signature: *[Signature]* Phone: (541) 247-3228 Date: 5/4/2015

Government Entity: County (Curry)

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

7/1/14-6/30/15 REAL PROPERTY TAX STATEMENT
CURRY COUNTY, OR. (541) 247-3305
PROPERTY DESCRIPTION
29.27

ACCOUNT NO.: R34125

LAST YEAR'S TAX 1,331.67
See back for explanation of taxes marked with (*)

ACRES: 29.27
MAP: 4113-10 -00309-00
CODE: 17-3

TIENHAARA, RICHARD M ETAL
PO BOX 547
JOSEPH, OR 97846

THIS YEAR'S TAX

EDUCATION:

ESD 91.42
SWOCC 144.74
SCHOOL 17-C 670.25

EDUCATION TOTAL:

906.41

GENERAL GOVERNMENT:

COUNTY GENERAL 123.68
CC 4-H & EXTENSN 21.06
PORT-BROOKINGS 27.15
CEM.-SOUTH CURRY 7.59
LIB.-CHETCO 79.74

GENERAL GOVERNMENT TOTAL

259.22

EXCLUDED FROM LIMITATION:

SCHOOL 17-C BOND 164.25
FIRE PATROL, GRAZING 30.06

EXCLUDED FROM

LIMITATION TOTAL:

194.31

2014-15 PROPERTY

TAX TOTALS

1,359.94

VALUES:	LAST YEAR	THIS YEAR
MARKET VALUES:		
LAND	291,680	233,310
IMPROVEMENT	0	0
TOTAL VALUE	291,680	233,310
TAXABLE VALUES:		
ASSESSED VA	200,270	206,270
EXEMPTION	0	0
NET TAXABLE:	200,270	206,270

PLEASE MAKE PAYMENT TO:
CURRY COUNTY TAX COLLECTOR
MSC 42415, PO BOX 6989
PORTLAND, OR 97228-6989

If a mortgage company pays your taxes,
This statement is for your records only.

Full Payment with
3% Discount

1,319.14

2/3 Payment with
2% Discount

888.50

1/3 Payment
No Discount

453.32

TOTAL TAX (After Discount)

1,319.14

Tear Here
2014-15 Property Taxes

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT
CURRY REAL

ACCOUNT NO.: R34125

Tear Here

Full Payment Enclosed	Due:	Pay By	Discount Allowed	Net Amount
or 2/3 Payment Enclosed	Due:	11/17/14	40.80 3%	1,319.14
or 1/3 Payment Enclosed	Due:	11/17/14	18.13 2%	888.50
			NONE 0%	453.32

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

☐ Mailing address
change on back

Enter Payment Amount

\$

TAX DUE MAY INCLUDE DELINQUENT TAXES IF ANY
PLEASE MAKE PAYMENTS TO:

TIENHAARA, RICHARD M ETAL
PO BOX 547
JOSEPH, OR 97846

CURRY COUNTY TAX COLLECTOR
MSC 42415, PO BOX 6989
PORTLAND, OR. 97228-6989

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08000001341250000131914000008885000000453327

S-88002



CURRY COUNTY DEPARTMENT OF PUBLIC SERVICES

94235 MOORE STREET, SUITE 113
GOLD BEACH, OREGON 97444

David Pratt, AICP
Director

Phone (541) 247-3284
FAX (541) 247-4579

December 24, 2014

Richard Tienhaara
PO Box 547
Joseph, Or. 97846

RE: AD-1021
Map 4113-10 -00309

Dear Mr. and Mrs. Harris,

I have received your request for an extension of one year for the above conditional use permit for to site a single-family dwelling on a 29.27-acre parcel within the Forestry Grazing (FG) Zone using the 160-acre grid test.

This letter serves as an approval to your request for an extension which is valid for a period of two years with the original conditions of approval (condition #1) as defined in AD-1021, dated January 11, 2011. The new expiration date for this approval is **January 26, 2017**.

If you have any questions, please feel free to call or email me.

Sincerely,

Nancy Chester

Nancy Chester, Planner
Curry Public Services
(541) 247-3284
chesterN@co.curry.or.us

cc: file

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8-88082

NOTICE OF ADMINISTRATIVE DECISION
(Pursuant to ORS 215.416 (11) (a) (C))

January 11, 2011

File No.: AD-1021

Owner: Richard and Kerry Tienhaara

Agent: Nordstrom Land Use Consulting, LLC – Chuck Nordstrom

Description of Subject Property Location: The subject property is located on both sides of Harbor Hills Heights. Road approximately 0.9 mile east of its intersection with Pelican Bay Drive; which is 0.25 mile easterly of the intersection of East Benham Lane and US 101 at Harbor, Oregon and within the Brookings Urban Growth Boundary.

Address: None Assigned

Assessor Map Number: 41-13-10; Taxlot 309

Type of Land Use Action: A request for to site a single-family dwelling on a 29.27-acre parcel within the Forestry Grazing (FG) Zone using the 160-acre grid test

Nature of Decision: Approval to site a single-family dwelling on a 29.27-acre parcel within the Forestry Grazing (FG) Zone using the 160-acre grid test

A REQUIRED STATUTORY NOTICE

Any person who is adversely affected or aggrieved by this decision or who is entitled to written notice under ORS 215.416 (11) (a) (C) of it, may appeal it to the Curry County Planning Commission. The appeal can only be initiated by filing a written appeal application together with a fee of **\$250.00** with the Curry County Department of Public Services within fifteen (15) days of the mailing (postmarked date) of this notice.

