



# Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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## NOTICE OF ADOPTED AMENDMENT

1/21/2010

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** Curry County Plan Amendment  
DLCD File Number 006-09

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:** Wednesday, February 03, 2010

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

**Cc:** David Pratt, Curry County  
Jon Jinings, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative

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# 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



Jurisdiction: **Curry County**

Local file number: **Z-0906**

Date of Adoption: **01/04/2010**

Date Mailed: **01/13/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 10/23/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The amendment proposal was to change the zoning designation of the property located at 32776 Cedar Valley Road from Rural Residential Ten (with minimum parcel/lot size of ten (10) acres) to Rural Residential Two (with a minimum parcel/lot size of two (2) acres). The subject property is identified on the Curry County Assessor's Map as 35-14-33; Tax Lot 1402.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **RR-10**

to: **RR-2**

Location: **32776 Cedar Valley Road**

Acres Involved: **10.00**

Specify Density: Previous: **1-SFDU/10 acres**

New: **1-SFDU/3.3 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>                |
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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 file No. 006-09 (17903) [15938]

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

**Department of Land Conservation and Development (DLCD), Oregon Department of Water Resources (ODWR), State Fire Marshall, Cedar Valley Rural Fire Department, Nesika/Ophir Water, DEQ, DOGAMI, and Oregon Department of Parks or Recreation (ODPR).**

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Local Contact: **David Pratt**

Phone: **(541) 247-3228** Extension:

Address: **P.O. Box 746**

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

City: **Gold Beach**

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, or by emailing **[larry.french@state.or.us](mailto:larry.french@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 **[larry.french@state.or.us](mailto:larry.french@state.or.us)** - **Attention: Plan Amendment Specialist**.

**COPY**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the Adoption )  
of a Change to the Curry County )  
Zoning Map Related to File No. ) ORDINANCE NO. 10-01  
Z-0906 for Applicants Shaun )  
Carpenter and Kristal Carpenter )

The Board of Curry County Commissioners ordains as follows:

Section 1

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

Section 2

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

Section 3

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

Assessor Map No. 35-14-33 TL 1402

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 of law (but excluding exhibits to the staff

report) is designated as Exhibit II and is hereby adopted as part of this ordinance.

Section 5

Consistent with ORS Chapters 197 and 215, this ordinance shall be effective upon its passage.

Section 6

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

DATED this 4th day of January, 2010.

BOARD OF CURRY COUNTY COMMISSIONERS

*Bill Waddle*

Bill Waddle, Chair

*Georgia Yee Nowlin*

Georgia Yee Nowlin, Vice Chair

*George Rhodes*  
George Rhodes, Commissioner

Recording Secretary:

*Patricia R. Cork*

First Reading: 1/4/10

Second Reading: NA

Effective Date: 1/4/10

Approved as to Form:

*M. Gerard Herbage*

M. Gerard Herbage  
Curry County Legal Counsel

Exhibit I

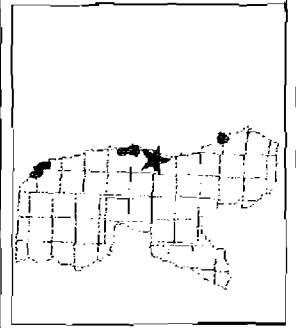
Z-0906 Carpenter 35-14-33; Taxlot 1402



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.



Map center: 42° 29' 57.5" N, 124° 22' 13.8" W



- Legend**
- ~ ROADS ORTHO CORRECTED
  - PARCELS
  - ▬ CITY LIMITS
  - TOWNSHIP



Scale: 1:3,500

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 )  
of Shaun Carpenter and ) ORDER NO. 13187  
Kristal Carpenter in File No. )  
Z-0906 )

This matter came before the Board of Curry County Commissioners on the application of Shaun Carpenter and Kristal Carpenter. The application seeks a zone change from Rural Residential Five (RR-5) to Rural Residential Two (RR-2).

The subject property consists of approximately 10 acres and is described as Tax Lot 1402 on Assessor Map No. 35-14-33. It is located at 32776 Cedar Valley Road about 3.0 miles northerly from the intersection of Cedar Valley Road and North Bank Rogue River Road. This property is located within the "Squaw Valley/McKinnon Drive" (RLE-13) rural exception area outside of the Gold Beach Urban Growth Boundary.

