

RECEIVED

AUG 12 2025

Marion County
Planning

To: Marion County Hearings Officer

From: Norman Bickell for Francesco Villalobos



Regarding: Response to appellant letter opposing the granting of a variance/partitioning on the applicants' property.

Question 1. The power for the county (Planning Director, Hearings Officer or Board of Commissioners) to grant a variance to MCC 17.119.800.

Response: When first researching the ability to grant a variance to MCC 17.110.800 I approached staff at the Planning Division with a question on the ability of obtain a variance to the provisions of the ordinance. In discussions with staff and an interpretation from the Planning Director it was determined that the provision for the power to grant variances listed in 17.122 state in part, "the requirements governing: lot area, lot width, percentage of lot coverage and number of dwelling units or structures permitted on a lot, height of structures, location, yards, signs, parking and loading space, vision clearance and other standards when limits for an adjustment in 17.116.030 are exceeded." The Planning Director determined that the number of dwelling units that are limited off a private easement was a variable standard. With this knowledge the application was applied for and granted.

Question 2. The appellant states that he does not believe that the criteria in MCC 17.122.020 of hardships, unreasonable, unnecessary, unusual significant impact on property and significant impact on safety are met with the applicants' proposal.

Response: The applicant statement addressed the above criteria for granting a variance and it was determined by the Planning Director that each had been satisfactorily been met. The appellant further states that in "Macleay Country Acres No. 2 there were 10 lots each roughly 6 plus acres..." To this point all but the applicants have since been divided (the appellant has also been granted a partitioning approval but did not exercise the approval) that reflect the demand for rural residential homesites and the applicant is also trying to accomplish this with his proposed partition. Under Residential Policy #8 in the Comprehensive Plan it is stated "Since there is a limited amount of area designated Rural Residential, efficient use of these areas shall be encouraged. This emphasizes why the elements limiting the number of dwellings should be varied to encourage efficient use of those limited Rural Residential lands available in Marion County.

Question 3. The appellant states that the improvement of the access driveway is currently 10.5 feet of paved roadway which is sufficient for a single land of vehicular traffic only.

Response: The pavement of the access driveway to a 10.5 foot of improvement allows for additional improvements within the 30 foot access and utility easement. The applicant is willing to add an additional gravel shoulder to bring the total driveway to a 12 foot width thereby conforming to the minimum access standard of the county. Chapter 17.172.560 Access Standards states in part that the minimum easement width of 20 feet is required (both Burton Place and Happy Valley are 30 foot in width and will exceed this standard. The maximum grade for a private access easement is 12% and both easements will meet this standard. The easement requires an all-weather surface with a minimum width of 12 feet. Marion County has determined that a gravel surface is in compliance with the definition of an all-weather surface. With the additional 2 feet of gravel proposed by the applicant both easements will meet this standard.

Question 4. Has the applicant approached other property owners along Burton Place SE to extend the public right-of-way to comply with the public street?

Response: The owner has no right to provide for a public street extension of Burton Plane SE. The acquisition of additional right-of-way as well as the improvements would be cost prohibited and the need for a public street is not justified. The applicant has frontage on the easement and would also have to agree to the extension and improvement expenses and, as with other owners, the expense and the chance of agreement of all of the property owners would be questionable. The granting of this variance to allow for additional dwelling is the best alternative for all of the individual property owners.

Question 5. Speed of Traffic, Volume of Traffic, Non-vehicular Traffic and gatherings requiring parking of vehicles are of a concern to the appellant.

Response: All of the listed concerns are in place for any easement where there it is shared. There is no answer that will satisfy the appellant as to these concerns. The issues would be in place regardless of the number of dwellings being served. There are no limits in the Rural Zoning Ordinance on the number of automobiles an owner can have and to limit the number of trips of an individual owner is not enforceable. As far as people walking along the roadway it should be noted that the easement is 30 feet in width which gives sufficient area outside of the improved roadway for these activities. The question about infrequent gatherings and their parking, this would exist regardless of the number of dwellings served by the easement and is not a regulated activity. The question on the volume of traffic is not unique to these two easements. Many of the private easements serving other properties have traffic issues and there are no criteria regulating for the private use of and access easement.

To help clarify the existing conditions of Burton Place and Happy Valley the applicant is supplying photographs of the area.

Photo #1: The eastern end of the Burton Place public right-of way. It should be noted that the appellant has a driveway accessing Burton Place (shown on the right side of the photo) within the existing right-of-way and not onto the private drive serving the remainder of the properties along Burton Place and Happy Valley. This leads to question the impact of the existing easement along the appellants' northern property line having conflicts with his property thereby reducing the value of his property. Here is should also be noted the easement has been in place since 2001 and used by the property owners as their only access to a public right-of-way.

Photo #2: The Burton Place access easement looking east. With the two foot of gravel shoulder it would be possible for two automobiles to pass without going off the travel surface.

Photo #3: The area along the Burton Place easement where the Miller property has provided a widened area for automobiles and emergency vehicles can pass. The Miller driveway also provides sufficient area for an emergency vehicle to turnaround.

Photo #4: The eastern end of the Burton Place easement that shows the area with the driveways will also provide sufficient area for emergency vehicles to turn around. The roadway improvement shown on the right side of the photo is the beginning of the Happy Valley easement.

