



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: March 12, 2025

Department: Public Works

Title: Consider accepting appeal of Hearings Officer decision approving Subdivision 24-001/Enchanted Ridge

Management Update/Work Session Date: N/A Audio/Visual aids ☐

Time Required: 5 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Staff recommended motion: Decline to accept the appeal, upholding the hearings officer's decision approving Subdivision 24-001/Enchanted Ridge.
Other motion options for consideration are:
1. Accept the appeal and schedule a public hearing with a date to be determined.

Issue, Description & Background: Enchanted Ridge Property Owners Association and Enchanted Ridge II, LLC., applied for a subdivision approval to divide an 85.6 acre parcel into four lots of 77.90 acres, 2.40 acres, 2.90 acres and 2.36 acres in the 8200 block of Valley Way SE, Turner. The hearings officer held a hearing on January 16, 2025 and issued a decision approving the request on January 30, 2025. The hearings officer's approval was subsequently appealed.
In review of the appeal, there does not appear to be new argument, new evidence, nor is the board being asked to make a policy decision. Staff recommends the board decline to accept the appeal and uphold the hearings officer's decision.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Appeal, Hearings Officer's Decision, Planning Director Staff Report

Presenter: Austin Barnes

Department Head Signature: for Bradley Rich

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of)	
)	Case No. 24-001
ENCHANTED RIDGE PROPERTY)	
OWNERS ASSOCIATION and)	SUBDIVISION
ENCHANTED RIDGE II, LLC.)	

ORDER

I. Nature of the Application

The matter came before the Marion County Hearings Officer on the Applicants' request for conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90-acres and 2.36-acres 8200 Block of Valley Way SE, Turner (T8S, R3W, Section 36, Tax Lot 400/Section 36B, Tax Lot 1900/Section 36A, Tax Lots 1200 & 1300).

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Code (MCC) Chapter 17, particularly MCC 17.128 (Acreage Residential Zone), MCC 17.136 (Exclusive Farm Use), MCC 17.172 (Subdivision and Partition Requirements), and MCC 17.181 Sensitive Groundwater Overlay Zone.

III. Public Hearing

A public hearing was held on this matter on January 16, 2025. At the hearing, the Planning Division file was made a part of the record. The following persons appeared at the hearing, and provided testimony and/or argument on the application:

- | | | |
|----|--------------------|----------------------------------|
| 1. | Austin Barnes | Marion County Planning Division |
| 2. | Margaret Gander-Vo | Attorney for Applicants |
| 3. | Jeff Kelley | In Favor of the Application |
| 4. | Ken Koebel | In Opposition to the Application |
| 5. | Dale Abraham | In Opposition to the Application |

No objections were made to notice, jurisdiction, or conflict of interest.

Exhibit 1 (Hydrology Report with written comments and internet prints-outs of precipitation levels) was offered by Ken Koebel. Ms. Gander-Vo objected to the admission of Exhibit 1 on the basis that the hydrogeology report submitted by Applicants was peer-reviewed as required, and that collateral attacks on the submission and further review of the hydrology report are not permitted. Ms. Gander-Vo stated that further review of the report should not be considered because two experts, the expert who prepared the report and the peer review expert, were completed.

The Hearings Officer agrees that the Hydrogeology Report is not subject to collateral attack in this proceeding. MCC 17.181.150 requires that all studies, reviews, and monitoring plans required by this chapter shall be reviewed by a qualified professional pursuant to MCC 17.181.130 of the County's choice prior to the acceptance of the land use application. The hydrogeology report complied with MCC 17.181.130 and MCC 17.181.150.

Exhibit 1, submitted by Mr. Koebel, is entered into the record solely as illustrative support for Mr. Koebel's general concerns regarding water consumption and impact of development on existing well. Exhibit 1 does not comply with MCC 17.181.150, and to the extent any review of the hydrology report is permitted, Exhibit 1 is insufficient to challenge Applicants' professional and peer-reviewed hydrogeology report.

IV. Executive Summary

Applicants request conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90-acres and 2.36-acres 8200 Block of Valley Way SE, Turner (T8S, R3W, Section 36, Tax Lot 400/Section 36B, Tax Lot 1900/Section 36A, Tax Lots 1200 & 1300). Based upon a review of the subdivision and zoning provisions of the Marion County Rural Zoning Ordinance and comments received from commenting agencies, the Hearings Officer APPROVES the proposed subdivision. Applicants satisfy the applicable criteria set forth in the Code (with the exception of driveway access points, well, septic systems, existing buildings, or adjacent public utilities which will be addressed during the building permit review process). The proposed subdivision is given conceptual approval subject to the certain conditions of approval stated herein. Applicants are entitled to provide additional submission(s) for conformance with plat and design standards.

V. Findings of Fact

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The subject property is zoned AR (Acreage Residential) and EFU (Exclusive Farm Use) correspondingly zoned Rural Residential and Primary Agriculture in the Marion County Comprehensive Plan. The property is located outside of any Urban Growth Boundary.
2. The property is located at the end of Enchanted View Lane SE, a private easement that accesses the Enchanted Ridge Subdivision. This is a residential development on the eastern side of Enchanted Way and Interstate 5, further to the east is land in active farm use. The property does not contain any floodplains or streams and there is a portion of geo-hazard level three on proposed lots 2 and 3. The property is located within an SGO (Sensitive Groundwater Overlay) zone. The Applicants has an approved hydrogeology report for the proposed lots indicating that there is a viable, long-term supply of groundwater available for the new residential wells.

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3. Adjacent properties to the north and west are zoned AR and developed with single family homes. Properties to the east are zoned EFU and are in active farm production, producing hay and grass seed. To the south are properties zoned AR and C (Commercial) these are developed with the Hope Valley RV Resort.
4. Marion County Planning contacted various governmental agencies, and received the following comments:

Public Works Land Development and Engineering (LDEP) requested that the following comments be included in the staff report for consideration by the Planning Commission:

ENGINEERING REQUIREMENT

- A. Transportation System Development & Parks charges will be assessed upon application for building permits for new dwellings.

ENGINEERING ADVISORIES

- B. The private street system takes public access from Enchanted Way, under ODOT jurisdiction.
- C. Proposed implementation of perforated underground storm drain pipe as a method of reducing inter-lot stormwater surface runoff is not precluded by MCPW Engineering; however; the Applicants is forewarned that particular perforated drain systems intended for stormwater disposal that may be designed and installed without an ultimate 'open' discharge point such as daylighting downslope on land surface, to a man-made conveyance ditch, to a seasonal or perennial creek or to a public closed pipe system are regulated by DEQ as *Underground Injection Control* for which registration and periodic water sampling requirements apply.

Marion County Septic commented:

Proposed lots 1, 2, and 3 require a Site Evaluation to establish initial and repair septic areas. Proposed lot 4 is OK.

Turner Fire District commented regarding the 2022 Oregon Fire Code and the 2024 Marion County Fire Code Applications guide. The comments can be found in full in the case file.

Marion County Building commented:

No Building Inspection concerns. Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property.

Marion County Survey commented:

1. Subdivision name must be approved per ORS 92.090.

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2. Must be surveyed and platted per ORS 92.050.
3. Subdivision plat must be submitted for review.
4. Checking fee and recording fees required.
5. Per ORS 92.065 - Remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
6. 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 Survey noted that if it is necessary to re-configure the utility easement created by this partition plat (see map), then it will be the responsibility of the Applicants to determine the names of all of the utility companies affected by the proposed re-configuration, and give this list of names to the Marion County Surveyor's Office. Letters of notice will be sent by this office to the affected utility companies, who will determine whether or not the easement is to be maintained.

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

5. Austin Barnes, Marion County Planning, presented the staff report which recommended approval for the Application with the recommendation of conditions of approval that are typical for a subdivision and with completion of declaratory statements.
6. Margaret Gander-Vo, attorney for Applicants, addressed the Application and included feasibility study and hydrology report and indicated that Applicants accept the conditions of approval.
7. Jeff Kelley testified as a member of the Enchanted Ridge Homeowners' Association, and states that the property owners are very much in favor of the application and appreciate the preservation of the farmland for farm use.
8. Ken Koebel testified in opposition to the Application. Mr. Koebel testified that he has had concerns all along with the development with respect to water use and well-draining as opposed concerns about the houses. Mr. Koebel testified that he believes the hydrology report is not timely and is fabricated. Mr. Koebel presented as Exhibit 1 a copy of the hydrology report with his notations and printouts showing precipitation levels. Mr. Koebel testified that he challenges the findings of the hydrology report.
9. Dale Abraham testified in opposition to the Application. Mr. Abraham testified that he has been working with Mr. Koebel and believes that water consumption is a problem and that well testing in the lots needs to be completed. Mr. Abraham testified that the water usage for the nearby school is not addressed in the hydrology report and challenges the approach of the report.

10. With respect to the hydrology report, Austin Barnes, Marion County Planning, stated that the hydrology review does analyze surrounding wells, and is subject to technical peer review, and not subject to challenge in this hearing.
11. Ms. Gander-Vo stated that further review of the hydrology report is not permitted because the submitted hydrogeology report has been subject to peer review as required.

VI. Additional Findings of Fact and Conclusions of Law

1. Applicants have the burden of proving by a preponderance of the evidence that all applicable standards and criteria are met as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicants must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicants have not met their burden, and the application must be denied. If the evidence for every criterion is a hair or breath in Applicants’ favor, the burden of proof is met, and the application is approved.

2. The Application is submitted by the Enchanted Ridge Property Owners Association. The property is owned by the Enchanted Ridge Property Association and Enchanted Ridge II, LLC. The vesting deeds for the property include two Warranty Deeds recorded in the Marion County Real Property Records at Reel 4677, Page 445, and Reel 4677, Page 444 on December 14, 2022. The Application was signed by Thomas K. Wheeler, a member of Enchanted Ridge II, LLC and by Don Lulay, President of the Enchanted Ridge Property Association HOA.
3. The property is split designated as Primary Agriculture and Rural Residential in the Marion County Comprehensive plan and zone Exclusive Farm Use (EFU) and Acreage Residential (AR-2) in the Marion County Rual Zoning Ordinance pursuant to an Ordinance issued by the Marion County Board of Commissioners as Administrative Ordinance No. 2446 which approved Marion County Case No. ZC/CP 21-005. Applicants propose to subdivide an 85.6-acre parcel into four lots with 3 lots in an AR (Acreage Residential) zone and one 77.90-acre lot in an EFU (Exclusive Farm Use).
4. The Property is part of the Enchanted Ridge Property Owners Association, and it is the Applicants’ intent of the Applicants to include the Property in the Association. The Property would therefore be subject to the Association’s CC&Rs which were included in the Application.

LOT SIZE, IMPACTS, AND SITING

5. MCC 17.136.090 provides criteria for minimum lot size in the Exclusive Farm Use Zone.

17.136.090 Minimum parcel size, divisions of land, and property line adjustments. The following regulations apply when property line adjustments and partitioning of land within an EFU zone subject to the provisions of Chapter 17.172 MCC are proposed:

A. Minimum Parcel Size for Newly Created Parcels.

- 1. Farm Parcels. The minimal parcel size for new farm parcels shall be calculated as follows:*
 - a. All parcels wholly or in part within 500 feet of the subject parcel shall be identified.*
 - b. The average (mean) size of all parcels larger than 40 acres identified in subsection (A)(1)(a) of this section shall be determined.*
 - c. The acreage size calculated in subsection (A){1}{b) of this section, rounded to the nearest 10 acres, is the minimum parcel size unless such parcel size is less than 80 acres, in which case the minimum parcel size is 80 acres.*
- 2. Non-Farm Parcels. A new non-farm parcel created pursuant to subsection (B) of this section shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.*

The surrounding area is largely residential in nature and the existing pattern of development has resulted in a parcel of EFU zoned Property surrounded by extensive parcelization. As such, the minimum parcel size is 80 acres. Applicants are proposing the Farm Parcel, which will be 77.90 acres, be approved as a substandard parcel in this circumstance. Applicants have been granted an exception to Goal 3 via the Ordinance which permits substandard parcelization and the proposed parcel size is adequate for agricultural use which the development of the subdivision will support. This criterion is satisfied.

