

Attention Property Owner: A land use proposal has been submitted for property near where you live or 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 RECONSIDERED DECISION  
PARTITION CASE NO. 18-005**

**APPLICATION:** Application of Pamela J. Cobos to divide a 51.02 acre parcel into three parcels containing 30 acres, 11.02 acres and 10 acres each in an AR-10 (Acreage Residential – 10 Acre Minimum) zone located at 2741 Bunker Hill Road S, Salem. (T8S; R3W; Section 32C; tax lot 200).

**RECONSIDERATION:** The Partition request was originally approved and a decision issued on March 6, 2018. However, during the appeal period, the applicant requested a reconsideration and asked to modify the configuration of the proposed parcels and to meet the required 200 foot setback from the southern property line. The findings below are based on this new location. See Condition #12 and Findings #4 and 9 for more information.

**DECISION:** The Planning Director for Marion County has **RECONSIDERED** and **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 April 12, 2020. 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 drainfield 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 18-005. 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. The Marion County Planning Division, in coordination with the 9-1-1 Emergency System has named the proposed private access easement **Cobos Creek Lane S**. The name must be shown on the final partitioning plat, and a work order for the street sign installation, with appropriate fee, must be submitted to Marion County Department of Public Works **prior to the plat being recorded**.
4. Prior to submitting the final partition plat, the applicant shall provide a static water level measurement for the existing well on the enclosed form.
5. 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.

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

6. The partition plat shall be recorded.
7. Prior issuance of building permits, 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. Prior to issuance of building permits, the applicant shall provide a static water level measurement for any new wells intended as the water supply for the new lot on the enclosed form.
9. Prior to issuance of building permits, 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.
10. The applicants shall sign and submit a Declaratory/Farm-Forest Statement to the Planning Division. This Statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
11. Prior to issuance of building permits, the applicant shall sign and submit a Geologically Hazardous Areas 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.
12. **A special dwelling setback of 200 feet** shall be maintained from the south property line and from the west property line of the resulting 10 acre parcel.

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

13. 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 ten acres in size, prior to any right-of-way dedication.
14. 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:

15. 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).
16. The applicant should contact the Salem Suburban 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.

**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 **April 12, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 13, 2018** 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-10 (Acreage Residential-10 minimum) 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 Sensitive Groundwater Overlay Zone of (SGO-5) and in a geologic hazardous overlay area.
2. The subject property is located on the northwest side of Bunker Hill Road S, approximately 2300 feet north of its intersection with Riverside Dr S. The 51.02 acre parcel identified as tax lot 200 contains an existing dwelling, accessory structures, well and septic system. The property was lawfully created as parcel 2 of Partition Plat 2001-082 approved in Partition Case 90-100.
3. Properties to the northwest, north and east are zoned AR and AR-10 and consist of rural residences on large acreage lots. Property to the south and west are zoned SA (Special Agriculture) and devoted to forest uses.
4. The applicant originally proposed to divide a 51.02 acre parcel into three parcels containing 30 acres, 11.02 acres and 10 acres and to reduce the required 200 foot setback from the south property line of the proposed 10 acre parcel to 90 feet. **The request was originally approved, however, the applicant requested a reconsideration during the appeal period to modify the configuration of the proposed parcels and to meet the required 200 foot setback from the southern property line. The findings below are based on this new location.**
5. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

Marion County Surveyor commented: "Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. A checking fee, and recording fee are 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."

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

6. Chapter 17.181 MCC establishes provisions for partitioning property in a SGO zone. In the SGO-5 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. Because the proposed lots are larger than five acres, no further review of groundwater availability is required. 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 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.
7. Chapter 17.182 MCC establishes provisions for partitioning property in a geologically hazardous zone. The property does contain some mapped hazards, however, the applicant has submitted site plans demonstrating that there is adequate area available in each of the proposed parcels for any future development to occur outside the hazard area. Based on this information, the proposed partition can be reviewed. Although the proposal can be reviewed, it is possible that future owners may want to place development in the geohazard area and, if so, will be required to satisfy the risk assessment and/or report requirements found in Chapter 182.

In addition, the County requires a Declaratory Statement be recorded with the property deed to notify the applicant, and subsequent owners, that the property is known to be in a geologically hazardous area of Marion County, that restrictions on the use or alteration of the site may exist due to natural conditions of the site, and that the County is not responsible for property damage caused by geological related hazards.

8. There are no specific approval criteria for partitions in the AR zone. MCC 17.128.070 requires a minimum lot size of ten acres. All three parcels will be at least ten acres each and are consistent with this standard. The proposal meets the criteria for partitioning in the AR zone.
9. MCC 17.128.050 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.*

Since property to the south and west is zoned SA, any dwelling placed on the resulting parcels must be setback at least 200 feet from the property lines. The applicant originally requested to reduce the required 200 foot setback from the south property line to 90 feet. **The request was originally approved, however, the applicant requested a reconsideration during the appeal period to modify the configuration of the proposed parcels and to meet the required 200 foot setback from the southern property line.** In addition, the County requires that a Declaratory Statement be recorded with the property deed because the subject property is near a resource zone. This serves to notify the applicant and subsequent owners that there are farm or timber operations in the area. Any approval can be conditioned to meet this criterion.

10. 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 10 acres prior to any required right-of-way dedication.
11. Based on the above and subject to the required agreements, the proposed partitioning complies with the criteria for a partitioning in the AR-10 zone and is, therefore **APPROVED**, subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: March 28, 2018

If you have any questions please contact Patty Dorr 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.