



**Marion County**  
OREGON

**SUBDIVISION APPLICATION**

**Do not double-side or spiral bind any documents being submitted**

**RECEIVED**  
JUN 22 2023  
**Marion County**  
**Planning**

**Fee: Please check the appropriate box:**

- Subdivision - \$2670+\$25/lot
- Subdivision in an SGO Zone - \$2970+\$25/lot
- Amend Conditions - \$800

Replat - \$2710  
Phases - \$750

PROPERTY OWNER(S): Whitaker LT, Oran B Whitaker, Leslie A Whitaker	ADDRESS, CITY, STATE, AND ZIP: 1605 Tumalo Drive SE, Salem, OR 97317
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: Cascadia Planning and Development Services Attn: Steve Kay	ADDRESS, CITY, STATE, ZIP PO Box 1920, Silverton, OR 97381
DAYTIME PHONE (if staff has questions about this application): 503-804-1089	E-MAIL (if any): steve@cascadiapd.com
ADDRESS OF SUBJECT PROPERTY: 4200 Victor Point Road NE, Silverton, OR 97381	TOTAL PROPERTY ACREAGE: 9.14 acres ACREAGE TO BE SUBDIVIDED: 9.14 acres
THIS APPLICATION IS MADE FOR APPROVAL OF A PROPOSED (check one): <input checked="" type="checkbox"/> SUBDIVISION <input type="checkbox"/> PLANNED UNIT DEVELOPMENT	
WILL A RAILROAD HIGHWAY CROSSING PROVIDE THE ONLY ACCESS TO THE SUBJECT PROPERTY? ( ) YES (X) NO IF YES, WHICH RAILROAD:	

FOR OFFICE USE ONLY			
Township <b>7S</b>	Range <b>2W</b>	Section <b>020</b>	Application elements submitted:
Tax lot number(s) <b>500</b>	<input checked="" type="checkbox"/> Title transfer instrument		
Zone: <b>AR</b>	<input checked="" type="checkbox"/> Subdivision Layout		
Zone map number:	<input checked="" type="checkbox"/> Applicant statement		
TPA/header	<input checked="" type="checkbox"/> GeoHazard Peer Review (if applicable)		
Case Number: <b>23-002</b>	<input checked="" type="checkbox"/> Filing fee		
Urban <input type="checkbox"/> Rural <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> SGO Zone (if applicable)		
Application accepted by: <b>AB</b>	Set up by: <b>AB</b>	Road name information <b>N/A</b>	
Date: <b>6/22/2023</b>	<input checked="" type="checkbox"/> Pre-App. Submitted		
Date determined complete:			

PLEASE LIST BELOW PROPOSED STREET NAMES, IN THE ORDER OF PREFERENCE FOR THE NUMBER OF NEW STREETS IN THE PROPOSED SUBDIVISION (see the attached information sheet):

(1) No new streets are proposed.

(2)

(3)

(4)

(5)

(6)

NUMBER OF LOTS TO BE CREATED:

4

RANGE OF LOT SIZES:

Smallest 87,924 s.f. Largest 129,282 s.f. Average 99,502 s.f.

IF THE PROPERTY IS SERVED BY A COUNTY ROAD, INDICATE THE NAME (if the property borders more than one county road or city street please list: Victor Point Road NE

IS THIS ROAD PAVED? Yes IF NOT, PLEASE DESCRIBE THE TYPE AND LEVEL OF IMPROVEMENT ON THE ACCESS ROAD TO THE PROPERTY:

SEWAGE DISPOSAL TO BE PROVIDED BY:

- Septic tank
- Public sewer system

WATER SUPPLY TO BE PROVIDED BY:

- Individual well
- Community water system

IF SEWAGE DISPOSAL AND WATER SUPPLY IS PROVIDED THROUGH A COMMUNITY SERVICE, PLEASE LIST THE NAME OF THE SERVICING AGENCY OR DISTRICT AND ENCLOSE A LETTER FROM THE AGENCY OR DISTRICT VERIFYING THAT SERVICE WILL BE PROVIDED:

**IN ORDER TO ASSURE AN ADEQUATE EVALUATION OF YOUR PROPOSAL, PLEASE ANSWER THE FOLLOWING QUESTIONS (attach additional sheet if needed)**

PLEASE DESCRIBE THE CURRENT USE OF THE PROPERTY. IF THE PROPERTY CONTAINS MORE THAN ONE USE, ESTIMATE THE NUMBER OF ACRES DEVOTED TO EACH USE:

See Attached Narrative.

DESCRIBE THE CURRENT USE OF THE LANDS SURROUNDING THE SUBJECT PROPERTY (include land across roads):

See Attached Narrative.

DESCRIBE THE INTENDED USE OF THE PROPERTY:

See Attached Narrative.

PLEASE DISCUSS THE PROPOSED DENSITY AND TYPE OF DEVELOPMENT IN REGARDS TO THE INTENT OF THE COMPREHENSIVE PLAN AND ZONING DESIGNATIONS APPLICABLE TO THE SUBJECT PROPERTY:

See Attached Narrative.

DESCRIBE HOW THE PROPOSED DESIGN MAKES THE BEST USE OF THE PROPERTY, CONSIDERING LOT SIZE, ROAD PLACEMENT, OPEN SPACE, ETC.:

See Attached Narrative.

**THE APPLICANT(S) SHALL CERTIFY THAT:**

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- C. I/We hereby grant permission for and consent to Marion County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.
- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

**PRINTED NAME AND SIGNATURE** of each owner of the subject property.

Gran B. Whitaker      Gran B Whitaker  
Print Name                                  Signature

Leslie A. Whitaker      Leslie A. Whitaker  
Print Name                                  Signature

\_\_\_\_\_  
Print Name                                  Signature

\_\_\_\_\_  
Print Name                                  Signature

DATED this 14th day of June, 2023



PO Box 1920, Silverton, OR 97381  
www.cascadiapd.com / 503-804-1089

**MARION COUNTY  
APPLICATION FOR  
LAND USE REVIEW**

**VICTOR POINT ROAD  
SUBDIVISION**

Location: 4200 Victor Point Rd NE  
Silverton, OR 97381  
Tax Lot 500  
of Tax Map 71W02D  
Marion County, Oregon

Prepared by: Steve Kay, AICP  
Mason McGonagall, Ph.D. Arch

Prepared for: Oran and Leslie Whitaker  
1605 Tumalo Drive SE  
Salem, OR 97317

June 1, 2023

## APPLICANT'S STATEMENT

**PROJECT NAME:** Victor Point Subdivision

**REQUEST:** Preliminary Plat Approval for a 4-Lot Subdivision

**ASSESSOR'S DESCRIPTION:** Tax Lot 500 of Tax Map 71W02D  
Marion County, Oregon

**APPLICANT'S REPRESENTATIVE:** Steve Kay, AICP  
Cascadia Planning + Development Services  
P.O. Box 1920  
Silverton, OR 97381  
503-804-1089  
steve@cascadiapd.com