6. MCC 17.128.020 provides for permitted uses in the Acreage Residential (AR) Zone and MCC 17.128.050 provides for special siting standards for dwelling near resource zones.

Proposed Lot 2 and Proposed Lot 3 are adjacent to an active farm owned and operated by an adjacent landowner. During the approval process for the Ordinance, that landowner submitted a letter in support of the Ordinance, indicating that, due to the slopes on each property, the proposed Homesites do not impact the existing farm operation. Each of these proposed lots are more than three hundred feet deep. The Applicants have provided a sketch of the proposed Homesites on these proposed lots, each of which exceeds the applicable 100-foot setback, which is consistent with the existing residences on the

adjacent lots. Applicants state that Proposed Lot 1 will abut the Farm Parcel along its easternmost property line, from east to west, Proposed Lot 1 measures approximately 358 feet at its narrowest point, allowing for compliance with the 100-foot setback. Applicants have provided a conceptual plan as part of the Application that shows the proposed location of the new dwellings on the proposed parcels. Applicants state that although the Concept Plan is not intended for detailed review, it demonstrates that it is feasible to site the proposed dwellings on the Proposed Parcels in a manner that will comply with the Code. Marion County will have an opportunity to confirm compliance with this provision when the Applicants submit building permits. This criterion can be satisfied through conditions of approval and a Declaratory Statement.

ROADS, STREETS, AND EASEMENTS

7. Roads, Streets, and Easement Standards are stated in MCC 17.172.140 through 17.172.340 and include:

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.

Marion County Land Development and Engineering does not have jurisdiction over street and roadway improvements but offers advisories for drainage and easements to ensure they are developed correctly. Applicants provided a Site Plan and Concept Plan. Applicants will comply with all engineering standards and requirements approved by Marion County and will provide more detail during the development and building permit review process. This criterion is met.

17.172.160 DEDICATION OR DEEDING OF ROADWAY No person shall dedicate for public use, or deed to Marion County, a parcel of land which is used or proposed to be used as a roadway without first obtaining the approval of the Board and delivering the deed to the Board for its endorsement. No dedication is effective unless the property is accepted by the Board and recorded with the Marion County Clerk's Office.

Approval has been obtained by the Board and the deed has been recorded for Valley Way SE, Enchanted View Lane SE, and Enchanted Ridge Court SE which are shown on Applicants' Site Plan. No additional roads are proposed at this time. The criterion is not applicable.

17.172.180 DEAD-END STREETS When it appears necessary to continue streets to an adjacent acreage, the streets shall be platted to the boundary or property line of the proposed subdivision without a turnaround. In all other cases, dead-end streets shall have a turnaround with a configuration approved by the Marion County Department of Public Works.

No dead end streets are proposed, however, the Applicants will need to ensure proper fire turnaround specifications are met.

17.172.200 RADIUS AT STREET INTERSECTIONS The property line radius at street intersections shall be to the Marion County Public Works Department's standards.

Enchanted View Lane SE and Enchanted Ridge Court SE are existing private roads. Applicants will provide more detailed information in the building permit review process, and will comply with the Marion County Public Works Department's standards. The criterion is not applicable.

17.172.220 STREET GRADES No street grade shall be in excess of 12% unless the Commission or Hearings Officer finds that, because of topographic conditions, a steeper grade is necessary. The Commission or Hearings Officer shall require a written statement from the Director of Public Works indicating approval of any street grade that exceeds 12%.

The proposal uses existing private streets that meet this standard. The criterion is met.

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 Applicantss 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.

The proposed subdivision will not cause the termination of a roadway. No dedication of right-of-way widths has been requested. The criterion is met.

17.172.260 ADDITIONAL RIGHT-OF-WAY WIDTHS Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way may be required to be dedicated to allow all cut and fill slopes to be within the right-of-way.

No dedication of right-of-way widths has been requested.

17.172.280 PERFORMANCE STANDARDS Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this ordinance, the Applicants shall meet the requirements of this section.

Marion County Land Development and Engineering did not request that a Performance & Warranty Construction Bond be submitted. However, if any adequate assurances of performance are required, Applicants states that it will comply, and this criterion is satisfied.

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.

All utility easements are already in place and were recorded when the subdivision was first established. The criterion is satisfied.

17.172.320 STREET OR ROAD IMPROVEMENTS All 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.

The development is located on private roads, no upgrades are needed, and Applicants confirm that it will comply with specifications and standards set forth by Marion County Department of Public Works. The criterion is satisfied.

17.172.340 PRIVATE STREETS In the event the subdivider or developer elects to provide private streets or thoroughfares, they shall be maintained by the Homeowners Association and a maintenance agreement shall be submitted to Marion County for review and approval prior to recording the final plat.

Applicants' Site Plan shows that Enchanted View Lane SE and Enchanted Ridge Court SE are private streets that already exist and will provide access to the proposed lots. Valley Way SE is a proposed private street. The Association's Bylaws provide for maintenance of subdivision roadways. All private streets are already in place, the maintenance agreement will apply to the new lots, and the criterion is satisfied.

LOT SIZE

8. Lot standards are stated in MCC 17.172.360 through 172.380 and include:

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 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.

The Comprehensive Plan states that all lots must be, as a minimum, two acres in size and the AR (Acreage Residential) zone has a minimum lot size of two acres. The proposed

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lots range from 2.36 to 2.50 acres in size. All the lots will conform to the minimum lot size standards and are of sufficient size and shape to accommodate a dwelling. Applicants prepared a soil study, hydrology report, site plan showing topography, and a concept plan showing potential siting of the dwellings. Applicants will provide additional detail in the building permit review process and Applicants state that it will obtain all necessary permits from the Oregon State Department of Environmental Quality. The criterion is satisfied.

17.172.380 CURVED FRONT LOT LINES When front lot lines are on a curve or arc, the front line distance shall be indicated on the final plat by bearing and chord distance.

Applicants state that all curved front lot lines have been and will be measured and shown by bearing and chord distance on the final plat. The criterion is satisfied.

SEWAGE, WATER, AND UTILITIES.

9. Sewage, water, and utilities standards are listed in MCC 17.172.400 through 17.172.440 and include:

17.172.400 SEWAGE DISPOSAL. All new or refigured lots or parcels, 10 acres or smaller in size, 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. All new or reconfigured lots or parcels with an existing on-site septic system, that were authorized by an approving authority, shall be reviewed to determine that the existing system is either located entirely on the same lot or parcel containing the existing dwelling, or that proper easement is provided to allow the continued use and maintenance of the system. 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

The homesites are all smaller than ten acres. The Farm Parcel is 77.90 acres and does not have an existing on-site septic system. The criterion is not applicable to the Farm Parcel. A condition of approval shall require the Applicants to obtain a favorable septic approval for each proposed lot prior to the subdivision plat being recorded. In addition, the County On-site Wastewater Specialist is required to sign the plat. The criterion can be satisfied.

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.

(a) *Public or Private Systems:* Public or private systems shall meet the requirements of the Oregon State Health Division with reference to chemical and bacteriological quality. In addition, such systems must meet the quantity, storage, and distribution system requirements of the State Health Division and the Marion County Department of Public Works.

(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 181 of the Marion County Rural Zoning Ordinance.

Applicants indicate that water will be provided by individual private wells, not by a private or public water system. Privately owned wells, including their location, are not regulated by Marion County. Wells in the development must meet the requirements of the Oregon Water Resources Department. Applicants will provide more detailed information during the building permit review process and will comply with agency requirements.

Opponents Ken Koebel and Dale Abraham challenge Applicants' hydrology report. MCC 17.181.150 requires that all studies, reviews, and monitoring plans required by this chapter shall be reviewed by a qualified professional pursuant to MCC 17.181.130 of the County's choice prior to the acceptance of the land use application.

Mr. Koebel and Mr. Abraham's challenge to the peer-reviewed report is not considered. MCC 17.181.030 requires that for the County to accept a hydrogeology review, the report shall bear the stamp of a geologist, engineering geologist, or professional engineer that is registered with the State of Oregon. Applicants' review satisfies the criteria, and has been reviewed pursuant to MCC 17.181.150. There is nothing in Exhibit 1 that indicates that MCC 17.181.030 has not been complied with by Applicants and does not satisfy the requirements of MCC 17.181.030 to be considered an acceptable hydrogeology review.

The criterion is satisfied.

17.172.430 STORMWATER MANAGEMENT. The impact of proposed of 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.

Marion County Land Development and Engineering and Oregon DEQ regulate stormwater detention. No conditions were imposed at this time but development will be subject to review at the time of development for storm water runoff. The proposal for stormwater management is to have perforated drainage pipes behind the proposed homes, allowing for onsite management of stormwater. The specifics of these systems will be shown on building plans and reviewed and approved by LDEP. The criterions is satisfied.

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.

No street right of ways are being proposed and utility easement are already in place along the private roads. The criterion is satisfied.

ACCESS STANDARDS

10. Access Standards are provided in MCC 17.172.560

MCC 17. 172.560 requires that 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 an identification for emergency vehicles in accordance with the Marion County Address and Street Name Ordinance.*

As proposed, all parcels will be accessed off of a private easement that was created as part of the Enchanted Ridge Subdivision. This easement already meets the above-described standards.

SENSITIVE GROUNDWATER OVERLAY (SGO) ZONE

11. Standards for the Sensitive Groundwater Overlay (SGO) Zone and standards of development in an SGO zone are stated in MCC 17.181.

MCC Chapter 17.181 provides standards for development within an SGO zone, specifically section 17.181.120 (B) provides monitoring requirements for subdivisions in SGO zones:

1. *An approved water-level monitoring plan is required as a condition of approval for subdivisions.*

This shall be made a condition of approval, and the criterion can be satisfied.

2. *The monitoring plan shall be submitted to the county for peer review and is subject to approval by the county.*

This shall be made a condition of approval, and the criterion can be satisfied.

3. *The monitoring plan shall be approved and implemented before building permits are issued.*

This shall be made a condition of approval, and the criterion can be satisfied.

4. *A minimum of one observation well per 15 lots is required in each subdivision and at least one observation well is required for each phase of a subdivision. Monitoring shall begin at the start of development of Phase 1 of an approved subdivision. A report that includes an analysis of data collected to date shall be submitted to the county for peer review prior to approval of the next phase of development.*

This standard is not required as there are only 3 lots being developed.

5. *Evidence of water level declines shall require preparation of a hydrogeology study prior to the release of the next phase for development if the county determines that the available data suggests that groundwater supplies may not be sufficient for additional development.*

There are no phases for this development and as such this standard does not apply.

6. *Access easements that allow county and OWRD personnel to measure water levels shall be recorded with deeds for lots containing an observation well as a condition of approval of the subdivision.*

There are no phases for this development and as such this standard does not apply.

MCC 17.181.140 provides conditions of approval for land uses relying on groundwater to mitigate possible aquifer or well deficiencies identified by the tests or studies required by this chapter.

