

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. 24-014**

**APPLICATION:** Application of Lance Christensen on behalf of the Dorothy Christensen Estate to partition a 6.53-acre parcel into two parcels consisting of 2.24 and 4.30-acres in an AR (Acreage Residential) zone located in the 10800 Block of Sunnyside Rd SE, Jefferson (T9S; R3W; Section 10D; Tax lot 2600).

**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 **December 9<sup>th</sup>, 2026**. 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. Per the Marion County surveyor's Office: Parcels ten acres and less shall be surveyed and monumented, and Per ORS 92.050, the plat must be submitted for review. Checking fees and recording fees are required and a 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.
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. Prior to submitting the final partition plat, the applicant shall provide a static water level measurement for the existing well on the enclosed form.
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 a Miscellaneous Permit from ODOT to close the two Sunnyside Road access approaches. Prior to issuance of building permits on proposed parcel 2, complete the access closure process with ODOT. (Note: Further comment to this is provided by LDEP and ODOT, which can be found in Finding 5)*

***Condition B** – Depict an access and utility easement on the partition plat across proposed parcel 1 to South View Loop on behalf of parcel 2.*

*Condition C – Prior to plat approval provide a notarized Road Maintenance Agreement (RMA) for South View Loop. Marion County is able to prepare an RMA at no charge, aside from County Clerk recording fees.*

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

5. The partition plat shall be recorded.
6. Prior to the issuance of building permits on the new parcel, the owners shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
7. Prior to the issuance of building permits on the new parcel, the owners shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
8. 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.

**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.
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 the findings below 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 applicants 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.
13. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.
14. The hydrogeology review submitted with the application was for a total of 2 lots. Any future partitions of the property shall require a new hydrogeology review.

**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 **December 9<sup>th</sup>, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 10<sup>th</sup>, 2024**, 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 and Primary Agriculture 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 on the south end of the named private easement South View LP SE, within 300 feet of where South View LP accesses Sunnyside RD SE. The parcel also has roughly 330 feet of frontage along Sunnyside Rd SE, which is an ODOT jurisdiction road. Much of the parcel is covered in dense, mixed forest and is significantly sloped, going from 270 feet in elevation in the southeast corner to 400 feet in elevation in the northwest corner (roughly 20% rise). There are no assessed structures on the property. The current deed for the property is found on Reel 12 Page 650, dated April 7<sup>th</sup>, 1975, and has not changed in its configuration since. The parcel is legal for land use purposes.
3. Surrounding uses are a mix of large acreage residences, forested parcels, some small-scale vineyard fields, and a small strip of industrial parcels to the northeast. The other notable feature is the subject parcel abuts the I-5 right-of-way as it goes through a narrow pass in the hills.
4. The applicant proposes to partition a 6.532-acre parcel and create two parcels consisting of 4.297-acres and 2.235-acres respectively.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Oregon Department of Transportation (ODOT) commented:

“This site is adjacent to Sunnyside Road No. 1, an I-5 frontage road, and is subject to state laws administered by ODOT. This site currently has two approaches at MP 245.00 and MP 245.02. The southernmost access at MP 245.00 is presumed to be permitted. The northern access at MP 245.02 (currently serving the dwelling) was initially constructed sometime between 2005 and 2009, then reconstructed between 2023 and 2024, both initial and re construction of that access was done without knowledge of or permission by ODOT.

Based on the above information, ODOT recommends requiring closure of one of the two accesses and obtaining a permit for the other. While the southern access is presumed to be permitted, the northern access is more appropriate based on spacing standards of OAR 734-051-4020(8). To begin the access permitting process, the applicant can contact District 3 offices at (503) 986-2900.”

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 a Miscellaneous Permit from ODOT to close the two Sunnyside Road access approaches. Prior to issuance of building permits on proposed parcel 2, complete the access closure process with ODOT.

“Sunnyside Road is a State Highway. Marion County Rural Transportation System Plan Policy 10.3.5 #11(b) states when the option is available, access shall be derived from the roadway having the lower functional class, that being South View Loop, designated as a private access easement.”

***Condition B*** – Depict an access and utility easement on the partition plat across proposed parcel 1 to South View Loop on behalf of parcel 2.

*Condition C – Prior to plat approval provide a notarized Road Maintenance Agreement (RMA) for South View Loop.*

“Marion County is able to prepare an RMA at no charge, aside from County Clerk recording fees.”

### **ENGINEERING REQUIREMENTS**

D. All vehicular access shall be derived from South View Loop.

E. Transportation System Development & Parks charges will be assessed upon application for building permits.

Marion County Survey commented:

- 1) Parcels ten acres and less must be surveyed and monumented
- 2) Per ORS 92.050, plat must be submitted for review.
- 3) Checking fee and recording fees required
- 4) A 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: “Both Parcel 1 and Parcel 2 require site evaluations.”

Marion County Building commented: “Permit(s) are required to be obtained prior to structures development and/or utilities installation on private property. Based on the contours provided in the site plans included with the application, it appears steep slopes are present, which may require an engineered design for retaining walls or other foundation system to support new structures.”

Jefferson Fire District commented: “CASE #: Partition 24-014 currently meets access standards for Jefferson Fire District, when structures are planned to be built the FD will need to review the plans for water supply and access.”