The Board of Curry County Commissioners, following appropriate notice as required by law, held a hearing on the application on December 9, 2009. Chuck Nordstrom, Nordstrom Land Use Consulting, represented the applicants. Evidence was received in favor of the application, and no evidence was received in opposition to the application. The applicants then waived their right for additional argument, and the Board closed the hearing and began to deliberate to reach 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 and facts and analysis supporting the criteria are found in the attached "Curry County Board of Commissioners Staff Report" (without exhibits) that is attached hereto and incorporated by reference.

NOW, THEREFORE, based upon the reasons reflected above, it is hereby ordered that Application File No. Z-0906 is approved. The zoning designation of the subject property is changed from Rural Residential Five (RR-5) to Rural Residential Two (RR-2) based upon a Goal 2 Exception to Goal 14. There are no conditions of approval.

DATED this 4<sup>th</sup> day of January, 2010.

BOARD OF CURRY COUNTY COMMISSIONERS

*Bill Waddle*

Bill Waddle, Chair

*Georgia Yee Nowlin*

Georgia Yee Nowlin, Vice Chair

*George Rhodes*

George Rhodes, Commissioner

Approved as to Form:

*M. Gerard Herbage*

M. Gerard Herbage  
Curry County Legal Counsel



For the Public Hearing on Wednesday, December 9, 2009

**CURRY COUNTY BOARD OF COMMISSIONERS**

**STAFF REPORT**

**ZONE CHANGE REQUEST Z-0906 - Carpenter  
RURAL RESIDENTIAL FIVE (RR-5) TO RURAL RESIDENTIAL TWO (RR-2)**

REPORT DATE: November 30, 2009

HEARING DATE: December 9, 2009

FILE #: Z-0906

**I. APPLICATION INFORMATION:**

**PROPERTY OWNERS:**  
Shaun and Kristal Carpenter  
32776 Cedar Valley Road  
Gold Beach, OR 97444

**APPLICANTS' FINDINGS PREPARED BY:**  
Chuck Nordstrom  
Nordstrom Land Use Consulting  
PO Box 127  
Langlois, OR 97450

**NATURE OF LAND USE ACTION:** A request to change the zoning designation of the subject property (Curry County Assessor's Map No. 3514-33 Tax Lot 1402) from Rural Residential Five acre minimum (RR-5) to Rural Residential Two acre minimum (RR-2). The Applicants' findings in support of this request are attached to this report as EXHIBIT A with Supplemental Findings as EXHIBIT B.

**II. SITE INFORMATION**

**Property Address:** 32776 Cedar Valley Road

**Location:** The subject property is located on the west side of Cedar Valley Road about 3.0 miles northerly from the intersection of Cedar Valley Road and North Bank Rogue River Road.

**Property Description:**

**Assessor Map/TL:** 3514-33 Tax Lot 1402  
**Total Land Area:** Approximately 10.0 acres

**Current Zoning:** The subject property is located within the "Squaw Valley/McKinnon Drive" (RLE-13) rural exception area; has zoning designation of Rural Residential (RR); and is located outside of the Gold Beach Urban Growth Boundary.

**Existing Land Use:** The subject property is developed with a single family dwelling and a detached garage.

**Surrounding Land Use:** Properties located to the northeast and south of the subject property are zoned for residential use and developed with dwellings. Lands to the north and west are zoned for forestry use. Land across Cedar Valley Road to the east is zoned for forestry-grazing use and has historically been used for farming.

**Topography:** The subject property, which is located on the west side of Cedar Valley Road, is moderately sloping with easterly aspect toward Cedar Creek. The steepest sloping area is near the western boundary of the subject property where it rises to a ridge top. A more detail description may be found in EXHIBIT A, page A-11.

**Streams/Wetlands:** According to County records, there are no streams, creeks, or identified wetlands on the subject property. Cedar Creek is located across from and on the east side of Cedar Valley Road.

### III. Applicable Decision Criteria

#### Curry County Comprehensive Plan Policies

Goal 10           Housing Policy 1

Goal 14           Urbanization Policies 1, 2, 7, 10

#### 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

### Compliance with the Curry County Comprehensive Plan Policies

#### 1. *Goal 10-Housing*

**GOAL:** *To provide for the housing needs for the citizens of the county.*

#### **APPLICABLE POLICIES**

1. *Curry County encourages the development of adequate housing for all of its citizens in terms of location, quality, and affordability.*

**FINDINGS:** The Applicants' findings regarding this policy can be found at EXHIBIT A, pages A-24 to A-26. Staff concurs with the Applicants' findings in that the approval of the requested zone change would result in the creation of two new additional lots approximately four (4) acres in size for single family dwellings; would aid in the "...development of adequate housing for all of its citizens..."; and not be in conflict with the intent of this plan policy.