Staff indicates that it has considered MCC 17.181.140 and does not recommend any conditions from that section of code as the size and nature of this development do not warrant any conditions of approval stated in MCC 17.181.140(A) through (J).

12. Staff recommends approval of the Subdivision subject to the following conditions:
 1. Prior to recording the final plat, Applicants shall obtain a septic site evaluation from the Marion County Septic Division on each undeveloped parcel.
 2. Applicants shall submit documentation satisfactory to the Marion County Surveyor to accomplish the final subdivision plat. The Applicants are advised that a plat service report from a title company must be submitted with the final mylar.
 3. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
 4. All parcels will be required to submit a Sensitive Groundwater Overlay declaratory statement prior to issuance of building permits.
 5. A geo-technical report may be required for development on parcels 2 and 3. This is to be determined based on proposed building locations in relation to the geo-hazard on each parcel.
 6. In accordance with Marion County Ordinances and OAR 340-21-060, during the land clearing and road construction phase of this development, dust suppression measures such as water trucks shall be employed as necessary to prevent off site deposition of dust generated by the construction activities or related vehicular traffic on adjacent properties.
 7. The Applicants shall submit a water-level monitoring plan to the county. The plan shall be peer reviewed by the county at the expense of the Applicants and is subject to approval by the county.
 8. Prior to building permits being issued, the monitoring plan shall be approved and implemented.
13. Applicants have met all applicable criteria for conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90-acres and 2.36-acres, subject to conditions of approval which are acceptable to Applicants.

VII. Order

It is hereby found that Applicants have met all applicable criteria for conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90 acres and 2.36-acres 8200 Block of Valley Way SE, Turner (T8S, R3W, Section 36, Tax Lot 400/Section 36B, Tax Lot 1900/Section 36A, Tax Lots 1200 & 1300). Applicants' Application is APPROVED subject to the following conditions of approval which are necessary for public health, safety, and welfare:

1. Prior to recording the final plat, Applicants shall obtain a septic site evaluation from the Marion County Septic Division on each undeveloped parcel.
2. Applicants shall submit documentation satisfactory to the Marion County Surveyor to accomplish the final subdivision plat. Applicants are advised that a plat service report from a title company must be submitted with the final mylar.
3. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
4. All parcels will be required to submit a Sensitive Groundwater Overlay declaratory statement prior to issuance of building permits.
5. A geo-technical report may be required for development on parcels 2 and 3. This is to be determined based on proposed building locations in relation to the geo-hazard on each parcel.
6. In accordance with Marion County Ordinances and OAR 340-21-060, during the land clearing and road construction phase of this development, dust suppression measures such as water trucks shall be employed as necessary to prevent off site deposition of dust generated by the construction activities or related vehicular traffic on adjacent properties.
7. Applicants shall submit a water-level monitoring plan to the county. The plan shall be peer reviewed by the county at the expense of the Applicants and is subject to approval by the county.
8. Prior to building permits being issued, the monitoring plan shall be approved and implemented.

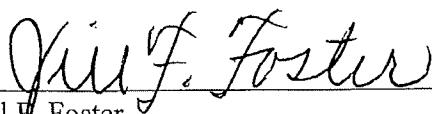
VIII. Effective Date

The application approved herein shall become effective on the 14th day of February, 2025, unless the Marion County Board of Commissioners, on their own motion or by appeal timely filed, is asked to review this Order. In case of review by the Board of Commissioners, this Order shall be stayed and shall be subject to such final action as is taken by the Board.

IX. Appeal Rights

An appeal of this decision may be taken by anyone aggrieved or affected by this Order. An Appeal must be filed with the Marion County Clerk (555 Court Street NE, Salem, Oregon) by 5:00 p.m. on the 13th day of February, 2025. The appeal must be in writing, must be filed in duplicate, must be accompanied by a payment of \$500.00, and must state wherein this order fails to conform to the provisions of the applicable ordinance. If the Board denies the appeal, \$300.00 of the appeal fee will be refunded.

DATED at Salem, Oregon this 30th day of January, 2025.



Jill F. Foster
Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Margaret Gander-Vo
250 Church St #200
Salem, OR 97301

County Agencies Notified:
Assessor's Office (via email)
assessor@co.marion.or.us

Beverly Carrick
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Turner, OR 97392

Tax Collector (via email)
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ADhillon@co.marion.or.us

Tom Wheeler
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Salem, OR 97302

Surveyor's Office (via email)
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Ken Koebel
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Fire District:
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Dale Abraham
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Planning Division (via email)
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Area Advisory Committee #1: (via email)
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arkaye2@gmail.com (Aileen)

Building Inspection (via email)
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Kaldrich@co.marion.or.us
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CTate@co.marion.or.us

Roger Kaye
Friends of Marion County
P.O. Box 3274
Salem, OR 97302
rkaye2@gmail.com

Public Works LDEP Section (via email)
jrasmussen@co.marion.or.us
mcldep@co.marion.or.us
JShanahan@co.marion.or.us

1000 Friends of Oregon
133 SW 2nd Ave
Portland, OR 97204-2597

School District: (via email)
Cascade
charmon@cascade.k12.or.us

To: Board of Commissioners

Subject : Case#24-001

I am writing to request that Case # 24-001 be suspended until a review of the Sensitive Groundwater Zone is completed.

There were two areas that raised a concern that should be addressed.

First area:

Mr. Kelley informed the Hearings Officer that the reason for the separating out of the three lots was to raise funds to purchase the larger property (Farm Parcel) so that the Farm Parcel could not be developed.

It is my understanding the Ordinance #1446 (see attachment 1) that "Prior to submitting a partition application, the Applicant shall also prepare and record a restrictive covenant on the Farm Parcel that prohibits any further parcelization, until and unless Marion County formally undertakes a legislative process to take an exception to Goal 3 for the Farm Parcel." So based on this there does not appear to be a need to develop these lots to purchase the Farm Parcel since it is protected.

Second Area:

According to the Hydrogeology report from EnviroLogic Resources, Inc. an annual rainfall of 5.19 ft per yr was used as a measuring stick for an annual rainfall amount. According to the attached annual precipitation table from the year 1892 there has been only 12 years that was over 4.17 ft. The average for this time period is only 3.34 ft per year. The report states " Other sources for rainfall total indicate lower annual amounts". I was informed that 1996 was the first hydro report done which is where the 5.19 ft came (I am assuming). The picking of this annual amount does not take in account the ups and downs . The thirdly year average is only a 40 inches per year. There is vast difference between 62 inches and 40 inches. The hydro report also states that " the report found little current evidence of declining water level trends, or excessive or recent numbers of well deepenings or replacements in the aquifer in the study area. Well MAR 18140 shows an overall water level decline since 1994, with water level rises and drops at various times during 30 years." This does not factor in the adding of 3 new wells on Elderberry Ln SE (Which shows the study area stopping at the front door of Maranatha Ct) Which is the part of the area included this case. (see attachment 2). According to the Hydo report " the water budget calculations presented estimate 74% percent of the available recharge would be used after the proposed development is complete, which meets the 90 % threshold established by the county. " I

HOST:

think this means that we are getting close to reaching a point of no return. We are using the water up faster than it gets recharged.

Included in all this is a private Kindergarden, Grade School, Middle school, and High school that is going to increase thus using more water.

In recapping all this stuff:

There is a development that is supposed to buy property so that the Farm Parcel can not be developed, when County addresses this issue(Ordinance #1446.) The Hydro report points out a flaw in determining the annual rainfall (60 inches) and the 30 year average is only 40 inches. There are several new factors in play since the last hydro report that could drastically change the landscape. The 3 new lots on Elderberry and increase in attendance at the School. I am not against this development, however, since we will be at 74% of the 90% it would seem like there should be some work done on checking water tables and well depths and adjusting the annual rainfall to a more prudent amount.

Thank You

Dale Abraham

2918 Maranatha ct SE

SALEM: Monthly & Annual Precipitation

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1892	M	M	M	M	M	M	M	M	M	M	M	6.08	M
1893	1.90	5.43	4.16	7.50	4.20	1.24	0.00	0.10	3.55	7.49	9.33	4.18	49.08
1894	9.92	4.32	10.13	3.68	2.24	3.50	0.19	0.00	2.27	4.39	2.19	4.62	47.45
1895	13.72	1.89	4.56	2.34	6.23	0.50	0.61	0.23	2.18	0.00	3.71	11.16	47.13
1896	6.35	3.31	2.69	6.12	5.54	0.99	0.00	1.00	0.66	2.97	16.99	8.31	54.93
1897	2.79	5.73	6.11	4.10	1.78	1.77	0.64	0.28	2.45	2.08	11.67	7.76	47.16
1898	3.43	5.64	2.15	2.44	1.75	1.61	0.40	0.06	1.13	4.65	6.82	4.31	34.39
1899	5.76	6.35	4.13	3.72	3.90	0.25	0.00	2.91	1.40	3.95	9.22	6.58	48.17
1900	4.15	2.98	4.25	2.60	3.90	2.20	0.62	0.00	M	4.70	2.76	6.86	35.02
1901	7.08	5.13	M	0.72	1.79	1.45	M	0.30	3.25	1.25	4.39	5.32	30.68
1902	1.48	7.90	6.00	3.71	3.59	0.90	M	M	0.42	1.07	7.98	7.49	40.54
1903	4.56	0.88	2.73	1.20	1.09	1.30	0.40	0.29	0.23	1.65	8.28	1.95	24.56
1904	3.78	9.47	9.04	1.68	0.43	0.32	0.80	0.14	0.42	2.82	6.53	6.65	42.08
1905	4.71	2.08	4.64	0.86	1.57	0.59	0.05	0.03	2.86	4.26	2.26	4.58	28.49
1906	5.42	5.78	1.94	1.58	1.85	2.50	T	T	1.92	2.38	5.99	4.65	34.01
1907	8.01	4.34	2.88	1.69	0.92	1.55	0.67	1.07	1.84	0.86	4.35	8.92	37.10
1908	3.71	2.66	2.63	1.99	2.38	1.06	0.02	0.52	0.30	4.88	3.61	2.90	26.66
1909	8.28	6.66	1.51	0.51	1.02	0.18	1.96	0.02	0.90	3.24	10.56	4.80	39.64
1910	5.63	4.92	1.24	2.20	1.58	1.19	0.00	0.02	1.26	1.80	8.03	4.02	31.89
1911	8.43	1.72	0.59	1.83	2.78	0.85	0.06	T	4.56	0.81	1.97	3.95	27.55
1912	5.52	3.94	1.79	2.03	2.40	2.70	0.32	1.81	1.49	3.22	5.78	4.72	35.72
1913	4.36	1.20	3.36	2.24	2.24	3.48	0.29	0.30	2.57	2.17	5.54	3.39	31.14
1914	8.71	4.12	2.56	2.59	1.96	1.85	0.00	0.00	4.84	3.34	3.38	2.52	35.87
1915	4.08	3.64	1.88	1.40	2.38	0.94	0.99	0.00	0.42	1.54	8.06	7.22	32.55
1916	5.39	6.43	9.96	2.59	2.58	1.31	2.72	0.35	1.17	1.43	7.12	4.71	45.76
1917	1.30	2.83	3.73	3.62	1.60	1.13	0.02	0.00	1.32	0.00	3.24	14.03	32.82
1918	4.39	5.68	3.81	1.22	1.08	0.00	0.67	0.67	0.17	2.83	3.94	3.76	28.22
1919	8.43	8.10	4.54	3.18	0.81	0.16	0.05	0.00	2.42	1.42	5.85	6.05	41.01
1920	2.98	0.34	4.24	3.37	0.25	2.69	0.55	0.95	4.45	4.97	6.76	8.29	39.84
1921	7.27	6.90	5.07	1.93	1.62	1.05	T	0.13	1.86	3.69	10.37	2.81	42.70
1922	3.11	4.33	6.14	2.16	0.93	0.03	0.00	1.49	1.97	4.91	2.57	10.41	38.05
1923	10.17	2.62	1.99	1.70	1.89	0.97	1.21	0.05	0.70	2.21	3.80	6.22	33.53
1924	3.54	2.59	1.29	1.10	0.61	0.22	T	0.53	2.37	8.31	7.98	4.61	33.15
1925	6.73	8.07	1.41	2.71	1.86	0.96	0.00	0.77	1.73	0.03	5.65	3.40	33.32
1926	3.21	8.91	0.64	0.49	2.95	0.24	0.00	2.42	1.89	4.28	9.30	4.84	39.17
1927	8.90	9.05	2.65	1.46	1.75	1.54	0.01	0.12	3.71	3.91	7.02	3.11	43.23
1928	4.83	1.29	8.00	5.21	0.45	0.85	0.05	0.00	0.78	1.78	7.15	7.64	38.03
1929	2.50	1.28	2.51	4.09	1.10	1.71	0.00	0.05	0.27	1.17	0.63	11.09	26.40
1930	3.98	6.43	1.93	3.95	1.75	0.99	0.01	0.01	2.03	1.92	3.75	3.30	30.05
1931	6.77	3.46	6.49	3.38	0.78	3.35	0.00	T	1.59	4.48	7.38	10.98	48.66
1932	6.08	2.00	6.06	3.38	3.06	0.22	0.65	0.54	0.01	4.33	7.96	7.77	42.06
1933	9.26	4.38	5.89	0.48	4.61	1.58	0.00	0.37	2.99	3.83	1.63	17.54	52.56
1934	6.40	1.59	3.89	2.33	1.35	0.34	0.30	0.27	0.43	3.64	9.49	9.38	39.41
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual

SALEM: Monthly & Annual Precipitation

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1935	4.39	4.00	6.20	1.87	0.41	0.36	0.39	0.53	1.20	3.30	2.26	5.99	30.90
1936	10.22	5.57	3.13	1.13	3.41	1.11	0.49	T	1.49	0.21	0.48	6.37	33.61
1937	6.17	10.36	3.19	7.68	1.60	4.61	0.13	0.71	0.91	3.41	11.13	13.60	63.50
1938	4.48	7.60	8.42	2.27	0.78	0.08	0.36	0.06	1.38	3.68	4.26	5.18	38.55
1939	6.00	5.08	2.65	0.39	0.90	0.98	0.47	1.04	0.38	2.63	0.84	10.32	31.68
1940	4.75	11.66	5.94	1.99	2.17	0.07	0.62	T	2.36	3.79	4.55	5.03	42.93
1941	4.25	1.43	1.95	1.80	3.83	0.49	0.03	1.33	2.37	2.87	5.36	8.43	34.14
1942	4.79	3.10	1.27	1.74	4.58	1.69	0.92	0.04	0.01	2.04	13.38	11.70	45.26
1943	4.35	4.50	6.71	2.75	1.09	3.38	0.32	2.14	0.06	6.31	2.36	5.17	39.14
1944	5.27	3.53	1.64	2.75	0.93	0.50	0.05	0.05	1.97	1.54	4.30	2.67	25.20
1945	5.34	5.92	6.67	2.89	4.44	0.32	0.51	0.20	2.46	1.75	10.73	6.25	47.48
1946	6.57	5.77	5.72	1.14	1.15	1.28	0.72	0.09	1.89	4.55	8.04	4.45	41.37
1947	3.23	3.43	5.29	2.24	0.18	3.60	1.41	0.44	1.01	11.17	3.42	4.11	39.53
1948	6.73	6.35	5.01	3.85	4.15	0.38	0.60	0.52	2.60	2.26	7.56	9.14	49.15
1949	0.57	12.31	3.06	1.00	2.23	0.97	0.26	0.38	1.37	2.31	5.86	5.45	35.77
1950	11.70	6.22	4.86	1.88	1.21	2.80	0.18	0.35	0.84	10.74	9.67	6.10	56.55
1951	9.49	5.43	4.02	0.98	2.49	0.01	0.17	0.65	3.22	7.29	6.99	6.73	47.47
1952	6.60	4.86	2.59	1.57	0.20	2.64	T	T	0.20	0.83	1.73	8.63	29.85
1953	15.40	4.87	4.95	1.58	3.76	1.34	T	1.65	1.59	3.06	6.99	7.80	52.99
1954	9.99	5.87	3.02	2.70	1.34	2.47	0.31	0.72	1.28	3.45	5.07	6.26	42.48
1955	2.63	2.25	3.66	5.18	1.18	1.09	0.86	T	2.30	7.78	6.75	12.22	45.90
1956	12.68	5.42	5.91	0.64	1.61	1.20	T	0.37	0.87	6.50	1.03	2.94	39.17
1957	2.57	4.93	8.16	2.02	2.77	2.10	0.18	0.27	0.96	2.98	3.44	8.87	39.25
1958	8.80	7.04	2.50	3.71	1.38	2.53	T	0.03	1.00	2.23	7.18	4.71	41.11
1959	11.15	4.98	4.45	1.12	2.09	1.41	0.50	0.02	2.10	1.53	2.06	3.97	35.38
1960	4.41	5.41	6.99	3.50	3.59	0.47	T	0.65	0.65	2.75	9.45	3.24	41.11
1961	4.79	10.82	8.19	3.19	2.44	0.30	0.96	0.28	0.91	3.18	4.42	6.64	46.12
1962	1.11	3.97	5.65	3.03	2.11	0.69	T	0.70	1.53	4.55	8.54	3.01	34.89
1963	2.80	3.34	6.51	4.07	3.70	0.85	0.91	0.09	1.41	3.59	6.52	3.85	37.64
1964	11.19	0.78	3.55	1.28	0.59	1.73	0.45	0.41	0.74	0.93	8.44	12.40	42.49
1965	8.15	1.57	0.87	2.41	1.16	1.11	0.19	0.99	0.13	2.20	7.00	7.95	33.73
1966	6.60	2.24	6.08	1.07	0.78	0.58	0.53	0.40	1.66	2.06	5.88	7.32	35.20
1967	7.29	2.06	3.84	2.02	1.87	0.69	0.00	T	0.84	5.08	3.30	5.45	32.44
1968	6.37	7.73	3.32	1.47	3.46	1.29	0.39	4.17	2.48	6.14	6.49	11.05	54.36
1969	8.61	3.24	1.63	2.51	0.89	2.94	0.05	0.05	3.58	4.44	3.21	9.23	40.38
1970	13.47	4.46	1.92	2.63	1.36	0.85	0.01	T	1.81	3.25	7.18	9.74	46.68
1971	6.49	4.34	6.93	4.05	1.89	2.47	0.01	1.49	3.98	3.09	6.27	8.18	49.19
1972	7.98	4.68	4.96	3.79	2.40	0.69	0.12	0.14	2.07	0.70	3.77	8.70	40.00
1973	5.64	1.62	3.50	1.69	1.11	1.48	T	0.80	2.80	2.79	15.23	11.08	47.74
1974	10.89	5.56	7.95	1.48	0.90	0.41	1.80	0.11	0.28	2.15	7.42	6.94	45.89
1975	4.96	4.68	4.22	2.20	1.66	0.81	0.51	1.96	0.00	5.51	6.06	6.07	38.64
1976	5.47	6.92	3.66	2.00	1.33	1.04	0.67	1.89	1.13	1.51	1.13	1.26	28.01
1977	0.88	2.83	3.33	0.62	3.76	0.73	0.26	1.70	2.36	2.37	6.19	8.73	33.76
1978	5.67	3.54	1.23	3.50	2.97	0.48	1.07	2.56	2.64	0.37	4.50	2.64	31.17
1979	2.84	7.19	2.17	2.82	2.20	0.65	0.30	0.70	2.19	6.06	3.83	6.95	37.90
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual

SALEM: Monthly & Annual Precipitation

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1980	6.58	4.04	3.48	3.58	1.53	1.99	0.22	0.04	1.05	1.45	5.24	10.44	39.64
1981	2.09	3.29	3.45	2.06	2.19	3.33	0.15	T	2.78	4.63	7.54	9.73	41.24
1982	6.11	6.02	2.81	3.80	0.73	1.36	0.33	0.41	1.83	3.04	4.92	9.26	40.62
1983	6.00	10.57	8.56	2.72	2.12	2.48	2.63	2.09	0.32	1.31	10.06	6.49	55.35
1984	2.34	5.50	4.40	3.74	3.32	4.19	0.03	T	1.19	4.31	12.70	3.71	45.43
1985	0.24	3.44	3.80	0.93	0.65	2.42	0.32	0.20	1.25	3.17	4.81	2.51	23.74
1986	6.25	8.26	2.89	1.30	2.22	0.42	1.23	T	3.12	2.71	7.24	3.86	39.50
1987	7.67	3.52	3.98	2.36	1.52	0.26	2.51	0.15	0.14	0.47	3.00	10.92	36.50
1988	6.78	0.75	3.34	3.56	2.39	1.97	0.03	0.00	0.98	0.12	9.50	3.23	32.65
1989	3.57	2.79	6.47	1.06	1.08	1.03	0.77	0.48	1.03	2.50	3.09	3.95	27.82
1990	8.51	5.31	2.39	1.67	1.94	1.09	0.47	0.85	0.42	5.63	4.91	2.82	36.01
1991	2.42	3.72	5.18	3.84	4.51	1.55	0.11	0.67	0.04	1.70	5.94	3.73	33.41
1992	4.76	4.46	0.89	4.35	0.05	1.12	0.50	0.38	0.70	3.52	4.84	7.83	33.40
1993	4.77	1.61	5.12	5.64	3.59	3.17	1.05	0.40	0.01	1.11	1.26	6.84	34.57
1994	4.28	4.21	2.56	2.16	1.61	1.14	T	0.05	1.64	7.96	7.09	4.91	37.61
1995	8.63	4.35	4.44	4.41	1.29	1.48	0.36	1.29	1.81	4.07	9.07	7.28	48.48
1996	8.26	13.01	3.08	5.72	3.21	0.74	0.90	0.20	1.94	4.78	10.11	15.01	66.96
1997	9.07	2.08	7.32	3.41	2.71	1.86	0.36	1.13	3.81	6.45	4.40	3.16	45.76
1998	9.06	6.18	4.96	1.63	5.56	0.98	0.10	0.04	0.68	2.52	11.70	8.66	52.07
1999	9.61	11.40	5.06	1.35	1.90	1.43	0.15	0.68	0.09	2.44	7.26	5.38	46.75
2000	7.05	6.92	2.98	1.29	1.56	0.71	0.09	0.03	0.75	2.40	2.53	3.62	29.93
2001	1.81	1.22	2.82	2.49	1.45	1.89	0.24	0.78	0.57	3.35	9.02	8.03	33.67
2002	8.93	3.54	4.47	1.77	1.35	1.22	0.07	0.02	0.98	0.47	3.84	11.20	37.86
2003	7.38	2.78	4.79	5.54	1.74	0.62	T	0.03	0.94	2.47	4.99	10.42	41.70
2004	6.65	5.10	1.43	2.13	2.06	1.78	0.09	1.04	2.08	3.30	2.14	3.89	31.69
2005	1.43	0.49	4.15	2.82	4.65	1.90	0.21	0.05	2.33	2.70	6.04	11.52	38.29
2006	13.37	2.12	4.17	2.46	2.88	0.65	0.07	T	0.54	0.65	15.15	7.35	49.41
2007	3.92	5.33	2.35	2.29	1.27	0.78	0.34	0.72	2.76	4.24	3.75	8.25	36.00
2008	8.34	1.89	3.54	1.97	0.43	0.74	T	1.28	0.41	0.96	3.59	6.02	29.17
2009	3.56	2.90	3.03	1.35	3.03	1.39	0.68	0.18	1.20	2.61	8.02	6.14	34.09
2010	5.85	4.07	5.20	4.35	3.47	2.64	0.04	0.20	2.07	5.22	6.44	9.95	49.50
2011	3.25	4.31	7.16	4.15	3.40	0.98	0.74	0.11	0.35	2.15	5.96	3.32	35.88
2012	11.29	4.14	9.98	3.08	2.31	2.20	0.07	T	0.04	5.94	8.92	7.40	55.37
2013	1.63	1.42	2.21	2.39	2.94	1.02	0.00	0.35	7.05	0.63	2.68	1.27	23.59
2014	2.26	7.01	7.32	2.71	2.07	0.64	0.46	0.35	1.20	5.80	4.87	6.87	41.56
2015	3.21	4.33	4.24	2.10	0.72	0.67	0.01	0.71	1.13	3.67	4.64	15.24	40.67
2016	7.82	2.91	6.36	2.05	1.17	1.00	0.45	0.41	1.54	11.25	6.90	5.15	47.01
2017	5.40	13.41	7.69	4.42	1.64	0.74	0.00	0.15	2.36	5.45	6.57	3.08	50.91
2018	7.33	2.21	3.21	5.28	0.21	0.56	T	T	0.35	1.97	3.86	6.04	31.02
2019	2.93	7.09	1.67	5.14	1.72	0.43	0.42	0.32	2.97	2.52	0.80	4.85	30.86
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual

SALEM: Monthly & Annual Precipitation

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2020	7.95	1.78	2.92	1.35	2.85	1.41	T	0.12	1.36	1.70	5.89	6.45	33.78
2021	8.50	5.02	2.33	1.27	0.94	1.72	0.02	0.02	2.89	2.71	5.50	9.90	40.82
2022	4.50	2.80	3.76	5.36	4.08	2.75	0.10	0.15	0.29	1.77	7.87	5.57	39.00
2023	3.49	2.84	5.17	5.19	0.61	0.44	T	0.86	2.49	2.73	5.22	7.62	36.66
2024	10.18												
2025													
2026													
2027													
2028													
2029													
2030													
2031													
2032													
2033													
2034													
norm	6.08	4.54	4.35	3.12	2.25	1.25	0.25	0.39	1.46	3.47	5.95	6.97	40.08

Progression of Salem's 30-Year Climatic Normals for Precipitation

period	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Year
1890-1920	5.75	4.84	4.00	2.46	1.74	1.21	0.35	0.44	1.78	2.91	5.33	6.94	37.73
1921-1950	5.72	5.49	4.19	2.39	1.93	1.22	0.32	0.49	1.49	3.70	5.96	7.12	40.02
1931-1960	6.70	5.31	4.68	2.33	2.11	1.45	0.35	0.45	1.38	3.91	5.71	7.37	41.75
1941-1970	6.90	4.79	4.33	2.29	2.09	1.39	0.35	0.57	1.46	3.98	6.08	6.85	41.08
1951-1980	7.05	4.56	4.31	2.41	1.95	1.23	0.35	0.76	1.59	3.33	5.71	7.10	40.35
1961-1990	5.92	4.50	4.17	2.42	1.88	1.34	0.56	0.76	1.55	2.98	6.28	6.80	39.16
1971-2000	5.84	5.09	4.17	2.76	2.13	1.45	0.57	0.68	1.43	3.03	6.39	6.46	40.00
1971-2000 ¹	5.96	4.56	3.99	2.81	2.22	1.55	0.46	0.45	1.28	3.03	6.50	6.86	39.67
1981-2010	5.75	4.84	4.00	2.46	1.74	1.21	0.35	0.44	1.78	2.91	5.33	6.94	37.73
1991-2020	6.08	4.54	4.35	3.12	2.25	1.25	0.25	0.39	1.46	3.47	5.95	6.97	40.08
2001-2030													

¹The 1970-2000 normals were recalculated, using a more robust methodology. This is the same that was used to calculate the 1981-2010 normals.

31. The Applicant has shown compliance with all applicable regulations which would permit a zone change, comprehensive plan change, and exceptions to Goal 3 and Goal 14 to the extent applicable.
32. The proposed zone change is recommended.

VIII. RECOMMENDATION

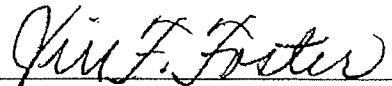
It is hereby found that the Applicant has met the burden of proving the applicable standards and criteria for approval of a comprehensive plan amendment from Agriculture to Residential with exceptions to Statewide Planning Goal 3 (Agricultural Lands) and a zone change from EFU (Exclusive Farm Use) to AR-2 (Acreage Residential- 2-acre minimum) on approximately 8 acres of an 85.60-acre parcel on property located in the 2700 block of Enchanted View Lane, SE Salem. Therefore, the hearing officer **RECOMMENDS** the Marion County Board of Commissioners **GRANT** the comprehensive plan amendment and zone change Applications, subject to the following condition:

1. The Applicant shall provide a legal description of the areas on the property being rezoned to AR 2.
2. Prior to submitting a partition application, the Applicant shall also prepare and record a restrictive covenant on the Farm Parcel that prohibits any further parcelization, until and unless Marion County formally undertakes a legislative process to take an exception to Goal 3 for the Farm Parcel.

IX. REFERRAL

This document is a recommendation to the Marion County Board of Commissions. The Board will make the final determination on this Application after holding a public hearing. The Planning Division will notify all parties of the hearing date.

Dated this 26 day of May 2022.



Jill F. Foster
Marion County Hearings Officer

MARION COUNTY
BILL BURGESS
MARION COUNTY CLERK

Receipt #: 49416 Receipt Date: 02/12/2025 01:49 PM
Station: 5 Cashier: SKM
Receipt Name: MELVIN & DORA ABRAHAM

Comments:

Thank You!
BILL BURGESS, MARION COUNTY CLERK

Please retain this receipt for your records.

Documents are recorded as submitted. The Marion County Clerk's Office
assumes no liability for sufficiency, validity, or accuracy.

Miscellaneous Fees		
Appeal Fee	YES	\$500.00

Receipt Total		\$500.00
CHECK	212	\$500.00

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of)
) Case No. 24-001
ENCHANTED RIDGE PROPERTY)
OWNERS ASSOCIATION and) **SUBDIVISION**
ENCHANTED RIDGE II, LLC.)

ORDER

I. Nature of the Application

The matter came before the Marion County Hearings Officer on the Applicants' request for conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90-acres and 2.36-acres 8200 Block of Valley Way SE, Turner (T8S, R3W, Section 36, Tax Lot 400/Section 36B, Tax Lot 1900/Section 36A, Tax Lots 1200 & 1300).

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Code (MCC) Chapter 17, particularly MCC 17.128 (Acreage Residential Zone), MCC 17.136 (Exclusive Farm Use), MCC 17.172 (Subdivision and Partition Requirements), and MCC 17.181 Sensitive Groundwater Overlay Zone.

III. Public Hearing

A public hearing was held on this matter on January 16, 2025. At the hearing, the Planning Division file was made a part of the record. The following persons appeared at the hearing, and provided testimony and/or argument on the application:

- | | | |
|----|--------------------|----------------------------------|
| 1. | Austin Barnes | Marion County Planning Division |
| 2. | Margaret Gander-Vo | Attorney for Applicants |
| 3. | Jeff Kelley | In Favor of the Application |
| 4. | Ken Koebel | In Opposition to the Application |
| 5. | Dale Abraham | In Opposition to the Application |

No objections were made to notice, jurisdiction, or conflict of interest.

Exhibit 1 (Hydrology Report with written comments and internet prints-outs of precipitation levels) was offered by Ken Koebel. Ms. Gander-Vo objected to the admission of Exhibit 1 on the basis that the hydrogeology report submitted by Applicants was peer-reviewed as required, and that collateral attacks on the submission and further review of the hydrology report are not permitted. Ms. Gander-Vo stated that further review of the report should not be considered because two experts, the expert who prepared the report and the peer review expert, were completed.

The Hearings Officer agrees that the Hydrogeology Report is not subject to collateral attack in this proceeding. MCC 17.181.150 requires that all studies, reviews, and monitoring plans required by this chapter shall be reviewed by a qualified professional pursuant to MCC 17.181.130 of the County's choice prior to the acceptance of the land use application. The hydrogeology report complied with MCC 17.181.130 and MCC 17.181.150.

Exhibit 1, submitted by Mr. Koebel, is entered into the record solely as illustrative support for Mr. Koebel's general concerns regarding water consumption and impact of development on existing well. Exhibit 1 does not comply with MCC 17.181.150, and to the extent any review of the hydrology report is permitted, Exhibit 1 is insufficient to challenge Applicants' professional and peer-reviewed hydrogeology report.

IV. Executive Summary

Applicants request conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90-acres and 2.36-acres 8200 Block of Valley Way SE, Turner (T8S, R3W, Section 36, Tax Lot 400/Section 36B, Tax Lot 1900/Section 36A, Tax Lots 1200 & 1300). Based upon a review of the subdivision and zoning provisions of the Marion County Rural Zoning Ordinance and comments received from commenting agencies, the Hearings Officer APPROVES the proposed subdivision. Applicants satisfy the applicable criteria set forth in the Code (with the exception of driveway access points, well, septic systems, existing buildings, or adjacent public utilities which will be addressed during the building permit review process). The proposed subdivision is given conceptual approval subject to the certain conditions of approval stated herein. Applicants are entitled to provide additional submission(s) for conformance with plat and design standards.

V. Findings of Fact

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The subject property is zoned AR (Acreage Residential) and EFU (Exclusive Farm Use) correspondingly zoned Rural Residential and Primary Agriculture in the Marion County Comprehensive Plan. The property is located outside of any Urban Growth Boundary.
2. The property is located at the end of Enchanted View Lane SE, a private easement that accesses the Enchanted Ridge Subdivision. This is a residential development on the eastern side of Enchanted Way and Interstate 5, further to the east is land in active farm use. The property does not contain any floodplains or streams and there is a portion of geo-hazard level three on proposed lots 2 and 3. The property is located within an SGO (Sensitive Groundwater Overlay) zone. The Applicants has an approved hydrogeology report for the proposed lots indicating that there is a viable, long-term supply of groundwater available for the new residential wells.

3. Adjacent properties to the north and west are zoned AR and developed with single family homes. Properties to the east are zoned EFU and are in active farm production, producing hay and grass seed. To the south are properties zoned AR and C (Commercial) these are developed with the Hope Valley RV Resort.
4. Marion County Planning contacted various governmental agencies, and received the following comments:

Public Works Land Development and Engineering (LDEP) requested that the following comments be included in the staff report for consideration by the Planning Commission:

ENGINEERING REQUIREMENT

- A. Transportation System Development & Parks charges will be assessed upon application for building permits for new dwellings.