Photo #5: Looking south along the Happy Valley easement. The applicant will provide a widened area along this easement for emergency two automobiles or emergency vehicles can pass without leaving an improved surface. The dwelling shown at the end of Happy Valley is the applicants and the access easement will be extended behind the storage building on the right side of the south to provide access to the two proposed lots and dwelling. The applicant will provide a turnaround for emergency vehicles between the two lots that meets the standards of the fire district.

In summary, the applicant has provided sufficient information to meet the requirements for a partitioning and a variance to the access standards to gain an approval. Should there be additional question or a need for further clarification please call Norman Bickell at 503-510-1742 or email nbickell0027@aol.com.

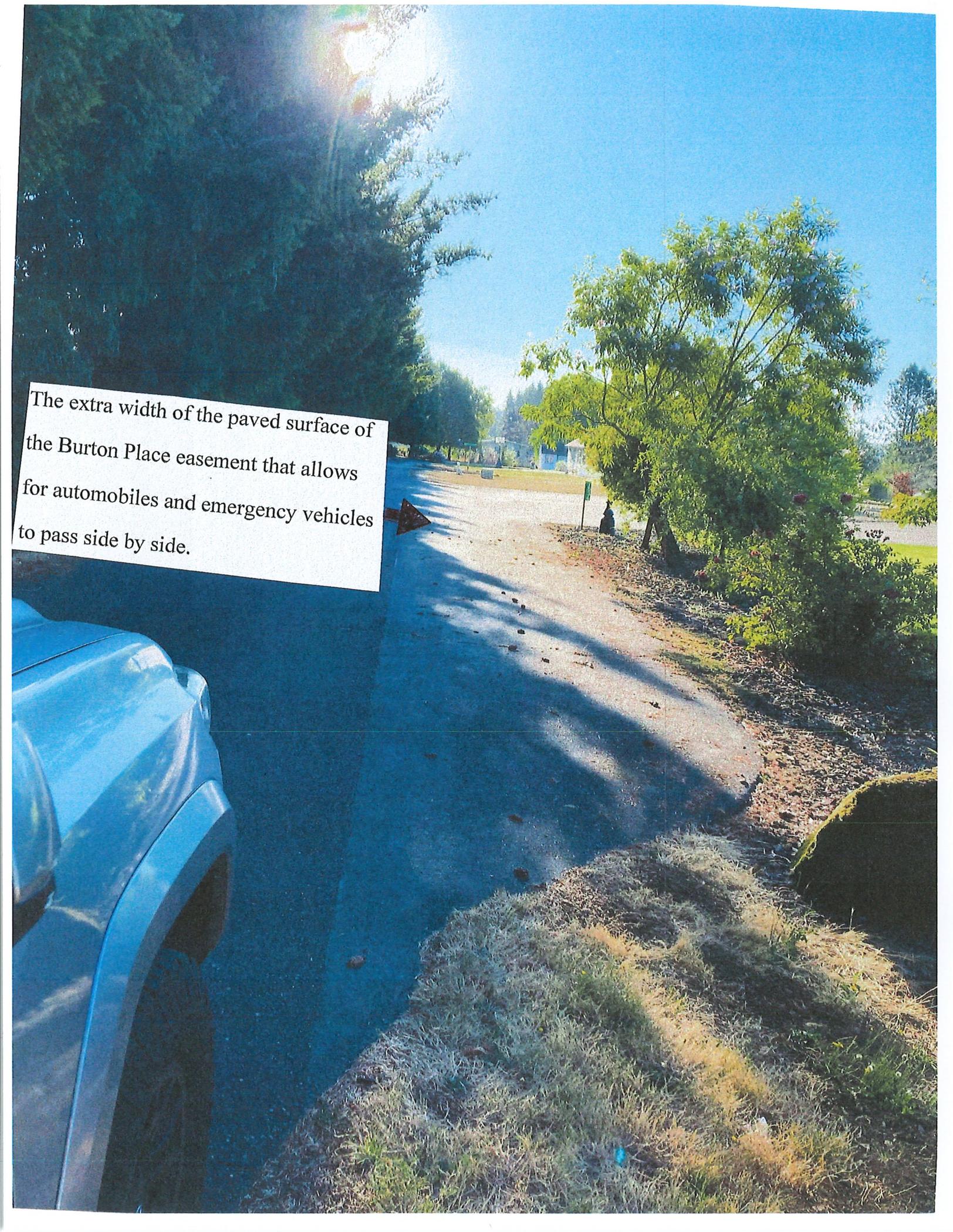
Victor Pagels' driveway that access
Burton Place right-of way. His dwelling is
over 600 feet to the south.



The access easement of Burton Place
Looking east. Notice fence on the right
and trees on the left indicate the extent
of the easement width.



The extra width of the paved surface of the Burton Place easement that allows for automobiles and emergency vehicles to pass side by side.



A photograph showing a paved driveway intersection. The driveway is made of asphalt and has several potholes. On the left side, there is a dense line of evergreen trees. On the right side, there is a grassy area and a house in the background. A white text box is overlaid on the image, containing text about easements and emergency vehicles. Two black arrows point from the text box to the driveway: one points to the left side of the driveway, and the other points to the right side of the driveway.

The intersection of the Burton Place
easement and Happy Valley easement.
Note existing driveways serving Drzal and
Imig properties that would serve for emergency
vehicles to turn around.



Happy Valley easement looking south to the subject property.