STAFF REPORT

Date of Report: Wednesday, December 03, 2014  Appeal Deadline: Thursday, December 18, 2014
Type of Application: ADMINISTRATIVE CONDITIONAL USE APPLICATION
File Number: ACU-14-35  Reviewed by: Alex Murphy, Planning Technician

1. Property Information

| Account No. | 1420519 |
| Map Numbers | 29S122100-01301 |
| Property Owners | MYRTLE LANE DAIRY, LLC  
52831 OLD BROADBENT RD  
MYRTLE POINT, OR 97458-8777 |
| Situs Address | 53029 OLD BROADBENT RD MYRTLE POINT, OR 97458  
53031 OLD BROADBENT RD MYRTLE POINT, OR 97458 |
| Acreage | 117.16 Acres |
| Zoning | EXCLUSIVE FARM USE (EFU)  
FOREST (F) |
| Development Considerations: | FLOOD PLAIN (FP)  
WET MEADOW WETLAND (WM) |
| Property Location: | The property is located south of the City of Myrtle Point. The subject property is identified as Tax Lot 1301 in Township 29 South, Range 12 West, Section 21, on the Coos County assessment map. The property is accessed via Old Broadbent Road. |
| Proposal: | The applicant is proposing to site two non-relative farm-help dwellings in the Exclusive Farm Use (EFU) zone: one conversion of an old barn into a dwelling, one conversion of the principle dwelling to a farm-help dwelling, and the relocation and replacement of the principle dwelling. |
| Lawfully Created Parcel/Lot: | Pursuant to the Coos County Zoning and Land Development Ordinance (CCZLDO) Section 6.1.125(8), all lots or parcels created prior to January 1, 1986 are legal lots or parcels, unless the lot or parcels lines have changed.  
Pursuant to the 1982 Coos County Assessment records, the subject property was described in deed reference number 80-11378 prior to 1986. This deed is available in the Coos County Clerk’s Office. |
Therefore, the subject property was legally created pursuant to CCZLDO Section 6.1.125(8).

Prior Application Restrictions:
There are no prior restrictions applicable.

Special Districts/Agencies:
Department of State Lands
Myrtle Point RFPD

II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

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<td>Development Standards (A), (B), &amp; (J)</td>
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Note: criteria are shown below with findings in **bold**.

DEFINITION
The purpose of the agriculture zone is to implement the requirements of ORS 215 and OAR 660, Division 33, which implement the requirements for agricultural land as defined by Statewide Planning Goal 3.

| CCZLDO § 4.6.200 | Floodplain |

SECTION 4.6.200 Floodplain: It is the purpose of this section of the ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designated:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
6. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
7. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Finding: The subject parcel lies partially within the 100 year floodplain boundary. However, the proposed dwellings lie outside of the floodplain. As a condition of approval, the proposed dwellings shall be located as close to the plot plan submitted as feasible and shall not be located within the floodplain. If it is not possible to locate the proposed dwelling outside the floodplain while meeting the
remaining conditions listed below, a floodplain application and certificate shall be submitted showing the base flood elevation and lowest floor elevation of the proposed structure.

| CCZLDO | § 4.9.540 | Farm-Related Dwellings on High-Value Farmland |

SECTION 4.9.540 Farm-Related Dwellings on High-Value Farmland: On land identified as high-value farmland, a dwelling, considered customarily provided in conjunction with farm use, may be allowed as an administrative conditional use subject to the following requirements and other applicable provisions of the Ordinance.

D. Additional farm dwellings may be considered customarily provided in conjunction with farm use if:

1. The additional dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the primary farm operator; and

Finding: The applicant and owner of Myrtle Lane Dairy has applied for an administrative conditional use permit for two dwellings to be used for farm labor on an existing dairy. The applicant has supplied the names and positions of the individuals who will be occupying the dwellings as follows: Manual Naranjo, Head Milker and Christopher Stone, Head Herdsman. Therefore, this criterion has been met.

2. The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use and produced at least $80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three out of the last five years; and

Finding: Currently, there is one primary dwelling lawfully sited on the subject property. The applicant proposes to replace the primary dwelling and utilize the existing mobile home as one of the farm help dwellings. There is an existing structure that will be converted to a dwelling for the second farm dwelling. Applicant has supplied IRS Form 1065 for the years 2012 and 2013, showing net earnings of $914,594 and $892,011 respectively. Therefore, this criterion has been met.

3. The additional dwelling shall be located:

   a. On the same lot or parcel as the principal farm dwelling; or

   b. On the same tract as the principal farm dwelling when the lot or parcel on which the additional dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

   c. On a lot or parcel on which the principal farm dwelling is not located, when the additional farm dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An additional farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved under this Section; and

Finding: The applicant included a plot plan showing the proposed locations of the new farm-help dwellings as being sited on the same parcel as the principle dwelling. As a condition of approval, the dwellings must be sited as close to the locations on the plot map as possible.
4. There is no other dwelling on the subject farm or ranch that is vacant or currently occupied by persons not working on the subject farm or ranch and could reasonably be used as the requested additional farm dwelling.

Finding: Only the principle dwelling exists, at this time. The applicant is intending to convert the principle dwelling into a farm-help dwelling, convert an old barn into a farm-help dwelling, and construct a new principle dwelling. Only one new dwelling will be constructed. Therefore, this criterion has been met.

5. The County shall not approve any proposed division of a lot or parcel for an additional farm dwelling approved pursuant to this Section.

