



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

July 19, 2007

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Curry County Plan Amendment  
DLCD File Number 002-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: August 3, 2007**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative  
David Pratt, Curry County

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PROF **2**

# DLCD

## Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person  electronic  mailed

DATE STAMP

**DEPT OF**

**JUL 16 2007**

**LAND CONSERVATION AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **Curry County**

Local file number: **Z-0702**

Date of Adoption: **7/2/2007**

Date Mailed: **7/12/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: **5/30/2007**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Goal Two Exception to Goal 14**

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The Curry County Board of Commissioners approved the application for zone change from Rural Residential Five (RR-5) to Rural Residential Two (RR-2) and a Goal 2 Exception to Goal 14 for property located at 00961 and 00964 Keiser Lane.

Does the Adoption differ from proposal? Yes, Please explain below:

No

Plan Map Changed from:

to:

Zone Map Changed from: **RR-5**

to: **RR-2**

Location: **00961 and 00964 Kieser Lane**

Acres Involved: **5**

Specify Density: Previous: **One DU per 3 acres**

New: **One DU per 3 acres**

Applicable statewide planning goals:

|                                     |                                     |                          |                          |                          |                          |                                     |                          |                          |                          |                          |                          |                          |                                     |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                            | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                | <b>12</b>                | <b>13</b>                | <b>14</b>                           | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD # 002-07 (16049)**



**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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Local Contact: **David Pratt, Planning Director**

Phone: (541) 247-3228 Extension:

Address: **PO Box 746**

Fax Number: **541-247-4579**

City: **Gold Beach, OR**

Zip: **97444-**

E-mail Address: **prattd@co.curry.or.us**

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### **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**NOTICE OF CURRY COUNTY  
BOARD OF COMMISSIONERS DECISION**

**Date:** July 12, 2007

**File No.:** Z-0702

**Owners:** John and Pam Savage

**Location:** The subject property is located on Keiser Lane approximately 6 miles east of the intersection of Highway 101 and Winchuck River Road.

**Assessor Map:** 41-12-08A; TL 400  
**Address:** 00961 and 00964 Keiser Lane

**Decision:**

The Curry County Board of Commissioners **APPROVED** the application for a zone change from Rural Residential Five (RR-5) to Rural Residential Two (RR-2) and a Goal 2 Exception to Goal 14 for property located at 00961 and 00964 Keiser Lane.

**REQUIRED STATUTORY NOTICE**

The Curry County Board of Commissioners decision on this matter is the final review available through the County. The decision may be challenged by filing a notice of intent to appeal with the State Land Use Board of Appeals within 21 days of the Notice, pursuant to ORS 197.830. The State Land Use Board of Appeals address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552, phone (503) 373-1265.

Additional information can be obtained as outlined below:

David J. Pratt, AICP Planning Director  
Curry County Department of Public Services  
P.O. Box 746  
94235 Moore Street, lower level  
Gold Beach, OR 97444  
Ph. (541) 247-3263 email: ferrinj@co.curry.or.us

A copy of the decision order, application, documents and evidence submitted by the applicant, applicable decision criteria are available for inspection at the Department of Public Services. Copies of these documents are available upon payment of a copy charge of .25 per page.



FILED WITH

JUL - 3 2007

BEFORE THE BOARD OF COUNTY COMMISSIONERS

CURRY COUNTY CLERK

IN AND FOR THE COUNTY OF CURRY, OREGON

**COPY**

In the Matter of the )  
Adoption of a Change to the )  
Curry County Zoning Map. ) ORDINANCE NO. 07-07  
Related to File No Z-0702 )  
for Applicants John Savage )  
and Pam Savage )

The Board of Curry County Commissioners ordains as follows:

Section 1

This ordinance amends the Curry County Zoning Map of the subject property from Rural Residential Five (RR-5) to Rural Residential Two (RR-2).

Section 2

This ordinance is being adopted under the authority of ORS chapters 197 and 215 and the Curry County Zoning Ordinance (CCZO) following published notice.