Appeals cannot be filed by fax or email correspondence. A person who is mailed written notice of this decision cannot appeal the decision directly to the Land Use Board of Appeals (LUBA) under ORS 197.830. The decision described above will not become final until the period for filing a local appeal has expired, which is **5:00 January 26, 2011**

Any appeal hearing before the Planning Commission will be a de novo or entirely new hearing and not on the record of the Planning Director's Decision.

Additional information can be obtained as outlined below:

Curry County Department of Public Services
Planning Division
P.O. Box 746
94235 Moore Street, lower level
Gold Beach, OR 97444
Ph. (541) 247-3284
Email: meyerj@co.curry.or.us

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A copy of the application, documents and evidence submitted by the applicant, applicable decision criteria, and the decision order are available for inspection at the Dept of Public Services. Copies of these documents are available upon payment of a copy charge of .25 per page.

**Curry County Department of Public Services-Planning Division
ADMINISTRATIVE STAFF REPORT AND DECISION**

**IN THE MATTER OF THE REQUEST FOR CONDITIONAL USE APPROVAL TO
ESTABLISH A DWELLING IN A FORESTRY GRAZING (FG) ZONE**

AD-1021

DATE: January 11, 2011

I. GENERAL INFORMATION AND FACTS

Applicants/Property Owners:	Richard and Kerry Tienhaara P.O. Box 547 Joseph, OR 97846
Land Use Review:	The siting of a single family dwelling in a Forestry Grazing (FG) Zone (See Applicants' Revised Plot Plan - Exhibit A)
Property Description:	Tax Lot 309 in Section 10, Township 41 South, Range 13 West W.M., Curry County, Oregon
Location:	East of State Highway #101, adjacent to Harbor Hills Heights Road and within the City of Brookings Urban Growth Area
Existing Development:	None
Proposed Development:	To reinstate a previous conditional use approval (AD-0316) for siting a single-family dwelling in an FG zone
Zone:	Forestry-Grazing (FG) Zone
Applicable Overlay Zone(s):	Harbor Hills Master Plan Area
Current Land Use:	Resource (farm/forest) production
Tax Status:	No special resource assessment rate
Size of Tract:	1 parcel – 29.27 acres in size

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II. BACKGROUND

A conditional use permit (CUP) approval for the siting of a single-family dwelling on the subject property was granted as an administrative decision under AD-0316 by the Planning Director in June 2003 subject to meeting eleven (11) conditions of approval. One of the conditions of approval required the Applicants/property owners to establish the use within four years of the date of approval unless the Applicants/property owners apply and receive approval for a two (2) year extension. According the Applicants, the previous land owner allowed the approval for the AD-0316 to expire.

III. APPLICABLE STATE; COMPREHENSIVE PLAN; ORDINANCE PROVISIONS

The review of a request for development within the Forestry-Grazing (FG) Zone and Harbor Bench Farm District Overlay Zone is an administrative decision under Curry County Zoning Ordinance (CCZO), Section 2.060 (1) (b) and is subject to the following review requirements:

- Section 3.050 - Forestry Grazing Zone
- Section 3.052 - Conditional Uses Subject to Administrative Approval by the Director
 - 16. Dwelling subject to Section 3.053 (1, 16)
- Section 3.053 - Standards for the Approval of Dwellings
 - 3. Requirements for siting of a single family dwelling on forest land
 - 4. The approval of a dwelling under CCZO Subsections 3.053(1), (2), and (3)
- Section 3.055 - Fire Fighting Standards for Dwellings and Structures
- Section 3.056 - Fire Safety Standards for Roads
- Section 7.040 - Standards Governing Conditional Uses
 - 1. Conditional Uses Generally
 - 2. Dwelling not served by community water or sewer
 - 16. Uses on resource land

Section X (A) of the City of Brookings/Curry County Urban Growth Area Joint Management Agreement (JMA), dated June 30, 2010, also applies. This provision of the JMA allows the development of uses under current *Curry County Comprehensive Plan* and zoning designations within master plan areas in the same manner as permitted prior to being included within the UGB.

The proposed development must also comply with applicable provisions of the Curry County Zoning Ordinance (CCZO), and the Curry County Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

IV. NATURE OF REQUEST

The subject property is 29.27 acres in size and located within the City of Brookings Urban

Growth Area (UGA) and Harbor Hills Master Plan Area. No Master Plan has been approved for this area and development is limited by the Curry County Comprehensive Plan and JMA to allow development of the subject property under the current zoning designation, which is Forestry Grazing (FG). A parcel in the FG zone may be approved for the siting of a dwelling under any one of the basic processes or "grid tests." However, any structure within the FG Zone must meet siting, and fire siting and safety, criteria and development standards found under CCZO Sections 3.055 and 3.056. This request specifically seeks approval to establish a single-family dwelling under provisions for a dwelling on property in a forest zone ("grid test").