**APPLICANT/PROPERTY OWNER:** Whitaker LT, Oran B. Whitaker,  
Leslie A Whitaker  
1605 Tumalo Drive SE  
Salem, OR 97317

**SITE SIZE:** 9.14 acres +/-

**SITE ADDRESS:** 4200 Victor Point Road NE  
Silverton, OR 97381

**I. APPLICABLE REGULATIONS**

**A. Marion County Comprehensive Land Use Plan**

**B. Marion County Rural Zoning Code**

**Chapter 17.113: Lot Area, Yards, and Height Restrictions**

**Chapter 17.117: Residential Structures**

**Chapter 17.118: Off-Street Parking and Loading**

**Chapter 17.128: AR (Acreage Residential) Zone**

**Chapter 17.172: Subdivision and Partition Requirements**

**Chapter 17.182: Sensitive Groundwater Overlay Zone**

**Chapter 17.182: Geologically Hazardous Areas Overlay Zone**

## II. BACKGROUND:

The applicant and property owner are requesting approval of a Subdivision application for the subject property. The site is defined by the Marion County Assessor's Office as Tax Lot 500 of Tax Map 71W02D. The property has an assigned address of 4200 Victor Point Road NE and contains a total of 9.27 acres.

Located in unincorporated Marion County, Tax Lot 500 is situated in a rural area that is characterized by rolling hills, forest land, and farmland. The topography slopes down across the site in a northeast direction from the Victor Point Road NE frontage. The nearest crossroad is Sunset Lane NE to the northwest of the site. The property is zoned AR (Acreage Residential – 2 acres) and is currently developed with a single-family dwelling and an accessory structure. To the northwest and southeast of the site are larger AR zoned parcels which contain single-family dwellings. To the northwest is an AR zoned parcel that is located within the city limits of Silverton. To the southwest across Victor Point Road NE is a large EFU (Exclusive Farm Use) parcel that is developed with a single-family home and Christmas tree farm.

County Maps indicate that the site is within an SGO-5 sensitive groundwater overlay zone, therefore parcels within this area require a Hydrogeology Review. The applicant's geologist completed the required analysis and determined that only 21.14% of the available water in the aquifer will be used with the addition of 3 wells within the study area, and there is ample water for existing uses and the 4-lot subdivision. The attached Peer Review of Hydrogeological Review concurs with findings within the geologist's report (see Exhibit 4).

The County's Excessive Slope Areas Map indicates that a portion of the subject property contains slopes greater than 20%. Therefore, a geotechnical report will need to be submitted prior to the issuance of building permits for new development on the site. A review of County Maps and a survey of the site concluded that there are no designated floodplains, hydric soils, or wildlife habitats on the property.

The attached Preliminary Site Plan indicates that the applicant intends to retain the existing dwelling and accessory structure on Lot 1. Lots 2, 3, and 4 will be developed with home sites as illustrated on the preliminary plan. The submitted Preliminary Plat demonstrates that the proposed lots meet the dimensional standards of the AR zone (see Exhibit 3).

The applicant's Preliminary Site Plan demonstrates how the proposed land division meets applicable development standards (see Exhibit 4). The plan indicates that the existing driveway, well, and septic field will be retained for the existing home on Parcel 1. This existing driveway will be shared with Lot 2, providing access to a new home site, well, and septic field on that parcel. A new shared driveway is proposed for Lots 3 and 4. The Preliminary Site Plan demonstrates that these lots can also accommodate new home sites, wells, and septic fields. In addition, the site plan demonstrates that maximum 15% slope driveways can feasibly provide access to each home site, and turnarounds meeting Fire Code standards will be provided for both shared driveways.

This Applicant's Statement addresses applicable provisions of the Marion County Comprehensive Land Use Plan and the Marion County Rural Zoning Code. A copy of the signed Application Form, Property Deed, Preliminary Development Plans, and Peer Review of Hydrogeology Review have been attached to this application. The applicant's narrative and exhibits demonstrate that the submitted Subdivision application meets the County's criteria for approval.

**III. FINDINGS**

**A. MARION COUNTY COMPREHENSIVE LAND USE PLAN**

**COMMENT:**

Except where required by the Marion County Rural Zoning Code, this application is not required to address the County's goals and policies related to the development of land, since the Marion County Comprehensive Land Use Plan is implemented by the Code.

**B. MARION COUNTY RURAL ZONING CODE**

**Chapter 17.113: Lot Area, Yards, and Height Restrictions**

**Section 17.113.010: New Buildings to be on a Lot.**

**Every building erected shall be located on a lot as herein defined.**

**COMMENT:**

The attached Existing Conditions Plan indicates that a single-family dwelling and an accessory structure are currently developed on the subject site. The applicant intends to retain these structures on Lot 1. The submitted Preliminary Site Plan illustrates that Lots 2-4 will be developed with additional single-family dwellings (see Exhibit 3). The site plan also demonstrates how each new dwelling will be provided with access and utility services on each of the proposed lots.

**Section 17.113.020: Lots Not to be Reduced Below Minimum.**

**No lot or parcel of land held under separate ownership at the effective date of the ordinance codified in this title shall be separated in ownership or reduced in size below the minimum lot width or lot areas required by this title, nor shall any lot or parcel of land held under separate ownership at the effective date of the ordinance codified in this title, which has a width or an area less than required by this title, be further reduced in any manner.**



**COMMENT:**

The AR zone requires a minimum lot size of 2 acres. Per the attached Preliminary Plat, Lot 1 contains 2.06 acres, Lot 2 contains 2.09 acres, Lot 3 contains 2.02 acres, and Lot 4 contains 2.97 acres (see Exhibit 3). Each proposed parcel is suited for single-family residential use, and each parcel conforms to development standards applicable to the AR Zone.

**Section 17.113.030: Lot or Yard Areas not to be Separated from the Lot Containing the Building.**

**No portion of a lot necessary to provide the required area per dwelling unit shall be separated in ownership from the portion of the lot on which the building containing dwelling units is located. No required yard or other open space around an existing building shall be separated in ownership from the portion of the lot upon which the building is located.**

**COMMENT:**

The attached Preliminary Site Plan indicates that the required yard areas are not separated from lots which contain the proposed single-family dwellings (see Exhibit 3).

**Section 17.113.040: Yard Areas not to be Reduced.**

**No lot area shall be so reduced or diminished that the yards or other open space shall be smaller than prescribed by this title, nor shall the number of dwelling units be increased in any manner except in conformity with the regulations herein established.**

**COMMENT:**

As demonstrated by the submitted Preliminary Site Plan, all requirements for yard areas can be met at the time of development (see Exhibit 3).

**Section 17.113.050: Yards Apply Only to One Building.**

**No required yard or other open space or required driveway provided around or for any building or structure for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building, nor shall any yard or other required space on an adjoining lot be considered as providing a yard or open space on the lot whereon the building is to be erected.**

**COMMENT:**

The applicant's Preliminary Site Plan demonstrates that this yard requirement for each building is met (see Exhibit 3).

**Section 17.113.060: Yards to be Unobstructed.**

Every required front, side and rear yard shall be open and unobstructed by buildings or structures from the ground to the sky except for those projections and accessory structures permitted by this title.

