

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

**NOTICE OF DECISION
PARTITION CASE NO. 20-011**

APPLICATION: Application of Susan Cook to divide a 6.27 acre parcel into three parcels containing 2.27 acres, 2 acres and 2 acres each in an AR (Acreage Residential) zone located at 3475 Cascade Place SE, Salem. (T8S; R2W; Section 30C; tax lot 1600).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Partition Application subject to certain conditions.

EXPIRATION DATE: This approval is valid only when the final partition plat is recorded by **June 5, 2022**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

WARNING: A decision approving the proposed division is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support a dwelling. To be sure the subject property can accommodate the proposed use the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

Prior to recording the final plat:

1. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036) and shall contain the notation that the survey is the result of Partition Case 20-011. Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. **The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.**
3. Prior to plat approval, notarize a Road Maintenance Agreement acknowledging joint responsibility for upkeep of the private lane, to be recorded concurrently with the plat.
4. The applicant is advised that a Partition Plant Service Report from a title company will be required upon submission of the final mylar to the County Surveyor.
5. The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director. All parcels shall be a minimum of two acres in size, prior to any right-of-way dedication.

Prior to issuance of building permits on the resulting parcels:

6. The partition plat shall be recorded.
7. The applicant shall provide a static water level measurement for any new wells intended as the water supply for the new lots.

8. The applicant shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement to the Planning Division for each resulting parcel. This statement shall be recorded by the applicant with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.

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

9. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.

OTHER PERMITS, FEES, AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying restrictions or conditions. It is recommended that the agencies mentioned in Finding #5 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

10. The applicants should contact the Turner Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
11. Prior to recording the plat all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments). All delinquent taxes and interest as well as taxes, which have become a lien during the tax year, must be paid before a partition shall be recorded.
12. The applicant should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements, listed in Finding #5 below, that may be required.

APPEAL PROCEDURE: The Marion Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 150 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received, together with the appeal fee, in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **June 5, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 6, 2020** unless further consideration is requested.

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

1. The property is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding AR (Acreage Residential) zone is to allow for the creation of acreage home sites at a density that maintains the character and environmental quality of the County's rural residential areas. The property is also in the SGO (Sensitive Groundwater Overlay Zone).
2. The subject property is located on the east side of Battle Creek Road SE and Delaney Rd SE, approximately 300 feet northeast of their intersection. The subject parcel is unimproved. The property was lawfully created as parcel 3 of Partition Plat 2001-16 approved in Partition Case 97-89.
3. All surrounding properties are zoned AR and consist of rural residences on large acreage lots.
4. The applicant proposes to divide a 6.27 acre parcel into three parcels containing 2.27 acres, 2 acres and 2 acres.

5. Public Works Land Development and Engineering Permits (LDEP) requested that the following condition and requirements and be included in the land use decision:

Condition A – Prior to plat approval, notarize a Road Maintenance Agreement acknowledging joint responsibility for upkeep of the private lane, to be recorded concurrently with the plat.

REQUIREMENTS:

- A. Prior to plat approval; notarize a Road Maintenance Agreement acknowledging joint responsibility for upkeep of the private lane, to be recorded concurrently with the plat.
- B. In accordance with Marion County Code 11.10, a driveway Access Permit for access to the public right-of-way will be required upon application for a building permit for each new dwelling. Access shall be derived from private easements.
- C. Show applicable access and utility easements on the plat.
- D. The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #00-10R and #98-40R, respectively.

Marion County Surveyor commented: Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. Checking fee and recording fees required. A current or updated title report must be submitted at the time of review. Title reports shall be no less than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.

Turner Fire District: Commented on existing and new access to parcel(s) and water supply requirements, and will work with applicant(s) on how best to comply.

Marion County Tax Assessor: All delinquent taxes and interest as well as taxes, which have become a lien during the tax year, must be paid before a partition shall be recorded.

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

6. Chapter 17.181 MCC establishes provisions for partitioning property in an SGO zone. In the SGO zone, creating a parcel less than five acres in size requires the applicants to submit a "Hydrology Review" meeting the provisions listed in MCC 17.181. The review indicates that there is a sustainable long-term supply of ground water for the proposed development. However, the County requires a Declaratory Statement be recorded with the property deed. This notifies the applicant and subsequent owners that there may be long term groundwater supply problems and that the County is not responsible for deepening or replacing wells. The County also requires submission of static water level measurements prior to recording the plat for all existing wells, and prior to building permits for all undeveloped parcels.

The applicant has submitted a hydrology study to Marion County Planning for peer review and the results of this peer review were positive. They satisfy the requirements in chapter 17.181 of the Marion County Rural Code pertaining to a Sensitive Groundwater Overlay. Additionally, prior to gaining final plat approval, static water level measurements shall be recorded and submitted to Marion County for the existing well.

7. There are no specific approval criteria for partitions in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres. The three proposed new parcels will be at least two acres each and are consistent with this standard. In addition, the resulting undeveloped parcels, if they can obtain septic approval, are of sufficient size and shape to meet the development standards in the AR zone.

8. Staff recognizes the final partitioning may vary from the proposed plan due to topography or surveying. Minor variations are permitted; however, each resulting parcel shall be a minimum 2.0 acres prior to any required right-of-way dedication.
9. MCC 17.172.560 ACCESS STANDARDS *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 identification for emergency vehicles in accordance with the Marion County Address and Street Name Ordinance.*

The applicants are proposing to use an existing access easement, Cascade Place, to serve the new parcels. There is two developed parcels currently served by Cascade Place that has public road frontage. The proposed parcels would contain the third, fourth and fifth dwelling served by Cascade Place. This criterion is met.

10. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: May 21, 2020

If you have any questions please contact Lindsey King at 503-588-5038.

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.