The Planning Director has duly accepted the application filed in accordance with Section 7.020 of the Curry County Zoning Ordinance for an application for a conditional use and has given notice of this matter to affected property owners as set forth in Section 2.070 (2). Written comment received in response to notice of this proposal was limited to support of the request and has been entered into the record.

V. ANALYSIS

A. Curry County Zoning Ordinance Requirements and Standards

1. Section 3.050. Forestry Grazing Zone (FG).

Purpose of Classification: The Forestry Grazing Zone is applied to resource areas of the county where the primary land use is commercial forestry with some intermixed agricultural uses for livestock uses. The purpose of the Forestry Grazing Zone is:

- (a) to implement the forest land policies of the Curry County Comprehensive Plan; and*
- (b) to implement Statewide Planning Goal 4 with respect to forest lands in the county.*
- (c) to implement the agricultural land policies of the Curry County Comprehensive Plan with respect to livestock grazing and related farm uses which are intermixed with forest land in some parts of the county; and*
- (d) to implement Statewide Planning Goal 3 with respect to intermixed farm and forestland in the county.*

If the subject tract was predominantly in agricultural (farm) use on January 1, 1993, then uses as specified under Sections 3.070 to 3.078 of this ordinance are applicable.

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Findings/Conclusion: The request is to site a single family dwelling in a Forestry Grazing (FG) zone. The siting of a single family dwelling in the FG zone is permitted as a conditional use subject to meeting certain standards and criteria. If the applicable standards and criteria under CCZO 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); and Section 7.040 (Standards Governing Conditional Uses) are met, then the intent of the FG zone is met.

2. **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)*

Findings/Conclusion: In order to site a single family dwelling, certain standards and criteria, as discussed above, must be met. If the standards and criteria are met either outright or by imposing conditions, then this standard is met.

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3. **Section 3.053 Standards for the Approval of Dwellings.**

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3. *A single family dwelling may be sited on forest land if the lot or parcel is predominantly composed of soils that are:*

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- a) *capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:*
 - (i) *all or part of at least three 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*
 - (ii) *at least three dwellings existed on January 1, 1993 on the other lots or parcels;*
- b) *capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:*
 - (i) *all or part of at least seven 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*
 - (ii) *at least three dwellings existed on January 1, 1993 on other lots or parcels; or*

- c) *capable of producing more than 85 cubic feet per acre per year of wood fiber if:*
 - (i) *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*
 - (ii) *at least three dwellings existed on January 1, 1993 on other lots or parcels.*
- d) *If the tract 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 to the maximum extent possible, aligned with the road.*
- e) *if the tract is 60 acres or larger, and abuts a road or perennial stream, the measurement shall be made the same as in 3 d) above; however, one of the three required dwellings shall be on the same side of the road or stream as the subject tract, and;*
 - (i) *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*
 - (ii) *be within one-fourth 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.*
- g) *If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling."*

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Findings: The Applicants have submitted a map showing the location of existing parcels and dwellings in response to the standards found in CCZO Sections 3.053(3) (a) through (g) above. According to the Applicants and the NRCS Soil Survey of Curry County, the subject property has soils that are capable of producing more than 85 cubic feet per acre per year of wood fiber. Therefore, CCZO Section 3.053(3)(c) applies and all or part of at least 11 other parcels and at least three dwellings must have existed on January 1, 1993, for a single family dwelling to be approved on a forest land parcel. The Applicants have shown that there are 14 qualified parcels and 5 dwellings within the 160 acre rectangle template.

Conclusion: The information contained on pages 18 and 19 of the Applicants "Findings

Document” (Exhibit B) indicates that a template (“grid test”) of the type allowed and properly placed properties and dwellings captures and exceeds the minimum number of parcels and dwellings existing prior to 1993. Therefore, this criterion is met.

4. *The approval of a dwelling under subsections 1, 2, or 3 above shall be subject to the following additional requirements.*
 - a) *Dwellings and structures shall be sited on the parcel so that:*
 - i) *they have the least impact on nearby or adjoining forest or agricultural lands;*

Findings: Forest and farm operations typically involve practices that result in dust, noise, and visible impacts to the landscape. Any of these operations, conducted in close proximity to a residence, may cause inconvenience to some nearby residents. The intent of this requirement is to minimize adverse impact to the surrounding properties. The siting criteria to satisfy this requirement 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.

The Applicants propose to site a dwelling and accessory structure in the northern quarter of the subject property west of Harbor Hills Heights Road on the 29.27-acre parcel, in an area shown on Figure 7 in the Applicants’ “Findings Document” (Exhibit B). The proposed site is located on the apex of a ridge, with vegetated grass only. The revised plot plan that was submitted shows the dwelling setback approximately 130 feet to the north and south property lines; and more than 150 feet from the west and east property lines. The proposed site is relatively near an existing dwelling on the adjacent parcel to the south. There are no other structures on the subject or adjacent parcels closer than the indicated dwelling to cluster near or with.

Curry County has historically interpreted this criterion to minimize adverse impacts and conflicts with activities on nearby lands designated for resource use. However, it should be noted that the subject property is within the Brookings Urban Growth Area. The nearest lands zoned for farm or forest use that are not within the UGA and are at least 1,100 feet to the east of the proposed dwelling site. The Urban Growth Area is designated for urban development, not for resource use.

