

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. 22-002**

**APPLICATION:** Application of Norman Bickell on behalf of Amber Marie Johnson to partition a 5.06-acre parcel in to a 2.91-acre parcel and a 2.15-acre parcel in the Acreage Residential zone (AR) located at 5100 Block of Center Street NE, Salem. (T7S; R2W; S29B; Tax lot 1300).

**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 9, 2024**. 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). 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.**

**Prior to issuance of building permits on the resulting parcels,**

3. The partition plat shall be recorded.
4. 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.
5. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.
6. The Marion County Planning Division in conjunction with Willamette Valley 911 have named the private access easement serving these parcels "**Fruitland Creek Lane NE**". **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.**

7. **The parcels shall be addressed as shown on the marked site plan and are as follows:** (tax lot numbers are applicants not assessors)

**Tax lot 1501 – 901 Fruitland Creek Ln NE**  
**Tax lot 1300 – 921 Fruitland Creek Ln NE**  
**Tax lot 1401 – 868 Fruitland Creek Ln NE**  
Tax lot 1500 – 5133 Center St NE (existing)

**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 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

8. 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).
9. The applicants should contact the Turner Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
10. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.

**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 9, 2022.** If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 11, 2022,** 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 at the 5100 block of Center Street NE Hollow, Salem, OR 97317 and is approximately 900 feet east of the intersection between Center Street NE and Cordon Road NE. The northern portion of the parcel is undeveloped with the West Middle Fork Little Pudding River flowing in a southwestern direction. The southern portion of the parcel is developed with a barn and a corral for livestock. The property was described in its current configuration under a Warranty Deed dated December 8, 1975; the Reel is 0031 and the Page is 1016. Therefore, the lot is legal for land use purposes.
3. Uses to the north, south, and east are zoned Acreage Residential (AR) and developed with small acreage home sites, as well as two churches: one to the southwest and one to the southeast.
4. The applicant proposes to divide a 5.06-acre parcel into two parcels containing approximately 2.91 acres and 2.15 acres each.

5. The new parcels shall have a numerical address with a street name to be chosen by the local emergency services. Specifically, the parcel containing 2.91 acres will have a numerical address of 921 and the parcel with 2.15 acres will have a numerical address of 868.
6. Public Works Building Inspection commented that permits may be required for any future development on private property.

### **ENGINEERING CONDITION**

**Condition A** – Prior to plat approval, record a 20’ wide x 50’ long shared access easement over #5173 Center St east driveway, said property under similar ownership, benefiting the proposed south parcel on which an accessory structure is situated south of Fruitland Creek. Reference the access easement on the plat.

The intent of this Condition is to provide viable access to the southern portion of the proposed south parcel such that Fruitland Creek will not have to be crossed nor would a new access point from Center St be necessary where access spacing standards preclude it.

**Condition B** – Prior to plat approval, under an Access Permit pave the Center St shared access approach with hot mix asphalt.

### **ENGINEERING REQUIREMENTS**

- C. The following numbered sub-requirements pertain to access:
  - 1) In accordance with County Transportation System Plan policy, partitioned property shall share a common access, where feasible. The Applicant is proposing a shared access easement being created over adjacent property under similar ownership also being partitioned under case #P21-024.
  - 2) Access from Center Street to the proposed parcels will necessitate a Fruitland Creek crossing, for which evidence of a DSL/ACOE Permit or waiver is required as a stipulation for issuance of a county Access Permit.
  - 3) At the time of application for building permits, Access Permits will be required for the developable lots.
- D. Transportation System Development & Parks Charges will be assessed at the time of application for building permits.
- E. Also show any necessary utility easements on the partition plat.
- F. The subject property is situated with the county’s Stormwater Management Area. Ground disturbances of 1.0-acre or more and/or any area within 50 feet from the centerline of Fruitland Creek will required an Erosion Permit.
- G. Utility work in Center Street public right-of-way requires Utility Permits from MCPW Engineering.

### **ENGINEERING ADVISORY**

- H. County GIS mapping indicates Fruitland Creek is on the National Wetland Inventory (NWI) List.

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

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 and the new parcels are consistent with this standard. Subsequently, the proposal meets the criteria for partitioning in the AR zone.
8. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: March 25, 2022

If you have any questions regarding this decision contact Jared Bradford at (503) 588-4173

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.