

Attention Property Owner: A land use proposal has been submitted for property near where you live or near 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. 18-015**

**APPLICATION:** Application of Gerald and Betty Merkwon to divide a 9.5 acre parcel into two parcels containing 2 acres and 7.5 acres each in an UT-20 (Urban Transition-20 Acre Density) zone located at 12433 Foltz Ln NE, Mt Angel. (T6S; R1W; Section 04D; tax lots 200 and 300).

**DECISION:** The Planning Director for Marion has **APPROVED** the above described partition subject to certain conditions.

**EXPIRATION DATE:** This approval is valid only when the final partitioning plat is recorded by **July 12, 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:

1. The applicant shall have both resulting parcels surveyed and platted per ORS 92.050. The surveys shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Partition Case 18-015 (Final Plat Instructions enclosed).
2. Prior to submitting the final partition plat, the applicant shall obtain an existing system evaluation on the existing septic system.
3. Public Works Land Development Engineering and Permits Division (LDEP) will not sign off on the plat until the following condition has been satisfied:  
  
*Condition A – On the partition plat, dedicate a 30-foot half-width along the subject property Mt. Angel-Gervais Road frontage for public right-of-way purposes [MCC 17.172.240].*
4. 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.

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

5. 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
6. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from by 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 agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

7. 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).
8. The applicant is notified that after this partition is complete, no more divisions of either parcel may be performed until after the property to be is annexed into the City of Mt Angel.

**APPEAL PROCEDURE:** The Marion County 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 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 120 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 **July 11, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **July 12, 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 Single Family in the City of Mt Angel Comprehensive Plan. The major purpose of this designation and the corresponding UT-20 (Urban Transition -20 Acre Density) zone is to provide areas for residential development once the property is annexed into the City.
2. The subject property is located on the east side of Mt Angel – Gervais Road NE, approximately 800 feet north of its intersection with Hayes Street NE. The subject parcel is recognized as a legal parcel. The parcel contains two communications towers and associated ground equipment, a dwelling, out buildings and well and septic systems.
3. Adjacent properties to the east and south are inside the Mt Angel Urban Growth Boundary (UGB), zoned UT-20 and currently in agricultural use. Adjacent properties to the north and west are outside the UGB, zoned Exclusive Farm Use and in commercial agricultural use. Adjacent properties to the southeast are in the city limits of Mt. Angel and in residential use.
4. The applicant proposes to divide a 9.5 acre parcel into two parcels containing 2 acres and 7.5 acres each. The proposed 7.5 acre parcel will contain the existing dwelling and out buildings. The proposed 2 acre parcel will contain the communications towers and ground equipment enclosures.
5. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following condition has been satisfied:

***Condition A – On the partition plat, dedicate a 30-foot half-width along the subject property Mt. Angel-Gervais Road frontage for public right-of-way purposes [MCC 17.172.240].***

**Marion County Surveyor** commented: “Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. A checking fee and recording fee are 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 Building Inspection initially commented that a septic site evaluation is required for the two acre parcel and an existing system evaluation is required for the existing septic system. Since the proposed two acre will contain only the existing radio towers and equipment, a septic site evaluation is not required.

Marion County Tax Assessor provided information regarding taxes of the subject parcels.

6. In order to partition land in a UT zone the standards and criteria in Chapter 16.13.310 of the Marion County Code (MCC) apply:

A. *A series partition, subdivision, residential planned development, or other residential development of a lot, as the lot existed upon application of the UT zone, that results in the division of land into four or more lots intended to be occupied by dwellings or mobile homes is not permitted in the UT zone.*

This can be made a condition of any approval.

B. *The following regulations shall apply when property line adjustments and partitioning of land regulated by Chapter 16.33 MCC, Subdivision and Partition Requirements, are proposed:*

1. *Additional street right-of-way required by adopted county standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A non-remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*

Additional right-of-way dedication was requested by Public Works and will be made a condition of approval. The city did not request a non-remonstrance agreement; therefore, this will not be made a condition of approval.

2. *The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.*

Based on the existing development on the resulting parcels, it does not appear that the partition will change or significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties. This criterion is met.

3. *When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in MCC 16.13.320, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible, the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.*

The 7.5 acre parcel will retain the existing dwelling and out buildings; the 2 acre parcel will contain two existing communications towers and associated ground equipment areas. No new homes are proposed as part of the partition. This criterion is met.

4. *When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre, a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan. The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.*

The parcel containing the existing communications towers and associated ground equipment areas will be two acres in size and is fully developed. This criterion does not apply.

5. *New lots shall have no dimension less than 80 feet.*

All lots will have dimensions in excess of 80 feet. This criterion is met.

6. *When a lot located in a residential plan designation and occupied by a nonresidential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.*

The 7.5 acre parcel will retain the existing dwelling. The 2 acre parcel will retain the existing communications towers and associated ground equipment areas. This size is the minimum area needed to accommodate the existing use. This criterion is met.

7. *The minimum lot size, in acres, for lots in nonresidential plan designations is the numerical suffix added to the UT zone (i.e., one acre, three acres, five acres, 10 acres or 20 acres), or if no suffix is added, five acres.*

The parcel is located in a residential plan designation; this criterion does not apply.

7. Based on the above findings, the request complies with the applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Planning Director

Date: June 26, 2018

If you have any questions regarding this decision contact Lisa Milliman 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.