Conclusion: The setback from the nearest land devoted to resource use is adequate to ensure minimization of any conflict with resource land. All adjacent land, and the majority of the nearby and surrounding land, are designated for urban development by inclusion within the UGA and do not require protection from the proposed residential use. There are no other structures on the parcel to cluster with, and the dwelling is as close as possible to the nearest dwelling. Therefore, the setbacks and location must serve as the standard to assess impact to resource use, and these appear adequate to guard against intrusion on adjacent resource uses. If the proposed structure is required to be

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MAY 07 2015

SALEM, OR

sited in the location shown, this criterion will be satisfied. Therefore, as a condition of approval, the proposed structure is required to be located as shown on the submitted site plan. This location will ensure that impacts to forest and farm operations on applicable adjoining parcels are minimized. Therefore, this criterion has been met.

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

Findings: Findings and conclusions from the above section and the Applicants' "Findings Document", pages 19-21, (Exhibit B) are herein included by this reference. Siting criteria to satisfy this requirement 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.

The Applicants propose siting a dwelling in the northwest portion of the subject parcel, on an area that is the nearest suitable area to an existing residentially developed parcel. The subject parcel and all adjacent parcels are zoned FG and are within the City of Brookings Urban Growth Area. The area is designated for urban development at urban densities. Furthermore, the subject property is primarily grassland and does not support a stand of trees. The proposed dwelling site is in an area devoid of trees. The property has no history of grazing or any other farm use.

Conclusion: The Applicants support satisfaction of this criterion by showing the development site to be in the area closest to other residentially developed land that is suitable for siting a dwelling, and not in the middle of the subject property, and use of access that is the least distance possible to an existing road. Therefore, this criterion has been satisfied.

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

Findings: Findings and conclusions from the above sections and the Applicants' "Findings Document", pages 20 to 21, (Exhibit B) are herein included by this reference. A driveway for the proposed structure will be located such that the least amount of land possible will be used for the road.

Conclusion: The driveway will be the shortest distance possible. This criterion has been met.

- iv) *the risks associated with wildfire are minimized.*

Findings: Measures to minimize wildfire risks are required to be addressed through specific standards CCZO Sections 3.055 and 3.056. If those standards are met, requirement iv, above, will be met.

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MAY 07 2015

Conclusion: Risks associated with wildfire are addressed in later sections of this report and can be minimized if the requirements of CCZO Sections 3.055 and 3.056 are met. The risks associated with wildfire will be minimized. Therefore, this criterion has been met.

- c) *The applicant shall provide evidence that the domestic water supply is from a source authorized by the Oregon Water Resources Department's administrative rules for the appropriation of ground water or surface water and is not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629). For purposes of this subsection, evidence of a domestic water supply means:*
- i) *verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water, or*
 - ii) *a water use permit issued by the Oregon Water Resources Department for the use described in the application; or*
 - iii) *verification from the Oregon Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.*

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MAY 07 2015

SALEM, OR

Findings: The Applicants indicate that the water source for the proposed dwelling will be obtained from an existing water system which is fed by two springs located in the northwest corner of the subject property. According to the material that was submitted as part of the application, the water flow of the two springs was tested and it was determined that "spring no. 1" produced a flow of 7 gallons per minute and "spring no. 2" provided a flow of between 4 and 8 gallons per minute (See Exhibit B, Applicants' "Findings Document", Attachment G). This spring-fed system is currently the source of domestic water for the existing single family dwelling immediately adjacent and to the south of the subject property.

According to the Applicants, the water system was improved by means of encasement, gravity flow linkage, and a pump system to a holding tank storage system. The previous owner of the subject property then applied to the Oregon Water Resources Department (OWRD) for a permit (No. 44988) to appropriate surface water from the springs. The permit was approved for water flow up to 0.01 cubic feet/second for "...domestic use for two families, including the irrigation of lawn and garden not to exceed one-half acre in area." (See Exhibit B, Applicants' "Findings Document" Attachment G, #3-1.). After connecting the water system to the existing single family dwelling, which is located on the adjacent parcel immediately to the south, a Certificate of Water Right from the

OWRD was granted for one of the domestic uses approved in the permit.

The existing Water Right that was approved by OWRD is tied to an existing dwelling that is sited on the parcel immediately adjacent to and to the south of the proposed building site. The former owner of the subject property failed to transfer the Permit to Appropriate Water and the existing Water Right to the present owner when the subject property was deeded to the Applicants. The Applicants are currently in the process of seeking the transfer of the OWRD approvals (See Exhibit C, Applicants' "Supplemental Findings Document", Attachment G, Document #5) and intend to file the water rights for the "second domestic water use." The Applicants cannot request a Water Right for a second domestic use until the water right can be "perfected" by being in actual use.

Conclusion: The Applicants have proposed to use an existing water source which was originally approved by OWRD (Application No. 59866/Permit No. 44988 to Appropriate the Public Waters of the State of Oregon) for domestic use by two families. A Certificate of Water Right was issued by OWRD in 1992 for the existing single family dwelling that is sited on the parcel immediately adjacent to the subject property. However, this criterion can be met if a condition of approval addressing this issue is imposed on the subject property. Therefore, as a condition of approval, the Applicants/Property Owners shall be required to either (1) obtain a water use permit from OWRD; (2) submit a statement of exemption from OWRD; or (3) obtain domestic water supply from another source approved by OWRD prior to receiving any building permits. This criterion can be met as a condition of approval.

