



CURRY COUNTY COMMUNITY DEVELOPMENT

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File: P-2005

December 2, 2020

FACTS AND FINDINGS FOR PRELIMINARY PLAT APPROVAL TO DIVIDE A 5.36 ACRE PARCEL WITH RESIDENTIAL TWO (R-2) ZONING INTO TWO PARCELS

LAND USE ACTION

Land Use Review: Division of Land (Minor Partition) into two parcels.

Proposed Development: To divide a 5.36 acre property into two (2) parcels. As proposed, Parcel 1 will be 1.00 acres, and Parcel 2 will consist of the remaining 4.36 acres.

GENERAL INFORMATION AND FACTS

**Applicants/
Property Owners:** Gerald and Janet Norman

Property Description: Assessor Map 4113-15C; Tax Lot 501

Location: 15285 Oceanview Drive. Across street from Max Lane; east side of Oceanview Drive.

Zoning: This property has Residential Two (R-2) zoning and is located within the Brookings Urban Growth Boundary (UGB).

Current Land Use: Large lot single-family residential

Existing Development: Parcel 2 is improved with a single-family dwelling. Parcel 1 is vacant land.

Surrounding Land Use: The subject parcel and the surrounding residential area are within the Rural Lands Exception Area (RLE) 63 – Camellia Park. To the west is large lot residential (RR-10) and the Pacific Ocean; north is a deep ravine and the Harbor Bench Agricultural Area (AFD); east is small lot residential (RR-10) including Camellia Park; south is small lot residential zoned RR-10.

Previous Land Use Actions: Ashcraft Partition Plat 2010-10

File P-2005
Norman Partition

Special Considerations: Riparian Corridor Buffer Overlay Zone (RB)
 Harbor Bench Farm District Overlay Zone (HBFO)

DECISION CRITERIA AND STANDARDS

Curry County Zoning Ordinance

Article III	Use Zones
Section 3.110	Residential Two (R-2)
Section 3.111	Lot Size and Dwelling Density
Section 3.280	Riparian Corridor Buffer Overlay Zone
Section 3.290	Harbor Bench Farm District Overlay Zone
Article IV	Supplementary Provisions
Section 4.050	Access Management

Curry County Land Division Ordinance

Article II - Minor Partitions
Section 2.0210 Standards and Procedures

Article VI - Requirement for All Divisions of Land
Section 6.0110 Availability of Public Services
Section 6.0210 Street and Road Specifications
Section 6.0410 Disclosure Statement

FINDINGS OF CONFORMANCE

Curry County Zoning Ordinance (CCZO) – Article III

CCZO Section 3.110 – Residential-Two (R-2). *The Residential Two Zone is designated to be applied to residential areas where a variety of types of single family dwellings are appropriate. This zone is intended to be applied only within urban growth boundaries identified by the Comprehensive Plan.*

FINDING: The proposed land division will create two parcels with R-2 zoning. The size of parcel 1 is 1.0 acres and the remaining parcel is 4.36 acres. The partition meets the intent of the R-2 zone to provide housing inside the Urban Growth Boundary (UGB) where a variety of single family dwellings are appropriate. Therefore, this standard of the CCZO is met.

CCZO Section 3.111 -- Lot Size and Dwelling Density.

2. *In areas which are served by community water supply system or by community sewage system but not by both, lots may have a minimum area of 12,000 square feet.*

FINDING: The subject property is within the Harbor Water District but not within a community sewerage district. As proposed, Parcel 1 will be 43,529 square feet or one (1) acres and Parcel 2 will be 4.36 acres. Both parcels would exceed the minimum lot size requirement of 12,000 square feet. Therefore, this standard of the CCZO is met.

5. The minimum lot width shall be sixth (60) feet.

FINDING: Both lots exceed the minimum lot width of sixty (60) feet. Therefore, this standard of the CCZO is met.

CCZO Section 3.281 Riparian Corridor Buffer Overlay Zone *The riparian area is the area adjacent to a river, lake or stream, consisting of the area of transition from aquatic ecosystems to a terrestrial ecosystem. The riparian corridor to be protected by the provisions of this section is defined as the area 2. Along all lakes, and streams within a river drainage basin in which the principal river or creek has an average annual stream flow less than 1,000 cubic feet per second, the riparian corridor shall be fifty (50) feet from the top of each bank.*

FINDING: A deep ravine with a creek runs along the northwest side of Parcels 1 and 2. Vegetation has been planted along the riparian corridor the entire distance of the northwest side of Parcel 2 providing good protection of the resource. Parcel 1 includes native vegetation and grasses within the fifty (50) foot corridor along its northwestern side. A condition of this land division determination will be for this area to be protected or planted with native vegetation. With this condition, this standard of the CCZO is met.

CCZO Section 3.290 Harbor Bench Farm District Overlay Zone *The purpose of the Harbor Bench Farm District Overlay Zone is to reduce impact to the commercial agricultural uses within the Harbor Bench Farm District as defined in the Curry County Comprehensive Plan from nonfarm uses located within the farm district. Required dwelling setback for those parcels located within an Urban Growth Boundary (UGB) and which have a common boundary with land zoned for agricultural purposes (EFU or AFD) shall be thirty (30) feet from the property boundary with the agricultural land. In addition the boundary common with the agricultural land shall be fenced with a solid fence at least six (6) feet high or a fence that is not solid but is screened with a hedge of sufficient density to provide reasonable buffering for sound and dust.*

FINDING: Parcel 2 has a boundary that is common with the adjacent agricultural land on the north side. This parcel is developed with a dwelling. The fence on the common boundary is comprised of treated posts and barbed wire and is in good condition. No rotten posts or loose wires were detected. However, the applicant is required to establish a “hedge of sufficient density to provide reasonable buffering for sound and dust” along the common boundary. A condition of this land division determination will be for the applicant to provide a hedge for this common boundary with the agricultural land. With this condition, this standard of the CCZO is met.

