

Attention Property Owner: A land use proposal has been submitted for property near where you live or property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

**NOTICE OF DECISION
PARTITION CASE NO. 18-006**

APPLICATION: Application of Abdullah and Ashlee Ibrahim to divide a 4.55 acre parcel into two parcels containing 2.18 acres and 2.37 acres each in an AR (Acreage Residential) zone located at 2177 Farmer Road SE, Jefferson. (T9S; R3W; Section 23A; tax lot 2000).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Partition application subject to certain conditions.

EXPIRATION DATE: This approval is valid only when the final partition plat is recorded by **April 20, 2020**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

WARNING: A decision approving the proposed division is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support a dwelling. To be sure the subject property can accommodate the proposed use the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

Prior to recording the final plat:

1. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE, (503) 588-5036) and shall contain the notation that the survey is the result of Partition Case 18-006. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. **The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.**
3. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use final plat for recordation until the following conditions have been satisfied:

***Condition A** – On the partition plat, show sufficient right-of-way (R/W) to provide the public R/W half-width of 30 feet to meet the local road standard along the subject property Farmer Road frontage and the unnamed public R/W frontage flanking the west property boundary. Also dedicate a 30-foot property corner radius at the southwest corner [MCC 17.172.200 & 17.172.240].*

***Condition B** – Prior to plat approval, under a Work-in-R/W Permit, construct a 12-foot wide gravel road section and single (east) side drainage swale section, and install a drainage tributary crossing culvert to MCPW Engineering standards within the unopened public R/W flanking the west property boundary [MCC 11.10 & 17.172.320].*

4. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System, has named the proposed private access easement **“Happy Wy SE”**. The name must be shown on the final partition plat, and a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works **prior to the plat being recorded.**

5. Prior to submitting the final partition plat, the applicant shall provide a static water level measurement for the existing well on the enclosed form.
6. The applicant is advised that a Partition Plant Service Report from a title company will be required upon submission of the final mylar to the County Surveyor.

Prior to issuance of building permits on the resulting parcels:

7. The partition plat shall be recorded.
8. Prior to issuance of building permits, the applicant shall provide a static water level measurement for any new or existing wells intended as the water supply for the lot on the enclosed form.
9. The applicant shall submit evidence that the access easement has been improved to the standards in MCC 17.172 listed in Finding #8. The access easement is also to provide for utilities.
10. Prior to issuance of building permits, the applicant shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement (enclosed) to the Planning Division for each resulting parcel. This statement shall be recorded by the applicant with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.

ADDITIONAL CONDITIONS: Once the approved use is established the following conditions must be continually satisfied:

11. The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director. All parcels shall be a minimum two acres in size, prior to any right-of-way dedication.
12. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.

OTHER PERMITS, FEES, AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying restrictions or conditions. It is recommended that the agencies mentioned in Finding #5 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

13. Prior to recording the plat all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at (503) 588-5215 for verification of payments).
14. The applicant should contact the Jefferson Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

APPEAL PROCEDURE: The Marion Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 150 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received, together with the appeal fee, in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **April 20,**

2018. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 21, 2018** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The property is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding AR (Acreage Residential) zone is to allow creation of acreage homesites at a density that maintains the character and environmental quality of rural residential areas. The property is also in the Sensitive Groundwater Overlay Zone of (SGO-5).
2. The subject parcel is located on the north side of Farmer Rd SE approximately 2,600 feet east of its intersection with Jefferson Hy SE. The 2.18 acre parcel identified as tax lot 2000 contains an existing dwelling, accessory structure, well and septic system. The property was created in its present configuration as Lot 25, Steiwer Fruit Farms and is a legal lot for land use purposes.
3. Surrounding properties in all directions are zoned AR and in residential use.
4. The applicant proposes to divide the 4.55 acre parcel into two parcels of 2.18 acres and 2.37 acres each.
5. Public Works Land Development and Engineering Permits requested that Conditions A and B, be included in the land use decision. LDEP also commented on requirements that are not part of the land use decision and are available for review in the Planning file. LDEP will not approve the final plat for recordation until the following conditions have been met.

