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MARION COUNTY PUBLIC WORKS

MARION COUNTY PLANNING COMMISSION REVISED STAFF REPORT

SUBDIVISION/VARIANCE: 25-001

OWNER: Daniel E. Olander and Darcy K. Olander

REQUEST: For conceptual and detailed approval to subdivide a 24.60-acre parcel into seven lots and for a variance to allow seven dwellings to be accessed off a private lane in an AR-3 (Acreage Residential - 3 acre minimum) zone.

LOCATION: 6700 Block of Peter Road SE, Aumsville (T8S; R1W; Section 19C; Tax Lot 2900).

DATE: August 11th, 2025

REPORT OF THE FACTS:

1. The subject property is designated Rural Residential in the Marion County Comprehensive Plan and correspondingly zoned AR (Acreage Residential). The property is not within any UGB (Urban Growth Boundary).
2. The property is on the north side of Highway 22, less than a half mile north of the Aumsville UGB. The property is located approximately a quarter mile south of Brownell Dr SE, and 200-feet west of Peter Rd SE. The only frontage on a public road is via an access point on the northeastern corner of the subject property which meets Peter Rd SE approximately 850-feet south of where Peter Rd SE meets Brownell Dr SE. The property has no mapped geohazard, floodplain, or wetlands. The southwestern corner is adjacent to a pond and mapped wetlands on another property. The entire parcel consists of hydric soils, and slopes generally towards the southwestern corner. The property is located within an SGO (Sensitive Groundwater Overlay) zone. The applicant has an approved and peer-reviewed hydrogeology report for the proposed lots indicating that there is a viable, long-term supply of groundwater available for the new residential wells.
3. Most adjacent properties to the north, east and west are zoned AR and developed with single family homes. The property directly north is developed with a religious organization. Properties to the east of Peter Rd SE are zoned EFU (Exclusive Farm Use) and are in active farm production, producing primarily hay, grass seed or Christmas trees. To the south are properties zoned SA (Special Agriculture) in agricultural use adjacent to Highway 22. South of Highway 22 is the City of Aumsville.

AGENCY COMMENTS:

4. Various agencies were contacted with a request for comments.

Public Works Land Development and Engineering (LDEP) requested that the following be included in the staff report for consideration by the Planning Commission.

ENGINEERING CONDITIONS

Condition A – Prior to Plat approval, provide a notarized Non-Remonstrance Agreement to be recorded concurrently with the subdivision plat documenting agreement for cooperative, collective financial cost sharing by the Developer with the adjacent Apostolic Church organization toward an annual Peter Road lignin dust suppression application, and, for financial participation toward a potential Peter Road future paving project.

Nexus is attributable to the anticipated increase in traffic. The Condition is in keeping with MCC 17.110.780(A), 17.110.800 and 17.172.320. Please note the Apostolic Christian Faith Church of Silverton (TL# 081W19C002501) has recorded a like agreement with Marion County at Reel 4027 / Pg 122.

Condition B – Prior to plat approval provide a notarized Road Maintenance Agreement for the private access easement to be recorded concurrently with the subdivision plat.

Condition C – Prior to subdivision plat approval, design and construct a minimum 20-foot wide private all-weather access road in substantial conformance with approved engineering plans as certified by the Engineer-of-Record.

Condition D – Prior to subdivision plat approval submit a stormwater attenuation plan for review and approval that addresses runoff from the proposed private road as well as parcels. If the system as designed will serve two or more parcels in aggregate, then it shall be constructed prior to plat approval. If detention is addressed as individual parcel exfiltration systems, then a template design shall be provided, and each system shall then be constructed in conjunction with its respective dwelling, with said exfiltration system to be completed prior to issuance of each respective Certificate of Occupancy.

Nexus is due to the creation of 0.5-acre plus of impervious surfaces, the sloping nature of the site, and to satisfy MCC 17.172.430.

