



**Marion County**  
OREGON

# SUBDIVISION APPLICATION

**RECEIVED**

OCT 26 2021

Marion County  
Planning

**Do not double-side or spiral bind any documents being submitted**

**Fee: Please check the appropriate box:**

- ☐ Subdivision - \$1880+\$20/lot  
☐ Subdivision in an SGO Zone - \$2500+\$20/lot  
☐ Amend Conditions - \$800

- ☐ Replat - \$2255  
☐ Phases - \$750

PROPERTY OWNER(S): <b>George F. Hayen</b>	ADDRESS, CITY, STATE, AND ZIP: <b>5193 Gath rd. se Salem OR 97317</b>
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE:	ADDRESS, CITY, STATE, ZIP
DAYTIME PHONE (if staff has questions about this application): <b>503-508-2302</b>	E-MAIL (if any): <b>sanctyard@gmail.com</b>
ADDRESS OF SUBJECT PROPERTY: <b>5193 Gath rd. se Salem OR 97317</b>	TOTAL PROPERTY ACREAGE: <b>8.4</b> ACREAGE TO BE SUBDIVIDED: <b>3x 2 acres - 1x 2.4 acres</b>
THIS APPLICATION IS MADE FOR APPROVAL OF A PROPOSED (check one): <input checked="" type="checkbox"/> SUBDIVISION <input type="checkbox"/> PLANNED UNIT DEVELOPMENT	
WILL A RAILROAD HIGHWAY CROSSING PROVIDE THE ONLY ACCESS TO THE SUBJECT PROPERTY? ( ) YES <input checked="" type="checkbox"/> NO IF YES, WHICH RAILROAD:	

FOR OFFICE USE ONLY			
Township <b>8S</b>	Range <b>2W</b>	Section <b>17D</b>	Application elements submitted:
Tax lot number(s) <b>1400</b>	<input checked="" type="checkbox"/> Title transfer instrument		
Zone: <b>AR</b>	<input checked="" type="checkbox"/> Subdivision Layout		
Zone map number:	<input checked="" type="checkbox"/> Applicant statement		
<input type="checkbox"/> TPA/header <b>Hayen</b>	<input type="checkbox"/> GeoHazard Peer Review (if applicable)		
Case Number: <b>SUB 21-003</b>	<input checked="" type="checkbox"/> Filing fee		
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural	<input type="checkbox"/> SGO Zone (if applicable)		
Application accepted by: <b>LK</b>	<input checked="" type="checkbox"/> Road name information		
Date: <b>10/26/21</b>	<input checked="" type="checkbox"/> Pre-App Submitted <b>8/2/21</b>		
Date determined complete: <b>10/28/21</b>			

**AB**

*[Handwritten signature]*

PLEASE LIST BELOW PROPOSED STREET NAMES, IN THE ORDER OF PREFERENCE FOR THE NUMBER OF NEW STREETS IN THE PROPOSED SUBDIVISION (see the attached information sheet):

- (1) Destiny LN LN = Lane  
(2) Legacy LN  
(3) Sanctuary LN  
(4) Grand Oak LN  
(5)  
(6)

NUMBER OF LOTS TO BE CREATED:

4

RANGE OF LOT SIZES:

Smallest 2 acre Largest 2.4 acre Average 2.1 acre

IF THE PROPERTY IS SERVED BY A COUNTY ROAD, INDICATE THE NAME (if the property borders more than one county road or city street please list: Guth rd. se

IS THIS ROAD PAVED? Yes IF NOT, PLEASE DESCRIBE THE TYPE AND LEVEL OF IMPROVEMENT ON THE ACCESS ROAD TO THE PROPERTY:

SEWAGE DISPOSAL TO BE PROVIDED BY:

- ☒ Septic tank  
☐ Public sewer system

WATER SUPPLY TO BE PROVIDED BY:

- ☒ Individual well  
☐ Community water system

IF SEWAGE DISPOSAL AND WATER SUPPLY IS PROVIDED THROUGH A COMMUNITY SERVICE, PLEASE LIST THE NAME OF THE SERVICING AGENCY OR DISTRICT AND ENCLOSE A LETTER FROM THE AGENCY OR DISTRICT VERIFYING THAT SERVICE WILL BE PROVIDED:

