

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

NOTICE OF DECISION PARTITION/VARIANCE CASE NO. 25-013

APPLICATION: Application of Francisco Villalobos to partition an 8-acre parcel into three parcels consisting of 4-acres, 2-acres, and 2-acres and a variance to MCC 17.110.800 to allow five dwellings to be served off a private easement in an AR (Acreage Residential) zone located at 2628 Happy Valley Way SE, Salem (T8S; R2W; Section 2C; Tax lot 100)

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

EXPIRATION DATE: This approval is valid only when the final partition plat is recorded by **June 27th, 2027** (two years). 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:

1. Marion County Surveyor's Office commented:
 - a. Parcels must be surveyed and monumented.
 - b. Per ORS 92.050, plat must be submitted for review.
 - c. Checking fee and recording fees required.
 - d. 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.
2. Applicants are advised to check with Marion County Building Inspection for any building or septic requirements.
3. 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 of two acres in size.
4. The northernmost 2-acre parcel shall be addressed **2625 Happy Valley Wy SE**. The southernmost 2-acre parcel shall be addressed **2675 Happy Valley Wy SE**. The parent parcel, or the existing 4-acre parcel, shall remain **2628 Happy Valley Wy SE**. Addresses will be finalized at the time that building permit applications are reviewed and may change if alterations are made to the property or nearby properties.

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

5. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.

OTHER PERMITS, FEES, AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining

other permits or satisfying restrictions or conditions. It is recommended that the agencies mentioned in Finding #5 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. 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).
7. The applicant should contact the Marion County No. 1 Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

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

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received, together with the appeal fee, in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **June 27th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 30th, 2025**, 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 property is located at the end of Happy Valley Way SE, approximately 450 feet south of its intersection with Burton Pl SE. The property contains one dwelling and a few accessory structures in the northeast corner. South of the dwelling contains a dense wooded area. A canal/ditch runs along the southwest property line.

The subject property was first created as Parcel 1 of Partition Case P94-051. The property was then subject of P/PLA23-021, in which tax lot 100 gained acreage from the southern portion of what was once tax lot 200, making tax lot 100 8-acres in size. The subject property is therefore legal for land use purposes.

3. Surrounding uses consist of AR parcels containing acreage homesites.
4. The applicant proposes to divide an 8-acre parcel into three parcels consisting of 4-acres, 2-acres, and 2-acres. The applicant also requests a variance to allow more than four dwellings to be served by a private road, as the roads Burton Pl and Happy Valley Wy already create access to four dwellings.
5. Various agencies were contacted with requests for comment.

Marion County LDEP requested the following be included:

ENGINEERING ADVISORY

- A. Applicant is advised to consult with the local Fire Marshal regarding any plat requirements for depiction of fire easement turnouts and/or turnaround and potential construction of emergency access improvements as triggered by application for building permits.

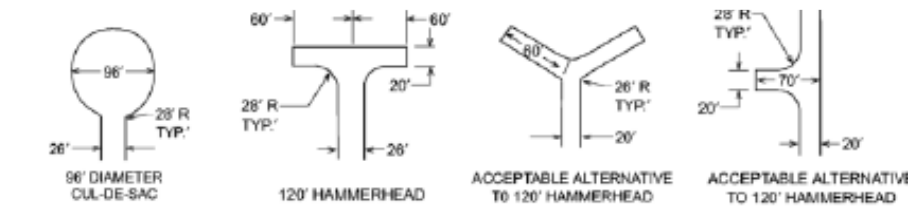
Marion County Surveyor's Office commented:

- a. Parcels must be surveyed and monumented.

- b. Per ORS 92.050, plat must be submitted for review.
- c. Checking fee and recording fees required.
- d. 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 Fire District No. 1 commented that the project must meet following code requirements:

- a. Fire-flow requirements for buildings in protected areas without adequate and reliable water systems. The 2017 National Fire Protection Association 1142, Standard on water supplies for suburban and rural firefighting. 2022 Oregon Fire Code Section B 107. The requirements for firefighting water supplies may be modified as approved by the fire code official where any of the following apply: (2022 OFC 503.1.1 Exception).
 - i. Buildings are equipped throughout with an approved automatic fire sprinkler system (the approval of this alternate method of construction shall be accomplished in accordance with the provisions of ORS 455.610(5)).
 - ii. There are not more than two Group R-3 or Group U occupancies.
- b. Fire Safety During Construction: Approved fire department access road, required water supply, fire hydrants, and safety precautions shall be installed and serviceable prior to and during the time of construction. 2022 Oregon Fire Code Chapter 33.
- c. Turnouts: When a fire apparatus access road exceeds 400' feet in length, turnouts 10' feet wide and 30' feet long shall be provided in addition to the required road width and shall be placed no more than 400' feet apart, unless otherwise approved by the fire code official. These distances may be adjusted based on visibility and sight distances. (OFC Chapter 5)
- d. Turning radius: The inside turning radius and outside turning radius shall be not less than 28 feet and 48 feet respectively, measured from the same center point. (2022 OFC 503.2.4 & Appendix D)
- e. Fire apparatus road distance from buildings and turnarounds: Access roads shall be within 150' of all portions of the exterior wall of the building as measured by and approve route around the exterior of the building. An approved turnaround is required if the remaining distance to an approve intersection roadway, as measured along the fire apparatus access road, is greater than 150'. 2022 Oregon Fire Code 503.1.1
- f. Dead End Roads: Dead end fire apparatus access roads in excess of 150' feet in length shall be provided with an approved turnaround. Diagrams of approved turnarounds are shown below: (OFC 503.2.5)



