



Curry County Community Development

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ADMINISTRATIVE STAFF REPORT AND DECISION AUGUST 4, 2021

I. LAND USE ACTION

APPLICATION P-2102

- Owner:** Christine R. Alexander, Trustee
Of the Michael Alexander and Christine Alexander Living Trust
57586 Parkersburg Rd
Bandon, Oregon 97411
- Applicant:** Christine R. Alexander
57586 Parkersburg Rd
Bandon, Oregon 97411
- Land Use Review:** Administrative decision to partition one property into two parcels, separating two existing homesites.
- Property Description:** Assessor's Map 3115-34, Tax Lot 204
93636 & 93640 County Shop Rd
Sixes, Oregon 97176
- Zone:** Forestry Grazing (FG)
- Acreage:** Survey provided by Stuntzner Engineering & Forestry, LLC, determined the parcel size is 37.34 acres.
- Location** Subject property is located at the east end of County Shop Rd.

Proposed Development:

Applicant requests approval to divide a 37.34-acre property into two parcels, separating two existing dwellings. As proposed, Parcel 1 will be 32.34-acres and Parcel 2 will be 5.0-acres. Both parcels will retain their Forestry Grazing zoning.

Adjacent Land Uses: The following table describes properties surrounding subject property.

North	Tax Lot 202	No dwellings, forested	40.00-acres	Forest Grazing zone
East	Tax Lot 100	Stonecypher Ranch, Inc. with no dwellings, sparse forest	277.74-acres	Forest Grazing zone
South	Tax Lot 900	School District 2CJ, most of the property is forested	61.12-acres	Forest Grazing zone
West	Tax Lot 200	One residential dwelling, forested	1.89-acres	Forest Grazing zone
West	Tax Lot 210	Curry County Shop, cleared	4.16-acres	Forest Grazing zone

II. APPLICABLE REVIEW CRITERIA

The proposed application for partitioning a property must be found in compliance with the following land use regulations.

Curry County Zoning Ordinance (CCZO)

- Section 3.050 Forestry Grazing (FG)
- Section 3.054 Lot Size
- Section 4.050 Access Management

2020 Oregon Revised Statutes (ORS)

- ORS 215.780 (2e) Minimum lot or parcel sizes

Curry County Land Division Ordinance (CCLDO)

ARTICLE II. MINOR PARTITIONS

- Section 2.0210 Standards and Procedures for Submission of Plans and Maps

ARTICLE VI. REQUIREMENTS FOR ALL DIVISIONS OF LAND

- Section 6.0110 Availability of Public Services
- Section 6.0210 Street and Road Specifications
- Section 6.0310 Natural Hazards Areas
- Section 6.0410 Disclosure Statement

III. BACKGROUND

INFORMATION

The subject property is forested with a mixed stand of trees and underbrush. Per the property owner there was a fire on the property in the 1930's and it was logged in the 1940's. Timber was cleared near the buildings more recently. Google Earth images show logging activity around 2019.

Two single-family residences were approved by prior land use applications (AD-9028 and C-9121). The Applicant proposes to separate the two dwellings, one on each of the proposed parcels. When an encroachment by an adjacent lot was discovered, the partition application was paused until a lot line adjustment (LL-2112) could be done to correct the encroachment.

93640 County Shop Rd (Proposed Parcel 2):

In 1990, a conditional use application (AD-9028) for a farm-related dwelling was approved based on a resource management plan. A mobile home with septic was approved by Curry Planning and Building Departments in 1990 (building permit MCC132-90) as the farm-related dwelling approved in AD-9028. On 11/3/2020, the Applicant removed this dwelling and applied (221-21-000137) for a replacement dwelling. A building permit (221-21-000227) for the replacement was issued on 5/26/2021, but so far only the zoning/setback inspection has been approved. The home replacement will need to be completed by 11/3/2021, to retain the non-conforming status. This condition follows with the property and any new owner would be bound by it. If the SFD is not replaced by 11/3/2021, the non-conforming status will be lost.