*“**Condition A** – On the partition plat, show sufficient right-of-way (R/W) to provide the public R/W half-width of 30 feet to meet the local road standard along the subject property Farmer Road frontage and the unnamed public R/W frontage flanking the west property boundary. Also dedicate a 30-foot property corner radius at the southwest corner [MCC 17.172.200 & 17.172.240].*

***Condition B** – Prior to plat approval, under a Work-in-R/W Permit, construct a 12-foot wide gravel road section and single (east) side drainage swale section, and install a drainage tributary crossing culvert to MCPW Engineering standards within the unopened public R/W flanking the west property boundary [MCC 11.10 & 17.172.320].*

The road section is to provide access to the rear developable lot. The drainage crossing culvert diameter will need to be calculated by the Applicant’s civil engineer based on the wet season tributary conveyance capacity, and then reviewed/approved by MCPW Engineering.

Marion County Surveyor commented: “Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. Checking fee, second mylar fee, and recording fee required. A current or updated title report must be submitted at the time of review. Title reports shall be no less than 15 days old at the time of approval of the plat by the Surveyor’s Office, which may require additional updated reports.”

Marion County On-Site Sewage commented that an approved septic evaluation will be required for the undeveloped parcel.

Marion County Tax Assessor provided information regarding taxes on the subject properties.

All other commenting agencies stated no objection to the proposal.

6. Chapter 17.181 of the Marion County Code (MCC) establishes criteria for partitioning property in a Sensitive Groundwater Overlay zone (SGO). In order to meet criteria in Chapter 17.181 MCC, the applicant submitted a “Hydrogeology Report” which indicates there is a sustainable long-term supply of groundwater for the proposed development. Peer review of the Hydrogeology Report was positive. The County requires a Declaratory Statement be recorded with the property deed to notify the applicants and subsequent owners that there may be long term groundwater supply problems and that the County is not responsible for deepening or replacing wells.

In addition, the applicant must meet the water level monitoring requirements in MCC 17.181.120. This includes a static water level measurement of all existing wells prior to recording the plat, and at least one static water level measurement prior to the issuance of a building permit for any new or existing wells intended as the water supply for the lot. This requirement is only for lots created by partitions recorded after January 1, 1998. These will be made conditions of approval.

7. There are no specific approval criteria for partitions in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres. The two proposed new parcels will be at least two acres each and are consistent with this standard. In addition, the resulting undeveloped parcels, if they can obtain septic approval, are of sufficient size and shape to meet the development standards in the AR zone.
8. MCC 17.172.560 ACCESS STANDARDS *All lots must have a minimum of 20 feet of frontage on a public right-of-way, or, when an access easement is proposed to serve one or more lots in any partitioning, the location and improvement of the roadway access shall conform to the following standards which are necessary for adequate access for emergency vehicles. Evidence that the access has been improved to these standards shall be provided prior to the issuance of building permits on the parcels served by the access easement.*
 - (a) *Have a minimum easement width of 20 feet;*
 - (b) *Have a maximum grade of 12%;*
 - (c) *Be improved with an all-weather surface with a minimum width of 12 feet;*
 - (d) *Provide adequate sight-distance at intersections with public roadways;*
 - (e) *Be provided with a road name sign at the public roadway as an identification for emergency vehicles in accordance with the Marion County Address and Street Name Ordinance.*

The applicants are proposing an access easement to serve the new parcels. The requirements in MCC 17.172.56 can be made a condition of any approval. It should be noted that the easement must also meet local Fire District standards. Under the provisions in the Marion County Address and Street Name Ordinance, the easement must be named and all properties accessing the easement must be addressed from the roadway. A list of names was submitted to the 9-1-1 Dispatch Center for review and “**Happy Wy SE**” was approved. The approved road name must be shown on the plat and prior to the recording of the plat, a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works. This will be made a condition of approval.

9. Staff recognizes the final partitioning may vary from the proposed plan due to topography or surveying. Minor variations are permitted; however, each resulting parcel shall be a minimum 2.0 acres prior to any required right-of-way dedication.
10. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: April 4, 2018

If you have any questions please contact Patty Dorr at (503) 588-5038.

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.