Condition E – On the subdivision plat depict a 30-foot R/W half-width dedication for public road purposes along the subject property Peter Road frontage.

Intended to satisfy MCC 17.172.340.

ENGINEERING REQUIREMENTS

- F. Access to all parcels shall be shared from a single connection point to Peter Road.
- G. Any work, including utility work within the public right-of-way such as electrical service interconnection, will require a separate permit from PW Engineering.
- H. Developer(s) may be held responsible for excessive damage to the Peter Road gravel surface attributable to heavy truck traffic in support of onsite construction activities; it is advised to video the Road from Brownell Drive to the access point prior to any heavy hauling.

ENGINEERING ADVISORY

- I. DEQ regulates erosion control for sites of 1.0-acre plus of total disturbance through issuance of the NPDES 1200-C Construction Stormwater Erosion Permit.

Marion County Septic commented: “All 7 lots must have an approved site evaluation. Current site evaluation applications 555-25-005588 through 555-25-005594 to serve all 7 lots are in review.”

Marion County Building commented: “No Building Inspection concerns. Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property.”

Marion County Survey commented:

1. Subdivision name must be approved per ORS 92.090.
2. Must be surveyed and platted per ORS 92.050.
3. Subdivision plat must be submitted for review.
4. Checking fee and recording fees required.
5. Per ORS 92.065 - Remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
6. 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.

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

ANALYSIS AND CONCLUSIONS:

5. The applicant is proposing to subdivide a 24.60-acre parcel into seven lots and proposes a variance to allow seven dwellings to be accessed off a private lane in an AR-3 (Acreage Residential - 3 acre minimum) zone.
6. **Roads, Streets and Easement:** Standards for this section are listed in MCC 17.172.140 through 17.172.340 and include:

*17.172.140 **ENGINEERING STANDARDS AND REQUIREMENTS** Engineering standards and requirements, including but not limited to streets, drainage, access, easements, and thoroughfare improvements, shall be those currently approved by the Marion County Department of Public Works.*

Marion County Land Development and Engineering submitted conditions of approval, requirements, and advisories outlined in section 4 of this document.

*17.172.160 **DEDICATION OR DEEDING OF ROADWAY** No person shall dedicate for public use, or deed to Marion County, a parcel of land which is used or proposed to be used as a roadway without first obtaining the approval of the Board and delivering the deed to the Board for its endorsement. No dedication is effective unless the property is accepted by the Board and recorded with the Marion County Clerk’s Office.*

No public right of way dedication is proposed with this application.

*17.172.180 **DEAD-END STREETS** When it appears necessary to continue streets to an adjacent acreage, the streets shall be platted to the boundary or property line of the proposed subdivision without a turnaround. In all other cases, dead-end streets shall have a turnaround with a configuration approved by the Marion County Department of Public Works.*

No dead end streets are proposed with this application. The applicant proposes a cul-de-sac with fire turnarounds, and will need to ensure proper fire turnaround specifications are met.

17.172.200 RADIUS AT STREET INTERSECTIONS The property line radius at street intersections shall be to the Marion County Public Works Department's standards.

The standard does not apply because these are private streets. The applicant has, however, indicated that they plan to build to public street standards.

17.172.220 STREET GRADES No street grade shall be in excess of 12% unless the Commission or Hearings Officer finds that, because of topographic conditions, a steeper grade is necessary. The Commission or Hearings Officer shall require a written statement from the Director of Public Works indicating approval of any street grade that exceeds 12%.

The proposed private street would meet this standard.

17.172.240 DEDICATION OF RIGHT-OF-WAY If land to be subdivided or partitioned will cause the termination of a roadway or borders a roadway right-of-way of less than standard width, the applicant shall dedicate sufficient land to provide for a cul-de-sac or to increase the half (or halves) of right-of-way bordering the subject parcel to one-half of the standard width. Unless otherwise specified for an individual street in the Zoning Ordinance, standard right-of-way widths are subject to the standards of the Marion County Department of Public Works.