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MAY 07 2015

SALEM, OR

- 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.*

Findings: The subject property is Parcel #2 of Partition Plat 2000-09 and as such has access by platted road to the property line.

Conclusion: Access is guaranteed by way of a road platted in 2000, no further agreement is needed. Therefore, this criterion has been met.

- e) *Approval of a dwelling shall be subject to the following requirements:*
- i) *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."*

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MAY 07 2015

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Findings: In their submission, the Applicants stated that the subject property has historically been designated forestland and logged in the past. The subject property is partially covered with a mixed stand of timber that could be used for commercial forestry. However, no stocking report has been submitted to the Assessor and, according to County Assessor's records, there are no special assessments on the subject property. The intent of the stocking requirement is to prevent a property owner from receiving resource assessment rate for a parcel that has been converted from forest use to residential use, unless the property is adequately stocked and meets the requirements for such assessment. The subject property is within the City of Brookings Urban Growth Area and was, according to the Applicants, removed from special assessment as Designated Forest Land because of its present status as land designated for future urban development. The Applicants argue that a stocking survey report no longer needs to be submitted to the Curry County Assessor as required under CCZO Section 3.053(4)(g). Staff concurs since the subject property, as well as the immediate surrounding properties, are designated for development at urban densities when a master plan for the area is adopted.

Conclusion: The subject property is within the City of Brookings UGA and has a zoning designation of FG. The subject property is not receiving special resource assessment rates and cannot until such time as it meets the Curry County Assessor's requirements for such assessment. Therefore, the intent of this requirement is met.

4. **Section 3.055 Fire Fighting Standards for Dwellings and Structures**

The following fire siting standards shall apply to all new dwellings or permanent

structures constructed or placed on lands within the Forestry Grazing (FG) zoning designation:

1. *The dwelling shall be located on a parcel that is located within a structural fire protection district or the owner has contracted with a structural fire protection district for residential fire protection. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the Director may provide an alternative means for protecting the dwelling from fire hazards. The alternative means for providing fire protection may include a fire sprinkling system, onsite fire suppression equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for fire fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.*

Findings: The subject property is not located within a rural fire protection district. In the material that was submitted to the County, the Applicants stated that the Harbor Rural Fire Protection District (HRFPD) had been contacted and inquiries had been made regarding contractual structural fire protection. They also stated that the "...proposed dwelling will receive structural fire protection from Harbor Rural Fire Protection District under a contract." The Applicants did submit a memorandum from the HRFPD dated April 7, 2003, stating that the "...lot can be given fire protection upon payment of \$500.00" and the roads and driveway serving this Tax Lot (41-13-10-309) are accepted. However, no evidence has been submitted to date that a contract to meet this criterion has been executed. To meet this criterion, the Applicants/Property Owners must have a contract with Harbor RFPD for structural fire protection service prior to receiving approval for any building permits. A letter must also be submitted stating that Harbor RFPD has inspected the road and private drive and found it adequate for their fire-fighting equipment.

Conclusion: The Applicants/Property Owners can meet this criterion if they have a contract with Harbor Rural Fire Protection District for fire protection.

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2. *Fire Safety Area.*

MAY 07 2015

SALEM, OR

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.

- c. *Areas subject to the Scenic Waterway Area Overlay Zone may have compliance with the primary and secondary fire safety area requirements of this section modified to comply with specific siting standards contained in any state or federal approved Scenic Waterway Management Program when such regulations conflict.*

Findings: According to the Applicants, the required thirty (30) foot primary fire safety area and one hundred (100) foot secondary fire safety area will be provided around the proposed single family dwelling at the time the dwelling is constructed. The intent of these criteria is to minimize the danger of wildfire to or from the structures; the threat exists from the moment construction starts. If the 30 foot primary safety area and 100 foot secondary primary safety area cannot be met on the subject property, the Applicants/Property Owner must obtain a maintenance agreement for the adjacent parcel. The Applicants shall be required, if necessary, to obtain any easements for the establishment and maintenance of the primary and secondary fire safety areas.

Conclusion: The Applicants indicated that the required firebreaks would be established and maintained. To insure compliance, the Applicants shall obtain all necessary easements, if necessary, on adjacent properties to establish the required fire safety areas,

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MAY 07 2015

SALEM, OR

and submit a copy of the recorded document to planning, and shall implement the primary and secondary fire safety areas for the dwelling as outlined in the findings above prior to receiving permit clearance to construct a septic system or commence construction on the structure. The Applicants shall sign a written notarized statement supplied by the county certifying that the fire safety areas have been constructed as required and submit the statement to the county prior to the issuance of a building permit. This criterion can be met with the imposition of a condition of approval.

3. *The dwelling shall have a fire retardant roof.*

Findings: Compliance with this criterion will be determined at time of construction.

Conclusion: The structure must have a fire retardant roof certified as such by the building inspector at the time of construction. Therefore, this criterion can be met as a condition of approval.

4. *If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*

Findings: Currently, there are no structures with chimneys existing on the subject property. However, this requirement shall be implemented at the time of single family construction.