Section 3

This amendment to the Curry County Zoning Map applies only to the following land as described in the records of the Curry County Assessor:

Assessor Map No. 41-12-08A Tax Lot 400

This property is shown on the attached map marked as Exhibit "I" which is incorporated by reference.

Section 4

The Curry County Board of Commissioners approved this application for a zone change in accordance with Sections 2.060(3)(b) and 9.021 of the CCZO and by taking a Goal 2 exception to Goal 14 (Urbanization). The order approving

this zone change with the attached Findings of Fact and Conclusions is designated as Exhibit "II" and is hereby adopted as part of this ordinance.


Section 5

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

DATED this 2nd day of July, 2007.

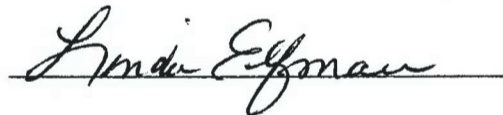
BOARD OF CURRY COUNTY COMMISSIONERS

  
Marilyn Schafer, Chair

  
Georgia Yee Nowlin, Vice Chair

  
Lucie La Bonté, Commissioner

Recording Secretary:



First Reading: 7/2/07  
Second Reading: N/A  
Effective Date: 7/2/07

(Pursuant to ORS Chapters 197 and 215)

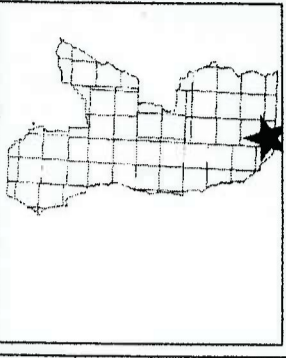
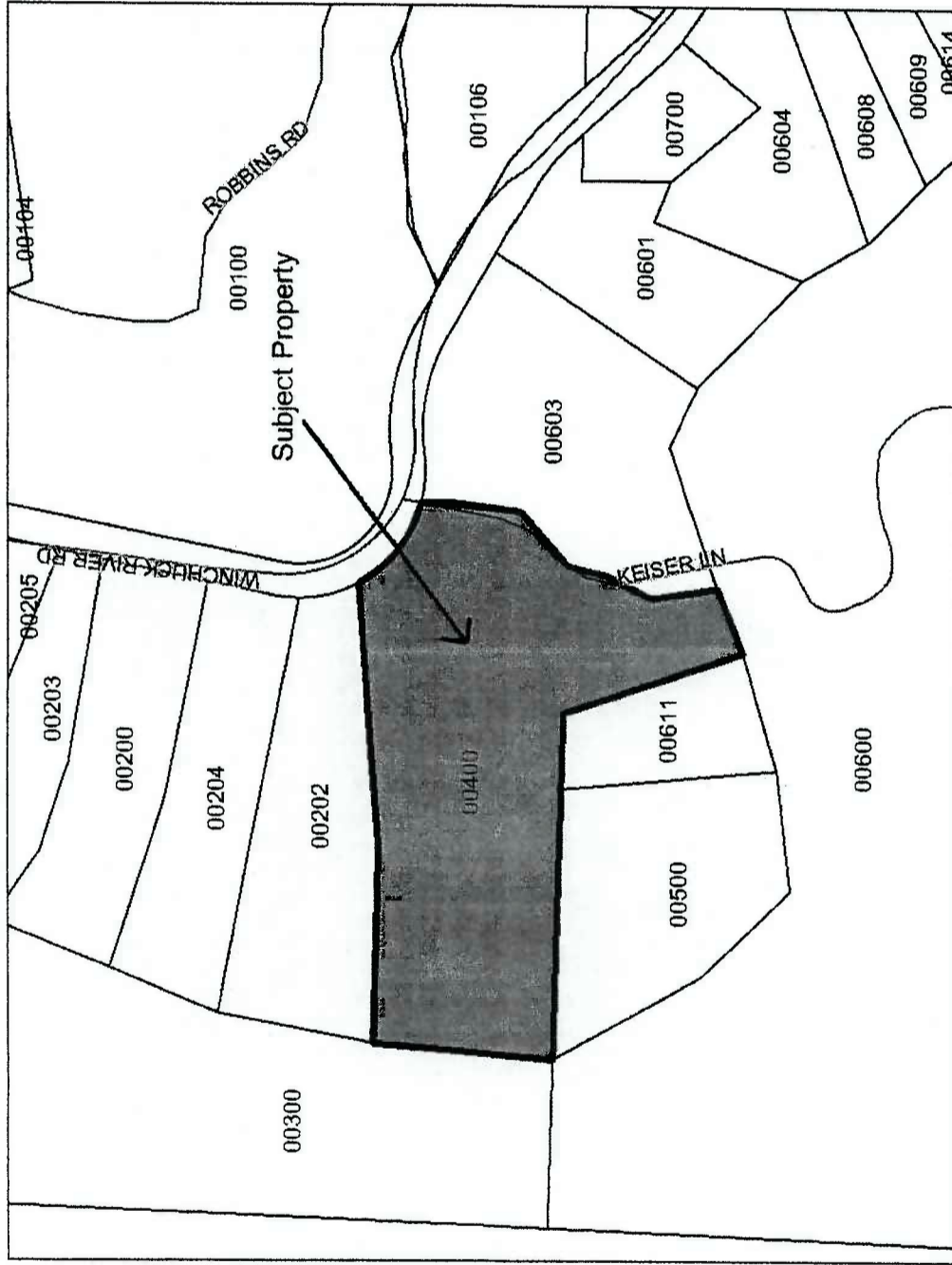
Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel



Exhibit I

Z-0702 Savage 41-12-08A; TL 400



- Legend**
- ✓ ROADS ORTHO
  - PARCELS
  - ▬ CITY LIMITS
  - TOWNSHIP

Scale: 1:3,000



Map center: 42° 1' 14.5" N, 124° 8' 28.1" W

This map is a public resource of general information. Use this information at your own risk. Curry County makes no warranty of any kind, expressed or implied, including any warranty of merchantability, fitness for any particular purpose or any other matter.

Exhibit "II"

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Order            )  
Approving the Application            )     ORDER NO. 12638  
of John Savage and Patricia         )  
Savage in File No.Z-0702            )

This matter came before the Board of Curry County Commissioners on the application of John Savage and Pam Savage in Application File No. Z-0702. The application seeks a zone change of the subject property from Rural Residential Five (RR-5) to Rural Residential Two (RR-2), and a Goal 2 Exception to Goal 14.

The Applicants, as shown by a tentative application for partition of the subject property (a land use application to follow this application) intend to divide the subject property into two parcels of approximately 3.14 acres and 2.06 acres. There is one dwelling on each of the two proposed lots, and each of these dwellings were sited before the enactment of the first zoning ordinance in Curry County.

The subject property consists of approximately 5.20 acres and is located at 00961 and 00964 Keiser Lane. It is adjacent to the Winchuck River Road approximately six miles from its intersection with US Highway 101. The subject property is further described as Tax Lot 400 on Assessor Map No. 41-12-08A.

The Board of Curry County Commissioners, following appropriate notice as required by law, held a public hearing on the matter on June 19, 2007. The only parties that appeared at the hearing in person were the Applicants.



All of the evidence introduced into the record was in favor of the application with the exception of an E Mail dated June 13, 2007, from Cameron La Follette. The E Mail states in part "I just wanted to tell you that Catherine [Wiley] will next week be bringing in our letter on the matter of the Savage application. It will contain all the arguments we are making. But I wanted to let you know in advance- rather than having you be surprised at the end-what our position is. Our reading of the law concludes that the Goal 14 exception may *not* be approved in this case, and we would oppose such an exception being granted." The E mail goes on to say that the desired partition can be approved under a different theory with an amended application.

At the meeting the letter referenced above was not brought in. When no party asked that the record be left open or the hearing be continued, the Board closed the hearing and began to deliberate towards a decision.

When the Board reviewed the evidence in this matter, it found that the Applicants had met their burden of proof. The decision criteria, facts and analysis supporting the decision are found in the attached staff report (without attachments) which is incorporated by reference.

Of importance, no party has raised any issue with respect to the substantive findings in the staff report that the Board adopts.