**IN ORDER TO ASSURE AN ADEQUATE EVALUATION OF YOUR PROPOSAL, PLEASE ANSWER THE FOLLOWING QUESTIONS (attach additional sheet if needed)**

PLEASE DESCRIBE THE CURRENT USE OF THE PROPERTY. IF THE PROPERTY CONTAINS MORE THAN ONE USE, ESTIMATE THE NUMBER OF ACRES DEVOTED TO EACH USE:

Single Family dwelling on 8.40 acres

DESCRIBE THE CURRENT USE OF THE LANDS SURROUNDING THE SUBJECT PROPERTY (include land across roads):

Raw acreage or single Family dwellings

DESCRIBE THE INTENDED USE OF THE PROPERTY:

Single Family dwellings

PLEASE DISCUSS THE PROPOSED DENSITY AND TYPE OF DEVELOPMENT IN REGARDS TO THE INTENT OF THE COMPREHENSIVE PLAN AND ZONING DESIGNATIONS APPLICABLE TO THE SUBJECT PROPERTY:

Total improvements to include 4-Single Family dwellings w/outbuildings

DESCRIBE HOW THE PROPOSED DESIGN MAKES THE BEST USE OF THE PROPERTY, CONSIDERING LOT SIZE, ROAD PLACEMENT, OPEN SPACE, ETC.:

Mostly 2 acre lots w/road access on Western border of entire property. Open space will be determined by any new owners.

(Property is raw wooded land currently)

THE APPLICANT(S) SHALL CERTIFY THAT:

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- C. I/We hereby grant permission for and consent to Marion County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.
- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

PRINTED NAME AND SIGNATURE of each owner of the subject property.

George F. Hayen  
Print Name

George F. Hayen  
Signature

Print Name

Signature

Print Name

Signature

Print Name

Signature

DATED this 8 day of July, 2021

RECEIVED

OCT 26 2021

Marion County  
Planning


**Subdivision Application**

Date: October 26, 2021

Submitted to: Marion County Planning Division  
5155 Silverton Road NE  
Salem, Oregon 97305

Applicant: George Hayen  
5193 Gath Road SE  
Salem, Oregon 97317

NSP Job Number: 21070







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## **Land Use Application for Subdivision Application**

Submitted to:	Marion County Planning Division 5155 Silverton Road NE Salem, Oregon 97305
Applicants:	George Hayen 5193 Gath Road SE Salem, Oregon 97317
Property Owner:	George Hayen 5193 Gath Road SE Salem, Oregon 97317
Applicants Consultant:	North Santiam Paving Company PO Box 516 Stayton, Oregon 97383 Contact: Levi Warriner, PE Email: leviw@nspor.com Phone: 503-769-3436
Site Location:	5193 Gath Road SE Salem, Oregon 97317
Assessors Maps:	Marion County Assessors Map 08 2W 17D Tax Lot 1400
Site Size:	8.4 Acres
Land Use District:	Acreage Residential (AR)



## **I. Summary**

George Hayen is seeking to subdivide 8.4 acres at 1593 Gath Road SE.

There is an existing house on the south portion of the property with multiple sheds. The remainder of the property is trees with some open grass space. There is a 25-foot-wide entrance that serves the property, but is used by the neighbor to the west who has an access easement. The driveway to the house is 12 feet wide paved, but 24 feet wide from edge of gravel to edge of gravel. An existing 24-foot-wide gravel road is located along the west property line and goes to the north portion of the property. The existing house is served by a septic field to the southwest of the house and a well to the east of the house.

The proposed conditions are to create three 2-acre lots with the remaining 2.4 acres containing the existing house.

The three new lots will be accessed off of the existing 24-foot-wide gravel road. The gravel road will eventually be paved. The owner is proposing to put money into an escrow account and once the houses are built, pave the road. He does not want to pave the road and have equipment damage it while the houses are being built. There will be an access easement for each of the lots.

