

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

**NOTICE OF DECISION
PARTITION CASE NO.21-024**

APPLICATION: Application of Amber Johnson to divide a 5.73 acre parcel into two parcels containing 2.87 and 2.86 acres each, in an Acreage Residential (AR) zone located at 5133 Center St NE, Salem (T7S; R2W; Section 29AB; Tax lot 1500).

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

EXPIRATION DATE: This approval is valid only when the final partition plat is recorded by **January 4, 2024**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

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

This decision does not include approval of a building permit.

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

Prior to recording the final plat:

1. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036). Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed).
2. Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. **The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.**
3. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following conditions have been satisfied:

***Condition A** – If access to the proposed northern parcel will be derived from Center Street then prior to plat approval, acquire an Access Permit, and under the Permit construct a paved shared access approach centered on the proposed access easement, and permanently close the existing access approach to the parent dwelling.*

Access is typically an Engineering Requirement; however, it is being conditioned as a matter of timing for completion. Please see Engineering Requirement C, below, regarding outside agency coordination relative to access across Fruitland Creek.

Prior to issuance of building permits on the resulting parcels,

4. The partition plat shall be recorded.

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

5. The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director. All parcels shall be a minimum two acres in size.
6. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.

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

7. Prior to recording the plat all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments).
8. The applicants should contact the Marion County Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards. **Paula Smith at MCFD#1 (503) 588-6513 as the contact person).**
9. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.

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

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received, together with the appeal fee, in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on

January 4, 2022. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **January 5, 2022** unless further consideration is requested.

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

1. The property is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding AR (Acreage Residential) zone is to allow creation of acreage homesites at a density that maintains the character and environmental quality of rural residential areas.
2. The subject parcel is located on the northeast corner of the intersection of Cordon Rd NE and Center Street NE. The property is developed with a home site and multiple outbuildings varying in size. The property was described in its current configuration on a deed recorded July 1, 1952; Volume 441, Page 407 and is therefore, considered a legal parcel for land use purposes.

3. Uses to the south, east and west are in residential use with all parcels being zoned AR and developed with small acreage home sites. Parcels to the north, are in farm use and appropriately zoned Exclusive Farm Use (EFU)
4. The applicant proposes to divide a 5.73 acre parcel into three parcels containing approximately 2.87 acres and 2.86 acres each.
5. The new parcel shall be addressed as 5113 Center St NE, Salem.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING CONDITION

Condition A – If access to the proposed northern parcel will be derived from Center Street then prior to plat approval, acquire an Access Permit, and under the Permit construct a paved shared access approach centered on the proposed access easement, and permanently close the existing access approach to the parent dwelling.

Access is typically an Engineering Requirement; however, it is being conditioned as a matter of timing for completion. Please see Engineering Requirement C, below, regarding outside agency coordination relative to access across Fruitland Creek.

ENGINEERING REQUIREMENTS

- B. In accordance with County Transportation System Plan policy, partitioned property shall share a common access, where feasible. At the time of application for building permits, an Access Permit will be required for the developable lot.
- C. Direct access from Center Street to the proposed northern parcel will necessitate a Fruitland Creek crossing, for which evidence of a DSL/ACOE Permit is required as a stipulation for issuance of a county Access Permit.
- D. Transportation System Development & Parks Charges will be assessed at the time of application for building permits.
- E. Show any necessary access and utility easements on the partition plat.
- F. The subject property is situated with the county's Stormwater Management Area. Cumulative ground disturbances of 1.0-acre or more in area and/or ground disturbances of any area within 50 feet from the centerline of Fruitland Creek will require an Erosion Permit.

ENGINEERING ADVISORY

- G. County GIS mapping indicates Fruitland Creek is on the National Wetland Inventory (NWI) List.

Marion County Septic Department comments:

1. Marion County has no official septic records showing the existing septic system at 5133 Center St NE. Because the property is less than 10 acres and there is an existing system on the parcel, an existing system evaluation (ESE) is required to locate the system as well as verify there are no conflicts with the proposed property line. When submitting a site plan for this application, an area that is physically large enough for a repair system will need to be identified.
2. A site evaluation is required for the proposed new (northernmost) parcel.

Marion County Surveyor commented:

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

Marion County Building Inspection commented: "No Building Inspection issues. Permits are required for any future development on private property."

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

Salem Keizer Public Schools made comments regarding school services and can be found in its entirety in the file.

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

7. There are no specific approval criteria for partitions in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres and the new parcels are consistent with this standard. Subsequently, the proposal meets the criteria for partitioning in the AR zone.
8. Based on the above findings, the proposed partition complies with the applicable criteria and is, therefore **APPROVED**.

Brandon Reich
Planning Director

Date: December 20, 2021

If you have any questions regarding this decision contact Lindsey King at (503) 588-5038

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