The only objection appears to be an argument that a Goal 14 exception cannot be taken in this case. However, this argument was not explained. It was to be explained in a subsequent letter, but the letter was not delivered prior to the close of the record. The Board cannot be held to guess what the letter might have said. The argument regarding Goal 14 was not developed with sufficient specificity for the Board to respond.

Notwithstanding the above, Curry County Zoning Ordinance Section 3.083 provides in part that "Changes in minimum lot size from 10 or 5 acres to 2 acres shall only be approved by the Board for land within a Rural Residential zoning designation if the proposed development on the subject property ...4. is not applied to areas presently zoned for rural use unless an exception to Statewide Goal 14 (Urbanization) is approved by the County."

The Board of Curry County Commissioners, in acting on this particular application, is simply following the mandate of its ordinance which requires the taking of a Goal 14 exception in circumstances where there is a change in minimum lot size in the Rural Residential Zone from 5 to 2 acres.

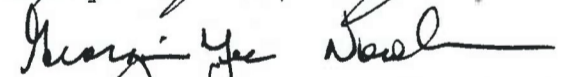
In the E Mail, Ms. La Follette indicated that the application should be processed under OAR 660-004-0040(7)(h). That section provides in part that "a local government may allow the creation of a new parcel or parcels smaller than the minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist..." This regulation only applies where the local government is not taking an exception, which is not the case in this application. Further, the regulation does not apply because it is limited to the creation of a new parcel or parcels smaller than the minimum lot size; in this application both lots will be larger than the minimum lot size.

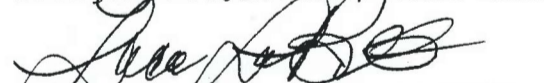
NOW, THEREFORE, based upon the reasons reflected above, it is hereby ordered that Application File No. Z-0702 is approved.

DATED this 2<sup>nd</sup> day of July, 2007.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Marilyn Schafer, Chair

  
Georgia Yee Nowlin, Vice-Chair

  
Lucie La Bonté, Commissioner

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel



**CURRY COUNTY BOARD OF COMMISSIONERS  
FINDINGS OF FACT AND CONCLUSIONS  
ZONE CHANGE CASE NO. Z-0702**

**I APPLICATION INFORMATION**

|                 |        |                            |                |
|-----------------|--------|----------------------------|----------------|
| <b>File No.</b> | Z-0702 | <b>Application Date:</b>   | April 13, 2007 |
|                 |        | <b>File Complete Date:</b> | May 30, 2007   |
|                 |        | <b>Hearing Date:</b>       | June 19, 2007  |

**Applicants:** John and Pam Savage  
14684 Sandpiper Place  
Brookings, OR 97415

**II. SITE INFORMATION**

**Property Address:** 00961 and 00964 Keiser Lane

**Location:** The subject property is located adjacent to the Winchuck River Road approximately 6 miles from its intersection Highway 101.

**Property Description:**

|                          |  |
|--------------------------|--|
| <b>Assessor Map No.:</b> | Assessor Map No. 41-12-08A Tax Lot 400 |
| <b>Total Land Area:</b>  | Approximately 6.41 acres               |

**Current Zoning:** The subject property has a zoning designation of Rural Residential (RR-5) with a minimum of 5-acre lots/parcels and is within the Upper Winchuck Rural Land Exception Area - No. 70.

**Existing Land Use:** According to the applicants and Curry County records, there are two single family dwellings on the subject property.

**Surrounding Land Use:** Properties to the north and southeast between the Winchuck River and the Winchuck River Road are also located within the Upper Winchuck rural exception area and are developed with single family dwellings. The property to the south has a zoning designation of FG (Forestry-Grazing) while property to the north has a zoning designation of T (Timber).

**Topography:** According to the applicants, part of the subject property, approximately 4 acres, ranges from flat to "sloping." The remaining 2 acres, approximately, have steep terrain. According to County G.I.S. records, most of subject property has an average slope of approximately 3.3 percent. The southern most portion of the subject property is

the steepest with an average slope of approximately 10.6 percent. The western edge of the subject property has an average slope of approximately 7.2 percent.