Conclusion: Any or all chimneys associated with the structure shall have spark arresters certified as such by the building inspector at the time of construction of the structure. This criterion can be met with the imposition of a condition of approval.

5. *The dwelling shall not be sited on a slope greater than 40 percent.*

Findings: According to the Applicants, the proposed single family dwelling will be sited on a slope of less than 10%. This will be required as a condition of approval.

Conclusion: The structure must be sited on a slope less than 40%. This criterion can be met as a condition of approval.

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.*

Findings: The above section authorizes the county to impose standards and conditions specifically in allowing a structure in a forest zone if the county feels it necessary to protect the public. No conditions other than those set forth above are imposed at this time. However, there are additional requirements covered in later sections of this report which may include additional conditions of approval.

Conclusion: In allowing a structure in a forest zone, the county is authorized to impose

conditions in addition to those specifically imposed in the immediately preceding sections of this report. No additional conditions are imposed at this time, but may be imposed 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.*

Findings: This is not a request for a replacement or substantial improvement of an existing dwelling. This criterion does not apply.

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Conclusion: This criterion does not apply.

MAY 07 2015

8. *Road Access to Dwellings*

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Road access to the dwelling shall meet the requirements set forth in Section 3.056.

Findings: Section 3.056 is covered in the following section of this report. If it is met, this criterion will be met.

Conclusion: If all criteria and standards, including conditions of approval, contained in Section 3.056 are met, this criterion will be met.

5. **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 an 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."*

Findings: The Applicants are proposing the construction of a dwelling on property within the FG Zone and the use of a private road to access the site. The Applicants indicate that the road and driveway will meet standards. Furthermore, a memorandum from the Harbor RFPD, dated August 7, 2003, was submitted stating that the roads and driveway serving the subject property met the road standards. As a condition of approval, the Applicants will be required to submit a signed, written, notarized statement supplied by the county certifying that the road and private driveway has been constructed to the standards required by Section 3.056; and a statement from Harbor RFPD indicating that their equipment can negotiate the roads and driveway serving the subject property. These documents must be updated and submitted prior to building permit issuance.

Conclusion: The Applicants have submitted information showing the location of the access indicating that all required road standards will be met. As a condition of approval, the Applicants must certify that the road serving the subject property meets all required standards, and submit a letter from Harbor RFPD stating that their equipment can negotiate the road.

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MAY 07 2015

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6. **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.

Findings/Conclusion: The authority stated above gives the County the ability, if warranted by findings of fact, to impose some or all of the conditions set forth in Section 7.040(1) below, or other conditions that may be necessary to protect the best interests of the area or the County as a whole.

7. **Section 7.040 Standards Governing Conditional Uses:**

1. *Conditional Uses Generally.*

- a) *The County may require property line set-backs or building height restrictions other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land use.*
- b) *The County may require access to the property, off-street parking, additional lot area, or buffering requirements other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land uses.*
- c) *The County may require that the development be constructed to standards more restrictive than the Uniform Building Code or the general codes in order to comply with the specific standards established and conditions imposed in granting the conditional use permit for the proposed use.*
- 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.*

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Findings: The proposed dwelling site is located in the north-central part of the subject property and is bordered by large parcels designated for future urban use under a master plan of development. The Applicants are proposing to construct the primary and

secondary fire safety area as required under CCZO Section 3.055(2). East Benham Lane, a County maintained public road, and Harbor Hill Heights Road, a private road which is privately maintained, serve the subject property. The proposed single family dwelling will be constructed under the state building codes and will, according to the Applicants, meet the zoning requirements for firefighting standards for dwellings. Furthermore, the Applicants have provided a Service Provider Confirmation Form from Coos-Curry Electric Coop for electrical service to the subject property as well as submitted a copy of an approved Site Evaluation for use of an on-site disposal system on the subject property. It should be noted that the proposed use will not involve the use of public water or sewer.

For compliance with the CCZO, the Applicants/Property Owners will be required to submit an erosion prevention and sediment control plan pursuant to CCZO Sections 3.300 to 3.324 for approval by the Curry County Public Services Department prior to the issuance of any development permit as a condition of approval. Furthermore, the Applicants/Property Owners will also be required to submit a storm and surface water management plan pursuant to CCZO Section 3.400 to 3.443 prior to issuance of any building permits. The submission of the erosion prevention and sediment control plan and the storm and surface water management plan shall be required as conditions of approval.

Conclusion: Staff concurs with the Applicants in that the setback and access for the proposed dwelling, as indicated in the application, are adequate and that no public utilities, other than electricity and telephone are needed for the proposed use. However, an erosion prevention and sediment control plan and the storm and surface water management plan shall be required prior to permit issuance. No additional setbacks or access facilities are necessary to make the proposed use compatible with surrounding uses.

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.*

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MAY 07 2015

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Findings: A copy of a site evaluation approval for the subject property has information indicating that an approved sewage disposal system for the proposed dwelling site has been submitted.