#### 2. *Goal 14-Urbanization*

**GOAL:** *To provide for an orderly and efficient transition from rural to urban land use in the county.*

#### **APPLICABLE POLICIES**

1. *Curry County defines "rural uses" as those uses which are located outside of urban growth boundaries including non-urban agriculture, forestry, open space, sparse settlement, small farms or acreage homesites with no or hardly any public services.*
2. *Curry County defines "urban uses" as those which are high intensity residential,*

*commercial or industrial uses located inside urban growth boundaries, or outside urban growth boundaries where an exception to Goal 14 has been justified.*

7. *Curry County recognizes rural lands in the county and seeks to retain the rural character of these lands by limiting the development of these lands through rural zoning which will retain the rural character of these areas as reflected in the existing lot size pattern.*
  
10. *Curry County has zoned lands located within the various rural land exception areas for Rural Residential (RR-2, RR-5, and RR-10) use which limits rural residential development to dwellings on existing parcels and the development of new parcels at a density of 2-acre, 5-acre, or 10-acre minimum lot sizes. Rural Residential Two (RR-2) shall not be applied to areas presently zoned for rural use unless a Goal 14 exception is approved by the county. A zone change from RR-10 or RR-5 to RR-2 shall only be permitted in Rural Land Exceptions areas existing as of February 13, 1989 that are not within a current Urban Growth Boundary.*

**FINDINGS:** The subject property is within the "Squaw Valley/McKinnon Drive" (RLE-13) rural exception area and has a zoning designation of RR (Rural Residential) with minimum lot/parcel size of five (5) acres. At the time this rural exception area was adopted, the subject property was "...considered to be physically developed with residential development to the extent that it is impracticable to use these lands for agricultural or forest uses..."

According to the county records and the Applicants' findings, the subject property is developed with one single-family dwelling and a detached garage. The structures are located in the northeast portion of the subject property near Cedar Valley Drive (see Applicants' findings, Figure 6, page A-37).

Goal 14 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. Rural service areas are defined under Section 11.10 of the *Curry County Comprehensive Plan* as having basic protective services, energy and communication services; education being available; and water and sewage disposal available on an "individual" basis.

Goal 14 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. Urban level services, as opposed to "urban level of development", are generally determined, under Section 11.10 of the *Curry County Comprehensive Plan*, to be those services found in rural areas with provisions for community water and sewage disposal. There are no public or community water and sewer services available or being proposed to service the subject property. Therefore, it remains a rural use.

Goal 14 Policy No. 7 establishes the need to retain the rural character of the area by limiting development. Development is limited under Policy No. 10 which establishes minimum parcel/lot sizes of 10, 5, or 2 acres for parcels/lots in Rural Exception Areas that have the Rural Residential zoning designation. Under OAR 660-004-040(7) (a), the creation of any new lot or parcel smaller than two acres in a rural residential area is considered an urban use. The proposal is to divide a parcel consisting of ten (10) acres into three parcels, one of which will be approximately two (2) acres in size, and two parcels approximately four (4) acres in size. Therefore, the proposal is consistent with Urbanization Policy No. 7 and OAR 660-004-040(7) (a).

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. This issue is addressed below.

**Compliance with the Oregon Administrative Rules 660-014-030 and (OAR) 660-004-040 (6)**

3. 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 Squaw Valley/McKinnon Drive (RLE-13) rural exception area, the subject property is physically developed with residential development to the extent that it is impracticable to use the subject property for agricultural or forest use. The subject property is committed to an urban level of development as indicated in the Applicants' findings (EXHIBIT A, pages A-44 to A-46). As demonstrated below and in the Applicants' findings, the proposed zone change satisfies the standards for taking an exception to Goal 14 under OAR 660-014-0030(2) as being physically developed to an urban level of development not an urban level of service as defined in the *Curry County Comprehensive Plan* under Section 11.10. The proposed zone change from RR-5 to RR-2 satisfies Statewide Goal 2 exceptions standard under *OAR 660-014-030 (1)* and, therefore, is irrevocably committed to an urban level of development and the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

- (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:** In the case of this request, the subject property is physically developed with a single family dwelling and an accessory structure to the extent that the land cannot be used for agricultural or forest uses and is irrevocably committed to an urban level of development with certain community services at a rural level consisting of police (Curry County Sheriff), fire protection (Cedar Valley Rural Fire Protection District); schools (Central Curry School District No. 1), electrical (Coos-Curry Electric Cooperative Inc), and telephone (Verizon) but not to urban use or density which would require community sewer and water service.