**COMMENT:**

The submitted Preliminary Site Plan demonstrates that the required yards are unobstructed (see Exhibit 3). When building permits are requested for the homesites on Lots 2, 3, and 4, the County will verify that all setback standards are met.

**Section 17.113.070: No Parking in Front Yards, Yards Adjacent to a Street, or Landscaped Areas.**

No parking shall be allowed exclusive of driveways within the required front yard areas. The side yard and rear yard areas may be used for parking of vehicles unless otherwise prohibited by this title. The yard areas and driveways adjacent to a street shall not be used for the permanent storage of utility trailers, house or vacation trailers, boats or other similar vehicles.

**COMMENT:**

The attached Preliminary Site Plan demonstrates that parking areas will be installed for each homesite and will meet the above standards (see Exhibit 3). The applicant does not intend to permanently store or park vehicles which are prohibited by this title.

**Section 17.113.080: Average Yard Setback Adjacent to a Street (Front and Exterior Side Yards).**

Every building shall be set back from the front lot line at least 20 feet, except in the instance where the average depth of the other buildings on the same side of the street is between 20 and 10 feet, then the average depth may be used. The average depth is the average of the distance from the closest part of the foundation of the existing buildings to the front property line where the existing buildings are within 200 feet of the center of the proposed building, on the same side of the street, within the same block.

If existing buildings are within 10 feet of the property line then no less than 10 feet shall be used in figuring the average, or if existing buildings are more than 20 feet from the property line then the minimum requirement of 20 feet shall be used in figuring the average.

When, by this title or any other ordinance, a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply.

**COMMENT:**

The attached Preliminary Site Plan demonstrates that the above setback standards are met (see Exhibit 3).

**Section 17.113.090: Front Yard Projections.**

Planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features of not more than 24 inches, from main buildings, uncovered porches, covered but unenclosed porches when not more than one story high and which do not extend more than 10 feet beyond the front walls of the building, but in no case shall such projection come closer than 10 feet from the property line and the floors of which are not more than four feet above grade, are exempt from the front yard setback provisions and need not be included when determining the average setback.

**COMMENT:**

The applicant is requesting Preliminary Plat approval for a 4-lot subdivision of Tax Lot 500 of Tax Map 71W02D. The submitted Preliminary Site Plan demonstrates that the proposed home sites meet the above projection standards (see Exhibit 3).

**Section 17.113.100: Side Yard Projections.**

- A. Cornices, eaves, gutters, and fire escapes, when not prohibited by any other code or ordinance, may project into a required side yard not more than one-third of the width of the side yard, nor more than three feet in any case.
- B. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, and ornamental features may project not more than one and one-half feet into a required side yard; provided, however, chimneys and flues shall not exceed six feet in width.
- C. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the side yard property line when they are three feet or less in height from ground level.

**COMMENT:**

The submitted Preliminary Plat and Preliminary Site Plan demonstrate that the above projection standards can be met for each of the proposed lots (see Exhibit 3). At the time of development, the County will provide further review of building plans to ensure all side yard projections and setbacks meet County standards.

**Section 17.113.110: Rear Yard Projections.**

- A. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters, and other ornamental features may project not more than one and one-half feet into a required rear yard; provided, however, chimneys and flues shall not exceed six feet in width.
- B. A fire escape, balcony, outside stairway, cornice or other unenclosed, unroofed projections may project not more than five feet into a required rear yard and be set back at least six feet from any property line.
- C. Planter boxes, steps, uncovered porches, covered but unenclosed porches including covered patios when not more than one story high and the floors, which are not more than four feet above grade and which shall not come closer than 14 feet from the rear lot line, are exempt from the minimum rear yard depth requirement.
- D. No permitted projection into a required rear yard shall extend within 10 feet of the centerline of an alley, or of a rear lot line if no alley exists, or within six feet of an accessory building.
- E. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the rear yard property line when they are three feet or less in height from ground level.

**COMMENT:**

The applicant is currently requesting Preliminary Plat approval for a 4-lot subdivision of the subject site. When development of new homesites on Lots 2, 3, and 4 are proposed, the County will review detailed plans to ensure all rear yard projections and setbacks meet County standards.

**Section 17.113.120: Height Exceptions.**

- A. Transmission towers and chimneys may exceed the maximum height of the zone in which they are located.
- B. Towers containing wind turbines or windmills may exceed the maximum height requirements of the zone in which they are located, provided they:
  - 1. Meet the required yard setbacks in the applicable zone; and
  - 2. Are set back from all property lines a distance equal to at least the tower height plus the length of one blade at its total extended height.
- C. Electronic communication antennas, such as radio and television receiving antennas, may exceed the height limits, but must meet provisions regulating such installation.

- D. Ham (noncommercial) radio transmitting towers and antennas may exceed the height requirements but must meet any other provisions regulating such installations.
- E. Steeples may exceed the maximum height of the zone in which they are located, provided:
  - 1. That they do not contain any habitable space;
  - 2. That they do not exceed 185 feet in height; and
  - 3. That the planning commission or hearings officer permits a greater height, as a conditional use, when they are within 185 feet of or are in an RS zone.

**COMMENT:**

The applicant is not proposing to install towers, antennas, or steeples with this application. No height exceptions are proposed for the lots, therefore the above standards do not apply.

**Section 17.113.140: Stream Setbacks.**

To prevent encroachment of potential hazards in the floodplain of natural waterways, particularly those not having a designated floodplain, and to permit or afford better light, air, vision, stream pollution control, and to preserve the natural scenic amenities and vistas along the streams in all zones, there shall be a special setback from open waterways for all structures, fill, and outdoor storage as provided herein:

- A. All septic tank, septic tank drain field, cesspool and pit privy disposal facilities shall meet State of Oregon Department of Environmental Quality (DEQ) standards.
- B. Outdoor storage, fill, and structures, with the exception of bank stabilization structures, dams, weirs, cable crossings, power poles, docks, bridges, culverts, and ramps and streets leading thereto, are prohibited within the following setback areas:
  - 1. Thirty feet from natural lakes of one acre or more, reservoirs of one acre or more, and from the following natural waterways more than 15 feet wide: Willamette River, Santiam River, North Fork of the Santiam, Butte Creek, and the Pudding River.
  - 2. Twenty feet from all other perennial rivers and streams, and any portion of the rivers and streams in subsection (B)(1) of this section that are less than 15 feet in width.

- C. All measurements are horizontal and perpendicular from the line of nonaquatic vegetation, or the ordinary high waterline, whichever is furthest from the waterway.
- D. Where the combination of setbacks required in the applicable zone and the stream setback result in a buildable lot depth of less than 50 feet an adjustment to the stream setback or the setback requirements of the applicable zone may be granted provided the adjustment is the minimum necessary to accommodate the proposed structure.

**COMMENT:**

The submitted Existing Conditions Plan indicates that the subject site is not located in close proximity to streams or floodplain hazards. As such, septic field locations which are illustrated on the attached Preliminary Site Plan meet the above standards (see Exhibit 3).