ENGINEERING ADVISORIES

- B. The private street system takes public access from Enchanted Way, under ODOT jurisdiction.
- C. Proposed implementation of perforated underground storm drain pipe as a method of reducing inter-lot stormwater surface runoff is not precluded by MCPW Engineering; however; the Applicants is forewarned that particular perforated drain systems intended for stormwater disposal that may be designed and installed without an ultimate 'open' discharge point such as daylighting downslope on land surface, to a man-made conveyance ditch, to a seasonal or perennial creek or to a public closed pipe system are regulated by DEQ as *Underground Injection Control* for which registration and periodic water sampling requirements apply.

Marion County Septic commented:

Proposed lots 1, 2, and 3 require a Site Evaluation to establish initial and repair septic areas. Proposed lot 4 is OK.

Turner Fire District commented regarding the 2022 Oregon Fire Code and the 2024 Marion County Fire Code Applications guide. The comments can be found in full in the case file.

Marion County Building commented:

No Building Inspection concerns. Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property.

Marion County Survey commented:

1. Subdivision name must be approved per ORS 92.090.

2. Must be surveyed and platted per ORS 92.050.
3. Subdivision plat must be submitted for review.
4. Checking fee and recording fees required.
5. Per ORS 92.065 - Remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
6. 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 Survey noted that if it is necessary to re-configure the utility easement created by this partition plat (see map), then it will be the responsibility of the Applicants to determine the names of all of the utility companies affected by the proposed re-configuration, and give this list of names to the Marion County Surveyor's Office. Letters of notice will be sent by this office to the affected utility companies, who will determine whether or not the easement is to be maintained.

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

5. Austin Barnes, Marion County Planning, presented the staff report which recommended approval for the Application with the recommendation of conditions of approval that are typical for a subdivision and with completion of declaratory statements.
6. Margaret Gander-Vo, attorney for Applicants, addressed the Application and included feasibility study and hydrology report and indicated that Applicants accept the conditions of approval.
7. Jeff Kelley testified as a member of the Enchanted Ridge Homeowners' Association, and states that the property owners are very much in favor of the application and appreciate the preservation of the farmland for farm use.
8. Ken Koebel testified in opposition to the Application. Mr. Koebel testified that he has had concerns all along with the development with respect to water use and well-draining as opposed concerns about the houses. Mr. Koebel testified that he believes the hydrology report is not timely and is fabricated. Mr. Koebel presented as Exhibit 1 a copy of the hydrology report with his notations and printouts showing precipitation levels. Mr. Koebel testified that he challenges the findings of the hydrology report.
9. Dale Abraham testified in opposition to the Application. Mr. Abraham testified that he has been working with Mr. Koebel and believes that water consumption is a problem and that well testing in the lots needs to be completed. Mr. Abraham testified that the water usage for the nearby school is not addressed in the hydrology report and challenges the approach of the report.

10. With respect to the hydrology report, Austin Barnes, Marion County Planning, stated that the hydrology review does analyze surrounding wells, and is subject to technical peer review, and not subject to challenge in this hearing.
11. Ms. Gander-Vo stated that further review of the hydrology report is not permitted because the submitted hydrogeology report has been subject to peer review as required.

VI. Additional Findings of Fact and Conclusions of Law

1. Applicants have the burden of proving by a preponderance of the evidence that all applicable standards and criteria are met as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicants must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicants have not met their burden, and the application must be denied. If the evidence for every criterion is a hair or breath in Applicants’ favor, the burden of proof is met, and the application is approved.

2. The Application is submitted by the Enchanted Ridge Property Owners Association. The property is owned by the Enchanted Ridge Property Association and Enchanted Ridge II, LLC. The vesting deeds for the property include two Warranty Deeds recorded in the Marion County Real Property Records at Reel 4677, Page 445, and Reel 4677, Page 444 on December 14, 2022. The Application was signed by Thomas K. Wheeler, a member of Enchanted Ridge II, LLC and by Don Lulay, President of the Enchanted Ridge Property Association HOA.
3. The property is split designated as Primary Agriculture and Rural Residential in the Marion County Comprehensive plan and zone Exclusive Farm Use (EFU) and Acreage Residential (AR-2) in the Marion County Rual Zoning Ordinance pursuant to an Ordinance issued by the Marion County Board of Commissioners as Administrative Ordinance No. 2446 which approved Marion County Case No. ZC/CP 21-005. Applicants propose to subdivide an 85.6-acre parcel into four lots with 3 lots in an AR (Acreage Residential) zone and one 77.90-acre lot in an EFU (Exclusive Farm Use).
4. The Property is part of the Enchanted Ridge Property Owners Association, and it is the Applicants’ intent of the Applicants to include the Property in the Association. The Property would therefore be subject to the Association’s CC&Rs which were included in the Application.

LOT SIZE, IMPACTS, AND SITING

5. MCC 17.136.090 provides criteria for minimum lot size in the Exclusive Farm Use Zone.

17.136.090 Minimum parcel size, divisions of land, and property line adjustments. The following regulations apply when property line adjustments and partitioning of land within an EFU zone subject to the provisions of Chapter 17.172 MCC are proposed:

A. Minimum Parcel Size for Newly Created Parcels.

- 1. Farm Parcels. The minimal parcel size for new farm parcels shall be calculated as follows:*
 - a. All parcels wholly or in part within 500 feet of the subject parcel shall be identified.*
 - b. The average (mean) size of all parcels larger than 40 acres identified in subsection (A)(1)(a) of this section shall be determined.*
 - c. The acreage size calculated in subsection (A){1}{b} of this section, rounded to the nearest 10 acres, is the minimum parcel size unless such parcel size is less than 80 acres, in which case the minimum parcel size is 80 acres.*
- 2. Non-Farm Parcels. A new non-farm parcel created pursuant to subsection (B) of this section shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.*

The surrounding area is largely residential in nature and the existing pattern of development has resulted in a parcel of EFU zoned Property surrounded by extensive parcelization. As such, the minimum parcel size is 80 acres. Applicants are proposing the Farm Parcel, which will be 77.90 acres, be approved as a substandard parcel in this circumstance. Applicants have been granted an exception to Goal 3 via the Ordinance which permits substandard parcelization and the proposed parcel size is adequate for agricultural use which the development of the subdivision will support. This criterion is satisfied.

6. MCC 17.128.020 provides for permitted uses in the Acreage Residential (AR) Zone and MCC 17.128.050 provides for special siting standards for dwelling near resource zones.

Proposed Lot 2 and Proposed Lot 3 are adjacent to an active farm owned and operated by an adjacent landowner. During the approval process for the Ordinance, that landowner submitted a letter in support of the Ordinance, indicating that, due to the slopes on each property, the proposed Homesites do not impact the existing farm operation. Each of these proposed lots are more than three hundred feet deep. The Applicants have provided a sketch of the proposed Homesites on these proposed lots, each of which exceeds the applicable 100-foot setback, which is consistent with the existing residences on the

adjacent lots. Applicants state that Proposed Lot 1 will abut the Farm Parcel along its easternmost property line, from east to west. Proposed Lot 1 measures approximately 358 feet at its narrowest point, allowing for compliance with the 100-foot setback. Applicants have provided a conceptual plan as part of the Application that shows the proposed location of the new dwellings on the proposed parcels. Applicants state that although the Concept Plan is not intended for detailed review, it demonstrates that it is feasible to site the proposed dwellings on the Proposed Parcels in a manner that will comply with the Code. Marion County will have an opportunity to confirm compliance with this provision when the Applicants submit building permits. This criterion can be satisfied through conditions of approval and a Declaratory Statement.

ROADS, STREETS, AND EASEMENTS

7. Roads, Streets, and Easement Standards are stated in MCC 17.172.140 through 17.172.340 and include:

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.

Marion County Land Development and Engineering does not have jurisdiction over street and roadway improvements but offers advisories for drainage and easements to ensure they are developed correctly. Applicants provided a Site Plan and Concept Plan. Applicants will comply with all engineering standards and requirements approved by Marion County and will provide more detail during the development and building permit review process. This criterion is met.

17.172.160 DEDICATION OR DEEDING OF ROADWAY No person shall dedicate for public use, or deed to Marion County, a parcel of land which is used or proposed to be used as a roadway without first obtaining the approval of the Board and delivering the deed to the Board for its endorsement. No dedication is effective unless the property is accepted by the Board and recorded with the Marion County Clerk's Office.

Approval has been obtained by the Board and the deed has been recorded for Valley Way SE, Enchanted View Lane SE, and Enchanted Ridge Court SE which are shown on Applicants' Site Plan. No additional roads are proposed at this time. The criterion is not applicable.

17.172.180 DEAD-END STREETS When it appears necessary to continue streets to an adjacent acreage, the streets shall be platted to the boundary or property line of the proposed subdivision without a turnaround. In all other cases, dead-end streets shall have a turnaround with a configuration approved by the Marion County Department of Public Works.

No dead end streets are proposed, however, the Applicants will need to ensure proper fire turnaround specifications are met.

17.172.200 RADIUS AT STREET INTERSECTIONS The property line radius at street intersections shall be to the Marion County Public Works Department's standards.

Enchanted View Lane SE and Enchanted Ridge Court SE are existing private roads. Applicants will provide more detailed information in the building permit review process, and will comply with the Marion County Public Works Department's standards. The criterion is not applicable.

17.172.220 STREET GRADES No street grade shall be in excess of 12% unless the Commission or Hearings Officer finds that, because of topographic conditions, a steeper grade is necessary. The Commission or Hearings Officer shall require a written statement from the Director of Public Works indicating approval of any street grade that exceeds 12%.

The proposal uses existing private streets that meet this standard. The criterion is met.

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 Applicantss 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.

The proposed subdivision will not cause the termination of a roadway. No dedication of right-of-way widths has been requested. The criterion is met.

17.172.260 ADDITIONAL RIGHT-OF-WAY WIDTHS Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way may be required to be dedicated to allow all cut and fill slopes to be within the right-of-way.

No dedication of right-of-way widths has been requested.

17.172.280 PERFORMANCE STANDARDS Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this ordinance, the Applicants shall meet the requirements of this section.

Marion County Land Development and Engineering did not request that a Performance & Warranty Construction Bond be submitted. However, if any adequate assurances of performance are required, Applicants states that it will comply, and this criterion is satisfied.

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.

All utility easements are already in place and were recorded when the subdivision was first established. The criterion is satisfied.

17.172.320 STREET OR ROAD IMPROVEMENTS All 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.

The development is located on private roads, no upgrades are needed, and Applicants confirm that it will comply with specifications and standards set forth by Marion County Department of Public Works. The criterion is satisfied.

17.172.340 PRIVATE STREETS In the event the subdivider or developer elects to provide private streets or thoroughfares, they shall be maintained by the Homeowners Association and a maintenance agreement shall be submitted to Marion County for review and approval prior to recording the final plat.

Applicants' Site Plan shows that Enchanted View Lane SE and Enchanted Ridge Court SE are private streets that already exist and will provide access to the proposed lots. Valley Way SE is a proposed private street. The Association's Bylaws provide for maintenance of subdivision roadways. All private streets are already in place, the maintenance agreement will apply to the new lots, and the criterion is satisfied.

LOT SIZE

8. Lot standards are stated in MCC 17.172.360 through 172.380 and include:

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 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.

The Comprehensive Plan states that all lots must be, as a minimum, two acres in size and the AR (Acreage Residential) zone has a minimum lot size of two acres. The proposed

SUB 24-001 – ORDER

Enchanted Ridge Property Owners Assn.

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lots range from 2.36 to 2.50 acres in size. All the lots will conform to the minimum lot size standards and are of sufficient size and shape to accommodate a dwelling. Applicants prepared a soil study, hydrology report, site plan showing topography, and a concept plan showing potential siting of the dwellings. Applicants will provide additional detail in the building permit review process and Applicants state that it will obtain all necessary permits from the Oregon State Department of Environmental Quality. The criterion is satisfied.