93636 County Shop Rd (Proposed Parcel 1):

In 1992, a conditional use for a non-resource related dwelling was approved (file C-9121).

A mobile home with septic was approved by Curry Planning and Building Departments in 1992 (building permit MCC45-92) as the non-resource related dwelling approved in C-9121. In June 2020, the Applicant applied to replace the non-resource dwelling and a building permit (221-20-220) was issued. The building permit for the replacement dwelling was finalized by County Building with an inspector's note that the building is outdated and would be difficult to bring to current codes. Also, a condition of the replacement is that the dwelling must adhere to 130-foot fire safety area setback (CCZO SECTION 3.055).

IV. FINDINGS OF FACT

This section provides each of criteria presented in Section II with its finding of compliance.

CCZO Section 3.050 Forestry Grazing Zone (FG).

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

The purpose of the Forestry Grazing Zone is:

(a) to implement the forest land policies of the Curry County Comprehensive Plan; 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 forest land in

the county.

Finding:

Timber has been harvested in the past and continues under production to this point. Therefore, this condition is met.

CCZO Section 3.054 Lot Size

1. The minimum lot size within the Forestry Grazing (FG) zone is eighty (80) acres.

Finding:

The subject property is 37.34-acres, which is already less than 80-acre minimum lot size requirement for the FG use zone. Applicant proposes a property division to create two parcels of 32.34-acres and 5.00-acres. The property cannot meet the minimum lot size requirement, so ORS 215.780 is applicable instead.

CCZO Section 4.050 Access Management

4) Lots in the T, FG, AFD, EFU, CON, ER and SW zones shall have access to a county, public or private roadway by driveway or easement for a distance of at least twenty-five (25) feet or of a greater width if needed to provide adequate access for firefighting and other emergency equipment. This 25-foot access point may be shared by no more than 3 Parcels, by benefit of an easement for a distance of no more than 80 feet from the existing roadway. This access easement must be a minimum of 25 feet in width. In instances when the existing roadway is paved, this access easement must have a paved apron in the area adjacent to the existing roadway for a depth of 20 feet. Such an access easement requires an access maintenance agreement to be described on the partition plat. An access easement as described above may not be used in areas where adjacent undeveloped land would be land-locked as a result.

Finding:

Each proposed parcel has 25-feet of frontage as an access point off County Shop Rd. The existing access from County Shop Rd, across Parcel 2, is shared by the two proposed parcels. An access and utility easement 80-feet long across Parcel 2 to benefit Parcel 1 is declared on the proposed partition map, and provision of a recorded easement is a condition of this approval. Since the existing roadway, County Shop Rd, is paved, the access easement must have a 20ft deep paved apron adjacent to County Shop Rd. With these conditions, this requirement will be met.

An access management agreement was not provided; however, ORS 105.75 provides for shared maintenance costs in the absence of an agreement.

ORS 215.780 Minimum lot or parcel sizes

(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:

(e) To allow a division by partition of a lot or parcel zoned for forest use or mixed farm and forest use under a statewide planning goal protecting forestland if:

(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

Finding:

There is an approved Planning Clearance dated 1992 for the dwelling located on Parcel 1. There is an approved Planning Clearance dated 1990 for the dwelling located on Parcel 2. Sanitation records show that a septic system for each dwelling was satisfactorily installed prior to 1993. The home on Parcel 1 (93636 County Shop Rd) was approved as a non-resource dwelling. The home on Parcel 2 (93636 County Shop Rd) was approved a farm-related dwelling. This finding is met.

(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.291 (Alteration, restoration or replacement of lawfully established dwelling);

Finding:

Both dwellings were established pursuant to AD-9028 and C-9121, so they comply with the criteria for a replacement dwelling. Therefore, this criterion can be met for both parcels.

(C) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;

Finding:

As proposed, Parcel 1 will be 32.34-acre and Parcel 2 will be 5.00-acre. Therefore, this criterion has been met for both parcels.