Each of the 3 new lots will have their own individual well and septic system. Each new dwelling and out building will have detention in the form of an exfiltration pipe surrounded by drain rock.

Along the 24-foot-wide road will be a utility easement that will be used to provide power and communication to each of the three lots.

The proposal satisfies the applicable approval criteria for subdivisions out lined in the Marion County Code (MCC) as described below.

## **II. Applicable Review Criteria**

### **Marion County Zoning Code**

#### **Chapter 17.172—Subdivision and Partition Requirements**

##### **Article I—General Regulations**

##### **MCC 17.172.040—Considerations for approval or denial**

When considering a property line adjustment, subdivision or partitioning, the commission, director, hearings officer or board, when



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it exercises its authority pursuant to MCC 17.172.050, shall consider whether or not the subdivision or partitioning plan is in accordance with the adopted ordinances, comprehensive plans, and land development policies of Marion County. In reviewing an application, the commission, director, hearings officer or board may prescribe conditions or make changes or modifications to the property line adjustment, subdivision or partitioning to bring them into compliance with any applicable ordinances or regulations.

**Response:** This criterion is understood.

MCC 17.172.050—Director review

The provisions of this chapter and other provisions of this title notwithstanding, the director shall have the power to decide applications for all property line adjustments and partitions and impose conditions consistent with this title. Any appeal shall be conducted pursuant to MCC 17.119.150.

The planning commission, hearings officer or board shall have the power to decide applications for a subdivision. If the hearings officer, planning commission, or board makes the initial decision, the review body shall conduct a public hearing on the application pursuant to Chapter 17.111 MCC.

The director shall also have the power to forward an application for a property line adjustment, partition and subdivision to the hearings officer or planning commission for the initial decision. In such case, the review body shall conduct a public hearing on the application pursuant to Chapter 17.111 MCC.

**Response:** This criterion is understood.

MCC 17.172.060—Approval required before creating street to partition land

No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the commission, director, hearings officer, or board.

**Response:** This criterion is understood.

MCC 17.172.080—Prohibition of sale or transfer of lots prior to recording of plat.



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No person shall dispose of, transfer, sell, or agree, offer or negotiate to sell any lot in any subdivision or any parcel in a partition, except as authorized by ORS Chapter 92.

**Response:** This criterion is understood.

## MCC 17.172.120—Property Line Adjustments

The following requirements shall apply to all property line adjustments:

A. Regardless of the size of the adjustment, when a property line to be adjusted is part of a division of land previously approved by Marion County it shall be subject to the approval of the planning director.

B. Except as provided in subsection (A) of this section, no approval is necessary for property line adjustments in the RM (multiple-family residential), C (commercial), CC (community commercial), ID (interchange district), I (industrial), or IUC (unincorporated community industrial) zones.

C. Except as provided in subsections (A) and (B) of this section, all property line adjustments shall require approval under the partitioning procedure if the adjustment exceeds 10 percent of the total land area of the smallest affected parcel.

D. Any adjustment or removal of a property line or public easement involving a parcel in a recorded partition plat or lot line in a recorded subdivision shall be performed by means of the replat process specified in ORS 92.180 through 92.190.

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

**Response:** This criterion is understood.

## Article II—Roads, Streets, and Easements

### MCC 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.

**Response:** All standards and requirements will meet Marion County Standards. This standard is met.

MCC 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.

**Response:** This criterion is understood. Per the pre-application meeting, no dedication would be required for this subdivision application.

MCC 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 and shall have a turnaround with a configuration approved by the Marion County department of public works engineering.

**Response:** This criterion is understood. No dead-end public streets are proposed and there would be no need to continue any public streets.

MCC 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.

**Response:** No property line radius at street intersection is proposed for this development. This criterion does not apply.

MCC 17.172.220—Street grades

No street grade shall be in excess of 12 percent 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 percent.

**Response:** No public streets are proposed for this development. The existing driveway has slopes of 12-17% because of topographic conditions and steep terrain. The existing gravel roadway has slopes of 4-6%.

MCC 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.

**Response:** This criterion is understood. Per the pre-application meeting, no dedication would be required for this subdivision application.

MCC 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.