- (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:** There are no commercial or industrial uses within the Squaw Valley/McKinnon Drive (RLE-13).

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

**FINDINGS:** Thirty-six (36) of the 43 parcels within the Squaw Valley/McKinnon Drive (RLE-13) are developed with single-family dwellings and accessory uses. A conceptual development plan (Proposed Partition) was submitted as part of the application and as required under CCZO Section 3.083 (3). As indicated on the conceptual plan, the subject property is to eventually be partitioned into three (3) parcels with a single-family dwelling on each parcel. There currently is one single-family dwelling and a garage sited on the subject property. If approved, the minimum parcel/lot size will be two (2) acres for the subject property and, as noted in the Applicants' findings (EXHIBIT, page B-4), there are 22 parcels within the "vicinity" of the subject property (southern part of RLE-13) of which 17 parcels (77 percent) are development with dwellings; 11 parcels (50 percent) of parcels are two (2) acres or less in size; and 15 parcels (73 percent) are 4 acres or less in size. The proposed zone change and partitioning of the subject property will be consistent with OAR 660-004-040(7) (a) since the average of one dwelling will still be above the minimum parcel/lot size of two (2) acres.

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

**FINDINGS:** There are no public or community water or sewer facilities available to the Squaw Valley/McKinnon Drive rural exception area. The Applicants have submitted a site plan showing the septic system that serves the existing single family dwelling. They have also submitted favorable site evaluations, one dated August 25, 1999, and the other dated July 30, 2009, from the County Sanitarian, that would accommodate two additional single family dwellings on the subject property (see Applicants' findings (EXHIBIT A. pages A-64 to A-74). Services that are provided include police and fire protection; education (schools); electrical; and telephone services, which, under Section 11.10 of the *Curry County Comprehensive Plan*, is defined as a rural, not urban, service level since community water and sewer service are not available.

(d) *Parcel sizes and ownership patterns.*

**FINDINGS:** The subject property is located west of Cedar Valley Road and within the Squaw Valley/McKinnon Drive rural exception area (RLE-13). According to the *Exception Statement* for RLE-13, thirty (30) of the parcels that are within the exception area in 1989 were developed with single family dwellings, septic systems, accessory buildings, yards, and driveways when the document was adopted.

A Goal 2 exception for the Squaw Valley/McKinnon Drive (RLE-13) was taken in 1989 to Goal 3 (Agricultural) and Goal 4 (Forestry) upon finding that:

- Thirty (30) of the thirty-eight (38) parcels, including the subject property, were 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; and

- Eight (8) parcels included in the exception area were irrevocably committed to small parcel sizes by previous partitions, the development of roads, utility lines, etc., which precluded the use of these lots for agricultural or forest uses typical of the surrounding area.

The Squaw Valley/McKinnon Drive (RLE-13) area currently consists of forty-three (43) parcels with thirty-six (36) single family dwellings covering an area of approximately 160.99 acres in size. The parcel/lot size ranges from 0.16 of an acre to 14.91 acres. The median parcel size is approximately 2.9 acres and the average parcel size is approximately 3.74 acres.

**TABLE 1 – Number of Lots/Parcels by Size (2009)**

| Lot/Parcel Size                      | Number of Lots/parcels | Percent |
|--------------------------------------|------------------------|---------|
| Less than one (1) acre to 1.99 acres | 15                     | 34.9    |
| Two (2) to 4.99 acres                | 19                     | 44.2    |
| Five (5) to 9.99 acres               | 6                      | 13.9    |
| Ten (10 acres) or greater            | 3                      | 7.0     |
| Total                                | 43                     | 100.0   |

As illustrated in Table 1, fifteen (15) parcels, approximately 35 percent, are less than two acres in size and thirty-four (34) parcels, approximately 79 percent, are less than five (5) acres and below the minimum lots size for the current zoning designation of RR-5. Twenty-two (22) parcels, approximately 51 percent, are at or less than the median parcel size of 2.9 acres. The proposal is to divide the subject property into three parcels, two of which will be approximately four (4) acres in size, which is above the average parcel size in RLE-13, and one of which will be approximately two (2) acres in size.