17.172.380 CURVED FRONT LOT LINES When front lot lines are on a curve or arc, the front line distance shall be indicated on the final plat by bearing and chord distance.

Applicants state that all curved front lot lines have been and will be measured and shown by bearing and chord distance on the final plat. The criterion is satisfied.

SEWAGE, WATER, AND UTILITIES.

9. Sewage, water, and utilities standards are listed in MCC 17.172.400 through 17.172.440 and include:

17.172.400 SEWAGE DISPOSAL. All new or refigured lots or parcels, 10 acres or smaller in size, 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. All new or reconfigured lots or parcels with an existing on-site septic system, that were authorized by an approving authority, shall be reviewed to determine that the existing system is either located entirely on the same lot or parcel containing the existing dwelling, or that proper easement is provided to allow the continued use and maintenance of the system. 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

The homesites are all smaller than ten acres. The Farm Parcel is 77.90 acres and does not have an existing on-site septic system. The criterion is not applicable to the Farm Parcel. A condition of approval shall require the Applicants to obtain a favorable septic approval for each proposed lot prior to the subdivision plat being recorded. In addition, the County On-site Wastewater Specialist is required to sign the plat. The criterion can be satisfied.

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.

(a) *Public or Private Systems:* Public or private systems shall meet the requirements of the Oregon State Health Division with reference to chemical and bacteriological quality. In addition, such systems must meet the quantity, storage, and distribution system requirements of the State Health Division and the Marion County Department of Public Works.

(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 181 of the Marion County Rural Zoning Ordinance.

Applicants indicate that water will be provided by individual private wells, not by a private or public water system. Privately owned wells, including their location, are not regulated by Marion County. Wells in the development must meet the requirements of the Oregon Water Resources Department. Applicants will provide more detailed information during the building permit review process and will comply with agency requirements.

Opponents Ken Koebel and Dale Abraham challenge Applicants' hydrology report. MCC 17.181.150 requires that all studies, reviews, and monitoring plans required by this chapter shall be reviewed by a qualified professional pursuant to MCC 17.181.130 of the County's choice prior to the acceptance of the land use application.

Mr. Koebel and Mr. Abraham's challenge to the peer-reviewed report is not considered. MCC 17.181.030 requires that for the County to accept a hydrogeology review, the report shall bear the stamp of a geologist, engineering geologist, or professional engineer that is registered with the State of Oregon. Applicants' review satisfies the criteria, and has been reviewed pursuant to MCC 17.181.150. There is nothing in Exhibit 1 that indicates that MCC 17.181.030 has not been complied with by Applicants and does not satisfy the requirements of MCC 17.181.030 to be considered an acceptable hydrogeology review.

The criterion is satisfied.

17.172.430 STORMWATER MANAGEMENT. The impact of proposed of 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.

Marion County Land Development and Engineering and Oregon DEQ regulate stormwater detention. No conditions were imposed at this time but development will be subject to review at the time of development for storm water runoff. The proposal for stormwater management is to have perforated drainage pipes behind the proposed homes, allowing for onsite management of stormwater. The specifics of these systems will be shown on building plans and reviewed and approved by LDEP. The criterion is satisfied.

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.

No street right of ways are being proposed and utility easement are already in place along the private roads. The criterion is satisfied.

ACCESS STANDARDS

10. Access Standards are provided in MCC 17.172.560

MCC 17. 172.560 requires that 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 an identification for emergency vehicles in accordance with the Marion County Address and Street Name Ordinance.*

As proposed, all parcels will be accessed off of a private easement that was created as part of the Enchanted Ridge Subdivision. This easement already meets the above-described standards.

SENSITIVE GROUNDWATER OVERLAY (SGO) ZONE

11. Standards for the Sensitive Groundwater Overlay (SGO) Zone and standards of development in an SGO zone are stated in MCC 17.181.

MCC Chapter 17.181 provides standards for development within an SGO zone, specifically section 17.181.120 (B) provides monitoring requirements for subdivisions in SGO zones:

1. *An approved water-level monitoring plan is required as a condition of approval for subdivisions.*

This shall be made a condition of approval, and the criterion can be satisfied.

2. *The monitoring plan shall be submitted to the county for peer review and is subject to approval by the county.*

This shall be made a condition of approval, and the criterion can be satisfied.

3. *The monitoring plan shall be approved and implemented before building permits are issued.*

This shall be made a condition of approval, and the criterion can be satisfied.

4. *A minimum of one observation well per 15 lots is required in each subdivision and at least one observation well is required for each phase of a subdivision. Monitoring shall begin at the start of development of Phase 1 of an approved subdivision. A report that includes an analysis of data collected to date shall be submitted to the county for peer review prior to approval of the next phase of development.*

This standard is not required as there are only 3 lots being developed.

5. *Evidence of water level declines shall require preparation of a hydrogeology study prior to the release of the next phase for development if the county determines that the available data suggests that groundwater supplies may not be sufficient for additional development.*

There are no phases for this development and as such this standard does not apply.

6. *Access easements that allow county and OWRD personnel to measure water levels shall be recorded with deeds for lots containing an observation well as a condition of approval of the subdivision.*

There are no phases for this development and as such this standard does not apply.

MCC 17.181.140 provides conditions of approval for land uses relying on groundwater to mitigate possible aquifer or well deficiencies identified by the tests or studies required by this chapter.

Staff indicates that it has considered MCC 17.181.140 and does not recommend any conditions from that section of code as the size and nature of this development do not warrant any conditions of approval stated in MCC 17.181.140(A) through (J).

12. Staff recommends approval of the Subdivision subject to the following conditions:
 1. Prior to recording the final plat, Applicants shall obtain a septic site evaluation from the Marion County Septic Division on each undeveloped parcel.
 2. Applicants shall submit documentation satisfactory to the Marion County Surveyor to accomplish the final subdivision plat. The Applicants are advised that a plat service report from a title company must be submitted with the final mylar.
 3. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
 4. All parcels will be required to submit a Sensitive Groundwater Overlay declaratory statement prior to issuance of building permits.
 5. A geo-technical report may be required for development on parcels 2 and 3. This is to be determined based on proposed building locations in relation to the geo-hazard on each parcel.
 6. In accordance with Marion County Ordinances and OAR 340-21-060, during the land clearing and road construction phase of this development, dust suppression measures such as water trucks shall be employed as necessary to prevent off site deposition of dust generated by the construction activities or related vehicular traffic on adjacent properties.
 7. The Applicants shall submit a water-level monitoring plan to the county. The plan shall be peer reviewed by the county at the expense of the Applicants and is subject to approval by the county.
 8. Prior to building permits being issued, the monitoring plan shall be approved and implemented.
13. Applicants have met all applicable criteria for conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90-acres and 2.36-acres, subject to conditions of approval which are acceptable to Applicants.

VII. Order

It is hereby found that Applicants have met all applicable criteria for conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90 acres and 2.36-acres 8200 Block of Valley Way SE, Turner (T8S, R3W, Section 36, Tax Lot 400/Section 36B, Tax Lot 1900/Section 36A, Tax Lots 1200 & 1300). Applicants' Application is APPROVED subject to the following conditions of approval which are necessary for public health, safety, and welfare:

1. Prior to recording the final plat, Applicants shall obtain a septic site evaluation from the Marion County Septic Division on each undeveloped parcel.
2. Applicants shall submit documentation satisfactory to the Marion County Surveyor to accomplish the final subdivision plat. Applicants are advised that a plat service report from a title company must be submitted with the final mylar.
3. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
4. All parcels will be required to submit a Sensitive Groundwater Overlay declaratory statement prior to issuance of building permits.
5. A geo-technical report may be required for development on parcels 2 and 3. This is to be determined based on proposed building locations in relation to the geo-hazard on each parcel.
6. In accordance with Marion County Ordinances and OAR 340-21-060, during the land clearing and road construction phase of this development, dust suppression measures such as water trucks shall be employed as necessary to prevent off site deposition of dust generated by the construction activities or related vehicular traffic on adjacent properties.
7. Applicants shall submit a water-level monitoring plan to the county. The plan shall be peer reviewed by the county at the expense of the Applicants and is subject to approval by the county.
8. Prior to building permits being issued, the monitoring plan shall be approved and implemented.

VIII. Effective Date

The application approved herein shall become effective on the ninth day of February, 2025, unless the Marion County Board of Commissioners, on their own motion or by appeal timely filed, is asked to review this Order. In case of review by the Board of Commissioners, this Order shall be stayed and shall be subject to such final action as is taken by the Board.

IX. Appeal Rights

An appeal of this decision may be taken by anyone aggrieved or affected by this Order. An Appeal must be filed with the Marion County Clerk (555 Court Street NE, Salem, Oregon) by 5:00 p.m. on the 13th day of February, 2025. The appeal must be in writing, must be filed in duplicate, must be accompanied by a payment of \$500.00, and must state wherein this order fails to conform to the provisions of the applicable ordinance. If the Board denies the appeal, \$300.00 of the appeal fee will be refunded.

DATED at Salem, Oregon this 30th day of January, 2025.



Jill F. Foster
Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Margaret Gander-Vo
250 Church St #200
Salem, OR 97301

Beverly Carrick
PO Box 58
Turner, OR 97392

Tom Wheeler
140 Wilson St S.
Salem, OR 97302

Ken Koebel
2898 Maranatha Ct. SE
Turner, OR 97392

Dale Abraham
2918 Maranatha Ct. SE
Turner, OR 97392

Jeff Kelly
8358 Valley Way
Turner, OR 97392

Area Advisory Committee #1: (via email)
laulehines@gmail.com
arkaye2@gmail.com (Aileen)

Roger Kaye
Friends of Marion County
P.O. Box 3274
Salem, OR 97302
rkaye2@gmail.com

1000 Friends of Oregon
133 SW 2nd Ave
Portland, OR 97204-2597

County Agencies Notified:
Assessor's Office (via email)
assessor@co.marion.or.us

Tax Collector (via email)
NMcVey@co.marion.or.us
ADhillon@co.marion.or.us
JSpeckman@co.marion.or.us

Surveyor's Office (via email)
KInman@co.marion.or.us

Fire District:
firemarshal@turnerfire.com

Planning Division (via email)
breich@co.marion.or.us
abarnes@co.marion.or.us
EDiaz@co.marion.or.us

Addressing (via email)
abarnes@co.marion.or.us

Building Inspection (via email)
pwolterman@co.marion.or.us
Kaldrich@co.marion.or.us
ABammes@co.marion.or.us
CTate@co.marion.or.us

Public Works LDEP Section (via email)
jrasmussen@co.marion.or.us
mcldep@co.marion.or.us
JShanahan@co.marion.or.us

School District: (via email)
Cascade
charmon@cascade.k12.or.us


State Agencies Notified: *(via email)*

DLCD

hilary.foote@state.or.us

Mike.l.mccord@wrд.state.or.us

By mailing them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 30th day of January 2025 and that the postage thereon was prepaid.



Administrative Assistant to the
Hearings Officer

County Commissioners
Danielle Bethell, Chair
Colm Willis
Kevin Cameron



Chief Administrative
Officer
Jan Fritz

Director
Brian Nicholas

Deputy Director
Dennis Mansfield

MARION COUNTY PUBLIC WORKS

MARION COUNTY PLANNING COMMISSION REVISED STAFF REPORT

SUBDIVISION: 24-001

OWNER: Enchanted Ridge Property Owners Association

REQUEST: Request for conceptual and detailed approval to divide an 85.6-acre parcel into four lots of 77.90-acres, 2.40-acres, 2.90-acres and 2.36-acres.