**Chapter 17.117: Residential Structures**

**Section 17.117.020: Lot Coverage by all Accessory Structures.**

The lot coverage by all accessory structures, except fences in connection with uses in RS zones, shall not be more than 25 percent of rear yard area.

**COMMENT:**

The attached Preliminary Site Plan illustrates that the existing accessory structure on proposed Lot 1 complies with the above standard. The Preliminary Site Plan demonstrates that if accessory structures are developed on Lots 2-4, they can also meet the above standards (see Exhibit 3).

**Section 17.117.030: Height.**

- A. The maximum peak height of any residential accessory structure shall be nine feet at the lot line. Such maximum height may be increased one foot for each one foot of distance from the lot line to a maximum height of 35 feet. Roof drainage shall be accommodated within the confines of the property.
- B. An accessory structure in an EFU, SA, FT or TC zone must maintain a minimum 20-foot setback from all property lines.

**COMMENT:**

The existing accessory structure located within proposed Lots 1 does not exceed 35 feet and is compliant with all height and setback standards. The Preliminary Site Plan demonstrates that it is feasible to meet the above standards for Lots 2, 3, and 4. The County will verify that the height standards are met when building permits are requested for the proposed home sites.

**Section 17.117.040: Front Yards and Yards Adjacent to Streets.**

**Any accessory structure, except fences, which has any portion extending above grade shall observe the yard requirements the same as the dwelling, otherwise all such structures shall be at or below grade.**

**COMMENT:**

The attached Preliminary Site Plan demonstrates that existing and future accessory structures can meet the 20-ft. front yard setback standard (see Exhibit 3).

**Section 17.117.050: Side Yards, Interior.**

**Accessory structures not attached to the main building located in an interior side yard shall be set back the same as the dwelling.**

**COMMENT:**

The attached Preliminary Site Plan demonstrates that the existing and potential future accessory structures can meet the 10-ft. side yard setback standard (see Exhibit 3).

**Section 17.117.060: Rear yards.**

**Within interior rear yards and portions of rear yards not abutting a street, an accessory structure may be placed on the property line except along an alley; all structures except fences shall be at least one foot from the alley.**

**COMMENT:**

The submitted Preliminary Site Plan demonstrates that the 20-ft. rear yard setback standard can be met.

**Section 17.117.070: Accessory Structures Attached to the Dwelling.**

**Covered or enclosed accessory buildings which are attached to the dwelling shall be considered as a portion of the dwelling and shall observe the same requirements as the dwelling except for certain projections, as provided in MCC 17.113.090, 17.113.100, and 17.113.110. Accessory structures shall be considered as being attached to the dwelling when any portion of the accessory structure is located within five feet of the dwelling.**

**COMMENT:**

The attached Preliminary Site Plan demonstrates that no existing or proposed attached accessory structures are located on Lots 1-4 (see Exhibit 3).

**Section 17.117.080: Location, Height, and Density of Fences, Walls and Hedges.**

In any yard adjacent to a street and within 10 feet from the property line adjacent to such street, fences, walls and hedges may be up to 48 inches in height, when that portion of the fence above 24 inches does not create a vision obstruction per Marion County department of public works' sight distance standards. Fences located in a yard area other than above described may be up to eight feet in height.

**Section 17.117.090: Measurement of Height of Fences, Walls and Hedges.**

All fences, walls and hedges along a public right-of-way will be measured from and along the sidewalk, or if no sidewalk exists, from and along the curb, or if no curb exists, from and along the finished shoulder grade of the right-of-way. All other fences will be measured from land along the finished grade upon which the fence, wall or hedge is located.

**Section 17.117.100: Use of Hazardous Materials – Fences and Walls.**

Fences and walls shall not be constructed of or contain any material which will do bodily harm, such as barbed wire, electric wires (other than stock or wildlife fences), broken glass, spikes, and any other hazardous or dangerous material.

**COMMENT:**

The Existing Conditions Plan indicates that there are no existing hazardous fences, and the location and height of existing fencing meets the above standards. No new fencing, walls, or hedges are proposed with this land division.

**Chapter 17.118: Off-Street Parking and Loading**

**Section 17.118.030: Location.**

- A. In an "R" zone, off-street parking and loading areas shall be provided on the same lot with the main building, structure or use.
- B. In any nonresidential zone, the parking area may be located off the site of the main building, structure or use if it is within 500 feet of such site.



**COMMENT:**

The attached Preliminary Site Plan identifies the location of an existing gravel driveway, single-family dwelling, and detached accessory structure on proposed Lot 1. This access will be shared with Lot 2, and a new driveway leg is proposed for the new home site. The Preliminary Site Plan also illustrates that a shared driveway will be developed for Lots 3 and 4, with individual driveways leading to the new home sites. The site plan indicates that an attached 2-car garage is included with the existing home, and similar off-street parking spaces can be developed for the new home sites. Therefore, off-street parking will be provided on the same lot as the future dwellings.

**Section 17.118.050: Off-street automobile parking requirements.**

**Off-street automobile parking shall be provided in the amounts listed below except that the approving authority may alter the number of parking spaces as part of a land use permit review.**

- A. Residential Uses. Residential uses in any zone shall provide two spaces per dwelling unit.**

**COMMENT:**

The attached Preliminary Site Plan demonstrates that the existing driveway on Parcel 1 provides a minimum of 2 parking spaces for the existing dwelling in an attached garage (see Exhibit 3). The plan also demonstrates that it is feasible for proposed Lots 2-4 to provide at least 2 parking spaces within driveways and/or garages.

**Section 17.118.060: Off-street loading requirements.**

**Off-street loading space shall be provided in the amounts listed below except that the approving authority may waive the requirements for loading spaces as part of a land use permit review when it is determined that the use to which the building is to be put is of a kind not requiring the loading or unloading or delivery of merchandise or other property by commercial trucks or delivery vehicles; provided, however, whenever the use of such buildings is changed to another use, then such loading space as is required by this title shall be provided.**

**COMMENT:**

The applicant is proposing the development of 3 additional single-family dwellings in the AR zone. Since off-street loading is not required for the residential use, these standards do not apply.

**Section 17.118.070: Parking and loading area development requirements.**

**All parking and loading areas except those for single-family dwellings shall be developed and maintained as follows:**

- A. Location on Site. Required yards abutting a street shall not be used for parking or loading areas. Required side and rear yards, other**

than those adjacent to a street, may be used for parking and loading areas when such areas have been developed and are maintained as required by this title.

**COMMENT:**

As demonstrated by the attached Preliminary Site Plan, parking for the existing and future single-family dwellings meet the above standards (see Exhibit 3).

- B. Surfacing. All driveways, parking and loading areas shall have an all-weather surface that may include gravel, asphalt or concrete and shall be graded and drained as required by the Marion County department of public works. Concrete driveway aprons in the public right-of-way on noncurbed streets are prohibited.**

**COMMENT:**

The attached Existing Conditions Plan indicates that the existing single-family dwelling is currently served by a gravel driveway. Although specific building plans for Lots 2, 3, and 4 are unknown at this time, the attached Preliminary Site Plan illustrates the feasibility of developing gravel surfaced driveways and parking areas for future dwellings on these parcels (see Exhibit 3). The County will verify compliance with surfacing standards when building permits are issued for the new homes.