**Response:** Additional right of way widths will not be required. The proposed private roadway will follow the grades of the existing driveway and gravel roadway.

MCC 17.172.280—Performance standards

Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this title, the applicant shall provide one of the following:

A. A surety bond executed by a surety company authorized to transact business in the state of Oregon, in an amount equal to 125 percent of the construction cost of the required public improvements, as verified by the county.



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B. A verified deposit with a responsible escrow agent or trust company of cash or negotiable bonds in an amount equal to 125 percent of the construction costs of the required public improvements, together with an agreement that the deposit may be disbursed only upon county approval. The agreement shall include a provision that the county shall allow release of the deposit in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the county engineer following an inspection by the county engineer or the engineer's authorized representative.

C. An irrevocable letter of credit from one or more financial or lending institutions pledging that funds equal to 125 percent of the construction cost of all required improvements are available to the applicant and are guaranteed for payment for the improvements.

Regardless of the option chosen above, no building permits for any structures within the subdivision will be issued until all improvements have been completed by the applicant. In the event the applicant fails to complete all improvements, the county may estimate the cost of completing any required improvement, call on the bond or deposit for the funds necessary to complete the improvement, and complete the improvement to the extent of the funds obtained upon call of the bond or deposit. If the amount obtained from the bond or deposit is insufficient to complete the improvement, the county may either hold the collected funds until additional funds are authorized for the improvement or expend the collected funds on a revised improvement or on a portion of the improvement as determined reasonable by the director of public works. Following final inspection, if the improvement is complete and the amount of the bond or deposit exceeds the actual cost to the county of completing the improvement, the remainder shall be released.

D. Maintenance Bonds. The applicant shall provide a maintenance bond in a form approved by the office of legal counsel equal to 40 percent of the construction cost of all required improvements. The applicant shall provide the bond within 30 days after final review of the required improvements. The bond shall remain in effect for one year after the completion of construction of all required improvements. The purpose of the bond is to guarantee applicant's obligation to maintain all required improvements for a period of one year after completion of construction of all required improvements. After the expiration of the one-year period, any remaining balance on the bond shall be released.





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The bond shall include a provision stating that, in the event the county must take legal action to recover on this bond, and it prevails at trial or on appeal, the county shall be entitled to recover its reasonable attorneys' fees and its costs and disbursements. Nonpayment of the bond will not invalidate applicant's obligations under the bond.

**Response:** This criterion is understood.

## MCC 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.

**Response:** A utility easement will be created on the east side of the roadway to serve the newly created lots.

## MCC 17.172.320—Street or road improvements

All public 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.

No building permits within a subdivision or partition shall be issued until the director of public works, or his/her designee, approves that the improvements have been completed or sufficient improvement agreements and financial guarantees have been recorded.

**Response:** No public streets are proposed for this development. The existing gravel road way is currently 24 feet wide. It will be paved to 20 feet wide with 2 feet gravel shoulder on each side. It will shed to the east to allow stormwater to flow into a newly created ditch. The owner is proposing to put money into an escrow account for paving and once the houses are built, pave the road. He does not want to pave the road and have equipment damage it while the houses are being built.





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## MCC 17.172.320—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.

**Response:** A maintenance agreement will be submitted prior to recording the final plat. This standard is met.

## Article III—Lots

### MCC 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 a 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.

**Response:** All lots will meet the requirements of Chapter 17.128. Lots will be adequate size to serve a septic system, well, and soakage trench for each house hold. This standard is met.

### MCC 17.172.360—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.

**Response:** This criterion is understood. There will be no curved lot lines.

## Article IV—Sewage, Water, Utilities and Stormwater Management

### MCC 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



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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.

**Response:** Each new lot will be served by a septic system. The system will follow all DEQ standards, requirements, and setbacks. Pre-approval of the septic system will be completed prior to recording of the subdivision. There is currently an existing septic system that serves the existing house. The proposed subdivision maintains the existing system on the same lot as the existing dwelling. This standard is met.