- (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:** As demonstrated by the staff and Applicants' findings (EXHIBIT A-48 TO A-50), the property within the Squaw Valley/McKinnon Drive (RLE-13) is, and has been, irrevocably committed to residential use at an urban level of development.

- (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, as well as the Applicants' findings (EXHIBIT A-50 to A-51) demonstrate that the subject property is irrevocably committed to residential use at an urban level of development as is characteristic of the Squaw Valley/McKinnon Drive (RLE-13). The proposal retains the minimum 2.0-acre lot/parcel size. Therefore, the subject property will retain its rural characteristics and will not require or encourage the need for an urban service level.

4. 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, and the Applicants' findings demonstrate that property within the Squaw Valley/McKinnon Drive (RLE-13), including the subject property, is irrevocably committed to residential use at an urban level of development.

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

5. 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 is to reduce the minimum lot/parcel size in a Rural Residential Zone from 5 to 2 acres to allow the division of the subject property into three (3) parcels. The partitioning of the subject property will allow the subject property to retain its rural (low density) residential characteristic that is required for land outside of an urban growth boundary. The subject property is within a rural exception area as defined by the *Curry County Comprehensive Plan*. Therefore, the requested zone change is consistent with the purpose of the RR zone.

6. 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 Squaw Valley/McKinnon Drive (RLE-13) that was adopted as part of the *Curry County Comprehensive Plan* in 1989.

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

**FINDINGS:** The subject property is outside of the Gold Beach Urban Growth Boundary.

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

**FINDINGS:** The proposal, as mentioned previously in this report, was found to be in compliance with the relevant policies of the comprehensive plan.

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

**FINDINGS:** Findings to address this standard were mentioned previously in this report in the Compliance with Oregon Administrative Rules section.

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:** As demonstrated in earlier findings (EXHIBIT A, pages A-36 to A-38), the proposed zone change will not commit adjacent or nearby resource land to non-resource use as there will be no change in the existing land use pattern. No additional public facilities or services are proposed.

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 Applicants have submitted a conceptual plan (EXHIBIT A-37).

#### **Compliance with the Curry County Zoning Ordinance Standards for a Zone Change**

7. 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:** The proposal is consistent with the appropriate goals and objectives of the *Curry County Comprehensive Plan* (see Applicants' Findings in EXHIBIT A, pages A-24 to A-26.) The County recognizes three levels of service (*Public Facilities Policy No. 1*) and the proposed



development falls within the rural services category. The rural residential character will be retained as low density residential use since it will be dependent on individual sources of water and sewage disposal (*Public Facilities Policy No. 4*). The RR zoning designation of the subject property governs the use of the subject and minimum lot/parcel size. The subject property is and, if the zone change is approved, will remain at a rural service level. No public or community water or sewer services are available in the area and none are being proposed or encouraged (*Public Facilities Policy No. 9*). Therefore, *County Comprehensive Plan Goal 11 (Public Facilities)* and *Public Facilities Policies No. 1, 4, and 9*; are satisfied as well as the appropriate housing, transportation, and urbanization policies.

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 an urban growth boundary.

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

**FINDINGS:** As demonstrated above in the Applicants' findings (EXHIBIT A, pages A-27 to A-28), the request to change the minimum size designation of the subject property is consistent with the size of parcels and lots within the Squaw Valley/McKinnon Drive (RLE-13) and will not interfere with the permitted uses on adjacent or nearby parcels. The proposed zone change, if approved, will accommodate the siting of two additional dwellings on the subject property; be consistent with OAR 660-004-0040(7) (a); and will allow the area to retain its rural characteristics if the zone change request is approved and the subject property is partitioned.

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:** As demonstrated in the Applicants' findings (EXHIBIT A-28 to A-29), the proposed change in the zoning designation of the subject property will not adversely impact the orderly provision of public services currently being provided to surrounding properties by police (County Sheriff), fire, schools, electrical, or telephone utilities. These services already exist. The subject property is within the service boundaries of the Cedar Valley Rural Fire Protection District. There are no public or community water or sewer systems serving the Squaw Valley/McKinnon Drive (RLE-13) area. There is existing septic disposal system on the subject property with site approval from Curry County for two additional septic systems.

