

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/PROPERTY LINE ADJUSTMENT CASE NO. 22-009**

APPLICATION: Application of Karl D. Goertzen on behalf of Richard and Karen Brooks for a partition and property line adjustment to adjust the property lines between two parcels totaling 1.43 acres and 16.98 acres to create a 1.73-acre parcel and a 16.68-acre parcel then to partition 16.68 acres into three parcels totaling 6.01 acres, 5 acres, and 5.67 acres in a Acreage Residential (AR) zone located at 12294 Summit Loop SE, Turner. (T9S, R2W, Section 20B, Tax Lot 1002).

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 17, 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 applicants shall have the resulting parcels surveyed per ORS 92.060(7). The survey shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Partition/Property Line Adjustment Case 22-009. (Final Plat Instruction enclosed).
2. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office. As per ORS 92.190 (4): The deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment.
3. Prior to recording the deeds, the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
4. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following conditions have been satisfied:

Condition A – Prior to plat approval, obtain an access permit, and under the permit pave the Summit Loop shared driveway approach.

Condition B – On the partition plat depict the following private access easements as depicted on the land use application site plan:

- Parcel 1 to Parcel 2
- Parcel 1 to adjacent undeveloped TL 092W20B001400 having no other apparent access. Confirm with the local Fire Marshall as to whether the easement connection stub needs to be configured as a fire turnaround.
- Parcel 3 extension of Billie Lane SE [PP2001-86] to Parcel 2 to enable property maintenance without a Creek crossing.

Condition C – On the plat, depict any necessary private utility easements.

Condition D – Prior to plat approval, provide notarized road maintenance agreements for Billie Lane SE and the shared access easement off Summit Loop.

5. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System has named the proposed private access easement **Karen Ln 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.**

Prior to issuance of building permits on the resulting parcels,

6. The partition plat shall be recorded.
7. The applicant shall submit evidence that the access easement has been improved to the standards in MCC 17.172. The access easement is also to provide for utilities.
8. 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 5 acres in size.
9. 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 #11 & 12 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

10. 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).
11. 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 Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
12. 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 **November 17, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 18, 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 directly east of the intersection of Summit Loop and Brooks Ln. The parcel is developed with a single-family dwelling and a farm building. The parcel has portions which are heavily wooded and in which McKinney Creek flows through. The parcel was created by partition plat 2010-004, partition case PLA/P06-039 and is considered legal for land use purposes.
3. Surrounding uses are residential in all directions, with all adjacent lots and surrounding lots being zoned AR and developed with dwellings. Further to the east there are larger Special Agriculture zoned parcels, but these are not in farm use and developed with dwellings.
4. The applicant proposes adjust the property lines between two parcels totaling 1.43 acres and 16.98 acres to create a 1.73-acre parcel and a 16.68-acre parcel then to partition 16.68 acres into three parcels totaling 6.01 acres, 5 acres, and 5.67 acres.
5. **Public Works Land Development and Engineering Permits** (LDEP) requested that the following be included in the land use decision.

ENGINEERING CONDITIONS

Condition A – Prior to plat approval, obtain an access permit, and under the permit pave the Summit Loop shared driveway approach.

Condition B – On the partition plat depict the following private access easements as depicted on the land use application site plan:

- Parcel 1 to Parcel 2
- Parcel 1 to adjacent undeveloped TL 092W20B001400 having no other apparent access. Confirm with the local Fire Marshall as to whether the easement connection stub needs to be configured as a fire turnaround.
- Parcel 3 extension of Billie Lane SE [PP2001-86] to Parcel 2 to enable property maintenance without a Creek crossing.

Condition C – On the plat, depict any necessary private utility easements.

Condition D – Prior to plat approval, provide notarized road maintenance agreements for Billie Lane SE and the shared access easement off Summit Loop.

ENGINEERING REQUIREMENTS

- E. No direct access from Parcel 3 flag section to Osborne Drive will be allowed due to a proximate roadway crest curve.
- F. At the time of application for building permits Transportation System Development & Parks Charges (SDCs) will be assessed.

