



CURRY COUNTY COMMUNITY DEVELOPMENT

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FACTS AND FINDINGS FOR PRELIMINARY PLAT APPROVAL TO DIVIDE A 3.03 ACRE PARCEL WITHIN A RURAL RESIDENTIAL (RR) USE ZONE INTO TWO PARCELS

PARTITION CASE NO. P-2002

I. GENERAL INFORMATION AND FACTS

Applicants/Property Owner:	Ralph and Ruth Chapman
Agent:	Rich Roberts, Roberts & Associates Land Surveying Inc.
Land Use Review:	Division of Land (Minor Partition) into two parcels.
Property Description:	Assessor Map 4014-13; Tax Lot 700
Location:	At the intersection of Duley Creek Rd and Carpenterville Rd
Proposed Development:	Applicant requests approval to divide their property into two (2) parcels, as bisected by Duley Creek Rd, and to adjust the county road boundaries so that it corresponds to the existing painted centerline on the paved roadway. The property to be partitioned was recently surveyed at 2.19 acres (previously reported as 3.03 acres by the county assessor) and is developed with two separate home sites, one on each side of Duley Creek Rd. As proposed, after the roadway adjustment, Parcel 1 would be 0.65 acres and Parcel 2 would be 1.48 acres.
Zoning:	The subject parcel is zoned Rural Residential (RR), with a 5-acre minimum lot size. The subject is within the Alder Ridge Duley Creek Rural Land Exception Area, #59.
Applicable Overlay Zone:	No hazard zones identified.
Current Land Use:	Two separately developed home sites bisected by Duley Creek Rd. A second tax lot (TL 709, 0.13 ac) has historically transferred with this property as a non-contiguous water source.

Surrounding Land Use: Properties west, south and east of the subject parcel have RR-5 zoning, like the subject. Properties to the north and southeast are in the FG (Forestry Grazing) use zone. Most properties in the subject's vicinity are developed with single-family residences on forested parcels, some with distant ocean view.

Previous Land Use Actions: AD-0005 (requesting a setback variance for an accessory shop) was approved April 26, 2000.

II. DECISION CRITERIA AND STANDARDS

Curry County Zoning Ordinance

Section 3.080	Rural Residential (RR)
Section 3.081	Uses Permitted Outright
Section 3.083	Lot Size and Dwelling Density
Section 4.050	Access Management

Curry County Land Division Ordinance

Article II - Minor Partitions

Section 2.0210	Standards and Procedures
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Article VI - Requirement 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. FINDINGS OF CONFORMANCE

Curry County Zoning Ordinance (CCZO)

CCZO Section 3.080 – Rural Residential (RR). *The Rural Residential Zone is designed to allow for low density residential development outside urban growth boundaries and rural communities defined by the Comprehensive Plan.*

FINDING: The intent of the Rural Residential zone is to provide land for residential development outside the Urban Growth Boundary (UGB). This property is developed with two rural residential home sites. Therefore, this standard of the CCZO is met.

CCZO Section 3.081. Uses Permitted Outright. *The following uses and their accessory uses are permitted outright:*

1. A single family dwelling or mobile home on each contiguous ownership or platted subdivision lot approved prior to August 12, 1986 or lot subsequently approved at the minimum lot size specified by this zone subject to approval of on-site sewage disposal and domestic water source by the agency regulating these facilities.

FINDING: The property to be partitioned was developed with two legally established home sites in 1977 and this is a non-conforming use. Septic system records show that separate septic systems for two MHs were satisfactorily installed on this property on Sept. 1, 1977. The two home sites are separated by Duley Creek Rd, with one above road grade and one below. Duley Creek Rd is a platted county road. The home sites are separated by the platted road and have different elevations, so they are not contiguous. The proposed partition to create two parcels will separate the existing home sites so they will then conform as outright permitted uses. Therefore, this standard of the CCZO will be met with the proposed partition.

CCZO Section 3.083 – Rural Residential (RR). *The RR zone has minimum lot sizes of 2, 5, and 10 acres which are applied according to policies in the comprehensive plan.*

FINDING: The property to be partitioned was divided five times between 1972 and 1973, creating six parcels subject to Covenants, Conditions and Restrictions (CCRs, BR #26-28). The master parcel, originally 31.32 acres, was reduced to 3.03 acres, according to the county assessor's records. However, the current survey determined that the lot size is actually 2.19 acres.

The property to be partitioned is within the Alder Ridge Duley Creek Rural Land Exception Area, identified as RR-5 with 5 acre minimum lot size. Since neither public water nor public sewer service are available outside the urban growth boundary, it is the intent of the Rural Residential zone to allow low density housing with large lots so that a property can accommodate both private water and sewage disposal systems.

The applicant requests approval to divide their property into two parcels and to adjust the county road so that it corresponds to the existing painted centerline of the paved roadway. As proposed, Parcel 1 would be 0.65 acres and Parcel 2 would be 1.48 acres, with the road adjustment accounting for the remaining 0.06 acres.

The proposed parcels do not meet the minimum lot size requirements before or after the proposed partition. The two proposed parcels have developed home sites with separate electric service, separate on-site septic systems and separate drives. While this standard of the CCZO for minimum lot sizes cannot be met before or after the proposed land division, other factors (property is located within a Rural Land Exception area, non-contiguous home sites bisected by a platted county road and at different elevations, as well mostly separate utilities except for water) support the proposed partitioning.