The 30-foot right-of-way width along Peter Road required by LDEP shall be a condition of approval.

17.172.260 ADDITIONAL RIGHT-OF-WAY WIDTHS Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way may be required to be dedicated to allow all cut and fill slopes to be within the right-of-way.

The 30-foot right-of-way width along Peter Road required by LDEP shall be a condition of approval.

17.172.280 PERFORMANCE STANDARDS Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this ordinance, the applicant shall meet the requirements of this section.

Marion County Land Development and Engineering did not request that a Performance & Warranty Construction Bond be submitted.

17.172.300 UTILITY EASEMENTS Utility easements meeting the approval of the Marion County Department of Public Works shall be provided to all newly created lots.

This shall be a condition of approval.

17.172.320 STREET OR ROAD IMPROVEMENTS All street or road improvements including pavement, curbs, sidewalks, signage, and surface drainage shall be in accordance with the specifications and standards prescribed by the Director of Public Works. Subdivision plats shall not have final approval until such time as the Director of Public Works, or his/her designee, is satisfied that the street improvements will be completed in accordance with the specifications and standards set forth by the Marion County Department of Public Works.

The development will be located on a private road, no upgrades are needed.

*17.172.340 **PRIVATE STREETS** In the event the subdivider or developer elects to provide private streets or thoroughfares, they shall be maintained by the Homeowners Association and a maintenance agreement shall be submitted to Marion County for review and approval prior to recording the final plat.*

The applicant proposes utilizing a private street, therefore this criterion shall be a condition of approval.

7. **Lots:** Standards for this section are listed in MCC 17.172.360 through 17.172.380 and include:

*17.172.360 **LOT SIZE** All lots approved under this Chapter shall have sufficient area to be consistent with the intent of the Comprehensive Plan and to provide adequate area for the intended structures and uses, all setbacks, access and spacing required for water supply and waste water disposal. Lots to be served by public or privately owned sewage collection and disposal system must meet the requirements and have approval of the Oregon State Department of Environmental Quality before being recorded or sold. State regulations, soil types, drainage, terrain, and location may be included as part of the criteria used by the State or County in determining appropriate lot sizes for lots using subsurface disposal of sewage. Lot size and dimension shall be as prescribed in the corresponding zone.*

The Comprehensive Plan states that all lots must be, as a minimum, two acres in size and the AR-3 (Acreage Residential) zone has a minimum lot size of three acres. The proposed lots range from 3 to 5.99 acres in size. All the lots will conform to the minimum lot size standards and are of sufficient size and shape to accommodate a dwelling.

*17.172.380 **CURVED FRONT LOT LINES** When front lot lines are on a curve or arc, the front line distance shall be indicated on the final plat by bearing and chord distance.*

As a condition of approval, all curved front lot lines will be measured and shown on the final plat by bearing and chord distance.

8. **Sewage, water and utilities:** Standards for this section are listed in MCC 17.172.400 through 17.172.440 of and include:

*17.172.400 **SEWAGE DISPOSAL** All new or refigured lots or parcels, 10 acres or smaller in size, shall be served by an authorized sewage disposal system. Subsurface sewage disposal for individual parcels shall meet the requirements of the Department of Environmental Quality (DEQ) and the Marion County building inspection division. Those subsurface sewage systems that are used by a community, sanitary district, industry, or incorporated area must be authorized by the Department of Environmental Quality (DEQ) via the Marion County building inspection division. Installation and maintenance shall be in accordance with the Department of Environmental Quality's regulations and requirements. All new or reconfigured lots or parcels with an existing on-site septic system, that were authorized by an approving authority, shall be reviewed to determine that the existing system is either located entirely on the same lot or parcel containing the existing dwelling, or that proper easement is provided to allow the continued use and maintenance of the system. The commission, director, or hearings office may require connection to an existing sewage collection and treatment system regardless of lot suitability for subsurface disposal if the commission, director, or hearings officer deems it necessary and provided the connection is available*

A condition of approval shall require the applicant obtain a favorable septic approval for each proposed lot prior to the subdivision plat being recorded. In addition, the County On-site Wastewater Specialist is required to sign the plat.