G. Utility permits are required for utility service extensions within County R/W.

ENGINEERING ADVISORIES

H. McKinney Creek traversing the subject property is mapped perennial and classified as waters of the State. The Creek should be protected from soil erosion during construction activities. Furthermore, no alterations should be done within the Creek without DSL/ACOE coordination.

I. DEQ regulates ground disturbing activities, including clearing, grubbing and/or grading totaling 1.0 acre or more on any particular parcel. The Developer should verify with DEQ as to whether registration of the activities under their NDPES 1200-C Construction Erosion Program is required.

Marion County Surveyor commented:

Partition:

1. Per ORS 92.055 – Parcels over 10 acres can be unsurveyed.
2. Parcels ten acres and less must be surveyed.
3. Per ORS 92.050, plat must be submitted for review.
4. Checking fee and recording fees required.
5. 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.

Property Line Adjustment:

1. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office. As per ORS 92.190 (4): The deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.

Re-Plat:

1. Must comply with all provisions per ORS 92.185 (6).
2. Must be surveyed and platted per ORS 92.050, and the plat 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.

Turner Fire District commented:

1. Turner Fire District has no specific comments regarding the Property Line adjustment as proposed.
2. Turner Fire District provides the following specific comments regarding the Partitions as proposed.
 - a. Parcel 1; The written statement states, "This application does not propose any new structures or alternation of existing structures." However, the written statement also states, "It is proposed that Parcel 1 will obtain access directly from Summit Loop or from the accessway currently serving Parcel 2." Given that there are already two buildings (one house [Group R-3] and one barn [Group U] occupancies served by the existing accessway (driveway) serving Parcel 2, the fire apparatus access road standards would require increasing the width of this roadway to a clear width not less than 20 feet and clear height of not less than 13 feet 6 inches from Summit Loop to the point where the Parcel 2 driveway would separate to serve Parcel 1. The remaining driveways would be allowed to have the improved surfaces reduced to not less than 12 feet wide and not less than 13 feet 6 inches high. The access easements would still be required to be not less than 20 feet wide with a full clear width created and maintained.

NOTE: If Parcel 1 accesses Summit Loop directly, only the minimum 20-foot-wide easement and the clear width not less than 20 feet and clear height of not less than 13 feet 6 inches would be required.

- b. Parcel 2; It should be noted the existing driveway indicates a gate located along the East property line of Parcel 1. Even though this gate is most likely existing, TFD has requirement for gated fire apparatus access roadways which must conform to the current and all previous standards of the above-mentioned regulations.

NOTE: Parcel 2; The site plan as submitted does not provide sufficient information to include specific fire apparatus access requirements that may apply to this proposed change.

- c. Parcel 3; Turner Fire District has no specific comments regarding Parcel 3.
d. Parcels 1, 2, & 3; The site plan as submitted does not provide sufficient information to include specific fire protection water supply requirements that may apply to this proposed change. NOTE: Given there are no structures proposed for these two parcels, TFD recommends the applicants contact TFD staff to ensure they are in conformance with the current regulations for both fire apparatus access and fire protection water supply regulations.

Fire Apparatus Access and Fire Protection Water Supply Standards.

- Fire apparatus access and fire protection water supply must comply with Turner Fire District Ordinance #98-01, the Marion County Fire Code Applications Guide (MCFCAG), and the Oregon Fire Code (OFC).

Marion County Tax Assessor provided comments related to the subject property's property taxes.

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

6. Chapter 17.181 MCC establishes provisions for partitioning property in an SGO zone. In the SGO-5 zone, creating a parcel less than five acres in size requires the applicants to submit a "Hydrology Review" meeting the provisions listed in MCC 17.181. The review indicates that there is a sustainable long-term supply of ground water for the proposed development. However, the proposed parcels are all larger than 5 acres in size. Therefore, no hydrology review is needed.
7. There are no specific approval criteria for partitions or property line adjustments 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 and property line adjustment in the AR zone.
8. Based on the above findings, the proposed property line adjustment and partition complies with the applicable criteria and is, therefore **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: November 2, 2022

If you have any questions regarding this decision contact Austin Barnes 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.