### III. Nature of the Request and Background

On April 13, 2007, a formal application was submitted for a zone change from Rural Residential Five (RR-5) with a minimum lot size of 5 acres to Rural Residential Two (RR-2) with a minimum lot size of 2 acres for property identified as Curry County Tax Assessor's Map Number 41-12-08A Tax Lot 400 and located at 00961 and 00964 Keiser Lane.

The subject property, consisting of approximately 6.41 acres, has two existing single family dwellings, a site built single family dwelling and a manufactured home, served by separate septic systems. According to County Records, construction of the site built dwelling and the placement of the manufactured home occurred prior to the adoption of the first zoning ordinance for Curry County. Therefore, the development on the subject property is legal nonconforming as defined under CCZO Section 1.030(98).

On Friday, June 8, 2007, the applicants submitted a copy of the tentative partition of the subject property. The survey indicates that the subject property is actually 5.20 acres, not 6.41 acres, in size with proposed Parcel 1 to be approximately 3.14 acres and proposed Parcel 2 to be approximately 2.06 acres.

### IV. Findings in Conformance with the Curry County Comprehensive Plan, the Oregon Administrative Rules (OARs), and Curry County Zoning Ordinance (CCZO)

#### A. Applicable Decision Criteria

##### **Curry County Comprehensive Plan**

Section 14.7 Zoning of Rural Lands

Section 14.8 Plan Policies regarding Urbanization

##### **Oregon Administrative Rules (OAR)**

OAR Chapter 660, Division 4 Interpretation of Goal 2 Exception Process

OAR Chapter 660, Division 14 Application of the Statewide Planning Goals to Newly Incorporated City and to Urban Development on Rural Lands

##### **Curry County Zoning Ordinance**

Section 3.080 Rural Residential

Section 3.083 Lot Size and Dwelling Density

Article IX Amendments to the Zoning Ordinance



**B. Compliance with the Curry County Comprehensive Plan**

1. Curry County Comprehensive Plan Section 14.7 - ZONING OF RURAL LANDS describes the zoning designations for rural communities and rural exception areas. This policy describes the RR (Rural Residential) zoning designations as being applied to various rural land exception areas based upon the physical development, degree of parcelization, and other factors existing in areas.

**FINDINGS:** The subject property is within the Upper Winchuck rural exception area (No. RLE-70) and has a zoning designation of RR (Rural Residential) with minimum lot/parcel size of ten (5) acres. At the time this rural exception area was adopted, the subject property was found to be committed to non-agricultural and non-forest land use since it was "...physically developed with dwellings and associated structures to the extent that the land cannot be used for agricultural or forest uses typical of the surrounding area." The proposed change from RR-5 to RR-2 does not change the Rural Residential zoning designation of the subject property, but will change the minimum lot/parcel size. The application request is compliant with this policy.

2. Curry County Comprehensive Plan Section 14.8 – PLAN POLICIES REGARDING URBANIZATION defines rural and urban uses (Policies No. 1 and 2) and the minimum lot/parcel size within a Rural Exception Area for property with a Rural Residential zoning designation (Policy No. 10).

**FINDINGS:** Urbanization Policy No. 1 defines "rural" uses as uses that are located outside of urban growth boundaries including non-urban uses such as agriculture, forestry, open space, sparse settlement, small farms or acreage homesites with no or hardly any public services. Urbanization Policy No. 2 defines "urban" uses as high intensity residential, commercial or industrial uses located inside urban growth boundaries or outside urban growth boundaries where an exception to Statewide Goal 14 has been justified. Urbanization Policy No. 10 established the minimum lot size of 10-, 5-, or 2- acres for parcels/lots in Rural Exception Areas that have the Rural Residential zoning designation. Curry County Zoning Ordinance Section 3.083 requires that changes in the minimum lot size designation in the RR zoning designation be approved only when it is found to be in compliance with the policies of the Curry County Comprehensive Plan related to urbanization and taking an exception to Statewide Goal 14 – Urbanization.