Conclusion: The required individual sewage disposal system has been approved in writing by the County Sanitarian, who is the appropriate authority for the task. No other review is warranted. This criterion has been 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.*

Findings: The Applicants indicate that the water source for the proposed dwelling will be obtained from an existing water system which is fed by two springs that are located in the northwest corner of the subject property. According to the Applicants, the water system was improved by means of encasement, gravity flow linkage, and a pump system to a holding tank storage system. The previous owner of the subject property applied to the Oregon Water Resources Department (OWRD) for a permit (No. 44988) to appropriate surface water from the springs. The permit was approved for water flow up to 0.01 cubic feet/second for "...domestic use for two families, including the irrigation of lawn and garden not to exceed one-half acre in area." After connecting the water system to the existing single family dwelling, located on an adjacent parcel immediately to the south, a Certificate of Water Right from the OWRD for one of the domestic uses was issued.

The existing Water Right that was approved by OWRD is tied to an existing dwelling that is sited on the parcel immediately adjacent to and to the south of the proposed building site. The former owner of the subject property failed to transfer the Permit to Appropriate Water and the existing Water Right to the present owner when the subject property was deeded to the Applicants. The Applicants are currently in the process of seeking the transfer of the OWRD approvals (See Exhibit C, Applicants' "Supplemental Findings Document", Attachment G, Document #5) and intend to file a water right for the "second domestic water use." The Applicants cannot request a Water Right for a second domestic use until the water right can be "perfected" by being in actual use.

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MAY 07 2015

Conclusion: The Applicants have proposed to use an existing water source which was originally approved by OWRD (Application No. 59866/Permit No. 44988 to Appropriate the Public Waters of the State of Oregon) for domestic use by two families. A Certificate of Water Right was issued by OWRD in 1992 for the existing single family dwelling that is sited on the parcel adjacent to the subject property. However, this criterion can be met if the Applicants either (1) obtain a water use permit from OWRD; (2) obtain verification from OWRD that a water use permit is not required; or (3) obtain domestic water supply from another source approved by OWRD. Therefore, as a condition of approval, the Property Owners/Applicants shall be required to either (1) obtain a water use permit from OWRD; (2) submit a statement of exemption from OWRD; or (3) obtain domestic water supply from another source approved by OWRD prior to receiving any building permits. This criterion can be met as a condition of approval.

16. *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.*

Findings: This criterion has been addressed in a preceding section of this report wherein the proposed use is found to have minimal impact on farm or forest use on adjacent lands and on the subject parcel itself. If these requirements are met, the use cannot reasonably be expected to significantly impact farm or forest uses.

Conclusion: The request is for addition of one residence and the implementation of associated residential activities. The impact of the dwelling has been found to be minimal to adjacent farm and forest uses; therefore, the use should not significantly impact those uses. This criterion is met

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

Findings: This criterion has been addressed in above sections of this report. The conclusion was reached that if all conditions of approval were met for above requirements and standards, danger from wildfire would be minimized. If danger from wildfire is minimized, the use should not pose a significant risk to personnel involved in fire suppression, nor significantly increase associated costs.

Conclusion: If all conditions of approval for minimization of wildfire danger set forth in above sections are met, the use will not pose a realistic chance of significantly increasing costs or danger associated with fire. This criterion will be met if all conditions of approval are met.

- 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 who*

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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 for uses authorized in Section 3.043 of the Timber (T) zone where indicated and Section 3.053 of the Forestry-Grazing (FG) where indicated.

Findings: The indicated document must be signed and recorded prior to issuing permit clearance for septic or building permits in order for this criterion to be met.

Conclusion: As a condition of approval, the indicated form must be signed and recorded prior to issuance of any building permits. This criterion can be met as a condition of approval.

VI PUBLIC COMMENTS/CONCERNS

The following comments have been received:

- A. The City of Brookings submitted the following Comments in a memorandum dated November 18, 2010:

“As the City of Brookings has no criteria for review of Forestry Grazing dwellings, the City has no particular comment on this application.

“Please allow this letter to serve to place the city on record for a possible appeal in case some concerns become evident in your review of application.”

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Response: None

- B. The following concerns were expressed in an email dated November 17, 2010 from an adjacent property owner, John Marshall:

SALEM, OR

1. *The possible relocation of his current septic system which is located on the subject property.*

Response: The wrong Site Evaluation for septic system to serve the subject property was submitted with the original application. The septic system that was initially approved for this lot is located to the east of the proposed building site along Harbor Hills Heights Road. The existing system that is serving Tax Lot 301 should not be affected.

2. *The possible relocation or change in the current water lines from an existing cistern*

According to Mr. Marshall, the existing water right is for “one family.”

He was told the water rights were transferred to “tax lot number 301” and that no additional permission would be granted to take water from that cistern. His concern is the ability of the current water source to support multiple families should permission be granted for the approval of AD-1021. He recommended that Applicants located a “new” water source.

Response: The Applicants are proposing the use of an existing water source located on the subject property and was originally approved by OWRD on August 25, 1980 (Application No. 59866/Permit No. 44988) to “Appropriate the Public Waters of the State of Oregon” for domestic use by two families. A Certificate of Water Right was issued by OWRD in 1992 for the existing single family dwelling that is sited on Tax Lot 301 to south of the subject property. This issue is best addressed by OWRD when the Applicants submit an application for a water rights permit. However, to provide flexibility and allow the Applicants to obtain approval for an alternative water source, a condition (No. 2) is being imposed. This condition will require the Applicants/Property Owners to either (1) obtain a water use permit from OWRD; (2) submit a statement of exemption from OWRD; or (3) obtain domestic water supply from another source approved by OWRD prior to receiving any building permits. This criterion can be met as a condition of approval.

