

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/VARIANCE CASE NO. 22-014**

**APPLICATION:** Application of Ryan and Roni Rasmussen Family Trust for a variance to allow for one additional homesite off of a private road that exceeds four homes and then to partition the 6.62-acre parcel into two parcels consisting of 2.47 acres and 4.15 acres in an AR (Acreage Residential) zone located at 10813 South View Lp SE, Jefferson (T9S; R3W; Section 10D; Taxlot 3000).

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

**EXPIRATION DATE:** This approval is valid only when the final partition plat is recorded by **February 28, 2025**. 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 drainfield 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/Variance Case 22-014. 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. The applicant is advised that a Partition Plat 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:**

4. The partition plat shall be recorded.

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

5. The applicant agrees to maintain the portion of the private road that lies within their ownership.
6. 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.

7. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.
8. The new parcel shall be addressed as 10865 South View Lp, Jefferson OR 97352.

**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:

9. 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).
10. 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

**February 28, 2023.** If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 1, 2023,** 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.
2. The subject parcel is located west of South View Lp SE with its southern boundary approximately 750 feet from the southern entrance of South View Lp SE off of Sunnyside Rd SE. The property contains one legal dwelling built in 1970 and an accessory structure. The subject property was described at least as far back as Vol. 682 Page 426 recorded on May 1, 1970 and is therefore considered legal for planning purposes.
3. Surrounding uses in all directions consist of rural homesites in an AR zone.
4. The applicant proposes to divide a 7.37 acre parcel into two parcels. Recent survey work reveals the parcel to be roughly 6.62 acres instead of the 7.37 acres historical records maintain. The applicant proposes the two parcels contain 2.47 acres and 4.15 acres each per the site plan and requests a variance to allow more than four dwellings to be served by a private road.
5. Public Works Land Development and Engineering Permits (LDEP) commented:

## Engineering Advisories

- A. South View Loop is a private access easement not maintained by Marion County.
- B. MCPW Engineering is not obligating private easement improvements under the Variance criteria, such as widening. Therefore, Applicant is strongly advised to coordinate with the local/state fire marshal regarding FD access in advance of application for building permits.
- C. Cumulative ground disturbing activities of 1.0 acre or more are regulated for construction erosion by DEQ.

## Marion County Surveyor's Office commented:

### Partition:

- 1. Parcels ten acres and less must be surveyed.
- 2. Per ORS 92.050, plat must be submitted for review.
- 3. Checking fee and recording fees required.
- 4. A current or updated title report must be submitted at the time of review. Title reports shall be no more 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 Septic commented: The parcel with the existing dwelling (2.47 acres) must apply for an Existing System Evaluation & designate a full drainfield repair area. The parcel without an existing dwelling (4.15 acres) will require a site evaluation for a new septic system and a repair area.

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

All other contacted agencies either failed to comment or stated no objection to proposal.

- 6. There are no specific approval criteria for partitioning property in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres. Each of the two parcels resulting from the partition would meet this standard. The proposal meets the criteria for partitioning in the AR zone.
- 7. 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 of two acres in size.
- 8. Surrounding properties on South View Lp SE and South View Ridge Ln SE (a dead end road that branches off of South View Lp SE) have previously had variances approved to permit additional dwellings to be served off said private roads. The applicant is requesting that one additional dwelling be served off South View Lp SE. The director, planning commission, hearings officer, or board may permit and authorize a variance to allow more than four dwellings be served by a private road when it appears from the application and facts presented that the proposal satisfies the variance criteria listed in MCC 17.122.020:

*A. There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of this title; and*

The only available access to the subject property is off of South View Lp SE. The neighborhood was designed this way at creation and no additional access has ever been granted. The criterion is met.

*B. There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions; and*

The subject property was created without any access alternatives to South View Lp SE. The property is of a size that would allow it to be partitioned into additional lots that would meet the minimum lot size requirements for

the AR zone. Without this access, the property could not be partitioned or developed further. The criterion is met.

*C. The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and*

The proposed use is to create one new lot resulting in the construction of one additional dwelling. This new dwelling would require access by South View Lp SE and this access is the minimum necessary to allow development of the property. The criterion is met.

*D. The variance will not have a significant adverse effect on property or improvements in the neighborhood of the subject property; and*

The roadway currently serves approximately 24 homes off of both South View Lp SE and South View Ridge Ln SE. The newly created parcel would be the 2<sup>nd</sup> home on the left from the south entrance of the loop. It does not appear that using the existing roadway to serve one additional dwelling will have an adverse effect on property or improvements in the neighborhood, and per a phone conversation with the applicant they agree to maintain the portion of the private road that lays within their ownership as a condition of approval. The criterion is met.

*E. The variance will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

Applicant is advised that Jefferson Fire District may have additional access standards for fire apparatus and is strongly encouraged to contact them. The application is conditioned for the applicant to maintain the portion of the private road that falls within their ownership. In this manor it is the staff's belief that the addition of one dwelling to be served by South View Lp SE would not adversely affect public health or safety. The criterion is met.

*F. The variance will maintain the intent and purpose of the provision being varied.*

It does not appear that allowing South View Lp SE to serve an additional dwelling would create more traffic than could be accommodated by the road, as it has been serving roughly 24 homes with no known issues and the new dwelling being proposed is near the entrance of the loop with the property owner to maintain the portion of the road that lies within their ownership. The criterion is met.

9. Based on the above findings, the proposed partitioning complies with the criteria in the AR zone and is, therefore **APPROVED**, subject to conditions.

Brandon Reich  
Planning Director/Zoning Administrator

Date: February 13, 2023

If you have any questions please contact Brandon Reich at 503-566-4165.

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.