17.172.420 WATER SUPPLY All lots or parcels shall be served by an authorized public or private water supply system or individual private wells.

- (a) **Public or Private Systems:** Public or private systems shall meet the requirements of the Oregon State Health Division with reference to chemical and bacteriological quality. In addition, such systems must meet the quantity, storage, and distribution system requirements of the State Health Division and the Marion County Department of Public Works.*
- (b) **Individual Private Wells:** Individual private wells must meet the construction requirements of the Oregon State Water Resources Department and be located in accordance with requirements of the State Health Division in relation to public or private sewage disposal systems. The bacteriological quality of this water may be determined through the Marion County Health Department. Upon receiving the recommendations from the State Health Division or Marion County Health Department, the Hearings Officer or Commission may require the use of an engineered public or private water system in any proposed subdivision. Other criteria to be considered in making this determination are the recommendations contained in the Marion County Water Quality Management Plan, Marion County Comprehensive Plan, and Chapter 181 of the Marion County Rural Zoning Ordinance.*

The applicant indicates that water will be provided by individual private wells, not by a private or public water system. Privately owned wells — including their location — are not regulated by Marion County. Wells in the development must meet the requirements of the Oregon Water Resources Department.

17.172.430 STORMWATER MANAGEMENT. The impact of proposed of subdivisions and partitions on stormwater runoff shall be evaluated and potential adverse impacts shall be mitigated. Where evidence indicates stormwater runoff will have an adverse impact on a drainage system or natural drainage network, the developer shall demonstrate that proposed stormwater management on the subject property will compensate for the proposed change per county standards. Compliance with this requirement shall be demonstrated by compliance with department of public works engineering standards.

Marion County Land Development and Engineering as well as Oregon DEQ regulate stormwater detention. LDEP requires a stormwater attenuation plan be submitted for review prior to the subdivision plat being approved. This shall be a condition of approval.

17.172.440 UNDERGROUND UTILITIES EASEMENTS Underground easements for utilities and overhead utility facilities shall be provided by the subdivider and set forth on the final plat. When possible, such easement shall be centered on or bordering a lot line. The subdivider shall provide easements on both sides of all road or street rights-of-way of 60 feet or less.

No street rights-of-way are being proposed. Utility easements meeting this standards shall be a condition of approval.

9. **Access Standards:** *MCC 17. 172.560 requires that all lots must have a minimum of 20 feet of frontage on a public right-of-way, or, when an access easement is proposed to serve one or more lots in any partitioning, the location and improvement of the roadway access shall conform to the following standards which are necessary for adequate access for emergency vehicles. Evidence that the access has been improved to these standards shall be provided prior to the issuance of building permits on the parcels served by the access easement.*

- (a) Have a minimum easement width of 20 feet;*

- (b) *Have a maximum grade of 12%;*
- (c) *Be improved with an all-weather surface with a minimum width of 12 feet;*
- (d) *Provide adequate sight-distance at intersections with public roadways;*
- (e) *Be provided with a road name sign at the public roadway as an identification for emergency vehicles in accordance with the Marion County Address and Street Name Ordinance.*

The proposed private street shall meet these standards as a condition of approval.

10. **Sensitive Groundwater Overlay (SGO) Zone:** *MCC Chapter 17.181 provides standards for development within an SGO zone, specifically section 17.181.120 (B) provides monitoring requirements for subdivisions in SGO zones:*

- 1. *An approved water-level monitoring plan is required as a condition of approval for subdivisions.*
- 2. *The monitoring plan shall be submitted to the county for peer review and is subject to approval by the county.*
- 3. *The monitoring plan shall be approved and implemented before building permits are issued.*

An approved water-level monitoring plan shall be made a condition of approval, and no building permits will be issued prior to the plan being approved by the County.