**C. Compliance with the Oregon Administrative Rules 660-014-030 and (OAR)**

660-004-040 (6)

1. The Oregon Administrative Rules Division 14 addresses the application of the statewide planning goals to newly incorporated cities and to urban development on rural lands. OAR 660-014-030 states:

*(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goals 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.*

**FINDINGS:** As stated in the *Exception Statement* for the Upper Winchuck Area (No.RLE-70) that was adopted as part of the *Curry County Comprehensive Plan* in 1989, the subject property is "...physically developed with dwellings and associated structures to the extent that the land cannot be used for agricultural or forest uses typical of the surrounding area." Therefore, since it has been demonstrated that the proposed zone changes meets the standards for taking an exception to Goal 14 under OAR 660-014-0030(2) as physically developed to urban levels, the four factors in Goal 2 and OAR 660-004-0020(2) are not addressed. This provision of the OAR has been satisfied.

*(2) A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.*

**FINDINGS:** As indicated in the Rural Exception Area *Exception Statement* for the Upper Winchuck, the subject property is committed to non-agricultural and non-forest land uses. The subject property is shown on the map of the Upper Winchuck Rural Area (RLE No. 70) which is adopted as part of the *Curry County Comprehensive Plan*. The subject property is committed to an urban level of development but not to urban densities.

*(3) A decision that land is committed to urban levels of development shall be based on findings of fact, supported by*



*substantial evidence in the record of the local proceeding, that address the following:*

*(a) Size and extent of commercial and industrial uses;*

**FINDINGS:** This provision of the CCZO does not apply since there are no commercial or industrial uses within or proposed for the Upper Winchuck Area.

*(b) Location, number and density of residential dwellings;*

**FINDINGS:** There are currently two single family dwellings located on the subject property providing a density of one dwelling unit per 3.26 acres. The average parcel/lot size within the Upper Winchuck rural exception area is 2.54 acres which is well under the existing development density of the subject property. Since the subject property is already developed, the development density of the Upper Winchuck area will not change.

*(c) Location of urban levels of facilities and services; including at least public water and sewer facilities, and*

**FINDINGS:** There are no community water or sewer facilities available in the area. Other services that area provided to the subject property are typical in rural area in close proximity to urban areas, include police protection through the Curry County Sheriff; fire protection through the Winchuck Rural Fire Protection District; as well as schools, electrical and telephone facilities. Each dwelling on the subject property has its own septic system and both are served by a common well that is also located on the subject property.

*(d) Parcel sizes and ownership patterns.*

**FINDINGS:** There are 40 parcels in the Upper Winchuck area totaling 101.79 acres under 30 separate ownerships. Parcel sizes within the exception area are as follows:

| Parcel Size            | Number of Parcels |
|------------------------|-------------------|
| Over 10 acres          | 2                 |
| Between 5 and 10 acres | 3                 |
| Between 2 and 5 acres  | 7                 |
| Less than 2 acres      | 28                |

|              |           |
|--------------|-----------|
| <b>Total</b> | <b>40</b> |
|--------------|-----------|

The average parcel size within this exception area is 2.54 acres. The proposal is to divide the subject property of approximately 5.20 acres into parcels of 3.14 acres and 2.06 acres which is compatible with the parcels size of the Upper Winchuck exception area.

*(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.*

**FINDINGS:** The subject property is and has been irrevocably committed to an urban level of development since the early 1970's.

*(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.*

**FINDINGS/CONCLUSIONS:** The findings of fact contained in this staff report demonstrate that subject property is committed to non-agricultural and non-forest land uses. The subject property is already developed to an urban level of development, but not to urban densities. The minimum 2.0 acres parcel size will allow the subject property to retain its rural characteristics.

2. The Oregon Administrative Rules Division 4 interprets the Statewide Goal Exception. OAR 660-004-040 (6) states:

*After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR 660, Division 014.*

**FINDINGS/CONCLUSIONS:** The findings of fact contained in this staff report demonstrate that the subject property is committed to non-agricultural and non-farms uses at an urban level of development. Therefore, a Goal 14 exception is warranted.