## MCC 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 17.181 MCC.

**Response:** Each new lot will be served by an individual private well. The system will follow all state and county standards, requirements, and setbacks. The proposed subdivision is not in a Sensitive Groundwater Overlay Zone. There is currently an existing well that serves the existing house. The proposed subdivision maintains the existing well on the same lot as the existing dwelling. This standard is met.

**MCC 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.

**Response:** Each new dwelling and out building will have detention in the form of an exfiltration pipe surrounded by drain rock. Infiltration testing will be conducted to create a parcel specific template for each lot. The existing gravel road way will be paved and shed to the east into a ditch. The southern portion of the ditch will flow towards Gath Road. The northern portion will flow to the north and outflow towards the existing low-lying swale in the existing topography. This standard is met.

**MCC 17.172.440—Underground utility 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.

**Response:** There will be a utility easement provided and shown on the final plat for new utilities to the new lots. This standard is met.

Article VI—Subdivisions

MCC 17.172.680—Subdivision pre-application conference

Prior to the actual filing of a subdivision application the subdivider shall contact the staff for a mandatory pre-application conference. The meeting will enable the staff to review the proposal and determine if the subdivision is consistent with the intent of this title and the Comprehensive Plan and whether public services are required and available.

**Response:** A pre-application conference was conducted in August. This standard is met.

MCC 17.172.700—Application

When an area or tract of land is to be subdivided an application shall be filed with the planning division. The applicant shall specify on the application whether the request is for conceptual or detailed approval or both. Conceptual approval indicates that the subdivision or PUD, in the general manner and density proposed, is deemed consistent with the Comprehensive Plan but conceptual approval shall not be binding on the planning commission or hearings officer with regard to specific design or engineering. In granting conceptual approval the commission or hearings officer shall identify any elements of the proposal that need further evaluation or refinement.

**Response:** Application has been submitted. This standard is met.

MCC 17.172.720—Required application information

A. The application form and any supplementary information filled out completely.

B. Copy of the officially recorded title transfer instrument (deed, warranty deed, or contract) that shows the legal description for the parent parcel. Title reports are not acceptable.



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C. Twenty-seven copies of a scale drawing of the proposed subdivision with the following details shown:

1. Structures, streets, driveway access points (existing and proposed), and easements (existing and proposed).

2. Topography, drainage ditches.

3. A layout of the proposed subdivision with proposed lot lines to scale, north arrow, and name and address of applicant.

D. If the property is within the geologically hazardous overlay zone, any study required by Chapter 17.182 MCC shall accompany the application. If the chapter requires peer review of the study, this must also be submitted with the partition application.

E. If the property is within the sensitive groundwater overlay zone, any study of water supply required by Chapter 17.181 MCC shall accompany the application. If the chapter requires peer review of the study, this must also be submitted with the partition application.

F. Filing fee.

**Response:** All items have been submitted. The site is not within a geologically hazardous overlay zone or a sensitive groundwater overlay zone. This standard is met.

MCC 17.172.730—Filing of application

An application for a subdivision may be filed by one or more of the following:

A. The owner of the property that is the subject of the application;

B. The purchaser of the property that is subject to the application when a duly executed written contract or earnest-money agreement, or copy thereof, is submitted with the application;

C. A lessee in possession of the property subject to the application who submits written consent of the owner to make such application;

D. The appropriate local government or state agency when the application is for a public works project;



E. A governmental body that has initiated condemnation procedures on the property that is subject to the application, but has not yet gained title; or

F. A co-tenant if the property that is the subject of the application is owned by tenants in common.

The application shall be filed with the director in writing on an application form provided by the planning division. The application shall set forth the subdivision sought, the location of proposed property lines, the location of proposed and existing buildings and septic systems on the premises, the name or names of the owners of the property. The application shall contain such other information as deemed necessary by the director, planning commission or hearings officer.