- g. Fire Apparatus Access Road Width and Vertical Clearance: Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet; 26 feet adjacent to fire hydrants 2014 Oregon Fire Code (OFC) Appendix D 103.1 and an unobstructed vertical clearance of not less than 13 feet 6 inches. 2022 Oregon Fire Code Section 503.2.1 and Appendix D103.1
- h. No parking signs: Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, "No Parking" signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Roads 26 feet wide or less shall be posted on both sides as a fire lane. Roads more than 26 feet wide to 32 feet wide shall be posted on one side as a fire lane. Signs shall read "NO PARKING – FIRE LANE" and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a reflective white background. 2022 OFC D103.6-D103.6.2. You may contact the Fire Marshal if you would like code requirement for painted curbs. 2022 OFC 503.3
- i. Premise identification: Buildings shall have address numbers or approved identification placed in a position that is plainly legible and visible from the access road fronting the property. Numbers shall

contrast with their background and shall be a minimum of 4 inches height with a minimum stroke width of ½ inch. 2022 OFC 505.

- j. Gates: Gates securing fire apparatus roads shall comply with all the following:(2022 OFC D103.5)
 - i. Minimum unobstructed width shall be 16 feet.
 - ii. Gates shall be set back a minimum of 30 feet from the intersecting roadway.
 - iii. Gates shall be of the swinging type or sliding type.
 - iv. Manual operation shall be capable by one person.
 - v. Electric gates shall be equipped with a means for operation for fire department personnel.
 - vi. Locking devices shall be approved

Marion County Building Inspection 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 Septic commented: “A site evaluation is required for both proposed 2-acre parcels and an Existing System Evaluation is required on the proposed 4-acre parcel to verify a 10’ setback to property lines and verify there is room for a repair system on the property.”

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

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

- 6. There are no specific approval criteria for partitioning property in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres. Each of the parcels resulting from the proposed partition would meet this standard. The criterion is met.
- 7. Marion County Code 17.110.800 limits the number of dwellings served by a private road. The applicant is requesting that two additional dwellings be served by Happy Valley Way SE. The director may permit and authorize a variance to allow more than four dwellings be served by a private road when it appears from the application and facts presented that the proposal satisfies the variance criteria listed in MCC 17.122.020:

A. There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of this title; and

The only access to the subject property is off Happy Valley Wy SE. There is no direct access to a public roadway. The applicant states that the granting of this variance will effectively utilize this residential land and will keep development from encroaching on nearby resource zones. Without the variance to MCC 17.110.800, the applicant would not be able to partition and develop the land to the maximum density allowed by the AR zone. The criterion is met.

B. There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions; and

As previously stated, the AR designation for this neighborhood is intended for use with acreage homesites. Marion County approved the partitioning of this land under Partition Plat P95-059 through land use case P94-051. At the time, due to existing development in the area, there was no opportunity to expand any public roadway for access to the newly created parcels. A private roadway, Burton Pl SE, had already been established, eliminating the possibility for a public roadway on Burton Place SE; therefore, Happy Valley Wy SE was created.

This situation presents an unusual circumstance concerning the amount of partitionable land on the subject parcel, which can only be addressed through the granting of a variance. The development goals for the area and the code limiting access to more than four homes are in contradiction, a situation that was established during the original subdivision of the neighborhood. The most reasonable option for development is to permit a variance to MCC 17.110.800. The criterion is met.

C. The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and

The proposed use is to allow the creation of three lots, maximizing the rural residential capacity in the AR zone which requires a 2-acre minimum. This degree of variance is the minimum to permit the proposed development. The criterion is met.

D. The variance will not have a significant adverse effect on property or improvements in the neighborhood of the subject property; and

The roadway currently serves four lots, each containing a dwelling. This rural area has undergone multiple partitioning efforts over the past 40 years. Therefore, the addition of two homesites off Happy Valley Wy SE appears to align with the development goals of this neighborhood. Both Burton Pl SE and Happy Valley Wy SE are paved and well-maintained. Additionally, since the uses of the newly created parcels will not be commercial or industrial, the traffic impact on these private roads will be minimal. The criterion is met.

E. The variance will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and

Requests for Comments were sent out to various agencies regarding the proposed partition and variance. The Marion County No. 1 Fire District did not respond with any access or safety concerns. Any requirements for fire turnarounds may be placed by the fire district at the time building permits are applied for. It appears that the proposed variance to allow six dwellings to be served by Happy Valley Wy SE would not adversely affect public health or safety. The criterion is met.