CCZO Section 4.050 – Access Management.

1. ***Purpose.*** *The purpose of this section of the ordinance is to manage access to land development in order to preserve the county transportation in terms of safety, capacity, and function. The provisions of this section shall apply to all property within Curry County. This section of the ordinance is intended to implement the access management policies set forth in the Curry County Transportation System Plan (TSP), and sets standards for the review of land division proposals. (Amended June 21, 2017, Ordinance 17-03)*

4. ***Frontage requirements.*** *All lots in the RR, R-1, R-2, R-3, RCR, RRC, RC, C-1, C-2, I, RI, MA, and PF zones shall abut a county, public or private road as defined by the Curry County Code Article 3 - Roads for a distance of at least twenty-five (25) feet to*

provide adequate access for a private driveway, except flag lots which shall have a 20 foot minimum access. (Revised June 21, 2017, Ordinance 17-03)

FINDING: As proposed, Parcel 1 has frontage on Carpenterville Rd (254 ft) and Duley Creek Rd (551+ ft), with drive access off Carpenterville Rd. Parcel 2 has frontage on Carpenterville Rd (527+ ft) and Duley Creek Rd (391+ ft), with drive access off Duley Creek Rd. Carpenterville Rd is the Old Oregon Coast Highway (100 ft wide, maintained by ODOT), whereas Duley Creek Rd (50 ft wide) is a county road. Both parcels abut a county road for a distance greater than 25 feet. Per the Curry County Road Dept, both proposed parcels have road access permits. Therefore, this standard of the CCZO is met.

Curry County Land Division Ordinance Article II-Minor Partitions

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, drainfield 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: All of the required information has been included on the preliminary plat submitted by Roberts & Associates Land Surveying Inc. Therefore, this standard of the CCLDO has been met.

CCLDO Article VI – Requirements for All Divisions of Land

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 property to be partitioned is served by the Curry County Sheriff's Department and the Cape Ferrelo Rural Fire Protection District. Coos Curry Electric Cooperative (CCEC) provides separate electric service to each proposed parcel, and the applicant has provided a Service Provider Notification form signed by CCEC. The two proposed parcels have separate septic systems, and a record of satisfactory completion for each private sewage disposal system is on file with the Department of Environmental Quality.

The property to be partitioned has water rights (Water Rights Certificate #64807) to a spring on tax lot 709 (also owned by the applicant, but non-contiguous with the property to be partitioned). The water rights are in a prior property owner's name and are for domestic use by two families. According to the applicant the water line coming from tax lot 709 runs along the county road but then splits to each home site near the drive to Parcel 1. The county road department's access permit (permit #414, dated May 1976) approves placement of the water lines along the county right-of-way of Duley Creek Rd.

As conditions of approval, the applicant shall submit an application to the OR Water Resources Dept to transfer the water rights certificate and provide a recorded shared water system agreement between Parcel 1 and Parcel 2. Therefore, with these conditions, this standard of the CCLDO is met.

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: The proposed parcels will be served by Carpenterville Rd and Duley Creek Rd, existing public roads. Therefore, this standard of the CCLDO is met.

CCLDO Section 6.0310. Natural Hazard 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: National Wetlands Inventory (NWI) Maps and Oregon Department of Geology and Mineral Industries (DOGAMI) Provisional Maps of Rapidly Moving Landslides were reviewed. No portion of the property to be partitioned was identified as a natural hazard area on these maps. Therefore, this standard of the CCLDO is met.

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 Director 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.*
- 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, as required under CCLDO Section 6.0410, must be submitted to the Planning Director for review prior to final plat approval. The Disclosure Statement must be filed simultaneously with the final plat.

IV. COMMENTS RECEIVED:

A Notice of Application was sent via US Postal Service and email on 3/19/2020 to property owners within 500ft of the proposed partition, as well as to others asked to be notified of any Land Use Applications. The Notice requested that any comments be provided by 4/8/2020.

The Oregon Department of Transportation (ODOT) confirmed receipt of the Notice, but did not submit any comments.

The County Road Department confirmed that both proposed parcels had access permits.

Neighbor David Herron asked for clarification about the proposed partition, but stated in an email correspondence that he had no issues with the partitioning.

V. CONCLUSION:

The proposed partition (P-2002), with itemized conditions below, meets the standards under the Curry County Zoning and Land Division Ordinances.

VI. DECISION:

The preliminary partition request (P-2002) to divide a parcel within the Rural Residential (RR) use zone, identified on Curry County Assessor's Map 4014-13 Tax Lot 700, into two (2) parcels and to adjust the county road boundaries so that it corresponds to the existing painted centerline on the paved roadway are hereby **APPROVED** subject to meeting the following conditions:

1. Prior to final plat approval, the applicant will submit a Disclosure Statement, as required under CCLDO Section 6.0410, to the Planning Director for review. Upon approval, the applicant will record the Disclosure Statement simultaneously with the plat.
2. Prior to final plat approval, the applicant will submit an application to the OR Water Resources Dept to transfer the water rights certificate into their name.
3. Prior to final plat approval, the applicant will provide a recorded shared water system agreement, including appropriate easements, between Parcel 1 and Parcel 2.

The final plat must be filed within twelve (12) months of the date of this approval. Approval shall become null and void unless the final plat is recorded or written request for an extension of time is received by the Planning Department.

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 and the Curry County Land Division 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.


Becky Cockett
Planning Director

May 4, 2020
Date