

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
PROPERTY LINE ADJUSTMENT/PARTITION CASE NO.21-042**

APPLICATION: Application of Aaron Hand and James Sliger to adjust the property lines on a 10.55 acre parcel and a 4.15 acre parcel to create a 4.65 acre parcel and a 10.05 acre parcel and then to divide the resulting 10.05 acre parcel into three parcels containing 2 acres, 2.4 acres and 5.65 acres each in an AR (Acreage Residential) zone located at 3779 Winding Creek Ln SE, and 10854 Summit Loop SE, Turner. (T9S; R2W; Section 07C; tax lots 1400 and 2200).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment application subject to certain conditions.

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **September 15, 2023** (two years). 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 proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposal 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. **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, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. 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.

3. 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 Property Line Adjustment Case 20-030. 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).
4. Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the required survey.
5. 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.

6. The parcels shall be assigned addresses as follows when a partition plat is recorded:
Parcel 1: **10854 Summit Loop SE (no change)**
Parcel 2: **10850 Lyon Lane SE**
Parcel 3: **10870 Lyon Lane SE**
7. The applicant shall provide a static water level measurement for any new or existing wells intended as the water supply for the lot on the enclosed form.
8. The applicant shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement (enclosed) to the Planning Division for each resulting parcel. This statement shall be recorded by the applicant with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.
9. 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 – On the partition plat dedicate sufficient public right-of-way width along subject property Summit Loop frontage to provide a 30-foot half-width to meet the County Local road standard.

Condition B – Prior to plat approval, provide a notarized Road Maintenance Agreement (RMA) for concurrent recording with the plat regarding upkeep of the proposed private access easement.
10. 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.

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

11. After the property line adjustment/partition has been completed, 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 below be contacted to identify restrictions or necessary permits.

12. Prior to recording the deeds 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).
13. 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.
14. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements, listed in Finding #5 below, that may be required.

APPEAL PROCEDURE: The Marion County Zone Code provide 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 in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on **September 15, 2021**. If you

have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 16, 2021** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The subject properties are designated Rural Residential in the Marion County Comprehensive Plan and correspondingly zoned AR (Acreage Residential). The primary intent of the designation is to provide for rural residential development at a density sustainable with rural services.
2. The properties are located approximately 1 mile west of the intersection of Summit Loop Rd. SE and Parrish Gap Rd. SE. Review of deeds for parcel A indicates that it was described in its present configuration through deed records prior to September 1, 1977; Volume 599, Page 194. Review of Parcel B indicates that it was considered legal through Property Line Adjustment (07-23). Therefore, both are recognized as legal separate parcels for land use purposes. Both parcels are developed with single family homes and accessory structures. The parcels are serviced by individual wells and septic systems and have legal access.
3. Adjacent properties to the east, west and south are zoned AR and consist homes on small acreage lots. Parcels to the north are zoned Special Agriculture (SA) and in farm use.
4. The applicants are proposing to adjust the property lines on a 10.55 acre parcel and a 4.15 acre parcel to create a 4.65 acre parcel and a 10.05 acre parcel and then to divide the resulting 10.05 acre parcel into three parcels containing 2 acres, 2.4 acres and 5.65 acres each.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING CONDITIONS

***Condition A** – On the partition plat dedicate sufficient public right-of-way width along subject property Summit Loop frontage to provide a 30-foot half-width to meet the County Local road standard.*

Nexus is deemed appropriate with the creation of two additional buildable parcels to accommodate necessary width for roadside safety, drainage features and utilities, in general accordance with MCC 17.172.240.

***Condition B** – Prior to plat approval; provide a notarized Road Maintenance Agreement (RMA) for concurrent recording with the plat regarding upkeep of the proposed private access easement.*

Justification is to meet the code requirement under MCC 17.172.340. MCPW is able to furnish an executable document at no charge, aside from the Clerk recording fee.

ENGINEERING REQUIREMENTS

C. The following numbered sub-requirements pertain to access:

- 1) An Access Permit will be required to install the easement approach connection to Summit Loop if it is installed prior to application for building permits. Available Intersection Sight Distance will need to be field-verified by the County Inspector that it meets minimum criteria.
- 2) An Access Permit will be required for each new dwelling. If the shared access easement is installed in conjunction with one of the future dwellings, it can be done under a single Access Permit.

3) PW Engineering's willingness to issue an Access Permit(s) that would imply full-time residential crossings of Norton Creek, with said Creek presumably classified as Waters of the State, is predicated on receipt of the following documentation:

- Evidence of local or State Fire Marshall approval, or waiver if for example alternate fire suppression methods are specified as part of the building plans
- Evidence of a DSL/ACOE permit or waiver for replacement of the drainage crossing structure, as necessary.

D. Transportation & Parks System Development Charges (SDCs) will be assessed upon application for building permits.

E. Utility work in the public right-of-way such as electrical interconnection requires permits from MCPW Engineering.

Marion County Assessor's Office provided comments related to the property taxes of the subject properties. These are enclosed in the decision.

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.

Property Line Adjustment:

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, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. 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: (Re-configuration of lots or parcels and public easements within a recorded 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.

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

6. There are no specific approval criteria for property line adjustments or 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.
7. Under MCC 17.172.120(E) Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey, if a survey is required. Deed recording reference numbers shall be noted on the required survey.

The Marion County Surveyor commented that a survey (replat) is required; therefore, this will be made a condition of approval.

8. Based on the above findings, the request meets the applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: August 31, 2021

If you have any questions regarding this decision contact Lindsey King 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.