F. The variance will maintain the intent and purpose of the provision being varied.

Allowing Burton Pl SE and Happy Valley Wy SE to serve two additional dwellings in its current condition would not exceed its capacity. Public Works LDEP did not make any requirements regarding improvements on these roads, insinuating the roadways can handle the newly proposed development. The criterion is met.

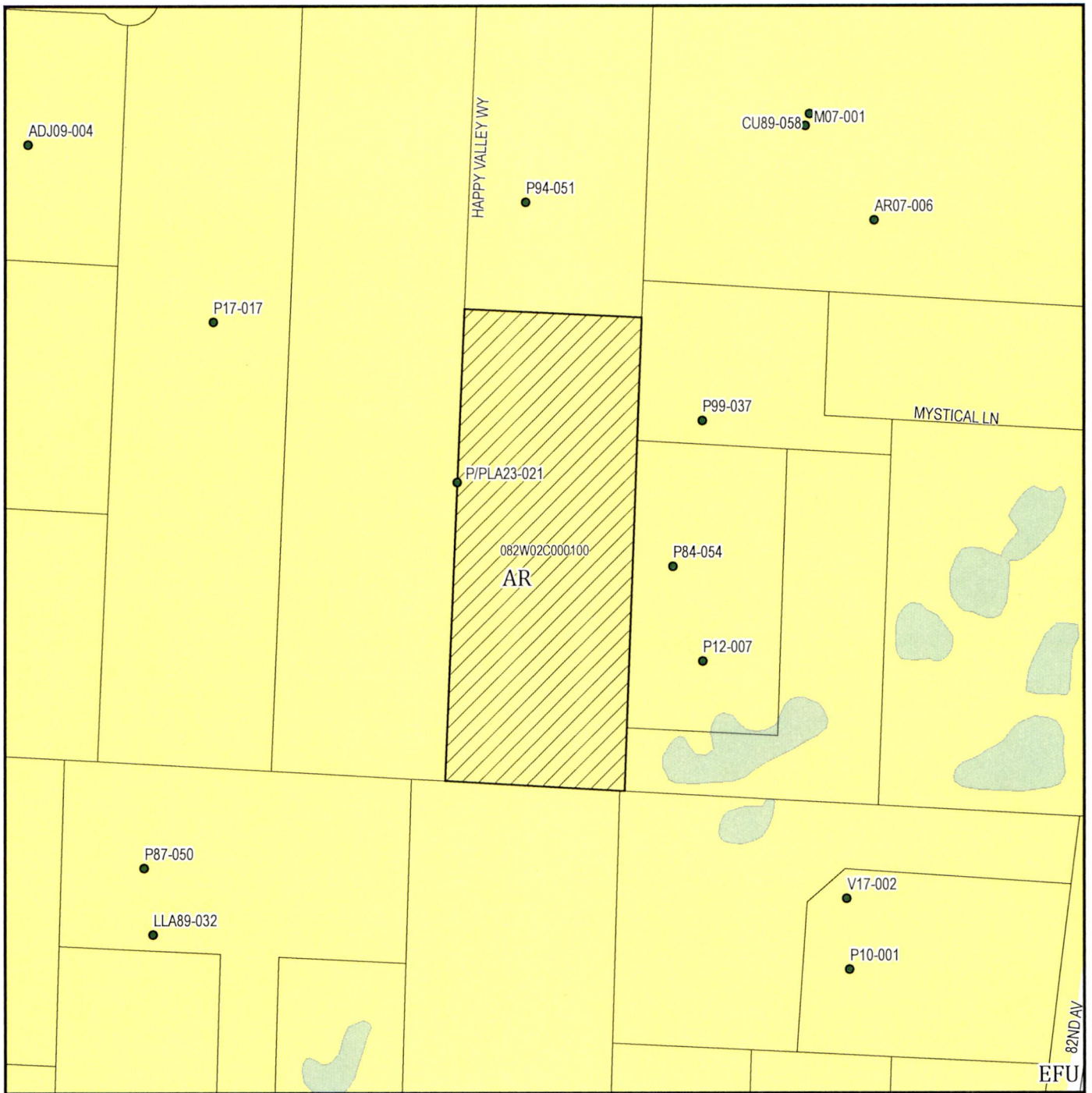
8. Based on the above findings, the proposed partitioning complies with the above criteria and is therefore **APPROVED**, subject to conditions.

Brandon Reich
Planning Director/Zoning Administrator

Date: June 12th, 2025

If you have any questions, please contact Gillian Peden 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.



ZONING MAP

Input Taxlot(s): 082W02C000100

Owner Name: VILLALOBOS, FRANCISCO G

Situs Address: 2628 HAPPY VALLEY WAY SE

City/State/Zip: SALEM, OR, 97317

Land Use Zone: AR

School District: SALEM-KEIZER

Fire District: MARION COUNTY NO.1

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 207 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.