- 4. *A minimum of one observation well per 15 lots is required in each subdivision and at least one observation well is required for each phase of a subdivision. Monitoring shall begin at the start of development of Phase 1 of an approved subdivision. A report that includes an analysis of data collected to date shall be submitted to the county for peer review prior to approval of the next phase of development.*

This standard is not required as there are only 7 lots being developed.

- 5. *Evidence of water level declines shall require preparation of a hydrogeology study prior to the release of the next phase for development if the county determines that the available data suggests that groundwater supplies may not be sufficient for additional development.*

There are no phases for this development and as such this standard does not apply.

- 6. *Access easements that allow county and OWRD personnel to measure water levels shall be recorded with deeds for lots containing an observation well as a condition of approval of the subdivision.*

This shall be a condition of approval.

Staff has considered MCC 17.181.140 and does not recommend any conditions from that section of code as the size and nature of this development do not warrant it.

10. **Variance:** Standards for this section are found in MCC 17.122.020 and include:

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

The applicants propose a variance to MCC 17.110.800 (Dwellings and all other buildings to be accessible to public street) which limits the number of dwellings served by a private road to four (without frontage

on a public right-of-way) unless they were created prior to May 1st, 1977. The subject property has 60-feet of frontage on a public right-of-way. The configuration of this parcel predates the current owner and constrains the way in which a road may be constructed off Peter Road SE to access the proposed parcels. Adherence to the four dwelling/parcel limitation would decrease the amount of parcels that could be created within this 24.6-acre property that could be fully developed if not for the constrained access. The applicant argues that the value of each of the lots will be approximately \$250,000, that adherence to MCC 17.110.800 would present an opportunity cost of approximately \$750,000, and that this estimated sum constitutes an unreasonable financial hardship. The purpose of the acreage residential zone is to implement the rural residential designation for exception lands which are intended as areas to provide housing for the segment of the population desiring a rural homesite. The subject parcel could not be developed to its full potential within the AR-3 zoning without modification to requirements of MCC 17.110.800. This is a practical difficulty which can be relieved by granting this variance. The criterion is met.

2. 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 unusual circumstance that applies to the subject property is the way it has been configured. The parcel is a rectangular 24.6-acre parcel, with a small, curved portion extending from the northeast corner which terminates at the right-of-way for Peter Road. The bulk of the property is separated from the right-of-way by other rural residential properties along Peter Road. It is unusual for such a large AR parcel to have such little frontage on the right-of-way. The criterion is met.

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

The property is in the AR-3 zone, where the minimum parcel size is 3-acres. The applicant proposes a subdivision to create 7-parcels. The property could technically be partitioned into 8-parcels, but the southernmost area has particularly wet soils which are being consolidated into a 5.99-acre parcel. The proposed degree of variance to allow for 2 additional parcels and dwellings accessed off the proposed private road (without frontage on a public right-of-way) is the minimum degree of variance required to permit the subdivision. The criterion is met.

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

The applicant proposes to construct a private street with the same standards as a full public street. The proposed private road will allow for safe and orderly access to the proposed parcels in such a way that does not interfere with adjacent rural residential, religious organization, and agricultural uses. Stormwater attenuation plans will be required prior to plat approval, and if a stormwater system will serve more than two parcels it shall be required to be constructed prior to plat approval. The stormwater requirements and permitting through Marion County Land Development, Engineering, and Permits shall ensure that runoff created by additional impervious surfaces permitted by the proposed variance is adequately contained in such a way that does not interfere with adjacent rural residential, religious organization, and agricultural uses. The criterion is met.

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

The street will be designed to full public street standards, and accommodate fire apparatus, delivery vehicles, and passenger cars without creating hazards to those using the roadway or adjoining properties. The proposed street design will accommodate the level of traffic produced by this 7-parcel subdivision in such a way that does not produce an adverse effect on the health or safety of persons in the vicinity. The criterion is met.

