

**BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON**

Regarding an Application for a Conditional)	Case File No.
Use Permit to Operate a Demonstration)	Z0114-20-C
Forest.)	(Forests Forever)

A. SUMMARY

1. The applicant and owner is Forests Forever Inc.
2. The subject property is located at 33003 South Dickey Prairie Road, Molalla, OR 97038. The legal description is T5S, R2E, Section 14, Tax Lot 1300, W.M. The subject property is approximately 20 acres and is zoned AG/F– Agriculture Forest.
3. On May 28, 2020, the Hearings Officer conducted a public hearing to receive testimony and evidence about the application.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on May 28, 2020. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually on the Zoom platform due to the corona virus. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, county planner Clay Glasgow discussed the staff report and recommended approval of the application.
3. Kenneth Everett testified in support of the application.
4. No one testified in opposition to the application.

5. At the conclusion of the public hearing, the Hearings Officer left the record open one week for the submission of new evidence, testimony, and argument; one additional week for responses to the new evidence, testimony, and argument; and one additional week for the applicant's final legal argument.

C. FACTS

The subject property is an approximately 20-acre parcel zoned AG/F. The subject property is located at 33003 South Dickey Prairie Road, Molalla, OR 97328, between South Feyrer Park and South Upper Molalla Forest Roads. The subject property is located in a rural area that includes a mix of rural residential uses on acreage properties and woodland plots. The subject property is in the Molalla River valley and slopes gently down towards the river. A large portion of the property is in the 100-year flood plain. The property is actively managed for forest use. There are two upland bench areas, and the proposal seeks approval for a pavilion and vault toilet on the upper bench for use as part of a demonstration forest. The proposed demonstration forest would provide educational opportunities for students, teachers, woodland owners, and the general public to learn about the forest and the Molalla River.

D. DISCUSSION

The staff report does a thorough job of explaining how all of the applicable approval criteria are satisfied. The findings in the staff report are not challenged. It would be a waste of the County's money and resources to review and repeat all of the findings in the staff report. I have reviewed the findings in the staff report and I agree with those findings. Therefore, I adopt and incorporate the findings in the staff report in this decision.

All of the applicable approval criteria are satisfied.

E. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the Hearings Officer hereby **APPROVES** application Z0114-20-D, with the following conditions of approval.

F. CONDITIONS OF APPROVAL

I. General Conditions:

- 1) Approval is for the specific use identified in the application. This land use permit is based on the submitted written narrative and plan(s) dated March 4, 2020, and deemed complete March 11, 2020. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- 2) **Prior to the issuance of building permits,** the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Engineering Division. Wendi Coryell may be contacted at (503) 742-4657 or wendicor@co.clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge.
- 3) If approved, the conditional use is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building permit for a new primary structure that was part of the conditional use approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.
- 4) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

- 5) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. Planning and Zoning Conditions: Clay Glasgow, (503) 742-4520, clayg@clackamas.us

- 1) Development of the subject property is subject to the provisions of ZDO Sec.1203 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, and Oregon Structural Specialty Code, etc.
- 2) The facility shall be operated as described in the submitted application materials.
- 3) Section 1021 standards relative to refuse and recycling to be adequately addressed prior to issuance of building permits.

III. Building Code Division Conditions: Richard Carlson, (503) 742-4769, richardcar@co.clackamas.or.us

- 1) All construction shall comply with current Oregon Structural Specialty Code and any other relevant codes.
- 2) All necessary development permits (septic, building, electrical, grading, driveway, etc.) for this facility and associated buildings shall be submitted and receive final approval and inspections before use begins within four years of the final decision.

IV. Engineering Division Conditions: Ken Kent, (503) 742-4707

- 1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.
- 2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.
- 3) The applicant shall construct the site driveway approach on to S Dickey Prairie Road, as follows:
 - a) A minimum 20-foot wide paved driveway approach shall be constructed onto S Dickey Prairie Road in conformance with Roadway Standards Drawing D500.
 - b) The driveway shall intersect S Dickey Prairie Road at a 90-degree angle. The driveway approach grade shall not exceed +/- 5 percent for the first 20 feet.
 - c) Adequate intersection sight distance shall be provided at the proposed driveway approach, per Roadway Standards Section 240. A minimum of 445 feet of sight distance shall be provided to the north, and 555 feet shall be provided to the south. Sight distance shall be measured from a point at the driveway located 14.5 feet back from the fog line of the road, at a height of 3.5 feet, to a point in the oncoming travel lane at a height of 3.5 feet.
- 4) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use site, as follows:
 - a) Parking spaces shall meet minimum *ZDO* section 1015 and Roadway Standards Drawing P100 requirements.
 - b) All roads used to access the site shall be surfaced with screened gravel or better and no less than 12 feet in width. Pull out areas shall be provided every 400 feet, per Standard Drawing C350.
 - c) Roads and parking areas shall be constructed per Standard Drawing R100.

- d) Parking spaces shall be adequately delineated. For paved surfaces, parking spaces shall be striped. For a gravel surface, tire stops or similar physical feature shall be provided to delineate each gravel parking space.
 - e) ADA accessible parking spaces and adjacent accessible areas shall be paved with asphalt concrete or an equivalent approved by Clackamas County Engineering staff, as required by the Building Department.
 - f) Adequate storm drainage facilities shall be provided for the proposed impervious areas. A storm water management plan shall be provided and shall comply with Clackamas County Roadway Standards, Chapter 4.
- 5) Prior to the issuance of a building permit and/or site development, the applicant shall submit to Clackamas County Engineering Office:
- a) Written approval from Molalla Fire District #73 for the planned access and circulation. The approval shall be in the form of site stamped and signed by the Fire Marshal.
 - b) A set of street and site improvement construction plans, in conformance with *Clackamas County Roadway Standards* Section 140, to Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
 - i) The permit will be for driveway, drainage, parking and maneuvering areas, and other site improvements.
 - ii) The minimum fee deposit is required upon submission of plans for the Development Permit. The fee will be calculated based on 8.83% of the public improvements and 5% of the onsite transportation improvements, according to the current fee schedule.

The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

DATED this 12th day of June, 2020.

Fred Wilson
Clackamas County Hearings Officer

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision will be "final" for purposes of a LUBA appeal as of the date of the decision (which date appears above my signature).