**D. Compliance with the Curry County Zoning Ordinance (CCZO) Sections 3.080 and 3.083**

1. The purpose of the Rural Residential (RR) zone is outlined in CCZO 3.080 and states:

*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.*

**FINDINGS:** The request to reduce the minimum lot/parcel size in a Rural Residential Zone from 5 to 2 acres will allow the subject property to retain its low density residential development outside of urban growth boundaries and rural communities as defined by the *Curry County Comprehensive Plan*. Therefore, the requested zone change is consistent with the purpose of the RR zone.

2. The minimum lot/parcel size and dwelling density is addressed in CCZO Section 3.083 which states:

*The RR zone has minimum lot sizes of 2, 5, and 10 acres which are applied according to policies in the comprehensive plan. Changes in minimum lot size designation from 10 to 5 acres shall only be approved by the Board when found to be in compliance with the policies related to the urbanization element of the Curry County Comprehensive Plan and upon a determination that all proposed lots are adequate for proper sewage disposal and have a suitable source of water for residential use.*

*Changes in minimum lot size in from 10 or 5 acres to 2 acres shall only be approved by the Board for land within a Rural Residential zoning designation if the proposed development on the subject property:*

1. *Was within a Rural Exceptions area as of February 13, 1989; and*

**FINDINGS:** The subject property is within the Upper Winchuck Area Rural Land Exception No. 70 as of 1989.

2. *Is not currently within an Urban Growth Boundary; and*

**FINDINGS:** The subject property is outside of the Brookings Urban Growth Boundary (UGB) and is located approximately 3.8 miles by air and 7.0 miles by road via

Highway 101 and the Winchuck River Road from the Brookings UGB.

3. *Is found to be in compliance with the policies related to the urbanization element of the Curry County Comprehensive Plan; and*

**FINDINGS:** The relevant findings are found under Findings of Fact No. IV Sections B and C.

4. *Is not applied to areas presently zoned for rural use unless a Goal 14 an exception to Statewide Goal 14 (Urbanization) is approved by the County; and*

**FINDINGS:** The relevant findings are found under Findings of Fact No. IV Sections B and C.

5. *Demonstrates that:*

- a. *Rural uses, density, and public facilities and services are compatible with and will not commit adjacent or nearby resource land to non-resource use; or*
- b. *The plan and zoning designations limit the uses, density, public facilities and services, and activities to only those that are justified in the exception; and*

**FINDINGS:** The relevant findings are found under Findings of Fact No. IV Sections B and C.

6. *Has a conceptual development plan showing the number of lots or parcels; the location of lot or parcel lines; and proposed road and access connections.*

**FINDING:** The applicant has submitted a conceptual plan. Therefore, this standard has been satisfied.

**E. Compliance with the Curry County Zoning Ordinance and Standards for a Zone Change**

Comprehensive CCZO Section 9.021 Standards for a Zone Change provides standards for the determination of zone changes and the response to the standards are as follows:

1. *Rezoning of the subject parcel will conform with the intent of all relevant*



*policies of the Comprehensive Plan;*

**FINDINGS:** Curry County records indicate that the subject property is not located within in an area identified as possible geological hazards. Therefore, *Curry County Comprehensive Plan* Goal 7 (Natural Hazards) and *Natural Hazards Polices No. 1, 2, and 6* are satisfied.

The subject property is physically developed and served by a common well. County records indicated that each of the two single family dwellings have their own septic systems. Therefore, *Curry County Comprehensive Plan* Goal 11 (Public Facilities) and *Public Facilities Policies No. 1, 4, 6, and 9*; are met since Curry County recognizes the subject property as having rural services (*Policy No. 1*); the subject property has individual source of sewage disposal, a common well, and a limited level of other public facilities (*Policy No. 4*); the zoning RR designation of the subject property addresses the service level which determines the land use and minimum parcel size (*Policy No. 6*); and the subject property is recognized as being a rural service area (*Policy No. 9*).

Direct access to and from the subject property is gained from Winchuck River Road which is designated as a major collector in the *Curry County Transportation System Plan*. Goal 12 (Transportation) is satisfied.

Curry County Comprehensive Plan Goal No. 14 is addressed separately.