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;*

**Findings:** The subject property fronts onto Cedar Valley Road which is county owned and maintained. Cedar Valley Road is classified as a major collector road in the *Curry County Transportation Plan (TSP)*. A collector is a road providing service to land uses that generate trips such as consolidated schools, shipping points, mining and agricultural uses. The proposed division of land into three parcels is consistent with the planned function of Cedar Valley Road.

- 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,*

**Findings:** According to the County Road Department, the average daily traffic on Cedar Valley Road near its intersection with North Bank Rogue River Road was at 427 trips per day in 2007. Cedar Valley Road has a carrying capacity of 10,000 vehicle trips per day. The proposed use, of two additional single-family dwellings, will generate approximately 20 new trips per day. Therefore, the existing road facility has sufficient capacity to adequately support the proposed development on the subject property.

- 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 Cedar Valley Road. This road is designated as a major collector road in the *Curry County Transportation System Plan*. Since the subject property is proposed to be developed at rural, not urban, residential use, 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 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;*

**Findings:** The proposed change in the zoning designation will not require a change in the functional classification of Cedar Valley Road.

- b. *Changes standards implementing functional classifications system;*

**Findings:** There will be no changes required in implementing the functional classification system as a result of the proposed zone change from RR-5 to RR-2.

- c. *Allows types of levels of land use that would result in levels of travel that are inconsistent with the transportation facility; or*

**Findings:** The proposed change in the zoning designation will not affect the current functional classification of Cedar Valley Road nor will it result in changes in the level of travel or access.

- d. *Would reduce the capacity ration and level of service of the facility below the minimum acceptable level in the TSP.*

**Findings:** The proposed development will not reduce the vehicle/capacity ratio and level of service below the minimum acceptable level of service. Therefore, this standard has been satisfied.

#### IV. PUBLIC AGENCY COMMENTS

The following letter has been received:

**Letter from the Department of Land Conservation and Development (DLCD) dated November 6, 2009. (EXHIBIT C)**

The letter from Dave Perry, DLCD, stated that, in addition to the county's general review standards for zoning amendments in Section 9.021, the County has adopted standards in Section 3.083 of the Curry County Zoning Ordinance that address requirements in Oregon Administrative Rules (OAR) 660-04-040 (6) and OAR 660-14-030. The county standards were adopted in 2006, specifically to address proposals that would increase the density of rural residential development in existing acknowledged exception areas, facilitating limited infill in these areas. It was also stated that:

"...The evidence provided by the Applicants indicates that potential development of the property under the proposed RR-2 zoning would be consistent with the existing pattern of land parcelization and development in the vicinity. The Applicants' findings further indicate that the potential to create two additional acreage home sites from this parent parcel, under the County's rural development standards, would not precipitate the need for urban facilities and services."

"...One of the basic tenets of Goal 14 is to "... *identify and separate urban and urbanizable land from rural land.*" It is important that the county be able to conclude from the relevant findings, that the proposed zone change will meet the requirements in Section 3.083 of the Curry County Zoning Ordinance. Essentially, the code requires that the subject property be part of an acknowledged exception area and that the proposed zone change will comply with State and County rules and policies relating to urbanization and rural development."

**Staff Response:** Staff concurs... As is evident in the facts and findings, the standards and criteria under OAR 660-04-040 (6) and OAR 660-14-030, in addition to the provisions of CCZO Section 3.083 (Lot Size and Dwelling Density) and Section 9.021 (Standards for a Zone Change), have been met.

#### V. PUBLIC COMMENTS

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

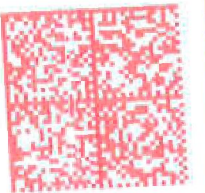
#### VI. CONCLUSION

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 Squaw Valley/McKinnon Drive (RLE-13) rural exception area that was adopted as part of the *Curry County Comprehensive Plan* in 1989, states that the subject property is considered to be 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, the subject property is irrevocably committed to an urban level of development and a Goal 14 exception is warranted based on the evidence contained within this staff report and its attachments.

Curry County Public Services  
PO Box 746  
Gold Beach, Oregon 97444

Department of Land Conservation & Development  
635 Capitol Street NE, Suite 150  
Salem, Oregon 97301-2540  
Attn: Plan Amendment Specialist



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