- C. Bumper Guards or Wheel Barriers. Bumper guards or wheel barriers shall be installed so that no portion of a vehicle will project into a public right-of-way or over adjoining property.**

**COMMENT:**

The attached Preliminary Site Plan indicates that there is adequate space on each lot to park vehicles so that they will not project into a public right-of-way or over adjoining property lines (see Exhibit 3).

- D. Size of Parking Spaces and Driveways.**
  - 1. Parking spaces shall be nine feet wide and 17 feet long;**
  - 2. Driveways.**
    - a. Maximum grade: 15 percent;**
    - b. Width. Driveways shall be 20 feet wide except that one-way driveways with no adjacent parking may be 12 feet wide;**
    - c. One-way driveways shall be clearly marked or signed.**

**COMMENT:**

The submitted Preliminary Site Plan demonstrates that driveways serving the new dwellings can provide 20-ft. of clearance width and will not exceed the 15% maximum grade requirement in accordance with Fire Code standards. The County will verify compliance with the above parking and driveway standards when building permits are issued for the new dwellings on Lots 2-4.

- E. **Access.** All parking or loading areas shall be served with either separate ingress and egress driveways or with an adequate turnaround which is always available and usable. All entrances and exits onto a public street shall conform to any driveway permit provisions required by the Marion County department of public works.

**COMMENT:**

The Existing Conditions Plan illustrates that the existing dwelling is served by a driveway with adequate turnaround space so that vehicles can exit and enter Victor Point Road NE in a forward motion. The applicant's Preliminary Site Plan demonstrates that there is also adequate space to provide vehicle turnarounds on proposed Lots 2, 3, and 4 (see Exhibit 3).

- F. **Screening.** When a parking or loading area is located abutting a property in an "R" zone, it shall be screened by a sight-obscuring fence, wall or hedge.

**COMMENT:**

The site does not contain parking or loading areas abutting an R zone, therefore the above standard does not apply.

- G. **Lighting.** Any light used to illuminate a parking or loading area shall be directed away from any abutting residential zone or public street.

**COMMENT:**

The site does not contain illuminated parking or loading areas, and exterior lighting is not proposed in the vicinity of public streets. Therefore, the above standard does not apply.

**Chapter 17.128: AR (Acreage Residential) Zone**

**Section 17.128.020: Permitted Uses.**

**Within an AR (acreage residential) zone no building, structure or premises shall be used or arranged except for the following purposes:**

- A. **Single-family dwelling.**

**COMMENT:**

The applicant is requesting approval of a 4-lot subdivision for single-family residential development. The attached Preliminary Plat and Preliminary Site Plan illustrate that the proposed parcels and the existing homesite meet single-family dwelling requirements specified in the AR zone (see Exhibit 3).

**Section 17.128.050: 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. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses. These setbacks may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative home sites:**
- 1. The location of the home site will have the least impact on nearby or adjoining forest or agricultural lands.**
  - 2. The location of the home site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.**
  - 3. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.**
  - 4. The risks associated with wildfire are minimized.**

**COMMENT:**

To the northwest and southeast of the site are larger AR zoned parcels which contain single-family dwellings. To the northwest is an AR zoned parcel that is located within the city limits of Silverton. To the southwest across Victor Point Road NE is a large EFU (Exclusive Farm Use) parcel that is developed with a single-family home and Christmas tree farm. The attached Preliminary Site Plan demonstrates that the existing and new dwellings on the subject property will be located a minimum of 100-ft. from the nearest EFU zone property, therefore adverse impacts to accepted farming practices will be minimized (see Exhibit 3). There are no designated forest lands in the vicinity of the site.

- B. The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, or TC zones shall be required to concur in the filing of the declaratory statement prescribed in the respective resource zone.**

**Referencing 17.136.100.C: Development Requirements.  
Declaratory Statement within the EFU Zone:**

***The property herein described is situated in or near a farm or***

*forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and acknowledge the need to avoid activities that conflict with nearby farm and forest uses and practices, grantors will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.*

**COMMENT:**

The attached Preliminary Site Plan demonstrates that the proposed parcels and dwelling sites are oriented to minimize impacts to and from farm uses in the vicinity of the site (see Exhibit 3). As required, the applicant will sign and record the above declaratory statement prior to recording the Final Plat.

**Section 17.128.060: Development Standards.**

The following standards apply to development in an AR zone:

**A. Maximum Height.**

1. Dwellings: 35 feet.
2. Farm-related structures on farm parcels: none.
3. Nonresidential and non-farm structures: 35 feet unless they are in conjunction with conditional uses allowed in MCC 17.128.030, and a greater height is requested and approved as part of the conditional use permit.

**COMMENT:**

The existing 1-story dwelling and accessory structure on Lot 1 currently meet the above height standard. The applicant will also develop Parcels 2-4 with dwellings which meet the above height standards. At the time of building development review, the County will ensure that height standards for all new structures are met.

- B. Minimum Setbacks.** Except as required in MCC 17.128.050(A), the following setback requirements shall be implemented for all new structures other than residential accessory structures (see Chapter 17.117 MCC), farm-exempt buildings, signs and fences:

1. **Rear Yard. A minimum of 20 feet.**
2. **Side Yard. A minimum of 10 feet, except for lots or parcels of one-half acre or smaller created prior to January 1, 1994, in which case the side yard setback shall be five feet. In the case of a corner lot any side yard adjacent to a street shall be not less than 20 feet.**
3. **Front Yard. A minimum of 20 feet. When by ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (See Chapter 17.112 MCC).**

**COMMENT:**

The attached Preliminary Site Plan demonstrates that all of the above setback standards will be met for the existing and future structures (see Exhibit 3).

**Section 17.128.070: Minimum Lot Size and Density.**

The minimum lot size for subdivisions and partitioning is two acres. When a numerical suffix has been applied to the AR zone, the minimum lot size shall conform to the numerical designation. The minimum lot size shall also apply to planned developments.

**COMMENT:**

The 9.14 acre property is zoned AR (Acreage Residential – 2 acres). Per the attached Preliminary Plat, Lot 1 contains 2.06 acres, Lot 2 contains 2.09 acres, Lot 3 contains 2.02 acres, and Lot 4 contains 2.97 acres (see Exhibit 3). As such, the proposed lots comply with applicable AR zone size and density standards.

**Chapter 17.172: Subdivision and Partition Requirements**

**Section 17.172.050: Director Review.**

The provisions of this chapter and other provisions of this title notwithstanding, the director shall have the power to decide applications for all property line adjustments and partitions and impose conditions consistent with this title. Any appeal shall be conducted pursuant to MCC 17.119.150.

**COMMENT:**

As required, the applicant will fulfill all conditions of approval that are associated with this Subdivision Application.

**Article II. Roads, Streets and Easements**

**Section 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.

**COMMENT:**

As required, future development on the proposed lots will conform to County Public Works standards.