**Response:** All items have been submitted. This standard is met.

MCC 17.172.740—Required signatures

Applications shall include the following signatures:

A. Signatures of all owners of the subject property; or

B. The signatures of the purchasers of the property under a duly executed, recorded, written contract of sale or earnest-money agreement; or

C. The signature of lessee in possession of the property with the written consent of all the owners; or

D. The signatures of the agents of those identified in MCC 17.172.730(A), (B), or (C) when authorized in writing by those with the interests described in MCC 17.172.730(B) or (C), and all the owners of the property; or

E. The signature of an authorized agent of a public agency or utility holding an easement or other right that entitles the applicant to conduct the proposed use on the subject property without the approval of the property owners; or

F. The signature of co-tenants owning at least a one-half undivided interest in the property, when the property is owned by tenants in





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common; provided, that the signing co-tenant provides current addresses for all co-tenants who have not signed the application so the planning division can give them notice of the decision.

G. Prima Facie Proof of Ownership. When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the director, planning commission, hearings officer and the board may accept these statements to be true, unless the contrary be proved, and except where otherwise in this title more definite and complete proof is required. Nothing herein prevents the director, planning commission, hearings officer or board from demanding proof that the signer is the owner, officer, attorney in fact, or agent.

**Response:** See application for signature. This standard is met.

## MCC 17.172.750—Information from affected agencies

Upon receipt, a copy of the application shall be distributed to the Marion County department of public works, county assessor, county surveyor, and other affected agencies with a request for comments or suggestions regarding those features that come within the scope of their activities.

**Response:** This criterion is understood.

## MCC 17.172.760—Conformance with regulations

Unless a variance is granted as provided herein, the subdivision shall conform to applicable regulations contained in MCC 17.172.140 through 17.172.660 and planned developments shall, in addition, conform to the regulations in MCC 17.121.200 through 17.121.250. The director shall determine if annexation to a fire, sewer or water district is required. If the director determines that annexation is required, annexation or a nonremonstrance agreement must be filed with the appropriate agency.

**Response:** This criterion is understood.

## MCC 17.172.780—Public hearing

Upon receipt of responses from other departments and agencies, the commission, hearings officer or board shall hold a public hearing on the



conceptual or detailed application as prescribed in Chapter 17.111 MCC. The hearing notice shall include a description of any proposed variances. The purpose of the public hearing shall be to elicit responses from interested persons concerning the appropriateness and feasibility of the proposed subdivision plan. If the application is for conceptual approval, a public hearing shall be held and a second public hearing at the time of application for detailed approval shall not be required.

**Response:** This criterion is understood.

MCC 17.172.800—Notice of decision

Notice of decision, including any adjustments or variances granted, and information on the appeal process shall be sent to the applicant, the owner(s) of the subject property, the co-tenants of the subject property if the property is owned by tenants in common, those within the notification area, and any interested person, who, in writing, requests notification. This decision shall be final unless an appeal is taken as provided in MCC 17.172.820.

**Response:** This criterion is understood.

MCC 17.172.820—Appeal

The decision of the commission or hearings officer may be appealed to the board no later than 15 days after the decision is rendered. The board may sustain the decision or decide the appeal with or without a further public hearing. If a public hearing is held, it shall conform with Chapter 17.111 MCC. If the board exercises its authority pursuant to Chapter 17.111 MCC, its decision is final and appealable only to the Oregon Land Use Board of Appeals.

**Response:** This criterion is understood.

MCC 17.172.840—Action and recording of final plats

After receiving detailed approval, a subdivider shall submit a final plat for approval. A subdivision plat, when ready for final approval prior to recording, shall be substantially in accordance with the approved detailed plan. The final plat shall be tied into the geodetic coordinate system used in the county. After the final plat has been filed with the Marion County surveyor and a copy forwarded to the planning division, the director shall review the final plat and compare it with the





approved detailed plan to ascertain whether the final plat substantially conforms to the approved detailed plan and the conditions of approval. Before submitting the final plat to the board for approval, the final plat shall be approved and signed by all persons set out in the dedication, the mortgagees, if any, the director, county surveyor, county on-site wastewater specialist, county engineer, county assessor, and the signature and seal of the registered land surveyor responsible for the laying out of the subdivision. All the conditions of detailed approval shall be fulfilled before submitting the final plat to the county surveyor for approval and signature. If the county surveyor or planning director finds that there has not been substantial conformance with the approved detailed plan, the subdivider shall be advised of the changes that must be made and afforded an opportunity to make such changes.