LOCATION: 8300 Block of Valley Way SE, Turner (T8S, R3W, Section 36, Tax Lot 400/Section 36B, Tax Lot 1900/Section 36A, Tax Lots 1200 & 1300).

DATE: January 8, 2025

REPORT OF THE FACTS:

1. The subject property is zoned AR (Acreage Residential) and EFU (Exclusive Farm Use) correspondingly zoned Rural Residential and Primary Agriculture in the Marion County Comprehensive Plan. The property is located outside of any Urban Growth Boundary.
2. The property is located at the end of Enchanted View Lane SE, a private easement that accesses the Enchanted Ridge Subdivision. This is a residential development on the eastern side of Enchanted Way and Interstate 5, further to the east is land in active farm use. The property does not contain any floodplains or streams and there is a portion of geo-hazard level three on proposed lots 2 and 3. The property is located within an SGO (Sensitive Groundwater Overlay) zone. The applicant has an approved hydrogeology report for the proposed lots indicating that there is a viable, long-term supply of groundwater available for the new residential wells.
3. Adjacent properties to the north and west are zoned AR and developed with single family homes. Properties to the east are zoned EFU and are in active farm production, producing hay and grass seed. To the south are properties zoned AR and C (Commercial) these are developed with the Hope Valley RV Resort.

AGENCY COMMENTS:

4. Public Works Land Development and Engineering (LDEP) requested that the following comments be included in the staff report for consideration by the Planning Commission.

County Commissioners
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Kevin Cameron



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ENGINEERING REQUIREMENT

- A. Transportation System Development & Parks charges will be assessed upon application for building permits for new dwellings.

ENGINEERING ADVISORIES

- B. The private street system takes public access from Enchanted Way, under ODOT jurisdiction.
- C. Proposed implementation of perforated underground storm drain pipe as a method of reducing inter-lot stormwater surface runoff is not precluded by MCPW Engineering; however, the Applicant is forewarned that particular perforated drain systems intended for stormwater disposal that may be designed and installed without an ultimate 'open' discharge point such as daylighting downslope on land surface, to a man-made conveyance ditch, to a seasonal or perennial creek or to a public closed pipe system are regulated by DEQ as *Underground Injection Control* for which registration and periodic water sampling requirements apply.

Marion County Septic commented:

Proposed lots 1, 2, and 3 require a Site Evaluation to establish initial and repair septic areas. Proposed lot 4 is OK.

Turner Fire District commented regarding the 2022 Oregon Fire Code and the 2024 Marion County Fire Code Applications guide. The comments can be found in full in the case file.

Marion County Building commented:

No Building Inspection concerns. Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property.

Marion County Survey commented:

1. Subdivision name must be approved per ORS 92.090.
2. Must be surveyed and platted per ORS 92.050.
3. Subdivision plat must be submitted for review.
4. Checking fee and recording fees required.
5. Per ORS 92.065 - Remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
6. 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.

Note: If it is necessary to re-configure the utility easement created by this partition plat (see map), then it will be the responsibility of the applicant to determine the names of all of the utility companies affected by the proposed re-configuration, and give this list of names to the Marion County Surveyor's Office. Letters of notice will be sent by this office to the affected utility companies, who will determine whether or not the easement is to be maintained.

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

ANALYSIS AND CONCLUSIONS:

5. The applicant is proposing to subdivide an 85.6-acre parcel into four lots with 3 lots in an AR (Acreage Residential) zone and one 77.90-acre lot in an EFU (Exclusive Farm Use)

6. **Roads, Streets and Easement:** Standards for this section are listed in MCC 17.172.140 through 17.172.340 and include:

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.

As outlined in their comments in #4 above, Marion County Land Development and Engineering does not have jurisdiction over street and roadway improvements but offers advisories for drainage and easements to ensure they are developed correctly.

17.172.160 DEDICATION OR DEEDING OF ROADWAY No person shall dedicate for public use, or deed to Marion County, a parcel of land which is used or proposed to be used as a roadway without first obtaining the approval of the Board and delivering the deed to the Board for its endorsement. No dedication is effective unless the property is accepted by the Board and recorded with the Marion County Clerk's Office.

17.172.180 DEAD-END STREETS When it appears necessary to continue streets to an adjacent acreage, the streets shall be platted to the boundary or property line of the proposed subdivision without a turnaround. In all other cases, dead-end streets shall have a turnaround with a configuration approved by the Marion County Department of Public Works.

No public right of way dedication is proposed with this application. No dead end streets are proposed, however, the applicant will need to ensure proper fire turnaround specifications are met.

17.172.200 RADIUS AT STREET INTERSECTIONS The property line radius at street intersections shall be to the Marion County Public Works Department's standards.

Because these are private streets, the standard does not apply.

17.172.220 STREET GRADES No street grade shall be in excess of 12% unless the Commission or Hearings Officer finds that, because of topographic conditions, a steeper grade is necessary. The Commission or Hearings Officer shall require a written statement from the Director of Public Works indicating approval of any street grade that exceeds 12%.

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The proposal uses existing private streets that meet this standard.

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.

No dedication of right-of-way widths has been requested.

17.172.260 ADDITIONAL RIGHT-OF-WAY WIDTHS Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way may be required to be dedicated to allow all cut and fill slopes to be within the right-of-way.

No dedication of right-of-way widths has been requested.

17.172.280 PERFORMANCE STANDARDS Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this ordinance, the applicant shall meet the requirements of this section.

Marion County Land Development and Engineering did not request that a Performance & Warranty Construction Bond be submitted.

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.

All utility easements are already in place and were recorded when the subdivision was first established.

17.172.320 STREET OR ROAD IMPROVEMENTS All 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.

The development is located on private roads, no upgrades are needed.

17.172.340 PRIVATE STREETS In the event the subdivider or developer elects to provide private streets or thoroughfares, they shall be maintained by the Homeowners Association and a maintenance agreement shall be submitted to Marion County for review and approval prior to recording the final plat.

All private streets are already in place as well as a maintenance agreement that will apply to the new lots.

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7. **Lots:** Standards for this section are listed in MCC 17.172.360 through 172.380 and include:

*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 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.*

The Comprehensive Plan states that all lots must be, as a minimum, two acres in size and the AR (Acreage Residential) zone has a minimum lot size of two acres. The proposed lots range from 2.36 to 2.50 acres in size. All of the lots will conform to the minimum lot size standards and are of sufficient size and shape to accommodate a dwelling.

*17.172.380 **CURVED FRONT LOT LINES** When front lot lines are on a curve or arc, the front line distance shall be indicated on the final plat by bearing and chord distance.*

The applicant states that all curved front lot lines have been and will be measured and shown by bearing and chord distance.

8. **Sewage, water and utilities:** Standards for this section are listed in MCC 17.172.400 through 17.172.440 of and include:

*17.172.400 **SEWAGE DISPOSAL**. All new or refigured lots or parcels, 10 acres or smaller in size, 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. All new or reconfigured lots or parcels with an existing on-site septic system, that were authorized by an approving authority, shall be reviewed to determine that the existing system is either located entirely on the same lot or parcel containing the existing dwelling, or that proper easement is provided to allow the continued use and maintenance of the system. 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*

A condition of approval shall require the applicant obtain a favorable septic approval for each proposed lot prior to the subdivision plat being recorded. In addition, the County On-site Wastewater Specialist is required to sign the plat.

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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.

- (a) **Public or Private Systems:** Public or private systems shall meet the requirements of the Oregon State Health Division with reference to chemical and bacteriological quality. In addition, such systems must meet the quantity, storage, and distribution system requirements of the State Health Division and the Marion County Department of Public Works.*
- (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 181 of the Marion County Rural Zoning Ordinance.*

The applicant indicates that water will be provided by individual private wells, not by a private or public water system. Privately owned wells—including their location—are not regulated by Marion County. Wells in the development must meet the requirements of the Oregon Water Resources Department.

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.

Marion County Land Development and Engineering as well as Oregon DEQ regulate stormwater detention. No conditions were imposed at this time but development will be subject to review at the time of development for storm water runoff. The specifics of these systems will be shown on building plans and reviewed and approved by LDEP.

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.

No street right of ways are being proposed and utility easement are already in place along the private roads.

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9. **Access Standards:** *MCC 17. 172.560 requires that 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 an identification for emergency vehicles in accordance with the Marion County Address and Street Name Ordinance.*

As currently proposed, all parcels will be accessed off of a private easement that was created as part of the Enchanted Ridge Subdivision. This easement already meets the above described standards.

10. **Sensitive Groundwater Overlay (SGO) Zone:** *MCC Chapter 17.181 provides standards for development within an SGO zone, specifically section 17.181.120 (B) provides monitoring requirements for subdivisions in SGO zones:*

- 1. *An approved water-level monitoring plan is required as a condition of approval for subdivisions.*

This shall be made a condition of approval.

- 2. *The monitoring plan shall be submitted to the county for peer review and is subject to approval by the county.*

This shall be made a condition of approval.

- 3. *The monitoring plan shall be approved and implemented before building permits are issued.*

This shall be made a condition of approval.

- 4. *A minimum of one observation well per 15 lots is required in each subdivision and at least one observation well is required for each phase of a subdivision. Monitoring shall begin at the start of development of Phase 1 of an approved subdivision. A report that includes an analysis of data collected to date shall be submitted to the county for peer review prior to approval of the next phase of development.*

This standard is not required as there are only 3 lots being developed.

County Commissioners
Danielle Bethell, Chair
Colm Willis
Kevin Cameron



Chief Administrative Officer
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Director
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5. *Evidence of water level declines shall require preparation of a hydrogeology study prior to the release of the next phase for development if the county determines that the available data suggests that groundwater supplies may not be sufficient for additional development.*

There are no phases for this development and as such this standard does not apply.

6. *Access easements that allow county and OWRD personnel to measure water levels shall be recorded with deeds for lots containing an observation well as a condition of approval of the subdivision.*

There are no phases for this development and as such this standard does not apply.

Staff has considered MCC 17.181.140 and does not recommend any conditions from that section of code as the size and nature of this development do not warrant it.

STAFF RECOMMENDATION:

Based upon a review of the subdivision and zoning provisions of the Marion County Rural Zoning Ordinance and comments received from commenting agencies, staff recommends the proposed subdivision be given detail approval subject to the following conditions:

1. Prior to recording the final plat, the applicants shall obtain a septic site evaluation from the Marion County Septic Division on each undeveloped parcel.
2. The applicant shall submit documentation satisfactory to the Marion County Surveyor to accomplish the final subdivision plat. The applicant is advised that a plat service report from a title company must be submitted with the final mylar.
3. All easements (utility, drainage, septic, etc.) required by reviewing agencies shall be shown on the final plat.
4. All parcels will be required to submit a Sensitive Groundwater Overlay declaratory statement prior to issuance of building permits.
5. A geo-technical report may be required for development on parcels 2 and 3. This is to be determined based on proposed building locations in relation to the geo-hazard on each parcel.
6. In accordance with Marion County Ordinances and OAR 340-21-060, during the land clearing and road construction phase of this development, dust suppression measures such as water trucks shall be employed as necessary to prevent off site deposition of dust generated by the construction activities or related vehicular traffic on adjacent properties.

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7. The applicant shall submit a water-level monitoring plan to the county. The plan shall be peer reviewed by the county at the expense of the applicant and is subject to approval by the county.
8. Prior to building permits being issued, the monitoring plan shall be approved and implemented.

Austin Barnes
Principal Planner

Date: January 8, 2025

If you have any questions regarding this memo 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.