**Section 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.

**COMMENT:**

Per the attached Preliminary Plat, the current right-of-way width along the Victor Point Road frontage provides 25-ft. from centerline. Therefore, the existing right-of-way width meets County standards (see Exhibit 3).

**Section 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.

**COMMENT:**

As shown on the Preliminary Plat, the applicant is proposing to install shared private access between Parcel 1 and 2 with a utility easement benefitting Parcel 1 (see Exhibit 3). Similarly, shared access for Lots 1, 3, and 4 will include a private utility easements benefitting those lots.

**Section 17.172.320: Street or Road Improvements.**

All public 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.

No building permits within a subdivision or partition shall be issued until the director of public works, or his/her designee, approves that the improvements have been completed or sufficient improvement agreements and financial guarantees have been recorded.

**COMME**

Victor Point Road NE is currently improved with a 22-ft. wide asphalt surface and 4-ft. gravel shoulders along the site's frontage. The Preliminary Site Plan demonstrates that each of the gravel surface driveways will provide shared access to home sites for Lots 1-2 and Lots 3-4. Given the existing conditions in this rural area, the applicant is not proposing to install public street improvements with this 4-lot Subdivision application.

**Article III. Lots**

**Section 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 a 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.

**COMMENT:**

The attached Preliminary Plat indicates that the proposed parcels meet the minimum area, setback, and dimensional standards for residential lots within the AR Zone (see Exhibits 3 and 4). As demonstrated by the applicant's Preliminary Site Plan, all of the proposed lots provide adequate space for a dwelling, vehicle turnaround, initial and replacement septic fields, and wells (see Exhibit 3).

**Article IV. Sewage, Water, Utilities and Stormwater Management**

**Section 17.172.400: Sewage Disposal.**

All lots or parcels 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. 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.

**COMMENT:**

The subject site is located in unincorporated Marion County and is not located within a sewer district. The applicant's Preliminary Site Plan illustrates the proposed location of private septic systems for each of the parcels. Following approval of this Subdivision application, the applicant will complete a septic site evaluation for proposed facilities on Lots 2-4.

**Section 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.

- 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 17.181 MCC.

**COMMENT:**

The attached Preliminary Site Plan indicates that one existing well is located on the subject property, to the north of the existing dwelling on Parcel 1. The applicant is proposing to retain this well for the existing home. The plan indicates that the future dwellings on Parcels 2-4 will utilize new wells on those parcels. As required, water supply for all of the parcels will meet State and County standards.

**Section 17.172.430: Stormwater Management.**

The impact of proposed 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.

**COMMENT:**

As required, stormwater that is collected from impervious surfaces will be directed where it will not have an adverse effect on the subject site or adjacent properties. As demonstrated by the attached Existing Conditions Plan, there are no existing drainage systems or a defined drainageway on the subject site (see Exhibit 3).

**Section 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.

**COMMENT:**

As required, underground utilities will be installed for the proposed parcels. The applicant's Preliminary Plat indicated that a private utility easement benefitting Lot 1 will be provided within Lot 2 (see Exhibit 3). Similarly, a private utility easement benefitting Lots 1 and 4 will be provided within Lot 3.

**Article VI. Subdivisions**

**Section 17.172.680: Subdivision Pre-Application Conference.**

Prior to the actual filing of a subdivision application the subdivider shall contact the staff for a mandatory pre-application conference. The meeting will enable the staff to review the proposal and determine if the subdivision is consistent with the intent of this title and the Comprehensive Plan and whether public services are required and available.

**COMMENT:**

The applicant is submitting a 4-Lot Subdivision application with the intent to establish three new dwellings on the subject site. As required for this land use request, the applicant attended a Pre-Application Conference with County staff on May 1, 2023.

**Section 17.172.700: Application.**

When an area or tract of land is to be subdivided an application shall be

filed with the planning division. The applicant shall specify on the application whether the request is for conceptual or detailed approval or both. Conceptual approval indicates that the subdivision or PUD, in the general manner and density proposed, is deemed consistent with the Comprehensive Plan but conceptual approval shall not be binding on the planning commission or hearings officer with regard to specific design or engineering. In granting conceptual approval the commission or hearings officer shall identify any elements of the proposal that need further evaluation or refinement.

**COMMENT:**

The applicant is requesting preliminary plat approval of a 4-lot subdivision with this land use application. The Planning Commission will review the Subdivision application at a public hearing before rendering the land use decision. Following approval of this application, a Final Plat application will be submitted for review and approval by County staff. When specific development plans are determined for Lots 2-4, detailed engineering plans will be submitted for building permit review.

**Section 17.172.500: Required Application Information.**

- A. The application form and any supplementary information filled out completely.
- B. Copy of the officially recorded title transfer instrument (deed, warranty deed, or contract) that shows the legal description for the parent parcel. Title reports are not acceptable.

**COMMENT:**

As required, a completed Application Form and Property Deed have been submitted with this application (see Exhibits 1 and 2).

- C. Twenty-seven copies of a scale drawing of the proposed subdivision with the following details shown:
  - 1. Structures, streets, driveway access points (existing and proposed), and easements (existing and proposed).
  - 2. Topography, drainage ditches.
  - 3. A layout of the proposed subdivision with proposed lot lines to scale, north arrow, and name and address of applicant.

**COMMENT:**

The attached Preliminary Development Plans include all of the required information listed above (see Exhibit 3).

- D. If the property is within the geologically hazardous overlay zone,

any study required by Chapter 17.182 MCC shall accompany the application. If the chapter requires peer review of the study, this must also be submitted with the partition application.

**COMMENT:**

According to County maps, the subject property is located within the geologically hazardous overlay zone. The site is classified as a 3-point value or Category A site, indicating low landslide risk. Chapter 17.182 clarifies that a geological study and peer review are not required for Category A sites with a 4-point value or less. As required, a geotechnical report will be submitted when building permits are requested for the new home sites on Parcels 2-4.

- E. If the property is within the sensitive groundwater overlay zone, any study of water supply required by Chapter 17.181 MCC shall accompany the application. If the chapter requires peer review of the study, this must also be submitted with the partition application.

**COMMENT:**

County Maps indicate that the site is within an SGO-5 sensitive groundwater overlay zone, therefore parcels within this area require a Hydrogeology Review. The applicant's geologist completed the required analysis and determined that only 21.14% of the available water in the aquifer will be used with the addition of 3 wells within the study area, and there is ample water for existing uses and the 4-lot subdivision. The attached Peer Review of Hydrogeological Review concurs with the findings within the geologist's report (see Exhibit 4).

- F. Filing fee.

**COMMENT:**

The required filing fee has been submitted with this application.

**Section 17.172.730: Filing of Application.**

An application for a partition may be filed by one or more of the following:

- A. The owner of the property that is the subject of the application;

**COMMENT:**

The property owners of the subject site, Whitaker LT, Oran B. Whitaker, and Leslie A Whitaker, have filed the Subdivision application (see Exhibit 1).

**Section 17.172.740: Required signatures.**

Applications shall include the following signatures:

**A. Signatures of all owners of the subject property; or**

**COMMENT:**

As required, the property owners have signed the attached application form (see Exhibit 1).