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

The purpose of MCC 17.110.800 is to ensure that access to dwellings is safe and capable of accommodating emergency vehicles. Often private roads are smaller than public roads, and limiting the number of dwellings accessed off them is necessary to maintain safety of the residents. The applicant proposes a private road developed to the full width prescribed by Marion County for a public road. The proposed road will have a turnaround that meets county and fire district standards, ensuring safe and efficient access for emergency vehicles. The proposed variance to allow for 7 dwellings to be accessed off this road is therefore consistent with the intent and purpose of the provision in MCC 17.110.800. The criterion is met.

STAFF RECOMMENDATION:

Based upon a review of the subdivision and zoning provisions of the Marion County Rural Zoning Ordinance and comments received from commenting agencies, staff recommends the proposed subdivision be given detail approval subject to the following conditions:

1. Prior to recording the final plat, the applicants shall obtain a septic site evaluation from the Marion County Septic Division on each undeveloped parcel.
2. The applicant shall submit documentation satisfactory to the Marion County Surveyor to accomplish the final subdivision plat. The applicant is advised that a plat service report from a title company must be submitted with the final mylar.
3. If front lot lines are on a curve or arc, the front-line distance shall be indicated on the final plat by bearing and chord distance.
4. Utility easements meeting the approval of the Marion County Department of Public Works shall be provided to all newly created lots.
5. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
6. In accordance with Marion County Ordinances and OAR 340-21-060, during the land clearing and road construction phase of this development, dust suppression measures such as water trucks shall be employed as necessary to prevent off site deposition of dust generated by the construction activities or related vehicular traffic on adjacent properties.
7. All parcels will be required to submit a Sensitive Groundwater Overlay declaratory statement prior to issuance of building permits.
8. The applicant shall submit a water-level monitoring plan to the county. The plan shall be peer reviewed by the county at the expense of the applicant and is subject to approval by the county.

9. Prior to building permits being issued, the water-level monitoring plan shall be approved and implemented.
10. Prior to Plat approval, provide a notarized Non-Remonstrance Agreement to be recorded concurrently with the subdivision plat documenting agreement for cooperative, collective financial cost sharing by the Developer with the adjacent Apostolic Church organization toward an annual Peter Road lignin dust suppression application, and, for financial participation toward a potential Peter Road future paving project.

Nexus is attributable to the anticipated increase in traffic. The Condition is in keeping with MCC 17.110.780(A), 17.110.800 and 17.172.320. Please note the Apostolic Christian Faith Church of Silverton (TL# 081W19C002501) has recorded a like agreement with Marion County at Reel 4027 / Pg 122.

11. Prior to plat approval provide a notarized Road Maintenance Agreement for the private access easement to be recorded concurrently with the subdivision plat.
12. Prior to subdivision plat approval, design and construct a minimum 20-foot wide private all-weather access road in substantial conformance with approved engineering plans as certified by the Engineer-of-Record.
13. Prior to subdivision plat approval submit a stormwater attenuation plan for review and approval that addresses runoff from the proposed private road as well as parcels. If the system as designed will serve two or more parcels in aggregate, then it shall be constructed prior to plat approval. If detention is addressed as individual parcel exfiltration systems, then a template design shall be provided, and each system shall then be constructed in conjunction with its respective dwelling, with said exfiltration system to be completed prior to issuance of each respective Certificate of Occupancy.

Nexus is due to the creation of 0.5-acre plus of impervious surfaces, the sloping nature of the site, and to satisfy MCC 17.172.430.

14. On the subdivision plat depict a 30-foot R/W half-width dedication for public road purposes along the subject property Peter Road frontage.

John Speckman
Associate Planner

Date: September 9, 2025

If you have any questions regarding this memo contact John Speckman 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.