3. Certainty that the “shared blacktop driveway” remains intact and there is no removal of any portion of the existing “shared driveway.”

Response: The revised site plan that was submitted to the County shows an alternative driveway access that should address this concern.

- C. An e-mail with a revised plot plan for the Tienhaara Condition Use Permit from Charles Nordstrom dated November 29, 2010, which addresses some of the concerns that were expressed by Mr. Marshall.

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VII SUMMARY CONCLUSIONS AND ADMINISTRATIVE DECISION

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Establishment of a dwelling under the grid test may be permitted as a conditional use in the FG Zone provided that all of the applicable criteria and standards are met. The Applicants have demonstrated that this request, with the imposition of certain conditions, will meet all applicable requirements and standards for a dwelling in the FG Zone.

Under ORS 215.417 (Time to act under certain approved permits; extension) and if the permit is approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.750, the permit shall be valid for four years. An extension of a permit shall be valid for two years. Therefore, if AD-1021 is approved, the permit shall be valid for a period of four years

with the possibility of obtaining a two-year extension.

VIII CONDITIONS OF APPROVAL

Based on the above review criteria, findings of fact and conclusions, and public testimony received, the request for establishment of a single-family dwelling under the grid test on property within the FG (Forestry-Grazing) Zone is hereby **APPROVED**, subject to meeting the following conditions:

1. The Applicants/property owners must establish the use approved herein within four years of the date of this approval unless the Applicants/property owners apply, and receive approval for, an extension of this approval. An approval for an extension is valid for a period of two years.
2. The Applicants/Property Owners shall be required to either: (a) obtain a water use permit from the Oregon Water Resource Department (OWRD); (b) submit a statement of exemption from OWRD; or (c) obtain domestic water supply from another source approved by OWRD prior to receiving any building permits.
3. The Applicants/Property Owners must have a contract with Harbor RFPD for structural fire protection service prior to receiving approval for any building permits. A letter must also be submitted stating that Harbor RFPD has inspected the road and private drive and found it adequate for their fire-fighting equipment.
4. The Applicants/Property Owners shall submit a copy of a written statement or written contract supplied by the county to the Planning Division that has been recorded with the deed for the subject parcel which recognizes the rights of adjacent and nearby land owners to conduct farm/forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules for uses authorized by the Curry County Zoning Ordinance in the Forestry-Grazing (FG) Zone. This document shall be signed and recorded and a copy of the recorded document submitted at the time of application for permit clearance.
5. The development site as shown on the site plan is the only approved site; neither the dwelling nor other structures may be sited elsewhere on the property under this permit.
6. The private drive, including road approach, turnaround and turnouts, must be constructed to the required standards in the location shown on the plot plan prior to receiving development permits. The location shown is the only approved access and no other access may be constructed or utilized. The owners shall submit a signed, written, notarized statement supplied by the county certifying that the private drive has been constructed to the standards required by Section 3.056 prior to the issuance of a building permit.

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SALEM, OR

7. The dwelling shall be sited on a slope of less than 40%.
8. Primary and secondary fire safety areas shall be constructed around all structures as set forth in the findings above prior to receiving any building permits. The owners shall sign a written, notarized statement supplied by the county certifying that the fire safety areas have been constructed, and will be maintained as required and submit the statement to the county prior to the issuance of a building permit.
9. The dwelling shall have a fire retardant roof and all chimneys shall have approved spark arresters installed; these shall both be inspected and certified by the building inspector at the time of construction.
10. An erosion prevention and sediment control plan for the subject property shall be submitted to the Curry County Public Services Department for approval prior to the issuance of any development. (CCZO Sections 3.300 to 3.324).
11. A storm and surface water management plan for the subject property shall be submitted to the Public Services Department for approval prior to the issuance of any building permit. (CCZO Sections 3.400 to 3.450).

This decision is limited to the Curry County Planning Director's review of applicable zoning rules and land use law, as outlined in the Curry County Comprehensive Plan and the Curry County Zoning Ordinance. Other County, State and Federal agencies may have regulatory review authority for development projects. The decision rendered herein neither implies nor guarantees compliance with the requirements of any other regulatory agency. It is the property owner's responsibility to ensure that the development complies with the requirements of any other regulatory agency or provisions of law prior to initiating the development. Notice of this decision is being sent to property owners in the vicinity of this property.

The Planning Director's decision on this matter will be final unless appealed to the Curry County Planning Commission within 15 days following the date of the mailing of the notice of appeal (postmarked date). Any appeal must meet the provisions of CCZO Section 2.060(2)(b), CCZO Section 2.170; and CCZO Section 2.180.

CURRY COUNTY PLANNING DIRECTOR


David J. Pratt, AICP

January 11, 2011
Date

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VII. EXHIBITS (Attached and included as part of this report).

Exhibit "A" Applicants' Revised plot plan of November 29, 2010
Exhibit "B" Applicants' "Findings Document"
Exhibit "C" Applicants' "Supplemental Findings Document"
Exhibit "D" Public comments received

cc: Applicants/Property Owners
Office File

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