When the final plat has been reviewed by the director and is found to be in substantial conformity to the approved detailed plan, and the subdivider has fully complied with ORS 92.090(4) and (5), the director or authorized representative shall sign the final plat. The director may elect to submit the final plat to the commission or hearings officer for further review.

All signatures on the final plat shall be in black archival ink. Where the subdivider has expressed the intent, in writing, to develop the subdivision in phases, or stages, the final plat may contain all or only a portion of the approved detailed plan.

**Response:** This criterion is understood.

MCC 17.172.860—Time limit for the filing and recording of a plat

When the subdivider has expressed intent to develop a subdivision in phases or stages, the first phase of the final plat, or, if not to be developed in phases or stages, the completed final plat must be filed with the director by the first day of the twenty-fourth month following the date of detailed approval or said detailed approval shall be deemed null and void. The final plat shall be approved by public officials as required by law and recorded within 180 days following the date the plat is submitted to the director. Extensions to either time deadline may be approved by the director upon submittal of written justification prior to the expiration of the time limit.

**Response:** This criterion is understood.



Chapter 17.128—AR (Acreage Residential) Zone

MCC 17.128.010—Purpose

The purpose and intent of the acreage residential zone is to provide appropriate regulations governing the division and development of lands designated rural residential in the Marion County Comprehensive Plan. Acreage residential zones are areas that are suitable for development of acreage homesites. Such areas are necessary to meet the housing needs of a segment of the population desiring the advantages of a rural homesite. It is the intent that residential sites be provided with adequate water supply and wastewater disposal without exceeding the environmental and public service capability of the area or compromising the rural character of the area.

**Response:** This criterion is understood.

MCC 17.128.020—Permitted uses

Within an AR (acreage residential) zone no building, structure or premises shall be used or arranged except for the following purposes:

A. Single-family dwelling.

B. Farm use, including the sale of produce that is raised on the premises, but not including a medical marijuana processor (see MCC 17.110.376), medical marijuana producer (see MCC 17.110.378), or a medical marijuana dispensary (see MCC 17.110.374).

C. Planned developments.

D. Playgrounds and parks operated by governmental agencies.

E. Public and private utility facilities and public buildings such as fire stations, sheriff and police substations.

F. Creation, restoration, or enhancement of wetlands as defined in ORS Chapter 197.

G. Limited home occupations (see limited use, MCC 17.125.100).

H. Wireless communication facilities, attached subject to MCC 17.125.110 and pursuant to MCC 17.115.110.



I. Religious organizations and expansions of existing religious organizations where the religious organization or the expanded religious organization will be less than 20,000 square feet in total area.

J. Replacement of a lawfully established dwelling, subject to the special siting standards in MCC 17.128.050(B), when the dwelling:

1. Is a manufactured dwelling, mobile home, or manufactured home, the replaced dwelling shall be removed or demolished within 90 days of the occupancy of the replacement dwelling.

2. Is a site-built dwelling, the replaced dwelling shall be removed, demolished or converted to an allowable nonresidential use within 90 days of the occupancy of the replacement dwelling.

3. A dwelling constructed between 1850 and 1945 on a parcel at least two acres in size outside of any area designated as an urban reserve may remain on the parcel as an accessory dwelling unit if replaced by a new single-family dwelling on the parcel subject to the following conditions:

a. The property owner shall obtain all required permits from Marion County building inspection to convert the existing residence to an accessory dwelling unit upon completion of the new single-family dwelling, including permits for sanitation and wastewater disposal and treatment.

b. The land containing the accessory dwelling cannot be divided from the land containing the new single-family dwelling.

c. The accessory dwelling unit cannot be renovated or remodeled so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home's square footage at the time construction of the new single-family dwelling commenced.

d. The accessory dwelling cannot be rebuilt if the structure is lost to fire.

e. The property owner shall record a declaratory statement acknowledging compliance with the conditions in subsections

**Response:** This criterion is understood. Site to be single-family dwellings.



**MCC 17.128.030—Conditional uses**

The following uses may be permitted subject to obtaining a conditional use permit:

A. Kennels.

B. Temporary use of a mobile home or recreational vehicle during certain hardship conditions, subject to MCC 17.120.040.

C. Day nursery.

D. Commercial uses in conjunction with farm use subject to MCC 17.128.045.

E. Religious organizations and expansions not qualifying under MCC 17.128.020(I), and related conference and residence facilities.

