

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
PROPERTY LINE ADJUSTMENT/PARTITION/VARIANCE CASE NO.20-030

APPLICATION: Application of Donna Amoth to adjust the property lines on a 6.23 acre parcel and a .81 acre parcel to create a 1.0 acre parcel and a 6.04 acre parcel and then divide the resulting 6.04 acre parcel into 3 parcels containing 2.0± acres each and a variance to allow more than four dwellings to be served by a private drive in an AR (Acreage Residential) zone located at 6420, 6451, and 6461 Oak Dell LN SE, Salem (T8S; R2W; Section 04D, Tax lots 00400, 00600, 00700).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment application subject to certain conditions.

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **October 20, 2022** (two years). 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 proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposal 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:

1. **Property line adjustment deeds shall be recorded with the county clerk meeting requirements identified in ORS 92.190(4).** The deeds shall contain the names of the parties, the description of the adjusted lines, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds shall include a perimeter description of each resulting parcel. **This property line adjustment is not complete until the title transfer instruments accomplishing the property adjustments are recorded by the applicants with the Marion County Clerk.**
2. The applicants shall have the resulting parcels surveyed per ORS 92.060(7). The survey shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 20-030. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036). Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
3. Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the required survey.
4. Prior to recording the deeds, the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
5. 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, widen the existing Oak Dell Lane all-weather driving surface with either:

- 1) *Compacted crushed rock, 20 feet wide, 8-inches thickness, or,*
- 2) *Asphalt pavement, 18 feet wide, 2.5-inch thickness, underlain by 8 inches of compacted crushed rock, plus 2-foot wide gravel shoulders*

Condition B – *Prior to plat approval record road maintenance agreements for private easement Oak Dell Lane, any newly created access easement and public Local Access Road Tara Way.*

6. 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.

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

7. After the property line adjustment/partition has been completed, 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.

8. Prior to recording the deeds 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).
9. The applicants should contact the Marion County #1 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. **Paula Smith at MCFD#1/ (503) 588-6513.**
10. 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 County Zone Code provide 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 in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on **October 20, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 21, 2020** unless further consideration is requested.

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

1. The subject properties are designated Rural Residential in the Marion County Comprehensive Plan and correspondingly zoned AR (Acreage Residential). The primary intent of the designation is to provide for rural residential development at a density sustainable with rural services.
2. The properties are located approximately 800 feet north of the intersection of Ganon St SE and Oak Dell Ln SE. Review of land use cases for both properties indicates they were both created in their present configuration through Partition 93-30 and Property Line Adjustment 08-34. Therefore, both are recognized as legal separate

parcels for land use purposes. Tax lot 600 and 700 contain no structures, while tax lot 400 has a dwelling and a machine shed.

3. All adjacent properties are zoned AR and consist homes on small acreage lots.
4. The applicants are proposing to adjust the property lines on a 6.23 acre parcel and a .81 acre parcel to create a 1.0 acre parcel and a 6.04 acre parcel and then divide the resulting 6.04 acre parcel into 3 parcels containing 2.0± acres each and a variance to allow more than four dwellings to be served by a private drive.
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, widen the existing Oak Dell Lane all-weather driving surface with either:

- a. *Compacted crushed rock, 20 feet wide, 8-inches thickness, or,*
- b. *Asphalt pavement, 18 feet wide, 2.5-inch thickness, underlain by 8 inches of compacted crushed rock, plus 2-foot wide gravel shoulders*

Nexus for this Condition is to mitigate for the proposed number of dwellings to be served by the private easement exceeding the allowable threshold of four.

Condition B – Prior to plat approval record road maintenance agreements for private easement Oak Dell Lane, any newly created access easement and public Local Access Road Tara Way.

Nexus is to satisfy MCC 17.172.340 regarding the private easement(s). Tara Way is public, yet not maintained by Marion County in accordance with State statute §368.031(1) pertaining to Local Access Roads. MCPW Engineering will prepare the documents for review.

ENGINEERING REQUIREMENTS

- C. an Access Permit will be required upon application for building permits for each buildable lot.
- D. Transportation System Development and Parks Charges (SDCs) will be assessed upon application for building permits.
- E. Show applicable access and utility easements on the plat.
- F. Although these will be 2-acre minimum parcels, since there are some steep slopes associated with these properties, it may be required depending on relative location and square footage of proposed structures, to install underground exfiltration systems for disposal of rooftop water.
- G. Erosion Permits from MCPW Engineering may be required for construction involving ground disturbing activities as portions of the subject properties lie within Marion County's DEQ-defined High-Risk Erosion Area.
- H. Utility connection work in the Tara Way public right-of-way requires Utility Permits.

Marion County Fire District No. 1 provided comments related to fire code standards for buildings and access. These are enclosed in the decision.

Salem-Keizer Public Schools provided comments related to the effects of this development on the school district. These are enclosed in the decision.

Marion County Assessor's Office provided comments related to the property taxes of the subject properties.

These are enclosed in the decision.

Marion County Surveyor's Office commented:

Partition:

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.

Property Line Adjustment:

1. Must be surveyed per ORS 92.060 (7) and the survey submitted for review.
2. Survey checking fee required at the time of review.
3. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the survey map. Per ORS 92.190 (4): The deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. [See Marion County Zoning Code MCC 16.33.140(E) and MCC 17.172.120(E)]
Marion County Planning requires perimeter descriptions of the resultant properties.

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

6. There are no specific approval criteria for property line adjustments or 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.
7. The criteria for reviewing variances within an AR zone are listed in Chapter 17.122.020 of the Marion County Rural Code. The director, planning commission, hearings officer, or board may permit and authorize a variance when it appears from the application and the facts presented that:

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

B. There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions; and

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

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

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

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

8. The variance request to allow more than four homes to access off Oak Dell Ln SE is due to the configuration of roads around the subject property. This is the most viable option to provide access to the subject properties without extending Ritter Ln SE through 6440 Ritter Ln and taking away much of its usable land. The applicant has looked at all options and shown that this is the most viable. It will have the least adverse impact on the area and persons associated with it. The criterion in MCC 17.122.020 A (1), (2), (3), (4), (5) and (6) are met.

9. Under MCC 17.172.120(E) Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey, if a survey is required. Deed recording reference numbers shall be noted on the required survey.

The Marion County Surveyor commented that a survey (replat) is required; therefore, this will be made a condition of approval.

10. Based on the above findings, the request meets the applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: October 5, 2020

If you have any questions regarding this decision contact Austin Barnes 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.