**Section 17.172.760: Conformance with Regulations.**

Unless a variance is granted as provided herein, the subdivision shall conform to applicable regulations contained in MCC 17.172.140 through 17.172.660 and planned developments shall, in addition, conform to the regulations in MCC 17.121.200 through 17.121.250. The director shall determine if annexation to a fire, sewer or water district is required. If the director determines that annexation is required, annexation or a nonremonstrance agreement must be filed with the appropriate agency.

**COMMENT:**

As discussed throughout this Applicant's Statement, the proposed Subdivision application conforms to all applicable County regulations.

**Chapter 17.181: Sensitive Groundwater Overlay Zone**

**Section 17.181.030: Applicability.**

- A. The provisions of this chapter shall apply to all lands within the sensitive groundwater overlay zone boundary as shown on the official county zoning map. The overlay zone shall be applied to areas designated by the Oregon Water Resources Commission as groundwater limited areas and other parts of the county where information provided by a licensed geologist or through a county well-monitoring program indicates that a reasonable risk of over-appropriation of groundwater exists.**
- B. Nothing in this chapter shall be construed to constitute a waiver or suspension of the provisions of the underlying zone or other overlay zone. In the case of any conflict between the provisions of this chapter and any other provisions of this title, the more restrictive shall apply.**

**COMMENT:**

Per County maps, the subject property is located within the SGO-5 Sensitive Groundwater Overlay Zone. Therefore, the proposed 4-lot land division requires a Hydrogeology Review.

**Section 17.181.040: Required Review and Application.**

All development permits for new land uses that rely on water from exempt-use wells within the sensitive groundwater overlay zone shall be reviewed by the county to determine compliance with this chapter.

The applicant for such a development permit shall submit the request on a form approved by the director along with a site plan of the subject property showing existing and proposed property boundaries; existing, abandoned, and proposed wells on the subject tract; and any other information as required in this chapter. The board may establish a fee for review of water-supply studies and well monitoring plans for new land uses.

**COMMENT:**

The submitted Existing Conditions Plan and Preliminary Site Plan illustrate existing and proposed lot boundaries, as well as existing and proposed wells (see Exhibit 3).

**Section 17.181.060: General Provisions.**

Applicants for a development permit where the new land use will rely on groundwater in the sensitive groundwater overlay zone are subject to the following requirements:

- A. Any wells on the tract subject to temporary or permanent abandonment under ORS 537.775 shall be abandoned prior to final development permit approval.
- B. The well shall be made available to the county for monitoring purposes, pursuant to the county well-monitoring program ordinance.
- C. Evidence that any required permits from the Oregon Health Division for use of the water have been obtained shall be submitted to the county prior to development permit approval, or final plat approval in the case of partitions, subdivisions, and planned unit developments.

**COMMENT:**

The attached Peer Review of Hydrogeology Review indicates that the applicant's geologist has prepared the required report in accordance with County standards (see Exhibit 4). The review provides general hydrogeology information including well information and deepenings, abandonments, and water use inventory for the site and study area. Existing and proposed wells on the site are illustrated on the attached Preliminary Site Plan (see Exhibit 3).

**Section 17.181.070: Study Requirements.**

The following water-supply studies shall be required by the county to help determine whether a land use action will have an adverse impact

on groundwater resources:

- A. Residential Partitions, Planned Unit Developments, and Subdivisions.** The following provisions apply to land divisions in the sensitive groundwater overlay zone, where the residences will utilize exempt-use wells:
- 1. Applications to partition a parcel of land shall be subject to the following requirements:**
    - a. If the minimum parcel size proposed in the application is equal to or greater than five acres, no demonstration of water supply is required;**
    - b. If the minimum parcel size proposed in the application is less than five acres, the application shall be accompanied by a hydrogeology review pursuant to MCC 17.181.100.**

**COMMENT:**

Since the proposed parcel size in the subdivision is less than 5 acres, a Hydrogeology Review is required for the 4-lot subdivision.

**Section 17.181.100: Hydrogeology Reviews.**

The purposes of a hydrogeology review are to provide information regarding the geology and hydrogeology of the area in the immediate vicinity of the proposed development and to furnish professional analysis of the information. A hydrogeology review generally requires compilation and analysis of existing information but not development of new data. Study findings, maps, and conclusions shall be presented in a clear and understandable report.

- A. A hydrogeology review report shall include, at a minimum, the following information:**
- 1. A map showing all lots and parcels within at least one-quarter mile of the proposed development;**
  - 2. The location of all wells within at least one-quarter mile of the proposed development, and the quantity of water permitted to be used;**
  - 3. The estimated use of groundwater within at least one-quarter mile of the proposed development, including 525 gallons/day use for each lot and parcel and water use from permitted wells (as required in subsection (A)(2) of this section);**
  - 4. The quantity of water the proposed land use will utilize. If the**

proposal is for residential use, water use shall be calculated as 525 gallons/day. If the proposal is for a land division for residential purposes, all proposed lots or parcels shall be included in the calculation;

5. Identification of aquifers in the area of the subject property;
6. Compilation and review of available geologic and hydrogeologic studies of the area;
7. Compilation and evaluation of well deepening and replacement well information;
8. Compilation and analysis of existing geologic information, including representative well logs, physical location of representative wells, and an evaluation of the local stratigraphy and geologic structure;
9. Compilation and analysis of existing water level and pump test information including evaluation of long-term stability of groundwater levels (heads); and
10. Interpretation of the information gathered for subsections (A)(1) through (7) of this section, including preparation of geologic and hydrogeologic maps and cross-sections necessary to support and/or illustrate the interpretation.

**COMMENT:**

As required, the applicant's geologist completed the required analysis and the report included all of the above information. The attached Peer Review of Hydrogeology Review concurs with the findings within the geologist's report (see Exhibit 4).

**B. A hydrogeology review shall demonstrate the following:**

1. The available geologic and hydrogeologic information is sufficient to make a reasonably accurate estimate of the groundwater budget;
2. The geologic conditions that affect the recharge and discharge of groundwater;
3. The locations and causes of well deepenings and/or replacements in the area of concern;
4. Long-term water level (head) trends in the area of concern, if available; and
5. The groundwater budget for the area of concern indicates that



additional recharge is available for the proposed new use. The groundwater budget will:

- a. Assume that all lots and parcels in the area of concern are developed; and
- b. Use the recharge data and assumptions contained in "Geologic and Hydrogeologic Study of the Residential Acreage-Zoned Areas of Marion County Underlain by the Columbia River Basalt and Older Rocks" (NGS, 1997) or explain why another source is used; and
- c. Assume that one dwelling results in use of at least 525 gallons per day.

**COMMENT:**

As required, the applicant's geologist evaluated all of the factors listed above and determined that only 21.14% of the available water in the aquifer will be used with the addition of 3 wells within the study area, and there is ample water for existing uses and the 4-lot subdivision. The attached Peer Review of Hydrogeology Review concurs with the findings within the geologist's report (see Exhibit 4).

