

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. 18-025**

**APPLICATION:** Application of the Myron and Genevieve Hak Living Trust to divide two parcels containing 4.82 acres and 4.91 acres into three parcels containing 3.0 acres, 3.0 acres, and 3.73 acres each in an AR-3 (Acreage Residential-Three Acre Minimum) zone located at 8325 Redwood Dr. SE and 8328 Silver Falls Hwy SE, Aumsville. (T8S; R2W; Section 14D; tax lots 300 and 400.

**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 **November 1, 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 18-025. 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. Proposed parcels 2 and 3 shall share the existing approach to Silver Falls Highway. An easement allowing access by both parcels to the existing approach shall be shown on the partition plat.
4. Prior to submitting the final partition plat, the applicant shall provide a static water level measurement on the enclosed forms for each of the existing wells.
5. 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:**

6. The partition plat shall be recorded.

7. Prior to issuance of building permits, the applicant shall provide a static water level measurement on the enclosed form for any new wells intended as the water supply for the new undeveloped lot.
8. The applicant shall sign and submit a Farm/Forest/Sensitive Groundwater Overlay Zone Declaratory Statement to the Planning Division (enclosed). This statement shall be recorded by the applicant with the Marion County Clerk 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:

9. 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.
10. 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:

11. 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).
12. The applicant should contact the Marion County Fire District #1 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. The fire district contact is Paula Smith at (503) -588-6513.

**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 **November 1, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 2, 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.
2. The subject parcel is located on the south side of Silver Falls Highway, the east side of 82<sup>nd</sup> Avenue SE, and the north side of Redwood Avenue SE. Each parcel contains an existing dwelling, well and septic system. Both

parcels were created in their current configurations by Lot Line Adjustment 91-7 and are considered to be two legally created parcels for land use purposes.

3. Surrounding properties to the north are zoned EFU (Exclusive Farm Use) and in commercial agricultural use. Properties in all other directions are zoned AR and in residential use.
4. The applicant proposes to divide two parcels containing 4.82 acres and 4.91 acres into three parcels containing 3.0 acres, 3.0 acres, and 3.73 acres each.
5. 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 Building Inspection commented that permits are required for new construction or placement of a manufactured home.

Marion County On-Site Sewage commented that a septic evaluation will be required for the undeveloped parcel. An existing septic system evaluation is required for the developed parcels.

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

Oregon Department of Transportation commented that a condition of approval requiring proposed parcels 2 and 3 share the existing approach to Silver Falls Highway and that an easement allowing both parcels to use the same approach be shown on the partition plat.

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 in 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. This will be made a condition 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 three acres in the area in which the subject property is located. The three proposed new parcels will be at least three acres each and are consistent with this standard. In addition, the resulting undeveloped parcel, if it can obtain septic approval, is of sufficient size and shape to meet the development standards in the AR zone.
8. 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 3.0 acres prior to any required right-of-way dedication.
9. MCC 17.128.050 establishes special siting standards for dwellings near resource zones:
  - (a) *Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones when necessary to minimize potential conflicts with farm or forest uses. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses.*
  - (b) *The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, TC zones shall be required to concur in the filing of the Declaratory Statement prescribed in the respective resource zone.*

Although the proposed partition is appropriate, the County requires that a Declaratory Statement be recorded with the property deed because the subject property is near a resource zone. This serves to notify the applicant and subsequent owners that there are farm or timber operations in the area. Any approval can be conditioned to meet this criterion.

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: October 17, 2018

If you have any questions please 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.