(D) At least one dwelling is located on each parcel created under this paragraph; and

Finding:

As proposed, one dwelling is planned for each parcel consistent with approvals of AD-9028 and C9121. Therefore, this criterion can be met for both parcels.

(E) The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph is irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the

land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use.

Finding:

Evidence of a recorded restriction prohibiting further partitioning of this property was not provided with the partition application. With evidence that the restriction has been recorded with the County Clerk, this requirement will be met for both parcels.

CCLDO Section 2.0210 Standards and Procedures for Submission of Plans and Maps.

1) The map shall be of a size and scale prescribed by the Planning Director and shall contain the following:

- a) north point, scale, and date of application.*
- b) Names and addresses of the partitioner and of the engineer or surveyor employed, if any, to make the survey and map.*
- c) Written legal description of the entire property and of the proposed partitions,*
- d) Description and location of all permanent and reference monuments found or set within the area.*
- e) Names and location of existing streets.*
- f) Location and outline of existing buildings on the lots being partitioned and within 100 feet thereof.*
- g) Approximate acreage of the lots and any property retained by the partitioner.*
- h) Location of all existing and proposed utilities, easements, sewer and water lines, septic test holes, drain field areas, location of water source, and power poles.*
- i) Zoning districts and restrictions in that area.*
- j) A vicinity map showing the general area, if required.*
- k) A statement indicating number of lots sold from the same tract by the same owner since January 1974.*

Finding:

Stuntzner Engineering and Forestry, LLC provided the tentative minor partition plat for the partition application. Applicant will be required to have the surveyor include all items listed under this requirement in the final partition plat. With this condition, this requirement will be met.

CCLDO Section 6.0110 Availability of Public Services

A statement shall accompany all initial applications describing the availability of public services, such as police and fire protection, schools, and school buses and electric, telephone or other utilities. The statement shall indicate the proximity of such services in addition to giving an estimate of the capacity of

the service to effectively absorb the increased demand reasonably anticipated to be placed on the services as a result of the land development.

Finding:

The subject property is within the Sixes Rural Fire Protection District, and it is served by Coos Curry Electric Co-Op. Applicant provided sign-off from both service providers to Planning in May 2020 (PC 221-20-000143) for Parcel 1; and in May 2021 for Parcel 2 (PC 221-21-000137). Neither service provider had requirements for the proposed parcels.

According to sanitation records, the two dwellings have separate certified septic systems. Applicant has indicated that there will be one dwelling with its corresponding septic system on each parcel.

Public water service is not available to this area, so private water systems were established to serve each parcel. Parcel 1 will retain use of an easement to a spring-fed water source located on Tax Lot 210, adjacent to the west. An easement for Parcel 2's access and use of the well on Parcel 1 is declared on the proposed partition map. Applicant did not provide evidence of the recorded well easement with this application; and, as a condition of approval, evidence of the recorded easement must be provided.

With evidence that the well easement across Parcel 1 and benefiting Parcel 2 has been recorded with the County Clerk, this requirement will be met for both proposed parcels.

CCLDO Section 6.0210 Street and Road Specifications

1) Street Design and Connectivity

a) The road system of a proposed partition, subdivision or planned unit development shall be designed to connect with existing, proposed and planned roads outside of the development.

Finding:

Both parcels will be served by County Shop Rd, an existing county-maintained road. This requirement is met.

CCLDO Section 6.0310 Natural Hazards Areas

All divisions of land within natural hazard areas identified in the County Comprehensive Plan shall meet the standards as established in the Zoning Ordinance Article II, Natural Hazards Provisions.

Finding:

The property is not in the FEMA flood hazard area. Roughly 40% of the property is identified as being susceptible to geological hazard according to the Provisional Maps of Rapidly Moving Landslides. However, both dwelling locations are identified as being outside geological hazard areas. Per the National Wetlands Inventory there is a small wetland area located in the northeast corner of the property, but it has no impact on the proposed dwelling locations since they are considerably more than 100 feet southwest of the wetland. Natural hazards will be reviewed with any application for future development. This criterion has been met for both proposed parcels.