- C. **Hydrogeology Review Results.** A hydrogeology study pursuant to MCC 17.181.110 shall be required if the hydrogeology review establishes that any of the following circumstances exist. If none of the following circumstances exist, no further evidence of water availability is required. As used in this section, "proposed development" includes any water conservation practices or standards proposed in the application that will influence the quantity of water needed for the use.
  1. More than 90 percent of the recharge in the area of concern will be used after the proposed development is completed;
  2. The proposed use will adversely affect the long-term water supply of existing uses or potential new uses on existing vacant parcels in the area of concern;
  3. The additional proposed use will deplete the groundwater resource over the long or short term; and
  4. Existing information is inadequate to determine whether any of the circumstances described in subsections (C)(1) through (3) of this section exist.

**COMMENT:**

Since findings from the Hydrogeology Review did not meet any of the thresholds listed above, a Hydrogeology Study is not required for the Subdivision application.

**Section 17.181.130: Qualifications for Performance of Hydrogeology Reviews and Studies and Well Monitoring Plans.**

In order for the county to accept a hydrogeology review, hydrogeology study, or well monitoring plan pursuant to MCC 17.181.100, 17.181.110, and 17.181.120, the report shall bear the stamp of a geologist, engineering geologist, or professional engineer that qualifies under ORS Chapter 672, registered with the state of Oregon.

**COMMENT:**

As required, the previously submitted report and the Peer Review for the Hydrogeology Review bear a qualified engineer's stamp in the State of Oregon (see Exhibit 4).

**Chapter 17.182: Geologically Hazardous Areas Overlay Zone**

**Section 17.182.030: Applicability.**

The provisions of this chapter shall apply to all phases of development altering the physical landscape of lands within the landslide hazard and excessive slope areas as shown on the official county zoning maps and as designated or identified as landslide hazard areas by the county where information provided by a licensed geologist, geological report, hazard inventory, or landslide hazard studies indicate an elevated hazard risk exists.

The presence of landslide hazard and excessive slope areas and the applicability of the provisions of this chapter are determined by the classification criteria and categories established for these hazard areas as detailed on the maps adopted as part of this chapter. The maps indicate the location of areas susceptible to landslides, areas of known landslide hazards, and excessive slope areas. These maps are based on the best available information and may be amended based upon receipt of corrected, updated or refined data, or upon the revision of studies upon which the maps were initially based.

In the event of any conflict between the location, designation, or classification of a landslide hazard area shown on the county maps and the classification categories of this chapter, the categories and the determination of the geological assessment or report shall prevail. The county shall make the final decision as to whether a lot or parcel is within or outside the mapped hazard areas. A lot or parcel that is both in and out of the hazard area shall be subject to the provisions of this chapter only if the proposed development on the lot or parcel is within the mapped hazard area. Within the mapped hazard areas, an applicant may demonstrate through submittal of a geological assessment that the proposed development will not occur within an identified landslide

hazard or excessive slope area, then the requirements of this chapter may be waived.

**COMMENT:**

County Maps indicate that a Geologically Hazardous Area Overlay Zone is located in the eastern portion of the site. Because the Geologically Hazardous Overlay is located within the proposed development area, the provisions of this chapter apply.

**Section 17.182.040: Regulated Activities and Uses – Exemptions.**

- A. Regulated Activities and Uses.** The county shall grant approval to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement including, but not limited to, the following regulated activities within identified landslide hazard and excessive slope areas and as permitted in the underlying zone and applicable overlay zones, after receipt of an approved site assessment, engineering geology report, or geotechnical report as required by this chapter that concludes development does not pose an elevated hazard risk to property.
- 1. Building permits: buildings customarily provided in conjunction with farm use, residential, commercial, or industrial;**
  - 2. Excavation;**
  - 3. Filling;**
  - 4. Subdivisions, partitions, planned unit developments (PUDs), mobile home parks, and recreational vehicle (RV) parks;**
  - 5. Construction, reconstruction, or alteration of the size of any structure of public infrastructure;**
  - 6. Location, construction, reconstruction, and maintenance of on-site sewage disposal systems including drainage, where there is a need to review and investigate test pits;**
  - 7. Construction of any new public or private road or driveway;**
  - 8. Construction or enlargement of ponds;**
  - 9. Grading activities for all phases of development pursuant to the provisions of the International Building Code and the Oregon Structural Specialty Code adopted and applied by the county.**

**COMMENT:**

The applicant is proposing a 4-lot subdivision of Tax Lot 500 of Tax Map 71W02D. County Maps indicate that a 3-point value Geologically Hazardous Area Overlay Zone is located in the eastern portion of the subject site.

- B. Exemptions. The following activities and uses are exempt from the provisions of this chapter:**

**COMMENT:**

The exemptions listed under Subsection B do not apply to this application.

**Section 17.182.040: Approval Requirements.**

The level of geological review and procedural requirements for regulated development activities and uses are related to geologic and physiographic conditions and the type of development activity for a property. Development activities and uses having the greatest potential for impacting public safety and property, and that are located on lands with an elevated landslide hazard, have the strictest review and development requirements.

The Graduated Response Table 17.182-1 (Parts I to VI) shall be used to determine the level of site investigation for various types of regulated activity on property, any portion of which is shown on the landslide hazard and excessive slope area maps. Using a rating system, slope and physiographic conditions at the site are evaluated in relationship to a proposed activity. If a rating meets or exceeds quantified thresholds provided in the table, a geological assessment, engineering geology report, or geotechnical report or a combination thereof shall be provided by the applicant and actions specified in the report(s) undertaken and ensured before any regulated activity may be permitted or approved. Where any portion of the property on which regulated activities are proposed is identified under two slope conditions or two or more physiographic and geologic categories, the highest condition or category will apply.

The Graduated Response Table (Part VI) provides the following landslide risk assessment, investigation, and review requirements for identified hazard areas and regulated activities:

- 1. For low landslide risk assessments (Category A), all regulated activities may proceed without further investigation, permitting, or approval requirements of this chapter.**

**COMMENT:**

County Maps indicate that a 3-point value Geologically Hazardous Area Overlay Zone is located in the eastern portion of the subject site. Because the Geologically Hazardous Risk within the site is less than a 4-point value, the site is determined to be a Category A - Low Landslide Risk. Therefore, per the Graduated Response Table 17.182-1, a Geological Assessment or Engineering Geology Report is not required for review. As required, a geotechnical report will be submitted for proposed development on Parcels 2-4 at the time of building permit review.

**IV. SUMMARY AND CONCLUSIONS**

Based upon the findings of this report and the submitted exhibits, the applicant has demonstrated compliance with the requirements of relevant sections of the Marion County Rural Zoning Code. Therefore, the applicant requests that this Subdivision application be approved.

**VI. EXHIBITS**

**1. Application Form**

**2. Property Deed**

**3. Preliminary Plans**

**Sheet P-1: Cover Sheet**

**Sheet P-2: Existing Conditions Plan**

**Sheet P-3: Preliminary Plat**

**Sheet P-4: Preliminary Site Plan**

**4. Peer Review of Hydrogeology Review**