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 in 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, 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: The proposed parcels front Oceanview Drive, which is a County road for a minimum of twenty five (25) feet. The applicant has obtained an Access Permit (Permit Number 3077) from the Curry County Road Department for the access off of Oceanview Drive. Therefore, this standard of the CCZO is met.

Curry County Land Division Ordinance Article II – Minor Partitions

CCLDO Section 2.0210. Standard 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.*
 - f) Location of all existing and proposed utilities, easements, sewer and water lines, septic test holes, drainfield areas, location of water source, and power poles.*
 - g) Zoning districts and restrictions in that area.*
 - h) A vicinity map showing the general area, if required.*
 - i) 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.

Curry County Land Division Ordinance Article VI – Requirements for All Divisions of Land

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 Harbor Fire Protection District, as well as the Harbor Water PUD. The Applicant has provided the necessary service provider statements from the Harbor Water PUD, Harbor Fire Protection District and Coos-Curry Electric Cooperative Inc. Police protection is provided by the County Sheriff's Department. An on-site septic system currently exists for the developed Parcel 2. A valid Department of Environmental Quality (DEQ) Site Evaluation Site Approval (SE #08-013-10) is included in the application for Parcel 1. Therefore, this standard of the CCLDO is met.

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 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 has not been provided with this preliminary partition application. As a condition of approval and prior to final plat approval, a disclosure statement, as required under CCLDO Section 6.0410, must be submitted to the Planning Department for review. The disclosure statement must be filed simultaneously with the final plat. Therefore, with this condition, this standard of the CCLDO will be met.

COMMENTS RECEIVED: One comment was received on Application P-2005. Surrounding property owners were notified by mail on October 20, 2020 of the pending application and provided 20 days to submit comments.

The comments received from an adjacent property owner include multiple concerns. In summary, concerns have been raised regarding the proposed land division being prohibited under current circumstances; Parcel 3 from the prior land use partition (PUD-0903) cannot be further developed without public sewer improvements and the creation of a road; the single lane unpaved driveway creates noise, dust, headlights, etc.; private drive is not wide enough to safely handle two-way traffic; diminished property values; a catch basin inundated with mud from improper drainage; and traffic congestion on Oceanview Drive.

The Planning Director reviewed the existing land use file regarding future development of the property and conducted a site visit to fully understand the issues raised in the letter submitted by the adjacent neighbor.

The conditions identified in the initial land use file (PUD-0903) for development of the property were approved based on the land use circumstances in place at the time of that development in 2009. The staff understanding at that time included an interpretation of land use administrative rules which limited this property to a lot size of an average of two acres until public sewage was available to serve future increased development. There have been two significant changes to that 2009 planning staff interpretation over the past ten years. In 2013 the Board of County Commissioners (BOC) adopted an interpretation for a similar land development application (A-1201/Z-1203 – Lomo) regarding development densities for rural land inside the Urban Growth Boundary (UGB). That land use decision negated the restriction of the two acre average as being the minimum lot size for properties such as this one. In addition, the Department of Environmental Quality (DEQ) has since recognized multiple alternative private sewerage systems that meet the standards of a public sewerage system when the public system is not an option. Based on recent discussions with the Harbor Sanitary District, it is not likely that public sewerage opportunities will be available to the property within the foreseeable future. Based on these changing circumstances, Planning staff cannot deny the applicant the opportunity for further development and utilization of the property as allowed by current laws.

As noted above in the staff findings, the existing private drive-way meets the road standards set forth in the Curry County Zoning Ordinance. The drive-way has 7- 10 inches of 7/8 minus compacted rock. The surface is free of erosion, pot holes and rough surfaces which are indicative of a smooth road surface for private ingress and egress of vehicle traffic. A smooth road surface of graveled roads is the best management practice (BMP) to minimize noise and dust from traveling vehicles. The private drive has an existing access permit from the Curry County Road Department which allows utilization of the drive-way to exit onto Oceanview Drive. Oceanview Drive has had an increase in traffic over the past ten (10) years but is not considered a road at or nearing capacity at this time.

The drainage system was evaluated on site to determine if there were signs of accumulated mud or erosion that potentially could inundate the catch basin or move off site onto Oceanview Drive. At the time of the site visit the area had received over six (6) inches of rain the prior week and .25 inches of rain the day before. There was no evidence of mud accumulation in the catch basin or sediment discharge onto Oceanview Drive from the site.

CONCLUSION:

The proposed partition (P-2005), with conditions of approval, will meet the standards under the Curry County Zoning and Land Division Ordinances.

DECISION AND CONDITION OF APPROVAL:

The preliminary partition request (P-2005) to divide a 5.36 acre parcel, identified on Curry County Assessor's Map 4113-15C; Tax Lot 501, into two (2) parcels is hereby **APPROVED** subject to meeting the following conditions:

1. Prior to final plat approval, a Disclosure Statement, as required under Curry County Land Division Ordinance Section 6.0410, must be submitted to the Planning Director for review and then filed simultaneously with the plat.
2. The Disclosure Statement for this land division must also include a statement that the County is not responsible for the construction or maintenance of any roads not accepted into the County Road system.
3. Applicant shall develop a vegetative buffer on the north side of Parcel 2 in the location of the shared boundary with the Agricultural Farm District that meets the requirements of the Harbor Bench Farm District (HDFB).
4. A fifty (50) foot setback requirement will apply to both parcels along the stream/ravine located along the northwest side of Parcels 1 and 2 to protect the riparian area.

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 (CCZO) and the Curry County Land Division Ordinance (CCLDO). 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 Crockett
Planning Director

Dec. 2, 2020
Date