CCLDO Section 6.0410 Disclosure Statement

Upon the offering for sale of any Subdivision, Planned Unit Development, Major Partition, or Minor Partition, a copy of a disclosure statement shall be given by the owner or his agent or salesmen to every prospective purchaser. The original of the disclosure statement shall be approved by the Planning Commission and become a part of the permanent record of the application. The disclosure statement shall include the following:

- 1) Name and address of the developer.*
- 2) A statement of the uses for which the property is prepared and offered by the developer.*
- 3) A statement of the zoning of the property and the uses permitted in that zone.*
- 4) A statement describing access to the property, ownership of the access, and the party responsible for maintaining the access.*
- 5) A statement describing common areas and facilities, if any, and any restrictions on their use. Updates through 2006 Curry County Land Division Ordinance Page 19 of 21*
- 6) A statement describing existing water and sewer facilities.*
- 7) A statement describing any restrictions established by the county.*
- 8) A statement describing any known or potential hazards on the property such as geologic hazards, erosion, and flooding, etc.*
- 9) A statement indicating any ownership rights retained by previous owners such as mineral rights, unsurveyed easements, airspace reservations, etc.*

Finding:

A Disclosure Statement was not provided with the partition application. As a condition of approval, a Disclosure Statement, as required under CCLDO Section 6.0410, must be submitted to the Planning Department for review. This Disclosure Statement must be filed simultaneously with the final plat. With this condition, this requirement will be met.

VI. PUBLIC COMMENTS

Appropriate agencies and surrounding property owners were notified by mail on 3/29/2021 of the pending application for partition (P-2102) and provided 20 days to submit comments.

Only one response was received from the Oregon Department of Transportation stating that they did not have comments on this proposal.

VII. DECISION AND CONDITIONS OF APPROVAL

The preliminary partition request (P-2102) to divide a 37.34-acres, identified on Curry County Assessor's Map 3115-34 as Tax Lot 204, into two parcels is hereby **APPROVED, subject to the following conditions:**

1. Prior to final plat approval, provide evidence to County Planning that a 20ft apron across the access easement from County Shop Rd has been paved.
2. Prior to final plat approval, provide to County Planning a recorded water easement for the benefit of Parcel 2 across Parcel 1.
3. Prior to final plat approval, provide to County Planning a recorded easement for access and utilities for the benefit of Parcel 1 across Parcel 2.
4. Prior to final plat approval, provide to County Planning recorded deed restriction prohibiting further partitioning of both proposed parcels.
5. Prior to final plat approval, a Disclosure Statement, as required under Curry County Land Division Ordinance Section 6.0410, must be submitted to County Planning for review and filed simultaneously with the final plat.
6. The final plat must be filed with the County Clerk within twelve (12) months of the date of this approval. Upon receiving approval of the minor partition, the same shall be recorded as provided by law to substantiate the division of land. Any approved minor partition not recorded within 12 months of the date of approval shall become null and void and the County Clerk shall refuse to accept the same for recording; unless a written extension is granted by the Planning Director prior to the 12-month deadline.
7. The final plat must comply with Curry County Land Division Ordinance Section 2.0210.

This decision is limited to the Planning Director's review of applicable zoning rules and land use law, as outlined in the Curry County Zoning Ordinance (CCZO) and the Curry County Land Division Ordinance (CCLDO). Other county, state, and federal agencies may have regulatory review authority for development projects. The decisions 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 development.

Recommendations:

- Although it is not a requirement for the final plat approval, it is recommended that water rights certificate for both wells should be identified with the Oregon Water Resources Department.

VII. APPEAL RIGHTS

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 provision of CCZO Sections 2.120, 2.170; and 2.180.

Becky Crockett, Planning Director
Curry County Community Development

Date