F. Schools, elementary and secondary (as defined in Chapter 17.110 MCC).

G. Conditional home occupation (other than those home occupations listed in MCC 17.125.100) (see specific conditional uses, MCC 17.120.075).

H. Wireless communications facilities (see specific conditional uses, MCC 17.120.080).

**Response:** This criterion is understood. Conditional use permit will not be required.

**MCC 17.128.040—Conditional use review criteria**

The following criteria apply to all conditional uses in the AR zone:

A. The conditional use as described by the applicant will be in harmony with the purpose and intent of the zone.

B. The use will not increase traffic beyond the capacity of existing roads.

C. Adequate fire protection and other rural services are, or will be, available when the use is established.

D. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.



E. Any noise associated with the use will not have a significant adverse impact on nearby land uses.

F. The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.

**Response:** This criterion is understood. Conditional use permit will not be required.

MCC 17.128.045—Commercial activities in conjunction with farm use

A. The commercial activity must be primarily a customer or supplier of farm uses.

B. The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.

C. The agricultural and commercial activities must occur together in the local community to satisfy the statute.

D. The products and services provided must be essential to the practice of agriculture.

**Response:** This criterion is understood. Commercial activities are not planned with this development.

MCC 17.128.050—Special sitting standards for dwellings near resource zones

A. Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses. These setbacks may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative home sites:

1. The location of the home site will have the least impact on nearby or adjoining forest or agricultural lands.



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2. The location of the home site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.

3. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.

4. The risks associated with wildfire are minimized.

B. The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, or TC zones shall be required to concur in the filing of the declaratory statement prescribed in the respective resource zone.

C. The owner of a proposed dwelling located on a parcel adjacent to the FT or TC zone shall, as a condition of approval, be required to provide for fire hazard management in accordance with Chapter 3 of "Fire Safety Considerations for Developments in Forested Areas, 1978" and any revisions thereto.

D. The special setback in subsection (A) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 through 195.336 nor should the special setback in subsection (A) of this section prohibit a claimant's application for homesites under ORS 195.300 through 195.336.

**Response:** The west, east, and south sides of the property all abut AR zone. To the north is zoned SA. The northern most proposed lot of the subdivision will have a 100-foot setback from the north most property line to the future dwelling. Any dwellings within 500 feet of the SA zone will concur in the filing of declaratory statement. This standard is met.

### MCC 17.128.060—Development standards

The following standards apply to development in an AR zone:

#### A. Maximum Height.

1. Dwellings: 35 feet.

2. Farm-related structures on farm parcels: none.

3. Nonresidential and non-farm structures: 35 feet unless they are in conjunction with conditional uses allowed in MCC 17.128.030, and a



greater height is requested and approved as part of the conditional use permit.

B. Minimum Setbacks. Except as required in MCC 17.128.050(A), the following setback requirements shall be implemented for all new structures other than residential accessory structures (see Chapter 17.117 MCC), farm-exempt buildings, signs and fences:

1. Rear Yard. A minimum of 20 feet.
2. Side Yard. A minimum of 10 feet, except for lots or parcels of one-half acre or smaller created prior to January 1, 1994, in which case the side yard setback shall be five feet. In the case of a corner lot any side yard adjacent to a street shall be not less than 20 feet.
3. Front Yard. A minimum of 20 feet. When by ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (See Chapter 17.112 MCC).

**Response:** All new dwellings will meet the maximum height a setback requirement. The existing dwelling will also meet the set back requirements. This standard is met.

MCC 17.128.070—Minimum lot size and density

The minimum lot size for subdivisions and partitioning is two acres. When a numerical suffix has been applied to the AR zone, the minimum lot size shall conform to the numerical designation. The minimum lot size shall also apply to planned developments.

**Response:** All lots will be a minimum of 2 acres. This standard is met.