

**Curry County Community Development – Planning Department  
NOTICE OF ADMINISTRATIVE DECISION**



**Application #P-2004**

**November 17, 2020**

**Property Owner:** Gray Family Revocable Trust

**Applicant:** Janice Gray, Trustee of the Gray Family Revocable Trust

**Address:** 93345 and 93351 Hereford Road, Sixes, OR

**Assessor's Map:** 3215-04; Tax Lot 1000

**Decision:** The preliminary partition request (P-2004) to divide a 25.16 acre parcel within the Foresty-Grazing (FG) land use zone, identified on Curry County Assessor's Map 3215-04 Tax Lot 1000, into two (2) parcels with the existing dwellings separated as one home site on each parcel, is hereby **APPROVED** subject to conditions.

**REQUIRED STATUTORY NOTICE:**

Any person who is adversely affected or aggrieved by this decision or who is entitled to written notice under ORS 215.416 (11) (a) (C) of it, may appeal it to the Curry County Planning Commission. The appeal can only be initiated by filing a written appeal application together with a fee of **\$250.00** with the Curry County Community Development Department – Planning Division within twelve (12) business days of the mailing (postmarked date) of this notice. **Appeals cannot be filed by fax or email correspondence.** A person who is mailed written notice of this decision cannot appeal the decision directly to the Land Use Board of Appeals (LUBA) under ORS 197.830. The decision described above will not become final until the period for filing a local appeal has expired, which is **5:00 pm, Friday, December 4, 2020.**

Any appeal hearing before the Planning Commission will be a de novo or entirely new hearing and not on the record of the Planning Director's Decision.

Additional information can be obtained as outlined below:

Curry County Community Development Department  
Planning Division  
94235 Moore Street, Suite 113  
Gold Beach, OR 97444

Nancy O'Dwyer, Planner  
Becky Crockett, Planning Director

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A copy of the application, documents and evidence submitted by the applicant, applicable decision criteria, and the decision order are available for inspection at the Curry County Community Development office. Copies of these documents are available upon payment (\$0.25 per page).



## CURRY COUNTY COMMUNITY DEVELOPMENT

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Becky Crockett  
Planning Director

Phone (541) 247-3284  
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File: P-2004

November 16, 2020

### FACTS AND FINDINGS FOR PRELIMINARY PLAT APPROVAL

#### LAND USE ACTION

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

**Proposed Development:** The applicant requests approval to divide a 25.16 acre Forestry Grazing (FG) property into two (2) parcels, with the two existing dwellings separated, one on each parcel. (The county assessor reports that this property is 28.02 acres, but the recent survey indicates a smaller site size of 25.16 acres.) The proposed division would create two parcels of 4.98 acres and 20.18 acres.

#### GENERAL INFORMATION AND FACTS

**Property Owner:** Gray Family Revocable Trust

**Applicant:** Janice Gray, Trustee of the Gray Family Revocable Trust

**Assessor Map/Tax Lot:** Assessor Map 3215-04 / Tax Lot 1000

**Addresses:** 93345 and 93351 Hereford Rd, Sixes, OR

**Location:** About 1000ft east of Hereford Road's intersection with US Hwy 101

**Zoning:** Forestry Grazing (FG)

**Current Land Use:** Residential and mixed farm & forestry use

**Existing Development:** Two home sites legally established prior to the enactment of the zoning ordinance.

**Surrounding Land Use:** Adjacent properties are mostly in use as forestry or grazing land. There is one adjacent single-family residence, and two others within 1000sf of the subject.

**Previous Land Use**

Actions: LL-8613 (Lot Line Adjustment)  
Z-8008 (Zone Change FG to RA-5)

**DECISION CRITERIA AND STANDARDS**

**Curry County Zoning Ordinance**

**Section 3.050** Forestry Grazing Zone (FG)

**2020 Oregon Revised Statutes**

**ORS 215.780 (2) (e)** Minimum Lot or Parcel Sizes

**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 6.0310** Natural Hazards Areas

**Section 6.0410** Disclosure Statement

**FINDINGS OF CONFORMANCE**

**Curry County Zoning Ordinance (CCZO) – Article III**

**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:** Per the current survey, the subject property is 25.16 acres. The applicant proposes a property division to create two parcels with the two existing dwellings separated, one on each parcel. The parcels



would be 4.98 acres and 20.18 acres, neither of which would meet the 80 acre minimum lot size requirement for this land use zone. ORS 215.780 (2) (e) allows land division of forest and farm land with two dwellings if conditions are met.

**ORS 215.780 (2) (e) 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 protection forest land if:

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

**FINDING:** According to the county assessor's records, the site-built dwelling on this property was constructed in 1917. Sanitation records for the manufactured dwelling show that the septic system for this dwelling was satisfactorily installed in 1973. This requirement 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 lawfully established prior to enactment of the zoning ordinance and would comply with the criteria for a replacement dwelling as lawfully established dwellings prior under ORS 215.291. This requirement is met.

- (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 20.18 acres and Parcel 2 will be 4.98 acres. This requirement is met.

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

**FINDING:** The site built dwelling will be on Parcel 1, whereas the manufactured dwelling will be separated onto Parcel 2. This requirement is met.

- (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 restriction prohibiting further partitioning of this property was not provided with the application. The applicant will be required to provide evidence of this restriction. With this condition, this requirement will be 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.*
  - 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:** Eastbrook Land Surveying Inc. provided the survey map for the application. Most of the required items were incorporated in the preliminary survey. The applicant will be required to have the surveyor include all items listed under this requirement in the final partition plat. With this condition, this CCLDO requirement will be 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 Sixes Rural Fire Protection District and it is served by Coos Curry Electric Co-Op. The Applicant included signed statements from these two service providers and neither provider had requirements for the proposed partition. According to sanitation records, the



site-built dwelling and manufactured home have separate septic systems, and the applicant has indicated that each dwelling will be on a separate parcel with its corresponding septic system. The water source for both dwellings is a drilled well on Parcel 1. An easement for use and access to the shared well is needed for Parcel 2. With this condition, 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 was not included in this partition application. The applicant is required to submit a disclosure statement to the Planning Dept for review prior to final plat approval. The disclosure statement must then be filed simultaneously with the final plat. With this condition, this standard of the CCLDO will be met.

**COMMENTS RECEIVED:**

Surrounding property owners were notified of this pending application by mail on September 28, 2020 and were provided 20 business days to submit written comments. ODOT responded that the partition would not significantly affect ODOT, but no other comments regarding this land use proposal were received.

**CONCLUSION:**

The proposed partition (P-2004), with conditions of approval, will meet the standards under the Curry

County Zoning and Land Division Ordinances. Furthermore, the partition will move toward better conformance with the FG land use zone since the two existing dwellings will be placed on separate parcels.

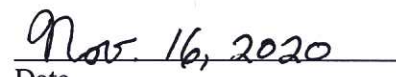
**DECISION AND CONDITION OF APPROVAL:**

This preliminary partition request (P-2004) to divide a 25.16 acre parcel, identified on Curry County Assessor's Map 3215 as Tax Lot 1000, into two (2) parcels is hereby **APPROVED**, subject to meeting the following conditions:

1. The applicant must provide evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the Curry County Clerk. A restriction imposed under this paragraph is irrevocable unless a statement of release is signed by the Curry County Planning Director 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.
2. The final plat must comply with Curry County Land Division Ordinance Section 2.0210.
3. The applicant must provide evidence of a recorded easement for Parcel 2's shared use and access to the well on Parcel 1.
4. 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 Department for review.
5. After review, the Disclosure Statement must be filed simultaneously with the final plat.
6. 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

  
Date