Finding: The applicant has supplied written testimony stating no division of this property will be completed. Therefore, this criterion has been met.

6. An additional farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a non-farm dwelling.

Finding: The applicant has supplied written testimony stating the additional dwellings will not be used to satisfy requirements for a non-farm dwelling. As a condition of approval, the farm-help dwellings must be removed once they are no longer needed as farm-help dwellings.

<table>
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SECTION 4.9.600 Siting Standards for Dwellings and Structures in the EFU Zone: The following siting criteria shall apply to all dwellings, including replacement dwellings, and structures in the Exclusive Farm Use zone. Replacement dwellings may be sited in close proximity to the existing developed homesite. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on agricultural lands.

These criteria 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 agricultural uses, and shall be considered together with the requirements in Section 4.9.700 to identify the building site.

A. Dwellings and structures shall be sited on the parcel so that:

   a. They have the least impact on nearby or adjoining forest or agricultural lands; and

   b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized; and

   c. The amount of agricultural lands used to site access roads, service corridors, the dwelling and structures is minimized; and

   d. the risks associated with wildfires are minimized.

Finding: The property is accessed from Old Broadbent Road via a pre-existing driveway. The proposed dwelling sites are located in such a way as to minimize impacts to any adjacent farm operations and the existing uses of the property. By maintaining the required setbacks, the risks associated with the
proposed dwellings are minimized. The proposed dwellings must be sited as close as possible to the submitted plot plan to ensure it will have the least impact on nearby resource land. Therefore, this criterion has been met.

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**SECTION 4.9.700 Development Standards:** All dwellings and structures approved pursuant to Article 4.9 shall be sited in accordance with this Section.

**B. Setbacks:**

1. All building or structures with the exception of fences shall be setback a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way line, whichever is greater.

2. Firebreak: New or replacement dwellings on lots, parcels or tracts abutting the “Forest” zone shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions.

   Vegetation within this firebreak may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees.

**Finding:** The proposed dwelling is located in such a way that all setbacks identified above should be met. However, as a condition of approval, a plot plan drawn to scale showing the location of the new principle dwelling must be submitted as evidence the setbacks will be met once development is completed.

**J. Riparian Vegetation Protection:**

3. Riparian vegetation within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife Habitat Inventory maps shall be maintained except that:

4. Trees certified by the Coos Soil and Water Conservation District, a port district or U.S. Soil Conservation Service posing an erosion or safety hazard may be removed to minimize said hazard; or

5. Riparian vegetation may be removed to provide direct access for a water-dependent use; or

6. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or

7. Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & water Conservation District, or USFS stream enhancement plan; or

8. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-way; or

9. Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown...
within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps.

10. The 50’ riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the wetland, stream, lake or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure’s “footprint”. (ORD 92-05-009PL)

Finding:  The proposed dwelling will not be sited within the identified riparian vegetation area. Therefore, this criterion has been met.

III. AGENCY COMMENTS

There have been no agency comments received as of the date of this report.

IV. NOTIFICATION

The Planning Department mailed individual written notice of the decision to the owners of record of all property located within 750 feet of the subject property. Notice of Decision with a copy of the staff report was forwarded to Applicant(s), Owner(s), Dave Perry, DLCD, and Coos County Assessor’s office. Notice of Decision was also provided to the following: Coos County Planning Commission, Coos County Board of Commissioners, and the special districts and agencies as noted above. In addition, notice of the decision was posted at the Coos County Courthouse, Coquille Annex and North Bend Annex. All notices were mailed and posted on December 22, 2014.

V. NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Coos County Hearings Body pursuant to Article 5.8 of the Coos County Zoning and Land Development Ordinance within 15 days from the date of written notice. This means that appeals must be received in the Planning Department by 5 p.m. on Tuesday, January 06, 2015, in order to be considered. This decision will not be final until the period for filing an appeal has expired. Detailed information about the appeal process, filing fees and additional information will be provided by the Planning Department upon request. The decision is based upon the submitted application, supporting evidence, facts, and findings to the criteria.

VI. CONCLUSION AND CONDITIONS

The applicant has met the criteria for a Lot of Record dwelling, with the following conditions:

1. Once the farm-help dwellings are no longer in use as such, they must be removed.

2. The proposed dwellings shall be located as close to the submitted plot plan as feasible and shall not be located within the floodplain. If it is not possible to locate the proposed dwelling outside the floodplain while meeting the remaining conditions listed below, a floodplain application and certificate shall be submitted showing the base flood elevation and lowest floor elevation of the proposed structure.

3. A plot plan, drawn to scale, showing the exact location of the structures on the property and how they relate to the setbacks shall be submitted. Instructions for the plot plan have been included with this staff report.
4. A driveway confirmation form, signed by the Coos County Roadmaster, must be submitted indicating that the driveway has been improved in accordance with Chapter VII of the CCZLDO.

5. A Zoning Compliance Letter (ZCL) shall be obtained from the Planning Department in order to continue with any required development permits from the Department of Environmental Quality (DEQ) or State Building Codes Agency once these conditions have been satisfied.

6. Pursuant to ORS 215.416(1), the fees charged by the Planning Department for permit applications represent the average cost of processing the application. If the actual cost of processing the application exceeds the average cost, then the applicant shall be responsible for paying the full amount.

7. Applicant must comply with any federal or state agency requirements.

Attachments: Plot Plan Instructions