2. *Rezoning of the subject property will conform with the intent of the zoning designation to which the subject property is proposed to be changed as defined in the purpose statement of the proposed zone;*

**FINDINGS:** The purpose of the Rural Residential (RR) zone is to allow low density residential development outside of urban growth boundaries and rural communities as defined by the Curry County Comprehensive Plan. The Rural Residential (RR) designation will be retained. The proposed zone change, if approved, will change the minimum size from five (5) to two (2) acres and still conform to the intent of the RR zoning designation which is to allow low density residential development outside urban growth boundaries.

3. *Rezoning of the subject property will not seriously interfere with the permitted uses on other nearby parcels;*

**FINDINGS:** The request to change the minimum size designation of the subject property will not interfere with the permitted uses on adjacent or nearby parcels.

4. *Rezoning of the subject property will not adversely impact the orderly*

*provision of public services (water, sewer, police, fire, schools, etc.) in the area in which the property is located; and*

**FINDINGS:** The change in the zoning designation of the subject property will not adversely impact the orderly provision of public services. There are no community water or sewer systems serving the Upper Winchuck area. The proposed zone change request will not cause an increase in services currently being provided by police (County Sheriff), fire (Winchuck Rural Fire Protection District), schools, electrical, or telephone utilities.

5. *Amendments to the comprehensive plan and zoning designation of the subject property which significantly affect a transportation facility (see #6, below) shall assure that allowed land uses are consistent with the function, capacity and level of service of the facility as identified in the Transportation System Plan (TSP). This shall be accomplished by one of the following:*

- a. *Limiting allowed land uses to be consistent with the planned function of the transportation facility;*
- b. *Amending the Transportation System Plan to ensure that existing, improved or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,*
- c. *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*

**FINDINGS:** The subject property has direct access to and from Winchuck River Road which is designated as a major collector in the *Curry County Transportation System Plan*. Since the subject property is fully developed, the limitation of allowed land uses; amending the Transportation System Plan; or altering land use designations, densities, or design requirements to reduce demand for automobile travel in this case is not warranted.

6. *A comprehensive plan or zoning designation amendment significantly affects the transportation facility if it:*
- a. *Changes the functional classification or existing transportation facility;*
  - b. *Changes standards implementing functional classifications system;*



- c. *Allows types of levels of land use that would result in levels of travel that are inconsistent with the transportation facility; or*
- d. *Would reduce the capacity ration and level of service of the facility below the minimum acceptable level in the TSP.*

**FINDINGS:** The subject property has access to and from Winchuck River Road. Since the property is already developed, there will be no adverse affect on Winchuck River Road and, therefore, no change in the functional classification.

#### V. PUBLIC COMMENTS

No comments have been received from affected property owners as of the publication dated of this report. The Board of Commissioners should, however, consider any testimony received in writing that will be received prior to and at the public hearing in their decision as well as any oral testimony that may be presented at the public hearing.

#### VI. CONCLUSION

The Curry County Zoning Ordinance permits the change in minimum lot size from 5 acres to 2 acres within the Rural Residential zone when found to be in compliance with the Comprehensive Plan, the Curry County Zoning Code, and the appropriate provisions of the Oregon Administrative Rules. The *Exception Statement* for the Upper Winchuck Area (No.RLE-70) that was adopted as part of the *Curry County Comprehensive Plan* in 1989, states that the subject property is "...physically developed with dwellings and associated structures to the extent that the land cannot be used for agricultural or forest uses typical of the surrounding area." Therefore, a Goal 14 exception is warranted.

Based on the above review criteria, findings of fact and conclusions, it is recommended that the Board of Commissioners consider adopting Findings of Fact and Conclusions of this Exhibit and approve the application request as submitted by John and Pam Savage (File Z-0702) to change the zoning designation from Rural Residential 5 acre minimum (RR-5) to Rural Residential 2 acre minimum (RR-2) for property identified as Assessor Map No. 41-12-08A Tax Lot 400 31-15-11C and located at 00961 and 00964 Keiser Lane.

#### VII. RECOMMENDED CONDITIONS OF APPROVAL

None recommended.