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 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 County requires a Declaratory Statement be recorded with the property deed. This notifies the applicant and subsequent owners that there may be long term groundwater supply problems and that the County is not responsible for deepening or replacing wells. The County also requires submission of static water level measurements prior to recording the plat for all existing wells, and prior to building permits for all undeveloped parcels.
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. Chapter 17.128.050 MCC 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. No special setback will be assessed as the adjacent SA zoned parcel to the south is used as an acreage residence and not a commercial farming operation and provides a buffer from the ranch grazing land further south.

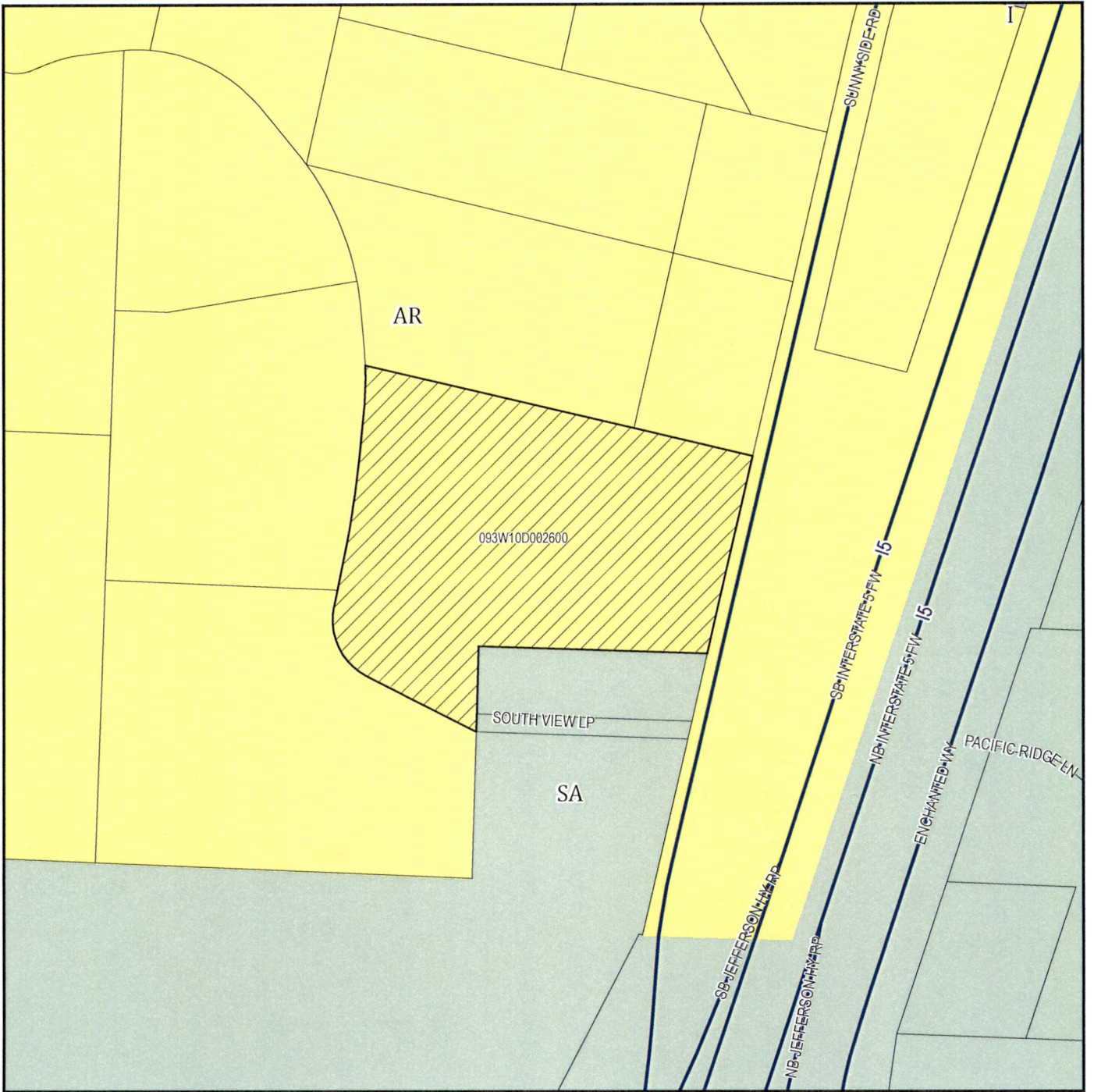
9. A partition of the subject property is located within an area identified in the Geologically Hazardous Overlay zone. Prior to the issuance of a building permit on a property with an identified geologically hazardous area, Marion County requires that a Declaratory Statement be recorded with the property deed. This serves to notify the applicant and subsequent owners that there are geologically hazardous areas present on the property and/or within the area proposed for development.
10. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore, **APPROVED.**

Brandon Reich  
Planning Director/Zoning Administrator

Date: November 22, 2024

If you have any questions regarding this decision contact Alex Seifer 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.



## ZONING MAP

**Input Taxlot(s):** 093W10D002600

**Owner Name:** CHRISTENSEN, DOROTHY ESTATE C/O L CHRISTENSEN

**Situs Address:** ( No Situs Address )

**City/State/Zip:**


**Land Use Zone:** AR

**School District:** JEFFERSON

**Fire District:** JEFFERSON

### Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 240 ft

**DISCLAIMER:** This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.