

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. 20-012**

**APPLICATION:** Application of Raymond & Jeanne Cady to divide a 5.15 acre parcel into two parcels containing 3.14 acres and 2.01 acres in an AR (Acreage Residential) zone located at 8295 Aumsville HY SE, Salem. (T8S; R2W; Section 23A; tax lot 1800).

**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 20-012. 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. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following conditions have been satisfied:  
  
*Condition A - Prior to plat approval, obtain an Access Permit, and under the Permit lengthen the paved access approach to 30 feet measured from the Aumsville Hwy edge-of-pavement and replace any existing degraded pavement with Hot Mix Asphalt, as determined by the County Inspector.*  
  
*Condition B - Prior to plat approval; notarize a Road Maintenance Agreement to be recorded concurrently with the plat acknowledging joint responsibility for upkeep of the privately-maintained access road.*
4. A list of names must be submitted to the Marion County Planning Division and in coordination with the 9-1-1 Emergency System, a name will be chosen. The name must be shown on the final partition plat, and a work order for the street sign installation, with appropriate fees, must be submitted to Marion County Public Works **prior to the plat being recorded.**

5. Prior to submitting the final partition plat, the applicant shall provide a static water level measurement for the existing well on the enclosed form.

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

6. The partition plat shall be recorded.
7. The applicant shall submit either evidence that the access easement has been improved to the standards in MCC 17.172. The access easement is also to provide for utilities.
8. The applicant shall provide a static water level measurement for any new or existing wells intended as the water supply for the lot on the enclosed form.
9. 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:

10. The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director. All parcels shall be a minimum two acres in size.
11. 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 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

12. 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).
13. The applicants should contact the Aumsville Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
14. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements, listed in Finding #5 below, that may be required.

**APPEAL PROCEDURE:** The Marion 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 creation of acreage homesites at a density that maintains the character and environmental quality of rural residential areas.
2. The subject parcel is located approximately 275 feet northwest of the intersection of Mustang Ct SE and Aumsville Highway SE. The parcel contains a dwelling, septic system, a temporary medical hardship dwelling, and two buildings, all located on the northern half of the property. The parcel created in its present configuration as Lot 21 of Waldo Hills Fruit Farms No 3 and is a legal lot for land use purposes.
3. Surrounding properties consist of rural-residential home sites in AR zoned land to the north, east, south and west.
4. The applicant proposes to divide a 5.15 acre parcel into two parcels containing 3.14 acres and 2.01 acres in an AR (Acreage Residential) zone.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

### **ENGINEERING CONDITIONS**

***Condition A** - Prior to plat approval, obtain an Access Permit, and under the Permit lengthen the paved access approach to 30 feet measured from the Aumsville Hwy edge-of-pavement and replace any existing degraded pavement with Hot Mix Asphalt, as determined by the County Inspector.*

Access work is typically an Engineering Requirement; however, it is being elevated to Condition status as a matter of timing for completion. Result of a field inspection indicated a moderate amount of gravel strewn on top of the approach area within 20 feet of the Aumsville Hwy, and existing pavement in a degraded condition. It will be required of the Applicant to remove the strewn gravel for re-inspection of existing pavement prior to permit issuance.

***Condition B** - Prior to plat approval; notarize a Road Maintenance Agreement to be recorded concurrently with the plat acknowledging joint responsibility for upkeep of the privately-maintained access road.*

PW Engineering is able to furnish a suitable template at no cost aside from standard recording fees. This Condition could potentially be addressed within a recorded Access Easement covenant.

### **ENGINEERING REQUIREMENTS**

- C. An Access Permit will be required upon application for building permits for the developable lot.
- D. Utility work within the Aumsville public R/W requires PW Engineering permits.
- E. Transportation System Development and Parks Charges (SDCs) will be assessed upon application for building permits for a new dwelling.
- F. Depict any necessary access and utility easements on the plat.

Marion County Tax Assessor provided information regarding taxes on the subject property.

Marion County Surveyor's Office commented:

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

Marion County Septic commented that the property owner "will need to stake out repair area for current home as shown on attached plot plan to make sure it will meet the 10 foot setback to drainfield. A new site evaluation will also be required for the second parcel."

Marion County Code Enforcement commented that there are no open violations for the subject property.

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

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

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 and the new parcels are consistent with this standard. Subsequently, the proposal meets the criteria for partitioning in the AR zone.
8. Chapter 17.128.050 MCC establishes special siting standards for dwellings near resource zones:
  - (a) *Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones when necessary to minimize potential conflicts with farm or forest uses. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses.*
  - (b) *The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, TC zones shall be required to concur in the filing of the Declaratory Statement prescribed in the respective resource zone.*

The subject property is more than 500 feet from any properties in the EFU, SA, FT, or TC zones. Based on these facts, no special setback will be required and no Declaratory Statement will be required. This criterion is met.

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

Joe Fennimore  
Planning Director

Date: May 21, 2020

If you have any questions regarding this decision contact Alyssa Schrems 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.